



SISTERS OF CHARITY OF LEAVENWORTH

OFFICE OF JUSTICE, PEACE, AND INTEGRITY OF CREATION



February 19, 2019

To: The Committee on Corrections and Juvenile Justice

From: John Shively, Coordinator of the Office of Justice, Peace, and Integrity of Creation,
Sisters of Charity of Leavenworth

RE: HB 2282 – Abolishing the death penalty and creating the crime of aggravated murder

Chairman Jennings and Members of the Committee,

For 30 years now, the Sisters of Charity of Leavenworth, along with many women religious, have supported ending the death penalty in Kansas and across the United States. Our opposition to the death penalty is first and foremost grounded in our concern to protect human life and dignity. In addition, there are a number of other significant concerns specific to justice, equity, and cost.

The death penalty is fundamentally in conflict with a culture that respects life

Whether a person on death row is guilty or innocent, taking that individual's life conflicts with building a culture that respects life. Yet, many well-meaning individuals continue to support the death penalty and the violence it inflicts without examining the harm it does to our basic respect for human life. Often when decisions are difficult, our actions define our true beliefs. As the U.S. Bishops wrote, "Increasingly, our society looks to violent measures to deal with some of our most difficult social problems"¹

Despite any given offender's crimes, guilt, or brokenness, can the people of Kansas affirm that person's life still matters? Only when we believe and support this can we begin to understand what it means to respect life.

¹ <http://www.usccb.org/issues-and-action/human-life-and-dignity/violence/confronting-a-culture-of-violence-a-catholic-framework-for-action.cfm>

The death penalty does not deter crime

Many argue that the death penalty is important in deterring crime. However, research demonstrates that the death penalty does very little to deter crime. A study by the University of Colorado found that 88 percent of the nation's leading criminologists do not believe the death penalty is effective in this regard.² In fact, the evidence tends to suggest that states without the death penalty do not have higher homicide rates than states with capital punishment.³ Kansas serves as an interesting counterfactual to this argument because even though we do have capital punishment, Kansas reported its highest number of homicides since 1959 in 2017.⁴

The death penalty is usually not an exercise in justice

The death penalty is an exercise in retributive justice which some see as an appropriate and proportional response. But this method of punishment is problematic in a justice system that sometimes convicts the innocent. According to the National Registry of Exonerations, there have been more than 2,082 exonerations in the United States from 1989 to present.⁵ Since 1973, 164 of those individuals have been found innocent and released from death row.⁶ The risk of executing innocent people is real and endangers the credibility of the justice system. We also recognize this from our experiences in Kansas, where wrongful convictions are problematic to the extent that we found it necessary to pass a compensation law for those unjustly imprisoned.

We also know that the death penalty disproportionately impacts the poor, the mentally challenged, and communities of color.⁷ The unequal applications of the death penalty make its application arbitrary. Any system that arbitrarily applies a penalty as severe as death cannot be seen as serving justice.

Lastly, the death penalty inflicts pain and trauma on the families of victims by a process that often continues for many years and even decades after the experience of the initial pain of loss. It does this in two ways. First, some families have no desire to see the death penalty imposed; doing so against their wishes does not serve justice. Secondly, those families that support the death penalty live through many years of appeals that may not end in an execution. If there is an execution, this can fail to bring a real sense of healing or resolution to family members.

The death penalty is fiscally irresponsible

According to the fiscal note attached to the bill, it appears that the net fiscal effect of repealing the death penalty is net positive in the short run, even if a brand new execution chamber is built at El Dorado, and our assumption is that fiscal savings will continue over the

² Do Executions Lower Homicide Rates? The View of Leading Criminologists, Radelet and Lacock 2009

³ <https://www.nytimes.com/2000/09/22/us/absence-executions-special-report-states-with-no-death-penalty-share-lower.html>

⁴ <https://www.kansas.com/news/local/crime/article216914660.html>

⁵ <https://www.law.umich.edu/special/exoneration/Pages/about.aspx>

⁶ <https://deathpenaltyinfo.org/innocence-list-those-freed-death-row>

⁷ <https://eji.org/death-penalty/race-and-poverty>; <https://eji.org/death-penalty/mental-illness>

long run given that that litigation regarding this change and additional construction will eventually be complete. The savings of \$765,000 from the State Board of Indigents' Defense to the State General Fund will be permanent.

The Kansas Judicial Council Death Penalty Advisory Committee found in 2014 that a death penalty costs about four times as much as defending a case where the death penalty is not sought.⁸ Further, the Kansas Legislative Division of Post Audit found that cases in which the death penalty was sought and imposed cost about 70 percent more than in cases in which it was not.⁹

Surrounding states have additionally published studies. According to one Oklahoma study conducted for the Oklahoma Death Penalty Review Commission, "Despite...likely underestimating costs – this study finds that seeking the death penalty in Oklahoma incurs significantly more time, effort, and costs on average, as compared to when the death penalty is not sought in first-degree murder cases."¹⁰ According to a separate study for Nebraska, each death penalty prosecution cost the Nebraska taxpayer \$1.5 million more than the cost of a life without parole prosecution.¹¹

Closing

In closing, we support the passage of HB 2282 because:

- We believe in the value of life and in respect for human dignity
- We know that justice systems are imperfect and that there are affordable alternatives that allow for the correction of error.
- We believe HB 2282 is a more humane, just, and cost-effective way forward for the people of Kansas.

⁸ <https://deathpenaltyinfo.org/documents/KSCost2014.pdf>

⁹ <http://www.kslpa.org/media/files/reports/media/files/temp/04pa03a.pdf>

¹⁰ <https://deathpenaltyinfo.org/files/pdf/Report-of-the-OK-Death-Penalty-Review-April-2017-a1b.pdf>

¹¹ <https://deathpenaltyinfo.org/files/pdf/The-Economic-Impact-of-the-Death-Penalty-on-the-State-of-Nebraska.pdf>