

**REPORT OF THE JUDICIAL COUNCIL
DEATH PENALTY ADVISORY COMMITTEE**

Approved by the Judicial Council

February 13, 2014

EXECUTIVE SUMMARY

This report is based on two sets of data: (1) cases used in a 2003 Legislative Post Audit Report and (2) 34 cases which could have been charged as capital murder filed between 2004 and 2011. Of those 34 cases, 16 had jury trials and 18 were settled by plea agreement for sentences of imprisonment.

BIDS Defense Costs for Cases filed 2004-2011

| | <u>Total</u> | <u>Average</u> |
|---|--------------|-------------------|
| • Total BIDS costs (trial & appeal) for 9 trial cases where death penalty sought: | \$ 3,561,856 | (\$ 395,762/case) |
| • Total BIDS costs (trial & appeal) for 6 trial cases where death penalty not sought: | \$ 593,781 | (\$ 98,963/case) |
| • Total BIDS costs for 6 plea cases where death penalty sought: | \$ 783,568 | (\$ 130,595/case) |
| • Total BIDS costs for 11 plea cases where death penalty not sought: | \$ 711,823 | (\$ 64,711/case) |

District Court Costs for Cases filed 2004-2011

| | | |
|---|------------|------------------|
| • District Court costs (trial & appeal) for 9 trial cases where death penalty sought: | \$ 652,770 | (\$ 72,530/case) |
| • District Court costs (trial & appeal) for 5 trial cases where death penalty not sought: | \$ 107,770 | (\$ 21,554/case) |
| • District Court costs for 4 plea cases where death penalty sought: | \$ 65,051 | (\$ 16,263/case) |
| • District Court costs for 9 plea cases where death penalty not sought: | \$ 66,454 | (\$ 7,384/case) |

Pre-2003 Cases Reviewed in Legislative Post Audit Study

Since Post Audit published its study in December 2003, BIDS has incurred additional expenses on the 14 death penalty cases involved in the 2003 study totaling \$1,930,007 (\$137,858/case). The District Courts have documented \$36,561 (\$3,047/case) spent since 2003 on 11 cases (data was not provided in three of the cases). An average of \$200 per case to BIDS was documented for the 7 cases where the death penalty was not sought. Similarly, the District Courts spent an average of \$162 per case since January 1, 2004, on non-death cases.

Measurement by Days Spent in Court

In addition to seeking actual and estimated expenditure of public funds, the Committee attempted to tabulate from court docket sheets the actual number of days counsel appeared before a judge. In the 37 cases which were tried to a jury, cases where the prosecution sought the death penalty averaged 40.13 days in court as compared to 16.79 in tried cases where the death penalty was not sought.

In cases which were terminated by plea agreements, cases in which the death penalty was sought averaged 13.5 court days. When the death penalty was not sought, 8.8 court days was the average.

Supreme Court Costs

Justices assigned to write the opinion of the Court estimate they spend 20 times more hours on a death penalty appeal than they would on a non-death penalty case. Justices who do not write the opinion are estimated to spend five times more hours on a death penalty appeal than they would otherwise. The Court's research staff have devoted some 13,600 hours over the last three years to death penalty appeals.

Future Incarceration Costs

The Committee did not attempt to project future incarceration costs; however, prisoners incarcerated under a sentence of death are housed exclusively in administrative segregation, which is estimated to cost \$49,380 per inmate per year. This is double the average annual cost of \$24,690 to house a prisoner in general population. The marginal cost to house one additional inmate – *i.e.* the adjustment to the DOC's budget that reflects the expenditures directly affected by the addition or subtraction of a single inmate -- is \$3,398 per year.

BACKGROUND

In June 2013, at the request of Representative Steven Becker, the Judicial Council assigned the Death Penalty Advisory Committee to update its previous 2009 study on costs of the death penalty. In his letter requesting the study, Rep. Steve Becker asked the Committee to capture costs to both the state and local government, to examine the trend of reversal on appeal in death penalty cases, and to assess a provision in the new repeal bill that would allocate cost savings to a victims support fund. After discussion at the first meeting, Rep. Becker agreed to withdraw that portion of the study request relating to the victims support fund.

COMMITTEE MEMBERSHIP

The following persons served on the Death Penalty Advisory Committee during the study:

Stephen E. Robison, Wichita; attorney with Fleeson, Gooing, Coulson & Kitch, LLC, and member of the Kansas Judicial Council

Representative Steven Becker, Buhler; retired District Court Judge and current State Representative for the 104th District

Vic Braden, Topeka; Deputy Attorney General, Criminal Litigation Division

Steve Cann, Topeka; Professor of Political Science at Washburn University

Ron Evans, Topeka; Chief Defender, Kansas Death Penalty Defense Unit

Jeffrey D. Jackson, Lawrence; Professor at Washburn University School of Law and former consultant on death penalty issues to the Kansas Supreme Court

Michael Kaye, Topeka; Professor at Washburn University School of Law

Senator Carolyn McGinn, Sedgwick; State Senator for the 31st District

Hon. Donald R. Noland, Girard; retired District Court Judge for the 11th Judicial District

Steven Obermeier, Olathe; Assistant District Attorney for Johnson County

Kim T. Parker, Wichita; Deputy District Attorney for Sedgwick County

Patricia Scalia, Topeka; Executive Director of the Kansas Board of Indigents' Defense Services

Ron Wurtz, Topeka; former Deputy Federal Public Defender and Chief Defender, Kansas Death Penalty Defense Unit

The Committee would also like to acknowledge the advice and assistance of Chris Clarke, Audit Manager with the Legislative Division of Post Audit; Topeka Police Chief Ron Miller; and Washburn law student Tabitha Chapman.

METHOD OF STUDY

In deciding how to approach the study, the Committee began by reviewing its previous studies from 2004 and 2009 as well as the 2003 Legislative Post Audit report, "Costs Incurred for Death Penalty Cases: A K-GOAL Audit of the Department of Corrections." In its 2003 report, Legislative Post Audit compared costs in 22 cases, some of which were death penalty cases and some first degree murder cases. In 2009, the Death Penalty Advisory Committee obtained updated defense cost estimates provided by the Board of Indigents' Defense Services (BIDS) on many of those same cases.

The Committee quickly determined that, given its limited time and resources, it would not be possible to produce as thorough and detailed a report as the 2003 Post Audit report. Instead, the Committee decided that it would try to obtain information about any additional costs that have been incurred since 2003 in the 22 cases that formed the basis for the Post Audit report.

In addition, the Committee decided to seek cost information on a number of newer cases that have been filed since 2003. The Committee chose to review all of the capital-eligible cases filed between FY 2004 and FY 2011, a total of 41 cases. These cases were obtained from a spreadsheet of capital-eligible cases provided by BIDS. The newer cases include cases where the death penalty was sought and cases where it was not sought, as well as cases that went to trial and cases where a guilty plea was entered (whereas the 2003 Post Audit report looked only at cases involving jury trials). For these newer cases, the Committee sought information about all costs incurred from the inception of the case.

The Committee sent surveys for each of the 63 total cases to the following entities: the Supreme Court, the Attorney General, BIDS, the Kansas Bureau of Investigation (KBI), district courts, local prosecutors, county clerks, and local sheriff and police departments. The cases were located in 24 different counties. The Committee used the same survey instruments that Post Audit used for its 2003 report.

Survey Responses

The Committee received survey responses from the Supreme Court, BIDS, the KBI, and most district courts and sheriff's departments. However, the Attorney General and a significant number of prosecutors and police departments either did not respond or could not provide any information. Even after follow-up letters were sent, prosecutors and police departments provided cost estimates in fewer than 20 of the 63 total cases.

