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SB 517 cont., 517, 518, 519 313

Lab Services Unit

The Lab Services Unit is responsible for technical laboratory services, including polygraph, fingerprint and photograph operations. At present the Unit has one polygraph operator, one fingerprint expert and two explosive ordinance technicians, with a second polygraph operator in training. The Unit's workload involved an average of 64 investigations per month during the latter half of 1973, when an average of 196 prints were developed per month and an average of 89 identified per month. The routine photographs are taken by the investigators in other units, the Lab is utilized for special photography such as close-ups and pictures of the crime scenes. One of the technicians is an expert in the use of Indenti-kit from which composit pictures of suspects are created from witnesses' or victims' descriptions. Twenty-five such composites were made during the latter half of 1973. Casting of tire and shoe impressions, X-raying evidence and maintenance of evidence for court presentation are all functions of the Lab Services Unit, in addition to testifying in court.

Presently, much of the technicians valuable time is spent in more or less routine administrative activities.

The addition of a fingerprint expert in Fairbanks, a laboratory technician specialist in photography in Anchorage, and an administrative assistant would bring this unit up to full strength. Of these positions, the administrative aid and one additional laboratory technician should be added this year.

Arson

The Department of Public Safety, through the Division of Fire Protection, and the Alaska State Troopers, has the responsibility of determining the cause of fires of suspicious origin, and providing the criminal investigation on those which may have been the result of arson. Up to this time, no personnel have been available to provide specialized arson investigation within the CIB. The Fire Marshall's office is also understaffed, and has no arson specialists in its employ. Three field investi-

gators within the Fire Marshall's office handled approximately 250 fires during 1973, of which 11 were of suspicious origin, and 86 were incendiary (arson). Twenty five of the incendiary fires occurred within the jurisdiction of the Troopers and should have been investigated by the CIB.

Professional fire investigation requires experienced, professional people in this field. Such people are hard to come by. The Fire Marshall's office advertised on the West Coast for six months for such an expert to do contract work for the State and has received only one response. In order for the State to attract qualified investigators, the salary will have to be attractive, probably higher than Range 17-18 which is the salary level at which such an expert would now enter State service. Those qualifying as experts in the field of arson investigation have attained their expertise almost entirely through experience. According to the report of the National Commission on Fire Prevention and Control, America Burning, formal education in this field is practically non-existent. Someone with many years of experience in any field would not be willing to hire on at the bottom of the pay scale. Rather, "lateral entry" as provided for in Section 1001(12) of the Police Standards Council Regulations should be exercised, namely, "employment of an officer at any rank by a department, based upon special qualifications, without following, the traditional selection process established by the jurisdiction for lowest officer positions."

The division of Fire Protection and State Troopers should each recruit for specialized arson investigators. One range 19 position should be funded in each agency, this year.

Internal Affairs

The department of public safety should, through the CIB, establish an Internal Affairs Unit to deal with internal discipline. This recommendation is consistent with the long range goals of the Director of the Alaska State Troopers, Col. Dankworth, and is also consistent with the recommendations of the National

Commission of the Administration of Justice Standards and Goals which states "public respect for a police agency hinges on its preservation of internal discipline...Every police agency should insure that the investigation of all complaints are conducted by a specialized individual or Unit of the involved police agency." (Police report, 1973)

Presently, Police agencies including the state police, must occasionally resort to hiring a private detective to check out complaints, including alleged corruption charges. A well managed Internal Affairs Unit provides prevention of police misconduct. This unit could provide investigation service to other local or state government agencies upon request. Two investigators specially trained for this type of work are priorities this year.

Clerical and Support Services

An increase in investigative personnel must be accompanied by an increase in clerical staff and equipment. The twenty-four CIB investigators now in the division are supported by four clerical personnel. An average of one typist for every six investigators leaves a great deal of typing and other manual work to be done by the investigators whose skills and time could and should be put to better use. At least three additional clerk-typist II's should be assigned to Anchorage and one clerk-typist II to Fairbanks. In addition, a Clerk V should be assigned to Anchorage to supervise the clerical personnel.

Additional investigators and support staff would be useless without the necessary equipment. Each clerical person requires a desk and a typewriter. Due to frequent travel, seven additional desks should suffice for twelve additional investigators. These investigators would have no mobility without transportation. Because they often work in pairs and do spend a certain amount of time in the office, eight additional sedans should suffice for twelve investigators.

Synopsis of Recommendations

Although the CIB has the potential to provide professional, centralized criminal investigations for the State, it is now limited by a shortage of manpower. Without sacrificing quality, however, it can only recruit and train a limited number of personnel at the present time. Sixteen additional personnel --including 9 investigators, 2 technicians and 5 clerk-typists-- added to the CIB and one investigator added to the Fire Marshal's office this year would bring the investigative capabilities of the Department of Public Safety up to a level more consistent with the current workload. A summary of units for which additional personnel are recommended is as follows:

Major Crime: Two investigators assigned to Anchorage; one assigned to Fairbanks

Auto Theft: One investigator assigned to Fairbanks

Fraud Unit: Two investigators assigned to Anchorage; one assigned to Fairbanks

Lab Services: Two technicians assigned to Anchorage

Clerical: Three clerk-typist II's assigned to Anchorage; one clerk-typist II assigned to Fairbanks; In addition, one Clerk V assigned to Anchorage

NEWLY CREATED UNITS

Arson: One arson expert assigned to Anchorage at the level of chief investigator

One arson expert assigned to the Fire Marshal's office

Internal Affairs: One chief investigator and one line investigator assigned to Anchorage

FIRES AS REPORTED TO THE
STATE FIRE MARSHAL

YEAR	1967	1968	1969	1970	1971	1972	1973	TOTALS
TOTAL NUMBER OF FIRES REPORTED	406	532	475	1019	1081	1315	1113	5941
TOTAL REPORTED LOSS	3,757,780	6,395,345	8,113,118	7,226,399	7,951,987	15,396,071	12,843,264	\$62,083,964 (\$10,450 Avg. per fire)
NUMBER OF INCENDIARY FIRES	42	22	49	30	75	74	86	378- 6% of total fires
LOSS ATTRIBUTED TO INCENDIARY FIRES	142,095	120,104	162,220	161,700	353,961	214,176	3,064,028	\$4,218,284 \$11,159 Avg. per Fire
NUMBER OF FIRES REPORTED WITH UNDETERMINED CAUSE	35	31	81	395	418	350	281	26% of total fires 1,591
LOSS ATTRIBUTED TO FIRES OF UNDETERMINED CAUSE	416,124	828,700	5,804,263	3,733,215	4,495,159	10,936,189	6,010,453	\$20,254 avg. per Fire \$32,224,103
NUMBER OF FIRES REPORTED AS SUSPICIOUS	5	5	12	12	11	12	11	68 1.1% of total fires
LOSS ATTRIBUTED TO SUSPICIOUS FIRES	31,400	7,000	16,300	95,454	198,300	74,566	176,713	\$8,819 Avg. Per Fire \$599,733
ARRESTS*	5	10	6	10	11	8	25	75

* Alaska State Trooper Reports Only

DEPARTMENT OF LAW

DEPARTMENT OF LAW

After an individual is charged with a crime by the police it is the responsibility of the department of law to prosecute. Speedy, professional adjudication is a necessary key to providing an acceptable system of justice.

There are a number of legal, management, and manpower problems that are currently hampering the state in its performance of this function. One area is in the management and supervision of the District Attorney offices throughout the state.

The primary area of responsibility of the Attorney General has been in civil matters. The Attorney General is the chief lawyer for the state government in all civil matters, and he renders opinions and legal advice to the governor and all state agencies. He is expected to supervise six District Attorneys statewide and attend to a variety of other matters which pertain to the criminal justice responsibilities of the department. Needless to say, the amount of time he can give to this supervisory function is limited. Without casting any reflection on the department's performance, it should be noted that traditionally this type of management tends to become highly reactive, with an inadequate amount of time spent on pre-planning. For two years the department has requested funding of an assistant attorney general for criminal justice. This individual would supervise the six state District Attorneys, continually provide input into statewide criminal justice planning and policy development, and supervise the LEAA grants the department utilizes.

