

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8893 SENATE JUDICIARY

■ progressive restriction of the number of offences punishable by death;

■ establishment of official commissions or similar bodies with the task of examining aspects of the death penalty such as its relation to crime rates, its discriminatory application to various sections of the population and the suitability of alternative punishments. There should be a moratorium on executions pending the outcome of these discussions.

An historic step towards abolition...

On 28 April 1983 the movement for worldwide abolition of the death penalty took an historic step. On that day the Sixth Protocol to the European Convention on Human Rights was opened for signature by member states of the Council of Europe. It was a decisive rejection of the abuses of the death penalty during the Second World War.

The Sixth Protocol is the first binding international agreement for the abolition of the death penalty. By ratifying it, a state accepts an obligation under international law to abolish the

death penalty for peacetime offences.

Twelve of the 22 Western European countries belonging to the Council of Europe had ratified the Sixth Protocol by January 1989. Three other member states had signed the Protocol and indicated their intention to ratify it at a later date. Western Europe is on its way to becoming the first region of the world to free itself completely from judicial executions.

Two similar treaties are in preparation. They are a draft optional protocol to the Inter-

national Covenant on Civil and Political Rights, due to be considered by the United Nations in 1989, and an optional protocol to the American Convention on Human Rights, to be discussed by the Organization of American States in 1989.

Abolitionist treaties strengthen the prohibition of the death penalty by adding to national abolition the force of international law. Accession to these treaties can help a country which has abolished the death penalty to resist any calls for its reintroduction. □



An all-night vigil in protest at an execution in South Carolina, USA. The political will to abolish the death penalty comes ultimately from within a country. International treaties and resolutions which abolish or restrict the death penalty provide a framework for safeguarding human rights. However, it is a country's citizens and leaders who must decide that ending executions will protect human rights.

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ON THE FRONT LINE:
Law Enforcement Views
on
the Death Penalty

A Report by the
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ON THE FRONT LINE: *Law Enforcement Views on the Death Penalty*

"I think that the only purpose for the death penalty, as I see it, is vengeance--pure and simple vengeance. But I think vengeance is a very personal feeling and I don't think it is something that civilized government should engage in"

-Janet Reno, Attorney General of the United States¹

"The death penalty does little to prevent crime. It's the fear of apprehension and the likely prospect of swift and certain punishment that provides the largest deterrent to crime."

-Frank Friel, Former Head of Organized Crime Homicide Task Force, Philadelphia²

"Take it from someone who has spent a career in Federal and state law enforcement, enacting the death penalty . . . would be a grave mistake. Prosecutors must reveal the dirty little secret they too often share only among themselves: The death penalty actually hinders the fight against crime."

-Robert M. Morgenthau, District Attorney, Manhattan, NY³

"I am not convinced that capital punishment, in and of itself, is a deterrent to crime because most people do not think about the death penalty before they commit a violent or capital crime."

-Willie L. Williams, Police Chief, Los Angeles, CA⁴

INTRODUCTION

A new national survey of police chiefs from around the country discredits the repeated assertion that the death penalty is an important law enforcement tool. While politicians have extolled the importance of capital punishment in fighting crime, they have failed to assess the actual priorities of those in law enforcement and have saddled the taxpayers with an enormously costly death penalty at the expense of more effective crime fighting strategies.

In January, 1995, Peter D. Hart Research Associates conducted a national opinion poll of randomly selected police chiefs in the United States. In that poll, the chiefs had the opportunity to express what they believe really works in fighting crime. They were asked where the death penalty fit in their priorities as leaders in the law enforcement field. What the police chiefs had to say may be surprising to many lawmakers, and to much of the public as well. The Hart Poll found that:

- Police chiefs rank the death penalty last as a way of reducing violent crime, placing it behind curbing drug abuse, more police

officers on the streets, lowering the technical barriers to prosecution, longer sentences, and a better economy with more jobs.

- The death penalty was rated as the **least cost-effective** method for controlling crime.
- Insufficient use of the death penalty is not considered a major problem by the majority of police chiefs.
- Strengthening families and neighborhoods, punishing criminals swiftly and surely, controlling illegal drugs, and gun control are considered much more important than the death penalty.
- Although a majority of the police chiefs support the death penalty in the abstract, when given a choice between the sentence of life without parole plus restitution versus the death penalty, **barely half of the chiefs support capital punishment.**
- Police chiefs do not believe that the death penalty significantly reduces the **number of homicides.**

- Police chiefs do not believe that murderers think about the range of possible punishments.
- Debates about the death penalty distract Congress and state legislatures from focusing on real solutions to crime.

In sum, while many police chiefs support the death penalty philosophically, a strong majority do not believe that it is an effective law enforcement tool in practice.

In the report below, the various findings of this poll will be explored in depth, along with a broader analysis of what really works in reducing crime. The results of this opinion poll are confirmed by the statements of individual leaders in the law enforcement community, by research in the field of criminology, and by the recommendations of many of the nation's leading law enforcement agencies.

LAW ENFORCEMENT PERSPECTIVES ON FIGHTING CRIME

A National Poll of Police Chiefs in the U.S.

In 1994, crime was the nation's number one concern. Despite political gridlock on many other issues, President Clinton was able to move a \$30 billion crime bill through Congress, including a major expansion of the federal death penalty. The elections in November produced a cascade of candidates tripping over each other to sound even tougher than their opponent on crime. Campaign advertisements reached new

lows in mongering fear in the electorate in order to boost the chances of "law and order" politicians. Candidates used the death penalty as a club, even against those who supported it.

But few, if any, politicians took the time to ask those in law enforcement what they thought would really work in preventing crime. Was the death penalty, in fact, the top

priority for law enforcement that it was for the politicians?

Police Views on Crime Prevention

Law enforcement officers are society's front line in fighting crime. They see it up close every day, and they have a personal stake in reducing violence. So, it is natural to ask them: "What, in your opinion, works in the battle against crime?"

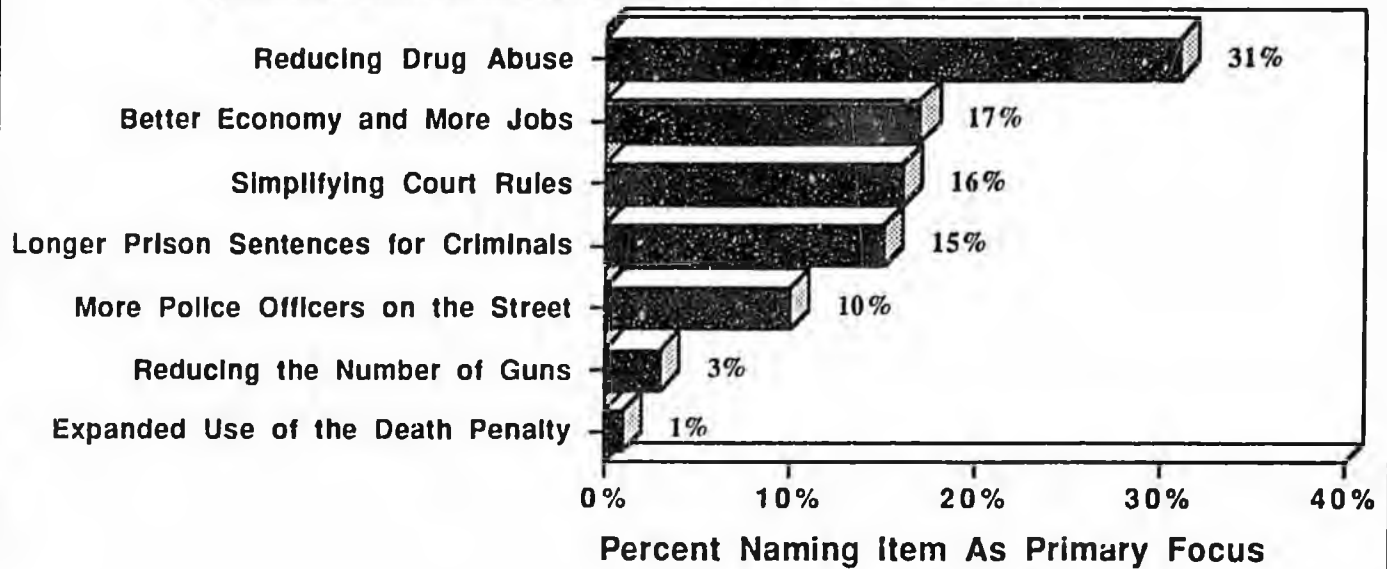
This question was approached from a variety of directions. Police were first given an open-ended opportunity to state the areas that would have the biggest impact on reducing violent crime in their jurisdiction. Sentencing reform, including truth in sentencing, elimination of parole and stiffer sentences was the most often cited area of reform (33% of respondents). Other areas of emphasis included the development of family values and parenting skills (23%), education (15%), and more police (13%). The death penalty was mentioned by fewer than 2% of the chiefs and followed twenty-five other areas of concern.

The police chiefs were also asked to select their primary

choices from a list of possible ways to reduce violent crime. The need to reduce the prevalence of drug abuse was their first priority. They also chose longer prison sentences for criminals, fewer technical legal barriers to the prosecution of criminals, more police officers on the street, a better economy with more jobs, and reducing the number of guns over an expanded use of the death penalty as better ways to lower crime. Capital punishment ranked a distant last, with only 1% of the chiefs citing it as their primary focus for stopping violent crime. These results are illustrated in Figure 1 below.

In a similar vein, the poll explored what the police chiefs see as the main obstacles to their success as they try to protect citizens and fashion a safer society. Again, drug and alcohol abuse surfaced as the most frequently mentioned problem facing police forces today. Fully 87% chose this as a serious problem (*i.e.*, "top two or three problems" or as a "major problem") which they encounter in their work. Family problems or child abuse was the second major obstacle for police, with 77% citing this as a serious problem in their jurisdiction.

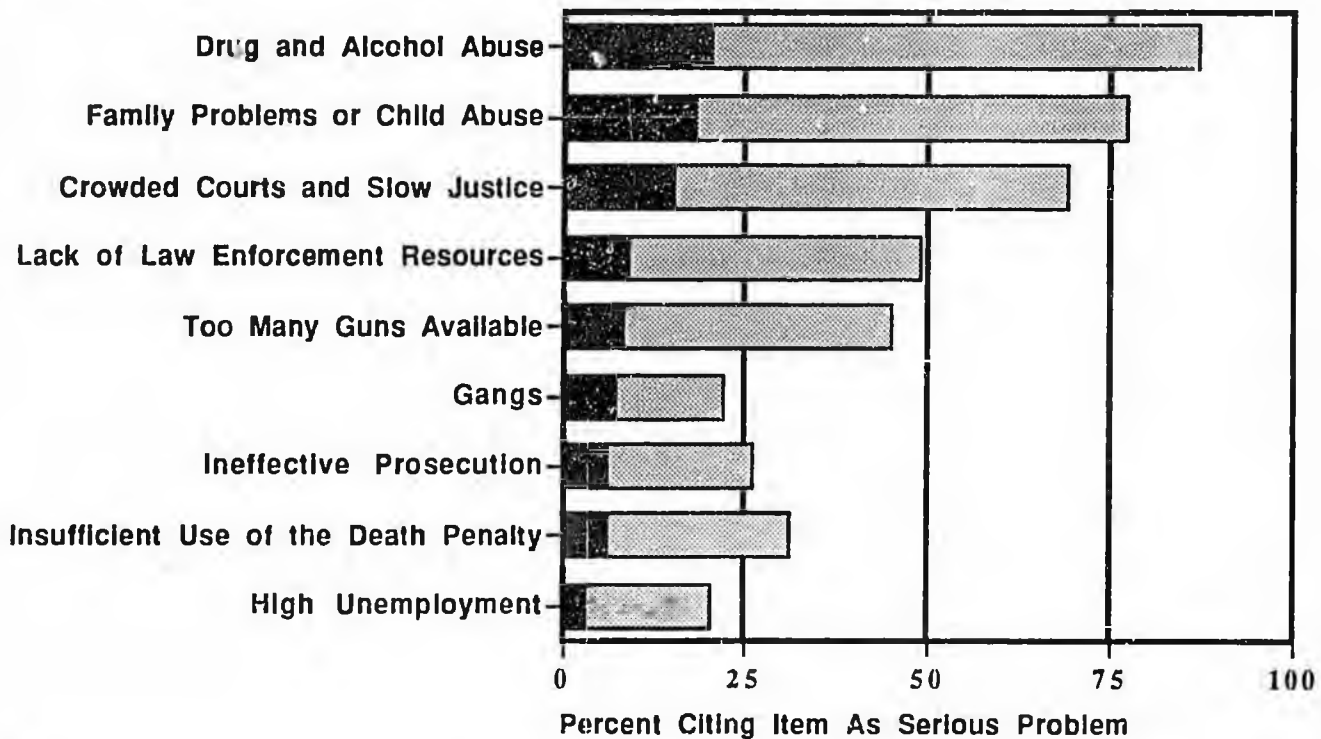
Figure 1 Primary Focus for Police Chiefs in Reducing Violent Crime



The police chiefs were evenly split between those stating that a lack of law enforcement resources was a serious problem (49%) and those who thought it was at most a minor problem (50%). About 45% of the police chiefs stated that the availability of too many guns was a serious problem. Interestingly, most of the chiefs did not see gangs as a major problem in their efforts. Only 7% reported that gangs were one of their top two or three problems.

