


ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8891 SENATE JUDICIARY

METRO

Anchorage Daily News Wednesday, February 28, 1996 B3

DON'T KILL FOR ME



I Oppose The Death Penalty

"I oppose the death sentence because it is not a deterrent; it is racially and ethnically biased; and it is fiscally prohibitive to the community that adopts it, due to the appeals process (for which the taxpayers usually pay)."

K. William Greer, Retired
Former Assistant Superintendent, Department of Corrections
State of Alaska

Sponsored by the new Chapter of Amnesty International, The Human Rights Organization
Anchorage, Alaska 99501. Special Branches Fund (80) 203 306.70296 Anchorage, Alaska 99501 2094



Alaska State Legislature

Please enter into the record my testimony to the _____

STUD

committee name

committee on _____

SB 52

, dated _____

2-7-96

bill/subject

I am writing to ask your support in opposing HB 162 and SB 127 which would institute capital punishment in Alaska. I oppose this bill for a number of reasons including that it is expensive and does not work.

There are a number of reasons why this bill should be defeated. There is no deterrent value in the death penalty. There is no appreciable difference in the homicide rates in states which have the death penalty and states that do not. The only data available indicates that the crime rate is actually slightly higher in states with the death penalty. Studies actually indicate that in death penalty states there is an increase in the homicide rate in months following executions.

Besides the lack of deterrent value, the death penalty would not be fairly imposed. Nationwide, death rows are disproportionately filled with African-Americans. During the territorial days in Alaska, 60% of all executions were against African-Americans and Alaska Natives. Currently, nearly 40% of all persons incarcerated in Alaska are Alaska Natives. If this bill passes, it is certain that Alaska Natives and people of color will be more likely to be executed. Poor people that cannot afford the cost of expensive defense attorneys will also be disproportionately impacted.

The death penalty is a too final and does not permit mistakes to be corrected. The criminal justice system in Alaska, like the rest of the United States, is not perfect. Innocent people are convicted of crimes and there are literally hundreds of case studies of innocent people who were convicted of crimes and ended up on death row. A recent book, "In Spite of Innocence" documents 400 cases of people who ended up on death row and later it was conclusively established that they were innocent. Wrongful convictions occur because of poverty, police and prosecutorial misconduct, and sometimes simply because the system is imperfect. However, once the final punishment of death is imposed, there is no possibility of using the justice system to correct the error.

Besides the moral and humanitarian arguments against the death penalty, the simple fact is that Alaska cannot afford to enact this legislation. We are starting out this legislative session with a budget problem approaching one billion dollars. Fiscal notes prepared by the Department of Law indicate that this legislation would cost \$21 million dollars the first four years. The cost of trial alone in a capital case has conservatively been estimated at over a quarter of a million dollars. Post-conviction relief and appellate review costs would likely be even higher. The death penalty will put an enormous burden on our already bankrupt court system and severely tax the Department of Law and the Public Defender Agency.

There is an understandable concern on the part of Alaskans that violent crime is on the increase in our state. However, it is important that we not become vigilant and shoot-against in our haste to "solve" this problem. Violence and crime are linked to greater social problems such as poverty, racism and drug and alcohol abuse. Long term solutions such as improving the educational and employment opportunities of Alaskans and providing adequate alcohol and drug treatment facilities will go further to solving problems of violence. Don simply building more jails and hanging our children.

I urge you to do all you can to defeat this inhumane and ineffective law.

Signed:

Testifier

John Gallant

Representing (Optional)

Amnesty International

Address

HCI Box 157-B S. Idotna, AK 99669

Phone No.

(907) 262-4877



Alaska State Legislature

Please enter into the record my testimony to the _____

S.TUD

committee name

committee on _____

SB 52

bill/subject

dated _____

2-7-96

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I urge you to do all you can to defeat this inhumane and ineffective law.

Signed: _____

Ginetta Schedlich

Testifier

Amnesty International

Representing (Optional)

P.O. Box 1494 Soldotna AK 99669

Address

262-5484

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the _____

STUD

committee name

committee on _____

SB 523

dated _____

2-7-96

bill/subject

I am writing to ask your support in opposing HB 163 and SB 127 which would institute capital punishment in Alaska. I oppose this bill for a number of reasons including that it is expensive and does not work.

There are a number of reasons why this bill should be defeated. There is no deterrent value in the death penalty. There is no appreciable difference in the homicide rates in states which have the death penalty and states that do not. The only data available indicates that the crime rate is actually slightly higher in states with the death penalty. Studies actually indicate that in death penalty states there is an increase in the homicide rate in months following executions.

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Besides the moral and humanitarian arguments against the death penalty, the simple fact is that Alaska cannot afford to meet this obligation. We are starting out this legislative session with a budget problem approaching one billion dollars. Fiscal notes prepared by the Department of Law indicate that this legislation would cost \$11 million dollars the first four years. The cost of trial alone in a capital case has conservatively been estimated at over a quarter of a million dollars. Post-conviction relief and appellate review costs would likely be even higher. The death penalty will put an enormous burden on our already bankrupt court system and severely tax the Department of Law and the Public Defender Agency.

There is an understandable concern on the part of Alaskans that violent crime is on the increase in our state. However, it is important that we not become resigned and short-sighted in our haste to "solve" this problem. Violence and crime are linked to greater social problems such as poverty, racism and drug and alcohol abuse. Long term solutions such as improving the educational and employment opportunities of Alaskans and providing adequate alcohol and drug treatment facilities go further to solving problems of violence, than simply building more jails and hanging our citizens.

I urge you to do all you can to defeat this inhumane and ineffective law.

Signed:

Testifier

Amnesty International

Representing (Optional)

135 Briar Cliff

Address

262-6498

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the STUD committee name

committee on SB 52 bill/subject, dated 2-7-96

I am writing to ask your support in opposing HB 162 and SB 127 which would institute capital punishment in Alaska. I oppose this bill for a number of reasons including that it is expensive and does not work.

There are a number of reasons why this bill should be defeated. There is no deterrent value in the death penalty. There is no appreciable difference in the homicide rates in areas which have the death penalty and states that do not. The only data available indicates that the crime rate is actually slightly higher in states with the death penalty. Studies actually indicate that in death penalty states there is an increase in the homicide rate in months following executions.

Besides the lack of deterrent value, the death penalty would not be fairly imposed. Native Alaskan deaths now are disproportionately filled with African-Americans. During the territorial days in Alaska, 60% of all executions were against African-Americans and Alaska Natives. Currently, nearly 80% of all persons incarcerated in Alaska are Alaska Natives. If this bill passes, it is certain that Alaska Natives and people of color will be more likely to be executed. Poor people that cannot afford the cost of expensive defense attorneys will also be disproportionately impacted.

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I urge you to do all you can to defeat this inhumane and ineffective law.
Signed: Maissa Lajovic

Testifier Amnesty International

Representing (Optional) HCI Box 1577B Soldotna AK 99669

Address (907) 262-4877
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the STUD committee name

committee on SB 52, dated 2-7-96
bill/subject:

During the forum put forth before the people of the State of Alaska on February 7, 1996 regarding the possible reinstatement of the death penalty, I spoke briefly of the hypocrisy involved in a society which preaches love, acceptance and the doing of good deeds, and at the same time condones the killings of a percentage of its criminal population.

In order to further substantiate my argument, I talked also of the excessive cost that would be incurred by the taxpayers of the State of Alaska in order to implement a program of criminal punishment such as this.

During my time to talk, I was cut short due to a time limit - and so could not share the following story. Please, I beg of you, good sirs and madames, take heed to this story - as it clearly exemplifies capital punishment is wrong.

Several years ago, I met a man whom I will refer to as Mr. X. Inside of a month of meeting, I witnessed him make the admission that he had spent 14 yrs. in prison for murder. I do not jest when I say that my friend went into convulsory shock upon sharing this part of his life. He shook... for six or seven mins.

Currently, this man, Mr. X, is enjoying his third year of sobriety, working with success in his first honest job in years and watching his son enter into adolescence.

18 yrs. ago, Mr. X took a rock to another man's head in a drunken brawl, and mortally wounded him.

Signed: John Gallant John Gallant

Testifier

Amnesty International

Representing (Optional)

ICI Box 157-B Soldotna, AK 99669

Address

(907) 262-4877

Phone No.

Last year, this man told me he braved the cold and arrive at one of his important college classes late, so that he could jump start my car.

After this failed, the last thing I recall seeing before going to call my parents for a ride, was Mr. X giving my friend a ride home, who now would not have gotten there. Mr. X, though not w/o persuasion, cut class - to help

Mr. X, though not w/o persuasion, cut class - to help



Alaska Native Brotherhood
Camp No. 2, Inc.

February 7, 1996

The Honorable Robin L. Taylor
Chairman, Judiciary Committee
Alaska State Senate
Room 30, State Capitol
Juneau, AK 99801-1182

via Facsimile

Dear Mr. Chairman:

The Senate Judiciary Committee has before it, Senate Bill 52, "An Act authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies..." Essentially, the "Death Penalty Bill."

At a regular meeting of the ANB Camp 2 on February 5, 1996, members present voted to oppose passage of SB52. If history is any guide, invariably, the Alaska Native will be the most affected by this bill, and largely because of the cost factors involved in securing a proper defense.

Please advise your committee members of our position regarding SB52.

Respectfully,

Jeff Anderson
President

cc: Senator Al Adams
465-4821



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary committee name

committee on SB 52 dated 7 Feb 96

bill/subject:

*The CS would not ~~not~~ provide average voters with in-depth knowledge on the pros and cons of a death penalty.
Please don't kill for me! The death penalty*

- falls disproportionately on minority populations
 - goes beyond justice into vengeance
 - is irrevocable - some executed people have later been shown to be innocent
 - won't necessarily make us safer
 - can cost millions of dollars in attorneys fees for appeals. this money should be spent for prevention... early intervention in the lives of people at risk to provide help in parenting skills, jobs, education, etc. will get us a much longer way into a safer society. People should be valued and nurtured from birth. Killing people to show that killing is wrong is counter productive.
- Please don't kill for me!*

Signed: PEGGY MULLEN

Testifier Self

Representing (Optional) 355 LINGONBERRY

Address SOLDOTNA AK 99669

Phone No. 262-9225



Alaska State Legislature

Please enter into the record my testimony to the Sen - JUD
 committee name
 committee on SB No. 52 , dated 2-7-96
 bill/subject

Prior to asking the public
 for ~~and~~ an Advisory Vote
 Please include a true estimate of
 all costs, on the ballot.

Remember past Capital
 Move ballots included the costs.
 I believe to do so without
 including the costs is not responsive
 to P

Signed: [Signature]
 Testifier
 Representing (Optional)
P.O. Box 3313
 Address
283-7187
 Phone No.

JUDICIARY COMMITTEE
DELIVERY ACCEPTANCE LOG

MEETING DATE 2/7/96

BILL NUMBERS SB 240 / 52

LEGISLATOR ACCEPTED BY TIME DATE

SEN. GREEN. RM 423 Laura Ann. 2⁵⁴, 2/6/96

SEN. MILLER. RM 125 M. Whitney (SB 52 & SB 242)

SEN. ADAMS RM 417 Marla Berg

SEN. ELLIS RM 9 Carrie J. ...

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 52(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS TAYLOR, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for an advisory vote on the issue of capital punishment."

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

3 * Section 1. The lieutenant governor shall place before the qualified voters of the state at
4 the next general election the question advisory to the legislature of whether the legislature
5 should enact a law providing for capital punishment for murder in the first degree. The
6 question shall appear on the ballot in substantially the following form:

7 QUESTION

8 Shall the Alaska State Legislature enact a law providing for capital
9 punishment for murder in the first degree and establishing procedures for the
10 imposition of capital punishment that are consistent with the United States
11 Constitution as interpreted by the United States Supreme Court?

12

Yes []

No []

WHICH PUNISHMENT DO YOU SUPPORT THE MOST FOR CRIMINALS CONVICTED OF PARTICULARLY TERRIBLE CRIMES AGAINST PEOPLE, INCLUDING FIRST DEGREE MURDER...

DEMOGRAPHICS	UNSURE	DEATH PENALTY	LIFE W-O PAROLE
TOTAL.....	5X	62X	33X
LOCATION			
RURAL.....	8X	59X	32X
CENTRAL.....	2X	56X	42X
SOUTH CENTRAL....	4X	63X	32X
ANCHORAGE.....	4X	66X	30X
SOUTH EAST.....	6X	59X	35X
GENDER			
MALE.....	4X	69X	27X
FEMALE.....	5X	55X	40X
RESPONDENT AGE			
18-29 YRS OF AGE.	4X	57X	39X
30-44 YRS.....	2X	68X	30X
45-59 YRS.....	7X	57X	36X
60+ YEARS OF AGE.	6X	65X	29X
DEMOCRAT.....	6X	47X	47X
REPUBLICAN.....	6X	77X	17X
NON-PARTISAN....	4X	62X	34X
OTHER.....	0X	55X	45X
NOT REGISTERED...	0X	61X	39X
EMPLOYMENT			
FEDERAL.....	0X	82X	18X
STATE.....	5X	53X	42X
LOCAL.....	7X	60X	32X
PRIVATE.....	4X	63X	33X
NOT IN WORKFORCE.	7X	59X	35X
TIME IN COMMUNITY			
TO 4 YEARS.....	6X	61X	33X
5-9 YEARS.....	0X	70X	30X
10-14 YEARS.....	1X	62X	37X
MORE THAN 15 YEARS.....	6X	61X	33X

Death's double standard

Territorial Alaska's experience with capital punishment showed race and money mattered

By AVERIL LERMAN

As two capital punishment bills move from one committee to another this legislative session, one facet of the debate has been mostly ignored: our own history. For the first 57 years of this century, Alaska had a death penalty. Eight men were hanged in the territory before statehood.

It wasn't joining the union that ended capital punishment in Alaska. It was an independent vote of the territorial legislature, which passed a short law that read simply, "The death penalty is and shall hereafter be abolished as punishment in Alaska for the commission of any crime."

Before it was overturned, the territory's application of the death penalty had raised troubling questions about fairness. The case history indicated that even though most of the convicted murderers of the period were white, the ultimate penalty was reserved primarily for nonwhites, people with no political connections and no money to make them

The first two men to be executed this century were gold hunters who murdered other prospectors. Fred Hardy was hanged in Nome in 1902. He'd been convicted the year before for the murder and robbery of three men on Unimak Island. Homer Bird was executed in Seward in 1903. He'd been found guilty of shooting and killing his partner in the presence of several witnesses. Both Hardy and Bird were exceptional white Alaskans who were executed.

The men hanged between 1903 and 1951 were nonwhite Alaskans. Three were Native, two were African-American, and one was foreign born, from Montenegro — and viewed as a misfit by the citizens who tried him.

Was that an accurate demographic reflection of the people who were committing murders in Alaska during the first half of the 20th century?

Not according to a study by justice professor K.S. Kynell. He found that more than 75 percent of Alaska homicides from 1913 to 1958 were committed by whites. Among them were some of the most notorious criminals of their times. But none were executed.

White residents William Dempsey and Vaco Perovich were cases in point. Both Dempsey and Perovich committed crimes that shocked Alaskans, according to University of Alaska historian Claus M. Nash. Through robbery and murder, a

fisherman at his fish camp near Fairbanks in 1904 — by splitting his head and chest with an ax, then setting his body ablaze on fire. Dempsey murdered a woman in 1919 — then murdered a U.S. marshal to escape arrest. For these crimes, both Dempsey and Perovich were sentenced to hang. But neither man did. Perovich had friends with money; he was able to pay for a series of legal appeals. His sentence was subsequently commuted to life in prison by President William Taft, then he was pardoned by President Calvin Coolidge. He later became a successful businessman in Rochester, N.Y. Dempsey was sentenced to hang for both the murder of the woman and the murder of the U.S. marshal. But his family was able to pay the funds to hire a lawyer who success-

fully persuaded President Woodrow Wilson to commute his death sentence to life in prison.

The six men who faced the death penalty after 1903 didn't fare as well in the justice system, to say the least. None had money to hire lawyers; all had court-appointed counsel, and only two could pay for any court appeal at all. Their families were not connected to influential people. Often they were viewed as strangers by the people who sat in judgment of them: juries composed primarily, if not entirely, of white people.

Still, they tried to live. Four of the six men sought presidential mercy, asking to have their death sentences commuted to life in prison. But presidents Wilson, Hoover, Roosevelt and Truman were not moved by those requests.



Three hangings in Fairbanks

Who were these last six men to be executed in Alaska? What were the circumstances of their convictions? How were they executed? Were the death sentences just?

The first three — a man from the Balkan state of Montenegro, and two Alaska Natives — were hanged in Fairbanks in the 1920s.

Maso Segura, the Montenegrin, worked as a wood chopper in the gold rush town of Flat on the Iditarod Trail. In 1918 he was convicted of shooting and killing his employer, one of the most prominent men in town. Segura said the employer refused to pay him for two years of work he'd already performed.

