

7 HJ : FILE NO. 1 - FILE NO. 2

February 7, 1969

File  
HB 84  
H684

Honorable Wendell P. Kay  
Alaska House of Representatives  
Juneau, Alaska 99801

Dear Mr. Kay:

The undersigned are students of the Alaska Barber College, Anchorage, and other persons interested in your House Bill 84. We understand that this bill would require, in addition to the presently prescribed course of training at a barber college, eighteen months of apprenticeship.

We do not know whether you are aware that similar legislation has been introduced in the Alaska Legislature over the past six years. On each occasion, such legislation has failed to be enacted. We believe that the rejection of similar bills by past legislatures was based on good reason.

We are not maintaining that the apprenticeship requirements of your bill are totally without merit. We believe that someday they may be appropriate for Alaska. However, the statistics released by the National Association of Barber Schools, Inc., in its research report No. 6A, dated July 1, 1967, make it evident that the sophisticated plan proposed by your bill may be suitable for an Alaska of the future but would only bring hardship to the Alaska of the present. The average barber-population ratio for the United States is 1 barber per 632 persons. The highest population-barber ratio next to that of Alaska is West Virginia with 931 persons per barber. In Alaska we have an astonishing ratio of 2,663 persons for each barber, or approximately 4 times the national average. Under those facts alone, we believe that House Bill 84 would do a disservice to the people of Alaska by merely copying the code of other states without considering the needs and conditions of Alaska at the present time.

Please consider that there are only 80 barber-shops in all of Alaska. Of these at least 50 or 60 are one-chair shops. Such shops could not use, and do not want the services of an apprentice. An apprentice under your bill could not even relieve the owner by serving as a manager

Hon. Wendell P. Kay  
February 7, 1969  
page -2-

while the owner takes his vacation. We ask that you consider that this lack of a sufficient number of multi-chair barbershops will make it extremely difficult for an apprentice to find employment. Such difficulty will discourage the number of persons entering into the barbering field from the Alaska population.

HB 84 would lessen the number of barbers trained in Alaska and would strengthen a monopoly of those already in the field. Because of the present shortage of barbers, the curtailment of Alaskans entering barbering, which would result from HB 84, would lead to an influx into the State of barbers trained and practicing in other states. HB 84, in effect, would bring about discrimination against local hire.

It is submitted that Alaska has not only not reached the stage where HB 84 could serve any useful purpose but in fact such legislation is not needed. At present Alaska trained barbers are graduated from a barber college and proceed to take an examination for journeyman barber. They do not graduate from the college until they have complete 1500 hours of instruction which includes a minimum of 300 hours of theory including physiology of the scalp, hygiene problems, etc. The balance is practical experience under the direct personal supervision of a journeyman barber. To complete this course on a full time basis requires 9 months, or 18 months on a part-time basis. There appears no good reason why this training should not be considered as an adequate program to prepare Alaskans for employment as journeymen in the field of barbering.

We request that you reconsider the advisability of HB 84 at this time and request that you withdraw your bill until further study can be given to the matter.

We appreciate your attention on our behalf. Because of the wide spread significance of HB 84 we are circulating this letter-petition to the other members of the House and Senate. If you or any other member of the Legislature have questions concerning our purpose, please contact us: "Committee Against Barber's Apprenticeship", 330 "L" Street, Anchorage, Alaska 99501.

## JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 86

4

The purpose of this bill is to eliminate a current problem in the law relating to the seizure of items by fish and game enforcement officers. Under the present statute, a commercial fishing vessel and gear can be tied up at the time of arrest, to be held until the case is finally disposed of by a determination of guilt. The effect is to put the fisherman who insists upon his innocence out of business for days or weeks, often for the balance of the season. The only alternative would be to plead guilty, to "get it over with" and get back to fishing.

This bill requires the prompt release of the boat and gear upon the posting of a reasonable bond. The bond would require the boat to be available for process at the time of trial. The amount of bond would be set by the court.

---

Barry Jackson  
Chairman  
House Judiciary Committee

The Legislature of the State of Alaska  
FISCAL NOTE  
First Session - Sixth State Legislature

COPIES: THE CHAIRMAN OF THE COMMITTEE MAKING THE REQUEST, POUCH V  
THE LEGISLATIVE FINANCE COMMITTEES' STAFF, POUCH Y  
THE DIVISION OF BUDGET & MANAGEMENT, POUCH C  
RETAIN A COPY FOR YOUR FILES

subject HB 101 SB  
requested by Chairman Barry W. Jackson, House Judiciary Committee  
referred to \_\_\_\_\_ date of request \_\_\_\_\_  
completion date requested \_\_\_\_\_ date received \_\_\_\_\_

EXPENDITURE DETAIL	FY 1969-70	FY 1970-71	FY1971-72
100 PERSONAL SERVICES	\$18,600	\$18,600	\$18,600
200 TRAVEL	1,500	1,500	1,500
300 CONTRACTUAL SERVICES	1,700	1,700	1,700
400 COMMODITIES	200	200	200
500 EQUIPMENT	1,100	-0-	-0-
600 LAND AND STRUCTURES			
700 GRANTS, CLAIMS & SHARED REVENUE			
<b>TOTAL</b>	<b>\$23,100</b>	<b>\$22,000</b>	<b>\$22,000</b>

FUNDING DETAIL			
FEDERAL RECEIPTS	\$	\$	\$
SPECIAL FUNDS			
UNRESTRICTED GENERAL FUND RECEIPTS	23,100	22,000	22,000
Man Months	24	24	24
Permanent Positions	2	2	2
Temporary Positions	0	0	0

FISCAL ANALYSIS

Please see attached.

DATE 3/4/69

SIGNATURE

NAME & TITLE George Sharrock, Commissioner of Commerce

SA-13A  
 State of Alaska  
 Dept. of Admin.  
 Budget & Mgt. Div.  
 (Rev. 7/68)

REQUEST FOR NEW POSITION  
 For the Fiscal Year Ending June 30, 1970

Department	
Division	
Program	

Position Title Investigator Range 16 Location Juneau  
 Type of Position Permanent - Full Time Reference: SA-13, line \_\_\_\_\_

Code (1)	EXPENDITURE BY OBJECT (2)	EXPENDITURES (3)	DETAIL OF RELATED EXPENSES (4)
100	Personal Services	11,900	Annual Salary - \$10,400; Employee Benefits 14% - \$1,496
200	Travel	1,500	Inside Travel - Travel - \$1,000; Perdiem - \$500
300	Contractual Services	1,710	Office Space - 10 x 20 = \$960; Car Rental - \$720 Insurance & Bonding - \$30.
400	Commodities	200	Routine Office Supplies
500	Equipment	270	Desk - \$110. Chair - \$50. File Cabinet - \$110.
	TOTAL	15,580	

NARRATIVE JUSTIFICATION:

(5)

SA-13A  
 State of Alaska  
 Dept. of Admin.  
 Budget & Mgt. Div.  
 (Rev. 7/68)

REQUEST FOR NEW POSITION  
 For the Fiscal Year Ending June 30, 1970

Department	
Division	
Program	

Position Title Clerk Typist III Range 8 Location Juneau  
 Type of Position Permanent - Full Time Reference: SA-13, line \_\_\_\_\_

Code (1)	EXPENDITURE BY OBJECT (2)	EXPENDITURES (3)	DETAIL OF RELATED EXPENSES (4)
100	Personal Services	6,700	Annual Salary - \$5,880. Employee Benefits 14% - \$820.
	Travel		
	Contractual Services		
	Commodities		
500	Equipment	735	Desk - 210. Chair - 50. Typewriter - 475.
	TOTAL	7,435	

NARRATIVE JUSTIFICATION: (5)

# MEMORANDUM

## State of Alaska

HB 105

TO:  Representative Barry Jackson  
House Judiciary Committee  
Alaska State Legislature

DATE: April 13, 1970

FROM: Thelma Cutler  
Director of Elections

SUBJECT: House Bill No. 105

As a result of the registration forms in the polling places during the 1968 general and primary elections as a voter convenience, we received more than 65,000 completed forms. Many of these were duplicates and had to be eliminated. The totals by districts plus registrations received by the end of 1969 before any concerted drives had been made:

District 1	3394	District 10	4035
" 2	1464	" 11	1853
" 3	2011	" 12	864
" 4	4044	" 13	1245
" 5	1131	" 14	2146
" 6	1720	" 15	2059
" 7	1751	" 16	9830
" 8	23,250	" 17	1358
" 9	954	" 18	1568
		" 19	792

Since that time, we have accumulated approximately 12,000 new registrations as a result of our February registration drive and the continued efforts of our registrars. We have, of course, deleted those persons who have had a change of name and invited them to reregister. We have deleted those individuals who have indicated they are no longer residents of Alaska and we are deleting from the 1969 death certificates. We therefore estimate that over 75,000 registrations will be on the new list which will be duplicated and available for sale after May 1st. These lists will be alphabetized within precinct, show full mailing address and party preference if indicated. We will also have a machine count by precinct, district and state.

Additional registration drives in the nature of supermarket booths, special local promotions and additional area activities will be made. Registrars using a district list could secure registrations for all those yet unregistered and would be paid the 50¢ per new registration.

If the 18 year old referendum is approved at the primary election, registration may be made by those eligible and they will be allowed to vote in the general election.

The remote or bush areas of the state are close to 100% registered. We estimate now that the larger communities of the state are 90% registered. These communities, of course, have newspapers, radio and television and would benefit especially from another concentrated drive.

The provisions of HB 105 which would allow voter registration up to and including election day and subsequent voting by these late registrants via the "questioned ballot" method would result in a flood of envelopes for the absentee board to canvass.

The 14 day deadline for registration will require tremendous last minute efforts on our part to get registrations through the data processing centers and get printouts for election day. We will have to count, to some extent, on the registrar's records of these late registrations.

Almost 7,000 persons voted during the 1968 general election by absentee ballot. The absentee canvass boards checked the affidavit envelopes on the second day following the election; on the third day following the election, the counting board and the absentee board, began the task of tallying the vote. In the Anchorage area, the canvass board plus 14 four man counting boards spent approximately 12 hours on this count. Now, if you add to their chores questioned ballots, the counting could not possibly be completed during the 2nd and 3rd day. The absentee board then meets on the 8th day following the election to complete the count. Thus, you could well have 15 to 20% of the total vote of the state tied up in absentee and questioned ballots and a determination of winners would be delayed until after the 8th day following the election.

I think you will agree that many people tend to procrastinate and if you allow for registration on election day, it will be very easy to imagine the numbers of people who will delay registering until this day.

I do not think that you would be doing the qualified voters of this state a service by permitting such late registrations. The additional time consumed in the polling places in using the question ballot will result in long lines of voters at the polling place. The delay in making election figures available to the public and to the candidates will certainly create confusion and dissatisfaction.

The efforts of the registrars, the political parties, the League of Women Voters, the labor groups and candidates' supporters should assure that every otherwise qualified voter is registered for the 1970 elections.

7-6  
AB-115

KENAI PENINSULA BAR ASSOCIATION  
P. O. Box 397  
Kenai, Alaska 99611

17 April, 1969

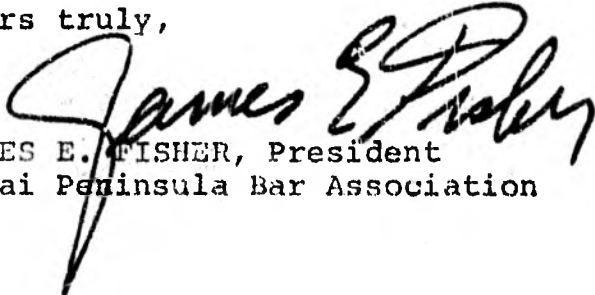
Representative Barry Jackson  
Pouch V  
Juneau, Alaska 99801

Dear Representative Jackson:

Thank you very much for listening to the representatives of the Kenai Peninsula Bar Association who have approached you regarding the urgent need of the Kenai Peninsula for a resident Superior Court Judge. Remember a judge shared with Kodiak would be a reasonable solution to problems of Kodiak and Peninsula litigants.

Any consideration you can give to this most important governmental service would be greatly appreciated.

Yours truly,

  
JAMES E. FISHER, President  
Kenai Peninsula Bar Association

HB-115 AB115

FISHER & HORNADAY

ATTORNEYS AT LAW

KENAI PROFESSIONAL BUILDING - P. O. BOX 397

KENAI, ALASKA 99611

TELEPHONE

283-7865

JAMES E. FISHER  
JAMES C. HORNADAY

22 December, 1969

Representative Peter M. Deveau  
Bpx 1577  
Kodiak, Alaska 99615

Dear Representative Deveau:

Re: Authorization - Funding - Superior Court Judge Position to  
be resident Kenai-Kodiak Communities

We urgently request your full consideration and support of the  
establishment of judicial positions which will provide resident  
superior court judicial services in the Kenai-Kodiak communities.

As we understand the authorization and funding process for judicial  
positions, there has customarily been:

A request from the Alaska Bar Association.

A request from the Alaska Judicial Council.

It is our understanding that both of these pre-conditions have  
now been achieved to permit assignment of a Superior Court judge  
to be resident in the Kenai Peninsula Borough -- Kodiak Island  
Borough communities.

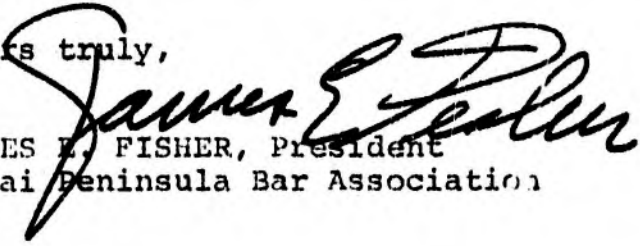
Earlier you should have received a resolution of the Alaska  
Bar Association passed at the May, 1969, convention at Nome,  
Alaska, requesting the establishment of new judicial positions.  
In November the Alaska Judicial Council met and recommended  
establishment of such positions.

To provide a summary of the social and economic reasons for such  
a program, I enclose a paper entitled "Plea for Equal Treatment."  
This is a general summary of the facts and reasoning in support  
of such legislative action as is required.

Please read "Plea for Equal Treatment" that you might be more  
familiar with this subject.

Thank you for any consideration and support.

Yours truly,

  
JAMES E. FISHER, President  
Kenai Peninsula Bar Association

JAMES E. FISHER  
ATTORNEY  
TRADE BUILDING - P. O. BOX 397  
KENAI, ALASKA  
TELEPHONE 283-7565

20 January 1970

Representative Barry W. Jackson  
Box 348  
Fairbanks, Alaska

Dear Representative Jackson:

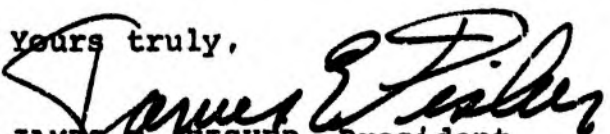
Enclosed is an article entitled "Plea for Equal Treatment." While you should have received a copy of the enclosed article as an item of general information to the entire Alaska Legislature, it should be especially of interest to you in your capacity as a member of the Judiciary Committee.

Therefore, in the event that you might have overlooked this request, an additional copy is sent to you.

If I may be able to furnish any additional information, please call upon me to do so.

Thank you for any consideration you may be able to give to the authorization of a resident Superior Court Judge in the Kenai-Kodiak Borough communities.

Yours truly,

  
JAMES E. FISHER, President  
Kenai Peninsula Bar Association

*Barry: This letter sent to  
entire committee  
J. E. F.*

PLEA FOR EQUAL TREATMENT

BY: JAMES E. FISHER, President  
Kenai Peninsula Bar Association

This is addressed to all interested Alaskans. It is a request for your help and knowledge in a matter of equal treatment.

This is a plea for equal treatment. Please do whatever possible to insure that your fellow Alaskans on the Kenai Peninsula and Kodiak Island have the same access to a resident Superior Court Judge as your neighbors in comparable hometowns.

A request for the assignment of a Superior Court Judge to be resident in the Kenai-Kodiak communities can only be justified on the service to residents. Such a request rings hollow if based on convenience to the legal profession. Alaskans should not rest until legal services are dispensed as equitably as possible. One of the watchwords of the law is that "justice delayed is justice denied." That situation is frequently faced by residents of the Kenai Peninsula and Kodiak Island communities because the Superior Court's services can be remote and therefore costly.

Roy Madsen, President of the Kodiak Bar Association has outlined the problem in a letter to State Representative Peter M. Deveau:

"Further, Alaska statutes afford individuals certain provisional remedies such as attachment, civil arrest, injunction, temporary restraining order, executions after judgment and the like which when applied for from an outlying area such as Kodiak require approximately two weeks as they have to be prepared here, mailed to Anchorage, signed by the Judge, turned over to the Alaska State Troopers for service and then be returned for service. If we had a full time Superior Court here the two week period could be reduced and all of this could be accomplished in one day; therefore it is my contention as it has been all along, that people that live as far away as we do from a full time Superior Court Judge are being deprived of these remedies."

In spite of the best intentions of a visiting judge it is not possible to have wide community knowledge. A resident Superior Court judge can provide more precise and comprehensive service resulting from knowledge of the community.

Until a resident Superior Court judge is stationed in the Kenai-Kodiak communities, it can be argued this important area does not receive equal protection of the law. In the same letter quoted above, Madsen outlined this example:

"The Alaska Statutes provide that trials for the foreclosure of a mechanic's lien are given priority over all other types of cases except criminal cases. Article I of the Constitution of the State of Alaska states that: "all persons are equal and entitled to equal rights and opportunities and protection under the law". A classical example of the inequality of the residents of this area (Kodiak) resulting from lack of a Superior Court being here, was a lawsuit for a foreclosure of a mechanic's lien in Kodiak. The case dragged on for months and years and finally in order to get it set down for trial at all the local attorney had to agree to a trial in Anchorage in order to accommodate the Court's calendar and the opposing attorney's schedule. The Court in Anchorage had to hear evidence on a matter which involved questions concerning materials, and workmanship on a building situated in Kodiak without having the opportunity of viewing the building in question, and after some five days of trial, the case was recessed for a period of two months requiring the local attorney to return to Anchorage at a later date for continued hearing as well as the witnesses involved."

