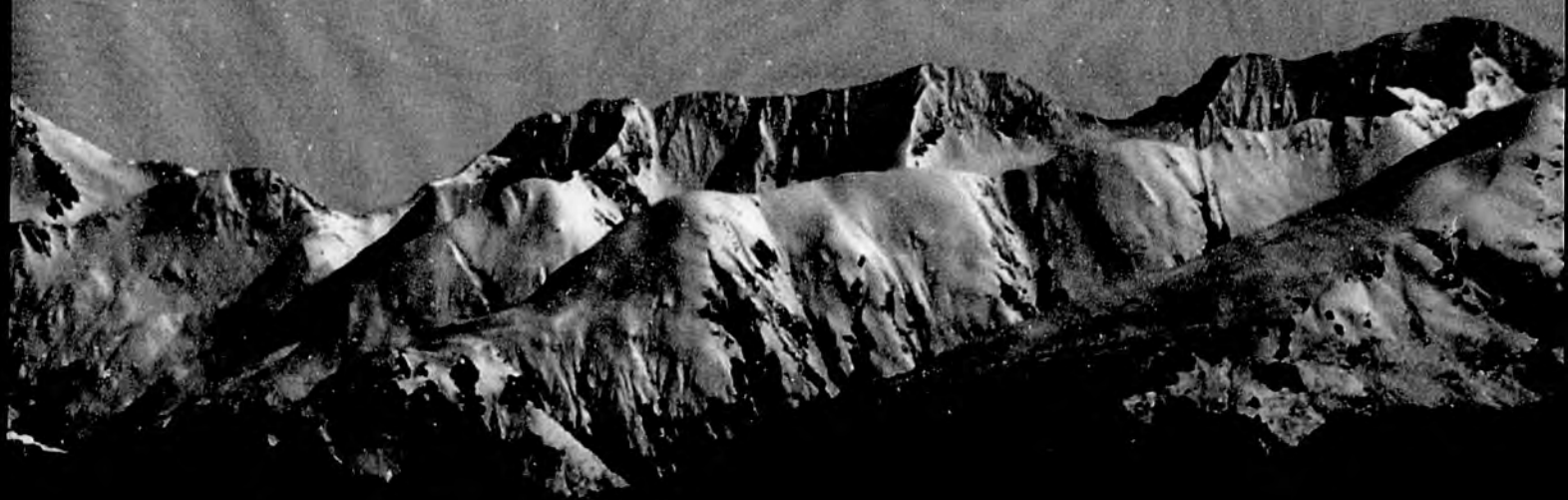


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*Initial Report and
Recommendations of the
Alaska Rural Justice and
Law Enforcement Commission*

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Recommendations*

*of the
Alaska Rural Justice and
Law Enforcement Commission*

2006

Introduction

For years, Alaska Natives, the government of Alaska, the federal government and others have sought the most effective way to provide law enforcement and access to the justice system in rural Alaska. In 2004, following a number of statewide forums and discussions, the United States Congress created the Alaska Rural Justice and Law Enforcement Commission to review federal, state, local and tribal jurisdiction over civil and criminal matters in Alaska (Public Law 108-199). The Commission was formally appointed by the U.S. Attorney General and charged with providing recommendations to the Congress and the Alaska State Legislature regarding ways to improve the quality of justice and law enforcement in rural Alaska.

The reach of the Commission's work extends to all areas of rural Alaska. In the enabling legislation, this is defined as those areas outside of the Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough, the Matanuska-Susitna Borough, the City and Borough of Juneau, the Sitka Borough and the Ketchikan Gateway Borough.

Meetings and public hearings were held beginning in early October 2004. The Commission also established four working groups to address the key areas of the Commission's charge: law enforcement, judicial services, alcohol importation and interdiction, and domestic violence and child abuse. The workgroups met weekly from January 2005 through April 2005 and developed over 100 options that the Commission reviewed. The options it adopted were organized into nine general recommendations that form the outline of this report.

The Alaska Rural Justice and Law Enforcement Commission's charge has been extended and the Commission will work to ensure implementation of the recommendations contained in its "Initial Report and Recommendations."

Initial Report and Recommendations of the Alaska Rural Justice and Law Enforcement Commission

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In Memoriam



Eric D. Johnson

April 27, 1965 – May 6, 2005

Eric D. Johnson, a tribal rights attorney for the Association of Village Council Presidents in Bethel, committed hundreds of hours to the work of the Alaska Rural Justice and Law Enforcement Commission, both offering testimony and serving on the law enforcement workgroup. In so doing, Eric strived to foster greater cooperation and mutual support between State and tribal law enforcement systems.

Eric came to Alaska in 1994 as a summer law clerk for the Sierra Legal Defense Fund. After graduating with distinction from Stanford Law School in 1995, he returned to Alaska to serve as a law clerk to then Chief Justice Allen Compton of the Alaska Supreme Court, and for a second year served as the law clerk for then Chief Judge Alex Bryner of the Alaska Court of Appeals.

From 1997 to 1998, Eric was an Alaska Legal Services Corporation staff attorney in Barrow, after which he received a prestigious two-year fellowship from the National Association for Public Interest Law to work in Anchorage for the Native American Rights Fund.

Eric's significant litigation activities included a successful challenge to a 1998 referendum declaring English to be Alaska's official language; a challenge to Alaska's law enforcement system for rural villages; multiple cases to enforce tribal government rights under the Indian Child Welfare Act; and successful litigation challenging the Alaska Legislature's attempted repeal of a court rule protecting plaintiffs who bring public interest lawsuits against the State of Alaska.

Eric's work also included extensive representation of Alaska Native hunters and fishermen before the Alaska Fish and Game Boards and the Federal Subsistence Board, as well as subsistence litigation. He also provided legal assistance to many villages throughout the Yukon-Kuskokwim Delta.

In 2003, the American Civil Liberties Union of Alaska honored Eric's life work with its Liberty Award as a Champion of Equal Rights.

Eric is remembered for his humility, compassion and good natured interactions with others. The Commission commends Eric's dedicated service on the law enforcement workgroup and his valuable contributions to the Commission's work.

PREAMBLE

To provide context for the readers of this Report, the Alaska Rural Justice and Law Enforcement Commission sought a personal statement from an elder resident of rural Alaska who could convey the "sense of place." Alice Abraham, a respected Yup'ik Elder, agreed to prepare this preamble to the Report. Alice has spent many years working in the mental health and substance abuse prevention and treatment fields in rural Alaska, and has personally experienced problems that are addressed by the Commission. Alice's is an individual oral history, and there are as many different oral histories from rural Alaska as there are residents of rural Alaska. Alice expresses many experiences, perceptions, and feelings that represent those of other rural Alaska residents.

The Commission feels that this brief oral history, dictated by Alice and transcribed by staff, helps to convey the deeply felt – and deeply personal – sense of community, sharing, tradition, and support that prevails in rural Alaska.

The Importance of Place in Rural Alaska **Alice Abraham¹**

I spent my formative years in the small village of Nightmute on Nelson Island, and traveled to various camps during different seasons with my family of grandparents, parents, aunts, uncles, cousins, and other relatives, gathering food and supplies for the winter. I certainly appreciate people who have chosen to continue this lifestyle and to continue to live in their villages. They have an existing support system of family members, Elders, and other community members. The fondest memories I have of my childhood are living in a winter village and when the spring came we went to a spring camp to hunt geese, ducks, trap muskrat and other small games, then travel in a boat to a fish camp, Umkumuit, to join the rest of the community to continue harvesting food from the ocean and surrounding area. The women in the villages are busy for days, cleaning and braiding the herring around their heads and then hanging them up in the racks, cutting up their seal meat to dry and other games and fish from the ocean and nearby river. Once those chores are done, then they would start weaving baskets to trade for the goods when the barge Northstar came in from Seattle. And all the children – as children we anticipated having the first taste of fruit, of oranges and apples. It was one of the best treats to die for!

I also went with my father to haul goods from the barge to the villages of Tununak and Nightmute. I used to be fascinated with the man who directed the traffic of unloading the boxes into the boats. He would often toss either an orange or apple to the children that came. That was about the only time I had a chance to have a whole fruit to myself. And then I get to eat it slowly, savoring every bite of it, 'cause once we'd go home my Dad would bring bags of oranges and apples, and my mother would cut up the apples or oranges into quarters to make them last.

When the fish and meat were dried and seal blubber is rendered in their skins, the men would take them to the food caches, and the preparation for berry picking would start. Each family went to their favorite spots to gather berries and fish for the last summer fish, to dry and smoke. Once these tasks were done we returned to the main village for the winter, the rest period for the food gatherers for awhile, then they would prepare for the winter. These activities were continuous. Those who worked hardest to gather food and supplies had easier times than those who worked haphazardly, but of course, no one went hungry or without things they needed. These lazy ones were often visited by Elders and encouraged to do better next time.

As children, we were watched and supervised by adults in the community. We were corrected if we were to misbehave or act inappropriately. We were often fed by whichever household we happened to be at. If our parents or older siblings come looking for us, someone always seemed to know where we're at.

The lifestyle in the villages has changed because of the influence of the Western world that came with their educational system, which has caused conflict with traditional family values. Of course the television brought the rest of the world into our homes, as have the Alaska Native Claims Settlement Act, the Pipeline, Molly Hootch,² and all the other modern

1 As she explains in this brief oral history, Alice Abraham grew up in Nightmute and has spent most of her life in Western Alaska. She became involved in behavioral health services in the mid-1980s, and later pursued and completed her Bachelor's Degree in the field. She lived in the Copper River Basin and continued to be involved in mental health and substance abuse services until she lost her battle with cancer and passed away on November 29, 2005.

2 See http://www.alaskool.org/native_ed/law/mhootch_erq.html for information on this important court case that brought schools to most of Alaska's rural villages.

technology. But our subsistence lifestyle has not changed except for the fact that the state and federal agencies have brought their rules and regulations as to when we can hunt and fish. Some people from the Outside can't seem to understand why we need to harvest, or the importance of the subsistence lifestyle.

For me, living a subsistence lifestyle is the very essence of who I am as a Yup'ik woman. I have continued to cut and clean fish, caribou, moose, or other games as my mother and grandmothers and aunts have done for centuries. And living in a village has given me a sense of belonging, a sense of who I am, which has sustained me to this day. Oftentimes today so many Native people are misplaced, like in the cities they become homeless, of course looking for company, or when they get lonesome they often end up in places where it's not safe for them, and usually they end up drinking and drugging. People seem to have lost their sense of who they are and where they come from, or many of them have never learned, because they were placed in foster homes as children, and I think those are the people oftentimes who are very lost, because they have no sense of identity.

I remember the time when I went back to Bethel, and during that time I reconnected with my Elders and my people. I got back into that way of living again, even though it was modernized, but I still had that essence of who I was, who I had come from, and where I belonged. My children and I lived there for eight years, and while we lived there my children got to know their relatives, all their relatives that were around. And what we did was, we built a community, a support system that was very satisfying, and my children recall those were the happy times. I mean life was hard, but in all it was a pretty good life.

Then in 1985 we moved to Anchorage to continue my college education. The first two years were a very hard time for us, because we no longer had that support system like we did in Bethel. Even though we had friends and relatives, they were all scattered throughout the city, and everybody was rushing, working, and too busy even to take the time to visit. So we really didn't have that support system any more. It was a very difficult period. I think the first three or four years, and I think my children suffered from that, and to this day I'm really sorry that I brought them into the city. I think we would have been better off living in the village or living in Bethel. So that's what happens a lot of times to people who move into a city. There's no – in the cities we lose that connectedness to other human beings. It's very lonely living in a city, there are all kinds of people around us, but it's a very lonely time.

I cannot stress how important it is, as a Yup'ik woman, knowing who I am, knowing where I come from, and knowing the history of my people. I can never be anybody else. I am who I am. It's really sad that as Yupiit and other Alaska Native people we can never be accepted as just human beings that have a different culture, and I don't understand that, because as a Yup'ik person I was brought up to accept other human beings, regardless of their race, into my home, to welcome them, and I still do, and it's sad that a lot of times it's not reciprocated. But I have no control over people's ignorance and their prejudice, and that's how they choose to live and then that's their problem, it's not my problem. I have to maintain my integrity of who I am. It is the right place for us. It is our home, and I always will be proud that I grew up in a village, I was raised in the village by my family and all the other adults in the village, and it has enriched my life, and I will always have a special connection – when I go to villages, I will feel at home. I'll always have a connection with the people there, and when I introduce who I am and I tell them whose family I come from I find out that I have relations, especially in the Bethel region and Dillingham area, I have relations... I am related somehow or another to someone, and they make us feel welcome or they made me feel welcome, and how wonderful that is. Even sometimes when you're a stranger, you go out to a village and you take the time to get to know the people and you make friends there, you will be their friends forever. They will never forget your kindness, your gentleness, whatever you have brought there with you that is good. They will never forget that, and they will always recognize who you are, and they will always acknowledge you when they see you.

Executive Summary

Created by Congress in 2004 (Public Law 108-199), the Alaska Rural Justice and Law Enforcement Commission is charged with the task of studying four broad areas related to rural Alaska: law enforcement; judicial services; alcohol importation and interdiction; and domestic violence and child abuse. Meetings and public hearings were held from early October 2004 through June 2005, and the Commission also established four workgroups of professionals, experts, and officials working in fields related to these four topics, numbering 50 Alaskans in all. The workgroups met weekly from January 2005 through April 2005, and developed over 100 options that the Commission reviewed. In reviewing these options, the Commission also considered the many hours of public testimony offered in hearings held across Alaska. The options it adopted were organized into one of the following nine general recommendations.

1. Engage in More Partnering and Collaboration

One of the most significant outcomes of the Commission's work was engendering collaboration among a broad spectrum of stakeholders in trying to address the four issues before the Commission. In order to continue the dialogue, this Commission recommends that its work continue for the next three to five years. Given the dearth of resources and the daunting nature of the problems facing rural Alaska, the Commission urges more collaboration among the various governments involved. It specifically recommends collaboration on development of a number of agreements that will better coordinate law enforcement and judicial services in rural Alaska.

2. Make Systemic Changes to Improve Rural Law Enforcement

Responding to its first charge, the Commission offers several recommendations to improve law enforcement in rural Alaska, including the development of a statewide, uniform, and tiered system of certification and training for police and public safety officers with a reasonable opportunity for advancement that could culminate in qualifications to seek full police certification by the Alaska Police Standards Council. It further recommends expansion of police and public safety training, changes in state law to help law enforcement reduce the importation of alcohol into dry rural Alaska villages, and a ban on written order sales of alcoholic beverages to "dry" or "damp" communities.³

3. Enlarge the Use of Community-based Solutions

The Commission was impressed with the public testimony and evidence that demonstrated the importance, and success of, approaches responding to the immediate and cultural needs of communities that are *locally* driven. To this end, the Commission recommends amending state statutes to allow the Division of Juvenile Justice to delegate authority to tribes to enable the sharing of resources with respect to tribal juvenile offenders, with other amendments to permit tribes to participate in juvenile proceedings and juvenile delinquency treatment. It further recommends expanded funding to help non-profit organizations and rural Alaska communities develop new programs at the local level to increase prevention, intervention, and treatment of domestic violence and child abuse. Housing Alaska's inmates in out-of-state facilities is a weak point in the State's correctional system, and the Commission recommends that the Department of Corrections explore other options, including working with Native regional corporations, to keep inmates in Alaska. To help reduce the amount of alcohol reaching dry communities, the Commission recommends the establishment of alcohol distribution centers, in damp hub communities such as the one established in Barrow, restricting alcohol sales to residents of those communities only.

4. Broaden the Use of Prevention Approaches

The Commission concluded that there are insufficient substance abuse prevention approaches in rural Alaska. The Commission recommends expanding culturally appropriate prevention programs to reduce the demand for alcohol in rural Alaska, starting with youth, linking youth with adults in healthy activities, and providing more information to schools. There should also be more education, prevention, and early intervention programs targeting domestic violence and child abuse in rural Alaska, specifically, the development of new prevention curricula to be implemented in kindergarten through eighth grade, teaching respect, establishing interpersonal relationships, healthy lifestyle choices, and the importance of remaining substance free.

5. Broaden the Use of Therapeutic Approaches

There are a number of programs in rural Alaska that target the problems of substance abuse, domestic violence, child abuse and neglect, and sexual abuse, all of which are routinely tied to the consequences of substance abuse in rural Alaska.

³ A "dry" community is one in which alcohol may be neither sold nor possessed. A "damp" community is one in which alcohol may not be bought or sold, but may be possessed.

However, there remains a great need to expand therapeutic approaches. Alcohol and drug abuse treatment programs should be expanded in rural Alaska, with a system of longer-term residential care in hub communities (including programs for women with children) matched with a network of aftercare services in rural villages. Substance abuse, mental health, and dual diagnosis treatment options for youth also need to be strengthened, as well as therapeutic courts, and group homes for children in need of aid who are not appropriate for, or unable to access, foster care. By changing state regulations to allow close relatives caring for children in need of aid to receive the same level of financial reimbursement that non-relatives now receive, the availability of care in rural Alaska could be greatly expanded.

6. Increase Employment of Rural Residents in Law Enforcement and Judicial Services

Cultural identification and modeling are important in rehabilitation. In the face of significant overrepresentation of Alaska Natives from rural communities who encounter legal problems with law enforcement, and an even greater overrepresentation of Alaska Natives in the correctional system in Alaska, there is a great – and growing – need to recruit and employ Alaska Natives in these systems. As a result, the Commission recommends: the implementation of a focused recruitment effort to bring more Alaska Natives and rural Alaskans into the correctional, law enforcement, and public safety workforce. It also recommends increasing the training and utilization of Village Public Safety Officers as probation officers in the villages and contracting with tribes to oversee community service work, which would increase the supervision of offenders on probation and parole in rural Alaska.

7. Build Additional Capacity

The Commission reviewed a multitude of indicators that pointed to the relative lack of infrastructure to support police and public safety functions in rural Alaska, which in turn has a detrimental effect on recruitment and retention of officers. The Commission therefore recommends the improvement and expansion of housing for police and public safety officers; increased availability of appropriate intra-community transportation; more law enforcement offices and holding facilities in rural Alaska; and improved law enforcement equipment. The Commission also recommends improved and expanded public safety training, and the development of a standardized statewide data system to document and monitor law enforcement investigations in rural Alaska.

