Attachment I

A Statement in Favor of Passage SB 17-095

Death Penalty Repeal

Submitted by:

Frank Thompson

Former Superintendent of Prisons, Arkansas and Oregon

Superintendent of the Oregon State Penitentiary, a Maximum Security Correctional Facility, December 1994 – April 1998

February 15, 2017

To the Chairman and Members of the Committee:

Thank you for this opportunity to testify in support of SB 95, to repeal the death penalty.

I am Frank Thompson, a retired correctional professional with more than two decades of experience. For 22 years I served as a warden and superintendent of prisons respectively in the states of Arkansas and Oregon. From December, 1994, to April, 1998, I served as the superintendent of the Oregon State Penitentiary, a maximum security correctional facility which, at the time, housed the largest number of inmates in the state, housed inmates sentenced to death row, and housed the state's most violent offenders. I was responsible for administering Oregon's death penalty policy, including conducting the only two executions to take place in the state over the last 52 years. I have also served both as the Assistant Director of Institutions and the Assistant Director of Community Corrections for the State of Oregon.

I am here today to address a concern that comes up in every state that is considering whether or not to keep the death penalty, and that is the question of prison safety. Do we need the death penalty to assist us in keeping prisons safe? I want to tell you that the answer is there is NO relationship between having the death penalty and operating safe prisons.

Every person in charge of operating prisons knows the established protocols that effectively keep prisons safe for corrections staff and inmates. When violence takes place in a prison, it is because of either human error or negligence in following these protocols or it is because there was insufficient funding in the system to provide known violence prevention tools.

The known violence prevention tools are adequate training, adequate facilities and adequate staffing for every institution. Cutting back on any of the following resources and programs can create an unsafe environment for staff and inmates: 1) effective services to treat inmates with alcohol and drug dependency problems; 2) services to treat inmates with mental illnesses, and other criminogenic profiles; 3) effective levels of inmate-to-staff ratios for proper supervision of inmate movement and activities, to include interdiction of contraband; 4) having adequate levels of activities and work programs to mitigate against inmate boredom and idleness; and 5) having effective classification systems that will provide guidance on how to properly house and

program inmates, based on their vulnerabilities, tendencies to be violent, treatment needs, and potential for coping with living in the general prison population.

For certain, I have never heard of a single prison administrator who would trade any of these programs, services or resources in order to keep death row as a safety measure for running a prison. If an inmate were to kill in prison and receive a death sentence, it would still take decades to impose the execution. Thus, the same protocols, tools, services and programs to keep the prison safe would be needed. The death penalty policy itself would not prevent prison killings.

Though there exists research supporting both sides of this issue, the majority of the research convincingly indicates that inmates released back into the general prison population from death row do not represent a greater security risk than would be the case with other inmates convicted of other violent crimes, but who were never on death row. In states that do not have the death penalty, inmates serving sentences of life without the possibility of parole are not found to pose a greater or unique risk to prison operations. These findings are consistent with my experience in running correctional facilities.

Again, consistent with my own experience, the majority of these studies that have been done on violence in prisons characterize prisoners doing life sentences or sentences of life without the possibility of parole as being individuals who, on average, are older, have acclimated to prison life, and place value on being able to accrue to themselves the best incentives and privileges that might be available in prison life.

Impact on Prison Staff

Another matter that I think is important to address with regard to the death penalty is the impact it has on the fine men and women in the corrections community. We are asking state employees who already have very difficult jobs to end the life of another human being. THIS IS A HEAVY BURDEN.

This is a burden placed reluctantly on members of our military when we feel that combat is the only option there is. Similar to our soldiers, we know that prison correctional officers suffer from high rates of PTSD, depression, anxiety, and even suicide. It seems unconscionable, then, to take the life of another human being and compound the trauma many of our correctional officers already experience. It

becomes especially indefensible when we consider how we are receiving virtually no measurable outcome of safety or deterrence from this policy.

The average citizen will never find himself looking a death row prisoner in the eye, administering a lethal injection, and stating the time of death in front of observers and reporters. But we all share the burden of a policy that has not been shown to make the public any safer, and that endures despite the availability of reasonable alternatives.

Capital Punishment-- A Failed Public Policy

My two decades of experience in the corrections field allow me to unequivocally declare that government should NOT be involved in the promotion of any public policy: 1) when it cannot be shown to work, and 2) when the effects of its evidence-based outcomes are debatable at best or not measurable at worst. This describes capital punishment-- a failed public policy.

