



Deadly Justice

A Statistical Portrait of the Death Penalty

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New York: Oxford University Press, 2017

Appendix E. Details Associated with our Estimates of Cost Used in

Chapter 14.

Tables 14.1 through 14.3 are based on a number of calculations from the studies used. Here we reproduce the tables from the book with a set of notes explaining each of our cost estimates. The notes appear at the end of this appendix.

Table 14.1. Overall Cost Estimates

Basic Characteristics of Cost Studies				Comparative Costs		
Author and Year	Geographic Scope	Time Period Examined	Cases Sampled	Death Penalty Trials as Compared to Non-Death Penalty Trials	Death Sentence as Compared to a Sentence of Life Without Parole	Death Penalty as Compared to a Scenario Where the Maximum Punishment is Life Without Parole
California Commission on the Fair Administration of Justice (2008)	California	1978-2007	1,644 ¹	+	+	+\$125,500,000 Per Year ²
American Civil Liberties Union of Northern California (2008)	California	1996-2006	338 ³	+	+	
Alarcón and Mitchell (2011)	California	1978-2010	1,940	+	+	+\$4,000,000,000 Over 31 Years
Marceau and Whitson (2013)	Colorado	1999-2010	154 ⁴	+123.5 Days Per Case ⁵		
Dieter (2010)	Pennsylvania	1976-2009		+	+	
Gould and Greenman (2010)	Federal	1998-2004	214	+\$308,376 Per Case ⁶		
Palm Beach Post Capital Bureau (2000)	Florida	1979-1999		+		+\$51,000,000 Per Year
Idaho Legislature Office of Performance Evaluations (2014)	Idaho	1998-2013	251	+3.1 Months Per Case ⁷		
Kansas Legislature Division of Post Audit (2003)	Kansas	1994-2003	22 ⁸	+\$316,000 Per Case ⁹	+	+
Judicial Council (2014)	Kansas	1994-2011	63 ¹⁰	+17.1 Days Per Case ¹¹		
Roman, Chalfin, Sundquist, Knight, and Darmenov (2008)	Maryland	1978-1999	1,136	+640,000 Per Case ¹²	+\$851,000 Per Death Sentence ¹³	+\$1,491,000 Per Case
Goss, Strain, and Blalock (2016)	Nebraska	1973-2014	119		+	+\$14,600,000 Per Year
Miethe (2012)	Nevada	2009-2011	138			
Nevada Legislative Counsel Bureau (2014) ¹⁴	Nevada	2000-2012	28	+\$375,000 Per Case - +\$389,000 Per Case ¹⁵	-\$5,000 Per Death Sentence - +\$86,000 Per Death Sentence ¹⁶	\$375,000 Per Case - \$475,000 Per Case
Forsberg (2005)	New Jersey	1982-2004		+	+	+\$253,300,000 Over Twenty-Four Years
Cook and Slawson (1993)	North Carolina	1990-1991	77 ¹⁷	+\$47,793 Per Case ¹⁸		
Cook (2009)	North Carolina	2005-2006	1,034	+		+\$11,000,000 Per Year
Kaplan (2013)	Oregon	1984-2013		+	+	+
Dieter (2009)	National Survey			+	+	+
Morgan (2004)	Tennessee	1993-2003	240	+	+	+

Washington State Bar Association (2006)	Washington	1981-2005	254	+	
Collins, Boruchowitz, Hickman, and Larrañaga (2015)	Washington	1997-2014	147	+	+\$1,150,000 Per Case

Table 14.2. Costs Associated with Each Phase of the Death Penalty Trial.

