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8233  
Bradley

ALASKA STATE LEGISLATURE

ELEVENTH Legislature SECOND... Session

SPECIAL  
HOUSE CONCURRENT RES. NO. .1.....

By THE COMMERCE COMMITTEE ..

"Disapproving Executive Order  
No. 47."

Executive Order No. 47

Introduced in the House . 2/29....., 19. 80

HISTORY IN THE HOUSE

1980

Feb 29

Read first time and referred  
to Committee on

Commerce and Judiciary

Reported back with  
recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by Speaker  
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred  
to Committee on

Reported back with  
recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by President  
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment  
thus adopting:  
VOTE

Failed to concur in Senate amend-  
ment; asked Senate to recede  
VOTE

Senate receded from amendment  
VOTE

Senate failed to recede from  
amendment  
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House  
VOTE

CC adopted by Senate  
VOTE

To enrolling  
Reported correctly enrolled  
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No. ....

*Letter*

1/14/80  
Referred: Commerce and Judiciary

EXECUTIVE ORDER NO. 47

Under the authority of Article III, Section 23 of the Constitution of the State of Alaska, and in accordance with AS 24.30.130(b), I order the following:

\* Section 1. Findings. As governor, I find that it would be in the best interests of efficient administration to transfer the recording function and the Uniform Commercial Code filing function from the Department of Commerce and Economic Development to the Department of Natural Resources.

\* Sec. 2. AS 44.37.020 is amended to read:

Sec. 44.37.020. DUTIES OF DEPARTMENT WITH RESPECT TO NATURAL RESOURCES. (a) The Department of Natural Resources shall administer the state program for the conservation and development of natural resources, including forests, parks, and recreational areas, lands, waters, agriculture, soil conservation and minerals (including petroleum and natural gas), but excluding commercial fisheries, sport fish, game, and fur-bearing animals in their natural state.

(b) The Department of Natural Resources shall administer and maintain a recording system established under the laws of this state.

\* Sec. 3. AS 44.37 is amended by adding a new section to read:

Sec. 44.37.025. RECORDING. (a) The Department of Natural Resources shall adopt regulations, establishing, modifying, or discontinuing recording districts or precincts and prescribing the records to be maintained and the instruments to be recorded.

(b) The department shall engage and compensate recorders and deputy recorders, prescribe and account for recording fees, and do all other things necessary to maintain the recording system established under the laws of this state.

(c) The department, with the concurrence of the administrative director of courts, may appoint judicial employees to record documents

1 in locations where the department has no employees available to serve  
2 as recorders.

3 \* Sec. 4. AS 45.05.734(e) is amended to read:

4 (e) The requirements of AS 45.05.768(a)(1) and (2), 45.05.772(b),  
5 (c), and (e), and 45.05.780 [SECS. 768(a)(1) AND (2), 772(b), (c), AND  
6 (e) AND 780 OF THIS CHAPTER] do not apply to a security interest in  
7 personal property of any description created by a deed of trust or  
8 mortgage made by a corporation primarily engaged in the business of a  
9 common carrier by rail, the furnishing of telephone or telegraph  
10 service, the transmission of oil, gas or petroleum products by pipeline,  
11 or the production, transmission or distribution of electricity, steam,  
12 gas, or water, but this security interest may be perfected under  
13 AS 45.05.690 -- 45.05.794 [SECS. 690-794 OF THIS CHAPTER] by filing  
14 the deed of trust or mortgage in the office of the commissioner of the  
15 Department of Natural Resources [COMMERCE AND ECONOMIC DEVELOPMENT].  
16 When filed, the instrument remains effective until terminated, without  
17 the need for filing a continuation statement. Assignments and releases  
18 of the instrument may also be filed in the office of the commissioner  
19 of the Department of Natural Resources [COMMERCE AND ECONOMIC DEVELOP-  
20 MENT]. This commissioner is a filing officer for the foregoing pur-  
21 poses, and the uniform fee for filing, indexing and furnishing filing  
22 data under this subsection is \$10.

23 \* Sec. 5. AS 45.05.768(a)(3) is amended to read:

24 (3) in all other cases, in the office of the Department of  
25 Natural Resources [COMMERCE AND ECONOMIC DEVELOPMENT].

26 \* Sec. 6. AS 44.33.020(22) and 44.33.025 are repealed.

27 \* Sec. 7. Sec. 3, ch. 118 SLA 1976 is amended to read:

28 Sec. 3. The recording districts established by the supreme court  
29 in effect on January 1, 1977 shall remain in effect until regulations

1 establishing, modifying, or discontinuing recording districts or  
2 precincts have been adopted by the Department of Natural Resources  
3 [COMMERCE AND ECONOMIC DEVELOPMENT].

4 \* Sec. 8. This order takes effect July 1, 1980.  
5

6 DATED: January 14, 1980  
7 Juneau, Alaska

8 S/ JSH  
9 Jay S. Hammond  
10 Governor  
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COMMITTEE COPY

#47  
January 14, 1980

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Speaker:

Under art. III, sec. 23 of the Alaska Constitution, I am transmitting to you Executive Order No. 47, dated January 14, 1980, which would transfer the recording function and the Uniform Commercial Code (UCC) filing function from the Department of Commerce and Economic Development to the Department of Natural Resources. Under that constitutional provision, the legislature has 60 days of a regular session, or a full session if of shorter duration, to disapprove this executive order.

In conjunction with this order, I will also be submitting to the House Commerce Committee and to the Senate Judiciary Committee amendments to HB 35 and SB 20, respectively, which would transfer the responsibility for prescribing uniform filing fees under art. 9 (secured transactions) of the UCC from the administrative director of the courts to the Department of Natural Resources. (The bills presently would make this transfer from the administrative director to the Department of Commerce and Economic Development.) This transfer has the approval of the administrative director of courts. The bills and order are separate because it is felt that, since the administrative director of the courts is outside the executive branch, the reorganization powers of the governor set out in art. III, sec. 23 cannot be invoked to accomplish this particular reassignment of functions.

Historically, the real property records have been maintained by the court system in this state, and the Uniform Commercial Code filing system for secured transactions has been administered by the Department of Administration (even though the administrative director of courts was responsible for setting filing fees). In 1976, the responsibility for maintaining the real

property records was transferred to the Department of Administration by ch. 118 SLA 1976. In 1978, the Department of Administration transferred the handling of UCC filing to the Department of Commerce and Economic Development, Division of Banking & Securities, under a reimbursable services agreement. Last year, Executive Order No. 40 statutorily established both of these functions in the Department of Commerce and Economic Development. Because the two functions involve similar operations and information storage, it makes sense to assign both to the same department.

Since the time I submitted Executive Order No. 40 to you and the period for legislative disapproval expired, further analysis of these functions and further progress on the computer technology being developed within the Department of Natural Resources urge a transfer to the latter.

Alaska's land recording system is intended to serve as a depository and information source for records of land transactions throughout the state. Using the recording system, private title companies and prospective land purchasers obtain needed information about property ownership. In turn, title insurance is usually required for financing and often required for property sale. Thus, the state recording system is an important link in the smooth workings of the land market and, particularly, in the accessibility of financing for property development.

The state is divided into 32 recording districts, and deeds, plats, and other documents of conveyance, can be recorded at 15 different locations. However, in actuality, the recording system is used primarily in the urban parts of Alaska. Many people in rural Alaska have little or no knowledge of the recording system and its benefits.

The volume of land conveyances expected under the Alaska Native Claims Settlement Act is enormous. In addition to the 44 million acres which are being conveyed to village and regional corporations and Native groups and individuals, Section 14(c) of the Act requires recipient village corporations to reconvey title to existing land occupants. One analyst has determined that more than 150,000 separate documents will be issued as part of the Settlement Act conveyance process alone. In addition, the state's land disposals, together with disposals by municipalities and Native corporations, will place significant acreage in private hands during the next decade.

In response to this letter, the Department of Natural Resources is developing an automated system (ALARS - Alaska Land And Resource System) of land information collection which will provide a land administration data base and a resource information data base. The principal features of the land base are tracking of all disposal cases, maintenance of the land bank, revenue accounting for disposed lands, land classification, title administration, monitoring of municipal selections, survey tracking, and appraisals. The resource base contains resource information, a geoprocessor, which manipulates resource information, and an assessment system for the evaluation of resources.

The ALARS system will be centrally automated and access to the information will be via direct or dial-up computer terminal. Clearly, it is in the interest of the state to provide access to ALARS for the greatest number of people and, for this reason, the department proposes integrating the Recorder's Office into the ALARS structure. Integration will place title and non-title land information in one system, easing access to these complementary types of information and reducing overlap and confusion to users.

The new provisions in secs. 2 and 3 of the order are identical to those being repealed in sec. 6, except for the difference in departments.

The effective date provided in the order and in the amendments being submitted for HB 35 and SB 20, is July 1, 1980.

Sincerely,

s/ JSH

Jay S. Hammond  
Governor

HCR

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# COMMITTEE REPORT

## HOUSE

FURTHER: FINANCE

February 14, 1979

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HCR 5

Urging the Judicial Council to complete its review and make recommendations in the matter of judicial sentencing practices.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

ROBERT W. D. [Signature]

Terry [Signature]

[Signature]

Patrick J. O'Connell

Neil B. Anderson

[Signature]

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

[Signature]

CHAIRMAN

AMENDMENT

OFFERED IN THE HOUSE:

By: House Judiciary

To: HCR 5 HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: 12

on line 12 after "by" insert "Alaskan Natives, Blacks and other"

# ALASKA BLACK LEADERSHIP CONFERENCE

"CONCERNED, COMMITTED, INVOLVED AND UNITED"

P.O. Box 2203  
Anchorage, Alaska 99510  
(907)277-4735

1028 1/2 23rd Avenue  
Fairbanks, Alaska 99701  
(907)452-7539

A.I.M.  
Alaska Black Caucus  
ASACWC  
Alaska Women Civic and Social Club  
Alpha Phi Alpha Fraternity, Alaska Chapter  
Black Coalition  
Delta Sigma Theta Sorority, Alaska Chapter  
Ministerial Alliance  
Mothers for Christian Fellowship  
NAACP, Anchorage Branch  
Omega Psi Phi Fraternity, Alaska Chapter

Acco Chapter No. 6, OES  
Alaska Associates, Inc.  
American Negro Enterprises  
Arctic Lodge No. 7, F and AM  
Borealis Chapter No. 2, OES  
Enriched Corporation  
Greater Fairbanks Black Caucus  
Midnight Sun Lodge No. 3, F and AM  
Ministerial Alliance  
NAACP, Fairbanks Branch

To: Members of the Judiciary Committees of the House and Senate  
From: Alaska Black Leadership Conference Political Committee  
Ref: Formation of Advisory Committee as outlined by HB 195

The Alaska Black Leadership Conference strongly endorses the Formation of an Advisory Committee as outlined by HB 195. The efforts of the Judicial Counsel to delete the Advisory Board from HB 195 should be ignored and the bill left intact.

