

ALASKA LEGISLATURE COMMITTEES HOUSE

2432 HJ HB 131 - HB 140 (FILE 2)

2432

Table 10

RENTERS WITH CHILDREN AS A PERCENT OF TOTAL HOUSEHOLDS WITH CHILDREN
BY RACIAL, ETHNIC AND FEMALE-HEADED HOUSEHOLDS

<u>City</u>	<u>Total Households With Children</u>	<u>Black Households With Children</u>	<u>Spanish Surname Households With Children</u>	<u>"White" Households With Children</u>	<u>Female-Headed Households With Children</u>
Fresno	36%	57%	47%	30%	72%
Los Angeles	49%	62%	69%	38%	73%
San Diego	41%	57%	50%	37%	65%
San Francisco	55%	65%	66%	46%	75%
San Jose	28%	47%	42%	24%	60%

Table 11 summarizes an analysis of inadequate housing conditions for minority and female-headed as compared to "white" families with children. The table shows that among all groups studied, renter families with children have worse housing than renters without children.

In addition, minority and female-headed households are consistently inadequately housed more often than "white" households with children, even holding income constant.

More importantly, while minority and female-headed renter families with children are inadequately housed to a significantly greater degree, minority renters without children do not appear to face housing problems any more often than "white" renters of similar income.

Thus, to the extent that discrimination against minorities and women exists in the California housing market, it appears to be directed at families with children. When racial and sex discrimination lead to inadequate living conditions, it appears that they are confined to families with children.

These findings further suggest that exclusion of renters with children from a major portion of the rental market is in effect excluding minorities and women. They certainly show a disproportionately large impact on minority and female-headed households even when income is taken into consideration.

Clustering/Segregation

To quote economist Claude Elias, "...the results of arbitrary exclusion will be (the) clustering (of) families with children and that would impose certain social problems, such as the need for additional schooling facilities, transportation patterns, differential traffic controls, more police protection, more recreational facilities--and these costs are borne by the general taxpayer, by society as a whole."¹ Dr. Elias concludes that clustering does not strike housing economists as an economic method for solving the housing allocation problem.

Renters with children do tend to become clustered as a result of their exclusion from the majority of the housing market. In California, families

¹ Elias, Ibid., June 20, 1979.

Table 11

PERCENT INADEQUATELY HOUSED MINORITY AND FEMALE-HEADED RENTERS
 COMPARED TO TOTAL "WHITE" RENTERS WITH AND WITHOUT CHILDREN BY INCOME

	<u>"White"* Renters</u>		<u>Black Renters</u>		<u>Hispanic Renters</u>		<u>Female-Headed Renters</u>	
	<u>Low Income</u>	<u>Middle + Income</u>	<u>Low Income</u>	<u>Middle + Income</u>	<u>Low Income</u>	<u>Middle + Income</u>	<u>Low Income</u>	<u>Middle + Income</u>
<u>State of California</u>								
With Children	77%	17%	99%	29%	95%	30%	98%	31%
Without Children	72%	9%	89%	17%	94%	16%	95%	15%
<u>City of Fresno</u>								
With Children	69%	11%	73%	33%	75%	33%	97%	38%
Without Children	67%	4%	69%	4%	61%	4%	61%	5%
<u>City of Los Angeles</u>								
With Children	68%	20%	76%	25%	74%	32%	95%	38%
Without Children	61%	10%	66%	5%	61%	13%	93%	20%
<u>City of San Diego</u>								
With Children	76%	15%	72%	21%	74%	31%	97%	51%
Without Children	74%	7%	73%	4%	70%	10%	96%	26%
<u>City of San Francisco</u>								
With Children	86%	20%	75%	26%	83%	29%	97%	63%
Without Children	79%	14%	74%	11%	80%	12%	97%	6%
<u>City of San Jose</u>								
With Children	88%	20%	89%	35%	83%	34%	98%	59%
Without Children	82%	9%	82%	13%	75%	10%	97%	7%

* "White" as used here means other than Black or Hispanic. It may include other minority groups which represent smaller portions of the population.

with children comprise just over 30 percent of all renters. The availability surveys of rental ads done in 1979 by the Fair Housing Project indicate that between 16 and 35 percent of all rental buildings allow children. Consequently, virtually all renters with children must be concentrated in those buildings to the exclusion of families without children. Such buildings then become "children's ghettos."

Further, by mapping renter families with children by census tract, it was found that they are concentrated in certain areas of each of the cities studied. Maps 1-5 show these clusters. (See Appendix B)

The study also found a correlation between "children clustering" and "racial clustering." Each of the census tracts identified as having a concentration of renters with children was examined for racial composition and proportion of female-headed households. It was found that in the majority of census tracts with high concentrations of renters with children, there were also more minority families and more female-headed households than the citywide norm.

Table 12 summarizes these results. In every city studied there was a correlation between renters with children and minority households. In all but Fresno there was a correlation with female-headed households. The correlation between the isolation of children and minorities was strongest in Los Angeles (78%). The correlation between the isolation of children and female-headed households was strongest in San Jose (93%) with a very strong correlation (83%) also appearing in San Diego.

These correlations occur partly because minority and female-headed households with children tend to be renters more often than "white" male-headed families with children. However, the clustering does demonstrate that "no-children" housing tends to reinforce, if not create, segregated living patterns by age, race and sex.

Not surprisingly, a recent study found that discrimination against children intensifies racial imbalances in schools. "Both the exclusion of middle class white renters from the city and the exclusion of poor minority renters from the suburban housing markets intensify the problem of school segregation."¹ "Jurisdictions which permit discrimination

¹ Dr. Gary Orfield, "Desegregation Principles for Los Angeles: A Report to the Superior Court of the State of California for the County of Los Angeles," November 1, 1978, p. 79.

Table 12

CONCENTRATIONS OF RENTERS WITH CHILDREN CORRELATED WITH
CONCENTRATIONS OF MINORITIES AND FEMALE-HEADED HOUSEHOLDS

City	<u>Census Tracts With Concentrations of Renters With Children</u>				
	<u>Total Number</u>	<u>Tracts with Greater than Citywide Percentage of Black/Hispanic Households</u>		<u>Tracts with Greater than Citywide Percentage of Female-Headed Households</u>	
		<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Fresno	5	3	60%	2	40%
Los Angeles	69	54	78%	52	75%
San Diego	18	11	61%	15	83%
San Francisco	8	5	63%	6	75%
San Jose	15	9	60%	14	93%

against children in the rental or sale of housing should be asked to examine its impact on school segregation and the future enrollment in their local public schools. This discrimination almost certainly produces 'white flight' of families with school children from the city and some suburbs."¹

Finally, the adverse effects of age segregation are not limited to children and their families. A recent study of housing preferences of the elderly strongly recommended that "...alternatives should be provided that allow older persons to live in age-integrated environments if they so desire. The vast majority of the community elderly stated a preference for age-integrated surroundings, if given a choice."² A related manual on house-sharing explained the benefits of age-integration: "It appears that intergenerational contact, providing it is under favorable conditions, can promote more positive attitudes toward the young and greater willingness to share with them."³

¹ Orfield, p. 81.

² Fernando Torres-Gil, et al., Housing: The Diverse Aged, Project MASP, Andrus Gerontology Center, University of Southern California.

³ "Intergenerational House-Sharing: A Feasibility Study and Resource Manual," Project MASP, Andrus Gerontology Center, University of Southern California.

LANDLORD CONCERNS

Concern is often expressed that the presence of children in apartment buildings may lower property values, increase operating costs, and require owners to make substantial "safety" improvements.

Research under this project found no empirical data to support these claims. In any case, the results of the survey of available rentals (see Tables 3-5) show that even if it is true that it is more expensive to rent to families with children, it is also true that rentals which allow children command higher rents.

Property Values

According to the California State Savings and Loan Commissioner and two major savings and loan institutions,¹ there is no known policy in the industry that would result in underappraisal of property because of the presence of children. In fact, the Society of Real Estate Appraisers (SREA) indicates that member appraisers do not even record whether or not buildings accept children when determining the value of a building--it simply is not an important factor.

Maintenance Costs

The following agencies were contacted in an effort to determine whether or not maintenance costs were higher in buildings which accept children as compared to those that were adults-only: Real Estate Research Council of Southern California, U.S. Department of Housing & Urban Development/Los Angeles Area Office, and the Society of Real Estate Appraisers. None of these sources was able to provide us with data on maintenance cost comparisons of buildings with and without children, nor could they refer us to any agency which had this information.

In addition to the above inquiries, questionnaires were sent to the following associations requesting information on any such studies they

¹ Home Federal Savings and Great Western Savings & Loan Association

might have done: 1) Apartment Association/Los Angeles-Western Cities; 2) Apartment House Association Consolidated, San Francisco; 3) Fresno Apartment Association; 4) Tri-County Apartment Association; 5) California Apartment Association; 6) San Diego Apartment & Rental Owners Association; 7) San Fernando Valley Apartment Association; 8) Foothills/Pasadena Apartment Association; 9) Affiliated Cities Apartment Association; and 10) California/Southern Cities Apartment Association. The first five associations responded, but other than a suggestion to contact individual apartment owners, none was able to supply the information requested.

A request for maintenance data was also made of a witness in a child-
eviction case who testified that, "Basically, the presence of children in
an apartment project tends to cause the operating cost of that project
to be greater than they would otherwise be and also tend to cause the
ability of the project to command premium rent from other tenants to be
less than what might otherwise be."¹ No supporting data for this
statement was introduced as evidence during the trial, and subsequent
inquiries have also failed to produce back-up data.

Finally, a review of the available published literature regarding
discrimination against children revealed only one reference to higher
maintenance costs in buildings which accept children. However, that
claim was based on an interview with one apartment owner and, again, no
supporting data was cited.²

It appears that there is no empirical data which compares maintenance
costs in buildings which do and do not allow children. Should this type
of study be made, care should be taken to hold constant such factors as
building age, location, amenities, and so forth, as these will clearly
affect maintenance costs. Also, the percentage of renters with children
in the sample should not exceed their percentage in the general renter
population in order to avoid any distortion caused by "ghettoization."

¹ Stephen Roulac, Questor Associates, in the case of Marina Point,
Ltd., v. Wolfson, Culver City Municipal Court, October 6, 1977.

² Dennis Shaw, Journal of Family Law, V. 16, 1977-78.

Finally, in assessing the importance of maintenance cost studies as a rationale for child-discrimination, it should be determined whether or not comparisons of this sort could be used to discriminate against other classes of renters if it were found that buildings occupied solely by these other classes had higher maintenance costs. In both cases, it can reasonably be argued that other factors are involved.

Insurance Rates

According to the California State Department of Insurance, "It has been this Department's experience...that an apartment's liability and property rates are not affected by whether or not children are residing in the apartment building. Also, we have never received a rating complaint regarding the residence of children in an apartment building."¹

Additional information was received from the Transamerica Insurance Group, stating that although "some apartment building features do influence premiums," that was due to "the inherent hazard of such features, not the presence of children."² The fact that children do not raise insurance rates for apartment buildings was also confirmed by representatives for the Kemper Insurance Company and Farmer's Insurance Company, both in Los Angeles.

The findings of this study are that the insurance industry, with its enormous amounts of data on claims, does not consider the presence of children a significant factor in setting rates for apartment buildings.

Building Modifications/Safety Standards

Information was obtained from building departments in the 5 cities studied. In all cases, owners of dwellings are subject to either state or local housing codes, building codes--and their amendments--and various

¹ Letter from Janet S. Galiley, Insurance Rate Analyst, California Department of Insurance, to Eden Council for Housing Opportunities, April 24, 1978.

² Letter from E. J. Cogan, Transamerica Insurance Group, December 14, 1979, to Fair Housing Project.

swimming pool codes, irrespective of whether or not children are in residence. According to a representative of the Los Angeles Building Department, if an adults-only building were inspected and found to be safe and up to code, and a child subsequently moved in, no modifications would be required.¹ One of the California legislative proposals emphasized this point by declaring that protecting families from rental discrimination shall not "be construed to require a landlord to make an improvement to a housing accommodation beyond the minimum standards established by building codes and regulations approved by a state or local agency which has the responsibility to approve building plans and designs."²

None of this has been interpreted as disregard for the safety of children, but rather an acknowledgement of the fact that living in an apartment instead of a house presents no special high-risk situations for children. Sadly, Los Angeles County statistics confirm this observation. In 1979, of the 35 children under 12 years of age who drowned in swimming pools, 32 (or 91%) were found in private home pools. One child was found in an apartment house pool. In other types of drownings, three children under the age of 10 died in bathtubs, one in a river, and one in a lake.³

It is clear that a variety of situations, including taking a bath, can be dangerous to young, unsupervised children and that parents have the ultimate responsibility for their children's safety -- whether inside or outside of a dwelling unit.

In denying a family shelter for "safety reasons" (e.g., pools, stairways, balconies, parking lots), it may be that the real safety issue is missed. As documented elsewhere in this report, many families are living in dilapidated, substandard, and overcrowded housing. These are dangerous conditions over which their parents have little control because they are deprived of choice in the housing market.

¹ Interview with John Feliciello, Assistant Superintendent of Building and Safety, City of Los Angeles, August 21, 1979.

² Senate Bill 440 (Roberti, et al.), February 22, 1979, amended April 25, 1979.

³ Letter from Los Angeles County Department of Chief Medical Examiner-Coroner to Fair Housing Project, April 22, 1980.

"A decent home and a suitable living environment for every American family."

--a national goal since 1949

--a state goal since 1970

CONCLUSIONS AND RECOMMENDATIONS

It is apparent from this study that the basic human need for adequate shelter is not being met for a large percentage of California's renters with children. Part of the problem is caused by an insufficient supply of units, but a significant part is caused by the arbitrary exclusion of families with children from those units which do meet their needs.

In order to lessen the burden of this housing shortage-within-a-shortage for families with children, and to encourage intergenerational housing patterns in the future, serious consideration should be given to the following actions:

1. Enactment of a statewide law, similar to those in effect in 7 other states, prohibiting housing discrimination against renters based exclusively on age, parenthood, pregnancy, or the potential or actual tenancy of a minor child.¹
2. Adoption of local ordinances in the absence of statewide protection for renter families with children.
3. An increase in public incentives to private industry to meet the housing needs of families--especially those with 3 or more children--i.e., expansion of all federal rental programs and increases in rent limits to realistic levels.
4. Enforcement of existing regulations which prohibit discrimination against families with children in publicly financed or publicly insured housing projects.
5. Adoption of local regulations and plans that give incentives for construction of developments which offer a mix of 2 or more bedroom.

¹ Although such protections normally cover only rentals, their expansion to owner-occupied units may be necessary to deal with the growing child-exclusion problem in the sale of condominiums, cooperatives, mobile homes, and "planned communities."

units with 0-1 bedroom units and which include amenities for all age groups.

Note: These actions deal mainly with the unavailability of housing for families with children. For a broader look at the housing problem, please see the California Statewide Housing Plan, 1979 Update, especially Section II, "Policies and Action Items," and Section III, "Farmworker Housing Plan Update." Available from the Department of Housing and Community Development, 921 Tenth Street, Sacramento, CA 95814.

6. At the federal level, serious consideration should be given to amending civil rights legislation so that it will protect families with children from housing discrimination.

A P P E N D I X

"A"

Survey Forms

Compiled by: _____

Apartment Survey

City: _____

Newspaper/Date: _____

"AGE RESTRICTIONS"

Rent per Month	\$0-99	\$100-149	\$150-199	\$200-249	\$250-299	\$300-349	\$350-399	\$400-449	\$450-499	\$500 up
UNFURNISHED UNITS										
No. of Bedrooms										
0										
1										
2										
3										
4+										
(office use)										
FURNISHED UNITS										
No. of Bedrooms										
0										
1										
2										
3										
4+										
(office use)										

-45-

TOTAL NO. OF UNITS IN EACH BUILDING CONTACTED (office use)

RESTRICTIONS: (e.g., teens only, infants only, etc.)

