



The Star-Ledger

Death penalty evokes anguished debate

Survivors of murder victims argue both sides of issue before panel

Thursday, September 14, 2006

BY ROBERT SCHWANEBERG
Star-Ledger Staff

Some survivors of murder victims insisted that execution is a fitting punishment for taking a life. Others said they feel continually victimized by a system that promises to extract the ultimate justice but never does.

For almost five hours yesterday, a state commission took testimony on the costs of the death penalty -- both financial and emotional -- and whether life imprisonment without parole would be a better alternative.

JoAnne Barlieb, who was 8 years old when her mother was murdered while working in a Willingboro convenience store, told how her family "was forced to relive the nightmare" as the killer's death sentence was overturned twice. The third jury to weigh Jacinto Hightower's fate deadlocked, sparing him execution.

"We're damned to continue this charade each time he becomes eligible for parole," Barlieb said. "The current system is most unjust to the victims and their loved ones."

Barlieb added that given the choice between execution or life imprisonment without parole, "without a doubt" she would advise other murder victims' survivors to seek the latter.

But Marilyn Flax said she will live in fear if her husband's killer, John Martini, is removed from death row.

"He's going to be eligible for parole and out on the streets. That's very frightening to me; it should be very frightening to you," Flax told the Death Penalty Study Commission.

Of the 17 witnesses at yesterday's hearing, seven were survivors of murder victims. Three, including Flax, argued for keeping the death penalty while four said it should be abolished in favor of life imprisonment without parole.

No executions have been carried out in New Jersey since capital punishment was reinstated in 1982.

"The death penalty is an abomination," said Richard Pompelio, who founded the New Jersey Crime Victims Law Center after his son was murdered. "Victims continue to be revictimized."

Pompelio said New Jersey has "spent a quarter of a billion dollars since 1982" on capital trials and appeals that would have been better invested in services to victims.

Last November, New Jersey Policy Perspective, a liberal think tank based in Trenton, calculated the cost of the death penalty at \$11 million a year for a total of \$253 million over 23 years.

Marilyn Zdobinski, a retired assistant Bergen County prosecutor who put Martini on death row for the 1988 kidnapping and murder of Irving Flax, called that study "a lie" designed to erode support for execution just as the state was getting close to carrying one out.

In July, the New Jersey Supreme Court rejected Martini's final appeal. He has exhausted his federal appeals. He remains alive because there is a moratorium on executions until 60 days after the commission completes its study and because the Department of Corrections has no valid regulations for performing a lethal injection. Once such regulations are promulgated, they could be challenged in court.

"It's about time the law is carried out," Zdobinski said.

Juan Roberto Melendez Colon, who spent nearly 18 years on Florida's death row before being exonerated and freed, told the commission, "New Jersey can lead this nation by abolishing the death penalty."

"It's carried out by humans, and we humans make mistakes," Colon said.

Sen. Raymond Lesniak (D-Union), who voted to reinstate capital punishment in 1982, a decade after the old law was declared unconstitutional, said, "I was wrong. Thank God no one has been executed. We now have an opportunity to right that wrong."

Lesniak said capital punishment should be replaced by life imprisonment without parole because "there is no foolproof system to avoid convicting an innocent person." He added that the cost of capital punishment "far exceeds the expense of life in prison" and amounts to "wasteful spending."

The 13-member study commission has until Nov. 15 to submit a report to the Legislature and governor on whether New Jersey should continue to have a death penalty.

Robert Schwaneberg covers legal issues. He may be reached at rschwaneberg@starledger.com or (609) 989-0324.

© 2006 The Star Ledger

© 2006 NJ.com All Rights Reserved.