

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8890 SENATE JUDICIARY

387

**SB**

**52**

**(File 1)**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 1/25/95  
 SS intro: 2/9

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 INTO OFFICE: \_\_\_\_\_

Judiciary      Committee considered      SPONSOR SUBSTITUTE FOR SENATE BILL NO. 52

Capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies; authorizing an advisory vote on instituting capital punishment; efd.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
 same title  
 new title  
 House Bill:  
 technical change  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	D <sup>n</sup>	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lyke Miller</i>	<input checked="" type="checkbox"/>	<i>Al Adams</i>		<input checked="" type="checkbox"/>	
<i>Lyke Green</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>John L. Taylor</i>					

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CS SSSB 52 (JUD)

Revision Date: 03/25/96

Dept. Affected: Alaska Court System

Title: Capital Punishment for Murder

BRU: Trial Courts

Component: \_\_\_\_\_

Sponsor: Sens. Taylor, Pearce

Requestor: Senate Judiciary

COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES

CHANGE IN REVENUES ( )

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		0.0	0.0	0.0	0.0	0.0
1005 GF, Program Receipts						
1037 GF, Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 96) cost: \$ None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen II, Staff Counsel  
Agency: Alaska Court System

Phone: 284-6228  
Date: 03/25/96

Approved by: Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 03/25/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: CSSSSB 52 (JUD)

Revision Date: March 18, 1996

Dept. Affected: Public Safety

Title: Capital Punishment for Murder

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Senator Taylor

Requestor S. Finance

COMPONENT SERIAL NO. 0799

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPTITAL EXPENDITURES</b>						
------------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL - TIME						
PART - TIME						
TEMPORARY						

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

This bill will not have a fiscal impact on the Division of State Troopers. The impact of this bill on the division is the possibility of troopers having to attend court proceedings that they do not currently have to attend.

Prepared By: Lt. Dan Lowden

Phone: 465-5505

Division: Alaska State Troopers

Date: March 18, 1996

Approved by Commissioner: *Ronald L. Ote*

Date: 3/19/96

Agency: Ronald L. Ote, Department of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act authorizing capital punishment, classifying BRU: Criminal Division  
murder in the first degree as a capital felony..." Component: Criminal Division  
 Sponsor: Senator Taylor  
 Requester: Governor's Office COMPONENT SERIAL NO. 2085

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		481.0	1,006.5	1,462.9	1,462.9	1,462.9
TRAVEL		243.5	480.5	605.5	605.5	605.5
CONTRACTUAL		430.8	1,089.7	1,529.7	1,464.7	1,464.7
SUPPLIES		32.4	55.5	72.6	60.6	60.6
EQUIPMENT		56.0	64.5	58.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1,243.7</b>	<b>2,695.7</b>	<b>3,728.7</b>	<b>3,593.7</b>	<b>3,593.7</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,243.7	2,695.7	3,728.7	3,593.7	3,593.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>1,243.7</b>	<b>2,695.7</b>	<b>3,728.7</b>	<b>3,593.7</b>	<b>3,593.7</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME		8.0	17.0	25.0	25.0	25.0
PART-TIME						
TEMPORARY						

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

This bill would authorize capital punishment, classify murder in the first degree as a capital felony, and establish sentencing procedures for capital felonies. The death sentence would not be imposed unless at least one of several specified aggravating factors was found to exist and the aggravating factor, or factors, was not outweighed by mitigating factors.

In 1994, the department's criminal division had 17 first degree murder cases (that could have been accepted for prosecution at this level) where aggravating factors were present that would justify the death penalty, had the bill already been the law. The number of murders committed in Alaska varies somewhat from year-to-year and, therefore, the assumptions made in this fiscal note are as conservative as possible.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/6/96  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/6/96  
 Agency: Department of Law

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## FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

### ANALYSIS CONTINUATION:

#### Overview

Capital felony trials would be bifurcated, or held in two parts. The first part would determine innocence or guilt; the second part would determine whether aggravating factors exist sufficient to justify the death penalty; whether mitigating factors exist that outweigh the aggravating factors; and whether the defendant should be sentenced to a term of imprisonment or to death. Based on 1994's data, where 17 murders having death penalty aggravators occurred, the department would probably seek the death penalty in ten cases. In the remaining seven cases, prosecutors would elect to try the cases as noncapital first degree murders for discretionary reasons, primarily due to the difficulty of obtaining a conviction if the death penalty was included. As a result of this preliminary screening, between capital and noncapital charging, the department expects that nine capital offense convictions will occur each year. Of this latter number, we believe that the death penalty will be imposed six times each year.

Thus, the department must be prepared to prosecute capital felonies on ten occasions each year, and it must also be prepared to handle a multi-year appellate review process that will grow at an accumulating rate of six cases per year. The experience in other states is that capital trials require far more in the way of prosecution and investigative resources than first degree murder cases that do not include the death penalty.

In its several reviews of capital penalty laws, the United States Supreme Court has repeatedly stated, "death is different." Consequently, the Supreme Court has required that states accord capital defendants procedural and substantive protections that go far beyond those required for noncapital defendants. The Court has, in effect, mandated that capital defendants be accorded "super" due process. The federal courts have consistently held that capital cases demand special consideration, both at trial and on appellate review, because of the exceptional and irrevocable nature of the penalty involved.

In order to meet this heightened level of due process, it will be necessary for the state to employ far greater prosecution resources. Many of the thirty-seven states having a death penalty, for instance, provide two defense attorneys to capital defendants to insure that the due process safeguards required by the courts are met. Likewise, the state's prosecution case must also be properly represented. During and prior to the trial phase, crime scene evidence will have to be examined and presented by highly qualified forensic experts. Psychiatric experts will also be required during the trial phase, during sentencing proceedings, and during the appellate review, to rebut and overcome competency and psychiatric defenses to both the substantive-charge and the capital sentence. Recent cost studies of capital trials in other states indicate that expert witness expenses for both the trial and sentencing proceedings cost about \$60,000, on the average. A lesser, but still significant, cost for experts is also required for appellate reviews.

A sentencing proceeding, or the penalty phase of a capital trial, is categorically different in character, procedure, and magnitude from any counter part in a noncapital trial, and it accounts for a large part of the increase in costs. The heightened due process requirements, and the right to effective assistance of counsel, apply equally to the sentencing phase as they do to the trial phase. At this stage of the proceeding, the defense may be expected to use many of the socio-psychiatric witnesses employed during the trial phase. Additionally, the defense may also use the defendant's family, friends, neighbors, co-workers, school personnel, and social workers as witnesses. The defense's sentencing phase investigations will involve a complete retrospective analysis of every positive aspect of the defendant's life from the day of birth to the

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1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

### ANALYSIS CONTINUATION:

date of sentence. The prosecution, on the other hand, must interview each of the defendant's witnesses to rebut mitigation evidence, and present its own witnesses to prove its aggravating factors. For example, in a California case, 240 persons were investigated and interviewed as potential witnesses and 120 were eventually called as witnesses in a single sentencing proceeding. In view of the foregoing, it appears likely that the same level of state resources, needed for the state's most expensive criminal trials, will also be needed for many of the capital murder trials. For example, a five-fold increase in pretrial motion practice, often involving a state's supreme court, has occurred in other states between capital and noncapital first degree murder cases.

Last, post-conviction appellate reviews of death sentences will also require a substantial expenditure of state resources. Initially, challenges to the law itself can be expected to be taken to the Alaska Supreme Court on the basis of both state and federal constitutional due process, equal protection, and cruel and unusual punishment doctrines. Such challenges should be expected during the first two or three years after the provisions of the bill go into effect. Otherwise, the bill provides for a straightforward appeals process to the Alaska Supreme Court, but death sentences will nonetheless result in lengthy and complicated appellate litigation. This is because of the substantial appellate avenues available to capital defendants in the federal court system, primarily on claims of due process, competency, and newly discovered evidence. Typically, these cases move up and down throughout the state and federal court systems, and involve the state superior and supreme courts, the U.S. Supreme Court, and the U.S. Circuit Court of Appeals, and the U.S. District Court. As a result, as has been the experience in every other capital punishment state, it should be expected that many years will pass before a death sentence can be carried out. Current information indicates that nationally an average of 9.6 years elapses from the time a death penalty sentence is imposed and the time the sentence is carried out.

### Implementation

The Department of Law anticipates that the time from when an offense is committed until a capital felony trial takes place will be between one and two years after the bill takes effect, although up to four bifurcated trials may begin during the first year. Likewise, the post-conviction appellate review process will not commence until sometime during the second year. For these reasons, the department has developed a multi-year implementation plan for this fiscal note.

During the first year, it will be necessary to add three attorneys, three paraprofessionals, and two legal secretaries to handle capital felony prosecutions. Although only four bifurcated trials may actually get underway during the first year, substantial time will be required preparing for trial. This includes advising police investigators, examining evidence, interviewing witnesses, consulting with psychiatric and forensic experts, and initiating, responding to, and arguing pretrial motions. Also, preparation work on all 17 capital felonies expected to occur during the first year must begin as soon as possible after an offense is committed.

The "super" due process required by the courts in death penalty cases, and the requirement for a separate sentencing proceeding, will more than triple the work of the department's staff who handle these cases, compared with noncapital first degree murder cases. Extraordinary amounts of attorney and paraprofessional time will be needed to satisfy these minimum, mandatory requirements. As a consequence, capital felony prosecutions could not readily be undertaken in any of the department's offices, except for Anchorage and Fairbanks, without providing special prosecution staff on a case-by-case basis. And, even for Anchorage and Fairbanks, the existing staff would have to be substantially augmented each time a capital

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STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

### ANALYSIS CONTINUATION:

felony is handled. All of the positions to be added to handle capital trials and post-conviction death sentence appeals would be located in the department's Office of Special Prosecutions and Appeals, in Anchorage.

During the second year, eight or more additional capital felonies are expected to go to trial, and 17 new capital felony offenses will occur. At this point, it will be necessary to add two attorneys, two paraprofessionals, and two legal secretaries to help handle the increasing capital felony trial caseload. It will also be necessary to establish a capital felony appeals staff during the second year, when appeals from the first four trials are expected to begin the appellate review process. Initially, one attorney, one paraprofessional, and one legal secretary will be needed to handle capital felony appeals.

During the third year, the number of bifurcated trials (10) should equal the number of new capital offenses (after screening), although some compression and overlapping of the caseload will likely occur. Consequently, it will be necessary to increase the trial staff during the third year, in order to handle the total annual workload, and to insure against speedy trial problems. Post-conviction capital felony appeals will have reached eight by year three, and they will continue to increase at the rate of six new cases each year, thereafter. It will, therefore, be necessary to increase the appeals staff in the third year.

It is not possible to accurately predict the eventual annual costs of a capital felony law beyond its first three or four years. There are simply too many unknowns. However, the costs that have been predicted are conservative. The following factors have been considered in arriving at these costs.

- 1) Capital felony due process and bifurcated trial requirements will more than triple the cost and time spent in prosecuting 10 first degree murder offenses, at a minimum.
- 2) The time required for a bifurcated trial will probably vary between two months and six months, although time lines are completely uncertain, and extremes will most likely be the rule. Serious overlapping and scheduling conflicts between investigations, trials, and available staff time will undoubtedly occur.
- 3) Pretrial motion practice will increase dramatically, resulting in additional scheduling problems.
- 4) Logistics problems will occur at most locations, except Anchorage and Fairbanks, and these problems will become more severe the smaller and more remote the location.
- 5) Witness travel and subsistence will be expensive because of the large number of witnesses that will be required for both the trial and the sentencing phases of capital felony prosecutions, and in many cases this includes out-of-state travel.
- 6) Staff travel and per diem will likewise be expensive for trials held outside of Anchorage. Extensive staff travel expense will also be necessary, for trials held at all locations, to interview both prosecution and defense witnesses who will appear at sentencing proceedings.
- 7) One of the most complex murder prosecutions ever held in Alaska was the John Kenneth Peel trial. Because this case involved extraordinary evidence problems, it probably represents costs that are outside the norm. Due to this and other complications, Peel case costs included two grand jury proceedings and two trials. But there can be no question that the state will have to provide a nearly comparable effort if it is to prevail in death penalty cases. By comparison, capital felony trials will be held in two parts, necessitate

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STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

considerable expert testimony and depositions, involve two separate sets of witnesses, and require extensive staff travel. For this reason, the average prosecution costs of a bifurcated capital felony case has been projected to be nearly \$266,000 or less than one-half of the \$597,000 cost for the first Peel trial.

8) The cost for appeals is shown only through the fourth year; however, this cost will ultimately grow enormously. The average length of time between a death sentence conviction and an execution in the United States is nearly ten years. Consequently, the state will have to provide enough resources to respond to the appeals of 60 or more capital felony defendants annually, within 10 years. The eventual costs for this extended timeframe are not within the scope of this fiscal note analysis.

9) Therefore, the following per trial expense estimates have been used to calculate the costs of this fiscal note.

Capital Felony Trials

- Witness travel and subsistence, \$50,000 per case.
- Staff travel and per diem, \$7,500 per attorney, \$5,000 per paraprofessional, \$3,000 per secretary per annum.
- Expert witness fees, \$60,000 per case.
- Witness fees paid to others, \$6,000 per case.
- Deposition/court reporter charges, \$20,000 per case.

Death Sentence Appellate Review

- Staff travel, \$3,500 per attorney, \$2,500 per paraprofessional, per annum.
- Expert witness fees, legal scholars for years two and three only, \$30,000 per year.
- Socio-psychiatric experts, \$25,000 in years two and three.
- Socio-psychiatric experts, \$50,000 by year four.
- Transcription/court reporter costs, \$30,000 per case.

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52  
Cost Summary (First Year - FY 98 - Capital Trials)

OBJECT	Atty V	(2) Atty IV	(2) Assoc	P/A II	Sec I	Sec I	TOTAL
			Atty I				
100 - Salaries & Benefits	<u>87.3</u>	<u>164.0</u>	<u>105.8</u>	<u>51.1</u>	<u>26.4</u>	<u>36.4</u>	<u>481.0</u>
	87.3	164.0	105.8	51.1	38.4	36.4	481.0
200- Travel							
Staff Travel & Per Diem	<u>7.5</u>	<u>15.0</u>	<u>10.0</u>	<u>5.0</u>	<u>3.0</u>	<u>3.0</u>	<u>43.5</u>
	7.5	15.0	10.0	5.0	3.0	3.0	43.5
300 - Contractual							
Communications, Copy	<u>3.6</u>	<u>7.2</u>	<u>4.8</u>	<u>2.4</u>	<u>2.4</u>	<u>2.4</u>	<u>22.8</u>
Office Space Leases	<u>5.6</u>	<u>11.2</u>	<u>11.2</u>	<u>5.6</u>	<u>5.6</u>	<u>5.6</u>	<u>44.8</u>
PC Network Maintenance	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>12.0</u>
Westlaw	<u>1.2</u>	<u>2.4</u>	<u>2.0</u>	<u>1.2</u>	<u>0.0</u>	<u>0.0</u>	<u>7.2</u>
	11.9	23.8	21.4	10.7	9.5	9.5	86.8
400 - Supplies							
Office Consumables	<u>1.8</u>	<u>3.6</u>	<u>3.6</u>	<u>1.8</u>	<u>1.2</u>	<u>1.2</u>	<u>13.2</u>
Law Library	<u>1.2</u>	<u>2.4</u>	<u>2.4</u>	<u>1.2</u>	<u>0.0</u>	<u>0.0</u>	<u>7.2</u>
New Position Supplies	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>12.0</u>
	4.5	9.0	9.0	4.5	2.7	2.7	32.4
500 - Equipment							
New Position Equipment	<u>2.5</u>	<u>5.0</u>	<u>5.0</u>	<u>2.5</u>	<u>2.0</u>	<u>2.0</u>	<u>19.0</u>
PC/Word Processing	<u>4.0</u>	<u>8.0</u>	<u>8.0</u>	<u>4.0</u>	<u>1.5</u>	<u>6.5</u>	<u>37.0</u>
	6.5	13.0	13.0	6.5	1.5	8.5	56.0
<b>TOTAL</b>	<b>117.7</b>	<b>224.8</b>	<b>159.2</b>	<b>77.8</b>	<b>60.1</b>	<b>60.1</b>	<b>699.7</b>

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52  
Cost Summary (Second and Third Years Additions -  
FY 99 and 00 - Capital Trials)

OBJECT	<u>Second Year</u>					<u>Third Year</u>			
	<u>Atty V</u>	<u>Atty IV</u>	(2) Assoc <u>Atty I</u>	2 Legal <u>Sec. I</u>	<u>TOTAL</u>	<u>Atty IV</u>	<u>P/A II</u>	Legal <u>Sec I</u>	<u>TOTAL</u>
100 - Salaries & Benefits	<u>87.3</u>	<u>82.0</u>	<u>105.8</u>	<u>72.8</u>	<u>347.9</u>	<u>82.0</u>	<u>51.1</u>	<u>36.4</u>	<u>169.5</u>
	87.3	82.0	105.8	72.8	347.9	82.0	51.1	36.4	169.5
200- Travel									
Staff Travel & Per Diem	<u>7.5</u>	<u>7.5</u>	<u>10.0</u>	<u>6.0</u>	<u>31.0</u>	<u>7.5</u>	<u>5.0</u>	<u>3.0</u>	<u>15.5</u>
	7.5	7.5	10.0	6.0	31.0	7.5	5.0	3.0	15.5
300 - Contractual									
Communications, Copy	<u>3.6</u>	<u>3.6</u>	<u>7.2</u>	<u>4.8</u>	<u>19.2</u>	<u>3.6</u>	<u>3.6</u>	<u>2.4</u>	<u>9.6</u>
Office Space Leases	<u>5.6</u>	<u>5.6</u>	<u>11.2</u>	<u>11.2</u>	<u>33.6</u>	<u>5.6</u>	<u>5.6</u>	<u>5.6</u>	<u>16.8</u>
PC Network Maintenance	<u>1.5</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>9.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>
Westlaw	<u>1.2</u>	<u>1.2</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>
	11.9	11.9	23.8	19.0	66.6	11.9	11.9	9.5	33.3
400 - Supplies									
Office Consumables	<u>1.8</u>	<u>1.8</u>	<u>3.6</u>	<u>2.4</u>	<u>9.6</u>	<u>1.8</u>	<u>1.8</u>	<u>1.2</u>	<u>4.8</u>
Law Library	<u>1.2</u>	<u>1.2</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>
New Position Supplies	<u>1.5</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>9.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>
	4.5	9.0	9.0	5.4	23.4	4.5	4.5	2.7	11.7
500 - Equipment									
New Position Equipment	<u>2.5</u>	<u>2.5</u>	<u>5.0</u>	<u>0</u>	<u>14.0</u>	<u>2.5</u>	<u>2.5</u>	<u>2.0</u>	<u>7.0</u>
PC/Word Processing	<u>4.0</u>	<u>4.0</u>	<u>8.0</u>	<u>13.0</u>	<u>29.0</u>	<u>4.0</u>	<u>4.0</u>	<u>8.5</u>	<u>14.5</u>
	6.5	6.5	13.0	17.0	43.0	6.5	6.5	8.5	21.5
<b>TOTAL</b>	<b>117.7</b>	<b>112.4</b>	<b>161.6</b>	<b>120.2</b>	<b>511.9</b>	<b>112.4</b>	<b>79.0</b>	<b>60.1</b>	<b>251.5</b>

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52  
Cost Summary (Second and Third Years Additions -  
FY 99 and 00 - Appellate Review Process)