(cont. on back)

A P P E N D I X

"B"

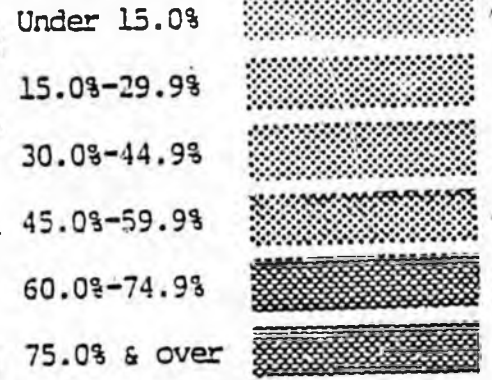
Age Clustering Maps

FRESNO - CLOVIS METROPOLITAN AREA

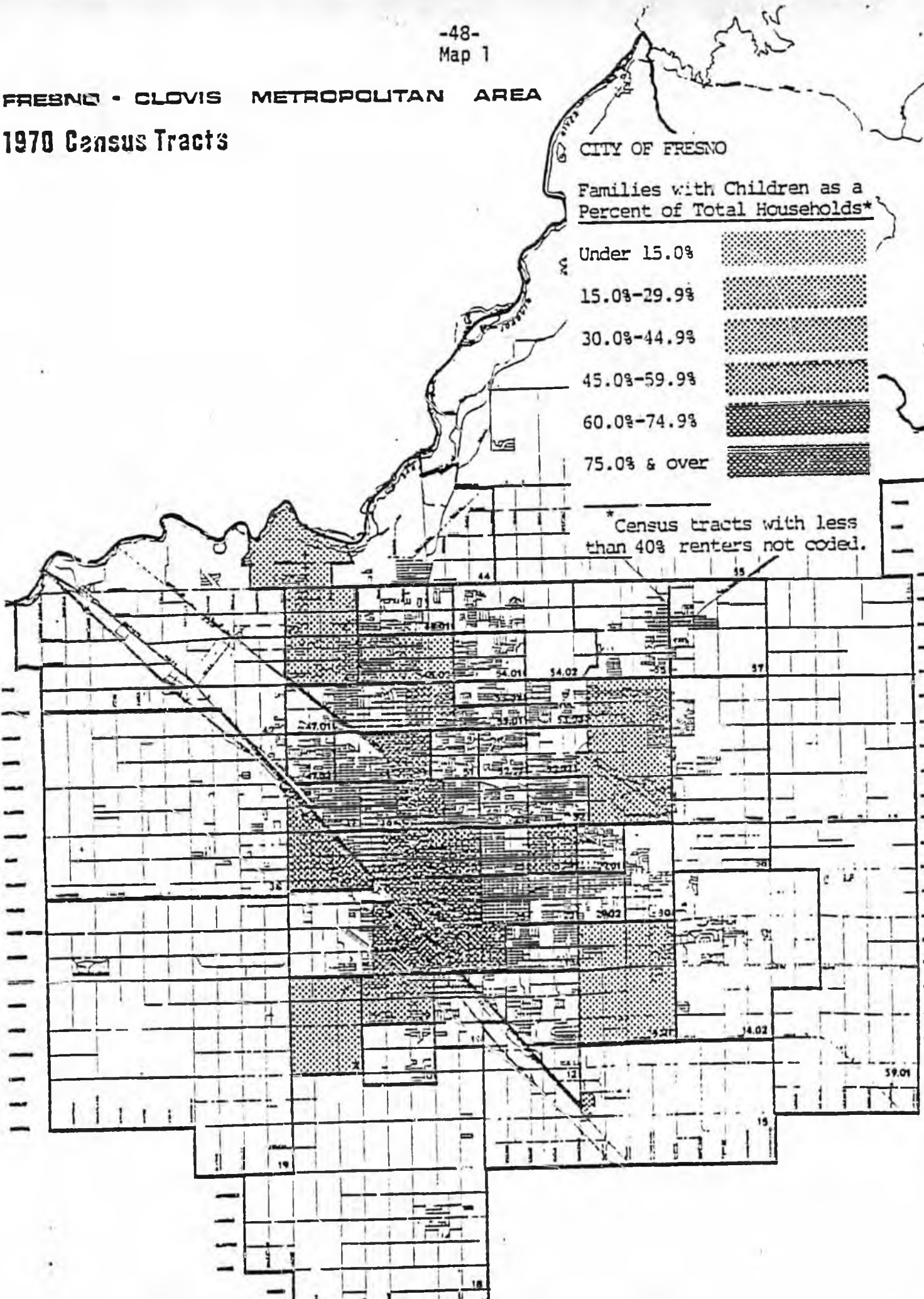
1970 Census Tracts

CITY OF FRESNO

Families with Children as a Percent of Total Households*



* Census tracts with less than 40% renters not coded.



-49-
Map 2



CITY OF LOS ANGELES

Families With Children as a
Percent of Total Households*

- Under 15.0%
- 15.0%-29.9%
- 30.0%-44.9%
- 45.0%-59.9%
- 60.0%-74.9%
- 75.0% & over

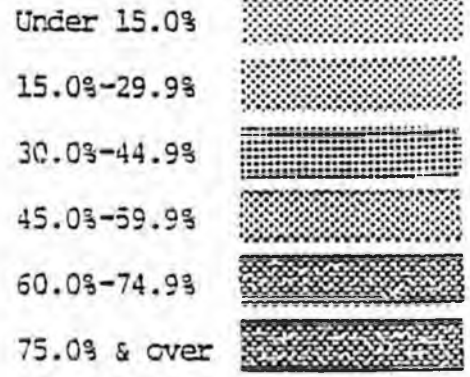
* Census tracts with less than 50% renters not coded.

TORREY PINES

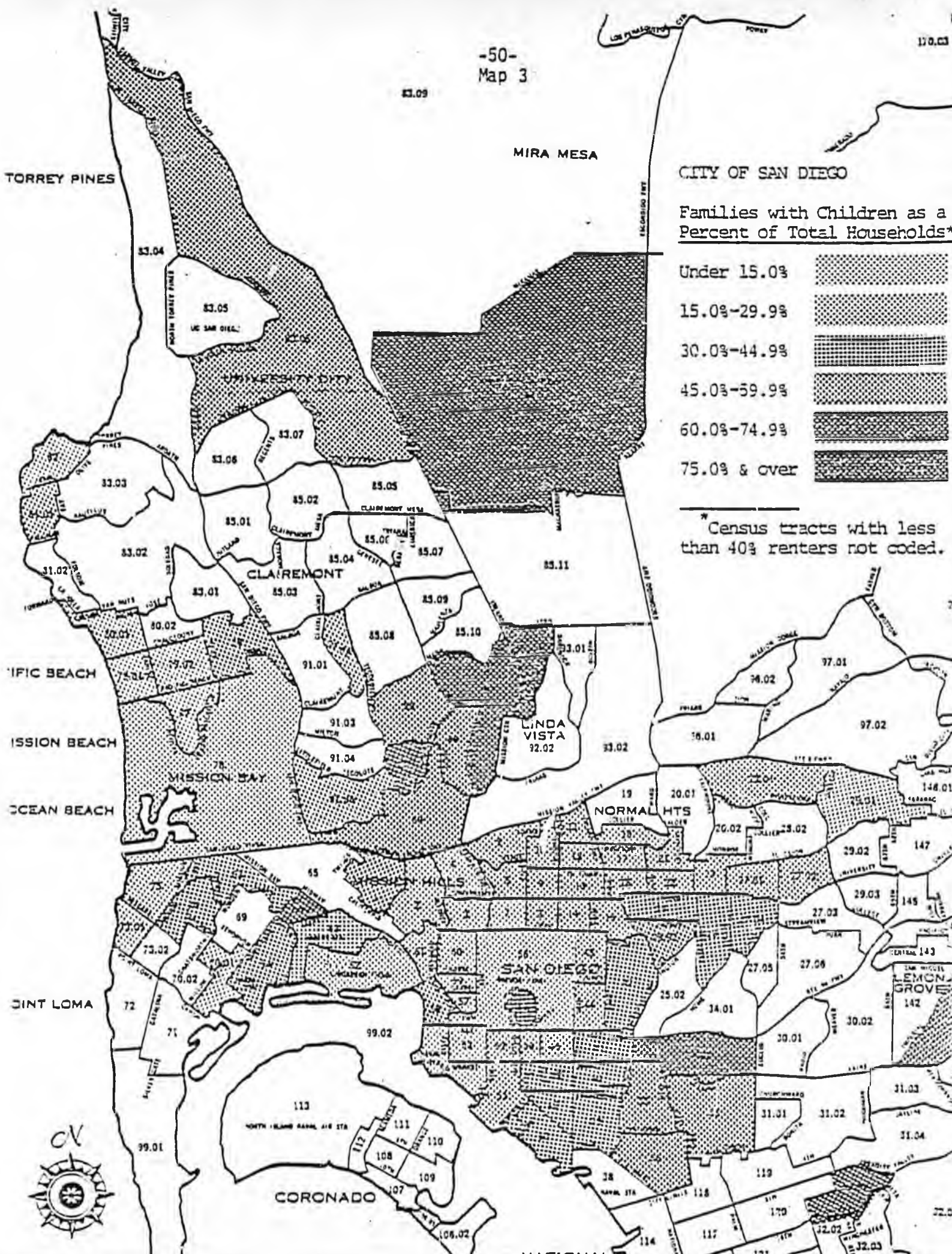
MIRA MESA

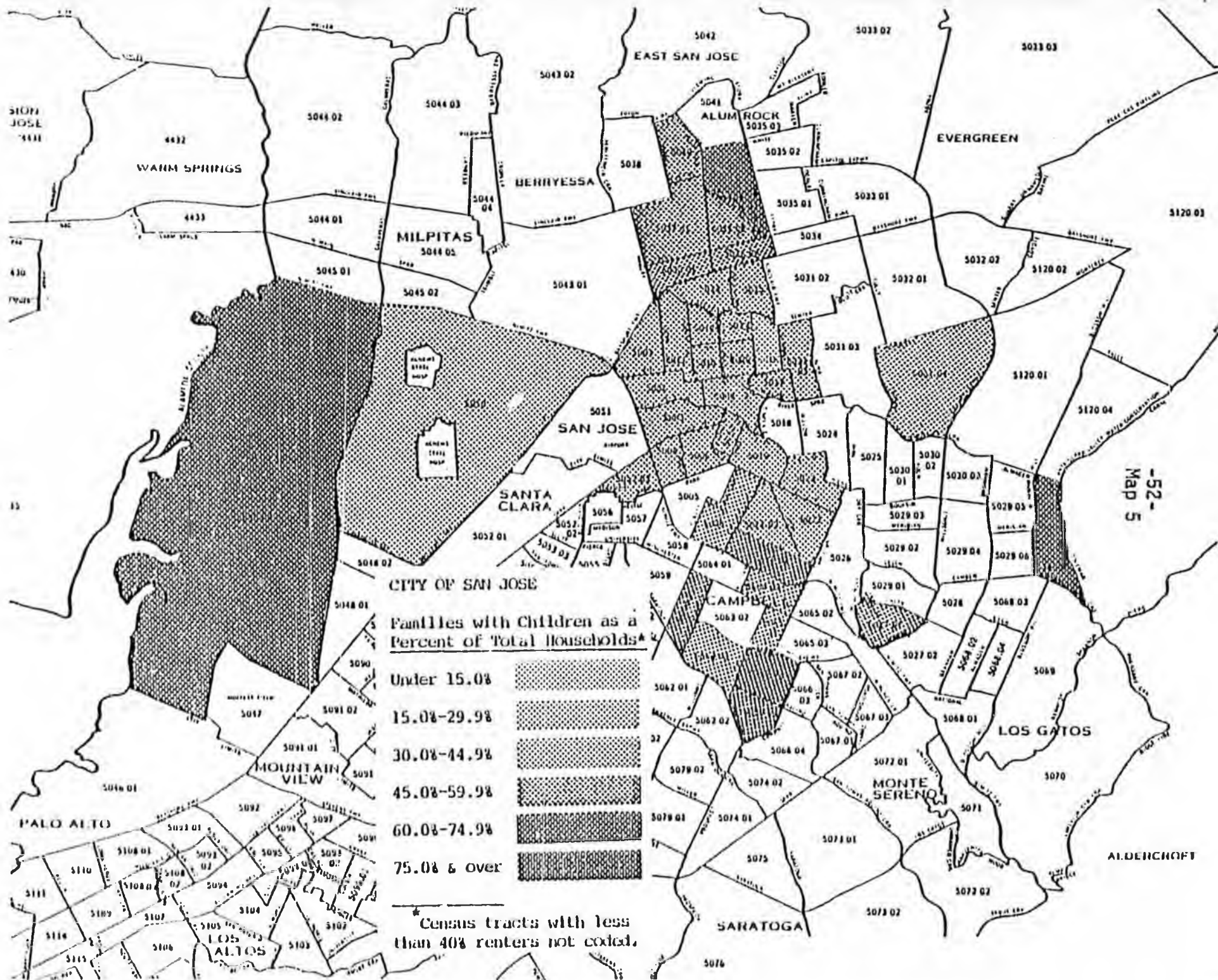
CITY OF SAN DIEGO

Families with Children as a
Percent of Total Households*



* Census tracts with less than 40% renters not coded.





STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AGENCIES
JULY 1, 1982
307 451 221

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 15, 1982

SUBJECT: Discrimination in rental housing
accommodations (Work Order No. 12-2776)

TO: Representative Hugh Malone

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked whether a recent California case, Marina Point, Ltd. v. Wolfson, 180 Cal. Rep. 496 (California 1982), has any application under Alaska law. The case deals with the question of whether an owner of an apartment complex may refuse to rent an apartment to a family solely because the family includes a minor child. The California Supreme Court concluded that the owner could not, but two justices dissented.

Although the exclusionary policy was challenged on the basis of an impermissible infringement on state and federal constitutional rights of familial privacy and equal protection of the law as well as on the basis of statutory rights, the case was decided under the Unruh Civil Rights Act of California. The court specifically declined to reach either state or federal constitutional contentions. Marina Point, supra, page 497, page 501. The dissent noted that equal protection and due process principles place no restrictions on purely private actions, but affect only state action. Marina Point, supra, page 512.

In general, a case decided by another state court has no precedential value in Alaska. Nevertheless, had the case been decided on federal constitutional grounds the reasoning in the case could have been directly applied. The Alaska court could also have rejected the reasoning of the California court in interpreting the federal constitution. Although each state court interprets its own constitution and its own statutes, the Alaska court relies on case law from other jurisdictions to support similar conclusions.

April 15, 1982

The court could rely on the reasoning in this case, especially if the court were interpreting a statute similar to the Unruh Civil Rights Act of California. However, AS 18.80.230 and AS 18.80.240 differ considerably from the Unruh Act, so I suspect that Marina Point, supra, would be deemed to be of little value in interpreting Alaska law.

The pertinent part of the Unruh Act, Civil Code section 51 provides:

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges or services in all business establishments of every kind whatsoever.

The phrase "all business establishments" has been held to apply to the business of renting housing accommodations. Marina Point, supra, page 501. In addition, the California court has interpreted the statute to prohibit all arbitrary discrimination by business establishments, with the particular bases of discrimination listed (sex, race, color, etc.) being illustrative rather than restrictive. In re Cox, 474 P.2d 992 (California 1970). This judicial interpretation has not been disturbed by the legislature. The court notes that the legislature is presumed to be aware of and to have acquiesced in the judicial construction when it amends a statute without altering the portions that have been construed as was done with the Unruh Act in 1974. Marina Point, supra, page 504. The court bases its holding that an owner may not refuse to rent an apartment to a family solely because the family includes a minor child on the fact that this amounts to arbitrary discrimination within the terms of the Unruh Act as judicially construed.

