

Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 11:06 AM
To: Tom Wright; Jane Pierson
Subject: Cost Comparisons: Death Penalty Cases Vs Equivalent Life Sentence Cases Dudley S
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**Cost Comparisons: Death Penalty Cases Vs Equivalent Life Sentence Cases
 Dudley Sharp, Justice Matters, contact info below**

In comparing the cost of death penalty cases to other sentences, the studies are woefully incomplete.

Generally, such studies have one or more of the following problems.

- 1) Most studies exclude the cost of geriatric care, recently found to be \$60,000-\$80,000/inmate/yr. A significant omission from life sentence costs.
- 2) All studies exclude the cost savings of the death penalty, which is the ONLY sentence which allows for a plea bargain to a maximum life sentence. Such plea bargains accrue as a cost benefit to the death penalty, such benefit being the cost of trials and appeals for every such plea bargain, estimated at \$500,000 to \$1 million, which would accrue as a cost benefit/credit to the death penalty.

Depending upon jurisdiction, this MIGHT result in a minimal cost differential between the two sanctions or an actual net cost benefit to the death penalty, depending upon how many LWOP cases are plea bargained and how many death penalty cases result in a death sentence.

- 3) FCC economist Dr. Paul Zimmerman finds that executions result in a huge cost benefit to society. "Specifically, it is estimated that each state execution deters somewhere between 3 and 25 murders per year (14 being the average). Assuming that the value of human life is approximately \$5 million {i.e. the average of the range estimates provided by Viscussi (1993)}, our estimates imply that society avoids losing approximately \$70 million per year on average at the current rate of execution all else equal." The study used state level data from 1978 to 1997 for all 50 states (excluding Washington D.C.). (1)

That is a cost benefit of \$70 million per execution. 15 additional recent studies, inclusive of their defenses, support the deterrent effect.

No cost study has included such calculations.

Although we find it inappropriate to put a dollar value on life, evidently this is not uncommon for economists, insurers, etc.

We know that living murderers are infinitely more likely to harm and murder, again, than are executed murderers. There is no doubt that executions do save innocent lives. What value do you put on the lives saved? Certainly not less than \$5 million.

- 4) Some "cost studies" are blatantly deceptive. Always fact check.
 - a) Some studies compare the cost of a death penalty case, including pre trial, trial, appeals and incarceration, to only the cost of incarceration for 40 years, excluding all trial costs and appeals, for a life sentence. The much cited Texas "study" does this. Hardly an apples to apples cost comparison.

b) The pure deception in some cost "studies" is overt. It has been claimed that it costs \$3.2 million/execution in Florida. That "study" decided to add the cost of the entire death penalty system in Florida (\$57 million), which included all of the death penalty cases and dividing that number by only the number of executions (18). One could just have easily stated that the cost of the estimated 200 death row inmates was \$285,000 per case.

5) There is no reason for death penalty appeals to take longer than 5-7 years, prior to execution, as in Virginia. All death penalty appeals, direct and writ, should travel through the process concurrently, thereby giving every appellate issue 5-7 years of consideration through both state and federal courts. Again, as in Virginia, strict and enforced time limitations, for both the state and the inmate, should be used. There is no need for endless repetition and delay.

Justice

6) The main reason sentences are given is because jurors find that it is the most just punishment available. No state, concerned with justice, will base a decision on cost alone. If they did, all cases would be plea bargained and every crime would have a probation option.

1). "State Executions, Deterrence and the Incidence of Murder", Paul R. Zimmerman (zimmy@att.net), March 3, 2003, Social Science Research Network, http://papers.ssrn.com/sol3/delivery.cfm/SSRN_ID354680_code021216500.pdf?abstractid=354680

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Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS, VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

A former opponent of capital punishment, he has written and granted interviews about, testified on and debated the subject of the death penalty, extensively and internationally.

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Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:51 AM
To: Tom Wright; Jane Pierson
Subject: The Death Penalty: Not a Human Rights Violation
Follow Up Flag: Follow up
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The Death Penalty: Not a Human Rights Violation
Dudley Sharp, Justice Matters

Some wrongly state that executions are a human rights violation. The human rights violation argument often comes from European leadership and human rights organizations.

The argument is as follows: Life is a fundamental human right. Therefore, taking it away is a fundamental violation of human rights.

Those who say that the death penalty is a human rights violation have no solid moral or philosophical foundation for making such a statement. What opponents of capital punishment really are saying is that they just don't approve of executions.

Certainly, both freedom and life are fundamental human rights. On this, there is virtually no disagreement. However, again, virtually all agree, that freedom may be taken away when there is a violation of the social contract. Freedom, a fundamental human right, may be taken away from those who violate society's laws. So to is the fundamental human right of life forfeit when the violation of the social contract is most grave.

No one disputes that taking freedom away is a different result than taking life away. However, the issue is the incorrect claim that taking away fundamental human rights -- be that freedom or life -- is a human rights violation. It is not. It depends specifically on the circumstances.

How do we know? Because those very same governments and human rights stalwarts, rightly, tell us so. Universally, both governments and human rights organizations approve and encourage taking away the fundamental human right of freedom, as a proper response to some criminal activity.

Why do governments and human rights organizations not condemn just incarceration of criminals as a fundamental human rights violation? Because they think incarceration is just fine.

Why do some of those same groups condemn execution as a human rights violation? Only because they don't like it. They have no moral or philosophical foundation for calling execution a human rights violation.

In the context of criminals violating the social contract, those criminals have voluntarily subjected themselves to the laws of the state. And they have knowingly placed themselves in a position where their fundamental human rights of freedom and life are subject to being forfeit by their actions.

Opinion is only worth the value of its foundation. Those who call execution a human rights violation have no credible foundation for that claim. What they are really saying is "We just don't like it."

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www.lexingtonprosecutor.com/death_penalty_debate.htm

www.prodeathpenalty.com

yesdeathpenalty.googlepages.com/home2 (Sweden)

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Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:50 AM
To: Tom Wright; Jane Pierson
Subject: cost studies _ LET ME KNOW - They're all different, see this one Maryland

In a message dated 2/18/2009 2:24:55 P.M. Central Standard Time, Sharpjfa writes:

To: Maryland Legislature, Prosecutors and media throughout the region

From: Dudley Sharp, contact info below

SUMMARY: The cost errors, within the Majority Report, are so substantial that their cannot be considered reliable. Is it possible that a properly managed death penalty system could be less expensive than a true life sentence? Read on.

NOTE: See the hidden "Minority Report", stuck between pages 128 and 129 of the majority report. It is a 23 page rebuttal of the majority report. The Governor made sure that it was well hidden. There is not even a reference to it in the Table of Contents, even though the Minority Report is much, much longer than any section of the majority report. Politics at its worst.

Some observations on the Urban Institute (UI) Cost of the Death Penalty in Maryland (1) as well as on the Majority Report.

The UI conclusion was that the lifetime case cost for the 56 death penalty cases will cost Maryland taxpayers \$186 million, or \$106 million more than if death wasn't pursued in those cases or about \$47,000 per year per inmate, more.

The study found that the average cost of a case where a death notice was not sought was \$1.1 million/case, that being \$250,000 for adjudication and \$860,000 for confinement/prison costs.

Unfortunately, many more cases were used than just those which make up life without parole (LWOP). This, wrongly and totally, skewed the results.

That was inappropriate from a public policy standpoint and the majority should have known it.

The only public policy cost discussion regarding the death penalty, nationwide, is the cost differential between LWOP cases and death penalty cases. This is very well known. If anyone doesn't know it, it would take 10 minutes online to figure it out.

It begs the question, why did the UI muddy the waters with a bunch of cases that didn't get LWOP?

Regardless of UI's reasons, the answer is, they shouldn't have.

Here's why.

1) The public policy debate is concentrated on LWOP as a considered replacement for the death penalty. Sentences less than LWOP are not under consideration in this current debate.

