

HB 9
OPPOSITION
(FILE 4)

Resolution Adopted by the CCAR

Capital Punishment

**Adopted by the CCAR at the 90th Annual Convention of
the Central Conference of American Rabbis
Phoenix, Arizona, March 26-29, 1979**

In 1958 and again in 1960, the Central Conference of American Rabbis stated its opposition to all forms of capital punishment.

We reaffirm that position now. Nothing which we have observed during the intervening years has shaken our convictions that:

a. Both in concept and in practice, Jewish tradition found capital punishment repugnant, despite Biblical sanctions for it. For the past 2,000 years, with the rarest of exceptions, Jewish courts have refused to punish criminals by depriving them of their lives.

b. No evidence has been marshaled to indicate with any persuasiveness that capital punishment serves as a deterrent to crime.

c. We oppose capital punishment under all circumstances.



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For questions or comments about this site email the webmaster:
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From: Rabbi Michael Oblath 2/19/09



February 24, 2009

AMERICAN CIVIL
LIBERTIES UNION OF
ALASKA
P. O. Box 201844
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The Honorable Jay Ramras
Chair, House Judiciary Committee
Alaska State House of Representatives
State Capitol, Room 118
Juneau, AK 99801-1182

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

Re: Opposition to HB 9

Dear Chairman Ramras:

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

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

Capital Punishment Denies Civil Liberties

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

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

Unequal justice is no justice at all.

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

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

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

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

Many Factually Innocent Persons Have Been Sentenced to Death

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

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

Eyewitness error - from confusion or faulty memory;

Government misconduct - by both the police and the prosecution;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Capital Punishment Has No Deterrent Effect

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,



Jeffrey Mittman
Executive Director

cc: House Judiciary Committee

Vice Chair Dahlstrom, via email: [Representative Nancy Dahlstrom@legis.state.ak.us](mailto:Representative_Nancy_Dahlstrom@legis.state.ak.us)
Representative Coghill, via email: [Representative John Coghill@legis.state.ak.us](mailto:Representative_John_Coghill@legis.state.ak.us)
Representative Gatto, via email: [Representative Carl Gatto@legis.state.ak.us](mailto:Representative_Carl_Gatto@legis.state.ak.us)
Representative Lynn, via email: [Representative Bob Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us)
Representative Gruenberg, via email: [Representative Max Gruenberg@legis.state.ak.us](mailto:Representative_Max_Gruenberg@legis.state.ak.us)
Representative Holmes, via email: [Representative Lindsey Holmes@legis.state.ak.us](mailto:Representative_Lindsey_Holmes@legis.state.ak.us)

**Catholic Bishop of Northern Alaska
1316 Peger Road
Fairbanks, AK 99709
(907) 374-9500**

11 March 2009

The Honorable Jay Ramras, Chair
House Judiciary Committee
State Capitol
Juneau, Alaska 99811

Dear Representative Ramras:

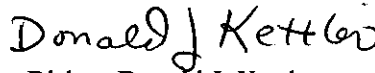
As you know, the Catholic Church staunchly defends life: the seamless fabric of life that extends from those still in the womb to those facing their final moments on this earth. As Catholics we believe the taking of life is permissible only in the most extraordinary circumstances in order to prevent the taking of other life. That is why I am distressed at the legislation you co-sponsored, House Bill 9, authorizing capital punishment.

As Archbishop Roger Schwietz has already expressed to you, there are compelling arguments against capital punishment: it is ineffective in deterring violent crime; it falls most heavily on those who are already the most disenfranchised in our society, the poor and those of color; and the evidence sending the convicted to their deaths is too often flawed. For all these reasons capital punishment is not only unjust, it also undermines the dignity of life in our society and our sense of self-worth. Finally, polling data suggests the majority of Alaskans oppose the death penalty.

Thus, I urge you and your legislative colleagues to withdraw your support for HB 9, an unjust, ineffective and potentially unpopular piece of legislation. Rather, I urge you to turn your attention to those pieces of legislation that will increase justice, fairness and the common good.

Thank you for your time and attention.

In His service.


Bishop Donald J. Kettler

cc: Members of House Judiciary
Rep. Scott Kawasaki
Rep. David Guttenburg
Rep. Mike Kelly

COVER SHEET

FAX to: REP. HOLMES

18 pages to follow

907 465-7777

From: Mary Beth Koster
Letters for Justice
Holy Family Cathedral
Anchorage, AK
99501

RE: HB 9

The following letter(s)
were written by church
members in February.
Please work to see
that the Death Penalty
does NOT return to Alaska.

COVER SHEET

FAX to:

Rep. JAY RAMAS

(907) 465-2070

17 pages to
be filed

From: Mary Beth Koster
Letters for Justice
Holy Family Cathedral
Anchorage, AK
99501

RE: HB 9

The following letter(s)
were written by church
members in February.
Please work to see
that the Death Penalty
does NOT return to Alaska.

letter re: opposition

Sunday, February 8, 2009 10:09 AM

From: "SManf10089@aol.com" <SManf10089@aol.com>

To: marybethkoster@yahoo.com

Cc: SManf10089@aol.com

To Whom It May Concern:

I am writing to express my opposition to the Death Penalty being reinstated in Alaska.
In reality, it makes no difference in the statistics.
It may make some people feel better.
It costs more money to impose the death penalty than to incarcerate the person.

I also believe we do not do enough to help with prevention of violence, or giving people hope and the tools to help others and themselves. I see many triggers that perpetuate the dangers to the unborn, the general population, and the elderly. Let's put our money into the following to help these populations:

More money for police and health care practitioners as well as:

- decent wages and jobs
- health care
- homes with necessary support
- treatment for mental illness at community level
- reliable treatment, counseling and meds for those wanting to get off drugs and alcohol
- more reasonable rates for child birth assistance and day care.

Thank you! Again, I oppose the imposition of the death penalty.

Sandra Manfred
1503 Elmendorf Drive
Anchorage, Alaska
907 353-1926

Feb. 8th 2009

**Holy Family Cathedral
Letters for Justice
Statement in Opposition to the Death Penalty**

We, the undersigned, are called to voice our opposition to House Bill 9, which calls for reinstatement of the death penalty.

We object to the death penalty for the following reasons:

- Catholic teaching, as expressed in the *Catechism of the Catholic Church* and other statements of the Vatican and the bishops, makes clear that the use of the death penalty cannot be justified when the state has other ways to protect society.
- We have other ways to punish criminals and protect society.
- The death penalty in our land is deeply flawed. More than 115 people on death row have been exonerated. The death penalty is unfairly applied due to many factors, including where a crime is committed, the race of the victim and offender, and the quality and costs of defense.
- The death penalty diminishes all of us. Its use ought to be abandoned not only for what it does to those who are executed, but what it does to us as a society. We cannot teach respect for life by taking life. The sanction of death, when it is not necessary to protect society, violates respect for human life and dignity.
- The cost of the death penalty are significantly greater than imprisoning convicts for life.

We oppose the death penalty and do not want to see it reinstated in Alaska. We welcome your response and urge you to oppose any legislation calling for the use of capital punishment. Thank you.

Holy Family Cathedral Members

Name	Address
Kay F. Hapowski	1805 Juniper Dr Anchorage AK 99501
Carol Bridges	3541 Heartwood Pl. Anch. AK 99504
Leone M. GARRETT	3761 WINTERSET DR 99508
Mary E. Mills	4100 Balcher Dr 99517
Greta Bidwell	3301 Purdue St Anch AK 99508
MANUEL LOPEZ Manuel Lopez	12871 JOHN'S ROAD ANCH 99515
Katherine R. Lopez	12871 John Road Anchorage 99515-3708

Dominic D. Maio 811 W. 6th Ave. Anchorage, AK 99501
 Mary Jane Herrick 2938 Princeton Parkway AK 99507
 Joseph P. SWAN 3515 LANESHIRE DRIVE ANCHORAGE AK 99517
 Scott D. Keller Scott 1746 811 W 6th Ave. Anchorage AK 99501
 Maurice Johnson Maura 124 E. 23rd Anchorage AK 99528
 Matt Johnson 124 E. 23rd Anchorage AK 99503

Holy Family Cathedral
Letters for Justice
Statement in Opposition to the Death Penalty

We, the undersigned, are called to voice our opposition to House Bill 9, which calls for reinstatement of the death penalty.

We object to the death penalty for the following reasons:

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- We have other ways to punish criminals and protect society.
- The death penalty in our land is deeply flawed. More than 15 people on death row have been exonerated. The death penalty is unfairly applied due to many factors, including where a crime is committed, the race of the victim and offender, and the quality and costs of defense.
- The death penalty diminishes all of us. Its use ought to be abandoned not only for what it does to those who are executed, but what it does to us as a society. We cannot teach respect for life by taking life. The sanction of death, when it is not necessary to protect society, violates respect for human life and dignity.
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We oppose the death penalty and do not want to see it reinstated in Alaska. We welcome your response and urge you to oppose any legislation calling for the use of capital punishment. Thank you.

Holy Family Cathedral Members

Name	Address
Glen Nielson	2830 Wadys Way, 99517
Matt Abbey	2902 Leighton St 99517
Rita Friedrichs	744 F Quosida Ave EAFB 99506
Mary Kim	10260 Jamestown Dr #22 99507
David A. Talbot	7813 Baymar 99518
TIMOTHY WALSH	PO BOX 91234 ANCH. AK 99509
THERESA L. LUTES	1335 W. 12th Ave ANCH, AK 99501

G

Guadalupe Ortega 1210 Thuja Ave Anchorage, AK 99501
 Lynne R. Alton - P.O. Box 190436, Anchorage AK 99519-0436
 William A. Callahan 580 L FOS - Anch. 99501
 Marie Angela Diaz 3424 E. 15th Ave. Anchorage 99508
 Larus Benson 364 E 23rd Anchorage 99503
 David Van Tuyl 460 E. 56th #4 Anchorage 99518
 Njane Svedsky 19950 Driftwood Bay Dr Eagle River 99577
 Guadalupe Ortega 1210 THUJA AVE AK 99507
 Maria De Soto PO Box 102247 Anch AK 99510
 Bernina M. 414 E. 23rd Anch. AK 99502
 Francisco J. Castro 1036 E 9th Ave Anchorage AK 99501
 Victoria Castro 1036 E 9th Ave Anchorage AK 99501

Feb 8, 2009

Dear Governor Palin,

Just a quick note asking
you to stand firm on appealing
the death penalty.

Sincerely

Mary Jane Hennekeon

February 8th, 2009

To Senator French

As a constituent of your, living in Anchorage, Alaska, I write to you to express my opposition to the death penalty.

- Pope John Paul II and the bishops have clearly asked us to act to end the use of the death penalty.

- Catholic teaching, as expressed in the *Catechism of the Catholic Church* and other statements of the Vatican and the bishops, makes clear that the use of the death penalty cannot be justified when the state has other ways to protect society.

- The death penalty in our land is deeply flawed. More than 115 people on death row have been exonerated. The death penalty is unfairly applied due to many factors, including where a crime is committed, the race of the victim and offender, and the quality and costs of defense.

- The death penalty diminishes all of us. Its use ought to be abandoned not only for what it does to those who are executed, but what it does to us as a society.

- We cannot teach respect for life by taking life.

I urge you to oppose any legislation that would call for the death penalty to be reinstated in Alaska. I welcome your response.

Sincerely,

Mary Ed Miller
2100 J. Balchen Dr.
Anchorage AK 99517

Mr Gara,

Feb 8, 2009

I was unable to attend the
Bartlett. but meeting. However, but
I understand that a state defense
atty. gave a wonderful talk against
the death penalty.

Also, belief in the Catholic
faith of which I am a member is
against the death penalty.

I hope that when this issue
comes up that you will vote against
it

Sincerely
Mary Jane Konricken

To Lee Hall, February 8, 2009

I oppose the death penalty. It is expensive, unfair to race, class, gender and age not prevent crime.

Let us not allow the death penalty to bleed its ugly face on the state of Alaska. Defend House Bill 9

Sincerely,
Kay Gajewski (KAY GAJEWSKI)
1805 Juneau Dr
Anchorage, AK 99501

February 8th, 2009

To Les Gara

As a constituent of your, living in Anchorage, Alaska, I write to you to express my opposition to the death penalty.

- Pope John Paul II and the bishops have clearly asked us to act to end the use of the death penalty.

- Catholic teaching, as expressed in the *Catechism of the Catholic Church* and other statements of the Vatican and the bishops, makes clear that the use of the death penalty cannot be justified when the state has other ways to protect society.

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- The death penalty diminishes all of us. Its use ought to be abandoned not only for what it does to those who are executed, but what it does to us as a society.

- We cannot teach respect for life by taking life.

I urge you to oppose any legislation that would call for the death penalty to be reinstated in Alaska. I welcome your response.

Sincerely,

Matt & Maureen Johnson
124 E. 23rd Ave.
Anchorage, AK 99503

February 8th, 2009

To Les Gara

As a constituent of your, living in Anchorage, Alaska, I write to you to express my opposition to the death penalty.

- Pope John Paul II and the bishops have clearly asked us to act to end the use of the death penalty.

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- The death penalty diminishes all of us. Its use ought to be abandoned not only for what it does to those who are executed, but what it does to us as a society.

- We cannot teach respect for life by taking life.

I urge you to oppose any legislation that would call for the death penalty to be reinstated in Alaska. I welcome your response.

Sincerely, Maureen Johnson
124 E 23rd Ave
Anch. AK 99503

February 8th, 2009

To Johnny Ellis

As a constituent of yours, living in Anchorage, Alaska, I write to you to express my opposition to the death penalty.

- Pope John Paul II and the bishops have clearly asked us to act to end the use of the death penalty.

- Catholic teaching, as expressed in the *Catechism of the Catholic Church* and other statements of the Vatican and the bishops, makes clear that the use of the death penalty cannot be justified when the state has other ways to protect society.

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- We cannot teach respect for life by taking life.

I urge you to oppose any legislation that would call for the death penalty to be reinstated in Alaska. I welcome your response.

Sincerely,

Maureen Johnson
124 E. 23rd Ave.
Anch. Ak 99503

216109

Dear Senator Elliot

I am writing to you as a constituent and supporter urging you to vote against HB 9 for the following reasons:

Studies have shown that the death penalty does not deter people from committing murders.

States that have the death penalty have found it very expensive to administer in terms of the expense of appeals and subsequent investigations.

Mistakes are made, and innocent people ~~are~~ ^{have been} released from death row.

The administration of the death penalty necessarily discriminates based on race and socioeconomic factors. Minorities, especially those that kill whites, are much more likely to find themselves on death row. Rich clients can present themselves more sympathetically and hire attorneys that can dedicate themselves wholly to the defendant's defense.

As a Catholic, I believe life is ~~most~~ precious, and the state should not institute a penalty that makes the taking of life appear justified. ~~The~~ The penalty says it's alright to kill if done righteously - a dangerous message to send.

Also, as a Catholic, I believe that everyone, no matter how debased they are currently, can eventually come to regret their actions and feel contrition. They should be given that opportunity.

Feb. 9,
Dear Mr. Ellis,

We, as a group at Holy Family church are writing to Governor in hopes that the death penalty will not be used in Alaska.

Not only am I against it from a religious standpoint but from the financial point as I understand the cost of life imprisonment is much less than death penalty.

I hope you will heed our plea.

Sincerely
Mary Jane Durickson

10/2

2/6/09

Dear Representative Gardner,

I am writing to you as a constituent and supporter urging you to vote against HB 9, the bill that seeks to reinstitute the death penalty in Alaska.

There are many practical reasons why the death penalty should not be reinstated. It hasn't been shown to be a deterrent, especially in its current form in the United States, where the execution is done in secret, away from public eyes. Studies have found that it cost more to administer the death penalty constitutionally given the greater expense with the trial, the appeal, and subsequent investigation. The death penalty almost can't help but be administered in a way that discriminates based on racial and socio-economic grounds. The rich can afford better attorneys, can often prevent themselves better, and a jury of community members will more easily identify (and not seek the death penalty for) with people like them - people of the same race. Finally, if done in a rapid and public way, the risk of making a tragic mistake increases, and frequent executions desensitize the public to the awfulness of taking a human life, even if the taking is sanctioned by the state.

I oppose the death penalty as a Catholic for more than just practical reasons. I believe in the sanctity of life. I believe a human being, even one deluded enough to commit murder, can obtain an eventual redemption before the eyes of God. I am not claiming that a murderer can be rehabilitated, or that the law should go easy on them. I think a murderer should contemplate what they've done, and privately come to ask for forgiveness. ~~So~~

2 of 2

Sorry for the length of the letter but I
care about this issue.

Please oppose HB9.

Greg Bishell
3301 Gordon St.

February 8th, 2009

To Senator Leslie McQueen,

As a constituent of your ^{District 28} living in Anchorage, Alaska, I write to you to express my opposition to the death penalty.

- Pope John Paul II and the bishops have clearly asked us to act to end the use of the death penalty.

- Catholic teaching, as expressed in the *Catechism of the Catholic Church* and other statements of the Vatican and the bishops, makes clear that the use of the death penalty cannot be justified when the state has other ways to protect society.

- The death penalty in our land is deeply flawed. More than 15 people on death row have been exonerated. The death penalty is unfairly applied due to many factors, including where a crime is committed, the race of the victim and offender, and the quality and costs of defense.

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- We cannot teach respect for life by taking life.

I urge you to oppose any legislation that would call for the death penalty to be reinstated in Alaska. I welcome your response.

Sincerely,

Lorraine R. Lopez
12871 JOHNS ROAD
99515-3708

Testimony on House Bill 9
25 February 2009

Chairman Ramras and members of the Judiciary Committee:

Good afternoon. My name is Charles Rohrbacher and I am a deacon of the Roman Catholic diocese of Juneau. As a Catholic I am pro-life and I believe that as a society we have a duty to protect human life from conception to natural death. In keeping with the Church's magisterial teaching, as a matter of faith and of principle I am opposed to capital punishment in every circumstance.

But I have come to speak to you this afternoon about my personal experience with the death penalty. In 1977 as a journalist, I became involved in the case of a young Korean immigrant named Chol Soo Lee. He had been wrongfully convicted of a 1973 gang slaying in San Francisco and while in prison was attacked by another inmate and in self-defense killed his attacker. But having been convicted as a gang killer already, his plea of self defense was brushed aside and in short order he was convicted and sentenced to death.

As a journalist I helped in the investigation into the circumstances of the first degree murder conviction that landed Chol Soo Lee in prison in the first place. We discovered that he had been convicted on the basis of being identified as the murderer by white tourists who had witnessed the crime from a distance. He barely spoke English, his public defender got a change of venue and then pulled out of the case two weeks before trial and he was defended by a pro bono attorney appointed by the court at the last minute. In addition, there was a tremendous amount of pressure from the public and from political officials to get a conviction.

Years later it was discovered that police and prosecutors had suppressed important, exculpatory evidence: they failed to inform his defense attorney that the police had statements from other witnesses to the crime who had told police that he wasn't the gunman or who identified an entirely different person as the killer.

In 1982 after eight years of solitary confinement on San Quentin's Death Row, Chol Soo Lee was granted a new trial and was completely exonerated and released from San Quentin's Death Row.

My involvement in the struggle to save this innocent young man from execution taught me this: that human beings are inherently fallible. Human beings can be relied on to make mistakes from time to time. They can be relied on to get things wrong, and even, to act carelessly and at times, unjustly. Our institutions, including our judicial system, are human institutions and are therefore fallible.

Ordinarily, when our courts make mistakes, which are inevitable, it is possible to rectify the wrong done and restore a wrongfully convicted person's liberty to them.

But the death penalty is irrevocable. It is beyond the powers of limited and fallible human beings to bring a wrongfully executed person back from the dead. And because of the fallibility of human beings and of human institutions, one thing is certain: innocent men and women have and will be condemned to death, and have and will be executed.

The possibility, even the probability, that, despite whatever safeguards may be in place, that innocent persons will die at the hands of the state, should deter us from restoring the death penalty in the state of Alaska.

For this reason I urge you to vote against House Bill 9.

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The Gospel of Life and the Sentence of Death: Catholic Teaching on Capital Punishment

By Rev. Augustine Judd, O.P.

Many Catholics find the Church's teaching on capital punishment confusing. While Christian faith affirms the sanctity of human life, the Church also affirms the legitimacy of executing a duly convicted criminal in particular circumstances. To eliminate this confusion, two distinct but related questions need to be considered: 1) Does society have the right to put a criminal to death for a heinous crime? If so, 2) Do today's circumstances justify the exercise of this right?

The Public Debate

Certainly, recent developments have prompted public officials to reconsider these two issues. For example, last year the State of Illinois released Anthony Porter after more than fifteen years on death row and officially reversed his conviction. Another man had confessed on videotape and was charged with the double murder for which Porter had been convicted and sentenced to die.

On one level, extraordinary circumstances mark Porter's case. In 1998 Porter came within two days of his execution before the court spared him on the grounds it wanted to examine his mental capacity. Porter has an IQ of fifty-one. Nor was the new case for his innocence uncovered in the usual manner. It did not come through the work of attorneys, but through the efforts of an independent investigator collaborating closely with a professor at Northwestern University and his journalism students. In the course of their investigation, they found a witness at the trial who had been pressured by police to testify against Porter.

On another level, Porter's case is not extraordinary at all. Too frequently the administration of justice comes dangerously close to what Illinois governor George Ryan calls "the ultimate nightmare, the state's taking an innocent life." According to the Death Penalty Information Center, since 1973 almost ninety people have been freed from death row after the discovery of exculpatory evidence.

For this reason, public officials in jurisdictions supporting capital punishment have begun recently to question whether it can ever fairly be put into practice. On January 31, 2000, Governor Ryan--a death penalty proponent--inaugurated a moratorium on Illinois executions for an indefinite period. His move was prompted by the exoneration of thirteen Illinois death row inmates since 1977--one more than the number actually executed in that state.

Others have followed Ryan's lead. Although the governor vetoed it, the Nebraska legislature passed a moratorium bill last year. At the time this article was being written, the New Hampshire House of Representatives passed a bill abolishing the death penalty and sent it on to the state Senate for further consideration.

At the national level, doubts about the death penalty have spurred legislative efforts. Sen. Patrick Leahy of Vermont has introduced a bill to preserve biological evidence in capital cases for later testing while making that testing more accessible. It would also establish defense counsel competency requirements, inform juries of alternative sentencing options, and limit the federal government's seeking the death penalty in non-death penalty states. In the House of Representatives, Rep. Jesse Jackson Jr. of Illinois has introduced a bill requiring a minimum seven-year moratorium on all executions. Its purpose is to allow all death row inmates the opportunity to explore potentially exculpatory evidence. The executive branch has been involved in this issue as well. Many have recently called upon President Clinton to suspend federal executions, while the Justice Department has announced it will conduct an internal study on whether bias exists in applying for capital sentences.

The changed attitude about the death penalty among public officials seems to mirror a change in the general population. A recent Gallup poll showed support for the death penalty at its lowest level in nineteen years. At sixty-six percent, it represents a drop of fourteen percentage points in six years. Moreover, only fifty-two percent support the death penalty if there is an existing law allowing life without parole. Ninety-one percent

(an eleven percent rise from the previous year) said they believed innocent people have been sentenced to death.

Other factors have raised questions about how fairly the death penalty can be applied. Racial bias is one of them. Since the federal death penalty was reinstated, seventy-six percent of those sentenced to death in federal court have been members of minority groups. In the cases where the Attorney General has authorized the government to seek the death penalty, twenty-four percent of the defendants have been white, nineteen percent Hispanic, five percent Asian/Indian, and fifty-two percent African American. At present, seventy-four percent of the nineteen inmates under active federal death sentences are non-white. Of the 127 homicides for which ninety-eight convicts were executed in 1999, 104 were committed against whites, while only twenty-three were committed against African Americans, Hispanics, and Asians.

Another factor has been the growing importance of DNA testing. DNA evidence is responsible for reversing at least eight capital convictions over the last twenty-five years. Of the thirteen Illinois inmates freed from death row, five were freed on these grounds. Unfortunately, DNA testing is difficult to attain even in non-capital cases. Clyde Charles, for example, was freed from a Louisiana prison in 1999, after eighteen years for a rape conviction, when DNA testing proved his innocence. His attorneys and family requested this testing as early as 1989, but were blocked by the state for nine years.

Inadequate representation is a final element casting doubt on the fairness of the death penalty's application. Defendants charged with capital crimes often cannot afford expert counsel and must rely on overworked public defenders or inexperienced, low-paid, court-appointed attorneys. *The Chicago Tribune* found in a study that attorneys who were later disbarred or suspended represented thirty-three men convicted of capital crimes in Illinois. The lawyer for Betty Lou Beets, a grandmother recently executed in Texas for killing a physically abusive husband, was himself later convicted of a felony.

The Church Asks: Can We?

The Church has also asked whether society may take the life of the guilty. In answering, the Church has always turned first to what God reveals to us in Sacred Scripture and Tradition. Yet Scripture alone is not conclusive on the matter. In the Old Testament, the first murderer's punishment is not death. God cursed and banished Cain for slaying Abel, but also threatened a sevenfold vengeance on anyone who harmed him (Gen 4:15). However, when Noah leaves the Ark, the Lord blesses him and says to him: "Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his own image." (Gen 9:6).

When God gives Moses the Ten Commandments, the prohibition against killing is not absolute. The ordinances given to Moses in conjunction with the commandments prescribe death for murderers and others. Despite this, God occasionally calls for restraint and mercy. As He says to Ezekiel: "I have no pleasure in the death of the wicked, but that the wicked turn back from his ways and live" (Ez 33:11).

Like the Old Testament, the New Testament is not conclusive about capital punishment. On one hand, Jesus certainly stresses the need to be merciful. Consider the parable of the wheat and the tares (Mt 13:24-30). In this parable, the wheat and the tares represent the righteous and the evildoers. Both are allowed to coexist. Unrepentant evildoers will be punished only at the end of time. The point is that ultimately God alone punishes grave offenders.

On the other hand, Jesus seems to tolerate the practice of capital punishment. When Pilate tells Jesus he has the power to release him or have him crucified, Jesus answers: "You would have no power over me unless it had been given you from above." (Jn 19:11) Jesus refers only to the divine basis of civil power, and does not judge the morality of capital punishment. Nor does he contradict the good thief crucified next to him: "We are receiving the due reward of our deeds...." (Lk 23:41)

St. Paul addresses the issue of capital punishment in his Letter to the Romans. He writes: "Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath on the wrongdoer." (Rom 13:3-4, emphasis added) Here St. Paul simply tolerates a ruler's authority to carry out capital punishment, without commenting on its morality. Certainly his toleration need not imply his approval.

Neither does the Church in the post-apostolic age establish a clear consensus regarding capital punishment. The views of this period range from accommodation to limited acceptance to outright prohibition of the

practice. St. Clement of Alexandria (c. 150-215) was the first Christian teacher to attempt to devise a theory accommodating capital punishment. He justified his position from the standpoint of self-defense. He suggested that one could become evil beyond any expectation for reform or "cure." In this case the evildoer may be removed by death to prevent further evildoing. He was the first to argue that an evildoer is like an infected limb that plagues the body. If it cannot be cured, the physician (the judge and executioner) must remove it to prevent the infection from harming the rest of the body (society). Others like Tertullian (c. 160-220) and Origen (c. 185-220) accepted capital punishment as a civil reality, but condemned Christian participation in it. St. John Chrysostom (349-407) and St. Augustine (354-430) recognized the Christian emperor's "power of the sword," even while they thought its application severe on occasion. Still others like Lactantius (d. 317) believed that the Fifth Commandment's prohibition against killing allowed no exceptions, even civil.

By the Middle Ages, Christians widely accepted the civil power's right to put evildoers to death. Even so, the Church was quick to condition this right. St. Thomas Aquinas (1225-1274), for example, points out that only a public authority may judge and execute a serious offender where the society's defense is at stake, and where the offender's reform is not expected. St. Thomas leaves no room for private vigilantism.

Following St. Thomas, Catholic moral theologians down to our own day continued to qualify the situations where the death penalty may be applied. Eventually, they formulated three general prerequisites:

1. *For the defense of society*, only a public authority may impose capital punishment. This condition excludes both individual and mob acts of vengeance.
2. *Capital punishment may be imposed only if it corresponds to the gravity of the crime*. In peacetime, capital punishment is chiefly reserved for the crime of murder.
3. *Capital punishment may be imposed only if the accused person's guilt is morally certain*. In normal circumstances this means the accused has the right to a fair trial and a reasonable defense.

The Church Asks: Should We?

Up to this point, we have only examined whether, according to Catholic teaching, society has the right to impose capital punishment. There is another pertinent question Catholic teaching considers, namely, "Should society exercise that right?" Those answering in the affirmative traditionally appeal to three arguments:

1. **Capital punishment as retribution.** It restores the balance of justice by inflicting punishment in exchange for the harm done to an individual and society. Opponents of this argument criticize it for being vindictive. They argue capital punishment cannot be applied in degrees. Yet a convict's culpability for a capital crime often does admit of degrees.
2. **Capital punishment as deterrence.** The threat of death discourages someone from committing heinous acts against individuals and society. Critics dispute the deterrent capability of capital punishment. They say capital punishment may even harden a criminal, who, to avoid arrest and the prospect of execution, is driven to further acts of desperation. Nor will capital punishment effectively deter murders committed "in the heat of passion," or by the mentally ill or those under the influence of drugs. Finally, critics wonder how executions performed in the presence of just a few witnesses can *publicly* deter potential wrongdoers.
3. **Capital punishment as reform.** The threat of imminent death can spur the conversion and repentance of the convicted, aptly preparing him or her for the next life. Yet, execution poignantly eliminates a converted criminal's period of earthly grace and penitence, since one's lifetime is the only period of "probation" one can enjoy.

Authoritative Catholic teaching draws upon all that has been discussed thus far. It distinguishes between society's *right* to inflict capital punishment, and the *need* to do so. While the Church does not deny the death penalty's proper legitimacy under certain conditions, she does oppose its modern *application*, given the particular circumstances of our culture.

Various national conferences of Catholic bishops have defended this teaching. The U.S. bishops have observed how the abolition of capital punishment would reaffirm the Church's teaching on "the unique worth and dignity of each human person from the moment of conception, a creature made in the image and likeness of God" (*U.S. Bishops Statement on Capital Punishment*, Nov. 1980). Along this line, the Filipino bishops have rejected the classic notion comparing a criminal execution to the removal of a diseased organ. They note that a "human being is not only a member of society as an organ is a member of a living body...". A human being has a value in himself/herself and is not...a limb or organ..." ("Restoring the Death Penalty: 'A Backward Step,'" *Catholic International*, 15-31 Oct. 1992, Vol. 3 No. 18, pp. 886-887).

The *Catechism of the Catholic Church*, published during the pontificate of Pope John Paul II, remains a definitive source of recent authoritative Catholic teaching on capital punishment. It states that the "defense of the common good requires that the unjust aggressor be rendered unable to cause harm"(CCC 2266). The Catechism is clear about what this implies: "Assuming that the guilty party's identity and responsibility have been fully determined, the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor" (CCC 2267).

Thus, the right of civil society to inflict the death penalty is affirmed. In explaining the right, however, the Catechism adds an important caveat: "If...non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means, as these are more in keeping with the concrete conditions of the common good and more in conformity with the dignity of the human person" (CCC 2267).

Papal teaching also plays a most instructive role in elaborating Catholic teaching on capital punishment. In *Evangelium Vitae*, Pope John Paul writes:

The nature and extent of the punishment must be carefully evaluated and decided upon, and ought not go to the extreme of executing the offender *except in cases of absolute necessity*. In other words, when it would not be possible otherwise to defend society. Today however, as a result of steady improvements in the organization of the penal system, *such cases are very rare if not practically nonexistent* (*Evangelium Vitae*, 56, emphasis added).

According to the Holy Father, a society's inability to protect itself by any other means is the determining factor in the decision to execute a criminal. Since our society can remove those guilty of serious offenses by means of life imprisonment, the Holy Father judges as negligible society's need to use the death penalty. Inflicting capital punishment when it is not necessary would transgress Catholic teaching. The pope's opposition to the use of the death penalty is therefore a legitimate exercise of his pastoral leadership as the Vicar of Christ on earth.

Finally, Catholic teaching on capital punishment is an opportunity to examine our own attitudes. While we must show compassion for the victims of crime and support society's legitimate and just self-defense, in Christ we are not free to direct revenge or hate toward anyone. This includes those guilty of criminal wrongdoing. To aid the new evangelization in the new millennium, we must take the words of the American bishops' 1999 *Good Friday Appeal to End the Death Penalty* to heart:

Increasing reliance on the death penalty diminishes all of us and is a sign of growing disrespect for human life. We cannot overcome crime by simply executing criminals, nor can we restore the lives of the innocent by ending the lives of those convicted of their murders. The death penalty offers the tragic illusion that we can defend life by taking life.... Through education, through advocacy, and through prayer and contemplation on the life of Jesus, we must commit ourselves to a persistent and principled witness against the death penalty, against a culture of death, and for the Gospel of Life.

What Every Catholic Should Know About the Death Penalty

Scripture and the Death Penalty

In *A Culture of Life and the Penalty of Death*, the bishops explain the scriptural roots of Catholic teaching on the death penalty. This begins with the story of creation which teaches "that every life is a precious gift from God (see Gn 2:7, 21-23). This gift must be respected and protected. We are created in God's image and redeemed by Jesus Christ, who himself was crucified."

The bishops also explain "some argue that biblical statements about 'life for life, eye for eye, tooth for tooth' (see Ex 21:23-25, Lv 24:17, Dt 19:21) require that the death penalty be used for certain crimes. A correct interpretation of these passages indicates, however, that the principal intent of such laws was to limit the retribution that could be exacted for an offense, not to require a minimum punishment. Furthermore, it is important to read individual passages in the context of Sacred Scripture as a whole. While the Old Testament includes some passages about taking the life of one who kills, the Old Testament and the

teaching of Christ in the New Testament call us to protect life, practice mercy, and reject vengeance."

From a Victim's Family...

"No one in our family ever wanted to see the killer of our brother and his wife put to death. We felt instinctively that vengeance wouldn't alleviate our grief. We wanted this murderer in prison so he could never hurt another person. But wishing he would suffer and die would only have diminished us and shriveled our own souls. Hatred doesn't heal. Every time the state kills a person, human society moves in the direction of its lowest, most base urges. We don't have to make that choice. Our lawmakers have the capacity to help us abolish the death penalty and along with it, the fantasy that it will make the pain go away."

—Mary Bosco Van Valkenburg, whose brother and sister-in-law were murdered

Catholic Teaching and the Death Penalty

Catholic teaching offers a unique perspective on crime and punishment. It begins with the recognition that the dignity of the human person applies to both victims and offenders. It affirms our commitment to comfort and support victims and their families, while acknowledging the God-given dignity of every human life, even those who do great harm.

Catholic teaching on human life is rooted in the belief

I renew the appeal I made most recently at Christmas for a consensus to end the death penalty, which is both cruel and unnecessary . . .

*Pope John Paul II,
St. Louis, Missouri, January 27, 1999*

that all life is a gift from God that must be respected and defended from conception to natural death. In his encyclical *The Gospel of Life*, the Holy Father challenges followers of Christ to be "unconditionally pro life." He reminds us that "the dignity of human life must never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself, without definitively denying criminals the chance to reform" (*Gospel of Life*, 27).

The *Catechism of the Catholic Church* explains that "the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible

way of effectively defending human lives against the unjust aggressor. If, however, non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means" (CCC, 2267). The test of whether the death penalty can be used is not the gravity of the offense, but whether it is absolutely necessary to protect society. The *Catechism* adds that today "the cases in which the execution of the offender is an absolute necessity 'are very rare, if not practically non-existent'" (CCC, 2267).

The Catholic bishops of the United States have spoken out clearly and strongly against the use of the death penalty. In 1999 they issued *A Good Friday Appeal to End the Death Penalty*. They explained their opposition to the death penalty is based on more than concern for "what it does to those guilty of horrible crimes but for what it does to all of us as a society." In 2005 they issued *A Culture of Life and the Penalty of Death*. They acknowledged that sentences such as "life in prison without parole" provide non-lethal alternatives and called for an end to the use of the death penalty in the United States, stating "it is time for our nation to abandon the illusion that we can protect life by taking life."

Ending the death penalty would be one important step away from a culture of death and toward building a culture of life.

United States Catholic Bishops, 2005 A Culture of Life and the Penalty of Death

Facts About the Death Penalty

Who Is Affected?

Approximately 3300 inmates are on death row in 35 state, military, and federal prisons. Since 1976, there have been 1138 executions in the United States, including four in 2009. But the impact of the death penalty goes well beyond those on death row. It also impacts the families of inmates, as well as the families of victims. Moreover, citizens of 36 states are implicated in the death penalty through their tax dollars.

Misspent Millions

Studies in state after state have shown that the death penalty is more costly than alternative sentences. For example, the California death penalty system costs taxpayers \$114 million per year over and above the costs of keeping convicts locked up for life (*L.A. Times*, March 6, 2005).

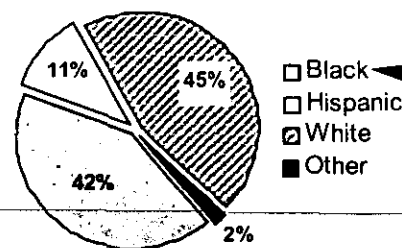
Innocent Lives in the Balance

The criminal justice system is run by human beings—and we make mistakes. At least 130 people from 26 states have been exonerated from death row after evidence of innocence was found. Rather than showing the system is working, exonerations provide evidence that our system is flawed. DNA testing cannot solve these problems. DNA evidence exists in only 10 percent of criminal cases.

Is the Justice System Just?

