

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
2778 SCOMM 122: COMMISSION ON PRIVATIZATION. . . , 1999

ALASKA BAR
ASSOCIATION

HESS
CORRECTIONS

99-70

**Alternatives to Jail
For Mentally Disabled Misdemeanant**

Monday, September 20, 1999
12:15 - 1:15 p.m.
Courtroom 202, Nesbett Courthouse
1.0 CLE Credits

FREE! PUBLIC INVITED!

This program introduces the audience to the Court Coordinated Resources Project and the Jail Alternative Services Project, pilot sentencing projects designed to divert mentally disabled low risk misdemeanor offenders from jail and into community based behavioral health treatment.

Presenters:

Third Judicial District Court Judge John Lohff
Third Judicial District Court Judge Stephanie Rhoades
Court Coordinated Resources Project

And

Laura Brooks
Case Coordinator, Department of Corrections
Jail Alternative Services Project

With Representatives From:

State District Attorney's Office
Anchorage Municipal Prosecutor's Office
Public Defender Agency
Gorton & Associates

This program is presented in cooperation with the



Anchorage
Bar Association, Inc.

40 Tax (C17) 5 Anchorage, Alaska 99510 3/15 '99 907, 272-7469

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COURTS
CORRECT
HEB

Article by Janet McCabe, Co-Chair, Partners for Downtown Progress

Jail Alternatives Give People in Trouble with the Law a Chance to Change.

This summer a number of judges, attorneys, and people associated with non-profit and governmental organizations have been exploring ways to reduce crime through alternatives to jail. The emphasis has been on models of rehabilitative justice that have proven successful in other states. Coming up are three important seminars sponsored by the Alaska Bar Association with the support of the Anchorage Bar Association and Partners for Downtown Progress.

- On September 13 from 12:15 PM to 4:15 PM in Courtroom 202 of the Nesbett Courthouse, video tapes about the new anti-alcohol drug, Naltrexone, will be shown, and a panel of medical experts and lawyers will explain the use of Naltrexone in probation and rehabilitation programs. It is commonly estimated that 80 to 90 percent of criminal defendants have substance abuse problems, primarily alcoholism. Therefore, the potential of Naltrexone, which reduces the urge to drink, is very significant. This program is open to the public and free.
- On September 20, from 12:15 PM to 1:15 PM in Courtroom 202 of the Nesbett Courthouse, there will be a session on alternatives to jail for mentally disabled misdemeanants. This program will review a successful "specialty court" designed to divert mentally disabled low-risk misdemeanor offenders from jail into community-based behavioral health treatment. The program is open to the public and free.
- On September 27 from 8:30 AM to noon in the Captain Cook, Judge Dennis A. Challeen, a nationally recognized expert in the field of criminal sentencing, will speak about systems that enable criminals to change themselves into responsible members of society. Judge Challeen is credited with pioneering sentencing to community service, now a common practice for persons who are not dangers to the public. The half-day seminar is open to the public and costs \$45. For registration call the Alaska Bar Association at 272-7469.

These seminars represent a change from the judicial approach that has become dominant in this country. Over the past 25 years the emphasis has been on tough punishment, on sending more people to jail. By now one out of every 150 U.S. citizens is in jail. Funding for in-jail rehabilitation, education and work experience has been largely eliminated, and jails are now mostly "no-frills" human warehouses. The push for jail has meant incarceration of a higher proportion of non-violent offenders than before. "Crimes that in other countries would usually lead to community service, fines, or drug treatment - or would not be considered crimes at all - in the United States now lead to a prison term, by far the most expensive form of punishment".¹

¹ See "The Prison-Industrial Complex" in The Atlantic Monthly, December 1998.

But the trend is turning. People are coming to realize that jail is hugely expensive both in terms of individual lives and public money. In Alaska it costs about \$35,000 to jail one person for a year. In total, it costs the state \$130 million annually to house people in jails. From the perspective of protecting the public, jail is a short-term solution. Most criminals are eventually released. Lifers are only a minor fraction of Alaska's jail population. With little rehabilitation and much punishment by inactivity or isolation, jail often intensifies a person's inability to cope outside of jail and increases the store of anger that may have led to trouble in the first place. Two-thirds of the people released from jail return within three years.

The jail alternative programs being considered in Anchorage would be built on elements that have been successful elsewhere. Community courts, drug courts, or other specialty courts, all assist individuals who want to change by combining the incentive of avoiding jail with practical, individualized assistance in fulfilling the terms of court orders and rejoining the community. Typically, such programs involve "check-up" visits with the same judge who monitors compliance with his order, recognizes and praises success, and swiftly punishes non-compliance. Typically, also, these programs require strong partnerships between the courts, treatment providers, and organizations that assist the defendant on a one-to-one basis with transitional employment and housing, medical services, and other essentials, such as keeping court ordered appointment dates.

In Anchorage, the Partners for Downtown Progress (PDP) supports the development of jail alternative programs. This support is warranted by positive results in other communities. In the short run such programs require more court resources, but they reduce recidivism and jail costs, and they offer the court the benefits of collaboration with others to achieve a positive outcome. PDP would work with individuals who are referred by the courts, assisting each person in developing and following an individually tailored plan to utilize existing services to fit his or her needs. PDP is especially interested in participating in the development of a specialty court for alcoholic misdemeanants and criminals, and in facilitating the utilization of Naltrexone, the drug that reduces craving for alcohol.

Junet McCabe is on the board of the Anchorage Downtown Partnership (ADP) and chairs Partners for Downtown Progress, which was created by ADP to focus on human and social needs in Anchorage's Downtown Business Improvement District.

COURT
CORRECTIONS



Wisdom in Sentencing

with

Judge Dennis A. Challeen

Pioneer in
Sentencing to Community Service

Presented
in
cooperation
with
Partners
for
Downtown
Progress
and the
Anchorage
Bar
Association.

Monday, September 27, 1999
8:30 AM - 12:00 NOON
Hotel Captain Cook
Anchorage, Alaska

*Presented in cooperation with
Partners for Downtown Progress
and*



Anchorage
Bar Association, Inc.

3.5 CLE CREDITS

CLE

COURSE INFORMATION

Judge Dennis Challeen, a District Court Judge from Winona, Minnesota, has been on the bench for 35 years, and is the author of The NORP Think Factor.

NORP is the acronym for "Normal, Ordinary, Responsible People." Judge Challeen explains that judges, prosecutors, and defenders are all NORPs, and as a result, they mistakenly apply NORP solutions to a defendant population who are clearly **not** NORPs.

Judge Challeen offers some creative alternatives to our present system:

- Abandoning punishment as the goal of the criminal justice system and shifting to responsibility instead.
- Using prisons to house violent and professional criminals and to protect society, not as an instrument of change.
- Understanding that NORP Think gets in our way, and what seems at first glance to be logical, sensible, and politically attractive is probably counter-productive in the upside-down world criminals live in.
- Involving non-violent criminals in their own destiny, encouraging them to own their problems and deal with them constructively.
- Convincing judges that the power of change comes from within the minds of criminals, and that judges cannot from the bench give criminals the qualities needed for change.
- Shifting resources from prisons to utilizing our communities as a laboratory of change, and making it worthwhile for business people to employ marginal workers and rebuild our infrastructures.
- Re-examining the adversary system that is taught in our law schools.

FACULTY



Judge
Dennis A. Challeen

Judge Dennis A. Challeen, a District Court Judge from Winona, Minnesota, has been on the bench for 35 years, primarily handling criminal and juvenile matters. He first received national attention in 1972 when he began sentencing offenders to community service, long before such sanctions were expressly allowed by law. He has been credited with the creation of the Sentencing to Community Service movement in America, a movement that has now spread throughout the world.

Judge Challeen has lectured extensively on sentencing and the criminal mind in 36 states and 3 provinces. He has been a faculty member of the National Judicial College since 1978 and was inducted into the College's Hall of Honor in 1992 for his contribution to judicial education in America.

He is the author of two books, Making It Right, and more recently, The NORP Think Factor.



Who Should Attend

- Prosecutors
- Public Defenders
- Judges
- Lawyers
- Legal Educators
- Corrections Professionals
- Community Organizers
- Business Owners
- Alcohol Treatment Providers

The Anchorage Bar and the Partners for Downtown Progress are jointly underwriting the cost of bringing Judge Challeen to Anchorage. Partners for Downtown Progress is a non-profit organization supporting the introduction of community court concepts for downtown Anchorage. Because of the financial support of these two organizations, we are able to offer this CLE at a discounted registration fee of \$45, rather than the normal \$90 for a half-day program.

REGISTRATION FORM

Wisdom in Sentencing (#99-59)

September 27, 1999 ♦ Hotel Captain Cook ♦ 3.5 CLE CREDITS

Name: _____

Firm: _____

Address: _____

City/State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-Mail Address: _____

AK Bar Member? ☐ No ☐ Yes Member #: _____

Registration: \$45 per person

☐ Check enclosed. ☐ Please Invoice Me

☐ Charge my ☐ Visa ☐ Mastercard Account #: _____

Exp. Date: _____ Signature: _____

Video Replay Information: \$45

(includes course materials)

- ☐ Dillingham, 11/5, 10:00 AM, Jury Room
- ☐ Fairbanks, 10/29, 9:00 AM, Cook Schuhmann et al.
- ☐ Juneau, 10/29, 9:00 AM, Dillon & Findley
- ☐ Kenai, 11/5, 1:00 PM, Kenai Courthouse
- ☐ Ketchikan, 11/20, 9:30 AM, Faulkner Banfield
- ☐ Kodiak, 11/20, 10:00 AM, Jamin, Ebell et al.
- ☐ Nome, 12/3, 9:00 AM, Larson, Timbers & Thomas
- ☐ Sitka, 12/3, 9:00 AM, Pearson & Hanson

- ☐ Individual Viewing: Please send me the video tapes to borrow (which includes the course materials which I keep) as soon as they are available. No CLE credit is given for individual viewing.

Alaska Bar Association Contact Information:

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Phone: 907-272-7469
Fax: 907-272-2932
E-mail: info@alaskabar.org
Website: www.alaskabar.org

It's Easy to Register for CLE!



Fax your registration
to 907/272-2932.

FAX



MAIL

Mail your registration
to the Alaska Bar.
(see address above)



E-MAIL

Send an e-mail to
info@alaskabar.org
to sign up.

