IL Coalition to Abolish the Death Penalty PART 1

Testimony & Exhibits submitted 11-13-06 to CPRSC

Capital Punishment Reform Study Committee Public Hearings
November 13, 2006 at 1:00 p.m.
State Capitol Building, Room 400, Springfield, IL
Contact: Pete Baroni, Special Counsel, 630-510-7703

Proposed testimony:

Part 1: Overview of current death penalty cases – Regan McCullough (ICADP)
- Presentation of most recent charts/data
- Summary of important trends and outcomes
- Data gathering methodology/challenge to record keeping practices

Part 2: Overuse/Arbitrariness – Pat McAnany (ICADP)
- All levels of charging decisions
- Guidelines from ISA
- Excessive use in Cook County
- If other reforms were carried out, which cases do we know would NOT be death cases?

Part 3: Mental Illness – Lora Thomas (NAMI)
- Review death row inmates with mental illness
- Why aren't these people being filtered out?
  - What is wrong with the reforms that people with such illnesses are going to death row?
- Upcoming cases
- Costs as related to experts, etc. (i.e.: Urdiales)

Part 4: Post-Conviction and DNA – Written testimony
- Fundamental Fairness – Is it a failsafe?

Part 5: Costs – Regan McCullough
- Summarize other studies
- Highlight the cost for small counties
- Summarize ICADP data on cost
  - Information from past reports
  - Highlight Hamm/Lagrone

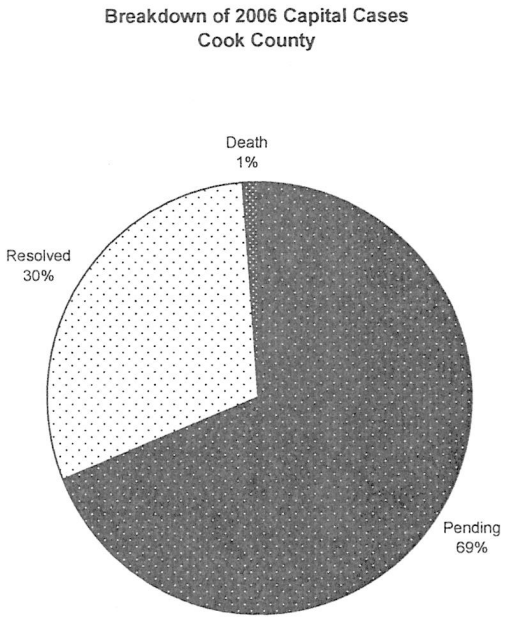
Written Submission of the Illinois Coalition to Abolish the Death Penalty regarding the Overview of Current Death Penalty Cases and Data Gathering Challenges

Attachments:

1. Summary of current cases and overview of the data prepared by ICADP
2. List of 2006 Cook County cases, pending and resolved
3. List of 2006 cases for Greater Illinois, pending and resolved
4. Article – "If you Lose you get Death"
5. Article about the Brian Nelson case
6. Article about the Larry Bright case

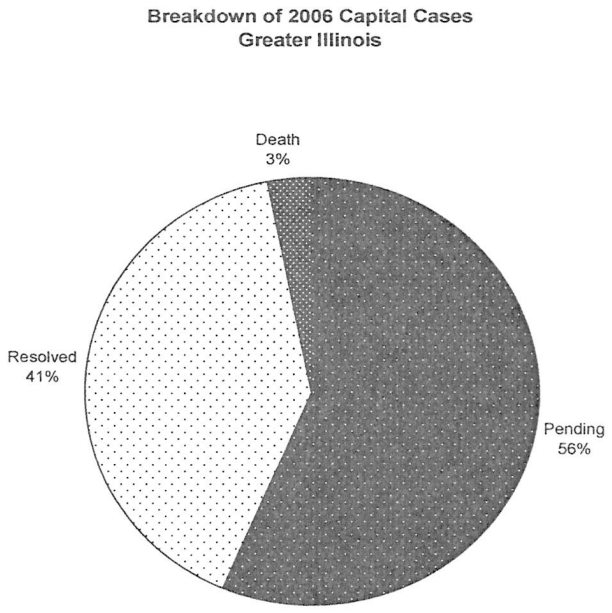
For the purpose of this testimony, the Illinois Coalition to Abolish the Death Penalty (ICADP) has defined a capital case as any first degree murder case where the state's attorney has filed a notice of intent to seek the death penalty. An active case is any such case that has been carried over from the previous year or where a notice was filed within this calendar year and there has been no outcome in the case.

In 2006, Illinois prosecutors maintained 208 capital cases. Of these, 139 are still 'active' and 66 have been resolved throughout the state. Three have resulted in the death penalty. We have defined resolved as those cases where death was sought, but the case ended without the imposition of the death penalty. Cook County has resolved 30 percent of its total capital caseload and has imposed the death penalty in only 1 percent of cases.

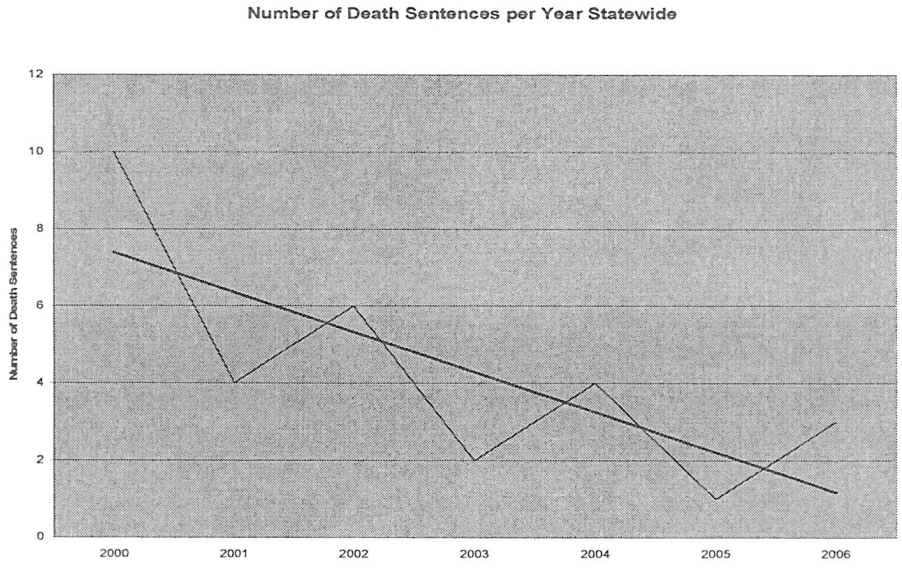


The Greater Illinois area (all counties outside of Cook) is exhibiting a similar trend. Like Cook County, the rest of Illinois is resolving a significant proportion of cases without giving death sentences (See chart below). Greater Illinois has resolved 40 percent of its current capital cases and has given death in only 3 percent. Based on the fact that all counties outside of Cook only have a total of 18 pending cases, it can be said that you have a greater chance of being sentenced to death outside of Cook County. As a whole the state has only handed down a death sentence in 3 cases this year, which represents about 1 percent of all cases. It seems that the death penalty has been used more often as a plea bargaining tool. The trend seems to suggest that prosecutors will seek the death penalty in order to secure a conviction and long prison sentence. I have submitted an article from the Daily Herald in which Kane County State's Attorney John Barsanti admitted that he seeks the death penalty at least in part to enhance his plea bargain negotiating position. The Excel charts listing all of the current resolved cases indicate that most outcomes that are not death tend to be long term prison sentences. However,

there were three cases this year where the outcomes were not guilty verdicts.



Since the moratorium in 2000, the number of death sentences has declined and remained relatively low. Currently there are 10 men on death row. This means that since then-governor George Ryan commuted all death row sentences in 2002, there have only been 10 death sentences given throughout the state, averaging 2.5 per year. This is equal to the number of death sentences imposed in the year 2000 alone. The graph below shows the difference in the number of death sentences given since 2000. The trend line indicates that in time the number of death sentences handed down in one year will approach zero.

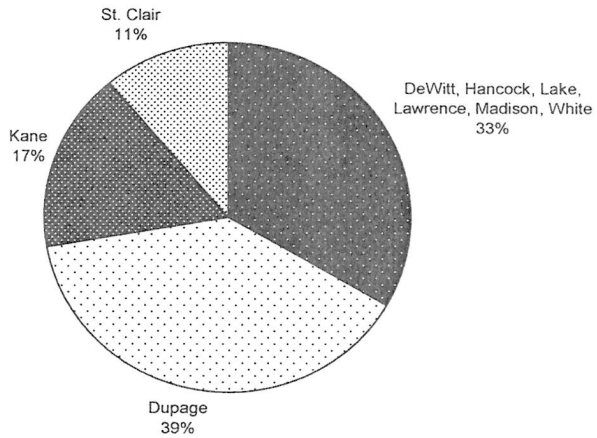


The question about the decline in the number of death sentences is whether or not this decline can be attributed to the enacted death penalty reforms in Illinois. National data suggest that the reforms may not play as big of a part as one may initially speculate. In other states where there have been no reforms, the decline of death sentences also exists. In fact, the national trend is a steady decline in the number of death sentences per year. In 1999, there were 276 death sentences nationally and by 2005, that number had dropped to less than half that amount. The number of death sentences imposed annually is at an historic low since the death penalty was reinstated in 1976. The same can be said of the overall public support for the death penalty. In 1994, 80 percent of the general public favored the death penalty. By 1999 that number had decreased to 71 percent, which is still a considerable majority. However, a 2005 Gallop Poll Suggested that public support for the death penalty had dropped to 64 percent. (Data taken from Death Penalty Information Center) Research has also suggested that the public find life without parole (LWOP) to be a more severe punishment and also one that does not risk taking an innocent person's life.

As ICADP has reported in the past, Cook County accounts for 88 percent of all capital cases in Illinois. Although the Greater Illinois area, which is made up of 101 counties, accounts for the remainder of capital cases, only 9 counties (DeWitt, DuPage, Hancock, Kane, Lake, Lawrence, Madison, St. Clair, and White) actually have pending cases. Furthermore, of these 9 counties, DuPage County is currently prosecuting 7 of the 18 pending cases throughout the Greater Illinois area. The next closest single county is Kane County which only has 3 pending cases.

Percentage of Capital Cases by County
Greater Illinois

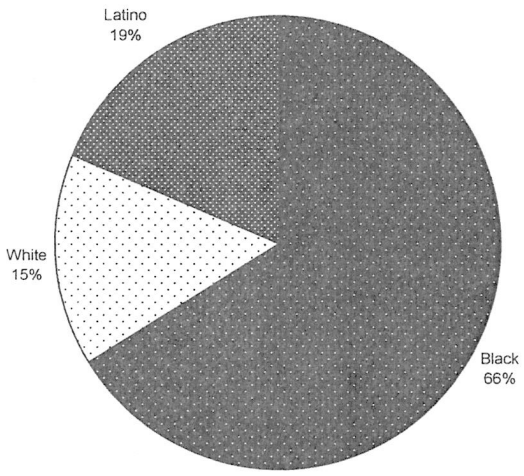
*DeWitt, Hancock, Lake, Lawrence, Madison and White each have one case



In Cook County, black defendants make up the majority of cases, accounting for 75 percent of all capital defendants in the county. In the Greater Illinois area, however,

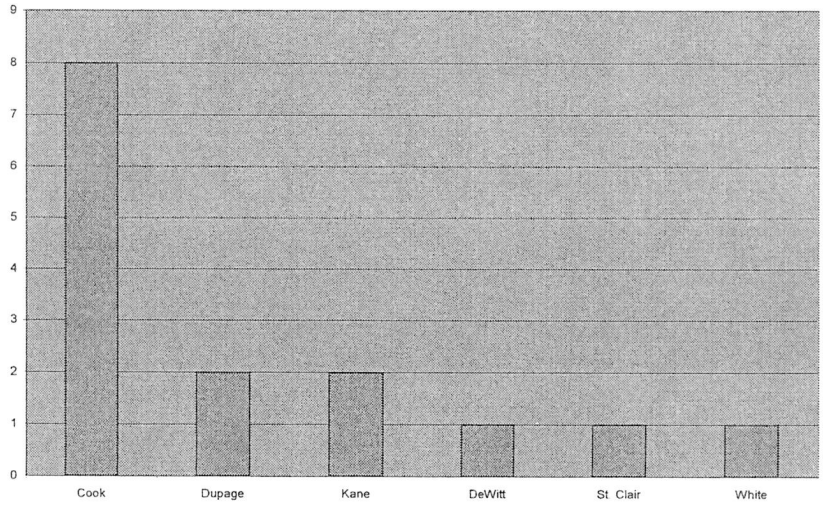
whites account for 67 percent of all defendants. When Cook County is figured into the racial analysis of defendants, whites become the racial group that encounters the death penalty the least. Overall, the majority of people who prosecutors seek the death penalty against are black. Statewide, 66 percent of defendants are black, 19 percent are Latino and 15 percent are white