8. Increase Access to Judicial Services

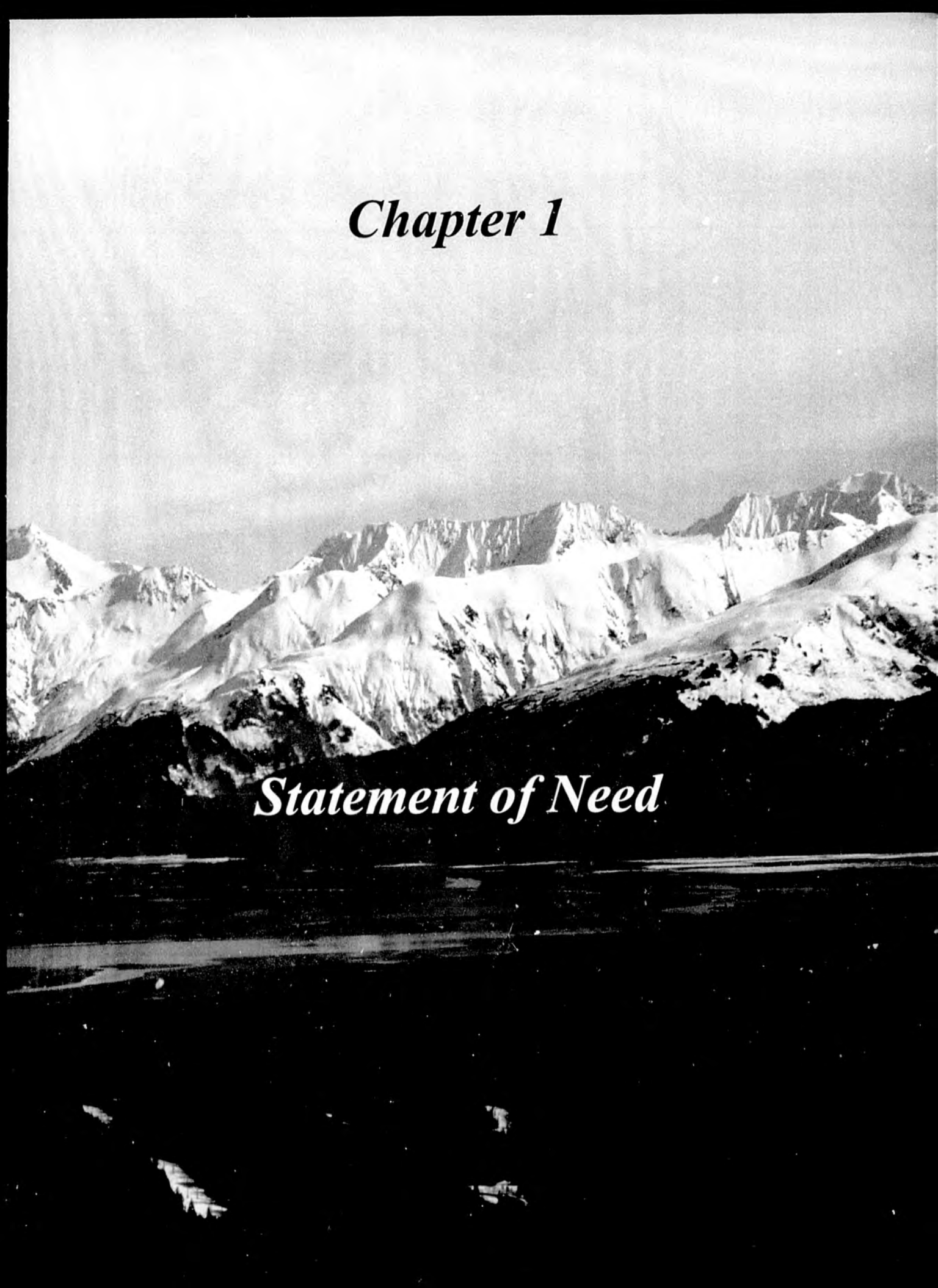
The Commission found that residents of rural Alaska do not have access to sufficient civil legal assistance to address legal problems related to domestic violence and child abuse, and recommends enhanced funding to respond to this need. It also recommends the increased use of tribal courts, as well as training and technical assistance to judges and support staff in the Alaska Court System and in tribal courts to inform and instruct participants in both systems to be aware of and value the cultural differences in rural Alaska.

9. Expand the Use of New Technologies

Alaska enjoys the most sophisticated telehealth system in the world, the Alaska Federal Health Care Access Network (AFHCAN), which includes broadband telecommunications services in most rural Alaska communities. However, in the hundreds of rural Alaska villages that are part of the AFHCAN, other organizations do not have access to existing broadband capabilities. To improve communication within the law enforcement and judicial systems in rural Alaska, the Commission recommends changing current regulations to allow rural police, public safety officers, and court officers to utilize this resource. The Commission also recommends that the Department of Corrections explore the use of new electronic monitoring technology, such as the Global Positioning System, for rural Alaskan probationers, and that the Alcohol Beverage Control Board develop a statewide database for all alcohol written orders⁴ for the new community distribution centers.

Finally, noting the importance of consistent monitoring and evaluation of the implementation of its recommendations, the Commissioners ask that Congress extend their appointments or authorize the creation of a successor commission to oversee implementation, continue the dialog among justice stakeholders that has been nurtured by the Commission, conduct additional research, monitor the recommended pilot projects, and evaluate the impact of these new and expanded activities into the future.

4 Process to obtain alcoholic beverages from a licensed vendor when delivery, purchase or possession is not otherwise prohibited by law.



Chapter 1

Statement of Need

The Alaska Rural Justice and Law Enforcement Commission was created by Congress to respond to a number of needs related to justice and law enforcement in rural Alaska that are detailed in the congressional language (Public Law 108-199). This chapter of the Commission's Initial Report and Recommendations reviews current conditions in rural Alaska, recounts the history of law enforcement in rural Alaska, recognizes some of the improvements in rural Alaska that have occurred in recent years, and presents excerpts of the testimony given to the Commission during the public hearings.

A. Current Conditions

1. Problems the Commission Has Been Asked to Address

Like other communities nationwide, residents of remote, rural Alaska grapple with family violence, child abuse and neglect, and alcohol addiction. Unlike other communities, however, many remote rural residents in Alaska lack a law enforcement presence in their communities, and they face the highest alcohol abuse and family violence rates in the country. Congress asked the Commission to explore various options that might address these issues, including creation of a unified law enforcement and judicial system, cross deputization, and restorative justice methods to address family violence, child protection and alcohol consumption.

Alcohol abuse presents profound challenges in rural Alaska. Its effects are insidious, affecting and influencing the health and welfare of all who live there. As the Alaska Natives Commission reported more than a decade ago:

Facts do not lie: alcohol abuse among Alaska Natives equals tragedy for family and village. It is proven that alcohol abuse equals violence, imprisonment, and death. It is proven that alcohol abuse in the Native family results in frightened, psychologically disordered children. Alcohol abuse leaves FAS, FAE, and a myriad of other physical and psychological symptoms in its destructive wake.⁵

Last year the Institute of Social and Economic Research (ISER), University of Alaska Anchorage, in its *The Status of Alaska Natives Report 2004, Volume I*, stated, "Analysts say that the most difficult social problems in the Native community – from high rates of suicide to domestic violence and child abuse – can be traced in large part to alcohol."⁶ The costs to Alaska are not only social. Financially, it is estimated that alcohol abuse cost Alaska well over \$525 million a year.⁷

The Commission emphasizes that alcohol abuse and alcoholism in rural Alaska are not *Native* problems, *per se*, but rather problems for Natives and non-Natives alike. But the Commission also acknowledges that over 66 percent of the population in rural Alaska is Native,⁸ and that recommendations in this report that mention the importance of culturally appropriate approaches predominantly focus on Alaska Natives. Many of the Commissioners recommendations may be adopted for non-Natives living in rural Alaska as well.

The consequences of substance abuse and the corresponding importance of finding effective means to prevent alcohol and other drugs from reaching rural Alaska communities that have, through local option laws, decided to ban, partially or wholly, alcohol⁹ are important threads in the fabric of society in rural Alaska, as they have been in the Commission's work over the last 10 months. Numerous statistics point to the continuing – and in many cases growing – overrepresentation of Alaska Natives from rural Alaska among children in need of aid, victims

5 *Alaska Natives Commission, Final Report, Volume II*. Anchorage, AK: Alaska Natives Commission, 1994, p. 70. Note: Fetal Alcohol Syndrome (FAS), Fetal Alcohol Effects (FAE), and Alcohol Related Birth Defects (ARBD) are now combined into the Fetal Alcohol Spectrum Disorder (FASD), which is the term used in this report.

6 *The Status of Alaska Natives Report 2004, Volume I*. Anchorage, AK: University of Alaska Anchorage, May 2004, p. 3-24.

7 *Economic Costs of Alcohol and Other Drug Abuse in Alaska, 2005*. McDowell Group, Inc., December 2005, p. 1.

8 See Section B.2 of this Chapter for the relevant population statistics.

9 Alaska's Local Option law has five categories: (1) Sale by community license only, (2) Sale by selected licenses only, (3) Ban sale, (4) Ban Sale and importation, and (5) Ban possession. For a detailed history of alcohol control in Alaska see http://www.iser.uaa.alaska.edu/Publications/Alcohol_Arctic.pdf

and perpetrators of domestic violence and sexual assault, and other crimes. The percentage of Native children under the care of the Office of Children's Services hovers close to 50 percent and the numbers of Native youth and adults in Alaska's juvenile justice and correctional systems are similarly disproportionately large. The justice systems in rural Alaska struggle to find locally and culturally appropriate ways to manage offenders in a way that minimizes negative impacts to families and communities and strives to restore harmony quickly. There are frequent "disconnects" between tribal and state court systems, and disputes over jurisdiction continue throughout rural Alaska. In the meantime, rural residents criticize the inadequacies of current law enforcement and public safety in much of rural Alaska, but an affordable and acceptable resolution has yet to be found.

Domestic violence, child abuse, child neglect, and sexual assault are major problems in rural Alaska. The following quote highlights the experiences of one Alaskan researcher:

In Alaska, we often see abusive partners who have relocated their families to remote communities to isolate them from the support of their friends and family, and to more easily track and control their movements. Victims may be held hostage in their own homes with no winter clothing or means of escaping their extreme isolation. Deprivation and isolation become powerful tools to control victims.

One survivor, who shares her story to help others understand the dynamics of abuse in rural communities, described how her husband stranded her and their new baby at a remote fish camp for several weeks without enough food, medications and other essentials. Eventually, she was able to escape her abusive marriage and became a domestic violence outreach worker to remote villages in the Arctic. Although she struggles with debilitating, long-term health problems secondary to the abuse, she survived. Her former husband murdered his next wife.

When domestic violence services are available in rural regions, they face additional challenges in maintaining security and accommodating rural lifestyles. In Alaska, none of the shelter locations are secret – the communities are too small to hide a facility. Maniilaq Family Crisis Center, a victims' assistance program and shelter in northwestern Alaska, offers a safe haven to victims and the animals that they are often unwilling to leave behind. The center uses a snowmobile to pick up clients and has a fenced yard where clients can keep their dog teams and other animals. Susan Jones, the center's executive director, takes threats against victims' pets seriously. The murder or mutilation of a pet by an abusive partner is another indicator of escalating domestic violence.¹⁰

Statistics reported by the Alaska Council on Domestic Violence and Sexual Assault highlight the seriousness and widespread nature of the situation in Alaska:¹¹

- In calendar year 2004 the Office of Children's Services received 957 reports of suspected child sexual abuse.
(Office of Children's Services, State of Alaska)
- On average, an Alaska woman is forcibly raped every 15 hours and 14 minutes.
(Alaska Uniform Crime Report, 2003)
- In 2004 Alaska had the highest rate of reported forcible rape among the 50 states: 85.1 per 100,000 inhabitants. The next closest were New Mexico with 54.6 and Michigan with 54.2.
(Alaska Uniform Crime Report, 2003)

10 Linda Chamberlain, M.P.H., Ph.D., January/February, 2002, "The Network News," National Women's Health Network, Washington, D.C. The article is available at <http://www.womenshealthnetwork.org>

11 "Statistics on Sexual Violence: What and Where to Find Them." Alaska Council on Domestic Violence and Sexual Assault. Prepared by Denise Henderson, Executive Director, March 5, 2004.

- Based on 2002 homicide data nationwide, Alaska ranked number one in the nation for females murdered by males with a homicide rate of 4.84 per 100,000. This is 3.5 times higher than the national average and 1.6 times higher than the next highest state. *(Violence Policy Center, 2004)*
- From December 2004 to December 2005, 686 victims of sexual assault sought services from victim service programs in Alaska. *(Council on Domestic Violence and Sexual Assault, State of Alaska)*
- 316 sexual assault cases and 295 sexual abuse of a minor cases were referred to Alaska District Attorney Offices in 2005. *(Department of Law, State of Alaska)*

Domestic violence, child abuse, child neglect, and sexual assault, especially in rural Alaska and in the Alaska Native population, represent major issues that need new, creative solutions to resolve.

Part of the solution may lie in enhanced or altered rural law enforcement. Accordingly, the Commission also has been asked to study issues related to law enforcement in rural Alaska. A brief history will help put the current systems in perspective.

2. Brief History of Law Enforcement in Alaska¹²

The U.S. Cutter "Bear" was one of the few signs of the United States' new legal authority along most of coastal Alaska in the early territorial days. Revenue Marine Captain Mike Healy, its legendary captain, was described in the *New York Sun* in the 1890s as "a great deal more distinguished person in the waters of the far Northwest than any President of the United States. ... He stands for law and order in many thousands of miles of land and water..." Healy was frequently called upon to act as a peace officer and to administer legal and extralegal forms of justice.

In the late 1800s the evolution of law enforcement in Alaska continued with the U.S. Army and Navy being the sole law enforcement authority throughout the vast Territory. Later, U.S. Marshals were appointed but were far too few in number to meet the law enforcement needs of the territory. In the tumult of the gold rush period, both Skagway and Nome first brought to focus the need for an additional statewide law enforcement organization to supplement the U.S. Marshal's Office (which continued to bear the responsibility for law enforcement in Alaska for the next 40 years).

Federal Territorial Judge James Wickersham followed the "floating court" tradition of Healy and other cutter captains in 1900, traveling by cutter with an entourage of 18 jurors from Valdez to preside over a felony trial in Unalaska in the Aleutian Islands. His trip led to regular summer journeys in which the court, with judge and jurors, traveled by Revenue Cutter along the Alaska coastline and came ashore where needed to administer justice.

2a. Alaska State Troopers¹³

In 1941, the 15th Territorial Legislature established the Territory of Alaska Highway Patrol for the purpose of enforcing the traffic code – but it did not provide the new organization with police authority. In 1945, as lawlessness continued to thrive outside the jurisdiction of local police departments, the members of the Alaska Highway Patrol were deputized as Special Deputy U.S. Marshals. In 1948, the Highway Patrol was given the full authority of peace officers to enforce the laws of the Territory.

¹² Quoted almost verbatim from the University of Alaska Anchorage Justice Center's website – <http://justice.uaa.alaska.edu/images/features/crimjust.html>

¹³ This section is almost verbatim from www.dps.state.ak.us/ast/trooperhistory/

In 1953 the Territorial Legislature established the Alaska Territorial Police to provide law enforcement services for the entire Territory; the total strength of the force consisted of 36 officers. The Alaska Highway Patrol had already gained a reputation as an elite corps, and formal training became its hallmark.

With the advent of statehood in 1959, the name of Alaska's statewide enforcement agency was changed to the Alaska State Police, and the organization became a division of the Alaska Department of Public Safety. The new State Police added 13 former U.S. Marshals and 10 new recruits to its ranks, increasing the number of Police to 78 commissioned officers. During this time the State Police also provided "contract officers" for communities that were willing to pay for trained law enforcement. Kotzebue was the only community located in rural Alaska that had "contract officers" in the early years of Alaska's statehood.¹⁴

In 1967, the agency's name was changed to the Alaska State Troopers. The Troopers focused their work in areas of Alaska that were not being served by community police, and began to offer more sophisticated services to law enforcement organizations statewide. Also in 1967, the Public Safety Training Academy marked its first year of operation. Today the Alaska State Troopers number approximately 383 commissioned officers.¹⁵

2b. Village Public Safety Officers

When Bill Nix was appointed Commissioner of the Department of Public Safety in March 1979, he ordered a study and a restructuring of the village police officer program, which led to a proposal by James Messick (a member of the Office of Director of the Alaska State Troopers) to create the Village Public Safety Officer Program. Messick's proposal began by describing the situation that prevailed in rural Alaska at that time:

Public safety in rural Alaska is perhaps the most neglected aspect of village life, and this poses a serious threat to the bush residents inhabiting about 200 villages....

Consider that rural Alaska:

- Suffers the highest loss of life and property due to fire within the United States, and indeed the industrialized Western world;
- Suffers the highest loss of life due to boating mishaps and drownings in the United States;
- Is one of the most inaccessible areas of the United States to obtain assistance from law enforcement agencies;
- Is one of the most inaccessible areas of the United States to obtain major medical emergencies assistance;
- Leads the State, and perhaps the nation in the incidence of search and rescue missions;
- Leads the State in incidence of alcohol abuse and alcoholism; and
- Has the least developed local resources to address these problems of the State, and possibly the entire United States.

It is safe to assume that no group of Caucasian communities would tolerate similar circumstances, and that they would demand equal protection under the law.¹⁶

The proposal lists the functions of the new Village Public Safety Officers (VPSOs), which are (a) law enforcement, (b) water safety, (c) fire service, (d) emergency medical service, (e) search and rescue, and (f) village ordinances. The plan was for one person from each village to be broadly trained in all aspects of public

14 The other "non-rural" communities were Kenai-Soldotna, Seward, and Palmer.

15 For a map showing the location of Alaska State Trooper outposts, see Appendix A.

16 Messick, M. James "Village Safety Officer Program." *Alaska Justice Forum*, 1979, 3 (6): 1, 6-10, p. 1.

safety, including all of the six listed functions. The VPSOs were to receive three levels of training. The first level was an initial one-week survey course to present an overall view of the public safety field. Second was a four-week session consisting of two weeks of law enforcement, search and rescue, water safety, and local ordinance development and two weeks of emergency medical training. Third was one week of fire fighting and fire prevention. Completion of this training would result in:

1. Certification by the Alaska Police Standards Council (APSC) as a Village Police Officer;
2. Certification by the State of Alaska as an Emergency Medical Technician (EMT);
3. Certification by the Department of Education as a Rural Fire Fighter I; and
4. Award (of an as yet undetermined number) of college credits by Sheldon Jackson College / University of Alaska.¹⁷

It was envisioned that the early phase of the training would take place close to the VPSO's home community and that later phases would be held in hub cities. Some of the first training sessions were held in Nome and Kotzebue. The fire training was planned to be coordinated with the State Fire Service Training Program, which was in the process of constructing training facilities in Anchorage, Fairbanks, Kotzebue, Bethel, and Juneau.

