

case
MARYLAND

Matters

SUMMER 2007

Maryland Gets Closer to Ending the Death Penalty *Governor O'Malley Stands Up for Legislation Repealing It*

Death penalty repeal legislation went further than ever before in the 2007 legislative session, coming to a vote in the Senate for the first time in decades and missing passage in the Senate Judiciary Committee by just one vote on March 15. While action on the bill has stalled for 2007, everyone expects the legislation to be back next year. And with continued momentum and grassroots support, 2008 can be the year Maryland ends the death penalty.

Our movement got a tremendous boost in January when Governor Martin O'Malley came out strongly for death penalty repeal. The death penalty never surfaced as an issue in the 2006 gubernatorial race when O'Malley defeated incumbent, death penalty supporter Robert



Governor O'Malley testifies for repeal as death row exonerees and murder victims' family members wait to add their support.

Photo (c) Baltimore Sun.

Ehrlich. So when, shortly after the election, the Maryland Court of Appeals threw out our state's "execution manual," many predicted that the Governor would quietly hide behind the lengthy regulatory

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New Voices

Law Enforcement Officers Stand for Repeal

Law enforcement officials are among the newest and most influential Marylanders to urge death penalty repeal. Individual Marylanders in law enforcement have taken public positions against the death penalty in the past – most notably Attorney General Joseph Curran in 2003 - but the loudest and most united voice entered the fray this past March.

"We bow to no one in our support for tough law enforcement policies," reads the statement signed by 50 Marylanders in law enforcement, both the prominent and the rank and file. "We believe, however,

that tough law enforcement policies must also be smart and effective. After much study and deliberation, we have come to believe that Maryland's death penalty is neither smart nor effective," the groups concludes. "Nor, because it is necessarily imposed in an inconsistent manner, is it tough."

Representing the full group of signers, a delegation of veteran prison wardens, police chiefs and commissioners, and prosecutors gathered in Annapolis just two days before the 2007 bill stalled in the

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in our corner

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Marylanders are Ready to Repeal the Death Penalty

Majority of African-American Voters Now Oppose It

New polling conducted by Mason-Dixon Polling & Research in February reveals that a majority of African Americans voters in Maryland now oppose the death penalty – 51%, up from 45% in 2005. Support is even stronger for replacing death with a sentence of life without parole (LWOP). Asked if LWOP is an acceptable substitute for the death penalty, a full 77% of African-Americans responded positively, up eight points from 2005. Of all state voters surveyed, 61% supported this substitution, statistically the same as 2005.

This year’s poll, commissioned by the Maryland Catholic Conference, also asked if a lawmaker’s vote to repeal the death penalty would pose a liability for re-election. Among African American voters, a vote for repeal would clearly be a plus: 41% of respondents said they would be *more* likely to vote for a pro-repeal legislator (as opposed to a mere 7% who would not.)

Contrary to common assumptions, the death penalty is *not* a politically charged issue with the state electorate. Of the 625 voters surveyed, 71% said a vote for repeal would make “no difference” or that they would be *more* likely to vote for a pro-repeal legislator.

A 2003, a University of Maryland, College Park (UMD) study found that the combination of a black defendant and a white victim is most likely to evoke a death sentence. Despite the fact that 75% to 80% of Maryland homicide victims annually are African-American, every prisoner now on our state’s death row was sentenced for the murder of white persons.

A strong majority of black state lawmakers have co-sponsored repeal bills and the Legislative Black Caucus of Maryland overwhelmingly voted to formally endorse death penalty repeal legislation in 2007.

QUESTION: As a penalty for murder, do you believe that the sentence of life without the possibility of parole is or is not an acceptable substitute for the death penalty?

	<i>Is</i>	<i>Is Not</i>	<i>Not Sure</i>
STATE	61%	27%	12%
BLACK	77%	12%	11%

QUESTION: If your Maryland state legislator voted to replace the death penalty with life in prison without the possibility of parole, would you be more likely to vote for them, less likely to vote for them, or would it make no difference in your vote choice?

	<i>More</i>	<i>Less</i>	<i>No Diff</i>	<i>Don't Know</i>
STATE	29%	23%	42%	6%
BLACK	41%	7%	47%	5%

There are African American legislators who still need to be convinced to vote for repeal: Delegates Dereck Davis (Dist 25), Gerron Levi (Dist 23A), Jolene Ivey (Dist 47) Melony Ghee Griffith (Dist 25) and Jay Walker (Dist 25) – all from Prince George’s County. In Baltimore City, Delegate Talmadge Branch (Dist 45) and Senator Nathaniel McFadden (Dist 45) remain uncommitted. They need to hear from their constituents. 📝

Sign of the Times?

