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ALASKA FEDERATION OF NATIVES, INC.

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April 6, 1986

Representative John Binkley
Chairman, Joint Committee
on Local Option
Pouch V
Juneau, Alaska 99801

Dear Representative Binkley:

Enclosed is a copy of the recent Bush Justice report which was developed from the proceedings of the 4th AFN Bush Justice Conference, held November 20-22, 1985.

I would like to bring to your attention the section on alcohol abuse and the fact that this issue was a common thread discussed throughout the three days of the conference.

If we can provide additional information, please let us know.

Sincerely,

Julie E. Kitka
Special Assistant
to the President

BUSH JUSTICE

POLICING — COURTS — CORRECTIONS

**A Report on the
4th AFN Bush Justice Conference
November 20 — 22, 1985
Bethel, Alaska**

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OVERVIEW

The fourth Bush Justice Conference of the Alaska Federation of Natives was held in Bethel, November 20-22, 1985.

It's purpose was to identify ways in which rural communities can become more involved in Alaska's child welfare, judicial and correctional systems - all of which heavily impact Native people.

The planning process for the conference spanned almost a year. It began with discussions among individuals who work with Native inmates to help them assert their rights and organize support groups within correctional institutions.

These discussions resulted in a resolution, adopted by the 1984 AFN Convention, requesting that a commission be established to look at the status of Alaska Natives in the correctional and judicial systems.

The request for a commission was presented to Governor Sheffield, Chief Justice Rabinowitz, the Human Rights Commission, and members of the legislature. AFN coordinated their activities with the Native American Rights Fund, Alaska Legal Services and the University of Alaska, Justice Center. NARF set up meetings in almost every correctional institution to talk to Native inmates about concerns. In lieu of a commission, state funding for the Bush Justice conference was approved.

The Conference was held in Bethel, at the invitation of the Association of Village Council Presidents (AVCP), the regional non-profit Native association which represents the 56 villages of that region. One reason for this request was a disturbing statistic: nearly 50% of all Alaska Native inmates were born in the Bethel region.

But there is an overall, statewide statistic which is even more disquieting: 35% of the 2,200 people locked up in the State correctional centers are Natives. When you add in those held in municipal government facilities, the total may be more than 40%.

Since Natives constitute slightly more than 15% of the State's total population, their percentage of the prison population is 2-1/2 times their proportion of the general population.

Current forecasts indicate the prison population will double by 1990. If current figures hold, Native inmates may number over 1,500 in 1990, and number over 3,000 in 1994.

It may be that incarceration is too often a first, rather than a last resort of our justice system when it deals with Native offenders. A number of agencies are now studying how the State's presumptive sentencing rules may contribute to the problem.

In addition, problems of alcohol abuse and family disruption, the absence of a formal mechanism for village-level administration of justice, and an ignorance of Native values in laws and regulations made by non-Natives contribute to the abnormally high percentage of Native inmates.

In one evening session, Bethel Superior Court Judge Christopher Cooke noted that the court system's standard pre-sentence report forms, which help judges make incarceration and probation decisions, request information about employment and education. But it provides a judge with no information on whether the offender puts up fish each summer, chops wood and hauls water for elders, or in other ways is a useful, productive member of the community.

In short, our system of justice, in applying perfectly valid urban, non-Native standards of conduct to village people, inevitably tends to push the latter toward jail - for longer periods of time.

This report is intended to broadly outline bush justice issues raised and discussed at the Conference. It will be circulated to village councils and Native organizations, State agencies and legislators, with the hope that responsible individuals will seriously consider these issues and work together for a positive resolution of the concerns.

SYNOPSIS
OF CONFERENCE PROCEEDINGS

DAY 1 -- WEDNESDAY, NOVEMBER 20, 1985

The Conference's initial focus was on treatment of Native inmates within the corrections system. Via videotape, Pat Pletnikoff, an inmate at Wildwood Correctional Center gave a detailed rundown of Native inmate concerns, including perceived unequal treatment in sentencing, post-conviction relief, furloughs, work releases, disciplinary actions and parole decisions. Pletnikoff stressed that cultural groups in the prisons represent a self-rehabilitation effort and should be strengthened and supported.

Former inmates Sammy Lamabull, and Robert Rotzler charged that corrections officers often exhibit discriminatory or culturally insensitive behavior, and asked that more support be given to efforts to create culture groups in the institutions.

Mr. Lamabull asked for a clearinghouse to help volunteers accomplish their goals. Director of Statewide Programs for Corrections, Susan Humphrey-Barnett, agreed that it would be a good idea to have a clearinghouse to orient volunteers working with Native offenders similar to the one which now exists for religious volunteers.

Mr. Lamabull also pointed out that many inmates have serious alcohol abuse problems and urged that relevant treatment programs be made available to inmates. Commissioner of Corrections, Roger Endell, addressed some of the complaints inmates raised by saying there have been many changes in the past several years, including dismissal of some employees. Other officials presented information about cultural and rehabilitation programs in institutions ranging from potlaches and cultural dance events in Fairbanks to subsistence fishing and counseling with village elders at Bethel's Yukon-Kuskokwim Correctional Center.

AFTERNOON SESSION

The afternoon began with a teleconference which linked inmates from Kenai, Fairbanks, Palmer and Bethel, into a discussion on Native inmate concerns. Inmates confronted the Commissioner with what they see as the low level of support for culture clubs and a continuing problem of cultural insensitivity among employees despite changes in Corrections policy.

INDIAN CHILD WELFARE ACT

Discussion on implementation of the Indian Child Welfare Act in Alaska began about mid-afternoon with a review of the 1978 law Congress passed, which recognized the jurisdiction and responsibility of tribal governments and tribal courts in child welfare cases. Maureen Pie of Maniilaq and Mike Walleri of Tanana Chiefs Conference discussed what progress has been made in asserting Native rights under ICWA. Mr. Walleri expressed concern that there are people responsible for implementing the ICWA who deny tribal rights in child welfare cases.

Rebecca Snow of the Attorney General's office said the system needs to hear from tribal governments about who they consider members and whether or not they want to participate in a case. She urged tribal governments to intervene in every child custody case - not to do battle, but to educate judges and others about the ICWA.

DAY 2, THURSDAY, NOVEMBER 21, 1985

Discussion continued on the State's policy on implementation of the ICWA in Alaska. Sandra Borbridge of the Governor's office and Connie Sipe, Deputy Commissioner of Health and Social Services agreed that there is no firm state policy on implementing ICWA and that the state's quandry over whether to recognize tribal governments hinders the working relationship between the state agencies and tribal governments. But, they urged that everyone continue to work on placements and cooperative agreements on handling cases while the larger questions are sorted out.

ACCESS TO JUDICIAL SERVICES

Later in the morning, Nora Guinn and Stephen Conn led an informal discussion on ways of including village concerns and leaders in the judicial process. Nora Guinn, former District Court judge in Bethel, used examples from her experience in the early 70's. Conn, a professor at the University of Alaska, Anchorage School of Justice pointed out that a 1978 study concluded that Alaska has the most centralized state judicial system in the nation. Citizen access to judicial services becomes much more important in a highly centralized system.

General discussion followed about the need for education of Alaska Native people on how courts and other aspects of that system work. The State needs to implement mechanisms to increase Native and village participation in the justice system - things

like consulting village leaders before sentencing of offenders, and enlisting their help in developing community service alternatives to prison terms.

POLICING IN RURAL ALASKA

Deputy Commissioner Jim Vaden, Department of Public Safety gave an overview of policing in rural Alaska. Several policing models were discussed including the North Slope Borough Model, the State Troopers and the Village Public Safety Officer Program. The Village Public Safety Officer Program, begun in 1979, was the main focus of discussion. Lieutenant Glenn Godfrey explained the structure of the program, which employs 116 VPSOs with Native non-profit corporations around the state. Due to budget cuts, oversight troopers, who give support and training to VPSOs in the field have been cut in half, from 14 to 7. Experienced VPSOs are now being used to help train others.

Howard Amos of Mekoryuk talked about his position as a VPSO. He identified stress and how a VPSO reacts to stress as a serious concern the State should look into. Examples of situations which may lead a VPSO to "burn-out" due to stress are: being the only VPSO in your village on-call 24 hours per day, arresting friends and in some villages with no cells having to keep drunks in your home until they sober up.

Another problem that was identified dealt with the lack of resources to focus on lesser offenses - much of the policing activity only dealt with felony offenses.

Local Bethel people, having just done an exhaustive search for a missing man expressed anger that law enforcement officials were hesitant to assist them unless it could be proved that wrongdoing was involved.

THURSDAY AFTERNOON

Colonel Robert Henderson of the Fish and Wildlife Protection Service explained their role in the State Trooper system. One issue he brought up was the need to have better communication between Fish and Wildlife enforcement personnel and the people they serve.

ALASKA NATIVE RURAL JUVENILES

The problems of Alaska Native rural juveniles filled most of the afternoon discussion. Dave Parry of UAA presented research findings which show that many "problem children", (children with alcohol problems, children whose parents are alcoholics, children who run away from home or are habitually truant from school), may get removed from their parents' homes when they commit a minor offense, and then are institutionalized when the probation officer runs out of other ways to deal with their other problems. Research findings that 40 percent of institutionalized children in the State have never been adjudicated for an offense which would be a felony if committed by an adult.

Representatives from the Social Services Division of Tanana Chiefs Conference and Maniilaq Association talked about the need for helping and healing whole families and communities, and about the responsibility of village leaders and residents to see that juvenile problems are dealt with locally.

