

In N.C., only 20 percent of condemned are executed

By Frank R. Baumgartner
Special to the Observer

Posted: Friday, Mar. 05, 2010

To the litany of woes facing North Carolina's death penalty system, let us add a new one: 69 percent of those sentenced to death were determined by the courts to have been given excessive sentences. Only 20 percent of those sentenced to death were actually executed.

In this time of debate about costs and the possibility of executing the innocent, it's important to pay attention to the details of how the death penalty is administered. The Department of Correction's Website provides a list of all those sentenced to death in the state since 1977, and what it reveals is quite shocking. A study of the information suggests that, at a minimum, the death penalty is surprisingly inefficient. The vast bulk of those sentenced to death are, after scrutiny by the courts, later found not to have deserved the sentence.

Look at the numbers. From 1977 through the end of 2009, 388 individuals were sentenced to death, most for taking someone's life.

Five were later completely cleared of the charges for which they were condemned. Ed Chapman, Levon Jones and Johnathan Hoffman are just three recent examples. These men served a combined 40 years on death row for crimes they did not commit. The larger picture suggests that whatever the rate of actual innocence may be, the reliability of the death penalty system is surprisingly low.

What has happened to the 388 initially sentenced to die?

Of them, 158 remain on death row. Twelve are in jail pending a new trial, but are no longer on death row. Forty three have been executed. Six have committed suicide, and 19 others died of natural causes. The vast majority received a new trial based on appellate decisions that their original trial was seriously flawed.

Here is the shocking part: At subsequent trials, the vast majority were sentenced to a punishment less than death: 130 to life, 10 to a sentence less than that, and five were found not guilty altogether. Another five saw their sentence commuted by the governor to life without parole. In all, a full 69 percent of those entering death row eventually are sentenced to a lower sentence, generally life in prison.

What does this mean? For one, it suggests that our state is about like others. Columbia Law Professor James Leibman and colleagues reviewed thousands of cases in 2000 in all death-penalty states and found a reversal rate of 68 percent.

We could certainly go back to the days where individuals were executed more quickly; we could increase the "effectiveness" of the death penalty by increasing the rate of actual execution from the current 20 percent. But before we do that, let us remember Ed Chapman, Levon Jones, Johnathan Hoffman and the others, wrongly convicted, wrongly sentenced to death and alive today only because of time-consuming and expensive efforts to prove their innocence. The need to ensure against wrongful execution demands extreme care.

What are the costs of this revolving door on death row? First is the psychological toll it must take on the grieving and devastated families of the homicide victims. Of course not all families of murder victims support the death penalty, but many do, and they are told that a death penalty will bring closure.

In fact, it has an 80 percent chance of bringing disappointment.

The second cost is to taxpayers. Duke economist Phil Cook recently demonstrated that the state could save about \$11 million per year if it did away with the death penalty. The figures I've collected suggest some of the reason for that huge figure: It takes five capital sentences to produce one execution. Couldn't that \$11 million be used, instead, for crime prevention?

Finally, recent studies echo what other studies have found for years: The death penalty does not serve as a deterrent to future violent crime. The numbers I've pointed to may help explain it: Death sentences are imposed in a very small percentage of homicides but carried out in even fewer. This cannot possibly provide much deterrent value.

Recent attention to questions of innocence has caused a national pause concerning the death penalty. The exonerations of 139 individuals nationally have shocked the nation. We can all be pleased their innocence was demonstrated in time to avoid their wrongful execution.

But the problems with the death penalty system aren't limited to questions of innocence. With a 69 percent chance that any death sentence will be reversed, we should seriously question why we persist in maintaining a system that is costing us so much, but producing so many mistakes each year.

Frank R. Baumgartner is professor of political science at UNC Chapel Hill and co-author of "The Decline of the Death Penalty and the Discovery of Innocence." Reach him at Frankb@unc.edu.

[published in the Charlotte Observer, March 5, 2010]

URL for the on-line version of this article:

<http://www.charlotteobserver.com/2010/03/05/1289707/in-nc-only-20-percent-of-condemned.html>