

**S B**

**2 3 4**

12/18/93

Peggy Steward  
P.O. Box 670747  
Chugiak, AK 99567

Senator Loren Leman  
716 W 4th Ave  
Suite 540  
Anchorage, AK 99501

I picked up a flyer of yours at the Citizen Crime Summit which mentions two new bills being prefiled--Three Strikes Your'e Out & a juvenile weapons possession bill.

Regarding the Three Strikes Your'e Out bill:

I am glad that "something" is finally being done about violent crimes but, I just want you to know that I think "Three Strikes, You're Out" is too lenient. "One strike You're Out" following the FIRST violent felony conviction is what I want to see. Why are the first two victims any less important than the third? Why wait until there are two more? What kind of logic is that? Baseball rules? Violent crime is not a game except to the criminals.

If someone is violent once--they could be violent again. And even if they are not, does that make the first violent crime acceptable? What exactly is considered a violent felony in our system & why does everyone think someone should be should be allowed three?

I am a mother of four wonderful children & should not have to wonder if someone has been set free who will destroy their lives. It causes me great heaviness to know there are people so damaged they can, without conscience, commit hideous crimes, but it causes me great frustration & anger to see them set free after a few months or years. They seem to receive better treatment than the persons who suffer at their hands. I do not believe they deserve to be rehabilitated nor am I naive enough to accept that they need a second or third chance. Surely & without question, the victims don't get a second chance. When a law is in place that provides for the death penalty or life in prison without possibility of parole on the first violent felony, we won't have to worry about repeat offenders.

CONSTITUENT LETTER

It seems like everyone blames their actions on a lousy childhoods, mental incompetency or video games (depending on the latest, socially acceptable defense tactic that is working at the time). We send them to prison for a little while & with intensive therapy they are suddenly "Okay". SO WHAT? Why do they deserve to be "Okay"? You cannot ever make the victim "okay". Can't bring back the dead, can't stop the nightmares or fear & can't replace what has been taken. Why does the criminal get such special treatment? The money & energy would be better spent providing therapy for the victims or education to help prevent more of the same kind of people. The criminal didn't ask to be raised as he/she was or have the "sickness" he/she might have, but the victim definitely didn't have anything to do with it & they & their families are the ones suffering the real, never ending consequences.

As far as the juvenile weapons possession bill:

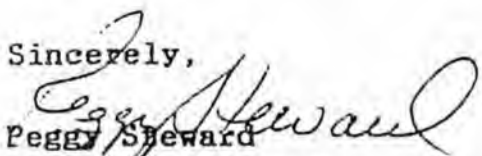
Kids who carry guns, know all too well the system that threatens & holds no real consequence. Pulling their license, taking the weapon & community service isn't going to deter the ones who are carrying with criminal intent. It sounds like this legislation is just waste of paper & time with no real backbone.

Wake up & realize that not all of the juveniles today are "children". The ones carrying weapons with criminal intent may be a product of bad environments, child abuse or fried brains from parents who were addicts or whatever, but it is too late for them. Some things you just can't fix. Fix what you can. Without proper education & counseling services for non offenders, you can't prevent them in the future either. We are going to have to accept the fact that some are beyond help & give more attention to the ones who are still able to be reached.

I know there are MANY small pieces to be considered & this is just a quick vent letter, but I cannot just sit by & watch the ignorance be perpetrated over & over again. The idea that a person gets to be violent 3 times before he/she is punished makes me sick & the idea that a juvenile who is damaged enough to carry a gun will not have any real consequences until he/she uses it, scares the hell out of me.

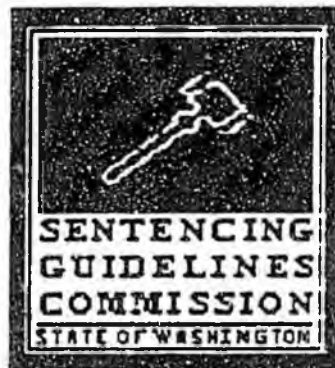
I hope you will consider some tougher legislation.

Sincerely,

  
Peggy Steward

A Look at The Persistent Offender Accountability Act  
Initiative 590 – “Three Strikes, You're Out”

593



May 5, 1992

David L. Fallen, Ph.D.  
Sentencing Guidelines Commission  
3400 Capitol Blvd.  
Olympia, WA 98504-0927

BACKGROUND STUDY  
INITIATIVE 593

## CHANGES TO PUNISHMENT:

① Mandatory life in prison without the possibility of parole for "persistent offenders".

② No earned good time reductions for offenders convicted of Murder in the first degree, Assault in the first degree, Assault of a Child in the first degree, or Rape in the first degree.

## OFFENDERS AFFECTED BY CHANGES:

① A "persistent offender" is someone convicted of a "most serious offense" who has at least two prior convictions on different occasions for a "most serious offense". Juvenile adjudications and offenses not counted in the offender score are not considered.

"Most serious offense" is defined as any of the following felonies (including attempts):

- Any Class A felony (including conspiracies and solicitations)
- Assault in the second degree
- Assault of a child in the second degree
- Child molestation in the second degree
- Controlled substance homicide
- Extortion in the first degree
- Incest when committed against a child under age fourteen
- Indecent liberties
- Kidnapping in the second degree
- Leading organized crime
- Manslaughter in the first degree
- Manslaughter in the second degree
- Promoting prostitution in the first degree
- Robbery in the second degree
- Sexual exploitation
- Vehicular assault
- Vehicular homicide (under the influence or recklessness)
- Any Class B felony with a sexual motivation finding
- Any felony with a deadly weapon finding

There were 16,554 adult felony offenders sentenced in Fiscal Year 1991. It is estimated that 63 of them would have met the definition of "persistent offender". The most common category of current conviction offense is Robbery (34%) followed by Sex offenses (26%) and Assault (16%). These categories are displayed in Figure 1.

② In Fiscal Year 1991, there were 119 offenders sentenced to prison for Murder in the first degree, Assault in the first degree, Assault of a Child in the first degree, or Rape in the first degree. The proposed removal of good time reductions for these offenders is independent of criminal history (i.e., even offenders with no criminal history would not be eligible for good time reductions).

## IMPACT ON STATE PRISON POPULATION:

D The potential impact of mandatory sentences of life imprisonment for "persistent offenders" cannot be analyzed with the methods normally employed in this office. Unlike most sentencing proposals, this sentencing initiative applies only to a relatively small group of offenders with an extensive history of recidivism. Accordingly, the recidivism component must be explicitly factored into the impact estimation. Unfortunately, no Washington State data exist which documents the rate, nature, and timing of recidivism for this select group of offenders. One clue regarding the nature of the recidivism can be gleaned from the Commission's Fiscal Year 1991 data. Of the 16,554 SRA sentences that year, 1,844 of the offenders had one or more prior "most serious offenses". The current conviction for 25 percent of these 1,844 offenders was also a "most serious offense". The other 75 percent were convicted of less serious felonies.

The mandatory sentencing provisions of this initiative apply to offenders who would be drawing substantial prison terms under the current sentencing policies. Thus any impact of the mandatory sentencing provisions would be well into the future. In order to obtain a sense of the timing for the potential impact, a *worst case scenario* impact was estimated. This analysis used no phase-in adjustments (applies immediately to all offenders regardless of date of offense) and assumes no offender recidivates. Because this last assumption is unrealistic for this group of offenders, it must be emphasized this analysis should not be taken at face-value. The actual impact of this proposal would be substantially less than the figures in the following table.

### " Worst Case Impact of Mandatory Life Sentences for "Persistent Offenders" (for timing purposes only - not a forecast)

YEAR IMPACT		YEAR IMPACT	
1	1	11	296
2	5	12	342
3	18	13	390
4	36	14	439
5	62	15	488
6	93	16	539
7	127	17	589
8	166	18	642
9	207	19	695
10	250	20	746

Note: Impact is defined as an increase to the prison average daily population.

The impact detailed in the previous table is graphed in Figure 2.

ⓐ A separate analysis was conducted to estimate the impact of removing eligibility for good time reductions for offenders convicted of Rape 1, Assault 1, Assault of a Child 1, and Murder 1. As mentioned earlier, this portion of the initiative would apply to all offenders convicted of these offenses, regardless of their previous criminal history (if any).

In Fiscal Year 1991, there were 119 prison sentences for offenders convicted of Rape 1, Assault 1, or Murder 1 (excluding Aggravated Murder 1). Under current sentencing law, offenders convicted of these offenses are eligible for up to 15 percent sentence reduction for earned good time. The following impact analysis assumes offenders sentenced under current law would earn 87% of their good time (on the average, based on historical data). This analysis does not contain a phase-in adjustment (i.e., the early impact is slightly over-estimated).

**Potential Impact of Removing Good Time Eligibility for Offenders  
Convicted of Rape 1, Assault 1, or Murder 1**

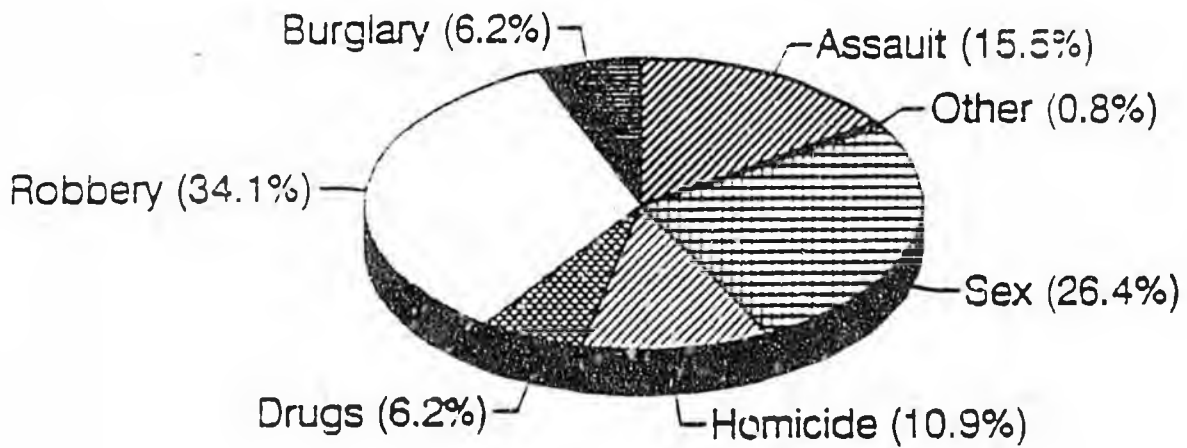
YEAR IMPACT		YEAR IMPACT	
1	0	11	51
2	0	12	61
3	0	13	69
4	0	14	76
5	1	15	83
6	2	16	88
7	3	17	92
8	17	18	97
9	29	19	103
10	42	20	109

*Note: Impact is defined as an increase to the prison average daily population.*

The impact detailed in the previous table is graphed in Figure 3.