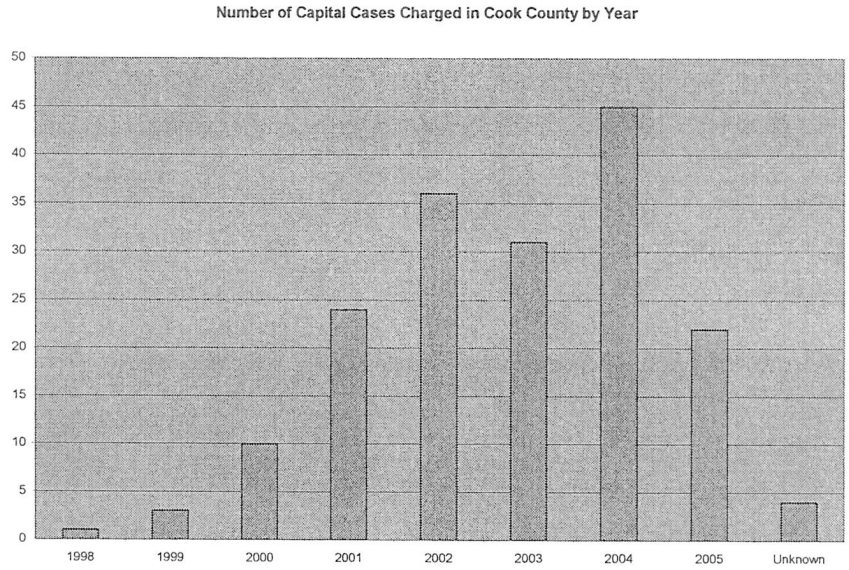
Statewide Racial Breakdown of Defendants 2006



Of the current cases in Illinois, most are ones that carried over from previous years. This means that although cases are being resolved in greater number, the majority of capital cases take years to get through the judicial process. The following charts show the number of new cases this year broken down by county and the number of cases for each year charges were filed, respectively.

Number of New Cases in 2006 by County





Although Cook County has 8 new cases this year, they account for only 4.5 percent of all 2006 capital cases in the county. DuPage, on the other hand, has 2 new cases this year, which is 6.2 percent of the Greater Illinois capital cases this year. So, DuPage County is actually seeking the death penalty at a greater rate than Cook County. If you combine the other counties with new cases outside of Cook, you find that they are just slightly below Cook County with new cases. The Greater Illinois area as a whole has 7 new cases this year. Statewide, new cases account for 7.3 percent of all current capital cases.

The next chart shows that some Cook County cases stay in the system for years. There is actually one case that has been in process since 1998, nearly 9 years ago. The largest percentage (25.6%) of cases in our database was charged in 2004. The number of cases dropped by half from 2004 to 2005, going from 45 cases charged in 2004 to only 22 charged in 2005. The second largest group of cases was charged in 2002, which makes up 20.5 percent of all Cook County cases in 2006.

In addition to the statistical data presented above, our annual reports, which the committee members have received, highlight ongoing problems with the administration of the death penalty. In 2006, death penalty prosecutions have raised serious issues:

In Will County, a juror was improperly removed after deliberations had stalemated in the death penalty trial of Brian Nelson. The judge, who favored the death penalty for the defendant, replaced the juror in question rather than discharging the jury, and a death sentence was returned by the new jury. I have attached an article summarizing the controversy.

In the Maurice LaGrone prosecution in DeWitt County, enormous sums were expended in a trial that saw the use of numerous jailhouse snitches. The case involved the drowning of three children in a lake. The defendant maintained the deaths were an

accident. His attorneys sought an involuntary manslaughter charge to the jury but the judge refused. After finding the defendant guilty of first-degree murder, the he jury refused to return a death penalty eligibility finding even though LaGrone was convicted of three murders because they did not believe the killings at issue were intentional.

The Jennie Gibbs prosecution in Gallatin County ended in a not guilty verdict from the jury after the prosecution cut a deal with her co-defendant in a double murder home invasion robbery case. The jury found that the prosecution had not proven that Gibbs and not her co-defendant had committed the murders. Each is now serving a prison term for residential burglary.

The Lake County prosecution of Jerry Hobbs has raised the issue of the continued use of coerced confessions in capital trials.

Kane County prosecutors were forced to drop the death penalty against defendant Robert Guyton after his conviction because they admitted that they could not prove that Guyton actually committed the murder at issue.

Finally, we want to point out that many of the cases resolved by prosecutors involved crimes of a magnitude equal to or greater than ones in which the defendant received the death penalty. These include the life without the possibility of parole plea of Larry Bright for the murders of eight women in Peoria County, the life without parole sentence for quadruple murderer Kevin Taylor in Cook County and the 40 year sentence for triple murderer Dennis Scott in Sangamon County.

Beyond the issues we've raised regarding the administration of the death penalty, we feel that it is important to note the challenges we face when trying to collect data on capital cases. The Governor's Commission recommended in its report that information be collected at the trial level of all first degree murder prosecutions, not just cases where death is sought. They cited that this information would be helpful in determining whether the death penalty was being applied fairly. They recommended collecting the data on a form that contained various details of the trial and that these forms be collected and maintained in a central location. Although they advised against any form being public record, they suggested that the Illinois Criminal Justice Information Authority keep the data in an anonymous format and make it available to the public.

Recently, Lisa Madigan's office put out guidelines for seeking the death penalty in first degree murder cases. The guidelines included such a form called a Capital Litigation Fact Sheet. In reviewing this form, we feel that it is essential that prosecutors fill out this form and maintain the data contained in the forms in a manner that is accessible to the public. Although the state's attorney is an elected official and has discretion in first degree murder cases as to whether or not to seek the death penalty, the public has a right to review such cases in order to keep informed of their elected official's actions. This way, when it is time for an election, the general public can make informed decisions based on issues that are important to them.

Another reason why the fact sheets are important is because continued critical examination of the application of the death penalty is essential to ensure a fair criminal justice system. However, we are the only organization in the state that is maintaining a publicly available database of capital cases. To that end, we cannot claim that our information is official. We can claim that we have the most complete and the most accurate information that we can find. The majority of our information gathering depends on official sources that have proven to be less than supportive of our efforts. The fact sheets would facilitate this process immensely.

In keeping with Recommendation #84 of the Commission, we think that the fact sheets should be filled out for all first degree murder cases. This is helpful because data about first degree murder cases where death is not sought is extremely hard to retrieve. It is critical to a complete analysis of death sentences, because without this comparison group it is more difficult to understand the arbitrary nature of this punishment.

There have been numerous issues raised by the Commission and 85 recommendations suggested to "fix" our capital punishment system in Illinois. We maintain that they system cannot be fixed and that it is arbitrary by nature.

Pending Cases Cook County 2006											
Last Name	First Name	Age	Race	Gender	Year Charged	Case#	Public Defender	Attorney	Courthouse	Judge	Date Notice was Filed
Adkins	Rodney	41	B	M	2003	03 2283201	Y	Jones	Maywood		
Allard	Gary	20	W	M	2003	03 1123301	Y	Glennon	Cook County	Clay	10/2/2003
Alonso	Sedronio	45	L	M	2002	02 3174604	Y	Katz	Cook County	Lampkin	
Alvarez	Juan	38	L	M	2002	02 0036201	No Atty	no atty associated w/	Cook County	Lampkin	11/17/2003
Alvarez-Garcia	Jesus	30	L	M	2002	02 2762101	Y	Jordan	Cook County	Sumner	
Anderson	Robert	22	B	M	2003	03 0735601	Y	Jordan	Cook County	Wadas	8/6/2003
Armour	Craig	32	B	M	2002	02 2118601	Y	Carr	Markham	Zelezinski	
Armstrong	Charles	22	B	M	2003	03 0702701	Y	Fryman	Cook County	Egan	
Atkins	William	20	B	M	2003	03 0483602	Y	Woodbury	Cook County	Lampkin	6/12/2003
Ball	Bobby	27	B	M	2004	04 2482301	Y	Grzecka	Cook County	Moran	2/24/2005
Banks	David	42	B	M	2005	05 1734201	Y	Foster	Cook County	Sumner	
Battiste	Katrina	20	B	F	2004	04 2204903	Y	Moffett	Cook County	Bowie	
Bennett	Devon	20	B	M	2005	05 0036201	Y	Johnson, L	Cook County	Palmer	
Booker	Jimmy		B	M			U		Cook County		2006
Bowers	Jeffrey	23	B	M	2001	01 1801901	Y	Wolf	Cook County	Darcy	
Brooks	Jeremiah	24	B	M	2004	04 0026601	Y	Foster	Cook County	Shultz	
Brown	Jermain	30	B	M	2003	03 2625601	Y	Carr	Markham	Panichi	
Calhoun	James	53	B	M	2002	02 3014701	Y	PDUnknown	Cook County	Wadas	4/4/2003
Campuzano	Gregorio	34	L	M	2004	04 2948201	Y	Unknown	Rolling Meadows	Scotillo	November, 2005
Carlson	Brett	26	W	M	2004	04 1626401	Y	Carr	Markham	Panichi	October, 2004
Castillo	Jesus	21	L	M	2003	03 0483501	Y	Thompson	Cook County	Holt	
Colbert	Verna	38	B	F	2004	04 1854101	Y	Howard	Cook County	Gaughan	12/14/2004
Cole	Ricky	48	B	M	2002	02 2702101	Y	Jordan	Cook County	Bowie	Mar-03
Cole	Pierre	22	B	M	2004	04 3056302	N	Franke	Cook County	Palmer	3/4/2005
Crawford	Andre	36	B	M	2000	00 0546501	N	Loeb, Robt	Cook County	Clay	3/29/2001

Daniels	Sammie	21	B	M	2002	02 2024501	Y	Jones	Maywood	Tucker	12/9/2002
Degorski	James	27	W	M	2002	02 1543001	Y	Levitt	Cook County	Gaughan	8/30/2002
Doss	Patrell	26	B	M	2005	05 1511001 and 05	N	Kuzatsky	Cook County	Cannon	
Drapes	Cornell	44	B	M	2005	05 0666501	Y	Glennon	Cook County	Wadas	2005
Dukes	William	38	B	M	2004	04 0355701	Y	Collins	Maywood	Tucker	2005
Dupree	Samuel	32	B	M	2004	04 2158901	N	Gevirtz	Markham	Nealis	
Earnest	David	38	B	M	2004	04 2743101	Y	Smith	Cook County	Dernbach	10/17/2005
Edgleston	Michael	28	B	M	2004	04 0429701	Y	Moffitt	Cook County	Sumner	
Foreman	Rufus	50	B	M	2001	01 0986405	N	McQuaid	Cook County	Simmons	8/15/2001
Gardner	James	28	B	M	2004	04 1870801	Y	Bellendir	Cook County	Kazmierski	2005
Giocondi	David	38	W	M	2003	03 0470301	Y	Eban	Cook County	Palmer	8/12/2003
Gomez	Carlos	18	L	M	2001	01 0081101	N	Gonzalez	Cook County	Crane	6/28/2001
Grant	Tawalah	19	B	F	2004	04 1661101	Y	Herigot	Cook County	Bowie	
Greer	Deandre		B	M	2004	04 2158902	Y	McKeigue	Markham	Nealis/Gausselin	2005
Griffin	Lester	18	B	M	2000	00 2598301	Y	Collins	Cook County	Clay	
Griffin	Lamont	33	B	M	2004	04 2016301	Y	Collins	Cook County	Palmer	7/12/2005
Gutierrez	Nicholes	19	L	M	2004	04 0615101	Y	Sarley	Cook County	Lampkin	
Hampton	Moniqui	23	B	M	2004	04 1339902	Y	Lisko	Cook County	Kazmierski	2005
Hawkins	Andrew	22	B	M	2001	01 0682101	Y	Brice	Cook County	Simmons	2005
Henderson	Jerry T.		B	M							2006
Hernandez	David	24	L	M	2003	03 0119001	Y	Howard	Cook County	Egan	5/7/2003
Hernandez	Jonathan	22	L	M	2005	05 2076801	Y	PDUnknown	Cook County	Toomin	1/17/2006
Hill	Johnnie	30	B	M	2001	01 3010901	Y	Galhotra	Cook County	Porter	
Ingram	Brenetta	43	B	M	2004	04 1733401	Y	Mayfield	Cook County	Sacks	2005
Jackson	Kaizmen	23	B	M	2004	04 1631601	Y	Johnson, R	Cook County	Cannon	2005
James	Gregory	20	B	M	2003	03 2858001	U	Unknown	Maywood	Tucker	
Jefferson	Lamaine	29	B	M	2000	00 1834401	Y	Ross	Cook County	Porter	6/13/2001