- Over 90 percent of those on death row across the country were too poor to afford their own attorney.
- Studies by states across the country show geography plays a role in who lives and dies. Similar murders might get death in one county, but not in one nearby.
- Over 80 percent of those executed in the United States were convicted of killing a white person, even though African-Americans are the victims in at least half of all homicides (*Death Row USA*, NAACP Legal Defense Fund).

Race of Death Row Inmates



Blacks constitute 12.9% of the US population, but 42% of death row inmates

Source: Death Penalty Information Center

What You Can Do

Pray for victims of crime and their families, those who have been wrongly convicted, and those awaiting execution.

Learn about Catholic social teaching, U.S. criminal justice policies, and the policies in your state. Go to the Web site listed below for more information about the death penalty.

Educate people in your parish or community about Catholic social teaching and the criminal justice system. Visit the Web site listed below for Vatican and U.S. bishops' statements on the death penalty, as well as statements from individual bishops and state Catholic Conferences.

Advocate by contacting your elected officials. Discuss Catholic teaching on the death penalty and what steps could be taken at the state and national level to curtail or end its use.

To receive information regarding the Catholic Church's work on the death penalty at the national level, or to link with a particular state's efforts, visit the U.S. Conference of Catholic Bishops' Web site at uscbb.org/deathpenalty.

Join the Catholic Mobilizing Network for the Catholic Campaign to End the Use of the Death Penalty to receive regular updates and information on what you can do to bring an end to the use of the death penalty in the U.S. Go to www.catholicmobilizing.org for more information.

Catholic UPDATE

C0995

An abbreviated version of

The Gospel of Life

Pope John Paul II's Pro-life Encyclical



JEAN-CLAUDE LEJEUNE

today, forcefully condemned a number of crimes and attacks against human life:

"Whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia, or willful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where people are treated as mere instruments of gain rather than as free and responsible persons; all these things and others like them are infamies indeed.

"They poison human society, and they do more harm to those who practice them than to those who suffer from the injury. Moreover, they are a supreme dishonor to the Creator."

Unfortunately, this disturbing state of affairs, far from decreasing, is expanding. With the new prospects opened up by scientific and technological progress there arise new forms of attacks on the dignity of the human being.

The end result of this is tragic. Not only is the fact of the destruction of so many human lives, still to be born or in their final stage, extremely grave and disturbing. No less grave and disturbing is the fact that conscience itself, darkened as it were by such widespread conditioning, is finding it increasingly difficult to distinguish between good and evil in what concerns the basic value of human life.

Recognize positive signs

Many initiatives of help and support for people who are weak and defenseless have sprung up and continue to spring up in the Christian community and in civil society.

THE GOSPEL OF LIFE is at the heart of Jesus' message. Lovingly received by the Church, it is to be preached as "good news" to the people of every age and culture.

This encyclical is meant to be a

pressing appeal addressed to each and every person, in the name of God: *Respect, protect, love and serve life, every human life!*

The Second Vatican Council, in a passage which retains all its relevance

that would only secure a precarious and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted"....To forgo extraordinary or disproportionate means is not the equivalent of suicide or euthanasia; it expresses acceptance of the human condition in the face of death.

Among the questions which arise is the use of various types of painkillers and sedatives for relieving the patient's pain when this involves the risk of shortening life....Pius XII affirmed that it is licit to relieve pain by narcotics, even when the result is decreased consciousness and a shortening of life, "if no other means exist, and if, in the given circumstances, this does not prevent the carrying out of other religious and moral duties."

In such a case, death is not willed or sought, even though for reasonable motives one runs the risk of it: There is simply a desire to ease pain effectively by using the analgesics which medicine provides. All the same, "it is not right to deprive the dying person of consciousness without a serious reason."

I confirm that euthanasia is a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person.

Physician-assisted suicide

To concur with the intention of another person to commit suicide and to help in carrying it out through so-called "assisted suicide" means to cooperate in, and at times to be the actual perpetrator of, an injustice which can never be excused, even if it is requested. In a remarkably relevant passage St. Augustine writes that "it is never licit to kill another: even if he should wish it, indeed if he request it, hanging between life and death...nor is it licit even when a sick person is no longer able to live."

Even when not motivated by a selfish refusal to be burdened with the life of someone who is suffering, euthanasia must be called a *false mercy*, and indeed a disturbing perversion of mercy. True compassion leads to sharing another's pain; it does not kill the person whose suffering we cannot bear. Moreover, the act of euthanasia appears all the more perverse if it is carried out by those, like

relatives, who are supposed to treat a family member with patience and love, or by those, such as doctors, who by virtue of their specific profession are supposed to care for the sick person even in the most painful terminal stages.

The choice of euthanasia becomes more serious when it takes the form of a *murder* committed by others on a person who has in no way requested it and who has never consented to it. The height of arbitrariness and injustice is reached when certain people, such as physicians or legislators, arrogate to themselves the power to decide who ought to live and who ought to die....The life of the person who is weak is put into the hands of the one who is strong; in society the sense of justice is lost, and mutual trust, the basis of every authentic interpersonal relationship, is undermined at its root.

The request which arises from the human heart in the supreme confrontation with suffering and death, especially when faced with the temptation to give up in utter desperation, is above all a request for companionship, sympathy and support in the time of trial.

Responding to unjust abortion and euthanasia laws

The value of democracy stands or falls with the values which it embodies and promotes....The basis of these values cannot be provisional and changeable majority opinions, but only the acknowledgment of an objective moral law, the natural law written in the human heart....Even in participatory systems of government, the regulation of interests often occurs to the advantage of the most powerful, since they are the ones most capable of maneuvering not only the levers of power but also the formation of consensus. Democracy easily becomes an empty word.

Laws which legitimize the direct killing of innocent human beings through abortion or euthanasia are in complete opposition to the inviolable right to life proper to every individual: they thus deny the equality of everyone before the law.

Laws which authorize and promote abortion and euthanasia are therefore radically opposed not only to the good of the individual but also to the common good: as such they are completely lack-

ing in authentic juridical validity.

Abortion and euthanasia are thus crimes which no human law can claim to legitimize. There is no obligation in conscience to obey such laws; instead there is a *grave and clear obligation to oppose them by conscientious objection*. From the very beginnings of the Church, the apostolic preaching reminded Christians of their duty to obey legitimately constituted public authorities (see Rom 13:1-7; 1 Pt 2:13-14), but at the same time it firmly warned that "we must obey God rather than men" (Acts 5:29).

Build a 'new culture of life'

On the eve of the Third Millennium, the challenge facing us is an arduous one: Only the concerted efforts of all those who believe in the value of life can prevent a setback of unforeseeable consequences for civilization.

What is urgently called for is a *general mobilization of consciences and a united ethical effort* to activate a *great campaign in support of life*. *All together, we must build a new culture of life: new, because it will be able to confront and solve today's unprecedented problems affecting human life; new, because it will be adopted with deeper and more dynamic conviction by all Christians; new, because it will be capable of bringing about a serious and courageous cultural dialogue among all parties.* ■

Editors' note: *This highly condensed version of the pope's 1995 encyclical The Gospel of Life (Evangelium Vitae) by Catholic Update is not intended as a substitute for reading the complete document but as an overview of major points. We encourage readers to study the entire document, which can be obtained at many bookstores.*

Next: The Sacrament of Confirmation
(by Carol Luebering)

To qualify for bulk rates all copies must be mailed to same address. Order by telephone 1-800-488-0488 or use address on front. Prices are subject to change.

Dana Strommen

From: Sr. Donna Kramer [dkramer@caa-ak.org]
Sent: Thursday, February 26, 2009 3:32 PM
To: Rep. Jay Ramras
Subject: CAPITAL PUNISHMENT

DEAR REPRESENTATIVE RAMRAS,

I UNDERSTAND YOUR COMMITTEE IS STUDYING HOUSE BILL #9 REGARDING THE REINSTITUTION OF CAPITAL PUNISHMENT. I WOULD LIKE TO ADD MY VOICE TO THE MANY VOICES OF THOSE WHO FIND THE TAKING OF LIFE, IN ANY MANNER (EXCEPT IN SELF-DEFENSE OR IN DEFENSE OF OUR COUNTRY) TO BE A VIOLATION OF GOD'S LAW AND THE BASIC HUMANE LAW. PEOPLE ARE NOT ANIMALS TO BE EUTHANIZED. HARDENED CRIMINALS CAN LIVE OUT A LIFE'S SENTENCE WITHOUT PAROLE AND IN THIS WAY KEEP SOCIETY SAFE FROM THEIR PREDATORY NATURE. KILLING HAS NEVER SOLVED A PROBLEM NOR BROUGHT COMFORT AND SOLACE TO THE FAMILY WHO WERE VICTIMIZED BY LOSING A LOVED ONE THROUGH VIOLENT MEANS. REVENGE IS NOT A SOLUTION BUT A CONTINUANCE OF THE VIOLENCE. I HOPE IN YOUR DELIBERATIONS YOU WILL TAKE INTO ACCOUNT AND VOTE AGAINST REINSTATING THE DEATH PENALTY.

THANK YOU.

Sister Donna Kramer, DC

Coordinator of Catholic Native Ministry

225 Cordova ST.

Anchorage, AK 99501

907-297-7777

Statement on HB 9

Amy Paige
592 Seatter Street
Juneau, Alaska 99801

February 23, 2009

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

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

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

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

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

Kenai River Quakers Minute Regarding the Proposed Alaskan Death Penalty

The society we build is a reflection of us all and is a model for our children. In this time of economic upheaval, with horrors presented as entertainment pushed at us by the media, and the newspapers headlining atrocities in other lands, it is easy to feel our fear grow. It is somewhat predictable, at this time of insecurity, that the death penalty would be put before us, yet again.

The death penalty is promoted in many ways--as fair revenge; as punishment that will deter future crime; and, as a way to protect society against the acts of violent individuals, and so make our lives safer. We have thought about each of these.

As revenge, the death penalty seems to be a shotgun approach; often the people who are hurt most are family members of the convicted or the people who must sentence and kill the convicted in our name. Also, the inequality between rich and poor, black and white, educated and uneducated, in our legal system belie the idea of our revenge being fair.

Some people hope that by killing the killer, crime will be deterred. Those who kill once in an act of rage, with thinking deadened by drugs or alcohol, do not take time to consider the consequences. Those who live lives of violence, where the threat of injury or death is constant, will not be deterred by threats of more violence. By killing the killer, we take away the killer's chance to atone, to make restitution, to teach his or her children not to kill. By killing the killer, we take away *our* chance of forgiving, atoning, or making restitution for our mistakes.

We all want to make our lives safer. We fear for the safety of our children most of all. Children often model their behavior after what we do, not what we say. If we do not teach our children the sanctity of life, how do we make them safer? If our society models killing, who will our children be?

Historically, certain people and groups have been sacrificed to collective fear. It is precisely now, in times of uncertainty, that we must reaffirm the sanctity of human life.

As Quakers, we believe that of God is within us all. We seek traditions that will teach our children about justice and the value of human life. An Alaskan death penalty will do neither.

Dana Hallett, clerk
for Kenai River Quaker Worship Group

15 February 2009

With the introduction of death penalty legislation in the State Legislature, Alaska stands at a historic turning point. The State has not carried a death penalty since Territorial days. We of the Anchorage Friends Meeting (Quakers) urge all Alaskans to think carefully about the repercussions that would be brought by a death penalty in our state, and what our collective decision says about us as a society. The criminal sanctions we embrace not only reflect our deepest values and beliefs, but also shape the community we become.

For more than 300 years, Quakers have sought to answer that of God in every person, and have therefore sought to address injustices and inequalities in our own lives and in the societies to which we belong. That our country's justice system is subject to human error, leading to the conviction of innocent people, is a matter of public record. That it is subject to human blindness, leading to disturbing racial disparity in the application of capital punishment, has been amply demonstrated. In recent decades, the death penalty has been suspended or abolished in many states, in recognition of errors in conviction and racial disparity in application.

These and many other compelling arguments speak volumes against capital punishment on purely rational grounds, and we urge all citizens to consider the excellent information put together by Amnesty International, Alaskans Against the Death Penalty, and American Friends Service Committee, among others. For us, it is a matter that goes even further. Even if our court system was flawless, and there were no conceivable questions of error, innocence, or equality, we would still uphold the sanctity of each human life: that of God in every person and the possibility of redemption and reconciliation. We cannot escape the conclusion that the death penalty, as an instrument of any government, and perhaps especially a democratic government, brutalizes and degrades that society which it strives to protect.

Anchorage Monthly Meeting of the Religious Society of Friends (Quakers)

Contact: Ministry and Nurturance Committee
Corinne Smith, cls37@cornell.edu
Monica Elkinton, monica.elkinton@gmail.com
Karen Niedermier, kwnieder@earthlink.net

House Judiciary - testimony on HB 9.

March 1, 2009

We of the Homer Friends Meeting (Quakers) affirm the value and dignity of human life. We stand with people who seek to make their communities safe. We do not believe, however, that capital punishment provides the safety and order which it seems to promise. We oppose the death penalty as an affront to the value of life, a step backward in the administration of justice, and an arbitrary, ineffective, and uneconomic form of law enforcement. We urge other Alaskans, our legislature, and our governor to reject it.

We find several compelling reasons to oppose the death penalty.

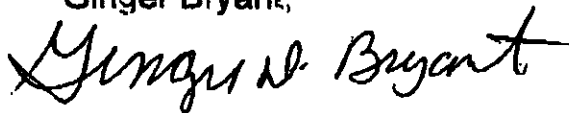
- We live in an imperfect society with an imperfect legal system. When that system assumes the power to take life, it leads to the inevitable taking of innocent life, and to disturbing racial and class disparities in its application.
- Although always represented as an action of the state, capital punishment is a delegated action that requires specific state employees to premeditatedly kill a human being, and to do so at a moral and psychological peril to themselves that neither they nor the state can calculate in advance.
- Attention and energy is focused away from healing and help for victims, for offenders, and for families and communities affected by crime.
- Capital punishment is certainly not cheaper than life imprisonment - nor has it been shown to reduce the murder rate.
- We feel that capital punishment is not justice but vengeance - akin to "taking an eye for an eye," or cutting off the hand of a thief - acts most Alaskans would find reprehensible as cruel and unusual. It is murder for murder, and as such, has, in fact, a debasing effect on the community. It produces the very brutality it seeks to prevent.

Ginger Bryant + Art Koeninger

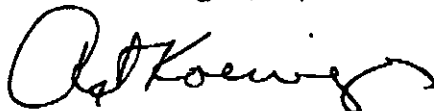
Page 1 of 2

For more than 350 years, the Religious Society of Friends (Quakers) have sought to answer that of God in every person, and therefore to address injustices and inequalities in our own lives and in the societies to which we belong. We believe the role of government is to alleviate the roots of violence. We urge the Alaska Legislature to table further discussions of the death penalty and resume consideration of measures which will better exemplify this role.

Ginger Bryant,



Art Koeninger,



co-clerks, for Homer (Alaska) Friends Meeting, Religious Society of Friends, P.O. 974, Homer, AK 99603

Page 2 of 2

Dana Strommen

From: revsilides@gci.net on behalf of George Silides [revsilides@gci.net]
Sent: Tuesday, March 03, 2009 10:16 AM
To: Rep. Jay Ramras
Cc: Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Bob Lynn; Rep. Max Gruenberg; Rep. Lindsey Holmes
Subject: House Bill 9 Rev. George Silides
Attachments: HB 9.doc

Mr Representative Ramras,

Enough you, let me thank the Judiciary Committee for allowing me the privilege to speak to the issue of House Bill Unanimous among all whom I spoke with afterwards was gratefulness for the even tenor of the proceedings, respect paid to all who offered their testimony. This note is simply to reiterate three points:

1. State whose law enforcement and investigative resources are stretched beyond the breaking point—where many locales throughout the state have no VPSO or police or trooper presence whatsoever—how can it be that the proper investigative resources can be brought to bear in those locales in a timely manner when dealing with capital crimes which bear the potential of a final solution—death to the convicted perpetrator?

2. Secondly, in my experience, there is less, not more resolution for the victim's family upon the occasion of an execution. There is a satisfaction of vengeance, sometimes, but the potential for anything else—even documented possibilities of reconciliation—are lost. Mourning the loss of their loved one, families also mourn over time for lost possibilities of making it clear to the perpetrator the depth of their loss and any hope of understanding the mind of perpetrator.

3. Thirdly, related to the second, addressing what Representative Coghill intimated by his comment about “the sword bearing the sword” is the point that we law-abiding citizens have surrendered our absolute freedom to the will of a government society specifically and especially to be guided—even protected by this government of laws away from our baser motives of vengeance and retribution, especially when that vision is clouded by unimaginable and unbearable pain—and an irresistible desire for vengeance. The gentleman from Kodiak testified specifically to this effect: “If someone murdered my wife I would want vengeance, absolutely, but it is still wrong.” We law abiding citizens depend upon you to keep us from this wrong, and to curb our desires when we cannot ourselves.

4. Finally if I may now slip in a fourth which caused me a pause in my testimony—a pause of emotion which was a testimony in itself: The conversation about the efficacy of the death penalty does not stop when a law allowing it is passed. It is debated with a ferocity born of desperation each and every time another human being is put to death by the state. I have witnessed this desperation over and over at the gates of San Quentin, and the vitriol which tears the social fabric of our community life for weeks before and after each execution.

There are of course dozens of reasons besides these few which I might make against the passage of HB 9, but I leave those to more eloquent voices, and review only the testimony you were so kind to allow me. Please know that you and each of the Committee remain in our prayers. Every blessing and kindness;

Sincerely,

George Silides, rector
 Trinity Episcopal Church

Dana Strommen

From: Mepburke@aol.com
Sent: Sunday, March 01, 2009 6:32 PM
To: Rep. Jay Ramras; Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Carl Gatto; Rep. Bob Lynn; Rep. Max Gruenberg; Rep. Lindsey Holmes
Cc: michael@Godsview.org; Mepburke@aol.com; Rep. Berta Gardner
Subject: HB 9 testimony

Dear Honorable Representatives Ramras and Dahlstrom,

I am writing to oppose HB9, which I find to be bad public policy, financially unwise and morally objectionable.

Given the rural and urban disparities in resources to investigate, and prosecute capital crimes, I believe such a system will become unmanageable, fundamentally unjust and untrustworthy.

At a time when we need increasingly broad public confidence in the efficiency and fairness of our criminal justice system, the adoption of capital punishment will be most counterproductive.

My own Christian denomination, The Episcopal Church, has a long-standing opposition to the death penalty. This highly public stance was first declared by our General Convention in 1958, and subsequently reaffirmed in 1969, 1979, and 1991. For over fifty years, members of our church have worked to educate their fellow citizenry and promote alternatives that nurture a culture of life in response to even the most heinous of crimes.

I stand alongside so many others from our churches and faith communities in opposing this bill.

Sincerely,

The Rev. Michael Burke
Rector / Sr Pastor
St. Mary's Episcopal Church
Anchorage, Alaska
(907) 349-0369

cc Judiciary Committee membership

The two most recent statements of The Episcopal Church are attached below:

The Episcopal Church

CAPITAL PUNISHMENT

Statement of the 1979 General Conference.

WHEREAS, the 1958 General Convention of the Episcopal Church opposed capital punishment on a theological basis that the life of an individual is of infinite worth in the sight of Almighty God; and the taking of such a human life falls within the providence of Almighty God and not within the right of Man; and

WHEREAS, this opposition to capital punishment was reaffirmed at the General Convention of 1969; and

WHEREAS, a preponderance of religious bodies continue to oppose capital punishment as contrary to the concept of Christian love as revealed in the New Testament; and

WHEREAS, we are witnessing the reemergence of this practice as a social policy in many states; and

WHEREAS, the institutionalized taking of human life prevents the fulfillment of Christian commitment to seek the redemption and reconciliation of the offender; and

WHEREAS, there are incarceration alternatives for those who are too dangerous to be set free in society; therefore be it

RESOLVED, the House of Bishops concurring, that this 66th General Convention of the Episcopal Church reaffirms its opposition to capital punishment and calls on the dioceses and members of this church to work actively to abolish the death penalty in their states; and be it further

RESOLVED, the House of Bishops concurring, that this 66th General Convention instruct the Secretary of General Convention to notify the several governors of the states of our action.

General Convention 1991.

RESOLVED, the House of Bishops concurring, that this 70th General Convention of the Episcopal Church reaffirm the position taken in opposition to capital punishment by the 1958, 1969, and 1979 General Conventions; and be it further

RESOLVED, that this 70th General Convention of the Episcopal Church oppose federal initiatives to establish constitutional procedures for the institution of the sentence of death for various crimes; and be it further

RESOLVED, that the 70th General Convention of the Episcopal Church deplores the expansion of capital offenses by federal legislative action; and be it further

RESOLVED, that this 70th General Convention of the Episcopal Church support state and local initiatives to establish a range of community sanctions and services offering alternatives to incarceration and reducing recidivism; and be it further

RESOLVED, that the Presiding Bishop's Open Statement on Capital Punishment be sent to the President, the Attorney General, and every member of the Senate and Congress of the United States of America; and be it further

RESOLVED, that this 70th General Convention of the Episcopal Church urge the provinces, dioceses, parishes, missions, and individual members of this Church to engage in serious study on the subject of capital punishment and work actively to abolish the death penalty in their states.

The Episcopal Church

815 Second Avenue

New York, NY 10017-4594

(212) 867-8400

You're invited to Hollywood's biggest party: [Get Oscars updates, red carpet pics and more at Moviefone.](#)

Dana Strommen

From: corinne [cls37@cornell.edu]
Sent: Sunday, March 01, 2009 9:40 PM
To: Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Bob Lynn; Rep. Nancy Dahlstrom; Rep. Jay Ramras; Rep. John Coghill; Rep. Carl Gatto
Subject: Please vote NO on HB 9 (Death Penalty)
Attachments: DeathPenalty_minute.doc

To the House Judiciary Committee:

With the introduction of death penalty legislation in the State Legislature, Alaska stands at a historic turning point. The State has not carried a death penalty since Territorial days. We of the Anchorage Friends Meeting (Quakers) urge all Alaskans to think carefully about the repercussions that would be brought by a death penalty in our state, and what our collective decision says about us as a society. The criminal sanctions we embrace not only reflect our deepest values and beliefs, but also shape the community we become.

For more than 300 years, Quakers have sought to answer that of God in every person, and have therefore sought to address injustices and inequalities in our own lives and in the societies to which we belong. That our country's justice system is subject to human error, leading to the conviction of innocent people, is a matter of public record. That it is subject to human blindness, leading to disturbing racial disparity in the application of capital punishment, has been amply demonstrated. In recent decades, the death penalty has been suspended or abolished in many states, in recognition of errors in conviction and racial disparity in application.

These and many other compelling arguments speak volumes against capital punishment on purely rational grounds, and we urge all citizens to consider the excellent information put together by Amnesty International, Alaskans Against the Death Penalty, and American Friends Service Committee, among others. For us, it is a matter that goes even further. Even if our court system was flawless, and there were no conceivable questions of error, innocence, or equality, we would still uphold the sanctity of each human life: that of God in every person and the possibility of redemption and reconciliation. We cannot escape the conclusion that the death penalty, as an instrument of any government, and perhaps especially a democratic government, brutalizes and degrades that society which it strives to protect.

Anchorage Monthly Meeting of the Religious Society of Friends (Quakers)

Contacts:

Ministry and Nurturance Committee

Corinne Smith, cls37@cornell.edu

Monica Elkinton, monica.elkinton@gmail.com

Karen Niedermier, kwnieder@earthlink.net

Cynthia Monroe, Recording Clerk, cynthia@alaskalisten.org

Dana Strommen

From: Robert P. Hannon [robert@cbna.org]
Sent: Friday, March 13, 2009 4:43 PM
To: Rep. Jay Ramras
Subject: Letter regarding HB 9
Attachments: Letter to Representative Ramras.pdf

Dear Representative Ramras,

Please find attached a letter Bishop Kettler addressed to you regarding House Bill 9. As you will see, Bishop Kettler feels strongly that HB 9 is unjust and potentially unpopular.

We have also sent you the letter via the United States Post Office; please feel free to have your office contact me if you fail to receive the attachment.

Despite our disagreement regarding this piece of legislation we thank you for your service.

God bless,

Robert Hannon
Chancellor & Special Assistant for the
Most Reverend Donald J. Kettler, JCL
Bishop of Northern Alaska
1316 Peger Road
Fairbanks, AK 99709-5199
(907) 374-9510
robert@cbna.org



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 committee name
 committee on HB 9 , dated 2 March 2009
 bill/subject

Signed: John David Thoda
 Testifier
Prince of Peace Mennonite Church
 Representing (Optional)
PO Box 24312, Anchorage AK 99524
 Address
907 346 2909
 Phone No.

I am John David Thacker, pastor of Prince of Peace Mennonite Church in Anchorage. I speak on behalf of my congregation and all the Mennonites across Alaska. We oppose House Bill 9 and the death penalty. We believe that following Jesus Christ requires us to make peace, to love our enemies, to seek reconciliation and to practice forgiveness. We have chosen life over death and we ask you to do the same.

Mennonite Church USA has adopted many resolutions calling upon its members to work for the abolition of the death penalty. In this effort, we join with millions of other Christians in this nation who have also called upon our government to abolish the death penalty. This list includes Catholics, Lutherans, Methodists, Quakers, Brethren, Baptists, Episcopalians, Orthodox, Moravians, Presbyterians, Reformed and many more.

We believe that capital punishment is ineffective, inequitable, irreversible, and inhumane. True restorative justice works to rehabilitate the offender, to address the needs of the victims and to restore the community. An execution cannot rehabilitate. It cannot make the victims whole, and it cannot heal our communities.

We are deeply grateful that the State of Alaska has refused to kill its own citizens. We urge the members of this committee to preserve Alaska as a state free of the death penalty.

Mr. Chairman, and members of the Judiciary Committee, Thank you for giving the public the opportunity to comment on HB #9

My name is Dale Kelley and I am the pastor of First Christian Church here in Anchorage. My own denomination – along with over 29 other faith communions, including the US Catholic Conference and the American Jewish Committee – have issued strong statements opposing the death penalty on all counts. *It stands in opposition to all that "believe about the sanctity of all life -*

In ~~most~~ all of these statements you will find ~~very~~ adamant positions in opposition. And not only religious opposition has surfaced. Of the 37 states which still have the death penalty, some states are even now reviewing the efficacy of this position and are looking to abolish it. ~~Almost 200 persons~~ *a # of persons* have been executed who were later found to be innocent. The death penalty is fraught with errors, and issues of racism.

I believe It is ludicrous for a caring, thinking population to seek to end violence through the sheer use of violence. Why do we continue to kill people to teach people that killing people is wrong? Where is the logic in that? *- It has never been shown to be a deterrent.*

Aside from the moral bankruptcy of such a belief, there is the purely financial considerations that threatens to bankrupt our state of Alaska – if and when we might choose to pour millions upon millions into to re-creating a vastly new legal code – BEFORE we even have the first capital case on the docket.

I respectfully ask you - How will you ~~try~~ explaining to your constituents that ~~you~~ *barely funded* are going to chose to take millions of dollars away from critical and ~~UNFUNDED~~ needs for them, their towns and villages. *How will you* ~~try~~ telling them that YOU are instead choosing to put upwards of \$50 million plus dollars into setting the stage for the first case to be tried.

I respectfully urge you to re-consider voting down this barbaric practice and re-focus your attention to the REAL needs of our Alaska citizens.

Thank you very much for your time

Dale Kelley
4451 De Armon Rd
Anchorage, AK 99516
(907) 644-4132

The Right of Return

Dana Strommen

From: Nelson Angapak [nangapak@nativefederation.org]
Sent: Wednesday, March 04, 2009 11:51 AM
To: Rep. Jay Ramras
Cc: Rep. Reggie Joule; Rep. Bryce Edgmon; Rep. Woodie Salmon; Rep. Bob Herron
Subject: Letter in Opposition to HB 9
Attachments: HB 9 Letter Opposing the bill.pdf

Dear Chairman Ramras:

Attached, herewith, please find a letter that Julie Kitka, President wrote to you opposing HB 9. Please incorporate this letter and the resolution attached to it (last two pages) into the public hearing record of HB 9. She had intentions of testifying on HB 9 when the House Judiciary Committee held public hearing on HB 9 but due to time constraints, she was unable to testify in front of your committee via teleconference out of Anchorage, AK.

If you have any questions regarding the attached letter and the resolution attached to this letter, please contact Julie Kitka at 907-274-3611.

Thank you for your consideration.

Nelson N. Angapak, Sr.
Vice President
Alaska Federation of Natives

ALASKA FEDERATION OF NATIVES, INC.

1577 C Street, Suite 300, Anchorage, Alaska 99501
907-274-3611 Fax 907-276-7989

March 4, 2009

The Honorable Jay Ramras, Chairman
Alaska State House Judiciary Committee
Juneau, Alaska
Representative Jay Ramras@legis.state.ak.us
Facsimile: 907-465-0270

Dear Chairman Ramras:

On behalf of the Alaska Federation of Natives (AFN), thank you for holding the recent public hearing on Alaska State House Bill 9, "An Act relating to murder; authorizing capital punishment, classifying murder in the first degree as a capital felony, and allowing the imposition of the death penalty for certain murders; establishing sentencing procedures for capital felonies; and amending Rules 32, 32.1, and 32.3, Alaska Rules of Criminal Procedure, and Rules 204, 209, 210, and 212, Alaska Rules of Appellate Procedure."

Founded in 1966, AFN is the largest statewide Alaska Native organization in Alaska. Its membership includes 178 villages (both federally-recognized tribes and village corporations), 13 regional Native corporations and 12 regional nonprofit and tribal consortiums that contract and run federal and state programs. The mission of AFN is to enhance and promote the cultural, economic and political voice of the entire Alaska Native community. AFN and its members are concerned with and advocates for equitable treatment of Alaska Natives within the judicial system of the State of Alaska. For more information on AFN, please visit our website at www.nativefederation.org.

Due to time constraints, I was unable to submit my comments on behalf AFN regarding HB 9 during the public hearing on HB 9. For the record, **AFN is opposed to HB 9** for reasons expressed by the whereases of the attached Alaska Federation of Natives Board of Directors Resolution 09-01 entitled "OPPOSING THE REINSTATEMENT OF DEATH PENALTY IN ALASKA;" the AFN Board passed this resolution unanimously when they met in Juneau on February 11, 2009. It was my intend to submit this resolution into the public hearing record on HB 9 as it reflects AFN's absolute opposition to this bill and other HB 9 type of bills.

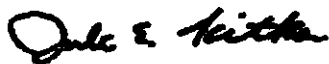
For the record, please allow me to excerpt some of the key elements of the attached resolution and our opposition on HB 9:

1. In Alaska, eighteen (18) percent of Alaska's total of population of 655,435¹ people is composed of the American Indians and Alaska Natives, the highest proportion of the total population of any state in the United States of America.²
2. The Alaska Native population is disproportionately represented in the correctional system in that Alaska Natives represent between 30% and 40% of the state's inmate population at any given point in time.³
3. There is significant evidence of racial bias toward economically disadvantaged members of ethnic minorities in the administration of death penalty in other jurisdictions.
4. There is substantial concern among the Alaska Native Community, and there is no evidence to the contrary, that in all likelihood the Alaska system of criminal jurisprudence is not capable of avoiding racial bias in the trial process.
5. The majority of Alaska Natives and people residing in rural areas of the State of Alaska do not have the means to acquire adequate legal defense counsel when charged with serious crimes.

Please incorporate this letter and the attached AFN Board of Directors Resolution 09-01 into the public hearing record of HB 9. Again, AFN is opposed to HB9.

Thank you for your consideration, if you have any questions regarding this letter or the attachment, please call me at 907-274-3611.

Sincerely,



Julie Kitka
President

CC: Representative Reggie Joule: Rep.Reggie.Joule@legis.state.ak.us

¹ <http://www.ask.com/web?q=Alaska&qsrc=8&o=2825&l=dir>

² <http://www.census.gov/Press-Release/www/releases/archives/population/011910.html>

³ <http://tqi.sagepub.com/cgi/content/abstract/83/1/90>

ALASKA FEDERATION OF NATIVES, INC.

1577 C Street, Suite 300, Anchorage, Alaska 99501
907-274-3611 Fax 907-276-7989

**ALASKA FEDERATION OF NATIVES
BOARD OF DIRECTORS**

RESOLUTION 09-01

TITLE: OPPOSING THE REINSTATEMENT OF DEATH PENALTY IN ALASKA

WHEREAS: The Alaska Federation of Natives, Inc. is concerned with and advocates for equitable treatment of Alaska Natives within the judicial system of the State of Alaska, and;

WHEREAS: In Alaska, eighteen (18) percent of Alaska's total population of 655,435¹ people is composed of American Indians and Alaska Natives, the highest proportion of the total population of any state in the United States of America,² and;

WHEREAS: The Alaska Native population is disproportionately represented in the correctional system in that Alaska Natives represent between 30% and 40% of the state's inmate population at any given point in time,³ and;

WHEREAS: There is significant evidence of racial bias toward economically disadvantaged members of ethnic minorities in the administration of the death penalty in other jurisdictions, and;

WHEREAS: There is substantial concern among the Alaska Native Community, and there is no evidence to the contrary, that in all likelihood the Alaska system of criminal jurisprudence is not capable of avoiding racial bias in the trial process, and;

WHEREAS: The majority of Alaska Natives and people residing in rural areas of the State of Alaska do not have the means to acquire adequate legal defense counsel when charged with serious crimes, and;

WHEREAS: Establishing a death penalty law and implementing it will cost millions of dollars that the State of Alaska can ill afford during these times of economic situations in the nation and in the State of Alaska, and;

¹ <http://www.ask.com/web?q=Alaska&qsrc=8&o=2825&l=dir>

² <http://www.census.gov/Press-Release/www/releases/archives/population/011910.html>

³ <http://tpi.sagepub.com/cgi/content/abstract/83/1/90>

WHEREAS: The Native American tribes and organizations have historically opposed the death penalty as demonstrated by past actions to defeat the federal death penalty legislation, and;

WHEREAS: We believe that capital punishment degrades and brutalizes any society that practices it by teaching the use of violence in reaction to violence, and;

WHEREAS: We believe that capital punishment does not deter crime, but serves only to exact revenge, and;

NOW THEREFORE BE IT RESOLVED by the Board of Directors of the Alaska Federation of Natives (AFN) that they are opposed to the reinstatement of the death penalty in the State of Alaska, and;

BE IT FURTHER RESOLVED THAT the AFN Board urges the members of the Alaska State Legislature, both rural and urban, to oppose any effort of reinstatement of the death penalty in Alaska, including but not limited to House Bill 9 (HB 9).

**ADOPTED THIS DAY 11th OF FEBRUARY
2009**



Julie E. Kitka
President



Tribal Office
PO Box 47
Ambler, AK 99786

Phone: 907-445-2196
Fax: 907-445-2181

RESOLUTION 09-02

A RESOLUTION OPPOSING AN ALASKA DEATH PENALTY

WHEREAS: the Native Village of Ambler (hereinafter "Tribe") is a sovereign Traditional Government of the aboriginal Kuuvanmiit Nation in Northwest Alaska predating the United States Constitution and the State of Alaska; and,

WHEREAS: the Native Village of Ambler is a federally recognized Tribe with responsibilities inherent in a sovereign government; and,

WHEREAS: the Ambler Traditional Council is the governing body of the Native Village which is the modern day successor to the historical sovereign tribe for the region; and,

WHEREAS: the death penalty has been shown to be disproportionately imposed on minorities. According to the Federal Death Penalty Resource Counsel Project, between 1988 and June 28, 2006, 73% federal government death penalty prosecutions were against minority population; and,

WHEREAS: the death penalty was used exclusively against Alaska Natives and ethnic minorities between 1903 and 1957 in Territorial Alaska, although most murders were committed by white men; and,

WHEREAS: there has been little research into criminal justice issues impacting rural off-reservation Indigenous Peoples as described in Archambeault, William G., "Government Reductionism and Academic Bias in Criminal Justice Research on American Indian Crime and Justice Issues "Indigenous Policy, Journal of The Indigenous Policy Network, Vol. XVIV, No. 2 Summer, 2008; and,

WHEREAS: Alaska Natives already suffer prosecution and incarceration rates far beyond their representation in the Population; and,

WHEREAS: Alaska Natives are entitled to protections of International law pertaining to discriminatory state actions Against indigenous peoples.

NOW THEREFORE BE IT RESOLVED, that we oppose laws subjecting indigenous Alaskans to the death penalty.

Fred Greist
Fred Greist, Second Chief

CERTIFICATION

I, the undersigned, hereby certify that the Ambler Traditional Council is composed of seven (7) members and that 6 were present on the 23rd day of February, 2009 and resolution 09-02 was passed with an affirmative vote of 6 and 0 against.

Carol Cleveland
Carol Cleveland, Tribal Clerk

February 23, 2009
Date



*Grand Camp
Alaska Native Brotherhood*

Capital Punishment
HB No. 9
March 1, 2009

Mr. Chairman and members of the committee. Thank you for giving me the opportunity to testify on HB No. 9 Capital Punishment.

My name is Alfred McKinley, Sr., residence is Juneau, Alaska. I am an Executive Committee Member of Grand Camp Alaska Native Brotherhood. A delegate to Central Council Tlingit and Haida Indian Tribes of Alaska, and I serve on the Judiciary Committee. Served in the U.S. Army from December 21, 1950 to December 20, 1957.

During the territory era our people were discriminated against, that's one of the reason our Alaska Natives and other citizens voted to abolish capital punishment. Its no different today, our Alaska Natives are being discriminated against. Only the minority will be affected.

For example the Alaska Native receive longer sentence and we have no money to defend ourselves. There are no police officers in the rural villages to maintain peace or control on drugs and alcohol being shipped to the rural communities that prohibit the aforementioned.