Department of Corrections Subcommittee Membership							
Anderson	Sharon	696-0007					
Morrison	David	274-6667	274-3625	Cornell Corrections 910-867-0972/713-595-2117	wmorrison@cornellcorrections.com		
Dyson	Fred	694-6683	694-1015	House of Representatives - State of Alaska			Eagle River
Lewis	Russell	258-0106	258-5519				
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Tipton	Mel	279-7654	278-0685				

CORRECTIONS Subcommittee
Contact Information Sheet

Name:

Work Phone:

Home Phone:

Fax:

Company:

Email:

Address:

Agency Totals - FY00 Operating Budget

Agency: Department of Corrections

	FY98 Act	FY99 CC	FY99Auth	Gov Amd	House	Senate	ConfComm	FY99Auth to ConfComm	
Totals for Agency	145,295.0	151,767.1	152,726.0	172,444.8	168,480.5	164,474.5	167,099.5	14,373.5	9.4%
<u>Objects of Expenditure:</u>									
Personal Services	85,141.3	84,614.0	84,471.5	86,757.8	84,864.1	83,640.4	84,561.6	90.1	0.1%
Travel	1,886.7	1,287.1	1,287.1	1,726.0	1,739.5	1,664.0	1,664.0	376.9	29.3%
Contractual	43,987.1	52,987.6	52,980.7	68,519.2	67,151.7	65,070.1	66,221.7	13,241.0	25.0%
Commodities	11,547.1	11,087.5	11,087.5	12,465.1	12,153.5	12,149.8	12,153.5	1,066.0	9.6%
Equipment	608.3	51.9	51.9	51.9	51.9	51.9	51.9	0.0	0.0%
Lands/Buildings	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	%
Grants, Claims	2,124.5	2,132.3	2,132.3	2,209.8	2,254.8	2,254.8	2,254.8	122.5	5.7%
Miscellaneous	0.0	-393.3	715.0	715.0	265.0	-356.5	192.0	-523.0	-73.1%
<u>Funding Sources:</u>									
1002 Fed Rcpts	3,381.6	7,135.9	7,142.6	5,677.0	6,477.0	7,172.6	6,477.0	-665.6	-9.3%
1003 G/F Match	2,707.2	187.1	187.1	187.1	129.6	129.6	129.6	-57.5	-30.7%
1004 Gen Fund	127,912.2	131,982.3	132,647.2	145,322.9	139,594.9	134,988.6	138,213.9	5,566.7	4.2%
1005 GF/Prgm	2,331.3	3,277.2	3,385.7	3,481.0	3,506.0	3,410.7	3,506.0	120.3	3.6%
1007 I/A Rcpts	929.1	493.7	494.6	8,275.1	8,163.5	8,163.5	8,163.5	7,668.9	1550.5%
1037 GF/MH	3,369.7	3,762.7	3,769.3	3,999.3	3,999.3	3,999.3	3,999.3	230.0	6.1%
1050 PFD Fund	1,047.3	1,047.3	1,047.3	1,047.3	2,147.3	2,147.3	2,147.3	1,100.0	105.0%
1053 Invst Loss			168.3	-0.0	0.0	-0.0	0.0	-168.3	-100.0%
1059 Corr. Ind.	2,750.1	2,750.6	2,750.6	3,500.6	3,500.6	3,500.6	3,500.6	750.0	27.3%
1061 CIP Rcpts	552.5	540.3	543.3	543.3	543.3	543.3	543.3	0.0	0.0%
1092 MHTAAR	314.0	590.0	590.0	411.2	419.0	419.0	419.0	-171.0	-29.0%
<u>Positions:</u>									
Perm Full Time	1,355.0	1,360.0	1,360.0	1,398.0	1,369.0	1,367.0	1,366.0	6.0	0.4%
Perm Part Time	2.0	1.0	1.0	0.0	0.0	0.0	0.0	-1.0	-100.0%
Non-Perm	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	%

Component Summary - FY00 Operating Budget

Agency: Department of Corrections

Page	Budget Component	FY98 Act	FY99 CC	FY99Auth	Gov Amd	House	Senate	ConfComm	FY99Auth to ConfComm	
Administration & Operations										
1	Office of the Commissioner	2,860.8	1,577.8	1,580.1	1,551.4	947.8	947.8	947.8	-632.3	-40.0%
2	Parole Board	571.6	482.7	484.0	554.0	484.0	484.0	484.0	0.0	0.0%
3	Correctional Academy	512.7	662.5	664.4	664.4	664.4	664.4	664.4	0.0	0.0%
4	Administrative Services	2,687.8	2,559.5	2,821.0	2,821.0	2,730.5	2,730.5	2,730.5	-90.5	-3.2%
5	Data and Word Processing	1,097.1	1,291.3	1,296.1	1,376.1	1,376.1	1,376.1	1,376.1	80.0	6.2%
6	Fac-Capital Improvement Unit	220.5	208.3	209.5	309.5	209.5	209.5	209.5	0.0	0.0%
7	Inmate Health Care	15,770.4	15,378.1	15,402.1	15,812.0	15,756.7	15,756.7	15,756.7	354.6	2.3%
8	Inmate Programs	2,696.7	2,728.6	2,839.6	3,358.6	2,839.6	2,839.6	2,839.6	0.0	0.0%
9	Correctional Industries Admin	1,264.0	1,158.6	1,163.9	1,163.9	1,163.9	1,163.9	1,163.9	0.0	0.0%
10	Corr Industries Product Cost	2,851.2	2,750.6	2,750.6	3,500.6	3,500.6	3,500.6	3,500.6	750.0	27.3%
11	Institution Director's Office	1,129.1	780.9	914.2	1,039.5	993.2	867.9	993.2	79.0	8.6%
12	Anvil Mtn Correctional Center	3,959.5	3,871.1	3,850.6	3,850.6	3,850.6	3,850.6	3,850.6	0.0	0.0%
13	Combined Hiland Mtn Corr Ctr	7,555.0	7,200.4	7,168.1	7,218.1	7,168.1	7,168.1	7,168.1	0.0	0.0%
14	Cook Inlet Correctional Center	9,437.5	9,163.0	9,119.1	9,419.1	9,119.1	9,119.1	9,119.1	-0.0	-0.0%
15	Fairbanks Correctional Center	6,921.2	6,975.8	6,943.2	7,186.8	6,943.2	6,943.2	6,943.2	0.0	0.0%
16	Ketchikan Correctional Center	2,604.5	2,587.3	2,575.2	2,575.2	2,575.2	2,575.2	2,575.2	0.0	0.0%
17	Lemon Creek Correctional Ctr	6,048.5	5,942.8	5,917.3	6,147.0	5,917.3	5,917.3	5,917.3	0.0	0.0%
18	Mat-Su Correctional Center	2,631.8	2,725.3	2,711.6	2,711.6	2,711.6	2,711.6	2,711.6	0.0	0.0%
19	Palmer Correctional Center	8,788.3	8,500.1	8,462.3	8,692.0	8,462.3	8,462.3	8,462.3	0.0	0.0%
20	Sixth Avenue Correctional Ctr	3,815.5	3,845.1	3,827.2	3,827.2	3,827.2	3,827.2	3,827.2	0.0	0.0%
21	Spring Creek Correctional Ctr	13,946.6	13,749.2	13,687.3	13,937.3	13,687.3	13,687.3	13,687.3	0.0	0.0%
22	Wildwood Correctional Center	8,245.9	8,213.6	8,177.1	8,177.1	8,177.1	8,177.1	8,177.1	-0.0	-0.0%
23	Yukon-Kuskokwim Corr Center	4,037.1	3,972.7	3,953.1	4,202.1	3,953.1	3,861.6	3,861.6	-91.5	-2.3%
24	Institutional Reduction		-721.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
25	Community Jails	4,797.2	4,800.0	4,800.3	4,800.3	4,766.6	4,766.6	4,766.6	-33.7	-0.7%
26	Community Corrections Director	625.8	728.1	733.8	701.9	701.9	701.9	701.9	-31.9	-4.3%
27	Northern Region Probation	2,258.0	2,513.1	2,522.4	2,449.4	2,449.4	2,449.4	2,449.4	-73.0	-2.9%
28	Southcentral Region Probation	4,589.4	4,413.4	4,433.6	4,760.0	4,605.0	4,189.9	4,532.0	98.4	2.2%
29	Southeast Region Probation	946.6	958.0	961.5	961.5	961.5	961.5	961.5	0.0	0.0%
30	Transp & Classification		1,018.0	1,020.6	1,224.3	1,279.3	1,243.5	1,279.3	258.7	25.3%
31	Facility Maintenance				7,780.5	8,580.5	7,780.5	7,780.5	7,780.5	%
32	Unallocated Reduction						-1,177.7	-286.5	-286.5	0.0%
	* BRU Total	122,870.3	120,034.8	120,989.8	132,773.0	130,402.6	127,757.2	129,151.6	8,161.8	6.7%
Community Residential Centers										
33	Existing CRC Facilities	11,857.0	13,539.5	13,539.5	13,864.5	13,864.5	15,243.6	13,864.5	325.0	2.4%
34	Nome CRC		766.5	766.5	991.5	1,016.5	1,016.5	1,016.5	250.0	32.6%
35	Bethel CRC		144.8	144.8	144.8	144.8	144.8	144.8	0.0	0.0%
36	CRC Offender Supervision		366.0	366.0	656.0	656.0	0.0	656.0	290.0	79.2%

Component Summary - FY00 Operating Budget

Agency: Department of Corrections

Page	Budget Component	FY98 Act	FY99 CC	FY99Auth	Gov Amd	House	Senate	ConfComm	FY99Auth to ConfComm
	Community Residential Centers								
	* BRU Total	11,857.0	14,816.8	14,816.8	15,656.8	15,681.8	16,404.9	15,681.8	865.0 5.8%
	Out of State Contracts								
37	Out-of-State Contracts	8,585.2	14,512.3	14,512.3	21,477.1	19,977.1	18,149.0	19,847.1	5,334.8 36.8%
	* BRU Total	8,585.2	14,512.3	14,512.3	21,477.1	19,977.1	18,149.0	19,847.1	5,334.8 36.8%
	New Community Residential Centers								
38	New CRC Facilities	25.5							0.0 0.0%
	* BRU Total	25.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0 0.0%
	Point MacKenzie								
39	Point MacKenzie Rehab Program	1,907.0	1,988.2	1,992.1	2,122.9	2,122.9	1,952.3	2,122.9	130.8 6.6%
	* BRU Total	1,907.0	1,988.2	1,992.1	2,122.9	2,122.9	1,952.3	2,122.9	130.8 6.6%
	Cultural Relevance Study								
40	Cultural Relevance Study	50.0							0.0 0.0%
	* BRU Total	50.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 0.0%
	VPSO Parole Supervision Pilot Program								
41	VPSO Supervision Pilot Prgm		115.0	115.0	115.0	0.0	115.0	0.0	-115.0 -100.0%
	* BRU Total	0.0	115.0	115.0	115.0	0.0	115.0	0.0	-115.0 -100.0%
	Alternative Institutional Housing								
42	Alternative Housing		300.0	300.0	300.0	200.0	0.0	200.0	-100.0 -33.3%
	* BRU Total	0.0	300.0	300.0	300.0	200.0	0.0	200.0	-100.0 -33.3%
	Food Services Apprenticeship Program								
43	Food Services Apprenticeship					96.1	96.1	96.1	96.1 %
	* BRU Total	0.0	0.0	0.0	0.0	96.1	96.1	96.1	96.1 %
	*** Total Agency Expenditure	145,295.0	151,767.1	152,726.0	172,444.8	168,480.5	164,474.5	167,099.5	14,373.5 9.4%
	Federal Funds	3,381.6	7,135.9	7,142.6	5,677.0	6,477.0	7,172.6	6,477.0	-665.6 -9.3%
	General Funds	136,320.4	139,209.3	139,989.3	152,990.3	147,229.8	142,528.2	145,848.8	5,859.5 4.2%
	Other Funds	5,593.0	5,421.9	5,594.1	13,777.5	14,773.7	14,773.7	14,773.7	9,179.6 164.1%

TRANSACTION REPORT

P. 01

AUG-23-1999 MON 02:24 PM

BROADCAST

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
AUG-23	02:03 PM	92743625	28"	1	SEND	OK	112	
	02:04 PM	96941015	28"	1	SEND	OK	112	
	02:05 PM	92585519	25"	1	SEND	OK	112	
	02:06 PM	92697390	26"	1	SEND	OK	112	
	02:06 PM	919077804098	24"	1	SEND	OK	112	
	02:07 PM	93371753	40"	1	SEND	OK	112	
	02:08 PM	92798773	25"	1	SEND	OK	112	
	02:09 PM	95615176	25"	1	SEND	OK	112	
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TOTAL : 5M 33S PAGES: 12



and Delivery of Government Services

www.privatizealaska.org

NOTICE OF SUBCOMMITTEE MEETING

Subcommittee Name:

DEPARTMENT OF CORRECTIONS

Chairperson: Ms. Sharon Anderson

Phone: 696-0007

Committee Members:

Sharon Anderson	Donna Poff
David Morrison	Wade Ray
Fred Dyson	Gail Shubert
Russell Lewis	Jerry Ward
Bruce Richards	Garland Warren
Mary Pate, Esq.	Daniel Wayne
Greg Pease	Barbara Miller
Keith Perrin	Mel Tipton

Date:

Tuesday, August 25, 1999, 12:00 P.M.



and Delivery of Government Services

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Keith Perrin	Mel Tipton

Date:

Tuesday, August 25, 1999, 12:00 P.M.