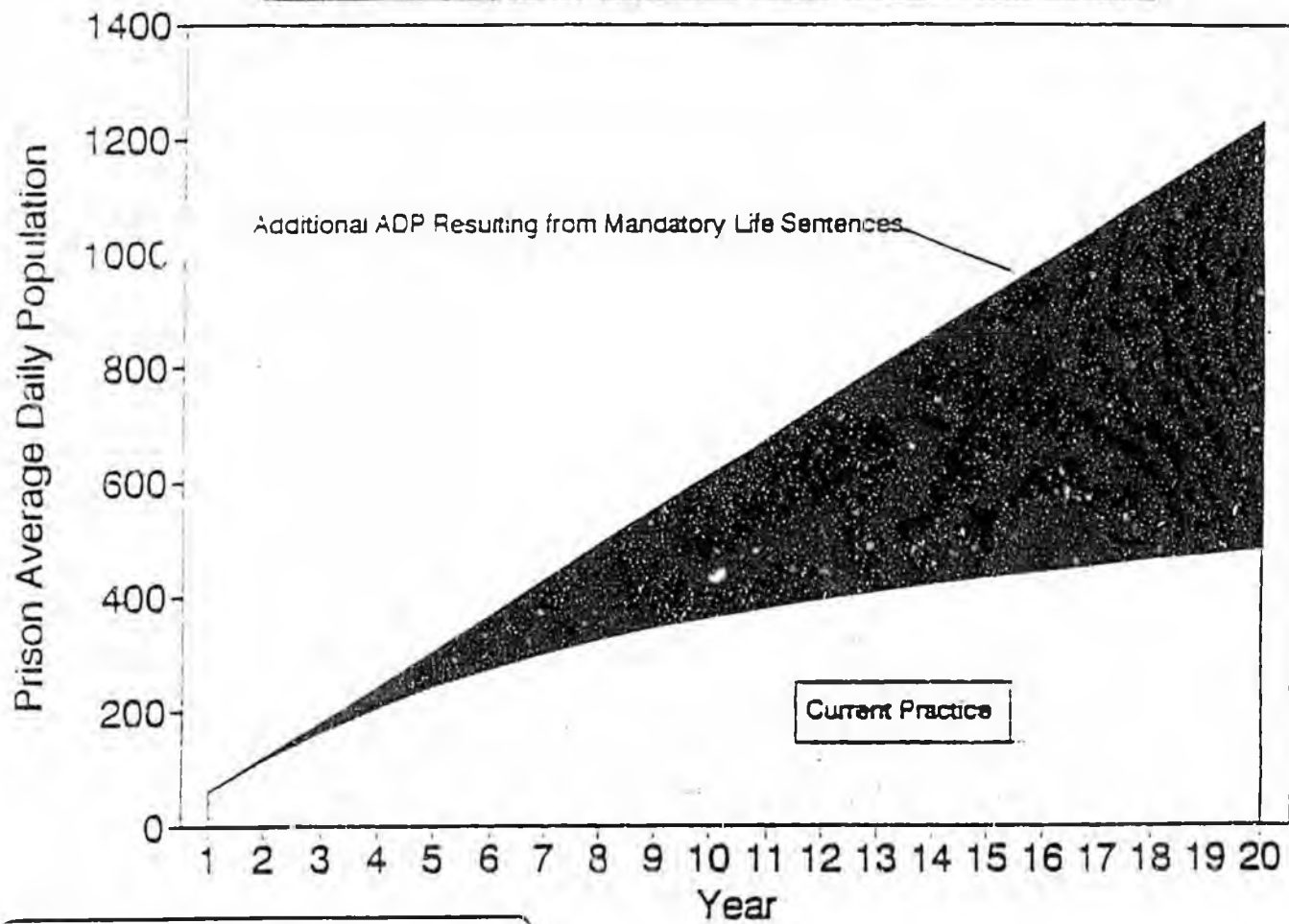
Figure 1

Conviction Offense for "Persistent Offenders" Receiving a Life Sentence



# Figure 2

## Impact of Mandatory Life Sentences for "Persistent Offenders"

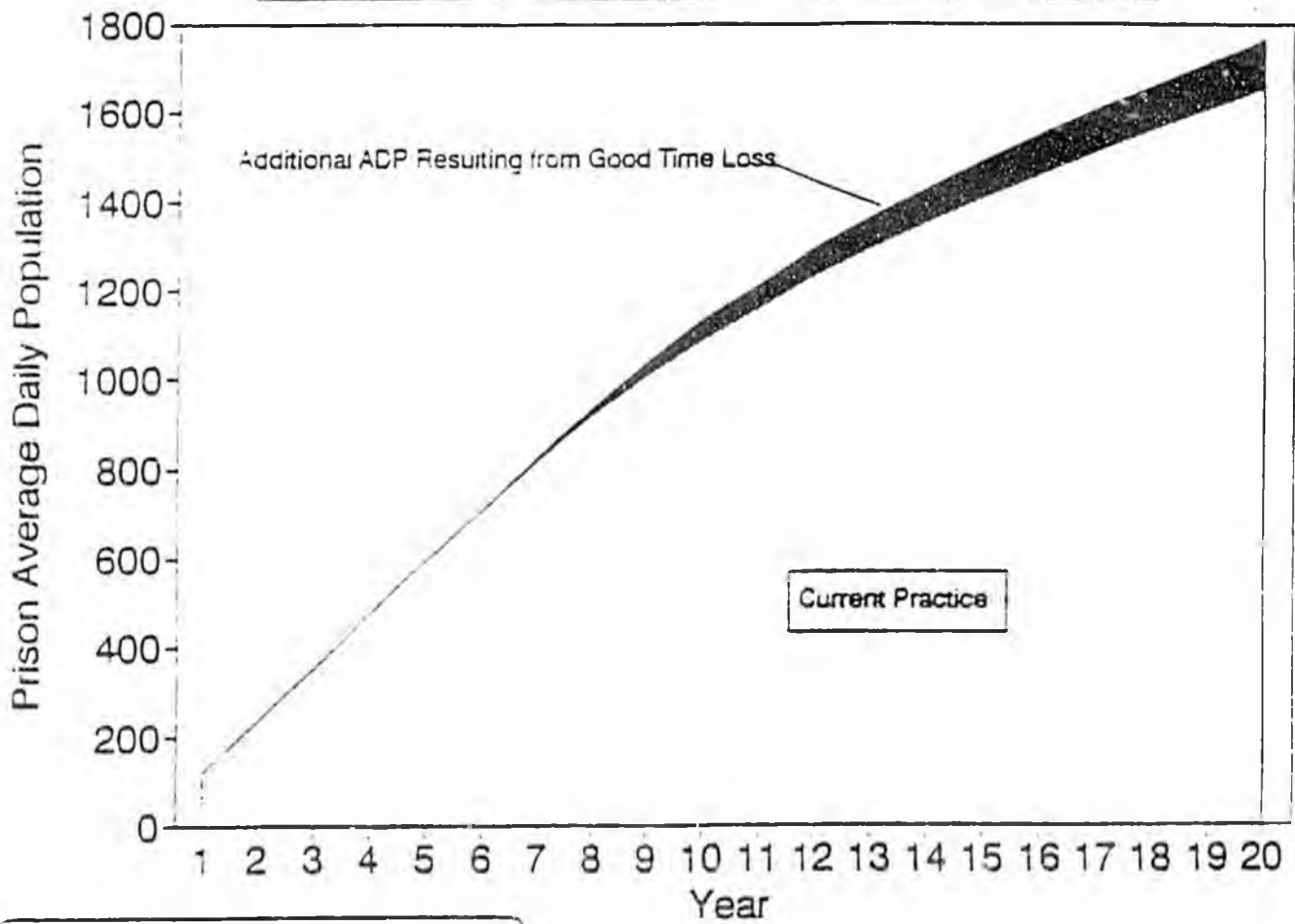


Sentencing Guidelines Commission 5/5/92

*Note: This graph displays a worst case scenario and is intended only to display the timing of any potential impact. It is not a forecast.*

Figure 3

Impact of Eliminating Good Time for Murder 1, Assault 1, and Rape 1



Sentencing Guidelines Commission 5/5/92



## Washington State Senate

### Law and Justice Committee

#### INITIATIVE 593

TO: Senator Adam Smith, Chair  
FROM: Dick Armstrong, Staff  
SUBJECT: Initiative 593 (Persistent Offender)  
DATE: July 15, 1993

#### INTRODUCTION

You requested a memorandum which explains Initiative 593, commonly referred to as "Three Strikes and You're Out". As the phrase implies, the Initiative provides that any person who commits three serious felonies (as defined) must be sentenced to a term of life imprisonment without possibility of parole.

To assist with your understanding of Initiative 593, the memo provides: ① background information on how habitual offenders were treated prior to the 1984 Sentencing Reform Act (SRA) and how repeat offenders are now sentenced under the SRA; ② a summary of the provisions of the Initiative, including a list of crimes which constitute a "most serious" felony; and ③ information on the fiscal impact of the Initiative.

#### BACKGROUND

Any person who was convicted of a crime committed before July 1, 1984 which involved fraud or an intent to defraud as an element, or larceny or any felony, could be sentenced to life imprisonment as a habitual criminal if he or she had two prior felony convictions, or had been convicted four times of any crime which involved fraud or intent to defraud as an element. Any person sentenced to life imprisonment as a habitual criminal was still eligible for parole.

The Sentencing Reform Act applies to felonies committed on or after July 1, 1984. The sentencing grid used pursuant to the Sentencing Reform Act counts prior felony convictions as part of the offender's criminal history score. Offenders with previous convictions receive higher scores under the grid, and as a result are given longer sentences. The sentencing judge can give an exceptional sentence that varies from the presumptive sentence if aggravating or mitigating

circumstances are present. Certain offenses (i.e., first degree murder, first degree rape and first degree assault) have mandatory minimum sentences.

The Sentencing Reform Act does not provide a punishment of life imprisonment for habitual offenders.

### SUMMARY

A person who meets the definition of a "persistent offender" must be sentenced to a term of life imprisonment without the possibility of parole, unless the offender is sentenced to death for the crime of aggravated murder.

"Persistent offender" is defined as an offender who has been convicted of a felony considered a "most serious offense," and has been previously convicted on at least two separate occasions of felonies that would be considered as most serious offenses.

"Most serious offense" is defined to include the following felonies or attempted felonies (For your information, the type of felony and the seriousness level on the sentencing grid is set forth):

- Any Class A felony (see attachment);
- Assault 2nd degree (Class B, Level IV);
- Assault of a child 2nd degree (Class B, Level IX);
- Child molestation 2nd degree (Class B, Level VII);
- Controlled substance homicide (Class B, Level IX);
- Extortion 1st degree (Class B, Level V);
- Incest with child under age 14 (sexual intercourse - Class B, Level VI; sexual contact - Class C, Level V);
- Indecent liberties (Class B, forced - Level IX, unforced - Level VII);
- Kidnapping 2nd degree (Class B, Level V);
- Leading organized crime (Class B, Level X);
- Manslaughter 1st degree (Class B, Level IX);
- Manslaughter 2nd degree (Class C, Level VI);
- Promoting prostitution 1st degree (Class B, Level III);
- Rape 3rd degree (Class C, Level V);
- Robbery 2nd degree (Class B, Level IV);
- Sexual exploitation (Class B, Level IX);
- Vehicular assault (Class C, Level IV);
- Vehicular homicide when proximately caused by driving under the influence or by driving recklessly (Class B, Level VII);
- Any other Class B felony with a finding of sexual motivation; and
- Any felony with a deadly weapon finding.

Persons convicted of first degree murder, first degree rape, and first degree assault are not eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release or authorized leave

of absence unless it is for emergency medical treatment or inpatient treatment because of a first degree rape conviction.

Sentencing judges, law enforcement agencies, and correctional facilities are authorized, but not required, to give offenders who have been convicted of a serious offense notice of sanctions imposed upon persistent offenders.

The Governor is urged to refrain from pardoning or granting clemency to anyone sentenced as a persistent offender until the offender has reached the age of at least 60 and is judged to no longer be a threat to society. The Governor must provide reports at least twice a year on the status of persistent offenders who are released during the Governor's tenure. The reports must continue for at least ten years after the offender's release or until the death of the offender.

### FISCAL IMPACT

A review of Initiative 593 indicates that it will increase the prison population by about 40 beds per year. However, the impact will occur largely in the future. In addition, the analysis of the impact on prison populations needs to be considered with caution, as indicated in the attachments.

The fiscal analysis that is available is based on a 1992 review of Initiative 590 (Persistent Offender Accountability Act), which is nearly identical to Initiative 593. The only major difference between the Initiatives is that the crime of Rape in the 3rd Degree (statutory rape) is included as a "most serious offense" under Initiative 593. A copy of the analysis is attached. Dave Fallen, Executive Director of the Sentencing Guidelines Commission, is of the opinion that the impact analysis that he did in 1992 is essentially still valid for Initiative 593.

The impact of Initiative 593 on the state prison population is difficult to accurately predict because the initiative only applies to a relatively small group of offenders with an extensive history of recidivism. As to this select group of offenders, data does not exist which documents the rate, nature, and timing of recidivism.

However, as can be seen from the analysis provided by the SGC, the impact of the Initiative is largely in the future. A "worse case impact" provides that the average daily prison population will increase (a) 63 by the year 1998; (b) 292 by the year 2003; (c) 571 by the year 2008; and (d) 855 by the year 2013.

A fiscal note prepared by the Department of Corrections indicates a cost of \$18,046 for the 1993-95 biennium, \$3,731,383 for the 1995-97 biennium, and \$8,786,791 for the 1997-99 biennium.

