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## The Death Penalty vs. Life Incarceration: A Financial Analysis

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# The Death Penalty vs. Life Incarceration: A Financial Analysis

By Torin McFarland, Class of 2017

## ABSTRACT

In the 32 states in the Union where the death penalty is legal, as well as the federal government, the death penalty has grown to be much more expensive than life imprisonment, whether with or without parole. This greater cost comes from more expensive living conditions, a much more extensive legal process, and increasing resistance to the death penalty from chemical manufacturers overseas. These costs could even become higher, pending the outcome of various lawsuits against various states for their “botched” executions. Each death penalty inmate is approximately \$1.12 million (2015 USD) more than a general population inmate.

## **INTRODUCTION**

The United States' justice system and penal code have evolved to where the two highest punishments are imprisonment for life and the death penalty. While life imprisonment has been somewhat controversial, legal battles over the constitutionality and execution of the death penalty are more prevalent. Neither of these penalties is legal in all 50 states (life without parole is illegal in Alaska though the life sentence is 99 years long), but the laws structuring each vary considerably (The New York Times 2011). Many on both sides use moral or ethical arguments, others cite religious documents either for or against, and yet still others simply attempt to persuade people with statements of law and legal documents. These arguments are often all brought together to form persuasive and compelling points of view, but also usually present opinion over fact. This paper seeks to discuss none of the above lines of reasoning, and will discuss the costs of each, starting with the accused's journey through the court system and ending with either their parole or capital punishment. It will use as many factors as is feasible, including both the explicit and implicit costs of both, in as unbiased a manner as possible. What will be determined is which punishment, in its totality, costs more. Logically, since the government, and thus the taxpayer, bears the brunt of this cost, the cheaper of the two should be implemented, assuming all other factors *ceteris paribus*.

It is important to mark the distinction between the death penalty and capital punishment. The death penalty is the sentence sought in court. It can be, in some cases,

commuted to life imprisonment, or at other times simply rescinded due to new evidence. Capital punishment is the actual execution, via whichever method is chosen. It is not a sentence, but an act carried out on the one sentenced. This is how the Encyclopedia Britannica and the Federal Judicial Center define these terms. While many use these terms interchangeably, there is a distinction which will guide how the two terms are used in this paper.

Each punishment will be discussed in terms of legality and crimes in section II. The appeal and parole process will be examined and explained in section III. The numerical data on those convicted of both crimes, primarily the type of sentence, number of sentences, time served, etc, will be presented in section IV. The explicit costs will be shown in section V, and the implicit costs in section VI. Finally in section VII, the average cost per case will be estimated for each punishment and compared to determine the superior solution for the justice system.

## **THE LEGALITY AND CRIMES**

There are currently thirty-two states in the Union that allow the death penalty. The United States federal government and the United States military also retain the right to sentence people to death. Conversely, eighteen states and the District of Columbia have either never had or have abolished the death penalty at some point in time. Most death penalties were abolished by the courts, but several are within constitutional amendments. Puerto Rico has a constitutional amendment barring the death penalty from

being enforced, but a federal court can still sentence someone to death for a crime committed in Puerto Rico. Additionally, all states that currently have a “no death penalty law” have had executions during colonial times, time spent as a territory, or through the federal government in that state. Though the death penalty cannot be used as a sentence on new cases, many of the more recent bans are not retroactive in nature. Consequently, some states’ death rows are still actively planning executions. Illinois and Maryland, however, commuted the sentences of its death row inmates to life without parole (FoxNews 2003, FoxNews 2015). The lists of these states will be shown in Appendix A.

Due to the varying state legal systems, there is not an explicit list of crimes punishable by the death penalty (in the thirty-two states where it is allowed). Every state allowing the death penalty, according to the Bureau of Justice Statistics in 2010, can seek it in the case of first-degree murder, though some stipulate there must be aggravating circumstances or factors involved. Many states also allow it to be sought in cases concerning felony murder, murder of an inmate while already serving a life sentence, and murder during or involving rape. In addition to these, some states allow the death penalty to be sought for crimes such as train wrecking, aircraft hijacking, drug trafficking, kidnapping, or resisting arrest. A few allow it for sabotage and treason. There are also seven states that allow it for the rape of a small child or the second conviction of the sexual assault of a small child (DeathPenaltyInfo 2015). The federal government allows for the death penalty to be sought in many of the same

crimes, though the federal list includes espionage, genocide, civil rights offenses resulting in death, and murders involving both domestic and foreign officials. Currently, the United States military can execute a military member for fourteen different offenses during peacetime, and an additional four offenses in times of war (UCMJ 2015).

The Federal Bureau of Prisons and each state are, among other things, in charge of holding prisoners who are “on death row” or awaiting sentencing. While men and women are kept separately, it does not mean that in all cases there are different facilities. In the case of large prison complexes, men and women will be kept in separate sections. “Death row” is not always a separate prison from regular prisoners, though some states do segregate. Lastly, states do not always have only one location for their penitentiaries, with certain states having 2 or 3 different facilities, all potentially holding death row inmates.