The pertinent Alaska statutes have not been judicially construed to forbid any arbitrary discrimination as was done in California nor have they been construed to forbid discrimination on any basis other than those specifically listed in the statute. AS 18.80.230 forbids discrimination in public accommodations on the basis of "sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin". (Emphasis added). AS 18.80.240 deals with the discrimination in the sale or rental of real

property separately from the section that deals with discrimination in public accommodations. Discrimination is forbidden on the basis of "sex, marital status, changes in marital status, pregnancy, race, religion, color or national origin". Discrimination in public accommodations and discrimination in rental of property are treated the same under the Unruh Act, while discrimination in these two areas are treated differently in Alaska. In fact, AS 18.80.250(1) and (2) specifically authorizes discrimination in the rental of housing as between married and single people. It would be difficult for the court in Alaska to conclude, as the court in California concluded, that the legislature intended to forbid all arbitrary discrimination with respect to the rental of housing. The fact that "parenthood" is included in the list of protected classes for purposes of public accommodations and excluded from the list for purposes of rental housing suggests the opposite, that the legislature intended to forbid discrimination in the rental of housing only on the basis of specifically listed factors.

In conclusion, since the decision in Marina Point, supra, is based on a statutory scheme that differs markedly from the statutory scheme in Alaka, it will have no direct affect on Alaska law.

TBC:ljb

SUB. REF



ALL OF THE FOLLOWING MESSAGES GO TO :

HOUSE LABOR AND COMMERCE, REPRESENTATIVES: FURNACE, UEHLING, RINGSTAD, COWDERY, HUBBELL, LISKA, VASKA, GOLL, LARSON AND REFS. DAVIS, BETTSWORTH KOPONEN, M.W.MILLER AND SENATORS MOSS, FAHRENKAMP, AND BENNETT

RE: HOUSE BILL 131 AN ACT RELATING TO UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL PROPERTY.

FROM: BILL WORTMAN, DISPLACED HOMEMAKERS, 516 2ND AVE. ROOM 220, FAIRBANKS 99701 HOME 479-3624 WORK 456-8428

RE: HB 131

THIS AGENCY SUPPORTS HB131 BECAUSE HOUSING IS ONE OF THE MAJOR PROBLEMS IN FAIRBANKS AT THE PRESENT TIME AND AVAILABLE HOUSING UNITS WHICH DO NOT ALLOW CHILDREN ADDS TO THE EXISTING HOUSING PROBLEM. MANY OF OUR CLIENTS HAVE A DIFFICULT TIME FINDING ACCEPTABLE HOUSING WHICH ACCEPTS CHILDREN.

EOM*****

FROM: TERESA A. SNOWDEN, P.O. BOX 60129, FAIRBANKS 99706 HOME 452-7059 WORK 456-8428



RE: HB 131

I SUPPORT HB131 BECAUSE HOUSING IS VERY DIFFICULT TO FIND AND THE DISCRIMINATION AGAINST CHILDREN MAKES IT EVEN MORE DIFFICULT. WE MOVED HERE IN AUGUST AND IT TOOK US UNTIL FEBRUARY TO FIND ACCEPTABLE HOUSING WHICH ACCEPTS CHILDREN.

EOM*****

FAIRBANKS 3/31/83

FROM: LESLIE SIMAR, S.R. BOX 40122, FAIRBANKS 99701 HOME 456-5289 WORK 456-8473



RE: HB 131

I SUPPORT HB 131. HOUSING SITUATION IN FAIRBANKS IS A DISGRACE. FEW VACANCIES EXIST AND THESE AT EXHORBITANT RATES. DISCRIMINATION AGAINST PERSONS WHO HAVE CHILDREN IS UNFAIR. CHILDREN AND PETS SEEM TO BE IN THE SAME CATEGORY WHEN RENTING - BOTH UNDESIRABLE. I URGE PASSAGE OF HB 131, PLEASE.

EOM*****

HOUSE LABOR AND COMMERCE, REPRESENTATIVES: FURNACE, UEHLING, RINGSTAD, COWDERY, ~~BOYD~~, LISKA, VASKA, GOLL, LARSON AND REFS. DAVIS, BETTISWORTH KOPONEN, M.W.MILLER AND SENATORS MOSS, FAHRENKAMP, AND BENNETT

Jul, Red

RE: HOUSE BILL 131 AN ACT-RELATING TO UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL PROPERTY.



FROM: JERADELL DEZARN YOUNG, S.R. BOX 10289.7, FAIRBANKS 99701 HOME 479-5036



RE: HB131

I SUPPORT THE ADDITION OF THE WORD "PARENTHOOD" TO THE DISCRIMINATION IN HOUSING ACT. LET'S NOT MAKE IT ANY MORE DIFFICULT THAN ALREADY IS TO RENT OR BUY HOUSING.

TO: HOUSE LABOR AND COMMERCE

FBX 3/31

FROM: SHARON VAUGHN AND RICHARD BARRICKMAN, 1215 BUNNELL, APT. 34., FAIRBANKS 99701 HOME 456-7341



RE: HB131

I'VE HAVE EXPERIENCED THE PROBLEM OF NOT BEING ABLE TO RENT WITH CHILDREN MANY TIMES AND I WOULD APPRECIATE ANY HELP YOU WILL GIVE TO SEE THAT THIS BILL PASSES.

FROM***** FAIRBANKS 3/31/83

FROM: MARY K. WILTMIRE, 2007 CARP ST., FAIRBANKS, 99701 HOME 456-4985

RE: HB131

I SUPPORT HB131 AS HOUSING IS A MAJOR PROBLEM IN FAIRBANKS. IT IS BECOMING INCREASINGLY HARDER FOR SINGLE PARENTS WITH CHILDREN TO FIND SUITABLE HOUSING. THIS DISCRIMINATION IS UNFAIR AND NEEDS TO BE CORRECTED.

END OF ALL MESSAGES*****

JR

March 18, 1983

Charlie Bussell, Chairman
Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99811



Dear Chairman Bussell:

Re: House Bill 1 and 131

We would like to voice our opposition to the portion of House Bill 1 which allows 45 calendar days, rather than 30 days written notice to terminate month to month tenancy and substantial changes to rental agreements. We believe that 30 days is adequate and would not be especially good for either landlord or tenant. Most people who are renting on a month to month basis want the flexibility of being able to move within a month's time. We believe putting a longer time period on is apt to give landlords reason to require a month and a half rather than last month's rent which would be a hardship on tenants. On the landlord's side we believe the longer time would increase problems and lost rents if you have a tenant problem. Landlords must increase rents to recoup lost revenue so in the long run the tenant is the loser.

We also oppose House Bill 131. in its entirety. It just adds more rules and regulations. Most buildings which can adequately hold children rent to parents so it seems a waste and will only add problems. Also, landlords must know the number of tenants in an apt. and keep records which could be misconstrued as "keeping records of someone's parenthood status".

Please consider these views when the bills come before your Committee.

Sincerely,

A handwritten signature in cursive script that reads 'Ken & Arlene Brovald'.

Ken & Arlene Brovald
3524 Alamosa Drive
Anchorage, Alaska 99502

The drunken slaughter must halt

The ~~days~~ are gone but the pain, emptiness and grief remain. Haunting memories have returned. It is a nightmare I've lived through three times in thirteen years.

In what was called the worst accident in Anchorage my 17-year-old niece, one of three Anchorage East High cheerleaders, was killed by a drunken driver as she returned from a wrestling match in 1970.

In 1977, another niece was assisting a motorist on the Seward Highway when she was struck and killed, again by an impaired driver.

Two weeks ago tragedy struck again. While I have yet to learn all the details, I do know my lovely young 20-year-old nephew was obeying all traffic laws and minding his own business when his vehicle was smashed into by a participant in a drag race on Benson Blvd. Police records indicate drinking, speeding and running a red light. My nephew is now dead.

I know that nothing I can do can bring my nephew back but I feel I can and must attempt to save the lives of others like he and my two nieces.

I have questions and I want answers. Those who read this should want answers, too!

Why was there no publicity surrounding my nephew's accident? I'm aware of two other accidents involving similar circumstances the same evening. All three accidents occurred sometime after a concert at the Sullivan Sports Arena. None of them received any media attention. Why?

Ironically, the following week there were public hearings regarding the sale of beer and wine at the arena. Is the city so interested in the profit of such sales that information about accidents on the night of concerts are routinely and purposefully suppressed? I would suggest the municipal fathers take another look at this issue. If we are truly attempting to rid ourselves of the menace of drunken drivers it astounds me to think our municipal government is pushing the sale of intoxicating beverages and suppressing the possible consequences. You can be assured I will be knocking on the door of the mayor and members of the assembly to see this decadence stopped.

MADD, I'll be knocking on your door too. It is time for the wanton slaughter of innocent people on our roads and highways to cease forever.

— Mrs. Lucy Whitehead

News

3/10/83

Share our feelings, too
Ally Brewer

Comments Regarding HB 131

from a landlady of 17 years experience owning a 4-plex of three bedroom units across the street from an elementary school.

The purpose of owning rental property is to make a profit. The way to do this is to rent at a price which covers expenses plus a profit equal to what you would get if the capital were invested elsewhere plus a factor for management. In the case of the owner of one 4-plex, this management factor is usually represented by his own time and energy.

In an era when the State is being asked to provide endless social services, cultural uplift, sports palaces, indoor high school hockey j rinks, senior citizen recreation centers, free abortions, birth control pills for minors without parental notification, etc., it would seem that the State would appreciate a small business person trying to provide for their own retirement.

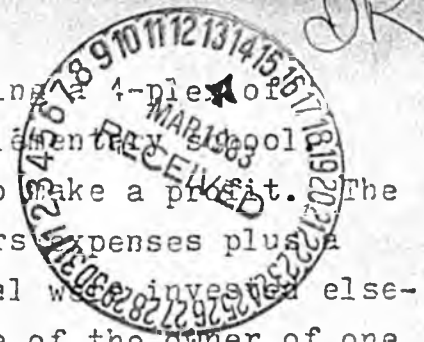
Unless the State wishes to take over the rental housing industry with its risks - it would do well to make the laws as clear, brief and non restrictive as possible regarding that industry.

The repeated references to parenthood in this bill are disturbing because it is not clear whether this means parenthood or children. We at Alaska Landlord and Property Managers Ass'n. of which I am on the executive board, had always thought it meant a human being who was a father or a mother. The Human Rights Commission in Anchorage seems to think it means parents with children occupying the same dwelling unit. There seems to be little or no case law on the subject.

It is immaterial to me whether a tenant has experienced parenthood or not. However, a tenant with a child between 15 months and 8 yrs. living with him is a different matter. I have found that putting tenants with such children on the upper floor disturbs the tenant below. It is primarily the sound of their running and playing over head that bothers the lower tenant. This is very real. It is much more satisfactory for all concerned to put such families on the lower level of my 4-plex. Also I am selective of the parents; do they appear to be able to control the kids in respect to others' property and their quiet enjoyment of the areas they share in common with other tenants?

I consider families with children desirable because they stay longer. I am very strongly against HB 131 because I would lose tenants if I had to place certain children in those upper units.

Alice Brewer
1201 West 45th Ave
Anchorage Alaska 99503



JR

March 15, 1983



Mr. Walter Furnace
House of Representatives
Juneau, Alaska 99811

Dear Mr. Furnace,

I am writing concerning HB 131 which is up for consideration before the Labor and Commerce Committee. Let me say that I as a landlord and property owner am opposed to any legislation that will make a criminal out of me because I am compelled by law to rent, lease any of my property to anyone who may cause damage, or by their actions or life style cause problems for me. I have no quarrel with the sex, race, religion, or national origin but I do feel that because of the nature of some of my rentals I have to be able to exercise some control over to whom I rent. Some of my tenants work irregular hours and need to have quiet, this may not be possible if I were compelled to rent to tenants with children. In some instances when I do rent to tenants with children, I feel that I should have the right to determine the number of children I feel the apartment can comfortably and safely accomodate. We are becoming more aware of child abuse and I feel that over-crowded conditions contribute to this social problem.

Also, I feel that the sale and rental of property are two different ball games. As long as I own the property I have to be responsible for the condition of the property and the welfare of the other tenants. If I choose to sell the property, and I am referring more to single family dwellings, then it becomes the property of the buyer and he is turn can do with the property as he wishes without having to concern himself with the well-being of the other tenants.

I trust you will take into consideration some of the rights of the property owners as well as the tenant when you review this bill. As a property owner, I have a much larger investment in my property than a tenant who at most may have a few hundred dollars set aside as a security deposit. In most cases the security deposit will not begin to compensate for the damage an inconsiderate tenant can do.

Sincerely,

Ralph S. Hanson
12 1/2 East Potter Dr.
Anchorage, Alaska 99502

- cc: Mr. Charles Russell
- Mr. Rick Uehling
- Mr. Cowder
- Mr. Joe Hayes
- Ms. Kanona Barnes
- Mr. John Lindauer

H B

1 4 0

1

HR 140 AN ACT AUTHORIZING CAPITAL PUNISHMENT, CLASSIFYING MURDER IN THE FIRST DEGREE AS A CAPITAL FELONY, AND ESTABLISHING SENTENCING PROCEDURES FOR CAPITAL FELONIES

PRIME SPONSORS: PESTINGER

CO-SPONSORS: WARD FLOOD LISKI SHULTZ

<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>HOUSE ACTION</u>	<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>SENATE ACTION</u>
01/28/83	01	0131	FIRST READING -- COMMITTEE REPORTS				
04/13/84	02	3324	JUD -- CS02, NR02				
04/13/84	03	3324	JUD F/NOTE EQUALS ZERO				
** 04/13/84	04	3325	JUD F/NOTE HSE SUPPL #128 FINANCE RULES				

HB 141 AN ACT MAKING A SPECIAL APPROPRIATION TO THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FOR PAYMENT AS A GRANT FOR THE IDITAROD TRAIL COMMITTEE, INC., FOR CONSTRUCTION PERMANENT RACE HEADQUARTERS; PROVIDE EFFECT DATE

PRIME SPONSORS: LARSON

CO-SPONSORS: FULLER

<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>HOUSE ACTION</u>	<u>DATE</u>	<u>SEQ. NO.</u>	<u>JOURNAL PAGE</u>	<u>SENATE ACTION</u>
01/28/83	01	0131	FIRST READING -- COMMITTEE REPORTS				
** 03/22/84	02	3012	L&C -- CS04 FINANCE RULES				

Execution set for Monday

By CHARLES C. HILL
The Associated Press

New 1/24/83

HUNTSVILLE, Texas — Attorneys for convicted murderer Thomas Andy Barefoot, sentenced to die Tuesday by lethal injection, will ask a U.S. district judge Monday to put off the execution because they say there is new evidence in the case.

Barefoot's lawyers, who also have appealed to the Supreme Court for a stay of execution, will go before U.S. District Judge Lucius Bunton in El Paso on Monday.

Barefoot, convicted of killing a Harker Heights policeman, is scheduled to die before dawn Tuesday in the same death chamber where Charlie Brooks Jr. on Dec. 7 became the first U.S. inmate to be executed by lethal injection.

Barefoot's execution would make Texas the first state to put to death more than one prisoner since the Supreme Court reinstated the death sentence in 1976.

Barefoot, 37, maintains he is innocent and said that if the state kills him, it would be committing the "most premeditated of murders."

His latest appeals came after the 5th U.S. Circuit Court of Appeals on Thursday rejected defense lawyers' contentions that a stay should be granted on grounds that two psychiatrists' testimony should not have been allowed and that a witness now says she lied when she said a man she saw near the time of the shooting resembled Barefoot.

The former oilfield roughneck was convicted of capital murder in the death of policeman Carl Levin, 31, on Aug. 7, 1978, in Harker Heights, a central Texas town.

Prosecutors said Barefoot shot Levin while being questioned about a nightclub fire. They said Barefoot feared the officer would discover Barefoot was a fugitive, wanted in New Mexico on charges that he raped a 3-year-old girl and escaped from jail.

midnight, the prison warden would give the condemned man a chance to say his last words. Then the warden would give word to start the execution.

The executioner, who be hidden behind a locked door and a wall with a one-way mirror, would inject the intravenous solution by means of a tube snaking through the wall to the inmate. Death should come within minutes. Two other drugs are also injected to assure death.

Brooks, convicted of murdering an auto mechanic in Fort Worth, was the first Texas inmate executed since 1964.

He previously had served a year in in prison for cocaine possession in Louisiana and another year for possession of a sawed-off shotgun in Oklahoma.

