STATEMENT OF DANE R. GILLETTE
CHIEF ASSISTANT ATTORNEY GENERAL
OFFICE OF THE CALIFORNIA ATTORNEY
GENERAL

CALIFORNIA COMMISSION ON THE FAIR
ADMINISTRATION OF JUSTICE

FEBRUARY 20, 2008
The Attorney General represents the People of the State of California in challenges to criminal judgments. In capital cases this includes the automatic appeal and habeas corpus review in state court as well as federal habeas corpus. The Office of the Attorney General takes no position on whether the state should or should not have a death penalty. That is a political decision left to the electorate and the Legislature. It is, however, our responsibility to defend the constitutionality of the state’s death penalty statutes and validity of the capital judgments. So long as the state authorizes capital punishment and the California and United States Supreme Courts uphold it, we will continue to do so.

The Attorney General, like this Commission, is committed to ensuring that California’s criminal justice system is just, fair, and accurate. This is true in all criminal cases but is of particular importance when the death penalty is at issue. In that regard, consideration must extend to the public’s interest in the timely and effective enforcement of the criminal law, including those cases for which the death penalty has been imposed. The extensive delays which occur in the review of capital judgements at every level of the state and federal courts are inconsistent with the People’s interest, and indeed with the mission of the entire criminal justice system. On average it has taken 14 years, 9 months from judgment to execution in the 13 California executions, with two cases consuming more than 25 years of litigation and a third over 20 years. (See attached chart.) Such delays are unfair to everyone, not least the victims’ families and loved ones
seeking to bring closure to these cases.

In its current focus on fair administration of the death penalty the Commission must be cognizant not only of the need to ensure fairness to the defendants charged with capital offenses but as well to their victims, often the most vulnerable members of society: the elderly and young children. The fairness of the criminal justice system must be judged not only by how it deals with its worst offenders but also how it responds to and protects society from them.

With these considerations in mind I offer the Attorney General’s Office comments on the focus questions for this hearing.

1. Should reporting requirements be imposed to systematically collect and make public data regarding all decisions by prosecutors in murder cases whether or not to charge special circumstances and/or seek the death penalty, and the disposition of such cases by dismissal, plea or verdict in the trial courts?

It is always possible to collect statistical data but before doing so certain questions need to be considered. What data is sought? Why is it sought? How will it be collected? Who will collect it? Who will pay the cost? And perhaps most important, how useful will it be? Will the data demonstrate that innocent people are wrongly convicted or that some defendants are unfairly sentenced to death, or will it advance debate on the policy questions underlying the death penalty and its continued existence? It is also important to know whether the information is to be collected prospectively only,
or if it is contemplated that older cases will also be examined.

Discussions of research conducted by speakers at the last public hearing suggest an interest in obtaining data on all actual and potential capital cases in California over some specified period of time. Given the broad and inherently subjective definition of what should be considered a “potential capital case,” the number of cases for which information might be sought is staggering. It appears from the Commission’s question and our own experience in capital litigation that data is being sought about every homicide which the prosecutor could have possibly charged as first degree murder with a special circumstance, no matter how the actual charging decision was made. Assuming agreement on a workable definition, the raw data can likely be extracted from the district attorney files or by CDCR, but that can be both a time consuming and costly process. Any legislation mandating collection of data, particularly retrospective information, must also include funding for the agencies required to do so.

Similarly, it seems likely the courts could provide information on the disposition of charged cases, but it will be necessary to identify for the courts what types of cases are to be included: all homicides, only cases in which special circumstances were charged, or cases in which a special circumstance could have been charged. Again, a subjective determination of the latter class will be required. As one of the reports from last month demonstrated, extracting the requested information can be a substantial burden on the trial courts. (See Ellen Kreitzberg, *A Review of Special Circumstances in California*
Death Penalty Cases: Special Report to the California Commission on the Fair Administration of Justice, 22-25.

The more important question, and one that requires resolution before reporting requirements are imposed, is whether the information obtained will have any meaningful utility. The Commission has expressed interest in how and why prosecutors charge special circumstances and seek the death penalty. Apart from Penal Code § 190.2, which defines the special circumstances justifying a sentence of death or life without parole, a decision by the District Attorney to charge specials and seek death will necessarily be guided by a variety of factors including the facts of the crime, information about the defendant, and whether a local jury would be likely to return a death sentence. Just as prosecutors cannot charge crimes unless they believe the allegations can be proven beyond a reasonable doubt, they will not seek death unless, in their professional judgment, they conclude that a jury will return such a verdict given the facts and circumstances of the case. This exercise of discretion is necessarily an inchoate factor not easily, if at all, reduced to statistical precision. Each District Attorney is elected by the voters of his or her county to make charging decisions in all criminal cases. That the District Attorney of one county more often seeks death than do those in other counties does not raise doubts about the system as a whole any more than the fact that another District Attorney may choose never to seek death.

