

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by CHAIRMAN MILLER at _____
Chairperson

1:30 a.m./p.m. on January 21, 1987 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Lynda Hutfles, Secretary
Mary Galligan, Research
Raney Gilliland, Research

Conferees appearing before the committee:

Bill Lucero,
Dave Gottlieb, Lawrence
Michael Barbara
Richard Ney, Wichita
Dave Kingsley, Manhattan
Elbert Marion, Iola
Don Anderson, Kansas Council on Crime & Delinquency
Rabbi Michael Zedek, Kansas City
Donna Schneiweis, Amnesty International
Shirley Ward, Leavenworth
Ann Heberger, League of Women Voters
Bishop Kenneth Hicks, Kansas Area United Methodist Church
Theodus Lockhard, NAACP
Ken Groves, NAACP
Jack Baur, Kansas Affiliate of the American Civil Liberties Union
Darlene Stearns, Coalition of Religious Leaders against the Death Penalty
Reverend Don Roberts
Mike Woolf, Ks. Coalition against the Death Penalty
Jeremy Miller
James Smith, Wichita
Mahin Etzenhauser
Ron Miles

The meeting was called to order by Chairman Miller.

Representative Rolfs made a motion, seconded by Representative Ramirez, to approve the minutes of the January 20 meeting. The motion carried.

HB2062 - Opponents - Death Penalty

Bill Lucero gave testimony in opposition to the death penalty. He stated that words such as "justice, retribution and equal treatment" have been used by persons supporting capital punishment; "revenge" is really the word. See attachment A.

Dave Gottlieb, Professor at the University of Kansas School of Law, gave testimony in opposition to the death penalty. His testimony attempted to predict some of the costs of capital punishment and stated that the bill would require the expenditure of millions of dollars per year beyond current costs. See attachment B.

Michael Barbara, former Secretary of Corrections, expressed to the committee that we do not need a death penalty statute to do justice for the people of Kansas. There are sufficient laws on the books today to adequately deal with the problem of first degree murder. See attachment C.

Richard Ney, Chief Public Defender in Wichita, explained the expense and complexity of the death penalty and asked the committee what they would be buying for their money. When you put money into the death penalty, you have nothing. A very small percentage of the people on death row are ever executed. The poor, minorities and retarded are the people who are going to be executed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS
 room 526S, Statehouse, at 1:30 a.m./p.m. on January 21, 1987

There was discussion disputing Mr. Ney's statement about the poor, minorities and retarded being the only people who will be executed. ~~There have been~~ ^{LAST} ~~five~~ ^{The} people executed in Kansas. These men were white with medium to high I.Q.'s. Kansas never discriminated against the poor, minorities, or retarded when the death penalty was in effect.

Dave Kingsley, Manhattan, works in the area of civil rights in the College of Education. Mr. Kingsley addressed the moral issue of the death penalty and its miscarriage of justice. See attachment D.

Elbert Marion, Iola, expressed his concerns about the wrong person being executed and related his personal experience of having a grandfather who was hanged in 1887 for murder and four years later the person who was supposed to have been murdered appeared. See attachment E.

Don Anderson, President of the Kansas Council on Crime and Delinquency, stated that in order for punishment to deter, it must be swift and certain. The use of the death penalty in Kansas will be slow, uncertain, and unpredictable. See attachment F.

Rabbi Michael Zedek, Kansas City, gave testimony in opposition to the death penalty. Rabbi Zedek, a member of Reformed Judaism, was a prison chaplain in Iowa. He stated there is no greater punishment than life in prison.

Donna Schneiweis, Amnesty International, gave testimony in opposition to capital punishment. Amnesty International does not believe that any government of any ideology has the right to engage in capital punishment in the name of protecting society and in doing so encroaches on the fundamental human rights of a person. See attachment G.

Shirley Ward, Leavenworth, deferred her time so that others might speak in opposition to HB2062.

Ann Heberger, League of Women Voters of Kansas, gave testimony in opposition to capital punishment. It is not a deterrent; an innocent person may be wrongfully convicted; it is discriminatory toward the poor and racial minorities; and it is too costly. See attachment H.

Bishop Kenneth Hicks, Kansas Area United Methodist Church, distributed a news article depicting the spiraling of violence. See attachment I.

Because of the lack of time the following persons were unable to testify in opposition to the death penalty:

Theodus Lockhart, NAACP & the Coalition against the Death Penalty

Ken Groves, NAACP - See attachment J.

Jack Bauer, Kansas Affiliate of the American Civil Liberties Union.
See attachment K.

Darlene Stearns, Coalition of Religious Leaders against the Death Penalty
See attachment L.

Reverend Don Roberts, See attachment M

Mike Woolf, Kansas Coalition against the Death Penalty
See attachment N.

Jeremy Miller

James Smith

Mahin Etzenhauser

Ron Miles

Written testimony was distributed by Representative George Teagarden and Fred J. Petzold of Overland Park. See attachments O and P.

The meeting was adjourned.

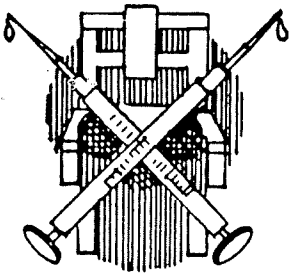
GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 1/21

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Frank West	Baldwin City, KS	Baker University
E. Jackson Bauer	6 Westwood, Lawrence	ACLU
Carla Mahany	106 E. 31st Terr KC1170	ACLU
Elbert Marion	601 S. Cottonwood Topeka KS	Self
DAVID REAVIS	111 EAST 11TH Lawrence	STATE F.O.P.
TERRY STEVENS	TOPEKA, KS	TOPEKA POLICE DEPT.
Bambi Loomis	Overland Park, KS	KS STATE F.O.P. Prairie Village Police Dept.
ROBERT M. FALLIER	P.O. BOX 395	STATE F.O.P.
Tony Garcia	Lawrence, KS	Lawrence F.O.P.
Lon Grammann	1025 Lincoln 66604	Kans. against Cap. Punishment
Richard Neff	731 N. Wassa, Wassa	Sevier Co. Prison Defender
Ruth Broves	Topeka	RWD - Coalition of Women's Health
Jeremy Miller	212 Fillmore #1, Topeka	Self
Therese Barget	Topeka	Ks. Coalition Against DP
Don Anderson	1501 E. 5th Winfield	Kansas Council on Crime & Delinquency Topeka Religious Lcs
Reverend LARRY Kellee	4000 Dewey Ln. Topeka KS. 66604	Topeka Religious Leaders Against the Death Penalty
Betty Nelson	4100 Meador Topeka	Universe Methodist Church
Dalva E. Stewart	1525 N. 29th #19 X.P., KS	Collinsville, Mo.
Art M. Melcher	4346 Shawnee Hts Road Tecumseh	Self, Tecumseh, KS Pastor in United Methodist Church
Margaret J. Bradshaw	3910 Parlington	Student entered party
J.C. Jones	Self	KAAAD
J.C. Jordan	Baldwin City, KS	1st U. Methodist Church
Ida Lockhart	Leannworth	
Russella Mays	2060 S. Kansas	NAACP
Ron Miles	503 Ks. Ave., Suite 536	Topeka BIDS
Jim Lane	Topeka	KCOAA



Kansas Coalition Against the Death Penalty

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TESTIMONY TO THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

by

William J. Lucero

Coordinator, Kansas Coalition Against the Death Penalty

Speaking in opposition to House Bill Number 2062

Mr. Chairman and members of the Committee:

I am Bill Lucero, Coordinator of the newly reorganized Kansas Coalition Against the Death Penalty. And, although most of you have heard testimony from the Coalition during the past two years, you will appreciate that the testimony you will hear today will contain new information, yet leading to the same conclusion: that state executions continue to be a non-deterrent, have become much more expensive, and are applied in an arbitrary manner at best and highly discriminatory at worst.

If you would pause momentarily and reflect on the proponents' testimony you heard yesterday. Representative Graeber and ^{Representative} ~~Jenkins~~ have for the past three years maintained that passage of this bill would deter would-be murders from such an act. But, as Don Anderson and Michael Woolf will testify, such an effect has never been documented and the deterrent assumption is totally unwarranted.

The tremendous cost to enact a death penalty was glossed over with a "don't confuse me with the facts" attitude. Even the Governor is saying, "let's enact it, then see how much it costs". That's an amazing lack of concern and quite an interesting turnaround when you stop and consider how just last week a good many of House Bill 2062's sponsors voted against restoring \$200,000 for youth services, voted against restoring \$1,200,000 for general assistance and voted against restoring \$1,300,000 in medical assistance. Please pay close attention to the death penalty cost estimates provided by Law Professors David Gottlieb and Michael Barbara. For, if you vote in favor of this bill, you will severely risk tagging yourself fiscally irresponsible. What are the voters going to think if in week one the legislature cuts \$60,000,000 in programs that include higher education, aid to dependent children, the aging, the mentally ill and the retarded - and

Attachment A.

then turns around in week two and writes a blank check to kill people.

If I were a representative supporting this measure I would pray it would pass on a voice vote so that I wouldn't have to explain myself to my constituency.

You've been told according to the Library of Congress, no one has ever been wrongfully executed. I'm not sure where that piece of information has been documented but please attend closely to the testimony of Dave Kingley - he brings considerable documented evidence to the contrary. And, in personal testimony regarding the execution of the innocent is Elbert Marion.

You've been told the death penalty will quickly restore justice and send a clear signal of our harsh intentionality in dealing with crime. By the time Richard Ney finishes speaking regarding the legal spider webs and labyrinthes of the lengthy trial and appeal process you might reach the conclusion that the death penalty will only accomplish prolonging and obliterating our justice system.

Theodius Lockhart
~~Ken Groves~~ and _____ will acquaint you with the racial inequities.

Donna Schnewiss, Shirley Ward, Paul Johnson and Ann Heberger will discuss implications to our society if this measure is passed.

Bishop Kenneth Hicks
Reverend Roberts, Rabbi Zedek, Bob Runnells, and Darlene Stearns will make you aware of the religious tradition and present day ecumenical opposition to executions.

That just about covers all areas and hopefully our experts in each area can answer any questions which you may have. However, I would like to personally discuss one other topic on which has been generally touched on by proponents under the titles of "justice, retribution, equal treatment and proper punishment". But, no matter what euphemism is used, it quickly becomes obvious that we are talking about revenge. And, I'm here to tell you that the demons of vindictiveness sadly result only in self destruction.

I speak from personal experience in this regard. For you see, following my father's murder 14½ years ago I witnessed the tragic demise of my grandfather and grandmother as their love of humankind was bitterly replaced by a raging hatred which they could not live with. This quest for vengeance took its toll as yet both died, not from physical disease, but prolonged depression.

Although I personally know many individuals who have lost family and freinds to murder - yet still oppose the death penalty - I also know that there are others like my grandparents who will be unable to overcome the grief and anger they have long endured.

But, the question that you must agonize over is just what do you think will be accomplished by executing someone else? Do you really think that taking another's life will reduce the grief and anger? Do any of you personally know of anyone who has become better adjusted because another person's life was ended? Does hatred leave us following the end of the perpetrator's life? By ridding ourselves of the culprits will we again feel the love of those we lost? Please benefit from my experience - the answer is NO.

So, in response to that irrational anger we feel when confronted with heinous murders, we shall resist it. Instead, let us continue to staunchly advocate the search for reconciliation and the quest for inner peace. There is no other solution.

Thank you for your attention.

THE COST OF THE DEATH PENALTY

Testimony by Professor David J. Gottlieb
University of Kansas School of Law

Committee on Federal and State Affairs

February 21, 1987

In the past several years, numerous attempts have been made in the legislature to pass a death penalty bill. While there has been a great deal of testimony on the advisability of such a bill, there has been almost no attention at all to the question of how much capital punishment will cost the state. The legislature's inattention to this question has continued this year; as of yesterday, none of the supporters of capital punishment had bothered to assess the cost of this proposal. My testimony today is an attempt to predict some of the costs of capital punishment. I've based my projections upon the information I've been able to receive from various state agencies, from published reports in Maryland, New York, and California,¹ and from conversations with prosecutors and defense attorneys in several other states. While I will not be able to cite a precise dollar figure, I have no difficulty in concluding that the capital punishment bill will require the expenditure of millions of dollars per year beyond current costs. These costs will increase over time. In the five to ten years that will be required before a single execution occurs in Kansas, our State can expect to spend millions of dollars. As a rough estimate, the figure may easily exceed 50 million dollars before the first execution occurs.

