



## Bill Clutter: 20 million reasons to abolish death penalty

**THE STATE JOURNAL-REGISTER**

Posted Jan 02, 2011 @ 12:01 AM

Recommend

15 people recommend this.



The end of January will mark the 11-year anniversary of the moratorium on capital punishment in Illinois. The stunning revelation that 13 men on death row were actually innocent led to the decision to "temporarily" halt executions in order to study the flaws in the criminal justice system. Another six men, including Randy Steidl, who had been condemned to die were exonerated after the moratorium, bringing the total to 19.

The error rate in capital cases since the death penalty was reinstated in 1976, after being briefly declared unconstitutional by the U.S. Supreme Court for being disproportionately imposed on blacks, was roughly 10 percent.

My experience in the Jeanine Nicarico case, which accounted for two of the original 13 death row exonerees, demonstrated to me that the raw emotion involved in these horrific crimes overwhelms jurors. Emotion overcomes reason. Death penalty cases are different because of this.

**One reader recently wrote** that the solution is to "fix the system." But the reality is many reforms have been adopted already. Weeks before the moratorium was announced, the legislature enacted the Capital Litigation Crimes Act that provides \$20 million a year to "level the playing field." The fund provides resources prior to trial to appoint experts, investigators and qualified counsel. Evidence of one's innocence should be discovered before trial rather than after a conviction occurs, goes the theory of this reform.

In the interest of full disclosure, I should tell the reader that I earn part of my work as a private investigator working on the defense of capital cases. The existence of this fund and other reforms has no doubt helped to prevent innocent men like Kevin Fox in Will County and Jerry Hobbs in Lake County from being convicted.

But these two cases also demonstrate the human fallibility of the criminal justice system. No reform will change flaws that we have, being only human. There is no systemic change that will change human nature. To err is only human.

Police in both cases targeted the fathers for interrogation. Kevin Fox falsely confessed on videotape in June of 2004 to the murder of his 3-year-old daughter. A year later, Jerry Hobbs also falsely confessed on videotape on Mother's Day 2005 for the murder of his 8-year old daughter, Laura.

False confessions are a leading cause of wrongful convictions, second only to witness misidentification. Of the 265 DNA post-conviction exonerations in the United States, roughly 25 percent of these cases involved someone who falsely confessed to crimes they did not commit.

Only after Fox and Hobbs were arrested was evidence of a sexual assault discovered in both children. Ultimately, after the DNA profiles were uploaded into a national DNA data base were the true perpetrators identified. Both children had been killed by sex offenders. Both fathers had been facing the death penalty.

But what if there was no DNA? In most murder cases, there is no DNA to help police solve a crime using science. What happens in those cases where the death penalty is sought?

As the General Assembly now debates abolishing the death penalty altogether, no matter how much money is thrown at the problem, we should face the fact that there is no guarantee that an innocent person won't be executed in the future.

And if that reasoning were not persuasive enough, consider the logic of economics. With a projected budget deficit of \$15 billion by next year, there are 20 million other reasons for legislators to abolish the death penalty.

*Bill Clutter is director of investigations for the Downstate Illinois Innocence Project at the University of Illinois Springfield.*

Copyright 2011 The State Journal-Register. Some rights reserved

### Popular Videos



Raw Video:  
Burglars Drive Into  
Bowling Alley



Former US  
Official's Body  
Found in Del.



Jerry Brown New  
'Old' Governor of  
California



Raw Video: Snow  
Socks Southern  
California



Gunman Kills  
Female Ohio  
Officer



Caught on Tape:  
Navy Commander's  
Raunchy Skits