In short, the information gathered may be of little utility in determining whether
the death penalty is lawful in California, although it might inform policy development. As a matter of law, the focus should remain on the fairness of the individual trial and death sentence, a point emphasized by the Supreme Court in *McCleskey v. Kemp* (1987) 481 U.S. 279, 294-297. Although Professor Radelet suggested in last month’s testimony that it is necessary to “look at the forest rather than solely at individual trees,” imposing the costs both in money and time that could result from the collection of data contemplated by the professor is unlikely to truly advance the goals of the Commission. “If the case under review is deathworthy, i.e., if the crime, taking mitigating factors into account, is morally reprehensible enough to warrant a death sentence, then it should not matter whether other similar cases got lesser sentences.” (Barry Latzer, *The Failure of Comparative Proportionality Review of Capital Cases (With Lessons From New Jersey)*, 64 Alb. L. Rev. 1161, 1233 (2001) [hereinafter Latzer].)

2. Should the California Constitution be amended to permit the transfer of jurisdiction over pending appeals from the Supreme Court to the Courts of Appeal?

As noted already the delay in resolving capital appeals is troubling. The proposal by Chief Justice George as outlined in his presentation last month would allow the Supreme Court to transfer some direct appeals now heard exclusively by that Court to the District Courts of Appeal for argument and decision. While we believe there are still issues to be resolved in its implementation, we endorse the proposal in principle. We
have no doubt that the Court of Appeal justices can fairly decide the cases and are confident that any concerns about uniformity of decision can be effectively answered by the Supreme Court’s ability to review those decisions. Some suggested at the last meeting that transferring cases will actually slow down the process. Like the Chief Justice, we do not agree with that prediction. The only way to find out for certain, however, is to undertake the effort, which cannot be done as long as the state constitution allocates sole jurisdiction over capital appeals to the Supreme Court. If the experiment proves unsuccessful the court need not transfer any other cases, but it requires the authority to try.

3. Should California law be changed to require state habeas corpus petitions in death penalty cases be filed in the Superior Court?

The Attorney General’s Office has long sought a comprehensive post-conviction remedies act (PCRA) applicable to all criminal cases, an approach many other states have taken. Under such a procedure all collateral challenges to a conviction would have to be filed in the trial court within a specified period of time, preferably one year after judgment. Enactment of a PCRA would encourage review of any collateral challenges close in time to the judgment and allow for full factual development in the first instance before the trial court. Absent such an approach, requiring that capital habeas corpus petitions be filed in the trial courts has great merit.

Many of the common claims in capital habeas proceedings, such as ineffective
assistance of trial counsel, generally require factual development. Initiating the proceedings in the trial court, which is the proper forum for making factual findings, will not only expedite state review of the legal challenges, but it should also reduce delay in the federal courts by creating an evidentiary record. State court fact finding is entitled to a presumption of correctness in federal habeas corpus proceedings (see 28 U.S.C. § 2254(d)(2) and § 2254(e)(1)), and substantially reduces the circumstances under which a federal hearing may be ordered. (28 U.S.C. § 2254(e)(2).) Reducing the number of federal hearings will advance the goal of decreasing delay in the review of capital judgments. Indeed, as the United States Supreme Court explained, the “state court is the most appropriate forum for the resolution of factual issues in the first instance, and creating incentives for the deferral of fact-finding to later federal-court proceedings can only degrade the accuracy and efficiency of judicial proceedings.” (Keeney v. Tamayo-Reyes (1992) 504 U.S. 1, 9.)

Ideally the petitions should be filed within one or two years of the judgment date, potentially allowing both the direct appeal and habeas proceeding to reach the reviewing court together. Such an approach is common in many capital states and there is no reason it could not work in California.
4. Should California law be changed to narrow the list of special circumstances that would make a defendant eligible for the death penalty?

