

# CALIFORNIA'S DEATH PENALTY IS DEAD

ANATOMY OF A FAILURE

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*California's Death Penalty is Dead* is a report by the ACLU of California, written by Natasha Minsker, Death Penalty Policy Director, Miriam Gerace, Senior Communications Strategist, and Ana Zamora, Program Associate. Cover art by Gigi Pandian.

The report is available at [www.aclunc.org/deathpenalty](http://www.aclunc.org/deathpenalty)

Published July 2011.

# EXECUTIVE SUMMARY

## Death Knell for the Death Penalty

California's death penalty is dead. Prosecutors, legislators and taxpayers are turning to permanent imprisonment with no chance of parole as evidence grows that the system is costly, risky, and dangerous to public safety. New polls also indicate that voters favor replacing the death penalty with life in prison without the possibility of parole, with a requirement for work and restitution paid to the Victims' Compensation Fund.

Most significantly, only three death sentences were handed down in California from January to June 2011, compared with the same period last year when there were 13. This is the lowest number of new death sentences in a six month period since the death penalty was reinstated in 1978, and a clear indicator that district attorneys and jurors across the state are turning away from the death penalty. On average, 49% of death sentences are decided in the first six months of the year. This means that California may be on track for a total of less than 10 death sentences in 2011— the lowest number in 33 years.

Three other related developments reveal a system in total collapse:

### **California has not executed anyone since 2006 and there is no reason to believe that executions will ever resume.**

In 2006, U.S. District Judge Jeremy Fogel ruled that California had to halt executions and revise its lethal injection methods to avoid the risk of unconstitutional and botched executions. The California Department of Corrections and Rehabilitation (CDCR) changed its protocols – belatedly and despite nearly 30,000 public comments in opposition – but the new procedures remain tied up in state and federal court challenges.

California has no legal way to get the drugs required for executions. The CDCR's new protocol for executions, which has the force of law, requires the use of sodium thiopental. The only U.S. manufacturer of this drug ceased production last year and there is no other domestic source. International sources have dried up and there are open questions about the legality and quality of the drugs now in the CDCR's possession. An open records request by the ACLU of Northern California revealed that California's current supply of sodium thiopental was purchased from a questionable overseas source for \$36,000.<sup>1</sup> It remains unknown how California will resolve the legal and practical problems in carrying out executions, or if it can.

### **Death penalty promoters have been snubbed at the ballot box.**

In 2010, voters of all stripes rejected pro-death penalty rhetoric and chose candidates for Governor, Attorney General and other statewide offices who support replacing the death penalty with life without possibility of parole. Those who aggressively campaigned in favor of the death penalty, including Attorney General hopeful

Steve Cooley and gubernatorial candidate Meg Whitman, were rejected. Former Riverside County District Attorney Rod Pacheco campaigned hard on the death penalty, only to lose to Judge Paul Zellerbach. Pacheco promised to “speed up” the appeals process and went so far as to call his opponent “Judge Marshmallow” for being “soft on crime.” But voters chose Zellerbach, who pledged fiscal responsibility and honestly informed voters that it would require reducing the number of death penalty cases in the county.

A 2011 poll found 63% of likely California voters support converting death sentences to permanent imprisonment. The proposal received support across political party lines and all regions of the state, including a majority of Democrats, Independents, and Republicans. The poll asked voters opinion on the idea that Governor Brown could save the state \$1 billion dollars over five years by converting all death row sentences to life in prison without possibility of parole, and requiring inmates to work and pay restitution to victim families.

### **Death penalty costs are extraordinary and detrimental to public safety at a time of economic crisis.**

The death penalty diverts limited funds from our budget that could be used to fight and investigate violent crimes. A shocking 46% of homicides in California are never solved. As a *Los Angeles Times* reader put it: “We need to ask whether we would rather pay for lawyers in the courtrooms or teachers in the classrooms; more prison cells on death row or more police officers on our streets; and more execution drugs or more staff to solve our crimes.”

A new study by U.S. 9th Circuit Court Judge Arthur L. Alarcon (a former prosecutor) and Loyola Law School professor Paula M. Mitchell, found the death penalty has cost California \$4 billion since 1978. If left unchecked, it will consume \$9 billion from state coffers by 2030. California spends \$184 million a year more on its 714 death-row inmates than it would if the same inmates had been sentenced to life without parole. Judge Alarcon and Professor Mitchell confirm the ACLU’s own conservative estimate that California will save \$1 billion over five years by eliminating the death penalty.

The death penalty suffers from fatal structural flaws which will always make it more expensive, slower, and riskier than life in prison with no possibility of parole. Housing is costly: inmates are housed in single cells unlike other prisoners, and there are significant security costs. Death penalty trials cost up to 20 times more than trials for life imprisonment without the possibility of parole. In fact, death sentences are handed down after two trials, instead of one. Taxpayers are legally required to pay for numerous appeals in death penalty cases, unlike cases involving life without possibility of parole, where the prisoner gets only one taxpayer funded appeal. In California, the average time between conviction and execution is now more than 25 years. This figure is likely to get even longer with budget pressures and challenges to the state's lethal injection procedure.

