

HB

396

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 396 The Justin Wollam Act

The House Judiciary Committee at the request of the Anchorage Police Department has introduced this legislation. HB 396 will assist the Department of Public Safety and municipalities with the purchasing of equipment that will assist in the preclusion of alcohol related offenses throughout the state.

HB 396 creates a \$100 surcharge for the following offenses if a defendant pleads guilty or nolo contendere to, forfeits bail for, or is convicted of:

1. an offense listed in AS 04 (Alcoholic Beverages)
2. an offense listed in AS 28 (Motor Vehicles) that includes ingestion or possession of alcohol as an element of the offense,
3. a regulation adopted under AS 28 that includes ingestion or possession of alcohol as an element of the offense, or
4. a municipal ordinance under AS 28.01.010 that includes ingestion or possession of alcohol as an element of the offense

The surcharge cannot be waived, deferred, or suspended. The court may allow a defendant who is unable to pay the surcharge to perform community work in lieu of the surcharge.

In addition to the surcharge, HB 396 creates an Alaska alcohol offense equipment fund in the general fund. The fund consists of appropriations made by the legislature to the fund. The legislature may appropriate to the fund the annual estimated balance in the account created for the collection of this new surcharge. The legislature may make appropriations from the fund to the Department of Public Safety, and municipalities, for the purchase of law enforcement equipment that will assist in the enforcement and prevention of alcohol-related offenses.

If enacted, this new law shall be referred to as "The Justin Wollam Act" in honor of Anchorage Police Officer Wollam who was killed in the line of duty on July 9, 2001 by a drunk driver.

The committee urges your support of this bill.

ALASKA STATE LEGISLATURE

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Heather M. Nobrega
Counsel to Committee

Sectional Analysis for HB 396

- Section 1:** This Act may be known as the Justin Wollam Act.
- Section 2:** Adds reference to the new surcharge statute. Makes stylist changes to the language regarding surcharges.
- Section 3:** Changes wording to reflect multiple surcharges.
- Section 4:** Creates a new statute implementing a \$100 surcharge for alcohol related offenses.
- Lists offenses where applied
 - Court cannot fail to impose the surcharge
 - Surcharge cannot be waived, deferred, suspended
 - Surcharge to be paid within 10 days of imposition
 - Failure to pay is contempt of court
 - The state, a municipality, or the court may institute proceedings to collect the surcharge
 - Money collected shall be deposited into the general fund
- Section 5:** Creates the Alaska alcohol offense equipment fund.
- Fund is created in the general fund
 - Consists of appropriations made by the legislature
 - The legislature may appropriate to the fund annual balance of monies collected from surcharge
 - The legislature may appropriate from the fund to
 - Department of Public Safety
 - Municipalitiesfor the purchase of equipment that will assist in the enforcement and prevention of alcohol-related offenses
 - Nothing in this section creates a dedicated fund
- Section 6:** Adds reference to new surcharge statute.

Section 7: Adds reference to new surcharge statute.

Section 8: Refers to the repeal of Section 9 upon the earlier of:
(1) the date that the Alaska Court System has the capability to separately track and account electronically for money collected under the new surcharge statute, or
(2) June 30, 2003
Requires the executive director of the court system to notify the lieutenant governor and the revisor of statutes when the electronic capability mentioned above has been obtained

Section 9: Money collected by the court system under the new surcharge statute shall be accounted for separately and shall be deposited in the general fund. The court system shall by Feb. 1 of each year, provide the Dept. of Administration, the Leg. Budget & Audit Committee, and each house of the legislature with an estimate of the money collected for that fiscal year.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 396
() Publish Date: 2/21/2002

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Alcohol Offense Surcharge BRU Alaska Court System
Component Trial Courts
Sponsor House Judiciary
Requester House Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 396.

Prepared by: Douglas Wooliver
Division: Alaska Court System
Approved by: Stephanie Cole
Agency: Alaska Court System

Phone 463-4750
Date/Time 2/21/02 2:01 PM
Date 2/21/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 396
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to surcharge
on certain offenses..." BRU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor House Judiciary by Request
 Requester (H) JUD Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Barbara Brink, Director Phone (907) 334-4416
 Division Public Defender Agency Date/Time 2/21/02 4:56 PM
 Approved by: Jim Duncan, Commissioner Date 2/21/2002
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. HB 396

ANALYSIS CONTINUATION

This bill provides for a mandatory surcharge of \$100.00 to be paid by every person convicted of an offense listed in AS 04, or an alcohol related state or municipal offense listed in AS 28. This would be in addition to other applicable surcharges already levied under existing statutes.

If a person fails to pay, the court can punish him or her through contempt of court proceedings.

This bill will have some impact on the Public Defender Agency. Because contempt of court proceedings can result in imprisonment, a person can be appointed an attorney if it appears that he or she will end up in jail. The Public Defender Agency believes that many people who are convicted of these offenses will have difficulty paying this surcharge because of other financial demands. Fines, restitution payments to victims, attorneys fees under Criminal Rule 39, existing surcharges including police training surcharges, fees for substance abuse, anger management, and other required programs often take up all the available cash indigent offenders and violators have.

Depending on how rigorously this surcharge is enforced, the legislation could have a considerable financial impact on the Public Defender Agency. However, this impact is not possible to predict, therefore, an indeterminate fiscal note is submitted.

Sec. 12.55.039. Surcharge.

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, forfeits bail for, or is convicted of a

(1) felony shall be assessed a surcharge of \$100;

(2) violation of a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032, or a violation of a municipal ordinance comparable to a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032 and adopted under AS 28.01.010, shall be assessed a surcharge of \$75;

(3) misdemeanor or a violation of a municipal ordinance if a sentence of incarceration may be imposed for the misdemeanor or ordinance violation, other than a provision identified in (2) of this subsection, shall be assessed a surcharge of \$50;

(4) misdemeanor for which a sentence of incarceration may not be imposed, a violation or an infraction under state law, or a violation of a municipal ordinance imposing a penalty authorized by AS 29.25.070(a) if a sentence of incarceration may not be imposed for the ordinance violation, shall be assessed a surcharge of \$10 if the fine or bail forfeiture amount for the offense is \$30 or more.

(b) A court may not fail to impose the surcharge required under this section. The surcharge may not be waived, deferred, or suspended. A court may allow a defendant who is unable to pay the surcharge required to be imposed under this section to perform community work under AS 12.55.055(c) in lieu of the surcharge.

(c) The surcharge shall be paid within 10 days of imposition or such shorter period of time as ordered by the court. Failure to pay the surcharge is punishable as contempt of court. Proceedings to collect the surcharge may be instituted by the state, the municipality, or by the court on its own motion.

(d) Money collected under this section shall be deposited into the general fund and accounted for under AS 37.05.142.

(§ 2 ch 119 SLA 1994; am § 4 ch 56 SLA 1998; am § 1 ch 24 SLA 2000)

Cross references. For legislative findings and purpose in connection with the enactment of this section, see § 1, ch. 119, SLA 1994 in the Temporary and Special Acts.

Effect of amendments. The 1998 amendment, effective August 27, 1998, rewrote subsection (a).

