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STANLEY HOWITT, EXECUTIVE DIRECTOR AND BAR COUNSEL

February 14, 1969

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Mr. Barry Jackson, Esq.
Chairman,
House Judiciary Committee
Pouch Y
State Capitol
Juneau, Alaska 99801

Dear Mr. Jackson:

Thank you very much for your kind letter of February 6, 1969, asking that either I or my representative appear before the House Judiciary Committee to discuss Bar Association activities, plans and problems.

Mr. Stanley Howitt, the Executive Director of the Alaska Bar Association and myself will be in Juneau on February 17th through the 19th. Would it be possible for us to meet with the House Judiciary Committee at that time?

I apologize for this very short notice, but my recent schedule has been extraordinarily chaotic.

Very truly yours,

Lester W. Miller, Jr.
Lester W. Miller, Jr.

LWM:kw
cc: Mr. Stanley Howitt

Budget
closed

March 2, 1970

The Honorable Bill Ray
Chairman, House Finance Committee
Pouch "V", Capitol Building
Juneau, Alaska 99801

Dear Mr. Ray:

The House Judiciary Committee has reviewed with the responsible administrators, the programs of the Court System, Department of Law, and Public Safety as budgeted for FY 1971.

While the committee did not review these budgets in detail to the degree that the Finance Committee will, I have been directed to state that the Judiciary Committee generally concurs with the Governor's recommendations for these agencies.

Very truly yours,

Barry W. Jackson, Chairman
House Judiciary Committee

BWJ/ann

Copies to: Representative Chancy Croft
Representative George Hohman
Representative Mike Bradner
Representative Ernie Haugen
Representative Dick Borer
Representative John Sackett



Alaska Court System

State of Alaska

ROBERT H. REYNOLDS
ADMINISTRATIVE DIRECTOR
RAYMOND W. GREGORY
ASSISTANT ADMINISTRATIVE DIRECTOR
ERNEST Z. REHBOCK
LEGAL ASSISTANT

OFFICE OF ADMINISTRATIVE DIRECTOR
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

February 11, 1969

Hon. Barry M. Jackson, Chairman
House Judiciary Committee
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Dear Representative Jackson:

Your letter of February 5, 1969, requested that I or my representative meet with your committee in a general information meeting to deliver a formal oral presentation concerning the activities of the court system, our problems and our plans for the future. I note that Chief Justice Buell A. Nesbett received a similar letter and has accepted your invitation. I shall likewise be available.

Inasmuch as the Chief Justice and I will both be in Juneau from the 17th through the 21st of February, if you have any specific questions which would require back-up statistics we would appreciate an immediate response as this does not allow much time.

I note that the Chief Justice has outlined his itinerary and mine during our visit in Juneau. Even so, we shall contact you after our arrival.

Sincerely,

Robert H. Reynolds
Administrative Director

RHR/ld

March 13, 1970

The Honorable Bill Ray
Chairman, House Finance Committee
Pouch "V", Capitol Building
Juneau, Alaska 99801

Dear Mr. Ray:

The Judiciary Committee has reviewed the programs and analyzed the budget of the Division of Corrections in detail, with the assistance of Mr. Charles G. Adams, Jr., Director of the Division of Corrections.

The committee was pleased to note that the 1970-71 budget as approved by the Governor did include many provisions for increased services, all of which the committee approved.

Inasmuch as prisoner reformation and rehabilitation is the desired goal of the State under Article I, Section 12 of our Constitution, we would like to recommend the positions of Psychology Counselor I in the adult camp, Group Worker III in N.R.C.I., and Correctional Officer I at Wasilla. These additional positions will provide much needed counseling service so necessary to attitude changing.

Most of the inmates of our correctional institutions have no developed skills and poor work habits. Part of the rehabilitation process is learning skills. To this end the committee would like to see the budget include items proposed by the Division of Corrections for vocational training and job experience.

Food service is one area in which there is a marked shortage of workers in the State. It would seem advisable to fill the Cook II position in the N.R.C.I., enabling inmates in that institution to be trained in culinary arts insuring them of employment upon their release.

The Honorable Bill Ray
March 12, 1970
Page 2

The expansion of the kitchen facilities and the addition of refrigeration at the adult camp would make possible food service training as well as the training in the processing and freezing of produce.

We know you are deeply interested in prisoner rehabilitation and wish to lend you the support of the Judiciary Committee in improving the State's program.

Sincerely yours,

Barry W. Jackson, Chairman
House Judiciary Committee

Copy to all House Finance Committee members

BWJ/mm

March 5, 1970

Bill Ray, Chairman
House Finance Committee
Pouch "V", Capitol Building
Juneau, Alaska 99801

Gentlemen:

The Judiciary Committee of the House of Representatives has carefully considered the proposed budget of the Alaska Public Defender Agency. After taking testimony and discussing the issues, the committee unanimously recommends that the budget of the agency be increased in the following specific particulars:

1. An Attorney V position in Anchorage to be responsible for appeals, cost \$38,800 including secretary and necessary equipment;
2. Investigators for the Nome, Ketchikan, and Juneau offices, cost \$55,537 including necessary transportation (the investigator can prepare the information for bail proceedings and assist in developing sentencing recommendations);
3. Counselors for Fairbanks and Anchorage, cost \$38,111;
4. Two law students for summer internships in Fairbanks and Anchorage, cost \$6,975;
5. A training program for agency staff, cost \$1,000; and
6. Increased contractual services to offset reduction of personnel, cost \$10,000.

Total cost of \$150,000.

Bill Ray, Chairman
House Finance Committee

March 5, 1970
Page 2

We feel that the addition of these items will very substantially improve the service of the agency, and will enable the agency to adequately and properly perform its duties.

Very truly yours,

Barry W. Jackson, Chairman
House Judiciary Committee

cc: Representative Chancy Croft
Representative George Hohman
Representative Mike Bradner
Representative Ernie Haugen
Representative Dick Borer
Representative John Sackett

BWJ/mm

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska
99801

February 18, 1970

The Honorable Barry W. Jackson
Chairman
Judiciary Committee
Alaska State House of Representatives
Juneau, Alaska 99801

Dear Mr. Chairman:

This letter is in response to your request for a letter confirming my testimony on February 17, 1970. Your questions concerned possible alternative positions to the proposed funding of the Alaska Public Defender Agency at a \$500,000 level for the fiscal year beginning July 1, 1970.

Alternatives include:

1. an attorney V position in Anchorage to be responsible for appeals, cost \$38,800 including secretary and necessary equipment;
2. investigators for the Nome, Ketchikan and Juneau offices, cost \$55,537 including necessary transportation (the investigator can prepare the information for bail proceedings and assist in developing sentencing recommendations);
3. counselors for Fairbanks and Anchorage, cost \$38,111;
4. two law students for summer internships in Fairbanks and Anchorage, cost \$6,975;
5. a training program for agency staff, cost \$1,000; and
6. increased contractual services to offset reduction of personnel, cost \$10,000.

The above total is \$150,000. The requested appropriation of \$500,000 does not include any of the counselors,

The Honorable Barry W. Jackson
Chairman, House Judiciary

February 18, 1970

-2-

investigators for Nome, Ketchikan or Juneau, neither Attorney V in Anchorage, no summer law students, and does not include the possibility of additional judges in Sitka, Kenai-Kodiak and Fairbanks.

Enclosed are copies of excerpts from the evaluation of the Offender Rehabilitation Project for the District of Columbia. Your continued interest in the Agency is appreciated.

Very truly yours,



VICTOR D. CARLSON
Public Defender

VDC:rj

Enc.

6
Excerpt from "An Evaluation of the Offender
Rehabilitation Project of the Legal Aid Agency
for the District of Columbia"

BACKDROP FOR THE EVALUATION

A. Evolution of the Offender Rehabilitation Project

In the summer of 1964 the staff attorneys of the Legal Aid Agency for the District of Columbia discussed how they might improve overall services to their indigent clients. A part of their thinking arose from the understanding that their role as defense attorneys was far less importantly the romantic notion of vital adversary participation in a dramatic determination of guilt or innocence than it was competent representation of a client in working out a non-trial disposition and, more often than not -- trial or no trial -- representing a guilty defendant before the judge at sentencing.^{6/} A major shortcoming, they felt, was the lack of comprehensive social background data and rehabilitative planning assistance in their cases, particularly at the time of sentencing when the judge based his decision largely on a probation office presentence report not available as of right

^{6/} Upwards of 75 percent of the persons prosecuted in the District of Columbia are convicted. President's Commission on Crime in the District of Columbia, Report 240-41, 274-75 (1966), hereinafter cited as D.C. Crime Commission Report.

For a statement of the role of defense counsel at sentencing see American Bar Association Project on Minimum Standards for Criminal Justice (hereinafter cited as ABA Standards): Sentencing Alternatives and Procedures § 5.3 (Tentative Draft 1967).

to the defendant and his counsel. ^{7/} All the attorneys were full-time personnel carrying demanding caseloads, and it was concluded that if this important assistance was to be properly and beneficially rendered it would have to be done by specialized supplemental staff. ^{8/}

In applying shortly thereafter for a grant from the National Defender Project of the National Legal Aid and Defender Association, request was made to include two social service oriented staff persons among the additional attorneys, investigators, and clerical personnel sought for expansion of the Legal Aid Agency's total program. A \$200,000 grant was received and from October 18, 1964, to March 31, 1966, two social service workers gathered social background information and developed rehabilitation plans for use by attorneys in selected cases. Used primarily at sentencing in the United States District Court for the District of Columbia, which has jurisdiction over all felonies prosecuted in the District, ^{9/} the attorneys generally found

^{7/} F. R. Crim. P. 32 (c) (2), applicable in the U.S. District Court for the District of Columbia, makes disclosure of the contents of the presentence report discretionary with the court. The ABA Standards recommend that disclosure to the defendant's attorney be required. ABA Standards: Sentencing Alternatives and Procedures § 4.4 (Tentative Draft 1967). See also National Crime Commission Report 145.

^{8/} See ABA Standards: Providing Defense Services § 1.5 (Tentative Draft 1967) regarding the importance of adequate supporting services.

^{9/} See 11 D.C. Code § 521 (a) (2) (1967); cf. 11 D.C. Code § 963 (a).

these services helpful in several ways: attorneys could be a more effective part of the dispositional process, judges were receptive to sentencing alternatives and the somewhat new (to them) concept of community-based rehabilitative planning, defendants were greatly assisted toward more constructive functioning in the community by the individually tailored plans presented to the court in their behalf.

On April 1, 1966, the Institute of Criminal Law and Procedure made funds available to expand this first-of-its-kind social service staff to eight people -- a coordinator, a social worker supervisor, four social work assistants, and two secretaries. The results of this pilot project, lasting through March 1967, have been thoroughly reported;^{10/} some of the basic concepts of the Offender Rehabilitation Project evolved directly from this pilot experience. An understanding of its evolution provides important insight to the expanded Project funded by the Office of Economic Opportunity and to the directions this Evaluation has taken in consequence.

The pilot project under the Institute of Criminal Law and Procedure was primarily focused toward defendants in the U.S. District Court. Seventy-three percent of its clients were involved in cases in that court and only 18 percent were from the

^{10/} See Dash, Medalie, & Rhoden, Demonstrating Rehabilitative Planning as a Defense Strategy, 54 Cornell L. Rev. 408 (1969).

D.C. Court of General Sessions. ^{11/} The essence of the program, as with the initial social service assistants provided under the National Defender Project grant, was on providing defendant studies and rehabilitative plans which defense attorneys could use at the time of sentencing. That this was in fact the primary thrust is confirmed by the finding that at the time of initial referral to the pilot project, two-thirds of the defendants had already ^{12/} pleaded guilty to at least some of the original charges. The report on the pilot project, however, describes an important broadening of concern based on this experience:

"As time went on, it became increasingly clear to the [Pilot] Project staff members that they should be brought into the case as early as possible after the defendant was assigned counsel. Early referral was seen as necessary to do the kind of thorough background study that was required and to get the defendant, if he was on bail, into a job situation, a training program or a form of therapy, if indicated, prior to trial and case disposition. This early attention to the defendant's needs was important not only for the ultimate disposition of the case, but was essential in order to help alleviate the impact and crisis confronting the defendant and his family as a result of the arrest and often as a result of the removal of the head of the household from the home.

As the [Pilot] Project developed it became clear that early referral of a defendant . . . had a separate value and purpose. It permitted the development of background material on the defendant and a plan for rehabilitation that could be relevant for discussion between the defense

^{11/} Id. (in original manuscript). The Court of General Sessions has trial jurisdiction over misdemeanors in the District of Columbia. 11 D.C. Code § 963 (a) (1967). Its judges also serve as committing magistrates for persons arrested on felony charges. 11 D.C. Code § 963 (c) (1967).

^{12/} Dash et al., op. cit. supra n. 10 at 411.

lawyer and the prosecutor even before trial. The concept of early diversion developed out of this recognition Under this concept, the same information that was being made available to the judge for sentencing purposes could be made available to the prosecuting attorney to guide him in exercising his discretion to divert the case out of the criminal system for a solution through other community resources."13/

The concept of early diversion, endorsed by the National Crime Commission, 14/ became a fundamental part of the expanded Project evaluated in this report. Moreover, an appreciation of the fact that the less serious criminal cases prosecuted in the Court of General Sessions were far more susceptible to such diversion also led to plans for the expanded Project to begin operations in that court, as had not been possible with the comparatively small staff of the pilot project. Indeed, it was recognized that defendants in the District of Columbia suffered from an anomalous situation: accused misdemeanants, who had not yet "graduated" to the status of accused felons in the U.S. District Court, had fewer services available -- especially from the Probation Department -- than U.S. District Court defendants, yet could most benefit from social services to interrupt the all-too-usual progression from lesser crimes to 15/ the more serious.

Lack of early referral of defendants to the pilot project led to other problems as well. Defense attorneys frequently deferred

13/ Id. at 414.

14/ National Crime Commission Report 151.

15/ D.C. Crime Commission Report 393, 396, -16.

making use of the program until they had determined for themselves a dispositional strategy in a particular case. Once the defendant had been referred, often after a guilty plea, it frequently left too little time for competent rehabilitative planning, much less an adequate opportunity to judge the appropriateness of the plan and the defendant's willingness and ability to follow it. In fact, a defendant's situation often deteriorated in the interim between arrest and referral because an already precarious social situation was aggravated by the pendency of a criminal charge. In many instances, too, the pilot project's experience was that the defense attorneys emphasized the need only for specific services, particularly employment, since they believed that was the most important factor in judges' dispositional decisions. The lawyers, consequently, were frequently making their own diagnoses of social service needs and doing so, quite naturally, from their own perspective concerned with immediate disposition rather than long-range rehabilitation. The net result was that the pilot project prepared only 88 defendant studies from among its 226 clients, 39 percent. Attorneys tended to request studies only in those cases where they thought a disposition could most likely be affected.^{16/}

These problems, too, the expanded Offender Rehabilitation Project set out to correct. Under the Office of Economic Opportunity grant, the enlarged staff would permit automatic referral, as soon

^{16/} Dash et al., op. cit. supra n. 10 at 410, 416.

counsel was assigned, of practically all indigent cases for the full range of Project services as needs were determined by the Project staff. The Project was to be unique for its lack of restrictions on intake. Limited only by its primary obligation to the indigent clients of the Legal Aid Agency for the District of Columbia, it would service defendants ranging from those charged with murder to a traffic violation, those with the proverbial criminal record "as long as your arm" to the first offender charged with a misdemeanor -- a truly ambitious undertaking, as should be borne in mind in reading this report. A correlative aim of the Project, arising from the experience of the pilot effort, was to expend greater effort to sensitize defense attorneys, as well as others within the criminal justice system, to a greater awareness of the needs for and benefits of social services for all defendants.

Two additional departures were planned for the expanded Offender Rehabilitation Project. In addition to continuing its use of non-professional social work personnel, a manpower utilization endorsed by the National Crime Commission,^{17/} the Project planned to utilize indigenous ex-offenders as "rehabilitative aides," later called "follow-up counsellors." This seemed appropriate both because the Project was to be funded by the "Poverty Program" and because, again, of the endorsement by the National Crime Commission:

"People who have themselves experienced problems and come from backgrounds like those of offenders often can help

^{17/} National Crime Commission Report 167-68.

them in ways professional caseworkers cannot. Contact with a person who has overcome handicaps and is living successfully in the community could mean a great deal more to an offender than conventional advice and guidance."18/

These follow-up counsellors were to operate as a "follow-up unit" within the Project to prevent, by providing extended service, breakdown in rehabilitation plans and to assist defendants with other significant problems which might occur while released on bail or probation.

The Project planned also to utilize a part-time psychiatrist and a part-time psychologist to help identify mentally disordered or deficient offenders as early in the criminal process as possible and to recommend community-based therapeutic treatment programs if possible. These staff members were not themselves to give treatment, but were to provide psychiatric and psychological evaluation reports and testing for the assistance of Project personnel. Nor were they to assist defense attorneys in presenting insanity issues in court, though they would help to identify defendants with possible problems in that area so that the attorneys could pursue the usual channels for mental examination of indigent defendants.19/

In summary, the Offender Rehabilitation Project had a definite evolutionary basis for the direction and form proposed for it

18/ Id. at 168.

19/ 24 D.C. Code § 301 (1967).

as an expanded two-year experimental project. It would continue to provide a valuable presentence service to the criminal defense. But in order to better perform that function, and in order to provide a new and additional component of involvement in the pretrial stages of the criminal process, it was to be brought into every new case as soon as counsel was assigned on an automatic basis not dependent upon selective referral by the lawyer. Further, it was to begin operating in misdemeanor cases in the Court of General Sessions, it was to utilize indigenous ex-offenders in a social work role, and it was geared to attempt to influence the criminal justice system toward a greater sensitivity to offender rehabilitation issues, including influence upon the community and governmental resources with potential for providing vitally needed social services to the criminal offender.

B. Underlying Features of the Evaluation

There are features about the Evaluation Program and its relationship to the Offender Rehabilitation Project which should be kept continually in mind in interpreting the evaluation results which follow.

First, the organization and staff of the Project and the Evaluation Program were separate and distinct entities. Each had virtual autonomy and each did its own job to the best of its ability affected at most by peripheral matters of cooperation with the other. When cooperation was required, from the Evaluation Program's

Excerpt from "An Evaluation of the Offender
Rehabilitation Project of the Legal Aid Agency
SUMMARY OF FINDINGS AND CONCLUSIONS for the District of
Columbia"

One June 1, 1967, a demonstration program known as the Offender Rehabilitation Project was funded by the Office of Economic Opportunity Legal Services Program. The purposes of the Project were to provide defense attorneys with social background information on indigent defendants for use in the criminal process; to work with those defendants to develop rehabilitation plans based on community social and rehabilitative services; and to embody the social information and planning in reports for the attorneys' use in facilitating, where appropriate, negotiated dispositions before trial or community based sentences for convicted defendants. The Project utilized college educated non-professionals and indigenous and ex-offender personnel supervised by professional social workers.

Since the Offender Rehabilitation Project was the first systematic effort in the nation to help public defender attorneys develop rehabilitative programming for their indigent clients, the Office of Law Enforcement Assistance, U.S. Department of Justice, concurrently funded a thoroughgoing evaluation of the Project. The aim was to discover as much as possible, within the time available for evaluation, about the Project's impact upon the defendants it attempted to service and upon the system of criminal justice. The Office of Economic Opportunity included funds in its grant for the Evaluation Program's research assistant personnel.

The evaluation was conducted on three levels: (1) the effect of the Project on defendants; (2) the impact of the Project on the criminal justice system; and (3) the internal functioning of the Offender Rehabilitation Project. Randomized experimental and control groups of defendants were set up so that the experimental group defendants had the services of the Offender Rehabilitation Project while the control group did not.

To provide perspective for the Evaluation, the Office of Law Enforcement Assistance requested the evaluators to conduct a nationwide survey to determine the existence and extent of social services provided by defender agencies throughout the nation. Among 133 defender agencies responding, 41 percent had one or more means of providing social services to their offender clients. Only two agencies were found to have their own formal programs providing social services to offenders, one of which was the Offender Rehabilitation Project. Nineteen agencies had formal or informal arrangements with outside resources in the community; in 44 agencies the attorneys made referrals; and in 23 agencies the attorneys themselves provided services to defendants. A mere 2.1 percent of the clients of all these agencies, however, were beneficiaries of the social services provided.

Part 1

As expected, the Offender Rehabilitation Project's clients were predominantly male, black, relatively young, often single, of relatively low educational attainment, unskilled, erratically employed, recidivists, and having generally marginal income. The experimental and control

groups of defendants were closely similar to each other and to all other project clients; if anything, the experimental group was slightly more handicapped, being charged with a higher proportion of crimes against the person, having more previous juvenile arrests, and earning less income.

In the reports the Project wrote on its clients and transmitted to the defense attorney for his use, the Project made recommendations for probation or suspended sentence in 69 percent of them. The project's sentencing recommendations were followed by the U.S. District Court (where felonies are prosecuted in the District of Columbia) 53 percent of the time. Its recommendations were followed 59 percent of the time in the Court of General Sessions (where misdemeanors are prosecuted, some of which are reduced felony charges). In the 342 full defendant reports examined, the Project suggested some 604 elements of rehabilitation plans for its clients. In addition, 59 separate community resources were mentioned 229 times in a total of 405 reports abstracted by the Evaluation.

The Project appeared to have, through direct and indirect means, a significant effect upon dispositions of criminal cases. In the Court of General Sessions only 52 percent of the experimental group defendants were convicted and 54 percent of these were sentenced to probation or given a suspended sentence. In the control group, on the other hand, 63 percent were convicted and of those, only 35 percent were sentenced to probation or given a suspended sentence. All other Project clients in the Court of General Sessions had a conviction rate of 57 percent and of those, 56 percent were sentenced to probation or given a suspended sentence.

In the U.S. District Court 58 percent of the experimental group defendants were convicted compared to 88 percent of the control group defendants. All other Project clients were convicted at a rate of 78 percent. The effect of the Project on sentences in that court was less clear, though the incarceration rate was 42 percent of the total experimental group and 65 percent of the control group. Legal Aid Agency attorneys achieved a conviction rate 16 percentage points lower than private practitioners using the Project in the Court of General Sessions and 9 percentage points lower in the U.S. District Court.

A cost analysis comparison between the experimental and control groups shows a conservatively calculated correctional cost saving to the community of almost \$540 per client over and above the cost of operating the Project itself. At the rate the Project serviced clients, this saving comes to approximately \$360,000 per year. Not included are indirect savings from the fact that more Project defendants are in the community as taxpayers rather than in prison and unable to support their families. The average correctional time to which experimental group defendants were sentenced was 37 months compared to 48 months for the control group.

Recidivism was measured by rearrests of Project clients within the District of Columbia whether convicted or not convicted on the charge pending at the time of Project referral and without reference

to the length of time they had been in the community since referral. Twenty-two percent of the Court of General Sessions defendants recidivated as did 15 percent of the U.S. District Court defendants. A greater proportion of Court of General Sessions defendants were free in the community with opportunities to recidivate. In the Court of General Sessions 28 percent of the experimental group defendants recidivated compared to 44 percent of the control group defendants. In the U.S. District Court 15 percent of the experimental group defendants recidivated compared to 18 percent of the control group defendants. These differences are even more significant in light of the fact that more experimental group defendants were free in the community with opportunities to recidivate.

Part 2

Judges interviewed by the Evaluation could be analyzed in three groups in terms of their attitudes toward sentencing -- those who gave primary consideration to the defendant and his rehabilitative potential when considering an appropriate sentence, those who primarily considered protection of the public, and those who fell somewhere between the first two groups. The first group of judges was very enthusiastic about the Offender Rehabilitation Project and had had substantial contact with it through receipt of many of its defendant reports. The second and third groups of judges had had very little experience with the Project and were less enthusiastic about it. But since these judges were by no means negative toward the Project, the evaluation concludes that defense attorneys were unduly cautious in their "judge-shopping" and use or non-use of Project defendant reports at sentencing.

The Project has a very favorable image within the defense bar and enjoys a full and thorough appreciation of its use to the attorney at sentencing. Its role in pretrial negotiations is less well understood and less utilized. Public defender attorneys seem to have a broader appreciation of the Project's usefulness as well as a broader understanding of the defense role. Defense attorneys who had not utilized the Project showed much less comprehensive views of the attorney's role at sentencing and after. The strongest criticism of the Project by defense attorneys was that its services were not rendered quickly enough. This criticism was tempered, in a pretrial negotiations pilot study conducted by the Evaluation, by a finding that attorneys moved their cases too quickly for the Project to act in many instances.

Prosecutors did not exhibit a thorough understanding of the Offender Rehabilitation Project. One-third of them had received information in pretrial negotiations that they knew to have come from the Project. Few prosecutors were willing or able to rate the Project on any specific issue, but when informed more fully about the Project's operations all felt that it could provide valuable services and information to them. The nature and seriousness of the offense and the defendant's prior record were the most important factors cited by prosecutors in determining whether to prosecute or in negotiating a guilty plea.

The Court of General Sessions probation officers interviewed were younger and more heterogeneous than the better educated, more experienced U.S. District Court officers. While the latter were considerably more negative toward the Project, the general attitude among all probation officers was one of cooperation with the Project even though there may not have been general sympathy with its aims, of crediting its innovative character, and of favorable recognition of its emphasis on rehabilitative planning and the use of community resources. Primary negative attitudes expressed were criticism of the Project's defendant reports and the overlap of effort to produce them, a feeling that the skills and abilities of Project personnel were inferior to those of probation officers, and the view that probation officers had a greater fund of information about defendants. The Evaluation concludes that the Project seemed to have broken down some communication barriers with probation officers and to have done so in an atmosphere of benign rivalry with them.

The Project was in contact with at least 137 community agencies and organizations in the Washington metropolitan area plus many private employers. A few agencies were used very heavily. There was some evidence of a tendency by the Project to become a service agency rather than a referral agency for its clients. The Project's major failing in the community resource area was its inability to develop and consistently execute a program for coordinated mobilization and use of community resources.

An instrument known as the "Decision Game" was used with probation officers, prosecutors, and Project workers to compare sentencing or dispositional recommendations, information utilized in making those decisions, and the effect of rehabilitative planning. Results showed the tendency toward somewhat more community oriented decisions by Project workers and the poor emphasis on rehabilitative planning by District Court probation officers in comparison to other players (except prosecutors). A significant effect of rehabilitation plans, comparable to those prepared by the Project, was also shown, especially upon prosecutors in a pretrial negotiation context. Information most often used in decisions made were the defendant's offense, his prior criminal record, his employment and his own statement about the offense.

Part 3

As originally organized, the Project designated two types of staff workers. Program developers were to work with and develop rapport with clients, develop community resources to serve them, and devise rehabilitation plans for them. Follow-up counsellors were cast in a supportive role to check on the suitability of rehabilitation plans and to help put them into effect. Program developers were college educated and most were white females. Follow-up counsellors were not highly educated, were black males, products of the ghetto, and the majority were ex-offenders. The Evaluation observed some degree of acculturation toward a middle class life style by the follow-up counsellors during the life of the Project. They seemed to be more self-confident than program developers and began to assume some of the duties originally

assigned to program developers. This caused some confusion and tension within the Project which was augmented by a salary differential between the two types of personnel.

The Evaluation found evidence of various communication difficulties within the Project, some of which related to misunderstandings about in-house training, staff and unit meetings, and a rising level of black militancy. Difficulties arose over inefficient deployment of psychological staff and employment counsellors. There were occasional problems of hurried and insensitive demands placed upon the Project by defense attorneys.

