

AK LEGISLATURE SPECIAL COMMITTEE FILES SCOMM 157 3372

and state court believe that judges and staff are not adequately trained in domestic violence, child abuse, and sexual abuse and do not consistently apply laws that are intended to help victims. The Commission recommends consistent training, provided no less often than annually, for all relevant court personnel and judges, coordinated with the Council for Domestic Violence and Sexual Abuse and the Alaska Network on Domestic Violence and Sexual Assault. Additionally, the Alaska Court System should hold a forum in rural Alaska for judges and court personnel to discuss issues affecting victims of domestic violence/sexual assault and child abuse.¹²¹

There is a need for more culturally sensitive forensic services in remote communities statewide to ensure better protection for domestic violence, sexual assault, and child abuse victims. The Commission recommends the establishment of a roving position within each region for a highly trained forensic investigator who has cultural skills necessary to communicate within the cultures served.¹²²

It also recommends that tribal police receive forensic training to the same degree that Alaska State Troopers, other municipal police officers, and investigators do.^{123, 124}

In studying the problems of domestic violence, child abuse, and sexual assault in rural Alaska, the Commission has found that there is a lack of information and data regarding law enforcement's response to these criminal activities, and the data that do exist are neither consistent nor standardized. A new data base and reporting requirements need to be established to monitor investigations by law enforcement, and to verify that investigations are adequate and uniformly carried out. This should include both internal and external quality control audits to provide sufficient and consistent information to confirm that cases of domestic violence, the abuse of minors, and sexual assault are adequately investigated by law enforcement.¹²⁵

8. Increase Access to Judicial Services

Overall, the Commission has found that residents of rural Alaska do not have access to sufficient civil legal assistance to redress legal problems related to domestic violence and child abuse,¹²⁶ and it recommends more funding to meet civil legal needs from local, state, federal, and private sources, including increased federal funding to support Violence Against Women Act Legal Assistance to Victims Grants. The Commission notes that since 1995, federal Legal Services Commission (LSC) grants to the Alaska Legal Services Corporation (ALSC) have fallen from about \$1.7 million to about \$1.2 million, and over the same interval state legislative appropriations

121 Recommendation 46. The Commission commends the court system for having partnered with the CDVSA and others to hold a series of interagency domestic violence forums in rural Alaska. The court system, as part of its Children in Alaska's Courts project last year, held regional forums in Barrow and Bethel (as well as Anchorage, Fairbanks and Juneau) to discuss a variety of concerns about children, giving specific attention to domestic violence and child abuse issues. The Commission acknowledges that state court judges and appropriate court system personnel receive regular, ongoing training on domestic violence, child abuse and sexual abuse at court-sponsored judicial, magistrate and clerks' conferences, at the annual Alaska Bar Conference, through attendance at local training programs here in Anchorage, at the National Judicial College in Reno, at seminars sponsored by the Violence Against Women Office, and at other workshops and trainings throughout the U.S.

122 In its Report "Improving Safety in Indian Country: Recommendations from the IACP 2001 Summit" the International Association of Chiefs of Police recommended that the federal government should fund services such as forensic exams. (IACP Recommendation #44 at p. 27 of that Report).

123 In its Final Report to the Governor, 1999, the Alaska Commission on Rural Governance and Empowerment recommended that a local law enforcement officer should be present in every community in Alaska, that such officers should be fully trained, staffed and paid, and that the State should support federal efforts to train, equip and pay tribal officers.

124 Recommendation 47.

125 Recommendation 48.

126 The Alaska Supreme Court Advisory Committee on Fairness and Access in its 1997 report found that "lack of local services can have serious ramifications: . . . civil matters like child support, adoption, probate, and small claims go unattended, telephonic hearings work poorly when the witness has limited English skills or poor understanding of the concepts involved, and villagers remain ignorant of the law because they never see it in action." Directory, fn. 47, p. 20, citing Alaska Court System, Report of the Alaska Supreme Court Advisory Committee on Fairness and Access 14, 105 (1997).

for ALSC have fallen from about \$300,000 to zero. Meanwhile, more people than ever before fell below the Alaska poverty ceiling: 80,405 as of the 2000 census, up from 66,558 as of the 1990 census. ALSC estimates that while it closed approximately 1,700 cases during 2004, approximately 1,040 other callers were given only brief telephonic referrals due to lack of resources on ALSC's part to provide assistance. To improve access to civil legal assistance, the Commission also recommends the increased use of tribal courts and the use of existing video-conferencing capability to provide better legal representation to residents in rural areas of Alaska.^{127, 128, 129}

During the public testimony and the public comment period, one message was often repeated: Congress should restore the federal funding opportunities for tribes located within the boundaries of all municipalities listed in Public Law 108-199, section 112(a)(2)(b). The Commission makes this recommendation because as a matter of state and federal law, tribes possess undisputed civil jurisdiction for limited matters. A tribe's location should not be a barrier for accessing tribal court funding.

"There is no equal access to justice in Alaska. Urban communities are able to use political strength to ensure that their communities have police protection, fire protection, and well-funded court systems. Rural communities are without police protection and rely almost entirely on a state trooper that visits the community when a serious crime is committed or through a regularly scheduled visit. Volunteer fire fighters do relatively well with substandard equipment in most cases. Many of the people charged with breaking the law in a remote rural community have to be tried in urban courts outside their communities."

**Edward K. Thomas, President
Central Council of the Tlingit and Haida Indian Tribes of Alaska**

The Commission noted the existence of two types of disparities in rural Alaskans' ability to seek culturally appropriate access to the justice systems. Some victims are uncomfortable participating in the state justice system because of cultural reasons, geographical reasons, or both.¹³⁰ Other victims are similarly uncomfortable accessing tribal justice systems because of relationships with the opposing party or with the tribal court administration or adjudicators, in a small community, the opposing party may be a cousin or the presiding Elder may be a grandfather to the plaintiff. To begin to remedy these problems, the Commission recommends that training and technical assistance be provided to judges and support staff in both the Alaska Court System and tribal courts that will better inform and instruct participants in both systems to be aware of, and appreciate, the cultural differences and implications of their actions in rural Alaska, the population of which, as noted previously, is predominately Native.¹³¹ In addition, the Commission recommends that the state collaborate more with tribal courts,¹³² provide Alaska Native language translators throughout the Alaska Court System, and increase training on cultural competency¹³³ and effective diversion programs.¹³⁴ The tribes should also establish guidelines for responding to conflicts between those who are adjudicated and others in the tribal community by enabling judges

127 In the report "Racism's Frontier: The Untold Story of Discrimination and Division in Alaska, 2001," the Alaska Advisory Committee to the U.S. Commission on Civil Rights recommended (Recommendation 3.6, at p.53-54.), the use of modern technologies should be increased to upgrade the quality and effectiveness of the judicial system in rural areas. For example, some communities have developed video capability so that a probation officer can supplement on-going supervision of offenders in rural communities. A teleconferencing procedure may work for certain court cases as well.

128 Recommendation 49.

129 The Alaska Court System's Family Law Self Help Center is a currently available online resource. The website is www.state.ak.us/courts/selfhelp.htm.

130 See Supreme Court Committee on Fairness and Access Report: "Many citizens believe that the justice system is unfair to ethnic and cultural groups." Report at p. 49.

131 Ideally, this would best be accomplished through a collaborative effort of the state, tribal, and Native non-profit regional organizations, with a coordinated training and technical assistance program.

132 See *Alaska Natives Commission Final Report, Vol. II*, p. 61 (state and federal governments should create and utilize all possible opportunities for tribes to demonstrate their respective capacities to regulate tribal members).

133 See Supreme Court Committee on Fairness and Access Report, "[j]udges and court personnel do not have regular cross cultural training about ethnic and cultural subgroups living in their areas." Report at p. 58.

134 Recommendation 50.

to recuse themselves and otherwise eliminating influences from families or factions within the community.¹³⁵

9. *Expand the Use of New Technologies*

The Commission recommends (a) increasing access to reasonably priced Internet and other telecommunications technology for police and public safety officers in rural Alaska; (b) changing the current regulations that support and subsidize the Alaska Federal Health Care Access Network (AFHCAN) telehealth program to allow rural Alaska police, public safety officers, and court officers to utilize excess bandwidth to support Internet access and email at the village level; (c) improving officer-to-officer communications by standardizing equipment and providing more equipment to village-based officers; (d) creating a system of regional 911 dispatch centers that have access to a comprehensive database of police and public safety services; and (e) opening eligibility for tribes and rural Alaska police and public safety officers to Homeland Security programs and funding.¹³⁶

Because there is a need to utilize developing technologies to facilitate probation supervision in rural (as well as urban) Alaskan communities, the Department of Corrections should be encouraged to develop a pilot project to evaluate the use of electronic monitoring technology in rural Alaska and include training on the use of this technology to rural public safety personnel. Current electronic monitoring technology, utilizing Global Positioning System (GPS), can closely track a probationer's location and may be preferable to other probation methods under certain circumstances.¹³⁷

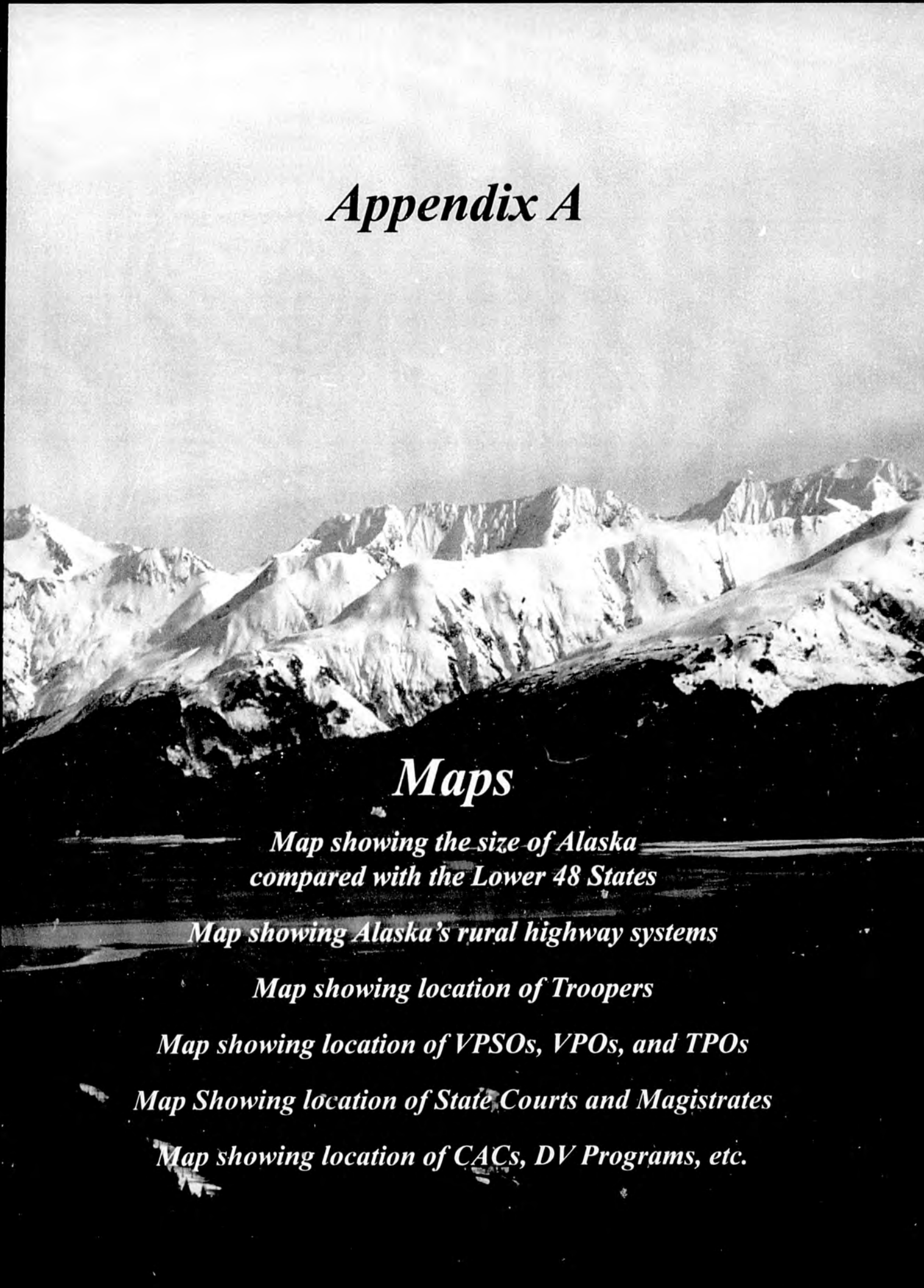
The Commission recommends that the ABC Board develop a statewide database for collecting, maintaining, and retrieving all alcohol written orders and all transactions of the community distribution centers. With the new database, the State will be able to coordinate the records of purchases from liquor stores and distribution sites and liquor stores will also be able to determine whether a proposed written order purchaser has already purchased his/her monthly legal limit, thereby helping to ensure that prohibited individuals do not make purchases.¹³⁸

135 Recommendation 51.

136 Recommendation 45.

137 Recommendation 52.

138 Recommendation 53.



Appendix A

Maps

*Map showing the size of Alaska
compared with the Lower 48 States*

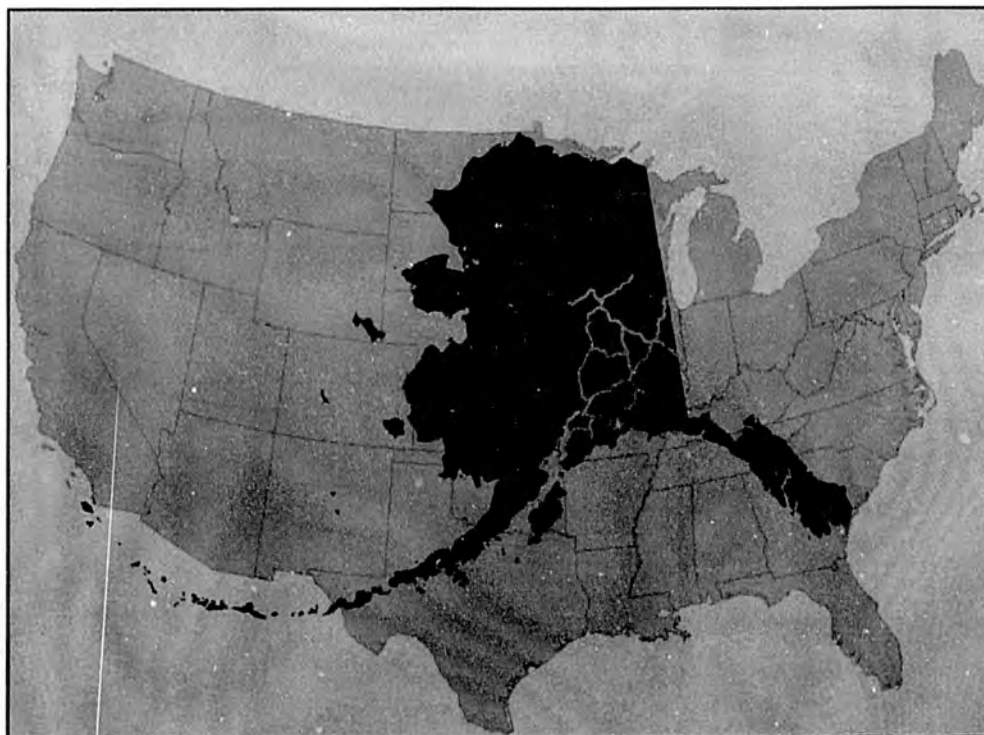
Map showing Alaska's rural highway systems

