

CAPITAL PUNISHMENT REFORM STUDY COMMITTEE

Minutes of meeting March 4, 2008

The twenty-eighth meeting of the Capital Punishment Reform Study Committee was held at the Illinois Criminal Justice Information Authority, 300 W. Adams, Chicago, Illinois from noon to 2:15 P.M.

Those present

Not present

Leigh B. Bienen

Kirk W. Dillard

Jennifer Bishop-Jenkins

Arthur L. Turner

James R. Coldren, Jr.

Jeffrey M. Howard

T. Clinton Hull (via teleconference)

Boyd J. Ingemunson (via teleconference)

Gerald E. Nora (via teleconference)

Edwin R. Parkinson (via teleconference)

Charles M. Schiedel (via teleconference)

Richard D. Schwind

Geoffrey R. Stone (via teleconference)

Randolph N. Stone (via teleconference)

Thomas P. Sullivan

Michael J. Waller (via teleconference)

Also present: David E. Olson; Allan R. Sincox, Illinois Appellate Defender Office, and member, Illinois Laboratory Advisory Committee; and Patrick D. McAnany, Illinois Coalition to Abolish the Death Penalty.

The minutes of the Committee meeting held on December 11, 2007 were approved as drafted.

The members welcomed newly appointed Ms. Bishop-Jenkins, appointed by Governor, assigned to Subcommittee 4.

1. Committee funding for FYE 6/30/08 and 6/30/09.

At the meeting on January 28, 2008 it was agreed that Messrs. Dillard and Turner would introduce bills in the Senate and House, requesting \$250K for the Committee for the F/Y/E 6/30/09, to be included within the CJIA appropriation. Because neither Mr. Dillard nor Mr. Turner was present, it was agreed that Mr. Sullivan will contact them to determine the status of the bills, and include the information in these minutes. Mr. Sullivan learned that Mr. Dillard has introduced a

bill in the Senate for \$250K funding for the Committee for the fiscal years ended 6/30/08 and 6/30/09, and that the bill has been assigned to the Rules Committee, and that no bill has been introduced in the House.

2. *Extension of Committee's tenure to 12/31/09.*

At the meeting on January 28, 2008 it was agreed that Messrs. Dillard and Turner will introduce bills to extend the Committee's tenure through December 31, 2009. Neither Mr. Dillard nor Mr. Turner was present, hence it was agreed that Mr. Sullivan will contact them to determine the status of the shell bills, and include the information in these minutes. Mr. Sullivan learned that Mr. Dillard introduced a bill in the Senate to extend the Committee's tenure through December 31, 2009, that the bill has been assigned to the Rules Committee, and that no bill has been introduced in the House.

3. *David Olson's data re trends in prison sentences in first degree murder cases.*

Mr. Olson circulated charts, attached as Appendix 1, illustrating the trends in the number and characteristics of prison sentences imposed on those convicted of first degree murder in Illinois during fiscal years

1998 to 2007. There was a discussion about the relationship between the Illinois Truth in Sentencing Act (TISA) (730 ILCS 5/3-6-3) and the reduction in the numbers of capital and life sentences. Messrs. Nora, Parkinson, Schwind and Waller stated that, to the best of their knowledge and belief, the challenges to the validity of the TISA, and unresolved questions as to whether the TISA was valid and operable in Illinois, did not affect prosecutors' decisions as to whether or not they sought the death penalty in first degree murder cases.

There was agreement that when the validity of the TISA was confirmed, the number of life sentences decreased, because (1) there was then no provision for parole or good time credit, so that the terms of years to be served were not subject to later reduction, and (2) in many cases when the number of years of the sentences were added to the defendants' ages, the sentences were in reality lifetime sentences.

Mr. Olson pointed out that the disparity between capital sentences imposed in urban and rural communities, found during the 1990s by the experts retained by the Governor's Commission, has diminished in the 2000s. However, Mr. Olson's charts do not include the total number of

cases that were capital eligible during the periods involved, nor the race of the defendants or victims.

4. *Statistics provided by Mr. Schwind relating to capital sentences imposed since January 2003.*

Mr. Schwind called attention to statistics concerning the 14 men who have received capital sentences since the Governor Ryan granted clemency to all death row inmates in January 2003 through December 31, 2007:

Defendants: 8 white, 6 African-American.

Victims: 9 white, 3 A-A, 1 Hispanic, 1 Asian.

Number of persons killed: 2 or more in 8 cases, 1 in 6 cases.

Area of murders: 9 urban, 5 rural. Collar counties of DuPage, Kane and Will are considered urban.

5. *The General Assembly's direction that the Committee report on geographic and racial differences in capital sentencing.*

Mr. Sullivan raised the question as to how the Committee should proceed in order to fulfill its mandate provided in the Capital Punishment Reform Committee Study Act, 20 ILCS 3939/2(b)(1):

“(b) The Committee shall study the impact of the various reforms to the capital punishment system enacted by

the 93rd General Assembly and annually report to the General Assembly on the effects of these reforms. Each report shall include:

(1) The impact of the reforms on the issue of uniformity and proportionality in the application of the death penalty including, but not limited to, the tracking of data related to whether the reforms have eliminated the statistically significant differences in sentencing related to the geographic location of the homicide and the race of the victim found by the Governor's Commission on Capital Punishment in its report issued on April 15, 2002."

The regional and racial disparities are discussed in the Governor's Commission Report at pages 167-68; the study by the experts retained by the Governor's Commission are contained in the Technical Appendix to the Report, and at 81 Oregon Law Review 39 (2002).

The members of the Committee agreed that in order for the Committee to respond to the statutory directive, it is necessary that the Committee collect statewide data as to all indictments for first degree murder in cases that were/are capital eligible. Provision for a portion of this data collection has been made by the statute enacted by the General Assembly and approved by the Governor in 2007 (20 ILCS 3930/7.6), creating a Capital Crimes Database. However, no funds have been

provided to collect, analyze and store the data. Accordingly, unless and until funding is provided for the collection, reporting, analyzing processes and storage, the Committee is impaired in responding to its statutory mandate.

6. *David Olson's surveys to State's Attorneys and Public Defenders.*

Mr. Olson reported that letters from Messrs. Sullivan and Schwind (Appendices 2 and 3), followed by the survey documents (Appendices 4 and 5), have been sent to all Illinois State's Attorneys and Public Defenders, as well as the offices of the Attorney General and the State Appellate Prosecutor and Defender. He has received about 30 responses from State's Attorneys. He will provide a further report at our next meeting.

7. *Fourth Annual Report.*

Mr. Sullivan reported that he has received drafts from each of the four subcommittees with suggestions for the Committee's Fourth Annual Report to the General Assembly. Mr. Sullivan will circulate a

draft of the report to all members prior to the next full committee meeting.

8. *Reports of subcommittees.*

(1) *Report of subcommittee 1– Police and investigations.*

Mr. Coldren reported that the subcommittee met recently to discuss projects for the coming year. As noted in the Committee's minutes of January 28, 2008, Mr. Coldren has distributed a list of suggested readings regarding eyewitness identification procedures (attached to the Committee's minutes of January 28, 2008 as Appendix 2), and the subcommittee plans to speak with various experts on that subject.

Mr. Schwind stated that he has spoken with Judge Michael Toomin about training for judges who try capital cases, and that the subcommittee members plan to speak with Judge Toomin again on this topic.

Mr. Sullivan asked that the subcommittee (1) make a recommendation concerning the use of blind administrators to lineup and photo spread procedures, and (2) speak with Michael Chasen, Deputy Chief of the CPD Detective Division, or his successor, and his

superior Deputy Chief of Investigative Services, Steven Peterson, relating to eyewitness identification procedures used by the CPD, and new or proposed regulations on the subject.

(2) *Report of subcommittee 2 - Eligibility for capital punishment and proportionality.*

Ms. Bienen reported that the subcommittee has not met since the last full Committee meeting, but has been in communication with Mr. Olson concerning the surveys he has sent to State's Attorneys and Public Defenders.

Ms. Bienen stated that the subcommittee has received first degree murder indictments from almost all State's Attorneys for the period January 1, 2003 to December 31, 2006. Messrs. Parkinson, Schwind and Waller agreed to assist in contacting the delinquent State's Attorneys who have not yet responded; Ms. Bienen will identify the counties for them.

After the State's Attorneys have responded to Mr. Olson's surveys, the Committee will send a request to all State's Attorneys for their 2007 first degree murder indictments.

(3) Report of subcommittee 3 - Trial court proceedings.

Mr. Howard reported that the subcommittee has not met since the last full Committee meeting. One of the topics the subcommittee will examine this year is proposed pattern jury instructions (1) relating to the eligibility and sentencing phases, and (2) for the guilt/innocence phase, relating to testimony of eyewitness identifications, jailhouse informants, and statements made by defendants that were not recorded electronically.

(4) Report of subcommittee 4 - Post-conviction proceedings, DNA and general topics.

Mr. Schiedel introduced Allan Sincox, who is employed by the Illinois Appellate Defender, and is the Appellate Defender's appointee to the Illinois Laboratory Advisory Committee (ILAC). Copies of the ILAC reports for 2006 and 2007 are attached as Appendices 6 and 7. A copy of the Illinois State Police "FY2007 DNA Testing Accountability Report" is attached as Appendix 8.

Mr. Sincox pointed out that the ILAC had made three substantive recommendations in its 2007 Annual Report, none of which has been acted upon by either the Governor or the Illinois General Assembly:

- The first is a need for reforms to “unacceptable salary discrepancies which have developed among the leadership of Illinois’ scientific laboratories.”
- The second is that the Illinois legislature require laboratories engaging in post-conviction DNA analysis to be accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or equivalent accrediting body.
- The third relates to “an online Illinois Services Database that allows law enforcement, public health, and homeland security personnel to respond more appropriately to potential threats by researching the capabilities and service provided by Illinois laboratories.”

Mr. Sincox stated that the Illinois Auditor General is the designated oversight agency for all Illinois state forensic laboratories.

The members agree that we need more information about the Illinois forensics labs, both governmental and privately owned.

Ms. Bishop-Jenkins agreed that she will contact ILAC Chair John Collins of the DuPage County Crime Lab, and/or April Deatley, ILAC Secretary, and advise the other members of Subcommittee 4 if and when meetings or telephone conferences have been arranged.

9. *Other business.*

(1) *Report of Ms. Bishop-Jenkins.*

Ms. Bishop-Jenkins submitted a memorandum dated March 4, 2008, entitled “A summary of victim issue concerns, especially related to capital murder cases,” attached as Appendix 9. After discussion, the members agreed that the issues raised in Ms. Bishop-Jenkins’ memorandum were important, and require action by various public and private agencies, but appear to be outside the statutory authority and responsibility of this Committee.

(2) *Elliot Slosar’s research on “Costs of Capital Punishment in Illinois.”*

Ms. Bishop-Jenkins distributed a document entitled “Costs of Capital Punishment in Illinois,” research compiled by Elliot Slosar, attached as Appendix 10.

Messrs. Sullivan and Schwind pointed out that Mr. Slosar's research deals only with the gross costs attributed to capital cases, which is of limited value, because it fails to analyze the extra or additional costs that are incurred when a first degree murder case is prosecuted as a capital case, over and above the costs that would have been incurred had the case been prosecuted as a non-capital case. Mr. Olson observed that these are known as "marginal costs."

Ms. Bienen stated that some years ago a study was done in New Jersey that analyzed the marginal cost of capital cases prosecuted in that state.

(3) *Article regarding the deterrent effect of capital punishment.*

Mr. Schwind distributed an article from the New York Times dated November 18, 2007, written by Adam Liptak, entitled "Does Death Penalty Save Lives? A New Debate." The article relates to studies conducted during the past decades by economists, based upon which the author contends that there is a direct causal relationship between the number of executions and homicide rates. Mr. Liptak's article points out

that the validity of the economists' studies and conclusions are a subject of ongoing debate.

10. Next meeting – Tuesday, April 8, 2008, at noon.

It was agreed that the next full Committee meeting will be held on Tuesday, April 8, 2008 at noon, at the office of the Illinois Criminal Justice Authority, located at 300 W. Adams, Chicago, IL.

Thomas P. Sullivan
Chair
April 29, 2008

Attachments – Appendices 1- 10.

Sullivan, Thomas P

From: David Olson [DOLSON1@luc.edu]
Sent: Tuesday, March 04, 2008 9:46 AM
To: Jeffrey M. Howard; jenniferbjenkins@aol.com; Gerald E. (2) Nora; Arthur L. (Representative) Turner; Richard D. Schwind; Clint Hull; Michael J. Waller; boydingemunson@gmail.com; James R. Jr. Chip Coldren; Bobbie (Rep. Art Turner's office) Drew; eparkinson@ilsaap.org; Sullivan, Thomas P; Kirk W. Senator Dillard; Leigh B. Bienen; Charles M. Schiedel; Geoffrey R. Stone; Gerald E. Nora; Randolph N. Stone
Subject: Trends in Murder Sentences in Illinois
Attachments: murdersentencesstocprsc.ppt



murdersente
stocprsc.ppt (

All, attached is a power-point similar to the one I had at the last meeting. This one has a few additional analyses and has been OK'd by IDOC for me to distribute.

David E. Olson, Ph.D.
Chair and Associate Professor
Department of Criminal Justice
Director, Forensic Science Program
Loyola University Chicago
820 North Michigan Avenue
Chicago, Illinois 60611
312-915-7563 (Telephone)
312-915-7650 (Fax)
dolson1@luc.edu

>>> "Sullivan, Thomas P" <TSullivan@jenner.com> 3/4/2008 9:11:04 AM >>>
Reminder - The full Committee meeting will be held today at noon at CJIA's new office, 300 West Adams, 7th Floor. The call-in number is 800-864-4804; passcode 8143061 #. Tom.

Thomas P. Sullivan
Jenner & Block LLP
330 N. Wabash Avenue
Chicago, IL 60611-7603
Tel (312) 923-2928
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TSullivan@jenner.com
www.jenner.com

CONFIDENTIALITY WARNING: This email may contain privileged or confidential

**Trends in the Number & Characteristic of
Prison Sentences Imposed on Those
Convicted of First Degree Murder in Illinois**

**Presented to the
Illinois Capital Punishment Reform Study
Committee**

**Presented by
David E. Olson, Ph.D.
Loyola University Chicago**

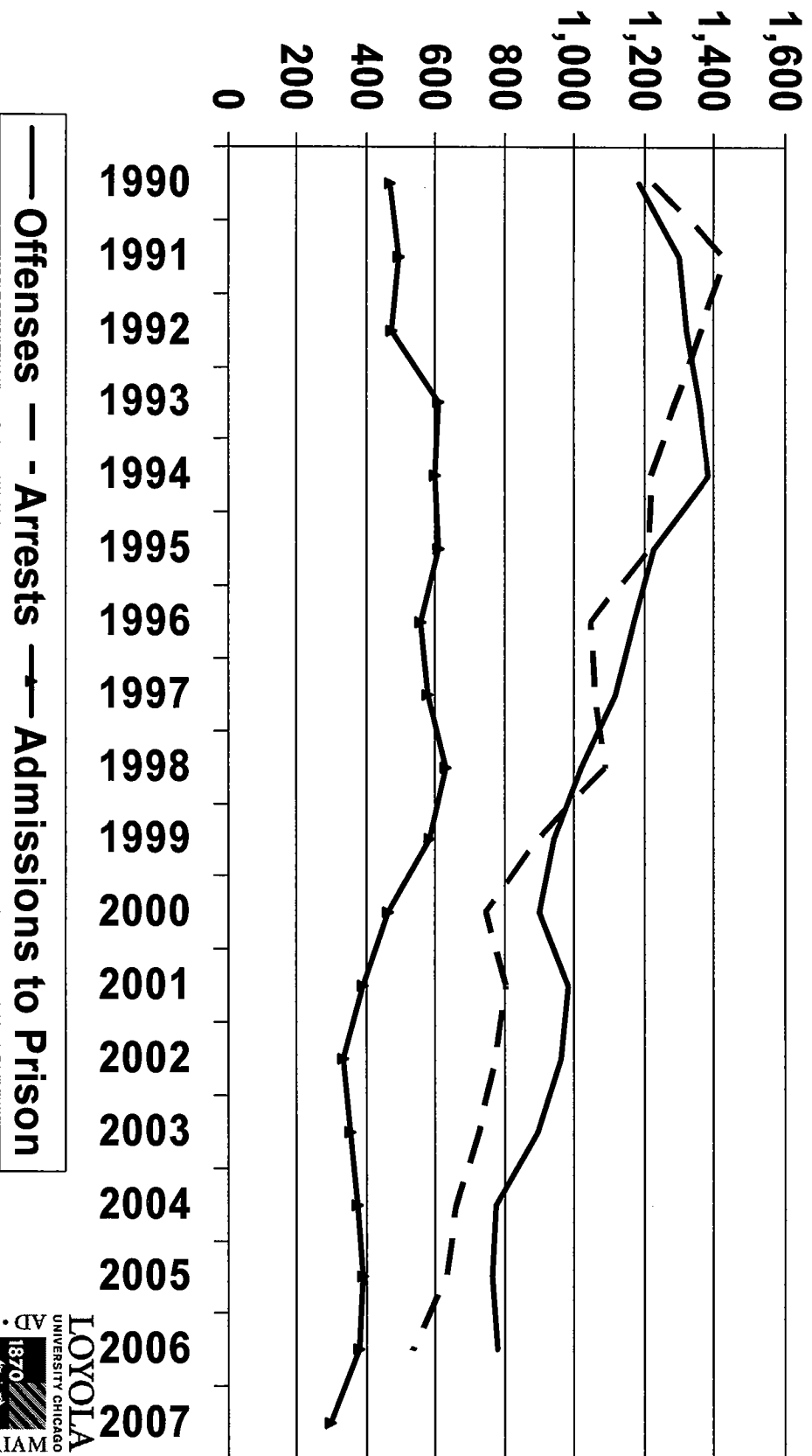


Background

- All sentencing data provided by the Illinois Department of Corrections' Planning & Research Unit. State fiscal years cover July 1 through June 30 (i.e., SFY 2007 covers July 1, 2006 through June 30, 2007).
- Offense & arrest data provided by the Illinois State Police.
- Unit of analysis in the offender (i.e., each of those convicted of murder is counted once);
- Analyses of determinate, life sentences and death sentences;
- Analyses by region of Illinois & by time period

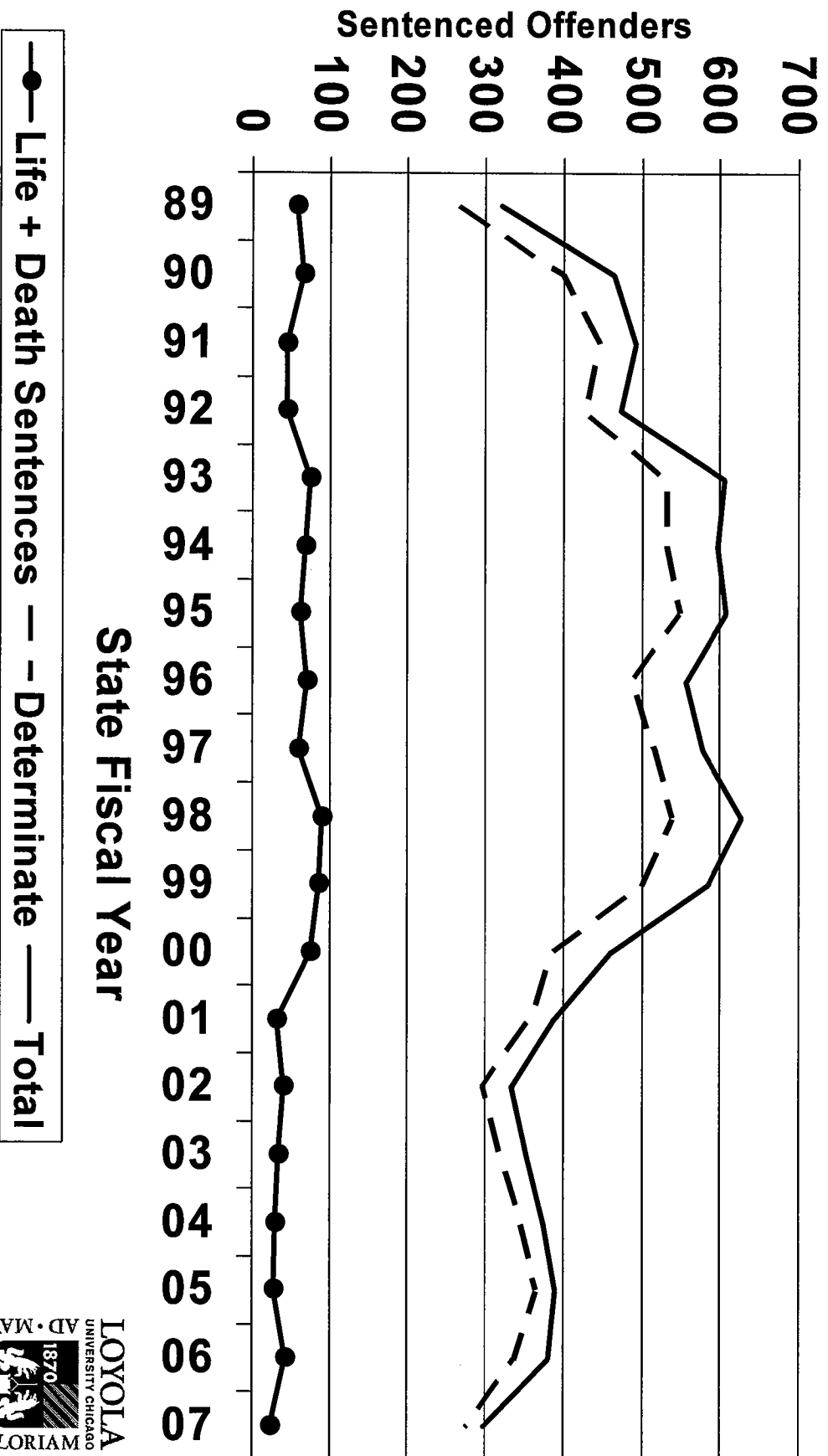


Illinois Murder Offenses, Arrests & Admissions to Prison

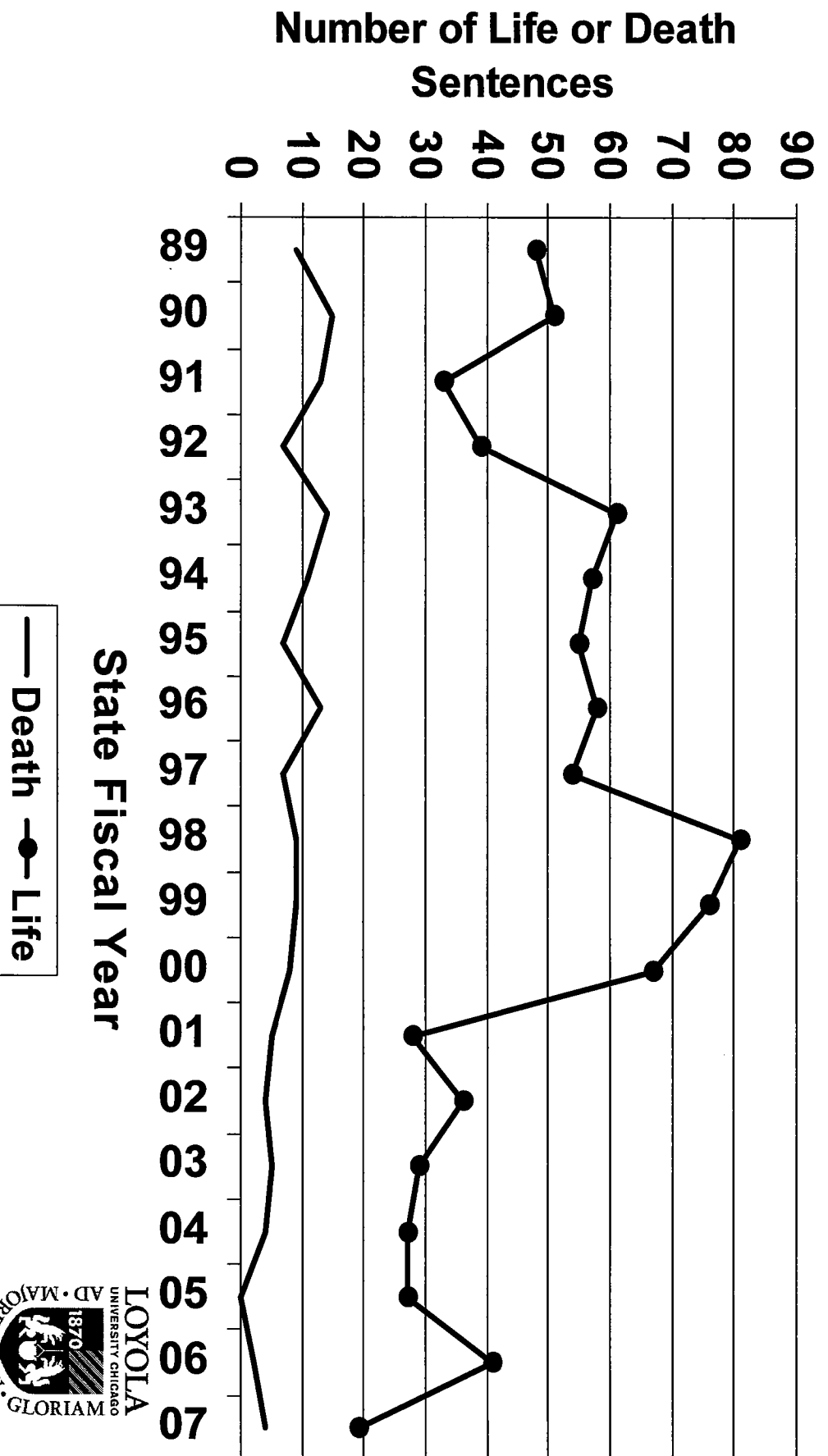


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Sentences Imposed on Those Convicted of 1st Degree Murder