OBJECT	<u>Second Year</u>				<u>Third Year</u>			
	<u>Ally V</u>	<u>Assoc Ally I</u>	<u>Legal Sec. I</u>	<u>TOTAL</u>	<u>(2.0) Ally IV</u>	<u>P/A II</u>	<u>(2) Legal Sec I</u>	<u>TOTAL</u>
100 - Salaries & Benefits	<u>87.3</u>	<u>52.9</u>	<u>36.4</u>	<u>176.6</u>	<u>164.0</u>	<u>51.1</u>	<u>72.8</u>	<u>287.9</u>
	87.3	52.9	36.4	176.6	164.0	51.1	72.8	287.9
200- Travel								
Staff Travel & Per Diem	<u>3.5</u>	<u>2.5</u>	<u>0.0</u>	<u>6.0</u>	<u>7.0</u>	<u>2.5</u>	<u>0.0</u>	<u>9.5</u>
	3.5	2.5	0.0	6.0	7.0	2.5	0.0	9.5
300 - Contractual								
Communications, Copy	<u>22.4</u>	<u>22.4</u>	<u>2.4</u>	<u>47.2</u>	<u>44.8</u>	<u>22.4</u>	<u>4.8</u>	<u>72.0</u>
Office Space Leases	<u>5.6</u>	<u>5.6</u>	<u>5.6</u>	<u>16.8</u>	<u>11.2</u>	<u>5.6</u>	<u>11.2</u>	<u>28.0</u>
PC Network Maintenance	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>7.5</u>
Westlaw	<u>2.4</u>	<u>2.4</u>	<u>0.0</u>	<u>4.8</u>	<u>4.8</u>	<u>2.4</u>	<u>0.0</u>	<u>7.2</u>
	31.9	31.9	9.5	73.3	63.8	31.9	19.0	114.7
400 - Supplies								
Office Consumables	<u>1.8</u>	<u>1.8</u>	<u>1.2</u>	<u>4.8</u>	<u>3.6</u>	<u>1.8</u>	<u>2.4</u>	<u>7.8</u>
Law Library	<u>1.2</u>	<u>1.2</u>	<u>0.0</u>	<u>2.4</u>	<u>2.4</u>	<u>1.2</u>	<u>0.0</u>	<u>3.6</u>
New Position Supplies	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>4.5</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>7.5</u>
	4.5	4.5	2.7	11.7	9.0	4.5	5.4	18.9
500 - Equipment								
New Position Equipment	<u>2.5</u>	<u>2.5</u>	<u>2.0</u>	<u>7.0</u>	<u>5.0</u>	<u>2.5</u>	<u>4.0</u>	<u>11.5</u>
PC/Word Processing	<u>4.0</u>	<u>4.0</u>	<u>6.5</u>	<u>14.5</u>	<u>8.0</u>	<u>4.0</u>	<u>13.0</u>	<u>25.0</u>
	6.5	6.5	8.5	21.5	13.0	6.5	17.0	36.5
<b>TOTAL</b>	<b>133.7</b>	<b>98.3</b>	<b>57.1</b>	<b>289.1</b>	<b>256.8</b>	<b>96.5</b>	<b>114.2</b>	<b>467.5</b>

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Fiscal Analysis SSSB 52  
Cumulative Implementation Cost by Year

OBJECT	<u>Criminal Felony Trial</u>				<u>Appellate Review</u>			
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4+</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4+</u>
100 - Personal Services	481.0	828.9	998.4	998.4	0.0	176.6	464.5	464.5
200- Travel - Staff	43.5	74.5	90.0	90.0	0.0	6.0	15.5	15.5
Travel - Witness	200.0	400.0	500.0	500.0	0.0	0.0	0.0	0.0
300 - Contractual	86.8	153.4	186.7	186.7	0.0	73.3	188.0	188.0
Contractual - Outside Svc	344.0	688.0	860.0	860.0	0.0	175.0	295.0	230.0
400 - Supplies	32.4	43.8	46.5	42.0	0.0	11.7	26.1	18.6
500 - Equipment	<u>56.0</u>	<u>43.0</u>	<u>21.5</u>	<u>0.0</u>	<u>0.0</u>	<u>21.5</u>	<u>36.5</u>	<u>0.0</u>
<b>TOTAL</b>	<b>1,243.7</b>	<b>2,231.6</b>	<b>2,703.1</b>	<b>2,677.1</b>	<b>0.0</b>	<b>464.1</b>	<b>1,025.6</b>	<b>916.6</b>

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION:

Out-of-Pocket Costs - Capital Felony Trials

Year One (4 cases underway) (FY 98)

Witness travel and subsistence \$50,000 per case Xs 4 cases =	\$200,000
Expert witness fees \$60,000 per case Xs 4 cases =	\$240,000
Witness fees (witnesses of fact) \$6,000 per case Xs 4 cases =	\$24,000
Deposition/court reporter charges \$20,000 per case Xs 4 cases =	\$80,000

Year Two (8 cases underway) (FY 99)

Witness travel and subsistence \$50,000 per case Xs 8 cases =	\$400,000
Expert witness fees \$60,000 per case Xs 8 cases =	\$480,000
Witness fees (witnesses of fact) \$6,000 per case Xs 8 cases =	\$48,000
Deposition/court reporter charges \$20,000 per case Xs 8 cases =	\$160,000

Third Year (10 cases underway) (FY 00)

Witness travel and subsistence \$50,000 per case Xs 10 cases =	\$500,000
Expert witness fees \$60,000 per case Xs 10 cases =	\$600,000
Witness fees (witness of fact) \$6,000 per case Xs 10 cases =	\$60,000
Deposition/court reporter charges \$20,000 per case Xs 10 cases =	\$200,000

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

ANALYSIS CONTINUATION

Capital Felony Appeals

Year Two (4 cases underway) (FY 98)

Expert witness/legal scholars  
to uphold death penalty law  
(year two and three only)  
\$30,000 per year Xs 1 = \$30,000

Expert witness  
Socio-psychiatric experts  
\$25,000 per year Xs 1 = \$25,000

Deposition/court report charges  
\$30,000 per case Xs 4 cases = \$120,000

Year Three (8 cases underway) (FY 00)

Expert witness/legal scholars  
to uphold death penalty law  
(year two and three only)  
\$30,000 per year Xs 1 = \$30,000

Expert witness  
Socio-psychiatric experts  
\$25,000 per year Xs 1 = \$25,000

Deposition/court report charges  
\$30,000 per case Xs 8 cases = \$240,000

Year Four (14 cases underway) (FY 01)

Expert witness  
Socio-psychiatric experts  
\$50,000 per year Xs 1 = \$50,000

Deposition/court report charges  
\$30,000 per case Xs 6 cases = \$180,000

02/01/96

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PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW SCENARIO: 1

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS DRU NAME: CRIMINAL DIVISION

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOC	TON NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	GENES	PER.SERV. COSTS	G. F. AMOUNT
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03/011		ATTORNEY V	F	ANCHORAGE		A XE AA 25A	12	66332	0	20933	87265.67	
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\*\*\*\* JUSTIFICATION:

This senior level Attorney V position will be needed to oversee and head capital felony prosecutions, during the first year that capital felony law goes into effect. The substantial due process protections accorded to defendants by the U.S. Supreme Court, will require a three-fold increase in prosecution effort in order to obtain death penalty convictions. Legal expertise at the highest level will be required to handle those prosecutions, allocations to the Attorney V level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
<b>TOTAL COSTS</b>	<b>117665.67</b>	<b>87265.67</b>

\*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	87265.67
<b>TOTAL FUNDING</b>	<b>87265.67</b>

03/012		ATTORNEY IV	F	ANCHORAGE		A XE AA 24A	12	61923	0	20100	82023.52	
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\*\*\*\* JUSTIFICATION:

This Attorney IV position will be required to handle capital felony trials, during the first year after the law goes into effect. "Super" due process trial consideration and sentencing proceedings are expected to more than triple the time now required for murder trials. First degree murder trials require highly skilled prosecutors and for this reason, the department is requesting the full working level prosecutor classification of Attorney IV. This attorney will be needed for the bifurcated capital trials, beginning in FY 1998.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
<b>TOTAL COSTS</b>	<b>112423.52</b>	<b>82023.52</b>

\*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	82023.52
<b>TOTAL FUNDING</b>	<b>82023.52</b>

03/013		ATTORNEY IV	F	ANCHORAGE		A XE AA 24A	12	61923	0	20100	82023.52	
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\*\*\*\* JUSTIFICATION:

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
<b>TOTAL COSTS</b>	<b>112423.52</b>	<b>82023.52</b>

\*\*\* FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	82023.52
<b>TOTAL FUNDING</b>	<b>82023.52</b>

02/01/96

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## PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE:

3

DEPARTMENT OF LAW

SCENARIO: 1

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

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDD	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT		
03#014		ASSOC ATTORNEY I	F	ANCHORAGE	A XE AA	17A 12	38440	0	14412	52852.89			
**** JUSTIFICATION:													
This advanced paraprofessional position will be required, during the first year that the capital felony law goes into effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1998.										TRAVEL COSTS	5000.00		
										CONTRACTUAL COSTS	10700.00		
										SUPPLIES COSTS	4500.00		
										EQUIPMENT COSTS	6500.00		
										OTHER COSTS	0.00		
										TOTAL COSTS	79552.89	52852.89	
										*** FUNDING DETAIL:			
										1004 GENERAL FUND RECEIPTS	52852.89		
										TOTAL FUNDING	52852.89		
01#015		PARALEGAL ASST II	F	ANCHORAGE	A GG 2A	16A 12	36990	0	14157	51148.42			
**** JUSTIFICATION:													
This paralegal assistant position will be needed during the first year after the capital felony law goes into effect to assist the attorneys assigned to prosecuting defendants in capital crimes, where the state is seeking the death penalty. The position will be responsible for witness assistance and coordination, and assist with trial logistics. Allocation to the full working paraprofessional level of Paralegal Assistant II is recommended. This position will be required in FY 1998.										TRAVEL COSTS	5000.00		
										CONTRACTUAL COSTS	10700.00		
										SUPPLIES COSTS	4500.00		
										EQUIPMENT COSTS	6500.00		
										OTHER COSTS	0.00		
										TOTAL COSTS	77848.42	51148.42	
										*** FUNDING DETAIL:			
										1004 GENERAL FUND RECEIPTS	51148.42		
										TOTAL FUNDING	51148.42		
03#016		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A	10A 12	25127	0	11284	36411.80			
**** JUSTIFICATION:													
This is one of two legal secretaries needed to provide office services support for three attorneys and three paraprofessionals who will be required to handle capital felony trials, during the first year the law goes into effect. The work of the attorneys is expected to generate considerable legal documentation, in the form of motions and briefs, requiring full-time secretarial support. This position will be required in FY 1998.										TRAVEL COSTS	3000.00		
										CONTRACTUAL COSTS	9500.00		
										SUPPLIES COSTS	2700.00		
										EQUIPMENT COSTS	8500.00		
										OTHER COSTS	0.00		
										TOTAL COSTS	60111.80	36411.80	
										*** FUNDING DETAIL:			
										1004 GENERAL FUND RECEIPTS	36411.80		
										TOTAL FUNDING	36411.80		

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R B S C U	RAS MOS	SALARY BUDG	PREM PAY	BENES	PER.SERV. COSTS	G. V. AMOUNT	
03#017		LEGAL SECRETARY I	F	ANCHORAGE	A	CG 2A 10A	12 25127	0	11284	36411.80		
**** JUSTIFICATION:												
This is one of two legal secretaries needed to provide office services support for the three attorneys and three paraprofessionals who will be required to handle capital felony trials, during the first year the law goes into effect. The work of the attorneys is expected to generate considerable legal documentation, in the form of motions and briefs, requiring full-time clerical support. This position is required in FY 1998.												
										TRAVEL COSTS	3000.00	
										CONTRACTUAL COSTS	9500.00	
										SUPPLIES COSTS	2700.00	
										EQUIPMENT COSTS	8500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	60111.80	36411.80
*** FUNDING DETAIL:												
										1004 GENERAL FUND RECEIPTS	36411.80	
										TOTAL FUNDING	36411.80	
03#018		ATTORNEY V	F	ANCHORAGE	A	XE AA 25A	12 66332	0	20933	87265.67		
**** JUSTIFICATION:												
This senior level Attorney V position will be needed during the second year the capital felony law goes into effect, to handle the growing number of capital trials. During the second year eight additional trials should be underway and ten additional capital felonies will have been committed. The extraordinary due process standards required of prosecution, in capital cases, necessitate the highest level of legal expertise. Allocation to the Attorney V level is therefore recommended. This position will be required in FY 1999.												
										TRAVEL COSTS	7500.00	
										CONTRACTUAL COSTS	11900.00	
										SUPPLIES COSTS	4500.00	
										EQUIPMENT COSTS	6500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	117665.67	87265.67
*** FUNDING DETAIL:												
										1004 GENERAL FUND RECEIPTS	87265.67	
										TOTAL FUNDING	87265.67	
03#019		ASSOC ATTORNEY I	F	ANCHORAGE	A	XE AA 17A	12 38440	0	14412	52852.89		
**** JUSTIFICATION:												
This advanced paraprofessional position will be required, during the second year the capital felony law is in effect, to handle the growing number of capital trials. Eight new trials are expected to commence during the second year, and ten new offenses will have been committed. This position will help organize and examine evidence, and assist attorneys with legal research. Allocation to the Associate Attorney I level is therefore recommended. This position is required in FY 1999.												
										TRAVEL COSTS	5000.00	
										CONTRACTUAL COSTS	11900.00	
										SUPPLIES COSTS	4500.00	
										EQUIPMENT COSTS	6500.00	
										OTHER COSTS	0.00	
										TOTAL COSTS	80752.89	52852.89
*** FUNDING DETAIL:												
										1004 GENERAL FUND RECEIPTS	52852.89	
										TOTAL FUNDING	52852.89	

02/01/96

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## PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE:

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DEPARTMENT OF LAW

SCENARIO: 1

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

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R C	D U	S	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER. SERV. COSTS	G. F. AMOUNT																
03/020		LEGAL SECRETARY I	F	ANCHORAGE	A	CG	2A	10A	12	25127	0	11284	36411.80																	
<p>**** JUSTIFICATION:</p> <p>This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the growing caseload. Eight new capital felony trials are expected to commence, and ten new offenses will be committed during the year. Legal documentation for these trials will be intense. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1999.</p>																														
<table border="0"> <tr> <td>TRAVEL COSTS</td> <td>3000.00</td> <td></td> </tr> <tr> <td>CONTRACTUAL COSTS</td> <td>9500.00</td> <td></td> </tr> <tr> <td>SUPPLIES COSTS</td> <td>2700.00</td> <td></td> </tr> <tr> <td>EQUIPMENT COSTS</td> <td>0500.00</td> <td></td> </tr> <tr> <td>OTHER COSTS</td> <td>0.00</td> <td></td> </tr> <tr> <td>TOTAL COSTS</td> <td>60111.80</td> <td>36411.80</td> </tr> </table>													TRAVEL COSTS	3000.00		CONTRACTUAL COSTS	9500.00		SUPPLIES COSTS	2700.00		EQUIPMENT COSTS	0500.00		OTHER COSTS	0.00		TOTAL COSTS	60111.80	36411.80
TRAVEL COSTS	3000.00																													
CONTRACTUAL COSTS	9500.00																													
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EQUIPMENT COSTS	0500.00																													
OTHER COSTS	0.00																													
TOTAL COSTS	60111.80	36411.80																												
<p>*** FUNDING DETAIL:</p> <table border="0"> <tr> <td>1004 GENERAL FUND RECEIPTS</td> <td>36411.80</td> <td></td> </tr> <tr> <td>TOTAL FUNDING</td> <td>36411.80</td> <td></td> </tr> </table>													1004 GENERAL FUND RECEIPTS	36411.80		TOTAL FUNDING	36411.80													
1004 GENERAL FUND RECEIPTS	36411.80																													
TOTAL FUNDING	36411.80																													
03/021		ATTORNEY V	F	ANCHORAGE	A	XE	AA	25A	12	66332	0	20933	87265.67																	
<p>**** JUSTIFICATION:</p> <p>This Attorney V position will be required, during the second year the capital felony law is in effect, to handle the post-conviction appellate review process. It is anticipated that six defendants' convictions will be on appeal during the second year. Up to ten years or more may pass before these appeals are finally resolved. Initially, legal attacks on the law itself will go to the Alaska Supreme Court. If upheld, appeals will go to the federal court system, including the U.S. District Court. The highest level of legal expertise will be required to handle these appeals. Allocation to the Attorney V level is therefore recommended. This position will be needed in FY 1999.</p>																														
<table border="0"> <tr> <td>TRAVEL COSTS</td> <td>3500.00</td> <td></td> </tr> <tr> <td>CONTRACTUAL COSTS</td> <td>11900.00</td> <td></td> </tr> <tr> <td>SUPPLIES COSTS</td> <td>4500.00</td> <td></td> </tr> <tr> <td>EQUIPMENT COSTS</td> <td>6500.00</td> <td></td> </tr> <tr> <td>OTHER COSTS</td> <td>0.00</td> <td></td> </tr> <tr> <td>TOTAL COSTS</td> <td>133665.67</td> <td>87265.67</td> </tr> </table>													TRAVEL COSTS	3500.00		CONTRACTUAL COSTS	11900.00		SUPPLIES COSTS	4500.00		EQUIPMENT COSTS	6500.00		OTHER COSTS	0.00		TOTAL COSTS	133665.67	87265.67
TRAVEL COSTS	3500.00																													
CONTRACTUAL COSTS	11900.00																													
SUPPLIES COSTS	4500.00																													
EQUIPMENT COSTS	6500.00																													
OTHER COSTS	0.00																													
TOTAL COSTS	133665.67	87265.67																												
<p>*** FUNDING DETAIL:</p> <table border="0"> <tr> <td>1004 GENERAL FUND RECEIPTS</td> <td>87265.67</td> <td></td> </tr> <tr> <td>TOTAL FUNDING</td> <td>87265.67</td> <td></td> </tr> </table>													1004 GENERAL FUND RECEIPTS	87265.67		TOTAL FUNDING	87265.67													
1004 GENERAL FUND RECEIPTS	87265.67																													
TOTAL FUNDING	87265.67																													
03/022		ASSOC ATTORNEY I	F	ANCHORAGE	A	XE	AA	17A	12	38440	0	14412	52852.89																	
<p>**** JUSTIFICATION:</p> <p>This Associate Attorney paraprofessional position will be required, during the second year the capital felony law is in effect, to assist handling legal research for post-conviction appellate review process. It is anticipated that six defendants' convictions will be on appeal during the second year. Legal attacks on the law itself will be before the Alaska Supreme Court, as will appeals of convictions. Further appeals to the federal court system will commence, if the law is upheld. An enormous amount of research will be required. Allocation to the Associate Attorney I level is therefore recommended.</p>																														
<table border="0"> <tr> <td>TRAVEL COSTS</td> <td>2500.00</td> <td></td> </tr> <tr> <td>CONTRACTUAL COSTS</td> <td>11900.00</td> <td></td> </tr> <tr> <td>SUPPLIES COSTS</td> <td>4500.00</td> <td></td> </tr> <tr> <td>EQUIPMENT COSTS</td> <td>6500.00</td> <td></td> </tr> <tr> <td>OTHER COSTS</td> <td>0.00</td> <td></td> </tr> <tr> <td>TOTAL COSTS</td> <td>98252.89</td> <td>52852.89</td> </tr> </table>													TRAVEL COSTS	2500.00		CONTRACTUAL COSTS	11900.00		SUPPLIES COSTS	4500.00		EQUIPMENT COSTS	6500.00		OTHER COSTS	0.00		TOTAL COSTS	98252.89	52852.89
TRAVEL COSTS	2500.00																													
CONTRACTUAL COSTS	11900.00																													
SUPPLIES COSTS	4500.00																													
EQUIPMENT COSTS	6500.00																													
OTHER COSTS	0.00																													
TOTAL COSTS	98252.89	52852.89																												
<p>*** FUNDING DETAIL:</p>																														

DEPARTMENT OF LAW

SCENARIO: 1

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

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	DERES	PER.SERV. COSTS	G. F. AMOUNT
1004 GENERAL FUND RECEIPTS										52852.89	
TOTAL FUNDING										52852.89	
03/023		LEGAL SECRETARY I	F	ANCHORAGE	A	CG 2A 10A 12	25127	0	11284	36411.80	
**** JUSTIFICATION:											
This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the post-conviction appellate review process. This process is expected to begin during the second year, when the first six convictions should be on appeal. This process is document intensive and full-spectrum secretarial services will be required. Allocation to the Legal Secretary I level is therefore recommended. This position is needed in FY 1999.											
TRAVEL COSTS										0.00	
CONTRACTUAL COSTS										9500.00	
SUPPLIES COSTS										2700.00	
EQUIPMENT COSTS										8500.00	
OTHER COSTS										0.00	
TOTAL COSTS										57111.80	36411.80
*** FUNDING DETAIL:											
1004 GENERAL FUND RECEIPTS										36411.80	
TOTAL FUNDING										36411.80	
03/025		ATTORNEY IV	F	ANCHORAGE	A	XE AA 24A 12	61923	0	20100	82023.52	
**** JUSTIFICATION:											
This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle the growing number of capital felony trials. It is anticipated that ten of these trials will be underway in the third year, and ten new offenses will have been committed. An enormous amount of attorney time is required to handle these because of the heightened due process standards that are mandated for capital prosecutions. Those trials require highly skilled prosecutors. Allocation to the full-working level of Attorney IV, is therefore recommended. This position will be needed in FY 2000.											
TRAVEL COSTS										7500.00	
CONTRACTUAL COSTS										11900.00	
SUPPLIES COSTS										4500.00	
EQUIPMENT COSTS										6500.00	
OTHER COSTS										0.00	
TOTAL COSTS										112423.52	82023.52
*** FUNDING DETAIL:											
1004 GENERAL FUND RECEIPTS										82023.52	
TOTAL FUNDING										82023.52	
03/026		PARALEGAL ASSY II	F	ANCHORAGE	A	CG 2A 16A 12	36990	0	14157	51148.42	
**** JUSTIFICATION:											
This Paralegal Assistant position will be required, during the third year the capital felony law is in effect, to handle the growing number of capital felony trials. It is anticipated that ten trials will be underway at this point, and ten new offenses will have been committed. This position will assist witnesses and coordinate witness schedules and trial logistics. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be required in FY 2000.											
TRAVEL COSTS										5000.00	
CONTRACTUAL COSTS										11900.00	
SUPPLIES COSTS										4500.00	
EQUIPMENT COSTS										6500.00	
OTHER COSTS										0.00	
TOTAL COSTS										79400.42	51148.42

DEPARTMENT OF LAW

SCENARIO: 1

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

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R B S C U	R&S BUDG	MOS	SALARY	PREM PAY	BENEF COSTS	PER.SERV. COSTS	G. F. AMOUNT
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## \*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 51148.42

TOTAL FUNDING 51148.42

03/021		LEGAL SECRETARY I		F ANCHORAGE	A	GG 2A 10A 12		25127	0	11284		36411.80
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## \*\*\*\* JUSTIFICATION:

This Legal Secretary position will be required, during the third year the capital felony law is in effect, to handle growing number of capital felonies. It is anticipated that ten capital trials will be underway at this point, and ten new offenses will have been committed. The work generated by attorneys will require substantial secretarial assistance. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

## \*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36411.80

TOTAL FUNDING 36411.80

03/020		ATTORNEY IV		F ANCHORAGE	A	XE AA 24A 12		61923	0	20100		82023.52
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## \*\*\*\* JUSTIFICATION:

This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle post-conviction appeals. It is anticipated that six new convictions will be on appeal by the third year, bringing the total cases on appeal to 12. Capital penalty appeals have an average span of ten years. These appeals are heard in the Alaska Supreme Court, the U.S. District Court, the U.S. Court of Appeals and the U.S. Supreme Court. These appeals often move up and down, through the system, as each separate issue is argued. Full-working level legal expertise is necessary to handle this work, and allocation to Attorney IV is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	128423.52	82023.52

## \*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 82023.52

TOTAL FUNDING 82023.52

03/029		PARALEGAL ASST II		F ANCHORAGE	A	GG 2A 16A 12		36990	0	14157		51148.42
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## \*\*\*\* JUSTIFICATION:

This Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist the preparation of appellate documentation and research. Six new appeals are expected in the third year, bringing the total to be handled to 12. These appeals have an average time span of ten years.

