



Looking Outward

Dan Glode
Columnist

Time to move on from the death penalty?

Idealism is fine, but as it approaches reality, the cost becomes prohibitive.

— William F. Buckley, Jr.

The name Randy Guzek is likely familiar to everyone who lives in Deschutes County. He was found guilty of two counts of aggravated murder in 1988 for the 1987 murders of Rod and Lois Houser in Terrebonne and he was sentenced to death.

The facts of the case are gruesome.

A few weeks ago the Oregon Supreme Court upheld his last death sentence from 2010. He has had three retrials for the death sentence and been sentenced to death four times total.

In Oregon, the jury imposes the death penalty

so there are really two trials in an aggravated murder case: one to decide guilt and one to impose sentence. This most recent Oregon Supreme Court decision, which dealt with the penalty phase only, is not the end of the matter by any means. Dayton Leroy Rogers was recently sentenced to death in Portland after his fourth penalty phase trial for murders he committed in the 1980s. He is a serial killer, and the facts of the murders he committed are also gruesome.

I was elected as Lincoln County district attorney in 1988 and took office in 1989. I served three terms — or 12 years — in that capacity, and left that job in 2001. During the entire time I was in office these cases were pored over and analyzed at conferences and workshops. Here we are, 27 years after Guzek was first convicted and sentenced to death and he has not been executed. Had he been executed during the time I was district attorney I would not be writing this piece, but he has been on death row during my entire tenure in that job and then again the same period of time. He probably will not be executed in the near term.

Governor Kitzhaber, stating the death penalty system was broken, imposed a moratorium on the death penalty

in Oregon and that suspension has been renewed by Governor Brown. So, in some sense, the recent sentence of Rogers and the one upheld on Guzek are moot. But even if there were no death penalty moratorium these killers would not be executed.

It may be time to move on from the death penalty. Don't get me wrong: I think these men and the other 32 on death row in this state probably deserved to be executed. The acts they committed on human beings were unspeakably horrible. Some of my liberal friends cringe when I tell them that my opposition to the death penalty is not based on humanitarian grounds. In a state where we have death with dignity for all, I am sure we could find some humane way of putting these people to death. I will leave the discussion of whether the death penalty is inhumane to the theologians and ethicists.

Most death-penalty advocates talk of the need for justice and the unspeakable crimes committed by these defendants. They are right; the crimes were horrible. For me the reason for abandoning the death penalty in Oregon is simple: we just don't execute anyone.

There are 35 inmates on death row in Oregon; all

but one are men. They are segregated from the general population. It is much more expensive to maintain an inmate on death row than in the general population — much more. Then there is the cost of what seems like endless appeals. It is a multi-step process from beginning to end with appeals in both the state and federal systems. Then there are post-conviction appeals, habeas corpus, etc. Every individual is afforded an attorney along the way at all stages of the appellate process and, of course, the state is a party to all these appeals. The death-penalty system we have generates a huge amount of appellate work for attorneys.

We have had a very expensive legal machine running just for these cases for almost 30 years.

In Oregon we are victims of our own success. I know you have heard of stories in Texas and Louisiana, where defendants are wrongly convicted and sentenced to death. That does not happen here. This state bends over backwards at all stages of the process. Mistakes are not tolerated here and if any be made, they are picked up somewhere in the process.

The criminal justice system in this country does not always do right by crime victims. As a district attorney

you try to make crime victims whole again after a crime is committed but in reality there is no way to do that. How do you bring a loved one back? You can only soften the blow. For the victims and loved ones of aggravated murder victims it can be even more difficult since getting to a point of closure involves some certainty as to what is going to happen to the defendant. To them, it seems like it goes on and on — and it does.

For many years now Oregon has provided an alternative for juries contemplating the death penalty: true life. When this sentence is imposed a defendant is imprisoned without the possibility of parole or early release. You could call this locking them up and throwing away the key. They go in with the general population and are kept there until they die. So far this sentence has been upheld. It is much less costly and gives some needed finality to these cases.

I can think of many other uses for the millions upon millions we spend on a death penalty system, which does not work. It may be time to try something else. Let's move on.

Dan Glode is an attorney and former district attorney for Lincoln County.

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