

Key findings of Oregon's Death Penalty: A Cost Analysis

Background

Oregon's Death Penalty: A Cost Analysis (the Oregon cost study) was published in 2016. It was written by Professor Aliza Kaplan of Lewis & Clark Law School, Professor Peter Collins of Seattle University, and then law student Venetia Mayhew. All decisions about research, analysis, and conclusions were made by the study's authors. The study was funded by the Oregon Justice Resource Center, (OJRC) a 501(c)(3) nonprofit law firm based in Portland, Oregon, that advocates for an end to the death penalty.

Why the OJRC Funded the Oregon Cost Study

Oregon's death penalty system is complex, involving a two-phase trial and years of appeals. Unsurprisingly therefore, death sentences typically have a higher financial cost than alternative sentences for the same crime such as life without the possibility of parole. It is possible to assess the financial cost of a death penalty case through a cost analysis. Such analyses have been carried out in other states in recent years and all have shown a significantly higher cost for death cases versus other sentences. We commissioned this "cost study" here in Oregon because we recognized the importance and necessity of increasing the quality of information available to Oregonians (importantly, legislators and other stakeholders) about the death penalty. This is the first comprehensive cost study on the administration of the death penalty in Oregon.

Parameters

The cost analysis includes data on hundreds of aggravated murder cases in Oregon from 2000-2013 as well as examining the appeals process of aggravated murder cases resulting in death sentences from 1984-2000. To add more context, the report includes costs of non-aggravated murder cases where defendants were charged with murder (a charge that cannot result in a death sentence.) Data were supplied by stakeholders in the criminal justice system who are involved in death penalty cases including local jails, the Oregon Department of Corrections, the Office of Public Defense Services and the Oregon Department of Justice. Cost data were not available or were not provided by district attorneys and courts.

Main Findings of the Cost Study

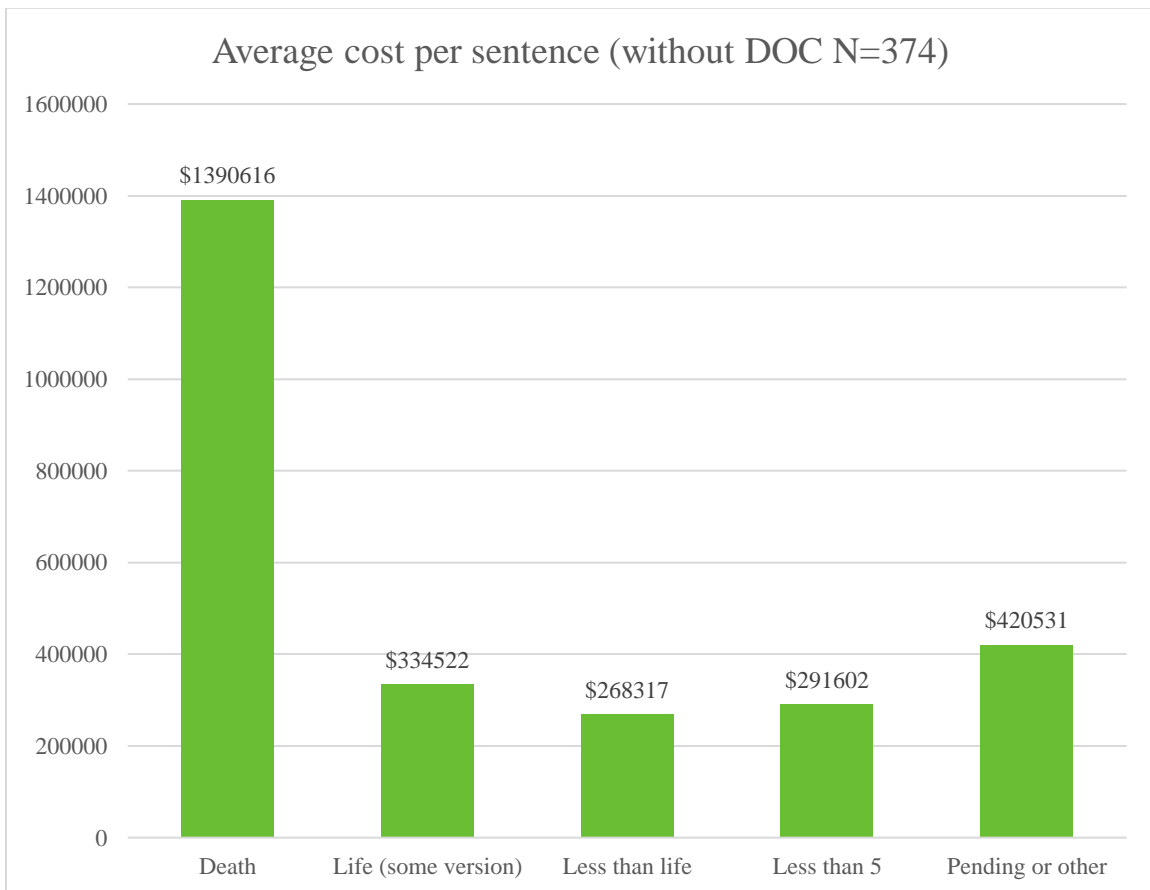
Death is one of three available sentencing options for the crime of aggravated murder in Oregon. (The others are life without parole and "ordinary" life.) The main focus of the study is a comparison of the costs of death penalty cases against the costs of non-death aggravated murder cases. Due to the nature of Oregon's death penalty law, aggravated murder cases do not neatly divide into two groups: death and non-death. There is a larger group of cases that started as death penalty cases and, within that, a smaller group that are still death penalty cases today. The others have had their initial sentences reversed.