TRAVEL COSTS	2500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R B S C U	R&S BUDG	MOS	SALARY	PREM PAY	BENES	PER.SERV. COSTS	G. F. AMOUNT
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Enormous amounts of time must be spent researching the law, examining trial records, and preparing legal arguments, and briefs. A substantial documents and research effort will be required. Allocation to the

TOTAL COSTS 96548.42 51148.42

\*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 51148.42  
 TOTAL FUNDING 51148.42

03#030	LEGAL SECRETARY I	F ANCHORAGE		A GG 2A 10A 12	25127	0	11284	36411.80
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\*\*\* JUSTIFICATION:

This Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle a growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by six reviews, each year, thereafter. Each review lasts about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle this work. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS 0.00  
 CONTRACTUAL COSTS 9500.00  
 SUPPLIES COSTS 2700.00  
 EQUIPMENT COSTS 8500.00  
 OTHER COSTS 0.00  
 TOTAL COSTS 57111.80 36411.80

\*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36411.80  
 TOTAL FUNDING 36411.80

03#031	ASSOC ATTORNEY I	F ANCHORAGE		A XE AA 17A 12	38440	0	14412	52852.89
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\*\*\* JUSTIFICATION:

This advanced paraprofessional position will be required, during the first year that the capital felony law goes into effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The heightened due process protection accorded defendants, in these cases, causes a far more onerous burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1998.

TRAVEL COSTS 5000.00  
 CONTRACTUAL COSTS 10700.00  
 SUPPLIES COSTS 4500.00  
 EQUIPMENT COSTS 6500.00  
 OTHER COSTS 0.00  
 TOTAL COSTS 79552.89 52852.89

\*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 52852.89  
 TOTAL FUNDING 52852.89

03#032	ASSOC ATTORNEY I	F ANCHORAGE		A XE AA 17A 12	38440	0	14412	52852.89
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\*\*\* JUSTIFICATION:

This advanced paraprofessional position will be required, during the second year that the capital felony law is in effect, to handle evidence preparation and assist in legal research that is necessary to try capital cases. The

TRAVEL COSTS 5000.00  
 CONTRACTUAL COSTS 11900.00  
 SUPPLIES COSTS 4500.00  
 EQUIPMENT COSTS 6500.00

02/01/96

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## PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE:

9

DEPARTMENT OF LAW

SCENARIO: 1

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

PCN	UNAUTH PCN	JOB CLASS TITLE	Y S	LOCATION NAME	R B S C U	R&S MOS BUDD	SALARY	PREM BENES PAY	PER.SERV. COSTS	G. F. AMOUNT
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heightened due process protection accorded defendants, in these cases, causes a far more severe burden of proof standard for prosecution. Allocation to the Associate Attorney I paraprofessional level is therefore recommended. This position will be required in FY 1999.

OTHER COSTS	0.00	
TOTAL COSTS	80752.89	52852.89

\*\*\* FUNDING DETAIL:  
100% GENERAL FUND RECEIPTS

52852.89

TOTAL FUNDING 52852.89

33	ATTORNEY IV	F ANCHORAGE		A XE AA 24A 12	61923	0 20100	82023.52
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## \*\*\*\* JUSTIFICATION:

This Attorney IV position will be required, during the third year the capital felony law is in effect, to handle post-conviction appeals. It is anticipated that six new convictions will be on appeal by the third year, bringing the total cases on appeal to 12. Capital penalty appeals have an average span of ten years. These appeals are heard in the Alaska Supreme Court, the U.S. District Court, the U.S. Circuit Court of Appeals, and the U.S. Supreme Court. These appeals often move up and down, through the system, as each separate issue is argued. Full-working level legal expertise is necessary to handle this work, and allocation to Attorney IV is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	3500.00	
CONTRACTUAL COSTS	31900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	128423.52	82023.52

\*\*\* FUNDING DETAIL:  
100% GENERAL FUND RECEIPTS

82023.52

TOTAL FUNDING 82023.52

34	LEGAL SECRETARY I	F ANCHORAGE		A GG 2A 10A 12	25127	0 11284	36411.80
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## \*\*\*\* JUSTIFICATION:

This Legal Secretary I will be required, during the third year the capital felony law is in effect, to handle a growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will grow by six reviews, each year, thereafter. Each review lasts about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle that work. Allocation to the Legal Secretary I is therefore recommended. This position will be needed in FY 2000.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	57111.80	36411.80

\*\*\* FUNDING DETAIL:  
100% GENERAL FUND RECEIPTS

36411.80

TOTAL FUNDING 36411.80

PCN	UNAUTH PCN	JOB CLASS TITLE	F S	LOCATION NAME	R C	D U	S R&S	MOS BUDG	SALARY	PREM PAY	BI.NES	PER.SERV. COSTS	G. F. AMOUNT
03#035		ATTORNEY IV	F	ANCHORAGE	A	XE	AA	24A	12	61923	0	20100	82023.52

\*\*\* JUSTIFICATION:

This Attorney IV position will be needed during the second year the capital felony law goes into effect, to handle the growing number of capital trials. During the second year eight additional trials should be underway and ten additional capital felonies will have been committed. The extraordinary due process standards required of prosecution, in capital cases necessitate the full working level of legal expertise. Allocation to the Attorney IV level is therefore recommended. This position will be required in FY 1999.

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	11900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112423.52	82023.52

\*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	82023.52
TOTAL FUNDING	82023.52

03#036		LEGAL SECRETARY I	F	ANCHORAGE	A	GG	2A	10A	12	25127	0	11284	36411.80
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\*\*\* JUSTIFICATION:

This Legal Secretary I position will be required, during the second year the capital felony law is in effect, to handle the growing caseload. Eight new capital felony trials are expected to commence, and ten new offenses will be committed during the year. Legal documentation for these trials will be intense. Allocation to the Legal Secretary I level is therefore recommended. This position will be needed in FY 1999.

TRAVEL COSTS	3000.00	
CONTRACTUAL COSTS	9500.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	60111.80	36411.80

\*\*\* FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	36411.80
TOTAL FUNDING	36411.80

\*\*\* COMPONENT TOTALS:

FULL TIME NEW POSITIONS	25	TOTAL PERSONAL SERVICES	1462942.24
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	2219742.24
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 25

FUNDING DATA: G.F. & G.F. MATCH:	1462942.24
OTHER FUNDS:	0.00
TOTAL FUNDING:	1462942.24

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Revision Date: \_\_\_\_\_  
Title: "An Act authorizing capital punishment..."  
Sponsor: Senator Taylor  
Requestor: (S) JUD

Department Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		770.4	1032.0	1638.7	1638.7	2496.3
TRAVEL		50.0	150.0	250.0	350.0	450.0
CONTRACTUAL		184.8	468.2	896.6	1256.6	1699.6
SUPPLIES		25.0	24.0	33.0	33.0	48.0
EQUIPMENT		54.0	18.0	40.5	-0-	40.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1084.2</b>	<b>1692.2</b>	<b>2858.8</b>	<b>3278.3</b>	<b>4734.4</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1084.2	1692.2	2858.8	3278.3	4734.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>1084.2</b>	<b>1692.2</b>	<b>2858.8</b>	<b>3278.3</b>	<b>4734.4</b>

Estimate of any current year (FY 96) cost: \$ -0-

**POSITIONS:**

FULL-TIME		12.0	16.0	25.0	25.0	38.0
PART-TIME						
TEMPORARY						

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

See attached.

Prepared by John B. Salemi, Director  
Division: Public Defender Agency

Phone: (907) 264-4412  
Date: \_\_\_\_\_

Approved by Commissioner Mark Boyer  
Agency: Department of Administration

Date: 5/1/96

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## FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

### ANALYSIS: (continued)

#### Introduction

This bill authorizes capital punishment for the crime of Murder in the First Degree if certain attendant aggravating factors are found to exist and are established by competent evidence. Prosecution is given discretion whether to seek the death penalty in a given case.

The capital caseload of the Public Defender Agency will be a direct function of the number of murder cases prosecuted in the state combined with prosecutorial decisions to seek the death penalty. As such the Public Defender Agency's fiscal analysis is premised on projections made by the Department of Law in its fiscal analysis of HB 45. The Department of Law indicated it prosecuted 17 murder cases in 1994 where the death penalty could have been sought in that the requisite statutory aggravators were present. Of those 17, ten would likely result in death penalty trials. The Department of Law concluded that they would gain nine convictions from which the death penalty would be imposed in six cases.

Of the ten cases which are projected to go to trial as capital cases, the Public Defender anticipates being assigned to seven, with the other three either involving private lawyers or attorneys secured through the Office of Public Advocacy (where the PD is unable to undertake representation because of legal conflict of interest).

Because the number of murders can vary significantly from year to year, predicting actual numbers of cases is difficult. It is not difficult, however, to predict a profound fiscal impact for the PD once the death penalty becomes law. The concept of "super due process", established by the U.S. Supreme Court as the required standard of practice for defending death penalty cases, necessitates that highly capable lawyers and support staff (in sufficient numbers) be in place to handle any and all cases of this nature.

#### Fiscal Impact

Passage of this death penalty legislation will have an undeniably significant impact on the entire criminal justice system, including the courts, corrections, prosecution, public counsel services, and other related entities. Death penalty cases require greater due process safeguards than do non-capital cases. This is obviously a consequence of the severity and finality of a death sentence as well as the potential for killing an innocent person by mistake. It must be understood that the criminal justice system is an imperfect process based on the combination of law and human judgment. Some percentage of error is a consequence of the American jury system. In non-death cases the system stands ready to correct those mistakes when and where they become known. An execution following a death penalty case can never be corrected. It is for these reasons so much care must be taken to defend individuals accused in capital cases. Providing "super due process" translates into adequate attorney resources, support resources, expert and consultation monies, funds for appealing death penalty convictions and other attendant expenses. A commonly accepted estimate for expert witness fees alone in a death penalty case is \$60,000.

It is not unusual for a death penalty case to remain in the court system, litigated by the parties, for a period of up to ten years. This is a result of the extensive appellate work which is routinely done in each death penalty case following conviction. Following are the procedures which are typically utilized after a trial and sentencing:

1. Motion to modify the death sentence/reconsider before state trial judge;
2. Mandatory appeal of conviction and sentence to Alaska Supreme Court;
3. Writ of certiorari to the United States Supreme Court;
4. Post-conviction relief proceedings in state court;

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

5. Appeal of unsuccessful post-conviction relief proceedings to the Court of Appeals;
6. Petition for hearing of post-conviction relief proceeding denial to the Alaska Supreme Court;
7. Petition for writ of habeas corpus in Federal District Court;
8. Appeal to the United States Court of Appeals if writ unsuccessful;
9. Rehearing in the United States Court of Appeals;
10. Writ of certiorari to the United States Court of Appeals;
11. Request for clemency/commutation to Executive Branch of government.
12. Emergency stays to the United States Supreme Court prior to execution.

Breakdown of Fiscal Impact

1. Personal Services. Given the complexity and intensity of effort involved in each death penalty trial and penalty hearing, many states require by statute that a minimum of two defense attorneys take up representation of the accused in death penalty matters. Both the state District Attorney and the Office of Public Advocacy contemplate such a policy for their respective agencies. The Public Defender will follow this prudent course, whether established by statute or internal policy.

Assuming that the Public Defender Agency handles six to seven capital cases per year, death penalty units will be established in its two largest offices; Anchorage and Fairbanks. A trial team in each of these offices will be established the first year. The second year an appellate team will be placed in Anchorage. (Please note that unlike the Department of Law, the Public Defender Agency has no equivalent to the Office of Special Prosecutions and Appeals.) The appellate team will not be needed until the second year following enactment of the death penalty because it is not expected that an appeal would be "ripe" until that time. Obviously adequate support staff, to include legal interns (designated as "Associate Attorneys" under state personnel classification) paralegals, investigators and secretaries, will be necessary. A second appellate team will be established in Fairbanks in the third year following enactment of capital punishment.

2. Travel and Contractual. Travel expenses will be necessarily high in that a team approach is being taken by this agency. These teams will have to travel to locations where the crime occurred and where trial is being held. Travel expenses are higher in Alaska because of the geography of the state, the lack of surface roads, and the high cost of air travel and lodging. Costs will be even higher for the considerable out-of-state travel associated with these cases. Once an individual is convicted of a capital offense, preparation begins for the penalty phase (sentencing hearing). Defense investigators will travel to locations where the defendant lived, went to school, etc., to interview people and develop facts for the purpose of vitiating a sentence of execution. If favorable witnesses are located, they will then have to be subpoenaed for travel to Alaska for the hearing.

Contractual expenditures for expert witnesses will be significant. As the Department of Law pointed out in a 1993 fiscal note related to a death penalty proposal, "recent cost studies of capital trials in other states indicate that expert witnesses for both the trial and sentencing proceedings cost about \$60,000, on the average". This estimate is consistent with the research by the Public Defender Agency on this issue. In addition there will be expert witness costs for the appellate work done following trial, conviction and sentence to death. These costs can be as high as the expert witness fees incurred during trial.

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STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

3. Supplies and Equipment. These expenses naturally accrue when additional staff are required. Estimates which follow are conservative projections without consideration of inflationary factors.

4. Training. Training for lawyers engaged in death penalty work is a critical component for any death penalty defense unit. Both the prosecution and the defense will avail themselves of national training programs which are conducted on a yearly basis related to these kinds of cases.

Conclusion

Due to the accrual of cases from year to year, once implementation of the death penalty occurs expenses could greatly exceed that anticipated in this fiscal analysis. This agency has no control over the trend of homicide crimes nor the discretion which will be exercised by the prosecution in seeking the death penalty. There is the real likelihood that additional staff will have to be added to this agency beyond the third year of implementation of the capital crime law. Simply stated, this cost estimate very well might understate staff/contractual needs. Only several years of experience with the death penalty will permit adjustment of projections and fiscal analysis.

Fiscal Impact--FY 98

Personal Services (100 Line) \*

Anchorage - Trial Team

Attorney V	
Salary & Benefits	\$ 88.9
Attorney IV	
Salary & Benefits	83.6
Associate Attorney I	
Salary & Benefits	53.8
Paralegal Assistant II	
Salary & Benefits	52.1
Investigator II	
Salary & Benefits	52.1
Legal Secretary I	
Salary & Benefits	37.0

Fairbanks - Trial Team

Attorney V	
Salary & Benefits	100.9
Attorney IV	
Salary & Benefits	94.7
Associate Attorney I	
Salary & Benefits	61.2
Paralegal Assistant II	
Salary & Benefits	53.9
Investigator II	
Salary & Benefits	\$ 53.9
Legal Secretary I	
Salary & Benefits	<u>38.3</u>

SUBTOTAL

\$ 770.4

\* Using FY 96 salary schedule with no increases factored in.

FISCAL NOTE

BILL NO. SSSB 52

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Travel (200 Line)

Death penalty teams will travel to appropriate venue for all relevant hearings. Travel includes that of staff, witnesses, expert witnesses, etc. This includes both in-state and out-of-state travel.

SUBTOTAL \$ 50.0

Contractual (300 Line)

Expert witness fees	\$120.0
Additional office space for death penalty staff in Anchorage and Fairbanks P.D. offices	30.8
Communications	15.0
Printing	4.0
Depositions	10.0
Westlaw	<u>5.0</u>

SUBTOTAL \$ 184.8

Supplies (400 Line)

Office consumables	\$ 5.0
Law library	10.0
New position supplies (one time)	<u>10.0</u>

SUBTOTAL \$ 25.0

Equipment (500 Line)

Office furniture and equipment, pc/word processing, etc. (one time)	SUBTOTAL	\$ <u>54.0</u>
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TOTAL FY 98 \$1084.2

Fiscal Impact-FY 99

(These costs are in addition to FY 98 costs which will be carried over from year to year.)

Personal Services (100 Line)

Anchorage - Appellate Team

Attorney V	
Salary & Benefits	\$ 88.9
Attorney IV	
Salary & Benefits	83.6
Paralegal Assistant II	
Salary & Benefits	\$ 52.1
Legal Secretary I	
Salary & Benefits	<u>37.0</u>

SUBTOTAL \$261.6

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Travel (200 Line)

Staff travel, expert travel and per diem.	SUBTOTAL	\$100.0
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Contractual (300 Line)

Expert witness fees (based on accrual of FY 98 and 99 cases)	\$240.0	
Office space for Anchorage appellate team	11.4	
Training for Death Penalty Appellate Team	4.0	
Communications	10.0	
Depositions	5.0	
Document production	5.0	
Westlaw	<u>8.0</u>	
	SUBTOTAL	\$ 283.4

Supplies (400 Line)

Office consumables	\$ 3.0	
Law library	2.0	
New position supplies (one time)	<u>4.0</u>	
	SUBTOTAL	\$ 9.0

Equipment (500 Line)

New position equipment (one time)	SUBTOTAL	<u>\$ 18.0</u>
	SUBTOTAL FY 99	\$ 672.0
	FY 98 CONTINUING COSTS	<u>\$1020.2</u>
	TOTAL FY 99 EXPENDITURES	\$1692.2

Fiscal Impact--FY 00

(These costs are in addition to FY 98-99 costs which will be carried over from year to year.)