Prison officials say that if his appeals fail, Barefoot would be executed at The Walls prison in the same manner as Brooks:

About 11:30 p.m. Monday, two needles would be inserted into his arms and connected to neutral intravenous solutions. A few minutes after

Ignore liberals; fry the murderers

Reinstatement of the death penalty is long overdue. The bleeding heart liberals would have you believe these murders were altar boys on holiday. I say fry the creeps.

NEWS 3-7-83 - Frank O'Dell

Capital punishment views sought

To the editor:

I am writing this in hopes that thinking people will become aware of House Bill 140, which as of this writing was awaiting a hearing in the House Judiciary Committee. This bill, if passed, would authorize capital punishment for certain offenses within the state.

With this bill, we seem to once again put aside the information gathered on the subject and resort to the ancient eye-for-an-eye and tooth-for-a-tooth philosophy. Admittedly, our justice system needs a radical

overhaul, but the short-term solution of killing people for killing people makes little sense to me. Many of the people who call themselves "experts" on criminology have basically come to similar conclusions, namely, the death penalty does not stop the kind of crimes it is designed to, but tends to show a lower stage of development for the societies which use it.

I'd like to again call on all those thinking people who feel other solutions should be sought in place of state-sanctioned killing, to write to our representatives on this bill. I'd like to especially appeal to my friends in the

pro-life movement and hope that their desire for consistency will compel them to speak out on this issue.

Greg Stevens
Juneau

LETTERS TO THE EDITOR are the readers' opportunity to speak out on any legitimate or timely topic. Letters should be typed or neatly handwritten. Brevity is desirable. Anonymous letters will not be published, and the editor reserves the right to edit as necessary. Letter writers should include their address and phone number for the editor's reference.

Death penalty debate

NEWS 2-15-53
Legislators and onlookers in the Alaska Senate got a rueful chuckle out of committee referrals made by Senate President Jalmar Kerttula for a death penalty bill introduced last week. Sen. Kerttula sent the bill to both the Judiciary and Finance committees, noting that "it costs money" when the latter assignment drew guffaws. Sen. Joe Josephson, who chairs the Senate Health and Social Services Committee occasioned further chuckles with his observation that the bill "has certain health implications as well."

The laughter no doubt served to break the tension surrounding a very serious matter for all concerned. But committee referrals to at least two different panels indicate that the Senate will give the idea plenty of scrutiny before moving on any death penalty bill this session. And that scrutiny suggests a further consideration for chairmen planning committee hearings: the need for broad public participation in any decision to embrace the death penalty in our state.

The death penalty implicates every citizen in a cycle of violence the state seeks to stop. Before any death penalty bill can advance to a vote of the legislature, it must bear widespread scrutiny and debate among all Alaskans. Public hearings must be held around the state; reputable research about the death penalty and its impacts must be widely distributed and debated; the methods and circumstances of imposing capital punishment must be carefully defined; and, finally, Alaska citizens and their leaders must forthrightly confront the moral dimensions of a painful issue. Such scrutiny would be difficult at best, but it is the very least demanded of a democratic state that would adopt the authority to impose a penalty of death.

NEWS - 2-8-83 - Bennett E. Taber

Death penalty instills respect

Your Jan. 30 editorial opposing the death penalty begs reply. Illegal executions is very much in force and has been. All victims of illegal execution (murder) are innocent. This overwhelms the concerns that the state might mistakenly condemn the wrong person.

No proponent I know of wants revenge. We want that potentially violent minority we live with to have respect for society and its laws. In place of respect there is arrogance and contempt. I've seen guns waved and murder threats casually performed.

Sometime in the future, social evolution will take us to that plateau of civilization where we no longer need state executions. How could you state that the victim's pain is acknowledged and properly mourned. Very untrue! No one can imagine the Hitchcock nightmare of a fear-ravaged poor soul fending off repeated strikes of a sharp knife. Or the silent struggle of a woman, her neck in the strong grip of the strangler.

Please print this as soon as possible so it will work as a reply to your editorial.

— Harold Hermann

Pestinger proposes death penalty

by Bill White
Times Juneau Bureau

Juneau — A bill to resurrect the death penalty in Alaska after a 26-year absence from the state's law books was introduced today by freshman Rep. Sam Pestinger.

The bill would allow a judge to sentence to death some criminals convicted of first degree murder. The method of execution would be decided by the state agency in charge.

"During my campaign, there was strong voter support throughout our district for a carefully reasoned law that would permit capital punishment," said Pestinger, R-Anchorage.

"I believe this is such a law."

Sen. Fritz Pettyjohn, R-Anchorage, is

working on a similar bill for introduction in the Senate.

The death penalty was abolished in Alaska in 1957. Co-sponsor of that bill was Sen. Vic Fischer, D-Anchorage, then a member of the territorial legislature.

"It's anti-Christ," Fischer said Thursday of Pestinger's proposal.

"As punishment it violates the commandments," he said, citing the one that states, "Thou shalt not kill."

"And it violates the (state) constitution," he added, citing the section that says, "Penal administration shall be based on the principle of reformation and upon the need for protecting the public."

Alaska executed nine criminals before the death penalty was abolished. The last to

die was Eugene La Moore, who was hanged in 1950 at the Juneau federal jail for the murder and robbery of a local grocer.

Pestinger's bill calls for the jury to advise the judge on whether to sentence a first degree murderer to death or life in prison. The judge would need to find one of seven "aggravating factors" to exist before imposing the death sentence. They include:

- The defendant tortured or committed aggravated battery on the victim.
- The defendant was a paid assassin.
- The defendant murdered a police officer, fire fighter, prison guard or prosecutor.
- The defendant belonged to a gang or terrorist group of at least five members, and the murder was committed to further the

group's criminal goals.

Pestinger said the jury's advice — which may be ignored — and the aggravating circumstances provide needed checks on the judge's sentence.

"When you're talking about taking a man's life, then you need a lot of checks and balances," he said.

Pettyjohn said his bill proposes one main difference. The jury, not the judge, would impose sentence after a separate hearing on the sentence.

Gov. Bill Sheffield said during his election campaign he supports capital punishment. But he refused to comment on Pestinger's bill without reading it, then reviewing it with Cabinet members, the legislature and the public.

Supreme Court blocks killer's execution

Associated Press

Times 1/20/83
Huntsville, Texas — Less than a day before convicted police killer Thomas Andy Barefoot was to be put to death, his execution was blocked by the U.S. Supreme Court.

In a surprise move, the court in Washington scheduled a hearing on Barefoot's case April 26 and told Texas authorities to keep him alive at least until they use his case to decide how federal courts should handle emergency death penalty appeals.

Barefoot had been waiting today in a 7-foot by 9-foot cell a few feet from the death chamber in The Walls prison in downtown Huntsville. He was transferred to The Walls today from death row at the Ellis Unit, about 13

miles northeast of Huntsville, prison spokesman Rick Hartley said.

Barefoot, 37, was convicted of killing a Harker Heights policeman in 1978. He insists he is innocent and that his execution by lethal injection would be "the most premeditated of murders."

Barefoot shot police officer Carl Levin, 31, on Aug. 7, 1978, while being questioned about a nightclub fire. Officials said Barefoot feared Levin would learn he was wanted in New Mexico on charges that he raped a 3-year-old girl and escaped from jail.

The 5th U.S. Circuit Court of Appeals on Thursday rejected a motion to stay the execution.

The defense in the appeal argued that a trial witness has admitted lying when she said she saw a man resembling Barefoot around the time of the slaying, and it said that testimony was improperly allowed.

Six states have executed one man each since the Supreme Court approved reinstatement of capital punishment.

The execution of Charlie Brooks Jr. on Dec. 7 in Texas was the most recent and was the first time an execution was carried out by lethal injection.

Barefoot has twice served one-year prison terms, in Louisiana for cocaine possession and in Oklahoma for possession of a sawed-off shotgun.

1/12/83

the main concern. Parents "My son has already been wanted to know whether displaced twice," she said.

The meeting began with presentation by Eagle Riv

court report

Child molesting trial opens

A jury of three women and nine men on Tuesday listened to the prosecution's opening statement in the sexual molestation trial of Gillie Jacko, 77. Jacko, of Pedro Bay, is charged with molesting five elementary school-aged girls during the past few years. In her opening statement, Assistant District Attorney Betsy Sheley told the jury that the girls themselves, their confidants and public officials would testify during the trial this week. Defense lawyer Dan Hensley will make an opening statement after Sheley presents her case. There are 45 felony child molesting cases currently open in Anchorage, according to Sheley.

Change of venue granted

The trial of an accused escapee was moved to Palmer Tuesday. Thomas Nelson, 31, allegedly climbed the Palmer Jail fence and escaped late Sept. 30. He was caught walking toward Glennallen at Mile 131.5 of the Glenn Highway, according to court papers. Nelson is serving time for selling stolen outboard motors. Nelson apparently boycotted his scheduled trial Tuesday, remaining at Sixth Avenue Jail until a talk with his lawyer convinced him to show up. Then defense lawyer Jonathon Katcher moved to move the trial to Palmer, largely for the convenience of witnesses. Judge Karl Johnstone consented to the Palmer jury.

From Daily News staff reports

Two evening win slots on

Two competing night news shows won prime time slots on the statewide satellite system at a special meeting of the Rural Alaska Television Network (RATNet) board in Anchorage Tuesday.

The network, which controls access to state satellite channels in about 150 villages, agreed that KIMO-TV and KTTU-TV, both of Anchorage, may air half-hour statewide news programs on the satellite system for the next two years. Quarterly reviews will assure that production quality is maintained over the two-year period, according to Helene Nelson, Project Coordinator for the state Satellite TV Project.

RATNet's decision is especially important for KIMO because it means a move from their present undesirable 6:30 p.m. time slot to 6:30 p.m. considered prime time news shows.

KTTU will retain the 5

would begin. ask the members before they leave their appoint an acting director. Some of the members may be reappointed, he said. ive director John Blaine, who was hired 1980, said he was not surprised by 's action. "I'm surprised only by the," he said Tuesday. "I was expecting him to have his imprint on the arts. The erves at the pleasure of the governor. I e that the gains the council has made over few years aren't lost "

Gordon Smith, president of the Alaska Arts Alliance, a statewide group of arts organizations that receives state money, said the alliance will recommend criteria for appointing new council members.

"We'll recommend the kind of individual that might be appropriate," Smith said.

During last July's controversy between the council and arts groups, the alliance claimed the council was holding, for its own programs, \$1.8 million of the \$5.4 million that the legislature

ed as grants to arts groups. several resolutions calling utiny of the council's pro- sed to fund arts groups. aid the council had "always ices with money from its t the council's founding mention grants "

Friday, February 18, 1963. The Anchorage Times A-7

the editor

The death penalty

Dear Editor:

I am writing this in hopes that thinking people will become aware of House Bill 140, which as of this writing is awaiting a hearing in the House Judiciary Committee. This bill, if passed, would authorize capital punishment for certain offenses within the state.

With this bill, we seem to once again put aside the information gathered on the subject and resort to the ancient eye for an eye and tooth for a tooth philosophy. Admittedly our justice system

needs a radical overhaul, but the short term solution of killing people for killing people makes little sense to me.

Many of the people who call themselves "experts" on criminology have basically come to similar conclusions, namely, the death penalty does not stop the kind of crimes it is designed to, but tends to show a lower stage of development for the societies that use it.

Greg Stevens
Juneau

Opinion

JUNEAU EMPIRE

WILLIAM S. MORRIS III
PRESIDENT and PUBLISHER

JEFFREY A. WILSON
GENERAL MANAGER

CARL SAMPSON FRED HOWARD TOM BLUMENSHINE
Managing Editor Circulation Manager Production Manager

We favor the death penalty

Eight people are shot to death and then set afire aboard a fishing boat anchored near Craig.

Six McCarthy residents are gunned down in cold blood.

Four Anchorage teen-agers are chased down and shot to death as they walk through a park.

Two elderly Juneau residents are bound, stabbed 60 times until they die and then sexually assaulted.

Listed above are multiple murders that happened in our state during the last year. These are not just crimes; they are outrages against society. The grief they have caused cannot be measured in prison sentences; it is not enough just to take those criminals off the streets.

For crimes so shocking, so hateful, we believe the death penalty should be imposed.

The death penalty cannot be debated without emotion.

In arguing against it, many people believe a "civilized society" should never take a life. They argue the "eye for an eye" tenet should never be applied, and that the sentence is not a deterrent.

In the vast majority of cases, those arguments stand up. A person who acts in a moment of passion, even if he kills another person, should be given the benefit of the doubt and no death penalty should be allowed.

In the some cases, though, the criminal has suspended the rules of humanity.

Multiple murders — when a person kills one person and then keeps on killing — do not qualify the criminal for the compassion of society.

Neither do planned murders.

Neither does the killing of a law officer.

A death sentence should be imposed only after all possible avenues of appeal are pursued, and there exists no shadow of a doubt that the criminal's rights have been protected and that he or she is guilty as charged.

The Alaska Legislature is reviewing proposals to reinstate the death penalty. We urge its members to adopt such a proposal, as long as it guarantees that all appeals may be pursued.

We do not take joy in advocating such a position. In fact, sometimes it hurts to advocate what we believe is the right thing. But it hurts us not nearly as much as it hurts the friends and families of victims of such horrible crimes and the society that allows such criminals to live.

HB 140
JR

Call for the death penalty NEWS 1/12/83

Three murders in Anchorage the last week of 1982 prompt me to urge Gov. Sheffield to deliver on his promise to enact the death penalty as soon as possible.

I'm keenly interested because the lives of 1983 murder victims are at stake. I want to save some of them.

— Harold Hermann

Times
2-26-83

Capital punishment

Dear Editor:

So called enlightened experts on criminology may have come to conclusions about the death penalty not stopping the crimes it is supposed to. But us poor, uneducated and unenlightened non-experts are getting fed up to the eyeballs with your garbage and the continued killing by your "rehabilitated" criminals who roam the streets making it unsafe to go out of one's own house.

I refer to several incidents in this community such as the high school girl killed at Eastertime two or three years ago, the

woman and her son who were killed about one and a half years ago and the most recent one at Russian Jack Springs Park less than one year ago, when four teen-agers died.

We have had enough. The death penalty may not deter killing in some people's point of view. But I'll tell you what: It sure as shooting eliminates second offenders. It's about time more people became aware of this — politicians and bureaucrats included.

A. Ulen
Soldotna

A 11 man city

NO 119

FB 5245, 10-129 118



WYOMING LOTTERY
200 WEST COINE, WASHINGTON DC 20501
WV 344-4312 WV 248-1444

PLEASE TAKE TO GREAT YOU TO APPROVE HOUSE BILL 140 CONCERNING
THE STATE LOTTERY. IT IS REQUESTED THAT YOU CONTACT THE
LEGISLATIVE COUNCIL OF THE STATE OF WYOMING TO OBTAIN A
CURRENT VERSION OF THE BILL. IT IS REQUESTED THAT THE
OFFICE OF HEALTH AND HUMAN SERVICES BE ADVISED OF YOUR
ACTION. PLEASE REFER TO HOUSE BILL 140.



FROM: THOMAS WOOD, SR BOX 5209, EAGLE RIVER 99577
H 694-9430 W 562-2243

IF WE ARE EVER TO CONTROL THE OUT-OF-CONTROL RATE WHICH PERMEATES OUR CODDLING SOCIETY, WE NEED HARD AND FAST DETERRANTS FOR THE WOULD-BE CRIMINALS. ENOUGH OF THESE "GOODY TWO SHOES" REHABILITATORS AND THE GARBAGE THEY EXPOUND. DICK SCHULTZ IS ON THE RIGHT TRACK; CAPITAL PUNISHMENT IS A START IN THE RIGHT DIRECTION.



