

Testimony on SB 5339 to Abolish the Death Penalty in WA State Statutes

Tuesday February 5, 2019, 10:00 a.m. in the Cherberg Building
Senate Committee on Law and Justice

I'm Glen Anderson, a lifelong Washingtonian.

For more than 50 years I've known that the death penalty is morally wrong and not practical.

In 1972 the U.S. Supreme Court threw out the death sentences on 629 persons on death row nationwide. The Court ruled that the death penalty was applied unjustly in ways that were arbitrary, capricious, and overwhelmingly racist.

States rewrote their laws to reduce the gross injustices, and in 1976 the Court approved the new laws.

However, the **same patterns of racism and other injustices** appeared, proving that the death penalty is **inherently** arbitrary, capricious and overwhelmingly racist. Decades of actual reality has proven that **there is no way to fix the death penalty**, which is **inherently** unjust and racist.

Last October 2018 the Washington State Supreme Court abolished our death penalty because of overwhelming racial bias and other injustices. **The system is irretrievably broken.**

Now we can **eliminate it from our statute.** **I urge you to pass SB 5339.**

The more people know about the death penalty, the more they discover three basic facts:

Fact #1: The death penalty does **not** deliver what it promises.

Fact #2: The death penalty **makes existing problems worse** -- and it **causes more problems.**

Fact #3: We can **let go** of the death penalty and **still be safe.**

Fact #1: The death penalty does NOT deliver what it promises.

The death penalty does NOT deter murder:

Most murders are committed by persons who are under severe emotional stress and/or the influence of alcohol or drugs. They are not thinking rationally enough to analyze the probabilities of being caught, convicted, and sentenced to death. It does NOT deter murder!

The people who do rationally plan to commit murder think they have planned ways not to get caught at all, so the death penalty does NOT deter them either.

Some people who commit murder also commit suicide, so the death penalty did NOT deter them either.

Indeed, decades of scientific studies have consistently shown that the death penalty does NOT deter people from committing murder.

For all of these reasons, “deterrence” is NOT a valid reason for keeping the death penalty.

The death penalty does NOT provide real justice:

Some people want to balance taking one life with taking another life. But mere retaliation is NOT true justice. We don’t burn down the homes of arsonists, and we don’t cut off the hands of thieves.

The US is virtually alone among Western democracies in failing to abolish the death penalty. Executions occur most often in nations that horribly violate human rights, such as China, Saudi Arabia, Iran, Iraq, and Yemen – and the U.S.

The death penalty does NOT help the victim’s family:

Nothing could ever bring the victim back to life, nor back to his or her family. Families of murder victims have other needs, but killing the killer does NOT satisfy their real needs.

Many families of murder victims oppose the death penalty and have created organizations to abolish it.

Executing a person causes that person’s entire family to suffer too. That person’s family is innocent, so the death penalty hurts that additional family.

The death penalty does NOT get used on “the worst of the worst”:

Each case goes through a long, complex process with many “screens” or “filters” such as:

- Was the victim white, economically privileged, attractive, and well liked?
- What about the defendant’s race, economic class, and access to skilled lawyers?
- What do the press and politicians think about the case?

All of society’s biases and prejudices play into the various “screens” and “filters,” so the net result – an actual execution – is the result of society’s biases and prejudices rather than the merits of the case. Look at the actual record: The people executed are not “the worst of the worst.” They are the poorest and most disadvantaged. This is NOT real justice!

The death penalty wastes money and resources. It is not efficient:

A death penalty case requires two complete trials (one to determine guilt, and another complete trial to determine the sentence). Each trial is extremely complex with many, many opportunities for bias, injustice, and other errors.

Because so many errors have occurred in death penalty cases, each death penalty trial must be extremely complex. The more complex something is, the more it costs. Also, the complexity increases the risk that something can go wrong.

Even before the appeals, the original trials in a death penalty case have already cost much more than a life sentence. And death sentences are very likely to be overturned, so all that money is wasted. In fact – despite the complexity and expense – since 1973, **164 persons** on death row were later found to be innocent.

A tremendous number of death sentences are overturned by courts, by later findings of innocence, and by other methods. Very few death sentences actually result in executions.

Because the vast majority of cases consume huge amounts of money and time without resulting in actual executions, the actual cost of the death penalty per execution is very high.

Death penalty cases waste resources in county-level courts, state supreme courts, and federal appeals courts, so they waste the time, attention and resources that are needed for other cases, so it denies justice to people.

Fact #2: In addition to failing to deliver what it promises, the death penalty makes existing problems worse. Also, it causes more problems.

The death penalty escalates the cycle of violence:

The death penalty is retaliation. It repeats the cycle of violence and makes society more brutal.

The death penalty is inherently contradictory. It contradicts our belief that killing is wrong. The death penalty actually teaches people that it is OK to kill someone in order to vent your anger!

Indeed, some studies have shown increases in violent crime near the dates of highly publicized executions. Executions brutalize society and unleash ugly, uncivilized behaviors.

