licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

"§ 604. Permissible purposes of reports

"A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

"(1) In response to the order of a court having jurisdiction to issue such an order.

"(2) In accordance with the written instructions of the consumer to whom it relates.

"(3) To a person which it has reason to believe—

"(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

"(B) intends to use the information for employment purposes; or

"(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

"(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

"(E) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

"§ 605. Obsolete information

"(a) Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

"(1) Bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than fourteen years.

"(2) Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

"(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

"(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

"(5) Records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than seven years.

"(6) Any other adverse item of information which antedates the report by more than seven years.

"(b) The provisions of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with—

"(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of $50,000 or more;

"(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of $50,000 or more; or

"(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal $20,000, or more.

"§ 606. Disclosure of investigative consumer reports

"(a) A person may not procure or cause to be prepared an investigative consumer report on any consumer unless—

"(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section; or

"(2) the report is to be used for employment purposes for which the consumer has not specifically applied.

"(b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a) (1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

"(c) No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b).

"§ 607. Compliance procedures

"(a) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 and to limit the furnishing of consumer reports to the purposes listed under section 604. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable

grounds for believing that the consumer report will not be used for a purpose listed in section 604.

"(b) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

"§ 608. Disclosures to governmental agencies

"Notwithstanding the provisions of section 604, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

"§ 609. Disclosures to consumers

"(a) Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

"(1) The nature and substance of all information (except medical information) in its files on the consumer at the time of the request.

"(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: *Provided*, That in the event an action is brought under this title, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

"(3) The recipients of any consumer report on the consumer which it has furnished—

"(A) for employment purposes within the two-year period preceding the request, and

"(B) for any other purpose within the six-month period preceding the request.

"(b) The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this title except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

"§ 610. Conditions of disclosure to consumers

"(a) A consumer reporting agency shall make the disclosures required under section 609 during normal business hours and on reasonable notice.

"(b) The disclosures required under section 609 shall be made to the consumer—

"(1) in person if he appears in person and furnishes proper identification; or

"(2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll

charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

"(c) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to section 609.

"(d) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

"(e) Except as provided in sections 616 and 617, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 609, 610, or 615, except as to false information furnished with malice or willful intent to injure such consumer.

"§ 611. Procedure in case of disputed accuracy

"(a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

"(b) if the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

"(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

"(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the

consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information. The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

"§ 612. Charges for certain disclosures

"A consumer reporting agency shall make all disclosures pursuant to section 609 and furnish all consumer reports pursuant to section 611(d) without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to section 615 or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609 or 611(d). Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to section 609, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to person designated by the consumer pursuant to section 611 (d), the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

"§ 613. Public record information for employment purposes

"A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall—

"(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

"(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

"§ 614. Restrictions on investigative consumer reports

"Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.

"§ 615. Requirements on users of consumer reports

"(a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report.

"(b) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

"(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subsections (a) and (b).

"§ 616. Civil liability for willful noncompliance

"Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) such amount of punitive damages as the court may allow; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 617. Civil liability for negligent noncompliance

"Any consumer reporting agency or user of information which is negligent in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 618. Jurisdiction of courts; limitation of actions

"An action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this title to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this title, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

"§ 619. Obtaining information under false pretenses

"Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 620. Unauthorized disclosures by officers or employees

"Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 621. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other government agency under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement by

the Federal Trade Commission under section 5(b) thereof with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title.

"(b) Compliance with the requirements imposed under this title with respect to consumer reporting agencies and persons who use consumer reports from such agencies shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of:

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

"(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts;

"(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act; and

"(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law.

"§ 622. Relation to State laws

"This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency."

EFFECTIVE DATE

Sec. 602. Section 504 of the Consumer Credit Protection Act [56] is amended by adding at the end thereof the following new subsection:

"(d) Title VI takes effect upon the expiration of one hundred and eighty days following the date of its enactment."

Approved October 26, 1970.

DISTRICT OF COLUMBIA—POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY ACT AMENDMENTS OF 1970

PUBLIC LAW 91-509; 84 STAT. 1136

[S. 2695]

An Act to provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and of certain officers and members of the United States Secret Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Section 12 of the Act of September 1, 1916 (39 Stat. 718), as amended (D.C.Code, sec. 4-521 et seq.) is amended as follows:

(1) Paragraph (4) of subsection (a) of such section (D.C.Code, sec. 4-521) is amended to read as follows:

"(4) The term 'widower' means the surviving husband of a member who was married to such individual while she was a member.".

(2) Paragraph (5) of subsection (a) of such section (D.C.Code, sec. 4-521) is amended to read as follows:

"(5) (A) The term 'child' means an unmarried child, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lives with the member in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless of age who, because of physical or mental disability incurred before the age of eighteen, is incapable of self-support.

56. 15 U.S.C.A. § 1681 note.

AMU PROGRESS REPORT

The Trustees of AMU are aggressively implementing changes in the direction of the University. The new direction was begun when the Board of Trustees was restructured so as to place the decision-making power in the hands of Alaskan Board members. Thus AMU is managed locally by the following Alaskan Trustees:

Mrs. Ruth Barrack	Alaska National Bank of the North
Ret. Major General John Bennett	Vice President, Era Helicopters
Harry E. Carter	Commissioner, Land Use Planning Commission
Robert O. Denny	President, Rodmar, Inc.
Miss Nina Faust	Lecturer, Language & Literature, Tennis and Student
Frederick Hood, Jr., M.D.	Surgeon
V. Louise Kellogg	Owner, Spring Creek Farm
James Kross	Private Consultant
Raymond I. Peterson	President, Wien Consolidated Airlines
John Overbey	Vice President, Forty-nine North, Inc.
The Honorable John Sackett	President, Tanana Chiefs & member of the Alaska State Senate
William H. Scott	Managing Partner, Peat, Marwick, Mitchell and Company
Lewis E. Simpson	President, Insurance, Inc.
Gordon Wear	President, Wear Insurance Agency
Ac Wischmeier	Superintendent, The Alaska Missionary Conference

Less than 25% of Alaskan Trustees of the University are related to the United Methodist Church in any way.

Thus, AMU, although presently smaller and only 13 years old, has joined a group of colleges and universities including Northwestern, Wesleyan, Emory, Duke, University of Denver and Southern Methodist, in which the denomination relatedness is history rather than control.

One of the continuing concerns of the Trustees has to do with the possibility of changing the name of the university to project more adequately the basic nature and new direction of the university.

The first task of the restructured Board of Trustees was to seek a new president who was a professional educator and not a clergyman, as the previous presidents had been. Dr. John O. Picton came to the

presidency directly from the Northwest Regional Educational Laboratory in Portland, Oregon, where as a specialist, his assignment was to work with public and private elementary, and secondary schools, and universities to increase the accountability and relevancy of their programs.

Dr. Picton was already in possession of data concerning Alaskan education by virtue of having participated in special programs for Alaskan elementary, secondary, university, and State Department of Education personnel, as well as having directed a study of the educational needs of Alaska.

From such a background, Dr. Picton moved quickly to identify the staff that he would need to achieve his objectives and he began making new assignments which resulted in a restructured administration which capitalizes on identifiable strengths.

In this connection and with respect to the emphasis on accountability, the governance of the university has come to include a policy recommending body made up of students, faculty, trustees, staff, and administrators called the University Senate.

The proceeds from the sale of land to the State of Alaska for the Anchorage Senior College campus of the University of Alaska were used immediately to retire all accounts payable and to put AMU on a pay as you go basis.

A management consulting concern has restructured the financial accountability system of the University, which has resulted in increased efficiency and economies including reduction in personnel.

The thesis that Alaskan students want diverse higher educational opportunities which will fit their needs, was substantiated when, as a result of the passage and funding of the state tuition grant legislation, AMU's enrollment showed a substantial increase over previous

years. In addition to the numerical increase in enrollment which resulted in excess of 1200 different individuals, plus more than 200 cross-registered students from the University of Alaska program in Anchorage, there was a marked increase in the statewide and cultural diversity of the student body.

Concurrent with the restructuring of the Board of Trustees and the Administration deliberate steps have been taken to make the academic programs at AMU more responsive to both the immediate and long range needs of Alaskans. Through an intensive series of activities, representative trustees, faculty, students, staff, and administrators have identified some major challenging needs of Alaska to which the University will address its program. Those challenging needs which have been selected were selected because of present capabilities and programs already in process.

The target needs are centered in health services; inter-cultural studies, with Native Studies as a basic component; environmental studies; and the liberal arts.

One of the new mechanisms for the implementation of the programs designed to meet the needs of Alaskans is Cooperative Education. For the first time in Alaskan education it will be possible for students to systematically combine academic studies with their chosen professional work experience outside, as well as inside the state, which will result in a well educated person in touch with the realities of the world of work.

Continuing the consortium efforts, begun in the late 1960's by U of A Regents and AMU Trustees, now visible in the Consortium Library, and further strengthened by the enlightened action of the State Legislature, the new direction of AMU is a natural extension of the higher

educational resources of Alaska.

AMU is grateful and proud to be at work in Alaska during these challenging years of the State's development.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION
WASHINGTON, D.C. 20202

February 1, 1973

Dear Colleague:

The President's budget for the Fiscal Year 1974 was presented to Congress this week, together with a revised regular budget for education for the Fiscal Year 1973, which ends June 30. (Education has already received a supplemental appropriation for FY 73.)

This letter explains the major educational policies and priorities reflected in the President's recommendations as they relate to HEW's Education Division. The Division comprises the Office of Education, the National Institute of Education, and the Fund for the Improvement of Postsecondary Education.

The President's primary objectives of increasing employment and halting inflation, without resorting to tax increases, underlie the budgetary recommendations affecting all Federal agencies. These controlling conditions have transcended other policy considerations in the recently concluded budget building period.

For education, the budget sustains our highest priorities while cutting relatively marginal programs and making way for new Administration initiatives to restructure and reform the Federal role in education.

The budget of the Office of Education, the largest component of the Education Division, totals $5.35 billion in regular funds for 1973 and $5.1 billion for 1974, with several programs being phased out.

Highlights of 1973 Revisions

The revised regular 1973 budget totals $5.5 billion for the Education Division, compared with the $5.3 billion appropriated for FY 72 and the $6.1 billion originally requested for FY 73.

The difference between this submission and the original FY 73 request is largely due to an adjustment to take account of the $271 million appropriated for Emergency School Assistance, instead of the $1 billion originally requested, and $10 million appropriated for Postsecondary Innovation, rather than the $100 million requested by the President. The revised budget also reflects the elimination or reduction of certain narrowly focused programs.

