

Ohio Supreme Court Senior Justice Paul E. Pfeifer, who helped write the state's death penalty law in 1981, called for an end to capital punishment in Ohio in this 2011 op-ed. He retired in 2016 after 24 years on the Bench. He lives in Bucyrus and now serves as executive director of the Ohio Judicial Conference.

Retire Ohio's death penalty: Paul E. Pfeifer

By Paul E. Pfeifer (Published January 26, 2011)

Are we, the people of Ohio, well served by our continuing use of the death penalty?

Before we try to answer that, let's take a quick look back at capital punishment in Ohio. In 1972, the U.S. Supreme Court declared Ohio's death penalty statute unconstitutional. In 1974, our state legislature revised Ohio's death penalty law, but the Supreme Court rejected that one as well. Then, in 1981, a new death penalty statute was enacted, and this one passed constitutional review. We didn't resume executions in Ohio until 1999. Since then, 41 [53 - 2/2016] condemned murderers have been put to death; there are 157 [138 - 2/2016] more awaiting execution on death row.

There are very few people in this state more closely associated with the death penalty than am I. As a state senator in 1981, I helped draft our current law. Now, for the past 18 years, I have served as a justice on the Ohio Supreme Court, where we render the final judgment on death penalty appeals.

I helped craft the law, and I have helped enforce it. From my rather unique perspective, I have come to the conclusion that we are not well served by our ongoing attachment to capital punishment.

Why the change? In short, because the death penalty law is not being applied as we originally intended.

The statute that we wrote in 1981 was designed to pass constitutional review by the U.S. Supreme Court. That meant that it had to provide safeguards and extensive due process for accused murderers. We set out to enact a law that would give prosecutors the capability to seek capital punishment for the absolute worst offenders.

Murder is a vile crime. But not all murders are the same, and we did not mean for all -- or even most -- murderers to be eligible for the death penalty. The law was meant to be employed only when a certain set of aggravating circumstances warranted execution. But over the years, the death penalty has come to be applied more pervasively than we ever intended.

We also wanted a review process implemented in which the Ohio Supreme Court, in addition to considering death penalty appeals, would monitor death sentences across the state to verify that they were being evenly and fairly applied. Simply put, that hasn't happened.

Thirty years ago, the public's support for the death penalty stemmed largely from decades of sentences that seemed too lenient for murderers. The fact that a convicted killer could be eligible for parole after serving only a fraction of his life sentence did not sit well, and rightly so.

But in 2005, the Ohio legislature corrected that by passing a law that allowed prosecutors to seek a penalty of life without the possibility of parole rather than a death sentence. Since that law passed, we have seen the number of death sentences drop precipitously. Prosecutors and jurors have told us -- by their actions -- that life without the possibility of parole is a more desirable outcome to a murder trial than a death sentence.



Part of the reason for that, I believe, is that even supporters of capital punishment feel uneasy about sitting on a jury that votes to take a human life. As George Orwell once said, "Most people approve of capital punishment, but most people wouldn't do the hangman's job."

Make no mistake -- I am not arguing for leniency or sympathy. There are no good citizens on death row. These are people who have committed heinous crimes. When a villain murders, he not only ends one life, he irrevocably damages dozens of others. Murder has a ripple effect that consumes all those who loved the victim.

But life without parole now offers us a viable alternative to the death penalty, and it's an option that can satisfy our desire to punish killers for their crimes. There are, however, dozens of inmates on death row who were convicted before that option was available. How many of them would have been sentenced to death if the life-without-parole option had been available at the time? No one knows. All we know is that there are many people who will be put to death because they were convicted at the wrong time.

So, I ask: Do we want our state government -- and thus, by extension, all of us -- to be in the business of taking lives in what amounts to a death lottery? I can't imagine that's something about which most of us feel comfortable. And, thus, I believe the time has come to abolish the death penalty in Ohio.



<http://www.wcpo.com/news/opinion/ohios-former-prisons-chief-the-death-penalty-isnt-worth-fixing->

Terry J. Collins was director of the Ohio Department of Rehabilitation and Correction from 2006 to 2010 and worked in the prison system for nearly 33 years. He then actively spoke out as a member of Ohioans to Stop Executions. He died unexpectedly on March 17, 2016, just weeks after this op-ed was published.