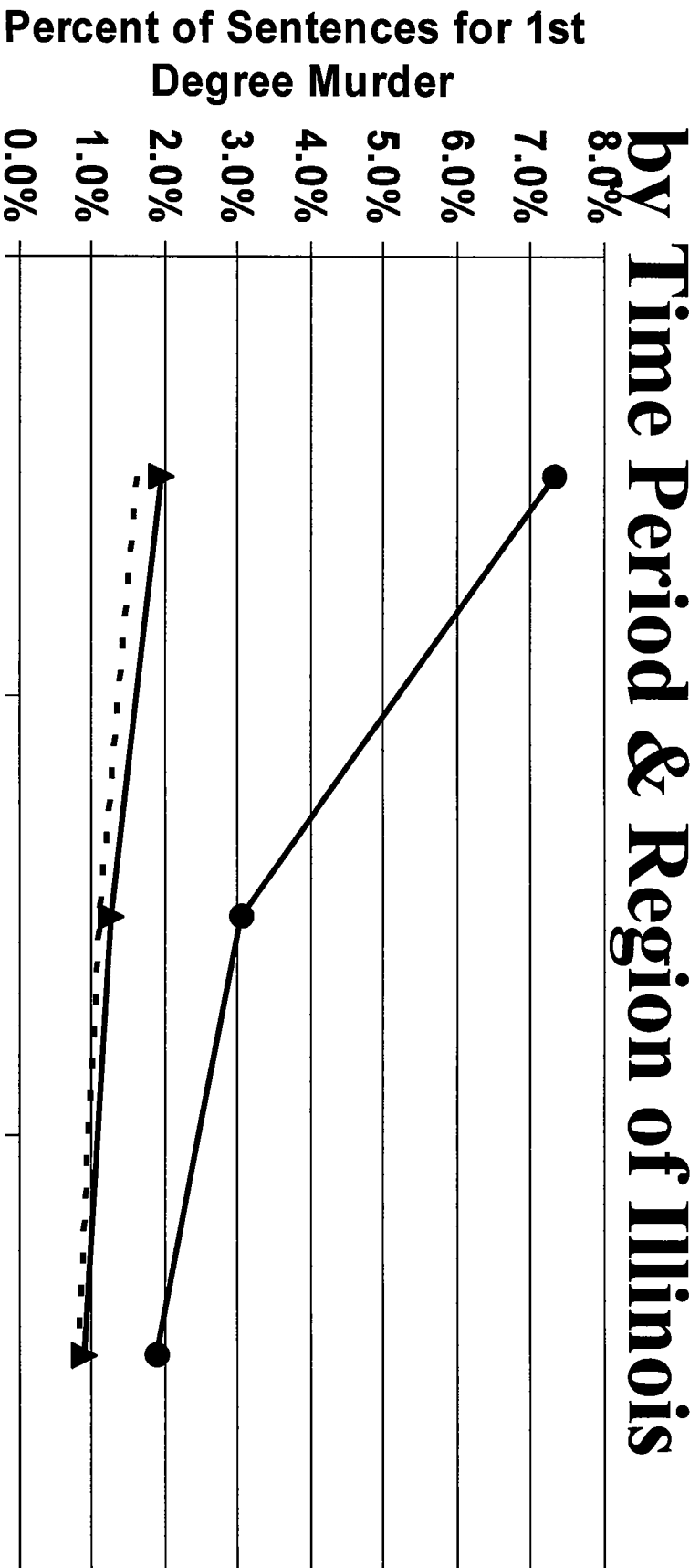


Number of Life & Death Sentences Imposed on Those Convicted of 1st Degree Murder



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Proportion of First Degree Murder Convictions Resulting in Death Penalty, by Time Period & Region of Illinois



▲ Statewide
 - - - Urban
 ● Rural

SFY 1989-1998

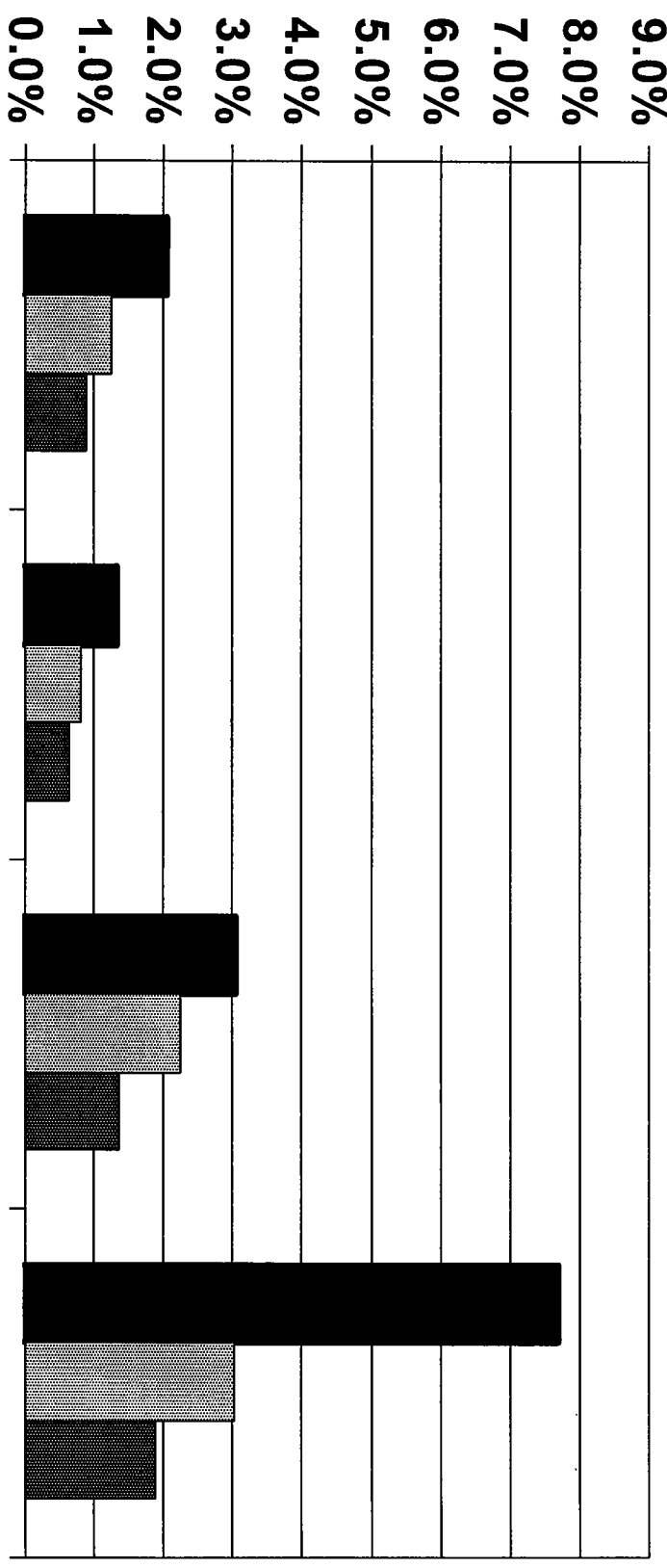
SFY 1998-2005

SFY 2006-2007



Proportion of First Degree Murder Convictions Resulting in Death Penalty, by Time Period & Region of Illinois

Percent of Sentences for 1st Degree Murder

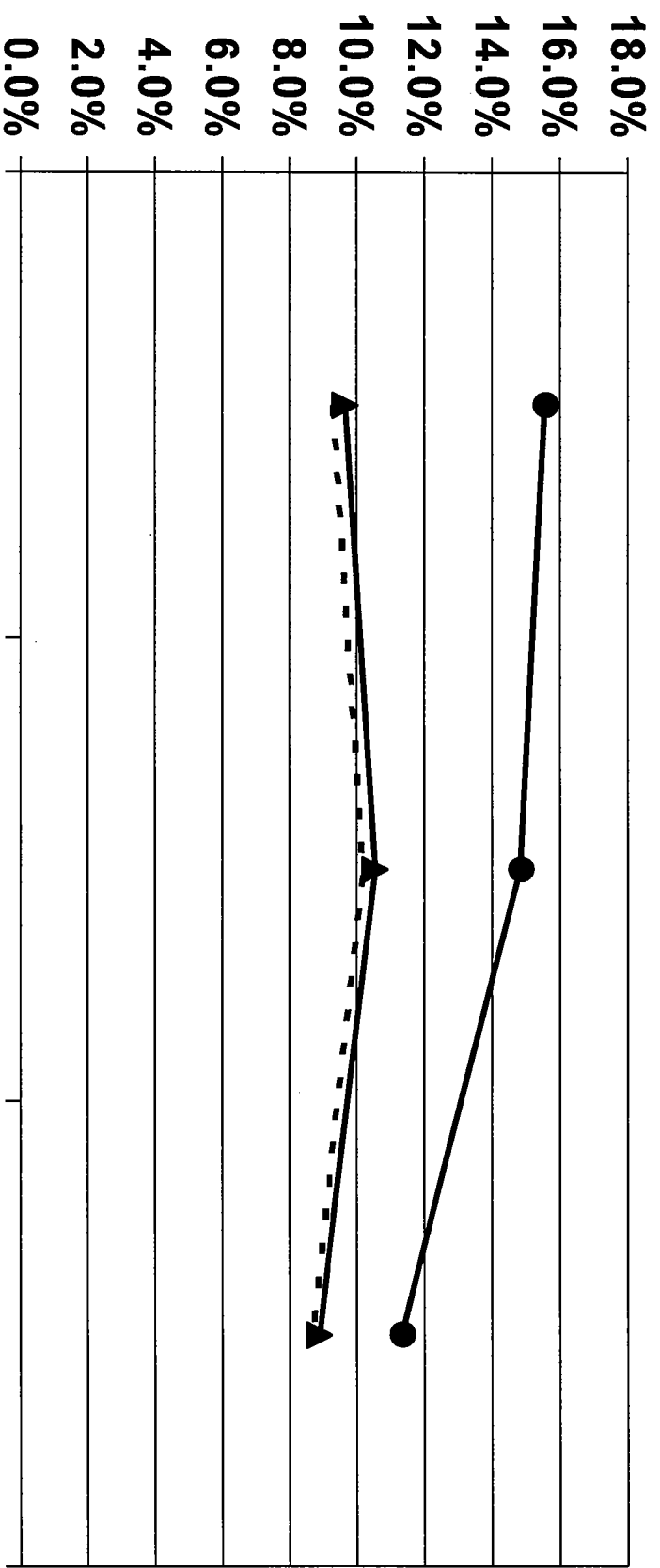


SFY 1989-1997
 SFY 1998-2005
 SFY 2006-2007



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Proportion of First Degree Murder Convictions Resulting in Life Sentences, by Time Period & Region of Illinois



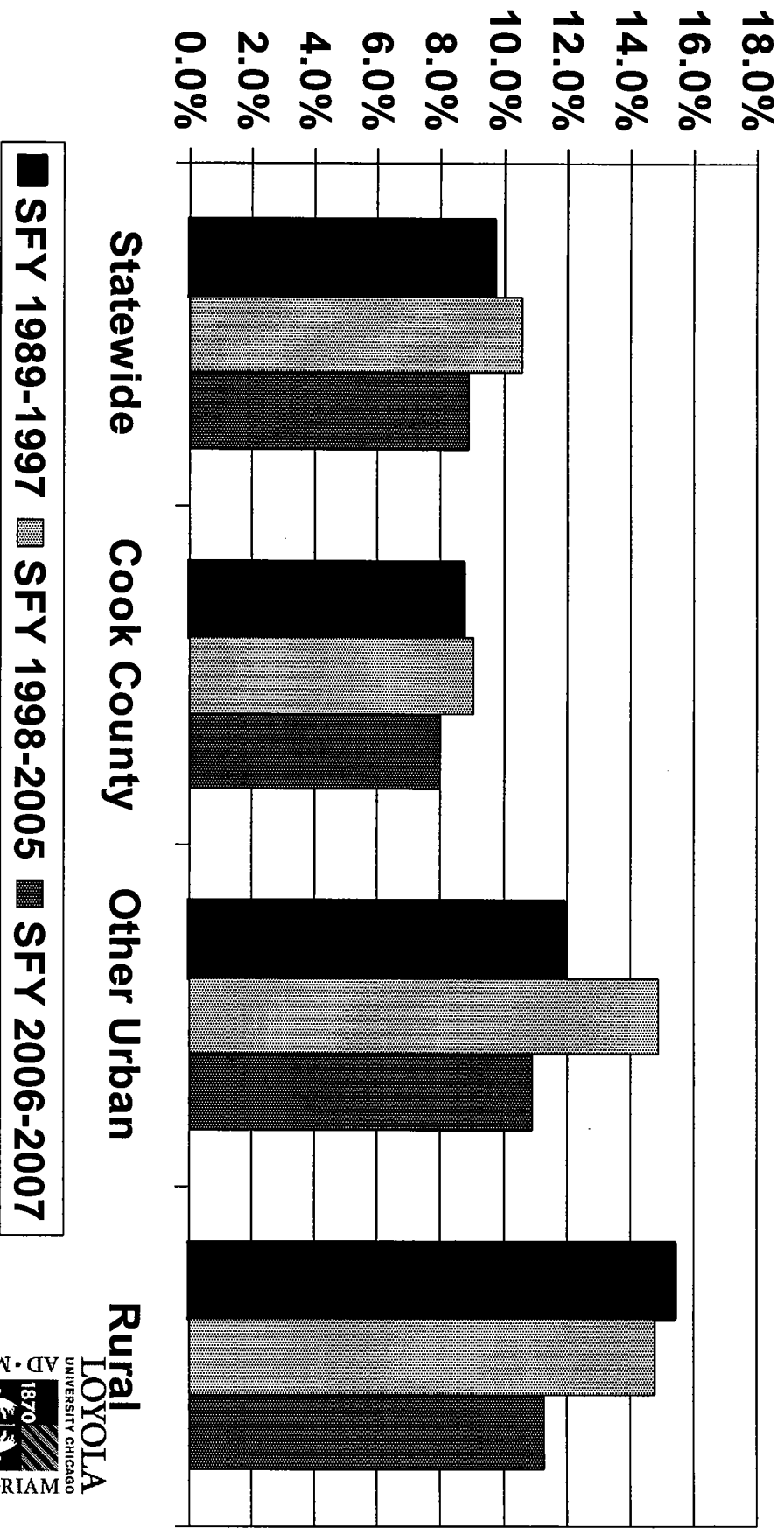
—●— Statewide - - - ▲ - - - Urban —▲— Rural

SFY 1989-1998 SFY 1998-2005 SFY 2006-2007

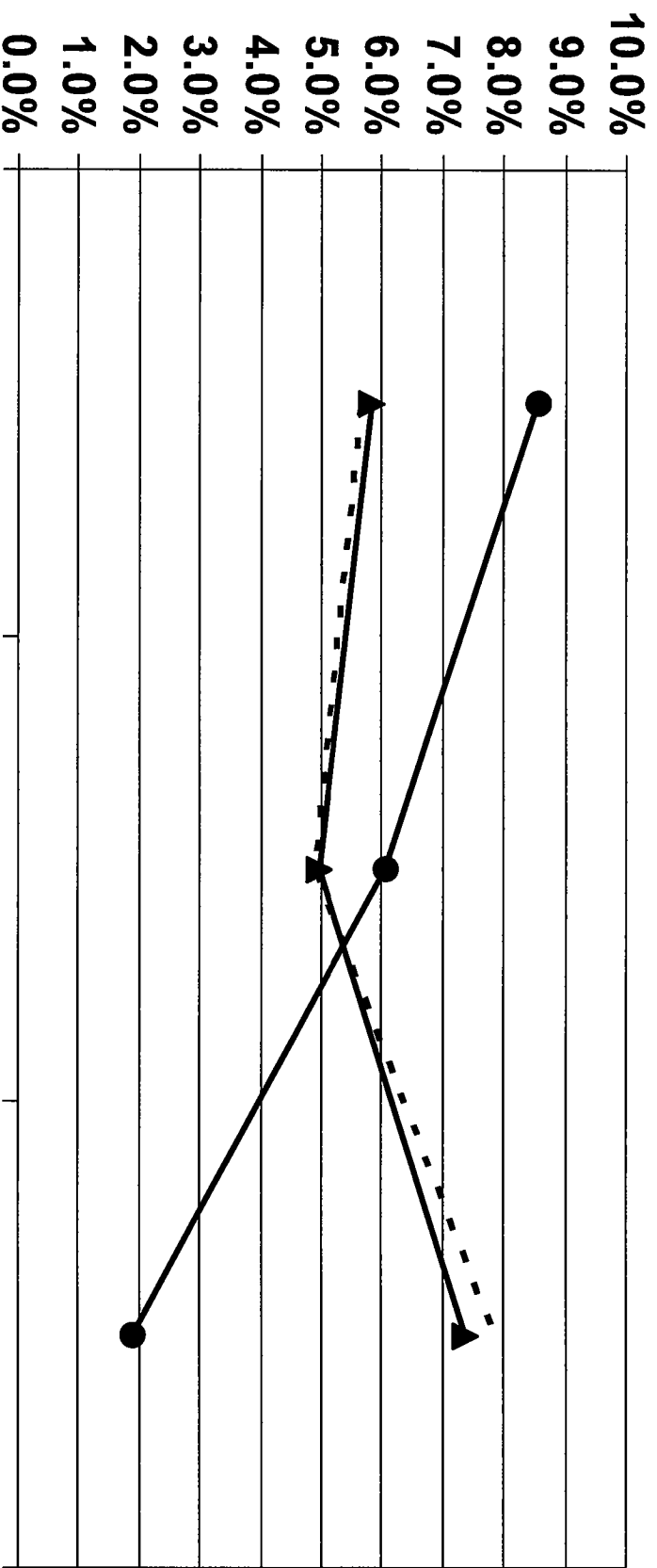


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Proportion of First Degree Murder Convictions Resulting in Life Sentences, by Time Period & Region of Illinois



Proportion of First Degree Murder Convictions Resulting in Determinate Sentences of More than 60 years, by Time Period & Region of Illinois



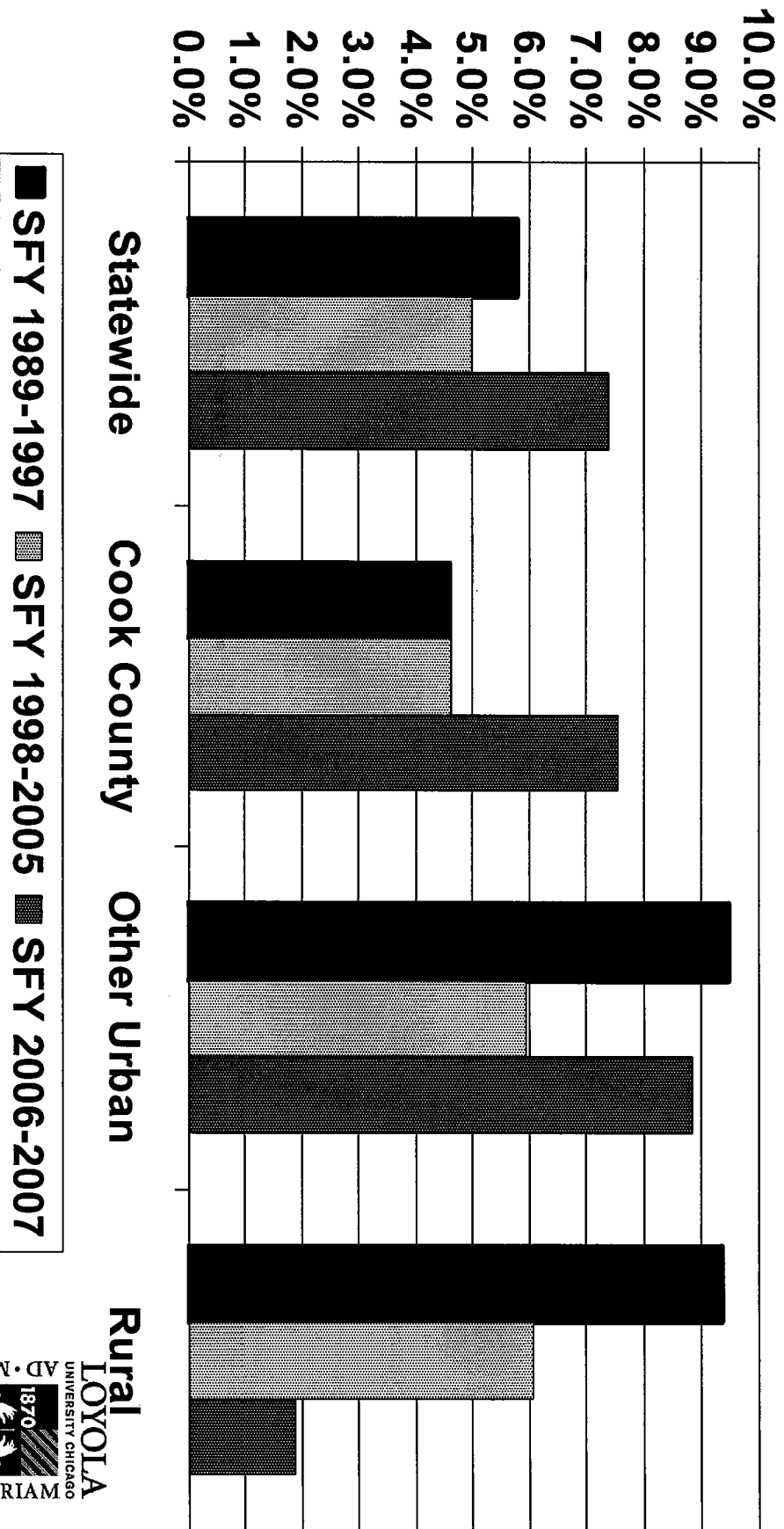
▲ Statewide - - - Urban ● Rural

SFY 1989-1998 SFY 1998-2005 SFY 2006-2007



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Proportion of First Degree Murder Convictions Resulting in Determinate Sentences of More than 60 years, by Time Period & Region of Illinois



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Capital Punishment Reform Study Committee

Thomas P. Sullivan
Chair

Richard D. Schwind
Vice Chair

Leigh B. Bienen
James R. Coldren, Jr.
Kirk W. Dillard

Jeffrey M. Howard

T. Clinton Hull

Boyd J. Ingemunson

Gerald E. Nora

Edwin R. Parkinson

Charles M. Schiedel

Geoffrey R. Stone

Randolph N. Stone

Arthur L. Turner

Michael J. Waller

—
Peter G. Baroni
Special Counsel

February 14, 2008

Alan F. Lolie
Shelby County State's Attorney's Office
Shelby County Courthouse
301 East Main
Shelbyville, IL 62565

Re: Survey of the Illinois Capital Punishment Reform Study Committee

Dear Mr. Lolie:

The Illinois Capital Punishment Reform Study Committee was created in 2003 by the General Assembly to “study the impact of the various reforms to the capital punishment system enacted by the 93rd General Assembly and annually report to the General Assembly on the effects of these reforms.” 20 ILCS 3929/ 2(b). Pursuant to this directive, for the past several years the Committee has held meetings with judges, prosecutors, defense lawyers and law enforcement personnel, and held public hearings in Springfield and Chicago.

In order to carry out our statutory mandate, we require relevant information from all of those who are involved in the capital punishment system. To that end, we have retained Dr. David E. Olson, Chairman of the Criminal Justice Department of Loyola University in Chicago, who has prepared a concise survey, directed to all Illinois State's Attorneys and Public Defenders, requesting data and views on the Illinois capital punishment system as it has operated since January 2003.

We will greatly appreciate you and your staff giving us the benefit of your experiences and views, by investing the modest amount of time needed to complete the survey. Your doing so is especially important, because we will use the results in formulating our reports and recommendations to the Illinois General Assembly and the Supreme Court of Illinois, in the event we conclude that further changes to the system are desirable.

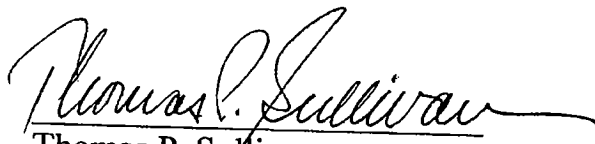
February 14, 2008
Page 2

Your completed survey form should be sent directly to Dr. Olson in the envelope that will accompany the form. After your responses are entered into the data bank, Dr. Olson will destroy your survey document, and retain no copy, in order to assure you complete anonymity. There will be no attribution to any respondent, and no way for your identity to be traced to any of your answers. This will allow for the highest degree of reliability and candor in the information you provide.

Dr. Olson will mail these surveys out during the week of February 18th, and included in that mailing will be his contact information should you have any questions regarding the survey or your participation in this research.

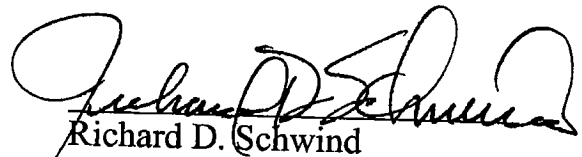
On behalf of the Illinois Capital Punishment Reform Study Committee, we thank you for your assistance in helping the Committee meet its legislatively prescribed responsibilities.

Yours truly,



Thomas P. Sullivan

Chair
330 N. Wabash Avenue
Chicago, IL 60611
312-923-2928



Richard D. Schwind

Vice Chair
100 W. Randolph St., 12th Fl.
Chicago, IL 60601
312-814-5387

Capital Punishment Reform Study Committee

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Geoffrey R. Stone

Randolph N. Stone

Arthur L. Turner

Michael J. Waller

February 28, 2008

Edward K. Downey
Adams County Chief Public Defender
521 Vermont Street
Quincy, IL 62301

Re: Survey of the Illinois Capital Punishment Reform Study Committee

Dear Mr. Downey:

The Illinois Capital Punishment Reform Study Committee was created in 2003 by the General Assembly to “study the impact of the various reforms to the capital punishment system enacted by the 93rd General Assembly and annually report to the General Assembly on the effects of these reforms.” 20 ILCS 3929/ 2(b). Pursuant to this directive, for the past several years the Committee has held meetings with judges, prosecutors, defense lawyers and law enforcement personnel, and held public hearings in Springfield and Chicago.

In order to carry out our statutory mandate, we require relevant information from all of those who are involved in the capital punishment system. To that end, we have retained Dr. David E. Olson, Chairman of the Criminal Justice Department of Loyola University in Chicago, who has prepared a concise survey, directed to all Illinois State’s Attorneys and Public Defenders, requesting data and views on the Illinois capital punishment system as it has operated since January 2003.

We will greatly appreciate you and your staff giving us the benefit of your experiences and views, by investing the modest amount of time needed to complete the survey. Your doing so is especially important, because we will use the results in formulating our reports and recommendations to the Illinois General Assembly and the Supreme Court of Illinois, in the event we conclude that further changes to the system are desirable.

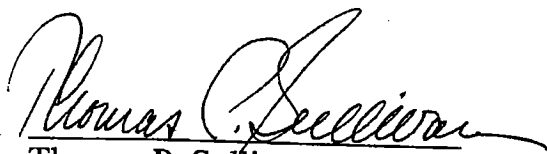
Edward K. Downey
Adams County Chief Public Defender
February 28, 2008
Page 2

Your completed survey form should be sent directly to Dr. Olson in the envelope that will accompany the form. After your responses are entered into the data bank, Dr. Olson will destroy your survey document, and retain no copy, in order to assure you complete anonymity. There will be no attribution to any respondent, and no way for your identity to be traced to any of your answers. This will allow for the highest degree of reliability and candor in the information you provide.

Dr. Olson will mail these surveys out during the week of March 4th, and included in that mailing will be his contact information should you have any questions regarding the survey or your participation in this research.


On behalf of the Illinois Capital Punishment Reform Study Committee, we thank you for your assistance in helping the Committee meet its legislatively prescribed responsibilities.

