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## Editorials / Opinion

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### **Guest opinions: Should Washington state abolish the death penalty?**

Gov. Jay Inslee has imposed a moratorium on capital punishment while he is in office. Seattle Times guest columnists debate whether Washington state should abolish the death penalty permanently.

**Pro:** It's wrong for the state to take a life

**Con:** Consider the victims and their families

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#### **It's wrong for the state to take a life**

**By Eldon Vail and Dick Morgan**  
*Special to The Times*

**A**S the immediate past secretary and director of prisons for the Washington Department of Corrections, between the two of us, we have participated in all five executions carried out since reinstatement of the death penalty in 1975.

We want to thank Gov. Jay Inslee for announcing that he will not allow more executions on his watch by issuing a moratorium on the death penalty. And we welcome the conversation that needs to happen in Olympia, throughout the state and nationwide to finally end the death penalty.

We write to add our personal perspective, one gained through having actually implemented this flawed and uneven policy.

We have been up close and personal to government executions.

We ourselves have been in the death chamber as nooses have been put around inmates' necks or they have been strapped to tables to receive IVs.

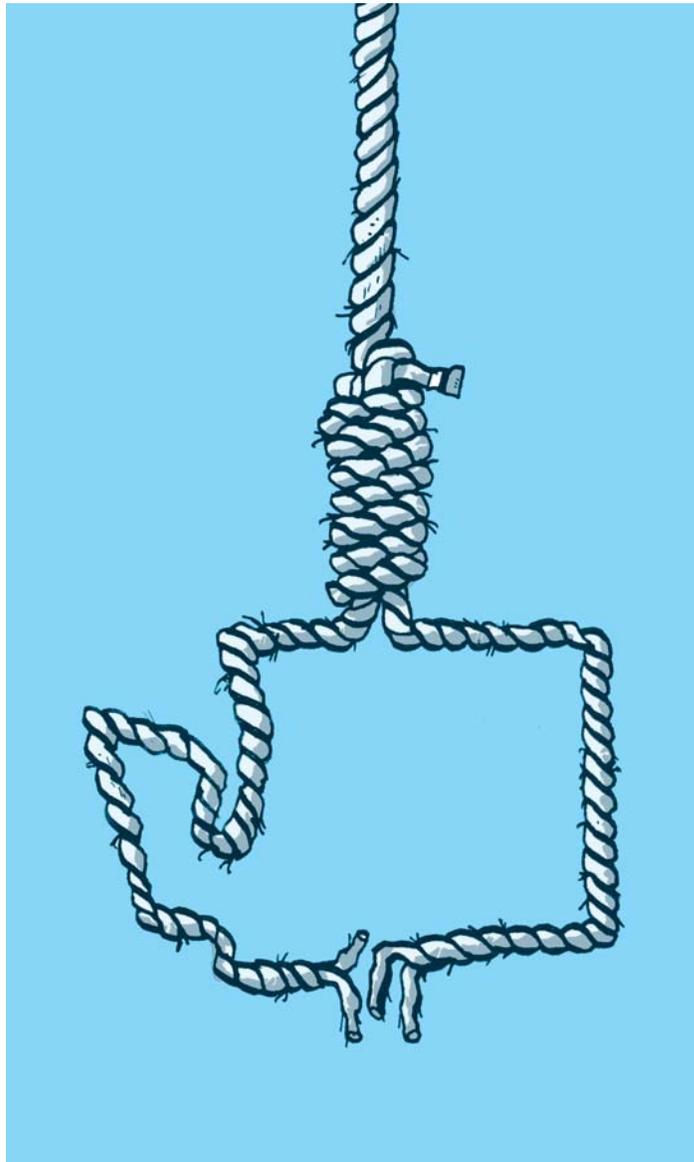
We have witnessed visibly shaken staff carry out a questionable law that condones killing inmates who have been captured, locked behind bars and long since ceased being a threat to the public.

From our perspective, the main reason to end the death penalty runs much deeper than cost-benefit analyses or the inherent flaws in our criminal-justice system.

Suppose for a moment that the death penalty weren't so expensive. Suppose we human beings possessed a perfect moral compass that made certain execution truly reserved for the worst of the worst. Suppose capital punishment really did deter violence.

Even then, the death penalty would still be wrong. No one, individually or as a state, should have the power to end another's life as a function of government. Ultimately, the death penalty is not about whether a given person deserves to live or die — it's about whether government should be making that call.

**PRO**



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Government policies must be implemented by public servants. Dozens are involved in carrying out an execution. Correctional staff of every rank, administrators, lawyers and their families are all impacted. No one is required to participate in an execution, but for many of us, a sense of duty and loyalty to our colleagues overrides any personal misgivings.