Two Baltimore County Juries Reject Death Sentences

In May, two Baltimore County juries returned sentences of life without the possibility of parole (LWOP) in high-profile death penalty trials.

In late May, Jamaal Abeokuto was resentenced to LWOP for kidnapping and slaying eight-year-old Marciana Ringo. Abeokuto’s 2004, judge-imposed death sentence had been overturned by the Court of Appeals in 2006 over concerns that anti-psychotic medication impaired his ability to knowingly give up a jury sentencing at the first trial. Ringo’s murder was so infamous in Harford County that the Court agreed to move the case to Baltimore County. Harford County State’s Attorney Joseph Cassilly, a vocal death penalty proponent, personally argued for the second death sentence. His detailed retelling of the crime so upset one juror that she was excused.

A week later, another Baltimore County jury found John Gaumer guilty of the gruesome rape, murder and mutilation of Josie Brown, whom he had met on MySpace. Gaumer, a 23-year-old student at the University of Maryland/Baltimore County, had no prior criminal record. The jury ultimately decided to sentence him to LWOP over death.

Not long ago, Abeokuto and Gaumer’s crimes would have been open-and-shut cases for death sentences. Both confessed to their crimes – two of the more chillingly murders Maryland has seen in recent years.

Lawrence Borchardt Dies on Death Row

Maryland death row inmate Lawrence M. Borchardt Sr. died March 11 after a long battle with diabetes and liver disease.

Two years ago Borchardt halted his appeals and asked to be put to death because dealing with his medical ailments was “just too hard.” He later reconsidered, and his lawyers were preparing a federal appeal when they learned Borchardt had died.

Borchardt was convicted in 2000 of the fatal stabbings of Joseph and Bernie Ohler, a Rosedale couple who had been giving him money. “It was one of the most brutal murders you can imagine,” said Brian Murphy, Borchardt’s attorney. “But he was, in my opinion, one of the most damaged human beings I have ever met in my 28 years of doing this.”

With Borchardt’s death, there are now 5 men remaining on Maryland’s death row.

Over the three decades that Maryland has had the death penalty, the vast majority of death sentences also have been pursued and secured in Baltimore County, under the 18-year career of outgoing State’s Attorney Sandra O’Connor. The race for State’s Attorney there was the *only* 2006 campaign in Maryland where the death penalty even surfaced as an issue. Scott Shellenberger defeated O’Connor’s chosen successor, promising more judicious and limited use of the death penalty.

Meanwhile, Cassilly and Shellenberger were the *only* Maryland State’s Attorneys to testify against repeal bills in the 2007 legislative session.

Do these two juries opting for LWOP over death mark a shift in how residents in Maryland’s ‘death county’ think about capital punishment? Is it an indicator that people who have supported capital punishment are beginning to understand the practical problems of its application, particularly the additional trauma and suffering that years of appeals and retrials inflict on the families of murder victims? One of the prosecutors in the Gaumer case herself noted that Josie Brown’s family was relieved that the case was over and done with, and that the jury came back with a verdict quickly. 📝

Momentum for repeal

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process required to reinstitute lethal injections – thus allowing the *de facto* moratorium to continue indefinitely. Such predictions sorely underestimated our Governor’s commitment to repeal.

Just a week after O’Malley’s January inauguration, legislation was introduced in both houses of Maryland’s General Assembly to repeal the death penalty and leave life without parole (LWOP) as the state’s maximum sentence for first-degree murder. The bills were introduced with more cosponsors than any year before. At a packed press conference in Annapolis, the prime sponsors of the bill – Senator Lisa Gladden and Delegate Sandy Rosenberg, both of Baltimore City – were joined by death row exonerees, family members of murder victims, other lawmakers, and religious and community leaders.

The first question about the repeal bill from the media was whether the Governor would sign it. That afternoon, O’Malley was quick to respond that he “sure would.” “Now that it is salient, I’m certainly not going to try to run, duck or hide. I would like to see us repeal the death penalty,” he forthrightly told the Annapolis press corps.