Other areas which were cited as major problems included crowded courts and slow justice. On the other hand, ineffective prosecution and high unemployment were only rated as minor problems. Again, the death penalty ranked near the bottom as a serious concern for law enforcement officers. Insufficient use of the death penalty was rated as either a minor problem or no problem at all by 63% of the respondents. (See Figure 2).

Figure 2 Major Problem Areas for Police Chiefs



■ Top Two or Three Problems ■ Major Problem

Cost-Effective Crime Prevention: Spending Priorities For Police

No one is more keenly aware of the fact that preventing crime costs money than police chiefs. Faced daily with budget decisions and the rising costs of salaries, training and equipment for a police force, chiefs must constantly balance emergency responses

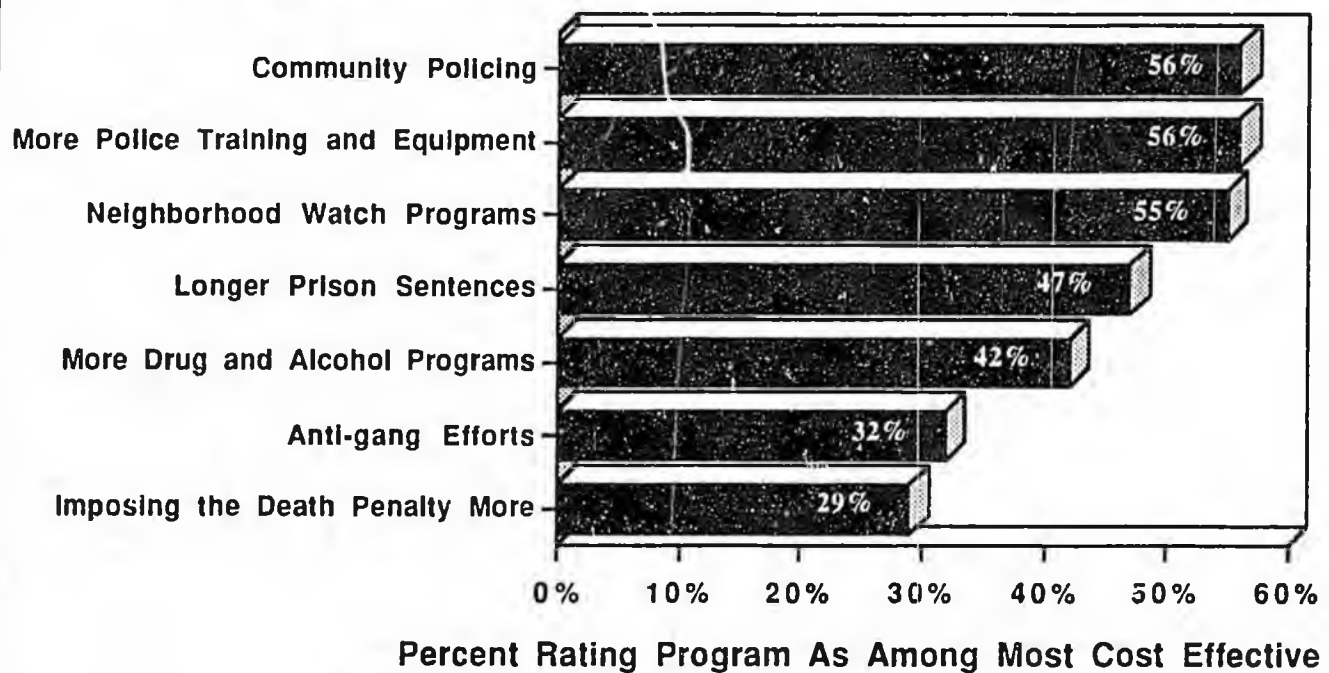
and long-term needs. The Hart Poll sought to discover not only what police chiefs ideally want in the fight against crime, but also what are the most cost-effective methods available to them.

Among strategies used for controlling crime, the death penalty ranked last in terms of its cost-effectiveness. The related areas of community policing and expanded training

with more equipment for police, received the highest cost-effective ratings by the police chiefs among ways to reduce crime. Fifty-six percent of the respondents rated these areas as cost-effective (i.e., they gave it an 8, 9, or 10 out of a possible 10). Imposing the death penalty more often was thought to be cost-effective by

only 29% of the chiefs. Neighborhood watch programs ranked almost as high as community policing in terms of effectiveness for the dollars spent. The chart below illustrates the relative cost effectiveness which the police gave to these various measures.

Figure 3 **Police Chiefs' Cost-Effective Priorities**



Reliable estimates indicate that the cost of the death penalty to taxpayers is over \$2 million per execution, with the bulk of the costs occurring at the trial level.⁵ That figure is a measure of the extra costs

attributable solely to capital punishment, beyond the costs of a typical murder case without the death penalty and the costs of incarceration resulting from a life sentence.

There are increasing demands for the limited crime fighting resources. Many states and counties are strapped for funds and are facing severe budget crises. Hard choices have to be made among various strategies for fighting crime. If \$2 million is spent on the death penalty, then that same money is not available for more police officers, or for bullet proof vests, or for speedier trials, or neighborhood watch programs, or community policing.

The average salary for a new police officer is about \$42,000 per year, including benefits.⁷ Thus, \$2 million translates into approximately 48 additional police officers, a far more likely and immediate deterrent to crime than one remote execution. Similarly, the same \$2 million could buy thousands of bullet-proof vests, or provide improved lighting in high-crime areas, or could be used as seed money for neighborhood watch programs.

Community Policing: Experience Supports Chiefs' Priorities

In the survey, police chiefs voiced their support for more police on the streets, and for

community policing in particular, as an effective way of fighting crime. The value of community policing is confirmed by success stories from various communities. Community policing has been cited by a number of cities as the chief reason why they have experienced a reduction in crime.

Community policing was introduced in New York City in 1990 and for four years since then crime has gone down in virtually every category.⁸ Boston, too, cited the expansion of its police force as one reason for its drop in crime.⁹ In Fort Worth, Texas, crime dropped by 24 percent in 1993 to its lowest level in ten years. Police cited the department's involvement in the Justice Department's "Weed and Seed" program, employing a combination of drug interdiction and social programs in targeted areas. They also added 55 officers designated as neighborhood patrol officers and utilized 1,500 community residents in a "Citizens on Patrol" program.¹⁰

In San Jose, California, community policing was credited with an 11 percent drop in crime.¹¹ In Prince George's County, Maryland, police Capt. Terry Evans described community policing

"It currently costs three times as much -- more than \$2 million per inmate -- to carry out the death sentence than to keep an inmate in prison for 40 years. In other words, it's cheaper to lock 'em up and throw away the key. . . . it's something to consider."

-Former Texas Attorney General, Jim Mattox⁶

as, "the only thing I've seen in 23 years of law enforcement that's had an impact, actually turned it around."¹²

Lee P. Brown, former N.Y. City Police Commissioner, stressed the preventive power of community policing: "I can assure you that in the end the community police officer permanently assigned to the neighborhood is a better deterrent to unrest than a SWAT team waiting in the wings."¹³

In another survey of police officers, this one focusing on officers in Texas and California, Dr. Joseph Zelan found that 78 percent of police officers viewed community policing as positive, and only 1 percent of the respondents were very negative about it. Almost 60 percent of those surveyed believed that community policing would reduce crime rates.¹⁴

Detering Crime

One of the principal reasons that those in law enforcement are not enamored of the death penalty is that they do not believe it is a deterrent to crime. Law enforcement officers believe that the most effective deterrent to crime is swift and

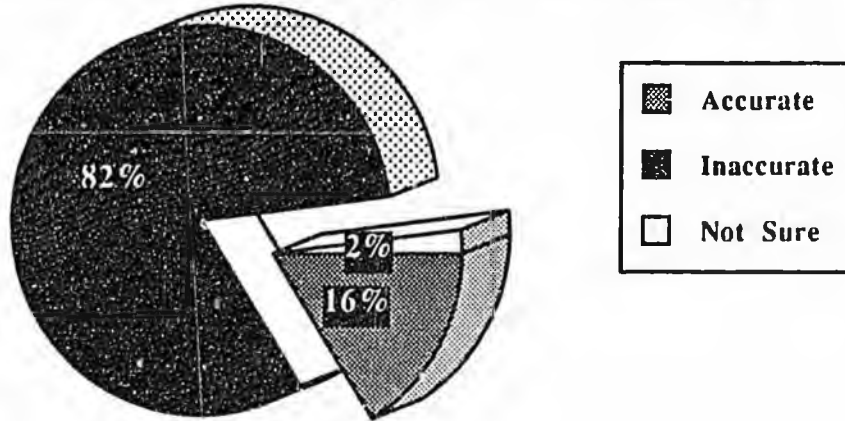
sure punishment. When asked which societal or legal changes would have the greatest impact on reducing violent crime, police chose strengthening families and neighborhoods, along with swift and sure punishment for offenders, as the means that would bring about the most significant effects.

Police wanted more control over illicit drugs, greater latitude for judges in criminal cases, greater economic opportunity, and a reduction in the number of guns in circulation. Expanding the death penalty, on the other hand, was not thought to have a big impact on crime reduction.

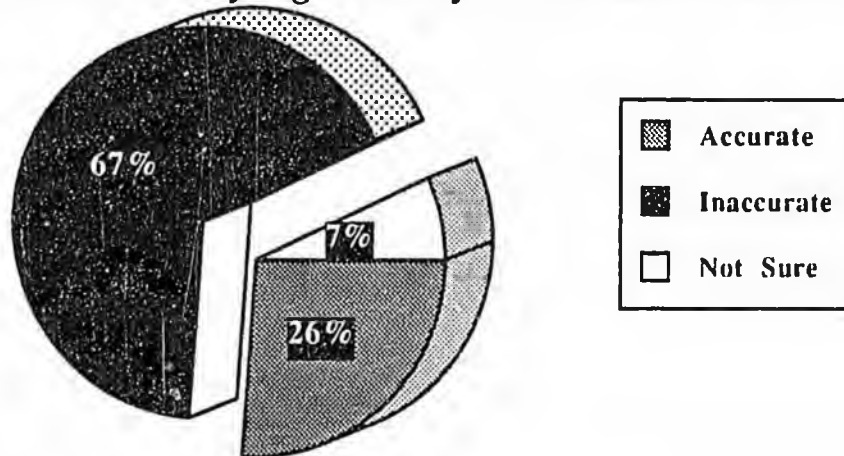
Over two-thirds of the police chiefs did not believe that the death penalty significantly reduces the number of homicides. About 67% said that it was not one of the most important law enforcement tools. And well over 80% of the respondents believe that murderers do not think about the range of possible punishments before committing homicide. The figures below illustrate the lack of confidence which police chiefs place in the death penalty as a deterrent.

Fig. 4 Dispelling the Myths About the Usefulness of the Death Penalty:

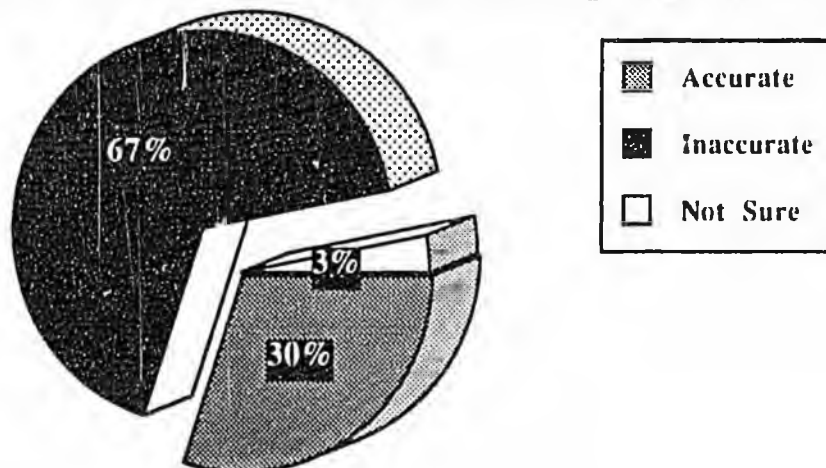
Myth I: Murderers Think About Possible Punishments



Myth II: Death Penalty Significantly Reduces Number of Homicides



Myth III: Death Penalty Is One of Most Important Tools



One of the many problems with the death penalty is that it is anything but swift and sure. Even under current proposals for restricting death penalty appeals, the sentence would be carried out years after it is imposed, on relatively few of all the convicted murderers, and with a substantial likelihood that the sentence will be overturned before the execution is carried out. Sentences of life without parole, in contrast, begin immediately upon sentencing and are rarely overturned on appeal.

"I have seen the ugliness of murder up close and personal. But I have never heard a murder suspect say they thought about the death penalty as a consequence of their actions prior to committing their crimes."

*-Police Lieut.
Gregory Ruff,
Kansas*

Capital cases are a nightmare for the entire justice system. Police chiefs recognize that death penalty cases are particularly burdensome in the early stages. Two-thirds of the police chiefs polled said that death penalty cases are hard to close and take up a lot of police time.

