

Federal Costs

The average cost of defending a trial in a federal death case is \$620,932, about 8 times that of a federal murder case in which the death penalty is not sought. A study found that those defendants whose representation was the least expensive, and thus who received the least amount of attorney and expert time, had an increased probability of receiving a death sentence. Defendants with less than \$320,000 in terms of representation costs (the bottom 1/3 of federal capital trials) had a 44% chance of receiving a death sentence at trial. On the other hand, those defendants whose representation costs were higher than \$320,000 (the remaining 2/3 of federal capital trials) had only a 19% chance of being sentenced to death. Thus, the study concluded that defendants with low representation costs were more than twice as likely to receive a death sentence. The complete report can be found [here](#).

(Office of Defender Services of the Administrative Office of the U.S. Courts, "[Update on Cost, Quality, and Availability of Defense Representation in Federal Death Penalty Cases](#)," June 2008; prepared by Jon Gould and Lisa Greenman).

Further update at J. Gould and L. Greenman, "[Report to the Committee on Defender Services-Judicial Conference of the United States](#)," September 2010.

Financial Facts About the Death Penalty

Colorado

A new study of the cost of the death penalty in **Colorado** revealed that capital proceedings require **six times** more days in court and take much longer to resolve than life-without-parole (LWOP) cases. The study, published in the University of Denver Criminal Law Review, found that LWOP cases required an average of 24.5 days of in-court time, while the death-penalty cases required 147.6 days. The authors noted that selecting a jury in an LWOP case takes about a day and a half; in a capital case, jury selection averages 26 days. In measuring the comparative time it takes to go from charging a defendant to final sentencing, the study found that LWOP cases took an average of 526 days to complete; death cases took almost **4 calendar years longer**--1,902 days. The study found that even when a death-penalty case ends in a plea agreement and a life sentence, the process takes a year and a half longer than an LWOP case *with a trial*.

(J. Marceau and H. Whitson, "[The Cost of Colorado's Death Penalty](#)," 3 Univ. of Denver Criminal Law Review 145 (2013)).

California

Assessment of Costs by Judge Arthur Alarcon and Prof. Paula Mitchell (2011, updated 2012)

The authors concluded that the cost of the death penalty in California has totaled over \$4 billion since 1978:

- \$1.94 billion--Pre-Trial and Trial Costs
- \$925 million--Automatic Appeals and State Habeas Corpus Petitions
- \$775 million--Federal Habeas Corpus Appeals
- \$1 billion--Costs of Incarceration

The authors calculated that, if the Governor commuted the sentences of those remaining on death row to life without parole, it would result in an immediate savings of \$170 million per year, with a savings of \$5 billion over the next 20 years.

[See DPIC's Summary of 2011 California Cost Study](#)

Report of the California Commission on the Fair Administration of Justice (2008):

"The additional cost of confining an inmate to death row, as compared to the maximum security prisons where those sentenced to life without possibility of parole ordinarily serve their sentences, is \$90,000 per year per inmate. With California's current death row population of 670, that accounts for \$63.3 million annually."

- Using conservative rough projections, the Commission estimates the annual costs of the present (death penalty) system to be \$137 million per year.
- The cost of the present system with reforms recommended by the Commission to ensure a fair process would be \$232.7 million per year.
- The cost of a system in which the number of death-eligible crimes was significantly narrowed would be \$130 million per year.
- The cost of a system which imposes a maximum penalty of lifetime incarceration instead of the death penalty would be \$11.5 million per year.

[\(Commission on the Fair Administration of Justice, June 30, 2008\).](#)

Maryland

Study Reveals Costs in Maryland: \$186 Million for Five Executions

A study released by the Urban Institute on March 6, 2008 forecast that the lifetime cost to taxpayers for the capitally-prosecuted cases in Maryland since 1978 will be \$186 million. That translates to \$37.2 million for each of the state's five executions since the state reenacted the death penalty. The study estimates that the average cost to Maryland taxpayers for reaching a single death sentence is \$3 million - \$1.9 million more than the cost of a non-death penalty case. (This includes investigation, trial, appeals, and incarceration costs.) The study examined 162 capital cases that were prosecuted between 1978 and 1999 and found that those cases will cost \$186 million more than what those cases would have cost had the death penalty not existed as a punishment. At every phase of a case, according to the study, capital murder cases cost more than non-capital murder cases.

Of the 162 capital cases, there were 106 cases in which a death sentence was sought but not handed down in Maryland. Those cases cost the state an additional \$71 million compared to the cost non-death penalty cases. Those costs were incurred simply to seek the death penalty where the ultimate outcome was a life or long-term prison sentence.

(J. McMenamain, "Death penalty costs Md. more than life term," Baltimore Sun, March 6, 2008). Read the [entire study here](#).

Nevada

A recent study of the death penalty in Nevada compared the costs of defending capital and non-capital murder cases. The study, conducted by Dr. Terance Miethe of the Department of Criminal Justice at the University of Nevada, Las Vegas, looked at the time spent by defense attorneys at various stages of a case. The study's findings included:

- Clark County public defense attorneys spent an average of 2,298 hours on a capital murder case compared to an average of 1,087 hours on a non-capital murder case--a difference of 1,211 hours, or 112%.
- Defending the average capital murder case in Clark County cost \$229,800 for a Public Defender or \$287,250 for appointed counsel. The additional cost of capital murder cases was \$170,000 to \$212,000 per case compared to the cost of a non-capital murder case in the same county.
- The 80 pending capital murder cases in Clark County will cost approximately \$15 million more than if they were prosecuted without seeking the death penalty.
- Clark County cases that resulted in a death sentence that concluded between 2009 and 2011 took an average of 1,107 days, or just over 3 years, to go from initial filing to sentencing. In contrast, cases that resulted in life without parole took an average of 887 days (2.4 years) to go from initial filing to sentencing.
- Of the 35 completed cases in Clark County from 2009 to 2011 where a *Notice of Intent* to seek the death penalty was filed, 69% resulted in a life sentence. Nearly half (49%) ultimately resulted in a sentence of life without parole, and the next most common disposition was a sentence of life with parole (20%). Only 5 of the 35 cases (14%) resulted in a death sentence.

The study did not include the costs of prosecution or all appellate expenses. The author noted: "It is important to note that this statistical extrapolation does not cover the full array of time spent in capital cases by other court officials (e.g. judges, prosecutors, jurors), staff and administrative personnel, mitigation specialists, investigators, and expert witnesses. It also does not take into account the additional costs of capital litigation that are associated with state/federal appeals and the extra costs of imprisonment of death eligible inmates pending trial and sentencing."