Yours truly,



Thomas P. Sullivan
Chair

330 N. Wabash Avenue
Chicago, IL 60611
312-923-2928



Richard D. Schwind
Vice Chair

100 W. Randolph, 12th Fl.
Chicago, IL 60601
312-814-5387



David E. Olson, Ph.D.
Chair & Associate Professor
Loyola University Chicago
820 N. Michigan Avenue, LT923
Chicago, Illinois 60611
dolson1@luc.edu

February 19, 2008

NAME
ADDRESS

Dear State's Attorney _____:

Following the passage of a number of laws in 2003 related to how murder cases are investigated and prosecuted in Illinois, the General Assembly created the Illinois Capital Punishment Reform Study Committee (CPRSC). This Committee was charged with annually reporting to the legislature the experiences of Illinois' criminal justice agencies in implementing these laws and the impact changes to those laws have had on how murder cases are handled through the justice system.

Over the past two years, the CPRSC has held public hearings in Springfield and Chicago to obtain feedback regarding these changes to the law; however, the Committee recognizes that not all State's Attorneys are able to attend the hearings. Therefore, to ensure that all State's Attorneys have the ability to share their experiences and views of these changes as to how murder cases are handled, the CPRSC has asked that Loyola University Chicago assist them in performing research regarding the implementation and impact of these changes in the law.

The enclosed survey is designed to assist the CPRSC in its work and provide all State's Attorneys with the opportunity to provide their input. The survey is designed to obtain responses to similar questions from all State's Attorney's Offices in Illinois so that the collective experiences of Illinois' local criminal justice agencies can be reported back to the Illinois General Assembly and other criminal justice policy makers in the state. In addition to this survey, we are also distributing a similar survey to all Public Defender's Offices in Illinois.

Your completion of the enclosed survey is *completely voluntary*, but your participation is encouraged so that the analyses provided to the Illinois Capital Punishment Reform Study Committee and the Illinois legislature is as complete and representative as possible. Completion of the survey should take less than one hour.

All of your individual responses to the enclosed survey will be anonymous. Included on the survey is a randomly generated identification number. I am the only person who will know which ID number is associated with which agency, and once the survey is returned, I will destroy the document that contains the link between the ID number and the name of your agency. All that I will record is that your agency did respond, which is needed so that I can track response rates and report the extent to which the completed surveys received are representative of Illinois' criminal justice agencies. Thus, there will be no way to link the responses on any particular survey to any specific agency, and any

electronic data file created for this project will include only this randomly generated identification number and general information about the size (i.e., small, medium, or large; no murder cases, fewer than 10 murder cases, 10 or more murder cases) of the jurisdiction covered by your agency, which is needed to support the types of analyses requested by the Committee.

When we report our findings to the Illinois Capital Punishment Reform Study Committee we will aggregate the responses to the questions so that the responses of any individual agency are not known. If you have any questions regarding this research project, please contact Dr. David Olson at 312-915-7563, via e-mail at dolson1@luc.edu or by mail (Dr. David Olson, Loyola University Chicago, 820 North Michigan Avenue, Chicago, IL 60611). If you have questions about your rights as a research participant, you may contact the Compliance Manager in Loyola's Office of Research Services at (773) 508-2689.

It would be appreciated if you could complete and return the survey in the enclosed self-addressed stamped envelope by March 14rd, 2008. If you prefer, you can fax the survey to my attention at 312-915-7650.

Sincerely,

David E. Olson, Ph.D.
Chair & Associate Professor
Department of Criminal Justice

Enclosure

Alan F. Lolie
Shelby County State's Attorney's Office
Shelby County Courthouse
301 East Main
Shelbyville, IL 62565

Charles H. Burch
Calhoun County State's Attorney's Office
Calhoun County Courthouse
104 Main St. - P.O. Box 370
Hardin, IL 62047

James Hursh
Boone County State's Attorney's Office
Boone County Courthouse
601 North Main – Ste. 302
Belvidere, IL 61008

Jerry J. Hooker
Brown County State's Attorney's Office
Brown County Courthouse
111 West Washington – Ste. C
Mt. Sterling, IL 62353

Patrick J. Herrmann
Bureau County State's Attorney's Office
Bureau County Courthouse
700 South Main Street
Princeton, IL 61356

Thomas R. Wiseman
Crawford County State's Attorney's Office
Crawford County Courthouse
105 South Douglas
Robinson, IL 62454

Albert G. Algren
Warren County State's Attorney's Office
Warren County Courthouse
100 West Broadway
Monmouth, IL 61462

Julia Rietz
Champaign County State's Attorney's Office
Champaign County Courthouse
101 East Main – Room 301
Urbana, IL 61801

Grayson E. Gile
Pulaski County State's Attorney's Office
Pulaski County Courthouse
500 Illinois Avenue
Mound City, IL 62963

Jeffrey B. Farris
Alexander County State's Attorney's Office
Alexander County Courthouse
2000 Washington Avenue
Cairo, IL 62914

Patrick Hahn
Lawrence County State's Attorney's Office
Lawrence County Courthouse
1100 State St. – 2nd Floor
Lawrenceville, IL 62439

Thomas O. Finks
Christian County State's Attorney's Office
Christian County Courthouse
1001 South Main Street
Taylorville, IL 62568

Thomas Foster
Gallatin County State's Attorney's Office
Gallatin County Courthouse
484 Lincoln Blvd. West - P.O. Box 815
Shawneetown, IL 62984

Allen James
Union County State's Attorney's Office
Union County Courthouse
309 West Market, Room 100
Jonesboro, IL 62952

Barry E. Schaefer
Cumberland County State's Attorney's Office
Cumberland County Courthouse
P.O. Box 387
Toledo, IL 62468-0387

Kevin Nolan
Douglas County State's Attorney's Office
Douglas County Courthouse
401 South Center
Tuscola, IL 61953

Brian T. Shinkle
Edwards County State's Attorney's Office
Edwards County Courthouse
50 East Main - P.O. Box 170
Albion, IL 62806

C. Steve Ferguson
Coles County State's Attorney's Office
Cole County Courthouse
651 Jackson - Room 330
Charleston, IL 61920

Charles Garnati
Williamson County State's Attorney's Office
Williamsob County Courthouse
200 West Jefferson
Marion, IL 62959

Raymond Cavanaugh
Henderson County State's Attorney's Office
Henderson County Courthouse
307 Wareen St. – P.O. Box 6053
Oquawka, IL 61469

Chris Reif
Morgan County State's Attorney's Office
Morgan County Courthouse
300 West State Street
Jacksonville, IL 62650

Christopher Bauer
Bond County State's Attorney's Office
Bond County Courthouse
200 W. College Ave.
Greenville, IL 62246

Christopher Quick
Wabash County State's Attorney's Office
Wabash County Courthouse
401 Market Street
Mt. Carmel, IL 62863

David Hyde
Richland County State's Attorney's Office
Richland County Courthouse
103 West Main Street
Olney, IL 62450

David N. Stanton
Perry County State's Attorney's Office
Perry County Courthouse
One Public Square
Pinckneyville, IL 62274

David R. Cherry
Scott County State's Attorney's Office
Scott County Courthouse
9 East Market Street
Winchester, IL 62694

David R. Nelson
Saline County State's Attorney's Office
Saline County Courthouse
10 East Poplar Street
Harrisburg, IL 62946

Dennis Simonton
Clark County State's Attorney's Office
Clark County Courthouse
501 Archer Avenue
Marshall, IL 62441

Ben Goetten
Jersey County State's Attorney's Office
Jersey County Courthouse
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Jerseyville, IL 62052

Edward J. Deters
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120 West Jefferson – Ste. 201
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Pike County Courthouse
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Pittsfield, IL 62363

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253 East Wood Street
Decatur, IL 62523

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Watseka, IL 60970

John Barsanti
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Kane County Courthouse
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807 West John Street
Yorkville, IL 60560

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850 Fairfax St. Room 5
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**Capital Punishment Reform Study Committee State's
Attorney's Office Administrator Survey**

Survey Number: _____

I. Office Staffing & Resources

1) How many full-time Assistant State's Attorneys were employed by your office as of January 1, 2008?
Number = _____

2) How many of these full-time Assistant State's Attorneys are members of the Capital Litigation Trial Bar?
Number = _____

3) Has the *training related to capital litigation* provided to the staff in your office met the needs of your office?
(Check 1)

_____ Yes

_____ No

If no, what additional training for members of the Capital Litigation Trial Bar do you believe is needed?

4) Have any prosecutors in your office received any specialized training on the issue of mental retardation since 2005? (Check 1)

_____ No

_____ Yes

If yes, how would you describe the *quality* and *applicability* of the training provided?

5) Are the *number* of defense attorneys (either private or within the Public Defender's Office) who are members of the Capital Litigation Trial Bar sufficient to effectively handle death-eligible murder cases in your jurisdiction? (Check 1)

_____ No

_____ Yes

_____ Don't Know

6) Are there sufficient resources available to your office to handle *death-eligible* murder cases? (Check 1)

Yes

No

If no, what additional resources do you believe are needed for your office?

II. Experiences with the Recording of Interrogations of Murder Suspects

1) Does your State's Attorney's Office have the State's Attorney or an Assistant State's Attorney *physically present* during custodial interrogations (i.e., from *Miranda* warning forward) of *murder suspects*? (Check 1)

Never/Rarely

Sometimes

Most of the time

Always

2) Since the statutory requirement took effect in July 2005 requiring complete electronic recordings of custodial interviews of murder suspects, were any *technical problems/failures* experienced with your office's receipt/review of recorded interrogations? (Check 1)

Not applicable/have not had any murder cases since the recording requirement

No, no technical problems/failures have not been experienced.

Yes, technical problems/failures have been experienced.

If yes, please provide a brief explanation of the problem(s) experienced.

3) Since the recording requirement took effect in July 2005, were any technical problems/limitations experienced with your office's *presentation of this evidence at trial* (i.e., courtrooms not equipped with necessary equipment, audio could not be heard by jury, etc)? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

No

Yes

If yes, please provide a brief explanation of the problem(s) experienced.

4) In your opinion, has the mandatory recording of custodial interrogations in murder cases changed the way *detectives* have conducted interrogations due to the knowledge that jurors will potentially view or hear these taped interrogations? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

Don't Know

No

Yes

If yes, please explain how (either positively or negatively) you believe this has changed their interrogation techniques.

5) Have recorded interrogations been instrumental in obtaining convictions in murder cases? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

No

Yes

6) Has the availability of recorded interrogations/confessions in murder cases influenced decisions made by *your office* regarding whether to seek the death penalty or not? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

No, has not influenced the decision regarding whether or not to seek the death penalty.

Yes, has influenced the decision regarding whether or not to seek the death penalty.

If yes, please explain how the availability of recorded interrogations/confessions influenced this decision. Please provide specific examples.

7) In your opinion, has the existence of recorded custodial interrogations/confessions in murder cases influenced the willingness of the *defense/defendant* to plea bargain? (Check 1)

Not applicable/ have not had any murder cases since the recording requirement.

No, has not influenced defense/defendant willingness to plea bargain.

Yes, has influenced defense/defendant willingness to plea bargain.

If yes, please explain how or give specific examples.

8) In your opinion, has the existence of recorded custodial interrogations/confessions in murder cases influenced the willingness of the defense/defendant to *seek a jury trial*? (Check 1)

- Not applicable/ have not had any murder cases since the recording requirement.
 No, has not influenced defense/defendant to seek a jury trial.
 Yes, has influenced defense/defendant to seek a jury trial.

If yes, explain how and give specific examples.

9) In your opinion, have electronic recordings of murder interrogations reduced the number of motions to suppress confessions or admissions owing to failure to give *Miranda* warnings, coercion, or use of improper interview tactics? (Check 1)

- Not applicable/have not had any murder cases since the recording requirement.
 No, has not reduced motions to suppress confessions or admissions.
 Yes, has reduced motions to suppress confessions or admissions.

If yes, please give specific examples.

10) In your opinion, have electronic recordings made it easier to obtain convictions in murder cases? (Check 1)

- Not applicable/have not had any murder cases since the recording requirement
 No, has not made it easier to obtain convictions in murder cases.
 Yes, has made it easier to obtain convictions in murder cases.

If yes, please give examples of how they were used to obtain convictions.

11) Since the statutory requirement took effect requiring electronic recordings of custodial interrogations of murder suspects, has your office been provided with recorded interrogations/confessions of any **NON-MURDER** cases? (Check 1)

- Never/Rarely _____
Sometimes _____
Most of the time _____
Always _____

12) Do you believe that the requirement of complete electronic recordings of custodial interrogations should be expanded to include additional felony offenses? (Check 1)

_____ No

_____ Yes

If yes, what other types of felony offense interrogations do you believe should be recorded and why?

13) In your opinion, does the recording of interrogations have any specific *disadvantages/problems* or any specific *advantages/benefits*?

Disadvantages/Problems (please describe)

Advantages/Benefits (please describe)

III. Eyewitness Identification Processes

1) Does your State's Attorney's Office have the State's Attorney or an Assistant State's Attorney physically present during *eyewitness identification procedures* of *murder* suspects? (Check 1)

Never/Rarely _____

Sometimes _____

Most of the time _____

Always _____

2) Do you prefer the use of administrators of police line-ups who do not know which member of the line-up is the suspect, the so-called "blind" administrator method, if one is reasonably available? (Check 1)

_____ Yes, prefer "blind" administrator methods for police line-ups.

_____ No, do not prefer "blind" administrator methods for police line-ups.

_____ Do not have any opinion.

3) Are you satisfied with the current procedures used by police departments for eyewitness identification in murder cases? (Check 1)

Yes

No

If no, how do you believe line-up procedures in murder cases could be improved?

IV. Experiences with the Delivery of Murder Case Evidence by Police

1) Have you experienced any problems with police departments in your jurisdiction complying with the requirement that they provide all investigative files, materials, field notes, etc. to your office in every homicide case? (Check 1)

Not applicable/have not had any murder cases since the requirement.

No, there have not been any problems with police departments complying.

Yes, there have been problems with police departments complying.

If yes, please describe the problems experienced (i.e., handwritten reports difficult to work with, incompatible/lacking equipment to review recorded custodial interrogations, timeliness, missing pages/documents, etc).

2) When requested, how long does it *usually* take to obtain all of the investigative files, materials, field notes, etc. from police departments for a homicide case?

3) In the past 4 years, have you experienced delays in obtaining forensic lab results for murder cases that have delayed discovery or court proceedings?

Not applicable/have not had any murder cases in the past 4 years.

No

Yes

V. Experiences with Murder/Capital Case Trials Pre-Indictment

1) Since January 1, 2003, how many certificates to seek the death penalty has your office filed? _____

2) In general, do you believe that 120 days from arraignment is sufficient time to determine if the death penalty will be sought (i.e., a certificate to seek the death penalty is filed)? (Check 1)

- No
 Yes

3) Have you had any specific cases/experiences where the 120 days was not sufficient time? (Check 1)

- Not applicable/have not had any death-eligible cases since the 120 day requirement was implemented
 No
 Yes

If yes, please explain the circumstances where 120 days was not sufficient.

4) Do you believe that the new mitigating factor for mental and physical abuse or for diminished mental capacity has changed your office's decision to file a certificate to seek capital punishment? (Check 1)

- Not applicable/ have not had any death-eligible cases since 2003.
 No
 Yes

5) Are you satisfied with the factors utilized in the Illinois statute, and the process used in the court, to determine mental retardation? (Check 1)

- Yes
 No

If no, what aspect are you not satisfied with?

6) Do you believe that allowing depositions in capital cases improves the processing of these cases? (Check 1)

- Not applicable/ have not had any capital cases since 2003.
 No, depositions do not improve the processing of capital cases.
 Yes, depositions do improve the processing of capital cases.

If yes or no, please explain why or why not.

7) Do you believe that the number of factors that make a homicide case eligible for the death penalty should remain the same, be reduced or be expanded? (Check 1)

Remain the same

Reduced

Expanded

If reduced or expanded, what specific changes do you believe should be made?

8) Do you believe that the *cost* to your County of pursuing the death penalty reduces the likelihood that it will be sought? (Check 1)

No, the cost to the county does not reduce the likelihood that the death-penalty will be sought.

Yes, the cost to the county does reduce the likelihood that the death-penalty will be sought.

9) *Should* the cost of pursuing the death penalty be considered when determining whether it should be sought? (Check 1)

No, the cost should not be considered.

Yes, the cost should be considered.

10) Has your office experienced delays in receiving results from forensic laboratories in *death penalty* cases? (Check 1)

No

Yes

If yes, please explain or give examples.

11) Are you satisfied with the quality of the work product of forensic laboratories in *death penalty* cases? (Check 1)

Yes

No

If no, please explain and give examples.

VI: Experiences with Murder/Capital Case Trials Post-Indictment

1) Are juror questionnaires--questions proposed by the defense and prosecution, reviewed by the court to reach a consensus, and given to prospective jurors prior to *voir dire* —used in *capital cases* in your county? (Check 1)

Not applicable/have not had any capital cases involving a jury in the past 4 years

No

Yes

If yes, how are they created and do you find them useful?

2) Are case management conferences held in *every* murder case that are *potential* death-penalty cases (i.e., a certificate of intent to seek death has not yet been formally filed) in your jurisdiction? (Check 1)

Not applicable/ have not had any death-eligible cases since 2003.

No

Yes

If yes, please explain the process used by the court to make this determination/decision to hold case management conferences in potential death-penalty cases.

3) Do you believe case management conferences for death-penalty cases should be held in *open court*? (Check 1)

No, they should not be held in open court.

Yes, they should be held in open court.

4) Do you believe these case management conferences for death-penalty cases should be on the *court record*? (Check 1)

No, they should not be on the court record.

Yes, they should be on the court record.

5) Do you believe these *case management conferences* for death-penalty cases have improved the processing of death-penalty cases? (Check 1)

Not applicable/ have not had any death-penalty cases since 2003.

No, have not improved the processing of death-penalty cases.

Yes, have improved the processing of death-penalty cases.

If yes or no, please explain why or why not.

6) Has your office had experience with the statutory requirement of a pretrial hearing concerning the reliability of testimony of informants (i.e., "jailhouse" informants) in a capital case? (Check 1)

Not applicable/ have not had any murder cases since 2003.

No

Yes

If yes, what are your perceptions of this hearing?

7) Do you believe that the trial judges in capital cases tried in your county since 2003 have sufficient experience and competence to handle these cases? (Check 1)

Not applicable/ have not had any capital cases since 2003.

Yes

No

8) Do you believe that the defense bar in capital cases tried in your county since 2003 have sufficient experience and competence to handle these cases? (Check 1)

Not applicable/ have not had any capital cases since 2003.

Yes

No

9) Do you feel that there is a need for pattern jury instructions in death-eligible cases?

Yes

No

Are there any other things related to the reforms of how murder cases in general, and capital cases in particular, are processed through the justice system that you believe are important for the Capital Punishment Reform Study Committee to be aware of or consider? Feel free to add additional pages.



David E. Olson, Ph.D.
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February 29, 2008

NAME
ADDRESS

Dear Ms/Ms.:

Following the passage of a number of laws in 2003 related to how murder cases are investigated and prosecuted in Illinois, the General Assembly created the Illinois Capital Punishment Reform Study Committee (CPRSC). This Committee was charged with annually reporting to the legislature the experiences of Illinois' criminal justice agencies in implementing these laws and the impact changes to those laws have had on how murder cases are handled through the justice system.

Over the past two years, the CPRSC has held public hearings in Springfield and Chicago to obtain feedback regarding these changes to the law; however, the Committee recognizes that not all County Public Defenders are able to attend the hearings. Therefore, to ensure that all County Public Defender Offices have the ability to share their experiences and views of these changes as to how murder cases are handled, the CPRSC has asked that Loyola University Chicago assist them in performing research regarding the implementation and impact of these changes in the law.

The enclosed survey is designed to assist the CPRSC in its work and provide all County Public Defender Offices with the opportunity to provide their input. The survey is designed to obtain responses to similar questions from all County Public Defender Offices in Illinois so that the collective experiences of Illinois' local criminal justice agencies can be reported back to the Illinois General Assembly and other criminal justice policy makers in the state. In addition to this survey, we have also distributed a similar survey to all State's Attorney's Offices in Illinois.

Your completion of the enclosed survey is *completely voluntary*, but your participation is encouraged so that the analyses provided to the Illinois Capital Punishment Reform Study Committee and the Illinois legislature is as complete and representative as possible. Completion of the survey should take less than one hour.

All of your individual responses to the enclosed survey will be anonymous. Included on the survey is a randomly generated identification number. I am the only person who will know which ID number is associated with which agency, and once the survey is returned, I will destroy the document that contains the link between the ID number and the name of your agency. All that I will record is that your agency did respond, which is needed so that I can track response rates and report the extent to which the completed surveys received are representative of Illinois' criminal justice agencies. Thus, there will be no way to link the responses on any particular survey to any specific agency, and any

electronic data file created for this project will include only this randomly generated identification number and general information about the size (i.e., small, medium, or large; no murder cases, fewer than 10 murder cases, 10 or more murder cases) of the jurisdiction covered by your agency, which is needed to support the types of analyses requested by the Committee.

When we report our findings to the Illinois Capital Punishment Reform Study Committee we will aggregate the responses to the questions so that the responses of any individual agency are not known. If you have any questions regarding this research project, please contact Dr. David Olson at 312-915-7563, via e-mail at dolson1@luc.edu or by mail (Dr. David Olson, Loyola University Chicago, 820 North Michigan Avenue, Chicago, IL 60611). If you have questions about your rights as a research participant, you may contact the Compliance Manager in Loyola's Office of Research Services at (773) 508-2689.

It would be appreciated if you could complete and return the survey in the enclosed self-addressed stamped envelope by March 14rd, 2008. If you prefer, you can fax the survey to my attention at 312-915-7650.

Sincerely,

David E. Olson, Ph.D.
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Enclosure

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**Capital Punishment Reform Study Committee Public
Defender Office Administrator Survey**

Survey Number: _____

I. Office Staffing & Resources

1) How many full-time Assistant Public Defenders were employed by your office as of January 1, 2008?
Number = _____

2) How many of these full-time Assistant Public Defenders are members of the Capital Litigation Trial Bar?
Number = _____

3) Has the *training related to capital litigation* provided to the staff in your office met the needs of your office?
(Check 1)

_____ Yes

_____ No

If no, what additional training for members of the Capital Litigation Trial Bar do you believe is needed?

4) Have any public defenders in your office received any specialized training on the issue of mental retardation since 2005? (Check 1)

_____ No

_____ Yes

If yes, how would you describe the *quality* and *applicability* of the training provided?

5) Are the *number* of defense attorneys (either private or within the Public Defender's Office) who are members of the Capital Litigation Trial Bar sufficient to effectively handle death-eligible murder cases in your jurisdiction? (Check 1)

_____ No

_____ Yes

_____ Don't Know

6) Are there sufficient resources available to your office to handle *death-eligible* murder cases? (Check 1)

Yes

No

If no, what additional resources do you believe are needed for your office?

II. Experiences with the Recording of Interrogations of Murder Suspects

1) Since the statutory requirement took effect in July 2005 requiring complete electronic recordings of custodial interviews of murder suspects, were any *technical problems/failures* experienced with your office's receipt/review of recorded interrogations? (Check 1)

Not applicable/have not had any murder cases since the recording requirement

No, no technical problems/failures have not been experienced.

Yes, technical problems/failures have been experienced.

If yes, please provide a brief explanation of the problem(s) experienced.

2) Since the recording requirement took effect in July 2005, were any technical problems/limitations experienced with your office's *presentation of this evidence at trial* (i.e., courtrooms not equipped with necessary equipment, audio could not be heard by jury, etc)? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

No

Yes

If yes, please provide a brief explanation of the problem(s) experienced.

3) In your opinion, has the mandatory recording of custodial interrogations in murder cases changed the way *detectives* have conducted interrogations due to the knowledge that jurors will potentially view or hear these taped interrogations? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

Don't Know

No

Yes

If yes, please explain how (either positively or negatively) you believe this has changed their interrogation techniques.

4) Have recorded interrogations been instrumental in obtaining *acquittals* in murder cases? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

No

Yes

5) Has the availability of recorded interrogations/confessions in murder cases influenced decisions made by the State's Attorney's Office in your county regarding whether to seek the death penalty or not? (Check 1)

Not applicable/have not had any murder cases since the recording requirement.

Don't Know

No, has not influenced the decision regarding whether or not to seek the death penalty.

Yes, has influenced the decision regarding whether or not to seek the death penalty.

If yes, please explain how the availability of recorded interrogations/confessions influenced this decision. Please provide specific examples.

6) In your opinion, has the existence of recorded custodial interrogations/confessions in murder cases influenced the willingness of the defendant to plea bargain? (Check 1)

Not applicable/ have not had any murder cases since the recording requirement.

No, has not influenced defendant willingness to plea bargain.

Yes, has influenced defendant willingness to plea bargain.

If yes, please explain how or give specific examples.

7) In your opinion, has the existence of recorded custodial interrogations/confessions in murder cases influenced the willingness of the defendant to *seek a jury trial*? (Check 1)

_____ Not applicable/ have not had any murder cases since the recording requirement.

_____ No, has not influenced defendant to seek a jury trial.

_____ Yes, has influenced defendant to seek a jury trial.

If yes, explain how and give specific examples.

8) In your opinion, have electronic recordings of murder interrogations reduced the number of motions to suppress confessions or admissions owing to failure to give *Miranda* warnings, coercion, or use of improper interview tactics? (Check 1)

_____ Not applicable/have not had any murder cases since the recording requirement.

_____ No, has not reduced motions to suppress confessions or admissions.

_____ Yes, has reduced motions to suppress confessions or admissions.

If yes, please give specific examples.

9) In your opinion, have electronic recordings made it easier for *prosecutors* to obtain convictions in murder cases? (Check 1)

_____ Not applicable/have not had any murder cases since the recording requirement

_____ No, has not made it easier for prosecutors to obtain convictions in murder cases.

_____ Yes, has made it easier for prosecutors to obtain convictions in murder cases.

If yes, please give examples of how they were used to obtain convictions.

10) Since the statutory requirement took effect requiring electronic recordings of custodial interrogations of murder suspects, has your office been provided with recorded interrogations/confessions of any ***NON-MURDER*** cases? (Check 1)

Never/Rarely _____

Sometimes _____

Most of the time _____

Always _____

11) Do you believe that the requirement of complete electronic recordings of custodial interrogations should be expanded to include additional felony offenses? (Check 1)

No

Yes

If yes, what other types of felony offense interrogations do you believe should be recorded and why?

12) In your opinion, does the recording of interrogations have any specific *disadvantages/problems* or any specific *advantages/benefits*?

Disadvantages/Problems (please describe)

Advantages/Benefits (please describe)

III. Eyewitness Identification Processes

1) Do you prefer the use of administrators of police line-ups who do not know which member of the line-up is the suspect, the so-called "blind" administrator method, if one is reasonably available? (Check 1)

Yes, prefer "blind" administrator methods for police line-ups.

No, do not prefer "blind" administrator methods for police line-ups.

Do not have any opinion.