Jim Mattox, former Attorney General of Texas, who supported the death penalty during his term of office and oversaw many of the state's first executions after the death penalty was reinstated, does not believe that murderers in Texas are deterred by the death penalty. Mattox interviewed nearly all the people executed in Texas between 1976 and 1988 and concluded that the sentence of death never crossed

their minds before their crime¹⁵: "It is my own experience that those executed in Texas were not deterred by the existence of the death penalty," he said. "I think in most cases you'll find that the murder was committed under severe drug and alcohol abuse."¹⁶

Lieutenant Gregory Ruff, a police officer in Kansas for 23 years, agrees: "I have seen the ugliness of murder up close and personal. But I have never heard a murder suspect say they thought about the death penalty as a consequence of their actions prior to committing their crimes."¹⁷

Willie Williams, Chief of Police in Los Angeles, echoed the same theme from his years of experience: "I am not convinced that capital punishment, in and of itself, is a deterrent to crime because most people do not think about the death penalty before they commit a violent or capital crime."¹⁸

Youth and the Culture of Violence

Another reason why the death penalty fails as a law enforcement tool is that one of the most violent segments of the population is the least

likely to be deterred by prospective punishments. Many who might face the death penalty live in a culture of violence. The leading cause of death among young black men, for example, is murder.¹⁹ They are more likely to be killed by a rival gang member or by a drug dealer whom they double-crossed than by the state. James Fox, dean of the College of Criminal Justice at Northeastern University, has noted the fast growth in violent crime among teenagers: "Many of them face death every day of their lives. They don't think about the possibility -- as remote as it is -- that they'll someday die for a crime. These kids are all armed and in gangs, and they worry about dying next week."²⁰ In such an environment, the threat of the death penalty adds little to the danger.

The Hart survey showed that police chiefs are very much aware of the problems among youth today. Strengthening families, neighborhoods and churches were among their top priorities throughout the poll. In the open-ended question about changes which would most likely reduce violent crime, police mentioned concerns about the needs of young people and juvenile offenders

ahead of a desire for more police or financial resources.

Richard H. Girgenti, the New York State Director of Criminal Justice, noted that "[d]emographics have always been the best predictor of future crime."²¹ In preparing for challenges in combating crime in the next decade, it is sobering to note that murders by those between the ages of 14 to 17 grew by 124% between 1986 and 1991, while murder among adults 25 and over actually declined.²² Since many teenagers are not even legally eligible for the death penalty, much less deterred by it, and since the number of teenagers in the population will be growing tremendously in the next 10 years, more creative approaches to preventing violent crime are essential.

Deterrence of Police Killings

Even when it comes to the killing of a police officer, the death penalty is not a deterrent. Texas, by far the leading death penalty state, for the past six years has also been the leading state in the number of its police officers killed. By comparison, last year New York, with no death penalty, had about one

third as many officers killed as Texas.²³

A recent study of the deterrence value of the death penalty published in the *Journal of Social Issues* surveyed a 13-year period of police homicides. The researchers concluded: "[W]e find no consistent evidence that capital punishment influenced police killings during the 1976-1989 period. . . . [P]olice do not appear to have been afforded an added measure of protection against homicide by capital punishment."²⁴

Gun Control

In a nation with over 200 million firearms, gun control is also a priority among many law enforcement agencies. About 45% of police chiefs listed the easy availability of guns as a major problem in fighting crime, though only 38% thought that reducing the number of guns would have a

big impact on crime. The International Association of Chiefs of Police, the largest such organization in the world, called for strict control of certain weapons:

"The deadly flow of military assault-type automatic and semi-automatic weapons onto the streets of America and into the hands of violent criminals means that all too frequently the superior firepower belongs to the criminals, not law enforcement."²⁵

They called

for a complete ban:

"Manufacture and sale of assault weapons to the general public should be prohibited."²⁶

Other police organizations have also supported tighter gun controls.²⁷

While the public is deeply concerned about violent crime, it is really gun-related crime that has shown the most dramatic increases. According to the FBI, the violent crime rate has actually decreased over

"Many politicians say the death penalty would help us in New York by deterring would-be killers. I believe it would make things worse because it is another instruction in brutality. . . . From 1983 to 1992, states that resumed executions averaged three times as many police officers killed than have been killed in New York. How can anyone pretend that capital punishment will make us safer?"

-Thomas A. Coughlin III, Former Commissioner, New York State Dept. of Correctional Services²⁸

the past decade, but crimes with handguns have grown disturbingly. From 1987 to 1992, handgun crimes rose 55 percent.²⁹

A comparison of handgun deaths in the United States as contrasted with other countries demonstrates how serious a problem guns are. In 1992, the United States suffered 13,220 murders by handguns. By comparison, there were only 128 such deaths in Canada, 60 in Japan, only 33 in Great Britain, and just 13 in Australia.³⁰ Some experts in European countries attribute their lower murder rates to stricter gun controls.³¹

A recent profile of the criminal justice systems in the United States and England published by the U.S. Department of Justice highlighted other interesting differences between these two countries. Violent crime was significantly higher in the U.S., with the homicide rate in the U.S. being almost seven times that in England and Wales. England and Wales employed proportionately more law enforcement officers (256 per

100,000 population) than did the U.S. (240 officers per 100,000 population), and spent more per resident on their justice system than did the U.S.³³ None of that spending went toward the death penalty, which has been abolished in the United Kingdom.

Support for the Death Penalty, Theoretically and Practically

A clear majority of the police chiefs in the Hart Poll say that capital punishment is not an effective law enforcement tool, even though they support it philosophically. The chiefs were asked which of three statements came closest to their own point of view:

- I support the death penalty and think it works well.
- Philosophically, I support the death penalty, but I don't think it is an effective law enforcement tool in practice.
- I oppose the death penalty.

"We may have put the caboose on the front -- we should have gone after guns first. . . . Decent folk are just tired of living under the threat of the gun."

*-James D. Toler,
Chief of Police,
Kansas City,
Missouri³²*

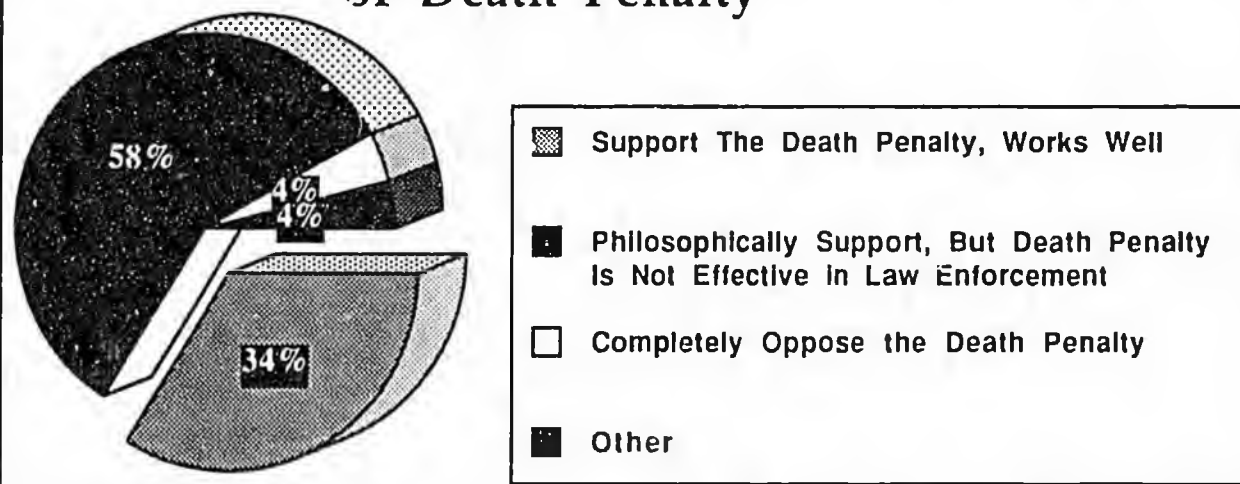
About a third of the respondents approved of the death penalty in practice. On the other hand, 58% of the police chiefs, while supporting the death penalty philosophically, did not think it was an effective law enforcement tool. When combined with the percentage who opposed capital punishment completely, this result corresponded well with the two-thirds of police chiefs who disagreed that the death penalty significantly reduces the number of homicides and the equal number who say that murderers do not think about the range of punishments before committing homicides. (See Figure 5).

Police chiefs recognize that the death penalty has been over-used by politicians. Ronald Hampton, President of the National Black Police

Association in Washington, DC, noted: "[The death penalty] is a political move, insensitive to the real needs of the people in this city."³⁴ Eighty-five percent of the chiefs polled believed that politicians support the death penalty as a symbolic way to show they are tough on crime. In line with their belief that capital punishment is not an important law enforcement tool, the majority of police chiefs believed that time spent on capital punishment in Congress and in state legislatures distracts from finding real solutions to the problems of crime.

Similar to the results of recent opinion polls showing the public's openness to death penalty alternatives,³⁵ the Hart poll showed that police chiefs believe in harsh punishment for those who commit murder,

Fig. 5 Police Chiefs Reject Effectiveness of Death Penalty



though, not necessarily, the death penalty. When offered the alternative sentence of life imprisonment with no possibility of parole, combined with mandatory restitution to the victim's family, support for the death penalty among police chiefs drops to only 50%. And among the majority of police chiefs who do not believe the death penalty is effective in practice, 52% would prefer the alternative sentence over capital punishment.

Law Enforcement Organizations' Proposals for Fighting Crime

Many organizations in the United States are committed to law enforcement and to finding solutions to the problems of crime and violence. In grappling with these issues, a number of these organizations have produced statements and studies on what can be done to reduce crime. The proposed solutions range from a fundamental restructuring of society to more immediate innovations that citizens can implement in their own neighborhoods. Rarely is the death penalty even mentioned in their discussions. Instead, the solutions are changes and

programs that affect a broad range of people and go to the roots of why violent crime has become so prevalent.

Because the root causes of violence are so deeply entrenched and so difficult to change, the death penalty presents a tempting "quick fix" to a complex problem. Nevertheless, many law enforcement groups have taken crime head-on and have proposed a variety of practical remedies.

In *A National Action Plan to Combat Violent Crime*, police chiefs from Atlanta, Boston, Louisville, Knoxville, Salt Lake City, Chicago, and Washington, DC, along with the U.S. Conference of Mayors, teamed together in 1993 to address the crime emergency and to make recommendations to the President of the United States. Their crime fighting priorities reflect many of the same concerns which were voiced by police chiefs all over the country in the Hart Poll:

1. **Funds for additional police officers, and the implementation of community policing, with no cut in other programs 'hat address urban needs and the root causes of crime.**

2. Omnibus firearm control measures, including:

- Banning the manufacture, sale and possession of all semi-automatic assault weapons and their component parts.
- Registration of all newly purchased and transferred firearms
- Expansion of the Brady Law to all firearms sales.
- Liability of gun dealers for damages resulting from illegal sales.

3. Expanded drug control efforts, including:

- Expansion of treatment programs so that services are available to all in need
- Mandatory minimum sentences for all repeat drug sale convictions
- Establishment of additional drug courts

4. Restructuring and strengthening the criminal justice system, including:

- Emphasis on juvenile crime; greater prosecution of violent juvenile offenders as adults.
- Expansion of number of prosecutors, court services and personnel
- Expansion of boot camps and other alternatives to prisons

5. Long term crime reduction strategy:

- Reduce unemployment
- Community involvement in preventing crime
- Focus on young people: addressing family violence, jobs, preventing school dropouts
- Expansion of violence reduction and conflict resolution programs

6. Partnerships to prevent violent crime:

- More coordination of efforts among mayors, police chiefs and the federal leaders
- Improved sharing of intelligence and technologies
- Involvement of schools, public health departments, human service agencies, businesses and neighborhood organizations in crime prevention
- Confronting the entertainment industry on the proliferation of violence.³⁶

The International Association of Chiefs of Police (IACP) also issued a series of recommendations in 1993 in response to the problem of violent crime in America. The IACP convened a summit of police executives from around

the country. Participants included representatives of the Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the Drug Enforcement Administration, as well as police chiefs from major cities. Following the summit, the IACP made a series of recommendations, including:

1. **Declaration of a National Commitment** to address violent crime, including the establishment of a Presidential Commission on Crime and Violence.
2. **Restrictions on firearms purchases**, limiting sale and manufacture of automatic and semi-automatic assault weapons.
3. **Fighting drugs** through educational programs, interdiction and detection programs, and incarceration of violent and non-violent offenders.
4. **Combating the influence of gangs** by gathering intelligence, enacting new laws directed at illegal gang activity, enacting juvenile justice reforms, and encouraging multi-jurisdictional cooperation.³⁷

Many of the nation's largest law enforcement organizations supported the crime prevention measures in the recent federal crime bill. When these measures came under attack following the political shifts in the recent elections, the 250,000 member Fraternal Order of Police (FOP) issued a statement strongly opposing efforts to remove the new law's resources and crime prevention programs: "Crime problems require law enforcement *and* social remedies," said Richard Boyd, Director of Member Services for the National FOP.³⁸

One law enforcement group representing more than 35,000 individual members, the National Black Police Association, has a specific policy *against* the death penalty. Instead, they emphasize programs that control drugs, handgun control, and community policing to combat the problems of crime.³⁹

Other law enforcement organizations, such as The Police Foundation and The Police Executive Research Forum, are focused primarily on research. They explore topics and produce publications on such topics as community policing, the effects of drugs on crime, and a host of issues of

concern to those in law enforcement. Again, the death penalty is not one of their areas of concern.⁴⁰

Police chiefs are not alone in their strong reservations about the effectiveness of the death penalty. Robert Morgenthau, Manhattan's District Attorney for the past twenty years, recently said that the failure of the death penalty is actually a well kept secret among many prosecutors as well: "Prosecutors," he wrote in *The New York Times*, "must reveal the dirty little secret they too often share only among themselves: The death penalty actually hinders the fight against crime."⁴¹

Increasingly, crime prevention is a question of resources. "Executions," said Morgenthau, "waste scarce law-enforcement financial and personnel resources."⁴²

CONCLUSION

Police chiefs and law enforcement organizations are deeply concerned about solutions to the crime problem facing this country. They come to this crisis with years of experience on the front line of doing whatever is in their power to reduce crime. They support those programs that will have a clear impact. Community policing,

neighborhood crime programs, gun control, and a focused approach to certain kinds of crime, such as drug crime and youth crime, are among the approaches they recommend most strongly. They are equally clear that the problem of violence is not one which can be left to law enforcement to solve. Stronger families and neighborhoods, intervention on behalf of youth, and a sound economy with sufficient jobs are all necessary steps to a safer society.

