

Aundré M. Herron: The death penalty is not civilized

By Aundré M. Herron - Special To The Bee

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I am no stranger to murder. Not that I have ever killed anyone, but I have lost several members of my family to homicide. What makes me different from most people who share my experience is that I have worked as a lawyer on both sides of the criminal justice system.

I began my career as a district attorney. I filed criminal charges that made defendants eligible for execution and, through trials or pleas, put people in jail for everything from bad checks to murder. I was just doing my job, almost oblivious to the gravity of the role I played. In 1991, I went to "the other side" and began doing appeals for California prisoners sentenced to death, fighting against the very system I once served. But nothing prepared me for the challenge I soon had to face in my own life.

In 1994, three years into my work on behalf of people sentenced to die for murder, my brother, Danny "Deuce," was killed in Kansas City, Mo. He was a decorated Vietnam veteran who, after the war, found employment as a redcap at Amtrak. Eventually, he worked his way up to engineer and commanded the route from Chicago to Los Angeles. I couldn't believe my big brother actually "drove" the train. He was an amazing guy and a fantastic big brother. His murder was a devastating blow to my family and to everyone who knew him.

Even though I was working as a death penalty defense lawyer at the time, I was shocked at my impulse to hunt down and kill the perpetrators myself. Eventually, they were caught, but legal technicalities led to dismissal of the case. The cold, cruel reality I had to face was that no one was going to be held responsible for my brother's murder. But even if the case could have gone forward, nothing could replace what my family had lost. Nothing - not the death penalty, not the worse punishment I could imagine for his killers - would ever bring him back. There was no "closure" to be had.

Having served on both sides of the criminal justice system, the experience of losing my brother in this unforgettably tragic way, without recourse or retribution, forced me to re-examine the way "execution" and "closure" are joined in contrived alliance, recited by death penalty advocates to justify their point of view. But having survived my brother's murder without the "benefit" of the death penalty, it is clear to me that the death penalty cannot do what its proponents claim.

It does not deter crime. It is not administered fairly or equitably. It does not bring closure. Instead, it forever ties the victim's survivors and the entire society to the act of ritualistic revenge killing. It is costing us a fortune - fiscally and spiritually. It stands in the way of our ability to live up to our highest ideals regarding justice and the sanctity of life. It is one of our most colossal public-policy failures and should be abolished without delay.

Abolishing the death penalty isn't about "pro" or "con" partisanship, it's about priorities. And any fair assessment of what our priorities ought to be cannot rationally include the death penalty. We can protect the public without the death penalty. We can punish those who take innocent lives without ourselves engaging in the business of killing.

We cannot trust death penalty proponents who glibly assure us that police, prosecutors and the state are infallible and have never lied or made a mistake. Nor should we entrust power to those who tell us that mistakes are inevitable. We will never know how many innocent people we have executed, but we can put an end to the mistakes like the ones that have been exposed by 128 exonerations of people from death rows across the country.

We can sentence people to die in prison, what we call "life without parole." It prevents those who have committed heinous crimes from re-offending society. The thought of living out one's natural life behind bars is a far worse punishment than execution, with greater potential to deter those who might take a life.

Over the last 17 years, the state has executed 13 people, some of whom were laudable candidates for clemency, some of whom likely were innocent of the crimes for which they were sentenced to die. These executions did not make us safer, nor has the lack of executions made us less safe. Thankfully, California has not executed anyone in the past two years.

Californians must demand a higher standard of themselves and of their leaders. We must reject state-sanctioned killing. We must reject revenge as public policy. We must reject a criminal justice scheme that systematically targets the poor, the mentally ill, the disenfranchised and the dispossessed. We can ensure public safety by investing our resources and our intelligence in front-end solutions to the problem of violent crime.

The smart money would be on an intelligent, humane, more progressive approach to fighting crime and on helping all citizens live quality lives. It is time to send a strong message to the governor and to politicians throughout the state and across this nation that we are weary of the ineffective, cost-prohibitive, unjust and failed death penalty experiment.

The promises of fairness, deterrence, closure and finality do not ring true. We need leaders who inspire solutions, not hatred and fear. We need leaders who can think, not politicians who seek our votes based on their willingness to put people to death.

We must demand that our public resources be put to a higher purpose. We must use our intelligence to attack the problem of violent crime at its source - where the demons of dysfunction, deprivation and denial of opportunity converge to set our children on a path to violent crime rather than a path to becoming community leaders. We must adopt a system that removes the offenders from society without engaging in ritualistic, deliberate, premeditated, cold-blooded acts of state-sanctioned killing carried out at the stroke of midnight and given the false imprimatur of justice.

We are better than that, and we can do better than this.