The first year this position was requested it was not funded; the second year the position was funded, but the department transferred the funds to recover a District Attorney position that was cut. This position should be funded and implemented this year, in order to improve the supervision and coordination of criminal justice prosecution, and upgrade the department's planning in regard to criminal justice problems.

In addition to the position of an assistant attorney general for criminal justice, the department should expand and upgrade its staff of prosecutors. Recommendations for new positions in the department are as follows:

<u>location</u>	<u>position</u>	<u>time</u>
Fairbanks	Attn. 4	12 mos.
	Attn. 4	6 mos.
	Sec. 1	6 mos.
Anchorage	Attn. 4	12 mos.
	Attn. 5	12 mos.
	Attn. 7	12 mos.
	Sec. 1	12 mos.
Bethel	Attn. 5	12 mos.
	Sec. 1	12 mos.
Valdez	Attn. 5	10 mos.
	Sec. 1	10 mos.
State wide	Assistant Attn. Gen. for Criminal Justice	12 mos.
	Secretary I	12 mos.

The recommendations for the Fairbanks office are essentially what the department asked for in its regular and pipeline impact budget request to the governor. The staggered positions are arranged to pick up anticipated increases in caseloads as a result of pipeline construction activity.

The positions requested for the Anchorage office are not much different than the department's request to the governor, with the exception of classifying one as an attorney 7. This position is recommended to bring in one attorney who has five years or better in complicated securities or criminal fraud areas, to buttress the department's ability to prosecute white collar crime.

Requests in the Bethel and Valdez areas are to be supervised by the Anchorage D.A. Both areas are remote from Anchorage, and to place prosecutors in these areas will bring the needed service

to rural areas. Bethel already has been made a special service area by the courts. There are 18,000 persons living in this area, and present caseloads justify a full time prosecutor in the area. The Valdez position has been staggered to anticipate the increased needs in the pipeline terminal area. Present service to Valdez and surrounding areas is as bad as anywhere in the state.

One concern that the police and other agencies have long articulated is the need for the upgrading of the prosecutors themselves. Without making any judgements as to the abilities, morale, and experience of the prosecuting staff of the department, it can be concluded that with a top salary of \$2,545/mo. available to career prosecutors, private practice has a great deal more to offer an experienced attorney so far as salary is concerned.

The following salary scale changes should be made within the department: presently, most District Attorneys and prosecutors (assistant District Attorneys) are within the attorney five and attorney four salary scales. These scales are the same as a range 25 or 24 respectively. The Anchorage District Attorney is at an attorney six, which is the equivalent of a range 26. The department should create an attorney seven scale, which would be the equivalent of a range 27. This range would be available to a District Attorney in a large office, such as the Anchorage or Fairbanks offices. It would also be available to prosecutors who have worked for the department for more than four years on the basis of satisfactory performance, or for one prosecutor in the Anchorage office who will prosecute criminal fraud cases. The District Attorneys of smaller offices should be able to move up to an attorney six after working for the department more than three years.

Certain legal problems should be resolved to increase the effectiveness of the department. One example is the Consumer

Fraud Statute, or Article 4, Unfair Trade Practices and Consumer Protection Sec. 45.50.521 (a). This statute prevents the Attorney General from releasing information or evidence produced by the consumer protection office to a District Attorney or his investigator or to a law enforcement officer for use in a criminal prosecution. This problem, as well as a number of other provisions which currently tie the hands of the state in regard to prosecuting many "white collar" crimes, is addressed in HB 543, "An act relating to ... Consumer Protection." Passage of this bill is strongly recommended.

A good deal of prosecutor time is spent presenting evidence to grand juries. Presently, every person charged with a "capital, or otherwise infamous crime" must be indicted by a grand jury unless the accused waives this right. Use of the grand jury is a carry over from British common law; it was designed to protect persons from unjustified prosecution.

This procedure is unnecessary. Better safeguards for the accused exist in preliminary hearings. Any person charged with a felony who is not under indictment can demand a preliminary hearing in order to determine if "probable cause that the accused has committed the crime charged" exists. Preliminary hearings are held in open court room with the prosecutor, the accused, and his counsel present. The hearing are conducted in an adversary manner.

In contrast, grand juries conduct proceedings in secret, and only the prosecutor presents evidence. The accused is not afforded an opportunity to challenge any evidence.

If an individual is charged with a felony, he may request a preliminary hearing, and then request that the grand jury indict him. This redundant procedure results in wasted prosecution time, delays in the trials, and the great expense of maintaining grand juries.

The constitutional requirement for grand jury indictment should be changed, and prosecutors should be allowed to proceed upon "complaint or information". This would still allow a person charged with a felony but not indicted to demand a preliminary hearing and it would allow the prosecutors to use grand juries when needed or desired.

An attempt was made in 1972 to amend the state constitution to accomplish this (HJR 103). The legislature should consider this necessary constitutional amendment this year. The great amount of money and time spent in maintaining grand juries could be put to better use. This recommendation is consistent with standard 4.4 Courts, of the National Commission on Standards and Goals, which states "Grand jury indictment should not be required in any criminal prosecution..."

PUBLIC DEFENDER AGENCY

PUBLIC DEFENDER

The Public Defender Agency has the responsibility of representing all indigents charged with serious crimes, facing juvenile proceedings or appearing for sanity hearings. Constitutional interpretations of the right to counsel now require that the Agency represent all persons unable to retain private attorneys in all felony cases, most misdemeanors, post-conviction proceedings, parole and probation proceedings, juvenile matters of a criminal nature and commitment proceedings of the mentally ill.

The agency has suffered from under-management and under-funding since its inception. The legislature, in creating the Public Defender Agency, has given it the responsibility of providing defense counsel, but has been reluctant to fund the agency to meet these responsibilities in a manner consistent with recognized standards pertaining to case load, investigator services, nor has it made available funds to provide for substitute attorneys. This year the agency has asked for a number of new positions in its budget request. Non-funding by the legislature of these positions raises two possibilities: one, attorney services will not be used efficiently due to inadequate support staff; and two, the agency may be forced to refuse to take on clients whom they are too over-extended to represent adequately. This last act will place the state in the position of appointing substitute attorneys to represent clients deemed eligible for services, causing the state to pay a higher cost for the defense of eligible individuals.

The following are new positions recommended for the agency next year. These recommendations were derived from discussions with Public Defender and Department of Law personnel, and from an analysis of the Public Defender budget request.

<u>Location</u>	<u>Position</u>	<u>Time Period</u>
Fairbanks	Attorney V	12 months
	Attorney IV	6 months
	Secretary I	6 months
Anchorage	Rehabilitation Counselor	12 months
	Attorney IV (2)	12 months
	Attorney V	12 months
	Investigator (3)	12 months
	Secretary I	12 months
	Secretary II	12 months
Valdez	Attorney IV	6 months
	Secretary I	6 months
Bethel	Attorney V	12 months
	Secretary I	12 months
Statewide	Administrative Officer II	12 months

The staggering of the positions in Valdez and Fairbanks is designed to accommodate the predicted increases in caseloads related to pipeline activity in these areas.

The positions in Bethel are to accommodate similar increases recommended in the Department of Law budget to serve this area of 18,000 persons.

The three investigators in Anchorage are asked for in order to bring the agency in line with the standards of the National Advisory Commission which set forth the recommendation of one investigator for every every three public defenders.

The position of Administrative Officer II is strongly recommended, both to increase the efficiency of the agency and to maximize the leadership and supervisory abilities of the chief administrator of the agency.

The rehabilitation counselor position is the number one priority of the Director of the Public Defender Agency. In most areas of the state, drug and alcohol abuse account for high percentages of reported crimes. The rehabilitation counselor within the agency serves as a local link to treatment programs for offenders.