I visited Frank C. White, Sr. who I grew up with in Hoonah, Alaska. Frank served in the U.S. Marine Corp. Force Recon outfit. Frank retired as Chief Police Officer, and is also the leader of the Eagle Wolf clan.

This is what my wife recorded during our visit on February 28, 2009.

Recording: Visitation: Frank White, Sr. We will be getting some information on the death penalty during the territorial days of why this was discontinued.

When a minority is coming out of a bar the police arrested him right in public. A legislature saw what was happening and wanted prove if this action was a misdemeanor. So he went down town and waited until police were present and watching the bar - He then came out of the bar and urinated right on the side walk and then on the police car. The legislature was a white man that wanted to do away with this misdemeanor.

March 1, 2009

The cops arrested anybody that stunk. That's the same way when a guy kills someone that was not determined whether it was premeditated. A premeditated murder to kill is an automatic death penalty because he plan on it - this happened spontaneously - it drops down to second degree, third degree, fourth degree. Anytime a minority kills someone it

was automatic premeditation - whether it happened in a bar fight or elsewhere - if a guy died in the fight the guy had it because he is a minority. So it shows right there that a minority gets the death penalty. It was not determined that it was a first degree, second degree murder.

Another example: A young girl was adopted from my tribe by a white man. She was taken to their mine at Admiralty Island. She was abducted and killed and found her lying in the bushes. A couple of young warriors went looking for her. After the tribe took her to Ground Hog Bay and buried her, the tribal warriors went to the mine to kill all the miners, except for one.

The warriors got in a canoe and went to Skagway, the territorial jail was there, the pen.. And turned themselves in to the U.S. Marshall. The U.S. Marshall did not know what to do with the three men. The one guy that was spared his life told a different story- as a result - all got executed. The face value - they were going to hang all three of them.

Nobody explained to them of the white man law. This is why I do not like capital punishment.

In conclusion of the testimony we oppose Capital Punishment because of above reference.

Alfred McKinley, Sr.
Executive Committee
Grand Camp, Alaska Native
Brotherhood

Submitted by: ASSEMBLY MEMBER GRAY-JACKSON
AND CHAIR DRUMMOND

Reviewed by: Assembly Counsel

For reading: February 24, 2009

CLERK'S OFFICE

APPROVED

Date: 2-24-09

ANCHORAGE, ALASKA

AR NO. 2009-55

1 **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY IN OPPOSITION TO**
2 **INSTITUTING THE DEATH PENALTY IN ALASKA.**

3
4 WHEREAS, House Bill No. 9 has been pre-filed for the 26th Legislature – First
5 Session to allow imposition of the death penalty in Alaska for certain state crimes; and

6
7 WHEREAS, flaws in forensic evidence analysis on the national level are coming to
8 light daily, calling for massive institutional reforms to be implemented; and

9
10 WHEREAS, many prisoners now on death row in states with capital punishment are
11 subject to exoneration because of advances in DNA analysis; and

12
13 WHEREAS, Alaska as a state has never instituted the death penalty; and

14
15 WHEREAS, the Alaska Territorial Legislature abolished capital punishment in 1957 in
16 a measure stating "The death penalty is and shall hereafter be abolished as punishment in
17 Alaska for the commission of any crime"; and

18
19 WHEREAS, in the 50th year and golden anniversary of Alaska statehood, the will of
20 the people of Alaska should be celebrated and not shunned; and

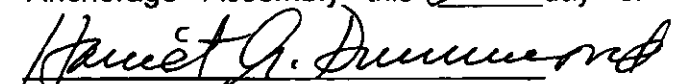
21
22 WHEREAS, the pervasive will of the people since prior to statehood has steadfastly
23 been to forego capital punishment in the state of Alaska; and

24
25 WHEREAS, House Bill No. 9 has been referred to the Judiciary Committee and is
26 scheduled for hearings on Monday, February 23rd and Wednesday, February 25th;

27
28 NOW, THEREFORE, the Anchorage Assembly resolves as follows:

29
30 **The Anchorage Assembly opposes the introduction of measures**
31 **by the 26th Alaska Legislature to institute capital punishment in**
32 **Alaska.**

33
34 PASSED AND APPROVED by the Anchorage Assembly this 24th day of
35 February, 2009.

36
37 
Chair

38 ATTEST:

39 
40 Municipal Clerk

Content ID: 007461

Type: AR_AllOther - All Other Resolutions

Title: A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY IN OPPOSITION TO INSTITUTING THE DEATH PENALTY IN ALASKA.

Author: gray-jacksone

Initiating Dept: Assembly

Review Depts: Assembly

Date Prepared: 2/20/09 9:21 AM

Director Name: Harriet Drummond

Assembly Meeting Date: 2/24/09

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	2/20/09 9:22 AM	Exit	Elvi Gray-Jackson	Public	007461
AllOtherARWorkflow	2/20/09 9:22 AM	Checkin	Elvi Gray-Jackson	Public	007461

Harriet Drummond

CONSENT AGENDA – RESOLUTIONS FOR ACTION-OTHER

Richard C. Dieter
EXECUTIVE DIRECTOR

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DEATH PENALTY INFORMATION CENTER

FAX COVER SHEET

DATE: March 17, 2009

TO: Rep. Jay Byrum
Chair, House Judiciary Committee

FAX: 1-907-465-2070

FROM: Richard Dieter

Number of sheets (including cover sheet): 4

Response to question at hearing.

Board of Directors Anthony Amsterdam David Bruck George Kendall Michael G. Millman Christina Swarns
David J. Bradford Phoebe Ellsworth John R. MacArthur Diann Rust-Tierney Ronald J. Tabak



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DEATH PENALTY INFORMATION CENTER

M E M O R A N D U M

TO: Rep. Jay Ramras
Chair, House Judiciary Committee
State of Alaska

FROM: Richard Dieter
Executive Director, Death Penalty Information Center

RE: *Results of changes in death penalty law*

DATE: March 17, 2009

On February 25, I offered oral testimony by telephone before your committee regarding a bill to reinstate the death penalty in Alaska. During the questioning following my testimony, one of the Representatives (whom I could not identify because I was not physically present) asked whether there were individuals who had been executed in the United States in the past but who could not be executed today because of Supreme Court decisions. I indicated that there certainly were such individuals, but that I did not have an exact count and would provide the Committee with additional information at a later time. This memo addresses that question.

One of the most sweeping Supreme Court decisions on the death penalty occurred in 1972 in *Furman v. Georgia* in which the Court overturned approximately 600 death sentences because the death penalty was being applied in an arbitrary and capricious manner. Thousands of executions had occurred prior to this decision, but it would be difficult to determine exactly when the punishment moved from one which was regularly and constitutionally applied to one in which its rarity and lack of guidance made it arbitrary and unconstitutional.

I suspect that the thrust of the Representative's question was about the modern application of the death penalty after 1972, when every state that wished to adopt capital punishment re-wrote their death penalty laws. Since then, there have been two decisions that clearly excluded future defendants from the death penalty who had been subjected to execution after 1972. One decision involved defendants with mental retardation (*Atkins v. Virginia* (2002)) and the other involved those who were under the age of 18 at the time of their crime (*Roper v. Simmons* (2005)). From the time of these respective decisions, no could be executed with either of those characteristics, regardless of when they were sentenced to death. But some defendants in each category were executed between 1972 and the date of the decisions.

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Memo, March 17, 2009, p.2

Mentally Retarded

According to Dr. Denis Keyes, William Edwards, Esq., & Robert Perske, "People with Mental Retardation are Dying - Legally: At least 44 have been executed," *Mental Retardation*, Vol. 3, June 2002, pp. 243-44, there were 44 executions of people with mental retardation between 1972 and 2002. The article lists the names of the defendants and in most cases their IQ scores on tests indicating mental retardation.

Juveniles

According to Victor L. Streib, "The Juvenile Death Penalty Today: Death Sentences and Executions for Juvenile Crimes January 1973 - December 31, 2004" (2005), there 22 executions of defendants under the age of 18 at the time of their crime between 1972 and 2005.

Other Decisions

The Supreme Court has issued many other decisions restricting the death penalty, but it is difficult to know whether earlier executions would have been excluded by these rulings since many of the decisions depend on how the law would be applied to the facts presented in the case. No such determination is made by courts after a person has been executed. For some decisions, no executions under the issue decided occurred in the modern era, before or after the decision. Some of the more prominent decisions restricting the death penalty have been:

Coker v. Georgia (1977) – no death penalty for the crime of rape of an adult (no such executions in the modern era had occurred)

Enmund v. Florida (1982) – no death penalty for a defendant only indirectly involved in a felony who did not kill, or intend to kill the victim (no such executions in the modern era had occurred, and cases would depend on the facts)

Ford v. Wainwright (1986) – no death penalty for the insane (probably no such executions in the modern era had occurred, though defendants had not been routinely given adequate hearings to determine insanity)

Ring v. Arizona (2002) – defendant entitled to a jury to determine if he is eligible for the death penalty (executions occurred in the modern era prior to this decision, but the decision only entitled the defendant to a new hearing with a jury, not the permanent removal of the death sentence)

Wiggins v. Smith (2003) – for a defense attorney to be effective, a full investigation of the defendant's social history to determine the existence of mitigating factors is required (whether a prior case would have been affected by this decision would depend on an interpretation of the facts of that case)

Panetti v. Quarterman (2007) – clarifying the conditions that might lead to a judgment of insanity (whether a prior case would have been affected by this decision would depend on an interpretation of the facts of that case)

Kennedy v. Louisiana (2007) – no death penalty for the crime of child rape or other offenses against an individual other than murder (no such executions in the modern era had occurred)

Memo, March 17, 2009, p.3

I hope this memo is of assistance to your Committee. I would be happy to try to answer any other questions members of the Committee might have.

Thank you for your consideration of this important matter.

Summary of Testimony of Robert C. Bundy

Alaska State House Judiciary Committee

House Bill No. 9

Capital Punishment

February 25, 2009

I. Introduction

I am an attorney in private practice in Anchorage. I was admitted to practice law in the State of Alaska in 1972. I was a prosecutor for almost half of my career. I served as an Assistant District Attorney in Anchorage, District Attorney in Nome and United States Attorney for the District of Alaska. In my duties as United States Attorney I had occasion to take part in three cases in Alaska involving the federal death penalty.

After careful thought I have come to oppose the institution of a death penalty in Alaska for a number of reasons, including the problems of cost, prioritization of criminal justice resources and racial disparity. Those issues have been well documented and discussed by other witnesses. I wish to discuss another issue particularly relevant to my experience: the possibility of wrongful convictions and executions.

II. The Problem of Wrongful Convictions

For the past several years I have been working with the Innocence Project, which is an organization founded to assist persons in proving their innocence through post-conviction DNA testing.

- To date, there have been 220 men and women exonerated by post conviction DNA testing nationwide.

- 17 had been sentenced to death.
30 more were even on death-eligible cases
- 85% of convictions on serious charges do NOT involve biological evidence susceptible to DNA testing, meaning that exonerations achieved through the use of DNA testing represent only a small proportion of wrongful convictions occurring in the system.

Post-Conviction DNA testing has demonstrated that the risk of convicting an innocent is much greater than even the most cynical expected, as is the risk of executing an innocent. In addition to exonerations of the convicted, DNA has revealed other data that points out the frequency of error in the system.

- FBI exclusion data. In the Department of Justice's National Institute of Justice survey of DNA exclusions, the FBI reported that since it began conducting DNA testing in 1989, it found that in at least 24% of the cases in which it gets results – ordinarily matters in which a suspect has been arrested or indicted on non-DNA evidence – the defendant was excluded. (Remember, 85% of cases do not involve DNA evidence.)
- Pre-conviction/post indictment exclusions. Although no system exists for tracking data, law enforcement officials across the country acknowledge that in thousands of cases, including many homicides, arrests and indictments based on seemingly compelling proof like detailed confessions and multiple eyewitnesses, have been dismissed and the real assailant identified before conviction based on DNA testing.
- Governor Warner's Virginia Experiment. When an unexpected cache of specimens of biological evidence from cases resulting in convictions on serious crimes was found in Virginia archives, Gov. Warner ordered DNA testing (that was not available at the time of conviction) of evidence used to convict. Out of the first 29 randomly selected cases, there were two exonerations (and in one case the real assailant was identified)—close to a 7% exoneration rate. See, "Follow the DNA to Find the Truth," The Roanoke Times, 12/16/05.

III. Causes of wrongful convictions are exacerbated by the death penalty.

- A number of Innocence Project exonerations came in cases in which the defendant pleaded guilty. These guilty pleas were the result of a plea bargain in which an innocent man plead guilty to a homicide and a life sentence to avoid the prospect of a death sentence. - at least 4 guilty pleas to be exonerated
- Death penalty eligible cases are usually the most heinous crimes committed against the most sympathetic victims charged against the least sympathetic defendants - with the most publicity. Police and prosecutors (and judges) become emotionally invested in convicting the person they think is guilty. A theme running through almost every case in which a person convicted of a heinous crime is later exonerated is the problem of "tunnel vision." Tunnel vision is a natural human tendency that has particularly pernicious effects in the criminal justice system. It is the group of mistakes and logical fallacies to which we are all susceptible, that leads actors in the criminal justice system to focus on a suspect, select and filter the evidence that will build a case for conviction, while ignoring or suppressing evidence that points away from guilt. Evidence inconsistent with the chosen theory is easily overlooked or dismissed as irrelevant, incredible, or unreliable. Tunnel vision is more the product of the human condition and institutional and cultural pressures than of maliciousness or indifference. The problem of tunnel vision in the justice system is thoroughly discussed in "The Multiple Dimensions of Tunnel vision in Criminal Cases" 2006 WISCONSIN LAW REVIEW 291. See also, Dianne L. Martin, *Lessons About Justice from the "Laboratory" of Wrongful Convictions: Tunnel Vision, the Construction of Guilt and Informer Evidence*, 70 UMKC L. REV. 847 (2002); Samuel R. Gross et al., *Exoneration in the United States, 1989 through 2003*, 95 J. CRIM. L. & CRIMINOLOGY 523 (2005).
- The details of cases in which individuals were exonerated by post-conviction DNA testing are found on the Innocence Project web site: www.innocenceproject.org. The facts of many of these cases are startling. Many of the cases involve

multiple eyewitnesses, confessions, guilty pleas and/or forensic science. Before the DNA testing, reviewing courts on appeal or in post-conviction proceedings often characterized the evidence as overwhelming. Nonetheless DNA testing proved innocence often after years of imprisonment, some on death row.

- Exclusion is definitive
 - when even one marker is absent - exclusion

- Inclusion
 - on less than full 13-marker profile
 - matches subject to probability statistics, NOT certainty.
 - Profiles include:
 - Incomplete profiles are recorded in CODIS
 - relatives in CODIS

ALASKA HISTORY SHOWS US THAT THE TERRITORIAL LEGISLATURE WAS RIGHT TO ABOLISH THE DEATH PENALTY IN 1957.

Respectfully submitted to the members of the House Judiciary Committee: Chair Jay Ramras; Vice-Chair Nancy Dahlstrom; Members John Coghill, Jr., Carl Gatto, Bob Lynn, Max Gruenberg, and Lindsay Holmes, on February 25, 2009, in reference to House Bill 9.

My name is Averil Lerman. I speak to you today to ask that you reject any bill authorizing the death penalty in Alaska.

I come before you today as a legal historian, who spent many years studying the history of the death penalty in Territorial Alaska between 1900 and 1957. My research has included extensive documentary review, in archives, libraries, and private collections. I also collected an oral history from more than 50 people who were involved with or affected by the hangings in the territory.

My research shows that Alaska communities who used the death penalty later came to reject it. In Fairbanks, there were three hangings in the 1920's. After that decade, not one more person was hanged, although homicide in Fairbanks continued. The same thing happened in Juneau, where there were three hangings between 1939 and 1950, and then no further hangings, although homicide in Juneau also continued.

Why did the Territorial Legislature abolish the death penalty in Alaska in 1957? Why did the hangings stop?

My answer is that the reality of the death penalty is very different that what people say it will be. People who don't personally experience all the special things that happen in a death process often think that maybe capital punishment is a good thing -- maybe it will help us reduce violent crime; maybe it is fair to take a life for a life; Maybe it is plain justice. I used to be a person who had no particular exposure to the death penalty - and I used to think the death penalty might be a good idea.

But people who live with a death system in their community start to change their minds after being exposed to it for a while. That's what happened here in Alaska.

Some people change their minds about the death penalty when they see that only the poor go to death row. Rich men don't hang from that rope, or drop from that needle. In Territorial days, rich murderers like Guy Prince and Harry de Groot in Juneau never got a death sentence. The same is true in death states today.

Some people change their minds about the death penalty when they see that non-white people and other minorities are much more likely to go to death row than white people. In Territorial Alaska, the only people hanged after 1904 were non-white or ethnic minorities, although 75% of all murder was

Written Testimony of Averil Lerman, Page 1

committed by white men.¹ The Fairbanks hangings executed two Alaska Natives and one foreign man from Montenegro, who was perceived as an ethnic minority. The Juneau hangings executed one Indian (probably from the Puget Sound area) and two African-Americans.

Some people change their minds when they see that, although the death penalty is intended initially only for the most heinous murderers, it ends up being imposed on many other criminals as well. In 1929, Constantine Beaver was sentenced to die for killing his good friend during a drunken brawl. Beaver loved his friend, and was overwhelmed with remorse. U.S. Deputy Frank P. Young described hanging Beaver in Fairbanks as "the saddest affair I have had to witness," and resigned shortly thereafter. No further executions were held in Fairbanks.

Some people change their minds when they see what administering death to other people does to the people who have to actually turn the levers of the death process. Even 50 years after participating in one of the Juneau death cases, the people I spoke to were emotional about what had happened to them, and upset about being asked about it. I talked to a man who had, as a young Juneau policeman, been involved with an execution. When I asked if the condemned man had been shaking, he answered angrily, "Not any more than the rest of us." The wife of another patrolman asked me, "Doesn't anyone think about the people who have to do these things?" The same question was raised by jurors at the trial of Eugene LaMoore, who asked the judge if he could decide on the sentence, instead of them, and found out he could not. The death system puts a heavy weight on the backs of a lot of average people, for life.

One person who changed his mind about the death penalty was Supreme Court Justice Harry A. Blackmun. This is what he said:

Twenty years have passed since this court declared that the death penalty must be imposed fairly and with reasonable consistency or not at all, and despite the effort of the states and courts to devise legal formulas and procedural rules to meet this...challenge, the death penalty remains fraught with arbitrariness, discrimination...and mistake..."

From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored...to develop...rules that would lend more than the mere appearance of fairness to the death penalty endeavor...Rather than continue to coddle the court's delusion that the desired level of fairness has been achieved...I feel...obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies...²

The same decision was reached by the Alaska Territorial Legislature in 1957. It was a good decision. We should not change it.

¹ K. S. Knell, *A Different Frontier: Alaska Criminal Justice 1935-1965*, University Press of America, Inc., Langham, MD (1991).

² *Callins v. Collins*, 510 U.S. 1141 (dissent) (February 22, 1994).

Biographical Information about Averil Lerman:

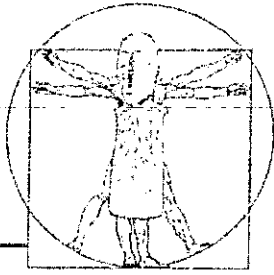
Averil Lerman is an attorney and legal historian. She received grants from the National Endowment of the Humanities and from the Alaska Native Justice Center for the oral history of the last three hangings in Territorial Alaska.

Articles on that history, including those written by Ms. Lerman, are available on the internet through the University of Alaska Justice Center in Anchorage. The internet links are:

"Capital Punishment in Territorial Alaska: The Last Three Executions," originally published in *Frame of Reference, Alaska Humanities Forum 9(1), April 1998.*
Online at <http://justice.uaa.alaska.edu/death/alaska/juneauexecutions.html>

"The Trial and Hanging of Nelson Charles," *Alaska Justice Forum 13(1), Spring 1996.*
Online at http://justice.uaa.alaska.edu/forum/13/1spring1996/a_nelson.html

*Ms. Lerman has worked for two decades as a post-conviction, appeal, and habeas attorney for Alaskans convicted of crimes. This work has given her a detailed understanding of the things that go wrong between a crime and an execution, and how innocent people end up on death row. Ms. Lerman has been listed in *Who's Who in the World*, and *Who's Who in American Law*, and *Who's Who of American Women*.*



FRAME *of* REFERENCE

A PUBLICATION OF THE ALASKA HUMANITIES FORUM • VOL. IX, NO. 1 • APRIL 1998

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"Capital Punishment in Territorial Alaska: The Last Three Executions" by Averil Lerman

Originally published in *Frame of Reference* [Alaska Humanities Forum] 9(1): 6–9, 16–19, April 1998. Reprinted with permission at the Justice Center Web Site, University of Alaska Anchorage, <http://justicc.uaa.alaska.edu/death/alaska/juneauexecutions.html>.

Alaska as a state has never had a death penalty. However, in Alaska's territorial days, eight men were executed under civil authority between 1900 and 1957. This article provides an account of the last three executions in Territorial Alaska between 1939 and 1950: Nelson Charles, Austin Nelson, and Eugene LaMoore.

The complete issue from which this article is excerpted is available at the Alaska Humanities Forum website, http://www.akhf.org/newsletter/april_1998_vol9_no1.pdf

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CAPITAL PUNISHMENT I

The Last Three Executions

Research for Averil Lerman's *Capital Punishment in Territorial Alaska*, was supported with grants from the Alaska Humanities Forum and the National Endowment for the Humanities and assistance from the Alaska Native Justice Center. In addition to studying the documentary record of these cases, which all took place in Territorial Alaska between 1939 and 1950, the author conducted over fifty interviews.

ALASKA HAD A DEATH PENALTY UNTIL 1957, when it was abolished by the Territorial Legislature. Between 1900 and 1957, eight men were legally executed in the Territory, each convicted of murder. Most of the murders were committed by white men,¹ but most of the men who hanged were non-white,² and after 1904, all of the men hanged were of minority status. Three were Alaska Natives, two were African-American, and one was a foreigner from Montenegro, viewed as a minority by the citizens who tried him.³

In 1957, the Territorial Legislature abolished the death penalty in Alaska, after a prolonged debate and an impassioned speech by abolition sponsor Warren Taylor. According to Vic Fischer, who was

the junior sponsor of the abolition bill, one of the factors motivating abolition was concern about the apparent race bias in the application of the death penalty.⁴

The death penalty was rare in Territorial Alaska, although murder was not uncommon, and the communities that did experience several capital trials and executions appear to have spontaneously refused to impose further executions. In the 1920s, three men were hanged in Fairbanks. After 1929, no other hanging occurred in Fairbanks, although it appears that murder there continued. The same thing happened in Juneau where three men were hanged between 1939 and 1950, but none after that.

Perhaps in these small communities everyone was touched by the crime, the trial, or the hanging, either directly or through a friend, neighbor, or family member. The process was not carried out by some unknown strangers, and that may have influenced the manner in which the communities of Fairbanks and Juneau experienced the use and then the non-use of the death penalty. Many of the people who were interviewed for this article recalled

their experiences with some bitterness, sadness, or uncertainty.

This article discusses the last three executions that took place in Territorial Alaska. They were all in Juneau. One of the executed men was native and the other two were black.

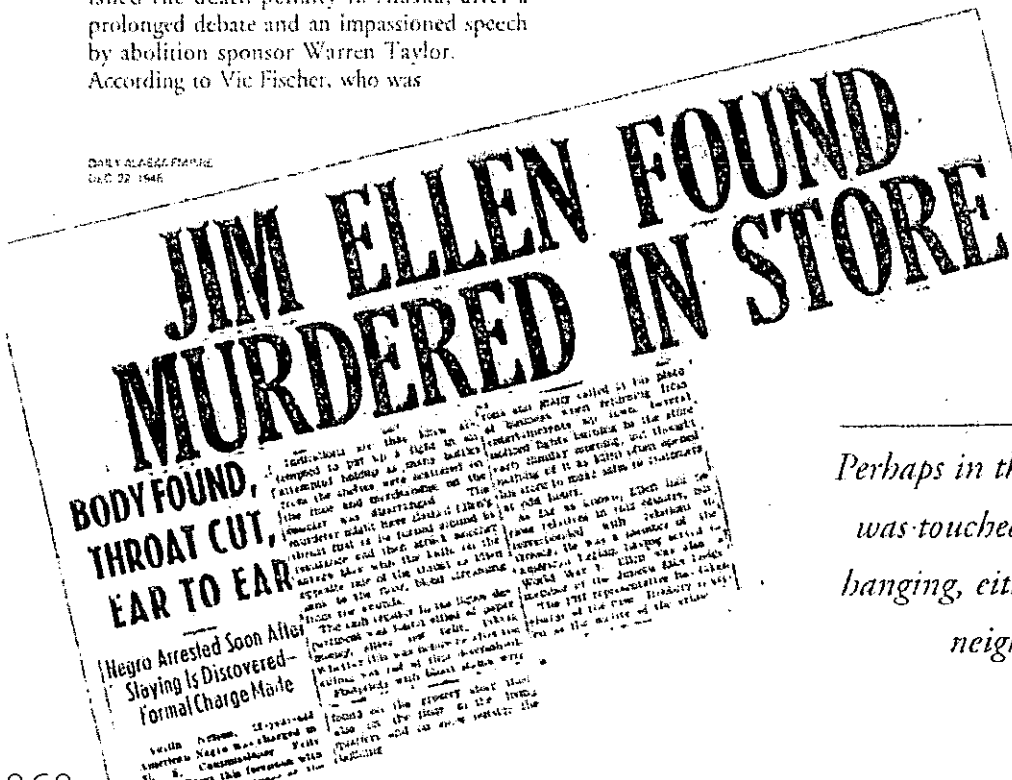
Nelson Charles

NELSON CHARLES was a Ketchikan fisherman. Charles, described in the newspaper accounts as "an Indian" perhaps from the Puget Sound area, had been tried and convicted in Ketchikan for the 1938 murder of his mother-in-law. The crime was committed when both he and his victim had been drinking heavily. Charles himself had summoned the police immediately after the killing, and had taken them to the hillside where the stabbing had occurred. Cecilia Johnson, his victim, had been stabbed in the back and the chest, and had been sexually molested.

Charles was represented at trial by well-known Ketchikan lawyer, A.H. Ziegler, who was appointed by the court on behalf of the indigent defendant. Ziegler is remembered as an intelligent and well-respected attorney,⁵ with a sardonic sense of humor.⁶ Ziegler, a Democrat, was viewed as "very conservative" on social issues, and was an unlikely champion for an Indian charged with murder.⁷ He had served three terms in the Territorial Legislature, and was elected mayor of Ketchikan in the same year as Nelson Charles's trial.⁸

Ziegler was appointed to the case only one week before the trial was to begin. The trial jurors were all white. The defense called no witnesses at the trial aside from the defendant. The jury

Perhaps in these small communities everyone was touched by the crime, the trial, or the hanging, either directly or through a friend, neighbor, or family member.



N TERRITORIAL ALASKA

—by Averil Lerman

deliberated for only four hours before returning a guilty verdict, with a finding that Charles should be punished by death rather than by life in prison.

It does not appear that Ziegler did much pretrial investigation.⁸ After his client was sentenced to hang, however, Ziegler tried to compensate for the lack of pretrial work by submitting the affidavit of William H. Caswell, a retired U.S. marshal, who stated that Charles was ordinarily a peaceable man, and that "when not under the influence of liquor he is a quiet, peaceful and polite person and I have never known him to even have an argument or get into trouble of any kind." Caswell continued, stating that he had seen Charles a few days before the murder, and that *he had the same bulging of the eyes and stare and had every appearance of an insane person; that from my experience with the man, my observation of his action and conduct when drunk I am convinced that intoxication produces a condition in his mind of insanity. . . .*

THE EVIDENCE was too little, too late. Ziegler's request for a new trial was denied, and Charles was sentenced to hang. No appeal was filed; there was no provision for appointed lawyers on appeal, and like most of the men hanged in Alaska, Nelson Charles had no money, and thus could not afford to bring any appeal from his conviction. Unsuccessful efforts for clemency were made on his behalf by the Alaska Native Brotherhood, through a petition to President Roosevelt.

While Charles was attempting to avoid the scaffold, the U.S. marshal's office in Juneau was trying to figure out how to build a scaffold. The U.S. marshal was William Mahoney. Like others in his position during Territorial times, he was a political appointee, and his second-in-command, Walter Hellan, was often delegated the important tasks. George Sundborg, a young reporter for a local weekly called *The Juneau Independent* recalls seeing the marshal and his deputies pore through the manuals in order to learn their new duty:

They of course had never conducted a hanging, and I think they got a few books out of

libraries somewhere, probably from the U.S. Marshal Service, to tell them how a hanging was to be set up and carried through. And I know that they had done some dry runs with the trap that they built, and had carefully calculated the weight of the victim — of the accused, so that he wouldn't be dropped so far as to behead him, which sometimes happens in a hanging, I learned at that time.⁹

Sundborg also learned that, like a firing squad where one of the squad has a blank cartridge, the marshal's deputies were to be insulated from individual responsibility for the act of executing Nelson Charles. Sundborg explained:

And so Walter Hellan, who was in charge of all of this, had told me that, so that the person who actually sprung the trap would not know that he had done it, they set up several, I think four, different ropes that would pull a pin that dropped the trap. And three of them would be false, and one would be the one that actually did it. And so the four men, all of whom were deputy marshals — the one who did it would not know that it was he who had pulled the one that actually caused this man's death.

THE SCAFFOLD was constructed in a stairwell of the building which housed both the Federal jail and the marshal's residence. According to Sundborg:

It was a large building which previously had been the capitol. And it was a wooden building but very large, and quite attractive. But it had grown old and it had been supplanted by the federal building, which was across the street from it. It had outside stairways, that is, one was out in the open when going from the second floor to the third floor, and so on. And [the marshal's office] had decided that they would do the hanging under one of these stairways because there was an open space there with quite a drop. And so we went in and they had set up a floor in the place with a trap in the middle of it.

The plan was to permit a drop of four and one-half feet below the level of the trapdoor. Construction of the scaffold was started three days before the hanging.¹¹

Charles faced his imminent death calmly. According to the local newspaper, Charles left

behind 13 letters of farewell, one of which was addressed to Marshal Mahoney, stating that the marshal "had treated him kindly and that he did not hold Mahoney in any way to blame for what was about to happen to him."¹² The paper also reported on Charles's condition on the night before his death: "Nelson Charles was calm throughout the night, jailers said, and ate a hearty breakfast. He slept about an hour and a half."¹³

The law required the execution to take place in front of 12 witnesses selected by the marshal. Those selected included three journalists, a priest, a minister, two doctors, men from the marshal's office, and several others who had no professional connection to the process (including one man who worked for the Internal Revenue Service).

A rope had been hung from the bottom of the second floor landing to the trapdoor structure that had been built over the open area into which the lower stair descended.

The witnesses were seated on benches beneath the ascending staircase. The marshal came out of the door, and told everyone that there was to be no talking once Nelson Charles came out. Al Anderson, one of the journalists present, recalled hearing someone say, "Jesus Christ, what a way to make a living."

Nelson Charles was brought out of the jail by Mahoney and a deputy. He was a small, dark-skinned man, wearing blue serge trousers, a white shirt, a carefully knotted necktie, and black shoes. Charles's arms and hands were bound tightly to his sides with white straps. As the witnesses watched, Mahoney took another strap and bound Charles's legs together.

Another of the journalists present, John Gaffney, wrote a remarkable essay shortly after the execution, in which he recorded details of the event, and some of his reactions to it.¹⁴ He recounts,

As [Mahoney] finished his task, he stepped back a little: is there anything you'd like to say, Nelson? he asked. We listened as we had never thought a man could listen, listened till our ears would burst, listened while we expected him to say nothing, but hoped he would; we expected a brief negative nod of the dark head. But he

spoke, his voice a half-sob, whispering, barely more: I am innocent of killing my mother-in-law, he murmured. I don't want to hang; I still say I am innocent. His head was bowed forward, you could feel if not see the hot tears in his eyes, you could feel his trembling in your own body.

Mahoney pulled a black knit hood over Charles's head, and then took the noose off a peg on the wall, and placed it over Charles' hooded head. Then he stepped back a step, and raised his arm, and softly said, "OK."

Gaffney recorded his own thoughts at that moment:

Had I any thought of a man, a criminal, about to pay for his crime? Any thought of a disreputable and dangerous killer about to give his life for one he had taken? No; nothing like that. Only that a man was about to die; that there, almost within reach, was a man, a man like ourselves: a young man who somewhere had a wife, who had once slept an untroubled sleep, had only the day before laughed and hoped for life. I was aware of some feeling as I sat there then, some unusual feeling that was strange to me; then it was vague, and there was not time to fathom it. But now I know: it was the certainty, the sureness of it. I knew for the only time in my life that within minutes this man who now lived as I lived would be dead, a stone, lifeless, cold and stiff. Men have been stricken with fatal diseases and we have known they will die; we have held our buddies in our arms at the front and watched the last breaths spend themselves; but even then there has been hope, and when not hope, the awareness that death might stay away yet awhile. Would it come now, or later, perhaps? But none of that now; nothing less than a miracle can save this fellow, and there are no miracles in this life; we know no other. Soon he will be a stone.

Deputy Marshal Walter Hellan flipped a switch on the wall and there was a clicking sound. Gaffney recalled:

Then, the clicking stopped with the louder sound of the trap's springing. There it was: the square of wood on which he stood fell away and he fell toward the pit, fell then swung. Not a movement, just swung, turning, turning, now right, now left; like a stone on a string, a bit of paper on a cord, held in the air for a kitten to leap at.

The marshal went downstairs to help the doctors climb up a pile of boxes from the floor below to determine whether or not Nelson Charles was still alive. "Dead," was all the second doctor said. The witnesses left.

Al Anderson remembered what happened

Juneau, Alaska April 14th, 1950

We, the undersigned citizens of the United States, and residents of Juneau, Alaska do hereby certify that we witnessed the execution of Eugene LaMoore by hanging at the Federal Jail in Juneau, Alaska, on April 14th, 1950 at 5:16 P.M.

<i>Thomas L. Richardson</i>	Guard
<i>Harley L. Lacey</i>	Guard
<i>Ed. Brunson</i>	Guard
<i>Nelson W. Helle</i>	Guard
<i>Rev. Walter E. Baker</i>	Minister
<i>Frank D. Coomans</i>	Witness
<i>Ernest E. Dennis</i>	Witness
<i>Business Office</i>	Witness
<i>Father Suniborc</i>	Minister
<i>Charles Merrill</i>	Assoc. Press
<i>Edwards</i>	Doctor
<i>Mike Pasich</i>	Witness
<i>Michael J. Quinn Jr.</i>	Witness
<i>Robert N. Driscoll</i>	Press
<i>Roland V. Edwards</i>	Guard
<i>Mr. J. M. ...</i>	U.S. Marshal
<i>Samuel J. Thompson</i>	Deputy U.S. Marshal

Witnesses to the execution of Eugene LaMoore.

after the hanging, dropping his voice to quote Mahoney:

And afterwards, I'll never forget, the United States marshal congratulating Walter Hellan on the "... smooth job, well done." And I think after that, I went downtown to a bar and had a good stiff drink, then came back to my office at the Alaska Daily Press, wrote the story, and everybody stayed away from me because they knew I had enough on my mind.

GEORGE SUNIBORC recalled emerging after the execution from the dark jail into the rainy daylight, and seeing a "... very striking scene, one of the greatest, most striking scenes of my life." There was a ring of several hundred people around the jail:

I was dumbstruck to see that the entire ring — it was on a hillside, and every point of vantage where a person could stand was filled with a Native Alaskan, an Indian. You've probably seen the movies in the old days where the wagon trains are going through a valley, and all of a sudden an Indian will appear on the horizon, and then there would be nothing but Indians all the way around. Well, that was the way it

was on the day of the execution.

The crowd was "absolutely silent."

Nelson Charles had asked that any funeral be conducted by the Salvation Army. He was buried in an unmarked grave in Evergreen Cemetery. His wife was in Ketchikan at the time of the hanging. According to the newspaper, she was serving time on a charge of being drunk and disorderly. He left behind a young daughter as well.

Austin Nelson and Eugene LaMoore

AUSTIN NELSON AND EUGENE LAMOORE were separately convicted of the 1946 murder of a Juneau convenience store owner named Jim Ellen. Both Nelson and LaMoore were African-American.

Jim Ellen owned a small grocery and liquor store on Willoughby Avenue, in the rougher area of Juneau. He lived in the back room of the store premises. A 53 year-old bachelor, he was a Greek immigrant who had come to the United States as a child in 1909, and had been in Juneau since about 1925. Ellen was a veteran of World War I and a member of the

American Legion and the Juneau Elks Lodge. He was a hardy man, and powerful. Stores like his were then, as now, a common target of thieves.¹⁶ The local newspaper reported several previous robberies of Ellen's store in 1937, 1938, and 1944. In one of those instances, Ellen had successfully resisted two armed robbers, who he chased away after a struggle.¹⁶

The murder of Jim Ellen hit a nerve in post-war Juneau. One former resident, Isabelle McLean, recalled anxiety in the town:

*It was just after the war, you know, and there had been a lot of unsettled feeling in Juneau because there were many strangers, many people who had worked various construction jobs during the war, were drifting in and out.*¹⁷

ELLEN'S BODY was found on the floor of his store, on the morning of December 22, 1946. His throat had been cut. Merchandise was scattered around the store, and all of the paper money from the cash register was gone, with one exception. The robber had left on the store counter a check signed over to Jim Ellen by one "Austin Nelson." Austin Nelson was a 24 year-old black man, who had worked at various odd jobs around Juneau. Nelson was immediately arrested on suspicion of murder.

