

A Statement in Favor of Passage of the Oregon Death Penalty Repeal  
Amendment (2014)

Submitted by Frank Thompson  
Retired Oregon Prison Superintendent  
Superintendent of Oregon State Penitentiary December 1994-April 1998

Presented by

Frank Thompson

**To: The Oregon House of Representatives Committee on Judiciary**

**Mr. Chair and Committee and members:**

**Thank you for this opportunity to testify** in support of Passage of the Oregon Death Penalty Repeal Amendment (2014)

I am Frank Thompson, a retired Correctional professional with two decades of experience. For sixteen years I served as a Warden of prisons in the states of Arkansas and Oregon. From December 1994 to April of 1998, I served as the Warden of the Oregon State Penitentiary, a Maximum Security Penitentiary which, at the time, housed the largest number of inmates in the state; housed inmates sentenced to death row, and housed the state's most violent offenders. I was responsible for administering Oregon's death penalty policy including conducting the only two executions to take place in the state over the last 52 years. I have also served both as the Assistant Director of Institutions as well as the Assistant Director of Community Corrections here in the state of Oregon.

As a part of my testimony today I would like to observe that support for the repeal of the death penalty is growing in some very significant ways. The latest of which is a statement that Mr. Dave Cook has given us permission to introduce, as a part of these proceedings, to declare his support for the repeal of the death penalty in the state of Oregon. Mr. Cook was the Director of the Department of Corrections when the only two executions to take place over the past 50 or more years.

Mr. Cook's statement reads as follows:

*“It is my belief that the death penalty is a failed public policy for three specific reasons. First, few, if any, murderers are deterred by the threat of being prosecuted and sentenced to a penalty of death. Second, my conversations with both Oregon death row inmates who were executed I believe in their minds the more severe form of punishment would have been a life of confinement and not the act of execution. Finally: for me this is the most closely held belief .... moral and civilized societies do not execute convicted inmates when just punishment alternatives exist.”*

I am here today to offer testimony, based on my experiences as a Correctional Professional, that characterizes Capital Punishment as a failed Public Policy,

that the death penalty is not needed in order to run safe and fundamentally sound correctional facilities, and that the practice of asking/requiring decent men and women (some of whom may support the death penalty) to take the life of a human being in the name of a public policy that cannot be shown to work is indefensible.

On the matter of whether or not the death penalty is needed in order to run safe and fundamentally sound correctional facilities, there answer for me is clearly that it is not needed. On February 15<sup>th</sup> of this year, I was asked to testify before the Maryland Judicial Committee, in Annapolis Maryland on this very issue. In my testimony I attempted to be unequivocally clear that the death penalty is not needed because every Correctional Administrator in American knows the established protocols that effectively keep prisons safe for corrections staff and inmates. When violence takes place in a prison it is most often because of either human error or negligence in following these protocols or it is because there was insufficient funding in the system to fund known violence prevention tools such as: 1) having programs to treat inmates with alcohol and drug dependency problems, 2) having programs to treat inmates with mental illnesses, and other criminogenic profiles, 3) having effective levels of inmate to staff ratios for proper supervision of inmate movement and activities, 4) having adequate levels of activities/work programs to mitigate against inmate boredom and idleness, 5) having effective classifications systems that will provide guidance on how to properly house and program inmates based on their vulnerabilities, tendencies to be violent, treatment needs, and potentials for coping with living in general population, and 6) having adequate space to house all inmates without causing problems associated with overcrowded conditions. Cutting back on any of these programs or resources can be dangerous.

I am not aware of, nor have I heard of a single prison administrator that would trade either of these programs or resources in order to keep death row as a safety measure for running a prison.

If an inmate were to kill in prison and received a death sentence it would still take decades to impose. Thus we would still need the same protocols, tools and programs to keep the prison safe. The death penalty policy itself would not prevent prison killings.

Secondly, though there exist research on both sides of this issue, the majority of the research indicates that inmates released back to general population, from death row, do not represent a greater security risk than would be the case with other inmates convicted of other violent crimes, but were never on death row. In states that do not have the death penalty, inmates serving sentences of life without the possibility of parole are not found to pose a greater or unique risk to prison operations. These findings are consistent with that of my experiences in running correctional facilities.

Again, consistent with my own experiences, there are the majority of these studies that have been done on violence in prisons that characterize prisoners doing life sentences or sentences of life without the possibility of parole as being individuals that, on average, are older, are ones who have acclimated to prison life, and are ones who place value on being able to accrue to themselves the best incentives and privileges that might be available in prison life.

For Inmates in Oregon institutions, that do present a profile for violent behavior, there is an institutional classification system which serves as an effective guide for the best housing and supervision arrangements for these inmates to be assigned where any threats to security can be properly managed. Isolated confinement, depending on an inmate's profile, can last for years.

Prisoners serving life without the possibility of parole are less likely, than other inmates who might be sentenced for violent crimes, to become involved in other violent behaviors. Put another way, according to available data, as a group, inmates released from death row to appropriate levels of security custody and general population, do not present a unique or increased risk. In those instances where a former death row inmate is determined to be a security risk, an immediate implementation of the above described classification system with appropriate housing and supervision arrangements would be implemented

While serving as a Warden of a prison in Arkansas, I chose an Inmate Trustee, who was serving a life sentence for murder, to work at my home around my wife and daughter even at times that I was away at work at the institution.