In addition, the rehabilitation counselor assumes many responsibilities that otherwise would be managed by the attorneys within the agency, who are hardly trained in this field and whose skills would be best applied elsewhere.

All other positions are based on an analysis of the Governor's original budget request, the four year funding history of the agency, and the increases predicted in the Department of Law.

The Public Defender Agency, which has never been fully staffed, has been criticized for over-extending their services and for not being a hard bargainer at budget time. No complaints have ever been lodged which speak of a lack of dedication or wastefulness of the agency. The legislature should think twice before cutting their budget request significantly from that submitted by the governor, in the interest of avoiding an increase in cost of providing counsel. Individuals deemed eligible for services, who the defense agency cannot adequately represent due to staff limitations will be appointed counsel by the court at a cost exceeding public defender service.

In the past, the Public Defender Agency has been criticized by the public for representing clients who are not indigent and therefore, not eligible for public defender service by law. In an effort to resolve this criticism, the Judicial Council recommended to the legislature that the courts, rather than the Public Defender Agency, make the determination of indigency. This recommendation was enacted by the passage of House Bill No. 777.

In order to perform this duty properly, the court system has asked for three investigators to determine eligibility for public defender services.

COURTS

Bail

Plea Bargaining

Sentencing

BAIL

A concern of many in the state is that current bail practices are not adequately protecting the public from the recidivous criminal offender. This concern is exemplified by the many bills introduced this session to change present bail laws. At the heart of this discontent with bail practices is the impression that the level of abuse of the system is high, and that nothing can be done to further enhance the protection of the public without changing constitutional guarantees and rights to bail.

At the other end of the spectrum, there is a concern that some beliefs about the bail system are not backed up by reliable data or an understanding of the intent of current bail legislation.

To determine the best course of action, reliable information regarding the nature of recidivism while out on bail is needed, existing stat laws and court decisions regarding pretrial detention or release should be studied, and lastly, alternative methods of assuring public safety need to be looked at.

Although there exists a great deal of mythology about crimes committed by individuals while on bail, no concrete reliable data has been presented to the legislature. Conversations with court system personnel indicates that none exists yet. The Judicial council has received an LEAA grant to complete a bail study. The information gathered in this study include: the incidence of re-arrests of persons released on bail during calendar year 1973, whether or not that arrest resulted from an event which took place while the individual was on bail, the nature of the offense, and a variety of other relevant data such as: whether or not the accused was represented by a public defender, details of the bail determination process, and the name of the presiding judge.

A summary of this information will indicate the number of rearrests resulting from events which took place while on bail, what percent of the total criminal cases this represents, and what percent it represents from a particular crime category. This information should be available to the legislature by mid-April. The study will also include an analysis of common denominators among rearrested persons on bail. This would include such things as possible correlations between crime types and incidences of rearrests, or the processing factors involved in their cases. This information as well as other detailed recommendations and analysis may not be available until after the adjournment of this legislature. I know of no other information available on this subject, or any other studies presently underway.

Perhaps the most informative document on the status of bail in Alaska is the recent Martin decision by the Alaska State Supreme Court (Jan. 1, 1974). The Martin decision says four things: an accused is entitled to bail, a person convicted who is appealing that conviction does not have the absolute right to bail, a person who is arrested for a probation or parole violation does not have the absolute right to bail, and a trial judge may consider "danger to the community" a factor in assessing the amount of bail or fixing the terms of a conditional release.

According to this decision then, a judge has discretionary power whether or not to allow bail to an individual who has been convicted of a crime but not a person who has only been accused. If the judicial officer determines that the individual represents a possible danger to other persons and the community, he may do one of two things, set the bail so high the defendant could not afford to post it, or set any number of conditions upon the release which would be designed to assure proper supervision. The conditions that a judge can place on the accused are explained in AS 12.30.020 (b):

(b) If a judicial officer determines under (a) of this section that the release of a person will not reasonably assure the appearance of the person, or will pose a danger to other persons and their community, the judicial officer may...

1. Place the person in the custody of a designated person or organization agreeing to supervise him.

2. Place restrictions on the travel, association, or place of abode of the person during the period of release:

3. Require the person to return to custody after daylight hours on designated conditions.

4. Require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security, a sum not to exceed 10 % of the amount of the bond; the deposit to be returned upon the performance of the condition of release;

5. Require the execution of a bail bond with sufficient solvent sureties or the deposit of cash.

6. Impose any other condition considered reasonably necessary to assure the defendant's appearance as required and the safety of other persons and the community.

In determining the conditions of release under (b) of this section the judicial officer shall take into account:

1. The nature and circumstances of the offense charged
2. The weight of the evidence against the person.
3. The person's family ties
4. The person's employment
5. The person's financial resources
6. The person's character and mental condition
7. The length of the person's residence in the community.
8. The person's record of conviction
9. The person's record of appearance at court proceedings.
10. The flight of the accused to avoid prosecution or his failure to appear at court proceedings

This appears to be the current status and recognized interpretation of bail laws. The law as it is currently written seems to provide adequate "public safety" provisions. The problems in present bail practices are twofold. The first problem has been that a great many different interpretations exist among judges as to what they could and could not do. Hopefully Martin will clear this up. Secondly, there is no practical way that terms of conditional releases are to be supervised. This becomes quite a problem in an area like Anchorage which has large case-loads and where individuals are less visible in the community, due to its size. The conditional release provision of the bail statutes is an effort to provide "public protection" while preserving some concept of "innocent until proven guilty". To make it work, an agency should be created or identified to administer the supervision of individuals released on conditions.

The Judicial Council is expected to cover pretrial release projects in detail in their bail study--which will be concluded by July 1974.

When that study is completed, it will assess the feasibility of alternative ways of administering pretrial release programs. If the legislature wants to provide supervision of persons out on bail, who are on conditional release, consideration should be given to providing staff within the division of corrections to perform this task. The division estimates that one probation officer II in Fairbanks; three probation officers II and one clerk III in Anchorage would be sufficient.

Perhaps the greatest deterrent to crime and the greatest safeguard against pretrial recidivism is the provision of a speedy trial. There are many problems currently in regard to rapid disposition--the majority of which can be attributed to the court system's failure to properly supervise its calendars, psychiatric evaluations, and its willingness to grant continuances.

These are all areas for which the court system can and should develop better procedures and standards. None of the matters require legislation, and none of them require additional personnel for the courts system.

Although the primary responsibility for providing speedy trials is with the court system, the state will continue to have unjustified delays in criminal proceedings if the prosecution and defense agencies are not adequately staffed. Recommendations for these agencies are included in the Department of Law and Public Defender section of this report.

PLEA BARGAINING

The focus of attention in the criminal process has historically been upon the disputed case. Generally, the public is unaware that over ninety per cent of convictions are the result not of trials, but of guilty pleas. The recent shift in attention to the process by which pleas are negotiated has resulted in abundant criticism, much of it from the police and civil libertarians. Some recently introduced legislation would abolish the "negotiated plea." The following is an analysis of plea bargaining as an institution.

First, plea bargaining is the process of a prosecutor offering a defendant certain concessions in exchange for a plea of guilty. Basically, there are three reasons for making such concessions. First, it is impossible to bring to trial every case he has; this is particularly true with misdemeanor complaints. Case backload is a serious problem, and there is extreme pressure to dispose of cases as rapidly as possible. The prosecutor is forced continually to weigh the expense and time involved in going to trial against the "deal" he can offer the defendant. Secondly, a prosecutor will offer concessions if his chances of convicting the defendant are not high. In this instance, a prosecutor may see serious flaws in his case, key witnesses may not be credible, or perhaps he feels that a jury might hesitate to convict the defendant, due to the harsh nature of the penalty. In this case the bargain is an attempt to secure a safe compromise. As a final incentive, the prosecutor may need the defendant to testify against other persons.

