

SB

187

<TARGET><BILL>SB 187</BILL><SUBJECT>SB
187</SUBJECT><COMM>HJUD28</COMM></TARGET>

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 27, 2014

FURTHER REFERRALS:

Date of Committee Action: 4/11/14

The JUDICIARY Committee considered:

CSSB 187(JUD)(title am)

CS FOR SENATE BILL NO. 187(JUD)(title am)

"An Act relating to the crime of misconduct involving confidential information in the first degree; amending Rule 16, Alaska Rules of Criminal Procedure; amending Rule 8, Alaska Child in Need of Aid Rules; and providing for an effective date."

SB 187 CONFIDENTIAL INFORMATION: MISCONDUCT, RLS

Recommends it be replaced with HCS or CS for CSSB187 (JUD)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 DHS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	LAW			✓
	COR			✓
	ADM NOPA			✓
	ADM N PDA			✓

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	David Foster			X	
	Foster			X	
	Corneley GINN	+		✓	
Chair:	Keller			X	
Chair:					

Alaska State Legislature

Senate Majority Leader

Judiciary Committee

Chairman

In-State Energy Committee

Co-Chair

State Affairs Committee

Joint Armed Services Committee

Legislative Council

Rules Committee



Senator John Coghill

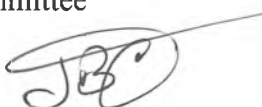
Session Address:
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Juneau, AK 99801-1182
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www.aksenate.org

Date: March 26, 2014

To: Representative Wes Keller, Chair
House Judiciary Committee

From: Senator John Coghill 

Re: Request to Schedule SB 187 for Hearing

I am requesting a hearing in Senate Resources Committee for SB 187, "*An Act relating to the crime of misconduct involving confidential information in the first degree; amending Rule 16, Alaska Rules of Criminal Procedure; amending Rule 8, Alaska Child in Need of Aid Rules; and providing for an effective date*" at your earliest convenience.

I am attaching the backup information for the bill.

Thank you for your cooperation.

AMENDMENT #1 adopted

OFFERED IN THE HOUSE

TO: HCS CSSB 187(), Draft Version "P"

1 Page 5, line 28:

2 Delete "physician"

3 Insert "health care provider"

4

5 Page 5, line 28, following "child.":

6 Insert "In this subsection, "health care provider" includes a physician, dentist,
7 physician assistant, nurse, nurse practitioner, psychologist, counselor, marital and family
8 therapist, village or community health aide, community health worker, or another person that
9 provides health care treatment in the course and scope of the person's employment."

CONCEPTUAL AMENDMENT

*moved and objected for discussion
Removed objections to amendment
#1
adopted*

OFFERED IN THE HOUSE BY

TO: HCS CSSB 187(JUD)

1 Page 4, line 30, after the word "records"

2 Insert:

3 ***"that are also evidence under AS 11.41.410 – 11.41.450"***

4

5 Page 4, line 31 – Page 5, line 1, after the words "AS 47.10.011 or AS 47.14.300":

6 Delete:

7 "that is also evidence for an investigation under AS 11.41.410 – 11.41.450"

28-LS1145P
Strasbaugh
4/3/14

HOUSE CS FOR CS FOR SENATE BILL NO. 187()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS COGHILL, McGuire, Bishop, Egan, Meyer, Stedman, Stevens, Micciche, Dunleavy, Kelly, Dyson

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the crime of misconduct involving confidential information in the**
2 **first degree; amending Rule 16, Alaska Rules of Criminal Procedure; amending Rule 8,**
3 **Alaska Child in Need of Aid Rules; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 11.76.113(a) is amended to read:

6 (a) A person commits the crime of misconduct involving confidential
7 information in the first degree if the person

8 (1) violates AS 11.76.115 and obtains the confidential information
9 with the intent to

10 (A) [(1)] use the confidential information to commit a crime; or

11 (B) [(2)] obtain a benefit to which the person is not entitled, to
12 injure another person, or to deprive another person of a benefit; or

13 (2) publishes or distributes an audio or video recording of an
14 interview of a child for a criminal or child protection investigation, or records of

a medical examination of a victim or minor conducted for the purpose of the investigation of an offense under AS 11.41.410 - 11.41.440, 11.41.450, or a child protection investigation, including photographs taken during the examination.

* Sec. 2. AS 11.76.113 is amended by adding a new subsection to read:

(d) The provisions of (a)(2) of this section do not apply to

(A) a person who publishes or distributes a recording, record, or image as permitted or directed under

(i) a court order;

(ii) a rule of court; or

(iii) a federal or state law requiring the publication or distribution; or

(B) the use of a recording, record, or image for training by law enforcement officials, prosecutors, or defense counsel, if the identity of the minor or victim is concealed; or

(C) a recording, record, or image that is released with the consent of

(i) an adult victim or a minor victim for whom the disabilities of minority have been removed for general purposes under AS 09.55.590; or

(ii) a minor's parent or guardian unless the parent or guardian is the perpetrator of the abuse or offense about which the recording, record, or image was gathered.

* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 16(d)(3), Alaska Rules of Criminal Procedure, is amended to read

(3) Materials to Remain in Custody of Attorney.

(A) Materials furnished to an attorney pursuant to these rules shall be used only for the purpose of conducting the case. The following materials must remain in the custody of the defense attorney, the attorney's staff, investigators, experts, and others as necessary for the preparation of the

1 defendant's case, and shall be subject to other terms and conditions that the
2 court may provide. The materials listed in this paragraph shall not be provided
3 to the defendant, but the information in the materials may be shared with the
4 defendant to the extent necessary to prepare the defense of the case:

5 (i) a criminal history record of a victim or witness;

6 (ii) a medical, psychiatric, psychological, or counseling
7 record of a victim or witness;

8 (iii) an adoption record;

9 (iv) a record that is confidential under AS 47.12.300 or
10 a similar law in another jurisdiction;

11 (v) a report of a presentence investigation of a victim or
12 witness prepared pursuant to Criminal Rule 32.1 or a similar law in
13 another jurisdiction;

14 (vi) a record of the Department of Corrections other
15 than the defendant's own file and any other incident report relating to
16 the crime with which the defendant is charged; [AND]

17 (vii) any other record that the court orders be kept in the
18 exclusive custody of the attorney;

19 **(viii) in a prosecution under AS 11.41.410 - 11.41.440**
20 **or 11.41.450, an audio or video interview of a victim; and**

21 **(ix) in a prosecution under AS 11.41.410 - 11.41.440**
22 **or 11.41.450, photographs taken during a medical examination of a**
23 **victim.**

24 (B) An attorney shall not disclose to a defendant the residence
25 or business address or telephone number of a victim or witness, obtained from
26 information provided under this rule, even if the defendant is acting as co-
27 counsel. If the address and telephone numbers of all victims and witnesses
28 have been obliterated, materials that had contained the address or telephone
29 number of a victim or witness may be provided to a defendant proceeding
30 without counsel only as allowed by AS 12.61.120.

31 (C) Notwithstanding a defendant's status as co-counsel,

1 materials covered by subsection (d)(3)(A) shall remain in the custody of the
2 defendant's attorney, the attorney's staff, investigators, experts, and others as
3 necessary for the preparation of the defendant's case, and shall be subject to
4 other terms and conditions that the court may provide.

5 (D) If a defendant is proceeding without counsel, materials
6 covered by subsection (d)(3)(A) may be provided to the defendant. If materials
7 are provided to an unrepresented defendant under this paragraph, the court
8 shall order that the materials remain in the defendant's exclusive custody, be
9 used only for purposes of conducting the case, and be subject to other terms,
10 conditions, and restrictions that the court may provide. Upon a showing of
11 good cause, the court may impose specific terms, conditions, or restrictions
12 concerning inspection of the materials by other persons involved in the
13 preparation of the case, such as staff, investigators, experts, witnesses, or
14 others. The court shall also inform the defendant and such other persons
15 involved in the preparation of the case that violation of an order issued under
16 this paragraph is punishable as a contempt of court **and may also constitute a**
17 **criminal offense.**

18 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 DIRECT COURT RULE AMENDMENT. Rule 16(d), Alaska Rules of
21 Criminal Procedure, is amended by adding a new paragraph to read:

22 (7) Confidential filing. A party that files with the court or offers as an
23 exhibit materials listed in subsection (d)(3)(viii) or (d)(3)(ix) of this rule shall file the
24 materials in a confidential envelope. In this paragraph, "confidential" has the meaning
25 given in Rule 37.5, Alaska Rules of Administration.

26 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 DIRECT COURT RULE AMENDMENT. Rule 8, Alaska Child in Need of
29 Aid Rules, is amended by adding new subsections to read:

30 (j) Limitations on disclosure of certain recordings, images, and records.
31 Materials collected during an investigation under AS 47.10.011 or AS 47.14.300 that

1 is also evidence for an investigation under AS 11.41.410 - 11.41.450, furnished to an
2 attorney under these rules shall be used only for the purpose of conducting the case. A
3 video or audio recording or medical record of a child, including a photograph taken
4 during a medical examination of a child, must remain in the custody of a parent's
5 attorney, the attorney's staff, investigators, experts, and others as necessary for the
6 preparation of the parent's case, and shall be subject to other terms and conditions that
7 the court may provide. A video or audio recording or medical record of a child,
8 including a photograph taken during a medical examination of a child, shall not be
9 provided to the parent, but the information in the materials may be shared with the
10 parent to the extent necessary to prepare the defense of the case.

11 (k) If a parent is proceeding without counsel, the materials described in (j) of
12 this section may be provided to the parent. If materials are provided to an
13 unrepresented parent under this subsection, the court shall order that the materials
14 remain in the parent's exclusive custody, be used only for purposes of conducting the
15 case, and be subject to other terms, conditions, and restrictions that the court may
16 provide. Upon a showing of good cause, the court may impose specific terms,
17 conditions, or restrictions concerning inspection of the materials by other persons
18 involved in the preparation of the case, such as staff, investigators, experts, witnesses,
19 or others. The court shall also inform the parent and other persons involved in the
20 preparation of the case that violation of an order issued under this subsection is
21 punishable as a contempt of court and may also constitute a criminal offense.

22 (l) Confidential filing. A party that files with the court or offers as an exhibit
23 materials listed in (j) of this rule shall file the materials in a confidential envelope. In
24 this subsection, "confidential" has the meaning given in Rule 37.5, Alaska Rules of
25 Administration.

26 (m) Notwithstanding another provision of this section, the legal custodian of a
27 child may provide records of a medical examination of a child to the child's treating
28 physician if the records are required for the treatment of the child.

29 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** (a) Sections 1 and 2 of this Act apply to offenses committed on or

1 after the effective date of this Act.

2 (b) Sections 3 - 5 of this Act apply to proceedings pending on or arising after the
3 effective date of this Act, regardless of whether the prosecution was initiated before the
4 effective date of the Act.

5 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Senate Majority Leader

Judiciary Committee
Chairman
In-State Energy Committee
Co-Chair
State Affairs Committee
Joint Armed Services Committee
Legislative Council
Rules Committee



Senator John Coghill

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Date: March 25, 2014

To: Kathleen Strasbaugh, Legal Counsel

From: Rynniva Moss, Legislative Aide *RwMoss*

Re: CSSB 187(JUD) \ 28-LS1145\C

Department of Law said subsection (k) for Sec. 5 is unnecessary because statutes already abundantly notice people involved in CINA cases of the confidentiality of information and evidence. They are also concerned with subsection (j) being confusing and creating a list of people with access, rather than eliminating the physical possession of the evidence by the parents.

I need a blank CS for House Judiciary that replaces (j) with the following language:

1. "Recordings of forensic interviews, medical records, and pictures obtained during the investigation of physical or sexual abuse shall but be distributed to the parents in a CINA case absent a court order to do so."
2. Delete subsection (k).