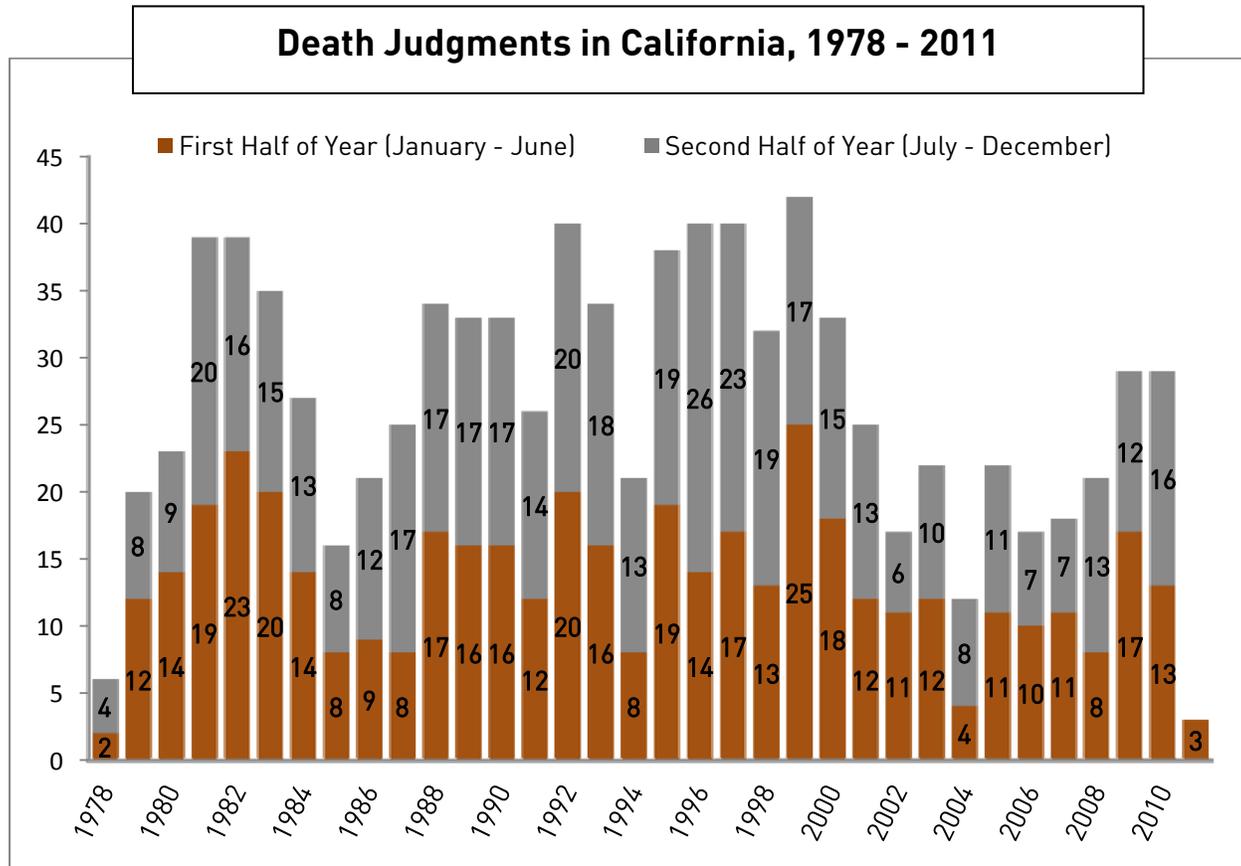
The death penalty drains hundreds of millions of taxpayer dollars with no guarantees for innocent persons caught in the system, no deterrent effect on murders, and a significant impact on vulnerable families and communities that need law enforcement support to investigate crimes and prevent violence before it happens. For years, experts like retired Chief Justice Ron George have declared that California’s death penalty is on the verge of collapse. In fact, the system has already collapsed, while regular Californians remain in the grip of an economic crisis of epic proportions. It’s time to end this expensive charade. Life in prison with no possibility of parole is a better solution that keeps us safe and saves us money.

“Time and again, academic studies have demonstrated that California's death penalty is a staggering waste of taxpayer money, a legal fiction that gives voters the impression they're being tough on crime even though condemned inmates typically expire of natural causes before making it to the death chamber.”

- *Los Angeles Times* Editorial, “California’s Costly Death Penalty,” June 22, 2011.

## NEW DEATH SENTENCES PLUMMET IN FIRST HALF OF 2011

Only 3 new death sentences were handed down in California from January to June 2011.<sup>2</sup> This is the lowest number of new death sentences in a six month period since the death penalty was reinstated in 1978. In comparison, in the same period last year, there were 13 new death sentences. On average, 49% of death sentences are decided in the first six months of the year. This means that California may be on track for a total of less than 10 death sentences in 2011— the lowest number in 33 years.



This dramatic decline in new death sentences shows that prosecutors and jurors across California are rejecting the death penalty in favor of life imprisonment without possibility of parole. In practice the vast majority of California’s 58 counties long ago replaced the death penalty with life without possibility of parole. In 2010, 44 counties did not send a single prisoner to death row.

In recent years, Los Angeles, Riverside, and Orange counties accounted for over half of new death sentences in California.<sup>3</sup> In 2009, Los Angeles County alone sentenced more people to death than the entire state of Texas – more than any other county in the country.<sup>4</sup> In the first half of 2011, however, Riverside and Orange counties sentenced no one to death, and Los Angeles added only one person to death row.

## THE DEATH PENALTY AT THE POLLS

While many factors influence death sentences, this sudden drop in new death sentences may reflect the changed climate in the state after California voters sharply turned away from the death penalty in the November 2010 election. Voters chose candidates for Governor, Attorney General and other statewide offices who support replacing the death penalty with life in prison without possibility of parole. The candidates who most aggressively campaigned in favor of the death penalty were rejected, including Attorney General candidate Steve Cooley and gubernatorial candidate Meg Whitman.

