

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:40 a.m. on January 21, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Doug Taylor, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Jerry Donaldson, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Jerry Gorman, Wyandotte Co. District Attorney, Kansas County & District Attorneys Association  
Kyle Smith, Kansas Peace Officers' Association  
Greg & Melissa Smith, Victim advocate  
Lois Muller, Victim advocate  
Larry Heyka, Victim advocate  
Jennifer Sanderholm, Victim advocate  
Cindy Sanderholm, Victim advocate  
Brian Sanderholm, Victim advocate  
Tammy Samuels, Victim advocate

Others attending:

See attached list.

Bill Introductions

Senator Schodorf introduced a bill regarding prisons. The bill was introduced without exception.

The Chairman reopened the hearing on **SB 208 - Abolishing the death penalty and SB 375 - Abolishing the death penalty; creating the crime of aggravated murder.**

Jerry Gorman appeared in opposition to the bills. Mr. Gorman stressed that some murders are so aggravated in circumstances that no other sentence fits the crime. Life in prison is not an effective sentence in these cases. Kansas has a conservative, limited, constitutionally sound capital murder statute that has been effective for over a dozen years. Prosecutors across the state have sparingly filed capital charges. It is simply not a matter of not paying the bills for such a prosecution. There will continue to be high costs to prosecute murderers and repealing the death penalty will not make costs disappear. Mr. Gorman believes regardless of the intent of the proposed legislation, repeal of the death penalty will become a dominate factor in cases currently under appeal. (Attachment 1)

Kyle Smith testified in opposition making three specific points. First, the issues surrounding the death penalty are serious and complicated, but there are cases where the death penalty is appropriate and just. Second, while prosecuting death penalty cases is expensive, a large number of defendants plead guilty to murder to avoid the death penalty at a substantial savings to the State. Third, police officers, in addition to risking their lives, must deal with the victims, suspects and families of homicides. They experience first hand the loss and devastation a sudden, brutal death inflicts. These cases are not just about costs, appeals, statutes and statistics. (Attachment 2)

Melissa (Missy) Smith spoke in opposition as the mother of a murdered child. Ms. Smith is convinced the offender chose to take a plea bargain because of the possibility of facing a death sentence. The death penalty is a tool that needs to be in place for prosecutors to use. This is one area that the legislature can give families some sense of peace, some sense of justice. Put the victim's rights above the rights of murderers. (Attachment 3)

Greg Smith appeared in opposition stating the history of Kansas illustrates that having a death penalty is the

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:40 a.m. on January 21, 2010, in Room 548-S of the Capitol.

will of the people. Kansas has one of the most narrowly defined capital murder statutes of any state. Some crimes are so heinous and inhuman the only fitting punishment is the forfeiture of the offenders life and abolishing the death penalty would take that option away. Actual cost figures for death penalty and non-death penalty cases in Kansas do not exist. Repealing the death penalty in Kansas would do little to fix the budget crisis and would jeopardize the safety of all Kansans. Mr. Smith included several letters from his students voicing their concerns to the committee. ([Attachment 4](#))

Lois Muller testified in opposition describing her personal experience in the loss of her daughter. Ms. Mueller stated the law is very specific on when a prosecutor may seek the death penalty. It is not about costs, it is about appropriate consequences to the crime committed. In repealing the death penalty, legislators will be placing the citizens of Kansas in jeopardy. ([Attachment 5](#))

Larry Heyka spoke in opposition, recounting his experience of the murder of his son, Brad. Kansas has one of the most responsible and limited death penalty statutes in the nation. It does not apply to all murders but is reserved for the most heinous and cruel murderers. The individuals on death row in Kansas are some of the most notorious and dangerous criminals in our state's history. Kansas needs to retain the death penalty and show that it is very serious about justice. ([Attachment 6](#))

Jen Sanderholm appeared in opposition relating to the Committee how the loss of her sister has affected her life. Ms. Sanderholm believes the death penalty is a deterrent for these crimes, and recommends the enforcement in a timely manner to be even more effective. ([Attachment 7](#))

Cindy and Brian Sanderholm testified in opposition stating elimination of the death penalty strictly due to the cost of prosecution is putting a price on a person's life. There is no reason these murderers should be given the chance to have another 15 years of life while working through a long appeals process and recommended some type of expedited process. If offenders were made to fear a swiftly executed death sentence, it would save money and be a deterrent. ([Attachment 8](#))

Tammy Samuels spoke in opposition. No written testimony was submitted.

Written testimony in support of **SB 375** was submitted by:  
Glenda Overstreet, Political Chair, Topeka Branch NAACP ([Attachment 9](#))

The next meeting is scheduled for January 22, 2010.