2) Are you satisfied with the current procedures used by police departments for eyewitness identification in murder cases? (Check 1)

Yes

No

If no, how do you believe line-up procedures in murder cases could be improved?

IV. Experiences with the Delivery of Murder Case Evidence by Police

1) Have you experienced any problems with police departments in your jurisdiction complying with the requirement that they provide all investigative files, materials, field notes, etc. to the State's Attorney's Office in every homicide case? (Check 1)

Not applicable/have not had any murder cases since the requirement.

Don't Know

No, there have not been any problems with police departments complying.

Yes, there have been problems with police departments complying.

If yes, please describe the problems experienced (i.e., handwritten reports difficult to work with, incompatible/lacking equipment to review recorded custodial interrogations, timeliness, missing pages/documents, etc).

2) When requested, how long does it *usually* take to obtain all of the investigative files, materials, field notes, etc. that the police provide to the State's Attorney's Office for a homicide case?

3) In the past 4 years, have you experienced delays in obtaining forensic lab results for murder cases that have delayed discovery or court proceedings?

Not applicable/have not had any murder cases in the past 4 years.

No

Yes

V. Experiences with Murder/Capital Case Trials Pre-Indictment

1) In general, do you believe that 120 days from arraignment is sufficient time for the State's Attorney's Office to determine if the death penalty will be sought (i.e., a certificate to seek the death penalty is filed)? (Check 1)

No

Yes

2) Have you had any specific cases/experiences where the 120 days was not sufficient time for the State's Attorney's Office to determine if the death penalty will be sought? (Check 1)

Not applicable/have not had any death-eligible cases since the 120 day requirement was implemented

No

Yes

If yes, please explain the circumstances where 120 days was not sufficient.

3) Do you believe that the new mitigating factor for mental and physical abuse or for diminished mental capacity has changed the State's Attorney's Office's decision to file a certificate to seek capital punishment? (Check 1)

Not applicable/ have not had any death-eligible cases since 2003.

Don't Know

No

Yes

4) Are you satisfied with the factors utilized in the Illinois statute, and the process used in the court, to determine mental retardation? (Check 1)

Yes

No

If no, what aspect are you not satisfied with?

5) Do you believe that allowing depositions in capital cases improves the processing of these cases? (Check 1)

Not applicable/ have not had any capital cases since 2003.

No, depositions do not improve the processing of capital cases.

Yes, depositions do improve the processing of capital cases.

If yes or no, please explain why or why not.

6) Do you believe that the number of factors that make a homicide case eligible for the death penalty should remain the same, be reduced or be expanded? (Check 1)

Remain the same

Reduced

Expanded

If reduced or expanded, what specific changes do you believe should be made?

7) Do you believe that the *cost* to your County of pursuing the death penalty reduces the likelihood that it will be sought? (Check 1)

No, the cost to the county does not reduce the likelihood that the death-penalty will be sought.

Yes, the cost to the county does reduce the likelihood that the death-penalty will be sought.

8) *Should* the cost of pursuing the death penalty be considered when determining whether it should be sought? (Check 1)

No, the cost should not be considered.

Yes, the cost should be considered.

9) Does the State's Attorney's Office in your county confer with your office prior to their decision to file a capital certificate?

Not applicable/ have not had any murder cases since 2003.

Yes, almost always

Yes, sometimes

No

10) Has your office experienced delays in receiving results from forensic laboratories in *death penalty* cases?

(Check 1)

No

Yes

If yes, please explain or give examples.

11) Are you satisfied with the quality of the work product of forensic laboratories in *death penalty* cases?

(Check 1)

Yes

No

If no, please explain and give examples.

VI: Experiences with Murder/Capital Case Trials Post-Indictment

1) Are juror questionnaires--questions proposed by the defense and prosecution, reviewed by the court to reach a consensus, and given to prospective jurors prior to *voir dire* —used in *capital cases* in your county? (Check 1)

Not applicable/have not had any capital cases involving a jury in the past 4 years

No

Yes

If yes, how are they created and do you find them useful?

2) Are case management conferences held in *every* murder case that are *potential* death-penalty cases (i.e., a certificate of intent to seek death has not yet been formally filed) in your jurisdiction? (Check 1)

Not applicable/ have not had any death-eligible cases since 2003.

No

Yes

If yes, please explain the process used by the court to make this determination/decision to hold case management conferences in potential death-penalty cases.

3) Do you believe case management conferences for death-penalty cases should be held in *open court*? (Check 1)

No, they should not be held in open court.

Yes, they should be held in open court.

4) Do you believe these case management conferences for death-penalty cases should be on the *court record*? (Check 1)

No, they should not be on the court record.

Yes, they should be on the court record.

5) Do you believe these *case management conferences* for death-penalty cases have improved the processing of death-penalty cases? (Check 1)

Not applicable/ have not had any death-penalty cases since 2003.

No, have not improved the processing of death-penalty cases.

Yes, have improved the processing of death-penalty cases.

If yes or no, please explain why or why not.

6) Has your office had experience with the statutory requirement of a pretrial hearing concerning the reliability of testimony of informants (i.e., “jailhouse” informants) in a capital case? (Check 1)

Not applicable/ have not had any murder cases since 2003.

No

Yes

If yes, what are your perceptions of this hearing?

7) Do you believe that the trial judges in capital cases tried in your county since 2003 have sufficient experience and competence to handle these cases? (Check 1)

Not applicable/ have not had any capital cases since 2003.

Yes

No

8) Do you believe that the prosecutors in capital cases tried in your county since 2003 have sufficient experience and competence to handle these cases? (Check 1)

Not applicable/ have not had any capital cases since 2003.

Yes

No

9) Do you feel that there is a need for pattern jury instructions in death-eligible cases?

Yes

No

Are there any other things related to the reforms of how murder cases in general, and capital cases in particular, are processed through the justice system that you believe are important for the Capital Punishment Reform Study Committee to be aware of or consider? Feel free to add additional pages.

ILLINOIS LABORATORY ADVISORY COMMITTEE

2006 Report

EXECUTIVE SUMMARY

Illinois Public Act 093-0784 (“the Act”) created the Illinois Laboratory Advisory Committee (herein referred to as “the Committee”). The Act mandates that the responsibilities of the Committee, among others, are to examine ways to make more efficient use of State laboratories, including facilities, personnel and equipment; to examine ways to reduce laboratory backlogs; to make recommendations regarding staffing and funding needs to ensure resources that allow for accurate, timely and complete analysis of all samples submitted for testing; and to make recommendations regarding accreditation and quality assurance as it applies to laboratory testing that will be in compliance with recognized International Organization for Standardization and applicable professional standards.

In this first report, the Committee has resolved to accomplish three simple but critical objectives:

1. To make a clear and compelling statement regarding the importance of scientific testing services provided by the State of Illinois.
2. To identify what the Committee considers to be a systemic and pervasive problem that is contributing to conditions that potentially threaten the well-being of the public.
3. To present a recommendation to address the problem at hand and ensure that the State’s capacity to provide adequate, timely, and accurate scientific services is preserved.

Importance of Scientific Testing

Scientific testing services provided by the State of Illinois have a direct impact on the safety, health, and general well-being of Illinois citizens. These scientific testing services include, for example, forensic science testing, environmental testing, materials testing, bio-terrorism testing and public health testing. It is necessary that the State of Illinois maintain an appropriate capacity to bring proactive and reactive scientific solutions to bear on the problems faced by the public on a daily basis.

Problem Statement

The committee believes some of the agencies responsible for providing the aforementioned scientific services may experience difficulties in their ability to deliver these services in a manner that consistently earns and retains the confidence of the public and its institutions. The tolerance of any potential decline, however innocent or incidental it may be, stands in opposition to the public’s intolerance for substandard scientific practices that place them at risk.

Committee Recommendation

The Committee requests that the executive and legislative branches work vigorously and diligently to remedy the concern described in the above problem statement. In doing so, the committee recommends that a full and complete review of scientific testing services be completed by the end of the 2006 calendar year to determine the following:

1. Do Illinois State laboratories have the necessary management, scientific and support staff to take on the challenges they will face in the future?
2. Does the funding allocated to each Illinois State laboratory reflect the degree to which the public relies on the services provided by the laboratory?
3. Is the funding allocated to each Illinois State laboratory sufficient for all laboratories to accomplish their missions in a high-quality and timely manner?
4. Does each State laboratory utilize its available resources in an efficient and effective manner?
5. Does each State laboratory conform to appropriate scientific and accreditation standards, as applicable to its particular mission?
6. Are the expectations of the public, executive branch, legislative branch, and judicial branch realistic given the current capacity of Illinois State laboratories to carry out scientific testing?
7. What problems currently faced by Illinois State laboratories represent a clear and present danger to the public's health and safety?

The Committee recognizes that it does not have the resources to gather and analyze the information necessary to independently carry out this recommendation. The members of the Committee, however, are eager to assist the State in any way possible. This is a worthy endeavor that has long-term implications for the health and safety of the public.

CURRENT CONDITIONS AND PROBLEMS

This section of the report will identify specific conditions that the committee has determined to be symptomatic of the root problem described in the executive summary. While there are other symptoms worthy of consideration and attention, the conditions described below have been singled out by the committee as having immediate urgency.

IEPA Laboratory Funding Decline

The Committee has discussed the fact that the laboratories of the Illinois Environmental Protection Agency (IEPA) face discontinuance of operations at the end of June 2007 due to budgetary shortfalls linked to a decreased participation in IEPA's Community Water Supply Testing Program

Over time, funding for some of IEPA's essential activities became dependent on drinking-water testing revenues. As that revenue was allowed to shift from IEPA to private testing labs, the state now faces the unintended consequence that its environmental testing labs may be forced to close.

The State of Illinois has a long history of providing chemical analyses for its citizens. The Illinois Department of Public Health (IDPH) laboratory system was established in 1904 and began testing drinking water early in its history. The testing of public drinking water was continued with the establishment of the IEPA in 1970 and chemical analysis was expanded to include streams, lakes, landfills, dumps and other areas of environmental concern.

The IEPA's laboratories test for critical chemical compounds that are not tested in any other State laboratory. Closing the IEPA laboratories will mean that the State's laboratory system would not be able to provide chemical analyses for routine environmental monitoring programs, industrial spills, accidents, train derailments or terrorist events.

Events such as the Formosa Plant explosion in Illiopolis illustrate the importance of the analytical resources available at the IEPA laboratories. Without the IEPA laboratories, the State would not have the testing capabilities needed to determine the nature and extent of chemical contamination following such events. Other critical chemical analyses unique to the IEPA laboratories include mercury analysis for fish advisory reports, toxic metals analysis, pesticide analysis and herbicide analysis. These capabilities would be lost as well.

A document that fully explains this critical situation is in **Appendix A**.

Inability to Fill Supervisory Positions in the State Laboratories

Many of the Illinois State laboratories have encountered problems in filling management positions since the restructuring of previously existing classification series to the existing Public Service Administrator and Senior Public Service Administrator classifications in the early 1990s.

Three currently insurmountable problems exist because of the PSA/SPSA classifications:

1. Inability to fill first-line supervisory positions.
2. Inability to fill higher-level supervisory positions through promotion.
3. Cap on salary for promotional increases.

Each of these problems interferes with maintaining effective supervision and management for administering a scientific testing laboratory. It impacts both the internal operations of each department and the user agencies to which the services are provided.

An appropriate and competitive series of position titles for compensating laboratory managers is not currently in place. In the absence of such a compensation structure, it becomes nearly impossible for laboratories to accomplish the following:

1. Fill first line supervisory positions.
2. Fill higher-level supervisory/managerial positions.
3. Compete with other science administrator positions nationally.
4. Ensure the highest quality of work and increase bench-level productivity.
5. Increase morale and decrease attrition of supervisors to bench-level positions or to other employers.

Individual State agencies have difficulties in fully and completely judging the quality and productivity of their laboratories. Therefore, agencies rely upon laboratory administrators/managers to develop and maintain an efficient, high-quality laboratory. The Committee believes that hiring and maintaining key personnel who are highly trained, educated, and experienced is fundamental to ensure quality analyses.

Appendix B contains a proposal for a new Science Administrator Series that was presented to the Committee for consideration. It is being included in this report as a viable option to address the above-described problems.

Laboratory Accreditation

The Act mandates that it is the responsibility of the Committee to make recommendations regarding accreditation and quality-assurance as it applies to laboratory testing. The Committee believes this is a top priority. To the extent that the public expects Illinois State laboratories to achieve a desired level of quality, the Committee believes laboratory accreditation is necessary to establish a quality-assurance framework that will allow Illinois State laboratories to demonstrate compliance with appropriate scientific standards. In doing so, the public institutions that depend on the reliability of laboratory testing results issued by the State will be afforded a higher degree of confidence.

The Committee has discussed formulation of a recommendation that calls for all laboratories engaged in the testing of samples for the purpose of reporting results, opinions, interpretations, or conclusions to a client, to obtain accreditation based upon standards set forth by the International Organization for Standardization (“ISO”) and/or other applicable professional organizations.

Future recommendations pertaining to accreditation, however, will be contingent upon the appropriation of additional incremental funding approximately equal to 15% of the laboratory's annual budget or, when this formula is deemed to be inadequate, an amount recommended by the Committee.

Appendix C contains additional information about laboratory accreditation.

CONCLUSION

This report highlights the importance of scientific testing in protecting the public and identifies the need for policy makers to adequately fund Illinois State Laboratories. The ability of the laboratories to perform testing is crucial to the ability of the State to detect infectious disease, monitor for public safety and health, detect bioterrorism, and participate in crime detection. The committee concludes that priority be given to Illinois State laboratories to enable them to provide accurate, timely, and professional scientific testing services. The committee is resolved to assist, to the best of its ability, all branches of government in this process. To do so is to take important steps toward protecting the lives of the citizens of Illinois.

APPENDIX A – IEPA LABORATORY SERVICES

The Champaign and Springfield laboratories of the Illinois Environmental Protection Agency face discontinuance of operations at the end of June 2007 due to an anticipated lower participation in the Community Water Supply Testing Program.

Background

The State of Illinois has a long history of providing drinking water analyses for the citizens of Illinois to ensure that their drinking water is safe. The Illinois Department of Public Health (IDPH) laboratory system was established in 1904 and began testing drinking water early in its history.

In 1970, many of the drinking water testing responsibilities for community water supplies were passed on to the newly formed Illinois Environmental Protection Agency (IEPA) along with expanded chemical analysis for streams, landfills, dumps and other areas of environmental concern.

From the IEPA's beginning, the Division of Laboratories, which is now comprised of laboratories in Springfield and Champaign, performed nearly 100% of the chemical and microbiological analysis for drinking water from the community water supplies in the State. The IEPA's drinking water analyses were paid for through General Revenue Funding (GRF) for many years at no cost to the community water supplies as required by the Illinois Environmental Protection Act.

The drinking water program requirements expanded considerably due to the USEPA's 1986 Amendments to the Safe Drinking Water Act. These new requirements meant that the Illinois EPA laboratories had to greatly expand testing capabilities and find a way to pay for the new analyses.

To pay for this testing, The Illinois Environmental Protection Act was amended by Public Act 86-670 (Act) - and again amended by Public Act 92-0147 - to establish the Community Water Supply Laboratory Fund (Fund) in January of 1990. The Community Water Supply Testing Council (Council) was also established by the Act to review and approve the fees charged to the community water supplies by the IEPA for the drinking water testing program (Program). The drinking water supplies that opted into the Program contributed to the Fund. The Act also allowed community water supplies to choose not to participate in the Program. The community water supplies that opted out of the Program were responsible for finding other laboratories to perform the required analysis.

Initially the drinking water analysis costs were shared between the IEPA and the community water supplies with 50% of the costs coming from GRF and 50% of the costs coming from the Fund. At this point the participation rate among the supplies was at 93%.

During a State budget crisis in 1992, the 50% GRF contribution was withdrawn and the drinking water testing was completely funded from the fees collected from the community water supplies. At about the same time commercial laboratories began ramping up their operations and expanding their drinking water chemical and microbiological analysis capabilities and the decision whether to "opt in" or "opt out" of the Fund became a three-year commitment for the supplies – if the supplies "opted in" they had to stay in the Program for three years and were guaranteed no cost increases for the duration of the three-year cycle.

Over the last few three-year cycles of the Program, the commercial laboratories have continued to make inroads into the drinking water testing program and fewer and fewer community water supplies have opted into the Program. In June 2004, the IEPA laboratories had a major layoff because of another downturn in participation in the Program. Each community water supply will have their next opportunity to make the decision on where to send their samples late in 2006. With current participation at 58%, the IEPA's Springfield and Champaign laboratories may not survive another drop in participation.

The Importance of Maintaining an IEPA Laboratory Presence:

The Program was structured to ensure that the smaller supplies could afford the costs of having their drinking water tested. The fees for the chemical and microbiological testing were structured so that smaller community water supplies paid at a much lower rate than the larger community water supplies. As a result, most of the smaller community water supplies participate in the Program. Closing the IEPA laboratories could mean that the smaller supplies may not be able to afford laboratory analysis and be in non-compliance with drinking water regulations.

The IEPA's Springfield and Champaign laboratories test for critical compounds that are not done in any other State laboratories. Closing the IEPA laboratories will mean that the State's laboratory system will not be able to respond fully in many chemical spill events, accidents or terrorist events. IDPH, which had the only other once offered laboratory system to once offer similar analyses, has closed their environmental laboratory division. Commercial laboratories would not be obligated to make the State's emergency samples the first priority.

Closing the IEPA laboratories will mean that commercial laboratories would do all routine chemical analysis for the State's environmental programs. The State laboratory system would lose many critical testing capabilities including mercury analysis, toxic metals analysis, pesticide analysis, herbicide analysis and volatile analysis including gasoline components.

Closing the IEPA's Springfield and Champaign laboratories would mean that the State would lose the ability to analyze for commonly found pollutants in drinking water. The State would be dependent on the commercial laboratory sector to analyze drinking water and would have less control over prioritizing emergency water sampling.

The IEPA laboratories' funding needs for the Program help determine what the commercial laboratories will charge the community water supplies for drinking water analysis. Without the IEPA's input, the community water supplies costs for analysis at the commercial laboratories may rise.

The IEPA's laboratories have no profit motive and have no motivation to take short cuts on data quality or data integrity issues. Recent media reports have shown that data fraud and data integrity problems are more common in commercial laboratories.

The IEPA's laboratories are the only State laboratories currently capable of analyzing fish for organic and inorganic pollutants including mercury. The fish analysis is done in a cooperative effort between the IEPA, the Illinois Department of Public Health and the Illinois Department of Natural

Resources. The fish data is used in an annual fish advisory report issued by the IDPH. Very few commercial laboratories offer fish analysis.

The IEPA's laboratories are National Environmental Laboratory Program (NELAP) accredited and were among the first group in the country to receive this accreditation, the highest accreditation available to environmental laboratories. Not all commercial laboratories have NELAP accreditation and therefore may not be able to produce high quality, legally enforceable data.

The IEPA laboratories analyze fluoride in drinking water for IDPH. If the IEPA laboratories could no longer provide this data, either the IDPH would have to develop this analysis or the community water supplies would have to find laboratories and pay to have the analysis done.

The IEPA laboratories serve as a 10-year repository for samples and data that may be used in criminal or civil court cases. Closing the IEPA laboratories would jeopardize any pending cases. No court case has ever been lost due to inconsistent or inaccurate results from the IEPA laboratories. Commercial laboratories could have conflicts of interest in court cases depending on the clients it served or go out of business jeopardizing the court cases.

Nearly every IEPA decision, from drinking water compliance to landfill permits, can be traced back to a laboratory analysis. Safe drinking water and an environment free of toxic pollutants is on the front lines of the public health of everyone in the State and should be analyzed in the public sector to ensure good quality data. The IEPA needs to maintain a laboratory to ensure that the needed testing can be done to support the ongoing needs of the various IEPA programs and ensure the health of the citizens of the State.

APPENDIX B– SCIENCE ADMINISTRATOR SERIES

The Act mandates that it is the responsibility of the Committee to make recommendations regarding staffing and funding needs to ensure resources to obtain accurate, timely and complete analysis of all samples submitted for testing; to make recommendations regarding training procedures to ensure training is conducted consistent with recognized scientific procedures; and to examine ways to reduce laboratory backlogs and to make more efficient use of the State laboratories, including facilities, personnel and equipment.

This appendix includes a proposed Science Administrator Series that would be a more adequate and accurate position structure and ensures that the best candidates are selected to serve as managers, supervisors and administrators. This would attract the highest caliber of leaders to pursue the mission of all state scientific laboratories.

Current Conditions and Problems

The current PSA/SPSA series has not met the needs of the Illinois State laboratories. During the time this series has been in-place, the State has encountered increasing difficulty in filling science supervisor/manager positions. The more common problems have been:

1. Inability to fill first line supervisory positions.

Science supervisors/managers are drawn from the highest bench level scientist series. Unfortunately, employees at this level have seen a much better salary progression if they remain as scientists until such time as they have reached the highest salary level as a senior scientist. For example, within the Illinois State Police, several scientists who did accept a first-line supervisory position early in their careers soon found that their subordinates and former peers were, in a matter of a few years, making a much higher salary. Subsequently, due to this pay disparity, state agencies have been unable to fill several supervisory positions. A few individuals asked to return to the bench, while other qualified individuals who learned of the potential salary disparity, decided not to interview for management positions. Still others were lost to private industry once they had an experience level that made them desirable candidates.

2. Inability to fill higher-level supervisory positions.

Many of the higher-level positions are difficult to fill using the current PSA/SPSA titles. The reasons are similar to what has been described above in 1. Additionally, the SPSA title is used for multiple levels. For example, within one state agency, it is not uncommon to have five levels of managerial oversight all within the SPSA title. The result is all higher supervisory levels have the potential for making the same salary. Often, accepting a higher level supervisory position also requires the individual to make a geographical move. Thus, there is very little incentive for an SPSA to move to a position of higher responsibility and to advance within the organization.

3. Cap on salary promotional increases.

The salary disparity issue is compounded by state rules of a 15 percent maximum increase upon promotion. Some departments have an even smaller promotional increase cap, i.e. 8%. The ability to place individuals at a salary that is commensurate

with the level of responsibility, regardless of the percent increase, would attract additional qualified individuals to supervisory/managerial levels.

Proposed Solution

The recommended solution is for CMS to establish a Science Administrator Series. The establishment of the series would accomplish the following:

1. Filling of first line supervisory positions by the most qualified individuals.
The recommended series has the initial salary level of the first line supervisor equal to the highest step of the most senior bench scientist. Thus, qualified less tenured scientists who are extremely capable analytically and have supervisory potential are compensated adequately for the increased responsibilities they assume. They would not be concerned about their subordinates with equivalent time in service exceeding their salary level. As a result, critical vacancies will be filled.
2. Filling of higher-level supervisory/managerial levels.
The recommended series has several managerial levels corresponding to increasing levels of responsibility. The salary structure has been designed so that each level has greater potential earning capability. This structure eliminates the current problem of several levels having the same maximum salary. Because of the potential for greater salary compensation with the new series, vertical movement to higher levels will be attractive to more qualified candidates.
3. Competitive salary levels with other science administrator positions nationally.
The new scale places state scientific managerial levels in a scale consistent with other comparable laboratories. This fact will facilitate the ability of the state laboratories to recruit nationally the most qualified managers for their departments. The ability to recruit nationally has been and will continue to be very critical since early retirement incentives have drained state agencies of experienced scientific administrators.
4. Higher quality work, increased bench level productivity and thus increased cost savings.
Another advantage to the proposed series is that it is actually cost effective and will save the state money over time. Having the best scientific managers/leaders in place will result in a higher quality work product, increased bench level productivity, innovation into new, more efficient and effective techniques, and thus increased cost savings.
5. Increased morale and decreased attrition of supervisors to bench level positions or to other employers.
Supervisory salaries commensurate with responsibilities, and thus higher than subordinate salaries, will result in increased morale and decreased attrition. Consequently, the supervisors will remain in their positions longer, gain more expertise in their specific managerial duties, and create stability within the laboratory setting. All of these factors will lead to increased productivity and efficiency, again saving money.

**SCIENCE ADMINISTRATOR
Proposed Salary Structure**

FY07

SA I	(Step 8 of FS III - starting point) *\$ 6,416 mo. - \$ 8,020 mo. (25% range) \$76,992 yr. - \$ 96,240 yr.
SA II	*\$ 6,865 mo. - \$ 8,581 mo. (25% range) \$82,380 yr. - \$ 102,972 yr.
SA III	*\$ 7,346 mo. - \$ 9,183 mo. (25% range) \$88,152 yr. - \$ 110,196 yr.
SA IV	*\$ 7,860 mo. - \$ 9,825 mo. (25% range) \$94,320 yr. - \$ 117,900 yr.
SA V	*\$ 8,410 mo. - \$ 10,513 mo. (25% range) \$100,920 yr. - \$ 126,156 yr.
SA VI	*\$ 8,999 mo.- \$ 11,249 mo. (25% range) \$107,988 yr. - \$134,988 yr
SA VII	*\$ 9,629 mo.- \$ 12,036 mo. (25% range) \$115,548 yr. - \$144,432 yr

* Indicates 7% increase from title to title (monthly range)

**SCIENCE ADMINISTRATOR
Comparisons of Current Salaries**

7/1/05 Salary Forensic Scientist III Step 8 (FY06)	\$5,987*
1/1/06 Salary Forensic Scientist III Step 8 (FY06)	\$6,167*
7/1/06 Salary Forensic Scientist III Step 8 (FY07)	\$6,352*
1/1/07 Salary Forensic Scientist III Step 8 (FY07)	\$6,416*
7/1/07 Salary Forensic Scientist III Step 8 (FY08)	\$6,673*
1/1/08 Salary Forensic Scientist III Step 8 (FY08)	\$6,873*

* Does not include \$25 or \$50 longevity increases

Current range for PSA	\$2,996 - 6,558
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Current range for SPSA	\$4,330 - 9,705
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APPENDIX C - ACCREDITATION

The International Organization for Standardization (ISO) is a federation of standardization bodies from over 110 countries. ISO's activities include the organizing of international committees and the writing of standards to include standards for testing laboratories (ISO 17025). Accreditation is defined as "formal recognition that a testing laboratory is competent to carry out specific tests or types of tests" (ISO Guide 2).

Accredited laboratories are recognized by an independent third party to have met all applicable quality standards. By meeting these standards, accredited laboratories demonstrate their capacity to deliver reliable results and provide to their clients greater confidence in these results. Accreditation is both a time consuming and expensive process; however, its benefits, in terms of continued quality improvement, will be evident through increased public trust that Illinois State laboratories provide accurate, reliable analyses. In the future, the Committee will make recommendations regarding the following:

- 1) type(s) of accreditation suitable for each laboratory;
- 2) resources necessary to achieve/maintain accreditation;
- 3) a timetable for achieving accreditation.

Although many State laboratories are accredited, there is no overlying framework as to the expectations of the State regarding accreditation.

