



## Report: California's Death Penalty 'Close to Collapse'

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SAN FRANCISCO —

California's 30-year-old death penalty, which costs more than \$100 million annually to administer, is "close to collapse," according to a new report issued Monday.

The California Commission on the Fair Administration of Justice, appointed by the state Legislature to propose criminal justice reforms, issued a 117-page report detailing a deeply flawed death penalty system that has the biggest backlog of cases in the nation.

The commission stopped short of calling for the abolition of the state's death penalty, but did note that California would save hundreds of millions of dollars throughout the criminal justice system if capital punishment were eliminated. It said most condemned inmates are essentially given life sentences because so few executions are carried out.

The commission blamed inadequate legal representation, a broad death penalty law that makes nearly all first-degree murder cases eligible for the death penalty and a host of other issues that has made California capital punishment system "dysfunctional."

"It is the law in name only, and not in reality," the report stated.

The commission did recommended that California double its annual amount of capital punishment spending to hire more defense lawyers and prosecutors, among other improvements.

There are 673 inmates on California's death row and 79 inmates there are still waiting to be appointed attorneys to prepare their automatic appeals to the California Supreme Court.

California has executed 13 inmates since the death penalty was reintroduced in 1978 and none since 2005 when a federal judge ordered a de facto moratorium until state officials fixed flaws he found in the how California prison officials deliver the lethal three-drug cocktail during executions. The U.S. Supreme Court earlier this year upheld Kentucky's lethal injection system, which is nearly identical to California's.

Still, California's executions remain on hold while the federal judge awaits the resolution of a separate death penalty challenge in state courts.

It takes an average of about 17 years in California between the time a killer is convicted and executed on the exceedingly rare occasion when an inmate is executed. The national average is about 10 years.

"The families of murder victims are cruelly deluded into believing that justice will be delivered with finality during their lifetimes," the report stated.

The commission also suggested changing the law to limit the number of crimes eligible for the death penalty to those who commit multiple murders, kill law enforcement officials or witnesses or torture their murder victims. As it stands, the

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commission said 87 percent of all first-degree murder charges could be prosecuted as death penalty cases.

The commission said it "found no credible evidence" that an innocent person has been executed in California in the last 30 years, but lamented that many inmates suffer from poor legal representation.

The 9th U.S. Circuit Court of Appeals has ruled against prosecutors in 38 of the 54 death penalty cases that have reached the court since the reintroduction of the death penalty in California. The appeals cited ineffective legal representation more often than any other legal reason to toss out a death penalty case.

The report recommended nearly doubling the number of state public defenders to 78 lawyers.

"The strain placed by these cases on our justice system, in terms of the time and attention taken away from other business that the courts must conduct for our citizens, is heavy," the commission concluded.

The state Senate created the commission, which is composed of victims' advocates, lawyers and law professors, in 2004 and its chairman is former California Attorney General John Van de Kamp.

The commission has issued reports on a wide-range of criminal justice issues, including how to reduce the risk of sending innocent people to prison.

Gov. Arnold Schwarzenegger has vetoed three of its recommendations passed by the state Legislature that would have changed the handling of eyewitness identifications, false confessions and testimony of jailhouse informants.

This is the final report of the commission, which disbands Tuesday.

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