All states and the federal government can sentence a person to life in prison. While some will not use the life without parole sentence, all states and the federal government have used life sentences with a chance of parole, but whether that means inmates received parole is a different point altogether. For post-1987 offenses, the federal criminal code does not allow for the possibility of parole, though the parole system is still in operation to serve prisoners with long sentences from offenses prior to 1987. All of the crimes discussed above in the death penalty section can also carry a sentence of life imprisonment. In

addition to that list though, many nonviolent drug crimes and petty repeat offenses can automatically sentence a person to life imprisonment without parole (The Economist 2013). This is due to many states instituting mandatory sentencing laws, increasing the number of inmates with life imprisonment sentences (The Sentencing Project 2013). 22% of California's 2012 life-sentenced population (8914) are serving life sentences due to these laws, 55% of whom committed nonviolent crimes. The severity and the nature of the crime committed determines what level security prison an inmate will be placed in, therefore where a prisoner stays is extremely varied.

## **APPEALS AND PAROLE**

Depending on the crime and apprehension of the accused, grand jury hearings can occur before the trials involved with the death penalty. After this option, if indeed it is utilized, the prosecution must announce that it is planning to seek the death penalty. This is required because the jury must be "death qualified," which means able to make the decision for or against a death penalty in light of varying factors (Capitalpunishmentincontext.org 2015). After the typical trial process (opening statements, prosecutor's case, defendant's case, and closing statements), the jury then must determine the defendant's guilt on the charges. Then, if guilty, the jury must take into consideration the aggravating and mitigating circumstances, such as the manner in which the crime was committed, the number of people killed, mental abilities, background, or any other factor that could persuade the jury

(Capitalpunishmentincontext.org 2015). A decision is made on whether the guilty party deserves the death penalty or not. In some states, the judge must follow the jury's decision, while in others, he or she can amend this judgment however they see fit. If the guilty party does receive the death penalty, the appeals process begins.

There are two stages of the appeals process for state inmates and three stages of federal appeals. It is possible for state inmates to move to the federal appeals system after exhausting the state system, but only if there is a federal issue involved. At any stage, a writ of certiorari can be filed and delivered to the U.S. Supreme Court, which would attempt to raise a constitutional question about the case in question. This can only be done once, however, and the U.S. Supreme Court rarely takes cases. Once the highest of courts denies the appellant, the appeals process is essentially over and the options have been exhausted.

The first stage of state appeals is the direct appeal, which is automatically granted in death penalty cases. It is mandatory in some states for appellants to accept, but not all. This step may only challenge issues from the trial. After briefs and oral arguments from both sides are delivered to the court, the panel of judges can affirm or reverse the conviction or the death sentence. The second stage of the state appeal process allows briefs to be filed with every court from the original judge to the highest court in the state. This is where new evidence, misconduct, etc. would be brought up and reviewed (Capitalpunishmentincontext.org 2015). If



there is a federal issue, the U.S. District Court will then review the state case. If it is a federal death penalty case, this is the court that would receive the federal direct appeal. After the U.S. District Court, the U.S. Court of Appeals can be petitioned for relief, but cases are not automatically granted permission. This appeal, like direct appeal, can only bring in issues from the previous appeal to be reviewed. The only option higher than the U.S. Court of Appeals is the U.S. Supreme Court, which as stated before only accepts a few cases (Capitalpunishmentincontext.org 2015). There is also always the chance of a presidential or governor pardon, which would commute the sentence from death to life without parole. The executive involved depends on whether the prisoner is a state or federal inmate.

The appeals process for the death penalty is highly regimented, with strict timelines and deadlines that, if missed, end the process. Life imprisonment also allows for certain appeals to be made, and there are deadlines for these administrative appeals exactly like in the death penalty process (Cornell Law 2015). While it varies by state, prisoners have some legal options once in prison, but these are limited and can be exhausted rather quickly. There is not an endless cycle of appeals, as is commonly thought.

## **THE PRISONERS**

Most people know that the incarcerated population in prisons is rather large, and the fact that the United States' is the largest in the world is nearly as well known. What is not nearly as well-known are the statistics on how many of these

people reside on death row or are incarcerated for life. Both of these are much more niche-like statistics, but they are eminently important when making comparisons of cost. There are many more life sentences, both with or without parole, than those sentenced to death row, but both sample sizes are large enough to draw some general trends and conclusions from, especially the changes in life imprisonment statistics.

The average time spent on death row in 1984 was 74 months, or a little over six years. This has increased since then to an average of 190 months, or nearly sixteen years, in the year 2012 (Bureau of Justice Statistics 2013). While this is not the highest it has been (198 months in 2011), death row time has gradually increased over the years due to the increasing complexity of the legal system and the greater care taken in the attempt to avoid mistakes. Some of this complexity is actually due to the longer stays on death row, stemming from the increasing age of inmates, having them serve what could be considered a “double sentence.” With many waiting for longer than twenty years, some of those who committed crimes later in life have actually been executed while suffering from dementia or Alzheimer’s disease (USA Today, February 10, 2005). With increasing amounts of legal arguments comes increased amounts of incarceration time, which consequently increases the cost of the entire process.