The argument that the Advisory Committee would be a duplication of efforts is not a valid argument since the Advisory Committee, as outlined by HB 195, has input from all responsible parties, but more importantly from the affected minorities.

The scope of the sentencing guidelines committee is far too narrow and does not compare at all with the duties, as outlined, in HB 195.

Please reply as to what your position is on HB 195, contact Bob Walker Political Committee, PO Box 2203, Anch, Ak. 99510, or in care of the Anchorage Legislative Affairs Office.

Sincerely,

  
Bob Walker  
Political Committee Chairman

cc: Bettye Davis  
Rert Campbell  
Rene' Gonzales

LA11 2161 14.09 JA01 0035 14.09 02/26/79

TO REP. NELS ANDERSON

FROM: BERTRAND C. CAMPBELL, 3204 LATOUCHE, ANCHORAGE 99504 264-7730

AS PAST PRESIDENT OF THE ALASKA NATIVE CAUCUS AND TSIMSHIAN TRIBAL ASSOCIATION, I FEEL THAT HB 195 AND HB 196, ALONG WITH HCR 5, ARE ABSOLUTELY NECESSARY IN ORDER TO CORRECT THE OBVIOUS INEQUITIES IN THE JUDICIAL SYSTEM. THE STUDIES OF THE JUDICIAL COUNCIL AND THE ALASKA COURT SYSTEM HAVE CORROBORATED MY LIFE-LONG FEELING THAT ALAKAN NATIVES DO NO RECEIVE EQUAL OR JUST CONSIDERATIONS IN THE COURTS OF ALASKA.

THESE BILLS AND RESOLUTION ARE A FIRST STEP IN IDENTIFYING THE PROBLEMS AND CORRECTING THESE PROBLEMS.

CD EOM/

HB 195 - 196 - HCR 5

# STATE OF ALASKA

## HUMAN RIGHTS COMMISSION

JAY S. HAMMOND, GOVERNOR

POUCH 4A - JUNEAU 99811  
PHONE: 582-8224 465-3560

Statement of Niel Thomas  
Executive Director  
Alaska State Commission for Human Rights  
before  
House Judiciary Committee  
Monday, February 26, 1979  
On Racial Issues in Sentencing

The Human Rights Commission supports legislative efforts designed to address the question of what role race plays in the sentencing process in Alaska. Statistical studies by the Judicial Council over a two year period indicate that race is a significant factor which influences the sentences which individuals of different races receive.

These data may indicate that bias can enter . . . to the process in a number of ways. Although subjective bias in the judge himself can be part of the problem, the Commission does not believe that judicial discretion is the only factor. Bias in the criminal justice system can enter at any stage. What the arresting officer views as "suspicious," given two people of different races who are doing the same thing, may be tainted by the officer's racism. Who the prosecutor chooses to prosecute may reflect the prosecutor's bias. The dynamics of trial and the mechanism of jury determinations can be similarly infected.

At sentencing, the judge must make his decision based upon information that is put before him, both by testimony and by sentencing reports. How the convicted individual behaves and expresses himself, his living conditions and lifestyle, may be related to cultural factors which can work for or against him in the judge's mind. How any given individual is described in a sentencing report may reflect the racial bias of the author of the report. For example, two individuals, one white and one minority, with identical working records may be described differently. The white person may be described as having an ability to obtain regular employment by virtue of his having held a succession of jobs. With the same work record, a minority individual's work history may be described as "irregular and spotty".

A judge who has been trained to assess facts and evidence impartially may not fully recognize the bias inherent in what he sees. Therefore, the ultimate sentence may reflect this collective bias. The proof has come out inferentially in the statistical averages compiled by the Judicial Council. Pinpointing prejudicial actions in individual cases is difficult if not impossible.

Statement of Niel Thomas  
before House Judiciary Committee  
Monday, February 26, 1979  
Racial Issues in Sentencing  
Page 2

The Human Rights Commission has been requested by the Alaska Court System to join with the U.S. Department of Justice, Community Relations Service, to prepare training on these issues for Alaska's judges. A session of approximately one and a half days is now being planned for the annual Judicial Conference in Sitka this June. The training will familiarize judges with the ways in which prejudice can enter into the sentencing process so that judges may be more alert to it. The goal is to reduce sentencing disparities through increased judicial awareness.

The Commission supports any efforts of the legislature which would increase the body of information about sentencing disparities contained in studies which are now over two years old. Updating this information, possibly with statistics which identify the performance of individual judges over a longer time span, would deepen our understanding of the nature of the problem and what can be done about it.

call Nancy Harvey <sup>4989</sup>

2:00 - get witness list -  
for Harmon

---

Janet Bradley for Human  
Rights Commission

---

Michael Lyons  
British Council

---

Theresa ...  
British Council

---

Burt Campbell - sending telegram

---

St. ... telegram

BUDGET: Alaska Judicial Council, Investigation of Judicial Sentencing Practices

February 13, 1979

I. Investigators

a)	Coders: 5, at \$937.50/month + 9% benefits, x 6.4 months	= \$32,700
b)	Evaluation Methodologist, part-time, \$958.40/mo. x 9 months + benefits	= 9,108
c)	Statistical Advisor, 50 hours at \$16.88/hr.	= 844
d)	Computer Programmer, \$500/month x 8 months	= 4,000
e)	Data Analyst, 5.5 months	= <u>8,053</u>
	Subtotal, Investigators	= \$56,955

II. Staff Travel

5 Coders, coding supervisor and evaluation methodologist based in Anchorage. Travel costs and per diem to Barrow, Bethel, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Nome, and Sitka.

= \$15,850

III. Contractual and Other

a)	Key punch charges, estimated, for 1700 defendants, 2-4 cards per defendant	= \$ 1,500
b)	Computer charges, average per month, \$1166.67	= 10,500
c)	Supplies	= <u>195</u>
	Subtotal, Contractual	= \$12,195
	Total, Investigative Expenses	= \$85,000

Advisory Board Travel

Transportation of members of the Advisory Committee on Judicial Sentencing Practices to meetings:

= \$ 5,000

Total, State General Funds = \$90,000

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. HB 196 - HB 196  
 Title Special Appropriation to the Judicial Council  
 Requested by House Judiciary Committee Date 2/23/79

II. FISCAL DETAIL  
 Agency Affected Judicial Council  
 Program Category Affected Administration of Justice  
 BRU, Program, or Subprogram(s) Affected Judicial Council  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	57					
200 TRAVEL	21					
300 CONTRACTUAL	12					
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	90,000					

FUNDING (Thousands of Dollars)

GENERAL FUND	90,000					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-					
PART TIME	-0-					
TEMPORARY	9					

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

IV. DATE 2/23/79 PREPARED BY Michael Rubenstein  
 AGENCY Judicial Council  
 PHONE 274-8942  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)



## Alaska Judicial Council

303 K STREET  
ANCHORAGE ALASKA  
99501

EXECUTIVE DIRECTOR  
MICHAEL RUBINSTEIN

LAY MEMBERS  
KENNETH L. BRADY  
JOHN E. LONGWORTH  
ROBERT H. MOSS

LAW MEMBERS  
MARCUS R. CLAPP  
MICHAEL M. HOLMES  
JOSEPH L. YOUNG

CHAIRMAN EX OFFICIO  
JAY A. RABINOWITZ  
CHIEF JUSTICE  
SUPREME COURT

January 26, 1979

Ms. Peggy Berck  
House Judiciary Committee  
Pouch "V"  
Juneau, Alaska 99811

Dear Ms. Berck:

Enclosed are copies of our 1977 study, and of two memos describing follow-up work we did on our July, 1978 findings of racial disparity.

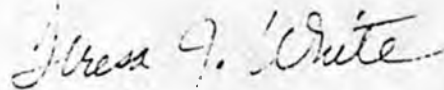
We plan to continue follow-up work in several ways. 1) It appears that decisions made at earlier points in case processing may affect the sentencing decision; we will analyse the plea bargaining data in more detail to determine whether this is the case. 2) We will analyse data collected earlier on 1700 misdemeanor convictions to find whether similar patterns of racial disparity appear there. 3) We will collect three years worth of new data on convicted felony cases, which will include all superior court locations in the state as well as several important variables (such as alcohol use and more precise information about type of prior convictions) which we could not obtain in the plea bargaining study. We are also exploring other means of both pinpointing and correcting any disparities in criminal case processing which might be related to race. Finally, as consultants to the Sentencing Guidelines Committee, we will be working with judges and representatives of minority groups to determine racially "neutral" guidelines for offenders not covered by presumptive sentencing provisions of the new criminal code.

Mike Rubinstein and I will be in Juneau on Tuesday, January 30 and Wednesday, January 31. If you'd like to talk

Ms. Peggy Berck  
January 26, 1979  
Page Two

with us further, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Teresa J. White".

Teresa J. White  
Project Supervisor

Enclosures



LAW MEMBERS  
WENDELL L. BRADY  
JOHN B. LONGWORTH  
ALBERT W. MOSS

LAW MEMBERS  
MICHAEL A. STROVICH  
MICHAEL M. HOLMES  
JOSEPH L. YOUNG

CHAIRMAN, BY OFFICE  
ROBERT GOODENOUGH  
CHIEF JUSTICE  
SUPREME COURT

## Alaska Judicial Council

101 K STREET  
ANCHORAGE, ALASKA  
99501

EXECUTIVE DIRECTOR  
MICHAEL L. RUBINSTEIN

September 6, 1978

### JUDICIAL COUNCIL FINDINGS REGARDING POSSIBLE RACIAL IMPACT IN SENTENCING

In the process of studying the effects of the abolition of plea bargaining on Alaska's criminal courts in Anchorage, Fairbanks, and Juneau, using data on 3500 felony cases filed from August 15, 1974 until August 14, 1976, an analysis of sentencing was done. The plea bargaining ban's effects were analyzed in the context of a number of other factors that could have affected sentencing; one of these (which we all felt should not be ignored) was the defendant's race.

The sentencing analysis, as described in Tables VII-4, -5, -6, and -7 of the preliminary draft report on the plea bargaining study, showed that in three categories of offenses race was significantly associated with sentence length when other factors were taken into account. More specifically, the study indicated that blacks and natives tended to have longer sentences, other things being equal, than whites. They were also more likely than whites to receive a jail sentence of 30 days or more (rather than probation, or a very short active sentence).