Duties and obligations of corrections professionals are subject to frequent change by the Legislature and courts. What was constitutional and lawful in one decade can be unconstitutional or illegal the next.

When it comes to executing inmates, that's a horrible moral whipsaw to confront. Washington has already abolished and reinstated the death penalty twice. The time has come for us to stop our government from killing once and for all.

When he spoke on Feb. 11, Gov. Inslee rightly pointed out that capital punishment does not make us safer; it has not proved to deter violence. Moreover, the record shows that the death penalty is uncertain and subject to human error, with the majority of death sentences imposed in this state being reversed.

The costs of pursuing an execution far outweigh the cost of life in prison with no possibility of parole, and the number of capital cases actually resulting in a death sentence is only a small percentage of the total number of these costly prosecutions.

Nor is the death penalty applied fairly and consistently. We personally can attest to having known hundreds of inmates whose crimes were as bad or worse than those of the inmates sitting on death row. As the governor said, that is not equal justice under the law.

Ultimately, though, it is simply wrong to intentionally take a human life — wrong for the criminal and wrong for the state.



*Eldon Vail worked in corrections for 35 years, retiring as Secretary of the Washington Department of Corrections in 2011. He is currently a correctional consultant and expert witness. He participated in three executions.*



*Dick Morgan retired as Director of Prisons in 2010 after 35 years and participation in three executions. He is an expert witness and corrections consultant, and serves on the Walla Walla City Council.*

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## **Consider the victims and their families**

***By Brian Moran  
Special to The Times***

**O**N my first day as a Kitsap County deputy prosecutor, I took an oath to support and defend Washington's Constitution and laws. While the words seemed important at the time, their true gravity struck me two years later when I was assigned to prosecute Jonathan Gentry for raping and murdering 12-year-old Cassie Holden.



Gentry will be first to receive Gov. Jay Inslee's misguided mercy under the death penalty moratorium he announced Feb. 11. Gentry had been expected to be put to death this year.

Cassie was abducted from a path, dragged through the woods, sexually assaulted and beaten to death with a rock. She was struck so many times, and with such ferocity, that the county medical examiner was unable to determine the number or sequence of the blows. In the minutes before Gentry decided her life was his to take, Cassie had been picking flowers for her mother.

Twelve impartial jurors took an oath to apply the facts to the law and then render a just verdict. In June 1991, they convicted Gentry and sentenced him to death.

The jurors told me two things after the trial. One, it was the hardest decision of their lives. Two, they made the difficult decision because the facts and law required it, and they had taken oaths to follow the law no matter how hard it might be. They did their jobs and honored their oaths.

Cassie's father, Frank Holden, also took an oath before testifying. When he testified in the trial's penalty phase, he told the jury about Cassie's hopes and dreams — that she wanted to be an author and have twins. A little girl's dreams, her dad acknowledged, but hers to have. He did his job and honored his oath.

In the past 23 years, numerous judges have scrutinized Gentry's conviction and affirmed it. They include a majority of our state Supreme Court justices on three separate occasions, the federal District Court, the 9th U.S. Circuit Court of Appeals and the U.S. Supreme Court when it

declined to accept review. All the judges tasked with reviewing Gentry's case did their jobs — they followed their oaths.

Gov. Inslee did not issue his moratorium because anyone on death row is innocent. Nor could he. In Gentry's case, even an additional DNA analysis performed post-conviction at Gentry's request implicated him in Cassie's death, essentially excluding every other human on earth. Such is the power of DNA to exonerate or convict.

Gov. Inslee, on the other hand, conducted a "months-long" review to reach his own conclusion that the death penalty was not evenly applied. Had he spent more time studying the death penalty process in Washington, his concern might have been allayed by understanding our state Supreme Court's unique proportionality review of all death sentences.

In conducting this review, our state's highest court analyzes every death penalty verdict against all other aggravated murder cases ever filed in this state to determine if the sentence of death is proportionate or fair.

In concluding that Gentry's death sentence "was not excessive or disproportionate," the state Supreme Court found that his crime "was particularly brutal and spanned a long period of time" and that "the child suffered substantial pain and terror before her death."

The majority of justices also considered it important that "Gentry had been convicted of a prior violent felony which had resulted in the victim's death [and] that shortly before this murder Gentry had raped a teenage girl at knife point." Our Supreme Court justices carefully considered every argument for overturning the jury's sentence, and rejected them.

When he was inaugurated, Gov. Inslee took an oath to uphold and defend Washington's Constitution and laws. Our state Constitution includes a crime victims' bill of rights, intended to afford crime victims a voice in our criminal-justice system. The governor's decision is very troubling. That it came at the expense of violent crime victims like Cassie and her father is heartbreaking.



*Brian Moran is an attorney in Seattle. He previously served as chief deputy for the Washington state attorney general and deputy prosecutor in Kitsap County.*

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