Place:

Legislative Information Office

716 W. 4th Avenue

Second Floor Conference Room

Juneau & Mat-Su LIO Teleconference Available

If you have any questions please call Representative John Cowdery's office at 269-0222.

The web site that has a current list of members and schedule of meetings
posted daily!

www.privatizealaska.org

716 W. 4th Ave. Anchorage, AK 99501

Senator Jerry Ward: 907-269-0107 Fax 907-269-0109

Representative John Cowdery: 907-269-0222 Fax 907-269-0223

Subject: CSG Corrections & Public Safety Teleconference Series: Prison Privatization

Date: Tue, 3 Aug 1999 14:48:23 -0400

From: "John Mountjoy" <jmountjoy@csg.org>

To: <jmountjoy@csg.org>

The Council of State Governments offers a FREE service to State Law and Policy Makers...

The Council of State Governments
Corrections/Public Safety
Teleconference Series

"Prison Privatization: The Future of Corrections?"

Tuesday, August 17th, 2:30 p.m. (EST)

To participate, please respond to this e-mail with your name, organization, address, phone and fax numbers, and e-mail address. We will then send you the information you need to participate.

As corrections facilities become more prevalent in the American landscape, changes from tradition are taking hold in our criminal justice system. Not only are correctional facilities built and run by the states, but in the last decade we have seen the steady rise of privatized prisons: those facilities built and run by private corporations under contract with states. Skyrocketing corrections expenditures - the fastest-growing component of state budget appropriations from 1994 to 1995 at 13.3 percent - have led many legislatures to privatize prison construction and operation to save money. According to the Private Adult Correctional Facility Census (PACFC), private adult prisons will exceed 275,000 inmates by the year 2002.

The issue of prison privatization is surrounded by many practical questions:

- * How does the state maintain control of its inmates in a privatized setting?
- * What kind of environment are private prisons providing for inmates?
- * What level of medical care is provided to inmates?
- * Are private prisons really cheaper than state run facilities?
- * What type of training and liability protection do private prison employees receive?
- * Are private prisons as effective and safe for the community as their state run counterparts?
- * What can states do to facilitate improvements in privatized prisons?

Featuring Expert Guest Speaker:

Bob Babbage - Intersouth, Inc.

Bob Babbage is senior managing partner of Intersouth, Inc., a decision management firm,

based in Lexington, Kentucky. He served as Kentucky's elected state auditor from 1988-1992

and secretary of state, 1992-1996. Mr. Babbage has performed extensive work in the area of criminal justice and corrections and has worked closely with the Corrections Corporation of America.

This experience, combined with his public service at the state level, has given Bob a unique perspective on the issue of prison privatization. Recently, he served as a CSG senior fellow in the areas of criminal justice and corrections.

CSG encourages state legislators, legislative staff and researchers, governors and their staff, members of the judiciary, state corrections/public safety agency staff and other state officials interested in the issue of gun manufacturer lawsuits to participate in this FREE event. CSG is pleased to offer this conference call FREE of charge to all state officials and staff. To participate, please respond to this e-mail with your name, organization, address, phone and fax numbers, and e-mail address. We will then send you the information you need to participate. It's that easy! Following the session, CSG will produce a policy summation entitled Corrections Policy Profiler which will detail the issue in depth. All

participants will receive a complimentary copy of the publication.
For more information on this FREE policy event, please contact:

John J. Mountjoy
The Council of State Governments
2760 Research Park Dr.
P.O. Box 11910
Lexington, KY 40578-1910
Ph. (606) 244-8256
Fax (606) 244-8001
jmountjoy@csg.org

CSG looks forward to your participation!

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SCOMM

122:45

REPORT TO COMMITTEE ON PRIVATIZATION**Collection of Fees for Court Appointed Attorney Services****1. Problem Statement:**

*Parts of
the Court
System* ← A standardized procedure for the collection of statutorily mandated fees for court appointed legal representation services for the indigent is not followed throughout the court system. The collection process varies among agencies. A large part of the fees for court appointed representation are incurred by attorneys under contract with the Office of Public Advocacy. Their attorneys often serve in the Probate Court, in the area of guardianships and conservatorship proceedings. Fee caps for such services are set to varying degrees for the representation provided with the predictable result that such services are often prolonged until the fee cap is reached.

Court appointments for attorney representation for indigents are often made with very cursory investigation into the actual indigency of the respondent with no re-evaluation of the indigency finding after appointment. This lack of re-evaluation results in publicly funded legal representation being provided for people who can afford to pay for such services.

The present system of collection for mandated fee and cost recoveries is totally dependent on the reporting by the agencies involved. It is solely the responsibility of the agency itself to refer its uncollectible accounts to the Attorney General's office for collection of its receivables.

2. LEGISLATION NECESSARY TO EFFECT SAVINGS:

Legislation needs to be enacted to:

1. Insure a true finding of indigency before court appointed attorneys are assigned to represent anyone.
 - a. Require re-evaluation and confirmation of the indigency finding by a formal review and investigation process.
 - b. Require court appointed attorneys to submit the billing for their services to the client or his conservator who then processes it for payment either by the client or by the state.
2. Establish standards for the termination of the court appointed attorney's role when such representation has served its stated purpose.
3. Standardize the collection of fees process throughout the court system by contracting out the collection process to private service providers:
 - a. Provide a mechanism where the service provider can initiate court action to collect -- this may require the removal of the current requirement that corporations, however small, cannot represent themselves without hiring an attorney. This would provide a means for contracting at a more reasonable bid figure if attorney fees were

not part of the picture and would enable such collection services to provide more insurance safeguards.

b. Include all collection of fees, regardless of agency, in a standard collection process.

3. Change the budget process to show fees collected by the court system and to what extent they impact the net cost of operation.

4. Establish criteria for private fee collection agencies to include penalties for malfeasance and failure to perform.

Submitted by:

"B" Jarvi

There is a statute that states that corporations cannot represent themselves in a court action except as otherwise excluded. This should be changed to be specific about the exclusions. A suggestion would be to amend it to exclude all corporations operating under the service provisions of Alaska Statutes 13.26. There should also be a definition for other small corporations who can get a waiver to have a duly authorized corporate officer to represent the corporation pro se. Small corporation needs to be defined.



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FAX NO. 907 456 3346
ALASKA CONTRACTING

P. 04
PAGE 01

To: Court Committee
From: Collins Van Hatten

5. Probation Department

Problem Statement: This department is responsible for public safety concerning people on probation from the courts. Their job consists appearing in court several times a day, meeting monthly with clients to ensure they are following court orders, paying restitution, working, going to counseling or treatment as ordered, and basically being law abiding citizens. Each probation officer has close to 100 people under their supervision, some which are in house communities. They also are required to do pre-sentence reports on each person under their supervision.

Recommendations:

1. **Privateer restitution.** This is commonly overlooked in this department due to the mass amount of other obligations they must meet. Possibly a percentage of the restitution allocated to victims could be used to pay for this service.
2. **Computer system which includes video capabilities** so probation officers could appear in court via video camera instead of several trips to the court house daily. It could also be utilized for their mandatory monthly meetings with both community probationers instead of paying transportation costs for probation officers to travel to the many remote areas. Database access to the court system and law department so they can determine if any police activities or new charges have occurred prior to their meeting. This would also give the police departments up to date information on probation conditions etc. The computer system should also have scanning capabilities in order for each department to retrieve tickets, police reports and case files.
3. **Implement the use of the ankle bracelet system.**
4. **Mandatory sentencing.** The legislature should look at mandatory sentencing again and consider reworking this requirement. It has caused over-crowding in the jails and is allowing some of the more serious criminals to be released early to make room so the correctional facilities are in compliance. Several states have already removed mandatory sentencing.

**Alaska Court System
Subcommittee Report**

DRAFT REPORT

I. Branch of Government

Alaska Court System

11. BRU and Component Names as Listed in State Budget

Component	FY2000 Budget
Appellate Courts(767)	3,980.4
Trial Courts (768)	38,840.1
Administration and Support (769)	<u>6,285.2</u>
Total Operating Budget	48,726.4

III. ALL FUND SOURCES

FUNDING SOURCES:

General Fund (1004)	48,726.4
General Fund / Mental Health (1037)	79.3
Federal Receipts - Grants (1002)	<u>300.0</u>

Total Funding Sources 49,105.7

IV. ALL REVENUE DERIVED

Revenues:

Filing Fees (64050)	1,600.6
Fines and Forfeitures (65004)	3,749.3
Cost recovery (65020)*	47.2
Service Fees (64030)**	21.1
Interest Earned on Bank Accounts(65770)	374.6
Miscellaneous (64060)***	303.5
Restricted Revenues (Grant Funds)	<u>300.0</u>

Total Projected Revenues 6,396.3

* Cost recovery includes revenues from recovery of Public Defender and Public Advocacy cost.

** Service fees are revenues derived from processing traffic and minor offense citations for local governments.

***Miscellaneous revenues are from notary services, transcription services, and other miscellaneous activities.

-- 88 courtrooms/hearing rooms. The digital recording systems are supported by local area networks (LAN) that tie the computer-based recording in the courtrooms/hearing rooms and the individual workstations in each location together. In addition to the digital recording systems, the court is replacing the sound reinforcement systems with newer miner/amplifier technology to improve telephonic communications.

Hearing Assistance Devices

Each of the courtrooms is equipped with infrared hearing assistance devices (similar to those utilized in theaters) to provide better service to the court's hearing-impaired users. The hearing devices consist of a transmitter that connects to the sound reinforcement system and individual headsets worn by court customers during court hearings.

Video Conferencing

The court utilizes video conferencing capabilities to conduct arraignments and other allowed hearings between jail facilities and the arraignment courtrooms in three locations.

Micrographics

The court utilized microfilm cameras and reader/printers to archive and access closed court case files. The reader/prINTER devices are over 12 years old and in need of replacement. The machines use thermal paper to reproduce microfilmed images and the manufacturer of the paper will cease production January 1, 2000 making them read only capable. The court is evaluating the most cost-effective alternatives to these machines.

Telephones

The court system relies heavily on telephonic communication to conduct court business with litigants and other court customers throughout the state. The court has upgraded telephones with known Y2K compliance issues and is attempting to find the funding to continue the upgrade of telephone systems in all court locations to digital switches.

IX. COURT SYSTEM CONTRACTS:

See attached for now -- I will enter this data for the next draft.

X. PRIVATIZED SERVICES

Security - perimeter security in Anchorage and Fairbanks, the only two courts with these services.

Janitorial

Snow Removal (a reciprocal use agreement has been recently entered with the Anchorage court will the Anchorage Parking Authority will remove snow in exchange for the use of the lot for fee parking during non-work hours.)

