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## Death penalty panel hears from 10 who oppose executions

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Bill Babbitt watched police put his younger brother in the patrol car and started to cry.

It was 1980. Babbitt had read about the murder of an elderly woman in her home and suspected his younger brother, Manny, who had been acting erratically since coming home from Vietnam. Babbitt made a tough choice and turned Manny in to the police.

David Kaczynski faced the same dilemma. After reading a manifesto published by the notorious Unabomber, Kaczynski suspected his brother, Theodore, was behind the bombing campaign that killed three people and wounded 23. David Kaczynski called the FBI.

Theodore Kaczynski is serving a life term without parole. California executed Manny Babbitt by lethal injection in May 1999.

"Our personal experiences are practically identical, except for one thing," Kaczynski said. "My brother is alive and Bill's brother was executed."

Yesterday, Bill Babbitt and David Kaczynski told a state commission the effects of uneven capital sentencing extend beyond the condemned inmates.

"My family was devastated," Babbitt said. "They became a whole new set of victims that night." He said some relatives "turned their back on me."

Kaczynski said, "Ted's life wasn't spared because he's any sicker than 100 or so seriously mentally ill people that our government has executed since 1992. His life was spared because he had great lawyers."

Babbitt lives in Elk Grove, Calif., and serves on the board of Murder Victims' Families for Human Rights. Kaczynski is executive director of New Yorkers Against the Death Penalty.

They were among 10 witnesses who testified before the New Jersey Death Penalty Study Commission. All opposed capital punishment. Several said the criminal justice system makes mistakes.

Nate Walker, who spent 12 years in New Jersey prisons for a rape he did not commit, said he is "living proof" an innocent man can be convicted. With the help of Centurion Ministries, Walker was freed in 1986 after a blood test -- which his trial lawyer had failed to order -- showed he was not the rapist.

Kirk Bloodsworth was sentenced to death for the 1984 rape and murder of a 9-year-old Maryland girl. He was freed in 1993 after a DNA comparison showed he was not the attacker.

"In matters of life and death, one mistake is too many," Bloodsworth said. "I could just as easily be dead today had the right set of circumstances not come about to ensure that the truth came out."

"I am one of 123 people exonerated from death row, and one of 176 people who have been exonerated by DNA. Clearly, this is a system that makes mistakes," Bloodsworth said.

Jennifer Thompson of Winston Salem, N.C., said mistakes happen even when everyone in a case -- prosecutors, defense lawyers and victims -- acts with the best of intentions.

Thompson was a 22-year-old college student when she was raped at knifepoint in 1984. She memorized her attacker's face and helped police construct a composite sketch, which she said then became etched in her memory.

Shown a series of photographs, she picked the one that most resembled the sketch. Shown a lineup, she picked the man who most resembled the photo. He was Ronald Cotton.

"I was certain that Ronald Cotton had raped me -- certain," Thompson said. Cotton was convicted in 1985. In June 1995, DNA tests showed another man, serial rapist Bobby Poole, was Thompson's real attacker.

"The guilt was heavy," Thompson said, adding that she and Cotton have become friends since his release. She told the commissioners, "You can reduce, but you cannot eliminate, the risk of error in the death penalty system."

Studies performed for the state Supreme Court have repeatedly shown defendants are not sentenced to death because of their race. But as capital sentences have been overturned, the complexion of New Jersey's death row has changed. Five years ago it housed 10 whites and seven blacks; now there are six blacks and three whites.

"Although African-Americans comprise only 14.5 percent of New Jersey's population, two-thirds of our death row prisoners are African-American," James Harris, president of the New Jersey State Conference of the NAACP, said. He urged abolition of the death penalty.

The 13-member commission has until Nov. 15 to submit a report to the Legislature and Gov. Jon Corzine.

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