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INTERIM FILES

, GENERAL

REPORTS OF STANDING COMMITTEES

The Judiciary Committee has had HOUSE BILL NO. 105 (adopting the Uniform Hold Harmless Act) under consideration and a majority of the members of the Committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 105 (Judiciary)

HB 105

"An Act relating to hold harmless agreements."

and that it do pass. The report was signed by Mr. Gardiner, Chairman, and concurred in by Gardiner, Bradley, Ellason, Specking, Cotten and Brown.

HOUSE BILL NO. 105 was referred to the Rules Committee for placement on the calendar.

UNFINISHED BUSINESS

Mr. Miller moved and asked unanimous consent that the House rescind the previous action taken in approving the Journal for the 117th day and moved and asked unanimous consent that the Free Conference Committee report on HOUSE COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 350 amended by the House (penalties for unauthorized possession and control of certain drugs) and SPONSOR SUBSTITUTE FOR SENATE BILL NO. 350 amended (pages 1223-1224 of the Journal) be changed to incorporate the letter of intent which was inadvertently not transmitted to the House by the Senate. There being no objection, the Journal for the 117th day with the insertion of the following letter of intent was approved.

HCS SSSB 350 am H SSSB 350 am FCCS HCS SSSB 350

May 15, 1975

Letter of Intent

The Conference Committee (with powers of Free Conference) which has had SPONSOR SUBSTITUTE FOR SENATE BILL 350 and HOUSE COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL 350 AMENDED IN THE HOUSE (An Act relating to penalties for unauthorized possession and control of certain drugs) under consideration, offers the following report:

The Free Conference Committee has taken action to omit one provision added in the House, which is objectionable to members of the Senate, the new subsection (g), which appears at lines 25 and 26 on page 2 of the bill as it was amended on the floor of the House. The present law, which states that a "gift" of marijuana may be considered a "sale" in certain instances has never been nor was ever intended to be applied to cases where amounts of marijuana have been transferred with no present or future profit motive in mind, and the Committee believes that no specific amendment to the law is necessary.

FCCS HCS SSSB 350

The conferees have also amended the language in the House Bill relating to possession of any amount of marijuana or one's person while operating a motor vehicle or airplane. The conferees feel that the language "on his person" in this section should be omitted. Otherwise a person in violation of this section could be openly smoking marijuana while driving, and then could quickly place the marijuana cigarette in the ash tray of the automobile or on the seat or floor, when approached by a police officer. He would then argue that he was not in violation of this section.

Except for the changes noted above, the conferees have approved the language of House CS for SS SB 350 as in the House. Generally, the bill has established a four-tier penalty provision regarding use and sale of marijuana. Sale of marijuana or possession for the purpose of sale would still result in felony convictions. Actual use of marijuana in public, possession of any amount of marijuana while operating a motor vehicle or airplane, or possession of more than one ounce of marijuana in public would all result in misdemeanor convictions. 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 subsection (e).

While it may appear that the bill establishes criminal treatment of juveniles who possess, control or use any amount of marijuana, the conferees are of the view that AS 47.10 and the Supreme Court's Rules of Children's Procedure will certainly apply, so that those under the age of 18 who are in violation of this law will be treated in the same manner as any juveniles who have committed acts which, were they adults, would be prosecuted as misdemeanors. The conferees consider this section akin to present laws regarding the use of alcohol by minors or laws regarding minors on the premises of establishments where alcoholic beverages are sold.

To avoid possible confusion, the conferees believe that one ounce should be considered 30 grams for the purposes of prosecutions under this Act.

Senate Members

House Members

Senator Terry Miller, Chairman

Rep. Terry Gardiner, Chairman

Senator Robert Ziegler

Rep. Fred Brown

Senator George Hohman

Rep. Michael Belrne

**ALASKA STATE
MEDICAL ASSOCIATION**

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**REPORT OF JOINT MEETING OF ALASKA STATE MEDICAL ASSOCIATION LEGISLATIVE COMMITTEE
AND ALASKA STATE MEDICAL ASSOCIATION MENTAL HEALTH COMMITTEE
APRIL 20, 1972**

The committee finds widespread use of marihuana among school children, blue-collar, white collar, and professional groups. Use is heaviest among teenagers and young adults, but older individuals use it too.