   A. Should death penalty eligibility be limited to cases in which the defendant was the actual killer?

   B. Should death penalty eligibility be limited to cases in which the defendant formed the intent to kill?

   C. Should felony murder special circumstances be retained?

   D. Should special circumstances be limited to the “worst of the worst”? If so, which special circumstances define the “worst of the worst?”

Several speakers at the January hearing suggested that California has too many special circumstances, presumably resulting in an overabundance of potential capital cases. Both the California Supreme Court (see, e.g., People v. Bolden (2002) 29 Cal.4th 515, 566) and the Ninth Circuit (see, e.g., Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915, 924 (en banc)) have consistently rejected arguments that the number of special circumstances fail to adequately narrow the death-eligible class.

The argument for reduction is premised on the 22 special circumstances set forth in Penal Code § 190.2(a).\(^1\) Because other states have fewer narrowing factors, it is argued that California must have too many. In fact, the special circumstances can be

---

1. There are in fact only 21 valid special circumstances. The California Supreme Court held in People v. Superior Court (Engert) (1982) 31 Cal.3d 797, that the heinous, atrocious, or cruel special circumstance set forth in § 190.2(a)(14) is unconstitutionally vague. The Attorney General’s Office has not sought to revisit the issue.
divided into five categories as follows:

1. Murders based on the motive of the defendant, i.e., financial gain (1),
avoiding arrest (5), escape (5), elimination of a witness (10), hate crimes (16), and gang
killings (22)

2. Habitual killers, i.e., prior murder conviction (2) and multiple murder (3)

3. Method of murder, i.e., concealed explosives (4), destructive device (6), lying
in wait (15), torture (18), poison (19), and drive-by shooting (21)

4. Identity of the victim, i.e., peace officer (7), federal law officer (8), firefighter
(9), prosecutor (11), judge (12), public official (13), and juror (20)

5. Felony murder (17)

These categories are consistent with the types of murders for which death is
appropriate in other capital jurisdictions and reflect the considered opinion of the
Legislature and the electorate as to the cases for which a death sentence may be
appropriate. The constitutionality and fairness of the death penalty do not depend on
eliminating the robbery-murder special circumstance or the felony-murder special
circumstance as a whole. Indeed, the fact that certain special circumstances are charged
by prosecutors and found true by juries more often than others reflects the seriousness
with which such crimes are viewed.

The suggestion to limit the death penalty to actual killers may reflect a

---

2. Numbers after the special refer to the applicable subsection of § 190.2(a).
misunderstanding of the role an aider and abettor or conspirator can play in the loss of innocent life. (See, e.g., *People v. Allen* (1986) 42 Cal.3d 1222; *Allen v. Woodford* (9th Cir. 2005) 395 F.3d 979, 1019 (“If the death penalty is to serve any purpose at all, it is to prevent the very sort of murderous conduct for which Allen was convicted.”).)

California mandates an intent to kill for aider and abettors (§ 190.2(c)), as required by the Supreme Court. (*Enmund v. Florida* (1982) 458 U.S. 782 (death penalty cannot be imposed on defendant who did not commit the murder, attempt to kill, intend to kill, or contemplate that a life would be taken).) Intent to kill is an element of many special circumstances. (See, e.g., § 190.2(a)(7) (killing a peace officer); § 190.2(a) (lying in wait); § 190.2(a)(18) (torture).) The electorate has, within the confines of the Eighth Amendment, determined the appropriate scope of the death penalty, including those cases involving an aider and abettor and those for which an intent to kill is required.

5. **What measures should be taken to assure the prompt appointment of qualified lawyers to provide competent representation for the defendant in death penalty trial, appeals, and habeas corpus challenges?**

Although the Attorney General has a strong interest in reducing delay in capital cases by the prompt appointment of capable counsel at every level, the process of

---

3. In felony murders an aider and abettor who did not intend to kill may still be eligible for the death penalty if he is a major participant in the crime and acted with reckless indifference to human life. (§ 190.2(d); *Tison v. Arizona* (1987) 481 U.S. 137.) The Supreme Court's decisions in *Enmund* and *Tison* are difficult to reconcile with an argument that felony-murder eligibility factors render a death penalty statute arbitrary and capricious.
qualifying and appointing defense attorneys is not one in which we participate or have traditionally had much say. Indeed, we believe it would be inappropriate for the Attorney General or any prosecuting office to play an active part in the actual selection of defense counsel. We are, however, open to any suggestions on how the Attorney General’s Office can assist in encouraging the recruitment, application, and prompt appointment of qualified attorneys.