**NOTE:** The information provided above is for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to the measure.

ATTACHMENT "A"

CLASS A FELONIES

<u>Statute</u>	<u>Offense</u>	<u>Seriousness Level</u>
10.95.020	Aggravated Murder 1	XV
9A.48.020	Arson 1	VIII
9A.36.120	Assault of a Child 1	XII
9A.36.011	Assault 1	XII
9A.76.170	Bail Juror with Murder 1 Offense	VI
9A.52.020	Burglary 1	VII
9A.44.083	Child Molestation 1	X
69.50.415	Controlled Substance Homicide (Subsequent Drug Conviction)	IX
69.50.401(b)(1)(i)	Create, Deliver, or Possess a Counterfeit Controlled Substance - Schedule I or II Narcotic (First Drug Conviction)	II
9A.28.040	Criminal Conspiracy - Murder 1	Attempt**
9A.28.020(3)(a)	Criminal Attempt - Arson 1 or Murder 1	Attempt**
9A.28.030(2)	Criminal Solicitation - Arson 1 or Murder 1	Attempt**
70.74.280(1)	Damaging Building, Etc., by Explosion with Threat to Human Being	X
70.24.270(1)	Endangering Life and Property by Explosives with Threat to Human Being	IX
70.74.180	Explosive Device, (Possession with Intent to Use)	IX
9A.32.055	Homicide by Abuse	XIV

9A.40.020	Kidnapping 1	X
9A.52.060(1)(a)	Leading Organized Crime	X
69.50.401(a)(1)(i)	Manufacture, Deliver, or Possess with Intent to Manufacture or Deliver Heroin or Cocaine (Subsequent Drug Conviction or in a Protected Zone)	VIII
69.50.401(a)(1)(i)	Manufacture, Deliver, or Possess with Intent to Manufacture or Deliver Narcotics from Schedule I or II (Except Heroin or Cocaine) (Subsequent Drug Conviction or in a Protected Zone)	VI
9A.32.030	Murder 1	XIV
9A.32.050	Murder 2	XIII
69.50.406	Over 18 and Deliver Narcotic from Schedule I or II to Someone Under 18	X
9.40.120	Possession of Incendiary Device	Unranked
9A.44.050	Rape 2	X
9A.44.040	Rape 1	XI
9A.44.076	Rape of a Child 2	X
9A.44.073	Rape of a Child 1	XI
9A.56.200	Robbery 1	IX
9.41.180	Setting Spring Gun	Unranked
9.82.010	Treason	Unranked
9.41.225	Use of Machine Gun in Commission of Felony	Unranked

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO: SB 234**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Mandatory Life Imprisonment BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Senator Leman  
 Requestor: S. JUD COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

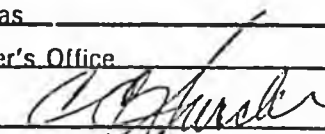
Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322  
 Division: Commissioner's Office Date: 2/1/94  
 Approved by Commissioner:  Date: 2/1/94  
 Agency: Richard L. Burton, Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 234

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to mandatory BRU: 317  
life imprisonment Component: All  
 Sponsor: Senator Leman  
 Requester: Senate Judiciary COMPONENT SERIAL NO. 694-1884

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	0	0	0	0	453.7	907.4
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>453.7</b>	<b>907.4</b>

CAPITAL EXPENDITURES	3,520.0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3,520.0	0	0	0	453.7	907.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>3,520.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>453.7</b>	<b>907.4</b>

Estimate of any current year (FY94) cost: \$ 0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Please see the attached Fiscal Analysis.

Prepared by: Diane Schenker, Special Assistant Phone: 786-2147/465-4643  
 Division: Office of the Commissioner Date: 1/25/94  
 Approved by Commissioner: Frank Prewitt, Jr. Date: 1/17/94  
 Agency: Department of Corrections

Fiscal Note/DOC

SB 234

January 25, 1994

Page 2 of 7

The bill would mandate a life sentence for an offender's third conviction for a "most serious" felony: any unclassified or Class A felony, or Assault II, Sexual Assault II, Sexual Abuse of a Minor II, Unlawful Exploitation of a Minor, Robbery II, or Extortion. Offenders sentenced under the bill would not be eligible to earn statutory good time, parole, or other forms of early release. Certain felons would have to be warned of the new law, in writing, upon release from correctional facilities.

#### Assumptions

1. According to the department's data, approximately 19% of the prisoners incarcerated on November 4, 1993 had been convicted of three or more felonies. A June 30, 1993 profile indicated that approximately 1,052 (almost 40%) of the prisoners were incarcerated for a "most serious felony." If 19% of those incarcerated for a most serious felony were third-time or higher offenders, there would be 200 offenders currently incarcerated who would be eligible for sentencing under this bill. However, information from the Alaska Judicial Council and from the department's OBSCIS system suggests that only 10% of the felons incarcerated for a most serious felony have been convicted of prior most serious felonies. To check these assumptions, ten cases were randomly selected from the list of prisoners incarcerated for most serious felonies, and criminal histories were checked according to file information. One out of the ten had a prior most serious felony conviction; it is assumed that 10% of those convicted of a most serious felony will qualify for the 99 year sentence under the bill.
2. The 99 year sentence is assumed to be a "life" sentence. The estimated lifespan of a male, by the year 2000, is estimated to be 73.5 years, according to the United States Statistical Abstract. The estimated age at the time of conviction for a most serious felony is estimated to be 28 years, according to the Alaska Judicial Council. Thus, those sentenced under this bill would be incarcerated for 45.5 years, rounded up to 46 years. (Age for males is used, since the prison population is over 95% male.)
3. The estimated length of incarceration for applicable crimes under current law is listed in the table below, with the associated increase based upon sentencing under this bill. The current average lengths of incarceration for unclassified and Class A felonies are based upon data from the department's OBSCIS system on current prisoners. Data from OBSCIS on the average length of sentence for B felonies is not available, so the presumptive sentence of six years for a third conviction is used, less one third of the sentence for statutory good time.

Offense Category	Current Length of Incarceration	Proposed Incarceration	Difference	% Increase
Unclassified: Murder I, Murder II, Kidnapping	over lifespan	over lifespan	0	0
Unclassified: MICS I, SA I, SAM I	13 years	46 years	+ 33 years	+ 354%
A felonies	12 years	46 years	+ 34 years	+ 383%
B felonies (specified in bill)	4 years	46 years	+ 42 years	+1150%

4. The fiscal impact of the bill would occur when a third-time most serious felon reaches what would have been his or her release date under current law, but instead remains incarcerated for life. According to the table above, only those whose third most serious felony is a B felony would be released, under current law, within the six year timeframe measured on page 1 of this fiscal note. Information from the department's OBSCIS system indicates the following average annual number of prisoners sentenced for the B felonies specified in the bill, based upon average intake from 1984 through 1992:

Most Serious Class B Felony	Average Annual No. of Prisoners Sentenced 1984 -- 1992	10% Assumed to Have 2+ Priors
Sexual Assault II	24	2.4
Sexual Abuse of a Minor II	49	4.9
Unlawful Exploitation of a Minor	1	.1
Assault II	24	2.4
Robbery II	15	1.5
Extortion <i>* No data available on number of prisoners sentenced. In 6/30/93 snapshot, there were no prisoners nor probationers/parolees on record for this offense, so no impact is assumed.</i>	no data*	0
<b>TOTAL</b>	<b>113</b>	<b>11.3</b>

5. The statewide average cost of incarceration in a state correctional center is \$113 per day. This figure does not include CRC beds, since prisoners under this bill are prohibited from furlough, restitution center placement, etc. This figure includes the standard overhead for medical and administrative costs. This number should be considered to be conservative, since medical expenses for older prisoners doing life sentences are expected to be higher than average. Operating expenses are reflected under "miscellaneous" on page 1 of the fiscal note since the total operating cost involves multiple categories of expenses.

7. The average cost for construction of a maximum security prison bed in Alaska is \$160,000. It is assumed that prisoners sentenced to life will require high security housing. Capital expenses might be reduced if additional beds were purchased under contract, however there are no contract beds currently available in Alaska for prisoners with higher than minimum custody.

8. The correctional system cannot absorb any additional prisoners without additional resources. The system has been operating over emergency capacity throughout the past year. Even when all aspects of the department's current population management plan are achieved, only the current overcrowding will be addressed, not including any additional numbers of inmates caused by new legislation. In addition to posing safety hazards, operating over emergency capacity for prolonged periods may result in fines of up to \$1,000 per day if the department is found in contempt of court for violating population caps.

9. Because a number of crime bills are pending before the legislature this year, it is difficult to predict the total number of beds by which the prison system may need to be increased, and therefore difficult to predict how and where such beds would be added: through new facility construction, facility modification, or contracting. It is not possible to estimate the number of staff positions needed until specific expansion plans are made.

#### Operating Expenses

An estimated 113 most serious Class B felons would be sentenced to prison during FY95, 96, 97, and 98, under the current or the new law. Assuming 10% would be third time most serious offenders, 11.3 (rounded down to 11) would qualify for the enhanced sentence. Those sentenced in FY95 would be released by the end of FY98, under current law, but would remain incarcerated under the proposed law, for an addition of 11 prisoner-years, or 4015 prisoner-days in FY99. In FY00, the 11 B felons sentenced in FY96 would remain incarcerated instead of being released, in addition to the still-remaining FY95 batch, for an increase of 22 prisoner-years, or 8,030 prisoner-days:

Fiscal Note/DOC  
SB 234  
January 25, 1994  
Page 5 of 7

FY99: 4,015 prisoner-days X \$113 = \$ 453,695  
FY00: 8,030 prisoner-days X \$113 = \$ 907,390

Capital Expenses

In order to accommodate the Class B felons who would be added to the population in FY99 and FY00, 22 additional prison beds would need to be constructed. Assuming time for planning and construction, this would be requested in FY 95.

22 X \$160,000 per maximum bed = \$3,520,000

Expenses Not Reflected on Page 1 of the Fiscal Note

Method 1: This method addresses only the continuing expenses of the most serious B felons, beyond the six year timeframe of the fiscal note. After FY00, 11 additional B felons would continue to accumulate every year until FY41, when the first batch sentenced in FY95 would be assumed to reach the ends of their expected lifespans. This means that approximately 451 (11 X 41 years) B felons would be added to the system under this law, over the course of 41 years beyond those reflected on page 1 of the fiscal note.

451 prisoners X 365 days per year X \$113 per day = \$18,601,495 operating expense

Over 41 years, this would average \$ 453,695 per year in additional operating expense, just for the additional most serious B felons.

Method 2: This method addresses the increased costs of all the categories of offenders whose actual length of stay would be increased under the bill. Although the increases for various categories of offenders would result over varying periods of time, this method arrives at an aggregate increase in population in order to predict future needs for the prison system. It is assumed that 10% of the current population incarcerated for most serious felonies would increase according to the percentage increase in sentence lengths shown in the table under Assumption 5. Murder I, Murder II, and Kidnapping are excluded since the current average sentence already exceeds the expected lifespan.

Offense	Total in DOC on 6/30/93	10% ( 3rd repeaters)	Current Prisoner-days	% sent. length increase	Additional Prisoner-days
<b>Unclassified Felonies</b>					
SAM I	153	15.3	5,584.5	X 3.54	19,769.1
SA I	178	17.8	6,497		22,999.4
MICS I	9	.9	328.5		1,162.9
<b>TOTAL UNCLASSIFIED</b>					<b>43,931.4</b>
<b>Class A Felonies</b>					
Assault I	57	5.7	2,080.5	X 3.83	7,968.3
Manslaughter	28	2.8	1,022		3,914.3
Robbery I	101	10.1	3,686.5		14,119.3
Arson I	6	.6	219		838.7
Escape I	2	.2	73		279.6
MIW I	20	2	730		2,795.9
<b>TOTAL A FELONIES</b>					<b>29,934.1</b>
<b>Class B Most Serious Felonies</b>					
SA II	48	4.8	1,752	X 11.50	20,148
SAM II	113	11.3	4,124.5		47,431.8
Exploit Minor	0	0	0		0
Assault II	50	5	1,825		20,987.5
Robbery II	33	3.3	1,204.5		13,851.7
Extortion	0	0	0		0
<b>TOTAL B FELONIES</b>					<b>102,419</b>
<b>TOTAL ADDITIONAL PRISONER-DAYS</b>					<b>182,284.5</b>

Method Two suggests that the actual prison population would, over time, increase by 182,285 prisoner-days, or 499 prisoners as a result of the increased sentence lengths required by the bill.

182,285 prisoner-days X \$113 per day = \$20,598,205 operating expenses

499 beds X \$160,000 per maximum bed = \$ 79,840,000 capital expenses

**TOTAL ADDITIONAL EXPENSE = \$100,438,205**

Averaged over the 46 year period it would take to reach the peak accumulation of prisoners, this additional expense would require \$ 2,183,439 additional operating and capital expenditures per year, every year from FY95 through FY41. This estimate does not include any inflation factor, nor does it consider the possibility of an increase in crime rates.

Offsetting this number, it would be expected that some savings might be expected in the Community Corrections component, since most of these prisoners would otherwise have been released and supervised on probation or parole under current law. However, the \$6 average cost per day for this supervision is almost negligible compared to the \$113 cost per day of incarceration, and would only be a factor for a relatively small portion of the total sentence.

Another offsetting factor might be the avoidance of costs of new crimes, probably violent, that these chronic types of offenders might be assumed to commit if they were released, under current law. These savings would be experienced by other agencies and departments through avoidance of arrests, investigations, trials, etc.