The Governor’s actions would only get bolder. On February 21, the House and Senate committees held hearings on the repeal bill. It is rare for a Maryland governor to testify in person on *any* bill, and unprecedented when the bill is not his own. Yet Governor O’Malley did just that and testified in favor of repeal before both committees. That same day, the *Washington Post* ran O’Malley’s op-ed, “Why I Oppose the Death Penalty,” which questioned the material and human costs of capital punishment. Citing years of cumulative data that demonstrates the death penalty as flawed public policy that does nothing to deter violent crime, O’Malley concluded, “absent a deterrent value, the damage done to the concept of human dignity by our conscious commu-

nal use of the death penalty is greater than the benefit of even a justly drawn retribution.”

The Governor’s leadership dramatically raised the expectations and the stakes in the 2007 legislative session. Over 50 Marylanders in law-enforcement signed a statement calling for an end to capital punishment in our state. (See page 1)

Equally notable, past opponents of repeal – the Maryland State’s Attorneys Association and the state Fraternal Order of Police – took no position on the legislation. For the first time, a sitting State’s Attorney, Prince George’s Glenn Ivey, testified for repeal, as did former Baltimore City State’s Attorney and Maryland Secretary of Public Safety

Hundreds of hand-written letters went to lawmakers in swing districts. Coupled with a barrage of phone calls and emails, these thoughtful, urgent communications turned up the heat in the halls of Maryland’s General Assembly.

Stuart Simms. Even the unions representing prison guards remained neutral, despite repeal opponents’ emphasis on the 2006 killings of two Maryland prison guards and an early March stabbing of a corrections officer.

Joining the Governor in testifying for the repeal bill were former death row prisoners Kirk Bloodsworth and Ray Krone, both exonerated by DNA evidence. Compelling testimony was also presented by Vicki Schieber and Bonnita Spikes, who have each lost a family member to murder; former Maryland Attorney General Joseph Curran; former Deputy State’s Attorney Matthew Campbell; Lutheran, Presbyterian, Episcopalian, United Church of Christ,



Barbara Arnwine (Lawyers’ Committee for Civil Rights), Katy O’Donnell (Office of the Public Defender), Rion Dennis (MD CASE), Salima Siler Marriott, and Del Jill Carter at the Summit on Race and the Death Penalty.



Maryland exoneree Kirk Bloodsworth listens as Sen Lisa Gladden and Del Sandy Rosenberg introduce death penalty repeal bills in January.

Catholic and numerous other religious and community leaders.

The repeal effort reached far beyond the committee hearings. Maryland's own Kirk Bloodsworth was frequently in Annapolis distributing copies of his book, *Bloodsworth: The True Story of the First Death Row Inmate Exonerated by DNA* to the 188 lawmakers in General Assembly. Seven men wrongfully convicted and sentenced to death in Maryland, Arizona, Florida, California, Illinois and New Mexico spanned the state to speak at events in Frederick, Annapolis, Rockville, Columbia and Towson before converging on Annapolis for a press conference the morning of the hearings. Vicki Schieber and Bonnita Spikes wrote op-eds, met with legislators, and spoke to crowds large and small, including the Summit on Race and the Death Penalty held at Morgan State University on January 26-27. Also featured at the Summit were Joseph Curran and former Baltimore Mayor and State's Attorney Kurt Schmoke. As the annual, 90-day legislative session came to a close, the Lutheran Public Policy Office initiated and helped organize a letter to the General Assembly signed by 60 of Maryland's most prominent religious leaders which read, "We pray that it will take only one more session for the Maryland General Assembly to realize what so many in Maryland already know: capital punishment is as broken as it is ineffective, and it can't be fixed."

As important as all the high-profile support was the push from ordinary citizens around Maryland.

Death penalty opponents were urged to write, email, and call their legislators – and the response was overwhelming. Hundreds of hand-written letters went to lawmakers in swing districts. Coupled with a barrage of phone calls and emails, these thoughtful, urgent communications turned up the heat in the halls of Maryland's General Assembly. Supporters diligently wrote letters-to-the editors in response to constant press coverage of the issue, creating a positive buzz for repeal in many Maryland communities.