It should be stated that this study does not prove that the Alaskan judges in Anchorage, Fairbanks and Juneau in 1974-1976 were conscious racists. It does show, however, that there was a pattern in which blacks and natives apparently received longer sentences and were denied probation under circumstances in which whites received more lenient treatment.

To review the findings, we found that blacks and natives had significantly longer sentences than whites in Class 3 (burglary, larceny, receiving) and Class 4 (fraud,

forgery, embezzlement) offenses, and blacks had much longer sentences than whites in Class 5 (drug offenses). [All offenses were originally charged as felonies, although some were later reduced to misdemeanors at conviction.] We found the same kinds of racial differences with respect to the probability of receiving an active (jail) sentence of at least 30 days rather than a lesser sentence.

The findings with respect to sentence length were arrived at after taking into account statistically, a variety of other factors, including the specific offense of which the defendant was convicted, whether he had other companion cases pending against him or any co-defendants, the extent of his criminal record, whether the case arose under the old or the new plea bargaining policy, the extent of injury, damage, and property loss caused by the crime, the defendant's income, sex, and age, the defendant's relationship to the victim, the type of counsel the defendant had, and whether the sentencing judge was "strict" (i.e. had a sentence average at least twice that of the average of all judges) or "lenient" (i.e. had a sentence average one-half or less of the overall average). The findings with respect to likelihood of active time of at least 30 days were obtained after controlling for the defendant's criminal record, whether he had companion felony cases (i.e. more than one felony charge), and the specific offense of which he was convicted.

In our analysis of factors associated with variation in sentence length, and in our calculation of the probability of receiving active jail time of at least 30 days, very different statistical methods were used. Yet both methods identified approximately the same factors--including race--as having an important association with sentencing. This congruence makes us more confident of our results. Also, an earlier study using some of the same data as in the present study and some data not included in the present study, but limited to defendants convicted of felonies, showed that blacks received significantly longer sentences in Class 3 (theft-type) and Class 5 (drug) offenses. Thus, we have three different studies using different methods, or partially different data, or both, that indicate that non-whites were sentenced more severely.

It must be noted that although our calculation of the association between race and sentencing took account of a number of characteristics in which natives, blacks, and whites may differ, there still may well have been characteristics other than race as such--characteristics we were unable to measure in our study--that could explain away the apparent effect of race. This is why it should be said that

the study's findings on race raise a question of discriminatory treatment rather than proving it beyond a reasonable doubt. In "legalese," one might style these findings a "prima facie" case.

In the rest of this memo the race-sentencing relationship is presented in more detail. The Judicial Council will use these findings as a basis for further, more intensive investigation, and we expect to have additional results within the coming months. The Alaska Court System is making an independent inquiry into our findings and is prepared to take strong corrective measures if such are found to be warranted.

## 1. Sentence Distributions

Table A (column 1) shows that a respectable number of blacks and natives showed up as defendants in the convicted cases (charges resulting in conviction) in our study; the numbers range from 23 (natives, in Class 5 cases) to 106 (natives, in Class 3 cases). The mean sentence lengths (column 2) suggest the racial differences found in later analysis, without any adjustment for other factors; the means for blacks and natives are higher than those of whites in Classes 3 and 4, and blacks' mean is much higher than whites' in Class 5. The proportion of "zero sentences" (probation with no active imprisonment) was about half as large for blacks and natives as for whites in Class 3, one-eighth as large for natives as for whites in Class 4, and one-third to two-thirds as large in Class 5. Generally, the sentence length distribution (column 5 of Table A) was heavier to the right in non-whites' cases than in whites'. There was an especially high concentration of longer sentences for blacks in Classes 4 and 5, and a small number of blacks received extremely high sentences in Class 5.

## 2. Comparing Characteristics of the Three Racial Groups

Blacks, natives, and whites differed in terms of certain characteristics and factors we found to be strongly related to sentence length, as shown in Table B. In Class 3 cases, non-whites were more likely to have felony companion cases (multiple counts) than whites, and blacks were more likely to have a felony conviction record. In Class 4, blacks and natives were less likely than whites to have "lenient" judges and blacks more likely to have "strict" judges (as defined earlier); blacks were more likely than

whites to be on probation or parole at the time of their offense. Black defendants in Class 5 cases were more likely to have companion felony charges and a felony record than white defendants.

As the rest of Table B indicates, when the mean sentences of the three racial groups are compared within each category of the factors importantly related to sentence, it can be seen that non-whites generally had longer mean sentences than whites. This difference is not completely consistent--in a few comparisons whites' sentences are longer--but the overall pattern shows the race difference. (The apparent pattern of race differences that we can see by inspection of the figures in Table B was confirmed by loglinear multiple regression analysis.)

Table C shows a similar pattern of differences with respect to the proportion of cases in which the defendant received at least 30 days of active jail time. (The race effect was confirmed with a cluster analysis using the Mantel-Haenszel statistic.)

### 3. Non-whites' Estimated Sentences If They Had Been White

Another way of describing race differences in sentences is to compare the actual median sentences of blacks and natives with the median estimated sentences if they had been white. The estimated sentences were computed from the multiple regression equations, including all the correct information on each non-white defendant except that he was considered white. In other words, taking all the relevant characteristics of each non-white defendant's case into account, we estimated what sentence he would have received if he had been white.

The actual median sentence is shown in column 3 of Table A, and the median sentence estimated if white is shown in column 4. In Class 3 cases, blacks' median (3.0 months) was ten times higher than that estimated if they had been white (0.3 months), while natives' was twice as high (0.4 months compared with 0.2 months). In Class 4 cases, natives' median (14.0 months) was 23 times higher than the estimated median if white (0.6 months); the actual and estimated medians for blacks were the same (0.0 months).<sup>1</sup> The most

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<sup>1</sup> If this last is true, how could the multiple regression analysis show that being black was associated with longer

striking difference occurred in Class 5 (drug) cases, where blacks' actual median sentence was 24.0 months, as compared with the median estimated if white of 1.0 months.<sup>2</sup>

*mlr*

M. L. R.

---

sentences? This is because multiple regression is based on means, rather than medians, and black defendants in Class 4 cases had a high mean sentence and a rather high concentration (21 per cent) of sentences in the 36 to 60-month range.

In Class 5 cases, natives' estimated median was also lower than their true median, but probably because their mean sentence was low, the multiple regression analysis found no effect on the sentence of being a native.

Table VII-4. Class 3 Felonies <sup>1</sup> (Burglary, Larceny, and Receiving):  
Estimated Effect on Prison Sentence Length <sup>2</sup> of Various  
Factors

<u>Factor</u>	<u>Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> <sup>3</sup>		
Burglary in occupied dwelling	+523%	
Unauthorized entry (misd.)	-52	
2. <u>Companion Felony Case</u>		
For each companion case	+34	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+57	
If on probation or parole at time of offense	+169	
4. <u>Defendant's Characteristics</u>		<u>Number of cases (N): 499</u>
If unemployed	+58	<u>Proportion of total variance explained (R<sup>2</sup>): 27%</u>
If black	+277 *	
If native <sup>4</sup>	+94 *	
5. <u>Type of Counsel</u>		
If private or pre-paid	-44	
6. <u>Sentencing Judge</u>		
If "lenient"	-59	
7. <u>New Plea Bargaining Policy</u>		
(1974-75 compared with 1975-76)	(None)	

- 
1. Cases in which defendant initially charged with Class 3 felony; offense of conviction may have been misdemeanor.
  2. Probation treated as zero if no active imprisonment imposed.
  3. Increase or decrease is in comparison with sentence for other Class 3 offenses not listed, including other burglary, larceny, receiving stolen property, and malicious mischief, whose combined mean sentence was 5.7 months.
  4. Effects are as compared with "white" (non-native, non-black) defendants.

Table VII-5. Class 4 Felonies <sup>1</sup> (Fraud, Forgery, Embezzlement):  
 Estimated Effect on Prison Sentence Length <sup>2</sup> of  
 Various Factors

<u>Factor</u>	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by <u>Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> <sup>3</sup>		
Felonious bad check	-65%	
2. <u>Companion Conviction</u>		
For each companion conviction	-11	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+27	
If on probation or parole at time of offense	+232	
4. <u>Defendant's Characteristics</u>		
If female	-78	
If age 21 to 26 (as compared with older and younger)	+158	<u>Number of cases (N):</u> 194
If black	+452 *	<u>Proportion of total</u>
If native 4	+441 *	<u>variance explained (R<sup>2</sup>):</u> 58%
5. <u>Type of Counsel</u>		
If appointed	+683	
6. <u>Sentencing Judge</u>		
If "lenient"	-90	
If "strict"	+1836	
7. <u>New Plea Bargaining Policy</u>		
(1974-75 compared with 1975-76)	+117	

- 
1. Cases in which defendant initially charged with Class 4 felony; offense of conviction may have been misdemeanor.
  2. Probation treated as zero if no active imprisonment imposed.
  3. Increase or decrease is in comparison with sentence for other Class 4 offenses not listed, including forgery, false pretenses, embezzlement, credit card fraud, and related misdemeanors, whose combined mean sentence was 9.3 months.
  4. Effects are as compared with "white" defendants.

Table VII-6. Class 5 Felonies <sup>1</sup> (Drug Offenses): Estimated Effect on Prison Sentence Length <sup>2</sup> of Various Factors

<u>Factor</u>	<u>Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown</u>	
<b>1. <u>Specific Offense of Conviction</u> <sup>3</sup></b>		
Sale of narcotics to person age 21 or older	+130%	
<b>2. <u>Companion Felony Cases</u></b>		
For each companion felony <u>case</u>	+51	
For each companion <u>conviction</u>	+76	
For each companion conviction of a <u>co-defendant</u>	+57	
<b>3. <u>Defendant's Criminal Record</u></b>		
For each prior felony conviction	+134	<u>Number of cases (N):</u> 255
If on probation or parole at time of offense	+183	
		<u>Proportion of total variance explained (R<sup>2</sup>):</u> 49%
<b>4. <u>Defendant's Characteristics</u></b>		
If black	+467 ✕	
<b>5. <u>City Where Court Located</u></b>		
If Fairbanks (as compared with Anchorage and Juneau)	-49	
<b>6. <u>New Plea Bargaining Policy</u></b>		
(1974-75 compared with 1975-76)	+233	

- 
1. Cases in which defendant initially charged with Class 5 felony; offense of conviction may have been misdemeanor.
  2. Probation treated as zero if no active imprisonment imposed.
  3. Increase is in comparison with sentence for other Class 5 offenses not listed, including possession of narcotics, sale and possession of "KDS" drugs, and related misdemeanors, whose combined mean sentence was 8.9 months.

Table VII-7. Factors Having Significant Association with Likelihood of Active Sentence of Thirty Days or More, in Offense Classes 2, 3, 4, and 5.