Many people, from Native Elders, to social workers, attorneys and probation officers spoke of the need for recreational and culture-strengthening programs for Native youth.

Several people urged the state to move forward with regionalization of social services and urged that Native non-profits contract to provide those services.

PEACEMAKING PANELS

Closing the day's activities, Ric Kilmer of the Northwest Intertribal Court System shared a slide show and talk about the operation of peacemaker panels on several reservations in Washington state. These volunteer community boards use methods based on cooperation, not competition, and on getting the conflicting parties to reach their own resolution agreement. The Board helps monitor whether agreements are working.

Kilmer mentioned that the boards work well for minor cases, such as vandalism, but don't work with serious problems such as domestic violence.

Problem boards operated in 3 villages of the Y-K Delta area in the late 70's but fell apart due to lack of funding.

Supervising Juvenile Probation Officer for the Bethel area, Jim Thomas said he thinks the problem boards are already in place as the village councils. It remains to make better use of them.

THURSDAY EVENING

A judge, prosecutor, public defender, probation officer, and others participated in an evening roundtable discussion on bush justice, using the Bethel region as an example. The consensus was that Natives confronted with the judicial system rarely understand its operation. Translators are often needed. Sometimes airfare to get to court costs far more than the fine for wrongdoing. The subject of presumptive sentencing was discussed. Presumptive sentencing, especially for first time offenders was not always appropriate in rural Alaska. It ties the hands of the judge and the local community who think another option would yield a more productive member of the community. Discussion continued about how village people can participate more fully in the process. Having more trials in the villages was one suggestion.

DAY 3, FRIDAY, NOVEMBER 22, 1985

POSITIVE MODELS

The last day of the conference was spent discussing positive programs which are being developed to solve problems.

The importance of addressing the needs of Native women and children who are the victims of domestic violence was stressed. Communities need to take a more active role supporting and protecting victims. Constructive ways of help was discussed by a representative of the village based Emmonak Women's Shelter and the regional based Tundra Women's Coalition in Bethel.

Activities supported by the Council on Domestic Violence was also discussed.

John Schaeffer, President of NANA Corporation outlined plans for an alternative rehabilitation program for Inupiaq inmates. The social rehabilitation program will begin with non-violent, non-sexual offenders at a camp near Kotzebue where elders will teach them Inupiaq values and subsistence skills.

Eddie Gardner, Chief of Native Programs for the Ministry of Justice in Canada described the Canadian Court Worker Program which was permanently established in 1978. Native organizations set the standards for court workers who inform accused Natives of their rights and give the judge information about cultural norms. The program has been viewed as an effective mechanism to give Native individuals a real understanding of the system which is charging them with an offense.

Bob Hughes of the U.S. Department of Justice, Community Relations Service explained their approach to non-legal settlement of disputes.

Kimberley Martis, Rural Coordinator, Alaska Human Rights Commission explained the Commission's purpose and urged rural people who suspect discrimination in denial of state services to contact the Commission.

Some difficult topics were also raised. Nora Guinn made some moving comments about the need to deal with the underlying problem of alcohol abuse. John Schaeffer said elders of the NANA region view alcohol abuse as itself a symptom of a lack of human values which must be addressed.

Laurie Otto, a local attorney spoke of the idea of amending the law to allow a ban on the possession of alcohol, something which would make enforcement of village decisions a little easier.

Lou Ann Cutler on behalf of Representative Al Adams spoke of the reality of declining state revenues and the need for hard choices about what to fund. Village people must clearly identify their priorities.

The conference ended with general discussion about ways the State can work better with local communities. During that discussion, Commissioner Roger Endell committed himself to 5 points of action:

- 1) Opposing capital punishment, if and when the State changed its current laws;
- 2) Advocating for revision of sentencing provisions of the criminal code;
- 3) Fighting discriminatory hiring and promotion within DOC;
- 4) Setting aside funds for contracts for diversionary programs to keep minor offenders in their communities;
- 5) Entering into agreements with local rural communities with respect to parole and diversion.

The conference was intended to get a "snapshot" of the status of Alaska Natives in the state's justice system - to that degree it was very successful.

PROBLEMS AND RECOMMENDATIONS

NATIVE INMATE CONCERNS

"Rehabilitation for Alaska Natives is real hard to acquire (within Alaska's correctional system). You have to make it."

-Robert Rotzler
Former Inmate

"As Alaska Natives, we didn't choose our social origin, but it appears we are persecuted for it."

-Pat Pletnikoff
Inmate

STATEMENT OF THE PROBLEM

Thirty-five percent of the people in our state prisons are Alaska Natives. Perhaps forty percent of all people locked in cells, including both state prisons and municipal jails, are Natives. Only fifteen percent of our state's population is Native.

This alarming disparity is evidence that something is wrong. Our criminal justice system doesn't deal fairly with Alaska Natives. Many of the solutions to the problem lie outside the justice system in the social systems which should correct inappropriate behavior before it becomes criminal. Villages access to and control of judicial services, the ability of Native communities to keep their children, and greater village involvement with inmate rehabilitation programs are also important parts to a whole solution. But, as important as they are, they are not the only issues we must confront.

It must also be recognized that there are mechanisms of unintentional discrimination which contribute to excessive numbers of Native inmates in our institutions. Many of these mechanisms stem from a lack of judicial resources in rural Alaska or the ethnocentricity of our justice system. The result is a tendency of the system to put Native offenders in prison rather than on probation. Once in prison, the behavior norms of an alien culture determine their freedom. Often, their culturally appropriate behavior, through misunderstanding and ignorance is interpreted negatively. Native inmates feel they are at a disadvantage in exercising their spiritual beliefs and in the points systems for assessing behavior.

RECOMMENDATIONS

The recommendations section on Native inmate concerns are listed within two categories: 1) sentencing; and 2) culturally relevant rehabilitation.

Sentencing

- * Chaney criteria - rehabilitation points should be followed.
- * Implement the recommendations of the 1980 report by the Advisory Committee on Minority Judicial Sentencing, which include 1) sentencing practices in minority cases; 2) pre-sentence preparation by parole officers; and 3) representation of accused by the Public Defender's Office.
- * Legislative changes must be made in the presumptive sentencing laws to correct the excessive severity and to provide judge's discretion to tailor the sentence to fit the particular situation. The scope of these changes must be primarily focused on first offenders. Two areas should be seriously considered: 1) alternative rehabilitative programs should be used, rather than institutionalization, in many instances; and 2) parole provisions should be changed to allow greater rehabilitation success and community adjustment after release.
- * Pre-sentence report forms should be revised to include culturally relevant experience. Currently, forms ask typical questions about employment and education level, and other dominant society indicators of ability to survive outside prison and contribute to their community. Information should be requested on the form to elicit whether the individual has been a useful member of their community and how - as a subsistence hunter, fisherman, cutting firewood or hauling ice for elders, etc.
- * Statewide policy should clearly encourage probation officers and judges to work with village councils to put together pre-sentence reports.
- * The matrix system which tallies observed behavior in prison and determines eligibility for parole should be revised to work for sentences shorter than 4 years, and should be reviewed and revised to consider cultural factors. The current system of scoring inmates based on charge convicted of is used upon entering the system and remains unchanged by good behavior, or participation in programs.

* Diversion programs should be developed to allow more Native inmates to serve sentences by providing community service in their village.

* DOC should establish a process that will examine sentencing practices which prohibit paroled individuals from returning to their home villages. The concern here is that probation officers may make flawed inquiries in communities regarding the desirability of returning parolees to their home villages. A number of suicides by such paroled individuals have occurred in recent years and were uncovered in the Alaska Native Health Board's investigation into suicides in rural Alaska.

CULTURALLY RELEVANT REHABILITATION

* Native culture clubs in each institution should be supported by the Administration to help inmates effect their own rehabilitation and support each other's personal development and understanding of the judicial system. Foster attitude with Native inmates of self-help and helping one another.

* Assess the feasibility of Native peer counseling in the correctional facilities.

* Create a clearinghouse for cultural volunteers who want to come into the prisons to work with Native inmates which will facilitate their work by welcoming them and orienting them to prison procedure.

* Conduct a feasibility study for a Native owned and/or operated facility to develop a culturally relevant rehabilitation program.

* Actively pursue a Swift-Bird concept of rehabilitation, which first rebuilds cultural identity, values, and self-esteem, and then prepares inmate for the society they will re-enter through skill development.

* DOC should work with Native non-profit regional associations on providing for post-conviction relief, furloughs, and work releases for inmates.

* The University of Alaska, Anchorage, School of Justice should focus their expertise on bush justice concerns, in particular Native offender issues. Close coordination with Native non-profit regional associations should be encouraged.

- * Create a Deputy Commissioner of Corrections position to be responsible for Native programs and facilitating needed community involvement.

RESOURCES

- * Traditional councils, tribal governments, village city councils, non-profit and profit village and regional corporations and Native associations.
- * Native volunteers willing to bring cultural programs to prison inmates.
- * Native inmates, and the relatively new Native cultural and spiritual clubs within each correctional facility.
- * UAA School of Justice.
- * 1980 Report from The Advisory Committee on Minority Judicial Sentencing.
- * Reports on the following projects: Swift-Bird concept of cultural rehabilitation, Baffin Island Correctional Center.
- * Information pulled together to support the formation of the Social Rehabilitation Program in the Kotzebue area.
- * DOC program funds which can be used for innovative rehabilitative programs.