While incarceration time of death row inmates has increased dramatically, those being sentenced to death has

been trending downward in the last fifteen years. Down from 3,670 at the turn of the millennia, only 3,170 people resided on death row in 2012. 77 inmates, who were included in that previous number, were added to this population in that year, while only 43 executions occurred. Both of these figures are about 50% or less than their 2000 era numbers (224 sentenced and 85 executions) (DeathPenaltyInfo 2015). Thirty-one of these 2012 executions took place in the southern half of the United States, with fifteen occurring in Texas. All of these figures have been trending downwards in recent history, reflecting the ever changing and controversial nature of the death penalty.

There is a significantly higher population of those incarcerated for life in the United States. In 2012, 159,520 people were serving a life sentence, and 49,081, or about 31%, are serving a life sentence without parole (The Sentencing Project 2013). The total life sentence population was 10.6% of the total prison population. Over 64% were sentenced for a homicide of some kind, but there are more than 10,000 people serving life sentences for nonviolent crimes. The 2012 imprisoned-for-life population is four times larger than it was in 1984, and 11.8% larger than it was in 2008. For comparison, the population grew by 33.2% from 1984 to 2012, and a little over 3.3% from 2008 to 2012, showing how the incarceration rates increased at a much higher rate than population trends (United States Census Bureau 2008).

The average sentence for those serving life imprisonments has risen steadily over the years, and the percentage of those without chance of parole has also grown. In 1991, an expected life sentence was 21.2 years, and six years later, the expected sentence was 29 years (The Sentencing Project 2013). This has increased since 1997, and the number of prisoners pardoned has also decreased, favoring the increasing popularity of politicians' "tough on crime" images. From 2008 to 2012, those who were serving life imprisonments without parole grew by 22.2%. This has increased even as crime rates declined and a few states even decreased their overall populations slightly. This is once again partially due to the proliferation of "X-strikes" laws.

## **EXPLICIT COSTS**

The largest expense for a death penalty case is the significantly higher legal fees involved in simply seeking, but not necessarily receiving, the death penalty. While there are studies and reviews of state governments that estimate how much higher the cost is, there has not been a figure published by all the states that have a death penalty. There are also varying methodologies in that many only study court fees, while others study defense costs, while yet others study only prosecutorial costs. Only about 40% of the states allowing the death penalty have released the complete cost of the process of sentencing a person to death. The federal government, however, released a comprehensive study in 2010, as an update from 1998 that not only depicts costs, but also demographics, effectiveness, and numerous other statistics. There are also many states without studies that

hold the idea that a death penalty case carried through to completion is about \$1 million more expensive than a case where only a life sentence is sought. These costs are often explained by the “Death is Different” Doctrine of the Supreme Court, created in the *Furman v. Georgia* case. This effectively increased the requirements of due process needed in a death penalty case (American University Law Review 1991). It also created a moratorium on the death penalty in the United States for four years.

Shown below is a data table (Figure 1) displaying the various studies of cases seeking the death penalty compared to those eligible for, but not seeking, the death penalty in terms of overall legal fee costs.

*Figure 1*

State	Authors	Year	Seeking Death Penalty	Not Seeking Death Penalty	Difference in Cost	2015 Dollars
Maryland	Roman et al	2008	\$ 2,400,000	\$ 1,100,000	\$ 1,300,000	\$ 1,430,650
California	McGee	2005	2,087,926	627,322	1,460,604	\$ 1,772,028
Connecticut	State of Connecticut Commission	2005	380,000	202,365	177,635	\$ 215,510
Indiana	Turow, Scott	2010	449,887	42,658	407,229	\$ 442,500

Kansas	Kansas Judicial Council	2003	1,200,000	740,000	460,000	\$ 592,353
Arizona	Williams, Linda M.	2000	143,604	70,231	73,372	\$ 100,958
Montana	Montana Legislative Branch	2012	1,200,000	800,000	441,000	\$ 464,530
Utah	Utah Legislative Branch	2010	-	-	1,600,000	\$ 1,738,578
South Carolina	DPRDC	2010	-	-	1,100,000	\$ 1,195,267
Oklahoma	OKCADP	2013	3,500,000	1,000,000	2,500,000	\$ 2,542,755
Ohio	WHIO	2014	3,000,000	1,000,000	2,000,000	\$ 2,001,732
Washington	Collins et al	2015	-	-	1,000,000	\$ 1,000,866
Nevada	State of Nevada Legislative Auditor	2014	-	-	532,000	\$ 532,461
Federal	Gould and Greenman	2010	620,942	77,618	543,324	\$ 590,382
<b>Average</b>		-	-	-	-	\$ 1,044,326

There is a rather wide range between the values, most likely due to the differences in states' data collection,

number of overall cases, and potentially, legal systems. The total is just slightly north of what most states assume the cost to be. Approximately \$1 million is added to a case that seeks the death penalty over a case that does not, as adjusted to 2012 dollars. Additionally, the Maryland study is highly touted as one of the most accurate studies done on the subject to date, though all studies are weighted equally in this paper. Other states not listed in the table have estimated death penalty legal costs to be many multiples of what it costs for a life sentence, but these were not included due to lack of any actual figures.