2007 Annual Report

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ILLINOIS LABORATORY ADVISORY COMMITTEE (Public Act 093-0784)

Executive Summary

The Illinois Laboratory Advisory Committee (ILAC), formed under Public Act 093-0784, is responsible for providing recommendations to the office of the Governor, legislature, Supreme Court, and other legislative entities in matters pertaining to scientific testing services provided by State laboratories.

The following is a brief summary of the recommendations that our committee has thoughtfully and carefully prepared for this report:

Section 1: Science Administrator Salary Discrepancies

The committee recommends an immediate and complete correction of the unacceptable salary discrepancies that have developed among the leadership of Illinois' scientific laboratories.

Section 2: Post-Conviction Forensic DNA Testing

The committee recommends that the Illinois legislature require laboratories engaging in post-conviction DNA analysis to be accredited by the American Society of Crime Laboratory Directors / Laboratory Accreditation Board (ASCLD/LAB) or an accrediting body that accredits crime laboratories against both the ISO 17025 international standard and the G19 standard published by the International Laboratory Accreditation Cooperation.

Section 3: Laboratory Services Database

The committee recommends the funding, completion, publication, and maintenance of an online Illinois Laboratory Services Database that allows law enforcement, public health, and homeland security officials to respond more appropriately to potential threats by researching the capabilities and service provided by Illinois laboratories.

Section 4: Follow-up on Committee Recommendations

The committee recommends that the ILAC chair follow-up with the appropriate legislators and offices to ensure that committee recommendations are being considered and acted upon.

ILLINOIS LABORATORY ADVISORY COMMITTEE

(Public Act 093-0784)

Section 1: Science Administrator Salary Discrepancies

The committee recommends an immediate and complete correction of the unacceptable salary discrepancies that have developed among the leadership of Illinois' scientific laboratories.

Committee Comments

The committee is compelled, once again, to draw attention to the intolerable and dangerous situation that has developed within the management structure of Illinois laboratories. New and more lucrative labor contacts have increased the salaries of bench-level scientists while management salaries have remained stagnant for several years. Multiple instances exist where bench-level scientists are being compensated at a higher rate than the supervisors and directors to whom they report.

Even the most fundamental human-resource management principles dictate that this is a recipe for organizational collapse. But more importantly, the implications that this problem has for the safety and health of the public are considerable. As the ability of our laboratories to encourage their best and brightest employees to accept leadership positions becomes increasingly limited, there will be fewer individuals with the skills and attributes needed to lead Illinois laboratories in their mission to protect the citizens of Illinois.

What can be expected as a result of this problem are the following:

- increased case backlogs
- delayed testing results
- instances of incompetence or misconduct
- a decreased capacity of our criminal justice system to adjudicate its cases in a timely fashion
- a decreased ability to bring the full capabilities of State laboratories to bear on matters pertaining to public health.
- an overall decline in the quality of life in Illinois

Strong leadership is the cornerstone of any healthy organization; therefore, this recommendation has long-term significance that must be considered carefully – and quickly. In its 2006 report, the committee proposed a salary structure that would provide assistance and guidance in remediating this problem. It is recommended that this report be acted upon as soon as possible.

Section 2: Post-Conviction Forensic DNA Testing

The committee recommends that the Illinois legislature require laboratories engaging in post-conviction DNA analysis to be accredited by the American Society of Crime

ILLINOIS LABORATORY ADVISORY COMMITTEE

(Public Act 093-0784)

Laboratory Directors / Laboratory Accreditation Board (ASCLD/LAB) or an accrediting body that accredits crime laboratories against both the ISO 17025 international standard and the G19 standard published by the *International Laboratory Accreditation Cooperation*.

Committee Comments

Post conviction DNA testing is influenced by a number of factors that are different from other cases processed by forensic science laboratories. In many instances, post-conviction DNA samples are old, deteriorated, and were likely subjected to previous laboratory testing that left little DNA behind for extraction. This means that a laboratory likely has only one opportunity to successfully extract DNA for profiling.

For this reason, it is clearly in the State's interest to ensure that forensic science laboratories demonstrate conformance to published scientific and professional standards before testing post-conviction DNA samples. This is best accomplished through crime laboratory accreditation, which has been in existence for nearly a quarter-century, and is currently required by the Federal Government for laboratories seeking to upload DNA Profiles to the national databank. The accreditation programs described in our recommendation are based on comprehensive standards that are specific to forensic science.

The committee makes no distinction between a laboratory and a scientific expert who may not claim an association with a particular laboratory. All forensic scientists, for the purpose of this recommendation, are assumed to be associated with a laboratory.

Section 3: Laboratory Services Database

The committee recommends the funding, completion, publication, and maintenance of an online Illinois Laboratory Services Database that allows law enforcement, public health, and homeland security officials to respond more appropriately to potential threats by researching the capabilities and service provided by Illinois laboratories.

Committee Comments

The proposed database will serve the laboratory information needs of the Illinois Terrorism Task Force (ITTF) but will also provide a valuable and useful resource for the state laboratory community and those in the state who wish to access the services of that community. The database also would provide the foundation for a information resource that includes all laboratories, public and private, within the state.

The ILAC further recommends that the funding necessary to complete the development of the database be made available to the database developers as soon as possible. The Committee encourages ITTF or another state entity to commit resources to provide the modest funding required, preferably during the State's fiscal year 2007 with a targeted completion date of no later than August 31, 2007.

ILLINOIS LABORATORY ADVISORY COMMITTEE (Public Act 093-0784)

Section 4: Follow-up on Committee Recommendations

The committee recommends that the ILAC chair actively pursue feedback and updates from appropriate legislators and offices to ensure that committee recommendations are being considered and acted upon.

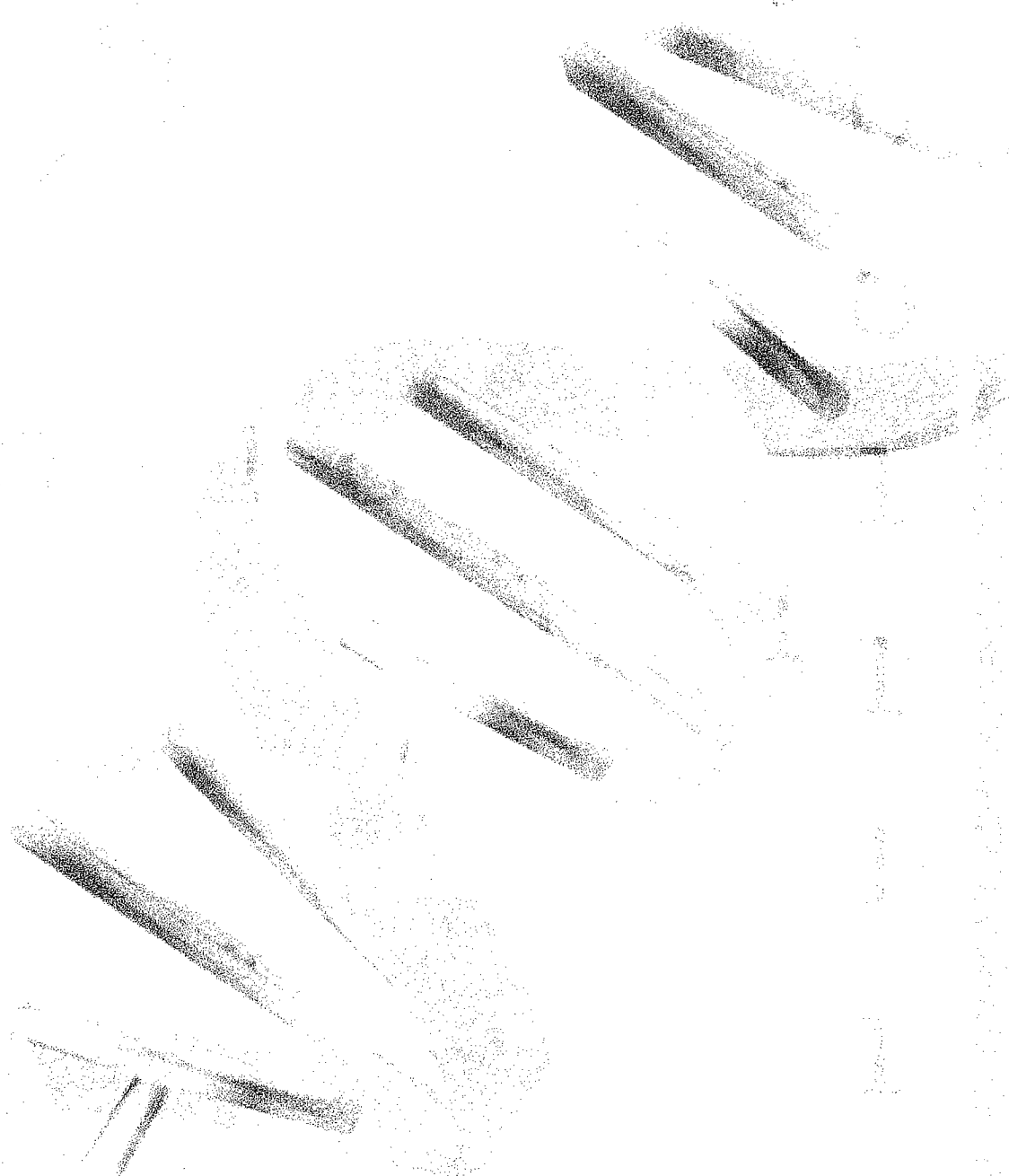
Committee Comments

The committee recognizes that it was not created for public advocacy. Instead, the role of the committee is to carefully and thoughtfully recommend courses of action that allow scientific testing laboratories in Illinois to more effectively serve Illinois citizens.

At the same time, it is impossible for the committee to meet its responsibilities without seeking feedback and progress-updates on the recommendations that it has formulated. While this should not be construed as advocacy, the committee has an interest in confirming that each recommendation has been received, is understood, and will be dispositioned in a time-frame that is appropriate for the significance of the matter at hand.



FY 2007 DNA Testing Accountability Report



in accordance with Public Act 094-1018





Illinois State Police FY 2007 DNA Testing Accountability Report

OVERVIEW

By statute, the Illinois State Police (ISP) provides forensic science services to about 1,500 criminal justice agencies. The ISP forensic science laboratory system, established in 1942, is recognized as the third largest crime laboratory system in the world, following the Forensic Science Services in Great Britain and the Federal Bureau of Investigation (FBI) in Washington, D.C. The system, encompassing eight operational laboratories and a Research and Development laboratory, processes cases in the following specialty areas: drug chemistry, trace chemistry, toxicology, microscopy, forensic biology/DNA, latent prints, firearms/toolmarks, and questioned documents. Each operational laboratory has the responsibility of serving a particular geographical region of the state by providing forensic science analysis of evidence collected from crimes which occur within that area. Evidence pertaining to these crimes can be received by the operational laboratory from any criminal justice agency in that region. In Fiscal Year 2007, the ISP laboratory system received 122,815 cases and analyzed 119,045 cases.

During FY 2007, ISP laboratories were accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) as well as the International Organization for Standardization (ISO). ISO accreditation was granted in 2005 by Forensic Quality Services – International (FQS-I) under ISO/IEC 17025:2005 and FQS-I Forensic Requirements for Accreditation. The approximately 500 employees assigned to the Forensic Sciences Command – Forensic Scientists, Evidence Technicians, Forensic Science Managers, and support staff – adhere to both the ASCLD/LAB and the ISO accreditation criteria and standards to ensure the laboratories produce quality work.

THE DNA PROGRAM

The ISP DNA Program consists of two components: **casework** and **convicted offenders**. The **casework** component involves evidence from crime scene cases submitted to the ISP laboratories by state and local law enforcement agencies for forensic biology/DNA analysis. To ensure the needs of the criminal justice system are met, each ISP laboratory works with the law enforcement and criminal justice agencies to prioritize cases based on investigative and court needs. The first step in the analysis is the detection and identification of a biological stain; the next step is to establish a DNA profile from the stain. The DNA profile is compared to known standards from the victim and suspect. If a suspect is not known, the profile is entered into and searched against the state and national DNA database known as the COmbined DNA Index System or CODIS. In the **convicted offender** component of the ISP DNA Program, all convicted felons in Illinois are required to submit a biological sample for DNA typing and inclusion in CODIS. In CODIS, when an unknown DNA profile from a crime scene stain matches a known offender DNA profile or an unknown DNA profile from one crime matches an unknown DNA profile from another crime, this is referred to as a "hit." The above described program gives police the ability to identify possible suspects to a crime or link crime scenes, thus providing crucial investigative information to help solve the crime.

In recent years, there has been an increased interest in the use of DNA in casework. In FY 2004, the ISP received 2,386 DNA cases and in FY 2007, ISP received 3,559 cases. The number of DNA cases received in FY 2007 represents only 2.9% of the total cases received in the ISP forensic laboratory system for that year.

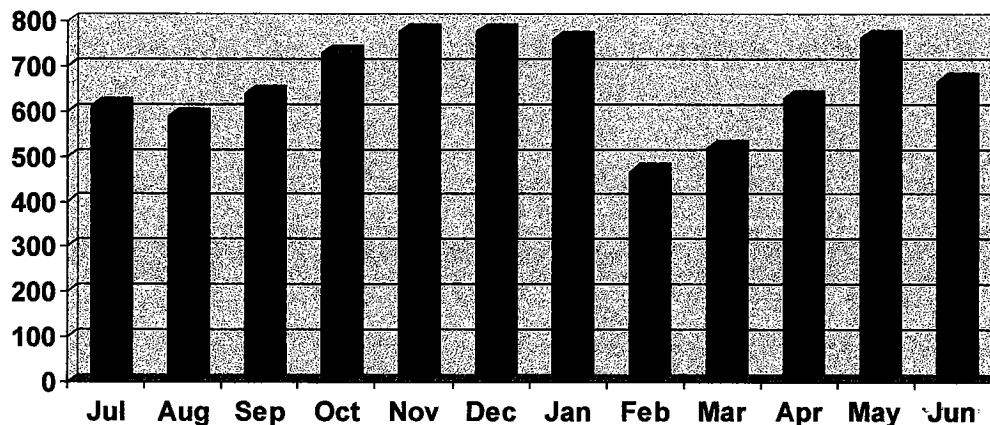
PRIORITIZATION OF CASES

To ensure the needs of the criminal justice system are met, each ISP laboratory works with the law enforcement and criminal justice agencies to prioritize cases based on investigative and court needs. Factors considered in the prioritization process include whether the case has an established court date, has a subpoena or court order associated with the forensic analysis, is a high profile or rush case, and is a violent crime. This priority system is utilized to ensure court dates are not missed and rush cases are completed to meet the needs of the agencies.

DNA CASE BACKLOG

Individuals performing DNA analysis are highly trained and require specialized laboratory space and equipment to conduct their tests. When the number of cases submitted to the laboratory exceeds the capacity of the laboratory staff to conduct the analysis within a 30 day time period, a "backlog" occurs. The monthly DNA casework backlog for FY 2007 is shown in the following chart. The backlog of cases awaiting DNA analysis fluctuated during the year, ranging from a high of 778 in November and December 2006 to a low of 467 in February 2007. By the end of FY 2007, the backlog was 668 cases with a turnaround time of 72 days. In June 2006 due to a number of factors, the ISP stopped routine outsourcing of DNA cases. This enabled ISP to redirect resources which had been devoted to outsourcing toward validating and implementing new technologies in an effort to improve efficiency and build in-house capacity. As expected, this action caused a slight rise in the DNA backlog during FY 2007 while new analysts and evidence technicians were hired and trained; new instrumentation and techniques were evaluated, validated and implemented; and ISP DNA laboratories explored and instituted new, more efficient approaches to casework. Additional improvements, such as the use of robotics, are currently in progress with positive impacts on the backlog anticipated for FY 2008.

FY 2007 Monthly DNA Case Backlog



Quality Assurance Problems

As part of the ISP's commitment to providing high quality services to the law enforcement community, the forensic laboratory system has an extensive QA program to provide assurance that the system is performing adequately. The emphasis of the QA program is on prevention and/or correction of analytical problems, and providing a course of action if the quality of work/results is questioned.

In late July 2005, the ISP experienced quality assurance problems with a private outsourcing vendor, The Bode Technology Group, Inc. The ISP discovered the problem through in-house QA mechanisms. A new contract was negotiated with Orchid Cellmark. During the period covered by this report, the ISP and Orchid Cellmark reworked 1,127 cases which were originally outsourced to Bode to ensure proper results were obtained and reported.

Chicago Police Department Backlog IV

In August 2005, the ISP was notified by the Chicago Police Department (CPD) of 1,091 additional sexual assault kits, some dating back to 1996, which had never been submitted by the CPD to the ISP laboratory. Submission of these cases, informally referred to as "Backlog IV", began in 2006 and continued into FY 2007. All the identified cases have now been submitted. As of June 30, 2007, eighty of the most recent cases are not yet completed and are included in the backlog of cases to be worked.

Harvey Police Department Backlog

In April 2007, the ISP was notified by the Cook County State's Attorney's Office (CCSAO) of approximately 300 sexual assault cases investigated by Harvey Police Department which may not have been submitted to the ISP's Joliet Forensic Science Laboratory. Some of these cases date back to 1997 and were approaching the statute of limitations date. After an audit of 300 case reports by the CCSAO, the estimate was reduced to only 60 cases which had not yet been submitted to the laboratory. As of June 30, 2007, thirty-five of these cases were submitted. All cases from 1997 were completed prior to the statute of limitations expiration. The remaining 25 cases are anticipated for submission in FY 2008, although additional review by the CCSAO may slightly increase this estimate. Because the ISP was notified of the existence of these 25 cases prior to June 30, 2007, they are calculated into the figures for FY 2007 even though they are not yet in the custody of the ISP laboratory, in accordance with the statute.

Funding

The Department has increased spending on the DNA Program, including both casework and offender samples, from \$15.3 million in FY 2004 to \$16.4 million in FY 2007. As part of this total, the ISP expended \$3.1 million in FY 2007 from the State Offender DNA Identification System Fund, an increase of \$2.4 million over the spending in FY 2004 of \$0.7 million. As in recent years, the ISP continues to aggressively pursue federal dollars to supplement state funding to reduce the DNA backlog and build in-house capacity. Through the Illinois Criminal Justice Information Authority and the National Institute of Justice, the ISP has spent nearly \$1.2 million in FY 2007 funding from the following grant programs: NIJ 2004 DNA Capacity Enhancement (\$110,000), NIJ 2004 DNA Casework Backlog Reduction (\$545,566), NIJ 2005 DNA Capacity Enhancement (\$5,000), NIJ 2005 DNA Casework Backlog Reduction (\$450,000), NIJ 2005 DNA Convicted Offender Backlog Reduction (\$36,927), and NIJ 2006 DNA Convicted Offender Backlog Reduction (\$4,000).

Hiring and Training

The targeted FY 2008 headcount of 83 fully trained scientists is currently needed to analyze DNA case work within the goal of 30 days. Headcount may need to increase in future years, depending on the number of cases submitted. As of June 30, 2007, there were a total of 83 on board: 59 FB/DNA forensic scientists are working on cases or case-related assignments, three are temporarily assigned as training facilitators or acting group supervisors, and 21 are in

training. Attrition rates between 11–15% for forensic scientists over the past several years have made it exceedingly difficult to obtain and maintain the target staffing level but progress is being made. Training of FB/DNA Forensic Scientist Trainees (FSTs) in both forensic biology and DNA techniques takes approximately 18 months. During the period of this report, seven (7) FB/DNA FSTs who were hired in October 2005 completed training in January/February 2007. Of the 15 FB/DNA FSTs who were hired in August 2006, one subsequently resigned; the remaining 14 are expected to complete their training in February 2008. Seven (7) additional FSTs were hired and began training in May 2007; they are expected to complete the forensic biology portion of their training in November 2007.

DNA Backlog and Outsourcing Analysis

	FY02	FY03	FY04	FY05	FY06	FY07
Unworked cases as of June 30 of previous FY	1,997	1,460	1,022	175	221	830
Cases received in the labs	2,138	1,700	2,386	3,505	4,790	3,559
Cases worked in the labs	(1,024)	(809)	(1,267)	(839)	(2,576)	(2,830)
Cases outsourced with grants	(100)	(297)	(283)	(174)	(1,026)	(216)*
Cases outsourced with additional state funding	(1,551)	(1,032)	(1,683)	(2,446)	(579)	(431)*
Total number of pending cases 30 days or less	N/A	N/A	N/A	221	204	259**
Total number of backlog cases over 30 days	1,460	1,022	175	0	626	668

* 320 cases were sent for outsourcing in June 2007 (FY07) but because of when the analysis will be complete, the vendor will be paid from FY08 funds. Of these cases, approximately 216 will be paid with FY08 grant funds and the remainder from FY08 state funds.

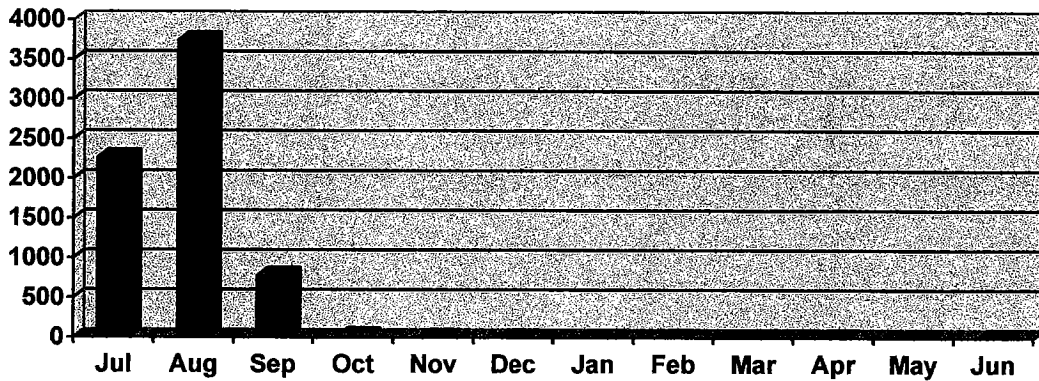
** Approximately 25 additional unsubmitted forensic biology cases are anticipated from Harvey PD, of which 15 are projected to be suitable for DNA analysis. These 15 have been added to the pending case total.

OFFENDER SAMPLE BACKLOG

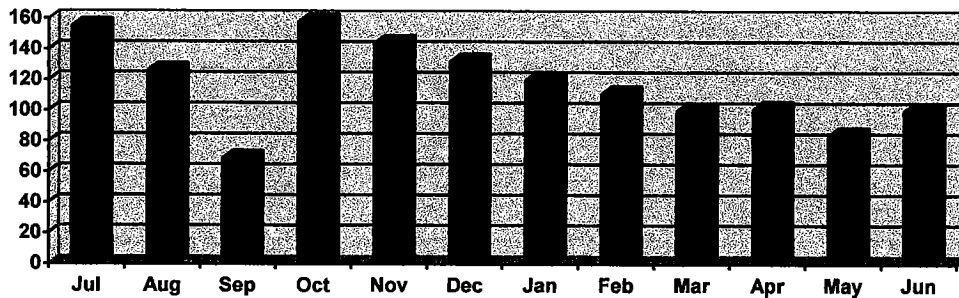
The COmbined DNA Index System (CODIS) is overseen by the FBI and implemented by the Illinois State Police at the state level. The offender portion of this system contains DNA profiles of individuals convicted of felonies as well as a few other eligible offenses. Samples collected from offenders are submitted to the Indexing Unit of the Springfield Forensic Science Laboratory, where they are analyzed and uploaded to the CODIS database. The ISP received 47,459 new offender samples during FY 2007 and completed analysis of 46,647 of those samples by the end of June 2007. As of June 30, 2007, there were 264,629 offender profiles and 14,681 crime scene profiles in the DNA database. There were also a total of 4,890 hits with 4,029 possible perpetrators identified (offender to case hits) and 861 serial crimes (case to case hits) detected. There have been 565 national associations. All 50 states, plus the FBI and US Army laboratories, participate in CODIS. Through May 2007, Illinois was second in the nation in the number of investigations aided by CODIS.

A backlog occurs when the number of samples submitted exceeds the laboratory's capacity to analyze them within 30 days. The following chart illustrates the monthly laboratory backlog in FY 2007. At one point in FY 2006 (March 2006), there were 7,826 offender samples on the backlog. During FY 2007, the backlog was eliminated and has been maintained at zero since November 2006. This was achieved without outsourcing, through proper staffing and implementation of more efficient technologies and practices which increased in-house analytical capacity. Unless there are unanticipated major personnel losses, equipment problems and/or immediate changes to current convicted offender statutes, the backlog is expected to remain zero.

FY2007 Monthly DNA Offender Sample Backlog



FY2007 Monthly CODIS Hits



NOTE: With both DNA casework and convicted offender samples, the backlog is just a snapshot of the workload at any given point in time. Legislation, crime rates, new technology, and available resources all impact this statistic.



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MEMO

To: The Capital Punishment Reform Study Committee

From: Jennifer Bishop-Jenkins

Date: March 4, 2008

Re: A summary of victim issue concerns, especially related to capital murder cases

When I testified in 2007 before this committee I presented some of the following issues and concerns that often come up with murder victims' family members in Illinois murder cases. This list is by no means comprehensive; it is really just a snapshot.

I am currently serving on a committee under Cindy Hora, the Victim Advocate for Attorney General Lisa Madigan's office that received a small grant that will allow it to conduct statewide hearings during April and May of 2008 to gather more information and make recommendations to improve the victim legal statutes in Illinois.

1. Victim Services in the state of Illinois do not exist in all counties.

Several downstate counties do not have any victim services, some share with neighboring counties, and many counties statewide only have one or a part time victim advocate. The only victim services at the state level are through the Attorney General's office, primarily to administer the Crime Victims' Compensation Fund, and to oversee other broad victim legal issues. There is no capacity to actually provide victim services in specific cases or to mediate solutions for improper or inadequate services that victims are entitled to.

2. Funding for Victim Services is abysmal and far out of proportion to monies expended on offenders. The relative funding at the state and county level for victim services is so abysmally small compared to money spent on offenders that it actually contributes to the trauma that victims' families experience in the wake of a murder. The best services are in Cook County where, for example, there are about 60 victim advocates but over 900 probation officers, as one small comparison. The actual dollars allocated to victim services needs to be increased and one possible source of that funding is the CLTF where proposed legislation advocates that county monies allocated not expended by the end of the year should be used for victim services and compensation. *Victim services are vitally needed and actually can contribute to a significant reduction in other public health and safety costs and can also greatly reduce the cycles of crime.*

3. Victim Advocates are all employed by States Attorneys' offices, which is not entirely problematic, in fact in many ways necessary because of the flow of information that is vital to communicate to victims. But the *Dignity Denied* report submitted to this committee documents the problems with victims' families who differ, for example, on the death penalty with the prosecution team. And it recommends that all states adopt a more independent model where victim advocates are separately employed and supervised. Also it recommends a model used in Minnesota and several other states of a **Victim Ombudsman** to act as a place to appeal victim services that are denied or improperly handled. This ombudsman should have mediation powers and act at the state level to try to bring resolution to any concerns victims have over improper treatment.

