

CONFIDENTIAL

House
JUDICIARY
INTRIM 79

GENERAL

Burch



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

April 16, 1979

Pouch V
State Capitol
Juneau, Alaska 99811

Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

I am enclosing a tentative plan of operations and budget for activities of the Judiciary Committee during the 1979 interim. You will note that the planned investigations cover areas which under the Joint Rules are within the jurisdiction of the State Affairs Committee and the Health, Education and Social Services Committee. The chairmen of those committees have given their consent, and we are agreed that a better integrated investigation will result.

It should be noted that the budget is predicated upon a maximum of five committee members attending each meeting, and upon going to Ketchikan from Juneau next January. If you believe that the Ketchikan meeting might better take place in the fall, please let me know.

Sincerely,

Charles H. Parr
Chairman

CP:bk
Enclosure

HOUSE JUDICIARY COMMITTEE

Tenative Plan for Interim Activity 1979

Administrative

Establish office in Anchorage (most convenient location)

Both Administrative Assistants attend Alaska Bar Association and Judges Conference in Sitka in June.

Schedule two-day meeting in Anchorage to begin work, another for finishing work and drafting legislation.

Schedule two-day meeting in Fairbanks, one-day meetings in Nome, Bethel, Ketchikan. (Ketchikan first weekend of 1980 Session)

Operational

Publicize all meetings widely. Use public service announcements and press releases, letters to civic groups and interested individuals in all cases notify appropriate law enforcement, court system and corrections officials, public defender, legal services offices, bar associations and the ombudsman. Invite Senate Judiciary Committee, other legislators to participate.

In each city visit corrections facilities, courtrooms

Take testimony on bills in each city (SB 104, SB 65, HB 392)

Investigate

Law enforcement: priorities, how set and by whom, rationale
Questionnaires
police ethics, training cooperation between local police, state troopers, Federal officers, budget, weapons policy, community attitudes

Court system: selection, pay, retirement, workload of judges; sentencing practices including parole, probation, and suspended imposition of sentence; bail and bail bondsmen, release on own recognizance
complaints against judges (how handled)
jury selection (should any classes be excluded?)
jury service (how long, how often, phone-in)
public defender workload, verification of indigency, are indigent defendants getting fair representation

Report = *Peggy*
(to commit)

Judges Report - *Rocky*

Sentencing, Probation & Bail Report - *Peggy*
Crimes

Jury System Report - *Rocky*

Legal Services Report - *Peggy*

legal services -- questions as for public defender

Small Claims
Other Alternatives
Report -
Rocky

small claims courts--working, time lags,
complaints *Citizen Resolution Prds*

(effect of new criminal code) *entire* All categories

follow-up on HB 195 and HB 196 (sentencing)

Juvenile Court *Peggy Berch*
System Report - juvenile justice system

Corrections:

Report = Rocky

adequacy of facilities (in cooperation
with Masterplan Committee) *questionnaires*

classification, especially as regards
sending prisoners to Outside facilities

are judges' recommendations for rehabili-
tation being followed?

training of correctional officers; adequate,
right kind

prison industries or other work (public
projects)

probation: is it working? workloads

parole: criteria used by board, effective-
ness

Long Report - Peggy

Domestic Violence Report = Rocky

Crimes - Peggy

11 total

Small Claims
Other Alternatives
Report -

Rocky

small claims courts--working, time lags,
complaints Citizen Resolution Bds.

effect of new criminal code ^{sentencing} All categories

follow-up on HB 195 and HB 196 (sentencing)

Juvenile Court
System Report -

Peggy Berch -

Juvenile justice system

Corrections:

Report = Rocky

adequacy of facilities (in cooperation
with Masterplan Committee) ^{questionnaires}

classification, especially as regards
sending prisoners to Outside facilities

are judges' recommendations for rehabili-
tation being followed?

training of correctional officers; adequate,
right kind

prison industries or other work (public
projects)

probation: is it working? workloads

parole: criteria used by board, effective-
ness

Living Report - Peggy

Domestic Violence Report = Rocky

Crimes - Peggy

11 total

HOUSE JUDICIARY COMMITTEE

Budget for Interim Activity 1979

TRAVEL (5 committee members & 2 staff)

2 two-day Anchorage Hearings	\$1,611.00
1 two-day Fairbanks Hearings	1,303.00
1 one-day Nome Hearing	2,705.00
1 one-day Bethel Hearing	2,282.00
5 one-day Fairbanks/Anchorage Trips	786.00
1 seven-day Sitka Conference	857.00
1 one-day Ketchikan Hearing	<u>2,243.00</u>
TRAVEL TOTAL	\$11,787.00
Staff Salary (July - December)	\$24,000.00
Postage	100.00
Advertising	500.00
Commodities	613.00
Phone	500.00
Office Rental	<u>2,500.00</u>
TOTAL	\$40,000.00

To: Representative Charlie Parr, Chairman
House Judiciary Committee
From: Margaret W. Berck, Administrative Assistant *MWB*
House Judiciary Committee
Date: August 2, 1979

OVERVIEW OF HB 479

Introduction

Generally, the bill incorporates the basic principles established in the Federal Controlled Substances Act of 1970 and the Uniform Controlled Substances Act adopted for consideration by the various states by the Uniform Commissioners of State Laws. Similar drug legislation has been passed by some 44 states.

The basic goals and elements of this legislation are: (1) to list all the substances which require control and to divide them into several categories according to their dangers to society; (2) to establish a committee to factually determine the need for adjusting these schedules when, for example, new scientific information becomes available and/or new substances are discovered; (3) to provide the most serious penalties for illicit trafficking in drugs, particularly in connection with distribution to minors while classifying simple use possession of all substances as a misdemeanor; (4) closely regulate the legitimate drug industry to prevent diversion of controlled substances into illicit markets; and (5) promote research into drug issues in general and education of society on the dangers of drug abuse.

HB 479 differs from the federal and model state legislation in two primary respects. First, in determining the penalty to be given in either a possession or distribution offense, the quantity of the controlled substances involved is a decisive factor. The larger the amount possessed or distributed, the higher the penalty. In addition, the bill does not establish a separate offense for possession with intent to distribute. Because of difficulties of proof, the offense of intent to sell was eliminated in favor of establishing varying penalties based on the amount of the controlled substance possessed. Second, HB 479 sets out slang terms for included controlled substances to help lay persons understand the legislation. However, the use of slang terms has no effect on the prosecution of a particular drug offense. Another key feature of HB 479 is the fact that it ties its terminology and penalty system into the new criminal code.

Key Provisions

1. Controlled Substances Advisory Committee: HB 479 establishes a committee in the Department of Law with the Attorney General serving as Chairman. This provision follows

the federal law in which a similar committee is established in the U.S. Justice Department with the U.S. Attorney General serving as Chairman. Under HB 479, other members of the committee are the Commissioner of Public Safety, the Commissioner of Health and Social Services, a private pharmacist and a private criminal defense attorney, both of which are to be appointed by the governor.

Decisions of the committee are subject to close legislative scrutiny. Any regulation sought to be adopted by the committee would have to be submitted to the legislature which then would have 56 days to annul the proposed regulation through the passage of a bill. Without passage of a bill by both the House and Senate, the proposed regulation would become effective. However, once a proposed regulation was annulled by the legislature, the committee would be prohibited from raising the same issue again for three years. Finally, any change in the scheduling of controlled substances contained in the federal law would not automatically become law in the State of Alaska. In cases of changes in the federal schedules, the state advisory committee would have to hold hearings to determine whether a similar change would be appropriate for Alaska. And if the committee adopted the federal alteration, the proposed regulation would have to receive the same legislative oversight as outlined previously.

2. Criteria for Scheduling of Substances: HB 479 establishes six categories of controlled substances. These categories are enumerated as Schedule I through Schedule VI. Except for Schedule VI, which includes only marijuana, each schedule contains numerous substances. The most dangerous substances are contained in Schedule I, less dangerous substances are contained in Schedule II, and so on down to Schedule VI. The schedule assigned to a particular controlled substance is significant in determining the penalty for any drug offense. The higher the schedule, the greater the penalty.

Since future adjustments to the schedules are to be determined by the advisory committee with legislative oversight, HB 479 sets forth specific criteria for making such decisions. The bill specifies the "danger or probable danger" of any substances as the predominant criteria with a number of sub-criteria similar to but more inclusive than those in the uniform act. But unlike the uniform act, which follows a medical classification system HB 479 adopts a more simple public safety classification system much like the State of Hawaii.

Under this classification system, a separate schedule was created for marijuana. Such an approach was thought more logical than the five-schedule system utilized in the federal and uniform act, in which marijuana, heroin and LSD are contained in the same schedule because they lack any acceptable medical use. But because of this placement, both the federal and uniform acts must ultimately distinguish among the narcotic,

non-narcotic and hallucinogenic substances contained in the same schedule. However, in the public safety classification approach, the necessity of further classifying substances into such categories is avoided. Aside from these variations, the schedules provided in HB 479 are substantially the same as those established in the federal and uniform acts.

3. Offenses and Penalties: HB 479 establishes four basic drug offenses, including distribution of a controlled substance to a minor, manufacturing of a controlled substance, distribution of a controlled substance to an adult and possession of a controlled substance. Additionally, the bill creates certain other offenses such as possession of marijuana while operating a motor vehicle, maintaining a shop or airplane for use in drug trafficking and obtaining possession of a controlled substance by misrepresentation or fraud.

The most severe penalties contained in HB 479 would be levied against those over 18 years of age who distribute controlled substances to anyone under 18, reflecting society's special interest in protecting the young from those who encourage or induce them to experiment with drugs. In each category, the offense of distributing to a minor receives the most serious sanctions, except that the recipient must be at least three years younger than the distributor. The three-year difference was included to prevent imposition of stiffer penalties in a case where, for example, a 19-year-old college student gives marijuana cigarettes to his 17-year-old roommate. In this situation, it was felt there was not the element of seduction so often found in cases where the distributor and recipient were far apart in age.

Both the federal law and the uniform act include the offense of manufacturing a controlled substance together with distribution and possession with intent to distribute a controlled substance for penalty purposes. Hence, the penalty is the same with regard to manufacturing or distributing a particular substance. However, HB 479 treats the manufacturing offense separately and subjects manufacturing to stiffer penalties because of the particular dangers associated with illicit drug laboratories and the substances involved. But in order to justify these heavier penalties, the offense of manufacturing set forth in HB 479 is limited to those who manufacture for other than their own personal use. The offense, however, does include cultivation of marijuana for other than personal use.

Under HB 479 the offenses of distribution to an adult and simple possession have varying penalties dependant upon the amount of the controlled substance involved in the offense. Current Alaska law, the Federal Controlled Substances Act, and the Uniform Act make no such differentiations. The approach taken in HB 479 attempts to provide some indicia of the defendant's role in the drug world. This approach permits more severe sanctions to be applied to the drug dealers involved in large scale trafficking operations. A similar

emphasis is also achieved by making simple possession of small amounts of each particular controlled substance a misdemeanor. Under both the Federal Controlled Substances Act and the Uniform Act, simple possession of any amount of a controlled substance is a misdemeanor. Unlike those acts, HB 479 establishes both felony and misdemeanor offenses for simple possession dependant upon the amount of the controlled substance involved in the offense.

4. Regulation of Legitimate Drug Industry: HB 479 requires the same reporting information by the drug industry as currently mandated by the federal law. Even though it was felt that the state has an interest in obtaining even more information, it was not believed necessary to demand additional reporting requirements. Under HB 479, reporting information must be submitted to the Commissioner of Health and Social Services. Existing Alaska law lodges regulatory responsibility with the Commissioner of Health and Social Services for depressant, hallucinogenic and stimulant drugs and gives the Board of Pharmacy responsibility for narcotic drugs. It was felt that this monitoring could more efficiently be done by one agency.