Johnson	Michael	28	W	M	2003	03 0836501	Y	Brown	Cook County	Brown	
Jones	Lovell	27	B	M	2000	00 0313401	N	Urban	Cook County	Bowie	4/27/2001
Jones	Willie	40	B	M	2000	00 1344503	Y	Eben	Cook County	Kazmierski	4/23/2001
Jones	Terrell		B	M			U	Unknown	Cook County		2006
Kracht	Martin	25	B	M	2005	05 00390	Y	McKeigue	Markham	Baker	5/6/2005
Lawrence	Peter J	21	B	M	2001	01 3074103	Y	Howard	Cook County	Gaughan	4/2/2002
Leach	Curtis	29	B	M	2004	04 1321101	Y	PDUnknown	Markham	Panichi	12/15/2005
Leak, Jr.	Edward	42	B	M	2005	05 1829401	N	ArnsteinLehr	Cook County	Cannon	December, 2005
Ligon	Terrence	26	B	M	2001	01 2014301	N	Greenberg, S	Cook County	Clay	10/22/2001
Lloyd	Corey	30	B	M	2003	03 0653602	Y	Thompson	Cook County	Lampkin	
Lopez	Juan	19	L	M	2004	04 2708301	N	Coyne	Cook County	Cannon	
Lopez Fern.	Julio	30	L	M	2003	03 2829601	Y	McKeague	Markham	Rhodes	
Loyd	Ivory	48	B	M	2003	03 0483601	N	Hicks	Cook County	Lampkin	6/12/2003
Luera	Jose	19	L	M	2002	02 3113402	N	Greenberg, S	Cook County	Suria	4/8/2003
Luna	Juan	26	L	M	2002	02 1543002	N	Burch, C	Cook County	Gaughan	
Mabry	Davon	18	B	M	2004	04 2424801	Y	Stach	Cook County	Salone	2/18/2005
Madden	Irvin	30	B	M	2004	04 1339901	Y	Palmer	Cook County	Kazmierski	2005
Maldonado	Marcelino	23	L	M	1999	99 2385801	Y	McBeth	Cook County	Porter	
Martinez	Edgar	22	L	M	2000	00 0644901	N	Cece, F	Cook County	Porter	6/19/2001
Matthews	Jerrell	26	B	M	2005	05 0035201	Y	Fryman	Cook County	Pantle	2005
McDonald	Isaiah	20	B	M	2004	04 0987001	Y	Johnson, R	Cook County	Cannon	September, 2004
McGee	Lee	37	B	M	2004	04 3056301	N	Kull, G	Cook County		3/4/2005
McGowan	Thurman	34	B	M	2002	02 1680601	Y	Placek	Cook County	Palmer	11/1/2002
McRoy	James	31	B	M	2002	02 1249501	Y/P	Coniff / Pro Se	Cook County	Darcy	
Middleton	Bernard	48	B	M	2003	03 1117101	Y	Coniff	Cook County	Dernbach	2005
Montanez	Pierre	21	L	M	2002	02 3113401	Y	Moffitt	Cook County	Suria	4/7/2003
Moore	Frederick	42	B	M	2002	02 2397202	Y	Jordan	Cook County	Crane	

Murphy	Jamell	24	B	M	2005	05 0589501	Y	Glennon	Cook County	Sacks	5/17/2005
Ortiz	Juan	37	L	M	2004	04 1337501	Y	Koehler	Cook County	Palmer	May, 2005
Outlaw	Darren	33	W	M	2003	03 0208401	Y	Brice	Cook County	Gaughan	No Notice
Padilla	Christopher	20	L	M	2004	04 2964701	Y	Stach	Cook County	Crane	No Notice
Patterson	Shaun	22	B	M	2004	04 1733401	Y	Danahy	Cook County	Sacks	
Pender	James		W	M	2005	05 0934801	Y	Jones	Cook County	Tucker	
Peoples	Caroline	26	B	F	2004	04 1852801	Y	Fitzs	Cook County	Crapps	12/9/2004
Phillips	Corey	21	B	M	2002	02 0536501	N	Gevitz	Maywood	Tucker	6/5/2002
Ramirez	Marcos	22	L	M	2001	01 1927301	N	Urban	Cook County	Gaughan	
Ramos	Alfredo	20	L	M	2001	01 1927302	Y	Strunck	Cook County	Gaughan	
Reed	Devin	36	B	M	2002	02 0341303	N	Steingold, E	Cook County	Porter	
Richardson	Chevelle	29	B	M	2002	02 2039402	Y	Sarley	Cook County	Cannon	
Roberts	Clifford	20	B	M	2005	05 1580401	Y	Piemonte	Cook County	Cannon	2005
Robinson	Treondous	28	B	M	2003	03 1987101	Y	Levitt	Cook County	Egan	2/11/2004
Robinson	Joshua	23	B	M	2005	05 0940901	U	no atty associated w/	Cook County	Wadas	
Romero	Jose	30	L	M	2003	03 2829601	Y	Copp	Markham	Rhodes	
Shanklin	Tony	28	B	M	2004	04 1351701	Y	Piemonte	Cook County	Shultz	10/18/2004
Shannon	Darryl	40	B	M	2005	05 0689901	Y	Koehler	Cook County	Cannon	September, 2005
Sliwinski	Jeannette	23	W	F	2005	05 1888301	N	Breen	Skokie	Howard	
Smith	Michael	23	B	M	2004	04 1410701	Y	Koehler	Cook County	Fox	2005
Smith	William	33	B	M	2004	04 2158904	Y	Figura	Markham	Nealis	1/5/2005
Stapleton	Lee	19	B	M	2003	03 2858002	U	Unknown	Cook County		
Taylor	Kevin	27	B	M	2001	01 2267801	Y	Grzecka	Cook County	Suria	
Taylor	Clara	32	B	F	2005	05 2059501	Y	Mayfield	Cook County	Schreier	2005
Terrell	Devon	23	B	M	2004	04 3063301	Y	Jordan	Cook County	Sumner	4/25/2005
Thompson	Anthony	29	B	M	2001	01 3113101	Y	Collins	Cook County	Lampkin	October, 2002
Vides	Oscar		L	M			U	Unknown	Cook County		2006

Walker	Decedrick	20	B	M	1999	99 1391201	Y	Stahl	Cook County	Dernbach	6/26/2001
Walker	Frederick	28	B	M	2000	00 1807301	N	Burch, C	Cook County	Simmons	
Walker	Thomas	39	B	M	2004	04 0549301	Y	Levitt	Cook County	Brown	2005
Weatherspoon	Emmitt	38	B	M	2005	05 1114101	Y	Moffett	Cook County	Toomin	2005
Wells	Larry	27	B	M	2000	00 2187601	Y	McBeth	Cook County	Reyna	5/1/2001
Wells	Markeisha	28	B	F	2004	04 2524901	U	Unknown	Cook County	Shultz	
Weston	Travis	20	B	M	2005	05 1334501	Y	Mayfield	Cook County	Sumner	2005
Williams	India	20	B	F	2002	02 0341302	Y	Collins	Cook County	Porter	
Williams	Anthony	35	B	M	2002	02 0341301	Y	Fitzs	Cook County	Porter	
Williams	Bree	21	B	F	2003	03 0702701	Y	Bryce	Cook County	Egan	
Williams	Eric	21	B	M	2003	03 1431001	Y	Kennally	Cook County	Bowie	
Williams	Abraham	33	B	M	2004	04 0407401	Y	McBeth	Cook County	Kazmierski	2005
Williams	Michael	36	B	M	2004	04 0045101	Y	Moffett	Cook County	Simmons	May, 2004
Wright-Ford	Angel	26	B	M	2004	04 1852802	Y	Johnson	Cook County	Sacks	12/9/2004
Zirko	Steven	42	W	M	2005	05 0656001	N	Spector, B.	Skokie	Chambers	

2006 Cook County

Resolved Cases Cook County 2006

Last Name	First Name	Age at Crime	Race	Gender	Year charged	Case#	Public Defender	Attorney	Courthouse	Judge	Date Notice filed	Outcome	Outcome Date
Abrams	Eric	32	B	M	2002	02 2188401	Y	Kennally	Cook County	Porter		60 + 30 years	2/16/2006
Ashby	Jane	40	B	F	2003	03 0269301	Y	Moffitt	Cook County	Suria	6/10/2003	Life	2/10/2006
Battle	Ronald	21	B	M	2003	03 1366801	Y	Unknown	Markham	O'Hara		75 + 20 years	5/3/2006
Conley	Christopher	19	B	M	2004	04 2665801	Y	Koehler	Cook County	Schreier	2005	not seeking death	4/20/2006
Davis	James	33	B	M	1998	98 2927903	N	Morask, D	Cook County	Lampkin	6/21/2001	2 life sentences 4/11/06	4/11/2006
Donelson	Anthony	29	B	M	2000	00 1550101	Y	Sarley	Cook County	Lampkin	6/26/2001	45 years (no bail)	4/6/2006
Drexel	Louis		B	M	2002	02 1399401	U	Unknown	Unknown	Unknown	2006	Life	
Durr	Floyd	31	B	M	1999	99 1003001	U	Unknown	Cook County	Sacks		life + 30 (bench)	4/10/2006
Flemister	Reginald	19	B	M	2004	04 2963101	Y	Grzecka	Cook County	Fox	2005	jury: not guilty	5/10/2006
Fountain	Tony	33	B	M	2002	02 1408901	Y	Woodbury	Cook County	Kirby		60 + 35 years	1/27/2006
Gonzalez	Jose L.	31	L	M	2002	02 1465601	Y	Sarley	Rolling Meadows	Scotillo		Life	1/24/2006
Grady	Willie J.	38	B	M	2003	03 2079901	Y	Carr	Maywood	O'Hara		30 years	2/17/2006
Grayson	Darryl	23	B	M	2003	03 1693301	Y	Collins	Cook County	Kazmierski	2005	26 years	1/3/2006
Griffin	Geoffrey	30	B	M	2001	01 3014901	Y	Collins	Cook County	Suria	3/18/2002	defendant found not guilty; discharged	6/22/2006
Griffin	Sherome	28	B	M	2004	04 0886501	U	Unknown	Unknown	Unknown	2006	124 years	7/15/2006
Groleau	James	26	W	M	2000	00 1834403	Y	Figura	Cook County	Porter	6/13/2001	30 years	5/8/2006
Hernandez	Jesus	25	L	M	2002	02 1003601	Y	Placek	Cook County	Lampkin	2005		
Holeman	Hernandez	20	B	M	2004	04 2204902	Y	Figura	Cook County	Bowie	2005	49 years	6/5/2006
Hoover	Alonzo	40	B	M	2003	03 0093101	Y	Carr	Cook County	Nealis		40 years	10/19/2006
Hudson	Vince	33	B	M	2005	05 0478901	Y	Brown	Cook County	Wadas	2005	LIFE	3/9/2006
Johnson	Michael	20	B	M	2003	03 2678601	Y	Stahl	Cook County	Fox	4/14/2004	60 yrs	5/17/2006
Jones	Glen	32	B	M	2002	02 2781203	N	Depaul Legal Clinic	Cook County	Crane	12/13/2002	DP is denied	12/7/2004
Jones	Charles	27	B	M	2005	05 1511002	N	Heaston	Cook County	Cannon		nolle prosequi	2/16/2006
Laws	Mashaun	25	B	M	2003	03 0773101	N	Hill, Kendall	Markham	Nealis		65 years	
Lipscomb	Keon	19	B	M	2001	01 0445001	Y	Placek	Cook County	Sumner		LWOP (bench)	
Maholmes	Edward	25	B	M	2003	03 1931601	Y	Howard, C	Cook County	Cannon	2005	60 years (jury) 2/27/06	2/27/2006