Highlights of 1974 Budget

The 1974 budget for the Education Division totals $5.3 billion. Major initiatives reflected in the 1974 proposal include:

1. Student Assistance. A 1974 request for $959 million, combined with a 1973 supplemental of $622 million, brings to nearly $1.6 billion the amount budgeted to implement fully the Basic Educational Opportunity Grants program enacted last year. Under the new program, students in greatest need would receive the greatest amount of Federal assistance. Requests for the special programs for the disadvantaged -- Talent Search, Special Services, and Upward Bound -- are continued at the 1973 supplemental request level of $70.3 million, a significant increase from $56 million in 1972.

2. Special Education Revenue Sharing. The 1974 budget places high priority on the consolidation of Federal programs of formula grant assistance to the States for elementary and secondary education, with $2.5 billion requested for this purpose. Under the proposal, more than 30 programs would be restructured into one authority covering five broad areas of national interest. This would provide greater flexibility for States and local education agencies to tailor programs and resources according to their own needs.

3. Minority Assistance. Aid for developing institutions of higher education is maintained at the 1973 supplemental request level of $100 million. For bilingual education, the budget calls for $35 million under Title VII of the Elementary and Secondary Education Act and $10 million under the Emergency School Aid Act. Because of the large existing effort directed toward Indian education, no funds are requested to support the recently authorized Indian Education Act, an authority which would duplicate much of the assistance which is already provided and which would be maintained at a high level in

FY 1974. Nearly $80 million has already been made available for compensatory programs, construction projects, and other efforts designed to supplement Bureau of Indian Affairs support for Federally operated Indian schools and to assist local education agencies serving Indian students.

4. Aid for Desegregating Schools. The 1974 budget requests $271 million to continue at the 1973 level this major Administration initiative to help school districts throughout the country meet the additional costs of school desegregation. Most of the Emergency School Assistance funds appropriated in 1973 will be spent in academic year 1973-74.

5. National Institute of Education. The FY 73 budget totaled $119 million, to which was added $24 million from Office of Economic Opportunity programs, bringing the total FY 73 operating budget to $143 million. The FY 74 budget requests an additional $19 million, for a total of $162 million for this new agency, which was established at Administration request to provide a national focus to the educational research effort. A number of former OE programs, and corresponding budget requests, have been transferred to NIE. However, almost one third of requested NIE funds would be unencumbered by previous commitments.

6. Postsecondary Innovation. The 1974 budget would increase from $10 million to $15 million the funding for this new program to support innovation and reform in postsecondary education.

7. El mentary and Secondary Education. More than $3 billion of the 1974 request is for elementary and secondary programs. This includes $2.5 billion for Education Revenue Sharing, $271 million for Emergency School Assistance, $94 million for an increase in demonstration programs and training and research for the handicapped, and $181.5 million for other elementary and secondary programs. Among these, a major priority is further refinement of Career Education. Fourteen million dollars in new funds is programmed for demonstrating the effectiveness of several Career Education models; $21 million in support of existing programs of innovation, curriculum development, and research reflects other aspects of the Career Education effort.

Programs recommended for elimination include impact aid payments for children whose parents work for the Federal Government but do not live on Federal property. (Since their

parents pay local property taxes like other citizens, these children do not constitute an exceptional economic burden on local schools.)

Support for State departments of education under Title V of the Elementary and Secondary Education Act would also be terminated in 1974. (Substantial Federal sums have already been spent under Title V to strengthen State agencies, which should now be in a position to maintain their own programs as Federal aid is consolidated under Education Revenue Sharing. State departments are eligible also for general revenue sharing funds.)

The experimental Follow Through program authorized by the Economic Opportunity Act was already scheduled to be phased out beginning in 1974. (Information on its most successful compensatory programs for children in the early elementary grades will be disseminated to local school districts for incorporation in their regular compensatory programs as they see fit.)

8. Postsecondary Education. The 1974 higher education budget would provide $1.8 billion, an increase of $116 million over the revised 1973 level, reflecting the Administration's commitment to increasing postsecondary opportunities. Institutional assistance is focused on strengthening developing institutions, particularly black colleges and other institutions serving large numbers of minorities. Programs designated for elimination include subsidies of interest on private loans for facilities construction, and categorical assistance for language training and area studies, university community services, aid to land-grant colleges, and support for training of college teacher personnel.

9. Educational Development. The Office of Education budget also includes $123 million for educational development activities. This request represents a reduction from 1973 of $53 million, some $33 million of which would be in personnel training programs. However, support would be continued for training activities with high impact on the education of disadvantaged children. Most of the remaining decrease would result from the termination of environmental education and nutrition and health projects and reductions in the funding of drug education, dropout prevention, and educational broadcasting facilities and in the Federal contribution to Sesame Street and the Electric Company. Increases of $3.7 million for support of educational statistics and of $1 million for the National Achievement study are requested, bringing total requested funding for these programs to $7.9 million and $7 million respectively.

10. Library Programs. The 1974 budget would terminate Federal support for library programs. With the increasing availability of general revenue sharing funds, States and localities should be able to assume the support previously provided for public libraries. Assistance for elementary and secondary school libraries will be available to State and local officials under Education Revenue Sharing according to their relative priorities. Moreover, the present law does not provide for aiming library funds on the basis of economic need, with the result that resources are dissipated with no significant impact.

College library support is not recommended because legislative amendments have made it impossible to set funding priorities. Basic grants go to all institutions regardless of need, resulting in amounts so small as to have little if any effect on the quality of most colleges' library programs.

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In summary, the Education Division budget seeks to sustain the highest priorities of the Administration while reducing programs which have accomplished their purpose or have been found ineffective. I recognize that, to you who are experiencing so keenly the fiscal problems of our schools and colleges, the proposed level of Federal assistance for these two years must be gravely disappointing. I intend to continue to serve as an advocate for our educational needs within the Government, seeking to point the way toward more effective and equitable Federal support.

At the same time, it should be recognized that the budget reflects the strain of transition to a sounder and more rational Federal role. The time has come to halt the proliferation of narrow categorical programs, which inevitably impose distorted priorities at the local level.

This budget seeks to provide Federal assistance in broad, national-purpose areas with greater flexibility and responsibility for managing and aiming program funds where the problems actually are. Such a restructuring of the Federal role should lay the basis for more substantial assistance in the future.

Appended is a summary of the budget. Detailed tables showing distribution to States and other recipients will be published after final action by the Congress and the President.

Sincerely,

S. P. Marland, Jr.
Assistant Secretary
for Education

Addressees:

Superintendents of Schools
College and University Presidents
Professional Organizations
OE Managers

EDUCATION

(BUDGET AUTHORITY IN MILLIONS)

	1972	1973	1974
EDUCATION REVENUE SHARING	$2,496	$2,521	$2,527
EMERGENCY SCHOOL ASSISTANCE	106	271	271
OTHER ELEMENTARY AND SECONDARY EDUCATION	706	461	276
HIGHER EDUCATION	1,430	1,697	1,813
EDUCATIONAL DEVELOPMENT	207	176	123
LIBRARY RESOURCES	176	138	—
NATIONAL INSTITUTE OF EDUCATION	99	119	162
POSTSECONDARY INNOVATION	—	10	15
ADMINISTRATION	80	93	90
TOTAL	5,301	5,485	5,277

EDUCATION REVENUE SHARING

(BUDGET AUTHORITY IN MILLIONS)

	1972	1973	1974
EDUCATION REVENUE SHARING	$ —	$ —	$2,527
CATEGORICAL PROGRAMS TO BE FOLDED INTO REVENUE SHARING.			
EDUCATIONALLY DEPRIVED CHILDREN (TITLE I)	1,598	1,585	—
SUPPLEMENTARY SERVICES	146	146	—
IMPACTED AREA AID ("A" CHILDREN)	189	227	—
EDUCATION FOR THE HANDICAPPED	37	37	—
VOCATIONAL EDUCATION	475	475	—
ADULT BASIC EDUCATION	51	51	—
TOTAL	2,496	2,521	2,527*

*$244 MILLION FOR THE SCHOOL LUNCH PROGRAM, CARRIED IN THE AGRICULTURE BUDGET, WILL ALSO BE INCLUDED, BRINGING THE TOTAL TO $2,771 MILLION

HIGHER EDUCATION

(BUDGET AUTHORITY IN MILLIONS)

	1972	1973	1974
STUDENT ASSISTANCE:			
BASIC OPPORTUNITY GRANTS	$220	$622	$959
WORK-STUDY AND COOPERATIVE EDUCATION	428	261	261
INSURED LOANS, SUBSIDIES, AND DEFAULTS	210	292	368
DIRECT LOANS	317	293	5
SUBTOTAL	1,175	1,468	1,593
SPECIAL PROGRAMS FOR THE DISADVANTAGED	56	70	70
INSTITUTIONAL ASSISTANCE:			
STRENGTHENING DEVELOPING INSTITUTIONS	52	100	100
CONSTRUCTION GRANTS, SUBSIDIES & LOANS	77	19	36
OTHER INSTITUTIONAL SUPPORT	43	20	7
SUBTOTAL	172	139	143
COLLEGE PERSONNEL DEVELOPMENT	27	20	7
TOTAL	1,430	1,697	1,813

OTHER EDUCATION PROGRAMS

(BUDGET AUTHORITY IN MILLIONS)

ELEMENTARY AND SECONDARY EDUCATION	1972	1973	1974
BILINGUAL EDUCATION	$35	$35	$35
FOLLOW THROUGH	62	58	41
EDUCATION FOR THE HANDICAPPED	72	93	94
VOCATIONAL AND ADULT EDUCATION SPECIAL PROJECTS	31	31	45
IMPACTED AREA AID	423	204	61
OTHER	83	40	—
TOTAL	706	461	276
EDUCATIONAL DEVELOPMENT			
EDUCATION PROFESSIONS DEVELOPMENT:			
TEACHER CORPS	37	37	37
OTHER PROFESSIONAL DEVELOPMENT	107	69	36
SUBTOTAL	144	106	73
EDUCATIONAL BROADCASTING FACILITIES	13	13	10
RIGHT TO READ	2	12	12
DATA SYSTEMS IMPROVEMENT	10	10	15
OTHER PROGRAMS	38	35	13
TOTAL	207	176	123

Testimony of William E, Davis, Alaska Methodist University SB 124 - HB 181

Joint Committees on Health, Education, & Social Services, Alaska Legislature

February 28, 1973

Dr. Beirne, Senator Thomas, members of the Committees.

My name is Dr. William E. Davis; I am the Director of Research at Alaska Methodist University.

May I begin by expressing AMU's gratitude to all of you for the time and attention you are devoting to the concerns of Higher Education in Alaska. I want to assure you that your efforts are appreciated and your hard work is appreciated.