JP04 0245 16.48 JP04 0298 16.49 08/02/79

SPO4 COL. ANDERSON
SPO8 COL. WOLDSTAD

REFERENCE NEW PARKS AND MONUMENTS

STATE CRIMINAL LAW: WE WILL CONTINUE TO RESPOND TO, INVESTIGATE AND ASSIST IN THE PROSECUTION OF REPORTED VIOLATIONS OF THE STATE CRIMINAL LAWS BOTH INSIDE AND OUTSIDE OF THE NEW FEDERAL MONUMENTS. THE EXCEPTION TO THIS WILL BE "OLD MT. MCKINLEY PARK" WHEREIN THE NATIONAL PARK SERVICE RETAINS EXCLUSIVE JURISDICTION. PERSONS REPORTING VIOLATIONS OF FEDERAL MONUMENT REGULATIONS, AND ANY SUCH VIOLATIONS OBSERVED BY OUR OFFICES WILL BE DIRECTED OR RELAYED TO THE APPROPRIATE FEDERAL ENFORCEMENT AGENCY.

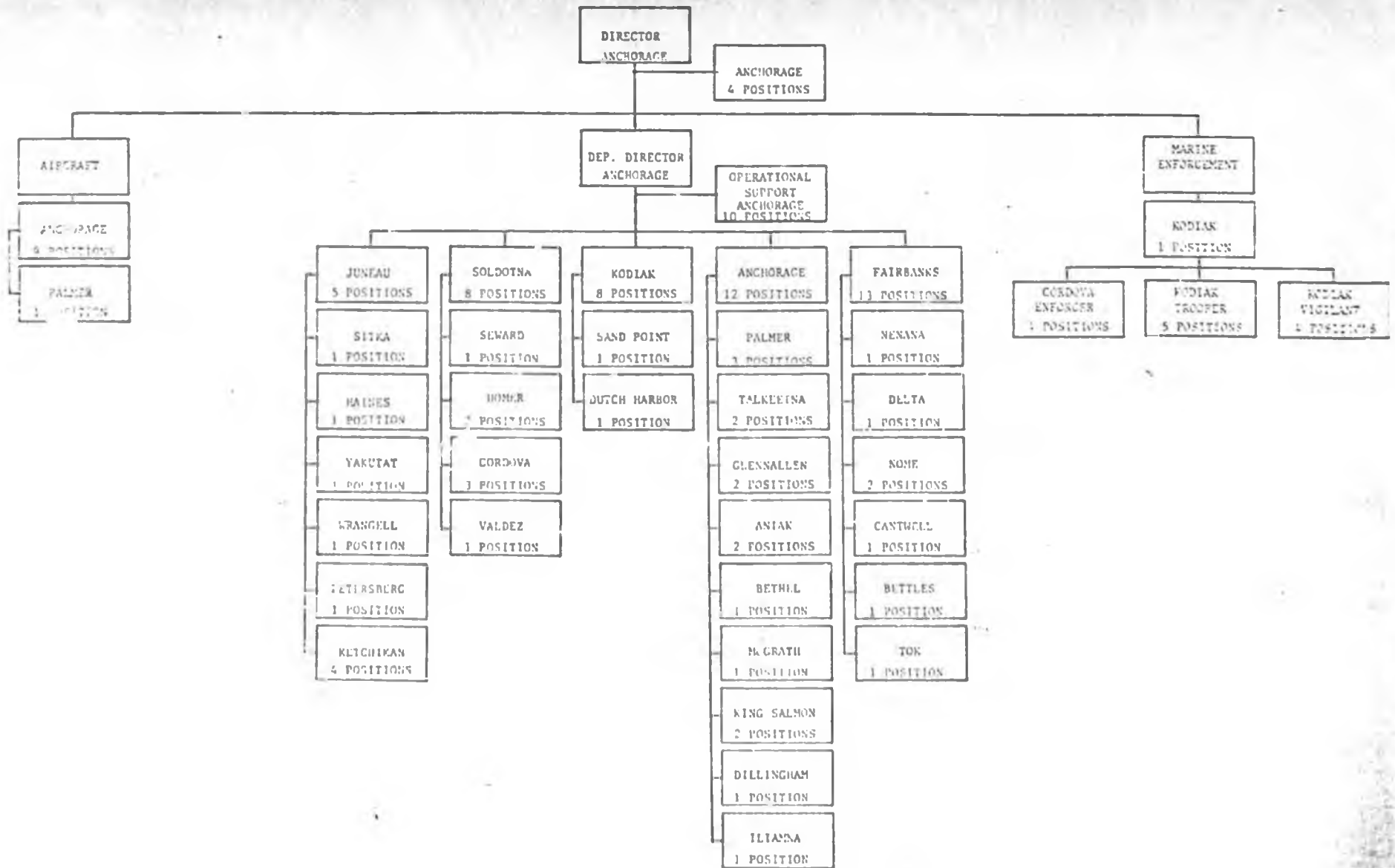
NATIONAL FOREST SYSTEM MONUMENTS OF ADMIRALTY ISLAND AND MISTY FORDS: FISHING, HUNTING, TRAPPING AND SUBSISTANCE WILL CONTINUE (AT LEAST UNTIL DECEMBER 1981) UNDER ALASKA STATE LAW AND THE JURISDICTION OF A D F & G. WE WILL CONTINUE TO ENFORCE STATE WILDLIFE AND FISHERIES RESOURCE REGULATIONS WITHIN THE TWO MONUMENTS AS ON OTHER NATIONAL FOREST AREAS.

IN NATIONAL PARKS 13 MONUMENTS AND U S F W I. 2 MONUMENTS I ASK THAT F W L P CONTINUE, FOR THE PRESENT, UNDER INSTRUCTIONS FROM COL. WOLDSTAD'S MEMO DATED JULY 20, 1979. WHEN WE HAVE WORKED OUT A FULL POSITION IN THIS QUESTIONABLE AREA WE WILL LET YOU KNOW. SPORT TAKE AND SUBSISTANCE ARE STILL PROBLEMS.

JP03 DEP. COMM. SYDNAM

SA

DIVISION OF
FISH AND WILDLIFE PROTECTION



PLEASE ANSWER THE FOLLOWING QUESTIONS AND RETURN THIS FORM TO THE LEGAL SERVICES OFFICE. THIS INFORMATION IS NEEDED BEFORE WE CAN HANDLE YOUR CASE.

NAME: _____

ADDRESS: _____

SPOUSE: _____

NATIONALITY: Spanish Origin () Caucasian () Black ()
Native American () Japanese () Chinese ()

Other - Please state: _____

DATE OF BIRTH: _____ PHONE: _____

EMPLOYER: _____ WORK PHONE: _____

PLEASE CHECK WHETHER YOU ARE: Married () Single ()
Separated () Divorced ()
Widowed ()

Have you ever been to a law office before or seen a lawyer: Yes () No ()

Have you ever been to Alaska Legal Services Corporation before? _____

If so, when? _____

Please list the number of children you support: _____

Please list the number of other family members you support: _____

How much income do you have a month: _____

Please check where your income comes from and the amount from each source:

Full time employment	\$ _____	A.F.D.C.	\$ _____
Part time employment	\$ _____	Child support/	
Spouse's employment	\$ _____	Alimony	\$ _____
Social Security	\$ _____	Pension/other	\$ _____

How much income have you had for the past 12 month? _____

Please describe your legal problem:

I certify that the information that I have given Alaska Legal Services Corporation in regard to my financial ability to hire a lawyer is true and correct to the best of my knowledge and recollection.

(Sign here)

<p>FOR OFFICE USE ONLY: DATE: _____ ATTY: _____ FILE NO: _____ OPPOSING PARTY: _____</p>



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Memo

TO: Charlie Parr

FROM: Peggy Berck

Peggy

DATE: November 13, 1979

Upon my return to Anchorage, I received the release forms completed by MR. and MRS. John Heffle. The enclosed correspondence indicates what information I have requested in order to properly review their son's juvenile court case.



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary
1024 West Sixth St.
Anchorage, Alaska 99501
(907)277-7548

Pouch V
State Capitol
Juneau, Alaska 99811

November 12, 1979

Olga T. Steger
Clerk of Court
Fourth Judicial District
604 Barnette St.
Fairbanks, Alaska 99701

Dear Ms. Steger:

The House Judiciary Committee of the Alaska State Legislature has been investigating the juvenile justice system as one of its interim studies. In Fairbanks, the committee heard testimony from Mr. and Mrs. John Heffle as to the inadequacies of the current system. To exemplify these inadequacies, Mr. and Mrs. John Heffle requested the committee to review the juvenile court case involving their minor son, Frank Heffle. The House Judiciary Committee agreed to review the matter, provided Mr. and Mrs. John Heffle were willing to release the confidential information needed to conduct such a review.

Enclosed you will find a release of confidential information by Mr. and Mrs. John Heffle. According to Mrs. Heffle, Frank Heffle was found to be a delinquent child as a result of a charge of assault with a dangerous weapon.

Please send me a copy of any and all court records pertaining to this juvenile case. Furthermore, please send me a copy of the electronic recordings of all proceedings involved in this court case. Upon receipt of a billing for these duplication expenses, the House Judiciary Committee will provide payment.

I look forward to your cooperation in this matter.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck
Counsel to the House Judiciary Committee

cc: Rep. Charlie Parr, Chairman
Mr. and Mrs. John Heffle



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary
1027 West Sixth St.
Anchorage, Alaska 99501
(907)277-7548

Pouch V
State Capitol
Juneau, Alaska 99811

November 12, 1979

Mr. John Cain
Regional Administrator
Probation and Parole Department
Division of Corrections
P.O. Box 73878
Fairbanks, Alaska 99707

Dear Mr. Cain:

The House Judiciary Committee of the Alaska State Legislature has been investigating the juvenile justice system as one of its interim studies. In Fairbanks, the committee heard testimony from Mr. and Mrs. John Heffle as to the inadequacies of the current system. To exemplify these inadequacies, Mr. and Mrs. John Heffle requested the committee to review the juvenile court case involving their minor son, Frank Heffle. The House Judiciary Committee agreed to review the matter, provided Mr. and Mrs. John Heffle were willing to release the confidential information needed to conduct such a review.

Enclosed you will find a release of confidential information by Mr. and Mrs. John Heffle. Please send me a copy of any and all records your agency currently has pertaining to the minor child Frank Heffle.

I look forward to your cooperation in this matter.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck
Counsel to the House Judiciary Committee

MWB/bsc

cc: Rep. Charlie Parr, Chairman
Mr. and Mrs. John Heffle



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary
1024 West Sixth St.
Anchorage, Alaska 99501
(907)277-7548

Pouch V
State Capitol
Juneau, Alaska 99811

November 13, 1979

James Fox
Regional Manager
Division of Social Services
Drawer 40
Fairbanks, Alaska 99701

Dear Mr. Fox:

The House Judiciary Committee of the Alaska State Legislature has been investigating the juvenile justice system as one of its interim studies. In Fairbanks, the committee heard testimony from Mr. and Mrs. John Heffle as to the inadequacies of the present system. To exemplify these inadequacies, Mr. and Mrs. John Heffle requested the committee to review the juvenile court case involving their minor son, Frank Heffle. The House Judiciary Committee agreed to review the matter, provided Mr. and Mrs. John Heffle were willing to release the confidential information needed to conduct such a review.

Enclosed you will find a release of confidential information by Mr. and Mrs. John Heffle. Please send me a copy of any and all records your office currently has pertaining to the minor child Frank Heffle.

I look forward to your cooperation in this matter.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck
Counsel to the House Judiciary Committee

MWB/bsc

cc: Rep. Charlie Parr, Chairman

Mr. and Mrs. John Heffle



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary
1024 West Sixth St.
Anchorage, Alaska 99501
(907)277-7548

Pouch V
State Capitol
Juneau, Alaska 99811

November 13, 1979

Ms. Sonja Nazurek
Juvenile Intake Office
604 Barnette Street
Fairbanks, Alaska 99701

Dear Ms. Nazurek:

The House Judiciary Committee of the Alaska State Legislature has been investigating the juvenile justice system as one of its interim studies. In Fairbanks, the committee heard testimony from Mr. and Mrs. John Heffle as to the inadequacies of the present system. To exemplify these inadequacies, Mr. and Mrs. John Heffle requested the committee to review the juvenile court case involving their minor son, Frank Heffle. The House Judiciary Committee agreed to review the matter, provided Mr. and Mrs. John Heffle were willing to release the confidential information needed to conduct such a review.

Enclosed you will find a release of confidential information by Mr. and Mrs. John Heffle. Please send me a copy of any and all records your office currently has pertaining to the minor child Frank Heffle.