Basic Characteristics of the Studies				Costs of the Various Parts of Death Penalty Trials					
Author and Year	Geographic Scope	Time Period Examined	Cases Sampled	Death Penalty Trials as Compared to Non-Death Penalty Trials	Defense	Prosecution	Experts	Court	Jury
California Commission on the Fair Administration of Justice (2008)	California	1978-2007	1,644 ¹⁹	+	+				+
American Civil Liberties Union of Northern California (2008)	California	1996-2006	338 ²⁰	+	+	+	+	+	+
Alarcón and Mitchell (2011)	California	1978-2010	1,940	+\$1,000,000 Per Case	+	+	+	+	+
Marceau and Whitson (2013)	Colorado	1999-2010	154 ²¹	+123.5 Days Per Case ²²	+			+	+24.5 Days Per Case ²³
Dieter (2010)	Pennsylvania	1976-2009		+	+	+	+		+
Gould and Greenman (2010)	Federal	1998-2004	214	+\$308,376 Per Case ²⁴	+\$231,753 Per Case ²⁵		+\$77,754 Per Case ²⁶		+
Palm Beach Post Capital Bureau (2000)	Florida	1979-1999		+	+	+			
Idaho Legislature Office of Performance Evaluations (2014)	Idaho	1998-2013	251	+3.1 Months Per Case ²⁷					
Kansas Legislature Division of Post Audit (2003)	Kansas	1994-2003	22 ²⁸	+\$316,000 Per Case ²⁹	+	+	+	+	+
Judicial Council (2014)	Kansas	1994-2011	63 ³⁰	+17.1 Days Per Case ³¹					
Roman, Chalfin, Sundquist, Knight, and Darnenov (2008)	Maryland	1978-1999	1,136	+640,000 Per Case ³²	+	+			+
Goss, Strain, and Blalock (2016)	Nebraska	1973-2014	119		+		+	+	+
Miethe (2012)	Nevada	2009-2011	138		+1,166 Hours Per Case ³³ + \$116,600 - +\$145,750 Per Case ³⁴				

Nevada Legislative Counsel Bureau (2014) ³⁵	Nevada	2000-2012	28	+\$375,000 Per Case - +\$389,000 Per Case ³⁶	+\$176,891 Per Case - +\$225,834 Per Case ³⁷	+\$7,212 Per Case - +\$10,699 Per Case ³⁸	+\$49,000 Per Case - \$61,025 Per Case ³⁹	+	+
Forsberg (2005)	New Jersey	1982-2004		+	+\$2,300,000 Per Year	+\$4,600,000 - +\$7,800,000 Per Year	+	+	+
Cook and Slawson (1993)	North Carolina	1990-1991	77 ⁴⁰	+\$47,793 Per Case ⁴¹	+	+	+	+	+
Cook (2009)	North Carolina	2005-2006	1,034	+	+\$13,180,385 Over Two Years	+26,680 Hours Over Two Years	+\$3,024,000 Over Two Years ⁴²	+691 Days Over Two Years	\$224,640 Over Two Years
Kaplan (2013)	Oregon	1984-2013		+	+	+	+		
Dieter (2009)	National Survey			+	+	+	+	+	+
Morgan (2004)	Tennessee	1993-2003	240	+	+	+	+	+	+
Washington State Bar Association (2006)	Washington	1981-2005	254	+	+\$246,000 Per Case	+217,000 Per Case		+\$46,640 - +\$69,960 Per Case	+
Collins, Boruchowitz, Hickman, and Larrañaga (2015)	Washington	1997-2014	147	+	+\$493,500 Per Case ⁴³	+\$55,900 Per Case ⁴⁴	+	+\$80,000 Per Case ⁴⁵	

Note: The use of a “+” indicates that the study directly or indirectly stated that the category was more expensive, but did not provide enough information for specific numerical comparisons to be included.

Table 14.3. Costs Associated with Each Phase of the Death Penalty Post-Conviction Process.