The Attorney General sent a letter stating that his office has not kept records of time spent on cases and that, because there are so many variables that affect costs, any attempt to provide an estimate would be purely speculation. This sentiment was echoed by several prosecutors and law enforcement offices that were unable to provide any cost information.

Similarly, in Johnson County, the district court administrator, district attorney, county sheriff and county manager met and unanimously concluded it “would be impossible to reconstruct the hours of personnel time and cost of these cases with any fidelity.” As a result, for the seven cases out of Johnson County, the Committee received data only from BIDS and some local police departments.

While the Committee did receive complete responses from the KBI on the cases it investigated, KBI costs alone do not represent total investigation costs. On any given case, the investigation would have been conducted by some combination of the local police, local sheriff, and the KBI. Without sufficient data from other investigating agencies, the Committee could not draw any conclusions from the KBI costs alone. However, it should be noted that the Committee did receive feedback from a number of law enforcement offices stating that they investigate homicide cases in the same way regardless of whether the case is prosecuted as a death penalty case or not, and the Committee saw no reason to disagree with that conclusion.

This report will summarize results by each category of respondent from whom a sufficient number of responses were received. All of the results are based on estimates of actual costs provided by survey respondents. No future costs were projected.

Counting District Court Days as an Alternative Measure of Costs

The Committee also agreed to implement an alternative approach of measuring the cost of the death penalty in court days, as described in the law review article, Marceau & Whitson, *The Cost of Colorado’s Death Penalty*, Vol. 3 Univ. of Denver Criminal Law Rev. 145 (2013). The Colorado study compared the number of court days -- including pretrial, trial and sentencing -- between death penalty prosecutions and first-degree murder prosecutions with similar facts.

The Committee believes that the comparison of the number of trial court days provides an objective measure of costs that both corroborates cost estimate data and stands on its own as an alternative measure of costs.

COSTS INCURRED IN CAPITAL-ELIGIBLE CASES FILED BETWEEN FY 2004 AND FY 2011

The Committee gathered information about 41 capital-eligible cases filed between FY 2004 and FY 2011. These cases were obtained from a spreadsheet of cases that BIDS considered to be capital eligible, and included cases in which the death penalty was sought and cases in which it was not sought, as well as cases that went to trial and cases in which a guilty plea was entered.

Of the 41 cases on which the Committee gathered information, 5 were dismissed. The Committee did not include the cost estimates from those 5 dismissed cases in the results. In addition, the Committee determined that 2 of the cases involved defendants who were juveniles at the time of the crime. Because the death penalty could not have been pursued in those cases, the Committee agreed not to include those cases in the results either. As a result, the Committee ended up with a total sample of 34 cases, of which 16 were trial cases and 18 were plea cases.

For these cases, the Committee asked survey respondents to provide information about all costs incurred from the inception of the case. Respondents were asked to provide average salary information and to report the hours spent on each case by attorneys, judges, and support staff, as appropriate. They were also asked to provide information about other costs such as expert witness fees, costs of psychiatric testing, cost of any mitigation specialists, costs for transcripts, travel expenses, and juror expenses. While respondents generally estimated the hours spent on each case, they often provided actual cost information for the other costs associated with the case.

The Committee received sufficient responses to report BIDS defense costs and district court costs. BIDS defense costs are borne by the state. Most district court costs are borne by the state, though some costs such as security staff salaries and juror expenses are borne by the county. The costs reported do not include any costs that may have been incurred by defendants who could afford to hire their own private attorney.

It should be noted that the costs reported are only those that have been incurred up to the date of the survey. Additional BIDS defense costs will likely be incurred in the future on many of the cases, especially cases that went to trial and have not yet completed the appeal process. Additional district court costs are less likely but may be incurred if a defendant files a motion for post-conviction relief or if a new trial is ordered. This report makes no attempt to project those future costs.

Limitations

The reader should be aware that the results reported on the following pages are based on a small sample of cases and care should be taken in extrapolating these results.

Also, because these cases range in age from ones that began in FY 2004 to ones that began in FY 2011, some of them have had more years for costs to accrue than others. For example, some of the cases have gone through the entire direct appeal process while others have just begun that process.

The charts that follow reflect all costs reported, whether for trial, direct appeal, or additional appeals or proceedings. This is partly because, when BIDS provided cost estimates, it noted that some of the costs might be in the wrong category (trial vs. appeal) but all were associated with the correct individual case.

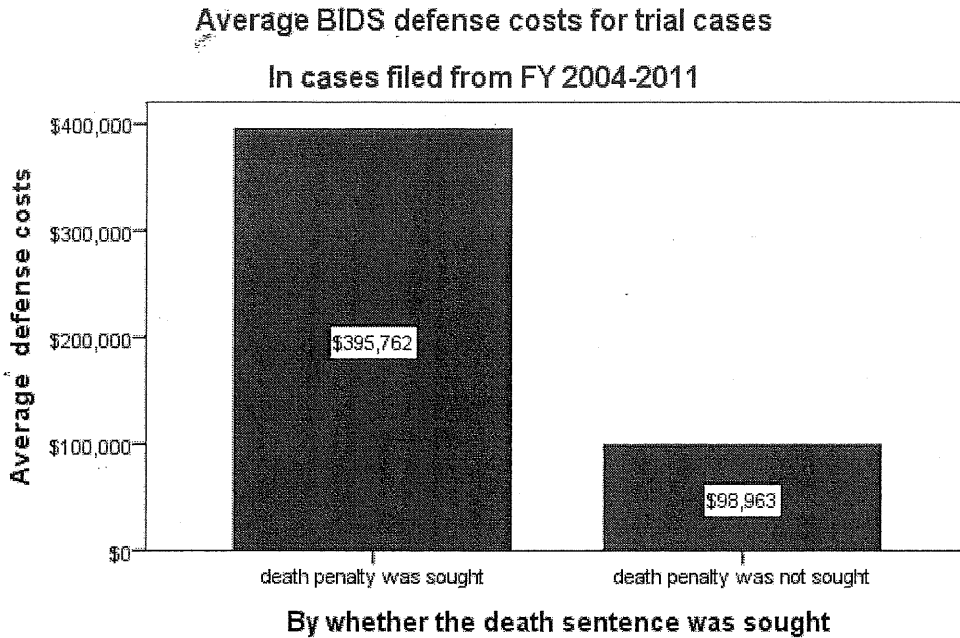
Another point to note about BIDS costs is that a few of the cases involved privately paid attorneys, at least for a portion of the case. For example, in Kahler, BIDS had very few trial costs because a private attorney defended the case at trial; however, BIDS was appointed to represent Kahler on his direct appeal and has incurred significant defense costs on the appeal. As mentioned previously, costs incurred by a defendant who hires his own private attorney are not included in this report.

Finally, there are a number of ways that costs can be compared and analyzed. For example, the Committee chose to group the cases for comparison purposes by whether the death penalty was sought, without regard to whether it was imposed. Those few cases where the death penalty was initially sought but withdrawn before trial are grouped in the same category with cases where the death penalty was not sought.

Appendices A and B contain the raw data on costs for each case including the year the case began, as well as information about whether the death penalty was sought, whether it was withdrawn, and whether it was imposed. The raw data is provided so that a reader who would like to analyze the data in a different way, by comparing different groups of cases, or leaving out individual cases for whatever reason, may do so.