Personal Services (100 Line)

Anchorage:

Attorney V (Additional death penalty trial attorney)	
Salary & Benefits	\$ 88.9
Associate Attorney I	
Salary & Benefits	53.6
Legal Secretary I	
Salary & Benefits	37.0

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SS5B 52

Fairbanks

Attorney V (Additional death penalty trial attorney)	
Salary & Benefits	\$ 100.9
Legal Secretary I (Trial support)	
Salary & Benefits	38.3
<u>Appellate Team (Fairbanks)</u>	
Attorney V (Additional lawyer for death penalty appellate work)	
Salary & Benefits	100.9
Attorney IV (Additional lawyer for death penalty appellate work)	
Salary & Benefits	94.7
Paralegal Assistant II	
Salary & Benefits	63.9
Legal Secretary I (Appellate support)	
Salary & Benefits	<u>38.3</u>

SUBTOTAL \$606.7

Travel (200 Line)

Staff travel, expert travel and per diem.	SUBTOTAL <span style="float: right;">\$100.0</span>
--	---

Contractual (300 Line)

Expert witness fees based on trial and appellate cases for FY 00	\$ 360.0
Additional office space for new staff	25.4
Communications	20.0
Depositions	10.0
Document production	5.0
Westlaw	<u>8.0</u>

SUBTOTAL \$ 428.4

Supplies (400 Line)

Office consumables	\$ 5.0
New position supplies (one time)	<u>8.0</u>

SUBTOTAL \$ 13.0

Equipment (500 Line)

New position equipment (one time)	SUBTOTAL <span style="float: right;"><u>\$ 40.6</u></span>
-----------------------------------	--

SUBTOTAL FY 00 \$1188.6

FY 99 CONTINUING COSTS \$1670.2

TOTAL FY 00 EXPENDITURES \$2858.8

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Fiscal Impact--FY 01

(These costs are in addition to FY 98-99-00 costs which will be carried over from year to year.)

Personal Services (100 Line) SUBTOTAL .0

Travel (200 Line)

Death penalty teams will travel to appropriate venue for all relevant hearings. Travel includes that of staff, witnesses, expert witnesses, etc.

SUBTOTAL \$100.0

Contractual (300 Line)

Expert witness fees, office space, communications, Westlaw, etc.

SUBTOTAL 360.0

Supplies (400 Line)

Office, law library

SUBTOTAL 8.0

SUBTOTAL FY 01 \$ 468.0

FY 00 CONTINUING COSTS \$2910.3

TOTAL FY 01 EXPENDITURES \$3278.3

Fiscal Impact--FY 02

(These costs are in addition to FY 98-99 costs which will be carried over from year to year.)

Personal Services (100 Line)

Anchorage - Trial Team

Attorney V	
Salary & Benefits	\$ 88.9
Attorney IV	
Salary & Benefits	83.6
Associate Attorney I	
Salary & Benefits	63.8
Paralegal Assistant II	
Salary & Benefits	52.1
Investigator III	
Salary & Benefits	59.2
Legal Secretary II	
Salary & Benefits	39.1

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

<u>Fairbanks</u>		
Attorney V (Additional death penalty trial attorney)		
Salary & Benefits	100.9	
Investigator II		
Salary & Benefits	63.9	
Legal Secretary I (Trial support)		
Salary & Benefits	38.3	
Attorney V (Additional lawyer for death penalty appellate work)		
Salary & Benefits	100.9	
Attorney IV (Additional lawyer for death penalty appellate work)		
Salary & Benefits	94.7	
Paralegal Assistant II		
Salary & Benefits	63.9	
Legal Secretary I (Appellate support)		
Salary & Benefits	<u>\$ 38.3</u>	
	SUBTOTAL	\$ 857.6
 <u>Travel (200 Line)</u>		
Staff travel, expert travel and per diem.		
	SUBTOTAL	\$ 100.0
 <u>Contractual (300 Line)</u>		
Expert witness fees based on trial and appellate cases for FY 00	360.0	
Additional office space for new staff	30.0	
Training for staff	10.0	
Communications	20.0	
Depositions	10.0	
Document production	5.0	
Westlaw/CD Rom	<u>8.0</u>	
	SUBTOTAL	\$ 443.0
 <u>Supplies (400 Line)</u>		
Office consumables	\$ 5.0	
New position supplies (one time)	<u>10.0</u>	
	SUBTOTAL	\$ 15.0
 <u>Equipment (500 Line)</u>		
New position equipment (one time)		
	SUBTOTAL	<u>\$ 10.5</u>
	SUBTOTAL FY 02	\$1466.1
	FY 01 CONTINUING COSTS	<u>\$3278.3</u>
	TOTAL FY 02 EXPENDITURES	\$4731.4

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

BUDGET BACKGROUND

TRAVEL EXPENDITURES:

Round trip fares between the following locations are used as the basis for computing estimated travel by attorneys, support staff, witnesses and experts: (per diem expenses additional)

Anchorage -	Dillingham	\$ 466	Fairbanks -	Fort Yukon	\$156
	Unalaska	1014		Barrow	650
	St. Paul	1106		Galena	216
	Kodiak	386		Wainwright	530
	Cordova	224		Pt. Hope	600
	Valdez	200			
	Bethel	694			
	Nome	580			
	Kotzebue	580			
	Fairbanks	406			
	Junau	344			
	Sitka	470			
	Ketchikan	588			
	Seattle	986			
	Washington, DC	1678			
	Kenai	130			

OFFICE SPACE FOR ADDITIONAL EMPLOYEES

Attorney V	175 sq. ft.	@ \$1.76	= \$306/mo x 12	= \$3672/yr
Attorney IV	175 sq. ft.	@ \$1.76	= \$306/mo x 12	= \$3672/yr
Assoc. Attorney I	122 sq. ft.	@ \$1.75	= \$213/mo. x 12	= \$2556/yr
Paralegal II	98 sq. ft.	@ \$1.75	= \$171/mo. x 12	= \$2052/yr
Investigator II	68 sq. ft.	@ \$1.75	= \$119/mo x 12	= \$1428/yr
Legal Secretary I	98 sq. ft.	@ \$1.75	= \$171/mo. x 12	= \$2052/yr

OFFICE EQUIPMENT FOR ADDITIONAL EMPLOYEES (one time)

Desk, chairs, table, bookshelves, PC/word processing - \$4500 each

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB 52

Revision Date: \_\_\_\_\_

Dept. Affected: Alaska Court System

Title: Capital Punishment for Murder

BRU: Trial Courts

Sponsor: Sens. Taylor Pearce

Component: \_\_\_\_\_

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES		375.9	375.9	375.9	375.9	375.9
TRAVEL		142.2	142.2	142.2	142.2	142.2
CONTRACTUAL		511.8	511.8	511.8	511.8	511.8
SUPPLIES		7.0	7.0	7.0	7.0	7.0
EQUIPMENT		31.7				
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>1,068.6</b>	<b>1,036.9</b>	<b>1,036.9</b>	<b>1,036.9</b>	<b>1,036.9</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		1,068.6	1,036.9	1,036.9	1,036.9	1,036.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>		<b>1,068.6</b>	<b>1,036.9</b>	<b>1,036.9</b>	<b>1,036.9</b>	<b>1,036.9</b>

Estimate of any current year (FY 96) cost: \$ None

Positions

Full-Time		40	40	40	40	40
Part-Time		30	30	30	30	30
Temporary		10	10	10	10	10

ANALYSIS: (Attach a separate page if necessary)

See attached analysis

Prepared by: C. S. Christensen III, Staff Counsel  
Agency: Alaska Court System

Phone: 264-8228  
Date: 02/06/96

Approved by: Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 02/06/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

**Alaska Court System**

**Fiscal Analysis**

**SSSB 52**

**Personnel Services**

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Judge, Anchorage Trial Courts, 50% vested, PPT, 12 months	\$48,300	\$29,779	\$78,079
Pro Tem Judge, Anchorage Trial Courts, 50% vested, PPT, 12 months	48,300	29,779	78,079
Pro Tem Judge, Fairbanks Trial Courts, 50% vested, PPT, 6 months	24,501	14,933	39,434
Law Clerk I, Anchorage Trial Courts, range 13D, PFT, 12 months	31,824	13,549	45,373
Law Clerk I, Anchorage Trial Courts, range 13D, PFT, 12 months	31,824	13,549	45,373
Law Clerk I, Fairbanks Trial Courts, range 13D, PFT, 12 months	36,672	14,835	51,507
Law Clerk I, Anchorage Appellate Courts, range 15D, PFT, 12 months	36,672	14,835	51,507
Bailiff, Statewide, range 6A, NPP, 24 months	38,184	3,647	41,831
			<u>431,183</u>

Offset cost of existing caseload -

*Currently, first degree murder cases experience a 50% trial rate and last approximately one month. Using this experience, the court could expect five trials and to incur approximately 5 months of trial. The proposed legislation will result in approximately 39 months of trial activity (see jury fees in the contractual section below). Therefore, the cost offset is computed at 5/39 of the expected personnel costs.*

	<u>(55,300)</u>
Net personal services	<u>375,883</u>

*Based on the fiscal note submitted by the Department of Law, the court system anticipates needing additional judicial staff to carry the workload of active judges assigned to capital offense cases. The court will use 50% vested pro tem judges, which are among the least-costly judicial positions available. Additional law clerks are required for extensive legal research of motions and other legal questions. Funding is requested for two non-permanent bailiffs, which will serve in the designated trial site.*

Travel

Jury sequestration costs - transportation, meals and lodging	126,000
10 innocence/guilt trials with 18 jurors, 7 days in deliberation each, @ \$100 a day	

Offset cost of existing caseload -

*See offset note in personal services.*

	<u>(16,200)</u>
Not travel	<u>142,200</u>

*Death penalty cases are often subject to intense media exposure, which may initiate changes in venue. High jury sequestration costs are anticipated due to lengthy deliberations.*

Contractual

Jury fees - 10 innocence/guilt trial @ 66 days each (3 months), 18 jurors @ \$25 a day and 9 sentencing trials @ 22 day each (1 month), 18 jurors @ \$25 a day	386,100
Contractual security guard to staff metal detectors	10,000
Transcription fees - 19 transcripts, 5,000 pages each at \$2.00 a page	150,000
Freight for high security equipment kit	1,000
	<u>1,000</u>
Total contractual service	<u>587,100</u>

Offset cost of existing caseload -

*See offset note in personal services.*

	<u>(75,300)</u>
Not contractual services	<u>511,800</u>

*See additional note on contractual costs on the next page.*

**Alaska Court System**  
**Fiscal Analysis (continued)**  
**SSSB 52**

*The Department of Law expects to prosecute 10 capital offenses each year. Capital offense trials will be split into 2 separate trials with each lasting 2 to 6 months. The court anticipates extraordinary jury costs from calling additional jurors, extended juror selection questioning, the need for alternate jurors and lengthy trials. The court anticipates high transcription costs resulting from preparation of the voluminous record for capital offense trials.*

**Supplies**

Office and courtroom supplies for new positions and trials. 7,000

**Equipment (one-time cost)**

Standard office equipment and reference materials for law clerks 6,720

Portable high security equipment kit, consisting of a walk-through metal detector, temporary building card key system and video monitoring system. Will be shipped to trial site. 25,000

31,720

Total estimated costs \$1,068,603

## ALASKA CANNOT AFFORD THE DEATH PENALTY

Attorney General Botelho estimates the cost of obtaining a single execution in Alaska at \$5 MILLION -- that's HALF the ANNUAL PROSECUTION BUDGET!

\* \* \* \* \*

Previous prosecutor, defender, and court estimates have conservatively predicted that 6 capital cases a year would cost taxpayers \$18.8 MILLION for the first four years alone. This estimate does NOT include costs of constructing, maintaining and staffing a death row/execution facility.

\* \* \* \* \*

Alaskans can expect to spend well in excess of \$50,000,000.00 on the death penalty before even one person is executed!

POPULAR OPINION TOTALLY WRONG:  
Executions Cost MUCH MORE Than Prison!

Q: Which do you believe costs more --  
the death penalty or life in prison without parole?

74% life in prison costs more

21% death penalty costs more

5% unsure

THE TRUTH: It costs MILLIONS and MILLIONS MORE  
to execute JUST ONE murderer than to keep him in  
prison for life.

NORTH CAROLINA: \$2.16 Million MORE

CALIFORNIA: \$15 Million /execution  
6 x MORE than prison

TEXAS: \$2.3 Million /execution  
3 x MORE than prison

FLORIDA: \$3.2 Million /execution

\*\*\* MOST costs are at the TRIAL level,  
NOT the result of appeals. \*\*\*

POPULAR OPINION TOTALLY WRONG:  
Convicted Murderers Stay In Prison!

Q: If a person is convicted in Alaska of 1st degree murder and sentenced to life, how long do you think that person will be in prison before being paroled or released back into society?

Public opinion of years  
before parole / release:

THE TRUTH: Law requires  
NO RELEASE for 20 yrs

1 - 9 yrs = 37%

78% of Alaskans  
believe in a crime  
risk that does NOT  
and can NOT exist!

10 - 14 yrs = 23%

15 - 20 yrs = 18%

21 - 30 yrs = 6%

THE TRUTH: ALASKA IS  
ALREADY TOUGH ON CRIME

31 - 40 yrs = 2%

41 - 50 yrs = 1%

51+ yrs = 1%

The average sentence for  
murder-1 = 80 - 90 yrs

never released = 3%

don't know/unsure = 9%

HALF of those sentenced for Murder-1 receive 99 yrs. Composite sentences in the aggravated cases, for which the death penalty is proposed, always exceed 99 yrs and/or include parole restrictions, resulting in terms of natural life without any possibility of parole.

THE TRUTH: The death penalty makes  
NO contribution to public safety.

RECEIVED MAR 13 1995

Dustin Fraser  
1319 Mountain View Dr.  
Kodiak Ak 99615  
March 7, 1995

Senator Robin Taylor, Chairman  
Judiciary committee  
Senate  
State Capital, Room 30  
Juneau, Alaska 99801-1182

Dear, Robin Taylor

I am a citizen of Kodiak. And I am writing in regards to SB 52 Capital Punishment For Murder.

I think there should be capital punishment for murder . It would clean up the streets, if you take away the people that cause the crime there will be no murder. But there is only one problem with SB 52 ,that is that the people who get the death penalty are on death row to long. Most are on death row for six years or more. If you pass this bill you should ask for sorter time on death row.

Thank you for taking the time to read my leader. I hope you pass this bill. thanks again.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin Fraser", written over a horizontal line.

Dustin Fraser

RECEIVED MAR 13 1995

Linda MacMillan  
3530 Wingate Circle  
Anchorage, Alaska 99508  
(907)277-2209

Senator Robin Taylor  
Senate  
State Capitol  
Juneau, Alaska 99801-1182

Re: Senate Bill 52, "Capital Punishment for Murder"

Dear Mr. Taylor

I am saddened to see that you have proposed legislation to enact capital punishment in the State of Alaska.

I recently read several essays for and against capital punishment. Both sides persuasively argue the merits of the deterrent value, economic cost, and reinforcement of societal norms. However, everyone agrees it is wrong to kill an innocent person.

Proponents believe they can establish a process that would prevent loss of an innocent person's life. I do not believe this is possible. The proposed measures to short-circuit the appellate process in order to minimize cost and assure a quick execution reinforce my belief.

Any process for administering capital punishment is based on the assumption that all parties involved (police, attorneys, judges, and jurors) are honest, competent, and objective in performing their duties. We are all fallible humans capable of making errors, exercising prejudices and committing moral wrongs.

The bill assumes the accused will have equality of representation. Even now the quality of representation provided to indigents is inferior to that of the State. If the legislature enacts capital punishment, I doubt it will also address the shortcomings of the Public Defender System. It is unlikely to increase staff, equalize pay, lighten case loads or expand investigative resources.

Many citizens of Alaska want capital punishment because they fear crime and are frustrated with their inability to combat it. They view capital punishment as a solution even though they lack objective evidence that it is. It is unfortunate we are willing to commit moral wrong because it makes us feel better.

I thank you for your time to read my letter, and I pray that you will be guided by God's light in dealing with this issue.

Sincerely,

  
Linda MacMillan

RECEIVED MAR 30 1995

To: Senator Robin Taylor and President Pearce  
Fm: Nels A. Anderson, Jr. *Nels A. Anderson Jr.*  
Subject: SB 52, Capital Punishment  
Date: 3-27-95

I oppose SB 52, not strictly on moral grounds, but on the fact that too many Natives will be killed by passage of such legislation. You know that Natives make up a disproportionate number of inmates in our jails in relation to their percentage of Alaska's total population.

On this fact alone, it is clear that Natives will bear the greatest burden of this legislation. I am not saying that this legislation is ant-Native. I am saying that you need to look at why so many Natives are in jail before you adopt legislation that may kill so many indigeneous people.

When I was in the legislature, I discovered that there was a disparity in sentencing. A study funded by legislation that I sponsored in the late seventies showed that Natives and other minorities were getting harsher sentences than whites for the same crime.

This revelation caused the entire justice system to examine itself and order a complete top to bottom cross cultural training exercise to excise any bias that the justice system was not aware of. The result was that sentences for crimes leveled out regardless of race.

No study has been done since that was done in the early 70s. It is time to do one again before SB 52 is passed to make sure that the people who are in our justice system are not sentencing Natives and minorities more harshly than whites. If a study is not done now and it is found later that disparities exist due to bias, then the state would suffer a very serious judicial, political and social setback in its long term survival as a place where all races can live together in harmony.

I urge you to please conduct such a study and hold your bill in abeyance until you see the results of a disparity in sentencing study. Please contact Dave Gray who is on staff with Rep. Mockie's office. He is familiar with the study that was conducted and could be very helpful in researching the earlier legislation.

Thank you for your consideration.

cc. Bush Caucus  
Speaker Phillips  
Rep. Sanders

# FORUM / LETTERS

## Reinstating death penalty wrong choice for Alaska

By JULIE KITKA

On Oct. 15 of last year, 1,200 delegates to the annual Alaska Federation of Natives Convention voted to oppose reinstatement of the death penalty in Alaska. Since then, two capital punishment bills have been introduced in Juneau, confronting each of us with a profound issue of morality.

Here is why we oppose this legislation so strongly:

Capital punishment is biased by race. Alaska is no exception to this national pattern. From 1900 to 1957, when the territory had a death penalty, seven of the nine people hanged were Alaska Natives or other minorities. No Caucasian person has been put to death here since 1903.

Each of the minority people executed was unable to afford adequate legal representation, was summarily tried and convicted and lacked the political connections to seek commutation of sentence. In Alaska, as elsewhere, the death chamber is reserved, almost exclusively, for poor people and minorities.

If you doubt criminal sentencing is biased by race and class, look at who is in jail in our state. Alaska Natives constitute about 16 percent of the total population and only 13.5 percent of those old

enough to be sent to prison. Yet 32 percent of the state's inmate population is made up of Eskimos, Aleuts and Indians. Native people know that fact, have consistently pointed out the inequities of our criminal justice system and have no illusions about who will die if a death penalty is reinstated in Alaska.

Capital punishment is irreversible while justice is fallible. Between 1973 and 1993, more than 1,300 Americans received death sentences that were later overturned on appeal. At least 23 other people were "mistakenly" executed and subsequently proved innocent. Proponents of capital punishment don't deny these facts; they just dismiss them as the inevitable cost of doing business.

Capital punishment wastes precious resources. It costs some states six times as much money to execute one person as it does to keep him or her in prison for life. The departments of Law and Corrections have estimated that reinstating capital punishment will cost Alaska more than \$21 million in the first four years, and the price tag will go up from there.

If that is to be paid, where should we take it from in the budget? From education? Health? Roads and bridges? Public safety?



In a time of severe fiscal restrictions, is death one of our top priorities and how much are we willing to pay for that luxury?

Capital punishment doesn't deter crime. Extensive research comparing murder rates in death penalty states vs. those without a death penalty shows

no significant deterrent value. Most killings occur between people who know each other, resulting from violent explosions of emotion, often influenced by substance abuse. Such acts are only marginally influenced by abstract consequences in the law.

Capital punishment di-

minishes us all. If the death penalty doesn't do what it says it does, why do many people support it? Because it panders to rage in a time of economic fear and racial animosity. Its real achievement is to provide an outlet for social hatreds by making "justice" out of revenge. Per-

haps the worst result of capital punishment is what it does to us.

Killing human beings as punishment for killing human beings will never work — because everyone knows that the truth is what we do, not what we say. The real message that the death penalty sends throughout the culture is that, if the reasons are good enough, the taking of human life can be justified. But that is what every killer silently tells himself, and no society can afford to take ethical cues from its own worst elements.

If what we really want is the reduction of violence in America, we are going to have to deny the satisfaction of inflicting it. Otherwise, individuals will continue to mimic society's values by killing one another, the law will continue to execute them for it and we will all remain locked in a self-perpetuating dance of death.

"It is the deed that teaches, not the name we give it.

Felony murder and capital punishment are not opposites which cancel each other out — but similars

that breed their kind."  
—George Bernard Shaw

Julie Kitka is president of the Alaska Federation of Natives.