H3
285
140

3/11/83, SHIRLEE ANC LIO, 14662

TO: ALL MEMBERS, ALASKA LEGISLATURE

FROM: RUTH TADDA, 4511 FOLGER, ANCHORAGE 99507
H 561-8809 W 269-5534

AB ~~335~~
140

REFERENCE CAPITAL PUNISHMENT: DO NOT SUPPORT UNDER ANY
CIRCUMSTANCES. "THOU SHALT NOT KILL." I DO NOT BELIEVE
CAPITAL PUNISHMENT EVEN IN THE NAME OF THE JUSTICE SYSTEM
HAS THE RIGHT TO WAIVE THAT RULE.

MSG 83-00012745 PRTY 1 03/03/83 18:25:27 ORIG: LA01 IN= 0020 OUT= 0108
FROM: SHIRLEE ANC LIO TO: POMS JUNEAU INFO
TARGET: LJHL SUBJ: POM

3/3/83, SHIRLEE ANC LIO, 12745

TO: ALL MEMBERS, ALASKA LEGISLATURE

FROM: JAMES PLUMLEY
BOX 75, PRINCE OF PEACE DRIVE, EAGLE RIVER, AK 99577
(H) 694-5416 (W) 694-9511

IT IS TIME TO STOP TALKING AND VOTE ON THE DEATH PENALTY.
(HB 140) BEFORE THE STATE HAS ANY MORE MASS MURDERS.



TO: SENATORS ALL SENATORS

REPRESENTATIVES ALL REPRESENTATIVES

FROM: BRENDA STEPHENS

BOX 460

SOLDOTNA, ALASKA 99680

PH 342-4442

I WOULD LIKE TO SEE A BILL SUCH AS H.R. 1400 ADOPTED AS STATE LAW

WE HAVE BEEN PASSIVE AND CONDESCENDING FOR TOO LONG.

FROM: BRENDA STEPHENS

P.O. BOX 470

SOLDOTNA, ALASKA 99680

PH 342-4442

FROM WHAT I UNDERSTAND, ALASKA RECEIVES APPROXIMATELY 1.5 BILLION OF
FEDERAL MONEY YEARLY. IT IS THE LARGEST PERCENTAGE OF FEDERAL FUNDING
ANYWHERE.

ALTHOUGH I REALIZE THAT IT IS NOT POSSIBLE, MY LEGISLATURE WANTS
TO SPEND EVERY DOLLAR IT CAN (INCLUDING THE PERMANENT FUND), WE SHOULD
TRY TO BECOME INDEPENDENT FROM FEDERAL FUNDING.



4/26/83, SHIRLEE ANC LIO, 12215

TO: ALL MEMBERS, ALASKA HOUSE OF REPRESENTATIVES

FROM: ROBERT CLARK, P.O. BOX 4-1908, ANCHORAGE 99509
(RES: ATKINSON DR.) H 333-5295 W 266-1680

GILBERT AND SULLIVAN'S OPERA, THE MIKADO, STATED IT CLEARLY:
"LET THE PUNISHMENT FIT THE CRIME." SO THOSE FOUND GUILTY
OF VIOLENT CRIME DESERVED EXECUTION. AND IN THE BIBLE
GOD COMMANDED THAT MEN CONVICTED OF VIOLENT CRIME WERE TO
BE STONED TO DEATH. PASS HB 140.

BOARD OF CHURCH AND SOCIETY
ALASKA MISSIONARY CONFERENCE
915 SECOND AVENUE
FAIRBANKS, AK 99701
January 19, 1984



Bill file

Mr. Charlie Bussell, Chairman
House Judiciary Committee
Pouch V M/S 3100
Juneau, Alaska 99811

Re: HB 140

Dear Mr. Bussell:

Although other Western nations have largely abolished the death penalty; and after a decade-long moratorium on this ancient form of social vengeance, there now seems to be growing pressure to return it here in Alaska.

It is my hope that this pressure will be resisted and that HB 140 (seeking to reinstate the death penalty in Alaska) will not be supported.

The General Conference of The United Methodist Church has long opposed the death penalty. It is based on the "lex tallionis" which Jesus repudiated (see Matthew 5:38-39). "Gregg V. Georgia", although permitting the use of the death penalty as retribution, conceded the lack of evidence presented to the Supreme Court that it reduced violent crime.

Perhaps the most persuasive case against the death penalty is its history of falling unfairly and unequally upon outcast minorities.

For your information, I quote from the current Book of Discipline of The United Methodist Church:

"We support governmental measures designed to reduce and eliminate crime, consistent with respect for the basic freedom of persons. We reject all misuse of these necessary mechanisms, including their use for the purpose of persecuting or intimidating those whose race, appearance, life style, economic condition, or beliefs differ from those in authority, and we reject all careless, callous, or discriminatory enforcement of law...In the love of Christ who came to save those who are lost and vulnerable, we urge the creation of genuinely new systems of rehabilitation that will restore, preserve, and nurture the humanity of the imprisoned. FOR THE SAME REASON, WE OPPOSE CAPITAL PUNISHMENT AND URGE ITS ELIMINATION FROM ALL CRIMINAL CODES." (Emphasis mine.)

Thank you for taking time to read this letter. I hope you will do whatever you can to prevent a backward step from being taken in Alaska with regard to the death penalty.

Sincerely,

Church & Society Chairman for Alaska Methodists

cc: Alaska Legislators, UM churches in Alaska



METHODISM
For Two Centuries
PROCLAIMING
Grace and Freedom

POUCH V
JUNEAU, ALASKA 99811
465-4990
P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515



OR

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE
MEMBER
SPECIAL COMMITTEE ON FISHERIES
MEMBER
LEGISLATIVE COUNCIL
MEMBER
ALASKA CODE REVISION COMMISSION

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

May 2, 1983

W. C. Jones
337 East 24th Avenue
Anchorage, Alaska 99503

Dear Mr. Jones:

As you well know, I agree totally with you in regards to the issue of capital punishment in Alaska.

We need to figure a way to get it through the Legislature which as you know contains just enough liberals to break such legislation. In an attempt to circumvent that problem I put out a ballot proposition. I know the results will heavily favor instituting capital punishment for certain crimes in Alaska.

Armed with these results maybe we can lend some backbone to enough of the spineless ones to get the legislation through.

Thanks for the support and I hope we are out of here in a few days.

Best regards,

Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:lyn

The Honorable Charlie Bassell ^{enclosure in} Apr 23, 1983

Dear Sir,

I wish to express my support for ¹⁴⁰ Capitol punishment now being proposed.

To say it is not a deterrent goes against human nature. I think it would be a deterrent in many cases.

I am enclosing an article from Newsweek (May 24, 1982) This lists just a few examples. Of course we have our own cases of Meach and Hastings among many others who have wantonly murdered their victims.

Think of the recent case of three teenagers who murdered a helpless old lady for her car and a small amount of money. Can anyone say they would not have been deterred by the threat of a death penalty?

No one likes Capitol punishment. But we must think of the victims of murder, and perhaps more importantly, the tragedy for the loved ones they leave behind.

Sincerely,
W. C. Jones

W. C. JONES
337 E. 24
Anchorage, AK 99503



The Value of Punishment

GEORGE F. WILL

Last February Jimmy Lee Smith walked out of Soledad Prison. His partner in murder nineteen years ago, Gregory Powell, is scheduled for release from another California institution June 18. These and other parole cases, including Sirhan Sirhan's, have stirred proper fury.

On March 9, 1963, Ian Campbell and Carl Hettinger, young Los Angeles policemen, stopped a car that had made a suspicious U-turn. The occupants, Powell and Smith, pulled guns, disarmed the officers, drove to an onion field near Bakersfield and murdered Campbell. Hettinger escaped. The day Campbell was buried, a kidnapper and rapist named Miranda was arrested. Miranda's case generated one of the Warren Court expansions of defendants' rights. It became the basis of one of the blizzard of motions that caused the Powell-Smith case to consume almost seven years and fill 159 volumes—45,000 pages. The harrowing story is in Joseph Wambaugh's superb book (and movie) "The Onion Field."

Smith and Powell were sentenced to death. Retried, Smith was sentenced to life, Powell to death again. In 1972 California's capital-punishment law was declared unconstitutional, sparing Powell and 101 others, including Sirhan, who now says he should be paroled because his victim, Robert Kennedy, were he alive, would agree that he, Sirhan, has suffered enough.

Crime: It is grotesque for Sirhan to put words into the mouth of the man he silenced. And it is grotesque that in 1975—just seven years after his crime—the parole board set a 1986 release date, now moved up to Sept. 1, 1984. The board acted without knowledge of two letters he has written threatening to kill three people. To his lawyer he wrote concerning an author: "Hey Punk . . . if he [the author] gets his brains splattered—he will have asked for it like Robert Kennedy did . . . neither of you is beyond my reach." These threats may be a sufficient reason, but are not the best reason, for denying him parole. The best reason is that fifteen years in jail is not a punishment that fits his crime.

Sirhan has mastered the buzz words of the playacting that is a normal part of parole processes. He promises to work "to improve the quality of life" if he gets the parole that his says is dictated by "equal treatment un-

der the laws." Actually, the parole board has treated him as it does other murderers. But he did not just murder a man, he assaulted and maimed the democratic system that so many have died defending.

Punishment always involves a judgment of proportionateness. Of the 102 men who in 1972 were sentenced to die in San Quentin's apple-green gas chamber, 29 have been paroled and 25 have release dates. Steve Grogan, 30, was convicted with Charles Manson (another man saved in 1972). A witness to Grogan's crime quoted him saying: "So I had this big machete and I chopped his head off and it went bloop, bloop and rolled out of the way." Grogan has a 1987 release date. Another murderer,

*It is grotesque
for Sirhan
to put words into
the mouth of
the man he silenced.*

who was paroled after 1972, committed a second murder and is back on death row under a new capital-punishment law. Of the 2,173 men serving life sentences for murder in California, only two have been in prison more than twenty years. Increasingly, a life sentence is seen as a fraud that mocks the dead and jeopardizes the living by trivializing the crime of murder and diluting the indignation society needs for self-defense.

William Fain, 36, has twice had his parole from San Quentin blocked by public pressure. In 1967 he flagged a passing car, shotgunned a 17-year-old student and raped two young women. The murder victim's family has gathered 62,500 signatures protesting parole. A court has held that "awareness of the public hostility" is a legitimate reason for denying parole.

It may be unfortunate that parole decisions have become political issues. And it may be unconstitutional for them to be influenced by mass pressure tactics. However, a legitimate function of the political process is to serve as a safety valve when judges or

bureaucracies lacerate the public's sensibilities. Furthermore, law has an expressive function, expressing and thereby sustaining certain values. There also is a cathartic function of expressive state action. The Nuremberg tribunals, however problematic they were jurisprudentially, performed the vital function of civilizing the vengeance that was going to be expressed, one way or another.

Retribution: In 1952 Justice Hugo Black wrote: "Retribution is no longer the dominant objective of criminal law. Reformation and rehabilitation of offenders have become important goals of criminal jurisprudence." Today, after 30 years of rising crime and recidivism, we at least know what we do not know—how to reform and rehabilitate. In 1972 Justice Thurgood Marshall wrote that "punishment for the sake of retribution is not permissible under the Eighth Amendment." That is absurd. The element of retribution—vengeance, if you will—does not make punishment cruel and unusual, it makes punishment intelligible. It distinguishes punishment from therapy. Rehabilitation may be an ancillary result of punishment, but we punish to serve justice, by giving people what they deserve.

From plea bargaining through sentencing through paroling, the criminal-justice system is riddled with exercises of discretion that are unjustified by sufficient knowledge, and unrationalized by coherent theories. This is especially true at the parole stage, where judgments often presuppose—rashly—knowledge of rehabilitation and individual predictability.

In penology, as in other fields of social reform, the millennium has been indefinitely postponed. For now, we should do what we know how to do, for reasons we can explicate. We should use the criminal-justice system to isolate and punish—that is, to protect society from physical danger—and to strengthen society by administering condign punishments that express and nourish, through controlled indignation, the vigor of our values. We should be ashamed and alarmed to live in a society that does not intelligently express through its institutions the public's proper sense of proportionate punishment for the likes of Smith, Powell and Sirhan. We are in danger of becoming demoralized—literally, de-moralized.

AS 140
File

1666 Patterson
Anchorage, Alaska 99504
January 24, 1984



Rep..Charlie Bussell, Chair
House Judiciary Committee
Pouch V M/S 3100
Juneau, Alaska 99811

Dear Representative Bussell:

Just want to add my word of opposition to the Death Penalty concept for our life style here in Alaska.

When I compare actual societies, I would prefer one in which there is not the concept of ultimate revenge at the point of taking a life for a life.

It seems to me that we are saying "we will kill you to prove how wrong killing is". Doesn't make sense to me.

Sincerely,

A handwritten signature in cursive script that reads "John J. Shaffer".

John J. Shaffer

Enclosures: some statements on the subject that might be helpful to your deliberations.

Death penalty raises opposition

'Taking life diminishes each of us,' religious leaders say

(Compiled From News Releases)
INDIANAPOLIS — Religious leaders here voiced opposition to capital punishment as the state scheduled the execution of convicted murderer Steven Judy earlier this month.

Protestant and Catholic leaders urged the governor to commute the death sentence to life imprisonment prior to the execution, saying that "taking another life only compounds the tragedy and diminishes each of us."

Bishop James Armstrong, the United Methodist leader of the Indianapolis area, was the spokesperson at a news conference four days before the execution along with the Rev. Harold B. Statler of the Indiana Council of Churches and Rabbi Dennis C. Sasso.

Contrary to Will of God

Concern was expressed for the convicted murderer, for the families of both the victims and Judy's foster parents, for those who carried out the execution and for "the values of a civilized society and the conviction that capital punishment is contrary to the will of God."

Their opposition was based on four reasons: "it is morally wrong to continue the cycle of killing," "capital punishment is used in a discriminatory manner," "there is no conclusive evidence that it is a deterrent to crime," and "it is irrevocable — an error cannot be undone."

The 20 district superintendents of the UMC's North and South Indiana annual conferences also requested the governor to commute the sentence.

Several hundred persons gathered for an ecumenical prayer service in St. Ann of the Dunes Catholic Church near the state prison the Sunday before and joined in a candlelight vigil outside the prison.

A statement decrying violence — that which shaped Steven Judy's life, the violence he committed in taking the lives of four innocent victims, and that executed by the state in taking his life — was prepared by Bishop James Armstrong of the Indianapolis Area and read during funeral services March 12 for the convicted murderer.

Bishop Armstrong had been asked to participate in the service by Mr. Judy's

foster parents, Mr. and Mrs. Robert Carr, but he could not because of a meeting of the Methodist bishops of four denominations in Atlanta at the same time.

Bishop Armstrong's statement, which included a prayer for the victim's family, was read by the Rev. David Felton, a staff member of the Indiana Council of Churches who conducted the service at a funeral home.

"The Lord of the Christian faith, referring to a primitive law of retaliation, quoted it and said, 'It was said of old, an eye for an eye and a tooth for a tooth; but I say unto you . . .'

"Only the quality of life, expressed in routines of daily life, can overcome the prevailing, spreading climate of violence," the bishop said. "As the Epistle of I John suggests: 'Love must not be a matter of words or talk; it must be genuine and show itself in action (1 John 3:18 NEB).'"

The Social Principles of the United Methodist Church state the denomination's official opposition to capital

punishment and urges its elimination from all criminal codes.

Public support for the death penalty, however, has reached the highest point in 28 years, with 66 percent now supporting execution for persons convicted of murder, says the latest Gallup Poll.

The poll taken Jan. 30 to Feb. 2 found that 25 percent of the American public opposed capital punishment and nine percent had no opinion.

Public support increasing

Support for capital punishment has risen steadily from a low of 42 percent in 1966. But, while a large majority now favor the death penalty for murder, only 37 percent favor it for persons convicted of rape, 39 percent for treason and 22 percent for airplane hijacking.

Four persons have been executed in the U.S. since the 1976 Supreme Court decision lifting the ban on capital punishment.

Eight women and 731 men are on death row, more than 500 in Deep South states.



A TIME TO SPEAK

*Capital
punishment*

by Most Rev. Michael Kenny
Bishop of the Diocese of Juneau

The first time I met him two years ago, I liked him at once. He had just been named auxiliary bishop of Cleveland. At 41, he was the youngest member of the American hierarchy, and a black. He had an air of confidence about him that was in no way threatening. He was definitely a man on fire, but with a calm and without anger. And he had a warm and welcoming smile.