Basic Characteristics of the Cost Studies				Costs of the Various Phases of the Post-Conviction Process of the Death Penalty					
Author and Year	Geographic Scope	Time Period Examined	Cases Sampled	Costs of a Death Sentence as Compared to a Sentence of Life Without Parole	Direct Appeal	Post-Conviction at the State Level	Post-Conviction at the Federal Level	Incarceration	New Death Row Complex
California Commission on the Fair Administration of Justice (2008)	California	1978-2007	1,644 ⁴⁶	+	+	+		+\$90,000 Per Inmate Per Year	+\$402.6 Million Overall ⁴⁷
Minsker (2008)	California	1996-2006	338 ⁴⁸	+	+	+		+\$90,000 Per Inmate Per Year	+\$356 Million Overall ⁴⁹
Alarcón and Mitchell (2011)	California	1978-2010	1,940	+	+	+\$200,000 - +\$300,000 Per Death Sentence	\$1.11 Million Per Death Sentence ⁵⁰	+\$90,000 Per Inmate Per Year	+\$402.8 Million Overall ⁵¹
Dieter (2010)	Pennsylvania	1976-2009		+	+	+			
Idaho Legislature Office of Performance Evaluations (2014)	Idaho	1998-2013	251		+1.2 Years Per Death Sentence	+1.4 Years Per Death Sentence		+	
Kansas Legislature Division of Post Audit (2003)	Kansas	1994-2003	22 ⁵²	+	+			_ ⁵³	
Judicial Council (2014)	Kansas	1994-2011	63 ⁵⁴		+			+\$24,690 Per Inmate Per Year ⁵⁵	
Roman, Chalfin, Sundquist, Knight, and Darnenov (2008) ⁵⁶	Maryland	1978-1999	1,136	+\$851,000 Per Death Sentence ⁵⁷	+\$340,000 Per Death Sentence ⁵⁸	\$43,000 Per Death Sentence ⁵⁹	+\$96,000 Per Death Sentence ⁶⁰	+\$372,000 Per Inmate Over a Lifetime ⁶¹	
Goss, Strain, and Blalock (2016)	Nebraska	1973-2014	119	+	+	+	+	+\$619,000 Per Year ⁶²	
Author and Year	Geographic Scope	Time Period Examined	Cases Sampled	Compared to Life Without Parole	Direct Appeal	Post-Conviction at the State Level	Post-Conviction at the Federal Level	Incarceration	New Death Row Complex
Nevada Legislative Counsel Bureau (2014) ⁶³	Nevada	2000-2012	28	-\$5,000 Per Death Sentence -+\$86,000 Per Death Sentence ⁶⁴	+	+	+	= ⁶⁵	
Forsberg (2005)	New Jersey	1982-2004		+	+	+	+	+	
Cook and Slawson (1993)	North Carolina	1990-1991	77 ⁶⁶		+\$13,561 Per Death Sentence	+	+	-\$17,000 Per Inmate Over a Lifetime ⁶⁷	
Cook (2009)	North Carolina	2005-2006	1,034		+	+	+	+\$169,617 Over the Two Year Time Period	

Kaplan (2013)	Oregon	1984-2013		+	+		+	
Dieter (2009)	National Survey			+	+	+		+
Morgan (2004)	Tennessee	1993-2003	240	+	+	+	+	=
Washington State Bar Association (2006)	Washington	1981-2005	254		+\$118,511 Per Death Sentence ⁶⁸	+		
Collins, Boruchowitz, Hickman, and Larrañaga (2015)	Washington	1997-2014	147		+	+		-\$474,000 Per Inmate Over a Lifetime ⁶⁹

Notes

¹ This number is an estimate because this study was unable to determine exactly how many death penalty trials have taken place in California over this time period (p. 34). To calculate this number, this study relied upon data gathered over five years during the 1980s by the State Public Defender who found that about fifty percent of death penalty trials resulted in a sentence of death (p. 34-35). Given that there have been 822 sentences of death imposed in California from 1977 through 2007 (p. 20), the resulting number of trials—assuming that this ratio remained constant—would be 1,644 (p. 34-35).

² This study projected that the annual cost of the current death penalty system in California was \$137 million and that the annual cost of a system with lifetime incarceration as the maximum penalty was \$11.5 million (p. 10). Subtracting \$11.5 million from \$137 million gives the figure of \$125.5 million.

³ This study examined “21 identifiable homicide trials and 317 unidentified trials and hearings” (p. 18). Summing the two numbers gives 338.

⁴ This study examined 6 “‘death prosecution/trial’ cases” and 148 “‘LWOP prosecution/trial’ cases” (p. 150-151). Summing the two numbers gives 154.

⁵ Figure 2 demonstrates that the average death prosecution/jury trial case in the sample took about 148 court days while the average LWOP case took only 24.5 days in court on average (p. 153). Subtracting 24.5 days from 148 days gives 123.5 days.

⁶ Table 3 compares the median cost of an authorized death penalty case, which was \$353,185, and a non-authorized case, which was \$44,809 (p. 27). Subtracting \$44,809 from \$353,185 gives the figure of \$308,376.