Alaska State Legislature

Senate Majority Leader

Judiciary Committee

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In-State Energy Committee

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State Affairs Committee

Joint Armed Services Committee

Legislative Council

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SB 187 SECTIONAL

Relating to Sensitive Confidential Information Involving a Minor in Sexual Abuse and Child Abuse Cases

Section 1. Adds to AS 11.76.113(a), *Misconduct involving confidential information in the first degree*, an offense for publishing or distributing an audio or video recording of an interview of a child, or other physical evidence gathered for a criminal or child protection investigation. Class A Misdemeanor.

Sec. 2. Exceptions to the prohibition would be distribution required by a court order, a rule of court, or if distribution is required by federal or state law. A *new exception* is a recording, record or image that is released with the consent of the victim or a minor's parent or guardian.

Sec. 3. Adds to the list of materials to *Remain in the Custody of Attorney* in Rule 16(d)(3) of Alaska Rules of Criminal Code: (1) an audio or video interview of a victim; and (2) photographs taken during a medical examination of a victim.

This section also adds instructions to a judge in a case where the defendant proceeds without counsel to inform the defendant that release of confidential evidence may constitute a crime.

Sec. 4. Adds a new court rule in Rule 16(d) of Alaska Rules of Criminal Code, Rule(d)(7), *Confidential filing*, which would require evidence described in section 2 to be filed with the court in a confidential envelope.

Sec. 5. Adds to Child in Need of Aide (CINA) Rules of Procedure Rule 8, a new subsection (j), *Disclosure of recording and medical records*, which is the counterpart of Discovery Rules in Rule 16 of Alaska Rules of Criminal Code.

Sec. 6. Applicability clause to offenses committed on or after the effective date for criminal charges.

Applicability of court rules for the handling of confidential information applies to existing cases regardless of whether the prosecution was initiated before the effective date.

Sec. 7. Gives the bill an immediate effective date.



ALASKA STATE LEGISLATURE
SENATE JOHN COGHILL, MAJORITY LEADER

State Capitol, Room 119, Juneau, AK 99801-1182 (907) 465-3719
1292 Sadler Way, Suite 340, Fairbanks, AK 99701 (907) 451-2157

**DIFFERENCE BETWEEN ORIGINAL BILL & JUDICIARY
COMMITTEE SUBSTITUTE**

Page 2, lines 17 – 20:

Added language to clarify confidential recordings and medical records can be released by a parent or guardian or an emancipated minor.

Page 5, line 2:

Narrowed the list of people with access to confidential evidence by deleting “another person” and adding “a party’s expert witness”.

Page 5, lines 9 – 15:

Split the Applicability Section to separate the applicability of the criminal charges and procedure of the criminal proceedings.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 187
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB187CS(JUD)-DOC-OC-03-27-14
Title: CONFIDENTIAL INFORMATION: MISCONDUCT,
 RLS
Sponsor: COGHILL
Requester: Senate Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This note has been updated to reflect the changes made in Senate Judiciary.

Prepared By:	April Wilkerson, Director	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	03/27/2014 05:31 PM
Approved By:	Leslie Houston, Deputy Commissioner	Date:	03/27/14
Agency:	Department of Corrections		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 187

Analysis

This legislation creates a new crime prohibiting the publication or distribution of an audio or video recording of a child's interview for a criminal or child protection investigation unless the distribution has been directed by a court order, court rule, or by state or federal law. Violation of this section of statute is misconduct involving confidential information in the first degree and is a class A misdemeanor.

Class A misdemeanors are punishable by a term of imprisonment of not more than one year. At the current daily cost of care the Department could see an impact ranging from \$0.0 (no time served) to \$57,914.6 (for a one year sentence) for each offender convicted under this legislation.

At this time the department does not have information to quantify the number of potential offenders this legislation would create and will continue to monitor for future impacts. The Department of Corrections anticipates minimal to no fiscal impact at this time.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 187
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB187CS(JUD)-LAW-CRIM-03-26-14
Title: CONFIDENTIAL INFORMATION: MISCONDUCT,
 RLS
Sponsor: COGHILL
Requester: (S) JUDICIARY

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for committee substitute, removes reference to AS 11.51.10(a).
--

Prepared By: Loretta Withington, Division Operations Manager
Division: Department of Law
Approved By: Michael C. Geraghty, Attorney General
Agency: Department of Law

Phone: (907)465-5427
Date: 03/26/2014 04:45 PM
Date: 03/26/14

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 187 (JUD)

Analysis

The bill adopts a new crime under misconduct involving confidential information in the first degree (AS 11.76.113(a)) to prohibit a person from publishing or distributing an audio or video interview of a child or records of a medical examination of a victim or minor in cases involving sexual assault or abuse or in a child protection investigation. The crime would not apply if the material was published or distributed under a court order, court rule, or federal or state law, or for law enforcement training purposes if the victim's identity is concealed, or the victim consents to the distribution.

The bill limits materials that may be provided to the defendant in a criminal prosecution as part of discovery if the prosecution is for sexual assault or sexual abuse of a minor. It requires that an audio or video interview of the victim and photographs taken during a medical examination of a victim remain in the possession of the defendant's attorney, and may be shown to the defendant only as necessary to prepare the defense. The bill would also limit distribution of sensitive materials in a case involving a child in need of aid.

The Department of Law does not anticipate a fiscal impact.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 187
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB187CS(JUD)-DOA-OPA-03-26-14
Title: CONFIDENTIAL INFORMATION: MISCONDUCT,
 RLS
Sponsor: COGHILL
Requester: SJUD

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation	Governor's					
	Requested	FY2015					
		Request					
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? N/A
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for new committee substitute.

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division:	Office of Public Advocacy	Date:	03/26/2014 02:45 PM
Approved By:	Curtis Thayer, Commissioner	Date:	03/26/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. CSSB 187

Analysis

CSSB 187 removes the crime of endangering the welfare of a child in the first degree from the proposed statute which reduces any impact that the amended bill might have on the Office of Public Advocacy (OPA). OPA estimates that minimal impact and therefore submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 187
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB187CS(JUD)-DOA-PDA-03-26-14
Title: CONFIDENTIAL INFORMATION: MISCONDUCT,
 RLS
Sponsor: COGHILL
Requester: SJUD

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for committee substitute.

Prepared By: <u>Quinlan Steiner, Public Defender</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/26/2014 03:30 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/26/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. CSSB 187

Analysis

This bill creates a new crime for publishing or distributing certain materials and recordings of victims or minors related to the investigation of sex crimes and expands the list of items under Criminal Rule 16 that must remain in the sole custody of the attorney to include recordings of sex crime victim interviews and medical examinations.

SB187 may impact how some criminal cases are litigated but is not expected to have a fiscal impact on the Public Defender Agency. The agency, therefore, submits a zero note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 187(JUD)
Fiscal Note Number: 1
(S) Publish Date: 3/18/14

Identifier: SB187-DOC-OC-03-07-14
Title: CHILD WELFARE; CONFIDENTIAL
INFORMATION
Sponsor: COGHILL
Requester: Senate Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation	Governor's	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	Requested	FY2015					
	FY 2015	FY 2015					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By: <u>April Wilkerson, Director</u>	Phone: <u>(907)485-3460</u>
Division: <u>Administrative Services - Department of Corrections</u>	Date: <u>03/07/2014 04:00 PM</u>
Approved By: <u>Leslie Houston, Deputy Commissioner</u>	Date: <u>03/07/14</u>
Agency: <u>Department of Corrections</u>	

FISCAL NOTE ANALYSIS #1

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. CSSB 187(JUD)

Analysis

This legislation amends the endangering the welfare of a child statute to prohibit a person from committing a homicide, assault, or sexual assault against a household member in the presence of a child under the age of 16. Violation of this section of statute is a class A misdemeanor.

It also prohibits the publication or distribution of an audio or video recording of a child's interview for a criminal or child protection investigation unless the distribution has been directed by a court order, court rule, or by state or federal law. Violation of this section of statute is misconduct involving confidential information in the first degree and is a class A misdemeanor.

Class A misdemeanors are punishable by a term of imprisonment of not more than one year. At the current daily cost of care the Department could see an impact ranging from \$0.0 (no time served) to \$57,914.6 (for a one year sentence) for each offender convicted under this legislation.

The Department will continue to monitor the potential future impacts of this legislation.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 187(JUD)
Fiscal Note Number: 2
(S) Publish Date: 3/18/14

Identifier: SB187-LAW-CRIM-03-07-14
Title: CHILD WELFARE; CONFIDENTIAL
INFORMATION
Sponsor: COGHILL
Requester: (S) JUDICIARY

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version, not applicable.

Prepared By: <u>Loretta Withington, Division Operations Manager</u>	Phone: <u>(907)465-5427</u>
Division: <u>Department of Law</u>	Date: <u>03/07/2014 04:50 PM</u>
Approved By: <u>Michael C. Geraghty, Attorney General</u>	Date: <u>03/07/14</u>
Agency: <u>Department of Law</u>	

FISCAL NOTE ANALYSIS #2

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. CSSB 187(JUD)

Analysis

The bill adopts a new crime under endangering the welfare of a child in the second degree (AS 11.51.10(a)) to prohibit most crimes against a person that are crimes involving domestic violence and committed in the physical presence or hearing of a child under 16 years of age who is a household member of either the perpetrator or the victim. This conduct would be a class A misdemeanor.

The bill also adopts a new crime under misconduct involving confidential information in the first degree (AS 11.76.113(a)) to prohibit a person from publishing or distributing an audio or video interview of a child or records of a medical examination of a victim or minor in cases involving sexual assault or abuse or in a child protection investigation. The crime would not apply if the material was published or distributed under a court order, court rule, or federal or state law.

The bill limits materials that may be provided to the defendant in a criminal prosecution as part of discovery if the prosecution is for sexual assault or sexual abuse of a minor. It requires that an audio or video interview of the victim and photographs taken during a medical examination of a victim remain in the possession of the defendant's attorney, and may be shown to the defendant only as necessary to prepare the defense.

The Department of Law does not anticipate a fiscal impact.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 187(JUD)
Fiscal Note Number: 3
(S) Publish Date: 3/18/14

Identifier: SB187-DOA-OPA-03-07-2014
Title: CHILD WELFARE; CONFIDENTIAL
INFORMATION
Sponsor: COGHILL
Requester: Senate Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Richard Allen, Director</u>	Phone: <u>(907)269-3504</u>
Division: <u>Office of Public Advocacy</u>	Date: <u>03/07/2014 12:15 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/07/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #3

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 187(JUD)

Analysis

This bill amends the substantive criminal code, Title 11, by creating two new offenses and creating a related amendment to Rule 16 of the Alaska Rules of Criminal Procedure.

The bill first amends AS 11.51.110(a), which defines the offense of endangering the welfare of a child, by adding a new subparagraph (B)(2). That new sub-paragraph would specify certain new offense conduct. The new offense conduct would be knowingly engaging in conduct that violates AS 11.41.100, 11.41.220, 11.41.230(a)(1), 11.41.410-.432 or 11.41.450 against another person who is a household member of the person with reckless disregard that the conduct is in the physical presence or hearing of a child under 16 years of age who is a household member of either person.

The bill further amends AS 11.76.113(a), concerning the crime of misconduct involving confidential information, by adding a new subparagraph (B)(2). The new subparagraph would expand the definition of offense conduct to include publishing or distributing an audio or video recording of an interview of a child for a criminal or child protection investigation, or records of a medical examination of a victim or minor for purposes of investigation of an offense under AS 11.41.410-11.41.440 (sexual assaults and sexual assault of a minor offenses), or 11.41.450 or a child protection investigation, including photographs of taken during the examination.

The bill further amends Rule 16(d)(3) Alaska Rules of Criminal Procedure by adding a new paragraph (3)(A)(viii) and (ix). Those new paragraphs would specify that in prosecutions under AS 11.41.410-.440 (sex offenses) that audio or video recordings of interviews of victims may be shared with but not given to the defense or the defendant. The bill further amends Rule 16(3)(D) by specifying that a violation of that rule by a party or counsel may be a criminal offense, per the proposed criminal statute amendments in the bill.