The meeting was adjourned at 10:30 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-21-2010

NAME	REPRESENTING
OTTO VAUGHN	NAAEP
Glenda Overstreet	NAAEP
SHELBY SMITH	—
Pat Mathay	Sen. Hansley
Larry Heyka	Family
Mary Jo Heyka	family
Megan Pittman	
Jim Muller	family
Lois Muller	family
Tammy Samuels	family
Marci Samuels	family
Heath Samuels	family
GREG SMITH	KELSEY SMITH FOUNDATION
MISSEY SMITH	" "
LINDSEY EVANS	" "
STEVE CONSTANCE	Jodi Sanderholm - Jodi's Voice
Jennifer Sanderholm	Jodi Sanderholm
Cindy Sanderholm	Jodi's Voice

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-21-2010

NAME	REPRESENTING
Brian Sanderheim	Jodi Sanderheim
Jerome Gorman	Wv. Co. District Attorney
Richard Smarwigo	Kemay & Assoc.
PATRICIA A. SCALIA	BIDS
Christy Molzen	Judicial Council
Donna Schneweis	Amnesty International
Bill Lucas	MZFRKS
Ch. Davan	Budget
Joseph Molina	KS BAR ASSN.
Ben Ben Scott	NACCP
Christina Partain Cook	KCADP
Sister Therese Bangert	KS. Catholic Conference
Will Lawrence	Intern
ANN C. JOHNSON	KCADP
Levi Henny	
Bill Brady	Capitol Strategist
Gynthia Newfeld Smith	Mennonite Church
Dan Gibb	KSAG

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-21-2010

NAME	REPRESENTING
KRIS AILSLIEGER	KSAG
Clay Britton	KSAG



Kansas County & District Attorneys Association

1200 SW 10th Avenue  
Topeka, KS 66604  
(785) 232-5822 Fax: (785) 234-2433  
www.kcdaa.org

January 21, 2010

Senator Tim Owens, Chair  
Senate Judiciary Committee  
Capitol Building, Room 559-S  
Topeka, Kansas 66612

RE: Testimony in Opposition to Senate Bill 208/375

Dear Chairman Owens and Members of the Committee:

As a twenty-eight year prosecuting attorney with capital case experience I speak not from the sideline, nor from a perspective of academic debate. I speak from the point where the rubber meets the road. Since Kansas has enacted the death penalty in 1994, Wyandotte County has had more than 700 homicides. I have handled more than one hundred homicide cases in my career and tried to a jury more than forty. Wyandotte County has the highest per capita homicide rate in the state of Kansas.

Since 1984, I have also responded to more than 250 homicide scenes, day or night.

Issues such as morality and cost keep the debate of capital punishment going, but the plain and simple truth of the arguments are that some murders are so aggravated in circumstances that no other sentence fits the crime. Instinctively, the death of the offender is the only appropriate public response

Senate Judiciary

1-21-10

Attachment 1

in such cases. Life in prison is not an effective sentence in these capital murder cases.

Life in prison is the sentence for most first degree murders in our state. First degree murder cases are those that involve the death of one person, or lack any of the characteristics of an additional sex offense, or offense against a child, or calculated contract killing, or targeting of one of our sworn public protectors.

These aggravators distinguish a death penalty case from other first degree murder cases. Not all murder cases are the same. Murder is not 'one size fits all'.

There is a fundamental difference between a murder case involving a single victim of homicide and where two, three, four, five – or more – victims are killed. Such cases are not 'just a murder'.

Likewise, there are fundamental differences where children are killed and cases where children are murdered during a kidnapping; or where women are killed versus where women are raped or sodomized while being murdered.

Finally, there is a fundamental difference where a person is killed versus where a police officer is murdered because they wear the uniform which stands for justice.

Every policy choice made for years in the area of murder with aggravated circumstances gets uprooted by repeal of capital murder. It is not simply a matter of not paying the bills for such a prosecution.

This legislature passed and a governor affirmed a conservatively limited, constitutionally sound capital murder statute. The United States Supreme Court has approved our death penalty statute in *Marsh v. Kansas*. The death penalty has been in effect for over a dozen years. It has only been filed eleven times out of those more than 700 homicides in Wyandotte County. Prosecutors

across the state have sparingly filed capital charges. It expresses our state's public policy with respect to the most heinous of murder cases.

Public policy does not imply unanimous public support – on any topic.

Were it not for financial hardship, this would not now be back before you. If there is no death penalty, then cases with life in prison with no possibility of parole become the top rung on the ladder – and that is where defense resources will be spent. There will continue to be high costs of prosecuting murderers. By repealing capital murder, you will not make costs disappear. They will merely go elsewhere.

At its core, as is made clear by the attention in this hearing, this is not just a fiscal issue. As you debate costs and benefits, you will no doubt touch on the topic of deterrence. You will inevitably ask whether having the death penalty keeps anybody from committing a first degree murder with aggravating circumstances. Perhaps an analogy would be helpful:

**Nobody keeps statistics on how many vessels do not run aground or capsize on coastal obstacles beneath the surface of the sea – it would be impossible to know. But nobody is heard to demand that lighthouses be dismantled and their deterrent effect repealed.**

I encourage you not to pursue a factor that cannot be quantified, and then use it as a reason for dismantling our state's current capital murder law.

Punishment for crime should be about a proportionate response to the criminal acts of an offender. You all read news accounts of an incredibly high profile mass murderer, or serial murderer, in Sedgwick County. It could have happened anywhere in our state. I'm speaking of BTK. When he was caught there was outcry for the application of the death penalty. Because our state had no capital murder law during the time BTK was active, the death penalty was not a tool available to the public response to his horrible crimes.

