

HCR

5

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 14, 1979

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HCR 5

Urging the Judicial Council to complete its review and make recommendations in the matter of judicial sentencing practices.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

ROBERT W. D. [Signature]

Terry [Signature]

[Signature]

Patrick J. O'Connell

Mark A. Anderson

[Signature]

[Signature]

CHAIRMAN

AMENDMENT

OFFERED IN THE HOUSE:

By: House Judiciary

To: HCR 5 HOUSE BILL No. _____

SENATE BILL No. _____

PAGE: 2

LINE: 12

on line 12 after "by" insert "Alaskan Natives, Blacks and other"

ALASKA BLACK LEADERSHIP CONFERENCE

"CONCERNED, COMMITTED, INVOLVED AND UNITED"

P.O. Box 2203
Anchorage, Alaska 99510
(907)277-4735

1028 1/2 23rd Avenue
Fairbanks, Alaska 99701
(907)452-7539

A.I.M.
Alaska Black Caucus
ASACWC
Alaska Women Civic and Social Club
Alpha Phi Alpha Fraternity, Alaska Chapter
Black Coalition
Delta Sigma Theta Sorority, Alaska Chapter
Ministerial Alliance
Mothers for Christian Fellowship
NAACP, Anchorage Branch
Omega Psi Phi Fraternity, Alaska Chapter

Accoie Chapter No. 6, OES
Alaska Associates, Inc.
American Negro Enterprises
Arctic Lodge No. 7, F and AM
Borealis Chapter No. 2, OES
Enriched Corporation
Greater Fairbanks Black Caucus
Midnight Sun Lodge No. 3, F and AM
Ministerial Alliance
NAACP, Fairbanks Branch

To: Members of the Judiciary Committees of the House and Senate
From: Alaska Black Leadership Conference Political Committee
Ref: Formation of Advisory Committee as outlined by HB 195

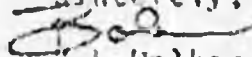
The Alaska Black Leadership Conference strongly endorses the Formation of an Advisory Committee as outlined by HB 195. The efforts of the Judicial Counsel to delete the Advisory Board from HB 195 should be ignored and the bill left intact.

The argument that the Advisory Committee would be a duplication of efforts is not a valid argument since the Advisory Committee, as outlined by HB 195, has input from all responsible parties, but more importantly from the affected minorities.

The scope of the sentencing guidelines committee is far too narrow and does not compare at all with the duties, as outlined, in HB 195.

Please reply as to what your position is on HB 195, contact Bob Walker Political Committee, PO Box 2203, Anch, Ak. 99510, or in care of the Anchorage Legislative Affairs Office.

Sincerely,



Bob Walker
Political Committee Chairman

cc: Bettye Davis
Rert Campbell
Rene' Gonzales

LA11 2161 14.09 JA01 0035 14.09 02/26/79

TO REP. NELS ANDERSON

FROM: BERTRAND C. CAMPBELL, 3204 LATOUCHE, ANCHORAGE 99504 264-7730

AS PAST PRESIDENT OF THE ALASKA NATIVE CAUCUS AND TSIMSHIAN TRIBAL ASSOCIATION, I FEEL THAT HB 195 AND HB 196, ALONG WITH HCR 5, ARE ABSOLUTELY NECESSARY IN ORDER TO CORRECT THE OBVIOUS INEQUITIES IN THE JUDICIAL SYSTEM. THE STUDIES OF THE JUDICIAL COUNCIL AND THE ALASKA COURT SYSTEM HAVE CORROBORATED MY LIFE-LONG FEELING THAT ALAKAN NATIVES DO NO RECEIVE EQUAL OR JUST CONSIDERATIONS IN THE COURTS OF ALASKA.

THESE BILLS AND RESOLUTION ARE A FIRST STEP IN IDENTIFYING THE PROBLEMS AND CORRECTING THESE PROBLEMS.

CD EOM/

HB 195 - 196 - HCR 5

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

JAY S. HAMMOND, GOVERNOR

POUCH 4A - JUNEAU 99811
PHONE: 582-8224 465-3560

Statement of Niel Thomas
Executive Director
Alaska State Commission for Human Rights
before
House Judiciary Committee
Monday, February 26, 1979
On Racial Issues in Sentencing

The Human Rights Commission supports legislative efforts designed to address the question of what role race plays in the sentencing process in Alaska. Statistical studies by the Judicial Council over a two year period indicate that race is a significant factor which influences the sentences which individuals of different races receive.

These data may indicate that bias can enter . . . to the process in a number of ways. Although subjective bias in the judge himself can be part of the problem, the Commission does not believe that judicial discretion is the only factor. Bias in the criminal justice system can enter at any stage. What the arresting officer views as "suspicious," given two people of different races who are doing the same thing, may be tainted by the officer's racism. Who the prosecutor chooses to prosecute may reflect the prosecutor's bias. The dynamics of trial and the mechanism of jury determinations can be similarly infected.