Map showing location of Troopers

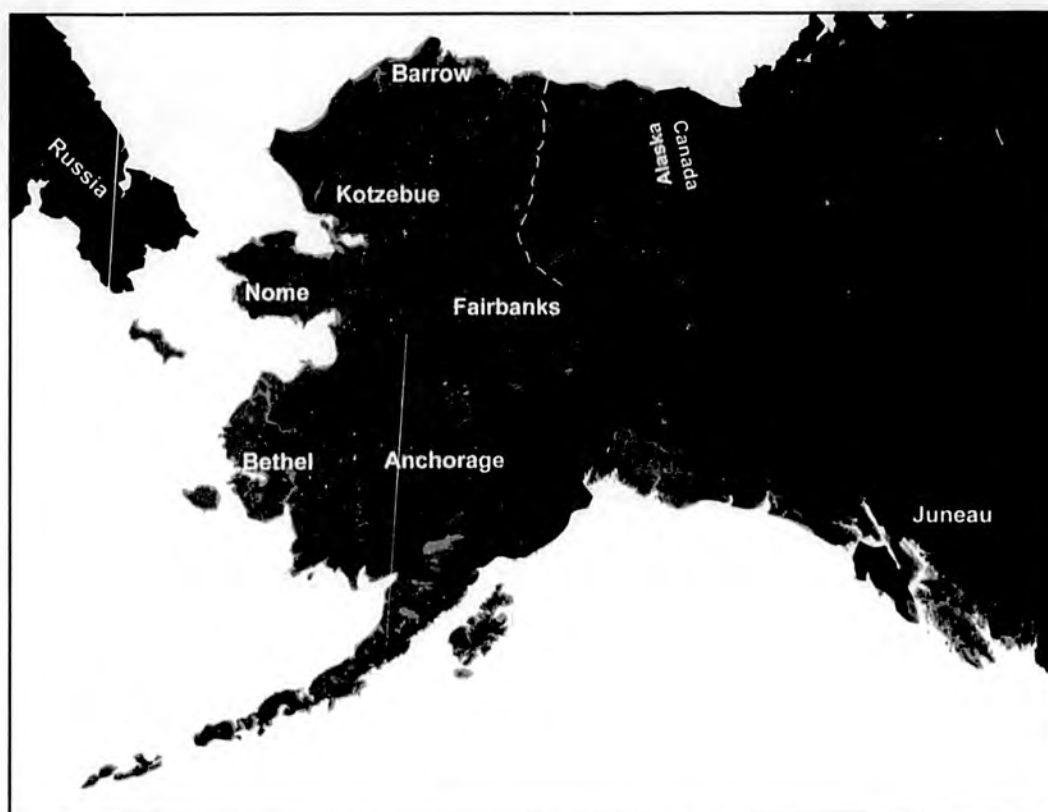
Map showing location of VPSOs, VPOs, and TPOs

Map Showing location of State Courts and Magistrates

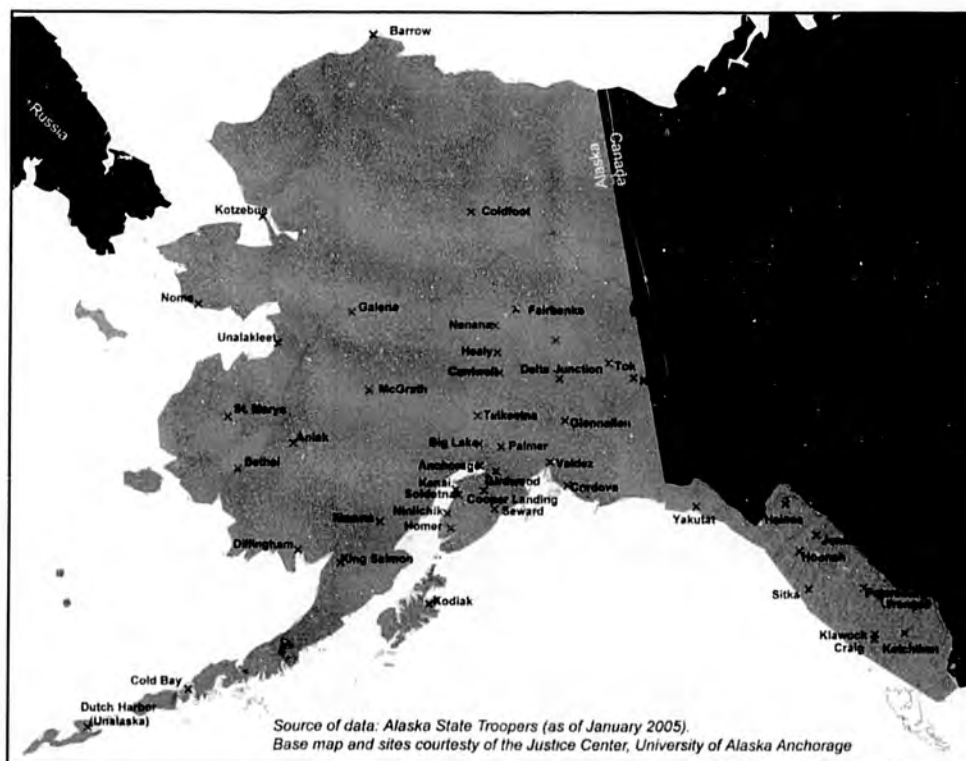
Map showing location of CACs, DV Programs, etc.



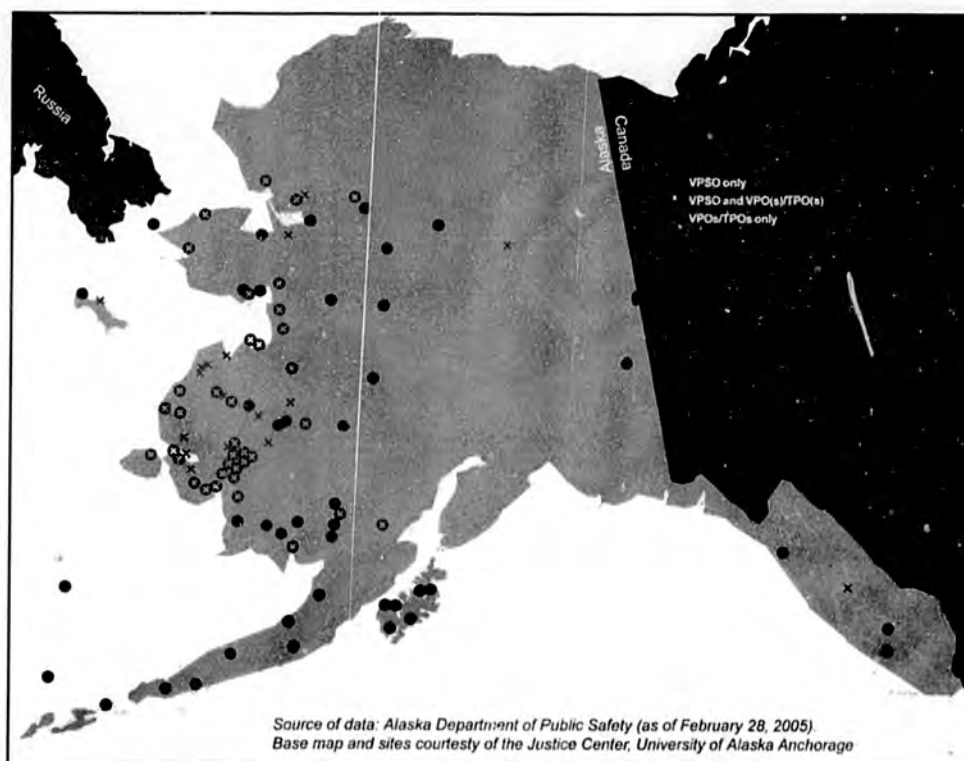
A Comparison of Alaska and the Lower 48 States



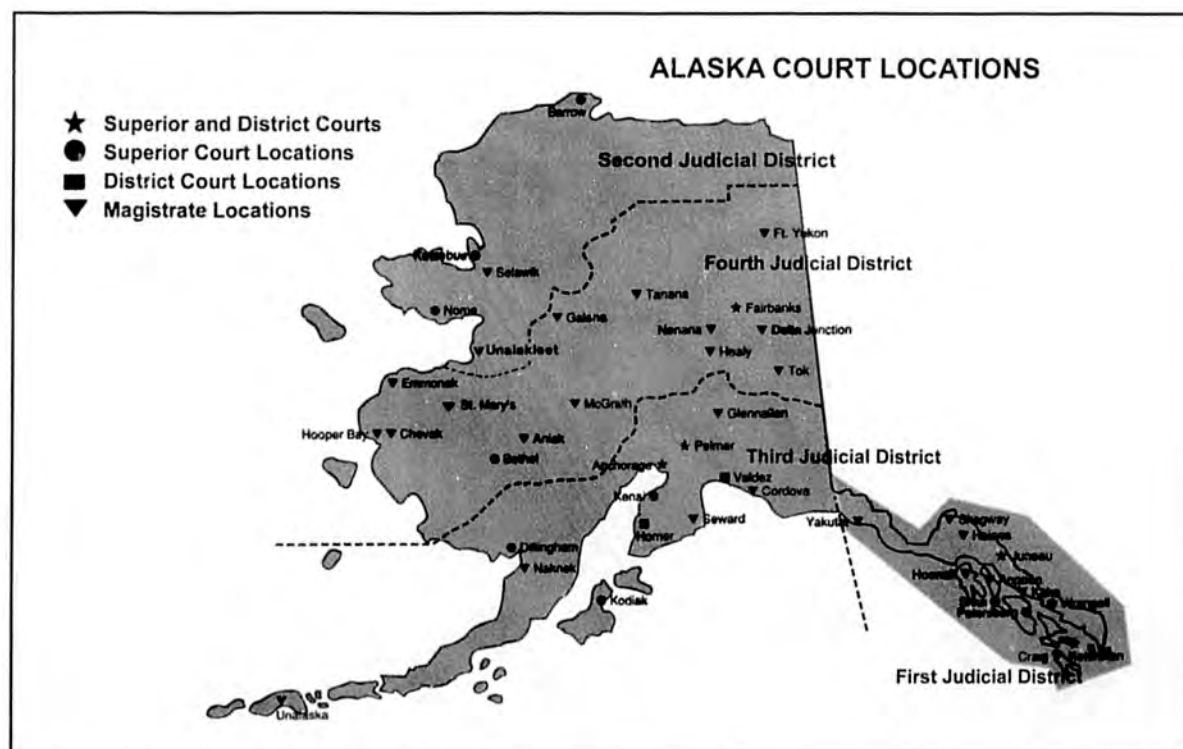
Alaska's Highway System with "Urban Boroughs" Shaded
(Source: Alaska Department of Transportation and Public Facilities, February 2005)



* Emmonak now has an Alaska State Trooper Post
Map Showing the Location of All Alaska State Trooper Posts



Map Showing the Location of All Funded Village Public Safety Officers (VPSOs), Village Police Officers (VPOs), and Tribal Police Officers (TPOs).
At any given time one or more of these may be vacant.



Map Showing the Location of All Alaska State Courts and Magistrates
(Source: Alaska Court System, February 2005)

Domestic Violence / Sexual Assault Programs in Alaska

ANCHORAGE

AWAIC- Abused Women's Aid in Crisis
AWRC- Alaska Women's Resource Center
STAR- Standing Together Against Rape
VFJ- Victims for Justice

BARROW

AWIC- Arctic Women in Crisis

BETHEL

TWC- Tundra Women's Coalition

CORDOVA

CFRC- Cordova Family Resource Center

DILLINGHAM

SAFE- Safe and Fear-Free Environment

EMMONAK

EWS- Emmonak Women's Shelter

FAIRBANKS

IAC- Interior Center for
Non-Violent Living

HOMER

SPWS- South Peninsula Women's Services

JUNEAU

AWARE- Aiding Women in Abuse
& Rape Emergencies

KENAI/SOLDOTNA

LeeShore Center

KETCHIKAN

WISH- Women in Safe Homes

KODIAK

KWRCC- Kodiak Women's Resource & Crisis Center

KOTZEBUE

MFCC- Maniilaq Family Crisis Center

NOME

BSWG- Bering Sea Women's Group

PALMER

AFRC- Alaska Family Resource Center

SEWARD

SCS- Seaview Community Services

SITKA

SAFV- Sitkans Against Family Violence

UNALASKA

USAFV- Unalaskans Against Sexual Assault
& Family Violence

VALDEZ

AVV- Advocates for Victims of Violence



Appendix B

*Biographical Sketches
of Commissioners*



Timothy M. Burgess, was the Federal Co-chair representing the United States Attorney General's Office through January 2006 when he was appointed to serve as a judge on the U.S. District Court. Mr. Burgess was nominated by President George W. Bush to be United States Attorney for the District of Alaska in September 2001. Mr. Burgess serves on the 16-member Attorney General's Advisory Committee, co-chairs the Department's Environmental Crimes Policy Committee, and chairs the Anti-Terrorism Task Force for Alaska. Prior to his appointment as United States Attorney, Mr. Burgess served as an Assistant United States Attorney for 12 years.