Trial was set for April 10, 1947. Because it was a homicide and Alaska still a territory, the investigation was done by the Federal Bureau of Investigation. Agents interviewed twenty witnesses, and forwarded evidence to a scientific laboratory in Washington, D.C. for testing and analysis. FBI records show that agents sent a radiogram to Washington, stating that they wanted to secretly record conversation between the accused man and his lawyer, which wouldn't be hard, they said, because the elderly lawyer was very deaf, and any conversation with him would have to be pretty loud. Washington responded that the request was ill-advised.

Austin Nelson, in contrast, had no opportunity to conduct an investigation into the charges filed against him. Counsel was not appointed to represent him until ten days before the scheduled trial. Because it was a capital case, the court could appoint two defense lawyers. The first appointment was Henry Roden, one of the grand old men of Alaska Law, who had himself served as the compiler of law in the territory. At 73, however, Roden was past his prime, too frail, by one report, to walk up the steep hill to the jail to see his client. Roden told the Court that eight days would be long enough for him to prepare his client's defense, but asked that the court appoint someone to assist him. Joseph A. McLean, who had passed the bar exam just

two months earlier, was appointed as his co-counsel. McLean had studied for the bar by serving for a period of years as an intern to Herbert "Bert" Faulkner, a preeminent attorney in Juneau.

NELSON'S TRIAL BEGAN ON APRIL 14, 1947, with the picking of the jury. Seven of the twelve jurors who were chosen for the trial had just served together on another murder jury the week before. Argument by the



*"Like most of the men
hanged in Alaska, Nelson
had no money with which
to pay for an appeal,
and there was no provision
for a public lawyer
for appeal."*



United States Attorney and introduction of evidence began on the next day, and consumed a total of four days.

The main evidence against Nelson was the testimony of a woman named Marguerite "Dolly" Silvers. Silvers had, in fact, been held in jail for a month before the Nelson trial on a high bond, on the grounds that she was a material witness. Such an arrest was extremely unusual, according to one former territorial prosecutor.¹⁸ The basis for it in this case is not known.

Silvers testified at Nelson's trial that she had seen Austin Nelson in Ellen's shop late on the night of the murder, when she was walking back home after the bars had closed.

Other witnesses testified that Nelson had once owned a straight-edged razor, that a case for such a razor had been found in his rented room, that he had small bloodstains on his clothes, and that he had been seen on Willoughby Avenue on the night of the killing. The government submitted as evidence for the jury's examination a photograph of Ellen lying in a pool of his own blood with his throat cut, a photograph of Ellen lying in the morgue, the blood soaked shirt and pants

that Ellen had died in, and a glass vial containing Ellen's blood. The evidentiary value of the vial of blood is unknown.

Henry Roden made no opening argument on behalf of his client. Nelson put forward an alibi defense to the effect that, although he had been downtown that Saturday night, and had been walking on Willoughby Avenue, he had nothing to do with Ellen's death. One of the witnesses gave highly persuasive testimony in support of Nelson's alibi. He stated that Nelson had been with him for much of the evening, spending some time at a downtown bar, and visiting friends for a drink at a local hotel, and walking down the Avenue to try to collect a debt from a friend. That witness was Eugene LaMoore, a black, 42 year-old fisherman married to a Juneau Tlingit woman with whom he had three young children. As remembered by one of the jurors at Nelson's trial, LaMoore's testimony was detailed and credible:

*He made a tremendous witness. He was just straightforward. Looked at everybody, looked the prosecuting attorney right in the eye, straightforward answers, no hesitation, very sincere. You couldn't help but believe him.*¹⁹

But LaMoore's credibility with the jury was short-lived. Without advance notice, the prosecutor asked LaMoore if, twenty years before, he had been convicted of a felony in California. LaMoore denied it. The next morning, LaMoore returned to the courtroom and corrected his testimony of the previous day, admitting to a 1927 conviction. As a young man, LaMoore had, in fact, been convicted of robbery.

LaMoore's failure to admit the conviction, however, destroyed his credibility with the jury regarding everything else he had said about Austin Nelson. Even 50 years later, the scene was vivid in the mind of one of the men who served on Nelson's jury:

As far as LaMoore was concerned, I think the rest of the jury felt like I did. They were stunned when [United States Attorney] Gilmore brought him back in because I think we believed the guy when he testified the first time around. He was just ... — if anybody could have saved this guy's neck, it was [LaMoore].

Nelson's lawyers argued that the case was purely circumstantial, that the Government had never explained the problematic facts that none of the money taken from the store was found, that no murder weapon had been found, and that the murderer's bloody footprints, which had been found on the linoleum floor of the store, and cut out by the police, had never been introduced by the prosecutor.

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Capital Punishment

(continued from page 9)

AFTER FOUR HOURS of deliberation on Friday, April 18, the jury returned with a verdict of guilty. As required by law, the jury was also charged with deciding whether Nelson should be sentenced to life in prison or sentenced to hang. The jury's verdict was death.

Before imposing sentence, Judge Pratt asked Austin Nelson if he had anything to say on the subject. Nelson's answer was transcribed by the court reporter:

Yes I have, your Honor. Your honor, I was prosecuted and condemned for a crime I have not committed. I haven't the least idea of what it is all about. I knew nothing about it. I guess I have been prosecuted for somebody else. I am innocent. That is all. ... If it is possible for a new trial, there is an attorney I can get to take the trial. He isn't here, but I am positive he will take it to prove my innocence, because I absolutely don't know anything about it.

Forced to respond to this disconcerting dialogue, Judge Pratt answered:

The jury has found you guilty, Mr. Nelson, and they made that finding without the recommendation that you were guilty without capital punishment. Having so found you guilty, there is only one sentence the Court can pronounce, and that is the sentence of death.

Therefore, it is the sentence and judgment of the Court that you suffer the death penalty by hanging by the neck until dead, upon the 1st day of July, 1947. Please sit down.

Nelson persisted:

Your honor, is there no way for me to get a new trial whatsoever?

The Judge told him to ask his attorney, and, again, to sit down.

Nelson's conviction was not appealed. Like most of the men hanged in Alaska, Nelson had no money with which to pay for an appeal, and there was no provision for a public lawyer for appeal.

ON THE DAY Eugene LaMoore came back into court to change his testimony regarding the conviction twenty years earlier, he was arrested by the U.S. marshal and charged by the local FBI agent with committing perjury. The fact that he had retracted that statement the following day was disregarded. Bond on the perjury charge was set at \$10,000, a very high bond in 1947.²⁰

LaMoore was incarcerated in the federal jail, in a cell by himself, shackled in leg irons - a short length of chain with iron bracelets on each side which were locked around each of his ankles, and later shackled to a ball and chain. He was repeatedly interviewed by the FBI agent and by local law enforcement

authorities, not about the perjury charge for which he had been charged and imprisoned, but about the murder of Jim Ellen. LaMoore denied any involvement.

The government attorneys and investigators continued to interrogate LaMoore, who had no attorney nor any ability to obtain an attorney. Shortly before Nelson was to be hanged, they brought Nelson and LaMoore together in the jail for the first time since LaMoore's arrest. Their efforts paid off: On July 1, 1947, the day that Austin Nelson was supposed to die, Eugene LaMoore signed a typed confession stating that he, too, had participated in the robbery of Jim Ellen, and that, during the robbery, Nelson had killed Ellen, although LaMoore had begged him not to.

Nelson's hanging was postponed: the Government said that he was now a necessary and material witness against LaMoore, who was charged with first degree murder. A grand jury indicted LaMoore for murder on January 6, 1948, nine months after he had been jailed on the perjury complaint. On January 12, Henry Roden and Joseph McLean, the same two lawyers who had represented Austin Nelson, were appointed to represent LaMoore. LaMoore's trial began two weeks later, on February 2, 1947. It took three days.

The government's case against LaMoore hinged completely on the confession he had given at the federal jail. No murder weapon was introduced. No money from the robbery was introduced. Two witnesses testified that, on the night of Ellen's murder, LaMoore was wearing a coat that he didn't have any longer. One policeman testified that there had been bloody footprints on the floor of Ellen's store, which looked to be about the same size as LaMoore's feet. But the linoleum flooring with those footprints that had been cut out by the police on the day of the murder was never introduced by the government, and there was no explanation offered for its absence.

The only critical evidence against LaMoore was the confession. But at trial LaMoore retracted the confession. He testified that after he had been implicated by Nelson (which only occurred in the final days before Nelson's scheduled hanging), the two had been brought together in the jail, and Nelson had burst into tears, apologized for telling lies, and had begged for help saving his life:

*[Nelson] would not sit down. He stood behind his chair and cried and called himself many dirty names. He told me to forgive him, 'but help me save my life.' It hurts me to say this. He said, 'Help me save my life. It will come out all right.'*²¹

The Marshal's office had decided they would do the hanging under one of the [outside] stairways because there was an open space there with quite a drop.



The old capital building housed the federal jail and the marshal's residence. It was eventually torn down to make room for the new state office building.

LaMoore said that he decided to help Nelson. At trial, in response to questioning by the prosecutor about whether or not his confession was true, the following exchange took place:

Q: You told [Deputy U.S. Marshal Hellan] a lie, did you?

A: *That was a lie. He asked me to swear to it, and I refused.*

Q: Did you mean to lie to him?

A: *To help that boy save his life if possible.*

Q: And your admitting to Mr. Hellan that you participated with him in the robbery and the murder, you thought you helped Austin Nelson by that?

A: *He is alive, isn't he?*

Q: Well, yes.

A: *It undoubtedly helped.*

Q: Your making that statement got him a stay of execution?

A: *That man was framed, and you know it.*

Q: Just answer the questions.²²

Then the prosecutor asked:

Q: Didn't you think you were taking a chance to help?

A: *I take a chance walking across the streets.*

Q: You were willing to take that chance?

A: *I have took chances before.²³*



"I remember it was not a nice day. There was a feeling of malaise, or dourness, or maybe the best word is the German word, angst."

LaMoore also claimed that his confession was obtained by a ruse. His defense attorneys put forth uncontroverted evidence that LaMoore's confession was only obtained after Hellan called on one of the most prominent lawyers in Juneau to come down to the jail and talk to LaMoore in connection with the unfilled murder charge. That lawyer was Herbert L. "Bert" Faulkner. Bert Faulkner was probably the most famous lawyer in Juneau at the time: he represented the banks, fish processors, and other big businesses. Before he

had entered the practice of law, Faulkner had been a deputy U.S. marshal. He was close friends with George Folta, the newly appointed federal judge, and he had close ties with the federal prosecutor's office.

According to LaMoore's testimony, Bert Faulkner met with LaMoore privately, and then they called in Hellan, and Bert Faulkner sat down with LaMoore and typed the statement that LaMoore dictated.

LaMoore testified that he had believed Faulkner to be his attorney, and that when Faulkner told him to give the statement, he did so.

Faulkner denied LaMoore's testimony. He testified that he told LaMoore he would not be his attorney, but that he was just coming to see him because he had been requested to do so.

LaMoore's junior attorney, Joseph McLean, had expected that Henry Roden would take on the venerable Mr. Faulkner, since Faulkner was a close friend of McLean's father, as well as McLean's teacher and mentor. But when the moment for cross-examination came, Roden poked McLean in the side with his elbow, and told him to "go to it." McLean asked a few weak questions of his teacher, and sat down.²⁴ He never got before the jury the fact that Faulkner was a close friend of Deputy Marshal Walter Hellan, and

EUGENE LAMOORE HANGED

Convicted Slayer Goes to Gallows Here Pleading He Is Innocent

Pleading his innocence to the last, Eugene La Moore alias Austin Rollap, 42-year-old convicted slayer, went to the gallows at the Federal Jail here this morning for his part in the murder and robbery of groceryman Jim Ellen.

La Moore, a slim 5 feet 10 inch tall Negro, was dropped through the trap at 5:10 a.m., as Protestant and Catholic ministers spoke final words of prayer for his soul. The condemned man faced his hangman bravely and calmly as he made his final peace with God.

"I did not kill Jim Ellen," he began his final speech. "I have never taken innocent blood," he declared but indirectly implied that he had killed on other occasions. La Moore had a long and colorful criminal record.

Law enforcement officers explained that La Moore honestly believed that he had not killed Ellen at the victim's grocery store on Willoughby Avenue, Dec. 23, 1946. They said, however, that all evidence proved that he had hit Ellen on the head and that his partner Austin Nelson, had done the actual killing by slitting the victim's throat with a knife. Nelson had implicated La Moore in the crime before he himself went to the gallows here on March 1, 1948.

La Moore was convicted by a local Federal District Court jury in February 1948 but his execution was delayed until today by the long process of appeal. The execution was final at 5:31 a.m., when Dr. C. P. Carter pronounced him officially dead. He is survived by a wife and three children, all residents of Juneau.

Administering the last rites were Rev. Ralph E. Baker, of the Bethel Tabernacle and the Rev. Leo J. Sweeney and the Rev. John E. Gurr, both of the Catholic Church. A statement later today was private.

La Moore was the ninth man to be legally executed in the history of U. S. government in Alaska. This was the third in Juneau.

(Continued from page 17)

that Faulkner had close ties with the marshal's office from his own early years as a deputy marshal, or that Faulkner had close ties with the prosecutor's office even then.

Dolly Silvers, the witness who had been jailed for a month before the Nelson trial to make sure she was available, was called by LaMoore's attorney to testify. She stated that she had walked down Willoughby Avenue on that night, and had seen into the lighted windows of Jim Ellen's store, where she saw Jim Ellen with only one other man, Austin Nelson. No one else was there, she said. This was the same thing she had stated at the request of the prosecutor at Nelson's trial. Now, however, the same testimony was unwelcome by the prosecutor. He attacked her, suggesting that she was a drunk, and unreliable.

Austin Nelson had been kept alive at the request of the prosecutor on the grounds that "... it would be impossible to prove a murder charge against LaMoore without the testimony of said Austin Nelson."²⁵ He was expected to be "the Government's star witness" by the Juneau newspaper. In its first report of the LaMoore trial,²⁶ Although he was alive in the federal jail across the street from the courthouse in which LaMoore's trial was held, Nelson was never called to testify at the trial by the government.²⁷ No explanation for his absence was made. The government never told the jury (and apparently never told the defense either) that after Nelson's trial, Nelson directed agents to \$1,151 in the bathroom ceiling in Austin Nelson's rooming house. The FBI also found a straight-edged razor there. LaMoore's lawyers could have used this information to argue that Nelson, having all the money in his possession, was the sole perpetrator.

During deliberations the jury sent the judge a note asking whether or not the judge could decide on the punishment. Judge Folta responded with a note stating that the jury had to do that. A death verdict was returned five hours later. On hearing the verdict, Eugene LaMoore burst into tears.²⁸

On February 10, less than a week after the end of the LaMoore trial, the court scheduled the execution of Austin Nelson for March 1.

Nelson was hanged in the federal jail at 5:40 on the morning of March 1, 1948. He fought all the way from his cell to the scaffold, according to witnesses, and blacked the eye of Deputy U.S. Marshal Sidney Thompson. Walt Sinn, a city policeman who assisted with the execution, recalled how Thompson was behind Nelson, and leaned forward when Nelson leaned forward, and then was surprised by Nelson's suddenly throwing his head back-

ward, to strike Thompson in the face.

After Nelson was put on the scaffold, Sinn descended into the basement, below the scaffold. He waited for Marshal Mahoney to touch a switch above him, which illuminated a light bulb below. At that signal, Sinn was to pull the rope opening the trapdoor.

When the light bulb flashed, Sinn tripped the trapdoor. He recalled that Nelson dropped down right in front of him.

There was no reflex action whatsoever, except I can remember hearing fluid hit the floor, and it turned out of course that he was ... urinating. It was very quiet except for that.

He remembered being surprised at how long it took before Nelson's heart stopped beating:

A doctor, I can't remember if it was Doctor Whitehead or another of the local doctors was there with a stethoscope and remained there, and as I remember, the heart beat for quite some time it seems to me, eleven minutes or something? I was surprised at what good condition that man was, he was a strong and young man, so possibly that was why.

One woman, a young social worker in Juneau at the time, whose husband would later be one of the first State Troopers in Alaska, remembered the day on which Nelson was hanged:

To me, it seemed that the hanging cast a pall over the whole town. I remember it was not a nice day. There was a feeling of malaise, or dourness, or maybe the best word is the German word, angst. That was my impression at the time.²⁹

NELSON WAS BURIED in an unmarked grave in Evergreen cemetery. One man, now a hundred years old, remembers the burial.

I was pallbearer for both of those boys [Nelson and LaMoore]. The funeral was right out there in that little cemetery in Juneau. There was a priest or a minister. Nelson, he was Catholic. Eugene LaMoore, I don't know what religion he was. But they buried him out there.

We didn't take the Catholic in church. When we goes up there, my car was taking the pallbearers. The hearse had the body. The priest said, 'There's no need taking them in the church, nobody's there except the hearse driver.' We gets in my car and goes out there, and the father puts cross on his grave. And that's the truth.³⁰

AN UNSUCCESSFUL APPEAL was brought from Eugene LaMoore's conviction by Joseph McLean, who received no fee or reimbursement of the cost for traveling to San Francisco to argue the case.

LaMoore was hanged in the federal jail on April 14, 1950, just after 5:00 a.m. Two of the men who assisted in the hanging were

drafted from the Juneau city police beat that they usually walked at night. "Was LaMoore trembling?" I asked one of the former patrolmen. He answered, with what seemed like a touch of remembered bitterness, "Not any more than the rest of us." Even Marshal Mahoney looked shaken up, he said. Once LaMoore was standing on the scaffold, the two city patrolmen both retreated down the corridor to the furthest point from the actual execution, unwilling witnesses to the final act.¹¹ The widow of the other patrolman who had been there that night recounted how disturbing the whole thing had been to her husband. She asked, "Doesn't anyone think about the people who have to do these things?"¹²

After the hanging of Eugene LaMoore, the U.S. marshal's office made arrangements with the State of Washington. If there were to be any more executions, they would be done there, and not in Juneau.

The marshal's office had had enough.¹³

Like Nelson Charles and Austin Nelson, Eugene LaMoore was buried in an unmarked grave in Evergreen Cemetery. His wife put her two sons and daughter into an orphanage. Her family in Juneau would have nothing to do with them. She died young, perhaps of alcohol-related complications. According to the recollection of LaMoore's daughter, LaMoore's sister adopted two of the children, but her request to adopt the third child was denied, on the grounds that the third child was so light-skinned as to appear white, and she was black.

BETWEEN 1939, when Nelson Charles was hanged, and 1950, when Eugene LaMoore was hanged, there were many other homicides in Juneau and in Southeast Alaska, but none of the other wrongdoers was executed. Forrest Smith was sentenced in 1939 to serve

20 years for murder in a dispute related to Smith's wife. Guy Prince, a rich man who lived off the income of a trust fund set up for him by his wealthy California family, got 20 years for strangling his wife with a nylon stocking in 1946. George Meeks, convicted of the robbery and murder of a construction worker, was sentenced to life in prison in 1948. All of these men were white.

There were no more hangings in Juneau or anywhere else in the Territory, even during the seven year period before the death penalty was abolished by the Legislature in 1957. ■

Averil Lerman is an attorney whose practice focuses on criminal appeals. She is on the Humanities Forum's Speaker's Bureau, and has lectured on a variety of topics including historical research, the death penalty, and racial issues in public policy. She lives with her family in Anchorage.

Endnotes

1. Kermit S. Kynell: *A Different Frontier: Alaska Criminal Justice, 1935-1965*. University Press of America, Lanham, MD, 1991.
2. Only two of the men hanged during this period were white: Fred Hardy, executed in Nome in 1902, and Homer Bird, executed in Sitka in 1903.
3. After the executions of Hardy and Bird, three men were hanged in Fairbanks: Maiko Segura, in 1921, "John Doe" Hamilton in 1921, and Constantine Beaver, in 1929. After that date, there were no more hangings in Fairbanks.
4. Telephonic interview with Vic Fischer, March 1994.
5. Interviews with A.A., G.S., T.S.
6. Per remarks made by Juneau attorney Norman Banfield at a memorial service in honor of A.H. Ziegler on May 25, 1972. Transcript of service housed with historical records in the visiting judge's chambers in the Old Federal Building in Anchorage, Alaska.
7. Interview with G.S., June 23, 1994, in Seattle, Washington.
8. *Daily Alaska Empire*, 2/15/44.
9. A. Lerman: "The Trial and Hanging of Nelson Charles," 13 Alaska Justice Forum No. 1, University of Alaska Anchorage, Spring 1996.
10. Interview with George Sundborg, in Seattle, June 1994.
11. *The Daily Alaska Empire*, November 7, 1939.
12. *The Daily Alaska Empire*, November 10, 1939.
13. *The Daily Alaska Empire*, November 10, 1939, p. 1.
14. This essay, titled "Thoughts Inspired by an Execution," was recently published as the epilogue to *Frontiers of Justice: The Death Penalty*, edited by C. Whitman & J. Zimmerman, Biddle Publishing Co., Brunswick, ME (1997).
15. Tony Simin, the owner of a similar store in Douglas, was killed in 1942 during an apparent burglary. A Native man, William Paddy, was convicted of murdering Simin, and was sentenced to hang by the trial jury. His death sentence was commuted to life after a successful request for clemency in March of 1945.
16. *The Daily Alaska Empire*, November 26, 1937..
17. Isabelle McLean, interviewed in Seattle, Washington in June, 1994.
18. Telephone interview with Judge Seaborn Buckalew, in September, 1995.
19. Interview with Curtis Shattuck, October, 1994.
20. By contrast, bond was set at \$3500 when a perjury charge was brought against Deputy U.S. Marshal Sidney Thompson in 1953. Thompson was charged and convicted for lying to a grand jury investigating corruption in Ketchikan. U.S. Attorney Pat Gilmore, Jr., the prosecutor who obtained death verdicts against Nelson and LaMoore, was barred from participating in the grand jury investigation by Federal Judge George Folta. Gilmore left the U.S. Attorney's Office shortly thereafter, and returned to his home in Ketchikan as described by Judge James Fitzgerald in an interview in June, 1994. According to one of Gilmore's fellow Ketchikan lawyers, Judge Folta treated Gilmore with barely restrained contempt after those events.
21. Testimony of Eugene LaMoore, transcript of trial of Eugene LaMoore, Case No. 2472-B, p. 122.
22. LaMoore trial transcript, p. 126.
23. LaMoore trial transcript, p. 125.
24. Interview with Joseph A. McLean, June 1994 at his home in Seattle, Washington.
25. Affidavit of U.S. Attorney Pat Gilmore, Jr., filed on June 30, 1947 in connection with the motion to stay the execution of Austin Nelson.
26. *The Daily Alaska Empire* February 2, 1948.
27. The reasons for the decision not to call Nelson are not known. It could be speculated, however, that the prosecutor was not sure what Nelson would say, since the only time that Nelson had ever admitted that he himself was involved in Ellen's murder was immediately preceding the day first scheduled for his execution. At all other times, including the day on which he was in fact hanged, Nelson claimed he was innocent. Such a witness might not further the government's case against LaMoore, especially where there was a confession already signed by LaMoore.
28. *The Daily Alaska Empire*, February 5, 1948, p.1.
29. Interview by telephone with Harriet Borelho, in October, 1994.
30. Telephone interview with Jasper Frambough, in February, 1995.
31. Interview with P. C., in October, 1994.
32. Telephone interview with Gladys Byington, in Anchorage, October 1994.
33. Interview with Hartley "Pete" Crosby, at his home in Juneau, October 7, 1994.

The New York Times
April 16, 1997

From: *AVERIL Lemman*

April 16, 1997

REPORT CRITICIZES SCIENTIFIC TESTING AT F.B.I. CRIME LAB

By DAVID JOHNSTON

The Justice Department's inspector general said today that the Federal Bureau of Investigation's renowned crime laboratory was riddled with flawed scientific practices that had potentially tainted dozens of criminal cases, including the bombings of the Federal Building in Oklahoma City and the World Trade Center in New York.

The inspector general, Michael R. Bromwich, announced his findings after an 18-month investigation that he said had uncovered "extremely serious and significant problems" at a laboratory that for more than six decades, since its founding by J. Edgar Hoover in 1932, has been a symbol of the F.B.I.'s cutting-edge scientific sleuthing.

The investigation found that the laboratory's explosives, chemistry-toxicology and materials analysis units were rife with substandard performance that had forced F.B.I. officials to review several hundred past and current cases to determine how many might have been jeopardized by faulty work.

The findings are expected to give added impetus to defense lawyers in scores of cases, including the defense in the Oklahoma City bombing case, which served notice in pretrial hearings months ago that it intended to challenge the integrity of the F.B.I. investigation and analysis of physical evidence in the case.

The inspector general's report recognized the central role played by a chemist in the explosives laboratory, Frederic Whitehurst, who was single-handedly responsible for the investigation after filing numerous complaints since 1989 about the laboratory's poor performance and the failings of his colleagues.

The report represented another blow to the reputation of the F.B.I. and its Director, Louis J. Freeh, who took over the bureau in September 1993 as the seriousness of the laboratory's problems began to emerge. In recent months, Mr. Freeh's competence has been under attack in Congress in connection with a botched interview with a suspect in the Olympic Centennial Park bombing in Atlanta last July and the release of F.B.I. background files to the White House.

Although Mr. Freeh has tried to improve the laboratory, that attack continued today. Senator Charles E. Grassley, Republican of Iowa, said the report demonstrated that the bureau "needs better leadership."

Mr. Bromwich recommended the censure, transfer or other discipline of five agents who worked in the laboratory, including the agent who first asserted that it had problems. He said the inquiry had found numerous instances in which F.B.I. agents who work as scientific examiners had prepared sloppy reports, exaggerated their findings against defendants and inadequately documented their test results.

Moreover, the report found that supervisors had failed to supervise the examiners adequately, had allowed indefensible conclusions to go unchallenged and had left too much discretion to subordinates who reached findings that were unsupported by scientific evidence. The report suggested that the laboratory had maintained its reputation for years even as its managers clung to outmoded methods and failed to respond to internal complaints.

The bureau's Deputy Director, William J. Esposito, expressed regret and acknowledged the criticism of the laboratory's performance. He said the F.B.I. would focus "on how did we get to this point, and address these problems so they don't reoccur."

The problems seemed most serious in two major cases: the bombing on Feb. 26, 1993, of the World Trade Center, which killed 6 people, and the bombing on April 19, 1995, of the Oklahoma City Federal Building, which killed 168 people. A group of Muslim fundamentalists was convicted in the World Trade Center case. Two men are now on trial in Denver or are scheduled to be tried for the Oklahoma City bombing.

In the World Trade Center case, the report said an examiner in the explosives laboratory, David R. Williams, "gave inaccurate and incomplete testimony and testified to invalid opinions that appeared tailored to the most incriminating result."

Mr. Williams's testimony in the case, the report said, "exceeded his expertise, was unscientific and speculative, was based on improper nonscientific grounds and appeared to be tailored to correspond with his estimate of the amount of explosive used in the bombing."

Mr. Williams was also assigned to the Oklahoma case, and the inspector general concluded that "many of the same errors committed by Williams in the World Trade Center case were repeated in the Oklahoma City case — principally that Williams based some of his conclusions not on a valid scientific analysis, but on speculation from the evidence associated with the defendants."

Mr. Williams's findings, the report concluded, were "tilted" to incriminate the defendants. For example, he determined that the Oklahoma City bomb was composed of ANFO, ammonium nitrate and fuel oil, not from chemical analysis but from a speculative judgment based on "the fact that one of the defendants purchased ANFO components."

The report found that Mr. Williams's supervisor, J. Thomas Thurman, failed to review his subordinate's work properly and that both agents should be singled out for "special censure" for their roles in the Oklahoma City case because of the "enormous national significance" of the prosecution.

Mr. Williams, who was transferred along with Mr. Thurman and two other agents in January in response to the inspector general's findings, said in a reply to the report that he had tried to provide rapid scientific evaluations based on information available to him at the time. But he acknowledged that he had "overstated" his conclusions in a report on the Oklahoma City bombing.

The report made public today reported similar lapses in less well known cases, including the 1989 bombing of an Avianca Airlines jet that exploded after taking off from Bogota, Colombia, killing all 107 people on board, including 2 Americans.

Mr. Bromwich said he had not found any instance in which laboratory examiners had committed a crime or had intentionally faked forensic evidence, obstructed justice or lied about their findings in court. He said his inquiry had not reached any conclusions about whether the flaws were damaging enough to overturn the outcome of any case.

So far, Attorney General Janet Reno said, prosecutors have identified 55 cases in which examiners might have committed errors serious enough to warrant advising defense lawyers of potentially exculpatory evidence. Of these, prosecutors have decided to turn over data to defense lawyers in 25 cases. In 13 of these cases that have gone to trial, Ms. Reno said, "there has been no change in the outcome of the case."

The Attorney General added, "Today's report does identify significant instances of testimonial errors, substandard analytical work and deficient practices." But she said the laboratory was capable of performing or providing "unbiased analyses that will help solve crimes, punish the guilty and exonerate the innocent."

The report contained a mixed review of the accuracy of Mr. Whitehurst's assertions. Mr. Bromwich said that many of Mr. Whitehurst's criticisms were confirmed but that his most sensational charges, including fabrication of evidence and perjury, was unsubstantiated.

A lawyer for Mr. Whitehurst, Stephen M. Kohn, maintained that Mr. Whitehurst's main charges had been sustained. "If you look at the report, it validates every major allegation he made," Mr. Kohn said, adding that the dismissal of Mr. Whitehurst's most sweeping assertions was unfair. "What they did is shoot the messenger," Mr. Kohn asserted.

Mr. Bromwich said an F.B.I. internal inquiry into some of Mr. Whitehurst's complaints in 1992 was a rapid effort that uncovered no wrongdoing because it failed to dig deeply enough to unearth problems when they were first reported.

Mr. Esposito said the bureau had accepted the criticism and was putting into effect each of the 40 recommendations, including the hiring of a scientist from outside the F.B.I. as a supervisor and instituting a number of organizational and procedural changes at the laboratory.

The New York Times
nytimes.com

from: Agent Lerman

August 5, 2004

New Doubt Cast on Testing in Houston Police Crime Lab

By ADAM LIPTAK AND RALPH BLUMENTHAL; MAUREEN BALLEZA CONTRIBUTED REPORTING FOR THIS ARTICLE.

The police crime laboratory in Houston, already reeling from a scandal that has led to retesting of evidence in 360 cases, now faces a much larger crisis that could involve many thousands of cases over 25 years.

Six independent forensic scientists, in a report to be filed in a Houston state court today, said that a crime laboratory official — because he either lacked basic knowledge of blood typing or gave false testimony — helped convict an innocent man of rape in 1987.

The panel concluded that crime laboratory officials might have offered "similarly false and scientifically unsound" reports and testimony in other cases, and it called for a comprehensive audit spanning decades to re-examine the results of a broad array of rudimentary tests on blood, semen and other bodily fluids.

Elizabeth A. Johnson, a former director of the DNA laboratory at the Harris County medical examiner's office in Houston, said the task would be daunting.

"A conservative number would probably be 5,000 to 10,000 cases," Dr. Johnson said. "If you add in hair, it's off the board."

The official whose testimony was challenged, James Bolding, said in a telephone interview that he did not recall the particular case. But Mr. Bolding said that both his scientific work and his testimony were always careful and professional. When he testified in 1987, he was the supervisor of the laboratory's serology unit. He later became the head of its DNA unit.

His testimony helped convict George Rodriguez, who has served 17 years for raping a 14-year-old girl in 1987. DNA results have now cleared him, according to court-ordered testing, and the papers to be filed today will seek his release. As in many of the 146 DNA exonerations across the country, the new information also calls into question the scientific evidence used to convict Mr. Rodriguez in the first place.

A re-examination of the work by the Houston crime laboratory is already under way, but only of the DNA evidence used to convict people. That effort involves hundreds of cases and has produced a staggering workload, prosecutors in Houston say. One man has been exonerated, and significant problems have arisen in at least 40 cases.

The discovery of flawed work in the laboratory that led to the Rodriguez conviction would seem to require similar reviews of its work, legal experts said, but prosecutors would not immediately say what they will do or whether they will oppose Mr. Rodriguez's release.

Barry Scheck, one of Mr. Rodriguez's lawyers, said that Harris County was the worst place in America for a crime laboratory scandal.

"We know already that they couldn't do DNA testing properly," Mr. Scheck said. "Now we have a scandal that calls into question many thousands more cases. And this jurisdiction has produced more executions than any other county in America."

Since the death penalty was reinstated in 1976, Texas has executed 323 people, 73 for crimes in Harris County.

A state audit of the crime laboratory, completed in December 2002, has found that DNA technicians there misinterpreted data, were poorly trained and kept shoddy records. In many cases, the technicians used up all available evidence, making it impossible for defense experts to refute or verify their results. Even the laboratory's building was a mess, with a leaky roof contaminating evidence.

The DNA unit was shut down soon afterward, and it remains closed.

Police officers and prosecutors vowed to retest DNA evidence in every case where it was used to obtain a conviction. The size of that job, far smaller than the one called for by experts in the Rodriguez case, has involved many thousands of hours.

"It's massive," said Marie Munier, the assistant district attorney supervising the re-examinations. "If you had asked me when it happened would it take us over two years to complete this, I would have said: 'You're crazy. No way.'"

"Maybe if they'd gotten 50 or 100 people," she added, "they could have gotten it done faster."

Ms. Munier said retesting had resulted in one exoneration, that of Josiah Sutton, who was released last year after serving more than four years for a rape he did not commit.

Though DNA is often thought of as a tool for exonerations, prosecutors in Mr. Sutton's case had used it to convict him, submitting false

scientific evidence asserting that there was a solid match between Mr. Sutton's DNA and that found at the crime scene. In fact, 1 of every 8 black people, including Mr. Sutton, shared the relevant DNA profile. More refined retesting cleared him.

Ms. Munier said her office had overseen retesting in 360 DNA cases so far. "In 18 cases, they were unable to confirm the original H.P.D. results," she said, referring to the Houston Police Department. "In 21 cases, I am told by H.P.D. that additional testing is in progress because the first tests did not confirm the original results. In six cases, the retests confirmed the original inclusion or exclusion, but the H.P.D.'s statistical analysis was off."

She said that defendants and their lawyers were being told of these results, and that they were free to file motions contesting their convictions.

That approach has critics.

"In Harris County," said William C. Thompson, a professor of criminology at the University of California, Irvine, who has followed the crime laboratory scandals closely, "defendants were prosecuted with flawed scientific evidence and defended by court-appointed lawyers who lacked the knowledge and resources to challenge it and complain about the injustice. Now that the scandal has come to light, the system is relying on the same inept, timid lawyers to make it right."

There were signs of problems in Mr. Rodriguez's case from the start.

On Feb. 24, 1987, two men abducted and raped a 14-year-old girl. One, Manuel Beltran, confessed. Mr. Beltran and his brother Uvaldo said the second rapist was Isidro Yanez. Mr. Yanez's car was used in the abduction. The victim selected Mr. Yanez and Mr. Rodriguez from photographs before identifying Mr. Rodriguez as the second rapist.

Mr. Rodriguez had an alibi: he was working at a factory that made bed frames at the time of the rape, and his boss swore to that in court.

So it was Mr. Bolding who provided the crucial testimony against Mr. Rodriguez. He said Mr. Yanez's blood type categorically excluded him as a possible rapist.

"Is he a possible donor of the semen?" a prosecutor, Bill Hawkins, asked at the trial, referring to Mr. Yanez.

"No, sir," Mr. Bolding responded, "he is not."

In his opening and closing statements, Mr. Hawkins hammered this point home. "Scientific evidence really nails this man to the wall," he said of Mr. Rodriguez. It "shows beyond a doubt that Isidro Yanez could not have committed the offense."

Yet recent court-ordered DNA testing shows that Mr. Yanez's DNA profile matches a pubic hair recovered at the crime scene.

Mr. Hawkins did not respond to a message seeking comment. Nor did Jack Roudy, the prosecutor who has been supervising the retesting in the Rodriguez case, or Chuck Rosenthal, the Harris County district attorney. Through a prison spokeswoman, Mr. Yanez, who is serving time for kidnapping, declined a request for an interview.

Mr. Bolding's misstatement was fundamental and egregious, the experts' report said.

"There is absolutely no scientific basis for Bolding's testimony that Isidro Yanez could not have been the donor of the semen samples," the scientists wrote.

Dr. Johnson, the former DNA laboratory director, agreed. "That's kindergarten stuff," she said.

Mr. Bolding, speaking generally, said his conclusion was scientifically defensible. "You can have as many experts as you want," he said.

Mr. Rodriguez, now 43, said his 17 years behind bars had ruined his life and torn his family apart. He has four daughters and a son, though he has not seen anyone in his family for many years.

"My mom came to visit me a couple of times," he said in a telephone interview. "I'd say about four or five times since I been locked up. Of course, that was back in the early 90's."

Now, though, he said, he is growing optimistic.

"It feels good to me to know what's going on and to prove my innocence," he said.

Mr. Bolding retired in 2003 after police investigators recommended that he be terminated for various professional and supervisory failures, including submitting false information to auditors in 2000 and 2001.

Last month, a judge in Midland, Tex., dismissed perjury charges against Mr. Bolding, saying the statute of limitations had expired. In that case, Mr. Bolding was accused of overstating his academic credentials in a 2002 sexual assault trial. He said a court reporter had transcribed his testimony incorrectly.

from AVERIL Lerman

The New York Times

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February 5, 2009

Science Found Wanting in Nation's Crime Labs

By SOLOMON MOORE

Forensic evidence that has helped convict thousands of defendants for nearly a century is often the product of shoddy scientific practices that should be upgraded and standardized, according to accounts of a draft report by the nation's pre-eminent scientific research group.

The report by the National Academy of Sciences is to be released this month. People who have seen it say it is a sweeping critique of many forensic methods that the police and prosecutors rely on, including fingerprinting, firearms identification and analysis of bite marks, blood spatter, hair and handwriting.