The 2000 amendment, effective July 27, 2000, in paragraph (a)(4) added "misdemeanor for which a sentence of incarceration may not be imposed, a" at the beginning, inserted "imposing a penalty authorized by AS 29.25.070(a)," and deleted "misdemeanor or" preceding "ordinance violation."

F41

JAN 28 2002

Subject: Assistance in Obtaining New Legislation

Date: Fri, 13 Jul 2001 12:14:40 -0800

From: "Monegan, Walt" <wmonegan@ci.anchorage.ak.us>

To: "'Representative_Brian_Porter@legis.state.ak.us'" <Representative_Brian_Porter@legis.state.ak.us>
"Senator_Rick_Halford@legis.state.ak.us" <Senator_Rick_Halford@legis.state.ak.us>,
"madd@corecom.net" <madd@corecom.net>

The Anchorage Police Department has been in the process of trying to evaluate video camera systems for use in our patrol vehicles and have been working with several companies to determine which unit would best fit our needs. The biggest obstacle is always funding for the equipment and I have received information from Richard Meadows of the Shawna LuAnn Meadows that they were able to get the Illinois Public Act 91-0822 passed which states:

In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating this Section, including any person placed on court supervision for violating this Section, shall be fined \$100.00, payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. Any moneys received by a law enforcement agency under this subsection shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

Any moneys received by the Department of State Police under this subsection shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

I would like to get something similar enacted in Alaska to assist in the purchase of equipment for law enforcement agencies to assist in the prevention of alcohol related criminal violence in the State of Alaska. I would appreciate any help you could give me with implementing this. In memory of Officer Justin Wollam who was killed on 7/9/01 in the line of duty by a drunk driver, I was hoping we could name the new law after him.

Thank you for your help.



Mothers Against Drunk Driving

Anchorage Chapter

3600 Arctic Boulevard Box 3 • Anchorage, AK 99503 • (907) 562-6890/Fax (907) 562-6896

Email: info@maddalaska.com

July 16, 2001

Walt Monegan, Chief of Police
Anchorage Police Department
4501 South Bragaw St.
Anchorage, AK 99508

Dear Chief Monegan,

By way of this letter, please accept MADD's full support toward efforts to create legislation resembling Illinois Public Act 91-0822, which states:

"In addition to any other penalties and liabilities, a person who is found guilty of or pleads to violating this Section, including any person placed on court supervision for violating this Section, shall be fined \$100.00, payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. Any monies received by a law enforcement agency under this subsection shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State."

MADD also supports the naming of this legislation after Officer Justin Wollam. The death of Officer Wollam, along with three teenagers, is simply a continuation of the horror of drunk driving deaths in Alaska. Officer Wollam's death shall not be in vain, and this legislation will be a critical step in a direction that will allow offenders who have chosen to drink and drive to provide financial support toward enforcement needs.

The devastation created in Alaska as a result of misuse, abuse and underage use of alcohol has been tolerated too long, and every measure possible must be enacted to stop the destruction now.

Please do not hesitate to contact MADD for any assistance we may provide in your efforts.

Sincerely,

Marti Greeson
Executive Director

Cc: Representative Brian Porter, Speaker of the House of Representatives
Jeannette James, House of Representatives Majority Leader
Ethan Berkowitz, House of Representatives Minority Leader
Senator Rick Halford, President of the Senate
Senator Loren Leman, Senate Majority Leader
Senator Johnny Ellis, Senate Minority Leader

Drunk Driving is Breaking Alaska's





ALL STARS
 Players know: It's
 the Year of Ichiro
SPORTS



TOUR WILTS
 Garden Club may
 cancel event
ALASKA



WIMBLEDON
 Wild card Ivanisevic
 wins a Grand Slam
SPORTS

WEATHER

 More of the same
 July's cool damp weather
 to stick around; high near 62

50 cents

Final Edition

Anchorage Daily News

Tuesday, July 10, 2001

ALASKA'S NEWSPAPER

www.adn.com

Crash kills officer, 3 teens

Speeding Blazer in wrong lane collides with police cruiser on Glenn Highway



By SHEILA TOOMEY
 Anchorage Daily News

Four people died in a fiery crash just before sunrise Monday when a teenager fleeing in a Blazer toward Eagle River at speeds of up to 80 mph crossed the median on the Glenn Highway and collided head-on with a police car driving toward Anchorage.

Officer Justin Todd Wollam, 28, died at the scene. Wollam had been with the department since 1999. He leaves a wife and 4-year-old daughter.

The fleeing driver, Robert M. Esper, 19, also died at the scene, as did two of his three juvenile passengers. A fourth passenger was taken to Alaska Regional Hospital in critical condition with a fractured skull.

Esper had a juvenile criminal history involving stolen cars, drug abuse and attempted burglary, according to juvenile probation records. He turned 18 last year and began amassing an adult record. He was convicted last month of drunken driving and vehicle theft, according to court records, and was on felony probation at the time of his death.

BILL ROTH / Anchorage Daily News

Anchorage Police Department officer Justin Todd Wollam, 28, and three teenagers died in a head-on collision Monday on the Glenn Highway near the Fort Richardson exit. A fourth teenager was ejected from the Blazer. A fire caused by the crash was put out by police officers on the scene.

BILL ROTH / Anchorage Daily News

Officer's hometown heartbroken

“
He was one
of those
guys it
would take
you about
30, 40
seconds
to like.”

— Anchorage
Police Chief
Walt Monegan

■ **WOLLAM:** Death of friendly guy everyone remembers stuns family, friends in Texas.

By DOUG O'HARRA
Anchorage Daily News

In his two years as a patrol officer with the Anchorage Police Department, Texas-born Justin Todd Wollam impressed co-workers with his enthusiasm for law enforcement and his way with people.

“He was one of those guys it would take you about 30, 40 seconds to like,” said Anchorage Police Chief Walt Monegan.

A patrol supervisor described

him “as one of the nicest kids you’d ever want to meet,” said police spokesman Ron McGee. “He was eager to do the right thing.”

Wollam had always been that way — as a high school athlete, police rookie or young father, according to neighbors of the Wollam family in close-knit Danbury, a town of about 4,000 in the flat, rice-growing Gulf Coast country south of Houston.

“He was a model student,” said Tim Walch, his high school history teacher and athletic coach. “On the basketball court or the football field, he was one of those guys who always did what he was supposed to do, whatever the coach asked.”

Wollam, a 28-year-old family man fulfilling a dream of serving as a

cop, died Monday morning in a head-on collision with a Chevrolet Blazer driven by a teenager.

Wollam is survived by his 27-year-old wife, Kristy, and 4-year-old daughter, Kristin, of Anchorage, as well as his parents, William and Beverly, an older brother, Russell, and extended family members. His parents were planning to travel to Anchorage from Texas today with tickets purchased by the Anchorage Police Department Employees Association, the police union, McGee said.

In Anchorage, Wollam’s death stunned fellow officers, who declined to be interviewed Monday, McGee said. Down in the Texas

See Back Page, WOLLAM



Officer Justin Todd Wollam, 28, who was killed in a head-on collision Monday, was “one of the nicest kids you’d ever want to meet,” according to a police patrol supervisor.

theft, according to court records, and was on felony probation at the time of his death.

Events leading to the disaster began 34 minutes earlier and miles away, at Lake Otis Parkway and 72nd Avenue, according to police accounts.

