

Pursuing the Death Penalty: Costs & Public Attitudes

2017 Working Group Findings



**UTAH COMMISSION ON
CRIMINAL & JUVENILE JUSTICE**

In June 2016, CCJJ directed the creation of a working group to study the death penalty in Utah. CCJJ tasked the working group with examining:

- (1) current statutory aggravators**
- (2) costs**
- (3) public attitude**
- (4) victims' rights**
- (5) other available data**

Background




The death penalty was struck down in **1972** by the Court in **Furman v. Georgia** based on the **Eighth** and **Fourteenth Amendments'** prohibition against cruel and unusual punishment and the death penalty's seemingly random, inconsistent application.

Response to the death penalty moratorium after the Furman decision was two-fold, some states made the death penalty mandatory, which was subsequently struck down in Woodson v. North Carolina (1976), and other states, including **Utah**, **created new death penalty statutes instructing jurors to consider a list of aggravating factors in sentencing.**

In **Gregg v. Georgia (1976)** the revised death penalty statute included ten aggravating factors juries had to consider. The Court noted that the role of aggravating factors is to narrow the group of individuals that are death-eligible, and to quell the death penalty's "arbitrary or capricious" use.

After the Gregg ruling, the **Godfrey (1980)** decision reasoned that "if a state wish[ed] to authorize capital punishment it has the constitutional responsibility to tailor and apply its law in a manner that avoids the arbitrary and capricious infliction of the death penalty." Based on the Court's decisions, a significant aspect of statutory aggravators is to define the scope of capital punishment. Since 1973, however, aggravators for capital murder have experienced continual growth.