2006 Cook County

Last Name	First Name	Age at Crime	Race	Gender	Year charged	Case#	Public Defender	Attorney	Courthouse	Judge	Date Notice filed	Outcome	Outcome Date
Moore	Christopher	18	B	M	2004	04 2953201	Y	Wilson	Cook County	Moran	2005	people will not seek death penalty	
Morris	Barry	30	B	M	2002	02 2487001	Y	Woodbury	Cook County	Jones		71 yrs 2/7/06	2/7/2006
Mosley	Eddie	23	B	M	2003	03 1522301	Y	Marchigiani	Cook County	Fox	2005	50 years 3/24/06	3/24/2006
Murchison	Rudolph	40	B	M	2001	01 1145701	Y	Herigot	Cook County	Clay	7/5/2001	60 years 6/5/06	6/5/2006
Murray	John	32	B	M	2002	02 2244501	Y	Kennelly	Cook County	Fox		60 + 40 years	
Norfleet	Marc	33	B	M	2002	02 2855301	P	Pro Se	Cook County	Suria			
O'Brien	David	39	W	M	2003	03 1171001	Y	Nolan	Bridgeview	Sterba	2005	LIFE	
Perez	Urbano		L	M	2002		U	Unknown	Unknown	Unknown	2006		
Phillips	Harold	27	W	M	2002	02 1017601	Y	Mayfield	Cook County	Darcy		LWOP (jury) 6/5/06	6/5/2006
Pratt	Alonzo	43	B	M	2001	01 0145001	Y	Johnson, L	Cook County	Lacy	2005	state will not seek	
Pugh	Emmanuel	20	B	M	2001	01 2680701	Y	Howard	Cook County	Porter	3/18/2002	12 years	
Reeves III	Turner	24	B	M	2002	02 0161701	U	Unknown	Rolling Meadows	Urso		LWOP + 65 2/23/06	2/23/2006
Rutledge	Gregory	25	W	M	2002	02 2762501	Y	Howard, C	Cook County	Kazmierski	2005	not guilty all counts	
Schroth	Eric	39	W	M	2005	05 0846001	Y	Kennelly	Cook County	Schreier	2005	LIFE	
Shines	Steven	43	B	M	2002	02 2512903	N	SmithCoffey	Cook County	Salone		27 years	
Slack	Larry	42	B	M	2001	01 3019901	N	Kamin, S	Cook County	Sumner		life + 30 (jury) 6/1/06	6/1/2006
Slack	Constance	42	B	F	2001	01 3019902	N	Komie, S	Cook County	Sumner		25 years 5/1/06	5/1/2006
Smith	Robert	32	B	M	2001	01 0165702	Y	McNeil	Cook County	Egan		33 years	
Smith	Tyrin	24	B	M	2002	02 2024901	Y	Moffitt	Cook County	Sumner			
Stewart	Flora	29	B	F	2001	01 0792701	N	Laws, William	Cook County	Crane	7/1/2001		
Vasquez	Lissette	30	L	F	2004	04 1845301	N	Yonover	Cook County	Toomin		LV for state to file Notice of Intent to Decline the Death	
Vega	Jesus	19	L	M	2004	04 0303901	N	Greeberg, S	Cook County	Toomin	2005	75 yrs (bench)	
Washington	Charles	35	B	M	2001	01 0986401	N	Weiner,D.	Cook County	Simmons	8/15/2001	30 years 4/21/06	4/21/2006
Weems	Giovanni	25	B	M	2001	01 2614501	Y	Woodbury	Cook County	Dernbach		life + 60 2/24/06	2/24/2006
White	Clarence	44	B	M	2002	02 2512902	Y	Copp	Cook County	Salone		15 years 2/28/06	2/28/2006
Yurus	Janet	48	W	F	2005	05 1921501	Y	Piemonte	Cook County	Moran	2005	Nolle Prosequi all counts 7/706	7/7/2006
Zeledon	David	49	L	M	2002	02 2825701	N	Greeberg, S	Cook County	Wadas	2/28/2003	32 years 2/7/06	2/7/2006

Pending Cases Greater Illinois 2006

Last name	First name	County	Age	Race	Victim race	Year sought
Massey	Arthur Thomas	DeWitt		W	W	2006
Alfonso	Michael	DuPage		L		
Dugan	Brian	DuPage	25	W	W	2005
Hanson	Eric	DuPage		W	W & Asian	2006
Lovejoy	Laurence	DuPage		B		
Moya	Hector	DuPage		L		
Runge	Paul	DuPage	28	W		
Schunung	Gary	DuPage	23	W		2006
Ramsey	Daniel	Hancock	18	W		
Calabrese	Michael	Kane	24	L		2005
Denson	Darren	Kane	39	B		
Velasquez	Andres	Kane		L		2006
Hobbs	Jerry	Lake		W	W	2005
Tucker	Aubrey	Lawrence		W		
Miller	James	Madison		W		
Bowman	Gregory	St. Clair		W		
Smith	Jason	St. Clair		W		2006
Pate	Gary	White		W	W	2006

Resolved Cases Greater Illinois 2006						
Last name	**First name**	**County**	**Age**	**Race**	**Victim Race**	**Outcome**
Hamm	Amanda	DeWitt	26	W	W	W/drawn prior to trial; SAAP; Cited costs and jury burden
LaGrone	Maurice	DeWitt	28	B	W	Found non-eligible by jury. Sentenced to LWOP; SAAP
Gibbs	Jennie	Gallatin	39	W		Not guilty at trial; SAAP
Tucker	Joe C.	Jefferson	41	B	W	W/drawn; Convicted; LWOP sentence; Brady issue
Guyton	Robert J.	Kane	23	B		W/drawn after conviction; 45 year sentence + 11 for agg. Kidnapping
Means	Curtis	Kane	22	B		Died of cancer while awaiting trial
Williams	Cayce	Kane	27	W	W	Plea; 48 year sentence
Davis	Matthew	Madison	22	W	W	Plea; 40 year sentence
Bright	Larry	Peoria	38	W	B	Plea; LWOP sentence
Scott	Dennis	Sangamon	21	B		W/drawn prior to plea. 40 year sentence.
Jefferson	William	St. Clair	21	B		
Taylor	Charone	Vermillion	27	B		W/drawn 04/03/06; Plea to 2nd degree murder and unlawful use of weapon; 4-year sentence for murder. Total sentence: 10 year flat
Ausby	Emerald	Will	26	B	L	Found ineligible due to mental retardation; Plea; LWOP sentence

If you lose, you get death

Prosecutor uses death penalty to leverage plea bargains

By Adam Kovac

Daily Herald Staff Writer

July 18, 2006

While most suburban prosecutors use the death penalty sparingly, even in heinous slayings, Kane County States Attorney John Barsanti intends to seek it whenever he can.

Barsanti says that puts the onus on judges and juries to decide who lives or dies. He also says the threat of lethal injection could prompt some to plead guilty to stay off death row.

"Why go into a plea bargain without all the bullets in your gun?" Barsanti said. "In a negotiating situation, you can say, 'You roll the dice on this one and lose, you get death.'"

After 1 1/2 years in office, Barsanti has sought the death penalty in 5 of about 2-dozen murder cases more than his predecessor, Meg Gorecki, did in 4 years. And far more, percentage-wise, than many of his suburban counterparts.

And he has done so in cases with scant physical evidence and mentally ill defendants.

The strategy has put Barsanti in the crosshairs of death-penalty opponents, who believed Kane County pursued death too often even before he was elected.

"We were surprised at how it shot up after he took over," said Jane Bohman, executive director of the Illinois Coalition to Abolish the Death Penalty. She says the countys resources could be better spent on drug and gang offenses.

Kane County has not sent anyone to death row since 2001. But Barsanti says he is not likely to stop trying.

Because state's attorneys are elected, he says, he is forced to be a fair but tough prosecutor in the eyes of voters.

Barsanti also says there are flaws with Illinois' death penalty system. He has suggested a lone states attorney should not make the call and has agreed there are too many factors that make someone eligible.

Still, he says he must work within the system that exists.

"Somebody has to make a call. It's tough for an elected states attorney," Barsanti said. "You have to have a conversation with the victims families on why you should go for the ultimate punishment."

Barsanti's death penalty philosophy also appears to clash with standards the Illinois Supreme Court drew up in 2001 as part of reforms to the states capital punishment system.

"The duty of a public prosecutor or other government lawyer is to seek justice, not merely to convict," the court wrote.

But Barsanti's policy is part of a common practice among state's attorneys and it's legal even if it skirts an ethical pitfall, said Steven Lubet, a law professor at Northwestern University.

Although prosecutors are supposed to zealously prosecute criminals, it's hard to determine when using the death penalty to leverage a plea becomes improper, Lubet said.

"There is a point where it could be done in good faith and a point where it's unethical," he said.

After a person is arraigned for murder, prosecutors have 120 days to say whether they will seek the death penalty, but the deadline can be extended.

The decision is based on about 2 dozen generally accepted eligibility factors, such as when a murder is committed during a robbery or another felony, when the crime is especially cruel or the victim is 2 or younger.

While the wording of the law makes nearly all murder cases eligible for the death penalty, most defendants end up fighting a trip to a prison cell rather than the death chamber.

Making the call

In 2000, then-Gov. George Ryan put a moratorium on executions after 13 death\ row inmates were exonerated.

Luther Casteel was the last person sentenced to death in Kane County, convicted in 2001 a few months after he opened fire in JB's Pub in Elgin, killing two and wounding 15.

His sentence, along with those of the other 166 death row inmates, was commuted to life.

In part because of how closely death penalty cases are now scrutinized, some suburban prosecutors say capital punishment is an option they wield with great caution.

"As chief law enforcement officers, we take this very seriously," McHenry County States Attorney Lou Bianchi said. "Before we would ask a jury to take the life of anybody, we will take a serious look at it."

"Its the most difficult decision I have to make," said Michael Waller, Lake County's state's attorney.

"As far as seeking death in every case, we don't," said John Gorman, a spokesman for Cook County State's Attorney Richard Devine. "Not every case that's death-eligible is suitable for the death penalty."

Ryan's moratorium is still in place, but convicts still can be sent to death row to await execution when the suspension is lifted. Gov. Rod Blagojevich has opted to continue the moratorium without a time limit, but a decision on whether to keep it in place could be made in the next gubernatorial term. 8 men await execution in Illinois.

Murder by numbers

A Daily Herald analysis examined death penalty cases since 2004 in Kane, McHenry, Lake, DuPage and Northwest suburban Cook counties.

In terms of the number of death penalty cases, Kane County stands out, the analysis shows.

Prosecutors in Northwest suburban Cook County sought the death penalty once in 2005 and that turned into a plea deal. There are 3 ongoing death penalty cases this year.

DuPage County has six. It sought the death penalty twice in 2005 and once in 2006, and is expected to announce more cases this year.

McHenry County hasnt had a death penalty case since 1993, but Bianchi says that's no indication he won't ever seek it.

Until last year, Lake County hadn't had a death penalty case since 1998, although there were more than 2 dozen murder cases in 2004 and 2005.

Kane County has typically reserved the death penalty for high-profile cases bolstered by solid evidence and witnesses.

But it didnt take long for Barsanti to stray from tradition.

A year ago, seven months after taking office, Barsanti sought the death penalty for Robert J. Guyton Jr. in the drug-related kidnapping and shooting death of David Steeves in Elgin.

Since then, he has sought the death penalty four more times and is considering it in another murder.

Guyton was convicted of murder last month, but he will go to prison instead because a judge said there is no proof he fired the fatal shot.

And in the case of Michael Calabrese, charged in August with the shooting death of Edmund Edwards during a dice game in Carpentersville, Barsanti is considering whether to withdraw the death penalty on Friday.

Attorneys in the case say Calabrese could have a history of mental illness.

Bohman's anti-death penalty group blasted Barsanti for seeking death for Calabrese.

The organization's 2006 annual report on capital punishment in Illinois even pointed out Barsantis explanation in a Daily Herald news story on the case, in which he said: "I think it's important to seek the death penalty whenever possible."

