

THE ADVOCATE

Guest commentary: Time to get rid of the death penalty

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Glenn Ford's release from death row last week marks the 10th exoneration of a death-sentenced citizen in Louisiana in the modern era of the death penalty. None of those cases involved DNA exclusions; all but one wrongful conviction was a result of prosecutors hiding evidence of innocence.

Mr. Ford also became the 145th person to be exonerated from death row in the nation. Louisiana ranks fourth behind Florida, Illinois and Texas. No other state with comparable populations comes close to us.

So what do we do now that it has been proven 10 innocent men have been wrongfully convicted and sentenced to die in Louisiana? Do we celebrate and exclaim "justice has prevailed?"

Or do we search for answers to help us understand just how these miscarriages occurred? If we looked, we would find many other innocent men and women rotting behind bars, even some on death row today, because of inept defense attorneys and unscrupulous prosecutors.

And, yes, we also would learn there have been innocent persons executed in this and other states. If we really searched for answers, we will assuredly come to the conclusion that mere mortals cannot design a criminal justice system that will prevent innocent persons from being found guilty of crimes. As Sister Helen Prejean likes to say, we can't trust the government to fix potholes, so how are we going to trust it when it comes to life or death?

Even conservatives, such as Edward Crane, the founder and president of the CATO Institute, is now against the death penalty because in his words, "The government is often so inept and corrupt that innocent people might die as a result."

When a plane crashes, when a ferry sinks or when a train derails an enormous amount of energy, time and expense is immediately marshaled to explore and investigate the causes. This is appropriate for we know if we can discover the cause we can correct it, because by design, it is usually mechanical error.

But when a different type of crash occurs, the type involving an innocent man or woman going to prison to await execution, nothing happens. Business as usual resumes in the courthouse and we just move on with the false hope that it does not happen again.

It will happen again. Other innocent persons will be sent to Angola to await their death. By stroke of luck or divine providence, some will be exonerated, and for the other innocents, they will be executed.

If we studied the causes of wrongful convictions, we will learn a leading factor is many prosecutors, especially in high profile capital cases, want a death penalty so badly they are more than willing to hide all evidence that is helpful to the defense, including of course, direct evidence of innocence, as in the case of John Thompson.

We will learn it takes years, sometimes decades, of hard work by zealous defense attorneys to unravel the truth. The truth does not always reveal the actual killer, but it does show the trial was a farce and no jury would have convicted if the whole story was revealed. Maybe it is time we called our legislators and ask them what they plan to do to address the problem. For the sake of justice, the laws should be changed to require the prosecutors to reveal all of the evidence obtained by the police whether it helps the state or the defense.

In almost every state in America the defense is entitled to the police reports, the witness statements and the lab results. But not in Louisiana. Here, a defendant goes to trial having no idea what the police found during their investigation or whether there is evidence the jury should hear to help prove innocence.

Maybe it is time for a different solution, since we already know innocent people are convicted and sentenced to death.

Should we just wait and see if luck and providence will free them? No, we should abolish the death penalty now before an innocent citizen is executed in the name of justice. If there were any benefit to executing the tiny percentage of guilty murderers, the question might not be easy to answer.

But the fact is there is no benefit. It is extremely costly. It is random and arbitrary. It is fraught with racism. There is only risk involved. The only solution to the problem is to kill the death penalty before it kills again.

Nicholas Trenticosta, a New Orleans lawyer, has practiced death penalty law for the past 27 years. One of his cases decided by the U.S. Supreme Court resulted in his client's exoneration and freedom from death row.