At a time when the state has been forced to cut millions from education and welfare, it is ironic that so little attention has been given to the cost of this proposal. I submit that in the state's current condition, we cannot afford this bill. At the very least, it is irresponsible to consider passing this bill without a detailed study of its costs.

I. THE REASONS FOR THE HIGH COST OF CAPITAL CASES

While on the surface it might seem reasonable that it is less expensive to execute a person than to imprison him for life, that assumption is wrong. As Supreme Court Justice Thurgood Marshall explained in Furman v. Georgia, 408 U.S. 238, 357-58 (1972):

As for the argument that it is cheaper to execute a capital offender than to imprison him for life, even assuming that such an argument, if true, would support a capital sanction, it is simply incorrect. A disproportionate amount of money spent on prisons is attributable to death row. Condemned men are not productive members of the prison community, although they could be, and executions are expensive. Appeals are often automatic, and courts admittedly spend more time with death cases.

At trial, the selection of jurors is likely to become a costly, time-consuming problem in a capital case, and defense counsel will reasonably exhaust every possible means to save his client from execution, no matter how long the trial takes.

During the period between conviction and execution, there are an inordinate number of collateral attacks on the conviction and attempts to obtain executive clemency, all of which exhaust the time, money and effort of the state....

When all is said and done, there can be no doubt that it costs more to execute a man than to keep him in prison for life.

Every study that has been done since Justice Marshall's writing supports his assertion. Capital cases are very expensive. There are at least four reasons why this is so.

First, capital cases take far more time to litigate before a jury verdict of guilt can be obtained. Because the stakes are life and death, guilty pleas are a rarity. Virtually every case is taken to trial. For similar reasons, the defense contests every potential issue. Preparation for trial of a death penalty case is generally far more extensive, with two to five times as many pretrial motions filed. Jury selection takes longer, since the jury must be qualified not only to rule on the question of guilt but also to decide on the death penalty. The trial itself takes up to three times as long as an ordinary first degree murder case, with far more extensive use of experts and investigators.

Second, death penalty cases require a second, separate trial on penalty if the jury returns a guilty verdict. There is no equivalent to this procedure in a regular case. The jury must sit for days, in some cases weeks, to hear evidence concerning whether the defendant should live or die. A host of expert witnesses may be required for this determination. As a result of this second phase, the time taken for a death penalty trial is further expanded; while a trial lasting even a week is fairly atypical in Kansas, a typical death penalty case may last from three to eight weeks.

Third, if the jury imposes a death sentence, a long appeal process will begin. The process includes an appeal to the Kansas

Supreme Court, a petition for certiorari to the United States Supreme Court, post-conviction applications in the Kansas state courts, appeals of those applications, post-conviction applications in the federal courts, appeals of those applications to the United States Court of Appeals for the Tenth Circuit, a final petition for certiorari to the Supreme Court of the United States, and a possible petition for clemency. The process typically takes longer than five years and can take up to ten years to accomplish. The cost may be ten times the ordinary appeal. Obviously, a defense attorney will be obliged to pursue every possible legal means to avoid execution; unlike the normal case, there is no place for an attorney to recommend to his client that he not take further appeals.

Fourth, during the time of these appeals, the defendant is typically housed in a death row. The death row costs money to build, and is more expensive to staff than an ordinary prison. The defendant is typically housed in a single cell and is unable to contribute to the prison by working in industry.

All of these steps cost money. And it is critical that the legislature recognize that in virtually every case, these expenses must be borne by the taxpayers. The county attorney, judicial, and prison costs are, of course, paid by the taxpayers. As well, the defense costs in most cases must be paid by the State, since most criminal defendants in death penalty cases cannot afford counsel.

The Supreme Court of the United States, in a number of cases, has made clear that capital defendants are entitled to a

high level of due process in these cases. Thus, efforts of the state to cut costs would not only be unfair, they would result in convictions that would be overturned on appeal. I now turn to an analysis of the costs of the death penalty.

II. DEFENSE COSTS AT TRIAL

The only state agency to have made a detailed estimate of the cost of death penalty cases is the Board of Indigents Defense Services Office. The office estimated that the trial costs of defense services may reach \$31,000 per case, or more than 6 times the current maximum allowance. The estimate is based upon the view that the defense of a death penalty case will require 800 hours of attorney time, which, compensated at current rates, would require an average bill of \$26,000. The Board also estimates average expert services of \$3000, and investigative services of \$2000. If, as the Board predicts, there are 80 first degree murder cases filed per year in the state, the total bill for trial level defense services will total \$2,480,000 per year.²

While these figures may seem quite high, in fact, they are well below the actual figures spent in many other states. For example, in 1983 in New Jersey, the Public Defender's Office budgeted approximately \$100,000 for each capital case.³ In Ohio, the Public Defender's Office estimated that the actual cost of capital cases were \$60,000 per case (trial plus appeal).⁴

In particular, the costs for experts and investigation are far less than reported by some other states. Thus, the Kentucky Defender's Office has estimated that a typical capital case may involve from \$10,000 to \$15,000 in expert and investigative fees,

over and above a normal case.⁵ The National College of Criminal Defense estimated the investigation costs alone in a capital case might amount to \$10,000 per case.⁶ A New York study put the figure even higher, at \$40,000.⁷ While there is no reason to believe that the figure billed in Kansas will equal the amount estimated in New York, it does underline the fact that the Board of Indigent Defense estimate is very conservative.

In sum, a conservative estimate of defense trial costs for capital litigation is approximately 2.5 million dollars per year.

II. PROSECUTION COSTS

At present, no authority in this state has attempted to measure the impact of the capital punishment bill upon the prosecution. However, there is every reason to believe that the impact will be substantial. Just as the defense must file more pretrial motions, the prosecution must answer them. The prosecutor, as well as the defense attorney, must be present for the voir dire of the jury, for the expanded trial, and for the new sentencing proceeding. Capital cases will take four times as long for prosecutors if they take four times as long for defense attorneys. Moreover, if the defense presents experts and uses investigators, there is no doubt the prosecutor will utilize such resources as well. There is no question there will be a massive increase in prosecution costs; the only question is how great the increase will be.

At present, far more money is spent on prosecution in this state than is spent on defense. For example, in Douglas County, the amount of money budgeted the prosecutor's office is

approximately seven times the amount budgeted for aid to court appointed attorneys.⁸ That figure is consistent with other states, which have estimated the disparity between prosecution and defense resources as anywhere from 2 to 1 to as high as 8 or 10 to 1. The most conservative estimate so far was from a recent study in Maryland, which found that prosecution and defense costs were virtually identical.⁹ Taking the most conservative of these estimates, the Maryland figure, one might predict that the increase in prosecution costs might amount to some 2.5 million dollars per year.

Since prosecution expenses in this state are funded on a county-by-county basis, the increase in cost will be felt unevenly. Different localities may adopt different methods of dealing with the increased costs. Some will undoubtedly increase local property taxes. Others may absorb the increases by restricting the ability of the county attorney to prosecute other crimes. Some county attorneys may attempt to deal with the burden by bringing fewer first degree murder prosecutions. Whatever the means, the fact remains that capital litigation is enormously expensive for prosecutors as well as defense attorneys, and that a means of funding must be found.

III. JUDICIAL COSTS

At present, no estimates have been given on increased judicial costs, but costs there will be. There are at least three kinds of judicial costs that can be expected at trial: jury costs, security costs, and the cost of the judges themselves.

The first two of these costs are borne by the county, the third by the state.

If the experience of other states is a guide, and the estimate of the additional length of a jury trial by the Board of Indigents Defense service is accurate, there will be a substantial increase in juror costs for the state. If the typical capital trial is three weeks longer than an ordinary case, and if 80 such cases are tried per year, the additional jury costs will amount to \$168,000. If the voir dire panel is 150 rather than 100, and voir dire lasts two days instead of one, the additional cost will be \$160,000 per year. The total increase may thus be \$328,000. Since voir dire of juries may take weeks in some capital cases, the estimated increase here is quite conservative.

At present, I have been unable to come up with any figures on the increased security costs. However, there is no doubt that such costs will occur, and that they will burden the most those smaller counties that can least afford increased expenditures.

Finally, the increase in trial time will eventually require increased judicial resources. At present, it is difficult to estimate how these resources will be funded. If the judiciary chooses not to ask for new judges, the "cost" will be borne at the outset by all those litigants who do not have capital cases. These litigants can expect less time devoted to their cases and increased backlogs.

If, however, the board of indigent defense estimate of increased trial time is right, and the capital punishment bill

produces some 240 to 320 additional weeks of trial, the legislature will eventually be asked to supply the additional judges. At the current time, it costs approximately \$115,000 to staff a courtroom full-time. If five additional judges are sought, a prediction which is certainly not radical, the additional cost to the state will be \$575,000 per year; with six judges, the figure will rise to \$690,000.

Although many of the judicial costs will not be felt immediately, and some will not be felt by the state, it is quite probable that within a couple of years, the judicial costs of capital punishment will exceed one million dollars per year.

IV. APPELLATE DEFENSE COSTS

The Board of Indigent Defense Fund has estimated appellate defense cost increases as \$135,000 per year for attorney fees, and \$120,000 per year for additional transcript fees. The basis for the Board's estimate is two-fold: first, it estimates that only 16 of the 80 cases per year filed as first degree murder will actually involve imposition of the death penalty, and it also estimates that one attorney will be able to handle four death penalty imposed appeals a year. The cost for four additional attorneys and one secretary is estimated at \$135,000.

In this particular instance, the Board's estimates are well below those from other states. The cost of each appeal has been estimated as an additional \$20,000 in Kentucky.¹⁰ Similar figures were reported in New Jersey and California, with a figure of up to \$50,000 mentioned in New Jersey.¹¹ Moreover, the

estimated amount of time reported in other states was up to 6 months of attorney time for each appeal.¹² There is no documented basis for the Board's assumption that our state will be nearly twice as productive in producing appeals as other states with the death penalty. Thus, I would expect that the actual cost of death penalty appeals to be 50% greater than the Board's estimate. However, I will use their estimate for purposes of this paper.

V. PROSECUTION APPELLATE COSTS

As with trial level costs, there is no reason to believe that the increase in prosecution cost for appeals will be any less than the increase for the defense. Thus, we can expect an immediate increase of at least \$135,000 in prosecution costs

VI. POST-CONVICTION COSTS

After completion of state appeals, the litigant's course is not yet run. Instead, what follows is a series of collateral appeals. In Kansas, there will be at least seven separate lawsuits or appeals filed by each inmate: 1.A petition for writ of certiorari to the Supreme Court of the United States; 2.An application for post-conviction relief in Kansas under §60-1507; 3.An appeal of any denial of the petition to the Kansas Court of Appeals; 4.A petition for review to the Kansas Supreme Court; 5.An application for writ of habeas corpus in the federal district court; 6.An appeal of that application to the US Court of Appeals for the Tenth Circuit; and finally, 7.A petition for writ of certiorari to the Supreme Court of the United States.

There is little doubt that the State will be required to bear the costs of these appeals. The Supreme Court of the United States held, in the case of Bounds v. Smith, 430 U.S. 817 (1977) that the state must provide an inmate with access to the courts. Kansas has chosen to provide that access through attorney and student assistance by Legal Services for Prisoners, Inc. If the state continues to provide assistance through LSP, there is no question the state will be required to hire additional lawyers to assist inmates. Moreover, additional staff in the Attorney General's Office will eventually be required to answer these petitions.

At this point, it is extremely difficult to know exactly how many additional lawyers will be required. The need for such lawyers may not appear for several years. Moreover, the number will depend, in large part, on how many capital cases survive review by the Kansas Supreme Court. However, if the State is successful in securing the death penalty in as few as ten cases per year, the cost will be substantial. The State of Florida, which just formed an inmate assistance unit to help with collateral petitions, will spend over one million dollars per year. At the very minimum, the State must expect that it will be required to spend approximately as much on post-appeal costs for the defense and the state as it will spend on appeals. Thus, the total cost, at a minimum, of appellate services in capital cases should be expected to rise to at least \$650,000 per year after several years.

VI. CORRECTIONS COSTS

Last, but surely not least, the state will be required to spend millions on housing those convicted of capital crimes. If the state builds a new facility, the capital costs will be enormous. I have been told that the Department of Corrections would prefer a death row capable of housing 100 inmates. The cost of building a structure to house 100 inmates in maximum security confinement will almost surely be more than 7.5 million dollars. The medium security facility at Lansing cost approximately \$65,000 per bed. According to former Secretary of Corrections, Michael Barbara, the construction costs for maximum security confinement are greater than for a medium security facility, and could be expected to run from \$75,000 to \$100,000 per bed. At that rate, an 100 person death row would cost from \$7.5 to \$10 million.¹²

The construction costs cited by former Secretary Barbara are consistent with figures from other states. Thus, the State of Alaska predicted capital expenses of over \$2 million to construct a 20 person death row facility, a cost of over \$100,000 per bed.¹³

In addition to the costs of construction, the Department of Corrections will be forced to incur additional staffing expenses. All the studies of which I am aware have concluded that it costs far more to house an inmate in death row confinement than in the prison's general population. The costs reflect the need to house each inmate in an individual cell, to separate the inmate from the general population, to provide

*cost to in
general
population*

separate recreation, and to increase security.¹⁴ According to representatives of the Florida Clearinghouse on Criminal Justice, during the eight to ten years involved in post-conviction review, an extra \$15,000 per inmate will probably be required.¹⁵ While the Department of Corrections has not yet given an estimate of the increased staff expenditures, it will surely be hundreds of thousands of dollars per year.

VI. CONCLUSION

While I am not able to present the committee with a precise dollar figure on the cost of capital punishment, I believe that several conclusions may be safely drawn. If the current bill passes, the cost to the counties and State will eventually exceed seven million dollars per year. (The cost is exclusive of the more than 7 million dollars that would be required to build a death row.) That cost will continue to increase year after year. The cost will be felt in the counties either by higher property taxes or by reduced manpower for criminal justice prosecutions. It will be felt in the state either by increased taxes or by a further reduction in services.

If you agree with my estimates, I suggest that they point to the almost inescapable conclusion that our state cannot, at this point, afford the death penalty. If you disagree, you owe it to yourself and your constituents to withhold your vote until you have full and accurate information from all agencies of the state. Such estimates can only be made if the affected state

agencies have taken the time to compare their figures with those of other states. We have never had such estimates in the past; we have no such estimates now.

Respectfully submitted

David J. Gottlieb
Lawrence, Kansas
January 21, 1987

¹The published sources are Comment, The Cost of Taking a Life: Dollars and Sense of the Death Penalty, 18 U. Cal. (Davis) L. Rev. 1221 (1985) [hereinafter Comment]; N.Y. State Defender's Ass'n, Capital Losses: The Price of the Death Penalty for New York State (1982) [hereinafter Capital Losses]; Committee to Study the Death Penalty in Md., Final Report (Apr. 30, 1985).

²Board of Indigents Defense, Defense Costs for Death Penalty Cases in Kansas (1986).

³Comment, supra note 1, at 1261.

⁴Conversation with Randall Dana, Ohio Public Defender (Reported by Ronald Miles, Board of Indigent Defense Services).

⁵Conversation with Kevin McNally, Kentucky Department of Public Advocacy, 1/14/87.

⁶Capital Losses, supra note 1, at 13.

⁷Id. at 18.

⁸Conversation with Jerry Harper, former District Attorney, Douglas County. Mr. Harper estimated the District Attorney's budget when he served in the office as approximately \$400,000 per year. Last year, the Board of Indigent Defense Service budgeted \$58,158 for defense services for Douglas County. Mr. Harper estimated that court appointed cases accounted for three-quarters of the defense cases in Douglas County.

⁹Committee to Study the Death Penalty in Maryland, Final Report (Apr. 30, 1985).

¹⁰Conversation with Kevin McNally, Kentucky Department of Public Advocacy, 1/14/87.

¹¹Conversation with Tom Smith, Ass't Public Defender, Trenton, New Jersey.

¹²Conversation with Prof. Micheal Barbara, Washburn Law School, former Secretary of Corrections, 1/19/87.

¹³Fiscal Note to Senate Bill 119, "An Act Authorizing Capital Punishment," State of Alaska 1986 Legislative Session.

¹⁴See, e.g., Capital Losses, supra note 1, at 23.

¹⁵Id.

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Testimony of Michael A. Barbara Before
The House Federal and State Affairs Committee

January 21, 1987

We do not need a death penalty statute to do justice for the people of Kansas. We have sufficient laws on the books today to adequately deal with the problem of first degree murder.

I want to discuss two concerns for your consideration. (1) Objectives of the death penalty, and (2) the cost of punishment.

Obviously, for every law there must be a purpose or objective to justify its enactment. The death penalty is no different. From the hearing yesterday, it appears that even the proponents question, if not doubting, the effectiveness of deterrence. They spoke of punishment (retribution) for the sake of punishment - "to satisfy public rage" - "to restore faith in our system of justice" - "not to cheat the public" - "get rid of those mad dogs". If these are our legal objections, can we not accomplish these by the present laws - by enforcing them, which we do in capital cases!

In 1986 - 1 Class A inmate released - served 15 yrs. 10 mos.

In 1985 - 2 Class A inmates released - served 17 years and 16 years respectively.

In 1984 - 2 Class A inmates released - 15.29 yrs.

Attachment c

The second concern for your consideration is the cost factor - you have been told not to be worried about cost. But I believe that when you look at the purpose or objective of this bill, the cost of punishment should be very much concern to you. I need not remind you of the financial headaches you have in this session. Now is not the time to commit an expenditure for capital improvements to satisfy legal requirements and for logistics concerning, housing, staffing and all those expenses necessary to house death row inmates - both males and females.

If the objective is purely retribution, can we afford to build another facility to house 30, 40, 50¹⁰⁰ inmates in death row - men and women? You know the cost of building - \$50,000, \$60,000, \$75,000^{100,000} per bed? Staffing - we now have approximately 6 to 1 ratio - inmates to staff - surely we will have to talk about 3 or 4 to 1 on death row.

We don't have the funds to adequately house ~~over~~ more than 5,300 inmates at the present time. Can we afford an outlay of several million dollars to build and the annual cost of operating and maintaining a death row - for what purpose? To get our pound of flesh? I assume the Department of Corrections will be furnishing you specific cost figures.

I will not go into the cost of litigation and the extent of its protraction - others will cover this. My own experience in a case I heard entailed almost six years from date of conviction to

final disposition of nullifying the death penalty because of Witherspoon v. Illinois.

These convicted murderers are now serving at least 15 years. If the legislature thinks that this is a small price to pay for such a dastardly deed of murder, then you do have the option to increase the time to be served - whether it be 20 or 30 years sentences. Under present law, lifers could more easily be absorbed into the general population than in a separate death row facility.

But I do not believe that the present objective, whether it be deterrence or retribution, justifiably calls for a death penalty bill for Kansas. We do not need it to do justice.

Testimony of David E. Kingsley, member of Kansas Coalition Against the Death Penalty, before the Federal And State Affairs Committee, Kansas State House of Representatives, January 21, 1987.

I consider it an honor to be able to appear before this Committee today and provide some thoughts concerning one of the most important moral, legal, and ethical issues in the history of this state. It is rare that decisions have the profound moral and legal implications that are inextricably interwoven with the capital punishment issue. As a professional in the field of human relations and civil rights for the past twenty years, I have thought long and hard about the act of punishing certain criminals by execution. In my mind, there is no utilitarian or practical value in having a death penalty. Therefore, the argument concerning "state killing" must revolve around all of the moral arguments that can be brought to bear on the debate. My testimony today concerns just one aspect of the morality, or immorality, of the death penalty. The moral issue that I would like to address is the miscarriage of justice.

There are, in fact, few people who still believe that capital punishment is a deterrent to crime. Statistical evidence overwhelmingly contradicts the notion that murder or heinous crime will be reduced by instituting a death penalty. But even without a pragmatic or utilitarian argument in support of execution, proponents of capital punishment will still assert that certain criminals should be killed.

Most individuals who support the death penalty will base their argument on morality and justice. But they must argue that there is some standard by which retribution is meted out with an exactitude which leaves no doubt that the punishment has not been more severe than would be appropriate. Furthermore, because death by lethal injection is the most extreme punishment possible, and because it is irrevocable, the proponents must also argue that there is some infallible mechanism in the system which insures that no mistakes are made in the determination of guilt or innocence.

But unfortunately mistakes will always be made. There is no human system devised which is infallible. Capital punishment is no exception to this "iron law" of human behavior.

At least one innocent person has been convicted of a capital crime for every twenty executions carried out in this country since 1900. This conclusion is the result of research conducted by Professors Hugo Bedeau of Tufts University and Michael Radelet of the University of Florida.

These researchers have identified 343 cases of persons convicted of a capital offense between 1900 and 1985 who were, in fact, innocent. As a result of these 343 miscarriages of justice in capital cases, 25 innocent people were executed; others came within days, even hours, of their execution; many spent long years of their lives in prison - some as long as 25 years and more.

Testimony of David E. Kingsley, 1/21/87

Henry Schwarzschild, director of the Capital Punishment Project of the American Civil Liberties Union, said: "These figures show that in every year of this century at least one person who was falsely and innocently sentenced to death has been awaiting execution."

Professors Bedeau and Radelet show that, since the beginning of this century, there have been an average of about 38 wrongful capital convictions in this country per decade. They list 49 such cases in the 1970's, and 15 so far in the first half of the 1980's.

Convicting an innocent human being of a capital crime is a horrendous act; sentencing those innocent humans to die is even more horrendous. Of course, executing a person wrongly is an unspeakable horror.

The incivility and ignominy of the capital punishment system is compounded by the bias of that institution against the poor and minorities - especially poor members of the black community. In this regard, things have not changed much in America since 1967 when The President's Commission on Law Enforcement and Administration of Justice concluded: "The death sentence is disproportionately carried out on the poor, the Negro, and the members of unpopular groups."

Justice Douglas stated in the landmark case of Furman v. Georgia (408 US 238) that, "One searches our chronicles in vain for the execution of any member of the affluent strata of this society." There is no evidence that any miscarriage of justice in 1987 or in the foreseeable future is likely to involve a defendant who could afford adequate legal counsel. In fact, the wealthy members of society are not likely to be executed regardless of guilt or innocence.

Because miscarriage of justice is inevitable and because poor and black Americans must carry the burden of paying for crime, there is no moral argument in favor of capital punishment that can be sustained. It is the duty of death penalty proponents to show that capital punishment will be fair and fool proof. This they cannot do.

Att. E.

STATE OF NEBRASKA

BOARD OF PARDONS

In the Matter of a Posthumous Pardon to)
)
WILLIAM JACKSON MARION)
)
Effective March 25, 1987)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, William Jackson Marion was heretofore convicted of the following Nebraska offense: Convicted in Cage County, Beatrice, Nebraska, for the offense of First Degree Murder on the 24th day of May, 1883, and sentenced by the court to be hung; which sentence was appealed to the Nebraska Supreme Court and a re-trial was ordered in which the jury was to determine both the verdict and the penalty; and he was again tried, convicted on the 10th day of March, 1885, and sentenced by the jury to be hung; and on a second appeal to the Nebraska Supreme Court the conviction and sentence were affirmed, after which Governor Thayer ordered a stay of execution on March 8, 1887, to consider petitions containing approximately 1,000 signatures requesting commutation to Life imprisonment, which commutation was declined on March 24, 1887, and the defendant was hanged on March 25, 1887; his descendants now having made application for a posthumous pardon from such offense; and

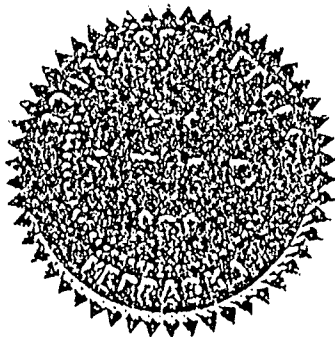
WHEREAS, the Board of Pardons did consider such application at its meeting of December 12, 1986, the proceedings in connection therewith being recorded in Docket Number I of the Board at Pages 365 through 374; and

WHEREAS, upon consideration of the application and the evidence submitted in support thereof, the Board did find that the said William Jackson Marion is a fit subject for clemency; that the public good would be served by granting such application and that a posthumous pardon should be bestowed by the government through its duly authorized officers, as an act of grace;

NOW, THEREFORE, the Board of Pardons of the State of Nebraska by virtue of the authority vested in it by the Constitution and the Laws of the State of Nebraska, does hereby grant a posthumous pardon to William Jackson Marion, to be effective March 25, 1987, for the offense above set forth, and he is freely and unconditionally absolved from all the legal consequences of the offense and of his conviction including both direct and collateral consequences, and such is forgiven and remitted by virtue of the sovereign power conferred upon the undersigned; and

IN WITNESS WHEREOF, we have affixed our signatures hereto at Lincoln, Nebraska this 12th day of December, 1986.

