

Connecticut Debate Association

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Resolved: Connecticut should eliminate the death penalty.

Do Away With Death Penalty

The Hartford Courant, Editorial, April 7, 2009

LAW UNWORKABLE • Changes would lower costs, emotional toll

A legislative committee has taken a brave step toward abolishing Connecticut's death penalty, a law that is all but unworkable, not to mention expensive, unfair and risky.

By unfair, we refer to the lopsided application of such laws nationwide. Minorities make up more than half of death row inmates.

By risky, we mean that 130 death row inmates have been exonerated around the nation in the past decade. There is evidence that others who were executed might have been innocent.

By expensive, we refer to the cost of the endless appeals that make Connecticut's law practically unworkable.

Finally, the death penalty puts the state in the morally compromising position of committing the act for which it is punishing someone.

Everyone is entitled to due process, even convicted killers. Michael Ross, the only death row inmate to be executed in Connecticut in decades, asked to die. Yet his case was made only after it was laid out again and again in agonizing detail that must have been horribly hard on the families of his victims.

State Sen. Mary Anne Handley said it best: "The death penalty is neither swift nor certain. It may even be certain that it's not going to happen."

It is hear-trending to hear the testimony of Dr. William Petit Jr., whose wife and daughters were tormented and murdered in a 2007 home invasion. He favors the death penalty for the killers and views anything less as an injustice. It is not difficult to sympathize with his plight.

But the state has an obligation to separate justice from revenge. Changes in the law approved by the Judiciary Committee and headed for a House vote would bring swifter closure for victims by consigning those convicted of capital crimes to life in prison without parole. Locking up a killer for the rest of his days, where he can ponder his crime and his fate, seems a more potent punishment than putting him out of his misery.

Gov. M. Jodi Rell has restated her belief in the death penalty, foreshadowing a veto should the changes go through. She should take her cues from New Mexico Gov. Bill Richardson. Last month, he signed a law repealing his state's death penalty even though he personally supports it. He cited the error-prone judicial system, noting the death row inmates who have been exonerated in the past decade, including four in New Mexico.

The state's goal should be to keep society safe. It can accomplish that without the expectation of executions that rarely if ever take place.

Death Penalty Debated At Capitol

By DANIELA ALTIMARI, altimari@courant.com

The Hartford Courant

11:20 PM EST, March 7, 2011

HARTFORD — Some invoked a doctrine that honors life; others cited the deterrent power of a death sentence. There was talk of the enormous cost of sending a convict to death row and there were heartfelt expressions of compassion for the families of murder victims.

Monday's marathon hearing before the legislature's judiciary committee on the fate of capital punishment in Connecticut brought together religious leaders, academics, several men who were accused of crimes they did not commit and people who have lost loved ones to homicide.

For the second time in three years, lawmakers are pondering a repeal of the death penalty statute. In 2009, both chambers passed a similar bill, but it was vetoed by Gov. M. Jodi Rell. Her successor, Gov. Dannel P. Malloy, is an opponent of the death penalty and has said he will sign a repeal bill should one reach his desk.

Capital punishment is inconsistent with the Catholic Church's doctrine of respect for life "from conception to natural death," said Peter Rosazza, retired auxiliary bishop of the Archdiocese of Hartford.

"The death penalty diminishes us all," Rosazza told committee members. "We cannot teach respect for life by taking a life."

William Petit Sr., whose daughter-in-law and two grandchildren were tortured and killed during a home invasion in Cheshire in 2007, said he had no problem reconciling his Catholic faith with his support of the death penalty.

"The Catholic Church has now taken a position against the death penalty but it hasn't always," he said. "I've always been comfortable with my approval of the death penalty. I don't think I've been at odds with my religious beliefs."

The Cheshire home invasion case loomed over the debate. Supporters of the repeal effort were quick to point out that any changes to the law would not effect the two men charged with the crimes. One of them, Steven Hayes, has already been convicted and sentenced to death; the second defendant, Joshua Komisarjevsky, is expected to face trial in the fall.

But others expressed concern that the state would have a hard time defending a decision to execute Hayes or any of the other nine men currently on death row because it would effectively create two classes of people and give defense lawyers a potent argument that the law is unjust.

Rep. Steve Mikutel, D-Griswold, said he cannot understand how the legislature could contemplate repealing the death penalty when the overwhelming majority of state residents support it.

"We should be listening to the people on social matters such as this," Mikutel said. Death penalty opponents rebutted his assertion. They said the death penalty has far less public support in polls when it is compared with life in prison without the possibility of parole.

The committee will probably vote on the measure in coming weeks, but from there its fate is hardly clear. If the bill reaches the state Senate, the vote there is expected to be extremely close.

The lengthy hearing at the state Capitol complex, which began before noon and stretched well into the night, also featured nationally renowned lawyer Barry Scheck. A veteran of O.J. Simpson's "dream team" of lawyers — a credential he acknowledged that he doesn't usually highlight — Scheck is now a law professor and co-director of the Innocence Project, which uses post-conviction DNA evidence to help exonerate the wrongly accused.

Scheck said he will leave the moral and religious arguments against the death penalty to others. His opposition is based primarily on two factors: Innocent people can wind up on death row, and the enormous resources it costs to implement the death penalty would be far better spent on better forensics testing and other law enforcement tools.

"Reasonable people can certainly differ as to whether or not capital punishment is a morally appropriate sanction for the most heinous of crimes," Scheck told the committee.

