



**Informational Hearing on the Death Penalty
House Corrections and Juvenile Justice
Written Testimony by Donna Schneweis**

March 15, 2012

Chairwoman Colloton, Members of the Corrections and Juvenile Justice Committee, I submit this written testimony on behalf of Amnesty International USA. Amnesty International is a politically non partisan international human rights organization. Our focus is on protecting and promoting human rights, especially those rights enshrined in the United Nations Universal Declaration of Human Rights. We have around 1300 members in Kansas.

Amnesty International includes among its members persons who have lost loved ones to homicide. We have heard their stories of loss. We recognize that murder forever changes lives and take seriously the question of what punishment provides for public safety and holds offenders accountable.

We believe that public safety and offender accountability can be achieved without recourse to the death penalty. Kansas law currently provides for life in prison without parole (LWOP) as the alternative in capital murder cases. HB 2323 and SB 239 (abolition bills) have LWOP as the punishment for these most serious murders entitled "aggravated murder" in that legislation.

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***Amnesty International is a worldwide grassroots movement
that promotes and defends human rights.***

House Corrections & Juvenile Justice
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In this written testimony, I will briefly highlight two ways in which the death penalty fails the public safety test. First, the death penalty consumes scarce financial resources lessening monies for state programs which truly can improve public safety. Many studies have been done nationally regarding the cost of the death penalty. Time and again those studies echo the Kansas Legislative Post Audit study which documented increased costs for the death penalty cases compared to non death penalty cases. (1) A study of federal defense costs shows that even when the case ends in a plea, the cost is about eight times more when the death penalty is on the table. (2)

In recent years, Kansas has made repeated cuts to the budget of the Department of Corrections. These cuts have the potential to impact public safety because they have included programming for inmates with substance abuse, prisoner re-entry and other programs. (3) This is especially critical when the programs are designed for inmates whose sentence is such that they will ultimately be released back into the community.

In commenting on these cuts and the ongoing funding for the death penalty, former Kansas Secretary of Corrections Richard Mills said "I am concerned about the budget cuts being made to law enforcement, mental health care and prison programs. We need to spend our limited crime prevention resources on programs that actually work to keep Kansans safe and abandon expensive programs, like the death penalty, that do not." (4)

In the past, proponents of capital punishment have argued that it isn't more costly to prosecute death penalty cases because the prosecutor's staff is there regardless. Recent events in Shawnee County have shown that even the staff in these agencies are not immune to the realities of budget cuts. (5) The death penalty also can impact workflow in prosecutor offices. In October 2011, David Lowden, Chief Attorney of the Appellate

Division of the District Attorney's Office in the 18th Judicial District wrote in a motion seeking an extension of time to file a brief in a death penalty appeal "As with every other governmental agency, budgetary constraints are causing a backlog in the system because fewer people are doing more work--the problem is exacerbated when capital cases are thrown into the mix". (State of Kansas v. Jonathan Carr) (6)

The death penalty fails public safety also because of its lack of general deterrence. Proponents of the death penalty in 2010 cited a number of studies which they claim show deterrence. These studies included ones by Paul Zimmerman, Hashem Dezhbakhsh et al, Ehrlich, Mocan and Gittings. In fact, when reviewed by other professionals, these studies have been discredited for faulty methodology. (7)

Research on the views of criminologists shows how strongly they reject the notion that the death penalty deters. In a study conducted by Radelet and Lacock it was found that 87% of the world's top criminologists thought abolishing the death penalty would not significantly impact murder rates. "Our survey indicates that the vast majority of the world's top criminologists believe that the empirical research has revealed the deterrence hypothesis for a myth ... [T]he consensus among criminologists is that the death penalty does not add any significant deterrent effect above that of long-term imprisonment." (8)

Law enforcement leaders also rejected the notion of deterrence in a 2008 national poll. Five hundred U.S. police chiefs were surveyed by R.T. Strategies of Washington, D.C. Fifty-seven percent agreed that the death penalty is not a deterrent. (9) Police chiefs are keenly aware of the dynamics of crime in their community.

Increasingly, correctional staff also are speaking out about how the death penalty does not make the public safer. Ron McAndrew was involved in correctional work for many years rising to the level of Warden of Florida State Prison in Starke. He supported the death penalty. After being involved in executions, he now looks at the issue very differently. In testimony to the Montana House Judiciary Committee, McAndrew said "(the death penalty) serves no purpose in the safety of the public or prisons. (10)

Amnesty International encourages Members of the Legislature to really look at how the death penalty consumes state resources and how it fails in terms of public safety. We are grateful for this hearing because the various testimony presented is an important step toward House members having a greater awareness of the many aspects of capital punishment.

Notes:

- (1) A sampling of state level studies on the death penalty:

Indiana Legislative Services Agency--

<http://www.deathpenaltyinfo.org/documents/INCostAssess.pdf>

North Carolina--<http://www.deathpenaltyinfo.org/documents/CookCostRpt.pdf>

Maryland--http://www.urban.org/UploadedPDF/411625_md_death_penalty.pdf

Kansas--<http://www.kslpa.org/docs/reports/04pa03.pdf>

- (2) "Report to the Committee on Defender Services
Judicial Conference of the United States
Update on the Cost and Quality of Defense Representation in Federal Death
Penalty Cases" John B. Gould and Lisa Greenman, September 2010

<http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/Publications/UpdateFederalDeathPenaltyCases.aspx>

- (3) <http://www.stateline.org/live/details/story?contentId=485663>

<http://www2.ljworld.com/news/2011/sep/20/kansas-prison-system-overcrowded-and-understaffed-/>

- (4) Personal communication from Richard Mills to the Kansas Coalition Against the Death Penalty

- (5) <http://cjonline.com/news/2011-12-30/da-trims-staff-operate-budget-cuts>

- (6) MOTION BY APPELLEE FOR EXTENSION OF TIME TO FILE BRIEF, Appellate Case number 03-90198-S. Kansas Supreme Court. Similar language appears in extension of time motions filed by Mr. Lowden in the cases of Reginald Carr, Jr. and Douglas Belt also.

- (7) "Uses And Abuses Of Empirical Evidence In The Death Penalty Debate"
John J. Donohue* and Justin Wolfers, 58 Stanford Law Review 791 (2006)

- (8) "Do Executions Lower Homicide Rates? The Views of Leading Criminologists,"
M. Radelet and T. Lacock, 99 Journal of Criminal Law and Criminology 489
(2009).

- (9) <http://www.deathpenaltyinfo.org/documents/CostsRptFinal.pdf>

- (10) <http://ejusa.org/state-leader/testimony/ron-mcandrew>