Do you ever want to be caught like that again?



I want to conclude with a few comments about the proposal that includes keeping the death penalty in place for those few who have been convicted by Kansas juries of unspeakable homicide. There is no way on earth that the repeal of capital punishment will not be factored in the final disposition in those cases.

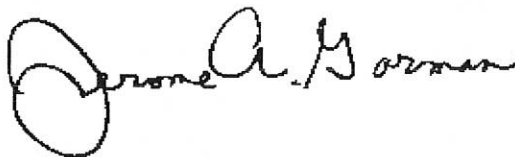
Most are on appeal, and if those cases are ordered for resentencing – as they sometimes are, then the fact that the death penalty has been repealed will absolutely become a dominant factor. It will be overtly made part of the decision making process – or it will be the white elephant in the room.

The litigation expenses in those pending cases will continue. Repeal will not cut off that expense.

But the larger issue is this: if the death penalty is appropriate for those few cases where it has been ordered so far, then how is it any less appropriate for those few murder cases that are now being prosecuted and those that will happen in the future?

Prosecutors like me fight crime with the tools you provide. Kansas has an appropriate conservative tool in its public response to those few heinous murders. It should continue to be available for use when circumstances call for it – because it is the only response that makes measured sense when a violent offender acts.

Thank you,

A handwritten signature in black ink that reads "Jerome A. Gorman". The signature is written in a cursive style with a large, looping initial "J".

JEROME A. GORMAN  
District Attorney

**Senate Judiciary**  
**Testimony in Opposition to SB 208**  
Kyle G. Smith  
Kansas Peace Officers' Association  
January 20, 2010

Chairman Owens and Members of the Committee,

I appear today on behalf of the Kansas Peace Officers' Association in opposition to SB 208. The KPOA would like to mention three specific points for your consideration.

First, issues dealing with the death penalty are serious and complicated. Safeguards and sound procedures to ensure that only the guilty and only the worst offenders are put to death are essential. But there simply are cases where the death penalty is appropriate and just: the 'BTK' Killers out there, the criminals' already facing life in prison who have nothing to lose by killing their kidnapping victims, police officers or prison guards.

Second, when discussing costs, people forget the savings that have arisen from the Kansas death penalty. We now have a large number of defendants pleading guilty to murder one to avoid the death penalty, at a substantial savings to the state. I remember when if we charged First Degree Murder, you knew it was going to trial as the defendant had nothing to lose- and the penalty for murder was just 15 years! After the death penalty came in 1994, suddenly defendants were waiving jury trial and pleading guilty - out of fear of the death penalty - thus saving money and agony to the victim's family.

Third, law enforcement officers have a uniquely keen appreciation for life and death. We would like to remind everyone in this nice, warm, safe hearing room of what sometimes might be forgotten. Not only do officers risk their lives in the course of the service they provide the public, but they are the ones that deal face-to-face with the victims, suspects and families of homicides. Law enforcement officers are the ones trying to stop the bleeding while waiting for an ambulance, giving parents notification of the senseless death of a loved one, walking through and smelling the blood, hours after you have showered, hearing cold-hearted confessions from the murderers themselves, and visiting with the family, watching them cry, as the investigation and trial drag on, seeing firsthand the loss and devastation a sudden, brutal death inflicts. These cases are not just about costs, appeals, statutes and statistics.

Thank you for your time and consideration. I would be happy to answer any questions.

Prepared Testimony of Missey Smith  
Mother of Kelsey Smith  
for the  
Kansas Senate Judiciary Committee  
In Opposition of Senate Bill 208  
January 21, 2010



*In Memory of Kelsey*

My name is Missey Smith. I am the mother of Kelsey Smith the wonderful, loving young lady that was taken from a Target store in Overland Park, Kansas and brutally raped, sodomized and strangled to death by a complete stranger. She was only 18 years old. I am here to testify in opposition to Senate Bill 208.

Charging someone with capital murder in Kansas is not something that can be done easily. It is used for those that are the most atrocious. There are only seven aggravating factors in Kansas that could be used to charge someone with capital murder while federally there are thirteen. Kelsey's murderer was charged with Capital Murder. Did he receive the death penalty? NO! He chose to take a plea bargain and was shown the mercy he did not show my child. His life was spared. Would he have done that if he were not facing death? I think not. The death penalty is a tool that absolutely needs to be in place for prosecutors to use. How much money was the state of Kansas saved in our daughter's case by having this tool in the prosecutor's bag? How many other cases have been pled out because these vicious killers are scared of facing the same fate that they imposed on their victims? Kelsey's killer pled to Life without parole, no appeals. NO appeals? How much money did that save the state of Kansas? We don't know. Would he have pled to no appeals if he had not been facing death? The answer is probably no. Is that savings taken into account for your budgetary reasons?