A. Class 2 Cases (Violent Felonies Other Than Murder and Kidnapping)

1. Companion felony case (+)
2. Specific offense of conviction was Rape, Robbery, Assault with Intent to Kill, Assault with Dangerous Weapon, or Felonious Escape (+)
3. Prior convictions (+)  
Controlling for Factors 1, 2, and 3:
4. Companion convictions (+)
5. Defendant unemployed (+)
6. Defendant and victim had family, acquaintance, or employment relationship (-)
7. Defendant's counsel was appointed (+) or privately paid (-)

B. Class 3 Cases (Burglary, Larceny, and Receiving)

1. Companion felony case (+)
2. Specific offense of conviction was burglary or felonious larceny (+)
3. Prior convictions (+)  
Controlling for Factors 1, 2, and 3:
4. Defendant was on probation or parole (+)
- \* 5. Defendant was black or native (+) \*
6. Defendant was unemployed (+)
7. Defendant's counsel was appointed (+), public defender (+), or private (-); defendant had no counsel (-)
8. Sentencing judge was "strict" (+) or "lenient" (-)
- [9. New plea bargaining policy (+) - only in "low risk" cases; see text of report]

C. Class 4 Cases (Fraud, Forgery, Embezzlement, Bad Checks)

1. Prior convictions (+)
2. Specific offense was forgery of debt (+)  
Controlling for Factors 1 and 2:
- \* 3. Defendant was black or native (+)
4. Defendant was female (-)
5. Defendant had no counsel (-)
6. Sentencing judge was "strict" (+) or "lenient" (-)
7. New plea bargaining policy (+)

- 
1. All factors shown have association significant at .05 or less, unless otherwise indicated.
  2. If factor is associated with increased likelihood of active sentence, it is marked (+); association with decreased likelihood is shown by (-).

D. Class 5 Cases (Drug Offenses)

1. Companion felony case (+)
2. Specific offense was sale or possession of narcotics (+)
3. Prior convictions (+)
- Controlling for Factors 1, 2, and 3:
4. Defendant was on probation or parole (+)
5. Defendant was black or native (+) [Significant at .07]
6. New plea bargaining policy (+) [Significant at .12]

TABLE A

SENTENCE DISTRIBUTIONS BY RACE IN OFFENSE CLASSES 3, 4, AND 5 (CONVICTED CASES ONLY--SENTENCE LENGTH IN MONTHS)

	1 (Total Cases- 1001)	2. Actual Mean Sent.	3 Actual Median Sent.	4 Median Est. Sent.	Distribution of Sentence Length										Highest Sentence
					Zero Sentence (Probation Only)	1 day- 3 mos.	3-6 mos.	6-12 mos.	12-18 mos.	18-24 mos.	24-36 mos.	36-60 mos.	60 mos. or More		
<u>Class 3*</u> (Burglary, Larceny, Receiving)															
BLACK -----	(55)	9.4	3.0	0.3	31%	23%	9%	11%	9%	7%	2%	7%	0%	30.0 (4)	
NATIVE -----	(106)	6.4	0.4	0.2	32%	48%	4%	8%	0%	2%	4%	2%	2%	48.0 (1)	
White -----	(338)	4.4	0.0	---	57%	28%	3%	4%	2%	3%	2%	1%	1%	120.0 (1)	
<u>CLASS 4*</u> (Fraud, Forgery, Embezzlement)															
BLACK -----	(24)	14.0	0.0	0.0	54%	4%	8%	8%	4%	0%	0%	21%	0%	42.0 (1)	
NATIVE -----	(20)	14.9	14.0	0.6	7%	22%	0%	21%	4%	43%	4%	0%	0%	24.0 (1)	
White -----	(143)	6.1	0.0	---	57%	16%	10%	4%	1%	3%	4%	4%	0%	60.0 (1)	
<u>CLASS 5*</u> (Drug Offenses)															
BLACK -----	(42)	51.2	24.0	1.0	24%	4%	5%	0%	2%	17%	12%	12%	24%	42.0 (1)	
NATIVE -----	(23)	6.1	1.0	0.2	39%	18%	13%	17%	0%	13%	0%	0%	0%	12.0 (1)	
White -----	(190)	8.8	0.0	---	61%	15%	3%	2%	0%	6%	5%	7%	2%	60.0 (1)	

Offense originally charged in each case was felony of class (type) shown.

Table B Comparison of Sentence Length Means  
(In Months) By Race, Within Offense Class, Controlling  
for Single Factors Importantly Re-

LATED TO SENTENCE LENGTH (CLASSES 3, 4, AND 5; CONVICTED CASES ONLY)

Class 3 (N=499)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>P</u>
Percent of cases having one or more felony companions	64%	(55)	43%	(106)	36%	(338)	.000
Percent of cases where defendant has prior felony conviction	20%	(55)	27%	(106)	18%	(338)	.000

Sentence Means

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
No felony comp. cases	5.2	(20)	2.8	(61)	2.3	(218)	2.6	(299)
One or more fel. comp. cases	11.9	(35)	11.2	(45)	8.2	(120)	9.5	(200)
No prior conv. or unknown	10.8	(35)	2.5	(25)	2.9	(205)	3.9	(265)
Misd. but no felonies	3.5	(9)	3.6	(52)	2.6	(74)	3.0	(135)
One prior felony	12.4	(5)	26.9	(13)	5.6	(30)	12.0	(48)
Two or more prior felonies	8.0	(6)	4.9	(16)	18.6	(29)	13.1	(51)

Class 4 (N=195)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>P</u>
Percent of cases where judge "lenient"	8%	(24)	7%	(28)	23%	(143)	.05
Percent of cases where def. has prior felony conv.	25%	(24)	64%	(28)	36%	(143)	.001
Percent of cases where judge "strict"	0%	(24)	32%	(28)	6%	(143)	.000
Percent of cases where def. on probation or parole	21%	(24)	32%	(28)	22%	(143)	.508

Sentence Means

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
Judge not "lenient"	15.0	(22)	15.1	(26)	7.9	(110)	10.1	(158)
Judge "lenient"	3.0	(2)	12.0	(2)	0.0	(33)	0.8	(37)
Judge not "strict"	14.0	(24)	10.2	(19)	5.7	(134)	7.3	(177)
Judge "strict"	----	(0)	24.7	(9)	12.3	(9)	18.5	(18)
No prior conv. or unknown	13.2	(5)	1.2	(4)	3.1	(56)	3.7	(65)

*Sentence Means (cont'd)*

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
One prior fel.	60.0	(4)	19.7	(15)	4.3	(32)	13.2	(51)
Two or more prior felonies	12.0	(2)	12.0	(3)	22.6	(19)	20.4	(24)
Not on prob. or parole	4.2	(19)	13.5	(19)	6.9	(111)	7.4	(149)
On prob. or parole	51.6	(5)	17.7	(9)	3.2	(32)	11.3	(46)
<u>Class 5 (N=255)</u>								
Percent of cases having one or more fel. comp.	93%	(42)	57%	(23)	57%	(190)	P=.0001	
Percent of cases where def. has prior felony conviction	31%	(42)	17%	(23)	17%	(190)	P=.12	
<u>Sentence Means</u>								
No fel. comp. case	20.0	(3)	0.8	(10)	2.9	(81)	3.3	(94)
One or more	53.6	(39)	10.2	(13)	13.2	(109)	22.8	(161)
No prior conv.	16.8	(19)	1.8	(11)	7.2	(113)	8.1	(143)
Misd. but no felony	39.4	(10)	15.0	(8)	4.3	(44)	11.3	(62)
One felony	47.0	(6)	0.0	(2)	17.4	(24)	21.8	(32)
Two or more felonies	164.6	(7)	0.6	(2)	28.9	(9)	78.5	(18)

**TABLE C PERCENT OF CONVICTED CASES IN WHICH DEFENDANT RECEIVED ACTIVE SENTENCE OF 30 DAYS OR MORE, BY RACE (CLASS 3, 4, AND 5)**

Offense Class	Comparison Felonies	Seriousness of Specific Offense	Prior Convictions	Per Cent Receiving 30 Days or More		
				Black	Native	Other
<u>Class 3</u>						
0		Low <sup>1</sup>	0	33%	20%	20%
0		Low	1+	0	36	13
0		High	0	91	67	59
0		High	1+	100	71	82
1+		Low	0	0	33	14
1+		Low	1+	75	0	42
1+		High	0	44	80	80
1+		High	1+	83	81	88
			TOTAL	60	45	28
<u>Class 4</u>						
--3		Low <sup>2</sup>	0	0	33	17
--		High	0	100	100	24
--		Low	Misd. only	8	100	39
--		High	Misd. only	---	60	57
--		Low	Felony (1+)	100	100	31
--		High	Felony (1+)	100	93	81
			TOTAL	46	82	36
<u>Class 5</u>						
0		Low <sup>4</sup>	0	0	0	5
0		Low	1+	---	100	13
0		High	0	---	50	19
0		High	1+	100	0	33
1+		Low	0	38	67	47
1+		Low	1+	0	100	52
1+		High	0	89	0	60
1+		High	1+	95	100	65
			TOTAL	76	52	36

\* No cases in this category.  
 1 High seriousness includes burglary and felonious larceny; low seriousness includes receiving, malicious mischief, unauthorized entry, and misdemeanor larceny.  
 2 Most of high seriousness is forgery of checks; all others are considered low.  
 3 Felonies are controlled for in Class 4.  
 4 Offenses that are gross misdemeanors are included; all others are...