⁷ This study found that “capital cases took 14.5 months and noncapital cases took 11.4 months, a difference of 3.1 months, regardless of whether the defendant had a trial” (p. 20). It is this number that is noted in the table, but there is obviously an even greater difference between capital and noncapital cases “[f]or defendants who had a trial—a difference of 7 months” (p. 20).

⁸ This study examined three types of cases: “7 where the death penalty was sought and given, 7 where the death penalty was sought but not given, [and] 8 where the death penalty was not sought” (p. 10). Summing the three numbers gives 22.

⁹ Chart I-1 contains the median estimated trial costs of each category of cases listed in the previous note (p. 13). Because the death penalty is sought in both of the first two categories, their costs were averaged to get \$348,000 (p. 13). The median cost for cases in which the death penalty was not sought is \$32,000 (p. 13). Subtracting \$32,000 from \$348,000 gives the figure of \$316,000. Note that investigation costs were not included because this study suggests “that additional investigation and forensic costs may be due to the nature or location of the crime, not to the fact that the defendant was facing the death penalty” (p. 14).

¹⁰ In discussing the formation of its study, the Judicial Committee used the sample from the study by the Kansas Legislature Division of Post Audit and also added “all of the capital-eligible cases filed between 2004 and 2011, a total of 41 cases” (p. 3). Summing the two numbers gives 63.

¹¹ Figure 7 shows the average difference in the number of district court days for the 37 trial cases where the death penalty was sought and where the death penalty was not sought (p. 13). The average difference for this category is 23 days. Figure 8 shows the

average number of district court days for the 18 plea cases where the death penalty was sought and where the death penalty was not sought (p. 13). The average difference for this category is 5 days. A weighted average of the two numbers gives 17.1 days.

¹² This number was calculated using data in Table 6, which “presents bivariate cost estimates for each of the stages of a capital eligible case” (p. 24). The second column of this table presents death notice cases while the third column looks at cases resulting in a death sentence (p. 24-25). The total difference between both the guilt and penalty trials of the second column and the first column is \$514,000 and the total difference between both the guilt and penalty trials of the third column and the first column is \$880,000 (p. 25). A weighted average of the two differences gives the figure of \$640,000.

¹³ Summing \$340,000 for direct appeals, \$43,000 for state post-conviction procedures, \$96,000 for federal post-conviction procedures, and \$372,000 for incarceration gives \$851,000. The explanations for the four numbers can be found in Table 14.3.

¹⁴ The ranges in this row exist because costs were different for cases in which the death penalty was sought and sentenced and cases in which the death penalty was sought and not sentenced and because it was not possible to calculate a weighted average.

¹⁵ Exhibit 9 calculates the average trial costs by the pretrial, trial, and penalty phases (p. 17). For cases in which the death penalty was not sought, the average cost was \$177,000. For cases in which the death penalty was sought but not sentenced, the average cost was \$552,000. For cases in which the death penalty was sought and sentenced, the average cost was \$566,000 (p. 17). Subtracting the first category from the second

category gives the figure of \$375,000 and subtracting the first category from the third category gives the figure of \$389,000.

¹⁶ Exhibit 25 provides the average appeals cost by segment (p. 38). Subtracting \$56,000 from \$51,000 gives the figure of -\$5,000 and subtracting \$56,000 from \$142,000 gives \$86,000 (p. 38).

¹⁷ Table 6.1 contains the number of cases in the sample (p. 46). There were 32 bifurcated capital trials, 26 capital trials with just a guilt phase, and 19 noncapital trials (p. 46). Summing the three numbers gives 77.

¹⁸ This study provides the “medians for the three categories – noncapital, capital - guilt phase only, and bifurcated capital – [of] \$14,000, \$48,000, and \$73,000” (p. 47). Thus, the difference between bifurcated trials and noncapital trials is \$59,000 and the difference between capital trials with just a guilt phase and noncapital trials is \$34,000. Using the numbers from the previous note and calculating a weighted average gives the figure of \$47,793.