Overall, SB 187 is a substantive amendment to the criminal code and the rules of criminal procedure. If enacted as filed the bill would likely result in substantive increases in both the number of criminal prosecutions and the gravity of those prosecutions, brought under the new statutes. That increase would materially impact the case and workloads of the Office of Public Advocacy (OPA) defense attorneys and staff handling the defense in those cases. Realistic assessment of the fiscal impact would likely have to wait for actual caseload statistics to be developed after experience for one or two years under the new law. Therefore, OPA submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 187(JUD)
Fiscal Note Number: 4
(S) Publish Date: 3/18/14

Identifier: SB187-DOA-PDA-03-07-14
Title: CHILD WELFARE; CONFIDENTIAL
INFORMATION
Sponsor: COGHILL
Requester: Senate Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included In	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	<u>Quinian Steiner, Public Defender</u>	Phone:	<u>(907)334-4414</u>
Division:	<u>Public Defender Agency</u>	Date:	<u>03/07/2014 11:00 AM</u>
Approved By:	<u>Curtis Thayer, Commissioner</u>	Date:	<u>03/07/14</u>
Agency:	<u>Department of Administration</u>		

FISCAL NOTE ANALYSIS #4

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. CSSB 187(JUD)

Analysis

SB187 creates a new crime of endangering the welfare of a child for committing certain serious felonies against a household member in the presence of a child. This bill also creates a new crime for publishing or distributing certain materials and recordings of victims or minors related to the investigation of sex crimes and expands the list of items under Criminal Rule 16 that must remain in the sole custody of the attorney to include recordings of sex crime victim interviews and medical examinations.

SB187 may impact how some criminal cases are litigated but is not expected to have a fiscal impact on the Public Defender Agency. The agency therefore submits a zero note.

2013 - 2014 Alaska Rules of Criminal Procedure

Rule 16. Discovery.

(a) Scope of Discovery. In order to provide adequate information for informed pleas, expedite trial, minimize surprise, afford opportunity for effective cross-examination, and meet the requirements of due process, discovery prior to trial should be as full and free as possible consistent with protection of persons, effective law enforcement, and the adversary system.

(b) Disclosure to the Accused.

(1) Information within Possession or Control of Prosecuting Attorney. (A) Except as is otherwise provided as to matters not subject to disclosure and protective orders, the prosecuting attorney shall disclose the following information within the prosecuting attorney's possession or control to defense counsel and make available for inspection and copying:

(i) The names and addresses of persons known by the government to have knowledge of relevant facts and their written or recorded statements or summaries of statements;

(ii) Any written or recorded statements and summaries of statements and the substance of any oral statements made by the accused;

(iii) Any written or recorded statements and summaries of statements and the substance of any oral statements made by a co-defendant;

(iv) Any books, papers, documents, photographs or tangible objects, which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused; and

(v) Any record of prior criminal convictions of the defendant and of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial.

(B) Expert Witnesses. Unless a different date is set by the court, as soon as known and no later than 45 days prior to trial, the prosecutor shall inform the defendant of the names and addresses of any expert witnesses performing work in connection with the case or whom the prosecutor is likely to call at trial. The prosecutor shall also make available for inspection and copying any reports or written statements of these experts. With respect to each expert whom the prosecution is likely to call at trial, the prosecutor shall also furnish to the defendant a curriculum vitae and a written description of the substance of the proposed testimony of the expert, the expert's opinion, and the underlying basis of that opinion. Failure to provide timely disclosure under this rule shall entitle the defendant to a continuance. If the court finds that a continuance is not an adequate remedy under the circumstances of the case, the court may impose other

sanctions, including prohibiting the prosecutor from calling the expert at trial or declaring a mistrial.

(2) *Information Provided by Informant -- Electronic Surveillance.* The prosecuting attorneys shall inform defense counsel:

(A) of any relevant material or information relating to the guilt or innocence of the defendant which has been provided by an informant, and

(B) of any electronic surveillance, including wiretapping, of

(i) conversations to which the accused or the accused's attorney was a party,

(ii) premises of the accused or the accused's attorney.

(3) *Information Tending to Negate Guilt or Reduce Punishment.* The prosecuting attorney shall disclose to defense counsel any material or information within the prosecuting attorney's possession or control which tends to negate the guilt of the accused as to the offense or would tend to reduce the accused's punishment therefor.

(4) *Information Within Possession or Control of Other Members of Prosecuting Attorney's Staff.* The prosecuting attorney's obligations extend to material and information in the possession or control of

(A) members of the prosecuting attorney's staff, and

(B) any others who have participated in the investigation or evaluation of the case and who either regularly report or with reference to the particular case have reported to the prosecuting attorney's office.

(5) *Availability of Information to Defense Counsel.* Whenever defense counsel designates and requests production of material or information which is not in the possession or control of the prosecuting attorney but would be discoverable if in the possession or control of the prosecuting attorney, the court shall issue suitable subpoenas or orders to cause such material to be made available to defense counsel.

(6) *Information Regarding Searches and Seizures -- Statements From the Accused -- Relationship of Witnesses to Prosecuting Attorney.* Except as otherwise provided the prosecuting attorney shall, upon request of defense counsel, disclose and permit inspection, testing, copying and photographing of any relevant material and information regarding:

(A) Specified searches and seizures;

(B) The acquisition of specified statements from the accused; and

(C) The relationship, if any, of specified witnesses to the prosecuting authority.

(7) Other Information. Upon a reasonable request showing materiality to the preparation of the defense, the court in its discretion may require disclosure to defense counsel of relevant material and information not covered by subsections (b)(1), (b)(2), (b)(3), and (b)(6).

(8) Legal Research and Records of Prosecuting Attorney. Disclosure shall not be required of legal research or of records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of the prosecuting attorney or members of the prosecuting attorney's legal staff.

(9) Restriction on Availability of Certain Material. Notwithstanding (b)(1)(A)(iv) of this rule, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any material prohibited under AS 11.41.455(a) or defined as "child pornography" under 18 U.S.C. 2256, if the prosecuting attorney makes the material reasonably available for inspection by the defendant and defense counsel. The material shall be considered to be made reasonably available to the defendant or defense counsel if the prosecuting attorney provides, at a law enforcement or prosecution facility, ample opportunity for inspection, viewing, and examination of the material by the defendant and the defendant's attorney. If the defendant is not represented by counsel and demonstrates a need to view the material, the court shall make arrangements for the defendant to be supervised while viewing the material. If the defendant or the defendant's attorney identifies an expert who must view the material, the court shall make arrangements for the court or the law enforcement agency that possesses it to send the material directly to the expert.

(c) Disclosure to the Prosecuting Attorney.

(1) Non-Testimonial Identification Procedures -- Authority. Upon application of the prosecuting attorney, the court by order may direct any person to participate in one or more of the procedures specified in subsection (c) (2) of this rule if affidavit or testimony shows probable cause to believe that:

(A) An offense has been committed by one of several persons comprising a narrow focal group that includes the subject person;

(B) The evidence sought may be of material aid in identifying who committed the offense; and

(C) The evidence sought cannot practicably be obtained from other sources.

(2) Non-Testimonial Identification Procedures -- Scope. An order issued under subsection (c)(1) of this rule may direct the person to do or submit to any and all of the following:

(A) Appear in a line-up;

(B) Speak words, phrases or sentences relevant to the case for identification by witnesses;

(C) Be fingerprinted;

(D) Pose for photographs not involving reenactment of a scene;

(E) Try on articles of clothing;

(F) Permit the taking of specimens of material under the person's fingernails;

(G) Permit the taking of samples of blood, hair and other materials of the person's body which involve no unreasonable intrusion thereof;

(H) Provide specimens of the person's handwriting;

(I) Submit to a reasonable physical or medical inspection of the person's body.

(3) *Right to Counsel.* When issuing an order under subsection (c) (1) of this rule, the court shall also order that the person be represented by counsel or waive the right to be represented by counsel before being required to appear in a lineup, give a specimen of handwriting, or speak for identification by witnesses to an offense.

(4) *Expert Witnesses.* Unless a different date is set by the court, no later than 30 days prior to trial, the defendant shall inform the prosecutor of the names and addresses of any expert witnesses the defendant is likely to call at trial. The defendant shall also make available for inspection and copying any reports or written statements of these experts. For each such expert witness, the defendant shall also furnish to the prosecutor a curriculum vitae and a written description of the substance of the proposed testimony of the expert, the expert's opinion, and the underlying basis of that opinion. Failure to provide timely disclosure under this rule shall entitle the prosecutor to a continuance. If the court finds that a continuance is not an adequate remedy under the circumstances of the case, the court may impose other sanctions, including prohibiting the defendant from calling the expert at trial. Information obtained by the prosecutor under this rule may be used only for cross-examination or rebuttal of defense testimony.

(5) *Notice of Defenses.* Unless a different date is set by the court, no later than 10 days prior to trial, the defendant shall inform the prosecutor of the defendant's intention to rely upon a defense of alibi, justification, duress, entrapment, or other statutory or affirmative defense. Failure to provide timely notice under this rule shall entitle the prosecutor to a continuance. If the court finds that a continuance is not an adequate remedy under the circumstances of the case, the court may impose other sanctions, including prohibiting the defendant from asserting the designated defense. The defendant shall give notice of an insanity defense or a defense of diminished capacity due to mental disease or defect in compliance with AS 12.47.

(6) *Physical Evidence.* If defense counsel or defense counsel's agent acquires physical evidence of the offense, defense counsel must immediately notify the prosecutor and must make arrangements to turn over the evidence to the prosecutor within a reasonable time. Differences concerning what amount of time is "reasonable" shall be resolved by the court. Defense counsel must not test or substantively alter the evidence, unless defense counsel has first notified the prosecutor and given the prosecutor a reasonable opportunity to seek court action. Defense counsel must reveal all information concerning the manner in which the evidence was obtained and handled unless that information is privileged. When physical evidence is disclosed by the

defense, the prosecutor cannot reveal to the jury that the evidence was obtained from the defense.

(d) Regulation of Discovery.

(1) *Advice to Refrain From Discussing Case.* Except as is otherwise provided as to matters not subject to disclosure and protective orders, neither counsel for the parties nor other prosecution or defense personnel shall advise persons (except the accused) having relevant material or information to refrain from discussing the case with opposing counsel or showing opposing counsel any relevant material, nor shall they otherwise impede opposing counsel's investigation of the case.

(2) *Additional or Newly Discovered Information.* If, subsequent to compliance with these rules or orders issued pursuant thereto, a party discovers additional material or information which is subject to disclosure, that party shall promptly notify the other party or the other party's counsel of its existence. If the additional material or information is discovered during trial, the court shall also be notified.

(3) *Materials to Remain in Custody of Attorney.*

(A) Materials furnished to an attorney pursuant to these rules shall be used only for the purpose of conducting the case. The following materials must remain in the custody of the defense attorney, the attorney's staff, investigators, experts, and others as necessary for the preparation of the defendant's case, and shall be subject to other terms and conditions that the court may provide. The materials listed in this paragraph shall not be provided to the defendant, but the information in the materials may be shared with the defendant to the extent necessary to prepare the defense of the case:

(i) a criminal history record of a victim or witness;

(ii) a medical, psychiatric, psychological, or counseling record of a victim or witness;

(iii) an adoption record;

(iv) a record that is confidential under AS 47.12.300 or a similar law in another jurisdiction;

(v) a report of a presentence investigation of a victim or witness prepared pursuant to Criminal Rule 32.1 or a similar law in another jurisdiction;

(vi) a record of the Department of Corrections other than the defendant's own file and any other incident report relating to the crime with which the defendant is charged; and

(vii) any other record that the court orders be kept in the exclusive custody of the attorney.