2) By including cases of less than LWOP, within the non death category, UI and the majority has lowered the costs of that category, perhaps substantially, and has misled or confused the public as to the real cost disparities, if any, which may exist between the death penalty and LWOP in Maryland.

3) Had UI only included LWOP cases in that category, the cost disparity would be reduced, perhaps substantially.

Using current data, scenarios exist that could result in a finding that the death penalty may actually be less expensive than LWOP. See below.

What wasn't calculated

4) a) Each case, whereby a plea bargain to a sanction less than death was rendered, the state saves about \$250, 000/case for legal expenses, based upon UI estimates.

b) The number is, likely, far above that \$250,000/case evaluation, because 1) UI wrongly included non LWOP cases and 2) wrongly credited the cost reduction of those pleas, within the LWOP category, when, instead, 3) a credit of \$250,000/case, but likely much larger, should have been placed in the death case data calculations, resulting in an additional increase per case cost within the true LWOP category and a greater reduction in the death case category.

Properly, this credit can happen only when LWOP plea cases are isolated. This is public policy 101. The majority wrongly discounted plea bargains to a life sentence. The cost savings are substantial.

5) For example:

a) Presume the average LWOP case, resulting in LWOP, has adjudication costs of \$500, 000, from pre trial to conviction and throughout appeals. If a LWOP sentence was given as part of a plea bargain, prior to a death notice being filed, UI shows that cost as \$0 for adjudication, thus lowering the average cost of all cases where death wasn't pursued in potentially capital cases.

That would be improper, from any standpoint.

b) A LWOP plea bargain can only occur because the state has the death penalty. So, instead of lowering the average cost of all LWOP cases, all LWOP plea cases would be removed from the LWOP database and a cost credit of \$500,000 would be applied as a cost benefit within death penalty category, because it was solely the presence of the death penalty which allows for a plea bargain to LWOP. Thus, death penalty costs and overall costs to the state, would drop substantially and the average costs of LWOP would rise.

c) That results in two changes:

- 1) The average cost of LWOP cases will rise, possibly substantially, because a \$0 adjudication cost entry will be removed from the LWOP cases; and
- 2) The average cost of death penalty cases may lower, possibly substantially, because a \$500, 000 cost reduction will be made to the death penalty cost basis, for each such LWOP plea.

To state the obvious, UI made an error in reversing the credit in pleas.

6) For an accurate public policy review of death penalty costs vs LWOP costs, Maryland Legislators should:

- a) Compare the costs of only the death penalty cases which were pursued and a death

penalty resulted and only LWOP cases that were pursued, resulting in a LWOP sentence; and

b) include the proper calculations for credit of LWOP pleas bargains, which are solely the result of the presence of the death penalty.

c) Why exclude the death penalty cases which were pursued, resulting in sentences less than the death penalty? For the same reason we exclude LWOP cases which result in sentences of less than LWOP.

You should be looking , only, at true death cases costs vs true LWOP costs. If UI wants to add a bunch of other cost categories, fine, but these are the two that must be done.

They weren't.

COST SAVINGS - Death Row incarceration

1) The extra \$350,000 per case for additional cost for death row incarceration is an unnecessary waste of taxpayer money. Missouri doesn't even have a death row for their death sentenced prisoners.

2) There is no reason that death penalty appeals should take longer than 7-10 years.
a) Both appellate paths, direct appeal and writ, should travel through the appellate process, at the same time.

b) The legislature, trial and appellate courts should work together to establish reasonable time frames for appeals and responses to them.

GERIATRIC CARE - Prisoner geriatric care has recently been found to be about \$70,000/inmate/year, on average. Has that been calculated in Maryland?

REQUIREMENT

Maryland must redo their calculations to compare costs of true LWOP cases to death penalty cases, for two reasons.

First, it is the only public policy cost issue which exists, with regard to the death penalty in Maryland

Secondly, what you have, now, cannot be relied upon.

UI: Additional Errors in Judgement

UI's reliance on Donahue and Wolfers (2006), who have been highly critical of some of the recent studies finding for deterrence, was unwarranted and inappropriate.

UI's authors failed to note that Donahue and Wolfers criticisms have been dissected and trashed by those authors whose studies found for deterrence.

I believe all of those replies, heavily critical of Donahue and Wolfers, were published prior to the UI report.

Furthermore, UI failed to mention that Donahue and Wolfers' work was not peer reviewed, but many and most of the studies finding for deterrence were. Had Donahue and Wolfers work been peer reviewed, it is a question if it ever would have been published in a peer reviewed publication.

Both of these points are important and inexcusable omissions by UI.

Instead of mentioning the rebuttals, UI, instead, deferred to Donahue and Wolfers, as a way of neutralizing the importance of the studies finding for deterrence, and then mentioned a study which found against deterrence.

UI wrongly states that studies go either way so we shouldn't bother with them.

Total nonsense. 16 recent studies, including strong rebuttals to criticism, find for death penalty deterrence.

In one reply to Donahue and Wolfers, after their data had been re-run, based upon Donahue and Wolfers criticism:

"I oppose the death penalty. " " But my results show that the death penalty (deters) — what am I going to do, hide them?" "Science does really draw a conclusion. It did. There is no question about it." "The results are robust, they don't really go away" "The conclusion is there is a deterrent effect."

Prof. Naci Mocan, Economics Chairman, University of Colorado at Denver
"Studies say death penalty deters crime", ROBERT TANNER, Associated Press, June 10, 2007, 2:01 PM ET

Furthermore, one of the deterrence studies found a \$70 million cost benefit, per execution, because of the number of lives saved per execution.

Obviously, that would render the death penalty a huge cost benefit in Maryland.

Many other important conclusions of the deterrence studies were omitted from the UI report. If UI didn't wish to give a proper, accurate review of deterrence, stay away from it. Why wrongly muddy the waters?

Public policy makers take note.

Misleading Conclusion

The UI authors stated that:

"Prior research on the costs of capital punishment in other states unambiguously finds that capital cases are more expensive to prosecute than non-capital cases. "

To "prosecute", generally yes, but not always.

And when did the studies ONLY look at prosecution?

In one of UI's included studies, Cook, North Carolina Cost Study (1993), the UI authors seemed to have missed a very important and obvious point.

The study finds that, for two different calculations, that the death penalty costs \$163,000 and \$213,000/case more than a life sentence.

But, the calculation for a life sentence is only to 20 years.

For a true life sentence, you would be adding \$300,000 or more to each life case, meaning that a life sentence costs more than the death penalty.

Furthermore, the authors conceded not including geriatric care, recently found to be \$69,000/inmate/yr. meaning lifers cost a lot more than death sentenced prisoners, possibly adding an additional \$300,000/case, or more, for a true LWOP sentence.

That could render life cases \$600, 000 or more, more expensive than death sentences in North Carolina.

Furthermore, the calculations didn't include the benefit of plea bargains to life, possible only because of the death penalty.

Unambiguous, UI? Not close.

Based upon the UI authors not seeing these very obvious and important facts, or deciding not to share them within their report, one may conclude that UI authors may have made similar errors or omissions in their review of the other included studies.

Reviewers should keep that in mind.

CONCLUSION

UI, a public policy institution, avoided the only public policy issue which exists in the death penalty cost debate:

"What is the difference in cost between the death penalty and a true LWOP?"

Depending upon the number of plea bargains to LWOP, there may be very little cost difference between the death penalty and LWOP.

Furthermore, if both the presence of the death penalty, as well as executions, saves many innocent lives, as 16 of the recent deterrence studies(1) suggest, then the benefit of the death penalty far surpasses any alleged cost deficit, if any, or is a huge added benefit to any cost benefit of the death penalty, if there is one.