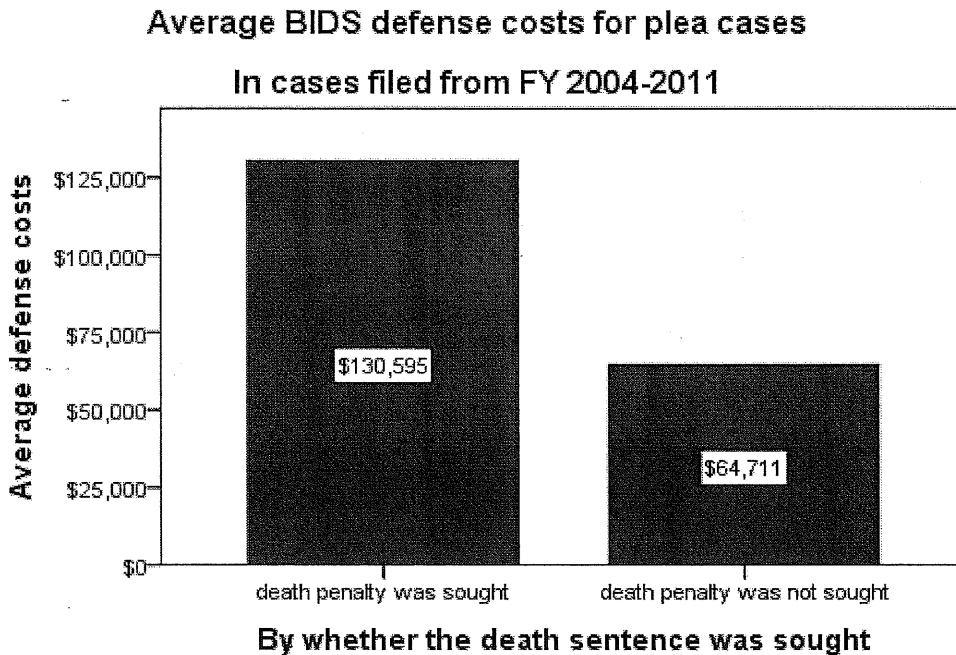
As an example, Appendix E contains two charts that analyze the cost data slightly differently from the other charts contained in this report, by further differentiating between types of cases.

Figure 1:



The graph represents 15 cases, and the average difference in defense costs is \$296,799.

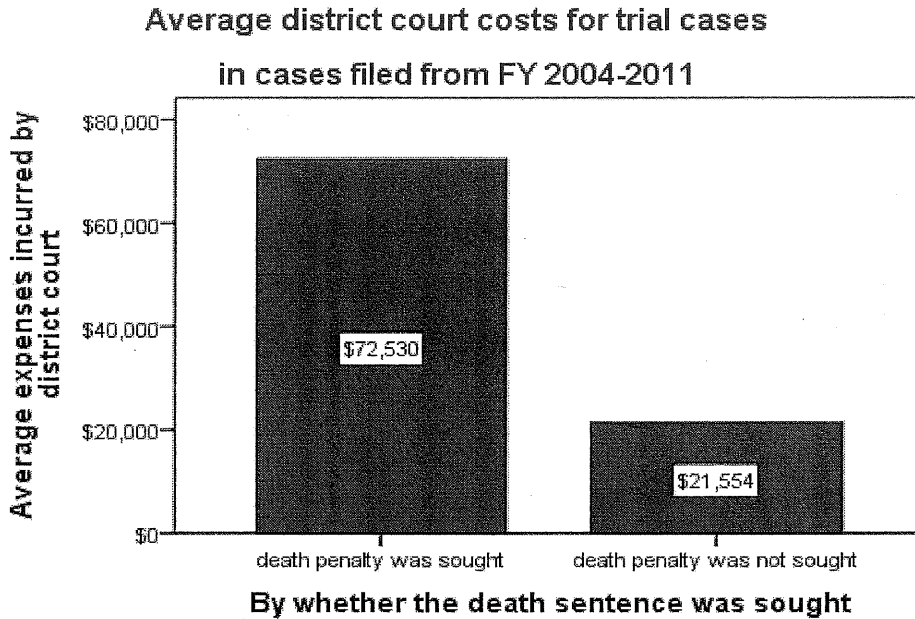
Figure 2:



The graph represents 17 cases, and the average difference in costs is \$65,884.

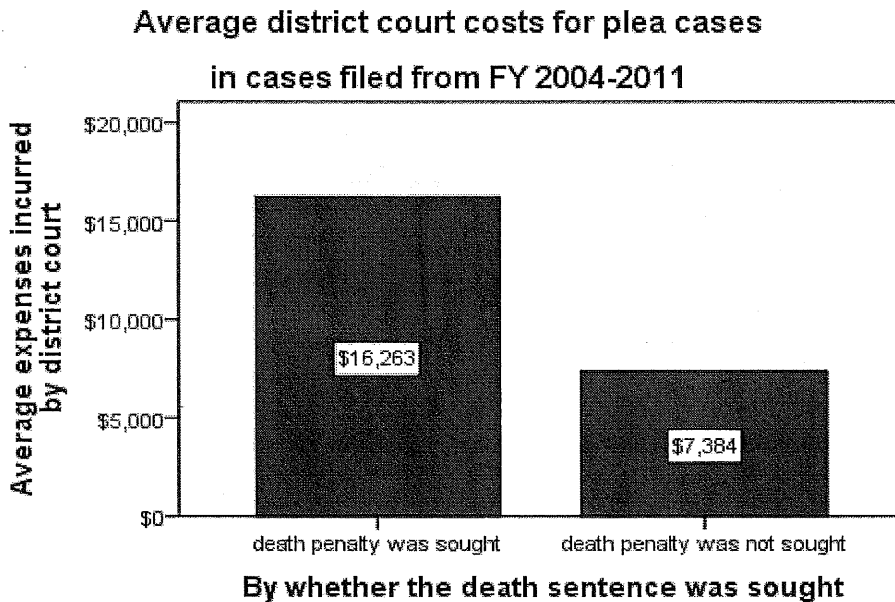
For the cases filed between FY 2004 and FY 2011, BIDS has incurred total defense costs so far of \$ 3,561,856 in the 9 death penalty cases that went to trial and \$ 783,568 in the 6 death penalty cases in which a plea was entered.

Figure 3:



The graph represents 14 cases, and the average difference in district court costs is \$50,976.

Figure 4:



The graph represents 13 cases, and the average difference in district court costs in plea cases is \$8,879.

For the cases filed between FY 2004 and FY 2011, the district courts have incurred total costs so far of \$ 652,770 in the 9 death penalty cases that went to trial and \$ 65,051 in the 4 death penalty cases in which a plea was entered (and for which data was available).

COSTS INCURRED SINCE JANUARY 1, 2004, IN PRE-2003 CASES PREVIOUSLY REVIEWED BY POST AUDIT

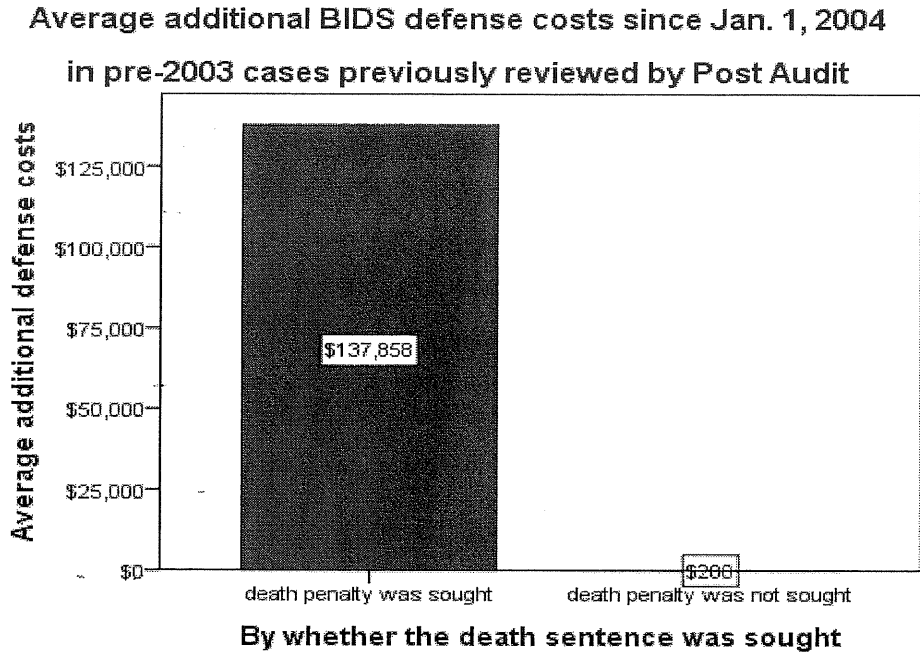
In attempting to update cost information on the 22 older cases that formed the basis for the 2003 Post Audit report, the Advisory Committee asked survey respondents to provide information about any additional costs that were incurred since January 1, 2004. One complication faced by the Committee was the fact that the numbers contained in the 2003 Post Audit report included both estimated actual costs and projected costs, and it was not possible to separate the estimated actual costs from the projected costs. For that reason, the Committee was not able to update the Post Audit report by simply adding the new data it gathered.

