

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by CHAIRMAN MILLER at _____
Chairperson1:30 a.m./p.m. on January 20, 1987 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Lynda Hutfles, Secretary
Mary Galligan, Research

Conferees appearing before the committee:

Representative Clyde Graeber
Robert Stephan, Attorney General
John Petersen, Governor's Office
Jim Huff, Kansas Peace Officers Association
Tom Kelly, Kansas Bureau of Investigation
Rick Kistner, Kansas Association of Chiefs of Police
Terry Campell, Sheriff of Leavenworth County
Bert Cantwell, Highway Patrol
Bob Clester, Kansas Sheriff's Association
David Holstead, Shawnee County Sheriff's Department
John Blythe, Kansas Farm Bureau
Dan Hinson, Eskridge
Al Rush, Legislative Liason for Governor's Office

The meeting was called to order by Chairman Miller.

Representative Sughrue made a motion, seconded by Representative Ramirez, to approve the minutes of the January 15 meeting. The motion carried.HB2062 - Proponents - Death PenaltyRepresentative Clyde Graeber gave testimony in support of the bill and explained his reasons for introducing the bill. See attachment A.Attorney General Robert Stephan gave testimony in support of the reenactment of capital punishment in Kansas. See attachment B.

John Petersen, Governor's Office, gave testimony in support of reinstating capital punishment in Kansas.

Jim Huff, Kansas Peace Officer's Association, gave testimony in support of the death penalty bill. See attachment C.Tom Kelly, Director of the Kansas Bureau of Investigation, appeared as a proponent of the death penalty bill. He explained that criminal penalties are designed to rehabilitate, punish and protect society. See attachment D.

Rick Kistner, Kansas Association of Chiefs of Police, expressed his strong support of HB2062. This support is not automatic or taken lightly. Mr. Kistner said that a recent poll taken showed 86% of the people of Kansas support reenactment of the death penalty. He believes the death penalty to be a preventative measure as well as a deterrent.

Terry Campell, Sheriff of Leavenworth County, expressed his support of the death penalty. He has been in law enforcement for 18 years, serving the last 10 years as Sheriff of Leavenworth County. He related to the committee some of the heinous crimes he has investigated over the years and stated that these crimes need severe punishment. Sheriff Campell also told the committee that he works closely with the penitentiary and the inmates who are inside for heinous crimes and continue these crimes inside the prison.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS
room 526S, Statehouse, at 1:30 a.m./p.m. on January 20, 1987

Bert Cantwell, Kansas Highway Patrol Superintendent, gave testimony in support of the death penalty. In his statement Colonel Cantwell said that he is convinced that there are times that the death penalty, as distasteful as it is to think about, is the most just penalty possible. See attachment E.

Bob Clester, Kansas Sheriff's Association, gave testimony strongly supporting the death penalty. Mr. Clester stated that he had been in law enforcement for 31 years and has been on the crime scene where murders have been committed. There is a need to prevent the agony of the victim from occurring in other families. With regard to the fear of executing the wrong person, there is a built in protection in this bill. This is far more consideration than the victim was given.

David Holstead, Shawnee County Sheriff's Department, gave testimony in support of the death penalty. Since the law regarding the use of deadly force somewhat handicaps law enforcement officers and can place them in positions of peril, we feel very strongly that the death penalty is appropriate for crimes that result in the dilling of an on duty law enforcement officer. The death penalty would act as a deterrent to intentional, pre-meditated murder and death resulting from the commission of felonies. See attachment F.

John Blythe, Kansas Farm Bureau, gave testimony in support of the death penalty stating that the death penalty is a deterrent to violent crime. See attachment G.

Dan Hinson, Eskridge, gave testimony in support of capital punishment. The death penalty is not expensive; it is expensive to keep those persons in jail for life. The death penalty should be enforced for crimes of murder, rape and treason.

Al Rush, Legislative Liason for the Governor's Office, gave testimony in support of the bill. Over 80% of Kansas citizens have indicated they want this law passed. There is no viable alternative.

Hearings were concluded for proponents of HB2062.

