

Execution saves innocents...

by Jeff Jacoby, Boston Globe, 9/28/2003

Governor Mitt Romney has charged a blue-ribbon commission with drafting a death penalty law for Massachusetts that can be applied with 100 percent infallibility. The commission will not be able to do so – no legal instrument can be 100 percent infallible – but I don't blame the governor for wanting it to try. In recent years, anti-death penalty propagandists have succeeded in stoking the fear that capital punishment is being carelessly meted out. But it's a bogus accusation: Of the 875 prisoners executed in the United States in modern times, not one has been retroactively proved innocent. Widely trumpeted claims meant to illustrate the system's sloppiness – that more than 100 innocent men have been freed from Death Row, for example, or that death penalty cases have a 68 percent error rate – fall apart under scrutiny. In fact, so exacting is the due process in these cases that the death penalty in America is probably the most accurately administered criminal sanction in the world.

The propaganda has taken its toll, however. Romney knows that many people who would otherwise support capital punishment now hesitate for fear it may lead to an awful miscarriage of justice. Hence his call for "a standard of proof that is incontrovertible" – an uncompromising benchmark endorsed by members of the new panel. "In this work,"

says co-chairman Frederick Bieber, a geneticist at Boston's Brigham and Women's Hospital, "there is no room for error."

That is a worthy goal, but it cannot be an absolute criterion. No worthwhile human endeavor is utterly foolproof. Dr. Bieber's hospital would have to shut down its operating rooms if surgeons had to guarantee their infallibility. Even at hospitals as renowned as the Brigham, patients sometimes die on the operating table because of blunders or inadvertence. Is that an argument for abolishing surgery? Should air travel be banned because innocent passengers may lose their lives in crashes? Should the pharmaceutical industry be shut down because the wrong drug or dosage, mistakenly taken or prescribed, can kill?

To make the perfect the enemy of the good is irrational and counterproductive. The benefits of surgery, air travel, and prescription drugs are enormous – far too valuable to give up even though we know that people will die because of the fallibility of doctors and pilots and people who handle medicine. The same is true of capital punishment: The benefits of a legal system in which judges and juries have the option of sentencing the cruelest or coldest murderers to death far outweigh the potential risk of executing an innocent person. And there is this added reassurance: The risk of an erroneous execution

is infinitesimal, and getting smaller all the time.

And the benefits? First and foremost, the death penalty makes it possible for justice to be done to those who commit the worst of all crimes. The execution of a murderer sends a powerful moral message: that the innocent life he took was so precious, and the crime he committed so horrific, that he forfeits his own right to remain alive.

When a vicious killer is sent to the electric chair or strapped onto a gurney for a lethal injection, society is condemning his crime with a seriousness and intensity that no other punishment achieves. By contrast, a society that sentences killers to nothing worse than prison – no matter how depraved the killing or how innocent the victim – is a society that doesn't really think murder is so terrible.

But there is more to executions than justice for

the dead. There is also protection for the living.

Though Romney didn't say so when he introduced his new commission, the real threat to innocent life is not the availability of the death penalty, but the absence of one. For every time a murderer is executed, innocent lives are saved.

The foes of capital punishment have denied for years that putting murderers to death has a deterrent effect on other potential killers. That has always flown in the face of common sense and history – after all, wherever murder is made punishable by death, murder rates generally decline. But it also flies in the face of a lengthening shelf of research that confirms the death penalty's deterrent effect.

A recent study at the University of Colorado, for instance, finds "a statistically significant relationship between executions, pardons,

and homicide. Specifically, each additional execution reduces homicides by five to six." A paper by three Emory University economists concludes: "Our results suggest that capital punishment has a strong deterrent effect. . . . In particular, each execution results, on average, in 18 fewer murders — with a margin of error of plus or minus 10."

Comparable results have been reached by scholars at the University of Houston, SUNY Buffalo, Clemson, and the Federal Communications Commission. All these studies have been published within the past three years. And all of them underscore an inescapable bottom line: The execution of murderers protects innocent life.

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stealing, and fighting are often classified in the middle category of offenses.

Every parent should have a copy of the School Board Code of Student Conduct and information about what will happen if the code is violated. In our next article we will consider the practical meaning of the Florida stalking statute and some specific recommendations in any situation where a child has been harassed at school.

—Jay Howell, a Jacksonville attorney in the law office of Anderson and Howell, has been a State Prosecutor, a US Senate Investigator and the founder of the National Center for Missing and Exploited Children. He represents crime victims in civil claims for damages and advocates for the legal rights of all victims.



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