Capital Punishment- A failed Public Policy

As a result of my 22 plus years of running Correctional facilities, I have seen up close the population who are capable of extreme violence. I have no doubts at all that they did not think about the death penalty prior to committing their violent acts. I am very comfortable with the conclusions reached by the National Research Center panel, led by criminologist Daniel Nagin of Carnegie-Mellon University of Pittsburgh, in its April 18<sup>th</sup>, 2012 research, which looked into links between capital punishment and murder rates. In that study it was concluded that:....."research to date on the effect of capital punishment on homicide is not informative about whether capital punishment decreases, increases, or has no effect on homicide rates. Therefore, the committee recommends that these studies not be used to inform deliberations requiring judgments about the effect of the death penalty on homicide. Consequently, claims that research demonstrates that capital punishment decreases or increases the homicide rate by a specified amount or has no effect on the homicide rate should not influence policy judgments about capital punishment."

**(\*This research reviewed all available studies on this issue.)**

My two decades of experience in the corrections field allows me to unequivocally declare that I do not believe that government should be involved in the promotion of any public policy when the affects of its evidence based outcomes are debatable and lacking at its best. In my opinion, to support such a questionable policy, is an indefensible waste of fiscal and human resources. This becomes the more obvious when considering the fact that there exists a reasonable alternative for effectively dealing with inmates convicted of capital crimes such as sentencing them to life without the possibility of parole. .

### **In Conclusion**

**Whatever the security risks are, where good and proper protocols are in place, where these protocols are diligently followed, and where the resources, programs, and staffing patterns needed are made available, your correctional professionals will run safe and secure institutions.**

**I would encourage each of you to repeal the public policy of capital punishment, consider taking as much as you can of your state budget that had been supporting such a failed policy, and redirecting those resources to support a policy of life without the possibility of parole.**

**I would encourage that broadened efforts be devoted to finding ways of addressing the needs of all victims of violent crimes, with particular emphasis being placed on circumstances where a loved one has been lost to a homicide.**

**If you are successful in accomplishing this, I am convinced that Oregon will improve in its ability to meet the needs of victims, and will continue to run safe Correctional Institutions, at significantly reduced costs while avoiding: 1) the risks of the taking of innocent lives, 2) administering a public policy that is unequivocally flawed and shown to be discriminatory against the poor and minorities, 3) the immoral outcomes of asking/requiring upstanding men and women to participate in the taking of human life in the name of a public policy that cannot be shown to work. All of this looms more importantly when considering the fact that reasonable alternatives do exist. That reasonable alternative is Life Without The Possibility of Parole.**

#### **Additional Research:**

##### **Life and Death in the Lone Star State: Three Decades of Violence Predictions by Capital Juries (2011)**

By Mark D. Cunningham, Jon R. Sorensenz, Mark P. Vigenx, and S.O. Woods

Using a sample of former Texas death row inmates sentenced under the "special issue," a rule allowing the death penalty for those who pose a continuing threat to society. Consistent with other research, the authors found juror expectations of serious prison violence by these offenders had high error rates.

##### **Institutional misconduct and differential parole eligibility among capital inmates (2010)**

By Robert G. Morris, Dennis R. Longmire, Jacqueline Buffington-Vollum, and

Scott Vollum

In an attempt to measure the efficacy of misconduct predictions, the authors studied disciplinary histories from non-death-sentenced capital inmates in Texas whose offenses occurred between 1987 and 1994. They found that capital inmates sentenced to longer mandatory prison terms are less likely to engage in serious and violent misconduct than those eligible for parole.

**Life Without Parole, America's Other Death Penalty: Notes on Life Under Sentence of Death by Incarceration (2008)**

By Robert Johnson & Sandra McGunicall-Smith

In interviews with condemned prisoners, LWOP prisoners, and prison officers, the authors found evidence that inmates sentenced to life without parole do not pose a special risk to public safety, citing lifers' self-interest in avoiding trouble that might jeopardize the few privileges allowed to them.

**Forecasting Dangerous Inmate Misconduct (2005)**

By Richard A. Berk, Brian Kriegler, and Jong-Ho Baek

Examining data from the California Department of Corrections, the authors found serious misconduct to be more common among inmates with long criminal records (not sentences), particularly those initially imprisoned as teenagers. Additionally, gang affiliation and age were found to be predictive of prison misconduct. The study raises concerns about the techniques prisons use to classify inmates upon entering the system.

**To: The Oregon House of Representatives Committee on Judiciary**

Mr. Dave Cook, a resident of Bend, Oregon, is unable to attend the Feb. 26, 2013 hearing on HJR 1, but submitted the following statement, which he wishes to be read into the record.

Mr. Cook is now retired from his last position in law enforcement and corrections, as the Director of the Oregon Department of Corrections. Before he was appointed to his DOC position, in 1995, he was the Benton County Sheriff. He served in the Directors post until 2002. Important to his resume is the fact that Mr. Cook had the distasteful position of being in charge when Oregon carried out the only two executions in the past 50 years. His statement reads:

*"It is my belief that the death penalty is a failed public policy for three specific reasons. First, few, if any, murderers are deterred by the threat of being prosecuted and sentenced to a penalty of death. Second, my conversations with both Oregon death row inmates who were executed I believe in their minds the more severe form of punishment would have been a life of confinement and not the act of execution. Finally: for me this is the most closely held belief .... moral and civilized societies do not execute convicted inmates when just punishment alternatives exist."*

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