David W. Márquez, is the State Co-chair representing the Alaska Attorney General's Office. Governor Frank H. Murkowski appointed David W. Márquez as Attorney General for the State of Alaska on March 31, 2005, and he assumed the role of State Co-chair at that time. Márquez is a graduate of Northwestern University and the University of Wisconsin Law School. He was admitted to the Alaska Bar in 1973. He began his legal career with a private law firm in Anchorage doing title opinions for the Trans-Alaska Pipeline prior to construction. He later became General Counsel of Alyeska Pipeline Service Company that operates TAPS. He worked for ARCO for over 20 years where he was an Associate General Counsel serving in Anchorage as Vice President and Chief Counsel for ARCO Alaska and also Vice President of External Affairs and Environment, Health and Safety for ARCO Alaska. He served twice as the Chair of the Board of Junior Achievement of Alaska and was also Chair of the Board of the Alaska State Chamber of Commerce. Prior to his appointment as Attorney General, Márquez served as the Chief Assistant Attorney General, Legislative and Regulations Section, in the Alaska Department of Law and as the Acting Deputy Attorney General, Civil Division, for the Department.



Deborah M. Smith, is the Acting Federal Co-chair, representing the United States Attorney's Office. Ms. Smith was appointed Acting U.S. Attorney in 2006, having served as the First Assistant U.S. Attorney for Alaska from 2002-2006 and from 1983-1987. She also served as the Chair of the Joint Coordination Group of the Antiterrorism Advisory Council of Alaska, 2004-2006. Ms. Smith began her career in Alaska as an Assistant Public Defender. She later served as the New England Bank Fraud Task Force Director and Deputy Chief of the Environmental Crimes Section, Environment and Natural Resources Division, U.S. Department of Justice, in Washington, D.C. Before attending law school, Ms. Smith was the education editor for the Fort Lauderdale News in Florida.



Bruce M. Botelho, representing the Alaska Municipal League, is currently Mayor of the City and Borough of Juneau, Alaska, an office he held once before. He served as Alaska's Attorney General from January 1994 until December 2002. He received both his undergraduate and law degrees from Willamette University in Salem, Oregon. He also completed his B.A. equivalent from Ruprecht Karl University in Heidelberg, Germany. He began his legal career in 1976 as an Assistant Attorney General and later served as Deputy Commissioner of the Alaska Department of Revenue. Mayor Botelho became Deputy Attorney General in 1992 and served in that capacity until his appointment as Attorney General by Governor Walter Hickel in January 1994. In that role, he served as a trustee to the Alaska Permanent Fund and the Alaska Children's Trust. He chaired the Criminal Justice Council, the Children's Confidentiality Task Force, the state team on state-tribal relations; the Governor's Conference on Youth and Justice, and co-chaired the Criminal Justice Assessment Commission. He served as chief of staff for the Governor's Task Force on Civil Justice Reform and the Governor's Subsistence Task Force. He currently serves as a board member of the Alaska Immigration Justice Project. He is the 2005 recipient of the Alaska State Bar Association's Pro Bono Award. He serves as president of the Juneau International Folkdancers and of the Juneau World Affairs Council. He has previously served as president of the Southeast Alaska Area Council, Boy Scouts of America, the Alaska Council, American Youth Hostels, Inc., the Juneau Arts and Humanities Council, and the Juneau Human Rights Commission.



Harold N. "Buddy" Brown, representing the Alaska Federation of Natives, was President/CEO for Tanana Chiefs Conference. Mr. Brown argued the Alaska Supreme Court case of *John v. Baker* in 1998 as a member of a legal team representing tribal interests in Alaska. Mr. Brown then became General Counsel for TCC in 1999, a position he held until January 2002. During this time, he became a member of the Alaska Federation of Natives Legislative Committee. He also served on the Alaska Native Justice Center Board of Directors.



Loretta Bullard, representing a non-profit Native corporation which is operating a Village Public Safety Officer program, is the President/CEO of Kawerak, Inc. Ms. Bullard serves on the Board of Directors of the Alaska Federation of Natives, and has served on the Alaska Women's Commission, Rural Alaska Village Economics and Needs Commission, and the Indian Reservation Roads Negotiating Committee.



Wilson Justin, representing the tribes in Alaska, is the Health Director/Vice President of the Mt. Sanford Tribal Health Consortium. Mr. Justin, also the Vice Chair of the Association of Tribal Health Directors, a working committee of the Alaska Native Health Board, serves on the Alaska State Community Service Commission and is former President of both the Copper River Native Association and Ahtna Inc.



Gail (Anagick) Schubert, representing the Alaska Native Justice Center as Board Vice-Chair. Gail is the Executive Vice President and General Counsel for the Bering Straits Native Corporation, and President/CEO of several of its subsidiary entities. Gail is an attorney licensed to practice law in the states of Alaska and New York, and holds a Law Degree and Masters Degree in Business Administration from Cornell University. She received her undergraduate degree from Stanford University. Gail serves as Chair of the Alaska Native Heritage Center, Chair of Akeela Treatment Services, Chair of the Alaska Retirement Management Board, Vice Chair of the Alaska Native Justice Center, Vice Chair of Khoanic Broadcast Corporation, Treasurer of the Bering Straits Native Corporation, and a board member of the Alaska Federation of Natives, and the Alaska Native Arts Foundation.



Bill Tandeske, representing the Department of Public Safety (DPS), was appointed as Commissioner of Public Safety on February 3, 2003. Mr. Tandeske brings to the position 26 years of public service as an Alaska State Trooper serving the citizens of Alaska. He joined DPS in 1973 and retired as Major (Deputy Director) of the State Troopers in 1999. Following his retirement from the DPS, Mr. Tandeske served as Security Director for Ahtna AGA Security Inc., providing security services to Alyeska Pipeline and clients in the Anchorage area and also for Doyon Universal Services managing security services for the Trans-Alaska Pipeline.



Jim Torgerson, representing the Federal District Court for the District of Alaska, has been the managing partner of Heller Ehrman's Anchorage office since 1998. Before that, he served in the U.S. Attorney's office in Anchorage as Chief of the Civil Division from 1994 through 1998, and Chief of the Criminal Division from 1992 through 1994. He also has worked in the Alaska Governor's office in Washington DC, where he helped develop and advocate the State's policy on Alaska Native issues, and in the Anchorage District Attorney's office. He is a past chair of the Anchorage Youth Court Board of Directors and the current Vice-President of the Disability Law Center Board of Directors.



Ethan Schutt, is currently General Counsel for Cook Inlet Region Inc., an ANCSA regional corporation based in Anchorage. During much of the Commission's work and process, he was General Counsel for Tanana Chiefs Conference, a tribal consortium organized as a non-profit corporation based in Fairbanks. Prior to that, Ethan was an associate with the law firm of Dorsey & Whitney, LLP, and a law clerk for Alaska Supreme Court Justice Walter "Bud" Carpeneti. Ethan was raised in Interior Alaska in the community of Tok. He is a graduate of Stanford Law School and has an undergraduate degree in mathematics from Washington State University.



Roswell L. Schaeffer, Sr., is the son of John and Annie Schaeffer, Sr. of Kotzebue. Ross's Inupiaq name is Qalayauq. Ross obtained his grade school education in the BIA school in Kotzebue and graduated from the 8th grade at Copper Valley School in Glennallen, Alaska. He then received his high school diploma from Copper Valley High School and later earned his Bachelor of Arts degree in Sociology with a Social Work Emphasis from the University of Alaska, Fairbanks campus in 1973. Ross is currently married to Millie and will celebrate their 35th anniversary in July. He and his wife have three children and four grandchildren. Ross has served in many leadership capacities and held key jobs in the Northwest Arctic Borough serving the people of the NANA region.

His wide range of experience includes:

- Eight years as Magistrate for Kotzebue and six months as a District Court Judge
- Lifelong trapper, subsistence hunter, and fisherman
- Director of the Kotzebue Senior Citizens Cultural Center
- Student Advisor for the Northwest Arctic Borough School District
- President and CEO for NANA Regional Corporation
- Instructor for the Chukchi Campus
- Administrator/Recruiter for the Alaska Technical Center
- Public Assistance administrator and workforce development specialist
- Mayor of the Northwest Arctic Borough

Ross also served as chairman of the Kotzebue Advisory Fish and Game committee for many years, member and past chairman of KIC village corporation, and past chairman of the Alaska Beluga Whale Committee for ten years. Ross will conclude his second and final three-year term as Borough mayor in October 2006. He plans on retiring from the State and focusing his attention on his Native art.



Gregg D. Renkes served as Alaska's fifteenth Attorney General and in that position also served as co-chair of the Alaska Rural Justice Law Enforcement Commission. During his tenure as Attorney General, Renkes made protecting Alaska's children, communities, consumers, natural resources, financial assets, and sovereignty his top priorities. General Renkes was a voice for increasing local control over basic public safety issues in village Alaska and advocated the holding of important trials, even at greater expense, in small communities to reinforce community involvement in safety and justice. General Renkes focused on the problems of child abuse and the related problems of substance abuse, and helped initiate a statewide criminal task force to interdict drugs and stop bootlegging of alcohol to dry villages. Prior to taking office as Alaska Attorney General, General Renkes worked on energy, natural resource, and American Indian law and policy in both the public and private sectors. He frequently spoke on these topics and at one time regularly contributed articles to the Tundra Times concerning legal issues that affect Alaska Native people. General Renkes also served as the Majority Staff Director of the U.S. Senate Committee on Energy and Natural Resources and worked as Chief of Staff and Chief Counsel to U.S. Senator Frank Murkowski. General Renkes worked in Anchorage during law school and moved to Palmer to work for the Alaska Court System after graduation. General Renkes holds a Juris Doctor degree from the University of Colorado, School of Law, a Masters of Science degree from Yale University, and a Bachelors of Arts degree from Vassar College.

Appendix C

Support Staff



Alaska Rural Justice and Law Enforcement Commission

February 23, 2006

Appendix C

COMMISSIONERS:

Deborah Smith, Co-Chair
Acting U.S. Attorney
District of Alaska

David W. Marquez, Co-Chair
Attorney General
State of Alaska

Bruce Botelho
Mayor
City and Borough of Juneau

Harold "Buddy" Brown, Esq.
President
Tenana Chiefs Conference

Ethan Schutt, Esq.
General Counsel
Cook Inlet Region, Inc.

Loretta Bullard
President
Kawerak, Inc.

Wilson Justin
Vice President
Mt. Sanford Tribal Consortium

Gail R. Schubert, Esq.
Vice President
Bering Straits Native Corporation

William Tondaske
Alaska Commissioner of
Public Safety

Jim Torgerson, Esq.
Managing Shareholder
Heller Ehrman LLP

Support Staff

Denise R. Morris
President and Chief Executive Officer
Alaska Native Justice Center
3600 San Jeronimo Drive, Suite 264
Anchorage, Alaska 99508

Dear Ms. Morris:

On behalf of the members of the Alaska Rural Justice and Law Enforcement Commission, we wish to take this opportunity to thank you for your tireless work on behalf of the Commission. This report, representing our initial findings and recommendations could not have been accomplished without the commitment and perseverance of the Alaska Native Justice Center and your extremely capable staff.

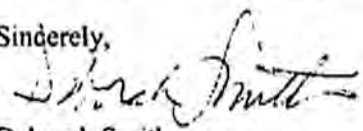
From the Commission's inception in September 2004 to the release of the report, together we have discovered common ground, witnessed the hard work and voluntary commitment of many Alaskans as we sought to identify real solutions to rural Alaska's pressing justice and law enforcement needs.

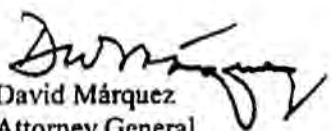
At every turn, we at the Commission could count on the staff of ANJC to be there to help ease our passage and ensure that we reached the end of our journey with our report written, our recommendations ready for the public, our mission complete.

In particular, we would like to offer a special note of thanks for the contributions of yourself, Karen Bitzer, Joe Garoutte and Lindsey Lamar. You and your staff were always there, often at a moment's notice, during our transitions, helping establish our work group process, compiling all of our information, staffing our conference calls – the list goes on. Through it all the staff of ANJC were professional, dedicated, and committed to the task.

Now our report is in the hands of the public. How these ideas are acted on, and the future of justice and law enforcement in rural Alaska rests in greater hands than ours. We can all be proud of the role we have played in that effort and together we look forward to a strong and fair system of justice in rural Alaska.

