



**pennsylvania**  
OFFICE OF VICTIM ADVOCATE



*Courage*



*Resilience*



Jennifer Storm, Victim Advocate  
The Office of the Victim Advocate Testimony  
House Judiciary Committee  
Pennsylvania Death Penalty Moratorium  
Thursday June 11, 2015



I would like to thank Chairman Marsico and everyone on the House Judiciary Committee for holding the hearing today on this very important topic and inviting me to present testimony. The Office of the Victim Advocate represents the interests of all crime victims within the Commonwealth; we support them, inform them of their rights and of major events that occur within the system that directly impact their cases, and we empower them with information. Most importantly, we make every feasible attempt we can to ensure that no additional harm comes to them through their unintended interactions with the justice system.

At the Office of Victim Advocate (OVA) we understand and respect that all victims have different opinions, even in the same cases, it is our duty and job to represent, respect and reflect them all. The OVA does not have a formal stance on the death penalty as we couldn't accurately respect, reflect and represent the interests of our clients if we did.

On February 13 2015, our office had to make over 400 phone calls to families, friends and loved ones of those who had been brutally tortured, raped, discarded on roads, dismembered, and ultimately savagely murdered. We called them to let them know that Governor Tom Wolf had issued a moratorium on the death penalty thus halting an already slow, painful and arduous path that each of them respectfully has been on for years and in many cases, for decades.



In the overwhelming majority of those calls, my staff and I did the most important thing we seek not to do, we caused harm. We broke hearts and sat while listening to the tears and screams of many of our clients who could not understand why once again our office was calling them with news that wasn't really news they wanted to hear. As you can imagine the crime victims whose offenders are serving death sentences only get calls from our office when there is an appeal in their case, a warrant signed and then again when the execution is stayed by the courts. We make every attempt we can to answer their questions and ease their pain, but our efforts are futile as no one can ease the pain that the victims feel every time the phone rings and it is yet another steep or valley on the roller coaster of emotions that is the death penalty in Pennsylvania. It is not my role to debate the death penalty with you today and whether or not our system in Pennsylvania is broken. What I am here to convey are the thoughts, opinions and desires of the hundreds of hearts that are broken because justice in their respective case is not coming to fruition.

After our office endured the hours of calls and heard various input from our clients we felt the strong desire to quantify this information so that we could provide that to the Governor's office as well as the legislature. Victim's voices matter. In Pennsylvania we have a rich history of valuing the opinions and voices of our crime victims. When we are seeking policy changes that impact crime victims, we must understand the emotional and psychological impact these policy decisions can have on them. It is our duty to ensure our system isn't inadvertently doing more harm in areas where we should be seeking to do better.



To that end, our office conducted a survey to the 418 registered crime victims we had in our system whose offenders were serving death sentences. We engaged the research staff of the Department of Corrections to ensure our questions were scientifically sound and our results were analyzed properly. I am here today to provide the results of that survey.

In early March 2015, 418 surveys were mailed by the Pennsylvania Office of the Victim Advocate. Of this total, 29 surveys were returned as having inactive addresses. For the remaining 389 surveys which were delivered, 156 were completed and returned. This is a response rate of 40%. In an effort to keep our survey brief we asked five questions with responses ranging from strongly agree to strongly disagree. We also provided space for comments at the end of the survey. I will provide each question along with our findings.

**Question 1. I support the death penalty.**

Overwhelmingly the respondents agreed with the statement "I support the death penalty." 80.1% of respondents 'strongly agreed' with that statement, and 91% either 'strongly agreed' or 'agreed' with that statement. Only 5.1% 'disagreed' or 'strongly disagreed' with that statement.

**Question 2. I feel the sentence imposed by the courts in my case should be carried out.**

Overwhelmingly the respondents felt that the sentence imposed by the court (which is the death penalty for all the cases involved here) should be carried out. 87.2% 'strongly agreed' with that statement, and 93.6% either 'strongly agreed' or 'agreed' with that statement. Only 3.8% either 'disagreed' or 'strongly disagreed'.



What is important to note here is that while not all of our clients support the death penalty as stated above in question 1, some of them still felt the sentenced given by the courts should be carried out.

