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HOUSE COMMITTEE REPORT

(7)
Date Referred: March 29, 1994

FURTHER REFERRALS:

Date of Committee Action: 4-18-94

The JUDICIARY Committee considered:

HB 523

HOUSE BILL NO. 523

GRAND JURY EVIDENCE BY POLICE OFFICERS

"An Act amending Alaska Rule of Criminal Procedure 6(r) relating to admissibility of hearsay evidence by peace officers before the grand jury."

RECOMMENDATIONS:

be replaced with HB 523 the same title a new title

have attached amendments(s)

(5) do pass

do not pass

(1) no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DPA, PD, PS, LAW

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | DNP | NR | AM |
|------------------------|----|-----------------------|-----|----|----|
| <i>[Signature]</i> | ✓ | <i>Rep Davidson</i> | | ✓ | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>Annunette James</i> | ✓ | | | | |
| <i>Bruce Horter</i> | ✓ | | | | |
| <i>Gail Phillip</i> | ✓ | | | | |
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[Signature]
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 4
 Bill Version: HB 523
 (H) Publish Date: 3/9/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: February 16, 1994
 Title: "...relating to admissibility of hearsay evidence by peace officers before a grand jury."
 Sponsor: Rules/Request of Governor
 Requestor: Governor's Office

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING:

| | | | | | | |
|-----------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| OTHER | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: February 16, 1994
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law Date: February 16, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION:

This bill amends Alaska Rule of Criminal Procedure 6(r) to permit peace officers to testify before a grand jury as to what their fellow officers saw or heard - for example, as to the contents of their fellow officers' official police reports.

The language in Rule 6(r) presently prohibits virtually all hearsay testimony before the grand jury. Consequently, if several officers were involved in an investigation, all must testify before the grand jury even if the involvement of some was minor or insignificant. The change proposed in the bill is similar to testimony already permitted by the federal courts in Alaska. For instance, the lead case agent on a particular investigation testifies before the federal grand jury about the entire scope of what was learned during the investigation. If 12 law enforcement agents were involved, the federal court rules do not require all 12 agents to personally appear and testify before the grand jury. The federal rules allow for just one case agent to appear and testify before the grand jury leaving the other 11 agents available on the street to fight crime. The bill seeks the same result for Alaska's peace officers, and that is to return them to the street to fight crime. The bill will not have a fiscal impact for the Department of Law. It will make far more efficient use of law enforcement officers' time.

HOUSE COMMITTEE REPORT

(7) Date Referred: March 9, 1994 FURTHER REFERRALS: Judiciary

Date of Committee Action: 3-26-94

The STATE AFFAIRS Committee considered: HB 523

HOUSE BILL NO. 523 GRAND JURY EVIDENCE BY POLICE OFFICERS

"An Act amending Alaska Rule of Criminal Procedure 6(r) relating to admissibility of hearsay evidence by peace officers before the grand jury."

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
- have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____ fiscal note(s) _____

zero fiscal notes Law, Public Safety, ALM.(2) zero fiscal note(s) _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | DNP | NR | AM |
|--------------------|----|-----------------------|-----|----|----|
| <i>[Signature]</i> | X | | | | |
| <i>[Signature]</i> | X | | | | |
| <i>[Signature]</i> | ✓ | | | | |
| <i>Betty Davis</i> | X | | | | |
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[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

3
Bill Version: HB 523
(H) Publish Date: 3/9/94

Revision Date: _____ Dept. Affected: Public Safety
Title: Hearsay Evidence BRU: AST
Component: Detachments
Sponsor: Rules by Request
Requestor: Governor COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

| OPERATING | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-----------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () | -0- | -0- | -0- | -0- | -0- | -0- |
| <small>Revenue Code</small> | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Lee Ann Lucas Phone: 465-4322
Division: Commissioner's Office Date: 2/22/94
Approved by Commissioner: *[Signature]* Date: 2/22/94
Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

No. 2

Bill Version: HB 523

(H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL 1

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to admissibility of hearsay..." BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 2/18/94
 Agency: Administration

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(1) ADMINISTRATION FISCAL NOTE

FISCAL NOTE

No. 1

Bill Version: HB 523

(H) Publish Date: 3/9/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to admissibility of hearsay..." BFU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of current year (FY94) cost: none

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy
 Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Phone: 274-1684
 Date: _____
 Date: 2/17/94

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(2) ADMINISTRATION FISCAL NOTE

HB 523

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends Alaska Rule of Criminal Procedure 6(r) to allow one peace officer, such as an Alaska state trooper or police officer, to testify at grand jury as to what another peace officer heard, said, or did in the course of a criminal investigation. This will reduce the number of peace officers that must be involved and required to testify when a case is presented to a grand jury, especially when the peace officers may have only played a minor role in the investigation.