Representative Long made a motion, seconded by Representative Barr, to introduce a bill as a committee bill, which requires the reporting of indirect gifts in excess of \$500 by state officers and employees and candidates for state office. The motion carried.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 1/20

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Arvin Hammond	Topeka Ks.	KFLPN
Vida Yutzey	St. Hutchinson Ks	KFLPN
Lain Wellington	Haysville, Ks	KFLPN
Rosanne Luna	Valley Center, Ks.	KFLPN
Velma Zimmerman	Wichita, Ks.	KFLPN
Berniece Smith	Ottawa Ks	KFLPN
BOB MILLER, PHD	BALDWIN, KS	PROF. BAKER U. (12 Students)
Lon Grambsam	1025 Lincoln Topeka 66604	Against Karsans repair capital penning
Dodson York	Baldwin KS	Baker U
Julio Stemmer	Baldwin, KS	Baker U
Janet Jacobs	Wichita	KFLPN
Elva Penner	Hellbros Ks	KFLPN
Judith Warner	Marion Kans.	KFLPN
Dorothy Hayward	Marion Kans	KFLPN
Clara Joew	Hillsboro Kans.	KFLPN
T.A. Lockhart	Leavenworth	NAAAP
K. Grows	K.C. Ks	KAAAP
Jill Pendergrass	Shawnee, Ks.	Baker University
Amy Bundy	L.O. Ks.	Baker University
Kim Bailey	St. Louis, MO.	Baker University
Jim McBride	Topeka	Observer
Marge Kefler	Wichita, Ks.	KFLPN
Mary A. Jeffers	Topeka, Ks	KCADP
Elise Slony	Ottawa Ks	KFLPN
Jim Huff	Salina, Ks	K.P.O.A.
FERRY STEVENS	TOPEKA, Ks.	TOPEKA POLICE DEPT.
Jim Clark	Topeka Ks	KCOAA

Mr. Chairman, Committee members again this afternoon I ask you to consider whether the State of Kansas should reinstitute capital punishment for 1st degree murder.

The Kansas Legislature in its wisdom and with its ability to respond to the desires of the majority of the citizens of our state has previously approved in both legislative houses a capital punishment bill only to have it vetoed by our former Governor.

I say to you that none of us have exclusive knowledge of what is best for our state but rather we each individually and collectively try to do our best to represent our respective districts with the one hope of improving the quality of life for our whole state and its people, to whom we are responsible.

There will be those who say legislation of this type will not be a deterrent to murder, and even some who will make the claim that when capital punishment is in existence, violent crimes increase. Members of the Committee violent crimes are increasing everywhere, everyday of the week and that is because with our current laws and practices there is very little respect for human life; there is no real concern for our fellow human beings--their lives, their property and their very existence. Our concern should be for the safety of our fellow law abiding citizens who sent you and I here to represent them and who by over 80% of their voices ask for reinstatement of capital punishment in our state.

Ladies and Gentlemen violent crime continues to grow at an alarming rate nationwide and our Kansas is not immune to this problem. The U. S. Supreme Court has provided us with constitutional safeguards and guidelines from which we are to draft capital punishment legislation, in fact 39 states have already done so.

Juries throughout our nation, using such legislation; have; by imposing the death penalty for herious crimes said that something must be done about violent crime and merciless killings.

We as legislators must face the issue squarely, because we have a duty, a responsibility to our fellow lawabiding Kansas citizens. Criminals must be held accountable for their actions. There needs to be a resolution. There needs to be an effort by the law making bodies of this nation, and as former Chief Justice Warren Burger said: "To bring a certainty of penalty; to apply the penalty and bring our country and our state back on a course where there is respect for the lives and peace of others. A resolution where the criminal knows he can be made to pay the maximum for crimes that take the lives of others, and invade the peace and tranquility of our daily lives."

Capital punishment is the mark of a society which holds dear the lives of its citizens. It is a society which holds life cheap that imposes weak penalties for the taking of human life.

