

# Massachusetts Citizens Against the Death Penalty, Inc.

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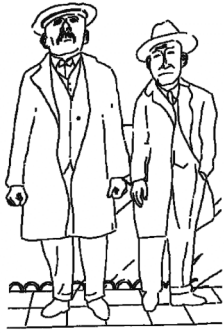
## TESTIMONY OF MASSACHUSETTS CITIZENS AGAINST THE DEATH PENALTY

Massachusetts Citizens Against the Death Penalty urges the Joint Committee on the Judiciary to reject the bills offered by Representative Jones (House Bill 02219) and Representative Miceli (House Bill 00470) that would restore the death penalty to Massachusetts. Both bills rely heavily on a proposal advanced by Governor Mitt Romney in 2005. Representative Jones's bill is nearly identical to former Governor Romney's bill, while Representative Miceli's bill is substantially similar. The House voted decisively against Governor Romney's bill in 2005 and even more decisively two years later to reject a bill offered by Representative Miceli. Nothing has changed in the intervening years to warrant a different result.

Indeed, a critique prepared by MCADP in 2005 remains apt and is attached to this testimony. MCADP pointed out that Governor Romney's bill (as is true of the Jones and Miceli bills), while it endeavored to find a way to ensure that no innocent person is put to death, failed to address other problems with the death penalty such as discriminatory application. Even on its own terms, which purported to ensure that guilt was determined beyond any doubt by use of scientific evidence, the bill fell far short of such a guarantee. The bill did not require a jury to decide whether scientific evidence connects the defendant to the crime until after it had already convicted him of murder. And the type of evidence that the bill claimed guaranteed scientific certainty was decidedly broad – not just DNA, but far less reliable footwear impressions and tire marks.

A further requirement in the Romney and the Jones bill that the jury in the penalty phase must decide that there is no doubt the defendant committed the crime should hardly be reassuring after the recent execution of Troy Davis in Georgia despite recantations by most of the witnesses who had identified him as the killer of a police officer. The doubts that arose about Davis's guilt all came out after the trial. The jury that convicted him returned a verdict in two hours and doubtless would have easily found he was guilty beyond any doubt.

Governor Romney asserted that he sought to limit error in capital cases by limiting the number of aggravating circumstances that would allow the state to seek to impose the death penalty. While MCADP pointed out then that the possibility of error does not in any way depend on the number of possible aggravating circumstances, the two



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bills show another significant problem in defining the circumstances in which capital punishment may be used, namely that there is no agreement on what those circumstances are. The Jones bill mirrors Governor Romney's bill in its list of aggravating circumstances, but the Miceli bill includes aggravating circumstances far broader in scope, suggesting that there is no practical limit on the scope of a death penalty bill were it to be considered further.

MCADP again urges the Joint Committee on the Judiciary to reject these two bills.

David Ehrmann, MCADP Chairman

James P. Rooney, MCADP President