Sincerely,


Deborah Smith
Acting United States Attorney


David Márquez
Attorney General

Appendix D

*Workgroup Members
and
Additional Specialists*

Workgroup Members

Workgroup 1: Law Enforcement

Workgroup Co-chairs: Commissioner Harold "Buddy" Brown/Commissioner William Tandeske (Ethan Schutt, Attorney at Law, Tanana Chiefs Conference sat in for Commissioner Brown)

Workgroup Members:

1. Evelyn Beeter, COPS Director, Mt. Sanford Tribal Consortium
2. Robert Burnham, Assistant Special Agent, FBI
3. Dean Guaneli, Chief Assistant Attorney General, Alaska Department of Law
4. Randy Johnson, United States Marshal for Alaska
5. Richard Krause, VPSO Coordinator, Aleutian/Pribilof Islands Association
6. Joe Masters, Deputy Director, Alaska State Troopers
7. Lloyd Miller, Attorney at Law, Sonosky, Chambers, Sachse, Miller, and Munson
8. Myron Naneng, President, Association of Village Council Presidents
9. Eric Johnson, alternate for Myron Naneng

Workgroup 2: Judicial System

Workgroup Co-chairs: Commissioner Bruce Botelho/Commissioner Wilson Justin/Commissioner Gail Schubert/Commissioner Jim Torgerson

Workgroup Members:

1. Marc Antrim, Commissioner, State of Alaska Department of Corrections
2. Ted Bachman, Deputy Commissioner, Alaska Department of Public Safety
3. David S. Case, Borough Attorney, Northwest Arctic Borough
4. Ingrid Cumberlandidge, Director of Tribal Programs, Eastern Aleutian Tribes, Inc.
5. Susanne DiPietro, Judicial Education Coordinator, Alaska Court System
6. Andy Harrington, Executive Director, Alaska Legal Services Corporation
7. Kevin Illingworth, University of Alaska Fairbanks
8. Mike Jackson, Magistrate, Organized Village of Kake
9. Lisa Jaeger, Tribal Government Specialist, Tanana Chiefs Conference
10. Al Kookesh, Alaska State Senator
11. Paul Lyle, Sr. Assistant Attorney General, Alaska Department of Law
12. Don Mitchell, Alaska Legislature Designee
13. Katherine "Jada" Smith, Organized Village of Kake
14. Tony Vaska, Former Alaska State Legislator

Workgroup 3: Alcohol Sale and Importation

Workgroup Co-chairs Commissioner William Tandeske

Workgroup Members:

1. Stanley Active, Jr., VPSO, Togiak
2. Sidney Baker, VPSO, Gambell
3. Evelyn Beeter, COPS Director, Mt. Sanford Tribal Consortium
4. Douglas Griffin, Director, Alcoholic Beverage Control Board
5. Ed Harrington, Captain, Alaska State Troopers
6. Andrea Russell, Asst. Attorney General, Alcohol Interdiction, Alaska Department of Law
7. Susan Soule, Regional Coordinator Behavioral Health, retired
8. Mike Williams, President, RurALCap and Advocate, Sobriety Movement

Workgroup 4: Domestic Violence/Child Abuse

Workgroup Co-chairs: *Commissioner Bruce Botelho/Commissioner Loretta Bullard/ Commissioner Wilson Justin*

Workgroup Members:

1. Ginger Baim, Executive Director, Safe and Fear Free Environment
2. John Bioff, Staff Attorney, Kawerak
3. Michelle DeWitt, Executive Director, Tundra Women's Coalition
4. Cheryl Facine, Legal Advocate, Alaska Native Justice Center
5. Teresa Foster, Assistant Attorney General, Alaska Department of Law
6. Sue Hollingsworth, Tribal Court Facilitator, Tanana Chiefs Conference
7. Shannon Johnson-Nanaloak, Tribal ICWA Worker, Traditional Village of Togiak
8. Barbara Mason, Executive Director, Council for Domestic Violence and Sexual Assault
9. Christine McLeod Pate, Executive Director, Alaska Network on Domestic Violence and Sexual Assault
10. Don Shircel, State Tribal Relations Group, Tanana Chiefs Conference
11. Katie Tepas, Program Coordinator, Alaska State Troopers
12. Tammy Young, Executive Director, Alaska Native Women's Coalition
13. Doris Bergeron, Office of Children's Services
14. Louise Brady, Social Services Director, Sitka Tribe
15. Dan Branch, Sr. Assistant Attorney General, Alaska Department of Law
16. Donna J. Goldsmith, Esq., former Executive Director of the Alaska Inter-Tribal Council
17. Melissa Taylor, CFS Program Director, Kawerak

Specialists and Others Consulted by the Workgroup Members

1. Chief of Police Paul Carr, Barrow
2. Mr. Willard Church, Council Member, Quinhagak
3. Chief of Police Benjamin Dudley, Bethel
4. Mr. Ernest Erick, Venetie
5. Superior Court Judge Richard Erlich
6. Le Florendo, member of Tribal/State Collaboration Group
7. Ms. Grace Friendly, Council Member, Quinhagak
8. Mr. Steve Ginnis, previously from Ft. Yukon
9. Ms. Torie Heart, Community Health Aide Program, Alaska Native Tribal Health Consortium
10. Ms. April Hendon, U.S. Postal Inspector
11. Mr. Lorca Jones, past Director of the Division of Alcoholism and Drug Abuse
12. Mr. Carl Jack, Kipnuk
13. Mr. Robert Klein, Brown Jug Liquor Stores
14. Mr. John Madden, Deputy Director, TSA Alaska
15. Renee McFarland, American Civil Liberties Union
16. Chief of Police Jim Sartelle, Quinhagak
17. Mr. Ernie Turner, past Director of the Division of Alcoholism and Drug Abuse
18. Constable Vern White, Royal Canadian Mounted Police
19. Dr. Darryl S. Wood, Associate Professor, University of Alaska Anchorage

Appendix E

*Photograph of Commissioners
and
Workgroup Members*



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Appendix F

*Commission
Recommendations*

Commission Recommendations

For the most part, the Commission's recommendations were selected from among the Options presented to it by one or more of the four workgroups: (1) Law Enforcement; (2) Judicial Services; (3) Alcohol Importation and Interdiction; and (4) Domestic Violence and Child Abuse. The recommendations are set forth in this Appendix F in the order in which they are presented and discussed in the Report. Each recommendation retains, as part of its identification, a designator indicating the workgroup that proposed it. LE-1, for instance, was the first option proposed by the Law Enforcement Workgroup. Options with the designator ALC were proposed by the Alcohol Importation and Interdiction Workgroup, and those designated as JS were proposed by the Judicial Services Work Group. Options designated as D-CI (Coordination/Integration of Services), D-AJ (Access to Justice), D-LC (Local Capacity/Community Empowerment Infrastructure), or D-DS (Development of Services) were proposed by the Domestic Violence and Child Abuse Workgroup. *<Note: Juvenile Justice-JJ; Domestic Violence-DV; Child Protection-CP.>*

Recommendation 1

Statement of Need:

What became apparent was the need for the Commission to continue its work, to fine tune several of the recommendations with appropriate stakeholders.¹³⁹

Recommendation 2 (D-CI 1)

Statement of problem:

Communication and coordination among and between child protection and DV/SA service organizations and government institutions is neither systematic nor comprehensive enough, and often fails to include tribes.

Current Status:

DV community statewide has engaged in numerous MOUs with other institutions, though tribes are not always parties to those agreements; there is tremendous disparity between various regions statewide regarding institutional coordination and integration of both CP and DV/SA services—depending on region, coordination may or may not include tribal governments; there is some statewide effort to coordinate information sharing between OCS and regional Native non-profits through Tribal-State Working Group—tribal representation on this group is minimal, and fluctuates; Alaska State Court System coordinates cross-jurisdictional education with tribal judges and tribal organizations both by participating in tribal education, and by including tribal judges in state education programs; there are a number of community court agreements, created under state law, which formalize coordination between state, tribal and local governments on JJ diversion matters; there is a disconnect between formal and informal policies adhered to by various arms of state government.

Ideal Status:

- a) All governments and institutions should be capable of offering relevant and necessary services without unnecessary duplication of efforts, and with mutual recognition and respect between and among the various service institutions.
- b) MOAs achieved as appropriate.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Lack of cross training.
- b) Power differential between government entities and private service providers.
- c) Misunderstanding and disagreement regarding how tribes are able to be involved in organizational agreements with the state.
- d) Some fundamental differences of approaches between DV/SA programs and child protection workers about how to best protect children.

Option(s):

Develop more effective coordination and communication, including cross training, among and between all governments and service agencies and organizations.¹⁴⁰ Cross training might include ANICWA or other Native social service agency.

¹³⁹ Since the drafting of this recommendation, Congress extended the life of the Commission.

¹⁴⁰ The footnote for this option is in the Report narrative.

Recommendation 3 (D-CI 2)

Statement of problem:

There is insufficient coordination between state and tribal governments at all levels.

Current Status:

OCS collaborates with tribes in many regions (i.e., Bethel, Sitka) to make client contacts - without compensation; Sitka Tribe has formal agreement with Sitka Police Dept. and local shelter where tribe funds a DV position that serves the entire community, and local police recognize tribal protective orders and work with tribe; state court in Kake diverts some JJ and DV matters to Kake Tribal Court in cooperative manner; Kawerak coordinates with tribes to handle OCS priority 3 cases under agreement with OCS; under previous administration, AST cooperated with Mount Sanford Tribal Consortium (MSTC) on police protection - will not do so under current administration, and are threatening tribal officers with prosecution for impersonating officer; there are numerous MOUs among those agencies and organizations that address DV, including SART teams, CACs, etc., though most do not include tribes; there is a statewide OCS tribal-state committee that includes reps from Alaska Native non-profits; dearth of separate child protection teams, and does not typically include tribe; Millennium Agreement and state implementation policies have not been rescinded by state but are not being implemented.

Ideal Status:

Tribal governments would be acknowledged as part of the service delivery scheme statewide, ensuring immediately accessible service presence in villages, as well as maximization of all available resources.

Structural Barriers (e.g., statutes, regulations, etc.):

Alaska State Executive branch policy prevents recognition of tribal authority; insufficient education and capacity development at tribal level in some communities; cross-cultural communication barriers and history of mistrust.

Option(s):

- a) Amend state policy to recognize tribal civil decision-making; create voluntary MOU between tribes and state relating to coordination and integration of CP and DV protective services; encourage federal laws to require more coordination including regulations for funding; tribal, state and federal authorities should increase the cross-recognition of judgments, final orders, laws and public acts of the three jurisdictions; fully implement Millennium Agreement.¹⁴¹
- b) State offers opportunity to participate in MOAs to tribes, non-profits and other service providers.
- c) See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D- LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

Recommendation 4 (JS-1): ICWA Agreement

Statement of Need:

The need to reduce state/tribal litigation and conflict over jurisdictional issues, and enhance cooperation between state and tribal courts.

Option:

Create a Task Force to explore and if, appropriate, propose a State/Tribal ICWA agreement for consideration by the Departments of Law and of Health and Social Services and the tribes in Alaska.

Rationale for Option:

- In a protracted negotiation process which culminated in August 1990, the State and several tribes negotiated an "ICWA State-Tribal Agreement." Eventually, twenty-seven tribes signed the agreement.
- The agreement, negotiated before certain jurisdictional issues had been resolved in *John v. Baker* and *C.R.H.*, "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.
- ICWA's section 1919 states that "States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings," delegating the federal trust obligation over Indian affairs to the tribes and the states to establish concurrent jurisdiction through Tribal/State agreements.
- AS 47.14.100(g) expressly authorizes the Department of Health and Social Services to enter into agreements under

¹⁴¹ The footnote for this option is in the Report narrative.

ICWA concerning the "jurisdiction of Native child custody proceedings."

- Because ICWA explicitly defines "tribes" to include Alaska Native Villages, the potential objection that Alaska Native Villages are not federally recognized tribes is a non-issue under ICWA.
- The Work Group subcommittee members exploring this particular task identified several proposed elements such an agreement might include, and listed several difficult details that would need to be worked out, and concluded that, were more time available, a draft agreement might be attainable.
- One potential benefit from such agreements might be a resolution of the issues raised in Attorney General Opinion 2004-1, which has not been well received by the tribes.
- The difficult details include:
 1. Notice to the State when Tribal cases are initiated.
 2. Tort liability (*Beltrami v. Sayers*, 481 N.W. 2nd 547 (Minn. 1992) discusses vicarious liability for state placement in tribal foster care; possibilities to deal with this issue include changes to AS 09.50.250 and/or other state immunity statutes to preclude any state liability; amendments to 43 U.S.C. § 1983 for state & state officials; amendments to ICWA 1919 to preclude vicarious liability of state for tribes or vice versa; possible tort avenue for damages under an ISDEAA/FTCA model (Indian Self-Determination and Education Assistance Act, Federal Tort Claims Act); or insurance.)
 3. Whether parents would be able to "opt out" of tribal court as they may in transfer cases.
 4. Provisions for non-Native parents.
 5. Information sharing.
 6. Confidentiality.
 7. Would the template agreement be mandatory if the tribes wished to initiate cases?
 8. Consistent provision of financial and human resources to carry out the terms of any agreement.
 9. Adequate legal infrastructure to handle cases & adequate infrastructure to provide services.
 10. Who would investigate reports of harm?
 11. Authority for the State to place and reimburse foster parents for children in tribally licensed foster homes and attendant liability issues.
 12. Guardians ad litem.

(Further material on the discussions of these details can be found in the Work Group materials)

Impact Statement:

This would give state representatives and tribal representatives the opportunity to build on the subcommittee's work, and craft a State/Tribal ICWA agreement that might take into account the changes in the law since 1990 and reduce the number of issues over which the state and tribes are currently litigating.

Recommendation 5 (JS-6): Tribal Court Referrals of Juveniles to State Division of Juvenile Justice

Statement of Need:

In particular cases there may be a need for traditional Alaska Native village justice systems to draw more effectively upon state juvenile agencies.

Option:

Urge the Division of Juvenile Justice to make agreements with tribes and tribal courts to coordinate the disposition of juvenile offenses as currently permitted under state law.

Rationale for Option:

- Currently, tribal courts and councils often work with juveniles and their parents in response to the child's delinquent or troublesome behavior in the village. Such proceedings do not usually come to the attention of state authorities, and some village justice systems prefer this outcome because it keeps their minors from acquiring juvenile records within the state court system.
- Other Village justice systems, however, would prefer to coordinate more closely with DJJ in screening and disposition of juvenile offenders. Specifically some village justice systems might wish to refer a juvenile to DJJ, with the consent of DJJ. This option urges DJJ to discuss with interested tribal councils whether such a referral mechanism might be achieved.

Impact Statement:

Better coordination among tribal and state juvenile justice systems.

Recommendation 6 (D-DS 10)

Statement of problem:

Not all victims & communities have access to immediate safety.

Current Status:

a) 21 domestic violence/sexual assault programs listed with Council on Domestic Violence and Sexual Assault (CDVSA) Community Outreach.

b) These programs serve all of rural Alaska but resources and geography inhibit ideal safety in the rural areas.

Ideal Status:

Each community has a safety plan to address victim and community safety.

Structural Barriers (e.g., statutes, regulations, etc.):

No single local organizing entity is identified to facilitate community development; no single point of contact for safety issues.

Option(s):

a) Have one organization that helps to identify the basic components for safety.

b) The domestic violence/sexual assault programs provide technical assistance and consultation so each community can develop a safety plan.

Recommendation 7 combines JS-9, JS-10, JS-11, and JS-12

JS-9: Providing Technical Assistance for Tribal Judicial Systems

Statement of Need:

There is a need for technical assistance in the areas of basic tribal court design, procedures, and operation, and also in the areas of tribal constitution and code development, membership and enrollment, judicial ethics, tribal court administration, tribal-state collaboration, and inter-tribal collaboration, that is respectful of and supports traditions, customs, practices and values.

Option:

Support the provision of consistent, quality technical assistance to tribal judicial systems through non-profit Native corporations, other appropriate tribal organizations, agencies, or other appropriate entities. Any such technical assistance should be supportive of traditions, customs, practices and values.

Rationale for Option:

Technical assistance for tribal judicial systems is essential for assisting tribes in providing quality service and ensuring the application of due process and respect for traditions, customs, practices and values.

Impact Statement:

With quality technical assistance tribal courts will be more effective in providing quality judicial services and collaborating with state and other tribal court systems.

