

**Testimony of
Jim Brown
On behalf of the Montana Association of Churches**

**In support of Senate Bill 185, a bill to Abolish the
Death Penalty in Montana and Replace it with the
Penalty of Life in Prison Without the Possibility of
Release.**

Sponsored by Senator Dave Wanzenried

**House Judiciary Committee
March 15, 2011**

INTRODUCTION:

- **Mr. Chairman, members of the Committee**
- **My name is Jim Brown, I am here today to speak on behalf of the membership of the Montana Association of Churches**
- **MAC is made up of nearly 600 Montana churches, whose membership constitutes roughly 190,000 Montanans from all walks of life.**
- **Today, these Montana churches and Montana citizens speak with one clear, unified voice.**
- **Today, they ask you, as the members of the House Judiciary Committee, to lend your support to ending state-sponsored homicide in Montana.**
- **That is, MAC's membership stands unified in requesting that this Committee join with 16 other**

states and the District of Columbia in ending use of the death penalty.

- **MAC's membership stands unified in asking you to join with the State of Illinois, which, on March 9, 2011, repealed its death penalty and replaced it with the penalty of life without the possibility of parole.**

REASONS FOR REPEAL:

- **MAC's membership understands that there is no higher value than the preservation of human life.**
- **And the members of MAC recognize that government does not carry out its constitutional directive to preserve life, to promote the general welfare, or to secure for its citizens the blessings of liberty when it sanctions and actively participates in the taking of life.**
- **That is why for more than 25 years, the Montana Association of Churches has actively voiced its opposition to, and worked to end, the use of the death penalty in this beautiful state.**
- **As stated, the basis for MAC's membership's opposition to state-sanctioned homicide is rooted in our shared belief that there is a purpose to every human life.**
- **It is also rooted in our shared belief that the purpose of a just government is not to debase the sanctity of life by cloaking the taking of life in a**

form of justice that is nothing more than retributive and vindictive.

- **To be sure, MAC's membership recognizes that government has the authority and duty to protect its citizenry from violence and crime.**
- **But, the question needs to be answered. What kind of message is sent when government seeks to deter murder by murdering itself?**
- **The Catholic Conference answered that question by stating that the death penalty offers the tragic illusion that we can defend life by taking life.**
- **Further, a 2009 study published in the Journal of Criminal Law and Criminology concluded that "there is overwhelming consensus among America's top criminologists that the empirical research conducted on the deterrence question fails to support the threat or use of the death penalty."**
- **But it is not just the false premises on the deterrence value of the death penalty that underlay MAC's opposition to Montana's death penalty.**
- **Numerous studies show that:**
- **(i) application of the death penalty is costly and actually diverts scarce resources away from crime prevention, as is shown by the fact that every dollar spent on a capital case is a dollar that is not spent on policing programs known to reduce crime;**

- (ii) the death penalty is not an effective crime deterrent, particularly so in Montana where its rarely applied and is likely not to be applied in the foreseeable future;
- (iii) the death penalty leads to the state-sponsored taking of innocent life, as evidenced by the fact that more than 138 people have been released from death row since the death penalty was reinstated in 1976;
- (iv) physical evidence is always a better and more legally-sound means of obtaining a conviction against accused persons than is the tactic of threatening accused persons with death if they don't confess;
- (v) numerous studies show that the penalty is applied disproportionately to the poor, to minorities, and to those living in certain areas of the State;
- (vi) the death penalty perpetuates victimization of the innocent, namely for the family members of those who have committed the crime leading to imposition of the death penalty; and
- (vi) the death penalty rarely brings healing to the family members of victims and never restores the life of the victim(s).

- As evidenced by these arguments, which are based on facts, the death penalty promotes everything government should not promote – government inefficiency, waste of public

resources, and morally unsupportable actions and positions.

- On the other hand, a penalty of life without the possibility of parole avoids all of these aforementioned problems, while, at the same time, ensuring that:
 - (i) murder victims' families and loved ones have the opportunity to move through the stages of grief that eventually lead to forgiveness, reconciliation and healing;
 - (ii) the State is never placed in the position of having taken innocent life;
 - (iii) those tasked with carrying out the death penalty are not used as an instrument of death, thereby degrading their humanity; and
 - (iii) the condemned individual has the time and opportunity for reconciliation and restoration of the soul with God.
- Contrary to what some might argue today, ending the death penalty is not a license to release those who commit the most heinous of crimes back onto the streets.
- A sentence of life without the possibility of release means, barring exoneration, the person sentenced will never see the outside of a prison cell for the remainder of his or her life.

- In that way, this sentence, like the death penalty sentence, both provides a measure of finality and resolution to a murder case. The life without possibility of release sentence also ensures that a person who wrongly takes another individual's life will never be released back into society, and will never be in a position to freely kill again. That is real deterrence.
- Further, as I mentioned earlier, life without the possibility of parole eliminates the risk of an irreversible state-sanctioned taking of innocent life; while also protecting the public and allowing the money saved from lengthy death penalty trials and appeals to be spent on programs that actually benefit society – such as increased police protection, mental health services, and rehabilitative services for crime victims and their families.
- This is why more and more law enforcement officials are speaking out against the death penalty. In fact, when asked about the death penalty in a national survey, police officers across the country ranked the death penalty as the least effective law enforcement tool.

CLOSING:

- **On behalf of the membership of MAC, I very much appreciate the opportunity to testify today.**
- **I have brought with me today MAC's position paper on capital punishment and ending the application of the death penalty. I have also brought with me several articles that discuss the high cost of the death penalty and the movement by states across the country to end this practice.**
- **Further, to those who would question my use of the words state-sponsored homicide, I have attached herewith the Montana Certificate for Terry Allen Langford who was put to death by the State of Montana in 1998. As is plainly evidenced on the Death Certificate, the cause of death recognized by the State of Montana is "homicide".**
- **In closing, I would ask each member of this Committee, before he or she votes on this legislation, to keep in mind that repeal of the death penalty sentence is not a partisan issue; it is a matter of recognizing and respecting the sanctity of human life and it is a matter of good government.**
- **This is why poll after poll conducted on the issue of the death penalty show that a majority of Americans, regardless of political affiliation, favor life without the possibility of release over the**

death penalty as the just punishment for murder. I have enclosed with my testimony one such poll.

- I would ask that each member of this Committee, before he or she votes on this legislation, to ask him or herself if the benefit of retaining the death penalty outweighs the 'cost' of having the death penalty. If you review carefully and with an open mind the material that has been presented to you today, I think you will come to the conclusion reached by the States of New York, New Jersey, New Mexico, and now Illinois, which have carefully considered that question and answered "no".

- I urge this Committee to take advantage of this historic opportunity to end the state-sponsored taking of life in Montana by giving SB185 a 'do-pass'.
- I urge this Committee to do give this bill a 'do-pass' so that this important issue of state-wide importance may be debated by
- Thank you, Mr. Chairman.



CAPITAL PUNISHMENT

Position Statement

Adopted 10/21/80

The Montana Association of Churches opposes capital punishment and calls upon the Montana Legislature to abolish the death penalty.

Supporting Statement

Revised 10/19/04

When a life is taken tragically and violently through homicide, such loss is beyond measure. The outrage and grief experienced by a victim's family members and the larger community are justified, and cause a heavy burden. We cannot deny or overlook the extreme pain and damage caused by such horrible acts. The community is right to seek justice for these crimes. Yet, we oppose the idea that execution is a means to achieve justice.

First, we look to the foundations of our faith and to the healing and reconciling message of our Lord Jesus Christ related in the Gospels.

In the Hebrew Scriptures, it is told that humans are created in the image of God. This forms the core of our opposition: because every human person is created in God's image, each possesses a dignity which cannot be denied. This is true of capital offenders, even though they have committed the most violent of crimes.

While many cite the Hebrew scriptures to support capital punishment, it can be said that the use of capital punishment was applied reluctantly and balanced with dignity and mercy. Even the scripture, "eye for eye, tooth for tooth" (Leviticus 24: 19-20), was not intended to set exact punishment. Rather it provided for the maximum permissible punishment as a means to ensure that penalties were not excessive.

