Testimony on SB 6052 to Abolish the Death Penalty in WA State

Monday January 22, 10:00 a.m. in Cherberg Bldg’s Senate Hearing Room 4

Senate Law & Justice Committee

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.

**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**.

We don’t have time this morning for the information that supports these facts, so I’ll simply list the main points.

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

**The death penalty does NOT deter murder:**

When most murders occur, the offender is 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.

Some murders are rationally planned, but those killers think they have planned ways not to get caught at all, so the death penalty does not deter them either.

Some of the most horrible murders end with the killer committing suicide, so the risk of execution was no deterrent to those murders either.

Texas and the southern states that execute the most people still have very high murder rates.

Indeed, decades of scientific studies have consistently shown that the death penalty does **NOT** deter people from committing murder. Nowadays when experts debate the death penalty, intelligent supporters no longer raise this claim.

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

**The death penalty does NOT provide real justice:**

Even though the death penalty does not deter, doesn’t it at least provide some kind of justice – a balancing of taking a life for a life?

No. Civilized society’s sense of true justice has evolved beyond mere retaliation. 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. The US is one of the world’s biggest executioners -- along with several nations with horrible human rights records (*e.g*., China, Saudi Arabia, Iran, Iraq, and Yemen).

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

Nothing could ever bring the victim 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.

When the person who committed the murder is executed, his or her entire family is forced to suffer for their relative’s crime. The rest of that family is innocent, and the death penalty hurts the criminal’s innocent family. That’s not right.

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

Some people feel that the death penalty is OK because we need to use it on “the worst of the worst.” But that is not really what happens.

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

* Was the victim white, economically privileged, attractive, well liked?
* What about the defendant’s race, economic class, 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 more 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 does NOT save money:**

Each death penalty case consists of **two** trials (the first to determine guilt, and the second to determine the sentence). Each trial is extremely complex with many, many opportunities for bias, injustice, and other errors.

Executions are irreversible. Recent history shows tremendous risks of gross injustices, so each death penalty trial must be extremely complex. The more complex something is, the more it costs and the more 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 that money is wasted.

Also, death penalty cases consume so much resources in county-level courts, state supreme courts, and federal appeals courts that they waste the time, attention and resources that are needed for other cases. This denies justice to other people who need access to the courts.

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

**Violence escalates the cycle of violence:**

Society is right to want to stop violent crime. But when fear or other emotions cause us to retaliate and repeat the cycle of violence, we only make the problem worse.

The death penalty is inherently contradictory. When our government kills people who have killed, we contradict our stated intent of showing that killing is wrong. The death penalty actually promotes the notion that it is OK to kill someone in order to vent your anger and get your way!

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 culture of violent punishment:**

Let’s recognize that the death penalty is part of the U.S.’s long-standing culture of violent punishment and denial of due process. **Examples include:**

• The old “Wild West” legacy of posses to hunt suspects and hang them (*e.g*., the 1943 movie “The Ox-Bow Incident”)

• Racist lynchings of African-Americans

• 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

**~~The death penalty is similar to the U.S.’s violent foreign policy:~~**

War and the death penalty draw from the same roots and cause many of the same problems.

**Both war and the death penalty:**

• Assume that we can solve problems by killing people

• Avoid looking for underlying systemic roots of problems

• Assume that “we” are righteous and pure, but “they” are totally evil and cannot be rehabilitated

• Practice racism, classism, xenophobia, and other kinds of oppression against “the other”

• Dehumanize other people (even calling lawbreakers “monsters” instead of human beings)

• Often break laws (domestic laws and international laws) in order to carry out their killing

• Break apart the human family (locally, nationally, or globally) rather than promote healing

• Waste huge amounts of money on methods that only make problems worse

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

From the mid-1970s through 2017, 161 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 – 161 people who were actually innocent! Many had spent 10 years or 15 years or even longer on death row for crimes they did not commit.

The truth of their innocence often came outside of the regular system. Mistakes often happen – but it is too late to correct the mistakes after someone has been executed. We have indeed executed several totally innocent persons!

**~~Limiting appeals would cause even more innocent people to be executed:~~**

To speed executions and cut costs, some people want to limit appeals. But even with current long appeal processes, some innocent people are executed.

Many innocent people spent 10 or 15 years or even longer before the truth of their innocence was shown. Limiting appeals would **sharply reduce honest justice** and execute **many** more innocent people.

When the government has executed an innocent person, it’s too late to fix that horrible mistake.

The only way to make sure we stop executing innocent people is to stop executing people altogether.

**Death penalty is biased by race and socioeconomic class:**

Many decision points occur while investigating, arresting, prosecuting, trying, and sentencing. Each decision point 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 same kinds of problems quickly crept back into the process, and today’s much more harsh Supreme Court now allows the death penalty to proceed regardless of systemic racism.

**The death penalty is not efficient:**

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.

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

**Some people think we need the death penalty in order to be safe.**

**However, this fear assumes that the death penalty is commonly assigned to murder cases, and it assumes that the absence of the death penalty would leave a great void.**

Actually, very few murder cases could even qualify for death sentences. In Washington State, which is typical, the death sentence is 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 is 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.**

**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. A few years later the states rewrote their laws. Since then, Washington State has sentenced a few dozen persons to death, but nearly all of their sentences were overturned for various reasons. Out of these dozens of persons sentenced to death, only a handful – almost always fewer than 10 – are 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 stay on Washington State’s death row until an appeal overturns the death sentence or until they die of natural causes.

**The death penalty is 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** is a life sentence 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.

**Nineteen 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, people don’t worry about how to replace the death penalty, because they are living well without it. They 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**.

I urge you to approve SB 6052 and move it out of your committee with a “DO PASS” recommendation.

Thank you.