That said we support any approach the Supreme Court might undertake to expand the pool of qualified counsel and to encourage recruitment of new attorneys. One suggestion would be to require attorneys presently qualified to handle the most complex criminal cases in the courts of appeal to also accept appointment in at least one capital case. Indeed, such an approach would be consistent with the proposal to transfer some number of direct appeals to the District Courts of Appeal for argument and decision.

6. Should consistency of representation be provided for state and federal habeas corpus proceedings in death penalty cases?

Maintaining consistency between state and federal habeas corpus representation can substantially reduce delay in the federal review process. The appointment of substitute counsel in federal court frequently causes further delay because new counsel asserts additional claims that must first be developed in state court. However, no such delay should be necessary if qualified counsel is appointed on state habeas. It should be anticipated that such counsel will raise all claims in state court and then continue to
represent the defendant in federal court without the interruption of litigating new claims in state court. Given that all claims must be fully exhausted in the state court before seeking federal relief, and given the one year limitation period for filing in federal court established by 28 U.S.C. § 2244(d)(1), it is also in the best interest of the inmate to insure as much as possible continuity of habeas counsel.

7. Are funding and support services for the defense of capital cases adequate to assure competent representation by qualified lawyers?

The Attorney General’s Office has no direct involvement in the mechanism by which counsel compensation is determined. We believe the principal focus for any discussion of defense counsel funding should be at the trial level. The “trial is the paramount event for determining the guilt or innocence of the defendant.” (Herrera v. Collins (1993) 506 U.S. 390, 416.) Yet, the habeas case is too often used as a vehicle for a second trial. That, of course, is not its purpose. Rather, habeas is intended as a limited inquiry into the fairness of the trial, “and death penalty cases are no exception.” (Barefoot v. Estelle (1983) 463 U.S. 880, 887.)

The Supreme Court capital case policies provide, as of January 1, 2008, for investigation costs up to $50,000. (Prior to this year the amount was $25,000.) Supreme Court Policies Regarding Cases Arising From Judgments of Death [Policies], Policy 2-2.1. That limitation, however, only applies prior to the issuance of an order to show cause. There is no indication that the Court will refuse to authorize additional funding if
an OSC is issued. In short, the amount is less a "cap" than a milestone. What we do not know, because the applications and orders are confidential and rarely available to the Attorney General, is the total amount of investigative fees actually paid, particularly in cases where an OSC and evidentiary hearing were ordered. It may well benefit this Commission and the public to request such information, including copies of representative California Supreme Court funding orders.4/

8. Are there significant racial disparities associated with the race of the victim or the defendant in imposing the death penalty in California? If so, what remedies are available to minimize or eliminate the problem?

The Attorney General’s Office recognizes the importance of ensuring that race does not play a part in any charging decision. The death penalty is appropriate for a limited class of defendants and race, whether that of the defendant or of the victim, is simply not relevant to the charging decision.

As discussed, we believe that any statistical analysis of when or how often the death penalty is sought by prosecutors or returned by juries would have no effect on the legality of capital punishment in California. In last month’s testimony Professor Radelet summarized some statistical differences in the percentage of death sentences based on the race of the victim set forth in a 2005 law review article. (Glenn L. Pierce & Michael L.

4. Trial counsel in capital cases are entitled to funding for investigation and experts pursuant to Penal Code § 987.9. The Commission might also benefit from review of representative samples of such orders.

He acknowledged that his data source did not provide information about the facts of the homicides nor all of the factors that are at issue in the penalty phase of a capital trial. Nonetheless, the professor wondered whether “there is some sort of non-intentional racial bias operating” with respect to the cases in which death is sought. The professor also noted that “[n]o one has been executed [in California] for killing an African American,” again conceding that the “sample of 13 case may not be representative.”

We have found no persuasive study to date that has been able to establish a significant correlation between race and capital sentencing, a fact discussed in Professor Radelet’s article. (Pierce & Radelet, *supra*, at 9-12. Indeed, one study found “no evidence in our California database to indicate that the death penalty is imposed in an arbitrary or racially discriminatory manner.” (Klein & Rolph, *Relationship of Offender and Victim Race To Death Penalty Sentences in California*, 32 Jurimetrics J. 33, 44 (1991).) Nonetheless researchers continue to seek statistical proof of racial disparity to support an inference of racial discrimination they are convinced will be found if only enough data is gathered and evaluated.