NATIVE HIRE IN JUSTICE SYSTEM

"You don't see any brown faces in the justice system - from the time you get picked up to the day you get out."

-Sammy Lamabull
Former Inmate

STATEMENT OF THE PROBLEM

Cultural differences can lead to serious miscommunication and to unnecessary conflicts. Misinterpretation by a State correctional officer of an individual Alaska Native's behavior, which may be culturally appropriate behavior, may cause unintentional discrimination in evaluation of an inmate's progress in developing socially appropriate behavior. Aside from new correctional facilities in Bethel and Nome, Native inmates are rarely supervised in prison or on probation by someone of their own culture.

RECOMMENDATIONS

- * DOC should be monitored to ensure that they do follow through and change the written test for correctional officers because it has been held to discriminate against Natives. Other policies and procedures should be reviewed to ensure that cultural bias are reduced.
- * DOC should identify both current and potential barriers to the hiring of Alaska Natives by comparing current and proposed classification descriptions and examining recruitment processes and hiring practices which mitigate against the hiring of Alaska Natives as State personnel.
- * DOC should identify the impact of Departmental hiring and promotion policies on the Native prison population. Key job categories in the classification and rehabilitative processes which involve close communication between staff and inmates should be included in the review and the number of Natives employed in these job categories.
- * DOC should work with Native groups and organizations in recruiting Natives for identified jobs in the correctional system.
- * The University of Alaska should continue adequate financial and institutional support for the Minorities and Justice Careers program in Anchorage.

* The state should consider implementing a Native Court Worker program similar to the one operating in Canada, where Native organizations set the standards and hire respected community members who will inform accused Natives of their rights, and inform judges of cultural norms.

RESOURCES

- * Native Regional Non-Profit Associations
- * Native corporation talent banks
- * University of Alaska, Anchorage, Justice Center
- * Canada's Native Court Worker Program

INDIAN CHILD WELFARE ACT

"A lot of times, the state wouldn't take children into custody if the community would get involved and work with families that are being abused and neglected. Let them know you care."

Bea Mills
Maniilaq Social Worker

"The idea of tribes making the decisions and cutting out the middleman makes a lot of sense as a practical matter."

Mike Walleri
Tanana Chiefs Conference

"I think a village based system would be the best possible system... (but) The Department of Health and Social Services cannot, by itself say we will make arrangements with tribes."

Connie Sipe
Deputy Commissioner, DHSS

STATEMENT OF THE PROBLEM

The U. S. Congress in the provisions of the 1978 Indian Child Welfare Act, clearly acknowledged the jurisdiction and responsibility of tribal governments to decide child welfare cases, and arrange for tribal foster care for children in need of such care. But, many village councils feel they are hindered from exercising their jurisdiction over child protection and placement by the state's reluctance to recognize the legitimate authority of Native councils.

Notification of case developments, willingness of social workers to cooperate with village councils, and general knowledge of the ICWA vary widely across the state. This variance within social service agencies, and the state courts (who make decisions about custody of Native children) make it very difficult for communities to take care of children in need. State officials agree that a lack of state policy on implementing the ICWA makes it difficult to work with Native councils on these crucial matters.

Native parents, extended family members, and Native councils' ability to participate in this process is further hindered by lack of funding for litigation. Approximately 90% of the civil litigation between Alaska Natives and the state involve child custody cases.

The itinerant system of social work, the centralized court system, and other factors make it difficult for village elders and others with actual knowledge about a child's circumstances to participate in finding the best solution or home for a child in need.

Some leaders charge there is a continuing attitude of some state officials that Native councils are incapable of knowing what is best for children of their communities.

In addition there exists a serious lack of Native foster homes and support for Native families willing to care for children in need.

RECOMMENDATIONS

- * The state should develop a comprehensive policy implementing the Indian Child Welfare Act in Alaska with Native village councils. This policy should include ICWA Section 109 agreements.

- * Native councils should take an active stance, intervening in every child welfare case as an interested party or indicating they have no interest. They should evaluate the option of establishing a tribal court to exercise their jurisdiction in child welfare cases.

- * DHSS and the Court System must improve the notification procedures to provide for consistent information and notices to Native councils of any new hearing in child custody cases.

- * The current authority to negotiate placement agreements to avoid taking child custody cases to court should be reviewed and expanded.

- * State social workers and others dealing with Native children should receive constant cultural training. The wisdom of village elders should be used more often in searching for solutions for a child.

- * Improve social services intake procedures so that the fact of Native ancestry and the existence of extended family members of a child in need are known right away.

- * More Native group homes should be developed, especially in urban areas, where children separated from their families need an environment which reinforces their cultural identity.

* The state should develop an effective mechanism to recruit Native foster homes as a top priority. Village councils and Native organizations should be actively involved.

* Consider reinstating the Alaska Native Child Advocacy Board (ANCAB) which would involve getting access to the teleconferencing network, denial of which led to suspension of ANCAB activity.

RESOURCES

* Village councils and non-profit Native regional associations

* The social services and legal services sections of non-profit corporations which have been developing village based social services delivery and providing support for village council intervention in child custody cases. (In particular, Maniilaq and Tanana Chiefs Conference).

* Native families willing to provide foster care.

ALASKA NATIVE JUVENILES

"Prevention and community based programs are the only way....progress will be made."

**- Jim Thomas, Bethel
Supervising Juvenile
Probation Officer**

STATEMENT OF THE PROBLEM

As in the adult prison population, Native children make up a disproportionate number of those held in juvenile correction facilities around the state. Forty percent of the children in the Nome, Fairbanks, and McLaughlin centers are Alaska Natives, while only thirty percent of the approximately 4500 of the juveniles getting into trouble each year, and an estimated 20 to 25 percent of the kids brought to court are Native.

Most of the offenses juvenile offenders commit are non-violent ones. Of 6500 incidents in one recent year, only 500 involved violent crimes.

Research findings presented at the Conference showed that many "problem children," (children with alcohol problems, children whose parents are alcoholics, children who run away from home or are habitually truant from school), may get removed from their parents' homes when they commit a minor offense, and then are institutionalized when the probation officer runs out other ways to deal with their other problems. 40% of institutionalized children in the State have never been adjudicated for an offense which would be a felony if committed by an adult.

RECOMMENDATIONS

* "Problem Children" must be dealt with at the local level. Consequences for the minor offender must be related to community service. Members of the community, including the village council should take an active interest in the child and responsibility for his well-being.

* Foster care and Native group homes must be developed as an alternative to placement in detention institutions for most minor offenders.

* Village councils, when confronted with the State's resources and power, should assert their own interest in caring for and treating their own children. The State does not always know what is best for the child or community.

* Village councils must reject automatic transfer of serious cases to adult court.

* Native regional non-profit associations and villages should help the State evaluate the use of State funds for juvenile correctional centers, group homes and other programs Statewide.

* Village based approaches and initiatives for treating family and community disruption must be a priority to meet the real service needs of families.

* Evaluate the establishment and operation of family treatment centers.

* Support the development of village parents committee, which make decisions on some juvenile matters and provide help for others on developing parenting skills. An example would be the efforts of the village of Selawik.

* The State should exercise strict controls to decrease the number of children put into detention institutions.

* Programs should be developed for youth which will bring them into contact with elders and which help them develop cultural identity, values and skills.

RESOURCES

* Village elders and the village council.

* Probation officers willing to work on alternatives to institutionalization, and ways to divert village children out of the juvenile justice system.

* Model programs for treating family and community disruption (ie. Maniilaq and Tanana Chiefs Conference, Social Service Program).

ACCESS TO STATE JUDICIAL SERVICES

"We've tried magistrates, resolution committees, sending judges to villages...We are still looking for a system that people can more fully support."

- Spud Williams
Tanana Chiefs Conference

"Most communities view it as a natural expectation to have a system of justice operating in their community on a daily basis. In Alaska, development of the legal system seems to have stopped at town lines. If you want American style justice, you must come to town."

- Steve Conn
UAA Professor
School of Justice

"Natives aren't operating it, they're the ones who are being operated on."

- Christopher Cooke
Bethel Superior Court Judge

"If you don't involve the people, then you're not providing a service."

- Nora Guinn
Former District Court Judge
Yupik Elder

STATEMENT OF THE PROBLEM

Though greater village participation in the judicial process has been recommended since the first Bush Justice Conference, 14 years ago, relatively little progress has been made.

A 1978 study concluded that Alaska has the most centralized judicial system in the Nation - a centralized service for a wide-flung population. Progress has brought a judge, prosecutors, public defenders, and a whole range of judicial services to Bethel. Other regional centers, like Dillingham, still rely on a traveling judge from urban Alaska. Villages are physically separated, culturally outside, and in other ways isolated from the process. The result of this continued lack of access to and participation in the judicial process means fewer problems are handled at home.

RECOMMENDATIONS

- * The Department of Education and local school districts should develop a model curriculum on the justice system, especially for rural areas.
- * The University of Alaska should make a commitment to support the Minority Justice Careers program at the University of Alaska, Anchorage to provide expanded opportunities for rural and Alaska Native students to study justice careers.
- * The Court System should develop a plan to increase the recruitment of Alaska Natives for jobs in the justice system. The plan should be developed with Alaska Native input and should include 1) measurable goals; 2) definite timeliness; and 3) assigned responsibility.
- * Village councils should evaluate the possibility of setting up informal and formal justice systems in their village. For example: Resolution committees, magistrates, tribal or municipal courts.
- * Implement Magistrate's Advisory Committee recommendations of 1979. They included, among other things, support for village council supervision of probation, the development of circuit court judges who would travel to rural communities on a regular basis, and greater use of teleconferencing for arraignments, bail hearings and other minor matters.