¹⁹ This number is an estimate because this study was unable to determine exactly how many death penalty trials have taken place in California over this time period (p. 34). To calculate this number, this study relied upon data gathered over five years during the 1980s by the State Public Defender who found that about fifty percent of death penalty trials resulted in a sentence of death (p. 34-35). Given that there have been 822 sentences of death imposed in California from 1977 through 2007 (p. 20), the resulting number of trials—assuming that this ratio remained constant—would be 1,644 (p. 34-35).

²⁰ This study examined “21 identifiable homicide trials and 317 unidentified trials and hearings” (p. 18). Summing the two numbers gives 338.

²¹ This study examined 6 “‘death prosecution/trial’ cases” and 148 “‘LWOP prosecution/trial’ cases” (p. 150-151). Summing the two numbers gives 154.

²² Figure 2 demonstrates that the average death prosecution/jury trial case in the sample took about 148 court days while the average LWOP case took only 24.5 days in court on average (p. 153). Subtracting 24.5 days from 148 days gives 123.5 days.

²³ Figure 2 demonstrates that voir dire took about 26 court days in the average death prosecution/jury trial case while voir dire in the average LWOP case took only 1.5 days (p. 153). Subtracting 1.5 days from 26 days gives 24.5 days.

²⁴ Table 3 compares the median cost of an authorized death penalty case, which was \$353,185, and a non-authorized case, which was \$44,809 (p. 27). Subtracting \$44,809 from \$353,185 gives the figure of \$308,376.

²⁵ Table 4 compares the median cost for the defense during an authorized death penalty case, which was \$273,901, and a non-authorized case, which was \$42,148 (p. 28). Subtracting \$42,148 from \$273,901 gives the figure of \$231,753.

²⁶ Table 8 compares the median cost for experts during an authorized death penalty case, which was \$83,029, and a non-authorized case, which was \$5,275 (p. 32). Subtracting \$5,275 from \$83,029 gives the figure of \$77,754.

²⁷ This study found that “capital cases took 14.5 months and noncapital cases took 11.4 months, a difference of 3.1 months, regardless of whether the defendant had a trial” (p. 20). It is this number that is noted in the table, but there is obviously an even greater difference between capital and noncapital cases “[f]or defendants who had a trial—a difference of 7 months” (p. 20).

²⁸ This study examined three types of cases: “7 where the death penalty was sought and given, 7 where the death penalty was sought but not given, [and] 8 where the death penalty was not sought” (p. 10). Summing the three numbers gives 22.

²⁹ Chart I-1 contains the median estimated trial costs of each category of cases listed in the previous note (p. 13). Because the death penalty is sought in both of the first two categories, their costs were averaged to get \$348,000 (p. 13). The median cost for cases in which the death penalty was not sought is \$32,000 (p. 13). Subtracting \$32,000 from \$348,000 gives the figure of \$316,000. Note that investigation costs were not included because this study suggests “that additional investigation and forensic costs may be due to the nature or location of the crime, not to the fact that the defendant was facing the death penalty” (p. 14).

³⁰ In discussing the formation of its study, the Judicial Committee used the sample from the study by the Kansas Legislature Division of Post Audit and also added “all of the capital-eligible cases filed between 2004 and 2011, a total of 41 cases” (p. 3). Summing the two numbers gives 63.

³¹ Figure 7 shows the average difference in the number of district court days for the 37 trial cases where the death penalty was sought and where the death penalty was not sought (p. 13). The average difference for this category is 23 days. Figure 8 shows the average number of district court days for the 18 plea cases where the death penalty was sought and where the death penalty was not sought (p. 13). The average difference for this category is 5 days. Calculating a weighted average of the two numbers gives 17.1 days.

³² This number was calculated using data in Table 6, which “presents bivariate cost estimates for each of the stages of a capital eligible case” (p. 24). The second column of this table presents death notice cases while the third column looks at cases resulting in a death sentence (p. 24-25). The total difference between both the guilt and penalty trials of the second column and the first column is \$514,000 and the total difference between both the guilt and penalty trials of the third column and the first column is \$880,000 (p. 25). Taking a weighted average of the two differences gives the figure of \$640,000.

³³ Table 1 has an estimate of the total difference in hours spent by both defense attorneys in capital cases as compared to non-capital cases (p. 4). Summing the 948 additional hours spent by defense attorneys in the pretrial phase, the 128 additional hours spent by defense attorneys in the trial phase, and the 90 additional hours spent by defense attorneys in the penalty phase gives 1,166 hours (p. 4).

