



Record Group: Capital Punishment Study Commission (1971)
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Institutional History

Gov. William T. Cahill established the Capital Punishment Study Commission by Executive Order No. 29 on 21 October 1971: the third such commission in the 20th century (1907 and 1964). The commission's creation came in response to "an increasing degree of sentiment favoring abolition of capital punishment since the 1964 study, evidenced in part, by the steady increase in the number of states that have seen fit to abolish the death penalty in some respect." The formal charge of the commission was to "study the subject of capital punishment, to evaluate the conditions under which it [was] applied in New Jersey and its purported moral and social effect," and to "inquire into the effect which abolition of the death penalty may have on law enforcement and to evaluate the experience in those states and countries which do not have the death penalty."

The constitutionality of the death penalty came into serious question in June 1967, when the American Civil Liberties Union and the Legal Defense Fund, on behalf of the 110 death row inmates in California and Florida, filed cases jointly before the Federal District Courts to abolish the death penalty in those states. These cases caused stays of execution to be granted nationwide until the courts could rule on the constitutionality issue.

In 1971, the United States Supreme Court remanded an appeal case, Funicello vs. New Jersey, back to the State Supreme Court, which action was interpreted by the New Jersey court to mean that the federal tribunal had "declared the death penalty to be unconstitutional under [New Jersey's] statute." Following this event, and the Supreme Court's declaring all capital punishment laws unconstitutional in its 1971 decision on Atkinson vs. North Carolina, the Capital Punishment Study Commission commenced meeting, but apparently on a moot question. Governor Cahill requested that the commission continue its study for two years however, until its dissolution in March 1973. The commission's final report concluded that it would "recommend no . . . [legislative] action be taken until the constitutionality of such legislation is clarified."

The chairman of the 1971 commission was Vincent Haneman, Associate Justice of the Supreme Court from 1960 to 1971. Theodore L. Abeles served as legal counsel to the commission, as he did for the Commission to Study Capital Punishment in 1964 (q.v.), and Abeles's personal records of both commissions' proceedings were presented to the State Archives at the same time.

Bibliography

Kimmelman, Irwin I., "The Death Penalty in New Jersey", New Jersey Lawyer, May 1983, pp. 9-14.

Thomas, Trevor, "This Life We Take", San Francisco: Friends Committee on Legislation, 1970.

Washington Research Project, The Case Against Capital Punishment, Washington, D.C., 1971.

Records of Governor William T. Cahill, Boards and Commissions Appointments, 1970-73, Box 6,
"Capital Punishment Commission," New Jersey Division of Archives and Records Management.

Content Note

The records of the 1971 commission were compiled by Theodore Abeles and his law associate, William F. Tompkins, a former Essex County Assemblyman and chairman of the 1964 commission. The files contain general correspondence, and some correspondence to and from selected individuals and representatives of interested groups invited to appear before the commission. The series also contains copies of the 1971 United States Supreme Court opinion and New Jersey Supreme Court decision (State vs. Funicello et al) concerning the legality of the death penalty. Included are copies of successive drafts of the commission's report to the Governor, and a copy of the final report. Informal minutes from one meeting (19 January 1972) and the transcript of a statement made before the commission in May 1972 by Frank Carrington, Executive Director of Americans for Effective Law Enforcement, Inc., an anti-abolition group, complete the series.

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Majority and dissenting opinions, State vs. Victor K. Funicello et al., Supreme Court of N.J., 1971

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Correspondence, 3 December 1971 - 23 June 1972

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Report to Governor [4 drafts], 20 December 1972 - 25 January 1973

Final Report to Governor [copy], 20 March 1973

Newspaper clippings, 1965 - 1975

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