Weeks of intensive press coverage and lobbying culminated on March 15 when the Senate committee voted on the bill. The final vote was 5-5 (with one pro-death penalty Republican absent). Senator Alexander Mooney, a Catholic Republican from Frederick, had been reported in the media as the undecided committee vote. His proposed amendment to restrict capital punishment to those who commit murder in prison failed when only he voted for it. Before ultimately voting against a clean repeal bill, he gave a prepared, emotional statement in which he wished for more time to consider the issue.

Meanwhile, a bill that would have expanded Maryland's death penalty to make murder to intimidate a witness death-eligible was decisively voted down in the House Judiciary Committee. Another bill that would have exempted the "execution manual" from the state's regulatory process – effectively lifting the current moratorium – also failed overwhelmingly in the committee.

The 2007 legislative session ended with death penalty repeal increasingly understood as common sense, mainstream public policy. Scores of public events are planned for the fall as we charge onward to 2008! Check www.mdcase.org for locations, dates and times or call the MD CASE at 301-779-5230.



**Be a crucial part of Maryland's
2008 legislative campaign to repeal
the death penalty!**

Please give us your email so we can send you urgent action alerts and put you in touch with lawmakers! Send your email address to saraklemm@mdcase.org.

Law Enforcement

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Law professors David Baldus, Jack Boger, and Charles Ogletree with attendees from the Summit on Race and the Death Penalty.

Senate Judicial Proceedings Committee on March 15. They are urging legislators to replace the death penalty with a sentence of life without parole (LWOP).

Patrick V. Murphy of Bethesda underscored the unavoidable risk of executing an innocent person: “The risk of a mistake in administering the death penalty is frightening.” Murphy is a well-respected figure in law enforcement. He headed police departments in New York City, Syracuse, NY, and Detroit, led the national Police Foundation, and taught at John Jay College of Criminal Justice.

I. Matthew Campbell, a former deputy state’s attorney for Montgomery and Howard counties, stressed that the death penalty “is a human system, and because it is fallible and because it is human, it makes mistakes...execution makes those mistakes irreversible.” Standing with Campbell was his former boss, retired Court of Appeal Judge Andrew Sonner, who served as State’s Attorney in Montgomery County for a quarter century.

“The death penalty issue has become a distraction, and it serves no useful purpose,” insisted John Clark of Gaithersburg, a former warden of the Marion Federal Penitentiary, one of the nation’s first super maximum-security prisons. “In the correctional setting in particular, the whole issue is typically an emotional distraction,” Clark added. “I believe it is much more important to put the resources into good management, adequate staffing and modern, secure facilities.”

Governor O’Malley has put new money in his state budget for 150 additional correctional officers in state prisons. And just days after the law enforcement press conference, he announced the shut down of Maryland’s oldest and most dangerous prison, the House of Corrections at Jessup – a widely lauded action that is expected to dramatically stem recent spikes in prison violence.

The Maryland officials were joined at the Annapolis press conference by a correction’s official and police chief from New Jersey. Former Trenton State Prison warden and New Jersey Commissioner of Corrections Gary Hilton told over a dozen reporters that, while he doesn’t oppose the death penalty in principle, he believes the money spent on capital punishment could be more effectively spent to make prisoners and communities safer. Chief James Abbot of West Orange shared how serving on the New Jersey Death Penalty Study Commission changed his mind: “It doesn’t make sense to keep reaching for the impossible when the alternative of life in prison without parole can provide swift and harsh punishment without putting victims’ families through so much anguish.”

Other signers of the letter include former Maryland Attorney General Joe Curran, former Secretary of Public Safety Calvin A. Lightfoot, former Secretary of Correction and Baltimore State’s Attorney Stuart Simms, current Baltimore Police Commissioner Leonard Hamm, retired Baltimore police detective and producer of “The Wire” Edward Burns, and former Baltimore mayor and State’s Attorney Kurt



Death row exoneree Shujaa Graham listens as Governor O’Malley testifies for repeal

L. Schmoke. Schmoke prosecuted Flint Gregory Hunt, executed in 1997.

A region-by-region comparison reveals that law enforcement officers are safest in regions with the fewest executions. By an overwhelming margin, the southern states have had the highest number of executions (875) and murders of police officers (274).

The northeast, where just four of 1,068 executions nationally were carried out in the same period between 1996 and 2005, lost 50 police officers. Even when controlling for the difference in population among those regions, the difference is strikingly clear: regions big on capital punishment see more murders of law enforcement. 📌

National Momentum

Major Newspapers Change Position

The editorial boards of two major dailies, the *Dallas Morning News* and the *Chicago Tribune*, changed their century-old positions on the death penalty and recently called for its repeal.