At sentencing, the judge must make his decision based upon information that is put before him, both by testimony and by sentencing reports. How the convicted individual behaves and expresses himself, his living conditions and lifestyle, may be related to cultural factors which can work for or against him in the judge's mind. How any given individual is described in a sentencing report may reflect the racial bias of the author of the report. For example, two individuals, one white and one minority, with identical working records may be described differently. The white person may be described as having an ability to obtain regular employment by virtue of his having held a succession of jobs. With the same work record, a minority individual's work history may be described as "irregular and spotty".

A judge who has been trained to assess facts and evidence impartially may not fully recognize the bias inherent in what he sees. Therefore, the ultimate sentence may reflect this collective bias. The proof has come out inferentially in the statistical averages compiled by the Judicial Council. Pinpointing prejudicial actions in individual cases is difficult if not impossible.

Statement of Niel Thomas
before House Judiciary Committee
Monday, February 26, 1979
Racial Issues in Sentencing
Page 2

The Human Rights Commission has been requested by the Alaska Court System to join with the U.S. Department of Justice, Community Relations Service, to prepare training on these issues for Alaska's judges. A session of approximately one and a half days is now being planned for the annual Judicial Conference in Sitka this June. The training will familiarize judges with the ways in which prejudice can enter into the sentencing process so that judges may be more alert to it. The goal is to reduce sentencing disparities through increased judicial awareness.

The Commission supports any efforts of the legislature which would increase the body of information about sentencing disparities contained in studies which are now over two years old. Updating this information, possibly with statistics which identify the performance of individual judges over a longer time span, would deepen our understanding of the nature of the problem and what can be done about it.

call Nancy Harvey ⁴⁹⁸⁹

2:00 - get witness list -
for Harmon

Janet Bradley for Human
Rights Commission

Michael Lyons
British Council

Theresa ...
British Council

Burt Campbell - sending telegram

St. ... telegram

BUDGET: Alaska Judicial Council, Investigation of Judicial Sentencing Practices

February 13, 1979

I. Investigators

a)	Coders: 5, at \$937.50/month + 9% benefits, x 6.4 months	= \$32,700
b)	Evaluation Methodologist, part-time, \$958.40/mo. x 9 months + benefits	= 9,108
c)	Statistical Advisor, 50 hours at \$16.88/hr.	= 844
d)	Computer Programmer, \$500/month x 8 months	= 4,000
e)	Data Analyst, 5.5 months	= <u>8,053</u>
	Subtotal, Investigators	= \$56,955

II. Staff Travel

5 Coders, coding supervisor and evaluation methodologist based in Anchorage. Travel costs and per diem to Barrow, Bethel, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Nome, and Sitka.

= \$15,850

III. Contractual and Other

a)	Keypunch charges, estimated, for 1700 defendants, 2-4 cards per defendant	= \$ 1,500
b)	Computer charges, average per month, \$1166.67	= 10,500
c)	Supplies	= <u>195</u>
	Subtotal, Contractual	= \$12,195
	Total, Investigative Expenses	= \$85,000

Advisory Board Travel

Transportation of members of the Advisory Committee on Judicial Sentencing Practices to meetings:

= \$ 5,000

Total, State General Funds = \$90,000

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 196 - HB 196
 Title Special Appropriation to the Judicial Council
 Requested by House Judiciary Committee Date 2/23/79

II. FISCAL DETAIL
 Agency Affected Judicial Council
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Judicial Council
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	57					
200 TRAVEL	21					
300 CONTRACTUAL	12					
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	90,000					

FUNDING (Thousands of Dollars)

GENERAL FUND	90,000					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-					
PART TIME	-0-					
TEMPORARY	9					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2/23/79 PREPARED BY Michael Rubenstein
 AGENCY Judicial Council
 PHONE 274-8942
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)



Alaska Judicial Council

303 K STREET
ANCHORAGE ALASKA
99501

EXECUTIVE DIRECTOR
MICHAEL RUBINSTEIN

LAY MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT H. MOSS

LAW MEMBERS
MARCUS R. CLAPP
MICHAEL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN EX OFFICIO
JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

January 26, 1979

Ms. Peggy Berck
House Judiciary Committee
Pouch "V"
Juneau, Alaska 99811

Dear Ms. Berck:

Enclosed are copies of our 1977 study, and of two memos describing follow-up work we did on our July, 1978 findings of racial disparity.

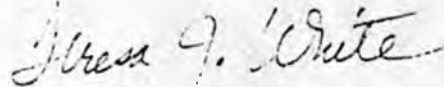
We plan to continue follow-up work in several ways. 1) It appears that decisions made at earlier points in case processing may affect the sentencing decision; we will analyse the plea bargaining data in more detail to determine whether this is the case. 2) We will analyse data collected earlier on 1700 misdemeanor convictions to find whether similar patterns of racial disparity appear there. 3) We will collect three years worth of new data on convicted felony cases, which will include all superior court locations in the state as well as several important variables (such as alcohol use and more precise information about type of prior convictions) which we could not obtain in the plea bargaining study. We are also exploring other means of both pinpointing and correcting any disparities in criminal case processing which might be related to race. Finally, as consultants to the Sentencing Guidelines Committee, we will be working with judges and representatives of minority groups to determine racially "neutral" guidelines for offenders not covered by presumptive sentencing provisions of the new criminal code.

