

March 28, 2008

California Commission on the Fair Administration of Justice
Attn: John Van de Kamp, Chair
900 Lafayette Street, Suite 608
Santa Clara, California 95050

Dear Commissioners,

We, the undersigned, are current and retired judges who served on the Supreme Court, Courts of Appeal, and/or Superior Court in California. We have, individually and collectively, many years of experience with California's criminal justice system generally and with its death penalty in particular. We write to express our concerns about the current application and administration of the death penalty in California.

We are particularly concerned about the impact of death penalty cases on our courts. Death penalty cases consume an exorbitant amount of the most precious judicial resource: court time. Every aspect of a death penalty case takes more court time than a non-death penalty homicide case. This burden has fallen largely on the trial courts, which have adjudicated literally thousands of cases involving the death penalty since reinstatement in 1977. While much attention has been focused on the difficulties of the California Supreme Court in handling death penalty cases, almost no attention has been given to the problems faced by the trial courts. With the state budget crisis now being declared an "emergency" situation, we anticipate that judicial resources will become even scarcer and that these problems will only become worse.

We are also concerned about the fairness of California's death penalty. Our justice system is premised on the idea that equally matched advocates presenting their case to a neutral fact finder will result in a just outcome. We are concerned that California's death penalty system fails to achieve this ideal because California continues to provide insufficient resources to defense attorneys in death penalty cases. Most people facing the death penalty are too poor to hire their own attorneys. Some lucky defendants are represented by fine court appointed attorneys or public defenders. But far too many are represented by attorneys who do not have the resources they need to conduct a proper investigation and defense.

We encourage the California Commission on the Fair Administration of Justice to consider the myriad problems with California's death penalty, only some of which have been detailed here. Any attempt to reform California's death penalty must be comprehensive, and must ensure a means of providing sustained and sufficient resources for the entire system. We urge the Commission to consider recommending a moratorium on the death penalty in California until systemic reforms are implemented.

Sincerely,

Judge Demetrios Agretellis
Ret., Alameda County Superior Court

Judge Michael Ballachey
Ret., Alameda County Superior Court

Judge Ken Chotiner
Ret., Los Angeles Superior Court

Judge LaDoris Cordell
Ret., Santa Clara County Superior Court

Judge Roderic Duncan
Ret., Alameda County Superior Court

Judge Mark Eaton
Ret., Alameda County Superior Court

Judge James P. Gray
Orange County Superior Court

Judge Ron Greenberg
Ret., Alameda County Superior Court

Associate Justice Joseph Grodin
Ret., California Supreme Court

Judge Richard Hodge
Ret., Alameda County Superior Court

Judge Ellen James
Ret., Contra Costa Superior Court

Associate Justice William A. Newsom, Jr.
Ret., California Court of Appeal

Associate Justice Cruz Reynoso
Ret., California Supreme Court

Judge Jennie Rhine
Ret., Alameda County Superior Court

Judge David M. Rothman
Ret., Los Angeles Superior Court

Judge Harold Shabo
Ret., Los Angeles Superior Court

Judge James M. Slater
Ret., Santa Barbara Superior Court

Judge Norman Spellberg
Ret., Contra Costa Superior Court