I have heard the talk over the cost. Let me ask each of you something. Would any ONE of you be willing to change places with any of our families whose loved one was murdered? I don't think so. We are talking about an estimate of \$500,000 per case. Would you be willing to let someone walk free who had brutally murdered your loved one over that amount of money? If a murderer were to be given the choice of life in prison if they go to trial and life in prison if they were to plea, how many are going to plea? Would we not be looking at a rise in costs for the indigent defense fund? **HOW** do we know what the real cost savings will be? Do we know how many Capital Murderers there are going to be?

Kelsey's killer did not plea for the sake of my family. These type of people care for no one but themselves. This is one area that the legislature can give families some sense of peace, some sense of justice. For once put the victim's rights above the rights of the murderers. Kelsey's killer no longer has any control in my life. That would not be the case if he had not pled to life without parole no appeals. He would not have done that if all he was facing was life. Again, I ask you, who of you would be willing to trade places with any of us over a budget? According to C.S. Lewis, "Experience: that most brutal of teachers. But you learn, my God do you learn." I hope each of you learns from our experience.

# Testimony of Greg Smith in Opposition of SB 208

Kansas Senate Judiciary Committee



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Attachment 4

My name is Greg Smith. I have 2 years experience as a military police officer and an additional 18 years of experience as a civilian police officer. I now teach high school. I teach high school seniors how our government is supposed to work. I am Kelsey Smith's father. Kelsey was a beautiful, 18 year old girl full of life and love, who was brutally abducted from a department store parking lot in Overland Park, Kansas, sexually assaulted, and strangled to death. The perpetrator is a Kansas resident and was charged with Capital Murder.

Thirty-eight states, including Kansas have the death penalty. The history of Kansas illustrates that having a death penalty is the will of the people. Kansas has had the death penalty at three different times in its history. Of the prior two times it was repealed, once in 1907 by the Kansas Legislature, the second in 1972 by the United States Supreme Court resulting in a national moratorium, the will of the people resulted in its reinstatement. One should take note of the recent Massachusetts Senate Seat Special Election as to the importance of the will of the people. It will be heard and it will prevail. Kansas has one of the most narrowly defined capital murder statutes of any state and that's a good thing. The taking of one's life as punishment for a crime should be narrowly defined otherwise the worth of the individual is cheapened. That being said, however, some crimes are so heinous, so inhuman that the only fitting punishment is the forfeiture of the offender's life. SB 208 would take that option away and I have yet to hear one reasonable explanation why that should be done.

Last year when this bill was debated on the floor of the senate I was in the gallery and shortly after Chairman Owens began speaking about this bill two things became painfully obvious – 1) the seemingly sole underlying reason for repealing this law was to save money, and 2) the bill was fatally flawed and fraught with unintended consequences. I would like to take this opportunity to publically thank Senator Derek Schmidt for exposing those flaws for all to see.

According to the 56 page *Performance Audit Report – Cost Incurred for Death Penalty Cases: A K-Goal Audit for the Department of Corrections*, a document this body should be intimately familiar with, **“Actual cost figures for death penalty and non-death penalty cases in Kansas don’t exist. Some information presented here is based on estimates because judges, attorneys, court staff, and local law enforcement officers don’t keep case-by-case time records and projections. Other costs had to be projected because most death penalty cases in Kansas are in the early stages of the process, and there’s no way to know how many appeals these cases will have.”**

Let me repeat that, **“Actual cost figures for death penalty and non-death penalty cases in Kansas don’t exist.”** This audit, by its own admission, is at best an estimate and at worst total speculation. If we accept the figures, for the sake of discussion, they are similar. A death trial’s estimated cost is \$1.2 million and a non-death trial’s estimated cost is three-quarters of a million dollars. Both costs are estimated from initial trial up to the day the offender dies. There is no estimate in this report for the cost to the state for loss of revenue over the victim’s life because of the victim’s heinous murder. There is no estimate at all for the cost to the state for the loss of a productive citizen. There is no estimate for the cost of the pain, grief and hell the murder victim experiences or that the family of the murder victim experiences. To paraphrase from a popular commercial:

Cost of a non-capital murder trial: \$ .75 million

Cost of a Capital Murder Trial: \$1.2 million

Cost to the State, the Murder Victim and Murder Victim’s Family: **Priceless**

The bottom line is that we do not use the death penalty except in the most extreme of cases. The cost is negligible. Even though cost should not matter when it comes to a matter of justice, the report lists several excellent options for cutting costs that this body could and should act on such as:

- 1) *Some sort of screening mechanism could be used to determine which cases merit seeking the death penalty, such as having all cases screened by the Attorney General.*

2) *Having State-employed specialists, such as psychological and forensic experts, also could help control some costs by avoiding the need to contract with private-sector specialists.*

3) *Other states have implemented limits on fees paid to contracted attorneys, but Kansas officials have conflicting guidance in this area. The Kansas Attorney General issued an opinion stating that the Board of Indigents' Defense can consider State resources in adopting regulations for defense of indigent clients.*

4) *Having a true life sentence without the possibility of parole could reduce costs in 2 ways. First, prosecutors might not be inclined to seek the death penalty in as many cases if they know a conviction will result in the defendant being locked away forever. Second, juries might be more likely to impose a life sentence rather than death, which could reduce appeal costs.*

5) *Also, deleting statutory provisions that authorize the Supreme Court to look for trial errors beyond those raised on appeal could further reduce costs.*

This has the added benefit of limiting the judicial activism of our State Supreme Court which is notorious for finding any reason, no matter how spurious, to overturn a death penalty conviction.