At 3:23 a.m., a patrol officer spotted a red 1985 Chevrolet Blazer “full of young people” stopped at the side of the road, said police spokesman Ron McGee. The officer went to investigate and the Blazer took off, McGee said. The officer, who was not identified, pursued briefly, turning on her lights and siren, but the Blazer accelerated.

When it became clear that the driver did not intend to stop, the officer stopped chasing it and activated the department’s no-pursuit policy, Anchorage Police Chief Walt Monegan said.

To avoid the dangers of a high-speed chase, especially through residential streets, officers faced with flight from a routine traffic stop radio a description of the fleeing vehicle to central dispatch. A supervisor then organizes a search by other officers, who try to locate the fleeing driver and keep the car in sight, McGee said.

This is what happened Monday, he said. Over the next half-hour, the Blazer was seen several times and followed from a nonthreatening distance.

Esper was spotted almost immediately traveling west on O’Malley Road toward Min-

See Back Page, ESPER

See Back Page, CRASH

Teenager's final moments point to recent troubled past

■ **ESPER:** The 19-year-old driver in fatal collision was familiar face to police.

By ZAZ HOLLANDER
and LISA DEMER
Anchorage Daily News

Robert M. Esper eluded police for half an hour Monday morning before his life and three others ended in a fiery crash on the Glenn Highway.

But the 19-year-old driving the red Chevrolet Blazer that collided head-on with a police car had slipped in and out of the system’s fingers several times in recent years.

“It appears that in this case we just didn’t find the right combination of interventions and opportunities,” said Robert Buttane, state administrative juvenile probation officer. “I don’t know what the system might have done differently. It’s just that some-

times it doesn’t take.”

Last month, Esper was among 15 students who graduated from McLaughlin Youth Center in Anchorage. When he registered to vote at 18, he gave his address as 2600 Providence Drive — McLaughlin.

Adults who tried to persuade Esper to straighten out found him likable when they talked to him, only to learn that he had gotten into trouble again, said Anchorage politician Ray Met-

calfe, a friend of the family. “I never saw a bad side of him,” Metcalfe said, though he knew it was there.

A chronology of Esper’s offenses can be pieced together from court records and juvenile authorities:

In December 1998, Esper was accused of possessing marijuana at school and was placed on informal probation. Two months later, he was ac-

See Back Page, ESPER

See Back Page, CRASH

Dave Olney, right, the owner of the Arctic Rose fishing boat, talks with his attorney Doug Fryer



Officers to seek, photograph Arctic Rose

■ **INVESTIGATION:** There are no plans to raise the fishing boat.

are spotted, he said. “I just hope our search is successful,” he said. The Coast Guard panel will travel to Dutch

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Photo by JOAN MARSH

A procession of Anchorage Police Department cruisers accompanies the body of officer Justin Wollam from Providence Alaska Medical Center on Monday.

WOLLAM: Hometown copes with officer's death

Continued from A-1

towns of Danbury and Angleton, where Wollam grew up and started his career as a police officer, the news was no less shocking.

"All I know is the community is really upset and just heartbroken about what happened, and we're trying to comfort the family," said Disa Schulze, maintenance supervisor at the Danbury school district, where William Wollam worked and Justin and his brother graduated.

Angleton Police Chief David Ashburn and Cpl. Richard Stone, who gave Wollam his first police job as a reserve officer in 1996, broke the news to Wollam's parents Monday morning.

"They were both just very heartbroken," Ashburn said. "They took it very hard."

Wollam grew up exceptionally well-liked in a friendly small town where the lines between family and community overlap, where Wollam was still considered a local even after moving away.

"After every ballgame, we would always go out and eat in this little old breakfast place, and the Wollams were always there," Walch said.

"When they came down for a visit, his wife would bring the little girl over. I can remember that he would come over and pick her up."

With Wollam's family and co-workers in mourning, many biographical details were unavailable Monday. After graduating from high school, Wollam served in the U.S. Air Force as an aircraft support technician from 1991 to 1995, according to Anchorage police. Several family friends in Texas said they believe Wollam served at least some of his military service in Alaska, where his wife has family.

Wollam had long wanted to be a police officer, Walch said. "His father told me that it's something he always wanted to do."

In 1996, Stone hired Wollam as a volunteer reserve officer at the two-person Danbury Police Department. It took only three months before he was hired at the larger department in Angleton.

"He was very professional," Stone said. "He was a people's policeman. He was very friendly."

In 1999, Wollam and his family moved to An-

chorage, where Wollam secured a job as a patrol officer. Angleton chief Ashburn was sorry to lose him.

In Anchorage, Wollam soon earned a reputation among other officers for an outgoing and idealistic attitude as he patrolled around Eagle River. He liked people and seemed to approach his work with energy and enthusiasm, according to other officers.

"He was at the age we all were when we hired on." Chief Monegan said during a press conference Monday. "You really want to get out there and do good. You really believe in what you're doing."

Wollam lived quietly in a South Anchorage neighborhood with his wife and daughter. His neighbors, who said they didn't know him well yet, described him as likable and friendly.



Anchorage officers killed in the line of duty

Name	Date	What happened
Benjamin Strong, 29	Jan. 4, 1968	Shot during stakeout
John Flora, 33	Sept. 8, 1975	Shot responding to a burglary. Flora's wife, Brenda, helped establish K-9 unit.
Harry Kler, 30	Oct. 28, 1980	Squad car crash responding to gas station fire
Harry Hanson, 41	July 17, 1986	Shot covering gunfire for another officer
Loulo Mizelle, 35	July 6, 1989	Shot responding to shots-fired call
Dan Seely, 40	Oct. 26, 1996	Shot serving a warrant
Justin Wollam, 28	July 9, 2001	Head-on collision with fleeing suspects

Source: Anchorage Police Department

RON ENGSTROM / Anchorage Daily News

"I know he spent a lot of time with his daughter, and he seemed like a really nice guy," said neighbor Cynthia Ben. "I'm really saddened this morning."

■ Doug O'Hara can be reached at do'hara@adn.com and 257-4334. Reporter Shella Toomey contributed to this story.

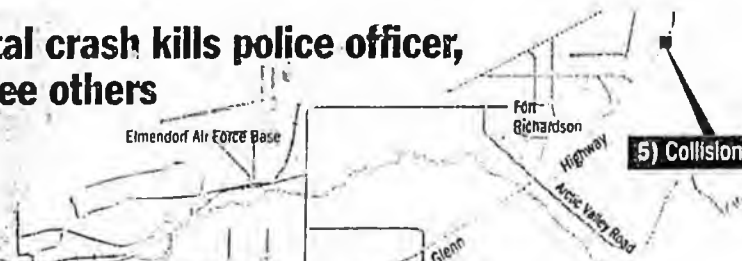
CRASH: Police seek witnesses to collision

Continued from A-1

nesota Bypass on the wrong side of the road. Police blocked an entrance to the bypass to safeguard other drivers,

exit and the Eagle River Loop exit, Esper crossed the median into the Anchorage-bound lanes and continued barreling toward Eagle River.

Fatal crash kills police officer, three others



ESPER: In trouble

Continued from A-1

cused of stealing a vehicle. The state deferred formal action and referred Esper's case to Youth Court, where youths are prosecutors defendants

CRASH: Police seek witnesses to collision

Continued from A-1

nesota Bypass on the wrong side of the road. Police blocked an entrance to the bypass to safeguard other drivers, McGee said.