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 234

Revision Date: January 31, 1994  
 Title: ...relating to mandatory 99-year sentences,  
 parole and furlough eligibility...  
 Sponsor: Senator Leman  
 Requestor: Senate Judiciary

Department Affected: Department of Law  
 BRU: Prosecution  
 Component: Third District/Fourth District  
 Criminal Appeals and Special Prosecution  
 COMPONENT SERIAL NO. 0087/0088/0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	255.8	255.8	255.8	255.8	255.8	255.8
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	30.2	30.2	30.2	30.2	30.2	30.2
SUPPLIES	9.9	9.9	9.9	9.9	9.9	9.9
EQUIPMENT	19.5					
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	330.4	310.9	310.9	310.9	310.9	310.9

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF	330.4	310.9	310.9	310.9	310.9	310.9
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	330.4	310.9	310.9	310.9	310.9	310.9

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
 Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: January 31, 1994  
 Date: January 31, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 234

ANALYSIS CONTINUATION:

This bill amends Alaska's presumptive sentencing laws, under AS 12.15.125-175, to provide that a defendant convicted of a felony offense shall be sentenced to a mandatory term of imprisonment for 99 years without the possibility of parole if the defendant has been previously convicted of two or more felony offenses and if the current felony conviction and at least one of the prior felony convictions is for a most serious felony offense.

The bill also amends AS 12.55.135 to provide that "most serious felony" means any unclassified or class A felony or a felony attempt to commit any unclassified or class A felony, assault in the second degree, sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, robbery in the second degree, and extortion.

The bill also provides that imposition of a sentence under the bill's provisions may not be suspended; provides that a person sentenced to a mandatory 99-year term of imprisonment is not eligible for parole and is not eligible for a good time deduction; and provides that furlough of any type may not be granted to a person sentenced to a mandatory 99-year term of imprisonment.

The Criminal Justice Working Group believes that prosecution of between ten and thirty defendants will occur each year, where "most serious felony" circumstances are present triggering a mandatory 99-year sentence. Consequently, the Department of Law will be impacted in the following ways. First, because the bill provides for a mandatory 99-year prison term without any chance for reduction, and in many cases the sentence will be more severe than the sentence for first degree murder, the stakes for the defense will be much higher resulting in much more difficult litigation for the prosecution and the defense. Second, the defense can be expected to attack the underlying prior convictions seeking post conviction relief under Criminal Rule 35.1, and seeking relief using collateral habeas corpus attacks in federal court. Litigation disposing of the attacks on the underlying prior convictions must be completed before trial on the third felony triggering the mandatory 99-year prison term can be conducted.

Prior to adoption of Alaska's new criminal code in 1980, Alaska had a habitual criminal law, which gave prosecutors the option to seek a separate enhanced sentence based on two prior convictions. The former law was triggered after a defendant had served two prior sentences, including two periods of release to demonstrate reformation, and then was convicted of a third offense. However, under the state's current presumptive sentencing provisions, coupled with provisions of SB 234, it is possible that a defendant could be sentenced to a mandatory 99-year term after a single period of incarceration and release, if the defendant's prior convictions included two or more crimes that were joined in a single trial that resulted in consecutive sentences. Because SB 234 amends the presumptive sentence law there would be no option available unless prosecutors elected to reduce the third charge below the "most serious felony" level. In many cases this would result in an inappropriately low charge and sentence. In view of the number of cases and their high level of difficulty, one new prosecutor each will be needed in Anchorage and Fairbanks, and one new attorney will be needed in the Office of Criminal Appeals and Special Prosecution to handle post-conviction appeals.

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 234

ANALYSIS CONTINUATION:

Component Analysis

	<u>0087</u> <u>Third District</u>	<u>0088</u> <u>Fourth District</u>	<u>0090</u> <u>Crim. Appeals</u>	<u>Total</u>
Personal Services	81.7	92.4	61.7	255.8
Travel	7.5	7.5	0.0	15.0
Contractual	13.6	8.0	8.6	30.2
Supplies	3.3	3.3	3.3	9.9
Equipment	<u>6.5</u>	<u>6.5</u>	<u>6.5</u>	<u>19.5</u>
Total	112.6	117.7	100.1	330.4

01/28/94

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DRU NAME: PROSECUTION

PG#	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	B U	S	R&S BUDG	MOS	SALARY	PREM PAY	BERES	PER.SERV. COSTS	G. F. AMOUNT
03/044		ATTORNEY IV	T	ANCHORAGE	A	XE	AA	24A	12	61008	0	20660	81668.60	

\*\*\* JUSTIFICATION:

SB 234

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	13600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
<b>TOTAL COSTS</b>	<b>112568.60</b>	<b>81668.60</b>

\*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	81668.60	
<b>TOTAL FUNDING</b>	<b>81668.60</b>	

\*\*\* COMPONENT TOTALS:

FULL TIME NEW POSITIONS	1	TOTAL PERSONAL SERVICES	81668.60
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	112568.60
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 1

FUNDING DATA: G.F. & G.F. MATCH:	81668.60
OTHER FUNDS:	0.00
<b>TOTAL FUNDING:</b>	<b>81668.60</b>

01/28/94

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 3

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020400 NAME: FOURTH JUDICIAL DISTRICT

BRU NAME: PROSECUTION

PCN	ORAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S	MOS BUDG	SALARY	PREM PAY	BENES	PER. SERV. COSTS	G. F. AMOUNT
-----	---------------	-----------------	--------	---------------	--------------	-----	-------------	--------	-------------	-------	---------------------	-----------------

#010		ATTORNEY IV	F	FAIRBANKS	A XE EE 24A	12	70092	0	22353	92445.86	
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\*\* JUSTIFICATION:  
Attorney IV-Fairbanks

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	0.00
SUPPLIES COSTS	0.00
EQUIPMENT COSTS	0.00
OTHER COSTS	0.00

TOTAL COSTS 92445.86 92445.86

\*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.86

TOTAL FUNDING 92445.86

#010		ATTORNEY IV	F	FAIRBANKS	A XE EE 24A	12	70092	0	22353	92445.86	
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\*\* JUSTIFICATION:

SB 234

TRAVEL COSTS	7500.00
CONTRACTUAL COSTS	8000.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS 117745.86 92445.86

\*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.86

TOTAL FUNDING 92445.86

\*\* COMPONENT TOTALS:

FULL TIME NEW POSITIONS	2
PART TIME/SEASONAL NEW POSITIONS	0
NON PERMANENT NEW POSITIONS	0
OTHER	0

TOTAL PERSONAL SERVICES 184891.72

TOTAL COSTS INC. ASSOC COSTS 210191.72

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING DATA: G.F.	G.F. MATCH: 184891.72
	OTHER FUNDS: 0.00

TOTAL FUNDING: 184891.72

01/28/94

14:56:24.9

## PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 11

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS &amp; SPECIAL PROSECUTIONS BRU NAME: PROSECUTION

00	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENEF	PER.SERV. COSTS	G. F. AMOUNT
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007		PARALEGAL ASST II	F	ANCHORAGE	A GG 2A 16A	12	36404	0	14558	51002.32	
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## \* JUSTIFICATION:

Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist in the preparation of appellate documentation and research. Four new appeals are expected in the third year, bringing the total to be handled to six. These cases have an average time span of ten years. Considerable amounts of time must be spent researching the cases, examining trial records, and preparing legal arguments and briefs. A substantial amount of research effort will be required. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be needed in FY 1998.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	27900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	89900.32	51002.32

## \*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	51002.32
TOTAL FUNDING	51002.32

008		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A 10A	12	25140	0	11645	36785.28	
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## \* JUSTIFICATION:

Legal Secretary I will be required, during the third year the capital felony law is in effect, to assist in the growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will increase by four reviews, each year, thereafter. Each review takes about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle this work. Allocation to the Legal Secretary-I level is therefore recommended. This position will be needed in FY 1998.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	6000.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	53985.28	36785.28

## \*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	36785.28
TOTAL FUNDING	36785.28

006		ATTORNEY IV	F	ANCHORAGE	A XE AA 24A	12	61008	0	20660	81668.60	
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## \* JUSTIFICATION:

S.B. 234

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	8600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	100688.60	81668.60

## \*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	81668.60
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Sponsor Statement - SB 234  
Page 2

Currently 30 states have enacted or are in the process of enacting similar legislation and Congress is considering the measure at the federal level.

Allowing more rapes, murders, child molestations and other violent crimes to occur once the pattern of violence becomes clear is unjustifiable.

I encourage your support for SB 234.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Juneau, Alaska 99801-2105

### MEMORANDUM

January 21, 1994

**SUBJECT:** Sectional Summary - SB 234 (Work Order No. 18-LS1366A)

**TO:** Senator Loren Leman  
Attn: Portia

**FROM:** Jerry Luckhaupt   
Legislative Counsel

You have requested a sectional summary of the above-described bill, please be advised that a sectional summary is not an authoritative statement of a bill and what it does - the bill is the best statement of its contents.

Section 1 of the bill amends AS 12.55.125(c) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 2 of the bill amends AS 12.55.125(a) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 3 of the bill amends AS 12.55.125(e) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 4 of the bill amends AS 12.55.125(i) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 5 of the bill amends AS 12.55.125 by providing a new subsection (l) that requires a court to sentence a defendant convicted of a most serious felony to a mandatory 99-year term of imprisonment when the defendant has been previously

SECTIONAL  
SUMMARY

convicted of at least two most serious felonies. This section also provides that the mandatory 99-year term may not be suspended or reduced.

Section 6 of the bill amends AS 12.55.145 by adding a new subsection (f) that explains what convictions are prior most serious felony offenses for purposes of sentencing under AS 12.55.125(1).

Section 7 of the bill amends AS 12.55.185 by adding a new paragraph (14) that provides a definition of what is a "most serious felony."

Section 8 of the bill amends AS 33.16.090(b) to provide that a person receiving a mandatory 99-year term under AS 12.55.125(1) is not eligible for discretionary parole during the entire 99-year term.

Section 9 of the bill amends AS 33.20.010(a) to provide that a person receiving a mandatory 99-year term under AS 12.55.125(1) may not earn good time deductions from the 99-year term.

Section 10 of the bill amends AS 33.30.101 by adding a new subsection (c) that provides that furlough regulations may not allow for the granting of a furlough to any inmate serving a mandatory 99-year term under AS 12.55.125(1) unless the prisoner is at all times in the direct custody of a correctional officer.

Section 11 of the bill amends AS 33.30.161(b) by adding a new paragraph (5) that provides that an inmate serving a mandatory 99-year term under AS 12.55.125(1) may not serve the inmate's sentence in a correctional restitution center.

Fiscal notes and position  
papers have not been submitted by the  
impacted departments.

# Revolving door androme feeds cycle of violence

By Sam Vincent Meddis  
USA TODAY

In Washington, D.C., a teenager facing charges of deadly assault goes joy-riding while free on \$1,000 bond. He fatally shoots a woman in another car because he feels like "bustin' somebody."

In Hugo, Okla., a 39-year-old with a record of assault and property crimes buys an assault weapon and kills two people, wounds three others, then kills himself.

Many blame the easy access to guns for such carnage. But similarly under fire is a justice system that, to critics, seems to do little more than recycle criminals to the streets.

That outrage has sparked calls for a crackdown on repeat criminals nationwide: Washington state voters approved stiffer sentencing last year, and California voters consider an initiative this fall.

About 30 states are weighing similar measures, most of which provide long sentences without early parole for many repeat offenders.

"People have just had it — they don't want to live with the fear anymore," says Paul McNulty of the First Freedom Coalition, a group that advocates stiff crime penalties.

Looking at the numbers, repeat crime seems to be becoming the nationwide norm:

About 60% of prison inmates have been behind bars before, according to a U.S. Bureau of Justice Statistics study; 44% were on probation or pa-

## '3 strikes, you're out' likely in California

In what could spark a new wave of citizen action nationwide, California voters are expected to approve a crackdown on career criminals in a November 1994 ballot measure.

The measure, known as "Three Strikes and You're Out," would double sentences for criminals convicted of second serious felonies — and require a minimum of 25 years to life for a third offense.

Thirty other states are considering similar measures to toughen sentences for repeat offenders.

Gov. Pete Wilson supports the concept, and supporters appear to have easily topped the 385,000 signatures needed to place it on the 1994 ballot.

The initiative has been pushed by Fresno photographer Mike Reynolds, whose 18-year-old daughter was killed by a parolee in June.

### role when re-arrested.

A mere 108,000 criminals in one federal study had a staggering 1.9 million arrests between them.

