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COMMITTEE REPORT  
SENATE

FURTHER:

Date: \_\_\_\_\_

Mr. President:

The Committee on PRUDENTIAL has had \_\_\_\_\_

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:

\_\_\_\_\_

\_\_\_\_\_

*J. P. [Signature]*

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CHAIRMAN

Municipality  
of  
Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-4545

TONY KNOWLES  
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

March 15, 1983

Janet Rice, Administrative Assistant  
Representative Don Clocksin  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: Municipal Liability for Court Costs

Dear Ms. Rice:

Per your request, I have attempted to set forth the financial impact involved in a return to the pre-1976 practice of requiring the Municipality to fund the cost of public defense for those charged under local offenses.

Our cost estimates are premised on the assumption that it would take a minimum of 4 full time attorneys plus one legal intern to handle the volume of public defense work generated by the Municipal Prosecutor's Office. I believe the staffing level is a very conservative estimate based on two separate analyses. First, we made our own projection based on the level of our prosecutor's professional staff (6 staff attorneys and 2 legal interns) and the percentage of cases that we handle that are defended at public expense. Approximately 60% of all of our trials are defended by the Public Defender's Agency while over 80% of our motion practice is generated by or directed to that office. We have thus estimated that approximately 75% of our total prosecution effort is directed towards criminal defendants represented by public defenders. Assuming that the effort directed towards prosecution and defense of a criminal charge is, on balance, approximately equal, we believe it would require a minimum of 4 attorneys and 1 legal intern to defend those cases for which the court has appointed public defense.

We have attempted to confirm our estimates with information from the Public Defender's Office on the level of effort that they

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direct towards municipal cases. I am informed that office now has a staff of 6 full time attorneys assigned to misdemeanor cases. Attorneys in that unit estimate that approximately 80% of all misdemeanor cases they handle are municipal prosecutions, the balance being state prosecution generated by the State Troopers in areas of the Municipality outside the police service area (primarily the Hillside and Turnagain Arm areas). That means that currently the Public Defender's Office dedicates approximately 4.8 attorneys to municipal cases on a full time basis.

Using the level of 4 attorneys and 1 legal intern, I have made cost estimates in three alternative ways. First, I have taken 75% of the current Municipal Prosecutor's budget. I have reduced this amount by approximately \$35,000 to reflect the occasional support work provided by the Prosecutor's Office to the Anchorage Police Department, inasmuch as I do not believe there would be a corresponding defense expense. The second method uses a line item budget prepared by my department's budget analyst. This budget is based on his experience in law office administration which includes 20 years with the United States Army and 10 years with the Municipal Department of Law. Finally, I have set forth the cost of contracting with private firms at hourly rates which are commonly charged in Anchorage.

- (1) Defense costs based on 75% of Municipal Prosecutor's budget less police support work - \$700,000. (See Attachment 1)
- (2) Public defense unit within municipal government with professional staff of 4 attorneys and 1 legal intern - \$676,000. (See Attachment 2)
- (3) Contract with private firm(s) 4 attorneys and 1 legal intern - \$729,000. (See Attachment 3)

For your convenience, I will reiterate the brief historical background on this issue that I gave you over the telephone last week.

In 1975, the Greater Anchorage Area Borough and the City of Anchorage had very low level prosecution efforts directed to processing arrests within the City of Anchorage and the Spenard Police Service District. Following unification, a variety of events gave impetus to a rapid expansion of the prosecution function. First, there was the fact that the State District

Attorney's Office in Anchorage, in its attempt to cope with pipeline construction impact and its limited resources, prioritized in such a way as to leave misdemeanor prosecution largely neglected. In assessing the need for greater local effort, the Municipality sought the assistance of the Legislature in amending statutes that placed the burden of court administrative costs and public defense on local government. (The Alaska Supreme Court had previously settled the question that public defense costs is an element of court costs. See Alexander v. City of Anchorage, 490 P.2d 910; State v. City of Anchorage, 513 P.2d 1103). The Legislature responded with the adoption of Chapter 219 SLA 1976 which provided that the State would thereafter assume responsibility for certain court costs including the constitutionally mandated expense of supplying defense to indigent defendants, whether they be prosecuted under state or local codes. With that issue settled and the financial burden for the criminal justice system thus apportioned between state and local agencies - police, prosecution and corrections to be funded by local property taxes with court costs, including public defense to be funded by the state. Following the settlement of that issue, the Municipality substantially revised its penal code in 1976 (and later its traffic code in 1978). Next, because of insufficient resources to provide adequate protection to various urban areas, the State Troopers' responsibility for law enforcement in most of Anchorage was taken over by the Anchorage Police Department. This was done by voter approved extensions of the Anchorage police service area. Extension of service to the Muldoon and Sand Lake area occurred in 1978, with Eagle River, Chugach, Ocean View and Klatt Road areas following in 1979. The voters' approval of extended services was done with knowledge of the necessity of increased taxes. In assessing the increased tax, the voters were at that time protected against assuming additional court and defense costs by the 1976 legislative solution.