³⁴ Table 3 calculates an estimate of the total difference in costs for defense attorneys with regards to capital and non-capital cases (p. 8). Using the formula in this table with the estimated costs of \$100 per hour for a public defender attorney and \$125 per hour for a private defense attorney gives the range of \$116,600 to \$145,750 (p. 8).

³⁵ The ranges in this row exist because costs were different for cases in which the death penalty was sought and sentenced and cases in which the death penalty was sought and not sentenced and because it was not possible to calculate a weighted average.

³⁶ Exhibit 9 calculates the average trial costs by the pretrial, trial, and penalty phases (p. 17). For cases in which the death penalty was not sought, the average cost was \$177,000. For cases in which the death penalty was sought but not sentenced, the average cost was \$552,000. For cases in which the death penalty was sought and sentenced, the

average cost was \$566,000 (p. 17). Subtracting the first category from the second category gives the figure of \$375,000 and subtracting the first category from the third category gives the figure of \$389,000.

³⁷ Exhibit 12 calculates the average pretrial defense costs (p. 21). Exhibit 14 calculates the average trial defense costs (p. 25). Exhibit 18 calculates the average penalty phase defense costs (p. 29). Note that the numbers in this cell come solely from the section called “Attorneys and Staff”; the numbers in the section called “Experts, Witnesses, Investigators, Other” will go under the “Experts” column on the table. The average costs for cases in which the death penalty was not sought were \$16,801, \$9,243, and \$1,115 respectively. The average costs for cases in which the death penalty was sought but not sentenced were \$229,552, \$18,201, and \$5,240 respectively. The average costs for cases in which the death penalty was sought and sentenced were \$176,265, \$19,750, and \$8,035. Summing the three sets of three numbers yields an average cost of \$27,159 for cases in which the death penalty was not sought, \$252,993 for cases in which the death penalty was sought but not sentenced, and \$204,050 for cases in which the death penalty was sought and sentenced. Subtracting the first category from the third category gives the figure of \$176,891 and subtracting the first category from the second category gives the figure of \$225,834.

³⁸ Note that the prosecution costs involved in this study “exclude[d] costs incurred outside of the courtroom” (p. 17). Exhibit 15 calculates the average trial prosecution costs (p. 26). Exhibit 19 calculates the average penalty phase prosecution costs (p. 30). The average costs for cases in which the death penalty was not sought were \$10,792 and \$2,495 respectively. The average costs for cases in which the death penalty was sought

but not sentenced were \$16,468 and \$4,031 respectively. The average costs for cases in which the death penalty was sought and sentenced were \$17,054 and \$6,932 respectively. Summing these three sets of two numbers yields an average cost of \$13,287 for cases in which the death penalty was not sought, \$20,499 for cases in which the death penalty was sought but not sentenced, and \$23,986 for cases in which the death penalty was sought and sentenced. Subtracting the first category from the second category gives the figure of \$7,212 and subtracting the first category from the third category gives the figure of \$10,699.

³⁹ Because data with regards to expert costs for the prosecution was much sparser, this number is only a calculation of expert costs for the defense. Exhibit 12 calculates the average pretrial expert costs for the defense (p. 21). Exhibit 14 calculates the average trial expert costs for the defense (p. 25). Note that the numbers in this cell come solely from the section called “Experts, Witnesses, Investigators, Other”. The average costs for cases in which the death penalty was not sought were \$7,795 and \$4,925 respectively. The average costs for cases in which the death penalty was sought but not sentenced were \$42,179 and \$31,566 respectively. The average costs for cases in which the death penalty was sought and sentenced were \$31,732 and \$29,988 respectively. Summing the three sets of two numbers yields an average cost of \$12,720 for cases in which the death penalty was not sought, \$73,745 for cases in which the death penalty was sought but not sentenced, and \$61,720 for cases in which the death penalty was sought and sentenced. Subtracting the first category from the third category gives the figure of \$49,000 and subtracting the first category from the second category gives \$61,025.