I have been asked by the President of AMU, Dr. John O. Picton, to express his personal regret at not being able to appear today. He is this week in Seattle, visiting the Region X HEW office; in New York, visiting private foundations and industries; and possibly Washington, D.C., for meetings with the U. S. Office of Education. His trips, however, does reflect the efforts of the present administration to seek aggressively support for AMU from the private sector.

Turning now to SB 124 and HB 181, the technical amendments to the tuition grant law. We are generally in favor of these amendments and certainly welcome efforts to clarify provisions of the bill. In most cases the changes proposed speak to problem areas we have recognized in the program.

We agree with the changes in Sects. 1, 2, 4, & 5 deleting the word "selection" in reference to the Committee.

We favor adding the phrase "a year" in Sect. 6 to clarify the interest rate period.

We certainly agree with Sect. 7 amendments. Even though the matter has been corrected by regulation, it was never our belief that students should have to pay less than the fees charged by the public institution.

DAVIS

Jt. HESS testimony - 2/28/73

We favor the Sect. 8 changes believing that a "blue ribbon" group to determine the cost differentials.

We agree with the clarifications in Sect. 11 regarding who sets the grants and with Sect. 12 appelate procedures.

Finally, we support the Sect 14 change defining a part-time student as one enrolled for six rather than two semester hour credits.

We request clarification of the following changes.

1. Sect. 3. Is it your intention to supply each applicant with a full set of the regulations? There now is a summary of them on the application papers, but the full set is a rather thick document. It would seem an unnecessary expense to provide each eligibke student with a full set of the regulations.

2. Sect. 9. We are unclear as to the intent of this new section. Mr. Hall's Explanatory memo says it will prevent "pyramidying" of federal grants on top of the state program. There is no way that we would charge double tuition to students and so, unless there is some reason why this formula is absolutely essential, we would favor not adding it. Futhermore, who would use the formula? If the state grant officer were the one, the private institutions would have to put their financial packages together before the state grants were made which would become an onerous administrative chore.

3. Sect. 10(f)Our position here is difficult to state. Naturally, we favor the present interpretation of the selection committee which allows us to use the balance of tuition paid to count toward our requisite 22.5%. We also suppose that this was not the intent of the Legislation as passed.

We wonder if a compromise is possible? Could room and board be deleted so that only the balance of tuition and fees counted as "nonpublic sources?" Or as another alternative, perhaps you would consider crediting some portion, say 50%, of tuition and fees beyond the state grant? Certainly what parent's pay towards their children's education ought to be permissable as "non-public" sources.

We agree, of course, with the clarifying definition at the end of this section regarding "remission of tuition" and "contractual agreement ...".

We would favor one wording change: Line 27 we believe should read "grants shall be credited only in the year the gift or grant vests in the donee."

4. Sect. 10 (g). This section, to be frank, puzzles us. We realize the basis for establishing the instructional costs at the public university but the logic of the "parallelism" is not clear. On the one hand, we are computing costs to determine the grant award; in this section you are limiting how we can spend our income.

At the very least, the accounting problems would be tremendous since we would have to separate tuition grant income from all other sources to insure that it not be spent in any of the listed areas.

If you believe that the Legislative intent to spend the monies on academic and instructional programs must be stated statutorily, then cannot this be phrased without recourse to the University of Alaska's budget categories? For example, what is the definition of research and public service? We simply don't break our budget into these divisions.

May I cite one more example. Intramural athletics are sometime part of our required academic program. It is going to be very difficult to break out the costs for non-recuired intramurals vs. required intramurals to be sure tuition grant income is not used to pay a particular professor's salary.

Again unless it is absolutely necessary, we would favor deletion of this new section.

5. Sect 12. On line 20 of pg 6 we request that the phrase "certified public accounting" be changed to "auditing".

6. Sect 13. We applaud the effort here to clarify the potential situation that existed under the present wording. We do favor adding one phrase at the very end of the sentence (pg. 7, line 2) as follows:
"under a consortium agreement between any public and private Alaskan higher educational institutions."

Since there are legally binding instruments, in the case of AMU between the Regents and the Trustees, and in the case of Sheldon Jackson, a contract with the community college, we believe this phraseology will meet the problem of defining a consortium.

Thank you for your consideration of these points.

Jt. HESS testimony 2/28/73

HB 180 -- SB 123

May I begin by saying that Alaska Methodist University favors the establishment of the type of postsecondary planning commission that is proposed in this legislation. We have some serious reservations about the particular composition and functions as provided for in these bills but want to be sure to be recorded as favoring the concept.

With respect to the composition of the Commission, we recognize that a great deal of thought has gone into the suggested arrangement. However, from the point of view of private higher education, we find the commission unbalanced. Surely if the Regents have two members, one each from the Boards of Trustees of Sheldon Jackson and AMU would be more equitable. Since there is also a member from the Community Colleges, id there a need for two Regents? The "1202" commission is designed to deal with community colleges more than anything else; surely this alone is an argument for the representation of Sheldon Jackson as the only two-year private institution in the state.

We also note that proprietary institutions are not naded specifically as members of the Commission but are assumed as apointees from the general public. We favor specific members from proprietary institutions.

While recognizing the federal requirement for "broad and equitable representation " from the general public, we find the limitations specified in 903 (b) [p. 3 lines 1 - 7] far too

specific. If this is demanded by the federal guidelines, I suppose we must have it but if we can avoid it, such specificity should be eschewed.

With reference to the functions of the commission, we believe that some sharpening needs to occur. Perhaps in the beginning the commission should focus only on planning. Advising might come later. For example, the Trustees of AMU, as the corporate body responsible for the institution, believe it is their responsibility to determine the programs appropriate to our resources and interests. I am sure the Trustees will be pleased to work with the Commission but also am sure they will be charry of counsel if they feel it intrudes on their responsibility.

We recognize that this is a most difficult area to define and have no specific wording changes to propose for this section but we do hope you will give careful attention to the charge of the commission.

Since there are already state agencies responsible for and funded to take care of the administrative details under existing federal programs, we are not in favor of transfering these programs to the Commission unless required by federal statute. We would drop sections 2 through 5 of 909 (b).

There is one wording change we request and that is on pg. 6 line 2. The Commission should be able to request but not require data from the institutions involved.

In keeping with the statement above, we do not favor at this time moving the tuition grant program to the Commission.

In closing may I thank you again for your continuing concern about the youth of Alaska. After all, that's why we are here -- to decide how best to provide for the needs of the college and university students of the state. We know you have their best interests always before you; we too are seeking to serve them. With the continuing commitment you show, we cannot help but meet these challenges.

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

I. REQUEST

Bill Identification: House Bill 232
Title: An Act relating to the Districts of the Superior Court
Requested by: Legislative Finance Date: March 22, 1973
Return Date Requested: March 29, 1973
Agency: Alaska Court System Program: Administration of Justice

II. FISCAL DETAIL

Budget Request Unit(s) Affected: None

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 73	FY 74	FY 75	FY 76	FY 77	FY 78
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

House Bill 232 would create no additional costs for the Alaska Court System. The realignment of judicial districts would require a reassignment of duties among Judges in the second and fourth districts, but the overall cost should remain the same.

IV. ATTACHMENTS

V. DATE: March 29, 1973 PREPARED BY: Richard Barrier
Richard Barrier

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

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

I. REQUEST

Bill Identification: House Bill 231
Title: An act establishing a fifth district of the Superior Court
Requested by: Legislative Finance Date: March 22, 1973
Return Date Requested: March 29, 1973
Agency: Alaska Court System Program: Administration of Justice

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Alaska Court System

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 73	FY 74	FY 75	FY 76	FY 77	FY 78
100	PERSONAL SERVICES	74.7	80.0	85.0	92.0	99.0	106.0
200	TRAVEL	10.0	11.0	12.0	13.0	14.0	15.0
300	CONTRACTUAL	58.1	62.0	65.0	70.0	75.0	80.0
400	COMMODITIES	2.0	2.2	2.4	2.7	3.0	3.3
500	EQUIPMENT	10.5	1.0	1.0	1.0	1.0	1.0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	155.3	156.2	165.4	178.7	192.0	205.3

B. FUNDING: (Thousands of dollars)

GENERAL FUND	155.3	156.2	165.4	178.7	192.0	205.3
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	3 /	3 /	3 /	3 /	3 /	3 /
MAN MONTHS (P./T.)	36 /	36 /	36 /	36 /	36 /	36 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS

Supplement I - Operating Costs
Supplement II - Capital Costs

V. DATE: March 29, 1973 PREPARED BY: Richard Barrier
Richard Barrier

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

SUPPLEMENT TO FISCAL NOTE FOR HB 231
Establishing a fifth district of the Superior Court

100	Personnel	Judge	Salary 33,000 Empl. Ben. 6,600			39,600
		Clerk of Court I	Salary Range 14 15,756 Empl. Ben. 3,051			18,807
		Deputy Clerk of Court III	Salary Range 12 13,596 Empl. Ben. 2,719			16,315
						74,722
200	Travel	Travel of judge and staff to remote areas for trials				10,000
300	Contractual					
		Communications		1,400		
		Repairs and Service		200		
		Trans. of new hire		1,500		
		Rental of space		20,000		
		Jury Costs		35,000		58,100
400	Commodities					
		Office Supplies				2,000
500	Equipment					
		Judge:				
		1 Executive desk		325		
		1 Swivel chair		225		
		2 Bookcases @ 113		226		
		4 Side chairs @ 171		684		
		1 Conference table		200		
		1 Filing cabinet		154		
		1 Coatrack		50		
		1 Dictating Unit		495		
		1 Dictating Unit (Portable)		450		
		1 Transcribing Unit		495		
		1 Dictaphone Recording Equipment		3,200		
		1 Flag with standards		115		
		12 Folding chairs @ 9		108		
		1 Receipt machine		100		
		1 Time stamp		400		
		1 Copy machine		450	7,677	
		Clerk of Court I				
		1 Executive desk		220		
		1 Swivel chair		110		
		1 Typewriter		549		
		2 Side chairs @ 40		80		
		1 Coatrack		50		
		2 Filing cabinets @ 125		250		
		1 Bookcase		100		
		1 Work table		200	1,559	

500 Equipment (Continued)

Deputy Clerk of Court III:		
1 Executive desk	220	
1 Swivel chair	110	
1 Typewriter	549	
2 Side chairs @ 40	80	
1 Coatrack	50	
1 Filing cabinet	125	
1 Bookcase	100	1,234
		10,470

*Rental of space would be on a temporary basis, until a permanent facility can be constructed. (See attached analysis of the capital project.) In the interim, the Superior Court Judge of the Fifth District would work out of Fairbanks, conducting trials in Barrow and other locations as necessary. Only after a permanent facility is constructed in Barrow could the Alaska Court System station a judge there on a full-time basis.