At one point, the Blazer pulled into a trailer park at the dead end of Arctic Boulevard near Garnet Street and police saw three people jump out and run away. Two were captured almost immediately and told police the driver had been drinking, Monegan said.

Minutes later, the Blazer was headed out of town on the Glenn Highway. At least one police car followed at a distance, McGee said.

Meanwhile, Wollam, who was on duty in Eagle River, and a second Eagle River officer were told to drive toward Anchorage, to the Fort Richardson overpass, and mine the exit there with spike strips to keep the Blazer from getting off the highway onto neighborhood streets, said Lt. Audie Holloway.

The Blazer had already survived at least two efforts to spike its tires and force it to stop, Monegan said.

Wollam and the second officer headed toward town in separate cars, traveling at 60 to 65 mph, police said. Esper was now also on the Glenn, thundering outbound.

The effort to spike the Fort Richardson exit was futile. Esper passed it long before Wollam and the second officer got there.

Wollam and Esper should have passed each other, flying in opposite directions with four lanes and a median between them. But shortly before the big S curve, halfway between the Fort Richardson

exit and the Eagle River Loop exit, Esper crossed the median into the Anchorage-bound lanes and continued barreling toward Eagle River.

He had gone less than a mile when a white vehicle appeared, traveling at proper speed in the correct direction, police said. Investigators theorize that Esper swerved to his left to avoid hitting the white vehicle just as Wollam came around the curve.

"Both appeared to try to take evasive action," Monegan said. "They saw each other too late."

The officer in the second car witnessed the collision but was not injured, Monegan said.

The dead, in addition to Wollam and Esper, were identified as Makayla Lewis, 16, and a 14-year-old girl whose name was not released because her next of kin had not yet been notified, McGee said.

A third passenger, Savannah Fielding, 15, was thrown from the Blazer, suffering a fractured skull and broken ankle, Monegan said. She remained hospitalized in critical condition Monday night.

The southbound side of the Glenn remained closed for most of the rush hour, with incoming commuters diverted in crawling streams around the crash site.

"This is a tragedy not only for the Police Department but for the families of the occupants of the other car," Monegan said at a press conference later Monday morning.

He said police don't anticipate charging the three passengers who got out of the Blazer in town.

"They wanted out. ... They

Fatal crash kills police officer, three others



Source: Police reports

RON ENGSTROM / Anchorage Daily News

Events leading to disaster

- 1) 72nd Avenue and Lake Otis Parkway – Police officer spots a Blazer full of young people stopped at the side of the road
- 2) O'Malley Road – Later, the Blazer is spotted driving in the wrong lane of O'Malley Road
- 3) Arctic Boulevard and Garnet Street – Three passengers flee Blazer; police apprehend two of them
- 4) C Street – Blazer speeds north
- 5) Head-on collision – Glenn Highway near the Fort Richardson overpass
Details: The Blazer heads north on the Glenn at 80-85 mph, crosses the median and drives against traffic. Officer Justin Wollam was driving south. He is killed in the collision. Also killed were Robert Esper, 19, driver of the Blazer, Makayla Lewis, 16, and a 14-year-old girl



3:23 a.m.



4 a.m.

were trying to use their common sense," he said.

Police identified only one of the three: Travis Barrett, 19, who was taken into custody on three old warrants, including driving without a valid license.

Monegan said police would like the driver of the white vehicle, described as a sedan or van, to help reconstruct exactly what happened. That driver is not considered at fault in any way, Monegan said.

Monday's collision was a worst-case example of the

Catch-22 that police face when dealing with a fleeing motorist driving erratically and endangering others on the road, Monegan said. Police have to make a fast choice. Do you let someone continue to drive until you corner him or he realizes he can't get away or might run out of gas? Or do you chase him in a way that makes him drive even faster and more dangerously?

According to the National Highway Traffic Safety Administration, about one-third of

the people who end up dead after a high-speed police pursuit are innocent bystanders. In 1999, for example, 318 people died nationally as a result of police pursuits. Of those, three were police officers in pursuit; 212 were in a vehicle being chased, and 103 were bystanders.

Reporters Lisa Demer, Zaz Hollander and Peter Porco contributed to this story. Shella Toomey can be reached at sttoomey@adn.com or 257-4361.

ESPER: In trouble

Continued from A-1

cused of stealing a vehicle. The state deferred formal action and referred Esper's case to Youth Court, where youths are prosecutors, defendants and judges. Records indicate he also was referred for drug and alcohol treatment, Buttcaane said.

In August 1999, he was accused of stealing another vehicle. Juvenile authorities opted to take the matter and the earlier stolen vehicle case to trial. But before they could, Esper got into more serious trouble.

In October 1999, Anchorage police arrested him on charges of eluding a police officer and theft of a third vehicle. Around the same time, he also was charged with attempted burglary and third-degree assault after driving into someone's leg, according to Buttcaane. He was detained at McLaughlin.

On Jan. 31, 2000, after he was convicted in the juvenile system of three counts of vehicle theft and failing to stop for an officer, he was ordered to stay at McLaughlin for long-term treatment.

In March 2001, just before his 19th birthday, Esper was released.

Days later, on March 10, he was arrested on charges of vehicle theft, drunken driving and driving with a suspended license. Military police found Esper parked on Arctic Valley Road either passed out or asleep, court records show.

On June 22, a judge sentenced him to three years of probation in exchange for a guilty plea on charges of drunken driving and vehicle theft, according to District Attorney Susan Parks. A charge of driving with a suspended license was dropped, Parks said.

Robert Esper, who went by Bobby, grew up a nice kid who played hockey, said Metcalfe, who has known Bobby's father, bus driver Robert F. Esper, for about 20 years.

Bobby's life was never easy, according to Metcalfe. The boy's parents divorced when he was little. He lived with his mother until he was about 7, when she died of cancer. Met-

ARCTIC ROSE: Owner has declined to testify, citing Fifth

Continued from A-1

boat's emergency locator beacon bobbed on the surface and where a fuel slick and some debris were found.

If found, the boat will be photographed with a propeller-driven vehicle controlled from the surface via an umbilical cord. Whether the water will

boat, originally built as a shrimper in a Mississippi boat yard in 1988.

The owner of the Arctic Rose, Dave Olney, sat silently through Monday's hearing, flanked by his wife and lawyer. In Seattle, Olney declined to testify, taking the Fifth Amendment for fear that his testimony could be used

pilothouse looks like, Morris said.

The boat was a small, floating factory where fish like cod and sole were caught, cleaned, frozen and packed.

On Monday, former deckhand James Valentine, of Auburn, Wash., testified about what he considered safety hazards during a six-week hitch

loss out heads and guts, and propping open the small door made it easier, he said. But Valentine said water gushed through when the boat went into a trough or rolled, and often the fish-cleaning crew left the door open after their shift.

"I told the captain and the mate what was going on," Valentine said. He said that he dropped the door of

ANCHORAGE

Justin Todd Wollam, 28

Anchorage police officer Justin Todd Wollam, 28, died in the line of duty July 9, 2001, on the Glenn Highway.