But the public policy decision to have a death penalty has broad repercussions, Scheck said. It is a costly endeavor to sentence a person to death, given the lengthy appeals process.

"Let's have an honest debate about this," he said. "You spend more money on the death penalty, you take away money from public safety. ... We could solve more rape cases, we could solve more robberies ... if we had more money to put into that instead of the death penalty."

Scheck also cautioned lawmakers about believing that the criminal justice system is infallible. Not so long ago, most experts believed that fingerprints were the gold standard of proof, but forensic experts now believe that fingerprints can sometimes lead investigators down a flawed trail, he said.

Underscoring Scheck's point, several men who were convicted of crimes they did not commit testified Monday.

Ray Krone, an Air Force veteran convicted of killing a woman in Arizona, spent 10 years in prison. He was released from death row in April 2002 after DNA proved his innocence.

"I'm here to tell you those mistakes are going to happen," Krone told the committee. "We're human."

But supporters of the death penalty say that some crimes are so heinous, the ultimate price must be paid by those who commit them.

"I realize that prison life is no picnic," said Johanna Petit Chapman, the sister of Dr. William Petit Jr., the sole survivor of the Cheshire home invasion. But, she noted, those serving life sentences "still have ability to read books, take a class, shop at commissary, to write to loved ones."

Linda Binnenkade's brother-in-law, Barry Rossi, was murdered at B&B Automotive in Windsor Locks in 2003. A supporter of capital punishment, she proposed that the state keep the concept of death row, even if it eliminates the death penalty.

"These murderers are afraid of spending the rest of their lives on death row, not death itself," Binnenkade said.

"Replace the sentence of death with the sentence of life on death row."

Malloy, Legislature out of step with CT Voters on Death Penalty

Quinnipiac College Poll, April 15, 2011 by Doug Schwarz

Democratic Governor Daniel Malloy and the Connecticut state legislature are increasingly out of step with the public on the issue of the death penalty. Governor Malloy has said that he would sign legislation to repeal the death penalty and this week the legislature's judiciary committee passed a repeal bill.

Whether or not it passes in the Senate is an open question but it is pretty clear based on results from the Quinnipiac University Poll that support for the death penalty in Connecticut has risen since the Cheshire home invasion murders.

Prior to the murders, a January 2005 Quinnipiac Poll found 59 percent supported the death penalty. In our February 2011 poll that support had risen to 67 percent. While it can be argued that support is actually lower with a different question wording, the case can also be made that support is actually higher with another wording.

Quinnipiac has consistently asked it three different ways. Here are the results ranked from lowest to highest for support of the death penalty in the February 2011 poll:

- Which punishment do you prefer for people convicted of murder, the death penalty or life in prison with no chance of parole? Death penalty 48 percent, Life in prison 43 percent
- Do you favor or oppose the death penalty for persons convicted of murder? Favor 67 percent, Oppose 28 percent
- Which statement comes closest to your point of view? (A) All persons convicted of murder should get the death penalty. B) No one convicted of murder should get the death penalty. C) Whether or not someone convicted of murder gets the death penalty should depend on the circumstances of the case. All 10 percent, Depends on circumstances 73 percent, No one 16 percent

We can see that even in the question that gets the lowest support for the death penalty, a plurality support it.

When people are given a choice between the death penalty and life in prison for those convicted of murder, by a 48-43 percent margin voters preferred the death penalty. Support for the death penalty goes up 19 points when we use the conventional favor/oppose the death penalty wording,

as voters support the death penalty by a 67-28 percent margin. Support for the death penalty grows even higher when voters are given the option of "it depends on the circumstances".

Combining those who think everyone convicted of murder should get the death penalty (10 percent) with those who say it depends on the circumstances (73 percent), a total of 83 percent of Connecticut voters support the death penalty under certain circumstances.

With only 16 percent saying they oppose the death penalty in every case, there is little moral opposition to using the death penalty in Connecticut. Voters want to keep the death penalty on the books but want it applied in a case by case approach. In the Cheshire case, for example, support for the death penalty is 74 percent.

The death penalty in Connecticut costs us all dearly

NewsTimes.com, May 13, 2011

Last week the Connecticut legislature put an end to an anti-death penalty bill which would have made Connecticut the fifth state in four years to abolish capital punishment in the U.S.

The bill was suddenly put to rest by a slim margin of state Senators who claimed that keeping the death penalty would ensure those who committed horrible crimes against a family in Cheshire four years ago would face execution.

What they did not tell us, though, is that it will be years and years of continued waiting for these or any executions to occur, or if any executions will actually ever occur at all.

Funny that there are some who are glad that killing the bill has happened, but I don't expect to hear many people applauding when they learn about what is to occur as a result of this decision.

For months now, we have written, perhaps too academically, about why we need to abolish the death penalty in Connecticut.

Many have supported this perspective locally, including editorial board members of The News-Times who courageously stood up and made their opinions known in no uncertain terms.

Even the New York Times recently called for the end of the death penalty in Connecticut.

Those of us who have spoken out have attempted to be philosophical, methodical, logical and mindful of the many repercussions that having a death penalty actually causes.

We have spoken about the many victims who suffer as a result of being involved in this process, from scores of co-victims who have had time to reflect on the damage this process has caused them, to jurors shaking and trembling as they review gruesome pictures and are severely traumatized, as well as correctional staff who are forced to take part in a process which scars them forever.

Apparently, none of these spoken truths have reached the minds or hearts of some legislators who, we think, should represent all victims of this horrible process.