HCR #5

HB 195, 196

2/26/79

Nels - take as package  
- not passing judgment

Michael Rubenstein - Judicial Council  
- study of plea bargaining, 3600 cases  
- drug, check and fraud, and property crimes  
- no disparity in class 1+2 (murder, kid-  
napping, crimes of violence)

John Hope - ANB ex. comm - ex Grand President,  
on board Sealaska, central council Tlingit-Haida  
- starts with police dept (if Native +  
non-Native in altercation, Native will be picked  
up, other go free)

Don Clocksin -

- response by court system rejects basic hy-  
pothesis as not supported by data  
- not quantifiable: demeanor of defendant  
in open court, difficulty in communicating  
- look at decentralization of courts  
- " " sending out of state (harder  
on rural people)

Janet Bradley -  
no testimony

Wanda Culp + Betty Evenson -

E - filed charges w/ HRC re harassment  
- son's appearance against him  
- 11 yr old took balloons, 4 yrs probation !!  
- curfew violation - solitary confinement

Clay Pam -

- supports package, should also study police system  
- has seen Native, in jail for drinking in public,  
never seen any whites

Chip Parr - Sandy shown mug book of Natives only,  
although told police pleading Tom white

Mary M<sup>c</sup> Clinton - private citizen  
- knows Native women who got discrimina-  
tory treatment in jail - first-class person

John Martin - 6 kids  
- pre-sentence review overlooks factor of  
harassment in school  
- teachers instill resentment against  
court system + adult society



Introduced: 2/14/79  
Referred: Judiciary and  
Finance

BY ANDERSON, FULLER, HURLBERT,  
MARTIN, MILLER, MUNSON, OSTERBACK,  
PARR AND SHCAEFFER

1 IN THE HOUSE

2 HOUSE CONCURRENT RESOLUTION NO. 5  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Urging the Judicial Council to com-  
6 plete its review and make recommenda-  
7 tions in the matter of judicial  
8 sentencing practices.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 WHEREAS the Alaska Judicial Council conducted a study including 1,433  
11 sentences in felony cases rendered in the Superior Courts at Anchorage,  
12 Fairbanks and Juneau between 1974 and 1976; and

13 WHEREAS it was the conclusion of that report that Alaska Natives and  
14 Blacks <sup>+ other minor</sup> apparently received longer sentences and were denied probation more  
15 often than other defendants who had been convicted of the same crimes under  
16 similar circumstances, and who had substantially similar criminal records;

17 BE IT RESOLVED by the Alaska State Legislature that it respectfully  
18 requests the Alaska Judicial Council to extend and complete its report on the  
19 sentencing practices of Alaska courts by

20 (1) compiling and analyzing data on all felony sentences rendered  
21 between August, 1976 and the present date, including sentences for convic-  
22 tions in the superior courts sitting in communities which were not covered in  
23 the earlier study, including rural Alaska, to determine whether the present  
24 findings of apparent racial disparity of sentencing also obtain in other  
25 locations and in the years since August, 1976;

26 (2) expanding the data collected and analyzed to include sentenc-  
27 ing practices of the district courts;

28 (3) examining sentencing records of the superior and district  
29 courts to determine whether there is a pattern to sentencing based on race;

*Include*

1 (4) modifying and expanding upon the research methods, when neces-  
2 sary, in order to determine whether the apparent disadvantages suffered by  
3 Alaska Natives and Blacks, <sup>other means</sup> as evidenced in the Judicial Council's findings may  
4 be attributable, wholly or partially, to decisions of other criminal justice  
5 agencies which advise or inform the courts and which may help shape the  
6 ultimate sentence;

7 (5) identifying all points within the criminal justice system at  
8 which a defendant may be disadvantaged on account of his race; and

9 (6) working closely with representatives of the minorities  
10 affected as well as with criminal justice agency representatives and per-  
11 sonnel, making recommendations for positive remedies to correct inequities  
12 which may be suffered by <sup>Alaska Natives, Blacks and other minorities</sup> minority members in the administration of criminal  
13 justice.

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Introduced: 2/14/79  
Referred: Judiciary and  
Finance

BY ANDERSON, FULLER, HURLBERT,  
MARTIN, MILLER, MUNSON, OSTERBACK,  
PARR AND SCHAEFFER

1 IN THE HOUSE

2 HOUSE BILL NO. 195 *amended.*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an advisory committee on judicial  
7 sentencing practices; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. ADVISORY COMMITTEE ON JUDICIAL SENTENCING PRACTICES. There  
11 is established the Advisory Committee on Judicial Sentencing Practices as a  
12 temporary committee to assist the Judicial Council in its review, investiga-  
13 tion, and formulation of responses to problems and concerns arising out of  
14 the Judicial Council's findings of apparent discrimination in the sentencing  
15 of minority persons convicted of crimes in the courts of the state.

16 \* Sec. 2. MEMBERSHIP. *rw* (a) The Advisory Committee on Judicial Sentencing  
17 Practices is composed of nine members, selected as follows:

18 (1) *b* four members, *three of whom will be* appointed by the Judicial Council, *and 1 the minority* who shall be  
19 broadly representative of criminal justice agencies;

20 (2) three Alaska Natives, one appointed by the governor, and one  
21 by the presiding officer of each house of the legislature; and

22 *other minority group members* (3) two Blacks, one appointed by the presiding officer of each  
23 house of the legislature.

24 (4) *1 appointed by* (b) Appointments shall be made with due consideration to the  
25 availability and willingness of an appointee to devote the time and  
26 efforts necessary to permit the committee to function effectively, and  
27 with regard to the degree of commitment of an appointee to the principle  
28 of equal justice under law for all people. Appointments shall be with-  
29 out regard to political affiliation, and shall be made, if possible,

1 within 20 days of the effective date of this Act, or of the effective  
2 date of any vacancy in the membership of the committee.

3 (c) Vacancies in office shall be appointed in the manner provided in  
4 (a) of this section.

5 \* Sec. 3. COMPENSATION. The members of the Advisory Committee on Judi-  
6 cial Sentencing Practices do not receive compensation for their services, but  
7 they are entitled to the same travel pay and per diem as state officials and  
8 employees.

9 \* Sec. 4. CHAIRMAN AND VICE-CHAIRMAN. The members of the Advisory Com-  
10 mittee on Judicial Sentencing Practices shall elect a chairman and vice-  
11 chairman from the members of the committee.

12 \* Sec. 5. MEETINGS. The Advisory Committee on Judicial Sentencing Prac-  
13 tices shall meet at least once every two months to carry out its duties under  
14 this Act. The first meeting of the committee shall be convened at the call  
15 of the chairman of the Alaska Judicial Council not later than 20 days  
16 following appointment of the nine members of the committee.

17 \* Sec. 6. DUTIES. The Advisory Committee on Judicial Sentencing Prac-  
18 tices shall

19 (1) receive and review reports concerning sentencing, correction,  
20 probation, and parole practices and procedures, with particular regard to the  
21 treatment of individuals who are members of racial or cultural minorities;

22 (2) hold public hearings and meetings to determine whether racial  
23 or cultural minorities are being unfairly disadvantaged in their involvement  
24 with the criminal justice system; and

25 (3) complete a report with recommendations for the correction of  
26 abuses and violations of the civil rights of racial or cultural minorities  
27 that may be found to exist in the criminal justice system, furnishing copies  
28 to the Judicial Council, the governor and the presiding officer of each house  
29 of the legislature not later than March 1, 1980.

1 \* Sec. 7. TERMINATION. The Advisory Committee on Judicial Sentencing  
2 Practices terminates March 31, 1980.

3 \* Sec. 8. EFFECTIVE DATE. This Act takes effect immediately in accor-  
4 dance with AS 01.10.070(c).

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Introduced: 2/14/79  
Referred: Judiciary and  
Finance

Funding Information  
General Fund \$90,000  
Other Funds -0-  
\$90,000

BY ANDERSON, FULLER, HURLBERT,  
MARTIN, MILLER, MUNSON, OSTERBACK,  
PARR AND SCHAEFFER

1 IN THE HOUSE

2 HOUSE BILL NO. 196

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Judicial  
7 Council; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. The sum of \$85,000 is appropriated from the general fund to  
10 the Judicial Council to provide for the expenses of persons temporarily  
11 employed as statisticians and investigators in conjunction with review and  
12 analysis of judicial sentencing practices.

13 \* Sec. 2. The sum of \$5,000 is appropriated from the general fund to the  
14 Judicial Council for transportation of the members of the Advisory Committee  
15 on Judicial Sentencing Practices.

16 \* Sec. 3. The unexpended and unobligated portion of the appropriations  
17 made in this Act lapses into the general fund March 31, 1980.

18 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
19 070(c).

HCR

49

(9)

# COMMITTEE REPORT

## HOUSE

2/14/80

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HCR 49

"Relating to a change in office hours in state offices as an alternative to a time change."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HCR 49  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

\_\_\_\_\_

P. J. GIBSON \_\_\_\_\_

Blaine G. Pugh \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

W. H. ... \_\_\_\_\_

... \_\_\_\_\_

... \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Chris ... \_\_\_\_\_

**CHAIRMAN**

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Concurrent Resolution No. 49  
 Title Relating to a change in office hours in state offices  
 Requested by Rep. Charles H. Parr Date April 2, 1980

(This is a zero fiscal note)

II. FISCAL DETAIL

Agency Affected All State Agencies  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-					
200 TRAVEL	-0-					
300 CONTRACTUAL	-0-					
400 COMMODITIES	-0-					
500 EQUIPMENT	-0-					
600 LAND & STRUCTURES	-0-					
700 GRANTS, CLAIMS, ETC.	-0-					
TOTAL	-0-					

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-					
FEDERAL FUNDS	-0-					
OTHER (Specify Fund Source)	-0-					

POSITIONS

FULL TIME	-0-					
PART TIME	-0-					
TEMPORARY	-0-					

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

IV. DATE April 2, 1980 PREPARED BY House Judiciary Committee  
 AGENCY \_\_\_\_\_  
 Original: Legislative Finance PHONE 465-3718  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Concurrent Resolution No. 49  
 Title Relating to a change in office hours in state offices  
 Requested by Rep. Charles H. Parr Date April 2, 1980

(This is a zero fiscal note)

II. FISCAL DETAIL

Agency Affected All State Agencies  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-					
200 TRAVEL	-0-					
300 CONTRACTUAL	-0-					
400 COMMODITIES	-0-					
500 EQUIPMENT	-0-					
600 LAND & STRUCTURES	-0-					
700 GRANTS, CLAIMS, ETC.	-0-					
	-0-					
TOTAL	-0-					

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-					
FEDERAL FUNDS	-0-					
OTHER (Specify Fund Source)	-0-					

POSITIONS

FULL TIME	-0-					
PART TIME	-0-					
TEMPORARY	-0-					

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

IV. DATE April 2, 1980 PREPARED BY House Judiciary Committee  
 AGENCY \_\_\_\_\_  
 Original: Legislative Finance PHONE 465-3718  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

HCR 49  
Rep. Parr

3/28

Congrat Grandpa!

~~Sub~~  
Staff feels no  
extra \$<sup>Sub</sup> flex time  
study - as long  
as you have till next  
session. Any further  
questions, please.

contact Sandy Withers  
Judy Crondahl  
Sullivan

gave fiscal  
note form  
to V. for her  
to type.