Jesus, however, rejected the desire for retribution and called his followers to live by an even greater standard. "Love your enemies, do good to those who hate you... Do not judge, and you will be forgiven" (Luke 6: 27, 37). In light of the teachings and acts of Jesus, who was himself unjustly executed, we believe we are called to seek a justice which is based in love, not on revenge.

Thus, in light of our faith, we seek a justice which honors the sacredness of all life. We call for a justice which prevents violent offenders from injuring others and, at the same time, recognizes the capacity of individuals to repent and reform. We aspire to a justice which stops violence and is healing.

There are sound social arguments against capital punishment as well. These, too, enter into our position. In these, we stand with many others who oppose capital punishment on the basis of human rights and principles of justice.

The act of taking a life as retribution for homicide actually feeds the cycle of violence, decreasing our respect for human life and making our communities more, not less, dangerous. In this larger picture, capital punishment has not proven to be effective as a deterrent. Statistics would indicate, in fact, that homicide rates are higher in states with the death penalty than they are in states where it is not allowed.¹

The death penalty can sometimes be mistakenly applied. Because execution is irrevocable, there are no safeguards to

guarantee against innocent people being killed. Since the death penalty was reinstated in the United States in 1976, more than 110 condemned prisoners have been released from death row.ⁱ They were wrongfully convicted and sentenced to die for crimes they did not commit. Legal recourse in capital cases has not always proven to be an adequate safeguard for those who are innocent. At least twenty-three people executed since 1900 were later found to have been innocent.ⁱⁱ

The application of the death penalty is arbitrary and economically and racially biased. In 1996, the American Bar Association called for a suspension of the death penalty, because it was used disproportionately against the poor, against people of color and against those who were provided with inadequate or incompetent legal representation.

Executions, too, are far more expensive to carry out than life imprisonment. The costs associated with trying a capital case, maintaining a death row and performing executions are estimated to be two to six times higher than the cost of imprisoning an offender for life.^{iv}

We support every effort to enforce prompt and effective punishment, when applied impartially and through due process of law, to perpetrators of violent crimes. We support efforts to strengthen victims' rights to restitution and community restoration. We decry a culture that glorifies violence as entertainment; that casually presents murder and mayhem to even our youngest children without a thought or qualm of conscience.

The death penalty is not morally justified in our current criminal justice system. There are other means to protect citizens from the most dangerous criminals, and to ensure public safety. The public holds justifiable and genuine concern that convicted murderers may be back on the streets in just a few years. Yet it is now

possible to sentence convicted murderers to life without the possibility of parole. In public surveys, when this is offered as an option, support for the death penalty drops significantly. As a result, we are confident the public increasingly supports the abolition of capital punishment.

ⁱ, ⁱⁱ, ^{iv}, All statistical information taken from the Death Penalty Information Center. www.deathpenaltyinfo.org. Accessed on 10/10/03.

ⁱⁱⁱ Radelet, Michael L., Hugo Adam Bedau, and Constance E. Putnam. *In Spite of Innocence*. Pp. 272-273. Northeastern University Press: Boston. 1992.

Print

Wednesday, March 9, 2011 3:37 PM

Governor Pat Quinn's Statement on Abolishing Death Penalty (FULL-TEXT)

Today I have signed Senate Bill 3539, which abolishes the death penalty in Illinois.

For me, this was a difficult decision, quite literally the choice between life and death. This was not a decision to be made lightly, or a decision that I came to without deep personal reflection.

Since the General Assembly passed this bill, I have met or heard from a wide variety of people on both sides of the issue. I have talked with prosecutors, judges, elected officials, religious leaders from around the world, families of murder victims, people on death row who were exonerated and ordinary citizens who have taken the time to share their thoughts with me. Their experiences, words and opinions have made a tremendous impact on my thinking, and I thank everyone who reached out on this matter.

After their guidance, as well as much thought and reflection, I have concluded that our system of imposing the death penalty is inherently flawed. The evidence presented to me by former prosecutors and judges with decades of experience in the criminal justice system has convinced me that it is impossible to devise a system that is consistent, that is free of discrimination on the basis of race, geography or economic circumstance, and that always gets it right.

As a state, we cannot tolerate the executions of innocent people because such actions strike at the very legitimacy of a government. Since 1977, Illinois has seen 20 people exonerated from death row. Seven of those were exonerated since the moratorium was imposed in 2000. That is a record that should trouble us all. To say that this is unacceptable does not even begin to express the profound regret and shame we, as a society, must bear for these failures of justice.

Since our experience has shown that there is no way to design a perfect death penalty system, free from the numerous flaws that can lead to wrongful convictions or discriminatory treatment, I have concluded that the proper course of action is to abolish it. With our broken system, we cannot ensure justice is achieved in every case. For the same reason, I have also decided to commute the sentences of those currently on death row to natural life imprisonment, without the possibility of parole or release.

I have found no credible evidence that the death penalty has a deterrent effect on the crime of murder and that the enormous sums expended by the state in maintaining a death penalty system would be better spent on preventing crime and assisting victims' families in overcoming their pain and grief.

To those who say that we must maintain a death penalty for the sake of the victims' families, I say that it is impossible not to feel the pain of loss that all these families share or to understand the desire for retribution that many may hold. But, as I heard from family members who lost loved ones to murder, maintaining a flawed death penalty system will not bring back their loved ones, will not help them to heal and will not bring closure to their pain. Nothing can do that. We must instead devote our resources toward the prevention of crime and the needs of victims' families, rather than spending more money to preserve a flawed system.

The late Cardinal Joseph Bernadin observed, "[i]n a complex, sophisticated democracy like ours, means other than the death penalty are available and can be used to protect society." In our current criminal justice system, we can impose extremely harsh punishments when warranted. Judges can impose sentences of life imprisonment without the possibility of parole. Where necessary and appropriate, the state can incarcerate convicted criminals in maximum security prisons. These means should be sufficient to satisfy our need for retribution, justice and protection.

As Governor, I took an oath to uphold our state's Constitution and faithfully execute our laws. Honoring that oath often requires making difficult decisions, but I have found none to be as difficult as the one I made today. I recognize that some may strongly disagree with this decision, but I firmly believe that we are taking an important step forward in our history as Illinois joins the 15 other states and many nations of the world that have abolished the death penalty.



Retire Ohio's death penalty: Paul E. Pfeifer

Published: Wednesday, January 26, 2011, 4:00 AM



By Plain Dealer guest columnist

By Paul E. Pfeifer

Are we, the people of Ohio, well served by our continuing use of the death penalty?

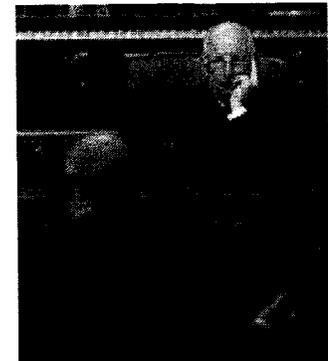
Before we try to answer that, let's take a quick look back at capital punishment in Ohio. In 1972, the **U.S. Supreme Court declared Ohio's death penalty statute unconstitutional**. In 1974, our state legislature revised Ohio's death penalty law, but the Supreme Court rejected that one as well. Then, in 1981, a **new death penalty statute** was enacted, and this one passed constitutional review. **We didn't resume executions in Ohio until 1999**. Since then, 41 condemned murderers have been put to death; there are **157 more awaiting execution on death row**.

There are very few people in this state more closely associated with the death penalty than am I. As a state senator in 1981, I helped draft our current law. Now, for the past 18 years, I have served as a justice on the Ohio Supreme Court, where we render the final judgment on death penalty appeals.

I helped craft the law, and I have helped enforce it. From my rather unique perspective, **I have come to the conclusion that we are not well served by our ongoing attachment to capital punishment**.

Why the change? In short, because the death penalty law is not being applied as we originally intended.

The statute that we wrote in 1981 was designed to pass constitutional review by the U.S. Supreme Court. That meant that it had to provide safeguards and extensive due process for accused murderers. We set out to enact a law that would give prosecutors the capability to seek capital punishment for the absolute worst offenders.



AP File
Photo/Will
Shilling

Ohio Supreme Court Senior Justice Paul E. Pfeifer, right, listens to arguments in a case before the state high court in 2005. Pfeifer, who helped write the state's death penalty law three decades ago, is calling for an end to capital punishment in Ohio.