They have instead decided to proclaim "justice" to be served for one family who has suffered a horrible, tragic loss, and for which they claim that the death penalty simply must be imposed.

One case, it appears, has dramatically altered their thinking, and is being propped up as the reason why Connecticut should not join the national (and world) trend to abolish capital punishment.

In the midst of a monumental budget crisis facing this state, little has been written which addresses the economic realities of keeping the death penalty in our state and, sadly, its devastating results.

What are those results? Money that has been held back from funding effective law enforcement activities and programs, and inadequate services for surviving victims of violent crimes, and re-allocation of funds to provide much needed emotional and financial support services for them.

The state of Illinois addressed these very issues by abolishing their death penalty a few months ago, and in re-allocating the cost savings into these and other kinds of needed services and programs.

Sadly, this reality was not enough to bring about more reasoned thinking and action in Connecticut, so I have altered my argument slightly to make one last point on this issue.

Think in terms of what is about to occur in our state.

Think about the next time you pick up your local paper and read about another social service agency closing its doors, or you open your mail and see the increase in your local property taxes (yes, the state is reducing aid to your city or town), or you learn of more job layoffs which hit your friends and neighbors who have worked their entire lives to support their families and communities and who, in many cases, provide basic services to our communities.

Just remember that this is occurring, in part, because we continue to waste more than \$4 million each and every year for a death penalty that is almost never applied, even less frequently used, and which diverts huge amounts of money from the kinds of programs and services which we know keep us comfortable, safe and secure.

So when you can't pay your next medical bill, or perhaps worse, you must pay exorbitant amounts of money to maintain your licenses or to access basic state services -- money which helped to keep food in our refrigerator or heating oil in our tanks -- you can thank our state senators in Hartford.

They are proud to stand up and tell you that they have acted to protect your interests by keeping the punishment of the death penalty on the books for one family, while ignoring many other surviving family members of murder who pleaded with them to put capital punishment to an end.

Additionally, their actions have actually punished every citizen in our state who is currently struggling to make ends meet.

Let's be honest -- the anti death penalty bill was derailed because of one case which occurred four years ago and which has, since that time, clouded our objectivity and overruled our common sense. As a result, we will all continue to suffer.

Politics as usual in Hartford has provided a Pyrrhic victory for death penalty supporters.

At a time when funding for education and public services is being cut, the state Senate has decided to have taxpayers continue to foot the bill for a failed system.

So remember to mail a quick thank-you note to your state Senator who voted against getting rid of the death penalty. Better yet, just email or call them and save the postage -- you're going to need it.

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Death is only justice

By ROBERT BLECKER, New York Post

Last Updated: 3:11 AM, March 30, 2011, *Posted:* 12:36 AM, March 30, 2011

As I peeked through the window at Steven Hayes, lying on his bed on Connecticut's death row earlier this month, I spotted a Hershey bar on his desk. I mentioned it a few days later, while testifying in Hartford against repeal of the state's death penalty. "So what if he has a Hershey bar?" Sen. Eric Coleman demanded.

Yes, even as the prosecution and defense struggle to pick a jury to try Joshua Komisarjevsky, Hayes' alleged partner in the rape and murder of the Petit family, the Nutmeg State is considering abolishing capital punishment -- "prospectively only."

In theory, this could leave Hayes on death row, condemned to die, while sparing all *future* depraved scum like him. In reality -- given the relentless appeals and commutation campaigns that the anti-death penalty crowd are sure to engage in -- repeal would give a new lease on life to the man who raped and strangled Jennifer Hawke-Petit, after tying her daughters to their beds.

Remember: With the girls still conscious and roped to their beds, the depraved sadists doused the sisters' bedrooms in gasoline, lit the match and immolated them both.

Contrast that horror to what I saw in Hayes' cell -- not just the candy bar, but his empty bunk piled with bags of potato chips and other goodies from the commissary.

But my outrage failed to moved Sen. Coleman. "It's so trivial," he countered. "So what if he has a Hershey bar?"

I gulped: "He shouldn't experience that sweetness, that delicious taste of chocolate. Given what he did -- who he stripped of life and how he stripped them of it."

If Connecticut abolishes the death penalty, Hayes and Komisarjevsky -- now on trial and reportedly begging to plead guilty to spare himself the death penalty -- will someday be released from death row into a prison's general population to live out their natural lives.

And other condemned monsters will join them. Russell Peeler, who had an 8-year-old and his mother killed to eliminate the child as a witness. Todd Rizzo, who used a sledgehammer to beat to death a 13-year-old boy -- to know what it felt like.

Life without parole is worse than death, opponents assure us. They will die in prison, one day at a time.

But we *all* die one day at a time. The real issue is how we live.

I've visited with the warden and corrections spokesman at McDougall Walker -- the prison that, without capital punishment, would mostly likely house Connecticut's condemned killers for the rest of their lives. They confirmed it: Within one month of being (re)sentenced to life without parole for raping and murdering a child, a prisoner in general population can expect to be out of his cell working or playing, showering, hanging out, talking on the phone, playing ball or board games for 10 to 12 hours a day for the rest of his life.

If Connecticut abolishes the death penalty, death row will empty into general population. It may take time, but it *will* happen.

Thousands of hours in prisons and over 25 years interviewing more than 100 convicted killers (along with dozens of correctional officers) has taught me: Life without parole *can't* substitute for the death penalty.

