

Florida's Death Penalty Problems and Recommendations

In 2006, the Florida Death Penalty Assessment Team, working with the American Bar Association, found a number of problems with the death penalty system in Florida. This assessment focused exclusively on capital punishment laws and processes and did not consider, as a matter of morality, philosophy, or penology, whether Florida should have a death penalty.

Florida leads the nation in death row exonerations. According to the study, Florida has exonerated twenty two (22) death row inmates, who served a combined total of one hundred and fifty years in prison before being released. One inmate, Frank Smith, died of cancer while waiting to be executed. He was exonerated posthumously.

Among the findings of the Assessment Project, were:

- 1) Inadequate Compensation for trial counsel in death penalty cases.
- 2) Lack of qualified capital collateral registry counsel.
- 3) Inadequate compensation of capital collateral attorneys.
- 4) Lack of unanimity in the jury's sentencing decision.
- 5) Significant capital juror confusion.
- 6) The practice of judicial override of the jury's life recommendations.
- 7) Racial disparity in capital sentencing.
- 8) Geographic disparity in capital sentencing.
- 9) The imposition of death on those with severe mental disabilities.

When human life is at stake, there is no room for error or injustice. The assessment team recommended a number of reforms that would help ensure fairness and accuracy in the process. Among the recommendations were:

- 1) Florida should protect innocent death row inmates by investigating wrongful convictions and preventing similar injustices in the future.
- 2) Florida should ensure that all capital defendants receive adequately compensated lawyers.
- 3) Florida should require jurors to make the ultimate sentencing decision.
- 4) Florida should require juror unanimity before imposing the death penalty.
- 5) Florida should ensure that its clemency process is transparent and open.
- 6) Florida should collect and analyze data to determine whether its death penalty system is fair and accurate. Other states such as Connecticut, New Jersey, and California have created commissions consisting of judges, prosecutors, and defense attorneys, who together have the credibility to recommend specific reforms of their death penalty systems. Florida should do the same.

In addition to these recommendations, Florida should require that all statements or confessions of murder suspects are video recorded, that informant testimony is determined by the court to be reliable and corroborated before presentation to the jury,

and that the jury instructions adequately define and explain mitigation and its ability to justify the imposition of a sentence less than death.

Even those who are not against capital punishment want the system to be reliable and fair. By implementing the changes recommended by the Assessment Team, Florida can increase reliability in the fact finding process, and limit the potential for the execution of the innocent.

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