His court-appointed lawyer tried to have the trial moved to another town. He said residents of Flat were racially prejudiced against Segura (denigrated in some of the courtroom papers as a "bohunk" and "a black fellow") and additionally biased because everyone in town knew the victim.

But the motion for change of venue was denied. Segura was convicted by a jury in Flat and sentenced to death.

In Fairbanks, a jury rigged scaffold was built in the center of town by extending a wooden platform between a second floor window in the courthouse and a second floor window of the empty bank building across the street. Midway, over the street, a trapdoor was cut into the platform. A framework was erected over the door to which a rope could be tied.

According to published accounts, Segura bought a new suit for the occasion. But he was so terrified when his moment of execution came that he had to be tied in a hood and forcefully dropped through the trap door to be hanged.

The second person executed in Fairbanks was an elderly Alaska Native named Hamilton — a man whose first name was never recorded in court records. In 1920, Hamilton shot his own cousin near the town of Shageluk and hid the body.

According to newspaper articles of the day, Hamilton said his cousin was complained of being frequently beaten. After the cousin's death, she moved in with Hamilton.

At the sentencing, Hamilton's court-appointed lawyer complained to the members of the court and the prosecutor for their fairness. He said

Continued on Page 14

DEATH PENALTY

(Continued from Page 5)

he approved of the verdict. "The man is guilty, and there is absolutely no reason which his counsel knows why sentence should not be pronounced."

Hamilton himself spoke of his terrible shame. He requested only that he be hanged in Alaska and not sent to be hanged somewhere else. His request was granted.

But according to a local memoir, Hamilton's execution was particularly gruesome. The hangman had allowed his body to be dropped too far. He was decapitated.

The last man hanged in Fairbanks was a young Alaska Native named Constantine Heaver. The execution was described by a local marshal as "the saddest affair" he'd ever witnessed.

Heaver was arrested in 1929 for shooting one of his friends during a drunken brawl. His lawyer, Thomas Houston, was appointed only a week before the trial. Noting that all the witnesses were in a distant village, Houston sought a month's delay, which was denied. Like Hamilton, Heaver spoke no English, and neither did any of the witnesses to the killing. The brief trial was conducted through an interpreter. Heaver was found guilty.

The jury was given two ballots, one of which required life imprisonment, and one of which was silent as to the punishment. The jury returned a guilty verdict which was "silent" — and the judge sentenced Heaver to death.

A week later, three of the jurors submitted sworn statements that they had not understood that the silent verdict mandated the death penalty. They said they thought it left the decision up to the judge. If they'd understood the law, they said, they would have voted for life imprisonment and not death. Their affidavits were rejected by the court because they were filed three days after the deadline required for motions.

Until the very last moment, Heaver had hoped that he would be granted executive clemency and that his sentence would be commuted to life — the same as Dempsey's and Perovich's had been. In the meantime he'd won the sympathies of his white jailers, according to newspaper accounts. They'd seen how deeply he regretted what he'd done.

President Herbert Hoover didn't see it that way, however. No presidential commutation was issued. Hope without money or influence was not sufficient.

Under the headline "Indian Hanged at Early Hour This Morning Dies with Bravery," the Fairbanks Daily News Miner reported that Heaver walked quietly to the gall, finding chanting a song in his own language — a song that was interpreted only by the opening of the trapdoor beneath his bound legs. A doctor at street level determined that Heaver didn't die until nine minutes later.

One of the deputy U.S. marshals in Fairbanks, Frank P. Young, described the hanging of Heaver as "one of the saddest affairs I ever had to witness." He concluded, "I left the marshal's office shortly after that."

Three hangings in Juneau: 1939-1960

The last hangings in Alaska were all in Juneau.

Nelson Charles, a Native from Ketchikan, was convicted in 1939 of brutally murdering his mother-in-law in a drunken attack. The U.S. attorney prosecuting the case was George Fella later in gain, primarily as "the hanging judge" of Juneau. Charles was represented by Ketchikan lawyer A.H. Ziegler.

After the verdict, Ziegler sought a mistrial, citing misconduct by Fella, and lack of time to prepare a defense. He also filed an affidavit from a Ketchikan lawman that Charles was ordinarily a peaceful man but became insane and unrecognizable when he drank. Ziegler's motion was denied, and no appeal was ever filed. President Roosevelt never responded to the petition for clemency filed on Charles' behalf by the Alaska Native Brotherhood.

Newspaper accounts of the Juneau hanging said that, as his legs were bound on the gallows, Charles calmly stated, "I am innocent of the crime committed against my mother-in-law. I don't want to be hanged."

Nearly 10 years passed before the death penalty was exercised again in Juneau. But the stage was set when grocery/liquor store owner Jim Ellen was found one night in his store with his throat cut.

Within two weeks, federal authorities arrested a young black man named Austin Nelson and charged him with Ellen's murder.

Nelson had no money for a lawyer. Counsel was appointed to represent him on April 2, 1947. His trial began 13 days later.

Over the course of the three-day trial, the government called 16 witnesses to testify. The hastily prepared defense presented only three witnesses beyond the testimony of Nelson and his lawyer. Nelson was found guilty and sentenced to be hanged.

The day after his verdict was entered, the FBI sought a warrant for the arrest of Eugene LaMoore, a friend of Nelson's and one of the witnesses who testified on his behalf. LaMoore also was black. He had lived in Alaska for seven years, working as a fisherman, among other jobs. He had a dated criminal record. As a young man 20 years earlier, he'd been convicted of robbery in California.

The warrant charged LaMoore with perjury for false testifying at the trial that he had never been convicted of a felony. He was imprisoned on May 1, 1947, tried, found guilty of participating in the murder of Jim Ellen, and sentenced to death. In three months after his arrest, LaMoore was locked in a cage-like

cell where he was forced to wear leg shackles night and day. He was released only for the purpose of being interrogated by the U.S. marshal and others. Although he had no lawyer and no money to obtain one, LaMoore was not a timid man. Words were exchanged. The authorities were getting nowhere.

Nelson was scheduled to be hanged on Aug. 1. Two days before he was to die, Nelson told authorities that Eugene LaMoore had participated in the robbery of Ellen's store and that LaMoore had himself killed Ellen.

The very next day, according to LaMoore's subsequent testimony, the U.S. marshal brought him and Nelson together. Sobbing, Nelson told LaMoore that he lied to the FBI agent when he implicated him in the murder. Nelson begged for his forgiveness, LaMoore said, but he pleaded for LaMoore to help him — to save him from hanging. In court, LaMoore described his final encounter with Nelson.

"Nelson would not sit down. He stood behind his chair and cried and called himself many dirty names. He told me to forgive him, but help me save my life."

"I have never wanted to be responsible for any man's death," said LaMoore. "That man spoke to me, with tears in his eyes, to help him."

As a result, LaMoore said, he decided to help Nelson in the only way he could — by confessing to a part in the crime, prolonging Nelson a life a little longer, since the prosecutor would want to preserve Nelson as a witness against LaMoore.

LaMoore had no lawyer of his own at first. After he was charged with murder, he contacted prominent Juneau attorney Bert Faulhaber, and asked what to do. Faulhaber told LaMoore to go ahead and make a statement.

Later, Faulhaber said he also told LaMoore that he could not represent him in the matter, and had explained that his advice was not based on a lawyer-client relationship.

LaMoore gave the marshal an unsigned statement (typed by Faulhaber), in which he confessed to robbing Ellen's store with Nelson but denied he had anything to do with the murder — and did not know about it until after he and Nelson had left the store.

Will LaMoore was charged with Ellen's murder, based on his partial confession. His trial began on Feb. 7, 1948 — presided over by Judge George Fella.

The prosecution had no physical evidence against LaMoore: no murder weapon, no fingerprints, no stolen property. There were no witnesses to the murder, either, only testaments who said they saw LaMoore on the street that night — a fact LaMoore never denied.

Conspicuously absent from the courtroom was Nelson. He never testified against LaMoore, even though his prosecution had been performed on the basis that his testimony would be critical.

Instead, LaMoore testified in his defense that his confession had been false, that he made it up only to help Nelson.

The prosecutor cross-examined LaMoore as to whether he really thought he was helping Nelson. LaMoore's answer was short: "He's alive, isn't he?"

"Well, yes," conceded the prosecutor.

Unwound and to the point, LaMoore concluded: "It undoubtedly helped."

"Didn't you think you were taking a chance to help?" asked the prosecutor.

"I take a chance walking across the streets," LaMoore said.

Austin Nelson was hanged outside the Juneau federal jail March 7, 1948. The warrant for his execution was signed by Judge Fella.

Thirteen months later, on April 14, 1949, Eugene LaMoore was dropped up in a temporary gallows outside the jail. His last words: He did not bill Jim Ellen.

It took 13 minutes for LaMoore to die from hanging. He left behind a wife and two young children.

Ten months ago, U.S. Supreme Court Justice Harry A. Blackmun, a longtime champion of the death penalty, rejected any further effort to legitimize what he declared to be a fundamentally unfair process. In a startling dissent from a routine death penalty appeal, Blackmun stated that the death penalty "cannot be administered in accord with our Constitution." Because in practice capital punishment has always been applied unevenly.

From now on, he said, "I no longer shall tinker with the machinery of death." Shortly thereafter, Blackmun announced his decision to retire from the court.

The history of the death penalty in Alaska would appear to reinforce Blackmun's assertion. Three fourths of the people hanged in Alaska this century were members of racial minorities, even though minorities accounted for only about one-fourth of the murders.

Economic, cultural and political barriers figured heavily into the final tally of who died and who lived. According to Vic Fischer, a former sponsor of the 1957 bill to overturn the death penalty, these factors were a significant basis for the abolition bill proposed by himself and Warren Taylor, the principal sponsor.

Retired Judge Braden J. Rochelle Jr. was a young representative to the territorial legislature in 1917. He voted against Warren Taylor's abolition bill. In a recent interview, Rochelle described that event as "the only vote I made that I now regret." Many years later, having spent much of his life as a Supreme Court judge, Rochelle, like Blackmun, has come to wonder whether the death penalty promises more harm than benefit.

LA MOORE LIVES IN AN ANONYMOUS CITY

"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 am including information that I have obtained since I last contacted you:

"On the Front Line: Law Enforcement Views on the Death Penalty" which is a report on a study of law enforcement officers from across the country who have concluded that the death penalty is ineffective and takes away scarce resources from programs which could be more effective.

I have also enclosed an article from the New York Times which compares the homicide rate in each state which demonstrates that there is no corollary between the death penalty and lower murder rates. In fact, the states that use the death penalty the most, Texas, Florida, Virginia, and Louisiana have the highest murder rates in the country.

And lastly, I have enclosed a copy of a video "The Death Penalty in Alaska: Never Again," which contains a wealth of information about the consequences of passing the death penalty in Alaska.

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. Both the Alaska Federation of Natives and the Alaska Inter-Tribal Council have passed resolutions strongly opposing the reinstatement of the death penalty in Alaska.

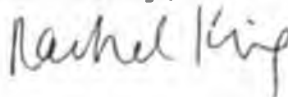
Besides dominating the court systems in rural Alaska, states that have the death penalty are finding that much of the appellate court time is spent hearing death cases. The appeals process in capital cases typically lasts at least ten years. Defendants appeal their convictions through both the state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

Researchers Say Executions May Provoke More Killings

BOSTON (AP) — Rather than deter crime, highly publicized executions may actually provoke two or three killings that never would have occurred, two researchers report in a sociological study.

The study, to be published in October in "The Journal of Crime and Delinquency," appears to discredit the contention of death penalty proponents that capital punishment deters and reduces violent crime.

"In New York State over the period 1907-63 there were, on the average, two additional homicides in the month after an execution," write William Bowers and Glenn Pierce of Northeastern University's Center for Applied Social Research.

"If executions have a brutalizing effect, as we find, a whole new issue is raised on capital punishment," Bowers said in an interview. "This is a punish-

ment that requires the sacrifice of innocent people."

New York was chosen for the study, Bowers said, because monthly statistics on homicides were kept beginning in 1907 and because New York has executed more persons — 695 from 1890 to 1964 — than any other state.

The researchers note that

their finding of two additional homicides in the month after an execution may be low because they do not take into account homicides in the month when the execution took place.

"There is room to quarrel about whether these data show a brutalizing effect of two or three homicides, on the average," they write.

Capital punishment not deterrent to committing crimes, study shows

By Doug Petersolin
Lantern staff writer

Evidence shows that capital punishment does not deter killers, according to a recent study co-authored by an OSU faculty member.

Ruth D. Peterson, an associate professor of sociology, said the study is different from others because it examined only homicides that were subject to the death penalty.

"We looked at felony murders, which are capital murders," Peterson said. "Most studies of the death penalty and homicides look at general homicides, not all of which are subject to the death penalty. But in most jurisdictions, felony murder is a capital offense."

Most homicides are not crimes eligible for the death penalty, she said.

Peterson co-authored the study with William Bailey, a sociologist from Cleveland State University, who was unavailable for comment.

Ronald Huff, OSU professor of public policy and management and director of the Criminal Justice Research Center, said he agrees here is no evidence that the death penalty deters people from committing crimes.

"I can say definitively there is no convincing evidence that executions deter homicides, and as a matter of act, some of the studies that argued it did were methodologically flawed," Huff said.

The study, published in the current issue of the journal

"Criminology," focused on two areas, Peterson said.

"We were looking at the influence of executions, per se, on felony murder rates, and we were looking at the impact of the amount and the quality of television coverage of executions on felony murder rates. And we do not find support for the notion that either the number of executions or the amount or type of publicity associated with those executions has an influence on most types of felony murder," Peterson said.

She said there were some minor exceptions, but the study did not show the predicted associations between felony murder rates and executions or execution publicity.

Huff said he thinks media coverage of executions is a very important issue, especially because people are talking about televising executions.

"If you said, 'Let's televise executions,' and the rationale for that is it will deter people, I think it is equally convincing that it may set some people off (to commit crimes)," Huff said.

Jim Tobin, treasurer of Ohioans to Stop Executions, said many studies have seriously questioned whether the death penalty is a deterrent.

"The key is people want (the death penalty) to be a deterrent, and it would just only make sense that it would be a deterrent. But all the studies are showing that it is not," Tobin said.

"I think it's more based on the

reasons why people, in the first place, commit these crimes, and they're not thinking they'll get the death penalty if they do that kind of thing," he added.

Huff said he believes society should concentrate on prevention by teaching conflict-resolution skills, beginning with children at the elementary-school age.

"We should teach them how to resolve conflicts in peaceful ways," Huff said. "When a lot of people get married they don't have very good skills at resolving conflicts. So the first time they have a conflict they think they should get a divorce, or they might even have a physical fight and they've never really learned how to deal with their conflicts in a peaceful way."

Huff said many crimes are drug and alcohol related.

"The deterrent to crime is prevention in terms of conflict resolution and in terms of getting people to understand that they should not use drugs," Huff said. "If people could learn not to abuse drugs and alcohol and learn conflict-resolution skills, we could make some significant headway in reducing the number of homicides."

Tobin said he was not surprised at the results of the study and that the opinion of Ohioans to Stop Executions is that the death penalty has not been shown to be a deterrent to crime.

He said the group believes there does need to be retribution for crimes, but they support long-term imprisonment versus executions.

DEATH PENALTY GAINS SUPPORT

	November 1991	August 1985
Favor death penalty	71%	66%
Oppose death penalty	24%	31%
Other, no opinion	5%	3%

A Jerusalem Report poll, conducted by Hannah and Ravi Smith, shows growing public support for the death penalty for terrorist murders, compared to Smith Research Center 1985 figures.

Over 80 percent of the supporters of the Likud and the nationalist parties favor the death penalty, along with 70 percent of those supporting the religious parties and two-thirds of the Labor Party's backers. By contrast, however, only 44 percent of supporters of the dovish, left-wing Ratz, Shinui and Mapam parties support the death penalty.

Along ethnic lines, 80 percent of Jews from Muslim countries favored the death penalty, as against 65 percent of Israelis of European origin and third-generation Israelis.

The survey, which was conducted November 4-12, polled 1,000 Israeli Jews in all parts of the country.