I ask you to pass favorably House Bill 2062 and send it forth to the entire Kansas House of Representatives for their consideration and passage.

in our system of justice -- that at times the penalty does fit the crime.

In the past few weeks, we have been told that the cost of capital punishment is so great that Kansas cannot afford the death penalty. Such arguments are nothing more than a smoke screen designed to confuse and obscure the issue. Indeed, we should not determine this issue based on cost. Even so, I believe cost claims are greatly overstated.

Supposedly, because of the appeals in capital cases, each case will cost the state up to \$1 million or more. I don't believe that's true. The federal habeas corpus appeals which can be lengthy in any state criminal cases are routinely handled by the criminal attorneys in my office. They are well-versed in this procedure and are quite capable of handling capital cases as well. Most of the appeals are nothing but paper mills that can be answered by "canned" arguments. In fact, the attorneys general in death penalty states have a brief bank available to any attorney general who is working on a capital case. This will save much of the purported expense of appeals.

Historically, Kansas has only used the death penalty 24 times since 1862. This fact, together with my 13 years experience as a district court judge and eight years as

attorney general, lead me to believe that the death penalty would be imposed only rarely and only in those cases in which it is proper. From my own experience on the bench, I recall only one case in which I believe the death penalty would have been seriously considered.

This bill requires aggravating circumstances to be found before the death penalty may be imposed. In addition, it sets forth the circumstances which may mitigate against imposition of the death penalty. Consideration of these circumstances will adequately ensure that the death penalty is not used where inappropriate. Further, I support the bill's application to First degree murder, including felony murder. Some of the most heinous of murders would not be First degree murder without the felony murder rule. The bill appears to be constitutionally sound in all respects and to provide adequate safeguards to prevent the imposition of the death penalty in cases in which it should not be used.

I urge you to pass this bill into law.

JIM HUFF, President
Salina Police Department
Salina, Kansas 67401

ROBERT SCHUMAK, President-Elect
Santa Fe Police
Topeka, Kansas 66605

DELBERT FOWLER, Vice-President
Chief of Police
Derby, Kansas 67037

ALVIN THIMMESCH, Secretary-Treasurer
Wichita Police Department
Wichita, Kansas 67202

Attach c

1

Kansas Peace Officers' Association

INCORPORATED

BOARD OF GOVERNORS

GOVERNORS (At Large)

