

Justice neither fair nor blind

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In May 2002, Gov. Parris N. Glendening imposed a moratorium to put death penalty executions on hold until the University of Maryland completed its \$225,000, two-and-a-half-year death penalty study and presented it to the legislature. That has been done.

The study examined 5,978 first- and second-degree murders committed between 1978 and 1999. With greater emphasis and detail, the study confirmed what two previous studies concluded — there are gaping disparities in the imposition of the death penalty. The race of the victim and the jurisdiction in which the crime was committed play a major role in determining who gets sentenced to death. Indeed, the imposition of the death penalty in Maryland is neither fair nor blind. And it's safe to assume that the same is true in the 36 other states that impose the death penalty.

The study found that African-American defendants accused of killing white victims are significantly more likely to receive the death sentence than other defendants. In addition, Baltimore County District Attorney Sandra O'Connor seeks the death penalty in every case that is eligible for the penalty. Baltimore County's death penalty sentences sought and death penalty convictions rendered exceed those in Prince George's County, Baltimore City and Anne Arundel County.

George Ryan, the former Republican governor of Illinois, believed in the death penalty until he took a long hard look at how it was imposed and how much it was riddled with error. Three years ago, Ryan ordered a moratorium on executions after 13 death row inmates were found wrongly convicted. In all, since Illinois reinstated its death penalty, 12 inmates have been executed and 17 have been cleared of murder charges. His faith in the death penalty shaken to the core,

Gov. Ryan commuted the death sentences of 167 inmates to life in prison. Ryan said the death penalty "is haunted by the demon of error."

The DNA tests that have exonerated dozens of convicted criminals in recent years have raised grave doubts about the reliability of jury verdicts. While exoneration can release wrongly convicted and imprisoned men and women, it cannot bring back to life people who have been wrongly convicted and executed.

Swayed neither by Gov. Ryan's action nor the documentation of the latest death penalty study which points clearly to huge racial and geographic disparities in the imposition of the death penalty, Gov. Robert L. Ehrlich Jr. states he will end the state's moratorium on death penalty executions. He said that he and Lt. Gov. Michael Steele, who opposes the death penalty, will review the cases of the Maryland's 12 death row inmates to assure that they were fairly tried and convicted.

That really begs the question. Indeed, the 12 death row inmates may have been fairly tried and convicted. However if their death sentences were influenced by the victims' race or the county in which the crime was committed, a review of their cases will not expose the fact that the bias began before the individual ever came to trial.

Prof. Raymond Paternoster, the author of the death penalty study, suggested that to make the system more equitable, uniform standards should be created for prosecutors handling death-eligible cases. He also said "proportionality review" might be re-instituted. This is a process whereby the Maryland Court of Appeals compares each death sentence with punishments for similar crimes and conducts a continuous monitoring of the system.

In 1993, a gubernatorial commission charged with studying the death penalty found that there was racial disparity in the imposition of the penalty. In 1996, a gubernatorial task force reached the same conclusion.

And now this latest University of Maryland study affirms the conclusions reached in 1993 and 1996 and statistically proves that who is killed and where the murder takes place have a lot to do with who is sentenced to death. That type of justice is neither fair nor blind. In fact, that type of justice is not justice at all.

Maryland State Sen. Ulysses Currie, a Prince George's County Democrat, is chairman of the Budget and Taxation Committee.