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## MEMORANDUM

**TO:** The House of Representatives of Pennsylvania

**FROM:** Andy Hoover, Legislative Director

**DATE:** June 13, 2010

**RE: ACLU of PA OPPOSITION TO HOUSE BILL 907**

Sometime this week, the House of Representatives is likely to vote on final passage of House Bill 907. This legislation would add two new aggravating circumstances for capital cases. Over recent years, it has become increasingly clear that the death penalty in Pennsylvania is an abject failure. Data indicates that innocent people have been sentenced to death in the commonwealth, that poverty plays a major role in determining who gets death, that there are significant racial disparities in the carrying out of capital punishment, and that the death penalty is extremely expensive for very little pay off. **The American Civil Liberties Union of Pennsylvania opposes HB 907, and on behalf of the 18,000 members of the ACLU of Pennsylvania, I urge you to please vote “NO.”**

In the seven years since Governor Rendell took office, the evidence of the failure of the death penalty has mounted. Consider:

- In March, 2003, the Pennsylvania Supreme Court Committee on Racial and Gender Bias released its report and called for a moratorium on executions until further analysis could be conducted. The committee was deeply troubled by the impact of race and poverty on who is and is not sentenced to death.
- In January, 2004, Nicholas Yarris of Philadelphia was released from the commonwealth’s death row after spending 21 years in prison for a homicide he did not commit. While some argue that “the system worked,” Yarris actually lost appeal after appeal. Only the existence of DNA evidence from the actual perpetrator saved Yarris’s life. DNA from the perpetrator is available in only 15 percent of homicides.
- In November, 2005, Harold Wilson of Philadelphia became the sixth person to be exonerated in Pennsylvania after being sentenced to death when he was acquitted at retrial after 16 years on death row. The jury was persuaded to acquit Wilson by DNA evidence from the crime scene.
- In October, 2007, a team of Pennsylvania legal professionals released a report commissioned by the American Bar Association that indicated that the commonwealth fails to fully comply with most of the ABA recommendations for death penalty states. The report stated that Pennsylvania is at significant risk of executing an innocent person, in part due to the commonwealth’s failed system of indigent defense. The ABA team included former and current prosecutors, a judge

who once served as the president of the Pennsylvania District Attorneys Association, and a defense attorney.

With this information in hand, it is surprising that any policymaker thinks that *expanding* the death penalty is a good idea.

The House is currently considering at least two pieces of legislation that would address some of the issues raised above. House Resolution 702 would create a legislative task force and advisory committee to conduct a thorough analysis of capital punishment in Pennsylvania, fulfilling a recommendation by both the 2007 ABA report and the 2003 Supreme Court committee report. House Bill 1996 would allow courts to consider patterns of racial disparities in death cases and potentially vacate death sentences if a defendant can establish a pattern of racial disparity in death sentencing, fulfilling a recommendation from the 2003 Supreme Court committee.

Both HR 702 and HB 1996 are currently in the House Judiciary Committee.

The death penalty is a failed government program. It makes little sense to expand capital punishment when it has proven to be a complete disaster in the commonwealth. Please vote "NO" on HB 907.