I look forward to your cooperation in this matter.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck
Counsel to the House Judiciary Committee

MWB/bsc

cc: Rep. Charlie Parr, Chairman
Mr. and Mrs. John Heffle



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary
1024 West Sixth St.
Anchorage, Alaska 99501
(907)277-7548

Pouch V
State Capitol
Juneau, Alaska 99811

November 12, 1979

Mr. and Mrs. John Heffle
SR Box 80740
Fairbanks, Alaska 99701

Dear Mr. and Mrs. Heffle:

Thank you for completing the release forms which I sent you. This date I requested records from the Alaska Court System, Division of Corrections, Division of Social Services and the juvenile intake office pertaining to your son Frank. Copies of those letters requesting records are enclosed. As I intend to investigate the legal representation provided your son, I need another release form from you. For that reason and to save time in the event that additional forms are needed, I enclose three additional release forms for you to complete.

Thank you for your patience in this matter.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck
Counsel to the House Judiciary Committee

MWB/bsc

cc: Rep. Charlie Parr, Chairman



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

TO: House Judiciary Committee Members
FROM: Rocky Plotnick
DATE: November 23, 1979
RE: Anchorage Meeting & Work Session

This is a reminder of the Committee's last meeting and work session before the session. We will meet in Anchorage on November 29 & 30, and December 1. All meetings will begin at 9:00 a.m. and be held at the Anchorage Community Center, 325 East 3rd Ave. (about a block from the Travel Lodge). I am enclosing a tentative agenda and a copy of the Legislative Implications of the Master Plan done by Roger Endell. Please try to look at this before the meeting and bring your copy with you, as xeroxing is expensive. See you next week.

Rocky

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA POLICE STANDARDS COUNCIL

POUCH AS
JUNEAU, ALASKA 99811
PHONE: (907) 465-4378

October 4, 1979

Margaret W. Berck
Counsel to the House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Ms. Berck:

Thank you for returning our Regulations and Procedures Manual and the opportunity to review your report to the House Judiciary Committee.

Generally, I thought your report to be an excellent summary of the council's purpose, responsibilities and activities; however, I would like to bring to your attention and clarify some areas that might lead to a misunderstanding by the Judiciary Committee.

II. JURISDICTION OF THE APSC

1. A municipality with an established police training program may exclude itself, by ordinance, from our minimum requirements, but only if its program meets or exceeds APSC minimum standards.

2. There is an inconsistency between our statutes, which mention "temporary officers," and our current regulations, which have authority only over "full time police officers." Major police departments in Alaska do not hire temporary officers. They are found in the rural areas where a person is hired as a full time police officer for a specific limited period of time. We hope to reach some, if not all, of these officers with the adoption of rural police regulations.

IV. MINIMUM TRAINING REQUIREMENTS FOR POLICE OFFICERS

Although our regulations require a minimum of 8 hours of firearms instruction, in actuality, students at the

Municipal Police Academy receive 27 hours of firearms training, plus 6 hours of "shoot/don't shoot" instruction.

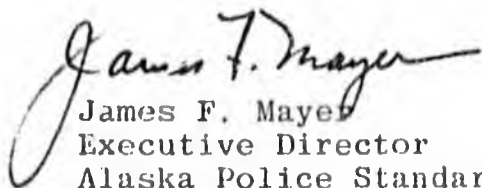
The latter is, of necessity, general in nature, since each individual police department has its own specific policy in these situations, which is imparted to the officer during the field training program. There is no way to predict the reaction of any individual in an emergency situation, regardless of the amount of training received.

VI. VILLAGE POLICE OFFICERS

Without an explanation, the term "ignored" seems to imply a lack of concern. The council is, and has been, fully cognizant of the problems faced by rural municipalities in obtaining officers who meet the current minimum standards, and any attempt to force compliance through civil process would be counterproductive to the council's purpose of supporting and encouraging police training. Over 40% of the students attending the recent Municipal Police Academies have been from communities considered rural, and while the Department of Public Safety has historically provided police training to the villages, the council will provide an incentive for the rural areas to take advantage of all available training through its proposed village police certification program.

I hope you will provide this information to your committee for their information and clarification. If there is any other information you think might be of assistance, please let me know.

Sincerely,



James F. Mayer
Executive Director
Alaska Police Standards Council

JFM/mas
encl: MPA-15 schedule



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

TENTATIVE AGENDA

DATE: November 29 & 30, and December 1

PLACE: 325 East 3rd Ave., Anchorage

TIME: 9:00 a.m.

Thursday, November 29th:

- 9:00 a.m. Charles Campbell, Director of the Division of Corrections
- 9:30 a.m. Ames Luce, Anchorage lawyer to discuss the courts
- 10:00 a.m. Doug Baily, former member of the Alaska State Parole Board
- 10:30 a.m. Bert Campbell, Chairman of the Advisory Committee on Minority Sentencing Practices and a member of the Judicial Qualification Commission
- 11:30 a.m. Kit Evans, Executive Director of AWAIC (Abused Women's Aid in Crisis)

LUNCH

- 1:30 p.m. Tom Burton, works for the Drug Enforcement Administration of the Federal Government
- 2:15 p.m. Joe Turner, Alaska State Troopers Drug Enforcement
- 3:00 p.m. Jim Arnold and a magistrate, to speak on magistrate traffic court

Friday, November 30th:

- 9:00 a.m. Sam Trivette, Executive Director and William Lyons, Chairman of the Alaska State Parole Board
- 10:00 a.m. Chief Anderson of the Anchorage Police Department, to address criminal code training of police
- 10:30 a.m. John Angell, Director of the Criminal Justice Center, to speak on Bush Justice

11:30 a.m. a representative from the Alaska Black Caucus

LUNCH

1:30 p.m. Michael Rubinstein, Executive Director of the Judicial Council

2:15 p.m. Roger Endell, from the Criminal Justice Center, to address the Corrections Master Plan and site selection for a pre-sentence facility and a women's institution to replace Ridgewiew.

Saturday, December 1st:

At this time the Committee will decide what action it wants to take regarding legislation and/or other recommendations.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

JAY S. HAMMOND, GOVERNOR

1919 Lathrop
Drawer 40
Fairbanks, Alaska 99701

November 26, 1979

Margaret W. Berck
Counsel To The House Judiciary Committee
1024 West Sixth Street
Anchorage, Alaska 99501

Dear Ms. Berck:

This office does not have any file on Frank Heffle, son of Mr. and Mrs. John Heffle.

I am forwarding your correspondence and the attached release for information to Mr. John Cain, Regional Administrator, Northern Regional Probation-Parole Office, 604, Barnette, Room 116, Fairbanks, Alaska 99701.

Sincerely,

James J. Fox
Regional Social Service Manager

CC: Rep. Charlie Parr
Mr. and Mrs. John Heffle
John Cain



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Memorandum

To: House Judiciary Committee

From: Rochelle Plotnick *Rach*

Date: November 28, 1979

Subject: Questionnaires

INTRODUCTION

During the interim I have sent out two questionnaires. One was sent to the general public and another to those involved in law enforcement. Both questionnaires dealt with Alaska's criminal justice system.

All returned questionnaires have been tabulated and this memo will be my attempt to summarize them for you. I will discuss the two questionnaires separately.

Because some of the questions could not be answered on a yes/no basis, I had some difficulty tabulating them fairly. However, I did try to be as objective as I could, and occasionally didn't use answers when I was in doubt.

If you have the time, I encourage you to read some of them and judge for yourself.

LAW ENFORCEMENT QUESTIONNAIRE

To reach law enforcement personnel on a statewide basis, the Alaska Peace Officer's Association was used. The Association's members include Alaska State Troopers, local police, corrections officers, parole/probation officers, and prosecutors. I was provided with xerox labels of their members and simply used every other label until 400 were addressed. 79 were answered and returned.

Question #1

What do you see as the major crime problem in Alaska?

Alcohol and/or drugs	44
Lenient Courts	7
Ineffective District Attorney. . .	5
Juveniles.	5
Robbery.	5
White Collar Crime	4
Unemployment	3
Rape	2
Apathy	1
Non-workable Statutes.	1

Question #2

Are Alaska's laws adequate to handle these problems?

No	45
Yes	26

Question #3

Is prosecution of crime effective?

No	44
Yes	26

Question #4

Do you think the Alaska Court System is fair?

No 32

Yes. 32

Too liberal. . . 13

Question #5

Would you be willing to participate in a racial/cultural bias test?

Yes. 70

No 7

Question #6

Would you be willing to participate in any bias awareness training?

Yes. 67

No 7

Question #7

Should criminal justice agencies increase their affirmative action hiring efforts?

No 42

Yes. 26

Many of those answering "no" said hiring should be based on competency.

Question #8

How do you see yourself as a law enforcement officer?

Equal to all - frustrated - enforces laws in an apathetic society - never arrested an "innocent" person - help people - wants more training than currently provided - fair and compassionate - confused, ineffective - educator to bush - high standards and professionalism - held back by liberal laws - ineffective, frustrated, no time to properly investigate -

Question #8 (Continued)

the first line, first public contact, plug in the dike -
in the middle with a damn small voice - tops in ability,
production, effectiveness - fighting a losing battle -
don't like the 8-5 overtime attitude of police today -
trying, though time and equipment is insufficient -
sincere, dedicated with little support from community and
judicial system - referee - becoming more apathetic and
restricted - hindered by the courts.

Question #9

What do you think of the Alaska Public Defender?

Good - fair - sucks - understaffed - takes cases who can
afford private attorneys - unethical - better than the D.A. -
should be in private practice first - too many cases - like
grapes, some good some not so good - too many Supreme Court
Appeals - energetic - waste of time and money - essential -
underfunded and understaffed - necessary.

Question #10

Do you think shelters for battered women are effective?

Yes. 56

No 7

Question #11

What should we do with juvenile delinquents? Jail?

Jail 30

Rehabilitation
Treatment Center . 17

Restitution/
Responsibility . . 9

Deal with
Parents. 8

Question #12

Do you have any other comments?

Court should be held from 8 - 12
1 - 4:30

This project is worth the time and effort.

Prosecutors don't treat everyone equal.

Traffic codes need to be updated.

This questionnaire was to get court system off the 'hotspot'.

Need better coordination with criminal justice agencies -
when more police are hired there are more arrests, but no
increase in the jails.

Handle traffic court at night by trained laymen.

Legislature should adequately fund police agencies for
personnel, equipment and training.

Want more mandatory sentencing.

The D.A.'s are dropping charges and failing to prosecute.

More District/Supreme Court judges.

More jails including a long-term correctional facility.

Jury is not a representation of society at large.

Need more money.

Should create an appellate court.

Terrific survey - hope it does some good.

Tighter controls on alcohol sales.

Change "joyriding" to "grand theft auto".

Another questionnaire - doubt you are really interested -
just another survey for our "hard working" legislators.

Legislature should make police training a priority with the
consideration of traffic fines helping to pay the cost.

Pass a law to change liquor vending hours to 1:00 or 2:00 a.m.,
instead of 5:00 a.m.

Question #12 (Continued)

In summary, the following response from one person is included.

Any member of the judiciary committee - if desired - could find many answers to the question "What is the problem?" if they took an in-depth and honest look at the legislature itself.

Who has failed to provide adequate resources for the prosecutors to stay abreast of the caseload increases so that sufficient time and manpower is available to properly prepare a case for trial or even handle the cases presented?

Who has allowed the Public Defender Agency to become better staffed, from a caseload standpoint, than the public prosecutors' offices?

Who has failed to provide sufficient judges to handle the increased caseload and fully utilize the available judicial facilities?

Who has failed to provide adequate facilities to handle individuals who should, and otherwise could, be sentenced?

Who has spent several years and millions of dollars trying to build a new and unneeded city, while the above needs went begging?

Who has, over the years, increased the handout programs and largely ignored the increased need for society's protection under the law?

Who has allowed and created the game of semantics we play with respect to juveniles?

Are the answers to some of the above questions possibly indicative of political biases and considerations affecting the law enforcement system?

GENERAL PUBLIC QUESTIONNAIRE

A total of 1,100 questionnaires were sent to Alaskans throughout the state. Names were randomly selected from telephone books and sent to postmasters in small communities for distribution. 198 were returned answered.