Mike Rubinstein and I will be in Juneau on Tuesday, January 30 and Wednesday, January 31. If you'd like to talk

Ms. Peggy Berck
January 26, 1979
Page Two

with us further, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Teresa J. White".

Teresa J. White
Project Supervisor

Enclosures



Alaska Judicial Council

101 K STREET
ANCHORAGE, ALASKA
99501

EXECUTIVE DIRECTOR
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CHAIRMAN, BY OFFICE
ROBERT GOODENOUGH
CHIEF JUSTICE
SUPREME COURT

September 6, 1978

JUDICIAL COUNCIL FINDINGS REGARDING POSSIBLE RACIAL IMPACT IN SENTENCING

In the process of studying the effects of the abolition of plea bargaining on Alaska's criminal courts in Anchorage, Fairbanks, and Juneau, using data on 3500 felony cases filed from August 15, 1974 until August 14, 1976, an analysis of sentencing was done. The plea bargaining ban's effects were analyzed in the context of a number of other factors that could have affected sentencing; one of these (which we all felt should not be ignored) was the defendant's race.

The sentencing analysis, as described in Tables VII-4, -5, -6, and -7 of the preliminary draft report on the plea bargaining study, showed that in three categories of offenses race was significantly associated with sentence length when other factors were taken into account. More specifically, the study indicated that blacks and natives tended to have longer sentences, other things being equal, than whites. They were also more likely than whites to receive a jail sentence of 30 days or more (rather than probation, or a very short active sentence).

It should be stated that this study does not prove that the Alaskan judges in Anchorage, Fairbanks and Juneau in 1974-1976 were conscious racists. It does show, however, that there was a pattern in which blacks and natives apparently received longer sentences and were denied probation under circumstances in which whites received more lenient treatment.

To review the findings, we found that blacks and natives had significantly longer sentences than whites in Class 3 (burglary, larceny, receiving) and Class 4 (fraud,

forgery, embezzlement) offenses, and blacks had much longer sentences than whites in Class 5 (drug offenses). [All offenses were originally charged as felonies, although some were later reduced to misdemeanors at conviction.] We found the same kinds of racial differences with respect to the probability of receiving an active (jail) sentence of at least 30 days rather than a lesser sentence.

The findings with respect to sentence length were arrived at after taking into account statistically, a variety of other factors, including the specific offense of which the defendant was convicted, whether he had other companion cases pending against him or any co-defendants, the extent of his criminal record, whether the case arose under the old or the new plea bargaining policy, the extent of injury, damage, and property loss caused by the crime, the defendant's income, sex, and age, the defendant's relationship to the victim, the type of counsel the defendant had, and whether the sentencing judge was "strict" (i.e. had a sentence average at least twice that of the average of all judges) or "lenient" (i.e. had a sentence average one-half or less of the overall average). The findings with respect to likelihood of active time of at least 30 days were obtained after controlling for the defendant's criminal record, whether he had companion felony cases (i.e. more than one felony charge), and the specific offense of which he was convicted.

In our analysis of factors associated with variation in sentence length, and in our calculation of the probability of receiving active jail time of at least 30 days, very different statistical methods were used. Yet both methods identified approximately the same factors--including race--as having an important association with sentencing. This congruence makes us more confident of our results. Also, an earlier study using some of the same data as in the present study and some data not included in the present study, but limited to defendants convicted of felonies, showed that blacks received significantly longer sentences in Class 3 (theft-type) and Class 5 (drug) offenses. Thus, we have three different studies using different methods, or partially different data, or both, that indicate that non-whites were sentenced more severely.

It must be noted that although our calculation of the association between race and sentencing took account of a number of characteristics in which natives, blacks, and whites may differ, there still may well have been characteristics other than race as such--characteristics we were unable to measure in our study--that could explain away the apparent effect of race. This is why it should be said that

the study's findings on race raise a question of discriminatory treatment rather than proving it beyond a reasonable doubt. In "legalese," one might style these findings a "prima facie" case.

In the rest of this memo the race-sentencing relationship is presented in more detail. The Judicial Council will use these findings as a basis for further, more intensive investigation, and we expect to have additional results within the coming months. The Alaska Court System is making an independent inquiry into our findings and is prepared to take strong corrective measures if such are found to be warranted.

1. Sentence Distributions

Table A (column 1) shows that a respectable number of blacks and natives showed up as defendants in the convicted cases (charges resulting in conviction) in our study; the numbers range from 23 (natives, in Class 5 cases) to 106 (natives, in Class 3 cases). The mean sentence lengths (column 2) suggest the racial differences found in later analysis, without any adjustment for other factors; the means for blacks and natives are higher than those of whites in Classes 3 and 4, and blacks' mean is much higher than whites' in Class 5. The proportion of "zero sentences" (probation with no active imprisonment) was about half as large for blacks and natives as for whites in Class 3, one-eighth as large for natives as for whites in Class 4, and one-third to two-thirds as large in Class 5. Generally, the sentence length distribution (column 5 of Table A) was heavier to the right in non-whites' cases than in whites'. There was an especially high concentration of longer sentences for blacks in Classes 4 and 5, and a small number of blacks received extremely high sentences in Class 5.

