

Creating Momentum: The Atlantic Philanthropies' Investments to Repeal the Death Penalty in the United States

Period of Funding

2004-2015

Project Director

Michael Quinn Patton
Utilization-Focused Evaluation

Report Date

May 2016

Principal Investigator

Kay E. Sherwood

EXECUTIVE SUMMARY

The Atlantic Philanthropies invested about \$60 million between 2004 and 2016 to support efforts to repeal the death penalty in the United States. To assess the effectiveness of this work and to generate lessons for human rights activists and other funders involved in the repeal movement, the foundation commissioned this evaluation. The findings contained in this report are the result of extensive documentation review as well as interviews with foundation and grantee board and staff.

The evaluation's main findings are that there has been growing momentum over the past decade toward abolishing the death penalty and that Atlantic's efforts have been a significant contributing factor. As described in the full report, this conclusion is based on an examination of the dynamic interaction among three storylines that are key to understanding movement on the death penalty:

1. The history and politics of the death penalty in the United States and internationally;
2. The foundation's decisions about how to intervene, including strategy, tactics, and grantmaking; and
3. The unfolding of events and revelations about the practices, outcomes, and laws affecting the use of the death penalty at the state and federal levels from 2004 through 2016.

In 2004, when Atlantic decided to take up the issue of the death penalty, it joined a national abolition effort that was largely informal and poorly funded, with the field divided between organizations that emphasized a moral case against the death penalty and others that led with the pragmatic case. At that time, 3,471 people were on death rows in state, federal, and military prisons, and all but 12 states and the District of Columbia had laws permitting the death penalty.

Over the course of its anti-death penalty work, Atlantic committed about \$5 million annually. The foundation provided major support for convening, planning, expert advice, organizational and skill development for grantees, and research. The level and nature of funding gave activists the freedom and flexibility to experiment and move the work forward. By the end of 2015, use of the death penalty across the country was down dramatically.

Evidence of a significant downturn in use of the death penalty:

- ◆ From a post-1976 peak of 98 executions carried out in 1999, this figure dropped to 28 in 2015. Death sentences dropped from a peak of 315 in 1996 to a post-1974 low of 49 in 2014.
- ◆ Seven states outlawed the death penalty and governors in four additional states suspended executions between 2007 and 2015. The string of legislative repeals over the years boosted to momentum toward even greater abolition of the death penalty as individual state campaigns provided roadmaps for other states to follow. The growing number of victories also enabled repeal activists to argue that the tide was “turning” against the death penalty. (All of the successful state repeal campaigns received some support from Atlantic.)
- ◆ Prosecutors pursued fewer capital cases and juries frequently chose sentences of life without the possibility of parole (LWOP) instead of execution.
- ◆ Legal challenges to the use of certain drugs in lethal injections combined with drug manufacturers’ refusal to produce or supply drugs for lethal injection led to delays in carrying out death sentences in states that could not find replacement chemicals needed for executions.
- ◆ Prosecutors and victims’ families began to recognize the high costs of pursuing executions over many years or decades with punishment uncertain.
- ◆ Independent research and analysis about egregious errors and biased application in capital punishment cases provided the basis for stepped up anti-death campaigns and more media coverage.
- ◆ A steady stream of news stories has been written over the years about appeals leading to new trials in capital cases, based on errors and unlawful criminal justice procedures.
- ◆ By early 2016, the data show a 15-year trajectory of reduced use of the death penalty, despite some recent high profile cases.

Whether the momentum of the past several years leads to complete abolition of the death penalty in the United States – or how long that might take – is difficult to predict.

Many of those accomplishments were made possible by The Atlantic Philanthropies, alongside other funders, grassroots organizers, political and legal strategists, and defense attorneys. The foundation’s Human Rights and Reconciliation Program staff approached their work in a way that enabled all the abolition partners to collaborate and pursue tactics they thought would be most effective, including doing research and providing assistance to death penalty defendants to challenge lethal injection protocols. Atlantic had a large funding capability compared to the amounts spent in the field before.