4. Victim Services are tied to the status of the offender and not the needs of the victims.

Because victim advocate staff in the States Attorneys' offices are greatly overworked and underpaid, they primarily only can do one job which is to see victims families through the trial process. They are to keep them informed about all hearings and explain trial matters, help them prepare victim impact statements, and escort them if needed to legal proceedings. If there is one of these two scenarios, there are little to no victim services: 1. no arrest, no suspect apprehended; and 2. if there is a plea bargain and therefore no trial. Best estimates therefore that over 80% of violent crime victims and their families never receive any victim services. Law Enforcement is supposed to hand them a card at the time of the crime that gives the phone for the state's Crime Victims Compensation Fund, as well as a summary of their rights under the Constitution. Most victims get nothing more than that, and many victims are not even getting that card. The CVCF only gives partial monies for funerals, time off work, and is capped at amounts that are not near the need for many families where there has been i.e. the loss of a major breadwinner, or permanent disability of a family member, etc.

5. There is very little actual statutory infrastructure on victim issues to support the section 8.1 of the Illinois Constitution regarding Victims Rights.

Below is the section of the Illinois Constitution that applies to Victims Rights. But in order for this to have substance and enforcement, as with any constitutional principles, there needs to be specific statutes that lay out the "hows and whats" of these rights. There are almost no specific statutes written yet to support these rights. Attorney General Lisa Madigan's office is beginning to look into this but there is significant room for many good efforts to improve this situation, including recommendations from the CPRSC.

SECTION 8.1. CRIME VICTIM'S RIGHTS.

- (a) Crime victims, as defined by law, shall have the following rights as provided by law:
 - (1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
 - (2) The right to notification of court proceedings.
 - (3) The right to communicate with the prosecution.
 - (4) The right to make a statement to the court at sentencing.
 - (5) The right to information about the conviction, sentence, imprisonment, and release of the accused.
 - (6) The right to timely disposition of the case following the arrest of the accused.
 - (7) The right to be reasonably protected from the accused throughout the criminal justice process.
 - (8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
 - (9) The right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice.
 - (10) The right to restitution.

These rights are supposed to be made known to all crime victims in Illinois from the FIRST point of contact with the "system" - either police, prosecutors, victim advocates, or some other

public entity. But we know this is not happening, consistently, or even generally. Educating all public employees to their legal and ethical obligations in this matter is vital. Until victims' rights, protected constitutionally, just as the rights of the accused, are as high a priority to those who respond to crime and crisis, people will continue to be hurt and suffer needlessly. And that hurt has a palpable result in increasing cycles of crime and other public expense.

6. Victims Rights are required to be posted in all Illinois Courthouses, but there is virtually no compliance with this law. Some judges have actually told us that it is "too disruptive to the many defendants coming into court" to have the victims' rights posted. Others post them only in a waiting room in the victim advocate offices, if there is one, which most courthouses do not have. My courthouse for example in Skokie, Illinois has the Defendants' Rights posted on walls prominently in every hallway near every courtroom. Victims Rights are not to be found. Illinois Law clearly states: "A statement and explanation of the rights of crime victims set forth in paragraph (a) of this Section shall be given to a crime victim at the initial contact with the criminal justice system by the appropriate authorities and *shall be conspicuously posted in all court facilities.*" The Attorney General should work with all 102 State Attorneys to bring every courthouse in the state into compliance.

Costs of Capital Punishment in Illinois

Research Compiled by Elliot Slosar*

* Elliot Slosar graduated from DePaul University in 2007 with a Bachelor's Degree in Political Science and a minor in Sociology. He is also on the Board of Directors for Students Against the Death Penalty and is a Co-Founder of the Abolition in Illinois Movement.

The author would like to acknowledge the assistance of the following people.
Without their help this study never would have been completed.

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Introduction

The cost of capital punishment in Illinois has not been documented since the inception of the Capital Litigation Trust Fund. The fund originated in response to the frequency of errors made in capital cases in Illinois. In order to qualify for resources available from the fund, the State's Attorney, Public Defender, or appointed Counsel must be participating in a capital case. There are currently 21 factors that allow for the accused to be eligible for the death penalty in Illinois. The availability of state funding, combined with the large number of eligibility factors and the lack of a statewide oversight board, encourages State's Attorneys in Illinois to ask, with relative ease, for the ultimate punishment.

Methodology

The data used to create the graphs and analysis for this report were provided by the State of Illinois Treasurer's Office, Chief Judge of the Cook County Courts, and then corroborated by legislation in the Illinois State Legislature. The total amount spent in Cook County and greater Illinois is as of January 10, 2008.

State of Illinois Capital Litigation Trust Fund

The Capital Litigation Trust Fund (CLTF) was signed into law on January 1, 2001². The fund was created to provide competent counsel and resources for the State and the Defendant during capital trials.

The legislation was prompted due to the recurring problem of innocent men and women being sentenced to the penalty of death in Illinois. To date, eighteen people have been released from Illinois' death row³. Twelve men have been executed since the inception of the modern capital punishment system in Illinois⁴. In Illinois, more individuals are thus leaving death row after exoneration, not execution.

Litigating capital cases is an expensive proposition, as the research shows throughout this report. The costs associated with capital trials are extensive. Most capital trials require intensive investigation, numerous attorneys, mitigation specialists, forensic testing, mock trials, testimony provided by expert witnesses, and many other expenditures as well. For this reason, the Capital Litigation Trust Fund has been made available for appointed Counsel, Public Defenders, and State's Attorneys.

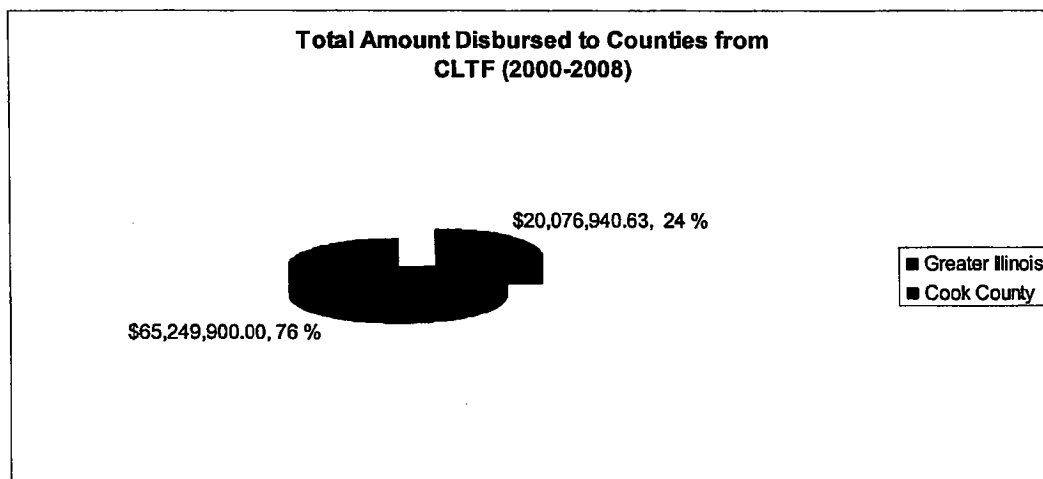
² Barack H. Obama, John Cullerton, Carl E. Hawkinson, and George Shadid, State of Illinois, State Senate & House of Representatives, SB0574: Capital Crimes Litigation Act, 1 Jan. 2000, 15 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet91/status/910SB0574.html>>.

³ "Inmate Search," Illinois Department of Corrections, 2 Jan. 2008, State of Illinois, 2 Jan. 2008 <<http://www.idoc.state.il.us/subsections/search/default.asp>>.

⁴ "Number of Executions by State and Region Since 1976," Death Penalty Information Center, 28 Sept. 2007, 18 Jan. 2008 <<http://www.deathpenaltyinfo.org/article.php?scid=8&did=186>>.

Each year the Illinois legislature approves a budget for the statewide Capital Litigation Trust Fund. This money is then transferred from the state's General Revenue Fund to the Capital Litigation Trust Fund. Within this appropriation, Cook County is allocated funds that are disbursed to the Cook County Treasurer's Office. While Cook County has its own individual budget due to its significant size, the rest of greater Illinois is dependant upon the rest of the funds available to prosecute and defend capital cases. These funds are distributed by the State of Illinois Treasurer's Office.

The 2008 budget for the Capital Litigation Trust Fund is \$15,732,553⁵ -- \$6,691,200 of which is earmarked for capital cases in Cook County alone⁵ above. Since the inception of the Capital Litigation Trust Fund in 2000, the State of Illinois has disbursed \$148,344,735⁶.



Cook County Costs

Cook County spends more money trying capital cases than most states. According to the Illinois Coalition to Abolish the Death Penalty's 2007 annual report, nearly 90% of Illinois death penalty cases occur in Cook County⁷. The total amount of funds allocated to Cook County since the inception of the trust fund is \$65,249,900⁸.

⁵ Jeffrey M. Shoenberg, State of Illinois Senate, SB1754, 22 Feb. 2007, 21 Jan. 2008 <<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1754lv.pdf>>.

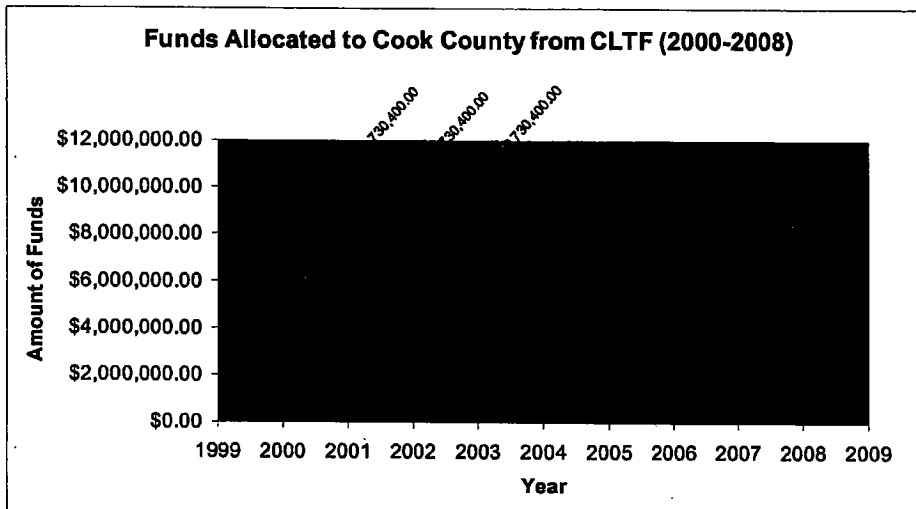
Jeffrey M. Shoenberg, State of Illinois Senate, SB1835, 8 Mar. 2007, 21 Jan. 2008 <<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1835lv.pdf>>.

⁶ Includes 97 allotments from the Illinois State Legislature to the Capital Litigation Trust Fund. The amount of funds were pulled from passed legislation and then corroborated by the State of Illinois Treasurer's Office.

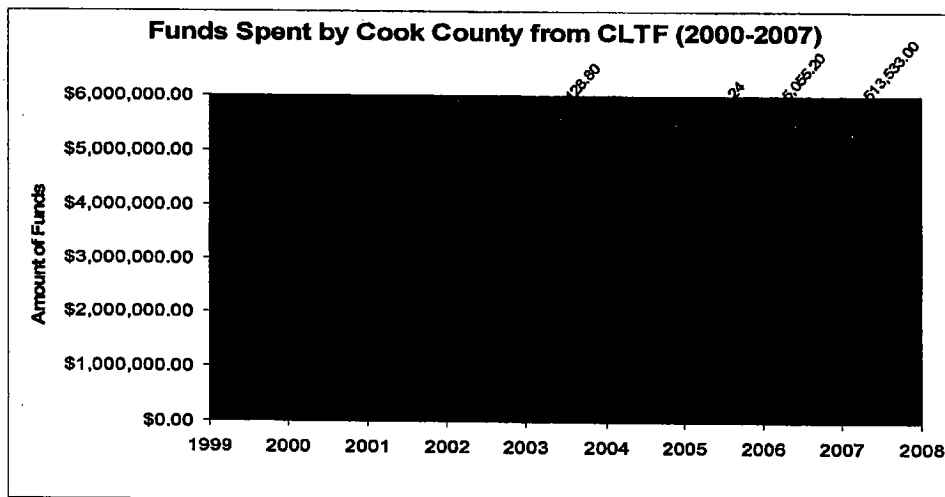
⁷ Capital Punishment in Illinois: Rejecting a Failed Policy, Illinois Coalition to Abolish the Death Penalty, Chicago: ICADP, 2006 7 1-39.

⁸ Jeffrey M. Shoenberg, State of Illinois Senate, SB1754, 22 Feb. 2007, 21 Jan. 2008 <<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1754lv.pdf>>.

Dave Sullivan, State of Illinois General Assembly, SB3348, 19 Feb. 2004, 20 Jan. 2008 <<http://www.ilga.gov/legislation/93/SB/PDF/09300SB3348lv.pdf>>.



Out of the funds allocated, Cook County has spent \$32,677,089.34⁹.



Steven J. Rauschenberger, and Donne E. Trotter, State of Illinois General Assembly, SB0630, 07 Jan. 1999, 19 Jan. 2008
 <<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB1779, 3 Feb. 2000, 19 Jan. 2008
 <<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB2359, 22 Feb. 2002, 18 Jan. 2008
 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Tom Cross, State of Illinois General Assembly, HB5587, 17 Feb. 2006, 21 Jan. 2008
 <<http://www.ilga.gov/legislation/94/HB/PDF/09400HB5587lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Charles G. Morrow Iii, State of Illinois General Assembly, HB3502, 5 Mar. 2001, 19 Jan. 2008
 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB 3513, 28 Feb. 2003,
 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB3539, 23 Feb. 2005, 21 Jan. 2008
 <<http://www.ilga.gov/legislation/94/HB/PDF/09400HB3539lv.pdf>>.

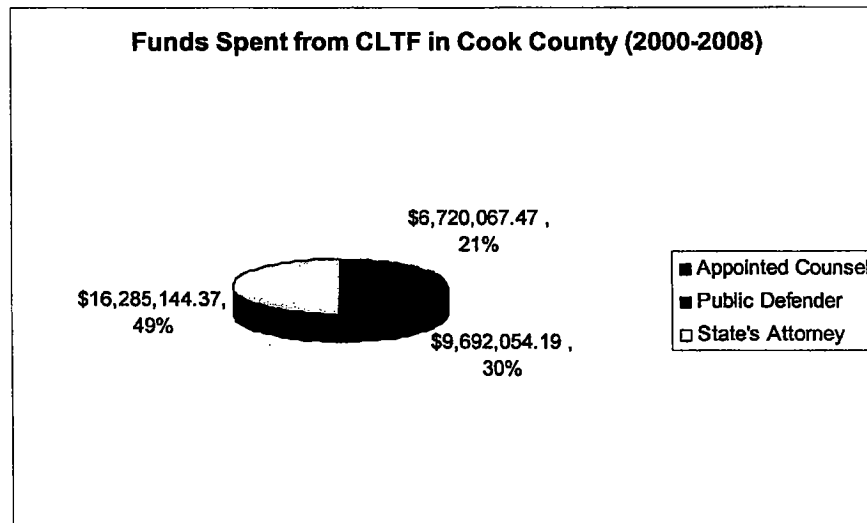
⁹ Nadine Jakubowski, State of Illinois Treasurer's Office, "Cook County CLTF," email to the author, 11 Jan. 2008.

For the year 2008, Cook County was disbursed \$6,681,200 in order to defend and prosecute capital cases at the trial level¹⁰. This distribution to the Cook County Treasurer is further divided into disbursements for the Public Defender, State's Attorney, and court-appointed Counsel. Cook County has already spent \$1,719,823.19 trying capital cases in 2008¹¹.

Breakdown of Funds Disbursed in Cook County

A far greater proportion of funds for capital cases are disbursed to the Cook County State's Attorney's Office than to other counties. The State's Attorney's Office has been allocated nearly 36 million dollars to prosecute capital cases since 2000¹².

With an allocation of \$65,249,900, Cook County sent six men to death row. The County has actually spent \$32,677,089.34, which is an average cost of \$5,446,181.557 per death sentence obtained¹³.



Cook County is the only county in Illinois where the Prosecutors are allocated nearly as much money as the Public Defenders and appointed Counsels combined.

¹⁰ Jeffrey M. Shoenberg, State of Illinois Senate, SB1754, 22 Feb. 2007, 21 Jan. 2008 <<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1754lv.pdf>>.

¹¹ Riley, Rosemary F. "Capital Litigation Fund." Email to the author. 11 Jan. 2008.

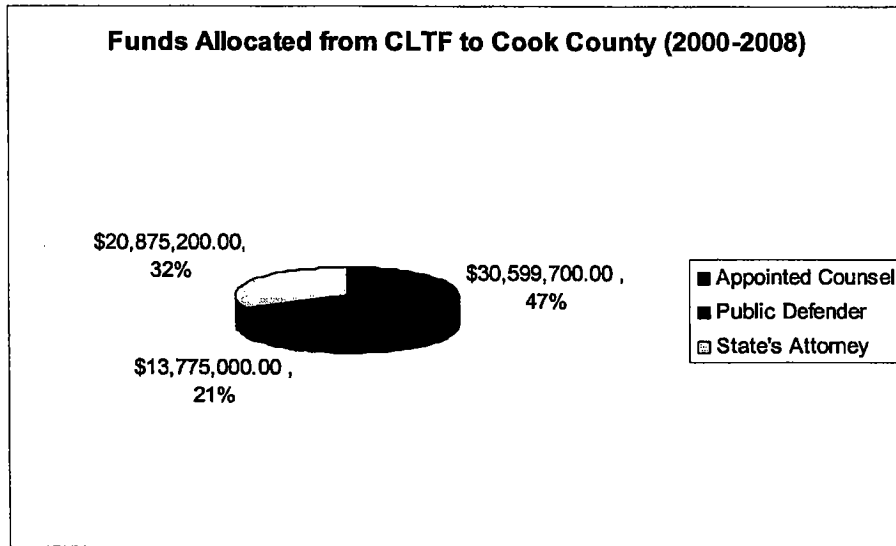
[javascript:openParens\('mlaparens','1091841'\);](#)

¹² Steven J. Rauschenberger, and Donne E. Trotter, State of Illinois General Assembly, SB0630, 07 Jan. 1999, 19 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB1779, 3 Feb. 2000, 19 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB2359, 22 Feb. 2002, 18 Jan. 2008 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

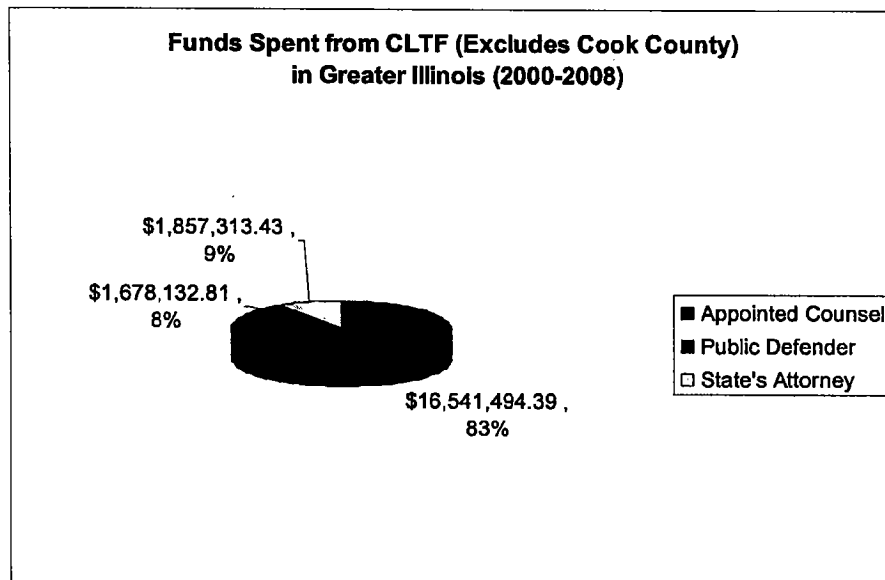
¹³ Nadine Jakubowski, State of Illinois Treasurer's Office, "Cook County CLTF," email to the author, 11 Jan. 2008.



Greater Illinois Costs

Since the inception of the Capital Litigation Trust Fund, 50 counties in Illinois have used the fund in some form or fashion to prosecute and defend capital cases¹⁴. As noted earlier, Cook County has its own separate budget, leaving the other 49 counties eligible to use the greater Illinois funds.

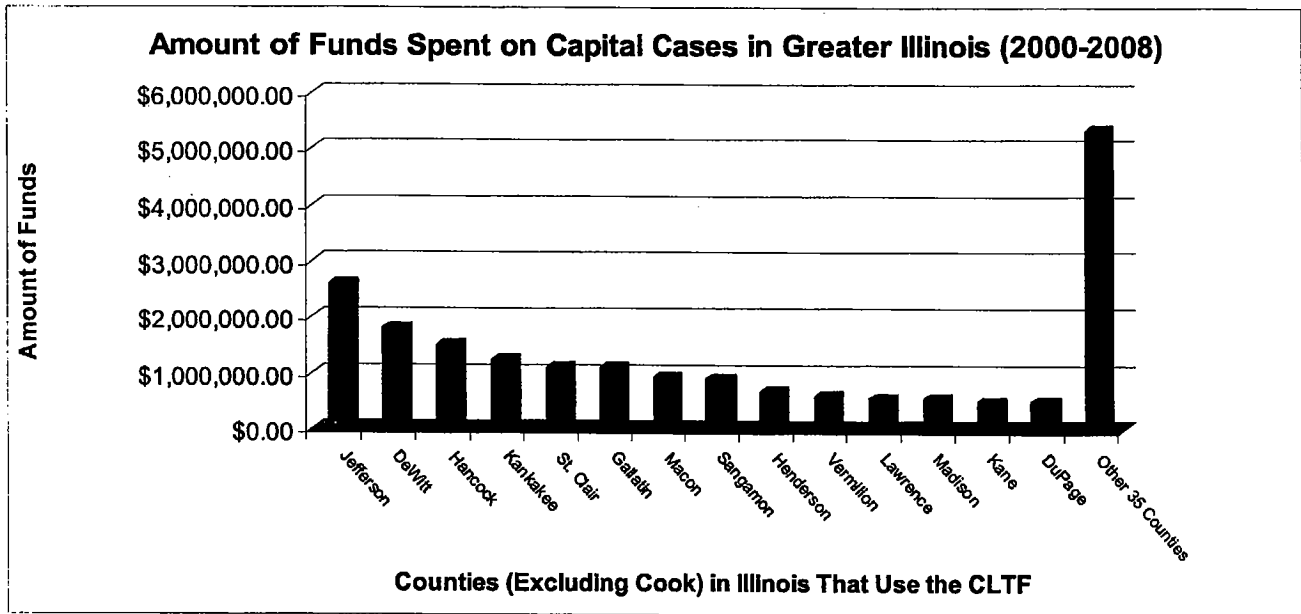
The 49 counties that have used the Capital Litigation Trust Fund have so far spent \$20,076,940.63¹⁴ above. Seven death sentences were obtained as a result of this money¹⁵.



¹⁴ Nadine Jakubowski, State of Illinois Treasurer's Office, "Re: Trust Fund," e-mail to Stephen L. Richards, 9 Jan. 2008.

¹⁵ Capital Punishment in Illinois: Rejecting a Failed Policy. Illinois Coalition to Abolish the Death Penalty. Chicago: ICADP, 2006. 1-39.

Even more disturbing, 13 counties in Illinois accounted for over 73% of this expenditure. The other 35 counties in greater Illinois that have used the Capital Litigation Trust Fund account for just 27% of the total amount spent by greater Illinois.



A number of factors correlate with the outcome of the statistics regarding the spending in the 13 highest (excluding Cook) counties in Illinois. A high murder rate could, in fact, lead the State’s Attorney to prosecute more capital cases, thus allowing for a larger total of expenditures from the litigation trust fund. Yet, looking beyond just the numbers reveals other concerns.

State’s Attorneys have considerable discretion when deciding to pursue the death penalty in a murder case. Some State’s Attorneys are sometimes inclined to prosecute first-degree murder cases as capital cases due to personal ideologies or political pressures regarding capital punishment. Many also realize the fiscal security, indeed, significant income, that the Capital Litigation Trust Fund provides. Moreover, as a given State’s Attorney runs for elected office, his/her use of a sizeable amount of monies associated with the CLTF may create an apparent conflict of interest.

Other factors raise questions about the purpose behind death penalty prosecutions. John Barsanti, the current State’s Attorney of Kane County, was quoted in a 2006 *Daily Herald* article claiming that he uses the death penalty as a leverage tool¹⁶. Within this article, Barsanti exclaimed, “In a negotiating situation, you can say, You roll the dice on this one and lose, you get death.”¹⁶ Other State’s Attorneys have been known to use similar tactics as well.

In the 49 greater Illinois counties that have used the Capital Litigation Trust Fund to litigate death penalty cases, 83% of the expenditures went towards costs associated with appointed

¹⁶ Adam Kovac, "Barsanti's Strategy of Using the Death Penalty to Leverage Plea Bargains Has Met with Mixed Results," *Daily Herald* 18 July 2006, 15 Jan. 2008 <<http://www.dailyherald.com/story/print/?id=77161>>.

Counsels¹⁷. To date, \$16,541,494 has been spent paying appointed Counsel in greater Illinois since the inception of the trust fund¹⁷.

The costs associated with litigating death penalty cases in Cook County is drastically different from that in the rest of Illinois, primarily due to greater use of appointed Counsel outside Cook County. Thus, counties other than Cook have thus far used 41% less CLTF funding to prosecute death penalty cases than they have used to defend them¹⁷.

Spending \$20,076,940.63 on death penalty trials from the Capital Litigation Trust Fund has netted minimal results¹⁷. Greater Illinois has sentenced seven people to death row with this money, which is an average cost of \$2,868,134 per death sentence obtained¹⁸.

Specific Costs Concerning the Condemned

In 2003, former Illinois Governor George H. Ryan commuted the death sentences of all 167 inmates on death row, most to life without parole¹⁹. And yet, after only five years, there are already 13 new residents on the Illinois condemned unit. Death row is being refilled²⁰.

The costs of the initial trial defense for those on death row varied from \$10,627.50 (Laurence Lovejoy) to \$2,041,895.65 (Cecil Sutherland)²¹. The costs of prosecuting these individuals ranged from \$8,833.90 (Laurence Lovejoy) to \$414,826.83 (Cecil Sutherland)²¹.

Achieving a few death sentences in Illinois has been an extremely expensive proposition. As noted in the following table, some death sentences cost the State of Illinois millions of dollars – just for the initial trial itself. An even greater concern, is the disparity between funds spent to defend the accused in rural counties when compared to urban counties, such as Cook or DuPage Counties, where Public Defenders represented the majority of defendants at trial who are now on death row.