NAACP LEGAL DEFENSE  
AND EDUCATIONAL FUND, INC.

National Office  
Suite 1600  
99 Hudson Street  
New York, N.Y. 10013-2897 (212) 219-1900 Fax: (212) 226-7592

**execution update**

**january 30, 1996**

Total number of executions since the 1976 reinstatement of capital punishment (there were no executions in 1976):

**318**

'77	'78	'79	'80	'81	'82	'83	'84	'85	'86	'87	'88	'89	'90	'91	'92	'93	'94	'95	'96
1	0	2	0	1	2	5	21	18	18	25	11	16	23	14	31	38	31	56	5

**gender of defendants executed**

total number 318

Female . . . . . 1 (.31%)  
Male . . . . . 317 (99.68%)

**gender of victims**

total number 426

Female . . . . . 186 (43.66%)  
Male . . . . . 240 (56.34%)

**race of defendants executed**

White . . . . . 175 (55.03%)  
Black . . . . . 124 (38.99%)  
Latino . . . . . 17 (5.34%)  
Native American . . . . . 1 (.31%)  
Asian . . . . . 1 (.31%)

**race of victims**

White . . . . . 350 (82.16%)  
Black . . . . . 55 (12.91%)  
Latino . . . . . 14 (3.29%)  
Asian . . . . . 7 (1.64%)

**defendant-victim racial combinations**

White Defendant and  
     White Victim . . . . . 242 (56.81%)  
     Black Victim . . . . . 5 (1.17%)  
     Asian Victim . . . . . 2 (.47%)  
     Latino/a Victim . . . . . 5 (1.17%)

Black Defendant and  
     White Victim . . . . . 100 (23.47%)  
     Black Victim . . . . . 49 (11.50%)  
     Asian Victim . . . . . 2 (.47%)  
     Latino Victim . . . . . 1 (.23%)

Latino Defendant and  
     White Victim . . . . . 9 (2.12%)  
     Latino Victim . . . . . 7 (1.64%)  
     Asian Victim . . . . . 1 (.23%)

Native American and  
     White Victim . . . . . 1 (.23%)

Asian Defendant and  
     Asian Victim . . . . . 2 (.47%)

Contributions are  
deductible for U.S.  
income tax purposes.

The NAACP Legal Defense & Educational Fund, Inc. (LDF) is not part of the National Association for the Advancement of Colored People (NAACP) although LDF was founded by the NAACP and shares its common interest in equal rights. LDF has had for over 20 years a separate Board, programs, staff, offices and budget.

**Regional Offices**

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Fax: (202) 462-1303

Southwest  
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Los Angeles, CA 90013  
(213) 626-2625  
Fax: (213) 626-2579

6/9/95 A15

**Abroad at Home**

ANTHONY LEWIS

*'A Culture of Rights'*

BOSTON

Until a few years ago South Africa was an extreme example of a country that exalted the power of the state. Today it makes the rights of the individual the society's highest value.

That extraordinary change was dramatized this week by a decision of the country's new Constitutional Court. It held the death penalty unconstitutional.

The 11 judges were unanimous in that conclusion. Each wrote a separate opinion, and there was drama in their diversity: black and white, Afrikaner and English. What they said had much meaning for other countries, not least for America today.

"The test of our commitment to a culture of rights," Justice Pius Langa wrote, "lies in our ability to respect the rights not only of the weakest but also of the worst among us."

Americans used to pride themselves on having "a culture of rights," but public fear is taking a toll. At President Clinton's urging, for example, the Senate has just passed a bill that ignores the Constitution in order to get at suspected terrorists.

Acting Justice Sydney Kentridge, a lawyer who sat as a replacement for an absent judge, quoted Winston Churchill, speaking in the House of Commons as Home Secretary in 1910:

"The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unflinching tests of the civiliza-

**Constitutionalism  
in South Africa.**

tion of any country. A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal, against the state — a constant heart-searching by all charged with the duty of punishment. . . . These are the symbols which, in the treatment of crime and criminal, mark and measure the stored-up strength of a nation, and are sign and proof of the living virtue in it."

The mood and temper of the American public today, and of politicians, are far from Churchill's ideal. With President Clinton's agreement, Republicans in Congress are about to cut off appeals in death cases: appeals that often show innocence or a denial of constitutional rights.

The President of the South African court, Justice Arthur Chaskalson, wrote the main opinion. He found that the death penalty violated a clause of the new South African Constitution forbidding "cruel, inhuman or degrading treatment or punishment." That was so, he said, because among other things death sentences were imposed so arbitrarily:

"At every stage of the process there is an element of chance. The outcome may be dependent upon factors such as the way the case is investigated by the police, the way the case is presented by the prosecu-

tor, how effectively the accused is defended, the personality and particular attitude toward capital punishment of the trial judge. . . ."

Justice Chaskalson added that defendants in capital cases very often had lawyers provided for them who were inexperienced and had grossly inadequate funds to prepare a defense. That is notoriously true of capital cases in the United States.

The court considered, and rejected, the argument that executions deter violent crime. The real deterrent was the likelihood of being caught, where Justice John Didcott said the odds in the criminal's favor were "rather high."

Lawyers arguing for the death penalty had urged the Constitutional Court to leave the issue to politics and public opinion. But Justice Thole Madala said the court could not canvass public attitudes; its duty was to safeguard individual rights, popular or not. Two of the judges quoted a statement that Justice Robert H. Jackson of the American Supreme Court made in the Flag Salute Case in 1943:

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities. . . . One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly and other fundamental rights . . . depend on the outcome of no elections."

American constitutional ideas have swept much of the world. How strong are they now at home? □

## SIX FALSE CLAIMS ABOUT THE DEATH PENALTY

### "Most People Want A Death Penalty..." WRONG

When given reasonable alternatives, most Americans do NOT favor the death penalty. A bipartisan national opinion poll was released in March, 1993. Based on interviews with 1,000 registered voters, the poll established that most people would choose a life sentence without possibility of parole and restitution to the victim, over a death sentence. Only 41% preferred the death penalty when offered this alternative.

### "Innocent People Are Not Sentenced To Death Row..." FALSE

Hundreds of completely innocent people have been convicted of capital crimes in this century. 23 Americans have been wrongfully executed, their innocence proven when it was too late. Since 1973, at least 48 people have waited on death row, finally to be released on significant evidence of their innocence.

### "Capital Punishment Saves Taxpayers' Money..." NO WAY

The minimum additional cost to taxpayers of trying just 6 capital cases a year, for the first four years, is a staggering \$18,800,000. Costs will increase after the start-up period, because more people will be in the death case system. Alaska cannot afford the death penalty.

### "Death Sentences Are Fairly Imposed..." NOT TRUE

Minority group citizens comprised 45% of the 318 Americans executed since 1976. If the death penalty returns to Alaska, it will fall unfairly on Alaskan Natives, and other minorities. In territorial days, white people committed up to 75% of Alaska's murders. Yet, 10 of 13 executed were non-white, more than half were Native.

### "Executions Reduce Crime Rates..." DISPROVEN

Homicide rates in states with the death penalty are no lower than in similar states without it. Every credible study has shown the threat of death is no deterrent. Indeed, Death Penalty states sometimes have a higher murder rate than comparable states without the penalty.

### "Victims' Families Always Favor Death Sentences..." NO THEY DON'T

Many victims' families have spoken against the vengeance of the death penalty. The Journey of Hope, a 17 city tour against the death penalty during the summer of 1993, included 100 speakers from Murder Victims For Reconciliation. In 1995, the Journey of Hope was held in California. Marietta Jaeger, mother of murdered 7 year old: "In my case, my own daughter was such a gift of joy and sweetness and beauty, that to kill someone in her name would have been to violate and profane the goodness of her life. The idea is offensive and repulsive to me."

P.O. Box 69  
Kasilof, AK 99610

February 6, 1996

Senate Judiciary Committee:  
Senator Robin Taylor  
Senator Lyda Green  
Senator Mike Miller  
Senator Johnny Ellis  
Senator Al Adams

Dear Senators:

I wish to express my firm opposition to the reintroduction of the death penalty in Alaska. There are many reasons for my view that it is immoral, ineffective and far too costly. It is immoral because whether it is given as a sentence or not usually depends on the wealth of the defendant; it is immoral because it disproportionately affects minorities; it is immoral because it is irreversible in the case of wrongful conviction. It is ineffective as a deterrent as many studies have shown; homicide rates in states which have the death penalty are no lower than in states which do not have it. It is extremely expensive; defense attorneys will demand a much higher burden of proof, and prosecution attorneys will have to provide much more substantial evidence if the death penalty is the possible outcome, so trials will be much more expensive. Every lawyer I have spoken to opposes the death penalty. The cost of incarceration in Alaska stands at about \$37,000 per year. Estimated costs for a death penalty trial and appeals stands at about \$2,000,000 - 54 years of incarceration. It is also very expensive in terms of the amount of time each case takes.

Finally, even if a majority of citizens support the death penalty, that does not make it morally right. A majority of people in this country supported slavery at one time. I urge you all to oppose reintroduction of the death penalty in Alaska. It is immoral, ineffective and far too expensive for this state.

Yours sincerely,

  
Hillary Matthews

# Killings, Legal and Otherwise, Around the U.S.

By STEPHEN LEVY

**T**he popular notion that executions are a deterrent to murder appears to be as strong as ever in New York, where Governor-elect George Pataki has vowed to bring back the death penalty. But a survey of the respondents to an opinion poll before he took office shows that they thought the death penalty would deter other criminals from killing.

The statistics presented here — using state homicide rates found this weekend by the FBI that cover the modern period of the death penalty — tend to support the view that a law at the state level might have a deterrent effect on the most serious crimes in other jurisdictions.

Both numbers can be misleadingly distorted, however. Some may favor a death penalty, some may not. Some may think that the death penalty is just the punishment that should be meted out to those who kill.

Still, some numbers can be misleadingly distorted. The FBI's annual homicide statistics are based on a sample of the data base last week. The FBI's annual homicide statistics are based on a sample of the data base last week. The FBI's annual homicide statistics are based on a sample of the data base last week.



In Louisiana, murder can still haunt. Three detectives raised a carper found off a highway in 1991.

found at those sites (the farmer was told at the Clinton prison the issue of hanging whole birds was dropped in a 1979 fire at the Adams prison) and the state's available if needed after the 1991 law.

As it and other state governments move on capital punishment, an issue to arise is not only the practical aspects and details of how to execute the condemned — and to recruit those — but also the idea that execution can save a state money.

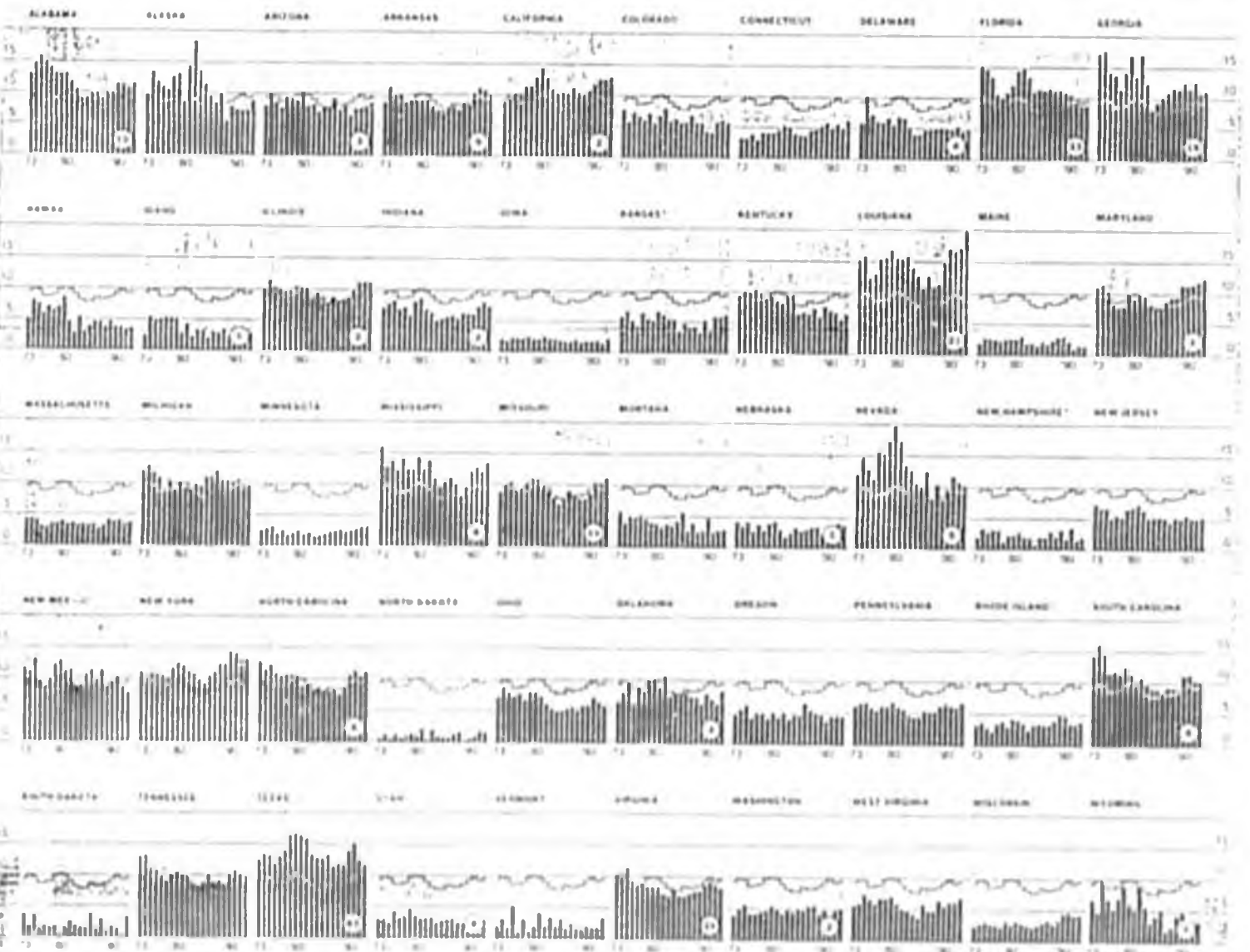
Richard S. Dorer, director of the Death Penalty Information Center, says that from the perspective of the state, capital cases are much more expensive than other criminal cases and can have a negative impact on the state's budget.

Complete prison records, including pay, are being sent and reported for each inmate. It is likely to add to the cost of death penalty cases, he says. The availability of the data on the reported costs to the state is not clear, but it is possible that the state is aware of the cost of the trial.

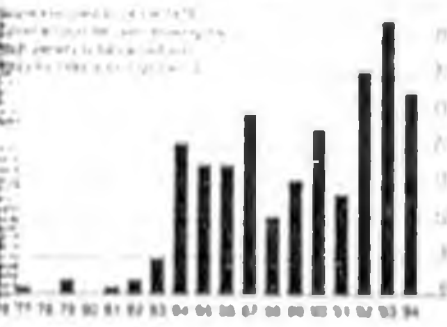
In the "highly regulated process" that is the trial, the state and the federal government are likely to continue to be involved. Many of the costs of the trial are the state's responsibility. The state's responsibility is to provide the trial. The state's responsibility is to provide the trial. The state's responsibility is to provide the trial.

## Murder and the Death Penalty: A State-by-State Review

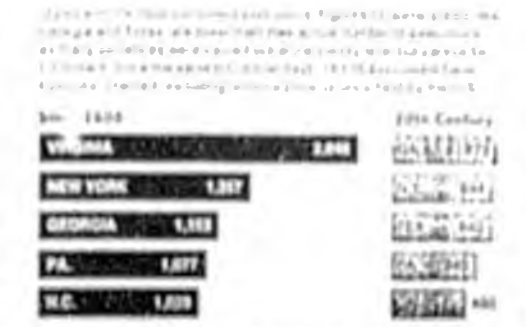
Murder and the death penalty in 1976, 1983 and 1991. The number of murders per 100,000 population is shown in the bar chart. The number of persons executed is shown in the line graph.



## The Pace of Executions: Since 1976...



## and Through History



## The Price of a Death Penalty Sentence





# UNIVERSITY OF ALASKA ANCHORAGE

1211 Providence Drive Anchorage, Alaska 99508  
(907) 786-1810 (907) 786-7777 fax

JUSTICE CENTER

FAX # (907) 786-7777

TO: Senate Judiciary Committee

DATE: 2-7-96

TIME: (AK TIME)

TOTAL PAGES:

FAX #: 465-3922

(including this page)

FROM: Nancy K. Schafer

SUBJECT OF FAX: testimony on the death penalty

MESSAGE:

The Death Penalty Bill  
remarks  
Nancy E. Schafer

I testified last year that Alaska does not need a death penalty. We are too small a state, the penalty is too costly in terms of court processes and corrections requirements, and there is no evidence that the existence of a death penalty statute deters other murderers. Indeed there are some researchers who found a "brutalizing effect" of the death penalty in some states, with homicides and suicides rising after executions.

I would like to make two points today. One is whether Alaska criminals are more likely than those in other states to be rational and thoughtful and the other is an effort to address what I see as a problem of arithmetic that many of us seem not to notice.

I will speak to the second of these first.

People regularly argue that the high cost of court processes required by the Supreme Court in death penalty cases will be offset by other savings. They can even give a figure to those savings - the cost per prisoner per year. This is a spurious argument.

How do we determine our per prisoner cost? We take the total cost of prison operations and divide by the number of prisoners in the institution. What goes into this total cost? Electric bills, food, personnel, clothing, programs, heating costs, etc. Many of these are fixed costs. The warden's salary does not go down proportionately when a prisoner disappears, nor does the electric bill. The front gate must be staffed twenty-four hours a day whether there are 100 prisoners or 90 and the cost is the same. However the fewer prisoners there are the greater the per prisoner cost. So removing prisoners doesn't "save" money. Perhaps the total food bill will go down a little-- but the per prisoner cost increases.

And what about the superior Alaska criminal? I don't think he exists. I realize that those who favor the death penalty do so on faith. They believe, in spite of all evidence to the contrary, that criminals are intelligent rational beings who do not lose their tempers, who think carefully about their actions, and who will be deterred by the existence of severe penalties. My experience with criminals just won't allow me to believe this.

**FAX**

Date

2/6/94

Number of pages including cover sheet

4

TO: Senator Robin Taylor

FROM:

Richard Friedman

Friedman, Rubin & White

1227 W. 9th Avenue  
Second Floor

Anchorage, AK 99501

Phone

Fax Phone

907 465-3922

Phone

907-258-0704

Fax Phone

907-278-6449

CC:

REMARKS:

Urgent

For your review

Reply ASAP

Please Comment:

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS **PRIVILEGED AND CONFIDENTIAL** INFORMATION INTENDED FOR THE USE OF THE ADDRESSEE LISTED ABOVE AND NO ONE ELSE. IF YOU ARE NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER THIS MESSAGE TO THE INTENDED RECIPIENT, PLEASE DO NOT USE THIS TRANSMISSION IN ANY WAY, BUT CONTACT THE SENDER BY TELEPHONE.

LAW OFFICES OF  
FRIEDMAN, RUBIN & WHITE

Richard H. Friedman  
Jeffrey K. Rubin  
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1227 West 9th Avenue Second Floor  
Anchorage, Alaska 99501  
(907) 258-0704  
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February 6, 1996

Senator Robin Taylor  
State Capitol  
Juneau, AK 99801

Dear Robin:

I understand you are holding hearings on a death penalty bill, I cannot resist sharing some of my experiences and observations with you.

A few years ago I was appointed to represent a defendant in the federal "mail bombing" case which I am sure you have heard about. I believe this was the first Alaska death penalty case in over 35 years. I sought out, and then accepted the appointment out of curiosity. In some ways a death penalty case is the "Mount Everest" of criminal defense practice.

I wish I could say I came away from the experience with deep philosophical and moral insights about right and wrong, crime and punishment, or truth and justice. I did not. Instead, I was left with an overwhelming sense of appalling waste. The easiest--but by no means the most extreme--example is the arraignment; it took five days.

If you put yourself in the shoes of any of the participants in these proceedings, it is easy to see why things get out of hand. If you are the prosecutor, you have convinced yourself, your superiors and the public that the defendant is a worst offender who deserves to die. A conviction is no longer a victory, nor is a lengthy prison term. Anything less than a death sentence is a failure. Statistically, in cases in which a death penalty is sought, the odds are against securing such a sentence and having it upheld on appeal. Accordingly, the prosecutor does every

Senator Robin Taylor

February 6, 1996

Page 2

"I", crosses every "T" and spares no expense or effort in preparing and presenting his case. Innocent beyond a reasonable doubt is no longer enough; the prosecutor attempts to present a perfect case.

