

Office of the State Public Defender

1111 Broadway, 10th Floor
Oakland, California 94607-4139
Telephone: (510) 267-3300
Fax: (510) 452-8712



March 16, 2021

Michael Romano
Chairperson
Committee on Revision of the Penal Code

Dear Mr. Romano:

The Office of the State Public Defender is grateful that the Committee on Revision of the Penal Code is taking up the topic of the death penalty. The enclosed White Paper Report represents OSPD's perspective on the current state of the death penalty based on decades of experience representing indigent defendants sentenced to death in California.

As discussed in our Paper, it has been over 12 years since the Commission on the Fair Administration of Justice concluded that California's death penalty was "dysfunctional" and would require a dramatic infusion of resources and significant reforms to be set right. Our Paper concludes that the time for reform has passed. The intractable problems identified by the Commission over a decade ago have only worsened.

Our Paper explains that California's death penalty is broken beyond repair:

- It is applied in a racially discriminatory manner;
- A handful of counties impose the vast majority of death sentences, without regard to underlying crime rates;
- The death penalty is not imposed on the worst of the worst but disproportionately on young offenders, especially youth of color, on people who are seriously mentally ill or intellectually disabled, on people who have suffered extreme childhood trauma, and even on those who are innocent;
- The arbitrary application of the law is exacerbated by
 - the uneven quality of indigent defense, and
 - the failure to limit the prosecution to one penalty trial;
- Taxpayers pay billions to defend death judgments that are most often reversed after decades of litigation; and

Michael Romano
March 16, 2021
Page 2 of 2

- The system is characterized by delay and dysfunction because there are simply not enough lawyers to represent the hundreds of people who have been sentenced to death – a problem made worse by the passage of Proposition 66.

We hope the Committee will consider our Paper in making your recommendations. We are happy to answer any questions your staff or members of the Committee may have.

Sincerely,

A handwritten signature in blue ink that reads "Mary K. McComb". The signature is written in a cursive style with a large, stylized "M" and "C".

Mary K. McComb
State Public Defender

Encl.