The report says such analyses are often handled by poorly trained technicians who then exaggerate the accuracy of their methods in court. It concludes that Congress should create a federal agency to guarantee the independence of the field, which has been dominated by law enforcement agencies, say forensic professionals, scholars and scientists who have seen review copies of the study. Early reviewers said the report was still subject to change.

The result of a two-year review, the report follows a series of widely publicized crime laboratory failures, including the case of Brandon Mayfield, a lawyer from Portland, Ore., and Muslim convert who was wrongly arrested in the 2004 terrorist train bombing in Madrid that killed 191 people and wounded 2,000.

American examiners matched Mr. Mayfield's fingerprint to those found at the scene, although Spanish authorities eventually convinced the Federal Bureau of Investigation that its fingerprint identification methods were faulty. Mr. Mayfield was released, and the federal government settled with him for \$2 million.

In 2005, Congress asked the National Academy to assess the state of the forensic techniques used in court proceedings. The report's findings are not binding, but they are expected to be highly influential.

and law professor at Arizona State University who presented fundamental weaknesses in forensic evidence to the academy. "But it will be used by others who will make law or will argue cases."

Legal experts expect that the report will give ammunition to defense lawyers seeking to discredit forensic procedures and expert witnesses in court. Lawyers could also use the findings in their attempts to overturn convictions based on spurious evidence. Judges are likely to use the findings to raise the bar for admissibility of certain types of forensic evidence and to rein in exaggerated expert testimony.

The report may also drive federal legislation if Congress adopts its recommendations. Senator Richard C. Shelby, Republican of Alabama, who has pushed for forensic reform, said, "My hope is that this report will provide an objective and unbiased perspective of the critical needs of our crime labs."

Forensics, which developed within law enforcement institutions — and have been mythologized on television shows from “Quincy, M.E.” to “CSI: Miami” — suffers from a lack of independence, the report found.

The report's most controversial recommendation is the establishment of a federal agency to finance research and training and promote universal standards in forensic science, a discipline that spans anthropology, biology, chemistry, physics, medicine and law. The report also calls for tougher regulation of crime laboratories.

In an effort to mitigate law enforcement opposition to the report, which has already delayed its publication, the draft focuses on scientific shortcomings and policy changes that could improve forensics. It is largely silent on strictly legal issues to avoid overstepping its bounds.

Perhaps the most powerful example of the National Academy's prior influence on forensic science was a 2004 report discrediting the F.B.I. technique of matching the chemical signatures of lead in bullets at a crime scene to similar bullets possessed by a suspect. As a result, the agency had to notify hundreds of people who potentially had been wrongfully convicted.

In its current draft report, the National Academy wrote that the field suffered from a reliance on outmoded and untested theories by analysts who often have no background in science, statistics or other empirical disciplines.

Although it is not subject to significant criticism in the report, the advent of DNA profiling clearly set the agenda. DNA evidence is presented in less than 10 percent of all violent crimes but has revolutionized the entire science of forensics. While DNA testing has helped to free more than 200 wrongfully convicted people, “DNA was a shock to police culture and created an alternative scientific model, which promoted standardization, transparency and a higher level of precision,” said Paul Giannelli, a forensic science expert at Case Western Reserve University School of Law who presented his research to the National Academy. Enforcement officials, Mr. Giannelli said, “chose to say they never make mistakes, but they have little scientific support, and this report could blow them out of the water.”

Peter J. Neufeld, a co-director of the Innocence Project, a nonprofit group that uses DNA evidence to exonerate the wrongfully convicted, presented to the academy a study of trial transcripts of 137 convictions that were overturned by DNA evidence and found that 60 percent included false or misleading statements regarding blood, hair, bite mark, shoe print, soil, fiber and fingerprint analyses.

The courts have long struggled with the proper role of scientific evidence. In a 1993 landmark decision, Daubert v. Merrell Dow Pharmaceuticals, the Supreme Court held that scientific testimony had to meet an objective standard. Federal courts have occasionally excluded evidence like handwriting and hair analysis.

Donald Kennedy, a Stanford scientist who helped select the report's authors, said federal law enforcement agencies resented “intervention” of mainstream science — especially the National Academy — in the courts.

He said the National Institute of Justice, a research arm of the Justice Department, tried to derail the forensic study by refusing to finance it and demanding to review the findings before publication. A bipartisan vote in Congress in 2005 broke the impasse with a \$1.5 million appropriation.

Mr. Shelby also accused the National Institute of Justice of trying to infiltrate the forensic study panel with

lobbyists for private DNA analysis companies, who were seeking to limit the research to DNA studies.

The National Institute of Justice said it would not comment until the report was released. But a preview of potential turf wars played out in the presentations to the National Academy in December 2007. A forensic expert from the Secret Service blasted the F.B.I. for developing questionable techniques "on an ad-hoc basis, without proper research."

He said the Secret Service wanted the National Academy "to send a message to the entire forensic science community that this type of method development is not acceptable practice."

Everyone interviewed for this article agreed that the report would be a force of change in the forensics field.

One person who has reviewed the draft and who asked not to be identified because of promises to keep the contents confidential said: "I'm sure that every defense attorney in the country is waiting for this report to come out. There are going to be challenges to fingerprints and firearms evidence and the general lack of empirical grounding. It's going to be big."

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Testimony on HB 9 before House Judiciary – February 25, 2009

My name is Sue Johnson and I am the Executive Director of the Alaskans Against the Death Penalty.

I became involved with this group when former Senator Robin Taylor tried to move legislation on this around 10 years ago. Since that time, I have donated money to AADP and attended occasional events. When they asked me to come and work for them a year ago, I accepted.

Since HB 9 was pre-filed and the article came out in the Daily News, our membership has grown exponentially. I am gaining a large number of new members every day.

The importance of personal education about the death penalty cannot be overstated. The more I learn about the DP, the more fascinated I am with it. At first I could not believe the unfairness in all aspects of the DP could be true in America. So, I conducted my own on-line research, read several books, and viewed a number of films, met with many exonerees, law enforcement officials, clergy, doctors, MVFM and others who had firsthand knowledge of the intricacies involved in the DP.

I read about former Governors of DP states who continue to be haunted by the people they killed and who said that was the absolute worst part of their job, politicians who regret having voted to support the death penalty especially when they later discovered they may have killed innocent people. I learned about states pouring millions of dollars in building a death house that was never used. If we are to pour millions of dollars in a death house in Alaska – I doubt it will be used and if it is it will be 25 years from now and we may have an entirely different group of lawmakers who will be stuck having to do the killing. So, after all that research, I've concluded that the DP is wrong for hundreds of reasons – many of which I am sure you will hear about through other testimony.

Alaskans Against the Death Penalty feels confident the majority of Alaskans supports our side of the issue and opposes the DP.

Finally, I would like to mention that I had a friend who was murdered by her husband after many years of torture and abuse and her body was tossed out in an Anchorage Park. She left 3 babies behind.

I sat through some of the trial hoping to lend support to her parents. Watching her parents go through the gory details of the murder of their only daughter tore my heart out. The man is in prison for life and the grandparents are raising the children. I never talked with her parents about the DP, but I remember thinking as much as I disliked this man, I was glad there was not a DP in this state because I am not sure her parents would be able to go through all those trials

and hearings again and again as is apparently the norm in DP cases. Not to mention dealing with the press on this issue.

In closing, if the morality of this issue is not enough, cost issues in these economic times should persuade anyone still on the fence. Reliable data shows a state faces a far greater cost in litigating a DP case through all the appellate levels than even the cost of lifetime incarceration.

Thank you.

Sue C Johnson
Anchorage AK 99517

Thank you,

My name is Bill Pelke and I live in Anchorage.

I am a board member of Alaskans Against the Death Penalty. I am a founding member of the World Coalition to Abolish the Death Penalty. I have been a board member of the National Coalition to Abolish the Death Penalty since 1996, serving as chair from 2005-2008. I am a founding and present board member of Murder Victim's Families for Human Rights. I am a cofounder, President and Chairman of the board of the Journey of Hope...from Violence to Healing. I have written a book with the same name and I will be presenting a copy to this committee.

The Journey of Hope is an organization led by murder victim's family members who are opposed to the death penalty in all situations. We conduct speaking tours throughout the country and around the world. We share our stories of from violence to healing. We talk about how the death penalty has absolutely nothing to do with the healing that murder victim family members need after a loved one has been killed and how in fact it continues the cycle of violence and creates more murder victim family members.

On our tours we are joined by death row family member, some who have loved ones on death row, and some whose loved ones have been executed. They share with the audiences the pain that the death penalty brought to their family. Exonerated death row survivors also join us. They share what they and their families went through after being sentenced to death for crimes of murder for which they were innocent. Over 130 people have been sentenced to death by various states in this country since the death penalty was reinstated in 1976 for crimes they didn't commit. Fortunately they were able to prove their innocence before their executions took place.

Each one of them will tell you that they were not saved by the system; they were saved in spite of the system. As long as you have human beings making these decisions we are going to make mistakes. When it comes to the death penalty there is no room for mistakes.

My grandmother was brutally murdered in 1985 when four teenage girls entered her home on the pretext of taking Bible lessons that she taught. One of the girls, Paula Cooper who was fifteen-year-old at the time of the crime was sentenced to die in the electric chair by the state of Indiana. Although I

originally supported her death sentence I became convinced that my grandmother would have been appalled that this girl was on death row and that so many people wanted to see her burn. I was convinced beyond a shadow of a doubt that she would have in fact had love and compassion for Paula and her family.

I felt my grandmother wanted someone in my family to have that same sort of love and compassion and I felt it fell upon my shoulders. I didn't have any love or compassion for this girl, but so convinced that is what Nana would have wanted I begged my God to give me love and compassion for Paula Cooper and her family.

That prayer was answered, and when it was I knew I could no longer wanted her to die. You cannot have compassion for someone and want to see them put into the death chamber. It is impossible. The answer is not the death penalty; the answer is love and compassion for all of humanity.

Marietta Jaeger Lane, a Journey of Hope cofounder, made this statement concerning the kidnapping and murder of her precious seven-year-old daughter. "No amount of retaliatory deaths will make up for Susie's murder. To say the death of one malfunctioning individual will repay the inestimable value of my little girl is insulting. It's really an insult to our loved ones."

Thank you

From: pstandefer [pstandefer@alaska.net]
Sent: Sunday, February 22, 2009 8:47 AM
To: Rep. Jay Ramras
Subject: Death Penalty

Please vote NO on this bill. Paula Standefer POB 2438 Soldotna

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 9:59 AM
To: Jane Pierson
Subject: FW: HB 9

From: jfriedman@alaska.com [mailto:jfriedman@alaska.com]
Sent: Sunday, February 22, 2009 10:33 AM
To: Rep. Jay Ramras; Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Carl Gatto; Rep. Bob Lynn; Rep. Max Gruenberg; Rep. Lindsey Holmes
Subject: HB 9

Chair Ramras and Committee Members,

I am writing to urge you not to support HB 9 which will be heard by the Judiciary Committee on Monday.

HB 9 is a death penalty bill. Killing criminals satisfies our desire for revenge. It serves no other purpose. My basic, emotional objection to the death penalty is that it is wrong to kill people. I simply do not want my government in the business of killing people or deciding which people are worthy of killing and which are not.

There are other, logical reasons to oppose the death penalty. First, it is a known fact that some people are wrongly convicted. It doesn't happen often, but it does occur more often than any one would like. Unfortunately, DNA evidence is not always available to prove innocence and there is no way to ensure that we will never kill an innocent person who has been wrongly convicted. Life in prison for an innocent person isn't a wonderful alternative, but it is better than death.

Second, the current method of administering lethal substances is not perfect, and occasionally has caused extreme pain, agony, and suffering. I don't want my government torturing anyone, not even a murderer.

Third, the cost of a death penalty prosecution is enormous. When a life is at stake, the defense spares no expense, and the prosecution must meet the challenge and also do its best. Since many of these cases will involve the Public Defender's Office, the State will be paying for both sides of a very expensive criminal case. It makes little sense to add this large financial burden on to the Public Defender and the District Attorney's offices.

Fourth, there are very few instances of people convicted of 1st degree

murder being released (or escaping) from prison who go on to kill another person. When this happens, it is highlighted in the media, so it seems like it occurs more often, but it is truly very rare.

Fifth, there is no evidence that the existence of capital punishment deters murder. People who commit first degree murder don't think they are going to be caught, so they don't think about what the punishment might be if they are caught.

Capital punishment is emotionally satisfying for some people. But the measure of our justice is in how we treat the most reprehensible and evil people. Redemption and forgiveness should be available for all people, not just those who we like or who we can sympathise with. It is not our place to take that possibility away from anyone.

Thank you for your consideration.

Jeff Friedman
1534 D Street
Anchorage, AK 99501

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 9:58 AM
To: Jane Pierson
Subject: FW: Death Penalty Bill

From: Zobel, Patricia [mailto:pzobel@dmgz.com]
Sent: Sunday, February 22, 2009 11:53 AM
To: Rep. Lindsey Holmes
Subject: Death Penalty Bill

Lindsey - I understand that the death penalty bill is coming to the Judiciary committee this week. Please take a hard stand against such a bill. I have always been proud of the fact that Alaska was a civilized place and did not engage in barbaric acts such as the death penalty. As the testing for such things as DNA evolves, we are having it clearly brought home that many times, innocent people are sent to jail and the death of even one of those innocents is too much to trade for a death penalty. It is a reprehensible bill - that the government thinks that it has the power to put people to death, for whatever reason. We have jails and we can keep people who kill there away from society and for society's protection. But who will protect the people of the society that thinks that it can adopt mores that continence the killing of others by the government itself? Please vote no and speak out to protest this barbaric bill. Thank you.
Penny Zobel.

Patricia L. "Penny" Zobel

DeLisio Moran Geraghty & Zobel, P.C.

907-279-9574

www.dmgz.com

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:08 AM
To: Jane Pierson
Subject: FW: death penalty

From: Caitlin Shortell [mailto:shortellc@yahoo.com]
Sent: Friday, February 20, 2009 1:38 PM
To: Rep. Lindsey Holmes
Subject: death penalty

Dear Lindsey,

As one of your constituents, I wanted to write to express my intense opposition to the institution of the death penalty in Alaska. I am a lawyer and have worked on both state and federal death cases in other jurisdictions. My objections to the death penalty are multiple. First, I believe that the death penalty is morally wrong. Second, I agree with the ABA and the European Community that the death penalty is cruel and should not stand in a civilized society. Third, the possibility of error in the charging, trial, and sentencing process is all too great, which results in wrongful executions of innocent people. Finally, in this economic climate, the cost of capital punishment is too great for the state to bear. I urge you to reject any proposal that would bring the death penalty to our state.

Thank you.

Sincerely,

Caitlin Shortell

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:10 AM
To: Jane Pierson
Subject: FW: Keep the Death Penalty Out of Alaska

-----Original Message-----

From: pamkelley@ak.net [mailto:pamkelley@ak.net]
Sent: Thursday, February 19, 2009 6:29 PM
To: Rep. Lindsey Holmes
Subject: Re: Keep the Death Penalty Out of Alaska

Thanks for taking a pragmatic stand against bad public policy, something we can ill afford right now.

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 9:55 AM
To: Jane Pierson
Subject: FW: death penalty

-----Original Message-----

From: carolyn murray [mailto:carolynmur400@yahoo.com]
Sent: Sunday, February 22, 2009 10:32 PM
To: Rep. Lindsey Holmes
Subject: death penalty

Dear Lindsey,

I believe you are correct that many people will be talking about the death penalty. I am writing to you this evening as a representative of Church Women United. At our last business meeting our members discussed several reasons we are against the death penalty. The two most common reasons being that we fear an innocent person may be but to death and that the death penalty is not a deterrent to violent crime.

With this facts in mind I respectfully request that you oppose any legislation that would bring the death penalty to Alaska.

Thank you in advance for your consideration,

Carolyn Murray
Church Women United- Anchorage, Ak
Legislative Liaison

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 9:57 AM
To: Jane Pierson
Subject: FW: HB 9

From: ruthb@alaska.com [mailto:ruthb@alaska.com]
Sent: Sunday, February 22, 2009 2:48 PM
To: Rep. Lindsey Holmes
Subject: HB 9

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

Ruth Benson

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

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:00 AM
To: Jane Pierson
Subject: FW: HB 9

From: akimpact@gci.net [mailto:akimpact@gci.net]
Sent: Sunday, February 22, 2009 9:03 AM
To: Rep. Lindsey Holmes
Subject: HB 9

Dear Rep. Holmes:

The death penalty does not deter capital crimes. It is much more expensive than life imprisonment. It is increasingly considered a violation of the International Declaration of Human Rights at the United Nations. The direction among the States of the US is away from the death penalty for many good reasons. One is that it has been disproportionately used against minorities. Of the 8 executions by federal authority in Alaska during the first half of the 20th Century, 2 were for Whites and the 6 others were for Alaska Natives and Blacks.

To legalize the death penalty in Alaska would be taking a giant step backwards. So may HB 9 and any other legislation of this kind quickly find the way to the trash bin (and the paper recycled).

Faithfully,

Richard K. Heacock, Jr.
Executive Director
Alaska IMPACT
Also: WW II veteran, Chaplain for Alaska Legislatures (1956 - 66)

From: Trouba Door [trouba93@gmail.com]
Sent: Saturday, February 21, 2009 7:20 PM
To: Rep. Jay Ramras
Subject: HB 9

Debbie McKay
55441 Chinook Rd.
Kenai, AK 99611
(907)776-5745
debbiemckayinak@gmail.com

Please take care when voting on the upcoming bill on capital punishment, HB 9.

In the past 35 years, 130 inmates were found to be innocent and released from death row. How Many Innocent Victims are Too Many?

The vast majority of those executed are poor. About 90% cannot afford a lawyer when they go to trial. They have to rely upon an over worked, under paid, court-appointed lawyer.

Relatively few other developed countries in the world impose the death penalty. Japan and South Korea are the only established democracies in the world, other than the U.S., which still conduct executions. The execution rate in Japan is a small fraction of that in the U.S.

The homicide rate in Canada has been gradually dropping since executions were stopped. Though it has never been convincingly proven that there is a relationship between the decrease in homicides and the cessation of the death penalty, this phenomenon has been observed in many other countries who have abandoned the death penalty.

Recent Cost Studies:

A 2003 legislative audit in Kansas found that the estimated cost of a death penalty case was 70% more than the cost of a comparable non-death penalty case. Death penalty case costs were counted through to execution (median cost \$1.26 million). Non-death penalty case costs were counted through to the end of incarceration (median cost \$740,000).

(December 2003 Survey by the Kansas Legislative Post Audit)

In Tennessee, death penalty trials cost an average of 48% more than the average cost of trials in which prosecutors seek life imprisonment.

(2004 Report from Tennessee Comptroller of the Treasury Office of Research)

In Maryland death penalty cases cost 3 times more than non-death penalty cases, or \$3 million for a single case.

(Urban Institute, The Cost of the Death Penalty in Maryland, March 2008)

In California the current system costs \$137 million per year; it would cost \$11.5 million for a system without the death penalty.

The greatest costs associated with the death penalty occur prior to and during trial, not in post-conviction proceedings. Even if all post-conviction proceedings (appeals) were abolished, the death penalty would still be more expensive than alternative sentences.

The death penalty diverts resources from genuine crime control measures. Spending money on the death penalty system means:

Reducing the resources available for crime prevention, mental health treatment, education and rehabilitation, meaningful victims' services, and drug treatment programs.

Diverting it from existing components of the criminal justice system, such as prosecutions of drug crimes, domestic violence, and child abuse.

There are many matters to consider when deciding this particular issue. Please take all into consideration. In my opinion the financial factor cannot be ignored. In this time of economic uncertainty, it becomes more difficult to justify adding something so costly and controversial to our agenda. Please vote no on HB 9.

Debbie McKay

From: zoom@gci.net on behalf of Scott [zoom@gci.net]
Sent: Saturday, February 21, 2009 11:23 PM
To: Rep. Jay Ramras
Subject: HB9

Hi Jay--

Hey, I'm not in your district, but I'm a fan of you and your commitment to public service.

HB9 SUCKS.

HB9 is HORRIBLE.

HB9 is a step in the wrong direction for our civilization.

I've got a longer discourse, but I wanted you to know CLEARLY that I think this is a BAD BILL and I would urge you to vote NO on it.

Thanks again for your service, Jay. Just back off this lousy, rotten piece of JUNK that parades as a bill in our legislature. B-A-D.

s

Scott McMurren
Alaska Travelgram
www.alaskatravelgram.com
zoom@gci.net

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:00 AM
To: Jane Pierson
Subject: FW: HB 9

From: Sarah Drummond [mailto:sdrummond@gmail.com]
Sent: Sunday, February 22, 2009 10:26 AM
To: Rep. Lindsey Holmes
Subject: HB 9

Hi, Representative Holmes. It's my understanding that HB 9 will be discussed this coming week and I would like to take this opportunity to express my concern about it to you, as my representative in the State House. As I'm sure you've noticed, we are in the middle (well, let's hope in the middle and not still in the beginning) of a recession and Representative Chenault wants to change the punishment of first degree murder to the death penalty, which is far more expensive than a life sentence. Although, there are some murderers who have committed crimes that are so heinous that I dread the idea of them ever being released from prison, I know that Alaska has a much longer average life sentence than the rest of the U.S. When I took criminology in 2003, the average life sentence in Alaska was 23 years, compared to the 7 year average life sentence nation wide. I'm not sure if that has changed at all in the past 6 years, but it's clear to me that in Alaska, we're pretty good about keeping people locked up a good long time and economically the death penalty is not a very good idea. It is much cheaper to keep a person in prison for 23 years or so than to pay for all the automatic appeals required with capital punishment. If it weren't so expensive, I might be okay with allowing the death penalty in Alaska as punishment for first degree murder, but it is extremely expensive and apparently there's no way to get around all those expensive appeals. From the quick skim I did of the HB 9, it seemed to allow capital punishment from crimes other than first degree murder, which I am not okay with at all. It's silly enough to demonstrate how wrong it is to kill people, by killing people. To give people a death sentence for assault and battery is just ridiculous. Please vote against HB 9 and encourage your fellow legislators to do the same, because this bill is not good for the state of Alaska. At best, it would just be a frivolous expense added to a shrinking budget. Thank you.

~Sarah Drummond
district 26 resident

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:05 AM
To: Jane Pierson
Subject: FW: Rep. Holmes enews update

From: Bernhard Richert [mailto:berney@alaska.net]
Sent: Friday, February 20, 2009 3:38 PM
To: Rep. Lindsey Holmes
Subject: RE: Rep. Holmes enews update

Thank you for the update, Lindsey: We are strongly opposed to the Death Penalty for all the reasons. I hope the bloodthirsty legislators back off, if for no other reasons than the expense you noted. Best regards, Berney and Family

From: Rep. Lindsey Holmes [mailto:Representative_Lindsey_Holmes@legis.state.ak.us]
Sent: Friday, February 20, 2009 12:49 PM
To: Rep. Lindsey Holmes
Subject: Rep. Holmes enews update

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:04 AM
To: Jane Pierson
Subject: FW: Death Penalty

From: acliburd@ak.net [mailto:acliburd@ak.net]
Sent: Friday, February 20, 2009 4:29 PM
To: Rep. Lindsey Holmes
Subject: Death Penalty

Hello Lindsey,

I hope you will work against adoption of the death penalty. It is barbaric and has been applied unjustly too many times. Differential enforcement remains a significant issue.

I have always been proud that Alaska abolished the death penalty before statehood.

Sincerely,
Ann Liburd

Testimony in Opposition to House Bill 9

I am opposed to HB 9 and I support holding a person who commits murder accountable for his or her actions. In many ways, the current legal punishment of life in prison is a more severe sentence because the period of suffering is long and intense.

I have conducted meditation sessions, as a volunteer, for a cumulative period of two years in the Lemon Creek Correctional Center and I can personally attest to the fact that imprisonment is an excruciatingly painful experience.

My objection to HB 9 is about whether certain specific acts of murder should result in another form of killing, a form of killing that is ritualized, sanitized and sanctioned through public policy.

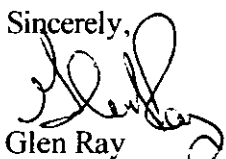
I have heard people argue in favor of a death penalty by asking, "did the murderer have any sympathy for his/her victim?" My answer would be that the murderer may not have felt sympathy for the victim. HB 9 does not address an emotional issues such as sympathy. The issue HB 9 poses for me is one of, how do we treat one another so that our actions are aligned with values that will in turn support healthy communities?

HB 9 sends the wrong message in regards to people killing people. Opposition to HB 9 is about taking a stand against violence while holding individuals accountable for their actions.

I recently heard someone quote a statewide poll that indicated that 65% of Alaskan adults are opposed to capital punishment. The survey was not identified so it is not possible to evaluate the accuracy of such a poll but, intuitively this seems right. Most people are not comfortable with acts of killing whether it done through state sanction or by an individual.

The introduction of HB 9 asks us citizens to consider what kind of world do we want to create for ourselves. People found guilty of murder are punished according to the type of murder and aggravating and mitigating factors. Making a law to kill murderers is not going to undo the harm, will not support healthy human values, nor will such a law make us any safer.

Sincerely,



Glen Ray
9238 Emily Way
Juneau, AK 99801

Feb 19, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

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

As your constituent, I ask you not to support HB 9 which seeks to authorize capital punishment. This is a huge step backward into medieval punitive politics.

Capital punishment:

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

The administration of the death penalty is fraught with error and

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

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

Thank you for opposing HB 9.

Sincerely,

Mr. Richard Seifert
PO Box 82066
Fairbanks, AK 99708-2066

Feb 19, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

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

As your constituent, I ask you not to support HB 9 which seeks to authorize capital punishment.

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

Thank you for opposing HB 9.

Sincerely,

Ms. frances williams
401 7th Ave Apt 312
Fairbanks, AK 99701-4965

Dana Strommen

From: ACLU [aclu@aclu.org] on behalf of Angela Schmidt [fsajs4@uaf.edu]
Sent: Wednesday, February 18, 2009 1:45 PM
To: Rep. Jay Ramras
Subject: Keep the Death Penalty Out of Alaska

Feb 18, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

As a State, Alaska has never had the death penalty, and we don't need it now. As your constituent, I ask you not to support HB 9 which seeks to authorize capital punishment.

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

Thank you for opposing HB 9.

Sincerely,

Ms. Angela Schmidt
PO Box 750160
410 2nd Ave
Fairbanks, AK 99701-4727

Dana Strommen

From: ACLU [aclu@aclu.org] on behalf of Bret Luick [ffbrl@uaf.edu]
Sent: Wednesday, February 18, 2009 1:45 PM
To: Rep. Jay Ramras
Subject: Keep the Death Penalty Out of Alaska

Feb 18, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

As a State, Alaska has never had the death penalty, and we don't need it now. As your constituent, I ask you not to support HB 9 which seeks to authorize capital punishment.

Capital punishment:

- does nothing to protect people from crime;
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The administration of the death penalty is fraught with error and

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

Thank you for opposing HB 9.

Sincerely,

Dr. Bret Luick
PO Box 750222
Fairbanks, AK 99775-0222

Feb 18, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

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

As your constituent, I ask you to strongly oppose HB 9 which seeks to authorize capital punishment.

Perhaps there are people I or others believe "deserve to die for what they have done." But who other than God should make such a decision?? Let alone the government!

While our governmental employees do their best to do what is right, we all know the government makes mistakes. How and why would we empower the government to kill its own citizens? I just don't understand. Other states are backing away from the death penalty because its implementation is so plagued with problems.

I also believe that lifetime imprisonment is a worse punishment than

death, as the guilty has to live with their deeds everyday (death would be the easy way out). This also allows the state to release them should they later be found innocent - which is too often the case. The administration of the death penalty is fraught with error and

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

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

Thank you for opposing HB 9.

Sincerely,

Mr. Tim Stallard
PO Box 82096
Fairbanks, AK 99708-2096

Feb 18, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

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

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

Thank you for opposing HB 9.

Sincerely,

Dr. Bret Luick
PO Box 750222
Fairbanks, AK 99775-0222

Dana Strommen

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

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

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

Dana Strommen

From: patrick dubbs [dubbs@alaska.net]

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

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

Subject: HB 9

Representative Ramras:

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

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

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

Patrick Dubbs

2101 Charljo Loop
Fairbanks 99709

CC: Alaska Legislature House Members

Dana Strommen

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

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

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

Thank you,
Barbara Hatch

Dana Strommen

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

Chairman Ramras,

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

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

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

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

Cordially,

James Hobson

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

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

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

Dana Strommen

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

Dear Jay,

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

No.

Absolutely No.

Don't even think about it!

Shame on you for bringing it up.

Carl S. Benson

--

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

Dana Strommen

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

Representative Ramras,
Representative Dahlstrom,
Judiciary Committee,

RE: HB 9 The Death Penalty

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

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

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

Sincerely,

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

Dana Strommen

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

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

Marie Anderson
alaskanmarie@gmail.com

Dana Strommen

From: Gail Fullerton [tadandgail@acsalaska.net]
Sent: Tuesday, February 24, 2009 8:53 AM
To: Rep. Jay Ramras
Subject: House Bill 9

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

Gail and Tad Fullerton
Fairbanks AK 99709
tadandgail@acsalaska.net

State of Alaska
House Judiciary Committee

RE: HB 9

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

It is my believe that the cost of Capital punishment:

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

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

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

Thank you for allowing me to testify.

Sincerely, Julia A. Smith

Dana Strommen

From: Eric Treider [gilpatrick_mine@yahoo.com]

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

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

Dear Representatives,

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

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

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

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

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

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

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

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

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

Kind regards,

Eric Treider
PO Box 3565
Soldotna, AK 99669

Dana Strommen

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

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

Please vote NO on HB 9. Thank you.

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

...imbibo locus actum omnimodus...

Comments on House bill 9

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

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

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

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

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

Respectfully Submitted

**Don McConachie
Box 361
Wrangell Alaska 99929**

THE ALASKA LEGISLATURE



In Memoriam

SHERYL ROBERTA NELSON
February 3, 1960 – February 24, 2003

SHANDELLE MARIE NELSON
November 16, 1984 – February 24, 2003

ADRIENNE SHALON NORE
March 2, 1978 – February 24, 2003

May tender memories
soften your grief,
May fond recollection
bring you relief,
May you find comfort
and peace in the thought
Of the joy that knowing
your loved one brought
For time and space
can never divide
Or keep your loved one
from your side
When memory paints
in colors true
The happy hours
that belonged to you.

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



Pete Kott
PETR KOTT
SPEAKER OF THE HOUSE

Gene Therrault
GENE THERRAULT
PRESIDENT OF THE SENATE

Reggie Wilson
REGGIE WILSON
PRIME SPONSOR

Robin Taylor
ROBIN TAYLOR
PRIME SPONSOR

Date: April 8, 2003

Cosponsors: Representatives Kott, Anderson, Berkwitz, Chenault, Cizna, Coghill, Crewford, Croft, Dahlstrom, Fale, Fester, Gara, Gatin, Grunberg, Gustenberg, Harris, Hawker, Holm, Jovic, Kapner, Kermala, Kohring, Maxak, McGuire, Meyer, Morgan, Ogg, Rakoberg, Samuel, Beaton, Weybrauch, Williams, Wolf, Senators Taylor, Therrault, Bunde, Coadery, Davis, Dyson, Eilon, Green, Guess, Hoffman, Lincoln, Olson, Seckins, Ben Stevens, Gary Stevens, Wilken

Feb 18, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

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

As your constituent, I ask you to strongly oppose HB 9 which seeks to authorize capital punishment.

Perhaps there are people I or others believe "deserve to die for what they have done." But who other than God should make such a decision?? Let alone the government!

While our governmental employees do their best to do what is right, we all know the government makes mistakes. How and why would we empower the government to kill its own citizens? I just don't understand. Other states are backing away from the death penalty because its implementation is so plagued with problems. I also believe that lifetime imprisonment is a worse punishment than

death, as the guilty has to live with their deeds everyday (death would be the easy way out). This also allows the state to release them should they later be found innocent - which is too often the case. The administration of the death penalty is fraught with error and

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

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

Thank you for opposing HB 9.

Sincerely,

Mr. Tim Stallard
PO Box 82096
Fairbanks, AK 99708-2096

Feb 18, 2009

Representative Jay Ramras
120 4th Street
Juneau, AK 99801-1182

Dear Representative Ramras,

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

As your constituent, I ask you not to support HB 9 which seeks to authorize capital punishment.

Capital punishment:

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

The administration of the death penalty is fraught with error and

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

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

Thank you for opposing HB 9.

Sincerely,

Dr. Bret Luick
PO Box 750222
Fairbanks, AK 99775-0222

Dana Strommen

From: Yael Hickok [jerhickok@hotmail.com]
Sent: Tuesday, February 24, 2009 3:00 PM
To: Rep. Jay Ramras
Subject: vote no on HB 9

Representative Ramras,

My name is Yael Hickok. I am a registered voter in Anchorage and I am strongly against HB-9. I am totally against the idea of my government getting into the business of killing. I recognize there are horrible offenses committed by some very disturbed individuals, and I do not want my state leaders doing the same thing. A lifetime sentence is the responsible and appropriate choice for criminals who cannot be rehabilitated. Capital punishment trials are far too lengthy and costly for our over-burdened judicial system, and they do not serve as a deterrent. What criminal would actually stop their crime because they think capital punishment might await them versus a life sentence?! And as we all know our judicial system is not perfect. Juries make mistakes, and offenders with more money or influence can sometimes have an advantage. So why set up a punishment is not reversible; that cannot be re-examined later with new evidence? Please vote no on HB-9. Thank you for your service, and your time in reading my letter.

Yael Hickok
8631 Rosalind St.
Anchorage 99507

Dana Strommen

From: Penny Cowan [pennyc@acsalaska.net]
Sent: Tuesday, February 24, 2009 4:26 PM
To: Rep. Jay Ramras
Subject: HB 9

Please, please, please vote no on HB 9. The thought of reinstating the death penalty in Alaska sickens me. On so many levels, we, as a civilized state, cannot afford to return to such barbaric measures to deal with those who commit crimes.

Thank you for your thoughtful consideration.

Jane A. (Penny) Cowan
Anchorage, Alaska

Dana Strommen

From: Richard Morrison [richard.james.morrison@gmail.com]
Sent: Tuesday, February 24, 2009 6:07 PM
To: Rep. Bob Lynn; Rep. Carl Gatto; Rep. Jay Ramras; Rep. John Coghill; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Nancy Dahlstrom
Subject: House Bill 9

Dear Representatives of the Judicial Committee:

I am writing you to voice my opposition to House Bill 9 and urge you to vote "NO" on that bill as it stands before you. I have always been proud that Alaska has been free of the death penalty since before we were a state, and I believe that the moral and financial stakes are far too high to backtrack now.

As you have probably heard by now, Colorado, Kansas, Maryland, Montana, New Hampshire, Nebraska, and New Mexico are actively looking to abolish their death penalty systems, primarily due to the high cost of operating such a system in this faltering economic climate. Most of the estimates I have seen claim that killing someone on behalf of the state costs 14-21 times the amount of money that would be spent to keep someone in prison and attempt to rehabilitate them or to house them for the remainder of their life. As a state reintroducing the death penalty, we would also have to look at the costs of creating a death penalty infrastructure that we do not have. In this faltering economic climate, with falling oil prices, a hiring freeze in place for most SOA positions, and our government trying to hash out what programs we are going to be able to afford and what needs to be cut, introducing a program that is more costly than our current system is fiscally irresponsible at best and financially catastrophic at worst.

The moral cost is far higher. Nationwide, scores of people have been executed for crimes they have not committed, and they have only been exonerated posthumously. Forensic science is not perfect; like any other human pursuit, there is always a margin of error, and I don't feel that death penalty cases are a gamble we can take. The National Academy of Sciences just released a study last Wednesday calling for a total overhaul of the nation's crime labs, citing the wide variation in quality of practice for tests that many cases hang on, and which judges and jurors have often believed to be infallible. Not only is someone's innocence or guilt on the line, their very life hangs in the balance. If we make a mistake in incarcerating them, we can't give them back the years we took, but we can give them their freedom and make restitution. If we make a mistake in executing someone, we can never give them their life back. Beyond any of these faults in the system, how can we possibly claim the moral high ground and say killing is wrong if we turn kill ourselves? If someone stabs another person, we do not stab them; we put them in jail for a certain period of time, attempt to rehabilitate them, and they pay restitution. If someone steals, we do not steal from them; we put them in jail for a certain period of time, attempt to rehabilitate them, and they pay restitution. If someone rapes another person, we do not rape them; we put them in jail for a certain period of time, attempt to rehabilitate them, and they pay restitution. Why should murder be any different in this way? It is a crime, but it should be punished as any other crime: put them in jail for a certain period of time, attempt to rehabilitate them, and they pay restitution.

Killing a murderer corrects very little; we as a society cannot obviously rehabilitate a corpse, and it does not bring the victims back. Some families may feel a sense of relief knowing the person who took their loved one's life is also dead, but some families have also come forward to say that did not receive the relief they were expecting from the death of a killer, or that they don't wish anyone to die - not even the killer of a loved one. Through incarceration, we at least have a chance at helping the criminal become a contrite and contributing member of society.

----- Reinstating the death penalty is little more than reinstating revenge killing. As a just society, we cannot -----
make our decisions based on feelings of anger and revenge on behalf of the few. Killing in the name of
society is not the kind of justice I want to see in my home state. Please vote "NO" on House Bill 9.

Sincerely,

Richard James Morrison

"Holding on to anger is like grasping a hot coal with the intent of throwing it at someone else; you are
the one who gets burned." - Buddha

Dana Strommen

From: Lindsey Meyn [meynself@gmail.com]
Sent: Tuesday, February 24, 2009 8:29 PM
To: Rep. Bob Lynn; Rep. Carl Gatto; Rep. Jay Ramras; Rep. John Coghill; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Nancy Dahlstrom
Subject: The Thoughts and Concerns of a Lifelong Alaskan

Hello,

I hope this email is read. I am afraid that each of you will simply delete it the moment you see that it isn't something "truly" urgent or even important. I can only hope you have more ethical integrity than that.

I value human life -- all human life. This value is an integral part of what our country stands for. I never thought I would see the day that my home state, my favorite state in the country, might begin to question this value. It has been mentioned in the ADN's coverage of the proposal to reinstate the death penalty that no one actually expects it to go through, but that it is part of a plan to change the values of Alaskans. Why do we want this? I am all for conversation, so please, those of you who support capital punishment, begin a dialog with me. I know you are all very busy and maybe you don't have time (or don't care enough) to engage in a conversation with every person in Alaska on your beliefs. But I want to know why. If you have good reasons for wanting Alaskans to support the death penalty, please do share. All I ask in return is that you consider and respond to my response to your reasons.

I am not alone in feeling sickened at the idea that killing a person is ever the right course of action. You may gain a lot of insight into the perspectives of most Alaskans through a conversation with me. This can only be a good thing for a representative, I hope.

Please give this issue some serious, soul-searching thought,

Lindsey Meyn

--

"Uttering a word is like striking a note on the keyboard of the imagination." ~ Ludwig Wittgenstein

Dana Strommen

From: Joyce Bamberger [joyce.bamberger@gmail.com]
Sent: Wednesday, February 25, 2009 9:56 AM
To: Rep. Jay Ramras
Subject: HB 9

I am testifying today to oppose HB 9, the bill to reinstate the death penalty in Alaska. I cannot understand why in these times you would introduce this legislation except for your own political interests. Numerous studies have shown that the death penalty has been used to unfairly against non-whites, that it costs more to administer and that it turns government which exists for public safety into a public executioner. See, e.g. <http://justice.uaa.alaska.edu/death/alaska.html>; <http://www.deathpenaltyinfo.org/FactSheet.pdf>.

Even you -- Rep. Chenault admit that the death penalty does not act as a deterrent. <http://www.iht.com/articles/ap/2009/02/24/america/NA-US-Death-Penalty-Alaska.php>. I strongly urge you to drop pursuit of this legislation and use your time and skills for legislation that would best help Alaskans.

--
Joyce E. Bamberger
1036 West 22nd Street
Anchorage, Alaska 99503
907-277-7354

PO Box 202045

Anchorage, AK 99520

February 24, 2009

RE: HB 9

Representative Jay Ramras, Chair

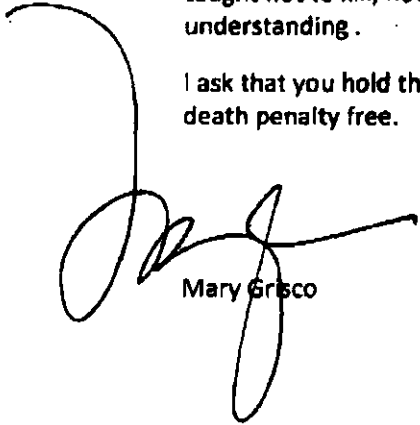
Members of House Judiciary Committee

Thank you for this opportunity to add my voice of dismay. Alaska is a leader. New Mexico, Montana and Maryland are working to join us; New Jersey decided last year to become death penalty free.

Chair Ramras is correct: there are many more critical, crucial and pressing matters for which your time and expertise are sorely needed this legislative session. I am puzzled by those who do not trust government with our personal matters who say they are willing to allow government to kill its own citizens!

Many others have provided studies, data and personal stories. I was taught not to kill, not to hit in anger and to work (and it is work) for understanding.

I ask that you hold this bill in your committee as Alaska needs to remain death penalty free.

A handwritten signature in black ink, appearing to read 'Mary Grisco', with a large, sweeping flourish extending upwards and to the left.

Mary Grisco



Archdiocese of Anchorage

225 Cordova Street • Anchorage, Alaska 99501-2409
907/297-7755 • fax: 907/279-3885

Office of the Archbishop

January 24, 2009

The Honorable Jay Ramras, Chair
House Judiciary Committee
State Capitol
Juneau, Alaska 99811

Dear Representative Ramras:

I am writing in advance of testifying on HB 9—a bill authorizing capital punishment here in Alaska. The primary reason I am against the death penalty is because it is simply unnecessary and unjustified in a civilized society. The government should not be in the business of deciding who is to live and who is to die. In your own testimony (as reported in the Anchorage Daily News) you expressed your own belief that capital punishment was not a deterrent to crime. I share that belief. If deterrence is not the reason for reinstating the death penalty, then we must carefully examine the rationale for taking this action. To think that we can protect human life by taking it is an illusion and an argument that is without merit.

For over 30 years, the United States Conference of Catholic Bishops, (the national organization for Catholic bishops in the United States) has taught that our nation should forgo the use of the death penalty for four reasons:

- The sanction of death, when it is not necessary to protect society, violates respect for human life and dignity;
- State-sanctioned killing in our names diminishes all of us;
- Its application is deeply flawed and can be irreversibly wrong, is prone to errors, and is biased by factors such as race, the quality of legal representation, and where the crime was committed;
- We have other ways to punish criminals and protect society.

Regarding the first and last point, in the United States where many of our jails have become “high tech” there is no longer a need to put someone to death to protect society. Those who have committed heinous crimes can serve a life sentence without parole in an environment that ensures the safety of those around them. I have been assured that in Alaska we have jails (and are building a new jail that will have) the capability of segregating offenders to ensure they serve out a life sentence for their crime without the possibility of harming others again. No matter how heinous the crime, if society can protect itself without ending a human life, it should do so. We have other ways to punish criminals.

In Alaska a large percentage of the population does not support the death penalty. I have serious concerns about violating the conscience of people that might be called on to perform the act. Our US Supreme Court in its decisions has held that all jurors who sit in judgment on a federal death penalty case must agree prior to being seated on a jury that they have no objection to the death penalty. While Alaska's law would need to conform to Supreme Court precedent, it does not allow for others to be released from having to carry out the jobs associated with the death penalty, including the Commissioner of Corrections, correctional employees and medical personnel. I can not support a law that requires people who believe in the sanctity of life to be placed in a position violating their conscience because of their chosen career path.

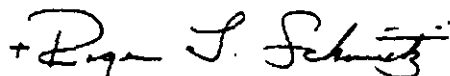
My final concern is the demographic that traditionally become victims of the death penalty. The people most likely subjected to the death penalty are the poor and marginalized in our society and people who are unable to afford good legal representation. Prior to the death penalty being outlawed in the territory of Alaska, fifteen men were put to death either under territorial laws or under what were known as "miner's laws". Of these, seven were Alaska natives, two were identified as black, three were Caucasian and two were of unknown race. These statistics should concern us all. Fundamental fairness ought to cause us to consider the uneven and perhaps biased manner in which capital punishment has been applied.

In these reflections, I have not addressed particular elements of the proposed legislation several of which are seriously flawed. For example, section 12.58.320 (b) relating to a pregnant woman on death row. Stating in unclear language that the pregnant mother will not be executed prior to the end of the pregnancy leaves the option open to pressure the woman to have an abortion thus creating a double rather than single execution. The horror of a child growing up and living its life knowing its birth was the occasion of his mother's execution is hard to imagine.

Rather than promoting a culture of death in Alaska, we should focus our energy on promoting ways to respond to violent crimes that act out of justice for everyone. We should work to find ways to protect society and hold accountable the truly guilty in a way that reflects our society's best values. The death penalty simply does not do this. Its application makes us all complicit in the death of another human being and in the process cheapens the sacredness of all human life.

Thank you for your time and consideration of my position.

Sincerely yours in Christ and Mary,

A handwritten signature in black ink, reading "+ Roger L. Schwietz". The signature is written in a cursive style with a cross at the beginning.

+Roger L. Schwietz, OMI
Archbishop of Anchorage

cc: Members of the House Judiciary
Speaker Mike Chenault

Dana Strommen

From: jenny bell [jennydaalaaai@yahoo.com]
Sent: Wednesday, February 25, 2009 11:55 AM
To: Rep. Jay Ramras
Subject: House Bill 9

Dear Representative Ramras; I cannot express strongly enough my opposition to the in-statement of the Death Penalty here in Alaska. I am shocked and concerned that you would be supporting such an endeavor. The Death Penalty is an outdated, inhumane, and particularly uncivilized method of dealing with offenders, and has no place in our State. It does not reduce crime. The United States is to my knowledge the only modern industrialized nation that retains this onerous penalty and it should be to our embarrassment that we do. Fortunately most States have seen fit to do away with this aberration, not wanting to find themselves on equal footing with countries like Iran, Sudan and China. We should not be defiling ourselves by joining those that have not. As an Indigenous person I am well aware of the racial inequities that exist in our State's justice system. It chills my blood to think that this system, already so poorly balanced, might ever have the power to impose the ultimate penalty of death on anyone who must pass through it.

I hope and pray that you will reconsider your support for House Bill 9.
Jenny Bell-Jones
308 Noyes Street
Fairbanks, Alaska, 99701.

DIXIE A. HOOD, M.A.
Marriage, Family & Child Counselor

February 24, 2009

Members of the House
Judiciary Committee
Finance Committee

Dear Members,

I have been a resident of Alaska for 34 years and a licensed Marriage and Family therapist in private practice here in Juneau. I have been employed by numerous social service agencies and have also worked under contract.

There are many reasons that I am happy to live in this state and, especially, in this city. I consider it was an enlightened move when Alaska abolished the death penalty. Why any legislator would choose to reverse this action five decades afterwards is not rational. Not a deterrent. Not financially responsible. And, I believe, morally reprehensible.

I want to describe some of my own experience relating to the state prison system. In 1985 I wrote a grant proposal and developed the Substance Abuse Treatment Program at Lemon Creek Correctional Center here in Juneau. I facilitated the education classes and conducted both individual and group therapy sessions for inmates in this maximum security prison. At that time, Lemon Creek was the only facility in the state for those convicted of the most serious and violent crimes - rapes, assaults, armed robbery, murders.

Sometimes I felt uneasy leading a group in a distant room near the gymnasium, with no staff oversight or ability to call for help. But I was never threatened and

actually had more hostility and obstructive behavior directed at me from guards who believed that prisons were for punishment only. They resented and interfered with college teachers, counselors and even chaplains. The idea of rehabilitation was generally scorned. I was disturbed by this attitude.

Also disturbing was the disproportionate numbers of Alaska Native inmates. Though the population statewide was about 17 percent, it was about 40% at this penal institution. I heard many devastating personal stories, especially from persons from the more remote villages. One young man, aged 24, told of being responsible for the care of his six brothers and sisters, at the age of twelve. His father had died in a snowmobile accident while under the influence and his mother was an alcoholic and was not at home for the children. He scrounged for food. Another man described his inability to attend school because of the demands and beatings by both his mother and father who drank excessively and fought all the time. Alcohol seemed to have played a part in most of the offenses committed.

Some inmates in my program had sentences so long they had no anticipation of being released within their lifetime. This prison was so far away from home village and family that they never had any visitors either. If they were deemed too dangerous to return to the "Street", life sentence without parole would certainly protect the public.

At any rate, the Substance Abuse Treatment Program seemed to offer them a welcome break in an otherwise dismal routine and they were active participants. Work in the kitchen or an opportunity to make furniture or grow plants was earned by a lucky few.

As a family counselor, I have worked with residents from Halfway Houses, co-led

ment's Inger Management groups, both in-patient and out-patient substance abuse clients, counseled both victims and perpetrators of domestic violence, young people who have dropped-out or run away from dysfunctional family systems. There is a great unmet need for additional funding for educational and social services, for both preventive programs and rehabilitation programs.

Alaska should fund more in-state facilities and programs. The money it would take to construct new buildings, staff and train additional correction officers and establish many more public defenders to provide for reinstatements of the death penalty could be directed toward a much more effective community health and safety expenditure of public funds.

I urge you to kill House Bill No. 9
— not human beings.

Yours sincerely,
Dixie A. Hood

Dana Strommen

From: akimpact@gci.net on behalf of Richard K. Heacock, Jr. [akimpact@gci.net]
Sent: Friday, February 27, 2009 11:31 AM
To: Rep. Jay Ramras
Subject: HB 9

Dear Rep. Ramras:

The death penalty does not deter capital crimes. It is much more expensive than life imprisonment. It is increasingly considered a violation of the International Declaration of Human Rights at the United Nations. The direction among the States of the US is away from the death penalty for many good reasons. One is that it has been disproportionately used against minorities. Of the 8 executions by federal authority in Alaska during the first half of the 20th Century, 2 were for Whites and the 6 others were for Alaska Natives and Blacks.

To legalize the death penalty in Alaska would be taking a giant step backwards. So may HB 9 and any other legislation of this kind quickly find the way to the trash bin (and the paper recycled).

Faithfully,

Richard K. Heacock, Jr.
Executive Director
Alaska IMPACT
Also: WW II veteran, Chaplain for Alaska Legislatures (1956)

Dana Strommen

From: Dawn Bell [dawnbell2@yahoo.com]
Sent: Friday, February 27, 2009 10:59 AM
To: Rep. Jay Ramras
Subject: HB #9

Hello Mr. Ramras,

I am an MSW student at UAA taking a social policy course. An assignment this semester is to choose a bill and follow it through the legislative process. I have selected a bill you are sponsoring, HB # 9 " An act relating to murder; authorizing capital punishment, classifying murder in the first degree for certain murders; establishing sentencing procedures for capital felonies; and amending Rules 32, 32.1, 32.3, Alaska Rules of Criminal Procedures, and Rules 204, 209, 210, and 212, Alaska Rules of Appellate procedure."

I would be interested in receiving correspondence from you regarding this bill. I understand that Senator Robin Taylor tried unsuccessfully to get a vote to bring back the death penalty in 1997 and I would like to know what you feel may have changed in our state that would lead you to believe this bill might be more successful in 2009. I would also be interested in understanding if you feel the death penalty is a deterrent to murder and other serious offenses.

I do not support this bill for the following reasons:

No violent criminal put in prison for the rest of his life has ever re-offended outside prison walls again either.

The death penalty does not dissuade the irrational from committing crimes.

The death penalty costs society more than life imprisonment.

The death penalty has resulted in the death of those innocent of the crimes they have been accused of.

The death penalty is an act of violence that perpetuates violence in society.

We don't need it. It's a bad idea.

Thank you for your time,
Dawn M. Bell



Knights of Columbus
Making a Difference for Life

James C. Betts
Alaska State Advocate
PO Box 34954
Juneau AK 99803

February 25, 2009

My name is Jim Betts, I am a resident of Alaska, a Catholic and a Knight of Columbus, an organization of over 1.8 million men with 1800 members in Alaska. As Advocate for the Alaska State Council of The Knights of Columbus I wish to have my feelings and those of this great organization heard today. Together with the Knights of Columbus, I am opposed to the passage of House Bill 9.

Perhaps it is good that Representatives Chenault and Ramras have brought forward House Bill 9 imposing the death penalty for certain offenses in the State of Alaska. Through this process, the voice of the people of Alaska will again be heard in an overwhelming response to reject capital punishment; the imposition of death by lethal injection. Let us bury only one item in this procedure today. Bury this bill, not another body. There has been only one death to save the lives of others that I can recall and Jesus is definitely among us here today.

House Bill 9 must be defeated. It should not even leave the House Judicial or Finance Committee hearing rooms. Remember that we are an evolving creation, that we,

as humans, are mandated to improve, not diminish the human condition. The idea that we might deprive another human of their life as a quid pro quo; i.e. "an eye for an eye" is an old and untenable cliché. The idea that the death penalty is a deterrent; we are not convinced. We must not live in a "Culture of Death" where we create another wrong if we execute one person who may be innocent

We have alternatives. Life imprisonment without the possibility of parole speaks volumes to the journey we have made from crude logic, barbarism, and brutality. Let us evolve our actions, set the bar of human response above the base of animal instinct, to leave the cruelty with the neoliths and move to a world where we turn our cheeks to knee jerk punishment solutions.

Now is the time to be heard, unabashed, certain and resolved that life in any form is to be cherished. Life is precious from the womb to the tomb and as such we turn away from the "Culture of Death" and create instead a "Culture of Life". Death and death alone will be the time for final reckoning. All humans will reconcile with God and that judgment is His and His alone.

Sincerely,

James C. Betts

March 2, 2009

From: Cris Tyree

To: Senators + Representatives

Rep: Death Penalty

NO!! NO!! NO!!

1. "justice" system is not just. Evidence is not allowed, judges tell jurors to only judge facts (not true, they judge spirit, motive, + intent of law + accused), lawyer is "officer of court", which is conflict of interest, 16.a (Criminal rule 16.a), lawyer "not bound to do everything for client", lawyer "appears to do justice", if lawyer officer of court they can discuss case w/ others that should not be privy to info, etc.

2. 7 states stopping death penalty cause it costs too much money

3. First to "tattle tale" in their crime may, can + do lie about their part so partner in crime serves the death penalty, not the true criminal.

4. THOU SHALT NOT JUDGE, or thee will be judged!!

When this state does not allow for fairness, justice, evidence, honesty, truthfulness, etc. NO!! NO! NO!

Cris

Dana Strommen

From: marytom@gci.net on behalf of Ben, Mary and Tom [marytom@gci.net]
Sent: Saturday, March 21, 2009 12:02 PM
To: Rep. Jay Ramras
Subject: HB9

Dear Rep. Ramras

As an Alaskan resident and taxpayer, I strongly oppose HB 9 and the reinstatement of the death penalty in Alaska.

There is no good argument for the death penalty, and many good ones against it. Life imprisonment is less costly to the taxpayer than execution with all its attendant appeals, and reversible if the convicted person is later found to be innocent. Execution, on the other hand, lowers each and every member of the citizenry to the inhumane level of criminals who commit heinous acts against their fellow humans.

I urge your opposition to this proposed legislation which will smear Alaska's reputation in the rest of the civilized world. We Alaskans are better than this!

Thank you

Mary Spears
PO Box 4096
Soldotna, AK 99669

(907) 260-5779

Dana Strommen

From: Susan Pagenkopf [queue@acsalaska.net]
 Sent: Saturday, March 21, 2009 7:57 PM
 To: Rep. Jay Ramras
 Subject: Re: Death Penalty/for your consideration



WORLD
 UNITED STATES

The death penalty

Saving lives and money

Mar 12th 2009 | NEW YORK
 From The Economist print edition

States plagued by fiscal woes rethink their stance on the death penalty

AN EYE for an eye, or at any rate a death for a death, is the type of justice that most states still embrace. Only 14 of the 50 states have banned capital punishment. But that may change with the recession. As state governments confront huge budget deficits, eight more states have proposed an unusual measure to cut costs: eliminate the death penalty.

The states considering abolition, including Colorado, Kansas, New Mexico and New Hampshire, have shifted the debate about capital punishment, at least in part, from morality to cost. Studies show that administering the death penalty is even more expensive than keeping someone in prison for life. The intensive jury selection, trials and appeals required in capital cases can take over a decade and run up a huge tab for the state. Death row, where prisoners facing execution are kept in separate cells under intense observation, is also immensely costly.

A recent study by the Urban Institute, a think-tank, estimates that the death penalty cost Maryland's taxpayers \$186m between 1978 and 1999. According to the report, a case resulting in a death sentence cost \$3m, almost \$2m more than when the death penalty was not sought.

In an age of austerity, every million dollars counts. Proponents of the abolition bills describe the death penalty as an expensive programme with few benefits. There is little evidence that the death penalty deters. In fact, some of the states that most avidly execute prisoners, such as Texas and Oklahoma, have higher crime rates than states that offer only life in prison without parole. There is also the danger that innocent people may be put to death. So far, more than 130 people who had been sentenced to death have been exonerated.

Colorado, one of the states that has introduced a bill to overturn the death penalty, intends to spend the money it will save each year by eliminating capital punishment on an investigations unit. According to Paul Weissman, the state House majority leader and the bill's co-sponsor, around 1,400 murders are still unsolved in the state. Eliminating the death penalty will finance the new unit and leave an extra \$1m for other state programmes. Other states are trying to free up funding to help offset their huge deficits. Savings from abolishing the death penalty in Kansas, for example, are estimated at \$500,000 for every case in which the death penalty is not sought.

Many other states, including Texas, which last year carried out almost half of all executions in America, have no plans to follow suit. But a prolonged recession may change a few Texan minds.

Dana Strommen

From: mpugh@gci.net on behalf of Margaret Pugh [mpugh@gci.net]
Sent: Monday, March 23, 2009 4:11 PM
To: Rep. Jay Ramras
Subject: hb 9

Thank you for your kind remarks during today's hearing on HB 9. You asked a question about something, and I answered that I didn't know. That demonstrates that I am rusty at giving testimony! I actually believe I do know, even though as I said, I am not an attorney. You asked how it can be that an dangerous offender can get an appeal for a sentence modification downward, and yet I don't support the strongest measure, the death penalty.

I think I was on the right track in the answer I gave, but it was incomplete. I said something to the effect that the laws are very narrow in who, and under what circumstances an offender might qualify for a sentence modification hearing...that the laws are so narrow, in fact that there are death row offenders in other states who have been proven innocent by DNA test, and yet they remain incarcerated because there is no mechanism to get them to a sentence review hearing. (In fact the laws are quite different from state to state on the ways to get back into court after having been found guilty and sentenced to whatever.)

On the larger scale, it occurs to me after the fact of the hearing of course: the US system of justice is based upon presumption of innocence - on the rights of the accused to have a fair trial ---on the right to confront accusers --that the STATE is on the hook to prove guilt, and the accused presents defense to that accusation. Not the other way around. All that because, the founding fathers were acutely aware of how the law could be used against innocents and how out of proportion sanctions sometimes were for those found guilty, innocent or not really so innocent---so, they built the system to provide strong protections for the accused. Tie goes to the runner.

Had to get this off my chest - thanks for reading, and thanks again for a nicely run hearing.

Margaret Pugh

Dana Strommen

From: Fernando Cardoso [mr_cardoso@hotmail.com]

Sent: Thursday, March 19, 2009 9:51 AM

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

Subject: Issue of Death Penalty

Good morning,

I am writing to you in regards to the reinstatement of the death penalty in Alaska. I am opposed to this in the deepest level and will withdraw my support and vote for any candidate who votes in favor of it. I realize that never voting for someone again because of the way they voted on one issue is harsh but on the issue of the death penalty there can be no two ways about it.

I thank you for your time,

Fernando Cardoso

Windows Live™ Groups: Create an online spot for your favorite groups to meet. [Check it out.](#)

Dana Strommen

From: billandmarti@gci.net on behalf of Marti Pausback Bill Michaelson [billandmarti@gci.net]
Sent: Tuesday, March 17, 2009 8:00 PM
To: Rep. Jay Ramras
Subject: Vote NO on the Death Penalty

Dear Jay Ramaras

The Death Penalty is costly and barbaric.. Let's spend time and money in Alaska on more productive legislation!

Marti Pausback
3220 Beamreach Ct
Anchorage AK 99516

Dana Strommen

From: Ronkadawn@aol.com
Sent: Tuesday, March 17, 2009 3:18 PM
To: Rep. Jay Ramras
Subject: Death Penalty

Please do not re-instate the death penalty in Alaska!
Thank you,
Dawn Tisdale, Anchorage

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

Dana Strommen

From: mjspccarol@gci.net on behalf of Carol [mjspccarol@gci.net]
Sent: Thursday, March 19, 2009 2:27 PM
To: Rep. Mike Doogan; Rep. Bob Lynn; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Carl Gatto; Rep. John Coghill; Rep. Nancy Dahlstrom; Rep. Jay Ramras
Cc: mjspc@gci.net
Subject: Oppose HB 9
Attachments: Oppose HB 9.pdf

Dear Members of the House Judiciary Committee:

Please find attached, in .pdf format, a letter from Michael J. Schneider regarding HB 9.

Please feel free to contact Mr. Schneider at (907) 277-9306 or mjspc@gci.net to discuss the contents of his letter further.

Thank you for your consideration.

Yours very truly,

LAW OFFICES
MICHAEL J. SCHNEIDER, P.C.

Carol L. McNeese
Secretary to Michael J. Schneider

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.557 / Virus Database: 270.11.19/2011 - Release Date: 3/19/2009 7:05 AM

LAW OFFICES

Michael J. Schneider, P.C.

880 "N" STREET, SUITE 202
ANCHORAGE, ALASKA 99501

TELEPHONE (907) 277-9306
FACSIMILE (907) 274-8201

EMAIL mispc@gci.net
WEBSITE aktriallaw.com

VIA EMAIL ONLY

March 19, 2009

Representative Jay Ramras, Chair
House Judiciary Committee

Representative_Jay_Ramras@legis.state.ak.us

Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill, Jr., Member
Representative Carl Gatto, Member
Representative Max Gruenberg, Member
Representative Lindsey Holmes, Member
Representative Bob Lynn, Member
Representative Mike Doogan, Alternate

Representative_Nancy_Dahlstrom@legis.state.ak.us
Representative_John_Coghill@legis.state.ak.us
Representative_Carl_Gatto@legis.state.ak.us
Representative_Max_Gruenberg@legis.state.ak.us
Representative_Lindsey_Holmes@legis.state.ak.us
Representative_Bob_Lynn@legis.state.ak.us
Representative_Mike_Doogan@legis.state.ak.us

RE: OPPOSE HB 9
(INTRODUCTION OF THE DEATH PENALTY IN ALASKA)

Dear Members of the House Judiciary Committee:

I appreciate that these epistles are best kept to a paragraph or two, but because HB 9 would put state government in the business of killing its citizens, I beg your greater indulgence.

I have been practicing law throughout Alaska, but primarily in Anchorage, for approximately 33 years. I am an Alaska charter member of the American Board of Trial Advocates, as well as a former and future president of that organization. I am currently a member of the board of the Alaska Association for Justice, formerly a president of that organization, and formerly one of its two delegates to the American Association for Justice Board of Governors. I am admitted to all the state and federal courts in Alaska, the Ninth Circuit Court of Appeals, and to practice before the United States Supreme Court. In 2002, I received the Alaska Bar Association's Professionalism Award. I have prosecuted misdemeanor criminal cases for Yakima County, Washington, as an intern decades ago, and I have defended and tried dozens of criminal cases as a private attorney in the first three or four years of my practice. I have a deep and boundless admiration for our legal system and the role it plays in making America the greatest country in the history of the human race. The foregoing "resume" is only offered to support that I have an equally deep

and broad appreciation for our system's imperfections. I also want to make it clear that my opinions in this letter are my own. They are not made on behalf of other organizations. Nor do I have a dog in this fight. I am not personally charged with an offense of any kind, let alone one that would qualify me for the death penalty if this bill were adopted. I am not representing anyone in those unfortunate circumstances, nor do I have any relatives or friends subject to such charges, or likely to be in the future. I have not defended a criminal case in three decades.

Statutes are rules applicable to our society. Rules, themselves, are notions of general application. Please keep this trite, but very important, concept in mind as you read the paragraphs that follow and consider this bill. Once we establish the rule, that a certain class of offense is entitled to the death penalty, that rule will be enforced where there is absolutely no moral doubt about a defendant's guilt, just as it will be enforced where there is a very high level of doubt about a defendant's guilt. This is exactly why we see so many cases of "actual innocence." These, as you know, are those cases where defendants convicted of capital offenses ultimately are able to prove to a scientific and moral certainty that they were innocent of the crime for which they were convicted.

I note that Sections 14 and 15 of the bill appear to be "the guts" of the matter. Section 14 would allow the imposition of the death penalty applying no more than "the preponderance of the evidence standard of proof" at sentencing. I respectfully suggest that this standard, by itself, invites the sort of errors that have left morally blameless men and women to the helplessness and hopelessness of death row, and, ultimately, to their unjust execution in those states in America that retain this unfortunate vestige of Old Testament philosophy.

If we fail to learn from history, we will be doomed to repeat it. America's love affair with the death penalty, viewed from hindsight, teaches us that:

1. The remedy is horrifically expensive in terms of dollars of cents.
2. The remedy is horrifically expensive in terms of the personal and psychological costs to those employees of the government whose curse it is to carry out this remedy.
3. The remedy has invariably been inflicted disproportionately on minority cultures and races.
4. The remedy has invariably resulted in the innocent being put to death.

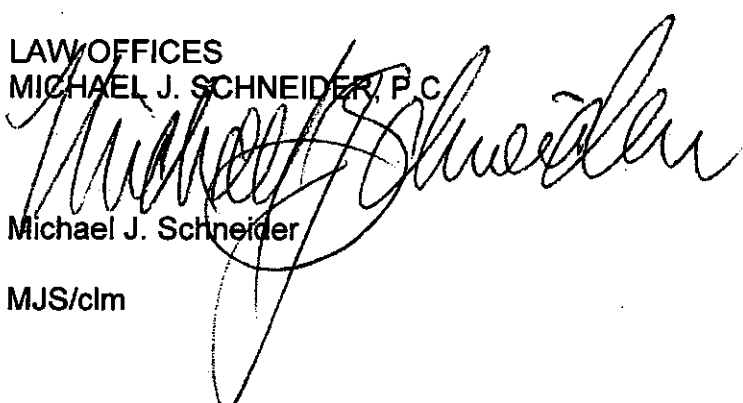
As long as we have a system of justice run by people, human imperfection will, as the night follows the day, assure that the problems I have outlined above will visit themselves on our state should it adopt this ill-considered measure. I want to make it clear that I do not doubt the good faith, or commitment to good public policy, of this bill's sponsors. I only ask that they seriously reconsider their position. This debate may be valuable, but this bill will be a self-inflicted wound for our state.

Members of the House Judiciary Committee
March 19, 2009
Page 3 of 3

I strongly urge each of you, including the bill's sponsors, to oppose this bill.

Yours very truly,

LAW OFFICES
MICHAEL J. SCHNEIDER, P.C.



Michael J. Schneider

MJS/clm

Box 182
Seldovia Ak
99663
19 March 2009

Rep. Jay Ramros, House Judiciary
Committee

Dear Rep. Ramros:

I am strongly opposed to HR 9. The judicial system is not perfect. The innocent are sometimes convicted. How many executions of innocent people are we willing to accept as a reasonable price for the questionable benefits of killing some prisoners?

When I was a girl, a young woman in a nearby town was raped and murdered. Two brothers were charged with the crime. They never stopped maintaining their innocence right up until their execution. Several years later another man confessed to the crime. Not much comfort to their mother.

In Texas a man on death row was cleared by DNA evidence. The Attorney General decreed that this

man was to be executed anyway because he had been legally convicted. Gov. Richards fired the A.G. This man's life was spared not by the evidence, but by the good sense of the governor. What if someone else had been governor?

DNA evidence has resulted in convictions of men on death row being overturned. How many men did DNA evidence come too late for?

We cannot know what new techniques will be developed that will result in more accurate legal findings. We must not kill people who might eventually establish their innocence.

I have a friend whose son was charged with murder. She knew he was innocent because they were together in her car and out of town at the time. She was not allowed to testify for him because in Utah a mother is not allowed to testify for her child

(or wasn't at that time). She was told, "We're going to convict him and we're going to execute him." Fortunately, more evidence surfaced and he was released. My friend has suffered from heart trouble ever since.

No one is safe from a false accusation. Let us not be killing people in order to hide judicial errors.

Then there are the overly ambitious prosecutors, who care only about winning. Not many perhaps, but just one is too many. Like people can be released.

Please do not allow our Alaska to degenerate to the level of Texas and Utah.

Sincerely,



Sera Baxter

Testimony on HB 9
2/23/09

Christine Reichman
Anchorage

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

Killing as a government just
adds more killing."



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name

committee on HB 9, dated _____
bill/subject

See next page.

Signed: B.A. Johnson
Testifier

Representing (Optional)

631 W. 32ND, #133

Address

Anchorage, AK 99503

Phone No.

March 10, 2009

To: Representatives Ramras, Dahstrom, Coghil, Gatto, Lynn, Gruenberg, and Holmes
Alaska State House Judiciary Committee

Re: H.B. 9 (regarding the death penalty)

Please oppose moving H.B. 9 out of the Judiciary committee.

Society can now protect against perpetrators of heinous crimes by utilizing life imprisonment. Killing criminals when not necessary diminishes respect for human life, which adversely affects all members of society.

A significant percentage of those executed have been later proven to be innocent, a terrible tragedy. Thomas Jefferson ~~who~~ said he would rather 100 men go free than have one be executed who was innocent.

There is no credible evidence that killing criminals by execution deters crime. In fact, it perpetuates violence as a way of life.

Statistics concerning higher percentages of minorities receiving the death penalty are troubling and suggest injustice in the application of the system.

It is questionable whether the death penalty saves society any money, since executions themselves involve enormous expense in legal defenses.

Thank you for your consideration.

*Barbara A. Johnson
631 W. 32ND, #133
Anchorage, AK 99503*

Dana Strommen

From: John S. Cooley [john.cooley2@acsalaska.net]
Sent: Tuesday, March 10, 2009 8:44 AM
To: Rep. Jay Ramras
Cc: Sen. Con Bunde; Rep. Mike Hawker
Subject: HB 9--to authorize capital punishment

Dear Representative Ramras:

I am writing to urge you to help keep this bill from becoming law. Alaska does NOT need capital punishment to protect its citizens.

John S. Cooley, PE
Cooley Consulting

Wayne Anthony and Barbara L. Ross
P.O. Box 101522
Anchorage, Alaska 99510
907-346-2697

March 10, 2009

To Members of the House Judiciary Committee:

Rep. Ramras	Rep. Dahlstrom	Rep. Coghill
Rept. Gatto	Rep. Lynn	Rep. Holmes
Rep. Gruenberg		

Both collectively and individually, we are opposed to the death penalty because:

The sanction of death, when it is not necessary to protect society, violates respect for human life and dignity;

State sanctioned killing in our names diminishes all of us;

We have other ways to punish criminals and protect society;

And, our imperfect system of justice could cause conviction and execution of an innocent person.

Therefore, we **strongly oppose** you moving HB9 out of your committee.

Thank you for considering our request.


Wayne Anthony Ross


Barbara L. Ross

6029 Camrose Drive
Anchorage, AK 99504
March 12, 2009

Dear Alaskan Legislator:

I am an Alaskan resident of nearly 30 years. We raised our boys here, worked in the public service sector, and donated our money to help make this a better, kinder place to live.

House Bill 9—a bill authorizing capital punishment—is a move in the wrong direction for us Alaskans. This proposed *LAW* is anything but a legal regulation for this state. Over and over the material I read about capital punishment states that it will not deter any one or any action. Yes, I know that the violence in our home town has seen periods of increase; but adopting a violent response is never a thoughtful and just move. For government body to approve killing criminals is just another addition to the culture of death that exists today.

How many times over the last five years have we fans of NPR heard a story about a death-row convict being released from prison after a legal group championed his/her story and followed up with the newest technical research and discovered innocence? I strongly refuse to be a part of any legislative action that would seek to take another person's life.

Besides all this, we have other ways to punish criminals and protect society.

I **urge** you, a dedicated public servant, to work to find ways to hold accountable the truly guilty in a way that reflects our state's and our society's best values.

Hopefully,

Lou Ann S. Balensiefer
Registered voter

Jane Pierson

From: Sue Johnson [scjohnson@gci.net]
Sent: Sunday, March 08, 2009 10:46 AM
To: Jane Pierson
Cc: Lisa Valenta
Subject: FW: John Novak's testimony was misleading

Hi Jane, Will you please distribute this to the House Judiciary members and include with HB 9 documentation?
 Thank you. Sue

From: Averil Lerman [mailto:lermntan@alaska.net]
Sent: Friday, March 06, 2009 10:52 AM
To: scjohnson@gci.net
Subject: John Novak's testimony was misleading

Dear Sue:

I was present at the Legislative Information Office in Anchorage on Monday, March 2, 2009, and heard John Novak testify that the death penalty should be reinstated because it would protect innocent people from being murdered by people who had already been imprisoned for murder, and who then killed again. Mr. Novak cited to the cases of Raymond Cheely and Douglas Gustafson, and to the case of Carl Abuhl, to support his argument.

Cheely and Gustafson were two young men who killed a motorist on the Glenn Highway, and then, after trial, killed the father of a man who testified against them, with a mail bomb. Carl Abuhl was a man who beat his roommate to death, and then, after his trial, killed a cellmate in prison.

Mr. Novak implied that, if these people had been sentenced to death the first time around, they could not have killed again.

What Mr. Novak failed to mention is that **neither Cheely nor Gustafson nor Abuhl had been convicted of first-degree murder for their initial crime.** Cheely, Gustafson, and Abuhl were each charged with and tried on first-degree murder. In each of those cases, however, the defendants were found *not guilty by the jury* of first-degree murder, and were convicted instead of second-degree murder. **Alaska jurors, sitting in long and hard cases, made these decisions.**

Thus, even if Alaska had had a death penalty at the time of their trial, none of them could have received it, and thus the public would have been no safer that it was without the death penalty. Mr. Novak never mentioned that

these men had not been convicted of first-degree murder, so far as I recall.

The death penalty is such an important matter that it is imperative to understand what it is – and what it isn't – with correct facts.

The facts of these cases are set out in: *Gustafson v. State*, 854 P.2d 751 (Alaska App. 1993) and *Abuhl v. State*, 2004 WL 2020346 (Alaska App. 2004).

Dana Strommen

From: LIO Fairbanks
Sent: Monday, March 09, 2009 7:46 AM
To: Rep. Jay Ramras
Subject: FW: HB 9

From: Rose Beth Levno [rosebethlevno@hotmail.com]
Sent: Friday, March 06, 2009 5:27 PM
To: LIO Fairbanks
Subject: HB 9

Representative Ramras,

Thank you for your service.

I have heard that you are in favor of a death penalty law. I hope this is untrue! Many of us believe that such a law is subject to abuse-- an aspect of all laws that should always be considered. Citizens must be aware that power can be misplaced, and that individuals can misuse punitive laws politically in the future.

There are many other good arguments against the death penalty in Alaska, among them being the fact that minorities are disproportionately arrested and convicted.

Respectfully, R. D. Levno
POB 10804, Fairbanks, AK 99710

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March 11, 2009

Representative Jay Ramras
State Capitol
Juneau, Ak. 99801

Re: Death Penalty

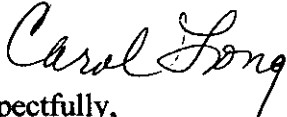
Representative Ramras:

I am against the Death Penalty and feel people should not be placed in a position contrary to their conscience because of this law.

Those who have committed a serious crime should serve a "Life Sentence With Out Parole", which would secure safety to society from such a person.

I believe we should focus on promoting ways to respond to serious crimes that will hold the guilty accountable in a way that reflects our values as HUMAN BEINGS. The death penalty does not do this.

I cannot/will not support a law or a candidate who votes for this law.


Respectfully,



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

Committee on HB 9 Capital Punishment, dated 2-23-09
bill # / subject public hearing date

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

Signed:

DANA HALLETT

Testifier

Self

Representing (optional)

35555 Kenai Spur Hwy. PMB 364 Soldotna, AK 99669

Address

907-394-4412

Phone number

Mr. Chairman, and members of the Judiciary Committee, Thank you for giving the public the opportunity to comment on HB #9

My name is Dale Kelley and I am the pastor of First Christian Church here in Anchorage. My own denomination – along with over 29 other faith communions, including the US Catholic Conference and the American Jewish Committee – have issued strong statements opposing the death penalty on all counts. *It stands in opposition to all that "believe about the sanctity of all life -*

In ~~most~~ all of these statements you will find ~~very~~ adamant positions in opposition. And not only religious opposition has surfaced. Of the 37 states which still have the death penalty, some states are even now reviewing the efficacy of this position and are looking to abolish it. ~~Almost 200 persons~~ *A # of person* have been executed who were later found to be innocent. The death penalty is fraught with errors, and issues of racism.

I believe It is ludicrous for a caring, thinking population to seek to end violence through the sheer use of violence. Why do we continue to kill people to teach people that killing people is wrong? Where is the logic in that? *- It has never been shown to be a deterre*

Aside from the moral bankruptcy of such a belief, there is the purely financial considerations that threatens to bankrupt our state of Alaska – if and when we might choose to pour millions upon millions into to re-creating a vastly new legal code – BEFORE we even have the first capital case on the docket.

I respectfully ask you - How will you *barely funded*
~~By~~ explaining to your constituents that you are going to chose to take millions of dollars away from critical and ~~UNFUNDED~~ needs for them, their towns and villages. *How will you* ~~By~~ telling them that YOU are instead choosing to put upwards of \$50 million plus dollars into setting the stage for the first case to be tried.

I respectfully urge you to re-consider voting down this barbaric practice and re-focus your attention to the REAL needs of our Alaska citizens.

Thank you very much for your time

Dale Kelley
4451 De Armoun Rd
Anchorage, AK 99516
(907) 644-4132

Joyce E. Bamberger
1036 West 22nd Street
Anchorage, Alaska 99503
February 25, 2009

House Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99801

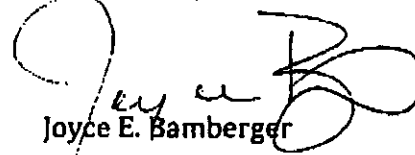
Re: HB 9

Dear Representatives Ramras and Chenault:

I am testifying today to oppose HB 9, the bill to reinstate the death penalty in Alaska. I cannot understand why in these times you would introduce this legislation except for your own political interests. Numerous studies have shown that the death penalty has been used to unfairly discriminate against non-whites, that it costs more to administer and that it turns government which exists for public safety into a public executioner. See, e.g. <http://justice.uaa.alaska.edu/death/alaska.html>; <http://www.deathpenaltyinfo.org/FactSheet.pdf>.

Even you -- Rep. Chenault -- admit that the death penalty does not act as a deterrent. <http://www.iht.com/articles/ap/2009/02/24/america/NA-US-Death-Penalty-Alaska.php>. I strongly urge you to drop pursuit of this legislation and use your time and skills for legislation that would best help Alaskans.

Best wishes,



Joyce E. Bamberger

February 25, 2009

Testimony on HB 9, Death Penalty Legislation

Chair Ramas and members of the House Judiciary,

I thank you for this opportunity to present testimony. I am opposed to this legislation and hope you will vote against it leaving committee.

In principal, I am opposed because our judicial system is not a perfect one. People who have been convicted and served many years incarcerated are now found not to have committed the crime due to advancement in scientific procedure.

If I were called to sit on a jury with the death penalty as the outcome, I could not do so. And if I can not bring myself to make this decision, how could I ask others to do so?

Right now our state is facing a financial "crisis" and this legislation would require a great deal more in the budget for this procedure. The building of a separate facility which would be an additional cost we do not presently have. I am not certain of all the facts but I do believe it is more costly to provide attorneys for death penalty cases. Our state attorneys would be charged with enforcing the charge against the defendant and our public defender system would be used for the defendant. And, since the final outcome is death, the killing of another human being, the case would probably lengthy and the costs extreme.

Please do not support this legislation if for no other reason than the cost.

Thank you,



Mary Kvalheim
1001 E Pullman Dr
Wasilla AK 99654
(907) 376-5742



Alaska State Legislature

Please enter into the record my testimony to the Judiciary Committee
Committee name

Committee on HB 9 - Death Penalty, dated 2/25/09
Bill/Subject

Our state has other priorities right now. Villages are suffering, people lack healthcare and we are looking at a deficit. The cost affiliated with HB9 are too high and would be fiscally irresponsible.

In addition, as a member of the Alaskan Hispanic community, I oppose this bill because statistics show that minorities and the poor make up the majority of people in death row.

Overall, Capital Punishment is premeditated murder and send a message that revenge is the only way.

Signed: Erick Cordero Giorgana
Testifier

Self

Representing (Optional)

1401 S Bonanza St. Palmer AK 99645

Address

907- 982- 0353

Phone number



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
Committee name

Committee on HB 9 Capital Punishment, dated 2/23/09
Bill/Subject

I am opposed to HB 9 and to legislating capital punishment in Alaska.

Reasons include:

Inherent legal problems connected to capital punishment including errors, appeals, infrastructure.

Costs related to implementing capital punishment - known costs - courts, death row, death chambers, and unknown costs - appeals & ?

The nation and the world are both moving away from capital punishment

Attract negative attention to Alaska for moving backward in its approach to criminal justice.

I do support the idea of engaging communities in a dialogue on justice & dispensing justice and to look at how do we help community members to not be compelled to commit heinous acts.

Signed: Mollie Boyer
Testifier

Representing (Optional)

P.O. Box 317, Palmer, AK 99645
Address

745-6714
Phone number



Alaska State Legislature

Please enter into the record my testimony to the HJUD
COMMITTEE NAME
 committee on HB9, dated 2/25/09
BILL / SUBJECT TODAY'S DATE

*please see attached
 written testimony*

2 letters

1 - from Elizabeth Neumann

1 - from Karen Cauble

*Thanks,
 Amber @*

*HOMER L10
 235-7878*

Signed:

TESTIFIER (Signed, PRINTED NAME)

REPRESENTING

ADDRESS

PHONE NO.

2/25/09

To the Members of the
House of Judiciary Committee

My name is Elizabeth
Neumann and I live in Anchor
Point Alaska.

I am opposed to
HB 9. I ask you that you
also oppose this bill.

Capital Punishment -
The Death Sentence

- Does nothing to deter
crime

- It is more costly
the life imprisonment

- Our judicial system
is fallible. The chance
of innocent people being
killed is always possible.

- But most importantly to
say that murder is justified in
certain circumstances is
unacceptable. I do not agree
with anyone having that power
to say someone must die.

Thank You for opposing

HB 9

Elizabeth Neumann

ELIZABETH NEUMANN
42410 2nd Sterling Hwy.
Anchor AK 99550

February 25, 2009

To Members of the House Judiciary Committee,
regarding HB #-9 authorizing capital punishment.

A death sentence is a primitive response to crime/murder and reflects longstanding institutional decisions that are both racist and class biased.

Imprisonment itself is burdened by a racist and class bias.

Our new Obama administration gives us hope that we may seek a kinder, less punitive, less violent, culture in America and that hopefully moves our society forward in addressing the causes of crime, seeking the tools of healing and reconciliation.

Violence begets violence; retribution continues the chain of violence. To kill another, to murder, is repugnant, even more so for a state to retaliate in kind. 'Nate, well!' That when a state seeks to retaliate by death, it actually condones, by leadership that killing for revenge is OK.

• The state of Alaska needs to continue without the death penalty.

• The state of Alaska can continue

2

to lead with the Obama Administration
in seeking a less-punitive, less-
primitiv society.

The state of Alaska needs to
lead in a more advanced society
by addressing the causes of violence
and crime such as alcoholism,
ignorance, and racism.

Karen Cauble

KAREN CAUBLE

PO BOX 1686

HOMER, AK 99603

Lisa M. Fitzpatrick
1964 Loussac Drive
Anchorage, Alaska 99517

March 2, 2009

Re: HB 9

Dear Chairman Ramras and Members of the House Judiciary Committee,

I am unable to attend the committee's hearing this afternoon on HB 9. By this letter, I would like to state my opposition to the bill.

I listened to the testimony as I waited to testify last Wednesday and echo many of the comments already made to you. There were many, more articulate than I, who spoke with their hearts of the myriad reasons the death penalty should never be reinstated in Alaska. The most compelling reason is that the bill can never do what the sponsor promises – ensure that no innocent person will ever be executed. The day the criminal justice system achieves perfection, I'll reconsider my position.

The sponsor of the bill, Rep. Chenault, states as a justification for the bill: "Most of us would sleep better at night knowing a criminal will never have the opportunity to harm another human being." I'm not sure why he believes life in prison doesn't meet this goal but I'm satisfied it does.

Looking at the fiscal notes submitted to this committee, I wonder how anyone can economically justify passage of this bill. The Department of Law's fiscal note surmises that approximately six defendants per year would face the kind of charges that would bring him/her within the ambit of the death penalty sentencing provision. To execute six people – people who would otherwise be spending the rest of their lives in prison - why would we as a State incur these staggering costs? If we have that kind of discretionary spending ability, why not, instead, spend that money working towards public safety? Let's put that money towards crime prevention; let's put that money towards hiring more police; let's put that money towards enabling the police to purchase the equipment they need; let's put that money into drug prevention programs; let's put that money into after school programs for kids to keep them off the streets and away from exposure to crime; let's put more money into domestic violence awareness; let's put more money into education so these kids have a chance....

I imagine a thousand better ways to spend this money – opportunities to improve the public's safety – that don't involve killing people, no matter how bad these people may be.

I implore you – stop this bill in committee. It's bad law and it's bad public policy. Thank you.

Thank you. Lisa Fitzpatrick

Dana Strommen

From: Chris Haigh [chaigh1949@gmail.com]
Sent: Sunday, March 01, 2009 6:45 PM
To: Rep. Jay Ramras
Subject: No Death Penalty

Please don't legitimize the state killing Alaskans. Most civilized nations ban capital punishment. Mistakes happen.

To legalize the death penalty in Alaska would be taking a giant step backwards. So may HB 9 and any other legislation of this kind quickly find the way to the trash bin.

Chris Haigh

Dana Strommen

From: bherman@gci.net on behalf of Bill Herman [bherman@gci.net]
Sent: Sunday, March 01, 2009 10:38 PM
To: Rep. Jay Ramras
Subject: HB 9 Capital Punishment
Importance: High

Dear Representative Ramras,

There are many very good reasons for not passing the Death Penalty Bill, such as too great a chance that the wrong person would be executed due to a fallible judicial system, excessive costs, or the fact we are one of the few democratic countries which still has the death penalty allowed anywhere within it.

But the overriding reason is that it is just wrong to take a life for another. We lower our society by murdering (or as you say "executing") a murderer. I further believe that there is "that of God in everyone," even a murderer, and by executing them we rob our society of benefiting from his/her possible redemption and possible gifts that could be given by that person to other inmates. We also rob our society of making at least some degree of amends if it is later found we have wrongly convicted him or her.

Please kill the Death Penalty Bill.

(Please share this message with other members of the House Judiciary Committee.)

Respectfully submitted,

Bill Herman
1845 Parkside Dr
Anchorage, AK 99501
(907) 243-9520 (H)
bherman@gci.net

Dana Strommen

From: Denise Petrash [dpetrash@alaska.com]
Sent: Saturday, March 14, 2009 10:17 AM
To: Rep. Jay Ramras
Subject: Request for a vote against HB 9

Dear Representative Ramras,

Once upon a time in a land far, far away (Texas), I was an ardent supporter of the death penalty. I believed in it wholeheartedly, believed in its justice, believed in its efficaciousness.

In the years since - even before I left to come to the great state of Alaska 18 years ago, in fact - I have come around 180 degrees. The more that I have read about it, studied it, examined the facts, the more I have come to the conclusion that while there may be some exceptions, overall the death penalty is riddled with problems. It is not a clear deterrent, it is consistently more expensive than life without parole, and it is disproportionately applied to minorities.

And beyond that, I came to see the inconsistency between my fervent pro-life position and my willingness to have others killed, whatever their crime. Everyone deserves the time on this earth granted by God - the time all of us need to be fully converted to His holy desire.

It is my hope that HB 9 will not pass out of the Judiciary Committee, and it will be soundly defeated before it can even be voted on in the House.

Thank you for hearing this bill, and for considering my comments.

Best wishes,
Denise Petrash
Registered Republican
House District 31

Dana Strommen

From: chuck & carol szopa [akszopa@acsalaska.net]
Sent: Friday, March 13, 2009 1:29 PM
To: Rep. Jay Ramras
Subject: Death Penalty

Please vote against the death penalty.

Also, thank you for chairing the hearing on HB35. I appreciate your concern for life.
Sincerely,
Carol Szopa
Anchorage, Alaska

Dana Strommen

From: Wasroop@aol.com
Sent: Tuesday, March 03, 2009 4:43 PM
To: Rep. Jay Ramras
Subject: HB 9

Please vote no on HB 9. You know the reasons: it doesn't make sense from an economic, justice, or crime-prevention point of view.

Mary Ellen Harris

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

Dana Strommen

From: renowned@acsalaska.net
Sent: Sunday, March 15, 2009 7:04 PM
To: Rep. Jay Ramras
Subject: ALaska death penalty legislation

I urge you to vote against adoption of the death penalty in Alaska. Our justice system is too imperfect for us to assume the right to end a human life.

Pam Tuomi

March 23, 2009

To: Alaska House of Representatives, Judiciary Committee
Testimony on House Bill 9, reinstating the death penalty for first degree murder.

Mr. Chairman, and distinguished committee members.

My name is Art Koeninger. I am currently a resident of Homer and have resided in Alaska since 1975. Thank you for this opportunity to speak to you in opposition to this bill.

This bill purports to better protect society from the most heinous of crimes, and to impart a more perfect justice, while protecting the rights of the innocent. I value and support those goals. However, this bill does little if anything that our existing system, with the possibility of life without ^{harm} parole, does not already offer with less expense, and less violence to our collective psyche. It is not enough to appear tough on crime. There are more cost-effective ways to be smart on crime.

I am not unfamiliar with with life and death issues, having served as a first responder, fire fighter, community association leader and businessman for 25 years in my former community in the Copper Valley. I have traveled and worked extensively throughout the state, particularly in small villages, most of them predominately Native.

I have known murderers and victims, and their families. They were my neighbors. As much as we might wish it to, more killing will not heal the pain of the victims' families, will create more pain for the perpetrators' families, who are just as innocent as their neighbors, and will not make us safer, any more than it will bring back the dead.

I am also not unfamiliar with capital punishment and the effects it has on corrections personnel tasked with its implementation, on victims' families as well as families of the executed, not to mention the larger community where it is carried out.

I hope that you were able to meet with Reverend Carroll Pickett, the former death house chaplain from Huntsville, Texas. If you did not have that opportunity, I encourage you to view the documentary film "At the Death House Door" about his experiences there, and his transformation

Art Koeninger
HB9

①/6

from a supporter of the death penalty to an opponent.

I grew up literally in the shadow of that same prison. My father worked as the Director of the Bureau of Classifications for the Texas Department of Corrections, and taught sociology and criminology at the local college. As a criminologist with access to decades of statistical data on every prisoner admitted to Texas prisons, he grew to oppose the death penalty when his studies of the data demonstrated many of the glaring racial and class discrepancies inherent in the application of the death penalty.

Even today, a half-century later, our justice system is as imperfect as the humans administering it. I'm sure the Native Justice Center will give convincing reasons why this law will fall disproportionately on Alaska Natives. If my dear friend Rachel King, a former state defense attorney, were alive today, she would outline for you many of the ways that cultural and economic as well as geographical and logistical factors contribute to the higher incarceration rates of Alaska Natives, proportionate to their population. I encourage you to read her article "Bush Justice: The Intersection of Alaska Natives and the Criminal Justice System in Rural Alaska" in the Oregon Law Review, Volume 77, #1, Spring 1998., where she cites her own experiences as well as many studies and case law.

And though I know that you cannot remedy those inequities with one bill, that this one would perpetrate them terminally on the ethnically different and the poor, is particularly egregious.

Its irreversibility, once a person is executed, differentiates it radically from all other laws.

As you know, most developed western nations have stopped executing their citizens.

Other states are finding that their capital punishment systems are ineffective, the associated costs are becoming prohibitive, and they are beginning to rescind state sanctioned killing in practice as well as by law, New Mexico being the most recent.

Alaskans have gotten along without the death penalty for decades, and in time will rid themselves of this injustice again, should this bill pass.

Art Koeninger 2/6
AKB

Unfortunately, future changes in law, whether by legislation or by the courts, will be of no avail to the executed.

No amount of legal tweaking or rationalization can assure that the innocent will not be put to death. DNA cannot prove guilt, only innocence, and only a fraction of murder cases have DNA evidence.

The mere presumption that any one human or human system can adjudicate who is most heinous, unrepentant, or incapable of rehabilitation and is thus unworthy of living, disturbs me. To so designate a 16 -18 year old is doubly unthinkable to me.

The mere fact that many if not most murders are committed while under the influence of alcohol or other drugs, should give some hope that once they're cleaned up, they might be redeemable enough to spend their lives in prison.

The delegation of the responsibility to premeditatedly kill another human being is an abhorrent burden to state employees and medical personnel, and a violation of their oath to do no harm. Reverend Pickett spoke of the necessity of appointing extra guards to this duty because inevitably two or more of them would throw up or otherwise be incapable of carrying out their task.

This is a final solution we do not need.

I encourage you to table this bill, to turn from retributive justice, and focus on a restorative justice with real solutions that address the root causes of crime.

To help set you in that direction I will point you to a recent study of the Alaska corrections system by the Pew Center on the States.

<<http://www.adn.com/front/story/707881.html>>

For \$4 million/year extra in existing rehabilitation and prevention programs, we can reduce the prison population by 1,000 prisoners/year, saving \$129/prisoner/day or \$47,085,000/year according to the information below. At least some of those 1,000 would be murders that wouldn't happen.

Art Koeninger
HR9

③/6

Art Koeninger
254 Charles Way
Homer, AK 99603
907-235-1014
<akoeringer@acsalaska.net>

Corrections report warns of underfunding rehabilitation

By STEVE QUINN
The Associated Press

Published: March 2nd, 2009 09:56 AM

JUNEAU -- Even as the state of Alaska prepares to break ground on a 1,500-bed, medium-security prison, a newly released national study says investments should be in rehabilitating prisoners instead of locking them up.

"We cannot build our way to public safety," says a report titled The Long Reach of American Corrections released today by The Pew Center on the States.

"With the costs of imprisonment rising and the benefits failing, our ability to keep communities safe depends more than ever upon our ability to better manage the 5 million offenders on probation and parole," says the report.

The study examined the number of people in the corrections system -- those incarcerated, on probation or on parole -- and the money spent on corrections from 1982-2007.

According to the report, 1 out of every 88 Alaskans is incarcerated in a state or federal prison, placing it 12th nationally.

The reports says 1 of every 61 Alaska adults is on probation or parole, placing the state 33rd nationally.

A separate study presented in January to the Alaska Legislature by the University of Alaska's Institute of Social and Economic Research -- or

Art Koeninger
H09

④/6

ISER -- says Alaska's inmate population could go from roughly 5,300 to 10,500 by the year 2030.

If the state spent an additional \$4 million annually on existing rehabilitation and prevention programs, that population could be closer to 9,500, according to the ISER study.

Making those investments, however, is a tough economic sell in a state facing a financial crunch with the dropping price of oil and the public demanding immediate results, said Stephanie Martin, ISER's assistant professor of economics and public policy.

"The state wouldn't start to see any return for probably at least five years, but after that it becomes tremendous," Martin said. "It's just hard for people to think like that. It's easy to do on a computer, but politically it's tougher to do."

According to the Pew study:

- **Alaska spent \$240 million or 4.7 percent of its general fund on corrections last year, 2.2 percentage points less than the national average even though comparative state-to-state spending is difficult to pin down because of variances in calculations.**

- **The cost for one day spent in prison is nearly \$129 per inmate, or the same amount for one prisoner's total costs for either 90 days of parole or 22 days of probation. The national average for prison is \$79 per day, or 10 days of parole or 22 days of probation.**

- **For every dollar Alaska spent on prisons in 2008, it spent 6 cents on probation and parole. Only data from 34 states was available, but among those, 14 cents was spent on probation and parole for every dollar spent on prisons.**

- **Forty-one percent of those under correctional supervision -- be it probation, parole or incarceration -- was in prison or jail at the end of 2007.**

Joseph Schmidt, the state's Department of Corrections commissioner, said he agrees with the study's assertions that corrections departments

Art Koeninger

5/6

1439

need to be proactive to ease the burden on the prisons. The department has a \$246.3 million budget. Of that \$13.1 million is spent on parole and probation programs.

Plans for the new prison in Palmer would enable Alaska to house 700 prisoners currently in Arizona facilities. The Alaska prison is scheduled to open in 2012.

"Confinement is the foundation of the system, but we are trying to move away from the philosophy that incarceration will solve the problem," Schmidt said.

One program launched two months ago at Spring Creek Correctional Center in Seward involves 264 inmates to be released within 6 to 18 months. The program closely follows a Federal Bureau of Prisons guide in helping inmates transition back to life outside prison.

Prisoners attend parenting and anger management classes, receive tutoring in life skills such as house hunting and job interviewing, and they work on getting vocational skills or a high school diploma.

"We are focusing on re-entering society, so they don't come back into the system," Schmidt said. "What we are hoping is that we don't grow our prison population to a point where we can't afford it."

Art Koeninger
HB 9

①/6

SANTA FE NEW MEXICAN.com

Senate backs death-penalty repeal

Decision now moves to governor; 2008 election propelled vote, lawmakers say

By Steve Terrell | The New Mexican

3/13/2009



Photo by: Jane Phillips/The New Mexican

Friday's decisive state Senate vote to repeal the death penalty in New Mexico was a direct result of November's election of several new lawmakers.

That's the opinion expressed both by a leading supporter and by a leading opponent of House Bill 285, which would replace the death penalty with a sentence of life in prison without possibility of parole.

The bill, which cleared the House 40-28 last month, passed the Senate 24-18 after a nearly three-hour debate. It now goes to Gov. Bill Richardson, who in recent days has said his support for capital punishment has softened and he hasn't decided whether he'll sign the

legislation.

"I have met with many people and will continue to consider all sides of the issue before making a decision," said the Democratic governor, who called it "an extremely difficult issue."

New Mexico, one of 36 states with a death penalty, would be the first to ban executions since New Jersey in 2007.

The bill's sponsor, Rep. Gail Chasey, D-Albuquerque, said Friday that she was able to get the bill through the Senate this year because the 2008 election added three more senators to the Democratic majority. In recent years, the bill had been stopped in the Senate Judiciary Committee. Last week that committee voted in favor of HB285 by a one-vote margin.

"The election gave us a more comfortable margin," Chasey said.

Lem Martinez, who is district attorney for the 13th Judicial District, has spoken against the repeal bill at committee hearings on behalf of the state District Attorneys Association. He said Friday that the Senate vote was the result of (President Barack) Obama's coattails. "Last November, the voters spoke," Martinez said.

Martinez said he intends to speak with Richardson to lobby for a veto of HB265.

Chasey said she also plans to talk to Richardson. "Our work's not finished yet," she said.

The Governor's Office set up a phone line for gathering the opinions of New Mexicans on the issue. The number is 505-476-2225. Those wishing to weigh in via e-mail can do so by visiting the governor's Web site at www.governor.state.nm.us and clicking on "Contact the Governor."

Richardson must act on the bill within three days after he receives it. A spokesman said he hadn't received the bill by the end of Friday but expects to get it today. That would make Wednesday the deadline for him to sign or veto the bill.

One person who intends to call that hot line is Colleen Gore, mother of the 9-year-old Artesia girl, Dena Lynn Gore, who was murdered in 1986 by Terry Clark. Clark was lethally injected in 2001, the most recent execution by the state of New Mexico.

Colleen Gore said in a telephone interview Friday that she was disappointed by the Senate vote. "I think it's kind of sad," she said.

"I think instead of repealing the death penalty they should be working on ways to shorten the appeals process," said Gore, who spent 15 years attending court hearings for Clark. Clark voluntarily stopped his appeals process shortly before he was executed.

"I got closure from the execution," Gore said.

Two men remain on death row: Timothy Allen, 47, of Farmington, who was sentenced to death in 1995 for the murder, kidnapping and attempted rape of 17-year-old Sandra Phillips, and Robert Fry, 35, of Bloomfield, who was condemned in 2002 for killing Betty Lee, 36, in 2000.

Technically, neither sentence would be affected if Richardson signs the law. However, the governor could lift their death sentences.

One death-penalty case is pending in Santa Fe — that of John La Bombard, 36, who confessed to the shooting death of Frank Segura, 39, in the Santa Fe National Forest.

During Friday's Senate debate, many of the arguments centered on questions of religion, morals and justice.

The death penalty is just, said Sen. Rod Adair, R-Roswell. "Six thousand years of recorded history confirms it is and 400 years of American Judeo-Christian tradition says it is."

But Sen. Jerry Ortiz y Pino, D-Albuquerque, argued, "In 6,000 years we've evolved. ... We shouldn't be relying on the lizard part of our brain as we did 6,000 years ago."

Sen. Kent Cravens, R-Albuquerque, argued that the death penalty puts the "fear of God" into those who commit terrible crimes. He disagreed with repeal supporters who have argued that most condemned killers would rather be executed than face years in prison. "Life in prison would be a picnic compared with (execution)," Cravens said.

Sen. Linda Lovejoy, D-Crownpoint, spoke about her native Navajo culture's attitude toward crime. The

Navajo way, she said, puts more emphasis on healing and restoring harmony than retribution.

Senate Republican Whip Bill Payne of Albuquerque argued that getting rid of the death penalty for those who kill police and corrections officers would make it more dangerous for law-enforcement personnel.

Senate Majority Leader Michael Sanchez, D-Belen, who carried the bill, said it's been nearly 100 years since anyone in New Mexico was executed for killing a law-enforcement officer.

The 24 senators who voted for the bill were all Democrats. Three Democratic senators — Richard Martinez of Española, Tim Jennings of Roswell and John Arthur Smith of Deming — joined the 15 Senate Republicans in opposing the bill.

This was the first time since 2001 the Senate has voted on a death-penalty repeal. Martinez that year voted for the repeal, but Sen. Phil Griego, D-San Jose, who voted Friday for HB285, had voted against the similar bill in 2001.

Among those attending the Senate debate was Santa Fe screenwriter Dennis Yares, who recently wrote a screenplay for a book about a controversial, racially charged New Mexico execution in 1933. The book, *Justice Betrayed* by Ralph Melnick, deals with Thomas Johnson, the first person to die in New Mexico's electric chair. The book makes the argument that Johnson, a black man, was framed for the murder of Angelina Jaramillo.

Yares told a reporter that shooting for the feature film is scheduled to begin in Santa Fe this fall.

The Associated Press reports that repeal legislation has passed the state Senate in Montana and awaits a House hearing. The state Senate in Kansas is expected to debate a repeal bill Monday.

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Los Angeles Times

<http://www.latimes.com/news/nationworld/nation/la-na-death-penalty-costs14-2009mar14.0,7550491.story>
From the Los Angeles Times

States weigh cost of death penalty

With executions in decline, some lawmakers want to abolish capital punishment, citing expenses as a factor.
By Steve Mills

March 14, 2009

Reporting from Chicago — To New Mexico Atty. Gen. Gary King, a prison guard's slaying cried out for the death penalty: Inmates had stabbed him two dozen times.

But when the defense ran out of money, the state Supreme Court ruled that King could not seek a death sentence until the lawyers were paid -- approximately \$200,000 for each of the three defendants, King said. When state legislators refused to allocate more money, prosecutors dropped their pursuit of the death penalty.

In January, one of the inmates was sentenced to 54 years in prison.

"Unless the Legislature is willing to appropriate a lot of money for the defense, then I think that the death penalty is pretty well negated in New Mexico," King said in an interview.

"If we had death penalty cases on the horizon, there would be a big discussion about whether we could take a budget cut," he added. "We can't just absorb that in our standard budget."

Debate over the death penalty has undergone shifts over the years. During the last decade, the discussion has focused on accuracy and fairness, with exonerations of dozens of death row inmates sparking calls for reform and abolition. Now, with the nation's economy slumping, the issue is cost.

Several states have introduced measures to abolish the death penalty, many of them citing its cost. New Mexico's Legislature voted Friday to do so.

In Colorado, a bill would take money usually spent on capital cases and use it to help clear unsolved cases. In Kansas, a legislator wants to use money for capital cases to close a budget shortfall.

"In a way, we have life without parole, but we're paying more money to achieve it," said state Sen. Carolyn McGinn, a Republican, noting that Kansas has not executed an inmate in decades.

New Jersey cited cost as one factor when it abolished the death penalty in 2007, and a commission that studied the death penalty in Maryland recently cited cost as well.

In Georgia, the public defender system is underfunded and in crisis after the death penalty trial of a man convicted of killing a judge and three others during his 2005 escape from an Atlanta courthouse. The case cost more than \$2 million. The man, Brian Nichols, received a life sentence.

In California, legislators are wrestling with the cost of maintaining the nation's largest death row even though the state has executed only 13 inmates since 1976. Officials are also debating construction of a new \$395-million death row prison that many lawmakers say the state cannot afford.

And in Louisiana, the Orleans Parish district attorney's office has considered filing for bankruptcy protection after it was ordered to pay \$15 million to John Thompson. He sued prosecutors after he was acquitted of murder and freed from death row; a jury found that prosecutors had engaged in misconduct.

"This is a time where if you have a government program and it's not producing a lot but it's costing a lot, then it's ripe for examination," said Richard Dieter, executive director of the nonprofit Death Penalty Information Center. "It's not like libraries, which you need, or other crucial programs. This is a program that's not really producing."

The scrutiny of the costs of capital punishment comes as the death penalty is in decline. Prosecutors are obtaining fewer death sentences -- in part because more states offer juries the option of life without the possibility of parole -- and states are carrying out fewer executions.

Many of the costs are built into the system and cannot be changed. They include the costs of specially trained defense lawyers, mental health and mitigation experts, and a longer course of appeals. And there are the many added costs of housing death row prisoners.

"As long as you have a death penalty system, you'll have regular expenses. And those expenses aren't getting cheaper," Dieter said. "There's a maintenance cost to the death penalty."

Death penalty cases can have an outsized effect in smaller counties, which tend to have smaller budgets. There, a case can cost hundreds of thousands of dollars -- close to \$1 million if the issues are particularly complicated -- and force officials to cut programs to fund the prosecution.

Prosecutors say they have to take that into consideration, although it is not the only factor.

"Any good prosecutor is going to have to consider cost, especially in smaller, rural counties," said R. Lowell Thompson, district attorney for Navarro County in Texas, south of Dallas.

"But cost isn't the only consideration. Our job is to seek justice, and we have to carry that out."

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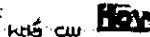
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partners:



The death penalty

Saving lives and money

NEW YORK

States plagued by fiscal woes rethink their stance on the death penalty

ANYE for an eye, or at any rate a death for a death, is the type of justice that most states still embrace. Only 14 of the 50 states have banned capital punishment. But that may change with the recession. As state governments confront huge budget deficits, eight more states have proposed an unusual measure to cut costs: eliminate the death penalty.

The states considering abolition, including Colorado, Kansas, New Mexico and New Hampshire, have shifted the debate about capital punishment, at least in part, from morality to cost. Studies show that administering the death penalty is even more expensive than keeping someone in prison for life. The intensive jury selection, trials and appeals required in capital cases can take over a decade and run up a huge tab for the state. Death row, where prisoners facing execution are kept in separate cells under intense observation, is also immensely costly.

A recent study by the Urban Institute, a think-tank, estimates that the death penalty cost Maryland's taxpayers \$186m between 1978 and 1999. According to the report, a case resulting in a death sentence cost \$3m, almost \$2m more than when the death penalty was not sought.

In an age of austerity, every million dollars counts. Proponents of the abolition bills describe the death penalty as an

expensive programme with few benefits. There is little evidence that the death penalty deters. In fact, some of the states that most avidly execute prisoners, such as Texas and Oklahoma, have higher crime rates than states that offer only life in prison without parole. There is also the danger that innocent people may be put to death. So far, more than 130 people who had been sentenced to death have been exonerated.

Colorado, one of the states that has introduced a bill to overturn the death penalty, intends to spend the money it will save each year by eliminating capital punishment on an investigations unit. According to Paul Weissman, the state House majority leader and the bill's co-sponsor, around 1,400 murders are still unsolved in the state. Eliminating the death penalty will finance the new unit and leave an extra \$1m for other state programmes. Other states are trying to free up funding to help offset their huge deficits. Savings from abolishing the death penalty in Kansas, for example, are estimated at \$500,000 for every case in which the death penalty is not sought.

Many other states, including Texas, which last year carried out almost half of all executions in America, have no plans to follow suit. But a prolonged recession may change a few Texan minds.

► can score 70 points worse than their peers in Wyoming and receive the same grade. The Fordham Institute, a think-tank, measured the same 18 primary schools by different states' benchmarks. In rigorous Massachusetts, only one passed muster. In sloppy Wisconsin, 17 did. Mr Obama promised that, later this year, he would tie federal money to results. But he did not say how.

He correctly identified another problem: that while most American public schools are pretty good, a significant minority are atrocious. He put it more politely, of course, noting that a mere 2,000 high schools (out of 28,000) produce more than half of all dropouts. Dysfunctional schools are concentrated in the rougher parts of cities, such as Detroit and Los Angeles. Mr Obama offered some sensible small ideas, such as extra money for pre-school, and hinted at bigger reforms.

He urged the states, for example, to stop restricting the number of charter schools. These are publicly funded but autonomous schools that, freed from bureaucracy, typically educate poor children better for less money than nearby public schools do.

Naturally, the bureaucrats hate them. Many states restrict the number that can be set up. "That isn't good for our children," said Mr Obama. But he cannot force the states to stop doing it.

Mr Obama called for longer school hours, which teachers' unions are not keen on, and merit pay, which they hate. Ever tactful, he avoided the incendiary word "merit". But he said that "good teachers will be rewarded with more money for improved student achievement". As for persistently bad teachers, he pointed out that "There's no excuse for [them] to continue teaching." Parents would love that; but no president has come close to achieving it.

Meanwhile, Democrats in Congress quietly voted to kill a voucher programme that allows around 1,700 students, mostly black, poor or both, to escape Washington, D.C.'s, awful public schools and attend private ones. Mr Obama supports killing the programme, but his flacks say he wants the students currently enrolled in it, who include two at his daughters' excellent private school, to be allowed to complete their studies. How kind. ■

Africa policy

Don't expect a revolution

NEW YORK AND PRETORIA

Barack Obama may differ little from George Bush in his approach to Africa

IT MIGHT seem obvious that American policy towards Africa would change under America's first African-American president. But while the new man seems set to break with his predecessor in many other foreign-policy areas, changes towards Africa may be less substantial.

Though unloved in much of the world, George Bush is still popular in most of Africa. He vastly increased America's development aid towards the continent. He created the President's Emergency Plan for AIDS Relief (PEPFAR), which was reauthorised last year with a budget of \$48 billion over five years, to help stop the spread of HIV and to treat those infected. While PEPFAR has been less successful at prevention than its proponents had hoped, it has kept 2.1 million people, most of them African, on life-saving antiretroviral treatment.

One much-criticised PEPFAR provision was an anti-prostitution pledge requiring recipients, who had to swear that it would not "support" prostitution. That provision was retained when the plan was reauthorised last year, and Mr Obama cannot change it without rewriting the law. In any event, many anti-AIDS campaigners found ways of getting round Bush's restrictions. So beyond sacking the boss of PEPFAR, which he has just done, Mr Obama is unlikely to do much to change a policy that is working well.

Mr Obama brings with him some figures with strong opinions on one of Africa's bloodiest conflicts, in the Sudan region of Darfur. Joe Biden, his vice-president, has called in the past for a three-month military action against the Sudanese government to stop the killings there. Mr Obama's ambassador to the UN, Stephen Rice, has backed the threat of force to





Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
Committee name

Committee on Death Penalty HB 9 dated 3-2-09
Bill/Subject

See attached

Signed: m. Cristyree
Testifier

THE PEOPLE
Representing (Optional)

Box 872085 Wasilla
Address

907-357-7688
Phone number

March 2, 2009

From: Chris Lyree
to: L10 For Repts
Death Penalty

Front Sheet:

1. Letter from me on death penalty
2. 4 pages on jurors rights (not just on judging facts)
3. 6 pages of letter to American Bar Assoc., Alaska Bar Assoc., AK Daily News on

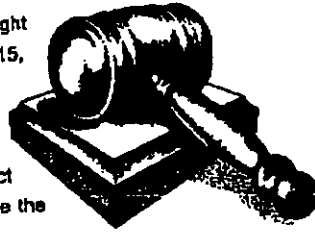
Alaska Rules of Professional
Conduct
w/ fax front

12 pages w/ this fax front

22

JURIES ARE ALLOWED TO JUDGE THE LAW, NOT JUST THE FACTS

In order to guard citizens against the whims of the King, the right to a trial by jury was established by the Magna Carta in 1215, and it has become one of the most sacrosanct legal aspects of British and American societies. We tend to believe that the duty of a jury is solely to determine whether someone broke the law. In fact, it's not unusual for judges to instruct juries that they are to judge only the facts in a case, while the judge will sit in judgment of the law itself. Nonsense.



Juries are the last line of defense against the power abuses of the authorities. They have the right to judge the law. Even if a defendant committed a crime, a jury can refuse to render a guilty verdict. Among the main reasons why this might happen, according to attorney Clay S. Conrad:

When the defendant has already suffered enough, when it would be unfair or against the public interest for the defendant to be convicted, when the jury disagrees with the law itself, when the prosecution or the arresting authorities have gone "too far" in the single-minded quest to arrest and convict a particular defendant, when the punishments to be imposed are excessive or when the jury suspects that the charges have been brought for political reasons or to make an unfair example of the hapless defendant...

find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court." Similarly, Founding Father Alexander Hamilton declared: "It is essential to the security of personal rights and public liberty, that the jury should have and exercise the power to judge both of the law and of the criminal intent."

Legendary Supreme Court Chief Justice John Jay once instructed a jury:

It may not be amiss, here, Gentlemen, to remind you of the good old rule, that on questions of fact, it is the providence of the jury, on questions of law, it is the providence of the court to decide. But it must be observed that by the same law, which recognizes this reasonable distribution of jurisdiction, you have nevertheless the right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy.

The following year, 1795, Justice James Iredell declared: "[T]hough the jury will generally respect the sentiment of the court on points of law, they are not bound to deliver a verdict conformably to them." In 1817, Chief Justice John Marshall said that "the jury in a capital case were judges, as well of the law as the fact, and were bound to acquit where either was doubtful."

In more recent times, the Fourth Circuit Court of Appeals unanimously held in 1969:

If the jury feels that the law under which the defendant is accused is unjust, -- that extenuating circumstances justified the actions of the accused, or for any

Some of the earliest examples of jury nullification were refusals to convict people who had spoken ill of the government (they were prosecuted under "seditious libel" laws) or who were practicing forbidden religions, such as Quakerism. Up to the time of the Civil War, American juries often refused to convict the brave souls who helped runaway slaves. In the 1800s, jury nullifications saved the hides of union organizers who were being prosecuted with conspiracy to restrain trade. Juries used their power to free people charged under the anti-alcohol laws of Prohibition, as well as antiwar protesters during the Vietnam era. Today, juries sometimes refuse to convict drug users (especially medical marijuana users), tax protesters, abortion protesters, gun owners, battered spouses, and people who commit "mercy killings."

Judges and prosecutors will often outright lie about the existence of this power, but centuries of court decisions and other evidence prove that jurors can vote their consciences.

When the US Constitution was created, with its Sixth Amendment guarantee of a jury trial, the most popular law dictionary of the time said that juries "may not only find things of their own knowledge, but they go according to their consciences." The first edition of Noah Webster's celebrated dictionary (1828) said that juries "decide both the law and the fact in criminal prosecutions."

Jury nullification is specifically enshrined in the constitutions of Pennsylvania, Indiana, and Maryland. The state codes of Connecticut and Illinois contain similar provisions.

The second US President, John Adams, wrote: "It is not only [the juror's] right, but his duty...to

acquitt, and the courts must abide that decision.

Three years later, the DC Circuit Court of Appeals noted: "The pages of history shine on instances of the jury's exercise of its prerogative to disregard uncontradicted evidence and instructions of the judge."

In a 1993 law journal article, federal Judge Jack B. Weinstein wrote: "When juries refuse to convict on the basis of what they think are unjust laws, they are performing their duties as jurors."

Those who try to wish away the power of jury nullification often point to cases in which racist juries have refused to convict white people charged with racial violence. As attorney Conrad shows in his book, *Jury Nullification: The Evolution of a Doctrine*, this has occurred only in very rare instances. Besides, it's ridiculous to try to stamp out or deny a certain power just because it can be used for bad ends as well as good. What form of power hasn't been misused at least once in a while?

The Fully Informed Jury Association (FIJA) is the best-known organization seeking to tell all citizens about their powers as jurors. People have been arrested for simply handing out FIJA literature in front of courthouses. During jury selections, FIJA members have been excluded solely on the grounds that they belong to the group.

FIJA also seeks laws that would require judges to tell jurors that they can and should judge the law, but this has been an uphill battle, to say the least. In a still-standing decision (*Sparf and Hansen v US*, 1895), the Supreme Court ruled that judges don't have to let jurors know their full

powers. In cases where the defense has brought up jury nullification during the proceedings, judges have sometimes held the defense attorney in contempt. Still, 21 state legislatures have introduced informed-jury legislation, with three of them passing it through one chamber (ie, House or Senate).

Quite obviously, the justice system is terrified of this power, which is all the more reason for us to know about it. ☐

23 THE POLICE AREN'T LEGALLY OBLIGATED TO PROTECT YOU

Without even thinking about it, we take it as a given that the police must protect each of us. That's their whole reason for existence, right?

While this might be true in a few jurisdictions in the US and Canada, it is actually the exception, not the rule. In general, court decisions and state laws have held that cops don't have to do a damn thing to help you when you're in danger.

In the only book devoted exclusively to the subject, *Don't 911 and Die*, attorney Richard W. Stevens writes:

It was the most shocking thing I learned in law school. I was studying Torts in my

YOUR VOTE COUNTS!

Your vote of NOT GUILTY must be respected by all other members of the JURY — it is the RIGHT and the DUTY of a JUROR to Never, Never, Never yield his or her sacred vote — for you are not there as a fool, merely to agree with the majority, but as an officer of the court and a qualified judge in your own right. Regardless of the pressures or abuse that may be heaped on you by any other members of the JURY with whom you may in good conscience disagree, you can await the reading of the verdict secure in the knowledge you have voted your own conscience and convictions — and not those of someone else.

YOU ARE NOT A RUBBER STAMP!

By what logic do we send our youth to battle tyranny on foreign soil, while we refuse to do so in our courts? Did you know that many of the planks of the "Communist Manifesto" are now represented by law in the U.S.? How is it possible for Americans to denounce communism and practice it simultaneously.

The JURY judges the Spirit, Motive and Intent of both the law and the Accused, whereas the prosecutor only represents the letter of the law.

Therein lies the opportunity for the accomplishment of "LIBERTY and JUSTICE for ALL." If you, and numerous other JURORS throughout the State and Nation begin and continue to bring in verdicts of NOT GUILTY in such cases where a man-made statute is defective or oppressive, these statutes will become as ineffective as if they had never been written.

"If we love wealth better than liberty, the tranquillity of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or your arms. Crouch down and lick the hands which feed you. May your chains set tightly upon you, and may posterity forget that we were our countrymen." 14

FREEDOM FOR WILLIAM PENN

"These people who are not governed by GOD will be ruled by tyrants."

William Penn

Edward Bushell and three fellow JURORS learned this lesson well. They refused to bow to the court. They believed in the absolute power of the JURY, though their eight companions cowered to the court. The four JURORS spent nine weeks of torture in prison, often without food or water, soaked with urine, smeared with feces, barely able to stand, and even threatened with fines, yet they would not give in to the judge. Edward Bushell said, "My liberty is not for sale," though he had great wealth and commanded an international shipping enterprise. These "tumble heads", so the court thought, proved the power of the people was stronger than any power of government. They emerged total victors.

THE FIRST AMENDMENT

The year was 1670, and the case Bushell sat on was that of William Penn, who was on trial for violation of the "Conventicle Act." This was an elaborate Act which made the Church of England the only legal church. The Act was struck down by their not guilty vote. Freedom of Religion was established and became part of the English Bill of Rights and later it became the First Amendment to the U.S. Constitution. In addition, the Right to peaceful assembly was founded, Freedom of Speech, and also habeas corpus. The first such writ of habeas corpus ever issued by the Court of Common Pleas was used to free Edward Bushell. Later this trial gave birth to the

JURY OF PEERS

Our forefathers felt that in order to have JUSTICE, it is obvious that a JURY of "PEERS" must be people who actually know the defendant. How else would they be able to judge motive and intent?

"PEERS" of the defendant, like the rights of the JURY have also been severely tarnished. Originally, it meant people of "equals in station and rank." (Black's 1910), "free-holders of a neighborhood." (Bouvier's 1886), or "A companion; a fellow; an associate." (Webster's 1828).

WHO HAS A RIGHT TO SIT ON A JURY?

Patrick Henry, along with others, was deeply concerned as to who has a right to sit on a JURY. Listen to our forefather's wisdom on the subject of "PEERS."

MR. HENRY

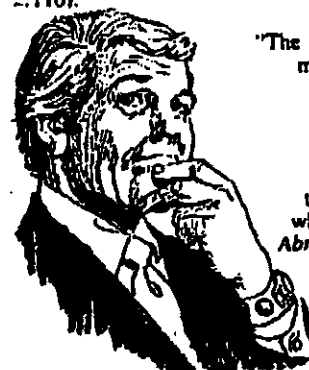
"By the bill of rights of England, a subject has a right to a trial by his peers. What is meant by his peers? Those who reside near him, his neighbors, and who are well acquainted with his character and situation in life." Patrick Henry, (Elliot, The Debates in the Several State Conventions on the Adoption of the Federal Constitution, 3:579).

Patrick Henry also knew that originally the JURY of PEERS was designed as a protection for Neighbors from outside governmental oppression. Henry states the following, "Why do we love this trial by jury? Because it prevents the hand of oppression from cutting you off . . . This gives me comfort — that, as long as I have existence, my neighbors will protect me." (Elliot, 3:545, 546).

MR. HOLMES

Mr. Holmes, from Massachusetts, argued strenuously that for JUSTICE to prevail, the case must be heard in the vicinity where the fact was committed by a JURY of PEERS. . . . a jury of the peers would, from their

local situation, have an opportunity to form a judgment of the CHARACTER of the person charged with the crime, and also to judge of the CREDIBILITY of the witnesses." (Elliot, 2:110).



"The people are the masters of both Congress and courts, not to overthrow the Constitution, but to overthrow the men who pervert it!"
Abraham Lincoln

MR. WILSON

Mr. Wilson, signer of "The unanimous Declaration," who also later became a supreme Court Justice, stressed the importance of the JURORS knowing personally both the defendant and the witnesses. "Where jurors can be acquainted with the characters of the parties and the witnesses — where the whole cause can be brought within their knowledge and their view — I know no mode of investigation equal to that by a trial by jury: they hear every thing that is alleged; they not only hear the words, but they see and mark the features of the countenance; they can judge of weight due to such testimony; and moreover, it is a cheap and expeditious manner of distributing justice. There is another advantage annexed to the trial by jury; the jurors may indeed return a mistaken or ill-founded verdict, but their errors cannot be systematical." (Elliot, 2:516).

prosecutor, William Penn most likely would have been executed as he clearly broke the law.

HE BROKE THE LAW!

Then there would have been no Liberty Bell, no Independence Hall, no city of Philadelphia, and no state called Pennsylvania, for young William Penn, founder of Pennsylvania, and leader of the Quakers, was on trial for his life. His alleged crime was preaching and teaching a different view of the Bible than that of the Church of England. This appears innocent today, but then, one could be executed for such actions. He believed in freedom of religion, freedom of speech and the right to peaceful assembly. He had broken the government's law, but he had injured no one. Those four heroic JURORS knew that only when actual injury to someone's person or property takes place is there a real crime. No law is broken when no injury can be shown. Thus there can be no loss or termination of rights unless actual damage is proven. Many imposter laws were repealed as a result of this case.

IT IS ALMOST UNFAIR!

This trial made such an impact that every colony but one established the jury as the first liberty to maintain all other liberties. It was felt that the liberties of people could never be wholly lost as long as the jury remained strong and independent, and that unjust laws and statutes could not stand when confronted by conscientious JURORS. JURORS today face an avalanche of imposter laws. JURORS not only still have the power and the RIGHT, but also the DUTY, to nullify bad laws by voting "not guilty". At first glance it appears that it is almost unfair, the power JURORS have over

Where the people fear the government you have tyranny; where the government fears the people, you have liberty.

Politicians, bureaucrats and especially judges would have you believe that too much freedom will result in chaos. Therefore, we should gladly give up some of our RIGHTS for the good of the community. In other words, people acting in the name of government, say we need more laws and more JURORS to enforce these laws — even if we have to give up some RIGHTS in the process. They believe the more laws we have, the more control, thus a better society. This theory may sound good on paper, and apparently many of our leaders think this way, as evidenced by the thousands of new laws that are added to the books each year in this country. But, no matter how cleverly this Marxist argument is made, the hard fact is that whenever you give up a RIGHT you lose a "FREE CHOICE"!

This adds another control. Control's real name is BONDAGE! The logical conclusion would be, if giving up some RIGHTS produces a better society, then by giving up all RIGHTS we could produce the perfect society. We could chain everybody to a tree, for lack of TRUST. This may prevent a crime, but it would destroy PRIVACY, which is the heartbeat of FREEDOM! It would also destroy TRUST which is the foundation for DIGNITY. Rather than giving up RIGHTS, we should be giving up wrongs! The opposite of control is not chaos. More laws do not make less criminals! We must give up wrongs, not rights, for a better society! William Pitt of the British House of Commons once proclaimed, "Necessity is the plea for every infringement of human liberty; it is the argument of tyrants; it is the creed of slaves."

NATURAL RIGHTS!

NATURAL RIGHTS ARE THOSE RIGHTS such as LIFE (from conception), LIBERTY and the PURSUIT OF HAPPINESS eg. FREEDOM OF RELIGION, SPEECH, LEARNING, TRAVEL, SELF-DEFENSE, ETC. Hence laws and customs which violate NATURAL RIGHTS, though they have the color of law, are not law but impostors! The U.S. Constitution was written to protect these NATURAL RIGHTS from being tampered with by legislators.* Further, our forefathers also wisely knew that the U.S. Constitution would be utterly worthless to restrain government legislatures unless it was clearly understood that the people had the right to compel the government to keep within the Constitutional limits.



In a jury trial the real judges are the JURORS! Surprisingly, judges are actually just referees bound by the Constitution!

*Lymanizer Spooner wrote as follows:

"Government is established for the protection of the weak against the strong. This is the principal, if not the sole motive for the establishment of all legitimate government. It is only the weaker party that loses their liberties, when a government becomes oppressive. The stronger party, in all governments are free by virtue of their superior strength. They never oppress themselves. Legislation is the work of this stronger party; and if, in addition to the sole power of legislation, they have the sole power of determining what legislation shall be enforced, they have all power in their hands, and the weaker party are the subjects of an absolute government. Unless the weaker party have a veto, they have no power whatever in the government and . . . no liberties . . . The trial by jury is the only institution that gives the weaker party any veto upon the power of the stronger. Consequently it is the only institution that gives them any effective voice in the government; or any guaranty against oppression."

Essay on the Trial by Jury

A JURY'S Rights, Powers and Duties:

The Charge to the JURY in the First JURY Trial before the supreme Court of the U. S. Illustrates the TRUE POWER OF THE JURY. In the February term of 1794, the supreme* Court conducted a JURY trial and said " . . . it is presumed, that the jurists are the best judges of facts; it is, on the other hand, presumed that the courts are the best judges of law. But still both objects are within your power of decision."

"You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy."

(State of Georgia vs. Braithford, et al, 3 Dall. 1)

"The JURY has an unreviewable and unreviewable power . . . to acquit in disregard of the instructions on the law given by trial judge . . ." (emphasis added)

U.S. vs. Dougherty, 473 F 2nd 1113, 1139 (1972)

Hence, JURY disregard of the limited and generally conviction-oriented evidence presented for its consideration, and JURY disregard for what the trial judge wants them to believe is the controlling law in any particular case (sometimes referred to as "JURY lawlessness")² is not something to be scrupulously avoided, but rather encouraged. Witness the following quotation from the eminent legal authority above-mentioned: "Jury lawlessness; is the greatest corrective of law in its actual administration. The will of the state at large imposed on a reluctant community, the will of a majority imposed on a vigorous and determined minority, find the same obstacle in the local JURY that formerly confronted kings and ministers." (emphasis added)

(Dougherty, cited above, note 32, at 1130.)

*Significant is not capitalized in the Constitution, however Behrman is. AR. 01.

²Jury lawlessness causes unwillingness to comply with law.

9

The Right of the JURY to be Told of Its Power

Almost every JURY in the land is falsely instructed by the judge when it is told it must accept as the law that which is given to them by the court, and that the JURY can decide only the facts of the case. This is to destroy the purpose of a Common Law JURY, and to permit the imposition of tyranny upon a people.

"There is nothing more terrifying than ignorance in action."

Goethe

— engraved on a plaque at the Naval War College

"To embarrass justice by a multiplicity of laws, or to hazard it by confidence in judges, are the opposite rocks on which all civil institutions have been wrecked."

John Jay — engraved in

Minicolas Sans Capitol

Outside the Supreme Court Chambers

" . . . The letter killeth, but the spirit giveth life."

II. Corinthians 3:6

"It is error alone which needs the support of government. Truth can stand by itself."

Thomas Jefferson

The JURY'S options are by no means limited to the choices presented to it in the courtroom. "The jury gets its understanding as to the arrangements in the legal system from more than one voice. There is the formal communication from the 'judge.' There is the informal communication from the total culture — literature; current comment; conversation;

LAWS, FACTS AND EVIDENCE!

Without the power to decide what facts, law and evidence are applicable, JURIES cannot be a protection to the accused. If people acting in the name of government are permitted by JURORS to dictate any law whatever, they can also unfairly dictate what evidence is admissible or inadmissible and thereby prevent the WHOLE TRUTH from being considered. Thus if government can manipulate and control both the law and evidence, the issue of fact becomes virtually irrelevant. In reality, true JUSTICE would be denied leaving us with a trial by government and not a trial by JURY!

HOW DOES TYRANNY BEGIN? WHY ARE THERE SO MANY LAWS?

Heroes are men of glory who are so honored because of some heroic deed. People often out of gratitude yield allegiance to them. Honor and allegiance are nice words for power! Power and allegiance can only be held rightfully by trust as a result of continued character.

When people acting in the name of government violate ethics, they break trust with "WE THE PEOPLE." The natural result is for "WE THE PEOPLE" to pull back power (honor and allegiance).

The loss of power creates fear for those losing the power. Fearing the loss of power, people acting in the name of government often seek to regain or at least hold their power. Hence, to legitimize their quest for control, laws and force are often instituted.

Unchecked power is the foundation of tyranny. It is the JUROR'S duty to use the JURY ROOM as a vehicle to stem the tide of oppression and tyranny: To prevent bloodshed by peacefully removing power from those who have abused it. The JURY is the primary

November 17, 2005

From: Cristyree + Ron Huckstep

To: Anchorage Daily News, Lisa Demer

Barbara Brink, Attorney

Alaska Bar Association

Alaska Representatives (House + Senate)

Concerning Newspaper Article "Lawyer

Says Patients Don't Get Fair Hearing"

Sunday, November 6, 2005

In Alaska very few clients get a fair hearing. Ms. Brink you're quoted "If the client says fight, we fight." Not true - here's why. Alaska Rules of Professional Conduct, whereby ARPC Rules Lawyers sign an oath to uphold. Rules set up to go against the client. Rules set up to purposely lose cases. Rules client do not know about before they hire the lawyer. Rules that are unfair + unjust. Rules that lead to revenues for the adversary system (court system) + law enforcement. And the lawyer.

The following pages are points, questions + facts about the wording, sentence framing, gray areas, etc. about ARPC.

Cristyree ; Ronald C. Huckstep

ALASKA RULES OF PROFESSIONAL CONDUCT

1. Page 1, a lawyer is an officer of the legal system. Isn't this a conflict of interest? As officers of legal system, a lawyer's loyalties lie with the adversary system + it's revenues. Also this leads to protection of law enforcement (police-troopers, etc). So how is client fairly represented? Will you, the lawyer, discuss the client's affairs, case, evidence, etc. with judges, court clerks, police, etc? Isn't this why several charges are made so client will plead to at least one, leading to revenue for court?
2. Page 1, "assume justice is being done." Why use the word "assume"? This is a gray area + allows for lawyer to go behind client's back. It gives "play room" for lawyer. No client "assumes", they "expect".
3. Page 1, "Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to client, to the legal system, etc." Why is the legal system part of the conflict? Sometimes the legal system is the problem because they are violating ones' Constitutional Rights, so one may want to sue the legal system, but lawyer's

Can't represent a client well with lawyer's loyalties lying with adversary system + law enforcement. Why hire a lawyer?

4. Page 2, "close relationship between the profession, the processes of government + law enforcement." Again conflict of interest. If police lie or tamper with evidence, how can the lawyer serve his client + the police? Where is the fair hearing? Why the processes of government? In America we have the Constitution of the United States. Simple Law. So since the government + law enforcement are violating Constitutional Rights, where is the fair hearing? How can lawyer represent client in lawsuit against the government, fair + just? Again lawyer can not serve two masters.

5. Page 2, "Every lawyer is responsible for observance of ARPC. A lawyer should also aid in securing their observance by other lawyers." We live in America!! This is Nazi!! Let's definitely make sure client doesn't get great representation or fairness!! No lawyer should have to watch another lawyer + have to "tattle tale"

6. Page 3, "The attorney-client privilege is that of the client, not the lawyer." Another gray area. Leaves room for indiscretion on lawyer's end. The privilege is the lawyer's, for being hired by client.
7. Page 4, "The client shall be advised of the lawyer's limited knowledge in the field to which advice is sought." Are lawyers really honest with the client on this? Do lawyers tell client the Constitution of the United States is not allowed in Alaska Courts? Do lawyers tell clients about Page 5, Rule 1.2c on limiting scope? Do lawyers explain Criminal Rule 11a + how they conned Alaska Representatives to pass as law? Do lawyers tell client about loyalties to an adversary system + law enforcement?
8. Page 5, lawyer discusses waiving jury trial + appeal. Why would client want to give up his Constitutionally secured right to a jury of his peers? Why mention appeal? Does lawyer know he's going to lose case?
9. Page 5, Rule 1.2c, limit scope. This is not in the interest of client. This is a basic right also secured in Constitution, Bill of Rights. Clients want all their

evidence." Again this is conflict of interest, protecting law enforcement, not client. Which brings us to the killer sentence in ARPC.

10. Page 9, "However, a lawyer is not bound to press for every advantage that might be realized for a client." This sentence says it all! Do you lawyers, share this with the client? As you are suppose to be honest, fair, truthful humans with morals, values & ethics.

11. Not in ARPC, but Alaska Bar Association (ABA) convincing Alaska Representatives to pass Criminal Rule 11a. Why would ABA want this law passed when it goes against his client's best interest? Does this law show loyalty, honesty, truthfulness, ethics, values, morals, kindness, love from Alaska Bar Association (Lawyers, Judges), law enforcement + our fine Alaska Representatives? No, it shows their evilness. Their cruelty. Their GREED.

We have other points + questions on ARPC.

Orie Tyree ; Ronald B. Gluckly



State of Alaska
Legislative Affairs Agency
Kenai LIO
145 Main St Lp Ste 217
Kenai, AK 99611
(907) 283-2030

Date: 3-2-09

Please accept the enclosed original(s) of written testimony for the
HJUD teleconference hearing that was
scheduled on 2-25-09.

A copy of this testimony was transmitted to your committee via fax on
3-2-09.

Thank you,

M. B. Byrne

Alaska State Legislature

Please enter into the record my testimony to the

House Judiciary

committee name

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

2-25-09

public hearing date

From Fox News 2-25-09

Lawmakers Cite Economic Crisis in Effort to Ban Death Penalty

A number of state legislators are citing the country's economic woes as a reason to overturn capital punishment laws

Colorado, Kansas, Maryland, Montana, New Hampshire, Nebraska and New Mexico are among those states actively considering abolishing executions as a way to cut costs.

In Alaska news, Governor Palin is interested in a new state crime lab. While I do not have enough information to debate this issue, it seems convenient that instituting the death penalty in Alaska would require new facilities. (see testimony from Monday's Judiciary hearing) Of course this could just be a coincidence.

Economic stimulus? Yes! Attorneys and support staff. New crime lab.

A step in the right direction – or a giant leap backwards?

Since I'm unable to tune in to the hearing today, I just hope and pray that your comfort level will not include our state choosing to enact this legislation. I know we "don't care how they do it Outside," but surely we can be open to learning a little and continuing to lead the country as the Territorial Legislature chose in 1957. Sometimes the wisdom of the past is just that – wisdom.

When people who might not be paying attention right now, realize that your committee is discussing when it's okay to execute a 16 year old or a pregnant woman or a retarded peson, I suspect you will be sitting in a very uncomfortable position.

The best way out is a quick "no." Please vote "no" on HB9.

A. Susan Smalley, 105 Linwood Lane, Kenai, AK 99611 (907) 238-7469



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

Committee on HB 9 Capital Punishment, dated 2-23-09
bill # / subject public hearing date

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

2) Looking at this through the lens of Christ's teachings, I find it even more disturbing. "An eye for an eye and a tooth for a tooth," while being Old Testament wisdom, was overridden by Jesus' words ~~and~~ and actions as he walked on this earth. You might remember that the New Testament testifies to his actually stopping an execution that was sanctioned by the laws of his time. This was NOT a popular action at the time, but it spoke loudly to who Jesus was and what

Signed: A. Susan Smalley he had come to teach us.
Testifier

Representing (optional)

105 Linwood Lane Kenai AK 99611
Address

907 283-7469
Phone number



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary committee name

Committee on HB 9 Capital Punishment, dated 2-23-09
bill # / subject public hearing date

3) At a time of financial crisis, it is mind boggling to me that our legislators are looking in this direction. Statistics (and speaker Chenault) show that the death penalty is not a deterrent. And it is incredibly expensive. And just at the time many other states are reversing their views, we are spending valuable legislative time, effort & money to consider instituting the death penalty. From my perspective as a 39 year Super voter Alaskan and concerned citizen, it looks like a distraction from what should be the business at hand.

In closing, I'd like to summarize my points

- 1) Mistakes are irrevocable - other states set up safeguards too
- 2) HB 9 does not represent my Christian values (or those of the United Methodist Church, of which I am a member)
- 3) It's bad economics (unless you're an attorney)
- 4) "It's not a deterrent" (Spkr. Chenault 2/23/09)

Signed: _____
 Testifier

 Representing (optional)

 Address

 Phone number

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

I found the conversation abhorrent at the hearing today. "How do we choose whether to execute 16 year olds? *We'll let pregnant women deliver and then execute them. Why are our Alaskan legislators involved in this?"

I urge you to vote "no" on HB9, freeing up your time & energy on the pressing issues of our state.

Sincerely, A. Susan Smalley

* from the work draft

Dana Strommen

From: Susan S [asusansmalley@yahoo.com]
Sent: Tuesday, February 24, 2009 5:57 AM
To: Rep. Jay Ramras; Rep. Bob Lynn; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Carl Gatto;
Rep. Nancy Dahlstrom; Rep. John Coghill
Subject: HB9

Dear Judiciary Committee Members,

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

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

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

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

Please vote down HB9.

Susan Smalley
105 Linwood Lane
Kenai, AK 99611

March 3, 2009

Dear Representative Ramras,

Through you, let me thank the Judiciary Committee for allowing me the privilege to speak to the issue of House Bill 09. Unanimous among all whom I spoke with afterwards was gratefulness for the even tenor of the proceedings, and respect paid to all who offered their testimony. This note is simply to reiterate three points:

In a state whose law enforcement and investigative resources are stretched beyond the breaking point—where many locales throughout the state have no VPSO or police or trooper presence whatsoever—how can it be that the proper investigative resources can be brought to bear in those locales in a timely manner when dealing with capital crimes which bear the potential of a final solution—death to the convicted perpetrator?

Secondly, in my experience, there is less, not more resolution for the victim's family upon the occasion of an execution. There is a satisfaction of vengeance, sometimes, but the potential for anything else—even documented cases of reconciliation—are lost. Mourning the loss of their loved one, families also mourn over time for lost possibilities of making it clear to the perpetrator the depth of their loss and any hope of understanding the mind of the perpetrator.

And thirdly, related to the second, addressing what Representative Coghill intimated by his comment about "the state bearing the sword" is the point that we law-abiding citizens have surrendered our absolute freedom to the will of a governed society specifically and especially to be guided—even protected by this government of laws away from our baser motives of vengeance and retribution, especially when that vision is clouded by unimaginable and unbearable pain—and an irresistible desire for vengeance. The gentleman from Kodiak testified specifically to this point: "If someone murdered my wife I would want vengeance, absolutely, but it is still wrong." We law abiding citizens depend upon you to keep us from this wrong, and to curb our desires when we cannot ourselves.

And if I may now slip in a fourth which caused me a pause in my testimony—a pause of emotion which was a testimony in itself: The conversation about the efficacy of the death penalty does not stop when a law allowing such is passed. It is debated with a ferocity born of desperation each and every time another human being is put to death by the state. I have witnessed this desperation over and over at the gates of San Quentin, and the vitriol which poisons the social fabric of our community life for weeks before and after each execution.

There are of course dozens of reasons besides these few which I might make against the passage of HB 9, but I leave those to more eloquent voices, and review only the testimony you were so kind to allow me. Please know that you and each of the Committee remain in our prayers. Every blessing and kindness;

Sincerely,



George Silides, rector
Holy Trinity Episcopal Church
Juneau, Alaska 99801

To: The Honorable Jay Ramras
State Capitol
Juneau, AK 99801

March 2, 2009

Dear Representative Ramras,

I am writing this letter as written testimony for HB 9 regarding the introduction of the death penalty to our great State of Alaska. I have lived in Nikiski for 20 years.

Theoretically the death penalty has a certain logic; however, what is theory and what is real is not always the same thing. Theoretically it would deter crime. In reality that does not appear to be the case. Please review the 2006 FBI Crime Report. Consistent with previous years, the regions of the country that have the highest execution rates continue to have the highest murder rates. In addition a nation wide survey of police chiefs, the majority did not see the death penalty as an effective tool in law enforcement. For the few (1%) that did, 3 times as many named reducing guns, 10 times as many named more police officers, 17 as many named jobs and better economy and 31 times as many named reducing drug abuse as the primary focus need to reduce violent crimes. Theoretically it would save money, as we wouldn't be housing those prisoners for life. The reality of states that do have the death penalty show a very different picture. In December 2003 the Kansas Performance Audit Report stated capital cases are 70% more expensive than non-capital offenses, including the costs of incarceration. In 2005 the LA Times reported California taxpayers pay \$114 million per year beyond the costs of keeping convicts locked up for life for their death penalty system.

Sharing evidence that suggests the death penalty is extremely ~~and~~ expensive and ineffective, while important, is not my main reason for writing this testimony. My main reason is this: I believe our judiciary system is one of the best in the world, but it is dishonest for me to say it operates perfectly. Because it is a system operated by human beings and human beings are fallible, the system is fallible. There are cases where a person has been found guilty of a crime they ~~did not~~ committed by another. There are cases in our legal system where

over →

someone has been found guilty of a capital offense when they are innocent. Some of these cases have been discovered in time. Since 1973 over 120 people have been released from death row with evidence of their innocence. Since the turn of the millenia, there has been an average of 5 exonerations per year. Each year we've been able to identify approximately 5 people mistakenly put on death row. It is good to recognize and acknowledge that we have checks and balances which help us more accurately and fairly serve justice. It is what makes our justice system the best in the world. However, it should also remind us that our system is not infallible. If the death penalty becomes a part of our state's legal system, at some point, we the people of Alaska will sanction the killing of an innocent person. It is likely that we will do so un wittingly, but it will be inevitable. It would be a great and tragic irony to make it so important to kill wrongdoers for killing innocent people that we put ourselves at risk for doing that very wrong. Our great state has managed to avoid this tragic irony by being one of 14 states without the death penalty. Because of this, we are a more fair and just state than the majority in the union. My hope is that you will ~~continue to~~ have us continue to be so. Please do not let this bill out of the judiciary committee.

Sincerely,
Gretchen E Graeff
Gretchen E Graeff
46430 Jakes Way
Kenai AK 99611

(907). 776. 8650

Dana Strommen

From: Barb Brink [Barb_Brink@fd.org]
Sent: Wednesday, March 11, 2009 2:37 PM
To: Rep. Jay Ramras
Subject: RE: HB9 Opposition

Written Summary of Testimony by Barbara Brink before the House Judiciary Committee on February 23, 2008 HB 9

My name is Barbara Brink and I believe that House Bill 9 (the death penalty) is the wrong approach from a practical public policy point of view. My opinions have been shaped by my 23 years as a public defender in the state of Alaska, first as a trial lawyer, then for eight years as the Deputy Director, and nine years as the Director. As Representative Coghill wondered, based upon my experience, we do not have a system of justice that we can rely upon with confidence in the state of Alaska.

This is not to disparage the excellent people within criminal the system, from the eyewitnesses that report crime, to those that investigate, those that prosecute, those that defend, and those that conduct the trials in these cases. The point is that we are all human, and a human system of justice makes mistakes.

Since 1972, 124 death row inmates in 25 states were found to be actually innocent and exonerated. These were people who had their cases decided beyond a reasonable doubt by juries; people whose regular appeals had been exhausted; people who were scheduled to be executed by the government. Please do not think that these exonerations prove the system works. These people were exonerated despite the system, by the dedication of journalists and lawyers, family and friends, and advances in technology that fortunately occurred before the government killed them. At least 8 documented innocent people were not so fortunate, and were executed. If Alaska engages in the risky business of capital punishment, our state at some time will get it wrong and kill an innocent person.

Some people argue that current DNA technology will prevent any wrongful executions. However, technology is always advancing. Last week the National Academy of Science released a report casting serious doubt on the very types of "scientific" evidence that has been used for years to convict. All of these techniques were hailed at the time of their use as reliable and trustworthy. This includes fingerprint, firearm and bite mark identification, and blood spatter, hair and handwriting analysis. The study, ordered by Congress, found that evidence around the country tended to be handled by poorly trained technicians who exaggerated the accuracy of their methods and their findings in court, in part because of the universal alignment with law enforcement.

This is not a new discovery. In 2004 the FBI had to notify hundreds of people who were potentially wrongfully convicted that the technique of matching the chemical make up of bullets was in fact not reliable and that the scientific experts who had made such claims had "overtestified."

We can assume that technology will continue to advance. We cannot assume that the technology of today is infallible. And even as DNA technique becomes more and more refined, less than 10% of all violent crimes involve DNA evidence. As fallible as human beings are, we should neither give ourselves nor our government the power to decide who lives and who dies.

Trying to prevent an irreversible mistake in the capital system has resulted in an expensive and cumbersome system. I think adoption of this system is I bad idea from a practical public policy point of view. It simply costs more to kill a person than it does top keep them in prison for life. The fiscal notes of the Public Defender Agency and the Office of Public Advocacy are not an ideal. They are constitutionally required. The U.S. Supreme Court has set requirements for heightened due process when the result can be death. Two lawyers with death penalty experience are required for every case. A mitigation team and investigation is required for every case. Expert witnesses and a thorough appellate review is required in every case. This costs

money.

States that have had the death penalty for years are considering abolishing it as they reassess the costs of the system versus the benefits. New Jersey found it has spent 253 million dollars over and above regular criminal justice costs since 1983 and has as of yet executed no one in their capital punishment system. Many question what better uses that quarter of a billion dollars could have been put to in terms of more law enforcement personnel and public safety, and in terms of prevention such as schools, job training or drug treatment. Similar analysis has been conducted in Florida, Texas, California and Maryland as tough economic times force state to reconsider these huge expenditures. It is generally accepted that the death penalty does not deter murder. Nationally, the states and regions that do not execute their citizens have a lower homicide rate than those that do. States are also wondering if they could use these funds to actually assist murder victims' families more directly in the areas of restitution and grief counseling.

Maryland's former Speaker of the House, Casper Taylor Jr. , who spent 28 years in Maryland's House of Delegates, recently wrote an op-ed piece after a study of the capital system he helped to re-impose in 1978. "Today, that vote haunts me, " he said. Since reinstatement, Maryland's 30 years of experience with the death penalty have been a colossal failure."

Please allow Alaska to benefit from the history and experience of the rest of the country. The establishment of capital punishment in Alaska would be a terrible mistake.

Dana Strommen

From: Cheryl Roderer [roderer@gci.net]
Sent: Wednesday, March 11, 2009 10:12 AM
To: Rep. Jay Ramras
Subject: Death Penalty Opposition: HB 9

Dear Representative Ramras:

I am strongly opposed to the death penalty. Killing someone who has committed a crime, even a heinous crime, is deeply flawed. Each and every human being deserves the respect of life. If even one person is put to death in error because he/she was not guilty of the accused crime we have taken away every tidbit of dignity and decency that we, as humans, have.

I urge you and the other members of the Judiciary Committee to oppose moving HB 9 out of committee and allow all Alaskans to maintain respect for life.

Pax et bonum, Cheryl Roderer
4712 Potter Crest Circle
Anchorage, AK 99516

(907) 868-3080 home
(907) 868-5115 fax
(907) 250-0050 cell