Key actions by advocates and funders that contributed to momentum:

1. Building a movement that was more politically savvy, more data driven, and more capable of communicating an effective set of arguments for repeal than the previous generation of abolition supporters.

2. Emphasizing pragmatic arguments that highlighted errors during trial, uncovered evidence of racial discrimination in the legal system, demonstrated costs to states and localities from prosecuting capital crimes, and asking questions about state systems meant to assist indigent defendants.
3. Seeking to reduce use of the death penalty in addition to abolition by concentrating resources in high-use states where there were plausible tactics or conditions for stopping or considerably slowing executions or where there was a favorable political environment for legal abolition.
4. Establishing a regrantsing fund that allowed Atlantic to make a large number of grants quickly to offer nimble support to changing strategies. A funders collaborative also promoted a consensus-based process for distributing funding, which reduced competition and increased coordination among donors.
5. Providing substantial funding to state abolition movements to repeal death penalty laws, recognizing that state legislative action would be factor in a Supreme Court case challenging the death penalty.
6. Restricting availability of drugs for lethal injection by supporting a campaign to persuade European manufacturers to stop producing drugs used for lethal injections in the United States, raising the visibility of the execution process to an uncomfortable level for officials in many states.

The report details lessons that may be applicable to a variety of advocacy initiatives in philanthropy, highlighting the importance of:

1. Flexible and agile advocacy funding and strategies;
2. Knowledgeable and engaged foundation program officers;
3. Strategic pooling and regrantsing of funds;
4. Ongoing situational and contextual analysis;
5. Strategic learning through evaluation and recalibrating quickly after failure;
6. A variety of tactics, including support for research; and
7. The integration, interdependence, and interconnectedness of these lessons.

BACKGROUND

The Atlantic Philanthropies were founded by entrepreneur Chuck Feeney, who decided in 1982 to devote his wealth to the service of humanity. A champion of Giving While Living, Feeney has long maintained that people of wealth should use their money to better the world during their lifetimes. In line with that belief, Atlantic's trustees decided in 2002 to limit Atlantic's life to a fixed term. The foundation's limited life informed its subsequent program structure and grantmaking. This included an emphasis on making "big bets" – focusing substantial resources to achieve goals of lasting impact within the time remaining in

the foundation's life. As part of its focus on protecting and advancing human rights around the world, the foundation decided in 2004 to support efforts to abolish the death penalty in the United States and invest substantial resources toward this goal before the end of the foundation's life.

The decision whether to permit capital punishment rests with each state. The only national rule governing use of the death penalty is the Eighth Amendment of the U.S. Constitution proscribing "cruel and unusual punishment." Although the U.S. Supreme Court had banned executions in 1972 in *Furman v. Georgia*, the death penalty was reinstated in 1976 in *Gregg v. Georgia*. The first execution under the revised rules was carried out in 1977. By the start of 2004, 885 people had been put to death. As of October 1, 2004, 3,471 people were on death rows in state, federal, and military prisons, and all but 12 states and the District of Columbia permitted use of the death penalty.

THE JUVENILE DEATH PENALTY

In 2004, the U.S. Supreme Court agreed to hear *Roper v. Simmons*, a case that challenged the constitutionality of putting juvenile offenders to death. Among litigators, advocates, and policymakers, this case represented an opportunity to once again trim back the categories of defendants subject to the death penalty. The short timeline and details of the case called for a multi-part argument that required legal research to examine other Court decisions concerning application of the death penalty. Other activities considered essential to influencing the outcome included a communications effort designed to encourage potential allies to offer information and perspectives to the Supreme Court justices.

Atlantic agreed to support anti-death penalty advocates involved in *Roper v. Simmons*. The court's 5-4 decision banning death penalty for juvenile crimes gave hope to the foundation's Human Rights and Reconciliation staff, program leaders, and Board that a successful challenge could be mounted that would lead to a total abolition of the death penalty in the United States. Many of the principles and methods employed in the *Simmons* case could help inform a full-scale abolition campaign.