Police chiefs are demonstrably less supportive of solutions like the death penalty, which merely sound tough but produce little return for the large amount of money invested. Some in law enforcement are totally opposed to capital punishment; others support it in theory. But few would give it the high priority accorded it in political campaigns and in legislative agendas designed mostly for sound bites and quick fixes.

Methodology of the Hart Poll

A total of 386 daytime telephone interviews were conducted with randomly designated police chiefs and county sheriffs throughout the U.S., excluding Alaska and Hawaii between January 17 and 24, 1995. The margin of error is no more than ± 6 percentage points with a 95% confidence level.

"The death penalty actually hinders the fight against crime."

-Robert M. Morgenthau,
Manhattan
District Attorney

Statement on Law Enforcement and the Death Penalty

A number of individuals who have been leaders in the law enforcement community have begun speaking out about the over-emphasis the death penalty has received from politicians campaigning for office. These officers and former officers agree that crime is a critical problem in America, but they do not see capital punishment as a likely solution. Regardless of their individual views on the acceptability of the death penalty, they do not consider it to be a strong deterrent to crime and believe that other, more effective crime prevention measures should be given priority.

A statement regarding law enforcement and capital punishment, along with the endorsers of that statement, is included below as an indication of the position of a growing number of members of the law enforcement community:

Law Enforcement Statement on Capital Punishment

As law enforcement officers, our primary concern is the protection of the public from crime. Punishment of offenders is a crucial element of this protection, and one which we believe is vitally important in deterring crime.

Recently, attention has focused on one form of punishment: the death penalty. As individuals, we differ widely in our belief in capital punishment. Many of us hold that the death penalty, if fairly and equitably administered, may have a role in American society. Others of us have sincere reservations about the use of this ultimate sanction.

As endorsers of this Statement, however, we share the belief that other law enforcement priorities are far more important and urgent than capital punishment. The death penalty absorbs an inordinate portion of the financial resources and valuable time of the criminal justice system. Because millions of dollars and countless hours of court time go toward the execution of a single individual, we believe that other dimensions of crime prevention are being short-changed.

In many communities, the public would be better served by measures such as the hiring of additional police officers, the implementation of community policing, drug interdiction programs, early childhood intervention programs, weapons control programs, speedier trials, or better funded probation and parole departments, than by an occasional death sentence on an isolated individual, to be carried out, if at all, only many years later. The death penalty may fascinate the media and the public, but it is truly peripheral to our efforts to make this society safer.

Too much attention on one extreme of law enforcement distracts the public from the more critical task of combating daily crime on our city's streets. State and federal legislatures spend an exorbitant amount of time debating the merits of the death penalty. The courts are burdened with lengthy death penalty trials and years of appeals. From the perspective of those of us who see crime up close on a daily basis, there are far higher priorities that deserve the public's attention and support.

We deeply understand the public's concern with the amount of random, violent crime prevalent in our society today. The solutions to this problem are not easy ones, and they require a commitment of money and resources. The sooner we order our crime prevention priorities toward solutions with proven records of effectiveness, the sooner we will be able to make a serious dent in America's crime problem.

ENDORSEMENTS

(List in formation)

Catherine M. Abate
Former Commissioner
New York City Dept. of
Correction*

Robert Gangi
Executive Director,
Correctional Association of
New York*

Gordon S. Bates
Executive Director, Connecticut
Prison Association*

Patricia L. Gatling
Former President,
National Black Prosecutors
Association*

Donald A. Cabana
Former Warden and
Commissioner of
Corrections, Mississippi*

John F. Gorczyk
Commissioner,
Vermont Dept. of Corrections*

Jo Ann D. Diamos
Former U.S. Attorney,
Arizona*

Ronald E. Hampton
Director, National Black Police
Association*

Walter J. Dickey
Former Commissioner,
Wisconsin Dept. of
Corrections*

Thomas L. Johnson
Former Hennepin County
Attorney, Minnesota*

Jerry J. Enomoto
Former Director,
California Dept. of Corrections*

John R. Kramer
Executive Director,
Pennsylvania Commission on
Sentencing*

James J. Fyfe
Former Lieutenant
New York City Police Dept.*

Jennie Lancaster
Female Command Manager
North Carolina Dept. of
Prisons*

James M. Gamble
Administrator, Montana Dept.
of Corrections *

William M. Leech, Jr.
Former Attorney General,
Tennessee*

Sidney I. Lezak
Former U.S. Attorney, Oregon*

Elaine Little
Director, North Dakota
Department of Corrections*

Terre K. Marshall
Deputy Commissioner
Connecticut Dept. of
Corrections*

George N. Martin III
Regional Administrator
Former Warden
South Carolina Dept. of
Corrections*

E. Michael McCann
District Attorney
Milwaukee, Wisconsin*

Patrick C. McManus
Former Secretary of
Corrections, Kansas*

F. Russell Millin
Former U.S. Attorney,
Western District of Missouri*

Kathryn R. Monaco
Former Deputy Sec. for
Correction, New Mexico*

Patrick V. Murphy
Former Police Commissioner
New York, NY; Detroit, MI
Former Public Safety Director,
Washington, DC*

Robert P. Owens
Former Chief of Police
Oxnard, California*

Orville B. Pung
Former Commissioner,
Minnesota Department of
Corrections*

W. Jeff Reynolds
Former Commissioner,
Tennessee Dept. of
Corrections*

Chase Riveland
Secretary, Washington Dept. of
Corrections*

Larry D. Smith
Deputy Assistant Secretary of
Corrections, Louisiana*

Raoul Stitt
Assistant Prosecuting Attorney,
Jackson County, Missouri*

Myra Wall
Assistant to the Secretary,
Department of Corrections,
Washington*

* Law Enforcement affiliation
listed for identification only

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42. *Id.*

The Death Penalty Information Center is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. The Center provides in-depth reports, issues press releases, conducts briefings for journalists, and serves as a resource to those working on this issue. The Center is a project of the J. Roderick MacArthur Foundation.



**DON'T KILL
FOR US
ALASKANS SPEAK OUT
AGAINST THE
DEATH PENALTY**

**SPONSORED BY THE ANCHORAGE CHAPTER OF
AMNESTY INTERNATIONAL
THE HUMAN RIGHTS ORGANIZATION**

DON'T KILL FOR US

ALASKANS SPEAK OUT AGAINST THE DEATH PENALTY

PHOTOGRAPHS BY: RACHEL KING

This collection of photographs introduces a number of Alaskans from different political ideologies, religious affiliations, and cultural and ethnic backgrounds who have raised their voices together with a simple plea: "DON'T KILL FOR US." As the messages here demonstrate, there are many reasons to oppose capital punishment. For some, it is simply wrong, morally, to take human life—whether the taking is done by a criminal or by government. For others, the death penalty is an ineffective and costly punishment that does nothing to make us safer and takes our limited time, attention, and resources away from meaningful crime prevention. For yet others, embracing killing as a way to combat killing makes no sense: history has shown, time and again, that violence begets violence, and that peaceful societies must abandon vengeance as a way to solve their problems.

Whatever your stand on the death penalty, we thank you for considering our message. We hope our voices will help foster discussion about the facts surrounding the death penalty, and help dispel the myths that perpetuate the death penalty in this country even as many of our world neighbors abandon it as an anachronistic and brutal practice. We welcome your comments and concerns.

**-Barbara Hood, Exhibit Coordinator
Amnesty International Group 224, Anchorage**

**This project was made possible through the generous support of the
AIUSA Special Initiatives Committee
c/o P.O. Box 202296
Anchorage, AK 99520-2296
JANUARY 1996**



DON'T KILL FOR ME

I Oppose The Death Penalty

"Once the death penalty is executed and a mistake has been made, you can't say 'oops, I'm sorry,' and make everything right. The system does make mistakes. Too often in the criminal justice system it's the poor, the minorities, the uneducated, and the ones who don't have access to the best legal help who pay the price."

**-Arliss Sturgulewski
Former State Senator and
Republican Candidate for Governor**



DON'T KILL FOR ME

I Oppose The Death Penalty

"For a long time I hadn't made up my mind about the death penalty. Then my son Michael was found in Kincaid Park ten years ago, beaten to death. As I grieved for him, it became very clear to me that it is a horrible thing to take a person's life. Now I believe that to cut someone's life off, whether individually or in the name of the state, is a great wrong."

-Shirley Dickens, Anchorage



DON'T KILL FOR US

We Oppose The Death Penalty

“Capital punishment is a fallible and unjust way of trying to decrease crime. For many in the religious community, it also violates the deep belief in God as the creator and the redeemer of humankind. Instead of perpetuating the cycle of violence by taking human life, we must work to build communities of faith and trust where God’s grace can heal the personal and spiritual wounds caused by crime.”

**-Rev. Art Curlls
Unitarian Universalist Fellowship**

**-Rev. Dennis Holway
Turnagain United Methodist Church**

**-Sister Maureen McParland, O.P.
Catholic Archdiocese of Anchorage**

**-Rev. Carol Ann Seckel
United Methodist Church**



DON'T KILL FOR US

We Oppose The Death Penalty

"The death penalty is not a solution to violent crime in our rural communities; let's focus on preventive measures like supporting sobriety."

**-Professor Kimberly Martus
UAA Justice Center**

**-Caroline Hogan
UAA Justice Student**

**-Vicki Otte, Executive Director
Alaska Native Justice Center**

**-Heather Kendall, Attorney
Native American Rights Fund**



DON'T KILL FOR ME

I Oppose The Death Penalty

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

**-Sgt. Joe Austin (Retired)
Anchorage Police Department**



DON'T KILL FOR ME

I Oppose The Death Penalty

"The death penalty does not deter crime—the only reasons for it are retribution or to prevent the few who might reoffend from killing again. Life sentences without the possibility of parole, or with parole eligibility after 50 years or more, meet both objectives as well as or better than the death penalty. Clearly, some people have demonstrated that there can be no place for them in society; this has always been true.

But killing them diminishes us all."

-Susan Humphrey-Barnett

Former Commissioner of Corrections, State of Alaska



DON'T KILL FOR US

We Oppose The Death Penalty

"The NAACP advocates an affirmative, comprehensive approach to crime problems, and specifically that of the Death Penalty. We are strong supporters of the Fairness in Death Sentencing Act (also known as the Racial Justice Act), and Habeas Corpus Reform. This means that the NAACP must become a more active participant in helping to shape policy decisions and legislative actions. In that regard, we support Alaskans Against the Death Penalty, and offer aid and assistance in bringing to light the plight of minorities in death penalty decisions, incarcerations, and crime bill legislation and policy."

Celeste Hodge, Vice President; J. Paul Johnson, President & Chairman of the Board; Cynthia Madrey, Executive Board Member; and Donna Jean Brooks, Legal Redress Chair

**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
ANCHORAGE BRANCH**



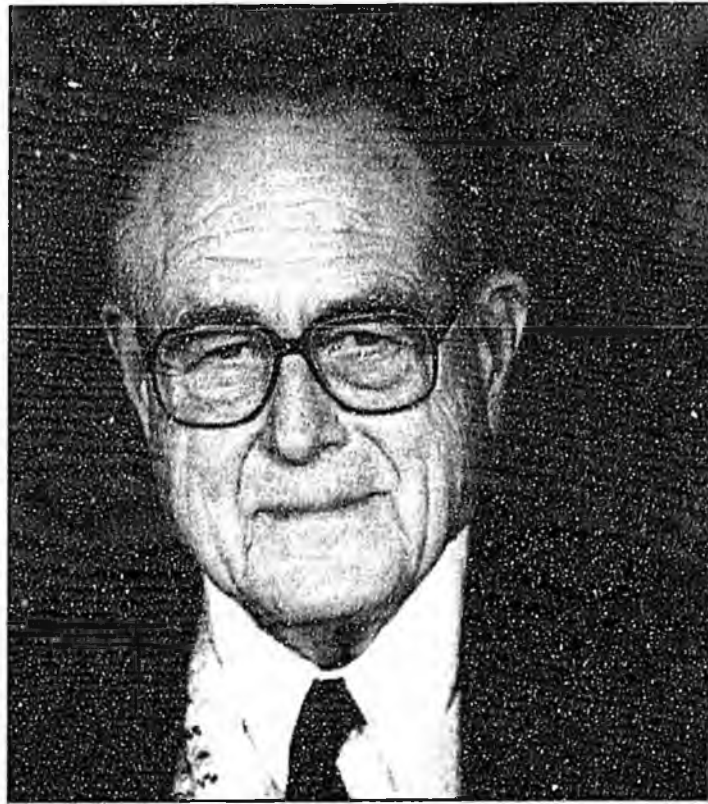
DON'T KILL FOR US

We Oppose The Death Penalty

"We do not believe that the judicial system should order anyone killed, for we do not believe that the courts are perfect. Imperfect justice could kill an innocent person. Such a tragedy is unjust and unacceptable. History proves that judicial systems have been used to kill for class revenge, for racism, for religious and cultural intolerance. Our judicial system should be a model that spurns those aberrations and, by example, will not permit a single unjust killing."