**Question 3. I had the opportunity to voice my wishes during the sentencing phase of my trial regarding the execution of the offender.**

The answers were more mixed here. Approximately 60.7% 'agreed' or 'strongly agreed' that they had an opportunity to voice their wishes, while 23.6% 'disagreed' or 'strongly disagreed' that they had an opportunity to voice their wishes. While more mixed, the majority response (nearly two-thirds of respondents) was that they had an opportunity to voice their wishes.

**Question 4. I would support abolishing the death penalty if it means the offender would remain separate from general population (i.e., a version of death row would remain), and that the offender would receive a life sentence without the possibility of parole.\***

This caveat was included in the survey to ensure they understood how death row inmates are currently housed. *\*Currently in PA any offender sentenced to a death sentence is confined to death row with limited privileges, they are kept in their cells 23 hours out of the day and are never in general population .*

Answers to this question were also mixed. 63.2% 'disagreed' or 'strongly disagreed' with abolishing the death penalty under these circumstance, whereas 28.4% 'agreed' or 'strongly agreed' with replacing the death penalty under these circumstances. While more mixed, the majority response (nearly two-thirds of respondents) was that they would not support abolishing the death penalty if life without parole and version of death row replaced it.



*Courage*



*Strength*



*Resilience*



**Question 5. There should be specific timeframe on the appeals process for death penalty cases.**

Overwhelmingly the respondents indicated that there should be a specific timeframe on the appeals process. 91.6% 'agreed' or 'strongly agreed' that there should be a specific timeframe, whereas only 3.9% 'disagreed' or 'strongly disagreed' that there should be a specific timeframe.

The overall assessment of these results are that they are quite strongly in support of the death penalty, feel the sentence should be imposed, and feel that there should be a specific timeframe on any appeals. Around two-thirds feel that they had an opportunity to voice their opinion at sentencing on the imposition of the death penalty, but there are about one-quarter of respondents who felt they were not afforded an opportunity to voice their opinions. Somewhere between one-quarter and one-third of respondents would be in favor of replacing the death penalty with life without parole if it also meant housing the offender separately from general population.

80% of those surveyed included written comments in the section provided and there comments are listed, totally unedited by our staff within the contents of the survey report you have.

We hope the bipartisan Pennsylvania Task Force and Advisory Commission on Capital Punishment takes swift action in concluding their report in a



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comprehensive manner so that a resolution to this moratorium can occur, and our crime victims are no longer held in legal limbo as to the status of their offender's case.

We do however strongly feel that any policy decisions made that potentially have the ability to impact crime victims should be fully inclusive of their thoughts, opinions and voices. I thank you for inviting me here today to bring some of those voices forward.



## Death Penalty Survey

In response to the recent moratorium put in place by the Governor regarding the death penalty in PA, the Office of the Victim Advocate would like to get your feedback as a survivor whose offender is currently on death row. Please note this is an anonymous survey and individual responses will be kept confidential.

1. I support the death penalty.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
<input type="checkbox"/>				

2. I feel the sentence imposed by the courts in my case should be carried out.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
<input type="checkbox"/>				

3. I had the opportunity to voice my wishes during the sentencing phase of my trial regarding the execution of the offender.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
<input type="checkbox"/>				

4. I would support abolishing the death penalty if it means the offender would remain separate from general population (i.e., a version of death row would remain), and that they offender would receive a life sentence without the possibility of parole.\*

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
<input type="checkbox"/>				

\*Currently in PA any offender sentenced to a death sentence is confined to death row with limited privileges, they are kept in their cells 23 hours out of the day and are never in general population .

5. There should be specific timeframe on the appeals process for death penalty cases.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
<input type="checkbox"/>				

*Thank you very much for participating in this survey.*





In early March 2015, 418 surveys were mailed by the Pennsylvania Office of the Victim Advocate. Of this total, 29 surveys were returned as inactive addresses. For the remaining 389 surveys which were delivered, 156 were completed and returned. This is a response rate of 40%.

- question 1**

Overwhelmingly the respondents agreed with the statement, "I support the death penalty."