Wollam

Services will be at 2 p.m. today at Anchorage Baptist Temple. Dr. Jerry Prevo and the Rev. Dan Hebert will officiate. Pallbearers will include police officers A. Pate, E. Pratt, J. McKay, D. Pardue, C. Mueller, A. Rockom and R. Billet. Honorary pallbearers will include the Anchorage Police Department, Charles Cash II, James Easterling, Russell Wollam and Billy Christensen. Additional services will be held Tuesday in Angleton, Texas. Burial will be in Danbury Cemetery in Danbury, Texas.

Mr. Wollam was born May 16, 1973, in Houston, Texas. A 1991 graduate of Danbury High School, he attended Alvin Community College.

Mr. Wollam served honorably in the U.S. Air Force from 1993 to 1995. After his discharge, he worked for the Danbury Police Department from 1995 to 1996, when he began working for the Angleton Police Department.

In July 1998, he moved to Anchorage. He began his career with the Anchorage Police Department in June 1999.

Mr. Wollam was posthumously awarded the Police Cross on July 9, 2001.

He was a member of the Danbury Baptist Church and Alaska Peace Officer Association.

His family said: "Justin was a very loving husband and father. His family was first in his life. He was an outstanding police officer and was respected and loved by all who knew him. He will be missed by all."

Mr. Wollam is survived by

his wife, Kristy Wollam of Anchorage; daughter, Kristin Wollam of Anchorage; parents, W.R. and Beverly Wollam of Danbury; brother and sister-in-law, Russell and Wendy Wollam of Angleton; grandmother, Louise Wollam of Danbury; nephew, Tyler Wollam of Angleton; nieces, Melanie Wollam of Angleton and Savanna Cash of Anchorage; parents-in-law, Charles and Chris Cash of Anchorage; brother-in-law and his wife, Charles and Kim Cash II of Anchorage; grandparents-in-law, Bud and Allene Cash of Laverne, Okla.; and many aunts, uncles, cousins and friends.

Donations to the Wollam Memorial Fund are being accepted by the Anchorage Police Department and any branch of Alaska USA Federal Credit Union.

Arrangements were by Evergreen Memorial Chapel downtown.

KENAI

Arthur P. Lariviere, 53

Kenai resident Arthur Paul Lariviere died July 11, 2001, at Central Peninsula Hospital in Soldotna. He was 53.

Mr. Lariviere was born Sept. 1, 1947, in Amesbury, Mass. He completed high school and attended Haverhill Trade School in 1965.

He moved to Alaska in May 1971 and lived in Anchorage and Kenai.

Mr. Lariviere had worked on the Alaska pipeline, as a commercial crab fisherman, as a printer at Fort Richardson Army Base, and as a fishing guide in Kenai.

He is survived by his children, Kristen and Adam Lariviere of Florida; mother, Lucille Lariviere of Massachusetts; brothers and sisters-in-law, David and Gloria Lariviere of New Hampshire, James J. Lariviere of Massachusetts, and Richard L. and Dot of New Hampshire;

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ALASKA

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FRIDAY, JULY 13, 2001

ANCHORAGE POLICE OFFICER MOURNED



A roadside memorial to Anchorage Police officer Justin T. Wollam is covered with flowers on Thursday. Wollam was killed early Monday in a head-on collision on the Glenn Highway. He and three other people died in the accident. A memorial service for the police officer is scheduled for 2 p.m. today at Anchorage Baptist Temple.

ERIK HILL
Anchorage
Daily News

Anchorage Daily News

Saturday, July 14, 2001

ALASKA'S NEWSPAPER

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"We owe him a commitment that we are willing to do our part in keeping the pain and agony of drunk driving from taking yet another life."

Lt. Gov. Fran Ulmer

City says last goodbye to fallen police officer



One of hundreds of police officers from various agencies around the state salutes the colors as they are presented at the start of the memorial service for Anchorage police officer Justin Wollam.

■ **MEMORIAL:** Thousands attend the procession, service honoring Justin Wollam.

By LUCAS WALL
Anchorage Daily News

"Thank you Justin. Thank you officers."

So read a small orange sheet of paper held by a solitary woman Friday afternoon on the sidewalk of Northern Lights Boulevard as hundreds of public safety vehicles escorted Anchorage police officer Justin Wollam's body to Ted Stevens Anchorage International Airport.



Wollam

It was one of many gestures of support for Wollam and his surviving colleagues. Wollam died Monday in a head-on collision with a 19-year-old suspected drunk driver fleeing from police on the wrong side of the Glenn Highway. Robert Esper and two of his passengers also died.

Officers from about 30 federal, state and local agencies across Alaska joined most of the Anchorage Police Department along with family, friends and other citizens for Wollam's memorial service at the Anchorage Baptist Temple. About 1,000 people in all filled the pews to remember Wollam and acknowledge his sacrifice.

Police Chief Walt Monegan said officers confront tragedies on a regular basis, but Wollam's death reminds them they, too, are vulnerable.

"Death, pain and misery are like gi-



Photos by MARC LESTER / Anchorage Daily News

See Back Page. MEMORIAL Kristy Wollam is embraced by her mother, Christine Cash; brother, Charles Cash II; and father, Charles Cash, on Friday at the Anchorage Baptist Temple.

MEMORIAL: *The community mourns officer*

Continued from A-1

gantic storms that more than occasionally drop down and ravage our community," Monegan said. "It is public safety officers like Justin who rush out in the turbulence and the wake of these gigantic storms and try to provide aid for their victims. We do it so routinely that sometimes we forget our own personal danger, at least until such time until one of those storms touches us."

The Rev. Jerry Prevo said it's important to acknowledge all law enforcement officers while honoring Wollam's memory.

"It's not until a time like this that we, the citizens of this community, realize the serious danger the men and women of our police department face each day as they do their jobs," he said.

Prevo noted the efforts of Anchorage police Friday morning to apprehend five suspects in an apparent home invasion robbery. Some officers arrived at the service still wearing their tactical uniforms from the morning's manhunt.

Lt. Gov. Fran Ulmer and Mayor George Wuerch offered similar sentiments. Ulmer also urged people to remember all those lost to drunk driving and to strive to prevent future disasters.

"We all can be part of making this a safer state and keeping the tragedy you're experiencing here today with Justin's family and friends from happening to others," Ulmer said. "We owe him a commitment that we are willing to do our part in keeping the pain and agony of drunk driving from taking yet another life."

Ulmer said Wollam is the 35th officer to die in the line of duty in Alaska. She read his wife, Kristy, a letter from Gov. Tony Knowles and presented her with a state flag that flew over the Alaska Capitol on Friday morning.