Contrary to popular opinion there is an enormous medical literature concerning the chemistry, pharmacology, and physical and psychological effects of marihuana, but much of it is of poor scientific quality. Good studies are now coming from this country sponsored by the National Institutes of Health using Cannabis sativa grown on U. S. Government farms.

The committee finds that the drug is remarkably safe. The therapeutic index, for example, of delta-hydrocannabinol (a principal ingredient of marihuana) is 4,000 times that of ethyl alcohol or secobarbital. Physical dependence has not been demonstrated in man or animals. Regular use, by definition, is a habit; psychologic dependence more than this apparently does not occur. Evidence shows that marihuana does not cause persons to become aggressive sexually or otherwise.

Many well-adjusted minors use marihuana apparently without harm to themselves. The committee, however, believes that the use of any agent which clouds or alters ego functions, such as reality testing, object relations, time orientation, and level of consciousness, is damaging during that period of life when personality function and development of ego strength are critical.

There is no sound information to date that the occasional use of marihuana is harmful physically or psychologically. It is possible that long-term, heavy use may be shown to be damaging.

Since a user of marihuana victimizes no one, except possibly himself and others he may neglect when under its heavy influence, it is unreasonable to impose penalties on a consumer of marihuana. Society is not benefitted in any significant way by penalizing a user.

The committee, therefore, recommends that:

the possession of small amounts of marihuana for personal use be legal in Alaska.

If this recommendation were adopted, State and local law enforcement agents would be released from the difficult and unproductive task of applying the present misdemeanor statute. Their efforts could then be concentrated on the apprehension of purveyors of "hard" drugs.

Alaska can survive marihuana; it cannot survive without rule of law that is fair enough to be respected and upheld by society.

Rodman Wilson, M. D.
Co-Chairman, Legislative Committee

Aron Wolf, M. D.
Co-Chairman, Mental Health Committee

RW/AM:md

W. Colby

CIA Said Still Best

WASHINGTON (UPI)—CIA Director William Colby says despite all the exposures and denunciations of the agency in 1975, "we still produce the best intelligence in the world."

"You can't possibly go through a year such as this of denunciations all around the world, accusations of all sorts of things, exposure of our operations, exposure of the names of our people, without causing foreigners who worked with us and foreign intelligence services to draw back and evidence fear of being involved with us," Colby commented recently.

Yet, he said, the agency still produced the world's best intelligence.

After nearly a year of disclosures about CIA assassination plots and secret operations, the federal government now is moving to bind the wounds and reform the American intelligence community.

Sen. Abraham Ribicoff, chairman of the Government Operations Committee, has called eight days of hearings, beginning Wednesday, to consider specific legislation.

The White House reportedly favors legislation similar to the British Official Secrets Act which would impose criminal sanctions for unauthorized disclosure of secrets.

Colby has recommended all intelligence operatives be subjected to sanctions for revealing such secret information as that disclosed by former agent Philip Agee in his book "Inside the Company."

Doctor finds 35% of police dangerous

SAN FRANCISCO (AP)—A psychiatrist who has screened and counseled thousands of police officers over the last 13 years says 35 per cent of all police now on duty are "really dangerous."

The conclusion is drawn by Dr. Edward Shev of Sausalito, Calif., author of a newly published book entitled "Good Cops-Bad Cops."

Shev, 57, says that interviews and consultations with some 6,700 police officers and applicants in 20 California communities have convinced him that "natural cops constitute only 5 per cent of all police, men and women, who know intuitively how to handle both the work and pressures of being a cop."

Shev, who practices in San Francisco and is chief of neurology at Marshall Hale Memorial Hospital here, says 60 per cent of all police are "treatable" in that they perform their duties well most of the time but have a breaking point under pressure.

"But the really dangerous police are the 35 per cent who make up the third category. These are the 'untreatable' men and women—the bad cops. Their personalities are not suited to police work, and they are unable to learn about themselves or accept treatment that would allow them to function adequately as police officers," Shev said.

"We give a man or woman probably the widest discretionary authority to put us in jail, to shoot us, to crowd-control us, to take away our liberties—without understanding how stable that individual is," he added.

Shev began working with police in his own town, across the bay from San Francisco, in 1965. Still at it, he screens prospective policemen, conducts psychological sessions and counsels individual officers.