  - 80.1% of respondents 'strongly agreed' with that statement
  - 91% either 'strongly agreed' or 'agreed' with that statement
  - Only 5.1% 'disagreed' or 'strongly disagreed' with that statement
  
- question 2**

Overwhelmingly the respondents felt that the sentence imposed by the court (which is the death penalty for all the cases involved here) should be carried out.

  - 87.2% 'strongly agreed' with that statement
  - 93.6% either 'strongly agreed' or 'agreed' with that statement
  - Only 3.8% either 'disagreed' or 'strongly disagreed'
  
- question 3**

Respondents were asked whether they had the opportunity to voice their wishes during the sentencing phase of the trial regarding the execution of the offender. The answers were varied.

  - Approximately 60.7% 'agreed' or 'strongly agreed' that they had an opportunity to voice their wishes
  - 23.6% 'disagreed' or 'strongly disagreed' they had an opportunity to voice their wishes
  - The majority response (nearly two-thirds of respondents) stated they had an opportunity to voice their wishes
  
- question 4**

Respondents were asked if they would support abolishing the death penalty if it was replaced with life without parole, and the offender would remain separate from the general population similar to what Pennsylvania currently has now with death row.

  - 63.2% 'disagreed' or 'strongly disagreed' with abolishing the death penalty under these circumstance
  - 28.4% 'agreed' or 'strongly agreed' with replacing the death penalty under these circumstances
  - The majority response (nearly two-thirds of respondents) stated they would not support abolishing the death penalty if life without parole and a version of death row replaced it



Respondents were asked whether there should be a specific timeframe on the appeals process for death penalty cases. Overwhelmingly the respondents indicated that there should be a specific timeframe on the appeals process.

- 91.6% 'agreed' or 'strongly agreed' that there should be a specific timeframe
- Only 3.9% 'disagreed' or 'strongly disagreed' that there should be a specific timeframe

The overall assessment of these results are respondents strongly support the death penalty, feel the sentence should be imposed, and feel that there should be a specific timeframe on any appeals. Approximately two-thirds feel they had an opportunity to voice their opinion at sentencing on the imposition of the death penalty, but there are about one-quarter of respondents who felt they were not afforded an opportunity to voice their opinions. Between 25 to 33 percent of the respondents would be in favor of replacing the death penalty with life without parole *if* it also meant housing the offender separately from general population.

Written comments were also requested in this survey. The individual comments from 80 percent of those surveyed are below. These comments are exactly as they appeared on the survey with no editing.

*"It's too hard to put into words what I feel."*

*"On June 16, 1998 this man destroyed my life and left me to raise my 3 children on my own. Governor Wolf should do his job and stop destroying families. He should have notified all victims before the press release as that was difficult for victims to see."*

*"Why have a jury trial if Governor Wolf isn't going to abide by the determination the jury made? This is a waste of everyone's time and undermines the competency of the jury's verdict."*

*"When a jury hands down a sentence, it should be carried out. The appeal process that the criminals are given is not fair. The people who they murder are not given any appeals; they are killed."*

*"Honestly do I feel my thoughts and feelings matter? No. I am conflicted about my thoughts and feelings on the death penalty."*

*"In my opinion the death penalty in PA is ineffective because it is not carried out. Offenders are sentenced and know that they will never face the consequences of their actions. Please tell Governor Wolf as a registered voter who helped elect you into office, I beg you to reconsider your decision."*

*"If the Governor can stop an execution, who is to say he will not stop the 23 hour a day in their cell. Then what?"*

*"Right now the death penalty is a joke. Even with signed warrants, the number of appeals is out of control. The victims have no rights and no voice."*

*"If you take a life, then yours should be taken."*

*"I was/am disappointed when the moratorium was announced. At times it's unbelievable how slowly this whole process moves along. With that being said, I would never wish this experience on anyone else. I find it very hard to believe the rights extended to people convicted of violent crime or murder."*

*"The sentencing took place in 2000; 15 years later and the sentencing hasn't taken place...ridiculous. In my opinion he should die the way he shot my brother-in-law; 3 times."*

