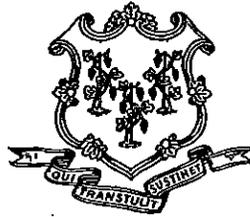


SENATOR MARTIN M. LOONEY
MAJORITY LEADER

Eleventh District
New Haven & Hamden



State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

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Good Afternoon Senator Coleman, Representative Fox and members of the Judiciary Committee. I am here to testify in support of SB 280, An Act Revising the Penalty for Capital Felonies.

In 1994 Justice Harry Blackmun, who at one time had been a proponent of the death penalty wrote in dissent in Callins v. Collins, "From this day forward, I no longer shall tinker with the machinery of death." After many years on the United States Supreme Court, Justice Blackmun recognized the reality that the death penalty cannot be applied in a fair and impartial manner and there can be no guarantee against error. The State, as a fallible human institution, should not have the power to take a human life and to act with hubris and arrogance when humility and restraint should prevail.

Last year, we chose not to address this issue because, in Connecticut, it was nearly impossible to consider the death penalty without reference to the shocking and horrific crimes in Cheshire committed in 2007 and resulting in death penalty trials in 2011. It is important now to clearly separate objective reality from understandable human emotion. The bill before you is entirely prospective and thus will not alter the fate

of the Cheshire defendants or in fact any person who commits a capital felony prior to the passage of this legislation.

Executing criminals who have committed the worst crimes does not restore lost or shattered lives, it does not make our state safer, and it does not provide financial savings. More importantly though, our criminal justice system is simply not sufficiently immune from error to entrust with the ultimate penalty. We know that the system has convicted innocent people; the death penalty will eventually execute an innocent person here as it has in other states. James Tillman, Miguel Roman and Kenneth Ireland all served lengthy prison terms in our state before their exonerations. A wrongful conviction is tragic; a wrongful execution is tragic and unforgiveable. It is also entirely avoidable by passing this legislation. Wrongful execution is simply not a risk that we can accept.

To date, since 1973, 140 people throughout the United States have been released from death row due to improper prosecution or outright innocence. During the same period, more than 1,284 people have been put to death. This ratio of 1 release from death row for every 9 executions is deeply troubling. It demonstrates what we all know: the government is not infallible. It makes errors and this kind of deadly error cannot be undone. Former U.S. Supreme Court Justice John Paul Stevens called his vote to reinstate the death penalty as "the one vote I would change."

Not only does the government make errors and put innocent people on death row, but as Justice Blackmun explained, the death penalty is not meted out fairly. Application of the death penalty has been shown to be racially biased. Furthermore, a person is much

more likely to receive a death sentence if he or she murders a white victim. The death penalty is often unevenly applied. Differences in the exercise of prosecutorial discretion have led to a disproportionate number of people being sentenced to death in certain judicial districts. Such disparities are indicative of an arbitrary and capricious system. There is no consistent standard for the application of the death penalty. Our own statute in allowing the weighing and balancing of mitigating vs. aggravating factors introduces the possibility of dangerous subjectivity producing different results in cases where the circumstances are virtually identical. What if the prosecutor is more eloquent and persuasive than the defense counsel? Should life or death hang in the balance? What if the conviction is achieved by perjured or simply mistaken testimony? What if there is an undiscovered bias held by one or more jurors? The choice between life and death should not depend on the quality of legal representation and the vagaries of the trial process.

Some argue that in cases of the most heinous crimes, the death penalty saves resources. This argument does not square with reality: the costs of capital felony cases are significantly higher than the costs of non-capital felony cases. Others argue that the death penalty will be a deterrent. The death penalty is not a deterrent to violent crime. We must remember that the terrible Cheshire crime occurred after the execution of Michael Ross.

The south has the highest execution rate and the highest homicide rate – a rate that has risen as the rates of executions have risen, while in the northeast, the homicide rate is the lowest in the country and there have been no executions in the last decade other than Michael Ross. The 16 states without the death penalty have a significantly

lower (25%) homicide rate than the 34 states that have it. The death penalty is simply retribution and retribution solves nothing and is not a rational part of our criminal justice system. We must not as a state and nation take lives for the sake of vengeance. Killing human beings is wrong whether done by the state or by a criminal. Certainly there are criminals who should never be at large in society; that is why we must have the option of life in prison without parole.

I again cite Justice Blackmun: "It is virtually self evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies. The basic question--does the system accurately and consistently determine which defendants "deserve" to die?--cannot be answered in the affirmative. It is not simply that this Court has allowed vague aggravating circumstances to be employed, relevant mitigating evidence to be disregarded, and vital judicial review to be blocked, The problem is that the inevitability of factual, legal, and moral error gives us a system that we know must wrongly kill some defendants, a system that fails to deliver the fair, consistent, and reliable sentences of death required by the Constitution."

The death penalty offers no constructive contribution to society's efforts to defeat violent crime, and in fact diverts resources and energies from such efforts. Finally, the death penalty undermines a civilized society by perpetuating the idea that life is disposable at the hands of our fellow human beings.