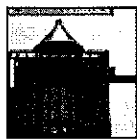


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Panel condemns state's death penalty system

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California's death penalty system is on the verge of collapse, with the nation's longest delays, uncontrolled costs, an overly broad law and an illusory promise of justice to victims' families, a state commission said Monday.

With just 13 inmates having been executed since the death penalty was reinstated in 1977 and 670 Death Row inmates waiting more than two decades to learn their fate, capital punishment in California "is the law in name only, and not in reality," said the panel led by former state Attorney General John Van de Kamp.

The 22-member commission, appointed by state lawmakers, included prosecutors and police as well as defense lawyers and death penalty opponents. But its recommendations for fixing a system that costs taxpayers \$137 million a year face an uphill climb, especially because not all the law enforcement representatives endorsed them.

To reduce the time between sentence and execution to the national average of 12 years, the report said, California must spend at least \$95 million a year to recruit and pay defense lawyers and investigators, expand the state attorney general's staff and reimburse counties for the costs of capital trials - even as the state staggers under a \$17 billion budget deficit.

There are only two ways to cut costs, the commission said. One is to narrow the death penalty to cases of multiple murder, murder of a police officer and a few other crimes, which would eliminate nearly half the death sentences and expenditures.

The other, said the panel, is to abolish the death penalty and sentence defendants to life in prison without parole, which would cost \$11.5 million a year.

Either of those changes would require voter approval in a state where the death penalty commands a dwindling but still sizable majority in opinion polls. The commission did not recommend either option but said they should be considered.

Even that suggestion, however, drew dissent from some of the law enforcement representatives.

Five dissenters, led by Ventura County District Attorney Gregory Totten, said the report's criticism reveals a "personal bias against the death penalty" and amounted to an attempt to "undermine

public confidence in our capital punishment law and procedure."

Eight members, mostly defense lawyers, called for discarding the death penalty, saying it costs too much, discriminates against minorities and the poor, risks execution of the innocent, has been abandoned by most nations and "closes the door on any possibility of redemption and healing."

Executions in California have been suspended since 2006, when a federal judge said records of past lethal injections suggested that inmates may have remained conscious and in pain while dying. The U.S. Supreme Court refused to bar lethal injections in May, but the California case remains on hold while the judge considers new execution procedures.

The commission said 30 prisoners have been on San Quentin's Death Row for more than 25 years, and "delays grow worse every year."

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

The commission said it found "no credible evidence" that California has ever executed an innocent person. But it noted that six condemned prisoners in California since 1979 were later acquitted or had murder charges dismissed after their death sentences were overturned.

Death penalty trials, which involve additional lawyers, longer jury selection and other added procedures, cost at least \$500,000 more than other trials and possibly much more, the commission said. Housing a prisoner on Death Row adds \$90,000 a year to the costs of normal imprisonment, the report said.

The panel sidestepped one politically sensitive subject, the differences in death sentencing rates between counties.

Studies have shown wide geographic variations in death verdicts in California, partly the result of policies by district attorneys - including the refusal by San Francisco District Attorney Kamala Harris and her predecessor, Terence Hallinan, to seek death sentences.

Disparity in the death penalty "undermines public confidence in our criminal justice system," the commission said. But it declined to recommend a uniform standard, in effect in some other states, and instead said the Legislature should require prosecutors to provide information that would reveal the extent to which race, as well as geography, influences death sentences.

This was the final report by the Commission on the Fair Administration of Justice, which was established by the state Senate in 2004 to look into the causes of wrongful convictions. Its previous recommendations to change police lineup procedures, restrict informant testimony and require tape-recording of confessions won legislative approval but were vetoed by Gov. Arnold

Schwarzenegger.

Schwarzenegger was noncommittal about Monday's report.

"It's important that appeals are timely while maintaining the quality and thoroughness of our review process," said spokeswoman Lisa Page. "The governor will continue to work to uphold the death penalty in California."

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-- The state Supreme Court upholds the death penalty for Ramon Salcido, who killed seven people in Sonoma County. **B2**

Read the report

The full report on the death penalty by the California Commission on the Fair Administration of Justice may be read at:

links.sfgate.com/ZDZH

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/07/01/BAIB11HKCJ.DTL>

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