



Senate Judiciary Committee
Honorable Lesil McGuire, Chair
Honorable John Coghill, Vice Chair

March 9, 2016

RE: Senate Bill 91

Dear Senators McGuire and Coghill:

I appreciate the legislature's work to make the many needed adjustments to our criminal justice system, in their efforts to care for Alaskans. Senate Bill 91 addresses many deficiencies of our current systems and approaches. I applaud the work the legislature has put forth to flesh out those deficiencies and offer solutions. I believe we must continue to move forward to develop effective practices in our public safety efforts so that criminals are held accountable, and rehabilitated when possible, while reducing victimization, recidivism, and ongoing costs.

With that said, I have some concerns with the section of the bill pertaining to the distribution of illegal controlled substances, as written. Addiction is a horrible plague that affects all Alaskans on at least some level. Two of the most abused controlled substances that contribute to this plague are heroin and methamphetamine, Schedule IA and IIA respectively. Both substances are sold in my community, and elsewhere, in quantities of tenths of a gram. A weight of 2.5 grams yields approximately 25 dosage units, and is a significant amount, particularly in smaller communities. The street value of 2.5 grams of either heroin or methamphetamine ranges from \$1,500.00 to \$2,500.00 locally.

To stem the plague, we need to view the problem from the top down to identify contributing factors and to develop meaningful strategies to address all individual factors. Requiring a minimum weight of 2.5 grams of heroin or methamphetamine to be distributed before a charge of Misconduct Involving a Controlled Substance in the Second Degree can be filed is a step in the wrong direction and limits an already significantly limited criminal justice system's ability to help address the communal and individual problems associated with addiction. Lesser quantities are routinely distributed to drug users, fueling their addiction and negatively impacting our communities.

It is my impression that this portion of the bill may have been written in an effort to prevent addicts from being charged with distribution for sharing the substances with other users. While at face value the assumption that addicts share illegal drugs seems reasonable, I do not believe it is in the cases of methamphetamine, heroin and other, like substances. In my experience, addicts usually possess smaller quantities and consume what they possess relatively quickly. Further, over the past 20 years, I have personally contacted numerous drug addicts. I have never known an addict to willingly share such a coveted substance with anyone, with the occasional exception of an intimate partner, extremely close friend, or relative.

Borough Police Department

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It is imperative that law enforcement maintains the necessary tools to keep our communities safe. It is also important for the entire criminal justice system to maintain the ability to hold offenders accountable and require rehabilitative efforts. The bill, as written, significantly limits those tools and abilities. Setting a minimum threshold at 2.5 grams (25 dosage units) of all IA or IIA controlled substances to trigger a Misconduct Involving a Controlled Substance in the Second Degree is simply too high, particularly with substances such as methamphetamine and heroin.

Our current statutes are adequate and useful, but the overall system has been diluted to a state of ineffectiveness. Criminal offenses for distribution of a Schedule IA, IIA, or IIIA controlled substance should be maintained at the current level of any amount, but setting a presumptive amount for distribution at possession of 2.5 grams of a IA or IIA controlled substance is reasonable and would be helpful. Maintaining current levels allows for more effective oversight of addicts while they are vulnerable, and gives the system precious time to require rehabilitative efforts.

Please consider maintaining current statutory requirements and do not hesitate to contact me if I can ever be of service.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly P. Swihart", with a stylized, cursive script.

Kelly P. Swihart, Chief
Petersburg Borough
Police Department

Borough Police Department

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