There were several important takeaways from the *Roper* case for the foundation's next stage of work:

- ◆ State trends regarding application of the death penalty mattered to the court.
- ◆ Future success would depend on diverse groups being willing to collaborate.
- ◆ Death penalty opponents who had prevailed in *Roper* were better organized, better financed, and used smarter messaging and tactics than supporters of capital punishment. The grantees' and funders' decision to maintain a low profile helped avoid attention and prevent full mobilization among execution proponents.
- ◆ Death penalty opponents identified strategic differences between working with legislators and other elected officials for repeal and engaging voters on this issue. Likely voters who supported the death penalty would not necessarily vote against a gubernatorial or legislative candidate who was in favor of repeal, while the death penalty strongly influenced voters' choices of local prosecutors and local and state judges.

- ♦ A strategy of soliciting amicus briefs from unexpected voices and a range of institutions that had not weighed in publicly before about the death penalty helped persuade Supreme Court justices on issues related to the science of adolescent brain development.

MOVING ON TO TOTAL DEATH PENALTY ABOLITION

In deciding to be part of efforts to abolish the death penalty, Atlantic's board saw it as an opportunity to eliminate a remaining icon of racial and social injustice, as the death penalty presented a dramatic and revealing picture of the whole U.S. justice system – a system that channeled poor people and people of color into confinement, often with fatal consequences. This work ultimately became one of the foundation's "big bets" – making a sizable grant investment but without certainty it would pay off. Another reason for considering this a "big bet" was because decision-making authority on the death penalty was distributed across states and counties, which challenged efforts to increase coordination on a national strategy.

In 2004, although 38 states and the federal government had the power to impose the death penalty, only 13 states were actively carrying out executions. In most states with death penalty statutes, local prosecutors had almost complete discretion about whether to seek capital punishment in criminal cases.

The Resources on the Ground in 2004

In 2004, Atlantic was, in effect, joining an informal and somewhat uncoordinated national effort to repeal the U.S. death penalty. Back then, the foundation saw an advocacy arena where there were many established actors with unique roles and agendas converging on abolition of the U.S. death penalty, but not much actual coordination and cooperation (except in *Roper v. Simmons*) and insufficient resources dedicated to changing public opinion or bringing the major players into a coalition with a unified strategy for repeal. A primary roadblock seemed to be that the various organizations had distinct constituencies that supported their abolition efforts and lacked an incentive to align.

Part of the divide lay within the abolition movement itself. On one side, there were organizations that emphasized a moral case against the death penalty. On the other were groups that argued against it for pragmatic reasons -- notably the record of error and racial discrimination, costs to states and localities, and adequacy of defense. Participants included national advocacy groups pushing for death penalty abolition, legal rights and criminal justice reforms; victims' family organizations; law professors studying the racially disparate application of the death penalty; and prominent individuals advocating a halt to executions on moral and religious grounds. At the same time, most of the participants were hampered by a lack of resources and found themselves competing with one another for the few philanthropic resources available. There was also a small but sophisticated group of litigators taking death penalty cases on appeal, sometimes winning exonerations and more often succeeding at extending proceedings. The result: longer periods between convictions at trial and actual executions, with benefits and drawbacks in pushing for death penalty abolition. However, litigators, ground-level organizers, and those funding activity on the ground didn't always act in concert.

Key Actions by Advocates and Funders

The key actions that advocates and funders deployed leading to momentum toward abolition of the death penalty included:

1. Building a Movement

With its substantial endowment and human rights focus, Atlantic was uniquely situated to undertake the work of building a field for the chronically underfunded abolition movement in the United States. One of the foundation's goals was to leave behind the capacity to carry on repeal work after Atlantic's funding had ended. While the early years of the foundation's grantmaking may have lacked a comprehensive and articulated step-by-step game plan, the later focus on consensus building and distributed funding enabled deepened relationships and coordinated responses to emergent opportunities.