JOHN DAILY
Sedgewick Co. Sheriff's Office
Wichita, Ks. 67203

DENNIS TANGEMAN
Kansas Highway Patrol
Salina, Ks. 67401

GEORGE SCHUREMAN
Ks. Bureau of Investigation
Topeka, Ks. 66604

GALEN MARBLE
Ks. Bureau of Investigation
Dodge City, Ks. 67801

DISTRICT 1

MIKE CHIDDIX
Johnson Co. Sheriff's Office
Olathe, Ks. 66202

WARREN McVEY
Chief of Police
Springhill, Ks. 66083

LAYNARD SHEARER
Kansas Highway Patrol
Olathe, Ks. 66202

DISTRICT 2

ROGER KRAMER
Junction City, Ks.
Junction City, Ks. 66441

GLENN GATHERS
Saline Co. Sheriff's Office
Salina, Ks. 67401

NATE SPARKS
Kansas Highway Patrol
Junction City, Ks. 66441

DISTRICT 3

LAWRENCE YOUNGER
Chief of Police
Hays, Ks. 67601

KENNITH McGLASSON
Kansas Highway Patrol
Wakeeney, Ks. 67672

FRANK REESE
Ellis Co. Sheriff's Office
Hays, Ks. 67601

DISTRICT 4

GLENN WELSH
Coffeyville Police Dept.
Coffeyville, Ks. 67337

HOWARD KAHLER
Woodson Co. Sheriff's Office
Yates Center, Ks. 66783

DAVE MAYFIELD
Kansas Highway Patrol
Yates Center, Ks. 66783

DISTRICT 5

JIM DAILY
Great Bend Police Dept.
Great Bend, Ks. 67530

JACK ATTEBERRY
Pawnee Co. Sheriff's Office
Larned, Ks. 67550

F. DUANE DUGAN
Alcohol Beverage Control
Great Bend, Ks. 67530

DISTRICT 6

RANDY MAGNISON
Garden City Police Dept.
Garden City, Ks. 67846

LARRY MAHAN
Kansas Highway Patrol
Garden City, Ks. 67846

RAY MORGAN
Kearny Co. Sheriff's Office
Lakin, Ks. 67860

DISTRICT 7

DOUG MURPHY
Chief of Police
Maize, Ks. 67101

ED PAVEY
Sedgewick Co. Sheriff's Office
Wichita, Ks. 67203

LARRY WELCH
Ks. Law Enforcement Training Cen.
Hutchinson, Ks. 67504

DISTRICT 8

ROBERT HUDSON
Riley Co. Police Dept.
Manhattan, Ks. 66502

CLIFFORD HACKER
Lyon Co. Sheriff's Office
Emporia, Ks. 66801

HOWARD DOCKER
Kansas Highway Patrol
Topeka, Ks. 66603

SERGEANT-AT-ARMS
DALE HOLSEY
Kansas Highway Patrol
Sedgewick, Ks. 67135



PROPOSERS OF THE DEATH PENALTY

As the President of the Kansas Peace Officer's Association I am once again appearing before you to ask for your support on a death penalty bill. Over the years I have personally appeared before one committee or another to argue in support of a death penalty bill, many times knowing that the bill, once passed by the committee, was certain to meet a sure veto by our Governor. Today I again am appearing before you to ask for your support of a death penalty bill knowing that once a bill is passed on to the Governor's desk we will get it signed into law.

Having argued the death penalty in many areas I feel that I could successfully stand here and take up much of your time arguing points such as, is it morally right?, is it in the best interest of Society?, is it applied equally?, and so on. I am not going to do this. Instead I am going to tell you that the reason we, in law enforcement, feel that a death penalty is needed is because we know that there are some real animals out walking our streets. We have seen them and we have had to deal with them in their worst moments. We have seen them after they have just slit the throats of their victims, or fired five shots into their intended police victim, and finally after they have just cold bloodedly killed their two victims along side a dirt road by shooting them in the head, execution style. These animals know only one thing and that is death. And as sure as we would put a mad dog to death for killing a other animals or humans, we also should put a mad-man to death for killing a human being.

Thank You

Jimmy D. Huff
President
K.P.O.A.

In Unity There Is Strength

attachment c

Attach D



THOMAS E. KELLY
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS
1620 TYLER
TOPEKA, KANSAS 66612
(913) 232-6000



ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY OF THOMAS E. KELLY

DIRECTOR, KANSAS BUREAU OF INVESTIGATION

ON HOUSE BILL 2062

BEFORE THE HOUSE COMMITTEE ON

FEDERAL AND STATE AFFAIRS

JANUARY 20, 1987

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you as a proponent of House Bill 2062.

I have been associated with law enforcement since 1940 on a local, state or federal level and well aware of the law enforcement involvement in murder investigations. Professional law enforcement training requires the officers to be totally objective in their investigations and encourages understanding and compassion for the victims and the perpetrator, but in the case of a murder, it is difficult to find compassion for the murderer.

We are aware that criminal penalties are designed to:

- 1 - Rehabilitate
- 2 - Punish
- 3 - Protect Society

The severity of the crime dictates the penalty to be assessed and in murder cases the penalty appears to be based on the need for punishment and the need to protect society. In considering the issue of the "death penalty" the question most commonly asked involves the deterrent effect of the penalty; and, statistics may be used to attempt to prove the pro or con position taken on the issue.

I submit to you that it is impossible to prove either side of the issue with statistics and I use the "lighthouse" as an example on this point. As we know, a lighthouse is placed on a point to warn ships of the presence of a dangerous reef or rocks and by means of horns or light as a signal, the danger is communicated to the ship crew. When the crew can hear the horn or see the light, they know they are on a course which is dangerous unless they change course to avoid the danger. It is impossible to know how many ships heed the warning and change course to avoid the rocks, but we do know how many ignore the

Attachment D

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warnings because they end up on the rocks. And so it is with the "Death Penalty", we can never know how many people may be deterred by the knowledge that a death penalty could be invoked against them if they commit a 1st degree murder. The only statistics we can show are the number of murders committed.