Clearing the books

While Barsanti has demonstrated a willingness to use the death penalty as a tool, he also has shown he'll allow some cases to end in a prison term.

Edward Tenney sat on death row in the 1993 murder of Virginia Johannessen of Aurora until he won a new trial in 2002. In 2005, Barsanti took the death penalty off the table because of new standards that make it harder to convict in a death penalty case and because he wanted to move to trial faster.

Joseph Foreman faced the death penalty in the 2004 kidnapping and beating death of his ex-mother-in-law, Linda Duchaine, in rural Kane County. He pleaded guilty in exchange for life in prison after it was learned he had cancer.

Vivian Mitchell also faced the death penalty in the 2003 stabbing death of Lynn Weis in West Dundee. She was found guilty but mentally ill and in 2005 was sentenced to life.

In May, Barsanti's top lieutenants signed off on a deal that netted a 48-year prison stint rather than a death sentence for Cayce Williams a month before his trial. Williams had sat in the county jail for 9 years since the 1997 rape and murder of his girlfriends daughter, 20-month-old Quortney Kley, in Elgin.

David Kliment, the countys public defender, has been the defense attorney for Williams, Casteel, Mitchell, Foreman and Guyton. He also represents Curtis Means and Andres Velazquez, both of whom are facing the death penalty.

Kliment has questioned some of Kane Countys recent death penalty decisions, and whether manpower and money could have been better spent.

"It's got to be reserved for the worst of the worst," Kliment said. "And I don't think it's being used that way."

Other costs involved

Murder, arson and other offenses were leveled against Vivian Mitchell before Barsanti was elected, and he allowed his assistants to continue their push to send the former Indiana drifter to death row.

Even though authorities said the grisly nature of the crime warranted the death penalty Weis was stabbed more than 80 times and left to die in her burning apartment it would be a tough sell.

Mitchell had a history of paranoid delusions and, after she was convicted in 2004, a death sentence would have been scrutinized on appeal.

Even after Mitchell was sentenced, taxpayers still were on the hook for the $20,264 for expert witnesses and other costs to prosecute her, according to the states Capital Litigation Trust Fund, which covers special costs in death penalty cases and is funded by taxpayers statewide.

Kliment earlier this year said he would also bill the fund for $31,836 to pay for experts he used in Mitchells defense.

If prosecutors before and after Barsanti was in charge had opted out of a longshot death sentence, Mitchells case would have cost less and taken less time.

"In Vivian Mitchells case, I don't think anybody believed she had a realistic chance of getting the death penalty," Kliment said. "Once they found her guilty but mentally ill, that should have stopped the process right there."

While it was then-State's Attorney Meg Gorecki who initially sought the death penalty for Mitchell, Barsanti says he continued in that vein because it's what Weis' family wanted.

From 2003 to early 2006, Kane County billed the fund for $199,483, leading its suburban neighbors for the same period.

Most of the bill was tallied before Barsanti was elected. In 2003, taxpayers paid about $148,982 for seven of Kane Countys death penalty cases, including some that had been on the books since 1995.

But in the same three-year period, the total cost for DuPage County's cases was about $98,753, and Lake County's was about $39,023. The fund was not billed for any cases in McHenry County. Special costs in Cook County death penalty cases are managed by a separate account.

Every case different

DuPage County State's Attorney Joe Birkett took part in a partial retooling of Illinois' capital punishment system and says a death penalty decision should be based on the details of the offense and if there is enough evidence to shield the case on appeal.

However, Birkett also defends a prosecutors option to seek the ultimate punishment.

"Most of the people who the death penalty has been sought against are vicious monsters," he said. "They have no soul."

Barsanti says he will continue to seek death sentences as long as the crimes meet the eligibility factors. Its the best way, he says, to be consistent and ensure all of Kane Countys murder cases not just the horrific ones receive justice.

"The problem is that no situation is the same," Barsanti said. "Now, the final decision lies with the judiciary because thats how the system is supposed to work."

Ante up

What taxpayers spent from 2003 to 2006 for special expenses in suburban death penalty cases.

County 2003 -- 2004 -- 2005 -- 2006 -- Total

Kane $148,982 -- $0 -- $49,993 -- $508 -- $199,483

DuPage $35,954 -- $33,913 -- $26,469 -- $2,417 -- $98,753

Lake $1,053 -- $0 -- $22,228 -- $15,742 -- $39,023

McHenry $0 -- $0 -- $0 -- $0 -- $0

Note: Special costs for death penalty cases in suburban Cook County are managed by a separate fund.

(Source: Illinois treasurer's office)

(source: The Daily Herald)

ICADP - 11/13/06
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Posted Online: 2006-10-14

Defense plans to appeal decisions

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Judge dismissed holdout juror

By Tamara Sharman
tsharman@daily-journal.com
815-937-3371

A controversy surrounding an anti-death penalty juror could overturn the guilty verdict and death sentence imposed on quadruple killer Brian Nelson of Momence, according to his lawyers.

Defense attorney Alexander Beck hopes the Illinois Supreme Court "will see it our way."

"We're obviously going to address the issue of the juror being excused," defense lawyer George Lenard said.

An anti-death penalty juror who allegedly refused to deliberate on the issue was dismissed Friday by Circuit Judge Gerald Kinney after the holdout juror and the jury forewoman were interviewed in open court at the Will County Courthouse. The judge substituted an alternate juror and instructed the jury to begin deliberations anew and not to simply impose the will of the majority. The revamped jury deliberated for approximately one hour and 40 minutes before deciding death was the appropriate sentence for the 24-year-old Momence man.

The jury controversy apparently had been simmering among the jurors during the course of the trial and subsequent death penalty proceedings. But it exploded in court Thursday afternoon via a series of notes to the judge and interviews with jurors. The brouhaha continued when court reconvened Friday.

Jurors claimed that one holdout juror said he would not impose a death sentence, and that he was morally opposed to capital punishment.

Jury members are supposed to base their decisions on the evidence presented in court and are supposed to keep their mind open to all penalty options.

The jurors locked in the Nelson deadlock refused to sign either the verdict that would condemn Nelson to death or the verdict that would give him life in prison.

"It's quite an unusual situation," Kinney said from the bench Friday.

Jurors in capital punishment cases can deliberate three times. First to decide guilt or innocence, then to determine if the convicted person is eligible for death, and then finally to decide if the person receives the death penalty or life in prison.

On Thursday, the jury endured more than 10 hours of contentious deliberations before Kinney sent them home for the night. Kinney first interviewed the holdout and another juror.

Further in-court interviews on Friday showed the jurors had discussed the case among themselves before deliberations even started in the guilt or innocence phase.

"That's a bigger problem that we initially thought we had," defense attorney Steven Haney said in court Friday.

"The guilty verdict is itself now tainted," Haney told the judge.

The judge refused Haney's request Friday to have the entire jury discharged and Nelson's guilty verdict vacated.

The odd scenario of jurors refusing to sign either the death penalty verdict or the life in prison verdict is apparently new legal ground.

"There's an area where there's never been any case law," Beck said after Nelson was sentenced to death.

"It's a whole brand new issue," Beck said.

Assistant Attorney General Vincenzo Chimera believes the judge made the right decision in dismissing the juror who allegedly refused to deliberate. And Chimera applauds the jury members for bringing that juror to the attention of the judge and lawyers. "Had they not brought it to our attention, a grave injustice would have been done," Chimera stated.

On Oct. 3, the jury found Nelson guilty on all counts of first-degree murder, aggravated arson and home invasion. Nelson murdered his former girlfriend and three other people at a Custer Park farmhouse on May 31, 2002.

"I think the boy did his best," Jan Nelson, the convicted man's mother, said of the dismissed juror. But she expected the newly installed juror would be pressured into going along with the rest of the panel.

Shirley Bookwalter of Braceville, the sister of murder victim Jean Bookwalter, believes the judge should have dismissed the juror when the controversy first came to light Thursday.

Beatrice Bookwalter, a Braceville woman and mother of slain Jean Bookwalter, also agrees with seating an alternate juror on the panel. "I think that other man had his mind made up ahead of time," she said.

Bright 'just snapped'

Thursday, June 1, 2006

BY LESLIE WILLIAMS
AND ANDY KRAVETZ
OF THE JOURNAL STAR

PEORIA - A relative of Larry Bright agreed with the family members of his victims - the former concrete worker should die in prison.

"He's getting what he deserved," the relative, who asked not to be identified, said Wednesday. "Those women are dead, and their families won't ever get to spend time with them. Larry will (live) even though he's behind bars."

A day after Bright, 39, pleaded guilty to killing eight women in exchange for a life sentence, the relative remembered their younger days in Tremont, when the two would spend time during the summer fishing and hanging out with friends. Bright was popular with the girls at school and enjoyed playing football, the relative said.

But between those happy times and early 2003, something changed. Bright went from what most would consider a relatively normal life to becoming the area's worst serial killer in years.

"Larry just snapped," she said.

Over a 15-month period, Bright strangled seven women and gave enough cocaine to an eighth to cause her death. He dumped four of

Glen

the bodies along roads in rural Peoria and Tazewell counties. The other four he burned and scattered the ashes at various locations.

The Rev. Timothy Criss, who has acted as a spokesman for the families, said Tuesday that Bright's admission in court that he killed the eight women will ease some of the pain.

"We think that for the families, they are now able to say OK, I don't have a body but I have an admission and now we can put this to some kind of closure, put it to rest, have a memorial service for that matter and move on with their lives," he said.

But for Goldus Jackson, the father of Wanda Jackson, who was found dead in 2001, there is no closure. Bright was thought to have killed Jackson and Frederickia Brown, but has denied it. Police don't believe Bright killed the two women, either.

"My personal opinion, I don't think he did it to Wanda, but I think that he might have knowledge," Goldus Jackson said. "I believe he knows who did it."

Peoria County Sheriff Michael McCoy said he will diligently work to close those two cases, but Goldus Jackson said the cases are "cold," and he believes unlikely to get the same attention as those of the previous eight women. He's realistic about the chances of his daughter's slaying being solved but his faith has helped him through it.

"The Lord knows who did it, and that's good enough for me," he said.

Of all the things left unanswered is what caused Bright to "snap."

When he was 19, Bright served a two-year stint in prison for vehicle and residential burglary. It was then, the relative remembers, that she started to notice a change. Bright refused to talk about what happened in prison, but his relative said whatever occurred behind bars changed him forever.

He had smoked marijuana as a teen, but after prison, moved on to drugs such as cocaine. He used coke and booze heavily after being released, the relative said. Bright's dependence on them escalated after he injured his back while working as a concrete worker for a construction company. The accident forced Bright to have three back surgeries, and he became addicted to painkillers, according to his relative.

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His time in prison, addiction to drugs and alcohol and inability to hold a steady job because of his back injury sent Bright into a deep depression. It was about this time, authorities believe, he started picking up black women for sex and drugs.

At first, Bright didn't set out to kill, but sometime after the first few deaths, a switch flipped, said Peoria County State's Attorney Kevin Lyons, and Bright became a hunter. But he hardly looked like a vicious killer in court Tuesday afternoon.

Rather, Bright sat nearly emotionless in his jail jumpsuit and calmly answered questions with "yes, sir" and "no, sir." As Lyons read from evidence during the plea hearing, and the faces of the women Bright killed stared down at him from a television monitor, the man some have dubbed a monster merely sat and listened.

Bright's attorney Jeff Page said Wednesday that his client had undergone a transformation after more than a year in jail. When he was first arrested, he wanted the death penalty but as time went on, he adjusted and resigned himself to his fate.

His relative says Bright is sorry.

"He's very remorseful," said the relative, who has visited Bright several times while he's been incarcerated at the Tazewell County Jail. "He broke down as soon as he said hi to me. He's never shown his feelings like that before.

"I feel really sorry for the families and this brings closure for them. Hopefully they'll hold onto the good memories and not what Larry did."

Goldus Jackson wants Bright to never forget what he did.

"I would like to see him locked up, and I would like to see those pictures of the women that he murdered (be with him,)," he said. "They should stay in his cell and remind him every day of what he did. When he gets up, there are the pictures of these eight ladies. When he goes to sleep, there they are."

Leslie Williams can be reached at 686-3188 or **lwilliams@pjstar.com**. Andy Kravetz can be reached at 686-3283 or **akravetz@pjstar.com**.