One critical inefficiency resulting from lack of resident Superior Court judicial service is the effect on other government agencies. On the Kenai Peninsula Borough as many as five of a detachment of seven Peninsula based Alaska State Troopers have been absent at one time in Anchorage attending grand jury proceedings. Under such conditions, for practical purposes, there was no police protection for the Central Peninsula.

When economic justifications are considered the number of Alaskans in the Kenai and Kodiak Boroughs should be remembered. The Kenai Peninsula Borough and Kodiak Island Borough comprise an estimated population of 25-35,000 persons who are served as an additional responsibility of the Superior Court judges at Anchorage. The residents in those communities live in an area which was providing in excess of 50 per cent of the State's resource derived revenue (until the oil lease sale on the North Slope). Such activity should have available equal governmental service.

For housing courts in both Kenai and Kodiak, courtrooms are in existence and could be utilized without excessive additional capital type expenditures.

Another practical consideration is the fact that a Superior Court Judge could handle District Court matters. At present there are no district judges assigned on the Kenai peninsula. An assigned Superior Court judge could achieve economy in operations by handling District Court matters -- and provide an interesting opportunity for experiment by the Alaska Court System.

Almost everybody would agree, eventually there should be resident Superior Court Judicial service in both the Kenai and Kodiak communities. However, such service should not be delayed so a newly assigned Superior Court judge would have an overwhelming or impossible burden commencing from the first day of service.

The need for a Superior Court judge for Kenai-Kodiak communities has been recognized in pending legislation before the Sixth Alaska State Legislature and such legislation could be acted upon with dispatch during the Second Session commencing in January, 1970.

The Alaska Bar Association urged efforts to securing new judges for both Kenai-Kodiak and Sitka. The Alaska Judicial Council has recommended staffing of judges which would provide resident judicial service to Kenai-Kodiak.

Please remember this request for help as stated in the title of this article "A Plea for Equal Treatment."

*file*

PRESENTATION TO ALASKA STATE LEGISLATURE  
OF  
REASONS FOR SUPERIOR COURT JUDGE ON KENAI PENINSULA

I. Partial list of economic and social reasons:

- A. The Kenai Peninsula Borough presently has a population of 18,000 to 22,000 people (from school and other sources).
- B. Over one-third (1/3) of the State's derived revenues for Alaska come from the Kenai Peninsula Borough.
- C. It is the third largest borough in the State in population.
- D. Enrollment in the Kenai Peninsula Community College is third in the State.
- E. It is the site of the largest industrial development in the State -- development that focuses on extraction and on primary and secondary processing of resources before their shipment.
- F. A Court facility is available for immediate use by the Judge (if a new municipal building-civic center is authorized in Kenai an additional Court room facility would be available).
- G. In the immediate Kenai-Soldotna-North Kenai area an Alaska Trooper source has been quoted as saying that only one-third of the Troopers are available for the activity, criminal, etc, within their area of primary responsibility. A resident Superior Court Judge would more effectively utilize such forces.
- H. The Kenai Peninsula Borough is second in assessed valuation in the State (Kenai Peninsula \$308,604,543 as compared to \$822,564,271 for the Greater Anchorage Area Borough).

II. Present situation:

- A. In the area of heaviest pressure, Kenai-Soldotna-North Kenai area a magistrate has performed with a case load which at times has exceeded that, for purposes of comparison, the caseload of the Fairbanks based District Court. In spite of outstanding performance it is not fair to the Magistrate nor to the surrounding communities to depend entirely upon him for future services in the quantity required in the past.
- B. Approximately once per month a Superior Court travels on circuit to Kenai. Recently the activities have required more and more time of a judge at Kenai. Such demands disrupt the on going program in the Greater Anchorage area (i.e. when the judge is gone criminal and trial calendars are apt to be chaotically disrupted by the judges absence which could ramify throughout the Third Judicial District).

III. An approximate statistical comparison of Superior Court judges available for areas of the state are as follows:

- A. In the Anchorage area there is approximately one Superior Court Judge per 20,000 people.
- B. In the Fairbanks area there is approximately one Superior Court Judge per 15,000 people.
- C. In Southeast Alaska there is approximately one Superior Court Judge per 10,000 people.

*Would cooperate  
w/ Kedsak for a unit*

D. In Nome, there is one Superior Court Judge for approximately 5,000 to 10,000 people.

E. The Kenai Peninsula is an area of 18,000-22,000 people which is presently unserved by a resident Superior Court Judge.

F. The above comparison is not intended as a request that judicial services should be diverted from any other area of the State. One can be sure that the communities where resident Superior Court Judges are stationed can easily and extensively justify why such service should be continued in their local areas -- or augmented.

G. Judges must rely on their experience and knowledge in order to most effectively serve. A judge should be immediately familiar with the area. In other words to insist on transient or circuit judges to decide measures relating entirely to the Kenai Peninsula is unfair both to the judge and to the parties coming before him because he is not completely familiar with the area in which he is on circuit at that time.

H. When any activities involving criminal hearings or proof required of Alaska State Troopers are called for, frequently fifty (50) percent or more of the entire staff of the local Trooper detachment can be in Anchorage leaving the Kenai Peninsula substantially unpoliced (such a time is when cases are being presented to the Grand Jury, when testimony is required in a particular case, etc.).

#### IV. Anticipated responses to questions:

A. Funding is a matter that would have to be accomplished from general state revenues. It should be accomplished to at least establish a parity of governmental service for the Kenai Peninsula with other areas of the state.

B. If it is necessary to justify your actions authorizing stationing of a Superior Court Judge on the Kenai Peninsula to your own local areas, this can be done on the basis that such services are essential if the entire state is to develop in an orderly fashion -- which benefits us all anywhere in the state.

JAMES E. FISHER, President  
Kenai Peninsula Bar Association  
Box 397, Kenai, Alaska 99611  
Telephone: 283-7564  
(3/11/69)

JAMES E. FISHER  
JAMES C. HORNADAY

FISHER & HORNADAY  
ATTORNEYS AT LAW  
KENAI PROFESSIONAL BUILDING - P. O. BOX 397  
KENAI, ALASKA 99611

File  
bill re  
# of judges  
15  
TELEPHONE  
283-7865

26 February, 1969

The Honorable Terry Miller  
Chairman, ~~Senate~~ Judiciary Committee  
State Legislature  
Juneau, Alaska

C  
O  
P  
Y

Again I would express my appreciation to you and your committee for permitting me to testify in regards to a Superior Court Judge when I was in Juneau on 17 February, 1969. Pursuant to the request of the committee, I am submitting a written summary of my testimony. I had hoped to contact the House Judiciary Committee and the Finance Committees of both houses. However, as delegation coordinator of the joint Kenai-Soldotna Legislative trip I found that time evaporated. Enclosed is a copy of the joint Kenai-Soldotna Legislative Program.

By copy of this letter, I am informing the House Judiciary Committee and the Finance Committees of both The House and The Senate of my testimony before your committee.

The joint Kenai-Soldotna Legislative Delegation was a landmark experience. It is the first time the two areas have worked together in such a project. We had a weather problem in that we had to overnite in Seattle which caused further delay in our schedule. There were twelve in our delegation and a copy of the joint program is attached.

The Kenai Peninsula is experiencing rapid growth. It is one of the most rapidly developing areas in the United States. We are experiencing similar problems that other frontier areas in the American development experienced. Rather than sit at home and complain, we have decided to come before the Legislature with our requests.

As you know, with rapid growth also come problems as well as opportunities. There are now somewhere between eighteen and twenty-two thousand people on the Peninsula. Over one-third of the State Revenues now come from the Kenai Peninsula area.

The Kenai Peninsula badly needs a resident Superior Court Judge. We appreciate what the Superior Court Personnel and the Court System have done with existing funds. However, it is just not adequate.

The Honorable Terry Miller  
26 February, 1969  
Page 2

We are not asking for a District Judge. We ave a most competent Magistrate in Jess H. Nicholas, Jr. Further, the District Judge does not have sufficient jurisdiction to handle the cases on the Kenai Peninsula.

The case load from the Peninsula is very difficult to estimate. For example, it is my understanding that the probate matters still must be filed in Anchorage. Further, the felonies are still filed in Anchorage that arise in this area and all of the individuals who qualify for legal aid are generally taken care of through Anchorage filings. However, with a population of approximately 20,000 people, there is no problem in keeping a resident Superior Court Judge busy. For example, Ketchikan has about 10,000 people; Juneau has 12,000. I am sure that the Attorneys in Ketchikan and Juneau would be emphatic in insisting that their respective communities can keep a resident Judge busy. Nome does not have the population but in that vast area, a resident Judge is probably needed.

I would emphasize that we are not suggesting that Judicial Personnel be reduced anywhere in the State. On the contrary, we believe that judicial facilities and personnel should be increased.

At the present time the Kenai Peninsula is the third largest population center center in Alaska. We are the only major population center without a resident Superior Court Judge.

The Court does come down once a month. However, this is just not adequate. When a Judge leaves Anchorage, the Anchorage Calendar is interrupted. ~~Also~~ sometimes the Court schedules change or there is a weather problem. This generally means that our people and our witnesses sometimes wait an entire day and still do not receive the needed judicial services. ~~Further~~ the people from the Peninsula are often jerked up to Anchorage for hearings that could just as well have been heard locally. The last two times the Court has come to Kenai he has spent the better part of week in Kenai. The last time the Judge came, the criminal jury case had to be continued and the Judge had to return to Anchorage. This meant that the divorce matters, estate matters and other situations were not taken care of. Many of these problems involve marital disputes in which it would be imposing to ask a Judge to leave the busy Anchorage Calendar to come down to hear a restraining order, etc. However, these people need to be taken care of.

It would not be an expensive proposition to put a resident Judge on the Kenai Peninsula. The new Court Facility has chambers for a resident Judge. We would hope that the resident Judge would serve the entire Peninsula.

The Honorable Terry Miller  
26 February, 1969  
Page 3

The question was asked whether or not the Peninsula would be willing to cooperate with Kodiak on a Superior Court Judge. As I explained, we have a very good relationship with Kodiak. If the only politically feasible mannner in which to obtain a resident Peninsula Judge is to provide that the Judge reside on the Peninsula and serve Kodiak on a weekly basis, we would have no objections. I would imagine that the day is rapidly approaching when there will have to be a resident Judge both on the Peninsula and in Kodiak. Likewise, I would repeat that we do not disapprove of increasing judicial personnel in other areas that need additional Judges. However, I want to impress again that these other areas are asking for additional Judges while the Kenai Peninsula does not even have one Judge at the present time.

In view of the population on the Kenai Peninsula and the amount of revenues pumped into the State (probably in excess of thirty million dollars), we would respectfully request a resident Superior Court Judge on the Peninsula.

The Kenai Peninsula Bar Association feels that the Superior Court Judge is the top priority item. We are also supporting the increase in judicial compensation and the Public Defender bill.

I believe that there will be additional people to testify later on in the session from the Kenai Peninsula in regards to the needs for a resident Superior Court Judge.

Thank you again for your courtesy.

Very truly yours,

James C. Hornaday

cc: House Finance Committee

Senate Finance Committee ✓

Alaska Judicial Council

Governor Miller



*File  
Bill on  
# of judges  
copy to researching  
members  
115*

## Alaska Court System

State of Alaska

ROBERT H. REYNOLDS  
ADMINISTRATIVE DIRECTOR  
RAYMOND W. GREGORY  
ASSISTANT ADMINISTRATIVE DIRECTOR  
ERNEST Z. REHBOCK  
LEGAL ASSISTANT

OFFICE OF ADMINISTRATIVE DIRECTOR  
941 FOURTH AVENUE  
ANCHORAGE, ALASKA  
99501

March 4, 1969

Hon. Barry W. Jackson, Chairman  
House Judiciary Committee  
House of Representatives  
State Capitol Building  
Juneau, Alaska 99801

Dear Representative Jackson:

In accordance with your request we are sending you here-with the 1968 caseload statistics of the various superior court locations in the State of Alaska. We are also enclosing here-with the number of cases filed in superior court wherein the causes of action arose in the Kenai peninsula and on Kodiak island.

In 1968 there were 4,485 superior court cases filed in Anchorage. Of these, 591 were children's cases, being handled by the family court judge, and 442 were probate cases, being handled by the probate master. The remaining 3,452 cases were assigned to the five superior court judges who exercise general trial jurisdiction, making a total caseload per judge of 690 cases.

In Fairbanks the number of cases filed in 1968 was 1,176. Of these 197 cases were probate matters, being handled by the probate master. 147 cases were children's proceedings. The balance of 962 cases are divided between the two superior court judges, making a total caseload per judge of 481.

In Juneau 719 cases were filed in the superior court, of which 72 were children's proceedings, which are processed by the juvenile master. 110 cases were filed in probate. The balance of the caseload to be handled by the one judge of the superior court was 537 cases.

Hon. Barry W. Jackson  
March 4, 1969  
Page two

In Ketchikan 485 cases were filed in the superior court, of which 50 were probate, being handled by the probate master, and 119 children's proceedings which are currently being handled by a master. The balance to be handled by the superior court judge was 316 cases.

In Nome the superior court judge handles all of the civil, criminal, probate and children's proceedings. In 1968 the total cases filed in Nome was 324.

Of the superior court cases filed in Anchorage during 1968 we have conducted a case by case study to determine how many of those originated in Kenai and the Kenai peninsula and how many originated in Kodiak. The results are as follows:

Kenai peninsula civil and criminal	157
Probate	57
Total	<u>214</u>

Of the 214 civil, criminal and probate cases listed above, 126 originated in the City of Kenai area and 88 originated elsewhere on the Kenai peninsula.

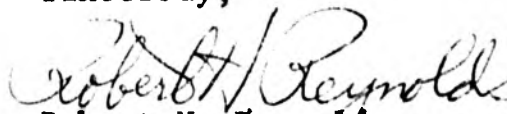
Kodiak civil and criminal	133
Probate	44
Total	<u>177</u>

Presiding Superior Court Judge Ralph E. Moody confirms what Chief Justice Nesbett told your committee in Juneau, that superior court judges from Anchorage do service both the Kenai and Kodiak locations at least once each month and all litigants from those areas have an opportunity to be heard.

It should also be pointed out that many of the causes of action arising in the Kenai peninsula area involve attorneys of both sides who reside in Anchorage and for the purposes of motions and pleadings it is more convenient for them to be heard at Anchorage. In this respect the records indicate only 70 of the 214 Kenai cases were filed by Kenai attorneys. In Kodiak all but 58 cases were filed by Kodiak lawyers.

We trust that this statistical information complies with your request. If you need any further information please do not hesitate in requesting it.

Sincerely,



Robert H. Reynolds  
Administrative Director

RHR:np

FISHER & HORNADAY

ATTORNEYS AT LAW

JAMES E. FISHER  
JAMES C. HORNADAY

KENAI PROFESSIONAL BUILDING - P. O. BOX 397

TELEPHONE  
283-7565

3 March, 1969

KENAI, ALASKA 99611

Representatives Barry Jackson, Tom Fink, Eugene V. Miller  
Earl Hillstrand, Wendell P. Kay, Stanley Cornelius,  
Mildred Stanfield, Jess Harris

House Judiciary Committee:  
House of Representatives  
Pouch V, Juneau, Alaska

Dear Judiciary Committee:

As President of the Kenai Peninsula Bar Association I have been directed by the membership to travel to Juneau to work for legislation which would result in the stationing of a Superior Court Judge on the Kenai Peninsula.

If possible I would like to appear before your committee, or sub-committees to make a formal presentation of the request for a Superior Court Judge to be stationed on the Kenai Peninsula.

In the event a formal meeting is not possible, then I would hope to meet informally with individual members of the committee or with groups of members of your committees.

I hope to be in Juneau Tuesday and Wednesday, March 11th and 12th. Would such a date be reasonable? If it is possible to answer my inquiry regarding the date of appearance, for your convenience I would accept a collect telephone call or wire.

Yours truly,

James E. Fisher  
President  
Kenai Peninsula Bar Association  
P.O. Box 397, Kenai - Telephone 283-7564

*These people  
are on the  
Kenai Peninsula  
Meeting 11:30pm*

*Sugan - Fisher collect  
Wire  
that what is OK  
Set on calendar*

HB 18  
HB 115  
Kay  
12 February 1969

Hon. Barry Jackson, Thomas Fink, Terry Miller  
Earl Hillstrand, Irvin Metcalf, Wendell Kay  
Stanley Corneilus, Mildred Banfield and Jess Harris  
House Judiciary Committee  
State Legislature  
Juneau, Alaska

Dear Committee Members:

The Kenai Peninsula badly needs a resident Superior Court Judge. Existing personnel of the Superior Court and the Alaska Court System have been cooperative to the extent of the personnel and funds available.

However, the development has now reached a point where a resident Superior Court judge is a necessity. You might think we would request a District Judge. However, this would not help the situation as a District Judge does not have sufficient jurisdiction either in civil or criminal cases. Likewise, we feel that Magistrate Nicholas should continue to handle Magistrate matters.

As you know, over 1/3 of the operating revenues of the State of Alaska come from the Kenai Peninsula area. Likewise approximately 18,000 to 22,000 people now reside on the peninsula. It is the third largest population center in Alaska. Several areas that do not have the population nor the activity of the peninsula have resident Superior Court judges. I wish to emphasize that we do not desire a reduction of judicial services in any location in Alaska. Further, there are other areas that need additional judges. However, the peninsula is the only population center that does not have a resident judge.