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www.prodeathpenalty.com

<http://yesdeathpenalty.googlepages.com/home2> (Sweden)

www.wesleylowe.com/cp.html

(1) http://www.urban.org/UploadedPDF/411625_md_death_penalty.pdf

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Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 11:36 AM
To: Tom Wright; Jane Pierson
Subject: Can Rev. Carroll Pickett be trusted "At the Death House Door"?
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**Can Rev. Carroll Pickett be trusted "At the Death House Door"?
Dudley Sharp, Justice Matters, contact info below**

**To: Film schools, festivals, institutes, websites and reviewers, worldwide .
Distributed since May, 2008**

Rev. Pickett is on a promotional tour for the anti death penalty film "At the Death House Door". It is, primarily, about the Reverend's experience ministering to 95 death row inmates executed in Texas.

Rev. Pickett's inaccuracies are many and important.

Does Rev. Pickett just make facts up as he goes along, hoping that no one fact checks, or is he just confused or ignorant?

Some of his miscues are common anti death penalty deceptions. The reverend is an anti death penalty activist.

Below are comments or paraphrases of Rev. Pickett, taken from interviews, followed by my REPLY:.

I encourage more fact checking.

1) Pickett: (In 1989) "I was so 100% certain that he couldn't have committed this crime. (Carlos) was a super person to minister to. I knew Carlos was not guilty. " "I knew (executed inmate) Carlos (De Luna) didn't do it." (1)

REPLY: There is this major problem. It appears that Rev. Pickett is, now, either lying about his own 1989 opinions or he is very confused.

In 1999, 4 years after Rev. Pickett had left his death row ministry, and he had become an anti death penalty activist, and 10 years after De Luna's execution, the reverend was asked, in a PBS Frontline interview,

"Do you think there have been some you have watched die who were strictly innocent?"

Pickett's reply: "I never felt that."(2)

For at least 15 years, Pickett never felt that any of the 95 executed were actually innocent.

This directly conflicts with his current statements on Carlos De Luna. Rev. Pickett is, now, saying that he was 100% sure of De Luna's innocence in 1989!

If he was 100% sure of DeLuna's execution in 1989, what's up with the PBS interview?.

How could Rev. Pickett forget the only "innocent" person he saw executed - he was 100% sure of his innocence - on his watch? Wouldn't anyone find that to be 100% impossible to forget, particularly when you are asked, specifically, about it during a formal interview?

When is the first confirmable date that Rev. Pickett stated he believed in DeLuna's actual innocence?

It appears the reverend has either revised history to support his new anti death penalty activism - he's lying - or he is, again, very confused. Reverend?

2) Sara Hickman, musician, anti death penalty activist, and acquaintance of Pickett's, wrote " . . . Rev. Carroll Pickett (the death row minister who witnessed 95 executions in Huntsville; he is convinced that at least 15 of those men were innocent),. . . ". (3)

Reply: In 1999 Rev. Pickett didn't believe any of those 95 executed were innocent, now, in 2008, he is convinced that 15 innocents were executed. Quite remarkable, if true.

Rev. Pickett can you tell us which 15 you are convinced were executed innocents? And what is your evidence? Or did Ms. Hickman get it wrong? Reverend?

I have inquired with Ms. Hickman (sara@sarahickman.com) and Rev Pickett (carrollpickett57@gmail.com) but, so far, no reply.

3) Introduction: In 1974, prison librarian Judy Standley and teacher Von Beseda were murdered during an 11 day prison siege and escape attempt. Ignacio Cuevas was sentenced to death, as one of three prisoners who were involved. The other two died in the shootout.

Ms. Standley and Ms. Beseda were part of Rev. Pickett's congregation, outside of prison.

Pickett: After Cuevas was executed, Rev. Pickett alleges that he met with Judy Standley's family and they told the reverend that "This (the execution) didn't bring closure." "This didn't help us." According to Rev. Pickett, "They didn't want him (Ignacio Cuevas) executed." (1)

Reply; There might be a big problem. Judy Standley's five children wrote a statement, before the execution, which stated: "We are relieved the ordeal may almost be over, but we are also aware that to some, this case represents only one of many in which, arguably, `justice delayed is justice denied," "We are hopeful the sentence will finally be carried out and that justice will at last be served," said the statement, signed by Ty, Dru, Mark, Pam and Stuart Standley. (4)

Sure seemed like the kids wanted Cuevas to be executed. Doesn't it? Reverend?

4) Pickett: spoke of the Soldier of Fortune murder for hire case, stating the husband got the death penalty, while the hired murderer got 6 years. (1)

Reply: Rev. Pickett's point, here, appears to be the unfairness of the sentence disparity. More fact problems. John Wayne Hearn, the hitman, was sentenced to life imprisonment for the murder of Sandra Black.

5) Pickett: "A great majority of them (the 95 executed inmates he ministered to) were black or Hispanic." (1)

Reply: The reverend's point, here, appears to emphasize the alleged racist nature of the death penalty. There is a problem for the reverend- the facts - the "great majority" were 47 white (49%) with 32 black (34%), and 16 Hispanic (17%).

6) Pickett: "Out of the 95 we executed only one that had a college degree. All the rest of them their education was 9th grade and under." (1)

Reply: Not even close. Rev. Pickett's point, here, seems to be that capital murderers are, almost

all, idiots who can't be held responsible for their actions. But, there are more fact problems for the reverend. In a review of only 31 of the 95 cases, 5 had some college or post graduate classes and 16 were high school graduates or completed their GED. Partial review (Incomplete Count) , below.

Would Rev. Pickett tell us about the educational achievements of all the true innocent murder victims and those that weren't old enough for school?

7) Pickett: believes that, no way, could someone, so afraid of lightning and thunder, such as Carlos De Luna, use a knife (in a crime). (1)

Reply: Is the reverend not aware of DeLuna's record? In 1980, "De Luna was charged with attempted aggravated rape and driving a stolen vehicle, he pleaded no contest and was sentenced to 2 to 3 years. Paroled in May 1982, De Luna returned to Corpus Christi. Not long after, he attended a party for a former cellmate and was accused of attacking the cellmate's 53-year-old mother. She told police that De Luna broke three of her ribs with one punch, removed her underwear, pulled down his pants, then suddenly left. He was never prosecuted for the attack, but authorities sent him back to prison on a parole violation. Released again in December of that year, he came back to Corpus Christi and got a job as a concrete worker. Almost immediately, he was arrested for public intoxication. During the arrest, De Luna allegedly laughed about the wounding of a police officer months earlier and said the officer should have been killed. Two weeks after that arrest, Lopez was murdered." (Chicago Tribune) Being a long time criminal, we can presume that there were numerous additional crimes committed by De Luna and which remained unsolved.

Was De Luna capable of committing a robbery murder, even though he had big brown eyes and was scared of lightning? Of course. Rev. Pickett?

8) Pickett: speaks of how sincere hostage taker, murderer Ignacio Cuevas was. Rev. Pickett states that "between 11 and midnight (I) believe almost everything" the inmates say, because they are about to be executed. (1)

Reply: Bad judgement. Minutes later, Cuevas lied when on the gurney, stating that he was innocent. This goes to show how Rev. Pickett and many others are easily fooled by these murderers. Pickett concedes the point.

9) Pickett: "In my opinion and in the opinion of the convicts, life in prison, with no hope of parole, is a much worse punishment (than the death penalty)." "Most of these people (death row inmates) fear life in prison more than they do the possibility of execution." (5)

REPLY: More fact problems. We know that isn't the opinion of those facing a possible death sentence of those residing on death row. This gives more support to my suspicion that Rev. Pickett is putting words into the inmates' mouths.

Facts: What percentage of capital murderers seek a plea bargain to a death sentence, rather than seeking a life sentence? Zero or close to it. They prefer long term imprisonment. What percentage of convicted capital murderers argue for execution in the penalty phase of their capital trial? Zero or close to it. They prefer long term imprisonment. What percentage of death row inmates waive their appeals and speed up the execution process? Nearly zero (less than 2%). They prefer long term imprisonment. This is not, even remotely, in dispute. How could Rev. Pickett not be aware of this? How long was he ministering to Texas' death row? 13 years? So, what? Did he just make this up?