For those lesser criminals we do intend to release someday, prison should provide new skills and values enabling them to live again among us as productive citizens. But for those depraved predators who rape and kill -- who mutilate children -- *life* itself should be a punishment beyond a small cell at night without so much as a lights-out policy. Life should be unpleasant, all day, every day.

Nearly 80 percent of Connecticut residents want Hayes and other vicious murderers executed. Yet lawmakers seem prepared to ignore the people. Will they pay a price?

"There will be no huge political consequences," Barry Scheck told legislators the same day I testified. "You're going to be shocked," insisted the co-founder of the Innocence Project and member of OJ Simpson's Dream Team. Never mind the courts that would have to deal with the condemned now litigating their way off death row: "If you abolish capital punishment prospectively only," Scheck laughed, "people are not going to even really notice the next day."

I refuse to believe that. The people of Connecticut must pressure their lawmakers to reject this unprincipled bill. Meanwhile, the rest of us can only wait for justice and wonder.

Robert Blecker, a criminal law professor at New York Law School has spent thousands of hours in several states documenting the lives of convicted murderers.

A Life Sentence on Death Row: What percentage of death sentences are actually carried out?

By Brian Palmer, Slate Explainer, Posted Wednesday, Sept. 21, 2011, at 5:34 PM ET

The Georgia State Board of Pardons and Parole [refused to grant clemency](#) to Troy Davis, who was convicted and sentenced to death in 1991 for killing a police officer. Davis' execution has been stayed three times in the past, but the denial of clemency seems to have extinguished his last hope to avoid the death penalty. [*Update, 11:08 p.m., Sept. 21: [Davis was executed](#) after a brief reprieve Wednesday night.*] When a defendant is sentenced to death, what are his chances of actually being executed?

They're slim. No one keeps official statistics on the percentage of death sentences carried out, because there are more than 3,000 inmates who remain on death row with unknown outcomes. There are, however, mountains of related statistics suggesting that a condemned man has an excellent shot at eluding the executioner one way or another. States are condemning murderers at a much higher rate than they're actually putting them to death. In 2009, [52 people were executed](#) (PDF), compared to 106 death sentences handed down.

The average killer is [28 years old at the time of his arrest](#), and it takes an average of 14 years between sentencing and execution. But these data include only those inmates whose executions were actually carried out; many are not. To put it into perspective, 323 people were condemned in 1996. Fourteen years later, in 2010, only 10 people were executed. It is not uncommon for inmates to spend more than 20 years on death row, and one man challenged his execution on the basis that a [32-year wait](#) (PDF) and repeated stays of execution constituted cruel and unusual punishment.

So what happens to all these non-executed people? Most spend their lives in prison. In more than two-thirds of capital cases, appeals courts [annul the original trial](#) (PDF) because of significant errors. The prosecutor sometimes fails to reveal potentially exonerating evidence. The judge may have given poor instructions to the jury. Or an appeals court could find that the defendant's lawyer—usually an overburdened public defender or a court-appointed private attorney working for very modest fees—was incompetent. When any of these things happens, the inmate gets a fresh trial and the whole process begins anew.

It's a lot more difficult for the state to win a death sentence the second or third time around. Eyewitnesses crucial to the first trial may start to waver, and some may no longer be around to take the stand. Public furor over the crime subsides, and juries may not be as willing to impose the death penalty. Some defendants lead productive lives in prison between their initial sentencing and the second trial—they join churches, write books, and [work with at-risk youth](#)—making them much more sympathetic. In some cases, the state doesn't even bother seeking the death penalty again.

Of the 68 percent of defendants who win a new trial, three-quarters receive a lesser sentence. Seven percent are acquitted. Eighteen percent get the death penalty a second time, but those convictions run back through the appeals cycle and can be overturned again.

Many inmates die on death row before being executed. In 33 years since California reinstated the death penalty, 78 of the state's death row inmates have [died by natural causes, suicide, accident, or violence](#). Only 14 have been executed. Two California death row inmates died natural deaths in March alone.

Got a question about today's news? [Ask the Explainer](#).

*[Brian Palmer](#) is a regular *Slate* contributor.*

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Not Innocent Enough

The elusive search for the sufficiently innocent death-row victim.

By Dahlia Lithwick, Slate: jurisprudence, Posted Saturday, Sept. 5, 2009, at 7:29 AM ET

For years, death-penalty opponents and supporters have been on what now looks to be an ethical snipe hunt. Everyone was looking for a moment at which everything would change: a case in which a clearly innocent defendant was wrongly put to death.

In a [2005 Supreme Court case](#) that actually had nothing to do with the execution of innocents, Justices David Souter and Antonin Scalia locked horns over the possibility that such a creature could even exist. Souter fretted that "the period starting in 1989 has seen repeated exonerations of convicts under death sentences, in numbers never imagined before the development of DNA tests." To which Scalia retorted: "[T]he dissent makes much of the new-found capacity of DNA testing to establish innocence. But in every case of an executed defendant of which I am aware, that technology has confirmed guilt." Scalia went on to blast "sanctimonious" death-penalty opponents, a 1987 study on innocent exonerations whose "obsolescence began at the moment of publication," and then concluded that there was not "a single case—not one—in which it is clear that a person was executed for a crime he did not commit."