All of this could be done by the legislature, this session. The result would be a cost savings, which would help with our current budget crisis but not at the expense of the safety of our citizens. I realize that some people are morally opposed to the death penalty, and I respect that. I find that a more compelling argument against the death penalty than that of cost savings. Quite frankly, repealing the death penalty in Kansas would do little to fix the budget problems we have and the legislature would be well advised to work on fixing our shattered



budget than wasting time and effort on a matter that will not address the immediate needs our state faces.

In summary, "**Actual cost figures for death penalty and non-death penalty cases in Kansas don't exist.**" Even if we accept the figures in the Performance Audit as valid, a complete repeal of the death penalty would do little to solve the massive budget crisis Kansas faces and would jeopardize the safety of all Kansans because these heinous murderers could be released back into the population. There is no price too high to defend an innocent human life. History shows that it is the will of the people of Kansas to have a death penalty. History has shown that those who deny the will of the people lose the privilege to represent those people.

My students, who are either of voting age or will be by November, have been studying how our system of government works. They were so engaged about this topic that several of them wanted to voice their concerns to this committee. I have attached their letters to this testimony for you to read.

Thank you.

Greg Smith  
8605 Robinson  
Overland Park, KS 66212

913.383.1574  
913.302.0481  
[greg@kelseysarmy.org](mailto:greg@kelseysarmy.org)

Should we keep the death penalty?  
Well, I say yes, because we could get rid of the most dangerous criminals that put others in fear. What really gets on my nerves is that the people in the court don't know how to handle things sometimes. For example, a person plotting to kill someone gets 30 years in prison. On the other hand, a person who actually 'killed' someone gets half the time! That's stupid. I see it on the news sometimes. Seriously, does anyone have a brain? Wake up! Why are the serial killers still alive? They're evil, and they always will be. So if you're worried about costs, how about getting rid of those who have done the most terrible crimes that seemed inhuman. Plus, it can also be up to the family member/friend/ae or whatever, if they want the criminal to be put to death.

Now let's talk about the villains that rapes & kills their victims. They deserve to die. If they have no heart,

then why look for the good in them?  
Believe me, if I wanted to get back  
at the murderer of my friend/relative  
or whatever, then I would do it. But  
considering that I don't want to go  
to jail, I might as well tell the Judge  
to put him/her to death. I don't care  
if the criminal was on their best  
behavior, they deserve to be punished!  
If you let them out, there is no  
doubt that they'll do another crime.  
Basically, I'm saying that there's  
no point. And another thing, death  
penalty can keep child molesters,  
thugs, and serial killers off the  
streets. Therefore, I say do it.  
Let's keep the death penalty. It  
saves time & money, so go for it.  
Obviously, it's the best way to  
make the bastards pay...

Thanks for listening,  
Tiara Benson

My Name is Shenequa Terry I stand behind Mr. Greg Smith. Before I heard the story about his daughter Kelsey Smith I was against the death penalty, but when I heard about all the awful things her murderer did to her I changed my mind and now believe that the death penalty is a good thing. In the case of the Smiths and others like them I don't think SB208 should be passed. The crime against Kelsey Smith should not go unpunished, in fact her murderer doesn't deserve to live after what he did. Please listen to Mr. Smith and I, as well as others who believe the same as us, and don't pass SB208. I know that I feel a little safer knowing that a murderer is put away from our society with no way at all to come back.

Thanks,  
Shenequa Terry.

My name is Kale Sola and I think  
Kansas should keep the death penalty because  
people aren't afraid of the law. I'm 17 and  
I laugh at the judicial system. I have  
no fear to commit a crime because I know  
the punishment will be a slap on the wrist.  
If I stole something I would get put  
on diversion which is practically nothing. I  
mess up on that then its probation. I mess  
up on that its house arrest. Come on  
like that any kind of punishment my parents  
ground me harder than that. I have two  
friends right now that are in jail just  
sitting around in a cell when they murdered  
somebody in the most brutal of ways for  
80 bucks. Their names are Dustin Hilt and  
Scott Bolken. Is sitting around for the  
rest of your life really a good reason. I  
think it should be a life for a life. Justice  
should be swift not take 8 months to  
decide if somebody is guilty or not when  
you have plain evidence it was them.

## Testimony - Melissa Arroyo

When it comes to the moot decision of ending or continuing death penalty, I must admit that I ~~prefer~~ prefer to have ~~this country~~ this country discontinue the use of death penalty.

It has nothing to do with the morals or the economic side of it. But the fact that we are taking away a murderer's life doesn't assure us that he will be punished wherever he ends up.

He doesn't even go through the pain his victims went through ~~with the~~

~~and the~~ during the process of his death penalty. It brings satisfaction to the families and the society to know that this specific killer won't harm anymore.

But think about all the other killers out there that have not been found.