Also, the Post Audit report divided the cases it reviewed into three different categories for comparison purposes: seven cases where the death penalty was sought and imposed, seven cases where the death penalty was sought but not imposed, and eight first degree murder cases where the death penalty was not sought. For the current study, the Committee chose to group cases for comparison purposes by whether the death penalty was sought and not by whether it was ultimately imposed.

After determining that one of the cases involved a defendant who was a juvenile at the time of the crime, the Committee agreed not to include that case in the results because the death penalty could not have been pursued in that case. As a result, the total sample of pre-2003 cases was reduced from 22 to 21.

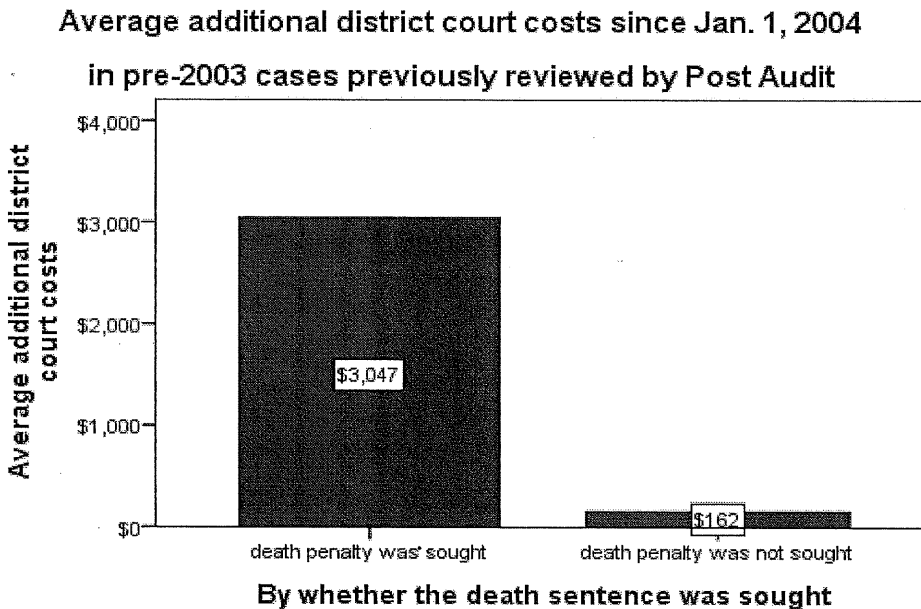
The following charts reflect responses from BIDS and district courts about additional costs that have been incurred on the pre-2003 cases previously reviewed by Post Audit since January 1, 2004. As demonstrated by the responses, there has been additional activity in some of the cases but not in others. Appendix C contains the raw data on additional costs, if any, for each of the cases. And Figure 9 in Appendix E shows an alternative way of analyzing the data, by differentiating the cases based on whether the death penalty was imposed.

Figure 5:



The graph represents 21 cases, and the average difference in additional BIDS defense costs by whether the death penalty was sought is \$137,658.

Figure 6:



The graph represents 18 cases, and the average difference in additional district court costs by whether the death penalty was sought is \$2,885.

BIDS has incurred a total of \$ 1,930,007 in additional defense costs since January 1, 2004, on the 14 pre-2003 death penalty cases previously reviewed by Post Audit.

The district courts have incurred a total of \$ 36,561 additional costs since January 1, 2004, on the 11 pre-2003 death penalty cases for which data was available.

SUPREME COURT COSTS

While the Kansas Supreme Court was not able to provide cost estimates on specific cases, the Court did provide information about the amount of time justices and their staff have spent on death penalty cases over the last three years. The Court was able to provide data based on the last three years because all of the justices currently on the Court have been serving for at least that length of time.

The Court estimated that, over the last three years, the seven justices have spent a total of approximately 2000 hours working on death penalty cases. That time includes preparation and research, oral argument, case conferencing, opinion writing and reviewing draft opinions. Over that same three years, justices' in-chambers research attorneys have spent approximately 1,600 hours working on death penalty appeals, and the two research attorneys in the Court's death penalty unit who work exclusively on death penalty appeals have spent 12,000 hours (2 attorneys x 3 years x 2000 hours per year).

The Court also estimated that justices spend approximately 20 times more hours on a death penalty cases versus a non-death case when the justice is assigned to write the opinion and 5 times more hours when the justice is not writing.

During the past three years, the Court has considered five death penalty appeals. These include *State v. Cheatham*, *State v. Cheever*, *State v. Gleason*, *State v. Reginald Carr*, and *State v. Jonathan Carr*. Several other appeals are pending but have not yet been set for oral argument. At the time the Court provided its response to the Committee, the Carr brothers' appeals had not yet been argued, so the justices have already spent and will continue to spend more hours on those two cases beyond the 2000 hour estimate.

FUTURE INCARCERATION COSTS

The Committee did not attempt to project future incarceration costs for the inmates whose cases form the basis for this report. In order to project incarceration costs for an inmate subject to the death penalty versus an inmate under a sentence of life with or without the possibility of parole, the Committee would need to determine a number of variables including the average number of years an inmate would be incarcerated before execution. Because Kansas has not yet executed an inmate since the death penalty was reinstated in 1994, and because no inmate currently under a sentence of death has completed the appeal process, the Committee decided that it would be nearly impossible to predict that number and make an accurate projection of future incarceration costs.

The Committee did obtain general information from the Department of Corrections (DOC) about the cost to house an inmate, both in the general population and in administrative segregation, which is where inmates sentenced to death are housed before their execution. The DOC indicated that the average annual cost to house an inmate in the general population is \$24,690. This number represents

the DOC's operating costs divided by the average daily inmate population. The marginal cost to house one additional inmate – *i.e.* the adjustment to the DOC's budget that reflects the expenditures directly affected by the addition or subtraction of a single inmate -- is \$3,398 per year.

Inmates who are sentenced to death are housed in administrative segregation; there is no separate "death row." According to the DOC, the average annual cost to house an inmate in administrative segregation is \$49,380, or double the cost to house an inmate in the general population. Administrative segregation is more expensive primarily because of the need for more officers per inmate.