MAUDLIN
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"...PHONES TAPPED, MAIL OPENED, DOORS KICKED DOWN.... I GUESS ALL THIS IS THE PRICE WE GOTTA PAY FOR LIVING IN THE FREE WORLD."

Are Grand Juries Getting Out of Line?

Not only minorities say that the answer is "Yes." Pillars of the establishment, too, are beating the drums for reform.

A centuries-old bulwark against government oppression—the American grand-jury system—is coming under increasing fire both in state capitals and in Congress.

The result is a drive by critics to abolish or reform an institution that is misunderstood by millions of Americans. Many people believe the sole job of grand juries is to bring criminal charges against possible wrongdoers. What they often forget is that grand jurors have another, equally vital, task: to shield fellow citizens from being unjustly subjected to a criminal trial.

In recent years, this shield has slipped badly, according to critics, who include judges, lawyers and religious groups. Grand juries are accused of acting too often as "rubber stamps" for overzealous or unscrupulous prosecutors who:

- Bludgeon witnesses into providing information the government isn't entitled to.
- Gather flimsy, insubstantial evidence that sometimes is leaked to the press, sometimes is made the basis for prosecutions with little chance of success.
- Harass or intimidate racial or political minority groups.
- Unnecessarily invade the privacy of witnesses.

"Total captive." Grand juries, normally made up of 23 persons without special skills in the law, have long been vulnerable to manipulation by prosecutors.

The problem has been growing worse in recent years because of the increasing complexity of criminal statutes and criminal cases. "Today, the grand jury is the total captive of the prosecutor who, if he is candid, will concede that he can indict anybody, at any time, for almost anything, before any grand jury," declares U.S. District Court Judge William J. Campbell of Chicago.

In past decades, complaints of abuses by grand juries came most frequently from political radicals, civil libertarians and others out of step with the majority of citizens. Today, complaints are still coming from these groups. But new voices have been added. Some of the country's leading corporations have protested grand-jury actions, and such pillars of respectability as the National Council of Churches and the American Bar Association are backing a push in the states and in Congress for a spate of reforms.

Many prosecutors and judges are resisting the reform move. They warn that new limits on grand juries would undermine le-

gitimate crime fighting. But both opponents and backers of reform agree that grand juries sometimes abuse their powers. Cited as examples are cases in recent years involving a wide range of people from corporation officials to civil-rights and religious activists.

One celebrated case involved a potential misuse of the criminal powers of a grand jury to aid the government in a civil case against a major company. The dispute stemmed from General Motors Corporation's 1972 income-tax return—audited by the Internal Revenue Service in 1975. After many months of wrangling with GM, an IRS attorney active in the dispute convinced the Justice Department to begin a criminal tax investigation. The trouble came when the same IRS employe was designated by Justice officials to help direct the grand-jury probe.

In April, a three-judge federal appeals panel stopped the investigation. The judges, in a 2-to-1 ruling, concluded that the arrangement was an invitation to misuse grand-jury powers. The court noted GM's concern that the IRS employe "has an ax to grind and is more interested in justifying his previous investigations, his recommendations and the conduct of IRS agents than in protecting GM against unfounded criminal prosecution."

A Blizzard of Indictments

Political corruption, whether real or merely suspected, has been an even more fertile field for aggressive prosecutors and grand juries in recent years. Many investigations of public officials have been conducted responsibly and led to the conviction of scores of crooked officeholders. In other instances, critics charge, grand juries led by egotistical or politically ambitious prosecutors have churned out indictments supported by only the flimsiest underpinnings of evidence.

The record of the New York special prosecutor's office is sometimes cited by critics of grand-jury practices. Between the establishment of the office in 1972 and 1976, the grand



Grand juries, which usually consist of 23 persons without legal training, are easily controlled by overzealous prosecutors, critics charge.

jury working with the special prosecutor approved a steady stream of indictments against officeholders. More than 250 persons were charged, but only 17, almost all of them low-level police officers, were convicted and served sentences. All other cases, including those against 10 judges, ended with dismissal of the charges, acquittals or reversals of convictions by appeals courts.

On top of the harm to reputations caused by the prosecutions, there have been frequent leaks of grand-jury testimony to the press. One celebrated leak, occurring in the midst of the 1973 mayoral race, is blamed for severely damaging the campaign of a leading candidate, Representative Mario Biaggi (D-N.Y.).