Now, let's consider the times we're in; to this day, we still have innocent people behind the bars regardless of the skilled investigators and hi-tech equipment. I'm sure many of these innocent people received the death penalty when they didn't even deserve it.

Kenzie  
Berger

I believe 100% in the death penalty. Yes there are some exceptions to it, like an accidental car wreck killing someone, no one should be given the death penalty for that, but intentional murder you should be put to death for. Take for instance the woman who, a few years back, ~~she~~ drowned all her kids in the bathtub. I fully believe she should have been put to death. If you feel it is okay to take someone else's life, especially a child who can't defend themselves, there is absolutely no reason why you should be able to keep your life, or ever be given the opportunity to be out in public, free. My mother and I recently had this conversation, after the girl from ~~North~~ was recently murdered by a few other boys that also went ~~to North~~ I personally knew them, and think it's terrifying to think of how close I was to them every day. I'm not sure what happened to them but they should have been put to death, or put away forever. ~~It's~~ Murder isn't something that should be taken lightly, and taking away the death penalty and ~~reducing~~ reducing sentences, ~~does~~ says that it's not a big deal, and that's not okay at all.

My name is Mia Smith and I am against taking away SB208. Keightley Alyea was like a sister to me. She was ~~an amazing~~ an amazing person. She was just recently killed by ~~three~~ three young men. They took her life away from her and all of her friends and family who loved her dearly. ~~IF~~ IF SB208 is taken away, those three young boys would have a chance to get out of prison, which should never be ~~possible~~ possible. What I don't understand is how our state is even thinking about taking this law away when there is so many ~~innocent~~ innocent people being killed. There are so many grieving friends and family out there with a lost loved one. How can you set a murderer free?



James

10/11

Mr Smith

after reading I didn't realise  
how expensive it is to kill someone  
OK BUT why? why should it  
cost so much? The flaws within  
a state right shouldn't matter on  
how much it cost cuz its ~~just~~  
justice for some people they  
don't care if they die cuz they  
have nothing to live for. I  
really don't see any weak points  
but also I had a cousin  
that went to smn and she  
was killed and put in the trunk  
and brought here to this school  
and he's only serving 25 years to  
me that's not enough

Because there is no solid factual numbers, there is no basis to take away the penalty. The fact is there is no proof, and with no proof, the argument will always be flawed. Also as a democratic government, you have to represent the will of the people, and when something is re-enacted every time it is repealed, it is obvious what the people want.

Chris Bessel

January 21, 2010

Honorable Senators,

My name is Lois Muller and I am the mother of Heather Muller. Heather was murdered by Jonathan and Reginald Carr on December 15, 2000. Words can not begin to put understanding to the impact that last sentence has had on our lives. Never in my wildest dreams did I envision myself addressing state legislators about the death penalty.

When I think about the possible ramifications if the death penalty is repealed, I wonder what would happen to the inmates who have been given a death sentence. Life without parole does NOT mean life without parole. It changes time and time again. Reginald Carr was released from prison EARLY, by MISTAKE, and within a short period of time committed the horrible crimes that have been widely publisized. By repealing the death penalty without sufficient, appropriate consequences in place, you are placing all Kansans in jeopardy.

This law is being reviewed based on the premise that it will save taxpayers' money. Please consider the fact that prosecuting attorneys work cases on a regular basis, at regular salary, regardless if the case is capital murder or not. Monies spent would be the same on the next level of prosecution. Secondly, according to Kansas Secretary of Corrections, Roger Werholtz, (Appendix F) the actual cost to keep death sentence inmates in administrative segregation is ONLY \$83 more a month!

The law for capital murder is very specific as to when and which circumstance an individual can be tried. Now is the time for state legislators to have the fortitude and courage to state your real position on the death penalty and not hide behind the flawed studies of the cost of the death penalty. By repealing the death penalty in Kansas, you will be placing the lives of others in jeopardy.

Respectfully submitted,

Lois and Jim Muller  
610 N. Bay Country  
Wichita, KS 67235  
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Senators----

My name is Larry Heyka and I live in Manhattan, Kansas. I must say that I am very disturbed and disappointed that you are now looking to repeal the Death Penalty in Kansas. My son, Brad Heyka, was murdered on December 15, 2000 by the Carr Brother in a very brutal and violent crime. Along with Brad, three of his close and dear friends were also murdered with him. They were forced to do acts against their will at gunpoint and later taken out to a frigid and snowy field naked and were told to kneel down and then were murdered by the Carr Brothers execution style. I, and my family, will never forget that event for the rest of our lives. The Carr Brothers received a very fair trial and the evidence was found to very conclusive, including DNA testing and an eye witness who was also shot but survived. These defendants received two experienced attorneys and an automatic appeal to the Kansas Supreme Court. Each is being given time to make peace with God and to say goodbye to their families and prepare for death. The victims got none of these things.

