

Death-penalty foes square off

Supporter cites penalty's deterrent value

By Sen. Dale Volker
Guest contributor

Once again, the Legislature finds itself in debate over the restoration of the death penalty in New York state. And, once again, the argument boils down to the deterrent value of this ultimate sanction.

Voluminous studies on both sides of the issue have proven beyond a doubt that yes, it does, or no, it doesn't, serve as a deterrent. The conclusion, not surprisingly, seems to depend on the predisposition of the researcher.

In discussing capital punishment with people, I found that many of them make the point that crimes of passion — such as heated domestic arguments — may not be deterred by the death penalty. A great many murders are in fact so-called crimes of passion. What's more, in more than 70 percent of all murders, it turns out that the victim did indeed know his or her killer.

What we are talking about here are spontaneous events triggered by jealousy or rage and, in many instances, heavy alcohol or drug abuse. But, murder statistics aside, survey after survey shows that the average citizen fears harm not from friends, but from random violence by strangers — random instances of street crime.

And so the debate, in many people's minds, is focused on whether the death penalty actually would deter murders resulting from acts of passion or random violence. There are pros and cons on both sides of the question, but the death-penalty legislation that has been passed by both houses of the state Legislature for the past 15 years does not include these two major categories of crime.

The death-penalty bill, vetoed nine times by Governor Mario Cuomo, would apply to a very narrowly defined, but rapidly growing group of career criminals committing calculated

murder. It covers the following:

- Contract killings
- Witness assassinations
- Rape and torture murderers
- Second-offense murderers
- Murder by a prisoner serving a life sentence
- Murder during the course of committing another violent crime
- Killing an on-duty police officer.

Now in these specific cases, it is difficult for one to argue that the death

penalty would not be a deterrent. One does not need a graduate degree in criminal justice to come to this conclusion, just a little common sense.

The first year I introduced death-penalty legislation, I happened to run across a small-time mobster whom I had arrested on numerous occasions during my years as a police officer. He was out of jail at the time, and he was very agitated by the prospect of capital punishment. What he told me was

that my bill had doubled the cost of contract killings. "Your death penalty legislation is putting contract killings out of reach of the average guy," he said.

If we can have a deterrent value by merely introducing a bill, consider what a law would do to our career criminals. But death-penalty opponents would rather have you feel that somehow it's a complicated bill that may indeed lead to the execution of innocent people.

Governor Cuomo is happy to have the debate muddled because it gives him and others who oppose the death penalty the political cover they need to defend their position. By focusing the debate on matters other than the violence that has overtaken towns, villages and cities, these officials are permitted to defy the wishes of their constituents who believe we need the death penalty restored in New York state.

Furthermore, some opponents have tried to deflate the issue by saying that we need more jobs in order to get to the root cause of crime.

I won't disagree with the fact that we need more jobs and more training and more education. However, what I do believe is that we need a penalty that puts the neighborhood terrorists, the drug dealers, murderers and rapists permanently out of business.

Recent events suggest that career criminals believe they can get away with murder. Because of this situation, now more so than ever before, we need to send them a message: Crime will not pay.

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New York state Sen. Dale Volker represents the 59th Senate District, which includes Livingston County. He has sponsored death-penalty legislation in the Legislature in each of the past 15 years.



The front page of the Daily News on Jan. 14, 1928 featured this famous photograph of Ruth Snyder's execution in the electric chair at Sing Sing Prison in Ossining, N.Y.

Opponent advances belief in sacredness of life

By Clare Regan
Guest contributor

My faith journey began during my college years when I was baptized in the Catholic Church after prolonged soul-searching.

I was a science major, and the more I learned about the intricacies of the human body, the less I believed that we appeared upon the scene by chance. Since I believe life is a gift from the Creator, I believe it is sacred and must be respected, protected and preserved.

The God I came to know was a god who came not to condemn, but to save; who rejoiced more over one lost sheep that was found than in the 99 that never strayed.

If God loves us unconditionally, it follows that Saddam Hussein, Charles Manson and Arthur Shawcross are as loved as I am. As a parent, you don't stop loving a child when he does something wrong. Although you may hate the child's actions, you still desire their reform — their redemption.

If we believe no one is beyond redemption, it is idolatrous for us to make the decision that another's life is of no value and that he deserves to die for us.

Jesus gave us a new standard when confronted with evil. We are not to re-

spond with an eye for an eye, but should do good to those who hurt us. We should love our enemies.

When faced with the woman caught in adultery — a capital offense in his day — Jesus asked that the person without sin cast the first stone. When no one came forth, Jesus refused to condemn the woman, and admonished her to go and sin no more. It follows that we should not seek retribution, but should forgive and show mercy.

Affirmation of the sacredness of human life requires that we concern ourselves with reducing violence in society. Society has a right to protect itself from violent people, but it also has an obligation to right the injustices that lead people to prey upon one another. Institutional violence can not be ignored simply as a fact of life.

The Catholic Church has set strict limits on the right of the state to kill the wrongdoer. The penalty of death must fulfill one of the legitimate purposes of punishment — reform of the criminal, deterrence and restoration of the order of justice that has been violated by the criminal act. The church further states that an execution is justified only if it is absolutely necessary to meet one of these ends.

Obviously, taking a criminal's life is

not an action designed to reform that person.

No studies show that the death penalty acts as a deterrent. The study by Isaac Ehrlich, most often quoted to show the deterrent effect, has been shown by numerous researchers to be gravely flawed. Other research shows that the number of murders actually increases after a well-publicized execution.

We are left trying to justify an execution by asserting it is necessary to restore the order of justice.

Many murderers are retarded (more than 300 on Death Row have IQs under 70), mentally ill, under 18, or drug or alcohol addicted. I could never justify executing a person not fully responsible for his actions.

Because of human failings, innocent people have been executed. I believe five totally innocent people have been executed since 1977. Several others who participated in murder in a very marginal way have been killed.

Forty-four innocent people have been released from Death Row in the

past 10 years, many within hours of execution. Their convictions were based on perjured testimony, mistaken identity, coerced confessions and withholding of vital information by the prosecution.

No one can maintain that killing an innocent person restores the order of justice.

Society can be protected from violent people by holding them in a secure setting under as humane conditions as possible for life, if necessary.

It offends my moral sense that we single out the poor, the minorities and the killers of whites for execution, and call this process justice.

My opposition to the death penalty rests on a more basic issue than its fairness. I believe Jesus really meant it when he said, "Whatever you do to the least of these, you do it to me."

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Clare Regan, a staff member of the Rochester-based Judicial Process Commission, has for the past 15 years been a vocal opponent of capital punishment.

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