The problems associated with the process of plea bargaining are both disturbing and highly complex. Often the defendant finds himself being coerced into accepting a plea, knowing that if he exercises his rights and is found guilty by trial, he will be more severely sentenced. All too often, sentences given reflect the

relative crowdedness of court dockets, or prosecutorial confidence in evidence, more than the actual determination of guilt or innocence in a particular crime. Additional problems stem from abuses of treatment recommendations for a defendant whose case is weak. A guilty plea, coupled with a recommendation of suspended sentence in lieu of a treatment program determined by the District Attorney and defense counsel, is a face saving gesture, more than a real determination of realistic rehabilitation possibilities.

As a practical matter, can we eliminate plea bargaining? The National Advisory Commission on Standards and Goals actually recommends the abolition of plea negotiation no later than 1978, based on their conclusion that "lack of resources should not affect the outcome of the processing of a criminal defendant, and it is not unrealistic to expect that the criminal justice system can and will be provided with adequate resources." The National Commission's recommendation is based on the somewhat questionable assumption that the elimination of plea negotiations will not result in great increases in cases tried, or place new burdens on the court system.

A conservative estimate, based on discussions with prosecutors, judges and public defenders, is that an end to plea negotiations would result in at least twice as many cases going to trial as at present, which would require an immense increase in criminal justice system personnel.

Modifications in the present system of plea bargaining would perhaps be rightly left to the courts or the Department of Law. Either the Department of Law would promulgate regulations of its own, or the courts could deal with the system directly under Rules of Criminal Procedure. Existing guidelines presently available include standards and recommendations such as those of the American Bar Association, the National Advisory Commission on Standards and Goals, or the President's Commission

on Law Enforcement and the Administration of Justice.

Even without the complete abolition of the plea bargaining system, several steps can be taken to upgrade and improve our methods. Presentence reports should be mandatory for all felonies. This protects the judge in the plea process by providing an objective assessment of sentencing recommendations. This procedure will also help to identify the repeat offender to the judge. As in many other areas of criminal justice administration, the mere passage of a law which requires this will not insure enforcement, at least in a manner that will be useful to the judge. Personnel to make these reports must be included in the budget. Presently all areas of the state except Anchorage already are requesting and making presentence reports.

The offices of the District Attorneys and the Public Defender must be adequately staffed, or the State incurs the cost of reduced attention to individual cases. Even conscientious prosecutors are forced to accept pleas as a matter of necessity when court dockets grow, and it becomes impossible to prepare adequate cases against defendants. Recommendations for prosecution and public defender staff are included in the Department of Law and Public Defender sections of this report.

SENTENCING

Much of the recent criticism surrounding the sentencing process is a result of anguish over rising crime rates, with attention focused on the recidivism among criminal offenders.

Many of the proposals to deal with this have suggested harsher, non-discretionary (mandatory) judicial determinations. In order to deal with the complex issues that surround the sentencing problems, an analysis of current sentencing practices is needed. Many problems stem from administrative inadequacies which require no new legislation. Other problems can be solved if systemic problems can be identified which directly or indirectly influence sentencing procedures.

A good deal of the data that is needed to evaluate current sentencing practices is not available. The Alaska Judicial Council has received funds from LEAA to complete a sentencing study. This report will include information to provide an objective look at current sentencing practices. The study will identify the various elements that affect the sentencing decision, including but not limited to--prosecutorial discretion in felony charges, sufficiency of proof, fiscal and staffing considerations, external pressures, negotiated pleas, court caseloads, pre-sentence reports, recommendations of prosecutor and defense counsel, and correctional alternatives. Statistical data made available through this study will provide the first objective "profile" of sentencing patterns and procedures to be available. This will represent a quantitative step forward in our knowledge of sentencing. Unfortunately - especially for the legislature, this information will not be completed until December 1974.

It is not uncommon for a legislature to respond to an increase in crime with harsher penalties. This approach however misses the mark-- it does not identify the problems inherent in the system, but punishes all persons sentenced for the mistakes of a small majority.

Mandatory and harsh provisions in sentences can have the adverse effect of compelling juries to hesitate to convict, in spite of overwhelming evidence of guilt.

Unreasonably harsh penalties are as undesirable as unjustifiably lenient ones.

To determine breakdowns in the system, one must take into account many subtle influences upon the sentencing process. Examples of these are: the availability or lack of sentencing alternatives, pressures from negotiated pleas, lack of useful pre-sentence information, and the conflicting desire to "help" the accused, and at the same time act for the "good of society".

A primary failing of sentencing practices has been the inability to identify repeat offenders. This can be attributed to not having pre-sentence reports available, and to a lack of communication between the Division of Corrections and the courts over the types of information that could be included in these reports. Until recently, the Division of Correction's personnel was under the impression that recent Supreme Court decisions did not allow the listing of prior arrests on pre-sentence reports. The courts have recently informed the Division that prior arrests could be included, if the final disposition of the arrest was declared. The lack of presentence information is a problem primarily in Anchorage, which is the only area in the state which does not currently receive mandatory presentence reports on felonies. If the legislature passes a bill making presentence reports mandatory for all felonies, adequate staff to prepare these reports must also be forthcoming.

If a corrections staff is not made available to do the necessary investigations, it is doubtful the reports will provide useful information to the courts. The Division of Corrections predicts that three probation officers II, and one clerk III positions will be necessary to provide adequate presentence reports in the Anchorage area.

With or without presentence reports, abuses in the sentencing process will occur as long as sentencing is not guided by structured goals and procedures. To appreciate this problem, one only needs to compare the deliberate and structured manner in which guilt or innocence is determined, with the completely unstructured and arbitrary manner that a judge determines sentences.

There is no way to ensure that judges will spend adequate time evaluating available sentencing information and circumstances surrounding the offender's act. To alleviate this situation, the courts should require judges to prepare written findings to accompany each felony sentence. These reports should explain the goals the sentence endeavors to accomplish and the relevant mitigating factors which were considered. Sentence reports would be available to the public, and forwarded to Corrections and Parole authorities. The court system should adopt guidelines and procedures regarding content of such reports.

PAROLE BOARD

PAROLE BOARD

The function of the Parole Board is to review requests for parole from persons in the custody of the Division of Corrections and to provide for their release under parole supervision. The Board generally reviews between two to three hundred requests for parole each year.

Because of the number of parole requests which must be reviewed and the complex nature of parole issues, a volunteer parole board is unable to devote the necessary time to make informed decisions. A full-time professional parole board should be created. This is in accordance with the recommendation of the National Advisory Commission on Criminal Justice Standards and Goals, Standard 12.2, Corrections. The Commission recommends that: "Parole boards for adult and juvenile offenders should consist of full-time members."

The Commission urges that qualifications for parole board members be spelled out by law. Consideration should be given to the authorization of the Governor's Commission on the Administration of Justice to set qualification standards for parole board members.

Parole board members should be selected by the Governor from a list of qualified persons who have been reviewed and nominated by the Judicial Council or other non-partisan group. The Governor's appointees should be confirmed by the legislature. Efforts should be made to insure representation of the community's ethnic and socio-economic groups on the parole board.

The function of a professional parole board could be expanded to formulate and promulgate policy regarding parole functions, and review and make recommendations on correctional facilities and programs.

CRIMINAL JUSTICE PLANNING

CRIMINAL JUSTICE PLANNING

The administration of criminal justice in Alaska has been such a fragmented and uncoordinated endeavor that one Supreme Court Justice has remarked: "The criminal justice system of this state is no system at all, it is an accident." The primary failings of the system have been: (1) a lack of coordinated manpower planning among the various agencies involved in criminal justice, (2) a lack of definitions of roles and responsibilities and (3) the inability of the system to address issues and resolve problems involved in law enforcement. The Governor's Commission on the Administration of Justice is the group that should be dealing with these problems.

The Justice Commission and its administrative arm, the State Planning Agency (SPA), were created as a result of the Federal Omnibus Crime Control and Safe Streets Act of 1968 to coordinate and plan programs to aid in the administration of criminal justice; the Commission was not created to merely dole out the State's share of LEAA funds, as has been its primary purpose in the past.

