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### N.J. panel counts cost of death penalty

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**BY ROBERT SCHWANEBERG**  
Star-Ledger Staff

In the 24 years since New Jersey reinstated the death penalty, taxpayers have spent millions of dollars -- \$253 million according to one study -- on capital trials and appeals that have executed no one.

Today, a state commission will examine whether it would be cheaper to replace capital punishment with life imprisonment without parole.

The public hearing, scheduled to begin at 1 p.m. in Trenton, is the second by the Death Penalty Study Commission. Its focus -- whether capital punishment is worth the cost -- is a question the commission must address in its report to the Legislature, due Nov. 15. But even some commission members find the topic distasteful.

"I think it's absolutely terrible to equate things such as life and death and capital punishment with dollars and cents," said John Russo, a commission member who, as a state senator, sponsored the 1982 law that reinstated the death penalty. "You either should be for it or against it on moral or personal grounds."

Dianne Clements, president of Justice for All, a victims' advocacy group based in Houston, Texas, said if a state has the death penalty on its books, it should enforce it.

"To say, 'Sorry, we can't do that because it costs too much money' -- it devalues the life of the victim," Clements said.

Richard Dieter, executive director of the Death Penalty Information Center in Washington, D.C., said, "It's not about money; it's about what is a good government program. This is a very inefficient government program."

Dieter said all states have limited funds to spend on criminal justice.

"They can spend it on more police on the streets, more lighting in crime areas, more prison cells," Dieter said. "Or you can spend it on the death penalty."

Last November, New Jersey Policy Perspective, a liberal think tank based in Trenton, tallied all the costs of capital punishment: time spent by prosecutors and judges, the cost of two defense attorneys, jurors' pay, expenses for psychiatric experts, jury consultants and maintaining death row, among others.

It calculated the state spends \$11 million a year on capital punishment, or \$253 million since the death penalty was reinstated. It put the cost of the average death sentence at \$4.2 million, or twice the cost of incarcerating an inmate for 60 years.

"We think the numbers lead to the conclusion: It's time to revisit the policy," Jon Shure, the group's president, said.

Marilyn Zdobinski, a retired assistant Bergen County prosecutor who put John Martini on death row for the

kidnapping and murder of Fair Lawn businessman Irving Flax, disputes the study's conclusions.

"There's nowhere near that kind of money going into it," Zdobinski said. "They basically kind of made up these statistics about what it costs."

The New Jersey Public Defender's Office gets a special appropriation of \$2.6 million a year for capital cases but the Attorney General's Office does not track the cost for itself and the county prosecutors. Mary Forsberg, the study's author, said she relied on interviews with New Jersey lawyers and studies from other states, particularly New York and Connecticut, to estimate that prosecutors spend three times as much as the defense, or \$7.8 million a year. About \$600,000 per year in court costs and Department of Corrections costs brings the average estimated total to \$11 million per year.

"We're confident that if anything, these numbers understate the amount of spending," Shure said.

Dieter said New Jersey, like most states, has the worst of both possible worlds: it incurs large up-front costs for capital trials and appeals, then performs few or no executions, leaving it with the expense of incarcerating those prisoners for life.

"It's sort of like the emperor has no clothes. No one is willing to say: This is absurd," Dieter said. "So you have this stalemate which is very expensive."

Robert Schwaneberg covers legal issues. He may be reached at [rschwaneberg@starledger.com](mailto:rschwaneberg@starledger.com) or (609) 989-0324.

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