The initial funding for the program was proposed to be federal Comprehensive Education and Training Act (CETA) funds granted to the Native non-profit corporations. However, because CETA funds could be used to pay for only the first 18 months of employment, it was acknowledged that "alternative means for funding must be developed to meet the objectives of both the Village Public Safety Officer and CETA programs."¹⁸

The VPSO Program was implemented in 1981, with 52 positions throughout the state (i.e., working in approximately one fourth of the villages of rural Alaska). The training has been expanded to a nine-week program, all of which now takes place at the Public Safety Academy in Sitka. Five of the basic areas are still covered: (a) law enforcement, (b) fire fighting, (c) search and rescue, (d) water safety, and (e) emergency medical services. VPSOs also receive annual refresher courses. The management authority for the VPSO program resides with three entities: the village where the VPSO is located; the regional non-profit Native corporation that receives the funds from the Department of Public Safety; and the Alaska State Troopers. Currently the corporations that manage VPSOs include the Aleutian/Pribilof Islands Association, Association of Village Council Presidents, Bristol Bay Native Association, Kawerak, Tanana Chiefs Conference, and Kodial Area Native Association (which also assumed the management of the program previously managed by Maniilaq Manpower, which no longer exists). VPSOs are employees of their respective Native corporations; not the State. Much of the program's financial support is from the State, appropriated by the Legislature as a single line item in the Alaska State Troopers (Department of Public Safety) budget.¹⁹ Additional support comes from Congressional appropriations to the State, from regional corporations, and from participating communities. This support reflects the importance that all parties, particularly the State and regional and local participants, place on the VPSO program for public safety.

3. Improvements in Rural Alaska

While many problems remain in rural Alaska, the Commission wants to emphasize that there have also been many major improvements, demonstrating that even entrenched, intractable problems can be addressed. These improvements include significant installations of water and sewer systems, which are well on their way to eliminating the "honey bucket" in rural Alaska as well as health clinics, bulk fuel tank farms, and rural energy. There have been large increases in broadband access to the Internet in rural Alaska that have enabled the Alaska

¹⁷ *ibid.* p. 7.

¹⁸ *ibid.* p. 9.

¹⁹ For a map showing the locations of VPSO positions, VPOs, and CPOs, see Appendix A.

Federal Health Care Access Network (AFHCAN) to reach almost all of Alaska's rural villages and substantially improve health care in those villages. A similar expansion in the access that rural Alaska schools have to the Internet is also occurring.

The Department of Public Safety increased the number of Troopers assigned to rural areas substantially over the past 15 years, and particularly in the last two. The State is investing in rural Trooper housing to aid in efforts to attract quality law enforcement personnel to serve rural Alaska.

In recent years, the State has made significant alcohol seizures and interrupted long-established bootlegging enterprises. The Department of Public Safety adopted strategies to curb the flow of illegal alcohol and drugs into rural communities by strengthening its resources, developing collaborative efforts with other agencies, and identifying this challenge as a top priority for the Department. It formed the Alaska Bureau of Alcohol and Drug Enforcement (ABADE) as a statewide entity focusing only on alcohol and drug issues, and augmented its rural investigator positions. The Department formed the Major Offender Unit within ABADE to target high-volume bootleggers and drug dealers.

The Alaska Legislature has also increased the number of prosecutors and expanded the available tools for enforcement, and the Department of Law is implementing a Rural Prosecution Team with financial assistance from the federal government. Notwithstanding these efforts, there remains a desperate need for a greater law enforcement presence in most rural communities. In addition, the Department of Public Safety's resources continue to be over-extended as it absorbs law enforcement responsibilities for municipalities which are dissolving their police departments because of a lack of funding and increased costs, such as the city of St. Mary's, which shuttered its police department on July 31, 2005.

Another temporary improvement can be attributed to the funding that local communities and tribal organizations have received from the U.S. Department of Justice, particularly through the COPS program.²⁰

Also, rural Alaska is populated with many good-willed people who, when given resources, have done much to improve conditions across the state. The Commission heard from many such people as it took testimony, some of whom are quoted in this report.

4. Voices from Across Alaska

During the many public hearings that the Commission held, Commissioners heard from dozens of citizens from many parts of the state who collectively contributed hours of oral testimony and pages of written testimony. All of this testimony is available on the Commission's website (www.akjusticecommission.com) and some of the more poignant statements from the testimony are included in this section. Because of space limitations, only a few quotes can be included, and the reader is urged to seek out the testimony of others on the website.

"We have a single Assistant District Attorney here and file almost 700 criminal cases a year. The office is understaffed for the amount of work that there is to be done and that's something that should be addressed also. The issue with juveniles is real. We struggled with it here for a long time. We are in desperate need of some kind of a secure facility in which to house juveniles and to house juvenile programs. That's a real big issue for us."

Paul Carr
Chief of Police, North Slope Borough

"We have a Community Residential Center, a six-bed facility here in Barrow. But we're closing it this next year because we can't afford to keep it open. The State only gives us \$75 a day to keep the six beds funded. . . . But it costs us \$425,000 just to put the minimal staff and package. We've had requests to drop from two staff on

20 See <http://www.ojp.usdoj.gov/archive/topics/fy2002grants/> and <http://www.cops.usdoj.gov/>

at all times down to one staff. That's reasonable to us. It's six beds. It's been denied because the Department of Corrections says that you must have two on at all times. But we also have our two requests in to increase our bed capacity from six beds to 12 beds. At 12 beds, we could almost keep it; it's almost paying for itself. But it does a couple of things. One, it keeps men and women in the community; children, fathers, husbands, uncles. You get the idea. And therapeutically, that's incredible. They get to their appointments, they're successful with substance abuse treatment, with mental health treatment."

**Neal George, Acting Director
North Slope Borough Health Department**

"[M]any of the laws that we have right now are more easily enforced in larger urban areas, but it's difficult for villages in rural Alaska to sometimes strictly adhere to those. One of the things that I can point out in particular is the process for petition for protective orders in domestic violence situations. They become increasingly more complicated in villages because of many reasons. One of them is that oftentimes victims must expose themselves to more danger in order to get their paperwork processed."

**Nicole Gray, Counselor/Advocate
Arctic Women in Crisis**

"These are my personal views. I am not speaking today on behalf of the Alaska Court System. I feel the State Justice System on the North Slope is able to provide much better service than is possible in most other rural areas of the state. Dedicated judges and magistrates are present in most rural hub communities, but the people of the North Slope have made the financial commitment to have professional police officers in each of the villages and Barrow. Each community has a police station that includes a holding cell. Those defendants appear by phone with the Barrow Court and serious cases are flown to Barrow for the hearings. The combination of the local state-funded court facility with the Superior Court judge and magistrate and the Borough-funded police services helps maintain the credibility and effectiveness of state law enforcement for criminal cases, including domestic violence."

**Michael Jeffery, Superior Court Judge, District 2
Barrow, Kotzebue, Nome**

"I wanted today to very strongly support the idea that an effective judicial system or social services system for Native communities has to be in that Native community, from that Native community, based in the Native communities. And I just wanted to raise a few points in connection with that. First, I cannot imagine Americans accepting a judicial or social service system run by Japanese or Chinese any more than I can imagine the Japanese or Chinese accepting us setting up a system for them. I think the same applies in the Native communities. It goes further than that though. It's more than just an issue of local control. . . . [W]e still have a lot of, I guess I would call it, ignorance or even ignorant sincerity. Still ignorance in terms of how the Native communities work. You can't base a good system of justice or social services on well-meaning sympathy or ignorance. That just won't do it. It doesn't work."

**Anthony Kaliss, Ph.D., Ass't Professor
Social Science
Ilisagvik College, Barrow**

"One of the problems that we do have is – as it's been a recurring theme here – that the law enforcement in the villages makes it very hard for families to receive assistance and safety. We end up needing and wanting to bring women and their children into Kotzebue. We have a shelter here and sometimes that's all we can do to keep someone safe – is to take them out of their own home away from their families and their relatives and put them in Kotzebue, which is not always comfortable, especially when you're displaced and having trouble in your family. That's hard enough, but then to have to come to a big town like Kotzebue and stay in a shelter, that's even more scary and upsetting."

**Susan Jones, Coordinator
Manilaq Family Crisis Center**

"I think most of us agree that dealing with major crimes, major felonies are best handled by the state system. But the rest of it that leads up to it can be prevented. But you can't prevent it from a regional hub or from Anchorage or Fairbanks. The people themselves have to be involved. We have been trained for the last 100 years or so to not do anything for ourselves. So now when you say okay, what can you guys do? We keep our mouths shut because you never back us up if we try. That's where this fear comes from. If anybody in a village testifies against somebody, chances are that person – even if they're arrested – will be back in the village in a day or so to cause you heartburn because that's the way the courts work. You don't have to wait for two years 'til they get out for their crime; they'll be back in a couple of days to take care of you. So what you have to do is not only give us the authority to take care of the local problems, not the major ones, but the local ones – but back us up. Because your systems don't work up here – either the federal or the state. You have to give us the authority to be free to take care of ourselves."

John W. Schaeffer

NANA Regional Elders Council

"In order for the villages to be empowered to handle issues, they need fully educated, trained, organized tribal courts. Each community has a unique way of handling issues that affect individuals and families. We need to make sure that we continue to have workshops for capacity building to have strong tribal courts. Many of the minor criminal matters and others can be handled at the local level."

"Since alcohol is the main problem, we need to outlaw [alcohol] completely [in] dry areas or regions and not allow the regional hubs to remain damp, like in the case of Bethel. Otherwise we need to have controlled bars or liquor stores. Bootlegging is a major problem in our communities. Right now in Akiak they are selling between seventy dollars and a hundred dollars a bottle and that's what the going rate is. And maybe in Bethel it's around fifty dollars a bottle. There is no middle ground for this. I think going completely dry would be easier to enforce in Bethel. Otherwise, if it's damp, the liquor's being brought in and then it's a haven for bootleggers there."

Mike Williams, President, RurALCAP

Akiak

"Alcohol and drug abuse has devastated our region, and the majority of crimes committed and the deaths that occur are alcohol related. We have an extremely high rate of rape and domestic violence, and we have some of the highest suicide, child sexual and physical abuse, and fetal alcohol syndrome rates in the state. We're told time and time again that the State of Alaska's figures are higher than the rest of the nation's. Despite the alarming statistics, due to funding constraints, we often provide a Band-Aid solution and can't provide adequate long-term intervention and prevention services; nor do we have much-needed rehabilitation services in our region. Our only residential treatment facility was closed in 1999 due to lack of funding and there are no treatment options for sex offenders."

"The State provides funding for the VPSO program, but it is the only means of public safety in our villages. But the annual allocation provides funds for only nine positions in our region. Furthermore, what Kawerak receives does not provide adequate pay for a very difficult job in which there is a very high turnover due to burnout as well as little support for a very stressful job.... A few of the villages have Village Police Officers in their communities, but with the dwindling resources for city governments, these positions may soon cease to exist."

Denise Barengo, Executive Director

Nome Eskimo Community

"[W]e're 10 times the national average for suicide and over 20 times the national average in teenage suicide. And our region here leads the State of Alaska. . . . There's nothing more heartbreaking for me as a physician, or for caregivers at the hospital, or in fact for anyone to see, [than] one of our youth taking their own life or do[ing] something to cut down such a promis[ing] future"

"Almost all, not all, but almost all of these suicides attempts and suicide successes are while under the influence of alcohol and/or drugs. . . . It's very rare that we get a suicide attempt where alcohol is not involved. It's also very rare that we get domestic violence, child abuse, incest, [or] rape where alcohol is not involved. . . ."

"[W]ithin the last several years [the Alaska State Troopers have] been doing a lot more search and seizures at the point of entry. . . . The airlines have the ability now to contact the Troopers if they think that alcohol is being imported into a place where that's against the law, and that is working."

"I think 60 percent of all of our health care dollars could be used for something else, if . . . we did away with all alcohol and tobacco. I have no numbers to back that up. But numbers that I do have . . . [are] that between 30 percent to 40 percent of all of our patients seen in the emergency room are directly related to alcohol use; 30 percent to 40 percent of just the emergency room visits. . . . [B]etween 50 percent to 60 percent of all admissions to the [Norton Sound Health Corporation's] hospital were directly related to alcohol use."

**David Head, M.D., Chief of Staff
Norton Sound Health Corporation**

"The current situation is that we seem to have a continuous role modeling of domestic violence, neglect and abuse. . . . There's a great need; it's big and it continues to grow. Two, there's a lack of education and funds [to address abuse]. And while we wait, domestic violence, neglect and abuse rages on. The youth and those who need protection continue to receive devastation in their lives. And three, we need to break the silence that shame, pain and fear has created because [of] domestic violence, neglect and abuse in the past and up until now. This is stored up in our hearts and causes us to react in defensive and survival methods. And then bringing back safety and teaching along with personal stories gives us the strength to visit the impacted places that hold us captives of the past; being free from the past. . . . And then the fourth was, how would we like to see our community: to see our communities throughout Alaska free of domestic violence, neglect and abuse, to see them enjoying healthy family relationships and the children reflecting wellness by playing and enjoying childhood, the community working together to support each other."

**Tobias Shugak
Family Wellness Warriors Initiative
Southcentral Foundation**

"This problem is all over the world, I think. . . . The liquor flows into Bethel here from Anchorage. And Bethel is voted dry—[there are] not supposed to be any bottles; only in the house. But the bottle walks out from the house all over. . . . One of the guys [from a neighboring village] told me that every time the snow machine trail is open, liquor's open. It goes out to the villages. So I've been trying to find somebody to talk to so it can be solved. It could be solved, I think. There's a way. But we need help. . . . The booze is killing the life. I think the life is more important than the booze."

Billy McCann, Bethel

"The collaboration between our community and the tribal court has been very effective due to the fact we are dealing with our problems locally. To keep our tribal court strong and continuing we need support from the State of Alaska to honor our tribal court orders and support our efforts in stopping the illegal flow of alcohol and drugs into our communities. Our tribal court orders include searching for illegal drugs and prohibited alcohol."

"Our tribal court has gone through tough challenges involving alcohol interdiction. They have stood up and are saying, 'Enough is enough!' Members of our village are now going to airplanes and boats to search suspected people and bootleggers for illegal importation of alcohol. They confiscate this alcohol and destroy it. These people don't want any more deaths or any more alcohol related accidents to happen. We have seen too many children and families torn apart and future generations affected due to alcohol and drugs. All this is preventable. We know that."

**Shannon Johnson-Nanalook
Traditional Council of Togiak**

"Wa'qaa. Ca'mai. I'm Kathy Melbook. A little bit English. Twelve years old, school. Okay. I like to find out—I need help for Bethel. I live in Bethel. Bethel, too many bootleggers. Too many marijuana, Bethel. How come young boys, young girls kill for self? I need help. You and me and council together for work, find out. How come young guys, young boy kill for self? Okay. That's all. I'm done."

Kathy Melbrook, Student, Bethel

Again, the Commission would have preferred to include much more of the testimony in this report but was constrained by costs and space. Readers should take advantage of the presentation of all of the testimony on the Alaska Rural Justice and Law Enforcement Commission's website. Additional quotes from testimony provided at the Commission's public hearings are distributed throughout the remainder of the report.

B. Systemic Obstacles in Rural Alaska

1. Lack of Economic Opportunity

"I'd like to talk briefly about economic justice. You've heard or should hear throughout your travels around the state that there are a disproportionate number of young Native men interacting with the criminal justice system. And in our community, by far, most arrests and convictions are alcohol related. The unemployment and underemployment in this age range runs around 90 percent in our communities. This I think is a causal factor to the interaction with the justice system because there's a lack of meaningful work and so people are frustrated, depressed, they don't have anything to do and so I think this causes an opportunity to run afoul of the justice system."

Deborah Lyn, Special Assistant, City of Barrow

Several striking facts about rural Alaska are that in most villages there are practically no jobs, the population continues to grow,²¹ and the cash needs of individual residents are growing as well. These conditions have existed for decades, and committees and commissions studying them have published reports for decades, all of which start to sound very much alike. In 1968, the Federal Field Commission for Development Planning in Alaska reported:

Great contrast exists today between the high income, moderate standard of living, and existence of reasonable opportunity of most Alaskans and the appallingly low income and standard of living and the virtual absence of opportunity for most Eskimos, Indians, and Aleuts in Alaska. About four-fifths of the more than one-quarter million people of Alaska are not Alaska Natives. Most of them, living in or near urban places, lead lives very much like those of other Americans. . . . The other one-fifth . . . live in widely scattered settlements, are unemployed or only seasonally employed . . . live in poverty . . . in small dilapidated or substandard houses under unsanitary conditions . . . are victims of disease, and their life span is much shorter than that of other Alaskans. . . . They are not only undereducated for the modern world, but they are living where adequate education or training cannot be obtained, where there are few jobs, where little or no economic growth is taking place, and where little growth is forecast.²²

Fortunately, conditions have improved somewhat in rural Alaska over the last 37 years, but there is still a great disparity between rural and urban Alaska in all things economic. In 1989, over 20 years after the Federal Field Commission report, the Alaska Federation of Natives published its report on the status of Alaska Natives, *A Call for Action*, which reiterated the earlier report (and, for that matter, dozens of other reports that had been published in the interim), noting that "despite investment in infrastructure and education, in most Native communities the increase in self-sustaining economic growth has been minimal. When Native population growth is factored into the equation, the future is even more disconcerting."²³ "This was followed by a report presented in 1991 by the Alaska Department of Commerce and Economic Development, entitled *Alaska's Economic Challenge: The Level of Distress*, which reported:

Unfortunately, the fact remains that conditions in the rural areas are not getting better. The economic prosperity of the recent pipeline construction era has had little lasting effect on many rural areas. They continue as before with high unemployment and low median incomes. State and federal disputes over regulation of subsistence, boycotts on the fur industry, international socioeconomics, and dozens of road [b]locks face rural Alaska. The population continues to struggle with limited resources trying to find a degree of stability."²⁴

21 As a caveat, the Commission notes that in many rural Alaska villages, population growth has been stymied by the lack of available, additional housing, forcing many young people to leave the villages and move to urban centers, more often than not Anchorage.

22 Arnold, R.D., et al. *Alaska Natives and the Land*. Federal Field Committee for Development Planning in Alaska. Washington, D.C.: United States Government Printing Office, 1968: p. 3.

23 *The AFN Report on the Status of Alaska Natives: A Call for Action*. Anchorage, Alaska: Alaska Federation of Natives, 1989: p. 29.

24 *Alaska Natives Commission Final Report, Volume II, op cit.*, p. 84.

Also in 1991, the Alaska Department of Community and Regional Affairs published a report, *Towards a Comprehensive Alaska Rural Development Strategy*, which outlined and discussed barriers restricting the economy of rural Alaska. These included:

1. Rural financing barriers (capital constraints)
 - a. Lack of access to debt capital
 - b. Lack of equity
 - c. Lack of public invested capital base
2. Rural education and training barriers
3. Rural economic development barriers
4. Rural infrastructure barriers
5. Rural housing barriers
6. Rural health barriers
7. Communications barriers

To overcome these barriers, the Department recommended that leadership begin at the local, community level: "There must be an understanding by federal and state agencies of the complexity of the various leadership roles which exist in Alaska's rural communities. This role may be shared by many, and determining priorities is difficult at best."²⁵

In March 1992, the Institute of Social and Economic Research (ISER), University of Alaska Anchorage, published a series of Alaska Native Policy Papers focusing on issues of Alaska Native communities. One of these, *The Economy of Village Alaska*, by Professor Lee Huskey, presented a comprehensive organization of the three interwoven economies of rural Alaska: subsistence, transfer, and market. The interplay among the three and the multiple participation of rural Alaskans in these economies are also covered in his paper. He notes the limitations imposed on rural villages by their small size, remoteness, and lack of economic integration, pointing to the facts that (a) many areas do not have commercial resources, and (b) significant shares of existing jobs are taken by non-residents. Professor Huskey echoed conclusions that he and Professor Thomas Morehouse, also of the ISER, published earlier in a review of eight years of conferences and symposia on the subject of northern and arctic development. The key problems highlighted were:

The prescriptions for self-sufficiency are shaped by development constraints. Three types of problems are associated with economic development in Native villages. First, economic limits are imposed by the small size and remoteness of most villages; these limit opportunities for market activity and increase the cost of living. The second set of problems is associated with dependency and control; not only are decisions affecting the local economy made outside the region, there may also be external controls on access to local resources. Third, rapid growth of population in the villages complicates the problem of economic development by increasing the required level of economic activity.²⁶

The literature has often decried the problems that Alaska Natives living in rural villages face in trying to adjust to the modern world of "economic development" but has offered only limited recommendations for realistic change. The issue is neither simple nor singular. There are vast differences between regions of Alaska, and any one potential solution, though possibly applicable to one or two villages in a certain region, will not apply to villages in other parts of the State.²⁷

²⁵ Towards a Comprehensive Alaska Rural Economic Development Strategy. Alaska Department of Community and Regional Affairs, December 1991: p. 12.