(B) An attorney shall not disclose to a defendant the residence or business address or telephone number of a victim or witness, obtained from information provided under this rule, even if the defendant is acting as co-counsel. If the address and telephone

numbers of all victims and witnesses have been obliterated, materials that had contained the address or telephone number of a victim or witness may be provided to a defendant proceeding without counsel only as allowed by AS 12.61.120.

(C) Notwithstanding a defendant's status as co-counsel, materials covered by subsection (d)(3)(A) shall remain in the custody of the defendant's attorney, the attorney's staff, investigators, experts, and others as necessary for the preparation of the defendant's case, and shall be subject to other terms and conditions that the court may provide.

(D) If a defendant is proceeding without counsel, materials covered by subsection (d)(3)(A) may be provided to the defendant. If materials are provided to an unrepresented defendant under this paragraph, the court shall order that the materials remain in the defendant's exclusive custody, be used only for purposes of conducting the case, and be subject to other terms, conditions, and restrictions that the court may provide. Upon a showing of good cause, the court may impose specific terms, conditions, or restrictions concerning inspection of the materials by other persons involved in the preparation of the case, such as staff, investigators, experts, witnesses, or others. The court shall also inform the defendant and such other persons involved in the preparation of the case that violation of an order issued under this paragraph is punishable as a contempt of court.

(4) *Restriction or Deferral of Disclosure of Information.* Upon a showing of cause, the court may at any time order that specified disclosure be restricted or deferred, or make such other order as is appropriate, provided that all material and information to which a party is entitled shall be disclosed in time to permit the party's counsel to make beneficial use thereof.

(5) *Material Partially Discoverable.* When some parts of certain material are discoverable under these rules, and other parts are not discoverable, as much of the material shall be disclosed as is consistent with this rule. Excision of certain material and disclosure of the balance shall be preferred to withholding of the whole. Material excised pursuant to court order shall be sealed and preserved in the records of the court, and shall be made available to the court of appeals and the supreme court in the event of an appeal.

(6) *Denial or Regulation of Disclosure – Disclosure to Court in Camera – Record of Proceedings.* Upon request of any party, the court may permit:

(A) any showing of cause for denial or regulation of disclosure, or

(B) any portion of any showing of cause for denial or regulation of disclosure to be made to the court in camera ex parte. A record shall be made of such proceedings. If the court enters an order granting relief following such a showing, the entire record of the proceedings shall be sealed and preserved in the records of the court, to be made available to the court of appeals and the supreme court in the event of an appeal.

(e) **Sanctions.**

(1) *Failure to Comply with Discovery Rule or Order.* If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the court shall order such party to permit the discovery of material and information not previously disclosed or enter such other order as it deems just under the circumstances.

(2) *Willful Violations.* Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court.

(f) Omnibus Hearing.

(1) *Time for Hearing -- When Set.* If the defendant is charged with a felony, the court shall set a time for an omnibus hearing when a plea of not guilty is entered. The omnibus hearing shall be scheduled for a time when the briefing of pretrial motions should be complete.

The omnibus hearing may be cancelled by the court only upon the stipulation of counsel that there are no motions which require hearing and that discovery is complete. Counsel shall also provide the information outlined in section (f)(2)(D).

The court may set an omnibus hearing in a misdemeanor case.

(2) *Duties of Trial Court at Hearing.* At the omnibus hearing the court shall:

(A) ensure that discovery under this rule is complete;

(B) rule on any pending motions which are ripe for decision;

(C) schedule any necessary evidentiary hearings; and

(D) obtain case management information from the parties, including the expected length of trial, the likelihood of trial, and any anticipated scheduling difficulties.

(Adopted by SCO 4 October 4, 1959; amended by SCO 157 effective February 15, 1973; by SCO 211 effective July 15, 1975; by SCO 212 effective July 15, 1975; by SCO 329 effective January 1, 1979; by SCO 331 effective January 1, 1979; by SCO's 640 and 641 effective September 15, 1985; by SCO 1086 effective July 15, 1992; by SCO 1092 effective July 15, 1992; by SCO 1126 effective July 15, 1993; by SCO 1153 effective July 15, 1994; by SCO 1191 effective July 15, 1995; by SCO 1269 and 1274 effective July 15, 1997; by SCO 1444 effective October 15, 2001; by SCO 1717 effective April 15, 2011; and by SCO 1806 effective nunc pro tunc July 1, 2013)

Note: AS 12.61.120, added by ch. 57, § 13, SLA 1991, amended Criminal Rule 16 by restricting discovery available to criminal defendants.

Note: Criminal Rule 16 was repealed and reenacted by chapter 95 SLA 1996. In *State v. Summerville*, 926 P.2d 465 (Alaska App. 1996), the Alaska Court of Appeals found that the legislature's version of the rule was unconstitutional. This decision was affirmed

by the Alaska Supreme Court in **State v. Summerville**, 948 P.2d 469 (Alaska 1997). Thus, the pre-existing version of the rule remains in effect.

Note: Chapter 43, SLA 2013 (SB 22), effective nunc pro tunc to July 1, 2013, amended Criminal Rule 16(b) by adding a new paragraph (9) relating to requests by defendants to copy, photograph, duplicate, or otherwise reproduce certain prohibited material. This rule change is adopted for the sole reason that the legislature has mandated the amendment.

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Rule 17. Subpoena.

(a) For Attendance of Witnesses--Form-- Issuance.

(1) Subpoenas shall be issued by the clerk under the seal of the court, and shall be signed and sealed but otherwise in blank. The party requesting a subpoena shall fill in the blanks before the subpoena is served.

(2) A subpoena shall

(i) state the name of the court and the title, if any, of the proceeding, and

(ii) state whether the witness is to testify on behalf of the state, a municipality, city or borough, and order any witness testifying on behalf of the state, a municipality, city or borough, to appear without the prepayment of any witness fee, and

(iii) command each per

PART IV. DISCOVERY, EVIDENCE, PROOF

Rule 8. Disclosures, Depositions, and Discovery.

(a) General. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) Applicability of the Civil Rules Regarding Discovery. Discovery and disclosure in CINA actions are governed by Civil Rules 26-37, with the following exceptions and modifications: Civil Rule 26(a), (e), (f), and (g), and Civil Rule 26.1 do not apply in CINA cases.

(c) Initial Disclosures. Except to the extent otherwise directed by order or rule, a party shall, without awaiting a discovery request, provide to other parties the following information, excluding any privileged material:

(1) the Department shall make available all information pertaining to the child prepared by or in the possession of the Department;

(2) a parent shall provide the name, address, or other information pertaining to the identity and location of the other parent of the child, if the parent has not already been identified and located;

(3) if the child has been removed, a parent shall provide the names, addresses, or other contact information pertaining to the location of grandparents and other adult relatives so placement options may be explored;

(4) a parent shall provide the names and addresses of any schools attended by the child and the names and addresses of any medical, mental health, and other treatment providers of the child;

(5) a parent shall provide the name and location of any Indian tribe as defined in CINA Rule 2(j) in which the parent has reason to believe the child is a member or may be eligible for membership;

(6) a guardian ad litem shall disclose a list of the types of information the guardian ad litem has gathered regarding the case, including records from specified sources and the names and contact information for persons interviewed or surveyed who are not parties, yet have provided information about the case; and

(7) a tribe that has intervened in the proceedings shall disclose names and contact information for extended family of the child, a list of potential placements under 25 U.S.C. § 1915, and a summary of any tribal services or tribal court actions involving the family.

Unless otherwise directed by the court, these disclosures shall be made within 45 days of the date of service of the petition for adjudication, or for tribes, the date of the order granting intervention. A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(d) Disclosures of Witnesses with Special Expertise.

(1) *Retained Experts.* Except as otherwise stipulated or directed by the court, a party shall disclose the identity of an expert witness whom the party intends to call at trial and who has been retained, with or without compensation, to provide expert testimony or whose duties as an employee of the party regularly involve giving expert testimony. For such witnesses, the party shall provide:

(A) the expert's curriculum vitae; and

(B) a written summary of the substance of the anticipated testimony of the expert, the expert's opinion, and the underlying basis of the opinion.

(2) *Other Experts.* For all other experts, if a party intends to call an expert witness who has had involvement with the family, but has not been retained solely for the purpose of providing an expert opinion, the party shall disclose to other parties the identity of that witness and shall provide any existing reports or written statements of these experts. For experts identified in this paragraph, parties are not required to provide the information in paragraph (1) except upon request.

(3) Expert disclosures shall be made at the times and in the sequence directed by the court.

(e) Pretrial Disclosures.

(1) In addition to the disclosures otherwise required by this rule, a party shall provide to other parties the following information regarding the evidence that it may present at trial:

(A) the name, address, and telephone number of each witness; and

(B) an exhibit list accompanied by the exhibits the party expects to submit at trial.

(2) Disclosure of witness lists and exhibits shall be made at the times and in the sequence directed by the court.

(f) Discovery from Guardian Ad Litem.

(1) *Discovery of Documents in Guardian Ad Litem's Possession.* A party may obtain discovery of documents in the possession, custody, or control of the guardian ad litem, subject to the following limitations:

(A) the documents must be discoverable under Civil Rule 26(b)(1); and

(B) trial preparation materials as defined in Civil Rule 26(b)(3) are discoverable only as permitted by that rule.

(2) *Discovery Regarding Guardian Ad Litem's Testimony.* If the guardian ad litem has served notice that the guardian ad litem intends to testify, a party may obtain discovery from the guardian ad litem about the substance of this testimony.

(3) *Other Inquiry.* A party may obtain other discovery from a guardian ad litem only as permitted by the court upon a showing of good cause. The court may permit a party to question a guardian ad litem about the guardian ad litem's professional qualifications and experience or the guardian ad litem's performance in the case. But this inquiry must be conducted in the presence of the court.

(g) *Depositions.* Depositions may be taken in accordance with the Civil Rules and CINA Rule 8(f), except that no child under 16 years of age may be deposed except upon court order.

(h) *Scope and Timing.* In order to comply with statutory timeframes of AS 47.10 or for other good cause, the court may shorten time periods for discovery. The court may order further discovery and grant a continuance to accomplish the discovery at any phase of the proceeding if it believes that the parties have not had adequate opportunity to develop the existing evidence.

(i) *Supplementation.* A party who has made disclosures or responses to discovery under this rule is under a duty to supplement or correct the disclosures or responses to include information thereafter acquired if ordered by the court or if the party learns that the information disclosed or the response given is incomplete or incorrect in some material respect, and that the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. This duty to supplement or correct disclosures and responses extends to information provided in expert disclosures under subsection (d) of this rule.

(SCO 845 effective August 15, 1987; rescinded and readopted by SCO 1561 effective April 15, 2006)

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RULES OF ADMINISTRATION

Rule 37.5. Access to Court Records.

(a) Scope and Purposes.

(1) Public access to court records is governed by Administrative Rules 37.5 through 37.8. These rules are adopted pursuant to the inherent authority of the Alaska Supreme Court and provide for access in a manner that:

- (A) maximizes accessibility to court records;
- (B) supports the role of the judiciary;
- (C) promotes government accountability;
- (D) contributes to public safety;
- (E) minimizes risk of injury to individuals;
- (F) protects individual privacy rights and interests;
- (G) protects proprietary business information;
- (H) minimizes reluctance to use the courts to resolve disputes;
- (I) makes most effective use of court personnel;
- (J) provides excellent customer service; and
- (K) does not unduly burden the ongoing business of the judiciary.

(2) These rules apply to all court records; however, court personnel need not redact or restrict information that otherwise was public in case records and administrative records created before October 15, 2006.

(b) Who Has Access to Court Records.

(1) Every member of the public will have the same access to court records under these rules, except as provided in Administrative Rule 37.8(b)(4) and 37.8(c)(2).

(2) The following persons are not members of the public and may have greater access in accordance with their functions within the judicial system:

(A) court personnel for case processing purposes only;

(B) people or entities, private or governmental, who assist the court in providing court services;

(C) public agencies whose access to court records is defined by another statute, rule, order, or policy; and

(D) the parties to a case or their lawyers regarding access to records in their case.