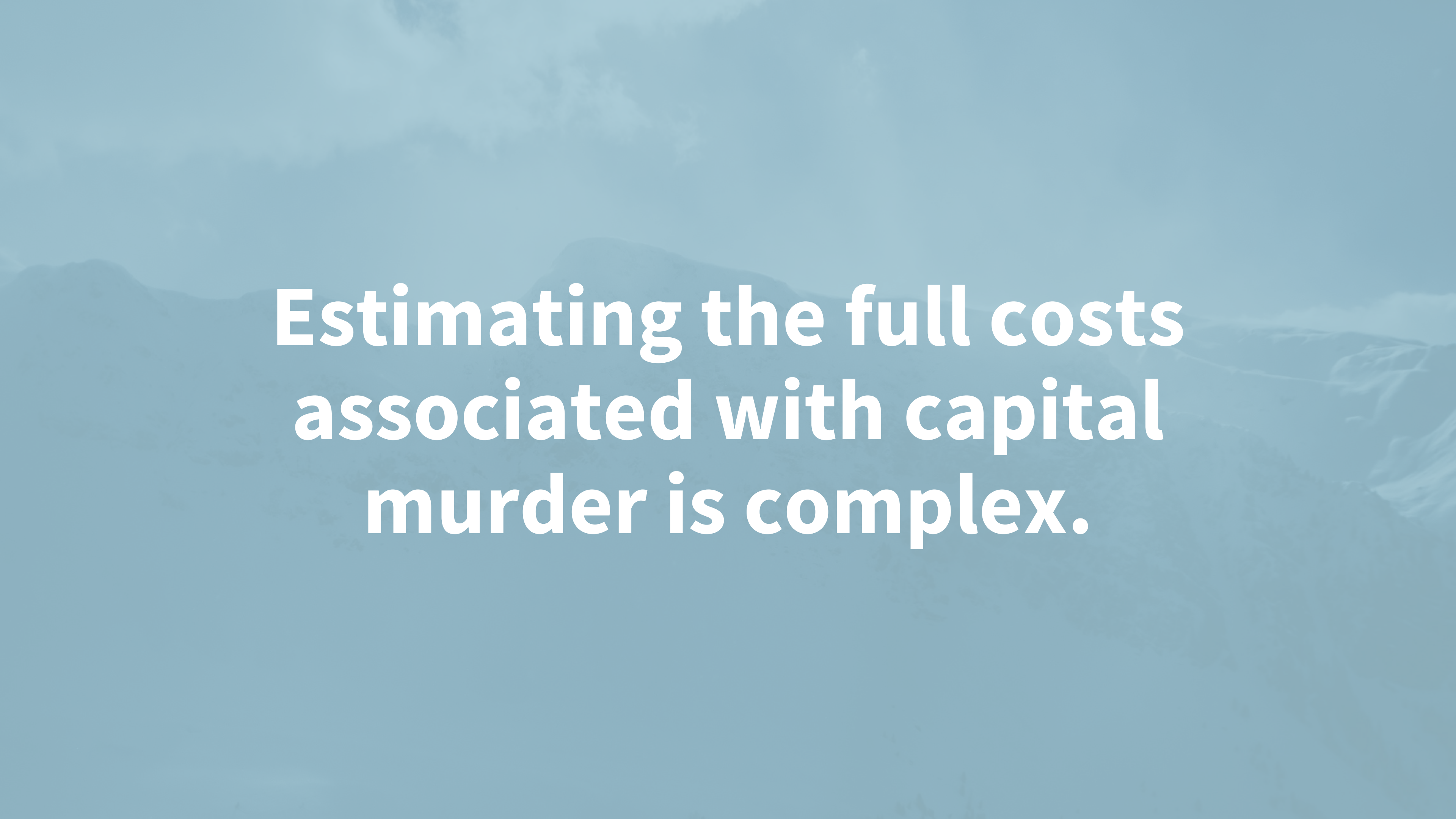


Utah currently includes
over 60 circumstances
including subcategories that qualify an
individual for this penalty, and the list
continues to grow...

**After a thorough examination of aggravating factors,
the working group did not come to a consensus on
further limiting or changing
the aggravating factors for capital punishment
sentencing.**

Let's focus on costs.





**Estimating the full costs
associated with capital
murder is complex.**



Research questions around cost centers on whether a case that seeks the death penalty imposes more **taxpayer cost** on the system than a case where the death penalty is not sought.

What are Taxpayer costs?



Taxpayer costs are tangible costs imposed on the criminal justice system and involve expenditures related to

- prosecution, defense & appeals
- court time
- jail and prison time &
- execution



Most studies

are typically comparative with the focus on estimating relative cost differences



Argument for

in comparison to a life without parole sentence, is the cost avoidance associated with life-long incarceration.

