



## The Star-Ledger

### Prof wants execution saved for 'the worst of the worst'

Thursday, October 12, 2006

**BY ROBERT SCHWANEBERG**  
Star-Ledger Staff

Death is the only appropriate punishment for some murders, but it should be harder to impose than it is under current law, one of the leading academic advocates of capital punishment argued yesterday to a state commission.

"I feel certain that in some cases, the death penalty and only the death penalty is an adequate moral response," Robert Blecker, a professor at New York Law School, told a commission studying whether New Jersey's never-used 1982 capital punishment law should be repealed.

But Blecker also said New Jersey should be "refining" its death penalty so it is reserved for "the worst of the worst." He advocated repealing the provision that makes every murder committed during a robbery eligible for a death sentence. He said jurors should be told they may sentence a defendant to death only if they are "convinced to a moral certainty that he deserves it."

Witnesses at prior commission hearings have overwhelmingly favored abolishing the death penalty while a few -- mostly relatives of murder victims -- have argued for keeping it. Blecker was the first witness to advocate a third alternative: keeping a death penalty that would be much narrower than the one currently on the books.

His testimony sparked a lively debate among the 13 commissioners.

Kathleen Garcia, who represents the New Jersey Crime Victims Law Center, said that although she agreed with much of what Blecker said, the death penalty has become "a cruel hoax" because it has not been and never will be carried out.

"I don't care if it's the devil himself, they will not be executed," Garcia said. "There's no justice for victims as long as this exists."

Blecker replied, "Look into the conditions of life without parole and you'll realize it's an even crueler hoax." He asked how many relatives of victims would be able to "get on with their lives" knowing how such murderers are really treated.

"The standard line is: 'They never see the light of day.' They watch color TV, cable TV," Blecker said. "They're playing volleyball."

And no matter what present-day lawmakers might promise, Blecker said, parole would always be a possibility for a murderer serving life without parole.

"Europe has abolished life without parole," Blecker said, adding that a future state Legislature might do the same.

The special master appointed by the New Jersey Supreme Court to study the fairness of capital punishment, David Baime, said there is no reliable statistical evidence that the race of either the defendant

or the victim determines who gets a death sentence.

But Baime, a retired Appellate Division judge, said county-to-county differences in who faces a possible death sentence are "a major concern in the administration of our death penalty." He suggested centralizing decisions to seek capital punishment in the Attorney General's Office.

Claudia Van Wyk, a lawyer representing New Jerseyans for Alternatives for the death penalty, said Monmouth County has sought death in 63 percent of the cases where it was a possibility while Somerset County has never brought a capital case. Such disparity, she said, "is too wide to be just." She argued for abolishing capital punishment.

So did Robin Glenn, a lawyer commissioned by opponents of the death penalty to study the nearly 600 cases in which it could have been sought. She said some murderers who committed "horrible" crimes were spared while others were condemned for "relatively mundane" killings.

Yesterday's hearing was restricted to invited witnesses. The Rev. M. William Howard Jr., who chairs the commission, said it will hold its final hearing to take testimony from the public Oct. 25.

Robert Schwaneberg covers legislation. He may be reached at [rschwaneberg@starledger.com](mailto:rschwaneberg@starledger.com) or (609) 989-0324.

© 2006 The Star Ledger

© 2006 NJ.com All Rights Reserved.