²⁶ Huskey, L., and T. A. Morehouse. Development in remote regions: What do we know? *Arctic*, 1992, 42, 2, 128-137: p.134. Internal references to two additional papers: Stabler, J., and Howe, E. Socio-economic transformation of the native people of the Northwest Territories, 1800-2000; and Langdon, S., Commercial fisheries: implications for western Alaska development; papers presented at the Western Regional Science Association in 1990 and 1984, respectively.

²⁷ A portion of the preceding was based on the *Alaska Natives Commission Final Report, Volume II*, 1994, pp. 83 and 84.

The Alaska Natives Commission published its final report in 1994, which again provided statistics, testimony, and recommendations about the economy in rural Alaska. Ten years later in 2004, the ISER released *The Status of Alaska Natives Report*, one section of which related to the remote rural economy. Here are highlights from the Summary of Findings from that section:

- The entire remote rural region has an economy about the same size as Juneau's.
- With some notable exceptions, the billion-dollar petroleum, mining, and seafood industries in remote rural Alaska produce little economic benefit for local residents. (The exceptions are the Red Dog Mine and the Community Development Quota [CDQ] program.²⁸)
- Local residents get only a small share of the value of the world-class salmon fisheries in southwest Alaska – about 10 percent in 2002.
- Federal money makes up the biggest share of outside money coming into remote rural areas. About \$670 million came into the region in 2000.
- Government and service jobs make up much bigger shares of jobs in remote rural areas than in Anchorage – many of these are with non-profit Native organizations that now manage most health care and other federal programs for Alaska Natives.
- Job growth in remote rural Alaska in the 1990s was overwhelmingly in service jobs.
- Small remote communities with low base incomes can sustain very few trade and other local support jobs that are common in urban areas – most jobs have to be sustained with money from outside sources.
- Unemployment is high in remote rural areas, but the published unemployment figures still underestimate the job shortage in remote rural areas – the figures include only people actively looking for work, and local residents don't look for work when they know there are no jobs.
- Per capita income in remote rural areas remains little more than half of Anchorage's.
- Transfer payments now make up nearly a third of per capita income in remote rural areas, up from about one-sixth in 1970.
- The cost of living in rural Alaska remains much higher than in urban areas.
- About 90 percent of rural households (Native and non-Native) do subsistence hunting and fishing.²⁹

Concerning the final finding (and the comment earlier in this report about the importance of subsistence in countering the high cost of food in rural Alaska), the ISER presented data showing that the annual wild food harvest per person in rural Interior and Western Alaska is over 650 pounds, compared with only about 17 pounds in Anchorage and Fairbanks, a ratio of over 38.24 to 1!³⁰

The ISER report's comment about unemployment rates is important for readers to understand. Official federal

28 For more information on the CDQ, see <http://www.edqdb.org/>

29 *The Status of Alaska Natives Report, Volume I, op. cit.*, p. 5-2, Chapter 5. (The Remote Rural Economy is available on ISER's website at <http://www.iser.uaa.alaska.edu/Publications/aknativestatusch5.pdf>)

30 *ibid.*, p. 5-24.

"unemployment rates" do not count the numbers of employable people who are unemployed, would like to be employed, but are not documented because they are, according to the federal terms, not actively seeking employment. As the introductory sentence to this section mentioned, in most remote rural Alaska villages there are no more than a handful of jobs, and some of these – characteristically the teachers – are held by individuals who are not permanent residents of the village, but live in the village for the school year only, returning to their "homes," often outside of Alaska, when the schools are closed in the summer.

Concluding its Remote Rural Alaska Economy section, the ISER report stated, "We've seen that remote rural Alaska has fewer jobs, lower wages, smaller incomes, and more poverty than any other part of the State – but at the same time, it also has the highest living costs,"³¹ a statement that presents "in a nutshell" the continuing economic conundrum that rural Alaska faces.

The social consequences of the "third world" conditions in rural Alaska are well known, and multitudes of studies have shown the relationship between unemployment, poverty, disenfranchisement, and the other deprivations suffered in poor economic conditions with alcohol abuse/addiction, substance abuse, domestic violence, child abuse, crime, and more,³² with one of the saddest, most devastating, and totally preventable consequence being Fetal Alcohol Spectrum Disorder (FASD), which still affects a significant number of children born to parents in rural Alaska every year.³³

Another resource on economic opportunity in rural Alaska is the U.S. Government Accountability Office's (GAO) Report 05-719 that reviews federal programs benefiting Alaska Native villages.³⁴

2. Remoteness

Of all of the states in the United States of America, there is no doubt that Alaska is unique. Geographically, Alaska is by far the largest state, and its coastline is longer than the coastline of the remaining 49 states combined. Also unique are several aspects of the transportation system. With a state capital that can be reached only by water or air, the Alaska Marine Highway System (the state-run ferry system) offers an essential link for Alaskans. The total inter-city public highway system totals just over 3,600 miles³⁵ and large segments of the state can be reached only by air, water, or, in the winter, snow machines and dog sleds.

In the Congressional language that created the Alaska Rural Justice and Law Enforcement Commission, Congress defined "rural Alaska" as those parts of the state outside of the Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough, the Matanuska-Susitna Borough, the City and Borough of Juneau, the Sitka Borough, and the Ketchikan Borough. There are 515,369 square miles in this Congressionally defined "rural Alaska," which comprises an area larger than Texas, New Mexico, and Arizona combined. The rural area constitutes 90.11 percent of the state but contains only 19.33 percent of the population, 66.25 percent of which is Native, compared with only 7.70 percent of the urban population.³⁶ The maps in Appendix A graphically highlight the comparison of Alaska's size with that of the Lower 48 states and the limited highway system in the rural part of the state.

31 *ibid*, p. 5-29.

32 Jewkes, R. (2002) Intimate partner violence: Causes and prevention. *Lancet*, 359, 1423-1425.

33 May, P.A., & Gossage, J.P. Estimating the prevalence of fetal alcohol syndrome: A summary. *Alcohol Research and Health*, 25, p. 159-167.

34 U.S. Government Accountability Office, Report 05-719, Alaska Native Villages (August 2005). www.gao.gov/cgi-bin/getrpt?GAO-05-719

35 The National Highway System totals 2,113 miles, and the Alaska Highway System totals 1,507 miles, based on 2003 Alaska Certified Public Road Mileage Report, Alaska Department of Transportation and Public Facilities. This number *does* include mile age through urban boroughs which were outside the scope of the Commission's examination of rural Alaska.

36 Population data from the 2000 U.S. Census.

It is this massive, sparsely populated, predominately Native, rural Alaska that is the focus of the Alaska Rural Justice and Law Enforcement Commission. The primary means of travel in rural Alaska is by air – especially for any emergency law enforcement, judicial, alcohol importation, or domestic violence or child abuse situation, the topics that the Alaska Rural Justice Commission was directed to address. In the summer, some villages can be reached by skiff, and in the winter they can be reached by snow machine or dog sled – but the primary means of transport continues to be by small airplanes.

3. Expense

"It is very, very crucial that when it's seen as a line item as transportation costs for educational opportunities, whether it be for our Elders, for our staff or our council, that that be considered with great weight in Alaska because we are not like any other State where we can drive by Interstate. Costs for airfare are not cheap in Alaska."

Tom Gambell, Sitka

The expense of travel in Alaska often surprises individuals in the Lower 48, air fare from Anchorage to many villages far exceeds air fare from Anchorage to Seattle. Some examples are roundtrip fares from Anchorage to the Pribilof Islands and the Aleutian Islands chain, which can exceed \$1,100. Travel to small villages in Western, Northwestern, and Northern Alaska require flights to hubs, such as Bethel, Nome, Kotzebue, and Barrow, which can cost as much as \$900, followed by a second flight in an "air taxi" – most often a single engine Cessna – to a small, dirt airstrip in the remote village.³⁷ While flying, the traveler is often surrounded by boxes of groceries and supplies, stacked from floor to ceiling. Not only is travel expensive, but it can be dangerous as well. Alaska ranks first in the United States in general aircraft crashes per capita.³⁸

Expense is not limited to travel. Living expenses in rural Alaska are also extraordinarily high. Fresh milk in a rural village costs three times what it costs in Anchorage, and in many rural villages, fresh milk is not available at all. In fact, in many very small rural villages, there is no store, and neither food nor any commodities are available. Residents have to bring everything in or order supplies from retailers in a hub city or Anchorage and have it mailed or air freighted in. Beyond the important cultural aspects of subsistence activities in rural Alaska are the basic economic needs that the use of natural resources for food and clothing help meet. But villagers cannot escape the need for cash, to purchase heating oil, electricity, gasoline, and other supplies, and for salaries, and living allowances. These and other financial factors that inflate the costs of bringing more law enforcement, justice, treatment, and other personnel into rural Alaska must be considered when reviewing the Commission's recommendations related to increasing support and staffing of justice and law enforcement entities. Simply stated, in remote rural Alaska \$10,000 often buys about half what it could buy in Anchorage.

Construction costs, which are heavily dependent on transportation costs, are also extremely high in rural Alaska; the farther away an Alaskan port is from Seattle (the port of origin for most supplies) and then from the port to the village site (such as in Western and Interior Alaska), the higher the costs. A study comparing the cost of shipping a fixed set of construction materials to Ketchikan with the same set delivered to Barrow calculated the Barrow costs were 8.2 times higher.³⁹ Transportation of construction materials to villages in the Interior, Western Alaska, and other sites far from ports and off the road system, requires commercial air carriers, and, as one might imagine, air freighting rebar and concrete can raise the cost of even a simple building astronomically.

37 Airfare expenses, which are constantly changing and usually increasing as a result of the increasing cost of fuel, were obtained from Alaska Airlines and Peninsula Airways, two major carriers in Alaska.

38 During the 1990s there were a total of 1,684 general and commercial aircraft crashes in Alaska, equivalent to a crash every two days. Of these crashes, 188 were fatal and resulted in 402 deaths. On average there were 19 fatal crashes per year with two fatalities per crash and 40 fatalities per year, equivalent to a fatality every nine days. See <http://www.cdc.gov/niosh/docs/2002-115/pdfs/2002115g.pdf>

39 Survey conducted by the Alaska Department of Labor and Workforce Development for the Alaska Housing Finance Corporation, 2002. Available at the Department's website: <http://www.ahfc.state.ak.us/iceimages/grants/2002constco.pdf>

The continuing escalation of fuel costs, which are more severe in Alaska than in the Lower 48, is exacerbating the situation. As Alaska's Senator Ted Stevens observed:

As you know, high energy costs are an obstacle to long term sustainability and they hinder economic development in rural Alaska. Additionally, the lack of low cost and reliable energy sources makes it difficult to provide rural Alaskans with basic amenities like water and sewer systems.⁴⁰

The high costs of fuel and transportation need to be considered when budgeting for transporting vehicles and equipment to villages in rural Alaska in addition to construction, and all of these factors are important when reviewing the Commission's recommendations concerning meeting infrastructure needs of village law enforcement.

4. Gaps in the Delivery of Governmental Services

On November 10, 2004, the Commission heard the testimony of Kevin Ritchie, Executive Director of the Alaska Municipal League, who described the disintegration of municipal governmental structures in parts of rural Alaska:

We have a number of cities that are literally disintegrating. Meaning pieces are falling off and ultimately some of these communities may not be there – some are not there right now. We did a financial survey of all the communities in Alaska. We had 93 responses. Actually we were unable to contact a number of communities. One community, Nikolai. There may be reasons for this. We called [the community of] Nikolai and we got a message that the phone's been disconnected.

Many communities don't even have the basic person to carry on the process of taking care of city council business, doing the sorts of things that need to be done just to maintain a local government.

And in fact, a number of communities don't provide services at all any more. A number of communities in our survey have stopped providing fire protection, for example. . . . Obviously a number have not had public safety services to a great extent for quite a while.⁴¹

There are a number of reasons for the gaps that exist in many governmental services in rural Alaska. In most villages there is a lack of a tax base to finance governmental functions, although the federally recognized tribes do receive some funding from the Bureau of Indian Affairs that can be used to help support Indian Reorganization Act (IRA) councils and traditional councils, and pay for some limited governmental functions. Most villages and larger hub communities generate revenue through a sales tax that supports governmental services, but most lack an adequate property tax base.

For many years, Alaska had a State Revenue Sharing (SRS) program that helped fund municipal governments. The SRS program no longer exists and its demise has made it more difficult for municipal governments in rural Alaska to survive.

Further exacerbating the problem of providing sufficient governmental services in rural Alaska is the continuing failure of inter-governmental cooperation, particularly – in many small villages – between municipal and tribal

40 Senator Stevens's Address to the Alaska State Legislature, February 16, 2004. The speech is available at: <http://www.ktoo.org/gavel/archive.cfm?audio=5446>

41 Mr. Ritchie's complete oral testimony was transcribed and is available on the Alaska Rural Justice and Law Enforcement Commission's website.

governments. As mentioned in the next section of this report, there are a few examples of highly successful, cooperative arrangements between tribal and municipal governments, but they do not represent the norm. These examples of successful cooperation do illustrate, however, that this is one obstacle to improved rural services that can be overcome.

C. Successful Approaches

Progress is possible, however, and there are a number of law enforcement, justice, and treatment programs that work well today and offer successful strategies that could be adapted elsewhere.

An example of a successful law enforcement arrangement can be found in Quinhagak, a small village on the Kanektok River east of Kuskokwim Bay, less than a mile from the Bering Sea Coast. The total population is around 612, and 97 percent of the residents are Native, almost exclusively Yup'ik. Under Alaska's local option law, Quinhagak voted "dry," banning all sale, importation, and possession of alcohol. Under an agreement between the second class city government of Quinhagak and the tribal government of the Native Village of Kwinhagak, the maintenance and operation of all city services were transferred to the tribal government, and the IRA council and city administration were merged into one. As part of this agreement, a joint law enforcement authority was established, which is administered by the tribal government, and law enforcement applies equally to tribal members of the Native Village of Kwinhagak and non-Native residents of the second class city of Quinhagak. The Kwinhagak/Quinhagak Memorandum of Agreement was reviewed by several of the Commission's workgroups, and the Commission offers it as a model that other rural Alaska villages could follow.⁴²

Kake, located on Kupreanof Island in Southeast Alaska, has developed and refined a highly successful restorative justice system, initiated by Mike Jackson, the State Magistrate in Kake. The population of Kake is about 665, of whom 75 percent are Native, predominantly Tlingit, and its governments include both that of a city and a federally recognized tribe, the Organized Village of Kake (OVK). Having suffered many problems with the community's youth for many years, including alcohol abuse and a high suicide rate, the community in 1999 organized the Healing Heart Council and Circle Peacemaking, both of which are embedded in Tlingit tradition but, at the same time, closely coordinated with the Alaska Court System.

Quoting from Harvard University's John F. Kennedy School of Government, which awarded the Organized Village of Kake its "High Honors" in 2003:

In 1999, in an effort to curb youth alcohol abuse, tribal members of the Organized Village of Kake (the federally recognized Tribe of Kake, Alaska) established the Healing Heart Council and Circle Peacemaking, a reconciliation and sentencing process embedded in Tlingit traditions. Working in seamless conjunction with Alaska's State court system, Circle Peacemaking intervenes in the pernicious cycle by which underage drinking becomes an entrenched pattern of adult alcoholism. Today, the program not only enforces underage drinking sentences in an environment where such accountability had been rare, but also restores the Tlingit culture and heals the Kake community.⁴³

Kake's Healing Heart Council and Circle Peacemaking have expanded over the last few years to include adults as well as youth:

⁴² A copy of the Quinhagak MOA is on the Commission's website.

⁴³ See <http://www.innovations.harvard.edu/awards.html?id=6164>

Today, the Healing Heart Council offers not only sentencing circles for juvenile offenders, but also sentencing circles for adult offenders who request Circle Peacemaking, healing circles for victims, intervention circles for individuals who seem to be losing control of their lives, celebration circles for offenders who have completed their sentencing requirements, and critical incident circles for individuals involved in an accident or crime who require immediate counseling.⁴⁴

The success of Kake's Healing Heart Council and Circle Peacemaking approaches to restorative justice in rural Alaska has been shown by its numbers: Over a four-year period ending in 2004, Circle Peacemaking "experienced a 97.5% success rate in sentences fulfillment, compared with the Alaskan court system's 22.0% success rate."⁴⁵ Only two offenders out of 80 sentenced during the program's first four years rejected a circle's outcome and returned to state court for sentencing, and all 24 of the juveniles assigned to circle sentencing for underage drinking successfully completed the terms of their sentences. Recidivism among adult offenders is also low.⁴⁶

There are also successful approaches in treating substance abuse that have been initiated in Alaska and that are gaining statewide and national recognition as a result of their accomplishments. In May 2005, the Cook Inlet Tribal Council sponsored a statewide conference highlighting best and promising substance abuse treatment practices in rural Alaska, a meeting that was attended by numerous treatment providers as well as national experts and evaluators from the Lower 48. The following substance abuse treatment programs that are either in rural Alaska or serve largely rural Alaska clients exemplify approaches that have been evaluated, have been shown to work, and have gained some national recognition for their accomplishments.⁴⁷

- Old Minto Family Recovery Camp is a short-term (35-day cycle) residential care camp that has been operated by the Tanana Chiefs Conference since 1989 with funding from the Indian Health Service (IHS) and the Alaska Department of Health and Social Services (ADHSS). The Camp serves approximately 90 adults annually, with an overall treatment completion rate of 81 percent. There are three components to the Old Minto Family Recovery Camp: (1) "pre-treatment;" (2) strengthening families; and (3) continuing care services. The first and third components are carried out in Fairbanks, while the second is held at the Camp, which is located in a very remote setting of the Old Minto historical site.⁴⁸ Tribal Elders from Minto play a consultative role in developing and implementing services at the Camp site, which simulates an Interior Athabascan village environment designed to remind patients of traditional times when Native people were connected to the land for survival and relied on the strength of community and family.
- Hudson Lake Recovery Camp is located in a remote area northwest of Copper Center (the Native Village of Kluti-Kaah) and is operated by the Copper River Native Association (CRNA). The mission of Hudson Lake is to provide a residential substance abuse treatment camp to serve up to 15 men and women addicted to alcohol or other drugs for each 40-day rotation of the program, in a culturally familiar and appropriate setting. That is modeled after the Old Minto Recovery Camp, described above. The role of treatment at the Camp is to teach clients to identify the contrasting characteristics of healthy and unhealthy relationships and life practices and then to give them supportive environments in which to practice those skills. This is accomplished through one-to-one counseling, group interactions, and positive role models. Treatment plans are based on identified client strengths rather than deficits. Over the five-year life of Hudson Lake Recovery Camp, clients have come from over 22 different locations in Alaska, but 45.5 percent have been from Anchorage. The Camp has completed a process and outcome evaluation conducted by the Institute for Circumpolar Health Studies, University of Alaska Anchorage. CRNA is seeking funding from multiple sources to expand the program.