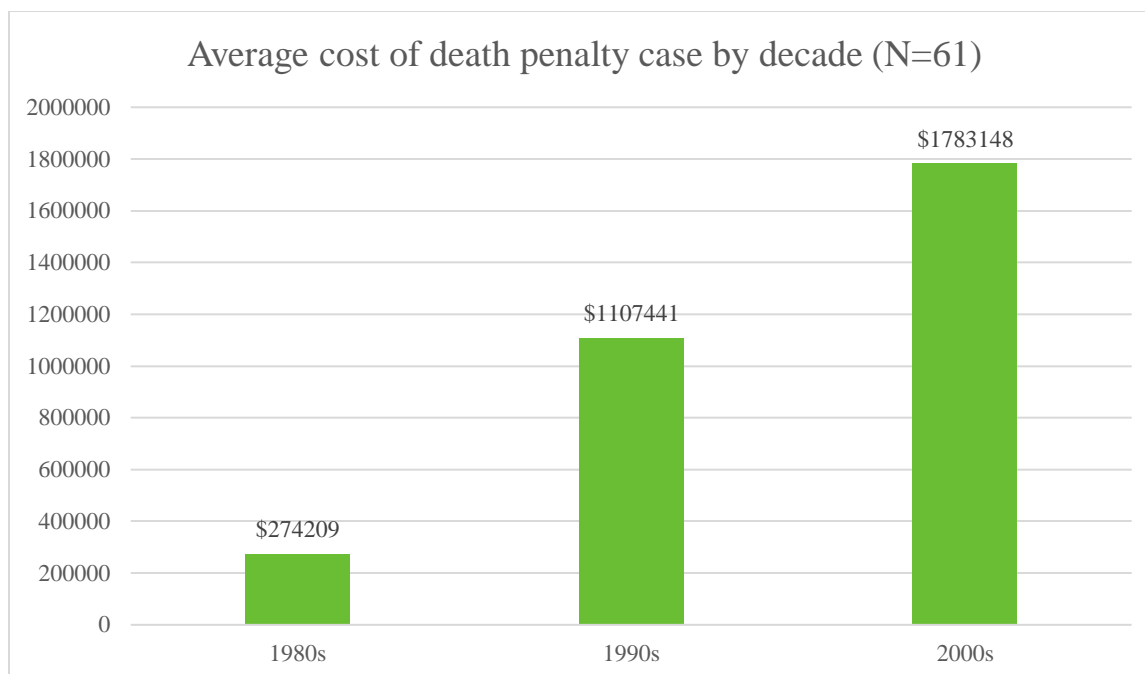
“The study shows that death penalty cases cost between \$800,000 and more than \$1,000,000 more per case when compared to similar non-death penalty cases.”

The first set of findings (A) are for cases where there was a conviction and original sentence of death, but in some cases the initial sentence was reversed. The second set of findings (B) are for final case categories. These would only include as death penalty cases those which still today include a death sentence. Cost totals are given with and without DOC costs.

Cost Category	Case Category	N	Mean	Mean Diff	Ratio
A without DOC costs	Agg. Murder	313	\$315,159	\$802,106	3.55
	DP	61	\$1,117,265		
A with DOC costs	Agg. Murder	313	\$1,354,883	\$918,896	1.68
	DP	61	\$2,273,779		
B without DOC costs	Life	219	\$334,522	\$1,056,093	4.16
	DP	41	\$1,390,616		
B with DOC costs	Life	219	\$1,682,282	\$887,385	1.53
	DP	41	\$2,569,667		

The charts below show the average cost per sentence (without DOC costs) and the growth in the cost of the average death penalty case over the decades.





Why are death penalty cases so much more expensive?

Death penalty cases are more expensive because they result in more resources being spent by courts, defense, and prosecution because of greater complexity and more time taken to complete processes and that equals more money. There are many individual drivers of greater cost, but some the report picks up on are:

Prosecution:

- Nearly three times as many prosecutorial filings on average

Defense:

- Death-qualified defense lawyers required
- Twice as many defense filings on average
- More time-consuming pre-trial motions

Courts:

- Two-phase trial
- Much lengthier and more complex jury selection process
- More than three times as many judicial orders on average
- Twice as many hearings on average

Incarceration:

- Longer time between charge and sentencing so more time in local jail
- Segregated housing for death row inmates

Appeals:

- Much more extensive, ten-part review process
- High reversal rate sometimes resulting in resentencing trials (multiple times for some cases).

The Oregon Justice Resource Center's view on the Oregon Cost Study

The Oregon cost study shows what many people with knowledge of the complexity of Oregon's death penalty had long assumed: death sentences are substantially more expensive than comparable cases with life sentences. But the scale of the extra expense associated with our death penalty is staggering. It's also important to recognize that the figures contained in the report are, if anything, an underestimate, due to a lack of data from some stakeholders.

We already knew the death penalty was deeply flawed. It is known to risk executing innocent people (to date, 165 people on death row in the US have been exonerated). It is applied unfairly and arbitrarily with race and class playing a significant role in the likelihood of someone being sentenced to death.

Now we also know that we are spending four times as much on death sentences despite already having an effective alternative available: life without the possibility of parole. The cost study clearly demonstrates that we are spending an extraordinary amount of money on a broken system, which has never been demonstrated to work fairly anywhere in the United States. It is crucial that Oregonians take a thoughtful look at how we are spending our public safety dollars and ask the simple question: are we able achieve our public safety goals and hold individuals accountable in a more effective and just manner? All objective evidence, including this cost study, concludes that the answer to this question is overwhelmingly “yes” and that the death penalty is, unambiguously, a failed policy.