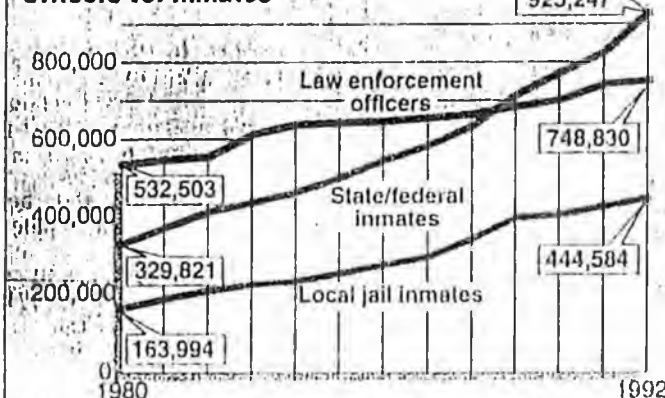
Recent U.S. and Pennsylvania studies found about 6% of criminals commit nearly 70% of violent crimes.

Targeting those criminals sounds simple. The reality is tougher.

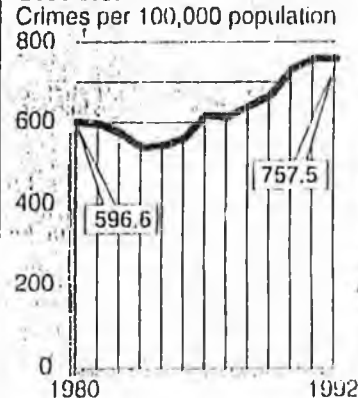
## Combating guns with jail, prison

The number of criminals in prisons in the USA has increased by more than 180% since 1980, and the number in local jails has more than doubled. The number of full-time law enforcement officers has risen by 40%. Yet the violent-crime rate has risen by 27%. The war on crime:

### Officers vs. inmates

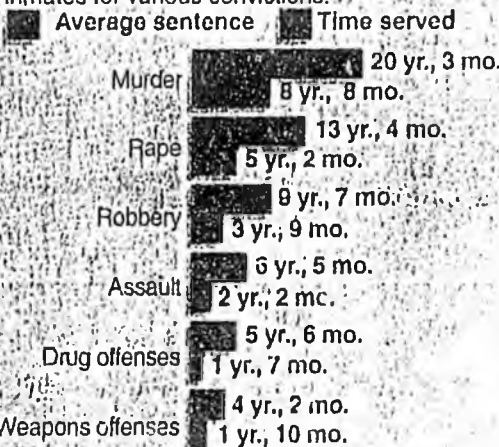


### U.S. violent crime rate



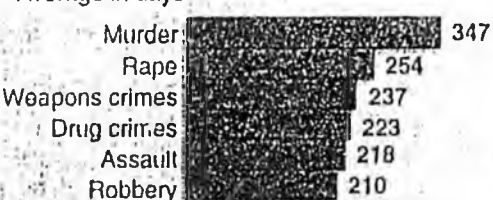
### Sentences vs. time served

Average length of sentence and estimated time to actually be served by state prison inmates for various convictions:



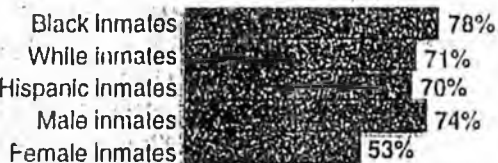
### Time from arrest to sentencing

Average in days



### Repeat offenders

Percentage of violent criminals in state prisons who had served time before:



Source: FBI Uniform Crime reports, Bureau of Justice Statistics reports

By Marty Baumann, USA TODAY

"Such people are the right people to put away," says Eric Sterling of Washington's Criminal Justice Policy Foundation.

But Sterling says it's hard to identify potential repeat offenders. He fears that "blunderbuss" get-tough laws more easily snag drug or burglary offenders than the violent criminals they're designed to stop.

And, he says, overcrowded and underfunded prisons may contribute to violence by making criminals more hardened than when they went in.

"Where did all these criminals come from?" Sterling asks. "Well, they came from our correctional institutions."

A 1992 study by the Sentencing Project shows the USA has the world's highest incarceration rate, about 455 per 100,000 people, compared with a rate of 311 per 100,000 in South Africa; 111 per 100,000 in China; and 42 per 100,000 in Japan.

Overall, the state and federal prison population hit a record 925,247 inmates in June, up more than 180% since 1980.

But there's no evidence that such explosive prison growth has stemmed crime.

Violent-crime reports nationwide dipped slightly in the first six months of 1993, but there still has been a 45% rise since the early 1980s.

Such numbers, though, don't reflect the public cry for punishment. It's "beyond dispute," McNulty says, that criminals can't harm the public from jail. "At least we're stopping those offenders. People will realize the price they'll pay."

USA Today  
Dec. 29, 1993

# 3 STRIKES and YOU'RE OUT

**POINT**

**INITIATIVE 593**

**COUNTERPOINT**

*March 19, 1993*

By Ida Ballasotes  
and Dave LaCourse

Laune, 31, had just left a work-training class in Kent when a stranger grabbed her from behind. He forced her into her car, holding a knife against her body and ordered her to drive. After directing her behind an abandoned building, he turned up the radio to muffle her screams. Then he forced her down onto the seat and began assaulting her. During the rape, he shoved the knife into her mouth, cutting her and threatened to plunge it down her throat.

Laune may not have known her attacker, but the police did. His long string of felony convictions dated back to 1975. His attack on Laune came less than two weeks after his probation period ended for the last conviction. He had a total of 11 separate prior convictions, including

sex offenses, assault, sexual abuse of a child, larceny (three counts), first-degree theft, resisting arrest (twice) and first-degree larceny. Among others.

His sentence for this brutal kidnapping and rape, even with such an extensive record, was only 12 years and 10 months — not counting time off for "good behavior." He'll be returning to a neighborhood near you around the end of the decade.

Unfortunately, this is not an unusual prison term. Current law recommends sentences that are far lower than most people expect. For example, the sentence for a rapist convicted on his third attack is just 14 years, two months.

For child molesters, the law is even more lenient. A third conviction for first-degree child molestation dictates a recommended sentence of only nine years, six months. And if you've been wondering why robberies are increasing, you need only look at how we punish the crime. If someone is convicted of first-degree robbery, his sentence is just five years — even if his rap sheet already contains two violent felonies.

Under initiative 593, Laune's attacker and other three-time violent criminals would receive a mandatory sentence of life without parole. Which penalty system strikes closer to your sense of justice?

Ida Ballasotes is a Republican state legislator from Mercer Island. Dave LaCourse is campaign coordinator for Initiative 593.

## New weapon against crime or a costly formula for injustice?



Initiative 593 is refreshingly clear. It states that anyone convicted on a third occasion of a violent crime will receive a mandatory sentence of life in prison. No parole. No probation. No more excuses. Three strikes and you're out.

Only the "worst of the worst" could ever qualify under initiative 593. It would nail only 40 to 70 hard-core criminals per year. But these few chronic criminals are responsible for large amounts of violent crime.

A study by Marvin Wolfgang, criminologist at the University of Pennsylvania, showed that just 7 percent of the criminals committed 83 percent of the violent crime. This included 75 percent of the rapes and robberies and almost all of

the murders. Furthermore, these hard-core individuals were rarely punished. They avoided arrest for about a dozen crimes for every crime that led to an arrest. Project Triggerlock, a program of mandatory federal sentences that targets armed drug traffickers and career violent criminals, pegged the figures at 6 percent of the criminals committing 70 percent of the violent crime.

These high-rate, repeat offenders have not only shown society a pattern of violence, but also represent a real danger of returning to crime if released. The Bureau of Justice Statistics cites the odds of recidivism for three-timers at 76 percent. The actual number of criminals returning

Please see Yes, G6

By Tom Wales  
and Robert Kastama

Initiative 593 is presented as requiring life in prison without parole upon a third conviction only for "the most serious" offenses. When we hear this, we think of crimes like murder and forcible rape. In fact, 593's list of "most serious" offenses is extremely long. Consider this scenario.

"Rock," a 19-year-old, gets into a very bad argument at home. His father orders him to leave the house. Rick grabs a knife from the kitchen, waves it in front of his father and says, "Just try to make me leave." Father calls the police. Rick is convicted of second-degree assault and gets a mid-range sentence of 6 months.

At age 20, he and a friend rob a convenience store. Nobody has a weapon, but Rick sticks his finger in his pocket as if he did. He's convicted of second-degree robbery and sentenced to a year and a month.

Nine years later, at age 30, Rick goes to a tavern with his friends after work. They drink several beers, and Rick has a blood alcohol level of .12. Driving home over a familiar road, he goes too fast and rear ends another car at 36 mph, causing a broken arm and collarbone to the other driver. He is convicted of vehicular assault.

Rick's sentence for vehicular assault under 593: mandatory life imprisonment, without the possibility of parole. For Rick, that's about a half century of prison. The judge may not consider Rick as an individual or even look at the specific circumstances of the offense.

These types of offenses should be punished. But the punishment should fit the crime. That can happen under the laws we have now; under 593, it won't.

The long list of crimes subject to 593, combined with the complete lack of any judicial discretion, makes 593 a formula for injustice. We should reject out of hand the notion that purse-snatchers should be indiscriminately catalogued with our worst violent predators and sentenced to life behind bars.

Sentencing laws for the worst crimes are already tough. The Leg-

Please see No, G6

Tom Wales has been a public prosecutor for 10 years. Robert Kastama is former superintendent of the Washington State Penitentiary at Walla Walla.

## No

Continued from G1

islature has been more than willing to respond to citizen outrage about truly serious, violent criminal acts with laws that provide severe punishment, meted out by a judiciary that has no tolerance for violent crime.

We already can put the most serious criminals in prison for many years. Under current law those convicted of three serious, violent felonies are already getting "standard range" sentences that keep them in prison until their 60s and longer.

In addition, laws we have now allow a judge to impose a sentence far above the standard range on any crime where there are severe aggravating factors.

This power includes, in cases of sex crimes, the ability to go far above the "standard range" when there is evidence that the of-

fender cannot be treated and will be a future danger. In addition, the Community Protection Act allows indefinite commitment of especially dangerous sex offenders even after they have served their entire prison sentence. And, for those convicted of aggravated first degree murder, the sentence is either life without parole or death.

Current law already is tough on those who commit the very serious offenses. Unlike 593, however, current law also retains the important element of judicial discretion to assure fairness.

593 won't increase public safety. Proponents of 593 argue that a small group of offenders is responsible for a disproportionate amount of crime. What they don't tell you is that identifying these offenders is not as easy as we'd like to think. Social scientists who have researched this issue have found that, while some offenders are more active than others, it is very difficult to identify

this group on the basis of its record alone.

So what happens if 593 passes? People who commit three serious, violent crimes, who are already getting long sentences, will remain in prison for a few more years, into their 70s and 80s — ages when they are least likely to commit another crime.

This probably won't cause even the smallest reduction in the rate of serious, violent crimes.

At the other extreme, those convicted of crimes like second-degree assault, second-degree robbery or vehicular assault will see their sentences for a third offense increase dramatically, by as much as 40 or more years.

Their sentences will be lengthened even though we know that criminal activity drops precipitously as people enter their 40s and 50s, and even though we know we can't use conviction records to predict future criminal behavior.

593 costs too much. The propo-

sitions of 593 say we don't need to worry about money now; added costs only come later, after those convicted under the law start serving the additional time 593 would require.

But the state will need to start preparing now for the tremendous future tax burden under 593. Washington already has the fastest-growing prison population in the country. Passage of 593 would mean hundreds more old age "lifers" in our prisons and, eventually, more, expensive prison construction.

The current cost of housing a prisoner is about \$25,700 annually. This figure would be even higher for the older prisoners serving under 593 who would need expensive geriatric care. This annual amount doesn't include the price of building new prison space, at about \$100,000 per bed.

Costs also would rise dramatically at the county level, where these prosecutions would occur

With 593, we could expect fewer guilty pleas and more — and longer — trials. That would mean far higher costs for already expensive jails, prosecutors and public defenders.

In times of scarce and finite resources, we need to ask: Is keeping such offenders in prison for the rest of their lives the best way to protect public safety? Wouldn't the money be better spent on confining truly violent and dangerous offenders, and on measures that prevent crime?

Initiative 593 would cause great injustice. The alleged benefits would not be there. We already have very tough sentences for the worst crimes, especially upon a third conviction, and 593 would not increase our chance of incapacitating the "most serious" offender. Initiative 593 would cost much more than advertised. It is bad and expensive public policy and should be rejected by the voters of Washington.

## Yes

Continued from G1

to crime must be even higher since most violent crimes do not lead to an arrest, conviction or incarceration.

Not surprisingly, police groups and crime victims are among the strongest supporters of Initiative 593. These groups are joined by many prosecutors, business leaders, the Washington state grange and sportsmen's organizations. Supporters gathered the fourth-highest number of signatures ever for an initiative. The 290,000 plus signatures from around the state were about 110,000 more than required for ballot placement.