Several weeks ago, we heard Governor Mark Parkinson's very elegant State of the State Address. We heard him speak of several important things including how wise our founding fathers were when Kansas became a State in 1861. He reinforced the importance of all Kansan's to remember the importance of their beliefs in regard to several important issues that faced them at that time but are also important issues today. One of the topics that the Governor addressed was the safety of the citizens of Kansas. At the time of statehood in 1861, the Kansas Territory had already enacted a death penalty. Over the ensuing years, the law was amended, and in 1907, legislative action abolished capital punishment in favor of life imprisonment. It was not until the great debates of 1935 that capital punishment again became law in Kansas as it was passed as a bill as a "drastic step to stamp out the epidemic of brutal crimes". That re-enactment bill was signed into law by Governor Alf Landon in 1935. Because of the Furman vs. Georgia Case, the death penalty was invalidated in 32 states in 1972 and 629 inmates were removed from death row. In later years, the Supreme Court reviewed changes enacted in state laws and indicated that under specific criteria, capital punishment statues could be constitutional. In the 1993-1994 session, the Kansas legislature passed a number of important criminal justice laws and enacted K.S.A. 21-3439 that reinstated the death penalty in the State of Kansas. Under present law, the death penalty may only be given in the most limited and stringent circumstances.

Kansas has one of the most responsible and limited death penalty statues in the nation. The death penalty does not apply to all murders. It is reserved for the worst, most heinous and cruel murders. The individuals on death row in Kansas are some of the most notorious and dangerous criminals in our state's history.

The state of Kansas needs to retain the death penalty and show that it is very serious about justice. Kansans want and deserve that and it is not right for you to determine that laws should be weakened at a time when serious crimes have escalated throughout the nation. As we read our local newspapers and view the evening news, it is apparent that serious crimes are committed on a regular basis in our Kansas Communities. In reality, the State of Kansas should get tougher on crime than it is today. Talking to law enforcement agents, it is obvious that the justice system has opened a revolving door and criminals continue

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to re-commit more serious crimes and are released early or put on probation with very little true punishment time. These acts escalate and are now often ending in numerous more severe crimes such as murder. Let's make those who commit criminal acts understand that there are real consequences for their actions . Please get a grip on the severity of the situation and take rationale and real efforts to reduce crime in Kansas. SB 208 does not address the problems or issue but merely shows weakness by those that support this potential legislation.

If you had endured the pain and loss that we have, you might understand better your responsibilities. I plead with you to let the Death Penalty stand.

My gosh, are we turning our backs on what is happening in the real world? Are you talking to police officers and public defenders who think that their hands are tied behind their backs. There are so many repeat defenders that are released back into society to only repeat more and much more violent crimes. Let's realize that the judicial and legal system is not working very well and make some positive improvements. It seems like we are headed in the wrong direction. Kansans depend on you in this regard!

In my mind, this matter is not about getting closure as I am not sure that will ever come. This is about justice and doing what is right to further protect our Kansas citizens in the future.

I believe that most Kansans want the death penalty retained and believe that bad decisions by criminals should result in very serious consequences. Maybe, Kansans should have an opportunity to vote on this matter at the next general election!

Thanks for your consideration in this matter.

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Testimony of Jen Sanderholm before the Senate Judiciary Committee on SB 208 & SB 375

Three years, 2 weeks and 1 day ago my life changed forever. My younger sister Jodi was brutally raped, sodomized and murdered. January 5<sup>th</sup>, 2007 is a day that will forever be burned into my memory; it is the day that my nightmare began, it is the day I lost my little sister.

January 2007 started out as a very happy time for my family. I was about to give birth to my first child, a little girl to be named Emma. January 5<sup>th</sup> changed all of that excitement into terror very quickly. When Jodi went missing we knew right away something was terribly wrong because she would not answer my phone calls and I was 2 days overdue.

Justin Thurber stole my sister's life in such a brutal way, yet he did so much more than just take her life. He took away my mothers chance to see her first grandchild being born, he took away my daughter's aunt, my parents' youngest child, Jason's and my sister and Colby's girlfriend. Justin took everything from us that day except for our memories of her, but those too will fade in time.

My life will never be normal again; I think about Jodi everyday and I have to develop a new normal and a new happiness now. But every birthday, holiday or family reunion there will always be a sense of sorrow because Jodi will be missing from those joyous occasions. I am comforted knowing that she is pain free in Heaven now and that she is watching over all of her loved ones. I am also comforted by the fact that Justin Thurber will never be able to hurt another person the way he did Jodi on that January afternoon. What he did to Jodi that day was heinous beyond belief. There are not even words to describe his actions or him for that matter but I can finally sleep again now that I know that he will never hurt another girl because he will never have a chance to again.

Now whenever I meet someone new, the conversation eventually turns to how much Jodi and I look alike. This leads to conversations about her brutal murder and then I get that look; that sadness when someone wants to say something to make it better yet there is nothing to say. I will forever be known as the sibling of a murder victim. It's a tough burden to bear. As time passes, my daughter will begin to ask questions about the girl that looks like her mommy in all of the pictures around the house, yet she never gets to see or talk to her. I will eventually have to tell my daughter about that January day, and then Emma will have to bear that burden as well.