The lawyer charged with defending a death penalty client does the same. Any stone unturned, any motion unfiled, any mistake that is made could result in the client's death. No expense or effort is spared. The trial judge knows that every move he makes will be closely scrutinized by the Appellate Courts. (I have heard that the California Supreme Court Justices spend approximately 50 percent of their time reviewing death penalty appeals.) He takes all the time needed, and more.

The result, at the trial level, is an incredibly wasteful process, severely disruptive to the rest of the court system. Everything else gives way to the death penalty case.

I will let others debate the moral or legal issues; there is no doubt in my mind that the death penalty is a terrible public policy. It is particularly troubling that all this time and effort will be expended on many cases in which the death penalty will ultimately not be imposed. (This is what happened in the mail bombing case.) In other words, all this time, money and effort will be expended and those favoring the death penalty will not even get what they bargained for. What they will get, unless the budgets of the public defender, district attorney and court system are increased dramatically, is a severely crippled judicial system. Everyone who needs to use the court system will be adversely impacted.

There is something else that happens in a death penalty case that is difficult to describe, but I will try. In a routine murder case there are a few headlines when the crime is committed, when the trial is held, and when the sentence is imposed. The defendant is then put in jail and forgotten. In a death penalty case, the proceedings are longer and more drawn out, the prospect of the death penalty makes everything appear more dramatic, and in the end, the

Senator Robin Taylor  
February 6, 1996  
Page 3

defendant becomes some sort of perverse celebrity. My impression is that many of them appear to enjoy this sort of recognition and notoriety. I truly believe we would all be better off if they were simply thrown in jail and forgotten.

Robin, I have written you this letter knowing that you support the death penalty and knowing that there are probably strong pressures upon you to make this a political issue. I truly believe, however, that if you could see first-hand the effect of the death penalty on the court system, you would agree that whatever merits the death penalty has are outweighed by the dysfunction it will cause our judicial system. There is a reason most prosecutors, police chiefs, and judges oppose the death penalty--and it is not that they are soft on crime.

I hope you will consider these comments as you review the legislation before you. Needless to say, if you think there is any other helpful information I can provide, either formally or informally, please do not hesitate to get in touch with me.

Sincerely,



Richard H. Friedman

RHF:jc

February 26, 1996

RECEIVED

FEB 27 1996

Senator Jim Duncan  
The Alaska State Senate  
The Capital Room 119  
Juneau, Alaska 99801

Ans'd.....  
Re: The Death Penalty

Dear Jim:

Bills that would restore use of the death penalty in Alaska are pending in both houses of the Legislature. As you are my elected representative in the Senate, please let me offer my views on this matter. I will send copies of this letter to other members.

First of all, I sincerely hope that the idea of an "advisory vote" on the death penalty will not go forward. I should think it obvious that *advice* on this matter should come from members of this body to their constituents, rather than the other way around. The information you and they need to have is more readily available to you than to them. The death penalty is a controversial, emotionally charged issue. Misinformation rules the opinions of many people. It would be unfair to your constituents to ask them to vote on such a matter without the Legislature having first conducted an objective, searching, authentic inquiry.

I express the views in this letter as a private citizen, but not without some background in the field of criminal justice. For three years, beginning early in 1979, I served as *Director* of Corrections in Alaska. (This was before the days of cabinet-level corrections in our state.) Over a period of about forty years I have had a variety of other roles in the field, including employment at seven different federal prisons.

I brought to Alaska substantial experience in dealing with murderers and other violent criminals in confinement, but no direct experience with the death penalty. And I had not focused much attention on the subject until 1980 when I was asked (by my boss, Helen Bierne, then Commissioner of HSS) to develop a position paper on a death penalty bill then under consideration by the Legislature. I took this assignment very seriously. The research I did included everything from reviewing scholarly studies, to lengthy telephone conversations with state officials outside who had conducted executions, to reading every newspaper and magazine article I could find on the subject. Moreover, I went to my Bible concordance in order to study every passages of scripture I could find that might have a bearing. From that time, sixteen years ago, until now, I have tried to keep informed with respect to the death penalty question.

The experiences I have described here led me to become an implacable opponent of the death penalty. I am convinced that the Territorial Legislature exercised wisdom in abolishing the practice in Alaska almost forty years ago, and I am convinced that to again resort to its use would be an egregious mistake. It would bring with it a great potential for harm in terms of capriciousness, unfairness and destructive conflict among the racially diverse people of our state. The death penalty hampers good law-enforcement and would interfere with the orderly prosecution of offenders. It is destructive to the families of murder victims, virtually requiring them to remain in a state of bitterness and uncertainty for the many long years of the unavoidable death penalty appeal process.

Unless we choose to ignore the overwhelming consensus among criminologists and others qualified to evaluate empirical studies, we surely know by now that the death penalty has no more value as a deterrent than long-term imprisonment. Indeed, while there may be no single incontrovertible study or demographic comparison to prove it, the weight of the evidence strongly suggests that individuals who are predisposed to violent crime are *more likely to be incited than deterred by executions*. (This is not surprising to me as I know something about the bizarre thought processes of especially brutal, vicious murderers.) With respect to this matter, the highly respected study conducted by Professors Pierce and Bowers of Northeastern University should be of particular interest.

I may not have the most current figures, but the last time I looked at F.B.I. Uniform Crime Report numbers on this matter, murder rates in states without the death penalty were 4.9 murders per 100,000 population, while states using the death penalty had an average murder rate of 7.4 murders. Canada abolished the death penalty in 1976; the murder rate in that country has fallen since that time. The most death penalty prone states in the U.S.A., Florida and Texas, have both seen a significant growth in the rate of murders since the Supreme Court (in *Gregg v. Georgia*) permitted them to resume executions in 1977. Some of the more courageous public figures in those states are beginning to acknowledge that they have squandered millions on the death penalty that could have been more usefully employed in responsible law enforcement and crime prevention.

The evidence goes on and on, all the way back to the classic study by Robert Rantoul. After a hundred years no social scholar has been able to refute his findings- an increase in the rate of murder after a period of more frequent use of the death penalty. There is no single contemporary proof that could be called irrefutable, but everything leans in one direction. Arguments for the death penalty based on deterrence fail utterly. The death penalty does not even deter the individual who is executed for many years after sentencing. A penalty along the lines of the ninety-nine year sentences typically given to aggravated

murderers here in Alaska is much more efficient to administer and far less expensive.

I am confident that you, and others who will read a copy of this letter, are fully aware that the death penalty is the most exorbitantly expensive of all criminal sanctions, far more expensive than life imprisonment. The appeal process required by the "death is different" concept, which emerged from the Gregg v. Georgia decision, is a major reason for the high cost of a death penalty prosecution. The simplistic solution so often offered is a speed-up of the process by reducing the defendant's avenues and opportunities for appeal. The problem here, as you undoubtedly know, is that the Rehnquist court has gone as far as it can go in this regard. And yet the average cost of a successful death penalty prosecution continues to be several millions of dollars.

In order to "streamline" the process, the Supreme Court has removed appeal rights from defendants that most citizens- if they knew about them- would find profoundly unfair. While guilt "beyond reasonable doubt" remains the standard for conviction, the Supreme Court has managed to insulate itself from having to consider new information that might provide an abundance of reasonable doubt.

I have been coming to the State Capital Building to talk with legislators about pending death penalty bills from time to time over the past twelve years. I have always been treated courteously but I have yet to hear a serious attempt by supporters of capital punishment to lay out a reasonable argument for restoring the practice in Alaska. Could it be that this is all just a matter of elective politics? It should not be. It is true that from 75% to 80% of the American public are said to support the death penalty. But we need to understand that the same studies that appear to reflect such strong support for the death penalty, almost invariably show that a substantial majority of respondents, when given a choice, would prefer long-term confinement over the death penalty. Much of the public have been victimized by the myth that murderers typically serve only a few years in prison.

Many folks support the death penalty because of a sense of moral outrage; their view is that certain murderers "deserve" to die. Who can argue with that? The problem is that there is no way to sort out who most deserves to die. The one person executed here in the United States, out of a thousand who are prosecuted for murder, isn't at all likely to be the one who committed the most reprehensible crime. The "just deserts" idea simply doesn't work. The wisdom of the Holy Scriptures again comes to the fore. "Vengeance is mine, saith the Lord, I will repay."

Last year the Constitutional Court of South Africa threw out the death penalty, which leaves the United States as the only advanced society in the western world where state sanctioned killing of human beings is still lawful. I don't believe most

Alaskans or most Americans enjoy the idea of being in company with the likes of Iraq, Libya, Iran and Red China on this question. They will like it even less when they come to realize how capricious, how racially, culturally and economically biased it is, how it hampers good law enforcement and drains the criminal justice resources of jurisdictions that use it, and how cruel it ultimately is to the families of murder victims.

I furthermore believe most Alaskans will be unhappy to learn that according to an unchallenged study conducted by Stanford University researchers, twenty-four innocent persons have been executed in the United States during the life-time of some of us, that hundreds of others have been saved by eleventh hour appeals, and that uncounted others have be put to death without all of the relevant facts being known. The death penalty is *irreversible*. This is perhaps the strongest argument against it.

If you, or any other member of the Legislature who might read a copy of this letter, have questions about the points I have made here; if you would like to discuss the matter with me, or if there is any way I might be of help to you, please don't hesitate to call me.

Sincerely yours,

cc: Members, Alaska State Senate



# ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Senate Judiciary  
COMMITTEE NAME Committee

COMMITTEE ON SB # 52 JUD DATED 2/6/96  
BILL/SUBJECT

\*Act providing for an advisory  
vote on the issue of the death penalty

I am opposed to this bill which seeks to place before Ak the question of whether they support or oppose the death penalty. The primary reason I am in opposition is NOT so much that I oppose the death penalty in SOME cases, but rather I feel the general voting public would not react to this question in an educated manner, but rather an emotional one; thereby not considering the relevant facts. On an emotional basis, I for one might check off "yes" I am for the death penalty. But now after having heard all the VERY relevant facts around this issue (that it occurs disproportionately in minorities, that it serves often to entrap a possible innocent person into a "lesser" life sentence, that it is costly, etc.) I would vote "NO" I don't believe in the death penalty. Unfortunately, an "eye for an eye" is the living philosophy of many humans, this however flies in the face of other human values we deem "desirable" (forgiveness, truth, REAL justice, compassion). As far as my stance on the death penalty, I feel efforts should be made toward channelling energy + resources to finding more humanistic options to deal w/ capital offenders, and we should, as a society, be worrying more about what DRIVES a person to murder - randomly - rather than ~~it~~ and how to prevent that.

I say NO to SB 52 JUD and No to the death penalty.

SIGNED

TESTIFIER

Julia Lapp

JULIA L. LAPP

REPRESENTING (OPTIONAL)

myself  
PO Box 82985 Fairbanks Ak 99705 (907) 479-0829

ADDRESS/PHONE NUMBER

## CHENA RIDGE MONTHLY MEETING

11111 Friends Center  
2602 Goldhill Road  
Fairbanks, AK 99709-2416  
(907) 479-4796

### MINUTE OF CONCERN

#### Regarding the Adoption of the Death Penalty (Capital Punishment)

Chena Ridge Monthly Meeting of the Central Alaska Friends Conference (Quakers) affirms our faith's opposition to capital punishment in Alaska or in any other state.

We believe that God would have us take no human life, either in war or in retribution for a crime, for there is that of God in each person which can convert and redeem each person.

In our view, alleged public support for capital punishment does not diminish the cruelty of execution nor warrant the taking of human life.

We oppose capital punishment because it violates the gospel we proclaim, and promotes the evils of vengeance and injustice through the agencies of government intended to advance righteousness and justice. We believe the Christian way to deal with crime is to seek the redemption and rehabilitation of the offender, to promote penal reform, and to work more diligently at the task of preventing crime.

As capital punishment is abolished, we recognize that society must be protected against release from prison of those whose unredeemed spiritual life or condition of physical or mental health would endanger others.

Punishment by death is inflicted most often upon the poor, and particularly upon racial minorities who do not have the means to defend themselves that are available to wealthier offenders. A minority person convicted of a capital offense is much more likely to pay the extreme penalty than a white person convicted of the same crime.

We note the irony of the significant additional cost incurred by the correctional and judicial systems in pursuing and carrying out executions, drawing public funding away from where it is most needed: the state's crime prevention and law enforcement efforts. In addition, the inherent arbitrariness of modern executions undermines our society's respect for the law, inevitably leading us into a disintegration of public consensus.

For all these reasons, we urge our state officials to resist the temptations of demagoguery and to lead us to a more humane and civil future.

The preceding minute of concern was approved by Chena Ridge Friends Meeting in Meeting for Business, October 3, 1994.



# ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Senate  
Judiciary  
COMMITTEE NAME

COMMITTEE ON SB 52 (substitute) DATED 2/7/96  
BILL/SUBJECT

I am opposed to the reinstitution of the death penalty in Alaska on its merits: ineffective deterrent; discriminatory application to detriment of minorities and poor people; exorbitant cost to government; and finally on moral grounds as a denigration of the concept of the sacredness of human life.

I am opposed to putting the question of re-instituting the death penalty before the voters. Doing so would distort the election process by opening up opportunities for demagoguery and polarization of non death penalty related electoral issues, making death penalty a "litmus test" for candidates for political office. We have far more important issues to deal with in November.

SIGNED Michael Welch  
TESTIFIER

REPRESENTING (OPTIONAL)  
P.O. Box 82933 Fairbanks, AK 99708 458-0118  
ADDRESS/PHONE NUMBER



## DIOCESE OF JUNEAU

RECEIVED

FEB 21 1996

Ans'd.....

OFFICE OF THE DIOCESAN ADMINISTRATOR

419 SIXTH STREET  
JUNEAU, ALASKA 99801  
FAX # 907/463-3237  
TELEPHONE 907/586-2227

February 16, 1996

The Honorable Robin Taylor  
Alaska State Legislature  
State Capital (MS3100)  
Juneau, Alaska 99801-1182

Dear Robin,

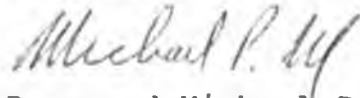
Last week I sat in on the hearings on SSSB52. I had hoped to testify, but the Committee ran out of time. Nonetheless, I was appreciative of the manner in which you conducted the hearings. While it is clear that you support the Capital Punishment Bill, you gave each person wishing to testify both courtesy and attention. That was very refreshing.

It is my hope that hearings on SSSB52 will be continued at a future date. In the event that they are not, allow me to register my opposition to the Bill. I have two concerns: First, I believe that the question of Capital Punishment is a moral question. Moral questions are not resolved by popular vote. In 1860, in Virginia, slavery would certainly have received the support of the majority of citizens of Virginia. That did not make slavery morally right. By the same token, a vote on Capital Punishment in this state will say nothing about its moral rectitude.

Secondly, if this question is placed before the voters, I and others in my position will feel compelled to oppose it vigorously. As a practical matter, this means that resources earmarked for charitable works such as plugging holes in the safety net, will be diverted and used to oppose this proposition. It is a terrible waste of scarce resources, especially given that the vote will provide you with no additional information regarding the moral content of the Capital Punishment Bill.

Finally, for your information I enclose an article on  
Capital Punishment written by Bishop Kenny before he died.

Sincerely,

A handwritten signature in cursive script that reads "Michael P. Nash".

Reverend Michael P. Nash  
Diocesan Administrator

## CAPITAL PUNISHMENT

Every time I read in the paper that someone in the U.S. has been executed, I feel something, tear inside me. Anguish, anger, bewilderment all collide inside my soul. When the report includes a picture, a human face, the ache is all the more intense.

This is not to say that I read reports of murders or other acts of human violence without feeling. Often I am horrified at the brutality one person can bring upon one or several other human beings. Truly my heart goes out to the loved ones, the families of victims of murder or assassination. I remember my own heartrending when a young cousin of mine was savagely bludgeoned to death in his own home. I remember how shattering was the experience of John Kennedy's slaying. Memories of a stunned widow standing with her two little children before the coffin of the fallen president still bring tears to my eyes.

But for all the horror and revulsion, the anger and pain I know when confronted with a violent criminal act, there is a fundamental difference in my reaction to that punishment we call "capital." A shooting or stabbing, a rape or kidnapping, even an act of torture performed by one individual or a gang, terrifying and disgusting as these might be, remain the senseless isolated acts of individuals. Crazy or coldly calculating, the perpetrator, is acting on his or her own.

Capital punishment, public execution, is an act of the community. It is something we do. We are the responsible agents acting with full awareness and complete deliberateness. We know exactly what we are doing and we freely will it. Be it by gas or electricity, asphyxiation or lethal injection, it happens in our name.

With all my being I oppose capital punishment. I abhor what it says about us and does to us a human beings. It is inconceivable to me how a society as civilized, as brilliant, as advanced as ours can treat human beings guilty of criminal acts with no more wisdom, restraint or sensitivity than darkest of ages. To say our executions are more refined because they are, as anyone can now, quick and painless, is a sham. To kill, to snuff out human life, is--no matter what the method--the most extreme and ultimate act of violence.

Without a doubt a society has the right and obligation to protect itself. Also, without a doubt, there are certain individuals who are truly a menace to others. But surely there are other ways for safeguarding, the public than public execution. To meet violence with violence, to seek a life for a life only continues the cycle of brutality and gives justification to our basest instincts. In a sense, the more horrible the crime, the greater the need to respond with patience, gentleness and forbearance so that responsible and reasonable people might teach the less wise a different way to react to wrongs. Every time the executioner's ax falls, we demean and lower Ourselves.

*Bishop Michael Kenny (March 16, 1984)*

2/13/96

RECEIVED  
FEB 26 1996  
Ans'd.....

Dear Senator Jayla,

When I was young my mother taught me hurting people was wrong. I now find myself wondering if our society says this is a value we uphold, why we are proposing to kill people who hurt people, in order to punish them.

As a proponent of capital punishment, I know you're aware of the reasons against the death penalty.

Why is it OK <sup>(for the state)</sup> to kill people if we teach our children we shouldn't do this? It doesn't make sense to me, but it must make sense to you. Could you please explain this to me? Sincerely, John

## FAX

To: Senator Robin Taylor, Chm. Senate Judiciary Committee

FAX # 465-3922

From: Ruth G. Benson  
1551 Farmers Loop  
Fairbanks, Alaska 99709  
Phone: 907-479-6912  
FAX: 907-455-6912  
March 5, 1996

Dear Senator Taylor:

I am writing in opposition to SB 52. I believe that it is impossible to educate voters sufficiently with a simple ballot proposition about a complex issue such as the death penalty. Furthermore, solutions to difficult, complex questions are the prerogative of legislators, who are elected to learn as much as they can about these issues and arrive at their best solution with the most possible information at hand.

I believe that our system of representative government is in jeopardy when the Legislature attempts to escape difficult decisions by offering them to the voters who, on the basis of ignorance of the full range of implications, social as well as financial, may be the least qualified citizens to make them.

Please reconsider your proposal to put the death penalty to a vote. I believe it is a bad idea, and extremely ill-advised for such a volatile issue.

Yours sincerely,

Ruth G. Benson

**E**leven days into this year, Archie Dixon entered the state prison in Mansfield, Ohio, a capital murderer sentenced to die by lethal injection for the 1993 kidnapping, robbery and murder of Christopher Hammer, a man he had buried alive.

At the sentencing trial, Dixon's lawyer asked the court not to impose the death penalty but to opt for life imprisonment, on the grounds that the 22-year-old Dixon had been abused by his adoptive parents. That plea did not sway either judge or jury.

But it is still far from clear who the winner of the argument was. In Ohio, the difference between a death sentence and a life sentence can be very hard to determine. True, the state has a death penalty. At the moment, there are more than 150 death-row inmates hiding their time at Mansfield Correctional Institute, theoretically waiting for their capital sentences to be carried out.

But the state has not executed anyone since 1963. Every year it sends new recruits to the special security unit at Mansfield—last year 17 of them arrived, fresh from sentencing. Nearly a quarter of the inmates who are supposed to be awaiting execution have now been there a decade or more. Many of them can scarcely remember what it was like not to be waiting to die.

They are not the only people at Mansfield whose memories are a little rusty. Although lethal injection is the official method of execution in Ohio, it has never once been used. The state's last execution, 33 years ago, was done with an electric chair. On the day when Ohio finally carries out a death sentence, the prison system staff will need to read the manuals carefully to make sure that it knows how to do the job.

That day may arrive this year. Or it may not. Three months ago, the state was moving toward execution of John Glenn, a resident of death row for the past 14 years who had been sentenced at the age of 20 for shooting and killing a sheriff's deputy who was holding Glenn's brother in custody.