Question #1

What do you see as the major crime problem in Alaska?

Alcohol/drugs	52
Robbery	19
White Collar Crime.	6
No Prosecution.	5
Lenient Courts.	4
Vandalism	4
Lack of Jobs.	4
Murder.	3
Rape.	2
Juveniles	2

Question #2

How do you feel about Alaska's laws?

Too Lenient	47
Okay.	28
Outdated.	7
Poor.	4
Too Vague	2
Too Many.	2
Lessen Drug Penalties	1
Need Good Litter Law.	1
Too Harsh on Hunting/Fishing.	1

Question #2 (Continued)

- Tighten Up on Religious Solicitors. 1
- Legalize Drugs and Tax Like Alcohol 1

Question #3

If you served on a jury in the past 3 years, was it handled fairly?

- Haven't Served 55
- Yes. 19
- No 7

The jury is never given information about suspect's previous record - Served on a grand jury and it was not handled fairly.

The people on the jury were manipulated by the prosecutors because they were not familiar with the grand jury power -

When I served on a jury in Valdez, we were told the judge would give us the law and we were to decide the facts.

Juries are our only defense against undesirable laws once legislated. Therefore, juries should be told of their responsibilities to judge the law as well as the facts.

Question #4

Who, if anyone, should be excused from serving on a jury?

- If a financial hardship 20
- No person 18
- Physically ill. 16
- Mentally ill. 12
- Biased. 10
- Pregnant women or mothers 9
- Law enforcement 5
- Elderly 5
- All requesting excusal. 4

Question #4 (Continued)

Non-English speaking	3
Criminals.	2
Business people.	2
Alcoholics	2
Military	1
Clergy	1

Question #5

What do you think of the Alaska State Troopers?

Good	62
Need more.	13
Should spend more time in villages . . .	3
Quality going down	3
Lack training/experience for bush. . . .	2
Clowns	1
Big job with little support.	1
Too much time on victimless crimes . . .	1
Poor response time	1
Pick on young people	1
Ineffective.	1

Question #6

Do you think the Alaska Court System is fair?

Yes	31
No.	31
Too lenient	22

Several said they didn't know or left it blank.

Criminals out on bail too soon.

Question #6 (Continued)

Too lenient on Alaska Natives.

Money talks too loud for justice.

Small Claims Court is a joke.

Under political pressure.

Inequitable treatment of Natives and women.

Habitual criminals get off easy.

Hell no, it violates the rights of society.

Too conservative.

Fair, but slow.

Our magistrate is a very opinionated person with zero legal experience; how can that be fair?

The penalty for killing a moose out of season is greater than a drunk driver killing a man.

My case in the Supreme Court took 11 months before a decision. I was held up for 2 years and \$10,000.00 before anything was decided.

Question #7

Should judges be elected?

Yes 72

No. 27

Several didn't want judges to be "bought-off", like politicians.

Several were concerned as to how the public would be informed to vote.

One suggested local judicial advisory councils be set up.

Question #8

Should Alaska establish an Intermediate Court of Appeals?

Yes 45

Don't know. 29

No. 26

Question #9

What do you think of the quality of Alaska's private lawyers?

- Fair-poor. 25
- Good 16
- ~~Greedy~~
Grudy. 10

What quality - need more in the bush - I.Q. ten points in the hole - let the buyer beware - not honest - Ugh! - too many - excellent - pirates - better than the D.A.'s - rejects from the lower '48 - stink - some very good.

Question #10

Do you think domestic violence is a serious problem in Alaska?

- Yes 82
- No. 12

Question #11

What should we do with juvenile delinquents? Jail?

- Yes 42
- No (educate/rehabilitate) 35
- Work farms. 8
- Make parents responsible. 6
- Restitution 6
- Give names to media 3
- Boonies for a month/Youth Conservation Corps.. . . . 3
- Give them more to do. 2

Question #12

Do you know of any biases in the criminal justice system?

- No. 47
- Yes 45
(racial, juvenile, criminals)

Question #13

Do you think Neighborhood Centers would be a good way to resolve neighborhood disputes (landlord-tenant, small claims, domestic violence) rather than in court?

Yes 59

No. 35

Question #14

Do you have any other comments or questions?

Thanks for asking my opinion - read Jessica Mittford's book on punishment in the U.S.

When is the legislature going to pass some meaningful laws regarding alcohol? Take a stand, don't back off because of the alcohol lobbyists.

I do not think it is equitable to jail a person on smaller crimes. Should be cited and given a fine on 1st offense. If repeat, then jail.

We need a "get tough" policy.

I am concerned about real criminals being let out on minimum bail.

If Alaska is to be so free with alcohol, they must come up with a way to control it. The laws now treat it as a disease so violence goes unchecked, because they aren't responsible for what they are doing.

Why is Kotzebue getting a Superior Court judge? Why can't we get the same treatment in Barrow as Nome and Kotzebue? Why are we the last to get what we need? We have a problem here in Barrow.

Less importance should be placed on drugs and more placed on criminal acts (from theft to rape).

Magistrates are totally without knowledge of motor vehicle law - traffic magistrates are incompetent.

The state troopers in Galena area spend little or no time in the villages around here. It is so bad in Huslia that the village has said that they do not bother to call the troopers because they do nothing so why bother to call. The city of Galena pays for police locally and the State has two police stationed here. I have never seen a traffic ticket issued by

Question #14 (Continued)

any of them yet the cars speed by. The state police use the state truck for their personal business, yet when asked for help on the phone, they say the local problems are not of their concern. Why should the State Trooper take their wife down to the post office to check their mail; why don't they use their own personal truck or car. I think the supervisor for the troopers out here in the bush should get out here and see how their men are doing their job and spend some time going around the area they are working in and ask a few questions how their men are doing.

There is no question in my mind that alcohol is the root cause of 97% of all crime in Northern Alaska. Solving this problem is the greatest single obstacle facing us.

The court system, police, state laws cannot solve all of societies' problems and it is pointless to try.

Would you please make the results of this questionnaire public in urban and bush newspapers?

More programs to combat alcoholism and drugs may be beneficial.

Replace all judges every 2 years.

Give each juror a leaflet so he/she can read what his duties and responsibilities are as a member of the jury.

The legislative response to criminal justice planning, as with too many other issues, has been piecemeal, rather than comprehensive. Hopefully, the legislature will take the time and effort necessary to study the Master Plan for Corrections.

How much freedom does a person have when they're afraid to walk streets at night? NONE.

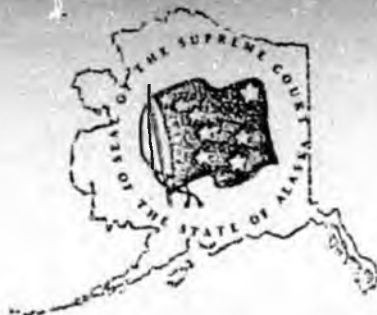
I do believe that if you have money and/or influence, you can get away with a lot more than if you're on the other end of the Totem Pole.

I was recently raped in my own home by a young Indian. He is still loose in the community. I may have to leave Juneau, my home for 41 years, because I feel so insecure.

More alcohol rehabilitation programs are needed.

CONCLUSION

I am very hesitant to draw many conclusions from the questionnaires. It should be noted that stamped return envelopes were not included, so only those persons more serious about criminal justice responded. Also, because so many names were used from various telephone books, the people who can't afford or choose not to have telephones were excluded. The only conclusion I feel secure making at this time is that alcohol and other drugs seem to be what most of the respondents are concerned about.



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SUPREME COURT

November 21, 1979

MEMORANDUM

TO: Judicial Council Members
Minority Advisory Committee Members

FROM: Michael L. Rubinstein

RE: Letter of Judge Mary Alice Miller, 8 November 1979

By now you have probably received a letter from Judge Miller criticizing the Judicial Council's recent study of misdemeanor sentences. Although the tone of her letter was quite emotional and the Judge engaged in personal attacks on my own integrity in conducting the research, I will put aside the personal issues and attempt to respond to what I perceive as the underlying substance of her complaints and criticisms regarding our work.

1. Judge Miller points out that we found no evidence of discrimination in assault cases, in contrast to the other kinds of cases we analyzed. She was critical because we "made no attempt to . . . learn why judges who are unbiased in one type of cases appear to be biased in others." There are several points to be made here: first, we nowhere alleged that the statistics proved that judges were biased. This is her own inference. It is possible, but not proven. Is the difference between racially even sentences for assaults and racially uneven sentences in other areas an indication of judicial bias, or does it suggest a different cause for the disparity? This important question should be discussed by judges, Judicial Council members, attorneys and others who are vitally interested in

finding out why natives and blacks are treated differently from others in the criminal justice system. It is not the function of a factual, statistical report to analyze the "why" of this situation. The report presents the facts and suggests that they should not be ignored. The reasons behind the facts are yet to be conclusively identified.

2. Judge Miller makes certain points concerning the influence of alcohol involvement on the sentencing statistics. Essentially she says that police reports are incomplete sources of information regarding alcohol use, and that our reliance on these "guaranteed a study which minimized and distorted the effect of alcohol on sentencing patterns." This is because, in Judge Miller's opinion, "it is an extremely rare police report which mentions alcohol unless it is an essential element of the case." In the summary of findings we acknowledged that information on alcohol intoxication was incomplete and that our findings concerning alcohol's influence on sentence length were tentative only. However, our decision to look for this information in police reports rather than court files was a reasonable one. There were 132 cases (11%) in which the police report noted alcohol intoxication. This is more than "very rare," as Judge Miller says.

3. Judge Miller is critical of the report's treatment of previous criminal convictions. Ignoring the exaggerations, distortions and personal attacks, her essential point seems to be that we were at fault by using the official records of the Department of Public Safety in Juneau as the basis for our prior record information. She claims that the judges in Fairbanks frequently rely upon their own records of local convictions maintained by the clerk's office there. Judge Miller says that had we relied upon her local records we would have found that some of the defendants in our study actually had many more convictions than were officially recorded. There are several points to be made here. First, the Juneau Department of Public Safety records are the official sources of information on previous convictions in the state of Alaska. (Judge Miller acknowledges in the middle paragraph of page two that "actually" most of her own case files "do contain a twix from this Juneau office.") Had we decided to use official records for Anchorage cases and unofficial records for Fairbanks cases, the study would have been uneven and our methodology rightfully subject to criticism. Further, even if one assumes that Judge Miller

Memorandum
November 21, 1979
Page Three

is correct, and that the official records of previous convictions are, as she says, "woefully incomplete," there is no good reason to believe the records would not be equally incomplete for both native and white defendants. Therefore, our central finding of unequal treatment of these persons would not be affected.

Judge Miller wrongly attributes an important statement to me. She says: "Rubinstein says the defendant's prior record is unrelated to the severity of his sentence." It is hard to understand how Judge Miller comes to a conclusion that directly contradicts the findings. For example, the first sentence of page eight of the misdemeanor report reads as follows: "The severity of the defendant's prior criminal record shows a strong positive association with length of jail sentence." Perhaps what Judge Miller is referring to is the sentence at the bottom of page nine: "Whether the natives had many prior convictions or few prior convictions, when compared to whites in the same prior-record group, the natives always received more severe sentences."

After several readings of Judge Miller's comments concerning our treatment of prior record in this study, it seems to me that the central point she is trying to make is that we were inaccurate in counting the numbers of previous convictions attributable to native defendants. She cites a couple of examples from her own files involving people with many misdemeanor convictions. She doesn't specifically say that these defendants are natives, but I assume that they must have been, otherwise why include them as examples in this context? Once again, the short answer to Judge Miller is that no matter how incompletely the official records recorded the numbers of prior convictions of defendants in our study (and I doubt that they are as bad as she says), one presumes that the records were equally inaccurate for natives and whites alike.

Judge Miller also claims that our method of analyzing prior convictions and grouping them into five categories ranging from no convictions, to ten or more misdemeanors, to two or more felonies, is "strange." We classified cases into groups according to the number of previous convictions the defendant had in order to be able to compare blacks, whites and natives more fairly. That is, we wanted to compare the sentences received by groups of whites and groups of natives who had similar numbers of

Memorandum
November 21, 1979
Page Four

previous convictions. We compared sentences for those with clean records, defendants with a few previous convictions, up to those with very bad records. Groupings were arrived at by using the computer to print out an intervalized frequency distribution showing the entire spread of the defendant population with regard to numbers of previous convictions. We then chose prior-record groups (such as "one-to-three misdemeanors"), because a large number of cases happened to fall into a particular interval. This is a generally accepted statistical procedure and not at all "strange."