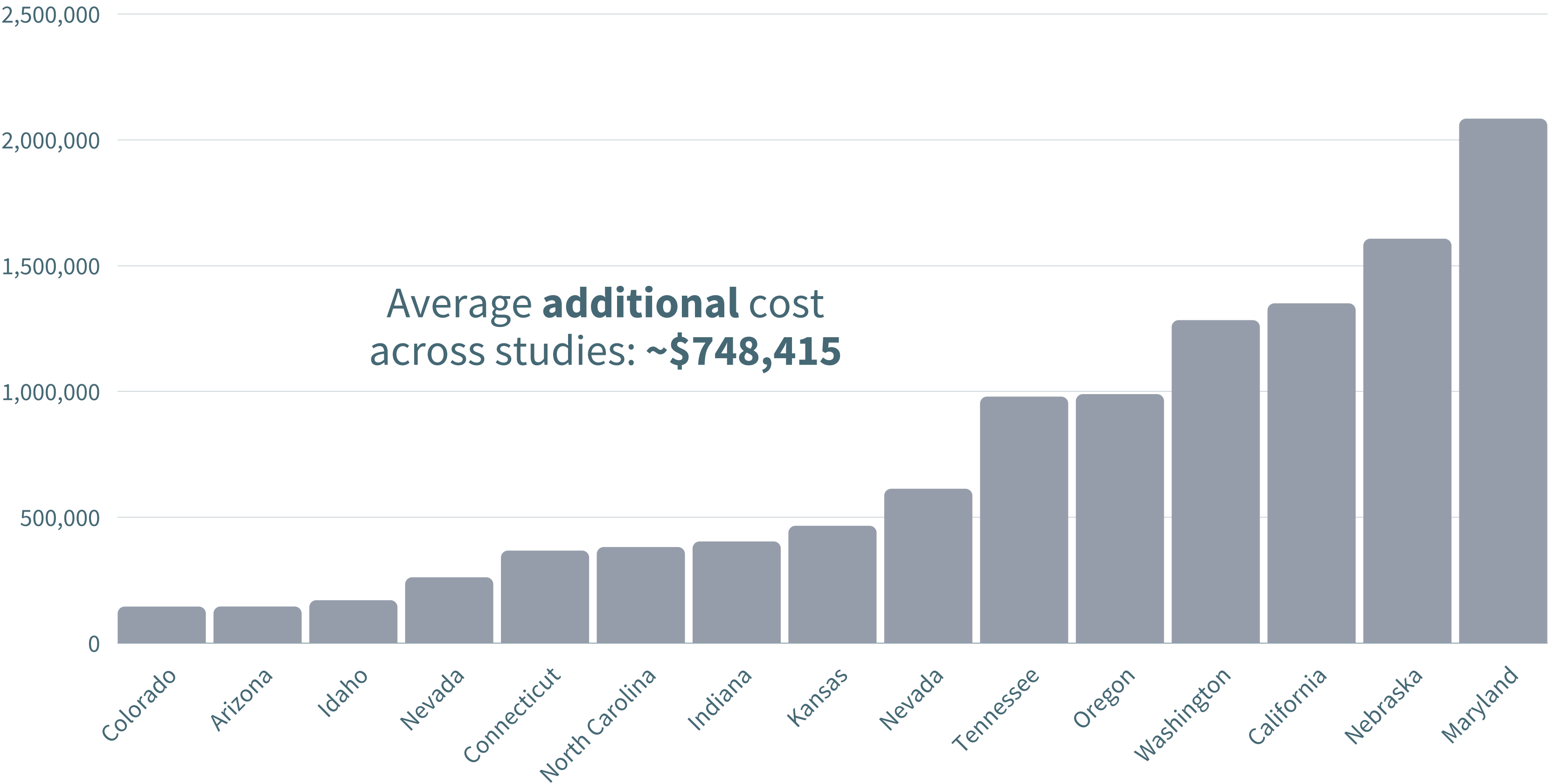


Argument against

increased expenditures related to the trial and the lengthy appeal process.

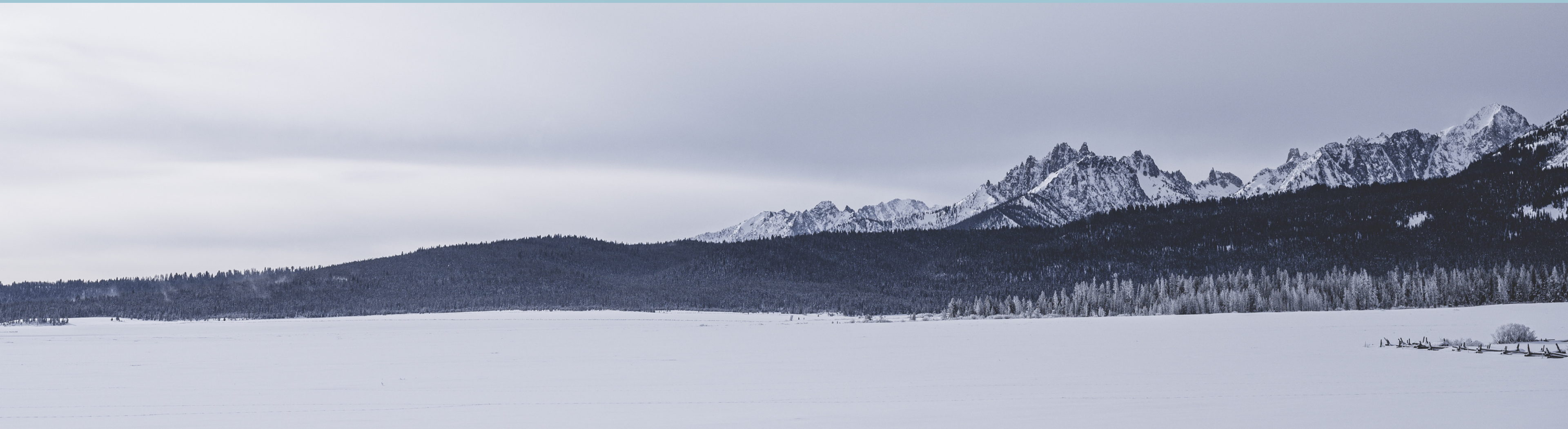
Cost Literature

Additional cost of pursuing the death penalty vs life w/o parole
across 15 studies



Source: Collins et al. (2017) in 2020 dollars

The expenses included vary across studies, and there is a positive association between the comprehensiveness of the study and the cost estimate produced. The conclusion that may be drawn from the summary by Collins and colleagues is that costs **are higher when the death penalty is pursued.**



01

State estimates

Attorney General, Courts, Corrections,
Board of Pardons and Parole, and General Fund
expenditures related to the Post Conviction
Indigent Defense Fund.