10) Pickett: stated that "doctors can't (check the veins of inmates pending execution), it's against the law." (1)

Reply: Ridiculous. Obviously untrue.

11) Pickett: Pavulon (a paralytic) has been banned by vets but we use it on people. (1)

REPLY: This is untrue and is a common anti death penalty deception. The American Veterinary Medical Association (AVMA) states, "When used alone, these drugs (paralytics) all cause respiratory arrest before loss of consciousness, so the animal may perceive pain and distress after it is immobilized." Obviously, paralytics are never used alone in the human lethal injection process or animal euthanasia. The AVMA does not mention the specific paralytic - Pavulon - used in lethal injection for humans. These absurd claims, falsely attributed to veterinary literature, have been a bald faced lie by anti death penalty activists.

In Belgium and the Netherlands, their euthanasia protocol is as follows: A coma is first induced by intravenous administration of 20 mg/kg sodium thiopental (Nesdonal) (NOTE-the first drug in human lethal injection) in a small volume (10 ml physiological saline). Then a triple intravenous dose of a non-depolarizing neuromuscular muscle relaxant is given, such as 20 mg pancuronium bromide (Pavulon) (NOTE-the second drug, the paralytic, in human lethal injection) or 20 mg vecuronium bromide (Norcuron). The muscle relaxant should preferably be given intravenously, in order to ensure optimal availability (NOTE: as in human lethal injection). Only for pancuronium bromide (Pavulon) are there substantial indications that the agent may also be given intramuscularly in a dosage of 40 mg. (NOTE: That is how effective the second drug in human lethal injection is, that it can be given intramuscularly and still hasten death).

Just like execution/lethal injection in the US, although we give a third drug which speeds up death, even more.

12) Pickett: "Most of the inmates would ask the question, "How can Texas kill people who kill people and tell people that killing people is wrong?" That came out of inmates' mouths regularly and I think it's a pretty good question to ask." (5)

REPLY: I simply don't believe it. Most? Would that be more than 47 out of 95? 10 out of 95? Doubtful. I suspect it is no coincidence that "Why do we kill people to show that killing is wrong" has been a common anti death penalty slogan for a very long time. I suspect that Rev. Pickett has just picked it up, used it and placed it in inmate's mouths. Furthermore, we don't execute murderers to show that murder is wrong. Most folks know that murder is wrong even without a sanction.

13) Pickett: said an inmate said "its burning" "its burning", during an execution. (1)

REPLY: This may have occurred for a variety of reasons and does not appear to be an issue. It is the third drug which is noted for a burning sensation, if one were conscious during its injection. However, none of the inmates that Rev. Pickett handled were conscious after the first drug was administered. That would not be the case, here, as the burning complaints came at the very beginning of the injection process, which would involve a reaction where the burning would be quite minor. Has Rev. Pickett reviewed the pain and suffering of the real victims - the innocent murdered ones?

Bottom line. Reverend Pickett's credibility is as high as a snakes belly.

Time to edit the movie?!

Incomplete count

this is a review of 31 out of the 95 death row inmates ministered by Rev. Pickett

21 of the 31 below had some college or post graduate classes (5)
or were high school graduates or completed their GED (16)

1) Brooks 12

3) O'Bryan post graduate degree - dentist

41 James Russel 10th
42 G Green sophomore college
45 David Clark 10th and GED
46 Edward Ellis 10th
47 Billy White 10th
48 Justin May 11th
49 Jesus Romero 11th and GED
50 Robert Black, Jr. a pilot (probably beyond 12th)
55. Carlos Santana 11th
57 Darryl Stewart 12th
58 Leonel Herrera 11th and GED
60) Markum Duff Smith Post graduate College
33) Carlos De Luna 9th
95 Ronald Keith Allridge 10th and GED
93 Noble Mays Junior in College
92 Samuel Hawkins 12th
91 Billy Conn Gardner 12th
90 Jeffery Dean Motley 9th
89 Willie Ray Williams 11th
86 Jesse Jacobs 12th
85 Raymond Carl Kinnamon 11th and GED
84 Herman Clark sophomore college
83 Warren Eugene Bridge 11th
82 Walter Key Williams 12th
72 Harold Barnard 12th
73 Freddie Webb 11th and GED
75 Larry Anderson 12th
77 Stephen Nethery 12th
79 Robert Drew 10th

1) "Chaplain Discusses 'Death House' Ministry", Interview, Legal Affairs, FRESH AIR, NPR, May 19, 2007.

2) "The Execution: Interview with Reverend Carroll Pickett", PBS, FRONTLINE, 1999
[www\(DOT\)pbs.org/wgbh/pages/frontline/shows/execution/readings/pickett.html](http://www(DOT)pbs.org/wgbh/pages/frontline/shows/execution/readings/pickett.html)

3) "Hickman: Texas needs to start a dialogue on the death penalty", OTHER TAKES, Austin American-Statesman, July 30, 2008

4) "Appellate court refuses to stay killer's execution", Kathy Fair, HOUSTON CHRONICLE, Section A, Page 1, 2 Star edition, 05/23/1991

5) THE FAILURE INTERVIEW: REVEREND CARROLL PICKETT—AUTHOR OF "WITHIN THESE WALLS: MEMOIRS OF A DEATH HOUSE CHAPLAIN" Interview, by Kathleen A. Ervin
[www\(DOT\) failuremag.com/arch_history_carroll_pickett_interview.html](http://www(DOT)failuremag.com/arch_history_carroll_pickett_interview.html)

Dudley Sharp, Justice Matters
e-mail sharpjfa@aol.com, 713-622-5491,
Houston, Texas

Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS, VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

A former opponent of capital punishment, he has written and granted interviews about, testified on and debated the subject of the death penalty, extensively and internationally

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

Dana Strommen

From: Amy Paige [paigedunker@alaska.net]
Sent: Monday, February 23, 2009 11:04 AM
To: Rep. Nancy Dahlstrom; Rep. Jay Ramras; Rep. John Coghill; Rep. Carl Gatto; Rep. Bob Lynn; Rep. Max Gruenberg; Rep. Lindsey Holmes
Subject: Testimony on HB 9 before the House Judiciary Committee, Feb 23rd and 25th 2009

Statement on HB 9

Amy Paige
592 Seatter Street
Juneau, Alaska 99801

February 23, 2009

I am dismayed to think that there are Alaskans who still consider the death penalty to be the solution to dealing with those who commit the serious crime of murder. I know there are dangerous people we do not want roaming the streets, but existing laws that allow such people to be sentenced to life in prison without possibility of parole are more than adequate to ensure the public safety.

I believe adoption of this legislation would unjustly impact minorities that are disproportionately represented in Alaska's prisons. And there is the matter of individuals being falsely convicted, and subsequently found innocent. Most of us are aware of the many such cases that have come to light in recent years in other states, resulting in many states putting a moratorium of executions. You will hear others who will speak to these issues, and to the matter of excessive cost to the state to implement this change in the statutes.

I am opposed to capital punishment on moral and religious grounds. I believe it is a violation of the sacredness of human personality, no different that the crimes it seeks to punish; that it disregards the fundamental capacity of all persons to respond to right influences. The death penalty removes all opportunity for the offender to repent for his or her offense, or for those falsely convicted a chance for their innocence to be discovered. Even the most hardened criminal with God's help, may come to recognize the error of his ways.

It is morally wrong for the state to enact laws based on revenge or wrongs committed. The death penalty makes criminals of us all. The violence and brutality of capital punishment is as reprehensible as the crimes it seeks to prevent. It can bring us no security from the actions of criminals. In pretending to support a reverence for life, it in reality destroys it.

I urge you to reject this legislation as morally indefensible and totally unacceptable to the people of Alaska.

