

LWVO State House Day – March 7, 2017

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LWVO adopted a position in 2005 calling for 1) the abolition of the death penalty, and 2) a moratorium on the use of the death penalty. In 2007, LWVUS adopted a national position calling for the abolition of the death penalty with LWVO as a co-sponsor of the proposed position. According to studies about the death penalty:

- It is inherently flawed, and no amount of reform can make it an appropriate sentencing option.
- Due process of the accused is often violated.
- Capital punishment is systematically biased against minorities.
- Over 100 persons on various state death rows have been wrongfully convicted and subsequently exonerated—including six in Ohio.

After receiving evidence during a five-day hearing, U.S. Magistrate Judge Michael R. Merz ruled on January 26 that Ohio's lethal injection process will create a substantial risk of serious harm in violation of the Eighth Amendment. Based on that ruling, the court issued a preliminary injunction staying the executions of Ronald Phillips, Raymond Tibbetts, and Gary Otte. Ohio has not conducted an execution since January 2014, when it used a combination of the drugs midazolam and hydromorphone in the 26-minute-long botched execution of Dennis McGuire, who survived. In January 2015, Ohio changed its protocol and removed the controversial drug midazolam, only to announce in October 2016 that it had changed course and would use midazolam in upcoming executions as part of a three-drug protocol.

On February 10, Ohio Governor John Kasich announced that he was rescheduling eight executions as the state appealed the magistrate judge's ruling. The earliest execution, which had previously been scheduled for February 15, was moved to May 10. In a guest column for the *Cleveland Plain Dealer*, retired federal appeals court judge Nathaniel R. Jones urged Ohio to "reconsider its race to death" in scheduling executions while the constitutionality of the state's lethal injection process remains in question. Despite the on-going litigation, Ohio set new execution dates both before and after the hearing. "Ohio officials must not risk another unconstitutional execution," Jones wrote. "That can be done only by placing executions on hold while courts take the time necessary to consider whether Ohio's problematic protocol passes constitutional muster." He called on Ohio officials "to agree not to resume executions until the courts determine a lawful method."

Bills to exempt individuals with severe mental illness from facing the death penalty are expected in at least seven states in 2017. Ohio just reintroduced its bill, SB40 (last term it was SB162), in February, which would close the gap by naming five severe diagnoses of mental illness as exemptions from the death penalty. In addition to Ohio, legislators in Idaho, Indiana, North Carolina, South Dakota, Tennessee, and Virginia have either introduced such legislation or announced that they plan to. Six of the seven states have sponsorship from Republican legislators, indicating bipartisan support. In 2014, the Ohio Supreme Court Joint Task Force on the Death Penalty issued 56 reform recommendations, including a ban on executing those with serious mental illness. Justice Stratton said the bill would apply to defendants diagnosed with serious mental illnesses such as schizophrenia, bipolar disorder, and depressive and delusional disorders. The bill not only has bipartisan sponsorship but is also supported by the National Alliance on Mental Illness. LWVO issued a resolution at its 2015

Convention in support of this bill without any added amendments to change its intent. On January 12, 2017, LWVO joined other coalition members of Ohioans to Stop Executions (OTSE) in calling for a moratorium on executions until the issues can be resolved and the recommendations of the Task Force have been completely considered.

Five states — Montana, Colorado, Kansas, Washington, and Georgia — are all taking another look at their death penalty and actually debating whether it's worth it, morally or financially. In four of those five states, bills that would repeal the death penalty and replace it with sentences of life without parole are now under consideration.

On the other side of the issue, a bill (HB38) introduced in the Ohio House would apply the death penalty to murder of first responders and military personnel. It also stiffens penalties for felonious assault when the victim of the crime is a police officer, first responder, federal officer or military officer.

"Ohio's death penalty is plagued by vast inequities" grounded in race, gender, and geography, according to a new University of North Carolina study. UNC-Chapel Hill political science professor Frank Baumgartner examined the 53 executions Ohio has conducted since resuming capital punishment in the 1970s. His study found "quite significant" disparities in Ohio's executions that, Baumgartner said, "undermine public confidence in the state's ability to carry out the death penalty in a fair and impartial manner." More than half of the state's executions were concentrated in just 4 counties, while more than 3/4 of Ohio's 88 counties have not produced any executions. Lake County had an execution rate that was 11 times the statewide average. Although the state's three most populous counties (Cuyahoga, Franklin, and Hamilton) have similar murder rates, Hamilton's 0.6 executions per 100 homicides was more than double the rate in Cuyahoga Co. and nearly 9 times that in Franklin Co. Sharon L. Davies, Executive Director of the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University, said that the "race or gender of a victim, and the county of the crime, should not influence who is sentenced to die" and urged "Ohio citizens and lawmakers [to] review the findings of this important research."

TO DO: LWVO urges continuing advocacy in support of the abolition of the death penalty. Working with Ohioans to Stop Executions (OTSE), the process may be taken in steps based on the Ohio Task Force recommendations. Currently, legislators in Ohio are seeking to enact death penalty reforms as the state grapples with problems in the application of capital punishment. Messages need to be sent to Governor Kasich calling for a moratorium on all executions.

OTSE members have met with Senators Eklund and Williams about how we can most effectively support the bill as it goes through the senate. The senators were presented with a summary of all the testimony from last year's SB162. Sponsor testimony has been given and the committee is now hearing proponent/opponent/interested party testimony. There is hope for passage in the senate by June. Rep. Bill Seitz, a Republican who termed out of the senate, will be working on the bill in the house.