

THE DEATH PENALTY COST \$\$\$

The death penalty costs millions of dollars yearly and may do little to make citizens safer, according to a report released by the American Civil Liberties Union of Northern California.

In its 43-page report "The Hidden Death Tax," the organization estimates that Californian taxpayers pay at least \$117 million a year seeking the executions of those already on death row. This averages out at roughly \$175,000 a year for each death row inmate. A major part of these costs is the extra \$90,000 a year to keep an inmate on death row rather than locked up in a general prison.

According to the report, if California abolished capital punishment today and allowed all 669 inmates to die a natural death in prison, the state would save \$4 billion in future costs.

Of the 36 states that still have the death penalty, Calif. has the largest number of death row inmates at 669, although only 13 have been executed since the death penalty was reinstated in 1977. The ACLU estimates that each capital trial costs an average of \$1.1 million more than a non-death penalty case. This is the organization's minimum estimate.

"California has the broadest death penalty statute in the country," said Natasha Minsker, who began working on the report last June. "It gives prosecutors a lot of discretion, and as a result we've overloaded our system with too many cases."

"(The report) identifies issues of growing importance," Richard Dieter, the executive director of the Death Penalty Information Center, says, "States are feeling economic constraints. The cost becomes important because you realize you can't shorten the process. There's either an expensive death penalty or no death penalty. There's no third option."

But the extra spending on litigation after a capital conviction is critical for the death row inmates. Since 1977, more than 130 death penalty sentences in California have been reversed.

"Essentially what you're getting is life without parole at an expensive price," said Mr. Dieter, commenting on the long process. "You have a build-up of people on death row."

Expenses in maintaining the complex death penalty system accrue in a variety of forms. U.S. Supreme Court rulings require higher, lengthier trial processes when seeking a sentence that is irreversible. Judges and lawyers must be specially qualified, as well as jurors selected during a drawn-out questioning process.

Prosecution and defense costs are also significantly higher due to the rigorous investigation requirements. There is also a post conviction phase entailing a direct appeal and a habeas corpus challenge.

Usually there are two trials - one to determine guilt and another to decide whether to implement capital punishment.

"I was shocked by the amount of money it took, and how quickly that amount is growing," Ms. Minsker expressed.

California is not the only state spending exorbitant amounts of money in the pursuit of capital punishment.

In Washington State, the Death Penalty Subcommittee of the Committee on Public Defense determined in 2007 that capital punishment cases cost \$467,000 more to try than ordinary murder cases. In Texas it is estimated that a death penalty trial costs an additional \$2.3 million, according to Mr. Dieter.

In Florida in 2000, The Palm Beach Post estimated the state paid out \$51 million annually enforcing the death penalty. Recently, in New Mexico prosecutors were unable to press two death charges when the money-strapped state legislature failed to provide adequate funding for defense attorneys in a prison riot case that had already cost millions of state dollars.

The cost factor in maintaining the death penalty is undoubtedly playing a role in the recent attempts in state legislatures to repeal capital punishment.

Last year, New Jersey, which spent \$10.9 million annually on maintaining the death penalty, became the first state to abolish the practice since the death penalty was reinstated by the U.S. Supreme Court in 1976.

Similar legislation was attempted - but failed - in Nebraska, New Mexico and Montana. Last year, Colorado came close to repealing the death penalty when a bill that would have banned capital punishment in the state, using the money saved for investigating unsolved murder cases, was narrowly struck down.

"The extra money spent on the death penalty could be spent on other means of achieving justice and making the community safer: compensation for victims, better lighting in crime areas, more police on the streets, or ... funds for pursuing cold homicide cases," Mr. Dieter had said during testimony to the Colorado House of Representatives Judiciary Committee before the vote.

Earlier, polls in Colorado conducted by RBI Strategies and Research found that voters were in a dead heat when asked whether they preferred the death penalty or life without the possibility of parole. However, when asked if the estimated \$3 million annually spent on the death penalty in the state could be better used solving open-murder cases, 70 percent agreed.

Despite the legislative disappointments, both advocates Dieter and Minsker believe capital punishment will eventually be banned throughout the U.S.

Recommendations from Ms. Minsker for California included a comprehensive system for tracking all expenses involving death penalty cases at every level of the process, from court and prosecution expenses to jury fees and additional costs incurred by sheriffs. "Most of these costs fall on the local counties," Ms. Minsker wrote in the report. "Prior to annual budgeting decisions, the actual costs of death penalty cases should be reported to the board of supervisors and the public so they may assess whether, in light of other country needs, this use of resources makes sense."

Adopting such recommendations - not only in California but in all other death penalty states - would undoubtedly reveal many, until now, hidden costs of maintaining the death penalty. This could emerge as a powerful factor in eventually swinging the vote in favor of the abolitionist lawmakers' future bills, death penalty opponents clearly hope.