Most notably, in Riverside County, long among the leading death penalty counties in the state, voters rejected pro-death penalty District Attorney Rod Pacheco, and replaced him with Judge Paul Zellerbach. Pacheco campaigned hard on the death penalty, promising to bring an initiative to “speed up” the appeals process and even calling his opponent “Judge Marshmallow”. But voters chose Zellerbach, who promised fiscal responsibility in the District Attorney’s Office and said one of his first acts would be to review and reduce the number of pending death penalty cases in the county. There have been no new death sentences in Riverside County in the first six months of 2011.

A long-time supporter of the death penalty, Riverside District Attorney Zellerbach has realized that the process is extremely costly to county taxpayers, and that money saved could be better spent on effective law enforcement and community safety programs.

A 2011 statewide survey of likely voters conducted by David Binder Research tracked this shift of voter attitudes on the death penalty.<sup>5</sup> A strong 63% of likely voters support converting all current death row sentences to life imprisonment without any possibility of parole in order to save the state \$1 billion dollars in five years, and where the money saved would be required to pay for public education and law enforcement. The idea was supported by voters from all political parties and from across all regions of the state.

“I think the public is increasingly aware of the expense of the death penalty, of other programs being cut and also that the death penalty exists only on paper in California,”

- Richard Dieter, executive director of the Death Penalty Information Center, *The Daily Californian*, “Senator to introduce bill to ban death penalty, June 22,” June 22, 2011.

## WHY THE DEATH PENALTY IS SLOW AND EXPENSIVE

California's death penalty is many things – costly, wasteful, and harmful for families – but rarely is it deadly. This puzzles the public, especially when they learn that inmates are more likely to die of old age or infirmity than to be executed. But there are important reasons why that is the case. Most significant, the U.S. Supreme Court has stated that the Constitution requires extra protections in death penalty cases—protections not required for those sentenced to life imprisonment without parole—to ensure that we do not mistakenly execute an innocent person or send someone to their death just because they are poor.

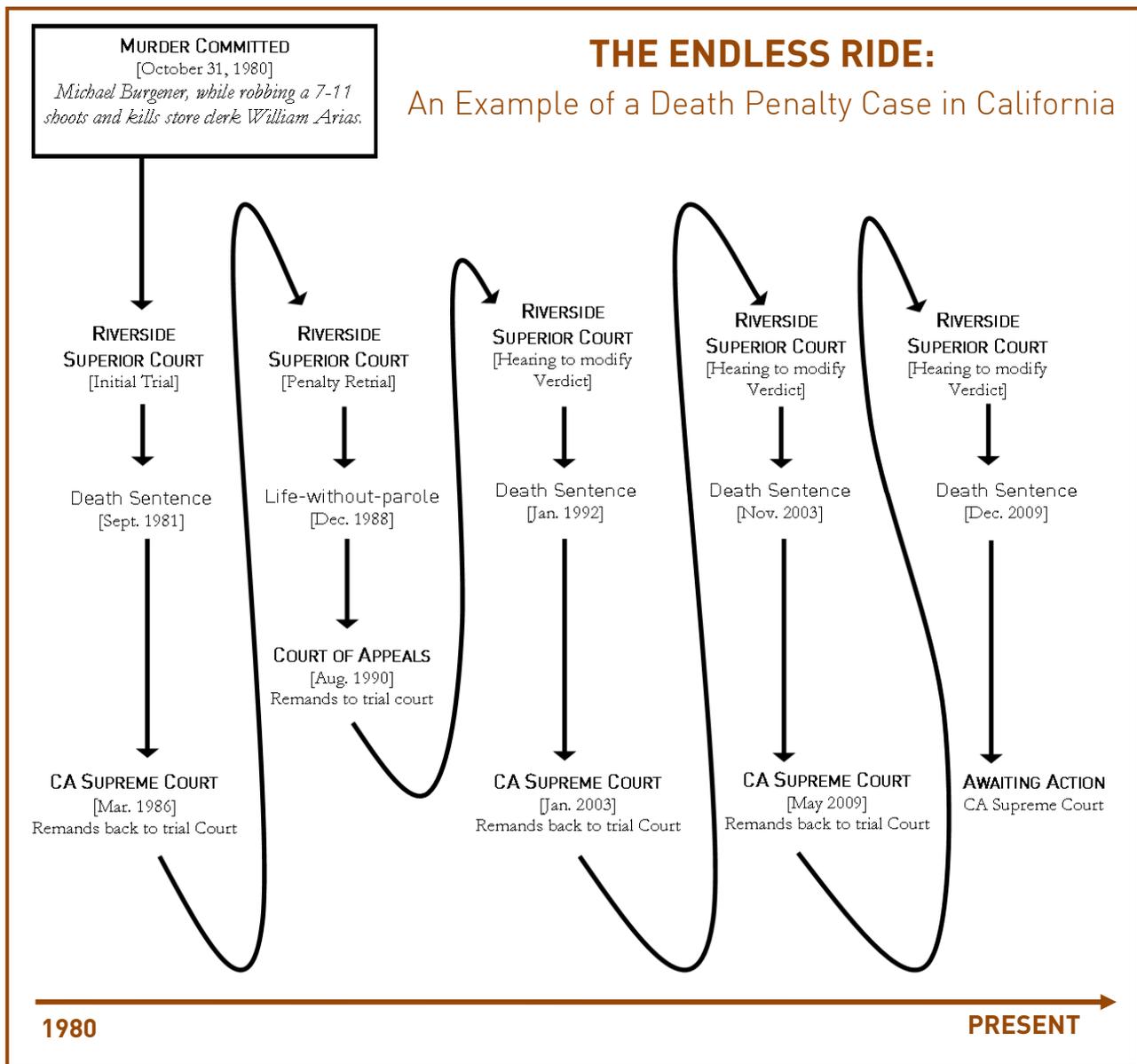
Each death penalty trial requires a lengthy process to guard against a tragic miscarriage of justice. There are two trials, a regular trial and a “penalty” trial. This requires more work by the prosecution team, and more attorneys, investigators, and experts. The defense also must double up, with a minimum of two attorneys and investigators, plus experts. Finally, a specially qualified judge and jury must be selected. Each of these additional steps means a taxpayer-funded expense. Counties foot the bill for the extra prosecution expenses and the extra expenses of the defense. The state also pays for court time – death penalty trials usually take three times longer than non-death penalty trials.