SUPPLEMENT #2

House Bill No. 231 - Creation of a Fifth Judicial District, from election district 21, 18, 20, and 22 within the boundary of the North Slope Borough, as those districts are described in Article XIV of the State Constitution on March 19, 1959, at this time creates a problem of locating or building a suitable facility for the Court to operate from.

The Alaska Court System has joined planning for a facility at Barrow as follows:

1. Barrow Air Terminal Complex - In 1971, we agreed to participate in this venture with the City of Barrow, the state and federal funds were to be provided. No results as yet.

2. State Combined Facility - The General Fund appropriation for 1970 in amount of approximately 33 million included a facility for Barrow. No action was concluded.

3. Senate Bill No. 163 is currently before the legislature. A request for a Barrow facility in amount of $435,000 is included in this package.

ANALYSIS

1. Barrow: Present Space and Deficiencies

   Located in the Second Judicial District--court presided over by a full-time magistrate, Sadie Neakok.

   Current Space--up until January 25, 1972 Magistrate Neakok held court and operated from her home. As of January 25 we have rented 324 sq. ft. of office space in the Post Office Building.

   Deficiencies of Present Space:

   a. No courtroom or jury space.
   b. Inadequate court facilities for clerical work area and no space for recording functions.
   c. Unsatisfactory reference library both as to content and space provision.
   d. No space for ancillary court agencies.

A facility that provides 5,800 sq. ft. is a minimum requirement for Superior Court operation.

Definition:

A minor court facility of 5,800 sq. ft. is designed to provide the capability of holding Superior Court trials at each location and to provide adequate library reference material.

SUPPLEMENT #2 (Continued)

Space Evaluation:

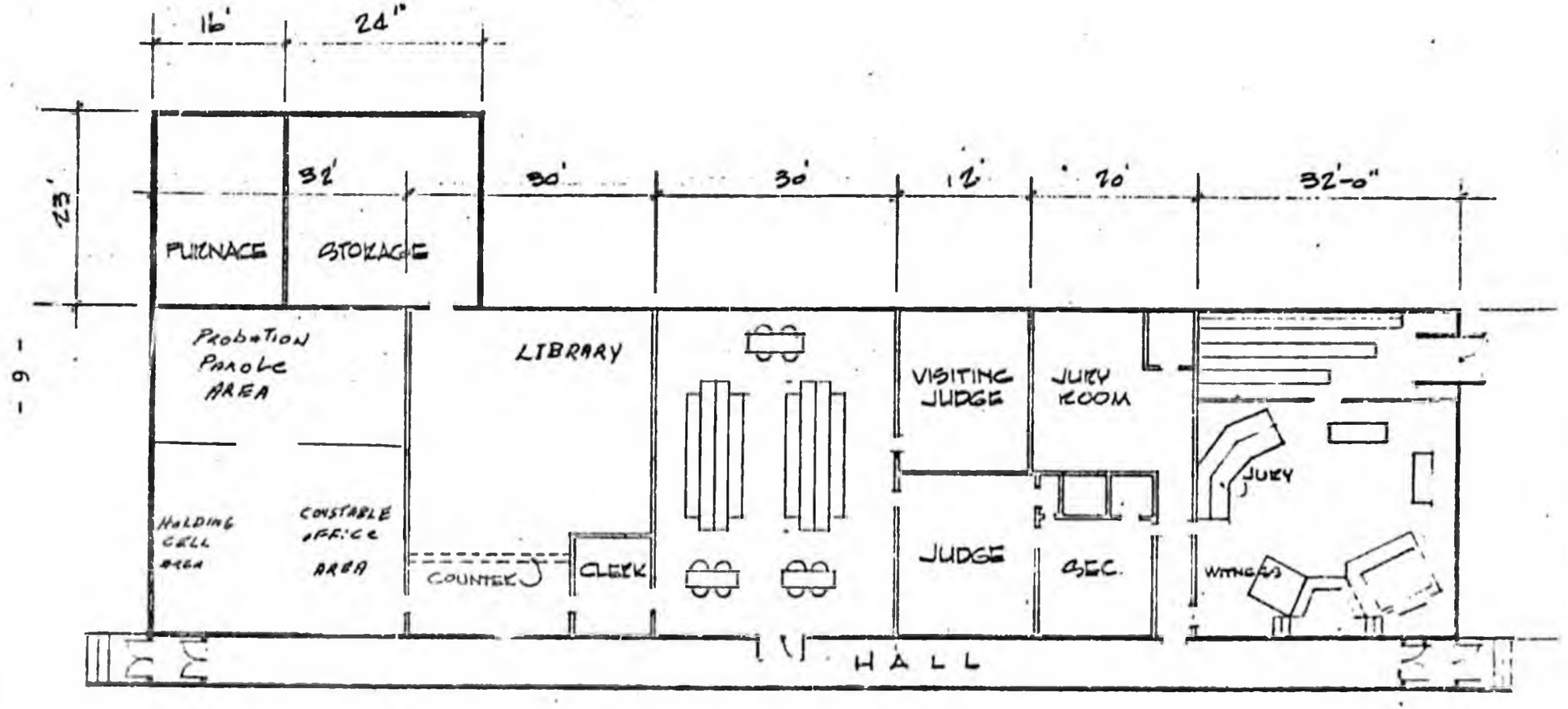
The enclosed floor plan for a facility of 5,800 sq. ft. is designed to be used as is or it can be utilized with other space requirements to be built on the other side of the hall. Space has been provided within the Court System plan for related State and Village Police Programs.

Recommendation:

In the event a Fifth District is created the Court System could operate from Fairbanks until a facility is provided at the earliest possible moment in Barrow. The Utkeagvik Presbyterian Church has recently made an addition to its church and we plan to use part of the old church for courtroom purposes on a rental basis.

The Court System requests that any creation of a Fifth Judicial District should include a provision for construction of a minor facility as defined in this report.

Suggested Floor Plan for 5,800 square foot Bush Justice Facilities



SCALE: 1/16" = 1

CONCILIATION IN THE NATIVE VILLAGE: AN EXPERIMENT IN ALASKA JUSTICE

by

Stephen Conn and Arthur Hippler

Since Alaska was purchased from Russia in 1867, its legal system has faced logistical challenges which are unique to this great land ot 586,000,000 square miles. Other procedural challenges are similar to those which many court systems confront when they attempt to provide adequate forums to scattered, rural populations whose culture and history are quite different from those who laid the basis for the evolution of Anglo-American jurisprudence.

The first challenge to the unified court system of Alaska is the state's size. Half of the state's 300,000 plus population lives in Anchorage, Fairbanks, and Juneau, and the rest is scattered widely in villages and towns which are usually only accessible by river, sea, or air. Within this group are nearly 55,000 Indians, Eskimos, and Aleuts who reside in over 200 villages with populations ranging from 25 to 2,500.

The interior Indian and Eskimo villages of Alaska have their own history of law ways and special relationships to American law. The intervention of white law in the person of law officers, traveling judges and unofficial agents, the military, missionaries, and others has offered them only a partial experience with a complete justice system as most Americans know it. This long-term disengagement from the legal process occurred for several reasons. In the territory's earliest days Native-Americans were not considered to be citizens. However, even when this stigma was removed by Congress in the early 1920s, villages were more dependent upon their own mechanisms for judging

disputes and punishing offenders than they could be from the traveling judge or police officer whose domain was immense.

A typical Eskimo village, for example, consists of 300 people living along a river bank or an ocean beach, 60 miles from the nearest neighbor and three hundred miles from the regional center where troopers are stationed and a professional judge visits or resides. In many cases villages are separated by tundra which is impassable during periods of thaw and freeze. In nearly all cases they are unconnected by roads. Communication is maintained by radio and the not completely reliable "bush air services."

Chief among the Native populations which have been hardest to service are Athabascan Indians who reside in the vast Alaska interior, Yupik Eskimos whose fifty villages in 90,000 square miles in Southwestern Alaska were served by a single trooper, and Inupiat and Siberian Eskimos whose whaling communities are situated on the coasts of the Arctic Ocean and Bering Sea.

These Native groups have been served since the inception of white contact at the turn of the century by professionals who either removed serious offenders to distant courts or who came into the village on special trips to mete out justice. Although the territorial and later state court system provided lay judges in these rural areas, private attorneys have continued to reside in predominately white urban and rural communities. District attorneys, public defenders, and legal services attorneys are only now beginning to make increased visits to villages to investigate cases. However, their litigation is located in the district and superior courts located outside of the smaller villages.

The problem of daily justice has by and large been left to forums which operated extralegally or with only a partial legal jurisdiction. Village councils emerged as the principle forums for disputes in many Eskimo and Indian villages. Some drew their authority from incorporation under the Indian Reorganization Act of 1934. The act allowed the group to make and enforce rules upon its members. Others looked to territorial and state law which allowed villages without magistrates to define ordinances and enforce them in proceedings similar to those of the court. Finally, in recent years traditional villages were aided by troopers and district attorneys in the definition of simple village rules which had their descriptive analogues in state criminal law. The operating theory, while extralegal, was a practical one: the council would attempt to enforce its law and failing that could look to professionals to fly into the village, make a formal arrest, and prosecute the offender.

Council justice was achieved primarily through a process of conciliation. In modern terms it could be considered the first practical diversion project within a state court system. It achieved what professionals were effectively blocked from achieving without continued residence in the village--a system whereby lesser conflicts could be resolved within the home community.

In 1970 spurred by the vigorous advocacy of reforms in rural justice by the late Chief Justice George Boney, academicians, legal professionals, and Native representatives met in the state's first conference addressed to the problem of bush justice.

Procedural recommendations of the conference focused upon the two historical problems confronted by the justice system and its Native clients. The conference resolved that:

"The locale of decision making in the administration of justice in village Alaska must move closer to the village. To achieve this result there must be greater Native participation at all levels in the administration of justice," and further, that "there must be greater access to legal services and the process of justice in village Alaska."

While the conference saw the strengthening of village councils as central to the administration of justice, several factors were already at work to diminish extralegal council activity.

Most significant was the increased appointment of magistrates in Native villages. These courts with limited criminal and civil jurisdiction appeared to surplant the council because their legal authority was clearly mandated. However, overlooked by policymakers was the distinct difference between the adversary approach which was theoretically available in magistrate court and the less formal conciliatory approach which was the mainstay of councils.

