

Death Penalty Informational Hearing
House Corrections and Juvenile Justice Committee
March 15, 2012
Attn: the Honorable Rep. Pat Colloton

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Thank you, Chairperson Colloton. I appreciate the opportunity to address the Committee regarding the important and serious matter of the death penalty in the state of Kansas.

My name is Robert Shawn Streepy. Most of my experience as a prosecutor was in the Office of the United States Attorney for the District of Kansas. Prior to my 26-year tenure as an Assistant United States Attorney, I was an Assistant County Attorney in Reno County. During my terms as both a state and a federal prosecutor I was privileged to work with intelligent and conscientious individuals who were dedicated to enforcing the laws of either the state of Kansas or the federal government. However, despite the unquestioned integrity of my former colleagues, I appear today respectfully to oppose the death penalty precisely because there are arbitrary and capricious elements in the decision to charge a case as a capital crime or to resolve a case by a plea which no level of oversight or review could ever mitigate.

Prior to my retirement from the Department of Justice I was the lead prosecutor in a federal death case. The decision whether to seek the death penalty was made by the Attorney General as advised by the Capital Review Committee, which made its recommendation based upon clearly established and published criteria. Furthermore, under past administrations, once the decision to file a case as capital has been decided, it could not be bargained for a lesser sentence. The federal system is designed to prevent inconsistencies in both charging and plea negotiations. However, a similar system of review in charging and limited negotiating authority does not seem feasible in the state of Kansas. The "2004 Report of the Kansas Judicial Council Death Penalty Advisory Committee" found that capital cases were handled inconsistently throughout the state; the report further found that possible factors for this inconsistency included local politics, the cost and time of a capital prosecution, and the "inherent aggressiveness of the prosecutor."

Consequently, the inherent vagaries in the death penalty prevent its consistent and equitable administration. Perhaps the prosecution of some offenses does and should reflect local priorities, but, as the Supreme Court has consistently emphasized, "death is different." Extraneous factors such as the proximity of an election or the cost to the county should not affect the most serious decision a prosecutor ever has to make, but they do. As a person of faith, I respect all human life and have great sympathy for the family and friends of murder victims. My position is that when the larger picture is considered – state-wide consistency in charging and pleading the one punishment which when imposed precludes later correction of either legal or factual mistakes – the death penalty cannot withstand scrutiny. Due to the seriousness and finality of the death penalty, the burden should be on those favoring its continued implementation in the state of Kansas to justify that it is administered consistently at both the charging stage and the plea bargaining process. I respectfully submit that this burden cannot be met. Thank you.

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