The Evaluation found that approximately 50 percent of all Project time accounted for during a ten-week test period was spent in travel or waiting. The Evaluation attributed much of this inefficiency to poor location of the Project's central office, a problem which has since been rectified. Analysis of non-travel or waiting time highlighted the planning functions of the Program developers and the community oriented, implementation functions of the follow-up counsellors. The data suggest that there was much less overlap in roles than was perceived or imagined by Project staff.

Conclusions

The Evaluation concludes that the legal dispositions achieved through utilization of the Project, while obviously good from the defendant's point of view, are acceptable from society's point of view only if the fundamental premise of the Offender Rehabilitation Project is accepted: that community oriented rehabilitation is more effective in reducing criminality and preventing recidivism than is correction through incarceration. The Evaluation accepts this premise as valid and feels its preliminary recidivism data tend to justify it. It therefore concludes that the Project succeeded, to a degree justified by its cost, in its goal of wrenching the legal system farther away from an orientation which tends toward incarceration because of failure to offer something better. The Evaluation further concludes that the Project is unique in that it was able to help all defendants to some degree. It concludes that Offender Rehabilitation Project type services are more widely effective and desirable within a defense context at the present time. Disadvantages of adversary status and duplication of effort are outweighed by the need for adequate defense services, confidentiality, and a counter to secret probation office presentence reports.

The Evaluation concludes that the Project is better utilized by organized public defender attorneys. The Project's use in pretrial negotiations ought to be optimized, perhaps through the greater use of short form reports or automatic screening of Project defendants. Informal communication and cooperation with probation offices ought to be expanded and opportunities for joint in-service training ventures and staff programs explored. There should be full-time responsibility in one or more Project staff persons in the aggressive and dedicated

pursuit of community resource development. Further, there should be greater flexibility in recognizing latent talent among Project workers without arbitrary distinction based upon formal education. The Project's services ought to be expanded into Juvenile Court proceedings. Replications of the Offender Rehabilitation Project would more likely be benefitted by ongoing in-house evaluations.

February 13, 1969

House Judiciary Committee
Alaska State Legislature

Attention: Mr. Barry Jackson, Chairman

This follows a narrative rundown of the activities, problems and future plans of the Division of Corrections in the Department of Health and Welfare, as requested in your letter of February 5, 1969.

To briefly introduce myself and touch lightly on personal qualifications, please be advised that I entered the Federal Bureau of Prisons System at Alcatraz in December of 1936. I retired from that service December 30, 1966. During 1967 I served as a consultant in penal management and operations to the Federal Bureau of Prisons and the American Correctional Association. As a consultant I did studies for the States of Maryland and Alaska and a survey of all the county jails on the Pacific Coast between Everett, Washington and San Jose, California. As a followup to the Alaska study, in March of 1967 at the request of the then Deputy Commissioner, Health and Welfare, Richard B. Lauber, on December 16, 1967 I came to Alaska as Director of the then Youth and Adult Authority, now the Division of Corrections.

Comments are based on varied experience and training and fourteen months as Director. I join other penal practitioners and share in the extreme difficulty of developing and understanding and explaining to the lay individual the purpose of modern day corrections. Unless the problem touches the lives of the individual, the concept of punishment transcends and literally eliminates all thoughts of corrections, or what is broadly referred to as rehabilitation of the individual. Thus the problem of correctional enlightenment in all its ramifications seems insurmountable, and our attempts to enlist the support and cooperation of government, labor, business, management, industry and the community at large is a discouraging and futile action. Yet crime and delinquency is increasing at an alarming rate and reaching deeper and deeper into our youth, tomorrow's society. In short, it is a matter of one's point of view.

For many months I have felt the urgency of statistical support for our programs, and a means of conveying to the uninitiated the growth and seriousness of crime in Alaska. I am reliably informed that soon the Department of Health and Welfare will become a member in the electric data processing system which

will provide the Division of Corrections with the information essential to annual and semi-annual reports and support for our correctional program effort.

I believe that Alaska at this point is at the crossroads and can look back with considerable satisfaction to the accomplishments in updating the institutions since becoming a state. The future, however, is limited by the desire for continuing progressive action. The vision and concern of legislators attending early sessions brought into existence the new Regional Institutions in Fairbanks, the McLaughlin Youth Center in Anchorage, and this year the Regional in Juneau. During the past year we have changed the name from Youth and Adult Authority to the Division of Corrections. Programs implemented the past year are, in part, the Citizens Action Committee at Fairbanks, which works closely with the community at large in the area of foster home placement, post-release employment, and public education. From the existing staff at Fairbanks we have developed a teacher working with the juvenile and the adult groups. A number of cases are on work furlough; others care for the lawns and gardens of the Pioneers Home, which is adjacent to the Fairbanks Institution.

In Anchorage we have a class of adults working toward a certificate in GED. There are group counselling sessions with trained employee group leaders. We have the largest number at Anchorage on work furlough.

In Juneau we have a full-time and approved vocational training class in food service, also individual counselling sessions.

At the Adult Conservation Camp, Palmer, fire fighting crews are trained and moved to various points throughout the State to combat fires. The only full-time instructor is at Palmer, teaching adult basic education. There are group and individual counselling sessions.

At the youth institutions we have active educational programs-- at McLaughlin Youth Center, with instructors supplied by the Anchorage Borough School District, and at the Youth Conservation Camp, Wasilla, with teachers from the Mat-Su Borough School District. Several youngsters are leaving the McLaughlin Youth Center and attending community schools. At the Alcantra Youth Conservation Camp, Wasilla, educational classes are conducted by the Mat-Su Borough School District with emphasis, due largely to educationally retarded students, on the program learning instead of the formal classroom setting.

Many of the offenders sent to outside "contract" institutions, largely because of length of sentence, or that our facilities are not adequate for their needs, are engaged in advanced programs of education, vocational training, and social adjustment activities. At a given point they are reclassified for

return to the Alaska institutions. Contracts for the adult and the deeply troubled youth are with the Federal Bureau of Prisons; with California and Utah Youth Authorities for the less troubled youth, and to the Good Shepherd Homes of Spokane, Denver and Seattle for the pre-delinquent boy and girl.

Our efforts at education, pre-vocation and vocational training, and social adjustment, are broad and demanding. Recognizing this I have worked closely with Commissioner Hartman, Department of Education, in hopes of enlisting help for our specialized needs. At the adult level, four to five and occasionally six years exist in educational achievement between the same age group in the community. Further, larger numbers are without a salable skill; consequently the revolving jail door for those unprepared to cope with the demands of a competitive society. At the juvenile level are youngsters who fail in school, who are unable or unwilling to conform, consequently become involved in runaway, truancy, and reveal pre-delinquent tendencies. As a result of my conversations with Dr. Hartman and members of his staff, the Department of Education included in their fiscal year 1970 budget an employee qualified to serve the needs of the Division of Corrections. I am reliably informed this position was removed during early budget considerations.

Some of the problems presently confronted by the Division of Corrections:

1. Full-time employee in the Department of Education to serve as a liaison in the specialized field of correctional education, pre-vocational and vocational training.
2. Enlarge upon the furlough program to include not only the privilege of work, but also study and home visits where indicated. This places greater responsibility on the institution classification committee that only those eligible are accorded this privilege.
3. Under the judicial banner:
 - (a) Furlough is the responsibility of the institution and not the courts. However, their recommendation is well received and encouraged.
 - (b) We are having problems with the amended sentence. We perform extensive preliminary work only to discover the original sentence has been amended to "time served."
 - (c) Sentences that require the individual serve sentence in the jail weekends and evenings only. The responsibility for booking and release, the control of contraband, inventory of clothing

Money

*Bill
A.G.
Manning
Tom?*

*Handle
on recommendation*

X

and personal property, is vital to the security and is working a hardship on the institutions.

4. Employee training to effectively cope with the increasing number and different type individual, juvenile and adult, committed to our institutions. During recent months there is noticeable increase in the numbers of the criminally sophisticated, prison-wise offenders entering our system. The attraction of the economic development and availability of work is bringing this element in with legitimate interests.
5. Division of Corrections should be permitted the flexibility of placing the aggressive and mature 17, 18 and 19 year old juvenile offender in an institution best suited to the interests of the community and the individual. Example--the Adult Conservation Camp at Palmer or even placement in a correctional institution. Many of today's older youth are hardened beyond their years; consequently disrupt the atmosphere of the juvenile institution and the cost of "outside" commitment is high.
6. Long-range study of the physical needs of the Division of Corrections:
 - (a) Replacement of the Anchorage State Jail
(We can be used as a jail)
 - (b) Completion of McLaughlin Youth Center
IM or so
 - (c) Rebuilding the Youth Conservation Center at Wasilla
 - (d) Removing the children from the jail settings of Fairbanks and Juneau.
Need detention home
7. Adequate staffing in the institutions and the field units. Strengthen the Central Office personnel complement. There is critical need for more space in the Central Office.
8. Community involvement--citizen participation.
9. Labor-Management sharing in our treatment efforts.
10. State use industries. Productive and contributing to the economy of the state at large, yet providing a salable skill and a better educated individual upon release. In this latter connection, agreement has been made with the Department of Natural Resources, Division of Lands, to preserve and maintain historical monuments throughout the State. For example, Chilkoot

~~Training~~
Training 7/10/68
not provided

~~bill~~
before A.G.
for institution
(Need a bill?)

11/6-18 day
at Eaglewood
about same as
here

☆ wiped out
on up wing
but for this year



Stop
Cottage
by

☆ More money

☆ Board of
Correction?

Trail, wayside parks, and picnic areas, thereby making them inviting to resident and tourist alike.

Engage in experimental programs of tree culture, creating a nursery at the Youth Camp, and otherwise engage in statewide reforestation projects. Also, remain in constant state of readiness for fire-fighting.

Will have been introduced? or in AG office

- 11. Uniforms to implant pride and dignity to correctional work--distinguish employee from inmate.
- 12. Salary imbalance as compared to like work. *need to make salary - as working w/ Dept of Admin*
- 13. In many cases "concurrent" sentence meaningless.
- 14. Remove impediments and eliminate delays to speedy justice.

"Justice delayed is justice denied!"

*↓
V.L.*

*calendar crowding
pre sent. report delay - 3 weeks
appeal*

*Demand on p.s. report
so great
can't give prob. supervision*

21 par. per.

*115 carload
compared w
50 standard
75 (could do if*

Misc. 3 2
Budget Review

JUNEAU BAR ASSOCIATION RESOLUTION

RELATING TO THE DEDICATION OF A PORTION OF
DIVISION OF CORRECTION'S INSTITUTION
BUDGET TO THE REHABILITATION OF THE
ALCOHOLIC CRIMINAL OFFENDER.

BE IT RESOLVED BY THE JUNEAU BAR ASSOCIATION:

WHEREAS the overwhelming majority of prisoners institutionalized by the State of Alaska at anytime, are Alcoholics or problem drinkers; and

WHEREAS most of these prisoners are recidivist as a direct or indirect result of alcohol consumption; and

WHEREAS it costs the tax payer approximately \$18.00 per day or \$6,500.00 per year to incarcerate these individuals in present facilities; and

WHEREAS the present facilities are security institutions and cost approximately \$20,000.00 per bed to construct; and

WHEREAS the present facilities are not equipped to rehabilitate the alcoholic and have no programs specifically calculated to rehabilitate the alcoholic; and

WHEREAS there is no need for costly security jails and a disproportionate number of guards to detain the alcoholic; and

WHEREAS to continue the present system will only continue the problem and perpetuate a wasteful and ineffective method which has totally failed;

BE IT RESOLVED both legislative and administrative action be taken which will result in the dedication of a portion of Division of Corrections Institutional budget to institutions and programs specifically calculated to rehabilitate the incarcerated Alcoholic Criminal Offender; and be it

FURTHER RESOLVED the Alaska Bar Association is respectfully requested to join the Juneau Bar Association in supporting and implementing this objective by it's inclusion in it's legislative program; and be it

FURTHER RESOLVED that a copy of this resolution be sent to the Honorable Lester W. Miller, Jr., President of the Alaska Bar Association and to Stanley Howitt, Executive Director and Bar Counsel and to each member of the Alaska Bar Association Board of Governors, and to Glen Wilcox, Director of Alcoholism, Department of Health and Welfare, and to the Health, Welfare and Education Committee, Judiciary Committee and Finance Committee of each house of the Alaska Legislature, the Honorable Keith H. Miller, Governor, and the Honorable J. Scott McDonald, Commissioner of the Department of Health and Welfare.

FG-95

| | | | |
|--|----------------------|--|----------------|
| STATE OF ALASKA DEPARTMENT OF FISH AND GAME STANDARD OPERATING PROCEDURE | | EDP NO 3201-08 | PAGE 1 OF 3 |
| | | EFFECTIVE DATE June 1, 1969 | |
| SUBJECT PERSONNEL, CONFLICTS OF INTEREST | | DEPENDENCY EOP NO | EDP NO |
| | | APPROVED BY <i>Virginia Keefe</i> | |
| DIVISION Administration | SECTION Personnel | CHAPTER TITLE Policy and Procedures | |

Purpose:

To establish guidelines for personnel participating in activities which may conflict with the interest of the State or Department.

Distribution:

All manual holders.

Definition:

A conflict of interest occurs when a Departmental employee participates in an activity which results in one or more of the following:

- (a) Employment which reflects adversely the good will, reputation or public faith in the Department or State.
- (b) Uses for personal gain information not available to the general public.
- (c) Results in personal gain from participating in commercial fishing, guiding, trapping or other profit ventures under departmental control.
- (d) Participation as a member of Fish and Game Advisory Committees or as an officer of a conservation group or societies or sportsmans group.
- (e) In violation of Rule 13 of the Personnel Rules of the State of Alaska.

POLICY:

Outside Employment:

Approval must be obtained from the Commissioner prior to acceptance of any outside employment.

FG-95

| | | | |
|--|----------------------|--|----------------|
| STATE OF ALASKA DEPARTMENT OF FISH AND GAME STANDARD OPERATING PROCEDURE | | SOP # 3201-08 | PAGE 2 OF 3 |
| | | EFFECTIVE DATE June 1, 1969 | |
| SUBJECT PERSONNEL, CONFLICTS OF INTEREST | | SUPERSEDES S.O.P. # | DATED |
| | | APPROVED BY <i>Angie Reef</i> | |
| DIVISION Administration | SECTION Personnel | CHAPTER TITLE Policy and Procedures | |

Use of Information:

Departmental employees are encouraged to prepare general or technical articles or papers on Department work on official time. However, information not generally available to the public should not be used in articles being sold. Clearance shall be obtained from the Commissioner before articles or photographs, based on departmental activities, are submitted for publication.

Commercial Fishing, Guiding, Trapping:

These commercial activities are under the control of the Department, and employees shall refrain from engaging therein. Our efforts are directed to conserving resources for the public use, and employees who guide, fish or trap for profit jeopardize their responsibility both to the resource and the State. Approval is required by the Commissioner for any special situations under which the employee may engage in these activities.

Advisory Committees, Sportsmans Clubs, Conservation Societies (Sierra Club, Wilderness Society, Alaska Conservation Society, Audubon Society, etc.):

Departmental employees are encouraged to assist Advisory Committees and serve as technical consultants - but cannot be voting members.

Departmental employees are encouraged to participate in sportsmans clubs and conservation societies. They may serve as technical assistants or non-voting secretaries to the governing body, but are not permitted to serve as officers or voting members of the governing body. Employees who are appointed or elected as officers, without their knowledge, shall request relief from the President or Chairman of the governing body.

In matters pertaining to the fish and game policies or programs of the Department or State Administration, the employee

FG-95

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|--|----------------------|---|----------------|
| STATE OF ALASKA DEPARTMENT OF FISH AND GAME STANDARD OPERATING PROCEDURE | | SOP NO 3201-08 | PAGE 3 OF 3 |
| | | EFFECTIVE DATE June 1, 1969 | |
| SUBJECT PERSONNEL, CONFLICTS OF INTEREST | | SUPERSEDES SOP NO | DATED |
| | | APPROVED BY <i>Uigie Reef</i> | |
| DIVISION Administration | SECTION Personnel | CHAPTER TITLE Policy and Procedures. | |

is obligated to defend those policies or, if he is not in accord with such policies, refrain from any comment on the matter.

Professional Societies (American Fisheries Society, The Wildlife Society):

Departmental employees are encouraged to participate and serve as members and officers of professional societies and organizations; however, when these groups become involved in fish and game matters contrary to the policies and programs of the Department or State Administration, the employee is obligated to defend those policies or, if he is not in accord with such policies, refrain from any comment on the matter.

*Licensing
of Architects
and Engineers*

*This material
is on a separate
subject
~~Notes 7/18/75~~*

March 24, 1970

Mr. William J. Moran
Attorney at Law
P. O. Box 1891
Anchorage, Alaska 99501

Re: Revision of AS 08 48.260

Dear Bill:

I do agree that this section should be amended, but I think it is too late now to introduce a bill and get it through this session.

Hopefully, it can be included in the Revisor's Bill next year or in a general revision of AS Chapter 48.

Sincerely,

Barry W. Jackson
Chairman
House Judiciary
Committee

BWJ/mm

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

~~HB-75F~~
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

March 20, 1970

M E M O R A N D U M

TO: Barry W. Jackson, Chairman
House Judiciary Committee

FROM: Arthur H. Peterson *Act*
Revisor of Statutes

SUBJECT: Bill Moran's March 13 letter regarding AS 08.48.260
(licensing of architects and engineers)

As Mr. Moran pointed out, the revisor's note (written by my predecessor) under AS 08.48.260 states: "Subsection (b) is incomplete and conflicts with paragraph (1). Legislative action will be needed to correct this conflict." That section, in more-or-less its present form, was derived from sec. 5, ch. 111 SLA 1949, the relevant part of which stated:

(5) (Holders of certificates from other state or country.)
The board shall from time to time examine the requirements for the registration of professional engineers and professional architects in other states, territories and countries and shall record those in which, in the judgment of the board, standards not lower than those provided by this Act are maintained. The secretary of the board, upon the presentation to him by any person of satisfactory evidence that such person holds a certificate of registration issued to such person by proper authority in any state, territory or country so recorded, may, upon approval by an examining quorum of the board hereunder:

(a) Reciprocity Registration: Issue a certificate of registration as provided hereunder, upon submission by the applicant of satisfactory proof of his fulfilling the residence requirements for examination, of this Act and upon payment by him of a transfer fee of Twenty (\$20.00) Dollars and such annual license fees as are prescribed herein.

(b) Non-resident Permit: Issue a non-resident permit for a period of not to exceed one year, for a non-resident within the meaning and intent of this Act, upon presentation by the applicant of a detailed description of the work upon which such applicant will be engaged within Alaska

and upon receipt by the board of a non-resident Permit Fee of \$250.00. Such non-resident permit shall cover the work specifically described in the application therefor.

That was amended by sec. 2, ch. 84 SLA 1951 to delete the provision on non-resident permits and add the confusing language presently in AS 08.-48.260(b)(1), below. The conflict is as follows: the lead-in line in (b) gives (or used to give) the registration authority to the secretary of the board with the approval of an "examining quorum" (three out of the nine members [see AS 08.48.09C]), whereas (1) now gives the authority directly to the board without mentioning the type of quorum (under AS 08.48.090 a regular quorum is five members); in addition, (1) recognizes registration by certain national professional organizations. The 1951 amendment wasn't made to fit the lead-in line, which makes the material between the present "(b)" and "(1)" (the last part of the material between the "(5)" and the "(a)" in the 1949 version, above) look incomplete.

I haven't checked with the architects or engineers and I don't know how AS 08.48.260 has been interpreted, but, assuming that they would prefer the most recent and broadest language, and assuming that the quorum matter is not important, my suggested amendment is as follows:

* Section 1. AS 08.48.260(b) is amended to read:

(b) [THE SECRETARY OF THE BOARD, UPON THE PRESENTATION TO HIM OF SATISFACTORY EVIDENCE THAT A PERSON HOLDS A CERTIFICATE OF REGISTRATION ISSUED BY PROPER AUTHORITY IN ANY STATE, TERRITORY OR COUNTRY SO RECORDED, MAY, UPON APPROVAL BY AN EXAMINING QUORUM OF THE BOARD HEREUNDER:

(1)] The board may, upon application and payment of a fee of \$20, issue a certificate of registration as a professional engineer or professional architect to a person who holds a certificate of qualification or registration issued to him by proper authority of the National Council of State Boards of Engineering or Architectural Examiners, or of the National Bureau of Engineering or Architectural Registration, or of any state or territory or possession of the United States, or of any country. However the applicant shall meet the requirements of this chapter and the rules established by the board.

Presumably that last sentence refers to the character and education and experience requirements in AS 08.48.160. It should perhaps be noted that although AS 08.48.150 requires registration and licensure before practicing professional engineering or architecture, and several sections talk about an examination, there is nothing in AS 08.48 that requires a person to take an examination in order to become registered and licensed. Also, it is not clear what function AS 08.48.260(a) serves; it requires the board to make a list of states, etc., in which

Barry W. Jackson

-3-

March 20, 1970

the standards are not lower than those specified in AS 08.48, but when (b) refers to other states, etc., it doesn't mention standards; perhaps (a) should be deleted (repealed) too. As Felix Toner indicated at yesterday's House Judiciary Committee meeting (with regard to HB 626), some architects and engineers organization is planning a completely revised licensing chapter.

AP:ic

cc: William J. Moran, Esq.
Box 1891
Anchorage, Alaska 99501

WILLIAM J. MORAN
ATTORNEY AT LAW
P. O. BOX 1891
ANCHORAGE, ALASKA 99501

March 13, 1970

Hon. Barry W. Jackson
Chairman, Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99801

Re: Revision of AS 08.48.260

Dear Barry:

I had occasion to review the subject section of the article dealing with the registration of professional engineers and architects. The revisor's note reflects the observation that sub-section (b) thereof is incomplete and in conflict with paragraph (1) - an observation with which I heartily agree, but I have found no evidence that legislative action has been taken to correct the error. I should think it important that appropriate action be taken.

Sincerely,



William J. Moran

cc: Arthur H. Peterson, Dir.
Legislative Affairs Agency
Pouch V
Juneau, Alaska 99801

Judicial Council



Supreme Court

State of Alaska

941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

BUELL A. NESBETT, CHIEF JUSTICE
JOHN H. DIMOND, ASSOCIATE JUSTICE
JAY A. RABINOWITZ, ASSOCIATE JUSTICE
GEORGE F. BONEY, ASSOCIATE JUSTICE
ROGER G. CONNOR, ASSOCIATE JUSTICE

February 11, 1969

Hon. Barry W. Jackson
Chairman
House Judiciary Committee
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Dear Rep. Jackson:

Yours of February 6 requests that I or my representative meet with your committee in a general information meeting to deliver a formal oral presentation concerning the activities of the Judicial Council, court system problems and plans for the future.

I accept your kind invitation.

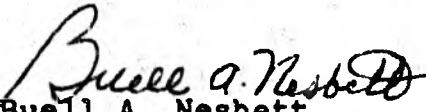
Senator Phillips has arranged for the annual meeting between all members of the Alaska Judicial Council and the legislators to be held at 4 p.m. February 20, 1969. In past years these meetings have included the President, Speaker, Majority and Minority leaders and the Chairmen of the Finance and Judiciary Committees of both houses plus any other interested legislators.

The Administrative Director and I will be in Juneau presenting our 1969-1970 budget to the finance committees on February 18. On February 19 there will be meetings of the sub-committees and of the full statewide committee of the Alaska Judicial Council on sentencing. (Notices were mailed to you as a member) At 9 a.m. on February 20 the Alaska Judicial Council meets in the library of the Supreme Court. Sometime between 11 a.m. and 4 p.m. on the 20th the Council will meet with the Governor, and, as mentioned, at 4 p.m. it will meet with the legislators.

Hon. Barry W. Jackson
February 11, 1969
Page 2

I will contact you after my arrival in Juneau to arrange
a time satisfactory to all concerned.

Sincerely yours,


Buell A. Nesbett
Chief Justice

cc: Senator Brad Phillips
Robert H. Reynolds
Justice Dimond



Alaska Judicial Council

941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

February 6, 1969

TO: All Members Alaska Judicial Council Statewide
Committee on Sentencing

A meeting of the Alaska Judicial Council State-
wide Committee on Sentencing will be held in Juneau in
the Superior Court courtroom, 5th floor, Capitol Building,
Juneau, Alaska, commencing at 3:00 p.m., February 19, 1969.

All members desiring transportation and/or hotel
reservations should immediately notify Mr. Robert H. Reynolds,
Administrative Director of Courts, 941 Fourth Avenue, Anchorage,
telephone 272-1587.

Please do your best to attend and bring with you
the background research material furnished you in the past.

Sincerely yours,

Buell A. Nesbett
Chairman, Alaska
Judicial Council



*Judicial
Qualifications
Submittal Original*

Supreme Court

State of Alaska
Pouch U
99801

JUNEAU, ALASKA

99801

SUELL A. NEBBETT, CHIEF JUSTICE
JOHN H. DIMOND, ASSOCIATE JUSTICE
JAY A. RABINOWITZ, ASSOCIATE JUSTICE

April 1, 1969

Hon. Barry W. Jackson, Chairman
House Judiciary Committee
State Capitol Building
Juneau, Alaska 99801

Dear Mr. Jackson:

Enclosed are copies of my letter to you of March 4, 1969 together with the proposed bill mentioned in that letter.

In my letter of March 4 I neglected to explain the reason for including section 22.30.145 which is on page 5 of the proposed bill. It would appear that under AS 44.62.330(b) the Administrative Procedure Act would not be applicable so far as adjudication is concerned. However, it may be that the provisions of the Administrative Procedure Act relating to filing and publication of regulations, procedure for adopting regulations, etc. may be applicable. I suggest that they should not be because the rules which will be adopted deal only with judges of the Alaska Court System and are not the kind of rules or regulations which have general application to persons throughout the state. What the commission plans to do once the rules have been adopted is to make copies available

Hon. Barry W. Jackson

April 1, 1969

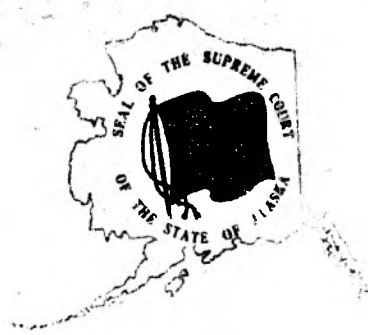
Page 2

to every judge and to every member of the Alaska Bar
Association and to all other persons who may be interested.

Sincerely yours,

John H. Dimond
John H. Dimond

Set up file



Supreme Court

State of Alaska
Pouch U
BOX 2501

JUNEAU, ALASKA
99801

BUELL A. NESBETT, CHIEF JUSTICE
JOHN H. DIMOND, ASSOCIATE JUSTICE
JAY A. RABINOWITZ, ASSOCIATE JUSTICE

March 4, 1969

Hon. Barry W. Jackson, Chairman
House Judiciary Committee
State Capitol Building
Juneau, Alaska 99801

Dear Mr. Jackson:

As you know, the last session of the Alaska legislature enacted SLA 1968, chapter 213, which established the Commission on Judicial Qualifications. At the same session House Joint Resolution No. 74 was approved. This resolution proposed amendments to the Alaska Constitution which would also establish the Commission on Judicial Qualifications. The membership provided for in the resolution differs somewhat from that established in chapter 213, in that the resolution provides for three superior court judges whereas the statute provides for only two, and the resolution provides for only one district court judge whereas the statute provides for two.

The amendments to the constitution proposed in the resolution were approved by the voters at the August 1968 primary election. It appeared logical to assume that the provisions of the constitution would govern the membership of the commission. Therefore, membership of the commission was selected according to the provisions set out in the resolution rather than those set out in the statute.