44 *ibid.*

45 *ibid.*

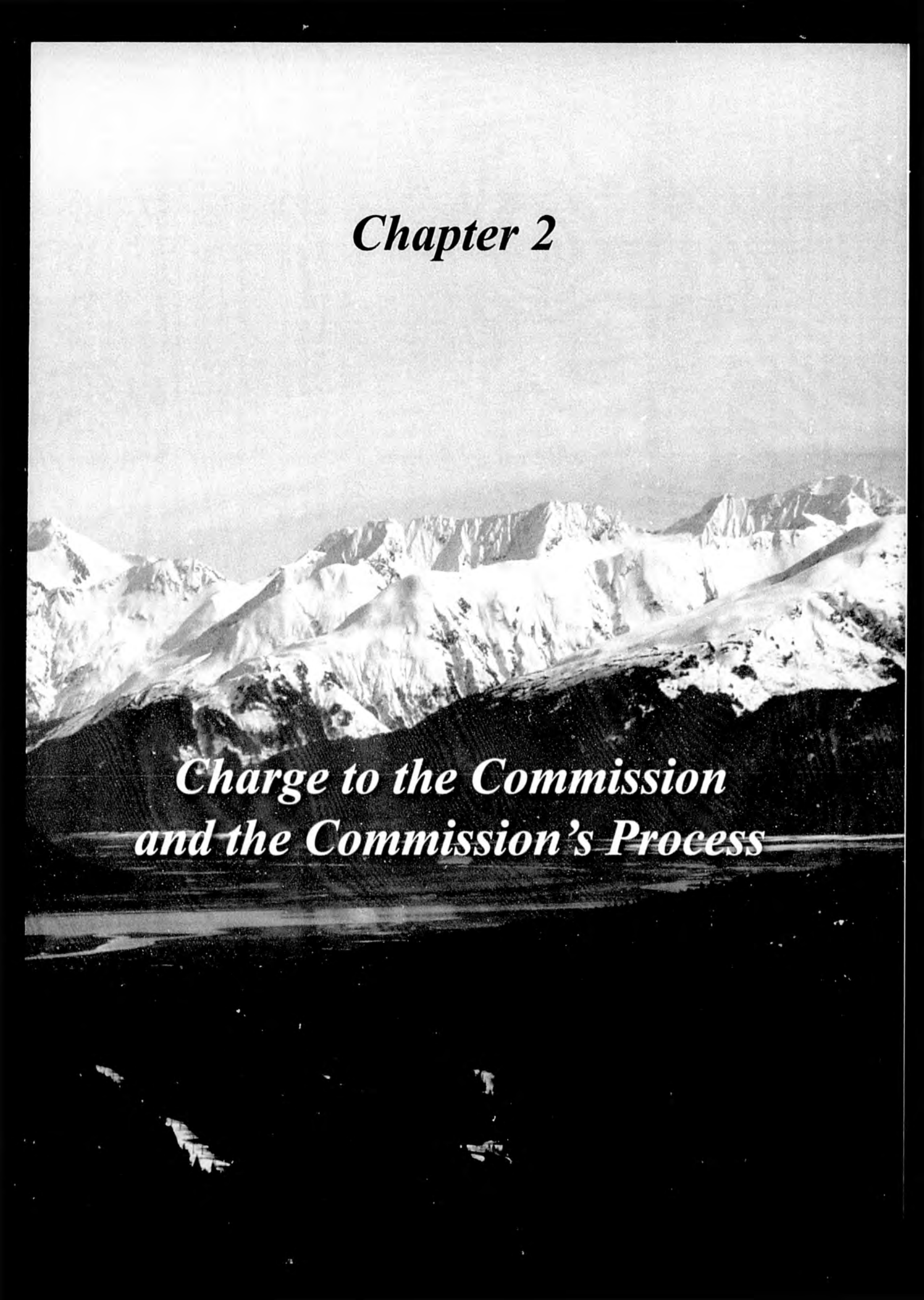
46 *ibid.*

47 The federal Substance Abuse and Mental Health Services Administration refers to these as "promising practices."

48 The Village and tribal government of Minto moved from the Old Minto site to the community's new location in 1970.

- Raven's Way is a 40-day residential substance abuse treatment program for adolescents operated by the Southeast Alaska Regional Health Consortium (SEARHC). It is based in Sitka, and at wilderness sites in the Sitka area, utilizing a cohort model in which 8-10 students enter and participate in the program as a peer support group in a family style environment. It is open to Alaska youth from 13 to 18 years of age who have a primary diagnosis of substance abuse and/or dependence. Funded by the IHS, ADHSS, and through third-party reimbursement, including Medicaid, Raven's Way offers individual and group counseling, substance abuse assessment and education, academic education (as part of the Sitka School District), Hazelden "step" work and relapse prevention, wilderness expedition and ropes course activities, peer support groups, activities relevant to Native cultures, home-like residential living, and aftercare planning and follow-up contacts. Since it was started in 1989, Raven's Way has served a total of 891 youth (60 annually in cohorts of 10 students), representing 134 communities. The program has been accredited by the Commission for the Accreditation of Rehabilitation Facilities (CARF).
- Therapeutic Village of Care, Ernie Turner Center, an adult residential treatment program operated by Cook Inlet Tribal Council, is also CARF accredited (as an "exemplary program"). The Ernie Turner Center began as the Alaska Native Alcoholism Recovery Center in the late 1980s and has gone through several transformations over the years. Initially a 12-step program, it has now become a Therapeutic Community modeled after life in an Alaska Native village, with the clients given some authority in controlling the program through a "Tribal Council," supported by clinical and administrative staff. Treatment can last as long as 180 days and includes a large number of different components, including a strong emphasis on education and employment. As part of the therapeutic community, the clients take part in the operations and management of "Coho Cup" espresso stands, a gift shop, and an art gallery. The 32-bed facility is located in Anchorage across the street from the Anchorage Native Primary Care Center and the Alaska Native Medical Center. It is funded by IHS, ADHSS, and through third-party reimbursement.
- Dena A Coy, an Athabascan phrase meaning "the people's grandchildren," is a residential substance abuse and mental health treatment program, started as a way to prevent Fetal Alcohol Spectrum Disorders, operated in Anchorage by Southcentral Foundation. Initiated in 1989 by funding from the IHS, CSAT, and ADHSS, this 16-bed program serves pregnant, parenting, and non-pregnant women suffering from substance abuse/addiction and/or mental health problems. Once they complete the residential phase of the treatment, clients are placed in a two-year outpatient aftercare program. Services are also available for infants during their parents' treatment through Southcentral Foundation's Early Head Start program. Services include drug/alcohol education, 12-step recovery, relapse prevention, spiritual involvement, talking circles, anger management, grief/loss depression, building self-esteem, countering domestic violence and sexual abuse, and an array of services relating to parenting, dealing with parental stress, and family activities focused on building and maintaining mutually supportive relationships. This program is also accredited by CARF.

As the reader can discern, there are several successful programs that are already in place serving rural Alaska. The Commission recognized these as it deliberated its charge, and used elements of these successful programs in crafting the recommendations to Congress and the Alaska Legislature that are presented in this report.



Chapter 2

Charge to the Commission and the Commission's Process

Chapter II. Charge to the Commission and the Commission's Processes

A. Congressional Charge

The Omnibus Appropriations Act of 2004 (Public Law 108-199) included language that established the Alaska Rural Justice and Law Enforcement Commission. The relevant portion of Section 112 from that Act is quoted below:

SEC. 112. (a)(2)(A) There is established an Alaska Rural Justice and Law Enforcement Commission (hereinafter 'Justice Commission'). The United State's Attorney General shall appoint the Justice Commission which shall include a Federal Co-chairman, the Attorney General for the State of Alaska or his designee who shall act as the State Co-chairman, the Commissioner of Public Safety for the State of Alaska, a representative from the Alaska Municipal League, a representative from an organized borough, a representative of the Alaska Federation of Natives, a tribal representative, a representative from a non-profit Native corporation that operates Village Public Safety Officer programs, and a representative from the Alaska Native Justice Center. The chief judge for the Federal District Court for the District of Alaska may also appoint a non-voting representative to provide technical support. The Justice Commission may hire such staff as is necessary to assist with its work.

(B) The Justice Commission shall review Federal, State, local, and tribal jurisdiction over civil and criminal matters in Alaska but outside the Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough, the Matanuska-Susitna Borough, the City and Borough of Juneau, the Sitka Borough, and the Ketchikan Borough. It shall make recommendations to Congress and the Alaska State Legislature no later than May 1, 2004, on options which shall include the following--

(i) create a unified law enforcement system, court system, and system of local laws or ordinances for Alaska Native villages and communities of varying sizes including the possibility of first, second, and third class villages with different powers;

(ii) meet the law enforcement and judicial personnel needs in rural Alaska including the possible use of cross deputization in a way that maximizes the existing resources of Federal, state, local, and tribal governments;

(iii) address the needs to regulate alcoholic beverages including the prohibition of the sale, importation, use, or possession of alcoholic beverages and to provide restorative justice for persons who violate such laws including treatment; and

(iv) address the problem of domestic violence and child abuse including treatment options and restorative justice.

B. Appointment of Commissioners

On September 2, 2004, the United States Attorney General announced the appointment of nine Commission members. The U.S. Department of Justice press release also quoted Senator Ted Stevens:

The Alaska Rural Justice and Law Enforcement Commission provides the federal government, the State of Alaska, and rural communities the chance to improve law enforcement and justice in

rural Alaska. The problems caused in our communities by alcohol and domestic violence are ever growing and require aggressive enforcement and prosecution. It is my hope that the Commission can work to solve some of these problems.⁴⁹

The Commission has been led by federal and state Co-chairs. The federal Co-chair, Deborah Smith, is the Acting United States Attorney for the District of Alaska. Tim Burgess was the Federal Co-chair through January 2006 when he was appointed to serve as a judge on the U.S. District Court. The initial state Co-chair was Alaska's Attorney General Gregg Renkes. He was succeeded by Edgar Blatchford, Commissioner of the Alaska Department of Commerce, Community, and Economic Development, who was in turn succeeded by Alaska's Attorney General David W. Márquez.

- The remaining Commissioners appointed by Attorney General Ashcroft were:
 - ◆ William Tandeske, Commissioner of Public Safety for the State of Alaska;
 - ◆ Bruce Botelho, Mayor, city and Borough of Juneau, representing the Alaska Municipal League;
 - ◆ Roswell "Ross" Schaeffer, Sr., Mayor of the Northwest Arctic Borough, representing an organized borough. Mr. Schaeffer resigned from the Commission in January 2005;
 - ◆ Harold "Buddy" Brown, President of the Tanana Chiefs Conference, representing the Alaska Federation of Natives. Mr. Brown was ably represented on the Commission by Mr. Ethan Schutt, the General Counsel for first the Tanana Chiefs Conference and later Cook Inlet Region, Inc.;
 - ◆ Wilson Justin, Acting President of the Mt. Sanford Tribal Consortium, representing Alaska Native tribes;
 - ◆ Loretta Bullard, President of Kawerak, Inc., in Nome, representing a non-profit Native corporation that operates a Village Public Safety Officer program; and
 - ◆ Gail Schubert, Executive Vice President and General Counsel, Bering Straits Native Corporation, representing the Alaska Native Justice Center.
- The chief judge for the Federal District Court for the District of Alaska also appointed a non-voting representative, James E. Torgerson, an attorney with Heller Ehrman LLP, in Anchorage.

Biographical sketches of all of the Commissioners are presented in Appendix B of this report. Technical support was provided by staff and contractors of the Alaska Native Justice Center and others, who are acknowledged in Appendix C.

C. Protocols

One of the first actions that the new Commission completed was the development and adoption of a set of protocols to guide its work. They were drafted and adopted by the Commission and are quoted below (as amended):

⁴⁹ See www.usdoj.gov/opa/pr/2004/September/04_ag_594.htm

ORGANIZATIONAL PROTOCOLS

1. Guiding Principles

The Alaska Rural Justice and Law Enforcement Commission members shall utilize the following principles in the conduct of their work. The Commission members recognize that:

All persons have a natural right to life, liberty and are entitled to equal rights, opportunities and protection under the law. There is a public interest in keeping our children, families and communities safe. The safety and security of citizens in their communities is a fundamental responsibility of government.

In general, local issues are best addressed at the local level. Rural law enforcement and justice systems need to be developed and implemented with meaningful involvement by rural residents.

Federal, state and tribal laws and constitutions need to be interpreted to allow for responsive, effective justice and law enforcement systems in rural Alaska.

The Commission will consider all practical alternatives when making recommendations, keeping in mind what is possible, and not be limited by current legal frameworks.

2. Commission Management

- a. Co-chairs.** The Commission shall be presided over by the Congressionally designated Co-chairs. The Co-chairs shall call and chair meetings, set agendas, and oversee the activities of the Commission and its staff.
- b. Commission staff.** The Alaska Native Justice Center will serve as primary staff for the Commission.
- c. Additional Support.** The Commission recognizes that from time to time those supporting and affected by the actions of the Commission shall be called upon to assist with the work of the Commission. These may include, but are not limited to, the Alaska Federation of Natives, Regional Native Non-Profits, the Alaska Inter-Tribal Council, the Alaska Court System, and the State of Alaska Departments of Health and Social Services and Corrections.
- d. Work Groups.** The Commission may establish Work Groups to address specific issues and develop options for consideration by the Commission. A Work Group may be chaired by a Commission member and liaisons from the Commission to the Work Groups may be appointed at the discretion of the Co-chairs. Work Groups are open to any Commission member and such other individuals as the Co-chairs believe would enhance the functioning of the Work Group. Work Groups are not authorized to make decisions for the Commission as a whole. All Commission members will be notified of all Work Group meetings by the Co-chairs.

3. Commission Meetings

- a. Quorum.** A quorum shall consist of six (6) members. For purposes of this protocol, member means an appointee to the Commission or the appointee's designated alternate who may participate in all deliberations of the commission, and may vote. Alternates shall be designated in writing by the Commissioner on a per meeting basis.

- b. **Open meetings.** While the Federal Advisory Committee Act does not apply to this Commission (see Section 112 (c), Division B, Consolidated Appropriations Act, 2004, P.L. 108-199), reasonable notice will be given of the time and place of Commission meetings. As a general rule, Commission meetings and work group meetings will be open to the public. Invited individuals, including specialists, may participate in Commission or work group meetings as needed and appropriate.
- c. **Public participation in meetings.** Members of the public are encouraged to submit written presentations and exhibits. Periodic opportunity for oral testimony will also be provided. Public testimony must be germane to the subject matter under consideration by the Commission. The Co-chairs may set a time limit for public testimony, for individual speakers, or for the length of all public testimony and individual speakers, if it appears necessary. The time limit for individual speakers shall be uniform for all speakers, and shall be strictly enforced. Speakers shall not have the right to transfer their unused time to other speakers, but the Co-chairs may grant additional time to a person speaking on behalf of a group present in the chambers.
- d. **Meeting Minutes.** Draft Commission meeting minutes shall be distributed to Commission members. Approved minutes shall be considered public information. Commission staff shall distribute reference materials and other associated draft documents to each Commission Member or their designated staff. Commission members, in turn, may distribute such materials to other interested parties at their discretion. Executive sessions shall be noted and may include the subject matter of the executive session in the notation.
- e. **Agenda.** The Co-chairs will seek to distribute meeting agendas to the members no later than one week in advance of the Commission.
- f. **Time-Outs.** A break for the purpose of consultation may be requested at any time by any Commission member. The person requesting the break will be asked for an estimate of the time needed for the consultation.
- g. **Meeting Schedule.** Meetings will be held regularly as determined by the Commission.

4. Procedures

- a. **Rules of Order.** The conduct of the meetings of the Commission shall be governed by the Co-chairs according to Robert's Rules of Order, 10th Edition, except as otherwise provided by law or provided for in this protocol.
- b. **Voting.** The Commission will strive for consensus. However, the affirmative vote of five (5) members of the Commission shall be sufficient to take any action except as otherwise provided by law and except in the following instances, which require the affirmative vote of at least six (6) members:
 - 1. Limiting, extending, or closing debates
 - 2. Suspension of the rules
 - 3. Setting of or postponement of special orders
 - 4. Objection to consideration of question
 - 5. Motion for immediate vote (previous question)
 - 6. Rescind

- c. Reconsideration.** Decisions reached by the Commission will not be reopened unless at least six (6) members of the Commission agree to do so.
1. What May Be Reconsidered. Main motions, amendments to main motions, privileged motions involving substantive questions, and appeals are subject to reconsideration. Procedural motions may not be reconsidered.
 2. Who May Reconsider. Any member, whether or not that member voted on the prevailing side, may give notice of or move for reconsideration.
 3. Effect of Notice. The effect of giving notice of reconsideration is to suspend all action on the subject of the notice until a motion for reconsideration is made and acted upon or until the time within which the motion for reconsideration may be made and acted upon has expired.
 4. Time in Which Notice Must Be Taken Up. A notice of reconsideration expires unless a motion for reconsideration is made and acted upon prior to adjournment of the next regular meeting succeeding the meeting at which the action to be reconsidered occurred.
 5. Successive Reconsideration. There may be only one reconsideration even though the action of the Commission after reconsideration is opposite from the action of the Commission before reconsideration.
 6. Precedence. A motion for reconsideration has precedence over every main motion and may be taken up at any time during the meeting when there is no other motion on the floor.
 7. Effect. A motion for reconsideration completely cancels the previous vote on the question to be reconsidered as though the previous vote had never been taken and effectively returns discussion back to the debate of the question so reconsidered.
- d. Telephonic participation.** A member may participate via telephone or other electronic means in a Commission meeting, or a Work Group meeting, if the member declares that circumstances prevent physical attendance at the meeting. The member shall notify the staff and the presiding officer, if reasonably practicable, at least one day in advance of a meeting which the member proposes to attend from a remote site. A member participating remotely shall be counted as present for purposes of quorum, discussion, and voting.

