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# **Former Law Enforcement and Corrections Officials Speak Out**

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**Press Conference**

**Thursday, May 10, 2018**

## **Statement by Bill McGonagle**

For over thirty years I worked in the New Hampshire criminal justice system, the vast majority of that time in adult corrections. I served the last eight plus years of my career as Assistant Commissioner for the NH Department of Corrections.

Sentencing in the American criminal justice system seeks to account for and balance four expectations; (1) Can it provide for the safety and protection of the community from the offender? (2) Will it serve as a deterrent to other would-be offenders? (3) Is it likely to provide opportunities for the offender to rehabilitate him or herself? (4) Does the sentence “meet the severity of the crime”?

In the context of Capital Murder the issue of the sentence protecting the community is equally served by life without possibility of parole as it is by an execution. If the professionals working in the Department of Corrections do their job well (and they do it remarkably well), the combination of proper classification of the offender and watchful supervision can and does protect the community.

Deterrence is one often cited in debates of the death penalty. It is true that if we put the offender to death, he or she would be “deterred” from committing future crimes against DOC staff and other inmates. It has been my experience, however, that most individuals sentenced to life without parole seek to find a way to make their lives predictable, routine and safe. Those individuals who are found to be continually aggressive will be classified to maximum security for the highest levels of control and supervision. Prisons are by definition dangerous and stressful places to work. NHDOC Corrections Officers are well trained to handle potentially violent inmates. No NHDOC Corrections Officer has ever been killed by an inmate.

The prospects of providing opportunities for rehabilitation for individuals either on death row or serving a life sentence without possibility for parole may seem a fool’s errand. Not so. Even those offenders who have committed the most serious crimes often find ways to serve their prison community, some by living their lives quietly within the structured routine of prison life, others, by counseling younger offenders toward meaningful programs and others by seeking ways to give back to the community beyond the walls (Toys for Tots is just one example).

So, the debate for me comes down to the question of “does the sentence meet the severity of the crime”? This debate often resides in one’s personal and moral beliefs. Is it the right thing to do? My answer to that question is an emphatic “no.” The seeking of the death penalty, in my mind, is more about seeking revenge than it is seeking justice. The facts of capital punishment include high costs and use of untested drugs to put the condemned to death, frequently with agonizing and cruel results. Those that NHDOC employees we charge with carrying out the killing will undoubtedly suffer PTSD, some haunted by it for life.



It is my belief that state authorized killing of one who kills is fundamentally wrong. I believe that no one is beyond redemption and it is beyond the province of man to act as the final arbiter of another man's fate.

The NH Legislature has spoken. SB 593 has passed both the Senate and the House of Representatives. Governor Sununu, respect these elected officials by allowing SB 593 to pass into law.

## **Statement by Richard O'Leary, 33-year veteran of Manchester Police Dept.**

My name is Richard O'Leary and I spent 33 years at the Manchester Police Department, retiring as Deputy Chief of the Investigative Unit. I worked at Westbridge Inc. for one year with clients who had a dual diagnosis of Mental Illness and substance abuse. I was also the Assistant Director of the Hillsborough County Re-Entry Program for 3 years, helping individuals released from State prison transition back into society helping them find jobs, housing, and needed services.

I have a son who is currently serving as a Manchester police officer.



We do not need the death penalty to preserve public safety in NH. One of the most oft-cited claims about the death penalty is that it deters murderers and therefore makes us safer. Over 200 studies to date fail to support that claim. Individuals that commit murders often do so under the influence of drugs, exacerbated by mental health issues, and without forethought. Those that do plan murders never believe they'll be caught. Since we have not executed anyone here since 1939, and since NH has one of the lowest murder rates in the country, the claim that the death penalty is deterring anyone here is simply not credible. In southern states that account for over 80% of the executions, you will find the highest murder rates. Across the US, states without the death penalty in fact have the lowest murder rates.

The truth is, the sentence of life in prison without parole – perhaps you could even call it “death in prison,” after spending decades in a 6 x 10' cell with your freedom forever gone – is a sentence that protects public safety and provides a harsh punishment. It also allows for the possibility of rehabilitation and redemption.