BOARD OF PARDONS - STATE OF NEBRASKA



Robert Kerrey

Governor Robert Kerrey

Allen J. Beermann

Secretary of State Allen J. Beermann

Robert M. Spire

Attorney General Robert M. Spire

Attachment E

To whom it may concern:

On Mar. 25 1887, My grandfather, William Jackson Marion was hanged for Murder at Beatrice Neb. He had two trials each ending in conviction, the sentence death by hanging. Petitions were circulated and presented with over 1000 signatures to the Governor requesting commutation of the death penalty to life in prison. It was denied Mar. 24, 1887 and the sentence carried out the next day.

Here was a clear case of a 38 year old man without friends or funds being deprived of his right to life, liberty, and the pursuit of happiness without possibility nor hope of restitution. There was a clamour for his blood and it would appear that that clamour bore some weight in the decision making. He had legal counsel, two trials and was executed on circumstantial evidence which thoroughly broke down 4 years after the execution in as much as at that time the supposed victim of the murder was found to be alive.

The arrest no doubt created insurmountable problems for the wife who died the same year as the execution but possibly earlier in the year. She four children, the oldest at the time of the arrest who was my father was 8 years old the others were 6 4 and 2 years old. These children were deprived of the comfort and support of a father, and proper education. Further the deprivation has effected my generation also. How can anyone even estimate the harm of such a circumstance? View this scene.



Albert Marion



KANSAS COUNCIL ON CRIME AND DELINQUENCY

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Rep. Robert Miller, Chairman

ADVISOR: Karl Menninger

THE DEATH PENALTY IS NOT A DETERRENT

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In order for punishment to deter, it must be swift and certain. The use of the death penalty in Kansas will be slow, uncertain, and unpredictable. The rights of the accused leads to time-consuming appeals and some juries are more reluctant to convict in a death penalty state. In Illinois, after the death penalty was restored, more plea bargaining took place in order for prosecutors to stay within their budgets.

The death penalty in Kansas will not deter because those who commit murder do not do so after carefully weighing the consequences. Most persons who murder commit this act quickly in situations of great fear, emotional stress, or while under the influence of drugs or alcohol. This situation is acknowledged by the use of incompetence pleas and the defense of insanity. Those who commit the most serious crimes are not punished because the nature of their crimes presupposes severe mental problems.

The death penalty in Kansas will not deter the commission of premeditated murder because such persons do not believe that they will be apprehended, convicted, and executed.

The death penalty in Kansas will not deter the killing of police or correctional officers. Criminologists Sellin, Bailey and Wolfson, working independently, found that capital punishment did not decrease the number of such homicides. Peace officers and correctional personnel are not any safer in states that have the death penalty. A person who has committed murder has nothing to lose, in a state with capital punishment, if he kills the arresting officer.

The death penalty in Kansas will not deter persons from committing homicide because it has not done so in other states in this country. Texas, which has the highest murder rate and Florida, which has the second highest murder rate in the U.S. both have the death penalty. The murder rate in Kansas is less than half that of these two states. New Mexico experienced an increase in the murder rate when the death penalty was reinstated

and Rhode Island noted a drop in its rate when the death penalty was dropped.

The death penalty in Kansas will not deter persons from committing murder because it has not done so in bordering states. Kansas has a lower homicide rate than any of the three bordering states of Colorado, Missouri, and Oklahoma, all of which have the death penalty. This has been the case ever since the death penalty was struck down in Kansas in 1973.

The death penalty in Kansas will not deter persons from committing murder who do so in order to commit suicide (by having the state kill them) or who want the notoriety, or who are masochistic. In such cases the death penalty will increase the number of homicides. Gary Gilmore went to Utah, killed two persons and then called for his own death by firing squad. He was on the cover of Newsweek and wanted his execution televised.

The death penalty in Kansas will not deter persons from committing murder but may increase this type of crime. In California and New York there were slight increases in homicides after executions. Such executions by the state may stimulate violent crime because they are viewed as approving killing as an appropriate means of vengeance. Violence begets violence.

The death penalty in Kansas will not deter serious crime but may lead to its increase because our money and energy will be focused on the death penalty instead of seeking out and changing the causes of crime in appropriate preventive measures. Being tough on crime by supporting the death penalty is a symbolic and political act that does not get to the heart of the problem of crime in the state of Kansas.

The death penalty in Kansas will not deter criminals or give general protection to our citizens. There is no relationship between the death penalty and crimes such as burglary and robbery, which our citizens are more likely to experience.

Donald W. Anderson, President.
Kansas Council on Crime and Delinquency/Kansas Citizens
for Justice

Coalition To Keep Kansas Free From The Death Penalty

1/21/87

6



Amnesty International

316 South 7th Street

Salina, KS 67401

913-827-8506

January 21, 1987

To: House Federal and State Affairs Committee
From: Donna Schneweis, CSJ, RN--AI State Death Penalty Coordinator
Re: House Bill 2062

Rep. Miller and members of the Committee, I wish to express my appreciation for the opportunity to speak to you today on behalf of Amnesty International. I am a critical care nurse and serve in the capacity of volunteer coordinator for Amnesty International's death penalty work in Kansas.

AI is an independent worldwide movement working impartially for the release of prisoners of conscience, fair and prompt trials for political prisoners, and an end to torture and executions. We have nearly 2000 members and supporters in Kansas.

Our members share the great concern of their neighbors about the problem of violent crime and how to best protect society. We are opposed to the use of the death penalty. We do not believe that any government of any ideology has the right to engage in capital punishment in the name of protecting society and in doing so encroach on the fundamental human rights of a person.

If what is being proposed in this bill is so honorable and good, why is it that the execution is to be done in secret with only a few persons present? Why are we afraid to do it in public? I suspect it is because we want to hide from ourselves and the people of Kansas the ugly fact that what the state is doing is nothing different than what the condemned person was convicted of doing--killing another human being.

Let us look for a minute at the methods proposed in this bill: lethal injection, hanging, electrocution. What difference is there between the use of these actions as proposed in this bill and the actions carried out in other nations as a form of torture for persons accused of social transgression?

There is no difference. Our world condemns the Soviet Union for their use of forced drug injections for punishing persons who have offended the state by their political views/actions. In recent months, condemnation has come from all corners of the world for South Africa and its treatment of persons in custody for offending state order, treatment including electric shock and a form of hanging torture known as the 'helicopter'.

We can rationalize it any way we want, but there is really no difference between the forced drug therapy of the Soviets and the lethal drug injection proposed here. There is no difference between the hanging forms of torture in Turkey and South Africa and its proposed use in Kansas. In reviewing the use of electrocution in the US, especially the John Evans case, Justice Brennan has called it "nothing less than the contemporary technological equivalent of burning people at the stake". We can try to sanitize our bill, baptize it by prostituting a life giving medical technique, but the act is still the same whether it is burning at the stake or shooting someone up with drugs in the ultimate act of drug abuse. We are killing another person.

As a society, we must not stoop to the same level of behavior which we are trying to condemn. We cannot deter murder when we engage in the very same act, no matter how we try to legalize it or hide it or cloak it in ceremony. To demonstrate societal disapproval of killing cannot be done by killing.

We oppose HB 2062 and any other bills attempting to reinstate the death penalty.

Amnesty International is a worldwide human rights movement which works impartially for the release of prisoners of conscience: men and women detained anywhere for their beliefs, color, ethnic origin, sex, religion or language, provided they have neither used nor advocated violence. Amnesty International opposes torture and the death penalty in all cases without reservation and advocates fair and prompt trials for all political prisoners. Amnesty International is independent of all governments, political factions, ideologies, economic interests and religious creeds. It has consultative status with the United Nations (ECOSOC), UNESCO and the Council of Europe, has cooperative relations with the Inter-American Commission on Human Rights of the Organization of American States, and has observer status with the Organization of African Unity (Bureau for the Placement and Education of African Refugees). Amnesty International was the recipient of the 1977 Nobel Prize for Peace.

attachment 6

H

LEAGUE OF WOMEN VOTERS OF KANSAS

3601 SW 29th, Suite 112-D Topeka, KS 66614 (913) 272-3062

January 22, 1986

STATEMENT TO THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE IN OPPOSITION TO HB 2062.

Mr. Chairman and Members of the Committee:

I am Ann Heberger speaking for the League of Women Voters of Kansas in opposition to death penalty legislation.

The LWVK opposes the death penalty for the following reasons:

- * It is not a deterrent to others.
- * An innocent person may be wrongfully convicted.
- * It is discriminatory toward the poor and toward racial minorities.
- * It is too costly to the state in terms of legal fees and court time.

In terms of money, the League would like to address another area pertaining to just how costly this legislation is. We do not believe that the issue of building a super maximum security facility has been significantly discussed. A death row calls for more staff and services for the prisoners housed there. It has been estimated that Kansas will have 80 cases per year in which the death penalty could be imposed.

Year 1 - 80 beds	Year 6 - 480 beds
Year 2 - 160 beds	Year 7 - 560 beds
Year 3 - 240 beds	Year 8 - 640 beds
Year 4 - 320 beds	Year 9 - 720 beds
Year 5 - 400 beds	Year 10 - 800 beds

As it seems to take eight to ten years before, or if, the death penalty is actually carried out, after 8 years the beds needed could be 640, and by 10 years 800 beds. Both Missouri and Kentucky have had the death penalty for 10 years and neither has yet executed anyone.

A few years ago, the state spent somewhere in the neighborhood of \$75,000 per bed for a medium security facility. Maximum security beds, we are sure, cost a lot more than that. A guesstimate would probably be in the range of \$100,000 per bed at this time.

We have all just finished listening to candidates in both parties discussing the quality of life in Kansas, how it is now and will be for our children and our childrens' children.

Attachment H.

Last week the state legislature cut funds across the board. That board includes money for aid to dependent children, foster care, daycare for children of low income working parents, and affects others who need supportive state services. The League believes that no matter how grim the economic situation is our tax dollars should be used to provide necessary services to those children and others in need to maintain some of that quality of life here and now, and not in some distant future.

If the state cannot afford to fund basic needs, the League doubts the wisdom of implementing costly death penalty legislation. A death penalty, in our opinion, is not a solution to crime, it is only an expensive illusion of being tough on criminals.

Thank you for the opportunity to speak before you today, and the League strongly urges you to please not pass death penalty legislation in our state.

'... we oppose capital punishment and urge its elimination from all criminal codes.'

(Section V-F, "Crime and Rehabilitation,"

The Social Principles of the United Methodist Church)

The Spiral of Violence Continues

By BISHOP KENNETH W. HICKS

A recent issue of The United Methodist Reporter gives us some chilling facts set forth by the National Coalition on Television Violence.

According to the report, sales of toys that simulate war and other violent behavior have increased 700 percent since 1982. That includes a 22 percent increase in the first half of 1986. Eleven of the 20 best-selling toys in the United States, including realistic war toys, machine guns and infrared combat gun sets, encourage the acting out of violent behavior.

What has this to do with the Death Penalty?

For one thing, it indicates a direction toward which our society is bent. Violent confrontation has become a way of life to the extent that, in Kansas, we find the death penalty being blatantly promoted to the point of pride.

What are we becoming as a people? Why the obsession for vengeance? Is it that we believe the death penalty to be a deterrent to heinous crimes? The evidence does not bear that out. Compare Kansas with some other states.