Transcripts

Interpreters for the deaf (federal law requires the state to pay for these services)

CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION**



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

**Alaska Court System
Subcommittee Report**

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V. CONSTITUTIONAL PROVISIONS GOVERNING COURT SYSTEM OPERATIONS.

Article IV of the Constitution of the State of Alaska.

VI. COURT SYSTEM MISSION STATEMENT

The mission of the Alaska Court System is to provide an accessible and impartial forum for the just resolution of all cases that come before it, and to decide such cases in accordance with the law, expeditiously and with integrity.

VII. NUMBER OF EMPLOYEES

648	permanent full-time
48	permanent part-time
21	non-permanent
717	Total

VIII. COURT SYSTEM TECHNOLOGY

Case management system

The case management system technology is based on a distributed network of Pentium class computers running SCO UNIX operating system and supporting FALCO terminals (a brand of terminal no longer manufactured). The computers are located in the 28th largest court locations and 24 are connected via the state's wide area network (WAN). Four locations are not connected to the WAN because the state has not tied those locations into the WAN. The courts in those locations are connected via dial-up modems. Another 15 court locations are running standalone Pentium PC's using Windows95 as the operating system and dial-up communications to tie to the rest of the court locations.

The court locations running under UNIX have a case management application (RUG) that is an in-house designed and written program from the late 1980's. It is not a true relational database and suffers from the resultant shortcomings. It was made Y2K compliant as of July 1, 1999. The court locations running of PC's have a very limited in-house developed case management application that is designed for low volume magistrate courts, and it also is Y2K compliant.

Courtroom Recording Systems.

The court is currently in the process of upgrading the courtroom recording systems. The legacy system is an analog tape recorder and sound reinforcement system built by GYYR, a company no longer in existence. Parts are no longer available and must be manufactured or retrofitted by the court's technical staff. The court is currently deploying a new digital recording and sound amplification system in the 15 largest courts

-- 88 courtrooms/hearing rooms. The digital recording systems are supported by local area networks (LAN) that tie the computer-based recording in the courtrooms/hearing rooms and the individual workstations in each location together. In addition to the digital recording systems, the court is replacing the sound reinforcement systems with newer miner/amplifier technology to improve telephonic communications.

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Transcripts

Interpreters for the deaf (federal law requires the state to pay for these services)

Language Interpreters
 Building design and construction
 Building maintenance (limited provided by the lessor in leased facilities, by the state in all state owned buildings)
 Mediators for pilot mediation programs -- federal grant programs.
 Ongoing assessment at privatizing micrographics and printing.

XI. RECOMMENDATIONS OF THE SUBCOMMITTEE:

The Subcommittee identified the following ten areas for review and recommendation.

1) Budget and Operational Recommendations:

Problem Statement: Of the three branches of government, the Alaska Court System has the least exposure and the least accountability to the people of the state. The Court System budget does not reveal much about its operational activities nor the effectiveness with which they are carried out. Part of the problem is that 80% of their budget is lumped into a single component. As such, there is only one node of information to look at for a great variety of activities that are the guts of the court system. Although the Court System provides some detailed breakdown to the Alaska Legislature, they should also provide the public with fuller disclosure and analysis of their budget, preferably via their website.

RECOMMENDATIONS:

1. The court System need to disclose more information how its budget expenditures relate to activities it performs to fulfill its mission, goals and objective.

2. The Legislature, the Judicial Council and the Alaska Bar Association should undertake a review of Performance Measurement Indicators in other court systems and recommend a set of them that facilitates public evaluation of our court system.

3. The Court System should make a record of lease vs. purchase on all equipment, in particular electronic and technological modes. This would allow most technological equipment to be updated on a 3, 4, or 5-year period. *The record should specify upgrades*

4. The Court System should refrain from hiring additional personnel, except as approved by the legislature. *to maintain its current level of service*

5. The fees collected have not been increased *since* March 1991. Recording and Usage fees should be reviewed each year, however should not be increased more than the *amount* of the CPI increase for any given year. *they*

6. The Legislature should periodically review all fines and assessments for inflation considerations.

7. The Court System, upon installation of new computer system modalities, should implement use of credit card transactions in all courts, and related entities for all types of service. This should be reviewed as to installation and maintenance by the private sector. This should reduce man hours, transaction time and cost, and increase cash investment return sufficient to offset cost of the program.

8. The Legislature should review Judicial Retirement System as to implement a new tier, currently those benefits exceed 25% of Salary in relationship to other employees of about 8%.

9. The Appellate and Superior Courts need to reduce the backlog of cases in a more timely manner to meet national standards and provide better services to the public. This can be accomplished while still maintaining ~~prudence and~~ quality.

integrity and

2) Alternative Dispute Resolution:

Problem Statement: The Alaska Legislature has ~~strongly~~ supported the use of Alternative Dispute Resolution mechanisms such as mediation and arbitration. However, the use of these alternatives have not been widely accepted or utilized by the Judicial Officers due to the lack of established minimum qualifications for mediators and arbitrators.

RECOMMENDATIONS:

1. The Alaska Legislature and the ~~Court System Administration~~ should support and encourage court-connected / mandated mediation and the utilization of private ~~mediation and arbitration programs.~~ ADR

2. The Alaska Legislature should appoint a task force to establish minimum qualifications for mediators and arbitrators, in ct. connected disputes

3) Fee Collection:

Problem Statement: There is ~~not~~ a standardized procedure for the collection of statutorily mandated fees for court appointed legal representation for the indigent. The problem is further compounded by the fact that more than one agency is charged with the appointment and collection responsibility, each in its own area of service. Therefore, the collection process varies among agencies. A large part of the fees for court appointed representation is incurred by attorneys under contract with the Office of Public Advocacy. Their attorneys often serve in the Probate Court as well as for criminal defense and Guardian Ad Litem services. While they are appointed only to represent the respondents during specific litigation, if the fee cap for their services has not been met, they often continue in a case for years. The fees then are paid by the State agency regardless of the ability of the individual to pay for services.

See a Hackman

Certification of

Tabled #3

Outdated as amended 11-8-99

Court appointments for attorney representation for indigents are often made with little investigation into the actual indigence of the individual (this is primarily true in the probate courts).

In many cases, there is no re-evaluation of the indigence finding with the result that once a court appointed attorney is assigned, he continues to serve at state expense regardless of the actual ability of the individual to pay for legal services. This is especially true in cases where an emergency or temporary appointment is made for the purposes of legal representation in guardianship and/or conservatorship cases. Subsequent investigation during a temporary appointment often reveals assets unknown to the court or the parties at the time of the original attorney appointment, however the ability of the individual to pay is never reassessed after location of available resources for the individual to pay for his own legal fees.

The present system of collection for mandated fee and cost recoveries is totally dependent on the reporting by several agencies, not just the court system. It is solely the responsibility of the agency in question to refer its uncollectible accounts to the Attorney General's office for collection of its receivables.

All fee collections and recoveries are deposited into the General Fund without being differentiated. This does not provide adequate information to determine the actual cost of recovered fees per agency to make a determination on actual cost to run individual programs or, in this case, the net cost for the Court System.

RECOMMENDATIONS:

1. Each State Agency responsible for collection of fees or reimbursement should make a report to the legislature regarding the amount of fines and fees collected and those outstanding.

2. The Legislature should consider the privatization of the collection of all court assessed fees throughout all State Agencies.

3. The court should implement a program (or re-evaluate the current system) to insure a true finding of indigence prior to the court appointment. In the cases of the probate court mental incapacity cases, the finding of indigence should occur prior to the court or other State Agencies making payment to the appointed attorney.

a. This should include a provision for the re-evaluation and confirmation of the indigence finding by a periodic review of the individuals' finances.

b. In the cases of guardianship / conservatorship probate cases, the attorney should be required to submit the billing for their services to the conservator or the individual when a the individual is found not to be indigent.

4. The court should establish standards for the termination of the court appointed attorney's role when such representation has served it's stated purpose.

Noted

5. ~~Standardize the collection of fees process throughout the court system by contracting out the collection process to private service providers:~~

Deleted

a. ~~Provide a mechanism where the service provider can initiate court action to collect — this may require the removal of the current requirement that corporations, however small, cannot represent themselves without hiring an attorney. This would provide a means for contracting at a more reasonable bid figure if attorney fees were not part of the picture and would enable such collection services to provide more insurance safeguards.~~

Deleted

b. ~~Include all collection of fees, regardless of agency, in a standard collection process.~~

Deleted

6. ~~Change the current process to reflect fees collected by the court system and to what extent they impact the cost of operation.~~

Deleted

7. ~~Establish criteria for private fee collection agencies to include penalties for malfeasance and failure to perform.~~

4. Statutes:

Adopted

Problem Statement: While there appears to be an attempt to communicate between the Court System and the Legislature, the court system is very limited in the scope of that communication. The communication with the court system personnel is haphazard in this regard. While the court system has the mechanisms in place to assist with bringing legislative attention to problem statutes, its focus is primarily looking at bills which are being introduced. While this is a worthwhile endeavor, it does not correct existing problematic areas.

problematic including but not limited to statutes which are

1. The court system should provide some mechanism whereby all judicial officers can by anonymous form, list all statutes which they believe are 1) Conflicting 2) Whose intent it is impossible to achieve 3) Statutes which are too expensive to implement as written. 4) Statutes which are outmoded.

2. The court system should prepare a written report for the public and legislature on existing statutes which meet the above criteria. All anonymous forms should be made available for inspection by the public for a period of at least one year.

5. Pro Se

~~As Submitted:~~

Assure equal representation and or protect pro-se people from being seam overpowered in arbitration

Attempt to get more clerks who specialize in handling Pro-se clients.

Allow Pro Se a level of pre-filing, free legal advice to see if they have a case. This should also extend to help in filing paper work, and steps in the judicial process.

All the rights and privileges of being pro-se should extend to small firms, or this should apply to small firms.

Remove the current legislation which prohibits corporations from representing themselves.

As Proposed:

new 1st sentence
(cf. Records show)
Problem Statement: ~~There is~~ a marked increase in the number of individuals representing themselves in litigation. Due to lack of knowledge of the system, these litigants often experience an unresponsive, lengthy process. The current system discourages Pro Se representation.

Recommendations:

- continue to explore the development of a*
1. The court system ~~implement the grant proposal for a trial~~ Pro Se litigant center (currently proposed for Anchorage).
 - delete* 2. ~~The court system maintain statistical data regarding this program and make that information available to the public and the Legislature regarding the cost to continue; the success of the program as measured by user survey and court system personnel.~~
 2. The Court Administrator continue to ensure equal access for Pro Se litigants to the court system and alternative resolution process.
 4. Change the statute that prohibits corporations (even small non-profits) from representing themselves. **ANYONE HAVE THIS INFO TO ADD?**

Table
 3. *See attached*

6. Computer System

Problem Statement: The court system appropriated \$400,000 for a case management system, however the decision was made to utilize approx. \$200,00 in making the system Y2K compliant and replace servers. This has been accomplished.

The computer system remains outdated, with hardware and software that is no longer in existence and parts which are difficult if not impossible to replace. The current system continues to operate as separate systems and is not a true data base. The current State while network will not handle the data for an integrated court computer system. Cost of a fully integrated system, including infrastructure, hardware, digital recording ability, etc. is between 2.5 - 3.0 million dollars. With this funding the system should be operational within a six month period for all major courts and within a two year period for all outlying courts.

The benefits of an upgraded, fully integrated system: Less man hours spent handling court files which can be made available to court personnel online. A general reduction in man hours. While this will not reduce the current level of personnel, it should prevent the increase of personnel in the future due to increased efficiency.

To maintain the system once upgrades are completed would be approximately 5% of it's value annually.

