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With backlog of 670, US's longest death row is 'near breakdown'

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By Jacqui Goddard

CALIFORNIA'S death penalty system is dysfunctional, overloaded and teetering on the point of collapse, an independent inquiry has warned.

A 145-page report by the California Commission on the Fair Administration of Justice (CCFAJ), which carried out a four-year review, calls for urgent reform and an extra \$95 million (£48 million) a year to save the system from total breakdown, and urg

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es that the state consider granting more life sentences in lieu of death.

California's death row is the largest in America, with 670 inmates awaiting execution. It is also the slowest; since 1978, when the death penalty was restored by public referendum, just 13 prisoners have been executed amid a severe backlog in post-conviction proceedings and appeals.

Yet on average, the courts are adding 20 to the waiting list each year. Just clearing the list as it stands would involve executing five prisoners a month for the next 12 years – a scenario considered highly unlikely.

"We currently have a dysfunctional system," the commission declares. The lapse of time from sentence of death to execution averages more than two decades in California.

"The families of murder victims are cruelly deluded into believing justice will be delivered with finality during their lifetimes. Those condemned to death ... must wait years until the courts determine they are entitled to a new trial or penalty hearing," the CCFAJ report says.

It urges: "The time has come to address death penalty reform in a frank and honest way."

The CCFAJ noted opinions and testimony from 72 witnesses – including judges, prosecutors and defence lawyers, police officials, crime victims and representatives of advocacy groups – during the course of three public hearings and four years of review. It also funded independent research by academics and the Rand Corporation, a respected policy think-tank.

At the heart of the problem is a shortage of willing and adequately qualified lawyers to handle appeals, which the CCFAJ recommends be fixed at a cost of \$95 million a year. California currently pays such lawyers less than the federal standard and few are prepared to take on cases that will tie them up for at least 12 years.

It currently takes up to five years just to appoint a lawyer to represent inmates, for whom appeals are automatic under law. Lower courts could be given the remit to handle final appeals – relieving the overburdened Supreme Court, which currently has exclusive jurisdiction. The CCFAJ further suggests, though does not explicitly recommend, that the state may wish to consider abolishing the death penalty altogether, or narrow the criteria by which criminals are deemed suitable for execution – and apply those new criteria to

inmates retrospectively.

While anti-death-penalty advocates welcomed the report, the CCFJA's 22 panel members were divided, with some disassociating themselves from it. Such moves "would exclude some of California's most brutal murderers from death row," they complained, including current inmate Gregory Scott Smith, who kidnapped, sodomised, strangled and burned an eight-year-old boy, and Mitchell Sims, who strangled and drowned a pizza delivery man then forced his victim's colleagues into a walk-in refrigerator and hung them.

Executed after a quarter-century wait

STANLEY "Tookie" Williams, a founder and early leader of the Crips street gang that terrorised Los Angeles in the 1970s and 1980s, was one of the most notorious killers executed in California in recent years.

His death on a hospital trolley in San Quentin in December 2005 became a cause célèbre for anti-death-penalty campaigners. They argued that Williams was innocent of four murders in two robberies, and had also renounced his gang background while in prison, writing inspirational books and being nominated for the Nobel Peace Prize.

His execution was the 12th since California reinstated the death penalty in 1978. Aged 51 when he died, Williams had spent 24 years and eight months on death row.

Ronald Bell, 57, who shot and killed a jewellery store clerk and seriously wounded another in a botched 1978 robbery, is the state's longest-serving death row inmate, having spent 29 years and four months at San Quentin.

Bell's third appeal reached California's Supreme Court in October. He argued that he was framed and it was his brother Larry, who was convicted of a murder in an unrelated case a year later, who was the real killer.

His appeal was dismissed in January, but some observers say it was unusual for legal action still to be taking place almost 30 years after the death sentence was passed.

"As long as litigation takes, this is really long," said Robert Matthias, California's deputy attorney general.

Page 1 of 1

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