

What should we do about Florida's Death Penalty?

In the last 30 years, only about 2% of homicides in Florida resulted in a death sentence¹. But are those individuals sentenced to death truly the “worst of the worst” – or simply those with the worst lawyers, the worst luck, the wrong skin color, or the wrong geographic location? Justice demands the utmost integrity of Florida’s irreversible punishment. Yet the integrity of our criminal justice system is crumbling amid growing concerns about how the death penalty is applied.

It's time that we dig deeper, find out the truth, and freeze executions until we address these doubts. Florida has the *second largest death row in the country* (nearly 400 people at the beginning of 2008), making these problems deadly serious.

INNOCENT LIVES IN THE BALANCE

Juan Roberto Melendez spent nearly 18 years on Florida's death row before being exonerated in 2001. His conviction rested on the testimony of two witnesses; no physical evidence linked him to the crime. Later, new evidence challenged the credibility of the witnesses, and it was discovered that prosecutors withheld a taped confession by the real killer during the original trial.

“Had it not been for what some call pure luck or what I like to think of as miracles, the state of Florida would have killed me.”

-Juan Roberto Melendez
Exonerated from Florida’s Death Row

Wrongful convictions like Juan’s mean victims’ family members suffer while the real killers remain at large and tax dollars are wasted. At least 130 people from 26 states have been exonerated from death row. Florida accounts for 22 death row exonerations - *more than any other state*². Rather than showing that the system is working, these cases represent much that is failing in our justice system. Almost all of these exonerations came not through standard channels, but are thanks to the extraordinary efforts of people working outside the court system.

How many others in Florida have not been lucky enough to have their innocence proven? For example, mistaken eyewitness testimony put Frank Lee Smith on Florida’s death row, where he died from cancer after 14 years. Only after his death did DNA testing reveal his innocence and the identity of the real killer.

WASTEFUL, INEFFICIENT, AND AN IMPEDIMENT TO HEALING

A full two-thirds of all death penalty cases are reversed for serious error, clogging the courts, diminishing public confidence in our effective pursuit of justice, and increasing the death penalty’s already high cost³.

No bargain: Florida would save **\$51 million** each year by punishing all first-degree murderers with life in prison without parole, according to a study done by the Palm Beach Post⁴. Studies in various other states have all found the same thing - pursuing a death sentence and execution can be up to 10 times more expensive than a life sentence without the possibility of parole. Yet cutting death penalty costs would increase the likelihood of executing an innocent person, and that risk is already too high. Is the death penalty worth the price?

The needs of victims’ families: Like society in general, many of those who have lost a loved one to murder oppose the death penalty for a variety of reasons. Death penalty reversals and errors force victims’ families to relive their pain over and over again as the courts repeat trials and hearings in an effort to get it right. Meanwhile, the enormous costs of the death penalty system divert precious resources that could go to meaningful victims’ support, such as compensation, counseling, and aid for orphaned children.

FAIR AND EQUAL BEFORE THE LAW?

We all expect justice to be blind. Otherwise it's not justice at all. But poverty and race determine who lives and who dies under our death penalty system by infecting everything from whether you get a competent lawyer to jurors' willingness to convict.

Racially skewed: Throughout the nation, the race of both the victim and the defendant inevitably influences who receives the death penalty. A study by the Florida Supreme Court found that a person accused of killing a white victim in Florida is 3.4 times more likely to receive the death penalty than if the victim were African American.⁵ In fact, throughout all of Florida's history, no white person has ever been executed for killing an African American.⁶

A lottery of geography: Where a crime occurs can play as significant a role as the nature of the crime. Since 1976, more than 80% of U.S. executions have occurred in southern states⁷. Within states, specific jurisdictions often seek the death penalty at a much higher frequency than others, and Florida is no exception⁸. Whether a criminal defendant will be subject to the death penalty should not arbitrarily depend on which side of the county or state line the murder occurred.

A raw deal for the poor: Over 90% of those facing capital charges across the country were too poor to afford their own attorney. Poor defendants have been represented by attorneys who had been suspended or disbarred, who were just out of law school, or even those who were drunk or asleep during court proceedings. In Florida, attorneys need only a minimal amount of experience to be appointed to represent someone in a death penalty trial. Florida Supreme Court Justice Raoul Cantero testified to the Commission on Capital Cases that the representation provided by registry attorneys appointed to capital defendants is "[s]ome of the worst lawyering" he has ever seen⁹.

"When a criminal defendant is forced to pay with his life for his lawyer's errors, the effectiveness of the criminal justice system as a whole is compromised."

~ William Sessions,
former FBI Director
under President Ronald Reagan

The question is no longer whether or not the death penalty in Florida is flawed, but what we are going to do about it. Isn't it logical for us to call a moratorium to halt executions while a thorough study of the system is conducted and doubts are addressed?

You can make a difference!

Contact FADP to:

- Arrange for a speaker to come to your congregation or community group's next meeting
- Find out about how to get a resolution in favor of a moratorium passed by your group
- Learn about volunteer opportunities
- Find a group meeting in your area

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¹32,767 murders from 1977-2006 (no data for 1988), Uniform Crime Report; 782 death sentences from 1977-2006 (1988 excluded), Death Penalty Information Center.

²Death Penalty Information Center. In addition to the official exonerations, other Floridians have been released from death row after evidence of their innocence came to light, but chose to make a deal with the state rather than wait in prison for a new trial that could officially clear them.

³Liebman, James et al, "A Broken System, Part II: Why there is So Much Error in Capital Cases, And What Can be Done About It," Columbia University, 2002.

⁴"The High Price of Killing Killers," Palm Beach Post, January 4, 2000.

⁵ Florida Supreme Court Racial and Ethnic Bias Study Commission, 1991.

⁶ Radelet, Michael. *Recent Developments in the Death Penalty in Florida*, 2001. For data on executions after 2001, see Clark County Prosecuting Attorneys Office.

⁷Death Penalty Information Center.

⁸American Bar Association. *Florida Death Penalty Assessment Report*, 2006.

⁹Jan Pudlow, *Justice Rips Shoddy Work of Private Capital Case Lawyers*, FLA. B. NEWS, March 1, 2005.