In federal courts in Alaska, the lead case agent on a particular investigation simply comes before the federal grand jury and testifies about the entire scope of what was learned during the course of an investigation. If 12 law enforcement agents were involved, the federal court rules do not require all 12 agents to personally appear and testify before the grand jury. The federal rules allow for just one case agent to appear and testify before the grand jury -- leaving the other 11 agents available on the street to fight crime.

This is not the situation in Alaska's state courts. Because hearsay evidence is generally not allowed to be presented before the grand jury in criminal cases, the lead peace officer investigating the case cannot simply testify about what that officer learned from fellow officers conducting the investigation. The lead officer cannot even testify before the grand jury about what that officer heard over police radio -- the police dispatcher who made the particular radio transmission must be called into court to testify about the statement in person. It frequently takes many work hours to prepare, and to be present to testify.

SPONSOR STATEMENT

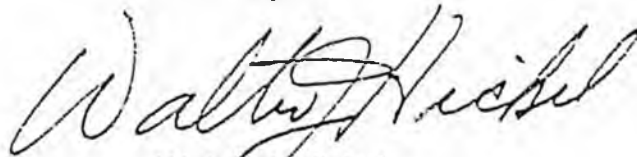
The Honorable Ramona Barnes
March 9, 1994
Page 2

As the federal courts in Alaska routinely prove, Alaska's hearsay rule does not provide any greater protection of the constitutional rights of Alaskans than does the federal practice. The present state court rule unnecessarily pulls dozens of peace officers off patrol every month simply to wait around to testify.

The language in Alaska Rule of Criminal Procedure 6(r), which presently prohibits virtually all hearsay testimony in the grand jury, should be amended to permit peace officers to testify as to what their fellow officers saw or heard -- for example, as to the contents of their fellow officers' official police reports. The state is presently facing a projected decline in revenue. This simple, constitutional, rule change can reduce grand jury costs to the state by allowing one officer, rather than many, to present the relevant evidence, at the same time freeing up nontestifying officers to do essential public protection duties. If this bill is enacted, we could save money and keep Alaska's police and troopers out on the street fighting crime, without affecting the quality of evidence presented to the grand jury.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor

MAR 21 1994

GOVERNOR HICKEL'S BILL TO PUT POLICE BACK ON THE STREET (SB 349 & HB 523)

This bill will put Alaska's police back on the street by amending Criminal Rule 6(r) to allow one police officer to testify at grand jury as to what their fellow officers heard, said, or did in the course of a criminal investigation. This will reduce the number of officers that are routinely tied up in court when a case is presented to a grand jury.

In Alaska's federal courts, the lead agent on a particular case simply comes before the grand jury, and testifies about the full scope of what was learned during the course of an investigation. If twelve FBI agents were involved, they don't call all twelve agents in before the grand jury. They just call in the lead agent--and leave the other eleven free to be out on the street fighting crime.

Not so in Alaska's state courts. Because hearsay is generally not allowed in the grand jury, the lead police or trooper investigator cannot simply testify about what he or she learned from fellow cops. They can't even tell the grand jury about what they heard over the radio--all of their fellow cops have to be called off the job and into court to testify about it in person.

As the federal courts in Alaska routinely prove, this expensive and unnecessary rule does absolutely nothing to protect the constitutional rights of Alaska's citizens. All it does is pull dozens of cops and troopers off patrol week in and week out. They cool their heels in the D.A.'s office or the courthouse, invariably spending many wasted hours simply waiting around to testify.

The language in Criminal Rule 6(r)(1), which presently prohibits virtually all hearsay testimony in the grand jury, should be amended to permit peace officers to testify as to what their fellow officers saw or heard. This simple, constitutional rule change can reduce grand jury costs to the State--and at the same time free up more police. Let's save money and put Alaska's police and troopers back out on the street where they belong--fighting crime.