

The Cost of Capital Punishment in Texas

What makes the death penalty so expensive?

The high cost begins with the district attorney's decision to seek a death sentence at trial.

- The jury selection process in death penalty cases typically lasts a month or longer, as all prospective jurors must be questioned individually about their views on the death penalty. By contrast, jury selection for a non-death penalty capital murder trial can be completed in a couple of days. [1]
- Death penalty trials are also longer because they entail two separate phases: the guilt-innocence phase and, upon conviction, a punishment phase, which does not take place in non-death penalty capital cases.
- Well-represented capital defendants present mitigating evidence in the punishment phase, which may include expensive expert testimony.
- If defense attorneys do not allocate resources to hire experts for the trial, it is possible the case will be sent back to the trial court on appeal (and cost a county yet more money).

The high cost continues with the state and federal appeals process.

- The appeals process is automatic, and a judge must appoint attorneys for both a direct appeal and state writ of habeas corpus.
- Once all state appeals are exhausted, a U.S. district judge will appoint another attorney to handle the federal writ.

Who pays for the death penalty in Texas? *Taxpayers.*

- Each county pays for its own trials and the state appeals process. Smaller counties or those with fewer resources often cannot afford to seek the death penalty at trial. Some Texas counties have withheld employee raises and increased tax rates to cover the cost of an expensive death penalty trial.
- Because state tax dollars pay for the federal habeas corpus process, every Texas taxpayer contributes to the enormous cost of death penalty appeals.
- Small counties that cannot afford to seek the death penalty subsidize the counties that send people to death row.
- Since 1985, Texas has paid \$192 million in compensation to men and women who were wrongfully convicted, including individuals sentenced to death. [2]

The average cost of a Texas death penalty case is \$2.3 million vs. \$75,000 for life in prison.

- *Dallas Morning News*, 1992

With inflation, the average cost of a death penalty case in 2014 was \$3.8 million vs. \$1.3 million for life in prison.

- Law Office of Texas Defense Attorney Fred Dahr, 2015

[1] "Six Reasons the Death Penalty is Becoming More Expensive." *The Marshall Project*. December 17, 2014

[2] National Registry of Exonerations, 2023 Annual Report, March 18, 2024