Even if councils had not been surplanted by magistrates, however, other responsibilities were accruing to village political leadership which gave them less time to delve deeply into local disputes. Increased visits by government agents, delegated responsibility to the councils to appoint village health aides and administer welfare programs, and more recently, governmental responsibility for ten townships of land in the Alaska Native Land Claims Settlement Act worked to remake village councils into local governments not

unlike those found in many rural towns. Council members who were effective conciliators within the village were often replaced by residents who could communicate with outside bureaucrats.

Ironically, more regular visits by troopers and attorneys after the conference on bush justice undid or substantially changed the capacity of the councils to make an initial determination regarding the dispute. Although sophisticated troopers and professionals still sought the council's advice, their arrival signaled the removal of the dispute from the council for all practical purposes.

How then could the legal system broaden its access to Native residents and at the same time allow the locus of decision making in the administration of justice to be retained in the village?

The authors, an attorney and cultural anthropologist, sought answers to this fundamental question. They have attempted to look at both customary law ways and particularly at the process of dispute resolution embodied in council justice to define from this an alternative legal process for Alaska villages which would not block Natives from fully exercising their Constitutional rights but would not deny them an opportunity to define and resolve disputes according to their own perception of the problems, the parties to the problem, and the appropriate remedies for intravillage conflicts. The fundamental difference between the procedure finally defined by the authors, the conciliation board, and that which had been developed by the Natives themselves as a village council was that it was capable of being structurally integrated into the Alaska justice process. It was expected that the process within that structure would be similar to that followed in the council.

Besides conducting intensive interviews, observing cases being resolved in the villages, and securing old council records, the authors looked to other countries for models. Their final decision was to give procedural meaning to a state statute which allows the victims of most misdemeanors to compromise with the offender and then offer this compromise to the court to see if the judge will accept it in lieu of a continued criminal justice process.

The premise upon which the Alaska experiment is grounded was developed independently but is very similar to one developed elsewhere. In 1969 the Center for Dispute Settlement of the American Arbitration Association developed in Philadelphia and in other cities a process through which private criminal warrants could be delegated to a community disputes settlement tribunal. The 4-A project (Arbitration as an Alternative to the Private Criminal Warranty) was established because the court and criminal was not seen as the most effective forum for the resolution of "neighborhood squabbles."

An evaluator of the 4-A project stated:

> The key to the Center's 4-A operation is applying dimensions and the principals of mediation, arbitration, fact finding and conciliation that the American Arbitration Association has used successfully during nearly fifty years of experience in dispute settlement. The four years of the Center's existence have proven in approximately two thousand cases that these arbitral techniques applied to community disputes procedure lasting and satisfying results not only to those directly involved but to the community as a whole.

This approach can be easily compared with the Alaska village format. The key to the operation of the conciliation board in Eskimo and (in the foreseeable future) other Native villages is that it draws techniques developed by the Natives themselves in nearly seventy years of council hearings.

In order to understand how conciliation works as an alternative to criminal process in rural Eskimo villages, it is useful to compare it with the notable project now sponsored by the American Arbitration Association's Center for Dispute Settlement in conjunction with the Philadelphia municipal court. The author Conn recently viewed this project in operation.

In the Philadelphia project private criminal complaints are diverted by the court administrator, a lay person, and to a lesser extent by the municipal judge or member of the district attorneys office. In the village the village constable may suggest conciliation in lieu of arrest or the state magistrate may suggest conciliation. Private individuals may also conciliate disputes on their own initiative.

Case selection for the conciliation-arbitration process in Philadelphia is determined by personnel of the court system. They apply their own private criteria to this process and appear to order parties to attempt conciliation rather than to explain the alternative in depth to potential participants. It is left to Center personnel to explain the conciliation process to participants both at the court and at the center and to then attempt to make the process work either as arbitration or as conciliation.

In the village the process turns first upon judgment of local law enforcement personnel and the local judge if a complaint has been made to them and second upon full cooperation by victim and the alleged offender. If either refuses to conciliate, the option is waived.

In Philadelphia the clients of the conciliation process tend to be black and poor and to live in the core of the city. This reflects in part the

jurisdiction of the municipal court and the propensity of urban poor to use the criminal process instead of the civil process which requires legal representation even when the conflict might have broader civil remedial needs than criminal. If a disputant approached the police, the police would advise them to file a criminal complaint unless the police have witnessed the violation of a misdemeanor.

In the village the clients for the process will be uniformly village Eskimos. Although a limited civil jurisdiction for damages up to $1,000 in the local magistrate court is available, few Natives in the villages have experienced or are familiar with civil actions except for actions for divorce, adoption, or intestate proceedings. None of these latter actions are available under the jurisdiction of magistrate courts. When problems were heard before the village council, no distinction was made between civil and criminal disputes. Also, magistrate courts cannot offer remedies in equity such as specific performance. If such remedies are requested or affirmative defenses to contract or tort actions are raised, the magistrate must dismiss the action and have it filed in district court in a town many miles by air from any Native village. Finally, although urban residents may be easily referred to legal services programs or to private attorneys, no legal services attorneys are available to village Natives except in larger towns or in cities. Only a single private attorney resides in any of the 200 Native villages in Alaska.

In Philadelphia the case is actually transferred to the Center. The arbitrators may either aid the parties in arriving at a consent agreement or reach a determination themselves and issue an award after ten days. Even

where consent agreements are arrived out, the arbitrators in cases observed by the author indicated that they were acting with the full authority of the municipal court and pointed out to participants that they could enforce agreements by employing the contempt power of the court or in the case where particular acts are embodied in the agreement or award by filing a civil action for enforcement of the act if the party does not comply with the agreement.

The conciliation board in the village cannot equate its authority with the local court. Its relationship to the formal actors in the legal process is informal. Although the Philadelphia project is supported both through an agreement with the municipal court system and the state law on arbitration, the Alaska experiment is procedurally an informal arrangement subject to judicial approval. If the arbitration of small claims under the Alaska arbitration law is to be afforded villages, the state statute on arbitration of small claims would have to be amended to allow for arbitration by persons other than attorneys or magistrates.

Arbitrators in the Philadelphia project are predominately lawyers and other professional persons. An evaluation report of the project noted the need to bring more women and blacks from the urban community into the process. Arbitrators are paid $40 per case from federal funds.

The village project employs not less than three conciliators drawn from a panel of five residents who were appointed by the village council. Village

conciliators were selected to reflect young, middle-aged, and old Eskimo residents. The head of the experimental conciliation board, for example, is an older resident, [redacted]. He has been an advocate of a legal challenge to place secondary schools in the village. A younger member of the board was a plaintiff in the suit. The council selected conciliators based upon their capacity for independent judgment, their propensity not to try to dominate others, and their absence of identification with established authorities such as employment with the Bureau of Indian Affairs. For example, a Catholic priest who serves the village was not selected. Thus the qualifications for conciliators are similar to those of councilmen who served Eskimos for many years.

In order to insure impartiality, the Philadelphia arbitrator appointed to a case discloses any relationship to the parties, "financial, professional, social, or other kind." Arbitrators with such relationships are not selected.

Village conciliators, by definition, are very familiar with the disputants. This is perceived as a virtue. However, one or more members of the panel may be rejected if the disputants feel that he or she harbors any special prejudice or is too closely related to one side or the other.

The Philadelphia arbitrators may have professional training in law. Each of the original conciliators was trained in conciliation techniques at Temple University. Others have been trained by listening and observing other conciliators work.

The background of most of the village conciliators is limited to knowledge of the village council process. Since this process was conciliatory and

dealt with the same kinds of cases and remedies suggested by cases brought to conciliation, this is ironically the best possible "legal experience" the conciliators might be afforded. The conciliators in the experimental project are also being trained by the authors in basic contracts, torts, and criminal and family law in order that they can lay before disputants alternative remedies and place conciliation in its appropriate perspective for them. It is envisioned that videotapes and filmed lectures of conciliation will be sent to villages which organize boards if the experiment is accepted for other Native villages since the transportation of conciliators from village to village would be prohibitive.

Cases Heard

The Philadelphia project, according to a staff member, handles cases which might be grouped by participants in the following manner:

Feuds between neighbors which involve the acts of their children account for sixty percent of the caseload. While these cases did not arrive at the court as juvenile cases, but only after the feud spilled over into aggressive acts by adults. A tentative evaluation of cases which will be coming or have come before the conciliation board in the village also indicate that young people's action will figure strongly in disputes. However, in the case of the village informal conciliation will be directed at juveniles rather than at their parents. Juveniles have traditionally been held responsible for their misconduct in hearings before the village council. Alaska juvenile procedure was removed from lower courts to the Superior Court located outside

of the village after studies indicated the ineptitude of lower court judges and absence of facilities provided by the state to house or rehabilitate juvenile offenders. This reorganization of the structure of juvenile justice occurred at the same time that the Public Health Service work in Native villages was achieving a remarkable drop in infant mortality. What this has meant for the villages is that large numbers of young people are guided by drastically smaller numbers of adults. The first state of Alaska juvenile proceedings is the informal dispostion of offenders--which means in practice, engagement of juveniles and their parents before the court and promises of the juvenile to obey the law. The concilation board is capable of broadening the scope of and importance of this informal disposition in a manner which in form nearly replicates the lectures delivered to juveniles in a group directed at individual misconduct in the traditional meeting and social quarters of Alaska Eskimos, the Kosga. These proceedings will compensate in part for the total absence of juvenile correctional personnel and facilities in small villages by reinforcing traditional approaches to correction. They will offer a new option to the village which now must send youthful offenders outside of the village to cities where the formal division of corrections can deal with juvenile matters.

Disputes involving petty larceny or misuse of property by one or both of the parties accord for 15 percent of the Philadelphia cases. This category of cases is very similar to cases involving conversion of personal property or damage to property in the village. These disputes have a civil remedy before the magistrate. However, with the withdrawal of the village council

and with the absence of attorneys, no remedy which would offer redress to private persons in the village was available until the conciliation board took charge of these cases. These cases find their way to the conciliation board initially and do not often emanate from the filing of a criminal complaint.

Domestic disputes involving third parties account for twenty-five percent of the Philadelphia cases. Again, the conciliation board addressed from its inception husband and wife conflicts.

For example, a drinking husband had been fined and jailed on several occasions for beating his wife. The magistrate looked to the board as a counseling agent because it was evident that police action against the husband only served to deepen the conflict between the husband and wife. A fine came out of the collective pocket of the family and not the husband. These cases had been well handled by the village councils.

Finally, disputes between neighbors accounted for ten percent of the Philadelphia cases. Dogs, misplaced trash cans, noise, and other long-term grievances spilled over into private criminal complaints for assault and harrassments. Native villages, like any community, have their share of these disputes. However, rapid relief of the disputes was, if anything, more important for village neighbors because most remain neighbors for life and look to each other for help and support in collective economic endeavors such as salmon fishing or the hunting of sea mammals from seal and walruses to whales which require crews of village men to work together under situations of comparative harmony.