As already discussed, the discretion inherent in a prosecutor’s decision to charge special circumstances and seek death, coupled with the individual facts of each case, the

5. Professor Radelet critiques this study in his law review article. (Pierce & Radelet, *supra* at 9-11.)
background of the defendants, and the jurors who hear the cases, undermine any effort to
draw useful inferences from a statistical analysis of the cases. Indeed, the exercise of
discretion is “essential to a humane and fair system of criminal justice.” (McCleskey v.
Kemp, supra, 481 U.S. at 313-314, fn. 37.) Because no two capital cases are alike, there
are simply too many variables to give any significant weight to statistical differences.
Indeed, as the Supreme Court noted in McCleskey, reliance on numbers alone would
essentially undermine the entire criminal justice system. (McCleskey, 481 U.S. at 297.)

9. Are there significant geographical disparities from county to county in utilizing
the death penalty in California? Is this a problem? If so, what remedies are
available to minimize or eliminate the problem?

It is hardly surprising in a state as large and diverse as California that prosecutors
in some counties would tend to charge more capital cases and obtain a greater number of
death sentences than do the prosecutors in other counties. However, the impact of
geographic differences, if any, on the fairness of death judgments is an issue difficult to
evaluate with statistical studies.

Comparing the raw homicide rate of a county with the number of death sentences
may not account for numerous ways in which homicides can be committed, the majority
of which are simply not death eligible under any but the most subjective criteria. In
addition, given the publicity generated by capital murders, particularly in small counties,

it is not unusual for a change of venue to be granted. Thus, several counties identified as
not having returned a death sentence in the Radelet article have, since the period covered by that study, in fact charged and successfully prosecuted capital cases, albeit in another county. Similarly some larger counties may reflect inflated numbers of death judgments because cases from other counties have been sent there for trial.

More importantly, however, we are not aware of any suggestion that geographical differences translate into unfairness or reliance on invidious factors. For example, the assertion that "[t]he more white and more sparsely populated the county, the higher the death sentencing rate" (Pierce & Radelet, supra, at 31), is an essentially meaningless observation as a matter of law. It certainly provides no basis for concluding that small county prosecutors consider race in their capital charging decisions or that race is a factor relied upon by the jurors in those counties. Again, the critical issue in each capital case is whether that defendant received a fair trial. Any requirement of geographic "equality" or statewide calibration of capital judgments would be inconsistent with the independent authority of the local prosecutors to decide what cases to charge. Indeed, the District Attorney in one of California's most populous counties will never seek the death penalty,

6. For example, Marin County obtained a death sentence against David Carpenter in San Diego County; Santa Cruz County obtained a death sentence against Carpenter in Los Angeles County; Calaveras County obtained a death sentence against Charles Ng in Orange County.

7. For example two of the death judgments returned in San Mateo County after the period covered by the Radelet article were for Douglas Scott Mickey from Placer County and Ramon Salcido from Sonoma County. Santa Clara County subsequently returned death judgments for Richard Allen Davis from Sonoma County and Cary Stayner from Mariposa County.
a position approved by the electorate of that county but irrelevant to the fairness of capital charging decisions in other jurisdictions.

10. Is there a need for proportionality review of death penalty sentences in California? If so, how should such a review process be incorporated into California’s death penalty law?

Attempts to compare the sentencing decision in one case with that of another would require consideration of too many variables. Intercase proportionality review of death sentences is not required by the Constitution (Pulley v. Harris (1984) 465 U.S. 37) and the California Supreme Court has consistently declined to undertake it. (See, e.g., People v. Cook (2007) 40 Cal.4th 1334, 1368.) However, the state court does engage in intracase review to determine if the penalty is disproportionate to the defendant’s individual culpability. (See, e.g., People v. Mincey (1992) 2 Cal.4th 408, 476.) In an examination of proportionality review of the type contemplated by reports submitted to the Commission, one commentator concluded that “[c]omparison of capital cases drains judicial resources, diverts the focus of the courts, distends the post-conviction process, and denies the imposition of justice upon the guilty—all in pursuit of a chimera without basis in the Constitution.” (Latzer, supra, at 1166.)

8. After examining in detail New Jersey’s experience Professor Latzer concluded that the “attempt to quantify proportionality review has been confusion, a false sense of objectivity, a great expenditure of resources, and extremely unreliable outcomes.” (Latzer, supra, at 1234.)
11. Are clemency procedures used by California governors consistent from one administration to the next? Are they consistent with procedures utilized by other states? Are they adequate to assure a fair opportunity to be heard by all interested parties, and to assure a principled decision on the merits?