2. Emphasizing Pragmatic Arguments for Abolition

Atlantic supported organizations that emphasized pragmatic arguments based on the record of error and racial discrimination in the legal system, the costs to states and localities of using the death penalty, and questions about the adequacy of state indigent defense systems. Atlantic staff recognized that a second effort to repeal the death penalty would have to produce research and support communications to highlight a much broader set of issues in criminal justice process than the Supreme Court had taken into account in *Gregg v. Georgia*. In 1972 the actors and the audience were lawyers and judges; in 2006 and later, for repeal to succeed, efforts would also have to involve average citizens (with some professional assistance), state legislators, and other elected officials.

A theme of repeal campaigns' communications was about "a broken system." Messaging to politicians that was based on pragmatism, not a human rights case, drew on research and advocacy showing that innocent people can be convicted of capital crimes in the United States and executed. Research found that death penalty reversal rates on appeal were above 75 percent. Research also identified great disparities in the probability that a white person will be executed for the capital murder of a black person compared to the greater probability that a black person will be executed for the murder of a white person.

Another pragmatic argument that helped propel reduced use of the death penalty pointed out the high costs of pursuing executions compared to lifetime imprisonment. The costs were judged to be high by the majority of prosecutors in states that still had death penalty statutes, and they became increasingly selective about pursuing capital cases. The high costs were also determined through economic research as well as the testimony of families of victims about the burden of the numerous appeals that come along with death sentences and extend the uncertainty of punishment over many years, even decades. Also, once states introduced a Life Without Parole (LWOP) option, as in Texas, prosecutors and juries could choose that instead of death.

3. Seeking to Reduce Use of the Death Penalty in Addition to Abolition

Recognizing that state-level trends on death penalty law would matter to a Supreme Court case challenging the death penalty on Eighth Amendment grounds, Atlantic made substantial grants to state abolition campaigns. The foundation supported major defense organizations in states with many active

cases and capable defenders. At the same time, its strategy prioritized reducing executions in high-use states and investing in campaigns for repeal strategies in low-use states only when these were promising. This strategy involved redefining states into three categories: those that did not allow the death penalty; those that had death penalty statutes on their books but had not used them for an extended period; and those that were actively using the death penalty. As predicted, the analysis showed overall declining use of the death penalty. This analytical shift also resulted in concentrating resources in high-use states where there were tactics or conditions for stopping or considerably slowing executions, and in states where executions were allowed but did not happen, if there was a plausible political environment for legal abolition.

The foundation based its strategy for this approach under a theory that supported all-out repeal campaigns in states where the chances of success were deemed favorable in the near future. These included: legislative campaigns in Montana, Kansas, Colorado, Nebraska, Delaware, and New Hampshire – all states that had active repeal campaigns over several years that were funded by Atlantic – in addition to campaigns in Maryland and Connecticut. Campaigns in Oregon and Washington aimed to convert governor-initiated moratoriums into legislative repeals, and a ballot initiative campaign in California in 2012 sought to ban the death penalty. The “reduce use” strategy eventually served as a basis for allocating scarcer funds to the most effective anti-death penalty activities in the foundation’s last two years of grantmaking. The data also served as the basis for a messaging campaign aimed to make people aware that the death penalty in the United States is actually a rare phenomenon.

Each of these campaigns faced unique challenges, especially in winning support for repeal from legislators and governors. Several of the early state repeal wins (New Jersey, New Mexico and Illinois) involved governors who lost standing due to scandals or controversies. On some of these occasions, savvy repeal leaders took advantage of this situation by persuading state leaders who no longer had to worry about costs to their political futures from supporting abolition efforts. This was also an issue in the Colorado governor’s re-election campaign in 2014, where activists wondered if he would lose votes upon granting an “indefinite reprieve” to a convicted murderer who had exhausted his appeals. The fact that the governor won the election anyway is a strong indication of the tide turning on the politicization of the death penalty as an issue.