COMPARISON OF DISTRICT COURT DAYS

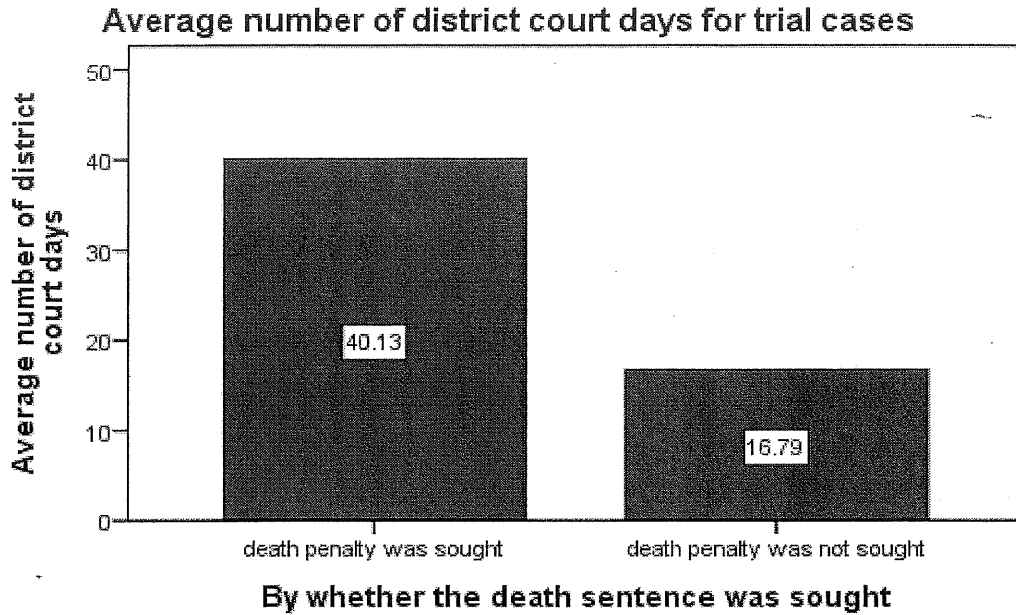
In this part of the report, the Committee analyzed the cost of death penalty by comparing the number of district court days involved for each case from first appearance through sentencing. (The Committee did not include appellate court days or any district court days associated with proceedings that took place after sentencing.)

The Committee first gathered the docket sheets associated with each case and then counted the number of trial court days spent on pretrial proceedings (such as first appearances, arraignments, motion hearings, and preliminary hearings) jury selection, trial and sentencing. For purposes of consistency, every proceeding was counted as a court day even if it did not take the whole day. If more than one proceeding occurred on the same day, only one day was counted.

Because the quality of the docket sheets varied, and some docket sheets more clearly indicated when a hearing was held than others, the Committee adopted a few conventions for the sake of consistency. For example, some docket sheets simply stated that the court had ordered a continuance without indicating whether the parties had actually appeared in court to argue a motion for continuance. For this reason, continuances were not counted in any of the cases even if it was clear that a hearing was held on the issue. The Committee did not count days for hearings that were scheduled unless the docket sheet clearly indicated that the hearing was actually held. For example, if the docket sheet showed that a transcript of a hearing was filed, then a day was counted for that hearing.

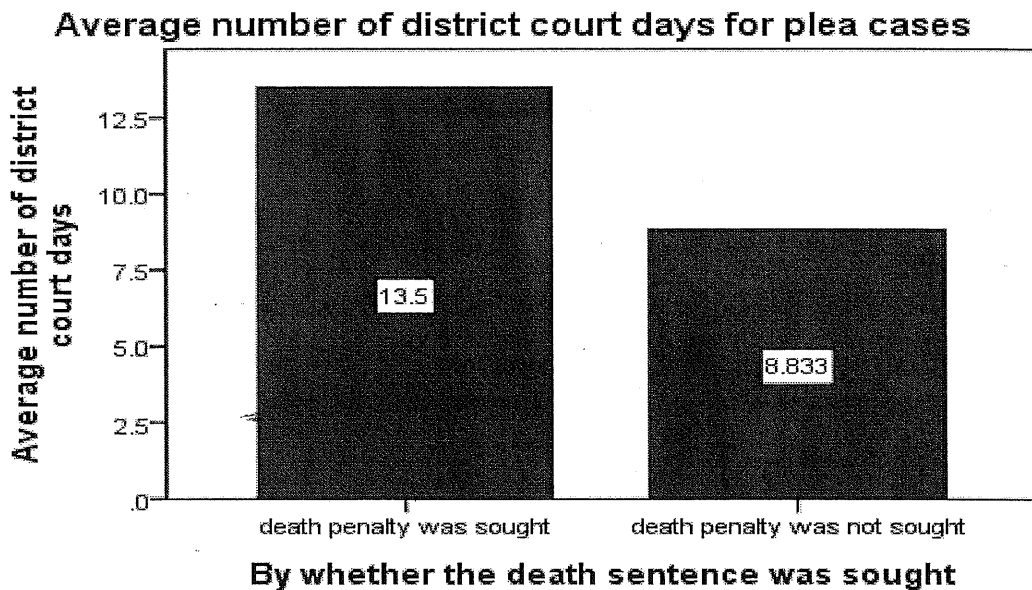
The following charts compare the number of district court days in cases that went to trial and in cases where a plea was entered by whether the death penalty was sought. For purposes of this comparison, all of the cases that went to trial were grouped together regardless of when they were originally filed. In other words, cases filed between FY 2004 and FY 2011 are included as well as the pre-2003 cases previously reviewed by Post Audit. Appendix D contains the raw data on court days for each case.

Figure 7:



The graph represents 37 cases that went to trial, and the average difference in the number of district court days is 23 more days where the death penalty was sought.

Figure 8:



The graph represents 18 cases, and the average difference in district court days for plea cases is 5 days.

CURRENT STATUS OF KANSAS DEATH PENALTY APPEALS

Thirteen defendants have been sentenced to death in Kansas since the death penalty was reinstated in 1994; however, only nine currently remain under a sentence of death. The Kansas Supreme Court has issued an opinion in five death penalty cases so far and has overturned the death sentence in each of those cases (Kleypas, Marsh, Scott, Cheever and Cheatham). Eight direct appeals in death cases are currently pending before the Court.

- **Gary Kleypas**, Crawford County. Kleypas' death sentence was overturned on direct appeal in 2001. After a new penalty phase in 2008, he was again sentenced to death. Kleypas is appealing.
- **Michael Marsh**, Sedgwick County. Marsh's death sentence was overturned on direct appeal in 2004, and he was to receive a new trial. He reached a plea agreement in 2009 and was sentenced to life in prison.
- **Gavin Scott**, Sedgwick County. Scott's death sentence was overturned on direct appeal in 2008. He reached a plea agreement in 2010 and received two consecutive life sentences.
- **Stanley Elms**, Sedgwick County. Elms was sentenced to death in 2000. He later reached a plea agreement and, in 2004, received a life sentence (hard 40) in exchange for his agreement not to appeal.
- **John Robinson**, Johnson County. Sentenced to death in 2003, Robinson's direct appeal is pending.
- **Jonathan Carr**, Sedgwick County. Sentenced to death in 2002, oral argument in Carr's direct appeal was held in December 2013.
- **Reginald Carr**, Sedgwick County. Sentenced to death in 2002, oral argument in Carr's direct appeal was held in December 2013.
- **Douglas Belt**, Sedgwick County. Sentenced to death in November 2004, Belt's direct appeal is pending.
- **Sidney Gleason**, Barton County. Gleason was sentenced to death in 2006. Oral argument in his direct appeal was held in October 2012, but the Supreme Court has not yet released an opinion.
- **Scott Cheever**, Greenwood County. In August 2012, the Kansas Supreme Court reversed Cheever's convictions for capital murder and attempted capital murder; however, in December 2013, the United States Supreme Court vacated the Kansas Supreme Court's decision and remanded for further proceedings.
- **Phillip Cheatham**, Shawnee County. Cheatham's death sentence was overturned on direct appeal in January 2013 due to ineffective assistance of counsel. His retrial in the district court is pending.

- **Justin Thurber**, Cowley County. Sentenced to death in March 2009, Thurber is appealing.
- **James Kraig Kahler**, Osage County. Sentenced to death in October 2011, Kahler is appealing.