Another rather large expense in death penalty and, of course, life imprisonment cases is the incarceration costs. Death row inmates are kept in high security areas of prisons (though not necessarily the same as maximum security), which cost more due to increased supervision, single rooms, etc. These inmates, if not for the death penalty, would be a part of what is called general population, which has varying degrees of security. High or maximum security is, in some states, where death row inmates are kept, while others have separate or specialized facilities. In Appendix C, a data table shows the general population costs per inmate annually and per diem for forty different states as well as the federal government compared to the same costs for twenty-seven states' death row inmates. These were compiled from multiple studies and different states' Departments of Corrections online statistics.

All prices have been adjusted to reflect 2015 dollar figures for ease of comparison to the legal fees figures. These can be seen in the table below.

	<b>Death Row Inmates</b>		<b>General Population</b>	
	Annual	Daily	Annual	Daily
<b>Federal Level</b>	\$36,871	\$101	\$28,078	\$76.93
<b>State Average</b>	\$44,770	\$122.66	\$33,998	\$90.26

Federal inmates on average cost less than the states' averages. This cost is mainly derived from smaller numbers of federal prisoners as well as various states' different methods. Some of the states have much higher expenses due to inefficient systems and overly expensive prisons, like California. California spends nearly \$135,000 per year on inmates on death row as compared to \$51,500 on the general population. Other states, like North Carolina, claim to have the exact same costs per inmate, just over \$32,500 a year or \$89.22 per day. A few states even claim to have lower death penalty inmate costs than general population, which is most likely due to the low population of death row inmates or extremely large prison complexes. So, both the federal government and average state government spends more to house death row inmates than general population prisoners.

An additional factor that must be considered when discussing the long term incarceration of a prisoner is the deterioration of health associated with both prison life and



aging. A Pew Study estimated that of the 44 states evaluated, median spending growth was 49%, with 10 states experiencing growth of 90% (Pew Trusts 2014). This can be attributed to both death row and general population inmates, since many death row prisoners wait upwards of 15 years for their executions. Californians actually have a wait of more than 20 years. As stated earlier, the average life sentence with parole increased to nearly 30 years in 1997, and those without parole have increased drastically due to law changes in the last few decades. Therefore, the population of prisoners who will need extensive medical care later in life has and will increase as more time goes on. Even in light of some states' prison populations decreasing overall, the average age of the general population has increased to the late thirties nationwide. These average ages can be found in the Department of Corrections statistics section for each state, as well as the American Legislative Executive Council Prison Overcrowding Initiative statistics. While these increasing medical costs are mainly attributed to the imprisoned-for-life population, as death row inmates remain in prison for longer periods of time, their health deteriorates too, physically and mentally, from what is now called the Death Row Phenomenon or Death Row Syndrome (Harrison and Tamony 2010).

There are also certain expenses that are exclusive to each type of punishment. The first is the actual execution cost. While there is not much research done on this topic, Texas released a figure on their chemical prices per execution, which was \$83.55 in 2011 (Los Angeles Times

2014). However, this changed rapidly within one year to become \$1286.86 due to certain companies, primarily European ones, objecting to the use of their chemicals being involved in executions. From this, the European Union actually created a ban on exports of those drugs used for lethal injections. This continues to drive up costs, as chemicals become scarcer and scarcer. Sodium thiopental only has a shelf life of four years, which implies at this point that much of the supply in the U.S. has either been used or will shortly be ineffective (The Atlantic 2014). California spends \$200 on its execution chemicals, though these are so rarely used (Lodi News-Sentinel 2006). Doctors must also be present for this and their rates vary for the 3 to 5 hours they must be in attendance. The total cost of a single execution, including wages paid that day alone, travel costs, goods and services for the media, and counseling for staff, has been estimated by the state of Washington to be about \$98,000 (NBC News 2011, BBC News 2012). These costs, while currently not insignificant, are trending upwards due to increasing foreign opposition to the death penalty and are expected to keep rising. This has caused states to look for more cost-effective methods of execution, such as the gas chamber and the firing squad, though this has faced public opposition and divided lawmakers (BBC 2015, RT.com 2015). Oklahoma, Utah, and Wyoming are debating the costs and benefits of changing the default method from injection. Death via firing squad is allowed as an alternative in certain death penalty states (Utah and Oklahoma), but they must be chosen by the prisoner, if and only if they were convicted before a certain date, which varies by state (LA

Times 2014, BBC 2015). Washington, Delaware, and New Hampshire allow hanging in certain instances, such as in Delaware if a prisoner has been on death row since before 1986. The same is true for both the gas chamber and the electric chair, in that certain prisoners (those convicted before a certain date) have the right to choose the execution method.