Dana Strommen

From: ruthb@alaska.com on behalf of Ruth G. Benson [ruthb@alaska.com]

Sent: Sunday, February 22, 2009 2:45 PM

To: Rep. Jay Ramras

Subject: HB 9

Please oppose HB9. MAYBE when the death penalty sentence is never in error, does not result in costly appeals and is administered without prejudice to murderers of all races and economic and social conditions, I may waver in my opposition, but not before those conditions are met. Please vote NO on this ill-advised proposal.

Ruth Benson

--

1551 Farmers Loop
Fairbanks, Alaska 99709
Tel: 907 479-6912

Dana Strommen

From: Richard Reem [rreem@mosquitonet.com]
Sent: Sunday, February 22, 2009 4:31 PM
To: Rep. Jay Ramras
Subject: The death penalty

Rep. Ramas, I am concerned about the death penalty. The well known Hartman case seems to be a strong argument against doing in presumed killers and other criminals as the people in jail may well be innocent.

It is bad enough that we allow abortions, death to clearly innocent folks. Thank you for your service in the Legislature. Richard Reem

State of Alaska
House Judiciary Committee

RE: HB 9

I am Julia Smith, former Administrator of the Sitka Pioneers' Home. I live at 4775 Halibut Point Road, Sitka Alaska. As a thirty-year citizen of the State of Alaska, I have always been proud of our state in part because we prohibit capital punishment. I was very dismayed to learn that HB 9 is being considered to authorize capital punishment.

It is my believe that the cost of Capital punishment:

- does nothing to protect people from crime;
- seriously harms the survivors of homicide victims; and
- would cost Alaska far more than life imprisonment without release.

The administration of the death penalty is fraught with error and results in the conviction and execution of the innocent. In the past 35 years, 130 inmates were found to be innocent and released from death row. And, while DNA testing has exonerated a lot of prisoners locked up for crimes they didn't commit, it isn't a fail-safe that will prevent the innocent from being executed.

The United States remains the only advanced Western democracy that fails to recognize capital punishment as a profound human rights violation and as a frightening abuse of government power.

Thank you for allowing me to testify.

Sincerely, Julia A. Smith



**LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE INFORMATION OFFICE**
201 Katlian Street, Suite 200A, Sitka, AK 99835
Phone: 907-747-6276 Fax: 907-747-5807
Email: sitka_lio@legis.state.ak.us

DATE: Feb 23, 2009

TO: Jane

RE: constituent letter on HB 9

**2 pages including
Cover page**

FROM: Debbie Doland, Legislative Information Reserve

MESSAGE

One of our constituents wanted to submit this letter on HB 9 and hoping it can be included in your packet.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debbie Doland".

Debbie Doland,

Sitka Legislative Information reserve

Testimony on HB 9
2/23/09

Christine Reichman
Anchorage

"As a citizen of this democracy
and as a lover of human life,
I am against the death penalty
and this bill, because
when we kill we treat the other person
as less than human,
and we treat ourselves as less than
human."

Killing as a government just
adds more killing.

Dana Strommen

From: Susan S [asusansmalley@yahoo.com]

Sent: Tuesday, February 24, 2009 5:57 AM

To: Rep. Jay Ramras; Rep. Bob Lynn; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Carl Gatto;
Rep. Nancy Dahlstrom; Rep. John Coghill

Subject: HB9

Dear Judiciary Committee Members,

Although it was unlikely that I would have been able to testify yesterday, it was a disappointment when the power went out in Kenai during your first hearing. I trust you will take time to read my testimony as it was sent to you, with my apologies for not having it in print, having had to resort to handwriting.

When I was debriefing with friends last evening, they too were incredulous that our state could be having a discussion about which 16 year olds are executable and how to execute a pregnant woman. Our consensus is that a bill that leads us to developing protocols for letting the mother deliver and then killing her, takes us, as a people, to a place where we shouldn't be going. And frankly, if we took out the 16 year olds, the mentally retarded, and pregnant women, it still would reflect something to which we don't want to aspire.

Additionally, unless this is part of the economic stimulus program for attorneys and support staff and crime lab, it is an enormous financial undertaking at a time of serious financial hardship in so many places on our state.

I gathered many quotes yesterday but I would like to leave you with your member John Coghill's words, "when we start talking about the death penalty we ratchet up the responsibility of the state." There is much wisdom in this statement.

Please vote down HB9.

Susan Smalley
105 Linwood Lane
Kenai, AK 99611

Dana Strommen

From: patrick dubbs [dubbs@alaska.net]

Sent: Monday, February 23, 2009 6:59 PM

To: Rep. Alan Austerman; Rep. Anna Fairclough; Rep. Berta Gardner; Rep. Beth Kerttula; Rep. Bill Stoltze; Rep. Bill Thomas; Rep. Bob Buch; Rep. Bob Herron; Rep. Bob Lynn; Rep. Bryce Edgmon; Rep. Cathy Munoz; Rep. Carl Gatto; Rep. Craig Johnson; Rep. Charisse Millett; Rep. Chris Tuck; Rep. David Guttenberg; Rep. Harry Crawford; Rep. Pete Petersen; Rep. Jay Ramras; Rep. John Coghill; Rep. John Harris; Rep. Kurt Olson; Rep. Kyle Johansen; Rep. Les Gara; Rep. Lindsey Holmes; Rep. Mark Neuman; Rep. Max Gruenberg; Rep. Mike Chenault; Rep. Mike Doogan; Rep. Mike Hawker; Rep. Mike Kelly; Rep. Nancy Dahlstrom; Rep. Paul Seaton; Rep. Peggy Wilson; Rep. Reggie Joule; Rep. Richard Foster; Rep. Scott Kawasaki; Rep. Sharon Cissna; Rep. Wes Keller; Rep. Woodie Salmon

Subject: HB 9

Representative Ramras:

While I applaud your efforts to alleviate shortages in western Alaska and to keep our wandering governor on task in Alaska, I am appalled by your co-sponsorship of HB 9 which would reinstate the death penalty in Alaska. It is inconceivable to me that when much of the world has recognized the barbarity and miscarriages of justice surrounding the death penalty, you are proposing that Alaska adopt such a penalty.

There are no winners in capital punishment executions and nothing is restored by the death of another human being. Killing another human being is simply inhumane and when it is sanctioned by the state, it diminishes us all.

A simple and obvious solution to Representative Chenault's concern that "People who commit the most monstrous of crimes will not have the opportunity to reoffend . . ." is to impose a sentence of "life in prison with no possibility of parole, medical, or compassionate release."

Patrick Dubbs

2101 Charlijo Loop
Fairbanks 99709

CC: Alaska Legislature House Members

Dana Strommen

From: alaska@ak.net on behalf of Barbara Hatch [alaska@ak.net]
Sent: Monday, February 23, 2009 8:36 PM
To: Rep. Jay Ramras
Subject: HB9

Please note that I do not favor HB9 in any way, shape or form. Please leave this alone and concentrate on more pressing matters facing Alaska at this time. There is no time to waste.

You may also note that I was impressed with several things you spoke publicly on in recent weeks, however, that respect has now dissolved when I saw you co-sponsor this bill.

Thank you,
Barbara Hatch

Dana Strommen

From: James Hobson [jlhobson@gmail.com]
Sent: Monday, February 23, 2009 8:39 PM
To: Rep. Jay Ramras
Subject: HB 9

Chairman Ramras,

I'm contacting you in regards to House Bill 9, which would authorize capital punishment in Alaska. I am, like many Alaskans (and many Republicans who actually believe in limited government), vehemently opposed to the death penalty, and would be ashamed if my state were to re-institute state-sanctioned murder. It would be an incredible step backward.

The death penalty simply doesn't work and is often unfairly applied to racial minorities. Compound this with the reality that our criminal justice system is far from perfect, and you can understand my concerns. Too many people, even those condemned to die, have been wrongfully convicted. Further, prosecuting capital cases, and going through the necessary appeal process, is incredibly expensive. More so, the families of victims are denied closure for years, as the appeals process is exhausted. Finally, just look at the statistics: states that regularly execute their residents tend to have higher murder rates than those that have moved beyond such archaic forms of "justice."