After years of calling for a statewide moratorium on executions, mounting concerns about executing an innocent person prompted the *Dallas Morning News* to advocate for full repeal in mid-April. The editorial states, “not even the just dispatch of 10, 100, or 1,000 of [the guilty] can remove the stain of innocent blood from our common moral fabric.”

The *Dallas Morning News* is the oldest paper in Texas and currently has the tenth largest circulation of any paper in the United States. It serves nearly half a million readers in North Texas. The April editorial reversed a position in support of the death penalty the paper had held for 127 years.

The *Chicago Tribune's* circulation ranks in the top 10 of U.S. newspapers. Noted for its conservative editorial positions (the paper endorsed George Bush in the 2004 election), the *Tribune* has supported the death penalty for over 100 years – even in the face of 18 Illinois death row exonerations. But, citing the arbitrariness of death sentencing, the paper wrote for the first time on March 25, 2007, “It is time to stop killing in the people’s name.”

Perhaps even more telling is the reader response (or lack thereof) to the *Tribune's* new pro-repeal position. Said *Editor & Publisher* writer Greg Mitchell, “there was barely a ripple, a few heartfelt letters to the editor, a few calls, and almost all ac-

cepting and welcoming the new attitude.” Clearly all the talk of a marked shift in public opinion around the death penalty is more than hype.

Coinciding with its editorial change-of-heart, the *Tribune's* investigation into the 1989 execution of Carlos de Luna earned the paper a Pulitzer Prize nomination for National Reporting. The four-part series, which ran before the paper officially changed its position on the death penalty, details convincing evidence that the Texas man was innocent of the murder for which he was executed.

The editorial boards of both major dailies serving Maryland – the *Baltimore Sun* and the *Washington Post* – are strongly behind repealing the death penalty. Late in 2006, the *Washington Post* published the editorial “Maryland’s Death Penalty: It’s Time to Discuss Giving It Up.” Then on February 1, the paper (which endorsed opponent Robert Ehrlich in the 2006 election) ran the editorial, “A Governor Stands Up,” praising Governor Martin O’Malley for his leadership for repeal as a mark of “political courage” and “gritty resolve.” Just days after the 2007 repeal bill was introduced, the *Sun* ran a beautifully succinct editorial entitled “End the Death Penalty.”

In the months ahead, we hope to see smaller papers throughout our state thoughtfully reconsider the issue of the death penalty. Perhaps they will follow the lead of *The Sentinel*, across the border in Carlisle, PA, which reversed its support for the death penalty in an editorial on April 3. The editorial begins: “The death penalty is useless.” 📌

COMING EVENTS

SEPTEMBER

20, 21

Sister Helen Prejean Visits Maryland!

Speaking events in Baltimore & Frederick Counties

Thursday September 20th, 7 pm

St Pius X Catholic Church (6428 York Rd, Baltimore County)

Friday September 21st, 7 pm

St Johns Catholic Church (122 E 2nd Street, Frederick)

Sister Helen Prejean is a spiritual minister to inmates on Louisiana's death row and the author of *Dead Man Walking* and *The Death Of Innocents*. Join us for an incredible evening as Sister Helen shares her complex and compelling stories.

OCTOBER

7

Kirk Bloodsworth @ Blessed Sacrament Church, DC

6001 Western Ave NW, Washington, DC, 4 pm

Kirk became the first death row inmate exonerated by DNA in 1993 when conclusive testing proved his innocence. He will tell his story, taking you from his youth on Maryland's Eastern Shore to his murder conviction and death sentence in Baltimore County, and the battle that eventually exonerated him.

19-21

National Weekend of Faith in Action

Amnesty International USA www.amnestyusa.org/faithinaction/

Organize a death penalty-focused event or activity in your faith community - you could host a forum, bring in a speaker, work with your pastor or rabbi to develop a sermon, or simply hand out petitions and literature. Visit Amnesty's website for more information and resources!

NOVEMBER

13 - 16

Bud Welch visits Maryland!

Speaking events in Baltimore and Howard Counties, and Annapolis

Bud Welch lost his only daughter, Julie, in the 1995 Oklahoma City bombing. Come hear his story and learn how he was able to overcome his anger and grief - and why the death penalty isn't a part of that equation.