*"I strongly believe in the death penalty. If someone is going to take someone's life, they should pay the price."*

*"Although my initial reaction to Governor Wolf's issuance of a moratorium is one of extreme anger, I do agree that in order to live up to our Constitution, we need to ensure that the death penalty is executed fairly and without risk of executing the innocent. I would never want to see an innocent person wrongly executed. I agree wholeheartedly that if there is any doubt as to whether a defendant is guilty, then yes, their case should be reviewed and then the appeal process should be carried out appropriately. However, for those cases where there is absolutely NO doubt that the perpetrator committed these heinous crimes, then their penalties should be carried out swiftly and without further delay."*

*"I've been suffering for 11 years. I had to quit my job, I don't mingle with anyone and I feel so alone and depressed. And this man sits on death row, after killing a police officer and tried to contact my step-daughter and tells her that he killed her father and she is next."*

*"I believe the death sentence should have been carried out a long time ago. I know this man killed my daughter and that was 11 years ago and he is still alive and breathing while my daughter is missing out in her life, the life of her children and the life of her grandchildren."*

*"Today the murderer who took my two daughters and granddaughter sits comfortably in Pennsylvania's Death Row while I and others must continue to quietly endure the daily sorrow of their absence and meritless appeals of their killer. Now in addition to our grief Governor Wolf, you've decided to place a moratorium on our state's death penalty to further suspend our mournful suffering indefinitely."*

*"If found guilty by a jury of your peers, that sentence should be carried out, instead of the state of PA footing the bill for 15-20 years of appeals. The victims didn't have an appeal or appeals for their life."*

*"I strongly believe in the death penalty and feel the sentence should be carried out in a timelier manner."*

*"I strongly agree that the death penalty should be carried out, My ex-husband brutally beat my 4 year old daughter to death while I was at work. If an innocent child did not have a chance at life, why should the perpetrator be able to live out his life on hard working, tax-payer's money?"*

*"As much as I appreciate the contact that the Victim Advocate Office give victims, it is very difficult to be expecting a death sentence to me carried out and then the criminal is given yet another stay. If the death penalty has been ordered, it should be done."*

*"We live in a different world than we did 30 years ago. Today it seems that a murderer has more rights than the victim or the victim's family. What has been lost is justice. They say that justice is supposed to be blind. However, I believe that justice has tilted in the wrong direction. Unfortunately for the defendant in this case, the jurors found that his conduct was so egregious that he should forfeit his life. I want you to pause and think about how those twelve human beings felt that their decision meant that this individual needed to forfeit his life. That kind of decision does not come lightly. This is why Governor Tom Wolf's recent decision to put a moratorium on the death penalty is so wrong and frankly callous."*

*"This man stabbed the victim to death in front of her sons who were only 6, 9 and 10 at the time. He had a chance to plead guilty and get life without parole but he chose not to. A jury of his peers found him guilty and sentenced him to death. This man admitted to killing her and her sons were all witnesses."*

*"In case my support for executing this offender seems to contradict my opposition to the death penalty, my position is this: If anyone in this state is executed, my offender should be too. His guilt is not in any doubt and there are no doubts as to the fairness of his conviction."*

*"We feel very strongly that executions in PA should be followed through. If the jury agrees on the death sentence, then why shouldn't the offender be put to death? This man claims that lethal injection is inhumane but I think murdering 5 people is far more inhumane. If Governor Wolf's family was brutally murdered, would he feel the same about the moratorium?"*

*"I wish the state would go ahead and enforce the law and carry out the death penalty immediately if not sooner."*

*"In our case, this was a highly calculated murder. It was so horrific in its planning and execution. I can't believe this person would not be given the death penalty."*

*"I simply cannot understand the unwillingness of PA to carry out the law. It's been almost 30 years! I am especially disappointed with the PA leadership. The leaders who talk tough on criminals have done nothing. Who will have the guts to stand up for the victims?"*

*"My son was killed in 1993 and left behind a 2 year old son. It was very difficult for him hearing other children speaking about their father and he has no one to call his father."*

*"My heart still aches for my family and I feel this should be taken care of in our lifetime."*