**-Cynthia Ducey, Attorney
Former Prosecutor
Anchorage District Attorney's Office**

**-David Stewart, Attorney
Former Prosecutor & Former
Alaska District Court Judge**



DON'T KILL FOR ME

I Oppose The Death Penalty

"In 1945, I was a young army doctor when our outfit surrounded and liberated a Nazi death camp. I experienced firsthand what can happen when a government gets into the business of executing its own people. Vengeance and killing come from humanity's dark side. An ideal government should function above them or run the risk of becoming like Nazi Germany. An ideal government's job is to very strongly protect its citizens from evildoers by separating them from the people, but this should be done without sacrificing the moral, humane virtues found in humanity's bright side."

-Dr. David Dolese, Anchorage



DON'T KILL FOR US

We Oppose The Death Penalty

"We in the Religious Society of Friends affirm that there is that of God in everyone. We seek to address the causes of violence between human beings, and utterly deny the taking of human life as a redress of wrongs."

**-Anchorage Monthly Meeting
Religious Society of Friends (Quakers)**



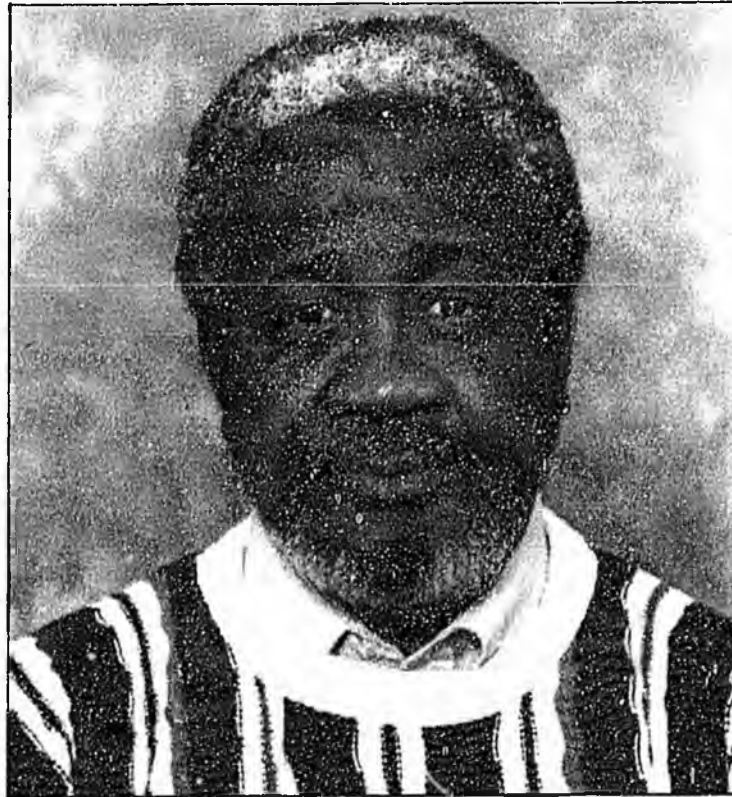
DON'T KILL FOR US

We Oppose The Death Penalty

"The death penalty causes some murderers to go free. When juries know their decision could result in the defendant's execution, they want to be absolutely, completely, 100% certain that he's guilty—and they can make the prosecutor's burden tougher than proof beyond a reasonable doubt. It's also simply wrong."

**-Peter Gruenstein
Former Prosecutor
Anchorage District Attorney's Office**

**-Dan Hickey
Former Chief, Criminal Division
State of Alaska, Dept. of Law**

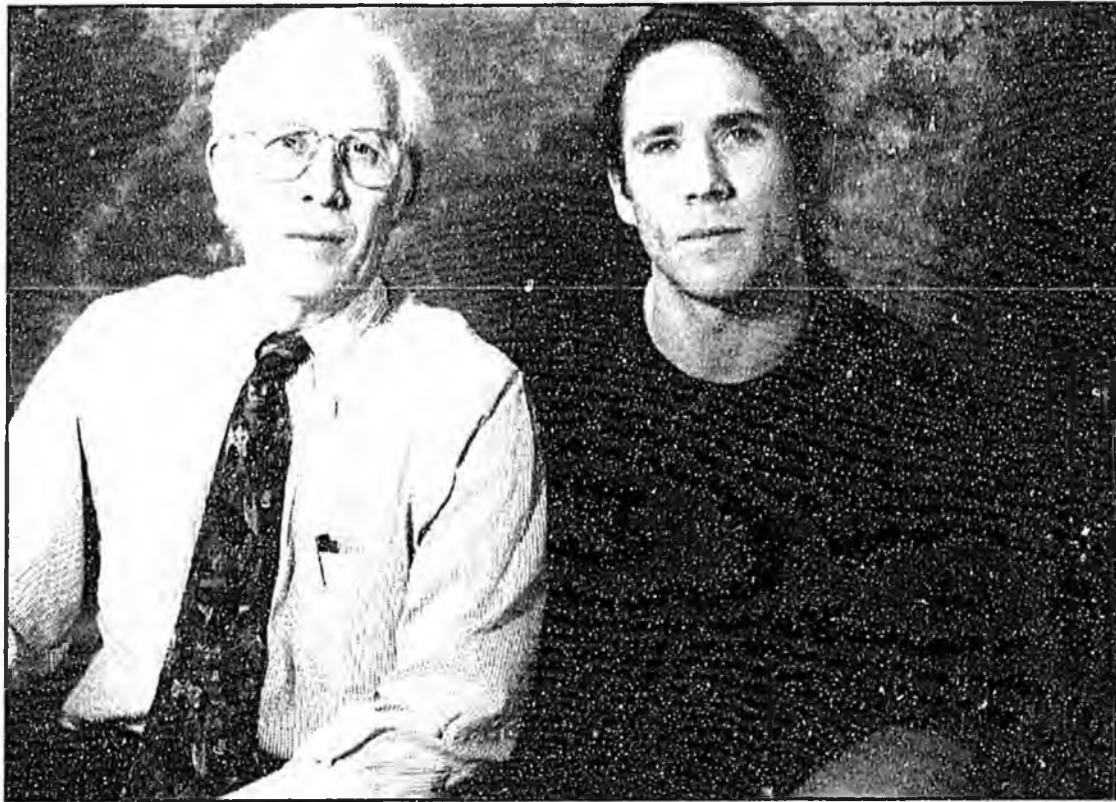


DON'T KILL FOR ME

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 tax payers usually pay)."

**-R. William Green, Retired
Former Assistant Superintendent, Department of Corrections
State of Alaska**



DON'T KILL FOR US

We Oppose The Death Penalty

“Alaska’s public revenues are falling and the state budget is not able to provide adequate funding for vital public interests, such as education needs. A 1993 Duke University study found that for each person executed in North Carolina, the state paid over \$2 million *more* than it would cost to imprison him for life. Alaska can use that money to deal with solutions to crime, like drug treatment programs or even prisons. In addition to many other reasons against it, Alaska cannot afford the death penalty.”

-Hugh and Ian Fleischer, Anchorage



DON'T KILL FOR ME

I Oppose The Death Penalty

"I was born and raised in New Hampshire, but I grew up in Vietnam. There I learned that violence is never the answer. Capital punishment is state-sanctioned violence."

-Michael LeMay, Anchorage



DON'T KILL FOR US

We Oppose The Death Penalty

"Having moved to Alaska from Texas, where executions are carried out on a regular basis but homicide rates remain among the highest in the world, we are proud to live in a state that had the foresight to abolish the death penalty in 1957. Not only do we hope Alaska never goes back to the death penalty, we also hope to see the death penalty abolished in the United States in our lifetime. But until the entertainment industry stops glamorizing violence, it won't happen."

-Kathy Harris-Kainer and Greg Kainer, Anchorage



DON'T KILL FOR ME

I Oppose The Death Penalty

"Humankind has yet to fashion a justice system sufficiently free of bias, error, and other human shortcomings to administer this sanction with the degree of perfection which its irremediability demands. That the world contains people who deserve to die, I do not deny; that the world contains people who can infallibly sort out such individuals from the rest of us, I do not believe."

-Andy Harrington, Fairbanks



DON'T KILL FOR ME

I Oppose The Death Penalty

"Being a parent is the most wonderful and the hardest thing. I try to teach my children respect for all human life, even the lives of those who have done wrong. Among other reasons, I oppose the death penalty because it violates the sanctity of life."

**-Kim McGee and her son Ari McGee-Vermont, 5
Anchorage**

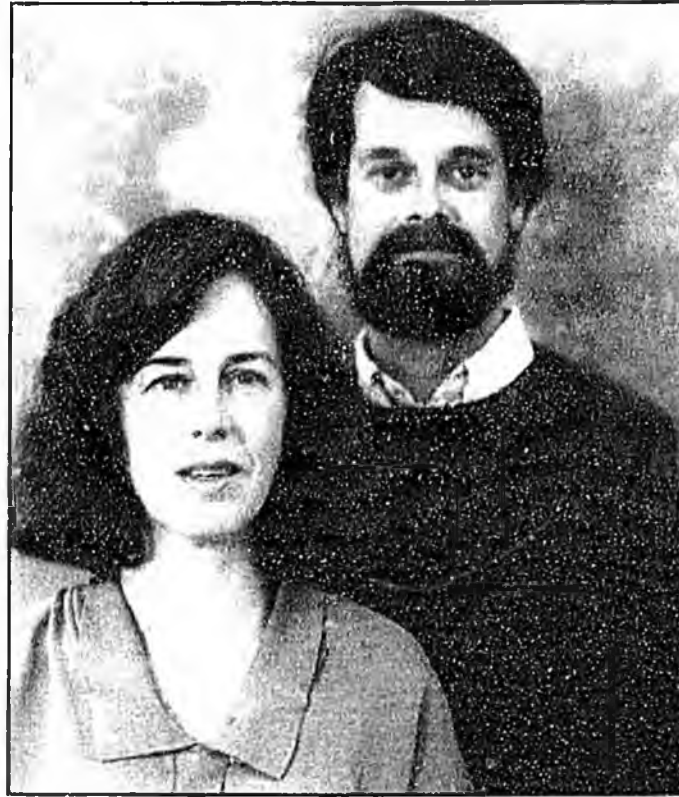


DON'T KILL FOR US

We Oppose The Death Penalty

**"Why should the government kill people to prove
that killing is wrong?"**

**-Sam Parker, 9,
with his parents Jim Parker and Jane Yokoyama, and
brother David, 7**



DON'T KILL FOR US

We Oppose The Death Penalty

"The argument that the 'system' will prevent mistakes is absolute folly in the reality of the American justice system and human experience. Which one of you would give your son, daughter, mother, father, or friend to prove such folly? We must live with the undeniable fact that we as human beings are not perfect, our systems are not perfect, and our mistakes should not be final."