Jerusalem Report Staff

NOVEMBER 28, 1991 THE JERUSALEM REPORT

(ISRAEL)

(OHIO STATE UNIVERSITY)

ALASKA INTER-TRIBAL COUNCIL
RESOLUTION 94-17

OPPOSITION TO REINSTATEMENT OF THE DEATH PENALTY IN ALASKA

WHEREAS, numerous statistical analyses prove beyond a doubt that the use of capital punishment in this country is biased by race, both that of the defendant and that of the victim; and

WHEREAS, Alaska is no exception to the national pattern, as demonstrated by the fact that from 1900 to 1957, when the Territory had a death penalty, only two of the nine individuals hanged are known to have been Caucasian, the other 78% having been Alaska Natives, African-Americans and other citizens of color; and

WHEREAS, no Caucasian has been executed here since 1903, but each of the seven minority persons put to death since then was summarily tried, could not afford adequate counsel or appeal, and had no political influence to secure commutation; and

WHEREAS, a 1977 study by the Alaska Judicial Council demonstrated that, despite abolition of the death penalty, a clear pattern of racial influence on the state's criminal sentencing practices continues in modern times, which caused the Alaska Legislature to reform its sentencing statutes, limiting judicial discretion; and

WHEREAS, the 1994 Report of the Alaska Natives Commission documents that: only 16% of Alaska's population are Natives and 13.5% of its prison-age-eligible population are Natives, but that fully 32% of the state's prison inmate population are Natives; that 59% of its violent-crime inmates are Natives; that 53% of all Native inmates are incarcerated for crimes classified as "most violent" (14% for assault, 14% for sexual assault, 13% for sexual abuse of a minor, and 12% for murder or manslaughter); that in 1990 one-half of all Alaskans convicted of second-degree murder were Natives; that the annual rate at which Natives are murdered (often by other Natives) is four times the national average; that most Native crime, particularly violence against persons, is alcohol related; and that language barriers and traditional Native cultural patterns of avoiding confrontational argument (e.g., trials and charge bargaining) contribute to higher Native conviction rates; and

WHEREAS, Alaska Natives know these facts, have consistently expressed their concern with the racial inequity of the state's criminal justice system, and have no illusions about who will die under any re-instituted system of capital punishment in Alaska; and

WHEREAS, capital punishment wastes limited public resources, since it costs the average state six times as much money to execute one person as it does to keep him or her in prison for life; and fiscal notes attached to recent death penalty bills in the Alaska Legislature by the Departments of Law and Corrections, the criminal defense agencies and the Court System, estimate that re-instituting capital punishment will cost this state more than \$21 million in the first four years and will steadily increase thereafter; and

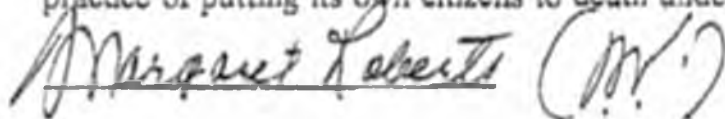
WHEREAS, extensive research demonstrates that the death penalty, whatever the real motives for its use, has little or no deterrent effect on the incidence of capital crimes in the United States; and

WHEREAS, during the 20th century, the American system of justice has sentenced more than 1300 people to death for crimes they did not commit, of whom at least 23 were "mistakenly" executed and subsequently proven innocent; and

WHEREAS, responding to the values of their traditional cultures and to the persistent patterns of discrimination against them in modern times, Native American people and tribes have always been in the forefront of opposition to capital punishment in federal and state laws; and

NOW THEREFORE BE IT RESOLVED, that the Alaska Inter-Tribal Council adamantly oppose reinstatement of the death penalty in Alaska and urge all elected officials and voters to join us in opposition; and

BE IT FURTHER RESOLVED, that the Council urge every Native person and organization to use all legal, financial, and political resources to ensure that the State of Alaska does not return to the irreversible, ineffective, wasteful and plainly discriminatory practice of putting its own citizens to death under cover of the law.

 Margaret Roberts (M.R.)

DATED this 29th day of November, 1994

116 members voting in favor and 0 members opposed.

ALASKA FEDERATION OF NATIVES

1994 ANNUAL CONVENTION

RESOLUTION 94-26

TITLE: OPPOSITION TO REINSTATEMENT OF THE DEATH
PENALTY IN ALASKA

- WHEREAS: numerous statistical analyses prove beyond doubt that the use of capital punishment in this country is biased by race - both that of the defendant and that of the victim; and
- WHEREAS: Alaska is no exception to the national pattern - as demonstrated by the fact that, from 1900 to 1957, when the Territory had a death penalty, only two of the nine individuals hanged are known to have been Caucasian - the other 78% having been Alaska Natives, African-Americans and other citizens of color; and
- WHEREAS: no Caucasian has been executed here since 1903, but each of the seven minority persons put to death since then was summarily tried, could not afford adequate counsel or appeal, and had no political influence to secure commutation; and
- WHEREAS: a 1977 study by the Alaska Judicial Council demonstrated that, despite abolition of the death penalty, a clear pattern of racial influence on the state's criminal sentencing practices continues in modern times, which caused the Alaska Legislature to reform its sentencing statutes, limiting judicial discretion; and
- WHEREAS: The 1994 Report of the Alaska Natives Commission documents that only 16% of Alaska's population are Natives and 13.5% of its prison-age-eligible population are Natives - but that fully 32% of the state's prison inmate population are Natives; that 59% of its violent-crime inmates are Natives; that 53% of all Native inmates are incarcerated for crimes classified as "most violent" (14% for assault, 14% for sexual assault, 13% for sexual abuse of a minor, and 12% for murder or manslaughter); that in 1990 one-half of all Alaskans convicted of second-degree murder were Natives; that the annual rate at which Natives are murdered (often by

other Natives) is four times the national average; that most Native crime, particularly violence against persons, is alcohol-related; and that language barriers and traditional Native cultural patterns of avoiding confrontational argument (e.g., trials and charge bargaining) contribute to higher Native conviction rates; and

WHEREAS: Alaska Natives know these facts, have consistently expressed their concern with the racial inequity of the state's criminal justice system, and have no illusions about who will die under any reinstated system of capital punishment in Alaska; and

WHEREAS: capital punishment wastes limited public resources, since it costs the average state six times as much money to execute one person as it does to keep him or her in prison for life; and fiscal notes attached to recent death penalty bills in the Alaska Legislature by the Departments of Law and Corrections, the criminal defense agencies and the Court System, estimate that instituting capital punishment will cost this state more than \$21 million in the first four years and will steadily increase thereafter; and

WHEREAS extensive research demonstrates that the death penalty, whatever the real motives for its use, has little or no deterrent effect on the incidence of capital crimes in the United States; and

WHEREAS: during the 20th century, the American system of justice has sentenced more than 1300 people to death for crimes they did not commit, of whom at least 23 were "mistakenly" executed and subsequently proven innocent; and

WHEREAS: responding to the values of their traditional cultures and to the persistent patterns of discrimination against them in modern times, Native American people and tribes have always been in the forefront of opposition to capital punishment in federal and state laws; and

WHEREAS on October 12, 1993, the ANJ Board of Directors resoundingly voted to oppose the death penalty in Alaska;

NOW, THEREFORE, BE IT RESOLVED that the delegates of the 1994 Convention of the Alaska Federation of Natives adamantly oppose reinstatement of the death penalty in Alaska and urge all elected officials and voters to join us in this opposition; and

BE IT FURTHER RESOLVED that the Convention urges every Native person and organization to use all legal, financial and political resources at our command to ensure that the State of Alaska does not return to the irreversible, ineffective, wasteful and plainly discriminatory practice of putting its own citizens to death under cover of law.

SUBMITTED BY: Alaska Native Justice Center, Inc.
COMMITTEE RECOMMENDATIONS:
CONVENTION ACTION: PASSED



Death Penalty Fact Sheet

Murderers in Prison: Alaska Courts Already Have the Power of Forever

prepared by: Alaskans Against the Death Penalty: February 1994

Many people mistakenly believe that a death penalty is needed in Alaska to protect citizens from murderers who have already committed heinous crimes. This belief is founded on the erroneous idea that these dangerous murderers could get out of jail 10 or 20 years after they go in, and so could kill again. This is simply untrue.

Alaska's current penalties for first degree murder are among the toughest in the nation. Alaska judges do not hesitate to impose severe sentences on persons convicted of first degree murder. The average sentence imposed for first degree murder ranged between 62 years and 87 years.¹

Under current law, a person convicted of first degree murder in Alaska may be sentenced to 99 years in jail. This term is mandatory if the victim was a police officer, a fire fighter, or a correctional officer, or if the defendant has a prior conviction for first or second degree murder. Parole is not available unless an inmate has served one-third of the sentence, and is not available at all to persons who have been deemed too dangerous to parole by the sentencing judge. The minimum penalty for first degree murder is a 20 year sentence, every day of which would have to be spent in jail, regardless of parole and good-time.² As can be seen from the average sentences, this minimum sentence is almost never imposed.

Alaska's worst murderers go into jail and never come out. The facts speak for themselves:

Robert Hansen, convicted in 1982 to the serial murders of four people, was sentenced to **461 years** without the possibility of parole; *Charles Meach*, convicted of killing four teenagers in an Anchorage park, sentenced to **396 years** without the possibility of parole ever; *Louis Hastings*, convicted in 1983 for killing six people in McCarthy, sentenced to **630 years**, with no possibility of parole until he has served 210 years; *Kirby Anthony*, convicted in 1988 for killing a family of three, sentenced to **356 years**, parole eligible only after serving 115 years in jail; *Victor Stern*, convicted of killing an Anchorage grocer, sentenced to serve **99 years** without possibility of parole ever; *Robin Haas*, convicted of killing three people in an Anchorage motel, sentenced to **249 years**, parole eligible only after serving 83 years.

Alaska judges already have the power to protect the public from people who are beyond reformation, and they do not hesitate to use that power. Alaska does not need a death penalty for public protection from those that have been convicted of first degree murder.

¹ From data compiled by the Alaska Judicial Council, for first degree murder sentences imposed 1980 and for those committed between 1984 and 1987.

² The statutes discussed here include A.S. 12.55.125 and 12.55.115.

Death Penalty Fact Sheet

Who's on Death Row, U.S.A.?

prepared by: Alaskans Against the Death Penalty

NAACP ANNUAL REPORT DESCRIBES DEATH ROW INMATES:

An annual report titled "Death Row, USA" is put out by the NAACP Legal Defense and Education Fund. The most recent issue, published in October 1993, paints the following picture of death row inmates in America:

Number of death row inmates: Nationwide, there are 2785 men and women on death row. Sixteen states have more than 50 people awaiting execution:

California	375
Texas	365
Florida	331
Pennsylvania	166
Illinois	158
Ohio	127
Oklahoma	124
Alabama	117
Arizona	117
North Carolina	117
Georgia	110
Tennessee	102
Missouri	83
Nevada	62
Mississippi	55
Indiana	51

A disproportionate number of death row inmates are Black: 40% of the persons presently awaiting execution are African-American; 7% are Hispanic; 50% are Caucasian; 3% are from other racial backgrounds.

A disproportionate number of inmates were sentenced for crimes against Caucasian people: Since 1976, when the United States Supreme Court reinstated the death penalty, 222 people have been executed in America. Almost all of those executed (84%) had murdered a white person.

Death Penalty/Conviction Reversed: In the twenty-year period between 1973 and 1993, more than 1300 people who had been awaiting execution were removed from death row after their sentence or their conviction was reversed on appeal.

Alaska State Legislature

Please enter into the record my testimony to the SENATE JUDICIARY
(committee name)
committee on SR 52, dated 2/7/96
bill/subject

AS I SEE IT, THE DEATH PENALTY IS A PURPOSEFUL,
PREMEDITATED ACT OF REVENGE, AUTHORIZED BY THE
GOVERNMENT, WHICH RESULTS IN THE TAKING OF A HUMAN
LIFE. / TO CONDONE THIS PRACTICE, EACH OF US, AS
CITIZENS, MUST ACCEPT THE RESPONSIBILITY OF PUTTING
A PERSON TO DEATH. I PERSONALLY FIND THIS,
MORALLY AND ETHICALLY, AN IMPOSSIBLE RESPONSIBILITY
TO ASSUME, AND I DO NOT SUPPORT AND WILL STRONGLY
PROTEST ANY ATTEMPT TO BRING THIS BARBARIC
PRACTICE INTO STATE LAW. / I DO NOT INTEND TO
KILL, NOR DO I WANT MY GOVERNMENT TO
KILL ON MY BEHALF. / I SUPPORT THE POSITIONS
OF AMNESTY INTERNATIONAL AND THE AMERICAN
CIVIL LIBERTIES UNION IN THEIR OPPOSITION TO
~~XXXXX~~ LEGALIZED MURDER.

Signed: H. H. Newman Phone: 247-4229
Treasurer

Representing (Optional)
1183 2ND AVENUE, KETCHIKAN
Address

Fax transmitted from Ketchikan Legislative Information Office
Phone: 225-9675 Fax: 225-3546

ALEC BULLET POINTS

⊕ Executions Increase
in 1993

Statistics recently released by the Justice Department report that 38 death row inmates were executed in 1993, seven more than were executed the year before. The number of executions in 1993 represents the largest number since the U.S. Supreme Court reinstated capi-

FEBRUARY 23, 1995 ■ 3

tal punishment in 1976. The average time served before execution changed little from 1992, when death row inmates spent nine years and six months in prison after being sentenced to death. Out of a total death row population of 2,716, the condemned in 1993 had been under a sentence of death an average of nine years and five months. Texas led all states with 17 executions; no other state was close to that number. Virginia was second with five executions, Missouri third with four and Florida fourth with three. Arizona, Delaware and Georgia each executed two; California, Louisiana and Washington carried out one execution each. Most interesting among the statistics is that about 40 percent of the inmates executed had some sort of criminal justice status when they committed their capital offense, and about half were on parole. The Justice Department said about half had charges pending against them, were on probation, had escaped from prison or were in prison when they murdered their victims. According to the numbers, nearly one of every seven inmates executed between 1988 and 1993 had received at least two death sentences. ALEC's *Report Card on Crime Punishment* uncovered similar facts: one-third of all violent crime is committed by defendants who are on probation, parole or pretrial release.

21

April 17, 1995

Dear Senator Taylor:

I am writing to urge you to vote against any effort to reinstate the death penalty in Alaska. Specifically, I urge you to oppose **HB 45** and **SB 52** which would establish capital punishment in the state, or any bills that would submit the death penalty to an "advisory vote."

The death penalty is NOT a deterrent to violent crime. No studies have ever demonstrated that capital punishment deters murder, in fact the opposite appears to be true. In 1991, FBI statistics showed that the average murder rate among states without the death penalty was 4.9 per 100,000 population; in contrast, the average murder rate for states with the death penalty was 7.8.

The death penalty is more expensive than life imprisonment. Despite popular wisdom to the contrary, the evidence clearly establishes that it is far more costly to kill murderers than to incarcerate them for life. In Florida, for example, it has proven six times more expensive to execute someone than to imprison them for life. Every state that has studied the costs of its death penalty system has concluded that the death penalty is more expensive than a life prison sentence.

The death penalty is disproportionately imposed on minorities and the poor. Of the 203 Americans executed since 1976, 46% were members of minority groups. During territorial days when Alaska had a death penalty, 75% of persons executed were members of minority groups. This trend of racial discrimination appears to be continuing in Alaska -- today Alaska Natives comprise 36% of the prison population but only 16% of the population as a whole.

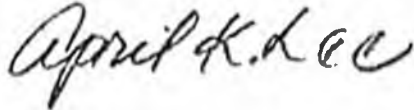
Innocent people will be executed. Despite procedural safeguards, innocent people have been executed for crimes they did not commit. There have been at least 23 documented cases of people proven to be innocent after their death sentences were carried out. In the past 20 years alone, 48 persons have been released from death row upon findings of innocence.

Alternatives will protect society from violent criminals. Unlike some states, Alaska has very tough sentencing laws. Alaska judges do not hesitate to impose severe sentences on persons convicted of murder: the average sentence imposed is between 62 and 87 years and the absolute minimum sentence is 20 years. Persons convicted of murdering a police officer, fire fighter or correctional officer, or if the person has a prior conviction for murder 1 or 2, must receive a mandatory 99 year sentence and judges frequently impose the 99 year sentence on other offenders. Judges have the power to completely restrict parole eligibility and frequently do so. Thus, a death penalty is not

necessary in order to ensure that dangerous offenders are isolated from the public.

I strongly urge you to use your power and influence ^{to} prevent passage of the death penalty in Alaska. It is expensive, unfair, and bad public policy.

Sincerely:



April K. Lee
RE/MAX Properties
2600 Cordova, Suite 100
Anchorage, AK 99503

257-0149 (907)

SB

52

(File 2)

United States General Accounting Office

GAO

Report to Senate and House Committee
on the Judiciary

February 1990

DEATH PENALTY SENTENCING

Research Indicates
Pattern of Racial
Disparities





United States
General Accounting Office
Washington, D. C. 20548

General Government Division

B-236876

February 26, 1990

The Honorable Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
United States Senate

The Honorable Strom Thurmond
Ranking Minority Member, Committee
on the Judiciary
United States Senate

The Honorable Edward M. Kennedy
Chairman, Subcommittee on Immigration
and Refugee Affairs
Committee on the Judiciary
United States Senate

The Honorable Jack Brooks
Chairman, Committee on the Judiciary
House of Representatives

The Honorable Hamilton Fish, Jr.
Ranking Minority Member, Committee
on the Judiciary
House of Representatives

The Anti-Drug Abuse Act of 1988 (Public Law 100-690) requires us to study capital sentencing procedures to determine if the race of either the victim or the defendant influences the likelihood that defendants will be sentenced to death. We did an evaluation synthesis—a review and critique of existing research—on this subject to fulfill the mandate. This report provides a summary of our findings and a discussion of our approach and data limitations.