*"I believe the death penalty should be kept as an option in 1<sup>st</sup> degree murders because criminals need to know that a result of their actions could be the end of their lives."*

*"I think that if a person is guilty of killing someone, they should be put to death. Shame on the justice system."*

*"We feel in cases of "absolute" guilt, where there is no "doubt" and several eye witnesses to the crime, these cases should not even be included in this moratorium. Our family has suffered for over 20 years waiting and waiting for justice to be carried out."*

*"If your mother, father, sister, brother, daughter or son were killed in a heinous, senseless crime would you want justice for that family member?"*

*"For myself and my family, it's just frustration to know that my daughter's murderer still lives after 20 years on death row."*

*"My husband was killed 32 years ago and his murderer has gotten nothing but appeal after appeal after appeal."*

*"I have lived without justice for over 31 years. Why should the victim's family have to wait so long? Why can't we do what the law says should be done? It saddens me to think that so much benefit of doubt is given to the convicted criminals and very little if any comfort and closure is ever given to the family."*

*"I'm very upset that they want to put a moratorium on the death penalty. Obviously Tom Wolf has never lost anyone to murder."*

*"I feel that the death penalty should be carried out. We've been too lenient with our criminals giving them comfort while the families of the victims are suffering from grief."*

*"I firmly believe when someone kills two people and his sentence is to die by execution, he or she does not have any rights to appeal their sentence. The people murdered did not ask to be killed, especially by their own family member."*

*"By abolishing the death penalty, cop killers, mass murders, thrill killers, etc. would be allowed to live their lives at a tremendous cost to the taxpayers."*

*"This is the law and the new Governor should be upholding the law, as he swore to do. If he does not like the law, he should change it properly."*

*"I would agree with Governor Wolf that the Capital Punishment process is a flawed system. The offender who killed by late wife has been making a mockery of the system for 19 years with the appeal process that he is entitled to under the law."*

*"I would like for them to carry out the death penalty."*

*"Throughout the entire court process, the defendant "strutted" about the courtroom glaring at my family and I ; he in no way showed any sorrow or remorse for what had occurred. My son was a real person and not just a statistic."*

*"Wolf's moratorium is a total slap in the face to victims who have already waited for years to have justice served. Murderer's rights? What about a victim's rights?"*

*"The victims did not have a choice, neither should the inmate. I would never have voted for Tom Wolf if I knew he would pull this."*

*"Sentenced should be carried out in a timely manner. Appeals should be limited."*

*"It's a sad thing when murderers are protected and the lives they took don't mean anything. They both bragged about what they did."*

*"Why should these murderers be supported by tax dollars for these many years after they have committed such a heinous crime?"*

*"My husband's case was well done and every piece of evidence was used to convict the person involved in the shootings of three people. All of the shooting victims survived except for one so there were a lot of witnesses."*

*"I totally disagree with Governor Wolf's moratorium."*

*"When you murder two people, you can't be executed two times. This person who murdered my sister also murdered someone else's sister and does not deserve any peace of mind or leniency in the despicable things he has done."*

*"I believe this is an unfair act by the Governor, after signing a death warrant, he is playing games with the victims, the victim's families and the courts."*

*"I don't feel another death is necessary for me to feel justice. Thanks you for considering all aspects of the death penalty."*

*"If the Governor had a child killed, I bet her would think differently about putting the death penalty on hold and just get on with the program."*

*"He took 2 daughters and three grandchildren away and left one grandson without a mother. I will never get to see those three children grow and he gets to live every day."*

*"Anyone killing a police officer, fire fighter, EMT/rescue personnel, correctional officer, parole officer, teacher or any other that protect and serve the public should be put to death so they can never harm another in society."*

*"How can people sit on death row for over 28 years?"*

*"I feel it takes entirely too long to process death penalty rulings at the taxpayer's expense. One appeal at each level should be enough. In my case the murderers have been on death row for 20 years; ridiculous."*

*"How brutal my uncle's death was, there should be no mercy for someone who showed him no mercy. No regrets shown at trial or remorse."*

*"I want the sentence carried out as these people have no concerns for others. They took multiple lives with no remorse so they need to pay with theirs."*