Despite this widespread support, narrow interest groups have been trying to kill the initiative by misleading the public. For example, they claim that tougher sentences are not working in other states. In truth, there are no other states with a law substan-

tially similar to this proposal. However, a pilot program to get "serious habitual offenders" off the streets in Oxnard, Calif., during the early 1980s worked very well in reducing that city's violent crime. By 1983, after all of the targeted criminals were locked up, murders declined 60 percent, robberies by 40 percent, and burglaries by 29 percent.

The career criminal cares about the sentence he will face if he reoffends. Many inmates in this state have requested information on the "Three Strikes" proposal. In fact, as word of this initiative spread, inmates from as far away as Georgia and Florida have asked about this "get tough" measure.

Critics attack the initiative as being overly broad, but the facts do not support this contention. An independent "worst-case scenario" study completed by the Sentencing Guidelines Commission confirmed the narrow focus of the initiative. It found that for fiscal 1991, only an estimated 63 offenders of the 16,554 felony

sentences were covered under the initiative. A proposal that affects .4 percent of felony sentences and only 2.5 percent of violent offenders in a given year is hardly a shotgun approach.

As far as costs are concerned, they are minuscule.

The Department of Corrections worst case estimate of \$12 million over the first six years for incarcerating these people is not a budget buster. In fact, it is about one tenth of 1 percent — percent.

A national study by Dr. David Cavanagh for the National Institute of Justice and the Wisconsin study by professor John Dilulio at Princeton calculated the costs of crimes versus locking an individual up to prevent crimes. Both studies found the costs of incarceration were 1/3 (or less) the costs of turning offenders loose. A national study by Edwin Zedlewski focused calculations on more serious offenders and found that it was 17 times more expensive to release proven offenders than keep them off the streets.

Our critics claim that life without parole sentences would needlessly hold criminals long after they are a danger to society. They fail to mention that the initiative specifically retains the governor's powers for granting a pardon or clemency for an offender who is truly no longer a threat.

Undaunted, the opponents of 593 try to trivialize some of the crimes covered under the initiative. These allegations underestimate the seriousness of these crimes.

Assault in the second degree involves deadly weapons or serious bodily injuries, not your average "bar fights." Just ask the family of Matthew Parsons, who was beaten and shaken into a coma in 1991 over 10 consecutive days of abuse by his father. Matthew was sometimes tied up and was admittedly hit with his father's hands, belt, and a kitchen spoon more than 40 times. The attack was so vicious that the pupils of his eyes were blown out. The charge and conviction —

only assault in the second degree. Robbery in the second degree is not the simple theft of a purse, but a violent confrontation. Just ask Ann, a Federal Way woman beaten repeatedly on the head, neck and back in front of her young child in broad daylight in the parking lot of a local department store. Her attacker almost got away twice — first, when the system initially failed to pursue him except at her urging and, second, when he tried to plead down to a lesser crime of nonviolent theft.

Letting repeat offenders out merely because their sentence has been completed has proven to be far too expensive in additional crimes, human suffering and expensive civil lawsuits by victims.

We have the opportunity to reduce the numbers of victims caused by habitual criminals this November by voting YES on Initiative 593.

Allowing more rapes, robberies, serious assaults, child molestations and homicides after the pattern of violence becomes clear is unjustifiable.

## INSIDE POLITICS

Times 10/12/93

• **Chasing Mike the business:** Publicly, Gov. Mike Lowry claims everything is hunky-dory between his administration and the business community.

Privately, it's a different story. Inviting bank and security lobbyists to his office a few weeks ago, he griped that they weren't telling their bosses about how well the industry fared during the last legislative session.

Lowry was particularly agitated because one CEO, Phyllis Campbell of US Bank, voted to recommend the Seattle Chamber of Commerce endorse Initiative 602. That's particularly galling since she is a Washington State University regent — and apparently not buying Lowry's argument that 602 will devastate higher education.

• **Trust us, we've been there:** Opponents of 602 are tugging on the provincial hearts of Washington voters pretty hard.

They harp on the evil influence of out-of-state tobacco companies that are bankrolling Initiative 602. And they keep predicting that passage will make our state vulnerable to the dire budget straits of California, brought on by the famous tax rollback Proposition 13.

They should know. Two top staffers are both recent arrivals from Sacramento. Stephanie Bradford, who took over as Committee for Washington's Future campaign manager last week, moved north about three years ago. Andy Grow, press secretary, was an aide in a county commissioner in California until moving here in the last few months.

## Harsh Punishment on Washington Agenda

A state Supreme Court ruling and a proposed initiative would make a powerful package of crime protection and retribution in Washington state.

The Washington high court upheld a controversial measure that allows the state to hold some sex offenders past their release date on a civil commitment. And on Nov. 2 voters will decide on a "Three Strikes You're Out" initiative that would lock up persistent offenders for life.

There is reason to believe that a public that has hailed the state's Community Protection Act, of which the civil commitment is a part, will like Initiative 590 (the proposed Persistent Offender Accountability Act).

Under the "Three Strikes" initiative, resurrected from a House bill that did not pass, someone convicted of a third serious offense would be labeled a "persistent offender" and get a mandatory life sentence without possibility of parole.

The proposed measure is harsher than other states' habitual offender laws. All Class A felonies—generally violent crimes like murder, rape, controlled substance homicide, homicide by abuse, assault of a child, first degree arson and first degree attempted arson—would count.

Manufacture, delivery or possession with intent to deliver cocaine or heroin also can be charged as a Class A felony. Other crimes listed as serious offenses in the proposal include second degree assault, second degree child molestation, second degree child assault, indecent liberties, sec-

ond degree robbery, vehicular assault, any Class B felony with a sexual motivation or any felony committed with a deadly weapon.

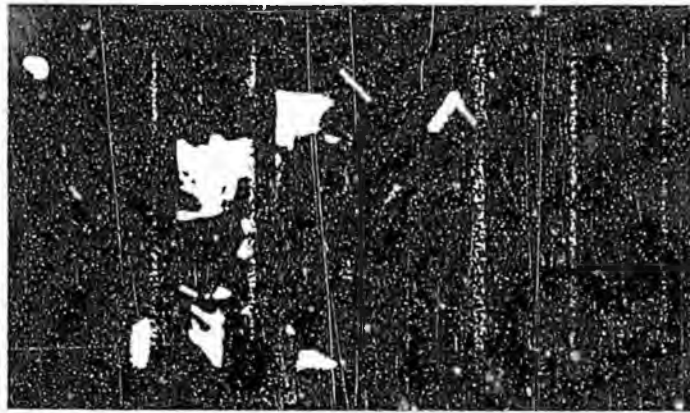


Illustration: Bruce Lukason

Some of the state's lawmakers who agree with the persistent offender concept, however, are not comfortable with the long list of crimes defined in the initiative as serious offenses that add up to life without parole. Conceivably, a third bar might get you life without parole under this initiative depending on the charges filed. An analysis by the state's Sentencing Guidelines Commission said that the measure would affect a relatively small group, increasing the prison population by about 300 beds a decade from now.

The small impact numbers were predicted mostly because third felonies are infrequent and because offenders committing the most violent of the crimes would probably get stiff sentences anyway. Roxanne Lieb, a former director of the Sentencing Commission now with the Washington State Institute for Public Policy, said that other habitual offender proposals made since guidelines were enacted usually

predicted dire fiscal consequences. Still, Lieb and others who helped craft the sentencing guidelines find it disturbing that this broadly applicable, mandatory minimum law could eclipse some of what the guidelines have achieved in sentencing reform. She said mandatory sentences remove flexibility but don't necessarily ensure more certainty and fairness because of bargaining over charges and other side-stepping.

"You can adjust the guidelines if you want harshness," Lieb said, acknowledging that feelings of frustration and helplessness about violent crime give life to these grass-roots proposals. "I don't see where the opposition is going to come from."

Meanwhile, the initiative has strong, deep-pocket backers like the National Rifle Association. The NRA says its efforts in Washington state represent ongoing interests in criminal justice reform and victims' rights. Groups on the other side of the gun lobby, however, say the NRA's latest tack is to divert attention from guns by imploring states to simply lock up felons forever.

Many of the serious offenses named in the "Three Strikes" proposal are sex crimes, including specific crimes against children. Despite the sweeping sexual predator legislation approved in 1990, belief that sex offenders don't get long enough sentences is helping drive this initiative.

Civil commitment of sex offenders, a unique, controversial provision of Washington's Community Protection Act, was designed to fill a perceived gap in the law that allowed release of known, dangerous criminals. The Washington Supreme Court this summer upheld the right of the state to hold some convicts past their release dates by committing them as mental patients.

The outrage of civil libertarians and the Washington State Psychiatric Association notwithstanding, the high court said the law does not violate a person's right to due process or other constitutional guarantees. The law says "any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence" may be considered for commitment. Release from the Special Commitment Center is possible only if a court finds that the person's mental abnormality or disorder has changed in such a way that the community is safe. The unsuccessful challenge to that premise was made on behalf of some of the 21 people held under the provision.

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# The New York Times

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## Drive to Keep Repeat Felons In Prison Gains in California

By JANE GROSS

Special to The New York Times

FRESNO, Calif., Dec. 23 — When Mike Reynolds vowed a year and a half ago to find a way to keep repeat offenders locked up for life, it seemed just a howl of pain by a grieving father whose teen-age daughter had been shot in the head at point-blank range by a man with a long criminal record.

But Mr. Reynolds's personal crusade to tighten sentencing for career criminals has become a political juggernaut here in California, the scene in recent weeks of several high-profile crimes, including the abduction and slaying of 12-year-old Polly Klaas at the hands of a twice-convicted kidnapper.

Until Polly's body was found early this month, few outside this Central

Valley city knew anything about the 1992 slaying of Kimberly Reynolds, 18, who was leaving a restaurant with a friend when a man tried to steal her purse and instead shot her with a .357 Magnum revolver.

### Aimed at Chronic Criminals

And fewer still knew that her father, a wedding photographer, had responded by writing a ballot measure that would double and triple sentences and limit parole opportunities for chronic criminals like the one who killed his daughter, who dreamed of a career in fashion and was buried in a silver lamé prom dress of her own design.

But in recent weeks Mr. Reynolds's ballot measure has become a rallying cry. Frightened by the spread of random violence in their neighborhoods and struck by how often those crimes are committed by repeat offenders, California voters are signing petitions for the Reynolds measure at the rate of 15,000 a day.

Patterned on a Washington State initiative, although stricter in many ways, the measure, known as Three Strikes and You're Out, is expected to qualify easily for next November's ballot and, if current public opinion holds, win by a landslide. And 30 other states are looking into such initiatives, which experts say could be the hot issue of next year's campaign, as term limits were for a sour electorate in 1992.

The popularity of such measures can

Continued on Page 12, Column 1

3 STRIKES  
YOU'RE  
OUT

# Drive to Keep Repeat Felons in Prison Is Gaining Po

Continued From Page 1

to understand by skimming the major newspaper or watching the evening news. Despite statistics that show a drop in violent crime, each day offers a roster of victims who have been set upon in relatively safe places by assailants with long criminal records.

That was the case with Uwe-Wilhelm Rakebrand, a honeymooning German tourist killed in a rental car as he left the Miami airport. Or James Jordan, the father of the basketball star Michael Jordan, shot in the chest while napping in his luxury sedan beside a road in North Carolina.

It was also the case with Polly, snatched from her bedroom during a slumber party in rural Poishima while her mother slept nearby. And Kimber, who was slain not on U.S. main streets of Los Angeles, where she was studying fashion design, but during a weekend visit here to be a bridesmaid in a friend's wedding.

"What these crimes have done is show people that you can do all the right things and it doesn't matter," Mr. Reynolds said. "You can lock your door, stay in the right neighborhoods. But when you come up against one of those creeps, the rules don't matter. They're hunting you."

"When bad guys are killing bad guys, that's one thing," he added. "But when they start killing regular people, that's where you draw a line in the sand. That's what's driving people crazy."

From *Trickle to Tidal Wave*

That moment of collective horror came here in California with the killing of Polly Klose, a case that riveted the nation for months and turned a trickle of support for Mr. Reynolds's initiative into a tidal wave.

Until then, Mr. Reynolds's campaign was a relatively lonely one. On a shoestring budget — the money he and his wife, Sharon, were saving for a mountain cabin — a few volunteers had gathered 35,000 signatures, less than a tenth of what was needed.

Around Thanksgiving, Mr. Reynolds was invited to appear on a San Francisco talk radio show, which inspired about 40,000 people in the Bay Area to sign petitions. But still, the measure lagged far behind the 385,000 signatures needed to put it before the voters.