Murder is a vile crime. But not all murders are the same, and we did not mean for all -- or even most -- murderers to be eligible for the death penalty. The law was meant to be employed only when a certain set of aggravating circumstances warranted execution. But over the years, the death penalty has come to be applied more pervasively than we ever intended.

We also wanted a review process implemented in which the Ohio Supreme Court, in addition to considering death penalty appeals, would monitor death sentences across the state to verify that they were being evenly and fairly applied. Simply put, that hasn't happened.

Thirty years ago, the public's support for the death penalty stemmed largely from decades of sentences that seemed too lenient for murderers. The fact that a convicted killer could be eligible for parole after serving only a fraction of his life sentence did not sit well, and rightly so.

But in 2005, the Ohio legislature corrected that by passing a law that allowed prosecutors to seek a penalty of life without the possibility of parole rather than a death sentence. Since that law passed, we have seen the number of death sentences drop precipitously. Prosecutors and jurors have told us -- by their actions -- that life without the possibility of parole is a more desirable outcome to a murder trial than a death sentence.

Part of the reason for that, I believe, is that even supporters of capital punishment feel uneasy about sitting on a jury that votes to take a human life. As George Orwell once said, "Most people approve of capital punishment, but most people wouldn't do the hangman's job."

Make no mistake -- I am not arguing for leniency or sympathy. There are no good citizens on death row. These are people who have committed heinous crimes. When a villain murders, he not only ends one life, he irrevocably damages dozens of others. Murder has a ripple effect that consumes all those who loved the victim.

But life without parole now offers us a viable alternative to the death penalty, and it's an option that can satisfy our desire to punish killers for their crimes. There are, however, dozens of inmates on death row who were convicted before that option was available. How many of them would have been sentenced to death if the life-without-parole option had been available at the time? No one knows. All we know is that there are many people who will be put to death because they were convicted at the wrong time.

So, I ask: Do we want our state government -- and thus, by extension, all of us -- to be in the business of taking lives in what amounts to a death lottery? I can't imagine that's something about which most of us feel comfortable. And, thus, I believe the time has come to abolish the death penalty in Ohio.

Pfeifer, of Bucyrus, is senior justice of the Ohio Supreme Court.

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The New York Times

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February 25, 2009

Citing Cost, States Consider End to Death Penalty

By IAN URBINA

ANNAPOLIS, Md. — When Gov. Martin O'Malley appeared before the Maryland Senate last week, he made an unconventional argument that is becoming increasingly popular in cash-strapped states: abolish the death penalty to cut costs.

Mr. O'Malley, a Democrat and a Roman Catholic who has cited religious opposition to the death penalty in the past, is now arguing that capital cases cost three times as much as homicide cases where the death penalty is not sought. "And we can't afford that," he said, "when there are better and cheaper ways to reduce crime."

Lawmakers in Colorado, Kansas, Nebraska and New Hampshire have made the same argument in recent months as they push bills seeking to repeal the death penalty, and experts say such bills have a good chance of passing in Maryland, Montana and New Mexico.

Death penalty opponents say they still face an uphill battle, but they are pleased to have allies raising the economic argument.

Efforts to repeal the death penalty are part of a broader trend in which states are trying to cut the costs of being tough on crime. Virginia and at least four other states, for example, are considering releasing nonviolent offenders early to reduce costs.

The economic realities have forced even longtime supporters of the death penalty, like Gov. Bill Richardson of New Mexico, to rethink their positions.

Mr. Richardson, a Democrat, has said he may sign a bill repealing capital punishment that passed the House last week and is pending in a Senate committee. He cited growing concerns about miscarriages of justice, but he added that cost was a factor in his shifting views and was "a valid reason in this era of austerity and tight budgets."

Capital cases are expensive because the trials tend to take longer, they typically require more lawyers and more costly expert witnesses, and they are far more likely to lead to multiple appeals.

In New Mexico, lawmakers who support the repeal bill have pointed out that despite the added expense, most defendants end up with life sentences anyway.

That has been true in Maryland. A 2008 study by the Urban Institute, a nonpartisan public policy group, found that in the 20 years after the state reinstated the death penalty in 1978, prosecutors sought the death penalty in 162 felony-homicide convictions, securing it in 56 cases, most of which were overturned; the rest of the convictions led to prison sentences.

Since 1978, five people have been executed in Maryland, and five inmates are on death row.

Opponents of repealing capital punishment say such measures are short-sighted and will result in more crime and greater costs to states down the road. At a time when police departments are being scaled down to save money, the role of the death penalty in deterring certain crimes is more important than ever, they say.

"How do you put a price tag on crimes that don't happen because threat of the death penalty deters them?" said Scott Shellenberger, the state's attorney for Baltimore County, Md., who opposes the repeal bill.

Kent Scheidegger, legal director of the Criminal Justice Legal Foundation, an organization in Sacramento that works on behalf of crime victims, called the anticipated savings a mirage. He added that with the death penalty, prosecutors can more easily offer life sentences in a plea bargain and thus avoid trial costs.

But Eric M. Freedman, a death penalty expert at Hofstra Law School, said studies had shown that plea bargaining rates were roughly the same in states that had the death penalty as in states that did not.

"It makes perfect sense that states are trying to spend their criminal justice budgets better," he said, "and that the first place they look to do a cost-benefit analysis is the death penalty."

States are looking elsewhere as well.

Last year, in an effort to cut costs, probation and parole agencies in Arizona, Kentucky, Mississippi, New Jersey and Vermont reduced or dropped prison time for thousands of offenders who violated conditions of their release. In some states, probation and parole violators account for up to two-thirds of prison admissions each year; typical violations are failing drug tests or missing meetings with parole officers.

As prison crowding has become acute, lawsuits have followed in states like California, and politicians find themselves having to choose among politically unattractive options: spend

scarce tax dollars on expanding prisons, loosen laws to stem the flow of incarcerations, or release some nonviolent offenders.

The costs of death penalty cases can be extraordinarily high.

The Urban Institute study of Maryland concluded that because of appeals, it cost as much as \$1.9 million more for a state prosecutor to put someone on death row than it did to put a person in prison. A case that resulted in a death sentence cost \$3 million, the study found, compared with less than \$1.1 million for a case in which the death penalty was not sought.

In Kansas, State Senator Carolyn McGinn introduced a bill this month that would abolish the death penalty in cases sentenced after July 1. "We are in such a dire deficit situation, and we need to look at things outside the box to solve our budget problems," said Mrs. McGinn, a Republican. Kansas is facing a budget shortfall of \$199 million, and Mrs. McGinn said that opting for life imprisonment without parole rather than the death penalty could save the state over \$500,000 per capital case.

But skeptics contend that prosecutors will still be on salary and will still spend the same amount, just on different cases. In Colorado, lawmakers plan to consider a bill this week that would abolish the death penalty and use the savings to create a cold-case unit to investigate the state's roughly 1,400 unsolved murders. While the police must continue investigating these cases, there is no money in the budget for that. A group of families who lost relatives in unsolved murders has lobbied lawmakers on the bill.

In Virginia, competing sentiments are evident in the legislature.

While lawmakers have proposed allowing prison officials to release low-risk offenders up to 90 days before the end of their sentences, citing a potential saving of \$50 million, they are also considering expanding who is eligible for capital punishment to people who assist in killings but do not commit them and to people convicted of murdering fire marshals or auxiliary police officers who are on duty.

It is considered unlikely, however, that Gov. Tim Kaine, a Democrat who opposes capital punishment, would sign such a bill.

In 2007, New Jersey became the first state in a generation to abolish the death penalty.

That same year, a vote in Maryland to abolish the death penalty came up one vote short of passing. In December, however, a state commission on capital punishment recommended that Maryland abolish the death penalty because of the high cost and the danger of executing an innocent person.

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 MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, VITAL RECORDS AND HEALTH STATISTICS BUREAU.