*"PA voters voted sometime in the 1970's or 80's that the death penalty should stay effective in the state."*

*"My question is if the Governor's daughter was brutally murdered and the defendant was convicted, would he be so quick to put a hold on that person's sentence?"*

*"An eye for an eye goes back to 1800BCE. Life without parole is enough."*

*"I really feel violated that you guys are giving him so many times to voice his opinions. He didn't give our boys a chance to live and he feels he has the right to say and walk free? Is my son and nephew free? Hell no; they are gone forever! I want justice served."*

*"Our family believes in the system and the process in which it follows. We also believe that the defendants must have their sentences carried out after the case is appropriately reviewed by the appeals court. Our family is victimized each time the issue comes up, be it by phone calls or hearing. Justice is not being served."*

*"Anyone who commits such terrible acts against another person, whether it is against an adult or child, should be punished accordingly. If this person has premeditated this act and is truly mentally capable of knowing that it is wrong, they should be punished by death."*

*"I would love to address the committee in person. My only son, the oldest child raised by a single parent and Catholic school teacher, was a 21 year old Philadelphia Police Officer, He was shot in the head by a low-life coward. While I visit my son in the cemetery, his killers still draws breath 24 years later."*

*"If the person that is on death row in PA is not appealing, why doesn't the execution proceed? He knows he did it and hasn't expressed regret so why not pull the plug?"*

*"I feel like why should you even have a trial if it's not going to be carried out? The law is set to protect the people from the criminal and do away with the mental hurt. If the victims shouldn't be protected by law then we shouldn't have court. I want the man that killed my son put to death."*

*"Please don't treat these convicted felons like everyday citizens. They didn't treat our loved ones fairly. The death penalty may be cruel but on the other hand, so were they. If DNA or witnesses can prove without a doubt, then why do we waste our hard earned tax dollars to house, feed and support their "many many" hours of legal help and appeals?"*

*"We were promised by the officials at the time of our aunt's murder that the defendant would never be allowed out of prison nor have the opportunity to hurt anyone else. I'm trusting that the State of Pennsylvania will continue to follow through with this promise."*

*"With the highest respect for the legal system, I strongly disagree with this subject being allowed to live another day after the series of homicides he committed. When my brother begged for his life, this individual didn't think twice about shooting him 11 times to make sure he was dead."*

*"We feel our victim had no choice in what happened to her and we strongly feel her perpetrator should have no choice on rights in this matter."*

*"If Governor Wolf doesn't think that the death penalty is a humane way of dying, perhaps he ought to really consider how the victim or victims died and then implement the same mode of death to the convicted murderer. After all, even the bible does state "an eye for an eye and a tooth for a tooth"."*

*"I have mixed feelings about the death penalty being carried out in our case as the offender is our nephew. It took me 11 years to be able to forgive him and another 2 years to write to let him know that I forgive him."*

*"I don't understand the people law. Every time I've gone to court, for jury duty, they always give you the King James Bible to swear on but they don't even follow the bible. It shouldn't take eighteen years to put a person to death that killed four people. It's not right."*

*"We did everything we were supposed to do: marriage, kids, house, started a business; everything by the book and some punk destroyed all of our dreams. So if he is going to spend the rest of his life in 23 hours a day lockdown, I think that is a worst punishment than death."*

*"It has been 26 years since my sister and another gentleman were murdered and the murderer still has not been executed yet. This is totally ridiculous."*

*"With regard to the death penalty, my opposition to state-sponsored killing was only strengthened by our family's experience. As you obviously know, there are many reasons not to employ the death penalty, ranging from the knowledge that innocent people would have been put to death, to the ineffectiveness of the death penalty as a deterrent to the massive cost burden on the taxpayer."*

*"The defendant did what he did and deserves to be punished to the fullest extent of the law. I've waited for over 20 years for the day that he is finally put to death and the time for this to happen is now."*

*"There is no doubt the defendant committed three horrendous murders (at least that we know of), 2 attempted murders, brutal beatings and multiple rapes. For twenty years my family and I went to every trial and appeal and now Governor Wolf when it is so close to the law being carried out, you put a moratorium on his death sentence. I want you to know that I voted for you. I do not believe in killing innocent people but this defendant is not innocent."*