This language suggested that if anyone ever found such a case, the Scalias of the world might rethink matters. As of today, the [Innocence Project](#), a national organization dedicated to exonerating the wrongfully convicted through DNA testing, claims there have been 241 post-conviction DNA exonerations, of which 17 were former death-row inmates who now have been spared the death penalty. The gap between their data and Justice Scalia's widens every year. And for those who insist that not even one of those alleged innocents is indeed innocent, we now have a name: Cameron Todd Willingham, executed by the state of Texas in 2004 for allegedly setting a 1991 house fire that killed his three young daughters.

David Grann, who wrote a [remarkable piece about the case](#) in last week's *New Yorker*, sifted through the evidence against Willingham to reveal that the entire prosecution was a train wreck of eyewitness testimony that changed over time: a jailhouse snitch who was both mentally impaired and stood to benefit from testifying against Willingham, "expert" psychiatrists who never examined the accused but proclaimed him a "sociopath" based on his posters and tattoos, and local arson investigators whose conclusions were less rooted in science than a sort of spiritual performance art. And at every step in his appeals process, Willingham's repeated claims of innocence were met with the response that he'd already had more than enough due process for a baby-killer.

But you needn't take Grann's word for it. In 2004, Dr. Gerald Hurst, an acclaimed scientist and fire investigator conducted an independent investigation of the evidence in the Willingham case and came away with little doubt that it was an accidental fire—likely caused by a space heater or bad wiring. Hurst found no evidence of arson and wrote a report to that effect to try to stay the execution. According to documents obtained by the Innocence Project, it appears nobody at the state Board of Pardons and Paroles or the Texas governor's office even took note of Hurst's conclusions. Willingham was executed by lethal injection, telling the Associated Press before his death, "[t]he most distressing thing is the state of Texas will kill an innocent man and doesn't care they're making a mistake."

In 2004 the *Chicago Tribune* asked three fire experts to evaluate the Willingham arson investigation. Their testing confirmed Hurst's report. In 2006, the Innocence Project commissioned yet another independent review of the arson evidence in Willingham's case. Their panel concluded that "each and every one" of the indicators of arson was "scientifically proven to be invalid." Finally, in 2007 the state of Texas created the [Forensic Science Commission](#) to investigate alleged errors and misconduct and commissioned another renowned arson expert, Craig Beyler, to examine the Willingham evidence. Beyler's [report, issued two weeks ago](#), concluded that investigators had no scientific basis for claiming the fire was arson and that one of the arson investigator's approaches seemed to deny "rational reasoning" and was more "characteristic of mystics or psychics."

The state of Texas now has the opportunity to review Beyler's findings and conclude that it has carried out the "execution of a legally and factually innocent person."

One might think that all this would put a thumb on the scale for death-penalty opponents, who have long contended that conclusive proof of an innocent murdered by the state would fundamentally change the debate. But that was before the goal posts began to shift this summer. In June, by a 5-4 margin, the [Supreme Court ruled](#) that a prisoner did not have a constitutional right to demand DNA testing of evidence in police files, even at his own expense. "A criminal defendant proved guilty after a fair trial does not have the same liberty interests as a free man," wrote Chief Justice John Roberts. And two months later, Justices Scalia and Thomas went even further than the chief justice following an extraordinary Supreme Court order instructing a federal court to hold a new hearing in Troy Davis' murder case, after seven of nine eyewitnesses recanted their testimony. Scalia, dissenting from that order, [wrote for himself and Justice Clarence Thomas](#), "[t]his court has *never* held that the Constitution forbids the execution of a convicted defendant who has had a full and fair trial but is later able to convince a habeas court that he is 'actually' innocent."

As a constitutional matter, Scalia is not wrong. The court *has* never found a constitutional right for the actually innocent to be free from execution. When the court flirted with the question in 1993, a majority ruled against the accused, but Chief Justice William Rehnquist left open the possibility that it may be unconstitutional to execute someone with a "truly persuasive demonstration" of innocence. Oddly enough, for at least some members of the

current court that question is now seemingly irrelevant: In Scalia's America, the Cameron Todd Willingham whose very existence was once in doubt is today constitutionally immaterial. Having waited decades for an innocent victim of capital punishment, the fact that we have finally found one won't matter at all. In this new America we can execute a man for an accidental house fire, while the constitution stands silently by.

Dahlia Lithwick is a Slate senior editor.

A Letter From Dr. William Petit

May 29, 2009 by *Cheshire Herald*

The following is a letter written by Dr. William Petit in regards to the Connecticut State Legislature's recent decision to abolish the death penalty. The opinions expressed in this letter are his own and do not necessarily reflect the viewpoint of *The Cheshire Herald*.

I am deeply saddened that the legislators of the state of CT have walked away from justice. No surprise at all that it just happened to have been voted on at the end of a short week just before a long holiday weekend to minimize news coverage.

For certain murders and other crimes there is no other penalty that will serve justice other than the death penalty. It transcends national borders, races, and cultures. The issue here is justice, not revenge, nor many of the other arguments that the anti-death penalty abolitionists use as inappropriate arguments to take the focus away from the critical issue. I have found all of their arguments to be intellectually and philosophically dishonest and off point. Their main concerns appear to be the protection of criminals and saving money.