We do know that the "Death Penalty" is not a deterrent if it is available, but never used as we have seen in some states.

We do know that the "Death Penalty" is a deterrent as to the offender when it is carried out by execution.

Absence of a "Death Penalty" does not provide guaranteed options the offender will not be released back into the society which should be protected. As an example I would like to cite a case where an individual was sentenced to the Kansas State Penitentiary for 2nd degree murder, and after serving a few years was paroled to return to his home area. Within a matter of a few months the parolee brutally murdered three people and has been convicted of the murders and returned to the state penitentiary. With this person's record of murder, is it fair that members of the prison population have him in their midst? The members of the prison population are certainly entitled to some degree of security, and it is entirely possible this murderer will kill again while in prison.

Our veteran agents have been shocked by some of the crime scenes we have worked on. We have observed victims that have suffered unspeakable mutilations, and it appears the phenomenon of multiple murders of unusual horror may become common place.

Many of you may recall the execution style murders that occurred in recent memory in the area of Colby, Kansas, where two helpless victims were shot to death. This is a common practice with murderers who kill their victims to be certain they cannot identify and testify against them. This is frequently the case in robberies of convenience stores or service stations where there is one employee on duty and the robber kills them to prevent detection even though the robbery was for a small amount of money.

We continue to be involved with murders where the perpetrator is a "hired killer", whose mission is to execute a designated person for profit.

A somewhat recent problem is the murderer who is promoting a revolutionary viewpoint and is willing to kill to support the organization; and, many times their targets are law enforcement officers who represent the established order of government.

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I submit to you that Murder in the 1st Degree is the ultimate crime and should be afforded the ultimate penalty -- the Death Penalty.

Thank you -- open for questions.

Summary of Testimony
Before the House Federal & State Affairs Committee
1987 Legislative Session

In support of
House Bill 2062

Presented by the Kansas Highway Patrol
Colonel Bert Cantwell

January 20, 1987

Law abiding citizens depend on their law enforcement personnel for the maintenance of order so necessary in a civilized society. Unfortunately, in maintaining that order, law enforcement officers sometime lose their lives.

On May 8 of this year, the Kansas Law Enforcement Memorial will be dedicated to those law enforcement officers who have lost their lives in the line of duty while serving and protecting their fellow citizens.

To date, 159 names have been identified and will be inscribed on the Memorial. They include eight former members of the Kansas Highway Patrol.

I cannot, in good conscience, stand here today and tell you that the passage of a death penalty bill will have any effect on how many other names will be added to the Memorial as time goes by, because I cannot prove to myself that the possibility of receiving the death penalty ever serves as a deterrence to the type of person that would deliberately take someone else's life.

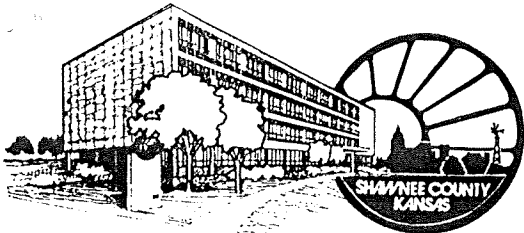
However, I do know that we expect our law enforcement officers to take someone else's life if that is what it takes to save others from harm.

I believe also that, when someone commits a crime so repugnant or so gruesome that it horrifies the sensibilities of the rest of society, if that person pays his or her debt to society with anything less than their most valuable possession---their life---then society feels cheated.

You can argue the morality of that statement, and I respect the views of those who disagree with me. However, as someone who has spent a number of years in the criminal justice system, I am convinced that there are times that the death penalty, as distasteful as it is to think about, is the most just penalty possible.

Therefore, I appear in support of House Bill No. 2062 and would try to answer any questions the Committee may have.

Attach F



Shawnee County Sheriff's Dept.