5. Commission Members

- a. Good Faith.** All Members agree to act in a good faith effort to reach consensus in all aspects of the Commission's work by encouraging the free and open exchange of ideas, views, and information. Personal attacks and prejudiced statements will not be tolerated.
- b. Exchange of Information.** The members of the Commission agree to exchange information in good faith. Members agree to provide information in advance of the meeting where such information will be necessary. All members agree not to divulge information shared by others in confidence outside of Full Commission and Work Group meetings.

- c. **Compensation for Services.** Members of the Commission shall receive no pay, allowance or benefits by reason of their service on the Commission.
- d. **Costs and Expenses.** Each member of the Commission may be reimbursed for their reasonable travel costs and expenses related to their work on behalf of the Commission. Requests for reimbursement shall be directed to the Alaska Native Justice Center.

The Commission held its first meeting on October 12 and 13, 2004. It met again on October 27, also the date of the first public testimony, which took place during the annual Alaska Federation of Natives convention in Anchorage. A pivotal meeting took place a bit later in Fairbanks on November 10, 2004. At that time the Commission decided to establish four workgroups, one for each of the four topic areas that had been prescribed by the congressional language for the Commission to address in rural Alaska: Law Enforcement, Judiciary, Alcohol Importation, and Domestic Violence/Child Abuse.

The members of the Commission agreed to have 12 or fewer members in each of the four workgroups. At the Commission's request, staff of the Alaska Native Justice Center, the Alaska Federation of Natives, and the Alaska Inter-Tribal Council drafted a preliminary list of potential workgroup members, which was reviewed and revised by the Commission. At the next business meeting, held in Anchorage on November 19, 2004, the Commission members voted unanimously to appoint the recommended individuals to the four workgroups.

Meetings and Audio-conferences

There were two critical aspects of the Commission's input from the public in Alaska. One was the aforementioned involvement of a large number of 70 knowledgeable individuals in the workgroups, and the second was gathering information and input from a wide range of individuals who offered testimony, both orally and in writing, during 15 public hearings that were held at 11 locations in Alaska, concerning the four topic areas that the Commission was addressing.

The dates and locations of the public hearings are listed below, and copies of the written testimony and transcripts of the oral testimony can be reviewed on the Commission's website: www.akjusticecommission.org.

Date	Location	Date	Location
10/27/04	Anchorage	02/23/05	Nome
11/10/04	Fairbanks	02/24/05	Kotzebue
12/10/04	Anchorage	03/15/05	Barrow
01/05/05	Sitka	03/16/05	Fairbanks
01/06/05	Juneau	04/06/05	Bethel
01/26/05	Anchorage	04/26/05	Mentasta
01/27/05	Anchorage	04/29/05	Kake
02/09/05	Dillingham ⁵⁰		

Business meetings

The Commission held business meetings that were open to the public,⁵¹ frequently preceding or following the public hearings. During the business meetings, discussions included such issues as arranging for future public hearings and the ways in which the Commissioners would receive the options developed by the four workgroups,

⁵⁰ Conducted telephonically after flight conditions made it impossible for the Commission to attend the hearing scheduled in Dillingham on February 8, 2005.

⁵¹ With the exception of occasional executive sessions during the public meetings.

review them, adopt or revise them, and incorporate them into the Initial Report and Recommendations to Congress and the Alaska Legislature.

As mentioned earlier, at the Commission's November meeting in Fairbanks, four workgroups were established. Three of the four were composed of approximately 12 individuals who were selected because of their current and/or prior experiences and involvement in the topic area. The fourth, to address the wide range of problems related to domestic violence and child abuse, was larger, which was a result of the expectation on the part of the Commissioners and support staff that that group would choose to subdivide into two smaller groups, one to address domestic violence and the other to address child abuse.

A list of all of the workgroup members is included in Appendix D of this report, and the majority are shown in the photograph in Appendix E.

D. Workgroup Activities

The workgroups met for the first time in Anchorage on January 27 and 28, 2005. After a charge from Co-chairs Burgess and Renkes, the workgroup members commenced to devise ways in which they could tackle the problems and issues that lay before them, as established by the language in the Act. Following this two-day face-to-face session, the workgroups met by telephone conferences once weekly for nine weeks.⁵² The sessions for some of the workgroups routinely lasted at least two hours, while the alcohol importation workgroup meetings were more often than not about one hour in length. The discussions centered around the language in the Act and also the task-and-topic-area sheets that had been prepared by the staff of the Alaska Native Justice Center to help guide the workgroup members' deliberations.⁵³

During several audio conferences, the workgroup members spoke with individuals who provided expert or special information to help the workgroup members formulate their options for the Commission. A list of these individuals is included in Appendix D.

During these telephone conversations, the specialists explained their programs or experiences, and the workgroup members asked the specialists pointed questions related to the work that they were doing. These included conversations and interviews to determine options for increasing inspection and interdiction of bootlegged alcohol coming into dry communities; improving treatment options for alcohol and other drug abusers and addicts in rural Alaska; and expanding alternatives to the State court system, such as circle sentencing; other sessions were devoted to understanding the impacts of having government-operated liquor stores in Alaska Native villages; exploring the unique "distribution center" that is in place in Barrow to limit access to alcohol; expanding different ways in which municipal governments and tribal governments can collaborate to support a community-wide (and accepted) law enforcement system, such as that in Quinhagak; and reviewing numerous other topics that related specifically to the Congressional mandates for the Commission's work.

Both a mid-course face-to-face meeting of the workgroups, held on March 29 and 30, 2005, and the final face-to-face meeting, held on April 14, took place in Anchorage. At the final meeting, each workgroup presented its final options to the Commission as a whole. In addition, all workgroup members, Commissioners and tribal members from across the State of Alaska were invited to participate in Pathways to Justice Alaska Gathering of Tribal Justice Leaders held April 12-13, 2005. The Gathering was sponsored by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice in conjunction with the Alaska Native Justice Center, the National Judicial College, the Tribal Judicial Institute at the University of North Dakota School of Law and the Fox Valley Technical College.

⁵² Workgroup 2, Judicial, held eight telephone conference meetings but had one additional face-to-face meeting.

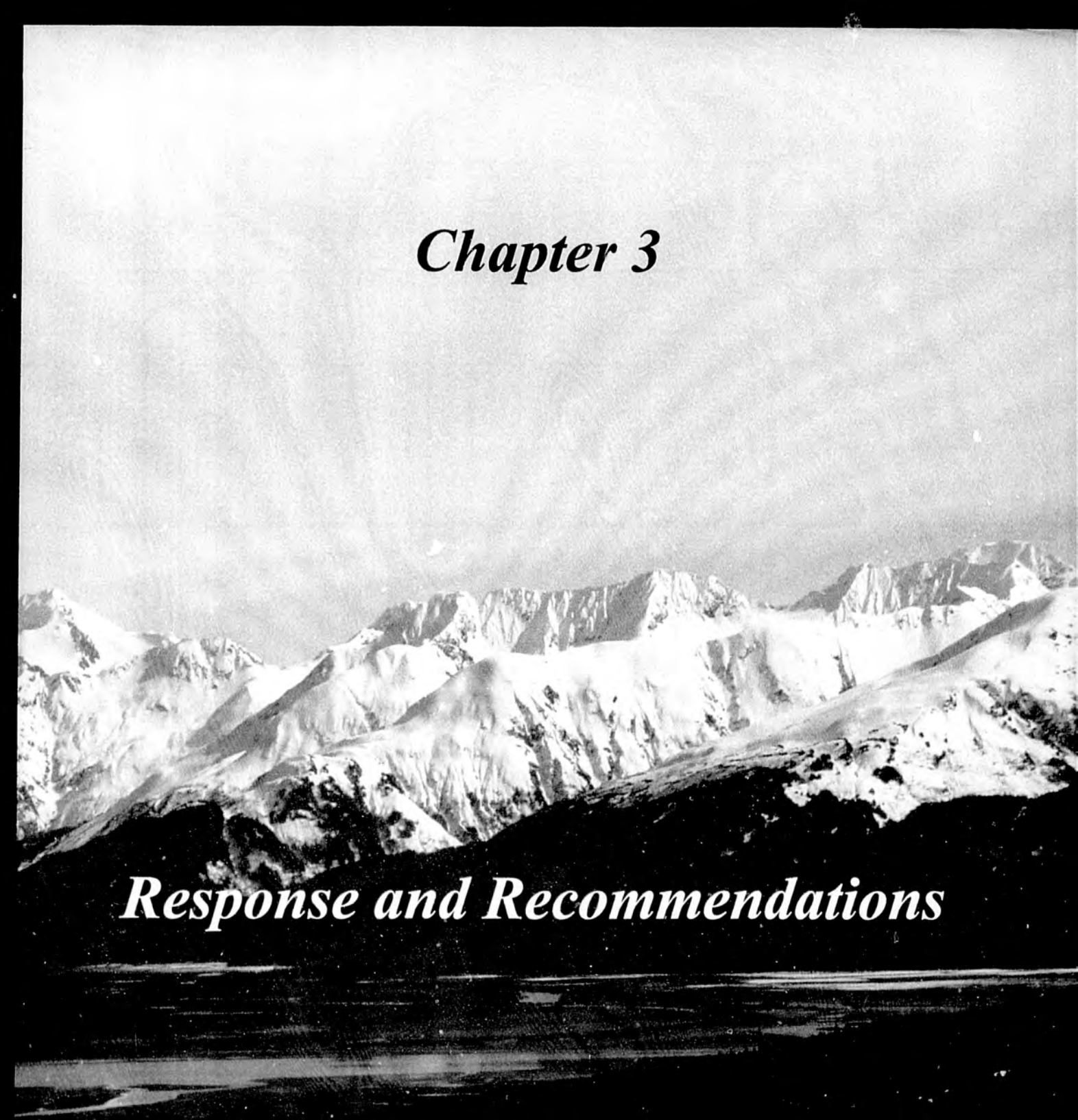
⁵³ These can be reviewed on the Commission's website: www.akjusticecommission.org

Three of the workgroups used an "Options Sheet" to develop their options for the Commission. Essentially an outline for a "white paper" with the financial costs and legislative obstacles removed, the Options Sheet offered a format that highlighted (a) the statement of need, (b) the option, (c) rationale for the option, and (d) impact statement. The fourth workgroup, established to address the problems of domestic violence and child abuse developed a matrix that focused on (a) the statement of the problem, (b) current status, (c) ideal status, (d) structural barriers, and (e) option(s).

The Commission was provided all of the 104 options proposed by the four workgroups,⁵⁴ along with copies of transcribed oral testimony and the written testimony gathered through the many public hearings held starting in October and ending in April. The Commissioners met in Anchorage on May 2 and 3, 2005, to review the options, deliberate, and decide which of the options would become the Commission's recommendations in its Initial Report and Recommendations to Congress and the Alaska Legislature.

A second draft Commission report was prepared and reviewed by the Commissioners on May 17; later versions were reviewed on May 31 and in subsequent meetings, leading to this Initial Report and Recommendations.

⁵⁴ See Appendix G for information regarding accessing the workgroups' 104 options.



Chapter 3

Response and Recommendations

Chapter III. Response and Recommendations

A. Introduction

In the course of taking testimony around Alaska, the Commissioners heard from many rural residents. Based on the testimony, the Commissioners' collective expertise, and the invaluable product of the working groups, numerous recommendations emerged to address the issues the Commission was charged to explore. The recommendations fit into nine broad themes:

1. Engaging in more partnering and collaboration.
2. Making systemic changes to improve rural law enforcement.
3. Enlarging use of community-based solutions.
4. Broadening the use of prevention approaches.
5. Broadening the use of therapeutic approaches.
6. Increasing the employment of rural residents in law enforcement and judicial services.
7. Building additional capacity.
8. Increasing access to judicial services.
9. Expanding the use of new technologies.

During the course of its proceedings, the Commission became acutely aware of its resource and time limitations as well as the importance of: continuing the dialogue among justice stakeholders to further develop its recommendations; the need for additional research, including monitored pilot projects; and the need to encourage and monitor progress on implementing its recommendations. To make progress on all of its recommendations, the Commission asks that Congress extend this Commission or authorize the creation of a successor commission to oversee implementation of recommendations contained in this report.⁵⁵ The Commission, through staff and appropriate working groups, would meet regularly to analyze problems and propose solutions, foster intergovernmental communications and reduce barriers to cooperation and collaboration.

The Commission's tasks would include such responsibilities as:

- Developing a statewide, uniform, and tiered system of certification and training for police and public safety officers with a reasonable opportunity for advancement that could culminate in qualifications to seek full APSC police officer certification;
- Developing a template cross-deputization agreement between the State and tribes that can be used as a basis for individually negotiated agreements; and
- Developing voluntary memoranda of understanding between tribes and the State relating to issues such as coordination and integration of child protection and domestic violence protective services.

The Commission believes that the complex issues surrounding delivery of justice and law enforcement in rural Alaska are both chronic and of highest importance. A standing commission can both monitor and evaluate progress being made on the implementation of the recommendations contained in this report, and study and appraise additional recommendations and changes related to justice and law enforcement in rural Alaska that may

⁵⁵ Recommendation I. For example, Congress created the Alaska Telehealth Advisory Commission, in 1998. It was, at its sunset, transformed into the Alaska Telehealth Advisory Council. It continues to meet today and has grown in its ability to ensure that telehealth in Alaska is developed in a systematic way, meeting the policies and procedures established by that Commission and serving both rural and urban Alaska. The reader is referred to: <http://www.alaska.edu/health/downloads/Telemed/04.Background.pdf>

ecome necessary in the future. The importance of a continuing presence to monitor and track this Commission's recommendations is expressed well in testimony that the Commission heard in Kotzebue:

"Having been through this process [a commission studying problems in rural Alaska] before, I understand the limits. But it doesn't make any difference because we had the same process years ago. The Canadian Judge⁵⁶ came up and went to every village and went into houses and everything else and got detailed reports from people. Nobody listened to that.

"It went through the Alaska Natives Commission as testimony, like you did. We worked with committees that held hearings all over the place on different subjects like you're doing. And we put out a report and it took years before anybody looked at it and when they did – when Congress did and provided funds – our people didn't know what to do with the funds. So we gave up the funds."

John W. Schaeffer
NANA Regional Elders Council

The Commission contemplated a recommendation that would have called for a pilot project authorizing participant tribes to enact and enforce laws regulating alcohol sale, importation and possession within the boundaries of the respective village. The Commission did not include this recommendation in its interim report. During the public comment period on the draft interim report, numerous organizations and individuals urged the Commission to include this recommendation. We understand the critical importance of local regulation and control of alcohol. Alcohol continues to have a devastating impact on rural Alaska. We intend to specifically and intensively review and act on this issue in the next phase of the Commission's work. In making this commitment, we are mindful that this is a highly charged issue that involves competing views of sovereignty that must be confronted. There are also complex, on-the-ground relationships that need to be addressed.

The Commission's other recommendations are presented, by theme, in the following section.

B. Specific Recommendations

1. Engage in More Partnering and Collaboration

There is no doubt that reduction in state-tribal conflict over jurisdictional issues, and increased cooperation, coordination, and collaboration between state and tribal courts and agencies, would greatly improve life in rural Alaska and better serve all Alaskans. In particular, communication and coordination among and between child protection and domestic violence, child abuse, and sexual abuse service organizations and government institutions are neither systematic nor comprehensive enough, and the tribes are often left entirely out of the process. The Commission therefore recommends the development of more effective coordination and communication, including cross training, among and between all governments and service agencies and organizations.⁵⁷ Cross training might include the Alaska Native Indian Child Welfare Association, the Alaska Inter-Tribal Council, the Alaska Legal Services Corporation, the Alaska Native Justice Center, and other Alaska Native social service agencies.⁵⁸

56 Mr. Schaeffer refers to Thomas Berger, whose visits to Alaska and review of the impacts of the Alaska Native Claims Settlement Act are chronicled in Berger, Thomas R., *Village Journey: The Report of the Alaska Native Review Commission*. New York: Farrar, Straus, and Giroux, 1985.

57 In its Final Report in May, 1994, the Alaska Natives Commission recommended that all agencies handling cases of child neglect or abuse, including OCS, the judiciary, HHS, regional health corporations, and tribal councils, should collaboratively renew efforts to eliminate child abuse and neglect among Alaska Natives, share data, and clarify their respective roles. Vol. II, p. 34. The "Follow Up Table of Recommendations" from the Final Report of the Alaska Criminal Justice Assessment Commission of 2000 recommended that State agencies, treatment providers, tribal entities and community organizations collaborate to establish after care and re-entry programs and procedures. See also the Final Report to the Governor by the Alaska Commission on Rural Governance and Empowerment, 1999, in which the Commission encouraged development of inter-governmental and inter-agency coordination mechanisms, and improving communications and cooperation among tribal, state, local governments and regional institutions, as well as within agencies, by encouraging agreements that enhance local decision-making.

58 Recommendation 2. The Recommendation footnotes refer to the Workgroup Options that led to the recommendations, as listed in Appendix F.

Because there is insufficient coordination between State and tribal governments at all levels, the Commission recommends (a) strengthening state policy recognizing tribal civil decision-making; (b) developing voluntary Memoranda of Understanding between tribes and the State relating to coordination and integration of child protection and domestic violence protective services; (c) changes to federal laws to require more coordination; (d) broadening the cross-recognition of judgments, final orders, laws and public acts of tribal, state, and federal governments (such cross-recognition already exists for Indian Child Welfare Act (ICWA) and Violence Against Women Act (VAWA)); and (e) fully implementing the Millennium Agreement.⁵⁹ Moreover, the State should offer tribes, Alaska Native non-profit organizations, and other service providers a greater opportunity to participate in Memoranda of Agreement to enhance opportunities for collaboration, coordination and communication.⁶⁰

There is historic precedent for cooperative models in this state – and throughout the country – that could be used to encourage a more collaborative approach. For example, during a protracted negotiation process that culminated in August 1990, the State and several tribes negotiated an ICWA Agreement that was eventually signed by 27 tribes. The Agreement, which was negotiated before certain jurisdictional issues had been resolved in *John v. Baker*⁶¹ and *C.R.H.*,⁶² “reserved for future negotiation and discussion” issues relating to tribal courts, jurisdiction, and state funding for social services and for children placed in foster homes by a tribe. It is time for those negotiations and discussions to be continued.

Section 1919 of the ICWA provides a mechanism to encourage state-tribal cooperation and collaboration: “States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over custody proceedings.” Similarly, state law expressly authorizes the Department of Health and Social Services to enter into agreements under ICWA concerning the “jurisdiction of Native child custody proceedings.”⁶³ Collaboration and cooperation in other aspects of child protection should also be accomplished to improve the overall quality of services available to those families in need.

The Commission recommends development of a state-tribal ICWA agreement for consideration by the State and the tribes in Alaska.⁶⁴ With the assistance of work group members, the Commission devoted considerable time to development of a model agreement of this kind. The willingness of all of the stakeholders to work toward an acceptable agreement left a great impression on the Commission. Unfortunately, the task of developing a proposed agreement could not be finished in the available time.