Belleville com

Posted on Wed, Jun. 28, 2006

Plea deal in serial killings trimmed legal costs, officials say

PEORIA, Ill. - A plea agreement eliminated a lengthy trial that could have doubled legal costs for a confessed serial killer sent to prison for life last month rather than to death row in the slayings of eight Peoria-area women, officials said Wednesday.

A state trust fund for death penalty cases has paid out $221,515 in legal costs for 39-year-old Larry Bright, who prosecutors say burned half his victims to ash and bone and dumped the others along little-traveled roads during a 15-month killing spree in 2003 and 2004.

Typically, the state pays $500,000 to $700,000 for each potential death penalty case, said John Hoffman, spokesman for the state treasurer's office, which administers the fund created in 2000 to make sure both prosecutors and defenders have sufficient resources.

"Everybody wins because there wasn't a trial required, there's not going to be any appeals and, as you know, that's when it gets very pricey," said Hugh Toner, one of Bright's court-appointed attorneys.

Peoria County State's Attorney Kevin Lyons says money wasn't a factor in the deal with Bright, who is serving a life sentence without parole after pleading guilty May 30 to seven counts of first-degree murder and one count of drug-induced homicide.

"It's just obscene that I would even comment on where I think our case would fit into the state average because I can't get by how outrageous and nutty the state average is ... The figures tell me that whenever the state is paying, the case will be milked like a cow," Lyons said.

But Lyons credited Bright's lawyers for pursuing the plea agreement, saying the pot of state money encourages defense attorneys to string cases out rather than resolve them.

Requiring the former concrete worker to publicly admit the killings provided closure for victims' families, said Lyons, an outspoken critic when former Gov. George Ryan emptied Illinois' death row in 2003.

Though Bright earlier confessed to all eight killings, he had been charged in only three because DNA tests failed to identify charred remains recovered by investigators. Bright, who is white, was arrested in late 2004 by a task force investigating the deaths and disappearances of black women who all led lives that included drugs and prostitution.

Defense attorney Jay Elmore agreed that some attorneys have abused the state fund, which paid out a high of $2.3 million for the 2004 retrial of a man now on death row for killing a 10-year-old girl in southern Illinois. But he said the state has added new safeguards, such as requiring defense attorneys to submit budgets for pending cases.

Elmore called Bright's plea agreement "a good resolution to a very, very difficult case," saying it gave families closure while handing out what effectively is Illinois' most severe punishment as a moratorium continues over executions in the state.

"You're locked up some 20 hours a day for the rest of your life and you're guaranteed to come out in a wooden box," Elmore said.

Jane Bohman, executive director of the Illinois Coalition Against the Death Penalty, praised the plea agreement, calling it a "better alternative."

She said defense attorneys alone tapped the state fund for more than $1 million this year for the trial of a man charged with the 2003 drownings of his then-girlfriend's three children in Clinton Lake. A jury convicted Maurice LaGrone Jr., but

Chicago Tribune
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Guilty plea brings peace to families

Relatives of 8 slain in Peoria start to feel closure after killing spree

By Aamer Madhani
Tribune staff reporter

June 1, 2006

PEORIA -- Rev. Timothy Criss and law-enforcement authorities told Charles and Beola Walls more than a year ago that they were certain their daughter Tamara was a victim of serial killer Larry Bright, even though all authorities were able to recover was a small piece of her jaw.

The family long ago came to accept that Tamara would never return, but her parents couldn't come around to holding a funeral for her, said Criss.

On Wednesday, the day after Bright admitted in court that he killed Walls and six other women as well as caused the drug-induced homicide of another prostitute in exchange for a life term in prison, Charles Walls called the pastor and said it was finally time to say goodbye, Criss said.

"It's not completely satisfying. We all still have the lumps in our throats and heavy hearts," Criss said. "But finally Tamara's family and the other women's families in the community can start having closure."

The plea also appeared to set the course for the community to mend long-festering wounds.

From the time the victims, all of them black and with histories of drug abuse and prostitution, disappeared or were found dead on deserted country roads, the perception among many in the Downstate African-American community was that police had little interest in solving the murders of women living on the fringes.

In heated meetings during the 15-month killing spree, some members of the community accused law-enforcement officials of dragging their feet. Activists said police would have been more motivated to catch the killer if the victims were white.

Kevin Lyons, the Peoria County state's attorney, said the early days of the investigation were difficult because residents wanted answers that police just didn't have.

"The situation was suffused with racial and culture stress," Lyons said.

"The lifestyles of these women made it extremely difficult to gather evidence about their whereabouts. The white community in Peoria reacted with interest, but they didn't seem to feel in danger. The black community--particularly women of a certain age and lifestyle--were wondering if they were safe to walk out their doors."

But the anger subsided after Bright was named as the serial killer suspect in January 2005 and subsequent police outreach efforts since.

The police's big break came from a prostitute who told them that Bright had threatened her with a knife at the shack where he lived behind his mother's home in Peoria. Police later found several bone fragments on the property that they believe were from at least four of his victims.

Bright was charged in three of the deaths before accepting the plea agreement to escape the death penalty, but he confessed to all eight of the killings soon after being arrested. Bright led authorities to about a half-dozen sites where he told them he dumped some of his victims' remains after incinerating their bodies in his mother's back yard.

Most of the fragments, however, are so badly charred that DNA tests failed to positively identify to whom they belong.

"From the beginning, we said we weren't going to be moved by political pressure or racial pressure," said Peoria County Sheriff Michael McCoy.

"We said we'd do it the right way, and we did. I think that now that it's all over the majority of African-Americans know that we were doing the right thing."

Lyons said he decided to forgo pursuing the death penalty because the plea agreement offered the best opportunity for the women's families to reach finality.

An "overwhelming majority" of the families agreed that sending Bright to prison for life was better than dealing with the arduous trial and appeals process that would follow if Lyons sought the death penalty, the prosecutor said.

Criss, who started off as a critic of the Sheriff's Department when the killing spree started and later served as an unofficial liaison between the families and law-enforcement authorities, confirmed most of the families agreed that the plea was the best route to go.

Kevin Armstrong, whose stepsister Linda Neal was among Bright's victims during his stretch of murders from July 2003 to November 2004, said the family debated but in the end decided it wasn't worth the anguish.

On Wednesday, Armstrong sat with his stepfather, Harrison Neal, and his mother, Jean Neal, at the family's dining room table and recalled the emotional roller coaster the family has ridden since his stepsister was killed and Bright was arrested.

Harrison Neal said his daughter is always on the top of his mind, and he finds himself mistaking strangers for her. Sometimes, Neal said, he excitedly calls out her name to some of them, only to be reminded that she is dead.

Jean, who said Linda Neal loved her as if she were her biological mother, finds herself talking to a portrait of Neal hung up among other pictures in the family living room.

"I talk to her and ask her what she is going to be up today," she said. "I keep having the same conversations we always had. I am not crazy, but it helps me feel better."

Armstrong said the family feels better knowing that Bright, 39, will spend the rest of his life behind bars. Bright is scheduled to be transferred to the Joliet Correctional Center on Thursday to start his sentence.

But the court proceedings, which amounted to a reading of charges in which Bright affirmed that he strangled seven of the women and offered enough cocaine to cause the death of an eighth, left the family feeling a bit hollow, Armstrong said. Bright's attorney also read a short statement apologizing for the "grief and heartache" he caused.

"We know it won't bring Linda back, but we were hoping that he would at least apologize himself," Armstrong said. "It wasn't very satisfying at all."

The daughters of Brenda Erving, one of Bright's victims, grudgingly accepted the prosecutor's decision to forgo the death penalty. Carmea Erving, 27, said that she regrets that Bright won't face trial, because she has so many questions about her mother's death that will likely remain unanswered.

"We'll never know why," Erving said.

"Why did he pick my mother to kill? Why did he ever pick any of those women?"

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amadhani@tribune.com

Written Submission of Illinois Coalition to Abolish the Death Penalty regarding Fundamental Justice Amendment reform to the capital punishment system.

Attachments:

1. Summary of Curtis Thompson case prepared by ICADP
2. Petition for Rehearing submitted by Curtis Thompson to Illinois Supreme Court.

The Fundamental Justice Amendment has not functioned as a check on unfair or arbitrary sentencing in the Illinois death penalty system for the reasons submitted in the attached petition. In fact, it has been used by the Court to avoid meaningful review of whether the retributive and deterrent functions of the death penalty would be served by putting the inmate to death.

People of the State of Illinois v. Curtis A. Thompson
(Summary)

Proceedings:
Trial court found defendant eligible for the death penalty based on three factors:

1-defendant had murdered a police officer
2-he had murdered 2 or more people
3-two of the murders occurred during a home invasion

Defendant raises three issues regarding his sentence:

1-contests his death sentence as being excessive in light of the aggravation and mitigation presented at the penalty phrase of his sentence hearing.
2-remaining two issues are regarding the constitutionality of the death penalty.

Facts:
-December 2001, Chief Deputy Dison went to Defendant's home and notified him about the warrant and that Def would have one week to post bond of $100.
-On March 22, 2002 at around 7pm, an officer went to Defendant's door.
-Defendant shot the officer as officer turned to leave.
-Defendant then went to neighbor Geisenhagen's home, kicked door in, and shot two people.
-At trial, Defendant raised an insanity defense and presented the testimony of two mental health experts—Dr. Day and Dr. Chapman (two leading clinical psychologists in the state of Illinois).

Dr. Day testified that he conducted a psychological assessment of defendant using two tests—the Minnesota Multiphasic Personality Inventory (MMPI) and the Millon Clinical Multiaxial Inventory. The MMPI indicated that defendant had "interpersonal alienation" which is difficulty relating to people in the social realm. Defendant scored high in "paranoia, suspiciousness." The MCMI indicated "paranoid ideation," depression, and "avoidance of social situations" (10).

According to Day, Defendant claimed that he shot the deputy because he believed the deputy was going to shoot him first. Defendant also claimed he wanted Janet Geisenhagen to remember all the pain she had caused him when she sued him in the dog-bite case (11). Day believed the Defendant was suffering from two disorders: delusional disorder of a persecutory type and paranoid personality disorder (11).

Delusional disorder of a persecutory type is a mental disease characterized by a false belief system grounded in non-bizzare delusions because it is based upon things that can happen in everyday life, as opposed to things that are not possible. The theme of the delusion involves the personal belief that the person is "being conspired against, cheated, spied on, followed, poisoned or drugged, maliciously maligned, harassed, or obstructed in the pursuit of long-term goals. Even though there may not be any factual basis for thinking that any of those things are happening, the delusional person believes they are. Day concluded that on the day of the crimes, Defendant suffered from delusional disorder of a persecutory type that prevented him from appreciating the criminality of his conduct (testimony of Dr. Day, 10-11)

During **Dr. Chapman's** interview with Defendant, Def. reported that he did not have any significant history of behavioral problems in school. He quit school after the 10th grade and married at age 17. He had three adult children who were all college educated (12). During the interview Defendant claimed he was the victim of harassment and abuse by "the powers that be" which included authority figures such as the police or anyone with power over him (12). Dr. Chapman concluded that Defendant lacked substantial capacity to appreciate the criminality of his conduct on the date of the offenses (testimony of Dr. Chapman, 12-15)

State called psychiatrist **Dr. Kowalkowski** to interview Defendant. Dr. Kowalkowski asked Def. about events that happened on March 22, 2002. Defendant said that he did not remember anything between 6pm and the time he was in the hospital later that evening. When asked if he knew it was wrong to kill someone, he responded, "I never killed a fly that did not shit on me first" (17).

Dr. Kowalkowski believed Defendant had malingering amnesia—the intentional production of false or grossly exaggerated physical or psychological symptoms to avoid prosecution. Kowalkowski stated that Def's long and short term memory was intact because Def. had told hospital nurse that Janet Giesenhagen "must have bled to death, didn't know how to make a tourniquet" (17).

Dr. Kowalkowski found no evidence of delusions, fixed false beliefs, or misinterpretation of external reality. He believed that the Defendant did not have a delusional disorder, rather diagnosed Defendant as having "paranoid personality disorder" and "antisocial personality disorder" (17).

Paranoid Personality Disorder criteria (17):

1-suspecting others of harming, exploiting or deceiving without a sufficient basis to do so.
2-reluctance to confide in others because of unwarranted fear that the information will be maliciously used
3-persistently bearing grudges and having an intolerance for insults, injuries and slights
4-perceiving attacks on one's character that are not apparent to others and being quick to react angrily or counterattacked.

