

Kentucky Coalition to Abolish the Death Penalty

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Death Penalty: the Other Kentucky Lottery

The classic short story, *The Lottery*, by Shirley Jackson describes the annual ritual in a small town by which the town folks select a person for stoning to death. Were its outcome not so gruesome, one might be tempted to laugh at the notion of selecting someone to die by lottery.

Yet Kentucky does it all the time. And the outcome is just as gruesome.

As this issue goes to the printer KCADP is bracing itself to respond to a series of executions a recent Associated Press (AP) story predicted for Kentucky.

Last November, Attorney General Jack Conway requested that Governor Steve Beshear sign death warrants authorizing the execution of three death row inmates: Ralph Baze, Jr., Robert Foley, and Gregory Wilson. But, before Governor Beshear could respond, the Kentucky Supreme Court ruled that Kentucky did not have a legal means of execution in place because the executive branch had not complied with Kentucky's regulatory process and allowed the public to comment on its execution protocols.

Kentucky's Department of Justice and Public Safety Cabinet immediately drafted regulations for executions and held a public hearing in January for response. Subsequently, the Cabinet appeared before the General Assembly's Administrative Regulation Review Subcommittee, presented its report of the public hearing, noted changes made to the proposed regulation, and gained unanimous approval of the Subcommittee to proceed. Once the regulation is signed by Governor Beshear, the AP story reported that executions will soon follow.

Kentucky has executed four men in the past 53 years; it is not unreasonable

to think that the State could execute the same number before the end of 2010. In addition to the three executions requested by General Conway, death row inmate Shawn Windsor is trying to fire his attorneys, waive his appeals, and get a date from the Court for his execution.

The Coalition objects to executions whenever they might occur, but recent actions taken by Kentucky courts should cause death penalty proponents to question whether its use is any longer reasonable or prudent.

A review of court actions during the past four years reveals that Kentucky jurors are apparently becoming more

cautious when considering whether or not to sentence anyone to death. Between September 2006 and December 2009, juries returned no death sentences in Kentucky. In 2007 alone, there were 108 death eligible cases, but not one person sentenced to death. This mirrors the attitudes expressed by Kentuckians in a poll conducted by the University of Kentucky and released in December 2006.

The U.K. Survey Center reported that Kentuckians overwhelmingly choose alternatives over the death penalty as the most appropriate punishment for

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Victims' Survivors Speaking Out

For years death penalty proponents have urged lawmakers to keep the death penalty by claiming family members of murder victims needed it for closure. But that claim, like many others made about the benefits of killing prisoners, is quickly losing credibility.

Last November KCADP and others played host to victims' survivors who are part of the Journey of Hope campaign. Appearing in several Kentucky cities, Bill Pelke, whose grandmother was murdered by 15-yr old Paula Cooper, spoke about his love for his grandmother and his efforts to hold Cooper accountable, but not to see her die. He worked diligently to get her off of Indiana's death row. He was successful and she is serving a prison term for her murder.

In January, Vicki Schieber visited Kentucky during the annual NCADP meeting. While she spoke to students at Presentation, St. X and Sacred Heart high schools in Louisville, and at Lexington Catholic High School in Lexington.

She described how she and her husband, attempting to live their Catholic faith, urged the Philadelphia prosecutor not to seek the death penalty in the trial of her daughter's killer. Against their wishes the trial proceeded with death as the target.

In her appearance before a Congressional committee she testified, "The word closure is invoked so frequently in discussions of victims and the death penalty that victims' family members jokingly refer to it as 'the c word.' But I can tell you with all seriousness that there is no such thing as closure when a violent crime rips away the life of someone dear to you."

Some family members who support the death penalty are tired of the necessary lengthy appeals. They want a sentence that is certain and final. Claude Lovan, the father of a Christina Renshaw, reacted to the life without parole sentence meted out to her killer

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those convicted of aggravated murder. When asked to select the most appropriate sentencing option from choices currently available to Kentucky jurors serving in capital murder trials, 67% selected sentences other than the death penalty. The first choice among respondents was life without parole.

The decisions of the court in the following four cases certainly raise questions about the consistency and proportionality of Kentucky's "system" of selecting defendants for execution.

After the welcomed drought of death sentences described above a Kentucky jury finally sentenced someone to death in March 2010. In Livingston County a jury sentenced Kevin Dunlap to die for stabbing three children to death, 17-year-old Kayla Williams, 14-year-old Kortney Frensley and 5-year-old Ethan Frensley. He also tried to kill their mother, Kristy Frensley Grubb. Death penalty supporters could be expected to use a case like this to show that the death penalty is reserved only for the "worst of the worst."

But, how would they explain the following?

In April, in two separate judicial circuits, two triple murderers plead guilty and received sentences of life without parole instead of facing death penalty trials.

On April 14, the Pulaski County Court sentenced Michael Abner to life in prison without parole. The prosecutor told the judge, "His acts are brutal and heinous, speaking to a complete lack of respect for human life." Abner, also described by the prosecution as a serial killer, confessed to murdering three persons over a 25-year period.