You cannot put a price tag put on my sisters' life. If the State is to abolish the death penalty that is ultimately what you would be doing. My sister had such an amazing life ahead of her, she was valedictorian of her high school class, she was going to attend pharmaceutical school, she was going to get married and have a family of her own. She was an all around good person, she was a great role model to the little girls she taught dance to, she was the person that everyone wanted their little girls to grow up to be.

I honestly believe the death penalty is a deterrent for these heinous acts. Justin Thurber wanted to plea bargain the day before we went to trial. He wanted to take the death penalty off the table. He was scared and he didn't want to die. But Jodi didn't want to die either, Jodi didn't want to be taken so suddenly and so violently, Jodi wanted to continue living her life, he took that from her, that was his decision and it's important that the State punish anyone who commits such an act appropriately. I believe if the State of Kansas would enforce the death penalty sooner that it would become more of an effective prevention for these crimes as well as lower the cost for housing those inmates on death row for such a long period of time. I also believe that the State of Kansas chooses very carefully which crimes are punishable by death Out of the 8,696 total prisoners in the state of Kansas only 10 are on death row. I believe that number shows that the state of Kansas considers very carefully which crimes are brutal and heinous enough to be punishable by death.

Jodi was an amazing sister and friend to me. The friendship that Jodi and I shared was more special to me than any other friendship I have had or will have in the future. The bond that sisters share is something that no one can understand unless they have a sister. I was blessed that Jodi was in my life for 19 years.

Testimony before Senate Judiciary Committee on SB 208 & SB 375

Cindy Sanderholm

How can you put a price on a person's life?? That is what you are saying when you want to abolish the 'Death Penalty' in our state because it 'COSTS TOO MUCH'?! There is no reason 'why' these murderers should be given the chance to have another 15 years of life when their victims were not given the luxury of any choice and in the majority of cases died during heinous acts rather than a humane lethal injection. Death penalty cases required significant evidence such as DNA, confession and still need a conviction and sentence from a jury of their peers. In my daughter's case, her killer offered a confession if the death penalty were removed as a punishment.

This has been a topic of conversation for many constituents with me since the murder of my daughter. I as well as many others believe the death penalty is a deterrent for some would-be criminals.

Kansas currently only has 10 men on Death Row this indicates the punishment is only handed out to the most heinous of crimes committed.

The pain that we have to live with everyday can be unbearable and I only HOPE that none of you are ever forced at the hands of a monster to live through this as we have, but I can tell you when the issue becomes personal it allows you to see more clearly what is right.

Brian Sanderholm

By passing this bill, you are putting a price tag on my daughters and others lives. Isn't the answer to reduce the price of following through with the punishment in a more timely manner? IF there is resounding evidence, should not the appeal process be expedited?

In the 19<sup>th</sup> Century, our solution was to take murders out back and hang at them at end of the trial. I agree that's not right but 15 years is just a bit too long and continues to re-victimize the family. This is what is costing us so much, 1 year is 365 days long.

I have been suffering this pain since Jodi's murder, so the law of averages say that I may not go through this again but you might! I have fear that someone close to me like my granddaughter might too be forced at the hands of a monster to deal with something like this.

An ounce of prevention is worth a pound of cure. If these monsters were made to fear a swiftly executed death sentence then maybe the state would have saved all the money that was spent on locating my daughter's body and prosecuting her killer. But most importantly maybe we would still have Jodi. That is how you can save money not by hoping it will go away!





Testimony on Abolishment of Death Penalty

Position of the Topeka Branch NAACP

January 21, 2010

The Topeka Branch NAACP thank you for the opportunity to share its position with the members of the Judicial committee regarding SBA 208 and SBA 375. The position of the Topeka Branch NAACP is patterned after its National Office and is direct and clear:

The Topeka Branch NAACP stands as a proponent of the abolishment of the death penalty and not necessarily of the SBA 208 and 375 bills in their entirety for the reasons listed:

- Studies and observations have conclusively shown that death penalty sentencing are racially discriminatory and are disproportionately imposed on minority defendants who have been accused of killing white victims.
- Studies have concluded there is a high error rate in sentencing. Further, on falsely condemned cases, there is no possibility of reversing error
- The death penalty is not constitutional.
- The death penalty is morally wrong.

Topeka Branch NAACP

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The Topeka Branch NAACP believes all death penalty cases (including those current death penalty cases) should be suspended as there is no guarantee that the decisions to put one to death is without doubt, correct or justified. Therefore, the Topeka Branch NAACP and its affiliates are NOT in agreement with the following portion of the new section of Senate bill 208:


(b) Any person who has been sentenced to death before July 1, 2009, may be put to death pursuant to the provisions of article 40 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

In addition, the Topeka Branch NAACP and its affiliates are NOT in agreement with the following portion of the new section of Senate bill 375:

(b) Any person who is sentenced to death for a crime committed prior to July 1, 2010, may be put to death pursuant to the provisions of article 40 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

Further, the cost savings of abolishing the death penalty could be better spent in supporting victim assistance or recovery programs.

The Topeka Branch NAACP and its members appreciate the opportunity to share its position with this committee.



Ben Scott, President



Glenda Overstreet, Political Chair and  
Lobbyist