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**Sun News, The (Myrtle Beach, SC)**

January 21, 2007  
Section: FRONT  
Page: A1

**CAPITAL DEFENSE IMPROVES IN CAROLINAS**  
Author: Tonya Root *The Sun News*

**Article Text**

Because of an indigent-defense fund, more specialized training and a rigid qualification process for attorneys, defendants facing the death penalty in both Carolinas are better represented than ever before, attorneys and prosecutors say

The process has greatly improved from 25 years ago, when attorneys were appointed to the cases no matter their backgrounds and not fairly compensated for their work, said **Jack Swerling**, who has represented hundreds of criminals including Donald "Pee Wee" Gaskins, South Carolina's most prolific serial killer

"I think what we have right now in place is an excellent system to get qualified experienced attorneys. I remember 25 years ago that was not the case," Swerling said. "Today it's widespread that lawyers who get appointed have experience in death penalty cases."

When Swerling represented Gaskins in 1985 he said his fees were limited to \$750 and he spent more than 1,000 hours on the case. Today, defense attorneys can draw from an indigent-defense fund for expert witnesses and psychological evaluations, but there are limits on that funding.

"If we're going to have a death penalty we're going to have to fund the defense. Funding is up to the legislature. We need to count on them to give us the tools to work with," Swerling said. "The courts do everything they can for us because they understand what's put into a death penalty case, the hours, the stress and the emotion."

But still, defense attorneys say prosecutors have hundreds of employees working on capital cases when law enforcement officers, pathologists, psychologists and others are included in the big picture

"When we start talking about the money, there's a lot of inequalities involved. The state has caps, but the judge can override them if the judge sees fit," said Orrie West, Horry County's public defender. "I do think South Carolina does a really good job in matching defense attorneys and defendants charged in capital cases. Most of the time judges aren't going to make them do a case when they don't have their heart in the case."

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Officials in the Carolinas keep a list of attorneys who have been qualified to try a death penalty case so they know who to appoint when such a case occurs, officials said. Defendants also must be represented by two attorneys

During most trials the judge also will seek the backgrounds of the attorneys to ensure they are qualified for such capital cases, officials said

"For the number of cases, which is somewhat limited, I think we have adequate council to ensure they get a fair trial," said Greg Hembree, 15th judicial circuit solicitor, who oversees prosecutions in Horry and Georgetown counties.

As of Jan 9 there were five men from Horry County awaiting execution on death row and one from Georgetown County, according to the S.C. Department of Corrections. Four of those cases occurred since 2000, records show.

One man has been sentenced to die in Brunswick County, N.C., since 2000, and that occurred in April, said Rex Gore, district attorney for Brunswick, Bladen and Columbus counties

"We're at the stage where we have some of the most qualified attorneys," Gore said. "We're just like South Carolina though. We all could use more help, but everybody takes it seriously."

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