

Death - by slow mental and physical torture

Marty Trillhaase/Lewiston Tribune

If a person commits a murder so heinous he can never be trusted to draw another breath in free society, Idaho can impose life in prison without the possibility of parole.

Or it can seek the death penalty.

Just as often, however, Idaho has inflicted another form of punishment: Locking up someone in death row and then waiting for the years to take their toll on the inmate's body and soul.

Since Idaho reinstated capital punishment in the 1970s, four death row inmates have died before an execution could be carried out:

- Mark Emilio Aragon, who was convicted of killing his Ketchum girlfriend's baby in 1982.
- James Edward Grant, whose decade-long confinement on Idaho's death row came to end in 2004, 10 years after he kidnapped, molested, murdered and dismembered an 11-year-old Pocatello girl.
- Michael Allen Jauhola, whose death last year ended 16 years on death row for the murder of a fellow prison inmate.
- Darrell Edward Payne, who died last week of an undisclosed chronic illness. Thirteen years ago, he was sentenced to death for murder, robbery, rape and abduction of a 22-year-old Boise college student and newlywed.

That's more people dying of illness on Idaho's death row than those who have had their executions carried out.

In 1994, Keith Eugene Welles waived his appeals. In 2001, Paul Ezra Rhoades was put to death after 24 years in confinement. The following year, Richard Leavitt was executed 28 years after his sentence was pronounced.

Meanwhile, two people have been exonerated on new evidence. Donald M. Paradis was freed after 21 years on death row. Charles Irwin Fain was released after 18 years. And after 30 years in prison - some of it on death row - Jaimi Charboneau recently was turned loose pending a new trial on exculpatory evidence the presiding judge accused prosecutors of withholding.

Experts have a name for what happened to Payne and the three others: death by unnatural life sentence.

Prison itself works a hardship on the health and well-being of inmates, especially when the medical care is substandard.

But put someone into the solitary confinement of death row.

Deny him interaction with other inmates. Restrict his contact with friends and family.

Then make him endure the unparalleled stress of waiting for an executioner who may never come.

Some would call that torture.

If he was mentally ill before, years on death row will make him worse.

If he had a history of trauma in his life, death row will accelerate his deterioration.

And the years of stress will undoubtedly eat away at his physical health, possibly manifesting in heart disease, diabetes or even some cancers.

Between 1977 and 2013, 8,466 people were sentenced to death in the U.S.

Of those, 38 percent have their sentences and/or convictions overturned.

That left 1,359 who were executed and 2,979 awaiting sentence.

But 509 - 6 percent - died of illness and natural causes.

Idaho's percentage of death row inmates who succumbed to illness is higher because the state hands out fewer death sentences and its appeals process take longer.

But it's reasonable to expect more, not fewer, deaths by illness on death row. Of the nine men and one woman facing capital punishment, two are in their 60s and four are in their 50s.

The average tenure on Idaho's death row is now approaching 23 years - and two of its residents have spent more than 30 years there.

Well, then, why not speed things up?

Ask Charles Fain or Donald Paradis how that would work out.

But if Idaho exhausts every possible appeal and review of the evidence, a Darrell Edward Payne spends years wasting away mentally and physically.

That's some choice - executing the innocent or engaging in what at least one U.S. Supreme Court justice has deemed cruel and unusual punishment.

Of course, there is a third way. The path chosen this year by Nebraska and 18 other states, where capital punishment has been banished to the past.

Governors in three more states - including Washington's Jay Inslee - have declared a moratorium for the duration of their tenure in office.

When will Idahoans, appalled by the arbitrary nature of their death machine, finally join them? -
M.T.