According to Dr. Kowalkowski, these disorders are not significant mental disorders or defects; rather they are *behavior* or *conduct disorders (17).

Kowalkowski concluded that the defendant was not insane at the time he committed the murders, nor did the defendant suffer from a mental disease or defect that would have caused him to lack substantial capacity to appreciate the criminality of his conduct (18). Kowalkowski disagreed with Drs. Day and Chapman who diagnosed Defendant with a delusional disorder, persecutory type—arguing that Defendant did not suffer from any non-bizarre delusions. Kowalkowski argued that Defendant had a personality disorder—an enduring pattern of inner beliefs and behavior that caused him to be suspicious of others and to interpret their motives as malevolent (testimony of Dr. Kowalkowski, 15-19).

In rebuttal, Dr. Chapman testified that defendant does not meet the diagnostic criteria for antisocial personality disorder because there is not enough history about Def's childhood history to make a diagnosis. Although Defendant told Kowalkowski that he got into fights in his childhood, it is not known who initiated the fights and Chapman stated that it is likely Defendant refused to discuss the particulars of his crimes with Dr. Kowalkowski because of his delusional disorder (testimony of Dr. Chapman, 19)

The jury rejected the insanity defense and the guilty but mentally ill verdict. The trial court found defendant eligible for the death penalty (19).

Court believes that the suggestion that the defendant acted out of a delusional "mortal fear" is belied by evidence to the contrary. Defendant never stated that he was afraid of the police or the Giesenhagens. Instead, Defendant said that he murdered the Giesenhagens because he had already killed a deputy "so why not get them" (30).

Defendant contended that his death sentence is excessive because he acted under an extreme mental disturbance at the time of the murders and he had no significant prior criminal history (27).

Defendant's mitigating evidence:

1-the defendant has no significant history of prior criminal activity
2-the murder was committed while the defendant was under the influence of extreme mental or emotional disturbance.

The trial court acknowledged the evidence for mitigation showing defendant's good deeds, capacity for normal friendships, his childhood, and his concern for his family. The court, however, found that the mitigation was outweighed by the overwhelming evidence in aggravation—specifically "evidence of defendant's criminal intent, violent revenge, hatred of people and authority, and threats and intimidation of citizens of the community." The court was also unable to find any evidence of remorse. Instead, the court found that the defendant's comments, character, and attitude suggested that if given the opportunity, Defendant would kill again for "whatever unjustified purpose he determined" (27-29).

Dissent by Justice McMorrow:
A principle reason why imposing the death penalty would be fundamentally unjust in this case is the Defendant's mental condition. All three experts who testified concluded that Defendant was suffering from a mental disorder at the time of the offenses—the only dispute is with regard to which type of disorder. The imposition of the death penalty in this case is fundamentally unjust (44-46).

No. 97373

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit
	)	Court of the 10nd Judicial
	)	Circuit, Stark County, Illinois
Plaintiff-Appellee,	)	
	)	
vs.	)	No. 02 CF 5
	)	
CURTIS A. THOMPSON,	)	Honorable
	)	Scott A. Shore,
Defendant-Appellant.	)	Judge Presiding.

PETITION FOR REHEARING FOR DEFENDANT-APPELLANT

CHARLES SCHIEDEL
Deputy Defender

CHARLES W. HOFFMAN
Assistant Defender
Office of the State Appellate Defender
Supreme Court Unit-Chicago
20 N. Clark Street, Suite 2800
Chicago, IL 60602
(312) 814-5100

COUNSEL FOR DEFENDANT-APPELLANT

No. 97373

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	)	Scott A. Shore,
Defendant-Appellant.	)	Judge Presiding.

PETITION FOR REHEARING FOR DEFENDANT-APPELLANT

On April 10, 2006, this Honorable Court issued an opinion affirming the sentence of death imposed on Appellant Curtis Thompson by the trial court after a bench capital sentencing hearing. Rejecting Mr. Thompson's argument that his death sentence constituted excessive punishment, a majority of the Court concluded that imposition of the death penalty in this case was not "fundamentally unjust," citing to the so-called "Fundamental Justice Amendment" recently enacted by the Illinois legislature. 720 ILCS 5/9-1(i). In dissent, Justice McMorrow disagreed. Relying on that same statute, Justice McMorrow concluded that the imposition of the death penalty in this case was "fundamentally unjust." For the reasons stated herein, Appellant respectfully requests, pursuant to this Court's Rule 367, that rehearing be granted, and that Mr. Thompson's death sentence be vacated, as the enactment of the "Fundamental Justice Amendment" has rendered judicial review of the propriety of death sentences by this Court unconstitutionally arbitrary and standardless, in violation of the Eighth Amendment to the United States Constitution, and Article I, §11 of the Illinois Constitution.

REHEARING SHOULD BE GRANTED, AS THE ENACTMENT OF THE "FUNDAMENTAL JUSTICE AMENDMENT" HAS RENDERED JUDICIAL REVIEW OF THE PROPRIETY OF DEATH SENTENCES IN ILLINOIS UNCONSTITUTIONALLY ARBITRARY AND STANDARDLESS, IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE I, §11 OF THE ILLINOIS CONSTITUTION.

The United States Supreme Court has repeatedly and consistently recognized the crucial role of appellate review in capital cases in ensuring that the death penalty is not imposed arbitrarily or capriciously. In the seminal case of *Gregg v. Georgia,* 428 U.S. 153 (1976), the Court upheld Georgia's capital sentencing scheme in large part because the statute required appellate review of every death sentence. As the joint opinion of Justices Stewart, Powell and Stevens in *Gregg* noted,

> "As an important additional safeguard against arbitrariness and caprice, the Georgia statutory scheme provides for automatic appeal of all death sentences to the State's Supreme Court. That court is required by statute to review each sentence of death and determine whether it was imposed under the influence of passion or prejudice, whether the evidence supports the jury's finding of a statutory aggravating circumstance, and whether the sentence is disproportionate compared to those sentences imposed in similar cases."
>
> *Gregg*, 428 U.S. at 198.

Similarly, Justice White, joined by Chief Justice Burger and Justice Rehnquist, recognized in *Gregg* that "(a)n important aspect of the new Georgia legislative scheme . . . is its provision for appellate review . . . in every case in which the death penalty is imposed"). *Gregg*, 428 U.S. at 211.

The requirement of mandatory appellate review was also a significant factor in the Supreme Court's decisions upholding the capital sentencing schemes of Florida and Texas. *See Proffitt v. Florida,* 428 U.S. 242, 253 (1976) (The risk of arbitrary or capricious infliction of the death penalty "is minimized by Florida's appellate review system, under which the evidence of

the aggravating and mitigating circumstances is reviewed and reweighed by the Supreme Court of Florida 'to determine independently whether the imposition of the ultimate penalty is warranted.'") (joint opinion of Stewart, Powell, and Stevens); *Jurek v. Texas,* 428 U.S. 262, 276 (1976) ("By providing prompt judicial review of the jury's decision in a court with statewide jurisdiction, Texas has provided a means to promote the evenhanded, rational, and consistent imposition of death sentences under law.") (joint opinion of Stewart, Powell, and Stevens). In the later case of *Zant v. Stephens*, 462 U.S. 862, 884 (1983), the Court stressed that its decision upholding the Georgia death penalty statute "depend[ed] in part on the existence of an important procedural safeguard, the mandatory appellate review of each death sentence by the Georgia Supreme Court to avoid arbitrariness and to assure proportionality." *Zant*, 462 U.S. at 890. *See also Clemons v. Mississippi,* 494 U.S. 738, 749 (1990) ("[T]his Court has repeatedly emphasized that meaningful appellate review of death sentences promotes reliability and consistency").

In accord with the Supreme Court's repeated declarations on the importance of the appellate process in capital cases, such appeals in Illinois are mandatory, automatic, and lie directly in this Court. (Ill. Const. 1970, art. VI, §4(b), 87 Ill.2d. R. 603 and 720 ILCS 5/9-1(i). In *People v. Brownell*, 79 Ill.2d 508, 404 N.E.2d 181 (1980) — one of this Court's earliest capital opinions following reinstatement of the death penalty in Illinois in 1977 — Your Honors noted that Illinois provides for direct judicial review of capital cases in a court of statewide jurisdiction, "as a means to promote the evenhanded, rational and consistent imposition of death sentences" through the court's "scrutiny of the record and of the propriety and proportionality of the sentence imposed." *Brownell*, 404 N.E.2d at 199 (1980). Indeed, this Court has explicitly recognized that "rationality, consistency, and evenhandedness in the imposition of the death penalty are *constitutionally indispensable*." *People v. St. Pierre*, 146 Ill.2d 494, 588 N.E.2d 1159,

1168 (1992) (emphasis added). *See also*, *People v. Gleckler*, 82 Ill.2d 145, 411 N.E.2d 849, 857 (1980) ("This court historically has exercised its power to reduce criminal sentences, in both capital and noncapital cases, where it deemed them unduly severe . . . (a)nd we are constitutionally required to consider both the circumstances of the offense and the character of a defendant. Ill. Const. 1970, art. I, sec. 11.")

In its role as judicial overseer of the propriety of all death sentences imposed in Illinois, this Court has announced that it will vacate a death sentence as excessive, whenever "such an extreme penalty [is] found to be inappropriate, in light of any relevant mitigating factors," *People v. Smith*, 177 Ill.2d 53, 685 N.E.2d 880, 900 (1997), and where "the retributive and deterrent functions of the death penalty will not be served by putting [the defendant] to death." *People v. Johnson*, 128 Ill.2d 253, 538 N.E.2d 1118, 1130 (1989). Accordingly, in a line of cases beginning with *People v. Carlson*, 79 Ill. 2d 564, 404 N.E.2d 233, 245 (1980), and continuing with *People v. Buggs*, 112 Ill.2d 284, 493 N.E.2d 332 (1986); *People v. Johnson*, 128 Ill.2d 253, 538 N.E.2d 1118, 1131 (1989); and *People v. Leger*, 149 Ill.2d 355, 597 N.E.2d 586 (1992), this Court has developed a legal framework in which claims of excessive punishment in capital cases will be reviewed. In *People v. Thomas*, 178 Ill.2d 215, 687 N.E.2d 892 (1997), this Court described the factors it considers most significant in determining whether a death sentence is excessive in a particular case:

> An examination of the cases where we have found death to be an inappropriate penalty reveals a consistent pattern. In those cases, the circumstances surrounding the murder generally involved the defendant acting under an extreme mental or emotional disturbance. *See*, *e.g.*, *Carlson*, 79 Ill. 2d at 590 (marital discord); *People v. Buggs*, 112 Ill. 2d 284, 295, 97 Ill. Dec. 669, 493 N.E.2d 332 (1986) (marital discord); *Johnson*, 128 Ill. 2d at 282 (job loss). In addition, the defendants in those cases generally led blameless lives with little contact with the criminal justice system. See, *e.g.*, *Blackwell*, 171 Ill. 2d at 364; *Johnson*, 128 Ill. 2d at 282; *Buggs*, 112 Ill. 2d at 295; *Carlson*, 79 Ill. 2d at 590. Under such

> circumstances, this court has determined that the death penalty is excessive and inappropriate.
>
> *Thomas,* 687 N.E.2d at 907.

In the present case, relying on the *Carlson*, *Buggs*, *Leger* and *Johnson* line of cases, Appellant Curtis Thompson argued that the death sentence imposed on him by the trial judge was excessive punishment. (Appellant's Br. at 29-48) However, in response to Appellant's citation to these cases, Your Honors stated,

> Defendant urges a comparison of this case with the facts of *Carlson*, *Buggs*, *Johnson* and *Leger*, but we note that comparative proportionality review in death penalty cases is not required by the United States Constitution, and is not a feature of the capital sentencing process under the Illinois Constitution.
>
> *People v. Thompson*, __ Ill.2d __, No. 97373 (April 10, 2006) (Slip Opinion at 35).