Judge Miller criticizes our study because although we controlled for numbers of previous convictions, and for whether or not the previous convictions were felonies or misdemeanors, we did not examine in detail the nature of the previous convictions themselves or the relationship, if any, between past crimes and the present crime. She says: "For instance, the worst OMVI offender is not the offender who has two felony convictions in which liquor is not involved; it is the defendant who has prior OMVI convictions; the more such convictions, the more serious the offender."

I agree with Judge Miller that it would be desirable to analyze this kind of information. However, in order to attain specificity at this level one would need many more sentences than the 1,795 cases included in our sample. We plan to collect those cases soon. The fact that there may be other tests that could be performed at a future time in no way casts doubt upon the results of the tests so far completed, especially where these results show statistically significant sentencing differences of large magnitudes. I suppose the ultimate question is at what point is one justified in publishing findings? It is my belief, supported by the unanimous vote of the Judicial Council, that considering the kinds of statistical procedures performed, the magnitude of the disparities found, the consistency of the pattern, and the statistical significance of the results, publication was justified and timely.

4. Judge Miller raises the question of the effect of Breathalyzer readings on lengths of sentences in OMVI cases. She says that although her own average native sentence was longer than her average white sentence, these differences were justified by the differences in levels of blood alcohol among natives and whites convicted of OMVI.

Although our study included data on Breathalyzer readings, it turned out that only 135 out of 547 OMVI sentences (about 25%), included any Breathalyzer reading at all. For 75% of the OMVI cases there was no information on blood alcohol for us to analyze. Further, when we examined the computer print-out on this item, it was immediately clear that contrary to the situation apparently present in Judge Miller's OMVI cases, by far the greater number of high Breathalyzer readings (those over .25) belonged to white defendants. This is a good illustration of how an examination of a small group of cases (Judge Miller's OMVI's) may lead to distortion.

5. Judge Miller makes an interesting statement in the next to the last paragraph on page three. She says, "If we [judges] are prejudiced, would not the prejudice against natives extend to Orientals with their similar skin color and eye formation?" This suggests that if there are factors causing natives to receive longer sentences, "skin color and eye formation" are not the causes. She may be right. Culture may be more important than superficial physical traits. The justice system may be responding to certain attitudes and perceptions about native life styles rather than to the shapes of eyes or the color of skins.

* * *

Judge Miller has a perfect right to question our report and to criticize our research methods. We have always welcomed critical appraisal from judges and others. We realize that we are not perfect and that the criticisms and suggestions of knowledgeable people can help us to improve our research and have more confidence in the results. Anchorage district judges met with us at some length, criticized our study, and did make several useful suggestions for future research. Nevertheless, if Judge Miller had accepted our long-standing offer to sit down and discuss our findings and research methods we would have communicated to her face-to-face all of the information she was able to glean at great effort (and at considerable expense to the taxpayer), through a minute examination of our records.


MLR

cc: Dan Joling, Fairbanks Daily News-Miner

Daily News - Miner

"America's Farthest North Daily Newspaper"

FAIRBANKS, ALASKA, TUESDAY, NOVEMBER 20, 1979

Judge says study on sentencing full of errors

By DAN JOLING
Staff Writer

At least one local judge is taking issue with a study that found evidence of racial bias in the District Court systems of Anchorage and Fairbanks.

In a letter to Supreme Court Chief Justice Jay Rabinowitz, District Court Judge Mary Alice Miller said the methods used by the researchers contained serious errors.

"The Michael Rubinstein study has defects of such magnitude as to cast extreme doubt on the validity of the study," she said in the letter.

The study, which determined that Natives received average jail sentences 83 per cent longer than whites,

drew accusations of racial bias from Judicial Council members when it was released earlier this month.

Whites were said to be more likely to stay out of jail despite similar arrest records, and more likely to stay out completely after a first arrest.

The study also concluded that if defendants were intoxicated when arrested, they received less severe sentences than sober defendants. The only crime for which sentences were roughly equal was assault.

"This misdemeanor study plus the felony study released last year confirm my worst fears, that justice may be blind, but not color-blind in the Superior and District Courts of Alaska," said

Bert Campbell, chairman of the Advisory Committee on Minority Sentencing Practices.

But after examining the study Judge Miller said she found no indication of bias, based on the figures.

"I do find strong evidence that Rubinstein owes the taxpayers who financed his study a refund," she said.

She strongly questioned the study's methods of reaching conclusions, charging that:

- Researchers ignored all indications of liquor involvement in arrests other than what was noted on the police report.

- No attempt was made to determine from the local case file a defendant's

prior record. Instead, only centralized Juneau files were used.

- The study did not include any information on prior alcohol treatment programs given the defendant in other sentences.

- There was no attempt to analyze cases to determine why judges who appear unbiased in one type of crime are biased in another.

Researchers looked at 1,795 cases from a possible 14,000 between 1974 and 1976 in Fairbanks and Anchorage, including all cases that went to trial.

District Court judges sentence persons convicted of property crimes such as shoplifting and petty larceny, traffic offenses such as drunk driving, and a

variety of other misdemeanors from assault and battery to violations of hunting and fishing regulations.

Miller said looking at only police reports for evidence of alcohol involvement in a crime "guaranteed a study which minimized and distorted the effect of alcohol on sentencing patterns."

Police reports seldom mention alcohol involvement unless it is an essential element in the case, such as drunk driving, Miller said.

She said researchers made no attempt to find out from the case file what a defendant's prior criminal record was.

Local records are not always up to

date on arrests outside Fairbanks, but it is much more complete on arrests here. Miller called the Juneau index "woefully incomplete," and added that in most cases it is not even looked at when she sentences a person.

Miller said one of her sentences was for a defendant's fifth shoplifting conviction in less than a year. The Juneau record, she said, noted only one of the prior arrests.

Miller said prior alcohol treatment given a defendant was not noted.

"After a heavy drinking period of weeks or months, delirium tremens and convulsions can occur a week or more after withdrawal from alcohol.

(see Miller's, page 5)



MARY ALICE MILLER

MILLER ...

(Continued from page 1)

No effort was made to determine the number of cases in which the long sentence was essential to the defendant's physical recovery from a drinking bout," she said.

She said the report was "terribly important" for her concerns to avoid prejudice, but it had given no indication that she was biased.

"It is not newsworthy to say Alaska Natives have a liquor problem of major proportions. It is not newsworthy to say that one effect of alcohol abuse is involvement with the criminal justice system, regardless of race. It is, however, newsworthy to say that judges are racially prejudiced," Miller said.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01 - JUNEAU 00011

NOV 20 1979

The Honorable Charles H. Parr
Alaska State House of Representatives
S.R. Box 50599
Fairbanks, Alaska 99701

Dear Mr. Parr:

At the request of Representative Russ Meekins and Attorney General Avrum Gross, Co-Chairmen of the Corrections Master Plan Advisory Committee, I am forwarding to you this copy of the Executive Summary of the Master Plan study. This study was done by Moyer & Associates, Inc. of Chicago in association with the American Foundation of Philadelphia and the National Center for Juvenile Justice in Pittsburgh. The full study is a much larger and more detailed document. I will make a copy of it available to you at your request.

The consultants who conducted this study worked closely with the Master Plan Advisory Committee and other Alaskans familiar with the criminal justice problems within the state. Thus, the conclusions reached and the recommendations made are based on careful evaluation of the factors involved from the standpoint of outside-the-state expertise, as well as from the perspective of a number of people who are knowledgeable about the criminal justice concerns which may be unique to Alaska.

The Master Plan study has been approved by the Governor's Commission on the Administration of Justice and by the Advisory Committee. I am pleased about the work that has been done on the Master Plan. Director of Corrections, Charles Campbell, has also indicated his satisfaction with the study. This is not to suggest, however, that we are in complete accord with all of the specific recommendations offered by the study. A number of measures have already been taken by the Division of Corrections, some of them in accordance with the Master Plan consultants recommendations; others of them representing departures from the specific recommendations, although generally in accord with the philosophy and thrust of the Master Plan document.

Honorable Charles H. Parr

- 2 -

The Master Plan process has been tremendously helpful to us. It is, however, a continuing process, and I would most especially appreciate whatever observations, suggestions, and help you might be willing to offer with respect to the effort now going on to improve Corrections in Alaska.

Sincerely yours,

A handwritten signature in cursive script that reads "Helen D. Beirne".

Helen D. Beirne
Commissioner

Enclosure

CONTINUING LEGAL EDUCATION QUESTIONNAIRE

The C.L.E. Committee of the Alaska Bar Association has been requested to present a proposal regarding mandatory continuing legal education to the association at its annual meeting in Sitka in June. In order to help us prepare this proposal, we are asking you to complete this questionnaire. If you have additional comments, please send them on additional sheets of paper.

1. In what city or community do you reside?

2. If you are in private practice, does your firm have a policy requiring you to take C.L.E.? If so, describe briefly.

3. Does your firm pay for the expenses of continuing legal education?

YES [] NO []

4. Describe your type of practice:

- (a) Judge
- (b) Law Clerk
- (c) Government (State)
- (d) Government (Federal)
- (e) Private practice (solo, or 2-3 person firm)
- (f) Private practice (over 3 people)
- (g) Inactive

Answer: _____

5. In the last three years, how many hours of legal education did you attend on a yearly average?

- (a) 0
- (b) 1-5 hours per year
- (c) 5-10 hours per year
- (d) 10-15 hours per year
- (e) 15-20 hours per year
- (f) More than 20 hours per year

Answer: _____

6. Of this amount, how many hours did you attend (a) inside Alaska; (b) outside Alaska other than in Hawaii during the mid-winter meeting; (c) at annual meeting; (d) at Hawaii meeting?

- (a) _____
- (b) _____
- (c) _____
- (d) _____

7. Assuming a mandatory C.L.E., would you prefer the obligation to be (a) 10 hours per year; (b) 15 hours per year; (c) 20 hours each two years; (d) 30 hours each two years; (e) 30 hours each three years; (f) 45 hours each three years; or (g) other.

Answer: _____

8. Would you favor giving credit for teaching an accredited course as well as attending?

YES [] NO []

9. Would you favor hardship exemptions for attorneys in remote areas?

YES [] NO []

10. If so, what reasons would be sufficient for exemption?

Answer: _____

11. Should accredited video tape programs be offered as an alternative to "live presentations" if an attorney qualified to lead discussions and answer questions presents the program?

YES [] NO []

12. Should accredited video tape programs be offered on a self-study basis to attorneys in remote areas without the benefit of an attorney leading discussion and answering questions?

YES [] NO []

13. Is it important to have enough continuing legal education programs at the annual meeting to satisfy the whole year's requirements so that attorneys who practice outside the major areas have an opportunity to complete their annual C.L.E. at one time and place?

- (a) Very important
- (b) Reasonably important
- (c) Not too important
- (d) Unimportant

Answer: _____

14. Do you favor adopting a program of mandatory C.L.E. as a condition of continued membership in the Alaska Bar?

YES [] NO []

PLEASE COMPLETE AND RETURN TO THE ALASKA BAR ASSOCIATION, P.O. BOX 279, ANCHORAGE, ALASKA 99510 AS SOON AS POSSIBLE.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

November 19, 1979

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Margaret W. Berck
Counsel to the House Judiciary Committee
1027 West Sixth Street
Anchorage, Alaska 99501

RE: Franklin Heffle

Dear Ms. Berck:

Since we may not release information to anyone in juvenile matters without permission of the Court, I have conferred with the Honorable James R. Blair, Superior Court Judge, concerning your recent letter. See A.S. 47.10.090 (a). I have Judge Blair's permission to comply with your request and will do so.

Being called upon to explain our performance in this case is not a new experience for us. Over a period of time now, we have had inquiries from many high-ranking elected and appointed officials such as a U.S. Senator, the Governor, our own Commissioner, and the office of the Ombudsman. I recall Representative Sally Smith inquiring personally at my office about a year ago. We have heard from the Human Rights Commission and frequently from our supervisors in Juneau.