Hon. Barry W. Jackson
March 4, 1969
Page 2

The commission believes that the statute should be made to conform to the resolution. In order to accomplish this, among other things, the enclosed proposed bill has been prepared. I spoke to Mr. Kerttula, Speaker of the House, as to how to go about getting the bill introduced. He suggested that I refer the matter to you with the thought that perhaps the House Judiciary Committee would introduce and sponsor this legislation. I shall appreciate it if you can let me know whether or not your committee will introduce this legislation.

Here are some specific comments on the proposed bill:

1. Section 3 on page 2 would take care of a situation where a judge might be charged with a serious offense involving moral turpitude but will not have been tried and convicted. It seemed to the commission that such a charge, even before final determination by a court, might be such as to bring disrespect upon the judiciary and that in such a situation a suspension of the judge might well be in order.

2. Section 4 on page 2 is included to make certain that when a judge is removed by the supreme court he will not lose his retirement rights and benefits.

3. The new sections under Section 5, beginning on page 2, line 26, are provisions which the commission thought should be included in the law in order to confer upon the commission sufficient authority to perform its functions. These sections are taken from the California statute on judicial qualifications.

I shall be very happy to answer any questions that you may have regarding this proposed legislation.

Sincerely yours,

John H. Dimond
John H. Dimond

KALAMARIDES & McVEIGH

ATTORNEYS AT LAW

SUITE 204-209 CRAWFORD BUILDING

TELEPHONE 272-7431

507 E STREET

ANCHORAGE, ALASKA 99501

PETER J. KALAMARIDES
RICHARD L. McVEIGH

April 11, 1969

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
House of Representatives
Juneau, Alaska

Dear Barry:

In this morning's Anchorage Daily News, Friday, April 11, 1969, there appeared the original of the enclosed xerox copy of inquiry with respect to Hubert A. Gilbert.

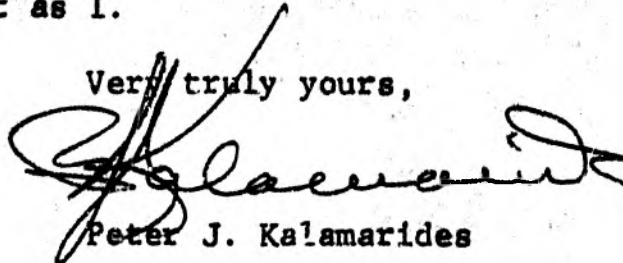
The 1968 legislature passed a statute authorizing the appointment of a Judicial Qualifications Committee to whom, it was anticipated, all inquiries would be directed regarding the qualifications of any judge in the state of Alaska.

I strenuously object to the methods utilized by the writer of this ad who is seeking information. Primarily, because it implies a failure of qualification and/or dereliction in performance of his judicial duties. Frankly, it smells of McCarthyism and is a type of character assassination which the members of the judiciary should not be exposed to. I can certainly see and anticipate that the nature of the replies to this ad would be hearsay and when the mass of hearsay from disgruntled litigants is presented to the Judicial Qualifications Committee and they seek affidavits in support of the so-called charges, and these affidavits could not be produced then, of course, both the Bar and the judiciary would be accused by the non-lawyers interested, of working hand in hand to deprive the non-lawyers of a proper hearing. Contrary to this, proper grievance methods, both as to attorneys and the judiciary, have been utilized in the past and I have been advised rules of procedure will soon be adopted by the Judicial Qualifications Committee.

The Honorable Barry Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Page Two

It is my opinion that the judiciary committees of both the senate and the house should take forceful action to avoid putting members of our judiciary before the public in a like manner as has been presented here. Proper methods of procedure are available without the necessity of impugning, even by implication, the character of any member of the judiciary. I trust you will see this in the same light as I.

Very truly yours,

A handwritten signature in cursive script, appearing to read "P. J. Kalamarides".

Peter J. Kalamarides

PJK:jo

Encl:

cc: Hon. T. B. Miller
Chmn., Senate Judiciary Committee

**Information is sought
on the professional performance of
Hubert A. Gilbert,
a State Superior Court Judge
who has served in Nome, Anchorage and Ketchikan.**

All inquiries confidential.

**Write: Blind Box 888
c/o Anchorage Daily News
Box 1660
Anchorage, Alaska 99501**

Fri, April 11, 1969, Anch. Daily News

Juvenile

Box 1309
Fairbanks
Alaska 99701
February 14, 1969

Fairbanks Legislative Delegation
Alaska State Legislature
Juneau, Alaska 99801

Sir:

For the past six months I have been handling a substantial percentage of the juvenile appointments in the Fairbanks Superior Court. My clients come from an area between Barrow and Bethel with about half of them from the Fairbanks area. I have been continually shocked by the existing detention and treatment facilities and by the cumbersome and somewhat unfair procedures for juvenile delinquents and dependents.

At any one time there are between fifteen and thirty juveniles held in the Juvenile Detention Wing of the Fairbanks State Jail. Both delinquent and dependent children are held in the jail with no separation. There is absolutely no program of any kind available to these children: no schooling, no physical exercise program and no therapy. (There is a library with very few books, almost all of which are unsuitable and unattractive.) The first four days of detention are spent in solitary confinement awaiting physical examination and are immediately followed by physical abuse from other inmates; the juveniles regularly beat each other up with potentially serious injuries; a child with the "proper" attitude can gradually advance in the pecking order and become the abuser rather than the abused. Some of the children go "stir crazy" while others become withdrawn and still others obtain an unfortunate sophistication about their new way of life. None of them can really understand that his detention isn't punishment but is rather a step on the road to rehabilitation. In addition, due to the construction of the ceiling there is free secret access between the boys' and girls' dormitories. The children are exposed to both sexual and homosexual experiences. Almost all of the children held in "temporary" detention stay there more than two months, and I know of one girl detained there for eight months. As a result each child held there is in danger of losing a year of school, especially those who are placed outside of the available but inadequate State institutions. Most of them are in academic trouble anyway, and this loss becomes too great to overcome.

The problems in the Juvenile Detention Wing of the Fairbanks State Jail are acute, but solutions to these problems should not be exceedingly difficult. I understand that a proposal (for which there are available funds) has been made to provide

the Fairbanks Jail with two part time teachers and a psychologist, that this proposal was forwarded to Mr. May, that his reaction could be termed lukewarm at best because the problems have not as yet caused enough pressure upon anyone at that high a level in the Department, and that he turned this proposal over to Mr. Hartman upon whose desk it is now collecting dust.

Prior to adjudication a child may be detained although the District Attorney's Office does not yet have possession of a police report from which to draw up a petition against him; the State need only make a prima facie showing of cause for temporary detention at a short hearing at which no defense attorney is present. The State can then wait thirty days before the next hearing at which the child is to admit or deny the allegations against him. In the meantime the State has time to collect information on which to base its petition; it could never put an adult in jail without a complaint against him. If the child denies the allegations against him, there is further delay until the hearing on the truth of the allegations. In addition, it has happened that a child's papers are lost and nobody knows he is in jail. One of my clients was there for 64 days before he could admit or deny the allegations, and after he denied them, the State couldn't even prove its case. Once a child is adjudicated dependent or delinquent, the bureaucracy and red tape of the Department of Health and Welfare keep him in jail for a further unconscionable length of time. There is no real program planned for the children until after adjudication, and the planned program must go through so many channels for modification and approval that it is not unusual for a child to spend at least another six weeks in jail before he is sent anywhere for "rehabilitation".

There are problems also with the legal proceedings against juveniles. Sometimes the State will bring a petition of delinquency against a child to remove him from an intolerable home situation because this is a more convenient procedure than proving dependency or terminating parental rights or because there are more facilities available for delinquents than dependents. This is done more often to children from the bush whose parents do not understand what is really happening, find it inconvenient, if not impossible, to come all the way to Fairbanks to protest. In general, the legal proceedings are supposedly aimed at the best interest of the child, but the juvenile is not provided with the basic rights afforded an adult defendant. A child can be institutionalized for many years for an act which would not be a crime if committed by an adult or for a longer period of time than provided by statute for adult criminals. In addition the juvenile rules of procedure state that an allegation must be proved only by a preponderance of the evidence although the State must prove charges against adults beyond a reasonable doubt. The purpose of the secret juvenile proceedings is to remove the stigma of crime from delinquency and to rehabilitate the child, but at the moment the tight secrecy surrounding treatment of

juveniles also serves to keep the public unaware of existing conditions. In Fairbanks attorneys are routinely appointed for juveniles, but, from my experience, this is not true in Anchorage or in the small native communities of the State. Also, some of the judges feel that children should not be subject to the trauma of a trial; this means that the child should admit the charges whether or not the State has acted properly in the matter. Many of my clients resent this attitude and refuse to admit inaccurate charges or charges where they feel some State official has violated their confidence. Some of the charges are also unrealistic. I have yet to have a client who will admit associating "with vagrant or immoral people", and I have also had difficulty when the charge is being "uncontrolled by parents". Either of these charges is sufficient for delinquency, but it seems to be psychologically difficult for the child to call his friends "immoral" or to admit his parents are unable to handle him.

The State facilities for treating delinquents are inadequate, overcrowded, understaffed and unprofessionally staffed; they are vastly superior to the facilities for dependent children when a foster home cannot be found. In some cases the institutional environment is actually worse for the child than it would be if he were returned to the community after his "brief" stay in jail. In addition, for some reason children from Fairbanks and the bush are not accepted by McLaughlin Youth Center but are almost always sent to other institutions.

No proper physical examination is given to most of the juveniles at any time during their institutionalization. The examination at the jail when the child is first taken into custody is mainly to check for communicable diseases. Any child who is not sent permanently to McLaughlin is not tested further unless an obvious need presents itself. Children sent to Alcantra Youth Camp are often shipped through McLaughlin, but no diagnostic work-up is done. It seems to me as a layman that these children should be tested for such things as epilepsy, diabetes and low blood sugar, all of which can influence criminal behavior and can be treated. In addition, many of these children need extensive psychological evaluation.

In considering these problems I cannot in all fairness blame the local authorities who are almost all acting in complete good faith, but they have no authority and no money to help these children. The procedure to get a child's papers through the committee at McLaughlin, which decides where to place the children, is very slow, and the committee often ignores the the local probation officer's recommendation, sometimes sending a child to an institution which cannot help him. Much of this is due to the lack of space and programs, but having the power to decide the child's placement in a body outside of the community presents real problems. The parents or anyone in the community interested in a child have no real recourse when a poor placement decision is made. The probation officer and the judge

who know the child also have little power over the decision. The child and the family resent this naturally, especially when the local probation officer informs them of the program he will recommend, and another program is put into effect. Generally, the recommended program is more palatable to the family than the program finally decided upon.

As I understand it, the police say that only one out of every twenty-seven serious delinquents in Fairbanks is prosecuted; only one out of every nine cases involving at least three felonies is prosecuted. In the city this backlog is not due to the police; the police reports have already been prepared and are sitting on someone's desk. The State facilities are already overcrowded; the Division of Corrections employees are already overworked; it is probably impossible with the present facilities and personnel to do anything about these children. However, I cannot understand why the Division of Corrections does not make the Legislature aware of the need for much more money, for better and bigger facilities, and for more and better qualified personnel. It seems to me that more expensive programs can be made palatable to the taxpayer if he is made to realize the high cost of delinquency and the general failure of rehabilitation. One might almost say that the current Alaskan treatment of juvenile delinquency is aimed less (in practice, not, of course, in theory) at rehabilitating delinquents than at putting them away for several years, thereby merely deferring and sometimes actually contributing to their potentially serious criminal behavior. Experiments in California have shown that expensive, almost individual treatment of delinquents with highly qualified and highly salaried personnel leads to a lowering of the recidivism rate to the extent that the taxpayer actually saves money in the long run in terms of the cost of crime and of institutionalization.

Up to this point I have refrained from attempting long-term drastic legal action or attempting to publicize the atrocities of the present system because I was afraid the local authorities might well receive the blame, and they are not at fault. However, if something isn't done soon, I shall feel morally obliged to attempt what I can. The present problems are threatening to multiply to the extent that the cost to the State would be astronomical, and the seeming indifference and lack of understanding of the administrators in the Division of Corrections and the Department of Health and Welfare must be corrected.

If I can be of any assistance to you in this matter, please do not hesitate to call on me. I would be happy to give you further information and anonymous case histories if you wish. In addition, Judge Arthur Robson is extremely knowledgeable in this area and will probably be coming to Juneau to discuss the public defender bills. He would be happy to discuss any of these matters with you.

I can no longer in good conscience refrain from attempting

to publicize these problems, but I would prefer practical legislative solutions to merely shocking the public conscience. However, I do also hope to arouse community interest and action in this area.

Very truly yours,

Elinor B. Levinson

(Miss) Elinor B. Levinson
Attorney at Law

cc: Fairbanks Legislative Delegation (11)

Stanley Cornelius; Tom Fink; Gene Guess;
Willie Hensley; George Hohman; Wendell Kay;
Richard McVeigh; Moses Pauken; John Sackett;
Charles Sassara; Nicholas Begich; Raymond
Christiansen; Joseph Josephson; John Rader.
House and Senate Judiciary, Health, Education
and Welfare and Finance Committees.

Governor Keith Miller; Mike Gravel; Ted Stevens;
Howard Pollock; Commissioner of Health & Welfare;
Commissioner of Education; Director of Division
of Corrections.

Jessen's Daily; Fairbanks Daily News-Miner;
Robert Zelnick.

Alaska, Tanana Valley, Anchorage & Juneau Bar
Associations; Fairbanks Chapter of the American
Civil Liberties Union; Alaska Legal Services.

Supreme & Superior Court Justices; Alaska
Judicial Conference; Legislative Council.

Arthur Robson; Ross Ward; Gertrude Cunningham;
Gerald Van Hoomissen; Morgan Grude.

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Native Land Claims

POUCH K, STATE CAPITOL — JUNEAU 99801

February 5, 1970

The Honorable Henry Jackson, Chairman
Committee on Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

Dear Senator Jackson:

This memorandum is with reference to the brief of Solicitor Melich of the Department of the Interior of October 23, 1969 on the subject of Alaska Native Land Claims.

The memorandum of the Solicitor concluded the following: "Congress thus cannot impair the title to lands granted to the State of Alaska by Section 6 by the imposition of the two percent royalty urged by the Alaska Natives." The State of Alaska agrees with that conclusion, and merely observes that the conclusion of the Department of the Interior is in agreement with Opinion of the Attorney General No. 6, September 5, 1969, of the State of Alaska. That opinion, as well as Supplemental Opinion of October 3, has already been sent to you.

The State of Alaska, however, strongly disagrees with the legal conclusion that "Congress may grant the Natives a royalty interest in proceeds received under the Mineral Leasing Act, 41 Stat. 437 (1920), as amended, 30 U.S.C. sec. 181, et seq (1964)." The reasons for that disagreement are contained in this memorandum.

The legal basis of the Solicitor's memorandum is the following. The Solicitor first argues that Section 28(b) of the Statehood Act is not a part of the compact between the State and the Federal Government because it was not a clause inserted in the Alaska Constitution and only those clauses included in the Alaska Constitution which were repeated in the Statehood Act constitute the compact. The Solicitor next argues that the ratification of the Statehood Act by Alaskan voters did not relate to Section 28(b) of the Statehood Act because it was not a grant of property within the meaning of Section 8(b)(3) of the Statehood Act. This memorandum will discuss each of the arguments of the Solicitor.

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First, Section 28(b) of the Statehood Act is part of the compact between the State of Alaska and the Federal Government. The State Constitution did not constitute the offer which led to the compact between the State and the Federal Government. It should be readily evident that the purpose of a state constitution is not an offer to the Federal Government to form a compact, but is only intended to relate to those domestic affairs which are the province of a state. The delegates to the Alaska Constitutional Convention certainly did not believe that they were offering to form a compact with the Federal Government. The nature of the clauses contained in the State Constitution, for example, the complete absence of any land grant to the State, militate against such a construction. The only clause in the State Constitution which directly relates to the compact is Article XII, Section 13, which states: "All provisions of the act admitting Alaska to the Union which reserve rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property, are consented to fully by the State and its people." This clause, of course, is a substantial restatement of Section 8(b)(3) of the Statehood Act, which was approved by the Alaska voters when it ratified the Statehood Act on August 26, 1958.

Further, the basic law of contracts demonstrates that the State Constitution did not constitute an offer of a compact. The language of the document and the circumstances surrounding it indicate that the document adopted by the Constitutional Convention on February 5, 1956 and approved by the people of the Territory on April 24, 1956 constituted a pre-compact petition or solicitation by the people of the Territory of Alaska to the Congress for admission to statehood. It manifested the intention of the people of the Territory to become a State, but it did not indicate the terms upon which it would become a State. In legal terminology, the document constituted a solicitation of an offer and not the offer itself. Restatement of the Law of Contracts §24. The offer of statehood itself was the Statehood Act, and the acceptance of that offer by the people of the Territory occurred with its ratification by the people of the Territory in the referendum election held on August 26, 1958. The State Constitution did not become operative as a legal document until January 3, 1959 when Alaska officially became a state of the Union with the signing of a presidential proclamation.

Next, the Statehood Act itself, when looked at as a whole rather than piecemeal, shows that the State Constitution did not constitute the offer of statehood. Section 1

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of the Statehood Act provides, in pertinent part: ". . . the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Alaska entitled, "An Act to provide for the holding of a constitutional convention to prepare a constitution for the State of Alaska; to submit the Constitution to the people for adoption or rejection; to prepare for the admission of Alaska as a State; to make an appropriation; and setting an effective date", approved March 19, 1955 (Chapter 46, Session Laws of Alaska, 1955), and adopted by a vote of the people of Alaska in the election held on April 24, 1956, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence and is hereby accepted, ratified, and confirmed. (emphasis added) Section 3 of the Statehood Act provides: "The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence." (emphasis added) The Constitution of the United States, Article IV, Section 4, provides in pertinent part: "The United States shall guarantee to every state in this Union a republican form of government. . . ." It should be clear from a comparison of these quotations from the Statehood Act and the U. S. Constitution that the legal reference between the Statehood Act and the State Constitution is that the Statehood Act "accepted, ratified, and confirmed" the State Constitution as being in conformity with the U. S. Constitution as "republican in form" and that the Statehood Act in no way recognized the State Constitution as an offer of a compact.

Second, Section 28(b) of the Statehood Act is included within the language of Section 8(b)(3) of the Statehood Act which was ratified by the people of Alaska on August 26, 1958. Section 8(b)(3) provides: "All provisions of the Act of Congress approved.....(date of approval of this Act) reserving rights or powers to the United States as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people." (emphasis added) The Statehood Act itself, as well as the history of Section 28(b) make it clear that Section 28(b) was a grant of "other property" within the meaning of Section 8(b)(3).

The history of Section 28(b) of the Statehood Act clearly shows that it was a grant of property. Senator Barrett of Wyoming and Senator Anderson of New Mexico were

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responsible for the inclusion of the 90% grant in the Statehood Act and the record of the 1957 Statehood hearings reflect that they believed that the people of Alaska had a right to these revenues based on the Treaty of Cession. The entire discussion of the Senate hearings on this point are included in this memorandum at this point because of the importance of the question.

"SENATOR BARRETT. Mr. Chairman, I would like to ask a question or two. I have to leave here very shortly.

Governor Gruening, I am somewhat concerned now about the economic status of Alaska when it becomes a State. I am rather intrigued by your reference here to the treaty with Russia when these lands were ceded to the United States.

It is my interpretation of that treaty, which by the way, of course, is the highest law in the land, and certainly binds this country explicitly without any question of doubt--I may say to you that it is my understanding of this phrase in the treaty: "shall be admitted to the enjoyment of all of the rights, advantages, and immunities of the citizens of the United States and shall be protected in the free enjoyment of their liberties, sovereignty, and religion," has been used in several treaties in substantially the same language, first with the treaty with France in 1803 and later with the treaty with Mexico nearly half a century later.

The courts have interpreted that language to mean that the--territory--which is the way they referred to lands in those days, shall be held in trust for the States to be carved out of the lands granted for the benefit of the people of the States.

Now, when they speak here "shall be admitted to the enjoyment of all the rights, advantages, and immunities of the citizens of the United States," they mean that the people up there will enjoy certain rights as citizens of the State of Alaska and they come into those rights by virtue of their citizenship in the State of Alaska.

As a consequence, I think it is very important here when we consider this legislation that we

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take into consideration the rights that those people have up there in natural resources of that new State and in your intense desire to get statehood I hope that you will not fail to stand up and assert the rights that you are entitled to under this treaty which you mention here, and under the law of the land which, of course, has been somewhat forgotten for a long period of time, in my judgment.

Now, to be specific, I think that the territory up there belongs to the people of Alaska and not to the people of the present 48 States. I think that you have to have those resources if you are going to develop and control your own destiny as a State, and you will need them.

And I think it is unwarranted for the Congress to take any action that would deprive you of that income.

Now, under the leasing act of 1920, unfortunately as far as my State is concerned, we got thirty-seven and a half percent of the royalties from leasing act minerals that were produced within our State.

Fifty-two and a half percent went to reclamation fund and 10 percent was retained by the Federal Government.

Just to show you what that amounts to since that act went on the books, about \$155 million or \$160 million has been taken into the Treasury of the United States from royalties from the minerals produced in Wyoming alone.

Now, that law is applicable to Alaska and fifty-two and a half percent of the leasing act minerals produced in Alaska goes to the reclamation fund.

DELEGATE BARTLETT. No.

SENATOR BARRETT. I have just checked with counsel and he says they do.

DELEGATE BARTLETT. Could I answer that particular provision?

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We are in a worse situation than that, Senator Barrett. We get thirty-seven and a half percent and all the remainder goes to the Federal Government.

SENATOR BARRETT. That is what I said.

DELEGATE BARTLETT. We are not under the Reclamation Act so we get no benefit at all.

SENATOR BARRETT. I did not say you were under the Reclamation Act. What I said is this:

That under existing law fifty-two and a half percent of the income from the Leasing Act minerals produced in Alaska goes to the Reclamation fund; thirty-seven and a half percent goes to Alaska, and 10 percent is retained in the Federal Treasury.

Now, you do not get any benefits from the Reclamation Act, I know that, but that makes it all the worse as far as you are concerned.

So I think it would be eminently fair and just and right and proper, when we write this bill up, that we provide here that the Leasing Act of 1920, as amended, and let them retain the title to the lands up there except that which is granted-- personally I hate to see that done, but to be realistic we probably have to do that--let the Federal Government retain the title to the minerals except such public lands as are granted to you, but give the Territory now and the State of Alaska-to-be ninety percent of the income from the minerals under the Leasing Act royalties that come in from now on out.

I believe you need it; I think it ought to be done. I think that the banker, Mr. Rusing, who just got through testifying here, was hitting the nail right on the head, if this State is going to have a chance to develop and to become one of the strong States of the Union, certainly you need your own assets up there and if you are only a one percent stockholder, that is bad.

I would like to give you a fair shake on the thing.

Now, what do you think about that?

MR. GRUENING. I appreciate that very much. I think that would be excellent, Senator Barrett. I hope that will be done.

I understand that in a House bill it is planned to do that.

DELEGATE BARTLETT. Upon that particular point, the House committee has approved and there is now on the House consent calendar a bill which will give the Territory ninety percent of these proceeds.

SENATOR BARRETT. It is not in this bill here over in the House?

DELEGATE BARTLETT. No.

SENATOR BARRETT. But it is in a separate bill?

DELEGATE BARTLETT. That is right.

SENATOR BARRETT. I think that is a very wise piece of legislation. I think you are certainly entitled to it.

If the Department has no objection to it, I think it ought to be incorporated right here in this bill.

MR. GRUENING. I know Alaskans will certainly appreciate that, Senator Barrett." Senate Hearings on S. 49 and S. 35, March 25 and 26, 1957, pp. 29-31. (Emphasis added)

"SENATOR BARRETT. Mr. Chairman, I agree with the statement that Mr. Bartlett made about the improvement in this legislation. I think it could be improved quite a little bit. I am offering an amendment here for the consideration of the committee. I think this is probably as good a time as any to do it.

I discussed this amendment this morning when you were absent, Senator Anderson. I propose to insert a new section 21 on the last page of the bill and provide in here that 90 percent of the

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income from coal and 90 percent of the income from the leasing act minerals shall go to the new State of Alaska.

When I mentioned that this morning, Delegate Bartlett told me that the House committee had considered a bill doing precisely that and had reported it out favorably. Since then I have looked up the record and I find that the Secretary of the Interior has filed a favorable report on the bill and agreed that it should be enacted into law but suggested that the statehood bill was the proper place to insert such a provision.

Maybe it would be well to have in these hearings a copy of the report that the Secretary of the Interior made on the House bill.

SENATOR JACKSON. Without objection, the report and the amendment of the Senator from Wyoming will be included in the record at this point, if this is agreeable. The report and the amendment should go together.

(The documents referred to are as follows:)

BARRETT AMENDMENT TO S. 49

Sec. 22. (a) The last sentence of section 9 of the Act entitled "An Act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes", approved October 20, 1914 (48 U.S.C. 439), is hereby amended to read as follows: "All net profits from operation of Government mines, and all bonuses, royalties, and rentals under leases as herein provided and all other payments received under this Act shall be distributed as follows as soon as practicable after December 31 and June 30 of each year: (1) 90 per centum thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof; and (2) 10 per centum shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts."

(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil,

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oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ", and of those from Alaska 52 1/2 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof". Ibid, pp. 66-68. (Emphasis added.)

The Senate Report on S. 49 adopted the Barrett Amendment which granted 90% of federal revenues to the State. See S.Rep. 1163, 85th Congress, 1st Session 3. The identical provision was later incorporated into H.R. 7999 as a section of the Statehood Act.

The inclusion of revenue grants to the State in the Statehood Act further evidence that it was the intention of Congress to make the grant a permanent right of the State of Alaska. If this were not the case, it would make no sense to include the provision in the Statehood Act. Public Law 85-88, approved July 10, 1957, Sec. 2 had already provided that the Territory of Alaska receive 90% of the mineral revenues. The proper place for a statutory formal revision of Public Law 85-88 to change "Territory" to "State" would have been the Omnibus Act and not the Statehood Act. The inclusion of the revenue provision in the Statehood Act meant and was understood to mean that it was part of the compact between the people of Alaska and the Federal Government.

The language used in the Statehood Act also shows that Section 28(b) was included within the Section 8(b)(3) "grants of . . . other property. . . ." It is useful at the outset to consider how the term "property" has been defined by various courts. Generally the term property has been afforded a broad definition by most courts which have had cause to interpret it. Unfortunately, none of the cases which interpret the word property interpret it quite in the context in which it is used in the Statehood Act. Typical of the cases is Goldsmith v. Albion Public Schools, Calhoun County, 373 Mich. 397, 129 N.W.2d 377 (1964), which was a proceeding to test the validity of a school bond election. The question presented was which persons were entitled to vote in the elections as property holders. Some plaintiffs were contract vendees under land sale contracts and others owned property pursuant to deed but their names did not appear as such on the assessment rolls. The court stated

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that all of those persons held interests in property and defined the term as follows:

The word "property" is susceptible of broad definition. In a broad sense, it is defined as any valuable right or interest considered primarily as a source of wealth [case cited]. The word is said to be so all-embracing as to include every physical object, intangible benefit, and prerogative, susceptible of ownership, possession, or disposition. (129 N.W.2d at 379).

The concept of property as a source of wealth is one employed by many cases and its use in the Calhoun County case is not an isolated one.

The Supreme Court of Maine in McInnes v. McKay, 141 A. 699, 127 Me. 110 (1928) discussed the concept of property. This case was an action by plaintiff to recover a certain sum of money for services. The defendant objected to the jurisdiction of the court by way of attachment and in reviewing the history of the particular attachment statute then applicable, the court had occasion to define the word property:

Property in legal conception is the total of the rights and powers incident to a thing rather than the thing itself. The legal right to use and derive a profit from land or other things is property. (141 A. at 702)

It is noteworthy that in the McInnes case the court again tied the concept of property to the right to derive a profit from land.

