

Admin.

May 5, 2021

Memorandum 2021-08

Draft Minutes of March Meeting

The Committee on Revision of the Penal Code held a meeting on March 25 – 26, 2021. This memorandum provides draft Minutes for that meeting.

The draft will be deemed final after it is approved by a vote of the Committee. When voting, the Committee may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Rick Owen
Staff Attorney

DRAFT MINUTES OF MEETING
COMMITTEE ON REVISION OF THE PENAL CODE
MARCH 25 – 26, 2021

1 A meeting of the Committee on Revision of the Penal Code was held on March
2 25 – 26, 2021. Consistent with Executive Orders N-25-20 and N-29-20, the meeting
3 was held as an online video webinar.

4 **Commission:**

5 *Present:* Michael Romano, Chairperson
6 Assembly Member Alex Lee
7 Senator Nancy Skinner
8 Hon. Peter Espinoza, Ret.
9 Hon. Carlos Moreno, Ret.

10 **Staff:**

11 *Present:* Brian Hebert, Executive Director
12 Barbara Gaal, Chief Deputy Director
13 Rick Owen, Staff Counsel
14 Lara Hoffman, Stanford Fellow

15 **Invited Presenters:**

16 Sean Kennedy, Executive Director, Center for Juvenile Law and Policy, Loyola Law School
17 Elisabeth Semel, Director, UC Berkeley Death Penalty Clinic
18 Steven Shatz, Professor Emeritus, University of San Francisco
19 Carol Steiker, Co-Director, Criminal Justice Policy Program at Harvard Law School
20 Jordan Steiker, Director, University of Texas at Austin School of Law Capital Punishment
21 Center
22 Dr. Sherod Thaxton, Professor of Law, UCLA School of Law
23 Dr. George Woods, President, International Academy of Law and Mental Health

24 **Other Persons:**

1 Up to 91 members of the public observed the meeting as attendees. The
2 Committee did not prepare a list of those attendees.

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3	Approval of Actions Taken.....	2
4	New Business	2

5 APPROVAL OF ACTIONS TAKEN

6 Unless otherwise indicated, the Committee decisions noted in these Minutes
7 were approved by all members present at the meeting. If a member who was
8 present at the meeting voted against a particular decision, abstained from voting,
9 or was not present when the decision was made, that fact will be noted below.

10 NEW BUSINESS

11 The Committee considered Memorandum 2021-04 and its First and Second
12 Supplements, which discuss capital punishment. The Committee heard from
13 panelists on the following topics:

- 14 • History/Constitutional Issues/Innocence and Costs (Carol Steiker,
15 Jordan Steiker and Sean Kennedy).
- 16 • Racial and Geographic Bias/Mental Health (Elisabeth Semel, Stephen
17 Shatz, Dr. Sherod Thaxton, Dr. George Woods).

18 The Committee is grateful for their participation. The committee also heard
19 public comment on capital punishment.

20 The Committee made the decisions reported below.

21 **Areas of Further Research**

22 The Committee directed staff to conduct follow-up research on the following
23 issues:

- 24 • The number of people sentenced to death in California by year.
- 25 • The percentage of death-eligible homicides compared to the number of
26 actual death sentences.
- 27 • The demographics of counties that sentence the most people to death.

- 1 • The different variables that researchers have accounted for in studies on
2 racial bias in capital cases.
3 • The procedures used by different counties for presenting pre-trial
4 mitigation in capital cases.

5 **Possible Recommendations**

6 The Committee directed staff to provide further analysis of three potential
7 recommendations:

- 8 • Require the Attorney General to provide approval before a county district
9 attorney may seek the death penalty.
10 • Require district attorneys to have internal panels to review cases, allowing
11 defense counsel to present mitigation prior to making the decision to seek
12 the death penalty.
13 • Require counties to pay the state costs related to a death sentence imposed
14 by that county.

15 ADMINISTRATIVE MATTERS

16 **Approval of Minutes**

17 The Committee considered Memorandum 2021-05, presenting draft Minutes of
18 the Committee’s February meeting.

19 The Committee approved the minutes without change.

APPROVED AS SUBMITTED _____ Date

APPROVED AS CORRECTED _____ Chairperson

(for corrections, see Minutes of next meeting) _____ Executive Director