4. Establishing a Regranting Fund

Atlantic joined with several other funders to define and pursue a common repeal strategy. It also aimed at modeling a consensus-based process for distributing funding to reduce competition and increase the coordination habits among the existing field of advocates. For the foundation to more efficiently support a range of grantees working on death penalty repeal, Atlantic relied on Proteus Action League to regrant funds. This move reflected the Atlantic Board’s preference and limited capacity to engage in the large number and small-dollar amount of grant-level decisions needed to support the campaign. It also enabled foundation staff to have a hand in the development of strategies and tactics driving repeal efforts at the state and national levels and to support overall capacity building and coordination of the repeal movement.

Efforts to create a collective strategy for death penalty abolition faced setbacks and divisions along the way. Most significantly, an earlier collaborative effort, the “2025 Campaign” was foreshortened when

some anti-death penalty organizations decided to not participate in a collective approach. Charged with making decisions about funding repeal initiatives from 2008 through 2011, the 2025 Campaign brought together several different affinity groups to advise how to reach a goal of abolition of the death penalty by 2025. The group developed a written roadmap and included grassroots organizers, litigators, and people working on communications. There were two main problems with the 2025 structure. First, there was a longstanding disagreement and competition for resources between the litigators who defended people facing death sentences in the short term and the people organizing grassroots campaigns to abolish the death penalty over the long term. Second, the rotating representation of the affinity groups in the 2025 Campaign became a problem. When new representatives took over from highly regarded and well established leaders in the abolition movement, they did not always feel they could speak for others about key issues. This may have reflected a wider, long-term disinclination among abolitionist groups to lead or be led. In the middle of the 2025 campaign, the foundation announced how the planned completion of its grantmaking by the end of 2016 would affect funding for death penalty abolition, further weakening collective activity on behalf of repeal.

Nevertheless, Atlantic continued to underwrite coordinating activities for the movement. The foundation helped create The 8th Amendment Project in 2014 to carry on an abolition strategy aimed at the Supreme Court and also provide professional communications capability for the abolition movement. The Themis Fund at Proteus was also established to raise funds for post-Atlantic activities in this area.

5. Substantial Funding to State Abolition Movements

Only a few funders were providing support in 2004 for ground-level organizing for repeal at the state level or for broader strategic and tactical initiatives to bring together all the elements of a campaign to overturn the death penalty state-by-state. In fact, state-level repeal organizations were just learning about what a comprehensive legislative repeal campaign might require and were largely understaffed and not very sophisticated politically. Atlantic funds for state death penalty repeal campaigns also had two new elements that were rarely funded by other foundations or donors interested in the death penalty issue: 1) the foundation recognized the importance of communications and budgeted for upgrades for state campaign work; and 2) the foundation recognized the importance of campaigns having access to professional lobbyists and thus provided 501(c)(4) funds for lobbying.

6. Restricting Availability of Drugs for Lethal Injection

Other opportunities to challenge the death penalty in court resulted from a campaign to persuade European manufacturers to stop producing drugs used for lethal injections in the United States. As states scrambled to find new drugs and suppliers, activists challenged the new protocols for lethal injections on the grounds that these were “cruel and unusual” forms of punishment. Atlantic supported the University of California, Berkeley School of Law Death Penalty Clinic to provide information and assistance to defense attorneys across the country who were interested in challenging state protocols for lethal injection executions. The foundation also supported the first successful administrative law challenge to state lethal injection protocols in New Jersey, which became a critical element of the campaign by New Jerseyans for Alternatives to the Death Penalty that resulted in repeal of the state’s death penalty in 2007.

These modest advocacy innovations contributed to *Glossip v. Gross*, one of the most important U.S. Supreme Court cases heard on the death penalty in many years even though it was ultimately unsuccessful. In a 5-4 decision handed down in 2015, the Court found for the State of Oklahoma that the method for lethal injection executions was not unconstitutionally devised and evidence supported that a drug substituted for one in the state's previous protocol that was no longer available would adequately provide sedation. The challenge to the state's new protocol was to ensure that the final stage of execution would not be conducted on a prisoner who was conscious and experiencing pain. All the states still carrying out executions now face choices about execution methods, including back-ups to lethal injection methods, as well as whether and how to shield information about compounding pharmacy suppliers for the drugs used in executions.