The United States Supreme Court in a series of early cases in which it had to adjudicate the significance of property rights acquired under the laws of earlier sovereigns to territory then in the United States, defined in several instances what that term meant. Soulard v. United States, 29 U.S. 511 (1830), was an action by plaintiff to quiet title to certain lands in the Louisiana Purchase under title which plaintiff had derived from the former Spanish Government. The court held the matter in abeyance until more light could be shed on the nature of plaintiff's claim. The court noted that in the Treaty of

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Purchase, the United States stipulated that the inhabitants of the ceded territory should be protected in the free enjoyment of their property. The court stated:

The term "property" as applied to lands, comprehends every species of title, inchoate or complete. It is supposed to embrace those rights which lie in contract, those which are executory as well as those which are executed. (29 U.S. at p. 522)

Thus the Supreme Court recognized that property could be an inchoate right, the existence of which depended upon the terms of a contract which had not yet been executed.

Strother v. Lucas, 37 U.S. 410 (1838) was an action in ejectment where plaintiffs based their claim to certain property upon the Treaty of Cession of Louisiana by France to the United States. The Treaty stated that the inhabitants of that territory should be protected in the free enjoyment of their property. The court again defined property:

This Court has defined property to be any right, legal or equitable, inchoate, or perfect, which before the Treaty with France in 1803, or with Spain in 1819, had so attached to any piece or tract of land, great or small, as to affect the conscience of the former sovereign with a trust, and make him trustee for an individual, according to the law of nations, of the sovereign himself, the local usage or custom of the colony or district, according to the principles of justice, and rules of equity. (37 U.S. at 436)

Thus, in Strother the concept of property is recognized not only to be legal but to be equitable in nature and if the right which is sought to be protected as property should be protected according to the principles of justice and rules of equity, then that right is no less a property right.

The Supreme Court in the same case also defined the term "grant":

This Court has also uniformly held that the term "grant" in a treaty, comprehends not only those which are made in form, but also any concessions, warrant, order or permission to survey,

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possess or settle, whether evidenced by writing
or parol, or presumed from possession
(37 U.S. at 436)

Thus, a grant need not be in any particular form
and need not be a warrant but it would be a concession.

It could be stated that 30 U.S.C. §191 is an
assignment from the United States to the State of Alaska of
90 per cent of the money in the form of sales, bonuses,
royalties and rentals of public lands received by the United
States. Specifically, what is assigned by this section is
a right to money and there is no doubt that that money is
property. Also, what is assigned is the interest of the
United States as to certain rights which it has retained as
lessor in certain leases of public mineral land. The in-
terest of which the United States is possessed in respect to
that land can be characterized in several ways. The interest
is a right to rents and royalties and bonuses under its
mineral lands. All of these terms have been considered in
Summers in his treatise on oil and gas law and he has had no
difficulty in determining that they are property rights.
Volume 3(a), Summers Oil and Gas, § 572 (1955), discusses
the legal significance of the term "rent" or "royalty".
Summers states:

The question which usually arises as to
the nature of the royalty interest is
whether it is real or personal property.

Also, Summers states:

All jurisdictions recognize that the
right to receive royalties under the
existing lease may be transferred apart
from the land,

Thus, the rental or royalty interest is either real or
personal property and it is a right which may be trans-
ferred apart from the land to which the right attaches.
It is elementary contract law that an assignee takes the
same rights as the transferor in the thing transferred, no
more or no less.

Summers also states:

But where the lease is limited to a
definite term of years and the royalty under

The Honorable Henry Jackson
Washington, D. C.

February 5, 1970
- 13 -

the lease is assigned, the interest may be properly classed as a chattel real and in that sense personal property.

If the royalty is unaccrued, Summers states:

. . . unaccrued royalties, if the lease may continue indefinitely, are incident to the reversion in the land or minerals, and pass with a sale thereof, and when separately transferred are usually held to be interests in land.

Thus, Summers recognizes that unaccrued royalties may be transferred separately and when they are, they are usually an interest in land. Again that interest has been defined as a property interest.

Summers also defines at section 586 of his work, the term bonus:

"Bonus" is usually defined as any consideration given for a lease in addition to the usual royalties reserved in the lease, whether paid in cash or payable out of production.

Bonus then, like royalty, is a right to payment to the owner of the land arising initially out of his ownership of the land. There should be no reason why as in the case of a royalty, a bonus which is an amount payable in addition to the usual royalty may not be assigned with all rights of the assignor.

Thus, there is ample authority to support the proposition that the term property as used in section 8(b)(3) of the Statehood Act encompasses the money, either accrued or unaccrued, to which the State of Alaska would be entitled by virtue of the provisions of section 28(b) of the Statehood Act.

Sincerely,

G. Kent Edwards
Attorney General

GKE:jt

MILLARD F. INGRAHAM
EDWARD R. NIEWOHNER

TELEPHONE
AREA CODE 907
488-1161
488-1162

LAW OFFICES OF
INGRAHAM & NIEWOHNER
SUITE "C" NERLAND BUILDING
FAIRBANKS, ALASKA 99701

File
probate code

February 14, 1969

The Honorable Barry Jackson
Alaska State House of Representatives
State Capitol Building
Juneau, Alaska

Dear Barry:

Your letter to the bar association regarding the proposed probate code was read at our weekly meeting today. A committee has been appointed to study the code and will be reporting to you shortly.

I would wish to remind you that, according to the last draft which I had seen, Sections 13.20.330 and 13.20.340, the wrongful death statutes, are repealed. There is no statute comparable reenacted in the proposed code. I am sure that not even the most reactionary insurance company would seriously contend that the action for wrongful death be repealed.

Very truly yours,

INGRAHAM AND NIEWOHNER

BY: *M.F. Ingraham*
Millard F. Ingraham

MFI:sjb

CC: John Elliott

MAN IN NATURE: A STRATEGY FOR ALASKAN LIVING*

*Not on record
conservation*

Robert B. Weeden

**Alaska Conservation Representative
Box 5-425 College, Alaska 99701**

People move to Alaska for many reasons, and because of the distance and cost of moving, the reasons rarely are trivial. Major population increases have come in boom times; one might infer that the lure of economic benefits has been paramount. But recessions have followed the booms and those with purely economic motives often have gone back "Outside" where, if they were going to starve, they could do it in a comfortable climate. Even in our exciting times in Alaska a man spends \$1.32 for what he could buy in Seattle for \$1.00; he earns only \$1.21 for a dollar's worth of labor by national standards. Clearly the Alaskan is not as well off as the average American.

Or is he? Is there something in the air, the romance of Alaska that creates the captivating incentive that money fails to provide? Do people stay because they expect to take part in a legend? I think they do. In Alaska people perceive and respond to a uniqueness comprised of the freshness of history, the indefinable lure of "frontier,"

* Paper presented at the Tundra Conservation Conference, Edmonton, Alberta, October 16, 1969.

and, above all, the wilderness. Despite the comings and goings of boomers, I think the heart of Alaskans is in Alaska.

If ever it was important for a people to gauge accurately their own feelings about themselves and their environment, it is true in Alaska today. History and Nature have proffered an array of choices that our civilization has never seen before. The only decision we cannot make is to stay aloof from change. If we Alaskans do not make our own choices, others will happily do it for us.

The most obvious element in the situation is the economic upheaval since the September 10, 1969 oil lease sale in Anchorage. On that day Alaskans, who had earned a total personal income of a little over a billion dollars in 1969, received slightly over \$900,000,000 in lease payments and bonuses on State lands near Prudhoe Bay. The expectation of significant continued income from future lease sales and from oil and gas production suggests that the rather desperate search for revenue characterizing the decade after statehood is over.

An equally important ingredient is that the inherent character and productivity of the land are largely undiminished. Over vast areas of the State there is hardly any evidence of human use. Air and water are as pure as anywhere in this polluted world. Renewable resources are (with a few exceptions) harvested below or barely at

annual production levels. Surface transportation nets cover only one-fourth of the State, sparsely. In short, the present array of choices is not greatly diminished by past mistakes or heavy capital investments.

Third, a major group of Alaskans, the approximately 60,000 Indians, Eskimos, and Aleuts of the State, may suddenly gain economic and landowner stature such as they have never had before. These people face individual and group choices that are in many ways more difficult and unsettling than those confronting other Alaskans.

Fourth, the richness of the present opportunity is largely due to the recognition by Alaskans that their new wealth brings new responsibilities of decision. To some the responsibility is mainly fiscal: to invest for greatest dollar return in time. Others see the social good that could come from expenditures for education, sanitation, public works, or various welfare programs. As just one example of this widespread awareness, there will be a series of public discussions this autumn, sponsored by the Brookings Institute and led by the Alaska State Legislative Council, in which Alaskans will consider policies for the uses of public revenues.

In this context it seems both appropriate and urgent that there be full and vigorous public debate of various strategies for Alaskan living. Among the several alternatives, I am urging one that involves exceptional recognition of Nature as an integral part of the

human environment. If this style of life touches the hearts and minds of Alaskans we will necessarily have to adopt bold policies relative to population growth and industrialization. These, in turn, will require that specific tactics of resource and environmental use immediately be brought to bear on current political and economic decisions.

The general idea is simple. I see Alaska as a place where people elect to withhold the full force of their technical and pro-creative powers so as to reap the rich harvest of tangible and intellectual resources the wild North can promise. I do not propose turning Alaska into a permanent nature preserve, administered by some monstrous conservationistic bureaucracy. Neither do I propose that Alaska welcome industrialization unreservedly, mimicing the unenviable environments technology has spawned all over the world. The middle road is not, in this case, a politically viable compromise, because walking it will be much harder than taking either of the other paths. Rather, I chose it because I believe in diversity of opportunity--economic, materialistic, creative, recreative--as a prime element in the good life. Not everyone wants to be a bird-watcher. Not everyone should be ensnared in the television syndrome.

POLICIES FOR LEADERS

If this idea is to work, Alaskans and their governments must adopt three basic policies: limited population, selective industrialization, and environmental consciousness. All are indispensable. All are fraught with emotional polarities, and their acceptance and institutionalization will be extremely difficult.

There is no need to belabor the now-obvious perils of excessive population. In policy terms, whereas much of the world cannot long survive without a reduction in population, and whereas America itself must take steps to limit further population growth, Alaska is one of the few self-supporting units of government that can justify conceiving of and working toward an optimal population (which may be at a level somewhat higher than our present quarter-million people). The concept of optimal population, admittedly, is poorly defined. To me it means the general population level at which people enjoy the widest freedom of cultural and economic pursuits. There is an obvious interaction of dollars, culture, and population; a few rich people could finance a performance of an opera, but it takes more middle-income people to do the same thing. "Optimal population levels" may be dynamic rather than static, raising and lowering as cultural and environmental shifts take place.

The life style I advocate will be impossible unless we develop and practice a policy of population regulation. We will need to limit the number of births among Alaskans through legalized abortion, birth-control measures, incentives for small families, or other methods and combinations that are acceptable and effective. We will have to restrict immigration, possibly approaching this tricky problem from a strategy of reducing the incentive for people to immigrate, rather than by barring entry to those who knock on the door.

The spacing or geographic distribution of people is an equally important subject. In Alaska, big settlements have been growing bigger and small places have been getting smaller for several decades, with a net annual increase in total state population. Roughly one-third of all Alaskans now live in Anchorage and its satellite communities. Another one-third live in the towns of Fairbanks, Palmer, Kenai-Soldotna, Ketchikan, Juneau, and Sitka. The trend toward urbanization is essentially conservative of landscape, and it should be encouraged in Alaska. Towns and cities should be made more attractive in both opportunity and appearance. Conversely, outdated programs such as the Homestead Act (by which the federal government gives large acreages to private persons, ostensibly for agriculture but now for other uses including land speculation) should be abandoned. These programs result in the

scattering of people along road systems, leading to high costs for services, and degradation of the countryside.

(The entire mix of federal, state, and local government programs for hinterland development are in dire need of overhaul, reappraisal, coordination, and redirection. Again, Alaskan conditions favor concerted, long-term land planning because large blocks of land are under jurisdiction of a few public agencies responsible for management in the public interest. There is an unbreakable two-way relation between public lands management, access and transportation, settlement patterns, and population policy.)

The second policy, that of selective industrialization, is closely tied to the first. If we reject outright the conventional myth that population growth is a necessary handmaiden to progress, we do not have to look for industries that "provide jobs"--and end up attracting 102 job-seekers for every 100 jobs they offer. We can foster industries that are capital-intensive rather than labor-intensive, and select those least likely to degrade the natural environment through noxious effluents or outputs. We can also reject extravagant power generation projects justified with self-fulfilling projections of demand from processing industries and population growth; neither the manufacturing plants nor the increased population are desirable. Traditional tax enticements

to new industries could be scrapped unless they carry out the environmental or social policies of the State.

Out of a total civilian work force of about 100,000 people in 1968, approximately 91,000 had jobs. Over one-third of all working people were employed by governments. About one-fourth were employed in trades and services, about 6 to 8 per cent each in transportation, manufacturing (including logging), contract construction, and smaller proportions in mining, financial, and other occupations. The main sources of "new money" in the Alaskan economy have been federal government expenditures, commercial fish, oil and gas, forest products, minerals, and tourism, in order of decreasing dollar value.* In 1969 the great increases in oil and gas revenues (mostly lease payments and bonuses, not production) have changed the relative ranking of these sources of money, and the new picture may hold for a number of years.

The important point for this discussion is that revenue from the Cook Inlet and Arctic oilfields has given Alaska a tremendous bank balance after many years when federal expenditures were the critical factor in survival of the economy. Assuming that gas and oil revenues from those fields will be high for several decades, and assuming a continued net inflow of federal dollars, there is no need for economic policy that strains the

*Data from Vol. VI, Nos. 1 and 3, Alaska Review of Business and Economic Conditions, Institute of Social, Economic, and Government Research, University of Alaska, College, Alaska.

productive capacities of renewable resources, and no need for aggressive expansionism in mining, tourism, manufacturing, and other industries. There is a greater need to turn our attention to the serious social inequities in our local economy, a prime example being poverty and joblessness among Alaskan natives--a condition that is worsening rather than improving as our total dollar flow rises.

The third policy, which I coined "environmental consciousness," depends on Alaskans adopting Aldo Leopold's "land ethic." Incorporated into government it would become "ecomangement," a term Jare Mayda coined* to express the broad new tasks of conservation, encompassing all individual aspects of environment, the whole concept "environment" (since this is more than the sum of its parts), and the interplay of man and environment. Operationally this policy would seek always to maximize the full spectrum of human benefits from the use of space and other natural resources, not merely to maximize revenue. It would defend man against himself in the common environmental problems of air, water, and noise pollution. It would be the basis for defense of those delightfully "useless" animals, plants, and empty miles that may be the ultimate salvation of man, and which unquestionably are an important foundation for scientific knowledge, artistic creativity, and personal re-creation and pleasure.

*Jare Mayda, 1967, "Environment and Resources: From Conservation to Ecomangement," School of Law, University of Puerto Rico.

PETROLEUM IN THE NEW ALASKA

As I said earlier, adopting these policies would mean completely different approaches to environmental management. Alaskan oil developments provide an excellent and timely example; I will describe the current situation briefly and suggest two steps to take immediately to cope with the oil giant.

If the first guesses of petroleum geologists are correct, close to one-half of Alaska and its offshore waters may be underlain by oil- or gas-bearing strata. This includes most of the State outside of the Alaska Range, Brooks Range, and mountainous Interior areas. Some private seismic work or drilling has occurred in practically all of the oil regions of the State, but two, Cook Inlet and the central Arctic have had the lion's share of attention. The first production wells were spudded on the Kenai Peninsula in 1958; the Swanson River field was developed there and, together with about 16 wells offshore in adjacent Cook Inlet, this field produces all of Alaska's present output of about 200,000 barrels per day. A small refinery exists near Kenai, but most Alaskan oil is shipped as "Crude" out of shore facilities on the east and west sides of Cook Inlet.

Exploration and production activity in the Inlet and on the Kenai Peninsula gave Alaskan's a fairly clear idea of the sorts of problems oilfield development brings. The network of thousands of

miles of intertwining tractor trails across marshes, forests and alpine areas jolted people into sharp awareness that even looking for oil causes problems. Strictly enforced regulations helped: anyone who compared the seeded roadsides and healing "cat" trails on the Kenai National Moose Range with the debris and scarring on state lands just outside the Range could see this readily. Air and water pollution came, as inevitably they will. A cloud of smoke is sometimes visible for miles when wasted natural gas is flared from the Inlet's wells. Hundreds of oil spills from tankers, wells, and pipes have been recorded by government agencies. A few big ones have killed ducks or befouled the nets of fishermen (Cook Inlet has an important commercial and recreational salmon fishery). Life in Anchorage has changed, too, with the advent of oilmen and boomers. No longer a small town serving nearby military bases and tourists, Anchorage has swept into an era of burgeoning population, acute land allocation problems, and school and public service expansion suggesting that, like Alice, someone ate from the wrong side of the mushroom.

But Anchorage had its growing pains and Kenai its land scarring before oil. Petroleum development simply intensified and added new facets to the problem. It is in the Arctic, with its virginal and vulnerable landscape, that the impact of oil is most obvious. The gnawing scars from seemingly harmless trails of construction vehicles, the gambles of permafrost engineering, the unsuitability of ordinary

sanitation techniques, the fantastic longevity and visibility of debris, the oil spills, the huge demand for gravel for camps and airstrips, the question of whether caribou will be frightened and displaced by surface feeder pipes and the general bustle of oilfield operations--these are now commonplace topics of conversation in the North. Technological man has burst upon the Arctic, a stranger. He can ride roughshod for a time over the tundra to his shining golden visions, but always nagged by the feeling he could do much better. Science cannot yet be of much help. Government is an uncertain watchdog, alternately barking and licking its chops.

Bigger questions for Alaska lie beyond Prudhoe Bay and Cook Inlet. Can petroleum be shipped out of Alaska by pipeline, tanker, or any other means without chronic and catastrophic oil spills? Will the Arctic oilfield, now confined to the central Arctic north of the Brooks Range, expand west into the huge Naval Petroleum Reserve No. 4 and east to the lovely Arctic National Wildlife Range? Will the semi-secret explorations in Bristol Bay and on the Alaska Peninsula turn that fabulous big-game, waterfowl, and salmon paradise into another Prudhoe? Can offshore drilling in the savage Gulf of Alaska or the Beaufort Sea be done without a series of Santa Barbara's? Will the next big strike be on the delta of the Yukon River, where Secretary of the Interior Walter Hickel is said to have more than a passing financial interest at stake?

In view of these and other managerial complexities that neither industry, state, nor federal governments have been able to solve, I propose a complete shutdown for at least three years of all further oil and gas exploration in Alaska and adjacent waters, outside of present lease areas in Cook Inlet and the central Arctic. In my judgement the immediate and permanent benefits from this action would far outweigh any temporary reduction in revenues to geophysical contractors or to the State of Alaska. First, this action would let the oil and gas industry turn its full attention to getting known petroleum reserves into production and to market safely and with minimum losses to the environment. Second, the moratorium would give governments time to establish a full range of regulations for oilfield conservation and for the protection of the landscape and wildlife. Even more critical is the need for resource agencies to obtain the staff and funds to explain and enforce these regulations, and to establish training programs jointly with industry. Third, universities and others could begin basic, full-scale studies of tundra and taiga disturbances, so that better evaluations of the regulations would be possible. Fourth, and very importantly, oil companies and the government could steadily improve techniques of slant drilling, seismic systems, helicopter, hovercraft, and overland vehicle usage, and sanitation, so that future exploration could be done in safety and with minor and tolerable damage to the land. Fifth, the State of Alaska could study its new

role as rich man, learning how to make the most social mileage out of its financial windfall. Finally, the memorandum would allow resource agencies and private groups to develop sound proposals for lands to be reserved permanently from oil and gas exploration and exploitation, based on their importance to science or exceptional wildlife, scenic, or recreational values.

Eventually more of the potential oil lands would be explored. This should come on the initiative of the government, not industry. It should be done when the national and global situation clearly calls for development of new reserves, and it should be done on lands selected by the government. And, as oil and gas are public resources under public land, the public, through government, should dictate the conditions and techniques of exploration. I suggest that a separate industry-government corporation be established to explore each parcel as it is opened up, with companies and individual entrepreneurs bidding for a share in the venture. The corporation would then conduct all exploration work with the best technology available, sharing geophysical data within the corporation. This would eliminate the haste and secrecy that have caused such wasteful and destructive duplication of seismic lines, shot holes, camps, roads, airstrips, test wells, and gravel pits in the Arctic. Petroleum discoveries would be developed by the private members of the exploration group, under a unitization plan, dividing proceeds in the ratio of original bids for exploration.

I am convinced that if we act sensibly, using the knowledge we have or can soon develop, the Arctic, Cook Inlet, and perhaps other oilfields can be developed into showpieces of public and private cooperation. Alaska would necessarily have to sacrifice some of her wildness, some of her cleanness of landscape, and some of her outdoor playgrounds and classrooms, doing this not blindly but in full knowledge that a good bargain has been struck by men for men.

ALASKA AND THE WORLD

The future Alaska I rather wistfully envision would have more people than now--perhaps 500,000 or so--but they would be in the same population centers as now. There would be awesome stretches of semi-wilderness where people lived who prized solitude, or who enjoyed making their way from the seasonal fruits of the countryside. There would be relatively smaller stretches of true wilderness, balanced by local areas where facilities were developed for the enjoyment of Nature by larger numbers of visitors. There would be a comfortable network of roads where needed, planned, mile by mile, to display and preserve the countryside and to host appropriate commercial, residential, and recreational uses. Public revenues would come from the usual range of personal and corporate taxes and from the State's share of Alaskan resources extracted for private profit: oil, gas, fish, minerals, timber,

water. Alaskans would be teachers, scientists, civil servants, tradesmen, miners, fishermen, loggers, financiers, artists--a reasonable sample of the whole range of occupations open to modern societies.

Anyone who knows Alaska will remark that what I have in mind is simply to perpetuate the present. Today's Alaska, however, is a result of a complex and dynamic history. The economic, psychological, and global events that made Alaska what it is are already pushing it towards something else. That "something else," I fear, is a repetition of the dollar-rich, culture-poor, trash- and poison-ridden landscape so characteristic of industrial America. Changing this destiny requires a revolution in the attitudes of everyman (and especially of those who lead), towards his own sources of happiness, his own life style, and his own environment.

In a very real sense what I am proposing is not only a milieu for Alaskans but an opportunity for the world. The world needs an embodiment of the frontier mythology, the sense of horizons unexplored, the mystery of uninhabited miles. It needs a place where wolves stalk the strand lines in the dark, because a land that can produce a wolf is a healthy, robust, and perfect land. The world desperately needs a place to stand under a bright auroral curtain on a winter's evening, in awe of the cosmic cold

and silence. But more than these things the world needs to know that there is a place where men live amidst a balanced interplay of the goods of technology and the fruits of nature. Unless we can prove that a modern society can thrive in harmony with the land, the bits of wildness we salvage in Alaska will be nothing more than curious artifacts in the sad museum of mankind.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE CONCURRENT RESOLUTION NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 Censuring the President of the Senate.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS, to resolve the differences between the House and Senate
8 versions of HB-857 (trust companies), on May 25, 1970, the President
9 of the Senate (at Page 1140 of the Senate Journal) and on May 27,
10 1970, the Speaker of the House (at Page 1398 of the House Journal)
11 appointed the members of a free conference committee (with powers of
12 free conference); and

13 WHEREAS this free conference committee, consisting of Senators
14 Zeigler, Vance Phillips, and Josephson, and Representatives Borer,
15 Chance, and Kay, completed its work by May 28, 1970, as shown by the
16 committee report and House adoption of it at Page 1406 of the House
17 Journal; and

18 WHEREAS ever since May 28 the President of the Senate has inten-
19 tionally withheld this free conference committee report from the Senate,
20 thus preventing that body from adopting it and in effect exercising his
21 own veto of the bill; and

22 WHEREAS Paragraph (1)(j) of Appendix A to the Uniform Rules of the
23 Alaska State Legislature, setting out the duties of the presiding officer,
24 requires him, as a ministerial function, "to receive all messages and
25 communications and to announce them to the body;" and

26 WHEREAS passage of HB-857 am, as recommended by the free conference
27 committee, is essential for the regulation of trust companies and the
28 protection of the public;

29 BE IT RESOLVED that the legislature censures Senate President Brad

*changed
final
version*

1 Phillips for his dereliction of duty and apparent disregard of the public
2 interest.
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Snowmobiles

13 Mile Richardson Highway
Fairbanks, Alaska 99701
February 24, 1969

Representative Barry Jackson
House of Representatives
Juneau, Alaska

Dear Mr. Jackson:

We urge your support of the bill introduced by Rep. Bronson in the House last Friday, requiring mufflers on snowmobiles. We urge, however, that this not be confined to those used within a city's limits, but in any populated area. We live just outside the city limits of North Pole, and we think this limitation would encourage unmuffled snowmobiles to be used in an area such as ours. In truth, we feel it is fair for snowmobiles used in populated areas to be subject to the same regulations as automobiles.

Thank you for any support you can give to this bill.

Yours truly,

*Joseph Seale
Jule Seale*

MEMORANDUM

State of Alaska

TO:

Mel Personett, Commissioner
Department of Public Safety

DATE : October 24, 1959

FROM: G. Kent Edwards
Attorney General

SUBJECT: Review of Regulations

By: Robert J. Mahoney *RJM*
Assistant Attorney General

This office has completed the review of the proposed regulations to be adopted by your department consisting of chapters 2, 4, 6, 8, 10, and 15 of Title 13 of the Alaska Administrative Code. During the course of my review I have made notations on copies of the proposed regulations furnished to this office to indicate changes that will add to the clarity, simplicity, and consistency with other regulations. I have also recommended the deletion of a few sections or parts of sections which the Department of Public Safety is without authority to adopt or which could adequately be covered by rewording other sections in the regulations.

The copies of the regulations containing my comments have been forwarded to Captain Barkley, reviewed by him, and returned to this office. Most of the changes recommended by this office have been incorporated in the regulations to be adopted. Other recommendations were withdrawn or modified by this office following conferences with Captain Barkley. These conferences clarified the factual framework within which the regulations were to be applied and revealed difficulties that could be encountered if the recommended changes were incorporated in the regulations. Several additional changes have been made based on the recommendations of the Department of Highways.

The proposed regulations, incorporating the changes referred to above, are approved by this office as satisfying the criteria set forth in AS 44.62.060. They are in a proper form to be filed with the Secretary of State after adoption, and need not be reviewed again by this office unless substantial changes are made in the regulations following the public hearing.

cc: Secretary of State

GKE:RJM:em

SHB

MEMORANDUM

State of Alaska

TO:

Mel J. Personett
Commissioner
Department of Public Safety

Dec 11 1 25 PM '69

DEPT. OF PUBLIC

DATE : December 8, 1969

FROM: G. Kent Edwards
Attorney General

SUBJECT: Regulations -
File No. 334

By: Robert J. Mahoney *RJM*
Assistant Attorney General

Your memorandum of December 1, 1969, enclosing chapters 02, 04, 06, 08, 10 and 15 of 13 AAC, is hereby acknowledged.

This memorandum will confirm my conversation with Captain James Barkley on December 1, 1969, in which I advised Mr. Barkley that the regulations were in proper form for filing and that the memorandum of this office dated October 24, 1969, approving those regulations, should be filed at that time.