RESOURCES

- * Village councils and regional non-profit Native associations
- * Village magistrates
- * University of Alaska, Anchorage - Justice Center
- * Alaska Judicial Council

POLICING IN RURAL ALASKA -VPSO PROGRAM

"VPSOs will only be as good as the councils who support them are."

- Yvonne Zharoff
KANA

"I feel that my community is a heck of a lot safer than it was 10 years ago."

- Howard Amos
VPSO, Mekoryuk

STATEMENT OF THE PROBLEM

The presence of 116 Village Public Safety Officers around the state has improved the safety of many of our villages, and has improved communication between Native village residents and state law enforcement officers. Due to budget cuts, oversight troopers, who give support and training to VPSOs in the field have been cut in half, from 14 to 7. The program does suffer from high turnover caused by burnout, the reduction of trooper support personnel, inadequate State support, especially in villages with no holding facility, and lack support to VPSOs by some village councils.

RECOMMENDATIONS

- * Department of Public Safety should continue to give strong support for the VPSO Program. Evaluations of the program should include maximum Alaska Native input from both the villages and the regional non-profit Native associations.
- * Department of Public Safety should actively begin "career ladders" for VPSO's, including expanded training and career mobility.
- * Include stress management as an on-going training to VPSO's.
- * Continue to use experienced VPSOs as support and training officers for new recruits.
- * Department of Public Safety should increase communications with village councils, especially on the

range of activities the VPSO can be involved in at the village level. Increased emphasis on public safety should be encouraged.

* Department of Public Safety should make arrangements for holding facilities for each VPSO. A VPSO should not have to take individuals into his custody and house them in his own home, (ie) example given by Mekoryuk VPSO about holding an intoxicated person in his own home because of no State facility.

ALCOHOL ABUSE

"Alcohol is destroying us. It's destroying our leaders."

- Nora Guinn
Former District Court Judge
Yupik Elder

STATEMENT OF THE PROBLEM

Alcohol abuse is a community issue. Alcohol is involved in most crimes. Alcohol abuse is destroying many family relationships and tearing apart communities. The state's Local Option Law has helped some communities stem the flow of alcohol, but in too many, the community choice of banning importation and sale of liquor has not worked. Luggage and personal items cannot be searched without a warrant. It is nearly impossible to prove that someone drinking brought the liquor in. Communities want a change in the Local Option Law which would allow voters to make possession of alcohol a crime. This is not seen as a final solution to the problem of alcohol abuse, but rather as a way of sobering people up long enough to start dealing with the real issues behind that abuse.

In addition, the correctional facilities need better treatment programs for Native inmates who have abused alcohol. Native inmates must be assisted in their rehabilitation so that these people can return to their communities and be productive members.

RECOMMENDATIONS

- * Prevention methods should be a priority and should include teaching culturally sensitive parenting skills, community/village based prevention and public education.
- * The State should coordinate agency objectives, cross-training of village/community health aides.
- * Develop cultural groups and programs in the community to build the identity and value system which will help keep people from turning to alcohol.
- * Amend the Local Option Law to allow communities to ban possession of alcohol.
- * Provide culturally relevant alcohol rehabilitation programs for Native inmates.

RESOURCES

- * Village Councils and regional non-profit associations
- * Department of Corrections, statewide programs
- * State Office of Alcohol and Drug Abuse
- * Indian Health Service

AFN BUSH JUSTICE CONFERENCE

Wednesday, November 20

**8:00 AM Overview and Purpose of Conference. . . Spud Williams,
Chairman, AFN Human Resources Board**

**Address of Native Inmate Concerns . . . Walter Echo-Hawk,
Native American Rights Fund**

Panel Discussion - "Native Inmate Concerns"

**Topics: 1) Native Cultural Council Formation
2) Transfer Politics
3) Rehabilitation Programs
4) Alternative Institutions
5) Religious/Cultural Freedom**

**Panel Members: Robert Rotzler
Pat Pletnikoff (via tape)**

**Panel Discussion - "Inmate Concerns from the Perspective
of the Outside Community"**

**Panel Members: Lynda Craig, Walter Echo-Hawk,
Sam Lamebull**

**Department of Corrections Response and Concerns
Roger Endell, Commissioner, Department of Corrections**

**"Ideas for Improvement," Short summaries of Impressions
and Suggestions by Roger Endell, Pat Pletnikoff and Walter
Echo-Hawk**

12:00 Lunch Break

**Overview of the Afternoon Session. . . Gene Peltola,
President, AVCP**

"The Community Stake in Rehabilitation". . .Dennis Demmert

Presentation, Representative Kay Wallis

"National Perspective on the Indian Child Welfare Act"

**Topics to be included: Why the ICWA was passed
Legislative History
Aspects of the federal law which
are beneficial to Alaska villages/
community**

**Current State Policy on the Indian Welfare Act. . .
Rebecca Snow, Attorney Generals Office**

**Panel Discussion - "Working with the Indian Child Welfare
Act in Alaska"**

**Panel Members: Mike Smith, TCC; Maureen Pie, Maniilaq;
Rebecca Snow, AG Office**

**Open Discussion on the Indian Child Welfare Act
*Questions and Answers
*Areas for the State and communities
to work on**

5:00 Conference Recess

Thursday, November 21

8:30 AM Call to Order. . .Gordon Pullar, Kodiak Area Native Association

Announcements
Reivew of Agenda

Continuation of Indian Child Welfare Issues

Problems of Access to State Judicial Services from a Village Perspective. . .Nora Guinn, Steve Conn - U of A

Policing in Rural Alaska. . .Steve Edwards, Moderator

Topics: 1) VPSO Experience
2) North Slope Borough Experience
3) Other Models

Panel Members: Jim Vaden, Deputy Commissioner, Department of Public Safety; Glenn Godfrey, VPSO Program; John Marshall, Acting Director, Department of Public Safety, North Slope Borough; Gloria Simeon, VPSO Coordinator, AVCP; Howard Amos, VPSO Officer

12:00 Lunch Break

Fish & Game Enforcement. . .Colonel Robert Henderson, Department of Public Safety, Division of Fish & Game Enforcement

Panel Discussion - Alaska Native Rural Juveniles:
Emerging Issues. . .Steve Conn, Moderator

Panel Members: Dave Parry, U of A, Justice Center; Burt Hirsch, Attorney; Don Shircell, TCC; Connie Sipe, Assistant Commissioner, Department of Health & Social Services; Margaret Krause, Probation Officer, Fairbanks; Jack F. Trope, Staff Attorney, Association on American Indian Affairs

"Peacemaking Panels". . .Rick Kilmar, Tribal Prosecutor Northwest Intertribal Court System

5:00 Recess

Evening Activities

7 - 9PM Roundtable discussions on legal services and public defender issues, using the Bethel area as an example

Moderator: Mark Andrews, Alaska Legal Services, Bethel

Location: Kuskokwim Community College

Friday, November 22

8:30 AM Call to Order. . .Julie Kitka, AFN

Victim's Rights. . .Tundra Women's Coalition - Lorraine
Beaver, Counseling Advocate
Theckla Hootch
James Fisher, Department of Law

*Women's Shelters

*Safe Home Programs in the Villages

Presentation: State Human Rights Commission. . .
Kimberly Martis, Rural Coordinator

"Community Dispute Resolution". . .Robert Hughes,
Mediator, U.S. Department of Justice
Community Relations Service

"Social Rehabilitation Program Under Development in the
NANA Region. . .John Schaeffer, President, NANA

Presentation: Bethel Superior Court Judge Christopher Cooke

12:30 Lunch Break

"Canadian Court Worker Program". . .Eddie Gardner, Chief
of Native Programs, Minister of Justice, Ottawa,
Canada

Questions and Answers

"Status of Alaska Legal Services and Direct Services
to Rural Communities". . .Mark Andrews, ALSC, Bethel

"Shrinking State Resources and Bush Justice". . .Lou Ann
Cutler, on behalf of Representative Al Adams

"Amendment of the Local Option Law". . .Laurie Otto,
Private Attorney

"Planning for Rural Justice". . .Steve Edwards, University
of Alaska, Justice Center; Sandra Borbridge, Office of the
Governor; Don Bauermeister, Senior Staff Attorney, Alaska
Court System; Roger Endell, Commissioner, Department of
Corrections; James Fisher, Department of Law

"Working Relationships between the State and Communities". . . .
Sandra Borbridge, Office of the
Governor

Panel Members: Willie Kasayulie, Akiachak IRA, Tom Richards,
Association of Village Council Presidents;
Burt Hirsch, Attorney; Don Bauermeister,
Senior Staff Attorney, Alaska Court System;
Roger Endell, Commissioner, Department of
Corrections

Wrap-Up Summary

5:00 Adjourn

POSITION PAPER

ON

SPONSOR SUBSTITUTE FOR HOUSE BILL 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

Discussion

From a public health and public safety perspective the Department of Health and Social Services is entirely supportive of SSHB 700. Consistent with previous Alaska Judiciary findings in *Boehl vs. Saber Jet* and *Harrison vs. State of Alaska*, SSHB 700 makes note, under Legislative Findings, of the deleterious relationship between alcohol abuse and a variety of health and social ills. This Department, which too often provides services for the casualties of alcohol abuse, applauds the Joint Special Committee on Local Alcohol Options for the inclusion of this section in the bill.