The reduced emphasis in the District Attorney's Office on misdemeanor prosecution, the revision of municipal codes, as well as the expansion of police services to most of the urban areas of Anchorage necessitated a five fold increase in the professional staff of the Municipal Prosecutor's Office. At this point, the Legislature's repudiation of the 1976 action would result in one of three scenarios. First, the Anchorage Police Department could cite all offenders under state codes, placing the entire prosecution burden on the Anchorage District Attorney's Office and the entire defense burden on the State Public Defender's Office. This would result either in serious

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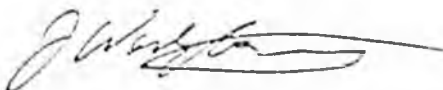
disruption of the District Attorney's Office or in significantly reduced prosecution. Secondly, the Municipality could assume defense costs within its existing prosecution budget. This would result in reducing the total level of prosecution effort by 40% to 50%. Thirdly, the Municipal Assembly could appropriate an additional \$700,000 to a defense office, leaving in tact the existing level of prosecution effort. Such additional funding would cost the Anchorage property taxpayers approximately .1 mills.

From our perspective, the first two scenarios are unacceptable because of the disruption to both the criminal justice system and the level of public safety effort demanded by local residents. The third alternative would place our local assembly as well as the public in the unenviable position of choosing between higher taxes or reduced services.

Given the disruption that would be caused by such a change in the status quo, it would appear that the reasons behind such a move be carefully and critically examined with all affected parties being given adequate time to respond. Secondly, there should be an examination of alternative solutions to any perceived problem. In this regard, the resources of my department as well as the Police Department will be made available to Representative Clocksin and his staff as necessary to fully evaluate the situation.

Very truly yours,

DEPARTMENT OF LAW



Jerry Wertzbaugher  
Municipal Attorney

Jw:gnl  
Attachments

1983 PROSECUTION BUDGET

Wages (6 attorneys, administrative officer 2 interns - 4 clerks)	502,690
Benefits	188,520
Overtime	1,150
Supplies	3,000
Communication	11,000
CLE	5,200
Repair and Maintenance	3,000
Rentals	5,100
Courts Costs	50,000
Subscription & Membership	3,000
Tuition and Registration (support staff)	500
Machinery and Equipment (Library)	1,920
Intragovernmental support (Administration, office space, etc.)	215,940
TOTAL:	981,120

NO INITIAL START-UP COSTS IN THIS UNIT

	981,120
	x .75%
	<u>735,840</u>
Less direct support to APD	35,000
	<u>700,840</u>

PUBLIC DEFENDER UNIT  
4 ATTORNEYS

Wages (4 attorneys, 2 secretaries, 1 intern, 2 clerks)	287,370
Benefits	107,770
Overtime	3,840
General Office Supplies	1,800
Initial Operating Supplies	950
Communication	880
CLE	3,200
Repair and Maintenance	2,970
Court Costs (Depositions, etc.)	25,000
Subscription and Membership	1,600
Tuition and Registration (support staff)	400
Machinery and Equipment (Furniture, word processors, library)	64,720
Intragovernmental Support (administration, office space, etc.)	150,000
Professional Services - (Outside counsel contingency and expert witnesses)	25,000
TOTAL	675,500

CONTRACT ATTORNEYS

Assumptions:

4 attorneys full time at \$100 per hour	640,000
1 legal intern at \$40 per hour	64,000
(hourly rates include all overhead)	
Reimbursable court cost	25,000
TOTAL:	729,000

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SB255  
Title: "Payment of Attorney services"  
Sponsor: Senator Kertulia  
Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.  
Program Category Affected: Public Defense  
BRU, Program of Subprogram(s) Affected:  
Third District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		(84.3)				
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		(84.3)				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(84.3)				
FEDERAL FUNDS					
OTHER (Specify Source)					

POSITIONS:

FULL-TIME	(2.0)				
PART-TIME					
TEMPORARY					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer

Phone: 279-7541

Division: Dana Fabe, Public Defender

Date: 4/27/83

Approved by Commissioner: Commissioner Lisa Rudd

Date: 5/2/83

Department: Administration

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

ANALYSIS: SB255 and HB327

Since July 1, 1976, the Public Defender Agency has been charged with the defense of indigents charged with violations of municipal ordinances. Out of necessity, the Agency has assumed this obligation using existing personnel and resources. In FY79 two additional positions were authorized in HB909, an Attorney III and a Legal Secretary I. If this bill, returning the financial obligation for indigent defense back to the municipalities should pass, these two positions would be eliminated at a savings of \$84,300.