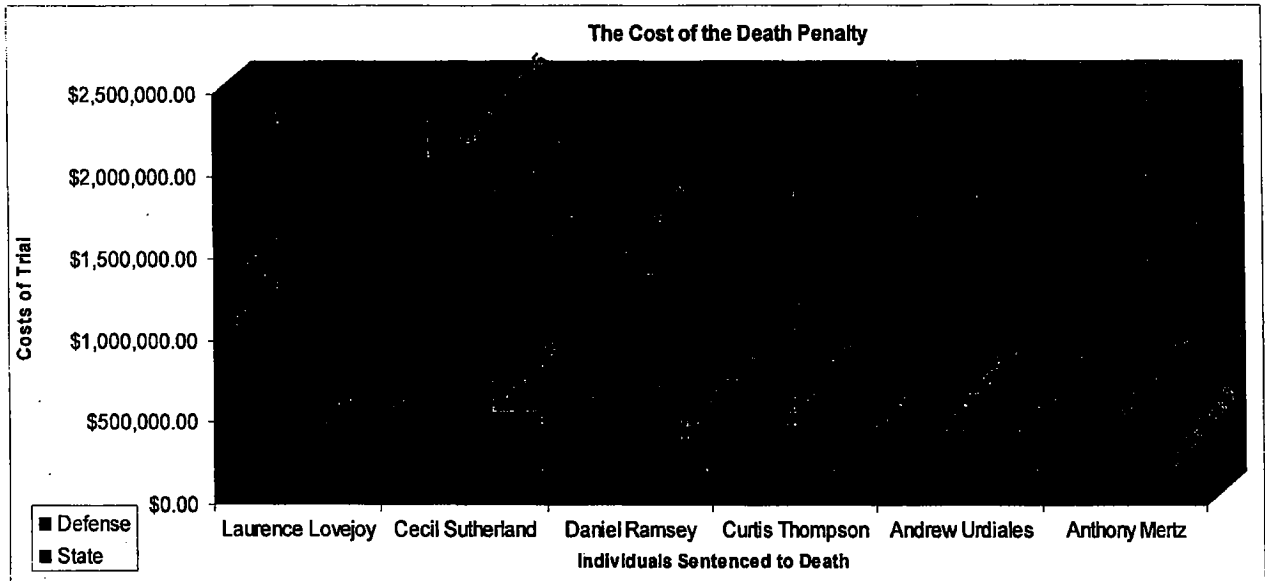
¹⁷ Nadine Jakubowski, State of Illinois Treasurer's Office, "Re: Trust Fund," e-mail to Stephen L. Richards, 9 Jan. 2008.

¹⁸ "Inmate Search," Illinois Department of Corrections, 2 Jan. 2008, State of Illinois, 2 Jan. 2008 <<http://www.idoc.state.il.us/subsections/search/default.asp>>.

¹⁹ "Illinois Death Row Inmates Granted Commutation by Governor George Ryan," Death Penalty Information Center, 27 Sept. 2007, 17 Jan. 2008 <<http://www.deathpenaltyinfo.org/article.php?scid=13&did=485>>.

²⁰ Capital Punishment in Illinois: Rejecting a Failed Policy. Illinois Coalition to Abolish the Death Penalty. Chicago: ICADP, 2006. 1-39.

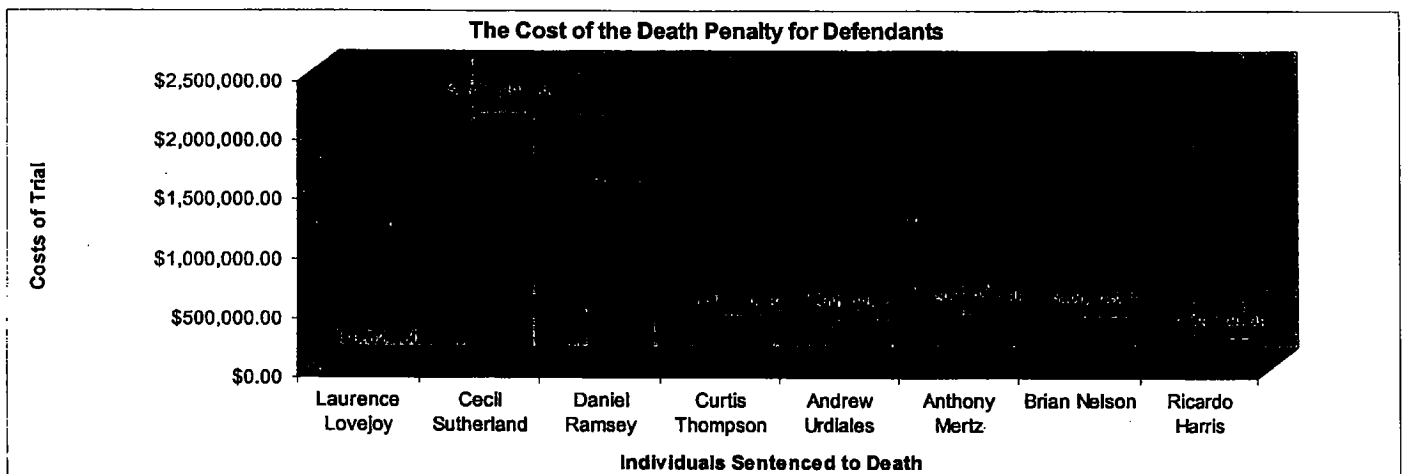
²¹ Nadine Jakubowski, State of Illinois Treasurer's Office, "Re: Trust Fund," e-mail to Stephen L. Richards, 9 Jan. 2008.



The quality of representation cannot be wholly attributed to the amount spent at trial. Still, expenditures made from the Capital Litigation Trust Fund are a good indicator of the quality of defense, since their use to fund expert witnesses, mitigation specialists, and outside investigations often means the defendant has been better represented.

For instance, the costs of defending Laurence Lovejoy, who received a death sentence for killing one person, was nearly a million dollars less than the costs of defending Juan Luna, who also faced the death penalty for killing seven people, but was instead sentenced to life without parole in the end. Both were jury trials.

However, the amount of money spent defending any given death penalty case varies widely, leaving room for much criticism for the random and subjective nature both of death penalty prosecutions and quality of defense. In Laurence Lovejoy's case, only \$10,627.50 was spent in his defense²¹. And yet, the defense for Cecil Sutherland, also now on death row, was \$2,041,895.65²¹.



The Cost of High-Profile Capital Cases Not Resulting in a Death Sentence

Many people in society would concede that some crimes are so heinous that the accused deserve to be tried for the ultimate punishment available. Yet, it is these cases - the high-profile murders of three young children, the unprovoked mass murder of seven individuals, or a serial murderer convicted of killing eight people, which highlight the arbitrary nature of capital punishment in Illinois.

In the aforementioned cases, none of the convicted were sentenced to the death penalty. Nevertheless, the cost of their cases was exorbitant. A few examples will suffice:

--Last May, Juan Luna was convicted in a Cook County courtroom of killing seven people²². His appointed Counsel spent \$941,331.60 in preparation for his trial defense²³. (That excludes any costs attributed to the attorneys and mitigators which were provided by the Office of the State Appellate Defender, Death Penalty Trial Assistance.) He was ordered to serve seven consecutive sentences of life without parole.

--In May of 2006, Larry Bright pled guilty to the murder of eight people; he was forced to serve eight life-without-parole sentences²⁴. Bright publicly offered to plead guilty before he was even appointed a public defender by the courts²⁵. Yet his capital case accrued \$231,898.05 in costs before the State's Attorney was willing to grant him the ability to plead guilty in exchange for eight sentences of life without parole²³.

--In 2003, the State's Attorney of DeWitt County charged Amanda Hamm and Maurice Lagrone with murdering her three children²⁶. Prosecutors changed their minds three different times about trying Hamm and Lagrone in a capital case. The Sheriff of Dewitt County even sent out a press release stating: "Although this case certainly qualifies for the death penalty, recent trends in Illinois and the particular facts of this case would seem to indicate that imposition and execution of that sentence would be a remote possibility"²⁷.

Yet, less than ninety days later, an Attorney for Lagrone stated that the Capital Litigation Trust Fund would not be able to fund the charges against Lagrone or Hamm if the death

²² Carlos Sadovi, "Families Confront 'Killer' Luna in Court," Chicago Tribune 16 May 2007, 23 Jan. 2008
<http://www.chicagotribune.com/news/local/chi-browns_new_may16,1,5532861.story>.

²³ Rosemary F. Riley, "Capital Litigation Fund," email to the author, 11 Jan. 2008.

²⁴ Associated Press, "Accused Serial Killer Pleads Guilty to Eight Deaths in Exchange for Life in Prison," USA Today 30 May 2006, 22 Jan. 2008
<http://www.usatoday.com/news/nation/2006-05-30-illinois-serial-killer_x.htm>.

²⁵ Charles Montaldo, "Larry Bright Charged with 2nd Murder," About.Com: Crime and Punishment, 14 Feb. 2005, 20 Jan. 2008
<<http://crime.about.com/b/2005/02/14/larry-bright-charged-with-2nd-murder.htm>>.

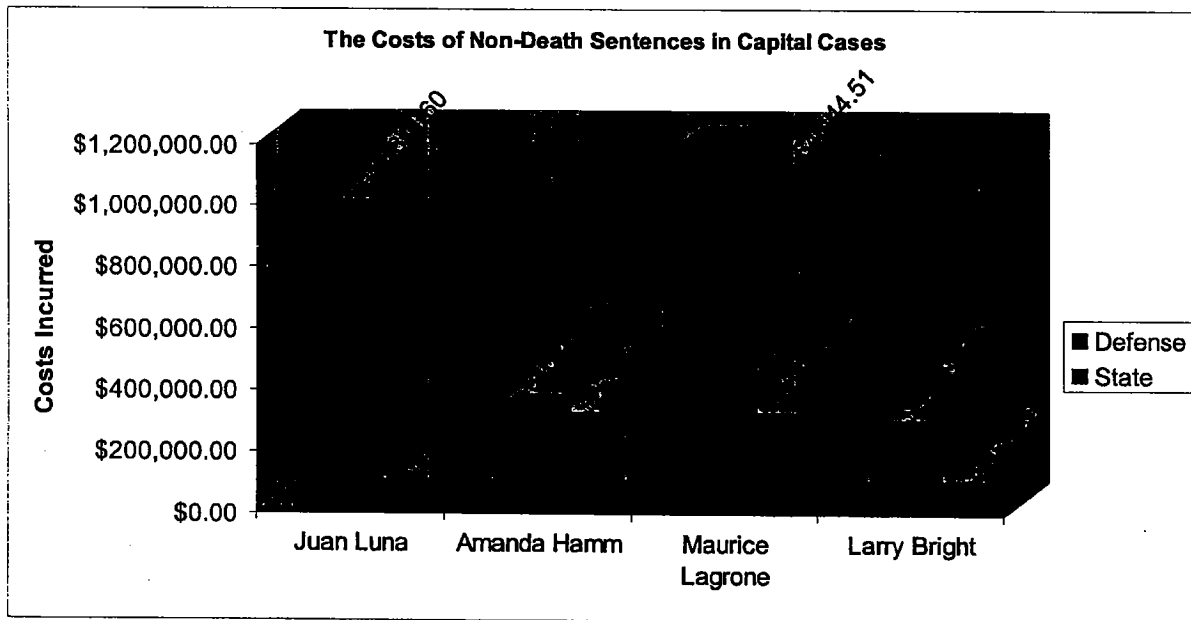
²⁶ Edith Brady-Lunny, "Amanda Hamm Sentenced to 10 Years in Prison," Bloomington-Normal Pantagraph 15 Feb. 2007, 23 Jan. 2008
<<http://www.pantagraph.com/articles/2007/02/01/news/doc45c2178096b4a224078092.txt>>.

²⁷ Stephanie Potter, "Death Penalty Won't Be Sought in Child Deaths," Decatur Herald & Review 27 Jan. 2004, 23 Jan. 2008
<http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=1005AE2461E1FF56&p_docnum=2&s_dlid=DL0108012412190309304&s_ecproduct=SUB-FREE&s_ecprodtype=INSTANT&s_subterm=Subscription%20until%3A%2012%2F14%2F2015%2011%3A59%20PM&s_subexpires=12%2F14%2F2015%2011%3A59%20PM&s_username=decaturfree&s_accountid=AC0107082015365903015&s_upgradeable=no>.

penalty was off the table²⁸. The County Board soon took on the task of evaluating the effect that these two capital cases had on their public defenders' budget²⁸. A short time later, Board member Charles Moore was quoted in the *Decatur Herald* as saying, "We're representing the taxpayers. We can't give a blank check and say whatever"²⁹. Only weeks later, the State's Attorney filed his certification for seeking the death penalty against both Hamm and Lagrone³⁰.

So in all actuality, the death penalty was not sought against Lagrone or Hamm because they were the "worst of the worst." Rather, it was a way to alleviate any trial cost for the money-strapped DeWitt County. After spending \$2,230,246.65, Hamm was not convicted of murder and Lagrone was found ineligible for the death penalty²⁶.

Some may point to these results and claim that the reforms on capital punishment must work due to the difficulty in landing these four people on death row. However, it cost the State of Illinois \$3,175,660.50³¹ to prosecute and defend these cases, and that excludes the costs incurred during the fourteen-year investigation and subsequent prosecution of Juan Luna³².



²⁸ Edith Brady-Lunny, "Clinton Drowning Strains Defender Budget," *Herald & Review* 9 Oct. 2006, 23 Jan. 2008 <<http://www.nacdl.org/public.nsf/defenseupdates/illinois026?opendocument>>.

²⁹ Mike Frazier, "DeWitt Co. Fears High Legal Bills in Murder Trial," *Decatur Herald & Review* 20 Mar. 2004, 23 Jan. 2008 <http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=1017256757D90EC1&p_docnum=2&s_dlid=DL0108012406392301358&s_ecproduct=SUB-FREE&s_ecprodtype=INSTANT&s_subterm=Subscription%20until%3A%2012%2F14%2F2015%2011%3A59%20PM&s_subexpires=12%2F14%2F2015%2011%3A59%20PM&s_username=decaturfree&s_accountid=AC0107082015365903015&s_upgradeable=no>.

³⁰ Staff Report, "Board Agrees to Pay Legal Bills for LaGrone Jr." *Decatur Herald & Review* 24 Apr. 2004, 23 Jan. 2008 <http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=1023191499692DBD&p_docnum=15&s_dlid=DL0108012412240009440&s_ecproduct=SUB-FREE&s_ecprodtype=INSTANT&s_subterm=Subscription%20until%3A%2012%2F14%2F2015%2011%3A59%20PM&s_subexpires=12%2F14%2F2015%2011%3A59%20PM&s_username=decaturfree&s_accountid=AC0107082015365903015&s_upgradeable=no>.

³¹ Nadine Jakubowski, State of Illinois Treasurer's Office "Re: Trust Fund," e-mail to Stephen L. Richards, 9 Jan. 2008.

³² Carlos Sadovi, "Families Confront 'Killer' Luna in Court," *Chicago Tribune* 16 May 2007, 23 Jan. 2008 <http://www.chicagotribune.com/news/local/chi-browns_new_may16,1,5532861.story>.

Other Costs Associated with Capital Trials

Since the inception of the Capital Litigation Trust Fund, the common misconception has been that an overwhelming amount of monies that the fund disbursed went directly towards counties in Illinois in order to prosecute and defend capital cases. Yet, that distribution accounts for only 60.24% of the actual money allocated from the trust fund. In only eight years, in addition to the State's Attorneys, Public Defenders, and appointed Counsel, another \$56,321,894.37 was used to administer capital punishment in the State of Illinois - a figure stunning to many³³.

³³ Dave Sullivan, State of Illinois General Assembly, SB3348, 19 Feb. 2004, 20 Jan. 2008
<<http://www.ilga.gov/legislation/93/SB/PDF/093005B3348lv.pdf>>.

Ryder, State of Illinois General Assembly, HB3902, 25 Jan. 2000, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/9205B1345.html>>.

Tom Cross, State of Illinois General Assembly, HB5587, 17 Feb. 2006, 21 Jan. 2008
<<http://www.ilga.gov/legislation/94/HB/PDF/09400HB5587lv.pdf>>.

Steven J. Rauschenberger, and Donne E. Trotter, State of Illinois General Assembly, SB0630, 07 Jan. 1999, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/9205B1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB1345, 22 Feb. 2001, 19 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Gary Hannig, State of Illinois General Assembly, HB4441, 9 Jan. 2006, 21 Jan. 2008
<<http://www.ilga.gov/legislation/94/HB/PDF/09400HB4441lv.pdf>>.

Donne E. Trotter, State of Illinois General Assembly, SB1730, 25 Feb. 2005, 20 Jan. 2008
<<http://www.ilga.gov/legislation/94/SB/PDF/09400SB1730lv.pdf>>.

Frank J. Mautino, State of Illinois General Assembly, HB4979, 5 Feb. 2002, 14 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Jeffrey M. Shoenberg, State of Illinois Senate, SB1835, 8 Mar. 2007, 21 Jan. 2008
<<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1835lv.pdf>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB1775, 3 Feb. 2000, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/9205B1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB1779, 3 Feb. 2000, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/9205B1345.html>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB2359, 22 Feb. 2002, 18 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB2375, 22 Feb. 2002, 18 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Charles G. Morrow Iii, State of Illinois General Assembly, HB3502, 5 Mar. 2001, 19 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB 3513, 28 Feb. 2003,
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB3539, 23 Feb. 2005, 21 Jan. 2008
<<http://www.ilga.gov/legislation/94/HB/PDF/09400HB3539lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB3780, 13 Mar. 2007,
<<http://www.ilga.gov/legislation/95/HB/PDF/09500HB3780lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB3796, 10 Apr. 2003, 15 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Office of the State Appellate Defender: Death Penalty Trial Assistance Unit

The Office of the State Appellate Defender, Death Penalty Trial Assistance Unit is staffed with Attorneys, Mitigation Specialists, and Investigators who provide trial assistance in death penalty cases where the defendant is indigent³⁴. DPTA has provided extensive services in some of the most difficult capital cases in recent years – serving as co-counsel in the trial of Juan Luna, as well as helping to defend Brian Dugan. The Division has offices in Chicago, Springfield, and Belleville. It has assisted in 197 cases since opening in 2000³⁴.

Since the inception of the Capital Litigation Trust Fund, the Death Penalty Trial Assistance Unit has been allocated \$22,746,486.00 in order to help assist Public Defenders and appointed Counsel throughout the state³⁵. The 2008 budget alone for this Unit is \$3,190,453.00, nearly as much as all of greater Illinois combined³⁶. All of this DPTA funding comes directly from the Capital Litigation Trust Fund.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB5769, 28 Feb. 2006, 21 Jan. 2008
<<http://www.ilga.gov/legislation/94/HB/PDF/09400HB4441lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB7271, 26 Feb. 2004, 20 Jan. 2008
<<http://www.ilga.gov/legislation/93/HB/PDF/09300HB7271lv.pdf>>.

³⁴ "General Information," Office of the State Appellate Defender, 22 Jan. 2007, State of Illinois, 23 Jan. 2008
<<http://www.state.il.us/DEFENDER/>>.

³⁵ Vince Demuzio, State of Illinois General Assembly, SB3012, 6 Feb. 2004, 20 Jan. 2008
<<http://www.ilga.gov/legislation/93/SB/PDF/09300SB3012lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Charles G. Morrow Iii, State of Illinois General Assembly, HB3500, 5 Mar. 2001, 17 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Lovana Jones, State of Illinois General Assembly, HB4065, 28 Feb. 2005, 20 Jan. 2008
<<http://www.ilga.gov/legislation/94/HB/PDF/09400HB4065lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Lovana Jones, State of Illinois General Assembly, HB5763, 21 Feb. 2006, 21 Jan. 2008
<<http://www.ilga.gov/legislation/94/HB/PDF/09400HB5763lv.pdf>>.

Steven J. Rauschenberger, and Donne E. Trotter, State of Illinois General Assembly, SB0630, 07 Jan. 1999, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

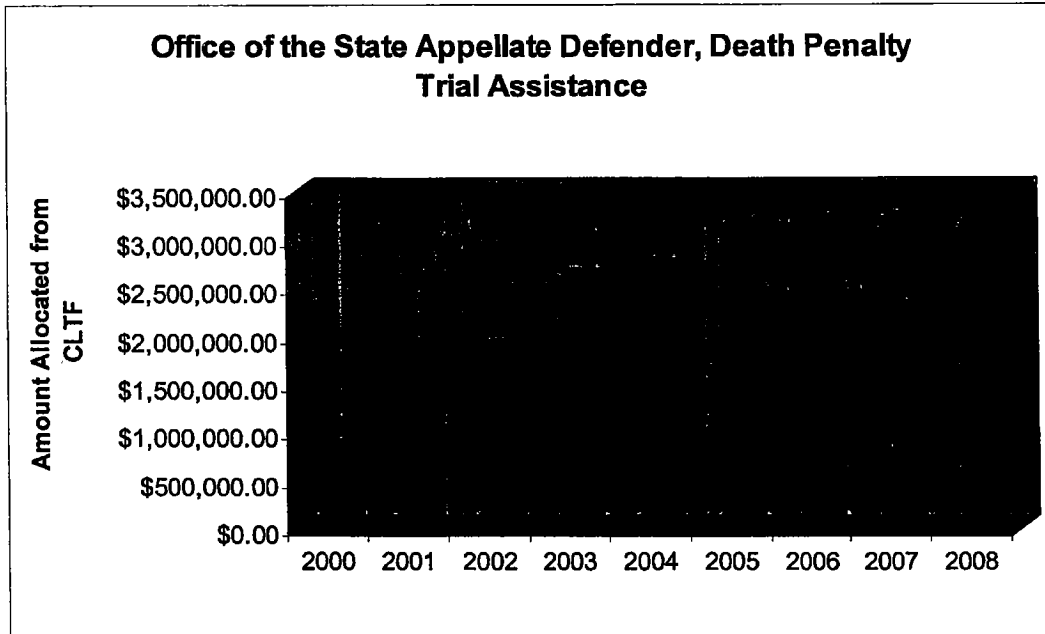
Jeffrey M. Shoenberg, State of Illinois Senate, SB1754, 22 Feb. 2007, 21 Jan. 2008
<<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1754lv.pdf>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB2372, 22 Feb. 2002, 17 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Steven J. Rauschenberger, and Kirk Dillard, State of Illinois General Assembly, SB1774, 3 Feb. 2000, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

³⁶ Jeffrey M. Shoenberg, State of Illinois Senate, SB1754, 22 Feb. 2007, 21 Jan. 2008
<<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1754lv.pdf>>.

Jeffrey M. Shoenberg, State of Illinois Senate, SB1835, 8 Mar. 2007, 21 Jan. 2008
<<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1835lv.pdf>>.

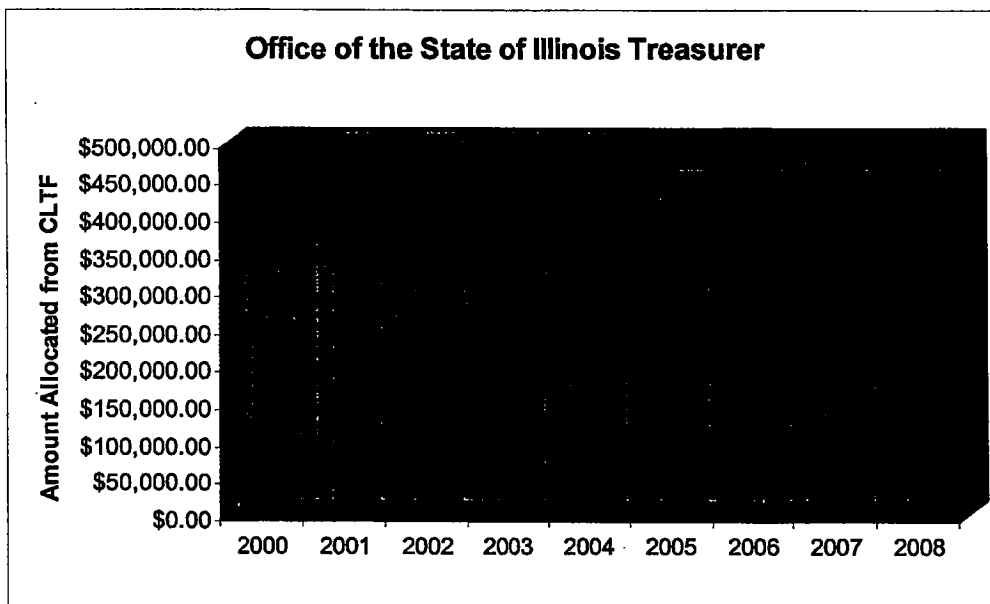


State of Illinois Treasurer

The Office of the Illinois State Treasurer, currently run by Alexi Giannoulas, is the administrator of the entire Capital Litigation Trust Fund³⁷. The Treasurer “provides money for the appropriations to be made, grants to be awarded, and compensation and expenses to be paid under this act”³⁷. The State Treasurer is given the duty of not only disbursing money to the State’s Attorneys, Public Defenders, and appointed Counsel in all of greater Illinois, but is also given the duty of disbursing funds to those entities in Cook County, the Attorney General, the State Appellate Prosecutor, and the State Appellate Defender³⁷.

As compensation for administering this extensive fund from 2000 to 2008, the State Treasurer has received a total of \$4,053,600, an average of \$450,400 per fiscal year³³. To put this in context, the State of Illinois Treasurer has been allocated more funds to administer the Capital Litigation Trust Fund, than has been allocated to Public Defenders for the entire greater Illinois combined. The Public Defenders for greater Illinois have been allocated a total of \$3,984,000 since the inception of the trust fund in 2000³³.

³⁷ "Capital Litigation Trust Fund," Illinois State Treasurer, 22 Jan. 2008, State of Illinois, 22 Jan. 2008 <<http://www.treasurer.il.gov/programs/capital-litigation-trust-fund/capital-litigation-trust-fund.aspx>>.



State of Illinois Attorney General

The State of Illinois Attorney General also receives extensive funding from the Capital Litigation Trust Fund. The funding is to go towards “expenses incurred by the Attorney General when the Attorney General is ordered by the presiding judge of the Criminal Division of the Circuit Court of Cook County to prosecute or supervise the prosecution of Cook County cases”³⁸. Since 2000, the Attorney General has received \$6,800,000 to help prosecute capital cases in Cook County - an amount almost equal to the allocation from the Capital Litigation Trust Fund to State’s Attorneys in all of greater Illinois³⁹.

³⁸ Barack H. Obama, John Cullerton, Carl E. Hawkinson, and George Shadid, State of Illinois General Assembly, SB0574: Capital Crimes Litigation Act, 1 Jan. 2000, 15 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet91/status/910SB0574.html>>.

³⁹ Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB3780, 13 Mar. 2007, <<http://www.ilga.gov/legislation/95/HB/PDF/09500HB3780lv.pdf>>.