The Attorney General's office here in Fairbanks presently has our file to use in preparing for a trial which I believe is set for Monday, November 26, 1979. After that, if you do not object, I would prefer to have Georgene Brennen who is the probation officer presently responsible for management of this case, bring the entire file to you personally at your office in Anchorage. This will afford you an opportunity to ask her questions. She will no doubt be travelling to Anchorage on escort duty and can see you without additional expense to the State.

My main reason for not wanting to copy "all records" as you requested, is the sheer volume and weight of the files. When you see it you will know that you have no use for all of it and can make copies of those things you wish to have. In that case, I assume you will return all your copies to us by December 31, 1979, the termination date of Mr. Heffle's signed release.

Page 2

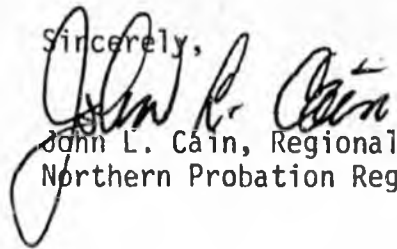
November 19, 1979

RE: Franklin Heffle

I will ask Ms. Brennen to be in touch with you not later than the 1st week of December. She will lay before you all our records and answer any questions you might wish to ask.

If I can assist you further, please write again.

Sincerely,



John L. Cain, Regional Administrator
Northern Probation Region

JLC:djc

cc: The Honorable James R. Blair
T. Wickwire w/enclosures
Clem Stephenson w/enclosures
G. Brennen w/enclosures
D. Arnold w/enclosures
W. B. Jones, Jr. w/enclosures
✓Representative C. Parr



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

277-7540

Pouch V
State Capitol
Juneau, Alaska 99811

AGENDA

DATE: November 29 & 30, and December 1

PLACE: 325 East 3rd Ave., Anchorage

TIME: 9:00 a.m.

Thursday, November 29th:

- 9:00 a.m. Charles Campbell, Director of the Division of Corrections
- 9:30 a.m. Ames Luce, Anchorage lawyer to discuss the courts
- 10:00 a.m. Doug Baily, former member of the Alaska State Parole Board
- 10:30 a.m. Bert Campbell, Chairman of the Advisory Committee on Minority Sentencing Practices and a member of the Judicial Qualification Commission
- 11:30 a.m. Kit Evans, Executive Director of AWAIC (Abused Women's Aid in Crisis)

LUNCH

- 1:30 p.m. Tom Burton, works for Drug Enforcement Administration of the Federal Government
- 2:15 p.m. Karl Frazier/Joe Turner, Alaska State Troopers Drug Enforcement
- 3:00 p.m. Jim Arnold and a magistrate, to speak on magistrate traffic court

Friday, November 30th:

- 9:00 a.m. Sam Trivette, Executive Director and William Lyons, Chairman of the Alaska State Parole Board
- 10:00 a.m. Chief Anderson of the Anchorage Police Department, to address criminal code training of police

10:30 a.m. John Angell, Director of the Criminal Justice Center, to speak on Bush Justice

11:30 a.m. Frank Austin from the Alaska Black Caucus

LUNCH

1:30 p.m. Michael Rubinstein, Executive Director of the Judicial Council

2:15 p.m. Roger Endell, from the Criminal Justice Center, to address the Corrections Master Plan and site selection for a pre-sentence facility and a women's institution to replace Ridgeview.

3:00 p.m. Donna Willard, Alaska Bar Association President

Saturday, December 1st:

At this time the Committee will decide what action it wants to take regarding legislation and/or other recommendations.

Lawmakers hear drug controversy

By GEORGE BRYSON
Daily News reporter

- Alaska law is so soft on drug offenders, it actually encourages youngsters to try their hand at marijuana and cocaine.

- Alaska law is indifferent to the plight of the battered wife — the victims of domestic violence.

- Alaska law overcrowds our prisons with those charged with alcohol abuse; yet no one is being rehabilitated.

Those opinions, and many others, were offered as testimony Saturday by Anchorage citizens attending a special House Judiciary Committee hearing at the state courthouse — the first time the committee has ever ventured outside Juneau with its public hearings.

And legislators who attended the first session (another is scheduled here in November) say the public meeting was a success.

"It's really refreshing to hear comments from somebody other than just attorneys all the time," said Rep. Patrick O'Connell (R-Soldotna).

Chaired by Rep. Charlie Parr (D-Fairbanks) and attended also by Rep. Nels Anderson, Jr. (D-Dillingham) the committee heard citizens air feelings on virtually any judicial subject they cared to address.

But the matter of Alaska's drug laws kept surfacing to center stage for most of the morning hours.

"Incarceration isn't a cure-all, but we shouldn't throw it out the window," Keith Lauwers, executive director of Anchorage Youth for Christ, told the legislators. "We need a drug law that has some strength. One that could at least serve as a deterrent."

Lauwers, along with several members of an Anchorage parent's group, voiced loud and clear their objections to what they feel is a "lackadaisical attitude" by the Alaska judicial system toward drug offenders.

He said the laws of Alaska should be strengthened to get at the root of matter — the pusher of drugs.

"I hear stories about the so-called 'candy man' of Alaska flying around in his modern plane," Lauwers said, "dropping off his drugs to bush Alaska ... and something needs to be done."

Pat Jasper, chairman of the "Involved Parents Association" of Anchorage, agreed.



Anchorage Daily News/MAR 1979

Legislators at a House Judiciary Committee meeting in Anchorage included, left right, Rep. Nels Anderson, D-Dillingham, Chairman Charlie Parr, D-Fairbanks, and Rep. Patrick O'Connell, R-Soldotna.

"We tell our children some very important things by the kind of laws we pass, and the kind of laws don't pass," she said. "... And we need a stiffer drug law."

She described the personal experience of one of her sons who, she said, had gotten involved in "the growing drug culture at Anchorage schools."

"... And one of the best things that ever happened to him was when he finally got arrested (on a drug offense)," she said. "At least it finally got him to start thinking about it."

However, Sylvia Short, an Anchorage attorney, said that "too much emphasis" is placed on incarceration as the method to cure all of society's ills.

"We put people in jail, but we don't do anything to rehabilitate them ... We have way too many repeaters.

"We need to get them before they become criminals and victims of society," she said. "... Bills destined to give longer and stiffer sentences — in the end — are not going to work," she said.

"They're going to continue to turn out people from our jails who are embittered."

Sema Lederman, director of the Alaska Family Violence Program, told the legislators

that the Alaska judicial system has shown itself deficient in its willingness to prosecute husbands who have beaten their wives.

She said that her office has heard sever instances of district attorneys "just not interested" in taking up wife-beating cases.

"Can you give me some documentation that," asked Rep. Charlie Parr, "... because I want to hear about if you can." She said she would.

One issue, a new bill to create a court appeals within Alaska — a proposed intermediary level of justice between Alaska's superior court and its supreme court — was addressed in the morning hours but was expected to draw the comments of local attorneys that afternoon.

The hearing followed a Thursday night session by the committee in Eagle River. Other public sessions are now scheduled for Bethel and Fairbanks in October, and Nome; Ketchikan in November. And another public hearing in Anchorage has been scheduled to follow the Thanksgiving holidays.

The House Judiciary Committee is a nine-member panel. Those not present at Saturday hearing included representatives Jerry Merton, Hugh Malone, Fred Brown, Ram Barnes, Thelma Bucholdt and Randy Phillips.

Anchorage Daily News — September 13, 1979



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Anchorage phone: 277-7548
Anchorage address:
1016 W. 6th., Suite 201
Anchorage, Alaska 99501

TO: Senator George Hohman, Chairman, and Members of
the Legislative Council
FROM: Margaret W. Berck, Counsel to the House Judiciary
Committee
DATE: October 4, 1979
SUBJECT: Progress Report on Interim Activities of the House
Judiciary Committee

I. INTRODUCTION.

The House Judiciary Committee intends to hold a series of public hearings throughout the state during the fall of 1979. Public testimony is being sought on the courts, law enforcement, and corrections, as well as public comment on specific bills currently lodged in the House Judiciary Committee. In the past, the House Judiciary Committee has almost without exception been limited to testimony received in Juneau. In order to adequately address the needs of all Alaskans public hearings outside of Juneau was deemed essential.

In conjunction with each public hearing, the House Judiciary Committee intends to conduct on-site inspections of local correctional facilities.

A copy of the House Judiciary Committee Interim Schedule, including work sessions, correctional facilities inspections and specific bills on which public comment is being sought, is attached to this report.

II. CURRENT STATUS OF INTERIM WORK.

The first interim meeting of the House Judiciary Committee was held in Anchorage on September 13, 1979. At this meeting, designated a work session, the Committee was furnished with written reports compiled by the staff assistants, Ms. Plotnick and Ms. Berck. Ms. Plotnick submitted reports on the following issues: judges, juries, domestic violence, citizen dispute centers, corrections, and the state Parole Board. Furthermore, Ms. Plotnick reported on the initial results of two

questionnaires pertaining to criminal justice matters. One set of questionnaires was sent to the general public and another was sent to law enforcement personnel. Ms. Berck submitted reports on the following issues: crimes, law enforcement, integrated and nonintegrated bar associations, drugs, sentencing, legal representation of indigents, juvenile justice, court of appeals, and the exemptions act. Prior to this meeting, the members of the House Judiciary Committee were furnished with a report on the Judicial Conference in Sitka by Ms. Plotnick and a report on the annual meeting of the Alaska Bar Association by Ms. Berck. Copies of all reports are available upon request.

Additionally, the committee was informed at this work session that certain sunset items would be referred to the committee during the 1980 regular legislative session. Those items are: Alaska Bar Association, Parole Board, Human Rights Commission and juvenile confinement.

The first interim public hearing of the House Judiciary Committee was held in Eagle River on the evening of September 13. Another public hearing was held in Anchorage throughout the day of September 15. The thrust of the public testimony centered on drugs, the Alaska Bar Association, criminal justice problems in rural Alaska and correctional programs and facilities.

On September 14, the committee made on-site inspections of the following correctional facilities located in Anchorage: Sixth Avenue Annex, Third Avenue, Ridgeview, and the McLaughlin Youth Center.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

September 5, 1979

Mr. John Lohff
Executive Director
Alaska Bar Association
P.O. Box 279
Anchorage, Alaska 99510

Dear Mr. Lohff:

It has come to my attention that on September 6, 1979, the Board of Governors intends to develop a position regarding the recent ombudsman subpoena. As a matter of courtesy I wish to inform the Board of Governors of forthcoming informational requests of a similar nature.

Recently the House Judiciary Committee was informed by the Speaker of the House that the House Judiciary Committee would be the committee of referral in the House regarding the 1980 sunset review of the Alaska Bar Association. Advance notice of this intended referral was provided in order that committee staff might have sufficient time to collect the data necessary for such review. As staff to the committee, I have been assigned this project.

As you are probably aware, the Alaska sunset law, AS 44.66.010, et seq., requires the House committee of referral to submit to the Speaker, not later than the 60th day of the legislative session, a detailed report on the activities of a board or program under sunset review. In accord with this statutory requirement, I wish to inform the Board of Governors that I intend to request information, similar to that requested by the ombudsman, that is, financial records, together with statistical reports concerning grievances filed with the association. Furthermore, additional data will be requested as the sunset law requires.

Within the next several weeks, I intend to request from the association the specific data that the committee will require for its sunset review of the association.

I feel certain that, working together on this matter, we will be able to provide the legislature with sufficient information to conduct a thorough and fair sunset review of the association.

Sincerely yours,



Margaret W. Berck
Counsel to House Judiciary Committee

cc: Rep. Charlie Parr, Chairman

hand delivered Sept. 5th



UNIVERSITY OF ALASKA
CRIMINAL JUSTICE CENTER
3211 PROVIDENCE AVENUE
ANCHORAGE, ALASKA 99504

December 26, 1979

The Honorable Charles H. Parr
Chairman, Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Parr:

Thank you again for permitting me to testify before the House Judiciary Committee on November 30th. I am enclosing a summary of my remarks as you requested.

