



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of HB183 Repeal of the Death Penalty Sponsor Representatives A. Miller and Schmidt

Chair LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide written testimony on behalf of the Office of the Ohio Public Defender (“OPD”) in support of House Bill 183 (“HB183”). I am Kathryn Sandford, an Assistant Public Defender for the OPD in the Death Penalty Department.

I have represented Death Row inmates in the appeals of their cases for over 25 years. I was unfamiliar with the Death Penalty when I started this job – I knew about it from history classes, but my home state of Michigan did not have the Death Penalty. The last execution under Michigan law occurred on September 24, 1830, when Michigan was still a territory.

Before going to visit a client on Death Row, I thought the inmates would be people who were violent by nature and just didn’t care about anyone other than themselves. I had surgery in 2008 and one client of mine found out and kept asking people how I was doing. When I got back to work, he called me and asked how I was. I said fine and asked how he was doing. He told me that was not relevant, he wanted to know about me. He was very considerate and not what one might expect from the stereotype of Death Row inmates.

Meeting the inmates was an eye opener. Death Row inmates often do not have visitors other than those who are on their legal team. Their families, more often than not, do not have much money, live far away from death row, have their own mental health issues, or don’t want to be associated with death row. There are a myriad of reasons why Death Row inmates do not receive visits from their family members.

Inmates on Death Row are usually confined for roughly 23 hours a day. Even under such extreme circumstances, it is not rare for an inmate’s life to be better when incarcerated than when they were free. One example is my former client Joseph Murphy “Joey”. On Death Row he had food, shelter, security, and people with whom he could talk. He was born in a very rural county in West Virginia. He had low intellectual functioning, a lack of money, family chaos, buckets in the house for human waste, and no positive influences. He was sexually abused – his father let a local moonshine dealer sexually abuse Joey in exchange for moonshine. I remember reading the transcript of Joey’s case shortly after I started at OPD. I thought to myself, “if he’s executed then I have to quit because there would be no fairness in our legal system.”

Thankfully, Governor Kasich granted him clemency and he was resentenced to life without parole (LWOP). He is in general population now. Make no mistake, LWOP is still severe punishment. For example, it is documented where Joey is at all times and there are strict rules that must be complied with or Joey will face discipline.

I witnessed the execution of John Byrd on February 19, 2002. This was the 3rd execution since the death penalty was re-enacted in 1981. When we arrived at the Southern Ohio Correctional Facility (SOCF) on the morning of the execution, I recall a guard was leaving and she said that she could not be there that day when someone was being executed as it was too upsetting.

The execution itself was sterile and felt like an out of body experience. The presence of witnesses at the execution, the chance to speak with clergy prior to the execution, the opportunity to say last words, the final meal of the inmate's choice, and the use of "humane" execution methods serve the same function - which is not what you would think. These "comforts" aren't really for the condemned. After all, he is about to die; no amount of steak, pizza, or ice cream will change that fact. They are for the rest of society; they allow us to distance ourselves from the violence of the act we're supporting. These "niceties" do not cover up what is really happening which is state-sanctioned killing.

The same is true for lethal injection. It gained popularity and was deemed more palatable for "witnesses" than the electric chair and was supposed to be more humane. But there have been countless botched executions with the use of lethal injection. Witnesses have described these botched incidences as torture.

Another former client of mine, Lawrence Reynolds, was executed on March 16, 2010. When I was visiting Larry the day before his execution, a sergeant told me that he had been at SOCF and witnessed each execution, a total of 36 at that time, and it never got easier. There are many people affected by executions. The impact is wide and largely unintended and not realized.

My close-up personal experience with the death penalty leads me to strongly oppose it. It is disparately imposed upon offenders who are black, cases where the victim is white, and especially when the offender is black and the victim is white. Counties with more money can afford the costs of death penalty trials whereas those without the funds cannot. Hence, the death penalty is utilized disparately within the counties in Ohio and within the different states. I have had cases where evidence was withheld by the State or where a co-defendant receives a deal from the State and testifies falsely during my client's trial, resulting in my client wrongfully being sentenced to death. Those examples, along with ineffective defense counsel at trial, are some of the factors that affect the lack of fairness with the death penalty.

Everything involving humans has error and bias. The death penalty is too immense and too final to be subject to any risk. The number of individuals exonerated is evidence that there is too much risk with someone being sentenced to the death penalty. An execution cannot be undone. For these reasons and more, the death penalty must be abolished.

Thank you for the opportunity to provide written proponent testimony.