According to a new cost study by U.S. 9th Circuit Judge Arthur Alarcon and Loyola Law School Professor Paula Mitchell, death penalty trials cost up to 20 times more than trials for life imprisonment without the possibility of parole.<sup>6</sup> They found that data collected by the ACLU showed that “the least expensive” capital punishment trial cost \$1.1 million more than the most expensive life-without-parole case. Jury selection is particularly lengthy and expensive, and the state pays up to \$300,000 for a defendant's attorney and security.

Post-conviction costs are also covered by California's taxpayers, though the nearly limitless nature of appeals makes it difficult to arrive at a single cost estimate per case. The figure below illustrates the nearly endless ride through trial, retrial, hearing, sentencing, and other court dates for just one California death penalty case. Needless to say, these cycles are excruciating for many surviving family members of murder victims and financially taxing for the state.

“I watch today as Gov. Brown wrestles with the massive debt that is suffocating our state and hear him say he doesn't want to “play games.” But I cringe when I learn that not playing games amounts to cuts to kindergarten, cuts to universities, cuts to people with special needs — and I hear no mention of the simple cut that would save hundreds of millions of dollars, countless man-hours, unimaginable court time and years of emotional torture for victim's family members waiting for that magical sense of “closure” they've been falsely promised with death sentences that will never be carried out.”

- Donald A. McCartin, retired Orange County Superior Court Judge, *Los Angeles Times* Op-Ed, “Second thoughts of a ‘hanging judge,’” March 25, 2011.



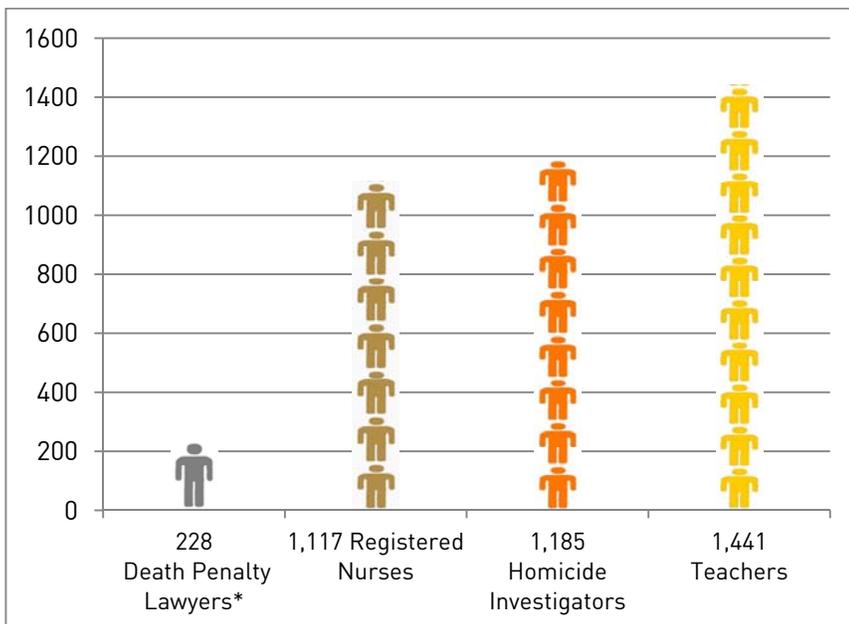
In contrast, murder cases in which the prosecution seeks life without possibility of parole have none of these special requirements. Instead, such trials are conducted like any other criminal trial and usually are completed in a matter of weeks. A prisoner sentenced to life imprisonment without possibility of parole is also entitled to only one tax-payer funded appeal, a process that is usually completed within 18 months after conviction.

## WHY ATTEMPTS TO “SPEED UP” THE DEATH PENALTY FAIL

The grave risk of wrongful execution remains in California and cannot be overlooked. Nationally, 138 people have been released from death row after new evidence proved they were in fact innocent.<sup>7</sup> On average, it took nine years for the new evidence to be located and presented in court. In some cases, it has taken nearly two decades, as in the case of John Thompson, who was wrongfully sentenced to die in Louisiana and nearly executed. And in some cases, mistakes have not been caught in time: Cameron Todd Willingham was executed for a fire that killed his three children, even though experts now agree the fire was an accident and he was innocent.