The listing in your memorandum of all significant changes that have been made in the regulations as finally adopted, has been noted by this office. Please be advised that Captain Barkley conferred with this office concerning each of these changes prior to the time that they were incorporated in final draft of the regulations. They have been approved as satisfying the requirements of AS 44.62.060(b).

cc: Secretary of State

GKE:RJM:em

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given that the Department of Public Safety, under authority vested by AS 28.05.030-050; 28.20.020; and 28.15.136, proposes to adopt, amend and repeal regulations in Title 13 of the Alaska Administrative Code as follows:

GENERAL: A complete revision of the regulations governing rules of the road; equipping of vehicles; inspection of vehicles; safety responsibility; definitions of words and phrases used in the traffic regulations; and adoption of a complete set of regulations governing the issuance or denial of school bus driver permits, is being made. Revisions include the deletion of various existing provisions, the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of these regulations will repeal 13 AAC 01.101; 103; 104; 105; and 106 and will adopt 13 AAC 02 (Rules of the road); 13 AAC 04 (Vehicle lighting, brakes and other equipment); 13 AAC 06 (Inspection of vehicles); 13 AAC 08 (Driver licensing and safety responsibility) and 13 AAC 10 (Definitions—traffic regulations). The provisions of these regulations concern the following:

A. RULES OF THE ROAD:

- (1) Traffic signs, signals, and markings;
- (2) Use of the roadway;
- (3) Right-of-way;
- (4) Pedestrian rights and duties;
- (5) Turning, starting and signals on stopping or turning;
- (6) Special stops required;
- (7) Speed restrictions;
- (8) Stopping, standing or parking;
- (9) Bicycles;
- (10) Snow, vehicles (equipment, restrictions on use, etc.);
- (11) Miscellaneous provisions—governing leaving vehicles unattended, backing, riding on cycles and scooters, obstructing driver's view, opening and closing doors, livestock on roadway, riding in trailers, coasting, following emergency vehicles, crossing fire hose, littering, carrying or towing persons on outside of vehicle, embracing while driving, drinking while driving and leaving child in vehicle;
- (12) General provisions governing application of traffic regulations, obedience to police officer, riding animals or animal-drawn vehicles, fireman's private vehicle and emergency vehicles.

B. VEHICLE LIGHTING, BRAKES AND OTHER EQUIPMENT:

- (1) Scope and effect of regulations;
- (2) Lamps and other lighting equipment;
- (3) Brakes;
- (4) Other equipment, including horns, muffler, mirrors, windshield, tires, safety glazing material, flares and warning devices, air conditioning equipment, television viewers, anti-deicers, wipers, seatbelts, safety chains, motorcycle and scooter requirements concerning face shields, helmets, handlebars, and standards for use, and required equipping of vehicles for sale, lease or rental.

C. INSPECTION OF VEHICLES:

- (1) Vehicle equipment condition;
- (2) Inspection by officer;
- (3) Owner or driver to comply with inspection requirements;
- (4) Roadside inspections;
- (5) Inspection stickers;
- (6) Prohibited practices—(repairs, etc.);
- (7) Notice and approval of repair or adjustment.

D. DRIVER LICENSING AND SAFETY RESPONSIBILITY:

- (1) School bus driver permits—(Article 1):
 - (a) Application of regulations;
 - (b) Denial of permit (grounds);
 - (c) Application and examination requirements (scores, composition and frequency);
 - (d) Medical standards;
 - (e) Permit to be carried;
 - (f) Restricted permit;
 - (g) Cancellation of permit (grounds);
 - (h) Suspension or revocation of permit (grounds and duration);
 - (i) Re-examination (grounds).
- (2) Safety Responsibility—(Article 2):
 - (a) Application of regulations;
 - (b) Reports required (time

Proof of Publication

ANCHORAGE DAILY TIMES

JOSEPH P. KOLLER

being duly sworn, according

to law declares: That he is the **ADVERTISING DIRECTOR** of The Anchorage

Daily Times, a daily newspaper published in the town of Anchorage, in the Third Judicial Division, State of Alaska; that the notice of **PROPOSED CHANGES IN THE REGULATIONS**

OF THE DEPT. OF PUBLIC SAFETY: RULES OF THE ROAD... a copy of which is hereto attached, was published **OCT. 13, 1969**

in said Anchorage Daily Times, beginning with the issue of **OCT. 13, 1969,**

and ending with the issue of **OCT. 13, 1969.**

Joseph P. Koller

Subscribed and sworn to before me this **13th** day of **OCT.**, 19 **69.**

Notary Public for the State of Alaska.

My Commission Expires **6/19/1973**

(c) Security deposit (form and beneficiary);
 (d) Release from liability (notarization required);
 (e) Agreement for payment of damages—(Notarization required);
 (f) Form of notice (delivery and time limit).

E. DEFINITIONS—Traffic regulations:
 This chapter defines various words and phrases used in the traffic regulations and in certain sections of AS 28.

Since the regulations are so extensive as to preclude inclusion in this notice, interested persons may inspect them at a regional headquarters office at the Alaska State Troopers, Anchorage or Fairbanks, or obtain a reasonable number of copies by a written request addressed to the Department of Public Safety, Pouch N, Juneau, Alaska.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held at Room 423, Capitol Building, Juneau, Alaska, at 9:00 o'clock a.m. on November 17, 1969.

The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

DATE: October 10, 1969
 Mel J. Pursuit
 Commissioner
 Department of
 Public Safety

PUB. Oct. 13, 1969

ACCOUNTING SECTION
 NOV 5 - 1969
 RECEIVED

PUBLISHER'S AFFIDAVIT

United States of America

State of Alaska

First Division

ss.

ACCOUNTING SECTION
NOV 10 1969
RECEIVED

(Paste copy of publication here)

NOTICE OF PROPOSED
CHANGES IN THE
REGULATIONS OF THE
DEPARTMENT OF PUBLIC
SAFETY

Notice is hereby given that the Department of Public Safety, under authority vested by AS 28.05.030-050, 28.20.020, and 28.15.130, proposes to adopt, amend and repeal regulations in Title 13 of the Alaska Administrative Code as follows:

GENERAL: A complete revision of the regulations governing rules of the road; equipping of vehicles; inspection of vehicles; safety responsibility; definitions of words and phrases used in the traffic regulations; and adoption of a complete set of regulations governing the issuance or denial of school bus driver permits, is being made. Revisions include the deletion of various existing provisions, the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of these regulations will repeal 13 AAC 01.101; 103; 104; 105; and 106 and will adopt 13 AAC 02 (Rules of the road); 13 AAC 04 (Vehicle lighting, brakes and other equipment); 13 AAC 06 (Inspection of vehicles); 13 AAC 08 (Driver licensing and safety responsibility) and 13 AAC 10 (Definitions-traffic regulations.) The provisions of these regulations concern the following: RULES OF A. RULES OF THE ROAD:

1. Traffic signs, signals and markings;
2. Use of the roadway;
3. Right-of-way
4. Pedestrian rights and duties;
5. Turning, starting and signals on stopping or turning;
6. Special stops required;
7. Speed restrictions;
8. Stopping, standing or parking.
9. Bicycles 10. Snow vehicles (equipment, restrictions on use, etc.);
11. Miscellaneous provisions-governing leaving vehicles unattended, backing, riding on cycles and scooters, obstructing driver's view, opening and closing doors, livestock on roadway, riding in trailers, coasting, following emergency vehicles, crossing fire hose, littering, carrying or towing persons on outside of vehicle, embracing while driving, drinking while driving and leaving child in vehicle; 12. General provisions-governing application of traffic regulations, obstructions to police officer, riding animals or animal-drawn vehicles, fireman's private vehicle and emergency vehicles.

I, William H. James,
 being first duly sworn, on oath depose and say: that I am
 the General Manager of
 SOUTHEAST ALASKA EMPIRE, a newspaper of general circulation,
 published in the town of Juneau, State of Alaska; that the pub-
 lication, of which the annexed is a true copy, was published in
 said newspaper on the 17th
 day of October, 1969,
 at Juneau, Alaska,
 the last date of publication being
October 17, 1969.

William H. James

Subscribed and sworn to before me this 1st
day of November, 1969

Angel Albert

Notary Public in and for the State of Alaska.

My commission expires August 12, 1971

K-2

C. INSPECTION OF VEHICLES

1. Vehicle equipment condition;
2. Inspection by officer;
3. Owner or driver to comply with inspection requirements;
4. Roadside inspections;
5. Inspection stickers;
6. Prohibited practices—repairs, etc.
7. Notice and approval of repair or adjustment.

D. DRIVER LICENSING AND SAFETY RESPONSIBILITY

1. School bus driver permits—(Article 1):

- a. Application of regulations;
- b. Denial of permit—(grounds)
- c. Application and examination requirements—(scores, composition and frequency);
- d. Medical standards;
 - a. Permit to be carried;
 - f. Restricted permit;
 - g. Cancellation of permit—(grounds);
 - h. Suspension or revocation of permit—(grounds and duration);
 - i. Re-examination—(grounds).

2. Safety Responsibility—(Article 2):

- a. Application of regulations;
- b. Reports required—(time limits);
- c. Security deposit—(form and beneficiary);
- d. Release from liability—(notarization required);
- e. Agreement for payment of damages—(Notarization required);
- f. Form of notice—(delivery and time limit).

E. DEFINITIONS—TRAFFIC REGULATIONS

This chapter defines various words and phrases used in the traffic regulation and in certain sections of AS 28.

Since the regulations are so extensive as to preclude inclusion in this notice, interested persons may inspect them at a regional headquarters office of the Alaska State Troopers, Anchorage or Fairbanks, or obtain a reasonable number of copies by a written request addressed to the Department of Public Safety, Pouch N, Juneau, Alaska.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held at Room 423, Capitol Building, Juneau, Alaska, at 9 a.m. on November 17.

The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

Notice is hereby given that the Department of Public Safety, under authority vested by AS 05.20.070, proposes to amend regulations in Title 13 of the Alaska Administrative Code as follows:

GENERAL: A complete revision of the regulations governing ski lifts and tows and amusement rides is being made. Revisions include the deletion of various existing provisions; the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of the revised regulations will delete 13 AAC 01.107 and 108, and will adopt 13 AAC 03. 010-150 (Aerial passenger tramways) and 13 AAC 15. 160-320 (Amusement rides). The provisions of those sections of that chapter concern the following:

1. Aerial Passenger tramways—(Article 1):

- a. Declaration of intent;
- b. Aerial tramway; single and double reversible
- c. Registration;
- g. New construction and alterations;
- h. Accident and injury;
- i. Inspection, maintenance and repair;
- j. Signs and lighting;
- k. Storms;
- l. Miscellaneous
- m. Attendants;
- n. Application of other codes (electrical, bldg. etc.)
- o. Definitions.

2. Amusement Rides—(Article 2):

- a. Purpose;
- b. Structure and foundation;
- c. Access and egress
- d. Passenger loading platforms, ramps, stairways and railings;
- e. Electric safety requirements;
- f. Passenger carrying equipment;
- g. Safety belts, bars and similar equipment;
- h. Signal systems;
- i. Debris and obstructions;
- j. Attendants;
- k. Signs;
- l. Extraordinary hazards;
- m. Accident and injury
- n. Inspection, maintenance and repair;
- o. Exceptions;
- p. Definitions.

Since the regulations are so extensive as to preclude inclusion in this notice, interested persons may inspect them at a regional headquarters office of the Alaska State Troopers at Anchorage or Fairbanks or obtain a reasonable number of copies of the amended regulations by a written request addressed to the Department of Public Safety, Pouch N, Juneau, Alaska.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held at Room 423, Capitol Building, Juneau, Alaska, at 9 a.m. on November 24.

The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

Commissioner
Department of Public Safety

AFFIDAVIT OF PUBLICATION

ACCOUNTING SECTION
OCT 29 1969
RECEIVED

UNITED STATES OF AMERICA
STATE OF ALASKA
FOURTH DISTRICT

} ss.

Legal No. 724

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given that the Department of Public Safety, under authority vested by AS 28.05.030-050; 28.20.020; and 28.15.130, proposes to adopt, amend and repeal regulations in Title 13 of the Alaska Administrative Code as follows:

GENERAL: A complete revision of the regulations governing rules of the road; equipping of vehicles; inspection vehicles; safety responsibility; definitions of words and phrases used in the traffic regulations; and adoption of the complete set of regulations governing the issuance or denial of school bus driver permits, is being made. Revisions include the deletion of various existing provisions, the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of these regulations will repeal 13 AAC 01.101; 103; 104; 105; and 106 and will adopt 13 AAC 02 (Rules of the road); 13 AAC 04 (Vehicle lighting, brakes and other equipment); 13 AAC 06 (Inspection of vehicles); 13 AAC 08 (Driver licensing and safety responsibility) and 13 AAC 10 (Definitions—traffic regulations). The provisions of these regulations concern the following:

A. RULES OF THE ROAD: (1)

- Traffic signs, signals and markings;
- (2) Use of the roadway;
- (3) Right-of-way;
- (4) Pedestrian rights and duties;
- (5) Turning, starting and signals on stopping or turning;
- (6) Special stops required;
- (7) Speed restrictions;
- (8) Stopping, standing or parking;
- (9) Bicycles;
- (10) Snow vehicles (equipment, restrictions on use, etc.);

(11) Miscellaneous provisions—governing leaving vehicles unattended, backing,

riding on cycles and scooters, obstructing driver's view, opening and closing doors, livestock on roadway, riding in trailers, coasting, following emergency vehicles, crossing fire hose, littering, carrying or towing persons on outside of vehicle, embracing while driving, drinking while driving and leaving child in vehicle;

(12) General provisions—governing application of traffic regulations, obedience to police officer, riding animals or animal-drawn vehicles, fireman's private vehicle and emergency vehicles.

B. VEHICLE LIGHTING, BRAKES AND OTHER EQUIPMENT:(1)

Scope and effect of regulations:

- (2) Lamps and other lighting equipment;
- (3) Brakes;
- (4) Other equipment—including horns, mufflers, mirrors, windshield, tires, safety glazing material, flares and warning devices.

Before me, the undersigned, a notary public, this day personally appeared Danella Goebel, who, being

first duly sworn, according to law, says that he/she is the Classified Advertising Manager of The Fairbanks Daily News-Miner, a newspaper published at Fairbanks, in said Fourth District and State, and that the advertisement, of which the annexed is a true copy, was published in said paper on the 17th day of October, 1969; and once each _____

THEREAFTER for _____ consecutive _____ the last publication appearing on the _____ day of _____, 19____; and that the rate charged thereon is not in excess of the rate charged private individuals, with the usual discounts.

Danella Goebel

Subscribed and sworn to before me this _____ day of October, 1969.

Oliver W. [Signature]

Notary Public in and for the State of Alaska.

My commission expires June 31, 1972

C. INSPECTION OF VEHICLES:

- (1) Vehicle equipment conditions;
- (2) Inspection by officers;
- (3) Owner or driver to comply with inspection requirements;
- (4) Roadside inspections;
- (5) Inspection stickers;
- (6) Prohibited practices—(repairs, etc.);
- (7) Notice and approval of repair or adjustment.

D. DRIVER LICENSING AND SAFETY RESPONSIBILITY:

- (1) School bus driver permits—(Article 1);
 - (a) Application of regulations;
 - (b) Denial of permit—(grounds);
 - (c) Application and examination requirements—(scores, composition and frequency);
 - (d) Medical standards;
 - (e) Permit to be carried;
 - (f) Restricted permit;
 - (g) Cancellation of permit—(grounds);
 - (h) Suspension or revocation of permit—(grounds and duration);
 - (i) Re-examination—(grounds);
- (2) Safety Responsibility—(Article 2);
 - (a) Application of regulations;
 - (b) Reports required—(time limits);
 - (c) Security deposit—(form and beneficiary);
 - (d) Release from liability—(notarization required);
 - (e) Agreement for payment of damages—(Notarization required);
 - (f) Form of notice—(delivery and time limit).

E. DEFINITIONS--TRAFFIC REGULATIONS:

This chapter defines various words and phrases used in the traffic regulations and in certain sections of AS 28.

Since the regulations are so extensive as to preclude inclusion in this notice, interested persons may inspect them at a regional headquarters office of the Alaska State Troopers, Anchorage or Fairbanks, or obtain a reasonable number of copies by a written request addressed to the Department of Public Safety, Pouch N, Juneau, Alaska.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held at Room 423, Capitol Building, Juneau, Alaska, at 9:00 o'clock a.m. on November 17, 1969.

The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

DATE: October 10, 1969

Mel J. Personett
Commissioner
Department of Public Safety


Published: Oct. 10, 1969

ORDER ADOPTING REGULATIONS OF
DEPARTMENT OF PUBLIC SAFETY


The attached 116 pages of regulations are hereby certified to be correct copies of the regulations which the Department of Public Safety adopts under authority vested by AS 28.05.030 - 050; AS 28.20.020; AS 28.15.130 and AS 05.20.070 and after proceedings had in accordance with the Administrative Procedure Act (AS 44.62).

This order takes effect on the 30th day after it has been filed by the Secretary of State as provided in AS 44.62.180.

DATE December 1, 1969


Commissioner

I, Robert W. Ward, Secretary of State for the State of Alaska, certify that on December 1, 1969, at 1:00 P.M., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Secretary of State

*Copies to each
Reg. Mail on Oct 7, 1961*

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given that the Department of Public Safety, under authority vested by AS 05.20.070, proposes to amend regulations in Title 13 of the Alaska Administrative Code as follows:

GENERAL: A complete revision of the regulations governing ski lifts and tows and amusement rides is being made. Revisions include the deletion of various existing provisions; the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of the revised regulations will delete 13 AAC 01.107 and 108, and will adopt 13 AAC 15.010-150 (Aerial passenger tramways) and 13 AAC 15.160-320 (Amusement rides). The provisions of those sections of that chapter concern the following:

(1) AERIAL PASSENGER TRAMWAYS - (ARTICLE 1):

- (a) Declaration of intent;
- (b) Aerial tramway; single and double reversible;
- (c) Chair lift, gondola lift and skimobile;
- (d) T-bar, J-bar, platter and similar devices;
- (e) Fiber rope tow;
- (f) Registration;
- (g) New construction and alterations;
- (h) Accident and injury;
- (i) Inspection, maintenance and repair;
- (j) Signs and lighting;
- (k) Storms;
- (l) Miscellaneous provisions - (exemptions);
- (m) Attendants;
- (n) Application of other codes (electrical, bldg. etc.);
- (o) Definitions.

(2) AMUSEMENT RIDES - (ARTICLE 2):

- (a) Purpose;
- (b) Structure and foundation;
- (c) Access and egress;
- (d) Passenger loading platforms, ramps, stairways and railings;
- (e) Electric safety requirements;
- (f) Passenger carrying equipment;
- (g) Safety belts, bars and similar equipment;
- (h) Signal systems;
- (i) Debris and obstructions;
- (j) Attendants;

- (k) Signs;
- (l) Extraordinary hazards;
- (m) Accident and injury;
- (n) Inspection, maintenance and repair;
- (o) Exceptions;
- (p) Definitions.

Since the regulations are so extensive as to preclude inclusion in this notice, interested persons may inspect them at a regional headquarters office of the Alaska State Troopers at Anchorage or Fairbanks or obtain a reasonable number of copies of the amended regulations by a written request addressed to the Department of Public Safety, Pouch N, Juneau, Alaska.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held at Room 423, Capitol Building, Juneau, Alaska, at 9:00 o'clock a.m. on November 24, 1969.

The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

DATE October 10, 1969



Commissioner
Department of Public Safety

*Copies to each
Reg. Mailed on Oct 7, 1961*

NOTICE OF PROPOSED CHANGES IN THE
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GENERAL: A complete revision of the regulations governing rules of the road; equipping of vehicles; inspection of vehicles; safety responsibility; definitions of words and phrases used in the traffic regulations; and adoption of a complete set of regulations governing the issuance or denial of school bus driver permits, is being made. Revisions include the deletion of various existing provisions, the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of these regulations will repeal 13 AAC 01.101; 103; 104; 105; and 106 and will adopt 13 AAC 02 (Rules of the road); 13 AAC 04 (Vehicle lighting, brakes and other equipment); 13 AAC 06 (Inspection of vehicles); 13 AAC 08 (Driver licensing and safety responsibility) and 13 AAC 10 (Definitions - traffic regulations). The provisions of these regulations concern the following:

A. RULES OF THE ROAD:

- (1) Traffic signs, signals and markings;
- (2) Use of the roadway;
- (3) Right-of-way;
- (4) Pedestrian rights and duties;
- (5) Turning, starting and signals on stopping or turning;
- (6) Special stops required;
- (7) Speed restrictions;
- (8) Stopping, standing or parking;
- (9) Bicycles;
- (10) Snow vehicles (equipment, restrictions on use, etc.);
- (11) Miscellaneous provisions - governing leaving vehicles unattended, backing, riding on cycles and scooters, obstructing driver's view, opening and closing doors, livestock on roadway, riding in trailers, coasting, following emergency vehicles, crossing fire hose, littering, carrying or towing persons on outside of vehicle, embracing while driving, drinking while driving and leaving child in vehicle;

- (12) General provisions - governing application of traffic regulations, obedience to police officer, riding animals or animal-drawn vehicles, fireman's private vehicle and emergency vehicles.

B. VEHICLE LIGHTING, BRAKES AND OTHER EQUIPMENT:

- (1) Scope and effect of regulations;
- (2) Lamps and other lighting equipment;
- (3) Brakes;
- (4) Other equipment - including horns, muffler, mirrors, windshield, tires, safety glazing material, flares and warning devices, air conditioning equipment, television viewers, anti-spray devices, seatbelts, safety chains, motorcycle and scooter requirements concerning goggles; face shields; helmets; handlebars, and standards for same, and required equipping of vehicles for sale, lease or rental.

C. INSPECTION OF VEHICLES:

- (1) Vehicle equipment condition;
- (2) Inspection by officer;
- (3) Owner or driver to comply with inspection requirements;
- (4) Roadside inspections;
- (5) Inspection stickers;
- (6) Prohibited practices - (repairs, etc.);
- (7) Notice and approval of repair or adjustment.

D. DRIVER LICENSING AND SAFETY RESPONSIBILITY:

- (1) School bus driver permits - (Article 1);
 - (a) Application of regulations;
 - (b) Denial of permit - (grounds)
 - (c) Application and examination requirements - (scores, composition and frequency);
 - (d) Medical standards;
 - (e) Permit to be carried;
 - (f) Restricted permit;
 - (g) Cancellation of permit - (grounds);
 - (h) Suspension or revocation of permit - (grounds and duration);
 - (j) Re-examination - (grounds).
- (2) Safety Responsibility - (Article 2);
 - (a) Application of regulations;
 - (b) Reports required - (time limits);
 - (c) Security deposit - (form and beneficiary);
 - (d) Release from liability - (notarization required);
 - (e) Agreement for payment of damages - (Notarization required);
 - (f) Form of notice - (delivery and time limit).

E. DEFINITIONS - TRAFFIC REGULATIONS:

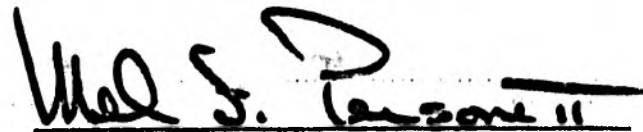
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The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

DATE October 10, 1969



Commissioner
Department of Public Safety

Rough Draft

Stevens Village
Investigation

SPECIAL
JUDICIARY SUBCOMMITTEE
MINUTES OF THE MEETING
APRIL 20, 1970
8:00 p.m.

The meeting was called to order by Chairman Fink at 8:05 p.m. in the Masonic Temple. Present were Miller, Cornelius.

Fink gave a synopsis of proceedings so far for the benefit of Mr. Cornelius who had not been present when this problem first came up.

Friday Mr. Young brought up on the floor that he had information from the council in Stevens Village that they were not in favor of an injunction and he questioned the propriety of the suit. John Sackett felt that things were in order. Saturday Mr. Fink met with John Hedland, and went over copies of the complaints. I have copies of the papers for the litigation signed by Mr. Evans, president of the council, Mr. Smoke, Mr. Silvers, and William Pitts.

I have a resolution dated in January signed by the native villages of Minto, Rampart, Alakaket, and Bettles. (There was mention of the DNH corporation at this point.) ~~They want to~~ Revoke the release from all claims for right of way.

There was complaint of the suit of the various villages and natives against Hickel. (Peterson arrived 8:08) I have copies of the complaints and ~~all the~~ Allakaket, Bettles, Rampart, Stevens Village ~~filed~~ against Keith Miller, Beardsky, and Kelly.

We have requested a copy of the OEO guidelines on legal services. (Metcalf arrived as a spectator at 8:09)

There is also some information from Alaska Legal Services.

Copies of this information will be made for all subcommittee members.

~~First witness:~~ Cornelius wanted to ask some questions before he had to leave. What is DNH? It is an organization consisting of natives organized by the Tanana Chiefs to take care of the contract rights of the villagers. Are they a client of the ALS? Is DNH a profit making organization? It is hoped to be. Does Legal Services ordinarily represent profit-making organizations? Yes. When this initial suit was filed, was this done after legally constituted meeting of the Stevens Village council including 30% of the people?

Fink asked him to hold his questions and ~~have~~ ^{allow} the witnesses ^{to} testify first.

First Witness: Don Young - (Miller asked whether or not the testimony should be recorded. He meant with a recording device. No arrangements to this affect had been made. The secretary will take as complete a set of notes as possible.)

I may ramble a little on this. You have heard Friday's discussion and the orientation on the floor and you have had about enough of it. At that time I was not attacking ALS. Stevens Village happens to be a village that I represent even though I don't get that many votes out of it. It is my duty as a representative to inquire into any problem in my area. This was the sole purpose of bringing it to the floor. To try to defent the village. They will be thoroughly jeopardized now and until after all the oil is gone. I am going to do something tonight that maybe I shouldn't do. I made some allegations and they were wrong. After cooling down I went through all my records and found that there were two letters written. One to Isabel Holm. This is the one I have the answer to. I offer my apology to Mr. Croft. It is basically the same letter but it is pleading the cause of the state. It wasn't in the form that they would not receive certain things. It was a representative's inquiry of those people, the same things that I requested of Isabel. Many times the people are not present so I dealt with someone who knows what is going on, and that is the postmistress. The answer to my letter will be submitted. (a). He next submitted the letter to the village council (b). This is where we have the heat of battle. I apologize to Mr. Croft. They are basically the same letter. After this occurred, I contacted a friend. I have a good personal friend, Joe Nichols, in Fairbanks, and I called him. Joe, I have a letter. Are you going into Stevens Village in the near future? Would you find out exactly what happened? I am sending a letter to Charles Evans and ~~sk~~ asking him to answer. The letter and the man arrived the same day. I received a letter back with an answer. The letter he sent back to me that has caused so much trouble. (c). Next letter presented was on ~~MM~~ DNH. (d). When I received that letter, as a legislator, I was in a quandary as to what to do. ALS asked why I didn't come to them. I was at a loss as to what to do. I believed that these people did not know what they were doing. Anybody can sell me anything if they are smooth talkers. Same way with the ~~XXXXXX~~ natives. I went to the only lawyer I know that represented the people in the state of Alaska. I went to the AG's office. I asked for a legal form or affadavit. I requested that they send the AG in Fairbanks, Steve Cooper, into Stevens Village to find out if the ~~xxx~~ natives had been consulted and if they had voted on this issue. This is what I requested. (e). The original of this has been turned over to the AG's office today and another copy has probably gone to Washington, D.C. The originals of both "e" and "f" will be provided

for the subcommittee. (f). My opening statement was that I had no argument with ALS on Friday. I was trying to protect the people from Stevens Village from being abused. In doing so, I had to bring these things to light. ---remote area for a long while. I know that I can go there and receive a reverse affidavit to the one that was read on the floor today. I want to make sure that the people ~~xxxxxxx~~ who represent the people in the villages cover both sides of the issue. ----think they are helping the people who cannot help themselves. I will state what your purpose of a hearing is in this committee. The ALS and the committee want to see what happened before this was ever brought to light before this was ever considered. Did they truly represent the people in Stevens Village or not? Were the legal governing bodies consulted? If they were not, then the statement I made was true, then my information was true. (Miller) What is your opinion on whether the people were approached and fairly treated? I would say this. The Stevens Village people probably received more benefits-----for-- approached-----as in the affidavits, this wasn't an attempt- -- they did not know that the information was going to be filed. Were they fairly treated? I don't think that they were because they were not exposed to all of the facts.