S 3/31/80  
read & checked  
CS  
2/2/80  
ps

hook to L.A. 2:30pm  
2/11/80

Introduced: 2/14/80  
Referred: Judiciary

1 IN THE HOUSE

BY ELIASON, FREEMAN, HAUGEN  
AND GARDINER

CS

HOUSE CONCURRENT RESOLUTION NO. 49

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 Relating to a change in office hours  
6 in state offices ~~as an alternative to~~  
7 ~~a time change.~~

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS it is desirable to improve communications between state offices  
10 in Juneau and offices and the public in other regions of the state; and

11 ~~WHEREAS the purpose of the proposed time change, from Pacific Time to~~  
12 ~~Yukon Time, in Southeastern Alaska is to further this goal, and~~

13 WHEREAS flexible or expanded hours of work in state offices which have  
14 frequent contact with offices and persons in other locations might improve  
15 communications with those offices and persons in other time zones ~~to an equal~~  
16 ~~or greater degree than the proposed time change; and~~

17 ~~WHEREAS the proposed time change may unnecessarily inconvenience the~~  
18 ~~general public of Southeastern Alaska; and~~

19 WHEREAS flexible or expanded working hours could ~~also~~ reduce traffic  
20 congestion and improve employee morale and productivity; and

21 WHEREAS flexible working hours are currently used in some state offices,  
22 but not on a systematic or comprehensive basis; ~~and~~

23 ~~WHEREAS the State of Alaska should accommodate, when possible, the~~  
24 ~~desires of the citizens of the state, and not impose undue inconvenience or~~  
25 ~~hardship on the people in order to meet its needs;~~

26 BE IT RESOLVED by the Alaska State Legislature that the Governor  
27 respectfully requested to direct the Department of Administration to conduct  
28 a study evaluating the feasibility of using flexible or expanded working  
29 hours in state offices, ~~as an alternative to the proposed time change.~~

#

HCR

62

(9)

# COMMITTEE REPORT

## HOUSE

3/19/80

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HCR 62

"Relating to the federal census."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*Charles P. Ryan Do Pass*  
*Malone Do Pass as amended*  
*Kels G. Anderson " "*  
*Burchinal*  
*Patrick W. O'Connell " "*  
*P. C. O'Connell*

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Charles P. Ryan*  
 \_\_\_\_\_

CHAIRMAN

AMENDMENT

OFFERED IN THE HOUSE:

By: JUDICIARY COMMITTEE

To: \_\_\_\_\_ HOUSE BILL No. HCR 62

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: see below

page 2

line 3-7

Delete all material and replace with:

BE IT RESOLVED by the Alaska State Legislature that all citizens of Alaska are urged to answer those questions on the federal census which are necessary to enumerate the people of the State of Alaska for purposes of apportionment of the House of Representatives in Congress, the apportionment of the state legislature, and the apportionment of other taxes, duties and contributions set forth in the United States Constitution; and be it

page 2

line 11

Insert after "answer" the word other

page 2

line 12

Delete: "private affairs and their right to be left alone" and Insert after "their" the phrase right to privacy

Proposed amendment to House Concurrent Resolution 62

page 2 lines 3 - 7 Delete all material

Replace with:

BE IT RESOLVED by the Alaska State Legislature that all citizens of Alaska are urged to answer those questions on the federal census which are necessary to enumerate the people of the State of Alaska for purposes of apportionment of the House of Representatives in Congress, the apportionment of the state legislature, and the apportionment of other taxes, duties and contributions set forth in the United States Constitution; and be it

# Don't count on us

If awards were ever offered for complaining, we Alaskans would probably be the all-time champions.

We complain about the weather.

We complain we don't have enough money.

If we have enough money, we complain we must pay too much tax on it.

We complain when government doesn't take action immediately on any given issue.

We complain if government takes action immediately on any given issue, saying "adequate public input" was not allowed.

We complain about everything the Legislature does.

We complain about people who complain too much.

The list goes on. Face it; Alaskans are picky. We want things done our way. Period. The only problem arises when two Alaskans get together. Then another axiom comes into play. Often, no two Alaskans can agree on a subject.

The result is sometimes funny but always interesting. Just this morning, two Empire staffers, both true Alaskans, debated for 15 minutes on whether this year's school budget was this year's or next year's. We lost track of the logic after the first volley, so the outcome will blissfully go unreported.

Another, perhaps more pertinent example was the objection raised recently in the Legislature over the U.S. census forms. The forms are "too nosy," according to some state lawmakers. The result was a resolution introduced in the House telling federal bureaucrats to get their noses out of Alaskans' private business. The resolution was aimed at questions such as:

- How many flush toilets do you have?
- How many times have you been married?
- Are you married to your housemate?
- Do you have a physical or mental health condition?
- Do you have air conditioning?

Now, the flush toilet question was bordering on invading any person's privacy. Some of us remember the days when we didn't even have a private outhouse but shared one with the neighbors. Considering it was in Fairbanks during the winter, the experience was something we would just as soon not repeat, especially on a census form.

If the toilet question was questionable, the one about housemates and mental condition are just too much. Even a non-Alaskan would agree the proper answer to such questions should be a simple, courteous "none of your business."

The folks at the Census Bureau say they haven't received many complaints about the nosy questions. We would like to send ours and those of the Legislature to the census people via special delivery. Count us if you must, but leave all the silly questions out of it.

There is, however, one good thing about the census forms. We are only confronted by them once every 10 years.

## Berry's World

"O!

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all th sacril  
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MEMO

To: Representative Brian Rogers

From: Douglas Pope

Re: HCR 62 and related matters

I have prepared this memorandum for you at your request. It is my understanding that you intend to read all or part of it into the record as testimony at House Judiciary or other committees before the Alaska State Legislature.

I perceive HCR 62 as being directed at protecting legitimate privacy interests of the citizens of Alaska from illegitimate intrusions into their lives by some of the inquiries on the federal census forms. Census officials, in Alaska and nationally, have given a variety of responses. They have pointed to statutory and constitutional authorization for the census, and, with regard to privacy concerns raised by some individuals and institutions, have responded that the answers to the census are confidential.

In a constitutional republic the laws and regulations adopted by the legislative and executive branches of government are subservient to constitutional directives. If a question on the census illegitimately intrudes on the privacy of an individual the law and regulations authorizing those census questions are in conflict with the right to privacy recently recognized in the federal constitutional document. The questions in the federal census regarding physical and mental health conditions and pregnancies are most clearly in

conflict with the right to be left alone. It is my conclusion that those are not legitimate areas of inquiry in the census. The response by federal officials that the answers are confidential reveals a misconception and a narrow view of the right to privacy. That right protects unnecessary intrusions into our lives. It guarantees that, unless there is a legitimate governmental interest, we will be left alone. Confidentiality cannot cure the defect of the unnecessary intrusions referred to above, it only reduces the circle of persons with access to the answers and does not diminish the injury of the initial intrusion.

There are surprisingly few cases wherein the compulsory answers to the census have been challenged on constitutional grounds. Certain questions on the 1900 census were challenged as exceeding the scope of the authority of the census as set forth in the constitution. In that case the court did not object to the citizen's premise that a general government must find authority to conduct the census, however, it found that the constitutional authorization did not limit Congress to a census of the population, but permitted it to also order "the gathering of other statistics" if "necessary and proper." Certain questions on the 1960 census were challenged as in violation of the Fourth Amendment protections against illegal searches and seizures. The court ruled against that objection. The only case found in which a citizen successfully defended himself against a prosecution for refusing to answer census questions involved

the 1970 census. The citizen had been a leader in a much publicized "census resistance" movement. He raised a number of unsuccessful defenses, including personal detriment or incrimination (he lived in a group house in violation of zoning regulations) and challenged the census on constitutional grounds, but prevailed only because he was able to satisfy the standard of discriminatory enforcement by showing that the only persons who were prosecuted in his state by the Bureau, despite the Bureau's knowledge of other violations, had been publicized as belonging to the census resistance movement.

It appears that the precise question of whether certain questions on the census violate the right to privacy implicit in the federal constitution has never been asserted nor ruled upon. In my judgment the most obvious reason explaining why this question has not been raised or adjudicated before is attributable to the recent development of the right to privacy in federal case law. Although the U.S. Supreme Court recognized that the right to privacy was an unenumerated right of the federal document in the late 1960's, the broad reaching effect of the right and its guarantees did not begin its current stage of development until a landmark 1972 Supreme Court decision. It is indeed an appropriate time in our nation's history for citizens to assert an important right and object to certain questions on the census that they believe to be in conflict

with their right to belief alone. The Bureau has been requested by several groups, including the ACLU, to state a policy with regard to persons who refuse to reply to all or part of the census questionnaire and to persons who support or encourage potential resisters. Apparently the Bureau's representatives have been somewhat reluctant to make a definitive statement but the gist of their reply is as follows:

If a person refuses to give any information beyond name and address, or refuses to answer certain specific questions, despite repeated reassurances and explanations and despite reminders that full response is required (in the Bureau's view) by statute, no further action is likely. (Such a person would probably be included in the census "headcount" provided that at least the name and address and basic demographic data are given.) Assuming that this is an individual protest, without fanfare or publicity, the Bureau would prefer simply to get on with the business of taking the census, and not be diverted into "persecuting" anyone.

If, however, a person chose to make a public "display" of resistance, or to encourage others, or to create an organized resistance, the Bureau would request the advice of its counsel regarding prosecution under the sanctions imposed by law.  
January 10, 1950, memo of the American Civil Liberties Union.

To this end a federal official directing the census in Alaska has inferred that any person urging other persons not to answer all the questions on the census could be prosecuted under the criminal laws of the United States. It is apparent from my research, and the inference related above, that the Bureau considers that the act of urging persons who refuse to answer certain questions in the census, if they legitimately feel the questions intrude on their private affairs,

is the sort of encouragement that could lead to prosecution under the criminal laws of the United States. It is my conclusion that this inference is suggesting a reckless course of action for the federal government. Such a course would invariably collide with the guarantee of free speech as long as the urging was directed to specific questions that either arguably or demonstrably invade the right to privacy. However, only a person with substantial economic means or an attorney would have the necessary resources to stand up to the power of the federal government in a situation that is suggested here. To the extent that HCR 62 is an attempt to utilize resources of the state to protect legitimate privacy interests of its citizens its intent is admirable.

## ACTION FOR A VOLUNTARY CENSUS:

People who oppose the questions on the 1980 Census are taking action to end this disgraceful measure once and for all. They are fed up with government interference and the consequences of it.

### DO YOU WANT TO DO SOMETHING?

We recommend that you write letters *right now* to your two Senators and your Congressman demanding that they support and encourage those bills already introduced in Congress to make the non-head count questions strictly voluntary. We urge you to have your friends do the same. Also, you might write letters to the editor of all the local papers asking that citizens join in this protest.

If such legislative action doesn't come soon enough, thousands of Americans are expected to refuse to answer the Census. They will return this questionnaire with an attached ACTION CARD (enclosed) detailing their refusal to be coerced. If many people take this line, the legislators may push a bill through making the Census voluntary; if not for this one, then for the next one.

The fine for refusal to answer can be \$100 to \$500. This was levied *only twice* in 1960 and in 1970 cases against Census resisters were dropped in court. If thousands say NO to the Census, then the government would probably find the costs of prosecution prohibitive. Some people plan to resist at first and only comply under protest, when they are sure the fine is to be levied.