RECOMMENDATIONS:

1. Fund the new system.
2. The Court System should appropriate funds annually to maintain and update the system.
3. Privatize the Information Systems. - Ct. system should publish RFI from private sector to solicit alternate proposals to satisfy their computer needs

"IF THE PUBLIC DOESN'T UNDERSTAND THE PUBLIC PROCESS, THEN WE'RE IN REAL TROUBLE"

7. Court Standing Committees

PROBLEM STATEMENT: There are too many of them and the time spent by the judicial officers and other Administrators from other state agencies is very costly.

Recommendations:

1. Limit the number of committees that State paid employees can sit on. The committees should be predominately filled by the private sector.
2. Consolidate committees.
3. Track expenditures for committee work.
4. Eliminate travel and per diem and utilize telecommunications for committee meetings.

8. Child Custody Investigator

Problem Statement: The Child Custody Investigator is a court employee whose role it was to provide services for indigent families. This position was taken by the court system and made into a role that provided services for all families (predominately in the Fairbanks courts). It has taken a Superior Court order for the Fairbanks system to return to the appointment of this paid employee in indigent cases only. The court system strongly supports retaining this employee position due to what is believed a "lack of expertise" in the private sector. Yet, the court system, by it's own lack of utilization of available expertise has retarded the growth of available, trained individuals in the private sector.

RECOMMENDATIONS:

1. Privatize this position and appoint approved child custody investigators by either contract award or based on the rotation method used for court appointed attorneys.
2. Establish a fee for court appointed child custody investigators which can be paid by the court for indigent (this should mimic that used by court appointed attorneys).

9. Victim Restitution:

AS SUBMITTED:

Restitution is usually made a condition of probation but the only attempt at collection a Probation Officer makes is to ask them to file for their permanent dividends and have them sign the checks over. The Probation Officer can't check the status of the dividend applications so the victim must wait until checks are mailed out to see if they collected any restitution.

Most probation officers handle close to 100 cases. In speaking with them, the areas of improvement that would make their jobs go smoother, and the system work the way it is suppose to is as follows:

1. New computer system complete with video (to extend out to the remote areas), scanning capabilities, a database compatible with the court system and public safety to access files instead of going to each department to see the files. The courtrooms to be video equipped so the probation officers could attend court via video instead of making several trips a day to the courthouse.
2. Implementing the use of ankle bracelets.
3. Mandatory sentencing has overcrowded the jails and is overworking Probation's. Criminals are being released early on probation to make room for the mandatory sentence inmates. Maybe look at the benefits of getting rid of it. Several states have ruled out mandatory sentencing.

In 1994, the Judicial Council did an in-depth report on the importance of a new updated computer system for the court system. It would be in the best interest of the legislature to look at this report as I believe it would save the taxpayers millions of dollars in the long run. Less employees, no double record keeping, more accurate records, state agencies involved in public protection would have the same information. Records would be available 24 hours a day instead of one agency waiting until the following morning or after the weekend tolerate information on a person.

10. Legislative Audit Digest #02-4577-99**AS SUBMITTED**

Statement: The Legislative Budget and Audit Division is an arm of the legislature that has recently reviewed the courts functions in the area of Adult Guardianship and Conservatorships. The Court System should follow it's findings in this area.

1. The governor should introduce legislation and draft regulations that will enhance oversight of private professional guardians.
2. The administrative director of the Alaska Court System should implement a procedure to track professional guardians that exhibit a pattern of asset mismanagement or other misconduct.
3. The legislature should consider amending the confidentiality provisions to allow for public oversight of the guardianship process.
4. The commissioner of the Department of Administration should address the animosity that exists among Fairbanks participants in the guardianship system.

5. The legislature should consider transferring the management of the court visitor function to the court system.

6. Management of the court visitor function should explore the potential of the National Guardianship Monitoring Program for volunteer court visitors and volunteer court auditors.

INFO SVCS.

TECHNOLOGY -

13 employees

Amc E

2

FBX

3 trial / cook

= \$?



Private Sector doesn't understand our business
Court system are unique
None in U.S. are privatized



10/31/99

COURTS

MR.

BOUCH-

Computer

STEVE

CASE MGMT. SYSTEM = CIPS ? Y2K compliant
replaced servers - Pentiums II & III
new ops system - SCO UNIX

43 locations

15 stand alones of nodes

Still non connected inter-districts
not relational data based for search

State WAN can't handle court load -

CMS = 2500-3500 per user any 3000 x 600 users.

TERMINALS -
SOFTWARE -
CONNECTIVITY -

OPEN
ARCHITECTURE
SYSTEMS

DIGITAL RECORDING
REPLACES SOME OLD
MACHINES - SO 300 USERS

- makes world wide Mkt for
VENDORS -

1.8 mm
book

2.4

2000
300

60000

Court System Subcommittee
Commission on Privatization and Delivery of Government Services
Minutes
September 29, 1999 Meeting

Roll Call:

Harris

Jarvi

Rogers

Rollins

Tamagni

Vanlatten

Willford

Wooliver

The sub-committee members began with looking at issues that were presented at the prior meeting due to the absence of all Anchorage members the prior week.

Chuck reviewed the Pro Se litigants issues: Doug reported that there is currently a \$100,000 grant for the Anchorage area for a ProSe litigant center. Apparently this is a grant that has been recently received. The issue of the variety of forms used by the different judicial districts was again discussed. Doug expressed the opinion that the courts forms are currently pro se friendly, however there was not wide acceptance of the opinion. There is a forms committee which is addressing the issues of making the court forms uniform throughout the State. The issue of an integrated computer network was mentioned as a means of assisting in this area. Chuck gave as example his research on the Federal pro se clerk and how that process works.

Shirly gave a report on her prior research into the collections process with 4 Assistant AG's doing collections. It appears that if someone show up at the court house attempting to pay a delinquent fine, they are referred to the Dept. of Law in Anchorage and are not allowed to pay the fine. This is an area where a mechanism can be set up for the collection of these fees. It was determined that a referral will be made to the Law Sub-committee to follow through on this area. Doug provided information as to why the division of collections required so many employees re: it is the centralized collection agency for all State agencies.

"B" reported on her investigations into the collection of fees for court appointed attorneys. This reverted back to the collections unit of the Dept. of Law. Doug provided a hand out on the regulations governing this collection process. The research revealed that the court system does have mechanisms in place, however the Office of Public Advocacy does not. The OPA falls under the Dept. of Admin. and a referral will be made to this subcommittee to follow through on research on this income stream.

Doug reported that the computer system upgrades are all ready moving along.

The computer system was discussed at length. The need to upgrade and for the court system to appropriate funds on an annual basis to continue these upgrades. Roger suggested that we have the computer expert from the court system speak with the sub-committee. Doug agreed to make the arrangements.

"B" reported on the collection of court appointed attorney fees. Once again the discussion lead to Dept. of Law and collections for court appointed attorneys, however the Office of Public Advocacy court appointed attorneys do not appear to have a collection mechanism in the probate sector. This will be referred to the Dept. of Admin. for follow up.

Don introduced the subject matter of committees within the court system. Doug agreed to provide a hand out on all the current standing committees. Don agreed to follow up on research in this area.

Al requested a copy of the court system budget and will provide a break-down for the full sub-committee. Al introduced the area of purchasing/ discounts and how bills are paid by the court system. He requested information of how fees are collected and what fees are collectable. Al will follow up on this area. Doug will attempt to get the procurement officer for a sub-committee meeting.

The meeting was adjourned at 1:15pm.



Suggested Outline for Subcommittee Reports

I. Agency & Department Name

II. BRU and Component Names as listed in state budget

III Total Budget, all funds

- Identify fund sources

IV. Total Revenue derived

- Net cost/income to state

V. Identify Constitutional and Statutory Provisions Governing Agency Operation

VI. Agency Mission, Goals and Objectives

- Do reality check

VII. Number of Employees

- Identify Specialized Expertise Needed for Mission

VIII. Describe Technology Used to Perform Mission

- Identify Specialized Equipment Needed for Mission

IX. List Existing Agency Contracts including amount, contractor, purpose, term, and procurement method

X. Identify Existing Privatization Practices, if any. Evaluate them for effectiveness and public accountability

XI. Make Recommendations per Section 5 in SB 33, including suggestions for new legislation.

XII. Explain rationale for each recommendation, the number of votes for and against it.

XIII. List problems or barriers to implementing proposed privatization.

September 22, 1999

Privatization Commission
Court Subcommittee Minutes
Drafted by Marco Pignalberi

1. Shirley Willford reported on **COLLECTION OF FINES**. In Fairbanks, the court collects fines directly paid to them, but, all other others go to a collections office in the Dept. of Law. This office has nine people including 4 ass't attorney generals. About 25% of the court imposed fines go to the Dept. of Law.

We'd like to get more information on the back log of fines not paid. Need info for each judicial district. By what measure can we tell if Dept of Law is doing a good job collecting fines. Do they keep an 'aged accounts' listing like a business does for unpaid bills. Why can't we privatize these collection tasks.

According to a court employee in Fbx, they do not make their own **DEPOSITS**. They must send everything to Anchorage and Anchorage makes the deposits. This seems like a waste of interest income. Contact in Anchorage is Susan Wenton 269-6600.

All employees, everywhere in the court system, complain about their **OUTMODED COMPUTER SYSTEM**. It wastes time and causes them to incur extra costs for phone and repairs. Their not connected to other districts. We want to hear from the Court's computer operations chief.

The committee would like the Dept. of Law and/or Court system to report on these issues.

2. Joyce Harris reported on issues relating to **COURT APPOINTED LAWYERS**. It seems that the court appoint attorneys for people without verifying their financial need. Then, the attorneys bill the state directly without ever trying to recover costs from their clients. The state pays without checking on the ability of the client to pay their own fees. This situation seems to be worse in Fairbanks than in Anchorage. There is no standardization of policy on court appointed attorneys among all the judicial districts. Why not?
3. Chuck Rollins selected the issue of **PRO SE** litigants, (self -representation). We want to make it easier for people to represent themselves. We need an explanation of how the system works now, i.e., what hoops does a person have to jump through to represent him/herself in court. Then, what does the court system suggest to make it easier. We want to make small businesses eligible for **PRO SE**, too.
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usually ignore restitution issues: What are the policies in place for the Probation Officers relating to restitution payments. Why can't we privatize the restitution collections? Corrections Committee is not dealing with this, so Marco is asking the Department to send someone to our next meeting to discuss it.)

This investigation gave rise to a new issue: Troopers have a backlog of unserved warrants, especially those relating to collection of state debts and restitution. (Marco will refer this to Public Safety Committee, Debra Luper)

5. Joyce Harris and B Jarvi agreed to co-chair the subcommittee for the remainder of the work to be done. We extend our thanks to Ken Peavyhouse for getting us this far in fine fashion.

END OF NOTES

Oct 6, 99

COURTS

Ronda McCloud

Credit Card fees are absorbed by state.

All fines are collected & deposited in local bank

Shirley - Court needs more funds -

PROBATION MISDEMEANORS/FELONIES

JURY TRVL - \$900 K +

458-8860 Joyce for all draft repts.

* h.m. Next Mtg - Computer

* Court fines collected by Law Dept - They get a cert - can't for proper receipts.

Dept. of Admin. collects

Need PMT's - FULL DAY TRIALS

Q 9:30 - 1:30

6mo.
RULE

—over

✓ ATTORNEYS ASK FOR EXTENSIONS -
COURT GRANTS THEM TOO EASILY -

✓ COURT TAKES TOO MUCH TIME TO ISSUE OPINIONS

Report on Time It's Committee.