While people receiving life without parole sentences has been discussed extensively, those prisoners that receive life with parole, and then actually receive parole, continue to cost the states money. Once again, federal inmates cannot receive parole from a life sentence if their crime was committed after 1987, though there are still federal inmates serving long sentences or life sentences from before 1987 who receive parole. A Pew Study using dollar figures from 2008 found that from the 33 states for which it could find available data, offenders who received parole cost states a range of \$3.42 to \$7.47 per day, or about \$1,250 to \$2,750 per year. A sampling of states' Departments of Corrections estimate a 2012 range of closer to \$6 to \$12 per day (or about \$2190 to \$4380 annually), double the amount found in Pew Study from 2008. A very small amount of this can be attributed to inflation, while the rest is a combination of administrative overstating and increasingly complex parolee relationships.

## **IMPLICIT COSTS**

These next costs are going to be those that are incurred due to the current death penalty and life sentence

public policies. This section will include all the major costs associated with the concept of overcrowding, as well as other potential costs incurred post-execution. Prison overcrowding, or facilities holding a maximum or above maximum number of prisoners than the facilities can hold, results in a variety of issues in terms of personnel, physical confines, beds, supervision, etc. Post-execution costs primarily include costs such as lawsuits concerning wrongful death, botched executions, the First Amendment, and the Eighth Amendment.

First, a picture of how overcrowded the country's prisons are should be created. The federal government's prisons were at 136.6% of operational capacity in 2012, 176,000 prisoners in prisons designed for 128,800 (Bureau of Prisons 2012). This means that in order to house prisoners, a variety of general purpose rooms, TV rooms, basement rooms, etc. had to be converted to inmate cells in order to house the population. Even this, however, did not cover all of the federal inmates. The federal government had to turn over custody of 41,000 prisoners to privately operated prisons. This is due in part to a somewhat rapidly growing population: from 2001 to 2010, population grew at a rate of 6400 inmates per year, or about four prisons over the course of the period studied. In light of this, except in 2008, the Bureau of Prisons was able to stay within budget from 2009 to 2012. In 2012, it cost \$6.64 billion, with the increases over the years "directly tied to the increasing number of prisoners," despite automatic increases and the elimination of management positions to cut costs (Bureau of Prisons

2012). This population increase is primarily due to the prevalence of stricter laws in the 80's and 90's, thus increasing the total population. These laws also, due to their "3 Strikes" nature, have led to an increase in life sentences, which in federal cases, never have a chance for parole (Justice on Trial 2015).

Now, for the states, overcrowding is also a pressing issue. The average age of a state inmate, compiled from the Department of Corrections statistics, is approximately 37 years old, using thirty-three available states (shown in Appendix C). This rising age has certainly contributed to the rising population since, as prisoners stay in prison longer, they get older. Additionally, the age will rise as more inmates are imprisoned for life, due to the states mimicking the federal policies of the last few decades (Justice on Trial 2015). Examining the states that determine specific figures design and operational capacities reveals that many are over capacity, and nearly all have at least one facility that is above peak capacity. There are however many states that either do not compute design capacity, do not have figures that reflect prison additions or modifications, and/or consider "defin[ing] the operating capacity as the inmate population on any given day" (U.S. Department of Justice 2013). The most egregious offenders in the sample were Alabama, Massachusetts, and Nebraska at 189.3%, 146%, and 149.98% of design capacity, respectively. Washington, Colorado, Kansas, New York, and Pennsylvania were all between 100% and 110% of operation capacity as of 2012 (American Legislative Executive Council). Several states

are instituting policies that allow them to house prisoners in out-of-state prisons. Other states, like Nevada, Rhode Island and Tennessee, have capacities in the 90% range, but with certain facilities at over capacity (shown in Appendix C). As previously noted, these populations are projected to continue rising, due to increasing amounts of life sentences from required sentencing laws (Justice for Trial 2015). This will continue to force states to privatize more of their inmate population, build new prisons, or consolidate, like New York. Though still at 100% capacity, New York prisons have been trending downwards over the last five years. So, as in the federal system, life sentences are helping to increase state Department of Corrections' budgets.

Overcrowding also increases the stress put on the inmates. While many might ask why this is relevant, it has some highly practical applications. Violence, both inmate on inmate and inmate on corrections officers, increases as conditions become more extreme. The Government Accountability Office conducted a study to determine the effects of overcrowding and determined that violent attacks, both with and without weapons, increased in the 11-month period it studied compared to similar periods (GAO Sept. 2012). California, with one of the most overcrowded and largest prison systems in the country, also found that violence in its prisons increased as a direct result of being overcrowded (State of Emergency Proclamation – Arnold Schwarzenegger 2006). This violence leads to increased medical costs and increased sentences for prisoners, and can even make some eligible for the death penalty. If a prisoner

kills another prisoner, they will be prosecuted, either for a(n) (additional) life sentence or even the death penalty (Denver Post 2012). While inmate fighting deaths are rare, they are rather expensive when they do occur. Other injuries can also be taken to the courts, further raising the costs of overcrowding.