FORM V.S. 3 (1988 revision)

MONTANA
 CERTIFICATE OF DEATH

Local File Number		State File Number			
DECEDENT'S NAME (First)		(Middle)	(Last)		SEX
1. Terry		Allen	Langford		2. Male
DATE OF DEATH (Month, Day, Year)		3. Feb. 24, 1998			
RACE - American Indian, Black, White, etc. (Specify)		AGE - Last Birthday (Years)	UNDER 1 YEAR	UNDER 1 DAY	DATE OF BIRTH (Month, Day, Year)
4. White		5a. 31	5b. Months	5c. Days	6. May 18, 1966
7b. PLACE OF DEATH (Check only one)		7a. Powell			
HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ERI/Outpatient <input type="checkbox"/> DOA		OTHER: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input checked="" type="checkbox"/> Other (Specify)			
FACILITY NAME (If not institution, give street and number)		CITY, TOWN, OR LOCATION OF DEATH			
Montana State Prison Maximum Security		Execution Chamber Deer Lodge, Mt			
BIRTHPLACE (City and State or Foreign Country)		MARITAL STATUS		SURVIVING SPOUSE (If wife, give maiden surname)	
8. Lebanon, Ky.		9. <input checked="" type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced		10. -----	
SOCIAL SECURITY NUMBER		DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.)		KIND OF BUSINESS/INDUSTRY	
11. 406-08-9723		12a. General labor		12b. General labor	
RESIDENCE - STATE		COUNTY	CITY, TOWN, OR LOCATION		STREET NUMBER
14a. Montana		14b. Powell	14c. Deer Lodge		14d. 700 Conley Lake Rd.
INSIDE CITY LIMITS? (Yes or no)		ZIP CODE	ANCESTRY - Mexican, Puerto Rican, Cuban, Alicant, English, Irish-German, Hmong, etc. (Specify)		16. DECEDENT'S EDUCATION (Specify only highest grade completed)
14e. No		14f. 59722	15. American		Elementary/Secondary (0-12) 12 College (14 or 5+)
FATHER'S NAME (First, Middle, Last)			MOTHER'S NAME (First, Middle, Maiden Surname)		
17. Charles Langford			18. Donna - -		
INFORMANT'S NAME (Type/Print)			MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)		
19a. Montana State Prison Records			19b. 400 Conley Lake Rd. Deer Lodge, Mt.		
METHOD OF DISPOSITION			PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)		LOCATION - City or Town, State
<input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Removal from State			20b. Crematory		20c. Missoula, Montana
SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER PERSON IN CHARGE OF DISPOSITION			MONTANA LICENSE NUMBER (of Licensee)		NAME AND ADDRESS OF FACILITY
21a. <i>John M. Pohle</i>			21b. 375		22. Missouri Deer Lodge, Mt 59722
23. PART I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. (See Instructions on other side)					Approximate Interval Between Onset and Death
IMMEDIATE CAUSE (Final disease or condition resulting in death)					
a. Mixed Drug and Electrolyte Toxicity					
DUPLICATE TO (OR AS A CONSEQUENCE OF): 1. Sodium Pentothal					
2. Pavulon					
Sequentially list conditions if any, leading to immediate cause. Enter Underlying Cause (Disease or injury that initiated events resulting in death) Last.					
b. DUPLICATE TO (OR AS A CONSEQUENCE OF): 3. Potassium Chloride					
c. Judicial Execution					
DUPLICATE TO (OR AS A CONSEQUENCE OF):					
PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.					24b. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? (Yes or no)
24a. No					25. Yes
26. MANNER OF DEATH		DATE OF INJURY (Month, Day, Year)	TIME OF INJURY	INJURY AT WORK? (Yes or no)	DESCRIBE HOW INJURY OCCURRED
<input type="checkbox"/> Natural <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Accident <input type="checkbox"/> Could not be Determined <input checked="" type="checkbox"/> Suicide <input checked="" type="checkbox"/> Homicide		27a. 2/24/1998	12:07 AM	27c. No	27d. Judicial Execution
PLACE OF INJURY - At home, farm, street, factory, office, building, etc. (Specify)		LOCATION (Street and Number or Rural Route Number, City or Town, State)			
27e. Montana State Prison		27f. 700 Conley Lake Road Deer Lodge, Montana 59722			
28a. TO BE COMPLETED BY CERTIFYING PHYSICIAN ONLY. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated.			29a. TO BE COMPLETED BY CORONER ONLY. On the basis of examination and/or investigation in my opinion death occurred at the time, date and place and due to the cause(s) stated.		
(Signature and Title)			(Signature and Title)		
DATE SIGNED (Month, Day, Year)			DATE SIGNED (Month, Day, Year)		
28b. Feb. 24, 1998			29b. Feb. 24, 1998		
NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)			DATE PRONOUNCED DEAD (Month, Day, Year)		
28d.			29d. Feb. 24, 1998		
NAME AND ADDRESS OF CERTIFIER (PHYSICIAN OR CORONER) (Type or Print)			PRONOUNCED DEAD (Hour)		
30. John M. Pohle, Coroner, 601 Missouri Ave. Deer Lodge, Mt. 59722			29e. 12:07A		
LOCAL REGISTRAR'S SIGNATURE			DATE FILED (Month, Day, Year)		
31a.					

DECEDENT

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INFORMANT

DISPOSITION

CAUSE OF DEATH

CERTIFIER

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Montana's Death Penalty: Wasteful and Expensive

Many people are surprised to learn that the death penalty's complexity and finality make it much more expensive than life without parole. **Capital punishment is a bloated government program that has clogged our courts, delayed justice for victims' families, and devoured millions of crime-fighting dollars.**

How much *does* the death penalty cost?

- ◆ The most rigorous cost study in the country found that a single death sentence in Maryland costs almost \$2 million more than a comparable non-death penalty case. Maryland spent \$186 million extra to carry out just five executions.¹
- ◆ More than a dozen states have found that the death penalty is up to 10 times more expensive than sentences of life or life without parole.²
- ◆ The death penalty costs more than just dollars. In the time it takes to pursue one capital case, scores of non-capital cases could be solved and prosecuted. Instead, many crimes go unsolved or unprosecuted, and those responsible are free to commit more serious crimes.
- ◆ Montana has never conducted a comprehensive study of what the death penalty in totality has cost our state.
- ◆ In most cases where the death penalty is sought, it is never imposed. And when it is imposed, it is rarely carried out. When it is carried out, 10 or even 20 years have already passed. Almost half of Montana's death sentences have ended with a life sentence after taxpayers have already paid much more for death penalty proceedings. A death penalty that is so rarely used is simply another name for life without parole, at an exponentially greater cost.

**"I saw how Pondera County
was almost bankrupt
because of the cost of the
death penalty"**

- Betsy Griffing
Former Montana Assistant Attorney General

Why does it cost so much?

- ◆ The death penalty process is more complicated because a life is on the line. Capital cases involve more lawyers, more witnesses, more experts, a longer jury selection process, more pre-trial motions, an entirely separate trial to determine the sentence, and countless other expenses – racking up exorbitant costs even before a single appeal is filed.
- ◆ The majority of the death penalty's costs never appear as line items in any budget. They are simply hours spent by judges, clerks, prosecutors, and other law enforcement agencies – time that could be spent investigating, prosecuting, and sentencing other cases.
- ◆ Most death penalty trials have significant flaws and must be re-tried, sometimes more than once. This only adds to the high cost of the death penalty.

INDEPENDENT RECORD

MONDAY | FEBRUARY 2, 2009

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Your Turn

Montana can't afford the death penalty

By JIM OPPEDAHL

The economic crisis across our country is forcing states to look carefully at every public expenditure as they struggle to balance their budgets. Montana's proposed budget for the next two years has already seen huge reductions. Some of these reductions will be very painful. Others may be long overdue.

I was the state court administrator in Montana for a decade. I know how resource-starved our justice system really is. During my tenure, I saw a court system that was underfunded, understaffed and had more work to do than was humanly possible.

Yet for all the resource-strain on our courts, there is one program that Montana has never really examined from a financial perspective — the death penalty.

There is a widely held myth that the death penalty is cheaper than life without parole. The reality, however, is just the opposite. More than a dozen states have studied the cost of their death penalty systems, and every one of those states has found the same thing — that the death penalty is far more expensive than a system of life without parole.

The difference ranges from the hundreds of thousands to the tens of millions. The most recent study, in Maryland, found that every death sentence costs \$1.9 million more than a comparable non-death penalty case — even when you factor in the cost of long prison terms.

