

# Op/Ed

A MORIBUND SYSTEM

## **IF CAPITAL PUNISHMENT IS TO WORK, IT NEEDS A MAJOR OVERHAUL**

Again and again, through polls and ballot measures, Californians have expressed support for the death penalty.

But a report out last week from the Legislature-appointed California Commission on the Fair Administration of Justice makes clear that the death penalty in this state is "close to collapse."

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

To fix it - and this, too, may be an illusion - the system will need a multimillion-dollar upgrade, including doubling the number of state public defenders and increasing the number of prosecutors.

Keeping someone on death row - and there are 13 from San Joaquin County there now - costs \$92,000 annually. And that's in addition to the cost of a year at a maximum-security state prison, the commission found. The cost of appeals can be three times the cost of the original trial.

Of those on death row from this county, eight have been there at least 13 years. One, Jerry Thomas Bunyard, has been there 27 years.

Setting aside the question of whether the death penalty is just, you've got to start to ask, is capital punishment economically feasible?

This state has 673 inmates on death row. At \$92,000 each, that's a cost of nearly \$62 million annually just to keep them on death row.

And they're likely to stay there for years. Of the 673 there now, 79 - nearly 12 percent - don't even have attorneys appointed to begin the required appeal process.

The 22-member commission, including California Attorney General Jerry Brown, defense attorneys and religious leaders, said it found no credible evidence that an innocent person has been executed in California in the past 30 years. (There have been 13 executions in California since the death penalty was reintroduced in 1978.)

That speaks well of law enforcement and the courts. But the extraordinary care we exercise - as well we should - in meting out the ultimate punishment helps create the very backlog we have today.

Short of eliminating capital punishment and the fraud of quick justice it visits on the friends and families of murder victims, the commission suggested drastically reducing the number of crimes eligible for the punishment.

That makes sense. Today, 87 percent of first-degree murder cases could be prosecuted as death penalty cases. The commission suggests cutting qualifying cases to those involving torture of a murder victim, the murder of a law enforcement official or witnesses, and multiple murders.

We need to rethink the death penalty, setting aside the very human need to strike back, and rationally figure out what isn't working and what might.