This Court's rejection of Appellant's request to compare the facts of his case with the facts of *Carlson*, *Buggs*, *Johnson* and *Leger* represents a fundamental departure from this Court's well-established precedent. Although the Court is correct that "comparative proportionality review" is not constitutionally required, this Court's historic practice has been to look to previously-decided capital cases for the purpose of identifying those mitigating factors that render a sentence of death inappropriate in a given case. And that practice has explicitly included a comparison of the facts of the case under review with the facts of such previously-decided cases. *See, e.g., People v. Buggs*, 112 Ill.2d 284, 493 N.E.2d 332, 336 (1986) ("The defendant asserts, and we agree, that the mitigating circumstances of this case parallel those presented in *People v. Carlson.*"); *People v. Leger*, 149 Ill.2d 355, 597 N.E.2d 586, 611 (1992) ("We find, however, that there exist sufficient substantial similarities in this case compared with *Johnson, Buggs,* and *Carlson* to conclude that the death sentence in this case is excessive.").

Although the Court, in the course of its opinion, purported to distinguish the facts of *Carlson*, *Buggs*, *Johnson* and *Leger* from the facts of the present case, the ultimate decision to

affirm Appellant's death sentence was not based on this Court's determination as to whether "the retributive and deterrent functions of the death penalty" would be served by putting Appellant to death, as has traditionally been the standard in this Court's death penalty jurisprudence. *See, e.g., People v. Ballard*, 206 Ill.2d 151, 794 N.E.2d 788, 807 (2002); *People v. Chapman*, 194 Ill.2d 186, 743 N.E.2d 48, 86 (2000); *People v. Harris*, 182 Ill.2d 114, 695 N.E.2d 447, 472 (1998); *People v. Smith*, 177 Ill.2d 53, 685 N.E.2d 880, 900 (1997); *People v. Tye*, 141 Ill.2d 1, 565 N.E.2d 931, 944 (1990); *People v. Johnson*, 128 Ill.2d 253, 538 N.E.2d 1118, 1130 (1989). Rather, relying on the so-called "Fundamental Justice Amendment" recently enacted by the Illinois legislature, the Court affirmed Appellant's death sentence because a majority concluded that "its imposition was not fundamentally unjust." *People v. Thompson*, __ Ill.2d __, No. 97373 (April 10, 2006) (Slip Opinion at 26-27, 39).[1]

However, nowhere in its opinion in the present case does the Court offer a definition of "fundamental injustice." Nor does the Court describe any standards or guidelines used to inform the conclusion that the imposition of a death sentence in a particular case is — or is not — "fundamentally unjust." Nor could the Court have done so, as the *absence* of any such *legal*

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[1] The "Fundamental Justice Amendment" (hereinafter the FJA), provides as follows:

The Illinois Supreme Court may overturn the death sentence, and order the imposition of imprisonment under Chapter V of the Unified Code of Corrections [730 ILCS 5/5-1-1 et seq.] if the court finds that the death sentence is fundamentally unjust as applied to the particular case. If the Illinois Supreme Court finds that the death sentence is fundamentally unjust as applied to the particular case, independent of any procedural grounds for relief, the Illinois Supreme Court shall issue a written opinion explaining this finding. (720 ILCS 5/9-1(i) (West 2004).

In his brief, Appellant did note the existence of the FJA. *People v. Thompson*, No. 97373, Brief for Appellant, p. 32, fn 7. He did not, however, rely on the FJA as an independent basis under which this Court should vacate his death sentence, other than to argue that it would be "fundamentally unjust" for this Court to uphold his sentence — after sparing the lives of Robert Carlson, Carrus Buggs, William Leger, and Brian Johnson — as "there is no principled manner in which the present case can be distinguished from the *Carlson, Buggs, Leger* and *Johnson* cases." *People v. Thompson*, No. 97373, Brief for Appellant, p. 48.

standards or guidelines is, according to the legislative sponsors of the FJA, the amendment's raison d'etre.

As Justice McMorrow noted in her dissent, the legislative co-sponsors of the FJA, State Senators Cullerton and Dillard, have described the amendment as requiring a "new kind of appellate review." They wrote,

> The 'fundamental justice' of a death sentence, as applied to a particular case, cannot generally be determined on the basis of legal rules. *It is a moral issue, not a legal one*, and must be based on the facts of the particular case *and the moral compass of the decision maker.* [parenthetical omitted] J. Cullerton, K. Dillard & P. Baroni, *Capital Punishment Reform in Illinois--A Model for the Nation*, DCBA Brief, at 10-12 (April 2004).
>
> *People v. Thompson*, __ Ill.2d __, No. 97373 (April 10, 2006) (Slip Opinion at 45-46) (McMorrow, J., dissenting) (emphasis added).

Appellant respectfully suggests that when the propriety of a death sentence is decided, not "on the basis of legal rules," but rather, according to "the moral compasses" of the individual members of this Court, "rationality, consistency, and evenhandedness in the imposition of the death penalty," *People v. St. Pierre*, 146 Ill.2d 494, 588 N.E.2d 1159, 1168 (1992), is no longer possible.

It is beyond cavil that no person involved in the judicial capital punishment process should make decisions based on personal moral beliefs, whether that person is a juror, a trial judge, or a Justice of the Illinois Supreme Court. Indeed, a prospective juror in a capital case who asserted that he would be compelled to decide the defendant's punishment based on his own *moral* beliefs, rather than the court's *legal* instructions, would be ineligible to serve on the jury. *See, e.g., People v. Williams*, 161 Ill.2d 1, 641 N.E.2d 296, 318-19 (1994) (Jurors whose moral beliefs would prevent or substantially impair the performance of their duties in accordance with the court's instructions are excludable for cause.) *See also, Bennett v. Angelone*, 92 F.3d 1336, 1346 (4th Cir. 1996) (In his argument to jurors, the prosecutor "improperly drew on his reading of

biblical law to justify the morality of the state's death penalty."). It is equally improper for this Court to determine the appropriateness of a death sentence on appellate review based on the "moral compasses" of the individual members of the Court. Yet that is exactly what the legislature has demanded by enacting a legally-standardless, morally-driven FJA.

In so doing, the General Assembly has confused the roles of legislator and judge in our system of capital justice. The *legislature* is the appropriate forum to decide "moral issues" involving capital punishment, such as whether the scope of a state's death penalty statute should include juvenile offenders. *See, e.g., Thompson v. Oklahoma*, 487 U.S. 815, 858-59 (1988) (O'Connor, J., concurring) ("(T)he approach I take allows the ultimate moral issue at stake in the constitutional question to be addressed in the first instance by those best suited to do so, the people's elected representatives."). In contrast, *this Court* is the appropriate forum to decide "legal issues" involving capital punishment, such as whether a death sentence in a particular case is inappropriate or excessive. For the General Assembly to insist that "moral" considerations control this Court's review of the propriety of death sentences turns capital jurisprudence on its head. If this Court's review of the propriety of death sentences is controlled by the subjective "moral compasses" of the individual members of the Court, rather than established legal precedent, the outcome of such cases would not be "based on the law, but based instead on who happens to be sitting on the court at a particular time." *People v. Lewis*, 88 Ill.2d 129, 430 N.E.2d 1346, 1366 (1981) (Clark, J., concurring). And, as former Justice Ryan cautioned, should that be the case, "then the concept that ours is a government of law and not of men would be nothing more than a pious cliche." *Lewis*, 430 N.E.2d at 1364 (Ryan, J., concurring).

As Justice Fitzgerald aptly noted in his concurrence, this Court's duty — as assigned to it by the legislature — to overturn a death sentence if the Court finds it fundamentally unjust, is a "great responsibility." *People v. Thompson*, __ Ill.2d __, No. 97373 (April 10, 2006) (Slip Opinion at 42) (Fitzgerald, J., concurring). However, the legislature imposed that responsibility

on this Court in the deliberate absence of any legal standards — standards which are indispensable for this Court to perform its duty in an "evenhanded, rational and consistent" manner. *People v. Brownell*, 79 Ill.2d 508, 404 N.E.2d 181 (1980).[2]

Unfortunately, the legislature's well-intentioned attempt "to guard against 'wanton' and 'freakish' imposition of the death penalty in this state," *People v. Thompson*, __ Ill.2d __, No. 97373 (April 10, 2006) (Slip Opinion at 44) (Fitzgerald, J., concurring), will inevitably have the exact opposite effect. Under the FJA's legally-standardless, morally-driven judicial review of the propriety of death sentences, Illinois' death penalty process once again suffers from the same type of constitutional infirmity that caused the Supreme Court in *Furman v. Georgia*, 408 U.S. 238, 310 (1972), to declare capital punishment — as then applied — unconstitutionally arbitrary, and prompted this Court to do the same in *People ex rel. Rice v. Cunningham*, 61 Ill.2d 353, 336 N.E. 2d 1, 6 (1975) (Illinois' death penalty statute which allowed a three-judge panel to reject an otherwise-appropriate death sentence if a majority found "compelling reasons for mercy," held unconstitutional, "because it does not contain standards or guidelines to be considered in determining whether there are 'compelling reasons for mercy.'").

The Constitution requires that legal issues such as the propriety of a death sentence be decided by legal standards, not moral ones, "lest judging take leave of the touchstone of unlawfulness and become little more than a visceral exercise." *Robles v. Prince Georges County*, 308 F.3d 437, 439-40 (4th Cir. 2002) (Wilkinson, C.J., concurring in the denial of rehearing *en*

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[2] In contrast to the vague, standardless language of the FJA, the Governor's Commission on Capital Punishment recommended that this Court continue to review death sentences for arbitrariness and excessiveness, but urged the Court to expand this traditional review to include an independent weighing of the aggravation and mitigation to determine whether death was the proper sentence, and to also engage in comparative proportionality review, as the only means to insure that death sentences were being imposed in an appropriate and even-handed manner state-wide. Report of the Governor's Commission on Capital Punishment, Recommendation 70 and commentary, ch. 12, at 166-68 (April 2002).

banc). The FJA, however, has transformed this Court's review of death sentences from an objective legal analysis based on precedent, into nothing more than an amorphous "gut check" based on each individual Justice's moral views on capital punishment. On such a crucial question, this Court simply "cannot countenance a subjective 'I know it when I see it' standard." *Big Mama Rag v. United States*, 631 F.2d 1030, 1040 (D.C. Cir. 1980). Because enactment of the FJA has rendered judicial review of the propriety of death sentences in Illinois unconstitutionally arbitrary and capricious, Appellant Curtis Thompson respectfully requests that rehearing be granted, that the death penalty process in Illinois be declared unconstitutional, and that his death sentence be reduced to a sentence of natural life without parole.

CONCLUSION

Defendant-Appellant Curtis Thompson respectfully requests that this Court grant rehearing, and hold that enactment of the Fundamental Justice Amendment has rendered review of death sentences in Illinois unconstitutionally arbitrary, requiring that Mr. Thompson's death sentence be reduced to a sentence of natural life in prison without parole.

Respectfully submitted,

CHARLES SCHIEDEL
Deputy Defender

CHARLES W. HOFFMAN
Assistant Defender
Office of the State Appellate Defender
Supreme Court Unit-Chicago
20 N. Clark Street, Suite 2800
Chicago, IL 60602
(312) 814-5100
COUNSEL FOR DEFENDANT-APPELLANT

No. 97373

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit
	)	Court of the 10nd Judicial
	)	Circuit, Stark County, Illinois
Plaintiff-Appellee,	)	
	)	
vs.	)	No. 02 CF 5
	)	
CURTIS A. THOMPSON,	)	Honorable
	)	Scott A. Shore,
Defendant-Appellant.	)	Judge Presiding.

NOTICE AND PROOF OF SERVICE

TO: David Iskowich
Assistant Attorney General
100 W. Randolph Street, 12th Fl.
Chicago, IL 60601

James D. Owens
State's Attorney
130 W. Main St.
Toulon, IL 61483

Brian C. Ervin
Reporter of Decisions
PO Box 3456
Bloomington, IL 61702-3456

Please take notice that I have delivered the original and nineteen copies of the Reply Brief and Argument for Defendant-Appellant to the Clerk of the above Court; and that I am serving the Attorney General and State's Attorney each with three copies, and the Reporter of Decisions with one copy by depositing the copies in the mail in Springfield, Illinois, with sufficient prepaid postage and addressed as indicated above on this 26 day of May, 2006.

Arlene Montgomery
ARLENE MONTGOMERY
Administrative Secretary

Subscribed and sworn to
before me on this 26th day
of May, 2006.

Sheila Ann Hustava
NOTARY PUBLIC

Official Seal
Sheila Ann Hustava
Notary Public State of Illinois
My Commission Expires 02/24/07