JS-10: Providing Training for Tribal Judicial Systems

Statement of Need:

Training that is respectful of and supports traditions, customs, practices and values, is needed in the areas of jurisdiction, court development, due process, judicial ethics, tribal court procedures, tribal-state relations, cross cultural training, and tribal court subject areas such as domestic relations and juvenile delinquency.

Option:

Support the provision of consistent, quality training for tribal judicial systems that is respectful of and supports traditions, customs, practices and values through collaborations of tribal organizations, University of Alaska, and other appropriate tribal court training entities. Support cross training between the tribal judicial systems and all law enforcement entities (municipal, state and federal), the Alaska State Court System, Federal Court System, Alaska Department of Law, Alcoholic Beverage Control Board, Probations and Parole, and Office of Children's Services.

Rationale for Option:

On-going training for tribal court judges, clerks, staff, and those who collaborate and work with tribal courts is essential for providing quality judicial services in rural Alaska and for collaborative efforts between court systems.

Impact Statement:

With quality training tribal courts will be more effective in providing quality judicial services and collaborating with state and other tribal court systems.

JS-11: Providing Materials to Tribal Judicial Systems**Statement of Need:**

There is a need for well-written, easy to use tribal court materials, such as educational materials and handbooks, forms, computer software programs for case management, and codes that are respectful of and support traditions, customs, practices and values that could be adapted for tribal specific use.

Option:

Support funding collaborative efforts to produce products such as educational materials and handbooks, forms, computer software programs, and codes that are respectful of and support traditions, customs, practices and values that could be adapted for tribal specific use.

Rationale for Option:

- The availability of quality materials and products that are respectful and supportive of traditions, customs, practices, and values would increase the effectiveness, quality, and consistency of tribal court operations
- Producing products with statewide applicability which could be adapted and used by specific tribes could be extremely cost effective.
- Producing such products would increase tribal access to relevant tribal government information to tribes with limited access to training and technical assistance opportunities.

Impact Statement:

There would be a substantial cost savings for training, technical assistance, and tribal court development for tribes in Alaska. There would be greater consistency in tribal court operations such as general use of the same or similar forms.

JS-12: Increase Communication Between Tribal Judicial Systems**Statement of Need:**

There are 229 federally recognized tribes in Alaska and improved communication between them is essential for effective, consistent, and efficient delivery of judicial services.

Option:

Support the formation of a tribal justice association as a conduit for communications, and communications through a tribal judicial website and internet communications.

Rationale for Option:

- Enhancing communication between tribes will increase the quality, efficiency and consistency of judicial services
- There is frequent movement of people between villages. Some members are dually enrolled, and it is common for members under 18 to belong to or be eligible for membership in more than one tribe. It is essential for tribes to communicate on cases where the share jurisdiction.

Impact Statement:

Increased communications will reduce conflicts and increase collaboration between judicial systems.

Recommendation 8**Statement of problem(s):**

The Alaska State Troopers have no authority to search packages containing drugs or alcohol on federal property being shipped through the U.S. Postal Service, but the federal government does not have adequate Postal Service Investigator staffing to address the needs of Alaska's local option communities.

Option:

The Department of Public Safety should designate targeted alcohol and drug enforcement areas to 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.

Rationale for Option:

Cross-designating Alaska State Troopers as Postal Service Investigators provides another tool to intercept the flow of bootlegged alcohol through hub communities into local option villages.

Impact Statement:

Targeting the alcohol shipment "choke-points" by using Alaska State Troopers will decrease the amount of illegal alcohol arriving in local option communities.

Recommendation 9a (D-AJ5)

Statement of problem(s):

Lack of court/justice materials in different languages for Alaska Native or immigrant victims.¹⁴²

Current Status:

ANDVSA has order for protection videos available in Yupik and Spanish. Immigration Refuge Services Program has publications available in AST, has DV booklets available in Yup'ik, Korean, Spanish, Tagalog, Russian, and Iñupiaq. Alaska Department of Law has victim services brochures in some languages.

Ideal Status:

Brochures on domestic violence/sexual assault/child abuse and services available in all languages found in rural areas.

Structural Barriers (e.g., statutes, regulations, etc.):

Money and time, ability to coordinate people with expertise.

Option(s):

Improved coordination among providers.

More materials provided in different languages for Alaska Native victims.

Recommendation 9b (LE-1)

Statement of Need: Village-based police and public safety officers need an opportunity to advance their training and certification within the state-recognized system. There is also a need for a uniform and state-wide system of police and public safety officer training and certification.

Option: Develop a state-wide, uniform, and tiered system of certification and training for police and public safety officers with a reasonable opportunity for, and expectation of, advancement that culminates in full APSC police officer certification. 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. Tribally-employed officers should be encouraged and permitted to participate. This option would require a change to the employer specific language in AS 18.65.220 and 18.65.290(7) that currently 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.

Rationale for Option: This option was developed after consideration of the health aide and Australian models in the context of the existing types of law enforcement officers in rural Alaska. There were concerns about uniformity, turn-over rates, and lack of opportunity for advancement.

Impact Statement: A uniform tiered system of training and certification would help to unify the overall system of law enforcement in rural Alaska. It would also provide an opportunity for village-based officers to advance to full APSC police officer certification.

¹⁴² See Supreme Court Committee Report on Fairness and Access Report at p. 92-93.

Recommendation 10 (LE-4)**Statement of Need:**

Cross-deputization can provide efficiencies and improvements in rural law enforcement by fostering a cooperative and collaborative system between the State, municipalities and the tribes.

Option:

Develop a template cross-deputization agreement between the State and the tribes that can be used as a basis for individually negotiated agreements. 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 tribes and the state, boroughs, or cities. Alaska Statute 18.65.010 currently allows such agreements.

Rationale for Option:

The workgroup considered cross-deputization agreements from other states. The workgroup also considered the current Quinhagak tribal-city agreement. The workgroup considered the cross-deputization agreements for the concept of cooperation and collaboration, and does not endorse any particular agreement as a model for the template agreement contemplated above.

Impact Statement:

A template cross-deputization agreement would set the parameters of a generally acceptable agreement subject to individual negotiations between the State and interested tribes. It would also help to fix expectations on generally acceptable contractual language for core issues addressed in such collaborative agreements.

Recommendation 11 (LE-2)**Statement of Need:**

There is a shortage of funding for rural police and public safety officers that need further training and certification.

Option:

Provide further funding for training and certification of rural police and public safety officers. The additional funding should be sought from all available sources including the state and federal governments, local sources (including in kind support), and alternative funding sources such as grants. Local support expected should be adequate and appropriate to community size, need, and capacity.

Rationale for Option:

The workgroup considered the inability of small, rural communities to provide adequate funding for the training and certification of their police and public safety officers.

Impact Statement:

Increased training and certification of rural police and public safety officers would increase the capacity of those officers to provide services in their home communities.

Recommendation 12 (LE-11)**Statement of Need:**

Police and public safety services must be adequate and appropriate to each community's size and need, accounting for local capacity.

Option:

Provide police and public safety services in Alaska that are appropriate and adequate to each community's size and need, accounting for local capacity. The Department of Public Safety should modify the definition of a village to mean a community with a population of less than 1,500 individuals based on the most recent federal consensus. Improvement is needed to provide adequate and appropriate coverage in many rural communities, particularly in many larger off-road villages. Local contributions, including in-kind contributions, may be required for buy-in and support. Such local contributions should be based upon the community's ability to generate such contribution locally and should be accounted for and attributed to the community. Local contribution should not be used as a factor in determining a community's need for police and public safety services.

Rationale for Option:

The workgroup considered the need for communities to have adequate and appropriate direct police and public safety services.

The workgroup also considered the ability of rural communities to provide their own police and public safety services.

Impact Statement:

An improved match between rural communities' individual needs with adequate and appropriate police and public safety services would provide a more equitable distribution of these critical services to rural Alaska.

Recommendation 13 (LE-12)

Statement of Need:

Police and public safety training is currently available primarily from the Sitka Training academy which is geographically isolated and is otherwise expensive and inaccessible to rural candidates.

Establish a program for young people to interest them in seeking employment.

Option:

Options for alternative methods of police and public safety training should 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 might also help.

Rationale for Option:

The workgroup considered the desirability of developing training opportunities that provide easier and less burdensome access to training for rural law enforcement officers and candidates.

Impact Statement:

Alternative training options that lower barriers to rural officers and candidates would assist in initial recruitment, and facilitate advancement for current and future rural law enforcement officers.

Recommendation 14 (LE-13)

Statement of Need:

There is a need to improve recruitment of rural residents into law enforcement and public safety careers. Augmentation—and even maintenance—of current levels of rural police and public safety services will require identification and recruitment of a pool of rural candidates to fill officer positions.

Option:

Create a regional rural recruitment effort for rural police and public safety officers.

Rationale for Option:

The workgroup considered the benefits of increased recruitment of rural and Alaska Native candidates into police and public safety careers.

Impact Statement:

Increased recruitment of rural residents would access a previously underutilized pool of candidates for police and public safety careers. Rural candidates also offer individual benefits of indigenous language, cultural knowledge, and local knowledge of rural communities.

Recommendation 15 (ALC-1): Changes in Alaska Statute Title IV: Definition of "manufacture"

Statement of Need:

To provide additional information to juries in the form of a definition of "manufacture" specifically for alcohol.

Option: see attachment #1 in Appendix H.

Rationale for Option:

Even though AS 04.11.010 prohibits the manufacture of alcohol, the provisions of Title IV do not define the term "manufacture." The definition in Title XI only relates to controlled substances.

Impact Statement:

A definition will make it easier for juries to make informed decisions in carrying out their responsibility.

Recommendation 16 (ALC-2): Changes in Alaska Statute Title IV: Expansion of the forfeiture provisions**Statement of Need:**

To provide the means and method of additional forfeitures for firearms and items from illicit profits, and clarify the procedure for forfeitures.

Option: see attachment #2 in Appendix H.

Rationale for Option:

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 the means of forfeiture proceedings.

Impact Statement:

These forfeitures will provide additional deterrence and redirect the profits from bootlegging to supplement enforcement.

Recommendation 17 (ALC-9): Ban Written Order Sales to Residents of Dry Communities**Statement of Need:**

Presently, residents of dry communities can take delivery of alcohol in areas where it is legal to receive alcohol – damp communities.

Option:

Ban Written Order Sales to Residents of Dry Communities

Rationale for Option:

Residents of dry communities pick-up alcohol in damp locations and bring it into the dry community.

Impact Statement:

This will help dry communities be dry.

(see bill SB229 introduced May 17, 2003)

Recommendation 18 (ALC-11): Banning the shipping of plastic bottles by air except to community distribution sites**Statement of Need:**

There is a need to make it easier to detect illegal shipments of alcohol to rural Alaska.

Option:

Banning the shipping of plastic bottles by air except to community distribution sites.

Rationale for Option:

It is presently hard to detect illegal shipments of alcohol to rural Alaska, especially alcohol in plastic containers. Glass bottles increase shipping weight, facilitate detection, increase clinking, and increase chance of breakage.

Impact Statement:

This will result in the reduction of illicit alcohol in rural Alaska and improved enforcement of alcohol importation. This container change will provide positive reinforcement for using local distribution centers.

Recommendation 19 (D-AJ7)**Statement of problem(s):**

Lack of law enforcement in rural areas to enforce state/tribal orders.

Current Status:

Law enforcement presence in villages is inadequate. The VPSO program is underfunded and understaffed and Troopers in rural Alaska cannot adequately provide a presence in villages, and must prioritize due to lack of resources.

Ideal Status:

Adequate law enforcement exists in all villages in rural Alaska. This would include fully funded and staffed VPSOs and other law enforcement such as tribal police. This would also include more active local involvement by Troopers.

Structural Barriers (e.g., statutes, regulations, etc.):

Underfunding of VPSO program/general lack of funding for law enforcement.

Option(s):

State adequately funds and staffs VPSO program, federal funding obtained for tribal law enforcement, cross deputization of law enforcement.¹⁴³

Recommendation 20 (D-AJ8)

Statement of problem(s):

Lack of adequate medical response in many villages makes sexual assault crimes harder to prove and lack of law enforcement with specialized training also aggravates the problem.

Current Status:

Law enforcement in some smaller communities have limited training in DV/SA. AST response is sometimes delayed by distance and weather.

Ideal Status:

Trained law enforcement and medical personnel in each rural area or within one to two hours response time.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Funding is inadequate to staff this level of medical care/law enforcement. Resources are concentrated in the hub areas
- b) Law enforcement, AST, are often reluctant to train existing personnel because they are further understaffed when officers are at training.

Option(s):

- a) Develop part time law enforcement positions for smaller communities with intensive training and support to maintain skills as needed. Find housing for these folks. Recruit and train local residents (community policing model).
- b) Law enforcement officers are temporarily relocated to cover empty slots while these officers are being trained.

Recommendation 21 (JS-5): Alcohol Jurisdiction

Statement of Need:

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 syndrome (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, prosecutors, etc., 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 government is 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 deal with. The best solutions to community alcohol problems involve the community.

Option:

¹⁴³ The footnote for this option is in the Report narrative.

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. The continuing commission should make addressing this issue a priority.

Rationale for Option:

Alcohol and substance abuse is the root cause of many social ills tearing at the fabric of rural Alaska. More than 97 percent of crimes committed by Alaska Natives are committed under the influence of alcohol and drugs.

Impact Statement:

Developing successful ways to address substance abuse will drastically increase the overall wellness of rural Alaskans' lives.

Recommendation 22 (JS-14): DJJ Delegation to Tribes

Statement of Need:

There is a need to better utilize available vehicles for state agencies to draw upon Native Alaskan traditional justice systems.

Option:

Amend AS 47.12.988 to allow the Division of Juvenile Justice (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;
- (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)).

Rationale for Option:

- Alaska Statute 47.12.010 states that one purpose of Alaska's juvenile delinquency laws 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."
- AS 47.12.988 allows the Department of Health and Social Services to select "an entity" to exercise authority; however, "an entity" does not include a tribal entity. Adding a new paragraph (4) would address this.
- The Community Juvenile Justice Assistance Program is one example of a program that has worked extremely well in rural Alaska.

Impact Statement:

More culturally appropriate proceedings can be held and sentences fashioned.

Recommendation 23 (D-DS 11)

Statement of problem:

Domestic violence and Sexual Assault programs are not adequately funded.