(Fink) It appears to me that we are going to ~~xxxxxxx~~ get contradictory ~~xxxxxxx~~ affidavits. The original ones and the ones that you received. How will the committee solve this? I don't ~~xx~~ think we can solve this. The people of Stevens Village will have to solve this. The committee and ALS should be ----- . The sad part about this is that the people in the remote areas don't really know. It is like they mentioned on the floor. Bill Carlowe. He is a native man. If they knew this would jeopardize their jobs

(Miller) I would respect your secrecy regarding the individual. Is it a person that would know these things? The person I am referring to has access to all persons entering or leaving the village. (Cornelius) Was he ever in Stevens Village? I don't think he was. (Miller) Would you recognize signatures of Evans and the others? Yes. In the council how many votes would it take to be a majority. The chief, is he an ex-officio member? He has a vote because they have a vote in their capacity. This is a majority of the council? I had no knowledge of any of these. The action I took was ~~in~~ not before I knew.

Second Witness: Robert Price, AG's office. At this time I would like to perhaps correct the record. I really believe that the information you are looking for is something like Mr. Young submitted. I ~~had~~ would merely like to comment on a question by Mr. Miller. Affidavits which had been brought back to Juneau and secured by Mr. Stephen Cooper, DA in Fairbanks. I discussed the ~~affidavits~~ affidavits with him after his return from Stevens Village on the 14th. He said that he put the affidavit -----He discussed this first with the villagers as to what had happened. Same kind of factfinding that you are doing tonight. Then their own language was put in the form of a statement which they signed. That is the only statement that I have at this time. (Miller) Was any motion for discovery made? As far as we know we have not been served a summons. It was the inquiry of a legislator that ~~was~~ wanted to know what had happened to the people which he represented. The AG has broad powers. Merely to determine what set of facts or circumstances were ~~in~~ true. Did the state at any time enter into amicus curiae? No. It depends upon what stage. There are three different law suits. The one in

Washington, D. C. There has been a preliminary injunction against Secretary of Interior Hickel. The state is ~~not~~ in no way involved. Just an interested party. Are there any suits against the state? A complaint against Miller, Beardsley, and Kelly. This was instituted ten days ago. The state has not yet received the summons. Was your Stevens village inquiry prior to that suit being brought? Probably, We still have not been served a summons in the suit. At the time Steve when up there were you anticipating that the state was going to be sued? Yes. We had been sued but we had not been served. Yes. Through the newspapers. Was your action in contacting the village not involved with that suit? I ~~don't~~ don't really know. I may have been. Our greatest concern was in the Washington, D. C. suit. Were the documents you received in the village used in any way in any of these actions? They have not been used. They have been transmitted to the Department of Justice. For use in that suite? For whatever use the department sees fit to make of them. Do you have any ~~idea~~ idea as to what that might be? No. Do you think it would have any effect on the suit as filed? I would assume that it could have a certain weight. As is sits now, do you still have the decision that you have to file a motion of discovery? We are still only an ~~interested~~ extremely interested party in all of the suits filed. We have not yet been served. It is my ~~knowledge~~ knowledge that ~~there~~ there is not litigation until you are served with summons, especially since this is more than a week ago. You can file an answer without being served, can't you? I am not aware of this. Then in your testimony to this committee your testimony was prepared in the ~~villagers~~ villagers own words and transcribed from them. It could have been recorded, but wasn't.

(Miller) As I read that authorization, I wondered how suits are brought against the state. Certainly that might be something to be inquired into. The one one interested in this is the Secretary of Interior Hickel suit. Authorization is not as broad as the action that is taken. I don't intend to be limited in any aspect. I wonder about that authority, if it has not been exceeded. John Hedland, is on the Board of Directors of Alaska Legal Services. David Wolf, Director of Litigation and supervisory attorney in Fairbanks. William H. Jacobs if present Director of ALS. John - scope of the authorization granted to Bill ~~Jacobs~~ Jacobs and any attorney that he cared to associate with. The affect is to permit and authorize ALS to take any action including litigation directed at restraining the grant of a pipeline ~~permit~~ permit by Hickel. Then the action of the governor. Against construction of the pipeline or the road. He was going to ~~authorize~~ authorize road construction by himself. Secretary of Interior notified him and requested his assistance. He then went to the Interior and Insular Affairs Committee to see whether his prime action in lifting the land freeze would authorize this action. So ~~any~~ any action TAPS took did not affect building. It is planned that the pipeline-----by the Secretary of Interior, unless a road ~~is~~ is built. I believe that the scope of this committee is necessary. Prevent TAPS from building the ~~pipeline~~ pipeline across land owned and claimed by natives.

Were you

(Miller) ~~authorized~~ authorized and directed to take any action to release a claim granted on the pipeline system? That apparently is a contract. ----right to do anything you can to release that claim. The second goes to the Secretary of Interior regarding the right of way. The governor took another older authority. ~~Has~~ Has the provision that he can grant the right of way-----and he

has taken these steps. Suits have been filed on this. The only suit filed against the state was directed at enjoining ----- federal court in Washington in the case in which we are not involved.. The Secretary of Interior has ~~known~~ no authority to issue right of way permit for a road. He cannot issue a ~~an~~ pipeline construction ~~an~~-----there will be no ~~any~~ answers for it.

Do you have an authorization from the ~~State~~ Stevens Village council to sue the state. Yes, we have now. When did you obtain that? 18 of April 1970. -----6 of April. You feel that the authorization is broad enough? Yes. If that was so, why did you feel it necessary to obtain further authorization. This was when the newspaper reported that we were----- You were given authorization on April 18 to continue the suit. I was aware of the fact that they were circulating these documents since last ~~W~~ Tuesday. Nobody from the AG's office had been involved in obtaining them. This authorization signed by the Village Council, where is it? It is not on here. It was signed on the 30th of January. This was in the possession of ALS when they entered the village. ~~It~~ It was the intent of ALS to ask for this authority. We had previously represented the DNH Corporation. -----about our inability to get contracts from TAPS. They thought this was their right in the agreements with TAPS. DNH was the beneficiary of the arrangement between DNH and TAPS. If they ~~intended~~ intended to rescind the waivers as a means of putting pressure on TAPS that it would be ~~necessary~~ necessary ~~for~~ for the ~~villages~~ villages to execute the rescission. The firm, DNH, without the ALS and obtained from them -----to rescind the waiver. One further thought I became involved in the matter.

ALS went back along with people from DNH. They would have to themselves rescind the waiver. We had forms as well as the authority

from----- . When problems like this come up----- . We want ~~xxxx~~ evidence that we have been acting on the request of our clients. Was Stevens Village ----- . It was not intended to obtain them as ~~xxxxxxx~~ a client. Yes. To solicit them as a ~~the~~ client. We were seeking to protect the rights of the DNH Corporation. ~~Thisxxxxxxx~~ You also sought authority from the council? They had already ---- authority DNH to rescind the waivers. ~~The~~ This is the resolution about DNH. Is ALS authority the same as any other attorney? Can you solicit clients? Yes. We have been instructed that it is our duty ~~xxx~~ and our right to ~~xxxx~~ advise a person whose rights are being violated. This was the result of ~~xxxxxxx~~ an informal ~~xx~~ complaint. We were instructed to do it and criticized because we did do it. We have concluded that it would be proper where a practice that is detrimental, even if he does not request it. We sent it to the ethical matters ~~■~~ for the board of governors. After the ---- meeting. I talked to Skip Matthews. Merely advising the client ~~does~~ not mean that you go out to seek a client. Didn't you have to have the client come to you first? Yes. Supported by United States vs. Button. In this case you had prepared authorization with you when you went into the village to have them become your clients. You feel that you ~~xxxxxxx~~ haven't solicited them? I don't think it is improper for any attorney to suggest that the third party become a party to the action. We represented DNH it their request. The only say to protect the interest in the contracts was for these other parties who had made a contract for the benefit of DNH to support this other action. >In order to adequately ~~xxx~~ represent my client, could I go out and solicit another client. Example was in a ~~x~~ airline crash. I needed further evidence. There are three of four other survivors. Not because I wanted the additional fees but I wanted to get further evidence for my own case. I need that other client

so I could adequately ~~xxxx~~ support my other case. I have read your complaint. The authority that you had at the time ~~xxxxxxxx~~ authorized ~~x~~ you to take such action as was necessary. What did the ~~ix~~ villagers consider just compensation? The considered preferential hiring. ----and in contracts in DNH. Suit against Keith Miller has nothing to say about compensation or contracts. If you don't mention what your ~~xxxxxxxx~~ authority tells you to do. You are to do these things until just compensation has been made. It is our view in the action of the ~~xxxxxxxx~~-----governor would have been illegal. Is it your view or is it your people's view? I have made my own judgment on that point. Should not you have received an authorization as broad as your action? We have already received that in my opinion. You consider that a ratification? As I read the authorization, and perhaps I am wrong. This authorizes whatever action is necessary to stop taking land for the pipeline until they have been adequately ~~xxx~~ compensated for this. What is the ~~xxxxxxxx~~ precedent of "any action"? It is ~~xxxx~~ limited by (practical) capability to do something for his client. Getting a release to these claims. ----limited on the right of way against Hickel. (Miller) Seems to be a very limited authority. Our action was authorized and it was the understanding that the village authority covered this. There has been a lot of talk about the time the AG went to Stevens Village to speak to our clients to get them to sign papers to drop our law suit, but they say they haven't been served so ~~ix~~ there is no litigation. (2) The position of the state at that time we have been told is that ~~x~~ the state was planning to intervene in the Washington action against Hickel and had in fact had filed documents in support of this. -----active part in the litigation. In my mind there is no question that this action was proper.

(Wolf) I suppose it is an aside at this point. Compensation. There isn't a legal provision for the type of land you are dealing with her. There is no recognized provision where you could sue for the money involved-----is to insist through that injunction until the consent is given. That is why both suits say nothing about money. There are many provisions for just compensation. Do you ~~think~~ have an opinion as to what compensation means? Originally in July 1969 ----- ~~They~~ The Tanana Chiefs had a meeting and they agreed on what it meant. I don't know what they did consider proper. I have no answer. What about the subject of ~~eminent domain~~? eminent domain? We are talking about a right of way. I am not sure that they do. ----over private land now. Villages claim this land. Title is not the same as what you and I own. It is unique from all other titled land. It is in some other form. There is no analogy.

(Five-minute recess) (Croft) I might say that I discussed what was my understanding about the question of authorization. The ---- had been my understanding and it is now that the suit originally was instituted against the Secretary of Interior Hickel enjoining him from issuing a permit for the pipeline. The governor shortly thereafter announced that he could issue -----permit for the right of way for the construction of a road. -----did not have to wait for the authorization from Interior to go ahead. It was the opinion of ALS that if a permit ~~is~~ were obtained by the governor of Alaska that the governor could authorize the secretary of Interior to construct the pipeline. Since the basis of our suit had nothing to do with the ecology. (Wolf) I went to Stevens Village and other people went in at my direction. Yes, there were forms prepared ahead of time so that one would be large enough to cover everything.

~~XXXXXXXXXXXXXXXXXXXX~~ Preparatory to going we were representing DNH and they had gone to the villages and obtained the resolution that I gave you. The village of Bettles signed their resolution and sent Evans to Fairbanks to sign. He came to my office. He signed that resolution in my office. By then several days later we had decided that that did not suffice in the situation. It was in my office that Bettles signed their authority. Having discussed it with the village council with no one present. After that----- I didn't go to Allakaket ----and other people-- ----did to people for DNH with the forms that we had prepared. I went to Stevens Village with ^{Ruby} ~~XXXXXXXX~~. I did not go to Minto. Others did. Ruby and the lawyer who had gone to each of the other places also a law clerk. The -----each-----stage we spent three or four ~~XXXXXX~~ hours. In Evans home. All members of the council were present. I had a stack of these authorizations. And the recisions. After an hour and a half of talking-----I gave one copy ~~■~~ to everybody. I explained all terms contained in the papers regarding any action we would be taking. I don't think I solicited these people as clients. You don't go in with an authorization saying you don't do anything. I don't think the situation was the type of situation that we had the ~~XXXXXXXXXXXX~~ authorization to do. Was a village meeting called where ~~20%~~ 30% of the people were present? We ~~XXXXXXXXXX~~ advertised ~~■~~ over the radio that we would like to meet with the council. There were several other people who wanted to sign but I told them I didn't think they should sign. A village meeting calling for 30% of the people signed the agreement. We sis not ask for a village meeting. I was operating under the opinion that this was a council decision. Do you feel that the council had the authority to bind the ~~the~~ whole village? -----TAPS when it obtained its waivers in the first place which was all right to lift the land freeze. The

releases were only signed by the president. ~~These~~ These were signed only at Fairbanks. At that particular meeting did you state ~~what~~ what your course of action would be to stop the pipeline or that you were going to place an injunction? I told them we would issue a restraining order. The state has not funded this organization (ALS) this past year, ~~did it?~~ did it? And so far the federal government hasn't? No. We had a slight amount of money which carried us a way this year. You are a public organization (ALS) a ~~nonprofit~~ nonprofit corporation. We have contracted with the federal government to render legal services on the behalf of poor people in the State of Alaska. You have borrowed this money to continue your operation now? ~~How~~ How big a budget do you have a month? We have the figures for 14 months. We have used approximately \$490,000 in the 14-month period. We have ~~applied~~ applied for approximately \$460,000 for a 12-month period. \$40,000 or less per month. Where have you obtained your funds to operate? Rural CAP. Authority came for OEO out of ~~Washington~~ Washington, D.C. to lend the money to ALS. That has been ~~your~~ your sole source of support for the last two months. Have you obtained any funds for this project from any conservation groups? We have two other sources of funding: (1) Services allegedly rendered by contributions in kind, and (2) we have three foundation-type----of attorneys ---pays salary-----is paid by the foundation but we supplement their pay. We receive no contributions ~~of~~ of any kind. Attorneys have done this without charge. ~~Did~~ Did you personally go back on the April 18 meeting? Why did they change their mind from the affidavit from what Mr. Young had? Mr. Evans gave me two documents - signed.----- ~~5~~ 5----- one from each village council member. Horace Smoke's affidavit is

the most interesting. This ~~the~~ is after the village council meeting April 19. He said he went to ~~the~~ Evan's house-----taken from affidavit. The rest of the affidavits indicate that the letter that was signed by all village council members. Written by Allan John after Nichols came on that ~~Saturday~~ Saturday and had it in his possession when Bill Karlow came in on Monday. ---FNA meeting that week on Tuesday or Wednesday night stating that he was taking this letter to the DA. What happened to ~~the~~ it, I don't know. Steve Cooper typed up a version of that letter and had everyone sign it. This was going on at the same time. -----handed out other affidavits. There was a great deal of ~~XXXXXXXXXX~~ tension when I came to the village. They felt that a village meeting ought to be held. There was one held from 4-7 p.m. on the 18th. After that meeting that Evans showed me the two documents sent by Cooper. Until that time-----that the council members told me about the affidavits. I knew Cooper had been there but I didn't know what was going on. At the same time, there were other people--
(He
(Al Ketzler)---~~I~~ was in attendance at the committee meeting.)
~~XXXXXXXX~~ -----also a BIA official. -----get the air cleared was my intent. This was typed in the village. The rest of ~~XXXXXXXXXXXX~~ these were handwritten. This explains that there was a village meeting. There was some confusion because Evans did not show the other council member the letter that I had sent and in fact he had not opened the last one I sent. Two members were not in town at the original decision. Also the letters had not been distributed. There was some confusion as to what was going on. (Fink) I cannot understand where they sit. The one form by Evans to Young. Did Mr. Evans write this letter? Yes. (Miller) Get Don Young's permission to let someone see the documents.-----whether or not these people have been misled and whether they do or do not want an

injunction.

April 18 there was a meeting. There was the Chief of Minto. The three villages originally in the suit ~~xxxxxx~~ -----~~xxxx~~ that we ~~xxxxxxxxxx~~ dismissed from the suit. Was a meeting of the people of Stevens Village-----. Misconception in the press. Minto and Stevens Village are IRA villages and the law applies the same. Allakaket, Rampart, and Bettles are not IRA ~~xxxxxxxx~~ villages. The regulations that applies is different. Brings the same result. Judge Hart ~~xxxx~~ heard arguments with respect to an IRA village and decided ~~xxxxxxxx~~ at 3:00 that he would issue the injunction as from Stevens Village even though Minto was only a mile away. Minto was not included in the injunction. At the time the attorney asked the judge ~~xx~~ if he would like to hear about the other three villages and he said no, not at this time. I don't need to talk about the other three villages. Their claims are still alive and they are parties in the law suit. ~~xxxxxx~~ Minto's claims seems to be unclear. Because of the confusion there ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ is no injunction from Minto. How do you reconcile the affidavits that are entirely contradictory? In one case they say ^{yes} ~~xx~~ and in the other they say no we do not want to have anything to do with this. Do the people know that they are suing or not? These affidavits are explaining ~~xxx~~ how the other affidavits were obtained and when the visits were made. The villagers signed the papers to tell you to stop the law suit and they refused -----state officials at state expense that they did get such things as power plants and freezers because they were visited by the AG's office and ~~xxxxxx~~ Representative Young told them that they wouldn't get an ~~xx~~ airport. The state official Nichols in -----He did not file a law suit because he had children. There is a great deal of troubles. People losing

their jobs. There are no jobs for negroes or natives ----- this was to provide ~~jobs~~ projects in the villages through a state office. The very same things that the people say they want. This man goes on to -----to the village and tells them that they are going to get these things. He also told them they should drop the law suits and to be careful because of their children. -----and with the AG's attorney telling them to drop the law suit. Did someone tell them that the state would lose a lot of ~~funds~~ funds if the pipeline was stopped. Was the economic affect stated to them? The original discussion ~~was~~ at the first meeting -----and I feel I cannot tell you about this. Do you have any objection to have members of this committee go into the village? How long have you been in the state? Two years in Alaska. Both of them. -----Earth Project or Sierra Club members, either of you? No. It is not the intent of the villages and ALS to stop the pipeline. There is no way the villages can get favorable results----was to have the pipeline. Get themselves jobs and contracts in the construction of the pipeline because their land and subsistence economy is going to be affected by the pipeline. Hasn't their action stopped all the rights? What rights to they have left now that the injunction is in effect? It is ~~the~~ the reason that the pipeline isn't being built -----because of the Stevens Village injunction. Do you not contend that Secretary Hickel gave them authority that he would be cited for contempt of court? If this is so, ~~you~~ you continue what is the most important to you or to Stevens Village. I said it was my judgment as to whether this could be legal ~~authorization~~ authorization for the road. The value is the same for any person. If somebody is going to take your land without paying for it----- There is nothing that would match a ~~monetary~~ monetary settlement. The injunction says that the secretary is enjoined from issuing right

of ways -----pipelines without consent of the villagers. ---
if the people wanted to give their consent. Would they have to
talk to you to consent? You would have no objection to them enter-
into such an agreement without your authorization? ----if I think
they are making a mistake. I would give them my opinion.

(Fink) Can I ask you when you became involved with DNH? In the
last couple of weeks of January 1970. I knew the people in DNH and
knew about it by also being contacted about legal problems. DNH
organized in 1969. It is your opinion that 9,000 ~~Athabascans~~
Athabaskan Indians-----being held in trust to have a roll call.
All the people in the Tanana Chiefs. All are equally stockholders.
When were the waivers signed? July 27, 1969. The following month
DNH was organized. -----8 or 9 on the board and they have an
executive board of three. Do they have a full time chairman? ^{Tim} ~~Tim~~
Wallace. Ruby Tanzy in Secretary/Treasurer. When they felt TAPS
did not cooperate they felt their agreement was being ~~breached~~
breached? DNH said we are not doing business with ~~us~~ you. The vil-
lages ought to consider revoking your provision because we haven't
lived up to their agreement. I don't know what ^{Tim} ~~Tim~~ said. ~~xxxxxx~~
-----without any lawyers going out. Tim went out first. No one
from ALS was present. You had nothing to do with DNH operations?
I did not go out when it was signed. You did not represent the village
at that time? It was subsequent to this that you ----- Did
you advise these people to go to the villages. The decision, I think,
had already been made. He had sent a ~~xxxx~~ telegram on the 21st. ----
was sent to ~~xxxx~~ Hickel and oil company ----- because of the problems
DNH was having with them that ----- You knew at the time of the
resolution that this was ~~it~~ being done. Yes. Question was some of
the wording.

You went to the villages on the 18th and talked to these people ----- that they advised you that they would like to drop the law suit. Did they advise of the affidavits given to Don Young? They indicated some documents had been signed but did not tell me what they said. I asked them about this. Were they sticking to that story when you arrived there? The council didn't meet and make a decision one way or the other. Didn't they meet, the entire village, the time you were there? They wanted the whole thing to be -----.

We did not have enough funds to stay long enough to have a village meeting. ~~There~~ There never have been any of these problems. There was a meeting of the whole village. What did they do at that meeting? They discussed whether or not to continue the suit. Did any one speak on the opposing side? Yes. I am concerned ~~about~~ about that part. Discussed if the records that had to do with settlement-----.

This was at that time. It is not a privileged communication. The whole village is a client. I don't think it was an open meeting. -----times others were asked to leave. Larry Braaten was there and the council asked that he leave. Because it was their understanding that he was a newsman. I told that they could ask him to leave if they wanted to. You more or less directed the meeting while you were there? You gave the best legal advise to them. I told them what the choices were. You didn't seem to care what the -----.

~~xxxxxxx~~ Action of a city council is that the hearings are public records. Do you not consider these council meetings as public records? I don't think so when you are involved with litigation possibility. Were there other people ~~there~~ there other than natives? Me, Larry ~~and~~ Braaten, and Larry's wife. Is the postmistress there a native? Are they all of the descent that they would own property in the village? -----have these rights under the 1934 Act. Yes. I think so. If you are excluding people who have rights under

the IRA ~~village~~ Village Act. Evans has lived in the village 10 years. He was born in Rampart. They have the rights of the villages that they are residents of. They have given affidavits ~~two~~ two different ways. Do you consider that area privileged? I told them now that it was going to this committee and it would be public. They are privileged communications. Either in your ~~documents~~ documents or in the ones Don Young presented to us? I think the one with the affidavit that I know of signed by five members of the ~~council~~ council referring to the first meeting-----/ I think that was confidential or privileged. I would be willing to consider it ~~if~~ if the council said, "yes". -----waived where you give a public statement. -----joined the control of the attorney. We have three statements here on this. Do you still consider those privileged even though they ~~have~~ have become public documents? I don't think they were free choice of the villagers. Nichols-----Frank ~~Gardler~~ Gardler----- Three hours is how long they were there. Later----- (Miller) You are saying due to the fact that some-----things ~~they~~ they are not freely given. Even though they have been made public----- I think so. -----any subject that might relate to the ~~affadavit~~ affidavit. If the affidavits were used in court----- could be opening yourself up for some sort of cross examination. You got involved with the villages because you represented DNH and this was necessary for you to do the best job for DNH. The village members are stockholders and DNH was third party beneficiary. (3) ~~W~~ Any settlement that would come at the time -----and it would go to the villages. It was doubtful that DNH would ever profit from the law suit. We went in because of the involvement of DNH. As a result of one village coming to my office. The way things stand now the villages are the prime client in the returns from the law suit. It cannot go directly

to DNH and they may decide not to give them anything. Why didn't
* they file against labor unions instead? Jobs seem to be emphasized.
Some were actually employed while we were there. Some eventually got
jobs on the ice bridge. -----merely compensation for a piece of
property. This in the confusion of the press is being overlooked.
What is the stake? It is a lot more than jobs. The value is greater
than jobs on a pipeline or road for a year or two. Villages need
water, airports, power ~~px~~ plants, and other things. This is what
they want in exchange for this property; ■ not to be under BIA con-
trol but have some economic base for that village. That is worth
a great deal more than jobs. I believe jobs is a smoke screen.
It was in the paper that a member of Legal Services said that. How
could you limit it to jobs? It would give them an opportunity for
training and money that would not be available for just mere jobs.
I was ~~going~~ going to say ~~the~~ that the article he was referring to-----
-----jobs and construction contracts----- ~~Refuxi~~ Refusal to
settle on jobs and contracts. Croft read an article to the committee
from the Saturday paper. One of the reasons for DNH was to perform
contractual services and not just perform manual labor. When the
waivers were given by the ~~villages~~ villages were they for jobs or
for contracts? Hedland read some information regarding this to the
committee. Wolf read the covering resolution. -----corporations
owned will receive contracts. Do not want to stop the pipeline but
want to profit from it. These were drawn by Barry Jackson.

DNH----Ketzler and Mr. Sackett. There have been some allegations
that the villagers are not kept informed. There are 12 affidavits
signed. -----March 22. -----included advance notice. Miller
would be in favor of asking ~~with~~ authorization for the com-
mittee to visit the village to talk to them regarding this. What

would be the purpose? (Five minute recess - 10:30)

Our position that we are not at this time willing to give consent on ~~what~~ behalf of ourselves or our client. We are not capable of making our own decision. Not without conferring with our clients. I don't think the committee has to get consent from anyone. Maybe not as attorneys but if we go over there as laymen we probably would have the right. Croft I think there is a concern on our part and we would like to investigate it further with our client. As to the committee coming into the village and investigating--nobody has suggested that the attorney for TAPS could be called in and asked any question about TAPS. There is some reluctance on our part in the behalf of our clients. (Miller) It is not to investigate attorney-client relationship but to determine the two sides of the issue that have been charged.-----because of attorney/~~sk~~ client privilege. ~~XXXXXX~~ Why did they give Young affidavits and you affidavits? Signed by the same people.

Tanana Chiefs-----a little insight on the indians.-----dealing with the ~~white~~ whites, attorneys, and others in authority over them. Through the years, I have been involved in the council at Tanana. (Ketzler) I have gone through this process. The whites, attorneys, agency heads, come in ; have all education; and things we don't have. Say we will give you this if you do this for us. So they do it. Without any thought to their legal rights. This is the case in Stevens Village. The people came in to Stevens Village; talked to them telling them -----. When I ended up I would sign anything. ~~WhenXXXXXX~~ When he went in on the 18th. -----being head of the AFN. I look at both sides of the questions. Trying to determine what the affect will be. When I went in to the meeting I tried to give them the opposition and what their legal rights were.