CONCLUSION

Because of the short time frame and limited responses from some of the groups surveyed, this study is much narrower in scope than many of the cost studies from other jurisdictions. Nonetheless, its results are consistent with other studies that have found costs in death penalty cases to be significantly higher than in non-death cases. Based on the information provided by survey respondents, the Committee found that both BIDS and the district courts incur costs in trial cases that are 3 to 4 times higher in cases where the death penalty is sought than in cases where it is not. And, in plea cases, costs are roughly twice as high in cases where the death penalty is sought than in cases where it is not.

While the costs reported by BIDS and the district court were largely based on estimates, the Committee's alternative measure of counting district court days corroborates these findings. Death penalty cases simply take more time and resources than non-death cases.

For more information about the reasons why death penalty cases cost more than non-death cases, the Committee would refer the reader to the 2003 Post Audit report, which can be found here: <http://www.kslpa.org/docs/reports/04pa03a.pdf>.

The Judicial Council's January 2004 report also discusses costs and can be found on the Council's website at: <http://www.kansasjudicialcouncil.org/PreviousStudies.shtml>.

BIDS DEFENSE COSTS IN CASES FILED FROM FY 2004 TO FY 2011

N/A indicates no information was available

| Cases That Went to Trial | County and Case Number | Trial | Appeal | Add'l Appeals |
|--|------------------------|---------|---------|---------------|
| | | | | |
| <i>Death penalty sought and imposed</i> | | | | |
| | | | | |
| Cheatham, Phillip | SN 03CR2635 | 187,882 | 444,134 | |
| Gleason, Sidney | BT 04CR52 | 224,634 | 91,011 | |
| Cheever, Scott | GW 05CR18/ 06CR198 | 312,639 | 43,536 | |
| Thurber, Justin E. | CL 07CR45A | 486,589 | 86,621 | |
| Kahler, James Kraig | OS 09CR270 | 3,807 | 178,751 | |
| | | | | |
| <i>Death penalty sought but not imposed</i> | | | | |
| | | | | |
| Moore, Greg | HV 05CR132 | 236,194 | 7,066 | |
| Robinson, Elgin | SG 06CR1523 | 456,641 | 26,673 | |
| Burnett, Theodore | SG 06CR1524 | 242,711 | | |
| Aguirre, Luis A. | RL 09CR1072 | 519,057 | 13,914 | |
| | | | | |
| | | | | |
| <i>Death penalty not sought</i> | | | | |
| | | | | |
| Appleby, Benjamin | JO 04CR2934 | 201,402 | 18,768 | |
| Solis, Jose B. | JO 06CR3686 | 45,459 | | |
| Lowrance, Christopher M. | MG 07CR4891 | 85,352 | | |
| Mireles, Israel | BU 07CR0524 | 108,999 | 18,103 | |
| Jones, Austin N. | SG 09CR1852 | N/A | | |
| Hollister, Roger | AT 10CR150 | 4,589 | | |
| | | | | |
| <i>Death penalty initially sought but withdrawn before trial</i> | | | | |
| | | | | |
| Longoria, Adam | BT 10CR231 | 86,581 | 24,528 | |
| | | | | |

| BIDS DEFENSE COSTS IN CASES FILED FROM FY 2004 TO FY 2011 | | | | |
|--|--------------------|--------------|---------------|----------------------|
| N/A indicates no information was available | | | | |
| Cases Where A Guilty Plea Was Entered | Case Number | Trial | Appeal | Add'l Appeals |
| <i>Death penalty sought</i> | | | | |
| Beckman, Uriah | BB 03CR286 | 62,307 | | |
| Fox, Robert (Bobby) | SW 04CR197 | 211,992 | 3,435 | |
| Hall, Edwin | JO 07CR1474 | 219,328 | | |
| Fox, Sedale | LV 08CR41 | 47,617 | | |
| Gifford, Jr., Marvin Jay | RN 08CR525 | 35,590 | | |
| Burkes, Adrian | WY 09CR0962 | 203,299 | | |
| <i>Death penalty not sought</i> | | | | |
| Thompson, Damien | BT 04CR52 | 19,716 | | 10,016 |
| Alford, Achaz | SG 04CR1938 | 37,070 | | |
| Ratliff, Roger D. | MI 06CR131 | 44,468 | | |
| Guerrero, Andrew | WY 08CR219 | 10,460 | | |
| Reed, Brandon | JO 08CR3099 | 38,149 | | 6,528 |
| Carnoali, James | SN 09CR654 | 55,012 | | |
| Lomas, Marcos | GT 09CR117 | 32,169 | | |
| Holton, Samuel J. | SG 09CR3560 | N/A | | |
| Cott, Jr., Jason W. | JO 10CR195 | 29,673 | | |
| <i>Death penalty initially sought but withdrawn before trial</i> | | | | |
| King, Ernest L. | WY 07CR1683 | 156,068 | | |
| Williams, Kenton | WY 07CR1684 | 111,625 | | |
| Watson, Terrence | SA 09CR156 | 160,869 | | |

| DISTRICT COURT COSTS IN CASES FILED FROM FY 2004 TO FY 2011 | | | | |
|--|------------------------|---------|--------|------------------------------|
| N/A indicates no information was available | | | | |
| Cases That Went to Trial | County and Case Number | Trial | Appeal | Add'l Appeals or Proceedings |
| <i>Death penalty sought and imposed</i> | | | | |
| Cheatham, Phillip | SN 03CR2635 | 25,215 | 708 | 44,282 |
| Gleason, Sidney | BT 04CR52 | 39,583 | 2,540 | |
| Cheever, Scott | GW 05CR18/ 06CR198 | 100,238 | 4,734 | 2,418 |
| Thurber, Justin E. | CL 07CR45A | 57,582 | 1,345 | |
| Kahler, James Kraig | OS 09CR270 | 141,370 | 200 | |
| <i>Death penalty sought but not imposed</i> | | | | |
| Moore, Greg | HV 05CR132 | 19,240 | 165 | |
| Robinson, Elgin | SG 06CR1523 | 63,937 | 9,802 | |
| Burnett, Theodore | SG 06CR1524 | 64,918 | 8,899 | |
| Aguirre, Luis A. | RL 09CR1072 | 65,594 | | |
| <i>Death penalty not sought</i> | | | | |
| Appleby, Benjamin | JO 04CR2934 | N/A | | |
| Solis, Jose B. | JO 06CR3686 | N/A | | |
| Lowrance, Christopher M. | MG 07CR4891 | 14,836 | 4,724 | 75 |
| Mireles, Israel | BU 07CR0524 | 20,604 | 7,279 | |
| Jones, Austin N. | SG 09CR1852 | 7,622 | 2,977 | |
| Hollister, Roger | AT 10CR150 | 8,937 | 2,786 | |
| <i>Death penalty initially sought but withdrawn before trial</i> | | | | |
| Longoria, Adam | BT 10CR231 | 36,378 | 1,552 | |

| DISTRICT COURT COSTS IN CASES FILED FROM FY 2004 TO FY 2011 | | | | |
|--|--------------------|--------------|---------------|-------------------------------------|
| N/A indicates no information was available | | | | |
| Cases Where A Guilty Plea Was Entered | Case Number | Trial | Appeal | Add'l Appeals or Proceedings |
| <i>Death penalty sought</i> | | | | |
| Beckman, Uriah | BB 03CR286 | N/A | | |
| Fox, Robert (Bobby) | SW 04CR197 | 45,872 | 621 | 58 |
| Hall, Edwin | JO 07CR1474 | N/A | | |
| Fox, Sedale | LV 08CR41 | 6,502 | | |
| Gifford, Jr., Marvin Jay | RN 08CR525 | 5,411 | | |
| Burkes, Adrian | WY 09CR0962 | 6,587 | | |
| <i>Death penalty not sought</i> | | | | |
| Thompson, Damien | BT 04CR52 | 580 | | |
| Alford, Achaz | SG 04CR1938 | 245 | | |
| Ratliff, Roger D. | MI 06CR131 | 1,363 | | |
| Guerrero, Andrew | WY 08CR219 | 1,355 | | |
| Reed, Brandon | JO 08CR3099 | N/A | | |
| Carnoali, James | SN 09CR654 | 14,139 | | |
| Lomas, Marcos | GT 09CR117 | N/A | | |
| Holton, Samuel J. | SG 09CR3560 | 554 | 322 | |
| Cott, Jr., Jason W. | JO 10CR195 | N/A | | |
| <i>Death penalty initially sought but withdrawn before trial</i> | | | | |
| King, Ernest L. | WY 07CR1683 | 5,781 | | |
| Williams, Kenton | WY 07CR1684 | 7,197 | | |
| Watson, Terrence | SA 09CR156 | 34,918 | | |