In my opinion, to support such a questionable policy is an abandonment of our sworn duty to promote the best interests of the general public, especially after considering the
indefensible waste of fiscal and human resources (when there exist reasonable alternatives for effectively dealing with inmates convicted of capital crimes--such as sentencing them to life without the possibility of parole).

Conclusion

Whatever the security risks are, where good and proper protocols are in place, where these protocols are diligently followed, and where the resources, programs, and staffing patterns needed are made available, correctional professionals can run fundamentally safe and secure institutions.

I would encourage each of you to repeal the public policy of capital punishment, and, taking as much as you can of your state budget that had been supporting such a failed policy, redirect those resources to support a policy of life without the possibility of parole.

I would encourage broadened efforts be devoted to finding ways of addressing the needs of all victims of violent crimes, with particular emphasis placed on circumstances where a loved one has been lost to a homicide.

If you are successful in accomplishing this, I am convinced that Colorado will improve its ability to meet the needs of victims and will continue to run safe correctional institutions at significantly reduced costs while avoiding: 1) the risk of taking innocent lives; 2) administering a public policy that is unequivocally flawed and is shown to be discriminatory against the poor and minorities in its application; 3) the immoral outcome of asking/requiring upstanding men and women to participate in the taking of life in the name of a public policy that cannot be shown to work, while there exist reasonable alternatives such as life without the possibility of parole.

Additional Research:

:

Life and Death in the Lone Star State: Three Decades of Violence Predictions by Capital Juries (2011)
By Mark D. Cunningham, Jon R. Sorensenz, Mark P. Vigenx, and S.O. Woods

Using a sample of former Texas death row inmates sentenced under the "special issue," a rule allows the death penalty for those who pose a continuing threat to society. Consistent with other research, the authors found juror expectations of serious prison violence by these offenders had high error rates.

Institutional Misconduct and Differential Parole Eligibility Among Capital Inmates (2010)
By Robert G. Morris, Dennis R. Longmire, Jacqueline Buffington-Vollum, and Scott Vollum

In an attempt to measure the efficacy of misconduct predictions, the authors studied disciplinary histories from non-death-sentenced capital inmates in Texas whose offenses
occurred between 1987 and 1994. They found that capital inmates sentenced to longer mandatory prison terms are less likely to engage in serious and violent misconduct than those eligible for parole.

Life Without Parole, America's Other Death Penalty: Notes on Life Under Sentence of Death by Incarceration (2008)
By Robert Johnson & Sandra McGunicall-Smith

In interviews with condemned prisoners, LWOP prisoners, and prison officers, the authors found evidence that inmates sentenced to life without parole do not pose a special risk to public safety, citing lifers' self-interest in avoiding trouble that might jeopardize the few privileges allowed them.

Forecasting Dangerous Inmate Misconduct (2005)
By Richard A. Berk, Brian Kriegler, and Jong-Ho Baek

Examining data from the California Department of Corrections, the authors found serious
misconduct to be more common among inmates with long criminal records (not sentences), particularly those initially imprisoned as teenagers. Additionally, gang affiliation and age were found to be predictive of prison misconduct. The study raises concerns about the techniques prisons use to classify inmates upon entering the system.

The New York Times https://nyti.ms/2cR4fJI

SundayReview | OPINION

What I Learned From Executing Two Men

By SEMON FRANK THOMPSON SEPT. 15, 2016

SALEM, Ore. — As superintendent of the Oregon State Penitentiary, I planned and carried out that state's only two executions in the last 54 years. I used to support the death penalty. I don't anymore.

I was born and raised in the segregated South. I was 13 when Emmett Till was lynched for "flirting" with a white woman. I can remember upstanding black Christians expressing hope that his murderers would be caught and hanged. It seemed quite reasonable to me then that death was the only proportionate response for people who would so egregiously violate the norms of a society.

Years later, as a young law enforcement officer, I lost a close friend, John Tillman Hussey, and a cousin, Louis Perry Bryant — both law enforcement officers themselves — to execution-style murders at the hands of felons who were attempting to avoid arrest. I remember feeling that justice had been served when one of their killers was executed.

In 1994, during my interview for the superintendent job, I was asked if I would be willing to conduct an execution. I said yes. Oregon had not executed anyone in decades, but the death penalty was part of the criminal justice system, and I had to be prepared for all of the duties that a superintendent could be called upon to perform.