⁴⁰ Table 6.1 contains the number of cases in the sample (p. 46). There were 32 bifurcated capital trials, 26 capital trials with just a guilt phase, and 19 noncapital trials (p. 46). Summing the three numbers gives 77.

⁴¹ This study provides the “medians for the three categories – noncapital, capital - guilt phase only, and bifurcated capital – [of] \$14,000, \$48,000, and \$73,000” (p. 47). Thus, the difference between bifurcated trials and noncapital trials is \$59,000 and the difference between capital trials with just a guilt phase and noncapital trials is \$34,000. Using the numbers from the previous note and calculating a weighted average gives the figure of \$47,793.

⁴² The counterfactual in this study takes the additional costs of an “ever-capital case” and multiplies it by the number of these cases, which is 216 (p. 21). This was divided into expert fees using Table 4 (p. 22). The difference in expert fees is \$14,000, which is the difference between \$18,000 and \$4,000 (p. 22). Multiplying the difference by 216 gives the figure of \$3,024,000.

⁴³ Figure 4 is a boxplot of the defense costs associated with the trial of death penalty cases as compared to non-death penalty cases (p. 43). Subtracting the median defense cost for non-capital costs, \$115,000, from the median defense cost for capital cases, \$608,500, gives the figure of \$493,500 (p. 43).

⁴⁴ Figure 5 is a boxplot of the prosecution costs associated with the trial of death penalty cases as compared to non-death penalty cases (p. 44). Subtracting the median prosecution cost for non-capital cases, \$53,600, from the median prosecution cost for capital cases, \$109,500, gives the figure of \$55,900 (p. 44).

⁴⁵ Figure 6 is a boxplot of the court costs associated with the trial of death penalty cases as compared to non-death penalty cases (p. 45). Subtracting the median court cost for non-capital cases, \$33,300, from the median court cost for capital cases, \$113,300, gives the figure of \$80,000 (p. 45).

⁴⁶ This number is an estimate because this study was unable to determine exactly how many death penalty trials have taken place in California over this time period (p. 34). To calculate this number, this study relied upon data gathered over five years during the 1980s by the State Public Defender who found that about fifty percent of death penalty trials resulted in a sentence of death (p. 34-35). Given that there have been 822 sentences of death imposed in California from 1977 through 2007 (p. 20), the resulting number of trials—assuming that this ratio remained constant—would be 1,644 (p. 34-35).

⁴⁷ Although the Department of Corrections estimated that the completion of a new death row at San Quentin would cost \$356 million, a recent report by the California State Auditor suggests that even this number is low (p. 76). Consultants believe that the actual cost will exceed this cost by \$39.3 million and that there will be an activation fee of \$7.3 million. Summing the three numbers gives the figure of 402.6 million.

⁴⁸ This study examined “21 identifiable homicide trials and 317 unidentified trials and hearings” (p. 18). Summing the two numbers gives 338.

⁴⁹ The cost of \$402.6 million discussed in the previous study is probably a more accurate estimate given that it was determined by the California State Auditor in the aforementioned study by the California Commission on the Fair Administration of Justice. The cost listed here, \$356 million, is an estimate by the Department of Corrections.

⁵⁰ Using extrapolation and some basic assumptions, this study determined that “the total bill to the federal government to investigate, review, and litigate federal petitions for all of the inmates currently on death row will be \$775,250,000” (p. 97). Dividing this cost by the 700 cases used in the estimation gives \$1.11 million per case (p. 97). Note that this does not include costs to the Attorney General’s Office in California or any administrative costs related to the duties of judges and their law clerks (p. 97-98).

⁵¹ Much like the study by the California Commission on the Fair Administration of Justice, this study relies on the expertise of the California State Auditor who found that the cost to construct the new death row at San Quentin will be “more than \$395.5 million [and that] the additional cost to activate [it] will reach \$7.3 million” (p. 101).

⁵² This study examined three types of cases: “7 where the death penalty was sought and given, 7 where the death penalty was sought but not given, [and] 8 where the death penalty was not sought” (p. 10). Summing the three numbers gives 22.

⁵³ Because Kansas does not have a separate death row and because this study projects that those sentenced to death will eventually be executed, the incarceration costs are declared to be lower (p. 3, 14).