Under the California Constitution authority over clemency decisions, including commutation of death sentences, is entrusted wholly to the Governor, as are the procedures by which clemency is exercised. The Legislature simply has no authority to compel the Governor to conduct clemency proceedings in any specific manner because such limits would violate the state constitution. (33 Ops.Cal.Aty.Gen. 64, 65 (1959).)\(^9\)

The process of executive clemency is inherently discretionary. The Supreme Court has explained that there are at best only minimal due process rights applicable to a state’s clemency procedures. (Ohio Adult Parole Authority v. Woodard (1998) 523 U.S. 272.) Clemency is best viewed as “an exercise of common sense and compassion rather than a rule of law.” (Janice Rogers Brown, The Quality of Mercy, 40 UCLA L. Rev. 327, 335 (1992).) In addition, the clemency procedures are a function of state law and cannot be easily compared from one state to another. However, most states, vest the governor with the sole or decisive power of clemency, with virtually unfettered

---

9. The Governor is prohibited from granting clemency to a twice convicted felon except on recommendation from a majority of the California Supreme Court. (Cal. Const., art. V § 8; Pen. Code § 4852.16.)
discretion. Beyond that, actual procedures vary greatly from state to state.

It is well known that California’s governors have exercised their power to commute death sentences when appropriate. Three different governors have reviewed requests for clemency in 13 of the 15 executions since 1992. In each instance the Governor allowed open-ended submissions, including a variety of written materials, taped statements, and other material. In some instances there have been hearings before the Board of Parole Hearings or the Governor. In each case the Governor issued a written statement explaining his reasons for denying the clemency request. Any effort to impose specific requirements or procedures on the process would be inconsistent with the broad exercise of discretion contemplated by the California Constitution. California Governors have historically taken seriously their responsibility to fairly consider requests for clemency from condemned inmates and there is no reason to believe they will not continue to do so. (See, e.g., Brown, Public Justice, Private Mercy (1989).)

10. Similar discretion is constitutionally vested in the President of the United States.

11. David Mason and Robert Massie did not seek clemency. In addition, the Governor denied clemency to Kevin Cooper and Michael Morales before last-minute stays were granted by the federal courts.

12. The Board was formerly known as the Board of Prison Terms.
## CALIFORNIA EXECUTIONS

<table>
<thead>
<tr>
<th>NAME</th>
<th>JUDGMENT</th>
<th>EXECUTION</th>
<th>DELAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Harris</td>
<td>March 6, 1979</td>
<td>April 21, 1992</td>
<td>13 years, 1 month</td>
</tr>
<tr>
<td>David Mason (V)</td>
<td>January 27, 1984</td>
<td>August 23, 1993</td>
<td>9 years, 7 months</td>
</tr>
</tbody>
</table>
| William Bonin      | March 12, 1982 (LA County)  
<pre><code>                  | August 26, 1983 (Orange County)  | February 23, 1996                     | 12 years, 6 months (from second judgment) |
</code></pre>
<p>| Keith Williams     | April 13, 1979         | May 3, 1996          | 17 years, 1 month                      |
| Thomas Thompson    | August 17, 1984        | July 14, 1998        | 13 years, 11 months                    |
| Jaturn Siripongs   | April 22, 1983         | February 9, 1999     | 15 years, 10 months                    |
| Manuel Babbitt     | July 8, 1982           | May 4, 1999          | 16 years, 10 months                    |
| Darrell Rich       | January 23, 1981       | March 15, 2000       | 19 years, 2 months                     |
| Robert Massie (V)  | June 8, 1989           | March 27, 2001       | 11 years, 9 months                     |
| Stephen Anderson   | March 26, 1986         | January 29, 2002     | 15 years, 10 months                    |
| Donald Beardslee   | March 12, 1984         | January 19, 2005     | 20 years, 10 months                    |
| Stanley Williams   | April 5, 1981          | December 13, 2005    | 24 years, 8 months                     |</p>
<table>
<thead>
<tr>
<th>Clarence Ray Allen</th>
<th>November 22, 1982</th>
<th>January 17, 2006</th>
<th>24 years, 2 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>AVERAGE DELAY</td>
<td></td>
<td></td>
<td>14 years, 9 months</td>
</tr>
</tbody>
</table>