| ADDITIONAL BIDS DEFENSE COSTS SINCE JANUARY 1, 2004 | | | | |
|---|------------------------|---------|---------|---------------|
| IN PRE-2003 CASES PREVIOUSLY REVIEWED BY POST AUDIT | | | | |
| All cases went to trial | County and Case Number | Trial | Appeal | Add'l Appeals |
| <i>Death penalty sought and imposed</i> | | | | |
| Kleypas, Gary | CR 96CR240G | 563,322 | 109,022 | 39,325 |
| Marsh, Michael L. | SG 96CR1157 | 16,535 | | 144,971 |
| Scott, Gavin D. | SG 96CR1748 | 79,961 | | |
| Elms, Stanley M. | SG 98CR1706 | 2,083 | 4,548 | 4,243 |
| Robinson, John | JO 00CR1444 | 102,083 | 297,177 | |
| Carr, Reginald | SG 00CR2978 | 22,215 | 233,475 | |
| Carr, Jonathan | SG 00CR2979 | 31,015 | 224,365 | |
| <i>Death penalty sought but not imposed</i> | | | | |
| Verge, Robert L. | DK 97CR107 | | | 421 |
| Bradford, Virgil S. | DK 97CR114 | | | 1,647 |
| Powell, Richard | WY 98CR2384 | | 4,731 | 1,096 |
| Martis, Gordon | WY 99CR1091 | | 9,275 | |
| Hebert, Jeffrey | CY 99CR102 | | | |
| Oliver, Cornelius | SG 00CR2945 | | 12,439 | |
| Trotter, Christopher M. | WY 01CR974A | | 15,859 | 10,199 |
| <i>Death penalty not sought</i> | | | | |
| Barnes, Gordon | SG 95CR994 | | | |
| Wakefield, Jason | SG 96CR1748 | | | |
| Juiliano, Ramon | WY 97CR1188 | | | |
| Jamison, Chester R. | SG 97CR2097 | | | |
| Henry, Rodney W. | JO 98CR1093 | | | |
| Douglas, Romane | SG 99CR2636 | | | 1,400 |
| James, Tyron D. | WY 02CR615 | | | |

| ADDITIONAL DISTRICT COURT COSTS SINCE JANUARY 1, 2004 | | |
|---|-------------|------------------------------|
| IN PRE-2003 CASES PREVIOUSLY REVIEWED BY POST AUDIT | | |
| All cases went to trial | Case Number | Add'l Appeals or Proceedings |
| <i>Death penalty sought and imposed</i> | | |
| | | |
| Kleypas, Gary | CR 96CR240G | N/A |
| Marsh, Michael L. | SG 96CR1157 | 158 |
| Scott, Gavin D. | SG 96CR1748 | 4,858 |
| Elms, Stanley M. | SG 98CR1706 | 4,836 |
| Robinson, John | JO 00CR1444 | N/A |
| Carr, Reginald | SG 00CR2978 | 2,676 |
| Carr, Jonathan | SG 00CR2979 | 2,793 |
| | | |
| <i>Death penalty sought but not imposed</i> | | |
| | | |
| Verge, Robert L. | DK 97CR107 | 1,414 |
| Bradford, Virgil S. | DK 97CR114 | 930 |
| Powell, Richard | WY 98CR2384 | 507 |
| Martis, Gordon | WY 99CR1091 | 39 |
| Hebert, Jeffrey | CY 99CR102 | 0 |
| Oliver, Cornelius | SG 00CR2945 | 181 |
| Trotter, Christopher M. | WY 01CR974A | 18,169 |
| | | |
| <i>Death penalty not sought</i> | | |
| | | |
| Barnes, Gordon | SG 95CR994 | 127 |
| Wakefield, Jason | SG 96CR1748 | 64 |
| Juiliano, Ramon | WY 97CR1188 | 10 |
| Jamison, Chester R. | SG 97CR2097 | 119 |
| Henry, Rodney W. | JO 98CR1093 | N/A |
| Douglas, Romane | SG 99CR2636 | 0 |
| James, Tyron D. | WY 02CR615 | 652 |
| | | |

| DISTRICT COURT DAYS FROM CASE FILING TO SENTENCING | | |
|--|------------------------|---------------------------------|
| Cases That Went to Trial | County and Case Number | From Case Filing to Sentencing |
| <i>Death penalty sought and imposed</i> | | |
| Kleypas, Gary | CR 96CR240G | 57: A-3, M-28, PH-3, T-15, S-8 |
| Marsh, Michael L. | SG 96CR1157 | 62: A-2, M-26, PH-1, T-26, S-7 |
| Scott, Gavin D. | SG 96CR1748 | 43: A-1, M-18, PH-1, T-13, S-10 |
| Elms, Stanley M. | SG 98CR1706 | 34: A-2, M-11, PH-1, T-15, S-5 |
| Robinson, John | JO 00CR1444 | 64: A-4, M-23, PH-2, T-31, S-4 |
| Carr, Reginald | SG 00CR2978 | 90: A-2, M-38, PH-2, T-40, S-8 |
| Carr, Jonathan | SG 00CR2979 | 89: A-2, M-37, PH-2, T-40, S-8 |
| Cheatham, Phillip | SN 03CR2635 | 19: A-4, M-2, PH 3, T-8, S-2 |
| Gleason, Sidney | BT 04CR52 | 22: A-1, M-5, PH-1, T-12, S-3 |
| Cheever, Scott | GW 05CR18/ 06CR198 | 26: A-1, PH-1, M-5, T-16, S-3 |
| Thurber, Justin E. | CL 07CR45A | 41: A-2, M-20, PH-2, T-15, S-2 |
| Kahler, James Kraig | OS 09CR270 | 33: A-5, M-12, PH-2, T-12, S-2 |
| <i>Death penalty sought but not imposed</i> | | |
| Verge, Robert L. | DK 97CR107 | 40: A-2, M-17, PH-1, T-14, S-6 |
| Bradford, Virgil S. | DK 97CR114 | 34: A-1, M-19, PH-1, T-8, S-5 |
| Powell, Richard | WY 98CR2384 | 17: A-1, M-7, PH-1, T-7, S-1 |
| Martis, Gordon | WY 99CR1091 | 29: A-2, M-13, PH-1, T-12, S-1 |
| Hebert, Jeffrey | CY 99CR102 | 24: A-1, M-9, PH-1, T-8, S-5 |
| Oliver, Cornelius | SG 00CR2945 | 33: A-1, M-12, PH-1, T-18, S-1 |
| Trotter, Christopher M. | WY 1CR974A | 29: A-5, M-7, PH-2, T-11, S-4 |
| Moore, Greg | HV 05CR132 | 23: A-1, M-8, PH-1, T-8, S-5 |
| Robinson, Elgin | SG 06CR1523 | 54: A-4, M-26, PH-2, T-18, S-4 |
| Burnett, Theodore | SG 06CR1524 | 32: A-3, M-9, PH-2, T-14, S-4 |
| Aguirre, Luis A. | RL 09CR1072 | 29: A-1, PH-1, M-8, T-14, S-5 |