In the past there was no middle way to deal with grievances which arose when, for example, a neighbor, "feeling good," abused his invitation to drink and frightened his neighbors wife and children or broke household utensils. Similarly, acts which were tantamount to theft and privately considered as theft were often treated by Eskmos as "loans" since the sharper characterization meant that the trooper had to be notified and the social relationship irreparably broken. As one Native undergraduate noted to the authors in a class on law from the village perspective, if a neighbor assaulted another neighbor while drunk, the most expedient thing to be done was to enlist the help of council members to simply just forget about it. Even where the trooper was radioed or written to by the council, his capacity to react to each complaint was limited.

Traditionally, acts of violence were not handled very well by the council. They would usually leave smoldering grievances which resulted in counter acts of violence. Since knives and firearms are universally employed in Native villages as means of livelihood, control of weapons as a general measure or even removal of weapons from a person known to misuse them when he drinks is an improbable and dangerous alternative. Yet, even more fundamental to Native complaints which demanded some form of intervention by a forum which understood them were acts which had in them the seeds of violent response. These included gossip or even threats which in non-Native urban communities might be casually dismissed as "street talk." Cases which date from the inception of Canadian and American disposition of murders in the Arctic show a nearly invariable pattern of victim percipitation in an Eskimo sense, if not in a legal sense -- for example, the famous example of the murder

of a white trader who was set up for murder after he had threatened to shoot an Eskimo who shared his girlfriend as well as all the dogs. The trader's anger over a woman was incomprehensible to the Eskimos. His threat to shoot all the dogs was tantamount to a threat to destroy the entire Eskimo hunting party. He was viewed as mad and thus too dangerous to be left alive.

Lesser acts were also measured according to their propensity to provoke violent reprisals and not according to the dictates of abstract morality. Thus while sexual intercourse between an adult and several underaged girls did not incur the strong punishment by one council in a northern Eskimo village, according to its records, the theft of cigarettes at a seal hole, the letter writing between a single resident and married women, and gambling were all viewed as activities which could spill over into violent confrontations which when began no one could stop.

In this light, while eighty percent of the complaints in Philadelphia involve assaults, the cases which now are coming to the conciliation board involve acts where less violence is apparent. Potential violence, should the dispute not be nipped in the bud, is more evident in the eyes of the villagers who hear the dispute or who bring it to the board.

The style of the arbitrators in Philadelphia, which the author Conn observed, and the conciliators in the village where the authors work is very similar. Although, as stated, the authority of the village board is not as formal as the authority of the Philadelphia arbitrators, the impression of authority is real enough for persons to consider well the advice of board

members. This authority stems in part from the implicit support of the board by the magistrate and police. Its members know and participants know that the magistrate is very likely to accept the agreement reached if the dispute was initiated by an arrest or complaint to the magistrate. They also know that if they are to control the outcome of the conflict, that it is before the board and not before the magistrate, trooper, or higher court that this might occur. In some instances they recognize that the board is the only viable alternative to legal process which they enjoy. Travel, delay, and expense are insured if they file a civil complaint in a court outside of the village. In such matters as slander, for example, the magistrate does not have subject matter jurisdiction over the dispute. Finally, the board represents a cross section of village opinion. What the village feels about a particular dispute and its outcome or what the village will feel weighs heavily on participants.

Both arbitrators and conciliators in the village delve beneath the surface of the dispute and attempt to place it into the context of the larger conflict or cooperative relationship between the disputants. Neither points the finger of guilt but instead stresses both good and bad acts by both persons. Both forums seek to discover if a third party, who is not before them, is a catalyst to the conflict and may bring that person into the hearing to bring home his role more forcefully. However, in this the village board is in a superior position. The Philadelphia forum has subpoena power but no enforcement power over persons not immediately subject to the conflict. The village board lacks legal authority in either manner but can employ its

personal knowledge and the social impact of village opinion to assure the third party's attendance and obedience to the agreement reached. While the Philadelphia arbitrator may simply order or advise the disputants not to listen or to have nothing to do with the third party, be he the other woman or man, or the neighborhood gossip, etc., the village board must consider how to improve the relationship between the third party and the disputants.

The board's concern with reworking the relationships of disputants and others who have a hand in local disputes presents what could be termed its greatest challenge.

While consent agreements or arbitration awards in Philadelphia regularly order that the urban disputants have nothing to do with one another, the village board can rarely employ this device unless one disputant or the other can be urged to leave the village. The council regularly called troopers to arrest and remove unrepentant offenders, but this modern-day form of banishment for a period of weeks or months is more a signal of failure than of success of conciliation. The "reintegration of the offender back into the community," the oft quoted goal of correctional programs, was the only goal of council justice. It is similarly the goal of the conciliation board.

The tool for enforcement that the conciliation board employs is, as with the Philadelphia project, only partially its power to remand cases back into the courts. The Philadelphia project recalls disputants and uses letters and phone calls as intermediate steps to insure compliance with agreements. Similarly, the board speaks to persons who have come before it; and if necessary, calls for new meetings with them.

Evaluation of Both Projects

The 4-A project of the Center for Dispute Resolution is a proven success. In its several years of operation, the center has resolved hundreds of disputes and has time to evaluate and rework its operating procedure.

The village conciliation project is only a half dozen months old. Its structure has been defined principally by the Native participants themselves. Whether or not the project can take up the slack left in legal process with the demise of the village council as a parajudicial forum remains to be seen. So also will legal policymakers in Alaska have to look closely at the project and cases which have come before it to assure themselves that it will strengthen rather than weaken the local justice system of the unified court system which professionals wholeheartedly desire to improve for their rural constituency.

The authors are optimistic that the conciliation process as an adjunct to rural justice will not only improve justice for Alaska Natives but will point the way for other innovative endeavors to improve the quality of justice for rural consumers in other parts of the United States. Unless the justice system meets consumers of justice halfway, especially consumers whose experience with the Anglo-American process has been less relevant to them than their own approaches to disputes, then these communities will lose the opportunity to preserve community well-being through a fundamental commitment to due process of law.

2nd Draft
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AN ACTION PLAN FOR VILLAGE JUSTICE

Introduction

The goal of this action program is to offer substantive due process on a daily basis to residents of Alaska villages. Its premise is that Natives must be transformed from consumers to decision makers and participants in the system. The suggestions for specific reforms outlined here are drawn from over two years of firsthand analysis of the process of justice as it actually exists in the village - not as a single bureaucratic endeavor but as the product of several which set their own standards of quality and define (with the aid of state and federal funds) their own means to attain them.

The presence of a complete justice system in every village is a debt owed to every citizen. The attainment of the substance of justice and not merely the form of justice will be difficult unless new roles and new institutions are devised which will complement the visiting judge, lawyer, or trooper.

These roles and institutions described here have been used in other places. Their historical reference point in Alaska is the village council which succeeded in offering a legal forum when courts did not.

Both professionals and villagers have specific roles in the justice system suggested here. In this new bush justice system, they are as mutually dependent as in the old system - the difference is the roles of villagers would be authenticated and fully incorporated into the modern state system of law.

TABLE OF CONTENTS

I. Action Program for Village Justice - Outline

A. Each village needs the following:

1. A magistrate

2. A village constable

3. A lay advocate

4. A conciliation board

5. A lay correctional supervisor (or supervisors)

B. In its relationship with the regional center nearest to the village, the village should expect:

1. Monthly visits by the legal services attorney and contact with the lay advocate. Comparable contact by the public defender with the lay advocate.

2. That the judge who sentences a village offender in a distant place solicit and receive from the correctional specialist and village council information useful in considering whether or not to reintegrate the offender to the village, and if so, on what terms.

3. That troopers regularly visit the village to work with the village constable.

4. That all resident members of the lay justice system in the village receive continuing legal education and videotapes and film suitable to present community legal education in the language and tradition of the village.

5. That redistricting allow those served by a district and superior court judge to solely elect him. That professional judges be selected who are willing to live in the region.

6. That advocates be trained linquistically and substantively to explain legal concepts to potential or actual participants.

C. Explanation - definition of jobs

1. The magistrate will act according to his present jurisdiction in criminal and civil matters.

2. The village constable will be trained to investigate and act as prosecutor in cases heard by the magistrate.

3. The lay advocate will act in criminal and civil cases before the magistrate. He will refer matters to the legal services or private attorney or public defender. He will act as an advocate in administrative hearings.

4. The conciliation board will receive criminal cases diverted from the police-magisterial process with the consent of offender and victim and according to statute. It will also serve a counseling function in the informal disposition of juvenile cases by the magistrate.

5. The lay correctional specialist will aid in the reintegration of offenders returned to the village. He will also help make pre-sentence investigations for advocates and the court in cases removed from the village.

II. The Way to Get this Action

A. Native people can either see present programs in the justice system redirected towards these ends or move directly to receive federal Law Enforcement Assistance Funds to contract with capable experts to establish these programs.

For example, the Antioch School of Law has the country's leading program for paralegals. The Vera Institute of Justice has a

technical assistance unit and long experience in programs that divert offenders from the criminal justice process.

B. Statutorily, they can introduce legislation to authorize the use of paralegals and conciliation boards as components of the justice system. Training for these and other lay members should be regionalized and directed toward clusters of villages according to the needs of the villages. Use of the burgeoning community college network is one possibility. Use of satellite communication is another.

State appropriations should supplement the legal services and offer to public defenders and troopers sufficient funds for each to travel to all villages upon request.

C. Further suggestions

1. Language

a. State adoption of HR 9727 to train interpreters in Native languages for every court in the state. Until such an act is passed a court rule should state no waiver of rights from a non-English speaking defendant should be accepted without representation by an attorney.

b. The court's response to its belated discovery that Native speakers could not readily communicate complex legal instructions is to call for a pilot program to train a single interpreter for the Bethel court. This response fails to protect the rights of non-English speaking defendants in other courts who regularly waive rights without an attorney to advice them of the consequences.

2. Paralegals

a. Development of a lay advocate program[1] to provide a lay person in each village that does not have an attorney to advise defendants before the magistrate court and to refer potential clients to public defenders and to legal services or private attorneys.

b. To accomplish this the program of the proposed Alaska Criminal Justice Center must be directed to regionalized training of paralegals. Regional corporations should apply directly for grants from the Indian desk of LEAA just as tribes in the lower 48 are doing if the opinions of Native people are not adopted in the planning of the justice center. State legislation should carve out an exception to the unauthorized practice of law statute to allow paralegals to do this.