The death penalty is part of the U.S.'s violent culture:

The death penalty is part of the U.S.'s long-standing myth that violence solves problems. Instead, we must debunk what has been called “the myth of redemptive violence.” It has a long, deep history:

- Movies glorify the old “Wild West” legacy of shoot-outs on Main Street and modern car chases and explosions to defeat the “bad guys”
- Lynchings of African-Americans and others
- The “tough-on-crime” laws that emphasize severe punishment instead of either prevention or rehabilitation
- The “stand-your-ground” laws that let ordinary people shoot and kill people based on fear
- The increasingly violent and militarized policing of American cities, with special emphasis on police violence against African-Americans

- The U.S.'s willingness to bomb other countries for our government's perception of their misbehavior

Innocent people are sentenced to death – and some are executed:

From 1973 through today, 164 persons on death row were found to have been wrongly convicted. Despite our very complex death penalty system, prosecutors, judges and juries convicted “beyond a reasonable doubt” – and sentence to death – 164 people were actually innocent! Many had spent decades on death row for crimes they did not commit. One was in Washington State.

In many cases, the truth of their innocence came outside of the regular system, not through appeals. Many mistakes happen – but it is too late if the person has already been executed! Several totally innocent persons have been executed in the U.S.!

Death penalty is biased by race and socioeconomic class:

Many decision points occur during the process of investigating, arresting, prosecuting, trying, and sentencing. Each of these decision points allows for bias and discrimination on the basis of race, social class, economic resources, mental disability, political considerations, and other factors.

Research also shows that death sentences are much more likely when the victim is white.

Research consistently shows that even when the basic facts of the crime are similar, persons of color are much more likely than whites to receive the death penalty.

Although the death penalty's horrible record of inconsistencies and racism caused the US Supreme Court to throw out the death penalty nationwide in 1972, the very same kinds of problems quickly crept back into the process. **In October 2018 the Washington State Supreme Court abolished our death penalty. Now I urge you to pass SB 5339 to remove the statute so we can be clean.**

Fact #3: We can let go of the death penalty and still be safe.

The death penalty does NOT make us safe. Actually, it is used only for very few murder cases.

Actually, very few murder cases could even qualify for death sentences. In Washington State, which is typical, the death sentence was possible (not required, but merely possible) ONLY for those homicides that are First Degree Murder **and** have certain aggravating factors that are defined by law **and** are free from mitigating circumstances that are defined by law **and** for which the county prosecuting attorney has chosen to charge as capital crimes **and** for which the juries are unanimous in imposing a sentence of death. The death penalty was possible **ONLY** for cases that meet **ALL** of these stringent requirements. Death sentences cannot be imposed in cases that are lacking even one of these requirements.

For the vast majority of homicides, the death penalty cannot even be considered. The vast majority of homicides are **already** covered by state laws that provide for prison sentences through the regular sentencing procedures.

It is practically irrelevant to ask how we would get by without the death penalty. In nearly all homicide cases, we already are living without the death penalty.

Also, now that Washington State's Supreme Court has prohibited the death penalty, we are already living without it!

Furthermore, even when death sentences are imposed, the offender is very UNLIKELY to be executed, so – in effect – we ALREADY impose life sentences instead of the death penalty.

Washington executed nobody for nearly three decades from the mid-1960s through 1992.

In 1972 the US Supreme Court threw out all states' death penalty laws because they violated the US Constitution. Then states rewrote their laws. Since then, **Washington State has sentenced a few dozen persons to death, but nearly all of those sentences were overturned for various reasons.** Out of these dozens of persons sentenced to death, only a few – almost always fewer than 10 – were on death row at any given time. **Washington State executed only 5 persons between 1993 and 2010. This is an almost trivial number when compared to the overall number of homicides throughout the state during these decades.**

Except for those five cases, people typically stay on Washington State's death row until an appeal overturns the death sentence or until they die of natural causes.

The death penalty has been practically irrelevant in Washington in terms of public safety. However, it does waste a lot of court time and taxpayers' money – and it always includes the risk of gross injustice (innocence, racial bias, etc.).

Washington State Law already provides an alternative to the death penalty.

In Washington State, for the very rare kinds of homicide cases that could result in the death penalty, the **default** sentence **already** was life without any possibility of parole. If for whatever reason the jury is not unanimous in imposing a death sentence, the offender would serve a life sentence and never be eligible for parole.

A sentence of "life without parole" means exactly what it says: the person would be in prison for the rest of his or her life and could never qualify for parole. This is a very severe punishment. The death penalty does not protect society any better than this.

Twenty states in the U.S., all of the European Union nations, and a growing number of other countries around the world do not use the death penalty at all, so they are already effectively living well without the death penalty.

In much of the U.S. and much of the world, courts impose prison sentences without getting mired in the problems and complexities of trying to impose death sentences.

Now we have established three facts:

Fact #1: The death penalty does not deliver what it promises.

Fact #2: The death penalty makes existing problems worse, and it causes more problems.

Fact #3: We can let go of the death penalty and still be safe.

Please approve SB 5339 and move it out of your committee with a "DO PASS" recommendation. **Thank you!**