One week later on April 22 Carter County Circuit Judge Rebecca Phillips accepted a guilty plea from Robert Drown. Drown admitted killing three persons, Jennifer Ison and her two daughters Shannah, 10, and Marissa, 3. In addition he raped Shannah before bludgeoning her to death.

Three triple murderers, all guilty. One sentenced to death and two to life without parole. How explain that except by chance? Who drew the lucky tickets?

One more recent case further drives home the point that receiving the death penalty is ruled by the laws of chance, rather than by the rule of law.

On April 19, 2010, Boone County Circuit Court Judge Tony Frohlich declared a mistrial in the case of Raymond Clutter, accused of raping, killing and dismembering Peggy Casey in Covington in 1994. Her body parts were found in three different counties in Ohio. In an opening statement to the jury the prosecutor, an assistant Commonwealth Attorney, introduced inadmissible hearsay evidence to the jury.

Though nothing else has changed, Boone County Commonwealth Attorney Linda Tally Smith, announced that the Commonwealth would retry the case, but would not seek the death penalty.

Multiple news accounts did not provide any explanation for this change in plans regarding what penalty to seek in this trial. What confidence can the average citizen place in a justice system that appears so arbitrary. Did someone flip a coin and it came up "tails" - seek life without parole, not death?

After the Abner decision, Donald Vish, Director of Outreach, Education and Advocacy, wrote Governor Beshear a

letter on behalf of KCADP raising the following questions:

Abner's case raises questions about how and when and why capital punishment is applied in Kentucky and whether the death penalty has become an arbitrary punishment removed from any sense of proportionality. If life without possibility of parole is adequate retributive punishment for a serial killer guilty beyond any doubt then who should be executed under Kentucky law?

An honest and impartial examination of aggravated murders in Kentucky—brutal and heinous murders—would lead one to conclude that it is impossible to discern the legal criteria by which some are sentenced to death while others are not. The gravity of the crime does not appear to be the determining factor as the Abner case dramatically demonstrates.

Can we be sure that the thirty-four death sentences awaiting execution on Kentucky's death row are the result of a uniform system of justice equitably and proportionally applied to all offenders throughout Kentucky?

The rarity of executions in Kentucky, four over the last fifty-three years, along with cases like Abner's and Clutter's suggests we cannot.

This letter requests that you decline to sign any death warrants in light of the current intractable institutional and structural obstacles to ensuring a minimally adequate system for administering capital punishment.



On April 24, KCADP hosted a meeting with leaders of its organizational partners to develop a plan of action to respond publicly to announced executions.

The schedule for vigils and suggestions for action will be posted on

our website — www.kcadp.org. Of course, contacting Governor Beshear at any time is always appropriate.

There is a link at www.kcadp.org that allows you to sign up for a weekly eNewsletter. That is the best way to stay connected to fast breaking news and events. Please visit often for up-to-date information about activities associated with expressing public opposition to Kentucky's use of the death penalty. There may be buses going to Eddyville from several areas and the website and eNewsletter will post costs, pickup sites and time of travel.

Our struggle is not without financial costs. Please consider a generous tax-deductible donation to KCADP. An envelope for your contribution is enclosed, but for those who prefer using the Internet, PayPal is a secure way to contribute and there is a link on the website to allow you to do so.

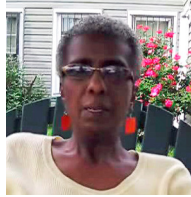
Thanks for all you do.

Death Penalty Is No Answer for Growing Number of Victims' Families

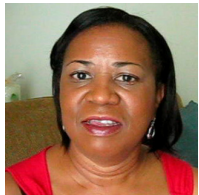
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in this way: "The jury did the right thing and we know that ... life without parole was in the best interest of us as a family," The Commonwealth had sought death in this case.

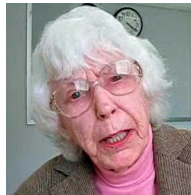
Kentuckians who have suffered the loss of a loved one to murder and who are opposed to executing killers are speaking out in videos available at www.youtube.com/kcadp.



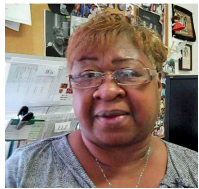
Ruth Lowe lost her brother, Charles, to murder. In *I Had a Brother* she describes the hatred felt for his killer. Learning to forgive leads her to say, "The fact he's being punished is OK, but to take his life makes no sense."



Vickie Cox's brother, Michael, was murdered several years ago. In *The Love We Had For Him* she reflects on the effect his death had on her family. They found healing by focusing on their love for Michael rather than on hatred for his killer.



Something You Never Get Over describes what it was like for Mary Alice Pratt whose extended family has lost two loved ones to murder. Nonetheless, she has befriended two death row inmates. As a result she knows their families, too, and their suffering.



In *She Was Strangled and Beaten*, Joyce Frazier describes how her niece, Robin, was killed by her husband. Robin's family members did not want to see him die because this would have created hurt and pain for yet another family.