The Commission and the State Planning Agency should assume a larger role in the resolution of criminal justice issues by assuming a more dynamic role in the coordination of criminal justice agencies.

This should include an assessment of the manpower needs of the various agencies involved in criminal justice. The manpower needs of these agencies should be evaluated and coordinated. For example, when the court system assesses its personnel needs, it should look at the manpower of the other agencies involved in criminal justice - the police, the Public Defender Agency and the District Attorney's Offices - in addition to population and crime statistics. The assumption is that the number of arrests and trials is directly proportional to the number of police, prosecutors and defenders, as well as to increased population and/or an increase in the crime rate. Manpower needs are also assessed qualitatively, for example, in terms of type of police enforcement.

When an agency such as the CIB expands its work in criminal fraud investigations, the Department of Law needs to expand its work force accordingly, employing attorneys to work in that field of law.

The present situation regarding manpower needs can be described as hit or miss. The agencies rarely work together to develop their personnel management. The State Planning Agency should provide a forum for all related agencies to exchange ideas on the use and expansion of manpower; and should make manpower recommendations to the Governor taking into account the comprehensive interrelated nature of the administration of criminal justice.

In addition to issues such as manpower development, the Commission should be involved with defining the roles and responsibilities of those agencies which make up the criminal justice system, including the jurisdictional or "turf" problems that arise between or among agencies. This would help eliminate "finger pointing" when problems do arise. The Commission, furthermore, should continually review the roles of the various agencies and the demands placed on them to determine if changes should be made and to recommend how those changes might be implemented.

As resentment grows among the criminal justice agencies, the need for interagency communication and the frank exchange of ideas and feelings is paramount. The present forum for such exchanges consist of periodic meetings of the Commission, almost exclusively. That forum should be expanded to include local and regional meetings among the line personnel who are directly involved in the day-to-day operations of the criminal justice system agencies. The problem involved in coordination and cooperation among the various agencies might be better identified by those who are directly exposed to and involved in the daily operations of the system.

Since the policy decisions of the Commission must be implemented by the Planning Agency, the staff of the latter must be expanded accordingly if the Commission assumes a more active role in planning and coordination. At present, the Planning Agency has three professional planners - a police specialist, a legal specialist, and a corrections specialist who is also the chief planner and overall supervisor. These three men do not have time to assume a very great role in comprehensive criminal justice planning when they have to spend half of each year just preparing the Agency's annual report. The chief planner and overall supervisor is able to devote only a small percentage of his time to corrections, even though corrections accounts for about one-third of the funds handled, with the result that corrections does not get attention equal to that afforded other components of the system. In addition to planning, these three people are responsible for providing technical assistance, monitoring ongoing projects, and evaluating projects conducted under the auspices of the Commission. At most, the professional planners are able to spend one-quarter of their time on actual planning.

At least two more professional planners should be included in the Planning Agency staff, along with support staff. One corrections planner would allow the chief planner to perform his job as supervisor and coordinator of planning efforts and would allow corrections to receive the attention it deserves. A personnel planner should be added to the Agency so that it may actively coordinate the needs of the various governmental agencies especially insofar as manpower and training are concerned. This would not be a mere coordination of numbers of personnel, but rather active participation in the whys, hows, and alternatives thereto of increasing and upgrading personnel. The personnel planner could also assume responsibility for staging regional planning seminars involving the relevant criminal justice agencies. The planning staff should have at least one full-time secretary, which would be one more than it has now.

SPECIAL PROBLEMS

Organized Crime

Charitable Fund Raising

ORGANIZED CRIME

There is increasing talk and concern about "organized crime" in Alaska. In order to discuss the subject, a few assumptions need to be agreed upon, namely, the accepted definition of the term "organized crime" as it relates to Alaska, and secondly, the extent that organized crime does or doesn't exist currently in Alaska.

It is difficult to pin down a definition of what organized crime is. Generally, the term "organized crime" is used in connection with organized criminal activity which is engaged in the provision of illegal goods and services including but not limited to - gambling, loan sharking, narcotics, prostitution, and stolen or contraband goods. The term "organized crime" does not necessarily describe sophisticated or professional criminals who are not part of a racket that stakes out its own turf, and who do not strive to buy influence in a community.

Organized crime might mean then, less than a "godfather" or mister big in a community, but more than three persons pulling off a bank robbery together.

Apart from the provision of illegal goods and services, organized crime, in its murkier forms, engages in extortion, protection rackets, blackmail and shakedowns.

The major activities of organized crime are stationary, that is, they operate much like any other retail business with regular hours and locations. They therefore represent somewhat of a stationary target for law enforcement authorities. The result of this is that historically organized criminal activities have not existed without attempts to influence law enforcement, as well as other relevant local and state officials. Across the country, influence - political or otherwise - has been sought to insulate organized crime from the occupational hazards of law enforcement, prosecution, and sentencing. It is this factor which makes organized crime the biggest threat to any community. The impact of corrupting institutions of justice is more damaging to a community than the actual criminal conduct involved.

Captain Tom Anderson, Director of the Criminal Investigation Bureau of the Alaska State Troopers, states that "extensive organized

crime exists in Alaska within the areas of narcotics traffic, gambling, prostitution and more sophisticated criminal activities such as advanced fee schemes, and loan sharking." In Anchorage, the state police attribute several slayings in the past year to rivalries and disputes, directly linked to organized criminal activities. Also significant, the state police have stated that "individual persons in Alaska have been identified as associates of known organized crime organizations from the lower 48."

Wide spread reports from law enforcement authorities indicate that outside interest from organized crime in Alaska is high. Norman Gorsuch, Attorney General, foresees a "probable increase in organized criminal activity with the increased cash flow associated with the pipeline construction." The Attorney General goes on to say that gambling and prostitution will be in demand during pipeline construction, and that "these are some of the beginnings in the development of organized criminal activity."

In order to deal with this problem, it is imperative that the State act deliberately and in a manner that addresses the problems before they become entrenched. Historically, states rarely confront organized crime until the public focus is firmly fixed upon its existence, possibly as a result of an erupting scandal or gangland slaying. The necessary time, talent and resources need to be made available to keep the growth of organized crime in check. Law enforcement authorities need to develop internal discipline units. Recommendations for development of an internal affairs unit within the state police are included in the Criminal Investigations Bureau section of this report.

A highly professional police force, where morale is high, is essential to preventing problems within a police agency. As referred to under the section of this report dealing with police professionalism, the State should continue efforts to upgrade law enforcement training and education requirements.

From an enforcement standpoint, the establishment of interdisciplinary organized crime units is the most effective way of

controlling organized crime. Law enforcement efforts against organized crime are hampered by the individual and separate interests of the various law enforcement agencies -- state, federal and local. Nationally, law enforcement officials have been most effective in combating organized crime when coordinated units of fragmented law enforcement agencies have been formed.

In Alaska, the Attorney General should provide the leadership to bring together the relevant personnel for an inter-disciplinary organized crime unit. Essential to this approach is the availability within the Department of Law of a prosecutor who is knowledgeable in tax and criminal fraud areas, such as the recommended prosecutor position in the Department of Law section of this report.

The legislature should request a report from the Department of Law next year on the status of organized criminal activity, its extent, nature and recommended remedies.

More generally, state and local officials, as well as citizens of the state, must openly face up to the threat of organized crime. It is a disturbing problem to think about, much less speak publicly about. The threat organized crime represents is that of an undermining of the decency and integrity of a community. With the coming of pipeline construction, however, we cannot ignore the probability that with large amounts of loose cash, and demands for goods and services which cannot be provided within the law, that individuals and groups associated with organized crime will attempt to expand organized criminal activity in Alaska, with all its accomodate dangers.