2. Comparing Characteristics of the Three Racial Groups

Blacks, natives, and whites differed in terms of certain characteristics and factors we found to be strongly related to sentence length, as shown in Table B. In Class 3 cases, non-whites were more likely to have felony companion cases (multiple counts) than whites, and blacks were more likely to have a felony conviction record. In Class 4, blacks and natives were less likely than whites to have "lenient" judges and blacks more likely to have "strict" judges (as defined earlier); blacks were more likely than

whites to be on probation or parole at the time of their offense. Black defendants in Class 5 cases were more likely to have companion felony charges and a felony record than white defendants.

As the rest of Table B indicates, when the mean sentences of the three racial groups are compared within each category of the factors importantly related to sentence, it can be seen that non-whites generally had longer mean sentences than whites. This difference is not completely consistent--in a few comparisons whites' sentences are longer--but the overall pattern shows the race difference. (The apparent pattern of race differences that we can see by inspection of the figures in Table B was confirmed by loglinear multiple regression analysis.)

Table C shows a similar pattern of differences with respect to the proportion of cases in which the defendant received at least 30 days of active jail time. (The race effect was confirmed with a cluster analysis using the Mantel-Haenszel statistic.)

3. Non-whites' Estimated Sentences If They Had Been White

Another way of describing race differences in sentences is to compare the actual median sentences of blacks and natives with the median estimated sentences if they had been white. The estimated sentences were computed from the multiple regression equations, including all the correct information on each non-white defendant except that he was considered white. In other words, taking all the relevant characteristics of each non-white defendant's case into account, we estimated what sentence he would have received if he had been white.

The actual median sentence is shown in column 3 of Table A, and the median sentence estimated if white is shown in column 4. In Class 3 cases, blacks' median (3.0 months) was ten times higher than that estimated if they had been white (0.3 months), while natives' was twice as high (0.4 months compared with 0.2 months). In Class 4 cases, natives' median (14.0 months) was 23 times higher than the estimated median if white (0.6 months); the actual and estimated medians for blacks were the same (0.0 months).¹ The most

¹ If this last is true, how could the multiple regression analysis show that being black was associated with longer

striking difference occurred in Class 5 (drug) cases, where blacks' actual median sentence was 24.0 months, as compared with the median estimated if white of 1.0 months.²

mlr

M. L. R.

sentences? This is because multiple regression is based on means, rather than medians, and black defendants in Class 4 cases had a high mean sentence and a rather high concentration (21 per cent) of sentences in the 36 to 60-month range.

In Class 5 cases, natives' estimated median was also lower than their true median, but probably because their mean sentence was low, the multiple regression analysis found no effect on the sentence of being a native.

Table VII-4. Class 3 Felonies ¹ (Burglary, Larceny, and Receiving):
Estimated Effect on Prison Sentence Length ² of Various
Factors

<u>Factor</u>	<u>Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown</u>
1. <u>Specific Offense of Conviction</u> ³	
Burglary in occupied dwelling	+523%
Unauthorized entry (misd.)	-52
2. <u>Companion Felony Case</u>	
For each companion case	+34
3. <u>Defendant's Criminal Record</u>	
For each prior felony conviction	+57
If on probation or parole at time of offense	+169
4. <u>Defendant's Characteristics</u>	
If unemployed	+58
If black	+277 *
If native ⁴	+94 *
5. <u>Type of Counsel</u>	
If private or pre-paid	-44
6. <u>Sentencing Judge</u>	
If "lenient"	-59
7. <u>New Plea Bargaining Policy</u>	
(1974-75 compared with 1975-76)	(None)

Number of cases (N): 499

Proportion of total
variance explained (R²): 27%

-
1. Cases in which defendant initially charged with Class 3 felony; offense of conviction may have been misdemeanor.
 2. Probation treated as zero if no active imprisonment imposed.
 3. Increase or decrease is in comparison with sentence for other Class 3 offenses not listed, including other burglary, larceny, receiving stolen property, and malicious mischief, whose combined mean sentence was 5.7 months.
 4. Effects are as compared with "white" (non-native, non-black) defendants.

Table VII-5. Class 4 Felonies ¹ (Fraud, Forgery, Embezzlement):
 Estimated Effect on Prison Sentence Length ² of
 Various Factors

<u>Factor</u>	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by <u>Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> ³		
Felonious bad check	-65%	
2. <u>Companion Conviction</u>		
For each companion conviction	-11	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+27	
If on probation or parole at time of offense	+232	
4. <u>Defendant's Characteristics</u>		
If female	-78	
If age 21 to 26 (as compared with older and younger)	+158	<u>Number of cases (N):</u> 194
If black	+452 *	<u>Proportion of total</u>
If native 4	+441 *	<u>variance explained (R²):</u> 58%
5. <u>Type of Counsel</u>		
If appointed	+683	
6. <u>Sentencing Judge</u>		
If "lenient"	-90	
If "strict"	+1836	
7. <u>New Plea Bargaining Policy</u>		
(1974-75 compared with 1975-76)	+117	

-
1. Cases in which defendant initially charged with Class 4 felony; offense of conviction may have been misdemeanor.
 2. Probation treated as zero if no active imprisonment imposed.
 3. Increase or decrease is in comparison with sentence for other Class 4 offenses not listed, including forgery, false pretenses, embezzlement, credit card fraud, and related misdemeanors, whose combined mean sentence was 9.3 months.
 4. Effects are as compared with "white" defendants.