Shortly afterward, I was charged with executing two inmates on the penitentiary's death row, Douglas Franklin Wright and Harry Charles Moore. Moore had been convicted of killing his half sister and her former husband, and he said he'd take

legal action against anyone who tried to stop his execution. Wright was sentenced to death for killing three homeless men. He later admitted to killing a 10-year-old boy. He, too, had given up his appeals.

Regardless of their crimes, the fact that I was now to be personally involved in their executions forced me into a deeper reckoning with my feelings about capital punishment. After much contemplation, I became convinced that, on a moral level, life was either hallowed or it wasn't. And I wanted it to be.

I could not see that execution did anything to enhance public safety. While death penalty supporters suggest that capital punishment has the power of deterrence, a 2012 report by the National Research Council found that research "is not informative about whether capital punishment decreases, increases or has no effect on homicide rates."

I now believed that capital punishment was a dismal failure as a policy, but I was still expected to do my job. So I met with my staff and explained my position. I made it known that anyone who felt similarly opposed could back out of our assignment. According to state policy, assisting in the executions was voluntary for everyone but the superintendent. And yet each of those asked to serve chose to stay to ensure that the job was done professionally.

I'm a Vietnam-era veteran, and a law enforcement professional who has been trained to deal with life-or-death situations, as were many of my colleagues. We focused on carrying out our responsibilities and leaving everyone involved with as much dignity as possible.

I began to feel the weight of this undertaking while practicing for the executions. Teams rehearsed for more than a month. There was a full "run through" of the execution every week.

The weight intensified during the executions, which took place eight months apart, and it didn't subside until well after they were completed. I cannot put into words the anxiety I felt about the possibility of a botched procedure. I wasn't certain how my staff would fare. These were the first executions in Oregon in over three decades. These were the first executions in Oregon to be administered by use of

lethal injections. I was the first black superintendent of the Oregon State Penitentiary. All of these firsts had the potential to come together in a very negative way if my team made a single mistake.

Planning an execution is a surreal business. During a prisoner's final days, staff members keep the condemned person under 24-hour surveillance to, among other things, ensure that he doesn't harm or kill himself, thus depriving the people of Oregon of the right to do the same. I can understand the administrative logic for this reality, but it doesn't make this experience any less strange.

During the execution itself, correctional officers are responsible for everything, from strapping the prisoner's ankles and wrists to a gurney to administering the lethal chemicals. One of the condemned men asked to have his wrist straps adjusted because they were hurting him. After the adjustment was made, he looked me in the eye and said: "Yes. Thanks, boss."

After each execution, I had staff members who decided they did not want to be asked to serve in that capacity again. Others quietly sought employment elsewhere. A few told me they were having trouble sleeping, and I worried they would develop post-traumatic stress disorder if they had to go through it another time.

Together, we had spent many hours planning and carrying out the deaths of two people. The state-ordered killing of a person is premeditated and calculated, and inevitably some of those involved incur collateral damage. I have seen it. It's hard to avoid giving up some of your empathy and humanity to aid in the killing of another human being. The effects can lead to all the places you'd expect: drug use, alcohol abuse, depression and suicide.

But the job gets done — despite the qualms and the cost. That's the way it's supposed to work. Capital punishment keeps grinding on, out of sight of society.

The average citizen will never find himself looking a death row prisoner in the eye, administering a lethal injection and stating the time of death in front of observers and reporters. But we all share the burden of a policy that has not been shown to make the public any safer, and that endures despite the availability of reasonable alternatives.

I am encouraged that Oregon now has a moratorium on executions, and there have not been any in the state since the ones I oversaw. Nationwide, in the past few decades, executions have also been declining, from a high of 98 in 1999 to 15 so far this year. But people continue to be sentenced to death.

Since I retired from corrections in 2010, my mission has been to persuade people that capital punishment is a failed policy. America should no longer accept the myth that capital punishment plays any constructive role in our criminal justice system. It will be hard to bring an end to the death penalty, but we will be a healthier society as a result.

Semon Frank Thompson was the superintendent of the Oregon State Penitentiary from 1994 to 1998. An interview with him appears in the forthcoming "Death: An Oral History," edited by Casey Jarman.

Follow The New York Times Opinion section on Facebook and Twitter (@NYTOpinion), and sign up for the Opinion Today newsletter.

A version of this op-ed appears in print on September 18, 2016, on Page SR3 of the New York edition with the headline: What I Learned From Executing Two Men.
