

**Statement of**

***John K. Roman***

on

**Costs of the Death Penalty**

***Judiciary Committee  
Delaware Senate***

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John K. Roman is a senior fellow at the Urban Institute. He is indebted to Aaron Chalfin, Aaron Sundquist, Carly Knight, and Askar Dardenov for past and current work with him on the costs of the death penalty. All opinions expressed herein are solely his own and should not be attributed to any of these individuals or any organizations with which Roman is associated.

**Mister Chairman and members of the Committee:**

Thank you for the opportunity to testify before you today on SB 19. The death penalty is one of the most polarizing social issues under debate today. Few debates, however, are undertaken with as little empirical evidence as is available in the debate about capital punishment. While there are substantial disagreements about most aspects of the death penalty, there is a consensus about one important data point: having a death penalty is more expensive for a state than not having the death penalty. In 2007 and 2008 I led a team at the Urban Institute that studied this question, and I would like to report the results of the study.

In 1978, the death penalty was reinstated in Maryland as a sentencing option for a defendant convicted of felony homicide. Between 1978 and September 1999, there were 1,227 capital eligible cases where the death penalty was a sentencing option. Of those, 1,136 cases resulted in a guilty verdict, either in the initial trial or through a plea agreement. In 162 cases, prosecutors filed a “death notice” seeking the death penalty. Fifty-six resulted in a death sentence, although the vast majority of those sentences were ultimately overturned. Since 1978, five people have been executed in Maryland. Five others remain on death row and are awaiting execution.

In 2007, the Urban Institute was asked to study the costs associated with the death penalty regime in Maryland. At the time, no prior studies of the costs of the death penalty had been published in a peer-reviewed academic journal. In addition, much of the past research relied on limited data and generally studied only a small number of cases. As a result, it was unclear whether the consistent finding of less-rigorous studies—that the costs to the criminal justice system of having a death penalty are greater than any benefits—would withstand greater scrutiny.

To answer this question, we collected data from several sources. We compiled general case information about capital eligible cases using a University of Maryland dataset that includes all murders committed between August 1978 and September 1999. In the data are records about every death-eligible case in Maryland that resulted in a guilty verdict during this period: the total 1,136 cases I mentioned earlier, including 162 in which a death notice was filed, and 56 death sentences.

We then obtained administrative data describing each stage of case processing for each case in our data. Finally, we conducted a series of surveys with attorneys, judges, and support staff who had participated in at least one capital trial. Each of these individuals was asked to report how much time was spent on capital cases at each step, and how much time was spent in a non-capital murder trial. All these data were combined to generate estimates of the costs of capital punishment relative to non-capital murder trials.

We find that the total costs of a typical murder case in Maryland are about \$1 million, including post-trial incarceration. Capital eligible cases where prosecutors filed notice that they would seek the death penalty but where no death penalty was imposed cost almost \$700,000 more than cases where prosecutors could have—but did not—seek the death penalty. When a death sentence was imposed, the total added costs were \$1.8 million. We estimate that the total lifetime cost to Maryland taxpayers of murder cases where a death penalty is sought is \$186 million. These numbers would be even higher, but few death sentences are imposed, and few of those result in an execution.

While these data are particular to Maryland, all 14 prior studies of the death penalty have consistently shown that the death penalty increases costs. If the death penalty were abolished, those dollars could

be used in a variety of positive ways—including returning them to Delaware taxpayers. However, hard-won experience suggests that the only way for those gains to be realized is to reallocate the public's money now. When savings such as these can be anticipated, the best course of action is to take that money off the table. If we wait, the money will simply be spent for other purposes before there can be any public debate.

One way these savings could be applied is to reallocate the funds to activities directly focused on fighting crime. This year about 1,600 people will walk out of Delaware state prisons and onto our streets. The majority will commit new crimes or violate the rules of their supervision and be returned to prison within three years. Slowing this revolving door is a far easier and notably cheaper way to cut prison populations and crime than rehabilitating or supervising the hard-core criminals that most of us are worried about.

As the state considers whether to end the death penalty, due consideration should be given to alternative uses of those funds, particularly alternatives that prevent murder and ultimately may yield additional savings. Besides giving inmates another chance, these programs are saving taxpayer money by keeping minor-league offenders out of prison. And in the end, most Delaware citizens would probably rather help pay to prevent new crimes rather than to pay for the expensive—and mainly pointless—processing of death sentence cases.