Current Status:

Domestic violence and sexual assault programs have been flat funded by the state for the past several years, while costs including utilities and health care have skyrocketed. Programs cannot offer competitive salaries (wages may be close to minimum wage). This, combined with high stress of job, leads to great turnover.

Ideal Status:

Domestic violence and sexual assault programs would be viewed as important public safety/public health agencies and well funded.

Structural Barriers (e.g., statutes, regulations, etc.):

Legislative and Governmental priority-setting.

Option(s):

- a) Increased funding for domestic violence and sexual assault programs.
 - b) Provide educational & therapeutic services for sexual assault and child sexual abuse victims.
-

Recommendation 24 (ALC-10): Alcohol distribution sites

Statement of Need:

To make it easier to account for alcohol going into damp communities and to control who receives that alcohol and the amount they receive.

Option:

Alcohol distribution sites.

Require hub communities (those that serve as points of entry for two or more villages or have a state or federally funded airport) within a region served by the hub airport, where at least 20 percent of the villages are either "dry" or "damp" sites (and that are "damp" themselves), to have community alcohol distribution sites. Deadline for initial establishment of these sites should be set by state at one year. If community does not set up the community alcohol distribution site, the ABC Board will.

Permits to pick up liquor from the community alcohol distribution sites must be held by residents of the damp community only.

The computerized data base (not public information but available to law enforcement) at each site shall be linked to the state data base (see number 4 below).

Rationale for Option:

Without a central distribution site it is difficult to track alcohol volume and sales to individuals in rural communities. Preventing multiple orders and sales to prohibited persons is currently difficult.

Impact Statement:

This would provide for more efficient, cost effective enforcement and help keep alcohol out of dry communities.

Recommendation 25 (JS-16): Tribal Participation in Juvenile Proceedings

Statement of Need:

Provide tribes, as defined in the ICWA, an opportunity for notice and to be heard at sentencing and disposition or before in state court with respect to juvenile proceedings and afterwards.

Option:

Amend Title 47 to permit tribes to participate in sentencing or other appropriate juvenile proceedings (as do other victims).

Rationale for Option:

Frustrating experiences of rural communities with juvenile sentencing and disposition. Would also enable tribal communities to incorporate matrilineal and other traditional values and methods in resolution of juvenile issues. A.S.12.55.011 allows for community participation in restorative justice.

Impact Statement:

Would improve communication between community and court about sentencing of juveniles and ensure more effective sentences.

Recommendation 26 (JS-26): Tribal Participation in Treatment of Juveniles

Statement of Need:

Improve coordination with community in juvenile treatment when the minor returns to the community.

Option:

Adopt or amend state law to permit tribes to participate in juvenile delinquency treatment especially after minors return to their communities.

Rationale for Option:

Frustrating experiences of rural communities with lack of involvement with resolution of juvenile delinquency when minor returns to community. Would also enable tribal communities to incorporate matrilineal and other traditional values and methods in treatment of juvenile delinquency.

Impact Statement:

Would improve effectiveness of juvenile delinquency treatment at the community level.

Recommendation 27 (JS-20): Re-Entry Programs

Statement of Need:

Re-entry of prisoners into the community needs to be facilitated.

Option:

Re-entry programs for Alaska inmates moving back into smaller communities, focusing on restorative justice and the role of the village in assisting in the rehabilitative process.

Rationale for Option:

- The Department of Corrections has already initiated cooperative programs of this type with Southcentral Foundation, Yukon-Kuskokwim Health Corporation, and Cook Inlet Tribal Council.
- These efforts should be expanded and relationships with local Councils encouraged to facilitate the re-entry process.

Impact Statement:

Recidivism rates should decrease as successful re-entries are increased.

Recommendation 28 (JS-19): Alternatives to Housing Native Inmates in Out-of-state Prisons

Statement of Need:

Alaska needs to find alternatives to housing Alaska inmates in out-of-state facilities. *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. This also creates hardships for inmates' families.

Option:

Have State of Alaska explore other options, including working with Native Regional Corporations and non-profits.

Rationale for Option:

Having Alaska inmates housed Outside is perceived by all as a weak point in the system.

Impact Statement:

If a method can be found to keep inmates within the State in a financially feasible way, inmates and their families will benefit, along with local economies.

Recommendation 29 (ALC-15): Alcohol Abuse Prevention

Statement of Need:

There is a need to reduce communities' tolerance of alcohol abuse and the number of young people who 'learn' this tolerance from their communities.

Options:

Support a variety of prevention programs that include:

Programs geared to helping young people learn to make healthy choices.

Healthy community and cultural activities that link youth and adults.

Alcohol/Drug Information Schools for first time misdemeanor alcohol/drug related offenses.

Programs that promote community responsibility for preventing and addressing alcohol related problems.

(All programs need to reflect and respect the culture of the local community.)

Rationale for Options:

Reducing 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. Demand reduction includes both preventing young people from becoming alcohol abusers and

treating people who have become abusers. This recommendation addresses prevention.

Impact Statement:

Fewer young people will become alcohol abusers, with a corresponding reduction in alcohol related violence, crime and intentional and unintentional injuries.

Recommendation 30 combines D-DS-1 through D-DS 7, which are presented below.

D-DS 1

Statement of problem:

There is a general lack of understanding or agreement about prevention and no coordinated/systematic approach.

Current Status:

Institutions/agencies do not integrate prevention into the way they structure their services, set priorities or 'do business.'

Ideal Status:

a) There would be a shared understanding, integration, and agreement about the purpose, scope, impact, importance of and commitment to prevention.

b) Agency structure, priorities, goals, policies, procedures and practices will be developed and guided by prevention principles (i.e., recreational facilities are a priority for community development because it promotes healthy lifestyles, youth/family activities and prevents abuse/violence).

Structural Barriers (e.g., statutes, regulations, etc.):

a) Knowledge, attitudes and beliefs of individuals and the agencies/entities they are part of.

b) Primarily the natural resistance to change inherent in institutions and agencies.

Option(s):

a) Education, outreach, awareness from the grass roots up to galvanize a shared vision and community action.

b) Incorporate prevention into all strategic plans, community and agency development of goals, etc.

D-DS 2

Statement of problem:

Little buy-in from community & individuals for prevention.

Current Status:

Prevention tends to be viewed as agency based and the responsibility of entities that are primarily set up for interventions.

Ideal Status:

Prevention is an integral part of village life and is community & individual driven first.

Structural Barriers (e.g., statutes, regulations, etc.):

Attitudes, lack of empowerment, chronic dependency and expectation that 'others' will do it for us. Turf problems/opposition from state and other agencies to tribal/village community initiatives on prevention.

Option(s):

Community based education/communication led by elders/recognized traditional leaders with village and culturally specific knowledge.

D-DS 3

Statement of problem:

Children and youth have adopted beliefs and attitudes that lead them to engage in violent acts and self-destructive behaviors.

Current Status:

Very limited and inconsistent approach to prevention initiatives for children and youth.

Ideal Status:

a) Education/learning prevention "programs" both in school and in life with a focus on changing accepted 'norms.'

b) People who have been doing the work, educating youth and children, living a life of cooperation, harmony and respect

are the recognized/acknowledge leaders in prevention

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Racism, sexism, tribal/state politics, attitudes toward children, lack of funding for programs, activities and initiatives.
- b) Changing the dominant culture's attitudes and beliefs about indigenous knowledge – just because we can't see it, or write it down or figure out where it comes from doesn't invalidate its existence or value.

Option(s):

- a) Incorporating attitudes of respect toward women/girls, people of (different) color, persons with different abilities, etc. "Walking the talk," empowering youth, keeping them safe.
 - b) Develop and deliver (through local alcohol/drug counselors and elders) a culturally appropriate and comprehensive prevention curriculum in the school to educate children 1-8th grade on substance abuse and healthy relationships and behaviors.
 - c) "Few Good Men" approach – let the people in the community identify and acknowledge the leaders/elders. Empower humble people to see themselves as the leaders they are. Pay attention and utilize cultural/traditional ways to recognize mentors.
-

D-DS 4

Statement of problem:

Funding challenges for non-profit agencies serving victims of domestic violence, sexual assault and child abuse.

Current Status:

Too many separate funding sources with no coordination between them. Money for pilot projects and not core services. Funding is competitive, unsure, and short term. High overhead and administration costs.

Ideal Status:

Long term, secure, operating funds with reasonable compliance guidelines.

Structural Barriers (e.g., statutes, regulations, etc.):

Multiple funding sources, no coordination among funding agencies.

Option(s):

- a) Block grant/consolidation within departments, and coordination with compliance and reporting requirements.
 - b) Provide educational & therapeutic services for sexual assault victims and child sexual abuse victims.
-

D-DS 5

Statement of problem:

Impact of Fetal Alcohol Effects (FAE) on DV/CP.

Current Status:

Handful of diagnostic teams in rural areas, estimated 30-40 percent of children in rural communities fetal alcohol exposed in Bristol Bay, for example.

Ideal Status:

Women of child bearing age who are sexually active will not drink alcohol.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Lack of effective prevention programs.
- b) Inter-generational FAE adults having FAE children.
- c) No statewide resource for information and referral.

Option(s):

Prevention programs aimed at family planning, alcohol abuse and domestic violence for all men and women.

D-DS 6

Statement of problem:

Prevention programs in rural Alaska do not have sufficient resources to do prevention.

Current Status:

- a) Kawerak has a dual track program, provides prevention services to children and their families. (*MOA available for review*).
State DHSS offers a few mini grants to provide preventive services (Safe and Stable Families Title IVB funding).
AFN Wellness initiative provided for some prevention type programs in rural Alaska.
Wellness Initiative – 4 areas covered: Control of Alcohol, Supporting VPSO, Enforcing local option law, and violence prevention. Best practices shared among villages.
- b) ANDVSA DELTA project (CDC grant) funds prevention programs in Valdez, Sitka, Juneau, Dillingham.
- c) TCC and YKHC Regions have Tribal Family and Youth Specialists in every village, but they are stretched with multiple duties that do include prevention activities but also include child protection services. Nothing targeted specifically for prevention.
- d) Tundra Women's Coalition in Bethel has a prevention program for teens.

Ideal Status:

- a) Prevention programs coordinated, non-duplicative, cultural appropriate effective locally or village based provided throughout Rural Alaska.
- b) An initiative in each village to spearhead prevention workshops and healthy activities.
- c) Have smaller organizations work together, coordinating regularly.
- d) Utilize successful, already established models.
- e) Have well funded prevention projects with capacity for intervention when prevention work uncovers issues.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Very few funding opportunities for prevention activities.
- b) Funding and expertise.
- c) Different funding streams not being coordinated at village or statewide level.
- d) Funding mechanisms do not exist to help groups providing services or new funding.
- e) Most of time spent in intervention rather than prevention.

Option(s):

- a) Prevention programs available in the schools and offered by DV/SA, tribal, state and non-profit health organizations, tribal councils or Alaska Native village agencies that provide crisis intervention services.
- b) Review of Family Wellness Warriors Initiative (Southcentral Foundation) and other local and regional initiatives.
- c) Statewide curriculum available for use in every village, with statewide staff support for technical assistance to the villages.
- d) Existing programs have funds to offer newly developing prevention projects the training and technical assistance they need to build a foundation.

D-DS 7

Statement of problem:

There are not enough healthy youth and family activities in rural Alaska.

Current Status:

Youth Opportunity Grant programs have been in operation (8 in TCC region), but U.S. Department of Labor funding cuts are curtailing the program.

Ideal Status:

- a) A position and/or capacity/plan in each village to coordinate youth and family activities.
- b) Cooperation and collaboration in the local and state level.

Structural Barriers (e.g., statutes, regulations, etc.):

Lack of funding and interest.

Option(s):

- a) Small funding sources through the state or the federal Wellness Initiative to support opening gyms after hours, craft materials, game nights, etc.
- b) Continued and expanded U.S. Department of Labor funding for Youth Opportunity grants.

Recommendation 31 (JS-22): Culturally Relevant Treatment Options**Statement of Need:**

Culturally relevant treatment options are more apt to be effective with rural Alaskan offenders.

Option:

Greater federal and state support for culturally relevant treatment options. The Alaska Department of Corrections should collaborate with the Alaska Native regional non-profit corporations to develop culturally relevant behavioral health treatment options.

Rationale for Option:

Locally-developed treatment programs which resonate with those values deeply ingrained in a culture stand a greater chance of rehabilitative success for individuals raised in that culture.

Impact Statement:

Enhanced rehabilitation, reduced recidivism.

Recommendation 32 (D-DS 16)**Statement of problem:**

Inconsistent screening of DV/SA, substance abuse and dual diagnosis.

Current Status:

Some DV/SA programs screen for substance abuse and some substance abuse screen for DV/SA but not consistent or standardized.

Ideal Status:

Routine screening (for the purposes of helping people in trouble identify the issues they are facing and resources available) is incorporated in all DV/SA and chemical dependency (CD) programs.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) From the perspective of DV/SA programs: limited client confidentiality and program's mandatory child abuse reporting make programs hesitant to document substance abuse for fear of harming victim (who therefore would never return to program).
- b) Resources are already stretched thin and programs cannot perform this function without more funding.

Option(s):

Screening tools & interagency agreements for responding to this information are readily available.

Recommendation 33 (D-LC 1-1)**Statement of problem:**

Alcohol and drug abuse and its impact on families.

Current Status:

Village Alcohol counselors and 28+ day treatment centers in some hub communities that also provide outpatient care/long term care in cities.

Ideal Status:

- a) More services located in village that invoke cultural values and include victims, family, and community in treatment.
- b) More treatment centers where women and their children can receive treatment together.

Structural Barriers (e.g., statutes, regulations, etc.):

Lack of funding for villages to create infrastructure for new approaches to treatment.

Option(s):

- a) More services located in village that invoke cultural values and include victims, family, and community in treatment.
- b) More treatment centers in which victims can have children live with them.

Recommendation 34 (D-DS 17)

Statement of problem:

There are not enough programs that offer long term, in-patient substance abuse treatment to women with children; need integration of DV/SA and CP programs.

Current Status:

Some "model" integration of DV/CP program-Anchorage, Kenai, Dillingham.

There are some programs where women can take children – FNA's Women's and Children's program, Old Minto Program, Southcentral Foundation's Dena A Coy program in Anchorage, and SEARHC's program.

Ideal Status:

Integrated services available to parents with children in at least each hub community.

Structural Barriers (e.g., statutes, regulations, etc.):

Funding coordination between DV/SA programs and substance abuse treatment programs.