(c) Definitions. For purposes of these rules:

(1) "Court record" means both case records and administrative records, but does not include records that may be in the court's possession that do not relate to the conduct of the court's business.

(2) "Case record" means any document, information, data, or other item created, collected, received, or maintained by the court system in connection with a particular case.

(3) "Administrative record" means any document, information, data, or other item created, collected, received, or maintained by the court system pertaining to the administration of the judicial branch of government and not associated with any particular case.

(4) "Confidential" means access to the record is restricted to:

(A) the parties to the case;

(B) counsel of record;

(C) individuals with a written order from the court authorizing access; and

(D) court personnel for case processing purposes only.

(5) "Sealed" means access to the record is restricted to the judge and persons authorized by written order of the court.

(6) "Remote access" means the ability of a person to inspect and copy information in a court record in electronic form through an electronic means.

(7) "In electronic form" means any information in a court record in a form that is readable through an electronic device.

(d) General Access Rule.

(1) Court records are accessible to the public, except as provided in paragraph (e) below.

(2) This rule applies to all court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the record is maintained.

(3) If a court record, or portion thereof, is excluded from public access, there must be a publicly accessible indication of the fact of exclusion but not the content of the exclusion. This subparagraph does not apply to case records or administrative records that are confidential pursuant to law.

(e) Court Records Excluded from Public Access.

(1) *Case Records.* The following case records and case-related documents are not accessible to the public:

(A) memoranda, notes, or preliminary drafts prepared by or under the direction of any judicial officer of the Alaska Court System that relate to the adjudication, resolution, or disposition of any past, present, or future case, controversy, or legal issue;

(B) legal research and analysis prepared or circulated by judges or law clerks regardless of whether it relates to a particular case and written discussions relating to procedural, administrative, or legal issues that are or may be before the court; and

(C) documents, information, data, or other items sealed or confidential pursuant to statute, court rule, case law, or court order.

(2) *Administrative Records.* The following administrative records are not accessible to the public:

(A) personal information, performance evaluations, and disciplinary matters relating to any past or present employee of the Alaska Court System or any other person who has applied for employment with the Alaska Court System, and personnel records that are confidential under Alaska Court System Personnel Rules C1.07 and PX1.08;

(B) the work product of any attorney or law clerk employed by or representing the Alaska Court System if the work product is produced in the regular course of business or representation of the Alaska Court System;

(C) individual direct work access telephone numbers and email addresses of judges and law clerks;

(D) documents or information that could compromise the safety of judges, court staff, jurors, or the public, or jeopardize the integrity of the court's facilities or the court's information technology or recordkeeping systems;

(E) records or information collected and notes, drafts, and work product generated during the process of developing policy relating to the court's administration of justice and its operations;

(F) email messages that are created primarily for the informal communication of information and that do not set policy, establish guidelines or procedures, memorialize transactions, or establish receipts; and

(G) records that are confidential, privileged, or otherwise protected by law, rule, or order from disclosure.

(f) **Obtaining Access to Public Court Records.** Court records that are accessible to the public shall be open to inspection at all times during the regular office hours of the courts. The administrative director shall establish written guidelines to ensure that all members of the public upon request will be given reasonable access and opportunity to inspect such public records and to ensure the preservation and safekeeping of such public records for such period of time as they may be kept by the Alaska Court System.

(Adopted by SCO 503 effective February 1, 1982; amended by SCO 943 effective January 15, 1989; and by SCO 1016 effective January 15, 1990; rescinded and readopted by SCO 1622 effective October 15, 2006; and amended by SCO 1740 effective nunc pro tunc to September 7, 2010)

Note: Chapter 64, SLA 2010 (SB 60), effective September 7, 2010, enacted changes relating to the Uniform Probate Code. According to section 12(e) of the Act, AS 13.12.585, as enacted by section 8 of the Act, has the effect of amending Administrative Rule 37.5 by requiring that certain information contained in court records relating to a petition under AS 13.12.530 or 13.12.535, enacted by section 8 of the Act, be kept confidential and only released as indicated in AS 13.12.585.

Cross References

CROSS REFERENCE: Administrative Bulletin 12 ~~12~~ (Guidelines for Inspecting and Obtaining Copies of Public Records)

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Alaska Forensic Child Interview Roundtable

*Report and Recommendations
To the Alaska Children's Justice Act Task Force*



**Discussions held on
April 21-22, 2009**

**Roundtable Facilitator - Diane Payne, Children's Justice Specialist,
Tribal Law & Policy Institute ~ Alaska Office
Report Compiled by Tribal Law & Policy Institute staff**

Author's Note: Nothing in this report should be considered an endorsement or recommendation of a specific curriculum or course of action at this time. There were many ideas and opinions voiced during this meeting, and the group make a significant step in identifying current practice, gaps and related information to improve forensic interviewing of children in Alaska. However, there was no attempt to reach consensus on any topic or issue relating to this complex problem.

INTRODUCTION

Background

The Alaska Forensic Child Interview Roundtable was developed in response to a range of concerns discussed at meetings of the Alaska Children's Justice Task Force (hereinafter referred to as "CJA Task Force") over the past few years. The Task Force had been asked to endorse a new forensic interview training curriculum developed outside of the state and some Task Force members commented that even a new curriculum would still need to be tailored to meet Alaska's unique needs. The Roundtable was organized for two primary functions (1) to identify, catalog and share information about current forensic child interview practices in place in Alaska and any regional specific adaptations being used in the course of investigations into criminal child abuse; and (2) to seek input from current forensic child interviewers and criminal child abuse investigators as well as the faculty for the current forensic child interview curriculum regarding gaps and omissions in the training currently provided.

Diane Payne, Children's Justice Specialist for the Tribal Law and Policy Institute (TLPI) and a Task Force member, agreed to coordinate the event, facilitate the interdisciplinary discussion group and compile the report. Following invitations to approximately twenty five individuals representing rural and urban law enforcement investigators, child advocacy center-based forensic interviewers, prosecutors and

consultation with Tammy Sandoval, Deputy Commission of the Alaska Office of Children's Services (OCS) for appropriate OCS participants, the group convened on April 21-22, 2009. The Alaska Children's Alliance (ACA) coordinated the travel and lodging for participants outside of Anchorage.

In addition to the issues raised by the Task Force, in preparation for the session, Diane Payne consulted with members of the ACA at their annual meeting, talked individually with representatives of the Department of Law, Criminal Division and spoke with representatives of the Alaska State Troopers and OCS, and past Family Services Training Academy staff to identify major topics for discussion.

The Alaska CJA Task Force identified individuals representing law enforcement (both municipal police and state troopers) and child advocacy center staff who have or were currently in roles where they were investigating criminal child sexual abuse and conducting forensic interviews to participate in this discussion. The CJA Task Force requested at least two criminal prosecutors from the Department of Law and discussed the configuration of the group to assure there were representatives from different regions of the state so the discussion was broadly reflective of statewide issues. Also invited were the OCS faculty members for the Family Services Training Academy where the only forensic child interview approach is currently taught to state employees in Alaska.¹ Although some individuals from Fairbanks, Wasilla and Metlakatla were unable to attend, they were invited to make additions and to comment on the first draft of this report before finalization.

CJA Task Force members who attended the Roundtable were Diane Payne (facilitator), Pam Karalunas, coordinator of the ACA, Cindi Stanton and Teresa Foster. The Task Force set aside up to \$10,000 for the logistical costs involved and asked participants (and their agency) to donate their time to this important discussion. The roundtable group participants represent approximately 185 years of experience in roles with responsibility to respond to child abuse and child victimization. An estimated total of 380 child interviews were conducted by seven interviewers in the group over the last two

¹ The University of Alaska Anchorage has a contract with OCS to provide the training for OCS staff; as a courtesy law enforcement officers, including Alaska State Troopers, are invited to attend the training component on forensic interviewing of child sexual abuse victims. The curriculum currently used is Advanced Intensive Sexual Abuse Interviewing Skills (AIS AIS).

years. About 65 of those children interviewed were under the age of 3. A list of these participants is found on page 21.

The Process

The roundtable agenda is attached to this document and this report generally tracks the sequence of the agenda. It begins with an overview of Forensic Interviewing as an Investigative Tool which led to a discussion of multidisciplinary team issues. Then each forensic interviewer (and instructors) was asked to provide responses to several questions including what they do to prepare for the interview, what protocol or approach they use in the questions and what they do post-interview. Then there was a discussion of what is working and what is missing in the current training available in Alaska and the current forensic interview practice. From this dialog the group discussed challenges in conducting forensic interviews in small groups. One group focused on Tribal communities and rural Alaska and the other group focused on urban areas. From these lists of challenges the group identified areas that were common throughout the state and those that were unique to rural and urban areas generally.

On the second day of the roundtable, the participants discussed concerns about the qualification and readiness skills of those who do forensic interviews as well as the challenges and benefits of peer reviews of forensic interviews. Finally, the group identified core elements and topics that should be found in all training curricula used to prepare professional in Alaska to interview children in any part of Alaska. The group also discussed a number of additional training topics that would be helpful, and should supplement the core training and made available throughout Alaska. In closing, the group made a list of recommended steps for the CJA Task Force to consider in addressing the delivery of consistently high quality forensic interviewing of Alaska's child victims.

Tribal Law and Policy Institute staff members Melissa Valdez Taylor and Mona Evan were present to take notes on the discussion and assisted with the development of this report. To assure group safety and promote open and frank discussions the group agreed that no one would be quoted in the roundtable report. Therefore, none of the comments or views provided in this report is attributed to a specific individual (or agency)

with the exception of the opening comments of the representatives from the Alaska Department of Law.²

Nothing in this report should be considered an endorsement or recommendation of a specific curriculum or course of action at this time. There were many ideas and opinions voiced during this meeting, and the group make a significant step in identifying current practice, gaps and related information to improve forensic interviewing of children in Alaska. However, there was no attempt to reach consensus on any topic or issue relating to this complex problem.

² Reviewed and approved by Teresa Foster and Susan Mitchell prior to finalization of the report.

APRIL 21-22 MEETING REPORT

Forensic Interviewing as an Investigative Tool: Strengths and Weaknesses

Teresa Foster, J.D. and Susan Mitchell, R.N., J.D.³ provided an introductory framework for the roundtable discussion providing comments on how forensic interviewing is used as an investigative tool. Following is a synopsis of those comments.

Prosecutors do not conduct forensic interviews but must prepare children to be effective witnesses and draw out the facts about the abuse when cases go to court. Often the information gathered by OCS is not complete enough for the prosecutor to draft specific charges. At the same time, however, the information needed for OCS purposes would not otherwise be admissible in the criminal case but for the fact that it is tied in with the investigative interview. Prosecutors must also be concerned about discovery issues, evidence rules and a number of other issues relating to the child's statements and the family dynamics. CAC interviews should be done with the goal of the health and well-being of the child but strictly forensically sensitive to any prosecution or exoneration.

Clearly, everyone understands that a primary goal of all agencies involved in the interviewing and investigations of crimes against children is to ensure their safety and well-being. In addition, the multidisciplinary team (MDT) approach provides for a coordinated response to child victims and creates a system of investigation and prosecution of child abuse that ideally results in the least trauma to the children/adolescents and families. This approach is most commonly utilized in locations in Alaska that have access to a child advocacy centers.

Considering the use and values of the forensic child interview, some benefits are:

- One event for the child and family. Agencies that need the forensic interview are prosecution, social services and law enforcement.
- Consistency, spontaneity, forensic sensitivity to ascertain events and perceptions from the child in having one interview.
- Although a single interview is preferred, some benefits to having more than one interview include separating law enforcement and OCS information, allowing the child to be rested and alert if the interview is lengthy or complex, and

³ Department of Law, Criminal Prosecutors

allowing for follow-up with information that was not known at the time of the initial interview.