*"I used to be undecided about the death penalty but after the murder of my child, my views have strongly changed. I would not wish this living hell on anyone but once you have to face it, the death penalty has a whole new meaning."*

*"The man who killed my son, a police officer, pleaded guilty and there were approximately 33 people in the emergency room who witnessed the incident and testified in court. This is a case where there was NO DOUBT to what happened. The jury and the judge agreed on the death penalty as there was no doubt."*

*"Until such time as the law is changed, then this law should be upheld. If a just sentence is given in accordance to the law, then the sentence should be carried out or it becomes a toothless and pitiful law and undermines the whole judicial system."*

*"As the law is written, was written and shall remain, citizens face a fair and partial trial. A jury is selected, presented all evidence and the criminal is proven guilty beyond a reasonable doubt. Then the jury shall have full control as to convict the criminal. Subsequently, the judge has the right to sentence to the fullest extent of the law. The time shall fit the crime. The United States of America gives us choices and freedom. But we cannot have freedom if we choose to paralyze, cripple and/or let alone murder another human being."*

*"If it were your relative would you stop the death penalty? My sister is dead 31 years and he is sitting and enjoying his life. She was 9 days shy of her 21<sup>st</sup> birthday when she was murdered. My mom and dad have always said they would be dead before he would. The victim is always forgotten."*

*"I feel that the perpetrator in my case has and will continue to "work" the system in order to ensure that he is provided with the most comfortable, least punitive incarceration possible. The state seems more than willing to accommodate him. I'm so far beyond hearing about "his rights"."*

*"It is hard enough to lose a loved one. But to lose a loved one to the violent act of murder is a pain that is unbearable. Why should the murderer be allowed to live? HE SHOULDN'T! He chose to take someone's life."*

*"I sat through the trial every day. Finally the right decision was made; the death penalty. Then we find out he can have many appeals. There was no doubt that he killed my husband and others that day. Now Governor Wolf wants to make this murderer and monster have his rights? He needs to be gone! Where was my husband's right to live? No one asked him if he wanted to die that day."*

*"Having an offender on death row from the murder of my father and stepmother, I still do not believe that the death penalty brings my family justice or support."*

*"I believe there are people on death row that should not be there. But in our case, there is video. There's no questions. We go through the court system and through the trial and he does this? Wolf has been in office not that long and he is worried about people on death row when his citizens are being killed in the street every day? It's sad."*

*"Please as you make your decision, I beg of you to consider the victims and their families. While the death penalty does not bring our loved ones back, it assures us that justice will be served."*

*"In my opinion there is nothing wrong with the death penalty. What is wrong is the appeal process. Appeals need to be limited in both timing and nature. For the death penalty to be effective in preventing future crimes, the execution must be carried out in a timely manner."*

*"I am not going to disagree that there are issues with the system and the amount of costs that are involved in the process. That however is not a reason to declare a moratorium. And there should definitely be a time limit to the appeals process."*

*"We offered him the plea "life without parole" and he was going to take the plea but in the 11<sup>th</sup> hour he wanted a trial. My sister in law pleaded for her life and he didn't care. Why should he have all these appeals?"*

# The Atlantic Center for Capital Representation

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## STATEMENT OF THE ATLANTIC CENTER FOR CAPITAL REPRESENTATION REGARDING THE DEATH PENALTY IN PENNSYLVANIA

Marc Bookman, Director.

The Atlantic Center for Capital Representation (ACCR) welcomes this opportunity to testify about the death penalty in Pennsylvania. ACCR is a non-profit organization that provides consultation with defense teams in Pennsylvania, conducts conferences and trainings to improve the quality of defense counsel, and does systemic and individual litigation to address unfairness in the delegation of time or resources for death penalty defense. ACCR has been in existence since July 1, 2010.