Justice and what is right and moral never appear to be part of their arguments, When a family member is murdered it destroys a portion of our society — all the potential of those taken away in a cruel fashion is obliterated. Those murdered can never grow and contribute to society. Those who knew them can never hold them, spend time with them, and see what they would add to their family life and society in general. A poor argument made by many of the abolitionists is that life in prison without the possibility of parole is a "worse" punishment than death-if they (the abolitionists) are so magnanimous and forgiving why are they opting for a punishment that is worse, i.e., life without the possibility of parole instead of the death penalty? In addition, the problem with the legislature is just that...the legislature. Next year, if there is no death penalty, we will see a move afoot to lessen the sentences of those sentenced to life without parole to "save money." This is not a theoretical issue as it is now being discussed in other states, as they now do not want to pay the health care costs of their aging life without parole populations. In addition, it removes the option of the death penalty from the prosecutors as a plea bargaining tool. The legislators want us to take years to talk about the killers and allow them to utilize our resources when these animals have broken the most sacrosanct law of our society. Once you have broken this rule you have forfeited your rights to live among us — life is that precious. There is only one way to lose that privilege and it is to take another person's life unlawfully — murder.

The death penalty is lawful execution, though those in the Judiciary Committee do their best to make it nearly impossible to implement and then tell us "it doesn't work-we should abolish it." It doesn't work because they have stood in the way for the past 20 years. State Representative Mike Lawlor (D-99) has now publicly stated that, given this vote, no one will ever be executed again, as if he has some extraordinary power to both legislate and judge all those who have gone to trial and will come to trial. He has driven this agenda despite the fact that the Quinnipiac polls show 70 percent and the Hartford Courant poll shows that 67 percent favor the death penalty. The death penalty abolitionists in the legislature are excellent at pretending that they care, but they have a predetermined agenda and outcome. The "public hearing" saw them keep the public defenders' office up for several hours so they could pontificate on many issues that are off the point and allow less time for those in favor of the death penalty to speak. The main issue for those we elect should be what is just and what is right, but the Judiciary Committee and the Public Defender's Office appear to have little interest in victims. To them we (victims of violent crimes) are much like the homeless people in large cities. The Judiciary and Public Defender's Office walks by us, afraid to look us in the eyes, and then make public pronouncements about how bad it is that there are homeless (victims). In the New Testament in James, this is referred to as "faith without works." In this case they pretend to have faith but do nothing to help victims. In fact they are going out of their way to decrease the budget for the Office of the Victim Advocate by 20 percent while increasing the budget for new programs to serve criminals.

Do you see a trend here?

Do you see a trend that tells the tale of who the Judiciary and the majority up in the legislature support? They clearly do not support the will of the constituents who overwhelmingly favor the death penalty in capital felony cases. They appear to feel that they have been elected to support criminals and defense attorneys. There are many folks on death

row who should have been executed years ago. The Judiciary Committee and the Legislature in general have doubly shirked their duty as they have had years to revamp the appeals system but continue to allow defendants to appeal for years, even when it is clear beyond a shadow of a doubt that they are guilty. This is a denial of justice and a huge waste of taxpayers' money. Mr. Lawlor asked Kevin Kane to come back to the Judiciary Committee with a proposal to shorten the appeals process. Mr. Kane did so *but there was inadequate time near the end of the long session to truly discuss what is a complex issue. There was one short hearing, arguments about amendments, and then the item was voted down. A revision of a process this complex needs adequate time to be done fairly, but there was clearly no interest from the majority in making a good faith effort to improve/streamline the appeals process. *In addition, the proposed bill on habeas appeals *never* got out of the Judiciary Committee. *Excessive habeas appeals* allows *convicted* prisoners to appeal nearly ad infinitum without any logical reason nor shred of hope of succeeding other than delaying their execution. Judge Susan Handy at the Melanie Rieger Conference last week in Cheshire stated that she currently has an inmate before her court on his/her 33rd habeas appeal. For reasons that defy justice and common sense, the state legislators and defense attorneys think that this is an academic game played with the money of the people of the state. They can continue to appeal for those who are guilty almost ad infinitum. Who suffers? Who loses? You guessed it, the victims — always the ignored group. Where is the justice? Where is their sense of right and wrong? Clearly they have none. These violent criminals have been tried by a jury of their peers and found guilty. This occurred again in the sentencing phase and likely in most death penalty cases in several appeals. None of the people on death row in Connecticut are claiming innocence — there are no controversial cases there. When I speak of the death penalty, I am speaking of capital felony cases where no doubt is left and where there is conclusive evidence. Opponents will throw out a "DNA argument." If you actually take the time to review the literature, you will find that it is not available in many cases and will not exonerate people in the vast majority of cases. The defense wants it both ways: They claim to require 2.5 to 3 years to "prepare" for a death penalty case and then the most common cause for appeal is "inadequate defense". What does this say about their abilities when they prepare for 2 to 3 years, waste hundreds of thousands of dollars, if not millions, and then lose the case? To me, it attests to the obvious; that the accused was guilty and preparation for 10 years would not have changed the outcome. Yet, somehow these defense attorneys can rationalize the waste of taxpayers' time and money with these antics. To get personal in my case the district attorney has been ready to go to court since March 2008 and the defense (Ullman and Donovan-both paid for by taxpayers) are wasting as much time as possible because they have no concern for the victims or for the thousands of dollars that they will waste. Their only goal is "to win" whether their clients are guilty or innocent and the longer the trial the more hours they can charge to the taxpayers. There are heinous murderers who have forfeited their rights to continue to live among us. I suspect many murder victims and their families would like the legislature to provide a magical mechanism for them to delay the cruel and heinous murders of our own loved ones-but these legislators seem far more interested in the murderers than the law-abiding citizens of the state. They have failed us in many ways. They really should have been spending their time on fixing the budget crisis but have chosen to shirk their duties and, instead of focusing on cutting costs, are mainly raising taxes, fees, and repealing certain deductions. Because the Democrats have a super majority, they feel they can enforce their will upon the people of Connecticut. All the polls I have seen show that a majority of citizens of the state favor the death penalty in capital felony cases and yet these legislators feel they are wiser than we the people. They also feel that they are wiser than all the societies that have existed for tens of thousands of years before us that used the death penalty as the ultimate punishment. It always was and always will be a deterrent — the executed person can never kill again. Many of these same legislators wanted to cuddle Michael Ross after he had been convicted of torturing, raping and killing at least eight young women and admitted to other murders for which he was never tried. In an incredibly disgusting display of self-pity Mrs. MA Handley told us all how her birthday was forever ruined as Ross was executed on that day. She did not admit to worrying or grieving over the anniversaries of the deaths of the young women tortured and murdered. Again she had no statement concerning the victims or their families. Unbelievable. This is from an honest liberal who actually took the time to look at the deterrence data: "The common good argument is that executing murderers would deter murder and save lives. But the death penalty opponents challenged the veracity of that assertion. Finally, the results of several recent university studies are available. A series of academic studies over the last half-dozen years analyze the hotly debated argument — whether the death penalty acts as a deterrent to murder. The analyses say yes, counting between 3 and 18 lives that would be saved by the execution of each convicted killer. One of the studies by Naci Mocan, an economics professor at the University of Colorado, found that each execution results in five fewer homicides, and commuting a death sentence means five more homicides. "The results are robust, they don't really go away," he said. "I oppose the death penalty. But my results show that the death penalty