Approach

An evaluation synthesis is a critical integration of findings from existing empirical research on a given topic—in this case death penalty sentencing after the Furman decision.¹ First, we identified and collected all potentially relevant studies done at national, state, and local levels from

¹ In Furman v. Georgia, 408 U.S. 238 (1972), the Supreme Court found unconstitutional death sentences imposed under state statutes which allowed juries to impose these sentences in an arbitrary or capricious manner. In response to this decision, states adopted new statutes that addressed the concerns raised by the Court.

both published and unpublished sources. Computer-generated bibliographic searches and manual reviews of the bibliographies of studies that we obtained contributed to our list of potentially relevant material. We also surveyed 21 criminal justice researchers and directors of relevant organizations whose work relates to death penalty sentencing to identify additional research. We screened more than 200 annotated citations and references to determine relevance to our review. We excluded studies that (1) were based primarily on data collected prior to the Furman decision and (2) did not examine race as a factor that might influence death penalty sentencing. From this initial screening we obtained 63 studies that we determined to be relevant.

We then reviewed each of the 63 studies to determine both appropriateness and overall quality of the research. We excluded studies that did not contain empirical data or were duplicative (a few researchers published several articles, with the most current including data and findings cited in earlier versions). Twenty-eight studies remained after this assessment. The information included in these studies forms the basis for our findings.

Next, we rated the 28 studies according to research quality. Two social science analysts independently rated each study in five dimensions: (1) study design, (2) sampling, (3) measurement, (4) data collection, and (5) analysis techniques. A rating for overall quality was also given. A third analyst reviewed the raters' assessments to ensure consistency. In addition, a statistician reviewed the studies that used specialized analytic techniques to assess whether the techniques were applied correctly and whether the analyses fully supported the researchers' conclusions.

Finally, we extracted all relevant information on the relationship of race to death penalty sentencing from each of the studies. This information was compared and contrasted across studies to identify similarities and differences in the findings.

Evaluation synthesis has benefits and limitations. The major benefit is that evidence from multiple studies can provide greater support for a finding than evidence from an individual study. The major limitation is that this approach depends on the quantity and quality of the design and methodology of available studies and the comprehensiveness of their reporting. In this case, the body of research concerning discrimination in death penalty sentencing is both of sufficient quality and quantity to warrant the evaluation synthesis approach.

Description of the Studies

We evaluated 28 studies which were done by 21 sets of researchers.² The studies covered homicide cases for different time periods through 1988, many states that have the death penalty, and different geographic regions of the country. In three instances, two or more articles were generated from a single database, with each article focusing on a different aspect of the sentencing process. A few researchers used data from other studies in their analyses. Overall, the 28 studies constitute 23 different data sets.

We rated almost half of the studies as high or medium quality; the remainder were rated as low. It is important to evaluate research quality for two reasons: (1) the results of the synthesis should be based on a sufficient number of medium or high quality studies; and (2) it is important to note differences in studies' findings, if any, by the quality of the studies. By quality we mean the strength of the design and the rigor of the analytic technique that leads to a level of confidence we have in the study findings. We judged a study to be high quality if it

- was characterized by a sound design that analyzed homicide cases throughout the sentencing process;
- included legally relevant variables (aggravating and mitigating circumstances); and
- used statistical analysis techniques to control for variables that correlate with race and/or capital sentencing.

We judged a study as medium quality if we found it to be lacking in one or more of the above characteristics. However, the medium quality studies generally were more similar to high quality studies than to low quality studies. Low quality studies typically had weak or flawed designs, relied on less reliable statistical analysis, and were simplistic in interpretation of the data. Studies published before 1985 comprised a larger proportion of lower quality studies than those published subsequently. This coincides with the relatively recent development and use of a more sophisticated statistical technique appropriate for use with data such as those in death penalty studies.

Limitations of the Studies

We critiqued all of the studies to identify methodological limitations in the design and analysis of the research. We identified three major limitations among these studies: (1) the threat of sample selection bias, (2) the problem of omitted variables, and (3) the small sample sizes.

²Appendix I includes a list of the studies we used in the synthesis.

Sample selection bias implies that the cases under consideration are not representative of all the cases of interest. The criminal justice system is characterized by discretionary processes of selection at different points in the system. Racial factors may influence decisions at different stages of the process. A study that considered only whether persons convicted were sentenced to death was especially prone to the biasing effect of sample selection. Racial factors may have influenced decisions earlier in the process, such as whether the prosecutor requested that an offender be charged with capital murder. This discretion exercised early in the process may have the effect of concealing (masking) race effects if analysis is limited only to the later stages.

We found sample selection bias in more than half of the low quality studies; these studies typically analyzed only those cases in which the defendant was convicted of capital murder or received the death penalty. Studies that included all reported homicides and followed the disposition of these defendants from initial charge through subsequent stages of the judicial process are not likely to have been affected by this bias. More than two-thirds of the studies we rated high or medium quality picked up cases prior to conviction and followed these cases through the judicial process.

Another limitation is the problem of omitted variables. This limitation is especially important in studies examining racial discrimination. This is because the effect of race is considered the residual—after all relevant and important variables have been controlled, the effect that remains, the residual, is interpreted to be racial disparity. Omitting relevant variables can affect results by failing to reduce the residual appropriately, thus enhancing the perceived racial disparity. Omitted variables in death penalty research are potentially of two types: (1) variables that were known and were believed to be correlated with race or the death penalty and (2) variables that were not known and may be correlated with race or the death penalty outcome.

Several of the higher quality studies controlled for many variables. For example, one high quality study controlled for more than 200 variables. Only a few variables are shown to be highly explanatory. Most of these are controlled for in the better quality studies. However, there are variables such as strength of evidence or socioeconomic status of the victim and defendant which are difficult to measure or obtain. If there are important omitted variables (either because they are difficult to measure or because they are unknown), other explanations for the differences in death penalty outcomes cannot be excluded. But for another

variable to influence the existing disparity it would have to (1) be jointly correlated with both race and the death penalty outcome and (2) operate independently of the factors already included in the analysis.

A third limitation relates to the consequences of the small sample sizes in the analyses of death penalty imposition. The imposition of the death penalty is a relatively rare event. As such, in most studies there were very few cases at the end of the process—the sentencing and imposition stages. The small sample size places limits on the usefulness of statistical techniques for analysis at these final stages and thus limits the rigor of analyses at these stages.

While the severity of the limitations varied, as reflected in the studies' ratings, these limitations do not preclude a meaningful analysis of the studies. We have considered quality in evaluating the studies and arriving at our findings.

Findings

Our synthesis of the 28 studies shows a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision.

In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.³ This finding was remarkably consistent across data sets, states, data collection methods, and analytic techniques. The finding held for high, medium, and low quality studies.

The race of victim influence was found at all stages of the criminal justice system process, although there were variations among studies as to whether there was a race of victim influence at specific stages. The evidence for the race of victim influence was stronger for the earlier stages of the judicial process (e.g., prosecutorial decision to charge defendant with a capital offense, decision to proceed to trial rather than plea bargain) than in later stages. This was because the earlier stages were comprised of larger samples allowing for more rigorous analyses. However,

³When we refer to a finding of racial disparities at the sentencing and imposition stages we are, in fact, including disparities that occurred in earlier stages of the judicial process, e.g., charging and decision to proceed to trial.

decisions made at every stage of the process necessarily affect an individual's likelihood of being sentenced to death.

Legally relevant variables, such as aggravating circumstances, were influential but did not explain fully the racial disparities researchers found. In the high or medium quality studies, researchers used appropriate statistical techniques to control for legally relevant factors, e.g., prior criminal record, culpability level, heinousness of the crime, and number of victims. The analyses show that after controlling statistically for legally relevant variables and other factors thought to influence death penalty sentencing (e.g., region, jurisdiction), differences remain in the likelihood of receiving the death penalty based on race of victim.

The evidence for the influence of the race of defendant on death penalty outcomes was equivocal. Although more than half of the studies found that race of defendant influenced the likelihood of being charged with a capital crime or receiving the death penalty,⁴ the relationship between race of defendant and outcome varied across studies. For example, sometimes the race of defendant interacted with another factor. In one study researchers found that in rural areas black defendants were more likely to receive death sentences, and in urban areas white defendants were more likely to receive death sentences. In a few studies, analyses revealed that the black defendant/white victim combination was the most likely to receive the death penalty. However, the extent to which the finding was influenced by race of victim rather than race of defendant was unclear.

Finally, more than three-fourths of the studies that identified a race of defendant effect found that black defendants were more likely to receive the death penalty. However, the remaining studies found that white defendants were more likely to be sentenced to death.

To summarize, the synthesis supports a strong race of victim influence. The race of offender influence is not as clear cut and varies across a number of dimensions. Although there are limitations to the studies' methodologies, they are of sufficient quality to support the synthesis findings.

⁴About two-thirds of these studies were of high or medium quality.

All

We are sending copies of this report to cognizant congressional committees, the Attorney General, and other interested parties.

Major contributors to this report are listed in appendix II. Please call me at 275-8389 if you have any questions.



Lowell Dodge
Director, Administration
of Justice Issues

Contents

Letter	1
Appendix I List of Studies	10
Appendix II Major Contributors to this Report	13

List of Studies

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A15

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Appendix I
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117

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DOES THE DEATH PENALTY DETER VIOLENT CRIMES?

Deterrence is an argument often cited to justify the death penalty. On the surface, the argument makes sense. Rational people understand links between cause and effect and between crime and punishment. A fear of death or the possibility of death also affects the behavior of most reasonable people.

People who murder, however, are rarely rational at the time they commit the crime. The threat of execution at some future time does not enter the mind of killers acting under the influence of drugs or alcohol, consumed by passions or anger, panicking while committing another crime, or simply lacking an understanding of the gravity of their crime. Hired killers obviously assume they will not be apprehended; otherwise, they would not engage in such activity.

**The death penalty has never been shown to benefit a society.
In fact, there are strong indications that it increases
people's tolerance of violence.**

No study has yet produced any solid scientific evidence that the death penalty deters violent crime. The murder rate in states which use the death penalty is twice that of states which do not use the death penalty according to FBI statistics. Even researchers who set out to prove that police officers have greater protection in jurisdictions permitting executions uncovered no deterrent value in the death penalty. Almost twice as many law enforcement officers were killed in death penalty states between 1976 and 1985 than in states without executions.

The widely respected Thorsten Sellin studies conducted in the United States during 1962, 1967, and 1980 concluded that the death penalty has no deterrent effect. The British Royal Commission on Capital Punishment analyzed statistics from seven European and three non-European countries, reporting that no evidence linked abolition of the death penalty to increased homicide rates. A Department of Public Law study conducted in Nigeria concluded that "no efficacy can be shown for the operation of the death penalty" in cases of either murder or armed robbery.

The 1988 Report to the United Nations Committee on Crime Prevention and Control, a detailed international study, found that all of its documented research "has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment."

Some researchers have found that the death penalty not only fails to reduce murder rates, but also may increase the number of homicides. The Bowers-Pierce study in the United States, analyzing executions between 1907 and 1963, concluded that an average of two additional homicides were committed in the month after an execution took place. The researchers, like many analyzing facts compiled before and after them, noted a "brutalizing" effect on society resulting from executions.

Amnesty International, a non-partisan human rights organization with members and supporters in over 150 countries, works impartially worldwide for the release of prisoners of conscience, for the fair and prompt trial of all political prisoners, and for an end to all use of torture and the death penalty. The organization launched an international campaign in April 1989 for abolition of the death penalty throughout the world. The death penalty, wherever and whenever it is used, violates the basic rights to protection from deprivation of life and from cruel and degrading punishment. For more information, contact Amnesty International USA, 322 Eighth Avenue, New York, NY 10001.



THE DEATH PENALTY:

THE RELIGIOUS COMMUNITY CALLS FOR ABOLITION



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Contents

The Death Penalty: The Religious Community Calls for Abolition

Preface	3
Introduction	4
American Baptist Churches in the USA	6
American Ethical Union	7
American Friends Service Committee	8
The American Jewish Committee	10
Amnesty International	11
Christian Church (Disciples of Church)	14
Christian Reformed Church in North America	16
Church of the Brethren	17
Church Women United	19
The Episcopal Church	20
Fellowship of Reconciliation	21
Friends Committee on National Legislation	23
Friends United Meeting	24
The General Association of General Baptists	25
General Conference Mennonite Church	26
Lutheran Church in America	28
Mennonite Central Committee US	31
The Mennonite Church	35
The Moravian Church	36
National Board YWCA of the USA	37
National Council of the Churches of Christ in the USA	38
The Orthodox Church in America	41
Presbyterian Church (USA)	42
Reformed Church in America	44
Unitarian Universalist Association	45
United Church of Christ	46
United Methodist Church	48
United States Catholic Conference	50

Preface

This booklet, *The Death Penalty: The Religious Community Calls For Abolition*, is a joint publication of the National Coalition to Abolish the Death Penalty, a coalition of national organizations committed to the abolition of capital punishment, and the National Interreligious Task Force on Criminal Justice, which consists of representatives from religious structures and persons involved in programs and projects around the country, and which is related to the Joint Strategy and Action Committee (JSAC) and the National Council of Churches of Christ.

As a part of the work of the Religious Community Committee of the National Coalition to Abolish the Death Penalty, the 1980 publication of *Capital Punishment: What the Religious Community Says*, was updated to include the larger number of official positions taken in support of the abolition of capital punishment by national religious denominations and other bodies, and to reflect the heightened concern within faith communities over the resumption of executions in the United States.

Although numerous state and local religious and nonreligious organizations graciously provided us with the statements their organizations adopted opposing capital punishment, the limitations of this publication did not permit their inclusion. We encourage states and regional groupings to research and compile their own local compendiums.

We hope that this publication which includes the officially adopted positions of most religious denominations and organizations in this country will be useful to federal and state legislative bodies considering legislation to abolish capital punishment, and all others active in the abolitionist movement. Now that state and federal courts appear increasingly unwilling to address significant legal issues concerning capital punishment, it is more important than ever that the statements arising from the moral convictions of communities of faith listed in this publication be heard.

EARL W. TRENT, ESQ.
Chairperson,
Religious Community Committee
NCADP

Introduction

The Death Penalty: The Religious Community Calls for Abolition

Listen to the voices of contemporary prophets:

To continue a search for fair and equal justice through retribution and deterrence can only increase public demand for continued escalation and severity of punishment. This in the long term will increase the sense of meanness and violence in our total society. With the influence of our nation's religious leaders, we could hopefully turn away from severity of punishment as a panacea for reducing crime and violence. As a humane and caring people, we could then concentrate on developing a range of punishments which neither cripple nor destroy.

(Milton G. Rector, President Emeritus, National Council on Crime and Delinquency, in the introduction to *Punishment: In the Scripture and Tradition of Judaism, Christianity, and Islam*.)

The first, and the final, challenges to punishment should be on religious grounds. The rationale we build in the case against punishment and in the case for restoration and reconciliation will come only out of the prayerful probing by the people of faith — prayerful probing into their Scripture, their tradition, their personal intuitions and convictions and, last but not least, the guidance of the Spirit.

(The Rev. Virginia Mackey, author of *Punishment: In the Scripture and Tradition of Judaism, Christianity, and Islam*.)

Those words were written about the general concept of punishment in the United States criminal justice system. How much more do they apply to the ultimate punishment, the death penalty! And thus how much more deeply do they apply to, and challenge, the religious community and its responsibility to address the issue of capital punishment!

And that challenge has been accepted. Prophets in the wider religious community have been speaking in their own forums and councils and assemblies. New statements by some have emerged as people of faith speak out on subjects they had not addressed in the past. Some statements have been revised as people of faith reassess what they have said in the past and reshape their policies to present realities.

Those present realities are stark: since capital punishment was reinstated in the United States in 1976 after a ten-year moratorium, more than a hundred people have been executed and more than 2,100 men and women are on death row. Nearly half of them are people of color; a large number are on death row because they could not afford adequate representation at trial; nearly all are poor; many are suffering from a variety of significant mental problems; almost all were victims of abuse as children; a number were minors at the time of their offense. This nation is spending millions of dollars on the processes related to capital punishment — and virtually nothing on care for victims or other ways toward restoration and reconciliation of community.

The religious community is called to become aware of these realities. We must take leadership in abolishing capital punishment if we are to be true to our religious heritage. The education and advocacy statements in this booklet are tools for our awareness and leadership. We pray you will use them for action.

Robert R. Bryan, Esq.
Chairperson
National Coalition to Abolish
the Death Penalty

Rev. Kathy Lancaster
Chairperson
National Interreligious Task
Force on Criminal Justice

October 15, 1988

American Baptist Churches in the U.S.A.

Resolution on Capital Punishment

Passed by the General Board of the American Baptist Churches, June 1977

Until the Gilmore case in 1979, there had been no execution in the United States in 10 years. The ritual taking of life had ceased while debate continued in the courts regarding the constitutionality of capital punishment.

Now that the death laws in some states have been upheld, over 400 persons nationwide face possible execution by hanging, firing squad, asphyxiation, or electrocution. Such punishment has been abolished in Canada and most of Europe, where it is seen as morally unacceptable and a form of cruel and unusual punishment inconsistent with religious and/or ethical traditions.

