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Chair Holvey, Vice Chair Williamson, Vice Chair Wilson, Members of the Committee—thank you for the opportunity to be here this afternoon. My name is Aliza Kaplan, and I am a law professor and Director of the Criminal Justice Reform Clinic at Lewis & Clark Law School in Portland. The Clinic provides hands-on legal experience to law students in various areas of Oregon’s criminal justice system.

- In November 2016, in collaboration with Dr. Peter Collins of Seattle University’s Department of Criminal Justice and attorney Venetia Mayhew, who was then a student with the Clinic, and with research assistance from many law students, the Lewis & Clark Law School and Seattle University jointly published “Oregon’s Death Penalty: A Cost Analysis,” a comprehensive study examining the economic costs of aggravated murder cases in Oregon. The study sought to determine what cost differences, if any, existed between aggravated murder cases in which the defendants were sentenced to death and those that were sentenced to some form of life imprisonment. Additionally, to provide context, while recognizing the different statutory requirements and case processing, the study compared costs between those convicted of aggravated murder to those who were convicted of murder.
- Therefore, I am here today in support of SB 1013A and to provide you with the results of our study. I also encourage members of the Committee to review my previous testimony and the report itself which explains our methods; the limitations in the data we had access to; and how we reached the conclusions that we did.

Findings

- I would like to briefly discuss our findings:
- Including all costs that we were able to gather, the average cost for someone sentenced to death (excluding DOC) is \$1,390,616, and the average cost for someone sentenced to some form of life sentence is \$334,522. Many of the costs imposed in aggravated murder cases come through the appellate process after conviction. This is where the divergence in state costs between those sentenced to death and those sentenced to a form of life often exist. So on average it costs the State of Oregon from about \$800,000 to over \$1 million more per case to sentence a defendant to death rather than to some form of a life sentence, and it is far more expensive to convict a defendant of aggravated murder than murder.
- I do want to point out that our economic findings underestimate the economic costs of capital punishment because no cost data was available or provided by district attorneys?

offices or the courts. Our findings also exclude costs surrounding law enforcement and other local and state government actors not explicitly included.

- Therefore, the cost data we received from jails, DOC, OPDS, and DOJ only represent a portion of the total costs imposed by pursuit of the death penalty in Oregon. Our conclusions are thus conservative and do not reflect the true economic costs imposed upon the State.
- OPDS provided average costs for the appellate process. It is over 10 times more expensive to fund death penalty appeals, than appeals for defendants convicted of aggravated murder and sentenced to a form of life. It is nearly 30 times more expensive than non-aggravated murder appeals.
- The DOJ provided us with its prosecutorial appellate costs which are over 6 times more expensive for those sentenced to death over life.
- I want to emphasize that costs continue to increase decade by decade. The average cost in the 1980's from the cases in which defendants were sentenced to death was \$274,209 per person. In the 1990's, average costs increased to \$1,107,441 per person and in the 2000's the average death penalty case cost was \$1,783,148. We could not reach a reliable conclusion from 2010 to 2013 due to the fact that we only had 3 years of data to analyze. However, it is reasonable to conclude that the costs will keep increasing.
- In addition to economic data, we calculated the average numbers of hearings, defense and prosecutorial filings, judicial orders, and average number of days from the date that charges were filed to sentencing date.
 - The average length of time from charging to sentencing for non-aggravated murder cases was 417 days, for non-death aggravated murder cases was 562 and for cases resulting in a death sentence was 741 days.
 - The average number of hearings was double for aggravated murder cases in which the defendant was sentenced to death.
 - The average number of judicial orders issued in cases where the defendant was sentenced to death was just over 52 per case, and was just under 17 per case for those where the defendant was sentenced to some form of life.
 - These differences are far more glaring when comparing death penalty cases to non-aggravated murder cases. There are on average 5 times the number of judicial orders, 8 times the number of prosecutorial filings, 7 times the number of defense filings and 3 times the number of hearings for death cases over regular murder cases. These ratios illustrate the immense amount of human labor that goes into death penalty cases over lesser murder cases.
- We were also able to assess the costs of specific cases which further demonstrate the huge economic costs imposed by a death sentence. The longest serving inmate on death row, was first sentenced to death in 1988. Since then his case had been reversed three times by the Oregon Supreme Court and was finally affirmed in 2015. At the time the study was published, his case had cost the State of Oregon at least \$3.5 million excluding DOC costs and it is still going on.

- So while our study does not provide a complete picture of the true economic costs imposed by the current aggravate murder statute, it provides enough evidence to support the conclusion that the death penalty imposes vast additional costs upon the State that will be diminished through this statute.
- Maintaining capital punishment in its current form is an expensive public policy choice. The funds currently spent on maintaining a death penalty could be used for indigent defense services, to enhance law enforcement such as solving cold cases and improving forensic science, and on other criminal justice needs.

Thank you for the opportunity to discuss the cost of the death penalty. I am happy to answer any questions and encourage you to read the qualitative parts of the study to learn the perspectives of justices, judges, defense attorneys, prosecutors, and mitigators to the cost implications of Oregon's aggravated murder statute.