Ohio's former prisons chief: 'The death penalty isn't worth fixing'

By Terry J. Collins, February 24, 2016

It's been six years since I retired after more than three decades at the Ohio Department of Rehabilitation and Correction. I held various positions including warden, regional director, assistant director and then director. Included in my responsibilities was the participation in the execution of 33 men from 2001 to 2010.

With each execution I asked myself: Did the extensive process of appeals ensure we got it right? I often wondered if we made a mistake. My curiosity arose because I had walked people out of prison after years of incarceration who turned out to be innocent.

Innocent People on Death Row

Every year, more innocent prisoners walk off death rows in the U.S. -- 156 since 1972. These troubling trends tell us this is no anomaly. Ohio has executed 53 and exonerated nine men. I think about these statistics and am troubled by Ohio's track record. Why? Because I'll always remember Gary Beeman, Ohio's first death row exoneree, who walked out of prison to a new trial and freedom. Turns out Gary didn't commit the crime that sent him to Death Row.

My concerns are not limited to the possibility of killing an innocent person. The death penalty is expensive, inefficient and takes far too long. I believe it only prolongs the pain and healing process for victims' families.

As one who values fairness and equality as the bedrock of our legal system, I do not accept the argument that we only execute the worst of the worst. The offenders in our prisons I encountered who committed unimaginable crimes were usually not on Death Row. The vast majority of those on Death Row were convicted under Ohio's felony murder rule, for killing someone in process of another crime such as robbery or kidnapping.

Failed Public Policy

A recently released study examined Ohio's 53 executions. This study found that the race of the victim and the county where the crime took place matter more than the severity of the crime. I think these disparities are important points of discussion regarding the use of the death penalty in Ohio.

I am not alone among corrections professionals who consider the death penalty a failed public policy. My predecessor, former ODRC Director Dr. Reginald Wilkinson, also opposes executions. We've joined with other former corrections officials across our great nation asking legislators to end the death penalty. After being quoted in my local paper in Chillicothe about my concerns with capital punishment, I received calls from former colleagues thanking me for saying out loud what they could not.



My concerns about the death penalty led me to join Public Safety Officials on the Death Penalty, an independent group of law enforcement officers, prosecutors, and corrections officials. We're ready to discuss concerns we share about the death penalty in this country so that policymakers may explore alternatives. Some of us oppose the death penalty while others support it under certain circumstances. We all recognize problems with the current death penalty, particularly that it diverts needed resources from policing and community safety.

A Better Alternative

I am pleased to stand with former Ohio Attorney General Jim Petro, another member of Public Safety Officials on the Death Penalty. He helped write Ohio's death penalty law as a legislator and saw 18 executions as Ohio's chief prosecutor. Jim and I join a majority of Ohioans who believe the current sentencing alternative of life without parole keeps Ohio communities safe. The sentence of life without parole is effectively severe and holds offenders accountable. Over 540 inmates are currently in custody of the Department of Correction with sentences of life without parole.

It is time for state officials to have serious and thoughtful conversations about whether Ohio's death penalty remains necessary. A recent task force appointed by the Ohio Supreme Court made 56 recommendations to fix problems with the fairness and accuracy of Ohio's system.

My experience tells me the death penalty isn't worth fixing. Our justice system will be more fair and effective without the death penalty.

Ohio legislators should enact proposed death-penalty reforms: Bob Taft, former Ohio governor (Opinion)

When I ran for governor in 1998, I hadn't given a great deal of thought to the duty I would be assuming to review clemency requests in death penalty cases. I campaigned on education, job creation and environmental issues.

However, as Governor I spent a lot of time reviewing the clemency cases that came before me. The death penalty is irreversible, and I wanted to make certain there was no question about guilt and no procedural errors.

At the time, the death penalty was an option I supported because it was pursuant to laws that had been enacted by the elected representatives of the people of Ohio. However, after reflecting on the cases I reviewed and the recommendations of the Ohio Supreme Court task force on the death penalty, I have come to have serious reservations about the effectiveness and necessity of capital punishment in most cases where it has been applied.

My first concern is that Ohio law allows the execution of individuals with serious mental illness. I believe this practice is not humane based on current standards of decency and the opinions of mental health experts across Ohio. Senate Bill 162 would end this practice, and I urge state legislators to enact it at the earliest possible date.

The legislature should also act to eliminate felony murders from the category of offenses to which the death sentence can be applied. These are murders in

combination with other crimes often where murder was not the original intent, such as kidnapping, rape, aggravated arson, aggravated robbery, and aggravated burglary.