3. Diversion

Diversion is one way for Natives to control the legal process. Legislation should provide for the establishment of community conciliation boards[2] for towns of less than 1,000 persons who can:

a. conciliate petty misdemeanors within the terms of AS 45.120 and 12.45.130.

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[1] A pilot course for Native paralegals in village law will be taught in the spring semester by Professor Conn on the Fairbanks campus of the University of Alaska.

[2] The National Center for Dispute Settlement of the American Arbitration Association has introduced a comparable program of arbitration as an alternative to the private criminal warrant into the courts systems of Philadelphia, Rochester, Akron and Cleveland. Professor Conn has arranged to view this program. He is also testing the use of a conciliation board in a Southwestern Eskimo village.

b. handle civil matters where claims are too small to warrant the use of an attorney or beneath the $500 limit used by Legal Services.

c. aid judges in the informal disposition of juvenile complaints.

4. Civil Representation

a. State appropriations should supplement the Alaska Legal Services budget to allow for a monthly visit of an attorney to every village in Alaska.

b. Grants might subsidize the travel of private Alaskan lawyers to Native villages.

5. Sentencing

a. No non-resident judge should be allowed to sentence an offender whose offense relates to a village where no court sits without receiving testimony from the governing body of the village on matters relevant to the disposition of the defendant.

6. Corrections

a. Lay correctional aides who are residents of Native villages should be trained in regional locations to supervise offenders returned to the village.

7. Criminal Representation

a. A public defender should be assigned for every state trooper in the bush.

8. Location of Hearings

a. Physical capacity of the village to house participants in court proceedings comfortably should not be a criteria for choice of a trial location.

9. Participation in Policy Making

   a. The magistrate supervisor should have a Native planning committee to deal with the Native magistrate system.

   b. The Department of Public Safety should institute a crash program to hire and train a fixed quota of Native troopers to serve in the bush.

   c. A Native planning committee should also work with the Division of Corrections to define and provide job opportunities and programs for Natives in the villages.

   d. The AFN could delegate a member to the Alaska Criminal Justice Center Research and Planning Committee.

   e. A Native planning committee should work with the staff of the Criminal Justice Planning Agency and have veto authority over programs or use of funds which affect bush justice.

   f. A Native should be appointed to the Alcoholic Beverage Control Board to redirect liquor policy as it affects the bush.

10. Education

   a. The University of Alaska should immediately develop a program of bicultural community legal education that employs the present videotape machines, closed circuit TV networks, movie houses and (prospectively) the satellite TV network to reach villagers in the villages.

   b. The regional corporations should press the University to institute a regular law school program in conjunction with UCLA law school and a legal technician program in conjunction with Antioch School of Law.

11. Investigation

    a. The state should sponsor a second bush justice conference to review accomplishments and failures of each component of the justice system.

    b. The AFN should demand an investigation of the rural justice system by the United States Commission on Civil Rights.

12. Redistricting and Reorganization

    a. Finally, the state justice system should be redistricted to provide for districts built along cultural lines with similar reorganization of all components of the justice system.

    b. Superior court judges who are not prepared to live full-time in Native towns should not be appointed.

Conclusion to Parts I and II.

The foregoing recommendations require state legislation, some state appropriations and a complete overhaul of federal programs.

With land claims, Natives can contemplate material well-being for the first time. However, unless the system provides usable forums, means of law enforcement and correction in the villages, the social well-being of every villager will be threatened. Village life will be put to a test that it is not likely to meet.

III. Myths and Facts About this Action Plan

A. 1. Myth - Use of conciliation boards and paralegals represents a radical step and institutionalization of a different system of justice for Natives.

2. Fact - It is the agents of territorial and state government that have offered village Natives a different system of justice. The IRA villages, Village Incorporation Act, village "rules" offered for enforcement by the district attorney and troopers, and finally the magistrate system that purports to be an adversary system although attorneys are unavailable, were radical departures from the system of due process available to non-villagers. The reforms are the best practical attempt to offer justice services in the villages. They effect due process there as elsewhere in the state and offer meaningful choices to Natives within a single justice system.

B. 1. Myth - The failure of Natives to comprehend the defendant's rights from a linguistic standpoint can be remedied by interpreters and will transform the Native defendant into an active participant in the justice system.

2. Fact - Even where a defendant understands his right to an attorney, he does not have one who is physically accessible. To retain one is costly. The rights are premised on physically accessible attorneys. Finally, if non-English speakers cannot comprehend, magistrates and other courts should not accept waivers of defendants' rights and should appoint attorneys on their own initiative. Since this step is extraordinarily

difficult, employment of paralegals in the village to take up defendants' cases on their behalf and interpret legal concepts and rights substantively to defendants seems the only practical step if due process of law is to be secured for village residents.

Finally, knowledgeable defendants will discover that there have been only 6 acquittals by trial in district court in Bethel in four years. Attorneys plea bargain for defendants. That is the only use or purpose of an advocate in the present system.

C. 1. Myth - Judges who come to reside in larger towns near the villages will get to know enough about people to sentence them.

2. Fact - Only the village is an apt source of information for determining whether or not a defendant should return and on what conditions. Only villagers can talk about his past conduct and likelihood to rejoin the community. Only villagers are available to supervise offenders returned to the villages.

D. 1. Myth - Village problems can be solved with increased travel by professionals.

2. Fact - Particular services of the justice system - a workable forum, a source of legal information, adequate law enforcement, and alternative means to correct offenses - are needed on a daily basis. No agency can demonstrate an adequate record of response to village needs because each agency has depended upon an understaffed agency that serves many villages inadequately.

E. 1. Myth - A public safety building (jail), lay magistrate, and village policeman equal a justice system.

2. Fact - No legal policymaker would tolerate this for his family and his community. He expects Constitutional guarantees to have meaning in his community; this same expectation should be reflected in the kind of legal system he helps to organize in Native villages.

APPENDIX I

An Action Program for Village Justice - The Problem

The first conference resolution of the Bush Justice Conference of 1970 was:

> "The locus of decision making in the administration of justice in village Alaska must move closer to the village. To achieve this result there must be grater Native participation at all levels in the administration."

The crux of the action plan is to bring due process to the Native villages of Alaska, particularly the small Eskimo, Athabascan and Aleut villages. In order for villagers to control the process of justice: (1) reforms must take place that place Natives in political control of the direction of programs and funds which affect them as consumers, (2) theoretical choices of potential clients of the justice system must be transformed into comprehensible and real choices, (3) special roles, procedures and legal education programs must be defined and implemented for village residents to compensate for the historical failure of the territory and state to offer them experience with a complete justice system.

Since 1970 there have been piecemeal attempts at reform by the several agencies that serve the bush. They have not succeeded for several reasons apart from the absence of active Native roles in the definition and the implementation of these programs.

1. Failure to recognize that, most Athabascan, Eskimo, or Aleut villages with less than first class city status have not been granted a judicial system but a council system as a system of adjudication. Some councils enforced law under modified version of the Alaska IRA, others under state statute, the Village Incorporation Act. Still other traditional based villages were "granted" rules to enforce by police and prosecutors. In each case there was no experience with lawyers and judges in the villages, no juvenile justice system, no correctional programs other than suspended or imposed fines or jails, no jury trials other than inquests held by visiting judges. In each case the territorial and state government explicitly reinforced the local system by taking out of the village more serious cases *via* the police. The offender was removed and jailed with only rare and informal communication back to the village regarding the details of the legal process outside and the ultimate disposition of the case.

2. It is a myth to conclude that Natives were ever offered a choice between a complete justice system in the Anglo-American tradition and the one that they employed. It is also a myth to conclude that they are now being offered a complete justice system in the village or that villagers can draw from their own experience and critically determine the capacity of the justice system to serve them.

Even with the advent of the magistrate program, the villagers did not receive a complete adversarial program which included trained advocates, ready to define and argue criminal and civil cases. The wide ranging court decisions which have expanded the right to representation and

trial by jury by one's rural peers have had little or no impact on village justice because:

A. Public defenders are rarely physically available in villages. In the whole of Eskimo Alaska, only two public defenders serve, one in Bethel and one in Nome. Clients who request attorneys are billed after the case is over and many feel impelled to pay.

B. Public defenders will usually try a case before a professional court judge outside of the village if the choice is allowed by statute.

C. The average client does not understand the use of attorneys, the difference between evidentiary guilt and guilty feelings and finally the use of attorneys in securing bail reduction and in plea bargaining even where an offense has been committed.

D. Jury trials are generally limited by court rule to locales where physical facilities are available for housing, meals, etc. Many lawyers fear jury trials before non-whites, eg.; they fear that Natives will be swayed by testimony of police and prosecutors since they have been offered scant experience with the adversarial or trial process.

E. Although preliminary hearings are occasionally taken into villages, even this attempt to show the process at work is being limited as a grand jury is more frequently employed in larger Native towns.

F. Even where Natives secure lawyers, acquittals are extraordinarily rare in the bush court system. Thus, the potential client must

weigh his removal from the village, loss of contact with family and work, etc. against representation by the outside attorney in a criminal case which he is likely to lose.

3. Corrections

Although there has been much talk of reintegration of the offender into his local community, there has been no meaningful programmatic effort to do this by the Division of Corrections. The Division of Corrections did not promote the village public safety building program to allow local, safe, short term incarceration. Its correctional aide program was set up vertically to help the probation officer but with scant consideration of horizontal integration of correctional reporting with village justice.

As the late Butch Swartz, an intern for the Criminal Justice Planning Agency put it:

"We are upgrading police services in many bush communities and providing new jails to hold the offenders apprehended by these newly trained and equipped police forces. We are not, however, doing anything to divert these offenders or to rehabilitate them in their own communities."

While the legislature removed juvenile justice from lower courts with the exception of emergency action and informal disposition, corrections has done nothing in small villages to flesh out disposition in the village by training and paying persons for supervision of juvenile offenders.

It can be argued that with the increasingly youthful village population and plans underway to make secondary education available to young people who stay in the village, the failure of corrections to support local programs in small villages is potentially the worst of various failures of the justice system to serve Native people.

4. Attorneys and Civil Cases

The private bar with few exceptions does not reside in predominantly Native villages. Alaska Legal Services has an office in Bethel but in no other Native village.

The concept of a civil or private case (apart from domestic relations cases) is practically unknown in village Alaska. Furthermore, administrative redress in employment matters, discrimination and welfare actions are unknown. No fair hearings emanate from the large number of public assistance clients in the bush because few view these administrative determinations as challengeable.

Legal services attorneys follow an administrative rule that does not allow them to take cases of less than $500 monetary value. These are the small claims that are most likely to appear in magistrate court and allowed there. Furthermore, even if a legal services' attorney takes a civil case against a Native on behalf of a second Native, he can only represent one side. (Provision has some times been made by legal services for representation of the other side in domestic cases.)