The majority of those on death row are poor, powerless, and educationally deprived. Almost 50 percent come from minority groups. This reflects the broad inequities within our society, and the inequity with which the ultimate is applied. This alone is sufficient reason for opposing it as immoral and unjust.

Since further legal actions to stop executions appear unpromising it is more important than ever that the religious community speak to the moral, religious and ethical implications of killing by the state. Numerous secular and religious groups have recently taken positions in opposition to capital punishment.

THEREFORE, we as American Baptists, condemn the current reinstatement of capital punishment and oppose its use under any new or old state or federal law, and call for an immediate end to planned executions throughout this country.

We urge American Baptists in every state to act as advocates against the passage of new death penalty laws, and to act individually and in concert with others to prevent executions from being carried out.

We appeal to the governors of each state where an execution is pending to act with statesmanship and courage by commuting to life imprisonment without parole all capital cases within their jurisdiction.

American Baptist Churches in the USA
Valley Forge, Pennsylvania 19382



American Ethical Union

Resolution on Capital Punishment

American Ethical Union, adopted September 17, 1976

The American Ethical Union is unalterably opposed to capital punishment. The willful taking of human life is cruel and inhuman punishment and violates our belief in the intrinsic worth of every human being. It is wholly unacceptable, whether imposed to prevent repetition of a crime by an individual, as a deterrent to others, or as social retribution.

The American Ethical Union therefore calls for the abolition of capital punishment. Where the death penalty now prevails, it urges state legislatures to enact statutes abolishing it. States which do not now impose capital punishment are strongly urged not to enact (or reenact) enabling legislation.

Further, the American Ethical Union encourages its members to work toward these ends in their own states.

American Ethical Union
2 West 64th Street
New York, New York 10023



American Friends Service Committee

Statement on the Death Penalty

November, 1976

The American Friends Service Committee reaffirms its opposition to the death penalty. We base our stand on the Quaker belief that every person has value in the eyes of God and on Quaker testimonies against the taking of human life.

The US Supreme Court decisions of July, 1976, rejected the major constitutional arguments against the death penalty, which had stopped executions in the U.S.A. in the previous decade. These decisions denied that execution is cruel and unusual punishment, citing the passage of death laws by a majority of the states in recent years as evidence that the public does not consider execution to be cruel and unusual. In our view, alleged public support for capital punishment does not diminish the cruelty nor warrant the taking of human life.

The Supreme Court agrees that there is no conclusive evidence that the death penalty acts as a deterrent to crime. It recognized that the continuing demand for capital punishment is in part a manifestation of a desire for retribution. We find it particularly shocking that the Supreme Court would give credence to retribution as a basis for law.

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. Discretion as to whether to execute continues under the Supreme Court's guidelines, and minority persons will continue to be victims of this discretion. The Supreme Court in its 1976 decision ignores this reality.

The grossly disproportionate number of nonwhites sentenced to be executed and the continuing demand for the death penalty indicate that the death penalty may constitute an outlet for acknowledged racist attitudes. This outlet is now legally sanctioned, but it is nonetheless morally unacceptable.

The death penalty is especially abhorrent because it assumes an infallibility in the process of determining guilt. Persons later found to have been innocent have been executed. This will happen again when killing by the state begins anew.

It is bad enough that murder or other capital crimes are committed in the first place and our sympathies lie most strongly with the victims. But the death penalty restores no victim to life and only compounds the wrong committed in the first place.

We affirm that there is no justification for taking the life of any man or woman for any reason.

American Friends Service Committee
1501 Cherry Street
Philadelphia, Pennsylvania 19102



The American Jewish Committee

Statement on Capital Punishment

The American Jewish Committee, adopted at the 66th Annual Meeting, May 6, 1972

WHEREAS capital punishment degrades and brutalizes the society which practices it; and

WHEREAS those who seek to retain the death penalty have failed to establish its deterrent effect or to recognize the fallibility of criminal justice institutions; and

WHEREAS capital punishment has too often been discriminatory in its application and is increasingly being rejected by civilized peoples throughout the world; and

WHEREAS we agree that the death penalty is cruel, unjust and incompatible with the dignity and self respect of man;

NOW THEREFORE BE IT RESOLVED that the American Jewish Committee be recorded as favoring the abolition of the death penalty.

The American Jewish Committee
165 E. 56th Street
New York, New York 10022



Amnesty International

Against the Death Penalty

Amnesty International opposes the death penalty in all cases without reservation. This is part of the total work of the organization whose activities are focused on prisoners:

- It seeks the release of prisoners of conscience. These are people detained anywhere for their beliefs, color, sex, ethnic origin, language or religion, who have not used or advocated violence.
- It works for fair and prompt trials for all political prisoners and on behalf of such people detained without charge or trial.
- It opposes the death penalty and torture or other cruel, inhuman or degrading treatment or punishment of all prisoners without reservation.

A Violation of Humane Standards

All international human rights declarations, conventions and covenants stipulate that everyone has the "right to life, liberty and security of person."

The official position of the United Nations General Assembly is that in the case of executions imposed by law it is desirable to abolish the death penalty in all countries and that the crimes to which it applies should be progressively reduced.

The international human rights standards that have been adopted by the United Nations and by regional organizations since 1948 prohibit all forms of "cruel, inhuman or degrading treatment or punishment."

Amnesty International seeks the abolition of the death penalty on the grounds that it is a punishment that is incompatible with these humanitarian standards. Amnesty International opposes executions under all circumstances whether they are to be carried out in political or criminal cases, whether they result from judicial proceedings or whether they take the form of extra-judicial killings, unexplained disappearances or political murders.

The Death Penalty in Practice

Amnesty International most frequently encounters the death penalty in three instances:

- the execution by law of political dissenters or people convicted of political offenses;

- the execution of political figures or ordinary citizens taking place entirely outside the framework of the rule of law. The killings may be the work of the state security forces or of opposition or pro-government death squads;
- the execution of criminals convicted of violent crimes (in some countries economic and sexual offences also carry this penalty).

As a method of attempting to eliminate political dissent the use of the death penalty is abhorrent. As a method of protecting society from crime, it has nowhere been shown to have a special deterrent effect.

The brutal suppression of minority groups or social or political movements frequently contributes to political instability, with both government and opposition resorting to violence in order to achieve their objectives or assert their control. In this context both judicial executions and arbitrary killings often precipitate reprisals and add to a legacy of resentment, intolerance and social conflict.

Not a Special Deterrent

In the case of societies faced with the need to combat violent crime, including acts of terrorism, Amnesty International is not aware of any convincing evidence that the use of the death penalty has a special deterrent effect.

Comparisons of crime rates in different countries that have retained or abolished the death penalty do not indicate that the threat of execution has been effective in preventing capital crimes.

Studies on the death penalty indicate that changes in crime rates depend on many factors apart from the existence or use of the death penalty. The fear of death, in itself, does not appear to prevent individuals from committing capital crimes any more than does acquaintance with the victim. European and North American studies, for example, indicate that the majority of murders take place among members of the same family, friends or acquaintances; most take place in the heat of passion. On examination it can be seen that the assailants gave no thought to the consequences of violent acts, much less to possible penalties.

Unequal, Unjust and Irreversible

Historically the death penalty as a judicial punishment has been seen to bear unequally and unjustly on the poor, on minorities and on oppressed groups within the population.

The vulnerability of all criminal justice systems to discrimination and error must be taken into account. Human factors such as expediency, the exercise of discretion and the influence of public

opinions can affect each stage of legal proceedings from indictment through trial and sentencing to punishment and the possible granting of clemency.

In cases where a full medical report is essential, the access of the defendant — and the court — to impartial and professional psychiatric and medical services may vary from individual to individual, depending on the ability to secure such services, and from country to country, depending on the existence and quality of such services under different economic conditions.

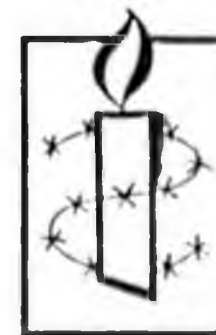
When the ability to obtain good legal representation becomes one of the most important factors in determining the outcome of a trial, questions of race, class and poverty can have a considerable effect upon the administration of justice. The wealthy, the politically well-connected and members of dominant racial and religious groups are far less likely to be sentenced to death and even less likely to be executed for offenses of comparable severity than are the poor, supporters of the political opposition and members of unpopular racial or religious groups.

The possibility of judicial error, for whatever reason, assumes even greater importance in cases involving capital crimes because the death penalty is the irreversible punishment.

Because it is irreversible the death penalty has always been recognized as qualitatively different from all other forms of punishment. Once carried out it can never be corrected. The imposition of the death penalty negates modern concepts of penology which are based on the theory that rehabilitation of the individual criminal is possible.

The full meaning of the irreversibility of the punishment is underlined in countries that make a practice of condemning political dissenters to death. Imposition of the death penalty in such cases can amount to the carrying out of government policy by courts which are unlikely to have judicial independence. The political crimes for which the death penalty may be imposed under such circumstances can be defined in such a way that virtually any political activity inconsistent with government policy becomes a capital offence.

Amnesty International
322 8th Avenue
New York, NY 10001



Christian Church (Disciples of Christ)

Resolution Concerning Opposition to the Use of the Death Penalty

ADOPTED by the General Assembly - 1985

WHEREAS, there is currently a significant rise in the number of executions of convicted murderers throughout the United States, and

WHEREAS, public opinion polls suggest that a majority of the American public favor capital punishment for the Purpose of deterring crime or for the purpose of retribution for violent acts, and

WHEREAS, the Holy Scriptures clearly mandate that we are not to kill, we are not to render evil for evil, and that we are not to seek retribution with vengeance for the evil done to us, and

WHEREAS, the use of execution to punish criminal acts does not allow for repentance or restitution of the criminal, and

WHEREAS, well documented research clearly shows that capital punishment does not deter violent crime but may even give sanction to a climate of violence in our society, and

WHEREAS, the Christian Church (Disciples of Christ) meeting in conventions and General Assemblies has consistently approved resolutions that oppose capital punishment (1957 - F11, 1962 - #43, 1973 - #44, and 1975 - #34);

THEREFORE, BE IT RESOLVED, that the Christian Church (Disciples of Christ) meeting in General Assembly at Des Moines, Iowa express its opposition to the use of the death penalty in the criminal justice system of the United States of America and its various states, and calls for the repeal of all laws and statutes to permit its usage.

BE IT FURTHER RESOLVED, that every congregation of the Christian Church be encouraged to utilize educational materials at every possible occasion to facilitate thoughtful discussion regarding the use of capital punishment, that each congregation in those states which have capital punishment statues contact any elected legislator who is a member of the Christian Church (Disciples of Christ) making them aware of current statutes that

permit the use of the death penalty, that, those congregations communicate to their own Governor their encouragement and personal support of the Governor's use of his/her sentence to life imprisonment should an execution become imminent; and that all appropriate systems of influence be utilized to repeal all federal statutes which permit capital punishment.

Christian Church
(Disciples of Christ)
222 South Downey Avenue
Indianapolis, IN 46219



Christian Reformed Church in North America

Capital Punishment

Given that human life is sacred, that the magistrate is fallible, that time for repentance is desirable, and that imprisonment will normally satisfy the demand for justice, we conclude that, though judicial executions may sometimes be divinely sanctioned and be in society's best interest, it is not desirable that capital punishment be routinely inflicted upon persons guilty of murder in the first degree. Only under exceptional circumstances should the state resort to capital punishment.

Decisions of the Synod of 1981 re Capital Punishment

1. The synod declare that:
 - a. Modern states are not obligated by Scriptures creed, or principle to institute and practice capital punishment.
 - b. The Scriptures acknowledge the right of modern states to institute and practice capital punishment.
 - c. The Scriptures require that if capital punishment is exercised, it be exercised only with utmost restraint.
2. That synod urge the members of the church, working as individuals and through appropriate organizations, to renounce all motives of revenge, and to encourage their respective governments to adopt criminal justice systems in keeping with the scriptural principles presented in this report.
3. The synod refer the report and the guidelines it contains to the churches for study and guidance.

The Christian Reformed Church
2850 Kalamazon Avenue, S.E.
Grand Rapids, Michigan 49508



Church of the Brethren

Statements on Capital Punishment

Annual Conference, 1959

"We commend current efforts to abolish capital punishment and call upon Brethren everywhere to use their influence and their witness against it."

Annual conference, 1975

(The following statement is part of a much longer paper on "Criminal justice." It is included in a section of recommendations entitled "Reforming the System.")

"...Brethren are encouraged to work for the following changes: that the use of capital punishment be abolished."

General Board, 1979

The Church of the Brethren General Board views with deep concern and alarm the resumption of the use of capital punishment. We affirm the Church of the Brethren Annual Conference Statements of 1957, 1959, and 1975 which uphold the sanctity of human life and personality, oppose the use of capital punishment, and encourage Brethren to work for the abolition of the death penalty.

We encourage Brethren to express their opposition to capital punishment, especially to governors and state legislators in states where capital punishment has been established or is being considered.

We deplore the taking of human life, whether by the hand of an individual or through the working of a judicial system. We pray, in the spirit of Jesus Christ who calls us to share his ministry of reconciliation, that our society will turn away from the use of capital punishment.

Annual Conference, 1987

The following excerpts are from a position statement which affirms the brethren's opposition to the death penalty and undergirds it by examining biblical and theological basis as well as practical and social issues involved.

"The death penalty only continues the spiral of violence. Jesus said "You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you, Do not resist one who is evil. But if anyone strikes you on the right cheek, turn to him the other also" (Matt. 5:38-39). Do we not believe this to be true? The only real way to deter further violence is to cease our claim to a "life for a life," to recognize that life and death decisions belong to God, and to seek mercy and redemption of God's lost children.

"In a broader sense, we Christians must lead the United States in a total commitment to nonviolence as public policy. All violent systems, structures, and ideologies should be challenged at their very core."

"Jesus came with a message of redemption and compassion for life, while the death penalty carries a message of condemnation and death."

Church of the Brethren
1451 Dundee Avenue
Elgin, Illinois 60120



Church Women United

Capital Punishment

1. *Abolition of Capital Punishment (1981)*

WHEREAS, Church Women United cannot accept retribution or social vengeance as a reason for taking human life, because it violates our deepest belief in God as the Creator and the Redeemer of humankind.

WHEREAS, although Church Women United is deeply concerned about the present high rate of crime in the United States, and about the value of the life taken in murder or homicide, we also believe the life of the victim is further devalued by the taking of another life as punishment.

WHEREAS, Church Women United is convinced that the nation's leaders should give attention to the improvement of the total criminal justice system and to the elimination of social conditions which breed and cause disorder, rather than fostering a false confidence in the effectiveness of the death penalty;

THEREFORE, Church Women United declares its opposition to the retention and use of capital punishment in any form or carried out by any means; we urge the abolition of capital punishment.

FURTHER, the members of the Executive Committee council are urged to write or wire their Senators urging them to oppose the reinstatement of the death penalty in any form.

2. *Against the Death Penalty (1985)*

It was VOTED: That Church Women United affirms the public witness in Atlanta, affirming the decision of the United States Supreme Court, upholding the value of life.

Church Women United
475 Riverside Drive
New York, New York 10115

The Episcopal Church

Capital Punishment

Statement of the 1979 General Convention

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

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

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

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

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

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

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

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

The Episcopal Church
815 Second Avenue
New York, New York 10017



Fellowship of Reconciliation

An Appeal to End All Executions

Until 1977, there had been no execution in the United States since 1967. The ritual taking of human life had ceased while debate continued in the courts regarding the constitutionality of capital punishment.

Now that death laws in some states have been upheld, over 400 persons nationwide face possible execution by hanging, firing squad, gas, or electrocutions. But there is strong and growing opposition to capital punishment, which has been abolished in Canada and most of Europe. It is seen as morally unacceptable and a form of "Cruel and unusual punishment," in contradiction to our religious and ethical traditions and the U.S. Constitution. The Fellowship of Reconciliation and its members are among those who condemn its reinstatement, oppose its use under any and every state or federal law, and call for an end to executions.

The Death Penalty Discriminates

The majority of those on death row are poor, powerless, and educationally deprived. Almost 50 percent come from minority groups. This reflects the broad inequities within our society and the inequity with which the ultimate penalty is applied. Persons of wealth, status, and education are favored by the realities of our legal system. They enjoy the benefits of able counsel and rarely suffer severe penalties. As the United Church of Christ has observed, the death penalty "has been found to discriminate on the basis of color and economic condition." This alone is sufficient reason for opposing it as immoral and unjust.

We Seek Restoration, Not Retribution

As people of religious and ethical conscience, we seek the restoration and renewal of wrong-doers, not their deaths. Capital punishment makes it possible for human error or prejudice to send innocent persons to their deaths. It eliminates forever the healing possibility of human love and respect. Penal history provides us with examples of innocent persons falsely condemned. Our Judeo-Christian heritage affirms that for the state to assume the power of absolute judgment is to assume a power that belongs only to God.