The foundation's investments addressing execution procedures raised the visibility of the execution process to an uncomfortable level for officials in many states and delayed executions scheduled for 2015 and 2016. The development and use of lethal injection methods of execution in America has been extensively researched and documented by Deborah W. Denno, Professor of Law, Fordham University School of Law, who received funding from Atlantic grantees for some of this work. Among the issues surfaced concerned the medical effects of substitute lethal injection drugs; the transparency (or secrecy) of the state drug acquisition processes; and the policies of the medical establishment (as represented by the American Medical Association, the American Pharmacists' Association and the International Academy of Compounding Pharmacies) that doctors and pharmacists should not to participate in killing prisoners. There was also a lawsuit against the Food and Drug Administration requiring a ban on imported drugs not approved for use in executions in the United States.

RESULTS

The results from Atlantic's nearly 10 years of support for efforts to repeal the death penalty include:

- ◆ A run of successful state legislative repeal campaigns;

Sidebar: Texas

Texas provides an outside-the-box model for reducing use of the death penalty in intent and politics. While there was never a serious repeal strategy between 1976 and 2015, there was a planned effort to introduce a series of legal and criminal justice system reforms that affected how people were charged with and convicted of capital crimes.

The StandDown Texas Project, established in 2000 to advocate for a moratorium, recognized that critical reforms needed to be made to a broken system to better insure that innocents did not face capital prosecution or execution. StandDown was meant to occupy ground that abolitionists simply could not hold in Texas.

It was important to the success of the overall criminal justice reform agenda that certain legislation not be seen as focused on the death penalty. Regular meetings were held to discuss activities and coordinate work. In some cases, this meant asking advocates to focus on some issues and not others, and specifically not to testify or show support for certain legislation.

- ◆ Increased and increasingly sophisticated news coverage of the death penalty story;
- ◆ Slowed executions in high-execution states due to improved post-conviction representation;
- ◆ New research on execution procedures used to support challenges to lethal injections and other practices not consistent with previous Supreme Court decisions regarding “cruel and unusual punishment”;
- ◆ Greater ability of non-profit defense organizations to challenge decisions in lower and state courts against individuals who claimed an inadequate defense; and,
- ◆ More funds made available for professional lobbying capability, representing an important addition to state repeal campaigns.

The initial funding strategy for tackling repeal of the U.S. death penalty was based on the assumption that the Supreme Court would look at state level actions, primarily legislative. By 2013 legislatures in New Jersey, New York, New Mexico, Maryland, Connecticut, and Illinois had repealed the death penalty. Nebraska followed in 2015 when the Republican legislature overrode a gubernatorial veto, which prompted a voter referendum on repeal slated for the fall of 2016. There were governor-initiated moratoriums in Colorado, Oregon, Washington and Pennsylvania by the end of 2015, as well as interruptions to executions in several states due to problems with lethal injection drug supplies or protocols. There was also a huge strategic and financial decision being contemplated by the California repeal organization, Death Penalty Focus, about whether to launch a second ballot initiative to repeal the state’s death penalty. (A 2012 initiative lost by a margin of two percentage points.) For a time, it looked like staff would have to choose between these strategic priorities because there were not enough resources left to fund every need. A final round of grants for anti-death penalty work shifted focus to Atlantic’s legacy of institutions that would carry on repeal activity.

The situations in two states offer countervailing insights into the shifting ground of the death penalty during the time of Atlantic’s national abolition campaign. In Colorado, with changing demographics and politics that had liberal and conservative ideologies side-by-side, there was a shift in favor of death penalty repeal. Texas, a state leader in executions for most of the modern history of the death penalty, began to dial back its execution fervor after the 2005 adoption of a life without parole statute. In Texas, where the foundation had long supported the Texas Defender Service, elements of criminal justice reform had slowly been gaining ground and use of the death penalty had plummeted.