02

Local estimates

Prosecution and defense, jail incarceration, and
costs paid by most counties to the State
Indigent Defense Capital Trust Fund.

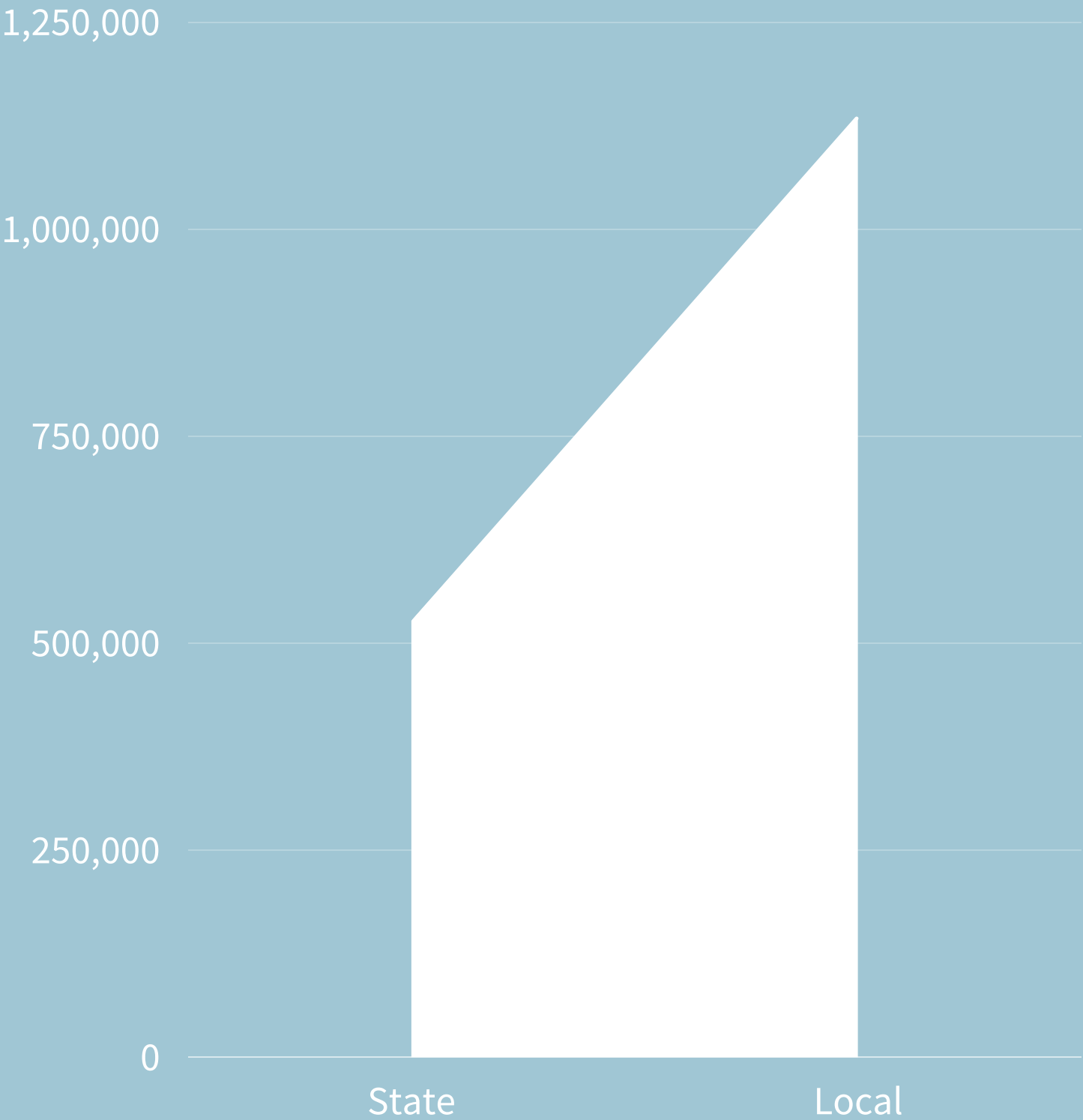
2012 Utah Cost Report

incremental impact of **one** death penalty
case from trial to execution

\$527,100

\$1,133,800

\$1,660,900



A later report used cost estimates from the 2012 report along with some additional costs