The U.S. Supreme Court has noted that there is no conclusive evidence that the death penalty acts as a deterrent. Capital crimes are often impulsive and unplanned, and neither the

presence of the death penalty nor the frequency of executions have been shown to have any significant effect on homicide rates. It serves no purpose in the effort to control crime, and must be seen as the most brutal, irrational kind of revenge. In the words of the Michigan Catholic Conference, "It is clear that the root causes of crime lie within society itself and their effects will not be eliminated by an act of retribution."

The Value of Life is Cheapened

In this regard, we are especially concerned with what the death penalty does to the society that inflicts it. As the United Presbyterian Church has declared, "The use of the death penalty tends to brutalize the society that condones it." In denying the humanity of those we put to death - even those guilty of the most terrible crimes - we deny our own humanity, and life is further cheapened. Nothing is achieved by taking one more life, adding one more victim. By inflicting lethal punishment, society descends to the level of violence and cruelty that it rejects in criminal behavior. We must set an example based on values of compassion, decency, and reconciliation.

We Call for Ecumenical Action

In October 1976, the National Council of Churches called for effective ecumenical action to stop the "avalanche of legal slaughter." Many other peace, religious, human and civil rights groups have called for the abolition of capital punishment. We join our voices with theirs, in the spirit of the prophet Ezekiel: "As I live, says the Lord God, I have no desire for the death of the wicked. I would rather that a wicked man should mend his ways and live." (33:11)

We Appeal to State Governors

We appeal to individuals of conscience to act to prevent the passage of new death penalty laws on the state or federal level, and to intervene to prevent current death laws from being carried out. We call on local, state, and national religious bodies to speak out against capital punishment, and urge the commutation of all death sentences.

We appeal, specifically, to the governors of each state to act with statesmanship and courage by granting clemency in all capital cases without their jurisdiction. To uphold the value of human life and the ideal of justice founded on wisdom and decency, we say to all Americans: end all executions.

Fellowship of Reconciliation
Box 271
Nyack, New York 10960

Friends Committee on National Legislation

Criminal Justice

(Taken from Statement of Legislative Policy dated November 14, 1987)

The objective of criminal law and the criminal justice system should be to promote fair and equitable dealings among individuals in the society, and to prevent violence and destruction. To this end, the criminal justice system should deal fairly with offender, victim, and community by providing equitable and prompt adjudication, effective education, training, or treatment for those convicted, and restitution for the victims of crime. Crime prevention programs must address the complex and pervasive causes of crime, which are often rooted in social and economic injustice. We recommend:

- effective policies and programs for prevention and treatment of juvenile delinquency and crime
- full legal services for those who cannot afford them
- reconciliation of criminal and victim whenever feasible
- enforcement of laws against white-collar crimes, such as perjury, embezzlement, and bribery, with the same degree of vigor as the enforcement of other criminal laws

We seek the abolition of capital punishment, because it violates the sacredness of human life and our belief in the human capacity for change. It is also clear that this irreversible penalty cannot be applied equitably and without error.

Friends Committee on National Legislation
245 Second Street, N.E.
Washington, D.C. 20002



Friends United Meeting

Statement of Capital Punishment

Approved at Five Years Meeting of Friends, July 21, 1960.

Friends accept the Biblical teachings that every human life is valuable in the sight of God, that man need not remain in his sinful state but can repent and be saved, that God loves the sinner and takes "no pleasure in the death of the wicked," but longs "that the wicked turn from his way and live." (Ezekiel 22:11.)

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, promote penal reform and 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 unredeemed spiritual life, or whose condition of physical or mental health, would endanger others.

We look with favor upon the renewed efforts in our time to abolish capital punishment, urge our members individually, and our Monthly and Yearly Meetings to unite with others in the task for removing the death penalty from the statute books of the various states, provinces and central or federal governments, and the United Nations.

Friends United Meeting
101 Quaker Hill Drive
Richmond, Indiana 47374

The General Association of General Baptists

Crime and Punishment

Approved by the 1975 General Association.

We believe that it is the duty of governmental agencies to establish and maintain police forces, courts and facilities for the punishment and rehabilitation of offenders. Citizens should be protected from those who would encroach upon personal and property rights. We respect the basic freedom and rights of persons convicted of crimes, but demand their just penalty as directed by impartial jury and law. We support governmental objectives to prevent or reduce crime, and also oppose social conditions that induce crime. We assert that it is the Christian social concern and objective to develop effective means of rehabilitation for those involved in crime. We believe that a part of the mission of the church is to share the message of Christ with those people so they may be restored, rescued, reinstated and rehabilitated as persons profitable to God and society. Views differ among us and laws differ among states concerning the death penalty. Christians must use prayer and the word of God to arrive at a decision on the rightness or wrongness of the death penalty.

The General Association
of General Baptists
100 Stinson Drive
Poplar Bluff, MO 63901

General Conference Mennonite Church

Capital Punishment

The position on capital punishment of the General Conference Mennonite Church as adopted at Estes Park, Colorado, July 16, 1965.

In View Of our Christian responsibility to give witness to the righteousness which God requires of all men, we are constrained to set forth our convictions concerning capital punishment.

OUR BELIEF

Since Christ through His redemptive work has fulfilled the requirement of the death penalty, and has given the church a ministry of reconciliation, and in view of the injustice and ineffectiveness of capital punishment as a means for the achievement of the purpose of government, we express our conviction that its use should be discontinued. In view of the prophetic commission given to the church, therefore, we appeal to the Parliament of the Dominion of Canada and to the federal and state governments of the United States, to discontinue the use of the death penalty and to set rehabilitation as the ultimate goal in the treatment of the criminal, expressing a positive attitude to the offender, thus further encouraging the peace and order which under the lordship of Christ the state is commissioned to provide.

OUR CONFESSION AND OUR PRAYER

In view of our responsibility as ministers of reconciliation we confess that we have not adequately fulfilled our obligation to work for the abolition of capital punishment or for the reduction of crime in our society. We need to be more faithful in serving persons in prison and in laboring for the reform of prison procedures; for the rehabilitation of released prisoners; and for the improvement of the economic, social, and religious conditions which contribute to the making of juvenile offenders and to the spread of crime.

We pray that in our brotherhood the Spirit may deepen each member's conviction and understanding of his obligation to individual criminal offenders, to the government under which he lives, and to Christ. And we pray that God may grant us wisdom,

vision, and courage that as a brotherhood we may engage in this ministry as the Holy Spirit gives us direction.

General Conference Mennonite Church
722 Main Street
Box 347
Newton, Kansas 67114-0347

Lutheran Church in America

Statement on Capital Punishment

(The following statement is given the status of historical document by the Evangelical Lutheran Church in America and as with our predecessor documents is now used as guidance until new documents have been developed.)

Adopted by the third Biennial Convention, Kansas City, Missouri, June 21-29, 1966.

Within recent years, there has been throughout North America a marked increase in the intensity of debate on the question of abolishing the death penalty. This situation has been accompanied by the actual abolition of capital punishment in ten states and two dependencies of the United States, qualified abolition in three states, and in six states a cessation in the use of the death penalty since 1955. Although the issue of abolition has been widely debated in Canada in recent years, a free vote in Parliament on April 5, 1966, failed to end the legality of the death sentence. However, during the last two years or more, death sentences in Canada have been consistently commuted.

These developments have been accompanied by increased attention to the social and psychological causes of crime, the search for improved methods of crime prevention and law enforcement, efforts at revising the penal code and judicial process, and pressure for more adequate methods in the rehabilitation of convicted criminals. There has been a concurrent concern for persons who, because of ethnic or economic status, are seriously hampered in defending themselves in criminal proceedings. It has been increasingly recognized that the socially disadvantaged are forced to bear a double burden: intolerable conditions of life which render them especially vulnerable to forces that incite to crime and the denial of equal justice through adequate defense.

In seeking to make a responsible judgment on the question of capital punishment, the following considerations must be taken into account:

1. The Right of the State to Take Life

The biblical and confessional witness asserts that the state is

responsible under God for the protection of its citizens and the maintenance of justice and public order. For the exercise of its mandate, the state has been entrusted by God with the power to take human life when the failure to do so constitutes a clear danger to the civil community. The possession of this power is not, however, to be interpreted as a command from God that death shall necessarily be employed in punishment for crime. On the other hand, a decision on the part of civil governments to abolish the death penalty is not to be construed as a repudiation of the inherent power of the state to take life in the exercise of its divine mandate.

2. Human Rights and Equality Before the Law

The state is commanded by God to wield its power for the sake of freedom, order, and justice. The employment of the death penalty at present is a clear misuse of this mandate because (a) it falls disproportionately upon those least able to defend themselves, (b) it makes irrevocable any miscarriage of justice, and (c) it ends the possibility of restoring the convicted person to effective and productive citizenship.

3. The Invalidity of the Deterrence Theory

Insights from both criminal psychology and the social cause of crime indicate the impossibility of demonstrating a deterrent value in capital punishment. Contemporary studies show no pronounced difference in the rate of murders and other crimes of violence between states in the United States which impose capital punishment and those bordering on them which do not.

In light of the above considerations, the Lutheran Church in America:

- urges the abolition of capital punishment;
- urges the members of its congregations in those places where capital punishment is still a legal penalty to encourage their legislation to abolish it;
- urges citizens everywhere to work with persistence for the improvement of the total system of criminal justice, concerning themselves with adequate appropriations, the improvement of administration of courts and sentencing practices, adequate probation and parole resources, better penal and correctional institutions, and intensified study of delinquency and crime;

- Urges the continued development of a massive assault on those social conditions which breed hostility toward society and disrespect for the law.

(The following paragraph is part of the much longer social statement, "In Pursuit of Justice and Dignity: Society, the Offender, and Systems of Correction.")

Adopted by the Sixth Biennial Convention, Dallas, Texas, June 30-July 6, 1972.

In keeping with the social statement, "Capital Punishment," adopted in 1966, the church should work for abolition of capital punishment or oppose its reinstatement where it has been suspended.

Lutheran Church in America
ATTN: Church and Society
231 Madison Avenue
New York, New York 10016
(212) 696-6700



Evangelical Lutheran Church
ATTN: Dr. Jerry Folk
8765 West Higgins Road
Chicago, Illinois 60631
(312) 380-2710



Menonite Central Committee U.S.

Death Penalty

Adopted U.S. Peace Section meeting - December 4, 1982

Movement on both state and federal levels to reinstate and activate the death penalty provides an opportunity and an obligation for the religious community to witness against the use of such punishment as a response to violent crime in our nation. Christ's teachings of love and forgiveness, as well as a recognition of past failures in dealing with capital offenders, guide us to believe that punishment by death is both unproductive and a violation of principle.

We therefore call upon the State to eliminate all death statutes as a means of imposing punishment. We call for the immediate end to planned executions throughout this country. We urge that our society instead look toward constructive alternatives that address the situations of both victims and offenders.

Christian Teaching and Anabaptist Models

The basis for our beliefs comes directly from the Bible. Through the Old as well as New Testaments runs a theme that stresses the sacredness of human life because people are made in the image of God. Thus God's abhorrence of murder is made clear early on. While some allowance for capital punishment is made in the Old Testament, it is modified even there by cities of refuge to which the guilty can flee and by frequent reminders that "vengeance is mine, I will repay, saith the Lord."

In the New Testament, the sacrificial expiation of guilt for murder, which was required in the Old Testament, is now met by Christ's death. The cross now abolishes any Old Testament basis for capital punishment. In addition, the teachings of Jesus about revenge and turning the other cheek instruct us to love others despite their wrongs (Matthew 5:30-56). When Christ himself was executed, he set a model response by his dying words: "Father, forgive them, for they know not what they do." And when confronted directly with the question of what to do in a capital case in his own society, Christ responded, "If any one of you is without sin, let him be the first to throw a stone" (John 8). Christ's model of love, forgiveness and reconciliation does not leave room for the penalty of death.

There has been a long history among Mennonites and Brethren in Christ of objecting to state-sanctioned killings. Our 16th-century Anabaptist heritage emphasizes obedience to Christ, including a reverence for life, and speaks specifically against the use of capital punishment. Menno Simons declared, ". . . it would hardly become a true ruler to shed blood . . . if the transgressor should truly repent before his God and be reborn of Him he would then also be a chosen saint and a child of God . . . if he remains impenitent, and his life be taken, one would unmercifully rob him of the time of repentance of which, in case his life were spared, he might yet avail himself."

Simons' point is still relevant. If murderers repent and are converted, then like we who have sinned and deserve death (Romans 3:23, 6:23) but have our own penalty of death remitted, they too must be forgiven. If they have not repented, the opportunity for such repentance must not be cut off from them.

Capital Punishment is Ineffective

The major utilitarian argument advanced for capital punishment is that the execution of violent offenders may deter other potential offenders from committing violent acts. Yet the most sophisticated studies have not been able to establish a deterrent effect. If capital punishment is a deterrent, its effect is so minuscule that even the most sophisticated techniques have not been able to measure it. We do not believe that society has the moral right to take so serious a step as ending human life for such a minute and questionable effect.

In fact, it has long been recognized that capital punishment may have the opposite effect upon certain would-be offenders. Numerous studies suggest that some potential offenders may in fact be incited to commit a murder by the example of the death penalty. One study suggests that an execution of an offender may actually cause several additional homicides.

Deterrence theory assumes that potential murderers rationally calculate costs and benefits before committing a violent crime. However, most murders are committed in moments of extreme anger or passion and/or by persons who are psychologically abnormal. A majority involve family members or close acquaintances. Most are hardly situations in which costs and benefits are weighed.

Capital Punishment is Inequitable

Since the Supreme Court handed down its decision in 1972 stating that the current death laws were discriminatory to minori-

ties and the disadvantaged, many states as well as the federal government have sought to reinstate death penalty statutes that eliminate discrimination. The complex and discretionary nature of the criminal justice process, however, makes attainment of the goal highly unlikely. Many states have reinstated the death penalty and a dramatic number of men and women now await execution. In spite of legal guidelines against discrimination, most of those currently on death row are the poor, the minorities and the uneducated.

Capital Punishment is Irreversible

Neither due process protections nor jury attempts to weigh various mitigating and aggravating factors provide an adequate safeguard against mistaken verdicts. History shows a disturbing number of instances where the innocent have been convicted and even executed. Convictions of innocent persons have been documented as late as 1978. Even with elaborate safeguards, innocent persons may be executed. The taking of human life is far too serious an act to contemplate when there is any possibility of error.

Capital Punishment is Inhumane

It can be argued that the taking of human life is itself an inhumane act. Beyond that, human suffering on death row has been described as a kind of "living death."

America's treatment of serious, violent criminals does not compare favorably to other western nations. The United States is the only nation in North America with the death penalty. The European Parliament has adopted a resolution against member nations extending the death penalty. France, once noted for its liberal application of the guillotine, has abolished capital punishment. Thus virtually all of western Europe is without a death law. At the same time, more authoritarian governments like Iran and South Africa retain active death statutes.

Alternatives

We believe the Mennonite and Brethren in Christ churches must act to enhance respect for human life, and that this cannot be done through executions. We recognize the seriousness and emotion with which this issue is considered by many Americans. We also recognize the difficulty of any simple answers to the issues of violent crimes. In this spirit, the MCC U.S. Peace Section affirms the following directions for alternatives to capital punishment that are aimed at the removal of underlying causes of violence.

The Mennonite Church

Statement on Capital Punishment

Adopted August, 1965, Kidren, Ohio

In view of the prophetic commission given to the church as set forth in two recent statements of Mennonite General Conference, *A Declaration of Christian Faith and Commitment with Respect to Peace, War, and Nonresistance* (1951), and *The Christian Witness to the State* (1961); in view of the sanctity of human life; and in view of our redemptive concern for the offender, be it

RESOLVED That we appeal to the parliament of the Dominion of Canada and to the federal and state governments of the United States, to discontinue the use of the death penalty and that we refer to our conferences and congregations for study and discussion of the paper, "A Christian Declaration on Capital Punishment," as prepared by the Peace Problems Committee.

In view of our responsibility as ministers of reconciliation, be it further

RESOLVED That we confess that we have not adequately fulfilled our obligation to the offender nor for the reduction of crime in our society. We need to be more faithful in bringing a Christian witness to persons in prison and in laboring for the reform of prison procedures, for the rehabilitation of released prisoners and for the correction of spiritual, economic, and social conditions which contribute to the making of juvenile offenders and to the spread of crime.

We pray that in our brotherhood the Spirit may deepen each member's conviction and understanding of his obligation to individual criminal offenders, to the government under which he lives, and to Christ. And we pray that God may grant us wisdom, vision, and courage that as a brotherhood we may engage in this ministry as the Holy Spirit gives us direction.