In sum, for about 10 years, the foundation managed a very diverse portfolio of grants under its Human Rights and Reconciliation Program aimed at eliminating the death penalty in the United States. Atlantic brought into the death penalty world an openness to experimentation and new ideas and a steady eye on how the past can be brought forward to argue anew against the death penalty.

MOMENTUM: WHAT DOES IT LOOK LIKE?

Any attribution of the drastic reduction in the use of the death penalty to activities funded by Atlantic and others, and projections for 2016 and beyond, represent a more difficult analysis. What does “momentum” look like? Although the Atlantic staff working in the Human Rights and Reconciliation Program were not

thinking at the beginning about how they were trying to create momentum, “factories” of momentum emerged from their funding decisions:

- ◆ A recognition of the structure and essential elements of state repeal campaigns provided a starting place for new campaigns and a template for the foundation’s funding of state campaigns.
- ◆ A message about the death penalty, evolved over time, focused on a set of points about the ineffectiveness of the death penalty for the victims and their survivors, the communities affected by violence, including the families of the perpetrators. That message has been adopted by almost all of the entities working toward abolition across the country.
- ◆ Communications about exonerations of death row residents as case after case hits the news, relentless in showing evidence of injustice of people who have been convicted and incarcerated in error, sometimes for decades.
- ◆ The appearance of groups signing on to the abolition goal that have historically been on the other side of the debate. In 2015, Conservatives Concerned about the Death Penalty became active. In 2016, Public Safety Officials on the Death Penalty was formed. In 2016, the historically very conservative Kentucky and Utah legislatures introduced for the first time bills to abolish the death penalty. In 2015, Nebraska’s unicameral legislature with Republican leadership passed a successful repeal bill, overriding a governor’s veto with Republicans leading the efforts. Individual endorsements from the other camps have proliferated as well, including I. Beverley Lake, former Chief Justice of the Supreme Court of North Carolina, who now favors an end to the death penalty.
- ◆ Finally, moratoriums on executions instituted by four governors point to an important shift in the political environment where support for the death penalty was once necessary to winning elections. The case of Governor Hickenlooper in Colorado is the most dramatic. He gave protection from the death penalty as he was entering a re-election campaign, which he won in the face of scalding criticism. Governor Wolf recently began speaking out against the death penalty trend in Pennsylvania, where there are many cases of prosecutor and police misconduct and very serious racial tensions over policing and inequity. Moratoriums in Oregon and Washington are longstanding and not threatened. And short-term moratoriums have been established to review the procedures for executing people in Oklahoma, Ohio, Missouri, and Virginia, among others.

The evaluators’ study confirms these accomplishments.

LESSONS LEARNED

The report details lessons for effective philanthropy that are offered based on Atlantic’s funding to abolish the death penalty. These lessons are relevant to philanthropic advocacy generally, but especially to early efforts of unpopular movements that involve human rights.

1. If advocacy is occurring in a complex dynamic environment, which is most often the case, the advocacy funding and strategies will need to be flexible, adaptable and agile. Complexity theory offers some help in assessing and adjusting strategy.

2. If knowledgeable and engaged, foundation program officers can better understand and support adaptation to emergent conditions that affect successful advocacy.
3. If foundation staffing is lean, regranteeing and pooling funds are strategic options.
4. If failure is recognized, it is possible to learn from it, and move on quickly.
5. If the grantmaking and advocacy work are occurring in a complex dynamic system, ongoing situation and contextual analyses are critical.
6. If flexibility and adaptability are valued as essential to increasing impact, then funding, supporting, and employing a variety of tactics will be important.
7. If knowledge is to support action and adaptability, then support for research should be part of the funding mix.
8. If grantmaking and initiatives are grounded in complexity theory, program and policy evaluation must also be grounded in complexity theory to support strategic learning.
9. Integration, interdependence, and interconnectedness are the building blocks of success.

As described in the full report, the preceding lessons are complementary and the implications inseparable in promoting effective advocacy. Strategic integration of grantmaking elements is the ultimate lesson of the contribution of The Atlantic Philanthropies to the campaign for death penalty abolition in the United States.