There is also substantial need for tribal-state partnerships on juvenile justice matters. Some tribal courts and councils work very effectively with juveniles and their parents to respond to a juvenile’s delinquent or troublesome behavior, and there is no need for state participation in the matter. Where the tribal government is able to effectively address the needs of the juvenile and the community, it may prefer not to encourage state involvement, so that the offending minor does not acquire a state juvenile record.

Other village justice systems, however, would prefer to coordinate more closely with the Division of Juvenile Justice (DJJ) and might, with DJJ’s consent, wish to refer a juvenile to the Division. The Commission therefore urges DJJ to discuss with interested tribal courts whether such a referral mechanism might be achieved, and

59 See Resolution 27, Conference of Chief Justices. See also Wisconsin 161 Agreement, which provides for orderly and thorough coordination and integration between the Vilas County Department of Social Services and the Lac du Flambeau Lake Superior Chippewa Indians on all matters of child protection involving tribal children.

60 Recommendation 3.

61 *John v. Baker* 1, 982 P. 2d 738 (1999) (recognizing inherent tribal jurisdiction in a custody dispute involving tribal children).

62 *In the Matter of C.R.H.*, 29 P. 3d 849 (Alaska 2001) (upholding transfer jurisdiction under ICWA).

63 AS 47.14.100(g).

64 Recommendation 4. Specific to this recommendation, “such an agreement would take into account the changes in the law that have taken place since 1990 and reduce the number of issues over which the State and tribes are currently litigating. It would also provide a template for cooperation between the State and tribes that could provide a model for other topics.”

then make agreements with tribes and tribal courts to coordinate the disposition of juvenile offenses as currently permitted under state law.⁶⁵

It is also clear that there is a substantial need for greater cooperation, education, and coordination among domestic violence and sexual assault service providers that serve rural Alaska communities throughout the state. There are 21 domestic violence and sexual assault programs listed with the Council on Domestic Violence and Sexual Assault (CDVSA) Community Outreach, but they lack sufficient resources to reach large sections of rural Alaska. As a result, many rural Alaska communities lack safe houses or other safe shelters for those who are victims of domestic violence and/or child abuse.⁶⁶ Furthermore, in many communities, no single local entity has been identified either to serve as a coordinating point of contact for safety issues, or to facilitate community development. The Commission recommends that the CDVSA support the Alaska Network on Domestic Violence and Sexual Assault to identify specific needs within individual rural communities for improvement of safety, and to coordinate efforts by existing domestic violence and child abuse organizations, including Child Advocacy Centers, to provide technical assistance and consultation to help every rural community develop a safety plan. The Commission also recommends increased domestic violence program funding for rural Alaska.⁶⁷

"Some of the things that I think are important to address—within your Commission—is training our own people to help our own people. Giving them the resources that they need, which is something that is being done here also. But giving them those resources in a manner that is when they're working with a family, they can say the things that they need to say. And having our people in our own communities having the voice and the strength to say that something is going on within a home that's not right. If a child is being hurt, if a wife is being battered, if an Elder is not being taken care of. Because, as we know, silence is acceptance. So I think part of our own community responsibility is teaching the people how to say this is not okay and to stand up. And then to start creating those support networks around the people who are speaking."

Paulette Moreno, Sitka

The Commission recommends that Congress provide funding to form and help staff a tribal justice association as a conduit for communications, including a tribal judicial web site. Through the new tribal justice association, additional funds should be acquired to produce educational materials and handbooks, forms, computer software, and codes that are respectful and supportive of Alaska Native traditions, customs, practices, and values, and that could be adapted for use by individual tribes. Efforts involving the University of Alaska, tribal organizations, and other appropriate judicial training entities, should support the provision of consistent, quality training and technical assistance for tribal judicial systems. This should include cross training between tribal judicial systems and all law enforcement entities (i.e., municipal, state, tribal, and federal), the Alaska Court System,⁶⁸ Alaska Department of Law, Alcoholic Beverage Control (ABC) Board, Probation and Parole, and the Office of Children's Services.⁶⁹

Collaboration should also take place between the state and the federal government to enhance drug and alcohol enforcement. Lack of adequate Postal Service Investigator staffing in Alaska is a significant impediment to alcohol and drug interdiction in rural villages. The Department of Public Safety should designate targeted alcohol and drug enforcement areas that include local option villages and their hub communities. This should include seeking Postal Service cross designation authority for drug and alcohol investigators assigned to the target area as well as the statewide Major Offender Unit personnel. Success for this recommendation will be measured by an increase in seizures of alcohol and drugs, forfeitures, and documentation of cases that could not have been possible without cross-designation authority. This recommendation will enhance the Department's efforts to

⁶⁵ Recommendation 5.

⁶⁶ For a map showing the locations of all domestic violence, child abuse, and sexual assault programs in Alaska, see Appendix A.

⁶⁷ Recommendation 6.

⁶⁸ For a map showing the location of all the state courts and magistrates, see Appendix A.

⁶⁹ Recommendation 7.

monitor and control choke-points, since almost all alcohol and drugs move to rural Alaska by commercial air carrier or mail and package services.⁷⁰

Finally, at this time, judicial/justice materials are not available in many languages that would serve Alaska.⁷¹ The Commission recommends that more materials be both developed and provided in different languages for Alaska Natives.⁷²

2. Make Systemic Changes to Improve Rural Law Enforcement

"The Northwest Arctic Borough is truly rural, an area the size of the state of Indiana, with a population of approximately 7,200, which is predominantly Inupiat Eskimo. There are no roads connecting any of our 11 communities to one another. Transportation is by boat, airplane, or sno-go. We have many similarities with other rural regions; however, we are different from some regions in that we are an organized borough. Having been formed in 1986, our borough government is young and not yet fully evolved.

Kotzebue, our hub community, has its own city police force, funded by city taxes, and also has a modern jail facility. Our other 10 communities are quite different. For roughly 3,000 residents, scattered through 10 communities, we have three VPSOs: one in Kobuk, population 100; one in Selawik, population 900; and one in Ambler, population 475. The other 1,500 borough residents in seven communities do without the presence of an officer. Some village communities hire a Village Peace Officer, or VPO. In most all cases this person has no law enforcement training. In many cases, this officer serves primarily as a curfew enforcer, but does not deal with more serious offenses. As fiscal conditions get tighter and tighter for our village municipal governments, we have seen some of these VPOs laid off due to lack of funds to pay them. We expect this trend to continue. By itself, a VPO program cannot address our problems. All Northwest Arctic Borough villages except Kotzebue are served by the Alaska State Troopers, a seven-member group headquartered in Kotzebue. Troopers are dispatched to a village in the event of a serious crime, but due to distance, weather, and other factors, their response time can be less than impressive."

Tom Bolen, Public Services Director, Northwest Arctic Borough

The Law Enforcement Workgroup developed a list of nine "consensus points" to explain the premises and assumptions that underlay the process of agreeing upon options to be forwarded to the Commission. These points are presented below. They relate not only to the work of this one workgroup but also to the recommendations from the other workgroups that relate to the law enforcement theme and are presented in this subsection.

Law Enforcement Workgroup Consensus Points

- Funding should be secured to ensure that all officers engaged in law enforcement activity in rural villages in the State of Alaska have a basic minimal level of training and certification.
- Law enforcement in rural Alaska should be accomplished in a manner that does not threaten or diminish the sovereignty of either the state or the tribes.
- Cross-deputization of tribal and state/municipal police officers has the potential for assisting the State Troopers that serve rural Alaska, assuming an agreement on shared training and certification and liability standards could be reached.
- For state, tribal, and other officers engaged in village law enforcement to work effectively together, a reliable and up-to-date database identifying the officers of each department in rural Alaska, and their current training levels should be developed.

⁷⁰ Recommendation 8.

⁷¹ See Supreme Court Committee Report on Fairness and Access Report at p. 92-93.

⁷² Recommendation 9a.

- Creating three tiers of villages or new rural government institutions is not necessary to improve rural law enforcement.
- Effective rural law enforcement, including improvements in recruitment and retention, requires a commitment to adequate infrastructure appropriate to each community's size and need, such as housing, communications, technology, transportation, holding facilities, offices, and equipment.
- Public safety and law enforcement services are a basic need throughout Alaska and should be adequate and appropriate to a community's size and need.
- It is critical that the federal government take a much more active role in ensuring adequate law enforcement in Alaska Native villages, including far more extensive funding of village law enforcement needs.
- There should be an increased emphasis on juvenile crime prevention programs and positive interaction between public safety officers and youth.

"The Ahlta People do not have a history of having Village Public Safety Officers but, if they did, I am sure that we would be testifying here today about the positive results of having one in our villages.

At the present time we have many criminal misdemeanor offenses that are not responded to by the Troopers and, if they are responding to it, it may be several hours to a few days before one of the four State Troopers are able to respond to a call for help. The local Alaska State Troopers have a history of establishing a working relationship with the Tribal Governments, by attending village council meetings. The Troopers expressed the hardship they have with responding to calls when the service area includes a 250-mile area on the road systems and areas that need to be accessed by airplanes. Many times they may be out on a call and when a call is received from our villages and they have to finish up with that call before they can respond. The Troopers do have a history of being in a community for only a short time and then are transferred; thus the community doesn't get to know them very well. Many offenses take place after the Troopers are off duty."

Eleanor Dementi

Copper River Native Association, Cantwell

One of the goals of an ongoing Commission would be the development of a statewide, uniform, and tiered system of certification and training for police and public safety officers with a reasonable opportunity for advancement that could culminate in full APSC police officer certification.⁷³ The first tier of certification would require a reasonable, minimum level of certification and training, including non-police function training, to ensure professional competency and service delivery, with tribal officers encouraged to participate.⁷⁴ The Commission would also be charged with developing a template cross-deputization agreement⁷⁵ between the State and tribes that can be used as a basis for individually negotiated agreements.⁷⁶

The Commission recognizes that additional funding will be required to augment training and certification of rural police and public safety officers and recommends that new funds should be sought from all available sources, including state and federal governments, grants, and local sources (including in-kind support), with local support

⁷³ Recommendation 9b.

⁷⁴ This option would require a change to AS 18.65.220 & 18.65.290(7), which allows only state, municipal, and certain federally employed officers to be certified. Greater rural representation in the APSC process and governance would improve its responsiveness to rural concerns.

⁷⁵ Cross-deputization agreements have potential for combining scarce funds to provide direct and local service in rural Alaska. Such agreements could also create efficiencies and other improvements in law enforcement service delivery, and could be entered into between the tribes and the State, boroughs or cities. Alaska Statute 18.65.010 currently allows such agreements.

⁷⁶ Recommendation 10.

expected to be appropriate to community size, need, and capacity.⁷⁷ Local contributions should not, however, be used as a factor in determining a community's need for police and public safety services.⁷⁸ To further expand the number of law enforcement and public safety officers in rural Alaska, the Commission also recommends making the federal COPS program longer term.

VPSO Program Regulations adopted by the Department of Public Safety (DPS) define a village as a community with a population of less than 1,000 individuals based on the most recent federal census. The populations of rural villages in some areas have steadily increased to a point where there are communities that either exceed 1,000 individuals or are approaching the allowable population limit. The Commission recognizes that the VPSO program is a valuable tool for rural communities lacking resources to provide public safety services for their residents. Therefore, the Commission recommends that DPS modify the definition of a village in 13 AAC 96.900 (12) to read:

(12) "village" means a community with a population of less than 1,500 individuals based on the most recent federal census.

"In sum, as a VPSO I provide preventive community policing and public safety in a wide and sweeping variety of situations. Equally important, the Old Harbor Tribal Council's restorative system allows the community to address situations in a preventive way that can de-escalate a youth's behavior, and help that individual understand the effects of their actions. Together, we provide public safety at a variety of levels.

How do we improve upon what is working well? Hands down, we need more and stable funding, and more law enforcement officers per village. Ideally, we need two officers per village—at a minimum. It places officers at risk when they are asked to address domestic violence and other situations without a partner or backup of any kind. In addition, because each village is unique in its social makeup, and because domestic violence, juvenile justice, and child protection demand immediate attention and solutions that cannot wait for weather or funding, and further because the state system is already tremendously overburdened, we must allow each village to develop individual restorative justice systems to provide our communities with necessary tools to adequately address public safety."

Valent Maxwell, VPSO, Old Harbor

The Commission recommends that options for alternative methods of police and public safety training be examined to enhance the currently available training at the Sitka Academy. Partnerships with the College of Rural Alaska and other existing training and educational institutions could help remove impediments to recruitment and training for police and public safety careers. The development of regional training programs or centers would also help.⁷⁹ The Commission further recommends that the Department of Public Safety initiate a regional rural recruitment effort for rural police and public safety officers.⁸⁰

The Commission has determined that there is a need to make changes in state statute to help law enforcement reduce the importation of alcohol into dry villages in rural Alaska. Even though AS 04.11.010 prohibits the manufacture of alcohol, the provisions of Title IV do not define the term "manufacture," and the definition in Title XI only relates to controlled substances.⁸¹ Present forfeiture provisions do not cover violations of transportation by common carrier and do not provide for forfeiture of firearms and items of value purchased from illicit proceeds, or provide for forfeiture proceedings.⁸² Finally, currently there is an inconsistency in the amount of alcohol that triggers presumptive sale (12.0 L) and felony importation (10.5 L), which is confusing for law enforcement. To

77 Recommendation 11.

78 Recommendation 12.

79 Recommendation 13.

80 Recommendation 14.

81 Recommendation 15.

82 Recommendation 16.

remedy these problems the Commission recommends the changes in statutory language that are shown in the three attachments presented in Appendix H.

"Alcohol and drug abuse have had tragic consequences in our region. It is estimated that more than 97 percent of the crimes committed by Alaska Natives in our region are alcohol related. Alaska Natives are more likely than any other racial or ethnic group in Alaska to be the victim of a crime. Next to children, Alaska Native women are the most victimized group in the state, suffering high rates of rape and domestic violence. This is true in our region. It is also true that we have some of the highest suicide, child sexual and physical abuse, and fetal alcohol syndrome rates in the state, and that the state's figures are consistently higher than the rest of the nation.

"The State of Alaska is mandated by the state constitution to provide basic public safety services within the areas in our region where no local governing body provides these services. The State provides funding for a VPSO in only nine of our villages. This means that, in the best-case scenario, six of our 15 villages must make-do without VPSOs. As it is, the funding that we receive does not afford enough to pay for salaries that would attract anyone for this difficult job. With a starting salary of \$14 an hour, a VPSO may qualify for food stamps and public assistance under certain circumstances, and studies show that an alarming number of VPSOs are forced to seek this assistance. Statewide, the turnover rate of VPSOs is estimated at 40 percent annually. In our region, only 1/3 of our villages currently have a VPSO. In the villages that do have a VPSO, the person is on call 24 hours a day, 7 days a week, 365 days a year with minimal overtime budgeted for them. They do not carry weapons and must rely on the Troopers in Nome if a situation escalates. Yet one study found that 75 percent of unarmed village officers had responded to a perpetrator with a firearm."

Melanie Edwards, Vice President, Kawerak, Inc.

Another change recommended by the Commission that would benefit law enforcement is banning written order sales of alcoholic beverages to dry or damp communities, thereby preventing residents of dry communities from taking delivery of alcohol in areas where it is legal to receive alcohol.⁸³ Furthermore, the Commission acknowledges that there is a need to make it easier for law enforcement to detect illegal shipments of alcohol to rural Alaska, and that shipping alcohol in plastic containers makes detection more difficult (compared to shipping in glass containers). It therefore recommends that shipping alcohol in plastic containers should result in a sentencing enhancement or aggravator, unless the containers are sent to a distribution site.⁸⁴

Given the relative lack of law enforcement in rural Alaska to enforce state and tribal orders related to child protection, child abuse, domestic violence, and sexual assault, the Commission recommends that: (a) the State adequately fund and staff the VPSO program to help provide this important function; (b) federal funding be obtained for tribal law enforcement; and (c) cross deputization of law enforcement occur.^{85, 86}

Because the lack of adequate medical response in many rural Alaska villages makes sexual assault crimes harder to prove, and the lack of law enforcement with specialized training also aggravates the problem, the Commission recommends that the Department of Public Safety, in conjunction with regional Native non-profit corporations: (a) develop part-time law enforcement positions for smaller rural Alaska communities with intensive training and

⁸³ Recommendation 17.

⁸⁴ Recommendation 18.

⁸⁵ See Alaska Federation of Natives Resolution 04-14 adopted at the 2004 Annual Convention, a resolution in "Support of Rural Law Enforcement in Alaska's Villages" supporting the VPSO program, and calling on the State legislature, governor and congressional delegation to design a program that will adequately address public safety needs in villages. See also Final Report to Governor, Alaska Commission on Rural Governance and Empowerment, 1999 (a local law enforcement officer should be present in every community in Alaska, with particular attention to off-road communities; all categories of officer should be fully trained, equipped, staffed, paid, and acknowledged as part of the overarching public safety system; effective public safety requires coordination with local communities, tribes, and regional non-profits. The Department of Public Safety should train local officers to extend the reach of the public safety system; training for local officers is necessary to help them balance cultural sensitivity with professional ethics.

⁸⁶ Recommendation 19.

continuing support to maintain skills as needed; (b) develop new approaches to provide housing in the villages for these new positions; (c) recruit and train local residents to fill these positions (following a community policing model); and (d) initiate a new system that will ensure that law enforcement officers will be temporarily relocated to cover unfilled positions in the villages while these officers are being trained.⁸⁷

The final recommendation in this thematic category is that the continuing Commission make addressing the scourge of alcohol and substance abuse a priority. The most oft-repeated concern Alaskans expressed in their testimony to the Commission was the toll taken by alcohol and substance abuse. Our fellow Alaskans are, literally, dying under the present regime. According to the final report of the Alaska Commission on Rural Governance and Empowerment, the alcohol-related mortality rate of Alaska Natives is three and a half times that of non-Natives, and the incidence of fetal alcohol spectrum disorder (FASD) among Alaska Natives is three times that of non-Natives. The majority of crimes committed in rural Alaska are committed under the influence of alcohol or drugs. Substance abuse is devastating rural Alaska, and the current governmental tools available to combat it are inadequate.

- Federally recognized tribes have a local governmental presence but have disputed jurisdiction. The State has jurisdiction but often lacks an effective local government presence. The result is a gap that leaves many villages without effective law enforcement tools to combat substance abuse.
- Local option laws enable villages to ban or restrict importation of alcohol, but the laws are enforced and prosecuted primarily from regional centers. Defendants are tried, if at all, away from the villages. Geographic and cost constraints likely will always prevent the state from having magistrates, troopers, and prosecutors anywhere but in the largest communities.
- Second-class city governments in villages cannot effectively address substance abuse. Most have little or no money. State law does not provide for municipal courts and the cost of prosecuting cases in distant state courts means that small cities rarely enforce municipal criminal ordinances.
- Tribal governments are the *only* government in many villages. Many villages have tribal courts that handle juvenile offenses and child protection cases that often entail alcohol problems the tribal courts must address. The best solutions to community alcohol problems involve the community.