Gov. Sununu is telling us that his opposition to repealing the death penalty is based on his support of law enforcement. Given the facts I have just outlined, I fail to see how spending over 5 1/2 million dollars to date on a single death penalty case in any way supports our hard-working police officers in their day-to-day challenges. Here are some ways that we could use that money more effectively:

First, funding treatment centers for drug and alcohol rehabilitation—actually helping individuals with substance and mental health issues – would greatly benefit the officers on the streets by treating the problem at the source. This has the added benefit of protecting the general public.

Second, our court system is currently woefully understaffed and underfunded. The same goes for the Attorney Generals' office. This is widely known but no one is doing anything about it. Can a government that is not supporting its judicial system claim to support law enforcement? Not credibly.

Third, money could be directed to solving NH's 120 cold cases, which would help bring closure to all of those victim family members. Our cold case unit simply cannot solve these murders with their current level of funding. Why should these families matter less?

Fourth, our prisons are also understaffed and underfunded. Perhaps some of these funds that we're spending to kill a prisoner could instead be used to add staff, training and education to our prison system. This would further ensure the safety of our Correctional Officers and Inmates within the system.

Fifth, funds could be used to bolster police training, in the area of firearms, search and seizure, conflict de-escalation, and many others – these require regular ongoing training but the money for these is rarely available.

Finally, Domestic Violence and Victim Advocates that work with victims of crimes would benefit from more funding. Victim family members could also benefit, through counseling and restitution for lost income when their loved ones are murdered. Regardless of what you believe about the death penalty, what does it say about us when we are willing to spend millions trying to execute a single perpetrator, while at the same time doing so little for victims?

Governor Sununu, these are some of the ways that you can show your support of law enforcement and enhance public safety at the same time – ways that will make a difference, on the ground, with real people, dealing with real challenges. I certainly believe that such actions would benefit my son who is serving with the Manchester Police.

Governor Sununu, the NH Senate and House of Representatives have spoken clearly that they do not support the Death Penalty in NH. They have heard the testimonies and are strong supporters of Law Enforcement, yet they voted to repeal the Death Penalty. I am respectfully asking that you not veto this bill and continue to support ALL of law enforcement in their mission through some of the concrete actions I have outlined.

Thank you.

## Testimony by Paul Lutz

Press conference, Concord NH

May 10, 2018

Paul Lutz

I'm going to taking a bit different tack on the issue today. The extraordinary financial cost associated with the successful prosecution of a capital case and that the death penalty does nothing to prevent murder have been conclusively proven both statistically and anecdotally and discussed exhaustively. Those on both sides of this issue have acknowledged a version of those facts. As I stated numerous time in the past, if only a portion of the money spent on the prosecution of a capital case was distributed proportionately to law enforcement, the effect on both the safety of the police as well as New Hampshire citizens would be much more effective and far-reaching.

With respect to the governor's promised veto, while not necessarily associated with law enforcement, I feel it's important to note the notion that this is not a partisan issue. I've heard the general opinion the abolition of the death penalty is a position primarily embraced by those in the social liberal camp. As lifelong Republican I can conclusively say that is untrue. No position exists within the Republican Party that is inconsistent with advocating for the abolition of the death penalty. If anything, those Republicans who endorse right to life should be squarely on board with this position.

With respect to those who favour the retention of the death penalty out of their concern for the safety of police I say this: It makes more sense to address the matters that have proven to effect police much more frequently. While the murder of a police officer is tragic so are other factors that affect police both frequently and universally. Instead of focusing on the death penalty the passage of enhanced penalties for unprovoked assaults on police would be a much more effective provision with which to begin in showing support for officers. Instead of spending millions of dollars fighting the numerous appeals of a capital case, acknowledge and finance programs which treat the issues that universally plague police; the issues of suicide, divorce, PTSD and other stress-related problems. The psychological threats to the lives of those engaged in this field are far greater than that which is posed by an armed criminal. Instead of spending enormous sums of money after the fact spend it to preserve lives.