Some of the challenges and disadvantages of the current forensic interview practice are:

- Interviews can be very lengthy and difficult for children
- Either too little information is obtained because the interviewer's discipline may not need all the details required for a prosecution, or too much information is obtained and information becomes part of the record that is collateral or distracting in the criminal investigation.
- Investigators and prosecutors need very specific information which may not be obtained from an OCS interview, thus a second interview is needed.

Benefits of the MDT approach (when it is working well) are that successful community coordination of child abuse cases follows the development of interagency agreements and guidelines. These agreements provide a framework to coordinate the handling of cases through formalizing collaboration among agencies. The interagency agreements should identify specific tasks in the intervention process and clarify the role and responsibilities of the participating agencies. Guidelines should explain how the agencies work together to investigate, prosecute, and provide support to the child victim and family. Without an understanding of how the MDT and related protocols work, further trauma to the child and duplication of efforts are likely to occur.

DISCUSSION

Following this framework on prosecution considerations, the group discussed the MDT approach and using child advocacy centers to conduct the forensic interview during criminal child abuse investigations in Alaska. For instance, it was acknowledged that there are times – such as when weather prevents transporting the child - when law enforcement must conduct an interview in the field. A number of participants commented that these should be the exception rather than the rule. While weather challenges and transportation costs hinder utilization of child advocacy centers for forensic interviews sometimes, several commented that the MDT approach to the investigation can still be used.

A significant challenge to quality forensic interviewing is limited opportunity to acquire sufficient experience in interviewing children and then in maintaining the

expertise needed to conduct skilled interviews.⁴ Some pointed out that while law enforcement is responsible for determining whether a crime has been committed, who committed the crime and other relevant information, law enforcement officers – without further training specific to child sexual abuse and child development⁵ - do not all have the basic skills to interview child victims and witnesses. Investigators with the Office of Children's Service (OCS) have a different role. Their primary responsibility following a child abuse report is to assess the child's safety and to determine if the placement outside the home is required.

Another major concern in Alaska is how the child abuse response system responds to diverse cultures. The issues include cultural practices, norms and beliefs, children and families whose first language is not English, and cultural issues of trust for the government systems. The group acknowledged that addressing this dynamic is a particular challenge in rural Alaska because of the fairly regular staff turnover among professionals. Law enforcement often has a difficult time gaining trust from victims of crime while trying to investigate and preserve safety. For example, children who rarely see or interact with law enforcement except when they arrive to arrest or remove a relative or their friend's relative from their neighborhood or village may not believe that law enforcement has come to help make the child safe, especially if the child has been told to fear or shun law enforcement.

In this discussion, comments were made about the need for and importance of having training that addressed child sexual abuse investigations overall. While the forensic evidence of a case is the *key evidence*, it is not the only evidence. A good forensic interview can lead an investigator to obtain information in other areas of the investigation such as information that assists in the suspect interview leading to confession, interviews with collateral witnesses, a medical exam and a search for other physical evidence or collateral evidence that supports the child's report. Continued training and cross-training of peers must be seen as a standard opportunity available for professionals particularly because of the high child abuse response system staff turnover in rural Alaska.

⁴ An inexperienced interviewer may not be skilled enough to solicit the information from a child that is necessary to determine if a crime has occurred, if the child is unsafe or to provide adequate and detailed information for prosecution of a suspect.

⁵ It was the consensus that the standard training in dealing with children taught at police or trooper academy was not sufficient for full interview involving allegations of child sexual abuse. While one may have good rapport with children, have children of their own or other positive skill sets for dealing with children, the scrutiny that child interviews are placed under for legal purposes go far beyond the initial training skills.

The opening commentary from a prosecution perspective led to discussion regarding why some child sexual abuse cases may not go to trial and on plea agreements in child sexual abuse cases. This discussion included identifying the roles of the civil and criminal agencies involved in this process and identified the strengths and challenges of the multi-disciplinary approach and other issues of concern to prosecutors in Alaska.

Some reasons discussed regarding why cases may not go to trial are:

- Many cases are not referred for prosecution because of the difficulty in completing investigations, and many cases are not referred due to insufficient evidence
- Many cases are resolved with a plea agreement when the risk of a not guilty verdict is high, as well as other reasons.
- Prosecutors and others must consider whether going through trial will further traumatize the child, although a well-prepared child can be an excellent witness in court.
- Sometimes confession/admissions in child sexual abuse cases give leverage to an acceptable plea agreement that protects the child, yet punishes the perpetrator.
- The sheer volume of cases, especially in rural Alaska, the logistics of rural trials, and the limited law enforcement and prosecution resources are some reasons for encouraging plea agreements.
- Not enough resources not enough prosecutors

Further discussion occurred around issues about plea agreements and how the quality of the forensic interview of the child and the suspect interview may affect the ability of the prosecutor to suggest a plea agreement. Prosecutors explained that plea agreements are necessary because Alaska does not have the resources allocated to try every case. However, it is important to keep in mind that both parties have to agree on the terms of the agreement. It was explained that for the child victim, plea agreements also can bring closure and safety which is good even if the plea agreement is not perfect. A thorough forensic interview can also identify the full spectrum of abuse, which is very important to the prosecution in determining when to propose a plea agreement and what level of plea is appropriate.

Forensic Interviewer Description of Current Child Interview Approach & Protocol

The group shared approaches to forensic interviewing used in their communities, and although many had attended several training events, the discussion centered around four primary approaches – RATAAC, APSAC, NCA and AISAIS.

In this dialog we learned that an estimated total of *380 child interviews were conducted by seven interviewers in the group over just the last two years*. Because young children often present a challenge to the skills of interviewers, the participants were also asked to specify how many children were 3 years old or younger and these seven interviewers indicated that about 65 of those children interviewed were under the age of 3. There was also discussion about the approach to post interview activities that included meeting with the child victim's non-offending parents, discussing next steps with families and de-briefing or staffing with MDT members. These activities post-interview often hold some benefit to interviewers who receive feedback from peers and their MDT members.

Elena Aluskak – Bethel Tundra Women's Coalition Child Advocacy Center Manager has conducted over 150 interviews in the last two years. 30 percent of those interviews were with children under the age of 6. Elena uses a culturally adapted form of the RATAAC or Corner House protocol.

Monica Chase – Family Advocate for the Kawerak Child Advocacy Center in Nome and was has only conducted 4 interviews; one was a four year old from a village. Monica has received training on APSAC, RATAAC and NCA training and completed the Forensic Interviewing of Native Children and Child Sexual Abuse Investigations Training (4 days, including a live clinic with child volunteers) provided by the Tribal Law and Policy Institute.

Sherry Ferno – Investigator with the Alaska State Troopers who has conducted child interviews at Alaska CARES in Anchorage and Stevie's Place in Fairbanks and is currently working with the Children's Place in Palmer. In the last two years Sherry has conducted 115 interviews, two of those children were two year olds. Sherry was trained on the AISAIS model provided in Alaska.

Kim Horn – Detective with the Juneau Police Department, she conducts child sexual abuse interviews at the SAFE Child Advocacy Center in Juneau. In the last two years Kim has conducted 30 interviews 6 of those interviews involved children age five and under. One child came to Juneau from a surround village. Kim received training on the NCA model and completed the Forensic Interviewing of Native Children and Child Sexual Abuse Investigations Training (4 days, including a live clinic with Native child volunteers) provided by the Tribal Law and Policy Institute.

Jessica Lawmaster – Is new to Alaska, previously from Oklahoma, now working at the Kenai Peninsula Child Advocacy Center. In the last two years Jessica has conducted over 300 interviews. 13 interviews while in Alaska and two were children under the age of five. Jessica uses the APSAC, RATAAC/NCA protocol.

Brian Messing – Is a child advocate and has been with the SAFE Child Advocacy Center in Juneau for 7 years. Brian has conducted 60 interviews over the last two years, 20 interviews of children under the age of five. Brian uses the NCAC/RATAAC/AISAIS methods and completed the Forensic Interviewing of Native Children and Child Sexual Abuse Investigations Training (4 days, including a live clinic with Native child volunteers) provided by the Tribal Law and Policy Institute.

Cindi Stanton – Is an Investigator with the Anchorage Police Department. Cindi has 8 years of experience in the field and has conducted 8 child interviews in the last two years. Cindi uses the AISAIS model and is trained as a co-trainer of this specific model. Cindi has also completed the Forensic Interviewing of Native Children and Child Sexual Abuse Investigations Training (4 days, including a live clinic with child volunteers) provided by the Tribal Law and Policy Institute.

Description of Forensic Interview Protocols Used in Alaska

RATAAC is a CornerHouse protocol, CornerHouse is a partner with NDAA/APRI in providing the “Finding Words” Forensic Interview training sessions. RATAAC is a mnemonic device each letter stands for a different stage of protocol: **R**apport, **A**natomy **I**dentification, **T**ouch **I**nquiry, **A**buse **S**cenario and **C**losure. The forensic interview is based on the semi-structured RATAAC® protocol that has been designed through clinical experience and the review of empirical research to maximize the child’s ability to communicate his or her experience. The Forensic Interviewer conducts the interview in a manner that is developmentally appropriate for a child’s cognitive, social, and emotional abilities.

APSAC is the American Professional Society on the Abuse of Children it is a national nonprofit organization focused on meeting the needs of professionals engaged in all aspects of services for maltreated children and their families. The curriculum is a 4.5 day and includes the following components.

- Overview of Forensic Interview Issues and models: Lessons from the research
- Child interview methods and techniques: question types and question design
- Child interview Methods and Techniques: use of media
- Child development concepts
- Linguistic issues

- Eliciting details and other law enforcement concerns
- Interview practicum
- Interviewing reluctant children
- Interviewing skills with specific populations (cultural and age considerations) 2004 or/ culturally diverse children (2006)
- Interviewing children with disabilities
- Interview practicum, continued
- Interviewing teenagers
- Legal considerations & effective testimony
- Interview practicum, continued
- Mock court

AISAIS is Advanced Intensive Sexual Abuse Interviewing Skills: This 18 hour session is Alaska Specific. This is a mandatory training for all OCS SW I-V's who have worked a minimum of six months and have completed TONE, and CORE 103 and 104. The training introduces forensic interviewing skills to the OCS worker and their law enforcement/judicial partners. It will develop knowledge, understanding, awareness, and skills for interviewing children who are the alleged victims of child sexual abuse. While this training targets child sexual abuse, it is practical and applies to all other types of abuse cases requiring forensic interviews. The training is a combination of lecture, group discussion, and other activities. Each trainee will demonstrate forensic interviewing skills gained in the training by conducting a thirty-minute videotaped "mock" interview with an adult actor posing as a child victim. In addition to directly increasing worker skills, this training will increase statewide consistency and create a common language when approaching forensic interviews of children.

NCAC The National Children's Advocacy Center has developed a Child Forensic Interview Model, which is forensically sound, flexible, and may be used by a variety of professionals including law enforcement, social workers, and child interview specialists. This interview model can be adapted for children of different ages and cultural backgrounds. The model can be used when questioning children who are suspected to be victims of sexual or physical abuse, as well as children who have witnessed violence perpetrated on another person.

Roundtable Discussion: Forensic Interview Training and Practice Issues with Child Victims

During this session Diane guided the members through a discussion process with a goal of determining, "What is working regarding the forensic interview training and usual practices with child victims and what is not working and can be improved upon.

Responses are summarized in bullet form below.

What is working now?

This discussion focused on what participants felt were strengths in the current system, training curricula, and practices.

- In Anchorage the co-location of law enforcement, social workers and child advocates.
- Bilingual interpreters respond well to families in Bethel
- Everyone seems to be using a protocol in response to child victimization (except on the Kenai Peninsula due to difficulty in getting the protocols signed by AST)
- Agencies collaborating utilizing the MDT approach seems to work well everywhere in Alaska.
- Prosecutors believe that CAC's are making a difference in how cases are being handled.
- Group agreed that Pre-screening efforts prior to interviews is working well.
- SAFE in Juneau practices debriefings post interviews.
- In Anchorage the coordination with military bases prior to interviews works well
- Group concurs that having trained professionals especially professionals trained on the same or similar model works well.