Legal services attorneys who visit the village find important cases against outside agencies or persons that they can file in outside courts. However, there is no person in the village trained to spot such cases and notify these attorneys

5. The Courts

While the courts under the aegis of Chief Justice Rabinowitz have shown the most systematic concern with the improvement of the justice system, their success will be concentrated in the several larger Native towns - Bethel, Barrow, Kotzebue, and Ft. Yukon. The magistrate system is infamous. Furthermore, the key relationships between the sentencing judges in larger towns and the villages on such fundamental matters as the possibility of returning of the offender to the village under terms agreeable to the offender and the village or, conversely, the removal of a person for extended periods of time are marred by absence of communication by the village of facts concerning the offender and his place in the village. Dependence upon the magistrate or trooper is inadequate to secure information comparable to that obtained in investigations for urban offenders by professionals. Yet in view of the impact of crime in the village and the personal impact of offenders in small villages, this communication seems vital. Neither district attorneys nor defense attorneys have resources to make thorough investigations in any but the most serious cases. In juvenile cases, investigations by correction officers are short, casual and entirely controlled by the correction officers.

6. Police

The village constable training program which began to train and subsidize resident police service was cut by the legislature. Federal funds from the program have been diverted. Villages left without funds to pay local police have had to forgo use of revenue sharing funds in other vital areas, such as fire protection, to pay for police. Many

villages were not affected at all by the program and have no trained local police.

State trooper manpower allocations have been determined by the pipeline and not by the needs of rural Alaskan communities.

7. Attorney General

The attorney general's office has failed to give systematic assistance to communities who send ordinances for review into the Department of Community and Regional Affairs. They have not assisted rural communities in regulating liquor traffic or aided them in consumer protection.

8. Funding and Control of Funding

LEEA monies have consistently been channeled to urban and not rural needs. See the Schwartz memo. Appendix 2. Native opinion in the formulation of the criminal justice plan, especially the opinion of Native consumers has not been solicited except in rapid-fire hearings in larger Native towns.

9. Education

Although legal education is the only means for many Natives to overcome the gap between their experience with the second-class justice system in the bush and the one they confront as a result of reforms, the justice system and universities have provided no such program of bicultural legal education in the villages.

10. Language

Not only is the experience of urbanized justice different for the Native participant but it is literally incomprehensible for many non-English speakers. No trained interpreters are available in the court system.

Conclusions

The rural justice system in Alaska is a system of systematic outlawery in its denial of due process to rural Natives. The Natives did not do this to themselves. They did not request to be placed in special legal categories and to receive:

- Councils that enforced the law under the Alaska Indian Reorganization Act when other communities received United States Commissioners.
- Councils which were supposed to enforce village ordinances in proceedings which "shall substantially conform with those proceedings generally held before a magistrate," AS 29.25.310, while urban defendants enjoyed explicit Constitutional guarantees which were comprehensible to them.
- A lay magistrate system of untrained judges which purports to offer the adversary system but does not include lawyers in the village or professional correctional assistance because these professionals choose to live in urban areas.

The concern of the justice system is too often with form - the appearance of a judge and jail in every village - and not with substance. The judicial system as a source of due process has often abdicated its responsibility in village Alaska and been no more than a rubber stamp for law enforcement.

The consumers of the rural justice system can affect the change necessary to make all of the resources of the justice system accessible to rural Natives.

ALASKA

MEMORANDUM

APPENDIX II

Lauris S. Parker
Executive Director
Criminal Justice Planning Agency

DATE: July 17, 1973

SUBJECT: Bush Criminal Justice

Carroll L. Swartz
Corrections Intern
Criminal Justice Planning Agency
Office of the Governor

One of the strongest challenges facing this agency and the Governor's Commission is the improvement of criminal justice in the bush. During the past four years, LEAA grants benefiting bush areas have amounted to 10.8% of Alaska's block grant and 11.1% of all LEAA grant funds awarded in the state. These appear to be unfairly low percentages when one considers that the bush includes 95% of Alaska's land area and 20% of its population. Although rural crime is not being accurately measured, estimates indicate that as many as 20 to 25% of Alaska's part I crimes occur in the state's bush areas. Furthermore, 32% of Alaska's offenders are of native descent, and most of these individuals are originally from the bush.

It is clear from these figures that our agency must expand its efforts to improve criminal justice in the bush areas of Alaska; this can not be a point of contention. The essential question is the form this expanded aid should assume. In the past, LEAA grant assistance to the bush has been rather heavily concentrated in two areas, construction and police assistance. Out of $652,096 awarded to bush programs in the years 1969-1973, $291,524, or 44.7% has been used for construction of five criminal justice facilities, and $233,185, or 35.7%, went to police assistance programs. Two reasons lie behind this funding pattern: first the LEAA Indian Desk prefers police assistance and construction projects to projects aimed at changing people, inasmuch as the latter involve less tangible, more qualitative goals and methods of implementation; and second, a real need exists for both construction and police assistance. Consequently, no argument can be made against spending funds in these areas, but continued emphasis on them has caused other rehabilitative projects to be neglected.

Future grant assistance would be more effective if an appropriate balance system is maintained. This calls for increased funding of programs aimed at changing the individuals coming to the attention of the criminal justice system.

he logic of this balance is quite simple. We are upgrading police services in many bush communities and providing new jails to hold the offenders apprehended by these newly trained and equipped police forces. We are not, however, doing anything to divert these offenders or to rehabilitate them in their own communities. Consequently, the police will continue to keep the new jails full of the same offenders returning time after time. To lessen the impact of such recidivism, programs to change these offenders are essential. Indeed, the full benefits of new jails and better police service will only be realized when an equal effort is made to rehabilitate and/or divert the individuals coming to the attention of the criminal justice system.

Furthermore, programs correcting the bush offender in his own community will also reduce the high percentage of native offenders confined in the state's institutions. Most of these individuals enter the criminal justice system in their home communities, are "rehabilitated" in Anchorage, Juneau, or Fairbanks and afterward remain in the larger cities as criminal justice problems.

The legal component has been neglected in our past funding of bush justice projects. In 1971, LEAA funds were used to hold a magistrate seminar and training conference and to provide new magistrate orientation, but there has been no continuing effort in this area comparable with bush constable training. It should be mentioned that a portion of the funds used for criminal justice facility construction have benefitted the legal system by providing some magestrates with courtrooms and office space not previously available. Besides these, the only other program that assisted the bush legal system was the public defender's paralegal intern in 1972. In general, all of these projects have had some positive impact on bush justice and in the future a greater number of similar projects should be funded. These kinds of programs directly respond to the recommendations of Alaska's first Bush Justice Conference (held in 1970 and funded with an LEAA grant). The Conference stated that "special emphasis must be given to the development of man-power capable of dealing effectively with the administration of justice in village Alaska, and to appropriate education for the affected public." Magistrate training and use of paralegal personnel are two very good ways to fulfill this need.

A further inadequacy of LEAA funding in bush areas is the small amount of grant funds awarded to units of local government. Exclusive of construction funds, only 15.0% of the

total grant monies awarded to bush projects have gone to units of local government. This is less than half of the 1973 plan estimate of 33.3% local pass through on Alaska block grant funds. This low level of local pass through to bush communities is not caused by any inherent bias or insensitivity to bush needs by the Governor's Commission or this office. Rather it is due to the difficulty we have in soliciting acceptable applications from bush areas, to the small number of such applications, and to the larger problem of assuring that grants awarded in these areas are administered in compliance with LEAA regulations. Indeed in the past an overreadiness on the part of the Governor's Commission and the staff to make awards to bush areas has resulted in audit and monitoring problems on some projects.

The inability of many bush communities to competively apply for and administer grant funds remains a continuing problem. Recently, CJPA staff worked closely with city officials in Kotzebue and Barrow to assist both communities in preparing applications for jail planning; both projects were funded. This kind of close technical assistance would seem to be the key to increasing the pass through to bush communities. Present plans to place a native criminal justice planner in the agency will allow us to provide this level of service to many more communities. Such a position will also enable the agency to better assess and plan for the needs of bush Alaska more completely than we have been capable of doing in the past. Most important though, the increase in local pass through to bush communities fostered by this position will indicate the commitment of both the Governor's Commission and this agency to the improvement of criminal justice in the bush.

Additional involvement of units of local government in improving the criminal justice system will also further one of the strongest recommendations of the 1970 Bush Justice Conference, that there "be greater native participation at all levels in the administration of justice." Indeed, furthering the goals of the Bush Justice Conference would be one of the major responsibilities of the native criminal justice planner. He could also begin to plan for another similar conference to consider, as Alaska Legal Services bush [illegible] team has recommended, programs to meet needs which have largely been determined. The bush justice team investigation, if adopted by the Commission, would also greatly benefit from the services of our native criminal justice planner.

Conference or not, this is our agency's primary task in the bush - for in the final analysis, we cannot fully determine or meet the needs of the bush justice system; we may only assist the system to meet them itself.

CLS:cg

ACTION AND DISCRETIONARY FUNDING FOR BUSH JUSTICE

1969	NONE	-0-
1970	Bethel Jail Planning	$ 3,660
	Bush Justice Conference	13,584
	TOTAL	$17,244
1971	Village Police Training	$55,231
	Annette Island Crime Control Project	24,226
	Bethel Police Equipment	2,904
	New Magistrate Orientation	2,125
	Native Criminal Justice Planner (Planning, Part B)	25,000
	Planning for City & Bush Police Officer Training	2,266
	Magistrate Seminar & Training Conference	31,569
	Bethel Jail Construction (Part E)	50,000
	Annette Island Reservation Law Enforcement Program (Discretionary)	17,490
	TOTAL	$210,811
1972	Village Police Training	$67,619
	Bethel Police Identification System	609
	Alaska Public Defender Paralegal Intern	4,000
	Corrections Jail Standards & Assistance	32,072
	Bethel Teen Center	15,000
	Native Village Intern (Discretionary)	3,837
	Police Communications System & Equipment	9,500
	TOTAL	$132,637
1973	Kotzebue Jail Planning	$14,590
	Barrow Jail Planning	10,000
	Emonak Criminal Justice Facility (Disc.)	33,333
	St. Mary's Criminal Justice Fac. (Disc.)	33,334
	Kiana Criminal Justice Facility (Disc.)	33,333
	Village Police Training (Discretionary)	53,540
	Metlakatla Correctional Facility (Disc.)	79,940
	Selawik Criminal Justice Facility (Disc.)	33,334
	TOTAL	$291,404
	GRAND TOTAL	$652,096

ACTION $329,455

DISCRETIONARY $322,641