Montana's system is likely no different. Like other states, Montana's death penalty cases are far more complicated than any other kind of case. They involve double the number

of attorneys, more pretrial motions, expensive experts, a longer jury selection process, and far more preparation and time spent in court than other cases. And these costs are only for the trial portion of a death case. Once a death sentence is handed down, the appeals begin and can last for decades.

For all this extra expense, Montana has no system to accurately track how much it spends at the local or state level on the death penalty. If the death penalty actually saved money, one might imagine that the records would be meticulous. The reality is that the death penalty pumps millions of dollars of very scarce public resources into a handful of executions and then buries those costs in a thicket of legal proceedings that never appear as line items in any budget.

We may not know just how much we are wasting on this system, but we do know what we are getting for it. The answer is very little. Montana has sentenced over 20 people to death since the death penalty was reinstated. Of those, three people have been executed and two remain on death row. The rest have been overturned after many, many years of reversals and retrials.

For those cases where an execution did take place, it took from nine to 20 years before the actual execution was carried out. And both men on death row in Montana today have been there for over 15 years.

When I think back to my work as a court administrator, charged with making the courts run on far too few

resources, I find these numbers both staggering and offensive.

At first glance, one might wonder why we don't just shorten and cheapen the process. But the death penalty is irreversible, and cutting corners would mean making mistakes that could risk executing an innocent person. Montana has already made such mistakes in non-death penalty cases, and the next mistake could be deadly. So the high cost of the death penalty is something we will be saddled with for as long as we choose to have a death penalty.

As we all struggle with a faltering economic system and the 2009 Legislature tries to balance the state's budget for the next two years, it may be a good time to consider the enormous costs of the death penalty. Can Montana really afford to spend millions of dollars to carry out an execution? Do we really want to squander millions of dollars defending death sentences that ultimately end up as life without parole sentences anyway? Is this really how we want to spend scarce tax dollars in a process that clogs our courts and bogs down the precious time of our law enforcement agencies?

The answer to these questions is a resounding no. There is simply no place for such an enormously expensive government program that accomplishes nothing. And on that criterion alone, the death penalty ought to die.

Jim Oppedahl of Helena is a former state court administrator.

"DEATH IS DIFFERENT"

WHY DOES A DEATH PENALTY CASE TAKE SO MUCH TIME AND COST SO MUCH MORE?

	CAPITAL CASE	NON-CAPITAL MURDER CASE
PERSONNEL	<ul style="list-style-type: none"> ◆ Two defense attorneys, at least one of whom is "death-qualified" <i>Standards for Appointment of Counsel for Indigent Defendants in Death Penalty Cases (Montana Supreme Court, 1999)</i> ◆ Mitigation expert 	<ul style="list-style-type: none"> ◆ One attorney, possibly two ◆ Mitigation expert unnecessary
PRE-TRIAL	Pre-trial investigation is very complicated and time-consuming for both prosecution and defense.	Pre-trial investigation is less complicated and time-consuming.
TRIAL	<ul style="list-style-type: none"> ◆ Trial is highly likely ◆ If convicted, potentially a second phase of trial will commence to find aggravating circumstances ◆ A lengthy and detailed evidentiary hearing on facts that would reduce the sentence from death 	<ul style="list-style-type: none"> ◆ Less likely because of potential for plea bargain over sentence ◆ No aggravation phase ◆ Mitigation hearing, occasionally, and is less complex.
APPEALS	<ul style="list-style-type: none"> ◆ Appeal of the sentence is automatic. Montana Code Annotated § 46-18-307 (2007) ◆ Appellate counsel will include every identifiable issue in order to preserve them for future review <i>In State v. Dawson, for example, appellate counsel argued that the jury should have decided whether the state proved aggravating circumstances, even though the U.S. Supreme Court precedent held otherwise. Fifteen years later, the U.S. Supreme Court reversed its holding.</i> ◆ Appellate counsel will always petition the U.S. Supreme Court to review the Montana Supreme Court's decision 	<ul style="list-style-type: none"> ◆ No automatic review. ◆ Only the most meritorious (2-3) issues will be raised ◆ U.S. Supreme Court review sought rarely
SENTENCE REVIEW	Sentence Review will be pursued in all capital cases.	Sentence Review only where there is no risk of an increased sentence.
POST-CONVICTION	<p>Post Conviction relief will be pursued in all capital cases. Therefore:</p> <ul style="list-style-type: none"> ◆ Trial court hearing on post-conviction issues ◆ Appeal to the Montana Supreme Court will raise all identifiable issues ◆ Counsel will petition the U.S. Supreme Court to review the Montana Supreme Court's decision 	Post-conviction relief is rare and will address only the most meritorious issues.
HABEAS	<p>Federal habeas review will be pursued in all cases.</p> <ul style="list-style-type: none"> ◆ District Court hearing on all federal issues ◆ Appeal to the United States Court of Appeals ◆ Petition to the United States Supreme Court 	Federal habeas review is rare.
CLEMENCY	Clemency petition via the Montana Board of Pardons and Parole.	Clemency petition is rare.



Brian Schweitzer
Governor

OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

Chief Public Defender
Randi Hood

MEMORANDUM

TO: Senator Wanzenried

FROM: Harry Freebourn

CC: Randi Hood, Chief Public Defender
Fritz Gillespie, Chair, Montana Public Defender Commission

DATE: February 6, 2011

RE: Agency Cost Information – Death Penalty vs. Non-Death Penalty

This memorandum provides expenditure information for all death penalty cases handled by the agency and provides a comparison of similar cases, with and without the possibility of the death penalty.

1. Expenditures: Since the agency's inception on July 1, 2006 through December 31, 2010, we have expended \$356,876 on five separate cases where the death penalty was a possibility at some point in time. In some instances a case began as a "death penalty case" and the agency made expenditures for experts and other defense related items, but the case was changed to a "non-death penalty case" later in the judicial process. Also, the agency inherited some cases that were ongoing before inception and therefore the cost noted above includes only our agency's costs for defense and excludes costs that were paid by other governmental entities.
2. To compare similar homicide cases: The combined cost for the Miller/Lebrum cases that were originally death penalty cases (later in the process the death penalty was removed as an option) was about \$153,000 vs. the combined cost for the Kirkbride/Rickman cases that were never death penalty cases (and ultimately resulted in a plea bargain) of about \$2,500.
3. The Tyler Michael Miller case which is currently listed as a death penalty case has cost about \$20,500 to date. This case is new and has only been in existence for a little over one month. If the case were a non-death penalty case the cost would be about \$12,500 to date.

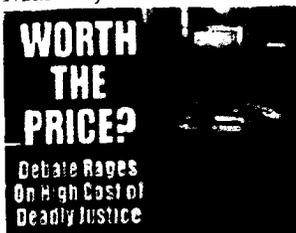
Senator, I hope this information is useful and if you need anything further please call me at 406-496-6084 or email me at hfreebourn@mt.gov.



TOP STORIES

FOXNews.com - Just or Not, Cost of Death Penalty Is a Killer for State Budgets

Mar 27, 2010 11:58 AM EDT



Every time a killer is sentenced to die, a school closes.

That is the broad assessment of a growing number of studies taking a cold, hard look at how much the death penalty costs in the 35 states that still have it.

Forget justice, morality, the possibility of killing an innocent man or any of the traditional arguments that have been part of the public debate over the death penalty. The new one is this:

The cost of killing killers is killing us.

"There have been studies of costs of the death penalty before, but we have never seen the same reaction that we are seeing now," says Richard C. Dieter of the non-partisan Death Penalty Information Center. "Perhaps it is because governments are looking for ways to cut costs, and this is easier than school closings or layoffs, but it sure has hit a nerve."

In the last year, four states Kansas, Colorado, Montana and Connecticut have wrestled with the emotional and politically charged issue. In each state there was a major shift toward rejection of the death penalty and narrow defeats for legislation that would have abolished it. In Connecticut, both houses actually voted in favor of a bill that would have banned executions, but the governor vetoed it.

Unlike past debates over executions, the current battles are fueled largely by the costs the death penalty imposes on states. The numbers, according to the studies, are staggering.