The most recent FBI Uniform Crime Report (1984) indicates that Texas, with the highest murder rate in the nation, is second in executions since 1972. Florida, which ranks first in death row population (230), has the nation's second highest homicide rate.

Kansas, whose death penalty was struck down in 1972, ranked 30th in homicide rate.

Economically, the history of the states of New York and California indicates that the cost of each case involving the death sentence runs from

\$500,000 to over \$1 million according to an extensive article in the Dec. 14, 1986, Wichita Eagle-Beacon. Another statement in the same article indicates that the cost of housing a 30-year-old for life would be approximately \$426,880.

Beyond this date, however, is the moral issue. For society to legalize the violence of murder says more about the society than it does the act of criminality. It describes our character — our society's personality.

The argument is made which asks what one would do if a murderous person intruded upon one's household, one's loved ones. It is difficult to answer what any of us would do. Most of us would defend ourselves if we could. This is a personal judgement made in a heated moment of terror. It has no bearing on the issue of civilized people making a decision to take life by institutionalizing and legalizing the taking of one life for another.

What does the death penalty offer?

It offers the elimination of a life that does not bring back the victim. It offers an outlet of vengeance by state statute. It eliminates any redemptive possibilities. It discriminates against the poor who cannot afford legal help. It reveals that Black defendants receive a death sentence nearly three times as often as do White defendants.

The United Methodist Church by General Conference action holds "we oppose capital punishment and urge its elimination from all criminal codes." THE BOOK OF RESOLUTIONS containing positions held by our church states, "The

United States Supreme Court, in GREGG V. GEORGIA, in permitting the use of the death penalty, conceded the lack of evidence that it reduced violent crime but permitted its use for purpose of sheer retribution.

"The United Methodist Church is convinced that the nation's leaders should give attention to the improvement of the total criminal justice system and to the elimination of social conditions which breed crime and cause disorder, rather than foster a false confidence in the effectiveness of the death penalty.

"When a woman was brought before Jesus, having committed a crime for which the death penalty was commonly imposed, our Lord so persisted in questioning the moral authority of those who were ready to conduct the execution that they finally dismissed the charges (John 8:31f)."

To approve the death penalty calls into question our modern trend toward confrontation and violence. It calls into position a serious need for our people to consider the style, words and spirit of our Lord.

I urgently call upon our United Methodist constituency to examine our spirit, our direction. Vengeance is the only sound reason for capital punishment. Our society is in great need with regard to crime. The death penalty is a shortcut, a quick fix that evades the centrality as to the real issues and the real spirit in our society which needs redemptive fixing.

I am against the death penalty, not because it doesn't work and is expensive, but because it is wrong.

Victims' families among capital punishment foes

It is sometimes thought those whose lives have been directly affected by murder will be among the strongest supporters of capital punishment. Some are.

But persons whose lives have been affected by murder can also be staunch opponents of capital punishment. These statements are included in information compiled by the Coalition to Keep Kansas Free of the Death Penalty.

David Banks, Topeka: The murder of my brother was probably the greatest tragedy of my life. But I continue to oppose the death penalty because of the discrimination toward Black people. It's obviously been used historically against people of my race."

Mavis Almquist, Salina: My husband was senselessly murdered on the streets of Wichita. He, and I, always opposed the death penalty notion of "an eye for an eye." I believe Christ's message of forgiveness is directly con-

trary to the notion of capital punishment.

Elbert Marion, Iola: My grandfather was tried and hung for murder. Four years later the supposed murder victim was found to be alive. Just how do you make restitution to a widow and four children without proper education and care when you make such an error?

Shiela Bauman, Overland Park: During a Topeka liquor store hold-up my husband was executed on the floor. But, despite the gruesome cruelty of his death, my religious faith compels me to oppose the death penalty. Killing his murderer will not ease my grief.

Bill Lucero, Topeka: Following my father's murder, I researched the facts about the death penalty. When I learned there existed no deterrent value of the death penalty I decided that executing his murderer would only serve as revenge and what good would that do?

Kansas had capital punishment by hanging until 1972 when a U.S. Supreme Court ruling outlawed the death penalty in all states. A subsequent decision by the Court has allowed reinstatement of capital punishment in 36 states. Will Kansas become the 37th?

During his eight years in office, Governor John Carlin vetoed four bills passed by the Legislature which would have reinstated the death penalty. The 1986 House of Representatives approved a capital punishment bill, but it did not receive the consideration of the full Senate.

The Kansas Legislature reconvenes next week.

Among the bills both the Senate and the House of Representatives are expected to consider early in the session are ones which would reinstate capital punishment in the state.

Mike Hayden will be inaugurated as Kansas' governor Jan. 12. He has indicated he will sign a bill to allow capital punishment in the state of Kansas if it reaches his desk.

Do Kansans, do Kansas United Methodists, want such a bill sent to the governor?

The Kansas East Board of Church and Society and the Kansas West Commission on Church and Society are providing this supplement based on the denominations opposition to capital punishment.

It is being published with the Jan. 9, 1987, issues of Interchange, Kansas East Edition of the United Methodist Reporter, and Crossfire, Kansas West Edition of the United Methodist Review, as well as with the local church editions of the United Methodist Reporter and the United Methodist Review in both annual conferences.

The United Methodist Church has a long tradition of opposing capital punishment. The over 200,000 United Methodists in Kansas can affect whether or not the State Legislature approves reinstatement of capital punishment.

The final page of the supplement urges United Methodists to act by voicing their opposition to capital punishment to their elected representatives and in letters to their local newspapers which may influence others to join the effort to keep Kansas free of the death penalty.

Attachment #

Caring is part of being Christian

By THE REV. JIM GODBEY, CHAIRPERSON
Kansas West Commission on Church and Society

"By the rivers of Babylon there we sat down and wept, when we remembered Zion."
"On the willows there we hung up our lyres. For there our captors required of us songs, and our tormentors, mirth, saying, 'Sing us one of the songs of Zion! How shall we sing the Lord's song in a foreign land?'" (Psalm 137:1-4)

It seems like a long time ago when this Psalm was written, and, for many, we may not even care. But to care is the reason we are Christian and United Methodist.

Since the days when John Wesley referred to the prisons of England as "squalid, stinking holes," the people called Methodist have demonstrated a concern for criminal justice reform. The Social Principles of the United Methodist Church declares, "We oppose capital punishment and urge its elimination from all criminal codes."

In a resolution adopted by the 1980 General Conference of The United Methodist Church, the caring continues when it says, "The United Methodist Church is deeply concerned about the present high rate of crime in the United States and about the value of a life taken in murder or homicide. By taking another life through capital punishment, the life of a victim is further devalued."

We live in a time when many of us in the church have hung up our lyres (when it comes to issues such as capital punishment). How shall we sing the song of Christ in an unfriendly place?

I suggest three ways to sing: (1) letters to your legislators, (2) letters to the editor of your newspaper and (3) educating yourself on the topic.

Cathie Kelsey in a meditation for the December 1985 issue of *engage/social action* magazine writes, "I have sung Your song for so long as a lullaby, how does it sound as a call to action? A marching song to wage the tactics of love in an unlovely time and unfriendly place . . . Teach me to lift my voice anew in this familiar, and yet so foreign, land."

The song I'm asking you to sing is "Keep Kansas Free of Capital Punishment." And my prayer for you and me is, "O Lord, teach me to sing Your song."
Amen.

Editors Write

Hayden, death penalty supporters not necessarily the same people

(The Topeka Capital-Journal regularly carries abstracts of editorials which have appeared in other newspapers across the state. These statements were included in the Nov. 24, 1986, issue, and are reprinted with permission.)

From The Salina Journal:

The death penalty was not on the ballot in Kansas Nov. 4 — even though candidate Mike Hayden devoted much campaign speech and ink to the issue.

Some voters undoubtedly chose Hayden because of his pro-death penalty stand . . . But for most voters, experience and vision for the state were the key factors — not the candidates' stands on capital punishment.

Now it is time for Hayden supporters who oppose the death penalty to tell the governor-elect that he won their votes in spite of, not because of, his capital punishment campaign.

Capital punishment is not a deterrent to crime. Criminals seldom, if ever, consider whether or not a state has a death penalty before committing a murder.

The death penalty can never be administered fairly and justly. Too many biases and prejudices get in the way . . . Kansas death penalty was struck down when the Supreme Court ruled that it was cruel and unusual punishment because it was not fairly applied. It still could not be.

Kansas should not become a killer.

From The Ottawa Herald:

Mike Hayden was elected by a 31,000 vote majority. He made a big issue of capital punishment . . . Many will probably interpret Hayden's election as a vote for capital punishment, an issue that has met with previous legislative approval only to be vetoed by the present governor of Kansas . . .

Before the Legislature rushes in to pass a capital punishment bill, we hope the members consider one question. Does state-authorized murder deter crime?

From the Hays Daily News

Kansas has not used the death penalty for more than 20 years. And it would be hard for anyone to argue that Kansas is any worse for its failure to execute murderers. Hayden tried, in an error-filled brochure, and failed.

. . . Those who oppose capital punishment are accused of subverting the public's will, of being weak on crime, of putting the rights of criminals before the rights of victims . . .

Society has other ways to deter crime — life sentences without chance of parole, stiffer gun control laws, improvements in parole procedures. Of the three, Kansas has acted on only one — parole procedures.

No, there are baser instincts at work. The thirst for blood, for vengeance. And the desire for simple solutions: If society wants fewer criminals, the state can achieve the goal by killing the more serious offenders.

The pity is that society is willing to trade its compassion and humane laws to satisfy its desire for retribution. The easy solutions society seeks are not solutions at all — only a means to assuage anger and fear.

Death row inmate population varied

Nearly 1800 inmates were on death row on Oct. 1, 1986. Those 1788 inmates included: 903 Whites (50.5%), 741 Blacks (41.4%), 107 Hispanics (6%), 26 Native Americans (1.5%), seven Asians (4%) and four (.2%) of unknown racial origin.

The information compiled by the Coalition to Keep Kansas Free of the Death Penalty in-

dicates 1757 (98.3%) of the inmates were men and 21 (1.7%) were women.

As of Nov. 10, 1986, 37 inmates were on death row for crimes they committed as juveniles (under 18 years old). Since 1977, three persons have been executed who were 17 when they committed their crime.

UMC long-standing oppone

In its Social Principles, the United Methodist Church cites "the duty of government to establish police forces, courts and facilities for rehabilitation of offenders" in order "to protect all citizens from those who would encroach upon personal and property rights." The Principles also say, "We support governmental measures designed to reduce and eliminate crime consistent with respect for the basic freedom of all persons . . . In the love of Christ who came to save those who are lost and vulnerable, we urge the creation of genuinely new systems of rehabilitation that will restore, preserve, and nurture the humanity of the imprisoned. For the same reason, we oppose capital punishment and urge its elimination from all criminal codes."

The UMC's long-standing opposition to capital punishment was restated in resolutions passed by the 1980 and 1984 General Conferences. Those resolutions follow.

Capital Punishment

(Adopted by the 1980 General Conference of The United Methodist Church)

In spite of a common assumption to the contrary, "an eye for an eye and a tooth for a tooth," does not give justification for imposing the penalty of death. Jesus explicitly repudiated the *lex tallionis* (Matt. 5:38-39) and the Talmud denies its literal meaning, replacing it with financial indemnities.

When a woman was brought before Jesus, having committed a crime for which the death penalty was commonly imposed, our Lord so persisted in questioning the moral authority of those who were ready to conduct the execution that they finally dismissed the charges (John 8:3-11).

The Social Principles of The United Methodist Church condemn "... torture of persons by governments for any purpose"

and assert that it violates Christian teaching. The church also through its Social Principles further declares, "We oppose capital punishment and urge its elimination from all criminal codes."

After a moratorium of a full decade, use of the death penalty in the United States has resumed. Other Western nations have largely abolished it during the 20th century. But a rapidly rising rate of crime and even greater increase in the fear of crime generated support within the American society for the institution of death as the punishment for certain forms of homicide. It is being asserted, as it was often in the past, that capital punishment would deter criminals and would protect law-abiding citizens.

The United States Supreme Court, in *Gregg v. Georgia*, in permitting the use of the death penalty, conceded the lack of evidence that it reduced violent crime, but then permitted its use for purposes of sheer retribution.