Table VII-6. Class 5 Felonies ¹ (Drug Offenses): Estimated Effect on Prison Sentence Length ² of Various Factors

<u>Factor</u>	<u>Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> ³		
Sale of narcotics to person age 21 or older	+130%	
2. <u>Companion Felony Cases</u>		
For each companion felony <u>case</u>	+51	
For each companion <u>conviction</u>	+76	
For each companion conviction of a <u>co-defendant</u>	+57	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+134	<u>Number of cases (N):</u> 255
If on probation or parole at time of offense	+183	
		<u>Proportion of total variance explained (R²):</u> 49%
4. <u>Defendant's Characteristics</u>		
If black	+467 ✕	
5. <u>City Where Court Located</u>		
If Fairbanks (as compared with Anchorage and Juneau)	-49	
6. <u>New Plea Bargaining Policy</u>		
(1974-75 compared with 1975-76)	+233	

-
1. Cases in which defendant initially charged with Class 5 felony; offense of conviction may have been misdemeanor.
 2. Probation treated as zero if no active imprisonment imposed.
 3. Increase is in comparison with sentence for other Class 5 offenses not listed, including possession of narcotics, sale and possession of "KDS" drugs, and related misdemeanors, whose combined mean sentence was 8.9 months.

Table VII-7. Factors Having Significant Association with Likelihood of Active Sentence of Thirty Days or More, in Offense Classes 2, 3, 4, and 5.

A. Class 2 Cases (Violent Felonies Other Than Murder and Kidnapping)

1. Companion felony case (+)
2. Specific offense of conviction was Rape, Robbery, Assault with Intent to Kill, Assault with Dangerous Weapon, or Felonious Escape (+)
3. Prior convictions (+)
Controlling for Factors 1, 2, and 3:
4. Companion convictions (+)
5. Defendant unemployed (+)
6. Defendant and victim had family, acquaintance, or employment relationship (-)
7. Defendant's counsel was appointed (+) or privately paid (-)

B. Class 3 Cases (Burglary, Larceny, and Receiving)

1. Companion felony case (+)
2. Specific offense of conviction was burglary or felonious larceny (+)
3. Prior convictions (+)
Controlling for Factors 1, 2, and 3:
- * 4. Defendant was on probation or parole (+)
- * 5. Defendant was black or native (+) *
6. Defendant was unemployed (+)
7. Defendant's counsel was appointed (+), public defender (+), or private (-); defendant had no counsel (-)
8. Sentencing judge was "strict" (+) or "lenient" (-)
- [9. New plea bargaining policy (+) - only in "low risk" cases; see text of report]

C. Class 4 Cases (Fraud, Forgery, Embezzlement, Bad Checks)

1. Prior convictions (+)
2. Specific offense was forgery of debt (+)
Controlling for Factors 1 and 2:
- * 3. Defendant was black or native (+)
4. Defendant was female (-)
5. Defendant had no counsel (-)
6. Sentencing judge was "strict" (+) or "lenient" (-)
7. New plea bargaining policy (+)

-
1. All factors shown have association significant at .05 or less, unless otherwise indicated.
 2. If factor is associated with increased likelihood of active sentence, it is marked (+); association with decreased likelihood is shown by (-).

D. Class 5 Cases (Drug Offenses)

1. Companion felony case (+)
2. Specific offense was sale or possession of narcotics (+)
3. Prior convictions (+)
- Controlling for Factors 1, 2, and 3:
4. Defendant was on probation or parole (+)
5. Defendant was black or native (+) [Significant at .07]
6. New plea bargaining policy (+) [Significant at .12]

TABLE A

SENTENCE DISTRIBUTIONS BY RACE IN OFFENSE CLASSES 3, 4, AND 5 (CONVICTED CASES ONLY--SENTENCE LENGTH IN MONTHS)