A=administrative/formality, M=motion, P=plea, PH=preliminary hearing, T=trial, S=penalty phase and sentencing

| DISTRICT COURT DAYS FROM CASE FILING TO SENTENCING | | |
|--|-------------|--------------------------------|
| Cases That Went to Trial | Case Number | From Case Filing to Sentencing |
| | | |
| <i>Death penalty not sought</i> | | |
| | | |
| Barnes, Gordon | SG 95CR994 | 24: A-2, M-9, T-12, S-1 |
| Wakefield, Jason | SG 96CR1748 | 13: A-1, M-4, PH-1, T-6, S-1 |
| Juiliano, Ramon | WY 97CR1188 | 14: A-1, M-2, PH-2, T-8, S-1 |
| Jamison, Chester R. | SG 97CR2097 | 15: A-1, M-3, PH-1, T-6, S-1 |
| Henry, Rodney W. | JO 98CR1093 | 15: A-5, M-3, PH-1, T-5, S-1 |
| Douglas, Romane | SG 99CR2636 | 12:A-1, M-2, PH-1, T-7, S-1 |
| James, Tyron D. | WY 02CR615 | 9: A-2, M-1, PH-1, T-4, S-1 |
| Appleby, Benjamin | JO 04CR2934 | 25: A-4, M-11, PH-2, T-7, S-1 |
| Solis, Jose B. | JO 06CR3686 | 30: A-8, M-11, PH-2, T-7, S-1 |
| Lowrance, Christopher M. | MG 07CR4891 | 14: A-2, M-4, PH-1, T-6, S-1 |
| Mireles, Israel | BU 07CR0524 | 16: A-1, M-8, PH-1, T-5, S-1 |
| Jones, Austin N. | SG 09CR1852 | 11: A-2, M-3, PH-1, T-4, S-1 |
| Hollister, Roger | AT 10CR150 | 12: A-1, M-2, PH-2, T-6, S-1 |
| | | |
| <i>Death penalty initially sought but withdrawn before trial</i> | | |
| | | |
| Longoria, Adam | BT 10CR231 | 25: A-2; M-9, PH-3, T-10, S-1 |
| | | |

A=administrative/formality, M=motion, P=plea, PH=preliminary hearing, T=trial, S=penalty phase and sentencing

| DISTRICT COURT DAYS FROM CASE FILING TO SENTENCING | | |
|---|-------------|------------------------------------|
| Cases in Which a Guilty Plea Was Entered | Case Number | From Case Filing to Sentencing |
| <i>Death penalty sought</i> | | |
| Beckman, Uriah | BB 03CR286 | 7: A-1, PH-1, M-4, P-1, S-1 |
| Fox, Robert (Bobby) | SW 04CR197 | 19: A-2, PH-1, M-10, T-4, P-1, S-1 |
| Hall, Edwin | JO 07CR1474 | 19: A-5, M-12, P-1, S-1 |
| Fox, Sedale | LV 08CR41 | 10: A-3, M-3, PH-2, P-1, S-1 |
| Gifford, Jr., Marvin Jay | RN 08CR525 | 5: A-1, M-2, PH-1, P/S-1 |
| Burkes, Adrian | WY 09CR0962 | 21: A-9, M-8, PH-2, P-1, S-1 |
| <i>Death penalty not sought</i> | | |
| Thompson, Damien | BT 04CR52 | 3: A-1, P-1, S-1 |
| Alford, Achaz | SG 04CR1938 | 5: A-1, M-1, PH-1, P-1, S-1 |
| Ratliff, Roger D. | MI 06CR131 | 3: A-1, P-1, S-1 |
| Guerrero, Andrew | WY 08CR219 | 7: A-4, M-1, P-1, S-1 |
| Reed, Brandon | JO 08CR3099 | 4: A-1, M-1, P-1, S-1 |
| Carnoali, James | SN 09CR654 | 12: A-3, M-5, PH-2, P-1, S-1 |
| Lomas, Marcos | GT 09CR117 | 5: A-2, PH-1, P-1, S-1 |
| Holton, Samuel J. | SG 09CR3560 | 6: A-1, M-2, PH-1, P-1, S-1 |
| Cott, Jr., Jason W. | JO 10CR195 | 5: A-2, PH-1, P-1, S-1 |
| <i>Death penalty initially sought but withdrawn</i> | | |
| King, Ernest L. | WY 07CR1683 | 8: A-2, M-4, P-1, S-1 |
| Williams, Kenton | WY 07CR1684 | 12: A-2, M-8, P-1, S-1 |
| Watson, Terrence | SA 09CR156 | 36: A-10, M-23, PH-1, P-1, S-1 |

A=administrative/formality, M=motion, P=plea, PH=preliminary hearing, T=trial, S=penalty phase and sentencing

Figure 9:

**Average additional BIDS defense costs since Jan. 1, 2004
in pre-2003 cases previously reviewed by Post Audit
controlling for what the prosecutor sought and jury returned**

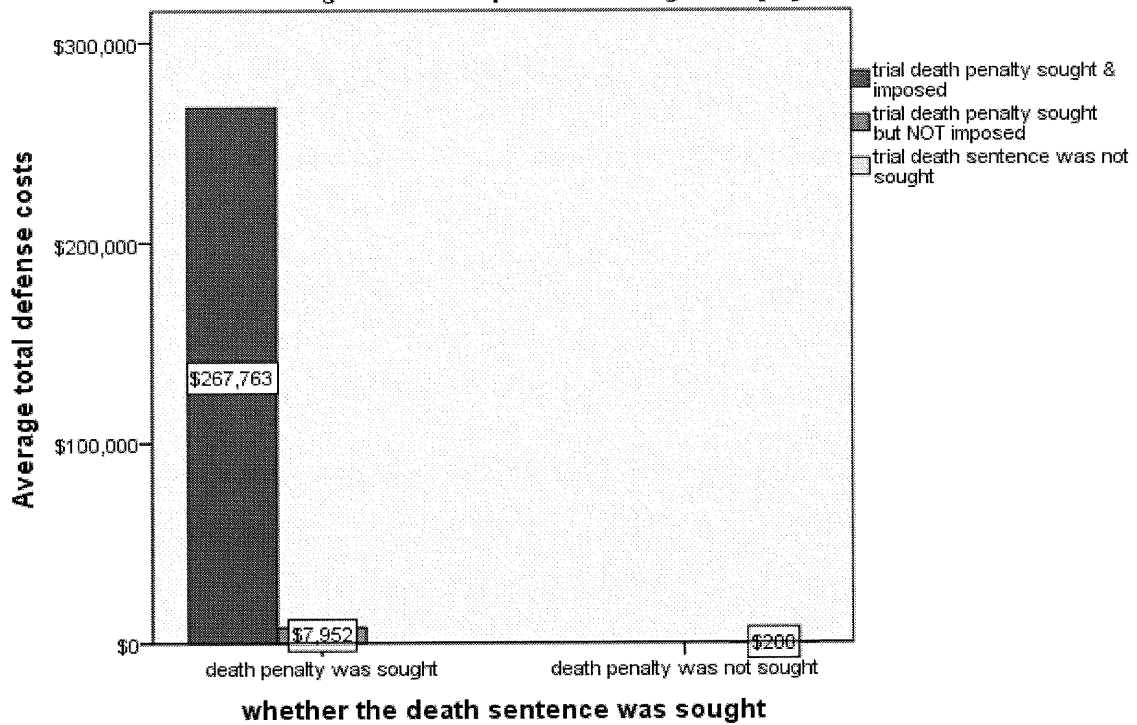


Figure 10:

