

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

2408

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2408

SYSTEM TOTAL (Adult) (inc. FBI)

<u>MONTH</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
January	488	495	529	600	732	738	770	876	1069	1388
February	511	472	534	611	742	728	771	891	1076	1432
March	503	477	529	616	742	728	778	905	1120	
April	513	480	541	609	776	739	782	921	1161	
May	497	482	586	608	777	745	778	950	1172	
June	486	474	576	593	742	733	791	955	1183	
July	500	460	576	603	697	727	810	968	1186	
August	493	460	574	639	723	745	794	1004	1239	
September	476	486	608	670	724	743	819	1023	1269	
October	469	499	598	697	764	767	846	1068	1330	
November	473	502	569	731	752	763	867	1085	1347	
December	491	506	549	689	736	771	861	1050	1311	
ST/12	492	483	564	639	743	744	805	975	1205	

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Executive Order No. 54
 Title Creating Department of Corrections
 Requested by Governor Date Jan. 16, 1983

II. FISCAL DETAIL
 Agency Affected Department of Corrections
 Program Category Affected Administration of Justice
 BRU, Program, Or Subprogram(s) Affected Director's Office
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	250.0	951.6	1008.7	1069.3	1133.4	1201.3

FUNDING (Thousands of Dollars)

GENERAL FUND	250.0	951.6	1008.7	1069.3	1133.4	1201.3
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The Executive Order will create the Department of Corrections necessitating the transfer of the Division of Corrections and Parole Board from the Department of Health & Social Services to the new department.

IV. DATE January 16, 1983 PREPARED BY Marsha Hubbard
 AGENCY Dept. of Health & Social Services
 Original: Legislative Finance PHONE 465-3331
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) *D. A. D.*
 33-001 (Rev. 12/82)

BILL SHEFFIELD
GOVERNOR



EO 54

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 17, 1983

The Honorable Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.30.130(b), I am transmitting an executive order which creates a Department of Corrections. The new department is being created from the division of corrections which is currently located in the Department of Health and Social Services. This is similar to Executive Order No. 39's 1977 creation of the Department of Transportation and Public Facilities out of the former Department of Highways and Department of Public Works.

This Order's sec. 28 creates the new department. Section 29 then states that the commissioner is the principal executive officer and sets out some basic duties and powers. Section 29's AS 44.28.020 is based on AS 44.29.020(9) (amended in sec. 30 of the Order) and AS 44.29.020(17) (repealed in sec. 31), pertaining to the Department of Health and Social Services. Similarly, the new AS 44.28.030 is based on AS 18.-05.040(15).

Art. I, sec. 12, of the Alaska Constitution mandates that penal administration be based on protection of the public and reformation of the offender. Given the unprecedented increases in the prison population in the state, I believe that elevating the division of corrections to departmental status is necessary to achieve these twin goals and is in the best interests of efficient administration.

The problem of increasing crime in Alaska and how best to deal with those who are convicted of violations of the criminal law was the focus of a recent inquiry by a corrections task force that I created. In its January 3, 1983 report, the task force recommended the immediate elevation of the division of corrections to departmental status. According to members of the task force, this recommendation is strongly supported by all segments of the criminal justice system.

The Order does not transfer the responsibility for juvenile corrections matters and for offenders who are found guilty but mentally ill or not guilty by reason of insanity under AS 12.47.

Also, some responsibilities of the commissioner of public safety, principally the transportation of prisoners, have not been addressed in this Order. The decision on whether or when to transfer these responsibilities to the new commissioner of corrections will depend on such factors as the level of increased training that must occur before the new department can effectively and safely assume these responsibilities.

The phrase "Repealed effective July 1, 1987," which appears in brackets and capital letters in the AS 33.32 (correctional industries) headings for the sections being amended in secs. 15, 17, 19, 20, and 24 of this Order, appears in this Order because it appears in those headings in The Michie Company's publication of the statutes. That language is not being deleted, and the amendments made by this Order do not affect that statutory termination date of the correctional industries program. See sec. 7, ch. 53, SLA 1982.

Sincerely,



Bill Sheffield
Governor

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STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 29, 1983

SUBJECT: Landlords and tenants
(CSSSHB 1 (Judiciary))

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

Here is the sectional analysis of CSSSHB 1 (Judiciary) that you requested.

Section 1. This is a new provision authorizing enforcement of a judgment for the restitution of real property obtained in an action for forcible entry or detention. No other order to enforce the judgment may be required.

Section 2. Continued possession of a dwelling after expiration of a periodic tenancy is added to the list of cases that constitute unlawful holding by force for purposes of the article dealing with forcible entry and detainer. Under the Uniform Residential Landlord and Tenant Act a landlord is authorized to bring an action for possession.

Section 3. If the tenant terminates a rental agreement under the Uniform Residential Landlord and Tenant Act, fails to provide the proper notice of termination, and the failure to provide notice is wilful or not in good faith, the landlord may recover as punitive damages one and one-half times the actual damages. Failure to provide notice of termination is presumed to be wilful and not in good faith.

Section 4. In the case of a month-to-month tenancy, either party may terminate the rental agreement by providing at least 30 days notice. Under existing law the notice must be given at least 30 days before the rental due date indicated in the notice, so a tenancy must be terminated on a rental due date rather than at any time during the rental period.

Representative Mitchell E. Abocd, Jr.
Page 2
March 22, 1983

Section 5. This authorizes a landlord to bring an action for recovery of actual damages in the subsection that provides for punitive damages. Under another section, AS 34.-03.270, it is clear that a landlord may bring an action for actual damages for breach of a rental agreement.

Section 6. This adds terminating the rental agreement or providing notice of termination to the list of retaliatory actions that a landlord may not take when a tenant attempts to enforce certain rights.

Section 7. A landlord is presumed to have acted in retaliation if the landlord takes certain actions within 60 days after a tenant attempts to secure rights.

TBC:ljb
11/008

An Overview of
Committee Substitute for Sponsor Substitute for HOUSE BILL NO. 1 (L&C)
"AN ACT RELATING TO LANDLORDS AND TENANTS"

The Alaska Statutes governing Landlords/Tenants, (Title 34- Property), has not been clear in defining certain areas of concern to both the landlord and the tenant. Whether oral or written, both the landlord and tenant hold certain unalienable rights in the property they own as a landlord or rent as a tenant. With the 0% to 4% vacancy rate in most of Alaska, and because over 35% of the population in Alaska rent their dwellings, it is necessary to update the laws to answer the needs of the landlord and tenant. The following is a summary of CSSSB 1, and how it answers some of these needs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. AS 09.45.090 is amended by adding a new paragraph to read:

(4) when, after a notice to terminate the tenancy as provided in AS 34.03.290 with reference to termination of a periodic tenancy, a person continues in possession of a dwelling unit after expiration of the time for determining the tenancy.

This new paragraph is being added to stipulate a "periodic tenancy" termination. AS 09.45.090 (3) cites termination of an "estate at will" tenancy, which can be defined as a tenancy that transpires on a day to day basis or an indefinite term at the will of the lessor. In this case, the tenant has no say in the matter of how long the tenancy will last. The landlord may, at any time, terminate the tenancy and the tenant has no right to a notice. (This type of tenancy was developed in a few hundred years ago in England, and rarely applies "modern day" tenancy.) For this reason, it is necessary to add Paragraph 4, as periodic tenancy, (month to month), is not referenced in the present context.

Section 2. AS 34.03.270 (b) was added by the Labor and Commerce Committee to more specifically clarify AS 34.03.290 (c), to read:

(b) If the rental agreement is terminated by the tenant and the tenant fails to provide the notice required under AS 34.03.290 (a) or (b), the landlord may recover an amount not to exceed one and one-half times the actual damages.

If the tenant decides to cancel his rental agreement, but does not notify the landlord, the landlord may collect one and one-half times the damages incurred, (i.e. rent). The tenant is obligated to give the landlord written notice of his intention to vacate the premises 45 days before termination, (See AS 34.03.290 (b)). If it is a case where the tenant remains in possession of the dwelling past the termination date

without the landlord's permission, then the landlord is entitled to one and one-half times the damages PLUS the actual damages, (2½X the actual damages), as compensation. (See AS 34.03.290 (c)).

Section 3. AS 34.03.290 (b) is amended to read:

(b) The landlord or the tenant may terminate a month to month tenancy by a written notice given to the other at least 45 [30] days before the termination [RENTAL DUE] date specified in the notice.

This amendment provides a more equitable time frame to tenants and landlords. The vacancy rate for apartments at the present time in the Anchorage, Fairbanks, Ketchikan and Juneau markets ranges from 0% to 4%. Because of this tight rental market, it is sometimes quite difficult for low income families, minorities, pet owners, families with children, and the elderly, (to name a few), to find adequate and habitable housing. General termination, (30 days), on the part of the landlord, in a time of a severe housing crunch does not always give the tenant sufficient notice to find other adequate housing. Also, in the case of a condo conversion, this gives the tenant sufficient notice to vacate or purchase their unit. In a future situation where the rental market is not so tight, this 45 day notice allows the landlord adequate time to make necessary repairs and alterations, as well as locate a new tenant.

"Rental due date" refers to Sec. 34.03.020 (c) which is the date on the same day each month that rent is to be paid. The landlord or the tenant may wish to give notice of termination on either side of the "rental due date", and replacing "rental due" with "termination" date provides for either time frame. It does not restrict either party to the exact day the rent is due when giving a termination notice.

The question arises, "What if the tenant gives notice on, say March 19?" This means that the termination date would be May 2nd. Therefore, the tenant would be obligated to pay the landlord for rent through March, all of April, (and two days in May, which would be prorated). The landlord would not lose any rental income even though the termination date falls after the "rental due date". By the time the 45 day period is up, the landlord has had adequate time to find a new tenant and the tenant has been given a more equitable amount of time to find a new dwelling.

(It should also be noted here that an increase in rent may also constitute a form of termination, as well as new rules put into effect by the landlord, i.e. no pets, adults only, etc. This is, in effect, terminating the rental agreement then in existence and offering a new rental agreement at different terms. If the tenant does not accept the "new terms", then he must vacate 45 days after the receipt of notice of substantial or material changes from the landlord. If the tenant does not respond to the landlord's notice of substantial or material changes, at the end of the 45 day period, the new rental agreement takes effect.)

Section 4. AS 34.03.290 (c) is amended to read:

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after its termination, the landlord may bring an action for possession and recovery of actual damages. If [IF] the tenant's holdover is wilful [and] or not in good faith the landlord, in addition, may recover an amount not to exceed one and one-half times the actual damages. If the landlord consents to the tenant's continued occupancy, AS 34.20.020 applies.

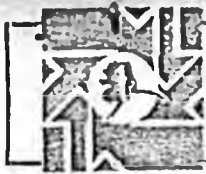
An improper hold-over by a tenant has caused landlords financial hardships. If a tenant continues to occupy the dwelling after his tenancy expires, he has caused the owner loss of income needed to make mortgage payments, as well as loss of time to make necessary repairs, alterations, etc., before renting the unit to the next party. Alaska law allows landlords to sue for damages, but the time, effort and money involved is not always feasible to pursue.

The new clause noted above provides for recovery of actual damages, (i.e. lost rent income, lost time needed to make necessary repairs, etc.), as well as one and one-half times the actual damages as compensation to the landlord. This deters the tenant from staying on past termination or the expiration of the rental agreement and in effect is incentive to the individual(s) to vacate the premises. (Also see AS 34.03.270 (b)).

Section 5. AS 34.03.310 is amended by adding a new subsection to read:

(f) A landlord is presumed to have violated (a) of this section if the landlord increases rent, decreases service, or brings or threatens to bring an action for possession within 60 days after a tenant has engaged in an action listed under (a)(1) - (4).

This new subsection protects the tenant from landlords who abuse the right to access or evict the tenant for retaliatory reasons. The tenant has a right to his/her privacy, and the landlord must give "reasonable" notice to the tenant before entering the premises, (See AS 34.03.010). This new subsection also provides that the tenant may not be evicted because they have made a complaint using the proper procedures, (See AS 34.03.140), i.e. complained to a government agency regarding unfair rent hikes, or requesting that certain necessary repairs be made to the premises or common area. Sixty days is a sufficient amount of time to correct a problem or answer a complaint. After the 60 day period has expired, the tenant should refer to AS 34.03.160 and the landlord should refer to AS 34.03.220 for remedies to their problem(s).



COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA, USDA & SEA GRANT COOPERATING

ANCHORAGE DISTRICT, 2651 PROVIDENCE AVENUE, ANCHORAGE, ALASKA 99506

NOTE: SSHB 1 TESTIMONY GIVEN BY BARBARA EICHNER TO LABOR AND COMMERCE COMMITTEE ON 2/10/83. THE BILL HAS BEEN UPDATED BY THE LABOR AND COMMERCE COMMITTEE --- BARBARA EICHNER WILL SPEAK TO THESE CHANGES AT THE JUDICIARY MEETING 2/25/83.

Testimony on House Bill 1
Barbara G. Eichner
District Home Economist - Cooperative Extension Service
February 10, 1983

Good morning and thank you for providing the opportunity for me to testify on one of the most important bills before the 1983 legislature.

This is Barbara Eichner speaking. I am district home economist for the Cooperative Extension Service in Anchorage. Briefly, our agency is the non-credit educational arm of the land-grant university in every state, which includes the University of Alaska. Our job is to disseminate practical information to consumers on a wide variety of topics such as gardening, nutrition, agriculture and housing.

Three years ago because of a fluke answer to a consumer newspaper column, the Cooperative Extension Service was propelled to the forefront as the only impartial agency or organization who would and could answer landlord-tenant questions quickly, simply and at no charge. I am not an attorney and I do not give legal advice. All I can do is give people an idea of their rights and responsibilities under the law and yet despite that, over 4000 landlords and tenants have sought my advice through telephone counseling and seminars. In addition, over 14,000 copies of our landlord-tenant handbooks have been distributed statewide and 9 hours of radio and television time have been used to discuss landlord-tenant issues. In short, the concerns relating to rental housing are numerous and the effect of inadequate assistance is widespread. People in Bethel, Kodiak, Nome, Dutch Harbor and North Pole all want the same thing according to my statistics - available and affordable housing managed in a business-like manner. People in 26 Alaskan communities have all said the same thing - change the law.

You all know the history of rental housing in the boom and bust economy of Alaska's towns and villages. In good times housing has responded well to the laws of supply and demand. In poor times, landlords and tenants alike have asked for help in keeping housing available, affordable and soundly managed. Despite the steady growth of Alaska's overall economy, the supply of rental housing in the last 3 years has remained the same while the population increased. Anchorage alone has experienced a rental vacancy rate of less than 1% for almost 2 years. Newspaper headlines like "Tenants Feel Pinch of Escalating Rents", "Anchorage Renters May Form Union" and "Man Sues Landlady for \$2.8 million" only underscore the tension prevalent in the rental market.

Continued...

Page two...
H.B.1 continued

The stories that didn't capture headline attention are the sometimes unbelievable but everyday problems the Extension Service has faced such as:

- the tenant who hasn't had heat for 6 months and whose landlord says if she doesn't like it she can move
- the landlord who is left with a \$3000 outstanding bill in damages and back rent when the tenant moves out in the middle of the night
- the tenant whose rent has been raised \$350 in just one month
- the landlord who needs to evict 8 people who are living in a one-bedroom apartment
- the tenant who was physically assaulted by his landlord, and
- the landlord who must replace a whole bedroom wall section because the permeating odor of a previous tenant's pet snake that crawled into the wall and died. (Yes, it is a true story).

If consumers are to act as responsible citizens in the marketplace, then our laws must reflect the needs of our citizens. It really doesn't matter whether you are a landlord or a tenant, the fact is that Alaska's Uniform Residential Landlord and Tenant Act is out-of-date and unclear. Many issues such as those just named, are not addressed at all.

In the three years that I have dealt with rental housing questions, the problems that have loomed largest include evictions, improper holdover, lack of written rental agreements, abuse of the right to access, retaliation, security deposits and forceable entry and detainer without due process.

I am pleased to see that House Bill 1 makes an effort to address four of these issues.

Section 1 and Section 3 make it clearer for landlords in knowing when they can prosecute for improper possession. Far too many tenants have told me that they feel landlords are obliged to house them until it is convenient for them to move. Not only has this attitude complicated the rights of landlords to negotiate new deals with new tenants, it has been held with little consequence or risk.

I believe Section 2 will be a welcome relief to both landlords and tenants in outlining a clearer way of determining when a tenant will move. The 45-day proviso is a compromise on just-cause eviction which is fairer to landlords. At the same time, I don't know how many landlords and tenants have been stuck with nearly 60 days notice when they have accidentally missed a rental due date. Almost everyone should be able to count 45 calendar days.

Continued...

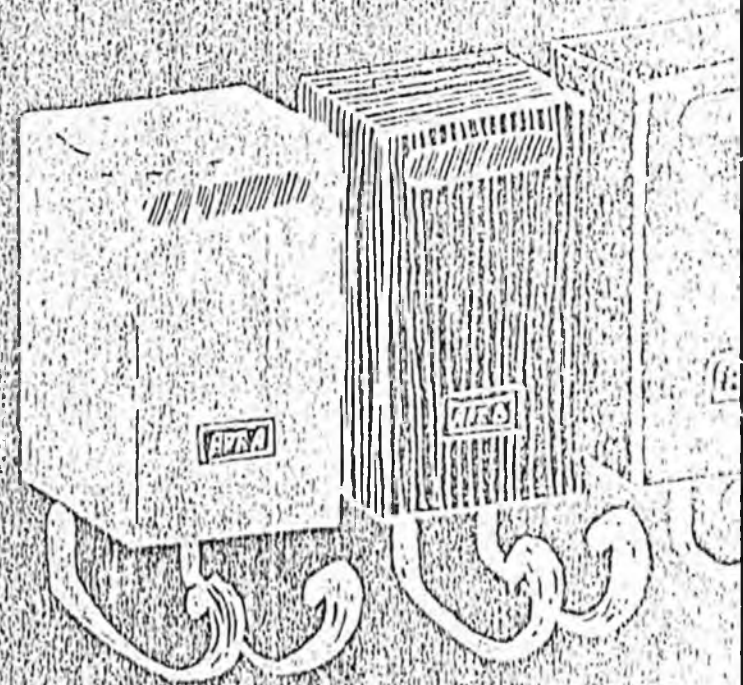
Page three
H.B.1

And finally, in Section 4, I believe it is appropriate to shift the burden of proof for retaliatory measures to the landlord without sticking them with an enforced lease behind which unsavory tenants could hide. Retaliatory action is clearly illegal in our current statute but my experience indicates that it is practically impossible for tenants to prove. Landlords, by virtue of their position, have the greater power here and therefore I believe should have the greater burden. It is a question of social equity for tenants who see themselves as helpless victims and should create no hardship for the vast majority of our landlords who are straight-forward business people.

Housing issues have deep psychological roots. The fiber of the good life in this country appears to weigh heavily on access to shelter. We must give consumers the tools with which to manage their own affairs at a satisfactory level. Even though there are many issues yet to address, House Bill 1 has taken an equitable stance on at least 4 of these and I urge your serious consideration of this proposed legislation.

Thank you.

ALASKA LANDLORD- TENANT LAW



COOPERATIVE EXTENSION SERVICE
University of Alaska and USDA Cooperative

Revised August 1980

5001

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INTRODUCTION

In 1974, the Alaska Legislature passed the Uniform Residential Landlord and Tenant Act (A.S. 34.03.010-.380). The purpose of the Act was to simplify, clarify and modernize Alaskan laws relating to the rental of dwellings. It was also intended to encourage both landlords and tenants to maintain and improve the quality of housing.

While the law does not cover every problem a landlord or tenant may have, it was written to protect the rights of both parties.

In addition to the Uniform Residential Landlord and Tenant Act, other laws which have application to the rental of dwellings include:

1. Alaska Statute 09.45.060-.160
Procedure for Recovering Possession
2. Alaska Statute 34.06.010-.060
Emergency Residential Rent Regulation and Control

This booklet was prepared directly from A.S. 34.03.010-.380. Where appropriate, we have cited the actual portion of the law that pertains so that if you need to go to court, you can either use this booklet or can refer directly back to the law. The reference will be the letters "A.S." (short for Alaska Statute) followed by some numbers (these are the title, chapter and article numbers of the law respectively), for example: (A.S. 34.03.330).

You can get a copy of the actual law at your nearest courthouse, public library or magistrate's office.



who is covered

A dwelling, in this law, is a structure or part of a structure used as a home, residence or sleeping place by one or more persons, including the rental of mobile home space.

If you rent a house, apartment, mobile home, mobile home space, condominium, townhouse or duplex, this law applies to you!

the law does not cover:

1. residency in an institution (school dorm, jail, hospital, nursing home, etc.);
2. hotels, motels and other transient housing;
3. condominiums occupied by the owner;
4. occupancy under a contract of sale;
5. occupancy of a dwelling owned by a fraternal or social organization of which you are a member;
6. live-in employment (apartment managers, housekeepers, etc.);
7. occupancy when the premises are used primarily for agricultural purposes.

terminology

In this booklet, several terms are used that mean the same thing.

Landlord means the owner or manager or rental agent for the dwelling.

Dwelling, unit, property and premises means the rental unit, whether it is a home, apartment, mobile home, etc.

Tenant means any of the people who rent a dwelling.

Other technical definitions may be found in A.S. 34.03.360—Definitions.

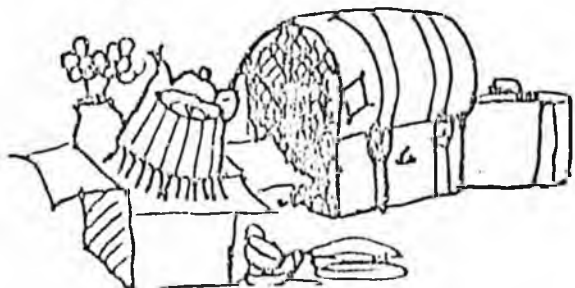
written notices

Putting things in writing does not mean the landlord and tenant are enemies or do not trust each other. It is simply a good way to do business. Oral agreements are legal; however, under the law, a written notice or agreement may be your only protection if something goes wrong. Some people hesitate to put agreements in writing because they don't know what to say. There are examples of various notices in the back of this booklet that may help.

Here are some things that should definitely be in writing:

1. receipts for payments of any kind;
2. promises to fix things;
3. rental agreements;
4. eviction or moving notices;
5. notices of repairs needed;
6. details of what needs to be done to get back a deposit.

It cannot be emphasized strongly enough how important this is:
GET IT IN WRITING!



BEFORE YOU MOVE IN rental agreements

Rental agreements may be either written or oral, but written is best. If any disagreement occurs later, both tenants and landlords will have evidence to back their claims.

If a tenant signs a rental agreement, moves in and begins paying rent, the agreement is still legal even if the landlord didn't sign the agreement.

If the landlord shows the tenant a rental agreement to which the tenant agrees, moves in and begins paying rent, the agreement is still legal even if the tenant did not sign it. It is critical that tenants and landlords review and discuss any rental agreements and rules before anyone moves in or money changes hands.

A lease is a rental agreement that tells how long the tenant will stay (usually four, six or twelve months). If there is a lease, the

landlord cannot raise the rent or evict the tenant unless promises in the lease are broken. If there is a lease but the tenant must move, the tenant is still responsible for the rent for the rest of the lease period, unless the dwelling can be re-rented.

Here are some things which should appear in a rental agreement:

1. name and address of the owner and his/her manager or agent as well as the tenant's name and address;
2. the amount of rent, when it is due, where and how it is to be paid;
3. if this is a month-to-month agreement or lease with time limits;
4. when the rent will be considered overdue and what penalty will be levied;
5. what is included in the rent (heat, lights, water, etc.) and what is provided (driveway, garage, furnishings, kitchen appliances, snow removal, storage, laundry, etc.);
6. total number of full-time occupants and pets allowed;
7. a list of prohibited equipment (snowmobiles, motorcycles, musical equipment, etc.);
8. the amount and type of deposit (cleaning, security, pets, etc.) and what has to be done to get it back;
9. a list of landlord and tenant repair and maintenance duties;

Rental agreements cannot:

1. force a tenant to waive any legal rights,
2. excuse the landlord from any legal responsibilities,
3. let the landlord sue the tenant without notice,
4. require the tenant to pay the landlord's attorney fees should you go to court;
5. allow the landlord to take a tenant's personal belongings (A.S. 34.03.040).

DO NOT SIGN A RENTAL AGREEMENT THAT HAS ILLEGAL WORDING.

If the rental agreement contains any of the things listed below, they should be removed before signing:

1. agreeing to let the landlord come into the dwelling whenever he/she wants;
2. agreeing to immediate eviction for nonpayment of rent;
3. agreeing that the tenant will make all repairs;
4. excusing the landlord from liability in case of accidents due to his/her neglect;
5. giving up rights to the deposit.

change your mind?

Once an agreement to rent a place has been made, and all or part of the deposit and rent has been paid and then a tenant doesn't move in, he/she may not be able to have all his/her money returned. If this happens on a month-to-month agreement (written or oral), the tenant may have to pay for one month's rent or rent on a day-to-day basis until someone else rents the place, whichever is less. If a lease was signed, the tenant may owe rent until the place is re-rented or the lease period ends, whichever is less.

EXCEPTION: If the landlord lied about the place or deceived the tenant by not telling about important problems (for instance, no heat, the building is condemned, etc.) the tenant should get all the money back. In addition, the tenant could sue for fraud. If this situation comes up, see a lawyer.

illegal discrimination

It is illegal for landlords to refuse to rent to someone because of sex, age, race, religion, national origin, color, marital status, pregnancy or changes in marital status, unless the housing is specially designated for "singles only" in advance.

It is unlikely that a landlord will openly refuse to rent to someone for an illegal reason. There are some indications that a landlord may be practicing discrimination in renting when:

- the apartment the tenant called about is "suddenly" taken when the landlord sees the tenant.
- a place the tenant was told is "rented" remains vacant.
- the rent or deposit is much higher than advertised or charged for similar units.
- rules will be different for one tenant than for others in the same apartment house or court. (For example, others have pets, but you cannot. A landlord may decide to allow no more pets, but he/she must stick to the new rules as far as new tenants are concerned.)
- the tenant is not referred to a listing in a real estate office that fits his/her needs.
- a house or apartment in the tenant's area is rented with the intention of forcing others to leave (block-busting).
- an advertisement indicates a preference based upon race, color, religion, sex, age, marital status or national origin.

Everyone should have a free choice about where to live, and there are legal methods of fighting discriminatory practices. If you feel you have been discriminated against and want to do something about it, you can complain to the State Human Rights Commission. The Commission's investigation costs you nothing.

For more help on illegal discrimination, contact the Human Rights Commission in your town or:

State Human Rights Commission
204 East 5th
Anchorage, Alaska 99501
phone: 276-7474

disclosure

The law says that someone must be responsible for such things as decisions about maintenance, repairs, collecting rent and receiving notices from tenants or from the court. It is a requirement that when a tenant moves in, he/she must be told in writing the name and address of the owner (or who the owner wants his/her agent to be). This information must be kept up-to-date.

If this information is not provided, whoever made the rental agreement or receives the rent becomes the legally responsible person. Then, when the tenant is required to give a written notice or wants to sue, he/she should:

1. contact the owner or his/her agent, or
2. if that information was never officially given to the tenant, contact the person who made the original agreement or takes the rent. (A.S. 34.03.080)

deposits

Deposits are often collected for pets, children, cleaning or security before a tenant moves in. Sometimes the tenant will be asked to pay the last month's rent, too. The total amount collected for all deposits and pre-paid rent, except the first month's rent, cannot exceed two month's rent. (A.S. 34.03.070)

Deposits and pre-paid rent along with first month's rent can make total move-in costs high. Here are some examples of how these move-in costs might be set:

Legal Examples

#1: \$ 75 first month's rent
\$ 75 last month's rent
\$ 175 security deposit
\$ 125 total to move in

#2: \$ 325 first month's rent
\$ 150 cleaning deposit
\$ 175 security deposit
\$ 325 last month's rent
\$ 975 total to move in

Illegal Examples

#1: \$ 375 first month's rent
\$ 375 last month's rent
\$ 400 security deposit
\$1150 total to move in

#2: \$ 325 first month's rent
\$ 300 cleaning deposit
\$ 200 security deposit
\$ 325 last month's rent
\$1150 total to move in

The deposit and any pre-paid rent must be deposited in a trust account in a bank, savings and loan association or with a licensed escrow agent. Exceptions are made for rural Alaska, if it is impractical to bank the money. When the deposit is collected, be sure to get a receipt. Also, it is a good idea to have the landlord write on the receipt the amount paid for each type of deposit and what has to be done to get the deposit back. (Always get and keep records for any money paid.)

If the tenant is renting a unit and the building is sold, there is often confusion as to which person, the old or new landlord, is responsible for the deposit and pre-paid rent money. The original landlord who accepted the money is the person responsible for returning the money to the tenant UNLESS the new owner receives the money from the old landlord and agrees to the responsibility of taking care of it.

When a tenant finds out the building is being sold, he/she should find out whether the old or new landlord will hold the deposit money. If the old landlord keeps the deposit, the tenant should get in writing the name of the bank where the deposit is kept and the new address of the old landlord.

inspections

While the law does not specify that an inspection must be done, it is a good idea for the landlord and tenant to inspect the dwelling together before anyone moves in. Make a list of items needing repair and the date the work should be completed (10 days is standard). Make another list of damage that will not be changed or repaired. Both the landlord and the tenant should sign and date these lists. Each of you should keep a copy. These lists will be handy when the tenant is ready to move out.



WHILE RENTING

paying rent/rent increases

The landlord is not required to ask tenants each month for their rent before they are "required" to pay it. If a time and place for payment of rent was not agreed upon when the tenant moved in, it is assumed that the rent will be collected at the dwelling.

If the tenant rents monthly, the rent is due every 30 days, unless otherwise agreed. So, if the tenant moves in on the 8th, the rent is due on or before the 8th of every month.

If there is a signed lease, rent may not be increased during the lease period. Other rent increases may be levied as the landlord sees fit; however, the law is unclear regarding the notice period which the landlord is required to give.

The general interpretation is that a rent increase is either:

1. a termination by the landlord of the tenancy at the old rental rate and an offer to renew it at a higher rate or
2. a modification of a rule or regulation.

In either case, tenants should be given a written notice 30 days before the next rental due date. If the tenant does not agree with the rent increase or cannot pay, he/she may give notice to move. Since the law is not clear, landlords and tenants should seek legal advice if they are unsure about a proposed rent increase. (A.S. 34.03.290b and A.S. 34.03.130b)

rules and regulations

Almost every landlord has rules and regulations. Often these are not mentioned until after a tenant moves in or until the rule

has been broken. To avoid problems, the law requires the landlord to show his/her rules and regulations to the tenant before the tenant commits himself to a rental agreement (oral or written). The tenant may discover that he/she does not agree with them and decide not to move in. The rules and regulations must be reasonable and specific, or under the law, the landlord will not be able to enforce them.

Remember that once the tenant has seen the rules and moved in, he/she is agreeing to live by these rules. A copy must be posted by the landlord someplace at the dwelling where it can be easily seen.

Rules must apply to all tenants equally and fairly. Rules and regulations cannot be changed without first giving tenants reasonable notice. If tenants do not agree to the change, and it changes the original rental agreement a great deal, they may move after giving at least 30 days notice or they may refuse to accept the rule. Landlords may evict tenants who refuse to abide by a reasonable rule change. If the change does not apply to all tenants in the building equally, an eviction based on a tenant's breaking of a rule may be illegal. (A.S. 34.03.130)

subleasing

When a lease is signed, the tenant is promising to stay for a certain length of time (usually four, six or twelve months). The tenant is telling the landlord that each and every month, whether the tenant still lives in the apartment or not, he/she will be responsible for paying the rent. Unless the landlord signs a paper saying it's okay with him/her for someone else to move in if the tenant moves out, the tenant cannot just have someone else "take over" the place.

There are usually only two ways to get out of a lease:

1. If the landlord breaks his/her part of the bargain (what's written in the lease), the tenant can move after giving 30 days written notice.
2. Get the landlord to agree to let the tenant sublease the place. Under the law the landlord has a right to ask for certain information about the new tenants. The landlord can reject the new tenants only for certain reasons, and cannot unreasonably prevent subleasing.

The information the landlord can ask for **IN WRITING** about the new tenant includes:

1. name, age and present address;
2. occupation, present employment and name and address of employer;
3. marital status;
4. how many people will live in the apartment;
5. two credit references;
6. names and addresses of all landlords of this person for the last three years.

Once this information has been given to the landlord, he/she has 14 days to answer the request. No answer within 14 days is considered the same as consent, so go ahead and sublease. If the answer is "no", the landlord must give written reasons for the decision.

The only legal reasons for refusing to allow a sublease are:

1. bad credit record;
2. too many people;
3. too many children;
4. unwillingness of new tenant to accept rental agreement;
5. pets not acceptable;
6. proposed business activity;
7. bad report from former landlord.

If the landlord says "no" to the suggested new tenant, but doesn't give reasons in the list of acceptable rejection reasons, the law says the old tenant can go ahead and sublease or move out; however, to move out without subleasing, a thirty day **WRITTEN** notice must be given to the landlord. (A.S. 34.03.070)

privacy

A common problem landlords and tenants have is that of the tenant's right to privacy. Many landlords feel they can come and go from their property whenever they please. Some tenants feel they never have to let a landlord come in.

To clear up the confusion, the law says a landlord must give a tenant 24 hours notice that he/she would like to come for the purpose of making repairs, maintenance, an inspection or showing the place. The landlord may enter only with the tenant's consent and only at reasonable times.

TWO EXCEPTIONS: No such notice is required if it is not possible to contact the tenant by ordinary means within 24 hours, or if there is an emergency (smoke, water, explosion, etc.).

Landlords cannot abuse their right to request entry or harass tenants, and tenants cannot unreasonably keep a landlord from entering.

If a tenant has a nosy landlord who believes he/she can come and go as he/she pleases, it might be a good idea to get a copy of the law to show him/her the section called ACCESS (34.03.140). If the landlord comes in and will not leave, call the police.

When a landlord does abuse his/her right to enter (by coming in without the tenant's permission, or when the tenant is gone or repeatedly without need), the tenant can ask a court to demand that the landlord stop (called an injunction). The tenant may also sue for actual damages or one month's rent, whichever is greater, court costs and attorney fees. If the tenant wishes to move because the landlord has abused the access privilege, a 10-day written notice is required.

If the tenant unreasonably refuses to allow the landlord in, the landlord can get an injunction. The landlord may also sue for actual damages or one month's rent, whichever is greater, or evict the tenant with a 10-day written notice.

absence/abandonment

Tenants must tell their landlord every time they plan to be gone for more than seven days. If the tenant plans to be gone only 2 or 3 days, then finds that for whatever reason he/she will actually be gone more than a week, they must notify the landlord as soon as possible.

This is to help protect the property from pipes freezing up, etc. While the tenant is gone, the landlord may go into the place only if there is an emergency or with 24 hours notice.

A landlord may assume the dwelling has been abandoned when:

1. the tenant is behind in rent, and
2. the tenant has been gone for more than 7 straight days and
3. the tenant did not notify the landlord that he/she would be gone.

The landlord may then enter the dwelling, store the tenant's belongings and re-rent the place. He must attempt to send the tenant a notice telling where the belongings are being kept and asking the tenant to remove his/her property within 15 days. The notice must also tell whether the landlord is going to have a public sale to get rid of the belongings or is going to throw or give them away, if

they are not picked up within 15 days. A tenant's belongings cannot be thrown or given away unless they can be considered to have no value or are food. (A.S. 34.03.230 and 34.03.260)

fire/casualty damage:

If the dwelling is damaged by a fire or other casualty (earthquake, flood, etc.), depending on the amount of damage, there are a couple of things the tenant can do.

1. Partial damage: When only a part of the dwelling is damaged and it is lawful for the tenant to stay (the place isn't condemned), move out of the damaged part. The rent can be reduced to an amount which reflects the fair value of the undamaged part of the dwelling.
2. Total destruction: If the tenant can no longer live in the place, he/she can move out, notify the landlord and stop paying rent. The rental agreement and responsibility to pay rent ends when the tenant moves.

After the tenant moves, the landlord must return any deposits and/or pre-paid rent to the tenant. Rent paid for the time the tenant didn't live in the dwelling must be returned (counted from the day of the casualty and including the day of the casualty) to the tenant. (A.S. 34.03.200)

housing codes

The primary objective of codes is the protection of the health and safety of the people who live in houses and apartments. A minimum standard of maintenance is set, making the landlord (not his tenants) responsible for keeping rental property in decent shape. (The section of this booklet called LANDLORD DUTIES explains what the landlord is expected to repair and maintain.)

The law protects tenants who use their right to report code violations. If they call to complain and ask for an inspection, the landlord cannot take revenge by evicting or harassing the tenant. Alaska has a statewide fire code but does not have a statewide housing code.

The following places do have local housing codes. Report sub-standard conditions to:

- Anchorage - New Construction - Building Safety Division (264-6533)
- Existing Housing - Health & Environmental Protection (264-4666)

Fairbanks - Fairbanks Building Official (452-1881)
Juneau - Juneau-Douglas Borough Housing Inspector
(586-3300)
Ketchikan - City Building Inspector (225-3111)
Kodiak - City Building Inspector (486-5731)

condemned

Buildings inspected and found to be very unsafe may be condemned. The housing inspector will tell the landlord that he/she must repair the problems or he/she will be taken to court. If the problems are so serious that the inspector feels the building is beyond repair, the inspector will order that it be torn down.

The tenant may come home one day and find a sign posted on the building saying that the place is unsafe for anyone to live there. Tenants should immediately find out when the inspector and landlord expect all the tenants to move. They should also see an attorney before paying any more rent.

landlord duties

These are the things tenants can expect their landlords to do:

1. make all repairs to keep the dwelling in a livable condition;
2. keep all common areas (stairs, halls, yard, garbage area, etc.) clean and safe;
3. keep in safe and working condition all electrical, plumbing, toilet ventilating (fans, windows), air conditioning, kitchen and other appliances or facilities supplied by him/her;
4. provide garbage cans and arrange for removal service;
5. supply running water and reasonable amounts of hot water and heat at all times, unless there is a severe energy shortage or the furnace or hot water heater is in the complete control of the tenant (as in a house);
6. if requested by the tenant, supply locks and keys. If the lock can be easily broken, it does not provide enough protection. A tenant can demand that a proper lock be put on the door.

This is a check list of the main things the landlord should repair and maintain:

- doors, windows, roof, floors, walls, and ceilings that leak or have holes;
- plumbing fixtures (must work, not leak and provide a reasonable amount of running, hot and cold water at a reasonable water pressure level);
- a working and safe stove and oven;
- a reliable heating system which provides heat to all rooms in a reasonable amount;
- a safe electrical system (no loose or exposed wires, sockets that do not spark and enough power so the system does not blow fuses when used normally);
- windows (or fans) that provide fresh air when wanted;
- enough garbage cans to provide an adequate and safe trash removal service;
- extermination service if roaches, rats, mice or other pests infest the building, apartment or property;
- proper maintenance of vacuum cleaners, washing machines, dish washers, etc. supplied by the landlord (when not abused or broken by the tenant).

If the dwelling is in an isolated area where public sewer or water service is not available, the landlord does not have to provide those services; however, if the landlord privately provides these services at the beginning of the rental agreement, he/she must maintain the services. If there is a serious problem with something mentioned above that is not the tenant's fault, the law provides remedies for the tenant. The landlord must be given a reasonable chance to fix the problem first, but if he/she won't fix it, here is what the tenant can do:

1. **MOVE.** The tenant gives the landlord a written notice describing the problem and saying that if the problem is not fixed within 10 days, he/she will move within 20 days. If the problem is fixed within 10 days, but the tenant still wants to move, a regular 30-day notice is required.

2. **EMERGENCY REPAIR AND DEDUCT.** If heat, water, sewer or other essential service breaks down, the tenant may get the problem fixed and deduct the actual and reasonable expenses from the next month's rent. The tenant must give the landlord a written notice that this is what he/she plans to do, and if the problem is major, the tenant must provide the landlord with a copy of the estimated repair costs. However, once written notice is given, the tenant may immediately go ahead with repairs. If the cost is very great, it is advisable to contact a lawyer before proceeding with repairs. If the problem cannot be fixed right away and it

makes the dwelling unlivable, the tenant can give the landlord written notice that he/she is moving into substitute housing. The tenant is excused from paying rent until the problem is cured and may charge the landlord for the cost in excess of rent of staying in a hotel or other substitute housing until the problem is fixed. (A.S. 34.03.180)

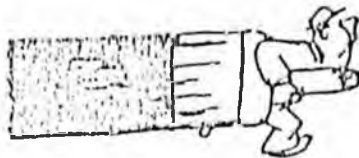
3. **SUE FOR DAMAGES.** If the tenant or his family have suffered because the landlord failed to fix something, the tenant can sue. If the total amount is less than \$2,000, the tenant may sue in the state small claim court. For larger claims, the tenant should see a lawyer.

4. **WITHHOLD RENT.** In some cases where the problem is really serious, it may reduce the value of the dwelling. If this happens, tenants may give written notice to their landlord that they refuse to pay a part of their rent until the problem is fixed. However, landlords and tenants may not agree on what is a serious problem, so it is wise to see a lawyer before using this remedy.

If the tenant notified the landlord in writing of a problem, and the landlord fixed it within the time allowed, but through the landlord's negligence, virtually the same thing happens again within 6 months, the tenant may terminate the rental agreement with a 10-day written notice. The notice must specify the problem and the date of termination.

handyman agreements

In the renting of a house or duplex, the landlord and tenant may agree **IN WRITING** that the tenant will be responsible for (4), (5) and (6) of the **LANDLORD DUTIES**. Also, if it is done in good faith, the landlord and tenant of any dwelling may agree that the tenant will do specific repairs, remodeling or maintenance jobs in exchange for payment or reduction of rent, etc. The landlord cannot force a tenant to agree to this kind of arrangement to get out of his/her obligations as a landlord. It must be



made **IN WRITING**, signed by both parties and cannot be on the same paper as the rental agreement. Also, this agreement cannot be made if it will reduce or endanger the services to the other tenants. (A.S. 34.03.100)

tenant duties

These are the duties tenants must perform to keep their part of the rental bargain:

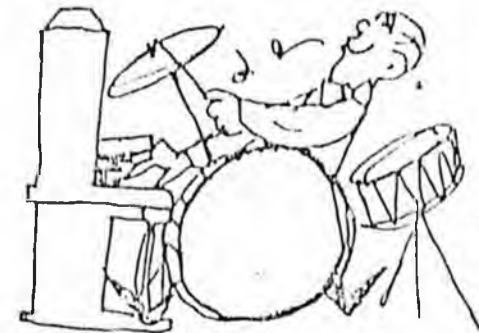
1. pay rent on time;
2. keep the place clean;
3. use the facilities properly (sinks, toilet, kitchen appliances, etc.);
4. do not disturb the neighbors;
5. do what is required by the lease; rental agreement or landlord's posted rules;
6. replace or fix anything damaged or broken because of an accident or carelessness;
7. do not destroy, damage or deface any part of the property.

If tenants do not uphold their end of the bargain, the landlord may be able to evict them. Eviction notices must be in writing and be specific about the problem in question. If the tenants were notified of a problem and remedied the problem within the time allowed, but the problem occurs again within 6 months, the landlord may evict the tenant using a 10-day written notice. The notice must specify the problem and the date of termination.

eviction

Landlords may evict tenants:

1. for failure to pay rent when it is due;
2. when the tenant has broken an important part of the rental agreement.



Many people think that tenants cannot be evicted in the winter in Alaska or if they have small children. This is not true.

A 10-day written notice is required when a landlord is evicting because the tenant is behind in his/her rent. If the rent is paid before the 10 days are up, the tenant may stay. The notice must tell tenants they have the choice of paying or moving. Ten days notice is also required when the landlord is evicting because the tenant has refused reasonable requests to enter the dwelling or has broken the rental agreement more than once in a 6-month period.

A 20-day written notice is required when the landlord is evicting because the tenant has broken an important part of the rental agreement, such as using the place illegally, etc. If the tenant fails to maintain the rental unit with the result that the health and safety of others are endangered, the landlord may deliver a written notice to correct the problem within 10 days of the receipt of the notice, or the tenant will have to move within 20 days. If the problem is corrected, the tenant may stay.

A 30-day written notice is required when the landlord wishes to evict for general reasons. This notice must be delivered 30 days before the next rental due date.

Eviction notices must be in writing, and the landlord cannot harass the tenant by:

- shutting off utilities
- changing the locks
- taking the tenant's belongings

If the tenant refuses to move at the end of the notice period (10, 20 or 30 days) the landlord must go to court to evict. The court calls most eviction suits "Forcible Entry and Detainer" (F.E.D.) case. Here is how F.E.D. works:

The landlord files his/her claim with the court. The tenant will receive a complaint and summons to appear in court and give his/her side of the story. The trial will be scheduled 2-4 days after the summons is served. Tenants must act quickly if they don't want to be evicted. See a lawyer.

Tenants may have legal defenses or claims against the landlord which could prevent an eviction. Again, see a lawyer. If the tenant loses at the trial, the judge will sign an order telling the State Troopers to remove the tenant from the dwelling. The tenant may also have to pay the landlord's attorney fees, but if the tenant prevails, the landlord may have to pay the tenant's attorney fees. F.E.D. cases are usually handled by district court. For more information on evictions, read A.S. 09.45.060-160, Forcible Entry and

Detainer. Information on preparing an eviction suit may be found in the Alaska Rules of Court, volume 2 - Civil Rules (read rules 1-5, 10, 76 and 85). The Rules of Court are available at the Alaska Law Library or your local magistrate's office.

retaliation

IF THE TENANT

1. complains to the landlord about repairs or failing to make repairs; OR
2. uses his/her rights under the Alaska Landlord-Tenant Law; OR
3. joins a tenant union or organization, OR
4. complains to a government agency about code violations or rent eviction controls:

THEN, THE LANDLORD CANNOT

1. raise the rent; OR
2. decrease services (such as shutting off utilities, etc.), OR
3. evict the tenant.

If the tenants feel illegal retaliation has occurred against them, they can move out or stay and sue for as much as 1½ times their actual damages.

An eviction is not considered illegal retaliation, if it is done because:

- the tenant is behind in the rent;
- the landlord must make repairs to meet code requirements or big changes that require a vacant dwelling;
- the tenant is using the place for illegal purposes;
- the landlord wants to use the place for something other than a rental dwelling for at least 6 months, or for personal purposes;
- the property is being sold.

Rent increases are not considered illegal retaliation if the landlord can show:

- a sizeable increase in taxes or cost of maintaining the property (not including the cost of repairing something because of a tenant's complaint);
- that similar dwellings are being rented for a higher rate, and in fact, the landlord has been undercharging;
- that the cost of major improvements made to the property are being passed on to all tenants fairly and equally. (A.S. 31.03.310)



MOVING OUT

proper notice

When a tenant wants to move, the law requires that he/she give a written notice 30 days before the next rental due date. For example, if rent is due on the 8th of each month and the tenant decides on January 20 that he/she wants to move, the soonest he/she could get out of the obligation would be March 8, providing the tenant gives a written notice on or before February 8.

Tenants not giving proper written notice will be held responsible for rent up to that 30-day period or until the place is re-rented, whichever is less.

This does not include tenants who are moving because of serious problems which the landlord has not fixed (see the section under LANDLORD DUTIES).

cleaning and damages

Tenants should clean the dwelling completely before moving, including the refrigerator, bathtub, toilet and oven. Other cleaning responsibilities may have been spelled out in the rental agreement, lease or landlord's posted rules.

When the place has been cleaned, the tenant and landlord should inspect the place together, using the damage list prepared when the tenant first moved in as a guide. Tenants cannot be charged for ordinary wear and tear. But, since landlords and tenants sometimes disagree on what "ordinary wear and tear" is, here are some guidelines:

1. A family with children or pets will wear things out faster — this type of wear is the landlord's responsibility.
2. If something cannot be cleaned because of the landlord's act or negligence, it is the landlord's responsibility (non-washable paint on the walls, water leaks staining the walls, etc.).
3. Shampooing carpets and painting walls are usually considered landlord responsibilities, as these items are bound to get dirty through normal useage. Holes in the carpet or writing on the walls, however, are not normal wear and tear and are the tenant's responsibility to repair.

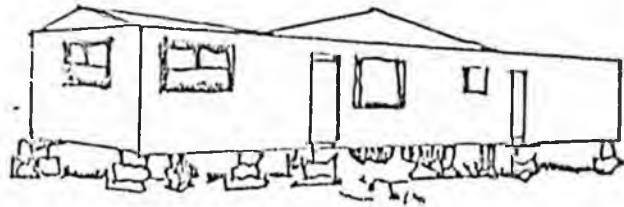
Damages caused by the tenant are the tenant's responsibility, even if they were caused by an accident. The damage deposit can be kept by the landlord in the amount needed to make repairs. If the tenant has purposely destroyed the landlord's property (throwing a rock through the window, writing on the walls, smashing furniture, etc.) the tenant may be guilty of a misdemeanor and face up to one year in prison, a \$500 fine or both and will still have to pay for the damage.

deposit return

The deposit must be returned to the tenant within 14 days after he/she moves, or he/she must be sent a written notice from the landlord telling why any or all of the deposit is being kept. If the tenant feels deposit money is being unfairly kept, he/she can sue for up to twice the amount wrongfully kept.

Deposits may be kept only if the tenant:

- causes damage;
- owes back rent;
- doesn't leave the place as clean as it was when he/she moved in (other than ordinary wear and tear that cannot be removed by cleaning);
- does not comply with previously agreed upon requirements of deposit return as specified in the lease, rental agreement or landlord's posted rules. (A.S. 34.03.070b)



SPECIAL RULES FOR MOBILE HOMES

rental agreements

Rental agreements between mobile home park operators and mobile home park tenants may not:

1. prohibit the tenant from selling his mobile home (unless the mobile home is in violation of laws or ordinances, the proposed buyer doesn't agree with the terms of the existing rental agreement or the buyer does not have sufficient financial responsibility, and the park operator notifies the tenant of his/her objection in writing 30 days in advance);
2. require the tenant to provide permanent improvements to park property (the tenant may be required to maintain existing conditions);
3. require the tenant or prospective buyer to pay a fee to sell or transfer the mobile home (unless services were actually performed by the park operator to assist the sale or transfer, and the tenant was notified in writing of these charges before he/she moved into the park), or
4. require a fee to set up a mobile home in the park or to move an existing home out of the park (unless services were actually performed by the park, and the tenant was notified in writing of the charges before he/she moved into the park).

capital improvements

Mobile home park operators must give prospective tenants a list of all capital improvements that will be required (skirting, utility hookups, tie-downs, etc.) before the tenant moves in. Even though park operators may specify the type of equipment, tenants cannot be required to buy their equipment from the park operator.

eviction

Mobile home park tenants may be evicted only if:

1. they are behind in the space rent; or
2. they are violating a law or ordinance, and the violation endangers the health, safety or welfare of others in the park; or
3. the tenant has substantially violated a reasonable park rule as set out in the initial rental agreement or added later for all tenants, or
4. there is to be a change in the use of the land on which the park is located. When there is to be a change in the use of the mobile home park land, landlords or park operators must give tenants a 90-day written notice, unless a longer period was specified in a previously signed lease.

For all other evictions, the same notices are required as for other types of tenants. (A.S. 34.03.040c, 34.03.080d, 34.03.130c and 34.03.225)

RENT CONTROL

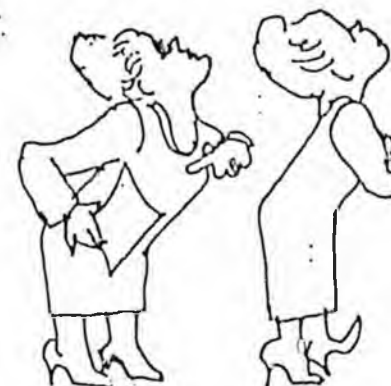
During the pipeline boom of the early 1970's, several Alaskan cities experienced a severe housing shortage, and the legislature passed an emergency rent control law. (A.S. 34.06.010-.060)

When emergency rent control is in force, the rules regarding rent increases and evictions change; however, the law expired in 1977, and if an emergency situation occurred again, a new law would have to be passed by the legislature.

THERE IS NO RENT CONTROL IN ALASKA AT THE CURRENT TIME.

COMMON RENTAL PROBLEMS

<u>Problem</u>	<u>Remedy</u>
1. No written notice	1. Written notices are required in many sections of the law; re-read this bulletin carefully to see when to use a written notice.
2. Landlord tells a tenant to move immediately or cuts off essential services without warning	2. Evictions are controlled by specific sections of the law. Tenants do not have to move if these rules are not followed and may sue for 1½ times actual damages.
3. Tenant refuses to move after receiving an eviction notice	3. The landlord should go to court for an F.E.D. order; the State Troopers will carry out the order. In addition, the landlord may sue for 1½ times the actual damages. See the section—EVICCTIONS.
4. Deposit is not returned	4. Tenants may sue for twice the amount kept; re-read the section—DEPOSIT RETURN.
5. Tenant is habitually late with rent or repeatedly breaks rules	5. Late rent and other problems repeated within a 6-month period may be grounds for eviction; re-read section on EVICCTIONS or see a lawyer.



SETTLING DISPUTES

When landlords and tenants disagree, sometimes tempers flare, and things may be said and/or done which are wholly outside the law. Sometimes the disagreement becomes just plain petty and small. It will only complicate matters if either party takes the issue to court.

If there is disagreement on any issue, remember that the court looks favorably on "good faith" action; that is, action taken in an honest, forthright manner. Try to remain calm. Gather your facts and **PUT THEM IN WRITING**. Be sure to pay attention to sections of the law that require written notices and that specify the number of days allowed for landlords or tenants to remedy disagreeable situations. Present your problem to the other party in writing, clearly stating what you want to change and what you will do if the situation doesn't change. The forms in the back of this booklet may help.

Generally speaking, the rental of dwellings is a business, and as in any other business, both parties should conduct themselves in a fair, honest manner. There are not many agencies that will mediate landlord/tenant disputes, and problems are frequently not serious enough to require a lawyer or go to court. Most landlord/tenant problems could be settled by both parties acting "in good faith".

If serious problems do arise, it is always advisable to see a lawyer. But first, give the other person a chance by trying to work it out together.

WHERE TO GO FOR HELP



Both landlords and tenants can get help from the following agencies:

1. For copies of this publication and general assistance, contact the Cooperative Extension Service.

Anchorage	277-1488
Bethel	543-2503
Fairbanks	456-6885
Homer	255-8176
Juneau	586-7103
Ketchikan	225-3290
Nome	443-2320
Palmer	745-3360
Soldotna	262-5824

2. To file a complaint on false advertising, chronic misuse of deposit money or fraud, see the Consumer Protection Section, Alaska Department of Law.

Anchorage	420 L Street, Suite 100 Anchorage 99501 279-0428
Fairbanks	604 Barnette, Room 228 Fairbanks 99701 456-8588
Juneau	Pouch K, State Capital Juneau 99811 465-3692
Ketchikan	415 Main Street, Room 304 Ketchikan 99901 225-6120

3. Persons with low incomes may call Alaska Legal Services for attorney help. If your landlord tries to evict you, be sure you mention this when you call.

Anchorage	272-9431
Barrow	852-2300
Bethel	543-2237
Copper Center	822-3497
Dillingham	842-5653
Fairbanks	456-5401
Juneau	586-6425
Ketchikan	225-6420
Kodiak	486-4178
Kotzebue	442-3398
Nome	443-2951

4. If you need a lawyer but don't qualify for Alaska Legal Services, see the low-cost legal clinics in your town or call the statewide Lawyer Referral Service at 272-0352 in Anchorage. They may be able to refer you to a lawyer in your town.

5. For complaints against state government officials, contact the State Ombudsman Office.

Anchorage	840 K Street Anchorage 99501 276-4011
Fairbanks	613 Cushman Fairbanks 99701 452-4001
Juneau	525 Village Street Juneau 99811 465-4970

6. For complaints against Municipality of Anchorage employees, contact the Municipal Ombudsman Office at 264-4461.

7. To file a claim for damages of \$2,000 or less, see the Alaska Court System and ask for their publication, "Alaska Small Claim Handbook".

SAMPLE FORMS

The following notices were prepared as samples of what is necessary. These samples may not apply in all situations, but could be helpful.

NOTICE OF EVICTION FOR NON-PAYMENT OF RENT

(Date)

TO: _____
(Tenant)

(Address)

You are notified that you owe rent in the amount of \$_____.
If you do not pay this rent within TEN DAYS of the day you receive this notice, your tenancy is terminated and you must move. You must pay your rent in cash, money order or certified check.

If you have not paid the rent or moved within TEN DAYS, a lawsuit will be filed to evict you. If you pay your rent on or before the TEN DAY period, you may stay.

Signed,

(Landlord)

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

NOTICE OF TERMINATION OF TENANCY (BY TENANT)

(Date)

TO: _____
(Landlord)

(Address)

You are notified that I am terminating this tenancy effective on the rent due date which occurs at least 30 days from the date you receive this notice. My rent is due on the _____ of each month, so I will be gone by the _____ day of _____, 19____.

Please send my security deposit of \$_____, or an explanation of how it was used, to _____
(address)
within 14 days of the date I move.

Signed,

(Tenant)

(Address)

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Landlord)

KEEP A COPY OF THIS NOTICE

NOTICE OF EVICTION FOR VIOLATION OF AGREEMENT
AND/OR THE LAW

(Date)

TO: _____
(Tenant)

(Address)

You are notified that you have seriously violated your agree-
ment with me and/or your duties under the law. The violation (s)
are set out specifically as follows: _____

If you do not remedy the violation (s) listed above within TEN
DAYS after the date you receive this notice, your tenancy will ter-
minate in not less than TWENTY DAYS, and you must move.
Failure to remedy the violation (s) listed above will mean you
must leave by the _____ day of _____, 19____.

If you have not remedied the problem (s) and have not moved
by the date listed above, a lawsuit will be filed to evict you. If you
remedy the problem (s) within TEN DAYS, you may stay.

Signed,

(Landlord)

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

NOTICE OF DEFECTS IN ESSENTIAL SERVICES

(Date)

TO: _____
(Landlord)

(Address)

You are notified that you are failing to provide (water/hot-
water/heat/sewer service or other essential services) at the above
address. The specific defect (s) is as follows: _____

If you do not fix this defect WITHIN 24 HOURS, I have a right
to 1) have it fixed myself and deduct the cost from my rent, 2) sue
you for damages, or 3) move out and hold you responsible for my
expenses in doing so.

Signed,

(Tenant)

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Landlord)

KEEP A COPY OF THIS NOTICE

4 1/2 11 1/2

NOTICE OF TERMINATION OF TENANCY
BY LANDLORD

(Date)

TO: _____
(Tenant)

(Address)

You are notified that your tenancy is terminated and that you must move from the address listed above on the rent due date which occurs at least 30 days from the date you receive this notice. Your rent is due on the _____ of each month, so you must be gone by the _____ day of _____ 19____.

The reason you are being evicted is as follows:

If you are not gone by that date, a lawsuit will be filed to evict you.

Signed,

Receipt:

I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CS SS HB 1 (JUD)
 Title: "An Act Relating to Landlords & Tenants"
 Sponsor: House Judiciary
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Crime & ID
 BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Paul A. Conger Phone: 465-4338
 Division: Administrative Services Date: 3/21/83

Approved by Commissioner: [Signature] Date: 3/21/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

The Alaska Statutes governing Landlords and tenants is not entirely clear in defining certain areas of concern to both the landlord and the tenant. Both the landlord and the tenant hold certain unalienable rights in the property they own as a landlord or rent as a tenant. With the 0% to 4% vacancy rate in most of Alaska, and because over 35% of the population in Alaska rent their dwellings, it is necessary to update the laws to answer the needs of the landlord and tenant. I introduced House Bill No. 1 to answer some of these needs. I feel that it is fair and equitable to both parties.

Referring to Section 1. of CSSHB 1, the landlord's rights are more clearly defined in relation to termination of a "periodic tenancy" held by a tenant. As the law stands now, it refers only to a lease or agreement, (a predetermined period of time) or an "estate at will", (for which the tenant is at the mercy of the landlord, and has no say in how long the tenancy will last). A "periodic tenancy" refers to a month to month period of time. Unlike a lease or agreement, it can be indefinite, and a good majority of rental arrangements today are based on a periodic tenancy. By inserting this new paragraph, it assists the landlord in enforcing his rights, should any conflicts arise due to termination.

Section 2 of CSSHB 1 was added by the Labor and Commerce Committee to further clarify AS 34.03.290 (c) relating to the 45 day notice. If the tenant fails to give notice of termination, then the landlord is entitled to an amount not to exceed one and one-half times the actual damages.

Section 3 provides for a 45 day notice. I feel that this is a more equitable time frame to both tenants and landlords. Due to the tight rental market in Alaska at the present time, it is quite difficult to find adequate housing, especially for those families with children or pets, not to mention the elderly and minorities. General termination, (30 days), on the part of the landlord in a time of a severe housing crunch does not always give the tenant sufficient time to find suitable housing. A 45 day notice would also be beneficial to the landlord, in as much as it gives him time to locate a new tenant, and gives him an adequate time frame to make necessary repairs and alterations before the new tenant moves in. Also, in the case of condo conversion, this gives the tenant sufficient notice to vacate or purchase their unit.

"Rental due date" refers to the date on the same day each month that rent is to be paid. The landlord may wish to give notice of termination to the tenant before the "rental due date", and replacing "rental due date" with the word "termination" date provides for either time frame. It does not restrict either party to the exact date the rent is due when giving a termination notice. The question arises, "What if the tenant

gives notice on, say May 17th?" This means that the termination date would be July 2nd. Therefore, the tenant would be obligated to pay the landlord for rent through May, all of June, (and two days in July, which would be prorated). The landlord would not lose any rental income even though the termination date falls after the "rental due date". By the time the 45 day period is up, the landlord has had adequate time to find a new tenant and the tenant has been given a more equitable amount of time to find a new dwelling.

The new clause in Section 4 provides for recovery of "actual damages", as well as one and one-half times the actual damages as compensation to the landlord. This deters the tenant from staying on past termination or the expiration of the rental agreement and in effect, is incentive to the tenant to vacate the premises.

An improper hold-over by a tenant has caused landlords financial difficulties. If a tenant continues to occupy a dwelling after his tenancy expires, he is causing the landlord loss of potential income needed to make mortgage payments, as well as the loss of time to make necessary repairs before renting the unit to the next party. Alaska law allows landlords to sue for damages, but the time, effort and money involved is not always feasible to pursue.

Section 5 was included in this bill to protect the tenant from landlords who abuse the right to access or evict the tenant for retaliatory reasons. The tenant has a right to his/her privacy, and the landlord must give "reasonable" notice to the tenant before entering the property. This new subsection also provides that the tenant may not be evicted because they have made a complaint, (for just causes), against the landlord, as long as they abide by the laws governing landlords and tenants. Sixty days is a sufficient amount of time to correct a problem or answer a complaint.

This bill is intended to update the present laws governing both the landlord and tenant. I feel that it provides both parties with fair and equal provisions to answer some of the overwhelming problems that have arisen over the past several years, due to the increase of the Alaskan population.

(It should be noted here that an increase in rents well as substantial or material changes in the existing rental agreement may also constitute a form of termination. This is, in effect, terminating the rental agreement then in existence and offering a new rental agreement at different terms. If the tenant does not accept the "new terms", then he must vacate 45 days after the receipt of notice of changes in the existing rental agreement. If the tenant does not respond to the landlord's notice of changes, then at the end of the 45 day period, the new rental agreement takes effect.)

A M E N D M E N T

#1

Offered in the HOUSE

By Abood

TO: C S S S H B 1 (L & C)

Page 1, after line 7, insert:

"* Section 1. AS 09.45 is amended by adding a new section to read:

Sec. 09.45.085. ENFORCEMENT. A judgment for the restitution of real property rendered in an action for forcible entry or detention may be enforced by the plaintiff without further judicial action and the plaintiff may not be required to obtain a writ of assistance or other order to enforce the judgment."

Renumber the following sections accordingly.

A M E N D M E N T

TO: C S S S H B 1 (L&C)

Page 1, after line 12 insert:

"* Sec. 2. AS 34.03 is amended by adding a new section to read:

Sec. 34.03.025. CHANGES IN TERMS AND CONDITIONS OF RENTAL AGREEMENTS.

The landlord and tenant may change the terms and conditions of a rental agreement if the changes are not prohibited by law. Unless both the landlord and the tenant agree to a change in a rental agreement, the agreement remains in effect under its original terms and conditions, including provisions relating to rent and the rights and obligations of the parties, until the agreement is terminated under AS 34.03.290 or other law."

Renumber following sections accordingly.

A M E N D M E N T

#3

Offered in the HOUSE

By Abood

TO: CSSSHB 1(L&C)

Page 1, line 14:

Delete "and" and insert ","

Page 1, line 16:

After (b) insert ", and the failure to provide the notice is wilful or not in good faith"

Page 1, line 17:

After "damages." insert "Failure by the tenant to provide the notice required under AS 34.03.290(a) or (b) is presumed to be wilful and not in good faith."

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1 (L&C)

OFFERED TO JUDICIARY
COMMITTEE 3/14/83

"An Act relating to landlords and tenants."

We have reworked HB 1 to reflect some of the changes recommended in the Judiciary meeting of February 25th.

The Bill has been re-drafted to reflect the three amendments and the sections have been renumbered to correspond to the Amendments. Also, note Page 2, Line 15 of the re-draft "AS 34.20.020" should be "AS 34.03.020".

Please refer to the re-draft of HB 1:

(Amendment No. 1)

New Section 1 - AS 09.45.085 is amended by adding a new paragraph to read:

ENFORCEMENT. A judgement for the restitution of real property rendered in an action for forcible entry or detention may be enforced by the plaintiff without futher judicial action and the plaintiff may not be required to obtain a writ of assistance or other order to enforce the judgment.

This Amendment is offered to assist the plaintiff in settling his case. As it stands now, if a landlord (for example), wins his suit against the tenant who is holding over without the landlord's permission needs to first receive a judgment from the court, and then go to the Court or State Troopers to file an additional form or forms to enforce the judgment. In some cases, a delay in action results in the tenant disappearing before the correct forms can be served upon him, and would alievate the additional costs of filing additional forms.

Section 3 - Page 1, Line 16 through 23 - (Amendment No. 2)

"AS 34.03 is amended by adding a new section to read:

Sec. 34.03.025. CHANGES IN TERMS AND CONDITIONS OF RENTAL AGREEMENTS. The landlord and tenant may change the terms and conditions of a rental agreement if the changes are not prohibited by law. Unless both the landlord and tenant agree to a change in a rental agreement, the agreement remains in effect under its original terms and conditions, including provisions relating to rent and the rights and obligations of the parties, until the agreement is terminated under AS 34.03.290 or other law.

I offered this as Amendment No. 1 to the Judiciary committee on February 25. In order to correspond to the Bill Sections, I am now offering this as Amendment No. 2. This is simply in place of the Letter of Intent by the Labor & Commerce Committee to define AS 34.03.290 (b) in detail regarding the 45 day notice as it applies to a rental increase. It gives further clarification to what transpires if a landlord or tenant makes substantial or material changes to a rental agreement. It does not change the bill, but defines AS 34.03.290 (b). If the landlord (for example), gives a tenant a notice of rental increase, and the tenant does not approve of the increase, then the tenant can give his notice as defined in AS 34.03.290 (b).

(Amendment No. 3)

(See Page 1, Line 26 and 27, and Page 2, Line 1,2 and 3)

Section 4 (was Section 2) AS 34.03.270 is amended by adding a new subsection to read:

(b) If the rental agreement is terminated by the tenant [and] , and the failure to provide the notice is wilful or not in good faith, the landlord may recover an amount not to exceed one and one-half times the actual damages. Failure by the tenant to provide the notice required under AS 34.03.290 (a) or (b) is presumed to be wilful and not in good faith.

These changes are offered as Amendment No. 3. The key word here is "presumed". The burden of proof lies with the tenant to prove that his intentions were in good faith. This shortens the judicial process in some circumstances. It is up to the tenant to explain why he did not give notice or had a good reason for not giving notice, (i.e. an emergency operation, a death in the family, etc.). Until that time, the court presumes that the tenant failed to give notice and the landlord can proceed with recovery of the premises.

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1 (L&C)

For an Act entitled: "An Act relating to landlords and tenants."

Attached is an updated copy of CSSSHB 1 as of March 14, 1983.

Three Amendments are also attached to the bill , and the bill has been re-drafted to include these amendments.

Note that the Sections have been renumbered to correspond to the Amendments. Also note Page 2, Line 15, "AS 34.20.020" should read "AS 34.03.020". This has been changed accordingly.

Original Sponsor: Abood

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to landlords and tenants."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

is amended by adding a new paragraph to read:

8 *Section 1. AS 09.45.085. / ENFORCEMENT. A judgment for the restitution of
9 real property rendered in an action for forcible entry or detention may be enforced
10 by the plaintiff without further judicial action and the plaintiff may not be required
11 to obtain a writ of assistance or other order to enforce the judgment.

[1]

12 *Section 2. / AS 09.45.090 is amended by adding a new paragraph to read:

13 (4) when, after a notice to terminate the tenancy as provided in AS 34.03.290
14 with reference to termination of a periodic tenancy, a person continues in possession
15 of a dwelling unit after expiration of the time for determining the tenancy.

16 *Section 3. AS 34.03 is amended by adding a new section to read:

17 Sec. 34.03.025. CHANGES IN TERMS AND CONDITIONS OF RENTAL AGREEMENTS.

18 The landlord and tenant may change the terms and conditions of a rental agreement
19 if the changes are not prohibited by law. Unless both the landlord and the tenant
20 agree to a change in a rental agreement, the agreement remains in effect under its
21 original terms and conditions, including provisions relating to rent and the rights
22 and obligations of the parties, until the agreement is terminated under AS 34.03.290
23 or other law.

[2]

24 *Sec. 4. / AS 34.03.270 is amended by adding a new subsection to read:

25 (b) If the rental agreement is terminated by the tenant [and], the tenant
26 fails to provide the notice required under AS 34.03.290 (a) or (b), and the failure
27 to provide the notice is wilful or not in good faith; the landlord may recover an

1 an amount not to exceed one and one-half times the actual damages. Failure
2 by the tenant to provide the notice required under AS 34.03.290 (a) or (b)
3 is presumed to be wilful and not in good faith.

4 [3]
*Sec. 5. / AS 34.03.290 (b) is amended to read:

5 (b) The landlord or the tenant may terminate a month to month
6 tenancy by a written notice given to the other at least 45 [30] days before
7 the termination [RENTAL DUE] date specified in the notice.

8 [4]
* Sec. 6. / AS 34.03.290 (c) is amended to read:

9 (c) If the tenant remains in possession without the landlord's
10 consent after expiration of the term of the rental agreement or after its
11 termination, the landlord may bring an action for possession and recovery
12 of actual damages. If [IF] the tenant's holdover is wilful or [AND] not
13 in good faith the landlord, in addition, may recover an amount not to exceed
14 one and one-half times the actual damages. If the landlord consents to the
15 tenant's continued occupancy, AS 34.03.020 [AS 34.20.020] applies.

16 [5]
*Sec. 7. / AS 34.03.310 is amended by adding a new subsection to read:

17 (f) a landlord is presumed to have violated (a) of this section if
18 the landlord increases rent, decreases service, or brings or threatens to
19 bring an action for possession within 60 days after a tenant has engaged
20 in an action listed under (a)(1)- (4).

A M E N D M E N T

#1

Offered in the HOUSE

By Abood

TO: CSSH B 1(L&C)

Page 1, after line 7, insert:

"* Section 1. AS 09.45 is amended by adding a new section to read:

Sec. 09.45.085. ENFORCEMENT. A judgment for the restitution of real property rendered in an action for forcible entry or detention may be enforced by the plaintiff without further judicial action and the plaintiff may not be required to obtain a writ of assistance or other order to enforce the judgment."

Renumber the following sections accordingly.

A M E N D M E N T

TO: C S S S H B 1 (L&C)

Page 1, after line 12 insert:

"* Sec. 2. AS 34.03 is amended by adding a new section to read:

Sec. 34.03.025. CHANGES IN TERMS AND CONDITIONS OF RENTAL AGREEMENTS.

The landlord and tenant may change the terms and conditions of a rental agreement if the changes are not prohibited by law. Unless both the landlord and the tenant agree to a change in a rental agreement, the agreement remains in effect under its original terms and conditions, including provisions relating to rent and the rights and obligations of the parties, until the agreement is terminated under AS 34.03.290 or other law."

Renumber following sections accordingly.

A M E N D M E N T

#3

Offered in the HOUSE

By Abood

TO: CSSSHB 1(L&C)

Page 1, line 14:

Delete "and" and insert ","

Page 1, line 16:

After (b) insert ", and the failure to provide the notice is wilful or not in good faith"

Page 1, line 17: ≡

After "damages." insert "Failure by the tenant to provide the notice required under AS 34.03.290(a) or (b) is presumed to be wilful and not in good faith."

cc

STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NIILLO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

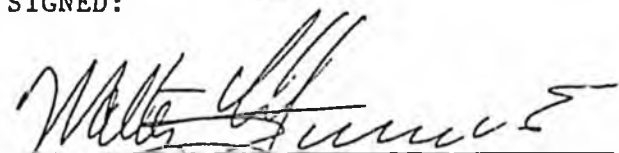
HOUSE LABOR AND COMMERCE COMMITTEE

February 10, 1983

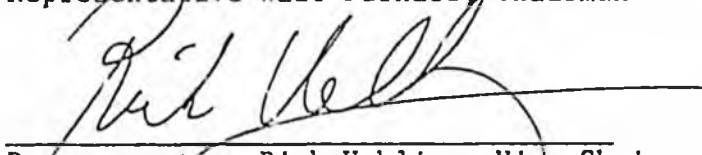
LETTER OF INTENT FOR
CSSS FOR HB 1 (L & C)

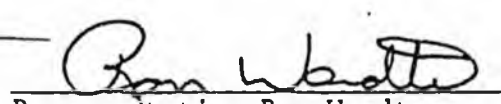
The Legislature recognizes that an increase in rent by the landlord may constitute a form of termination, in that it terminates the rental agreement then in existence and offers a new rental agreement at different terms. The tenant, however, should be given ample time to locate a new dwelling and to move. Upon receipt of a notice of rent increase a tenant should have the full 45 days to vacate provided under this bill if he chooses no to accept the higher rent. The tenant would be under the obligation to inform the landlord of his intention to vacate within the 45 day period if the tenant does not intend to pay the higher rent.

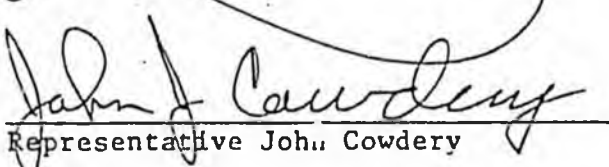
SIGNED:


Representative Walt Furnace, Chairman

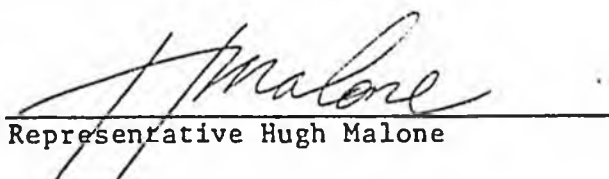

Representative John Ringstad


Representative Rick Uehling, Vice Chairman


Representative Ron Wendte


Representative John Cowdery

Representative Niilo Koponen


Representative Hugh Malone

2-Wire

SPONSOR: H. Judiciary
SUBJECT: HB1 - Tenants/Landlords
MAILING ADDRESS: _____
_____ zip

TAKEN BY: Jim 2/18
T/C DATE/DAY: 2/25
TIME: 1:30 Pacific
11:30 Alaska
10:30 Bering
T/C DURATION: 2 hours

PHONE: 465-4990 CONTACT: Catherine Zalawski

SITES PARTICIPATING:

- | | | | | | |
|---------------|------------------|------------|---------------|-------------|------------------|
| ALL ALASKAN | <u>Anchorage</u> | Dillingham | <u>Juneau</u> | Mat-Su | Sitka |
| | Barrow | Fairbanks | Ketchikan | Nome | Seward |
| WASHINGTON DC | Bethel | Haines | Kodiak | *Petersburg | Soldotna (Kenai) |
| | Delta Junction | Homer | Kotzebue | Sand Point | Valdez |
| Sen. Stevens | | | | | *Wrangell |

Sen. Murkowski
Congressman Young
off net to ANC LTO SPECIAL OFF-NET*
LOCATIONS/PHONE
NUMBERS: _____

Chairing Site/Person * REP Russell *
Catherine M. Zalawski
Signature of Sponsor/Contact Person Date _____

----- TELECONFERENCE OFFICE USE ONLY -----

MODERATOR NOTES

Special backup, publicity
or technical considerations.

Jeanie Fortier -
Contact for ANC participants

POST TELECONFERENCE NOTES

SITE/LOCATION: _____
LOCAL MODERATOR: _____
T/C Started: _____
T/C Ended: _____
Was T/C Recorded? _____
Was T/C Broadcast on RADIO or TV?
(If yes, what stations?) _____
TESTIFIED/PARTICIPATED: _____
UNABLE TO TESTIFY: _____
OBSERVERS: _____
TOTAL #: _____

BILLING INFORMATION

Billing Address: _____
_____ zip
Phone Charges To: _____
(area code) (phone number)

CATEGORY: Legislative ___ Non-Legislative ___
AMOUNT PAYABLE: _____

H

B

2

A BILL

To establish minimum mandatory sentences for the use of armor-piercing handgun ammunition during the course of a violent crime.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that title 18, United States Code, is amended by adding a new section 929 as follows:

Sec. 929. Use of restricted ammunition.

"(a) Whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition as defined herein, shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was being used or carried. No person sentenced under this subsection shall be eligible for parole.

"(b) For purposes of this section:

- (1) 'handgun' means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand;

(2) 'armor-piercing ammunition' means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a), under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December, 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978; and

(3) 'crime of violence' means (i) an offense, other than a misdemeanor that consists solely of damage to property and that does not place another person in danger of death or serious bodily injury, that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or (ii) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D. C. 20036

KTW BULLET FACT SHEET

Recently there has been a great deal of controversy regarding bullets which are capable of penetrating most soft body armor ("bullet-proof vests").

Such projectiles are not novel. The French army used a copper alloy bullet at the turn of the century. Specifically armor-piercing bullets (with a steel core) have been made since the First World War, and our government has sold large quantities to civilians as surplus. Many if not most handgun ammunition incorporates a copper alloy jacket around the bullet; such jacketed handgun bullets have been specially designed to increase the penetration since the 1930's, when police began to demand bullets useful against criminals using vehicles.

The KTW projectile is one example of a large class of projectiles which can be used to defeat body armor. It is the National Rifle Association's understanding that although KTW projectiles have been available for over ten years, no policeman has ever had one fired at him, nor has NRA been able to locate any other case of criminal misuse. The KTW ammunition is expensive (about \$1.50 per round), only a small proportion of licensed dealers stock it, and the manufacturer will distribute only to dealers who sign a contract agreeing to sell only to law enforcement personnel. The media's effort to generate a controversy over this ammunition has thus served to advertise a form of ammunition which has not been misused in ten years of availability.

Attempts to ban ammunition of this type pose a serious concern in that definition of "ammunition of this type" is a complex and subjective matter. Assuming that a ban would be objective, (not limited to "bullets made by KTW") it would have to be keyed to some index of penetration. The problem is that there is no simple dividing line between bullets that will defeat body armor and bullets that will not. Any index eliminating most bullets with a sufficient penetration would also eliminate practically all bullets used by sportsmen for hunting: deer, antelope, elk, etc.

Body armor comes in many types and grades. Many manufacturers produce five or more grades, which offer increasing protection at the price of higher cost and weight. The best grades (with this steel inserts) will stop KTW bullets. The lower grades are insufficient to stop many ordinary types of pistol ammunition. Only a few very heavy and very expensive vests will stop ordinary rifles using hunting ammunition. Most vests are supplied with a chart showing what types of ammunition they will stop and will not stop. Some types of ammunition may be stopped if fired from a firearm with a short barrel but not one with a longer one which develops more power. Even with the same type of ammunition and the same firearm, some brands may be stopped while others, loaded to higher power, will not be. (For example, a model X Second Chance vest will stop 9mm rounds made by Federal or Winchester, but not

European military surplus rounds; it will stop most .357 magnum rounds if fired from a 4 1/2 inch barrel, and none of them if fired from a 6 inch barrel). Additionally, penetration is dramatically increased if the vest is wet, is backed by a hard surface (reportedly, even a simple lead .38 will penetrate a vest backed by wood during testing), or if the vest is struck at certain angles.

The result of all this is that bullets cannot be neatly divided into classes which will or will not penetrate body armor. Any attempt to objectively define such runs a risk of outlawing many types of ammunition now used by sportsmen, including:

(1) Most ammunition for hunting rifles. Due to its much greater power and velocity, this will penetrate almost all soft body armor except the heavy "SWAT" team vests. The government has, incidentally, classified many traditional rifle rounds (including the venerable .30-30) as "handgun ammunition" for Gun Control Act purposes, since there are some handguns chambered for such.

(2) Many full-metal jacketed bullets for handguns, now used by target shooters and other sportsmen, which are covered by a copper-alloy jacket, do not deform upon impact, and have higher penetration. Most automatic pistol ammunition is jacketed to prevent jamming.

(3) Certain handgun loads designed for big-game shooting and therefore loaded for deep penetration (using jacketed bullets or lead bullets cast for special hardness).

(4) Most military surplus ammunition used by shooters preparing for matches requiring such, or for reasons of economy.

Given that the proponents of such a system of grading have not come forward with a single example where this ammunition has been criminally abused, that its cost, restricted availability and (prior to the recent media coverage) limited advertising must make such abuse a rarity, there seems little reason to focus additional public attention on such ammunition, much less start people thinking on other ways to defeat such armor or circumvent its protection.

KTW ISSUE BRIEF

What is the KTW bullet that has stirred up such a storm of controversy and legislative action? Why has such a furor erupted over a bullet which has never been criminally misused? How has the media been able to label this the "cop-killer bullet" when no police officer has ever even had one fired at him? Where is the justification for this media campaign highlighting the vulnerability of police "bullet proof" vests?

The KTW bullet, a bronze, teflon coated round, is one example of a large class of projectiles known as metal or armor-piercing ammunition. In January of this year, NBC television aired a dramatic and rather misleading demonstration of the penetration ability of the KTW through the equivalent of four police Kevlar vests and several Los Angeles city telephone directories.

No effort was made to follow the established scientific ballistic testing procedures prescribed by the U.S. Department of Justice's National Institute of Law Enforcement and Criminal Justice to conduct standard ballistics resistance tests. Neither did the demonstration allow for the increased bullet penetration which occurs when the armor is backed by a rigid object. If NBC had checked the NILECJ standards, they would have known that an accurate ballistics test must be run by using ballistics clay or modeling clay to simulate the interaction between the armor, the bullet and the resilient human body.

Particularly distressing is the fact that NBC did not inform the viewers that different types of bullet resistant vests are available for different threat levels. Although it is true that some soft body armor cannot protect against all types of ammunition, the episode failed to mention that armor is commercially available and used by police which can defeat the KTW metal-piercing bullet.

In addition, NBC implied that the KTW is widely available to citizens. This simply is not true. The KTW is limited strictly to police and military use only. Very few dealers carry the bullet and these must agree to sell only to law enforcement and military.

The KTW bullets used in the NBC demonstration were obtained by a former F.B.I. agent who posed as a California drug enforcement agent. He had to call both the manufacturer and distributor of KTW before he located a firearms dealer who carried these in the state of California. In order to purchase the rounds, he had the dealer send the bullets directly to the headquarters of the California Narcotics Authority!

Minimum requirement police soft body armor already protects against 95 percent of the firearms which could threaten law enforcement officers during daily police operations. Armor which is designed to defeat armor-piercing and high velocity bullets is commercially produced and is widely available.

It is simply incongruous to propose a ban on a single type of armor-piercing ammunition, replete with all the inherent problems of enforcement, definition and overwhelming expense, for an apparently non-existent problem.

KTW ISSUE BRIEF

Page 2

Is the KTW bullet truly a public menace?

- No police officer has ever been shot with a KTW.
- No criminal misuse of this ammunition has ever been documented since the bullet was developed twelve years ago.
- The ammunition is restricted by the manufacturer and dealers to military and law enforcement use only.
- The police already have soft body armor which is capable of protecting them against the KTW.

According to a recent statement made by Richard C. Davis, President of Second Chance Body Armor, Inc., one of the oldest and most prestigious armor manufacturers, "Up until the recent outburst of KTW publicity there were only a relative handful of 'gun expert' type people who knew about the existence of armor piercing handgun ammunition.

"I am probably in a position to be more sensitive than anyone to reports of KTW or other armor piercing ammo being used by criminals -- up until now, it just hasn't happened."

"The nice thing about armor piercing rounds is that because they do not expand, they generally cause far less damage than lead or hollow point style bullets. My general feeling is that there is approximately a hundred times greater chance of the policemen being killed by a head shot due to this vest publicity than there is by a criminal seeking out exotic armor piercing ammunition and then deliberately shooting a policeman with it. (emphasis added) If a pure and simple killing of a policeman is the desired effect, this can be much more easily accomplished with a high-powered rifle from a distance, or with a sawed off shotgun in the face from close range. It has been our experience that the vast majority of cop killings are the unplanned result of a small time criminal being suddenly confronted with capture. What we call: 'The cornered rat syndrome.'"

The focus on the KTW ammunition misunderstands both the design intent and capabilities of the soft body armor, as well as the actual threat this bullet poses for police.

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LAW ENFORCEMENT STANDARDS PROGRAM

NILECJ STANDARD FOR THE BALLISTIC RESISTANCE OF POLICE BODY ARMOR

**A Voluntary National Standard Promulgated by the
National Institute of Law Enforcement and Criminal Justice.**

DECEMBER 1978

**U.S. DEPARTMENT OF JUSTICE
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice**

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Blair G. Ewing, Acting Director

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

James M. H. Gregg, Acting Administrator

ACKNOWLEDGMENTS

This standard was formulated by the Law Enforcement Standards Laboratory of the National Bureau of Standards under the direction of Ronald C. Dobbyn, Manager, Protective Equipment Program, and Jacob J. Diamond, Chief of LESL. The technical research was performed by Nicholas J. Calvano, project leader, and other personnel of the NBS Center for Consumer Product Technology. The standard has been reviewed and approved by the National Advisory Committee for Law Enforcement Equipment and Technology of the International Association of Chiefs of Police and adopted by them as an IACP standard.

NILECJ STANDARD FOR THE BALLISTIC RESISTANCE OF POLICE BODY ARMOR

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FOREWORD

Following a Congressional mandate¹ to develop new and improved techniques, systems, and equipment to strengthen law enforcement and criminal justice, the National Institute of Law Enforcement and Criminal Justice (NILECJ) has established the Law Enforcement Standards Laboratory (LESL) at the National Bureau of Standards. LESL's function is to conduct research that will assist law enforcement and criminal justice agencies in the selection and procurement of quality equipment.

In response to priorities established by NILECJ, LESL is: (1) Subjecting existing equipment to laboratory testing and evaluation and (2) conducting research leading to the development of several series of documents, including national voluntary equipment standards, user guides and technical reports.

This document, NILECJ-STC-0101.01, Ballistic Resistance of Police Body Armor, is a law enforcement equipment standard developed by LESL and approved and issued by NILECJ. Additional standards as well as other documents are being issued under the LESL program in the areas of protective equipment, communications equipment, security systems, weapons, emergency equipment, investigative aids, vehicles and clothing.

This equipment standard is a technical document consisting of performance and other requirements together with a description of test methods. Equipment which can meet these requirements is of superior quality and is suited to the needs of law enforcement agencies. Purchasers can use the test methods described in this standard to determine firsthand whether a particular equipment item meets the requirements of the standard, or they may have the tests conducted on their behalf by a qualified testing laboratory. Law enforcement personnel may also reference this standard in purchase documents and require that any equipment offered for purchase meet its requirements and that this compliance be either guaranteed by the vendor or attested to by an independent testing laboratory.

The necessarily technical nature of this NILECJ standard, and its special focus as a procurement aid, make it of limited use to those who seek general guidance concerning body armor. The User Guide Series is designed to fill that need. We plan to issue guides to various items of law enforcement equipment as soon as possible, within the constraints of available funding and the overall NILECJ program.

The user guides being issued are highly readable and tutorial in nature in contrast to the standards, which are highly technical and intended for laboratory use by technical personnel. The guides provide, in non-technical language, information for purchasing agents and other interested persons concerning the capabilities of equipment currently available. They may then select equipment appropriate to the performance required by their agency. Recommendations for the development of particular guides should be sent to us.

¹Section 402(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

NILECJ standards are subjected to continuing review. Technical comments and recommended revisions are invited from all interested parties. Suggestions should be addressed to the Program Manager for Standards, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20531.

Lester D. Shubin
Program Manager for Standards
National Institute of Law
Enforcement and Criminal
Justice

NILECJ STANDARD FOR THE BALLISTIC RESISTANCE OF POLICE BODY ARMOR

1. PURPOSE

The purpose of this standard is to establish minimum performance requirements and methods of test for the ballistic resistance of police body armor. This standard is a revision of NILECJ-STD-0101.00, dated March 1972 [2].

2. SCOPE AND CLASSIFICATION

2.1 Discussion

This standard is applicable to armors intended to protect the torso against gunfire. Many different types of armor are now available; they range in ballistic resistance from those designed to protect against small caliber handguns to those designed to protect against high-powered rifles.

Personal protective armor manufacturers make a great variety of armors, many to special order, but production is currently concentrated in six classes designed to resist the following threats:

- 22 LRHV, 40 gr RN lead (1050 ± 40 fps); 38 Spec., 158 gr RN lead (850 ± 50 fps); and 12 gauge #4 shot.
- 357 Mag., 158 gr JSP (1250 ± 50 fps); and 9 mm, 124 gr FMJ (1090 ± 75 fps).
- 357 Mag., 158 gr JSP (1395 ± 20 fps); and 9 mm, 124 gr FMJ (1175 ± 75 fps).
- 44 Mag., 240 gr JSP (1425 ± 50 fps).
- 30 Carbine, 110 gr M-1 (1950 ± 50 fps); and 12 gauge rifled slug (1600 ± 50 fps).
- 30-06 rifle, 166 gr AP M-2 (2750 ± 50 fps).

The ballistic threat posed by a bullet depends, among other things, on its composition, shape, caliber, mass, and impact velocity. Because of the wide variety of cartridges available in a given caliber, and because of the existence of hand loads, armors that will defeat a standard test round may not defeat other loadings in the same caliber. For example, an armor that prevents penetration by a 357 Magnum test round may or may not defeat a 357 Magnum round with higher velocity. In general, an armor that defeats a given lead-core round will not resist penetration by an identical round with an armor-piercing core. The test ammunitions specified in this standard represent common threats to law enforcement officers.

2.2 Classification

Police body armors covered by this standard are classified into five types, by level of performance. Table 1 summarizes the protection they afford.

TABLE 1. Protection Afforded by Police Body Armor

Threat	Ballistic Protection Afforded				
	Type I Armor	Type II-A Armor	Type II Armor	Type III Armor	Type IV Armor
22 LRHV (H)	Yes	Yes	Yes	Yes	Yes
25 Auto.	Yes	Yes	Yes	Yes	Yes
32 Auto.	Yes	Yes	Yes	Yes	Yes
38 Special Lead	Yes	Yes	Yes	Yes	Yes
12 Gauge #4 Lead Shot	Yes	Yes	Yes	Yes	Yes
357 Magnum JSP	No	Yes ⁽¹⁾	Yes ⁽²⁾	Yes	Yes
9 mm Luger FMJ	No	Yes ⁽³⁾	Yes ⁽⁴⁾	Yes	Yes
38 Special HV	No	Yes	Yes	Yes	Yes
22 LRHV (R)	No	Yes	Yes	Yes	Yes
45 Auto.	No	Yes	Yes	Yes	Yes
12 Gauge 00 BK	No	Yes	Yes	Yes	Yes
7.62 mm FMJ	No	No	No	Yes	Yes
44 Magnum Lead	No	No	No	Yes	Yes
44 Magnum JSP	No	No	No	Yes	Yes
41 Magnum	No	No	No	Yes	Yes
30-06 PSP	No	No	No	Yes	Yes
30 Carbine	No	No	No	Yes	Yes
12 Gauge RS	No	No	No	Yes	Yes
30-06 AP	No	No	No	No	Yes

Abbreviations: AP—Armor
 BK—Buckshot
 FMJ—Full Metal Jacket
 (H)—Handgun
 HV—High Velocity

JSP—Jacketed Soft Point
 LRHV—Long Rifle High Velocity
 PSP—Pointed Soft Point
 (R)—Rifle
 RS—Rifled Slug

Footnotes: (1) Rounds up to 10.7 g (158 gr) with velocities up to 381 ± 15 m (1250 ± 50 ft) per second.

(2) Rounds up to 10.7 g (158 gr) with velocities up to 425 ± 15 m (1395 ± 50 ft) per second.

(3) Rounds up to 8.0 g (124 gr) with velocities up to 332 ± 15 m (1090 ± 50 ft) per second.

(4) Rounds up to 8.0 g (124 gr) with velocities up to 358 ± 15 m (1175 ± 50 ft) per second.

2.2.1 Type I (22 LR—38 Special)

This armor protects against the standard test rounds as defined in paragraph 5.1.1. It also provides protection against lesser threats such as 12 gauge No. 4 lead shot and most handgun rounds in calibers 25 and 32.

2.2.2 Type II-A (Lower Velocity 357 Magnum—9mm)

This armor protects against the standard test rounds as defined in paragraph 5.1.2. It also provides protection against lesser threats such as 12 gauge 00 buckshot, 45 Auto., 22 caliber Long Rifle High Velocity (rifle), High Velocity 38 Special and some other factory loads in caliber 357 Magnum and 9 mm, as well as the threats mentioned in paragraph 2.2.1.

2.2.3 Type II (Higher Velocity 357 Magnum—9 mm)

This armor protects against the standard test rounds as defined in paragraph 5.1.3. It also provides protection against lesser threats such as 12 gauge 00 buckshot, 45 Auto., 22 caliber Long Rifle High Velocity (rifle), High Velocity 38 Special and most other factory loads in caliber 357 Magnum and 9 mm, as well as the threats mentioned in paragraph 2.2.1 and 2.2.2.

2.2.4 Type III (High-Powered Rifle)

This armor protects against the standard test round as defined in paragraph 5.1.4. It also provides protection against lesser threats such as 223 Remington (5.56 mm FMJ), 30 Carbine FMJ, and 12 gauge rifled slug, as well as the threats mentioned in paragraphs 2.2.1, 2.2.2 and 2.2.3.

2.2.5 Type IV (Armor Piercing Rifle)

This armor protects against the standard test round as defined in paragraph 5.1.5. It also provides at least single hit protection against the threats mentioned in paragraphs 2.2.1, 2.2.2, 2.2.3 and 2.2.4.

2.2.6 Special Type

A purchaser having a special requirement for a level of protection other than one of the above standards should specify the exact test rounds to be used, and indicate that this standard shall govern in all other respects.

2.3 Configuration

Police body armor is offered in a variety of configurations. All makes and models offer protection for the torso front. Many models also cover the back, and some offer additional protection. Police body armor may be specified to contain armor parts to cover the:

- (a) torso front, or front and sides
- (b) torso back, or back and sides
- (c) groin,
- (d) coccyx (end of the spine)

or any practical combination of these, as required.

3. DEFINITIONS

3.1 Angle of Incidence

The angle between the line of flight of the bullet and the perpendicular to the plane tangent to the point of impact (see figure 1).

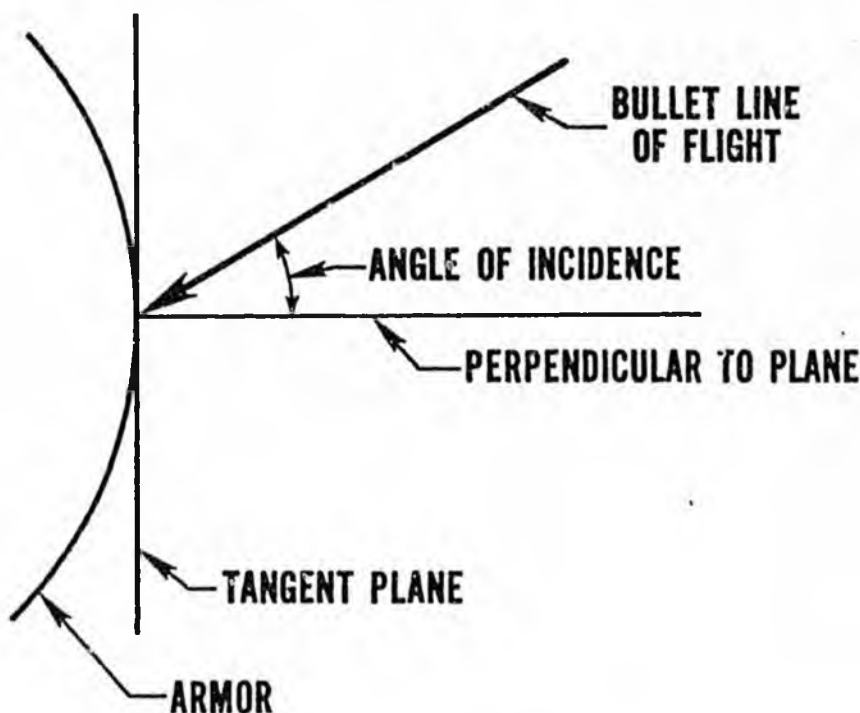


FIGURE 1. *Angle of incidence.*

3.2 Backing Material

A block of non-hardening, oil-base modeling clay, 45 cm by 45 cm by 10 cm thick (18 by 18 by 4 in), placed in contact with the back of the armor test specimen during ballistic testing.

3.3 Deformation

The maximum momentary displacement of the back surface of the armor test specimen caused by a fair hit that does not penetrate the armor.

3.4 Fair Hit

A bullet that impacts the armor at an angle of incidence no greater than 5 degrees, no closer to the edge of the armor part or to a prior hit than 5 cm (2 in), and at an acceptable velocity as defined in this standard. A bullet that impacts too close to the edge or a prior hit and/or at too high a velocity, but does not penetrate, shall be considered a fair hit for the determination of penetration but not deformation.

3.5 Full Metal Jacketed Bullet (FMJ)

A bullet made of lead completely covered, except for the base, with copper alloy (approximately 90 copper-10 zinc).

3.6 Jacketed Soft Point (JSP)

A bullet made of lead completely covered, except for the point, with copper alloy (approximately 90 copper-10 zinc).

3.7 Lead Bullet

A bullet made of lead alloyed with hardening agents.

3.8 Penetration

Complete perforation of an armor test sample by a test bullet or by a fragment of the bullet or armor, as evidenced by the presence of that bullet or a fragment in the backing material, or by a hole which passes through the backing material.

3.9 Strike Face

The surface of an armor designated by the manufacturer as the face that should be worn away from the body.

4. REQUIREMENTS

4.1 Sampling for Test

Two complete armors, selected at random, shall constitute a test sample. A maximum of two additional type I, II-A and II armors may be required for retesting.

4.2 Test Sequence

Armors shall be examined to determine compliance with the requirements of paragraphs 4.3 and 4.4, and shall then be tested for compliance with the requirements of paragraph 4.5.

4.3 Workmanship

Each armor shall be free from wrinkles, blisters, cracks or fabric tears, crazing, chipped or sharp corners and other evidences of inferior workmanship.

4.4 Labeling

Each armor shall be clearly and durably marked to provide the following information:

- a) name, logo or other identification of the manufacturer
- b) type of body armor, according to section 2 of this standard
- c) size
- d) lot number
- e) month and year of manufacture
- f) strike face, if any
- g) cleaning instructions for the ballistic material and for the armor carrier, if any

Items d and e may be incorporated into a single number, e.g., a serial number.

4.5 Ballistic Penetration and Deformation

One complete armor shall be tested for resistance to ballistic penetration and ballistic deformation in accordance with paragraph 5.2. A second armor shall be so tested after wet conditioning in accordance with paragraph 5.1.8. Penetration by any fair hit, or deformation to a depth greater than 44 mm (1.73 in), in either test, shall constitute failure. The detailed requirements are summarized in table 2.

TABLE 2. Test Summary

Armor Type	Test Ammunition	Test Variables			Performance Requirements		
		Nominal Bullet Weight M/g	Suggested Barrel Length	Required Bullet Velocity	Required Fair Hits Per Armor Part	Permitted Penetrations	Maximum Depth of Deformation
I	22 LRHV Lead	2.6 g 40 grains	15 to 16.5 cm 6 to 6.5 in	320 ± 12 m/s 1050 ± 40 ft/s	5*	0	44 mm 1.73 in
	38 Special RN Lead	16.2 grams 158 grains	15 to 16.5 cm 6 to 6.5 in	259 ± 15 m/s 850 ± 50 ft/s	5*	0	44 mm 1.73 in
II-A	357 Magnum JSP	10.2 grams 158 grains	10 to 12 cm 4 to 4.75 in	381 ± 15 m/s 1250 ± 50 ft/s	5*	0	44 mm 1.73 in
	9 mm FMJ	8.0 grams 124 grains	10 to 12 cm 4 to 4.75 in	332 ± 15 m/s 1090 ± 50 ft/s	5*	0	44 mm 1.73 in
II	357 Magnum JSP	10.2 grams 158 grains	15 to 16.5 cm 6 to 6.5 in	425 ± 15 m/s 1395 ± 50 ft/s	5*	0	44 mm 1.73 in
	9 mm FMJ	8.0 grams 124 grains	10 to 12 cm 4 to 4.75 in	358 ± 15 m/s 1175 ± 50 ft/s	5*	0	44 mm 1.73 in
III	7.62 mm (308 Winchester) FMJ	9.7 grams 150 grains	56 cm 22 in	873 ± 46 m/s 2863 ± 151 ft/s	5*	0	44 mm 1.73
IV	30-06 AP	10.8 grams	56 cm	838 ± 15 m/s	1	0	44 mm
		166 grains	22 in	2750 ± 50 ft/s			1.73 in

* Armor parts covering the torso front and torso back, with or without side coverage, shall each be impacted with the indicated number of fair hits. Armor parts covering the groin and crotch shall each be impacted with 3 fair hits. The deformations due to the first two fair hits shall be measured to determine compliance.

Abbreviations: AP—Armor Piercing
FMJ—Full Metal Jacketed
JSP—Jacketed Soft Point
LRHV—Long Rifle High Velocity
RN—Round Nose

At the option of the tester, a type I, II-A or II armor part which has successfully withstood 5 fair hits with one test ammunition may thereupon be tested with the second test ammunition. However, if failure occurs with the second test ammunition a retest shall be conducted. A second specimen of that armor part shall be tested with the second test ammunition and the results of that test shall govern.

5. TEST METHODS

5.1 Test Equipment

It should be noted that hand-loaded ammunition may be required to achieve some of the bullet velocities required in the following paragraphs.

5.1.1 Type I Test Weapons and Ammunition

5.1.1.1 22 LR

The test weapon may be a 22 caliber handgun or test barrel. The use of a handgun with a 15 to 16.5 cm (6 to 6.5 in) barrel is suggested. Test bullets shall be 22 Long Rifle High Velocity lead, with nominal masses of 2.6 grams (40 grains) and measured velocities of 320 ± 12 meters ($1,050 \pm 40$ feet) per second.

5.1.1.2 38 Special

The test weapon may be a 38 Special handgun or test barrel. The use of a handgun with a 15 to 16.5 cm (6 to 6.5 in) barrel is suggested. Test bullets shall be 38 Special round-nose lead, with nominal masses of 10.2 grams (158 grains) and measured velocities of 259 ± 15 meters (850 ± 50 feet) per second.

5.1.2 Type II-A Test Weapons and Ammunition

5.1.2.1 Lower Velocity 357 Magnum

The test weapon may be a 357 Magnum handgun or test barrel. The use of a handgun with a 10 to 12 cm (4 to 4.75 in) barrel is suggested. Test bullets shall be 357 Magnum jacketed soft point, with nominal masses of 10.2 grams (158 grains) and measured velocities of 381 ± 15 meters (1250 ± 50 feet) per second.

5.1.2.2 Lower Velocity 9 mm

The test weapon may be a 9 mm handgun or test barrel. The use of a handgun with a 10 to 12 cm (4 to 4.75 in) barrel is suggested. Test bullets shall be 9 mm full metal jacketed, with nominal masses of 8.0 grams (124 grains) and measured velocities of 332 ± 15 meters (1090 ± 50 feet) per second.

5.1.3 Type II Test Weapons and Ammunition

5.1.3.1 Higher Velocity 357 Magnum

The test weapon may be a 357 Magnum handgun or test barrel. The use of a handgun with a 15 to 16.5 cm (6 to 6.5 in) barrel is suggested. Test bullets shall be 357 Magnum jacketed soft point, with nominal masses of 10.2 grams (158 grains) and measured velocities of 425 ± 15 meters (1395 ± 50 feet) per second.

5.1.3.2 Higher Velocity 9 mm

The test weapon may be a 9 mm handgun or test barrel. The use of a handgun with a 10 to 12 cm (4 to 4.75 in) barrel is suggested. Test bullets shall be 9 mm full metal jacketed, with nominal masses of 8.0 grams (124 grains) and measured velocities of 358 ± 15 meters (1175 ± 50 feet) per second.

5.1.4 Type III Test Weapon and Ammunition

The test weapon may be a rifle or a test barrel chambered for 7.62 mm (308 Winchester) ammunition. The use of a rifle with a barrel length of 56 cm (22 in) is suggested. Test bullets shall be 7.62 mm full metal jacketed (U.S. military designation M80), with nominal masses of 9.7 grams (150 grains) and measured velocities of 873 ± 46 meters ($2,863 \pm 151$ feet) per second.

5.1.5 Type IV Test Weapon and Ammunition

The test weapon may be a rifle or a test barrel chambered for caliber 30-06 ammunition. The use of a rifle with a barrel length of 56 cm (22 in) is suggested. Test bullets shall be caliber 30-06 armor piercing (U.S. military designation APM2), with nominal masses of 10.8 grams (166 grains) and measured velocities of 838 ± 15 meters ($2,750 \pm 50$ feet) per second.

5.1.6 Chronograph

The chronograph shall have a precision of one microsecond and an accuracy of two microseconds. Its triggering devices shall be of either the photoelectric or conductive screen type.

