

Special New Jersey panel urges state to abolish death penalty

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TRENTON, N.J. -- It's been 18 years since Marilyn Flax's husband was kidnapped in front of their home, but she can still hear the voice of her husband's killer, still see his face in the darkness.

"I spoke to my husband's killer four times on the phone, hearing how he pretended to let him go," she said of her conversations in 1989 with John Martini Sr., who was convicted in 1991 of kidnapping Fair Lawn warehouse manager Irving Flax and then murdering him after getting \$25,000 of the \$100,000 ransom.

"The last words I heard from my husband, in a piercing, screaming voice, were `Give him the money, or he'll kill me.'"

She vividly recalls the look of Martini's face in the night as she threw a cash-filled bag out the car window as Martini ordered in the hope of saving her husband's life.

But Marilyn Flax will never see her husband again and will likely never see her husband's killer executed.

On Tuesday, a special commission recommended abolishing capital punishment in the Garden State and replacing it with life imprisonment without the possibility of parole. The governor favors abolishing the death penalty, as do leaders of both houses of the Legislature.

But life behind bars is still too good for Martini, Flax said.

"This is someone's whose life they are saving?" she asked. "It's an insult to me, to my husband's memory, and to anyone who believes in the Constitution."

"Do I believe in it for every killing, no I don't. But the death penalty was designed for John Martini," she said.

The report, authored by a 13-member commission created in late 2005 by the Legislature, found that the death penalty costs taxpayers more than paying for prisoners

to serve life terms without parole. It also cited other states reconsidering their death penalties, federal court moves to restrict executions of the mentally retarded and juveniles, and religious opposition to the punishment.

"There is increasing evidence that the death penalty is inconsistent with evolving standards of decency," the report said.

Gov. Jon S. Corzine, a Democrat, said he would work to ensure the death penalty is taken off the books.

"As someone who has long opposed the death penalty, I look forward to working with the Legislature to implement the recommendations outlined in the report," Corzine said in statement.

Nevertheless, the report was decried by some families whose members were slain by the nine men now on New Jersey's death row.

"It's a sad day for me and all victims of crime who believe that justice is served by a jury instead of politicians," Flax said.

The state's last execution was in 1963.

"I just think it's a shame that people are going to have to pay year after year to keep to keep these people in prison," said Maureen Kanka, who led a national movement for communities to be notified when sex offenders move nearby after her 7-year-old daughter, Megan, was murdered by a sex offender in 1994.

If lawmakers and Corzine implement the commission's recommendation, New Jersey would become the 13th state without a death penalty. New Jersey was the third state to impose a death penalty moratorium to study the issue, behind Maryland and Illinois.

The Rev. M. William Howard, who headed the commission, said abolishing the death penalty would be "a forward-thinking decision, a leadership position that the state of New Jersey should take."

One member of the commission, former Sen. John F. Russo, who authored the state's death penalty statute when the penalty was reinstated in 1982, dissented from the panel's findings. He conceded the law may need to be abolished if it continues to be administered as it has since 1982.

"But I believe that the fundamental problem is not the statute, but rather liberal judges and other individuals who have consistently disregarded the legislative will and refused to enforce the law as written," Russo wrote in his dissent.

The legislation that created the commission imposed a moratorium on executions until 60 days after the panel completed its work. Still, no execution will be imminent.

The state already was temporarily barred from executing anyone because of a 2004 court ruling that determined New Jersey needed to revise how it administered the penalty. The court had raised concerns about "arbitrary and unreasonable" regulations on public and media access to executions and whether the state had the ability to reverse lethal injections if a stay were issued after the drugs were administered.

Democratic Senate President Richard J. Codey supported reinstating the death penalty in 1982, but said Tuesday the law has proven ineffective and expects legislation to abolish executions to be considered in the Senate by July.

"The way it's gone you'd have to be older than God himself to be put to death," Codey said. His counterpart in the Assembly, Speaker Joseph Roberts Jr., said he supports abolishing the death penalty.

Republicans bashed the report's findings.

"The Democrats' radical agenda is out-of-touch with the values of millions of New Jerseyans," said Cumberland County Sen. Nicholas Asselta.

Fully expecting the commission to recommend abolishing the death penalty, Flax said she knew she couldn't count on Martini's execution for closure. Instead, she chose to talk to him again a few months ago. This time it was in a letter.

"I didn't even sign my name," she said. "I had the last word, and I needed to have the last word."

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