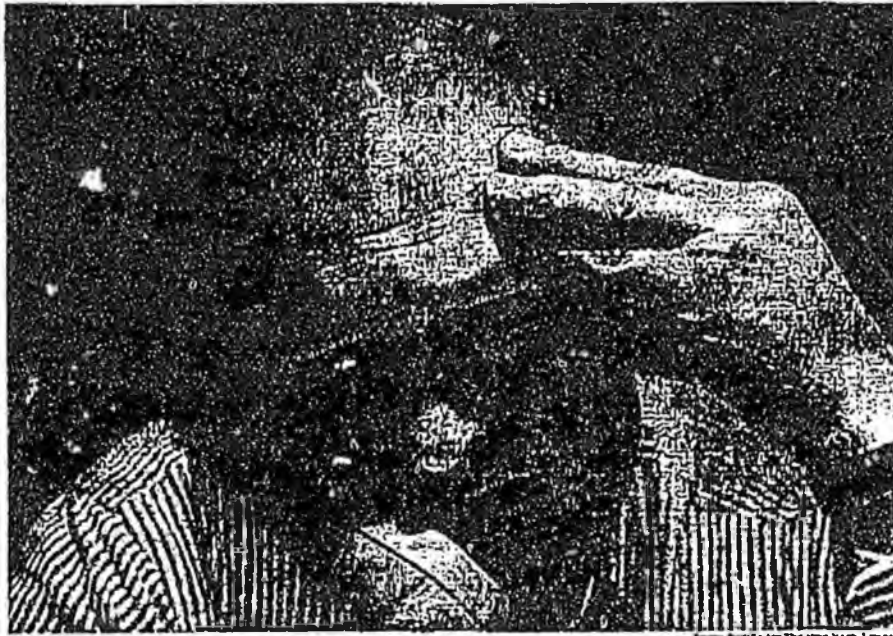
Then Polly's body was found at an abandoned lumber mill. A San Francisco radio station, KGO-AM, suggested that listeners vent their grief and frustration by calling Mr. Reynolds.

By Monday morning, the voice mail system in the Three Strikes and You're Out storefront headquarters had crashed under the onslaught of calls. Within a few weeks, more than 300,000 signatures were gathered. And these days, the letter carrier staggers into the campaign office bowed under the weight of his mail bag.

Angry Letter-Writers

The mail is angry, more punitive than the measure itself, which mandates double the usual sentence for a second serious felony and triple the usual sentence or 25 years to life, whichever is longer, for a third. By contrast, the Washington State measure, which passed last fall with 78 percent of the vote, does not enhance sentences until the third felony.

One typical letter writer was not satisfied. "What is needed is three strikes and you're dead," he said. "We



Mike Reynolds's personal crusade to tighten sentencing for career criminals has in recent weeks become a rallying cry in California, with voters frightened by the incidents of random violence in their neighborhoods.



Kimber Reynolds, Mr. Reynolds's daughter, who was shot and killed in 1992 by a man trying to steal her purse.

can't afford to warehouse this load of human debris!"

Unlike the Washington State initiative, the California measure also restricts time off for good behavior so that a felon must serve 80 percent of any sentence rather than half, as is often the case now.

## An initiative that could be a hot political issue next year.

But repeat felons deserve worse than that, the volunteers at the Three Strikes headquarters said, echoing the letter writers. "I'm for stricter things, like no conjugal visits and shut down the prison libraries," said Carl Lassells, a retired banker.

Supporters of Mr. Reynolds's measure, including Gov. Pete Wilson and the State Attorney General, Dan Lundgren, both Republicans, are confident that it will have a sweeping effect if it is passed. But that is impossible to judge at this point.

No Estimate of Costs

In Washington, 40 to 70 felons a year were expected to meet the criteria of that state's initiative, corrections officials projected, but none have been charged under the statute in its first month. No similar projections have been made in California, although there is widespread agreement that more people would be affected because of the stringency of the measure and the size of the criminal population here.

Nor has anyone brookaded how much the measure would cost if it went into effect, a calculation normally made after an initiative has qualified for the ballot. It is assumed that extending the sentences of so many felons would cost the state billions of dollars in increased prison costs, while saving cities and counties some money because there would be fewer repeat prosecutions.

Measures like the one in Washington and the one proposed here in California are expected to be more effective than the so-called habitual offender laws on the books in 17 states because they are broader and their application is mandatory. The 17 state laws, by contrast, generally give prosecutors and judges wide discretion about whether to charge felons as habitual offenders, and tend to be narrower about which criminals qualify for the longer sentences.

There is broad consensus among criminologists that a small percentage of repeat offenders are responsible for the vast majority of violent crime. But experts are divided about whether targeting repeat offenders for life sentences is an effective remedy.

William J. Bennett, the former Secretary of Education who is now the director of Empower America, a conservative advocacy group, said such measures are a worthy way to reduce the "frustration level of Americans who see people engaging in violent acts and not doing their time."

'Expensive Old-Age Homes'

But opponents say the measure, however satisfying to frustrated voters, is bad public policy because it would crowd the prison system with aging felons without having much impact on rates of violent crime.

"It'll stop a few guys, and that could add up to big numbers in California, but mainly it will just create the most expensive old-age homes in the world," said Peter Greenwood, the acting director of the criminal justice program at the Rand Corporation, a Southern California research center.

But stopping a few guys would be enough for Mr. Reynolds, who said his campaign for new sentencing standards is what has kept him sane since that summer evening a year and a half ago, when the youngest of his three children joined her two brothers in a softball game and then went out for coffee and cake with a friend.

At the couple left the Daily Planet restaurant at 10:40 P.M., two young men on stolen motorcycles wheeled up to the curb. One of them grabbed Kimber's purse. When she struggled, the assailant stuck the barrel of his gun in her ear and pulled the trigger.

Shortly after Kimber's death, Mr. Reynolds went on the radio here, begging for a witness or an informer to help find his daughter's killer. A friend of the gunman did just that, leading the police to 25-year-old Joe Davis, a methamphetamine user who had been convicted and jailed repeatedly for armed robbery, auto theft and drug use.

Nine Years for Accomplice

Mr. Davis died in a gun battle with the police. His accomplice, Douglas Walker, 27, also a drug user with a long criminal record, pleaded guilty to murder. He was sentenced to nine years in prison. Under current law, he will serve half that time.

Mr. Reynolds said that he is haunted by feelings that he was not able to protect Kimber in the final months and minutes of her life.

Once she called him from Los Angeles because her car would not start, and he was struck by the realization that "there comes a time you can't be there for a child." He later bought her a cellular telephone so she could call for help in case of a highway emergency. "But the phone was stolen."

And those were but precursors to Mr. Reynolds's ultimate helplessness. "You never stop reliving the last moments of your child's life and wondering what you could have done to prevent it," he said. "If I was standing there with a gun I don't think I could have stopped him. But I might have shot him before he got down the street."

# Taxis have new safety equipment

## Bulletproof panels, metal detectors likely

By S.J. KOMARNITSKY  
Daily News reporter

Many Anchorage cabs will be sporting a new feature in coming weeks: a strobe light on the roof to signal the driver is in danger.

Cab owners and company managers are also considering putting video cameras in vehicles, buying hand-held metal detectors for the drivers, and installing bulletproof panels between the back and front seats.

It's all part of an effort to prevent tragedies such as last week's shooting death of driver Raymond Maser.

Maser was the third Alaska Cab driver to be shot to death in the last year, and the killings have galvanized the city's cab drivers and owners.

"We just have to do something," said Alaska Cab owner Guy Hibbert. "Life's too precious to let these thugs run it and ruin it."

Hibbert and other cab company managers plan to meet today to discuss driver safety with Anchorage police and members of a city commission that oversees the taxi cab industry.

Yellow Cab owner Jorge Rendon also said he will hold a public meeting in his office Sunday to talk with drivers, owners and anyone interested in protecting drivers.

There will be much to discuss. According to a 1993 report by the National Institute for Occupational Safety and Health, taxi driving is the most dangerous occupation in the country, as measured by killings on the job. Even law enforcement is safer.

For the decade that ended in 1990, 15.1 workers for every 100,000 in the taxi industry were killed. The death rate in law enforcement was 9.3 workers per 100,000, the study found.

Over 75 people hold the permits for the 158 cabs allowed to operate in Anchorage. The taxis are run through four dispatch companies. Not everyone

Please see Page D-2, TAXIS

Office of the Governor

Continued from Page D-1

agrees on the best way to protect drivers.

Regina Doyle, a dispatcher at Yellow Cab, said she wants to talk with drivers and learn what safety features work best in deterring crime before installing equipment. She also wants to know if the Anchorage Assembly is going to require cabs to have certain safety features.

Doyle said she would like driver training, including how to deal with robberies, to be emphasized.

"I do think drivers need to be trained to absolutely not resist," she said.

Rendon, who owns several of the vehicles driven for Yellow Cab, added that concerns for safety have to be weighed against customer concerns. Rendon said customers have complained about the bulletproof shields he installed in three of his cabs. They felt imprisoned by them, he said.

Hibbert said he wanted strobe lights installed right away because he felt something needed to be done immediately.

Similar to those used on school buses, the lights flash

when activated by a hidden switch. And, once a light is turned on, the only way to turn it off is a switch under the hood, Hibbert said.

But, he said, the strobes are effective only if people know they should call police when they see them flashing.

The lights cost about \$100. Hibbert said installing more safety features, such as bulletproof shields and metal detectors, could cost up to a \$1,000 a car. That will be paid by the vehicle's owner, not the driver, he said.

# Shots fired into school

## Bullets miss adults in hall

By S.J. KOMARNITSKY  
Daily News reporter

Registration for community schools classes at Servier High was just starting to taper off Wednesday night when the bullets hit. Two shots from a .45-caliber gun blasted through the school's double glass doors and down a hallway where people were busy registering for classes, narrowly missing a man and a woman.

Three other shots, apparently fired from a passing vehicle, hit two vehicles in the school's parking lot, Anchorage police said Thursday. No one was in the vehicles.

Marilyn Okugiya, an assistant with the community schools program, said about 10 people were in the hallway — five applicants and five program volunteers — when the shots were fired about 8:30 p.m.

"Everybody heard it," she said. "We all jumped up and ran."

One man told police that plaster fell on his head after a bullet ricocheted off the wall and embedded itself in the ceiling above him. Another woman said a bullet came close enough to her that she heard the swoosh as it went by. Officers later recovered shell casings from a .45-caliber gun.

There was no clear motivation for the attack.

A woman walking toward the school when the shots were fired told police she saw a blue, Blazer-type vehicle driving away. But, she didn't see who was inside it. Okugiya said those responsible probably fired the shots from a service road that borders the school.

Police spokeswoman Debbie Cargill said there had been no other reported shootings at the Lower Hillside school this year.

Okugiya said the shooting shook up the applicants and volunteers, but it could have been much worse.

"If it had been an hour earlier, that hall would have been pucked," she said.

Anchorage, Alaska

the bottom of the well." "What did he say?" asked the ranger "Pancho says he's prepared to die."

Now doesn't that fellow remind you of Bill Clinton telling us that the American people are prepared to sacrifice? Anyway, you may want to join those of us who will be presenting an alternative to the Clinton plan. I can assure you that I will be one of the sponsors of the market based approach that I discussed today.

I hope you'll join us in that effort, and I wish you all the very best as you work in your respective states for all of the citizens of this great nation.



*Congressman Kyl was elected in 1986 and has rapidly established a reputation as an effective legislator, a strong proponent of fiscally responsible government, and an expert on national defense and health care. Congressman Kyl is helping to shape the national health care debate by offering free market alternatives for health care reform.*



### *Making Criminals Pay: Solving America's Violent Crime Problem*

**The Honorable Edwin Meese III  
Former U.S. Attorney General**

Thank you very much ladies and gentlemen. It's a great privilege to be with you, and believe me, I am happy to be here with you today.

As Representative (Jerry Lee) Alwin (N.M.) mentioned, the Heritage Foundation and ALEC are close

partners, and I've certainly enjoyed the opportunity to work with your leaders. Certainly, Sam Bruneili and his staff are an outstanding group, as you know from your own personal experiences, and I was always interested in the active role in leadership that Bill Raggio. I've known Bill for longer than he'd probably want to admit...from the days when he was a District Attorney in Nevada and I was in the District Attorney's office in Alameda County in California. We worked very closely together at that time. So it's a pleasure to be here, especially since I will have the opportunity to discuss with you the issue of violent crime in America. There is no more important challenge facing our nation today.

One of the things that I think we have to recognize is the fact that crime has been, for many years now, the top thing that people worry about when they're asked, "What is the greatest domestic problem?" Periodically it gets eclipsed by the economy when we have high unemployment or when we have economic difficulties, but year in and year out it's always in the top three or four topics that concern people.