The Mennonite Church
528 E. Madison Street
Lombard, Illinois 60148

1. We must work for a more equitable and just society. The poor and minorities historically have received little understanding and attention. Many crimes stem from the needs and frustrations of the poor and their despair and hopelessness. We cannot be satisfied when one part of our society lives comfortably while another part goes hungry. Our most pressing need for today is to work for improvement of the quality of life by addressing poverty, inequality and racial discrimination. This is essential if we are to curb our nation's violence.
2. We actively seek a nonviolent society. The unrestricted sale of handguns has been a main source of perpetuating violent crime. The focus upon violence in our society through television and militarism has contributed. We will seek to make government more accountable by calling upon it to pass laws restricting the sale and possession of handguns. We identify society's acceptance of corporate violence, institutionalized in national policy and capability for fighting nuclear war, as a taproot of individual violence, and we renounce it.
3. We acknowledge the need to restrain violent offenders and recognize that any alternative to the death penalty will involve such restraint. We urge that that restraint, however, be under more humane conditions which leave room for human growth and change.
4. We wish increasingly to remember the needs of the victim. Often the victim of violent crime becomes victimized once more when society turns its back on the frustration and hurt that the victim faces. We need to broaden our sensitivity to include the affirmation of life of the victim and family as well. If the victim is dead, we will not kill again to show that killing is wrong, nor do we believe that the mating of such vengeance in the long run meets real victim needs, but we urge society to take victims' needs more seriously.
5. We believe that true justice is created through restitution and reconciliation, not retribution. We seek to open avenues for such responses to happen, not just simply with property offenses but with violent offenses as well.

We oppose the death penalty because it violates the teaching and spirit of Jesus Christ. It does not deter crime. It is inevitably inequitable, irreversible and inhumane. In its place we affirm restitution and reconciliation, nonviolence, aid to victims and improvements of social conditions.

Mennonite Central Committee
U.S. Peace Section
21 South 12th Street
Akron, PA 17501

The Moravian Church

Capital Punishment

Adopted by the Synod, 1961

"Resolved, that the Northern Province of the Moravian Church in North America put itself on record as being opposed to capital punishment and that the members of the Moravian church be urged to work for the abolition of the death penalty."

The Moravian Church
1021 Center Street
P.O. Box 1245
Bethlehem, Pennsylvania 18016-1245

National Board YWCA of the U.S.A.

"SOCIAL JUSTICE

The YWCA has traditionally been concerned with social justice and places a high value on human life. As one of the ways of manifesting this concern we support:

The abolition of capital punishment."

National Board YWCA of the U.S.A.
726 Broadway
New York, New York 10003

National Council of the Churches of Christ in the U.S.A.

Resolution Opposing Capital Punishment and Racism in Sentencing

Adopted by the Governing Board, May 26, 1988

In 1968 the National Council of the Churches of Christ in the U.S.A. declared its opposition to capital punishment, reasoning in part that "economically poor defendants, particularly members of racial minorities, are more likely to be executed than others because they cannot afford exhaustive legal defenses." In 1976 the NCC reasserted "the conviction expressed in the policy statement of 1968 that the death penalty is wrong," observing that "the ultimate sanction continues to fall more heavily on minorities and those who cannot afford extensive legal defense." In 1979 the NCC again acted against capital punishment, asserting that "the penalty of death should not be imposed, in any case, on any person as punishment for wrong-doing, nor be a part of any state or federal penal code." In its agenda for action it called for the revision "of criminal codes and their application to exclude race, class, and sex bias — including . . . the abolition of capital punishment." At the Governing Board meeting in May, 1987, the Commission on Justice and Liberation brought an Issue Paper on "Racism and the Death Penalty" to the Unity and Relationships Cluster and distributed Amnesty International's report, *United States of America: The Death Penalty*, to the full Governing Board in order to bring new visibility to the issue.

Many member communions have adopted policies in opposition to the death penalty and have further been involved in the efforts of the National Coalition to Abolish the Death Penalty to eliminate state-sanctioned executions in the United States.

There are at present 2,048 men and women on the death rows of 34 states; nearly half of them are people of color. Forty-five of the 98 people executed between 1977 (when executions resumed in the United States after a ten-year moratorium) and April 1988 were Black or Hispanic; 84 of the 99 victims were white, and no whites were executed for killing a minority person.* In 1987 the U.S. Supreme Court ruled, in *McCleskey v.*

Kemp, that the statistical evidence of racial bias against Black defendants and against those whose victims were white is not a violation of the 8th or 14th Amendments to the U.S. Constitution, and that racial disparities were not sufficient to render the law unconstitutional.

Legislation to provide for the review of elements of racial injustice in capital sentencing was introduced in 1988 in the United State House of Representatives.** Among other features, the proposed legislation makes it unlawful to impose or implement a death sentence in a racially discriminatory manner and establishes the level of proof required to make a claim of discrimination. It also requires states to maintain data on the charging, disposition, and sentencing patterns for all cases of death-eligible crimes. While work goes forward on a number of strategies for entirely eliminating the imposition of death sentences, this legislation is viewed as an appropriate interim remedy, although not a solution, to the injustice of state-sanctioned executions.

In light of its long-standing opposition to capital punishment, and recognizing the necessity for making incremental efforts to eliminate the death penalty, the National Council of the Churches in the U.S.A. reaffirms its opposition to the death penalty and supports legislation that seeks to eliminate racially biased sentencing. It requests the General Secretary to communicate the concerns of this resolution to members of the United States Congress.

The National Council of Churches also calls upon its member communions, and local and regional ecumenical bodies, to:

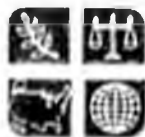
1. inform themselves on the current efforts to abolish the death penalty in the United States, and to encourage members to support the passage of this specific legislation as an interim remedy;
2. communicate their support of this legislation to elected representatives in the United States Congress and in their individual states;
3. use a variety of other channels of communication to interpret the concerns expressed in this resolution to those beyond the church community;
4. participate in the work of the National Coalition to Abolish the Death Penalty and its religious-community working group.

The National Council of Churches further expresses its pastoral concern for victims of crimes, for those who are under death sentences and their families, and for all whose lives are effected by crime and the criminal justice system.

*Data from NAACP Legal Defense and Educational Fund, Inc., May 1, 1988.

**H.P.4442, the Racial Justice Act.

National Council of Churches of Christ in the U.S.A.
475 Riverside Drive
New York, New York 10115



The Orthodox Church in America

Resolution on the Death Penalty

August, 1989

WHEREAS Orthodox Christians should be called to go beyond the political, social, and legal issues raised by capital punishment and recognize and address the deeper moral, ethical, and religious questions of the supreme value of human life in a manner consistent with our opposition to abortion and mercy killing, and in all such questions involving life and death the Church must always champion life; and

WHEREAS in an effort to further the respect for all human life and to witness to the redemptive nature of the Gospel of Jesus Christ who Himself prevented the legal execution of a woman (John 8:3-11) and realizing that premature death resulting from the application of the death penalty can prevent the rehabilitation, reconciliation, and redemption of the offender; and

WHEREAS, while we recognize the necessity to punish those guilty of violent crime, we also recognize that there is no humane way to execute a human being;

BE IT RESOLVED THAT the Ninth All-American Council of the Orthodox Church in America supports the abolition of the death penalty in this and all countries and does urge our elected and appointed officials in those states where prisoners are still executed to introduce and support appropriate legislation aimed at abolishing the death penalty;

BE IT FURTHER RESOLVED THAT this Council requests all governors of states where the death penalty is still in force to halt all further executions according to the power of their office, but that legislative provisions be made for life imprisonment without possibility of parole for those subject to the death penalty;

FINALLY, BE IT FURTHER RESOLVED THAT the Ninth All-American Council of the Orthodox church in America supports and encourages religious bodies, organizations and human rights groups which seek the abolition of the death penalty.

Orthodox Church in America
6850 Route 25A
Syosset, NY 11791

Presbyterian Church (U.S.A.)

Continuing Opposition to Capital Punishment

Whereas, the 171st General Assembly (United Presbyterian Church-1959) declared that "capital punishment cannot be condoned by an interpretation of the Bible based upon the revelation of God's love in Jesus Christ . . ." and "The use of the death penalty tends to brutalize the society that condones it"; the 177th General Assembly (UPC-1965) called for the abolition of the death penalty; the 106th General Assembly (Presbyterian Church U.S.-1966) proclaimed itself against the death penalty; and the 189th General Assembly (UPC-1977) called upon members to work to prevent executions of persons under sentence of death, to work against efforts to reinstate death penalty statutes, and to work for alternatives to capital punishment; and

Whereas, we believe that the government's use of death as an instrument of justice places the state in the role of God, who alone is sovereign; and

Whereas, the use of the death penalty in a representative democracy places citizens in the role of executioner: "Christians cannot isolate themselves from corporate responsibility, including responsibility for every execution, as well as for every victim" (UPC-1977); and

Whereas, since between July 2, 1976, when the U.S. Supreme Court ruled in *Gregg v. Georgia* that capital punishment does not invariably violate the Constitution," and September 30, 1984, 38 states have approved death penalty statutes and have executed 26 persons; and

Whereas, there are presently over 1,400 persons on death row in the U.S., many of whose rights of appeal are rapidly running out:

Therefore, the 197th General Assembly (1985):

1. Reaffirms the positions of the General Assemblies of the United Presbyterian Church of 1959, 1965, and 1977, and of the Presbyterian Church U.S. of 1966, and declares its continuing opposition to capital punishment.

2. Calls upon governing bodies and members to work for the abolition of the death penalty in those states which currently have capital punishment statutes, and against efforts to reinstate such statutes in those which do not.
3. Urges continuing study of issues related to capital punishment and commends the use of resources available from the Presbyterian Criminal Justice Program.
4. Requests the Stated Clerk to notify the President and the Congress of the United States, and all the state governors and legislatures, of the action taken.

Presbyterian Church (U.S.A.)
100 Witherspoon Street
Louisville, KY 40202



PRESBYTERIAN CHURCH (USA)

Reformed Church in America

Resolution on Capital Punishment

Reformed Church in America, adopted by the General Synod of 1965

That in light of the following reasons this General Synod go on record as opposing the retention of capital punishment as an instrument of justice within our several states, encouraging forward looking study in all areas related to criminology; supporting all efforts to improve our penal institutions, crime prevention agencies and policy procedures, and efforts being made to secure provision of adequate staff and budget for prisons, parole boards and similar institutions:

1. Capital punishment is incompatible with the spirit of Christ and the ethic of love.
2. Capital punishment is of doubtful value as a deterrent.
3. Capital punishment results in inequities in application.
4. Capital punishment is a method to irremediable mistakes.
5. Capital punishment ignores corporate and community guilt.
6. Capital punishment perpetuates the concepts of vengeance and retaliation.
7. Capital punishment ignores the entire concept of rehabilitation. The Christian faith should be concerned not with retribution, but with redemption.

Reformed Church in America
475 Riverside Drive, 18th Floor
New York, New York 10115



Unitarian Universalist Association

Capital Punishment

The following General Resolution was passed by a vote of two thirds or more at the 1979 General Assembly of the Unitarian Universalist Association

WHEREAS, General Assemblies to the Unitarian Universalist Association have opposed capital punishment by Resolution in 1961, 1966 and 1974; and

WHEREAS, the aforementioned Resolutions have urged complete abolition of capital punishment as inconsistent with respect for human life; for its retributive, discriminatory, and non-deterrent character; and opposed its restoration or continuance in any form; and

WHEREAS, the State of Florida has declared its intent to proceed with the executions of those under capital sentence in Florida prisons, numbering more than one hundred, and having begun with the execution of John Spenkellink on May 25, 1979; and

WHEREAS, the Florida example may become precedent for a new wave of capital punishment in numerous other states;

BE IT RESOLVED: That the 1979 General Assembly of the Unitarian Universalist Association urges the Governor of the state of Florida to commute all existing death sentences; and

BE IT FURTHER RESOLVED: That the General Assembly urges governors of all other states similarly to commute death sentences and to prevent the restoration or continuance of capital punishment.

Unitarian Universalist Association
25 Beacon Street
Boston, Massachusetts 02108



United Church of Christ

Death Penalty

Resolution of the 12th General Synod of the United Church of Christ, 1979.

WHEREAS the Seventh, Ninth and Eleventh General Synods of the United Church of Christ have declared their opposition to the death penalty as a means of restorative justice; and

WHEREAS such opposition is based on our understanding of the Christian Faith and the New Testament call to redemptive love, mercy, and sanctity of life; and

WHEREAS the death penalty has now been reinstated in thirty-five states resulting in 520 people being confined to death row - 132 of whom reside in the Florida State Prison; and

WHEREAS it has been demonstrated that the death penalty is applied discriminately toward Blacks, Hispanics, Native Americans; and

WHEREAS 80 percent of men and women on death row could not afford an attorney; and

WHEREAS executions have been resumed recently in Florida; and

WHEREAS we are concerned about possible executions of hundreds of persons in this nation over the next few years; therefore,

BE IT RESOLVED that the Twelfth General Synod of the United Church of Christ reaffirm opposition to the death penalty, and that it call upon its brother-in-Christ and United Church of Christ member, the Governor of Florida, to cease the authorization of additional executions in Florida, and further call upon governors of all states to refrain from the authorization of executions;

BE IT FURTHER RESOLVED that the Twelfth General Synod instruct its President to continue to try to communicate directly with the Governor of Florida on its behalf expressing deep pastoral concern and moral anguish over the Governor's role in inspiring the resumption of executions in this country; and

BE IT FURTHER RESOLVED that all General Synod delegates and visitors from those states wherein the death penalty currently exists be encouraged to petition their governors and state legislators to reconsider and review those existing statutes which legalize the killing of human beings; and

BE IT ALSO FURTHER RESOLVED that the Twelfth General Synod recognize the failure of the Church to affect the moral climate of this nation on this matter where polls indicate a majority of the people both endorse and support capital punishment; and that it enable its instrumentalities and agencies to develop additional resources needed to educate and organize the UCC constituency on this issue; and that the Conferences be encouraged to assist local churches and individual members of the United Church of Christ to engage in serious ethical reflection and prayer-guided action toward the eradication of legalized execution and the creation of a more just and humane society. We will continue to offer our prayers on behalf of our brothers-in-Christ, and our brothers and sisters on death row in hopes we may end further legalized killing.

United Church of Christ
105 Madison Avenue
New York, New York 10016



United Methodist Church

Capital Punishment

Adopted by the 1980 General Conference, Indianapolis, Indiana

In spite of a common assumption to the contrary, "an eye for an eye and a tooth for a tooth," does not give justification for the imposing of the penalty of death. Jesus explicitly repudiated the *lex talionis* (Matthew 5:38-39) and the talmud denies its literal meaning, replacing it with financial indemnities.

When a woman was brought before Jesus, having committed a crime for which the death penalty was commonly imposed, our Lord so persisted in questioning the moral authority of those who were ready to conduct the execution, that they finally dismissed the charges (John 8:11).

The Social Principles of The United Methodist Church condemns "... torture of persons by governments for any purpose," and asserts that it violates Christian teachings. The church also through its Social Principles further declares, "we oppose capital punishment and urge its elimination from all criminal codes."

After a moratorium of a full decade, the use of the death penalty in the United States has resumed. Other Western nations have largely abolished it during the 20th century. But a rapidly rising rate of crime and an even greater increase in the fear of crime has generated support within the American society for the institution of death as the punishment for certain forms of homicide. It is now being asserted, as it was often in the past, that capital punishment would deter criminals and would protect law-abiding citizens.

The United States Supreme Court, in *Gregg v. Georgia*, in permitting use of the death penalty, conceded the lack of evidence that it reduced violent crime, but then permitted its use for purposes of sheer retribution.

The United Methodist Church cannot accept retribution or social vengeance as a reason for taking human life. It violates our deepest belief in God as the creator and the redeemer of humankind. In this respect, there can be no assertion that human life can be taken humanely by the state. Indeed, in the long run, the use of the death penalty by the state will increase the acceptance of revenge in our society and will give official sanction to a climate of violence.

The United Methodist Church is deeply concerned about the present high rate of crime in the United States, and about the value of a life taken in murder or homicide. By taking another life through capital punishment, the life of the victim is further devalued. Moreover, the church is convinced that the use of the death penalty would result in neither a net reduction of crime in general nor in a lessening of the particular kinds of crime against which it was directed. Homicide — the crime for which the death penalty has been used almost exclusively in recent decades — increased far less than other major crimes during the period of the moratorium. Progressively rigorous scientific studies, conducted over more than forty years, overwhelmingly failed to support the thesis that capital punishment deters homicide more effectively than does imprisonment. The most careful comparisons of homicide rates in similar states with and without use of the death penalty and also of the same state in periods with and without it have found as many or slightly more criminal homicides with use of the death penalty.

The death penalty also falls unfairly and unequally upon an outcast minority. Recent methods for selecting the few persons sentenced to die from among the larger number who are convicted or comparable offenses have not cured the arbitrariness and discrimination that have historically marked the administration of capital punishment in this country.

The United Methodist Church is convinced that the nation's leaders should give attention to the improvement of the total criminal justice system and to the elimination of social conditions which breed crime and cause disorder, rather than fostering a false confidence in the effectiveness of the death penalty.

The United Methodist Church declares its opposition to the retention and use of capital punishment in any form or carried out by any means; the church urges the abolition of capital punishment.