Inmates are not the only ones affected by overcrowding; corrections officers and personnel are also affected negatively. First, in order to cut costs, many prisons have actually let go of staff, lowering their staffing to 90% of the needed staff, the minimum mandated level. The prisoner to correctional officer ratio actually is the same as in 2000: 9.9 inmates to correctional officers in 2013 for federal prisons. However, for states, the last Bureau of Justice Statistics study, conducted in 2005, found a rate of 4.9 inmates per correctional officer. While various sources say on an individual state or prison basis, the ratio is higher, the latest reliable nationwide survey is from 2005. However, corrections officers' unions state the ratio should be much closer to 4 to 1 (OSCEA 2013). These ratios and overcrowding effects can lead to decreased physical and career safety for officers. More prisoners in an area, be it a cell or recreation yard, leads to increased concerns for officer safety and riot hazards. Additionally, if officer negligence in the case of fights or suicides can be proved in court, the officer in question can lose his or her job, jeopardizing future job prospects as well. Therefore, overcrowding has an additional incurred cost to prison personnel as well as the overcrowding costs associated with inmates.

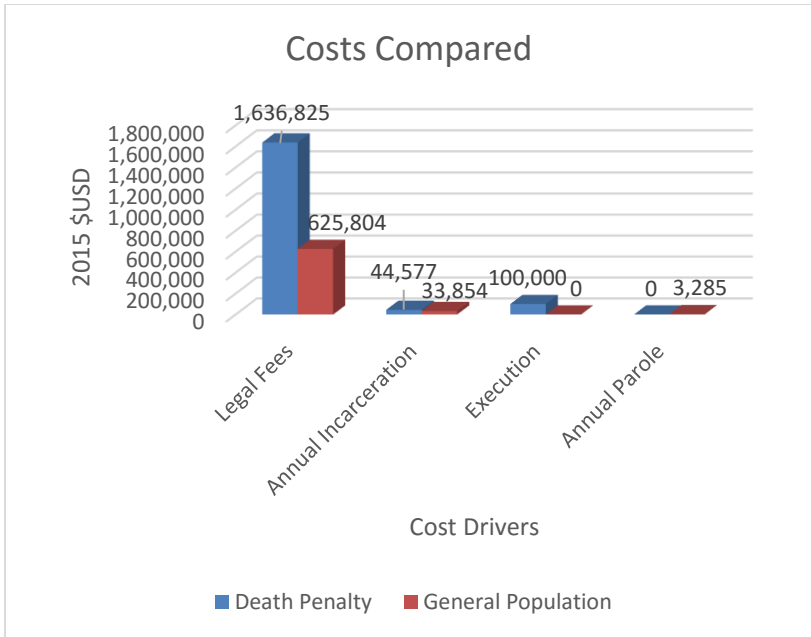
Lastly, while wrongful death lawsuits are rarely filed after executions, in light of states' new drug cocktails, they are increasing in frequency, and may gain traction based on the more recent botched executions in Ohio and Oklahoma. What is truly troubling for the states though is not the cost of a settlement to the families. It is the fact that the two lawsuits seek to end the use of the chemicals involved, and potentially seek procedural changes to the entire system, requiring more stringent guidelines in the selection of chemical cocktails (NBC News 2014). The families of Clayton Lockett of Oklahoma and Dennis McGuire of Ohio will be moving forward with lawsuits that could hamper all death penalty states if successful. This could lead to higher costs from the actual execution, a longer delay, and of course, the potential for more lawsuits to be filed.

## **CONCLUSIONS**

It is a commonly held belief that the death penalty is a cheaper and more cost effective way to deal with the most dangerous criminals in the United States. With that kept in mind, it is time to tally the totals for a government funded execution from trial to capital punishment and the incarceration of an inmate for life. Each cost will be shown below, and the implicit costs will be calculated with respect to the effect they would make if added to the general population.



*Explicit*



*Implicit*

- Medical costs of prisoners have been increasing greatly as 60+ prisoner populations grow, due to longer sentencing and less sentences with parole opportunities
- Overcrowding leads to a variety of cost increasing factors, including the need for more physical prisons, increased potential legal fees and medical costs from inmate violence, and problems with correctional officers

- Botched execution lawsuits could lead to significant increases in cost to death penalty states

These implicit costs will rise if the death row population were all converted to general population, but the death row population is such a small percentage of overall population (about 0.19%) that it would have negligible effects on the above costs. Additionally, converting death row prisoners to general population would give these prisoners much stricter legal rights and fewer options to pursue in court. However, the execution lawsuit could have a significant impact on the continued usage of the death penalty by states and the federal government.

Overall, the death penalty is more expensive in almost every aspect than simply incarcerating a prisoner for the entirety of his or her life. Since the “deterrent effect,” or the decrease in crime due to the possibility of being sentenced to death, was not discussed in this paper, further research would have to be conducted to determine whether this would cause any sort of significant change in the results of this paper.