-Mary Ellen Ashton and Fred Dewey, Anchorage

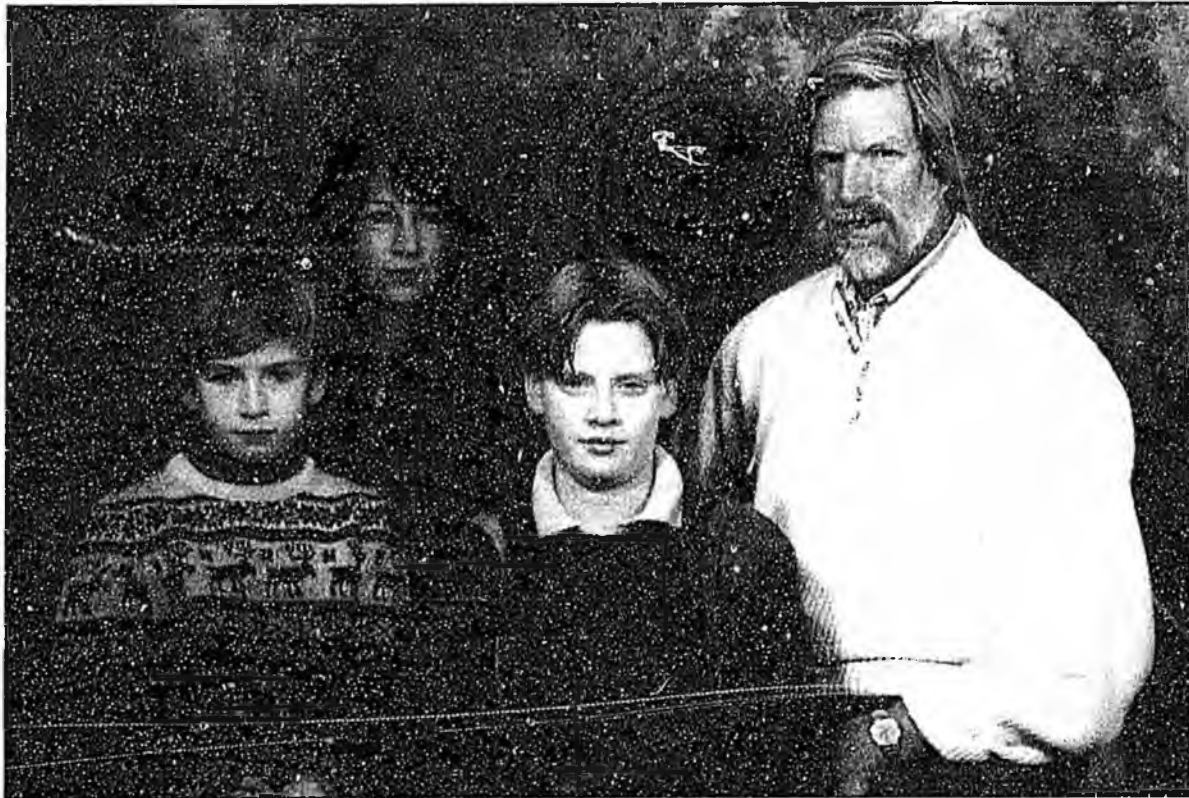


DON'T KILL FOR ME

I Oppose The Death Penalty

-After 13 years as a Public Defender for the State of Alaska, I am very aware that our criminal justice system makes mistakes. With a death penalty there is no ability to correct errors. Alaska should not be a party to the killing of innocent people."

-Barb Brink, Anchorage



DON'T KILL FOR US

We Oppose The Death Penalty

"Our family moved to Alaska from Ohio, a death penalty state. As an attorney, Rich worked on several capital cases in Ohio, and saw first-hand the impact on juries, witnesses, attorneys, judges, and their families. It was one very important reason for moving to Alaska. We would not want to see the violence and despair of death penalty litigation imported to our state. It's an experience we can all live without."

-Zane, Cole, Nancy and Rich Curtner, Anchorage



DON'T KILL FOR ME

I Oppose The Death Penalty

"Where only the rich can buy the best lawyers, and where white juries pass judgment on non-white men, execution is mostly reserved for the poor and for the dark-skinned. Middle-class white men don't get to death row. You can see this clearly in the history of Territorial Alaska. Of the eight men hanged in this century, only two were white, although most of the murders in the Territory were done by white men."

-Averil Lerman, Attorney & Legal Historian, Anchorage



DON'T KILL FOR US

We Oppose The Death Penalty

"When politicians say that the death penalty is tough on crime, they're ignoring the facts. The death penalty is soft on crime because there is no proof that it deters violence or makes us safer. The opposite seems to be true. Canada's homicide rate has dropped 27% since it abolished the death penalty in 1976. U.S. states that impose the death penalty suffer significantly higher homicide rates than those that don't. Shouldn't it be plain by now that violence indeed begets violence?"

-Dirk Sisson and Barbara Hood, Anchorage



DON'T KILL FOR ME

I Oppose The Death Penalty

**"I don't think civilized people
should kill murderers."**

-Ron Dailey, Engineer, Anchorage



DON'T KILL FOR ME

I Oppose The Death Penalty

"Just say NO! to deadbeats for the death penalty. Society pays when the ultimate penalty is applied—costing us more in legal fees than life imprisonment. The death penalty allows the convicted to escape the psychological burden of crimes committed, and eliminates any possibility of restitution to families of victims."

**-Joni Whitmore, Homer
Alaska Green Party Candidate for U.S. Congress, 1994
Current Democratic Candidate for U.S. Congress**



DON'T KILL FOR ME

I Oppose The Death Penalty

"Because there hasn't been a perfect human yet, there is no way to bring judgment perfectly. Spiritually, those who judge are no different than those who are being judged if the taking of a life is seen as a viable alternative. For spiritual, human reasons, I oppose the death penalty."

-Leslie Reed, Anchorage



DON'T KILL FOR ME

I Oppose The Death Penalty

**"Killings by the state teach violence as a
solution to one's problems.
There are better solutions."**

**-Kevin Cassity
Wilderness Guide, Anchorage**



DON'T KILL FOR US

We Oppose The Death Penalty

"Lots of innocent people have been sent to death by mistake, says 10-year-old Henry. Danny, 17, thinks it is wrong to kill people, whether the killer is a criminal or a court. In Anne's view, when the government kills, brutality becomes 'acceptable,' resulting in a more dangerous society. Jim knows race inevitably determines who is executed and who is spared. Our family stands together against the death penalty."

-Henry, Danny, Anne and Jim McComas, Anchorage

S B

7 3

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE
SIXTEENTH ALASKA LEGISLATURE
EIGHTEENTH ALASKA LEGISLATURE

ALASKA STATE SENATE



SENATOR TIM KELLY

STATE CAPITOL
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MEMORANDUM

DATE: February 22, 1995

TO: Senator Taylor, Chairman
Senate Judiciary Committee

FROM: Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee

RE: Request for Hearing on SB 73

I am writing to request a committee hearing on SB 73 at your earliest convenience.

SB 73 seeks to make the theft of subscription television services a crime. Specifically, the theft of cable television services or the manufacture of decoder devices which facilitate the theft of these services would constitute a misdemeanor under SB 73.

This bill was introduced by the Senate Labor and Commerce Committee and is supported by most of the cable services providers in Alaska. I would urge your committee to hear this bill as soon as your schedule will allow.

Should you have any questions about SB 73, do not hesitate to contact Sherman in my office at extension 3844. Thank you for your time and cooperation in this matter.

S B

95

FISCAL NOTE

No. 1

Bill Version: SB 95

BILL No: (S) Publish Date: 3-30-95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: Insurance Against Uninsured Drivers

Department: Commerce and Economic Development
BRU: Insurance
Component: Operations

Sponsor: Senate Labor & Commerce Committee
Requestor: Senate Labor & Commerce Committee

COMPONENT SERIAL NO. #354

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	
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CHANGE IN REVENUES	
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS						
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2597
 Division: Insurance Date: 2/24/95
 Approved by Commissioner: William L. Hensley Date: 2/24/95
 Agency: Commerce and Economic Development

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TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

P.O. BOX 110805
JUNEAU, ALASKA 99811-0805
PHONE (907) 465-2515

April 26, 1995

The Honorable Lyda Green
Alaska State Senator
Room 423 State Capitol Bldg.
Juneau, Alaska 99801-1182

Dear Senator Green:

Re: SB 95, Uninsured/Underinsured Motorist Coverage (UM/UIM)

During the hearing on SB 95 before Senate Judiciary on 4/24/95, Senator Taylor, Chairman of the Committee asked that I respond to you concerning your questions on the bill.

Higher Limits Offer

As you may know, the bill started out as a repeal of the higher limits offer of UM/UIM found in AS 21.89.020(c). In Senate Labor & Commerce, we suggested that it might be more appropriate to devise a compromise position for that section and noted that a reduction of the \$1,000,000/\$2,000,000 offer to \$1,000,000/\$1,000,000 might be a good start. We pointed out that there has been a shift away from the old requirement that the purchaser of insurance could only protect self and family to the extent that the insured provided protection for a third party. A number of states have adopted this view in one form or another. There are now 18 states that have some form of higher limits offering. The move to no fault laws in the 70's with its inherent focus on protecting self, has fostered this movement to a method whereby persons under a tort system might also avail themselves of greater choices of self coverage.

The existing law was adopted because the legislature wished to allow purchasers of automobile liability insurance, which basically provides coverage for injured third parties, to consider purchase of insurance covering personal protection for the purchaser and family. It allows for limits that exceed coverage for third party bodily injury liability. Prior to the changes in 1990 (Ch 78 SLA 1990), insurers did not voluntarily offer higher limits of UM/UIM or offer other means of substantive protection.

The policy issue considered in this legislation is, does the state wish to limit the coverage for a person buying automobile insurance for their own protection to the amount that person voluntarily purchases for the protection of a third party.

The Tumbleson Case

An issue that has an impact on the subject of UM/UIM is the feature in Ch 78 SLA 1990 which provides that a not-at-fault party's underinsured motorists coverage would be available as excess in cases where the at-fault party had insurance insufficient to meet the needs of the injured not-at-fault party in an automobile accident. The recent U. S. District Court case of Colonial Insurance Company of California v. Derek Tumbleson (Case # A94-184 CV (JKS)) has placed this provision into question. The premise for this ruling is that the underinsured feature is only triggered if the at-fault third party is uninsured. This action, if it stands, further impacts the

SB 95
4/26/95

ability of the purchaser of insurance to protect personal interests to a greater extent than the state requires protection of the third party. To add to the confusion, there is another case in state court addressing a similar fact situation which arrives at a different conclusion, so we have conflicting court cases.

Pricing

Ch 78 SLA 1990 did contain a section that indicated the coverage was excess. Testimony has been tendered that the rates would go up substantially if this legislation were adopted. For example, the lobbyist for State Farm indicated the rates for this coverage would increase by as much as 80% if the coverage were made excess by this legislation. That is somewhat puzzling since State Farm made a filing following passage of Ch 78 SLA 1990 which acknowledged that the coverage was intended on an excess basis instead of the difference-in-limits approach. Presumably, they have been settling losses on the basis of their filing.

The rate filings received from other insurers following the passage of that law reflect a similar view. In any event, rates must be supported on the basis of experience or a sound evaluation of a change which results in increased claims. Further, the charges for UM/UIM are borne by the purchasers of the coverage and not by those who do not purchase it. Since insurers do best when there is a legitimate spreading of the risk, it is to their advantage to encourage purchase of the coverage.

Proposed Committee Substitute

Proposed committee substitute for SB95 version "O" is identical to version "M" for sections 1 - 4. The remaining sections deal with the timing and application of the legislation.

Section 5. This applicability provision notes that the addition of intent language (Section 1) and the change to AS 21.89.020(c) apply to new and renewal policies after the effective date of this Section, which is July 1, 1995 (per Section 8).

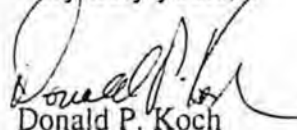
Section 6. The resolution of the Tumbleson case is clarified with the language in AS 28.20.445(b) which is in Section 3 of the bill, and the repeal of AS 28.20.445(h) and AS 28.40.100(a)(22) which is in Section 4 of the bill. These two items are made retroactive to September 2, 1990, the effective date of Ch 78 SLA 1990 by this Section. AS 28.20.445(h) and AS 28.40.100(a)(22) are near identical definitions of "underinsured motor vehicle" which were inadvertently not repealed with passage of Ch 78 SLA 1990.

Section 7. This Section makes the retroactivity of Section 6 immediate.

Section 8. See Section 5 discussion

If you have any questions on any of this, I would be happy to respond. My direct line is 465-2577. Thank you.

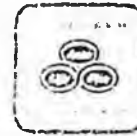
Very truly yours,



Donald P. Koch
Chief of Market Surveillance

cc: Senator Taylor

State Farm Mutual Automobile Insurance Company



10/26/90
GH

RECEIVED
OCT 26 1990

One State Farm Plaza
Bloomington, IL 61716

Gregory L. Hayward
Actuary
Phone (309) 766 2325

The Honorable David Walsh
Director of Insurance
State of Alaska
Department of Commerce & Economic Development
Division of Insurance
P.O. Box "D"
Juneau, Alaska 99811

Department of Commerce
& Economic Development
Division of Insurance

10/26/90
TO BOB
(Signature)

October 24, 1990

Dear Director Walsh:

RE: INDEPENDENT FILING
State Farm Mutual Automobile Insurance Company
NAIC #: 17625178
Revised Uninsured and Underinsured Motor Vehicle
Coverage Rate Schedules and Rule Pages

Enclosed for filing on behalf of the State Farm Mutual Automobile Insurance Company of Bloomington, Illinois are revised uninsured and underinsured motor vehicle coverage rate schedules and rule pages pursuant to recent legislation in the state of Alaska.

Alaska House Bill No. 429 broadens the extent of coverage provided by the uninsured and underinsured motor vehicle coverage by mandating coverage in an excess form rather than a difference-in-limits form and also by allowing stacking in certain instances. Enclosed Exhibit I contains the present, indicated, and proposed uninsured and underinsured motor vehicle coverage rates. No changes to the additional premium charges for Uninsured Property Damage are being submitted with this filing. The income effect of the change in rates due to Alaska House Bill No. 429 is revenue neutral, the rates merely being adjusted for the change in benefits.

We respectfully request that this filing be approved, effective immediately, for both new and renewal policies dated January 1, 1991 and later. Please return the enclosed duplicate of this letter and the rate and rule pages, appropriately stamped, for completion of our files. A self-addressed, stamped envelope is enclosed for your convenience. If you should have any questions regarding this filing, please telephone me collect at 309/766-2325.