What's missing?

The group identified areas where there are gaps, inconsistent practice, challenges around certain types of cases and other "missing elements" both regionally and throughout Alaska.

- Prosecutors expressed a concern regarding the practice of debriefings. Concerns are based on the form and how they are being conducted. Whether or not a paper trail is part of this practice give rise to issues that are concerning particularly should the information become discoverable.
- Anchorage has a large diverse population because of this forensically trained interpreters are needed. Including interpreters for Hmong, Russian, Spanish and other groups.
- Community education is needed throughout Alaska, especially among certain groups (ethnic & religious). Professionals see confidentiality breaches and re-victimization due to a lack of education/understanding regarding sexual assault/abuse.

- Advanced trainings are needed throughout the state for professionals regarding children with disabilities.
- Cultural competency skills need to be developed among MDT members throughout the state. It is important for all professionals who work or provide services to children and families in rural Alaska to get to understand what it is like to live in a village and to know about the lifestyles and culture of those individuals they serve.
- There are too few rural prosecutors and they simply don't have the time to participate in MDT's
- In some situations throughout Alaska OCS and Law enforcement need to improve their coordination of efforts prior to investigations a situation was mentioned where OCS jumped the gun and removed a child prior to Law enforcement conducting interviews.
- Statewide training is needed for professionals on "Defending the interview".
- Statewide training is needed for professionals regarding conducting Child on child interviews
- Basic minimums are needed statewide for all professionals who conduct child interviews.
- Statewide issue peer reviews lack feedback from prosecutors
- While single interviews are great professionals should obtain openness to conducting multiple interviews. This may occur when an unskilled interviewer does not obtain enough information for a prosecutor to take the case to trial.
- There is a need in the Bethel region and perhaps in other parts of rural Alaska for ICWA workers to provide follow-up services to families who return to the villages.
- Juneau is seeing a new for a cell phone protocol. Cell phone usage is becoming more prevalent in the villages as well.
- A statewide protocol/guide book should be developed for professionals, including law enforcement, in the field, who may not have had child sexual abuse interview training. Specifically, a "pre-interview" guideline should be developed of how far to question or probe and when to stop and request direction, obtain support or turn the child interview over to someone with specific child sexual abuse forensic interview training. This guideline would be taught in all basic academy or orientation sessions to preserve the often fragile or sensitive evidentiary admissions of children.
- More prosecutors need specific training from child abuse specific seminars and prosecutor specific training on these issues.

Roundtable Discussion: Challenges Interviewing Children in Child Sexual Abuse Cases

Members broke up into two groups for this discussion. A group represented the concerns of rural communities while the other group represented urban concerns. Each group identified a large number of challenges many concerns of both groups were duplicative so in the end these challenges were captured below and identified as statewide challenges that need to be addressed.

Rural Challenges:

- **Transportation is a big issue in rural Alaska. Weather conditions and long distance cause delays in investigations and is often responsible for long delays in service delivery.**
- **Staff turnover continues to remain a problem in many remote parts of rural Alaska.**
- **Inconsistency in the way cases are investigated and handled remains an issue in rural Alaska.**
- **The lack of resources retaining qualified staff, funding to purchase recording equipment and maintaining a facility and funding is needed to provide the child continued safety and well-being.**
- **Confidentiality is an ongoing critical issue, particularly in small rural communities. More public education is needed to encourage understanding and assist in developing community specific policies and procedures that protect the victim. People who work in schools and public agencies should be responsible for educating the general public.**
- **Training regarding mandated reporters is needed in many areas of rural Alaska.**
- **Outsiders (service providers) are not readily accepted or trusted in many communities.**
- **Shortage of "Home grown" professionals.**
- **Sexual Offenders returning to the village or other small community units where they continue to interact with their former victim is a problem**
- **Revenge Reporting a perception among many native communities that if a report of abuse is made it is a result of a need for revenge. Reporting is looked down upon in some faith based organizations.**
- **The Faith community needs training and educational resources as well.**

The Urban group listed the following challenges:

- **Challenges with diverse languages/cultures and ages of child victims. Not enough interpreters.**
- **Keeping up with technology is challenging.**
- **There is a need for resources to deal with kid on kid cases, families need resources.**
- **Conducting large family interviews is difficult because of space issues.**
- **Specialized units are needed.**
- **Sexualization of Media (children have more exposure to nudity through video, TV and other media so it is sometimes not clear where child learned sexual information)**
- **Better communication and collaboration between agencies.**
- **Cell phone protocols are needed.**

When the groups reconvened they reviewed their lists discussed the finding and combined their concerns into the following statewide issues:

Statewide issues:

- **Transportation (distance/weather) issues for victims and Law enforcement**
- **Safety/emotional well being of child (not enough mental health professionals)**
- **Confidentiality (educating communities about abuse)**

- Forgiveness component (cultural/education) area for future trainings
- Revenge vs. Reporting (cultural/component) area for future trainings.
- Lack of training for Faith Communities area for future trainings.
- Coordination to set up interviews and inform families
- Trust issues (cultures/groups)
- Language/culture/age etc, challenges
- Kid on kid cases
- Lack of resources for families regarding kid on kid cases
- Large families limited space in interviewing room
- Use of helpers (limited)
- Cell phone communication between children and others (protocol development)

Purpose of the forensic interviews: what outcome do we want?

During this session the group discussed their respective goals for the forensic interview and provided their views regarding outcomes and end results. The following bullets represent those outcomes identified and acknowledge that the criminal investigators have different needs and priorities in the forensic interview than OCS workers who are responsible primarily for determining safety.

- Details about what happened
- Child safety
- Uncorrupted pure forensic interview
- Child perspective
- Family support
- All but in a way that minimizes repeated trauma to the child
- Services to the family
- Disclosure
- Covered legal basis without the clutter
- Information to determine whether a crime was committed and who committed it so that the child can be protected.
- Who, what when, where and how – nothing more and nothing less.

Qualifications For Conducting Forensic Interviews With Alaska Children

Members brainstormed and engaged in discussion regarding whether or not there should be some requirements for qualifying to conduct forensic interviews of children in Alaska. The facilitator asked the group to think beyond what they felt was possible and think about what is best for children of Alaska. Should there be basic core elements of

training and skills required as pre-qualifications before a law enforcement officer, OCS staff or CAC staff conducts a forensic interview?

While the group agreed that essential components in forensic interviews is or should be required of professionals, not everyone agreed that requiring interviewers to obtain or meet a set of pre-requisites prior to conducting interviews of children is even a possibility in Alaska. This concern is largely due to the diversity of Alaska and particularly because of the threat of staff turnover in the very remote parts of Alaska.

Roundtable Discussion: Forensic Child Interview Curriculum

The group discussed the “Essential Components” below and because there was not time to reach a consensus, these are listed according the outline of topics posted during the discussion. If there is an opportunity for a longer discussion, there it would be desirable to make a decision rather than only have an inventory of components, thus achieving consensus on pre-requisites for professional forensic interviewer training. These lists were not fleshed out or discussed beyond the stage of identifying them for future evaluation, but are presented here to promote that discussion.

For certain trainings the group identified other individuals (such as patrol, all OCS investigators, VPSOs) whom they believed should also have basic knowledge of the following topics.

Basic Essential Components in Forensic Interviewing

- Intro-Guidelines/Rules, Purpose
- Rapport
- Developmental Assessment
- Abuse information – details
- Anatomy – Childs terms
- Closure

Group Brainstorming Pre-requisites and Areas of Knowledge Professionals should obtain prior to a child interview.

The question was raised as to “what basic information related to conducting an interview should be provided to all law enforcement including VPSO’s, dispatch and all patrol, OCS and all CAC staff”. The group suggested that these individuals should have training on the following minimum topics to enhance their understanding of the

importance of responding to crimes against children and the specific skills needed to conduct a quality forensic interview.

- Law: knowledge of the elements of a crime
- Legal Standards
- Dynamics of child sexual abuse/child maltreatment
- Question techniques for children
- Interagency coordination protocol
- Call out and referral process – should be provided to law enforcement, OCS staff, assigned prosecutors, investigation professionals and child in need of aid Assistant Attorney Generals.
- Normal child development variables
- How to respond to child sexual abuse/child abuse disclosures
- Cultural awareness/language/cultural dynamics, i.e., pace, volume, language (not leading) child respect and body language, child respect, power space.
- Research regarding custody issues
- MDT protocols.

During this final stage of the session, the group discussed a number of skills and knowledge sets *are not being* adequately provided here in Alaska. The group prioritized the listed topics with some being more urgent than others. The list is categorized into **basic skills (1)** and **advanced supplemental skills (2)**

The suggested basic skills listed are:

- Development disabilities
- Cultural responsive communication
- Detail focused training
- Vicarious trauma
- Responding to child in crisis
- Pediatric anatomy and physiology (same level as SART training)

The advanced supplemental skills listed are:

- Formal extensive training for helpers
- Legal training to defend interview techniques
- When to do additional interviews or extended interviews
- Incorporating questions about computers and photos
- Identifying parental coaching
- Basic knowledge of drugs and they affect the persons look etc.
- Perpetrator/offender behavior and profiles, grooming and animal abuse
- Complaints/victimization
- Responses to trauma on child/secondary

Next steps

During this final stage of the session the group discussed the next steps, the following bullets represent the areas of training requests, issues of concern or just general requests from members.

- Determine the statewide need for forensic interview training – OCS/everyone.
- Which model to utilize: AISAIS vs. other models RATAAC, NCA, APSAC, etc.,
- Training for AST – Currently uses AISAIS until another model recommended.
- ACA forensic interview standards for certification 40 hours forensic interview training (new standards/certification for CACs under NCA).
- Explore funding issues regarding required standards for CAC's.
- Ongoing training opportunities.
- Basic components added to forensic interview training.
- Advanced topics recommendations for the forensic interview training.
- Group follow-up via teleconference.

Roundtable Participants (in alphabetical order)

Elena Aluskak is the Child Advocacy Center Manager at the Tundra Women's Coalition in Bethel. Prior to taking the role of manager in 2008, Elena was a full time forensic interviewer for over 6 years, often interviewing in the Yupik language. She has interviewed hundreds of children. In the last two years Elena has interviewed about 150 children.

Monica Chase is a child and family advocate for the Kawerak Child Advocacy Center in Nome for 2 years. Following recent training, Monica began to do interviews and is the only interviewer at the Kawerak Advocacy Center at this time. She has conducted 4 interviews. She also provides community education and outreach to multiple communities within the Bering Strait Region.

Sherry Ferno is an Investigator with the Alaska State Troopers and has conducted child interviews at Alaska CARES in Anchorage and Stevie's Place in Fairbanks in the past and currently does most of her investigative interviews at The Children's Place in Wasilla. In the last two years Sherry has conducted about 115 interviews.

Teresa Foster, J.D. is a Criminal Prosecutor for the State of Alaska Department of Law. She is the training coordinator for criminal prosecutors and has specialized in sexual assault and sexual abuse crimes. She lives in Fairbanks but prosecutes rural sexual assault cases all over the state. Teresa has over 29 years of prosecutorial experience and does not conduct forensic interviews but is involved in preparing children for court and reviews forensic interviews conducted by investigators. Teresa is a member of the Alaska CJA Task Force.

Kim Guay is with the Anchorage office of the Alaska Office of Children's Services and has over 10 years of child protection experience. She does not conduct interviews currently, but has done interviews in the past and is currently an AISAIS co-trainer at the University.

Kim Horn is a Detective with the Juneau Police Department and conducts child sexual abuse interviews at SAFE Child Advocacy Center. She has been with the Juneau Police Department for two years and has conducted about 30 interviews in the past two years.

Pam Karalunas is the Statewide Coordinator of the Alaska Children's Alliance, a state chapter of the National Children Alliance and has worked in the field of child abuse for 23 years. Pam does not conduct forensic interviews but as the director of Stevie's Place in Fairbanks, she reviewed many interviews and has had forensic interview training. Pam is a member of the Alaska CJA Task Force.