But on December 27, a U.S. court of appeals set aside Glenn's death sentence on the grounds that, during his sentencing hearing, Glenn was not adequately represented. His lawyers, the court ruled,

# LONG LIFE ON DEATH ROW

**Most states now have a death sentence. But in many of them, a lot more criminals are entering death row than leaving it.**

BY PENELOPE LEMOV

should have offered more evidence about the brain damage Glenn suffered before birth. At the moment, it looks as if Glenn will never receive the punishment that a jury ordered for him in 1982.

Thirty-eight states have the death penalty in America, and the majority of them differ from Ohio only by degree. They are much more efficient at sentencing criminals to death than they are at carrying out the sentence. In 1995, it is true, there were 50 executions in the United States, more than twice the 1991 figure. And the number will increase again this year. Pennsylvania, which had left its death penalty unused almost as long as Ohio had, finally executed two prisoners in 1995, and Governor Tom

Ridge has signed more death warrants—31—in his first two years in office than the previous governor signed in his whole term.

On the other hand, the number of people who arrive at the nation's death row units has been averaging 250 a year for the past seven years. America's total population of sentenced capital criminals is now over 3,000. At that rate, it will take until the year 2050 to execute them all. Meanwhile, new ones will be sentenced every year, and so the population will almost certainly grow before it shrinks. At the present rate, more of these criminals will die from old age than from gas, electricity or lethal injection.

THERE ARE SEVERAL REASONS why 34 years have passed since the last execution in Ohio. One is that for nine years, from 1972 to 1981, Ohio had no legal statute imposing capital punishment. In 1972, the U.S. Supreme Court ruled state death penalty laws unconstitutional because of their discriminatory character. Four years later, the court voted to allow the death penalty under more strictly defined circumstances. Some states put new statutes in place quickly, but Ohio was not able to enact a constitutionally acceptable law until 1981, several years later than most. John Glenn had the misfortune to commit his crime shortly after the new death sentence became law.

He also had the misfortune to miss another escape hatch. In 1991, just before leaving office, Governor Richard F. Celeste, who opposed the death penalty, committed to life imprisonment the sentences of three women and five men who had been on death row since the early 1980s. That, in effect, set back the execution clock a few more years. Only now is a new batch of death row inmates finally exhausting its various appeals.

Among those who find this situation frustrating is Ohio's attorney general, Betty Montgomery. When prisoner Glenn had his execution sentence canceled in December, Montgomery called it a glaring example of the compelling need to streamline the appeals process. "The victim's family has been waiting for over 14 years for justice to be served," she said. Montgomery ordered her staff to file an appeal of that decision.

Montgomery stated out as a county prosecutor, then served in the state Sen-

ate, where she developed a reputation as a crime fighter. But she is not, she insists, a rabid proponent of capital punishment. "There are valid arguments both ways on the death penalty," Montgomery says. "That's not the question here." Her complaint is that a state that sentences someone to death and then fails to carry out the sentence is mocking its own criminal justice system. "The death penalty is the law in Ohio," she argues, "and it is not being enforced."

Montgomery has been spearheading efforts to put a stop to what many other attorneys general and prosecutors around the country target as the underlying fault: an overly complex appeals process that death-row prisoners use to postpone and, if they're successful, subvert the implementation of their sentence. Although the average case takes eight to 10 years to make the rounds of appeals, some drag on for as long as 15 years. Montgomery wants to streamline that process so that the law can be enforced as intended and the justice system can maintain a plausible link between crime and punishment.

To that end, she helped draft a referendum, passed overwhelmingly by Ohio voters in 1994, that removes one entire round in the state appeals process. Appeals now go directly to the state Supreme Court, without the usual intermediate stop at the court of appeals—a step California, Florida and Tennessee are also taking. In addition, Montgomery helped write a law, passed by the legislature in 1995 and based on similar laws recently enacted in Texas and California, that forces death-row prisoners to make their appeals within a more limited time period—about six months after they've lost their first and automatic appeal—and then all at once, instead of sequentially, as they usually do.

These changes have not been without controversy. Some state judges object to them either because they diminish overall court scrutiny or because they increase the state Supreme Court workload and bog down the court system. Without the appeals court to eliminate



The defense bar has moved beyond any reasonable use of due process, says Ohio Attorney General Betty Montgomery.

frivolous appeals, one state Supreme Court justice argues, the Supreme Court will have to spend too much time on death penalty cases, and that will mean less time for other matters.

For David Bodiker, a public defender who heads Ohio's Death Penalty Resource Center, the reasons are less complicated. The reforms, he believes, are just plain wrong. "I don't think there is an egregious amount of time being squandered by the court system in dealing with death-penalty matters," he says. "Most of the delays are the natural consequence of a law that needs to be carefully imposed with extreme sensitivity and considerable due process." As Bodiker sees it, the tension between speed and accuracy should always be resolved in favor of accuracy.

Public defenders and capital-punish-

**To defense lawyers, the tension between speed and accuracy should always be resolved in favor of accuracy.**

ment opponents all over the country are making the same argument, and making it more insistently as campaigns such as Betty Montgomery's gain strength. "The American criminal justice system as designed by our founders and constitution is not intended to run smoothly or quickly," says Natman Schave, an Arizona-based defense lawyer and chairman of the death penalty committee for the National Association of Criminal Defense Lawyers. "It's intended to provide fail-safe measures to ensure any errors are found."

**B**efore the 1960s, executions in this country frequently took place within weeks of conviction. In a disturbing number of cases, evidence emerged after the execution that proved the convict innocent. The present system of multi-layered appeals and judicial reviews of the trial and sentencing record grew out of that situation. When it allowed states to have death penalties again, the U.S. Supreme Court also charged them with making a "fair and reasonable determination" about who merits the irrevocable punishment.

As the ability of prisoners to find new grounds for appeal progressed, so too did attempts to curtail their unlimited access to courts, often by setting deadlines for the filing of appeals or by refusing to hear new evidence, no matter how exoneratory, if it was filed past a certain date. But every move the criminal justice system made to speed things up was met by a counter-strategy on the part of defense attorneys. So the net result of all the new rules was to slow the process down in virtually every state.

Today, in the words of Columbia University law professor James Liebman, "we have the worst of both worlds. A lot of review takes place, but the process takes literally a decade to get through, at the end of which people are still being executed who should not be executed and some who should be executed are not."

In Betty Montgomery's view, the defense bar has moved beyond any rea-

## THE DEATH ROW CENSUS

As of February 1, 1990, 38 states had the death penalty on the books

STATE	INMATES ON DEATH ROW	EXECUTIONS SINCE 1976
Alabama	135	12
Arizona	119	4
Arkansas	35	11
California	422	2
Colorado	4	0
Connecticut	5	0
Delaware	14	7
Florida	340	36
Georgia	104	20
Idaho	20	1
Illinois	161	7
Indiana	51	3
Kansas	0	0
Kentucky	27	0
Louisiana	44	22
Maryland	13	1
Mississippi	56	4
Missouri	93	17
Montana	6	1
Nebraska	10	1
Nevada	79	5
New Hampshire	0	0
New Jersey	11	0
New Mexico	3	0
New York	0	0
North Carolina	154	8
Ohio	150	0
Oklahoma	138	6
Oregon	14	0
Pennsylvania	197	2
South Carolina	58	5
South Dakota	2	0
Tennessee	102	0
Texas	399	104
Utah	11	5
Virginia	57	31
Washington	13	2
Wyoming	0	1

Source: Death Penalty Information Center

sonable use of due process and has simply perfected delay for its own sake, raising an issue, taking it through the appeals process, losing, then raising another issue, losing it and raising still another, virtually ad infinitum. The key, she says, is to call a halt to the dawdling. "We're saying, raise them all at once within a reasonable time frame or lose them."

Bodiker, the Ohio public defender, admits that neither he nor his clients on death row have been in any hurry to file appeals, or to bundle them and work quickly toward a final decision. On the other hand, he points out, not all the delays are instigated by death row inmates and their lawyers. Some are created by courts and prosecutors.

As the system now stands, federal judges in effect review state prosecution of a case from the original trial through sentencing and appeals. That kind of scrutiny takes time, and the courts are under no deadline to move cases along. In John Glenn's case, for instance, a state court took 14 months to deny one of his appeals, a federal court took a year and a half to decide another point.

In Ohio, as in all the other death penalty states, some of the cases occur in small counties that may see only one capital prosecution in 40 years. These counties lack the staff and experience to work through the complications of such a case quickly. Meanwhile, in some of the bigger, more experienced counties, where prosecutors understand the system, they fight vigorously against defense requests for examination records and other documents, and that adds to the delay. Perhaps the best example is the case of convicted killer John Byrd. During the 11 years it took for his appeals to wind their way through the Ohio system, at least three years were eaten up by the prosecutor's fight to have Byrd's legal counsel disqualified.

Altogether, roughly 40 percent of death-penalty petitioners have their convictions or sentences overturned, either during the state appeals process or by federal judges. It's not that most of them are found innocent and freed from prison. What happens is that 40 percent get either a new trial on the facts of the case or a new hearing on whether the death sentence was warranted or was applied appropriately. One-third of the states with the death penalty forbid it for those who are mentally retarded or deranged, so many appeals cases attack

the death sentence on this ground.

In Ohio, at the moment, Wilford Berry, a prisoner on death row in Mansfield for the past five and a half years, is refusing to make any more appeals. Berry, who killed the owner of a haberdashery while he was robbing the store, is demanding to be executed. During his sentencing trial, he insisted that he felt no remorse for his crime and that the jury should sentence him to death before he killed again. His lawyers are continuing to fight his execution on the grounds that he is insane.

**D**efense lawyers argue, of course, that states should speed things up not by short-circuiting the appeals process but by working harder to avoid errors at the trial court level. Nathan

Schaye, the Arizona defense lawyer, claims that about two-thirds of the death-penalty convictions that courts reverse are overturned on the basis of incompetent trial-court defense. In his view, the solution is higher standards, including better pay for defense lawyers. In Arizona, at the moment, the funding for death-penalty defense is \$70 an hour. "It costs \$40 an hour just to operate a law firm," Schaye complains.

The official American Bar Association standard for death-penalty defenses is two experienced lawyers at every stage of the process, with expert witnesses and investigators available. About half the states with the death penalty meet at least part of that standard—two lawyers. Several, including Colorado, Indiana, New York and Ohio, also require that experienced attorneys be part of the team.

To Betty Montgomery's way of thinking—and to that of most prosecuting attorneys—the public defense bar doesn't need any more help than it already gets. "Prosecutors feel poised to death with their motions," she says. "Two to three people come up to defend a case while in some small counties, the state of Ohio has only one to two prosecutors to handle the case."

Not long ago, Montgomery set up a capital punishment resource center within the attorney general's office. The center offers support and legal assistance to county prosecutors so that they can deal more effectively and efficiently with death-penalty trials and appeals. One of its programs is to counter the pleas and petitions crafted by Bodiker's Death Penalty Resource Center to make sure prisoners are adequately represented.

Meanwhile, the two sides continue to battle it out. Not long ago, the Ohio Death Penalty Resource Center won a retrial for a condemned killer, Carroll Dean Pless, who had originally waived his right to a jury trial. The court found that the way the waiver took place did not meet the letter of the law. "It's a super technicality," Bodiker admits. "There's just much doubt that Pless, who's been on death row since 1992, stalked and killed his victim. On the other hand, there is at least some question whether he would have received the death penalty had he been represented by counsel. And it's only fair, Bodiker argues, that case be addressed. I can't add any more votes to the pile."

14020 Venus Way  
Anchorage, AK 99515

RECEIVED  
MAR 11 1996  
Ans'd.....

March 6, 1996

Senator Robin Taylor  
Chair of the Senate Judiciary Committee  
State Capitol  
Room 30  
Juneau, AK 99801-1182  
Fax 465-3922

*1000 - 1000*

Dear Senator Taylor

The Senate Judiciary Committee today demonstrated the profound contempt that the members have for the people of Alaska in the way that the teleconference on Senate Bill 52, the death penalty advisory vote, was held today.

Like a lot of other people from all over the state, I wanted to speak to the committee members about this idea for an advisory vote. I am a legal historian, I have spent two years studying the history of capital punishment in Territorial Alaska, research funded by the Alaska Humanities Forum and the National Endowment for the Humanities, and that history has something to say about whether an advisory vote will be helpful.

I came to the teleconference that was scheduled some two weeks ago, and had prepared my testimony, and sat there for two hours, and then learned that there wasn't time to hear from me or most of the other people there, and that another hearing time would be set.

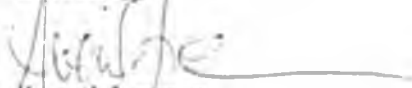
I was informed that the continuation of the hearing would be held today. I polished my testimony, and shifted around my work and my domestic responsibilities, and arrived at the Anchorage LJO at 1 p.m. I waited there with some other people who had carefully written out their testimony, a Vietnam veteran, a high school student, and a public defender. As time passed, other people trickled in, people who had restructured their day to speak to you.

The hearing opened. We could barely hear, so I asked the lady manning the telephone to improve the volume. I sat down again. I still couldn't hear. But hearing didn't matter any more, because the "hearing" was over. From start to finish, it must have lasted 120 seconds. When it was over, no, a single person had spoken from any LJO in the state, not a word of testimony was received. We had to have the phone monitor call to Juneau to see what had happened, since none of us could hear it. We were told that the committee substitute had been voted out of committee.

The committee has acted in a way that shows disdain and contempt for the people who responded to your invitation to be heard. The arrogance of this cavalier door slamming astounds and saddens me. The irony, of course, is that the bill itself calls for an advisory vote from the people of Alaska. But there is no real desire to hear from the people who care about it enough to go to all the trouble we've been through.

I protest. Is this my democracy?

Sincerely,



Averil Lerman

cc Senator Al Adams  
Senator Johnny Ellis  
Senator Mike Miller  
Senator Lyda Green  
Senate President Drue Pearce

# Death penalty law forces prosecutor to question beliefs

By RICK HAMPSON  
The Associated Press

**NEW YORK** — When the state brought back the death penalty, Robert Johnson — who once convicted an innocent man of murder — was the only district attorney to call a news conference and say he'd never seek it.

On Monday, as a fine policeman was buried and a ruthless ex-convict faced murder charges, the Bronx prosecutor faced an ultimatum from the political establishment: Change your mind about capital punishment or get off the case.

Officer Kevin Gillespie died Thursday night in a wild, running gunfight between police and three parolees who allegedly stole a BMW and robbed several people.

After police stopped the trio on the borough's main boulevard, more than 40 shots were fired. The one that killed Gillespie, police say, was fired by Angel Diaz.

At Gillespie's funeral, with Johnson in attendance, the slain officer's partner said the 33-year-old father of two "did the right thing, not only Thursday night, but every day. I would like the Bronx district attorney to do the right thing, too." Most mourners rose in applause.

Johnson was joined in the pews by Gov. George Pataki, who has talked of replacing him with a special prosecutor in the case, and Mayor Rudolph Giuliani, who has complained

about Johnson's "personal ideology."

Over the weekend, Gillespie's brother said his relatives "expect the Bronx district attorney to push aside his personal beliefs. We expect him to pursue the maximum punishment allowable by law."

Johnson's stand became even lonelier when Bronx Borough President Fernando Ferrer, a fellow Democrat who has long opposed capital punishment, advocated it in the Gillespie case: "There comes a time in this society when the line must be drawn. That time is now."

Johnson has said the death penalty won't deter crime and will tie up an already overburdened court system. He was overwhelmingly re-elected last year after a campaign in which his position on capital punishment was discussed at length.

Johnson's office said Monday that he hasn't ruled out the death penalty in all cases — "he never said never," according to spokesman Steven Reed — and has not decided how to charge Diaz or his alleged accomplices.

But in adopting the anti-death-penalty policy, he raised a swarm of ethical, legal, pragmatic and political questions with no clear-cut answers.

Can an elected district attorney, sworn to uphold the laws of the state, refuse to pursue one of them? Is he elected to follow his



New York Gov. George Pataki holds his hand over his forehead Monday in Seaford, N.Y.

conscience or to abide by the will of the Legislature? If he believes that a jury in his jurisdiction will not vote for the death penalty, would he be wasting limited resources on an expensive, lost cause? And can another elected official, the governor, remove the district attorney from the case and appoint a special prosecutor for the sole purpose

of asking for the penalty?

The philosophical question of any prosecutor's discretion is discretion. The prosecutor's right to which crimes to prosecute, who to charge, what sentencing to offer, all decisions based on a complex, changing set of factors.

New York became

## No retrial for rapper

The Associated Press

**LOS ANGELES** — Prosecutors said Monday they won't retry rapper Snoop Doggy Dogg and his former bodyguard on volun-



Gov. George Pataki holds his hand over his heart as the coffin of slain police officer Kevin Gillespie is carried into Monday in Seafood, N.Y.

ED BAILEY / The Associated Press

or to abide by the Legislature? Does that a jury in diction will not the death penalty. be wasting limit- ces on an expen- cause? And can lected official, the remove the dis- ney from the case int a special pros- the sole purpose

of asking for the death penalty? The philosophical foundation of any prosecutor's office is discretion — the prosecutor's right to choose which crimes to investigate, who to charge and what sentencing deals to offer, all decisions that are based on a complex, shifting set of factors. New York became the

38th state with the death penalty on Sept. 1, 1995, when a bill signed by Pataki, a Republican, took effect. The law allows execution of anyone convicted of killing a police officer, judge, prison guard or crime witness, as well as those who kill for money or while committing a violent crime. The decision on whether

to seek the death penalty rests with local prosecutors. Most said they would use it, or said nothing. But Johnson told reporters at the time that "it is my present intention not to utilize the death penalty provisions of the statute," and to instead seek life in prison without parole for the worst crimes.



STEWART / The Associated Press  
er father, convicted  
ng San Francisco's  
er on Monday.



## kidney es home

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## Children & HealthCare Week March 18-22

Providence Alaska Medical Center joins the Association for the Care of Children's Health, local physicians, and hundreds of health care providers around the nation in celebrating Children and HealthCare Week. This week is dedicated to educating the community about the special needs of children in the health care setting. It is our belief that providing compassionate, emotional support for the family and hospitalized child is a vital part of good medicine.



"Millions Misspent: What Politicians Don't Say About the High Costs of the Death Penalty" is a report assessing the exorbitant costs associated with the death penalty. Every state that has studied its death penalty system has concluded that the death penalty is many times more expensive even than life imprisonment without parole.

"When the State Kills: The Death Penalty: A Human Rights Issue," a publication produced by Amnesty International that documents the death penalty as it is used throughout the world and the human rights abuses that inevitably accompany it.

"The Death Penalty: The Religious Community Calls for Abolition," which contains statements from every major denomination in the United States condemning the death penalty.

I have also included for your information several articles published on the question of whether the death penalty provides any deterrent value to preventing homicide and all reputable studies establish that it does not. In fact, there is a growing body of research that indicates that the death penalty may in fact increase violent crime. Death penalty states actually have a slightly higher rate of criminal homicide than non death penalty states.

Simply put, Alaska cannot afford the death penalty. Our current system of justice, especially in rural Alaska, cannot absorb the additional costs associated with the imposition of a death penalty. Although Alaska is fortunate to have an excellent public defender system, many of the offices in rural Alaska are composed of only one or two attorneys who carry very high caseloads. It would be impossible for these attorneys to handle their caseloads while adequately trying to represent clients charged with capital offenses. Death penalty trials are bifurcated trials: first there is a guilt phase and then if the person is convicted there is a separate jury trial to determine punishment. Each of these trials can take months, literally tying up the resources of the police, prosecutor, public defender and court system. In rural Alaska where there is typically only one superior court judge, that judge could very well be occupied full-time for many months on a single capital case which would pre-empt any other civil or criminal case pending. It is not an exaggeration to say that the imposition of the death penalty would literally bring the justice system in rural Alaska to a standstill. The Alaska Native Community recognizing many of these problems has come out strongly against passage of the death penalty in Alaska. I have enclosed for you resolutions passed by the Alaska Federation of Natives and the Alaska Inter-Tribal Council at their most recent conventions.

Besides dominating the court systems in rural Alaska, states that have the death penalty are finding that much of the appellate court time is spent hearing death cases. The appeals process in capital cases typically lasts at least ten years. Defendants

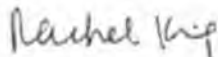
appeal their convictions through both the state and federal systems, usually each case is appealed all the way to the Supreme Court of the United States. This would put a drain on the Alaska appellate courts. Both Florida and California report that their appellate courts are spending half of their time on death penalty appeals, again pre-empting civil and other criminal matters.