The ACTION CARD gives the three choices you may decide to make. It should be marked and one half returned to us so that we may know how many are joining this protest. The other half goes back to the Census Bureau with your questionnaire. If you can, we would appreciate a small contribution for our fight on the legal front.

We will be taking this case to federal court when the government makes the move to fine the first person who refuses to answer the questions. We will take this case as high as possible in testing the constitutionality of the Census questioning and its invasion of the individual's right to privacy. If we win, there will be no fines for the rest of the resisters.

Are you willing to strike a blow for individual freedom? THOUSANDS ARE!! Will you help them throw a roadblock in front of an onrushing government little concerned with what your rights mean to you? **STAND UP FOR YOUR RIGHTS!**



an educational project from:

**CENSUS RESISTANCE '80**  
Box 1984  
Warminster, PA 18974

# THE CENSUS



**Big Brother**  
is  
**Snooping**

Many citizens are resisting these intrusions, here's how . . . . .

## BIG BROTHER WANTS TO KNOW ABOUT YOU!

Along about the end of March 1980 you, if you are an "occupant" of a dwelling, will receive in the mail an official government Census form. You will be required to fill out a minimum of nineteen questions, many of which violate your right to privacy. Twenty per cent of you will have to sit down and fill out sixty-five questions which delve even deeper into the personal affairs of your household.

The Census is taken every ten years by the United States government as provided in the Constitution. The Constitutional purpose of the Census is to "enumerate" the population so that seats in Congress can be allocated among the states in proportion to the number of residents in each state.

But the Census goes far beyond this Constitutional provision for a simple head count, and it is these additional aspects of the Census which prompt a chorus of protests from all people who value their privacy and freedom from governmental interference and snooping.

*Why, these people ask, should a citizen be compelled to answer these questions under penalty of law—a fine from \$100 to \$500.*

The government claims that only compulsion will make the gathering of these additional statistics possible.

### DRAWING THE LINE:

There is a basic philosophical issue which underlines the dispute about census questions and the criminal penalties. It has been stated in a variety of forms, but fundamentally it comes down to this:

*Where should the line be drawn between the government's alleged need for information and the individual's right to privacy—the right to keep information to himself (as upheld by the Bill of Rights) and to refuse to give answers to the Census Taker's questions?*

The place to draw the line between the government and the individual is right here on this Census. The line is clear in the Constitution and its Bill of Rights. The line is between freedom and compulsion. That is why more and more Americans, backed by many Congressional leaders from both parties and of all persuasions, are now asking that all the questions beyond the head count questions be made *voluntary*.

These are some of the questions the government may expect you to answer (under penalty of law, remember) which are none of their business:

"What is your racial and ethnic background?"

"Do you have a flush toilet?"

"What is the value of your property?"

"Did you raise and sell any crops on your land in 1979?"

"What are your fuel costs?"

"Do you have air conditioning?"

"How much are your mortgage payments?"

"How do you travel to work?"

"What was your total income in 1979?"

"Have you served in the Armed Forces?"

"If this is a girl or woman, how many babies has she ever had, not counting stillbirths?"

"Did this person work at any time last week?"

"Has this person been married more than once?"

"If you pay by the month, what is your rent?"

And so on. Asked one congressman, "In our Republic, can criminal penalties properly attach in a statistical survey for non-compliance to such items?" His own answer, "Clearly not."

Now maybe you like to answer questionnaires, or don't consider that your privacy is invaded by such queries. Fine, but why should those who do not want to answer these questions, who don't wish their privacy invaded, who feel that THE GOVERNMENT HAS NO RIGHT TO ASK SUCH QUESTIONS, be made to do so, and made subject to penalties?

(Incidentally, there will be two by-products of the Census which you may not like. "Junk" mail results from government making these statistics available to commercial interests. And taxes will never go down as the statistics are pulled every which way to justify more and more government spending.)

The real issue is not the drift of the questions but the right to require an answer to questions at all. Do we wish to stand by and let government continue to get bigger and more powerful? Do we want to avert the spectre of a Big Brother snooping into every nook and cranny of our lives?

If you wish to help strike a blow for freedom of the individual, then read the reverse side of this brochure which tells you how to fight back!



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of the Census**  
Regional Office  
Seattle, Washington 98109

**U.S. Bureau of the Census**  
**Field Division**  
**Calais I Building, 3rd Floor**  
**3201 C Street**  
**Anchorage, AK 99503**

**TO WHOM IT MAY CONCERN:**

**Please enter these facts into the record at the Judicial Committee hearing in Juneau, March 26 at 7:30 p.m.**

**The Census Bureau is bound under the law to carry out the asking of questions passed by Congress.**

**The Census Bureau does not use the questions for itself, but compiles them for use by other agencies.**

**The Privacy Act guarantees that the answers given on the Census are confidential.**

**The Legislature may not wish to pass a resolution that supercedes the Federal Government.**

**ARTICLE I of the Constitution of the United States states:**

**There shall be a census taken, in such a manner as Congress shall direct by law.**

**In 1973 and 1974 the Census Bureau held 70 public meetings. They asked the public:**

- 1. What questions would you like asked on the 1980 Census?**
- 2. What sort of data would you be interested in?**
- 3. What statistics would be needed by the State and Federal agencies?**



TO WHOM IT MAY CONCERN  
Page 2

The questions are evaluated by the Census Bureau and then the Secretary of Commerce reviews them. Both the Census Bureau and the Secretary select the most important and relevant questions. These questions are then sent to Congress which votes on each question before the questions are allowed to be placed on the Census form. Therefore each question on the Census form is directed by law through the Congress.

**CONTACTS MADE:**

District Attorney's Office, Anchorage	277-8622
Attorney General's Office, Anchorage	276-3550
U.S. Attorney General's Office, Anchorage	271-6071

Thank you,

Jacqueline S. Russell  
District Manager

# CENSUS 80 APRIL 1 INFORMATION

protects the confidentiality of your answers. For the next 72 years -- or until April 1, 2052 -- only sworn census workers have access to the individual records, and no one else may see them."  
--from the front of the 1980 Census questionnaire

## LAW AND PROCEDURES PROTECT RIGHT TO PRIVACY

The Census Bureau strictly adheres to Title 13, U.S. Code (the census law), which says that census information must be handled with absolute confidentiality. The following questions and answers highlight the Census Bureau's commitment to protect the public -- all persons and business organizations whose names appear on census questionnaires -- from unauthorized disclosure.

- Q:** Does the name and/or address of anyone on a Census Bureau questionnaire go into any government computer, including those of the Census Bureau?
- A.** No.
- Q.** Are Social Security numbers requested on decennial census questionnaires?
- A.** No.
- Q.** What guarantee does a person or business organization have that information provided to the Bureau, in censuses and surveys, is kept confidential?
- A.** According to Title 13, United States Code, information furnished to the Census Bureau can be used only for statistical purposes and cannot be published or released in any manner which could identify any person or business firm. This law prohibits access to individual census returns by anyone except sworn employees of the Census Bureau. The law calls for a prison term of five years and a fine of \$5,000 for a violation of this secrecy provision by any census employee. Everyone who works for the bureau, even temporarily, must take an oath not to disclose personal information and is subject to this law.
- Q.** Has there ever been a case proven where confidential information has been disclosed by a census employee against the law?
- A.** No. In fact, no employee has ever been formally charged with a violation of the law.

(over)

U.S. Department of Commerce  
BUREAU OF THE CENSUS  
Census Promotion Office  
Washington, D.C. 20231  
(301) 568-1200

**We're counting on you.  
Answer the census.**

- Q. How does the Census Bureau protect personal information collected in the Decennial Census of Population and Housing?
- A. The original census forms are photographed on microfilm that is kept under strict security in protected buildings. The information can be retrieved only by authorized persons. The original forms are maintained under tight security, accessible only to sworn Census Bureau employees, until processing is complete. Then the forms are shredded, dissolved in acid, and recycled into pulp.
- Q. How long is census information kept confidential?
- A. For 72 years. Then the microfilmed census records are turned over to the National Archives for permanent storage. People interested in researching their family background often use these old census records.
- Q. What kind of protection is given to confidential facts collected in the Bureau's other surveys such as the economic censuses which cover American business firms?
- A. The census forms filled out during the economic censuses are kept under tight security. Only sworn Census Bureau employees have access to them.
- Q. When results of an economic census are published, is it not possible to pinpoint a particular enterprise in a small area even without the name or address?
- A. No. The computer is programmed not to produce statistics which might allow identification of a firm or corporation under such circumstances.
- Q. Do other Federal agencies or courts have the legal power to obtain confidential information about individuals from the Census Bureau for purposes of taxation, investigations, prosecution, etc.?
- A. No. The Federal law on confidentiality prohibits the Census Bureau from releasing personal information collected under census law to other Federal agencies for any purposes.
- Q. If people want information about themselves - proof of age, for instance - can they look at their own past records?
- A. Individuals may obtain facts reported about themselves in the population censuses from the microfilm records at the Bureau's facility in Pittsburg, Kansas. An individual must present proper identification and pay a small search fee. Anyone who falsifies a name to get information is subject to prosecution.
- Q. Has census information always been treated as confidential?
- A. No. From 1790 to 1870 there was no law about handling census information in a confidential way. The first such law took effect in 1890, and has been revised since then. It is stricter now than it has ever been.

# CENSUS 80 APRIL 1 INFORMATION

CENSUS WILL ASSESS  
DEMOGRAPHIC TRENDS

Dramatic changes in American family life, income, housing costs, population distribution, and Congressional representation will be revealed by the upcoming 1980 census, along with one of the lowest population growth rates in our history.

Gathering and tabulating more than three billion items of information from the public, the 1980 census will sketch a new and unique portrait of the Nation, revealing not only the number of Americans, but their location, condition, activities and how they are housed.

The census will document the changes indicated in recent years by ongoing Census Bureau surveys, and will spell out in great detail the changes in U.S. society of the past decade.

The American family is one example. The 1980 census is expected to show that:

- The number of husbandless women who are heading families has soared nearly 50% since 1970 to more than eight million.
- The traditional family household of mother, father, and one or more children now accounts for less than a third of the Nation's households, the lowest percentage ever.
- Both husband and wife have earned income in about one-half of the 48 million husband-wife families in the U.S., a new high.
- The number of unmarried couples sharing a household has more than doubled in 10 years.

As for population distribution, the 1980 census is expected to define sizable population shifts from Northern and Eastern States to the Southern and Western areas. The 1980 census data will measure population shifts by age, race, ethnic origin, and in other ways. For example, annual surveys by the Census Bureau since 1973 have found that blacks moving to the South outnumber those leaving, reversing a trend of more than 100 years. The census will determine whether the Blacks moving into the South are newcomers or returning to the South, where they are settling, and what job skills they bring--detailed information that surveys, by their nature, do not provide.