Cordially,

Greg Hayward

Greg Hayward
Actuary and
Assistant Secretary/Treasurer

GH:kdb
Enclosures

State Farm Mutual Automobile Insurance Company



11/21/90
LH

RECEIVED
OCT 26 1990

One State Farm Plaza
Bloomington, IL 61710

Gregory L. Hayward
Actuary
Phone: (309) 766-2325

The Honorable David Walsh
Director of Insurance
State of Alaska
Department of Commerce & Economic Development
Division of Insurance
P.O. Box "D"
Juneau, Alaska 99811

Department of Commerce
& Economic Development
Division of Insurance

10/26/90
TO BOB
GH

October 24, 1990

Dear Director Walsh:

RE: INDEPENDENT FILING
State Farm Mutual Automobile Insurance Company
NAIC #: 17625178
Revised Uninsured and Underinsured Motor Vehicle
Coverage Rate Schedules and Rule Pages

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Alaska House Bill No. 429 broadens the extent of coverage provided by the uninsured and underinsured motor vehicle coverage by mandating coverage in an excess form rather than a difference-in-limits form and also by allowing stacking in certain instances. Enclosed Exhibit I contains the present, indicated, and proposed uninsured and underinsured motor vehicle coverage rates. No changes to the additional premium charges for Uninsured Property Damage are being submitted with this filing. The income effect of the change in rates due to Alaska House Bill No. 429 is revenue neutral, the rates merely being adjusted for the change in benefits.

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Cordially,

Greg Hayward
Actuary and
Assistant Secretary/Treasurer

GH:kdb
Enclosures

ALASKA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, BLOOMINGTON, ILLINOIS

Changes Necessitated by House Bill 429

Uninsured and Underinsured Motor Vehicle Coverage
Bodily Injury Only

<u>Limit (in thousands)</u>	<u>Present Rates</u>	<u>Indicated Rates</u>	<u>Proposed Rates</u>
50/ 100	\$ 14.10	\$ 14.57	\$ 14.60
100/ 200	19.30	25.50	25.50
100/ 300	20.30	27.25	27.30
300/ 300	35.30	44.39	44.40
250/ 500	38.30	46.12	46.10
300/ 500	Not Available	48.27	48.30
500/ 500	47.80	53.92	53.90
500/ 750	52.30	57.85	57.90
500/1,000	54.80	61.35	61.40
750/1,000	61.80	68.32	68.30
1,000/1,000	67.30	84.35	84.40
1,000/1,250	70.30	88.01	88.00
1,000/1,500	73.30	90.31	90.30
1,000/1,750	75.80	92.83	92.80
1,000/2,000	78.80	94.21	94.20
1,500/1,500	84.30	98.41	98.40
1,500/2,000	89.80	102.28	102.30
1,750/2,000	95.30	107.53	107.50
2,000/2,000	\$100.80	\$114.10	\$114.10

ALASKA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, BLOOMINGTON, ILLINOIS
STATE FARM FIRE AND CASUALTY COMPANY, BLOOMINGTON, ILLINOIS

602. UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES

Each policy (including a named non-owner policy) providing liability coverage on motor vehicles licensed for highway use must include uninsured and underinsured motor vehicle coverage (U) for bodily injury and property damage liability with limits equal to the financial responsibility limits, unless rejected by the named insured in writing. The property damage coverage is subject to a \$250 deductible. In addition, limits equal to the bodily injury liability limits of the policy and specified limits greater than the bodily injury liability limits of the policy must be offered initially and at each renewal.

Uninsured and underinsured motor vehicle coverage (UI) for bodily injury liability only is available at the option of the policyholder.

The phrase "uninsured motor vehicle coverage" in other rules of this manual includes the underinsured motor vehicle coverage referred to above.

See the rate section for the available limits of coverage and premiums.

ALASKA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

SEMIANNUAL PREMIUMS

UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES

Uninsured and underinsured motor vehicle coverages are available at limits given below. The coverage for damage to or destruction of property is subject to a deductible of \$250 in any one accident, and does not include coverage for loss of use of the vehicle.

Coverage U Uninsured and Underinsured Bodily Injury with Uninsured Property Damage				
Terr.	Limits	Policies With Coll. Ded. \$250 or Less	Policies With Coll. Ded. Over \$250	Without Coll.
All	50/100/25	\$14.60	\$15.60	\$17.10
	100/200/25	25.50	26.50	28.00
	100/300/25	27.30	28.30	29.80
	300/500/25	48.30	49.30	50.80
	500/500/25	53.90	54.90	56.40
	500/1000/25	61.40	62.40	63.90
	1000/2000/25	94.20	95.20	96.70

Coverage U1 Uninsured and Underinsured Bodily Injury only		
Terr.	Limits	Premium
All	50/100	\$14.60
	100/200	25.50
	100/300	27.30
	300/500	48.30
	500/500	53.90
	500/1000	61.40
	1000/2000	94.20

For limits other than those shown, refer to company.

CAR RENTAL EXPENSE—COVERAGE R
(Renewal or Transfer of Coverage Only)

First Position of Class Code	Premium
8 or 9	\$5.00
All Other	3.00

CAR RENTAL AND TRAVEL EXPENSE—COVERAGE R-1

Membership Fee \$2.00

First Position of Class Code	Premium
8 or 9	\$10.50
All Other	6.80

ALASKA
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

SEMIANNUAL PREMIUMS

UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES

Uninsured and Underinsured Motor Vehicle Coverages are available at limits given below. The coverage for damage to or destruction of property is subject to a deductible of \$250 in any one accident, and does not include coverage for loss of use of the vehicle.

Coverage U
Uninsured and Underinsured Bodily Injury with
Uninsured Property Damage

Terr.	Limits	Policies With Ded. Coll.		Without Coll.
		\$250 or Less	Over \$250	
All	300/ 300/25	\$44.40	\$45.40	\$ 46.90
	250/ 500/25	46.10	47.10	48.60
	300/ 500/25	48.30	49.30	50.80
	500/ 500/25	53.90	54.90	56.40
	500/ 750/25	57.90	58.90	60.40
	500/1,000/25	61.40	62.40	63.90
	750/1,000/25	68.30	69.30	70.80
	1,000/1,000/25	84.40	85.40	86.90
	1,000/1,250/25	88.00	89.00	90.50
	1,000/1,500/25	90.30	91.30	92.80
	1,000/1,750/25	92.80	93.80	95.30
	1,000/2,000/25	94.20	95.20	96.70

Coverage U1

Uninsured and Underinsured Bodily Injury only		
Terr.	Limits	Premium
All	300/ 300	\$44.40
	250/ 500	46.10
	300/ 500	48.30
	500/ 500	53.90
	500/ 750	57.90
	500/1,000	61.40
	750/1,000	68.30
	1,000/1,000	84.40
	1,000/1,250	88.00
	1,000/1,500	90.30
	1,000/1,750	92.80
	1,000/2,000	94.20

For limits other than those shown, charge the premium for the next higher limit. The policy must then provide the limit corresponding to the premium charged.

ALASKA
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
SEMIANNUAL PREMIUMS

UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES

Uninsured and Underinsured Motor Vehicle Coverages are available at limits given below. The coverage for damage to or destruction of property is subject to a deductible of \$250 in any one accident, and does not include coverage for loss of use of the vehicle.

Coverage U
Uninsured and Underinsured Bodily Injury with
Uninsured Property Damage

Terr.	Limits	Policies With Ded. Coll.		Without Coll.
		\$250 or Less	Over \$250	
All	1,500/1,500/25	\$ 98.40	\$ 99.40	\$100.90
	1,500/2,000/25	102.30	103.30	104.80
	1,750/2,000/25	107.50	108.50	110.00
	2,000/2,000/25	114.10	115.10	116.60

Coverage U1

Uninsured and Underinsured Bodily Injury only		
Terr.	Limits	Premium
All	1,500/2,000	\$102.30
	1,750/2,000	107.50
	2,000/2,000	114.10

For limits other than those shown, charge the premium for the next higher limit. The policy must then provide the limit corresponding to the premium charged.

State Farm Fire and Casualty Company

AUTOMOBILE ACTUARIAL DEPARTMENT
ONE STATE FARM PLAZA
BLOOMINGTON, ILLINOIS 61710

11/14/90
To Sub
S. 11/11
BB

RECEIVED

OCT 26 1990

Department of Commerce
& Economic Development
Division of Insurance

October 24, 1990

The Honorable David Walsh
Director of Insurance
State of Alaska
Department of Commerce & Economic Development
Division of Insurance
P.O. Box "D"
Juneau, Alaska 99811

NOV 18 1990

Dear Director Walsh:

RE: INDEPENDENT FILING
State Farm Fire and Casualty Company
NAIC #: 17625143
Revised Uninsured and Underinsured Motor Vehicle
Coverage Rate Schedules and Rule Pages

Enclosed for filing on behalf of the State Farm Fire and Casualty Company of Bloomington, Illinois are revised uninsured and underinsured motor vehicle coverage rate schedules and rule pages pursuant to recent legislation in the state of Alaska.

This is a companion filing to the State Farm Mutual Automobile Insurance Company filing of this date under separate cover. Our automobile insurance operation in the State Farm Fire and Casualty Company directly relates to the rates and procedures utilized by the parent Mutual Company. With this revision, we propose to maintain our current base rate relationship to the proposed State Farm Mutual rates. Limits above 500/500, which are currently not available in State Farm Fire and Casualty, will also be established using the current base rate relationship to State Farm Mutual. The income effect of the change in rates due to Alaska House Bill No. 429 is revenue neutral, the rates merely being adjusted for the change in benefits.

We respectfully request that this filing be approved, effective immediately, for both new and renewal policies dated January 1, 1991 and later. Please return the enclosed duplicate of this letter and the rate and rule pages, appropriately stamped, for completion of our files. A self-addressed, stamped envelope is enclosed for your convenience. If you should have any questions regarding this filing, please telephone me collect at 309/766-2325.

Cordially,

Greg Hayward
Assistant Secretary/Treasurer

GH:kdb
Enclosures

NOV 01 1990

ALASKA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, BLOOMINGTON, ILLINOIS
STATE FARM FIRE AND CASUALTY COMPANY, BLOOMINGTON, ILLINOIS

602. UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES

Each policy (including a named non-owner policy) providing liability coverage on motor vehicles licensed for highway use must include uninsured and underinsured motor vehicle coverage (U) for bodily injury and property damage liability with limits equal to the financial responsibility limits, unless rejected by the named insured in writing. The property damage coverage is subject to a \$250 deductible. In addition, limits equal to the bodily injury liability limits of the policy and specified limits greater than the bodily injury liability limits of the policy must be offered initially and at each renewal.

Uninsured and underinsured motor vehicle coverage (U1) for bodily injury liability only is available at the option of the policyholder.

The phrase "uninsured motor vehicle coverage" in other rules of this manual includes the underinsured motor vehicle coverage referred to above.

See the rate section for the available limits of coverage and premiums.

ALASKA
STATE FARM FIRE AND CASUALTY COMPANY

SEMIANNUAL PREMIUMS

UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES

Uninsured and underinsured motor vehicle coverages are available at limits given below. The coverage for damage to or destruction of property is subject to a deductible of \$250 in any one accident, and does not include coverage for loss of use of the vehicle.

NOV 10 1990
10:30 AM
ALASKA

Coverage U Uninsured and Underinsured Bodily Injury with Uninsured Property Damage				
Terr.	Limits	Policies With Coll. Ded. \$250 or Less	Policies With Coll. Ded. Over \$250	Without Coll.
All	50/100/25	\$ 23.40	\$ 25.00	\$ 27.40
	100/200/25	40.80	42.40	44.80
	100/300/25	43.70	45.30	47.70
	300/500/25	77.30	78.90	81.30
	500/500/25	86.30	87.90	90.30
	500/1000/25	98.30	99.90	102.30
	1000/2000/25	150.80	152.40	154.80

Coverage U1 Uninsured and Underinsured Bodily Injury only		
Terr.	Limits	Premium
All	50/100	\$ 23.40
	100/200	40.80
	100/300	43.70
	300/500	77.30
	500/500	86.30
	500/1000	98.30
	1000/2000	150.80

For limits other than those shown, refer to company.

CAR RENTAL EXPENSE—COVERAGE R
(Renewal or Transfer of Coverage Only)

First Position of Class Code	Premium
8 or 9	\$8.00
All Other	4.80

CAR RENTAL AND TRAVEL EXPENSE—COVERAGE R-1

First Position of Class Code	Premium
8 or 9	\$16.80
All Other	10.90

11/15/90
Bob

✓ November 15, 1990 ✓

Mr. Greg Hayward
Actuary & Assistant Secretary/Treasurer
State Farm Insurance Companies
One State Farm Plaza
Bloomington, IL 61710-0001

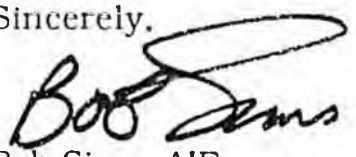
Dear Mr. Greg Hayward:

Re: Revised Uninsured/Underinsured Motorist Vehicle Coverage
Rate Schedules and Rule Pages

1
Thank you for the captioned filing dated October 24, 1990 received in
our office October 26, 1990.

Per my conversation with your office Wednesday November 14, 1990 I
will approve this filing. I need you to send me some statistical data to
support the proposed rates changes which will complete my file.

