



TO: House Criminal Justice Committee

FROM: Gary Daniels, Associate Director, ACLU of Ohio

DATE: December 14, 2011

RE: House Bill 160

To Chairman Slaby, Ranking Minority Member Winburn and members of the House Criminal Justice Committee, my name is Gary Daniels, Associate Director for the American Civil Liberties Union of Ohio ("ACLU of Ohio") and I welcome this opportunity to present proponent testimony on House Bill 160.

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The ACLU is the oldest and largest civil liberties organization in the world with over 500,000 members nationwide and over 30,000 members and supporters across Ohio. The ACLU and ACLU of Ohio are non-profit, non-partisan membership organizations devoted to protecting basic civil rights and civil liberties for all Americans and all Ohioans.

Throughout Ohio and the nation, the ACLU is a leader in working to end and reform capital punishment through litigation, lobbying, public education and advocacy.

The ACLU of Ohio has always been opposed to the death penalty and we offer the following reasons why we support House Bill 160.

Capital Punishment is Fundamentally & Systemically Unfair

At every stage of the criminal justice system, African-Americans are disproportionately affected when compared to their white counterparts. Whether it is being stopped, searched, arrested, convicted, or the length of time of incarceration, it is clear we maintain a system across this country of persistently unequal justice. That African-Americans are also disproportionately affected by capital punishment, then, should come as no surprise.

In Ohio, just over half the people on death row are African-American. Across Ohio, African-Americans account for only 12.2% of the state's population.

In the last 30 years in Ohio, 18 of the 46 people executed were African-American, or 39% of the total.

Ohio's death penalty system does not discriminate based only on race. Indeed, in what county someone is convicted and the death penalty sought makes an astounding difference.

Since 1981, two counties have accounted for 34.5% of Ohio's death sentences. Those counties are Hamilton (19%) and Cuyahoga (15.5%). While they are large counties, they make up only 18% of Ohio's population.

53 of Ohio's 88 counties have not contributed a single person to death row in 30 years.

Problems are further compounded by the income status of defendants. This is unfortunately true throughout all levels of the court system. A particularly glaring example is when it comes to legal representation. Who among us would choose the overworked, underpaid criminal defense attorney with almost no budget for investigation over the lawyer more like Johnnie Cochran when the stakes are literally life and death?

This is a system that is clearly broken beyond repair and should be abandoned once and for all. If nothing else, being put to death should not be about skin color, geography or income.

The Tide is Turning against Capital Punishment

In recent memory, public opinion and society as a whole is engaged in a shift away from the death penalty. For this, we can point to many reasons:

Stories of death row exonerees, including those freed via DNA evidence, give us pause about what happened before our criminal justice system utilized science with such precision. In the last 38 years, 138 people have been exonerated from death row.

Stories of botched executions, including those in Ohio, shine a light on the gruesomeness of the procedure.

The Supreme Court of the United States, in separate rulings, declared unconstitutional the death sentence for juveniles and the mentally retarded.

When life without parole is available as an option, a majority of the public chooses it over capital punishment.

The idea capital punishment provides a deterrent is both simplistic and incorrect. Maine, Minnesota and Michigan have not had the death penalty for

100 years or more. Are they less safe than Ohio? Count me and many other Ohioans among those who would follow those three states' examples over those of Iran, China, Syria, North Korea and Saudi Arabia.

Lots of people talk about cutting and ending government programs they deem ineffective, expensive and wasteful. Members of the committee, I urge you to look no further than House Bill 160 and give it your full support.