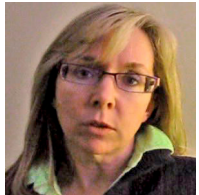
Ray Schveri said that the death penalty served no purpose when it was used to end the life of the killer who murdered his brother-in-law, Jerry, a Virginia State Trooper. *He Was A Changed Person* describes the journey he experienced as a result of this murder and execution.



Ben Griffith was confronted with the death penalty directly in 1986 when his brother Chris was murdered. His killer was executed in 1997. In *On One Terrible Day*, Ben tells why he works to stop the death penalty, "It has done nothing about justice in my life."



And It's Madness is how Eugene Thomas describes the thought of killing the man who murdered his father, Charles Thomas. He endured 17 years of going back and forth to court. He realized the hatred he felt meant the killer still controlled him and it made him ill. He finally moved on by keeping the love of his father in his heart.



"It would not bring her back," said Teresa Hoffmann when thinking about her mother's murder in 1994 and the death penalty for her killer (s) who were never caught. In *Forgiveness is Very Liberating*, she recalls how she got her life back.

KCADP knows of many other family members also opposed to executing the killers of their loved ones. It is simply not true that all survivors want death for the killers and, now, a growing number of survivors who support the death penalty see it as an empty promise and find satisfaction in sentences like life without parole.

Executions are expensive!

So is stopping them!!!

Please keep membership dues current.

Membership

- Individual: \$15/year Family \$25/year
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Contact us at staff@kcadp.org if you prefer to make a gift of stock and we will help arrange that for you.



Visit www.kcadp.org TODAY.
You can pay dues and make tax-deductible donations — including *monthly pledges* — using your credit card and PayPal.

*If there is no date on your address label or a date prior to **May 31, 2010**, please take the time to re-new your membership today.*

Use the envelope included with this newsletter or visit the website and use PayPal to pay dues or make a tax-deductible contribution. We need your help to continue this vital work in Ky.



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No Changes in Frankfort on Death Penalty; Execution Regulation Approved

HOUSE COMMITTEE FAILS TO HEAR HOUSE BILL 16

House Bill 16, an Act to end the use of the death penalty for severely mentally ill persons failed to get a hearing in the House Judiciary Committee, even though Rep. John Tilley did post the bill and told supporters that he liked the legislation.

So did many others. Nearly one-fourth of the House members, 24 of 100, co-sponsored the legislation. Here is the complete list of those who co-sponsored: Reps. David Floyd, Darryl Owens, Scott Brinkman, Mike Cherry, Jesse Crenshaw, Ron Crimm, Bob DeWeese, C. B. Embry Jr., Tim Firkins, Kelly Flood, Derrick Graham, Keith Hall, Jimmy Lee, Mary Lou Marzian, Brad Montell, Fred Nesler, Jody Richards, Tom Riner, Arnold Simpson, Jim Wayne, Alicia Webb-Edgington, Ron Weston, Susan Westrom, Addia Wuchner. To have eight Republicans and 16 Democrats co-sponsoring means this really is an issue that can be discussed on its merits, rather than getting caught up in partisan politics.

Legislators appreciate hearing from their constituents when they do something positive. Now is a good time to drop a note to those named above

thanking them if they represent you in the House of Representatives.

Many other House members are also supportive, but some choose to limit the number of bills they co-sponsor. Do not hesitate to talk to your own House member and encourage him or her to support this legislation by co-sponsoring it when it is introduced in 2011.

The Kentucky Mental Health Coalition and NAMI of Kentucky are already considering a strategy to advance this bill and get it voted on in the next session. One piece of the strategy is to get a hearing on the issue at joint meetings of the House and Senate Judiciary Committees during the months leading up to next January.

Proponents of the bill were certainly grateful to its two prime sponsors, Rep. Floyd and Rep. Owens, for taking leadership on this working hard to bring it to the attention of other lawmakers.

HEARING HELD ON EXECUTION REGULATION

With three requests for death warrants on his desk, Governor Beshear was unable to act upon them because Kentucky had not legal means of execution.

For years the State has hidden from its citizens the protocols governing how the State kills. And, finally, the Kentucky

Supreme Court said, "No longer." The court ordered the executive branch to allow public comment and the State had to yield in its obstinacy.

So in January the Cabinet of Justice and Public Protection scheduled a hearing and also took written comments from the public.

KCADP, joined by many others, urged there be changes in these protocols.

Since KCADP has no interest in improving on a handbook to kill someone, Rev. Patrick Delahanty's comments included this statement:

Consequently, my testimony here today will:

- register a general objection to the limited opportunities for public participation in reviewing and commenting on the protocols;
- demand more transparency about a killing process that masquerades as a medical procedure;
- object to the restrictions the protocols place on the ability of citizens to assemble and protest executions at the time of execution; and
- ask for the removal of the undue restrictions on religious observances by inmates as they near death.

After the hearing some changes were made and by the time this newsletter reaches you, Governor Beshear will have approved the new regulation. Kentucky now has a legal method to kill.