The Superior Court does come down from Anchorage once each month. However, this is just not adequate for the present population density. Sometimes the court schedule is changed and our witnesses will sit all day waiting. Likewise, sometimes the weather prevents the arrival of the judge. This situation also complicates the court calendar in Anchorage. For example, the last two months, the court has spent the better part of a week in Kenai, which indicates that Anchorage is short a judge almost 25% of the time.

On numerous <sup>occasions</sup> a judge has been needed for restraining orders, criminal matters, etc. We do now have a deputy clerk for the Superior Court. However, I believe the probate matters from this area are still filed in Anchorage as well as many criminal cases arising out of peninsula activities.

I would advise that the recently completed court facility in Kenai has chambers for a Superior Court judge. It would be our hope that the court would serve the entire peninsula.

Your cooperation would be very much appreciated.

Thank you.

Sincerely,

*James C. Hornaday*  
James C. Hornaday  
Committee Chairman  
Kenai Peninsula JBar Association

TELEPHONE  
486-5769

ROY H. MADSEN  
ATTORNEY AT LAW  
BRECHAN BUILDING  
KODIAK, ALASKA 99615

*Just Writing*  
*HB 115*  
MAILING ADDRESS:  
P. O. BOX 220

February 12, 1969

The Honorable Peter M. Deveau  
State Representative  
State Capitol Building  
Pouch V  
Juneau, Alaska 99801

Dear Pete:

I am writing to commend you on H.B. 115 requesting a full-time Superior Court Judge to sit in Kodiak.

I want you to know that I fully support a full-time Superior Court Judge for the Kodiak-Aleutian-Bristol Bay Area and that the Kodiak Bar Association supports this legislation also because we strongly feel that the people of this and other areas such as the Alaska Peninsula and Bristol Bay are being effectively denied the equality guaranteed them by our Constitution under the present arrangement.

I have requested the Superior Court to schedule all preliminary motions and pre-trial conferences concerning Kodiak cases for hearing at Kodiak and that all cases originating in Kodiak be designated as Kodiak cases. However, none of this has been accomplished so it is necessary for the attorney for a litigant from Kodiak to travel to Anchorage for the purpose of appearing for preliminary motions and pre-trial conferences. In many civil actions this may require three or four trips to Anchorage before trial, each of which uses one whole day of the attorney's time and a portion only of this time is recoverable as costs (if the party is successful in securing a judgment and collecting on it) whereas if there were a Superior Court sitting in Kodiak, a matter such as this would take only a few minutes or at most an hour.

The Honorable Peter M. Deveau  
February 12, 1969  
Page Two

Further, the Alaska Statutes afford individuals certain provisional remedies such as attachment, civil arrest, injunction, temporary restraining orders, executions after judgment and the like which when applied for from an outlying area such as Kodiak require approximately two weeks as they have to be prepared here, mailed to Anchorage, signed by the Judge, turned over to the Alaska State Police for service and then be returned here for service. If we had a full time Superior Court here this two week period could be reduced and all of this could be accomplished in one day; therefore, it is my contention and has been all along that people who live as far away as we do from a full-time Superior Court Judge are being deprived of these remedies.

I feel that a Superior Court Judge here could handle all probate matters, estates, adoptions, uniform reciprocal enforcement of support act proceedings and any such matters now going through the Probate Master in Anchorage and in addition I feel that if we had a full-time Superior Court Judge here in Kodiak we could abolish the District Court position and merely have a Magistrate Court to handle small claims and the City cases and the Magistrate could act in the dual capacity of Magistrate and Clerk of the Superior Court. The attendant costs of the new Superior Court could be set off in part by the present salary of the District Court and in part by eliminating the travel expense now used by the present Superior Court Judges when traveling to and from Kodiak and their per diem during Court sessions; however, I do feel that provisions should be made for travel to Bristol Bay and the Alaska Peninsula.

The Alaska Statutes provide that trials for the foreclosure of a mechanic's lien are to be given priority over all other types of cases except criminal cases. Article One, Section One of the Constitution of the State of Alaska states that:

"All persons are equal and entitled to equal rights, opportunities and protection under the law."

A classic example of the inequality of residents in this area due to the lack of a Superior Court sitting here involves a lawsuit for a foreclosure of a mechanic's lien here in Kodiak. This case dragged on for months and years and finally in order to get it set down for trial at all the local attorney had to agree to a trial in Anchorage in order to accommodate the Court's calendar and the opposing attorney's schedule. The Court sitting in Anchorage had

The Honorable Peter M. Deveau  
February 12, 1969  
Page Three

to hear evidence on a matter which involved questions concerning materials and workmanship on a building situated in Kodiak without having the opportunity to view the building in question and after some five (5) days of trial the case was recessed for a period of two months requiring the local attorney to return to Anchorage at a later date for continued hearing as well as the witnesses involved.

Under the present circumstances with no Superior Court situated here in Kodiak the people residing in this area and the Bristol Bay and Aleutian Chain area only have equal rights if they can afford to pay to pursue them; only have equal opportunities under the law if they can afford to pay to pursue them; and only have equal protection under the law if they can afford to pay for it.

In addition to the matters above mentioned we have the matter of inconvenience in attempting to prosecute for criminal offenses. If a felony is committed in Kodiak under the present arrangement and when an arrest is made the person is brought before the District Judge. If he is held to answer to the Superior Court he is transported to Anchorage until his matter goes before the grand jury. This requires a State Trooper to transport the prisoner to and from Kodiak and at the time the case is presented to the grand jury any witnesses from Kodiak must travel to Anchorage to testify. If the person desires to retain a Kodiak attorney, his attorney has to travel to Anchorage to consult with him. When it is set for trial in Kodiak the attorney has no opportunity to consult with the client prior to trial and therefore the Defendant is denied actually the usual conferences with his attorney prior to the trial of his case. The Judge and prosecuting attorney have to travel to Kodiak all at the expense of the State.

The case load of the present Superior Court Judges sitting in Anchorage is the heaviest in the State and when they are required to travel and sit in other areas this naturally puts them further behind.

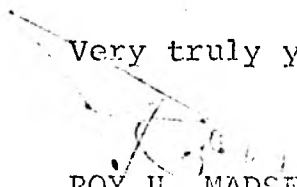
Kodiak and the Aleutian Chain have always been politically, economically and ethnically separated from Anchorage and as such a separate community it is entitled to the stability and dignity that the creation of a full-time Superior Court sitting in Kodiak would bring.

The Honorable Peter M. Deveau  
February 12, 1969  
Page Four

If you should need any witnesses to testify on behalf of this Bill when it comes up for hearing I would be more than happy to travel to Juneau at my own expense and I am sure I could get some local businessmen who have had to pay the cost of having cases litigated in Anchorage to appear and testify in support of this Bill also.

With best personal regards, I am

Very truly yours,

  
ROY H. MADSEN  
Attorney at Law

RHM:jm

COPY

COPY

COPY

ALASKA BAR ASSOCIATION  
RESOLUTION NO. 3  
(Passed in Convention-May, 1969)

RESOLUTION

URGING THE LEGISLATURE TO ASSIGN SUPERIOR COURT JUDGES TO  
THE KENAI PENINSULA AND KODIAK COMMUNITIES AND TO SITKA, ALASKA

BE IT RESOLVED by the ALASKA BAR ASSOCIATION that  
the Association's officers, administrators and legislative counsel  
or representative do all that is necessary to accomplish executive  
or legislative or judicial authorization for assignment of a  
Superior Court Judge to be shared by, and resident in, the Kenai  
Peninsula and Kodiak communities and also a Superior Court Judge to be  
resident in Sitka;

BE IT FURTHER RESOLVED that such judge be assigned as  
soon as appropriately funded by the Alaska State Legislature, but in  
any event not later than the 1st day of July, 1970.

DONE at Nome, Alaska this 16th day of May, 1969.

CERTIFICATION: I hereby certify that the above  
resolution is true and correct.

s/ Stanley Howitt  
\_\_\_\_\_  
Stanley Howitt  
Executive Director

COPY

COPY

COPY

NO. 2

HB

February 17, 1969

Honorable Terry Miller, Chairman  
Senate Judiciary Committee  
and  
Honorable Barry Jackson, Chairman  
House Judiciary Committee  
Alaska State Legislature  
Juneau, Alaska 99801

H B 127

Gentlemen:


Your committees, meeting jointly, are considering legislation that would establish a public defender system in Alaska.

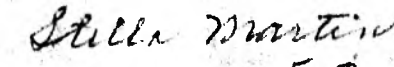
Please be advised that the Juneau Camp of the Alaska Native Brotherhood (ANB) and the Alaska Native Sisterhood (ANS) strongly endorses this and urges favorable action by the joint committees. We elect not to enter into the specifics of such legislation as we feel confident that other proponents will discuss the technical and legal aspects of the bill with the joint committees.

While you may be assured that the Juneau Camp expresses its' own desires, you may be equally assured that we feel we speak in the best interests of the natives of Alaska.

Not only would this be desirable for all natives, but the impact of implementing such a system would be tremendous for all persons, irregardless of ethnicity. We therefore urge that this be enacted and due consideration be given to establishing an office in each judicial district of our state.

Respectfully yours,

  
James J. Austin, Jr.,  
President - Juneau ANB

  
E.O.  
Mrs.) Stella Martin  
President - Juneau ANS

Joint Senate-House Judiciary Committee Hearings

Senate Bill 7  
Senate Bill 43      The Public Defender Act  
House Bill 127

February 17, 1969

1. Les Miller                      President, Alaska Bar Association
2. Representative of the Fairbanks Bar Association
3. Fred Miller                      Ketchikan Bar Association
4. Jim Bradley                      Juneau Bar Association
5. Bob Erwin                      Anchorage Bar Association
6. Jim Hornaday                      Kenai Bar Association
7. Stan Howitt                      Ex. Secretary, Alaska Bar Association
8. Kenneth Wells                      Public Defender, City of Sacramento, California
9. Dick Reagan                      Legal Services Corp.
10. Representative of the Alaska Native Brotherhood
11. Lou Dischner                      Teamsters Union
12. Don Dickey                      Alaska Chamber of Commerce
13. Duane Carlson                      AFL/CIO
14. Henry S. Pratt                      Alaska Bar Association

SUGGESTED AMENDMENTS TO SENATE BILL 43

BY THE ALASKA BAR ASSOCIATION

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Page 1, Line 27

After the word "council" insert the following new language: "The decision of the judge concerned shall be made within 60 days after receipt of the council's recommendation."

Page 2, Line 10

After the word "remove" delete "as many".

Page 4, Line 4

After the word "other" delete the word "may", and insert the word "shall".

Page 4, Line 24

After the word "defendant" delete "or other indigent person".

Page 4, Line 26

After the word "representative" delete the word "him" and insert the words "the defendant person".

Page 5, Line 1

Delete the word "other" and insert "agencies, as ordered by the court."

Page 5, Line 4

Between the words "may" and "contractor" insert the following: ", on approval of the presiding judge of the judicial district where the private attorney resides,"

Page 5,

Add new sub-section (c)

"A person receiving assistance under this Chapter shall be advised of his responsibility under this section, and shall at the conclusion of his representation hereunder, be advised of his exact financial obligation."

Add new sub-section (d)

"The extent of a person's financial obligation under sub-section (c) above, shall be determined by the Public Defender."

Re-number remaining sections to remaining sub-section.

Page 6

Insert new sub-section (1) to read:

"Agencies" means the public defender agencies created hereunder.

Re-number succeeding sub sections.

ESTIMATED NUMBER OF CRIMINAL APPOINTMENTS  
AND TIME SPENT THEREON BY MEMBERS OF THE  
ANCHORAGE BAR ASSOCIATION

1. Supreme Court - 1968

- A. Written opinions - 24 indigent criminal appeals
- B. Original applications - unknown
- C. Estimated time spent in preparation and argument to Supreme Court 75 - 100 hours each
- D. Estimated number of lawyers involved in appeals:
  - 40 on appeals alone
  - 20 on original applications
- E. Compensation awarded by court:
  - \$10.00 per hour on research
  - \$15.00 per hour on court appearances
  - 100 hours - approximate fee: \$1,050.00
- F. Minimum Bar Fee Schedule:
  - \$1500.00 minimum
  - \$35.00 per hour rate for all
  - 100 hours approximate fee - \$3,500.00

2. Probate Courts

- A. Sanity cases 1968 - 27
- B. Estimated time spent per each case: 3 - 5 hours
- C. Estimated number lawyers involved: 27
- D. Compensation awarded by court: \$25.00 for each court appearance
- E. Minimum Bar Fee Schedule - \$35.00 per hour.

3. United States Commissioner and United States District Courts

- A. Total 1968: unknown  
Average: 1-2 per each member of bar based on examination of appointment book in United States Clerk's Office.
- B. Probation revocation and minor crimes not compensable by United States, so requests for representation made by Judge to serve without compensation and no statistics kept.
- C. Estimated time spent on each:
  - 10 - 15 hours to enter guilty plea where no contest entered.
  - 20 - 50 hours for ultimate change of plea in contested cases
  - 50 - 100 hours for trial case.
- D. Court compensation
  - \$10.00 for out of court time
  - \$15.00 for in court time
- E. Minimum Bar Fee Schedule: \$35.00 per hour.
- F. Estimated number of lawyers involved: all private practitioners in Anchorage Bar.

4. State District Courts and State Superior Courts.

- A. Total 1968: unknown; average 3 - 4 for each member of bar, based on examination of criminal appointment book in District Court Clerk's Office.
- B. Question whether juvenile cases are also noted in book and if not, estimated additional 1 case per each member of Anchorage Bar in private practice.
- C. Estimated length of time spent on each criminal case:
  - 8 - 12 hours on each uncontested plea of guilty (arraignment District Court through plea in Superior Court)

4. State District and State Superior Court Continued:

12 - 40 hours on each contested plea of guilty.

40 - 150 hours on each case where trial takes place.

Estimated length of time on each juvenile case: 6 hours.

D. Court compensation:

\$10.00 per hour out of court time

\$15.00 per hour in court time

E. Minimum Bar Fee Schedule:

Depends on crime and \$35.00 per hour.

5. Estimate of normal time spent yearly for each member of Anchorage Bar in private practice on court appointments where matter uncontested:

Supreme Court	1 case	45 hours
Probate Court	1 case	4 hours
United States Courts	1 case	20 hours
State Superior and District Court	3 cases	30 hours
Juvenile Court	1 case	6 hours
	Total	105 hours

(American Bar Association recommends that each lawyer attempt to obtain 6 chargeable hours per day. On such a basis, this amounts to  $17\frac{1}{2}$  days a year or approximately  $\frac{3}{4}$  of a month.)

6. Estimated time where a contested matter is handled. (It is a consensus of opinion that each member would have at least one contested guilty plea each year):

45 hours  
4 hours  
20 hours  
50 hours  
6 hours

---

125 hours

Total time approximately 21 days a year.

7. Estimate of time where there is one trial matter (this would be true for a majority of the members of the bar):

45 hours  
4 hours  
20 hours  
120 hours  
6 hours

---

195 hours

Total time approximately 33½ days a year.

BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

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SUITE 500, 1ST NATL. BANK BLDG.  
ANCHORAGE, ALASKA 99501  
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CHARLES L. CLOUDY  
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SECRETARY, ANCHORAGE

P. O. BOX 278  
ANCHORAGE, ALASKA 99501  
OFFICE  
ROOM 137, 941 FOURTH AVENUE  
ANCHORAGE, ALASKA 99501

STANLEY HOWITT, EXECUTIVE DIRECTOR AND BAR COUNSEL

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RALPH J. RIVERS  
HOWARD P. STALEY

February 11, 1969

Representative Barry W. Jackson, Chairman  
Alaska State Legislature  
House Judiciary Committee  
State Capitol  
Juneau, Alaska

Re: Public Defender Bill

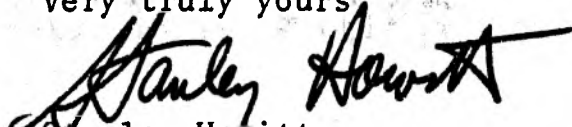
Dear Representative Jackson:

Mr. Kenneth Wells has agreed to testify on behalf of the Public Defender Bill and will be representing the National Legal Aid and Defender Association. Mr. Wells is the public defender for Sacramento, California.

We hope that his appearance will aid the judiciary committees in their evaluation of a public defender system for Alaska.

I will also be at the hearing.

Very truly yours

  
Stanley Howitt,  
Executive Director and  
State Bar Counsel

SH:sb

WILFRED G. STUMP  
ERNEST E. BAILEY

PHONE CANAL 5-4131

**STUMP & BAILEY**  
ATTORNEYS-AT-LAW  
BOX 2693  
314-317 COMMERCIAL BUILDING  
KETCHIKAN, ALASKA

Feb. 11, 1969

Mr. Terry Miller  
Chairman, Senate Judiciary Committee  
State Legislature  
Juneau, Alaska 99801

Barry Jackson  
Chairman, House Judiciary Committee  
State Legislature  
Juneau, Alaska 99801

Gentlemen:

The Ketchikan Bar Association will have representation before your Joint Committee hearing on the proposed "Public Defender" bill which will be held at 7 p.m. in the Superior Court room, State Building, February 17th, 1969. It will be Mr. A. Fred Miller.

If there is any change in this hearing, would you please notify us at once as he will depart from Ketchikan on the 16th.

Sincerely yours,

STUMP & STUMP

BY:   
W. G. Stump

WCS:pm

cc: Senator R. H. Ziegler, Sr.  
C. L. Cloudy  
A. Fred Miller

# STATE OF ALASKA

## DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

BOX 1149 - JUNEAU 99901



H 136

March 17, 1969

The Honorable Irwin L. Metcalf  
House of Representatives  
Pouch V  
Juneau, Alaska

Dear Representative Metcalf:


Re: H.B. 136

The Department of Labor supports H.B. 136.