Targeting Minorities

In other instances, the targets of alleged grand-jury harassment are minorities or dissidents whom the prosecutors, and perhaps the grand jurors themselves, find abhorrent.

A recent case in point occurred in Byhalia, Miss. Members of a black civil-rights group, the Marshall County United League, protested the fatal shooting of a black man by police and denounced as a "farce" the grand-jury investigation conducted by a local prosecutor.

When a judge ordered a second probe, the grand jury summoned members of the black group to testify. The grand jury disposed of the shooting incident with a few perfunctory questions and then quizzed the black witnesses at great length about their organization's membership and its activities.

A federal appeals court in March found that these questions were asked solely to harass group members. "This abuse of the grand-jury process cannot be tolerated in a free society," the court said, adding: "It would be a sorry day were we to allow a grand jury to delve into the membership, meetings, minutes, organizational structure, funding and political activities of unpopular organizations on the pretext that their members might have some information relevant to a crime."

In some cases of alleged harassment of dissident organizations, citizens have decided to go to jail rather than testify about colleagues. This is what happened in a case involving two women lay ministers of the National Commission on Hispanic Affairs, a New York organization funded by the Episcopal Church. Last year, the two were subpoenaed before a federal grand jury investigating bombings and other activities of a self-styled Puerto Rican terrorist group.

The women said publicly that they had no knowledge of the terrorist group. At the same time, they refused to testify about Hispanic-commission activities, contending that their testimony would violate the trust of community people working with the commission.

For this refusal, at the request of a federal prosecutor, the women were jailed for contempt of court in March, 1977. They were freed last January after winning a court order for their release. Seven other persons were jailed for an average of seven months after denying any knowledge of the terrorist group and refusing to answer questions before the grand jury.

This investigation, which is still under way, prompted the

governing board of the National Council of Churches to pass a resolution last year condemning misuse of grand-jury powers. William P. Thompson, council president, observes: "It is not the hardened criminals, nor even those with knowledge about crimes, who are the main victims of the modern grand jury, but often idealistic members of ethnic groups or dissident movements who for reasons of principle or loyalty refuse to name their associates—who in most instances have no connection with any crime. They are the ones who sit in jail rather than betray their friends."

Numerous groups with unorthodox or unpopular political views have charged they have been targets of improper grand-jury actions in recent years. Among them: the Vietnam Veterans Against the War, the Black Panther Party, the Irish Northern Aid Society, left-wing Catholic groups, the women's movement and labor organizations.



Complaints of grand-jury harassment come most often from minorities and political dissidents.

Roots of Reform

Despite the documented cases of abuse, changes in the grand-jury system have been slow in coming.

For many years, grand-jury critics relied entirely on the courts to check injustices. Judges, who have the power to halt or overturn improper grand-jury actions, sometimes act quickly to correct the most blatant abuses, as in the GM and Mississippi cases. But critics contend that judges far too often take a hands-off approach.

"The courts don't exercise enough authority over grand juries, either because they're not concerned or because they're reluctant to go up against the prosecutors," says Seymour Glazer, one of the original Watergate

prosecutors now in private law practice.

Making matters worse, from the critics' standpoint, the Supreme Court has cut back the rights of grand-jury witnesses in a series of rulings since 1972.

Faced with this trend, grand-jury critics have headed in two directions: abolition and reform.

A minority of the critics favor abolition. They note that England, where the grand-jury concept originated in 1186, eliminated grand juries in 1948. Even some grand jurors have joined the cause of abolition. Last year, for example, members of a Maryland grand jury—charging that they were merely "pawns" of the prosecutor and a "token citizen involvement" in the judicial process—urged that their role be abolished.

Actually, as things stand today, most states use grand juries mainly for major criminal investigations. Twenty-nine states, including California and Illinois, allow charges to be brought without use of the grand jury. In routine cases in these states, prosecutors file a charge. A judge, after giving the defendant and his lawyer a chance to oppose it, decides whether a trial should be held.

Five states, Michigan, Wisconsin, Connecticut, Kansas and Washington, use another method, "one-man grand juries," each consisting of a judicial officer who has most of the usual grand-jury powers.