5.1.7 Armor Backing Material

The armor backing material shall be conditioned by being kept for at least three hours at a temperature between 15 and 30°C (59 and 86°F), and shall be worked thoroughly to eliminate any voids. Its consistency shall be such that a depression of 25 ± 3 mm (1 ± 0.1 in) in depth is obtained when a 1 kg (2.2 lb) cylindrical steel mass, 45 mm (1.75 in) in diameter and having a hemispherical striking end, is dropped from a height of 2 meters (6.5 feet) onto one of its square faces. Three drop tests shall be made, and the center of each impact site shall be at least 75 mm (3 in) from a previous impact site and from any edge. A guide tube or other means may be used as required to assure that the striking end of the cylindrical mass impacts the backing material squarely. The backing material may be maintained at any temperature in the above range that will give it the required consistency.

A backing material found to be suitable is Roma Plastilina No. 1 modeling clay, available from Sculpture House, 304 West 42nd Street, New York, NY 10036, and other artist supply centers.

5.1.8 Wet Armor Conditioning

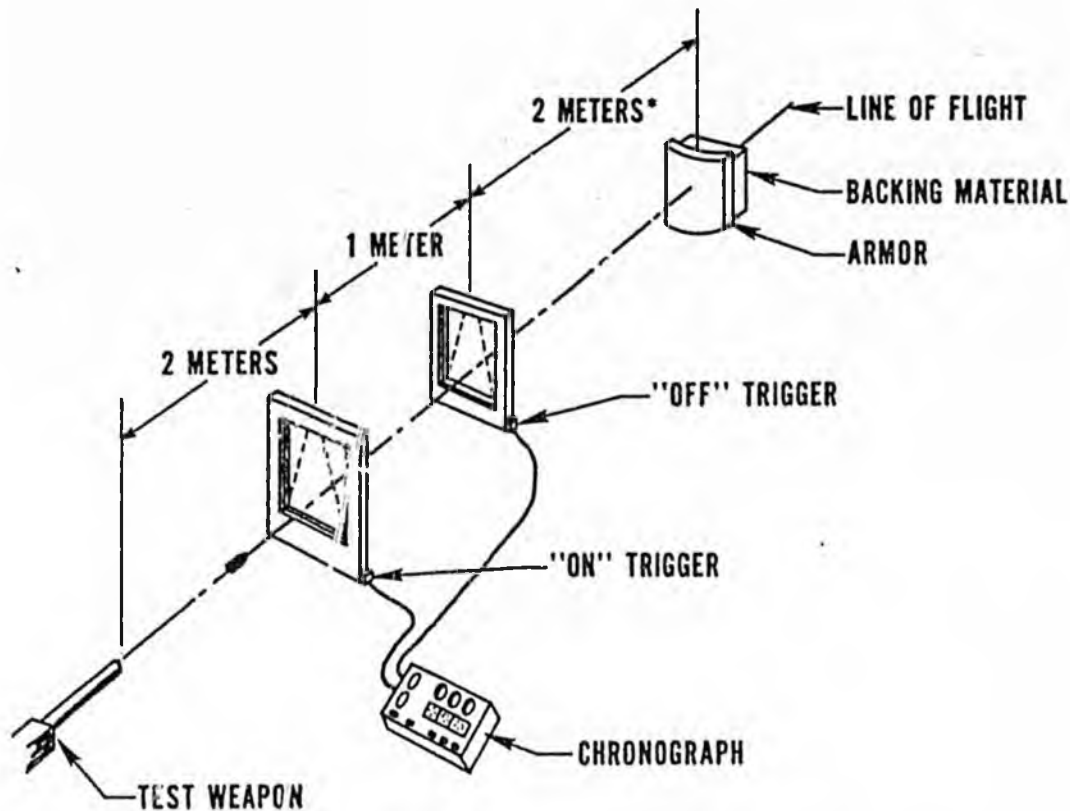
One complete armor shall be conditioned by subjecting both sides of each armor part to a water spray under the following conditions:

The spray nozzles shall be of such size and so spaced that 10 ± 2 liters (2.5 ± 0.5 gallons) of water per hour falls uniformly distributed on each 0.1 m^2 (1 ft^2) of spray booth floor area, and so located that the droplets are falling from gravitational force only, when they strike the armor surface.

Each surface of each armor part shall be sprayed for 3 minutes. Ballistic testing shall begin immediately after the armor is removed from the spray. The maximum time the armor may be out of the spray shall not exceed 10 minutes. After 10 minutes of testing, the armor shall be returned to the spray environment for an additional 3 minute spray on each surface.

5.2 Test Procedure

Set up the test equipment as shown in figure 2. Firmly clamp the appropriate test weapon, with barrel horizontal, in such a manner that alignment of the weapon is not altered when it is discharged.



*2 meters for type I, II-A and II armors;
12 meters for type III and IV armors.

FIGURE 2. Ballistic test setup.

Allow all electronic equipment to warm up for 30 minutes or until stability is achieved, whichever time is greater. During testing, maintain the ambient temperature at 20-28°C (68-82°F) and the relative humidity at 30 to 70 percent.

Condition the armor test backing material and test it for consistency in accordance with paragraph 5.1.7. Reshape and smooth the backing material to its defined dimensions, and maintain it at the temperature required to maintain the required consistency.

Place the chronograph triggering screens two and three meters (6.6 and 9.8 feet), respectively, from the muzzle of the test weapon and arrange them so that they define planes perpendicular to the line of flight of the bullet. Measure the distance between the triggering planes with an accuracy of one millimeter (0.04 in).

Position a sheet of cardboard five meters (16 feet) from the muzzle of the test weapon if type I, II-A or II armor is being tested; position it 15 meters (50 feet) away if type III or IV armor is being tested. Fire a pre-test round through the cardboard to determine the line of flight and point of impact of the bullet; alternatively, use an aiming light or other suitable means.

Place one of the square faces of the armor backing material in intimate contact with the back face of the armor specimen under test and secure it with tape, the armor straps or

other means which will not interfere with the test. Place this assembly in back of the sheet of cardboard with the armor front face perpendicular to the line of flight of the bullet so that the desired point of impact touches the bullet hole made by the pre-test round, and then remove the cardboard.

Fire a test round at the armor. Record the time of flight of the bullet between the two triggering screens, as determined by the chronograph, and calculate the bullet velocity. Examine the armor and the backing material to determine whether penetration occurred when a bullet made a fair hit.

If no penetration occurred, measure and record the depth of the depression made in the armor backing material; do so for the first two (only) fair hits made with each test ammunition on each armor part.

If no failure occurred, reposition the armor so as to space additional impacts evenly over its surface or position another armor specimen (as required) and repeat the procedure with additional test rounds until the required number of fair hits (see table 2) has been obtained on each armor part. To minimize the concomitant bunching of ballistic material in soft armors, place each successive fair hit as far as possible from the center of each armor part. Reposition the backing material (as required) to avoid any overlap of depressions. If there are seams in the ballistic material, place the required number of fair hits so as to include impacts directly on those seams.

If no failure occurred, test the second complete armor, which had been preconditioned in accordance with paragraph 5.1.8.



Department of Justice
Changed emphasis.

STATEMENT

OF

RUDOLPH GIULIANI
ASSOCIATE ATTORNEY GENERAL

BEFORE

THE

SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

CONCERNING

ARMOR-PIERCING BULLETS

ON

MAY 12, 1982

707-633-3752
- Bob Beckman

ARMOR-PIERCING AMMUNITION
ENHANCED PUNISHMENT LEGISLATION

This legislation would provide for enhanced punishment of individuals committing violent crimes, when, at the time of the crime, the individual used or carried a handgun loaded with armor-piercing ammunition.

This legislation is designed to provide some additional deterrent effect against the use of handgun ammunition capable of defeating police body armor.

The legislation closely parallels an approach to this problem endorsed by the U.S. Department of Justice and approved by the United States Senate. While federal legislation containing this provision of law was not enacted during the 97th Congress, it is believed that the approach presented represents the best available balancing of the rights of handgun owners and the need to protect law enforcement officers.

The bill would provide that enhanced punishment would be in addition to other terms of imprisonment and not run concurrently with any other terms of imprisonment. The enhanced punishment may not be suspended or reduced, nor are individuals sentenced under this proposed provision eligible for parole.

Recognizing the legitimate uses of some handguns and ammunition that can penetrate body-armor, this legislation does not prohibit the sale, possession, or legal use of those kinds of ammunition. The legislation should, however, provide a significant inducement for individuals not to commit violent crimes with such weapons.

The attached statement by Rudolph Giuliani, Associate Attorney General, U.S. Department of Justice, which was presented to Congress earlier this year, provides an excellent discussion of the history of the problem and possible responses.

In 1971, a Justice Department employee working with the Department's technology development program became aware of a new synthetic fiber, marketed under the trademark name "Kevlar." This new fiber was originally developed for use as a replacement for steel cords in automobile tires. Recognizing the potential of this fiber, the Department of Justice pioneered the development of a prototype vest made from Kevlar and, following extensive laboratory work, tested this vest in fifteen cities. Results exceeded expectations. In addition to offering exceptional ballistics resistance, the new vests were light, flexible and could be worn unobtrusively under normal street clothes and uniforms.

By 1975, dozens of manufacturers had entered the body armor market producing a wide range of soft, lightweight body armor. Because few state or local agencies had the resources to test such body armor, the Department of Justice, as part of its Law Enforcement Technology Assessment Program, developed a body armor standard published in December of 1978. This standard establishes procedures for testing body armor and creates five different armor categories: Type I, Type IIA, Type II, Type III and Type IV. These body armor categories protect against increasing threat levels. For example, the Type I armor is the lightest weight providing protection against designated handgun ammunition when fired from a distance of five meters under specified conditions; the Type IV armor is the heaviest providing protection against designated armor-piercing rifle ammunition. Types I, IIA and II armor are varieties of soft body armor; Types III and IV incorporate metallic or ceramic materials and are

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear today to describe the threat posed to law enforcement and other officials -- including the President -- by the availability of handgun ammunition capable of penetrating soft body armor. As this Subcommittee is probably aware, the Department of Justice developed the body armor used today by an estimated 50% of the nation's law enforcement officials and it is largely through the efforts of the Department and the International Association of Chiefs of Police that soft body armor is so widely used. This Subcommittee has previously received testimony to the effect that the use of soft body armor has saved the lives of an estimated 400 police officers during the past seven years. We are, therefore, deeply concerned over the availability of ammunition capable of defeating soft body armor and have devoted substantial efforts in recent months to developing an appropriate and workable legislative remedy to the problem.

Before proceeding to our specific legislative recommendation, let me take a few moments to put the issue in perspective. Toward this end, I would like to discuss briefly the development of modern body armor and our reaction to the recent threat to persons who rely upon body armor for protection.

Personal body armor available during the earlier part of the century was inappropriate for normal police work. Early garments were so heavy and awkward that police officers avoided wearing them. In addition to their bulk and weight, such garments inhibited movements necessary for self-defense. Heat buildup was another problem adding to wearer discomfort.

normally used by special weapons teams in sniper or seige situations. We have brought with us today examples of different types of armor and will discuss these varieties of armor in detail at the conclusion of my statement if the Subcommittee so desires.

Extensive testing was performed by the Department of Justice during the course of developing this armor standard. Moreover, other entities, particularly the Department of the Army, have carried out numerous tests to determine the penetration potential of various classes of firearms and ammunition as well as the capabilities of various categories of bullet-resistant body armor. The Department of Justice has also tested a wide range of handgun ammunition in connection with efforts to assist law enforcement agencies in selecting the most effective possible ammunition for police use.

In short, our technicians have known from the beginning that soft body armor, like all other forms of armor, can be pierced by particular types of rounds. As noted above, the standards used for testing different classes of body armor require that the armor be able to withstand specific types of bullets posing particular threat levels in order to receive a rating. It is for this reason that body armor is referred to by technicians as "bullet-resistant" or "ballistics-resistant" apparel. The fact that body armor is more commonly referred to by the public as "bullet-proof" has created the mistaken impression that body armor can or should be able to stop any bullet. Rather, soft body armor is designed to stop the most common threats that police officers face.

With this background, experts were not at all surprised by a network News program earlier this year on the KTW bullet and its ability to penetrate multiple thicknesses of soft body armor. Our technicians were, however, deeply disturbed that such information was so widely distributed to the public, in essence creating a shopping list for professional criminals.

The concern of the experts over the publicity surrounding the KTW bullet is two-fold. First, we fear that publicity surrounding the availability of ammunition capable of defeating body armor will encourage assassins and other criminals to search out these particularly dangerous classes of ammunition to use in their endeavors. Although our technicians have known about the KTW bullet for many years, this and other forms of armor-piercing ammunition were not felt to constitute a substantial threat because most criminals are not so sophisticated as to realize that the protection afforded by body armor is limited and that there are varieties of ammunition commonly available which will penetrate body armor. In the past, the conclusion that armor-piercing rounds posed only a minimum threat was difficult to fault as we are unaware of any instance in which an armor-clad police officer has been shot with armor-piercing handgun ammunition. Now, however, the publicity surrounding the KTW bullet has, in our view, increased the likelihood of such attacks.

Our second concern over the publicity is that it will, we believe, encourage a fatalistic attitude among police officers resulting in reduced use of body armor. In this regard, although the new soft body armor is comfortable to wear by comparison with

and we believe it is contrary to the public interest to publicize such dangerous ammunition.

Penetration capacity is, of course, a matter of basic physics. There are two major factors which determine penetration capability. First is the surface area over which the force is distributed; a bullet which expands upon impact spreads its force over a larger area than one which retains its shape. Therefore, a projectile composed of a hard substance normally has greater penetration potential than a soft projectile which mushrooms upon impact. The second major factor in penetration is velocity; the higher the velocity of a bullet, the greater its penetration capability. Thus high-power rifles, because of the incredible velocities they produce, have greater penetration power than handguns. Soft body armor is designed primarily to protect against handgun bullets. This reflects the fact that handguns are the weapons of choice of criminals representing -- according to one survey -- 83% of firearms seized by police. Moreover, handguns represent a greater threat to law enforcement officials than long guns because they are easily concealable. We have, therefore, focused our attention on armor-piercing handgun ammunition.

One of the first actions taken by the Department of Justice in response to the publicity surrounding the KTW bullet was to arrange for a demonstration to verify that the information furnished by our technicians was indeed correct. In February, a variety of handgun bullets were tested against a Type II vest at the FBI firing range in Quantico, Virginia. That demonstration corroborated the

earlier types of armor, it is a constant problem for police administrators to insure that body armor issued to officers is indeed worn. Too often, officers to whom body armor was issued have been killed or severely wounded because the armor was left in a dressing room locker or the trunk of a squad car. Continuing publicity about the availability of armor-piercing handgun ammunition, together with the complete absence of any effective statutory safeguards, will, we fear, cause some police officers to decide that it is useless to wear their armor when ammunition is available on the streets that will defeat the armor. This potential indirect effect of armor-piercing handgun ammunition could result in more deaths and crippling injuries than the actual use of armor-piercing bullets against officers wearing body armor. In short, we believe it is important to let the law enforcement officers of the nation know that measures are being taken to prevent the criminal use of armor-piercing ammunition. Legislation in this area would, we believe, have the effect of encouraging law enforcement officers to wear body armor issued to them.

Again, because we feel that publicity surrounding armor-piercing ammunition has the effect of increasing the risk to those who use body armor, I will carefully avoid any discussion of specific handgun rounds capable of penetrating armor. I appreciate the cooperation of the Subcommittee in agreeing not to disclose the identity of particular armor-piercing ammunition. Suffice it to say that there are a number of handgun bullets capable of penetrating body armor in addition to the KTW which has received so much publicity