⁵⁴ In discussing the formation of its study, the Judicial Committee used the sample from the study by the Kansas Legislature Division of Post Audit and also added “all of the capital-eligible cases filed between 2004 and 2011, a total of 41 cases” (p. 3). Summing the two numbers gives 63.

⁵⁵ Because prisoners with a death sentence are “housed exclusively in administrative segregation”, it is twice as expensive to imprison these individuals (p. 1).

⁵⁶ This study made it impossible to compare the post-conviction costs of a death sentence as opposed to the post-conviction costs of a sentence of life without the possibility of parole. All of the numbers in this row are instead determined by comparing the cases in which a death sentence was returned with the cases in which a death notice was filed.

⁵⁷ Summing the four other numbers in this row gives this number.

⁵⁸ This number was calculated using data in Table 6, which “presents bivariate cost estimates for each of the stages of a capital eligible case” (p. 24). The second column of this table presents death notice cases while the third column looks at cases resulting in a death sentence (p. 24-25). Subtracting \$134,000 from \$474,000 gives the figure of \$340,000 (p. 24).

⁵⁹ This number was calculated using data in Table 6, which “presents bivariate cost estimates for each of the stages of a capital eligible case” (p. 24). The second column of this table presents death notice cases while the third column looks at cases resulting in a death sentence (p. 24-25). Subtracting \$39,000 from \$82,000 gives the figure of \$43,000 (p. 24).

⁶⁰ This number was calculated using data in Table 6, which “presents bivariate cost estimates for each of the stages of a capital eligible case” (p. 24). The second column of this table presents death notice cases while the third column looks at cases resulting in a death sentence (p. 24-25). Per death sentence for federal habeas costs, the difference is \$82,000, which is zero subtracted from \$82,000 (p. 24). Per death sentence for federal appellate costs, the difference is \$14,000, which is zero subtracted from \$14,000 (p. 24). Summing these two numbers gives the figure of \$96,000.

⁶¹ This number was calculated using data in Table 6, which “presents bivariate cost estimates for each of the stages of a capital eligible case” (p. 24). The second column of this table presents death notice cases while the third column looks at cases resulting in a death sentence (p. 24-25). Subtracting \$946,000 from \$1,318,000 gives \$372,000 over a lifetime (p. 24).

⁶² Table 4.3 contains “elements of the annual cost for maintaining the [death penalty] for Nebraska” (p. 28). Within this table is a row entitled “Maximum security costs” (p. 28). This can be seen as the extra costs of incarceration and it is thus the value listed on the table.

⁶³ The ranges in this row exist because costs were different for cases in which the death penalty was sought and sentenced and cases in which the death penalty was sought and not sentenced and because it was not possible to calculate a weighted average.

⁶⁴ Exhibit 25 provides the average appeals cost by segment (p. 38). Subtracting \$56,000 from \$51,000 gives the figure of -\$5,000 and subtracting \$56,000 from \$142,000 gives the figure of \$86,000 (p. 38).

⁶⁵ It is noted that any differences in incarceration costs are largely insignificant “because incarceration periods are similar considering ‘involuntary’ executions are extremely infrequent” (p. 53). This, however, is determined to be because those facing life without parole have higher median death ages (p. 54). Assuming that the median death age of those facing life without parole gets closer to the median death age of death row prisoners, however, the total cost of incarcerating a death row inmate will be significantly higher (p. 54).

⁶⁶ Table 6.1 contains the number of cases in the sample (p. 46). There were 32 bifurcated capital trials, 26 capital trials with just a guilt phase, and 19 noncapital trials (p. 46). Summing the three numbers gives 77.

⁶⁷ The magnitude of this number depends greatly on the execution rate; cost savings are higher if the execution rate is higher (p. 73-74). Assuming that the execution rate is 10 percent, \$17,000 is the figure (p. 74).

⁶⁸ The median direct appeal cost for death penalty cases is \$128,755 and the median direct appeal cost for non-death penalty cases is \$10,244. Subtracting \$10,244 from \$128,755 gives the figure of \$118,511.

⁶⁹ Figure 8 contains the difference in incarceration costs for death penalty cases and non-death penalty cases (p. 47). Subtracting \$1,140,000 from \$1,614,000 gives the figure of \$474,000.