Jessica Lawmaster came to Alaska in late 2008 and is the manager of the Kenai Peninsula Child Advocacy Centers. She has interviewed hundreds of children through her previous work in Oklahoma, where she worked for 6 years in child advocacy centers prior to coming to Alaska. In the last two years Jessica has conducted about 300 interviews.

Brian Messing is a child advocate and forensic interviewer at the SAFE Child Advocacy Center in Juneau. He has conducted about 60 interviews over the last two years.

Susan Mitchell, R.N., J.D. is a Criminal Prosecutor for the State of Alaska Department of Law, and is based in Dillingham. She has over 15 years of experience as a prosecutor, defense attorney and emergency room nurse, and thus has been involved with child abuse victims in a variety of settings. Susan does not conduct forensic interviews but is involved in preparing children for court and reviews forensic interviews conducted by investigators.

Cindi Stanton is an Investigator with the Anchorage Police Department and supervises the Crimes Against Children Unit. She has done a large number of forensic interviews of children in the past as an investigator but has only conducted about 8 interviews as a supervisor of the unit. She is also an AISIAS trainer.

Katie TePas is a Program Coordinator II for the Department of Public Safety, Domestic Violence Training Program in Anchorage and has worked for the Alaska State Troopers for 10 years. Katie attended the roundtable as a general representative of the Alaska State Troopers and does not conduct forensic child interviews.

Stephanie Vaughn has 30 years experience in child protection doing intake, investigations and permanency, as well as providing training to state employees. She is the new program coordinator for the AISAIS training center at the University of Alaska and does not currently conduct forensic child interviews

Individuals invited, unable to attend.

Bruce Janes, sergeant for the Metlakatla Police Department in SE Alaska.

Lori Markkanen, director of Stevie's Place in Fairbanks.



Alaska Children's Justice Act Task Force

Legislative Lunch and Learn Presentation

February 2014

hss.state.ak.us/ocs/ChildrensJustice/default.htm



Alaska Children's Justice Act Task Force

- *Mission: Identify areas where improvement is needed in the statewide response to child maltreatment, particularly child sexual abuse, make recommendations and take action to improve the system.*

ALASKAN CHILDREN IN



UPDATE



Reports to Office of Children's Services

- 28,887 reports of child victims in 2013
- 63% neglect
- 16% mental injury
- 13% physical abuse
- 7% sexual abuse
- Likely significant underestimation



Kids Count Alaska 2011-2012

- Child death rate 31/100,000 (age 1-18)
 - Compared with national average 18/100,000
- Alaska ranked 49th out of all states
- Suicide and homicide were 3rd and 4th most common causes of death

Maternal Infant Mortality Review Committee

- Evaluates:
 - Preventability
 - Definite, probable, possible abuse, neglect & negligence
- 366 infant deaths 2005-2010
 - 19% maltreatment related
 - Up to 25% if include possible abuse/neglect and probable negligence
- While overall infant mortality has significantly declined, maltreatment related mortality rates are flat

Alaska SCAN

(Surveillance of Child Abuse & Neglect)

- Maternal report of Intimate Partner Violence in 12 months prior to pregnancy associated with increased risk of child maltreatment report by age 2
- Regardless of marital status, race, maternal educational level, poverty

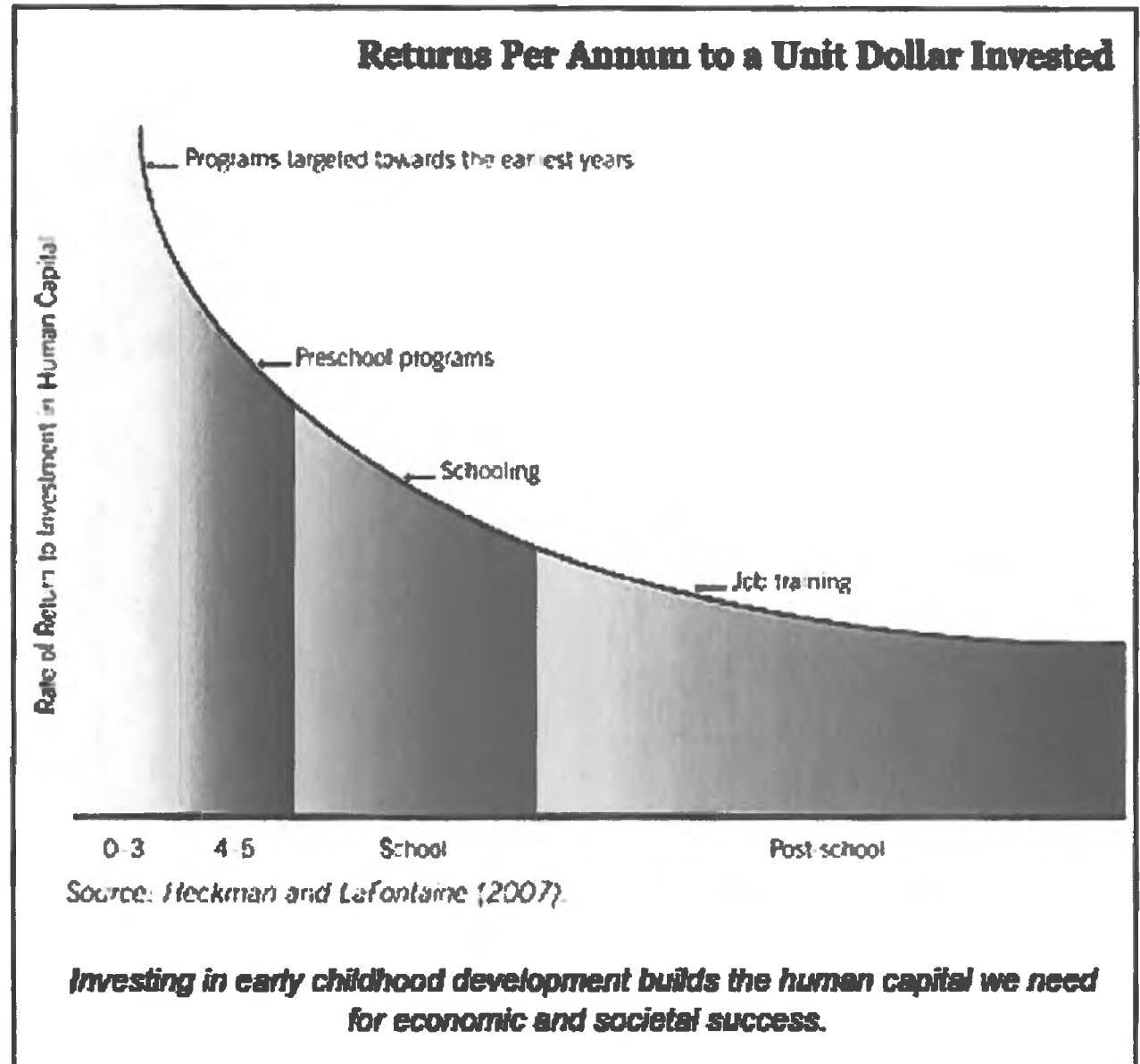
What does this mean for Alaskans?

- **Cost**
- Prevent Child Abuse America 2012 estimate of national annual cost
 - At least 1.25 million child victims of child maltreatment
 - Includes direct and indirect costs
 - Lifetime costs >\$210,000/child
 - Costs per maltreatment related child death \$1,272,900
 - =>\$80,000,000,000 each year



What do we need to do?

- Improve prevention efforts in early childhood
- “Genetics is not destiny”



What do we need to do?

- Improve the multidisciplinary team response
- Improve protection for child victims



Recommendations



Improving protection for victims



Problem #2: Inadequate protection of sensitive victim information



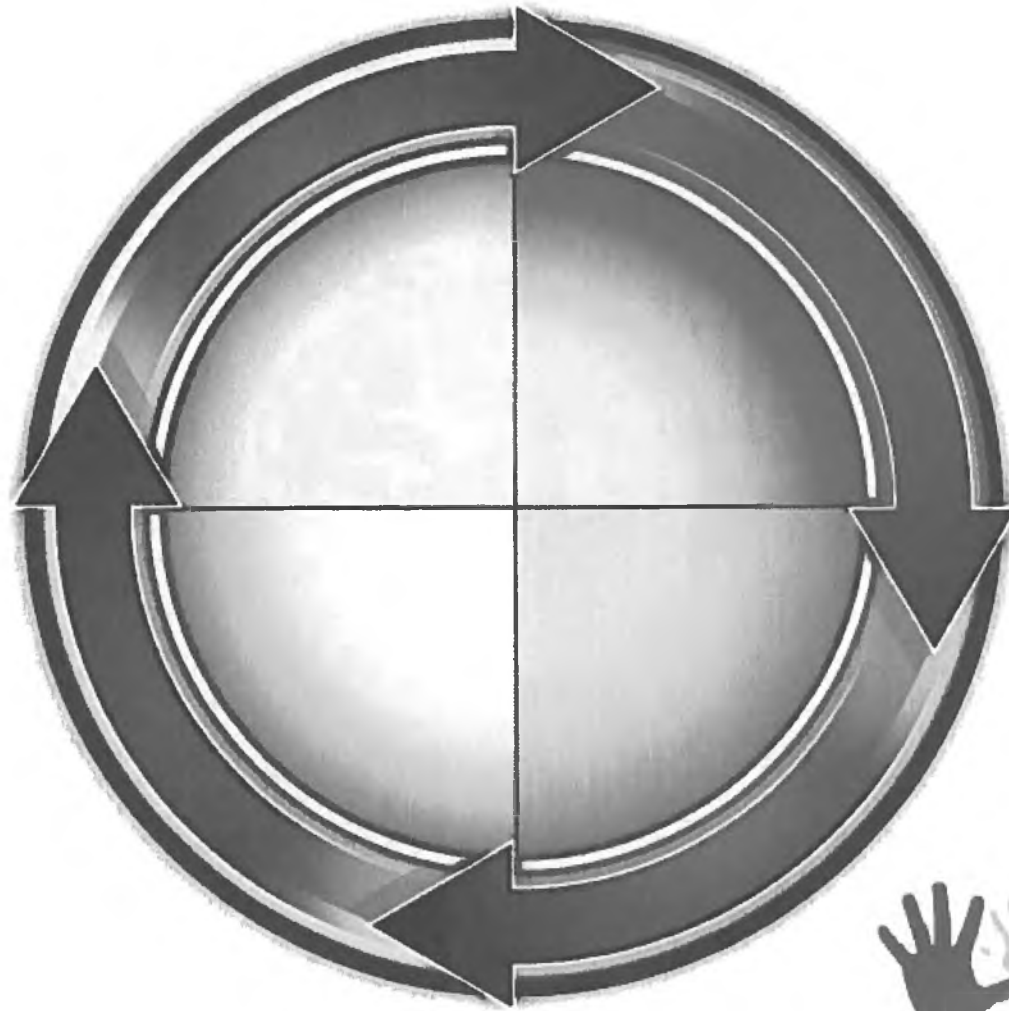
Example 1

- Young child had a videotaped forensic interview at CAC, disclosed multiple types of abuse
- Both criminal and child protection cases
- Copy of DVD released to parent attorneys through discovery process
- Copy of DVD given to parent
- Portions of child's interview posted on YouTube and an internet site

Example 2

- Medical-forensic exam records that include details of child disclosure, exam findings, graphic diagrams, exam photos
- Released through discovery process
- Copy of medical records provided to jailed suspect
- Allows perpetrator to relive experience over and over and share with fellow inmates

Children are re-victimized over and over again



Alaska Children's
Justice Act Task Force

Recommendation: Amend Criminal and Child Protection Discovery Rules

- Prohibits redistribution of:
 - Audio and video recordings of victim interviews
 - Photographs and videos generated during medical exam related to incident
 - Medical records
- Except by court order
- Criminal sanctions for violation