	1 (Total Cases- 1001)	2. Actual Mean Sent.	3 Actual Median Sent.	4 Median Est. Sent.	Distribution of Sentence Length										Highest Sentence
					Zero Sentence (Probation Only)	1 day- 3 mos.	3-6 mos.	6-12 mos.	12-18 mos.	18-24 mos.	24-36 mos.	36-60 mos.	60 mos. or More		
<u>Class 3*</u> (Burglary, Larceny, Receiving)															
BLACK -----	(55)	9.4	3.0	0.3	31%	23%	9%	11%	9%	7%	2%	7%	0%	30.0 (4)	
NATIVE -----	(106)	6.4	0.4	0.2	32%	48%	4%	8%	0%	2%	4%	2%	2%	48.0 (1)	
White -----	(338)	4.4	0.0	---	57%	28%	3%	4%	2%	3%	2%	1%	1%	120.0 (1)	
<u>CLASS 4*</u> (Fraud, Forgery, Embezzlement)															
BLACK -----	(24)	14.0	0.0	0.0	54%	4%	8%	8%	4%	0%	0%	21%	0%	42.0 (1)	
NATIVE -----	(20)	14.9	14.0	0.6	7%	22%	0%	21%	4%	43%	4%	0%	0%	24.0 (1)	
White -----	(143)	6.1	0.0	---	57%	16%	10%	4%	1%	3%	4%	4%	0%	60.0 (1)	
<u>CLASS 5*</u> (Drug Offenses)															
BLACK -----	(42)	51.2	24.0	1.0	24%	4%	5%	0%	2%	17%	12%	12%	24%	42.0 (1)	
NATIVE -----	(23)	6.1	1.0	0.2	39%	18%	13%	17%	0%	13%	0%	0%	0%	12.0 (1)	
White -----	(190)	8.8	0.0	---	61%	15%	3%	2%	0%	6%	5%	7%	2%	60.0 (1)	

Offense originally charged in each case was felony of class (type) shown.

Table B Comparison of Sentence Length Means
(In Months) By Race, Within Offense Class, Controlling
for Single Factors Importantly Re-

LATED TO SENTENCE LENGTH (CLASSES 3, 4, AND 5; CONVICTED CASES ONLY)

Class 3 (N=499)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>P</u>
Percent of cases having one or more felony companions	64%	(55)	43%	(106)	36%	(338)	.000
Percent of cases where defendant has prior felony conviction	20%	(55)	27%	(106)	18%	(338)	.000

Sentence Means

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
No felony comp. cases	5.2	(20)	2.8	(61)	2.3	(218)	2.6	(299)
One or more fel. comp. cases	11.9	(35)	11.2	(45)	8.2	(120)	9.5	(200)
No prior conv. or unknown	10.8	(35)	2.5	(25)	2.9	(205)	3.9	(265)
Misd. but no felonies	3.5	(9)	3.6	(52)	2.6	(74)	3.0	(135)
One prior felony	12.4	(5)	26.9	(13)	5.6	(30)	12.0	(48)
Two or more prior felonies	8.0	(6)	4.9	(16)	18.6	(29)	13.1	(51)

Class 4 (N=195)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>P</u>
Percent of cases where judge "lenient"	8%	(24)	7%	(28)	23%	(143)	.05
Percent of cases where def. has prior felony conv.	25%	(24)	64%	(28)	36%	(143)	.001
Percent of cases where judge "strict"	0%	(24)	32%	(28)	6%	(143)	.000
Percent of cases where def. on probation or parole	21%	(24)	32%	(28)	22%	(143)	.508

Sentence Means

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
Judge not "lenient"	15.0	(22)	15.1	(26)	7.9	(110)	10.1	(158)
Judge "lenient"	3.0	(2)	12.0	(2)	0.0	(33)	0.8	(37)
Judge not "strict"	14.0	(24)	10.2	(19)	5.7	(134)	7.3	(177)
Judge "strict"	----	(0)	24.7	(9)	12.3	(9)	18.5	(18)
No prior conv. or unknown	13.2	(5)	1.2	(4)	3.1	(56)	3.7	(65)

Sentence Means (cont'd)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
One prior fel.	60.0	(4)	19.7	(15)	4.3	(32)	13.2	(51)
Two or more prior felonies	12.0	(2)	12.0	(3)	22.6	(19)	20.4	(24)
Not on prob. or parole	4.2	(19)	13.5	(19)	6.9	(111)	7.4	(149)
On prob. or parole	51.6	(5)	17.7	(9)	3.2	(32)	11.3	(46)
<u>Class 5 (N=255)</u>								
Percent of cases having one or more fel. comp.	93%	(42)	57%	(23)	57%	(190)	P=.0001	
Percent of cases where def. has prior felony conviction	31%	(42)	17%	(23)	17%	(190)	P=.12	
<u>Sentence Means</u>								
No fel. comp. case	20.0	(3)	0.8	(10)	2.9	(81)	3.3	(94)
One or more	53.6	(39)	10.2	(13)	13.2	(109)	22.8	(161)
No prior conv.	16.8	(19)	1.8	(11)	7.2	(113)	8.1	(143)
Misd. but no felony	39.4	(10)	15.0	(8)	4.3	(44)	11.3	(62)
One felony	47.0	(6)	0.0	(2)	17.4	(24)	21.8	(32)
Two or more felonies	164.6	(7)	0.6	(2)	28.9	(9)	78.5	(18)

TABLE C PERCENT OF CONVICTED CASES IN WHICH
 DEFENDANT RECEIVED ACTIVE SENTENCE OF
 30 DAYS OR MORE, BY RACE (CLASS 3, 4, AND 5)