200 East 7th, Topeka, KS 66603-3973

ED RITCHIE
SHERIFF
295-4047

DALE COLLIE
UNDERSHERIFF
295-4050

MEMORANDUM

January 20, 1987

TO: House Committee on Federal and State Affairs

FROM: David N. Holstead, Legal Advisor
Shawnee County Sheriff's Department

RE: House Bill 2062

On behalf of the Shawnee County Sheriff's Department, I wish to thank you for the opportunity to speak on behalf of House Bill 2062. From the outset, let it be noted that Sheriff Ritchie and the Shawnee County Sheriff's Department, in general, are in favor of death penalty legislation.

The extensive law enforcement experience of both the sheriff and his personnel, supports our belief that a penalty of death is warranted for, and will deter, some types of murder. Since the law regarding the use of deadly force somewhat handicaps law enforcement officers and can place them in positions of peril, we feel very strongly that the death penalty is appropriate for crimes that result in the killing of an on duty law enforcement officer.

Additionally, empirical evidence forces the sheriff department's collective opinion that a death penalty would act as a deterrent to intentional, premeditated murder and death resulting from the commission of felonies.

We feel that the criminal element is cognizant of the fact that, in most instances, a person serving a life sentence has a good possibility of parole after serving sixteen years of his sentence. We do not think this has a strong effect in deterring the crime of murder.

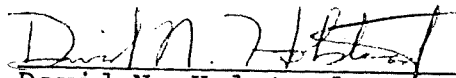
As evidence of the sheriff department's degree of commitment to death penalty legislation, many members of the department who are traditionally democratic, voted for the current governor merely on the basis that a death penalty bill was a major plank in his platform. This behavior illustrates our adamant thoughts on the desirability of a death penalty as punishment for enumerated, circumscribed crimes.

Attachment F

Page Two

Finally, the sheriff department's opinion on the death penalty notwithstanding, large segments of the public with which we have come into contact have expressed their desire to see the enactment of a death penalty bill. Whether these feelings are prompted by a belief in deterrence or retribution, the Shawnee County Sheriff's Department concurs in the thought that Kansas needs a death penalty.

Thank you for your time and consideration of this matter.

A handwritten signature in dark ink, appearing to read "David N. Holstead", written over a horizontal line.

David N. Holstead
Legal Advisor

DNH/jl



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
Representative Robert H. Miller, Chairman
January 20, 1987

RE: H.B. 2062 - Death Penalty

Presented by:
John K. Blythe, Assistant Director
Public Affairs Division
KANSAS FARM BUREAU

Mr. Chairman and Members of the Committee:

I am John K. Blythe, Assistant Director of the Public Affairs Division of Kansas Farm Bureau. I am speaking as a proponent of H.B. 2062. These brief comments are on behalf of the farmers and ranchers who are members of Farm Bureau in Kansas.

The Kansas Farm Bureau is organized in all 105 counties with Boards of Directors and committees in each county. A most important activity of the Kansas Farm Bureau and the 105 county Farm Bureaus is the **development of policy** for the organization.

Policy development begins at the county level with the county policy committee. The suggestions and ideas for policy are sent to the State Resolutions Committee -- tentative resolutions are drafted by the Committee and are sent to the 105 county Farm Bureaus for their review and consideration prior to the Annual Meeting of the Kansas Farm Bureau. The voting delegates elected in each county meet at the annual Farm Bureau meeting where all issues are discussed and voted as policy for the organization.

Mr. Chairman, I review this procedure simply to indicate the elaborate process of policy development of the Farm Bureau and the opportunity for input from the total membership. It was through this process that a policy supporting Capital Punishment was adopted in 1978 and has been reaffirmed each year since 1978.

Kansas Farm Bureau policy on Capital Punishment is as follows:

Capital Punishment

We believe capital punishment to be a deterrent to violent crime. Capital punishment should be reinstated in Kansas and the Kansas law should be in keeping with the U.S. Supreme Court ruling and guidelines for imposition of capital punishment.

Thank you for the opportunity to present this policy and these few comments to the Committee.