CHARITABLE FUND RAISING

One of the most unlikely areas for fraud, is within the realm of charitable fundraising. There are numerous examples of fundraising activities that cast an unnecessary shadow over all charitable solicitations within the state. Unethical fundraisers can and do milk communities out of large sums of money through a series of half-truths, misrepresentations, and outright fraud. An example, with the name of the charity changed follows:

A charitable group, the council for aid to the needy, is approached by a promoter who offers to put on a benefit show. The promoter offers to handle all advertising, make all arrangements for the performance, and accept all liabilities for the production, in return, he is authorized to use the council's name to promote the affair. There may be additional benefits to the promoter, such as gaining the use of theaters or civic centers at reduced prices, or free promotional advertising, all of which are made clear to the charity beforehand. The charity receives a fixed sum on all ticket sales, say 15%. This is highly attractive to the council, they are assured of a certain percentage and are not obligated or held liable for any debts the show might incur. Upon agreement of the conditions, the promoter proceeds to hire 7 to 10 full time workers, who spend 8 hours a day soliciting "donations" for the organization over the telephone. In a well organized campaign designed to hit every business and family in town the donations will soon start coming in, some of them in the form of checks ranging from 50 to 500 dollars. The solicitors work strictly on a percentage basis. The promoter sends out tickets to the show in return for the donations. As the campaign proceeds, the council finds that several businesses have donated large sums of money to their organization, through the promoter.

When they approach the promoter about this, they are informed that they are entitled to only 15% of the donation, for in the original agreement it was specified they were entitled to 15% of all ticket sales, and the donations are considered ticket sales by the promoter. The council's position is unimproved when they find out that the promoter has no balance sheets for the show, indicating funds dispersed and deposited, and no record of attendance. To make a long story short, the charity finds that the promoter has broken no laws, and if they complain too loudly, they risk incurring the wrath of the community which would find its pockets neatly picked--in the midst of civic spirit.

Still another example of the abuses of fund raising is the example of the ~~golf~~ club equipment drive. A promoter signs a contract to raise funds for the purchase of baseball gloves and uniforms for neighborhood kids. The campaign is to be carried out through the solicitation of businesses in the community. The fundraiser is to receive a small (15%) percentage of funds raised, up to the point where the goal of the drive is realized, which is in this case, say \$500. The club thinks this is fine, until a year later when they find out that the same fund raiser is still soliciting funds for the "equipment fund". After a minor altercation, the club finds out that they had neglected to put an expiration date on the contract and the fundraiser had done nothing against the law. As a matter of fact, the club has a difficult time forcing the fundraiser to quit. In this case the fundraiser may have extracted \$6,000 to \$10,000 dollars from the community under the guise of helping the neighborhood kids.

This type of activity goes on daily in Alaska and the rest of the country. Washington state is among the many who have attempted to put a stop to this type of robbery, by passing laws which require fundraisers to follow certain procedures, including

the disclosure to the public of expenses incurred in fund-raising drives, and sets limits on the amounts that can be spent on those expenses.

In order to protect the public, and those charities who become enmeshed unknowingly, from unethical and fraudulent charitable fund-raising activities, the legislature should enact the necessary laws to regulate these practices.

Senate Bill 210, which currently rests in the Senate Commerce Committee, is the type of regulatory legislation necessary. Passage of SB 210 or similar legislation is recommended.



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

4/26/89
Date

Introduced: 4/1/74
Referred: Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE BY REQUEST

2 SENATE BILL NO. 517

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous special appropriations
7 relating to criminal justice; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$1,452,600 is appropriated from the general fund
11 to be apportioned as follows:

12	(1) Department of Public Safety	
13	(A) for expansion of the CIB of the AST	\$403,000
14	(B) for addition of an arson specialist	
15	within the office of the fire marshal	\$ 31,200
16	(2) Department of Law for additional prosecutors	
17	and support staff in Fairbanks, Anchorage, Bethel and Valdez,	
18	and administrators statewide	\$377,800
19	(3) Department of Health and Social Services for	
20	corrections personnel to provide presentence reports in the	
21	third judicial district and bail supervision statewide	\$159,600
22	(4) Public Defender Agency for additional public	
23	defenders and support staff statewide	\$374,600
24	(5) Alaska Court System for investigators to	
25	determine eligibility for public defender services	\$ 40,400
26	(6) Criminal Justice Planning Agency for addi-	
27	tional planning and clerical staff to assure better	
28	coordinated manpower planning in criminal justice system	
29	components and to improve corrections planning and evaluation	\$ 66,000

Introduced: 4/1/74
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28 coordinated manpower planning in criminal justice system
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NOTE ON SB 517:

Please refer to your bill file on HB 802 for full text of Mr. Love's report -- only the summary portions will be included with SB 517.

ALASKA
STATE LEGISLATURE /

MEMORANDUM

TO: Legislators
FROM: Jamie Love, Staff Assistant
DATE: April 1, 1974
RE: Criminal Justice

Enclosed is the third draft of a report prepared on criminal justice problems. Summarized, for convenience, are recommendations from the text of the report, legislative recommendations, and budget materials.

This report was prepared over the last two months. Extensive interviews with criminal justice personnel as well as independent research was undertaken. Credit for preparation and research goes to Sybil Davis, Danny Bowman, and Judy Vick, who contributed greatly to the final product.

INDEX

Summary of Recommendations from text of Report.....	1
Legislative Recommendations.....	4
Projected Costs of Personnel Recommendations.....	7
POLICE: Police Professionalism.....	17
Criminal Investigation Bureau.....	22
DEPARTMENT OF LAW.....	32
PUBLIC DEFENDER AGENCY.....	37
COURTS: Bail.....	40
Plea Bargaining.....	45
Sentencing.....	48
PAROLE BOARD.....	51
CRIMINAL JUSTICE PLANNING.....	52
SPECIAL PROBLEMS:	
Organized Crime.....	55
Charitable Fund Raising.....	58

SUMMARY OF RECOMMENDATIONS FROM TEXT OF REPORT

The following is a summary of recommendations included in the text of the report.

POLICE PROFESSIONALISM

1. The legislature should request the Police Standards Council to undertake a study pertaining to police training and standards. This study should be made available to the next legislature in order to better assess the State's future role in regard to police professionalism. Areas the council should cover are summarized on pages 2 and 3.

CRIMINAL INVESTIGATION BUREAU

2. Although the CIB has the potential to provide professional, centralized, criminal investigations for the State, it is now limited by a shortage of manpower. Without sacrificing quality, however, it can only recruit and train a limited number of personnel at the present time. Sixteen additional personnel including 9 investigators, 2 technicians, and 5 clerk-typists, added to the CIB, and one investigator added to the Fire Marshall's office this year would bring the investigative capabilities of the Department of Public Safety up to a level more consistent with the current workload.

3. The Governor's Commission on the Administration of Justice should be authorized and directed to formulate guidelines for the ongoing review and monitoring of intelligence efforts in the State, much the same as the Justice Commission promulgated rules, regulations, and procedures for the Criminal Justice Information System. (AS 12.62.010.)

DEPARTMENT OF LAW

4. In order to improve the supervision of District Attorneys, enhance the capability of the Department to prosecute "white collar" and organized crime, and to provide for additional prosecutors, the Department should increase personnel in the criminal division. Recommendations for additional personnel are summarized on page 33.

5. The Department of Law should upgrade all prosecutor positions in order to insure that experienced and qualified prosecutors are employed. Recommendations regarding salary scales are listed on page 34.

6. Article , Unfair Trade Practices and Consumer Protection Sec. 45.50.521 (a) should be repealed. This statute prevents the Attorney General from releasing information or evidence produced by the Consumer Protection Office to a District Attorney or his investigator or to a law enforcement officer for use in a criminal prosecution.

7. The constitutional requirement for grand jury indictment should be changed, and prosecutors should be allowed to proceed upon "complaint or information."

PUBLIC DEFENDER AGENCY

8. The Public Defender Agency has suffered from under-management and under-funding since its inception. As a result, the agency may be forced to refuse to take on clients whom they are too over-extended to represent adequately. This will place the State in the position of appointing substitute attorneys to represent clients deemed eligible for services, causing the State to pay a higher cost for the defense of eligible individuals. To remedy these problems, new positions are recommended which are summarized on page 38.