The Federal Picture

Adopting such procedures at the federal level, however, would be difficult. It would take a constitutional amend-

ment to nullify the Fifth Amendment's requirement that all serious federal charges be heard by a grand jury.

Most critics aren't interested in abolishing grand juries. What they want are new safeguards against the misuse of their powers.

Proposals being pushed in the state legislatures and in Congress would require that:

- Grand-jury witnesses be told what the investigation is about and given a list of their rights.

- All subpoenas be approved formally by a majority of the grand jurors, not through informal assent to the prosecutor's wishes.

- Prosecutors tell the grand jury about evidence that might favor the defendant.

- Judges instruct new grand jurors that they have the authority to call their own witnesses and to make an inquiry independent of the prosecutor.

- A transcript be made of everything that occurs in a grand-jury hearing, including remarks by the prosecutor, a practice already followed in 31 states.

The key issues, however, in the view of reformers, are two other proposals. One would give a witness the right to be accompanied by a lawyer when appearing before a grand jury. Reformers argue that without a lawyer by their side, witnesses often are vulnerable to a prosecutor's trick questions and high-pressure tactics.

The reformers have made impressive headway in the states on this question. The right to a lawyer now is provided in 11 states, 10 of which have acted since 1970.

The other key proposal being pushed by reformers is to impose new limits on the state and federal procedures through which witnesses can be given immunity from prosecution. Under the current system, grants of immunity are to be used to obtain testimony that a witness otherwise could withhold by invoking the Fifth Amendment's protection against self-incrimination.

If a person given immunity still refuses to answer questions, he or she can be jailed for contempt of court. All too

often, critics charge, this threat is employed by prosecutors to force witnesses to talk about personal associations and other private matters that may go well beyond the legitimate scope of the investigation. It also can be used in conjunction with an effort to confuse witnesses into giving answers that may technically constitute perjury.

Accordingly, many critics of grand-jury practices want to require that a grant of immunity be given only with the consent of the witness.

Those pushing for changes of various kinds in grand-jury practices have swelled in recent years from a small band of civil libertarians into a movement that includes not only powerful groups, like the American Bar Association and the National Council of Churches, but also many prominent judges and prosecutors. At the center of the drive is the Coalition to End Grand Jury Abuse, a national alliance of 21 legal, civil-liberties, labor and religious groups.

Are Critics Overreacting?

Arrayed against these forces are other powerful and respected forces, including not only many federal and state prosecutors and judges but the Justice Department as well.

Lawyers in the grand-jury room, they contend, will disrupt and delay proceedings by repeatedly objecting to questions. Judges will have to rule on these objections, and "minutials" will result. Attorney General Griffin Bell denounces the proposal as "the lawyer's relief act."

Restricting immunity, prosecutors argue, would greatly impede investigation of organized crime and other conspiracy cases.

"We should be careful to avoid an overreaction to past abuses in a way which unduly hampers efficient, fair law-enforcement efforts in the future," warns Robert J. Del Tufo, U.S. attorney for New Jersey.

Del Tufo and other prosecutors argue that law-enforcement people can prevent abuses by writing and enforcing guidelines of their own. When he was a New Jersey official, Del Tufo helped draft such rules. Other states have done this, too, and the Justice Department issued regulations last December barring techniques that might smack of harassment.

Despite action in some of the states and steady pressure from those demanding reforms, Congress has been moving slowly. A House subcommittee has held extensive hearings over the last two years, but the Senate Judiciary Committee has given the matter no attention. Reform advocates are optimistic, however, that the picture will quickly brighten next year when Senator Edward M. Kennedy (D-Mass.), a staunch reform advocate, is scheduled to become committee chairman.

In the meantime, backers are doing their best to organize grass-roots support. They see citizen interest as crucial.

U.S. District Judge Marvin E. Frankel and Gary P. Naftalis, a former New York prosecutor, conclude in their recent book on grand-jury reform: "The most important link of all is the one between the grand jury and the citizen who both staffs it and is touched by it. The safeguard of paramount value, for the grand jury, as for other agencies of a democratic society, is the steady concern and attention of the people" □

Publicity from flimsy indictments or leaks of grand-jury testimony to the press can damage the reputations of officials or citizens.