Overall, according to Dieter, the studies have uniformly and conservatively shown that a death-penalty trial costs \$1 million more than one in which prosecutors seek life without parole. That expense is being reexamined in the current budget crisis, with some state legislators advocating a moratorium on death-penalty trials until the economy improves.

An Urban Institute study of Maryland's experience with the death penalty found that a single death-penalty trial cost \$1.9 million more than a non-death-penalty trial. Since 1978, the cost to taxpayers for the five executions the state carried out was \$37.2 million dollars each.

Since 1983, taxpayers in New Jersey have paid \$253 million more for death penalty trials than they would have paid for trials not seeking execution but the Garden State has yet to execute a single convict. Of the 197 capital cases tried in New Jersey, there have been 60 death sentences,

the report said, and 50 of the those convictions were overturned. There currently are 10 men on the state's death row.

A recent Duke University study of North Carolina's death penalty costs found that the state could save \$11 million a year by substituting life in prison for the death penalty. An earlier Duke study found that the state spent \$2.1 million more on a death penalty case than on one seeking a life sentence.

The Tennessee Comptroller of the Currency recently estimated that death penalty trials cost an average of 48 percent more than trials in which prosecutors sought life sentences.

It was much the same story in Kansas. A state-sponsored study found that death penalty cases cost 70 percent more than murder trials that didn't seek the death penalty.

A Florida study found the state could cut its costs by \$51 million simply by eliminating the death penalty.

But no state matches the dilemma of California, where almost 700 inmates are sitting on death row and, according to Natasha Minsker, author of a new report by the Northern California chapter of the American Civil Liberties Union, few will ever actually be put to death. In fact, she says, the odds against being executed are so great, murder suspects in California actually seek the death penalty because it is the only way to get a single room in the state's prison system.

"Only 1 percent of people sentenced to death in California in the last 30 years have been executed," Minsker said. "The death penalty in California is purely a symbolic sentence."

Her study found that the cash-strapped state could immediately save \$1 billion by eliminating the death penalty and imposing sentences of life without parole. The alternative, if the cash-strapped state keeps the death penalty: spend \$400 million to build a new death-row prison to house the growing number of prisoners.

Minsker said just keeping prisoners on death row costs \$90,000 more per prisoner per year than regular confinement, because the inmates are housed in single rooms and the prisons are staffed with extra guards. That money alone would cut \$63 million from the state budget. But other savings would ripple through every step of the criminal justice system as well, from court costs to subsidized spending for defense attorney and investigation expenses.

Will the economic slump and every state's need to cut budgets have an impact? Death penalty opponents say the recession has given their effort a new, non-political reason for abolition that resonates on both sides of the debate. But Professor Paul Cassell, the Ronald N. Boyce Presidential Professor of Criminal Law at the University of Utah and a death penalty expert, says that major changes are not likely to occur soon.

"You can make the argument that it is cheaper not to have the death penalty" he said, but that is not what the death penalty is about.

The death penalty "provides a sense of justice to the system, is a just punishment for murder and has a deterrent effect on crime," he said. "Besides, the amount of money saved is not that big compared to what the entire justice system spends."

"Moreover," he said, "polls show that 70 to 80 percent of people support the death penalty. And that isn't going to change."


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What killed Illinois' death penalty

It wasn't the question of morality but the question of accuracy that led state to abolish capital punishment

March 09, 2011 | By Steve Mills, Tribune reporter



Chicago Tribune

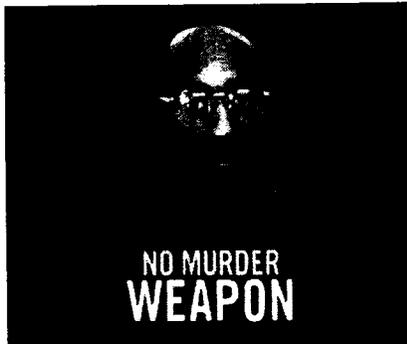
If there was one moment when Illinois' death penalty began to die, it was on Feb. 5, 1999, when a man named Anthony Porter walked out of jail a free man.

Sitting in the governor's mansion, George Ryan watched Porter's release on television and wondered how a man could come within 50 hours of being executed, only to be set free by the efforts of a journalism professor, his students and a private investigator.

"And so I turned to my wife, and I said, how the hell does that happen? How does an innocent man sit on death row for 15 years and gets no relief," Ryan recalled last year. "And that piqued my interest, Anthony Porter."

To be sure, by the time Porter was set free, the foundation of Illinois' death penalty system already had begun to erode by the steady stream of inmates who had death sentences or murder convictions vacated. Rolando Cruz and Alejandro Hernandez in the Jeanine Nicanico case, the men known as the Ford Heights Four, Gary Gauger.

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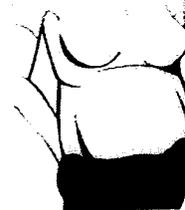


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But for decades, the debate over capital punishment rarely strayed from whether it was right or wrong, a moral argument that was waged mostly by a narrow group of attorneys and abolition supporters that could be easily dismissed. Public opinion polls showed little movement. Death sentences and executions hit record levels.

Inmates like the serial killer John Wayne Gacy, whose guilt was never in question, were put to death and caused little controversy. But when a miscarriage of justice was discovered and a death row inmate was set free, the police and prosecutors contended that it was an isolated incident, an anomaly. They got little argument.

In November 1998, the Center on Wrongful Convictions at Northwestern University hosted 29 exonerated death row inmates at a conference, putting a human face to the death penalty's errors. Then, with Porter's case still in the spotlight, plus a series of stories in the Chicago Tribune later that year that illuminated deep frailties in the state's system of capital punishment, the debate over the death penalty was transformed.

Suddenly, it was about accuracy. No longer were the mistakes anecdotal. The problems were systemic.

Opposition to the death penalty began to win new supporters, people who looked at the issue pragmatically, not just morally, and were dismayed by the mistakes. Politicians no longer saw the issue as a third rail with voters. Ryan, who declared a halt to all executions in 2000, found it did not cost him politically.

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What killed Illinois' death penalty

It wasn't the question of morality but the question of accuracy that led state to abolish capital punishment

March 09, 2011 | By Steve Mills, Tribune reporter

(Page 2 of 4)

A decade after Ryan declared a moratorium, 61 percent of voters questioned in a poll did not even know the state still had a death penalty, reflecting a stalemate of sorts that had emerged between supporters of abolition and those who wanted to bring back capital punishment. No one was being put to death, yet death row again was receiving inmates, though at a slower pace than before the Ryan moratorium.

Had Republican Bill Brady won the November general election instead of Democrat Pat Quinn, the state still would have a death penalty, and the new governor almost certainly would have lifted the moratorium and allowed executions to resume.

Ultimately, supporters of abolition in the General Assembly — frustrated that sufficient reform had not been enacted and stung by the costs of trials and appeals — voted to abolish the death penalty. On Wednesday, Quinn signed abolition into law and commuted the sentences of 15 inmates who had been sentenced to death since the moratorium.

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"That isolated image of Anthony Porter is crucial," said Lawrence Marshall, a former legal director of the Center on Wrongful Convictions and a key player in the abolition of the death penalty. "But it only makes a difference when it comes amidst all of those other incidents. It shows (the problems weren't) isolated. This was a trend."

With Quinn's signature, Illinois became the fourth state to abandon the death penalty over the last decade, and the isolation of the use of capital punishment, mostly in the South, is a national trend, said Richard Dieter, executive director of the Death Penalty Information Center, which opposes capital punishment.

The New Jersey Legislature voted to drop the death penalty in 2007. A New York appeals court ruled the death penalty unconstitutional in 2004. And in 2009, the New Mexico Legislature voted to repeal capital punishment; Gov. Bill Richardson signed the bill into law.

Other states have convened panels to study the death penalty and have considered legislation to end it, prompted by the exonerations of condemned inmates, capital punishment's high cost, particularly in a down economy, and the widening support for life in prison without parole as an alternative sentence, Dieter said.