Offense Class	Comparison Felonies	Seriousness of Specific Offense	Prior Convictions	Per Cent Receiving 30 Days or More		
				Black	Native	Other
<u>Class 3</u>						
	0	Low ¹	0	33%	20%	20%
	0	Low	1+	0	36	13
	0	High	0	91	67	59
	0	High	1+	100	71	82
	1+	Low	0	0	33	14
	1+	Low	1+	75	0	42
	1+	High	0	44	80	80
	1+	High	1+	83	81	88
			TOTAL	60	45	28
<u>Class 4</u>						
	--3	Low ²	0	0	33	17
	--	High	0	100	100	24
	--	Low	Misd. only	8	100	39
	--	High	Misd. only	--*	60	57
	--	Low	Felony (1+)	100	100	31
	--	High	Felony (1+)	100	93	81
			TOTAL	46	82	36
<u>Class 5</u>						
	0	Low ⁴	0	0	0	5
	0	Low	1+	--*	100	13
	0	High	0	--*	50	19
	0	High	1+	100	0	33
	1+	Low	0	38	67	47
	1+	Low	1+	0	100	52
	1+	High	0	89	0	60
	1+	High	1+	95	100	65
			TOTAL	76	52	36

* No cases in this category.
 1 High seriousness includes burglary and felonious larceny; low seriousness includes receiving, malicious mischief, unauthorized entry, and misdemeanor larceny.
 2 Most of high seriousness is forgery of checks; all others are considered low.
 3 Felonies are controlled for in Class 4.
 4 Felonies that are gross misdemeanors are included; all others are

HCR #5

HB 195, 196

2/26/79

Nels - take as package
- not passing judgment

Michael Rubenstein - Judicial Council
- study of plea bargaining, 3600 cases
- drug, check and fraud, and property crimes
- no disparity in class 1+2 (murder, kid-
napping, crimes of violence)

John Hope - ANB ex. comm - ex Grand President,
on board Sealaska, central council Tlingit-Haida
- starts with police dept (if Native +
non-Native in altercation, Native will be picked
up, other go free)

Don Clocksin -

- response by court system rejects basic hy-
pothesis as not supported by data
- not quantifiable: demeanor of defendant
in open court, difficulty in communicating
- look at decentralization of courts
- " " sending out of state (burden
on rural people)

Janet Bradley -
no testimony

Wanda Culp + Betty Evenson -

E - filed charges w/ HRC re harassment
- son's appearance against him
- 11 yr old took balloons, 4 yrs probation !!
- curfew violation - solitary confinement

Clay Parr -

- supports package, should also study police system
- has seen Native, in jail for drinking in public,
never seen any whites

Chip Parr - Sandy shown mug book of Natives only,
although told police pleading Tom white

Mary M^c Clinton - private citizen
- knows Native women who got discrimina-
tory treatment in jail - first-class person

John Martin - 6 kids
- pre-sentence review overlooks factor of
harassment in school
- teachers instill resentment against
court system + adult society



Introduced: 2/14/79
Referred: Judiciary and
Finance

BY ANDERSON, FULLER, HURLBERT,
MARTIN, MILLER, MUNSON, OSTERBACK,
PARR AND SHCAEFFER

1 IN THE HOUSE

2 HOUSE CONCURRENT RESOLUTION NO. 5

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Urging the Judicial Council to com-
6 plete its review and make recommenda-
7 tions in the matter of judicial
8 sentencing practices.

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

10 WHEREAS the Alaska Judicial Council conducted a study including 1,433
11 sentences in felony cases rendered in the Superior Courts at Anchorage,
12 Fairbanks and Juneau between 1974 and 1976; and

13 WHEREAS it was the conclusion of that report that Alaska Natives and
14 Blacks ^{+ other minor} apparently received longer sentences and were denied probation more
15 often than other defendants who had been convicted of the same crimes under
16 similar circumstances, and who had substantially similar criminal records;

17 BE IT RESOLVED by the Alaska State Legislature that it respectfully
18 requests the Alaska Judicial Council to extend and complete its report on the
19 sentencing practices of Alaska courts by

20 (1) compiling and analyzing data on all felony sentences rendered
21 between August, 1976 and the present date, including sentences for convic-
22 tions in the superior courts sitting in communities which were not covered in
23 the earlier study, including rural Alaska, to determine whether the present
24 findings of apparent racial disparity of sentencing also obtain in other
25 locations and in the years since August, 1976;

26 (2) expanding the data collected and analyzed to include sentenc-
27 ing practices of the district courts;

28 (3) examining sentencing records of the superior and district
29 courts to determine whether there is a pattern to sentencing based on race;

Include

1 (4) modifying and expanding upon the research methods, when neces-
2 sary, in order to determine whether the apparent disadvantages suffered by
3 Alaska Natives and Blacks, ^{other means} as evidenced in the Judicial Council's findings may
4 be attributable, wholly or partially, to decisions of other criminal justice
5 agencies which advise or inform the courts and which may help shape the
6 ultimate sentence;

7 (5) identifying all points within the criminal justice system at
8 which a defendant may be disadvantaged on account of his race; and

9 (6) working closely with representatives of the minorities
10 affected as well as with criminal justice agency representatives and per-
11 sonnel, making recommendations for positive remedies to correct inequities
12 which may be suffered by ^{Alaska Natives, Blacks and other minorities} minority members in the administration of criminal
13 justice.