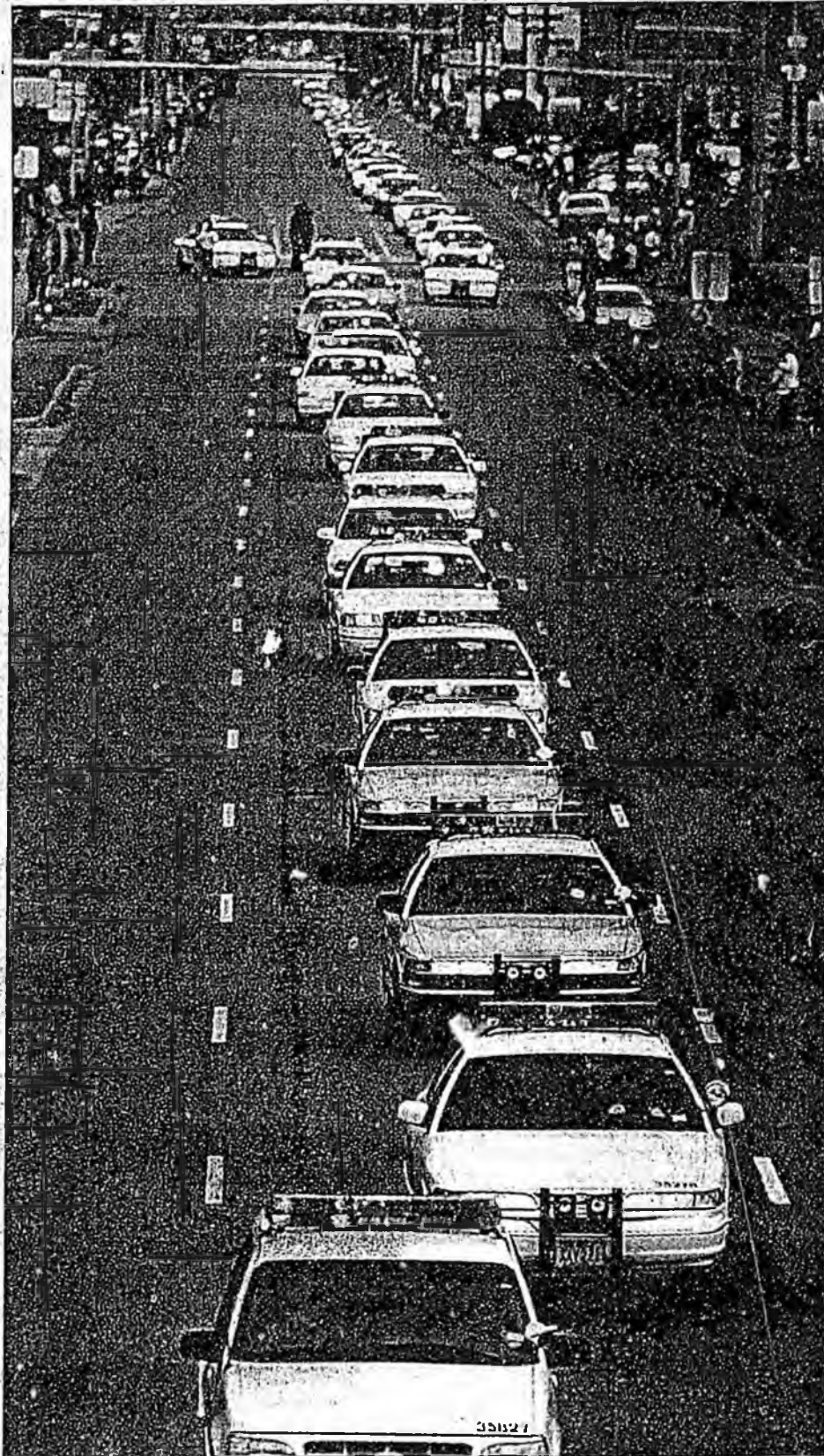
After the speeches and prayers, the audience watched a video of family photos. Sniffles were heard and tears seen across the auditorium as "Go Rest High on That Mountain" played while photos flashed on the large television monitors. The shots included Wollam in his high school football uniform, kissing his wife at their wedding, singing karaoke with friends and lying by a fireplace with his 4-year-old daughter, Kristin.

Outside, an Air Force rifle team fired a 21-gun salute. A police officer played taps while a police honor guard folded the U.S. flag that draped Wollam's coffin. As Monegan presented it to Kristy Wollam, her sobs could be heard in the back of the room.

Thousands of people lined Northern Lights and many more were snarled in traffic jams as the procession escorted Wollam's body to the airport for transport to his hometown of Danbury, Texas. Many people stood at attention with hands over their hearts as the motorcade passed. Some held signs, flags and candles.

Lt. Kris Miller said the sight of so many residents showing their support was gratifying.

"It's to honor the fallen one but it inspires those who have to continue," Miller said as she drove the 40-minute procession route. "It lets



them know their efforts are valued."

Monegan and eight officers are accompanying the body to Danbury, where a funeral and burial will take place Tuesday.

■ Reporter Lucas Wall can be reached at lw@adn.com or 257-4321.

MARC LESTER / Anchorage Daily News

Hundreds of police cars head west on Northern Lights Boulevard on Friday during a motorcade for Justin Wollam. Wollam's body was being driven to the airport to be flown to Texas.

Negotiating tough times

■ **SURVIVORS:** Dead officer's family gets by one day at a time.

By **LUCAS WALL**
Anchorage Daily News

It has been three weeks since Anchorage police officer Justin Wollam died in a head-on collision. His family is trying to pick up the pieces and get on with life.

Wollam's wife, Kristy, is too devastated to talk publicly about her loss, said her father, Charles Cash.

"She's on an emotional roller coaster right now," Cash

See Back Page, **SURVIVORS**



Officer Justin Wollam died in a head-on collision on the Glenn Highway on July 9. He left a wife and a 4-year-old daughter.

July 31, 2001

Anchorage Daily News

SURVIVORS: *Support*

Continued from A-1

said. "She'll have good times, and then you'll just look at her and she just looks like a lost little girl. She's having a really tough time with it because I think it's the last thing anybody expected to go through at age 27, to be a widow."

Wollam's 4-year-old daughter, Kristin, is confused and isn't able to understand what happened July 9. "The other day she was talking about going to Disneyland, and she started running through the list of who all would be going," he said. "The last one of the list, of course, was Daddy. And she asked where Daddy is, and I told her he's in heaven with Jesus. She doesn't comprehend that. She wants to know if we could get on an airplane and fly to heaven to see Daddy."

Cash said he's doing his best to be there for his daughter, even for something as minor as cutting the grass.

"It's a really difficult ordeal to try to get through, and there's no way we can replace Justin," he said. "We've always been a very close family, so we'll try to build on that and

be there as that family unit to support her."

The assistance the family has received has been superb, he said.

"I don't know what kind of shape we'd be in or what we'd be doing if we didn't have the support and the sincere concern of the entire Anchorage community," Cash said. "Kristy is coping as best she can. She's receiving wonderful support from the Police Department. There's been not a day go by that at least one police officer and/or their wife haven't stopped by the house to see how she's doing."

The sight of thousands of people lining Northern Lights Boulevard paying their respects during the procession escorting Wollam's body to the airport left the family amazed and in awe.

"The only message that I can send to both APD and to the Anchorage community is just a great big thank you," Cash said. "We really appreciate the support, and keep it coming. The continued support is going to be needed for her for quite some time."

Subject: RE: HB 396

Date: Wed, 6 Mar 2002 15:11:05 -0900

From: "Marti Greeson" <mgreson@maddalaska.com>

To: "Heather Nobrega" <Heather_Nobrega@legis.state.ak.us>

Hi Heather,

Just a note to add my concerns following the hearing on February 22:

The original gist of HB 396 was that there be a \$100 surcharge on alcohol-related convictions which would be returned to the arresting agency for the purchase of enforcement equipment. As it was originally introduced, this means there would be a 'full circle' of enforcement in the horror of alcohol-related threats to the safety of our communities and our state which currently exist. Enforcement officers would be able to see that their enforcement is an integral part of a larger picture of attacking the alcohol violations, and would see that their commitment to enforcement is also their personal commitment to gaining current enforcement technology to do their job.