Option(s):

Create one program in each rural hub that is culturally appropriate and provides all necessary services to chemically dependent women with children.

Recommendation 35 (D-DS 18)

Statement of problem:

- a) Aftercare programs are not available in many villages.
- b) Need more alternative/traditional treatment options.

Current Status:

- a) 4-Rivers Mental Health has alcohol counselors in most of the villages that they serve.
- b) Norton Sound Health Corporation has village based counselors in many villages in Bering Strait region. They are at various levels of certification to provide substance abuse counseling and treatment. Most cannot do substance abuse assessments. Itinerant clinicians travel to villages periodically to do assessments and provide treatment and counseling, but overall there is not consistent, adequate local treatment and counseling for substance abuse.
- c) Family recovery and spirit camps (Minto, Curyung, Sitka, etc.).

Ideal Status:

- a) Aftercare programs in every village or one year residential aftercare programs as available options in hub villages for aftercare.
- b) Alternative/traditional Native based programs in at least each region.

Structural Barriers (e.g., statutes, regulations, etc.):

Limited funding and expertise in the villages.

Option(s):

- a) Have residential aftercare programs in hub villages to re-orient people before returning to their own village and have trained alcohol counselors in every village.¹⁴⁴
 - b) Increase Native traditional treatment programs in regional hubs.
 - c) Increase programs for family treatment.
 - d) Increased training, support and technical assistance for village based volunteers and family members.
 - e) Integrate a long-term aftercare/family care program with a job training/career development program.
-

Recommendation 36 (D-DS 26)

Statement of problem:

Many juveniles are either not receiving treatment at all or are being sent out of state for residential substance abuse or mental

¹⁴⁴ See the Alaska Criminal Justice Assessment Commission Report, 2000, which recommended increasing the number of substance abuse beds for Alaskans in need of residential treatment, supporting culturally relevant programs for alcohol treatment, and increasing the programs available in rural areas. See also CFSR Review of Alaska OCS, September, 2002, finding that reunification efforts in child protection cases are affected by overall lack of access to relevant services in parent's community, and scarcity of alcohol treatment and follow up services. CFSR Review at 38.

health treatment.

Current Status:

- a) No residential programs for dual diagnosis children to receive treatment in state.
- b) Limited substance abuse programs for youth.

Ideal Status:

Culturally appropriate local effective juvenile treatment programs and facilities available for both voluntary/ mandatory.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Funding.
- b) Lack of understanding of the scope of the problem.

Option(s):

Development of culturally effective local effective juvenile treatment programs and facilities.

Recommendation 37 (JS-15): Expand Therapeutic Courts

Statement of Need:

There is a need for a diversity of state court approaches to substance-abuse related offenses.

Option:

The state court system should continue and expand its progress in the establishment and utilization of therapeutic courts.

Rationale for Option:

- Indications are that therapeutic courts are effective in dealing with substance-abuse related offenses.
- The Alaska Court System should be saluted for its efforts in this direction and encouraged to continue those efforts.

Impact Statement:

More of an emphasis on a "medical model" for processing of substance-abuse related offenses, and diminution of recidivism.

Recommendation 38 (D-DS 20)

Statement of problem:

Funding for first degree relatives is not equivalent to funding strangers may get under the state and tribal foster care systems, so relatives may not be financially able to provide foster care.

Current Status:

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.

Ideal Status:

Family members who take in relatives for foster care (grandparents, for example) would be reimbursed at the same rate as foster parents.

Structural Barriers (e.g., statutes, regulations, etc.):

Federal regulations on tribal foster care, Alaska statutes or regulations.

Option(s):

Explore regulation changes to support close relatives in the care of children in need of aid.

Recommendation 39 (D-DS 22)

Statement of problem:

Lack of group/children homes for children not appropriate for or able to access foster care.

Current Status:

Rural/Native children taken into state custody are often shipped to Anchorage or other urban areas for placement in an inadequate group home.

Ideal Status:

Group home in at least every rural hub community for children with specially trained, financially supported culturally

appropriate residential custodians/foster parents.

Structural Barriers (e.g., statutes, regulations, etc.):

State standards for group homes are strict and inflexible, liability issues, lack of funding.

Option(s):

Increased and redistributed funding, more flexibility on standards to reflect community values, specialized training for group home parents & operators.

Recommendation 40 (JS-4): Pass Through Funding to Tribal Foster Homes

Statement of Need:

There is 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.

Option:

Recommend enactment of a state law similar to those portions of HB 193 or SB 125, which give the Commissioner the discretion to set appropriate standards for foster home placements and grant waivers in appropriate circumstances, and which resolve problems with state liability issues; and in the event this becomes law, request DHSS to consult with tribes over the foster care licensing standards.

Also, support enactment of federal legislation similar to that in S. 672, introduced in March 2005, allowing tribes to directly apply for and administer Title IV-E from the federal government, while maintaining consistent funding levels for the states.

Rationale for Option:

- There is a shortage of Alaska Native foster care homes for Alaska Native children.
- Additionally, tribes currently lack a mechanism for accessing federal foster care subsidy payments for tribally-ordered foster care placements.

Impact Statement:

This would serve the best interests of Alaska Native children needing foster home placements, by increasing the supply of suitable foster homes available in state child protection cases, and by increasing the resources available to support tribally-ordered foster care placements.

Recommendation 41 (JS-23): Home Community Probation

Statement of Need:

Probation officer coverage in the villages is insufficient.

Option:

Focus the new recruitment effort to hire qualified Alaska Natives as probation officers. Continue increasing utilization and training of Village Public Safety Officers in that role. Consider contracting with Village Councils to provide oversight of community service work.

Rationale for Option:

- The Department of Corrections has been training and utilizing VPSO's in this role.
- Experience from years ago in the Village of Chistochina indicates that arrangements with Village Councils can supply this need.

Impact Statement:

Increased supervision of offenders under probation and parole supervision in rural Alaska.

Recommendation 42 (JS-17): DPS/DOC Native Hire

Statement of Need:

Alaska Natives, over-represented in Alaska's prison population, need to have a substantially greater presence in the staffing of public safety and corrections agencies.

Option:

Increase the number of Alaska Natives who work in corrections (as well as those who work as VPSO's and in other law enforcement roles). This might be done with targeted recruitment campaigns, including films, DVDs, a workbook or written guide, and website, with materials geared to high school age Natives. Convene a meeting of stakeholders to consider the development and implementation of such targeted recruitment measures. The stakeholder group could also consider what additional educational and training opportunities for careers in the fields of law enforcement and corrections could be implemented in rural Alaska. Participants in the stakeholder group could 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.

Rationale for Option:

- "Modeling" is an important component of incarceration; often close emotional bonds can form between prison personnel and inmates. Positive and support Alaska Native role models in those settings can be conducive to rehabilitation.
- Higher proportion of locally-hired probation officers will also heighten the level of cultural awareness of probationers' home communities.

Impact Statement:

Lower recidivism rates should result from more Native employees within Corrections Department, including probation officers, 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 number of rural Alaskans employed in the Departments of Public Safety and Corrections should increase correspondingly. Providing education and training for careers in the fields of law enforcement and corrections at an early and critical age to Alaska Native youth will also likely result in lower offender rates. Efforts to recruit more Alaska Native employees must be conducted within the equal protection constraints of state and federal law.

Recommendation 43 combines D-DS 24 and D-DS 25**D-DS 24****Statement of problem:**

Too few professionals in Rural Areas.

Current Status:

Qualified professionals only stay for short terms in rural communities.

Ideal Status:

Early recruitment in the schools for professionals, Social Workers, Clinicians, Law Enforcement etc.

Structural Barriers (e.g., statutes, regulations, etc.):

Adequate housing a barrier throughout rural Alaska.

Option(s):

Provide housing for professionals keeping service providers in rural communities.

D-DS 25**Statement of problem:**

Agencies experience high staff turnover rates.

Current Status:

Lack of appropriate housing, high caseloads, increased costs of travel, food, etc., lend to professional staff turnover and burnout.

Ideal Status:

Incentives for professional staff, for example, reduced housing, loan payoffs programs.

Structural Barriers (e.g., statutes, regulations, etc.):

High cost of living in rural Alaska not conducive for professional staff trying to pay on school loans and live comfortably.

Option(s):

Construction of rental units.

Recommendation 44

Statement of Need:

Trooper response time is frequently delayed to villages due to weather or other circumstances, and most villages lack the infrastructure necessary for a Trooper. Combined with the isolation of being a law enforcement officer in rural Alaska, staffing these positions with qualified officers is a challenge.

Option:

The State should provide funding, and possibly seek additional funding through organizations such as the Denali Commission, to construct multipurpose facilities with an apartment, an office, and a holding cell for the Alaska State Troopers in larger under-served village locations. The concept of a Regional Unified Justice Center should be considered whenever affected agencies consider construction projects in rural communities. 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.

Rationale for Option:

One of the barriers to law enforcement services is lack of infrastructure. In some communities, personnel have been required to detain suspects in their living quarters because of an inadequate or no holding facility. While Troopers enjoy the challenges of working in rural Alaska, in many circumstances, their immediate families do not. Flexible scheduling will keep Troopers on the ground in communities that have never seen this level of law enforcement previously.

Impact Statement:

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.

Recommendation 45 (LE-7)

Statement of Need:

A significant lack of infrastructure supporting police and public safety functions in rural Alaska undermines the safety of rural Alaskans. It also negatively affects recruitment and retention of police and public safety officers.

Option:

Develop, improve and maintain the infrastructure that supports the delivery of police and public safety services in rural Alaska in the following categories:

Housing

Need: A lack of available housing in many villages impacts recruitment and retention of police and public safety officers.

Option: Encourage streamlining of the approval process and prioritization of HUD homes for use by police and public safety officers in rural villages. Explore other available and currently vacant federal, state, and public housing that may be available for use by police and public safety officers. Change the eligibility rules for federal rural housing programs for teachers and health providers to include funding for police and public safety officers.

Communications and technology

Need: Rural police and public safety officers need better access to communications technology to communicate with Troopers and other law enforcement. Current Internet and other communications technology would improve and speed communications. Rural communities lack basic, and commonly assumed, communications infrastructure and services such as an available 911 system.

Option: Increase access to reasonably priced Internet and other telecommunications technology. Change the current regulations that support and subsidize the telemedicine program to allow rural Alaska police and public safety officers to utilize excess bandwidth to support Internet access and email at the village level. Improve officer-to-officer communications by standardizing equipment and providing more equipment to village-based officers. Create a system of regional 911 dispatch centers that have access to a comprehensive database of police and public safety services. Open eligibility for tribes and rural Alaska police and public safety officers to Homeland Security programs and funding.

Transportation

Need: Adequate and appropriate transportation infrastructure is needed in rural communities and between rural communities to improve law enforcement service delivery.

Option: Increase 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 would also assist law enforcement officers. 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.

Offices and Holding Facilities

Need: Many rural communities lack adequate office and holding facility infrastructure and the resources to adequately maintain such infrastructure in order to properly support the provision of police and public safety services.

Option: Provide 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.

Equipment

Need: VPSOs and other rural police and public safety officers lack appropriate equipment.

Option: Provide adequate and appropriate equipment to rural police and public safety officers.

Rationale for Option: The workgroup considered the realities of infrastructure that supports the provision of police and public safety services in rural communities. The workgroup considered creative options to attempt to reduce these infrastructure deficiencies.

Impact Statement: Improvement in the infrastructure that supports rural police and public safety officers would increase their effectiveness.

Recommendation 46 (D-AJ9)**Statement of problem(s):**

Many tribal and state court personnel and judges are not adequately trained in DV/SA and do not consistently apply laws meant to help victims.

Current Status:

There is no regular training for court personnel and judges on DV/SA issues. Training that occurs is not always coordinated with statewide experts leading to some controversial trainers presenting. Tribal judges have had some DV training but not mandatory/Court system Children's Forums were helpful in creating dialogues on children's issues and should be continued and expanded.

Ideal Status:

Mandatory training yearly for court personnel/judges coordinated with victims services providers. Same for tribal court (for state court - this is in statute already - AS 18.66.310).

Structural Barriers (e.g., statutes, regulations, etc.):

Judges are burned out on DV/SA cases. There is a perception that sporadic training is enough of a problem that it is counterintuitive and requires repeated, intensive training to counteract stereotypes/judges want to be trained by judges.

Option(s):

Need consistent annual training for all court personnel and judges.

Training should be coordinated with CDVSA or ANDVSA.

Court system should hold regular forums in rural areas for judges and court personnel to dialogue on issues affecting DV/SA victims and child abuse.

Recommendation 47 (D-CI 4)**Statement of problem:**

There is a need for more culturally sensitive forensic services in remote communities statewide to ensure better protection for DV/SA and child abuse victims.

Current Status:

a) While Alaska State Troopers are primary investigators for child abuse and DV/SA statewide for purposes of criminal

prosecution, there are insufficient numbers of troopers or VPSO's to provide viable forensic response to investigation (time delays cause loss of evidence), and investigators often do not have sufficient cultural understanding to communicate well with witnesses and victims in villages; in Bethel Yupik-speaking women have been used to conduct interviews with great success; state does not recognize tribal policing, and therefore is unwilling to offer formal training to tribal police, who are often the first responders in villages, to assist with forensic investigation.

b) Forensic Interview Training – OCS has training in place; Law Enforcement.

Ideal Status:

- a) State, tribal and federal governments work cooperatively to maximize the collection of forensic evidence that is necessary to ensure protection of child abuse and DV/SA victims in remote communities.
- b) Train more culturally competent female interviewers.
- c) Regional expert available.

Structural Barriers (e.g., statutes, regulations, etc.):

Attitudes; cross-cultural understanding; availability of resources.

Option(s):

Establish roving position within each region for highly-trained forensic investigator who has cultural skills necessary to communicate within cultures served;¹⁴⁵ train tribal police to the same degree that AST and other municipal police officers and investigators receive forensic training.¹⁴⁶

Recommendation 48 (D-DS 27)

Statement of problem:

Lack of information/data regarding Law Enforcement response to DV/SA and abuse of minors.

Current Status:

Grant through UAA to examine issues associated with sexual assault investigations.

Ideal Status:

Sufficient information/data available confirming that DV/SA and abuse of minors are adequately investigated by law enforcement.

Structural Barriers (e.g., statutes, regulations, etc.):

Data are collected but not regularly evaluated.