9. Responding to criticism leveled at the Public Defender Agency for representing clients who are not indigent, and therefore not eligible, the legislature has removed the eligibility determination function from the agency, and placed it under the courts. In order to perform this duty properly, the court system has asked for investigators to determine eligibility for Public Defender services.

BAIL

10. Bail statutes as currently written provide adequate "public safety" provisions. If the legislature wants to provide supervision of persons out on bail, who are on conditional release, consideration should be given to providing staff within the Division of Corrections to perform this task. Recommendations for personnel are summarized on page 43.

PLEA BARGAINING

11. Modifications in the present system of plea bargaining should be left to the courts or the Department of Law. The Department of Law could promulgate regulations of its own, or the courts could deal with the system directly under Rules of Criminal Procedure.

SENTENCING

12. A primary failing of sentencing practices has been the inability to identify repeat offenders. This can be attributed to not having pre-sentence reports available. If pre-sentence reports become mandatory for all felonies, adequate staff to prepare these reports must also be forthcoming. Recommendations for pre-sentencing personnel are listed on page 49.

13. With or without pre-sentence reports, abuses in the sentencing process will occur as long as sentencing is not guided by structured goals and procedures. The courts should require judges to prepare written findings to accompany each felony sentence. These reports should explain the goals the sentence endeavors to accomplish and the relevant mitigating factors which were considered. Sentence reports should be available to the public, and forwarded to Corrections and Parole authorities. The court system should adopt guidelines and procedures regarding content of such reports.

PAROLE

14. The present volunteer Parole Board hardly serves its purpose, due to its inability to devote the necessary time towards making informed decisions. A professional full-time Parole Board should be created to carry out the parole function, and to periodically review correctional facilities and programs.

CRIMINAL JUSTICE PLANNING

15. The State Planning Agency should provide a forum for all related agencies to plan the use and expansion of manpower.

16. Coordination in the administration of criminal justice should be expanded to include local and regional meetings among the line personnel who are directly involved in the day-to-day operations of the criminal justice system agencies.

17. Since the policy decisions of the Commission must be implemented by the Planning Agency, the staff of the latter must be expanded accordingly if the Commission assumes a more active role in planning and coordination. Personnel recommendations are summarized on page 54.

ORGANIZED CRIME

18. Historically, organized crime has attempted to influence law enforcement agencies, as well as other government institutions. To deal with this problem, law enforcement agencies should develop internal discipline units.

19. In order to insure high moral and sophisticated law enforcement capabilities within the police agencies, the State should continue efforts to upgrade law enforcement training and education requirements.

20. The Attorney General should provide the leadership to bring together the relevant personnel for an inter-disciplinary organized crime unit. Essential to this approach is the availability within the Department of Law of prosecutors who are knowledgeable in tax and criminal fraud areas.

21. The Legislature should request that the Department of Law report to the Legislature next year on the status of organized criminal activity.

FUND RAISING

22. In order to protect the public, and those charities who become enmeshed unknowingly, from unethical and fraudulent charitable fund-raising activities, the Legislature should enact the necessary laws to regulate fundraising practices. Passage of Senate Bill 210 "An act relating to contributions for charitable purposes" or similar legislation is recommended.

LEGISLATIVE RECOMMENDATIONS

SUMMARY OF LEGISLATIVE RECOMMENDATIONS

Passage of the following bills is recommended. This list is a summary of legislation that was taken into consideration during the development of this study, and deemed both reasonable and necessary.

HOUSE BILL 341 " An act relating to the appointment and approval and rejection of magistrates."

This bill has twenty sponsors in the house. It adds magistrates to the law requiring district court judges to stand for confirmation elections.

HOUSE BILL 543 " An act relating to unfair trade practices and consumer protection, and providing for an effective date."

Much needed bill to strengthen the States' ability to deal with "white collar" crime.

HOUSE BILL 776 " An act relating to the State Board of Parole"

This bill creates a full time parole board in accordance with the guidelines recommended by the National Commission on Criminal Justice Standards and Goals (1973). This bill could be amended to have applicants for positions on the Parole Board apply to the Judicial Council, for review and nomination to the Governor, rather than creating special advisory board to make the nominations.

HOUSE BILL 791 " An act repealing the prohibition against the release of information regarding unfair trade practice by the Attorney General to a district attorney or law enforcement officer for use in a criminal prosecution."

This bill strengthens the States' ability to deal with white collar crimes by repealing AS 45.50.521 (a) which prevents the Attorney General from releasing information or evidence produced by the consumer protection office to a district attorney. House Bill 543, an act relating to consumer protection, accomplishes the same goal, as well as adding other needed provisions to the consumer protection laws.

HOUSE BILL 792 " An act relating to aggravated assault."

Under present law, a person can be charged with a felony if a weapon of some kind is used in the course of an assault. If the person who assaults does not use a weapon, but still inflicts serious bodily harm, including maiming, disfiguring, or otherwise showing indifference to human life, he can only be charged with a misdemeanor. This bill, which was adopted from the model penal code, will provide for felony provisions when an assault inflicts serious bodily harm with indifference to human life.

HOUSE BILL 794 " An act relating to the crime of extortion, and providing for an effective date."

This is a bill directed at the activities of organized crime.

HOUSE BILL 802 " An act making miscellaneous special appropriations relating to criminal justice, and providing for an effective date."

This bill provides for approximately 1.5 million to buttress criminal justice components, as recommended in this report.

HOUSE JOINT RESOLUTION 93

" Proposing an amendment to the grand jury section of the Constitution of the State of Alaska."

This amendment would allow a prosecutor to proceed upon complaint or information, eliminating the provision for mandatory grand jury indictment. The amendment preserves the right to a preliminary hearing, which has better safeguards to an accused than Grand Jury proceedings.

SENATE BILL 210 " An act relating to the regulation of charitable organizations, and the solicitation of contributions for charitable purposes."

Legislation is needed to regulate fundraising practices. This bill will protect charities and the public from fraudulent practices. A possible amendment would be to place the administration of the act under the Department of Revenue, rather than the Department of Commerce.

SENATE BILL 313 " An act relating to bail, and providing for an effective date."

Reasonable bail bill which pertains to felonies, and gives the court the right to hold an individual 48 rather than 24 hours in order to allow the prosecutor to obtain evidence relevant to bail hearings.

SENATE BILL 394 " An act relating to receiving stolen property."

This Bill strengthens article 5 of the criminal code, Receiving Stolen Goods. Among other provisions, it provides that a person who violates the section is liable for civil action from the owner of the stolen property.

PROJECTED COSTS OF PERSONNEL RECOMMENDATIONS

SUMMARY OF PROJECTED COST FOR RECOMMENDED
CRIMINAL JUSTICE SYSTEM PERSONNEL

Criminal Investigation Bureau	403,385
Fire Marshalls Office	31,232
Department of Law	377,800
Public Defenders Agency	374,600
Alaska Court System	40,416
Division of Corrections	
Bail Supervision	93,532
Pre-Sentence Report Personnel	66,170
Criminal Justice Planning Agency	65,963
	<hr/>
	\$ 1,453,098.00

Introduced: 4/1/74
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST

2

SENATE BILL NO. 518

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

EIGHTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the exemption of residential
7 property from ad valorem taxation."

7

8

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

9

* Section 1. AS 29.53.025(a) is amended to read:

10

(a) Municipalities may exclude or exempt or partially exempt

11

residential property from taxation by ordinance ratified by the

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voters at a regular or special election, [AN EXCLUSION OR EXEMPTION

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AUTHORIZED BY THIS SECTION MAY NOT EXCEED \$10,000 FOR ANY ONE RESIDENCE.]

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Introduced: 4/1/74
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST

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10 (a) Municipalities may exclude or exempt or partially exempt
11 residential property from taxation by ordinance ratified by the
12 voters at a regular or special election. An exclusion or exemption
13 authorized by this section in a municipality levying an ad valorem
14 property tax under sec. 45 of this chapter may not exceed \$10,000 for
15 any one residence.