Subject: COP Courts Questions

Date: Tue, 21 Sep 1999 15:15:22 -0800

From: Representative John Cowdery <Representative_John_Cowdery@legis.state.ak.us>

Organization: Alaska State Legislature

To: dwooliver@courts.state.ak.us

CC: chuck@mosquiconet.com, Annette_Deal@legis.state.ak.us

Chuck Rollins of the Court subcommittee asked if I would forward these questions to you for clarification. You may respond to him via email or provide to me, and I will make sure he gets your answers. Thank you.

1. Impact of Alcohol and drugs on the state, if they have separate for each substance that would be best but general information would be ok
2. Has the number of felonies V.S. misdemeanor increase, what is the cost difference between the two for the state
3. What has been the Juvenile substance abuse rate for the past 15
4. What is the number of child abuse cases that are proved to be valid out of all cases
5. What is the economic background of those investigated by DFYS?
6. What is the ethnic background of those investigated by DFYS
7. What type of psychiatric medication are children in the foster care given? And what percentage?

Subject: Privatization information request

Date: Sat, 18 Sep 1999 02:15:11 -0800

From: Charles Rollins Jr <chuck@mosquiconet.com>

Organization: Flashpoint

To: Representative_John_Cowdery@legis.state.ak.us

Hi

I am on the court privatization subcommittee, and I can't find an email for Ken Peavyhouse the chair. Would it be possible to get this forward to the right person?

I am wondering if you know if it would be possible to get the following information for my research in privatization of the courts:

Impact of Alcohol and drugs on the state, if they have separate categories for each substance that would be best but general information would be ok

Has the number of felonies V.S. misdemeanor increase, what is the cost difference between the two for the state

What has been the Juvenile substance abuse rate for the past 15

What is the number of child abuse cases that are proved to be valid out of all cases

What is the economic background of those investigated by DFYS?

what is the ethnic background of those investigated by DFYS

What type of psychiatric medication are children in the foster care given? And what percentage?

That's about it, it might seem like quite a list of information to request but I need to use them for missing pieces of my research. I could do without it, but the more I get, the more my research will make sense to the committee

Thank You
Charles Rollins Jr
Box 55616
North Pole Alaska 99705
(907) 488-9030

September 22, 1999

Privatization Commission
Court Subcommittee Minutes
Drafted by Marco Pignalberi

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Professional Guardian Services Corporation

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Eagle River, Alaska 99577
Phone (907) 688-5530
Fax (907) 688-5520



Northern Region Office:
753 Eighth Avenue
Fairbanks, Alaska 99701
Phone (907) 458-8850
Fax (907) 458-8860

Sept. 20, 1999

Subcommittee on Privatization
Court System
Attn: Marco

VIA FAX (907) 269-⁰¹¹³~~0106~~

I have chosen to address the collection of fees that should be paid by respondents when a court appointed attorney has been assigned to their case by the Office of Public Advocacy and/or the court itself.

Statutes require that respondents pay these attorneys a specific sum for the representation. This can cause a loss of considerable sums of money if those fees are not collected.

The problem is further compounded when attorneys are appointed for respondents who have sums in excess of the guidelines set for indigency. It is often easier for attorneys who are assigned by the court to represent people who can afford to pay them, to simply bill the state through the Office of Public Advocacy than to pursue collection of the money from individuals and/or their conservators.

There is also the problem of attorneys who represent the same person in different types of cases. For instance, in Fairbanks it is not at all unusual to have the one attorney under contract with the Office of Public Advocacy to serve as court appointed attorney at a guardianship hearing and of course bill the state for his fees which he can run up to the maximum of \$1,500. to also represent the same client as a public defender in a civil or criminal action, again billing the Office of Public Advocacy. At least a portion of these fees are mandated to be collected from the client; as far as I know, nothing is in place to collect them or account for them.

I will have a more definitive report on the date assigned - another week away. Just wanted to give you a heads up on what my subject matter will be about when I submit my report to you. I am scheduling (or trying to) meetings with the court administrator and with John Frannich of the Office of Public Advocacy.

"B" Jarvi
Fairbanks

CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION**



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

September 22, 1999

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"B" Jarvi
Fairbanks

Article by Janet McCabe, Co-Chair, Partners for Downtown Progress

Jail Alternatives Give People in Trouble with the Law a Chance to Change.

This summer a number of judges, attorneys, and people associated with non-profit and governmental organizations have been exploring ways to reduce crime through alternatives to jail. The emphasis has been on models of rehabilitative justice that have proven successful in other states. Coming up are three important seminars sponsored by the Alaska Bar Association with the support of the Anchorage Bar Association and Partners for Downtown Progress.

- On September 13 from 12:15 PM to 4:15 PM in Courtroom 202 of the Nesbett Courthouse, video tapes about the new anti-alcohol drug, Naltrexone, will be shown, and a panel of medical experts and lawyers will explain the use of Naltrexone in probation and rehabilitation programs. It is commonly estimated that 80 to 90 percent of criminal defendants have substance abuse problems, primarily alcoholism. Therefore, the potential of Naltrexone, which reduces the urge to drink, is very significant. This program is open to the public and free.
- On September 20, from 12:15 PM to 1:15 PM in Courtroom 202 of the Nesbett Courthouse, there will be a session on alternatives to jail for mentally disabled misdemeanants. This program will review a successful "specialty court" designed to divert mentally disabled low-risk misdemeanor offenders from jail into community-based behavioral health treatment. The program is open to the public and free.
- On September 27 from 8:30 AM to noon in the Captain Cook, Judge Dennis A. Challeen, a nationally recognized expert in the field of criminal sentencing, will speak about systems that enable criminals to change themselves into responsible members of society. Judge Challeen is credited with pioneering sentencing to community service, now a common practice for persons who are not dangers to the public. The half-day seminar is open to the public and costs \$45. For registration call the Alaska Bar Association at 272-7469.

These seminars represent a change from the judicial approach that has become dominant in this country. Over the past 25 years the emphasis has been on tough punishment, on sending more people to jail. By now one out of every 150 U.S. citizens is in jail. Funding for in-jail rehabilitation, education and work experience has been largely eliminated, and jails are now mostly "no-frills" human warehouses. The push for jail has meant incarceration of a higher proportion of non-violent offenders than before. "Crimes that in other countries would usually lead to community service, fines, or drug treatment - or would not be considered crimes at all - in the United States now lead to a prison term, by far the most expensive form of punishment"¹.

¹ See "The Prison-Industrial Complex" in The Atlantic Monthly, December 1998.

But the trend is turning. People are coming to realize that jail is hugely expensive both in terms of individual lives and public money. In Alaska it costs about \$35,000 to jail one person for a year. In total, it costs the state \$130 million annually to house people in jails. From the perspective of protecting the public, jail is a short-term solution. Most criminals are eventually released. Lifers are only a minor fraction of Alaska's jail population. With little rehabilitation and much punishment by inactivity or isolation, jail often intensifies a person's inability to cope outside of jail and increases the store of anger that may have led to trouble in the first place. Two-thirds of the people released from jail return within three years.

The jail alternative programs being considered in Anchorage would be built on elements that have been successful elsewhere. Community courts, drug courts, or other specialty courts, all assist individuals who want to change by combining the incentive of avoiding jail with practical, individualized assistance in fulfilling the terms of court orders and rejoining the community. Typically, such programs involve "check-up" visits with the same judge who monitors compliance with his order, recognizes and praises success, and swiftly punishes non-compliance. Typically, also, these programs require strong partnerships between the courts, treatment providers, and organizations that assist the defendant on a one-to-one basis with transitional employment and housing, medical services, and other essentials, such as keeping court ordered appointment dates.

In Anchorage, the Partners for Downtown Progress (PDP) supports the development of jail alternative programs. This support is warranted by positive results in other communities. In the short run such programs require more court resources, but they reduce recidivism and jail costs, and they offer the court the benefits of collaboration with others to achieve a positive outcome. PDP would work with individuals who are referred by the courts, assisting each person in developing and following an individually tailored plan to utilize existing services to fit his or her needs. PDP is especially interested in participating in the development of a specialty court for alcoholic misdemeanants and criminals, and in facilitating the utilization of Naltrexone, the drug that reduces craving for alcohol.

Junet McCabe is on the board of the Anchorage Downtown Partnership (ADP) and chairs Partners for Downtown Progress, which was created by ADP to focus on human and social needs in Anchorage's Downtown Business Improvement District.

COUNT
CREDITS



Wisdom in Sentencing

with

Judge Dennis A. Challeen

**Pioneer in
Sentencing to Community Service**

**Presented
in
cooperation
with
Partners
for
Downtown
Progress
and the
Anchorage
Bar
Association.**

**Monday, September 27, 1999
8:30 AM - 12:00 NOON
Hotel Captain Cook
Anchorage, Alaska**

***Presented in cooperation with
Partners for Downtown Progress
and***



Anchorage
Bar Association, Inc.

3.5 CLE CREDITS

CLE

COURSE INFORMATION

Judge Dennis Challeen, a District Court Judge from Winona, Minnesota, has been on the bench for 35 years, and is the author of The NORP Think Factor.

NORP is the acronym for "Normal, Ordinary, Responsible People." Judge Challeen explains that judges, prosecutors, and defenders are all NORPs, and as a result, they mistakenly apply NORP solutions to a defendant population who are clearly **not** NORPs.

Judge Challeen offers some creative alternatives to our present system:

- Abandoning punishment as the goal of the criminal justice system and shifting to responsibility instead.
- Using prisons to house violent and professional criminals and to protect society, not as an instrument of change.
- Understanding that NORP Think gets in our way, and what seems at first glance to be logical, sensible, and politically attractive is probably counter-productive in the upside-down world criminals live in.
- Involving non-violent criminals in their own destiny, encouraging them to own their problems and deal with them constructively.
- Convincing judges that the power of change comes from within the minds of criminals, and that judges cannot from the bench give criminals the qualities needed for change.
- Shifting resources from prisons to utilizing our communities as a laboratory of change, and making it worthwhile for business people to employ marginal workers and rebuild our infrastructures.
- Re-examining the adversary system that is taught in our law schools.

FACULTY



Judge
Dennis A. Challeen

Judge Dennis A. Challeen, a District Court Judge from Winona, Minnesota, has been on the bench for 35 years, primarily handling criminal and juvenile matters. He first received national attention in 1972 when he began sentencing offenders to community service, long before such sanctions were expressly allowed by law. He has been credited with the creation of the Sentencing to Community Service movement in America, a movement that has now spread throughout the world.

Judge Challeen has lectured extensively on sentencing and the criminal mind in 36 states and 3 provinces. He has been a faculty member of the National Judicial College since 1978 and was inducted into the College's Hall of Honor in 1992 for his contribution to judicial education in America.

He is the author of two books, Making It Right, and more recently, The NORP Think Factor.



Who Should Attend

- Prosecutors
- Public Defenders
- Judges
- Lawyers
- Legal Educators
- Corrections Professionals
- Community Organizers
- Business Owners
- Alcohol Treatment Providers

The Anchorage Bar and the Partners for Downtown Progress are jointly underwriting the cost of bringing Judge Challeen to Anchorage. Partners for Downtown Progress is a non-profit organization supporting the introduction of community court concepts for downtown Anchorage. Because of the financial support of these two organizations, we are able to offer this CLE at a discounted registration fee of \$45, rather than the normal \$90 for a half-day program.