## APPENDIX A

### *States with the Death Penalty*

Alabama	Louisiana	Pennsylvania
Arizona	Mississippi	South Carolina
Arkansas	Missouri	South Dakota
California	Montana	Tennessee
Colorado	Nebraska	Texas
Delaware	Nevada	Utah
Florida	New Hampshire	Virginia
Georgia	North Carolina	Washington
Idaho	Ohio	Wyoming
Indiana	Oklahoma	
Kansas	Oregon	
Kentucky		
		U.S. Gov't
		U.S. Military

### *States without the Death Penalty*

Alaska	Michigan	West Virginia
Connecticut	Minnesota	Wisconsin
Hawaii	New Jersey	
Illinois	New Mexico	Dist. of Columbia
Iowa	New York	
Maine	North Dakota	
Maryland	Rhode Island	
Massachusetts	Vermont	

Material from the Death Penalty Information Center (2014)

**APPENDIX B**

State	Authors	Year	Seeking Death Penalty	Not Seeking Death Penalty	Difference in Cost	2015 Dollars
Maryland	Roman et al	2008	\$ 2,400,000	\$ 1,100,000	\$ 1,300,000	\$ 1,430,650
California	McGee	2005	2,087,926	627,322	1,460,604	\$ 1,772,028
Connecticut	State of Connecticut Commission	2005	380,000	202,365	177,635	\$ 215,510
Indiana	Turow, Scott	2010	449,887	42,658	407,229	\$ 442,500
Kansas	Kansas Judicial Council	2003	1,200,000	740,000	460,000	\$ 592,353
Arizona	Williams, Linda M.	2000	143,604	70,231	73,372	\$ 100,958
Montana	Montana Legislative Branch	2012	1,200,000	800,000	441,000	\$ 464,530
Utah	Utah Legislative Branch	2010	-	-	1,600,000	\$ 1,738,578

South Carolina	DPRDC	2010	-	-	1,100,000	\$ 1,195,267
Oklahoma	OKCADP	2013	3,500,000	1,000,000	2,500,000	\$ 2,542,755
Ohio	WHIO	2014	3,000,000	1,000,000	2,000,000	\$ 2,001,732
Washington	Collins et al	2015	-	-	1,000,000	\$ 1,000,866
Nevada	State of Nevada Legislative Auditor	2014	-	-	532,000	\$ 532,461
Federal	Gould and Greenman	2010	620,942	77,618	543,324	\$ 590,382
<b>Average (2015 \$USD)</b>		-	<b>\$1,636,825</b>	<b>\$625,804</b>	-	<b>\$ 1,044,326</b>

## APPENDIX C

State	DP Daily Cost	DP Yearly Cost	GP Daily Cost	GP Yearly Cost
Alabama	43.00	15695.00	47.36	17285.00
Arizona	81.11	29605.15	67.96	24805.00

Arkansas		58.00	21170.00	66.82	24391.00
California		340.14	124150.00	129.92	47421.00
Colorado		97.36	35537.58	83.22	30374.00
Connecticut		275.03	100385.00	137.70	50262.00
Delaware				90.32	32967.00
Florida		68.64	25053.60	56.31	20553.00
Georgia		172.92	63117.00	57.64	21039.00
Idaho		52.22	19060.30	53.55	19545.00
Illinois		169.86	62000.00	104.84	38268.00
Indiana		52.20	19053.00	40.61	14823.00
Iowa	abolished in 1965			90.21	32925.00
Kansas		135.29	49380.00	49.88	18207.00
Kentucky		76.22	27818.80	40.01	14603.00
Louisiana		60.00	21900.00	47.91	17486.00
Maine	abolished in 1887			127.13	46404.00
Maryland		186.30	68000.00	105.16	38383.00
Michigan	abolished in 1846			77.03	28117.00
Minnesota	abolished in 1911			113.33	41364.00

Missouri			61.23	22350.00	
Montana		102.27	37329.00	82.81	30227.00
Nebraska		98.63	36000.00	98.49	35950.00
Nevada		67.31	24568.15	56.59	20656.00
New Hampshire		100.29	36607.00	93.37	34080.00
New Jersey	2005	222.09	81061.45	150.32	54865.00
New York				164.59	60076.00
North Carolina		82.10	29965.00	82.10	29965.00
North Dakota	abolished in 1973			107.59	39271.00
Ohio		68.43	24976.95	70.72	25814.00
Oklahoma		75.87	27692.55	50.59	18467.00
Pennsylvania		117.81	43000.00	116.00	42339.00
Rhode Island	abolished in 1984			134.61	49133.00
Texas		61.58	22476.70	58.60	21390.00
Utah		92.47	33751.35	80.41	29349.00
Vermont	abolished in 1964			135.62	49502.00
Virginia		90.41	33000.00	68.85	25129.00
Washington				128.48	46897.00