In 2008, the non-partisan California Commission on the Fair Administration of Justice (CCFAJ) found that California remains at risk of executing an innocent person despite the outlay of hundreds of millions of dollars a year to administer the death penalty.<sup>8</sup> The CCFAJ also looked at what could be done to prevent the execution of innocent people while also making the death penalty process move more quickly. The report recommended a series of reforms and concluded that in order to increase the pace of review of death penalty cases without decreasing the quality of justice, the state would have to spend an additional \$95 million a year. The new Alarcon-Mitchell study reached the same conclusion. None of the CCFAJ’s recommendations have been implemented due to the state’s budget crisis.

### \$95 MILLION MORE TO “SPEED UP” THE DEATH PENALTY How else can we invest our taxpayer dollars?



OPTION #1: Invest in our dysfunctional death penalty by hiring 228 more death penalty attorneys plus additional funding to the California Supreme Court and the Attorney General’s office.

OR

OPTION #2: Invest in our communities by hiring additional teachers, homicide investigators, or nurses.

\* The \$95-million figure represents the cost of 228 additional lawyers for post-conviction defense plus more attorneys at the California Supreme Court and the Attorney General’s office.

## WRONGFULLY CONVICTED: FRANKY CARRILLO

On March 14, 2011, the Los Angeles County Superior Court reversed Francisco “Franky” Carrillo Jr.’s 1992 conviction for the murder of Donald Sarpy, and ordered his release after two decades behind bars. At 16, Franky was wrongfully convicted of the 1991 murder based solely on identification testimony from six people, including the victim’s son. All six witnesses recently admitted that they were unable to see the shooter, and were influenced to make their identifications of Franky by the police and each other. In addition, two other men have since confessed to the shooting and said that Franky was not involved.

Though innocence issues were raised early in his trial, and again during Franky’s failed appeals, it was not until Ellen Eggers, an attorney with the Office of the State Public Defender, the law firm of Morrison and Foerster, and the Northern California Innocence Project (NCIP) stepped in to represent him for free, that Franky was able to establish his innocence with overwhelming evidence, and win release.

Franky’s case is another stark example of the problems that contribute to wrongful convictions. All too often, eyewitnesses end up choosing the wrong person because of outdated witness identification protocols and because law enforcement officers, eager to solve serious crimes, inadvertently prompt witnesses. In their 2006 report, the CCFAJ made specific recommendations to improve eyewitness identification procedures to reduce the likelihood of error and erroneous convictions. None of these reforms have been implemented to date.

Nowhere is this risk of wrongful conviction greater than in death penalty cases. Eyewitness misidentification remains the leading cause of erroneous convictions in the nation, responsible for an alarming 47 innocent men and women sentenced to death, and contributing to many more wrongful convictions. Franky’s case shows not only how easy mistakes can be made in California, but also how difficult innocence is to prove when they are.

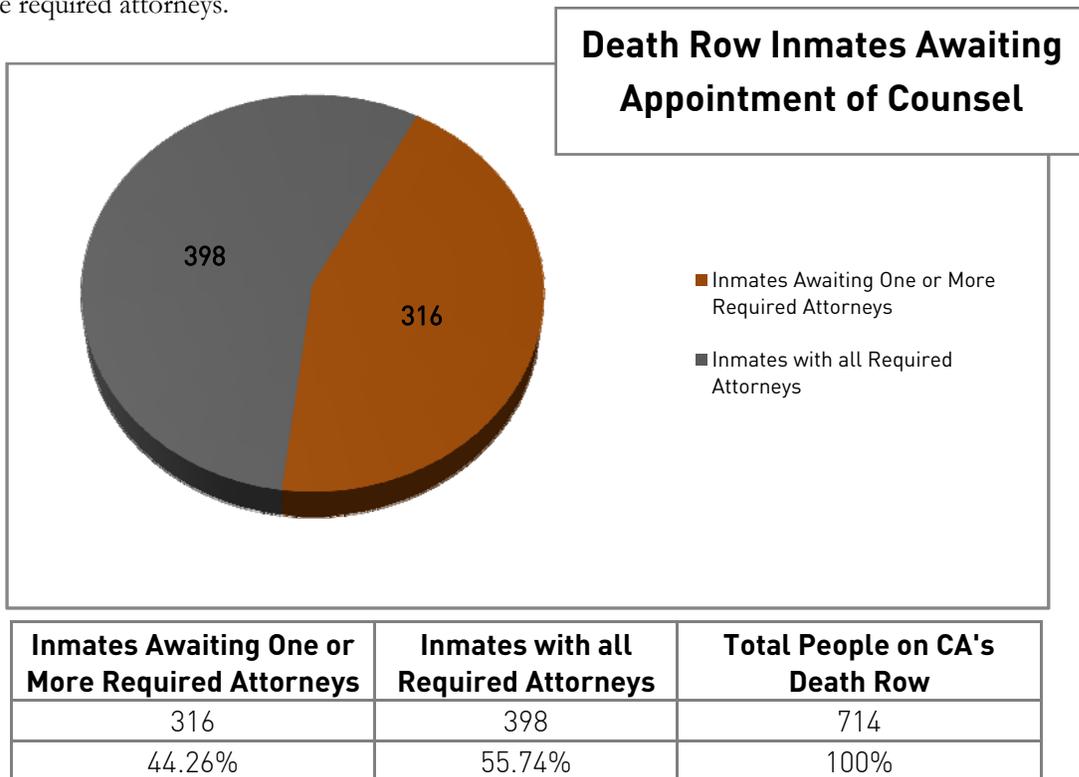


## NO MONEY, NO LAWYERS, NO END IN SIGHT

The CCFAJ report and the Alarcon-Mitchell study both conclude that only more money can increase the pace of review in death penalty cases because one of the leading causes of delay is the shortage of attorneys willing to take death penalty cases. In order to shorten the time needed for review, California would need to spend nearly \$100 million more per year, above what is already spent, to hire more lawyers: to process the cases of people now on death row more quickly, more defense attorneys, prosecutors, and judicial staff are needed.