You and our other legislators have my best wishes for a productive 1980 session. As a citizen I am grateful for the tremendous amount of work which you and many other legislators have done in preparing for this session. The legislative actions taken this year may well be the most significant in the history of our State, and I hope the public safety and justice problems of rural Alaska will be addressed in an appropriate fashion.

If we can assist you, please don't hesitate to contact me.

Respectfully,

John E. Angell
Director

JEA:pb
Enclosure

TESTIMONY GIVEN BEFORE THE HOUSE JUDICIARY COMMITTEE
ON NOVEMBER 30, 1979
IN ANCHORAGE, ALASKA

by John E. Angell
University of Alaska, Justice Center

The role of the Justice Center is to provide independent, objective research, education and public service directed toward the improvement of public safety and justice services, particularly in the State of Alaska.

I personally speak from a background of over 20 years working in and attempting to improve justice operations in the United States. The last five years I have worked as a faculty member and researcher with the Justice Center on public safety related problems in Alaska.

I have found that public safety and justice operations in Alaska can be characterized as reflecting qualitative extremes.

The state system of justice operations is, in many respects, the most rationally organized and efficiently arranged of any system in the United States.

The court system is centralized under the control of the Supreme Court. Judges are selected by a modified Missouri system. Approximately three separate agencies have responsibility for evaluation of court operations (i.e., Judicial Council, Commission on Judicial Qualifications and Criminal Justice Planning Agency).

The legal services provided by the state are organized in a fashion consistent with the most recently established national standards.

The Alaska Department of Public Safety provides police and emergency services in all areas of the state. There is no fragmentation nor competition caused by county sheriffs and elected township constables.

Emergency police services and justice operations in the more populated urban areas of the state range from excellent to at least adequate.

However, public safety and justice operations in the unorganized borough of Alaska are a disgrace. I can state flatly and unequivocally, the situation in rural Alaska ranks among the worst I have ever seen in the United States.

It is not possible in the time available to review in depth the public safety situation in predominately Native communities of the unorganized borough of Alaska. However, the rate of deaths from accidents and suicides in rural areas of the state are approximately four times those of urban areas. The fire loss rate is reported to be over five times that of urban areas. The homicide and rape rates are two to three times as high as urban areas. The aggravated assault rate is nearly a third higher in rural areas. The alcoholism rate is at least as high and the narcotics problem seems to be growing at a much faster pace in the rural areas.

The public safety situation is, at best, only slightly better than during territorial days and in some respects may be worse because of the withering away of the traditional social control methods. A majority of the Native communities do not have so much as a fire extinguisher. Approximately 1/2 of the 200 communities do not have resident police or public safety officers. Communities facing public safety emergencies which are beyond their control often cannot communicate their situation to State Troopers, and when they do get messages through the response time of State Troopers is frequently well over 24 hours. In fact, I am told the Department of Public Safety is working to get their average response time down to 24 hours. Nearly all of the rural Native communities of the state claim to have no resident legal people and most have not been visited by a state lawyer, judge or corrections official within the past year. Corrections officers do presentence investigations and probation supervision by telephone, radio or correspondence. It is doubtful that urban constituents would tolerate these problems. Why is it tolerated in rural Alaska?

Almost none of the communities have the financial resources to improve their own lots. The State of Alaska is obligated by the Constitution to provide equal protection of the law to all citizens. The Constitution also places on the state the responsibility for providing essential governmental services to people living in the "unorganized boroughs" of the state. The Alaskan legislature is specifically responsible for serving as the legislative body for the unorganized borough area of the state.

During the past few years, the state level public safety and justice officials have become acutely aware of this situation and the Governor's Commission on the Administration of Justice has formally designated the improvement of justice in rural Alaska as its top priority and I encourage this committee and the Alaska legislature to provide support for ~~this~~ ^{the} Commission's efforts.

Identification of problems is often easier than developing or instituting appropriate action programs to address them, however,

in this instance there are reasonable options that can be instituted given adequate commitment of the legislature and justice officials. I suggest four general courses of action.

1. There is a need for a strong overall planning and coordination group which has the authority and power to insure that system-wide improvements are initiated. Among existing agencies of state government there are a number of possibilities but the most logical is the Governor's Commission on the Administration of Justice and its administrative arm, the Alaska Criminal Justice Planning Agency. This agency has in the past been supported almost entirely by Federal Law Enforcement Administration money. The legislature should give consideration to increasing the state support for this operation. If possible, it should be located in a position independent of the direct control of any existing criminal justice component (i.e., courts, Department of Law, Department of Public Safety or Division of Corrections).
2. The state should be divided into approximately 11 regions, each with an internal homogeneity of situations. State justice agency operations should be decentralized with each component of public safety and justice services assigning sufficient services to handle the support needs within the region. With a few exceptions these regions should be consistent with the Native corporation boundaries. Each region should have a centrally located public safety facility with space for a state public safety office, a Superior court and a corrections office. At least one trooper, Superior court judge and corrections officer should be assigned to each central facility and charged with responsibility for serving the region.
3. Emergency communications between every community in a region and the public safety facility should be established. Every community should be able to obtain assistance in an emergency within hours. Minor convicted offenders and offenders returning from state institutions elsewhere should be held at these central facilities.
4. The legislature should provide a foundation justice grant to each incorporated community of the state. This grant should, as a minimum, provide for one public safety position, operating expenses for the position and a corrections allocation. This grant should be either a supplement to or in lieu of revenue sharing. The local community should have the authority to use the funds in a manner most appropriate for its needs. It should be authorized to purchase services from other agencies, pool

resources for services or supplement its grant with local funds. In order to encourage communities to handle their own problems the state should charge for services it provides in the corrections and public safety area.

The total cost of instituting these proposals would be in the range of \$10 million to \$20 million capital investment for facilities and approximately \$10 million each year for the Foundation Justice Grants. The Criminal Justice Planning Agency should be responsible for handling the grants.

These steps will not solve all of the justice problems in rural areas, however, they will establish the minimum operations needed for relatively equal protection under the law and they will insure that communities can begin to address their public safety and justice problems.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Fourth V
State Capitol
Juneau, Alaska 99801

AGENDA FOR SEPTEMBER 13th WORK SESSION

9:00 a.m. 1016 West 6th Ave.
Suite 201, Anchorage

- Introduction - Charlie Parr
- Crimes - Peggy Berck
- Law Enforcement - Peggy
- Domestic Violence - Rocky Plotnick
- Citizen Dispute Centers - Rocky
- Integrated vs. Non-integrated Bar - Peggy
- DRUGS - PEGGY
- Sentencing - Peggy
- LUNCH BREAK
- Corrections - Rocky
- Parole Board - Rocky
- Legal Representation of Indigents - Peggy
- Juvenile Justice - Peggy
- Judges - Rocky
- Juries - Rocky
- Court of Appeals - Peggy
- Exemption Act - Peggy
- Questionnaires - Rocky

Time for each topic will depend on the wishes of committee members.



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Charlie Parr

FROM: Rocky Plotnick *Rocky*

SUBJECT: Interim

DATE: May 24, 1979

Peggy and I came into the office today to make arrangements for our Sitka trip. Pat Costello needs authorization from you approving our signatures on necessary papers and Kathy Martinson needs approval so she can pay us. Kathy Martinson said the pay for A.A.'s is 13.30 an hour. Please sign the enclosed memos and if you want to add anything, just write it on the bottom. Peggy and I are going camping next week but will be in the office Monday, June 4, 1979. We leave for Sitka on the 6th.

I hope your business is doing okay and that you are happy to be back home. I'll send another memo either right before we leave for Sitka or right after the trip and let you know what happened. We'll write up a report of what happens there anyway. Please sign and return the memos.

Rocky



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House of Representatives

Committee on Judiciary

1016 West 6th Ave., Suite 201
Anchorage, Alaska 99501
277-7540 or 277-7549

Pouch V
State Capitol
Juneau, Alaska 99811

October 24, 1979

Charles Campbell, Director
Division of Corrections
Pouch H-03
Juneau, Alaska 99811

Dear Mr. Campbell:

As previously discussed, the House Judiciary Committee will hold a meeting on November 29th and 30th to wrap up interim work. Since one of the topics under discussion is corrections, we would like to invite you to attend.

Please let us know which day would be more convenient for you. The meeting will be held at the Anchorage Community Center, 325 East 3rd Ave. at 9:00a.m. on both days.

I will look forward to your reply.

Sincerely,

A handwritten signature in cursive script that reads "Rochelle Plotnick".

Rochelle Plotnick
Administrative Assistant

cc: Helen Beirne, Commissioner
Health & Social Services

Charlie Parr, Chairman
House Judiciary Committee ✓



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

1016 West 6th Ave., Suite 201
Anchorage, Alaska 99501
277-7540 or 277-7549

Pouch V
State Capitol
Juneau, Alaska 99811

October 24, 1979

Sam Trivette, Executive Director
Alaska State Parole Board
Pouch H-01E
Juneau, Alaska 99811

Dear Sam:

On November 29th and 30th the House Judiciary Committee will hold a final meeting in Anchorage to wrap up its interim work. As administrative assistant for the Committee, I would like to invite you and possibly the chairman of the Parole Board to that meeting.

Please let me know which day would be more convenient for you to attend. Since the House Judiciary Committee is responsible for the sunset review of the Parole Board, it is most anxious to hear from you. I will be available for any questions or comments prior to the meeting.

The meeting location is:

The Anchorage Community Center
325 East 3rd Ave.
Anchorage Time 9:00a.m.

Sincerely,

A handwritten signature in cursive script that reads "Rochelle Plotnick".

Rochelle Plotnick

cc: Helen Beirne, Commissioner
Health & Social Services

Charlie Parr, Chairman
House Judiciary Committee ✓



Official Business

Alaska State Legislature

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HOUSE JUDICIARY COMMITTEE - INTERIM SCHEDULE

3/22/79

September 6th Anchorage

Charlie, Peggy and Rocky - work session at office: 1016 W. 6th Ave.
Suite 201

September 13th Anchorage

Committee Briefing - 9:00a.m. - office: 1016 W. 6th Ave. Suite 201

Public Hearing - 7:30p.m. - Eagle River Public Library

September 14th Anchorage

Committee tour of correctional facilities - Time TBA - Ridgeview, McLaughlin
Third Ave. (Sixth Ave time
permitting)

September 15th Anchorage

Public Hearing - 9:00 a.m. - Alaska Court Building, 303 "K" st. rm 402

October 5th Bethel

Committee tour of Bethel jail - Time TBA

Public Hearing - 2:00 p.m. - Legislative Information Office, Kuskokwim Inn
Annex

October 6th Bethel

Public Hearing - 9:00 a.m. - Legislative Information Office, Kuskokwim Inn
Annex

October 19th Fairbanks

Committee tour of Fairbanks jail - Time TBA

Public Hearing - 2:00 p.m. - City Council Chambers, 410 Cushman St.

October 20th Fairbanks

Public Hearing - 9:00 a.m. - Borough Assembly Chambers, 520 5th Ave.

November 2nd Nome

Committee tour of Nome jail - Time TBA

Public Hearing - 2:00 p.m. - Nome City Hall

November 3rd Nome

Public Hearing - 9:00 a.m. - Nome City Hall

November 9th Ketchikan

Committee tour of Ketchikan jail - Time TBA

Public Hearing - 2:00 p.m. - 3rd Floor District Court Room, 415 Main St.

November 10th Ketchikan

Public Hearing - 9:00 a.m. - 3rd Floor District Court Room, 415 Main St.

November 29th Anchorage

Committee Hearing with invited persons - 9:00 a.m. - Place TBA

November 30th Anchorage

Committee work session & wrap-up for final report - 9:00 a.m. - office:
1016 W. 6th Ave.
Suite 201

PUBLIC HEARINGS WILL INCLUDE ALL MATTERS IN THE JUSTICE SYSTEM:

COURTS, LAW ENFORCEMENT, CORRECTIONS, DISCRIMINATION, DOMESTIC VIOLENCE,

LAWYERS, AS WELL AS SPECIFIC BILLS: SB 104, HB 392, HB 252, HB 479

Catagories: Attys, enforcement, judicial and corrections

Enforcement: 36 metro officers with six squad cars and three helicopters descended on a marijuana-growing mat nuska farmer. They broke the windows of the home to throw down on the man and his wife with machine guns as she canned fruit and he played with the children on the floor. *A state officer had told them growing was legal. The family had to sell their home to pay legal fees.