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STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B-JUNEAU 99801

April 4, 1974

Mr. Jay Hogan, Director
Legislative Finance Agency
Alaska State Legislature
Capitol Building, Room 425
Juneau, Alaska 99801

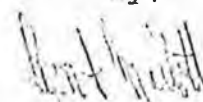
Dear Mr. Hogan:

Reference is made to SB 476 and SB 518.

Senate Bill 476 would repeal language in AS 29.58 defining those instances wherein a municipality might issue revenue anticipation notes. We are persuaded that Article IX, section 10 of the State's Constitution constitutes a reasonable self-executing limitation on the State's political subdivisions such that additional restrictions presently found in AS 29.58 are not warranted. Only to the extent that the State purchases notes issued by its political subdivisions which are not repaid until the subsequent fiscal year would State general fund monies be affected.

Senate Bill 518 amends AS 29.53.025, itself modified during the 1973 Special Session, by allowing all municipalities not levying taxes against oil and gas property subject to municipal taxation to exempt or exclude by referendum individual property of a value in excess of \$10,000. I foresee no additional expense to the State directly attributable to election of exemptions exceeding \$10,000 by qualifying municipalities.

Sincerely,


Byron I. Mallott
Commissioner

BIM:JBC:mw



RECORDS



CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James A. Smith
Signature of Camera Operator

4/26/89
Date

COMMITTEE REPORT

SENATE

4/1/74

Mr. President:

Date 4/2/74
11
SB 518

The Committee on FINANCE has had SB 518 relating to the exemption of residential property from an valorem taxation under consideration. A Majority of the members of the Committee

- () recommends it DO PASS
- () recommends it DO NOT PASS
- () recommends it DO PASS WITH ATTACHED AMENDMENT(S)
- () recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS
- () "and" recommends it BE REFERRED TO THE _____
COMMITTEE
- () reports it back *INDIVIDUAL RECOMMENDATIONS* WITHOUT RECOMMENDATION
- () "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:
 _____ recommends:
 _____ recommends:
 _____ recommends:
 _____ recommends:

Clifford Chairman

Introduced: 4/1/74
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST

2

SENATE BILL NO. 518

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

EIGHTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the exemption of residential
property from ad valorem taxation."

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

9

* Section 1. AS 29.53.025(a) is amended to read:

10

(a) Municipalities may exclude or exempt or partially exempt

11

residential property from taxation by ordinance ratified by the

12

voters at a regular or special election. An exclusion or exemption

13

authorized by this section in a municipality levying an ad valorem

14

property tax under sec. 45 of this chapter may not exceed \$10,000 for

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any one residence.

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CSFE

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B-JUNEAU 99801

April 4, 1974

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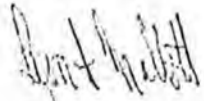
Dear Mr. Hogan:

Reference is made to SB 476 and SB 518.

Senate Bill 476 would repeal language in AS 29.58 defining those instances wherein a municipality might issue revenue anticipation notes. We are persuaded that Article IX, section 10 of the State's Constitution constitutes a reasonable self-executing limitation on the State's political subdivisions such that additional restrictions presently found in AS 29.58 are not warranted. Only to the extent that the State purchases notes issued by its political subdivisions which are not repaid until the subsequent fiscal year would State general fund monies be affected.

Senate Bill 518 amends AS 29.53.025, itself modified during the 1973 Special Session, by allowing all municipalities not levying taxes against oil and gas property subject to municipal taxation to exempt or exclude by referendum individual property of a value in excess of \$10,000. I foresee no additional expense to the State directly attributable to election of exemptions exceeding \$10,000 by qualifying municipalities.

Sincerely,


Byron I. Mallott
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BIM:JBC:mw



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James O. Smith
Signature of Camera Operator

4/26/89
Date

COMMITTEE REPORT

4/4/74

SENATE

Mr. President:

Date 4/10/74

The Committee on FINANCE has had SD 519 relating to legislative procedure

under consideration. A Majority of the members of the Committee

- () recommends it DO PASS
- () recommends it DO NOT PASS
- () recommends it DO PASS WITH ATTACHED AMENDMENT(S)
- (X) recommends it BE REPLACED WITH CS FOR SD 519 (FINANCE) AND THAT CS FOR _____ DO PASS
- () "and" recommends it BE REFERRED TO THE _____ COMMITTEE
- (X) reports it back WITHOUT RECOMMENDATION
- () "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____

_____ Chairman

Original sponsor: Rules Committee
by request

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 519

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to legislative per diem; and providing
7 for an effective date."

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

9 * Section 1. AS 24.15.010 is repealed and re-enacted to read:

10 Sec. 24.15.010. LEGISLATIVE PER DIEM. (a) All legislators who
11 permanently reside within 35 miles of the capital city shall receive
12 \$35 as the rate of per diem payable as a supplement to annual salary
13 under sec. 20 of this chapter instead of subsistence for each day of
14 the legislative session. All other legislators who permanently reside
15 more than 35 miles from the capital city, who are on travel status and
16 away from home overnight shall receive \$35 as the rate of per diem for
17 each day of the legislative session. The \$35 per diem is also payable
18 for each day of necessary travel to and from sessions for legislators
19 who reside more than 35 miles from the capital city.

20 (b) Legislators who are on official legislative business between
21 sessions and who are on travel status and away from home overnight more
22 than 35 miles from where they permanently reside shall receive \$35 per
23 diem. Legislators who are on official legislative business between
24 sessions but within 35 miles of where they permanently reside shall
25 receive \$35 per diem payable as a supplement to annual salary under
26 sec. 20 of this chapter. The \$35 per diem is also payable on those
27 days of necessary travel to and from the location where legislative
28 business is required to be conducted.

29 * Sec. 2. The provisions of sec. 1 of this Act are retroactive to

1 January 1, 1974.

2 * Sec. 3. This Act takes effect on the day after its passage and approval
3 or on the day it becomes law without approval.

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Introduced: 4/4/74
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST

2 SENATE BILL NO. 519

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

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7 providing for an effective date."

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

9 * Section 1. AS 24.15.010 is repealed and re-enacted to read:

10 Sec. 24.15.010. LEGISLATIVE PER DIEM. (a) All legislators
11 who permanently reside within 35 miles of the capital city shall
12 receive \$15 as the rate of per diem instead of subsistence for each
13 day of the legislative session. All other legislators who permanently
14 reside more than 35 miles from the capital city, who are on travel
15 status and away from home overnight shall receive \$35 as the rate of
16 per diem for each day of the legislative session. The \$35 per diem
17 is also payable for each day of necessary travel to and from sessions
18 for legislators who reside more than 35 miles from the capital city.

19 (b) Legislators who are on official legislative business between
20 sessions and who are on travel status and away from home overnight
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22 \$35 per diem. Legislators who are on official legislative business
23 between sessions but within 35 miles of where they permanently reside
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26 business is required to be conducted.

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28 January 1, 1974.

29 * Sec. 3. This Act takes effect on the day after its passage and

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

SB 519
March 2, 1974

MEMORANDUM

TO : Jay Hogan, Director, Legislative Finance
FROM : John M. Elliott, Executive Director
SUBJECT: Fiscal Note - HB 453

House Bill 453, if enacted, would reduce per diem payments from \$35 to \$15 for legislators who permanently reside within 35 miles of the Capitol during legislative sessions. Also, between sessions, legislators who are on official business within 35 miles of their home would receive \$15 per diem instead of \$35.

Based on a regular session of 90 days, the amount of money required for per diem payments would be reduced by \$4,050.00. (\$45 per day)

The savings during the interim would depend on the number and location of meetings, but as many meetings are held in Anchorage and Fairbanks, the net result would undoubtedly be a reduction in the amount of per diem paid.

JME:hg

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Introduced: 4/4/74
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST

2 SENATE BILL NO. 519

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

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