STATE OF ALASKA THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

August 21, 1979

SUBJECT: Distinction between a "legislative court" and a
"constitutional court" (Work Order 7307)

TO: Charles Parr, Chairman
House Judiciary Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

The Judiciary Committee has asked that I explain the difference, if any, between a "legislative court" and a "constitutional court". The Committee is concerned with the question whether a legislative court possesses the same inherent powers as a constitutional court. Finally, the Committee asked that the various existing courts be characterized as either constitutional or legislative. [These questions may be asked in the context of SB 104, the "court of appeals" bill, but they do not depend upon the content of that bill for their meaning.]

I. The Differences.

The constitutional frameworks present in the United States and in the States of the Nation typically establish courts; the constitutions also typically grant to the legislature the authority to establish other courts.

Under the Federal Constitution, judges of constitutional courts, who exercise "the judicial Power of United States", are appointed under Art. III, §1. Judges of legislative courts are appointed under the power granted to Congress by Art I, §8, ¶9 to constitute tribunals inferior to the Supreme Court. On limited occasions Congress blends its authority and the "judicial power of the United States" is conveyed to courts established under Art I. 1/ The Territorial courts

1/ Since the "judicial power of the United States" is not granted to courts established under Art. I, the full logic of Federal cases does not apply to the Alaska situation. Compare Art. IV, §1 of the Alaska Constitution.

in Alaska prior to Statehood were courts of this blended character. American Insurance Company v. Canter, 1 Pet. (U.S.) 511 (1828).

The Alaska Constitution contains similar though different concepts. Thus, Art. IV, §1 of the Alaska Constitution provides:

The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature. The jurisdiction of courts shall be prescribed by law. 2/

A constitutional court is, then, a court established in the constitution in specific particulars; a legislative court is one where its establishment and responsibilities are discretionary with the legislature. An implied corollary of this principle recognizes that the constitutional courts very likely will enjoy constitutional protections which may or may not be extended to other courts not established in the Constitution. Art. IV has a number of provisions reflecting this principle.

Thus, Supreme Court justices and Superior Court judges shall be

"citizens of the United States and of the State, [and] licensed to practice law in the State

Judges of the constitutional courts [the Supreme and Superior Courts] must be nominated by the judicial council and appointed from those nominees by the governor. Art. IV, §5. These judges are subject to electoral confirmation on a nonpartisan ballot under §6. They are retired under the provisions of §11 and they may be removed only by impeachment under §12 [or by rejection under §6]. Their compensation is protected under §11. They are restricted in their activities during the time they hold office by §14.

2/ Notwithstanding this suggestion that the jurisdiction of courts shall be prescribed "by law", it seems that in a broad sense, the constitution of the state establishes the jurisdiction of the Supreme court ["the highest court of the State, with final appellate jurisdiction." Art. IV, §2(a)] and of the Superior court ["the trial court of general jurisdiction." Art. IV, §3].

In opposition to all this judges of legislatively established courts [all courts except for the Supreme and Superior Courts]

shall be selected in a manner, for terms, and with qualifications prescribed by law. Art. IV, §4.

I think it is significant to note that the determination whether the constitutional protections are extended to judges not specified in the constitution is, in the constitutional framework, not accidental. The constitution could well have extended these listed protections to any member of the judiciary, whether or not the court on which the member sits is constitutionally defined. 3/

The history of the District Court since Statehood is perhaps the best example of this principle at work. The court was established in 1959 by Ch. 184. Initially it was described as the "district magistrate court". Ch. 24, SLA 1966 shortened the name to its present form. Initially, a district magistrate was appointed by a superior court judge, served at the judge's pleasure, and was not required to be an attorney. Under present law, a district judge is appointed under a legislative formulation that follows the constitutional formula of Art. IV, §5 for judges of the supreme and superior courts. And the procedure has received constitutional review and approval in Delahay v. State, 476 P.2d 908 (1970). The judge is subject to retention elections which parallels the provisions of Art. IV, §6.

And while the question is presently academic, it is likely that the legislature could in its discretion abolish the present scheme for the district judges without constitutional problems. While the legislature may embellish, clarify, and interpret the general framework established in the constitution for the Supreme and the Superior courts, it seems clear

3/ Another way of stating this conclusion is that I resist the suggestion implied, perhaps, in your request, that there is any general doctrine of law applicable to constitutional courts. Rather, any discussion of the implications of these terms simply raises questions of constitutional interpretation which are unique to each jurisdiction. If the matter is covered in the constitution, its statements establish the law. If the matter is not stated in the constitution, the legislature may prescribe the law.

that these courts themselves may not have their character altered in a fashion inconsistent with the constitutional provisions.