*POSSESSION OF ANY AMOUNT OF MARIJUANA IS NOT A CRIMINAL OFFENSE!!!!

(See the attached cover letter and report which includes copy of the "Letter of Intent" Alaska State Legislature and court decisions.)

THE SALE OF MARIJUANA IS ALSO NOT A CRIMINAL OFFENSE, "as long as there is no present or future intended profit" (from the "Letter of Intent"). If this ruling were properly applied it would remove the danger of "street dope" sold by unethical, criminal-type people who have added "angel dust" and other chemicals to make low quality grass STRONGER. These additives to "illegal" grass have caused mental deterioration in many and especially in the teen-age group. The hard-core, criminal-type drug pusher can also introduce habit-forming drugs to unsuspecting buyers in this manner in order to gain "captive" customers AND DO GREAT HARM TO THE "CAPTIVE".

The laws against use and trafficking of heroin have been strong for a long time, and seemingly justifiably so because HEROIN DOES KILL. However the real question would seem to be "Is heroin the cause, or the symptom of the cause?" We have not succeeded in stamping out heroin usage with the strongest of laws. Why not look for another answer rather than follow the same, tired, old, unsuccessful method?

IN CONTRAST, also on the drug scene. A custodian saw two men carrying revolvers on hips removing objects from student lockers and replacing with another commodity. She remained hidden until the men left the school and wrote their auto license number down & reported the indigent

Hard druss
No TGI-255
to "Amor" Dust

to local police. (There had been a drug problem in the school and two of this ladies' children were dis-oriented for two weeks, requiring hospitalization and psychiatric treatment.)

When she informed the police she was told, "Those people are the small frye. We want to wait and catch the big guys." No arrests were made.

ENFORCEMENT, (Item 2) Three times, during the years 1977-8 an Anchorage lady's daughter was the subject of attempted kidnappings. The last time there was a complete description of the kidnapers and their auto. When she reported the incident to police and asked why something wasn't done about this sort of thing the officer said, "We have more serious problems to take care of."

IN CONTRAST, a young man with a record of service to the community since residence in Anchorage was accused of rape by a 15-year-old hooker on Fourth Avenue. Her police record dated from the age of 7 when she rolled Fourth Avenue drunks to 1978 when it seemed obvious she had "set up" an attempted armed robbery that ended in murder. In the murder case the assistant district attorney refused to consider her as a witness because she was "unreliable"... YET in the accusation of rape by this young woman although her testimony was proven false and at the preliminary hearing ^{and} she admitted living with her 24-year old pimp, the ^{same} asst. D.A. filed yet another charge of "Attempted statutory rape", in anger at the defendant. When asked why he didn't file rape charges against her pimp he said, "I'm not after _____. I'm after _____". Testimony at the preliminary hearing had indicated NO RAPE OR ATTEMPTED RAPE.

To get an attorney to handle this young man's case the family had to sign over an \$8,000. piece of property. (Because only an attorney can defend in court we are "captive" customers and the Judge, D.A., Lawyer combo has the middle-class citizenry at its mercy.)

Please note the cost of attorney fees in defense of the two mentioned cases. Yet it took this researcher, W. Don Nilsson, only three hours work in the public law library and a letter to one of our most responsive statesmen, Mike Bradner, and the truth about the status of marijuana was evident. Yet I would not be allowed to defend another in court because I do not have a degree in law nor have I taken the bar exam. The ABA protects Just as do the American Medical Association and American Medical Association --- not the public but the members!!!

You will note that the case for which Nilsson researched was in 1976, February 19th. Although the defendants had been arrested with one pound of marijuana in their possession the case was dismissed immediately after Nilsson's information was presented by Attorney Hugh Fleischer. The total cost for Mr. Fleischer's efforts was \$268. The public defenders office has expressed appreciation for receipt of the information.

Attorneys are researchers just as am I. The only difference between me and SOME attorneys is that I care more about people than I do about money.

A 20-year old man was stopped for going 10 miles over the speed limit. The arresting officer searched the car and found marijuana and two cases of beer. He physically searched the four young occupants and poured the beer and marijuana on the ground though there was no evidence smoking or drinking was going on and the driver was not drunk

High school students have been forced to undergo the humiliation of stripping to be searched when schools SUSPECTED they were carrying drugs.

One person in history that was subjected to such an injustice was caught in a fine collecting "speed trap". It was the turning point in his life. The triggered resentment caused him to begin robbing, then murdering until he was machine -gunned. His name was Pretty Boy Floyd. The city got its pound of flesh but society paid dearly for it. Admittedly, this personality was ready to be "triggered" into violence. How close are we pushing these "stripped" youngsters into the same or similar actions?

Relative to Attorneys and Judges, the large problem would seem to be the union of the Bar Association. ---A 21-year old Anchorage man, charged with his first felony waited about 7 months in jail while his older cohorts with criminal records were out on bail. ---The Bar fights furiously to control by dangling carrots in front of judges --salary increases, better aides,

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better retirement and pensions. So, if the courts do not give favorable reactions or decisions to the law firms, the judges become vulnerable.

RELATIVE TO CORRECTIONS - So much research has been done on this subject. Findings are: incarceration without positive motivation while incarcerated PROMOTES homosexuality, disorientation and violence in individuals. More important than PUNISHMENT and revenge would seem to be restitution and re-orientation.

IF ONE DESIRES MORE OF WHAT IS MENTIONED HERE IN THE WAY OF INJUSTICES THE WAY TO GET MORE OF THESE INJUSTICES IS TO PASS MORE AND MORE STRINGENT LAWS!!!! There is such a thing as too much law and not enough judgment or wisdom. Texas has long been heavy on law and order and warehousing of convicts rather than working at positive re-orientation. Three months ago the state approved \$77,115,000. to expand their Texas Department of Corrections because their jails were overcrowded. If being heavy on law and order enforcement is the answer, why then, does Texas find it necessary to build more and more jail space; more jail space by 500% than is the population increase since 1975. (The exact percentage is unknown but the figure of 500% can be easily checked with further research.)

The Alaska State Penitentiary is recognized as the "White Hope" of the prison systems by serious students of "Correction" facilities because of its openness and positive motivation, but professionals recommend that even more personal attention to positive exposures would bring even greater benefits to the occupants and the State of Alaska.

I just scanned House Bill #479 and hereby request a personal conference with Dr. Parr.

-30-

personal message to the committee - as I said this morning, it is good the committee is investigating the atty, judge, enforcement, corrections systems. This is a very delicate area and an understanding of human behavior, mores and the social atmosphere in general is necessary to reach maximumly beneficial conclusions. I do not envy your position of super-responsibility. However, I would be happy to offer whatever we might have in our office to aid in final review, or to be commissioned to garner any research you might feel would be helpful to you.

W. DON NILSSON
825 Irwin Street
Anchorage, Ak., 99504
February 19, 1976

The confusion attendant to decriminalization of marijuana and apparent inequitable application by some members of enforcement and judicial departments prompts the offer of the following research and personal observations in an effort to assist in avoiding inequities.

Enclosed are (1) a copy of the "Letter of Intent", Alaska State Legislature, May 15, 1975, regarding the currently effective Marijuana legislation, (2) excerpts from the Alaska Supreme Court decision in the case of *Ravin v State of Alaska* concerning rights of privacy, including a most impressively intuitive, definitive statement by Justice Boochever, (3) the published recommendation of Dr. Robert DuPont, Head of the National Institute of Drug Abuse, dated February 13, 1976, (4) an article relative to marijuana-alcohol usage by young people and causes of need as expressed by Dr. Morris E. Chafetz, Director of the Federal Alcoholism Institute, 3/4/75. (An oft-repeated plea by those who have studied us closely - "Behavioralists") and (5) a copy of a report and recommendation for legalization of marijuana by the Alaska State Medical Association, dated April 20, 1972.

A background resume is submitted also to assist in evaluation of the following personal, relative observations.

My cause for concern is that some enforcement and members of the

2-marijuana, quantity, possession for sale

judiciary apparently feel that a felony charge of "Possession with intent to sell" can be based solely on the amount of marijuana involved.

Charges so based, are in direct conflict with paragraph four of the "Letter of Intent", Alaska State Legislature, which states, "Private possession or control of any amount of marijuana, when such possession or control is only for one's own use, is punishable by the new civil penalty imposed by sub section (e)."

A further indication of the probability of incidents of injustices to the public is made obvious when it is considered that "possession for resale" is only one of several reasons a large amount of marijuana or a derivative might be "in possession". Some of these are (1) for reason of economy—a purchase of two pounds of marijuana costs about 40¢ per ounce, of what a one ounce purchase would be. (2) the quality (strength) of marijuana varies greatly. Potent marijuana will be purchased in quantity because the opportunity to buy "good grass" might not occur again for some time. (The greater the concentration of delta-hydrocannabinol, a principle ingredient of marijuana, the less smoking necessary to relieve tension, or, if it is the desire of the smoker, to become euphoric (high). Some strains of marijuana are so weak it is impossible to become even slightly "turned on" without smoking uncomfortably large amounts). (3) Though possession has been ruled legal by the Alaska State Supreme Court, the process of purchasing exposes to the possibility of a legal "hassle". A large purchase decreases multiplicity of exposures, chance of endangering reputation (because of stigma) and/or even loss of freedom. (4) Marijuana is not always readily available. A large purchase assures availability. And (5), friends share commodities, recreations or ideas

3-marijuana, quantity, possession for sale

mutually enjoyed. The sharing between marijuana smokers is no different, unless it is that there is an increased intensity of sharing because of the comradere in the marijuana culture. Therefor, "smokers" will buy for the purpose of sharing with their friends.

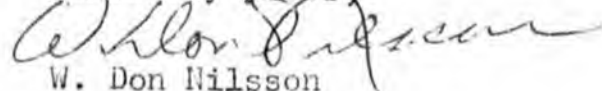
One of the first offers of hospitality a "smoker" extends to a visiting friend is usually fruit juice (apple juice most often preferred) and/or a "joint". --Just as every person offers their own differing type of "hospitality".

The state Supreme Court has ruled on marijuana. The legislature has researched, acted and explained resulting legislation in a Letter of Intent jointly endorsed by the House of Representatives and the Senate. These, it should seem, would answer the question, "Is a charge of 'Possession with intent to Sell' (at a profit) lawful and in the interest of and for the protection of society when the charge is based on quantity alone; or might there be a preponderance of miscarriages of Justice.

From the Ravin v State of Alaska case, "It should be noted that 81% of persons arrested for marijuana-related crimes have never been convicted of any crime in the past..."

From the "Report of a Joint Meeting of Alaska State Medical Association Legislative Committee and Alaska State Medical Association Mental Health Committee", ... "Alaska can survive marijuana. It cannot survive without rule of law that is fair enough to be respected and upheld by society." 4/20/72,

Sincerely yours,


W. Don Nilsson

one leaves the home. There are certain aspects of personal autonomy which one carries with him even when he ventures out of the home, though the claim to privacy diminishes in proportion to the extent that one's person and one's activities impinge upon other persons. But, in order to trace the contours of the right to privacy, it will be

¹ The right to privacy which received protection in *Roe v. Wade*, 410 U.S. 113, 35 L. Ed. 2d 147 (1973), has nothing to do with the locus of the home, and for the most part, is concerned with matters occurring outside the home.

drivers under the influence of marijuana, standing alone, creates a close and substantial relationship between the public welfare and control of ingestion of marijuana or possession of it in the home for personal use. Thus we conclude that no adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home has been shown. The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest. Here, mere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.

The state has a legitimate concern with avoiding the spread of marijuana use to adolescents who may not be equipped with the maturity to handle the experience prudently, as well as a legitimate concern with the problem of driving under the influence of marijuana. Yet these interests are insufficient to justify intrusions into the rights of adults in the privacy of their own homes. Further, neither the federal or Alaska constitution affords protection for the buying or selling of marijuana, nor absolute

69. We do not intend to imply that the right of privacy in the home does not apply to children. See *Breese v. Smith*, 501 P.2d 159, 167 (Alaska 1972). We note that distinct government interests with reference to children may justify legislation that could not properly be applied to adults.