

# Criminal Justice Legal Foundation

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January 12, 2011

The Honorable Pat Quinn  
Office of the Governor  
207 State House  
Springfield, IL 62706

Re: SB3539

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Dear Governor Quinn:

As an advocate for the victims of crime nationwide, the Criminal Justice Legal Foundation urges you to veto SB3539.

There are killers of monstrous evil and undoubted guilt for whom any lesser penalty would be a travesty. Would it be right for John Wayne Gacy to be grinning at us from his prison cell to this day? Should he be making home videos about what a good time he is having, as Richard Speck did, or chatting on his smuggled cell phone, as Charles Manson does? That is the consequence of abolition of the death penalty.

Regrettably, it is inevitable that Illinois will have another serial killer at some point. Will that killer's story end like Speck's or like Gacy's? The choice is yours.

Certainly we must take steps to insure that no innocent person is executed, but we must also be aware that most capital cases involve no genuine question of guilt. Gacy, Speck, and Manson are unusual in the number of victims, but quite typical in certainty of guilt.

Insuring we have the real perpetrator is not cheap, of course, but the cost is not a cost of the death penalty. Whatever we must spend to insure we have the real perpetrator in a capital case, there is no moral justification for spending a penny less in a life-without-parole case.

It would be a terrible injustice to execute an innocent person, but it would be every bit as unjust for an innocent person to spend his life in prison and die there. While the innocent man sentenced to life has more time to be exonerated, that extra time means very little without outside resources. Despite a handful of cases of exonerations by organizations such as the Innocence Project, the reality as the system stands today is

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that a person wrongly convicted of murder has a better chance of leaving prison alive if he is sentenced to death, because of the greater resources provided.

The cost of the death penalty has been urged as a reason to abolish it, but this argument requires greater scrutiny than it has received. The promised cost savings from abolition may well be a mirage.

First, the higher cost of capital cases is offset, at least in part, by cases plea-bargained to life in prison without a trial. An analysis by CJLFF showed that in a sample of large urban counties, those with the death penalty resolved 18.9% of their murder cases with plea bargains to a life or long sentence, while only 5% of cases were resolved this way in jurisdictions with no death penalty. A guilty plea eliminates the cost of trial entirely and eliminates or greatly reduces the cost of appeals. Most cost studies simply ignore this factor.

Second, as noted above, the cost of insuring accuracy of the guilt verdicts cannot morally be limited to capital cases. To say we will save money by skimping on certainty of guilt is to say we will save money by imprisoning innocent people for life.

Third, a sentence of life without the possibility of parole, combined with the State's constitutional obligation to provide medical care for prisoners, imposes the high and escalating cost of end-of-life care on the State. The studies claiming cost savings have dealt with this factor inadequately or not at all.

Fourth, much of the additional expense in capital cases at present involves unnecessary litigation about issues having nothing to do with guilt. Because most capital cases involve no doubt of guilt, most of the issues in the many years of appeals deal only with the choice of penalty. Much of this litigation can simply be eliminated. Every capital case should get one full and fair review of the entire trial. All subsequent reviews should be limited to genuine claims of actual innocence, which will only be present in a small fraction of the cases.

Eliminating unnecessary reviews would reduce both the expense of the reviews themselves and the expense of incarcerating the murderers for decades. If Illinois would execute murderers less than six years from the date of sentence—as Virginia did with the D.C. Sniper and does regularly—it could save a great deal of money.

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These complex issues require more study and more objective study than they have received to date. A decision of this magnitude should not be made on legislation rushed through at the end of a session and supported by agenda-driven studies prepared by advocates from one side.

We urge you to veto SB3539.

Very truly yours,

A handwritten signature in black ink that reads "Kent S. Scheidegger". The signature is written in a cursive, flowing style with a large, stylized "K" and "S".

Kent S. Scheidegger

KSS:iha