As it sounded during the hearing, if the surcharge were to go into a APSC 'general fund' and made available for granting to all agencies, some agencies or individuals may not have the same incentive or commitment to their own communities to work harder for the benefit of other agencies or communities.

I know it may sound strange to say that our enforcement agencies would not see the good of the state as a whole, but having worked for numerous police agencies in my home state of Colorado, I do know that the commitment of the officers is to their own agency and to the community they serve.

Although we are the "Anchorage" Chapter of MADD, we have tried to keep an eye to how the state can best be served, and I know the Legislature's job is to look at what will best serve the state. This does not always apply to individual communities who are looking for what is best for the place they live, which is only right.

Let me know if that makes sense to you.

Marti

-----Original Message-----

From: Heather Nobrega [mailto:Heather_Nobrega@legis.state.ak.us]

Sent: Tuesday, February 19, 2002 5:37 PM

To: wmonegan@ci.anchorage.ak.us

Cc: Marti Greeson

Subject: HB 396

Chief Monegan,

Just a quick note to let you know that we have scheduled HB 396 for a hearing in the House Judiciary Committee this Friday, Feb. 22nd. We would appreciate any positive testimony that you, or others may be available to give. This meeting will be teleconferenced at the Anchorage LIO.

Thank you.

Heather Nobrega

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The Atlanta Journal-Constitution (10/3/02)

Conviction surcharges not collected Georgia courts are having a tough time tracking drunk drivers' payments to a fund for victims.

Eight years ago, Georgia set up a fund to help crime victims. Courts all over the state are supposed to collect an extra fee from drunken drivers to support it.

But the fund may be short \$3.2 million -- nearly half of all it collected -- and no one seems to know why.

The agency in charge, the Criminal Justice Coordinating Council, can't say for sure how much might be missing. It's never really kept track of how much courts are supposed to be sending in.

The confusion is the product of a larger mishmash of surcharges, imposed one by one over the years. They make criminals pay extra on court fines for everything from police pensions to drug abuse treatment.

Legislators who voted for the fines reaped the short-term political benefit of helping victims, but they provided no guidance for setting up a collection system that could operate smoothly and with accountability.

Hundreds of crime victims who were out of work, or facing stacks of medical or funeral bills, might have been helped with that money. Based on last year's average claim of \$2,000, the \$3.2 million could have helped in 1,600 cases.

The CJCC staff started looking into the problem last year. It began as an effort to give more money to victims. But before the CJCC could ask legislators to raise the



LUCY SOTO

Got a tip? Want to blow the whistle? Email Lucy Soto.

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UPDATE:

Fulton County terminated its problem-plagued computer contract with Nova Tech. But there's a glitch. The company says it canceled the agreement first, and that the county owes it money.

Nova Tech has had a rocky relationship with Fulton since it was hired May 1999 to install wiring

Shine your spotlight

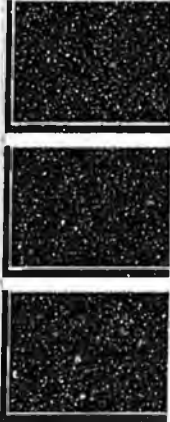
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program's limits, it had to predict how much money would be coming in during the next several years.

It couldn't. The agency had never really tried to reconcile how much money it received to how much money it was supposed to receive. When it took a closer look, it appeared Georgia courts had been handling thousands of DUI convictions in which the surcharge for the victims fund hasn't been passed on.

How does this happen? After eight years, shouldn't we have a handle on all this?

I am not in any position at this time to point fingers at anybody, CJCC Director Gale Buckner says.

Buckner took over as head of the CJCC three months ago. In years past, Buckner said, the agency didn't have enough people to monitor the fund day to day. On top of that, the DUI figures it received from the state Department of Public Safety did not contain enough detail to allow a real accounting.

Buckner says she's concentrating now on making sure an outside auditor checks out her numbers before trying to collect from any court. She spoke with one who said they could complete the job by May.

But that might not be necessary. After Spotlight asked Gov. Roy Barnes about the situation, his spokeswoman said Friday he plans to ask the State Auditor to examine the collection system and see what needs to be fixed.

Preliminary work to straighten out CJCC's books shows more than a half dozen courts owe more than \$100,000 apiece. Many others owe tens of thousands of dollars.

The Augusta-Richmond County State Court owes \$164,934, topping the CJCC's preliminary list. Cobb County's state court is next with an estimated debt of \$154,749.

Court clerks say the money might not be missing at all. It's more likely, they say, that the drunken drivers are

may 1998 to install wiring for voice and computer systems in various departments. County files show a long list of complaints about the company's work, lack of responsiveness and overpricing (Spotlight, June 19).

Company workers stopped showing up for work in May. By August, the county sent a letter severing the contract and saying 38 wiring requests were still outstanding. It was returned. Nova Tech has had at least four different addresses in the last six years. It moved out of the Hurt Building downtown in April without leaving a forwarding address.

A county official finally e-mailed owner Marie Egana-Moriarty. She shot a message back saying her company was the first to terminate the contract. But officials are still waiting for her to list the materials she says the county owes her for.

Meanwhile, Fulton has hired at least three other contractors, Gates said, to catch up on the remaining work.

paid help from agency

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paying the fines in installments and just haven't finished yet.

But it also could be the result of human error. The system can't even be sure the fines are being assessed, that drunk drivers are paying these fees, or that the money is being passed on to the state treasury.

This is just one surcharge out of many that clerks around the state have to track.

In Cobb County, State Court Clerk Diane Graham said she collects 10 different surcharges for everything from police training to treatment of brain and spinal injuries. Until recently, when a computer began doing the work, sentencing could take up to 30 minutes more just so the judge could work out all the math to arrive at a total fine.

"To keep up on all of them," Graham says, "and to make sure you have applied every surcharge to each case you have to, as far as the clerk goes, it's an accounting nightmare."

That's the kind of nightmare that's just beginning for the CJCC.

Legislators didn't exactly ensure the surcharges they imposed would be easy to collect. But they did insert a provision in the law saying failure to collect and distribute the fees is a misdemeanor. The law also allows the CJCC to charge a 5 percent late fee.

That's never happened. It's hard to do that when you don't know what should be coming in, much less whether it's late.

And, with the legislative session little more than two months away, what does all of this do for the agency's goal of broadening the benefits to victims?

"I do not feel comfortable asking for additional benefits," Buckner says, "when I don't know what's going on in my house right now."

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The Atlanta Journal-Constitution

Report on
Trends in the State Courts

• 1998-1999 Edition •



Information Service
1999



Surcharge Assessments in State Courts

Kent Pankey

Contrary to efforts to improve public trust and confidence in the courts, the assessment of surcharges in state courts has been increasing.¹ In a recent survey of the state court administrators in the fifty states, the District of Columbia, and Puerto Rico, the Information Service found that the assessment of surcharges is more extensive now than was reported in a national survey of practice conducted in 1985. Reporting on practices during the year 1997, forty-four of the forty-five responding jurisdictions (98 percent) indicated that they assessed surcharges in at least one type of court action. Only **Puerto Rico** indicated that it did not assess surcharges.