This bill implements a process to ban possession of alcohol. To the maximum extent possible, SSHB 700 attempts to place the decision for adoption, responsibility, enforcement, and adjudication upon the local government unit. The Department is supportive of this approach because of the unique nature of individual communities in rural Alaska that are likely to be impacted by the passage of this bill. Even though past local option initiatives have generally produced healthier villages, a problem of enforcement does exist. The transfer of this responsibility from the State to local "community governing body", as outlined in section 4, will be most helpful in strengthening the process of local option. An argument may be advanced regarding an individual resident's right to possess alcohol in a dry area. With regard to alcohol in rural Alaska, it is the Department's position that the right of health and well-being of the community exceeds those rights of the individual. This right of the rural community to take an action to ensure its well-being and safety is clearly outlined by the Supreme Court in the *Harrison* case. The State was upheld, in part, because inadequate health and public safety responses are prevalent in rural Alaska to assist with the injuries that occur as a result of alcohol abuse. Furthermore, the problem of alcohol abuse in rural Alaska is of catastrophic proportions and requires a major community response.

The Department did commission a study recently by the Justice Center, University of Alaska/Anchorage, entitled *Feasibility Study on the Effects of Local Option Law on Local Communities*. A principle finding of this study is that the negative consequences of drinking have greatly decreased in villages that have banned importation. The study also indicated, however, that considerable frustration exists in villages if alcohol is imported undetected, since there presently is no legal remedy for this situation. SSHB 700 attempts to go one step further in the array of options available to a community by allowing ordinances to ban possession. A Village Public Safety Officer (VPSO) estimated a 25% decrease in the availability of alcohol in a village that banned importation. It is expected that if a village exercises its option to ban possession the availability of alcohol could be further decreased.

The Department recognizes passage of SSHB 700 will not be a panacea for all of the alcohol problems in rural Alaska but does view it as a vehicle or tool for further improvement of the present condition.

Position

The Department of Health and Social Services strongly supports SSHB 700. This legislation continues the Office of Alcoholism and Drug Abuse's past efforts in the prevention of alcohol abuse in rural Alaska by limiting availability. SSHB 700 gives rural Alaskans a method of fulfilling their apparently strong desire to improve the health and welfare of their communities.

Recommended by:

Matthew C. Felix
Matthew C. Felix
Coordinator
Office of Alcoholism/
Drug Abuse

Date:

4/4/86
.....

Approved by:

John R. Pugh
John R. Pugh
Commissioner
Department of Health
and Social Services

Date:

4/4/86
.....

Rural Alaska Community Action Program, Inc.

RESOLUTION # 85 - 22

ENTITLED: IN SUPPORT OF LOCAL OPTION #5

WHEREAS, alcohol continues to be the number one health problem in rural Alaska, and

WHEREAS, Local Option is an attempt to address the issue of alcohol in rural Alaska, and

WHEREAS, Option 4 of the Local Option Law forbids only the sale and importation of alcohol in communities adopting Local Option, and

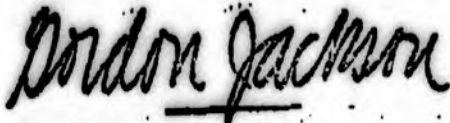
WHEREAS, Villages adopting Option 4 assumed that voting for Local Option meant voting "dry," and

WHEREAS, the 1985 Village Participation Conference voted in support of Option 5,

now, therefore, be it

RESOLVED: that the Rural CAP Board of Directors supports Villages in their efforts at reducing the effects of alcohol in their Villages and asks the Alaska State Legislature to pass legislation authorizing Option 5.

ADOPTED this 13th day of December, 1985 at the annual meeting of the Board of Directors in Anchorage, Alaska.



Gordon Jackson
President



Robert A. Lohr
Executive Director

AFN 1985 ANNUAL CONVENTION
RESOLUTION NO. 85-48

AMENDMENT OF THE LOCAL OPTION LAW

- WHEREAS, alcohol abuse has been and continues to be a significant social problem in the State of Alaska;
- WHEREAS, alcohol abuse has been one of the major causes in Alaska of family disunity, domestic violence, community violence, sexual abuse of children, and suicides, and as such presents a danger to both the health of individuals and the health of the community;
- WHEREAS, Alaska's local option law allows communities to ban the sale and importation of alcohol, but does not allow a ban on the possession of alcohol; and
- WHEREAS, it is virtually impossible to enforce a ban on the importation of alcohol, due to the difficulty of proving who the person was that actually brought the alcohol into the dry village; and
- WHEREAS, many innocent non-drinkers in villages which have chosen to ban the sale and importation of alcohol are being hurt and damaged by those who abuse alcohol; and
- WHEREAS, there is a compelling need for legislation which would allow communities to ban the possession of alcohol to protect the innocent victims of alcohol abuse; and
- WHEREAS, the need to protect innocent victims is so strong that it justifies the serious step of invading the privacy of individual adults in their own homes;

NOW THEREFORE BE IT RESOLVED that the Alaska Federation of Natives formally requests and recommends that the Alaska State Legislature amend the Local Option Law contained in Title 4 of the Alaska Statutes to allow communities to ban the possession of alcoholic beverages within the community after holding a local option election.

CONVENTION ACTION: PASSED



A RESOLUTION BY THE SIXTH ANNUAL
YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE

Bethel, Alaska
January 30, 31 and February 1, 1985

RESOLUTION 85-17

A RESOLUTION REQUESTING ~~REQUESTING~~ SHARED LIQUOR TAXES TO BE REFUNDED
TO AFFECTED COMMUNITIES.

WHEREAS, the current Shared Liquor Taxes are refunded to the liquor
retailer's communities; and

WHEREAS, the affected communities need the revenues from the Shared
Liquor Taxes to operate alcohol rehabilitation centers, police
departments and other services related to the problems of alcohol
abuse.

THEREFORE BE IT RESOLVED BY THE Y-K DELTA MAYORS that they request
the Fifteenth Alaska State Legislature to pass appropriate legislation
refunding revenues from Shared Liquor Taxes to affected communities
where liquor is being ordered.

PASSED and APPROVED BY THE SIXTH ANNUAL YUKON-KUSKOKWIM DELTA
MAYOR'S CONFERENCE This 1st day of February, 1985.

Luke Smith, President

Dave Cartier, Secretary



RECORDS CERTIFICATION



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

James O. Smith
Signature of Camera Operator

12/15/89
Date

SCOMM

#52:9

OUTLINE FOR
ALASKA STATE LEGISLATURE
JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS
CONSIDERING A LOCAL OPTION TO BAN POSSESSION OF ALCOHOL

- I. INTRODUCTION - Considering that the Alaska Supreme Court in Ravin v. State, 537 P.2d 497 (Alaska 1975) has held a complete ban on possession of marijuana in the home to be unconstitutional under Alaska's constitutional right to privacy (Art. 1, sec. 22), any ban on possession of alcohol could suffer the same fate. The way to prevent that result is to convince the court of the danger inherent in the consumption of alcohol, particularly in certain areas of the state, and that a decision by a majority of voters to protect themselves from that danger outweighs any single individual's right to private possession of alcohol.

Because a ban on possession more directly affects consumption of alcohol in the home than the existing option of a ban on sale and importation, special emphasis needs to be placed on the danger presented as a result of possession and consumption of alcohol in the home. The following outline will provide a guide on how to establish such a record, point out the issues which need to be addressed, and point out the problems which will inevitably be encountered. The outline necessarily focuses on the issue of possession in the home.

- II. PUBLIC HEARINGS - One of the best methods of establishing a credible factual record is to hold public hearings where expert testimony can be presented and where members of the community can testify to their personal experiences and their recommendations. The following basic considerations should be taken into account before the public hearing process is commenced:
- A. STANDARD OF PROOF - The Supreme Court in Ravin established a high standard of review in deciding whether to validate the ban on the possession of marijuana. It would be advisable for the legislature to keep in mind that same standard in its hearings. The standard of review for a ban on alcohol possession would probably seek to determine (1) whether there is a proper state interest in banning alcohol possession; and (2) whether the means chosen bear a close and

substantial (not merely reasonable) relationship to the ends sought to be achieved by the legislature. Cf., Ravin, 537 P.2d at 498.

As to the first question, whether there is a valid state interest in banning possession, there must be evidence of the harmful effects of alcohol, particularly in rural Alaska where most local option elections are held. This is the easiest hurdle to overcome.

The second question, whether the ends justify the means, is more difficult. The ends (the legislative purpose) is to protect the individual and the public. The means chosen to carry out this legislative purpose would permit the voters of each community to impose upon themselves a ban on possession of alcohol, even within the home. There must be evidence (1) that current state efforts, including the present local option scheme which permits possession, are not doing enough to protect the public; and (2) that even small amounts of alcohol in the home can have harmful effects. The legislature should take the approach that each community should be the sole judge of whether any expectation of privacy in possession of alcohol is one that their society is prepared to recognize as reasonable. In other words, the balance between one person's right to possess and consume alcohol and the public's right to safety and security should be made on a village-by-village basis by the voters in each village.

- B. TYPE OF EVIDENCE DESIRED - In general, testimony should be gathered from persons such as law enforcement personnel, social workers, physicians, ministers, mental health counsellors, alcohol counsellors, and community and family members who have had experience with the social problems caused by alcohol. Special emphasis should be put on the consequences of alcohol in homes (even small amounts) and the belief that the present local option laws are not as effective as needed because of the possession of alcohol in homes. Some ideas follow.