This legislation would allow the Alaska Department of Labor to furnish information obtained in administering the unemployment insurance law to the Alaska Department of Revenue in order for the Department of Revenue to administer the Alaska Revenue Act. At present this information is furnished to the U.S. Internal Revenue Service. The Department of Labor and the Department of Revenue are charged with the responsibility of collecting taxes. In fulfilling this obligation, information is obtained by both departments. A free interchange of information between the departments for legitimate purposes would increase the efficiency and effectiveness of required tax collections within the State.

It is my understanding that the House Labor Management Committee changed the language of H.B. 136 to limit the Department of Revenue's use of information to tax purposes only. The Department is in accord with that change. The purpose of this interchange of information is only to more effectively administer the collection of taxes as required by law.

Very truly yours,

  
William K. Jermain  
Deputy Commissioner

WKJ:eb

IN REPLY REFER

TO 5.03  
13.1

U.S. DEPARTMENT OF LABOR  
BUREAU OF EMPLOYMENT SECURITY  
Regional Office  
1911 Smith Tower Building  
Seattle, Washington 98104

UNITED STATES EMPLOYMENT SERVICE

UNEMPLOYMENT INSURANCE SERVICE

December 18, 1968

Alaska Dept. of Labor

RECEIVED

DEC 19 1968

Employment Security Division  
JUNEAU  
EXECUTIVE DIR.

Mr. Stuart H. Bowdoin  
Director  
Employment Security Division  
P. O. Box 3-7000  
Juneau, Alaska 99801

Dear Mr. Bowdoin:

This letter will confirm the information given to Assistant Attorney General Vernon Snow during Mr. Johnson's recent visit to your agency concerning a proposed amendment to the Alaska Employment Security Act to permit the release of information to the State Department of Revenue to assist in the collection of other State taxes.

Although section 303(a)(1) of the Social Security Act prohibits public disclosure of information obtained from claimants and employers on an unrestricted basis, disclosure to another agency of the government is permitted provided that further disclosure by that agency will be made only to the extent necessary in the discharge of its official responsibility under the State law. If the proposed amendment to section 23.20.110 is adopted, your agency should have an agreement with the Department of Revenue that it would limit its disclosure to the discharge of its responsibility under the Alaska law.

The Department of Revenue should also be advised that since the furnishing of information to that Department is a use of unemployment compensation records for a purpose other than administration of the State unemployment compensation law, the administrative costs of furnishing such information must be paid out of general funds rather than funds granted under Title III of the Social Security Act.

Sincerely yours,

Clinton A. Johnson  
Regional Administrator

By Richard C. Buschman  
Richard C. Buschman

*Feb*

*Bob Leather*  
*ESC*

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 136

House Bill No. 136, introduced at the request of the Governor, and supported by the Department of Labor and the Department of Revenue, will enable the Department of Labor to disclose information held by the Employment Security Division to the Department of Revenue to assist it in collection of state taxes. The bill would not conflict with Federal restrictions on the use of this information, which is already being furnished to the Internal Revenue Service for a limited tax purpose.

The Judiciary Committee amendment would limit the use of the information to tax purposes. The Department of Labor supports this change as in keeping with the intended purpose of H.B. 136.

---

Barry Jackson, Chairman



*File  
HB 150*

**District Court  
State of Alaska**

POUCH U, STATE CAPITOL BUILDING  
JUNEAU, ALASKA 99801

March 3, 1969

Honorable Barry W. Jackson  
Chairman, Judiciary Committee  
House of Representatives  
Juneau, Alaska 99801

Re: Civil Statistics Juneau District  
Court

Dear Mr. Chairman:

Attached please find the statistical information requested during your deliberations on H.B. 150 during your February 24, 1969 committee hearings. These statistics are the results of extracting 200 of the 391 cases filed in 1968 in the District Court at Juneau.

If further information is necessary please advise me.

Very truly yours,

*Bruce Monroe*

Bruce Monroe  
Presiding District Judge

# Memorandum

Alaska Court System

TO: [ Honorable Bruce Monroe  
Presiding District Judge  
Pouch U, Capitol Bldg.  
Juneau, Alaska 99801

DATE : February 27, 1969

FROM: Mary Jo Jeans  
Deputy Clerk  
Pouch U, Capitol Bldg.  
Juneau, Alaska 99801

SUBJECT: Civil Filing Breakdown

<u>AMOUNT:</u>	\$100.00	\$100.00 to \$500.00	\$500.00 to \$1000.00	\$1000.00 and Over
<u>FILING</u>	55	116	19	10
<u>PERCENT</u>	27.5%	58%	9.5%	5%

The above is a breakdown of 200 civil cases from 1968.



HB-150

**District Court**  
**State of Alaska**

POUCH U, STATE CAPITOL BUILDING  
JUNEAU, ALASKA 99801

February 24, 1969

Representative Peter M. Deveau  
House of Representatives  
Pouch V, Capitol Building  
Juneau, Alaska 99801

Re: Small Claims Court  
Appeal Statistics

Dear Representative Deveau:

Thank you for your telephone call and inquiry of this date concerning the number of appeals taken from this Court in small claims matters. A search of the records of both District Court and Superior Court at Juneau reveals there have been no appeals since January 1, 1967 until this date. Records prior to January 1, 1967 were not examined.

I hope this information satisfies your needs. If I may be of further assistance, please contact me.

Yours very truly,

*Bruce Monroe*

Bruce Monroe  
Presiding District Judge

cc: The Honorable  
Thomas B. Stewart  
Presiding District Judge

CALL & HAYCRAFT  
ATTORNEYS AT LAW  
ROOM 210, NERLAND BUILDING  
FAIRBANKS, ALASKA 99701

HB 164

DAVID H. CALL  
KENNETH C. HAYCRAFT, COL. (RET.)

TELEPHONE  
452-2211  
452-2296

February 25, 1969

Representative Barry Jackson  
State Legislature  
Juneau, Alaska

IN RE: House Bill 164

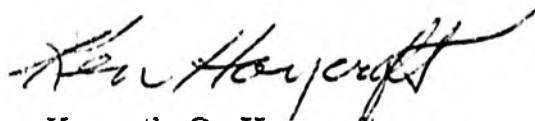
Dear Barry:

This is to ask you as a representative of Interior Alaska to oppose passage of House Bill 164. We have had Daylight Savings Time for one year only, but I think most people found it desirable. I should like to add my voice to those who think it is important to all forms of youth activity, particularly baseball, that we have the extra hours of sunlight in early June and August that are provided by Daylight Savings Time. Scheduling youth baseball is indeed difficult without it.

I am sure you will hear from many people as to other advantages of Daylight Savings Time such as in the field of transportation, and I will agree with them that it is desirable from many viewpoints. I urge a continuance of Daylight Savings Time to facilitate youth athletics in the Fairbanks area.

Sincerely yours,

CALL & HAYCRAFT



Kenneth C. Haycraft

KCH:gb

cc: William Cartwright,  
Alaska National Bank

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 179

This bill would establish qualifications and training for police officers in Alaska through the creation of a Police Standards Council. The bill follows the provisions of the Model Police Standards Council Act very closely.

When a person calls the police he has the right to hope that a well-trained, skilled and reliable man will answer the call. In some areas of Alaska today that hope may not be justified. Standards of police employment, and the actual practices of hiring, vary widely, and there is no uniform requirement of training.

The law enforcement officer is responsible for the protection of life and property and for the enforcement of laws and ordinances. He must know the law of arrest and of searches and seizures. He must be skilled in first aid and life-saving techniques. He should possess investigative ability, including good powers of observation, and the sense to interpret his findings and make an effective factual presentation, in order to command respect for law and order, he has to have general intelligence, emotional stability, good judgment, and the ability to handle complex situations under emergency conditions. We certainly expect him to possess good moral character and a high degree of physical fitness. In brief, he is expected to be a living example of all that is good within our society.

We require training and set standards for our physicians, attorneys, teachers, embalmers, beauticians, and barbers. It is time we did the same for our police.

Specifically, this bill creates a council containing representatives of the federal, state and local governments. The council will adopt regulations governing police training and certification, and will provide training programs. Presently employed officers may continue in employment. Some federal funds are available for the functions contemplated by this bill on a matching basis, and the bill provides for a sharing of funds by local governments to reimburse expenses invoked in police training programs.

There are 23 states having statewide police standards legislation, of which 7 are modeled on the prototype of the present bill.

Berry Jackson  
Chairman  
House Judiciary Committee

## MEMORANDUM

## State of Alaska

TO:  Honorable Barry Jackson  
Chairman House Judiciary Committee  
Sixth State Legislature

DATE : March 20, 1969

FROM: <sup>now</sup> Lieutenant G. O. Williams

SUBJECT: My Testimony Relative  
to SB 179

This memorandum is submitted to the committee pursuant to your request.

I will not address myself to the question of the funds which will be available for police officer training under the Omnibus Crime Bill. Mr. Rick Lauber of the Governor's Crime Commission will discuss this subject.

In my testimony, I stated that there were numerous federal grants which were becoming available for the training of law enforcement officers. Funds for police training under the Omnibus Crime Bill of 1967 may be wholly conditional to the passage of a Police Standards and Training Act.

Legislation of this type is essential to the coordination of grant applications for federal funding under a variety of programs. During 1968, the Department of Public Safety applied for and received federal funding for the following projects which had an important training component.

NEW CAREERS - \$125,000 program funded by the U. S. Department of Labor which provided for a 14-week training program for police and correctional aides in the Division of Corrections and the Department of Public Safety. Invitations to participate in the program were extended to all municipalities.

VOCATIONAL EDUCATION - \$10,000 program funded by the State Department of Education which provided books, training materials and training equipment for the State Trooper Academy.

We are currently awaiting final approval of the following projects which have been funded under the Highway Safety Act.

BREATHALYZER TRAINING - A program which will provide the transportation, maintenance and training expenses for municipal and state police officers to qualify them in the supervision of breathalyzer testing programs.

M E M O R A N D U M

Honorable Barry Jackson  
Chairman House Judiciary Committee  
Sixth State Legislature

March 20, 1969

Page two

POLICE TRAFFIC SUPERVISION - A program which will provide the transportation, maintenance and training expenses for municipal police traffic supervisors to train them in the advanced techniques of traffic accident investigation and traffic enforcement.

EMERGENCY MEDICAL CARE - A program which will provide the transportation, maintenance and training expenses for 100 volunteer and professional firemen, policemen and other personnel engaged in the transportation of sick or injured persons. The training will encompass advanced first aid and emergency rescue procedures.



**CITY OF JUNEAU | ALASKA'S CAPITAL CITY**

155 SOUTH SEWARD STREET | JUNEAU, ALASKA 99801

March 19, 1969

The Honorable Barry Jackson, Chairman  
House Judiciary Committee  
Alaska State Legislature  
Pouch V - State Capitol  
Juneau, Alaska 99801

Dear Representative Jackson:

I have received your letter of March 17, 1969, concerning House Bill 179, which is presently before your Committee. The purpose of the Bill, establishing an Alaska Police Standards Council, was discussed with Chief Wellington and he has informed me that as a police administrator, he feels the Bill is necessary in order to upgrade the qualifications for individuals desiring to be employed as police officers within the State of Alaska.

At the present time, there are no minimum qualifications for the individual, or standards set for the training he should receive. As a result of this, some cities have no standards or training for their officers. Of course, as an elected official, I can see the danger in this. The citizens of that particular community are going to suffer as a direct result of unqualified, untrained officers handling the police functions in their area.

Here in Juneau, I think we are fortunate that our Police Department has set standards for recruitment and also has taken the initiative to provide training, which is acceptable, but far from being the ultimate answer.

I definitely feel that the cities should not relinquish any power to a State board, but after reviewing the proposed Bill, five of the nine member committee will be representatives of local government, and this should be the safeguard that the cities will need in order to insure that programs are not pressed upon them which they are financially unable to meet.

For years, different professions throughout the State have been regulated by State boards' rules and regulations, and I think it is important that some minimum

The Honorable Barry Jackson

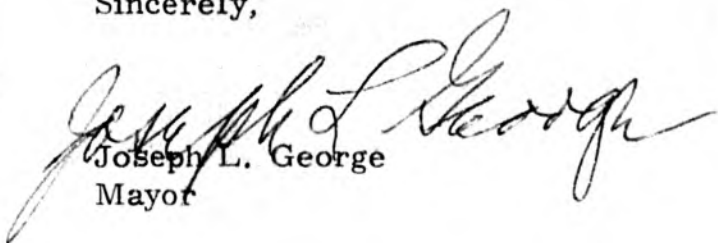
March 19, 1969

Page 2

standards be set for the recruitment and training of our police officers. Therefore, I am generally in favor of passage of House Bill 179.

Thank you very much for giving me the opportunity of making these comments to you.

Sincerely,



Joseph L. George  
Mayor

JLG/kh

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

CRIMINAL JUSTICE COMMISSION

March 24, 1969

KEITH H. MILLER, GOVERNOR

GOLDSTEIN BUILDING  
POUCH AJ - JUNEAU 99801

The Honorable Barry W. Jackson  
Chairman, House Judiciary Committee  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99801

Subject: HB179

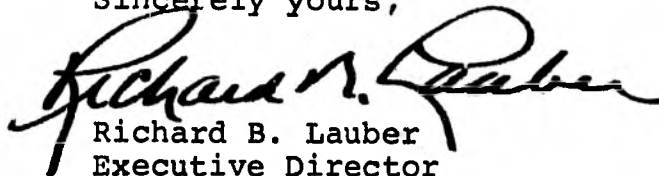
Dear Mr. Chairman:

The Omnibus Crime Control and Safe Streets Act of 1968 makes provision for federal assistance to states and units of local government for academic educational assistance. By grants and loans to law enforcement personnel, an effort is being made to upgrade the educational level of those presently engaged in law enforcement.

While the Governor's Planning Council on the Administration of Criminal Justice has not as yet submitted its Comprehensive Law Enforcement Plan, it appears that training in all areas of law enforcement will be a priority item. If the Council determines that funds should be allocated from the federal grant to units of local government to assist them in training police officers, up to 75 percent of the cost of the program may be paid under the federal grant. Either the unit of local government or the state could match the additional 25 percent.

While not specifically mentioned in the Act, I feel that the Justice Department would require that the state establish minimum curriculum requirements for the training of police officers. These standards could be arbitrarily fixed by the Governor's Planning Council on the Administration of Criminal Justice, but it would appear far better to have the curriculum established by representatives of units of local government with the assistance of state and federal agencies involved and concerned.

Sincerely yours,


  
Richard B. Lauber  
Executive Director

RBL:gt

**MEMORANDUM****State of Alaska**

TO:  Barry Jackson, Chairman  
House Judiciary Committee  
Sixth State Legislature

DATE : March 13, 1969

FROM:  Commissioner Mel J. Personett  
Department of Public Safety

SUBJECT: Fiscal Note - HB 179  
Our File 151 - 1969

In regard to your request for a fiscal note on HB 179, I find it almost impossible to submit a meaningful valid fiscal note on what is a voluntary program. This statement is of course in conflict with the statements of the "Anchorage Police Department Employees Association" in their correspondence with Rep. Harris. If nothing else, that correspondence verifies the need for minimum educational requirements for police officers. (See 18.65.180(b) regarding voluntary and incentive.)

The first year, however, would no doubt consist of planning meetings for formulation of the standards.

Travel and per diem would be the largest item, if not the only one. Estimate, \$5,000.00.

Second, third and subsequent years would have too many variables (decisions of the council, number of persons trained, facilities and training methods used, etc.) for me personally to arrive at any meaningful figure.

Since this is not a Department of Public Safety Bill, and the administration or direction would be mainly in the hands of local government, I do not feel qualified to present the fiscal note requested.

Copy to member  
meeting  
File copy in HB 179

## Anchorage Police Department Employees Assoc.

625 "C" Street

Anchorage, Alaska 99501

February 28, 1969

Representative Jess Harris  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99801

RE: HB 179 & Act already passed regarding submission  
of reports by local police departments  
to a central State file

Dear Sir:

In regard to HB 179, the Anchorage Police Department Employee's Association (APDEA) is in accord with the professionalization of law enforcement in Alaska by setting uniform and acceptable standards of recruitment and training. However, we do not endorse or recommend HB 179.

The Governor of the State has the sole power to appoint the members of this council. There are no written safeguards to confirm the qualifications of the people on this council. There are also no provisions for allowing the proposed council members to be chosen from representative, evenly distributed geographic areas. Appointment to this council could be politically influenced. This political influence could be directed, through this council, to law enforcement agencies. Influence on law enforcement agencies should only be imposed by legitimate legislative action in the form of laws enacted by elected representatives of the people.

Other hazards of this bill are: Section 18.65.160(1) - For what reason or purpose would a Police Standards Council need police reports and information? Once this information has been released from confidential files it could be made public, thus increasing the right to discovery of defense attorneys and suspected criminals. The names of confidential sources who provide information on criminal activities could be made public. We strongly object and oppose this breach of confidence.

Section 18.65.170(b) - The wording of the second line of sentence one; shall fix other qualifications for the employment of police officers. We feel that this wording leaves too general a discretion to the council.

Section 18.65.170(c) - Pertaining to promotional examinations. Is it to be understood that the council will administer the examination and make the promotion without the voice of the agency in which the vacancy has occurred. This area also comes close to and possibly does give power to horizontal mobility. This would allow a Sergeant in Nome to transfer in rank to the Juneau Police Department. This, of course, would not be realistic.

Section 18.65.200 - We feel that the members of the council should elect their own chairman.