REGISTRATION FORM

Wisdom in Sentencing (#99-59)

September 27, 1999 ♦ Hotel Captain Cook ♦ 3.5 CLE CREDITS

Name: _____

Firm: _____

Address: _____

City/State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-Mail Address: _____

AK Bar Member? ☐ No ☐ Yes Member #: _____

Registration: \$45 per person

☐ Check enclosed. ☐ Please Invoice Me

☐ Charge my ☐ Visa ☐ Mastercard Account #: _____

Exp. Date: _____ Signature: _____

Video Replay Information: \$45

(includes course materials)

- ☐ Dillingham, 11/5, 10:00 AM, Jury Room
- ☐ Fairbanks, 10/29, 9:00 AM, Cook Schuhmann et al.
- ☐ Juneau, 10/29, 9:00 AM, Dillon & Findley
- ☐ Kenai, 11/5, 1:00 PM, Kenai Courthouse
- ☐ Ketchikan, 11/20, 9:30 AM, Faulkner Banfield
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E-MAIL

Send an e-mail to
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COURTS
CORRECT
NEWS

Article by Janet McCabe, Co-Chair, Partners for Downtown Progress

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COURT
COLLECTORS



Wisdom in Sentencing with

Judge Dennis A. Challeen

Pioneer in
Sentencing to Community Service

Presented
in
cooperation
with
Partners
for
Downtown
Progress
and the
Anchorage
Bar
Association.

Monday, September 27, 1999
8:30 AM - 12:00 NOON
Hotel Captain Cook
Anchorage, Alaska

*Presented in cooperation with
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and*



Anchorage
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3.5 CLE CREDITS

CLE

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Wisdom in Sentencing (#99-59)

September 27, 1999 ♦ Hotel Captain Cook ♦ 3.5 CLE CREDITS

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Firm: _____

Address: _____

City/State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-Mail Address: _____

AK Bar Member? ☐ No ☐ Yes Member #: _____

Registration: \$45 per person

☐ Check enclosed. ☐ Please Invoice Me
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COURT
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Firm: _____

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E-Mail Address: _____

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COUNT
CORRECTIONS



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Court System Subcommittee
Commission on Privatization and Delivery of Government Services
Agenda
September 15, 1999
12:00 PM
Chairman: Ken Peavyhouse

Agenda AS OF: September 14, 1999, 12:00 PM

1) ROLL CALL OF TELECONFERENCE SITES

- a) Juneau _____
- b) Fairbanks _____
- c) Kenai _____
- d) Other _____

2) ROLL CALL OF MEMBERS

- a) Around the Horn

3) REVIEW MINUTES OF PREVIOUS MEETING

4) OLD BUSINESS

- a) Dispute Resolution:
 - i) Kris Conquergood, Executive Director, The Dispute Resolution Center
 - ii) Dan Chai, Alaska Dispute Settlement Association
- b) Resume Court Visit (need to schedule)
- c) Focus Area
 - i) ADR
 - ii) Pro SE Representation
 - iii) Records Management
 - iv) Restitution Payment Process
 - v)

5) NEW BUSINESS

6) NEXT MEETING DATE AND TIME – September 22, 12:00

7) ADJOURNMENT

9-15-99

457-8702

458-8860 FX Joyce

Dan Chay - Ek Dip. Sett Assoc.
Horig. Med. Svcs. (Kenar)

Joyce Harvi -
Shirley Willford
Raulini
B Jorin
Coleman - absent

P. Safety
Dick
Barrett

FINE COLLECTION	}	WILLFORD
VICTIM RESTITUTION		B. JARVI, WILLFORD
CHILD CUSTODY INVEST.		
PRO SE	}	Rollins, GIBSON
ADR		Rogers, Pignatelli
FAMILY LAW - DFHS ISSUES		Joyce HARRIS
PROBATION ISSUES		~~Willford~~ , VAN HATTEN
COMPUTERIZATION/RECORDS MGMT		ED LEON

RESOL. CTR. - CHRIS CONQUERGOOD

- ? # of mediators @ 150 cases per year (directed from court)
- ? referrals from state agencies - courts?
- ? enforcement
- ? who pays
- ? trng - certification

9th circuit draft ADR RULES

"we don't even know your program exists."

"we need a focal point"

"Encourage development of Community Mediation Ctr."

WHAT WOULD YOU LIKE TO SEE THE STATE
DO TO ^{IMPROVE} ~~INCREASE~~ THE USE OF MEDIATION.

PROBLEM STATE - ~~Depite Settlement~~ Depite Settlement by the Court System is lengthy, costly,
too legalistic, more than fair - and people.

the peace officer taking the property while the property is still in the peace officer's custody, the peace officer may release the property unless the plaintiff, on demand of the officer, indemnifies the peace officer against the third party claim by a written undertaking approved by the clerk of court and executed by sufficient sureties. (§ 24.06 ch 101 SLA 1962)

NOTES TO DECISIONS

Stated in *First Nat'l Bank v. Zawodny*, 602 P.2d 1254 (Alaska 1979).

Chapter 43. Arbitration.

Article

1. Uniform Arbitration Act (§§ 09.43.010 — 09.43.180)
2. Arbitration of Small Claims (§§ 09.43.190 — 09.43.220)

NOTES TO DECISIONS

Cited in *City of Valdez v. 18.99 Acres*, 686 P.2d 682 (Alaska 1984).

Article 1. Uniform Arbitration Act.

Section

10. Arbitration agreements valid; application of article
20. Proceedings to compel or stay arbitration
30. Appointment of arbitrators by court
40. Majority action by arbitrators
50. Hearing
60. Representation by attorney
70. Witnesses, subpoenas, depositions
80. Award
90. Modification of award by arbitrators

Section

100. Fees and expenses of arbitration
110. Confirmation of an award
120. Vacating an award
130. Modification or correction of award by court
140. Judgment or decree on award
150. Applications to court
160. Appeals
170. Court, jurisdiction
180. Short title

Cross references. — For court rule provision on arbitration and award as an affirmative defense, see Ch. R. 8(c).

NOTES TO DECISIONS

Public policy in Alaska favors arbitration as a means of resolving disputes without court interference. *Artic Contractors v. State*, 564 P.2d 30 (Alaska 1977), aff'd on other grounds, 573 P.2d 1385 (Alaska 1978).

Alaska's strong public policy in favor of arbitration demonstrated by the adoption of this article. *Mod-*

ern Constr., Inc. v. Barco, Inc., 556 P.2d 528 (Alaska 1976).

Freedom to contract for arbitration terms. — In the absence of statutory restrictions, parties are free to contract for the terms of arbitration they desire. *Board of Educ. v. Ewig*, 609 P.2d 10 (Alaska 1980).

Internal references. — 5 Am. Jur. 2d, *Arbitration and Award*, § 1 et seq.
 33B, *Arbitration*, § 1 et seq.
 Handling real estate disputes through arbitration, 50 Am. Jur. Trials, pp. 621-678.
 Effect of state statutory provisions for arbitration on disputes, as against the objection of delega-

tion of legislative power without setting up adequate standards to guide the administrative agency, 9 ALR2d 871.

Quotient arbitration award or appraisal, 20 ALR2d 958.

Matters arbitrable under arbitration provisions of collective labor contract, 24 ALR2d 752.

Equity jurisdiction to determine valuation, where arbitration or appraisal has failed, under long-term lease providing for appraisal of premises and fixing rental value at stated intervals, 26 ALR2d 744.

Arbitrator's viewing or visiting premises or property alone as misconduct justifying vacation of award, 27 ALR2d 1160.

Arbitration provisions of employment contract providing for severance or dismissal pay, 40 ALR2d 1052.

Contract providing that it is governed by or subject to rules or regulations of a particular trade, business, or association as incorporating agreement to arbitrate, 41 ALR2d 872.

Validity and effect of arbitration agreement provisions that, upon the party's failure to appoint arbitrator, controversy may be determined by arbitrator appointed by other party, 47 ALR2d 1346.

Arbitrator's consultation with outsider or outsiders as misconduct justifying vacation of award, 47 ALR2d 1362.

Effect of vacancy through resignation, withdrawal, or death of one of multiple arbitrators on authority of remaining arbitrators to render award, 49 ALR2d 900.

Constitutionality of arbitration statutes, 55 ALR2d 432.

Death of party to arbitration agreement before award as revocation or termination of submission, 63 ALR2d 754.

Arbitration of disputes within close corporation, 64 ALR2d 643.

Construction and application of provisions of general arbitration statutes excluding from their operation contracts for labor or personal services, 64 ALR2d 1336.

Disqualification of arbitrator by court or stay of arbitration proceedings prior to award, on ground of interest, bias, prejudice, collusion, or fraud of arbitrators, 65 ALR2d 755.

Power of president of corporation to commence or to carry on arbitration proceedings, 65 ALR2d 1321.

Power of arbitrators to award injunction, 70 ALR2d 1055.

Dissolved corporation's power to participate in arbitration proceedings, 71 ALR2d 1121.

Agreement to arbitrate future controversies as binding on infants, 78 ALR2d 1292.

Covenant in lease to arbitrate, or to submit to appraisal, as running with the leasehold so as to bind assignee, 81 ALR2d 804.

Necessity that arbitrators, in making awards, make specific or detailed findings of fact or conclusions of law, 82 ALR2d 969.

Time for impeaching arbitration award, 85 ALR2d 779.

Appealability of order or decree compelling or refusing to compel arbitration, 94 ALR2d 1071; 6 ALR4th 652.

Discovery in aid of arbitration proceedings, 98 ALR2d 1247.

Enforcement of contractual arbitration clause as affected by expiration of contract prior to demand for arbitration, 5 ALR3d 1008.

Confirming or setting aside award: appealability of judgment confirming or setting aside arbitration award, 7 ALR3d 608.

Availability and scope of declaratory judgment actions in determining rights of parties, or powers and exercise thereof by arbitrators, under arbitration agreements, 12 ALR3d 854.

Validity and effect, and remedy in respect, of con-

tractual stipulation to submit disputes to arbitration in another jurisdiction, 12 ALR3d 892.

Validity and construction of provision for arbitration of disputes as to alimony or support payments, or child visitation or custody matters, 18 ALR3d 1264.

Municipal corporation's power to submit to arbitration, 20 ALR3d 569.

Validity and enforceability of provision for binding arbitration, and waiver thereof, 24 ALR3d 1325.

Necessity and sufficiency of notice of and hearing in proceedings before appraisers and arbitrators appointed to determine amount of loss, 25 ALR3d 680.

Delay in asserting contractual right to arbitration as precluding enforcement thereof, 25 ALR3d 1171.

Waiver, or estoppel to assert, substantive right or right to arbitrate as question for court or arbitrator, 26 ALR3d 604.

Breach or repudiation of collective labor contract as subject to, or as affecting right to enforce, arbitration provision in contract, 29 ALR3d 688.

Breach or repudiation of contract as affecting right to enforce arbitration clause therein, 32 ALR3d 377.

Participation in arbitration proceedings as waiver of objections to arbitrability, 33 ALR3d 1242.

Power of arbitrator to correct, or power of court to correct or resubmit, nonlabor award because of incompleteness or failure to pass on all matters submitted, 36 ALR3d 939.

Setting aside arbitration award on ground of interest or bias of arbitrators, 56 ALR3d 697.

Construction and effect of contractual or statutory provisions fixing time within which arbitration must be made, 56 ALR3d 815.

Liability of parties to arbitration for costs, fees, and expenses, 57 ALR3d 633.

Privileged nature of communications made in course of grievance or arbitration procedure provided for by collective bargaining agreement, 60 ALR3d 1041.

State court's power to consolidate arbitration proceedings, 64 ALR3d 528.

Validity and construction of statutes or ordinances providing for arbitration of labor disputes involving public employees, 68 ALR3d 885.