Finally, the argument that capital punishment will give the families of murdered officer some type of closure presupposes the positive outcome of matters which have far too many variables. That a family would gain any type of closure

assumes the successful prosecution, sentencing and execution of the killer of an officer. You've heard how New Hampshire's version of the death penalty is very narrowly defined so as to minimize the pitfalls experienced by other states which have a version of capital punishment. At nearly the same time the state was prosecuting the killer of Officer Briggs it was also prosecuting another capital case of murder for hire under the same "narrowly defined" statute. This was the case of a despicable killer who orchestrated what could be termed a textbook case which met all of the elements necessary for the imposition of the death penalty. A more perfect and illustrative case couldn't have been created. For whatever reason after a lengthy trial, the jury refused to return a sentence of death. This vividly shows the unpredictability and disparity within our "narrowly defined" law.

With that in mind, now we need to ask ourselves a very real question. If two capital cases are brought before the court for the murder of two law enforcement officers and one is found guilty, sentenced and executed and for unexplainable reasons the other is not, does that result in so-called closure or does it create even yet another tragedy for the families and loved ones? The answer should be obvious.

The death penalty is bad for the citizens of New Hampshire as well as its law enforcement and corrections community. Let's turn our efforts towards protecting officers from the incidents and persons which actually harm them every day. If those in favour of the death penalty are genuinely concerned about the lives of officers and their families then offer real solutions and programs that are effective in ensuring their health and safety as well as preserving the quality of the relationships within those families. The death penalty succeeds in none of that.

*Paul Lutz is a retired 30 year veteran of New Hampshire law enforcement having retired as a lieutenant from the Derry Police Department. After retirement he was a middle school educator for 17 years and currently serves as member of the Derry Cooperative District School Board. He did his undergraduate studies in chemistry at the University of New Hampshire and has advanced degrees in education from Cambridge College as well as theology from Andover Newton Theological Seminary. He is a native of Salem NH and*

*lives in Derry. He has one child, a son, who currently serves as a full-time police officer in New Hampshire.*

May 10, 2018

**Statement by L. Phillips Runyon III**

My name is Phil Runyon. I'm from Peterborough. I've been a member in good standing of the New Hampshire Bar for 44 years, and I was the presiding justice of the 8<sup>th</sup> Circuit Court for 27 years.

I'll start with a rhetorical question: Why in this day and age when the death penalty has seen its demise in every other New England state and in every other country that we care about, would we cling to it here in New Hampshire?

The two primary arguments always advanced are (1) that fear of being executed deters murder and other capital offenses, and (2) that some crimes are just so heinous that we owe it to the victims' families to impose the ultimate retribution.

Let's take deterrence first. I never had the authority to impose the death penalty in Circuit Court, but over 27 years I learned a lot about how the criminal mind works. And what I learned is that criminals don't give even a moment's thought to the eventual consequences of their actions. In the first place, most violent crimes don't occur with any forethought at all – they happen in the heat of a moment, in the midst of an argument, under the influence of alcohol or drugs, or all of the above. In the second place, if a crime is premeditated, the criminal doesn't think he'll be caught or he wouldn't commit the crime to begin with.

Further, there have been no executions here since 1939 – that's 79 years. If you were a criminal and you knew those statistics, would they deter you from committing a capital offense?

Now let's look at the death penalty's deterrence in broader terms. The states without the death penalty have murder rates that are 25% lower than those that still execute people. Likewise, of the 10 states with the highest murder rates in the country, 8 of them still have the death penalty and use it – often quite a lot.

New Hampshire, on the other hand, has the lowest murder rate in the country, year in and out. Why? Certainly not because of fear of the death penalty. I submit it's because we have a well-educated, peace-loving, law-abiding population - and because we have highly-trained, well-



respected local law enforcement officers whom we know personally and who treat us with respect in return.

The bottom line is that we just don't need the death penalty as a weapon of law enforcement here, and abolishing it would have nothing to do with respecting and supporting our officers.

OK, but what about those situations where the very worst happens no matter what we do to avoid it? Shouldn't those killers be made to pay the ultimate price, and isn't it disrespecting the victims' families otherwise?

I submit that's not the case at all. I submit that executing a murderer is letting him off the hook. I submit that having a convicted murderer know that he's going to sit in a cell for the rest of his life, without any hope of release, and have to think every single day about what he's done to his victim's family, his own family, and himself is a much more worthy and effective penalty. And has more deterrence value, too.

Furthermore, if we're concerned about a victim's family, wouldn't it be more humane to them to have a murderer likely plead guilty, as often happens when a death sentence is off the table, without the need for a long and stressful trial, without the risk of a technicality preventing even a conviction, without more than 10-20 years of appeals in most cases, without the fear of the conviction being overturned, and without perhaps having to endure yet another trial and the aftermath again?