1. Community members should testify about:

- a. Specific instances of alcohol-related violence in the home:
 - 1. domestic violence between spouses
 - 2. violence between family members in general

3. sexual abuse of minors in home
4. abuse and neglect of children in home
5. crimes committed in homes by non-family members

b. Specific instances of alcohol-related violence in the community:

1. murders
2. assaults
3. rapes
4. robberies
5. vandalism

c. Specific instances of burglaries in homes committed to obtain stored alcohol.

d. The effects of isolation on rural area residents' consumption of alcohol and the commission of violent acts; the feelings of frustration and anger created by having nowhere to go and nothing to do.

e. The close proximity of homes in the rural areas and the interdependence of the residents upon each other; the trust and interdependence that is violated when residents commit violent acts against each other. (Show pictures of the close proximity of homes and pictures of bullet holes in walls.)

f. The fact that existing laws which ban the sale and importation of alcohol do not work.

g. The fact that possession of even small amounts in the home causes problems; when alcohol is consumed, the drinking patterns are such that intoxication is almost inevitably the result.

h. The fact that possession in the home engenders a disrespect for the spirit and purpose behind the local option for a "dry" community. Possession now is a loophole not covered by the ban on sale and importation.

i. The fact that allowing possession in the home gives teenagers more access to alcohol--the group that is most likely to abuse alcohol and to commit alcohol-related violent acts and suicide.

2. Some witnesses and evidence to be considered:

- a. An authority on local option laws to testify to the fact that there was, in the beginning, a misconception amongst the villages that the local option prohibiting sale and importation of alcohol actually did prohibit possession, which could explain part of the immediate results felt after local option laws went into effect.
- b. Testimony by police, prosecutors, community members, to explain why existing local options are not enough. Explain that initial improvements stemmed from decreased importation and sale and also the misconception that there was a ban on "possession". Now that persons understand that importation/sale cases are very difficult to enforce and that "possession" alone of alcohol is not illegal, problems--violent crime, domestic violence, etc., have increased (if this is the case).
- c. Alaska State Troopers who can testify that the initial results of the 1980 local option laws in St. Mary's were the significant reduction of complaints of trespass, assault, minors consuming, vandalism, criminal mischief, and felony cases. (See Nome Nugget, June 18, 1981). Enter the newspaper article into the hearing record.
- d. A resident of Chevak, preferably the Chief of Police Michael Selvester, (if he is still there) who can testify to the fact that once Chevak banned "sale and importation" of alcohol in 1980, the number of alcohol-related crimes and disturbance reports in Chevak dropped significantly. Chevak was the first community in Alaska to vote for alcohol prohibition (100 to 12 vote). The number of alcohol related assaults and thefts decreased by roughly one-half. Alcohol-induced suicides also cut in half. (Nome Nugget, September 17, 1981). Enter the newspaper article into the hearing record.
- e. A representative from the State Division of Elections to testify as to the number of towns and villages that immediately went

ption laws were
any have gone "dry"
type of testimony
to be as "dry" as
soon as possible.
sire from the State Office on
Drug Abuse (SOADA) to testify to
Alaska statistics of alcohol
in children, rapes, sexual abuse of children, neglect
available). areas (if such statistics are
Representatives from the mental health and
social work community in to testify as to the
effects of alcohol in to rural violent acts
ties--how it is related to family members, children,
against and to mental health problems.
etc., and others who have worked in the bush areas
Physicians who have testified as to the alcohol-
and can testify as to the violent alcohol-
related injuries as to the violent alcohol-
should also provide pictures of corpses,
ounds and bruises, as a result of alcohol-
lated violence.
Police chiefs and VPSO's in the
es who can testify to the number of
related crimes, especially in the
Troopers who are assigned to
reas or have had significant
those areas, such as
Godfrey, head of the Village
Officer (VPSO) program.
was quoted in an April
Daily News article to
get (in the Bethel
t nature, generally
cohol related."
every homicide
ee to
ated." four a

3. "Other types of serious crimes--stabbing, rapes, shootings--are almost always committed in the company of liquor."
4. "We don't have very many of your violent crimes out here ... People don't take their frustrations out on other people, unless they've been drinking."

In addition have Lieutenant Godfrey show pictures of alcohol-related violent crime scenes, especially those which occurred in the home. Enter newspaper article into the hearing record.

- k. A resident of Elim familiar with the 1981 case of a man, Wilfred Murray, who murdered his wife and two children, and then killed himself. Alcohol was found to be involved and the incident occurred in the home. (See Nome Nugget, Thursday, May 28, 1981). Show pictures of murder scene. Admit 1981 newspaper article into evidence, as well as other articles since 1981 reporting similar cases.
- l. City leaders and spokespersons, such as the editor of the Nome Nugget, who wrote on May 28, 1981, a scathing editorial demanding that something be done to stop the alcohol-related crime. Admit 1981 editorial into evidence, as well as any other editorials and articles written on the subject since 1981. This type of testimony would demonstrate how strongly the communities feel about regulating alcohol, even to the point of banning its possession.
- m. Attorneys and legal aides who have dealt with the problem of alcohol and its effects on the community--district attorneys, public defenders, attorneys with Alaska Legal Services.
- n. Community members who can testify to how simple it is to make home brew, to the quantities in which it is produced, to the way in which it is consumed (binge-drinking), and to how potentially dangerous it can be. Have persons relate

their personal knowledge of instances where bad home brew was produced and where bad consequences resulted.

- o. Thomas D. Lonner Ph.D and/or J. Kenneth Duff M.S.W., authors of Village Alcohol Control and the Local Option Law--A Report to the Alaska State Legislature; June 24, 1983 from Center of Alcohol and Addiction Studies, School of Health Sciences, University of Alaska, Anchorage. Have their testimony include the following findings made in their report:

1. Villages see alcohol as a dangerous substance. Due to their cultural, social, and economic origins Alaska villages operate as very large family units. Their populations are so small, inter-related, and interdependent that they become vulnerable to the negative effects associated with excessive drinking, such as suicide, domestic violence, and loss of economic opportunity. Therefore, the alcohol-related social impacts severely impair family and community morale and perpetuate a cycle of negative events.
2. Many villages wanted totally "dry" communities--meaning the prohibition of "home brew" and the ability to exercise what we know as unconstitutional police powers (searches of luggage at airports, e.g., with no probable cause that banned alcohol was present). When villagers found that the 1980 local option laws did not ban possession, they were very disappointed and frustrated.
3. Consumption of alcohol is related to rising mortality rates.
4. Alcohol is almost always involved in personal injury, property damage, break-up of families, wife abuse, tragic deaths, suicides, jeopardizing the stability of businesses.
5. The recently enacted local option laws (1980) affected communities in that

there have been fewer health aide emergency calls, less demand for magistrates, more privatization of drinking, less public binge drinking, more quiet community, less fear of others, fewer people hurt, decline in drunken sprees.

6. Villages choose the strictest local option--a ban on sale and importation--most frequently by far.
- p. The author of or a person familiar with the DRAFT Feasibility Study on the Effects of the Local Option Law on Local Communities, SOADA, 1985, which concludes, among other things, that local option has created a decline in public drunkenness and alcohol-related interpersonal violence and demonstrated major improvements in the appearance and the school performance of the children of drinking parents. Enter the document into the hearing record.
- q. Former Senator Mike Colletta, other senators on the Senate Special Committee on Alcoholism and Alcohol, and Jerry Abramczyk, aide to the committee, on their impressions of the 1977 hearings held in 35 Alaskan communities prior to enactment of the Local Option Laws in 1980. This will help show that the problem is a longstanding one which is not getting better, despite other approaches taken by the legislature. In the Committee's report to the Legislature, Senator Mike Colletta said: "In all my years of legislative experience and all the public hearings I have conducted or in which I have participated, I have never witnessed such an outpouring of public comment and concern ... alcoholism and alcohol abuse is truly the greatest human needs problem facing Alaskans today." Enter the document into the hearing record.
- r. Take legislative notice that in Harrison v. State, 687 P.2d 332 (Alaska 1984) the Alaska Court of Appeals held that there is an unmistakable correlation between alcohol use and violence, etc., and that marijuana and cocaine are less dangerous than alcohol.

Enter the court decision into the hearing record.