The United Methodist Church cannot accept retribution or social vengeance as a basis for taking human life. It violates our deepest belief in God as the creator and redeemer of humankind. In this respect there can be no assertion that human life can be taken humanely by the state. Indeed, the long run, the use of the death penalty by the state will increase the acceptance of vengeance in our society and will give official sanction to a climate of violence.

The United Methodist Church is deeply concerned about the present high rate of crime in the United States and about the value of a life taken in murder or homicide. By taking another life through capital punishment, the life of the victim is further devalued. Moreover, the church is convinced that the use of the death penalty would result in neither a net reduction of crime in general nor in

States finding death pe

By SYLVIA ADCOCK

Staff Writer, Wichita Eagle-Beacon

The death penalty, if it comes, won't be cheap.

In 1984, among the arguments put forth in favor of capital punishment by some state legislators was a simple premise: It costs taxpayers money — lots of money — to house prisoners serving life sentences for first-degree murder, and it's cheaper to execute them.

But according to a growing number of studies from other states, the cost of an execution — because of expensive trials and appeals of such cases — may actually exceed the cost of life in prison.

Now that Kansas is preparing to join the 37 states that impose the death penalty, officials are taking a closer look at the actual costs of such a punishment. Governor-elect Mike Hayden has said he will sign a death penalty bill into law.

Some death penalty opponents say capital punishment creates a justice system that is out of kilter, a justice system where everything connected with such cases can become magnified beyond proportion.

Consider the figures from other states:

- A 1982 New York study said the state likely would spend \$1.8 million for each case, including paying the cost of defense attorneys and appeals.

- California taxpayers pay an estimated \$500,000 for one death penalty trial, according to a recent study.

Other states are now taking a close look at the costs of the death sentence. In North Carolina, where three people have been executed since 1976, state officials are compiling a study of costs there.

Ron Miles, director of the State Board of Indigent Defense Services in Topeka, said the cost to Kansas could easily come in at \$1 million per case. "I don't have any doubts about

it. I just can't prove it," Miles said.

That's more than twice the estimate. The state would spend housing a year-old inmate for life, a figure derived by multiplying the average yearly cost of housing an inmate — \$10,672 — by 40 years.

In a Friday (Dec. 5, 1986) news conference, Hayden said he's concerned with the cost of defending those accused of capital crimes, but that restoration of the death penalty is too important to Kansans to let that stand in the way of enacting such a law.

"It will not be inexpensive," Hayden said. "But let me say that everyone's ideas on costs are only estimates at this time, and they range the full spectrum."

Hayden has ordered all state agencies, including the financially strapped courts, to cut budgets by 3.8 per cent.

Miles estimates that his agency, which oversees public defenders' offices and payments to lawyers appointed to defend indigent defendants, would need \$2.6 million the first year.

Federal law requires that the state pay lawyers to defend people who can't afford to hire their own. Because legal costs of a murder trial are usually higher than those for most any other crime, a defendant rarely can afford his own lawyer.

Miles said the estimates of costs to the agency may be on the low side. For instance, the estimates assume a cost of \$2,000 a day for expert witnesses and investigators for the defense. Psychiatrists, frequently called as witnesses in death cases, can run as high as \$700 a day.

Trial costs — and payments to defense attorneys who are paid by the state — are much higher for a capital case than for a non-capital murder case.

For instance, four to five times as many pretrial motions are filed in a death case as in non-capital murder cases. Jury selection is much more time-consuming. If the defendant is convicted, a second hearing must take

of death capital punishment

lessening of the particular kinds of crime against which it was directed.

Homicide — the crime for which the death penalty has been used almost exclusively in recent decades — increased far less than other major crimes during the period of the moratorium. Progressively rigorous scientific studies, conducted over more than 40 years, overwhelmingly failed to support the thesis that capital punishment deters homicide more effectively than does imprisonment. The most careful comparisons of homicide rates in similar states with and without use of the death penalty and also of the same states in periods with and without it have found as many or slightly more criminal homicides with use of the death penalty.

The death penalty also falls unfairly and unequally upon an outcast minority. Recent methods for selecting the few persons sentenced to die from among the larger numbers who are convicted of comparable offenses have not cured the arbitrariness and discrimination that have historically marked the administration of capital punishment in this country.

The United Methodist Church is convinced that the nation's leaders should give attention to the improvement of the total criminal justice system and to the elimination of social conditions which breed and cause disorder, rather than fostering a false confidence in the effectiveness of the death penalty.

The United Methodist Church declares its opposition to the retention and use of capital punishment in any form or carried out by any means; the church urges the abolition of capital punishment.

Reaffirm Opposition to Capital Punishment
(Adopted by the 1984 General Conference of The United Methodist Church)

Whereas, there is a rising tide in the United

States of America to reactivate capital punishment in all states; and

Whereas, in the last year there have been several executions of human beings by the penal system as punishment for crimes committed; and

Whereas, we are convinced that the rising crime rate is largely an outgrowth of unstable social conditions which stem from an increasingly urbanized and mobile population; from long periods of economic recessions; from a history of unequal opportunities for a large segment of the citizenry; and from inadequate diagnosis of criminal behavior; and

Whereas, we believe the state cannot teach respect for human life by destroying human life; and

Whereas, the Holy Scriptures teach us that human life is both sacred and divine and that we bear the image of the incorruptible God; and

Whereas, Jesus Christ taught us love, forgiveness and reconciliation; and

Whereas, all Christians are under divine mandate to safeguard life and work for the salvation of all humankind;

Therefore, be it resolved that the 1984 General Conference of The United Methodist Church reaffirm strongly its position against capital punishment; and

Be it further resolved that the General Board of Church and Society prepare and disseminate materials and work with each annual conference in developing a plan of action to impact capital punishment legislation in their state; and

Be it finally resolved, that the 1984 General Conference issue a national press statement which clearly states the church's opposition to capital punishment and its commitment to work for its abolition.

penalty costly punishment

place for jurors to decide whether the convicted murderer should be executed.

Richard Ney, chief public defender for Sedgwick County and chairman of the Kansas Death Penalty Study Committee, is putting together an 800-page manual for defense lawyers in death cases. "We're putting together some of the motions that need to be filed. I think my secretary's typing the 40th one right now," Ney said.

Everything becomes more important in a death case. And everything costs more and takes longer.

"The issue is that what death cases do is create an out-of-scale justice system. That's what we're talking about," said Jonathan Gradess, director of the New York State Defenders Association.

"Where you didn't have court delay, you have court delay. Where you didn't have forensic lab work, you have forensic lab work. It's a systemic problem," he said. "Start thinking about how it saps the system, and let your imagination run wild. What your imagination comes up with will be close to reality."

Gradess, whose agency contracts with the state of New York to provide lawyers who defend poor people, helped compile the 1982 New York Study, originally intended as a review of how other states provide representation to people charged with capital crimes. "We were talking to people in other states, and the issue of cost kept coming up," Gradess said.

Sedgwick County District Attorney Clark Owens said his office eventually may need another attorney to handle appeals of death penalty cases. But Owens didn't see any other costs to his office.

In fact, he said, if the death penalty bill allows prosecutors discretion in deciding when to seek the death penalty, a result could be fewer murder trials because prosecutors could use the death sentence as a plea-bargaining tool.

People convicted of first-degree murder now face an automatic life sentence, so most elect to have a jury trial in the hope that they'll be acquitted. Owens said if prosecutors could offer defendants a life sentence instead of a possible death sentence, some would agree to plead guilty in exchange. That would mean fewer costly murder trials, he said.

"That could have a balancing effect," Owens said, "But if the bill does not allow prosecutorial discretion, it will cause numerous problems."

Owens said if he's allowed to choose which cases are death cases, he expects one such case out of Sedgwick County each year.

Miles said his office is estimating 80 death cases in Kansas a year. His board will recommend to the Legislature that if a death penalty law is passed, a capital defender's office be established, employing lawyers and investigators to work as public defenders on death cases.

The capital defender's office would save the state money, Miles said, and possibly cut the \$2.6 million estimate by \$800,000.

Owens and Ney both said all estimates were pure speculation.

"I know I sound like Chicken Little saying the sky is falling, all this talk of gloom and doom. But we really don't know here yet what this is going to mean to the justice system," Ney said.

"In Kansas, we're all having to speculate," Owens said.

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(This article is reprinted from the Wichita Eagle-Beacon, Dec. 14, 1986. It is included in this supplement for the economic information it contains. This article should not be interpreted as representing the Eagle-Beacon's official editorial position for or against capital punishment.)

Death penalty numbs law-abiders

By PHYLLIS SOUTHARD, CHAIRPERSON
Kansas East Board of Church and Society

My friend had buried her teenage son less than a week before — cause of death: gunshot wound. I was sitting with her, trying vainly to think of something to say and reminding myself of the articles I had read which had said my silent presence would be enough.

As we sat there another friend of hers walked in and joined us. I didn't know him. Although his first few remarks had indicated that he was not a man of religious faith, I was still shocked to hear him say, "Death doesn't bother me."

He went on to explain that he was a veteran who had seen a lot of action in Viet Nam. In that context, he had watched the enemy kill his buddies and watched enemy soldiers die from his own and his buddies' actions. With so many dying around him, he had learned to seal himself off from the emotional pain and turmoil which those deaths would bring if taken seriously.

Usually opposition to the death penalty is seen as compassion for the convicted person. I oppose the death penalty because of what I believe it does to decent, law-abiding men and women.

When we as a society decide someone must die for his/her crimes, we, too, become killers. To paraphrase the song: Killing people who kill asserts that killing people is right, not wrong.

I pity the man who visited my friend. If one cannot see untimely death as horrible, than one cannot rejoice fully in God's gift of life. I would not like to see the good people of Kansas numbered in such a way.

Kansas East resolution requires work against death penalty bills

This statement was adopted by the 1986 session of the Kansas East Annual Conference meeting at Baker University, Baldwin, June 6-9, 1986. It was submitted by the Kansas East Board of Church and Society.

"Whereas, the Social Principles of the United Methodist Church oppose capital punishment and urge its elimination from all criminal codes, and

"Whereas capital punishment violates the deepest moral and religious traditions which hold that all human life — even the least honorable of society — is sacred, and

"Whereas the death penalty is an absolute irrevocable punishment carried out by a human justice system which is imperfect,

"Therefore, be it resolved that the Kansas East Annual Conference states its opposition to the death penalty.

"Be it further resolved that if the 1987 Legislature considers legislation that would substitute the death penalty in Kansas law that the Board of Church and Society prepare testimony and seek permission to address legislative committee public hearings, opposing the death penalty.

"Be it further resolved that the Annual Conference recommends that pastors and lay leaders educate church members of (sic) why our church opposes the death penalty.

"Be it further resolved that the Board of Church and Society send pastors educational information concerning the death penalty.

"Be it further resolved that the secretary of the Annual Conference send copies of this petition to state senators, representatives and the governor."

Many resources provide info on capital punishment issue

Many resources are available to provide you, your congregation and your community with information about capital punishment.

Films, videotapes and slide sets about the death penalty issue may be borrowed from the Kansas Area Media Center for United Methodists. To learn what resources are available, check the Resource Center catalog in your church or call Jenny or Mary at 1-800-362-2649 (684-0266 in Wichita). You may also obtain information by writing to the Media Center, 151 N. Volutsia, Wichita, Kans. 67214.

Other resources include:

Faithful Witness on Today's Issues — Criminal Justice. This is a 27-page booklet including the General Conference-approved resolutions on many aspects of criminal justice, including capital punishment. It also includes Biblical/theological and historical perspectives and discussion questions. Order from: Discipleship Resources for Church and Society, 1908 Grand Ave., P.O. Box 189, Nashville, Tenn. 37202. Order No. CS89, 65¢ each.

The Death Penalty. This 64-page booklet (e/sa forum) discusses ethical, theological and legal aspects of capital punishment. Order from: Discipleship Resources for Church and Society, 1908 Grand Ave., Box 189, Nashville, Tenn. 37202. Order No. CSE2058; 10¢ each.

Criminal Justice Reform. A 32-page booklet (e/sa forum) lifting up various aspects of the criminal justice system warranting reform: prisons, parole, local jails, juvenile justice, women in prison. Order from: Discipleship Resources for Church and Society, 1908 Grand Ave., Box 189, Nashville, Tenn. 37202. Order No. CSE2093; 75¢ each; 10-99 copies, 65¢ each; 100 or more, 50¢ each.