Since the CCFAJ issued its report in 2008, funding for post conviction litigation has, in fact, decreased a small amount in the wake of the state’s budget crisis, and may face additional cuts. This budget plateau occurred as California experienced a 10% increase in the size of our death row, which now totals 714 inmates. The static nature of the litigation budgets and the growing number of inmates has led to an increasingly large number of inmates waiting years to receive appointment of counsel. Of the 25 years or more it takes for a death penalty case to be reviewed by the courts, nearly half of the time is spent simply finding an attorney to work on the case.

At present, 79 inmates (11% of total death row) are awaiting appointment of both an appellate attorney and a habeas corpus attorney (both are required by law in death penalty cases).<sup>9</sup> Three of these inmates have been waiting since their arrival to death row nearly four years ago. Another 237 inmates (33% of total death row) have been appointed an appellate attorney but are still awaiting appointment of a habeas corpus attorney. Over 100 of the inmates in this situation have been waiting for a habeas corpus attorney for over 10 years; one person has been waiting since 1994, 15 years. A total of 316 (44%) of death row inmates are awaiting appointment of one or both of the required attorneys.



Given the state's dire fiscal situation, state funds for review of death penalty cases will not be increased any time soon and may well decrease further. That means even greater delays.

Even if California were to have a sudden cash windfall, the likelihood that lawyers would rush to meet the need for counsel on death row is slim. Death penalty cases are, by definition, complex, lengthy and emotionally stressful. The rate of pay offered by the state falls far short of what most lawyers could expect in private practice. It is likely that death row inmates would continue to await counsel indefinitely since the shortage of lawyers willing to accept below-market-pay from the state, for lengthy and difficult cases, will persist for many years.

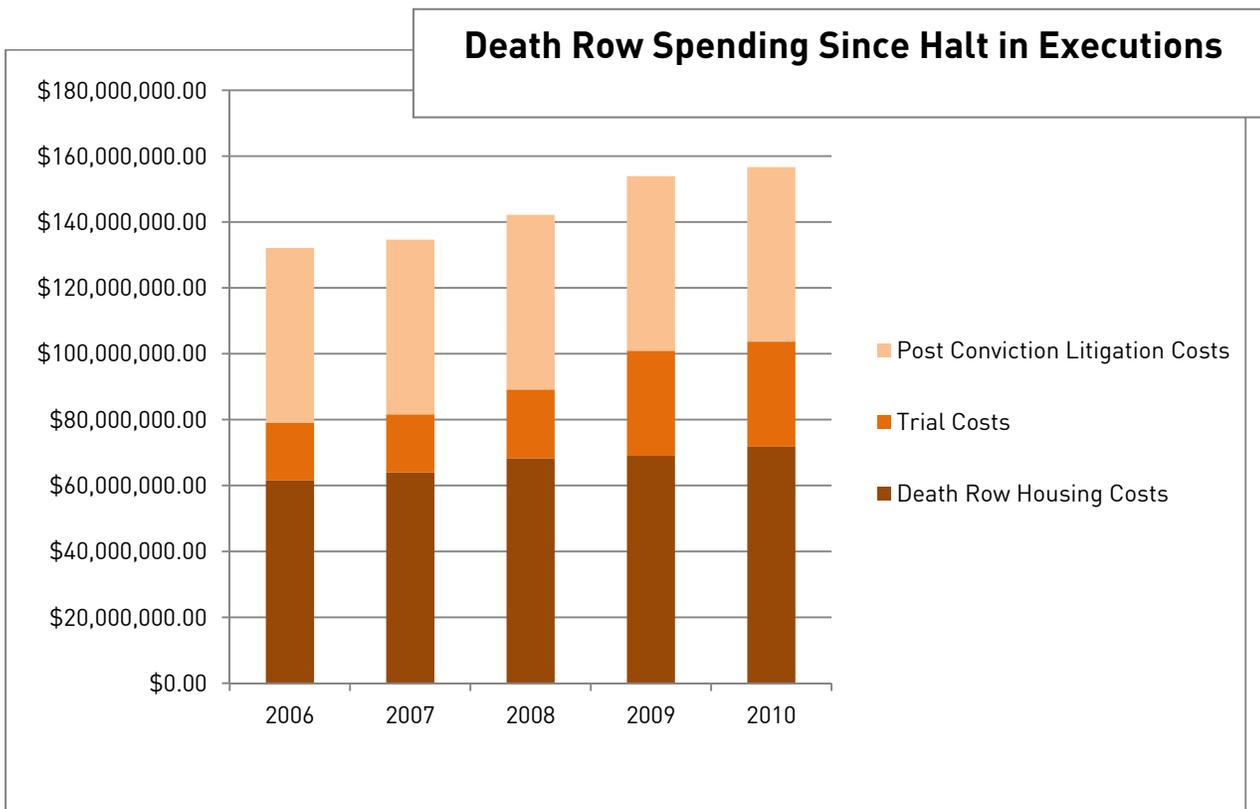
Life without parole sentences would eliminate the risk, length and expense of the death penalty by offering an alternative process that does not risk mistaken execution and would save the state hundreds of millions of dollars. Calls to "speed up" or streamline the process sound good at first, but they do not take into account the shortage of funds and lawyers, and would only add risk and expense at a time when families and communities need to know we are spending public safety dollars wisely.