From this meeting the one from Minto who believes they have legal rights. They made this decision. You could lead ~~with~~ them with your questions and get anything out of them that you want. Someone would have to know exactly what the legal rights were. ---not what they know to be right but what they think that you want to hear so you will go away. (Miller) By your comments, you think that we are going there to get support for some attorneys. I would like to ask why they signed, without the influence of anyone. Just ask the individual natives what they want. Forget what anyone has told them. ~~xxxxx~~ (Cornelius) Their ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ attorneys should have a right to be present so that they would know what was said at this particular meeting. I don't k think the committee need our counsel to do this. Now we are not going to tell you how----- This is an unusual assignment for this committee. We needed to know We can't get answers from you. Letters go to the people. (1) Will they believe that you have no interest? What is your point of view (2) Another problem you have to face. People who have never had the rights -----litigate before. Or had anyone ~~xxxxxxx~~ ever considered that they had rights to this land. Hickel tried to issue permits denying they had any rights. It took a court order to stop that. -----should have hearing is a problem for people that are not used or part of extensive experience in owning property. They are ~~xxx~~ in a terrible crises. Not something they have ever done before or do everyday. When a legislative committee comes in what are they after and what do they want me to say. I think you have to ~~xxxxxxxxxx~~ recognize this fact. If this is true. If whatever they say is what you want, you have a problem. I have made a recommendation that they had rights to this land. I ~~xxxxxxx~~ would protect these rights Problem I am raising is not limited to Indians. We are representin

people who have never been represented before. Especially in the big suits and the pressures are great. -----if you go in there now. I am not sure how these people will feel. These people are involved in the native land claims. They are not under pressure like this. I would like to ask one thing. ----nobody thinks that/^{it}is unusual that this committee would inquire into the attorney/client relationship. Nothing unusual?? Sending the DA to investigate between the villages and the attorneys. There is not a ~~single member~~ single member of the legislature or the AG's office that would suggest that the legislature should inquire into the delay ~~between TAPS~~ by the TAPS----- advice given about the method of obtaining the rights of way. They don't think of talking to Humble Oil without seeing their attorney. (Cornelius) In that case-----TAPS at their own free will, while these attorneys -----bad for them. In this case how do you render services covering legal problems in the bush unless you go there? Stevens Village-----. When you go to Stevens Village -----. You should be -----a need in going to see if you have a problem. -----if you went to every village.

What the

(Price)/Action of the AG has been in the case. We ~~would~~ had been consulted by a legislator about a problem which has been ----- citizens of the state. ~~It~~ There was a question of whether or not there was adequate ~~representation~~ representation. Representative Young sent someone. (Mr. Cooper only listened to the villagers.) No suggestion of pay-offs are other details. He merely listened to their story. Then he put it down ~~for~~ for them and they signed it.

Larry Braaten and Al Ketzler - They wanted a piece of the action. The thing that comes ~~to~~ to mind here is that we don't understand that

we ourselves hire attorneys. There isn't one person that knows how fill fill out an application and get money from Operation Mainstream. I am an official----you will have an opportunity to get some ~~money~~ money. I think this is ~~what~~ what is involved here. They talk to the people. They have put together a ~~DNH~~ DNH Corporation and want to work ~~the~~ together. We better cut out-----, This is that simple. What's the name of the game? Issue I am raising because I have been involved in this. -----taking jobs from natives. I worked near native villages. No natives were on the job. The only place ~~we~~ where I say natives was on the Dewline and at Bettles. I did a survey ----I think that ~~already~~ already TAPS has a very poor record. The state has been well aware of this. -----jobs for the pipeline. Having been a ~~surveyor~~ surveyor I was very much aware of this. If ----I am not sure-----every surveyor on that survey to Valdez was from some other state or not from the immediate area. I gave this -----to the ~~other~~ other -----there were two people that were trained surveyors; several at Barrow; One at Glennallen; and 20-25 from the Fairbanks area. Not one of these ~~people~~ people were hired. This is what is ~~bothering~~ bothering a lot of us. -----Congressional office. Deals with internations unions. They will go outside and bring in labor. I think it is that the natives want to be a piece of the action.

Joe Nichols did not just visit Stevens Village. Sunday April 12 he went to Minto and ~~went~~ went to Peter John and wanted to see all the papers on this case. It is not due to some letters to ~~Don~~ Don Young and in Stevens Village that is involved.

Is it customary for the AG to respond to a request for investigation from members of the legislature? ----adequately ~~represented~~ represented by their attorneys. I can't speak for the custom on this matter

which is ~~xxxxxx~~ of exceptional nature. It should be looked into. The affidavits speak for themselves. It is also ~~exp~~ exceptional because TAPS is unwilling to settle. As long as this issue is open ----- Unless the clients back out. That Judge in Washington gives the justice department----- If at any time he believes that these villages are being unreasonable in their demands.

Wolf - Would you say that TAPS wasn't willing to settle?

Fink - ^{*We need to know more about*} DNH and then we will see where to go from there. We will go into DNH ~~xxxx~~ tomorrow at 1:30.

Meeting adjourned 10:55 p.m.

Alaska Legal Services Corp. Denies Villagers' Charges

A spokesman for Alaska Legal Services Corp. has denied that the people of Stevens Village asked the organization to halt the injunction against the Trans Alaska Pipeline System (TAPS).

The denial came in response to a statement from Rep. Don Young, R-Ft. Yukon, to the state House of Representatives that the people of the village had signed affidavits swearing that they did not want the injunction and wanted the pipeline to go through.

John Hedland, director of litigation for Alaska Legal Services, said he hadn't seen a request to have the suit dropped, according to the Anchorage Daily News.

Young charged Friday that Alaska Legal Services has "maligned and misled the people of Stevens Village in the pipeline injunction suit.

The Associated Press reported that:

The corporation represented Stevens Village and several other villages in a suit seeking to prevent the 800-mile-long Trans Alaska Pipeline from crossing village property. Federal District Judge George L. Hart Jr. of Washington, D. C., issued a temporary injunction April 1 to keep the pipeline away from the village.

The \$900 million pipeline, proposed to carry oil from Alaska's North Slope to the warm water port of Valdez, would have to cross some 20 miles of Stevens Village lands.

Young charged Friday that Stevens Village did not want an injunction against the pipeline and did not realize that that is what Alaska Legal Services was seeking. He said the villagers thought they simply were joining an action to force TAPS to provide better jobs for natives.

However, the Stevens Village suit is not the only one holding up the start of TAPS construction. On Monday, a U.S. District Judge in Washington granted another injunction to three conservation groups of-way

permit for a road to the oil fields. This also holds up start of pipeline construction, and industry spokesmen said the move could delay oil flow for as much as a year.

A year ago, oil companies paid the state \$900 million for North Slope oil leases in the greatest bidding competition in industry history. The pipeline to Valdez is to be built and owned by eight of the companies.

Young said Friday, "the people of Stevens Village did not want this injunction. They wanted jobs. What bothers me is when Legal Services in Alaska under the guise of helping the poor, takes advantage of their inability to know exactly what they're getting into."

Young produced an affidavit signed by Charles Evans, president of the Stevens Village Council, and the four other members of the council. It had been obtained by representatives of the state attorney general's office at Young's request, Young said.

In it, the council members said they opposed the injunction and that was not what we intended. We never told them they could represent us in that kind of a suit."

The affidavit continued, "we just thought they were asking us to join the effort to have natives hired by TAPS. They had us sign something. We read it but thought it was to help natives get hired."

In an accompanying statement the council members said, "We would like this case thrown out of court as soon as possible. We would like the pipeline to go through."

Young said, "I think the people of Stevens Village were honorable. I don't think they knew what they were getting into."

Young said he is requesting that a resolution be written asking the Department of Interior "to thoroughly scrutinize any further suit by the Alaska Legal Services Corporation."

Rep. Barry Jackson, D-Fairbanks, told the House, "I think allegations have been made on the legality of actions of the Alaska Legal Services Corporation. I would like the Judiciary Committee to investigate the allegations."

Jackson is committee chairman.

Rep. John Sackett, R-Galena, objected to Young's position. Sackett is a member of the board

of DNH, an organization representing 32 native villages interior Alaska, and which worked with Alaska Legal Services in the suit.

Sackett said, "We are holding up the pipeline in a way, if the suit was dismissed tomorrow, the pipeline could not go ahead."

He said DNH was created to guarantee employment of native people because "history has shown that whenever an industry comes to the state, people who were there originally remain unemployed."

He said that in seeking pipeline right-of-way, TAPS had presented a letter of intent to the villages saying it planned to hire native labor.

Sackett continued, "Surely then, the TAPS people have tried every method possible to get out of their letter of intent..."

He added that he objected to Young's comments that the village people didn't know what they were doing and that they were taken advantage of.

He said, "This displays a paternalistic attitude."

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House Opens Probe Of Alaska Legal Services

JUNEAU (AP) — A House Judiciary subcommittee began an investigation Monday into charges that Alaska Legal Services Corp. misrepresented the people of Stevens Village in a pipeline injunction suit.

The hearing was prompted by accusations made in the House Friday by Rep. Donald Young, R-Fort Yukon.

The corporation represented Stevens Village and several other villages in a suit seeking to prevent the Trans Alaska Oil pipeline from crossing village property. On April 1, Federal District Judge George L. Hart Jr. of Washington, D.C., issued a temporary injunction to keep the pipeline away from the village.

Young charged Friday that Stevens Village did not want the injunction and did not realize that that was what Alaska Legal Services was seeking. He said the villagers thought they simply were joining an action to force TAPS to provide jobs for natives.

Young produced an affidavit signed by members of the Stevens Village Council in which they said they opposed the injunction.

However, in the House Monday, an affidavit by the council was produced granting the cor-

poration the right to proceed with the suit.

Young told the subcommittee that when he first suspected the inhabitants of Stevens Village did not favor the suit, he wrote to Charles Evans, president of the council. He said Evans wrote back and said he'd like to have the suit thrown out of court.

Young continued "Then I went to the only lawyer I know that represents the people of the State of Alaska—the attorney general."

He asked the attorney general's office to obtain for him an affidavit from the council stating the council's wishes.

"It would behoove all of us to see what happened before this was brought to light by myself. Did the Alaska Legal Services really represent the people of Stevens Village or were they representing people who did not exist?" Young asked.

Subcommittee chairman Tom Fink, R-Anchorage, said, "Apparently we're going to get conflicting affidavits. How are we going to resolve this? Are these people changing their minds?"

"These people didn't understand," Young replied. "It would behoove those who would represent them to present them with both sides of the informa-

tion."

Testifying for the attorney general's office was Asst. Atty. Gen. Robert Price.

He said the affidavit Young presented Friday was obtained at the request of the attorney general's office by the district attorney from Fairbanks.

"He talked with the villagers to determine what happened, then put their own language into the document, which they signed," Price said.

Subcommittee member Eugene Miller, D-Fairbanks, asked Price if, before he sent someone in there, he knew the state was being sued.

Gov. Keith Miller and several other state officials have been named defendants in another pipeline suit brought by Stevens Village through Alaska

Price replied, "Yes, we had knowledge from the newspapers that a suit had been filed against the governor."

He added, however, that the state did not consider itself a defendant in a lawsuit because it had not been served with any papers.

Speaking for Alaska Legal Services was John Hedlund, the corporation's supervisor of litigation.

He said a document signed by the village council authorized Alaska Legal Services to take any action necessary to obtain desired concessions from TAPS.

Villagers to continue three suits

JUNEAU (Special)—Two attorneys for Alaska Legal Services Corp. arrived in Juneau today armed with a resolution adopted Saturday by Natives of Stevens Village saying they will continue three suits filed against the Trans Alaska Pipeline System and against federal and state officials.

The resolution states that "because of the injunction won in court, by the Native village of Stevens, many sources of pressures have been brought to bear to have the village drop the suit." The resolution was adopted unanimously by 18 members present at the meeting. The village has approximately 25 eligible voters.

John Hedland, director for litigation, and David Wolf, attorney for Legal Services, will testify at a meeting tonight of the House judiciary subcommittee formed to investigate charges made Friday that the people of Stevens Village were "misled" and may have been "stampeded" into filing suits against TAPS, Interior Secretary Walter J. Hickel and a third suit filed against Gov. Keith H. Miller and two of his commissioners after he announced that the state was considering construction of the TAPS pipeline road.

Fbx Daily News-
Miner 4-20-70

issuing a special land-use permit authorizing TAPS to construct a haul road over such land;

(f) That defendant Hickel and his subordinates be permanently enjoined from issuing a special land-use permit authorizing TAPS to construct a haul road over land owned and/or used or occupied by plaintiff villages Allakaket, Bettles, Rampart and Stevens Village and the first six individual plaintiffs;

(g) That plaintiffs be awarded such other and further relief as may be just and equitable under the circumstances.

Respectfully submitted,

ARNOLD & PORTER

By _____

Bruce L. Montgomery
Daniel A. Rezneck
Reid Peyton Chambers

Attorneys for Plaintiffs



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January 30, 1969

The Honorable Speaker of the House
State of Alaska
State Capital
Juneau, Alaska

My dear Sir:

Enclosed are two drafts of model bills which our organization considers to be vitally necessary for effective law enforcement. One concerns electronic surveillance, the other the police authority of "stop and frisk".

Also enclosed are AELE position papers upon both subjects.

We are sending the enclosures to all state Governors, Attorneys General, Presidents of the Senate, and Speakers of the House, with the request that consideration be given to such legislation in their respective states.

To acquaint you with our organization, we are enclosing a copy of our recent newsletter in which you will find a history of AELE, its aims and objectives.

Respectfully submitted,

Fred E. Inbau
President

FBI:oke
encl.

A MODEL STATE STATUTE ON ELECTRONIC SURVEILLANCE

Prepared and Distributed
by
Americans for Effective Law Enforcement, Inc.

(A national, non-partisan, non-political, not-for-profit, tax exempt educational corporation, with headquarters at 33 North Dearborn Street, Chicago, Illinois 60602)

SECTION I

DEFINITIONS

As used in this statute

- (a) "wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications;
- (b) "oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;
- (c) "intercept" means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical or other device;
- (d) "person" means any official, employee, or agent of the United States or any State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;
- (e) "investigative or law enforcement officer" means any officer of the State or political subdivision thereof, who is empowered by the law of this State to conduct investigations of or to make arrests for offenses enumerated in this statute, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;
- (f) "contents" when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication;
- (g) "aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed;
- (h) "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SECTION II

APPLICATION FOR COURT ORDER TO INTERCEPT COMMUNICATIONS, BY ATTORNEY GENERAL OR PROSECUTING ATTORNEY [District Attorney, State's Attorney, etc.]

The Attorney General of this State or the Prosecuting Attorney (District Attorney, State's Attorney, etc.) of any county (district, parish, etc.) is hereby authorized to make application to a () court judge in the county where the interception is to take place for an order authorizing or approving the interception of wire or oral communications, and such judge may grant in conformity with section IV of this statute an order authorizing, or approving the interception of wire or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marijuana or other dangerous drugs, [any other crime dangerous to life, limb, or property, and punishable by imprisonment for more than one year], or any conspiracy to commit any of the foregoing offenses.

SECTION III

AUTHORIZATION FOR DISCLOSURE AND USE OF INTERCEPTED WIRE OR ORAL COMMUNICATIONS

(a) Any investigative or law enforcement officer who, by any means authorized by this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Any investigative or law enforcement officer, who by any means authorized by this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(c) Any person who has received, by any means authorized by this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, or by a like statute of any other state, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this statute may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding in any court or before any grand jury in this State, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

(d) No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, shall lose its privileged character.

(e) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (a) and (b) of this section. Such contents and any evidence derived therefrom may be used under subsection (c) of this section when authorized or approved by a () judge where such judge finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this statute, or Ch. 119, Title 18 of the United States code, as heretofore or hereafter amended, or by a like statute.

SECTION IV

PROCEDURE FOR INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

(a) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a () judge and shall state the applicant's authority to make such application. Each application shall include the following information:

(1) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(2) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (a) details as to the particular offense that has been, is being, or is about to be committed, (b) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (c) a particular description of the type of communications sought to be intercepted, (d) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(4) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(5) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(6) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(b) The judge may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. Oral testimony shall be reduced to writing.

(c) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the county in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that —

(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section II of this statute;

(2) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(b) Any investigative or law enforcement officer, who by any means authorized by this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(c) Any person who has received, by any means authorized by this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, or by a like statute of any other state, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this statute may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding in any court or before any grand jury in this State, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

(d) No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this statute or Ch. 119, Title 18 of the United States code as heretofore or hereafter amended, shall lose its privileged character.

(e) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (a) and (b) of this section. Such contents and any evidence derived therefrom may be used under subsection (c) of this section when authorized or approved by a () judge where such judge finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this statute, or Ch. 119, Title 18 of the United States code, as heretofore or hereafter amended, or by a like statute.

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(1) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(2) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (a) details as to the particular offense that has been, is being, or is about to be committed, (b) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (c) a particular description of the type of communications sought to be intercepted, (d) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(4) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(5) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(6) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(b) The judge may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. Oral testimony shall be reduced to writing.

(c) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the county in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that —

(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section II of this statute;

(2) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(b) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(c) the fact that during the period wire or oral communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a () judge the serving of the inventory required by this subsection may be postponed.

(i) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in any court of this State unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(j) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that —

(a) the communication was unlawfully intercepted;

(b) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(c) the interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this statute. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interest of justice.

(2) In addition to any other right to appeal the State shall have the right to appeal

(a) from an order granting a motion to suppress made under paragraph (1) of this subsection if the Attorney General or Prosecuting Attorney shall certify to the judge or other official granting such motion that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order of suppression was entered and shall be diligently prosecuted as in the case of other interlocutory appeals or under such rules as the Supreme Court [or Court of Appeals] may adopt;

(b) from an order denying an application for an order of authorization or approval, and such an appeal shall be ex parte and shall be *in camera* in preference to all other pending appeals in accordance with rules promulgated by the Supreme Court [or Court of Appeals].

SECTION V

REPORTS CONCERNING INTERCEPTED WIRE OR ORAL COMMUNICATIONS

In January of each year, the Attorney General of this State, and the Prosecuting Attorney of each county shall report to the Administrative Office of the United States Courts such information as is required to be filed by Title 18 U.S.C. Section 2519, as heretofore or hereafter amended. A duplicate copy of such reports shall be filed, at the same time, with the Administrative Office of the Courts of this State.

SECTION VI

SEVERABILITY

If any portion or subsection of this Act or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other sections or applications of the Act which can be given effect without the invalid section or application, and to this end the provisions of this Act are declared to be severable.

Note

This model statute is limited to provisions enabling prosecuting attorneys to obtain authorization or approval for electronic surveillance, and to provisions regulating the admission of evidence thereby obtained. Its coverage has been kept within the bounds of the June 19, 1968 federal electronic surveillance statute.

Criminal penalties for violations of this model state statute were omitted because (a) the federal statutory penalties probably pre-empt the states from enforcing their own; and (b) the draftsmen of this model state statute thought it advisable to leave to federal authorities the matter of violation of electronic surveillance prohibitions, in order to achieve uniformity of application and construction.

These various considerations also account for the fact that the model state statute is patterned very closely after the federal one.

ELECTRONIC SURVEILLANCE

Position Paper #1

of

Americans for Effective Law Enforcement, Inc.

(A national, non-partisan, non-political, not-for-profit, tax exempt educational corporation, with headquarters at 33 North Dearborn Street, Chicago, Illinois, 60602)

The *spoken* word is more important to criminals than it is to the rest of us. They value it far more than the *written* word, for a piece of writing carries the risk of tangible evidence of guilt.

Spoken words are also indispensable to the commission of certain crimes: extortion, solicitation of bribery, and syndicated gambling.

There are two basic ways in which evidence of a conversation may be obtained and used in court. The first is to have someone testify as to what he heard. The second is to record the conversation word for word.

Testimony by a witness as to what he heard is subject to all the frailties of human nature, from misunderstanding to forgetfulness. It is also subject to attack as a false accusation.

Of far greater dependability is an electronic recording of a conversation. Instead of the testimony of one witness against another as to what was said, a recording can supply the judge and jury with the conversation itself. Moreover, the recording not only furnishes an accurate account of what occurred; it may also be a source of subsequent identification of the speakers themselves, by means of "voice print" comparisons with the recorded voices of suspected persons.

Today's law enforcement officers need the legal authorization to record the conversations of criminals and others who are reasonably suspected of serious crimes, and particularly organized crime. Gambling, extortion, bribery and intimidation are all working tools in the arsenal of organized crime that can be successfully fought with electronic surveillance.

AELE does not advocate, and indeed it opposes, the indiscriminate or uncontrolled or unsupervised use of electronic surveillance by law enforcement officers or agencies. It is also unalterably opposed to any electronic surveillance by private individuals or corporations. The latter ought to be completely prohibited and violations severely punished, and law enforcement usage should be allowed only upon court approval and supervision. Moreover, any unauthorized electronic surveillance by law enforcement personnel should be punishable as a criminal offense.

Congress has granted electronic surveillance authority to *federal* law enforcement officers and agencies, but upon strict limitations, the primary one being prior court authorization. The state legislatures must do likewise with regard to *state* and *local* law enforcement needs and efforts.

In accordance with these principles, AELE has prepared and submitted to all of the state legislatures a model electronic surveillance bill. Such legislation is vitally needed for effective state and local law enforcement.

The AELE bill measures up, in our opinion, to the constitutional requirements delineated by the Supreme Court of the United States.

"STOP AND FRISK"

Position Paper # 2

of

Americans for Effective Law Enforcement, Inc.

(A national, non-partisan, non-political, not-for-profit, tax exempt educational corporation, with headquarters at 33 North Dearborn Street, Chicago, Illinois, 60602)

On June 10, 1968 the Supreme Court of the United States, in *Terry v. Ohio* (and two companion cases), declared that the police practice of "stop and frisk", when properly used, was constitutionally permissible. In other words, it does not constitute an unreasonable search and seizure within the meaning of the Fourth Amendment of the Constitution of the United States. This is the conclusion **Americans for Effective Law Enforcement** had urged upon the Court in the amicus curiae ("friend of the court") brief which it had filed in that case.

Legislation in conformity with the *Terry* case decision is needed in all of the states in order to avoid the uncertainty of a case-by-case adjudication of the powers of the police and the rights of the citizens. Accordingly, AELE has prepared and is distributing to governors, attorneys general, and legislative leaders throughout the country a model "stop and frisk" bill for their consideration.

An appreciation of the need for "stop and frisk" legislation and a proper understanding of the nature of the practice requires answers to the following questions: What is a "stop and frisk"? How does it differ from an arrest and search? When may it be employed by the police? What is the risk of police abuse?

The Meaning of "Stop and Frisk"

The following hypothetical case discloses the meaning of "stop and frisk":

Two police officers are on a routine beat patrol at 3:00 A.M. in a residential neighborhood. It is dark and the streets are deserted. As the police car proceeds down an alley, the figure of a man is seen. He steps to the side, behind a telephone pole. The police car speeds up, and when the officers arrive at the scene they find a man dressed in dark non-descript clothing, standing next to a garage. For all the police know at that moment, he might be a householder who owns the garage—or he may be a recently paroled burglar; he may live next door—or he may live miles away; he may be able to give a good explanation for being there—or he may be prepared to tell a demonstrably false story.

In our hypothetical case three things are clear: (a) the actions of the man are suspicious; but (b) there is no probable cause to *arrest* him for the commission of a *crime*, and yet (c) the police ought to *do something*. The question is, what should they do? What can they do? Are they forced to choose between doing nothing, proceeding on their way, or falsely arresting the suspect for a "crime".

If the officers do nothing, a burglar, robber or rapist might be left in the alley to proceed with his plan unhindered. If the officers make an arrest, the arrestee may turn out to be an innocent resident of the neighborhood, who will thereafter have a police record. Moreover, even if developments subsequent to an actual arrest establish that the suspect was in fact plotting a crime, or had committed one unknown at the time of his arrest, a gun or other evidence obtained from him may be excluded from usage in court because of an arrest made without the constitutional requirement of "probable cause".

Because of these various difficulties, proper police investigative technique demands the employment of another procedure—a middle ground approach—one between police inaction and illegal action. What is needed is the employment of an authorized "stop and frisk" procedure. In this hypothetical case, for instance, the police officers would stop their car, alight from the vehicle and ask the suspect such questions as "Who are you?", "What are you doing in the alley?", "May we see some identification?". The officers must also have the right to frisk the suspicious person if they reasonably think that he may be armed with a dangerous weapon.

Necessarily, the right to ask the questions includes the power to temporarily detain the suspect, even against his will, for a brief time. Since a suspect could defeat the whole purpose of stop and frisk simply by walking away from the inquiring police, under "stop and frisk" authorization he will not be privileged to do so.

Since even a brief detention is a "seizure" of the person within the meaning of the Fourth Amendment of the Constitution, it must be "reasonable", that is, based upon some identifiable and objective standard of suspicion of criminal behavior. It cannot be based upon an officer's whim, caprice, prejudice or inarticulated "hunch".

Suppose that the suspect in our hypothetical case refuses to answer questions asked by the police. He cannot, after all, be compelled to do so, and he may take advantage of his Fifth Amendment right to say nothing. What then? Does this destroy the value of the "stop and frisk" power? The answer is a sure "no", because a quick investigation of the surrounding area may provide enough evidence to give the police probable cause to arrest him for a criminal offense. For example, suppose that in shining their flashlights on the door of the garage next to which the suspect was found the police find fresh "jimmy" marks. They would then have probable cause to arrest the suspect for attempted burglary. If, upon searching him after the arrest, they find a jimmy, or screwdriver that matches the marks on the door, another burglar may well be on his way to the penitentiary.

Even when the police are forced to release the suspect because of his refusal to answer questions or because no evidence of an attempted crime is found at the scene, the very act of temporary detention and questioning may deter, at least for that night, a potential criminal act of violence. That, in itself, would be a worthwhile result, since the duty of the police is not only to apprehend persons who have already committed criminal acts, but also to prevent crimes from occurring in the first place.

Moreover, in many instances a person stopped under circumstances such as the one involved in our hypothetical case will respond to the questions asked by the police; and his answers may supply the necessary information either to dispel the police suspicion or else escalate the suspicion into probable cause for an arrest.

"Stop and frisk" may be used in a number of fact situations: for instance, a teenage boy walking from car to car and apparently testing the windows or looking in for keys left in ignition locks; the person who furtively and repeatedly looks into the window of a business establishment about to close; the man who has been trailing two teenage girls for several blocks. The possibilities are numerous.

The Objections to "Stop and Frisk"

The charge has been made by some persons that "stop and frisk" is a tactic for the repression of minority groups; that it is a racist practice designed to keep the ghetto resident "in his place"; and that it is a tactic to show the teenage gang member, the addict, and the prostitute who "rules the turf" on the officer's patrol beat.

As with all other professions or occupations, there are some policemen who do not deserve the honor of a police badge and the privilege of carrying a gun—just as there are misfit doctors, unethical and incompetent lawyers, and corrupt public officials. On occasions some police, in all parts of the country, have used the power of their office to engage in various kinds of illegal and coercive practices. But that fact does not warrant the withholding of needed authorization to those police officers who do conform to proper standards, and who must have such authorization for the protection of the public and also for their own safety.

The Answer

The basic answer to the concern over possible police abuse of the power of "stop and frisk", as well as of all the other powers the police possess, is the development of better procedures for the selection of police applicants, so as to reject the psychological misfits, the ones whose past conduct evidences a lack of the required integrity, and those whose social values are incompatible with the role of protector of all members of our society.

Adequate compensation must be provided in order to attract applicants with the required qualifications, and to retain in office those who are selected.

Proper internal supervision will also be needed, along with meaningful sanctions for the police who misuse the powers of their office.

*Jud***MEMORANDUM****State of Alaska**

TO: Representative Barry Jackson
Chairman, House Judiciary Committee
Sixth State Legislature

DATE : February 14, 1969

FROM: *[Signature]* Commissioner Mel J. Personett
Department of Public Safety

SUBJECT: Committee Appearance
Our File #151

In answer to your request, I have no plans to leave the capital city, and will be available to appear before your committee at your pleasure.

Suzan -
please rest up

April 2, 1969

Mel J. Peronnatt
Commissioner of Public Safety
Room 103
State Capitol
Juneau, Alaska

Dear Commissioner Peronnatt:

The House Judiciary Committee has considered the amended regulations submitted by you to the committee on March 6, 1969.

With the following changes, the regulations as proposed in this amended version meet with the approval of the committee.