Demand for or submission to arbitration as affecting enforcement of mechanics' lien, 73 ALR3d 1042.

Filing of mechanics' lien or proceeding for its enforcement as affecting right to arbitration, 73 ALR3d 1066.

Refusal of arbitrators to receive evidence, or to permit briefs or arguments, on particular issues as ground for relief from award, 75 ALR3d 132.

Admissibility of affidavit or testimony of arbitrator to impeach or explain award, 80 ALR3d 155.

Modern status of rules respecting concurrence of all arbitrators as condition of binding award under private agreement not specifying unanimity, 83 ALR3d 996.

Arbitrator's power to award punitive damages, 83 ALR3d 1037.

Arbitration of medical malpractice claims, 84 ALR3d 375.

Statute of limitations as bar to arbitration under agreement, 94 ALR3d 533.

Conflict of laws as to validity and effect of arbitration provision in contract for purchase or sale of goods, products, or services, 95 ALR3d 1145.

Defendant's participation in action as waiver of right to arbitration of dispute involved therein, 95 ALR3d 767.

Appealability of state court's order or decree com-

pling or refusing to compel arbitration, 6 ALR4th 652.

Claim of fraud in inducement of contract as subject to compulsory arbitration clause contained in contract, 11 ALR4th 774.

Validity of statute or rule providing for arbitration of fee disputes between attorneys and their clients, 17 ALR4th 993.

Liability of organization sponsoring or administering arbitration to parties involved in proceeding, 41 ALR4th 1013.

Attorney's submission of dispute to arbitration, or amendment of arbitration agreement, without client's knowledge or consent, 48 ALR4th 127.

Sec. 09.43.010. Arbitration agreements valid; application of article. A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable, and irrevocable, except upon grounds that exist at law or in equity for the revocation of a contract. However, AS 09.43.010 — 09.43.180 do not apply to a labor-management contract unless they are incorporated into the contract by reference or their application is provided for by statute. (§ 1 ch 232 SLA 1968; am § 3 ch 113 SLA 1972)

Cross references. — For arbitration agreements under Public Employment Relations Act, see AS 23.40.200(f).

Legislative history reports. — For report on ch. 232, SLA 1968 (HB 212 am FCC), see 1968 House Journal, p. 861.

NOTES TO DECISIONS

Section applicable to option to arbitrate. — An option to arbitrate in a written contract is a provision in a written contract to submit a controversy to arbitration and is thus literally within the meaning of this section which states that such a provision is valid. *Willis Flooring, Inc. v. Howard S. Lease Constr. Co. & Assocs.*, 656 P.2d 1184 (Alaska 1983).

Ambiguous awards. — An award should be remanded to the arbitrator when it is ambiguous or indefinite; however, where the true intent of an arbitrator is apparent, an allegedly ambiguous award should not be resubmitted to the arbitrator for clarification. *International Bhd. of Elec. Workers, Local 1547 v. City of Ketchikan*, 805 P.2d 340 (Alaska 1991).

No application to labor dispute. — Plaintiff's direct challenge to the arbitrator's decision concerning an alleged violation of a contract between his employer and labor organization is not governed by the 90-day limitations period of AS 09.43.120. Instead, the applicable statute of limitations is six months

under federal law for hybrid U.S.C. § 301 claims. *Patterson v. State, Dep't of Agric.*, 880 P.2d 1038 (Alaska 1994), cert. denied, U.S. , 115 S. Ct. 936, 130 L. Ed. 2d 881 (1995).

Absolute immunity for quasi-judicial actions. — The plaintiffs' claims of misconduct and impartiality against the arbitrator who heard the labor dispute were properly denied on the grounds of arbitral immunity. Arbitral immunity gives arbitrators absolute immunity from liability for damages arising out of quasi-judicial actions taken by them. *Feichtinger v. Conant*, 893 P.2d 1266 (Alaska 1995).

Cited in *Harold's Trucking v. Kelsey*, 584 P.2d 1128 (Alaska 1978); *Alaska State Hous. Auth. v. Riley Pless, Inc.*, 586 P.2d 1244 (Alaska 1978); *City of Fairbanks v. Rice*, 628 P.2d 565 (Alaska 1981); *Menden v. University of Alaska*, 633 P.2d 1374 (Alaska 1981); *Organ v. Conner*, 792 F. Supp. 693 (D. Alaska 1992).

Sec. 09.43.020. Proceedings to compel or stay arbitration. (a) On application of a party showing an agreement described in AS 09.43.010, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue and if the agreement is found to exist shall order arbitration.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. The issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the stay ordered if no agreement is found to exist. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue subject to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under (a) of this section, the application shall be made in that court. Otherwise the application may be made in any court of competent jurisdiction.

(d) An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for the order has been made under this section or, if the issue is severable, the stay may be with respect to the issue only.

(e) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or because a fault or ground for the claims sought to be arbitrated has not been shown. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Arbitrability to be determined prior to rendition of award. — This section provides for court determination of the issue of arbitrability prior to rendition of an award and before the parties have subjected themselves to the effort and expense of arguing the merits of the dispute to the panel. *University of Alaska v. Modern Constr., Inc.*, 522 P.2d 1132 (Alaska 1974).

Waiver or estoppel where court review sought after award. — See *University of Alaska v. Modern Constr., Inc.*, 522 P.2d 1132 (Alaska 1974).

Applied in *Anchorage Daily News, Inc. v. Anchorage Times Publishing Co.*, 631 P.2d 500 (Alaska 1981).

Cited in *Loyal Order of Moose, Lodge 1392 v. International Fid. Ins. Co.*, 797 P.2d 622 (Alaska 1990).

Sec. 09.43.030. Appointment of arbitrators by court. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement. (§ 1 ch 232 SLA 1968)

Sec. 09.43.040. Majority action by arbitrators. The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by AS 09.43.010 — 09.43.180. (§ 1 ch 232 SLA 1968)

Sec. 09.43.050. Hearing. Unless otherwise provided by the agreement,

(1) the arbitrators shall set a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing; appearance at the hearing waives the notice; the arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date; the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a properly notified party to appear;

(2) the parties are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing;

(3) the hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award; if, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals shall continue with the hearing and determination of the controversy. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Quoted in *Integrated Resources Equity Corp. v. Fairbanks N. Star Borough*, 799 P.2d 295 (Alaska 1990).

Sec. 09.43.060. Representation by attorney. A party has the right to be represented by an attorney at a proceeding or hearing under AS 09.43.010 — 09.43.180. A waiver of the right before the proceeding or hearing is ineffective. (§ 1 ch 232 SLA 1968)

Revisor's notes. — In 1994, "AS 09.43.010 — 09.43.180" was substituted for "this chapter" to reflect the 1972 enactment of AS 09.43.190 — 09.43.220.

Sec. 09.43.070. Witnesses, subpoenas, depositions. (a) The arbitrators may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and have the power to administer oaths. Subpoenas shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the superior court. (§ 1 ch 232 SLA 1968)

Cross references. — For court rule governing subpoenas, see Civ. R. 45; for court rule governing witness fees, see Admin. R. 7.

Sec. 09.43.080. Award. (a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement or, if not so fixed, within the time the court orders on application of a party. The parties may extend the time in writing either before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the objection before the delivery of the award to that party. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

The law favors arbitration with a minimum of court interference. *University of Alaska v. Modern Constr., Inc.*, 522 P.2d 1132 (Alaska 1974); *Board of Educ. v. Ewig*, 609 P.2d 10 (Alaska 1980).

Presumption of validity. — Whenever possible an arbitration award rendered in the form required by this section is presumptively valid and shall be upheld without inquiry into the merit of the dispute. *University of Alaska v. Modern Constr., Inc.*, 522 P.2d 1132 (Alaska 1974).

Subsection (a) sets out the minimum requirements as to the form of an award. *University of*

Alaska v. Modern Constr., Inc., 522 P.2d 1132 (Alaska 1974).

Written findings and conclusions not required. — The language in subsection (a) does not require the arbitrators to submit written findings of fact or conclusions of law. *University of Alaska v. Modern Constr., Inc.*, 522 P.2d 1132 (Alaska 1974).

Authority to fashion remedies. — There is ample authority for the proposition that arbitrators generally have authority to fashion any remedy necessary to the resolution of the dispute. *Board of Educ. v. Ewig*, 609 P.2d 10 (Alaska 1980).

Sec. 09.43.090. Modification of award by arbitrators. On application to the arbitrators by a party or, if an application to the court by a party is pending under AS 09.43.110 — 09.43.130 on submission to the arbitrators by the court under the conditions the court may order, the arbitrators may modify or correct the award upon the grounds stated in AS 09.43.130(a)(1) and (3), or for the purpose of clarifying the award. An application to the arbitrators by a party shall be made within 20 days after delivery of the award to the applicant. Written notice of the application shall be given promptly to the opposing party, stating that objections to the application must be served within 10 days from the notice. A modified or corrected award is subject to the provisions of AS 09.43.110 — 09.43.130. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Superior court authorized to order clarification. — This section clearly authorizes the superior court to return an award to the arbitrators for clarification.

University of Alaska v. Modern Constr., Inc., 522 P.2d 1132 (Alaska 1974).

Sec. 09.43.100. Fees and expenses of arbitration. Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Public policy against awards. — Ordinarily attorney's fees are not awarded where matters are submitted to arbitration. This is consistent with the strong public policy favoring arbitration, which would be seriously undercut if a party could obtain attorney's fees merely by filing a complaint as an initial

step in the arbitration process. *Harold's Trucking v. Kelsey*, 584 P.2d 1128 (Alaska 1978).

Award of attorney's fees held proper. — See *Harold's Trucking v. Kelsey*, 584 P.2d 1128 (Alaska 1978).

Sec. 09.43.110. Confirmation of an award. Upon application of a party, the court shall confirm an award unless within the time limits imposed by AS 09.43.120 and 09.43.130 grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in AS 09.43.120 and 09.43.130. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

The law favors arbitration with the minimum of court interference. *Municipality of Anchorage v. Frank Coluccio Constr. Co.*, 826 P.2d 316 (Alaska 1992).

Construing arbitrator's comments. — To the extent that there is ambiguity in whether the arbitrators' comments are "dicta" or "holdings," they should

be analyzed in the context of the parties' contractual agreement to arbitrate. *Municipality of Anchorage v. Frank Coluccio Constr. Co.*, 826 P.2d 316 (Alaska 1992).

Applied in Willis Flooring, Inc. v. Howard S. Lease Constr. Co. & Assocs., 656 P.2d 1184 (Alaska 1983).

Sec. 09.43.120. Vacating an award. (a) On application of a party, the court shall vacate an award if

- (1) the award was procured by fraud or other undue means;
- (2) there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of a party;
- (3) the arbitrators exceeded their powers;
- (4) the arbitrators refused to postpone the hearing upon sufficient cause being shown for postponement or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of AS 09.43.050, as to prejudice substantially the rights of a party; or
- (5) there was no arbitration agreement and the issue was not adversely determined in proceedings under AS 09.43.020 and the party did not participate in the arbitration hearing without raising the objection.

(b) The fact that the relief is such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(c) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. However, if the application is predicated upon corruption, fraud, or other undue means by either the opposing party or an arbitrator, it shall be made within 90 days after the grounds are known or should have been known.

(d) In vacating the award on grounds other than those stated in (a)(5) of this section the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence of a provision in the agreement, by the court in accordance with AS 09.43.030, or, if the award is vacated on grounds set out in (a)(3) or (4) of this section, the court may order a rehearing before the arbitrators who made the award or