And when we try to get the economy going, or when we try to work on the problems of the inner cities, or try to improve education, inevitably at least one of the trails of solutions leads to doing something about crime. You know from your own experience what's happened, and so I'd like to share a little bit with you from my own experience.

But first, I think it's important to recognize what's happened since World War II in terms of crime. In the 1950s, and from the period just after the war through the fifties, there was a philosophy in our country among almost all criminologists, that incarceration was a bad thing. And so almost every idea other than prison was used to take care of convicted criminals.

And so by the sixties, we found in California, when Ronald Reagan became Governor in 1967, that less than ten percent of all felons, the most serious criminals, were going to prison.

Well, over the course of the late sixties and the seventies, he was able to change that by appointing judges in California who had a different view. But throughout the country this was the prevailing sentiment.

And that's why we had during that period, from 1960 roughly, to 1980, we had the largest increase in crime in the history of the country...a 300 percent increase in

crime. As the average time served went down dramatically, crime went up.

Most people would say that kind of makes sense. Criminals can count, too. It was interesting that an organization in Texas the National Center for Policy Analysis, did an economist's computation of the cost of crime. They acted on the proposition that crimes are intentional acts and that they're freely committed by people who calculate the cost to them for committing crimes. And that in many cases the criminals, while they may not do it in a mathematical way like economists, nevertheless have a general feeling of what their chances are of getting caught. And if they do get caught, what's going to happen to them.

And so they did some calculations. They multiplied of percentage of criminals that got caught for each offense times the likelihood of conviction, times the amount of months that they would serve, and they came to a very interesting statistic. And that was that the expected time in prison for each murder is something like 2.3 years. For rape, it's 80.5 days. For robbery, it's 27 days. For aggravated assault, just a little over 13 days, and for burglary it's 5.4 days.

Now, obviously those that are caught serve much more time than that. But that's taking the average time that people serve, and then multiplying that by a factor of what their chances are of being caught. Now as I say, I don't think that criminals figure those things out exactly, but they do have a pretty general idea. And for that reason, many of them, feel that crime does pay.

The important thing is, as was mentioned earlier in the opening remarks, today we have a situation where criminals are spending actually very little time in prison. We have a revolving door situation where the same people are coming back to prison, spending a little time, then going out to commit more crimes. And then most of them are coming back to prison at one time or another.

It seems to me that there's several things that we need to do, and while I could go into the analysis even more, I think it's perhaps important that we talk about what are the changes that have to be made. Let me just say this, however: We did have a period of time during the last 30 years when crime began to go down, and that was at the beginning of the 1980s. By that time, citizens had had enough of the old lenient philosophy and by the last half of the 1970s, into the early eighties, judges

were sentencing more people to prison for serious crimes...particularly violent felonies...and they were sentencing them for longer periods of time. And so from about 1981 through 1985, crime actually went down in the United States...the first time that had happened, since World War II.

But what happened by 1985 was that the prisons were full, overcrowded...and so it was at that point, if you look at the statistics, that people started being let out much earlier and not completing their full sentence.

Indeed, today the facts are that the average sentence for a felony in the United States is four years, but the average time served is about 13 months. And that's just the average for all felonies. That's everything from car theft on one end up to murder on the other end. But the amount of time that people are actually serving is only about a quarter of that, and most of that is because of a lack of prison capacity.

The other thing that I think we have to recognize is that even though in 1990 the crime rate in the United States was lower than it was in 1980, there were two significant differences in 1990 over 1980.

One was the tremendous amount of violence, and while property crimes in general were down or plateauing, violent crimes were considerably greater. Secondly, that drugs, particularly crack, was an increasing problem in the inner city.

The drug problem is kind of interesting. Up until 1981 or '82, most of the emphasis, what emphasis there was, on a national scale, was on law enforcement. In 1982, there was a comprehensive national strategy which included prevention, education, treatment and rehabilitation, along with strong law enforcement and strong international action.

And from 1982, that period when this strategy was implemented, up until the present time, we had a 50 percent decrease in drug use in the United States. Most of the decrease in drug use was due to the preventive activities in schools and drug-free workplace programs in business and industry. And so we have approximately half as many people today using drugs as we did at the beginning of the 1980s.

The drug problem, however, is starting to turn up again, particularly in high school and junior high school aged students. The reason is because we have this problem

in the United States that when something's no longer getting a lot of attention, people start to forget about it. And so the preventive efforts in schools and businesses are perhaps not as diligent as they have been in the past. We have to be very wary that we don't get another major drug problem in our schools.

However, the thing that has happened is that among those people who commit most of the crimes in the inner cities, both small crimes and major crimes, drug use has actually intensified. Because with half the market lessened, drugs have been relatively available in the inner cities. The price has been cheap because you don't have the demand that you had before. In addition to that, you have had crack introduced, which in my opinion was a cynical economic marketing act by the drug purveyors, who could no longer sell hundred dollar lines of cocaine to relatively affluent people. So now they manufacture cocaine in crystalline form, so they could sell \$5, \$10 and \$20 rocks of cocaine to less affluent people in their communities.

So we have these things facing us today: a continuing problem with crack, an increase of drug use in the inner city, a revolving door situation as far as prisons are concerned, and a tremendous increase in violence.

There were two interesting comments that I noted yesterday in the paper. One was that there's been a 61 percent increase during the 1980s...61 percent increase...in shootings committed by Americans 15 to 19 years of age. That's junior high and high school aged kids. For example, in our nation's capital, in Washington, D.C., the children and teenagers treated for knife and gunshot wounds in the last seven years has increased 1,740 percent. In some inner cities like Washington, D.C., New York, Los Angeles and other places, we literally have a war going on. What we have is a juvenile army out there, with the latest figures indicating that 270,000 children carry guns to school each day.

Now, 270,000 children...it's hard to put that into any kind of context, but for comparison that's half the projected size of the United States Army by the year 1995. The number of kids going to school carrying weapons today, is half the size of what the Army is going to be in 1995. What do we do about it?

The first thing is we've got to be realistic about sentencing. We have got to change sentencing and recognize that only if we're able to put people in prison for

violent crimes, or for repetitive crimes, that we will start to get them off the street. Many people say that we're spending more for prisons than we do for education in our state. That may be true, but let me say this: Prisons are more effective in the job they're set up to do than the educational establishment is with the job it is charged with.

We know that while people are in prison, they're not committing crimes against citizens on the street and in their homes. And I can't say that education is equally effective in teaching people to read and write under some of the conditions in some states today.

Now, obviously we need to support both. I think one of the mistakes we often make is that people will say, well, we've got to do this instead of that, or we can't put money into prisons...because we have to give it to education. We need to do both. And I know probably all of you face these tremendous dilemmas at home in terms of trying to squeeze all the requirements into the revenues that are available. But I think it is important.

The other thing that we need to do is decide who belongs in prison, as was stated earlier by Representative Alwin. Earlier he mentioned that some people shouldn't be there. How do you know when a person belongs in prison?

Well, it's tough. It's not always possible to tell on their first time through. But you sure know when they've been to prison and gotten out and committed a new felony, and come back a second time and gotten out and committed a third felony. About the third or fourth time around, they have self-selected themselves as a candidate for a long time in prison. And I think when that happens, we ought to say this person is going to go to prison for, if not the rest of their life, at least until they get to that period where statistically we know they kind of burn out as far as crime is concerned. Maybe they can't jump the fences anymore, running ahead of the police or whatever it is, but we know statistically that by the time a person gets to about 50 years of age, they're not as likely to commit crimes anymore. I hope it isn't true that in prison they learn to read and write, so that the robber becomes a forger when he gets out about that age. But in any event we do know that if a person after the third or fourth time around is kept in prison, we know that that individual who has the capability of committing anywhere from two dozen to 150 crimes per year is going to be out of reach where he or she can no longer prey on society.



The second thing we've got to do is we've got to have society keep its promises. We have to keep our promises to the citizens of our country and also to the criminals.

One of the things we do when a person is put on probation, is that the judge very sternly lectures him or her and says, "I'm putting you on three years' probation. I'm suspending two years in prison. Now if you get caught committing a crime or violating your probation during this three-year period, you're going to go to prison." Well, actually the judge knows, and the criminal knows, that that's probably not true. When that individual does commit a new crime, a new robbery, a new burglary, they're going to come back maybe in front of the same judge, or in front of another judge who sees the record, and what that judge is going to do. If he sentences him to prison the second time at all, he's going to make it concurrent with the sentence that was suspended for the first crime. In effect, the person on probation gets a free crime.

We have got to start living up to our promises and when an individual violates their probation, they go to jail or prison for the length of the term of the first crime, and on top of that serve whatever the sentence is for the second crime, so that we don't give away crimes as a condition of probation.

Thirdly, we have to recognize that what I've been talking about...being realistic in keeping promises...has serious implications for the criminal justice system, particularly corrections. And it's important that we look at the whole criminal justice system.

Yesterday President Clinton announced federal funding to support putting up to a hundred thousand new police officers on the street. I think perhaps there's a good deal that can be done along that line. Actually, the money he talked about will barely support 60,000 officers on the street, but at least it's a start, and it's going to take time to work through this. And there were a lot of other proposals, too, many of them which are good.

But the thing that was forgotten is you can't just look at that stage of the criminal justice system. We have today, in cities and counties on the streets of our nation, just under 500,000 police officers. Now if we add, let's say, somewhere between 60 and a hundred thousand new officers, we're making a dramatic increase in the number of officers on the street. Particularly if these are added to the street patrol forces, because a good third,

at least, of those other officers are working on specialized details or administrative duties.

Now, unless we have the courts, the judges, and ultimately the correctional facilities, to accommodate the arrests made by those officers, they really will not be adding to our ability to stop crime and to be a credible deterrent to the criminal.

In a bill that was introduced last week, by Senator Dole and several other members of the Senate, is a provision that does recognize the flow-through of the criminal when you add new police officers. This bill not only provides for new police officers, but also provides for matching grants to states for prison construction, as well as the building of some regional prisons which can be used for both federal and state prisoners. Now I think this is a much more realistic approach to solving these problems, because the bill that looks at the whole system.

We also have to recognize that we have to look at more cost effective ways to build additional prisons as they are necessary, so that we can accommodate people for longer periods of time. I don't think we have to go on building prisons forever. You know, there's some people in the ACLU and elsewhere who say if you keep building prisons at the rate that we did during the 1980s, by the year 2050 every other person in the United States will be in prison.

Well, let's be realistic. I don't think any of us believes that's true. I think there will be a point at which we don't have to build any more prisons because we'll have the people who need to be in prison there.

We have, at the present time, a little over 800,000 people out of a population of 252 million who are in prison. Of the three million people total, or less than one and a half percent of the population, who are under correctional custody, only a quarter of those people, about 26 percent, are actually in prison; the rest are on parole or on probation.

So it seems to me that adding additional prison capacity for a short period of time, and making sure the people who belong there stay there, is going to be a very good investment in the long run. However, it will not be the horrendous continuation of the building boom of prisons during the eighties, which was in large part because no prisons were built between 1950 and the late 1970s, due to the move away from incarceration.

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There are other things we need to do, and I'll just  
mention them very quickly:

We need drug testing at all stages of the criminal justice  
process...for bail, for probation, while in prison, while  
in jail, while on parole...because we know that people  
commit four to six times as many crimes when they're  
using drugs compared to when they are not.

We need to put the heat on the federal government to  
do more on the illegal alien problem. I know the states  
in the Southwest particularly are aware of that, and  
that's a whole topic in itself.

We need to take another look at how our prisons are  
managed, and whether they are being effectively man-  
aged, and whether they are places that deter criminals.  
And this means perhaps looking at whether the discipl-  
ine that is necessary for these people to comport their  
lives within the law is being exercised while they're in  
prison.

And finally, I think citizens need to be educated to the  
fact that today we're only spending three percent of our  
total tax dollars on the justice system, including the  
police courts, prisons, and the civil justice system as  
well. If people agree with us that protecting the public  
from those who would prey on them is a vital part of  
defense, then just as we've been willing to make  
sacrifices for our external defense, we need to make a  
serious investment in our defense at home. At a time  
when we are able to reduce spending on the military  
because we've been successful at fighting and winning  
the cold war, shouldn't we consider using part, or all of  
these savings, for fighting crime at home? Just going  
from three percent to four percent of our total tax  
dollars would give us tremendous resources to build  
prisons, add police officers and enough courts and  
judges so that, once again, society would be able to tell  
the criminal that when you commit an offense against  
our people, you're going to pay the cost. And the cost  
will be considerably greater than it is at the present  
time.



*Edwin Meese III currently holds the Ronald Reagan  
Chair in Public Policy at the Heritage Foundation, and  
is also a Distinguished Visiting Fellow at the Hoover  
Institution. Mr. Meese served as U.S. Attorney Gen-  
eral from 1985-88, and as Counsellor to the President  
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