Killing someone - for killing someone - to demonstrate that killing is wrong, is asinine. Our justice system should not resort to blood lust. We deserve better than that.

Please do the right thing, and not shame our state.

Cordially,

James Hobson

"Damn the consequences, give me the pen!" -Lewis Morris, upon signing the Declaration of Independence

"I will be as harsh as truth and as uncompromising as justice...I will not retreat a single inch, and I will be heard!" -William Lloyd Garrison; Salutory of the Liberator

"Let them call me a rebel and I welcome it, I feel no concern from it; but I should suffer the misery of demons were I to make a whore of my soul." -Thomas Paine

Dana Strommen

From: carlb@alaska.com on behalf of Carl S. Benson [carlb@alaska.com]
Sent: Monday, February 23, 2009 9:50 PM
To: Rep. Jay Ramras
Cc: Rep. David Guttenberg
Subject: HB 9

Dear Jay,

I am writing to oppose HB9. The reasons are well known. When you say mistakes may be made, you are talking about taking innocent lives. My advice is:

No.

Absolutely No.

Don't even think about it!

Shame on you for bringing it up.

Carl S. Benson

--

1551 Farmers Loop
Fairbanks, Alaska 99709
Tel: 907 479-6912

Dana Strommen

From: drobbins@gci.net on behalf of Doris Robbins [drobbins@gci.net]
Sent: Tuesday, February 24, 2009 1:40 AM
To: Rep. Jay Ramras; Rep. Nancy Dahlstrom
Cc: Rep. John Coghill; Rep. Carl Gatto; Rep. Lindsey Holmes; Rep. Bob Lynn
Subject: RE: HB 9 The Death Penalty
Attachments: Doris Robbins.vcf

Representative Ramras,
Representative Dahlstrom,
Judiciary Committee,

RE: HB 9 The Death Penalty

I am opposed to the death penalty. I don't think killing another person is the right solution. That is also an easy way out for the criminal. More punishing would be life imprisonment without parole!

Knowing that there are many in prison who are not guilty, it would be possible later to free those wrongly convicted if they had not been put to death. In addition, it is difficult and expensive to actually get to the final stage where a death sentence is carried out.

I ask you not to pass HB 9 and instead use life without parole for the worst offenses.

Sincerely,

Doris Robbins
drobbins@gci.net
1281 Overhill Dr.
Fairbanks AK 99709
(907) 374-0597

Dana Strommen

From: ~Marie~ [alaskanmarie@gmail.com]
Sent: Tuesday, February 24, 2009 4:18 AM
To: Rep. Jay Ramras
Subject: HB 9 Death Penalty

I am writing to ask you to please not take Alaska backwards by working to implement the death penalty in this state. It really is as simple as 2 wrongs don't make a right.

Marie Anderson
alaskanmarie@gmail.com

Dana Strommen

From: Gail Fullerton [tadandgail@acsalaska.net]

Sent: Tuesday, February 24, 2009 8:53 AM

To: Rep. Jay Ramras

Subject: House Bill 9

When our State has so many urgent problems to resolve, why are we spending our precious time and energy on the issue of capital punishment? If this issue ever needs to be considered, the time is certainly not now.

Gail and Tad Fullerton

Fairbanks AK 99709

tadandgail@acsalaska.net



Alaska State Legislature

Please enter into the record my testimony to the

House Judiciary
committee name

Committee on HB 9 Capital Punishment, dated
bill # / subject

2-23-09

public hearing date

3) At a time of financial crisis, it is mind boggling to me that our legislators are looking in this direction. Statistics (and speaker Chenaull) show that the death penalty is not a deterrent. And it is incredibly expensive. And just at the time many other states are reversing their views, we are spending valuable legislative time, effort & money to consider instituting the death penalty. From my perspective as a 37 year long time resident and concerned citizen, it looks like a distraction from what should be the primary goal.

To clarify, I'd like to summarize my points:

1) Murders are irrevocable - other states set up safeguards too

2) It is not consistent with Christian values (as those of the United Methodist Church, of which I am a member)

3) It is not economical (unless you're an attorney)

4) It is not a deterrent. (Speaker Chenaull 2/23/09)

Signature

Printed name



Alaska State Legislature

Please enter into the record my testimony to the

House Judiciary
committee nameCommittee on HB 9 Capital Punishment, dated
bill # / subject2-23-09
public hearing date

There are many reasons NOT TO ENDORSE the death penalty, spiritual, economic, & moral. The additional cost to the State of Alaska for the death penalty takes money from critical programs; police protection and child protection. Statistics don't support the death penalty as a deterrent. The murder rate per 100,000 is much lower where there is no death penalty. Please stop HB 9 and other efforts to reinstate the death penalty now. Thank you.

Signed:

A handwritten signature in black ink, appearing to read "Dana Hallett".

DANA HALLETT

Testifier

Self

Representing (optional)

35555 Kenai Spur Hwy. PMB 364 Soldotna, AK 99668

Address

907-394-4412

Phone number



Alaska State Legislature

Please enter into the record my testimony to the

House Judiciary

committee name

Committee on HB 9 Capital Punishment
bill # / subject

, dated

2-23-09

public hearing date

1) In 1957 the Alaska Territorial Legislature outlawed the death penalty. Our wise forefathers felt strongly enough to do this - without the knowledge of "mistakes" that we have today. I am very sad that my state, with full knowledge of the execution of innocent people, is even considering HB9. With full knowledge and proof that innocent people have been killed in Capital punishment states, HB9 is still alive. Innocent people killed with the best intentions, fortified by jury decisions and all those safeguards. But none of these justifications can ever right a wrongful death. I strongly believe that this is only one reason why we should not be considering HB9 - but should it be enough?

2) Looking at this through the lens of Christ's teachings, I find it even more disturbing. "An eye for an eye and a tooth for a tooth," while being Old Testament wisdom, was overridden by Jesus' words and actions as he walked on this earth. You might remember that the New Testament testifies to his actually stopping an execution. I am not surprised by his actions to stop an execution. I am surprised that the Alaska Legislature is considering HB9. I am surprised that the Alaska Legislature is considering HB9. I am surprised that the Alaska Legislature is considering HB9.

Representing (optional)

105 Linwood Lane Kenai AK 99601

(optional)

3/17/2009

Please do not misunderstand or misrepresent my views and intent. I strongly believe there are some people who should be imprisoned for life - without parole. It just saddens me that elected officials in my beloved state, faced with monumental fiscal issues affecting each one of us and our children & grandchildren, are wanting to take, what I believe is a giant leap — backwards!

I found the conversation abhorrent at the hearing today. "How do we choose whether to execute the year olds?" "We'll let pregnant women deliver and then execute them. Why are our Alaskan legislators involved in this?"

I urge you to vote "no" on HB4, freeing up your time & energy on the pressing issues of our state.

Sincerely, Li Anna Smalley
lianna@smalley.com

BT FROM THE WIFE. LIA-7

Dana Strommen

From: Eric Treider [gilpatrick_mine@yahoo.com]

Sent: Tuesday, February 24, 2009 11:46 AM

To: Rep. Jay Ramras; Rep. Bob Lynn; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Carl Gatto; Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Mike Chenault

Dear Representatives,

I pray that you will oppose HB9, the Death Penalty bill. For the last twenty-five years that I've lived in Alaska, I was always so proud that we don't resort to state-sanctioned murder like they do in backward places like Mississippi and Alabama. Now I feel like something that set our state apart from others -- something that made me proud of this state and its people -- is being flushed down the toilet.