West Virginia	abolished in 1965		72.60	26498.00
Wisconsin	abolished in 1853		104.09	37994.00
<b>Average (40 states)</b>		<b>112.87</b>	<b>41198.28</b>	<b>85.72</b>
<b>Federal</b>		<b>92.96</b>	<b>33930.00</b>	<b>70.79</b>
			<b>25838.00</b>	

State	Converted to 2015 Dollars			
Alabama	46.727928	17055.69372	51.46175441	18783.54
Arizona	88.14191256	32171.79808	73.85066926	26955.49
Arkansas	63.028368	23005.35432	72.61808804	26505.6
California	369.6255025	134913.3084	141.1841398	51532.21
Colorado	105.8042357	38618.54604	90.4309707	33007.3
Connecticut	298.8711725	109087.978	149.6425051	54619.51
Delaware			98.15097817	35825.11
Florida	74.59081344	27225.64691	61.19140517	22334.86
Georgia	187.915045	68588.99143	62.63834834	22863
Idaho	56.74726512	20712.75177	58.19033786	21239.47
Illinois	184.5894575	67375.152	113.9333768	41585.68
Indiana	56.7255312	20704.81889	44.1317666	16108.09
Iowa			98.0259337	35779.47
Kansas	147.0165712	53661.04848	54.20677828	19785.47



Kentucky	82.82796912	30230.57868	43.47677175	15869.02
Louisiana	65.20176	23798.6424	52.06018152	19001.97
Maine			138.1562772	50427.04
Maryland	202.4529534	73895.328	114.2757605	41710.65
Michigan			83.71131899	30554.63
Minnesota			123.1509407	44950.09
Missouri			66.54152219	24287.66
Montana	111.1377397	40565.27498	89.99331505	32847.56
Nebraska	107.1809753	39121.056	107.0321129	39066.72
Nevada	73.14550776	26698.11033	61.49806185	22446.79
New Hampshire	108.9881657	39780.68047	101.4646567	37034.6
New Jersey	241.3401465	88089.15347	163.3467837	59621.58
New York			178.8612299	65284.35
North Carolina	89.2177416	32562.84564	89.21327573	32562.85
North Dakota			116.9195579	42675.64
Ohio	74.36260728	27142.35166	76.85471382	28051.97
Oklahoma	82.44762552	30093.38331	54.9808631	20068.02
Pennsylvania	128.0217205	46727.928	126.0537588	46009.62
Rhode Island			146.2811906	53392.63
Texas	66.91873968	24425.33998	63.68336285	23244.43
Utah	100.4861837	36677.45704	87.37929015	31893.44
Vermont			147.3797956	53793.63
Virginia	98.2492274	35860.968	74.81529804	27307.58
Washington			139.6240611	50962.78

West Virginia			78.89115235	28795.27
Wisconsin			113.1176105	41287.93
<b>Average (40 states)</b>	<b>122.6578839</b>	<b>44770.00689</b>	<b>93.14622207</b>	<b>33998.37</b>
<b>Federal</b>	<b>101.0180693</b>	<b>36871.59528</b>	<b>76.9261678</b>	<b>28078.05</b>

## APPENDIX D

State	Age	Extra Statistics
Washington	37.6	102% total prison confinement percent of operation capacity
Oregon	38.8	
California	39	
Nevada	38.3	at 94.6% capacity in 2011 after 4 years of over 100%
Wyoming	37	outsourced inmates to out of state correctional facilities while a medium security prison was being built
Idaho	37.1	
Montana	38.9	
Utah	38.3	
Arizona		released 1000s of prisoners early with 2008 act to decrease overcrowding

New Mexico		each parole officer is in charge of approximately 99 parolees
Colorado	37.8	12 of 21 had over 100% of design capacity in 2011, 4 were at 99%
Texas	37.8	
Oklahoma	38.1	average parolee age is 45.3
Kansas	37	2012, facilities' capacity exceeded by 236 inmates
Nebraska	36.1	operating at 149.98% capacity in 2013
North Dakota	35.51	
Minnesota	36.3	
Iowa	36	
Arkansas	37.7	
Louisiana	35.5	
Tennessee	38.2	2007, all at over 90% capacity, incarcerated population is projected to increase by 11.7% while operational capacity is to increase by 9.1%
Illinois	36.4	
Wisconsin	37	
Michigan	38	
Kentucky	36	
Alabama	38	189.3% capacity in 2011

Florida		created law to enable outsourcing inmates to other states
Georgia	35	
Virginia	37.7	
West Virginia	38.7	
Maryland	36.2	
Pennsylvania	37	109.7% capacity, 5 of 25 facilities are at less than 100%
New Jersey	34	
New York	37.7	new york is at 100% capacity, and has been consolidating/trending downwards in overall prison population
Rhode Island	35.7	2 of 7 are over 100 percent, overall is 90%. Operational and federal capacities expected to be exceeded in 2014
Massachusetts		146% of capacity, medium security facility overcrowding was 155%
Vermont	32.2	2 of 8 are over 100%
<b>Average</b>	<b>36.9881818</b>	

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