Crime and Rehabilitation by L. Harold DeWolf. A part of the Faith Meets Life study series, book two. Order from Cokesbury. Order No. G03-74157; \$1.60.

Crime and Reconciliation: Creative Options for Victims and Offenders by Mark Umbreit. This book reports on the successes and failures of Umbriet's Indiana-based Prisoner and Community Together program (PACT), which advocates the need for victim, offender and society to be brought together through a holistic, Christian system of justice and reconciliation. Abingdon Press, 1985; \$7.85. Order from Cokesbury.

Your local jail, law enforcement agency, prison.

Department of Political and Human Rights, General Board of Church and Society, 100 Maryland Ave., N.E., Washington, D.C. 20002.

Your letters to legislators and newspaper editors can make a difference see page 4-S for suggestions.

Letters to legislators, editors may affect votes

Letters from constituents do affect legislators as they decide how they will vote on particular bills. Letters to the editors of newspapers are a way of sharing one's opinion and of influencing others.

The letters below are provided as examples of letters one might write to one's own state senator, state representative or to Gov. Mike Hayden or to the editor of the local newspaper. You are encouraged to use the ideas and facts in them (and in other articles) as the basis for your letters but to put them in your own words.

Letters to legislators (addresses are below) should be sent soon as bills to reinstate the death penalty in Kansas are expected to be introduced in the early days of the 1987 session of the Kansas Legislature.

Letters to local newspaper editors also should be written soon in order to influence others to write or telephone their legislators expressing their opposition to the reinstatement of the death penalty. Check with your local newspaper for guide lines concerning the length of letters to the Editor.

After you write your initial letter to your legislator, you will want to watch the movement of proposed bills. You may want to send additional letters or make a telephone call reminding your legislator of your position. If your senator or representative has a history of opposing the death penalty, be sure to write them thanking them for their past votes and assuring them of your support for their continued opposition.

These letters were developed by Susan Greene, a member of East Heights United Methodist Church, Wichita.

Sample Letter To Legislators

I am writing to you as my elected representative to express my opinion on a critical issue facing our state — capital punishment. As a concerned citizen, I must convey to you my opposition to any bill

which would re-establish the death penalty in Kansas. The implications of its re-establishment raise financial, societal, ethical and religious questions which make it an unacceptable alternative to life imprisonment.

Questions concerning the financial feasibility of re-establishment of the death penalty have recently come to light.

Ron Miles has been quoted as stating that the cost to Kansas of a single capital case would be \$1 million, double the amount of housing a person for life.

It has also been stated that the death penalty will affect our whole system of criminal justice, from the need for additional facilities to additional staff needs. A state which is already being asked by its governor to cut back on costs cannot afford this kind of expense. Responsible fiscal management on the part of the legislature demands rejection of such a costly program.

Financial costs, however, are not the only costs involved in re-establishing capital punishment.

It has been stated that additional facilities would be needed for women on death row. To enact a death penalty law means to decide at what age a person can be put to death. This also raises the question of where to house the children who could potentially be sentenced to death. There are children on death row in other states. Do we really want this for our state?

It has also been stated that the death sentence could be used as a plea-bargaining tool. The ethical questions raised by this possibility are tremendous. Statistics show that it is the defendants with the most money and the best attorneys who can deal their way out of the death penalty. Minorities and the poor do not have such advantages.

As for its positive advantages to our state, the death penalty has never been proven to be an effective deterrent to crime. And it does nothing to advance the

rights of the victims of crime. In reality, the death penalty achieves little except to fulfill a need for revenge and to rid society of an individual it does not know how to handle.

From the religious standpoint, as a member of The United Methodist Church, I support the Social Principles of my denomination which opposes capital punishment on the grounds that all persons are open to the saving love of Christ. The state cannot deny this right of redemption to any person.

Finally, I would emphasize that I speak for many people in this great state. The people of Kansas are good, compassionate people who do not support this alternative. We give our legislators no mandate to implement this bill and will oppose it to the extent of our abilities.

Sample Letter To The Editor

Dear Editor:

An important issue will soon be coming before our Legislature — the issue of capital punishment. Governor Mike Hayden has said that passage of a death penalty bill will be a top priority of his administration. But I wonder if the people of Kansas are really ready to pay the costs of this program?

Questions concerning the financial feasibility of re-establishment of the death penalty have recently come to light. Ron Miles has been quoted as stating that the cost to Kansas of a single capital case would be \$1 million, double the amount of housing a person for life.

It has also been stated that the death penalty will affect our whole system of criminal justice, from the need for additional facilities to additional staff needs. A state which is already being asked by its governor to cut back on costs cannot afford this kind of expense. The taxpayers of this state should demand rejection of such a costly

program.

Financial costs, however, are not the only costs involved in re-establishment of the death penalty. It has been stated that additional facilities would be needed for women on death row.

What about the children who could potentially be sentenced to death? Will Kansas enact a law which permits 14- or 16-year-olds to be put to death? There are children on death row in other states. Do we really want this for our state?

It has also been stated that the death sentence could be used as a plea-bargaining tool. The ethical questions raised by this possibility are tremendous. Statistics show that it is the defendants with the most money and the best attorneys who can deal their way out of the death penalty. Minorities and the poor do not have such advantages.

As for its positive advantages for our state, the death penalty has never been proven to be an effective deterrent to crimes. And it does nothing to advance the rights of the victims of crime. In reality, the death penalty achieves little, except to fulfill a need for revenge and to rid society of an individual it does not know how to handle.

From the religious standpoint, as a member of the United Methodist Church I support the Social Principles of my denomination which opposes capital punishment on the grounds that all persons are open to the saving love of Christ. Who are we to deny this right of redemption to any person?

I believe that in opposing the death penalty, I speak for many people in this great state. The people of Kansas are good, compassionate people who do not support this alternative. Now is the time to voice our opposition to a bill which could bring irreparable damage to our state.

Senate votes key to death penalty legislation

The Coalition to Keep Kansas Free of the Death Penalty and others opposing the death penalty expect the decision on whether or not a bill is sent to Gov. Mike Hayden will be made in the Kansas Senate.

Listed below are the names of Kansas 40 senators. Constituents are urged to write them from now until the Legislature adjourns in mid-April or a bill is sent to the governor.

Letters to the governor, senators and representatives should be sent to The Kansas Statehouse, Topeka, Kans. 66612.

While only the names of the senators are listed below, constituents are also urged to write directly to Gov. Hayden expressing their opposition to the death penalty and to their repre-

sentatives. If a death penalty bill passes the Senate, it is not completed until both the Senate and House agree on a final form.

A sample letter to legislators is included elsewhere in this supplement. Use the ideas contained in it, the information contained in other articles printed here and your own experiences and beliefs in drafting your letters.

Senator	District	City	Party	Denomination
Francis Gordon	1	Highland	R	United Methodist
Wint Winter	2	Lawrence	R	Roman Catholic
Edward Reilly	3	Leavenworth	R	Roman Catholic
John Strick	4	Kansas City	D	Roman Catholic
William Mulich	5	Kansas City	D	Roman Catholic
Jack Steinager	6	Kansas City	D	Episcopal
Audrey Langworthy	7	Prairie Village	R	Lutheran
Richard Bond	8	Overland Park	R	
Paul Burke	9	Leawood	R	Episcopal
August Bogina	10	Lenexa	R	Roman Catholic
Jim Allen	11	Ottawa	R	Baptist
Robert Talkington	12	Iola	R	Presbyterian
Phil Martin	13	Pittsburg	D	Roman Catholic
Michael Johnston	14	Parsons	D	Roman Catholic
Dan Thiessen	15	Independence	R	United Methodist
Frank Gaines	16	Augusta	D	Presbyterian
Gerald Karr	17	Emporia	D	United Methodist
Jeanne Hoferer	18	Topeka	R	Roman Catholic
Nancy Parrish	19	Topeka	D	
Alicia Salisbury	20	Topeka	R	Episcopal
Don Montgomery	21	Sabetha	R	Congregationalist
Merrill Werts	22	Junction City	R	Presbyterian
Ross Doyen	23	Concordia	R	United Methodist
Ben Vidricksen	24	Salina	R	
Joseph Harder	25	Moundridge	R	United Methodist
James Francisco	26	Mulvane	D	
Bill Morris	27	Wichita	R	American Baptist
Paul Feliciano	28	Wichita	D	Roman Catholic
Eugene Anderson	29	Wichita	D	
Eric Yost	30	Wichita	R	Mennonite
Norma Daniels	31	Valley Center	D	Roman Catholic
Joe Warren	32	Maple City	D	Presbyterian
Fred Kerr	33	Pratt	R	United Methodist
Dave Kerr	34	Hutchinson	R	Presbyterian
Roy Ehrlich	35	Hoisington	R	Lutheran
Neil Arsmith	36	Phillipsburg	R	United Methodist
Joseph Norvell	37	Hays	D	
Robert Frey	38	Liberal	R	
Leroy Hayden	39	Satanta	D	
Richard Gannon	40	Goodland	D	Roman Catholic

Reprint orders due Jan. 19

Reprints of this supplement are available. All requests for reprints must be received by Monday, Jan. 19, 1987. Send your request to Kathy Kruger, Kansas West Conference, 151 N. Volutsia, Wichita, Kans. 67214.

Please send _____ copies of the capital punishment supplement to:

Name _____

Mailing Address _____

City _____ State _____ Zip _____

Daytime Telephone Number _____

Local Church Name _____ City _____

*Written
not testifying*

J

Position Report

My name is K. C. Groves, I am Political Action Chair, and third Vice President of the Kansas State Conference Of Branches of the N.A.A.C.P . Our office works for the enactment of legislation to improve the Educational, Political, and Economic Status of all suppressed People. We are opposed to the Death Penalty Bill. Pursuant to the committee hearings, tuesday (January 20, 1987), no testimony by proponents of bill 2062, disclosed that it is a deterrent to murder. No testimony revealed the cost of committing people to death. We will not present the many statistics to prove to you, that states without the death penalty, has less crime than states with the death penalty. Florida and Texas being our past statistical examples. The combined population of Blacks, Hispanics, and Latine Americans represent 10% of the Kansas population, but make up 41% of the Kansas prison population. On what basis will the death penalty be implemented. If the cost is so great and it is not a deterrent why do we want to regress to it. Past condition in Kansas, in concert with the above analysis would bear out the conclusion that the Kansas Criminal Justice system discriminate against people of color and is a Bastion of conservative racism.

Attachment J.

21 January 1987

STATEMENT OPPOSING REINSTITUTION OF THE DEATH PENALTY

by E. Jackson Baur representing the Kansas Affiliate of the American Civil Liberties Union

The Kansas Affiliate of the ACLU concurs with the national organization in opposing the death penalty. It bases its stand on three grounds. One, the death penalty is inconsistent with democratic values and its imposition is a denial of civil liberties. Two, its application is arbitrary, capricious, and discriminatory. Three, it violates the constitutional ban on cruel and unusual punishment, and its irreversibility removes the constitutional guarantee of due process of law.

Our opposition is supported by convincing evidence that many innocent persons have been convicted of capital crimes and some have been executed. The most thorough and objective study ever undertaken on this problem found that in the United States since 1900, at least 343 innocent persons have been convicted of crimes that may carry the death penalty. One hundred thirty-seven were sentenced to death of whom 25, or one in six, were executed, and the death of nineteen others was averted within two days of their scheduled execution.

Although we would like to believe that our judicial system with its multiple opportunities for appeal is virtually infallible, the appellate courts reversed the convictions of only about one-third of those who were wrongfully convicted. In one-sixth of the cases the evidence of error was uncovered by reporters, relatives, employers and community leaders--all persons outside the legal profession

and law enforcement agencies. The evidence from this research demonstrates the inevitability of error in death penalty convictions.

Why were wrong persons convicted? Among the more frequent causes, found by these investigators, were perjured testimony, the pressure of public demand for conviction, coerced and false confessions, improper consideration of alibi witnesses, and suppression of evidence favorable to the defendant.