Section 18.65.240(b) - We are greatly concerned that there is a conflict of interests with this section in utilizing existing facilities and programs to avoid duplication. There are two facilities in the State that are well-qualified to meet the standards of police training; one being in Sitka maintained by State personnel, and the other administered by highly qualified instructors of the Anchorage City Police Department. Also, in Anchorage the University of Alaska offers a Police Science curriculum for police officers.

Now, if the political appointed members of this State Police Standards Council are enacted with the power to approve these training facilities and programs with the intent to avoid duplication in the interest of economy and efficiency, we wonder which of the two facilities would be allowed to remain in operation, the State sponsored program or the local municipal program? If the local municipal training program is abolished in favor of the State program in Sitka, would the council also move the Police Science program from the University of Alaska to Sheldon Jackson College? Under Section 18.65.160, paragraphs 2, 3, 4 and 5, the council is empowered to make this move.

We do not feel that this council should be endowed with absolute power as set forth in this bill. Nor do we believe that the members should be appointed without qualifications and exposed to influence of political dominations. California has a similar but more practical and non-political bill in which compliance thereto is by choice, with a monetary incentive to comply.

We do feel that a Police Standards Council would be beneficial to both State and Municipal law enforcement agencies, and that their function should be in an advisory manner to the State and Municipal agencies. We sincerely believe that more research should be made in this matter before presenting it to the Legislature.

Regarding the other records submission bill, we understand a hearing is to be held by S. Cornelius to establish regulations for this act. We were opposed to this originally and request consideration of the following: lack of State ability to finance an adequate system, the geographic unavailability of the file, the amount of unnecessary reports involved, and of utmost importance, the availability of the file to process servers who are in actuality private investigators.

Jess Harris

-3-

February 28, 1969

The only method of operation of such a file that would produce timely, accurate feedback of information is an up-to-date teletype operated data process system designed after the Federal Bureau of Investigation's National Crime Information Center (N.C.I.C) on a seven day a week, 24-hour a day basis. This, I am sure, would not be forthcoming from the State.

Sincerely,



Brian S. Porter, President  
Anchorage Police Department  
Employee's Association

BSP/ams

cc: Robert Sharp, Anchorage City Manager  
John C. Flanigan, Anchorage Chief of Police  
All Representative & Senators, Anchorage Area  
Members of Judiciary Committee

# CITY OF FAIRBANKS



## OFFICE OF THE MAYOR

March 31, 1969

*The Golden Heart City*

P.O. BOX 790

FAIRBANKS, ALASKA 99701

The Honorable Barry Jackson  
Chairman, House Judiciary Committee  
Pouch Y  
Juneau, Alaska 99801

Dear Barry:

Concerning House Bill No. 179. This was supported by the League of Alaska Cities as a part of our blanket program implemented at the annual meeting of the League of Alaska Cities this past October. I have not followed the bill closely and will have to rely on your judgment regarding your statement that "This bill suggests that it would effectively limit the powers of cities to determine matters related to their own police force." If you feel strongly about this, I would suggest that you take whatever action you feel would be in the best interests of the Fairbanks community. Since the firm of Senator Merdes also acts as our City Attorney, and you have previous experience in this area, I will trust your good judgment in this matter.

Kindest personal regards and on behalf of the Fairbanks community, my sincere thanks for the outstanding job that you are doing in the current session of the State Legislature.

Most sincerely,

CITY OF FAIRBANKS

H. A. "Red" Boucher  
MAYOR

HAB/ss



## VISIT ALASKALAND



All-America City  
of  
**ANCHORAGE**



**ALASKA**

*International*  
*Polar air cross roads of the world*

Office of The Mayor

March 25, 1969

Honorable Barry Jackson, Chairman  
House Judiciary Committee  
Alaska State Legislature  
Juneau, Alaska

Dear Barry:

This is in response to your inquiry on HB NO. 179 which would establish the Alaska Police Standards Council. As I wired you on March 24, 1969, the City of Anchorage opposes this bill. It would effectively invade the home rule powers of cities.

Section 18.65.160 would empower the Alaska Police Standards Council to promulgate regulations including the authority to require the submission of reports and information by police departments in the state. We have found from past experience that such agencies are unmindful of the costs involved in complying with such report requirements. The City is currently taking issue with the Department of Public Safety on regulations which require numerous reports.

This Council would also be empowered to establish minimum educational and training standards for police officers including those employed by cities. So-called "class specifications" which normally include educational training and experience are a part of a comprehensive pay plan. The City of Anchorage, and I am sure other cities, are not prepared to delegate this authority to an appointive state council. It could logically be asked, "if the state should establish standards for police officers, why not have the state establish standards for engineers, firemen, electricians, and any other class of employees of cities and boroughs?" We know that minimum standards also establish the level of pay that is justified. The agency with responsibility for the budget should have the ultimate responsibility for standards. The appropriate agency is the City Council and not the Police Standards Council as proposed in this bill.



Honorable Barry Jackson

March 25, 1969

-2-

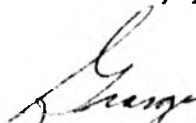
I could comment on each of the powers that Section 18.65.160 confers upon this Council but I believe the above remarks make the point I wish to make-- that this is a local matter insofar as it relates to City police officers. The powers proposed for this Council also invades the duties of the State Director of Personnel and will erode the Merit System. You can be assured that if the Council as proposed in this bill is established, there will be demands for similar councils to be established to control engineers and other professions and to eventually remove these positions from local and state civil service or merit systems.

There is such a variance in the needs of the cities of the state that I think it would be next to impossible for the Council to establish meaningful standards on a state-wide basis since the standards in Klawock and Craig would not very well meet the standards in Anchorage or Fairbanks. We feel the City of Anchorage is capable of determining the standards for City police officers, needed training facilities, curriculum, and other matters relating to law enforcement for which it is capable of financing. We find it totally inconsistent for a state agency to establish standards when it does not have the responsibility for funding these standards.

We find it unacceptable to have administration officers or executive officers of cities sitting in a position to prescribe standards that their city councils may not be willing to establish or may be unable to finance.

We appreciate your bringing this matter to our attention and if we can be of further assistance please advise me.

Sincerely yours,



George M. Sullivan,  
Mayor

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: HOUSE BILL NO. 179

Page 3, line 22:

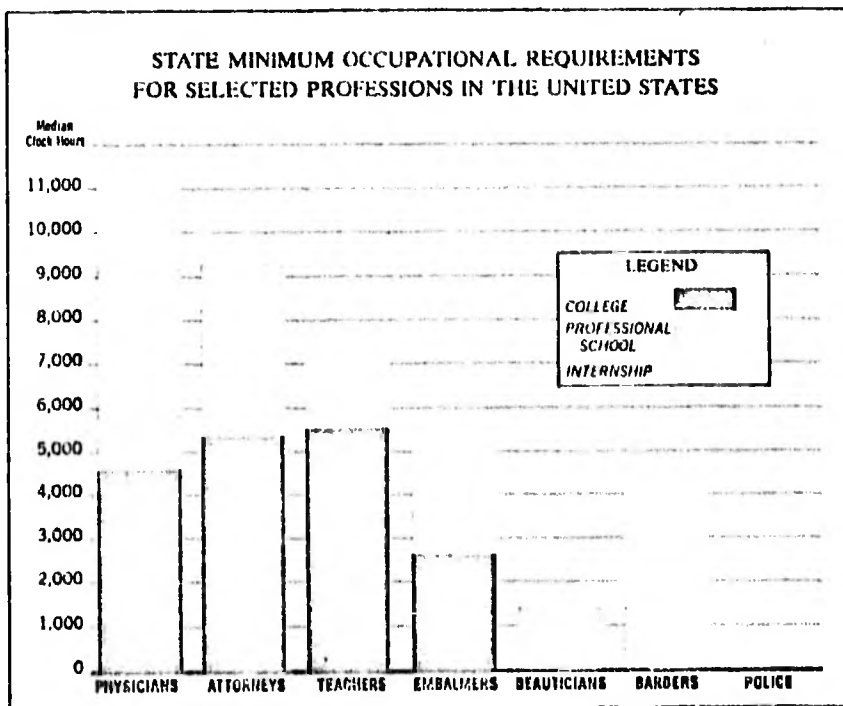
Before "reimbursement" insert "partial or complete" and  
after "reimbursement" insert a comma.

Page 3, line 23:

After the word "atate" insert a comma, and delete  
"of 50 per cent".

# A MODEL POLICE STANDARDS COUNCIL ACT

By NORMAN C. KASSOFF  
IACP Professional Standards  
Division, Washington, D. C. 20036



◆ The technological advances of the twentieth century in the United States have been accompanied by a corresponding advancement in the living standards of its citizens that is unique in the community of nations. This industrial and economic growth has been paralleled by a universal desire to increase the educational level of our population. School building programs, whether for a new construction or

the expansion of present facilities, are bringing the opportunity to learn to a very large segment of our population. This emphasis on education is reflected by the prediction that within the next five years some forty percent of the adult population will have obtained the equivalent of a junior college education.

It follows then that the citizen of an enlightened society is not only

more aware of the dignity of man, but of the guarantees given to him under the constitution. This awakening has in turn brought about great changes in the attitudes and physical operations of law enforcement agencies all across this country. Never before in our history have the police been so closely observed, criticized, (whether rightly or wrongly), nor have they encountered court decisions that questioned certain police practices. As a result, the law enforcement officer has in some instances found himself incapable of readjustment because of the very nature of this social and legal upheaval.

His ability and the methods used to cope with these new challenges are directly related to the type and quality of training that the police officer has received. Often as not, as our courts have indicated, the American police officer is inadequately prepared to cope with the rapidly changing problems in the society, and it appears that his ability to function in this contemporary society is weakened.

What are the answers to this situation?

If the individual police agencies cannot or will not prepare the officer to meet this pressing challenge, then the individual states must be prepared to provide the leadership and to assist in any means possible to help law enforcement achieve a professional status. Every state is charged with the protection of the health and welfare of its citizens, and all states have, through their legitimate licensing authority, established standards of selection and training for services and professions that affect this important phase of our lives.

## LICENSING AND ITS DEVELOPMENT

Licensing as a means to select the more qualified and assure their proper training and education is not a new concept. It can be traced back to the ancient Hebrews, who required their healers and physicians to be of a certain age and practice for a certain period of time under the supervision of an experienced physician before they could use their "art upon the people." The move to professionalize through licensing

has been extended to many fields, but strangely enough, it has not been made applicable to a group which must make certain life or death decisions, decisions where a citizen's life, liberty and property may be arrested . . . *the law enforcement officers (police) in the United States.*

The development of professions in the United States, and indeed in the rest of the world, has been based upon (1) a careful selection of individuals to make certain they have the basic qualifications needed to perform, and (2) an established and tested body of knowledge that the practitioners must master and use in performing their tasks.

It was felt that certain requirements had to be established beforehand to guarantee satisfactory performance, not only during the training period but long after the individual became a member of the profession. The states had a vital interest in this area, for it was found they were the only ones who had the authority to enforce compliance with regard to any criteria laid down by the professional groups. Further, the citizens demanded and expected that the professional be an expert in his field, and so they assented by giving to their state representatives the authority through legislation to determine and regulate, on a state-wide basis, whether individuals holding themselves out as members of a profession, were indeed qualified. As professions developed, the selection process readjusted to place a greater emphasis on basic educational qualifications in order to insure a greater degree of success in the training and learning phase by individuals. This, as we shall see, has varied greatly between occupations and professions, but the trend has been in one direction: toward higher basic educational qualifications.

The training of a professional person has, over a period of time, improved in quality and quantity. The factors affecting this were demands by the society for more improved services from the professions, the information explosion, and the great strides made in the areas of science and technology.

These facts have led to a generally accepted standard of what is a profession; and have set in

## MODEL POLICE STANDARDS COUNCIL ACT

(Title should conform to state requirements. The following is a suggestion: "An Act establishing a Police Standards Council; providing certain educational and training requirements for members of police forces; and for related purposes.")

(Be it enacted, etc.)

### Section 1. Findings and Policy

The legislature finds that the administration of criminal justice is of state-wide concern, and that police work is important to the health, safety and welfare of the people of this State and is of such a nature as to require education and training of a professional character. It is in the public interest that such education and training be made available to persons who seek to become police officers, persons who are serving as such officers in a temporary or probationary capacity, and persons already in regular service.

### Section 2. Police Officer Defined

As used in this Act:

"Police officer" means any full-time employee of a police department which is a part of or administered by the state or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of this State.

### Section 3. Police Standards Council

(a) There is hereby established a Police Standards Council, hereinafter called "the Council," in the Executive Office of the Governor. The Council shall be composed of fifteen members, as follows: five chief administrative officers of local government police forces, at least three of whom shall be from forces maintained by incorporated municipalities; five officials or employees of local government who have general executive or legislative responsibilities with respect thereto so chosen as to represent county government and municipal government; [the head of the state police], one representative of higher education, two public members and the Attorney General.

(b) Except for the Attorney General and the [head of the state police] who shall serve during their continuance in those offices, members of the Council shall be appointed by the Governor for terms of four years; provided that no member shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Notwithstanding anything in this Section to the contrary, the terms of members initially appointed to the Council by the Governor upon its establishment shall be: three for one year, three for two years, three for three years, and three for four years. The Governor, at the time of appointment, shall designate which of the terms are respectively for one, two, three and four years. Any vacancy on the Council shall be filled in the same manner as the original appointment, but for the unexpired term.

(c) The Governor annually shall designate the chairman of the Council, and the Council annually shall select its vice-chairman. The chairman and vice-chairman shall be designated and selected from among the members of the Council.

(d) Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Council shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

(e) Members of the Council shall serve without compensation, but shall be entitled to receive reimbursement for any actual expenses incurred as a necessary incident to such service.

(f) The Council shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any [five] members of the Council.

(g) The Council shall report annually to the Governor and legislature on its activities, and may make such other reports as it deems desirable.

### Section 4. Powers

In addition to powers conferred upon the Council elsewhere in this Act, the Council shall have power to:

1. Promulgate rules and regulations for the administration of this Act including the authority to require the submission of reports and information by police departments within this State.

2. Establish minimum educational and training standards for admission to employment as a police officer: (a) in permanent positions, and (b) in temporary or probationary status.

3. Certify persons as being qualified under the provisions of this Act to be police officers.

(Continued on next page)

4. Establish minimum curriculum requirements for preparatory, in-service and advanced courses and programs for schools operated by or for the state or any political subdivisions thereof for the specific purpose of training police recruits or police officers.

5. Consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of police training schools and programs or courses of instruction.

6. Approve institutions and facilities for school operation by or for the state or any political subdivision thereof for the specific purpose of training police officers and police recruits.

7. Make or encourage studies of any aspect of police administration.

8. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement.

9. Make recommendations concerning any matter within its purview pursuant to this Act.

10. Employ a Director and such other personnel as may be necessary in the performance of its functions.

11. Make such evaluations as may be necessary to determine if governmental units are complying with the provisions of this Act.

12. Adopt and amend bylaws, consistent with law, for its internal management and control.

13. Enter into contracts or do such things as may be necessary and incidental to the administration of its authority pursuant to this Act.

#### **Section 5. Required Standards**

(a) Police officers already serving under permanent appointment on the effective date of this Act shall not be required to meet any requirement of subsections (b) and (c) of this Section as a condition of tenure or continued employment; nor shall failure of any such police officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible. The legislature finds, and it is hereby declared to be the policy of this Act, that such police officers have satisfied such requirements by their experience.

(b) At the earliest practicable time, the Council shall provide, by regulation, that no person shall be appointed as a police officer, except on a temporary or promotional basis, unless such person has satisfactorily completed a preparatory program of police training at a school approved by the Council, and is the holder of a Bachelor's degree from an accredited institution. No police officer who lacks the education and training qualifications required by the Council may have his temporary or probationary employment extended beyond one year by renewal of appointment or otherwise.

(c) In addition to the requirements of subsections (b), (e) and (f) of this Section, the Council, by rules and regulations, shall fix other qualifications for the employment and promotion of police officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of police officers, and the Council shall prescribe the means for presenting evidence of fulfillment of these requirements.

(d) The Council shall issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) of this Section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the Council for approved police education and training programs in this State.

#### **Section 6. Police Training Schools and Programs: Grants Under the Supervision of Council and the State**

(a) The Council shall establish and maintain police training programs through such agencies and institutions as the Council may deem appropriate.

(b) The Council shall authorize the reimbursement to each political subdivision and to the State 50 percent of the salary and of the allowable tuition, living and travel expenses incurred by the officers in attendance at approved training programs, providing said political subdivisions or state agencies do in fact adhere to the selection and training standards established by the Council.

#### **Section 7. Appropriations**

(a) Except as otherwise specifically provided in this Section, the Council shall be supported only by appropriations made by the legislature.

(b) The Council may accept for any of its purposes and functions under this Act any and all donations, both real and personal, and grants of money

*(Continued on page 15)*

motion the machinery of the states to guarantee that the high standards of selection and training developed by the professions would be safeguarded from incompetence and frauds.

This has been done through the process of licensing by the several states and is related to a method of control for the benefit of society. In our country this control is based upon the fact, as we have seen, that the several states owe an obligation to their citizens to protect their health, safety and morals from those who might adversely affect it. The states, through their various legislatures, therefore, have enacted laws to safeguard these inherent rights, and indeed have the responsibility to see to it that they are continually protected.

This is not new or unique; it is a sociological phenomena—as any population expands, living becomes more complex. Safeguards are needed not only to protect the society from outright criminal activity of individuals, but also from the less apparent unskilled and untrained individual, whose services can affect the people. This latter area permits the several states to regulate a large variety of activities and occupations. The legislative function, thus, is to secure to all persons the safeguarding of their rights, including the enjoyment of their personal property as well as the equal use and enjoyment of public property. Whatever affects the health, safety and morals of the people is subject to legislative action, and so licensing by legislative edict evolved as a means for this type of protection.

