

Testimony in Support of Senate Bill 20-100

The death penalty is a miserable failure. You have already heard that it does not deter capital crimes, it does not provide justice, and it does not provide closure for the co-victims of the capital crime. It is administered in an arbitrary fashion – disproportionately affecting people of color and vulnerable populations.

By permitting the state sanctioned killing of human beings, the death penalty undermines the state's greater goal to affirm the inherent dignity and inalienable right to life of every individual human. A human's value is not dependent on their age, sex, sexual orientation, race, ethnicity, cognitive/physical abilities, financial status or even behavior. When the state promotes a philosophy that allows juries to decide who should live and who should die, it inevitably leads to a culture that devalues human life. It is exactly that kind of culture that leads to more interpersonal violence and homicide.

The notion that killing a perpetrator of homicide leads to "closure" for family and friends has been promoted by media and the criminal justice system. However, studies on those who are co-victims of homicide and homicide survivorship experts do not support the concept of closure for homicide survivors.¹⁻² Anxiety, depression, and PTSD are common among family co-victims and the grieving process can be prolonged by the length and intensity of a capital murder prosecution.³ Co-victims of homicide often have problems with family interactions, academic performance, socialization, and employment.³ Rather than provide closure, death penalty prosecutions may aggravate the grieving process and re-traumatize co-victims.⁴ The excessive money spent on capital cases could be better spent on victim advocate/assistance programs and counseling.

The idea that justice is consistently served by the death penalty has also been debunked by multiple studies. There have been 167 death penalty exonerations since 1973 in the US.⁵ This suggests that for every 10 completed executions, one person has been found innocent. There is extensive evidence that black defendants are treated more punitively in capital cases than white defendants.⁶ However, the best predictor of a death penalty is not the characteristics of the crime or population demographics, but rather, the number of prior death penalty convictions/executions in the county where the case is tried.⁷ People with mental illness⁸⁻¹⁰, intellectual disability¹¹, and without emotional involvement at trial,¹² all face disparate treatment in capital trials. These and numerous other studies in the past two decades have highlighted the flawed, prejudicial, and arbitrary imposition of the death penalty. Furthermore, it has not even been shown to deter crime.¹³

It is past time to end the death penalty in Colorado! Please vote yes on SB 20-100.

Thomas J. Perille MD FACP FHM - Democrats for Life of Colorado

References:

- 1) Saco, L and Dirks, D. Closure and Justice: A Qualitative Study of Perspectives from Homicide Survivorship Experts. *Violence Vict.* 2018; 33(5): 830-854.
- 2) Vollum, S and Longmire, D. Co-victims of capital murder: statements of victims' family members and friends made at the time of execution. *Violence Vict.* 2007; 22(5): 601-619.
- 3) Connolly, J and Gordon, R. Co-victims of Homicide: A Systematic Review of the Literature. *Trauma, Violence & Abuse* 2015; 16(4): 494-505.
- 4) Englebrecht C, Maston DT, Adams MJ. The experiences of homicide victims' families with the criminal justice system: an exploratory study. *Violence Vict* 2014; 29(3): 407-421.
- 5) Innocence Database. (2020). Retrieved from <https://deathpenaltyinfo.org/innocenc>; January 27, 2020.
- 6) Glaser J, Martin KD, Kahn KB. Possibility of death sentence has divergent effect of verdicts for Black and White defendants. *Law Hum Behav* 2015; 39(6): 539-546.
- 7) Baumgartner FR, et.al., Event dependence in US executions. *PLOS ONE* 2018; 13(1): e0190244.
- 8) Sandys M, Pruss H, Walsh SM. Capital jurors, mental illness, and the unreliability principle: Can capital jurors comprehend and account for evidence for mental illness? *Behav Sci Law* 2018; doi: 10.1002/bsl.2355.
- 9) Kelley SE, Edens JF, Mowie EN, Pensoon BN, Rulseh A. Dangerous, depraved, and death-worthy: A meta-analysis of the correlates of perceived psychopathy in jury simulation studies. *J Clin Psychol* 2018; doi 10.1002/jclp.22726.
- 10) Berryessa CM, Wohlstetter B. The psychopathic "label" and effects on punishment outcomes: A meta-analysis. *Law Hum Behav* 2019; 43(1): 9-25.
- 11) Nava KL, Jacquin KM. Juror decisions in a capital trial involving intellectual disability. *American Journal of Forensic Psychology* 2017; 35(3): 5-34.
- 12) Anotnio ME. Arbitrariness and the death penalty: how the defendant's appearance during trial influences capital jurors' punishment decision. *Behav Sci Law* 2006; 24(2): 215-234.
- 13) Brandt PT, Kovandzic TV. Messing Up Texas?: A Re-Analysis of the Effects of Executions on Homicides. *PLoS ONE* 10(9)