We believe it is relevant, and of use to the House Judiciary Committee, to provide facts and documented cases that may help the Committee in its effort to assess the success or failure of capital punishment in Pennsylvania. Initially, it must be noted that our state has not carried out an involuntary execution since 1962, nor has there been an execution of any sort this century. Since the inception of the current death penalty statute in 1979, over 250 death sentences have been reversed; and these reversals have occurred in the state Court of Common Pleas, the Pennsylvania Supreme Court, the federal district courts, and the Third Circuit. Contrary to statements made by various prosecutors and pro-death penalty advocates about the “activist” federal courts, the state courts have reversed far more death sentences than the federal courts. We think it is reasonable to conclude that a death penalty system that has not executed anyone involuntarily in more than 50 years, and has seen virtually every death sentence reversed since 1979, is not fair to any of the parties involved – the victim’s family must endure additional hearings and often re-sentencings, the courts are tied up with time-consuming appeals, the defendants suffer through

constitutionally inadequate capital trials, and the government must bear the costs.

The Terry Williams case, which was the focus of Governor Wolf's reprieve in February, is a prime example of the failings of the current capital system. Williams' lawyer, who was subsequently disbarred, met his client the day before his trial. The prosecutor withheld evidence indicating that the victim had sexually abused young boys, including Terry Williams. The victim's spouse has been very clear in her feelings that she does not want to see Williams, who was barely 18 years old at the time of the crime, executed. And Williams has been on death row almost 29 years.

Indeed, due to the startling reversal rate for Pennsylvania's death sentences, 44 inmates have been on death row for 25 years or more, 34 for 20 to 24 years, 34 for 15 to 19 years, and 26 for 10 to 14 years. Thus, 73% of Pennsylvania's death row has spent ten years or more on death row, a row that costs the taxpayers an additional \$10,000 per inmate per year. See [http://articles.philly.com/2011-08-01/news/29838827\\_1\\_death-row-inmates-death-row-prisoner-death-row](http://articles.philly.com/2011-08-01/news/29838827_1_death-row-inmates-death-row-prisoner-death-row). There is no simple answer to shortening the time inmates spend on death row, however. A further limiting of appeals only makes it more likely that an innocent person, or a person who should never have received a death sentence in the first place, would be executed. A jurisprudence as fraught with errors as ours cannot be fixed by taking more rights away from defendants.

Though there are many causes for Pennsylvania's failed system, the single most pervasive is the refusal of the state to properly train and resource defense attorneys to handle these most complex and serious of our criminal cases. There are hundreds of examples of incompetent lawyering that has brought Pennsylvania to the far side of 250 reversals. One lawyer spent two years "preparing" a capital case without realizing that his client had been under 18 at the time of the crime and thus ineligible for the death penalty. Another wrote a letter to a judge claiming that a continuance in a capital case would cause him "financial distress." A third argued to a jury that "an eye for an eye" only applied when a pregnant woman was killed, apparently forgetting that it was that exact crime for which his client had been convicted. There are *many* more examples of sub-par lawyering that could be added to this list.

The problem of bad lawyering is not a controversial one. The Chief Justice of the Pennsylvania Supreme Court, Thomas G. Saylor, has written extensively on this subject, in a series of appellate opinions and in the law review article *Death-Penalty Stewardship And The State Of Pennsylvania Capital Jurisprudence*, 23 Widener L.J. 1 (2013) (“I have been very disappointed, and frankly disheartened, with the quality of the representation accorded to indigent capital defendants in far too many of these cases.”). Indeed, even the prosecution often concedes defense attorney ineffectiveness. In litigation before the Pennsylvania Supreme Court, ACCR presented evidence indicating that the Philadelphia District Attorney’s Office **did not contest** 15 of the past 25 death sentences that were reversed in their jurisdiction, an astonishing 60%.

Such poor lawyering does a disservice to all concerned. Given the state’s failure to appropriate any funding at all for capital defense, this deficiency is unlikely to be remedied. Other well-documented problems - such as race discrimination in the charging and the decision-making around the death penalty, improper removal of people of color from capital juries, or prosecutorial misconduct – can’t even be addressed until we ensure that competent counsel and adequate resources are present in all capital cases. ACCR is very grateful to have been given this opportunity to address this important Committee.