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Death penalty opponents argue before court

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With Chief Justice Deborah T. Poritz set to retire next week, the state Supreme Court heard final oral arguments Tuesday in opposition to a recent New Jersey death penalty study.

The 2004-2005 Systemic Proportionality Review reviewed all capital cases within the state and, similar to prior studies, found that the county of prosecution is "a key factor in determining whether the defendant faces a death penalty trial."

The report submitted to the Supreme Court recommends that all capital prosecution cases be centralized in the state's Attorney General's Office. The goal of putting all such cases under one unit is to have uniformity among all capital prosecutions in an attempt to decrease this geographic disparity.

The attorney general would review the case in conjunction with the county prosecutor and determine if the case warrants capital prosecution. The report says, however, that "prosecutors cannot be expected to march in lock-step with respect to their decision whether or not to pursue a capital prosecution."

The Office of the Attorney General, the Office of the Public Defender and New Jerseyans for Alternatives to the Death Penalty denounced that approach in arguments before the high court. The Attorney General's Office asked the court to defer decision until the ongoing Death Penalty Study Commission completed its work and submits its findings to the state Legislature.

Boris Moczula, representing the Office of the Attorney General and a member of the Death Penalty Study Commission, said that the small sample size of these cases leads to methodological flaws in the study and that further research must be done.

"We are leaving the idea of centralization open, but until more has been done, the court should not order anything," said Moczula.

New Jerseyans for Alternatives to the Death Penalty said that county variability has led to the "arbitrary and irrational" use of the death penalty and asked the court to find it unconstitutional. The group's director, Celeste Fitzgerald, said that justice and fairness should not be violated just because of location.

"The existence of these troubling realities is further proof that New Jersey's death penalty system is fatally flawed, and should be replaced by a stronger, fairer, and more just punishment of life in prison without possibility of parole," Fitzgerald said in a written statement.

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