Option(s):

Internal/External quality control audits by law enforcement to provide sufficient information/data confirming law enforcement is adequately responding to DV/SA and abuse of minors.

Recommendation 49 (D-AJ 1)

Statement of problem(s):

- a) People do not have access to sufficient civil legal assistance to redress legal problems.¹⁴⁷
- b) There is no legal service provider that specializes in immigration and refugee services for victims of DV/SA.

Current Status:

Alaska Legal Services has offices in Bethel, Fairbanks, Anchorage, Juneau, Ketchikan (paralegal), Kotzebue, Dillingham and Nome.

ANDVSA Pro Bono Program accesses rural areas through pro bono attorneys and legal advocates at 20 member programs that provide legal assistance to DV/SA victims and children.

Tribal courts provide alternate to state courts for some rural areas and obviate need for attorney and formal legal process. Immigration Refugee Services Program no longer exists.

Ideal Status:

Legal services offices in every rural area with regional rural hub. Extensive travel budgets allowing frequent bush/intake. Legal centers in every rural area that know all the legal resources for DV/SA victims and can serve as a point person to

¹⁴⁵ The footnote for this option is in the Report narrative.

¹⁴⁶ The footnote for this option is in the Report narrative.

¹⁴⁷ The footnote for this option is in the Report narrative.

discuss options with person needing assistance and make referrals. Statewide hotline.

Immigration and refugee services re-established in some capacity.

Structural Barriers (e.g., statutes, regulations, etc.):

Not enough funding for civil legal providers and DV/SA programs providing legal advocacy. Low pay and stress of these jobs lead to high turnover and less experienced staff. Urban attorneys are reluctant to go into the bush. Travel is expensive.

Option(s):

More funding for civil legal needs state/local/private/federal.

More use of tribal courts.

Use of video conferencing to better provide representation to rural areas.¹⁴⁸ Recognition of right to counsel in civil cases involving fundamental rights. Increased federal funding for VAWA Legal Assistance to Victims Grants.

See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D- LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

Recommendation 50 (D-AJ2)

Statement of problem(s):

Some victims are uncomfortable in accessing the state justice systems for cultural reasons or geographical reasons.¹⁴⁹

Current Status:

In areas without an active tribal court, victims are forced to go to state court for civil legal problems. All rural criminal cases go through state court with exception of few diversion programs such as Kake's program.

Ideal Status:

Every state and tribal court open to each rural Alaskan for civil needs. Criminal needs addressed through state system with more diversion programs such as Kake's.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) State's resistance to tribal courts. PL 280 issues for criminal cases (although not a bar of diversion programs). Some tribal courts do not have the infrastructure or desire to handle certain types of cases.
- b) Geographical barriers make accessing the state system difficult.
- c) Loss of faith in criminal/civil justice systems lowers reporting of crimes and keeps unhealthy families.

Option(s):

- a) Increase training for tribal courts such as Alaska Inter-Tribal Council's (AI-TC) programs/ALSC, TCC, ANJC, UAF Fairbanks.
- b) State changes its stance as to tribal courts.¹⁵⁰ Increased training on diversion programs. Training on how to develop culturally relevant, effective models.
- c) Translators available at all times in state court.
- d) See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D- LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

Recommendation 51 combines D-AJ3 and D-AJ4

D-AJ3

Statement of problem(s):

Some victims are uncomfortable in accessing tribal justice systems because of inter-relationships of opposing party with tribal court administration or adjudicators.

¹⁴⁸ The footnote for this option is in the Report narrative.

¹⁴⁹ The footnote for this option is in the Report narrative.

¹⁵⁰ The footnote for this option is in the Report narrative.

Current Status:

State court doors remain open to these victims but physical barriers are problematic and cultural concerns.

Ideal Status:

Sensitize state court system to be more culturally relevant to Alaska Natives/educate tribal court personnel about domestic violence issues.

Structural Barriers (e.g., statutes, regulations, etc.):

Money and time.

Option(s):

Cultural competency training for court staff.¹⁵¹

Tribal courts develop and adopt guidelines for rescuing or responding to conflict situations and to prevent a single family group or faction to "take over" court.

D-AJ4

Statement of problem(s):

State's courts not physically located in all rural areas making access difficult/not all tribes have courts.

Current Status:

State courts are present in 58 locations. Telephonic participation hearings available. Not all tribes have active tribal courts.

Ideal Status:

Every rural village that wants one would have an active tribal court and better access to state court, including translators.

Structural Barriers (e.g., statutes, regulations, etc.):

Disagreement over jurisdiction for tribal courts/clarification of jurisdiction.

Option(s):

Need to change attitudinal policy that divides rather than works on improving services for people

See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D- LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

Recommendation 52 (JS-24): Electronic Monitoring Technology

Statement of Need:

There is a need to utilize developing technologies to facilitate probation supervision in rural as well as urban communities.

Option:

The Department of Corrections should be encouraged to continue the evaluation of electronic monitoring technology for use in rural Alaska and include training on its use to Village Public Safety Officers.

Rationale for Option:

- Current electronic monitoring technology can indicate that the probationer is not where s/he is supposed to be; new GPS technology can indicate where the probationer actually is.
- Simultaneously, this technology by itself is not sufficient, in the absence of a law enforcement presence, to protect the community.

Impact Statement:

This technology, if used in conjunction with other measures to increase actual law enforcement personnel, could enhance probation monitoring and public safety in small communities.

¹⁵¹ The footnote for this option is in the Report narrative.

Recommendation 53 (ALC-8): Alcoholic Beverage Control Board (ABC Board) regulation statute changes: ABC Board to run "alcohol written-order" statewide, compatible data base (when alcohol is shipped, the order is electronically entered to track serial purchasing)

Statement of Need:

To coordinate the records of purchases from liquor stores, so that liquor stores can determine whether a proposed written order purchaser has already purchased their monthly legal limit, and to help ensure that prohibited individuals can not make the purchases.

Option:

ABC Board to develop and oversee an "alcohol written-order" statewide database, which would include prohibitions of purchases based on court proceedings.

Rationale for Option:

To reduce the ability of bootleggers to buy their 'legal' monthly limit from many package stores. All alcohol sales need to be tracked statewide by sale point database entry linked to purchaser. Track all alcohol written-order sales statewide to prevent serial purchases.

Impact Statement:

This will decrease the ability of bootleggers to buy alcohol.

Appendix G

Workgroup Option JS-5 (J-25)

Alcohol Jurisdiction

All of the workgroups' options can be found on the Rural Justice Commission's web site at www.akjusticecommission.org under the "Topics" link.

Although the Commission has not adopted the workgroup recommendation that addressed granting jurisdiction to tribes to enforce certain laws relating to alcohol and substance abuse, several members of the public strongly asked the Commission to publish the recommendation. It is found below.

Alaska Rural Justice and Law Enforcement Commission Options Worksheet for Work Groups

Working Group: Judicial

Option# JS-5 (J-25): Alcohol Jurisdiction

Statement of Need:

Alaska Native Villages should have a territorial basis, without creation of "Indian country," to regulate and control alcohol, including civil authority over non-Indians. The law should also allow federal prosecution of both members and non-members.

Option:

Recommend that 18 USC §§ 1156 and 1161 be amended, possibly on a "pilot project" basis for some Alaska Native Villages, along the following lines (underscoring indicates proposed new language):

§ 1156. Intoxicants possessed unlawfully

(a) Whoever, except for scientific, sacramental, medicinal or mechanical purposes, possesses intoxicating liquors in the Indian country or where the introduction is prohibited by treaty or an Act of Congress, or possesses any intoxicating liquors or other controlled substances regulated by an Alaska Native Village Controlled Substance Ordinance pursuant to subsection (c) within the geographic area governed by such Ordinance, or within an area covered by an Alaska Local Option Law, shall, for the first offense, be fined under this title or imprisoned not more than one year, or both; and, for each subsequent offense, be fined under this title or imprisoned not more than five years, or both.

(b) The term "Indian country" as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations, and this section does not apply to such lands or rights-of-way in the absence of a treaty or statute extending the Indian liquor laws thereto.

(c) The federally recognized tribal governments of Alaska Native villages shall have authority to enact and enforce laws regulating transactions involving alcoholic beverages, prohibiting the sale, importation, or possession of alcoholic beverages, and prohibiting the sale, importation or possession of substances illegal under state, federal or tribal law, within the exterior boundaries of the villages' core townships identified for village corporation land selections by section 12(a) of the Alaska Native Claims Settlement Act or within a five-mile radius of the village center, as defined by the tribal government; provided, that for Alaska Native villages within incorporated cities the authority provided by this section is limited to Alaska Natives and to transactions involving Alaska Natives, and shall apply to the extent the tribal law does not conflict with the city's alcohol beverage local option law, if any. Alaska Native villages shall submit laws adopted pursuant to this section to the Secretary of the Interior, and the Secretary shall certify and publish those laws within the Federal Register within 180 days, provided that the law is consistent with the Indian Civil Rights Act. Alaska Native villages are authorized to enter into agreements with the

State of Alaska or subdivisions thereof respecting jurisdiction over and enforcement of alcoholic beverage and drug control laws.

(d) For violations of Ordinances enacted under subsection (c), an Alaska Native Village Tribal Court may impose civil sanctions, including but not limited to fines, forfeitures, community service, and treatment requirements, on any individual found to have violated the applicable ordinance, but may not impose any criminal sentences on any individual who is not a member of a federally recognized tribe. Any civil or criminal tribal court proceedings must be conducted in accordance with due process and other applicable requirements of the Indian Civil Rights Act.

§ 1161. Application of Indian liquor laws

Except as provided in section 1156(c), the provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title [18 USCS §§ 1154, 1156, 3113, 3488, and 3669], shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the Federal Register.

Rationale for Option:

- The Work Group was deeply divided over Option J-5A, to propose yet another commission to study the alcohol problem in Alaska.
- The tragic consequences of alcohol and drug abuse in rural Alaska are well known. 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 one-half times that of non-Natives, and the incidence of fetal alcohol syndrome (FAS) among Alaska Natives is three times that of non-Natives. More than 97 percent of crimes committed by Alaska Natives are committed under the influence of alcohol or drugs.
- All available vehicles should be mobilized to combat this problem, tribal as well as state and federal.
- Existing federal and state laws and programs are not sufficient to combat this problem effectively. Although existing state local option laws enable villages to ban or restrict importation of alcohol, these laws and state drug laws are enforced and prosecuted primarily from regional centers. Defendants are tried in state courts, away from the villages. Penalties for initial offenses are neither certain nor severe. For youthful offenders, serious intervention is needed when the youth first gets into trouble, yet under the state system an individual can accumulate any number of minor offenses before serious attention is paid by the criminal justice system. Geographic and cost constraints will always prevent the state from having magistrates, troopers, prosecutors, etc., anywhere but in the largest communities. Second-class city governments, where they exist, also operate under too many constraints to effectively address alcohol and substance abuse. Most second-class city governments in villages have little or no tax base. State law does not provide for municipal courts, and small cities rarely enforce municipal criminal ordinances because of the costs associated with prosecuting cases in distant state courts.

- Tribal courts can intervene earlier and more effectively, dealing with offenders in their own communities. The best solutions to community alcohol problems are those which begin within the community. Tribal governments are in place, and are the only government in many villages. They are better situated to enforce and adjudicate minor offenses in remote communities than the state. Tribal courts are already dealing with juvenile offenses and child protection cases, many of which entail alcohol problems which the tribal courts need to deal with.
- There is state law precedent for extending authority to village councils in unincorporated communities. Village councils have authority to impose and enforce dog control ordinances within a 20-mile radius of the village, AS 03.55.030. The state local option law, AS 04.11.508, uses a five-mile radius as the jurisdictional perimeter of villages without city governments.
- There is historical precedent for federal and tribal regulation of alcohol within Alaska. In the late 1800s, Congress, in response to court rulings that Alaska was not "Indian country," acted legislatively to designate Alaska as "Indian country" for the purpose of the then-federal Indian liquor laws. In the early 1980s, the Secretary of the Interior published tribal alcohol ordinances for three Alaska villages (Northway, Minto, and Chalkyitsik).
- This proposal adds federal enforcement authority to the tools to combat substance abuse in Alaska's Native Villages as well as other rural areas.
- Portions of this are loosely patterned after language considered in the original enactment of the legislation creating the Rural Justice Commission.

Impact Statement:

Federal legislation confirming that Alaska Native tribes have concurrent jurisdiction over alcohol and drug related offenses would enable village Alaska to address substance abuse locally. It would help fill serious gaps in state services, without divesting the state of jurisdiction or authority.

Extending to Alaska's tribes the clear authority to enforce alcohol and drug laws is a logical and necessary step toward effectively addressing the substance abuse problem in rural Alaska.

Appendix H

*Attachments for Recommendation
Related to the Definition of
Alcohol Manufacture
Forfeiture
Quantity Consistency*

Attachment 1: Definition of Alcohol Manufacture

The suggested statutory changes are as follows.

Put in AS 04.21.080(b) alcohol definition section: **“manufacture” of alcoholic beverages means to use the fermentation process with natural or artificial sugar and yeast, or the distillation process, to create alcoholic content.**

The statutes currently do not have a definition for “manufacture” as it relates to alcohol, but below are the definitions of Title 4 “alcoholic beverage” and Title 11.71 drug cases “manufacture”.

AS 04.21.080(b)(1) “alcoholic beverage” means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, “alcoholic beverage” means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

AS 11.71.900(13) “manufacture”

A. means the production, preparation, propagation, compounding, conversion, growing, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; however, the growing of marijuana for personal use is not manufacturing;

B. includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner’s administering or dispensing of a controlled substance in the course of the practitioner’s professional practice; or

(ii) by a practitioner, or by the practitioner’s authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale....

Attachment 2: Forfeiture

Below are the current provisions of the forfeiture statute as applies to alcohol offenses. Added in **bold** are the suggested statutory changes.

AS 04.16.220

(a) The following are subject to forfeiture:

(1) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this State in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the State and sold to persons not licensed under this chapter in violation of AS 04.16.170(b); **alcoholic beverages transported in violation of AS 04.16.125.**

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, barter or exchange of alcoholic beverages for goods and services in this State in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060; materials and equipment used in the sale or offering for sale of an alcoholic beverage in an area in violation of a local option adopted under AS 04.11.491;

(3) aircraft, vehicles, or vessels used to transport, or facilitate the transportation of

(A) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this State in violation of AS 04.11.010;