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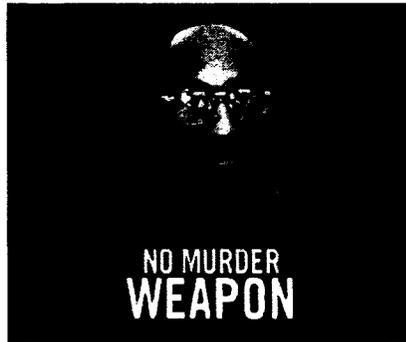
(Page 3 of 4)

"The life-without-parole option is not going away," Dieter said last week. "People have a lot of lingering doubts about the possibility of a person being wrongly convicted. They are willing to convict them, but when it comes to the death sentence, they want to be doubly sure of their guilt, even more than the system requires."

Between Porter's release and Quinn's signing of the abolition bill, the U.S. Supreme Court narrowed the use of the death penalty, saying the mentally disabled and those who commit their crimes as juveniles cannot be executed.

The number of death sentences dropped. The number of executions dropped. Even cases thought to be death penalty slam dunks offered surprises that suggested the death penalty was in decline. James Degorski and Juan Luna, the two men convicted in the murders of seven people in January 1993 at a Brown's Chicken & Pasta restaurant in Palatine, also were spared the ultimate punishment.

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Luna, convicted in 2007, and Degorski, convicted in 2009, were sentenced to life in prison without parole.

Even Andre Crawford, convicted of 11 brutal murders on the South Side that made him one of the area's most prolific serial killers, escaped the death penalty in 2009 when he was given life in prison without parole.

While some observers saw those sentences as signs the death penalty was withering, the truth may have been more complicated. In the Brown's Chicken cases, the two juries voted 11-1 for death. Crawford's jury voted 10-2 for death, said the prosecutor in the case, James McKay, chief of the capital litigation task force for the Cook County state's attorney's office.

That, he said, was evidence jurors still were receptive to the death penalty but were stymied by holdouts.

"It tells me that our jurors overwhelmingly want the death penalty," said McKay, a veteran prosecutor.

What's more, he said, the future without the death penalty may prove more costly than with it.

"These murder trials don't go away just because the death penalty won't be a sentencing option," McKay said. "With the death penalty off the table, there'll be even more trials. There'll be no incentive to plead guilty. I do not believe for one second that taking the death penalty off the table will save the state of Illinois any money whatsoever."

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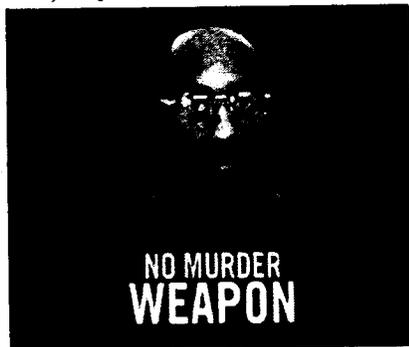
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With no death penalty, Illinois' last execution — its 12th since capital punishment was reinstated in the mid-1970s — will remain that of Andrew Kokoraleis, who was put to death by lethal injection in March 1999, while Ryan was governor, for the mutilation murder of an Elmhurst woman.

And while many people believe Illinois never executed an innocent man, others disagree. The 1995 execution of Girvies Davis for a downstate murder was long controversial and relied heavily on a disputed confession, one the police got when they took him out of jail in the middle of the night and, according to Davis, threatened him.

In fact, Davis confessed to numerous crimes that night and, authorities later acknowledged, many of the confessions were false, with other people later convicted of those crimes. On the other hand, Davis admitted to taking part in other crimes that led to the deaths of innocent people, though he insisted he never killed anybody himself.

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One of Davis' attorneys once wrote in an essay in the Tribune that "nothing short of finding the real murderer would have saved Davis' life." So it is that the execution still haunts the lawyer, David Schwartz. He called the death penalty's end, nearly 16 years after Davis was put to death by lethal injection, "bittersweet."

"It bothers me when I hear people say that the state of Illinois never executed a person for a crime they did not commit," Schwartz said. "Because they did with Girvies Davis."

Tribune reporter Dahleen Glanton contributed

smills@tribune.com



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TELECONFERENCE FOR JOURNALISTS - TUES. NOV. 16 - 10 AM EASTERN:

Information for journalists concerning the Death Penalty Information Center's teleconference: A national poll of Americans' views on the death penalty. Teleconference will be held on Tuesday, November 16, 2010, at 10 AM Eastern Time.

The teleconference will begin with short presentations by representatives of Lake Research Partners, the national firm that conducted the poll, and DPIC's Executive Director. Following these presentations, journalists are welcome to ask questions.

Materials for journalists:

[Complete national poll results with additional breakdowns in death-penalty and non-death-penalty states \(pdf\)](#). ([./documents/topline.DPIC.DPNDP.pdf](#))

[Complete poll results broken down by the four geographical regions of the country \(pdf\)](#). ([./documents/topline.DPIC.4Regions.pdf](#))

[Press Release concerning the poll results](#). ([#Press_Release](#))

[Graphs and charts illustrating key findings from the poll \(may be copied and used in stories referencing the poll\)](#). ([#Graphs](#))

PRESS RELEASE:



Death Penalty Information Center

Embargoed until Tuesday, November 16, 2010 at 9:00 a.m. ET

Contact: Margot Friedman at 202-332-5550 or mfriedman@dupontcirclecommunications.com (<mailto:mfriedman@dupontcirclecommunications.com>)
www.deathpenaltyinfo.org/pollresults (<http://www.deathpenaltyinfo.org/pollresults>)

Poll Shows Growing Support for Alternatives to the Death Penalty; Capital Punishment Ranked Lowest Among Budget Priorities

Unfairness, high costs, victims' needs, and innocence are important to voters' thinking about the death penalty

(Washington, D.C.) The Death Penalty Information Center today released the results of one of the most comprehensive studies ever conducted of Americans' views on the death penalty. A national poll of 1,500 registered voters conducted by Lake Research Partners shows growing support for alternatives to the death penalty compared with previous polls. A clear majority of voters (61%) would choose a punishment other than the death penalty for murder, including life with no possibility of parole and with restitution to the victim's family (39%), life with no possibility of parole (13%), or life with the possibility of parole (9%).

In states with the death penalty, a plurality of voters said it would make no difference in their vote if a representative supported repeal of the death penalty; and a majority (62%) said either it would make no difference (38%) or they would be more likely to vote for such a representative (24%).

"For decades, politicians have equated being tough on crime with support for the death penalty, but this research suggests voters want their elected officials to be smart on crime, use tax dollars wisely, and fund the services they care about the most. Capital punishment is not a high priority for voters and is not the 'third rail' of politics," said Richard Dieter, Executive Director of Death Penalty Information Center.

"We see a real openness to considering life with no possibility for parole as a punishment for murder and a real awareness among Americans of the many problems with the death penalty. It is likely we will see Americans moving away from support for the death penalty as states and local governments grapple with tight budgets and as today's younger voters and Latinos move into the core of the electorate," said pollster Celinda Lake.

Since the start of 2009, many states, such as Maryland, Colorado, Connecticut, Montana, Kansas, and New Mexico considered legislation to repeal the death penalty, and it is expected that trend will continue in 2011.

Additional key findings from the polling research include:

- Costs emerged as an important concern for a strong majority of Americans. Sixty-eight percent said cost was a very or somewhat convincing argument against the death penalty. Voters ranked emergency services, creating jobs, police and crime prevention, schools and libraries, public health care services, and roads and transportation as more important budget priorities than the death penalty.
- A strong majority of respondents (65%) would favor replacing the death penalty with life with no possibility of parole if the money saved were used to fund crime prevention programs.
- Hispanic voters were among those most willing to replace the death penalty with an alternative punishment. They responded most strongly to moral objections to the death penalty rooted in faith, as well as the argument that the death penalty is particularly unfair along racial lines.
- The poll explored the information that the public uses to make up its mind about the death penalty and the problems they see with this punishment.

- Some of the public's top concerns about the death penalty were that it is applied unevenly and unfairly; it subjects victims' families to lengthy trials and years of appeals that interfere with the healing process; and it risks executing the innocent.
- Spending millions of dollars on the death penalty, at a time when states are cutting back on services such as police forces, schools, and public health, and when life in prison would cost less, was also of concern to voters.
- Moral and religious objections to the death penalty were strong among Latino and Catholic voters.

The nationwide poll of 1,500 registered voters was conducted by Lake Research Partners in May, 2010 with a margin of error of +/- 2.5%.