(deters) — what am I going to do, hide them? The conclusion is there is a deterrent effect.”

Statistical studies like his are among a dozen papers since 2001 showing that capital punishment has deterrent effects. To explore the question, they look at executions and homicides, by year and by state or county, looking at the impact of the death penalty on homicides while accounting for other factors such as unemployment data, per capita income, the probabilities of arrest and conviction, and more.

Among the conclusions:

1. Each execution deters an average of 18 murders, according to a 2003 nationwide study by professors at Emory University.
2. The Illinois moratorium on executions in 2000 led to 150 additional homicides over four years following, according to a 2006 study by professors at the University of Houston.
3. Speeding up executions would strengthen the deterrent effect. For every 2.75 years cut from time spent on death row, one murder would be prevented, according to a 2004 study by an Emory University professor.

The reports have horrified death penalty opponents.

Steven Shavell, a professor at Harvard Law School and editor of the *American Law and Economics Review*, said that his journal intends to publish several articles on the statistical studies on deterrence in an upcoming issue.

The University of Chicago's Cass Sunstein, a well-known liberal law professor and critic of the death penalty, has begun to question his own strongly held views. “If it's the case that executing murderers prevents the execution of innocents by murderers, then the moral evaluation is not simple,” he told *The Associated Press*. “Abolitionists or others, like me, who are skeptical about the death penalty haven't given adequate consideration to the possibility that innocent life is saved by the death penalty.”

Moral philosophy says to look to the common good, in this case saving the lives of innocents. To ignore this would be immoral, and the sign of a scrambled mind." (<http://palosverdesblog.blogspot.com/2007/06/moral-philosophy-and-death-p...>)

In summary, all I can say is that it is a very sad day to be a citizen of the state of Connecticut, as we are represented by people who do not have the courage to stand up for what is right and what is justice. They, in fact, do not take the time to ask their constituents what they want and believe, nor do they actually study the facts. I am sorry for these people's misguided philosophies that will lead to a weakening of the very fabric of our society and will deny justice to victims. Do not listen when these people say they did this for victims. They did not do this for victims, they did it for themselves and their inability to make a difficult decision and stand up for what is right and just.

CONNECTICUT DEATH PENALTY LAWS

By: Christopher Reinhart, Senior Attorney

<http://www.cga.ct.gov/2005/rpt/2005-R-0136.htm>

SUMMARY

A person convicted of a capital felony must be sentenced to either the death penalty or life imprisonment without the possibility of release. The law requires a separate sentencing hearing before a judge or jury to weigh mitigating and aggravating factors to decide whether to impose the death penalty. The judge or jury cannot impose the death penalty and must sentence the person to life imprisonment without the possibility of release if the judge or jury determines that mitigating factors outweigh, or are of equal weight to, the aggravating factors or if any of five automatic bars to the death penalty exist. Otherwise, the person must be sentenced to death.

Once a person is convicted and sentenced to the death penalty, he can appeal in state and federal courts. The Connecticut appeals process involves an automatic sentence review by the Connecticut Supreme Court, a direct appeal of errors at trial and sentencing, and then a state habeas corpus phase. It is possible to appeal these rulings to the U. S. Supreme Court. At the conclusion of state proceedings, a person can file a federal habeas corpus petition and appeal any ruling through the federal courts up to the U. S. Supreme Court.

In Connecticut, the method of imposing the death penalty changed from electrocution to lethal injection in 1995 (CGS § 54-100). If a person becomes insane after being sentenced to death, the execution is stayed but can be reinstated if the person becomes sane (CGS § 54-101). The Board of Pardons and Paroles can commute a death sentence or grant a pardon to a person on death row (CGS § 54-130a).

