

# Legal group: Death penalty unjust, needs reform

**By Larry Miller**  
*Special to Sentinel-Voice*  
 PHILADELPHIA (NNPA) - The death penalty is the harshest punishment the state can impose, and because of its finality, it is not dispensed without careful scrutiny of the evidence against those sentenced.

Well, maybe not. According to a new report issued by the American Bar Association, death penalty laws, policies and practices in Pennsylvania are in serious need of reform.

Among its many recommendations, which piggyback on an earlier 2003 analysis by the Pennsylvania Supreme Court on race and gender bias in the justice system, the new report by the ABA points out that the current policies are so flawed that the Commonwealth risks executing an innocent person.

The report also stated that "because Pennsylvania has not conducted a more comprehensive study designed to determine the extent to which racial and ethnic bias exists in Pennsylvania's capital punishment system, the full extent of the issue cannot be known, nor can steps be taken effectively to eliminate the role of race in capital sentencing."

According to the ABA, over the past 30 years, the group has become increasingly concerned that capital jurisdictions too often provide neither fairness nor accuracy when administering the death penalty.

"In response to this concern, on Feb. 3, 1997, the ABA called for a nationwide moratorium on executions until serious flaws in the system are identified and eliminated," the report said. "The ABA urges capital jurisdictions to (1) ensure that death penalty cases are administered fairly and impartially, in accordance with due process, and (2) minimize the risk that innocent persons may be executed."

**Viewpoints on Issue**  
 According to the United States Bureau of Justice Statistics, last year 53 individuals were executed. Of those persons, 32 were White and 21 were Black. Of those persons under a death sentence nationwide in 2005, 1,805 were White, 1,372 were Black.

Supporters of the death penalty strenuously point out that society must protect itself against violent predators.

And for the families of those victimized by murder, the death penalty stands as the ultimate form of justice.

Shouldn't the penalty fit the crime they say? Shouldn't killers like John Allen Muhammad, Ted Bundy and Gary Heidnick receive a punishment fitting the heinousness of their crimes?

Opponents of the death penalty respond with equal vigor that capital punishment doesn't really act as the deterrent it is intended to be. Also, they say that there are racial disparities in the way the sentence is meted out. More significantly, because of inherent flaws in the system the state runs the risk of executing an innocent defendant.

Among its recommendations, the ABA report urged the Commonwealth to preserve biological evidence for post-trial DNA tests, videotape homicide investigations and implement modern witness-lineup techniques.

Also the analysis pointed out that Pennsylvania failed to implement its own 23 recommendations put forth in its "Pennsylvania Supreme Court's Committee on Racial and Gender Bias in the Justice System in 2003."

"Fairness and accuracy together form the foundation of the American criminal justice system," the report stated. "As the United States Supreme Court has recognized, these goals are particularly important in cases in which the death penalty is sought. Our system cannot claim to provide due process or protect the innocent unless it provides a fair and accurate system for every person who faces the death penalty."

The ABA's report identifies eight areas in Pennsylvania's justice system that it says are in need of reform. Heading the list are policies in place to protect innocent defendants. Citing the cases of Nicholas Yarris, Neil Ferber, Harold Wilson, William Nieves and Thomas Kimbell Jr., all of whom were freed from death row, the report says current procedures are inadequate.

The eight areas are as follows:

- Inadequate access to experts and investigators
- Lack of data on death-eligible cases
- Significant limitations on post-conviction relief
- Significant capital juror confusion
- Racial and geographical disparities in the state's capital sentencing
- Despite the best efforts of the many principled and thoughtful actors who play roles in the criminal justice process in the Commonwealth of Pennsylvania, our

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research establishes that, at this point in time, Pennsylvania cannot ensure that fairness and accuracy are the hallmark of every case in which the death penalty is sought or imposed," the report stated.

**Moratorium Needed**  
 Advocates who, over the last several years, have urged the state to call a moratorium on the death penalty in Pennsylvania said the analysis of the Commonwealth's death penalty laws, procedures and practices serves to under-

score the need for reform. "This comprehensive review by some of the state's best legal minds confirms that Pennsylvania's death penalty system is plagued with errors," said Andy Hoover, spokesperson for the Pennsylvania Moratorium Coalition and Community Organizer for the American Civil Liberties Union of Pennsylvania in a prepared statement.

"Inadequate representation, the disturbing prospect of executing an innocent per-

son, racism and geographic disparities are undeniably present in our state's justice system," Hoover said. "This is a wake-up call for Pennsylvania. It is time to step back from the death penalty while these biases and inaccuracies are addressed. The system is plagued by error in Pennsylvania where we've exonerated as many people as we've executed. Pennsylvania has the second highest minority death row rate in the nation. It's literally a form of (See ABA, Page 11)

Why Not a 42" flat screen instead of a 36". Why Not leather upholstery instead of that plaid. Why Not Bora Bora instead of the backyard. Why Not the fifty yard line instead of a nosebleed. Why Not a room with a view instead of a room. Why Not the sirloin instead of the chuck. Why Not sleepaway camp instead of day camp. Why Not a ski week instead of a ski weekend. Why Not a new wardrobe instead of a new suit. Why Not first class instead of coach. Why Not surround sound instead of 'what'd he say?'. Why Not April in Paris, Paris, Texas. Why Not well as the horses. Why Not a private video tape. Why Not to go with the clubs. Why Not a club membership instead of a cellar instead of a row center instead of a great wine rack. Why Not third of the balcony. Why Not a DJ instead of a party mix. Why Not the premium instead of the regular. Why Not the tree instead of the sapling. Why Not 80 gigs instead of 20. Why Not the yacht instead of the dinghy. Why Not the castle instead of the cottage. Why Not the antique instead of the repro. Why Not season tickets instead of scalping. Why Not the sloop instead of the sunfish. Why Not the signed print instead of the print. Why Not a house on the beach instead of the bay. Why Not 'I'll take it' instead of 'I'll think about it'. Why Not the autographed jersey instead of the jersey. Why Not Rome, Italy instead of Rome, New York. Why Not a 3-carat solitaire instead of 2. Why Not the gold instead of the silver. Why Not go to the playoffs instead of watching them. Why Not have your cake and eat it too, in Venice. Why Not five acres instead of two. Why Not the coupe over the sedan. Why Not the cruise instead of the jaunt. Why Not a limo instead of a taxi. Why Not a safari instead of a zoo. Why Not the mags instead of the radials. Why Not a new deck and a pool instead of a new deck or a pool. That's right. Why Not ?

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