Sure, there are a lot of ignorant, vicious people who would love nothing better than to pack a picnic basket and attend a public execution on a Sunday afternoon -- and I guess that's who this bill is supposed to satisfy -- but think about what you are getting into:

How are you going to feel when you realize that legislation you've supported has resulted in the execution of an innocent person. This WILL happen. Won't you have their blood on your hands? How will you be able to sleep at night, knowing you opened this Pandora's box?

How will we explain this to our kids??? I remember seeing the electric chair at the New Mexico state penitentiary when I was four. It shook me up for days and I lost a lot of trust in adults, knowing that they felt they had to resort to murder in order to prevent murder. Even a child can see that it's wrong.

How does this square with what we want to become as a people? Who do you admire most? The Amish who practice radical forgiveness or the gang of brutes who threw a necktie party for Saddam Hussein....and the reason we killed Saddam was because he killed other people. Where does it all end?

Think about the moral and emotional burden you are going to be placing on the people who actually have to conduct these executions. Are you personally willing to get involved in the actual process? If you aren't willing to do this personally, how can you, in good conscience, make this a condition of employment for some of the folks in the Department of Corrections.

Even as a taxpayer, I object to this because it's more expensive to execute someone than it is to keep them behind bars.

Last, capital punishment completely violates my Christian beliefs. By shutting down an execution of an adulteress, Christ taught us that there is a better way.

I appeal to the noble, high-minded reaches of your heart to turn your back on state-sanctioned murder! It may be very popular among certain constituencies but as our representatives, we rely on you to draw a distinction between what might be most popular and what is the right and proper thing to do. Please show some courage and oppose this bill....

Kind regards,

Eric Treider
PO Box 3565
Soldotna, AK 99669

2/24/2009

Dana Strommen

From: WILLIAM MAILER [wmailer@mtaonline.net]
Sent: Tuesday, February 24, 2009 1:45 PM
To: Rep. Jay Ramras
Subject: HB 9

Dear Rep. Ramras: We do not support the great State of Alaska sanctioning capitol punishment. The death penalty does nothing to reduce crime, does not comfort victims and families and is frankly barbaric. When a person is convicted of a crime to which the death penalty would be applied we should simply incarcerate that person for life and make that existence as difficult as possible.

Please vote NO on HB 9. Thank you.

WILLIAM AND KATHY MAILER
P.O. Box 947
12374 Hagion Shores Drive
Willow, Alaska 99688-0947
907.495.3647
wmailer@mtaonline.net

...imbibo locus actum omnimodus...



**AMERICAN CIVIL
LIBERTIES UNION OF
ALASKA**

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(907) 258-0288 (fax)
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RICHARD SEIFERT, Fairbanks
NADINE WINTERS, Fairbanks

February 24, 2009

The Honorable Jay Ramras
Chair, House Judiciary Committee
Alaska State House of Representatives
State Capitol, Room 118
Juneau, AK 99801-1182

Via fax 907-465-2070 and email: Rep Jay Ramras@legis.state.ak.us

*Re: **Opposition to HB 9***

Dear Chairman Ramras:

On behalf of the American Civil Liberties Union (ACLU) of Alaska and our thousands of members and activists throughout the state, as well as our Board of Directors and Staff, I am writing to express our **strong opposition to House Bill 9** seeking to authorize capital punishment in the State of Alaska.

The American Civil Liberties Union of Alaska is a non-partisan organization which preserves and expands personal freedom through public advocacy. As a state affiliate of the national ACLU, we are part of the country's largest and preeminent civil liberties organization, which has been instrumental in shaping constitutional law at the state and federal levels. The ACLU of Alaska protects all Alaskans, with the mission of defending those rights guaranteed under the United States and Alaska Constitutions.

Capital Punishment Denies Civil Liberties

The death penalty is the ultimate denial of civil liberties. The ACLU opposes capital punishment as a clear violation of the United States Constitution's Eighth Amendment ban on cruel and unusual punishments. Capital punishment is routinely imposed based on wholly improper factors, such as race, class, or the quality of counsel. Its administration is fraught with error

and results in the conviction and execution of the innocent. To date, 130 death-row inmates have been exonerated in the modern death penalty era.

Unequal justice is no justice at all.

As a State, Alaska has never had the death penalty, and we don't need it now.

Capital punishment is proven to be an unreliable and expensive means of punishment. It is – quite simply – a failed government program. The State of Alaska does not need to visit these failures on our citizens. In brief, capital punishment would:

- Do nothing to protect Alaskans from crime;
- Seriously harm the survivors of homicide victims; and
- Cost Alaska far more than life imprisonment without release.

The United States remains the only advanced Western democracy that fails to recognize capital punishment as a profound human rights violation and as a frightening abuse of government power. Our state does not need to take a step backwards and institute an archaic system whose time has passed.

Many Factually Innocent Persons Have Been Sentenced to Death

130 persons have been exonerated from death row in the last 35 years. These startling numbers establish the unreliability of the capital punishment process. Were Alaskans to institute the death penalty, we would essentially guarantee the wrongful imposition of the ultimate penal sanction.

A 2001 study by the Center for Wrongful Convictions at Northwestern Law School found that 86 innocent people were sentenced to death based on:

Eyewitness error - from confusion or faulty memory;

Government misconduct - by both the police and the prosecution;

Junk science - mishandled evidence or use of unqualified “experts;”

Snitch testimony - often given in exchange for a reduction in sentence;

False confessions - resulting from mental illness or retardation, as well as from police torture;
or

Other causes – such as hearsay, questionable circumstantial evidence, etc.

No legislation can create a capital punishment system immune from these shortcomings.

A Columbia Law School study published in 2002, covered 23 years of capital cases and found an overall rate of prejudicial error in the American capital punishment system of 68%.

Death penalty proponents may argue that exonerations establish that the “system works.” However, sadly, evidence shows the system has grievously failed:

Cameron Willingham was executed in Texas in 2004 for arson and the murder of his three daughters. In 2004, the *Chicago Tribune* had fire experts review the case and in 2006, the Innocence Project had a different set of fire experts review Willingham’s case. The experts for the *Tribune* and Innocence Project found that the science used is no longer valid and that the fire may have been accidental.

Texas itself has hired an investigator to also look at the evidence in Willingham’s case. Ernest Willis was exonerated from death row because the science used to convict him is no longer valid. This same science was used to convict and ultimately execute Willingham.

Carlos DeLuna was executed in 1989. The *Chicago Tribune* also investigated his case. Another man confessed to the crime and there was not sufficient evidence that pointed to DeLuna as the killer.

Numerous Studies Establish the Racial Inequities in Imposition of the Death Penalty

Like the divisions in the Jim Crow South, the death penalty – to this day – continues to divide us by race and socioeconomic status. In 1976, the Supreme Court approved modern death penalty statutes that were *supposed* to ensure that death sentences were neither arbitrary nor discriminatory.

However, evidence from the past 33 years irrefutably establishes that capital punishment remains arbitrary and improperly linked to race and socioeconomic status. Very recent blue ribbon studies in California,¹ and Maryland,² reiterate empirical research from across the country that

¹ *California Commission on the Fair Administration of Justice Report and Recommendations on the Administration of the Death Penalty in California*, June 30, 2008. “Overall, controlling for all other predictor variables, they found all those who kill African Americans, regardless of the ethnicity or race of the perpetrator, are 59.3% less likely to be sentenced to death than those who kill non-Hispanic whites.” *Id.* at 92. The report may be viewed at: <http://www.ccfaj.org/documents/reports/dp/official/FINAL%20REPORT%20DEATH%20PENALTY.pdf>.

consistently demonstrates: a defendant who kills a white person is far more likely to receive the death penalty than a defendant who kills a person of color; and the racial configuration most likely to result in a death sentence is a black-on-white crime. Similarly, this research demonstrates that defendants whose victims are high in socioeconomic status face a significantly higher risk of execution.