CONNECTICUT

Capital Felony

A person convicted of a capital felony can be sentenced to either the death penalty or life imprisonment without the possibility of release. A person commits a capital felony if he:

1. murders, while the victim was acting within the scope of his duties, a police officer, Division of Criminal Justice inspector, state marshal exercising his statutory authority, judicial marshal performing his duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, Department of Correction (DOC) employee or service provider acting within the scope of his employment in a correctional facility and the perpetrator is an inmate, or firefighter;
2. murders for pay or hires someone to murder;
3. murders and was previously convicted of intentional murder or murder while a felony was committed;
4. murders while sentenced to life imprisonment;
5. murders a kidnapped person and is the kidnapper;
6. murders while committing first-degree sexual assault;
7. murders two or more people at the same time or in the course of a single transaction; or
8. murders a person under age 16 (CGS § 53a-54b).

Judge or Jury

In capital felony cases, the defendant is tried by a jury unless he chooses to be tried by a three judge panel. If the defendant chooses a judges panel, the chief court administrator, or his designee, designates the judges and chooses one to preside at trial. A majority of the judges decides all questions of law and fact at trial and renders judgment. If the defendant is tried by a jury, the jury consists of 12 jurors unless the defendant consents to a lesser number (CGS § 54-82).

Special Verdict

After a person is convicted of a capital felony, the judge or jury considering whether the court should impose the death penalty must determine, and state in a special verdict, whether one or more aggravating factors outweigh one or more mitigating factors. If the court or jury determines the mitigating factors outweigh the aggravating factors or are of equal weight, the court must sentence the defendant to life imprisonment without the possibility of release. If the aggravating factors outweigh mitigating factors, the sentence is death (CGS § 53a-46a).

A "special verdict" declares findings on specific factual issues or questions. By contrast, a general verdict declares whether or not the judge or jury finds in favor of the defendant. The court or jury also must state in the special verdict its findings on the existence of any (1) automatic bars to the death penalty and (2) aggravating factors.

Mitigating Factors

The jury or court must determine if a particular factor concerning the defendant's character, background, or history or the nature and circumstances of the crime is established by the evidence and whether that factor is mitigating, considering all the facts and circumstances of the case. Mitigating factors are not defenses or excuses for the capital felony of which the defendant was convicted, but are factors which, in fairness and mercy, tend either to extenuate or reduce the defendant's blame for the offense or otherwise provide a reason for a sentence less than death (CGS § 53a-46a).

Aggravating Factors

The only aggravating factors that the judge or jury can consider are that the defendant:

1. committed the offense while committing or attempting to commit a felony, or while fleeing from the commission of or attempt to commit a felony, and had previously been convicted of the same felony;
2. had been convicted of at least two state or federal offenses prior to the offense, each of which was committed on different occasions, involved serious bodily injury, and had a maximum penalty of at least one year imprisonment;
3. committed the offense knowingly creating a risk of death to another person in addition to the victim of the offense;
4. committed the offense in an especially heinous, cruel, or depraved manner;
5. procured someone else to commit the offense by paying or promising to pay anything of pecuniary value;
6. committed the offense in return for payment or the expectation of payment;
7. committed the offense with an assault weapon; or
8. murdered one of the following people while they were acting within the scope of their duties in order to (a) avoid arrest for or prevent detection of a criminal act, (b) hamper or prevent the victim from carrying out an act within the scope of his official duties, or (c) retaliate against the victim for performing his official duties: a police officer, Division of Criminal Justice inspector, state marshal exercising his statutory authority, judicial marshal performing

his duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, DOC employee or service provider acting within the scope of employment in a correctional facility and the perpetrator is an inmate, a firefighters (CGS § 53a-46a(i)).

Automatic Bars to Death Penalty

Five factors automatically bar the death penalty. A defendant cannot receive the death penalty if the court or jury determines that:

1. he was under age 18 at the time of the crime;
2. he was mentally retarded at the time of the crime;
3. his mental capacity or ability to conform his conduct to the requirements of law was significantly impaired at the time of the crime (but not so impaired as to constitute a defense);
4. he was guilty of a capital felony only as an accessory and had relatively minor participation; and
5. he could not reasonably have foreseen that his conduct, in the course of committing the crime he was convicted of, would cause someone's death (CGS § 53a-46a(h)).

Appeal

In Connecticut, the state Supreme Court automatically reviews a death sentence. The court must affirm the sentence unless (1) it was the product of passion, prejudice, or any other arbitrary factor or (2) the evidence fails to support the finding of an aggravating factor needed to impose the death penalty. Additionally, the defendant may seek a direct appeal of his conviction to address any errors at trial. The court must consolidate the review and appeal for consideration (CGS § 53a-46b).

If the direct appeal fails, the defendant can petition the U. S. Supreme Court for review of the conviction. If this fails, he can file a state habeas corpus petition. Habeas petitions generally cannot raise issues that have already been raised and decided on appeal. The petitions usually involve a claim (1) of ineffective assistance of counsel or (2) for a new trial based on actual innocence (usually due to the discovery of new evidence). A defendant can then appeal these claims through the Connecticut Supreme Court and a denial can be appealed to the U. S. Supreme Court. If the defendant is unsuccessful at this point, he can file a federal habeas corpus petition on federal issues in the federal district court. This claim can be appealed through the federal court of appeals and to the U. S. Supreme Court.

The defendant's case can be returned to the trial court if the state Supreme Court vacates the conviction or the death sentence, the defendant's habeas petition (federal or state) is granted, or the U. S. Supreme Court finds error. If the trial court imposes a new death sentence, the appeals process begins again.