All forty-four jurisdictions assessed surcharges in some type of criminal case, generally upon conviction. Usually, surcharges were collected for a wide range of offenses; occasionally, they applied only to a narrow range of offenses, such as those involving substance abuse or domestic violence. In the 1985 survey of practice conducted by COSCA, only thirty-six of fifty-three responding jurisdictions reported criminal surcharges.

Thirty-two of the forty-five responding jurisdictions (71 percent) clearly assessed surcharges in civil cases. Twelve jurisdictions reported no civil surcharges, and one response was incomplete. The extent of civil surcharge assessment reported for 1997 is almost double the 38 percent reported for 1985.

As was the case in 1985, many of the responding jurisdictions did not clearly differentiate traffic from criminal surcharges, creating considerable uncertainty about how many states assess surcharges in traffic cases. This difficulty probably stems from the fact that many states still classify minor traffic offenses as criminal offenses (misdemeanors) rather than as infractions or under some other designation. By careful review of responses and examination of state code provisions, the Information Service has found thirty-nine of the responses to be usable. These responses indicate that at least thirty-two of the forty-five respondents (82 percent of the thirty-nine providing usable data) do assess traffic surcharges. Again this data indicates an increase in the extent of surcharge practices among the states, up from 62 percent (sixteen among twenty-six usable responses) in 1985.

Recipients

Initial classification of the funds to which surcharge revenues are allocated has identified over seventy-five preliminary categories of revenue recipients. With more details about some of these funds, it is possible that some categories could be collapsed, but the Information Service estimates there still would be more than sixty types of funds, with most states having several of each. The courts benefited from very few of the surcharges that were assessed in 1997.

In civil cases, the most frequent recipients of surcharge revenues were:

- court technology funds,
- indigent legal assistance funds,
- law libraries, and
- domestic violence shelters and services.

Other notable recipients were ADR programs, retirement funds for judges and sheriffs, crime victims, and courthouse restoration funds. Among criminal surcharges, the most common beneficiaries were:

- crime victim funds,
- substance abuse counseling or treatment programs,
- law enforcement training funds,
- court technology funds,
- sexual assault/domestic violence funds,
- retirement/pension programs, and
- local jail funds.

Crime victim, substance abuse, and training funds likewise led the list of traffic surcharge beneficiaries.

A few unique funds included a low-income housing fund, a legislative retirement fund, a head injury program, a code revision fund, and an environmental fund.

Policy Implications

From their study of court costs in the mid-1980s, COSCA made the following observations about surcharges:

- A concern of the judiciary must be for the appearance of impropriety that results when the burden of taxation for the support of "public good" is placed on users of the courts system. Surcharges are vulnerable to being viewed with suspicion at best. Surcharges based on convictions present an even higher potential for conflict of interest claims.²
- Another concern is the complication and confusion created by a number of surcharges on the administration of monies handled by clerks of courts.³
- Superfluous charges, which are not easily understood and accepted by the public, erode confidence and should be eliminated.⁴

At a time when the courts are exerting so much energy in the interest of improving public trust and confidence, such words should have some meaning. In fact, IS findings indicate that the situation is worse now than when those comments were written.

In the Standards that COSCA adopted in 1986, two relevant standards apply to surcharges:

3.1 Surcharges should not be established.

3.2 Fees and miscellaneous charges should not incorporate surcharges.

From the standpoint of surcharges, the COSCA *Standards* have been utter failures so far. Certainly, the authors of the *Standards* should be disappointed in developments to date, but it is important to point out that the *Standards* are not pie-in-the-sky pronouncements that can simply be dismissed as unrealistic dreams. The authors understood political realities and acknowledged them in the introduction to the *Standards*:

The standards are offered with an understanding of the historical, political, and budgetary realities facing courts and legislative bodies and are intended to be used as a model when states consider changes in their fees' systems.

---Jane Hess, Chairperson
Committee to Examine Court Costs

Why No Progress?

No one wants to raise taxes; politicians are not going to call a tax a tax if they don't have to. Whether out of ignorance or not, surcharges are promoted as "user fees" that the public, as it understands the term, seems to find more palatable than taxes.

*Every man that findeth
himselfe unfit to plead his
owne cause in any Court
shall have Libertie to
employ any man against
whom the Court doth not
except, to helpe him,
Provided he give him noe
fee or reward for his
paines.*

*--Massachusetts Body of
Liberties of 1641, §26*

For the benefit of the courts and those who must use them, it is important to understand that surcharges are *not* user fees. A user fee is a charge that someone voluntarily pays in direct exchange for a good or service. A filing fee is a fee that compensates the courts for the administrative cost of handling case documents. COSCA raised no policy objections against fairly imposed filing fees. A surcharge, however, is rarely voluntary and is rarely (in the case of court surcharges) related to any activity in the courts, let alone to any service rendered by the courts in the payor's case. In their basic nature, surcharges are taxes or penalties.

Conclusion

From a policy standpoint, the persistence of surcharges is contrary to the stated objectives within the justice community aimed at increasing public trust and confidence. Given political realities, reduction of surcharge assessment practices is unlikely to occur overnight. Nevertheless, during a period when improving public trust and confidence is a leading theme of the justice community, a more intensive and effective effort by the

courts to educate both law-makers and the public about the harmfulness of surcharges would be timely and is the most likely strategy to bring about positive change.

¹ According to the *Standards Relating to Court Costs* adopted by COSCA in 1986, a surcharge is one of three classes of assessments that are collectively called "court costs":

"Surcharges" are amounts added to fines, fees, or court costs that are used for designated purposes (occasionally, they are configured as deductions from a comprehensive assessment). Examples include law library funds; domestic violence shelter funds; retirement funds for judges, state police, and sheriffs; victims of crime funds; funds for buildings and facilities; and training funds for law enforcement, prosecutors, and others.

² Commentary to Standard 3.1, *Standards Relating to Court Costs*.

³ *Ibid.*

⁴ Commentary to Standard 3.3, *Standards Relating to Court Costs*.

Effective dates. Section 7, ch. 119, SLA 1994 makes this section effective January 1, 1996.

Editor's notes. With respect to subsection (d), § 10, ch. 56, SLA 1998 provides the following: "Notwithstanding the requirements of AS 12.55.039(d) and AS 37.05.142 that surcharges collected under AS 12.55.039 be accounted for separately, the Alaska Court System shall deposit money collected under AS 12.55.039 in the general fund and shall, by February 1 of each year, provide to the Department of Administration, to the Legislative Budget and Audit Committee, and to each house of the legislature an estimate of the money collected under AS 12.55.039 for that fiscal year."

Section 11, ch. 56, SLA 1998 provides a repeal date for § 10, ch. 56, SLA 1998 as follows: "Section 10 of this Act is repealed on the earlier of (1) the date that the Alaska Court System has the capability to separately track and account electronically for money collected under AS 12.55.039, or (2) June 30, 2002. The executive director of the Alaska Court System shall notify the lieutenant governor and the revisor of statutes when the electronic capability described in this section has been obtained."