It is important to note, that the death penalty's racial and socioeconomic bias persists *despite the best efforts of legislators and judges to erect fair and equitable capital punishment procedures*. This bias sends the clear and morally repugnant message that society values wealthy victims more than poor and middle class victims, and white victims more than victims of color. Current statistics in the State of Alaska establish that our Alaska Native population and communities of color are disproportionately represented in the criminal justice system. This fact alone should be sufficient to establish that we must not introduce a flawed and racially inequitable capital punishment system into our State.

Finally, capital punishment is harmful to people of color and poor people for another reason: the death penalty aggressively consumes scarce state resources upon which many poor people and people of color depend. In cities across the country, prosecuting death penalty cases has left prosecutors' offices in dire financial straits. In New Orleans, for example, the prosecutor's office filed for bankruptcy after being held civilly liable for wrongfully sentencing to death an innocent man. Every dollar spent on the death penalty is one dollar unavailable for community policing and other measures to make poor or at-risk communities safer.

Maintaining a Capital Punishment System is Significantly More Expensive than Life Without the Possibility of Parole

Several states have released studies which demonstrate how expensive it is to continue capital punishment. Maryland's Commission on Capital Punishment reported that death penalty cases cost about \$1.9 million dollars more per case than non-capital cases. Studies in California, New Jersey, North Carolina, Tennessee, Texas and Washington have reached similar conclusions.

The fiscal notes to HB 9 demonstrate that Alaska would be faced with a similar unjustifiable economic burden.

² Maryland Commission on Capital Punishment, *Final Report to the General Assembly*, December 12, 2008. "Finding: Racial disparities exist in Maryland's capital sentencing system. While there is no evidence of purposeful discrimination, the statistics examined from death penalty cases from 1978 to 1999 demonstrate racial disparities when the factors of the race of the defendant and the race of the victim are combined. (Results of Commission Vote on Finding: AGREE = 20; DISAGREE = 1)." *Id.* at 10. The report may be viewed at: <http://goccp.org/capital-punishment/documents/death-penalty-commission-final-report.pdf>.

And testimony by State of Alaska agency representatives to this Committee has shown, the cost is not just for indigent defense necessary to attempt to meet constitutional mandates which have ineffectively sought to address the unfair and arbitrary nature of capital punishment. Death penalty cases exhaust the resources of *prosecutor's offices* as well. Those resources should be put to better use.

Capital Punishment Has No Deterrent Effect

Simply put: there are no studies that show conclusively that the death penalty deters murder. Testimony to this Committee has acknowledged that fact.

Since 1977 over 80% of all executions have occurred in the South, the region with the highest murder rate. The Northeast, the region with the lowest murder rate, has accounted for less than 1% of the executions. Although the issue of deterrence has been studied extensively, there is no credible evidence that capital punishment deters murder or makes us any safer.

Introducing the Death Penalty into Alaska Would Put Our State on the Wrong Side of History

Civil societies understand the inherent problems with, and moral failings of, capital punishment.

In 2007, New Jersey abolished the death penalty. The Maryland Commission on Capital Punishment recommended abolition of the death penalty.

This year abolition is being seriously discussed and may occur in New Mexico, Montana, Maryland and Colorado.

Last year, Harris County, Texas which if it were a state would be second only to Texas in executions, did not send one person to death row.

The Bureau of Justice Statistics show that in 2007, death sentences were at an all time low since the death penalty was reinstated in 1976.

According to the Death Penalty Information Center, several law enforcement officials and pro-death penalty politicians have misgivings about the use, cost and fairness of the death penalty. These officials include:

Jeanne Woodward, former Director of the California Department of Corrections and Warden of San Quentin Prison;

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James Abbott, Police Chief, West Orange, NJ, and member of the New Jersey Death Penalty Study Commission;

Donald McCartin, former Orange County, CA, Superior Court Judge, who sentenced nine men to death; and

Sen. Joseph Tydings, former U.S. Senator and prosecutor

At a time when our sister states are confronting the myriad shortcomings with capital punishment, Alaska should reject any efforts to introduce this failed system to our State.

The ACLU of Alaska urges the Committee Members to reject House Bill 9.

Please feel free to contact the undersigned if you wish additional documentation regarding any of the information provided.

Sincerely,



Jeffrey Mittman
Executive Director

cc: House Judiciary Committee

Vice Chair Dahlstrom, via email: Representative_Nancy_Dahlstrom@legis.state.ak.us
Representative Coghill, via email: Representative_John_Coghill@legis.state.ak.us
Representative Gatto, via email: Representative_Carl_Gatto@legis.state.ak.us
Representative Lynn, via email: Representative_Bob_Lynn@legis.state.ak.us
Representative Gruenberg, via email: Representative_Max_Gruenberg@legis.state.ak.us
Representative Holmes, via email: Representative_Lindsey_Holmes@legis.state.ak.us

Comments on House bill 9

On February 24, 2003 at 4:44am I received a phone call informing me of a problem at my Sister in laws home. I got dressed and arrived at the Wrangell Police dept a few minutes later.

The events of the day have changed my families' life for ever. My Sister in Law Sheryl Nelson 43Yrs, my niece Adriane Nore 24yrs, and my niece Shandelle Nelson 19yrs had all been murdered. The gunman had committed suicide.

One cannot fathom the emotions and turmoil that one goes through when faced with a tragic event as overwhelming as this was to us. It not only sent shock waves to our family members, but also to the City of Wrangell as a whole. News media invaded our town as this became a state wide event. In a town of some 2000 people there was 1500 that attended the Funeral Services. The Episcopal Bishop of Alaska came to Wrangell from Fairbanks to officiate and all Wrangell Churches helped in the proceedings.

I am a God fearing man and I believe that a power greater than all of us will have the final judgment, but I also believe we in our human frailties need to build safe guards for society. I do not envy you your task at hand but feel you need information from a family that has experienced such an event. I look at the death penalty as a deterrent, and do not feel that housing a person for the remainder of there natural lives are doing fair justice to society. We need deterrents such as this (especially for our first responders) to help in some way to protect them in the execution of their duties. I thank you for having this bill brought forward and encourage you to reinstate this penalty.

Please remember that murder will affect the remaining family members for the remainder of their lives.

Respectfully Submitted

Don McConachie
Box 361
Wrangell Alaska 99229

THE ALASKA LEGISLATURE



In Memoriam

SHERYL ROBERTA NELSON

February 3, 1960 – February 24, 2003

SHANDELLE MARIE NELSON

November 16, 1984 – February 24, 2003

ADRIENNE SHALON NORE

March 2, 1978 – February 24, 2003

May tender memories

soften your grief,

May fond recollection

bring you relief,

May you find comfort

and peace in the thought

Of the joy that knowing

your loved one brought

For time and space

can never divide

Or keep your loved one

from your side

When memory, placed

in colors true

The happy hours

that belonged to you.

The Twenty-third Alaska State Legislature salutes the lives and honors the memories of Sheryl Roberta Nelson, Shannelle Marie Nelson, and Adrienne Sharon Nore. We join their families, friends and the community of Wrangell during this time of mourning.



Pete Kott
PETE KOTT
SPEAKER OF THE HOUSE

Peggy Wilson
PEGGY WILSON
PRIME SPONSOR

Gene Theriault
GENE THERIAULT
PRESIDENT OF THE SENATE

Robin Taylor
ROBIN TAYLOR
PRIME SPONSOR

Date: April 8, 2003

Conspicuous: Representatives Kott, Anderson, Berkowitz, Chomault, Clama, Cuyhill, Crawford, Craft, Dahlstrom, Pete, Foster, Gara, Gatto, Grunberg, Gustafson, Harris, Heaker, Holm, Jule, Kapner, Kautela, Koberling, Kook, McGuire, Meyer, Mings, Ogg, Rabeberg, Samuels, Seaton, Weyhrauch, Williams, Wolf; Senators Taylor, Theriault, Bunde, Cowdery, Davis, Dyson, Eilon, Green, Guess, Hoffman, Lincoln, Olson, Seekins, Bea Stevens, Gary Stevens, Wilken