- s. C. Earl Albrecht M.D., author of Alcohol Abuse in Alaska: Prevention's Time Has Come (prepared for the State Office of Alcoholism (March 1982)) which stated: "Abuse of alcohol is often regarded as the single most significant threat to the health of contemporary Alaskans." Enter the document into the hearing record.
- t. The author of or someone familiar with the report to the Twelfth Legislature (1981) from the House Task Force on Violent Crime--which found a relationship between violent crime and alcohol abuse. (Listen to Task Force tapes of testimony from police, prosecutors, judges, community leaders saying that alcohol abuse and violent crime are inseparable). Enter the report into the hearing record.
- u. The author of or someone familiar with the 1980 Alaska Judicial Council report on "Alaska Felony Sentences: 1976-1979" which found (1) there to be a significant relationship between the use of alcohol and criminal behavior; (2) that this association was most significant in rural areas of the state where 77.9% of violent crimes and 55.6% of property crimes were committed under the influence of alcohol. (pp. 45-48, 65-67) Enter the document into the hearing record and obtain more current statistics.
- v. The author of or someone familiar with the 1976 Governor's Commission on the Administration of Justice, "Standards and Goals for Criminal Justice", which concluded that (1) the crime in Alaska is significantly related to excessive and unregulated consumption of alcohol; (2) that one out of every ten Alaskans is an alcoholic; and (3) rural villages should be allowed to control alcoholic beverages. Enter the document into the hearing record and obtain more current statistics.
- w. The author of or someone familiar with "Analysis of Alcohol Problems Project, 'Working Papers: Descriptive Analysis of

the Impact of Alcoholism and Alcohol Abuse in Alaska," 1975, vol. V at 14 (1977) which states that: (1) from 1959 to 1975, Alaska's rate of annual consumption increased at almost twice the rate of the national average. Id. at 42; (2) total economic cost of alcoholism and alcohol abuse in 1975 was \$131.2 million dollars. Id. at 32; (3) impact of alcohol-related problems was greater in rural areas; (4) Alaska Natives are significantly overrepresented in alcohol-related mortality. (pp. 4, 7, 32) Enter the document into the hearing record and obtain more current statistics.

- x. The author of or someone familiar with the 1977 "Analysis of Alcohol Problems Project" which cited death due directly to alcoholism increased 153% from 1959 to 1975; also Alaska's alcoholism rate in 1975 was 418% higher than the national average. Hopefully, there will be more current statistics available. Enter the document into the hearing record.
3. Other publications to be entered into the hearing record:
- a. The Journal of Studies on Alcohol, published by the Center of Alcohol Studies at Rutgers University--chapters on "Medical Complications," "Social and Cultural Aspects," "Crime and Alcohol." Enter the documents into the hearing record.
 - b. The Fourth Special Report to the U.S. Congress on Alcohol and Health from the Secretary of Health and Human Services, p. 86 (January 1981). Enter the document into the hearing record.
 - c. Kraus and Buffler, Sociocultural Stress and the American Native in Alaska: An Analysis of Changing Patterns of Psychiatric Illness and Alcohol Abuse Among Alaska Natives, Culture Medicine and Psychiatry 3 pp. 111-115 (1979). Enter the document into the hearing record.
 - d. Crime in Alaska, Criminal Justice Planning Agency, Office of the Governor, State of

Alaska (published annually from 1976).
Enter the document into the hearing record.

- e. The Biology of Alcoholism Vol. 4, pp. 351-444, Kissin and Begleiter ed., Plenum Press, N.Y. (1976). Enter the document into the hearing record.
- f. Drinking and Crime, Collins, ed., The Guilford Press, N.Y. (1981). Enter the document into the hearing record.
- g. The State Health Plan which reports at pp. 4-17 that 57% of all suicide attempts recently treated by the Indian Health Service on an ambulatory basis were alcohol related. Enter the document into the hearing record.
- h. Blackwood, Health Problems of Alaska Natives, Suicide Mortality and Morbidity, Alaska Area Native Health Service (December 1978). Enter the document into the hearing record.
- i. Grinspoon and Bakalar, Cocaine: A Drug and Its Social Evolution, Basic Books (1976), where it says: "Cocaine is probably less dangerous in this respect (in respect to criminal activity) than alcohol." Enter the document into the hearing record.

C. FACTUAL RECORD WHICH WOULD UNDERCUT THE LEGITIMACY OF AN ARGUMENT THAT A COMPLETE BAN OF POSSESSION OF ALCOHOL IS CONSTITUTIONAL.

- 1. Evidence that existing local option laws are sufficient; that violent crime statistics have gone down, including violence in the home.
- 2. Evidence that, if it is the general feeling that existing local option laws, e.g., laws banning sale and importation, are not working, it is because of problems with enforceability. And, enforcement of a ban on possession of any amount of alcohol, especially in the home, will be even more difficult. Instead of enacting a new and unenforceable law, perhaps more effort should be put into enforcing existing laws.
- 3. Evidence from troopers, VPSO's, and prosecutors explaining why a ban on possession will be very

difficult to enforce. Also, evidence that failure to enforce the law creates a general disregard for the law amongst the residents of the community. It also engenders frustration and anger amongst residents who are very adamant about controlling alcohol consumption in the community.

4. Evidence from troopers, VPSO's, prosecutors, magistrates, and judges that investigations will be time-consuming and costly--especially investigations required to justify a court-issued search warrant to search a private home for alcohol. Evidence that the constitutional prohibition against unreasonable search and seizure will be taken very seriously in the decision whether or not to issue a search warrant.
5. Evidence that banning possession of alcohol would create additional danger because of an increase in the manufacture of "home brew" (even though home brew would also be banned) which creates concern about potential toxic effects.
6. Evidence that banning possession of alcohol will increase substitution of other recreational substances (e.g., cocaine, marijuana, lysol, gasoline fumes, listerine, etc.) amongst 18-25 year olds especially.
7. Evidence showing that banning possession from moderate users of alcohol, as well as abusers, is too overbroad. Apparently, 15% of the customers buy 62% of the liquor. Therefore, 85% of the customers purchase a much more moderate amount and can presumably use alcohol without harmful effects.
8. Evidence that residents of dry communities will just go and drink in wet communities--the regional hubs--and commit violent acts there.
9. Testimony which would advocate that there only be a ban on possession of large amounts of alcohol--that a person should be allowed to have small quantities for home use (similar to marijuana laws).
10. Evidence that there is less danger from wine and beer, thus possession of wine and beer should be

allowed, thus only banning the possession of hard liquor.

11. Evidence that there are other effective and less-intrusive methods of controlling alcohol consumption and associated violence such as:
 - a. more detoxification centers;
 - b. more alcohol and drug abuse counselling, mental health counselling;
 - c. creation of more things for villagers to do; that is, they have too much leisure time which is filled in by idle use of television and alcohol. Build community centers, provide jobs, provide feeling of self worth.
12. Testimony to the effect that "binge drinking" is the main problem, not drinking in moderation, particularly in the home. Methods should be considered to focus on stopping "binge drinking" rather than banning all drinking altogether.
13. Evidence that state efforts should be focused on the root of the problem. Why do Natives drink?--It's called "poverty drinking"--drinking because of demoralization, loss of control, loss of roles, intermittent access to money--all characteristics indistinguishable from drinking and drug abuse in urban ghettos. That is, improve the life of Natives, find them jobs, enhance community activities, etc. Find alternate ways to solve problem besides banning possession altogether.
14. Evidence that increased bootlegging will occur. Residents of dry towns will be using money to buy expensive alcohol that should be used to pay for their families' daily survival needs.
15. Evidence that a ban on possession of alcohol will make drinking a perversely attractive but prohibited social event.
16. Evidence that, in general, "prohibition did not work in the 1920's, why should we think that it would work in the villages." The flagrant violation of such a law only engenders a community-wide disregard for all laws and law enforcement efforts.

- D. LOCATIONS AND SCHEDULE OF PUBLIC HEARINGS - Hearings should be held throughout the state, both in rural areas and in urban areas. In 1977, the Alaska State Senate formed the "Special Committee on Alcoholism and Alcohol-Related Legislation" in a response to pleas from rural and urban Alaska communities for a revision of all state alcohol and drug laws. For the planning purposes of the 1985 legislative interim committee, the following is the complete hearing schedule of the 1977 special committee:

September 16, 1977	Anchorage
September 17, 1977	McGrath
	Ruby
	Galena
	Anvik
September 18, 1977	Holy Cross
	Hooper Bay
	Akiachak
	Napaskiak
	Bethel
September 19, 1977	Unalakleet
	Nome
	Kotzebue
September 20, 1977	Kiana
	Fort Yukon
	Fairbanks
September 21, 1977	Fairbanks
October 16, 1977	Seward
October 17, 1977	Homer
	Kenai
October 18, 1977	Kodiak
October 19, 1977	Anchorage
October 20, 1977	Palmer
	Dillingham
November 14, 1977	Petersburg
	Sitka
November 17, 1977	Angoon
	Juneau
November 18, 1977	Hydaburg
	Craig
	Klawock
November 19, 1977	Wrangell
	Ketchikan
November 20, 1977	Hoonah

At each of these meetings, residents of the state were asked to submit comments and model legislation. On January 4, 1978, the special committee held a final statewide hearing at which all locations were connected through the Public Broadcasting Network.

For more information on the organization of these 1977 hearings, contact Jerry Abramczyk at 276-8307. He was the staff member to the "Special Committee on Alcoholism and Alcohol-Related Legislation."

III. OTHER POTENTIAL LEGAL CHALLENGES

A. The following legal challenges, on grounds other than the right to privacy, have been put forth in similar cases (Harrison, Ravin, Erickson):

1. Local option laws, including a ban on possession, could constitute impermissible racial classification. Harrison held that local option law would not be unconstitutional on that basis because it permits any municipal government or established village to enact local option laws, and once enacted, applies to all persons in the municipality or village, regardless of race.
2. Possession and consumption of alcohol in the home is a fundamental right. Harrison held there was no fundamental right to possess or consume alcohol in the home. Ravin held the same for marijuana, as did Erickson for cocaine.
3. Consumption of alcoholic beverages is a protected privacy right under the Federal Constitution. Harrison held that it is not.
4. A local option law, which prohibits possession of alcohol, would violate equal protection because moderate consumers could not possess alcohol and because individual communities are given discretion to determine level of alcohol availability permitted within their boundaries. Harrison held that such laws do not violate equal protection because differences in treatment of citizens from different communities resulting from extent to which individual communities elect to implement law are not constitutionally significant and similarly situated people are treated alike. Furthermore, Harrison held that when a state attacks a complex problem, like alcohol abuse, it need not choose between attacking every aspect of that problem and doing nothing at all.
5. The right to ingest a particular substance and the right to autonomy in the home is absolute. Erickson held that such rights are not absolute and each must yield to the interest of other

societal members in health and safety. Furthermore, Ravin held that no one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely; and the state is under no obligation to allow otherwise "private" activity which will result in numbers of people becoming public charges or otherwise burdening the public welfare'. But note that in Harrison, the court stated that while consumption of alcoholic beverages in the home is not a fundamental right, it touches on a privacy interest that is manifested in terms of personal autonomy, thus under this rationale the state bears a heavy burden of justifying a regulation banning possession of alcohol in the home as a legitimate health and welfare measure.