The United Methodist Church
Board of Church and Society
100 Maryland Avenue, N.E.
Washington, DC 20002



U.S. Catholic Conference

Statement on Capital Punishment

November, 1980

(Excerpts)

"Allowing for the fact that Catholic teaching has accepted the principle that the state has the right to take the life of a person guilty of an extremely serious crime, and that the state may take appropriate measures to protect itself and its citizens from grave harm, nevertheless, the question for judgement and decision today is whether capital punishment is justifiable under present circumstances....We believe that in the conditions of contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty."

"...The infliction of the death penalty extinguishes possibilities for reform and rehabilitation for the person executed as well as the opportunity for the criminal to make some creative compensation for the evil he or she has done. It also cuts off the possibility for a new beginning and for moral growth in a human life which has been seriously deformed."

"Abolition sends a message that we can break the cycle of violence, that we need not take life for life, that we can envisage more humane and more hopeful and effective responses to the growth of violent crime."

"Racist attitudes and the social consequences of racism have some influence in determining who is sentenced to die in our society. This we do not regard as acceptable."

"Our society should not flinch from contemplating the suffering that violent crime brings to so many when it destroys lives, shatters families, and crushes the hopes of the innocent. Recognition of this suffering should not lead to demands for vengeance, but to a firm resolution that help be given to the victims of crime and that justice be done fairly and swiftly."

"It is the special responsibility of the Church to provide a community of faith and trust in which God's grace can heal the personal and spiritual wounds caused by crime and in which we can all grow by sharing one another's burdens and sorrows."

We believe that abolition of the death penalty is most consonant with the example of Jesus, who both taught and practiced the forgiveness of injustice....There is and has been a certain sense that even in those cases where serious justifications can be offered for the necessity of taking life, those who are identified in a special way with Christ should refrain from taking life."

U.S. Catholic Conference
Committee on Social Development and World Peace
1312 Massachusetts Avenue, N.W.
Washington, DC 20005



A Report by the
Death Penalty Information Center

REVISED EDITION—FALL 1994

MILLIONS MISSPENT

What Politicians Don't Say
About the High Costs
of the Death Penalty

MILLIONS MISSPENT:

What Politicians Don't Say About the High Costs of the Death Penalty

*"Whether you're for it or against
it, I think the fact is that Oregon
simply can't afford it."*

*—James Ellis,
Chief Criminal Judge, Oregon*

A Report by
The Death Penalty Information Center
Written by Richard C. Dieter, Executive Director
1606 20th Street, NW
Washington, DC 20009
(202) 347-2531
October 1992

Executive Summary

Across the country, police are being laid off, prisoners are being released early, the courts are clogged, and crime continues to rise. The economic recession has caused cutbacks in the backbone of the criminal justice system. In Florida, the budget crisis resulted in the early release of 3,000 prisoners. In Texas, prisoners are serving only 20% of their time and rearrests are common. Georgia is laying off 900 correctional personnel and New Jersey has had to dismiss 500 police officers. Yet these same states, and many others like them, are pouring millions of dollars into the death penalty with no resultant reduction in crime.

The exorbitant costs of capital punishment are actually making America less safe because badly needed financial and legal resources are being diverted from effective crime fighting strategies. Before the Los Angeles riots, for example, California had little money for innovations like community policing, but was managing to spend an extra \$90 million per year on capital punishment. Texas, with over 300 people on death row, is spending an estimated \$2.3 million per case, but its murder rate remains one of the highest in the country.

The death penalty is escaping the decisive cost-benefit analysis to which every other program is being put in times of austerity. Rather than being posed as a single, but costly, alternative in a spectrum of approaches to crime, the death penalty operates at the extremes of political rhetoric. Candidates use the death penalty as a facile solution to crime which allows them to distinguish themselves by

the toughness of their position rather than its effectiveness.

The death penalty is much more expensive than its closest alternative—life imprisonment with no parole. Capital trials are longer and more expensive at every step than other murder trials. Pre-trial motions, expert witness investigations, jury selection, and the necessity for two trials—one on guilt and one on sentencing—make capital cases extremely costly, even before the appeals process begins. Guilty pleas are almost unheard of when the punishment is death. In addition, many of these trials result in a life sentence rather than the death penalty, so the state pays the cost of life imprisonment on top of the expensive trial.

The high price of the death penalty is often most keenly felt in those counties responsible for both the prosecution and defense of capital defendants. A single trial can mean near bankruptcy, tax increases, and the laying off of vital personnel. Trials costing a small county \$100,000 from unbudgeted funds are common and some officials have even gone to jail in resisting payment.

Nevertheless, politicians from prosecutors to presidents choose symbol over substance in their support of the death penalty. Campaign rhetoric becomes legislative policy with no analysis of whether the expense will produce any good for the people. The death penalty, in short, has been given a free ride. The expansion of the death penalty in America is on a collision course with a shrinking budget for crime prevention. It is time for politicians and the public to give this costly punishment a hard look.

Inside this Report...

Introduction 1

Financial
Costs of the
Death Penalty 3

Political
Manipulation
of the Death
Penalty 9

Conclusion 17

Epilogue 19

"When politicians offer voters the death penalty as a solution to violence, the people actually become worse off in their fight against crime."

Introduction

Over two-thirds of the states and the federal government have installed an exorbitantly expensive system of capital punishment which has been a failure by any measure of effectiveness. Literally hundreds of millions of dollars have already been spent on a response to crime which is calculated to be carried out on a few people each year and which has done nothing to stem the rise in violent crime.

For years, candidates have been using the death penalty to portray themselves as tough on crime. But when politicians offer voters the death penalty as a solution to violence, the people actually become worse off in their fight against crime. The public is left with fewer resources and little discussion about proven crime prevention programs which could benefit their entire community. In today's depressed economy, the criminal justice system is breaking down for lack of funds while states pour more money into the black hole of capital punishment expense.

Local governments often bear the brunt of capital punishment costs and are particularly burdened. A single death penalty trial can exhaust a county's resources. Politicians singing the praises of the death penalty rarely address the question of whether a government's resources might be more effectively put to use in other methods of fighting crime. A million dollars spent pursuing the execution of one defendant

could provide far more effective long-term crime reduction: many additional police officers; speedier trials; or drug rehabilitation programs. Instead, in today's political atmosphere, politicians worry about appearing soft on crime, even if soft means espousing proven methods of crime reduction. Thus, there is little debate about whether the death penalty accomplishes any good at all.

Meanwhile, the death penalty is reaching a critical stage in America. No longer isolated in the South, the death penalty has become a national phenomenon. There are more people on death row than at any time in the nation's history. The list of states actually carrying out executions has grown to 20, with 4 new states added this year. The number of executions in 1992 is likely to be the largest in 30 years and the costs of pursuing the death penalty continue to mount. At the same time, the United States has parted company from the other democratic countries of the world which have largely abandoned capital punishment.

In the 1990 elections, politicians were particularly blatant in their promotion of the death penalty. It was advanced at all levels of the political process as an answer to crime and was used by liberals and conservatives alike. This year, the death

penalty rhetoric, while not as blatant, continues the charade: vital crime fighting programs are being cut while the high-priced death penalty goes unchecked.

Like the emperor's cowering subjects who praised his invisible robes, many politicians extol the death penalty as if it were a solution to the problem of crime. It is a cynical manipulation of the public's legitimate fear of the growing tide of violence: a symbol without substance, a "solution" for politicians who know that no credible evidence exists linking the death penalty to a reduction of murder.

This report will focus first on the role the death penalty plays in the economic crisis facing states and local governments. As budgets everywhere are being tightened, the death penalty looms as an exorbitant and superfluous "luxury item." Some counties have been pushed to the brink of bankruptcy and have had to enact repeated tax increases to fund these extremely expensive cases. As money is spent on the death penalty, it is thereby less available for the very programs which are the backbone of the effort to reduce crime in this country.

Secondly, the report will illustrate how politicians have manipulated the death penalty issue and avoided debate on the real causes of crime. Their approach has been typically marked by a simplistic rhetoric of revenge which ignores the ineffectiveness and costs of capital punishment. This superficial treatment comes

precisely at a time when the economic crisis in criminal justice and crime prevention demands that the death penalty be given a harder look.

The Financial Costs of the Death Penalty

Death penalty cases are much more expensive than other criminal cases and cost more than imprisonment for life with no possibility of parole. In California, capital trials are six times more costly than other murder trials.¹ A study in Kansas indicated that a capital trial costs \$116,700 more than an ordinary murder trial.² Complex pre-trial motions, lengthy jury selections, and expenses for expert witnesses are all likely to add to the costs in death penalty cases. The irreversibility of the death sentence requires courts to follow heightened due process in the preparation and course of the trial. The separate sentencing phase of the trial can take even longer than the guilt or innocence phase of the trial. And defendants are much more likely to insist on a trial when they are facing a possible death sentence. After conviction, there are constitutionally mandated appeals which involve both prosecution and defense costs.

Most of these costs occur in every case for which capital punishment is sought, regardless of the outcome. Thus, the true cost of the death penalty includes all the added expenses of the "unsuccessful" trials in which the death penalty is sought but not achieved. Moreover, if a defendant is convicted but not given the death sentence, the

state will still incur the costs of life imprisonment, in addition to the increased trial expenses.

For the states which employ the death penalty, this luxury comes at a high price. In Texas, a death penalty case costs taxpayers an average of \$2.3 million, about three times the cost of imprisoning someone in a single cell at the highest security level for 40 years.³ In Florida, each execution is costing the state \$3.2 million.⁴ In financially strapped California, one report estimated that the state could save \$90 million each year by abolishing capital punishment.⁵ The New York Department of Correctional Services estimated that implementing the death penalty would cost the state about \$118 million annually.⁶

The Recession and the Death Penalty

The effects of the present financial crisis on the criminal justice system vary widely, but the common thread has been cutbacks in critical areas. In a report released in August of this year, the American Bar Association found that "*the justice system in many parts of the United States is on the verge of collapse due to inadequate funding and unbalanced funding.*" The report went on to state that "*the very notion of justice in the United States is threatened by a lack of adequate resources to operate the very system which has protected our rights for more than two centuries.*"⁷

"The very notion of justice in the United States is threatened by a lack of adequate resources to operate the very system which has protected our rights for more than two centuries."

-American Bar Association

“Virtually every major program designed to address the underlying causes of violence and to support the poor, vulnerable, powerless victims of crime is being cut even further to the bone.... In this context, the proposition that the death penalty is a needed addition to our arsenal of weapons lacks credibility”

—Scott Harshbarger,
Attorney General of
Massachusetts

New Jersey, for example, laid off more than 500 police officers in 1991.⁸ At the same time, it was implementing a death penalty which would cost an estimated \$16 million per year,⁹ more than enough to hire the same number of officers at a salary of \$30,000 per year.

In Florida, a mid-year budget cut of \$45 million for the Department of Corrections forced the early release of 3,000 inmates.¹⁰ Yet, by 1988 Florida had spent \$57.2 million to accomplish the execution of 18 people.¹¹ It costs six times more to execute a person in Florida than to incarcerate a prisoner for life with no parole.¹² In contrast, Professors Richard Moran and Joseph Ellis estimated that the money it would take to implement the death penalty in New York for just five years would be enough to fund 250 additional police officers and build prisons for 6,000 inmates.¹³

Ten other states also reported early release of prisoners because of overcrowding and underfunding.¹⁴ In Texas, the early release of prisoners has meant that inmates are serving only 20 percent of their sentences and re-arrests are common.¹⁵ On the other hand, Texas spent an estimated \$183.2 million in just six years on the death penalty.¹⁶

Illinois built new prisons but does not have the funds to open them.¹⁷ It does, however, have the fourth largest death row in the country. Georgia's Department of Corrections lost over 900 positions¹⁸ in the past year while

local counties have had to raise taxes to pay for death penalty trials.

Police officers on the beat, imprisonment of offenders, and a functioning criminal justice and correctional system form the heart of the nation's response to crime. Yet, in state after state, these programs are suffering drastic cuts while the death penalty absorbs time, money and political attention.

The Cost to Local Governments

An increasingly significant consequence of the death penalty in the United States is the crushing financial burden it places on local governments. The current economic recession has made it clear that there is no unlimited source of government largesse. Counties, which bear the brunt of the costs of death penalty trials, are also the primary deliverers of local health and human services in the public sector.¹⁹ Hard choices have to be made among the demands of providing essential services, creative crime reduction programs such as community policing, and the vigorous pursuit of a few death penalty cases.

As Scott Harshbarger, Attorney General of Massachusetts, put it: “Virtually every major program designed to address the underlying causes of violence and to support the poor, vulnerable, powerless victims of crime is being cut even further to the bone. . . . In this context, the

proposition that the death penalty is a needed addition to our arsenal of weapons lacks credibility and is, as a sheer matter of equity, morally irresponsible. If this is really the best we can do, then our public value system is bankrupt and we have truly lost our way."²⁰

While state and national politicians promote the death penalty, the county government is typically responsible for the costs of prosecution and the costs of the criminal trial. In some cases, the county is also responsible for the costs of defending the indigent. Georgia, Alabama and Arkansas, for example, provide little or no funding for indigent defense from the state treasury.²¹ In Lincoln County, Georgia, citizens have had to face repeated tax increases just to fund one capital case.

Even where the state provides some of the money for the counties to pursue the death penalty, the burden on the county can be crushing. California, for example, was spending \$10 million a year reimbursing counties for expert witnesses, investigators and other death-penalty defense costs, plus \$2 million more to help pay for the overall cost of murder trials in smaller counties. (Now, even that reimbursement is being cut.) But many financially strapped smaller counties still could not afford to prosecute the complicated death-penalty cases. Some small counties have only one prosecutor with little or no

experience in death-penalty cases, no investigators, and only a single Superior Court judge.²²

In Sierra County, California authorities had to cut police services in 1988 to pick up the tab of pursuing death penalty prosecutions. The County's District Attorney, James Reichle, complained, "If we didn't have to pay \$500,000 a pop for Sacramento's murders, I'd have an investigator and the sheriff would have a couple of extra deputies and we could do some lasting good for Sierra County law enforcement. The sewage system at the courthouse is failing, a bridge collapsed, there's no county library, no county park, and we have volunteer fire and volunteer search and rescue." The county's auditor, Don Hemphill, said that if death penalty expenses kept piling up, the county would soon be broke.²³ Just recently, Mr. Hemphill indicated that another death penalty case would likely require the county to lay off 10 percent of its police and sheriff force.²⁴

In Imperial County, California, the county supervisors refused to pay the bill for the defense of a man facing the death penalty because the case would bankrupt the county. The county budget officer spent three days in jail for refusing to pay the bill. A judge reviewing the case took away the county's right to seek the death penalty, thus costing the county the partial reimbursement which the state provided for capital cases. The County took the challenge all the way to the California Supreme Court and

"Even though I'm a firm believer in the death penalty, I also understand what the cost is. If you can be satisfied with putting a person in the penitentiary for the rest of his life . . . I think maybe we have to be satisfied with that as opposed to spending \$1 million to try and get them executed."

—Norman Kinne,
Dallas County
District Attorney

ended up costing the County half a million dollars.²⁵ In the criminal trial, the defendant was acquitted.

A similar incident occurred recently in Lincoln County, Georgia. The county commissioners also refused to pay the defense costs when the attorney won a new trial for a death row inmate Johnny Lee Jones. As in California, the commissioners were sent to jail. Walker Norman, chair of the County Commission explained: "We're a rural county of 7,500 people with a small tax base. We had to raise taxes once already for this case when it was originally tried, and now we are going to have to raise taxes again. It's not fair."²⁶ The first trial alone cost the county \$125,000.²⁷ The second trial was completed in September and the defendant received a life sentence.

In Meriwether County, Georgia, a county of 21,000 residents and a \$4 million annual budget, the prosecutor sought the death penalty three times for Eddie Lee Spraggins, a mentally retarded man. The case cost the county \$84,000, not including the defense attorney's bill for appealing, and the third conviction was again overturned by the Georgia Supreme Court.²⁸ Spraggins was finally granted a plea and received a life sentence.

In Mississippi, Kemper and Lauderdale Counties recently conducted a border survey battle to avoid responsibility for a capital murder trial. Faced with a case that could cost the county

\$100,000, Kemper County wanted to show that the scene of the murder was outside their border and conducted two surveys of the site. County Supervisor Mike Luke explained, "As much as we were talking about the taxpayers of Kemper County having to pay out, we believed we needed to be sure." Luke said that the decision to seek the death penalty was not his—he only had to come up with the money. Lauderdale County, where the trial was originally scheduled, has now sent a bill to Kemper County for expenses incurred while holding the defendant in jail for 19 months. Kemper County is considering how much it will have to raise taxes just to pay the initial costs of the prosecution.²⁹

In Yazoo City, Mississippi, the town is worried that it, too, might get stuck with an expensive death penalty case. "A capital murder trial is the worst financial nightmare any government body could envision," said the editor of the local paper.³⁰

With more death row inmates and more executions than any other state, Texas is also experiencing the high costs of executions. Norman Kinne, Dallas County District Attorney, expressed his frustration at the expense:

"[E]ven though I'm a firm believer in the death penalty, I also understand what the cost is. If you can be satisfied with putting a person in the penitentiary for the rest of his