"Money we're wasting pretending we have capital punishment could be used to hire teachers, police officers, firefighters, road repair crews and more.... We argue not for leniency but for common sense. In fact, a life sentence without the possibility of parole is a slow-motion death sentence. We want an end to wasteful spending. And for an end to pretending we have capital punishment when, obviously, we don't."

- Stockton Record Editorial, "Throwing money away: California death penalty system is a costly, broken affront," June 23, 2011.

## THE DEATH PENALTY DRAINS OUR BUDGET

Even though California has carried out zero executions in the last five years, we have continued to spend hundreds of millions of dollars on the death penalty. Based on death row and death sentencing data as well as budgets from the California Supreme Court, the Department of Justice, the State Public Defender's Office, and new data revealed in the Alarcon-Mitchell cost study, it is estimated that from 2006-2010 California spent over \$700 million.<sup>10</sup> Around 68% of this total cost was spent on the extra housing costs for our growing death row population; these are costs above and beyond the cost of housing an inmate in the general population, as is usually the case for someone sentenced to life imprisonment without possibility of parole.

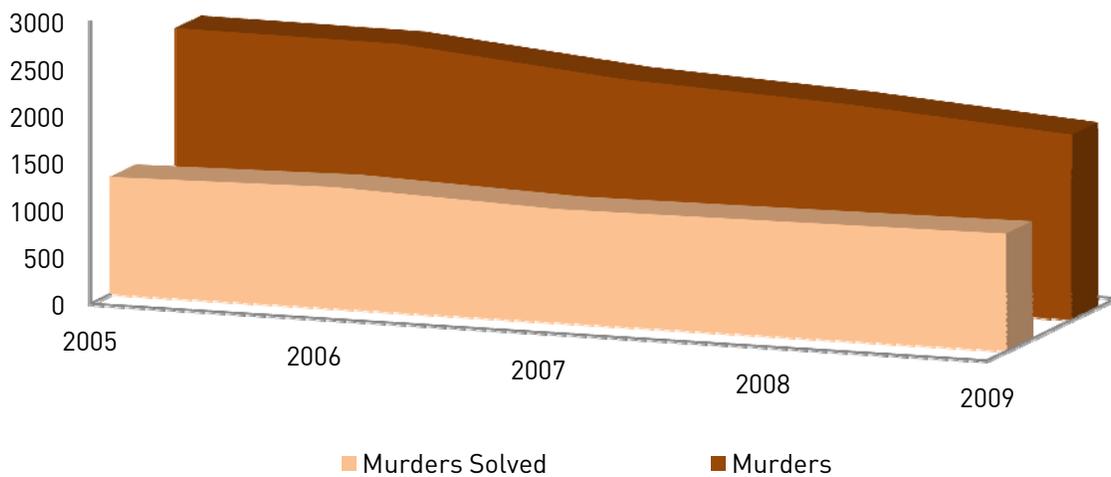


According to Judge Alarcon and Professor Mitchell, California has already spent \$4 billion on the death penalty since 1978. Because death row has grown and expenses have increased, Judge Alarcon and Professor Mitchell estimate that, in the next five years, California will spend \$1 billion dollars on the death penalty, money that could be better spent on critical community needs like public safety and education.

## THE DEATH PENALTY JEOPARDIZES EVERYONE'S SAFETY

In the most recent five years for which there is data, an alarming 11,357 people have been murdered in California.<sup>11</sup> Based on data collected by the California Department of Justice, it is estimated that just over half of these cases have been solved and the perpetrator caught, tried and punished. That leaves 45% of murders unsolved or approximately 5,000 murders, with families left with no justice at all, and the killers walking the streets free. More and more cuts to law enforcement budgets leave little hope that these cases will ever be solved.

**Five Years of Unsolved Murder in California, 2005 - 2009**



	2005	2006	2007	2008	2009	Totals
<b>Murders</b>	2,503	2,483	2,258	2,143	1,970	11,357
<b>Murders Solved</b>	1,249	1,292	1,208	1,227	1,248	6,224
<b>Unsolved Murders</b>	1,254	1,191	1,050	916	722	5,133
<b>Death Sentences</b>	22	17	18	21	29	107

In a 2010 report, “The Silent Crisis in California: Unsolved Murders,” California Crime Victims for Alternatives to the Death Penalty explain how we could improve the odds for solving murders in California: increase the number of homicide investigators, improve the quality of forensic labs, and create a climate that supports and protects witnesses who come forward.

“In many California communities, the primary obstacle to solving more murders is inadequate staffing levels at homicide investigation units, leading to poor quality investigations. Such is certainly the case in the city of Oakland, located in Alameda County. In a December 2008 article, the Chauncey Bailey Project found that “[t]he Oakland Police Department has the lowest homicide clearance rate among California’s large cities because the

department is understaffed and the detective work in certain instances is not thorough....Oakland's homicide investigators are each being handed 13 new cases a year, while detectives in California's 10 other large cities get no more than five."<sup>12</sup>

While 11,357 murders occurred between 2005 and 2009, 107 people were sentenced to death in the same period. The costs of the trials alone in these cases likely exceeded \$117 million, costs borne almost entirely by the counties. If California had chosen permanent imprisonment instead of the death penalty for these 107 offenders, the counties would have saved over \$100 million, money that could have been funneled into the very same law enforcement programs that are currently experiencing cuts, making it increasingly more difficult to solve murders. The state also would have saved millions by avoiding the extra costs of death row housing for these prisoners.