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Death Penalty Information Center is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. DPIC was founded in 1990 and prepares in-depth reports, issues press releases, conducts briefings for the media, and serves as a resource to those working on this issue. DPIC is widely quoted and consulted by all those concerned with the death penalty.

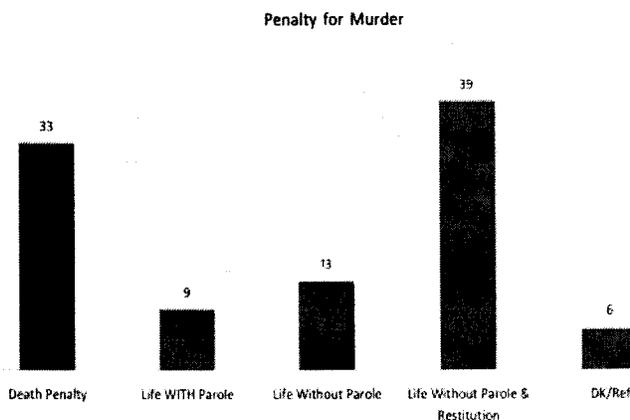
GRAPHS AND CHARTS

A clear majority chooses something other than the death penalty as the punishment for murder. The most popular alternative by far includes restitution.

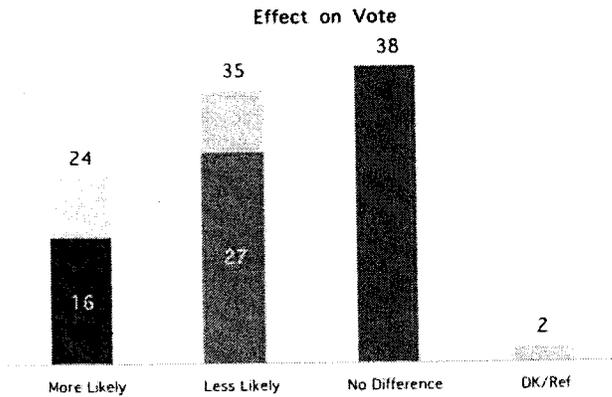
I'm going to read four statements. Listen carefully, then please tell me which of them—number 1, 2, 3, or 4—is closest to your own view:

READ/DO NOT RANDOMIZE:

- 1. The penalty for murder should be the death penalty*
- 2. The penalty for murder should be life in prison with the possibility of parole*
- 3. The penalty for murder should be [life in prison with no possibility of parole]*
- 4. The penalty for murder should be [life in prison with no possibility of parole] and a requirement to work to make restitution for the victim's family*



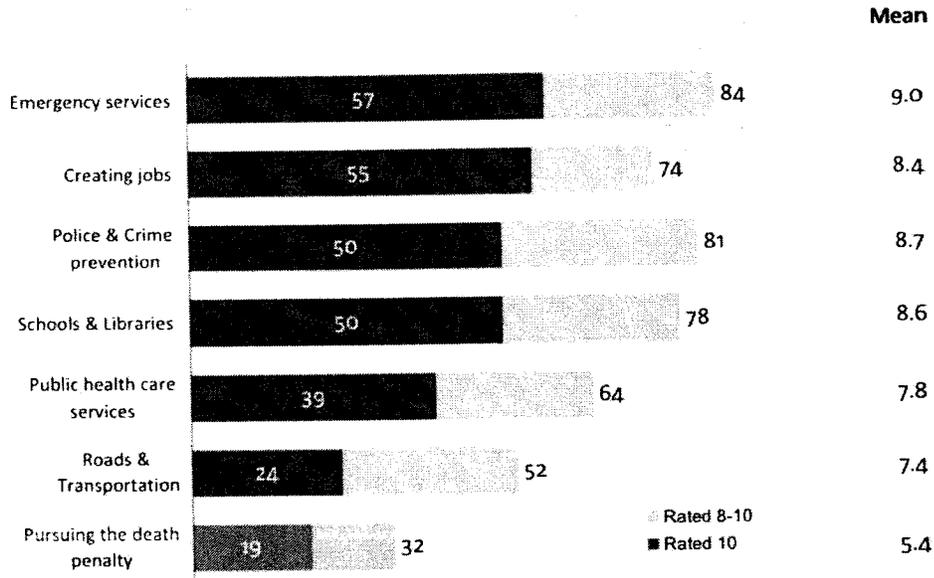
In death penalty states, about one third of voters would be less likely to vote for a representative who voted to repeal the death penalty. However, the vote would make no difference to a plurality.



If your state representative voted to repeal the death penalty in your state, would that make you more or less likely to vote for him or her, or would it not make a difference? [IF MORE/LESS LIKELY ASK:] Is that much more/less likely or somewhat more/less likely?



The death penalty was the lowest tested budget priority.

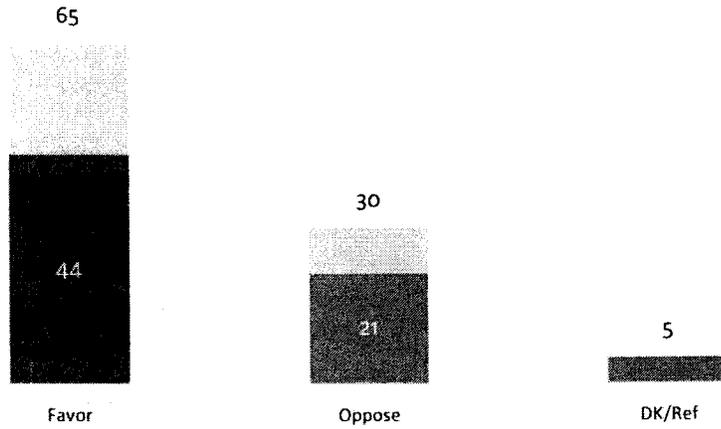


These days, state and local governments often have to make tough budgetary choices. For each one of the following, please rate how high a priority it is for your state or local government on a scale of 0 to 10, where 10 means it is a very high priority, and 0 means it is not a high priority at all. If you are not sure, please say so.



After the facts battery, when voters have heard about some of the cost and effectiveness issues with the death penalty, they favor replacing it with LWOP and using the money for other things. This formulation is potentially powerful, but it will require a large educational effort.

**Replace the Death Penalty
and Use Money for Crime Prevention**



Would you favor or oppose replacing the death penalty with a penalty of life in prison with no possibility of parole if the money saved were used to fund crime prevention measures? [IF FAVOR/OPPOSE ASK:] Is that strongly favor/oppose or somewhat favor/oppose?



The top three statements were "Unfairness," which speaks to disparities in the system; the "Victims' Families" statement that includes restitution; and "Innocence."

Statements	Very Convincing	Total Convincing
<p>Unfairness - Our criminal justice system should treat all people equally, regardless of how much money they make, where they live, or the color of their skin. In reality, the death penalty is applied unevenly and unfairly, even for similar crimes. Some people are sentenced to die because they couldn't afford a better lawyer, or because they live in a county that seeks the death penalty a lot. A system that is so arbitrary should not be allowed to choose who lives and who dies.</p>	37	69
<p>Victims' Families w/Restitution - Many victims' family members say every time there is a court hearing, a conviction, or an appeal, the focus is on the defendant, but the family still has to go through their pain again and again. It's very, very hard for the families. It reopens the wounds each time. When we condemn people to life without parole instead, family members will not be subjected to years of court hearings, and they can turn to the process of healing. If we replaced the death penalty with a sentence of life without parole with labor and restitution, we could use the money to help provide counseling services to victims' families.</p>	33	69
<p>Innocence - The death penalty risks executing the innocent. Many innocent people have been sent to our nation's death rows before new evidence freed them and some innocent people may have been executed. It is unacceptable to execute innocent people, and in a system run by human beings that's inevitable. Executing innocent people is a risk we can completely avoid by using sentences of life with no possibility of parole.</p>	33	71

Now, I'm going to read you some statements people have made in support of replacing the death penalty with a sentence of life in prison with no possibility of parole. Please tell me whether each statement I read is a VERY convincing, SOMEWHAT convincing, NOT TOO convincing, or not AT ALL convincing reason to replace the death penalty with a sentence of life in prison with no possibility of parole. If you are not sure how you feel about a particular item, please say so.