More and more victims' families are answering yes, yes, yes, especially if they had known at the outset what they've come to experience since then.

Let me conclude with this. I know we tend to do things our own way in New Hampshire, without being swayed by what happens anywhere else. But in the family of nations worldwide, every one of our closest relatives has abolished the death penalty and has a lower murder rate than we do – in most cases dramatically lower – and the only places where the death penalty remains in full force are the places where life is cheap and where respect for justice and the law are non-existent: China, Syria, Iran, Iraq, Afghanistan, Saudi Arabia, Yemen and North Korea. Is that really the company we want to keep? That's what we're saying if we don't enact this bill.

I urge you to support, sign and enact Senate Bill 593 and to bring our law into conformity with the rest of our New Hampshire values.

## **Statement by Richard N. Van Wickler, Superintendent, Cheshire County Department of Corrections**

There is no one universal truth among all People. The issue of whether or not the Death Penalty has been appropriate justice depends entirely on one's personal frame of reference. Certainly, one's frame of reference will be influenced by their connection with the victim, the perpetrator or the politician, as well and one's beliefs about life and death.



I have a 30-year correctional practitioner's view of what incarceration is like. My goal for a prison sentence is that it will include an aspect of punishment. I know that prison will deliver on this promise. I do not believe that a death sentence will.

The Death Penalty is favored by some people and many in law enforcement who believe that to kill the killer enhances public safety and is the ultimate act of incapacitation. They may believe that it serves the purpose of adequate retribution and punishment. Some still believe the death penalty has a deterrent effect, even though well over 200 studies have shown this not to be the case. It should also be noted that this group supports the death penalty no matter what the cost.

In my view, the moral and monetary cost of the death penalty is significantly greater than the return to society. Life in Prison permits the government to ensure a full sentence of punishment while the death penalty costs the government significantly more resources.

I also believe that the penalty of death actually sets an offender free. Instead of living with the consequences of their actions, they escape the misery of who are they are. I want dangerous offenders who harm others to be incapacitated and I want them to live an uncomfortable existence with restricted liberty. I want them to serve a penalty that I know is being served. When it comes to the punishment of an offender for a capital crime, I want to have control over them and know that they are being punished for all the remaining days of their life.

Retribution for capital offenses is sufficiently achieved with a life of punishment and discomfort.

I encourage Governor Sununu to sign SBN 593 into law.

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Richard Van Wickler is a lifelong resident of NH and has been the Superintendent of the Cheshire County Department of Corrections since 1993. He has been in law enforcement for 30 years and is retired from the Army active and reserve component.

## Statement by John Breckinridge, former Manchester Police Officer

I was raised in a Catholic home and developed a strong but unchallenged faith. During more than two decades in uniform, my eyes were opened to the worst in people. I still recognized that God existed but had a hard time balancing Him with what I was seeing.

In October of 2006 I was with my partner, Officer Michael Briggs, in pursuit of a criminal in an alley in Manchester. That's where Officer Briggs was shot, just for being a cop trying to do his job. He died the next day.



The anger that came from this spilled out in all sorts of ways. I hated his killer, I was angry with the criminals that we saw and the crimes they committed. I began drinking heavily and made poor decisions; I hurt my family and friends.

The trial got underway in 2008 and any healing that may have occurred for me was lost as I was forced to relive every detail again. In 2010, a commission was set up in NH to study the death penalty. I listened to the anti-death penalty people go on about the associated costs, the disproportionate amount of minorities that faced it, the unfairness of it. "What a crock," I thought. This guy, the only person on death row in NH, was guilty as hell. I saw him commit the murder, a trial was given and he was justly convicted of capital murder. We are now supposed to feed this guy, spend our money on him so he can read books, watch cable tv and work out until maybe 20 years or so down the road he may get his sentence imposed? Barring the chance that some liberal judge may commute it to life? Get it over with and let's get some justice – this was my only thought. I testified to the commission to keep the death penalty.

