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Killed bill

ACLU's Rachel King crusades against the death penalty

by Robin Troy

On Valentine's Day, Montana Amnesty International representative Eve Malo escorted Rachel King, a Washington, D.C.-based author and the state campaign manager for the American Civil Liberties Union's (ACLU) Capital Punishment Project, to Helena to testify before the Legislature in support of House Bill 561, which would have abolished Montana's death penalty. The pair recounts how the bill's primary sponsor, Rep. Joey Jayne, D-Arlee, used tape to outline the size of a jail cell on the hearing room floor.

"Some people feel that some crimes are so horrible that you have to have the ultimate punishment," King says, "but when you figure you have life in prison without parole in a 5-by-8 cell, I frankly think there's nothing a whole lot worse than that."

HB 561 was tabled in committee Feb. 17, but King says the House Judiciary Committee "provided quite a bit of time, so it seemed like it was a very serious hearing." Rep. Jon Sonju, R-Kalispell, who voted against HB 561, says the bill's supporters presented valid arguments, but the bottom line for him was that "[victims'] families need to have that option. Who are we to tell somebody who just lost a family member that, no, the death penalty is not an option?"

During her testimony, King says, she focused on cost, not heartstrings. With Montana's public defender system currently being sued by the ACLU for inadequate indigent defense, she points out the great expense of setting up the defense teams, mediation specialists and investigators required to adequately handle capital punishment cases. According to a Jan. 26 report from the Death Penalty Information Center (DPIC) in Washington, D.C., a death penalty case in Texas costs an average of $2.3 million—about three times the cost of imprisoning an individual in a maximum security cell for 40 years. In Florida (which, with 384 inmates, has the third-largest death row in the country behind California and Texas), enforcing the death penalty costs $51 million more per year than it would to give all first-degree murderers life sentences without parole.

"Montana is going to have to put all [these systems] in place even though you rarely use the death penalty," King says. Though Montana has just four inmates on death row and has executed only two people since 1976, King points out that "every time they charge a death case, even if it doesn't go [through], they're still preparing it as a death case"—and that's expensive.

The same January DPIC report cited a December 2003 Kansas Performance Audit Report finding that capital cases in that state are 70 percent more expensive than comparable non-capital cases, including incarceration costs. A 2002 Indiana Criminal Law Study Commission report found that the total costs of the death penalty in Indiana were 38 percent greater than the total costs of life-without-parole sentences—with the assumption that 20 percent of death sentences are reduced to life sentences.

"You're viewed as one of those states that really doesn't use [the death penalty] that much, which in my mind begs to get rid of it," says death penalty expert and author Rachel King.

Rep. Sonju admits the death penalty is expensive but thinks that maintaining the option for victims' families is worth the price. Still, Malo, who has been involved with anti-death penalty work in Montana for seven years, believes that the question is when, not if, the state's death penalty will be repealed. "If you don't have hope, what have you got?" she asks.

And Malo knows of what she speaks. When she was a child, her grandmother was killed by her uncle—a man who, upon his release from prison, became "very instrumental in my life, trying to make up for what he knew he had done," Malo says. Her biggest argument in support of HB 561 is that people don't understand "the totally disruptive effect of [capital punishment] on the families of both the victims and the offenders."

King came to her own understanding of capital punishment through her work as a public defender in Alaska. In 1995 when the state was looking to reinstate the death penalty, King says, "for me it was the idea that if Alaska was going to have a death penalty ... I might be responsible for somebody's life." King left her job to join a campaign against the reinstatement—and won; Alaska remains one of 12 states without the death penalty.

During that campaign, King also heard about a woman named Marietta Jaeger, whose 7-year-old daughter had been kidnapped from a campground outside Three Forks, Mont., during a 1973 family trip and murdered. Jaeger had chosen to forgive her daughter's killer and requested he not receive the death penalty. King brought Jaeger to Alaska to meet with legislators, "and [the legislators] told us afterwards that she changed their vote," King says. "I became convinced of the power of victims speaking to the issue with a different kind of credibility."

King then went on to write her first book, *Don't Kill in Our Names: Families of Murder Victims Speak Out Against the Death Penalty*, in 2003, with Jaeger's story serving as the first chapter. The most consistent message King heard from the families while researching the book "is that the death penalty is antithetical to healing," she says. "Really the only good reason people give for the death penalty anymore is what it can do for victims—closure—and I don't think that's a good reason. Nobody ever said [to me] that they've achieved closure."

But Rep. Sonju says he does "believe there is closure to some family members who say, hey, this animal is not going to kill again. And that's what the people are on death row. They are animals. They have taken life."

In her new book, *Capital Consequences: Families of the Condemned Tell Their Stories*, King gives voice to family members of these death-row inmates. "If we're going to have the death penalty," she says, "part of the moral and ethical questions we have to ask ourselves is, 'what are we doing for these families?' We are creating another class of murder victims' family members, and that's what we have to decide: Is that worthwhile?"

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