This is not an unreasonable restraint on individual liberty or the society, it is a process that, by building the safeguards, actually protects the individual and the society.

The states have acted, in many areas through the licensing of many enterprises and occupations, with one thought in mind: *to improve the end result, whether it be a product or service, either personal or impersonal.*

A license or certificate for an occupation is a means of providing the legal guidelines and requirements for those who wish to enter an occupation that affects the health and welfare of the entire

society. It establishes a high uniform standard for the licensee and enforces adherence to the prescribed standards; it further provides the public with the information that the state, within its legal prerogatives, has made certain the practitioner is what he says he is, a professional.

The result: public confidence.

But it was not always so, for we learn from our mistakes.

A license is a permit granted by the sovereign to a person, firm or corporation to pursue some occupation or to carry on some business, subject to regulation under police power. This has been due in part to the efforts of state or national professional organizations raising their own technical standards. This upgrading seems to center about educational qualifications; for example, there is a trend among the states for barbering to require a high school education.

As our population continues to expand, our knowledge should also continue to grow. The result of this complex growth will be a more complex economy and we will begin to see the development of specialization in many more fields of occupations and professions. As a result of this, the trend toward licensure will be subjected to more and more pressure from the public in order to improve the services offered.

The trend for licensing or control has gone far beyond those occupations normally associated with professional status, as evidenced by a recent survey conducted by the International Association of Chiefs of Police. This survey included barbers, beauticians, embalmers, as well as doctors, lawyers and teachers, and was most enlightening. First, all of these occupations had set standards of selection commensurate with their needs; and second, they all had established a body of knowledge which was needed by the practitioner to adequately perform this task. The trend is there, the need has become obvious, and in the interest of the public, the states have seen fit to regulate the several occupations that can and do affect our society.

At the cost of human life and suffering, it took the medical profession many years to have the

from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this subsection shall be detailed in the annual report of the Council. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any monies received by the Council pursuant to this subsection shall be deposited in the [state treasury] to the account of the Council.

(c) The Council, by rules and regulations, shall provide for the administration of the grant program authorized by this Section. In promulgating such rules, the Council shall promote the most efficient and economical program for police training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(d) The Council may provide grants as a reimbursement for actual expenses incurred by the State or political subdivisions thereof for the provisions of training programs to officers from other jurisdictions within the state.

#### Section 8. Severability

The provisions of this Act shall be severable and if any phrase, clause, sentence or provision of this Act is declared to be contrary to the Constitution or laws of this State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

#### Section 9. Repealing Clause

All acts or parts of acts not consistent with this Act are hereby repealed.

#### Section 10. Effective Date

(Insert effective date.)

☆

state legislatures prohibit country store pharmacists and others from practicing medicine and calling themselves doctors without having graduated from accredited medical schools.

At the expense of many innocents going to jail, or heirs being involved in long drawn out litigation over the probating of a will, the public and the state realized the defense of a criminal case or a man's estate after his death were complex legal matters that required the special services of an individual who had received legal training and could demonstrate his learning.

It took several incidents of death to make the states realize that the handling and the preparation of a dead human body posed problems to health, sanitation and hygiene; that to deal effectively with these problems required an understanding of mortuary science, pathology, microbiology, chemistry and other related sciences. The result was the adoption by the states of a selection and training process for those seeking to become embalmers.

Besides some humorous results in haircutting, it took many serious scalp infections in heavily populated areas, for both the states and the barbers to realize that there was more to barbering than just cutting hair; there were questions of

hygiene, sanitation, nerve functions in the hand and face, chemistry of the hair and chemical composition of various lotions put on the scalp, all of which affected the type of service given in a barber shop. Together they drew a code of licensing for those practicing barbering to protect the general public and to provide a more efficient service to it.

#### PRESENT STATUS OF LICENSING: SURVEY RESULTS

The occupational survey conducted by the IACP included such considerations as age, residency, training, and reciprocity. Three of these occupations, the physician, the teacher, and the attorney, were chosen because the police officer of today performs each of these skills to some degree at some time during the course of his employment.

As a "physician" he must know the fundamentals of first aid for the sick and the injured, and practice this skill under the most trying conditions. In many instances he must know the law as thoroughly as a practicing attorney, and without the benefit of a large law library close at hand. The remaining three occupations—barber, beautician and embalmer—listed in the appendices are not less important,

and are generally not thought of as professions, but they do indicate the high degree of training needed to function and protect the society. It will be noted that they far exceed the requirements of law enforcement.

### *Physicians*

The survey showed that in order to enter the medical profession the states generally require a maximum of a four-year Bachelor's degree or a minimum of three years of college; four years of training in a medical school recognized and approved by the American Medical Association; and an internship of from one to two years. He must also pass a written and/or oral examination administered to him by the state's medical association in accordance with state law. The median number of hours needed to complete these qualifications is 11,450.

### *Attorneys*

In reference to the attorney, the survey shows that the majority of states require a maximum of a four-year Bachelor's degree (minimum number of states require two years of college), three years at an accredited law school recognized by the American Bar Association, and the passing of a Bar examination. A minority of states require an internship of from one to two years before being permitted to take the Bar examination in lieu of some years of law school. The median number of hours required to complete these qualifications is 9,540.

### *Teachers*

In the majority of states, the teaching profession requires a Bachelor's degree as a minimum, depending upon the grade level and the type of job the teacher seeks. (As an example, some states require a Master's degree for their administrators or principals.) There is now a trend toward a requirement of a fifth year of preparation for teachers in the elementary and secondary schools. In any case, they must serve an internship that may vary from twelve to twenty-four months, depending upon the state. Some states even require the

passing of the National Teachers Examination as a requirement for certification. The median time involved to complete these qualifications is 7,400 hours.

### *Embalmers*

The embalming profession in a majority of the states requires a maximum of two years and a minimum of one year of college. The courses required during this period include mortuary science, anatomy and physiology; chemistry—organic and inorganic; pathology; microbiology; sanitation and hygiene; public health laws and regulations; and mortuary law and administration. The professional schooling also requires an internship, varying from twelve to twenty-four months. During this internship, the student must embalm a prescribed number of bodies under the supervision of a licensed practitioner. The median number of hours required to complete these qualifications is 5,580.

### *Barbers*

The licensing of barbers in most jurisdictions, requires a professional schooling of from six to twelve months. Required courses include physiology, hygiene, elementary chemistry, sterilization, and anatomy, including facial bone structures and cranial nerve systems. There is a trend now among the states to require a high school diploma for barbers. An apprenticeship of from six to eighteen months is also required once the training course has been completed. The median number of hours required to meet these qualifications is 4,330.

### *Beauticians*

Such courses as theoretical studies in sanitation and hygiene, anatomy of the head and face, safety measures, use of antiseptics, chemical composition of cosmetics, and the use of electrical appliances consistent with the practical and theoretical requirements as are applicable to cosmetology, are required. The beauticians' general training requirements are similar to those of the barbers; however, the median number of hours required to complete these qualifications is 1,800.

### *Other Requirements*

In each of the previously mentioned occupations, the aspirant must be of good moral character, free from any physical or mental defects which might affect the performance of his work, and only after satisfactorily meeting all these requirements is he or she then permitted to receive a license to practice.

### *Reciprocity*

The survey further showed that licensing is not a means of excluding persons from entering these occupations. With very few exceptions, reciprocity is usually granted to an applicant who has obtained training in another state when requirements are similar to those of the state where he seeks to practice. It is this factor that has also added to the professional status of these occupations. Their training is uniform throughout the United States and lends itself to a national discipline applicable to each state. Licensing does not seek to exclude the qualified and the talented. It does, however, discourage the lazy and incompetent.

### *Probation*

The question of probation does not enter into these described occupations. The practitioners are not permitted to practice their arts or skills until they have fully complied with all of the statutory requirements which may include an oral, practical demonstration, and a written exam. Their internships are strictly controlled and observed to insure compliance. Internship is as much a part of their selection process as is their formalized education and training. The point is quite clear, aspirants to these occupations are not permitted to practice until their licensing boards are satisfied the individuals are qualified.

In law enforcement this is almost unknown. In over 31 per cent of the police agencies, the officer is on the street with *little or no training* of any type. The concept of probation permits an individual officer to practice his "skills" under a system that in effect is still testing him to determine if his training has been successful—his "guinea

pigs" are the public he is supposed to serve. Obviously, it follows that some of America's law enforcement problems are created by the police themselves.

No other profession has "probation." Individuals practicing the occupations surveyed are "on probation" all through their careers. The citizen doesn't look in the phone book for a doctor or an attorney or sit in a barber's chair and hope the individual he is dealing with is qualified; he expects it. When he calls for police assistance he has the right to expect that the officer is as qualified as any other specialist.

To insure the citizen's expectation and to elevate the stature of law enforcement, the myth that an individual hired as a police officer who serves his "probationary period" without incident is qualified, must be examined in the light of what a police officer does today in our society.

#### LAW ENFORCEMENT OFFICERS

Certainly we cannot say that law enforcement is less important than the previously discussed occupations. In fact, it might be said to be even more important considering the drastic social changes that are occurring in the United States. The law enforcement officer is responsible for the protection of life and property and for the enforcement of laws and ordinances. Society expects, and in the future should demand, that he command respect for law and order; integral parts of such qualities are general intelligence and emotional stability, coupled with good judgement. He must maintain order in crowds under extremely difficult circumstances, often unnecessarily complicated by hysterically emotional climaxes. He must be firm, courteous, and still be able, technically, to resolve situations with respect to the rights of others. He must have the ability to analyze situations quickly and objectively, to determine the necessary and proper action to take within the legal structures surrounding his position, and to guarantee the rights of all individuals. He must possess investigative ability, including good powers of observation, coupled



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with the ability to interpret his findings, to make a factual presentation, to protect the rights of the accused or convicted. He is expected to be a fact-finder for the court. His attributes must, of course, include good moral character, together with a high degree of physical fitness and mental stability. In brief, he is expected to be a living example of all that is good within our society.

Law enforcement agencies, since early in this century, have been talking and are aware of the need to move toward a professional status. So far, this has been a largely uncoordinated, unsupported effort, insofar as the individual officer is concerned. It is true, of course, that there have been some steps taken toward professionalization in law enforcement, albeit slow and unsteady steps in light of the needs. Up to this point, there has been no concentrated effort toward uniform standards for the police either from a personnel, physical or training and operational standpoint. Too often the exigencies of filling a police position result in a waiver of many factors recognized as necessary. The police officer's qualifications place him in a dual status since he must have not only some qualifications of a technician but also some qualifications of a professional.

As a technician, a police officer must have precise knowledge concerning the collection and preservation of evidence, a highly developed ability encompassing scientific methods of processing a crime scene, including the ability to properly lift and preserve latent forms of evidence. He must be skilled in the operation of a motor vehicle, diving gear, and other modern instruments of law enforcement.

As a professional police officer, he must know the criminal codes and be able to readily apply them to situations without the benefit of time for legal research and reflection. He must have a knowledge of rules of evidence, what is admissible and non-admissible. He must have an unreasoning ability to make the right decisions under any given circumstance. He must, under the most extreme conditions, determine when a citizen's property can be searched. Law en-

forcement today is concerned not only with the prevention of crime and apprehension of criminals, but also with the sociological aspects of crime.

In the field of law enforcement, which has a direct relationship to the important police power doctrine of the states, our research has revealed a complete lack of standards for selection and training. First, licensing required for some occupations is almost unknown in American law enforcement. When we consider the expected capabilities of the American police officer of today, we suddenly realize that the minimum entrance requirements and selection standards in all too many cases are sub-standard. If one were to examine and reflect on the major internal problems of law enforcement across this country today and seek a solution to prevent them from recurring he would, of necessity, have to start with selection and training criteria.

The theory is false that establishing selection criteria has the philosophical approach of a "text-book." Would we consider hiring a person with a felony record or a person with a long history of mental illness? The answer would have to be negative, and yet are these not selective criteria? Would we hire a person who could not read or who had difficulty in learning or adjusting to new situations and place him out on the street to control society? Again, the only possible answer must be in the negative, but shockingly, it is in some instances being done. We are, then, in effect putting a uniform on a man, handing him a gun and a badge, and proclaiming to the community that he is a police officer.

Only four states have gone so far as to include in their minimum statewide standards for law enforcement the number of hours needed to become a police officer. These provide for only about 200 hours. However, required qualifications and training of law enforcement officers have not been up-graded to keep pace with the changing aspects of our society and law enforcement. The graph on page 12 illustrates this point.

By state law the hours of training needed to become a barber or

beautician are almost ten times greater than hours of training needed to be a police officer, and yet the police officer's performance must be so exacting and correct that without it society could not function.

There are police officers across this country today with little or no training of any type, whose mental or physical capabilities have not been fully determined, whose mental stability has not been looked into, and who lack the ability to learn and absorb all of the new techniques that are applicable in our changing society. There must be some uniformity of standards. The "village" officer should not be any less important or less able to perform than the "large city" police officer.

In the area of law enforcement, the proposition that "the sovereign can do no wrong," has artificially protected to some degree the untrained and incompetent. Now, even this long established rule of law is undergoing change. There have been court decisions which state that the sovereign is not only responsible for whom it hires but how it trains them.

#### *Statutory Status of Police Training*

The survey was effectuated by contacting the Secretary of State for each of the various states and obtaining full copies of their police training laws, if any.

#### *Types of Laws*

Two categories of training legislation exist: voluntary and mandatory.

The *voluntary* type legislation gives to police agencies within the state an option of whether they have their personnel trained under the statewide standards prescribed by law, or whether they have them trained at all. Arkansas, Colorado, Illinois, Iowa, Michigan, Minnesota, Mississippi, Montana, Nevada, North Dakota, Oklahoma, Oregon, Rhode Island, Tennessee, Texas and Washington have this type of legislation.

The *mandatory* type of law requires that all police officers within the given state must successfully conclude the prescribed training

program before they can receive a permanent appointment with other departments. Connecticut, Massachusetts, Maryland, New Jersey, New York, and Ohio have this type of legislation.

Alabama, Alaska, Arizona, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, South Carolina, South Dakota, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming *have no laws at all.*

#### *Types of Commissions*

A great majority of the existing laws call for the creation of a training commission, in most cases, to "establish the standards needed" for officers entering training and to "prescribe the course content" of the programs and the length of time to be devoted to the program. The function of these important commissions varies greatly. While the great majority of the states have commissions, their makeup differs.

In California, the commission is chosen from a cross-section of educators, police and administrative heads of local government, as well as the attorney general of the state. They function in all matters pertaining to the state training program and are free to carry out all aspects of the law which include, among other things, the inspection of the various programs on a statewide basis.

In Rhode Island, there is no commission and the Superintendent of the State Police sets the requirements for their statewide training program. In Michigan, the eleven-man training council is composed of ten police representatives and "one member nominated by the Metropolitan Club."

In Mississippi, the Commissioner of the Public Safety Department is authorized to establish and maintain a law enforcement officer's training academy. He alone establishes the curricula and determines who will attend.

The effect of this wide diversity in the type and makeup for the various commissions does not permit the establishment of uniform standards in the important matter of selection. There should be ab-

solutely no reason why selection standards should not be uniform throughout the United States. While it is argued that a small community cannot compete in the salary level that high selection standards would cause, there is no escape from the validity of equal salary for equal work; and no community today, large or small, can avoid the inevitable changes that are forecast for the future. The small city or community has the same, if not a greater, obligation to provide its citizens with good law enforcement as has the large community. If we wish to attract and keep capable and qualified people, we must be able to show to all concerned that law enforcement is interested, first, in raising the quality of its officers and then it must inevitably follow that salary increases for work performed will be forthcoming.

The Advisory Council on Education and Training of the IACP, which is made up of members from state, municipal and county police organizations, as well as educational and governmental institutions, has been at work for the last two and one-half years developing a Model Police Standards Council Act. The deliberations of this group have led to the development of a model, which breaks the chains that bind it to the obsolete philosophies that have plagued law enforcement. First, the proposed state council is made up of a cross-section of police officials representing the various levels of government, officials of local government who have had, prior to their present position, general executive or legislative responsibility, together with representatives of higher education, the attorney general and the head of the state police, plus three public members, to compose a well-balanced commission. The designation of the appointments of the commission is totally and specifically spelled out to encourage the commission to administer the law in a progressive manner.

Nationwide adoption of this Model Act is being recommended.

#### *Standards of Selection*

Only one state (California) has had its standards of selection built into its statewide training law. By

minimum standards of selection, we are referring to the basic qualifications that an individual must have before he will be hired by the police agency. The California law provides for U.S. citizenship, a minimum age of twenty-one, a criminal record check of the applicant to determine if he has been convicted of a crime, fingerprinting, a good moral background determined by a thorough background investigation, education through the twelfth grade, physical fitness as shown by a medical examination, and an oral interview conducted by the hiring agency. While California has such minimum standards, they operate solely within a *voluntary* law; that is, the various police agencies within California do not have to conform to these requirements if they do not participate in the training programs. It is purely voluntary. If, however, the agency does participate in the program, the local government must pass an ordinance wherein it agrees that it will conform to the minimum standards. While these minimum standards are a step in the right direction, the shortcoming is quite obvious in that there is no total compliance with the law; and while it may be argued that there is a near total compliance in California, it should be pointed out that this is due only to (1) the unique educational system within the state, (2) the large tax base that supports the educational system in the state, and (3) the funds provided from the criminal courts. These three unique realities have enabled the California law to be such a success. It is doubtful whether this type of law would have succeeded as well had it been tried in some state other than California. Further, there is an implication, no matter how slight, that the financial success of the training operation rests upon the number of citizens arrested in California and convicted in its criminal court system. It is questionable to say the least, whether a state should use its police authority to finance any type of training program related directly to the state's welfare and use a source of income for which it was not intended.