### County Profile: Unsolved Murder in Los Angeles County

In five years from 2005 to 2009, Los Angeles County failed to solve 52% of murders occurring in the county. Los Angeles County also has the highest homicide rate in the whole state, and has sent more people to death row than any other county. Accordingly, this county has spent approximately \$36.3 million dollars in five years to prosecute and send 33 murderers to death row, while over 2,000 murders remain unsolved, and thousands of killers continue to walk the streets free.

#### Los Angeles County, Unsolved Murder and the Death Penalty, 2005 - 2009

# of Homicides	# of Unsolved Murders	# of Death Sentences	\$\$ Spent on Death Penalty
4,448	2,301	33	\$36.3 million

“California's death penalty does not and cannot function the way its supporters want it to. It is also an incredibly costly penalty, and the money would be far better spent keeping kids in school, keeping teachers and counselors in their schools and giving the juvenile justice system the resources it needs.”

- Gil Garcetti, former Los Angeles District Attorney, *Los Angeles Times* Op-Ed, “California's death penalty doesn't serve justice,” March 25, 2011

## CONCLUSION

For years, experts like retired Chief Justice Ron George, 9th Circuit Judge Alarcon, and the non-partisan California Commission on the Fair Administration of Justice, have declared that California's death penalty is costly, dysfunctional and on the verge of collapse. In fact, the system has collapsed.

California's death penalty exists in name only, an expensive fiction that undermines confidence in our justice system, causes harm to victims' families, and consumes literally billions of dollars--resources that would be better spent on protecting our families, solving crimes and supporting our schools and education.

In polls and at the ballot box, California voters have shown that they are ready for a change. The time has come to replace the death penalty with life imprisonment without possibility of parole, and with a requirement that prisoners work and pay restitution to the Victims' Compensation Fund. Only by replacing the death penalty with life without parole can we provide justice to California taxpayers and communities.

## NOTES

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<sup>1</sup> All information related to California's recent, overseas acquisition of lethal injection drugs were obtained through requests under the California Public Records Act. These documents are on file with the ACLU.

<sup>2</sup> All data on death sentences in California in this report is from the California Department of Corrections and Rehabilitation and the California Appellate Project (CAP). According to CAP, only three people have been sentenced to death in California in the first six months of 2011: Melvin Earl Forte (Santa Clara County), Jonathan Fajardo (Los Angeles County), and Kevin Bernoudy (Los Angeles County).

<sup>3</sup> ACLU of Northern California, *Death by Geography*, March 2008, available at [http://www.aclunc.org/docs/criminal\\_justice/death\\_penalty/death\\_by\\_geography/death\\_by\\_geography.pdf](http://www.aclunc.org/docs/criminal_justice/death_penalty/death_by_geography/death_by_geography.pdf).

<sup>4</sup> ACLU of Northern California, *Death in Decline, 09*, March 2010, available at [http://www.aclunc.org/docs/criminal\\_justice/death\\_penalty/death\\_in\\_decline\\_09.pdf](http://www.aclunc.org/docs/criminal_justice/death_penalty/death_in_decline_09.pdf).

<sup>5</sup> David Binder Research, April 26, 2011 Survey, available at [http://www.aclunc.org/docs/criminal\\_justice/death\\_penalty/april2011dppoll.pdf](http://www.aclunc.org/docs/criminal_justice/death_penalty/april2011dppoll.pdf).

<sup>6</sup> Arthur Alarcon and Paula Mitchell, "Executing the will of the voters?: a roadmap to mend or end the California Legislature's multi-billion-dollar death penalty debacle," *Loyola of Los Angeles Law Review*, June 2011.

<sup>7</sup> Death Penalty Information Center, *The Death Penalty in 2010: Year End Report*, December 2010, available at <http://www.deathpenaltyinfo.org/documents/2010YearEnd-Final.pdf>.

<sup>8</sup> California Commission On The Fair Administration Of Justice, *Official Recommendations on the Fair Administration of The Death Penalty in California*, June 30, 2008, available at <http://ccfaj.org/rr-dp-official.html>, hereafter CCFAJ Death Penalty Report.

<sup>9</sup> All information about appointment of counsel for inmates on death row is from the California Appellate Project.

<sup>10</sup> Budget information for the California Supreme Court and the California Department of Justice were obtained through requests under the California Public Record Act. These documents are on file with the ACLU. Budget information for the Office of the State Public Defender is available at <http://www.ebudget.ca.gov/StateAgencyBudgets/8000/8140/spr.html>. Budget information for the Habeas Corpus Resource Center is available at <http://www.ebudget.ca.gov/StateAgencyBudgets/0010/0250/spr.html>.

<sup>11</sup> All data related to murder in California was taken from the California Department of Justice, Criminal Justice Statistics Center, available at <http://ag.ca.gov/cjsc/datatabs.php>.

<sup>12</sup> California Crime Victims for Alternatives to the Death Penalty, *The Silent Crisis in California: Unsolved Murders*, April 2010, available at <http://www.californiacrimevictims.org/Publications/The%20Silent%20Crisis%20in%20California.pdf>.



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