01

estimated costs

1997-2016, state and local expenses totaled almost \$40 million.

02

eligible cases

165 death-eligible with only two which have resulted in death sentences.

03

interpretation

\$237,900 per case above the cost of a first degree murder case.

An internal analysis was also completed of State financial records related to the actual payments made between July 1, 2010 and June 30, 2017

01

Post Conviction Indigent Defense Fund payments

A total of \$677,265
(an average of \$96,752 per year) was
paid on behalf of eleven individuals
previously convicted of a capital
offense and sentenced to death.

02

State Indigent Defense Capital Trust Fund payments

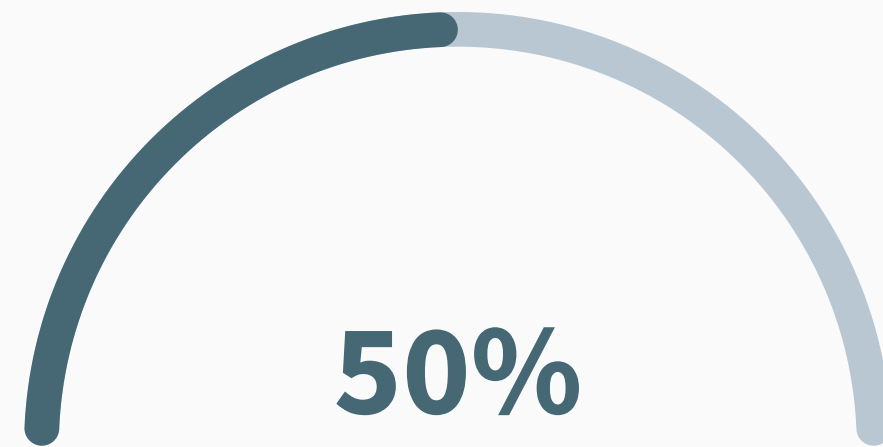
a total of \$3,207,880
(an average of \$458,269 per year)
was paid on behalf of 21 individuals
for capital defense costs in counties
participating in this program.