A recent case that involved some of these errors is that of Melvin Lee Reynolds of St. Joseph, Missouri. ^{In 1979} /A four-year old boy was murdered and Reynolds was convicted on the basis of a confession he made after 40 hours of interrogation. Two years later the appeals court confirmed his conviction. But in 1983 another man confessed to the killing. Reynolds was released after serving five years in the penitentiary. The prosecutor said, "I feel fortunate that I've had the opportunity to straighten out my own mistake."

That the laws are not fairly applied in murder cases has long been inferred from the disproportionate number of poor and black prisoners on death row. The wealthy can afford good lawyers. In a case decided a few weeks ago by the U. S. Supreme Court, evidence was presented showing that the killers of whites are far more frequently convicted than those who kill blacks. The bias affects both white and black defendants.

A common justification for capital punishment is the belief that it deters others from committing murder. Criminologists have studied this problem for years without finding convincing evidence of deterrence. The latest research, using the most sophisticated analysis of comprehensive data found no consistent evidence of a causal relationship between the certainty of execution and homicide rates.

Psychologists tell us that punishment is most effective when it is certain and swift. But the consequences of murder are neither predictable nor prompt, and cannot be otherwise in a civilized democracy. Thus it is no wonder that the death penalty is not an effective deterrent. Instead of debating the pros and cons of capital punishment, we should ask ourselves: What is the best deterrent for serious crime? One criminologist found a connection between the rates for murder and those of arrest and conviction. This finding suggests that a better way to deter violent crime is to improve law enforcement and the quality of justice in our criminal courts. We must never forget that the purpose of the courts is to protect people from false charges as well as to identify wrong doers.



CONSULTATION OF COOPERATING CHURCHES IN KANSAS

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(913) 272-9531

DOROTHY G. BERRY
Executive Coordinator

House Federal and State Affairs Committee
Mr. Chairman and Members of the Committee:

I am Darlene Stearns, Legislative Coordinator for the Legislative Concerns Consortium of the Consultation of Cooperating Churches in Kansas, a state-wide, ecumenical, Christian church organization. The Consortium, and previously, the Kansas Council of Churches, has been a member of the Coalition to Keep Kansas Free of the Death Penalty since its inception. We subscribe to the aims and principles of the Coalition and agree with the statements given by other opponents here today.

Yesterday the statement was made that this bill is so constructed as to assure an innocent person could not be sentenced to the death penalty. This assumes every step in the process is taken correctly, that there is not a lack of funds for indigent defendants, that no witness has erroneously identified a defendant, that all evidence has been presented, that there have been no mistakes. I submit this is impossible and that no one in this room has not heard of at least one instance where an innocent person has indeed been sentenced to death. Very recently 60 Minutes aired a program describing exactly this situation. Fortunately, a policeman, convinced the defendant was innocent, pursued investigation after imposition of the sentence and ultimately, three years later, proved the defendant innocent. The system is not perfect, and until such time we can be sure the system is perfect, we cannot take the chance that an innocent person can be sentenced to death and executed.

Also very recently, we have learned that the United States has accepted a captured terrorist for trial from West Germany with the proviso that, upon conviction, we do not impose the death penalty. Italy, the country most successful in apprehending, trying and convicting terrorists, has refused to re-impose the death penalty. Clearly, West Germany and Italy believe the death penalty to be no deterrent to the most violent of crimes. Yesterday a proponent made the statement that other western industrialized countries, like Italy and West Germany, have lower homicide rates than we because they impose greater restrictions on their citizens. Perhaps these countries know something we do not—perhaps their restrictions on gun ownership are worth considering. I suggest we contemplate taking the steps other countries have taken to control crime before we even consider enacting a death penalty.

Darlene Greer Stearns
Darlene Greer Stearns

21 January 1987

Attachment L

Our Faith Compels Us
To Speak Against the Death Penalty

As leaders of communities of faith in Topeka, Kansas, we speak God's Word as given to us in the scriptures, and from our diverse religious traditions.

We speak against the use of our energies to seek vengeance or retribution, and call for the use of our spiritual efforts in promoting God's Grace, reconciliation and hope in the lives of all people.

WE BELIEVE the Death Penalty is not a part of God's original or intentional will.

WE BELIEVE retaliation in the Hebrew scripture (Old Testament) was not so much a requirement as a limitation on vengeance, and that Hebrew scripture teaches us retaliation is never God's highest intent.

WE BELIEVE the nature of the New Testament urges us to love those who would harm us, and pray for those who would persecute us, and teaches us of the possibility of redemption in all humans.

WE BELIEVE capital punishment is incompatible with the basic teaching of the New Testament - love, reconciliation and redemption.

WE WOULD SUPPORT efforts that would pay greater attention to the victims of crime, and a greater resolve of their needs.

WE WOULD SUPPORT efforts that seek to make room for restitution and compensation, leaving opportunity for redemption and healing.

WE WOULD SUPPORT efforts that would contribute to the character redevelopment of long term inmates.

WE WOULD SUPPORT efforts that would turn our preoccupation with questions of individual guilt and punishment to wider visions and education that would help us examine the causes and meaning of violence.

THEREFORE: We, as religious leaders of Topeka, Kansas speaking to Governor Hayden, the legislators and the people of the State of Kansas, urge the defeat of the Death Penalty Bill; so that, we can turn our spiritual energies to more positive approaches that would mediate God's Grace and would reconcile and bring hope to the tragic and deeply painful situations caused by murder and other violent crimes.

ADDRESS: _____

PHONE NUMBER(S) _____

SIGNATURE _____
CHURCH AFFILIATION _____

I WOULD LIKE TO THANK THE COMMITTEE FOR ALLOWING ME TO TESTIFY TODAY ON HOUSE BILL 2062. MY NAME IS MICHAEL WOOLF AND I AM WITH THE KANSAS COALITION AGAINST THE DEATH PENALTY.

IN THIS COMMITTEE YESTERDAY YOU HEARD TESTIMONY FROM SEVEN PEOPLE ASSOCIATED WITH LAW ENFORCEMENT IN KANSAS, AND THEY SPOKE OF MANY BRUTAL AND GRUESOME MURDERS. BUT WHAT THEY FAILED TO SHOW WAS A CORRELATION BETWEEN RE-ENACTING THE DEATH PENALTY AND REDUCING OR ELIMINATING THESE MURDERS.

THEY SPOKE OF AN INCREASED SAFETY FACTOR FOR THEMSELVES AND OTHER LAW ENFORCEMENT OFFICERS IF THE DEATH PENALTY WAS RE-ENACTED. BUT, ONCE AGAIN THEY DID NOT SHOW ANY RELATIONSHIP BETWEEN EXECUTIONS AND AN OFFICER'S SAFETY. CRIMINOLOGIST THOMAS SELLIN, WHO STUDIED HOMICIDE STATISTICS OF LAW ENFORCEMENT OFFICERS IN 265 CITIES OVER A 35 YEAR PERIOD, FOUND A HIGHER RATE OF SLAIN POLICE OFFICERS IN LOCALITIES UNDER DEATH PENALTY JURISDICTIONS THAN THOSE WITH OUT IT.

SIMILARLY, CRIMINOLOGIST W.P. WOLFSON INVESTIGATED THE SECURITY OF CORRECTIONAL OFFICERS IN STATE AND FEDERAL PRISONS. HE FOUND THAT THE DEATH PENALTY HAD NO DETERRENT EFFECT AND DID NOT ENHANCE A CORRECTIONAL OFFICER'S SAFETY.

IF THE MEMBERS OF THIS COMMITTEE WISH TO ENDORSE EXECUTIONS FOR THE REASON OF INCREASED SAFETY FOR LAW ENFORCEMENT OFFICERS, SOME CORRELATION BETWEEN THE TWO NEEDS TO BE MADE.

ONE OTHER ISSUE ABOUT EXECUTIONS THAT I WOULD LIKE TO DISCUSS IS THE QUESTION OF HOW MUCH PUBLICITY THEY SHOULD RECEIVE.

IF, AS SOME HAVE INSISTED, THE DEATH PENALTY IS A DETERRENT TO CRIME; WHY DO WE HIDE THE EXECUTION ITSELF FROM THE EYES OF THE PUBLIC AND THOSE WHO ARE SUPPOSEDLY DETERRED BY IT?

I WOULD LIKE TO REQUEST THAT IF THIS STATE IS TO GO BACK TO THE DEATH PENALTY, IT SHOULD BE IN THE FORM OF PUBLIC HANGINGS OR SOME OTHER FORM OF TELEVISED EXECUTION.

IF YOU REPLY TO ME THAT EXECUTION IS TOO TERRIBLE A THING FOR THE PEOPLE OF KANSAS TO WATCH, I SAY THAT IT IS TOO TERRIBLE A THING FOR THE STATE OF KANSAS TO DO!

Attachment A

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

GEORGE TEAGARDEN
REPRESENTATIVE, TWELFTH DISTRICT
ANDERSON, FRANKLIN, LINN,
MIAMI COUNTIES
ROUTE 2, BOX 89A
LA CYGNE, KANSAS 66040

COMMITTEE ASSIGNMENTS
MEMBER AGRICULTURE AND LIVESTOCK
COMMERCIAL AND FINANCIAL
INSTITUTIONS
FEDERAL AND STATE AFFAIRS

January 21, 1987

Federal & State Affairs Committee
Kansas House of representatives

Dear Colleagues,

I present this letter in opposition to HB 2062, the death penalty bill that you are considering today. You have and will continue to receive reasons to oppose the death penalty, why it is not a deterrent, why in all likelihood, it will not be administered equally to our society, etc. I agree with this opposition.

I urge you to explore your conscience, review the facts, and vote in the best interest of Kansas. Do not vote "yes" for revenge.

I and others have introduced HB 2057, an alternative to the death sentence. HB 2057 will accomplish what most Kansans truly want, to put those convicted of capital murder away for a significant period of time, 30 years minimum, not back on the streets after a short prison term.

I urge you to review Chaplain Brady's prayer of January 20th before making a decision on this death penalty bill.

Thank you.

GEORGE TEAGARDEN
State Representative
District #12

Attachment 0

P

FRED J. PETZOLD

ATTORNEY AT LAW

(913) 624-6000-
383-9257

SUITE 366, NEW BROTHERHOOD BUILDING
KANSAS CITY, KANSAS 66101

January 21, 1987

Res: 8801 Glenwood
Overland Park, Ks. 66212

Robert Miller, Chairman
House Federal and State Affairs Committee
State Capital Building
Topeka, Kansas

Dear Honorable Chairman Miller and Committee Members:

I wish to register my opposition to the death penalty set forth in House Bill 2062, for the following reasons:

1. No reputable study shows that the death penalty deters murder. We must face this fact and weight it appropriately in deciding whether to enact a capital punishment penalty in our state.
2. The death penalty provision will be much more expensive than the current system. The Board of Indigent Services has stated that death penalty cases will cost at least \$1 million per case (as compared to \$10,763 per year to house an inmate). From a cost stand-point alone, it is unwise to incur the greater expenses of a provision that nationally has shown it does not produce the desired results.

The additional funds required to finance the death penalty will call for additional tax revenues or the diversion of funds from necessary and effective state programs.

3. Due to the great cost of death penalty cases, the provision has not been applied uniformly in those states that have adopted it. In our state it should not depend on the financial resources of the individual counties as to whether the death penalty will be sought. All citizens in our state should receive equal treatment under our laws. The economics of the death penalty make this very difficult to achieve.

Also, it is important to note that the death penalty has not been applied fairly in many states adopting it from a racial stand-point. The Kansas Council on Crime and Delinquency has cited the racially discriminatory application of the penalty as only one reason for its opposition to the provision.

attachment P

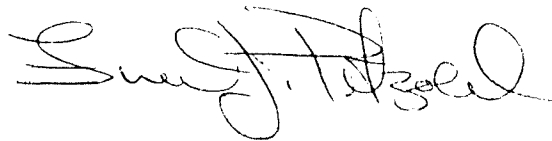
Robert Miller, Chairman
January 21, 1987
Page 2

4. In sum, wether viewed in light of deterrence or economics, the enactment of a death penalty in Kansas will not be an effective measure. The Kansas death rate is considerably lower than states which have the death penalty. We do not need a system that is both overly expensive and ineffective.

We need to search for better, more effective means to deal with the problem rather than employing as a penalty the act we want to prevent.

Thank you for your consideration of these matters.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred J. Petzold".

Fred J. Petzold