Income data will be of interest to economists and others. Discounting inflation, there was a 34 percent increase in median family income between 1960 and 1970, but the increase from 1970 to 1978 was only four percent. The big drop can be attributed to economic sluggishness, to the increase in the number of families maintained by single parents, who tend to have a lower average income, and to changing age structure and family composition. Compared to the 1960s, a higher percentage of people are now in their early, rather than mature, earning years.

U.S. Department of Commerce  
BUREAU OF THE CENSUS  
Census Promotion Office  
Washington, D.C. 20233  
(301) 568 1200

**We're counting on you.  
Answer the census.**

01.11:05

The census will also provide data on poverty, useful for allocating federal funds. Surveys have shown little change in the nationwide number of poor during the 1970s, but there have been changes in their composition and geographic distribution. The census is expected to show a continuing increase in the proportion of poor persons living in families maintained by women, and a decline in the proportion of the poor residing in the South.

The economic impact of the "baby boom" after World War II will continue to be tracked by the census. They have grown to be young adults, ages 18 to 34, and are now in the job market, establishing families, and buying homes, exerting new pressures on the economy because of their number.

Housing is a major aspect of the 1980 census. Government and private industry have a wide demand for the information that will be collected about housing in use, vacant dwellings, and units such as mobile homes. It is expected that the total number of housing units will have increased more than 20% since 1970, twice the rate of population growth.

Housing costs will be of concern. A 1976 Bureau survey found, for example, that the average owner of a mortgaged home at that time was paying 18 percent of annual income for the mortgage, real estate taxes, property insurance, utilities, fuel and trash collection. How the 18 percent figure holds up in 1980, in light of factors such as a 45 percent jump in the average price of a new one-family home over the past four years, will be of wide interest.

A very significant alteration in the Nation's growth pattern will be highlighted by the slowdown of the population's rate of increase since 1970. A growth of only nine percent is projected. If the census bears this out, it will be the smallest increase in any census, with one exception, since the first census in 1790. The exception was the 1940 census, which found the lowest 10-year growth rate as a result of the Great Depression.

The census is the Constitutional basis for reapportioning seats in the House of Representatives, and recent population estimates by the Census Bureau suggest that extensive redrawing of district boundaries will be necessary after the 1980 census. California, Texas, Florida, Utah, Oregon, Tennessee, Washington, and Arizona may gain one or more seats, and New York, Ohio, Illinois, Pennsylvania, Michigan, and South Dakota may lose seats.

In numbers, Census Bureau demographers are projecting a total U.S. population in 1980 of slightly more than 222 million. About eight months after the census has begun on April 1, the first of some 300,000 pages of published characteristics will tell their story.

**Imprisonment  
for Debt**

**SECTION 17.** There shall be no imprisonment for debt. This section does not prohibit civil arrest of absconding debtors.

**Eminent  
Domain**

**SECTION 18.** Private property shall not be taken or damaged for public use without just compensation.

**Right to  
Bear Arms**

**SECTION 19.** A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

**Quartering  
Soldiers**

**SECTION 20.** No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

**Construction**

**SECTION 21.** The enumeration of rights in this constitution shall not impair or deny others retained by the people.

**Right of  
Privacy**

**SECTION 22.** The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

(The addition of this section, as an amendment to Article I, was approved by the voters of the state August 22, 1972 and became effective October 14, 1972.)

## **ARTICLE II**

### **THE LEGISLATURE**

**Legislative  
Power;  
Membership**

**SECTION 1.** The legislative power of the State is vested in a legislature consisting of a senate with a membership of twenty and a house of representatives with a membership of forty.

**Members;  
Qualifications**

**SECTION 2.** A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district

**Title and Authority**

**SECTION 14.** When the lieutenant governor succeeds to the office of governor, he shall have the title, powers, duties and emoluments of that office.

(The amendment to this section was approved by the voters of the state August 25, 1970 and became effective October 10, 1970. The words "secretary of state" were changed to "lieutenant governor".)

**Compensation**

**SECTION 15.** The compensation of the governor and the lieutenant governor shall be prescribed by law and shall not be diminished during their term of office, unless by general law applying to all salaried officers of the State.

(The amendment to this section was approved by the voters of the state August 25, 1970 and became effective October 10, 1970. The words "secretary of state" were changed to "lieutenant governor".)

**Governor: Authority**

**SECTION 16.** The governor shall be responsible for the faithful execution of the laws. He may, by appropriate court action or proceeding brought in the name of the State, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty, or right by any officer, department, or agency of the State or any of its political subdivisions. This authority shall not be construed to authorize any action or proceeding against the legislature.

**Convening Legislature**

**SECTION 17.** Whenever the governor considers it in the public interest, he may convene the legislature, either house, or the two houses in joint session.

**Message to Legislature**

**SECTION 18.** The governor shall, at the beginning of each session, and may at other times, give the legislature information concerning the affairs of the State and recommend the measures he considers necessary.

**Military Authority**

**SECTION 19.** The governor is commander-in-chief of the armed forces of the State. He may call out these forces to execute the laws, suppress or prevent insurrection or lawless violence, or repel

Martial Law

Execu  
treme

Execu  
Branc

Reor

Introduced: 3/19/80  
Referred: Judiciary

BY THE RULES COMMITTEE  
BY REQUEST

1 IN THE HOUSE

2 HOUSE CONCURRENT RESOLUTION NO. 62

3 IN THE LEGISLAURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 Relating to the federal census.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS art. I, sec. 22 of the Alaska Constitution guarantees that the  
8 right of the people to privacy is recognized, shall not be infringed and  
9 directs the legislature to implement this section; and

10 WHEREAS art. III, sec. 16 of the Alaska Constitution directs that the  
11 governor shall be responsible for the faithful execution of the laws and  
12 further directs that the governor and attorney general may, by appropriate  
13 court action or proceeding brought in the name of the state, enforce com-  
14 pliance with any constitutional mandate; and

15 WHEREAS a citizen's right to privacy is an implicit right guaranteed by  
16 the Bill of Rights of the United States Constitution; and

17 WHEREAS the 1980 federal census is currently being conducted throughout  
18 the state and will be conducted in all urban areas of the state on April 1,  
19 1980; and

20 WHEREAS the legitimate constitutional reasons for the taking of the  
21 federal census include the apportionment of the House of Representatives in  
22 Congress, the apportionment of the state legislatures, and the apportionment  
23 of other taxes, duties and contributions enumerated in the United State  
24 Constitution, but do not include unnecessary intrusions into the private  
25 lives of the state's citizens; and

26 WHEREAS a significant number of census forms contain questions that  
27 infringe upon the privacy interests and rights of Alaska citizens; some of  
28 those rights intruded upon include questions regarding the person's income,  
29 physical and mental health conditions, reasons for being married more than

1 once, ancestry, and specific questions intruding upon the private rights of  
2 women with regard to pregnancies and children;

3 BE IT RESOLVED by the Alaska State Legislature that the governor and  
4 attorney general are respectfully requested to protect the private rights of  
5 Alaska citizens by bringing an action in the name of the state to enforce  
6 compliance with the constitutional rights of all Alaskan citizens to be left  
7 alone with regard to their private affairs; and be it

8 FURTHER RESOLVED that the governor and attorney general are respectfully  
9 requested to inform appropriate officials of the federal government that the  
10 state intends to protect and defend the rights of all Alaska citizens to  
11 responsibly refuse to answer questions on the federal census that unnecessarily  
12 interfere with their private affairs and their right to be left alone.

**CENSUS RESISTANCE '80  
ACTION CARD**

Send this half of card to:

**CENSUS RESISTANCE '80**  
P.O. Box 1984  
Warminster, Pa. 18974

Gentlemen:

I join the thousands of other Americans resisting  
the 1980 Census by:

- Answering the Census under protest.
- Refusing to answer non-head count questions.
- Refusing to answer any of the questions.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

I enclose \$50\_\_\_\_, \$25\_\_\_\_, \$10\_\_\_\_, \$\_\_\_\_ towards  
the fight to remove compulsion from the Census.  
Please send me \_\_\_\_\_ additional packets at 5 for  
\$1.00.

Attach to Census Questionnaire:  
**UNITED STATES CENSUS BUREAU:**

- I have filled out this 1980 Census questionnaire under threat of punishment. I believe it is a violation of my right to privacy.
- I have only answered certain of the questions on this Census. I refuse to answer the remainder because they violate my right to privacy, and are not Constitutionally mandated.
- I refuse to participate in the 1980 Census because the government has no right to compel individuals to answer such questions.

DETACH HERE TO USE



Proposed amendment to House Concurrent Resolution 62

page 2 lines 3 - 7 Delete all material

Replace with:

BE IT RESOLVED by the Alaska State Legislature that all citizens of Alaska are urged to answer those questions on the federal census which are necessary to enumerate the people of the State of Alaska for purposes of apportionment of the House of Representatives in Congress, the apportionment of the state legislature, and the apportionment of other taxes, duties and contributions set forth in the United States Constitution; and be it

64

HCR

(9)

# COMMITTEE REPORT

## HOUSE

3/25/80

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HCR 64

"Relating to the University of Alaska lawsuit against the state."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

*Robert J. O'Connell*

*Mark H. Anderson & DePass*

*Bryce H. ...*

*...*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

*W. S. ...* *No Pass*

*Larry Martin* *" "*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Charles ...*

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCR No. 64

Title Relating to University of Alaska lawsuit against the state.

Requested by House Judiciary Date 4/14/80

II. FISCAL DETAIL

Agency Affected Legislative Budget & Audit Committee

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected \_\_\_\_\_

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	25.0	25.0-50.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>25.0</b>	<b>25.0-50.0</b>				

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND	25.0	25.0-50.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

FY 80: Year-to-date cost of legal research and conferences paid to Budget & Audit Committee counsel, Ely, Guess & Rudd, is \$18.6. It is anticipated that an additional \$7.0 will be paid through the end of the current fiscal year.

FY 81: Depending upon the success of the current negotiations working towards settlement of individual counts, legal fees would range from \$25.0 to \$50.0.

IV. DATE 4/14/80

PREPARED BY J. H. Hogan  
AGENCY Legislative Finance Div.

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

PHONE 465-3795

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

i. REQUEST  
 Bill/Resolution No. HCR No. 64  
 Title Relating to University of Alaska lawsuit against the state.  
 Requested by House Judiciary Date 4/14/80

II. FISCAL DETAIL  
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 AGENCY Legislative Finance Div.  
 PHONE 465-3795  
 Original: Legislative Finance  
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 Prime Sponsor (First Legislator Named)