Felony murder cases have accounted for the vast majority of death cases in Ohio, and they are a major cause of the substantial racial and geographic disparities in the use of capital punishment, casting doubt about whether our criminal justice system is providing "equal protection under the laws." Fewer than 7 percent of felony murder cases result in a death sentence, which raises the issue of whether they are part of a "plea bargaining" strategy pursued by prosecutors.

The Supreme Court Task Force on the Administration of Ohio's Death Penalty was comprised of judges, prosecutors, defense attorneys, legislators, and legal experts. It completed its work in 2014 after a careful examination of Ohio's death penalty process; the two reforms I am endorsing are part of their recommendations.

Now is the time for the Ohio General Assembly to enact these reforms into law.



Guest columnist Bob Taft served as the 67th governor of Ohio from 1999-2007. He now teaches at the University of Dayton



Jim Petro commentary: Death penalty is in decline, but problems remain

As Ohio attorney general, I oversaw 18 executions in accordance with Ohio law. As a state legislator before that, I helped write Ohio's current death-penalty law. We thought maybe it would be a deterrent. Maybe the death penalty would provide cost savings to Ohio. What I know now is that we were wrong. What I am coming to understand is just how wrong we were, and what needs to be done to fix our mistake.

My direct experience with executions makes me more than a mere spectator as Ohio continues to struggle with capital punishment. Since I left office in 2007, I've been following developments and watching those most deeply engaged with it.

Earlier this week, Ohioans to Stop Executions (OTSE) released its third report in as many years, providing perspectives on the status of Ohio's death penalty. I am in agreement with the report, "A Relic of the Past: Ohio's Dwindling Death Penalty," which details a continuing decline in executions and new death sentences in Ohio while highlighting the disparities between counties that prosecute death cases.

In 2015, only one new death sentence was handed down. Cuyahoga and Summit counties, two jurisdictions responsible for more than 25 percent of death sentences, initiated zero new death penalty cases last year. In fact, new death sentences overall were down for the fourth year in a row. There were three in 2014, four in 2013, and five in 2012.

It has become clear to me that what matters most is the personal predilections of a county prosecutor. Consider Cuyahoga County, which until 2012 was seeking the death penalty in dozens of cases a year. Last year Cuyahoga County sought none. Crime rates did not plunge. There was a new prosecutor.

On the other hand, consider Trumbull County, with one of the lowest homicide rates of Ohio counties which sentence people to death. Trumbull County leads the state with the highest death-sentence-per-homicide rate. Why? Again, the personal preference of the county prosecutor matters most.

The new OTSE report addresses many other issues, including 13 wrongful convictions and exonerations in Ohio death cases. After serving as attorney general, my chief concern was that our state has sentenced individuals to death or lengthy prison sentences for crimes they did not commit. The National Registry of Exonerations reports that 26 Ohioans were found guilty of murders they did not commit between 1975 and 2015. Half of these wrongfully convicted individuals — 13 of 26 — faced the death penalty, including Clarence Elkins, a man whose claim of innocence gained my support when I was attorney general.

Most urgently in my view, the new report catalogs the reluctance of Ohio legislators to consider most of the 56 recommendations made in 2014 by the Supreme Court Joint Task Force on the Administration of Ohio's Death Penalty. The charge to that task force was to find ways to make Ohio's death penalty more fair and accurate.

Only a handful of the recommendations have been considered, and not those which would make the biggest difference. For example, the recommendation to narrow the felony murder rule would address much of Ohio's disparity in death sentencing. Thirteen of the recommendations, individually and collectively, would go a long way toward preventing wrongful convictions. In failing to act, legislators effectively maintain the status quo, which is a broken system that currently serves only the interest of Ohio prosecutors. That is a grave mistake.

Another grave mistake is the terrible suggestion by the director of the Ohio Prosecuting Attorneys Association that Ohio adopt the gas chamber to conduct executions. I hope Gov. John Kasich and all Ohio legislators soundly reject that notion. It is offensive to the human experience and has no place in our great state.

I am convinced that the death penalty is just not worth it any more, and I don't think it can be fixed. Starting in January 2017, 28 Ohioans have execution dates. If we're going to have the death penalty, then it must not be carried out until the legislature implements the task force's reforms intended to ensure fairness and accuracy.

Jim Petro served as Ohio Attorney General from 2003 to 2007.