Since that first meeting, Bishop James Lyke has become not only a friend, but a man I greatly admire and respect. Among the bishops he has become an eloquent spokesman for the poor. Without pointing a finger or being self-righteous, he has challenged the bishops to be consistent, accountable and, above all, faithful to the Gospel. When he speaks, the bishops listen because he is serious, knowledgeable and on target.

At the conclusion of the National Conference meeting in November of 1980, Bishop Lyke took the assembly to task for spending an inordinate amount of time on items of lesser importance that came early on the agenda (e.g. the translation of a prayer for the Mass for St. Kateri Tekakwitha), and not leaving enough time for items of greater significance that came up later (e.g. a statement on capital punishment). The bishops accepted his point and the meeting in 1981 reflected a definite change.

On the capital punishment issue, Bishop Lyke had wanted to speak out in strong opposition. As a black he knew firsthand how unequally the death penalty is meted out to poor people and to minorities. But infinitely more important to him, as a Christian and as a Franciscan, he desired to proclaim how contrary to the compassion and gentleness of Jesus the execution of our brothers and sisters truly is. The bishop had wanted to say these things back in 1980, but time had run out.

Perhaps this is providential. For this month Bishop James Lyke has been given his moment to speak his mind and heart, and to tell others his reading of the Gospel. The circumstances grace his words with an eloquence, a power and a credibility that is inescapable.

On January 1, his 59-year-old brother Amos was murdered in his own home, brutally suffocated by four assailants. In the funeral homily Bishop Lyke spoke his truth.

"For those who killed my brother, we beg God's mercy and forgiveness. With St. Paul, we believe deeply that we shall overcome evil with good. We listen intently to Christ's words, 'Love your enemies; pray for your persecutors.'

"While we would want some form of justice, I would not desire the death penalty. Capital punishment is inconsistent with the way and thinking of Jesus, who could have called twelve legions of angels to his defense, but instead chose to die that even his enemies might have life.

"In a very real way, we are all on trial. So much of what all of us do fosters a climate of violence in our society and feeds the systems of aggression that cheapen human life.

"When we attempt to solve family problems through physical force or vitriolic words, when we applaud the injury of others, when we view television programs or attend movies wherein violence is glorified, when we use or condone the use of drugs, when we join gangs that bring fear and terror to our neighborhoods, when we purchase 'hot' goods, when we participate in these and so many like activities, we support and feed the climate of violence and the systems of aggression."

Thank you, Jim. God comfort you and your family. God give your brother eternal life. And God bless and forgive your brother's murderers.

THE BISHOP'S SCHEDULE

Feb. 2	Holy Name School, Catholic Schools Week
Feb. 2	St. Rose, Wrangell: Parish Council Meeting
Feb. 3	St. Paul's, Juneau
Feb. 6-7	St. Gregory's, Sitka
Feb. 14	Juneau: Br. Loughlan with lay and religious
Feb. 15-17	Sitka: Br. Loughlan, Priests Meeting
Feb. 17	Sitka: Br. Loughlan with lay and religious
Feb. 21	Ketchikan: Br. Loughlan with lay and religious
Feb. 21-23	Mt. Angel Seminary: consultation on social justice
Feb. 24	Cathedral, Ash Wednesday
Feb. 26	Anchorage: Anniversary of Papal Visit
Feb. 27	Cathedral: Rite of Election
Feb. 28	St. Peter's: Rite of Election
	St. Paul's: Rite of Election
	St. Therese, Skagway: Rite of Election

Former state corrections director opposes death penalty

By CHARLES F. CAMPBELL

Lately there has been quite a lot of talk on the part of candidates for public office about reinstatement of the death penalty in Alaska.

The news reports I have seen suggest to me that those advocating capital punishment legislation, in the course of their political efforts, have not taken the trouble to look into this matter except, perhaps, to read the polls which indicate that 75 percent of the people of Alaska favor the death penalty.

The fact of the matter is that for all of the controversy surrounding it, very few peo-

ple appear to know what needs to be known about this unhappy subject. For example, it is assumed that, if nothing else, the death penalty would save the state money, when in fact, the data indicates that the death penalty is the most costly remedy available in the criminal justice process.

I will take time here to comment on only one of the considerations which have so thoroughly convinced me that we should continue to reject the notion of capital punishment. The most compelling of these considerations is the matter of the probable effect of executions on those who



might be predisposed to violent crime. During the eight-year moratorium following the decision in *Furman v. Georgia*, the U.S. Supreme Court listened to reams of testimony on the issue of deterrence and was unable to conclude that there was a deterrent value to capital punishment.

And now we have extensive research conducted by

Bowers and Pierce of Northeastern University, supported by the findings of other investigations, which indicates that executions are *more likely to incite than to deter* potential murderers.

A judgment cannot yet be made as to the validity of the various studies on the question of deterrence, except to say that the weight of the evidence at present strongly argues against use of the death penalty, if our real concern is with the matter of reducing the incidence of major violent crime.

We really should not be surprised at the findings of the Bowers-Pierce research.

They tell us something that we already should have realized — that responding to violence with violence begets more violence. The state has no business sinking to the level of the behavior it has the responsibility to punish. Who is helped when the state engages in the grisly act which an execution inevitably is? Certainly not the victim or the victim's loved ones, and, as has become clearer, certainly not the potential victims of major violent crimes.

Apart from the question of deterrence, reinstatement of the death penalty would create a morass of ugly, cultural-

ly divisive, costly problems for the state, while accomplishing nothing of value.

Assuming that they are truly concerned about the best interests of the people of the state, I would strongly urge Mr. Fink and others running for political office, who have chosen to make use of the death penalty question in their political campaigns, to study this serious matter more carefully before talking about it further.

□ Charles F. Campbell is former director of the Alaska Division of Corrections.

letters from the people

Communication



Sept 78
Capital Punishment

From Bishop Jack Tuell

Oregonians face a number of moral issues in the balloting this November, but one that is as clear cut as any is Ballot Measure 8, which would restore the death penalty in certain cases. The United Methodist Church has taken a strong position on the subject: "We oppose capital punishment and urge its elimination from all criminal codes." (Discipline, Page 100.)

I agree with all of my heart that the death penalty is wrong and urge Oregonians to vote "no" on Ballot Measure 8. A brief summary of reasons:

Non-deterrence: The most common argument for imposing the death penalty is that it will deter crime. That is a lie. No reputable study bears out the contention that it will deter crime. Many studies show it to be irrelevant.

Irreversibility: No sentence can be more final than death. Yet frequently new evidence arises in murder cases and a person who has served ten years in prison is found to be innocent and is freed. What if that person were dead, killed by us? A Christian faith that teaches hope and reverence for life cannot condone such action.

Barbarousness: The death penalty is barbarous. "It is a killing done with extensive premeditation, with the long foreknowledge of the victim, with great ceremony, under cover of law and with widespread public approval." (Henry Schwartzchild) Furthermore, we do this act of barbarity, as the State acts in our names. How can a Christian participate in such slaughter?

Unfairness: It is a well-established fact that the people who end up on death row are the poor or the non-white. Of 3,859 people executed in the United States between 1930 and 1968, 63.5% were black. How often has a well-to-do white person accused of murder ended up being executed? And in one of the few situations in the world which may be discriminatory against men, over 99% of those 3,859 executed were men.

Those who favor the death penalty often accuse those who oppose it as caring more for criminals than for their victims. Nothing could be further from the truth! But as someone has asked, "Why do we kill people who kill people to prove that killing is wrong?"

Oregon has gained a reputation over the years as a humane and forward looking State. Let us not take this giant step backwards at the November elections.

Faithfully yours,
Jack M. Tuell

PORTLAND PASTOR HONORED

The Reverend Mr. Peter Warner, Pastor of the Parkrose United Methodist Church was honored June 20 by receiving a certificate of recognition by The National Conference of Christians and Jews of Portland. The citation is "For distinguished and uncommon contributions to and dedicated concern for varied segments of our community." "For a sensitive and empathetic spirit contributing to the lowering of barriers and changing of attitudes in the community, all being in the highest traditions of National Conference of Christians and Jews and bringing to bear 'the Brotherhood of Man.'"

Rev. Peter Warner, has been an American citizen for just five years but has been a member of this conference for several years, coming here from Jamaica, where he had been a member of the British Methodist Church and missionary to Jamaica.

In the nomination of Rev. Warner for this award, Barbara Roberts, Multnomah County Commissioner gave evidence of his community service and concern as she describes the several innovative activities

in which he and his church are engaged. Mrs. Roberts states "He is a professional counselor for Northwest Counsel Associates, chairman of the Parkrose School Board, referee for both amateur professional soccer. He is the innovator for an exciting new mental health program called "David's Harp."

"David's Harp" is a socialization program for patients being discharged from mental hospitals. The concept of the program is to build a bridge between hospital and community, by developing self-confidence and social skills in returning patients. More than 150 persons from the congregation have volunteered their services, and so far 75 persons have been trained and are working in the project that has come to be known as "David's Harp."

The United Methodist expresses congratulations to Peter Warner for this significant award and the spirit of ministry which he performs for Parkrose United Methodist Church and the Portland community. The entire conference can add its note of appreciation for this member of the annual conference having received this citation.



A PART OF the United Methodist participants in the International School of Christian Mission held at Portland

University are: (from left) Don Crego, Smith, Roberta Dykes, Dr. Don Struchiner, New York, and Marji Tuell.

Marji Tuell Contributes Article

Marji Tuell, a Certified Director of Music, speaks of TREADMILLS, TRENDS, AND TREATS, in an article written by her for Music Ministry, a monthly magazine for church musicians. The article appeared in the June, 1978 issue of the paper, edited by our curriculum resources of the United Methodist Church.

Everyone in the conference knows Marji as a person dedicated to good music in the church and one who has led many persons and groups in hymnsinging workshops in churches in Oregon and Idaho. Marji also taught a hymnody class at the April Assembly of The United Methodist Women in St. Louis.

The article is worthy of your attention and reading. It would be well for all church musicians and pastors to read it and share its wisdom within the Church.

Odell Church Plans Addition

October 1, has been set for the building of a new entrance ramp to the Odell UMC. The covered ramp will make easy access to the basement dining room and upper sanctuary for wheel chair users. The building program also calls for relocation of restrooms in the church keeping with modern plans related to wheel chair persons.

The total cost of the project will amount to \$18,000. All of the money has come from donations to the project except for \$5,000 from the Mid-Columbia Economic Development District Area on Aging. The new ramp will help the church expand its program to senior citizens in the community. The Rev. Mr. Ed. Stubbins, Pastor of the Odell church.

Ron Ray, Diane Serving In Africa

Oregon-Idaho Conference's latest conference members, Ron Ray and Diane, are serving in the Hausa, the trade language of the N.



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Katherine Fanning
Editor and Publisher

Howard Weaver
Managing Editor



Gerald E. Grilly
General Manager

Steve Lindbeck
Editorial Page Editor

Lawrence Fanning, Editor and Publisher 1967 to 1971
Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

2/27/83

Public reassurance in a civilized way

Superior Court Judge Victor Carlson admirably carried two big burdens in an Anchorage courtroom last week: protecting public safety and dealing with an angry outcry in the wake of the conviction of Charles L. Meach for the murder of four Alaska youths.

There was little doubt, once a Fairbanks jury convicted Mr. Meach of first-degree murder, that the circumstances demanded the stiffest possible sentence for one of Alaska's most brutal and vicious crimes. Charles Meach gunned down four separate victims in cold blood and without the least provocation. Eight years earlier he had killed a 22-year-old grocery clerk and been hospitalized for mental disease or defect. The public needed reassurance that he would never walk the streets again, and so it was done: Judge Carlson sentenced Mr. Meach to 396 years in prison — without chance of parole — in what was the maximum possible sentence and the longest prison term in state history.

But he did more than that. The remarkable part of Judge Carlson's sentencing comments was what he had to say about the "hue and cry for capital punishment" arising from the cold-blooded killings last spring. "I want this record to demonstrate," wrote the judge, "that capital punishment would be wrong and not in the public's interest if capital punishment was available in this case . . ."

And he listed seven concise reasons why the death penalty is inappropriate to a society pretending to call itself humane:

- Homicide on behalf of the state is inconsistent with our culture's most basic respect for human life;
- The expense of trying a capital case is large, since absolutely "no stone can be left unturned" by either side when the life of a defendant is at stake;
- The extra emotional cost to all, especially jurors, encourages acquittals when the prosecution might otherwise meet its burden of proof beyond a reasonable doubt;
- The criminal justice system is not above error, but there can be no recourse if an innocent person is put to death;
- The death penalty skews the administration of justice when defendants — acutely aware that the trial process is not infallible — plead guilty to lesser offenses to avoid the threat of a death penalty;
- Imposition of the death penalty has not been without bias. A greater than representative number of illiterates, poor, minorities and political criminals have faced the death penalty in the United States; and
- Two wrongs do not make a right. The death of a murderer is only symbolic retribution, and can never bring back the victim.

Judge Carlson was correct to impose a sentence designed to keep Charles Meach behind bars the rest of his life — and equally correct to insist that taking still another life would serve no civilized purpose.

H B

140

2

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/13/84

Page 1 of 4

REQUEST

Bill/Resolution No.: HB 140
Title: "An Act Authorizing
Capital Punishment"
Sponsor: Rep. Pestinger
Requestor: House Judiciary
Date of Request: 1/11/84

FISCAL DETAIL

Agency Affected: Dept. of Administration
Program Category Affected: Due Process
BRU, Program or Subprogram(s) Affected: Public Defender Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES		1271.9	1348.2	1429.1	1514.8	1605.7
200 TRAVEL		169.0	179.1	189.8	201.2	213.3
300 CONTRACTUAL		710.0	752.6	797.8	845.7	896.4
400 SUPPLIES		34.0	36.0	38.2	40.5	42.9
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	2233.9	2315.9	2454.9	2602.2	2758.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2233.9	2315.9	2454.9	2602.2	2758.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		22.0	22.0	22.0	22.0	22.0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

GENERAL FUND

ANALYSIS: Attach a separate page for analysis

Prepared By: Dana Fabe
Division: Public Defender Agency
Phone: 279-7541
Date: 1/13/84

Approved by Commissioner: Lisa Rudd
Agency: Administration
Date: 1/17/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

House Bill 140
Fiscal Note Analysis
Prepared by Public Defender Agency
Department of Administration

Page 2 of 4

Date: January 16, 1984

If this death penalty bill is enacted, representation of the poor in death cases must be adequate. This is due to the possibility that an innocent person might be killed by mistake. Some degree of mistake is of course a potential problem in all criminal cases. But in non-death cases, the system stands ready to correct those mistakes where they become known. An execution can never be corrected.

Due to these considerations, the processing of a death case is much more complex and expensive than other criminal cases. Not only are extraordinary amounts of attorney time and substantial expert fees necessary in the guilt phase of a trial, but the penalty phase, in which a jury determines whether or not to put a person to death, takes on tremendous significance. This penalty phase requires extensive preparation, the use of psychiatric experts and family and friends from out of state, and other necessary expenditures.

Finally, even after the death penalty has been imposed, the appeal procedures in death penalty cases are lengthy and time consuming. After guilt and penalty phases of a case, the following procedures would be routinely necessary:

- (1) Appeal of conviction to the Alaska Court of Appeals.
- (2) Petition for Hearing to the Alaska Supreme Court.
- (3) Automatic sentence review by Alaska Supreme Court.
- (4) Writ of certiorari to the United States Supreme Court.
- (5) Post-conviction relief proceedings in state court.
- (6) Appeal of post-conviction relief proceedings in the Court of Appeals.
- (7) Petition for Hearing of post-conviction relief proceedings to the Alaska Supreme Court.
- (8) Writ of certiorari to the United States Supreme Court.
- (9) Petition for Writ of Habeas Corpus in the Federal District Court.
- (10) Appeal to the United States Court of Appeals.
- (11) Rehearing in the United States Court of Appeals.
- (12) Writ of certiorari to the United States Court of Appeals.