Lastly, the cost of corrections is increased as it costs more to maintain a death facility, even one in lamentably poor condition, than a regular facility. The state of Alaska already cannot afford the costs of housing its current inmate population. It will not be able to absorb the additional costs of a death facility.

When all these factors are considered there is simply no compelling reason to establish a death penalty in Alaska. We are asking you to re-consider your position on SB 52 and HB 45.

Thank you for taking the time to read this information. Please do not hesitate to contact us if you have any questions or would like additional information.

Sincerely,



Rachel King, Esq.  
Executive Director  
Alaskans Against the Death Penalty



14th Year - No. 513 © Chicago Tribune

Saturday



**Keenan out:** He either jumped or was pushed, but Mike Keenan (above) is out

## Death—his own—was killer's goal

By Rot Karwath

Lloyd Wayne Hampton is blunt about it. He killed a man in 1990 to get the death penalty. Days before he is to die early Wednesday by lethal injection in the Stateville Correctional Center near Joliet, Hampton said he wants death-penalty opponents—"meddlers" he calls them—to stop trying to block his execution, which would be only the second performed in Illinois since 1962. Hampton said he is getting what he deserves and what he wanted

Feb. 8, 1990, when he tortured, smothered and stabbed Roy E. "Jasper" Pendleton to death in Downstate Troy. Pendleton, a 69-year-old retired janitor, had let Hampton into his motel room to use the bathroom. "I had given up trying to make it," Hampton said in a telephone interview from his constantly monitored cell not far from Stateville's execution chamber. "I was at a point in life where I was sick of being out there, sick of being in here all my life. What was I going to do out there? I decided

I either had to put myself in a position of being killed by somebody else or committing suicide. "At that point, I had strong beliefs about not killing myself, about someone taking his own life. So I put myself in a position to have the state kill me." Told that death-penalty opponents have raised his reasoning as evidence that he is mentally incompetent to waive court appeals of his death sentence, Hampton said the "meddlers" are wrong. "I never knock those people," he said. "They do what they be-

lieve in. I don't expect them not to do their job. "But there is no doubt in my mind, or really in anyone else's mind, that I am competent. The judge had no doubt. The state Supreme Court had no doubt. There is no doubt about it." Hampton maintained that there was another reason he killed Pendleton. Less than a year out of a California prison where he served 2 years for assault, he said he was passing through southwest Illinois when he was hired to kill Pendleton.



Lloyd Wayne Hampton  
The man who hired him, an unnamed former Illinois inmate, said Pendleton was a "snitch" who had helped send him to prison, Hamp-

From Page 1

### Hampton

Continued from page 1

ton said. It's a story that the Illinois courts have refused to believe, saying there is no evidence that Hampton was hired to commit the murder.

Hampton declines to "rat on" the man he said hired him. But he said he also made sure to commit other crimes while killing Pendleton—torturing him by turning his eyelids with a cigarette and stealing some of Pendleton's belongings—to ensure that he got the death penalty.

When he was arrested a day later in Pendleton's car, Hampton said he had given up on life. Born Nov. 13, 1953, in Memphis, Texas, he already had served more than a dozen years in Texas and California prisons for assault, burglary and prison escape.

Hampton also said he killed two other men, both in Texas, a story that Illinois authorities say might be true.

But Hampton has declined to provide details, apparently believing that doing so might delay his execution.

Hampton acknowledged that he had a troubled childhood, having been abandoned by his mother and beaten by his father.

He ran away from home at 15 and bounced from jobs in oil fields, construction and occasional stints as a country music singer.

"Look, a bad or terrible childhood can be a reason for why you do something. But it is never an excuse," he said.

"If you know the right things to do and willingly choose to go the wrong way, that is not your childhood."

He said of death-penalty opponents, "They always say stuff like that. 'Look at the poor little guy. He got his nose broke by his dad when he was a child.' But I don't buy that."

Though he has warned outsiders not to file appeals in his behalf, Hampton could put off his own

"Death-penalty proponents say it's a deterrent. But only an idiot thinks that executing me will deter any future criminals. It only deters the one being executed."

Lloyd Wayne Hampton

execution by expressing a desire to talk to his lawyer about a federal court appeal.

That action could come right up to the minute that he is to be wheeled on a gurney into the execution chamber.

Since being moved to Stateville from the Menard Correctional Center in southern Illinois, Hampton has spent his final days writing letters to family and friends, watching TV and waiting. He said he has persuaded relatives

group opposed to the death penalty, said Friday that it will formally ask Gov. Jim Edgar to halt Hampton's execution and commute his sentence to life in prison.

The group will file a clemency petition Monday with the Illinois Prisoner Review Board. The review board will hear the group's appeal, based on moral opposition to the death penalty, at 2 p.m. Tuesday in Springfield. It then will make a recommendation to Edgar.

Edgar aides have said the governor is prepared to allow the execution to proceed, but he will hear any last-minute appeals.

Meanwhile, Hampton declined a last meal, asking only for coffee and a cigarette.

"What is the point of gobbling down a last meal?" he said. "If they order one for me, why, I'd probably give it to my visitors later."

He expects a sister, one of his siblings, and some friends to visit before his execution. He said he feels sympathy for Pendleton's friends and relatives, but not for Pendleton.

Hampton also has abandoned hope that his execution will send a message to others who would commit crimes.

"Kids these days, especially in big cities, they already are hardened," Hampton said. "They don't pay attention to people like me. To them I am a fool who got caught."

"Death penalty proponents say it's a deterrent. But only an idiot

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## Teen killed friend hoping for execution, affidavit says

By DAVID GOETZ  
Staff Writer

An Orange County, Ind., teenager told police he killed his 12-year-old friend Tuesday so the state would execute him for murder, according to court documents.

Lemuel E. Hickman, 15, said he apologized to his friend, Dexter Eickelberger, as he beat the Throop Elementary School sixth-grader to death with a fallen tree limb.

An autopsy report said the boy died of massive head injuries.

Hickman was in Orange Circuit Court yesterday for his first hearing on a charge of murder. The court waived juvenile jurisdiction Thursday and he was charged as an adult.

If found guilty Hickman cannot be sentenced to death because he is not yet 16. His maximum sentence would be 60 years in prison.

According to an affidavit filed with the murder charge, Hickman confessed to the crime twice, first to a sheriff's deputy and later, under questioning, to Indiana State Police Detective Doyle Cornwell.

Cornwell said in the affidavit that Hickman told him he had attempted suicide several times but was too "chicken" to go through with it. He thought if he did something "really bad," the court would send him to the electric chair and "that'd be it."

According to the affidavit, Hick-

man said the boys were playing at Hickman's home about five miles south of Paoli around 6 p.m. when Dexter said he had to go home.

Hickman offered to show Dexter a new trail through the woods and as the two walked along, Hickman picked up a piece of wood and began to hit his friend. The 12-year-old asked what he was doing, the affidavit said, and Hickman allegedly replied, "I'm sorry, Dexter."

The slight, blue-eyed, tousle-haired youth listened attentively yesterday as Circuit Judge David T. Rojahn explained his rights and entered a preliminary plea of not guilty on his behalf. He answered "yes sir" and "no sir" to the judge's questions. His mother, Gloria Hickman, watched the proceedings.

Rojahn ordered Hickman held without bond in the Orange County jail under a 24-hour suicide watch and ordered a psychological evaluation of the Paoli High School freshman. Jail matron Janice Blanton said Hickman is being held in a 14-by-14-foot glass enclosure in the staff area of the jail, in constant view of the police dispatcher.

"He's very quiet, reads a lot, mostly his Bible," Blanton said. "The school is sending his schoolbooks." Hickman also asked for his radio, which he received, and some "books on computers," Blanton said.

## Some tales from the gallows: Deterrence? What deterrence?

By Walt Espy

The writer has documented over 14,000 legal executions in the United States as a research specialist for the Capital Punishment Research Project at the University of Alabama Law Center in Tuscaloosa.

One of the arguments most frequently advanced by those who advocate the death penalty is its value as a deterrent to others who would commit capital crimes. This is a conclusion that cannot be substantiated statistically. Historical fact supports the opposite view — that there is little if any deterrent value in capital punishment.

The trend away from public executions, where great crowds would gather to watch a fellow being strangled at the end of a rope, to conducting them privately in the presence of only a few invited and official witnesses, was accelerated by evidence that instead of creating respect for the law, these state-sanctioned spectacles of death led to acts of violence or other illegal activity by those witnessing them.

Certainly if there is a deterrent value, its impact should be felt most keenly by those who have lost relatives to the executioner.

Yet Martin Heed, in a jealous frenzy, killed his wife in Kansas City, Mo., on Sept. 16, 1893, and was hanged for the crime on Jan. 4, 1894. And five years later, on March 30, 1899, his son, James, was hanged from the same gallows for the murder of his girlfriend, the motive also being jealousy.

Today Gerald A. Gallego Jr., is under sentence of death by asphyxiation (in the gas chamber, that is) by two states, California and Nevada. Aided and abetted by his wife, prosecutors said, he killed two young women in a search for the perfect "sex slave." It is ironic, to say the least, that on March 3, 1955, his father, Gerald A. Gallego Sr., became the first person to die in Mississippi's gas chamber when he was executed for the murder of a policeman.

The younger Gallego was 14 years old when his father died — an age when the execution should have made a profound and lasting impression.

It has been demonstrated by these and numerous other cases that the progeny of executed felons were not deterred by the executions of their sires or older siblings.

When George Speed, a black man, was hanged at Fayetteville, Ga., on Oct. 8, 1875, for the rape of a white girl, his half-brother,

Clarke Edmondson, was among the witnesses. That very night, another white girl was assaulted and, when he was arrested and questioned, Edmondson confessed his guilt. On Oct. 17, he was taken from the jail and lynched on the same gallows from which his brother had been legally hanged nine days previously.

Nicholas Vianna, a former choirboy, killed a man during an armed robbery that had netted him a few cents over \$5. When he went to his death in the electric chair in Chicago on Dec. 9, 1920, his last words were: "I hope my death does more good than my life. I hope it teaches my kid brother to go straight."

Eight years later, the younger brother, Paul Vianna, was sentenced to the penitentiary for an armed robbery that had netted him only \$8.32. Fortunately, his victim had not resisted and was not killed.

*Newsweek* magazine devoted much of its Oct. 17, 1983, issue to the case of James David Autry, who had just narrowly missed execution by lethal injection for the murder of a convenience-store clerk and one other person over a six-pack of beer. The magazine gave an excellent insight into the sad, disturbed, and deprived childhood of James and his younger brother, Robert, each of

whom was possibly the only person who ever really loved or cared for the other.

James Autry's luck finally ran out and he was executed at the Texas State Prison on March 14, 1984. Three months later, the younger brother was arrested and charged with the mutilation-murder of a 59-year-old invalid woman. He now awaits trial for his life on this capital charge.

If there were a deterrent value in executions, whether they be public or private, one would expect those closest to, and most aware of, capital cases and their penalties to be deterred by them.

Not so George Swearingen, who, as sheriff of Cumberland County, Md., had served as a hangman and was fully aware of the horrors of slow strangulation at the gallows. Convicted of the Oct. 2, 1829, murder of his own wife, he was later hanged from his own scaffold.

J. Samuel McCue, Mayor of Charlottesville, Va., was an eminent attorney-at-law who had a long and successful practice before the courts of Virginia. His experience and knowledge of the laws on capital crimes did not deter him from murdering his wife. Following a trial and conviction, he was hanged on Feb. 10, 1905, in the city where he had served as chief magistrate.

Another Virginian, Frank J. Coppola, was electrocuted on Aug. 10, 1962, following his conviction for the extremely brutal murder of a Newport News woman during the course of a robbery in her home. He was a former policeman whose training assuredly encompassed an awareness of the penalty for committing a capital crime, but this did not deter him, either.

There can be no doubt that the execution of an individual serves as a limited deterrence in that he or she will certainly never again transgress against any laws of society, capital or otherwise. However, when we consider that this particular sentence of the law has always been and probably always will be applied in a capricious and haphazard fashion, the fact that there is virtually no general deterrent value should become obvious. One person convicted of an offense may be sentenced to die and be executed, while his crime partner, equally guilty but more fortunate in the selection of a trial jury, may, though convicted, receive only a prison sentence.

Such basic unfairness in any system that offers a punishment with the finality of the death sentence, in my opinion, completely negates any question of deterrence.

# Research disputes execution deterrence

## Press news services

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ATLANTA — Publicized executions have caused short-term increases in murders, according to a researcher.

Sociologist William Bowers of Northeastern University reviewed past studies of whether executions have deterred other murders. He found mistakes in the data of studies that claimed to show lower homicide rates after publicized executions.

One of the longest studies, conducted from 1907 to 1963 in New York, revealed an average of two extra murders in the month following each execution. Bowers called the finding significant.

"The deterrence findings are not true," he said yesterday at the annual meeting of the American Psychological Association.

A group of panelists at the convention, discussing other research on capital punishment, said juries in death penalty trials often do not understand instructions from judges and decide cases based on incorrect assumptions.

The panelists, all of whom opposed the death penalty, agreed that findings from psychology and sociology are unlikely to sway or reverse court decisions on the death penalty.

Several panelists criticized the way that juries are instructed to decide between life and death.

Jury instructions are the "weakest link in the trial process," said Lorelei Sontag of the University of California at Santa Cruz.

Ms. Sontag, a doctoral candidate, is interviewing 30 jurors who served in 10 different death penalty cases in California. Half of the jurors voted for the death penalty and the other half voted for life imprisonment.

She said few jurors understand terms that are crucial to such cases so they usually based their decisions on the defendant's "lifestyle" rather than the facts of the case.

*(Chicago Tribune/distributed by Knight-News-Tribune)*

# Alaskans **AGAINST** the Death Penalty

March 10, 1995

Alaska State Legislature  
State Capitol Building  
Juneau, AK 99801-1182

Dear Legislator:

On February 24, 1995, the Anchorage Daily News ran an article entitled "Police Chiefs Doubt Effectiveness of Death Penalty, Gun Control." This article cited a 1995 study conducted by Peter D. Hart Research Associates which polled police chiefs from across the country. The report was interesting because it revealed that most police chiefs do not believe that the death penalty is an effective method of crime control and do not believe that it reduces the number of homicides. Further, most chiefs believe that the death penalty increases the likelihood that police officers will be killed in the line of duty.

I believe that this report will be instructive for you in considering House Bill 45 and Senate Bill 52. Alaska is in a unique position in that we can learn from the mistakes of other states. We should avoid adopting the death penalty which, even from the perspective of law enforcement officers, is a failed public policy.

Please contact me if you would like additional information on this report or any other aspect of the death penalty.

Sincerely,

*Rachel King*

Rachel King  
Executive Director

Senator K. A. ...  
Professor ...  
Richard ...  
Edgar ...  
Barbara ...  
Harold ...  
Representative ...  
Ray ...  
W. ...  
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February 8, 1996

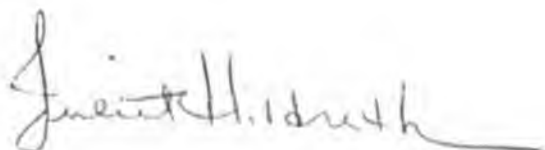
Julie Hildreth  
9110 Terl Circle  
Anchorage, AK 99507

Senator Robin Taylor  
State Capitol  
Juneau, AK 99801

Dear Senator Taylor,

I am sending the enclosed recent anti-death penalty advertisement.  
I spotted the ad in the lifestyles/gourmet food and cooking section  
in the Anchorage Daily News.

Sincerely,

A handwritten signature in cursive script that reads "Julie Hildreth". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right.

Julie Hildreth

enclosure

# FOOD

ANCHORAGE DAILY NEWS

F4 Anchorage Daily News - Wednesday, February 7, 1996

## DON'T KILL FOR ME



### I Oppose The Death Penalty

"The death penalty will not help law enforcement do its job. During my career as a Police Officer and Homicide Detective, I did not see one defendant in a murder case who would have been deterred from his crime by the death penalty. Killers don't think they're going to get caught, or just can't think past the act of murder itself. Jurors always hold the prosecution to a higher burden of proof in capital cases. Mark Furman, Rodney King and Ruby Ridge are names that inject a gaping wound on the credibility of law enforcement - names that will contaminate jurors' minds and further heighten the burden of proof demanded of the prosecutors. Why risk a murderer going free?"

Sgt. JAMES PERKINS

ANCHORAGE POLICE DEPARTMENT

Sponsored by the Local Chapter of Amnesty International, The Human Rights Organization  
3000 Arctic Slope Inn, Anchorage, Alaska 99503-1220

SB-52

Robert Anderson  
P.O. Box 2625  
Kodiak, AK 99615  
907-486-8391

I would like to go on record as being strongly in favor of Senate Bill 052.

I believe that the issue of whether the State of Alaska should include capital punishment for murderers should be decided by the citizen voters of this state. Simple as that. Let the voters decide!

I would question the motives of anyone who opposes letting the citizens decide how they want to deal with violent criminals.

In any criminal case it is the "People" versus the accused. It is only proper then, that in a true democracy, the "People" should decide this matter.

I urge this body to pass this bill so that we can vote on it.

Robert C. Anderson

Sent by:

Kawerak, Inc.  
P.O. Box 948  
Nome, Alaska  
99762

KAWERAK INCORPORATED

Resolution 94-09

Distributed by:

SENATOR AL ADAMS  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1182

OPPOSITION TO REINSTATEMENT OF THE DEATH PENALTY IN ALASKA

WHEREAS, the Kawerak, Inc. is concerned with equitable treatment of Alaska Natives within the criminal justice system; and

WHEREAS, Alaska Natives account for only 13.5% of the state's prison-age population, yet 32% of the jail population is comprised of Alaska Natives; and

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

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

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

WHEREAS, establishing a death penalty law and implementing it will cost millions of dollars and thereby deprive Alaska Natives and their communities of critical resources for service programs that focus on crime prevention; and

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

NOW THEREFORE BE IT RESOLVED, that Kawerak, Inc. is opposed to reinstatement of the death penalty in Alaska; and

BE IT FURTHER RESOLVED, that Kawerak, Inc. urges rural and urban legislators alike to oppose any effort to reinstate a death penalty in Alaska.

*David Olvera*  
Chairman of the Board

*Luci [Signature]*  
Board Secretary

4/2/94  
Date

4-2-94  
Date

The foregoing resolution was adopted at a duly convened meeting of the Kawerak Board of Directors, a quorum being present this 2nd day of April, 1994.

Kawerak Inc. request this to be sent to Judiciary; Finance Com

RECEIVED  
MAR 7 1996  
Ans'd.....

# Commentary

## Death Penalty 'choice' unfair to minorities

by Tom Harris

We, as Alaskan Citizens, are being asked, by Sen. Robin Taylor in Senate Bill 52, to choose death, as in the "Death Penalty", as an "acceptable" alternative form of punishment. Interestingly enough, this decision or choice is being championed, by those who also claim to be champions of the "right of life".

Given this group's representations and

practices of the past, it raises critical concerns, not only as to the core proposition of the death penalty itself as an ethical and moral issue, but also ominous overtones of exactly how the proposed embracement of this plan of death will be executed. We have only to look to Alaska's prison records to see that the minority prison population far exceeds the proportionate status in the overall population. To further compound the issue, prison records show

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NORDSTROM

Senator Taylor,  
Here are 2  
newspapers (1 - article  
& 1 - advertisement)  
in Anti-Death  
Penalty  
Journal

## • Death Penalty 'choice' unfair

that the minority prison population accounts for the overwhelming majority of those crimes that would be classified as "death penalty crimes".

Those championing the Death Penalty Choice have given no indication that they are prepared to discuss solutions or even acknowledge the existing inequities of the judicial system that incarcerates minorities at a rate many times that of the non-minority population. This being so, what assurance can the champions of the Death Penalty possibly give to ensure that their Death Bill will not result in minority executions at the same excessive rate as minority incarcerations.

How can anyone reasonably ask that Alaska's minority citizens agree to a death penalty that executes them at a rate four times greater than non-minorities? What possible justification can there be for this action? Is Alaska being asked to back into the current Bosnia/Serb system of ethnic cleansing? God forbid: What then?

Alaska has lots of problems, for which we all need to focus our limited resources. I respectfully ask the State Senate and House leadership, wouldn't Alaska be better served if we all focused Alaska's shrinking resources, time, and talent on improving the quality of life rather than the quantity of death, in providing running water and flush toilets rather than providing a death penalty and finishing a life. Thank you.