These then are the differences between the two kinds of courts. For a constitutional court, the legislature is limited in its ability to experiment by the character of the framework established in the constitution.

For a legislative court, the legislature may follow a constitutional pattern in its establishment of legislative courts, but it is under no obligation to do so. Thus, the legislature may establish a court and provide that the members of the court serve for life, at the pleasure of the governor, are confirmed by the legislature, are elected on partisan, competitive ballots, may have their compensation reduced during tenure. Judges can be attorneys or non-attorneys; can be full-time or part-time.

In short, the legislature may exercise broad discretion in its establishment of legislative courts. Lopez v. Anchorage, ___ P.2d ___ (No. 1863, Alaska, June 22, 1979).

II. Inherent powers.

The Committee asked whether a legislative court would possess the same inherent powers as a constitutional court.

The answer to the question must be viewed as somewhat tentative because of certain ambiguities in the constitution as well as in the question itself.

The constitution is somewhat ambiguous. It provides that "the jurisdiction of [all] courts shall be prescribed by law". Art. IV, §1. This phrase would otherwise suggest that the powers of the court, inherent or otherwise, derive from legislative enactment.

At the same time, the constitution establishes the larger part of the Supreme and Superior court jurisdiction: "The supreme court shall be the highest court of the State, with final appellate jurisdiction." [Art. IV, §2(a)]. "The superior court shall be the trial court of general jurisdiction...." [Art. IV, §5].

AS 22.05 and AS 22.10 contain very few provisions not directly implied in the constitutional provisions relating to the Supreme and Superior Court. As a result, the Alaska Constitution is the primary source of the jurisdiction of the two courts.

The question itself is ambiguous because many of the powers of a court that are viewed by attorneys as inherent to a court's basic operation are the result of statute. Thus the power of the courts to issue writs in aid of their jurisdiction would logically be implied if it did not exist by statute. However, it does exist by statute [AS 22.05.010(a); 22.10.020(a)] and is therefore arguably not an inherent power.

There are a number of concerns of a court that may be viewed as inherent.

1. Finality of judgement. In Hayburn's Case, 2 Dall. 409 (1792), the Federal courts refused to act on a petition for a pension since the Act of Congress granting the responsibility to the district courts allowed the Secretary of War and the Congress to review the decision. This review function was viewed as making the administration of the law non-judicial in nature and therefore not within the "judicial power of the United States".

To a large extent the question of granting non-judicial powers to courts is politically moot; I am unaware of any law invalidated or left unenforced by the Alaska courts because of this requirement.

Note that Art. IV, §1 grants the judicial power not only to the Supreme and Superior courts, but also to courts established by the legislature. I assume that a legislative court would therefore possess this requirement.

2. The contempt power. It seems that it is unarguable that all courts in Alaska possess by their nature the power to sanction contempts. Civil Rule 90 suggests this conclusion.

And if there is any doubt on the question, venerable language of the U.S. Supreme Court is instructive:

The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject, they became possessed of this power." Ex parte Robinson, 19 Wall. (U.S.) 505 (1874). 4/

3. Issuance of writs. In Federal courts, the power to issue writs has historically been granted by Congress. Section 13 of the 1789 Judiciary Act was the original source. While the Act gave the power to issue writs under common law principles, the Federal courts have traditionally concurred in the view that an act of Congress is necessary to confer the judicial power to issue writs.

Note that the Supreme court and the Superior court are specifically granted the power to issue writs. AS 22.05.010(5) and 22.10.020(a) both authorize the issuance of "all writs" necessary to the courts' jurisdiction. The district court is implicitly denied the authority to issue writs by the denial to it of equitable jurisdiction. AS 22.15.050(2).

4. Admission and discipline of attorneys. The generally recognized principle of the common law holds that "it rests exclusively with the Court to determine who is qualified to become one of its officers, as attorney and counsellor, and for what cause he ought to be removed." Chief Justice Taney in Ex parte Secombe, 19 How. (U.S.) 9, 13 (1857).