6. Proscribing and imposing criminal penalties for personal consumption of alcohol is cruel and unusual punishment. Neither Ravin nor Harrison addressed this issue.
7. A local option proscribing possession of alcohol is violative of equal protection because other commonly used recreational drugs, such as tobacco are not proscribed. Ravin held that a statute proscribing marijuana is not violative of equal protection on the same grounds, even though other drugs, such as alcohol and tobacco, may inflict more damage than marijuana.

IV. OTHER ISSUES WHICH NEED TO BE ADDRESSED IN REGARD TO A BAN ON POSSESSION OF ALCOHOL

- A. Home Brew - If a ban on possession of alcohol is put into effect, it should include the manufacture and possession of "home brew". Under existing law, "home brew" is not included under the definition of "alcoholic beverage" (AS 04.21.080(b)(1)). Since binge drinking of "home brew" has been found to be just as harmful as the consumption of commercial liquor, the possession of "home brew" should be prohibited under the ban on possession as well.
1. Alaska Law - Alaska's existing definition of alcoholic beverage reads as follows:

AS 04.21.080(b)(1) -- "alcoholic beverage" includes, but is not limited to, whiskey, brandy, rum, gin, wine, ale, porter, beer,

and all spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing more than one percent alcohol by volume.

2. Oklahoma Law - In Oklahoma, the definition of "alcoholic beverage" includes "home brew" in the following way:

a. "Alcoholic beverage" is defined as:

"alcohol, spirits, beer, and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings."

b. "Alcohol" is defined as including:

"hydrated oxide of ethyl, ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder."

3. Mississippi Law - In Mississippi, the definition of "alcoholic beverage" includes "home brew" in the following way:

a. "Alcoholic beverage" is defined as:

"any alcoholic liquid, including wines of more than four percent (4%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include wine containing four percent (4%) or less of alcohol by weight and shall not include beer containing not more than four percent (4%) of alcohol by weight, as provided for in section 67-3-5, but shall include native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes."

b. "Alcohol" is defined as:

"the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol."

4. Alabama Law - In Alabama, the definition of "prohibited liquors and beverages" includes "home brew" in the following way:

a. "Prohibited liquors and beverages" are defined as:

a. Alcohol, alcoholic liquors, spirituous liquors and all mixed liquors any part of which is spirituous;

b. Foreign or domestic spirits or rectified or distilled spirits, absinthe, whiskey, brandy, rum and gin;

c. Vinous liquors and beverages;

d. Malt, fermented or brewed liquors of any name or description manufactured from malt wholly or in part or from any substitute therefor;

e. Beer, lager beer, porter and ale and other brewed or fermented liquors and beverages by whatever name called;

f. Hop jack, hop ale, hop weiss, hop tea, malt tonic or any other beverage which is the production of maltose or glucose or in which maltose or glucose is a substantial ingredient;

g. Any intoxicating bitters or beverages by whatever name called; and

h. All liquors, liquids, drinks or beverages made in imitation of or intended as a substitute for beer, ale, rum, gin, whiskey or for any other alcoholic, spirituous, vinous or malt liquor and any liquor, drink or liquid made or used for beverage purposes containing any alcohol.

5. Recommended Statutory Changes to Alaska law to Include "Home Brew" in a Ban on Possession of Alcoholic Beverages

- a. Definition of Alcoholic Beverage: The definition of "alcoholic beverage" under AS 04.21.080(b)(1) should be repealed and reenacted to read:

"Alcoholic beverage" - means any alcoholic liquid which is intended or capable for use as a beverage and which contains such a proportion of alcohol that it will produce intoxication when imbibed in such quantities as it is practically possible for a person to drink. This definition includes spirituous, vinous, malt and other fermented or distilled liquors, whether produced commercially or privately, such as whiskey, brandy, rum, gin, wine, ale, porter, beer, and what is commonly known as "home brew", "moonshine", and "hootch".

- b. Definition of Alcohol: Title 4 should also include a definition of "alcohol" to read as follows:

"Alcohol" - means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

- c. Exemptions - the committee should consider whether it wants to exempt from the law alcohol used for particular purposes -- such as for use by physicians, pharmacists, and churches.

- d. Proof of Intoxicating Character - Under the recommended definition of "alcoholic beverage," a prosecutor need only prove that the liquor was of a kind generally recognized and known as intoxicating. State v. Mitts, 289 S.W. 935 (Missouri 1926); Brown v. State, 114 S.W.2d 879 (Texas 1938).

B. Mental State Required to Commit the Crime of Possession of Alcohol

When drafting the local option of banning possession of alcohol, the language of the statute should make it clear what "mental state" is required for conviction. There are four mental states to choose from: intentionally, knowingly, recklessly or with criminal negligence. For this type of crime, the mental state

of "recklessly" is recommended. The definition of "recklessly" reads as follows:

a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk. AS 11.81.900(a)(3)

For your information, the definitions for the other mental states are also found in AS 11.81.900.

In practical terms, a person would "recklessly" possess alcohol if he receives a gift from a friend which is contained in a decorated container normally associated with packaged liquor and which appears to have the weight and feel of a bottle of liquor. That person is aware of the risk that liquor may be contained in the "R&R" whiskey container and is consciously disregarding that such a circumstance exists, if he claims he did not know alcohol was in the container.

C. Other States "Dry County" Laws - Do Other States Ban "Possession?"

It is common knowledge that there are still "dry counties," especially in some of the southern states of the United States. It would be interesting to find out whether the laws of those "dry" counties ban possession of alcohol, or if they just ban the sale and importation of alcohol. Considering the fact that Alaska has one of the strongest constitutional "right to privacy" provisions, if it is found that other states have not dared to ban possession because of privacy concerns, such a finding would weaken the argument upholding a ban on possession in Alaska. That is, if the other states do not have such a strong privacy provision as Alaska has, and their laws do not dare to ban possession, then the law in Alaska must be supported by findings that the problems created by alcohol in rural Alaska are much more serious.

1. Other states' laws:

- a. Alabama Law - Alabama bans possession of alcohol in dry counties (Alabama Code § 28-4-20) but allows possession of certain quantities of state tax-paid alcoholic beverages for private use. (Alabama Code § 28-4-200) (See Hughes v. State, 291 So.2d 331 (Alabama 1974))
- b. Mississippi Law - Mississippi bans possession of alcoholic beverages (which does not include wine or beer with 4% alcohol or less) except for use by pharmacists, physicians, and churches. (Mississippi Code § 67-1-9)
- c. Oklahoma Law - Oklahoma law bans possession of alcoholic beverages, except that it allows possession for personal use of the possessor and his family and guests, or possession for medical or religious purposes. It should be noted that Oklahoma courts have long held it is beyond the power of the legislature to make unlawful the possession of intoxicating liquor for personal use and that doing so would be unconstitutional as an unreasonable exercise of the police power. Ex parte Wilson, 119 P. 596 (Oklahoma 1911). See also Johnson v. Yellow Cab Transit Co., 137 F.2d 274, 277 (1943).

D. "Possession" by Consumption

The public hearings and the legislature should address the question of whether a person would be in violation of the ban on possession if he is found to be walking down the street in a state of intoxication from alcohol--even though he may not otherwise be in possession of alcohol. Would an intoximeter result showing presence of alcohol in his breath be a presumption of possession of alcohol?

E. Effective Enforcement of a Ban on Possession - In order to give meaning to a ban on possession, the prohibition must be enforced.

- 1. Adequate Enforcement Personnel and Facilities. The following resources should be assessed in considering a ban on possession:

- a. Availability of police resources - State Troopers and VPSO's - to investigate offenses, obtain search warrants, apprehend offenders.
- b. Availability of prosecution resources - district attorneys, clerical staff - to counsel law enforcement personnel, aid in obtaining search warrants, aid in investigations, process persons through court, prosecute cases.
- c. Availability of prison resources - local prison facilities and regional prison facilities - to hold offenders temporarily until they make bail and to incarcerate convicted offenders for lengths of time.
- d. Availability of court resources - magistrates, judges, and courtrooms - to process offenders through the judicial system, to review and issue search warrants, and to preside over cases prosecuted.

It must be recognized that existing enforcement resources are already overloaded with other priorities such as drug crimes, drunk driving, violent crimes, and property crimes. More money will be needed to broaden their scope of coverage.

2. Community Member Self-Enforcement - Thought should be given to whether the use of peer pressure and community member social control should be encouraged as a way to enforce the laws.

V. LEGISLATIVE FINDINGS

The interim committee should do a complete report to the legislature or, at the very least, come up with findings that will satisfy the court's standard of review.