Sincerely,



Bob Sims, AIE
Insurance Market Analyst
Personal Lines

State Farm Mutual Automobile Insurance Company



One State Farm Plaza
Bloomington, IL 61710

Gregory L. Hayward
Actuary
Phone: (309) 766-2325

The Honorable David Walsh
Director of Insurance
State of Alaska
Department of Commerce & Economic Development
Division of Insurance
P.O. Box "D"
Juneau, Alaska 99811

RECEIVED

DEC 04 1990

Department of Commerce
& Economic Development
Division of Insurance

November 29, 1990

ATTENTION: Mr. Bob Sims

Dear Director Walsh:

RE: INDEPENDENT FILING
State Farm Mutual Automobile Insurance Company
NAIC #: 17625178
State Farm Fire and Casualty Company
NAIC #: 17625143
Supporting Data for October 24, 1990 Filing

In response to your November 15, 1990 letter, enclosed is an exhibit providing additional details in support of our October 24, 1990 filing of revised uninsured/underinsured motor vehicle coverage rates.

If you should have any further questions, please telephone me collect at 309/766-2325.

Cordially,

A handwritten signature in cursive script, appearing to read "Greg Hayward".

Greg Hayward
Actuary and
Assistant Secretary/Treasurer

GH:kdb

Enclosures

ALASKA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, BLOOMINGTON, ILLINOIS
DEVELOPMENT OF THE INDICATED UNINSURED/UNDERINSURED RATES
EXPLANATORY NOTES

- Col. (1) Uninsured and underinsured limits carried by policyholder.
- Col. (2) Bodily injury liability limit factor corresponding to limits from Column (1).
- Col. (3) and (4) Indicated additive charges for uninsured and underinsured coverages, respectively. These additive charges were developed using a pricing model which has been formally presented at Casualty Actuarial Society meetings and which was published in the Fall 1987 edition of Casualty Actuarial Society Forum.

A customer purchases uninsured and underinsured coverages to make up what is lacking in the bodily injury limits of a liable party. Thus, we have used the additive charges for the bodily injury liability coverage at each limit to develop the uninsured and underinsured additive charges. This development takes into consideration the level of exposure at each limit, which depends on 1) the average coverage provided by the liable party, 2) the coverage desired by the customer, and 3) the magnitude of the uninsured population.

We have estimated the first item based on bodily injury limit distributions, the second item is known, and we have estimated the third item to be 25% by comparing uninsured and underinsured coverage frequency with bodily injury liability frequency.

- Col. (5) Column (3) + Column (4).
- Col. (6) $[(\text{Column (5a)} + \text{Column (5b)}) / 2]$. This is based on the assumption that 50% of claims will stack limits from another policy.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, BLOOMINGTON, ILLINOIS

DEVELOPMENT OF THE INDICATED UNINSURED/UNDERINSURED RATES

(1a)	(2a)	(3a)	(4a)	(5a)	
NON-STACKING					
UNINSURED /UNDERINSURED LIMIT	BI LIABILITY LIMIT FACTOR	INDICATED UNINSURED RATE	INDICATED UNDERINSURED RATE	INDICATED UNINSURED /UNDERINSURED RATE	
50/100	1.00	\$12.36	\$1.00	\$13.36	
100/200	1.09	14.78	7.11	21.89	
100/300	1.12	15.59	7.97	23.56	
300/300	1.24	18.82	19.92	38.74	
250/500	1.25	19.09	20.67	39.76	
300/500	1.27	19.63	22.29	41.92	
500/500	1.33	21.24	26.38	47.62	
500/750	1.36	22.05	27.99	50.04	
500/1000	1.39	22.86	29.61	52.47	
750/1000	1.44	24.20	33.59	57.79	
1000/1000	1.47	30.01	40.21	70.22	
1000/1250	1.49	30.55	42.68	73.23	
1000/1500	1.52	31.36	44.30	75.66	
1000/1750	1.54	31.90	46.67	78.57	
1000/2000	1.57	32.70	47.53	80.23	
1500/1500	1.60	33.51	50.76	84.27	
1500/2000	1.65	34.86	53.99	88.85	
1750/2000	1.69	35.93	57.97	93.90	
2000/2000	1.74	37.20	61.20	98.48	
(1b)	(2b)	(3b)	(4b)	(5b)	(6)
STACKING					
UNINSURED /UNDERINSURED LIMIT	BI LIABILITY LIMIT FACTOR	INDICATED UNINSURED RATE	INDICATED UNDERINSURED RATE	INDICATED UNINSURED /UNDERINSURED RATE	INDICATED RATE
50/100	1.00	\$14.78	\$1.00	\$15.78	\$14.57
100/200	1.09	18.01	11.09	29.10	25.50
100/300	1.12	18.55	12.38	30.93	27.25
300/300	1.24	22.05	27.99	50.04	44.39
250/500	1.25	22.86	29.61	52.47	46.12
300/500	1.27	23.40	31.22	54.62	48.27
500/500	1.33	25.01	35.21	60.22	53.92
500/750	1.36	26.36	39.30	65.66	57.85
500/1000	1.39	27.70	42.53	70.23	61.35
750/1000	1.44	29.86	48.99	78.85	68.32
1000/1000	1.47	37.28	61.20	98.48	84.35
1000/1250	1.49	38.36	64.43	102.79	88.01
1000/1500	1.52	38.90	66.05	104.95	90.31
1000/1750	1.54	39.43	67.66	107.09	92.83
1000/2000	1.57	39.97	68.22	108.19	94.21
1500/1500	1.60	40.78	71.76	112.54	98.41
1500/2000	1.65	41.59	74.12	115.71	102.28
1750/2000	1.69	42.93	78.22	121.15	107.53
2000/2000	1.74	44.28	85.43	129.71	114.10

LAW OFFICES OF
DITTMAN & KELL, P.C.John C. Dittman
Harry J. Kell680 N STREET
SUITE 203
ANCHORAGE, AK 99501(907) 276-3000
FAX (907) 274-8201

April 19, 1995

Senator Robin Taylor
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182VIA FAX (907) 465-3922

Dear Senator Taylor:

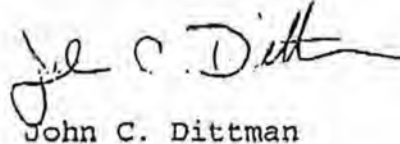
As discussed at today's hearing on SB 95, I am enclosing a copy of the recent letter we received from the State Farm adjuster, citing Tumbleson and denying excess coverage under their UIM provision.

As was further discussed at the hearing, from our brief poll of attorneys in the community, we were able to ascertain that, prior to Tumbleson, the insurers appeared to treat the law as already providing excess. Below is a list of claimants, insurance companies, and claim numbers that were paid as if the statute provided excess. I am sure there are many, many more examples, but these were all we have been able to uncover at this time:

1. Clinton Lemar, Allstate, Claim No. 332-025-216-0 SLA
2. Christopher Hall, Kemper, Claim No. 788-AE-029331-X
3. David McCown, State Farm, Claim No. 02-0167-394
4. Anthony Bartack, State Farm, Claim No. 02-018-298
5. Otis Newton, Progressive, Claim No. 92-0247636
6. Dan Ronken, USAA, Claim No. 1-61/35 454 92 47

Let me know if there is any further information you require.

Sincerely yours,


John C. Dittman

JCD:jw

State Farm Insurance Companies



X

March 21, 1995

4215 Credit Union Drive
P.O. Box 241729
Anchorage, Alaska 99524-1729Barry J Kell
Law Offices of Dittman and Kell
880 N Street, Suite 202
Anchorage, AK 99501RECEIVED
MAR 22 1995RE: Our Claim No.: 02-0213-667
Our Insured: Jon Wehde
Date of Loss: 01-08-94

Dear Mr. Kell:

As you are aware, the limit of Mr. Wehde's underinsured motorist coverage is \$100,000. The policy and the statutes require that the limit of liability be less than the UIM limit before the UIM coverage is triggered. See AS 28.20.445(h), as well as a recent decision issued in the case of Colonial Insurance Company of California v. Tumbleson. Based on the foregoing, there is no UIM coverage triggered. Therefore, I will be closing my file at this time.

Sincerely,

RENEE THOMPSON, Claim Specialist
State Farm Mutual Automobile Insurance Company
(907) 261-3767RT/di
44/0321010

9-LS07370 ✓

Ford

4/19/95

CS FOR SENATE BILL NO. 95(JUD)**IN THE LEGISLATURE OF THE STATE OF ALASKA****NINETEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE JUDICIARY COMMITTEE**

Offered:

Referred:

Sponsor(s): **SENATE LABOR AND COMMERCE COMMITTEE****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to automobile liability insurance coverage for uninsured or
2 underinsured motor vehicles; and providing for an effective date."

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

4 * Section 1. INTENT. It is the intent of the legislature that this Act reverse the decision of
5 the United States District Court for the District of Alaska, in Colonial Insurance Company of
6 California v. Tumbleson, Civil No. A94-184CV (January 20, 1995), in which the court
7 determined that in some cases underinsured motor vehicle insurance was not coverage excess
8 to liability insurance coverage. It is also the intent of the legislature that underinsured motor
9 vehicle insurance should be available whenever the damages of an insured are greater than
10 amounts payable under other motor vehicle insurance coverage.

11 * Sec. 2. AS 21.89.020(c) is amended to read:

12 (c) An insurance company offering automobile liability insurance in this state
13 for bodily injury or death shall, initially and at each renewal, offer coverage prescribed
14 in AS 28.20.440 and 28.20.445 or AS 28.22 for the protection of the persons insured
15 under the policy who are legally entitled to recover damages for bodily injury or death

1 from owners or operators of uninsured or underinsured motor vehicles. The limit
2 written may not be less than the limit in AS 28.20.440 or AS 28.22.101. Coverage
3 required to be offered under this section must include the following options:

4 (1) policy limits equal to the limits voluntarily purchased to cover the
5 liability of the person insured for bodily injury or death;

6 (2) except when the coverage consists of motorcycle liability insurance,
7 and except for a named insured required to file proof of financial responsibility under
8 AS 28.20 or an applicant required to file proof of financial responsibility under
9 AS 28.20, policy limits in the following amounts when these limits are greater than
10 those offered under (1) of this subsection:

11 (A) \$100,000 because of bodily injury to or death of one person
12 in one accident, and, subject to the same limit for one person, \$300,000
13 because of bodily injury to or death of two or more persons in one accident;

14 (B) \$300,000 because of bodily injury to or death of one person
15 in one accident, and, subject to the same limit for one person, \$500,000
16 because of bodily injury to or death of two or more persons in one accident;

17 (C) \$500,000 because of bodily injury to or death of one or
18 more persons [PERSON] in one accident [, AND, SUBJECT TO THE SAME
19 LIMIT FOR ONE PERSON, \$500,000 BECAUSE OF BODILY INJURY TO
20 OR DEATH OF TWO OR MORE PERSONS IN ONE ACCIDENT];

21 (D) \$500,000 because of bodily injury to or death of one person
22 in one accident, and, subject to the same limit for one person, \$1,000,000
23 because of bodily injury to or death of two or more persons in one accident;

24 (E) \$1,000,000 because of bodily injury to or death of one or
25 more persons [PERSON] in one accident [, AND, SUBJECT TO THE SAME
26 LIMIT FOR ONE PERSON, \$2,000,000 BECAUSE OF BODILY INJURY TO
27 OR DEATH OF TWO OR MORE PERSONS IN ONE ACCIDENT];

28 (3) other policy limits at the option of the insurer.

29 * Sec. 3. AS 28.20.445(b) is amended to read:

30 (b) An amount payable under the uninsured and underinsured motorist
31 coverage shall be excess to an amount payable under automobile bodily injury, death,

1 or medical payments coverage, or as workers' compensation benefits and may not
2 duplicate amounts paid or payable under valid and collectible automobile bodily injury,
3 death, or medical payments coverage, or as workers' compensation benefits. For
4 purposes of this subsection, uninsured and underinsured motorist coverage is
5 excess and payable if the insured has bodily injury or property damage and the
6 damages exceed amounts payable under other valid and collectible automobile
7 liability insurance coverage.

8 * Sec. 4. AS 28.20.445(h) and AS 28.40.100(a)(22) are repealed.

9 * Sec. 5. APPLICABILITY. Sections 1 and 2 of this Act apply to a motor vehicle liability
10 insurance policy entered into or renewed on or after the effective date of this section.

11 * Sec. 6. Sections 3 and 4 of this Act are retroactive to September 2, 1990.

12 * Sec. 7. Sections 3, 4, and 6 of this Act take effect immediately under AS 01.10.070(c).

13 * Sec. 8. Sections 1, 2, and 5 of this Act take effect July 1, 1995.

9-LS0737M ✓

Ford

4/18/95

CS FOR SENATE BILL NO. 95(JUD)**IN THE LEGISLATURE OF THE STATE OF ALASKA****NINETEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE JUDICIARY COMMITTEE****Offered:
Referred:****Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE****A BILL****FOR AN ACT ENTITLED**

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5 liability of the person insured for bodily injury or death;

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13 because of bodily injury to or death of two or more persons in one accident;

14 (B) \$300,000 because of bodily injury to or death of one person
15 in one accident, and, subject to the same limit for one person, \$500,000
16 because of bodily injury to or death of two or more persons in one accident;

17 (C) \$500,000 because of bodily injury to or death of one or
18 more persons [PERSON] in one accident [, AND, SUBJECT TO THE SAME
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