House Bill 140
Fiscal Note Analysis
Prepared by Public Defender Agency
Department of Administration

Page 3 of 4

Date: January 16, 1984

- (13) Commutation applications to executive branch.
- (14) Emergency stays to the United States Supreme Court.

The figures in this fiscal note are based on the average number of cases which would have qualified under the bill as capital cases which were handled by this agency during the past two fiscal years. This agency handles approximately 30 first degree murder cases each year which would qualify as capital cases under this bill. The specific figures were arrived at as follows:

(1) Personal Services. This agency is currently 13 attorneys short of the LEAA standards for the maximum number of cases to be handled by an attorney to ensure competent representation when no death penalty cases are involved. Death penalty cases take substantially more attorney time than other cases. For example, the Florida Legislature has adopted standards which permit an attorney to handle no more than eight death penalty trial cases per year, or five death penalty appeal cases per year. For comparison, the LEAA figures are 150 non-death felonies or 25 appeals a year. Some states have applied far more stringent standards. For example, the California state appellate defender permits attorneys to handle only two death penalty appeals per year. Given the fact that the attorneys who handle death penalty cases will have to be given drastic caseload relief, their extra cases will be loaded onto the caseloads of attorneys whose caseloads already exceed recommended maximums. Thus, at a minimum, this agency must be brought close to the nationally recommended number of attorneys required to handle the caseload as it exists without the death penalty. This necessitates the addition of twelve additional attorneys, plus necessary investigation and clerical support staff.

(2) Travel and Contractual Fees. The New York State Defender Association has estimated that a minimum figure for expert witness fees must be \$30,000 for the guilt phase and \$30,000 for the penalty phase per case. Thus, the contractual and travel costs for expert witnesses has been calculated at \$60,000 per case. This figure does not include any expert fees which might be necessary at the appellate stages. The amount of contractual fees estimated in this fiscal note is substantially less than that amount estimated by the New York Defender Association.

(3) Equipment and Supplies. Other costs include expanded office space for additional personnel as well as equipment and supply money for additional personnel.

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 Fiscal Note Analysis
 Prepared by Public Defender Agency
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Date: January 16, 1984

The above costs do not take into account contingencies such as reversals and retrials after appeal, travel to Seattle and Washington, D.C. to argue before the Ninth Circuit Court of Appeals and the United States Supreme Court and other costs which at this time are difficult to predict. However, the cost of defending a capital case is tremendous given the unique nature of the death penalty, and without adequate representation a conviction will not withstand appellate challenge.

BUDGET SUMMARY

Personal Services		
An Attorney IV at Sitka-	70.2	
Juneau-	67.9	
Bethel-	88.2	
Palmer-	70.2	
Nome/Kotzebue	91.4	
Three Attorney IV at Fairbanks-	231.9	
Four Attorney IV at Anchorage-	271.6	
Two Investigator III at Fairbanks-	106.4	
Two Investigator III at Anchorage-	93.6	
A Legal Secretary I at Sitka-	29.4	
Bethel-	35.9	
Juneau-	28.6	
Fairbanks	31.9	
Two legal secretaries for Anchorage-	57.2	
	<u>TOTAL</u>	1271.9
Travel:		
Based on 30 capital cases per year		
Guilt phase-		
Penalty phase-		
Appellate phase-		169.0
Contractual:		
Based on 30 capital cases per year		
Guilt phase-		
Penalty phase-		
Appellate phase-		
Additional office space for Fairbanks and		
Anchorage-	70.0	710.0
New Office Space for Sitka	20.0	
Supplies:		34.0
Equipment:		<u>49.0</u>
	<u>TOTAL</u>	2,233.9

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 17, 1984

SUBJECT: Sectional analysis of HB 140

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: Edward H. Hein *EHA*
Legislative Counsel

Section 1 makes first degree murder a capital felony.

Section 2 provides that a person convicted of a capital felony is subject to a mandatory sentence of 20 - 99 years' imprisonment or death.

Section 3 adds a new section, AS 12.55.115, to the statutes. Subsection (a) allows an automatic appeal to the Alaska Supreme Court of a death sentence for a period of 60 days after the sentence is handed down. The court may extend the time limit. Such an appeal must be given first priority by the court and the court may adopt special rules for hearing such an appeal. The court is required to make three determinations:

(1) was the sentencing influenced by passion, prejudice or arbitrariness?;

(2) was the finding of an aggravating factor supported by the evidence?; and

(3) is the death penalty imposed in similar cases?

Under subsection (b), if the Alaska Supreme Court upholds the death sentence, the trial court is required to specify the time, place and manner of execution.

Section 4 adds five new sections to the statutes:

(1) AS 12.55.177 establishes a procedure for the sentencing of a person convicted of a capital felony. Under subsection (a), sentencing is a separate proceeding following the trial or guilty plea. The proceeding is conducted before the trial jury or, if there was no jury trial, before a specially impaneled jury. Under subsection (b), the state and the defendant may present any relevant evidence concerning aggravating and mitigating factors, so long as the evidence was not obtained in violation of the state or federal constitution and so long as the defendant has the opportunity to rebut hearsay statements.

It is not clear whether subsection (b) is intended to disallow invocation of evidentiary privileges in a sentencing proceeding. The rules relating to evidentiary privileges are the only rules of evidence which are specifically made applicable to sentencing proceedings by Rule 101 of the Alaska Rules of Evidence. In light of the requirements of the Alaska Constitution and of Uniform Rule 39(e) that bills must note any changes being made to court rules, it would be prudent to clarify the legislative intent of subsection (b).

(2) AS 12.55.178 requires the sentencing jury to produce an advisory sentence for the court. The jury must decide three questions:

(A) did aggravating factors exist that justify a death sentence?;

(B) were there mitigating factors involved that outweigh the aggravating factors?; and

(C) should the sentence be a term of imprisonment or death?

(3) AS 12.55.179 requires the sentencing court to consider the evidence and the jury's advisory sentence and to enter a sentence. Subsection (a) provides that if a death sentence is imposed, the court must state in writing the aggravating

factors that exist to justify the sentence and any mitigating factors considered by the court. Subsection (b) restates the fact that a death sentence may be automatically appealed to the Alaska Supreme Court under AS 12.55.115.

(4) AS 12.55.180 lists seven aggravating factors, any one of which could justify imposition of a death sentence if not outweighed by mitigating factors. The aggravating factors are:

(A) committing torture or aggravated battery amounting to deliberate cruelty during the crime;

(B) creating a risk of imminent physical harm to three or more persons;

(C) having a prior conviction of a violent felony;

(D) committing the crime under contract or for money;

(E) committing the crime while on release for another felony charge or for a conviction involving assault as a necessary element;

(F) the victim was a judge, prosecuting attorney, police officer, correctional employee or fireman and the crime was committed during or because of the victim's exercise of official duties; and

(G) the crime resulted from a conspiracy of five or more persons.

(5) AS 12.55.181 lists four mitigating factors:

(A) the defendant committed the crime under duress, coercion, threat or compulsion;

(B) the defendant was young and was influenced to commit the crime by a more mature person;

Representative Charlie Bussell
Page 4
January 17, 1984

(C) the defendant acted in response to serious provocation by the victim; and

(D) the defendant helped authorities detect or apprehend others involved in the crime.

At page 4, line 12, the bill states that all mitigating factors, including the four that are listed, must be considered. Thus, a defendant is entitled to raise anything that could be construed as a mitigating factor, even if it is not listed. This statute, however, does not specify who must consider the mitigating factors. Is it the court, the jury, or both? Likewise, this statute does not say whose judgment controls on the question of whether the mitigating factors outweigh any aggravating factors that exist. Under AS 12.55.178(2), the sentencing jury would be required to balance mitigating factors against aggravating factors. But the jury's findings are only advisory. It is not clear, under AS 12.55.181, whether a finding by the jury that the mitigating factors outweigh the aggravating factors is sufficient to prevent imposition of the death sentence if the judge disagrees with the jury's findings. In light of the gravity of this determination, legislative intent should be made clear. This could be done by using the active voice instead of the passive voice at page 4, lines 10-13. The same considerations just discussed apply to the language at page 3, lines 16-18.

Section 5 removes from the jurisdiction of the state court of appeals cases in which a death sentence has been imposed. Note that under the 1984 legislative drafting manual, nothing less than a full subsection should be amended in a bill. Thus, the full text of AS 22.07.020(a) should appear in section 5.

Section 6 The purpose of this section is not clear. Apparently this section is an attempt to remove appeals of death sentences from the jurisdiction of the state court of appeals. The statute being amended, however, deals only with jurisdiction over appeals of sentences of imprisonment. Thus, section 6 is both confusing and superfluous.

EHH:ojb
J2/C34

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: January 17, 1984

REQUEST:

Bill/Resolution No.: HB 140
 Title: "An Act authorizing capital punishment...."
 Sponsor: Pestinger, Ward, Flood and Liska
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL:

Agency Affected: ADULT CORRECTIONS AGENCY
 Program Category Affected: _____
 Administration of Justice _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES			986.4	1016.0	1046.5	1077.9
200 TRAVEL			5.5	5.7	5.9	6.1
300 CONTRACTUAL			7.6	7.8	8.0	8.2
400 COMMODITIES			6.6	6.8	7.0	7.2
500 EQUIPMENT			2.6	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	1003.7	1036.3	1067.4	1099.4

CAPITAL	-0-	1900.5	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	1900.5	1008.7	1036.3	1067.4	1099.4
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	1900.5	1008.7	1036.3	1067.4	1099.4

POSITIONS:

FULL-TIME	-0-	-0-	18	18	18	18
PART-TIME						
TEMPORARY						
TOTAL	-0-	-0-	18	18	18	18

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The funding source was not identified by the author of the bill.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: William W. Ladwig
 Division: Administrative Services

Phone: 465-3376
 Date: January 17, 1984

Approved by Commissioner: William W. Ladwig for Roger Lundell
 Department: ADULT CORRECTIONS AGENCY

Date: January 18, 1984

Distribution:

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency (ies)

ANALYSIS

A. Assumptions:

Enactment of House Bill No. 140 would change the State law to permit capital punishment for the crime of murder in the first degree. Current estimates indicate three convictions per year for this offense would involve executing the death penalty. Because of the lengthy appeal process in cases where the death penalty has been imposed, it is anticipated that a significant number of persons would have to be confined in a separate confinement area. The national average length of time between sentencing and execution of the death penalty is 6 to 7 years. Therefore, we are predicting the need for a maximum of 20 death row beds.

1. Capital expenditures required to provide specialized space not currently available in existing State correctional centers. Details follow in B-1.
2. The new space will be adjacent to an existing facility, but isolated. Existing authorized staff could not provide for the necessary security of inmates housed in the area designated for prisoners sentenced to execution.
3. Two additional fixed guard posts to be created and one post for roving patrol due to the high security and high risk nature of the unit. To man one post 24 hours per day, 7 days per week requires 5 Correctional Officers II plus 1 Supervisor Correctional Officer III.
4. Inflation is estimated at 6% per year except as noted.
5. The unit will be available for occupancy July 1, 1985.

B. Estimated Costs

1. Capital Expenditures
 - a. Functions and square footage allocations are derived from accepted space standards and are adjusted to an existing design for a 20-cell complex.
 - b. Assumes this structure will be an addition to an existing institution with all activity for prisoners sentenced for execution to be limited to this maximum security unit.

Analysis (continued)

- c. Assumes only the usual 6% equipment factor and does not include costs for whatever type of equipment would be appropriate for the specified method of execution.
- d. It is estimated that the cost will be \$281.00 per square foot, considering the fact that this unit must be more secure than other facilities under construction and the relatively small size of the building.

<u>Area Identification</u>	<u>Square Footage</u>	
Secure Control Room	120	
20 cells w/commodos @ 80 sq. ft. per cell	1600	
Day room/Dining area	300	
Shower Rooms (Male, Female)	140	
Counseling/Attorney Room	120	
Secure visiting room	90	
Sallyport	75	
Hot cart/storage	80	
Exercise area (inside)	80	
Execution chamber/anteroom	600	
Net Area	<u>3,205</u>	sq. ft.
	x 1.6	net to gross area factor
Gross Area	<u>5,128</u>	sq. ft.
	x \$281	
	\$ <u>1,440,968</u>	bldg. cost 10/81
	20,988	secure outdoor rec. yard
	\$ <u>1,461,956</u>	bldg. & yard
	438,587	30% admin/ overhead factor
Total Projected Cost	<u><u>\$ 1,900,543</u></u>	

Analysis (continued)

2. Salaries & Related Costs Starting
in FY 1986

a. Staff
Based on FY85 Budget
Costs + 4%

15 Correctional Officer
II Positions
Salary/Benefits \$ 825,762

3 Correctional Officer
III Positions

Total \$ 160,661
986,423

b. Other Costs

Travel (Staff Training) 5,500
Utilities, Cable TV,
Subscriptions 7,600
Food, Clothing, Bedding 6,600
Equipment 2,600

Total \$ 1,008,723

c. For years after FY86 assumes 3% inflation factor.

NOTE:

It is assumed that State expenditure will also occur in the Department of Law and the Public Defender's Office for the lengthy appeal process. The costs for the other two agencies are not addressed in this fiscal note.

ADULT CORRECTIONS AGENCY
Pouch T
Juneau, Alaska 99811

POSITION PAPER
House Bill No. 140

Amended
January 17, 1984

"An Act authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies."

House Bill No. 140 classifies first degree murder as a capital offense and establishes the death penalty as an available penalty under specified circumstances.

With the Furman vs. Georgia ruling in 1967, the United States Supreme Court declared what amounted to a moratorium on capital punishment. The moratorium was, in effect, lifted in 1975 when the Court approved death penalty legislation which had been passed in Florida, Georgia, and Texas. Thirty-seven states have subsequently passed death penalty legislation but, despite continuous, vigorous effort on the part of state prosecutors, there has been little success in implementation of these statutes. As of December 31, 1982, there had been five executions. Gary Gilmore, executed by a firing squad in January 1977 in Utah, and Jesse Walter Bishop, executed by a gas chamber in Nevada in October 1979, did not appeal and succeeded in obtaining court rulings prohibiting others from proceeding with the appeal process in their behalf. Steven Judy, who was electrocuted in Indiana on March 9, 1982, also elected to forego the appeal process. Therefore, John Spenkelink, who was electrocuted in Florida in May 1979, and Charlie Brooks, Jr., who was injected intravenously in Texas in December of 1982, are the only two people to have been involuntarily executed. Persons were executed during 1983, however, these statistics are not yet available from the US Bureau of Census.

Meanwhile, the number of men and women on death rows around the country has risen to almost 1050. All of these offenders are in various states of the appeal process. The legal costs and the associated costs to these states are enormous. The maintenance of a "death row" is also extremely expensive because of space and staff requirements. There is a likelihood that the death penalty is the most costly remedy possible in a criminal proceeding, even more costly than life imprisonment.

House Bill No. 140 presumably uses model provisions which are designed to meet constitutional requirements for a legal capital punishment statute. The bill does not, however, speak to the method of execution. Neither does the bill indicate what agency of the State would be assigned to this responsibility. A determination would have to be made as to whether the State would electrocute, hang, shoot, gas or lethally inject the guilty party and who would do it. We can be certain that no other state or jurisdiction would be willing to take on this kind of task for us by contract. The costs, the confusion, the controversy, and the negative psychic impact that would surely accompany our having to take on this function for ourselves would be profound.

Perhaps undertaking this new approach to punishing murderers in Alaska would be worthwhile if we could be sure that the result would be fewer murders. There is no doubt that capital punishment effectively deters those subjected to it, but whether it has any value in deterring others, especially those with the most serious homicidal tendencies, is questionable. During the eight-year moratorium, the United States Supreme Court listened to a great deal of testimony on the issue of deterrence, but was unable to conclude from the evidence presented that there was a deterrent value to capital punishment.