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Introduced: 2/14/79
Referred: Judiciary and
Finance

BY ANDERSON, FULLER, HURLBERT,
MARTIN, MILLER, MUNSON, OSTERBACK,
PARR AND SCHAEFFER

1 IN THE HOUSE

2 HOUSE BILL NO. 195 *amended.*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an advisory committee on judicial
7 sentencing practices; and providing for an effective
8 date."

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

10 * Section 1. ADVISORY COMMITTEE ON JUDICIAL SENTENCING PRACTICES. There
11 is established the Advisory Committee on Judicial Sentencing Practices as a
12 temporary committee to assist the Judicial Council in its review, investiga-
13 tion, and formulation of responses to problems and concerns arising out of
14 the Judicial Council's findings of apparent discrimination in the sentencing
15 of minority persons convicted of crimes in the courts of the state.

16 * Sec. 2. MEMBERSHIP. *rw* (a) The Advisory Committee on Judicial Sentencing
17 Practices is composed of nine members, selected as follows:

18 (1) *b* four members, *three of whom will be* appointed by the Judicial Council, who shall be
19 broadly representative of criminal justice agencies;

20 (2) three Alaska Natives, one appointed by the governor, and one
21 by the presiding officer of each house of the legislature; and

22 (3) two Blacks, one appointed by the presiding officer of each
23 house of the legislature.

24 (4) *1 appointed by*
25 (b) Appointments shall be made with due consideration to the
26 availability and willingness of an appointee to devote the time and
27 efforts necessary to permit the committee to function effectively, and
28 with regard to the degree of commitment of an appointee to the principle
29 of equal justice under law for all people. Appointments shall be with-
out regard to political affiliation, and shall be made, if possible,

1 within 20 days of the effective date of this Act, or of the effective
2 date of any vacancy in the membership of the committee.

3 (c) Vacancies in office shall be appointed in the manner provided in
4 (a) of this section.

5 * Sec. 3. COMPENSATION. The members of the Advisory Committee on Judi-
6 cial Sentencing Practices do not receive compensation for their services, but
7 they are entitled to the same travel pay and per diem as state officials and
8 employees.

9 * Sec. 4. CHAIRMAN AND VICE-CHAIRMAN. The members of the Advisory Com-
10 mittee on Judicial Sentencing Practices shall elect a chairman and vice-
11 chairman from the members of the committee.

12 * Sec. 5. MEETINGS. The Advisory Committee on Judicial Sentencing Prac-
13 tices shall meet at least once every two months to carry out its duties under
14 this Act. The first meeting of the committee shall be convened at the call
15 of the chairman of the Alaska Judicial Council not later than 20 days
16 following appointment of the nine members of the committee.

17 * Sec. 6. DUTIES. The Advisory Committee on Judicial Sentencing Prac-
18 tices shall

19 (1) receive and review reports concerning sentencing, correction,
20 probation, and parole practices and procedures, with particular regard to the
21 treatment of individuals who are members of racial or cultural minorities;

22 (2) hold public hearings and meetings to determine whether racial
23 or cultural minorities are being unfairly disadvantaged in their involvement
24 with the criminal justice system; and

25 (3) complete a report with recommendations for the correction of
26 abuses and violations of the civil rights of racial or cultural minorities
27 that may be found to exist in the criminal justice system, furnishing copies
28 to the Judicial Council, the governor and the presiding officer of each house
29 of the legislature not later than March 1, 1980.

1 * Sec. 7. TERMINATION. The Advisory Committee on Judicial Sentencing
2 Practices terminates March 31, 1980.

3 * Sec. 8. EFFECTIVE DATE. This Act takes effect immediately in accor-
4 dance with AS 01.10.070(c).

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Introduced: 2/14/79
Referred: Judiciary and
Finance

Funding Information
General Fund \$90,000
Other Funds -0-
\$90,000

BY ANDERSON, FULLER, HURLBERT,
MARTIN, MILLER, MUNSON, OSTERBACK,
PARR AND SCHAEFFER

1 IN THE HOUSE

2 HOUSE BILL NO. 196

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Judicial
7 Council; and providing for an effective date."

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

9 * Section 1. The sum of \$85,000 is appropriated from the general fund to
10 the Judicial Council to provide for the expenses of persons temporarily
11 employed as statisticians and investigators in conjunction with review and
12 analysis of judicial sentencing practices.

13 * Sec. 2. The sum of \$5,000 is appropriated from the general fund to the
14 Judicial Council for transportation of the members of the Advisory Committee
15 on Judicial Sentencing Practices.

16 * Sec. 3. The unexpended and unobligated portion of the appropriations
17 made in this Act lapses into the general fund March 31, 1980.

18 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
19 070(c).