The tragic consequences of substance abuse in rural Alaska are well known, and all available resources should be mobilized to combat this problem: tribal, state and federal. Addressing this issue successfully must be the highest priority of the federal, state, and local governments of rural Alaska. The Commission believes that the ultimate success of other recommendations hinges on addressing the problem of alcohol and substance abuse in rural Alaska.⁸⁸

"The AFN Sobriety program provided much-needed relief for the mental health and protection services. But the overriding comment from our villages is that there is no control of alcohol coming into the village. The village may have banned alcohol, but without resources, the village is left to watch their family members suffer from bootleg alcohol. To address this issue, they want:

1. resources to include providing funds to the tribal council to monitor the community,
2. liaison with the local police to find the bootleggers,
3. search incoming airplanes for alcohol,
4. provide a hotline with rewards for results on prosecution,
5. provide funding so that the tribal council can hire a tribal policeman.

87 Recommendation 20.

88 Recommendation 21.

"These are but a few suggestions from our village meetings for the sobriety program. Tribal council[s] want help in enforcing the alcohol ban in their villages but are unable to find funds for doing the work."

Arnold Brower, Arctic Slope Native Association, Barrow

3. Enlarge the Use of Community-based Solutions

"Brief history reveals how healthy our people were in the public safety arena. They were in control of their destiny and lived good physical lives; they simply governed themselves to survive. They knew how to take care of each other through public safety, putting together their own way of law and order and live peacefully in harmony with the life/nature. Law and order was respected and no jail system – no repeat offenders, unlike all the later history within the state system today."

"You see our Native people have intellectual knowledge on basic human needs and how to protect each other from harm through good public safety practices. And yet we are not given the chance and opportunity to exercise these rights."

Virginia Commack, Tribal Administrator, Native Village of Ambler

Alaska Statute 47.12.010 states that one purpose of Alaska's juvenile delinquency law is to "encourage and provide opportunities for local communities and groups to play an active role in the juvenile justice process in ways that are culturally relevant." Currently, AS 47.12.988 allows the Department of Health and Social Services to select "an entity" to exercise authority, but the statutory definition of "an entity" does not include a tribal entity. The Commission recommends amending AS 47.12.988 to allow DJJ to delegate its authority to tribes in situations in which DJJ and a tribe wish to cooperate and share resources with respect to tribal juvenile offenders, as follows:

"In this chapter, when authority exercised by the department may also be exercised by an entity selected by the department, the entity that the department may select in order to exercise authority is limited to

- (1) a municipality;
- (2) a corporation; ~~or~~
- (3) two or more persons recognized by the community and operating under contract or license from the department; ~~or~~
- (4) a tribe as defined by the Indian Child Welfare Act (25 USC §1903(8)).⁸⁹

By implementing this recommendation, more culturally appropriate, community-based, procedures can be used in addressing the problems of tribal youth, and remedies that draw on the traditions and strengths of the tribal communities can be developed.

The Commission also recommends that the Department of Health and Social Services increase funding for existing programs and help organizations implement new programs to address prevention, intervention, and treatment of domestic violence and child abuse throughout rural Alaska. Existing programs have not received any increase in funding over the last several years, while costs, including utilities, airfare, and medical care, have increased dramatically. Because programs are no longer able to offer competitive salaries, staff in high-stress positions experience a high rate of turnover. Increased funding will enable existing and new programs to provide much needed educational and therapeutic services for sexual assault and child sexual abuse victims.⁹⁰

The Commission has concluded that the alcohol distribution site that was created in Barrow has proven to be very effective in decreasing bootlegging and the ensuing array of social problems related to the use of alcohol, and the Commission thereby encourages⁹¹ damp hub communities that serve as points of entry for villages of which at

⁸⁹ Recommendation 22.

⁹⁰ Recommendation 23.

⁹¹ If the State chooses to mandate hub distribution sites, the deadline for initial establishment of these sites should be set by the State at one year, and if a designated community does not set up the community alcohol distribution site, the ABC Board should.

least 20 percent are either "dry" or "damp" to have community alcohol distribution sites. Permits to pick up liquor from a community's alcohol distribution site must be held by residents of that damp community only.⁹²

There is a need for tribes⁹³ to have an opportunity for notice and to be heard at sentencing and disposition (or before) in state court juvenile proceedings and AS 12.55.011 allows for community participation in restorative justice. The Commission recommends that Title 47 be amended to permit tribes to participate in sentencing or other appropriate juvenile proceedings (as do other victims),⁹⁴ and it further recommends that state law be adopted or amended to permit tribes to participate in juvenile delinquency treatment, especially after minors return to their communities.⁹⁵ Implementing these recommendations would: (a) improve communication between rural Alaska communities and the court about sentencing of juveniles; (b) ensure more effective sentences; and (c) improve the effectiveness of juvenile delinquency treatment at the community level. Similarly, the Commission recommends re-entry programs for Alaska inmates moving back into small rural communities, focusing on community-based restorative justice and the role of the village in assisting in the rehabilitative process.⁹⁶

Alaska needs to find alternatives to housing Alaska's inmates in out-of-state facilities, which is moving to adult law enforcement issues, a weak point in the system. Particularly for Alaska Natives sent to such facilities, the separation from family and community enhances alienation and is likely to retard rehabilitation and re-entry into the community. Sending inmates from rural Alaska to out-of-state facilities also creates hardships for their families. To help remedy this situation, the Commission recommends that the Department of Corrections explore other options, including working with Native regional corporations and non-profit organizations. If a method can be found to keep inmates within Alaska in a financially feasible way, inmates and their families will benefit, along with local economies.⁹⁷

4. Broaden the Use of Prevention Approaches

The Commission recommends that reducing the demand for alcohol in rural Alaska should involve the development and expansion of a variety of programs that include: (a) programs geared to helping young people learn to make healthy choices; (b) healthy community and cultural activities that link youth and adults; (c) alcohol/drug information schools for first-time misdemeanor alcohol/drug related offenders; and (d) programs that promote community responsibility for preventing and addressing alcohol related problems.⁹⁸ All of these need to reflect and respect the culture of the local community.

There are also too few prevention and early intervention programs targeting domestic violence and child abuse in rural Alaska and there is a general lack of understanding or agreement about appropriate prevention approaches. Prevention must begin with the very young (e.g., in Head Start and pre-school), to include structured programs incorporating attitudes of respect toward women, people of color, and persons with different abilities. It recommends that the Alaska Department of Education and Early Development devise comprehensive, culturally appropriate prevention curricula to be implemented in kindergarten through eighth grade in Alaska's public schools, including a component on healthy behavior and the importance of remaining drug free. Increased funding from the Department of Health and Social Services for enhanced prevention programs, developed and implemented in rural Alaska, is also advisable, as is the reinstatement of funding from the U.S. Department of Labor for the highly successful, statewide Youth Opportunity Program.⁹⁹

92 Recommendation 24.

93 Tribes as defined in ICWA.

94 Recommendation 25.

95 Recommendation 26.

96 Recommendation 27.

97 Recommendation 28.

98 Recommendation 29.

99 Recommendation 30.

5. Broaden the Use of Therapeutic Approaches

The Commission is fully aware that increasing and improving methods to reduce the supply of alcohol to rural Alaska can only go so far to reduce alcohol abuse. Reduction in the demand for alcohol must also play a part, including both preventive and treatment approaches. Treatment programs have proven most effective when the programs are located near the person's home, when the programs can address the needs of the entire family, and when they are culturally relevant. The Commission therefore recommends state, federal, and private funding to develop more local, family-oriented, and culturally based substance abuse treatment programs, such as the Tundra Swan Inhalant Abuse Treatment Program operated in Bethel by the Yukon Kuskokwim Health Corporation.

Noting that locally developed treatment options that resonate with those values that are deeply ingrained in a culture are more apt to be effective in achieving rehabilitative success for individuals raised in that culture, the Commission recommends greater federal and state support for culturally relevant treatment options for rural Alaskans, and further recommends that the Alaska Department of Corrections collaborate with the Alaska Native regional non-profit corporations to develop culturally relevant behavioral health treatment options for incarcerated individuals.¹⁰⁰

The Commission finds that substance abuse, mental health, and dual diagnosis screening by domestic violence and child abuse programs is neither consistent nor standardized and recommends the development of agreements between domestic violence and behavioral health programs and the development, and statewide implementation of, screening tools to ensure standardization.¹⁰¹ Moreover, local capacity to address alcohol and drug abuse, while essential, is inadequate.¹⁰² The Commission recommends that both the federal and state governments increase funding to enable the development of more substance abuse treatment services located in Alaska's rural villages that invoke cultural values and include victims, family, and community in treatment. Residential treatment centers in which victims can have children live with them are needed,¹⁰³ ideally in each hub city in rural Alaska.¹⁰⁴ In order for residential substance abuse treatment to be truly effective, there need to be more aftercare programs to help returning clients remain sober, especially in the villages of rural Alaska. To this end the Commission recommends that the State increase training, technical assistance, and ongoing support for village-based volunteers and family members. This could be accomplished by integrating a long-term aftercare and family care program with a job training and career development program.¹⁰⁵

100 Recommendation 31.

101 Recommendation 32.

102 In its Final Report in 2000, the Alaska Criminal Justice Assessment Commission found that it is imperative to reduce substance abuse related crimes through prevention and treatment programs, and that 97 percent of Alaska Native crimes have alcohol or drugs as a factor and 81 percent of reports of harm involve substance abuse. *See also*, the Final Report of the Alaska Natives Commission, May 1994, finding that alcohol poses the single greatest threat to the well-being of many Native families, resulting in domestic violence and much higher rates of FAS, Vol. II, p. 77. *See also*, Alaska State Troopers Alaska Bureau of Alcohol and Drug Enforcement (ABADE) 2003 Annual Drug Report, in which ABADE acknowledged that "[m]embers of Alaska's law enforcement community and others who are part of Alaska's criminal justice system have long known that the greatest contributing factor to violent crimes, including domestic violence and sexual assault, is drug and alcohol abuse." Report, at 5.

103 Recommendation 33.

104 Recommendation 34.

105 Recommendation 35.

Insufficient substance abuse, mental health, and dual diagnosis treatment options are available in Alaska – and especially for youth in rural Alaska – which presents major problems for the juvenile justice system. Many juveniles are either not receiving treatment at all or are being sent out of Alaska for residential substance abuse or mental health treatment. There is a growing need for the development of culturally effective local juvenile treatment programs and facilities, and the Commission recommends that both the state and the federal governments explore options for increasing funding and support for the expansion of adolescent treatment programs.¹⁰⁶

Evaluation data show that therapeutic courts in Alaska are effective in dealing with substance abuse related offenses,¹⁰⁷ and it both commends the Alaska Court System for supporting therapeutic courts and recommends that the Alaska Court System continue to expand the establishment of additional therapeutic courts in rural Alaska. The greater emphasis on a “medical model” in processing substance-abuse related offenses will continue to lower the rate of recidivism.¹⁰⁸

The Commission has learned that when first-degree relatives provide foster care in their homes the state support that they receive is less than that received by more distant relatives and strangers.¹⁰⁹ To remedy this situation the State should explore changes in regulations that would encourage relatives to care for children in need of aid. The State should also implement a plan to establish more group homes for children who need such services.¹¹⁰ A concentrated effort should be made to increase the number of group homes in rural Alaska, accompanied by more flexibility on the standards and designed to reflect community values. Specialized training for group home parents and operators is also needed.¹¹¹

There is also a need to increase the number of Alaska Native foster homes for Alaska Native children and to facilitate the pass-through of foster care subsidy payments for foster care placements ordered by tribal courts. To help remedy this situation, the Commission recommends enactment of a state law similar to those portions of HB 193 or SB 125 that give the Commissioner of Health and Social Services the discretion to set appropriate standards for foster home placements and grant waivers in appropriate circumstances, and which resolve problems with state liability issues. In the event this becomes law, the Commission recommends that the Alaska Department of Health and Social Services consult with tribes over the foster care licensing standards. The Commission further supports the enactment of federal legislation similar to that in S. 672, introduced in March 2005, allowing tribes to apply for and administer Title IV-E directly from the federal government, while maintaining consistent funding levels for the states.¹¹² Implementing this recommendation will serve the best interests of Alaska Native children needing foster home placements by increasing the supply of suitable foster homes in state child protection cases and by increasing the resources available to support tribally ordered foster care placements.¹¹³

6. Increase Employment of Rural Residents in Law Enforcement and Judicial Services

The Commission recommends that the Departments of Public Safety and Corrections: (a) increase the number of qualified Alaska Natives who work as Village Public Safety Officers; (b) continue to increase the utilization and training of Village Public Safety Officers in the role of probation officers in the villages; and (c) consider

¹⁰⁶ Recommendation 36.

¹⁰⁷ See the Alaska Judicial Council's evaluation of the therapeutic courts in Anchorage and Bethel at <http://www.ajc.state.ak.us/Reports/TherCt2004.pdf>

¹⁰⁸ Recommendation 37.

¹⁰⁹ When children are placed in first-degree relatives' homes, they have to apply for child-only TANF funding, which is considerably less than foster care funding, especially when there are multiple children in the home.

¹¹⁰ Recommendation 38.

¹¹¹ Recommendation 39.

¹¹² In May 2001 Alfred Ketzler, Sr., CAO of the Tanana Chiefs Conference, Inc., provided testimony to the Senate Commission on Indian Affairs that articulates the Title IV-E problem very well and also makes additional recommendations relevant to this Commission. His testimony can be read at the following website: <http://indian.senate.gov/2001hrgs/alaska/ketzler.PDF>

¹¹³ Recommendation 40.

contracting with tribal governments to provide oversight of community service work, all of which will result in increased supervision of offenders under probation and parole supervision in rural Alaska.¹¹⁴

Although Alaska Natives are over-represented in Alaska's prison population, very few correctional workers are Native. Because positive role models are an important component of rehabilitation of incarcerated, and also because emotional bonds can form between correctional personnel and inmates, positive and supportive Alaska Native role models in corrections can be conducive to rehabilitation. The Commission recommends that the number of Alaska Natives who work in corrections (as well as those who work as VPSOs and in other law enforcement roles) be increased, which might be accomplished with targeted recruitment campaigns,¹¹⁵ including films, DVDs, a workbook or written guide, and a website, with materials geared to junior and senior high school-age Native youth. The Commission also recommends that a meeting of stakeholders be convened to consider the development and implementation of such targeted recruitment measures.

The stakeholder group should also consider what additional educational and training opportunities for careers in the field of law enforcement and corrections could be implemented in rural Alaska. Participants in the stakeholder group should include, but not be limited to, representatives of the Department of Education, Department of Labor and Workforce Development, the Alaska Association of School Boards, and the Alaska Association of School Administrators.

The intended result of increasing the number of Alaska Natives employed by the Department of Corrections, including probation officers, will be lowered recidivism rates, due in part to positive role modeling and to better communication between probationers and their probation officers. Also, by increasing awareness and preparedness for careers in these fields, the intended result is that the number of rural Alaskans employed in the Departments of Public Safety and Corrections will be increased, as well. It is also the hope of the Commission that with such training at an early and critical age, Alaska Native youth will be less inclined to partake in criminal activities.¹¹⁶

The Commission stresses three points concerning the theme of employment and increased Native representation in law enforcement. First, more rural Alaskans should be recruited and employed as Correctional Officers by the Department of Corrections. Second, more Alaska Natives are needed among the ranks of probation officers. Third, more rural Alaska Natives need to be employed in the VPSO and other local law enforcement programs. In this process, it is important that the authorities and responsibilities of probation officers and Alaska State Troopers continue to be separate.

7. Build Additional Capacity

The Commission finds that there is a significant lack of infrastructure supporting police and public safety functions in rural Alaska, which undermines the safety of rural Alaskans and negatively affects recruitment and retention of police and public safety officers. To help remedy this situation, the Commission recommends that the State develop, improve, and maintain the infrastructure that supports the delivery of police and public safety services in rural Alaska in the following categories:

- **Housing:** The Commission encourages: (a) streamlining the approval process and prioritization of HUD homes for use by police and public safety officers in rural villages; (b) exploring other available and currently vacant federal, state, and public housing that may be available for use by police and public safety officers; and (c) changing the eligibility rules for federal rural housing programs that are now available

¹¹⁴ Recommendation 41.

¹¹⁵ The Commission cautions that efforts to recruit more Alaska Native employees must be conducted within the equal-protection constraints of state and federal law.

¹¹⁶ Recommendation 42.

for teachers¹¹⁷ and health providers to include funding for police and public safety officers. Although not directly related to law enforcement, the same recommendation also applies to other professionals whose services are so badly needed in rural Alaska, including those working to prevent and treat the problems of domestic violence, child abuse, and sexual assault. In some locations, the construction of rental units should be considered.¹¹⁸

- **Law enforcement transportation:** The Commission recommends increasing the availability of appropriate vehicles for intra-community use by local police and public safety officers in rural Alaska. Additional upgrades to inter-community transportation infrastructure should also be sought, and VPSOs, tribal police, and other village-based law enforcement officers should be able to access public transportation systems on the same terms as other law enforcement officers.
- **Law enforcement offices and holding facilities:** The Commission recommends providing adequate office and holding facilities, including maintenance and operational funding, in rural communities commensurate with the type of police or public safety officer and community need, in a manner that will ensure continuity in public safety services.
- **Law enforcement equipment:** The Commission recommends providing adequate and appropriate equipment to rural police and public safety officers.

The State should seek funding to construct multipurpose facilities with an apartment, an office, and a holding cell for the Alaska State Troopers in larger under-served village locations. Qualified Troopers who are currently assigned to hub communities should be reassigned to these new posts in "sub-hub" villages such as Gambell and Holy Cross. The troopers should work at these locations on a rotating schedule of two weeks on followed by two weeks of leave. This would allow for trooper availability approximately 80 percent of the time, with a 20 percent absence to account for court time, leave, weather, and similar events. This recommendation embraces the concept of "Community Oriented Policing," reduces response times, and provides a significantly enhanced law enforcement presence than has been possible in the past.¹¹⁹

The Commission recognizes the benefits of locating public safety and justice responsibilities in combined or shared facilities in rural areas. The advantages are far greater than simple cost savings for lease or construction costs. The intangible benefits include enhanced communication and interaction. Likewise, victims of crime or members of the public attempting to navigate through "the system" can also be greatly aided when agencies are in one location. The benefits of participating agencies learning and respecting the missions and challenges of other agencies, although difficult to quantify, are unmistakable. The Commission recommends that the concept of a Regional Unified Justice Center be considered whenever affected agencies consider construction projects in rural communities.

The Commission recommends that at least some of the funding for infrastructure development for rural law enforcement services described in the preceding list should be provided by the Denali Commission, and the Regional Housing Authorities should be involved in developing new housing opportunities for village-based police and public safety officers.¹²⁰

Public testimony and reports reviewed by the Commission indicated that many litigants appearing in tribal

117 For insight into the continuing need for improved teacher housing in rural Alaska, read the testimony of Peggy Cole, a teacher from the Lower Yukon School District, before the U.S. Senate Indian Affairs Committee in 2004, available at: <http://www.neaalaska.org/govern/peggycoletestimony.htm>

118 Recommendation 43.

119 Recommendation 44.

120 Recommendation 45.