I retired from police work in 2010 and went to work in security at St. Anselm College, my *alma mater*. After a few weeks, I saw changes begin to happen. I started to not assume the worst of others. I was comfortable around groups again. I reacquainted myself with some of the monks who had been on campus in my student days and enjoyed being back. I felt myself being drawn back to the church and started attending regularly. I was still angry and felt the death penalty was appropriate for some cases but that opinion was softening.

During my journey of recovery, I watched the movie "Quo Vadis" from 1951. In one scene, Nero, a notorious persecutor of Christians, appears before a crowd. A woman in the crowd called Nero a beast. St Peter is standing nearby and overhears her. He answers, "No man is a beast. Look at him and know that he is but sick, sick in heart and spirit, in his soul".

I enjoyed the movie but was struck by that comment. I thought about it and could only agree with the truth of that answer. I had begun to change my thoughts about redemption.

Later, Sr. Helen Prejean came to campus as a speaker. She is known for her stance against the death penalty that was dramatized in the movie, "Dead Man Walking". I went to her presentation not sure where I was on the death penalty at this time. I still rationalized it but found I was trying to mold what I thought of as a Catholic opinion of the death penalty to accommodate its acceptance. I listened to Sr. Helen and the other speakers and didn't necessarily agree with all their opinions. What did hit home with me was the spiritual arguments, particularly that life is a sacred gift from God that should not be willfully destroyed.

I have asked religious and others for their thoughts on the death penalty. The answers I get from them all have one common thread: the dignity of human life. Who are we to take away what God has given to us?

By executing a criminal we are eliminating their opportunity for redemption. Redemption is a deeply personal change in giving yourself over to God; surrendering your will for his and acting on it. This can take years and for many it never happens at all. I believe that all people should have an opportunity to reform and redeem themselves.

The death penalty is not an act of self-defense during the moment of the crime. It is purposeful killing of another, years after the crime is committed, when that person has already long been secured and society protected.

This does not mean that just punishment should be brushed aside. Life in prison with no possibility of parole is a harsh sentence and for extreme crimes, a just one. All of us are sinners and have made bad choices, we only differ in degree. Some had made horrible, damaging, evil choices that destroy others' lives. But they are still human and still have basic human dignity.

My journey from being pro-death penalty to wanting to abolish it was very gradual. I don't expect others to have taken the same journey. What I do ask is that we trust in the wisdom that has inspired many of the world's most profound faith traditions, and allow the possibility that forgiveness and redemption are possible. It is my belief that doing so will not only open up this possibility to those who have sinned against us, but will in a very real way bring us closer to finding a deeper peace and acceptance within our own lives.

It's time to end the cycle of violence and vengeance in our society, and end the death penalty once and for all.

### **Statement by Ray Bilodeau, former NH Probation Officer**

The Senate and House held public hearings on this bipartisan bill where members of law enforcement and criminal justice professions, among others, spoke in favor this bill.

The Governor says he wants to veto this bill to support law enforcement. During the hearings and at this press conference today it is clear not every law enforcement or corrections professional believes that the capital punishment would protect, is good for, or is a useful tool to the criminal justice system.

Surveys by the National Police Chiefs have determined that better education, training, communications and additional personnel matter more in reducing crime than does the use of the death penalty.

The over 5 million dollars spent on just one capital murder case in NH could be better spent on solving the over 120 unsolved murder cases in New Hampshire.

I urge Governor Sununu to sign HB 593.

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Ray Bilodeau spent 37 years in the NH community corrections system, in the roles of a probation officer, administrator in juvenile probation and parole and retired 2011 as the clinical director for the NH Juvenile and Family Court Drug Courts.



**Statement by Fred Robinson, Former Sergeant Nashua Police Department**

A vote to repeal the death penalty will ensure that innocent persons will not be executed and is a means of ensuring the safety of those who are wrongly convicted of murder.

Studies clearly show that the vast majority violent offenders do not consider potential punishment prior to engaging in violent behavior whether such behavior is directed at acquaintances, strangers or police.

Therefore we cannot infer that potential punishment is a deterrent to violent crime. Any persons, civilian or police, who have ever "lost their temper" can attest to the fact that they did not consider the harm they might do to others as a result of their anger.

Therefore I do not believe that the repeal of the death penalty has any bearing on the well-being or security of police officers or anyone else.

I strongly encourage Governor Sununu to sign SB 593.