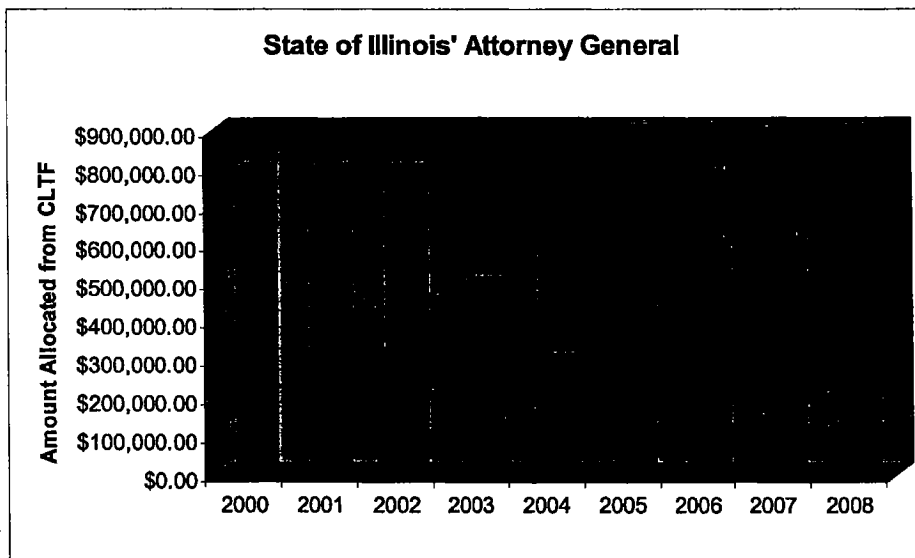
Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB3796, 10 Apr. 2003, 15 Jan. 2008 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB5769, 28 Feb. 2006, 21 Jan. 2008 <<http://www.ilga.gov/legislation/94/HB/PDF/09400HB4441lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Monique D. Davis, State of Illinois General Assembly, HB7271, 26 Feb. 2004, 20 Jan. 2008 <<http://www.ilga.gov/legislation/93/HB/PDF/09300HB7271lv.pdf>>.

Steven J. Rauschenberger, State of Illinois General Assembly, SB1345, 22 Feb. 2001, 19 Jan. 2008 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

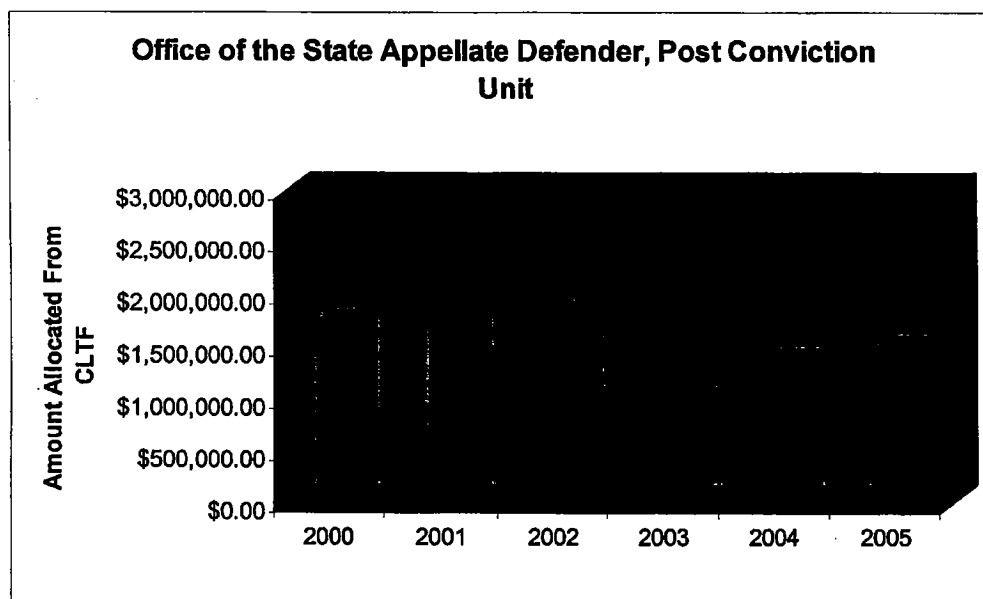
Ryder, State of Illinois General Assembly, HB3902, 25 Jan. 2000, 19 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.



Some Costs Associated with Death Penalty Appeals

Office of the State Appellate Defender: Post Conviction Unit

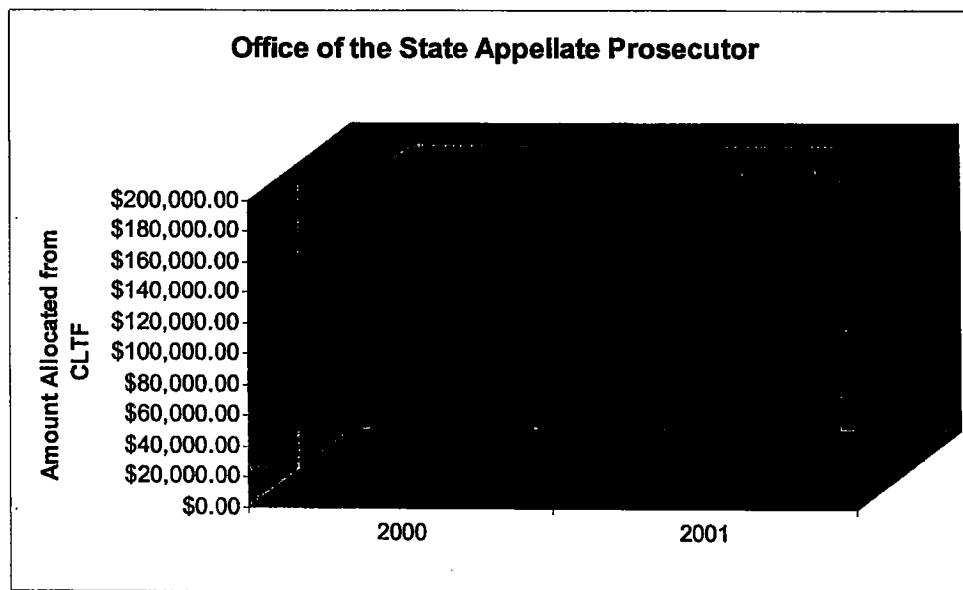
The Office of the State Appellate Defender Post Conviction Unit represents death row inmates in their extensive post-conviction proceedings.⁴⁰ The Post Conviction Unit currently has offices in Springfield and Chicago⁴⁰. Since the creation of the Capital Litigation Trust Fund, the Post-Conviction Unit has been allocated \$11,576,749 in order to litigate death sentences at the Post-Conviction level³⁵. On average, this Unit received \$1,929,458.17 per year³⁵. The Unit stopped receiving funding from the Capital Litigation Trust Fund in 2006³⁵.



⁴⁰ "General Information," Office of the State Appellate Defender, 22 Jan. 2007, State of Illinois, 23 Jan. 2008 <<http://www.state.il.us/DEFENDER/>>.

State of Illinois Appellate Prosecutor

The State of Illinois Appellate Prosecutor is another entity that has received funding from the widely distributive Capital Litigation Trust Fund. Since the origination of the fund, \$400,000 has been allocated to the Appellate Prosecutor⁴¹. Within the legislation that appropriated this funding, this money is to be used for “support under the State's Attorneys Appellate Prosecutor's Act for the several county State's Attorneys outside of Cook County”⁴². The Appellate Prosecutor received funding from the Capital Litigation Trust Fund for two fiscal years, 2000 and 2001⁴¹.



Expenses Pursuant to Capital Litigation Act

The final subsidy which receives funding is a general fund which houses expenses pursuant to the Capital Crimes Litigation Act⁴². Since the inception of the trust fund, the State of Illinois has allocated \$3,300,000 to cover such expenses⁴³.

⁴¹ Steven J. Rauschenberger, and Donne E. Trotter, State of Illinois General Assembly, SB0630, 07 Jan. 1999, 19 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

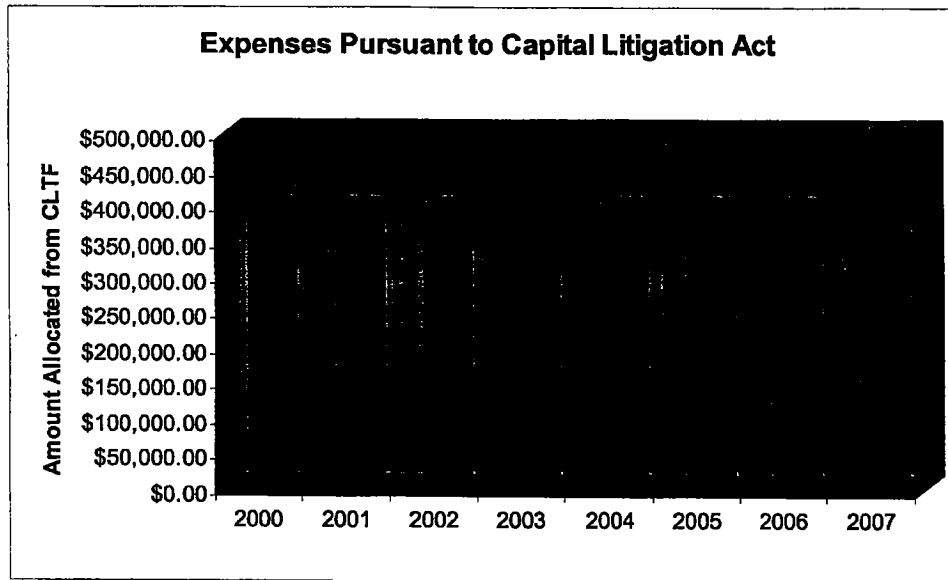
⁴² Barack H. Obama, John Cullerton, Carl E. Hawkinson, and George Shadid, State of Illinois General Assembly, SB0574: Capital Crimes Litigation Act, 1 Jan. 2000, 15 Jan. 2008 <<http://www.ilga.gov/legislation/legisnet91/status/910SB0574.html>>.

⁴³ Gary Hannig, State of Illinois General Assembly, HB4441, 9 Jan. 2006, 21 Jan. 2008 <<http://www.ilga.gov/legislation/94/HB/PDF/09400HB4441lv.pdf>>.

Michael J. Madigan, Gary Hannig, and Charles G. Morrow Iii, State of Illinois General Assembly, HB3502, 5 Mar. 2001, 19 Jan. 2008 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Frank J. Mautino, State of Illinois General Assembly, HB4979, 5 Feb. 2002, 14 Jan. 2008 <<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3513&GAID=3&GA=93&DocTypeID=HB&LegID=6137&SessionID=3>>.

Jeffrey M. Shoenberg, State of Illinois Senate, SB1754, 22 Feb. 2007, 21 Jan. 2008 <<http://www.ilga.gov/legislation/95/SB/PDF/09500SB1754lv.pdf>>.



Limitations on the Study

While the data in this report has been extensively researched and thoroughly documented, it cannot account for all costs associated with the death penalty in Illinois. Although the funds allocated can be documented through both legislation and the State of Illinois Treasurer's Office, the Cook County State's Attorney and Public Defender do not keep track of their exact costs as closely as others within Illinois. For appointed Counsel in Cook County, and for all three entities within greater Illinois, the amount of money spent at trial, through the Capital Litigation Trust Fund, is documented based upon the case number. That is not the case for the State's Attorney and Public Defender in Cook County. The only figures available are the allocations for that year and the total amount spent. For this reason, the study is limited in giving an exact cost in the placement of inmates on death row from Cook County.

Moreover, although expenses incurred in the process of trying capital cases can be reimbursed for Public Defenders and States Attorneys, the actual salaries of these attorneys are not reimbursed from the trust fund and therefore cannot be accurately gauged. Trial preparation for capital cases can last anywhere from two to six years. Judges, Public Defenders, and States Attorneys collectively spend thousands of hours preparing a capital case. In addition, they also typically have investigators law clerks, and secretaries from their offices that provide services during the preparation for these complex death penalty cases. The amount of money that the State of Illinois spends at the

Steven J. Rauschenberger, State of Illinois General Assembly, [SB1779](http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html), 3 Feb. 2000, 19 Jan. 2008
<<http://www.ilga.gov/legislation/legisnet92/status/920SB1345.html>>.

Donne E. Trotter, State of Illinois General Assembly, [SB1730](http://www.ilga.gov/legislation/94/SB/PDF/09400SB1730lv.pdf), 25 Feb. 2005, 20 Jan. 2008
<<http://www.ilga.gov/legislation/94/SB/PDF/09400SB1730lv.pdf>>.

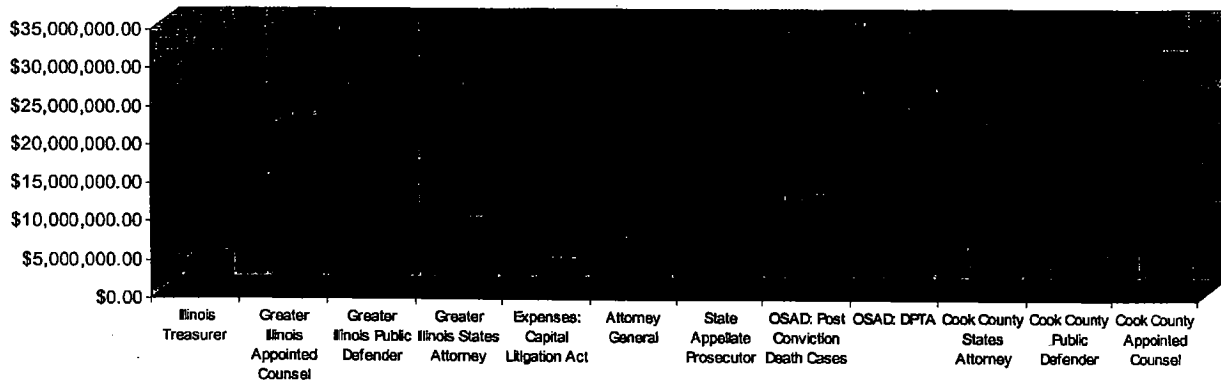
Charles D. Morrow Iii, State of Illinois General Assembly, [HB2289](http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=3&GA=93&DocTypeId=HB&DocNum=2289&GAID=3&LegID=3558&SpecSess=&Session=>), 19 Feb. 2003, 20 Jan. 2008
<<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=3&GA=93&DocTypeId=HB&DocNum=2289&GAID=3&LegID=3558&SpecSess=&Session=>>>.

trial level does not include these significant figures that are difficult to assess. This study only addresses the Capital Litigation Trust Fund. It does not address any of the other costs associated with the death penalty system.

Conclusion

To date, the Capital Litigation Trust Fund has disbursed \$148,344,735 to carry out the death penalty in Illinois.

Breakdown of CLTF Allocations (2000-2008)



The original intentions of the fund -- to provide quality counsel in cases that possibly warrant the ultimate punishment -- was undeniably admirable. In positively affecting the level of training and preparation within Illinois' criminal justice system -- from prosecutors and judges to defense counsel, both private and public, and others--the fund has, as well, likely raised the quality of both prosecutions and defense for non-capital crimes as well. However, such effects are unintended, and could be far more focused under better legislation in the future. But the reality is that it has kept afloat a very controversial system.

In recent decades, Illinois has become infamous for sending innocent men and women to prison, including death row. Any step towards rectifying the probability of condemning the innocent is called for. However, although the Capital Litigation Trust Fund has certainly aided the Illinois' ability to provide justice, it is also clear that the CLTF serves as a band-aid on a fatal wound.

The fund has been abused since its creation. For instance, one private attorney, John Paul Carroll, attracted by the Capital Litigation Trust Fund to come to Illinois from Connecticut, billed for \$870,798.65, in a retrial⁴⁴. His private investigator, Michael Fleming, also tapped the trust fund for \$515,998.49⁴⁴. The defendant, Cecil Sutherland, still ended up on death row.

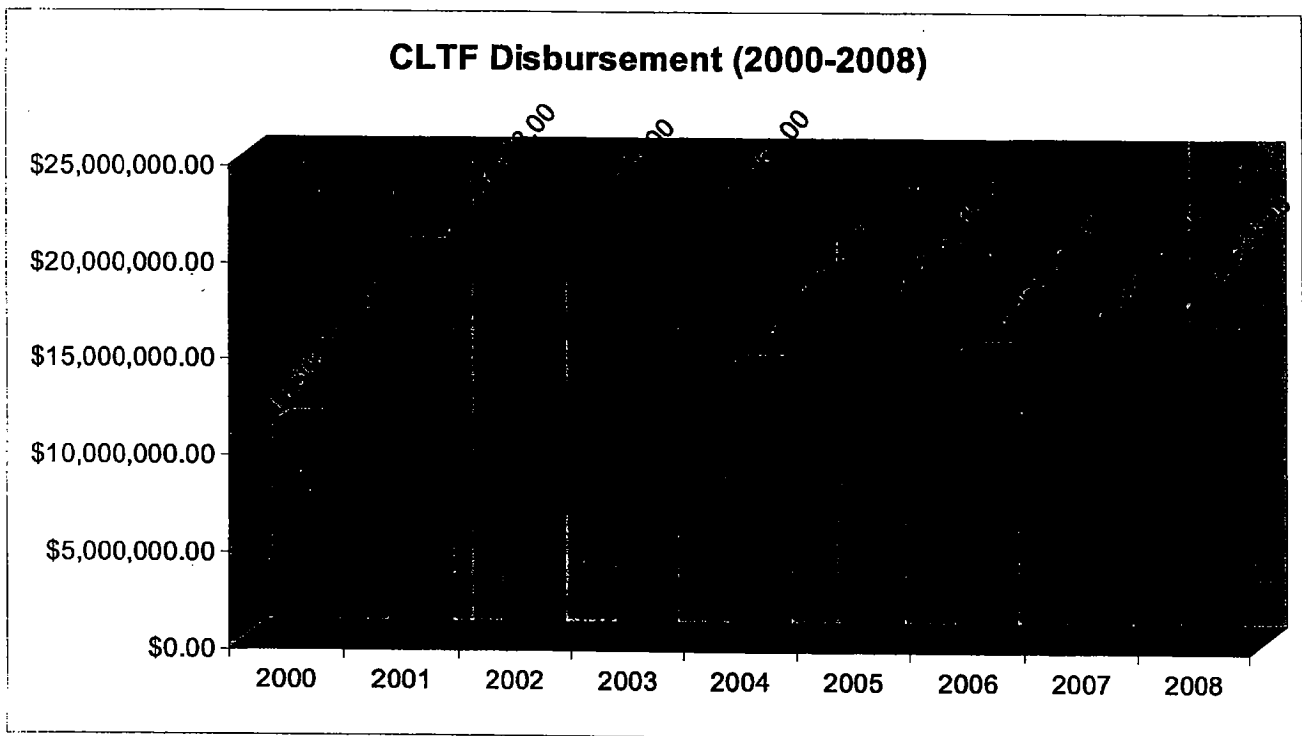
The Capital Litigation Trust Fund has endured so much abuse that legislation had to be enacted

⁴⁴ Nadine Jakubowski, "Re: Trust Fund," e-mail to Stephen L. Richards, 9 Jan. 2008.

in order to create extraordinary oversight mechanisms⁴⁵. The legislation required that judges review and approve the defense counsel's estimated budget prior to the case⁴⁵. Interestingly, it has excluded the costs of a capital case from being obtained under a Freedom of Information Act request until the sentence is handed down⁴⁵. It is unclear yet how affective the oversight will be.

The wages set for attorneys from the Capital Litigation Trust Fund are the among the highest in the nation compared to other states. Attorneys are typically awarded \$125-150 per hour; mitigators charge between \$70-100 per hour; and investigators range from \$50-100 per hour. However, it is not just private attorneys, mitigators, or investigators who receive financial benefit from the death penalty system.

The Capital Litigation Trust Fund has also unintentionally created an unavoidable financial and political inducement for State's Attorneys who are inclined to seek the death penalty, owing in part to the fiscal assistance it provides to their individual counties.



The allocation of nearly 150 million dollars, in just eight years, has landed just 13 individuals on death row⁶. That is a cost of \$11,411,133.46 per death sentence obtained. Even more alarming, this does not include the majority of appeals costs, incarceration, or any portion of execution expenses in Illinois.

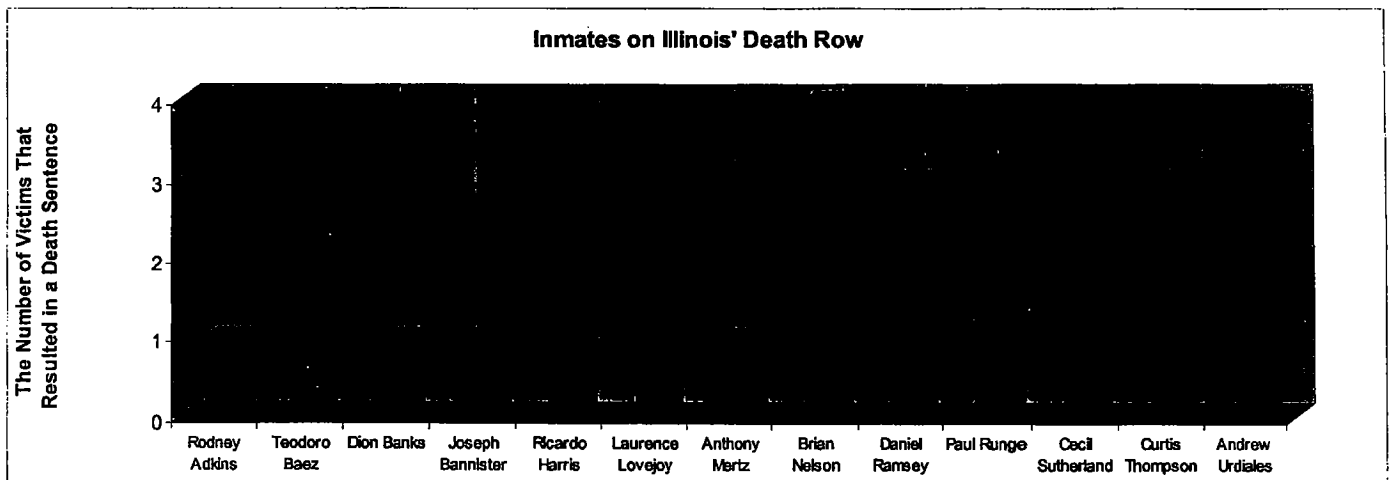
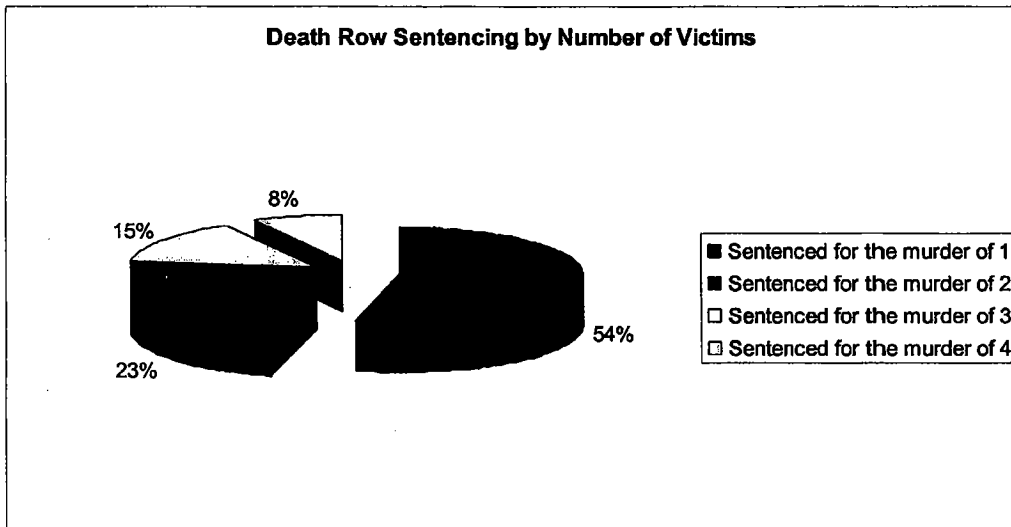
At this rate, capital punishment in Illinois could feasibly cost a quarter billion dollars, with the inclusion of incarceration and appeals, in only the first decade of the 21st century. It is easy to conclude that the death penalty system has been a financial disaster for the State of Illinois.

⁴⁵ John J. Cullerton, John O. Jones, and Gary Forby, State of Illinois General Assembly, SB2082, 25 Feb. 2005, 24 Jan. 2008
<<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2082&GAID=8&GA=94&DocTypeID=SB&LegID=20523&SessionID=50#actions>>.

Appendix

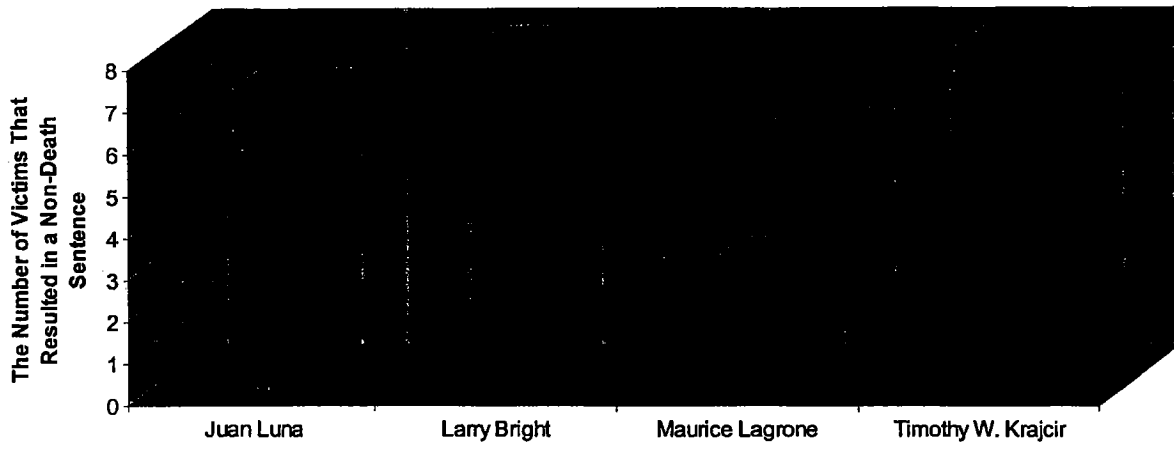
The Arbitrary Nature of Capital Punishment in Illinois

A vast majority of pending capital cases are resolved in a non-death sentence. According to the Illinois Coalition to Abolish the Death Penalty's 2007 annual report, only 1% of pending capital cases ended in a death sentence⁴⁶. Statistics do not bear out the assertion that the death penalty is only reserved for the worst of the worst. For instance, 54% of the inmates on Illinois' death row were sentencing for murdering one victim.



⁴⁶ Capital Punishment in Illinois: Rejecting a Failed Policy, Illinois Coalition to Abolish the Death Penalty, Chicago: ICADP, 2006, 1-39.

Inmates Who Did Not Receive a Death Sentence



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