The changes are as follows:

- ✓ 25.210: Do not abbreviate NCIC.
- ✓ 25.220: After "REQUIRED INFORMATION", add "(a)". Change the period after "follows" in the same sentence to a colon. Delete second sentence, and place it after (14) as subsection "(b)".
- ✓ 25.220 (9): Delete the word "your" in second line and use some other language.
- ✓ 25.220 (10): Do not abbreviate M.O.
- ✓ 25.220 (14): Change this subsection to subsection (15). Add new subsection (14) to read: "Ultimate disposition of each proceeding, such as dropping of charges, dismissing a case or finding of "not guilty".
- ✓ 25.250 (b): Change "department shall" to "department will".
- ✓ 25.250 (c): Change "deems" to "considers".
- ✓ 25.250 (d): Change "shall" to "may". (this does not change a mandatory statement to a permissive one.)
- ✓ 25.260: Change reference to "section 210" to "section 220".
- ✓ 25.260: Before "officers of the United States", insert, "law enforcement."
- ✓ 25.260: After the last word, delete the period and add, "for the purpose of the detection of crime and the detection of criminals."
- ✓ 25.290 (6): Add the term "probation officers" and delete paragraph (12) entirely since it is a duplication.

Commissioner Personnett
April 2, 1969

Page Two

✓ 25.290 (8): After the word, "investigators," add, "of the state or a local fire department."

The committee is concerned with preserving the intent of AS 09.25.120 (2) and AS 47.10.090, and requests that the provisions of these regulations be consistent with those statutes.

If any additional information is needed concerning these changes, please contact Arthur Peterson.

Sincerely,

Barry Jackson
Chairman
House Judiciary Committee

file

MEMORANDUM**State of Alaska**

TO: Representative Barry W. Jackson
Chairman, House Judiciary Committee

DATE : March 6, 1969

FROM: Commissioner Mel J. Personett
Department of Public Safety

SUBJECT: Regulations
Criminal Identification Records
Our File #334

Enclosed are draft copies of an amended version of the original regulations submitted to the legislature as required by AS 18.65.060.

The amendments change those items in the original regulations which seemed to cause the greatest concern.

It is intended that this amended version be considered by the legislature in lieu of the original.

Enclosures

MEMORANDUM**State of Alaska**

TO: Speaker
House of Representatives
Sixth State Legislature

DATE : January 27, 1969

FROM: Commissioner Mel J. Personett
Department of Public Safety

SUBJECT: Regulations
Our File #314

As required by AS 18.65.060 (Ch. 107 SLA 1968), the attached regulations are submitted to the legislature for review.

Attachments *2*

CITY OF SITKA

POLICE DEPARTMENT

P.O. BOX 1240 · SITKA, ALASKA 99835



February 28, 1969

Representative Stan Cornelius
House of Representatives
Alaska State Legislature
Juneau, Alaska 99801

REF: The Department of Public Safety's regulations requiring local departments to supply the Department with certain information.

Dear Mr. Cornelius:

I have reviewed at length the proposed regulations as proposed by Commissioner Mel Personett for Legislative Action requiring information from various Departments to set up a central records depository.

Speaking as Chief of Police of the City of Sitka and the President of Alaska Peace Officers Association, I wholeheartedly endorse this concept. Alaska law enforcement has long been hindered by the lack of a central depository for Records and Identification. It has, likewise, been hindered by various Departments of the State using various and sometimes, inadequate reporting procedures. I, therefore, feel it is imperative that if we as a state are to progress toward professional police and to enable us to be adequately prepared to receive and utilize this Federal Bureau of Investigation's National Crime Information Center, we must take this step in the right direction.

My only concern is, as a municipal Chief of Police, the cost factor. In as much as if this were to become effective immediately it would catch various Departments, including Sitka, in the middle of a fiscal year without funds to meet demands for personnel and equipment that these regulations would require. However, it is my understanding that these regulations would become effective over a period of time, perhaps three years, and the cost of the reporting forms, if necessary, would be born by the State. With this understanding, I wholeheartedly endorse your proposed rules and regulations.

Very truly yours,

A handwritten signature in cursive script that reads "Paul Mullenix".

Paul E. Mullenix
Chief of Police - Sitka
President - Alaska Peace Officers Association

TELEGRAM

1929 Communications Group (ACS) USAF
FEDERAL BLDG. ROOM 137 PHONE 6-7477
JUNEAU, ALASKA

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BEA312 NL PD

KODIAK ALASKA 4

REPRESENTATIVE STAN CORNELIUS

HOUSE OF REPRESENTATIVES JUN

0223

THE CITY OF KODIAK PROTEST THE DEPARTMENT OF PUBLIC
SAFETY REGULATIONS REGARDING REPORTS WHICH MUST BE MADE
TO THE STATE. REGULATIONS SUCH AS THESE WILL SERIOUSLY
INCREASE THE DAY TO DAY POLICE COSTS WITH NO BENEFIT
TO THE CITY AND THE TAXPAYERS WE WILL CONTINUE TO
PROVIDE OUR EXISTING REPORTS TO THE STATE AND FBI
HOWEVER WE CANNOT FUND ADDITIONAL PERSONS TO HANDLE THE
STATE RECORDS AS REQUIRED UNDER THIS PROPOSAL THE EFFECT
OF SUCH REGULATIONS WILL BE TO OVERBURDEN SMALLER UNDER
STAFFED POLICE DEPARTMENTS WITH ADMINISTRATIVE FUNCTIONS
WE URGE THAT THESE REGULATIONS NOT BE PLACED INTO EFFECT
M. ROY GOODMAN CITY MANAGER.

TELEGRAM

1929 Communications Group (ACS) USAF
FEDERAL BLDG. ROOM 137 PHONE 6-7477
JUNEAU, ALASKA

V

CEA053 NL PD

TDAN KODIAK ALASKA 4

1969 MAR 5 AM 6 42

REPRESENTATIVE PETER M CE VEAU

HOUSE OF REPRESENTITIVES JUN

PLEASE CONTACT REPRESENTITIVE STAN CON CORNELIUS
CONCERNING HEARINGS N CRIMINAL AND IDENTIFICATION
RECORDS PROPOSED BY THE DEPT OF PUBLIC A SAFTEY
HEARINGS TO BE 5 MAR 10AM THIS REGULATION WILL INCREASE
THE ADMINISTRATIVE COSTS AND PERSONELL OF THIS DEPT WITH
NO DIRECT BENEFIT TO THE CITIZENS OF THE CITY. WE CAN NOT
AFFORD ADDITIONAL FUNDING TO KEEP STATE RECORDS I
RESPECTLY REQUEST AND URGE YOU TO TAKE POSITIVE ACTION
TO ASSURE THESE REGULATIONS ARE NOT PUT INTO EFFECT.

RESPECTLY SUBMITTED

JACK L RHINES CHIEF OF POLICE KODIAK ALASKA

5 10AM.

-P 200 - Raw Fish

TELEGRAM

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1929 Communications Group (ACS) USAF
FEDERAL BLDG. ROOM 137 PHONE 6-7477
BUJEAU. ALASKA

CEA054 NL PD

TDAN KODIAK ALASKA 4

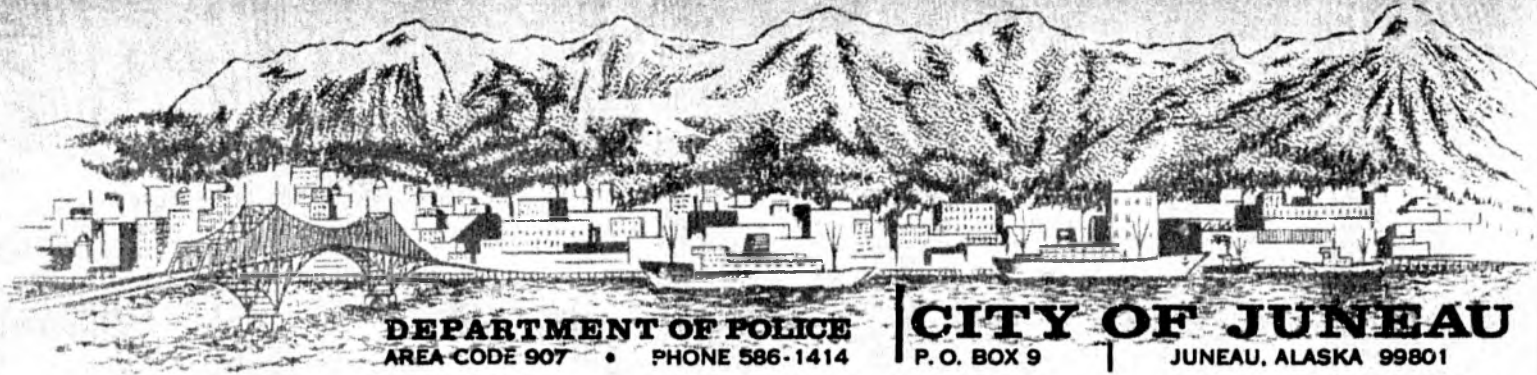
REPRESENTATIVE STAN CORNELIUS

5 AM 6 47

HOUSE OF REPRESENTATIVES JUN

I WOULD LIKE TO PROTEST THE PROPOSED ARTICLE NUMBER
2, CRIMINAL AND IDENTIFICATION RECORDS OF THE DEPT.
OF PUBLIC SAFETY THIS TYPE OF REGULATION WOULD INCREASE
THE ADMINISTRATIVE COSTS AND PERSONNEL OF THIS DEPT
WITH NO DIRECT BENEFITS TO THE CITIZENS OF THIS CITY
MAJOR PETE RESOFF HAS BEEN ADVISED OF THIS PROPOSAL
AND HAS STATED THAT KID KODIAK CAN NOT JUSTIFY ADDITIONAL
CITY FUNDS TO HANDLE STATE RECORD I WILL CONTINUE
TO PROVIDE REPORTS TO THE STATE WHEN REQUESTED AS WE
HAVE IN THE PAST I RESPECTFULLY REQUEST AND URGE YOUR
TAKE POSITIVE ACTION TO ASSURE THESE REGULATIONS ARE
NOT PASSED RESPECTFULLY SUBMITTED

JACK L. RHINES CHIEF OF POLICE KODIAK ALASKA



JOSEPH L. GEORGE
~~XXXXXXXXXXXX~~
MAYOR



JAMES P. WELLINGTON
CHIEF OF POLICE



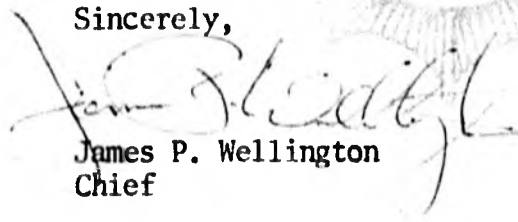
February 28, 1969

The Honorable Stanley P. Cornelius
House of Representatives
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Dear Representative Cornelius:

I plan on appearing before the Judiciary Committee on March 5, at 4:00 p.m., to give testimony concerning the proposed Department of Public Safety regulations, relative to the submission of criminal and identification data by local police departments to the Department of Public Safety.

Sincerely,


James P. Wellington
Chief

JPW/pl



CITY OF KETCHIKAN

334 FRONT STREET

P. O. BOX 1110 - KETCHIKAN, ALASKA 99801

TELEPHONE 807-225-3111

February 7, 1969

The Honorable Stan Cornelius
Alaska House of Representatives
Juneau, Alaska

Sir:

I have been informed by Don Berry that you have been appointed to study the Department of Public Safety regulations.

We have had some correspondence with Commissioner Personett on this matter. I am enclosing a copy of my letter to the Commissioner, and his answer to me.

As explained in our letter, we are not trying to "shoot down" his program. Since it does contain some objectionable items, we believe that these regulations should not be allowed to become law, at least until after the Chiefs Association meeting in June. The Association has not had an opportunity to act as a group. We believe that several of the regulations usurp the powers of Municipal Chiefs and in effect makes the Commissioner of Public Safety a commissioner of municipal departments.

We also believe that, since these regulations will affect our budgets, the League of Alaska Cities should have the opportunity to review them and make their recommendations before they become law.

We, therefore, respectfully request that these regulations not be allowed to become law during this session of the legislature.

Very truly yours,

T. H. Miller
Chief of Police
Ketchikan Police Department

THM:ld

cc: Brad Phillips
W. K. Boardman
Robert Ziegler

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

POUCH N. CAPITOL BUILDING
JUNEAU 99801

December 17, 1968

Our File #332

Chief T. H. Miller
Ketchikan Police Department
Ketchikan, Alaska 99901

Dear Chief Miller:

I have received your letter regarding criminal and identification records and the proposed regulations to implement the procedure. (Chapter 107, SLA 1968)

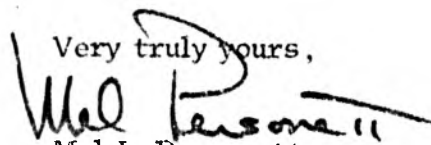
We are well aware of the budgetary problems that would be involved if an early compliance date were suggested. We are, however, bound by the language of the statute: ". . . regulations proposed by the department shall be submitted to the presiding officer of each house on the day the house convenes." Delay until June would, therefore, be impossible.

However, budgetary and implementing problems (both yours and ours) have been taken into consideration. These problems have been discussed at both previous Chiefs gatherings and in comments received on this and previous proposed regulations. For this reason, it is planned that implementation should be on a step by step basis with full implementation several years away.

As an example, we feel that we should furnish most, if not all, of the necessary forms, etc., and that a system of retrieval and dissemination of the information must be available. It would seem extremely doubtful if this would happen overnight.

Chief, I know that you as a professional peace officer agree on the need for a statewide centralized criminal justice information system. You can rest assured that this Department will do nothing to make it impossible for all agencies to take part. I would hope that not only at the June meeting, but continuously, we are able to discuss its progress and suggest changes to make it a more valuable tool.

Very truly yours,


Mel J. Personett
Commissioner

cc: Chief J. L. Rhines
Chief Paul Mullenix
Captain R. L. Burton

December 13, 1968

Mal J. Personett, Commissioner
Department of Public Safety
Pouch K, Capitol Building
Juneau, Alaska

Re: Your File #334

Dear Commissioner:

In your letter of November 12, 1968, you ask for comments concerning your proposed rules and regulations regarding Criminal and Identification records.

This program is of such magnitude that it would affect the budgets of, at least, the smaller departments. It would require the addition of personnel, additional copies of our present forms, and in some cases, new forms. Since most of us work on a calendar year budget and our budgets have already been presented, it would be impossible to add these items for 1969.

Also, I believe that proposed changes and additions of this magnitude should be presented to the Chiefs Association for their consideration before it is presented to the Legislature.

In view of the above, it is requested that you do not present this to the Legislature until after the next Chiefs meeting, which will be held in June.

I have talked to Chief Mullenix of Sitka and Chief Rhines of Kodiak. They both agree with the above approach and have authorized me to speak for them in this matter.

Yours very truly,

T. H. Miller
Chief of Police
Ketchikan, Alaska

ld


cc: Chief Mullenix
Chief Rhines
Captain Burton, President
Alaska Association Chiefs of Police

MEMORANDUM

State of Alaska *Fik*

TO: Representative Barry Jackson, Chairman
House Judiciary Committee
Sixth State Legislature

DATE : March 4, 1969

FROM:  Commissioner Mel J. Personett
Department of Public Safety

SUBJECT: Requested Information
Our File #151 - 1969

The following is submitted in answer to the February 26 request of your committee.

#1. "Stop & Frisk" -- Law or regulation?

As previously stated, I feel that departmental regulation and policy should satisfactorily solve any problem that may arise.

In reviewing "Terry vs Ohio", U. S. Supreme Court, we find that permissive legislation is not necessary since Ohio had no such law.

Departmental regulations which we are drafting follow, to a great extent, the New York State law and the New York State Police regulations.

I would propose that these regulations be used for one year by this Department before a final choice of statute vs regulation is made.

Attached is the first draft of those departmental regulations.

#2. Retirement Plan for State Troopers.

Although at the present time most of the thinking seems to lean toward something comparable to the Anchorage Police Department plan, I personally feel that other state and city plans and fiscal problems should be researched thoroughly prior to any final decision. I would not suggest that legislation be introduced prior to this study.

#3. Priority Needs of Law Enforcement in Alaska (not limited to State Troopers).

- A. Improved and expanded training capabilities.
- B. Centralized information, and the ability to gather, store and retrieve it instantaneously. This includes, of course, communications.
- C. Specialized or technical groups for certain types of investigations. This includes criminal evidence lab capabilities, either by contract, state-owned, or a combination of both.
- D. Modern equipment.

CHAPTER 320

STOF & FRISK

Sec. 320.010 Introduction

- A. Alaska laws do not include provisions authorizing the arrest of persons on the so-called "Open Charge" or "Suspicious Person" as is allowed in some other jurisdictions. Such laws were intended to provide the police with a means of holding a person, while at the same time conducting an investigative inquiry into the circumstances which reasonably brought that person under suspicion.

These laws, in their application, have generally been ruled unconstitutional; however, the courts have at the same time recognized the need for the police to inquire into a person's actions under certain circumstances, and the very practical need for the police to be able to protect themselves from bodily harm at the hands of the person stopped.

Toward this end, court decisions indicate that whenever possible the court will uphold the officer's right to approach, interrogate and conduct a street search of a suspicious person, and that such action does not conflict with the Fourth Amendment prohibition against unreasonable search and seizure. (People vs Rivera, 14 NY 2d. 441; People vs McErlean, 38 Misc. 2d 634; People vs Russo, 38 Misc. 2d 957; People vs Peters, 18 NY 2d 238; United States vs Vita, 294 F. 2d 524; Rios vs United States, 364 US 253; People vs Marendi, 213 NY 600; People vs Entrialgo, 19 App. Div. 2d 509; Sup. Ct., Terry vs Ohio 6-10-68).

- B. State Troopers will continue to stop and question a person, for a reasonable time, whom they observe in public under suspicious circumstances or who is acting in a manner which reasonably makes that person suspect.

They will also search that person for dangerous weapons, if the member reasonably suspects he is in danger of life or limb.

- C. The limiting guidelines within which a member may conduct a "stop and frisk" are as follows:
1. The person is abroad in a public place; and
 2. The member reasonably suspects the person:
 - (a) Is committing; or
 - (b) Has committed; or
 - (c) Is about to commit a crime.

The member may demand the person's name, address, and proof of same, and an explanation of his actions, and, if he reasonably suspects he is in danger, he may conduct a search of that person within the following guidelines:

1. The member may take weapons or anything, the possession of which may constitute an offense, and keep them until he completes the questioning of the person, and then:
 - (a) Return them if they were possessed lawfully; or
 - (b) If not, he must arrest the person.
- D. For purpose of interpretation of the various phrases and wording applicable to "stop and frisk", members shall be guided by the following:
1. "Public place", should be considered a place to which the general public has a right to resort, not necessarily a place devoted solely to the use of the public, but a place which is in point of fact public rather than private, a place visited by many persons and usually accessible to the public. This would include, for example, the hall and stairs of an apartment house (People vs Whitman, 178 App. Div. 193; People vs Peters, 18 NY 2d 228).
 2. "Reasonable" suspicion or suspect is less than would be required to constitute grounds for arrest. When facts and circumstances existing at the time make it not unreasonable for an alert member to suspect a person, he may stop the person and interrogate him in detail as to his actions. Such things as the hour, the neighborhood, the actions of the person, items he might be carrying which are out of place, actual resemblance to wanted person, clothing matching description of wanted suspect, etc.
 3. "Reasonable" belief of danger to the member must be based upon facts and circumstances existing at the time which do not make the search unreasonable. Such things as the neighborhood, absence or presence of assistance, time of day, apparent character of the person, person's actions, crime for which person is suspect, etc. will be considered.
 4. "Reasonable time" during which a person may be stopped and questioned should generally not extend beyond fifteen minutes without substantial justification for delay.
- E. Members must keep in mind that a "stop and frisk" situation is not an "in custody" situation, and does not constitute an arrest. However, the person may be temporarily detained, even against his will, for a brief time, even though he need not answer questions. This can include returning to the near scene of the suspected crime or a survey of the surrounding area for evidence of the crime suspected.

In view of the fact that the "stop and frisk" does not constitute an arrest, members may not conduct a search of the person or his belongings merely for evidence of a crime, but by the same token, the "Miranda" warning is not required, even though the provisions of the fifth amendment do apply.

Mr. Harris
Here is a copy
you requested

Larry Fulton

File -
State Police

GRAND JURY SUPPLEMENTAL REPORT TO
THE SESSION COMMENCING MAY 18, 1970

Upon formal request and by virtue of information coming to the ~~attention of this~~ Grand Jury, an inquiry was made into the activities of the Alaska State Troopers. As a result of our investigation and the evidence presented to us, we find that the rumors concerning criminal activities of the State Troopers committed by either individuals or in concert, are vicious, irresponsible, and malicious attacks without merit or foundation of any kind. We have found in connection with this investigation that the case load of the investigators of our law enforcement agencies is appalling. That under the existing circumstances, the ratio of criminal acts to available law enforcement personnel is such as prohibits detection of the perpetrator, proper investigation, and punishment of offenders, encouraging criminal activities in the Third Judicial District of this State. Throughout the week we have heard many witnesses, and there were many people not heard who requested to be heard. Because of their number, a spokesman for the group was requested and did appear before the Grand Jury. Because of the nature of their request and the explanation of their spokesman as to the general content of their testimony, the Grand Jury determined that the subject thought to be related to the Grand Jury was outside the scope of its investigation.

The Grand Jury was honored by the appearances of the Honorable James M. Fitzgerald, Presiding Judge of the Superior Court, the Honorable Eben H. Lewis, the Honorable C. J. Occhipinti, the Honorable Ralph E. Moody, Judges of the Superior Court, and the Honorable Paul B. Jones, Presiding Judge of the District Court in and for the Third Judicial District, State of Alaska. We express our appreciation for their explanation concerning this

I sent the list of lawyers who were not heard through our man Tom Brown

Grand Jury's supplemental report of May 1, 1970. In connection therewith, the Grand Jury compliments those judges and the court system in this judicial district for the application of philosophical ideals applied to sentencing. We believe, however, that those concepts adopted by the court are many years ahead of the physical facilities now available to make such sentencing practice practical and functional. We note the extreme case load of the parole and probation officers is such as to make their efforts and assistance in the rehabilitation processes practically ineffectual. The physical detention facilities are extremely inadequate and therefore do not lend themselves to the separation of those persons convicted of crime in any manner which would allow any effective rehabilitation practices to be effected during confinement. It is with unanimous consent that we urge the courts to adopt a more stringent sentencing practice looking to the protection of the public and giving effect to the constitutional guarantee of our citizenry that they indeed be secure in their persons, houses, papers, and effects.

We would further recommend a more substantial bail be required on persons charged with the commission of crime and more particularly on those who have demonstrated, by prior offenses, their danger to persons and property in the community and their unwillingness to comply with the laws of the community. We appreciate the difficult problems in the administration of justice and readily recognize that sentencing and bail is a matter of which the minds of reasonable men regularly differ, and that those persons charged with the most serious responsibility of sentencing their fellow man to incarceration for a term of years is not and has not been a matter taken

lightly by the judiciary of this judicial district. While we accord these judges our highest respect, we believe that the sentence and bail practice adopted by them should conform to the needs and demands of our community in these times. We have given serious consideration to the impediments to the administration of justice as well as administration of the courts by the statute allowing disqualification of judges. It is our belief that the preemption of judges, not being subject to question, is seriously abused. We conclude that the statute is invoked not for those purposes contemplated by the statute but rather to disqualify a judge whose sentencing practice differs from that believed to be in their clients best interest. We seriously urge the amendment of this statute to allow opposing counsel to challenge the good faith of the disqualification and require its use in conformance with the statutory purpose. The Grand Jury has found that the general public is not well informed as to the convictions of criminals or the punishment meted out by our courts for criminal acts. This, we believe, results in a lack of trust and loss of faith in law enforcement as well as the administration of justice. We strongly recommend that the news media adopt a reporting practice that will provide the public with a complete and accurate reflection of sentence and punishment by the court without selecting particular cases of interest. Such reporting practice will be an added contribution by the news media to public service which, we feel, will have a strong, deterrent effect on further crime.

DATED at Anchorage, Alaska, this 22nd day of
May, 1970.

GRAND JURY FORMAN

TAPS -

LAW OFFICES OF
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JOHN S. HEDLAND
LITIGATION SUPERVISOR

May 7, 1970

The Honorable G. Kent Edwards
Attorney General
Department of Law
Pouch "K"
Juneau, Alaska 99801

Dear Mr. Edwards:

On May 6, 1970, you spoke with me about the propriety of our submission to the Judiciary Committee of a memorandum giving our views as to the legality of state construction of the TAPS road. This memo was submitted at the request of the Judiciary Committee and fully disclosed the fact that we represented persons with partisan views on the matter. You suggested that this was improper because of pending litigation involving the same issues. Mr. Price of your office also contacted Mr. Regan in the same vein. So as to clear up any possible misunderstanding, I would like to refer you to the appropriate provisions in the Code of Professional Responsibility and Canons of Judiciary Ethics of the American Bar Association, effective January 1, 1970.

DR 7-107 (G) and (4) of the Code provides as follows:

- (G) A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication and that relates to . . .
- (4) [h]is opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

DR 7-107 (1) provides as follows:

- (1) The foregoing provisions of DR 7-107 do not preclude a lawyer from replying to charges of misconduct publicly made against him or

The Honorable G. Kent Edwards
May 7, 1970
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from participating in the proceedings of legislative, administrative, or other investigative bodies.

Under the circumstances, I think you will agree that our actions were not calculated to prejudice the impartiality of the pending litigation, and are plainly proper under ethical standards.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION

William H. Jacobs
William H. Jacobs
Executive Director

WHJ/dp

cc: Representative Barry Jackson ✓
Chairman
House Committee on the Judiciary
Pouch "V"
Juneau, Alaska 99801

Dickerson Regan, Esq.
Alaska Legal Services Corporation
Juneau, Alaska 99801

Vital Statistics

JOHNSTON JEFFRIES
ATTORNEY AT LAW
P. O. BOX ~~XXX~~ 2940
~~XXXXXXXXXXXXXXXXXXXX~~
Kenai, Alaska 99611
TELEPHONE ~~XXXXXX~~ 283-7838

April 16, 1969

Mr. Peter LaBate
Anchorage Bar Association
731 I Street
Anchorage, Alaska

Re: Divorce Fees and Vital Statistics

Dear Pete:

Would you please give this letter to the proper Committee of your Association.

No doubt you, like other attorneys, have had to contend with Statute No. 18.50.280, which requires the plaintiff in a divorce case to furnish the court with a lot of confidential information on a blank form. Frankly, some of my clients feel they should not have to furnish this information because it is confidential and not absolutely necessary for the granting of a decree of divorce. I usually end up having to fill out the forms myself, and this takes a lot of time.

We still adhere to the \$300.00 minimum for an uncontested divorce, which I feel is too low in view of having to furnish this additional paper work for the Bureau of Vital Statistics. I very frankly feel that we should not have to do free work for the Bureau of Vital Statistics and I think this is an imposition upon the lawyers as well as the clients.

I am, therefore, suggesting as an individual attorney that we increase our fees accordingly or that proper action be taken to repeal this law which I think imposes upon attorneys and may be very questionable from the standpoint of its constitutionality.

C
O
P
Y

Mr. Peter LaBate

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April 15, 1969

In other words, I question that there is any reasonable relationship between the exercising of this police power (if so it may be called) and the furnishing of this confidential information.

Very truly yours,

Johnston Jeffries

JJ/blk

cc: Mr. James E. Fisher
Fisher & Hornaday
Attorneys at Law
P. O. Box 397
Kenai, Alaska 99611

Chairman of the Judiciary Committee
Alaska State Legislature
Juneau, Alaska