However, a major point is still to be considered, and that is one of keeping within the guidelines of

other professions, which do not give to doctors, lawyers, teachers, embalmers, barbers, or beauticians an option of participating in the required educational and training programs. The results of such an option would immediately become obvious and disastrous to the health and welfare of the public. It is apparent that one of the strong factors involving professional standards is that compliance on a statewide basis is mandatory.

The voluntary type of police training law appears to be political in nature because a voluntary, as opposed to a mandatory, law stands a better chance of passing through a state legislature. This compromise is a foolhardy one in that the complex requirements of law enforcement today are being subrogated to political compromise and arguments. A comparable situation existed in the United States in 1847, when a bitter argument arose between physicians and pharmacists as to what constituted the practice of medicine and who could practice it. Compromise obviously was not an answer where the public's health and safety were involved. The ecology is the same when discussing minimum standards for law enforcement. The issue here is that political compromise should not be permitted to enter this very vital question. There is only one question to be answered here: Is the individual who is to become a protector of and guardian for our society, qualified to perform within the society?

The states having mandatory law, such as New Jersey and New York have not provided for minimum standards of selection, apparently for political reasons. The determination of standards is left to the training commissions and it is obvious that with no statutory guidelines to govern them, they may make their own standards of selection. Although this is not to import outright political manipulation, such manner and determination does not always provide for the uniformity requisite in a professional group and permits human elements to enter into the consideration. Unless the statutes already contain minimum standards of selection, it must follow that there will be cases of poor selection. Poor selection eventually results in

the admission of sub-standard individuals who are incapable of learning and absorbing not only the basics, but the complex changes of technology and the society. There is every reason to believe that many problems in the field of law enforcement today were brought about by poor selection; inevitably this created problems not only for the agency, but for the individual involved, as time went on. Today even a twelfth grade education will not suffice. Higher educational requirements are essential not only for today, but for the future. Without careful testing and selection beforehand, we can never be sure of the future progress of the individual law enforcement officer. Certainly education is one of these key factors. Section V of the IACP Model Police Standards Council Act has included the necessary requirements of a police officer as well as higher ranks included in it. A copy of that model accompanies this article. The model act further provides that personnel who are already members of a department who further their education beyond the high school level, be awarded certain benefits for any future promotional examinations that they might participate in. The act in no way prohibits police personnel who do not further their education from taking future promotional examinations. The act further provides that at a certain future date, this date to be left to the states, no person shall be employed as a police officer, except on a temporary or probationary basis, unless he has satisfactorily completed two years of higher education beyond the high school level. At another future date, no person shall be employed except on a temporary or probationary basis unless he has satisfactorily completed courses and holds a Bachelor's degree from an accredited institution. In both instances, the individuals must still satisfactorily complete a police training program approved by the council. This law is mandatory in nature in that it prohibits permanent employment beyond one year unless he has met these educational and training qualifications. Further, the act provides for the council to establish standards involving promotion of police personnel at

all ranks, and the best method available to accomplish this objective is to prescribe by law and for a commission to carry it out. This portion of the model law was arrived at after great deliberation and careful study. As has been pointed out, the American public is receiving education above the high school level at a rate previously unknown in our history. The law enforcement officer in order to function in this society must equal if not exceed the general level of education and training. The various states have an obligation to their citizens to provide the best available. This model law supplies the basis from which great strides can be made toward establishing the professional status that is so greatly needed in American law enforcement. The educational requirements will not in and of themselves guarantee good law enforcement but they will eliminate many of the factors that have created bad law enforcement. The police officer of today, and most certainly of tomorrow, must be prepared to act professionally; and what is more important, the American public must look upon him as a professional. To achieve this, the educational requirements must be on a *mandatory* basis rather than on a *voluntary* basis, for the reasons already stated.

A review of the survey data indicates a new and guiding force is needed. A recent nationwide police training survey conducted by the International Association of Chiefs of Police has shown that some ninety per cent of over four thousand agencies responding were in favor of some type of statewide minimum standard law dealing with selection and training.

#### *Course Content*

The course content of the various police training programs varies greatly from state to state. In some instances the statutes limit the number of classes to be held in any given year or the length of time to be devoted to a program. Iowa has this type of statutory provision. In Illinois, the program is limited to a maximum amount of money that can be appropriated for each man attending the training program. The course content of many





## FOOTNOTES TO PRECEDING TABLE

<sup>1</sup> "The Training and Education Division shall: (1) certify law enforcement training and education programs as having attained the minimum required standards established by the council. (2) Certify instructors as having qualified as law enforcement officer instructors under conditions established by the council."

<sup>2</sup> "A penalty assessment in the amount of \$2.00 for every \$20.00 collected by the courts for criminal matters."

<sup>3</sup> "Five sheriffs or chiefs of police or peace officers nominated by their respective Sheriffs or Chiefs of Police."

<sup>4</sup> "A penalty assessment in an amount equal to \$5.00 for every \$20.00 or fraction thereof, collected by the courts for criminal offenses."

<sup>5</sup> "Eight members of the Educational Committee of the Connecticut Chiefs of Police Association who are holding office or employed as chiefs . . . or the highest ranking professional police officer of a regularly organized police department."

<sup>6</sup> ". . . and two police officers who are neither sheriffs nor chiefs of police . . ."

<sup>7</sup> ". . . Board composed of 16 members: 5 appointed by statute and 11 appointed by the governor . . . The 5 by statute are: one attorney general, the Superintendent of the Highway Patrol, the Superintendent of the Chicago Police Department, the Director of the Illinois Police Training Institute, and the F.B.I. agent in charge of the Springfield Division. The 11 by the governor are 2 mayors, 2 county sheriffs, 2 city-managers, 3 chiefs of police, and 2 citizens . . ."

<sup>8</sup> ". . . The facilities shall be available . . . without cost to . . . law enforcement agencies, subject to rules and regulations of the Board . . . agencies conducting training at other facilities . . . shall be entitled to a per capita allowance from the . . . fund to defray portions of the cost of such training . . . approved by the Board . . ."

<sup>9</sup> ". . . also included are one prosecuting attorney, one judge, and one member of the Municipal League . . ."

<sup>10</sup> ". . . Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment."

<sup>11</sup> ". . . created a continuing fund to be used by the Board to conduct a law enforcement academy until 1973."

<sup>12</sup> ". . . in each and every criminal action . . . one dollar of said fee . . . deposited in the General Fund . . . shall be earmarked and deposited in the Law Enforcement Training Fund . . ."

<sup>13</sup> "Any governmental agency subject to the requirements of this Act which desires to receive aid pursuant to this Act shall make application to the council and director for such aid . . . The Administration of the Academy and the Council Act shall be vested in the Commissioner of Public Safety."

<sup>14</sup> "Also included is one member appointed from the Senate . . . One member from the House . . . and four members knowledgeable and experienced in the field of law enforcement . . ."

<sup>15</sup> "The law becomes mandatory as of July 1, 1969."

<sup>16</sup> ". . . Commission consists of ten members . . . Full-time law enforcement officers . . . One of the ten members is the President of the Kansas County Attorneys' Association . . ."

<sup>17</sup> ". . . The F.B.I. member serves in advisory status only, and the Commission also has one member from the Kentucky Bar Association."

<sup>18</sup> ". . . and three police officials of the state . . ."

<sup>19</sup> "mandatory training for cities of 5,000 or more."

<sup>20</sup> ". . . Also consists of the Director of Civil Service . . . Commissioner of Public Safety . . . Commissioner of Police of Boston . . . and administrator of a city or town . . ."

<sup>21</sup> ". . . officer attending school shall be paid his wages . . . also receive such reasonable expenses as may be determined by appointed authority . . ."

<sup>22</sup> ". . . on assessment as additional cost . . . equal to 10 percent of every fine . . . collected by the courts for criminal offenses . . . other than violation of the vehicle code . . ."

<sup>23</sup> ". . . Mandatory to cities of 1,000 population or more; voluntary to cities of 1,000 population or less . . ."

<sup>24</sup> ". . . as well as "the chiefs of police of each city of the first class."

<sup>25</sup> ". . . The board may recommend to the attorney general rules and regulations only with respect to . . . certain

clauses . . . but not as to minimum standards of physical, mental, educational, etc. . ."

<sup>26</sup> ". . . The Executive Director . . . shall have the following duties . . . to be exercised with the approval of the Board . . . and to be executed only in full accordance with the rules and regulations promulgated by the attorney general . . ."

<sup>27</sup> ". . . 160 hours of training for cities in rural areas and 200 hours of training for cities in urban areas."

<sup>28</sup> ". . . Also one member from the County Attorney's Association, Montana Municipal League, the County Commissioners' Association, and one member from that unit of the University of Montana selected as a site for the academy . . ."

<sup>29</sup> ". . . all officers shall be paid their regular salaries during attendance . . . expenditure of funds by any city or town, for the board, room, or travel expenses of officers attending, is lawful . . ."

<sup>30</sup> ". . . It is stated by law that the academy will remain open for a period of three weeks per year . . ."

<sup>31</sup> ". . . Three members who are sheriffs, chiefs of police, or peace officers nominated by their respective sheriffs or chiefs of police . . . one member who is an elected county official . . . one member who is an elected city official . . ."

<sup>32</sup> "The law was voluntary from 1961 to 1965."

<sup>33</sup> ". . . The League of Municipalities."

<sup>34</sup> ". . . Council composed of 8 members . . . 3 appointed by the governor . . . 2 sheriffs . . . 2 chiefs of police . . . Commissioner of Police of New York City . . ."

<sup>35</sup> ". . . Superintendent of Bureau of Criminal Identification . . . State Parole Officer . . . State Attorney . . . representative of each House of the legislature . . ."

<sup>36</sup> ". . . Council consists of nine members appointed by the governor with the advice and consent of the Senate . . . These members are as follows: one member from the Ohio Board of Regents, two incumbent sheriffs, two incumbent chiefs of police, one member of Bureau of Criminal Identification and Investigation, one member from State Highway Patrol, one member from F.B.I., one member from the State Department of Education . . ."

<sup>37</sup> ". . . One man from the State Highway Patrol and one from the Bureau of Criminal Identification and Investigation."

<sup>38</sup> "One Peace Officer selected by Court of Criminal Appeals; one Peace Officer selected by Commissioner of Public Safety; one selected by Board of Directors of the Oklahoma Sheriffs and Peace Officers Association; one selected by Board of Directors of the Fraternal Order of Police; and one member who shall be the Director of the Southwest Center for Law Enforcement Education."

<sup>39</sup> "Consists of nine members of which one must be a city policeman and one must be a county policeman. The other seven can be citizens."

<sup>40</sup> "Administration of the Program is handled by the Superintendent of the State Police."

<sup>41</sup> ". . . Five members appointed by the Attorney General's office . . . The Chief Agent of the Division of Criminal Investigation, who shall serve as chairman . . . The special agent of the F.B.I. in charge of the district in which South Dakota is located . . ."

<sup>42</sup> ". . . consists of eighty hours of classroom training; ten hours of first aid training; and a required two day firearms school."

<sup>43</sup> "Governor appoints the Agency."

<sup>44</sup> "Governor appoints the commission of nine members with the advice and consent of the Senate."

<sup>45</sup> "Council composed of nine members . . . attorney general, one member from F.B.I., and three persons selected at large by the Governor . . . Governor also appoints one member from each of the following categories: incumbent mayors, incumbent county commissioners, incumbent sheriffs, and incumbent police chiefs . . ."

<sup>46</sup> "Council composed of nine members: two sheriffs, two chiefs of police, one member of F.B.I., two citizens at large, a Commissioner of Public Safety, and Commissioner of Motor Vehicles . . . The Attorney General is also a member of the Council, but he has no voting power."

<sup>47</sup> "Also includes one attorney from a city with less than 50,000 population, one attorney from a city with more than 50,000 population, one member from the Senate, and two members from the House of Representatives."

<sup>48</sup> "The committee of nine is appointed by the governor . . . The two members listed under the category of mayor represent one incumbent executive officer of a city within the state and one incumbent County Commissioner."

# The Dumb Cop

By  
RAYMOND P. WITTE, Ph.D.  
Director, Evening Division  
Loyola University  
New Orleans, Louisiana

*This article originally appeared in Adult Leadership, a publication of Adult Education Association and is reprinted here with permission of both the author and the publisher.*

◆ It has been estimated that there are 50,000 openings in the field of law enforcement and that it is getting harder and harder to fill the positions. Recruitment of policemen is a national problem. To the question WHY, the commonest answer is money. But I am convinced that it goes far beyond money. If I were pushed for a one word answer, I would have to say "prestige." For the most part, policemen are looked down upon. The phrase "dumb-cop" is in common usage.

Several years ago I became interested in the education of police officers and decided to find out if the "cops" were dumb. There are about 450,000 law enforcement officers in the United States. About half of them never finished high school. About 12,000 departments do not require a high school diploma. Out of a total of 40,000 police units, only twenty require some college. Multnomah County, Oregon, is the only department in the United States that requires a college degree. Many officers in the Deep South are illiterate and unable to write even a traffic ticket. When I became interested in this problem, I discovered that out of 970 police officers in the city of New Orleans, only nine had college degrees and none of the degrees had anything to do with law enforcement. Incidentally, of the nine degrees, six were held by Negroes.

When we look at police training, the picture is darker. To earn a college degree a student must spend about 2,000 hours in the classroom. To become a beautician an applicant must "put in" 1,200 hours. To become a policeman all you need in most places is an appointment. The City of New Orleans has one of the longest training periods in the country, which is 520 hours. In the same city, the barbers require 2,000 hours plus an 18 month apprenticeship before an applicant can operate his own shop.

To further complicate this training or lack of training, very few agencies do any kind of testing. The City of New Orleans gives a civil service exam, a physical exam, a psychological exam and conducts a background investigation. This combination of tests rejects 91 out of every 100 applicants. When we

*... For the most part, we  
have better policemen  
than we deserve ...*

remember that police work attracts "the lunatic fringe" it is appalling to know that the 91 rejects can apply to non-testing departments and be accepted.

In New Orleans, a group of citizens became alarmed over the recruitment problem and decided to do something about it. They organized themselves into the Police Scholarship Foundation. Since so many citizens looked down upon the police, the group looked around for a method to create prestige. It was soon apparent that the policeman was the only non-professional in the field of criminal justice. The judge and attorney were professionals in the strictest sense of the word, while the policeman, whose testimony was often vital to the prosecution of a case, was an uneducated and poorly trained adjunct to the system of criminal justice. Therefore, the first step would be to professionalize the policeman and in our society this meant education.

Truly to professionalize the policeman, the education should be directly related to law enforcement. When we started to look for such programs at a college level, we were amazed that the closest university to New Orleans with such a curriculum was over 500 miles away at Tallahassee, Florida. We then approached the local universities and requested that a department of criminology be established. My Board of Directors gave the necessary permission as long as it was started in the Evening Division.

The Evening Division was under my jurisdiction but unfortunately I knew nothing about professional degrees in criminology. To prepare myself for this new responsibility, I visited the major schools of criminology in the United States and spoke with both police students and faculty members. The consensus of opinions was that the curriculum should be built around a core of social sciences. This really disillusioned

sioned me. I always thought of the police officer as a science oriented sleuth who used all of the new gadgets to apprehend the criminals. But as I got acquainted with policemen, I found that they spend only 10 per cent of their time in "sleuthing." The balance of their work is spent in preparing reports, interviewing innocent citizens, community relations, and in what can only be described as social work. Therefore, both the students and the faculty were emphatic that the curriculum should be related to such endeavors. Consequently, I organized the four-year degree around a Bachelor of Arts with a Major in Criminology. At this writing we have graduated 32 police officers who are members of the local police force. There are another 150 working toward graduation.

#### COLLEGE V. NON-COLLEGE COPS

It might be well to point out that the purpose of professional police education is not to turn out more efficient criminal catchers. *Its purpose is to give the students additional tools with which to work. Nevertheless we have been told that the "college cops" go about their job in a different way. They are much more assured in their approach to the non-criminal. Their superintendent says that they seem to approach their job from a fresh viewpoint.* Furthermore, the results of the educational program introduced by the Police Scholarship Foundation has made the Orleans and Jefferson Parishes (counties) police departments education minded. We no longer have to recruit police students. The Superintendent and the Sheriff do all of the urging.

In an attempt to find out if the college cop is a better policeman than the non-college cop, one department carried out a secret experiment. Two police districts with similar populations and problems were selected. Over a period of several months one was staffed with college graduates (any kind of college degree) and the other was manned with men with a high school level education. After six months the crime rate remained the same in each district. But the district with the higher level of education showed a higher rate of

morale, fewer complaints, less time off, and a quicker response to calls. Since the bulk of a policeman's time is spent in dealing with honest citizens, I think these differences represent worthwhile dividends.

Once he got into college, the dumb cop proved to be anything but dumb. When our program started in 1963, individual faculty members, reflecting the attitudes of the community, asked that the dumb cops be kept out of their classes. As a result of this, I purposely scheduled no all-police classes. Even in the criminology classes, I always found enough non-police interested in the subject so that it was a mixed class. At the end of the first year, I tabulated the police grades. Sixty percent of their grades were A and B. While the police students comprise about 15 percent of the Evening Division student body, they received about 40 percent of the honors. In the last graduating class the police comprised 50 percent of the graduates but the highest scholastic averages for the total college program were earned by two policemen. Now the faculty complains if there are no policemen in the class.