Prepared by:

Susan E. Knighton
Susan E. Knighton
Research Analyst IV

Date:

1/17/84

Approved by:

William W. Ladwig
William W. Ladwig
Assistant Commissioner
for Administration
Adult Corrections Agency

Date:

January 18 1984



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4990

Alaska State Legislature
HOUSE OF REPRESENTATIVES

REPRESENTATIVE
CHARLIE BUSSELL
CHAIRMAN

Committee on Judiciary

Passed
out 4/10/84

HB 140
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- I. House Bill No. 140
"An Act authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies."
- II. Sectional Analysis
Edward H. Hein, Legislative Counsel.
- III. Fiscal Note/Analysis--Department of Administration
Dana Fabe, Public Defender Agency.
- IV. Fiscal Note/Analysis--Department of Health and Social Services
William W. Ladwig, Adult Corrections Agency.
- V. Position Paper--Department of Health and Social Services
William W. Ladwig, Adult Corrections Agency.
- VI. Issue Analysis
 - A. Capital Punishment--National Status and History:
 - 1. "Reinstating the Death Penalty"
Nancy Pease, Legislative Analyst, House Research Agency.
 - 2. "Death Penalty Laws"
Mary Fairchild, Researcher, National Conference of State Legislatures.
 - 3. Capital Punishment Survey Among the States
Corrections Compendium, December 1982.
 - 4. "Alaska Death Penalty"
Juneau Empire, 22 February, 1957.
 - 5. Past Alaska Legislation
Senate Bill No. 73, 1981.
 - 6. "Surprising Facts About the Death Penalty"
Institute for Southern Studies, Durham, NC.
 - B. Capital Punishment--Alaskan Perspectives:
 - 1. STATE OF ALASKA v. NEWTON LAMBERT
 - a. "Lambert Sentenced to 99 Years in Prison"
Juneau Empire, 18 January, 1984.
 - b. Projected Custodial Costs
House Research Agency.
 - 2. Editorials and Public Sentiment News Clippings
Juneau Empire, Anchorage Daily News, Anchorage Times.

MEMBERS:
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDT

3. Senate Judiciary Hearings on SB 121
 - a. Testimony, Timothy V. Ewell, Executive Director, Moral Majority of Alaska.
 - b. Testimony, Dana Fabe, Public Defender.
 - c. Testimony, Judy Zimicki, Citizen.
 - d. "Debate Heats Up Over Capital Punishment Bill", Anchorage Times, 19 March, 1983.

C. Capital Punishment as a National Issue:

1. "Capital Punishment 1982", Bureau of Justice Statistics Bulletin.
2. "Capital Punishment: Pro and Con Arguments", Congressional Research Service, Education and Public Welfare Division, 3 August, 1966.
3. "An Eye for an Eye", Time, 24 January, 1983.
4. "Pro and Con: Revive the Death Penalty?", U.S. News & World Report, 20 April, 1981.
5. "America's Inability to Resolve...", The Washington Post, 15 June, 1982.
6. "Supreme Court's Death Row Dilemma", U.S. News & World Report, 17 October, 1983.
7. "American Justice: ABC's of How it Really Works", U.S. News & World Report, 1982.
8. "Capital Losses: The Price of the Death Penalty for New York State." Public Defense Back-up Center to the Senate Finance Committee, the Assembly Ways and Means Committee and the Division of the Budget, New York State Defenders Association.

D. Capital Punishment--Effect as a Deterrent:

1. "The Effect of Harsher Penalties on Crime"
Jonathan Sherwood, Legislative Analyst, House Research Agency.
2. "Deterrence, Death, and the Victims of Crime: A Common Sense Approach", Vanderbilt Law Review, Frank G. Carrington.
3. "The Deterrent Effect of Capital Punishment: A Cross-State Analysis of the 1960's", Minnesota Law Review, Brian E. Forst.
4. "Strong and Weak Research Designs for Detecting the Impact of Capital Punishment on Homicide", Rutgers Law Review, David P. Phillips.
5. "Statistical Evidence on the Deterrent Effect of Capital Punishment", The Yale Law Journal.
6. "The Deterrent Effect of the Death Penalty: A Statistical Test", Stanford Law Review, Peter Passell.
7. "The Deterrent Effect of the Death Penalty: Facts v. Faith", The Supreme Court Review, Hans Zeisels.

VII. Capital Punishment Statutes:

- A. Code of Alabama 1975, Volume 12, 15.18.81 - 15.18.85.
A federal court declared this Alabama law unconstitutional in June of 1980. A new "constitutional" law was passed in 1981 reinstating the death penalty.
- B. Colorado Revised Statutes 1973, Volume 8, 16.11.402 - 16.11.404.
- C. General Statutes of Connecticut, Volume 9, 54.99 - 54.101.
- D. Idaho Code 1982, Volume 4, 27.19.2701 - 27.19.2716.
- E. Montana Code Annotated, 46.19.103; 46.19.201.
- F. West's Revised Code of Washington Annotated 1982, 10.70.020.

APPENDIX

Below is a list of individuals and agencies contacted during the course of this research.

The Alaskan Judicial Council

Leigh Bienen,
New Jersey Public Advocacy Special Project

The Center for Jury Studies

The Justice Center,
University of Alaska Anchorage

Martin Kaplan, Professor of Psychology,
University of Northern Illinois

Jeanne Marsh, School of Social Service Administration
University of Chicago

The National Association of District Attorneys

The National Conference of State Legislatures

The National Institute of Mental Health

Bruce Sayles, Professor of Psychology,
University of Arizona

The Southern Poverty Law Center

The following agencies were contacted on our behalf by the National Conference of State Legislatures.

The National Information Center of the National Institute of Corrections

The National Institute on Crime and Delinquency

Mr Chairman & Committee

#1

THE CHAIR IS BOLTED TO THE FLOOR NEAR THE BACK OF A 12 FT. BY 18 FT. ROOM. YOU SIT ON A SEAT OF CRACKED RUBBER SECURED BY ROWS OF COPPER TACKS. YOUR ANKLES ARE STRAPPED INTO 1/2 -MOON-SHAPED FOOT CUFFS LINED WITH CANYAS.

A 2 IN. WIDE GREASY LEATHER IS SECURED AROUND YOUR WAIST, JUST ABOVE THE HIPS. A COOL METAL CONE ENCIRCLES YOUR HEAD. YOU ARE NOW ONLY MOMENTS AWAY FROM DEATH.

BUT YOU STILL HAVE A FEW SECONDS LEFT. TIME BECOMES STRETCHED TO THE OUTERMOST LIMITS. TO YOUR RIGHT YOU SEE THE MAHOGANY FLOOR DIVIDED THAT SEPERATES FOUR BROWN CHURCH-TYPE PEWS FROM THE REST OF THE ROOM. THERE IS ANOTHER DOOR AT THE BACK THROUGH WHICH THE WITNESSES ARRIVE AND SIT IN THE PEWS. YOU STARE UP AT TWO GROUPS OF FLOURESCENT LIGHTS ON THE CEILING. THEY ARE ON. THE PAINT ON THE CEILING IS PEELING.

YOU FIT IN NEAT AND SNUG. BEHIND THE CHAIR'S BACK LEG ON YOUR RIGHT IS A CABLE WRAPPED IN GREY TAPE. IT WILL JUICE THE ELECTRICAL CURRENT TO THREE OTHER WIRES: TWO GOING TO EACH OF YOUR FEET AND THE THIRD TO THE CONE ON TOP OF YOUR HEAD. THE ROOM IS VERY QUIET. THE AIR WENT ABOVE YOUR HEAD IN THE CEILING BEGINS TO HUM. THE EXECUTIONER HAS TURNED ON THE FAN TO SUCK UP THE SMELL OF BURNING FLESH. THERE IS NO TIME LEFT. ON YOUR RIGHT YOU CAN SEE THE WAIST-HIGH, ONE-WAY MIRROR IN THE WALL. BEHIND THE MIRROR IS THE EXECUTIONER, STANDING BEFORE A GREY MARBLE CONTROL PANEL WITH GAUGES, SWITCHES, AND A FOOT LONG LEVER OF WOOD AND METAL AT HIP LEVEL.

THE EXECUTIONER PULLS THIS LEVER 4 TIMES. EACH TIME 2,000 VOLTS WILL CURSE THROUGH YOUR BODY, MAKING YOUR EYEBALLS FIRST BULGE, THEN BURST AND THEN BROILING YOUR BRAINS.

Don Mueller
10260 Jamestown #28
Anchorage Ak 99507

4/3/44-4771

B/337-9547

Rep. of Committee

TODAY, AN OLD ARRAY OF TOUGH QUESTIONS DEALING WITH CAPITOL PUNISHMENT IS BEING EXAMINED. ~~SENATE BILL NO. 121~~ ^{House bill NO 140} "AN ACT AUTHORIZING CAPITOL PUNISHMENT, CLASSIFYING MURDER IN THE FIRST DEGREE AS A CAPITAL FELONY, AND ESTABLISHING SENTENCING PROCEDURES FOR CAPITOL FELONIES" IS ON ITS WAY TO US THE VOTERS.

ALASKA HAS ~~NEVER~~ HAD A DEATH PENALTY AND IT IS NOT TIME FOR ONE NOW OR VER. TODAY I AM GOING TO EXAMINE THREE QUESTIONS DEALING WITH CAPITOL PUNISHMENT.

--IS CAPITOL PUNISHMENT A DETERRENT TO MURDER?

--IS CAPITOL PUNISHMENT FAIR?

THAT IS DOES IT FALL EQUALLY ON THE WEALTHY WHITE SURGEON REPRESENTED BY EDWARD BENNETT WILLIAMS AND THE INDIGENT BALCK WITH COURT APPOINTED COUNSEL?

--IS IT CIVILIZED TO TAKE A LIFE IN THE NAME OF JUSTICE?

THE IDEA OF DETERRENCE CAN BE QUICKLY REDUCED TO VERY PERSONAL RUDIMENTS: IF I KNOW I WILL BE PUNISHED SO SEVERELY FOR A CRIME, I WILL NOT COMMIT THE CRIME. ACCORDING TO NY UNIVERSITY LAW PROFESSOR ANTHONY AMSTERDAM "WAHT DETERS EOPLE FROM CRIME IS THE LIKELYHOOD OF GETTING CAUGHT AND UNDERGOING PUNISHMENT" TODAY EVEN AT A RATE OF 100 EXECUTIONS ANNUALLY, AN IMPLAUSIBLY HIGH FIGURE GIVEN TODAYS JUDICIAL GUARANTEES AND APPEALS PROCESS, A KILLERS CHANCES OF GETTING CAUGHT, CONVICTED AND EXECUTED WOULD FOR HIM STILL BE COMFORTABLY LOW, 250 TO 1.

IS IT FAIR? PROSECUTORS HAVE GREAT LEADWAY IN DECIDING WHICH HOMICIDES TO TRY AS CAPITOL MURDERS. A KILLER CAN BE PERSUADED TO TESTIFY AGAINST AN CCOMPLICE TO SAVE HIS OWN LIFE. A MURDERER BROOKS, WAS CONVICTED AND EXECUTED; FOR THE SAME MURDER HIS PARTNER MUST SERVE ONLY EIGHT MORE YEARS IN PRISON. A RECENT STUDY ON HOMICIDE CASES IN HUSTON'S HARRIS COUNTY IS TROBLING. IN

IN CASES WHERE A BLACK OR CHICANO HAD KILLED A WHITE, 65% OF THE DEFENDANTS WERE TRIED FOR CAPITOL MURDER. \ WHILE ONLY 25% OF WHITES WHO KILLED A BLACK OR HICANO FACED THE DEATH PENALTY. \ A SERIOUS PROBLEM IS THE QUALITY OF LEGAL HELP FOR MURDER DEFENDANTS. THE TEXAS STUDY FOUND THAT 3/4 OF THE MURDERERS WITH COURT APPOINTED LAWYERS WERE SENTENCED TO DEATH AGAINST ABOUT A THIRD OF THOSE REPRESENTED BY PRIVATE ATTORNEYS. CHARLETTE HOLDMAN DIRECTOR OF FLORIDAS CLEARINGHOUSE ON CRIMINAL JUSTICE SAYS "EVERY PERSON SENTENCED TO DIE COMES FROM A CASE FOUGHT WITH ERRORS. IF YOUR ADEQUATELY REPRESENTED YOU DON'T GET DEATH. IT'S THAT SIMPLE". ACCORDING TO ACLU'S SCHWARSCHILD, "A SOCIETY THAT BELIEVES THAT THE KILLING OF A HUMAN BEING IS A SOLUTION TO ANY PROBLEM IS DEEPLY UNCIVILIZED. THE MARGINALLY DEMENTED GUY, SAYS SCHWARSCHILD SEES AN EXECUTION AS A PERSCRIPTION NOT A THREAT. HE THINKS \ IF THE STATE HAS A QUARREL WITH GARY GILMORE IT KILLS HIM. IF I HAVE A QUARRELL WITH SOMEONE I'LL KILL HIM'. THE ELECTRIC CHAIR CAUGHT ON SLOWLY IN THE US AND NOT AT ALL ABROAD. DURING THE 1920s and 30s THE CYANIDE GAS CHAMBER BECAME STAE OF THE AMERICAN ART. NOW THERE ARE LETHAL INJECTIONS WHICH ARE SEEN AS STILL MORE "HUMANE." THIS LATEST TECHNICAL REFINLMENT WHICH THE EUROPEAN PRESS FINDS, CHILLING AND FACINATING SEEMS TO REMAIN STRICTLY A US PRACTICE.

NOTRE DAME THEOLOGY PROFESSOR SUMS UP OUR OBSESSION WITH "HUMANE" CAPITAL PUNISHMENT LIKE THIS: "THIS SEARCH FOR A HUMANE WAY OF KILLING IS A BUNCH OF SENTIMENTAL SECULAR HUMANISM. WHY DO YOU WANT IT TO BE HUMANE? TO REASSURE YOURSELF?"

EVIDENCE SHOWS CAPITOL PUNISHMENT IS NOT A DETERRENT OT MURDER. \ CAPITOL PUNISHMEN CASES ARE NOT HEARD FAIRLY AND WITH OUT EXAGURATED BIASIS. \ WE SAY WE THINK HUMAN LIFE IS SCARED. AND THEN, TO PROVE THAT, WE KILL SOMEBODY. WE CALL THAT CIVILIZED.!

House Bill N 14D

BY VOTING DOWN SENATE BILL NO 121 WE ARE NOT LEFT WITHOUT ANY ALTERNATIVE.
TODAY CURRENT LAW DEMANDS AT LEAST 20 YEARS BUT NOT MORE THAN 99 YEARS
IN A CONVICTION OF FIRST DEGREE MURDER.

IN THE MAJORITY OF CASES THIS SENTENCE IS SUFFICIENTLY HARSH.

STATISTICS SHOW THAT FEWER THAN 1% OF FREED MURDERERS KILL AGAIN AFTER THEIR
RELEASE FROM PRISON. \ DO WE WANT TO TAKE THAT CHANCE? ARE YOU WILLING TO PUT
THE LIFE OF YOUR WIFE OR CHILDREN ON THE LINE? ARE YOU WILLING TO RISK THAT
A MURDERER LIKE CHARLES MANSON WILL NOT REPEAT HIS HIDIOUS CRIME? AS IT STANDS
NOW, MANSON WILL BE ELIGIBLE FOR PAROLE IN 1985. \ WHAT I ADVOCATE IS A LIFE
SENTENCE WITHOUT PAROLE. \ THIS MEETS ALL THE CRITERIA FOR JUST PUNISHMENT. A
LIFE SENTENCE IS IN ITS SELF UNIMAGINABLY HARSH. AND IT PROTECTS OUR SOCIETY
YOU AND ME FROM REPEAT OFFENCES. [AS JAYCEES AND] ALASKANS WE MUST SEE THAT
HOUSEBILL NO. 121 DOES NOT BECOME LAW. WHEN IT APPEARS ON YOUR BALLOT VOTE
NO ON A DEATH PENALTY. STATE SANCTIONED MURDER IS UNQUESTIONABLY WRONG!

Time country Jan, 1983
major source

Handwritten note on the right margin: "The Alaska State Bar Association"