Public Views

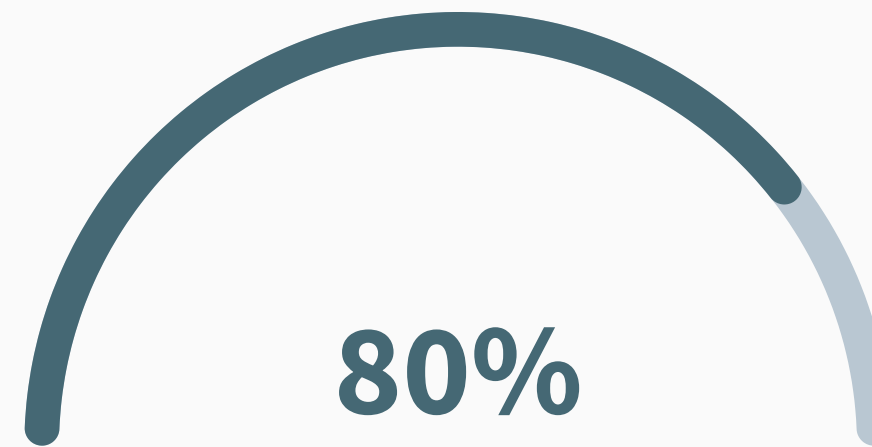
Nationally

support for the death penalty



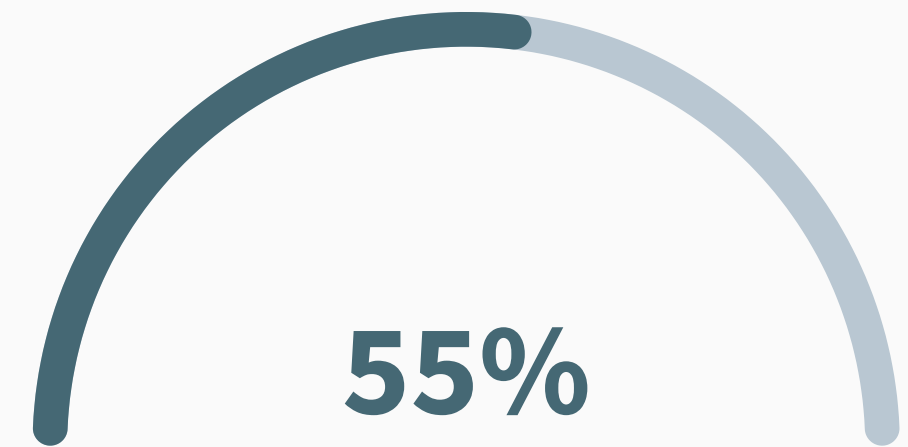
50%

1970's



80%

1990's

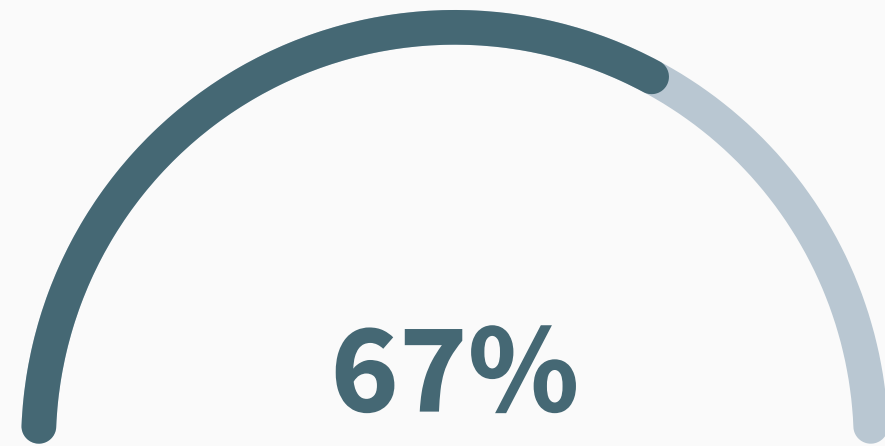


55%

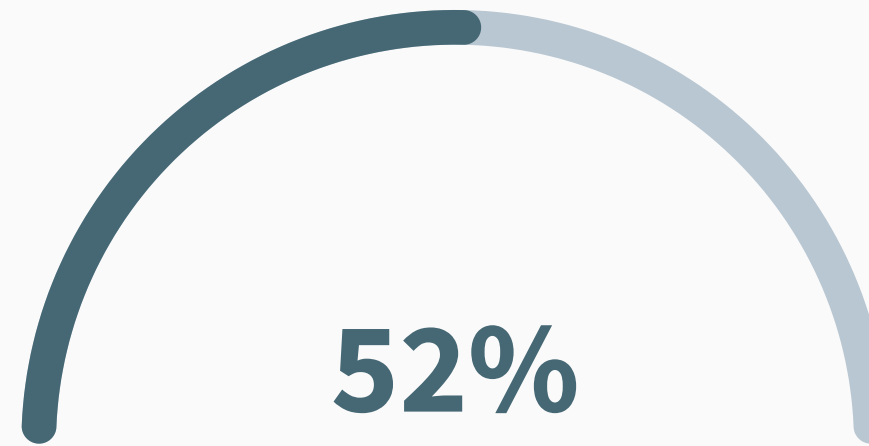
2020

Utah

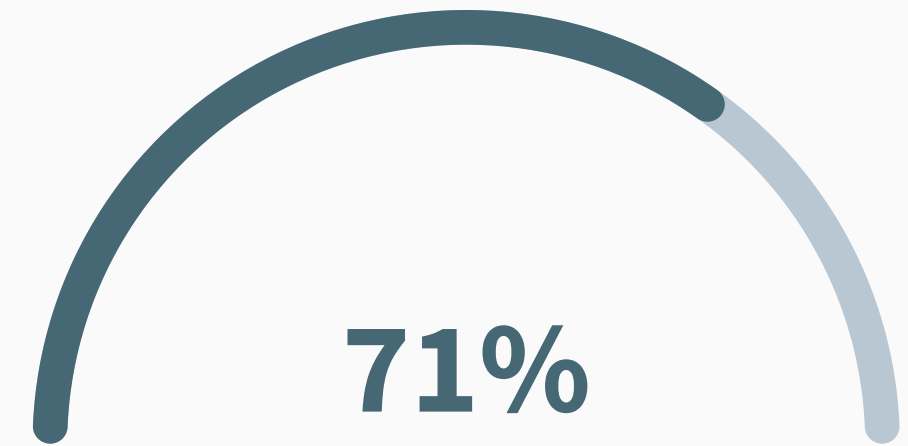
support for the death penalty, conducted by Dan Jones & Associates



November 2015



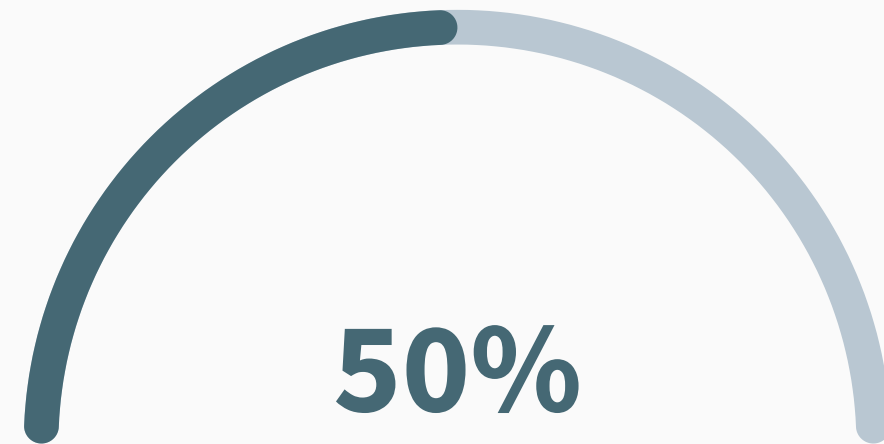
February 2016



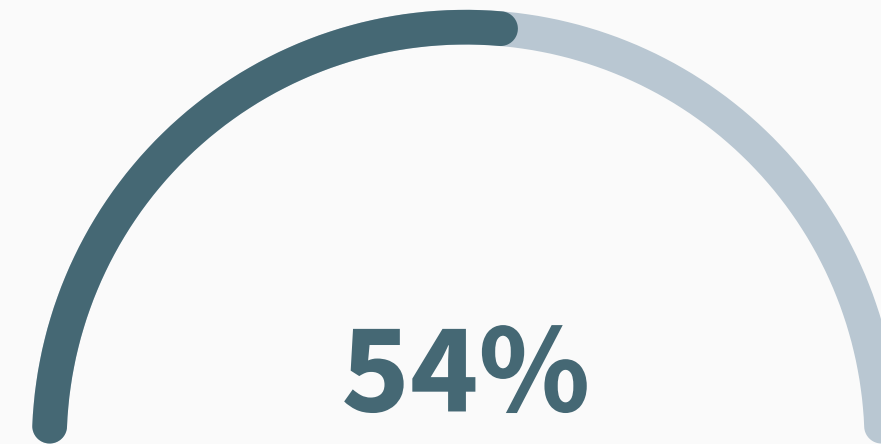
September 2016

Utah

support to **replace** the death penalty, conducted by Public Policy Polling (PPP)



February 2016



January 2017

In summary, with somewhat discrepant recent results such as these, public support for the death penalty in Utah is declining over previous highs, based on national data cited above and consistently lower support from younger respondents in the Utah polls.



Take Aways

[Link to Full Report](#)

Cost Implications

Cost of pursuing the death penalty is higher than life in prison without parole.

National View

Support for the death penalty has declined nationally in recent years.

Utah Estimates

Additional cost of pursuing the death penalty in Utah has been estimated to be > \$1.5 M per case.

Utah View

Support for the death penalty has generally been higher in Utah.

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