From the instructors' standpoint, there is no more gratifying teaching assignment than working with police students. First of all, since police work is becoming more and more social work, the police students bring a lot of maturity and experience to the classroom. Problems of psychology, sociology, and political science are part of their normal workday. They can give dozens of examples of personal contact with persons and situations involved in deviant behavior, delinquency, marital problems, practical politics, sub-standard housing, and most of the other factors touched on in many of the social science courses. But over and above the maturity and experience that they add to the class, the police students are welcomed by most faculty members for their gratitude. The policeman is the first to admit his inadequacies and is most appreciative for the assistance given him. In spite of hardships, they have proven to be sincere, hardworking, conscientious students. They maintain this attitude in the face of obstacles that would make most other students drop-outs. The "college

cop" must take a lot of kidding from his fellow officers. He must put up with jealousy from those who look upon his education as a threat to their own position. He must give up all thought of "moonlighting," a favorite extra income activity of most police officers. He must even give up overtime because it would interfere with his studies.

The policeman is the first to admit that he needs professional education. To get it, he is knocking on the doors of colleges all over the country. That is why the number of colleges offering degrees in criminology have more than tripled in the last five years. They now number about 200.

In my six years of close contact with many police officers, I have learned to respect them. For the most part we have better policemen than we deserve. Despite low salaries and lower prestige, we have a lot of good, honest, professional policemen. In New Orleans we have hundreds of officers who are dedicated to their job and who are professionals in every sense of the word. But it is just such men who are the first to admit that it is impossible today for a new recruit to duplicate the on-the-job growth that was accomplished by the men who joined the department twenty years ago. Whereas we now have many good, efficient, professional officers who never attended high school, these same men could not duplicate their achievements were they to start over today with the same level of education. Today, the policeman's role is more that of a social worker than a criminal catcher. Just as the social workers realized that they could not continue their work and growth with just the untrained volunteer ladies who formerly assumed the tasks as a civic duty, so, too, the modern police administrator realizes that the whole recruitment effort must start at a much higher level than it did a quarter of a century ago. Not only must it start higher, it must rapidly go higher and, of course, be supplemented by in-service training. As an educator in the field of adult education, I know of no other segment of the adult population that is more deserving of help or more appreciative of whatever educational assistance is given. ☆

◆ Is the legal training now offered by the state colleges, junior colleges and police academies adequate? Attention will be directed to programs offered in California because of the author's assumption that California has programs which compare favorably with the best training available in the nation. Indications are that present efforts on all levels are quantitatively and qualitatively deficient.

## A "MINUS" IN POLICE LEGAL EDUCATION

?

By  
ROBERT JAGIELLO

THE AUTHOR is Assistant Professor of Police Science, Sacramento State College, Sacramento, Calif. 95819. He holds the Juris Doctorate from Loyola University, Master of Laws from Yale University, and is presently pursuing a Master of Arts degree in Liberal Studies at Wesleyan University. He held a teaching fellowship at Loyola Law School and a Sterling fellowship at Yale Law School. He was awarded the Bancroft-Whitney award for highest honors for the entire law school curriculum.

The police role requires that officers make decisions on essentially legal issues. These issues can be divided for purposes of discussion into two large groupings: (1) issues of substantive criminal law and (2) issues related to criminal procedure. Whether, in a given case, the police have enough legally significant evidence to satisfy the elements of burglary is in part an example of the former as well as a matter of evidence, and whether there is probable cause to arrest is an example of the latter. These decisions often have to be made instantaneously and call for sophisticated legal judgment. The decision made in an instant may be the subject of attention by lawyers and court officials for weeks, months or years. The results of these decisions, even if they go no further than an arrest, might have a lasting impact on the life of the person who was the subject of the decisions.

This article will examine three institutions involved in police legal education (1) the police academies, (2) California junior colleges, and (3) California state colleges. It will limit its considerations to instruction in criminal law. No attempt is made to assess the value of courses in evidence or other legal areas.

The present training in criminal law received in police academies by new recruits is extremely limited. According to the standards established by the California Commission on Peace Officer's Standards and Training peace officers must receive sixteen hours of instruction in law. Twelve hours are devoted to a study of penal codes and four hours to the law of arrest. Some departments offer somewhat more substantial programs. For example, the Los Angeles Police Department requires approximately 48 hours of instruction in penal codes and 8 hours in the law of arrest.

The junior colleges offer a program which is more extensive but still with substantial inherent deficiencies. The average curriculum contains two nuts-and-bolts courses in the area of criminal law. One is concerned with elements of common law crimes and crimes enu-

merated in the penal code. It may contain a brief discussion of some of the more basic criminal law concepts like *mens rea*, *actus reus*, insanity and limited capacity as a defense. The other course is usually called the administration of justice or criminal procedure and is designed to acquaint students with the nature of court systems, the criminal procedures employed from incident to final disposition and principles of constitutional law. Surface treatment of the topics discussed is common to both courses because of limitations in time and faculty resources. Training for six semester hours is not adequate preparation for an officer whose total working commitment is to the function of law enforcement. Staffing is also a problem, the teacher is not necessarily a law trained faculty member. Often he is a police officer, either active or retired, and has not had a substantial grounding in legal theory.

The state colleges with some exceptions have programs which closely parallel the junior college curriculum and suffer from the same inadequacies. Those which offer a more extensive course of instruction will have a course in arrest, search and seizure and advanced criminal law. Though the curriculum in these colleges approaches the needed level of training, the number of colleges which have the expanded program is small.

There are decided disadvantages in the limited legal training offered in the academies, junior colleges and most state colleges. The police officer does not act alone in the criminal legal process. He is part of a team engaged in enforcing the law. His work brings him into constant contact with prosecutors, judges and defense lawyers. If he is to have a meaningful understanding of what is expected of him, he must understand how they think. He must appreciate the underlying presuppositions they make about the law. His work only has effective relevance in a system which is administered and controlled by people who often entertain a different conception of the law than he does. What accounts for that difference is training. The police officer must re-

ceive the same type of training in criminal law that the other members of the law enforcement team receive, but his training must be more intense because he is expected to make under far more trying circumstances the same kinds of decisions they do.

If he does not have this kind of training, he cannot begin to understand the reasons which motivate the court in dismissing the case he has carefully investigated; there is a failure to appreciate why the prosecutor is unable to prosecute the case; he tends to rail against Supreme Court decisions without understanding the reasons which support the decision or what is to be expected of him in the future.

Another crucial reason why the present programs are deficient lies in the conception of law that is created in the minds of students in a nuts-and-bolts law course. The student whose training in criminal law consists primarily, if not solely, in a consideration of penal code elements of common law crimes and a smattering of information on the concepts of *mens rea*, criminal negligence, the defenses of infancy and insanity, is likely to be led into a serious misconception about the law. He will attribute to the law far greater certainty than actually exists. He will often see the law as a fixed body of rules which are applied with more or less uniform regularity against violators. His explanation for an arrest will often be in its totality: "he broke the law."

But the law is not a fixed body of rules, sitting off somewhere, simply waiting to be used as the basis for an arrest or conviction. The law is a very human enterprise. One can cite hundreds of principles of law if he has had sufficient training, but that does not mean that those principles compel a particular conclusion in a particular case. The particular case involves human beings. It is a one act drama, played only once. The principles of law are used as reference points in that drama, but it is the decision-makers—the judge, the prosecutor and in the first instance the police officer—who will decide what principles will be referred to and what those principles will be deemed to mean in *this*

case. Underlying this choice of principles, and the content that will be assigned to those principles chosen, are value choices of the decision-maker. The proper study of law will recognize this reality and discuss the underlying values which actually enter into the decision-making process.

A familiar example to police officers is the case involving the first time youthful offender. Perhaps he has engaged in petty theft. Will a decision to arrest him be made? "The law" as a fixed body of rules would seem to compel the result that he be arrested, prosecuted and convicted. If all an officer knew about the law is the appropriate penal code section and the elements of common-law crimes, he would with utmost logic say "I am compelled to arrest him." But he does not say that. At times the officer will arrest and at other times he will not. What has happened in those cases where he has decided not to arrest? He has engaged in some kind of balancing. Perhaps he concluded that the advantages to be gained from prosecution were outweighed by advantages gained by consultation with the parents. Perhaps he decided it would be unwise under the circumstances to tie the boy to a criminal record. What is clear, however, is that the officer has a large measure of discretion in deciding what will be the law for a particular case in all but the most serious offenses. If he decides not to arrest he has for this case assumed the role of legislator (he has nullified the law), police officer, prosecutor and court (he has decided the case in the suspect's favor). The police officer truly is a law unto himself in such cases.

How much he is the maker and interpreter of the law becomes clearer as his action is judged under the vague and more amorphous laws which give wide ranging discretion to a police officer. Officers will readily admit that if they want to arrest a person with whom they are having a confrontation, they can generally find a law which will permit them to do so. After the arrest the process of rationalization takes place in an effort to qualify the arrest under appropriate penal code sections.

There are many examples of open-ended laws which give police wide discretion: loitering, failure to identify, drinking in public, disorderly conduct, obstructing an officer in the line of duty, failure to disperse and others. For the motorist there is the whole arsenal of vehicle code sections which can always be referred to as a justification for stopping a car. Police in California are permitted to stop and question a person to ascertain his identity if the surrounding circumstances indicate to a reasonable man that the public safety demands such identification. What conduct or circumstances can form the basis for the officer's conclusion that public safety demands such identification? If the area is a high crime rate area and the officer has determined the subject has acted strangely or made a furtive gesture, the citizen can be stopped and questioned.

The question in these cases is what is loitering, disorderly conduct, obstructing an officer, failure to disperse? What constitutes acting strangely, and what is a furtive gesture? The inquiry then becomes: who is to decide whether this conduct is disorderly, strange or furtive?

It can be said that the police officer originally defines what each of these things are. To the extent that he defines the content of these terms in particular cases, he is making law for that case. He decides that particular behavior constitutes disorderly conduct; that a given movement was a furtive gesture; that certain conduct was strange. He thereby decides that the sanctions of criminal law, at least to the extent of making an arrest, booking and requiring bail in some cases will be employed against this particular defendant.

Did the law compel the officer in his decision in this particular case? The answer is no. With equal justification, he could have found that the movement of the arm was not a furtive gesture; that the conduct was not strange, but rather that it was explainable under the circumstances; that the conduct, though boisterous, was not so offensive as to be regarded as disorderly.

In most cases, when acting under an amorphous statute, the po-

lice officer is the initial interpreter of the law. The law could either acquit or convict at this first level of confrontation between the officer and the suspect. The officer chooses to bring the suspect into the criminal process. The important question then becomes: Why did the officer decide to bring *this* defendant into the criminal process? It is submitted that his decision is largely one based on values other than the compulsion of law. For example the officer's discretion is framed by his self-conception of his role as an officer. Perhaps he sees himself as a person entitled to more respect than the average person because he is the law incarnate. An officer with this mental set is more likely to view an argumentative suspect as disorderly or strange. The officer might have a prejudice against minority groups. He is likely in such cases to be more willing to interpret certain conduct by a black youth as furtive than he would be if the suspect were in a "safe" part of town and similar in appearance to the officer's own social group. Hippies and Yuppies run a far greater risk of being considered disorderly (particularly if they are in a place where their presence is unusual) than would their clean-shaven counterparts dressed in more traditional garb.

The principle that these cases demonstrate is crucial to an understanding of criminal law. The law often does not compel a result in a particular case. The principles of law which will be used as the touchstones for decision in the particular case will be chosen at the discretion of the police officer, prosecutor and judge. The choice they make will be determined by values independent of any appeal to "the law" as a justification. Once the decision to arrest is made, an appropriate section of the penal code will be chosen and the facts will then be interpreted to satisfy the requirements of that section. The same phenomena occurs as the defendant is moved along in the criminal process. The prosecutor possesses an enormous amount of discretion. Depending on his interpretation of the law and the facts, he can proceed with the case or dismiss it. He will, for

example, exact the full measure of the law's sanctions against one defendant and allow another to cop a plea to a lesser charge. Again, the question why this occurs must be asked. To what extent has he acted as a judge or a legislator in this case?

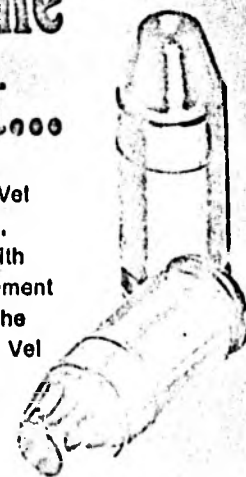
The judge also has enormous discretion to define criminal behavior. By proper judicial management of the trial, a discreet acceptance or rejection of preferred items of evidence, by allowance or rejection of certain defenses, he can and often does cause an acquittal or conviction. His decision, if he were questioned, would be couched in legal justifications, but often the answer simply masks the enormous discretion he has and fails to disclose his real reasons for exercising it in a particular way. The question then becomes: Why did he choose to allow or reject this defense or evidence? The whole range of questions posed regarding police conduct would be appropriate here.

This analysis is not to be taken as a criticism of discretion in the criminal legal process. Rather, it is a frank recognition that law enforcement is a human undertaking, riddled with the usual human failings. But we must recognize and declare that the process is discretionary and address ourselves to the important question: *How can we best train police officers in criminal law so that their judgments and decisions, though discretionary, will be informed and well conceived?*

I must of necessity reject any solution which concentrates solely on the penal codes and sterile pronouncements on the elements of common law crimes. Instead, we need to examine the values which underlie the entire criminal process both in its substantive and procedural aspects. The scope of the inquiry into criminal law can best be indicated by a series of questions which, though perhaps unanswerable in an ultimate sense, provide a working framework for a critical examination of a system of criminal laws.

"1. Considering law as a method of social control, what ends should men endeavor to achieve by

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law? Are these desirable in themselves or as means to ends desirable but more remote?

2. What special aims or purposes should the criminal law try to achieve and what means are well adapted to serving them?

(a) To what extent should a law of crimes be designed to control individual and group thoughts, beliefs and actions and to warn persons and groups subject or subjected to the criminal process?

(b) To what extent should a law of crimes be designed to control official action by specifying who has what power under what circumstances?

3. What persons, situations and events, under what circumstances should be labeled "criminal?"

(a) What correlation should there be between the degree and extent of a disturbance and the designation of its source as criminal?

(b) Whatever the degree or extent of disturbance, should actual or potential danger and benefit to community values determine whether situations or events be designated "criminal?"

(c) To what extent should the consequences, both official and unofficial, be taken into account in designating persons, situations, or events "criminal?"

4. What consequences should be officially authorized to follow the designation "criminal?"

(a) What correlation should there be between the consequences authorized and the degree and extent of the disturbance?

(b) Whatever the degree or extent of disturbance, should actual or potential danger and benefit to community values determine the consequences officially authorized?

(c) To what extent should actual consequences be taken into account in deciding what official consequences should be authorized?

"To facilitate analysis and discussion of these general questions and to illustrate the variety of contexts in which each may arise, specific questions are posed. These specific questions are stated in traditionally descriptive terms but answers to each of them should be by WHY? WHAT OUGHT TO BE?

and HOW WHAT OUGHT TO BE, if it varies from what is, CAN BE ACHIEVED?

"1. What is a criminal act? Is an act a requisite element of a crime?

2. What is a criminal state of mind (*mens rea*)? Is a criminal state of mind a requisite element of a crime?

3. What is a criminal result? Is a criminal result a requisite element of a crime?

4. What is a criminal relationship? Is a relationship between act, state of mind, and result a requisite element of a crime?

5. To what extent and degree are any of the foregoing elements taken into account in the decision to promulgate, invoke or administer custody, care, release or destruction of persons or property.

6. To what extent are culture, maturity, race, ancestry, family, associations, criminal and educational record, and mental, physical, political, economic, occupational, professional and religious statutes and needs taken into account in defining crime and determining consequences?

7. To what extent are such justifications and excuses and protecting self, others or property, provocation, entrapment, and official orders taken into account in defining crime and determining consequences?

8. How adequate are the procedures for obtaining and introducing data and how relevant are the data used and available to the decisions being made throughout the process by, for example, legislator, citizen, policeman, prosecutor, magistrate, bondsman, grand juror, investigator, defense counsel, judge, petit juror, diagnostician, correctional officer, parole or pardon board member?"

These questions indicate the general tenor of the inquiry. It is to be a broad ranging examination of the fundamental assumptions of the criminal law process.

The direction is clear. The present emphasis on abstract rules and penal codes must be redirected. A far greater emphasis must be placed on underlying legal theory

<sup>1</sup> Donnelly, Richard C., Goldstein, Joseph, Schwartz, Richard D., *Criminal Law* (New York, 1962), p. 2.

and assumptions, and the sociological realities of criminal law. Legally trained faculty members are absolutely essential. If at all possible the full range of academic resources should be brought into play. Ideally, sociologists, psychologists, social workers, corrections personnel, anthropologists, and economists would participate in the teaching process. Accepting the realization of the ideal as remote, the law trained faculty member must equip himself to deal with elementary considerations in these other disciplines. The materials used in the criminal law courses should be rich in non-legal literature.

Recognizing the direction that police training must take, Sacramento State College has substantially revised its criminal law offerings for police science majors. They will have a three-unit course equivalent to that offered at the junior colleges in the elements of common law crimes and penal codes. A course in constitutional law taken in the government department is also required. This will be followed by a six-unit course which will examine the fundamental assumptions of criminal law as discussed above. A six-unit course, titled the Criminal Legal Process, will also be required. The concepts which will be considered are: the nature of due process, role of the police in a democratic society, arrest, search and seizure, interrogation and confessions, wiretapping and electronic eavesdropping, preliminary examination, bail, role of the prosecutor, arraignment, plea bargaining, and right to counsel. Students will be exposed to an in-depth discussion of the theory as well as the reality of the criminal legal process.

The role of the police in today's society requires some critical rethinking regarding their legal training. Their exposure on the academic level to criminal law and procedure should equal or exceed that of law students. Their position within the larger structure of law enforcement, their impressive discretionary powers and the spontaneity with which they have to make decisions all demand that they receive the finest legal training available. ☆