

Death Penalty Remains Unfair, Arbitrary: It's Time to Abolish Capital Punishment

The guilty plea and sentencing of Steve Nunn for the murder of Amanda Ross comes just one week after the release of a new report from The Death Penalty Information Center issued on the thirty-fifth anniversary of U. S. Supreme Court rulings allowing the restoration of capital punishment. States, including Kentucky, immediately enacted new laws establishing its use (December 1976 in a special session of the General Assembly and signed by Gov. Julian Carroll).

Since then Kentucky has executed three men, two of whom volunteered to die. Just this year juries and judges in Kentucky, deciding the fate of several defendants, each of whom had murdered multiple victims, imposed sentences less than death. No defendant who murdered a victim and violated a domestic violence order has received a death sentence in Kentucky.

We agree with the undeniable conclusion to be drawn from The Death Penalty Information Center report: it is time for lawmakers to put repeal of the death penalty on a faster track.

The Report, "Struck by Lightning: The Continuing Arbitrariness of the Death Penalty Thirty-Five Years After Its Reinstatement in 1976," concludes that the more than three decade long effort to make the system more fair has failed. The report pointed out that factors such as race, wealth and geography play a greater role in determining who faces the ultimate punishment than the crime itself or the character of the defendant. Because of these arbitrary factors the Supreme Court Justices who once thought the problems with the implementation of the death penalty could be fixed now believe that the practice should be abandoned.

More and more Americans understand why it makes good sense to move away from capital punishment. A research study by Lake Research Partners found that a majority of the public supports ending the death penalty in favor of alternative punishments. This is not surprising because sixty-nine percent believe that the death penalty is applied unfairly.

Even the most ardent supporters of capital punishment concede that it is not a matter of *whether*, but *when* the death penalty will be repealed. The momentum toward repeal is building. In fact, four states—Illinois, New Mexico, New Jersey and New York have repealed the death penalty in the past five years. The handwriting is on the wall—the death penalty is a failed, antiquated experiment on its way out.

Every day that the death penalty remains with us is a day when resources that could be going to support the needs of victims are being siphoned off. The death penalty is not even sought in the majority of capital murder cases --only 1%-- so any claims of just punishment for the "worst of the worst" are misguided. Even if it is working the way proponents of the death penalty claim it is, we are only executing a select few of the "worst". In actuality, we know it is not working, and the death penalty is an unpredictable and discriminatory means for determining which victims' murders will be charged with the sanction of death—let alone providing any fair or accurate basis for determining which will actually receive it.

Just recently a report by a senior judge and law professor concluded that death penalty prosecution in California costs up to 20 times as much as a case where the prosecutor seeks life-without-parole instead. The least expensive death penalty trial costs \$1.1 million more than the most expensive life-without-parole case. Every day that the death penalty remains is a day when funds that should help hire and train more police who keep our neighborhoods safe, is not available.

It is obvious from the findings in "Struck By Lightning" that the responsible thing for Kentucky's General Assembly and the public to do is to pull the plug on the death penalty and move forward with alternative sentences that still hold people accountable for the harm that they do without violating our collective values of fairness and intelligent public policy.

More than three decades ago, Justice Potter Stewart wrote: “These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual...I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed.”

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