In Alaska, the Supreme Court has the "inherent and final power and authority to determine standards for admission to the practice of law in this State". In re Stephenson, 511 P.2d 136 (Alaska 1973). Only that court has the power to suspend an attorney from the practice of law. Weaver v. Superior

4/ The power of contempt in the Federal system has had statutory derivation since §17 of the Judiciary Act of 1789, 1 Stat. 73, 83. In Michaelson v. United States, 266 U.S. 42 (1924), Justice Sutherland questioned the authority of the Congress to qualify the contempt power: "the attributes which inhere in that power and are inseparable from it can neither be abrogated [by Congress] nor rendered [by it] practically inoperative." (Bracketed material added.)

Court, 572 P.2d 425 (Alaska 1977); Esch v. Superior Court 577 P.2d 1039, 1043-1044 (Alaska 1978). The control that the Supreme Court and other courts in Alaska have over those appearing before them is the power of contempt. There is no question whether any state court possesses this power, supra.

III. Status of present courts.

The Supreme Court and the Superior Court in Alaska are constitutional courts as that phrase has been used in this memorandum.

They are the only two courts that can ever claim that designation under the present provisions of Art. IV of the Constitution.

Any other court presently in existence or hereafter created in the context of existing constitutional provisions will necessarily be a legislative court. The district court established under AS 22.15 is a legislative court and the proposal for an intermediate appellate court -- the court of appeals -- will be a legislative court.

RAB:slk



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

May 5, 1979

Charlie:

Attached is a tentative schedule of interim activities up to the time the Committee starts fall hearings.

Peggy and I have broken up the subject responsibilities as follows:

Peggy

Law Enforcement
Sentencing/Probation/Bail
Crimes
Juvenile Court
Drugs
Free Attorneys
Integrated Bar
Product Liability
Alaska Exemption Act (HB56)

Rocky

Judges
Jury System
Citizen Dispute
Center/Small Claims
Domestic Violence
Corrections
Committee Coordination, etc.

This work division is flexible and Peggy and I expect to help each other.

My Juneau mailing address is Box 578, Douglas, Alaska 99824 and my phone number is 586-6938, or leave a message at my folks place, 364-3177.

Peggy will use Pouch V, Juneau, Alaska 99811 as her mailing address and the phones in this office will be left connected. Those numbers are 465-3882 and 465-3718.

Rocky 5-6-79



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

TENTATIVE INTERIM SCHEDULE

June 1-5	pack-up stuff going to Anchorage
June 6-12	Peggy & Rocky go to Sitka for Bar Convention & Judges Conference
June 13-30	VACATION!
July 1-4	Rocky back in Juneau packing for Anchorage
July 5	Rocky leaves for Anchorage
July 9	Rocky in Anchorage Office Peggy in Juneau Office
August 15 (?)	Rocky goes to Juneau to meet with Peggy
September 4	Peggy in Anchorage
September 6	Meeting of the Minds (Charlie, Peggy & Rocky) in Anchorage
September ?	Committee Pow Wow in Anchorage

TO BE ANNOUNCED:

Nome Trip
Bethel Trip
Fairbanks Trip
Anchorage/Eagle River Hearings

1. Committee members wishing to participate:

Thelma Buchholdt
Terry Martin
Pat O'Connell
Randy Phillips
Ramona Barnes
Nels Anderson
Fred Brown

2. Times when members will not be able to attend meetings:

Thelma Buchholdt	June 16-30 July 1-13 August 20-26 September 16-30 October 1-6 November 21-24 December 22-31
Pat O'Connell	September thru December
Randy Phillips	June thru October
Ramona Barnes	when she has her operation (?)
Nels Anderson	July and August
Fred Brown	November & December - light scheduling during June thru August

3.

Specific matters to be investigated:

POLICE: Ethics, Recruitment, Training, Organization, Funding Source.

Because of the importance of public confidence in our policemen/state troopers, we must be sensitive to how the general public views our police. Working with respected policemen from all parts of Alaska, the Committee should review police behavior, recruitment policy, training programs and staffing, working relations of local and state officers, budgetary needs and sources.

Additionally, the Committee should become familiar with law enforcement priorities, and how such priorities get set.

PRISON: Public policy in Alaska has historically opposed the construction of a maximum security prison, and prison classification staff has awesome power to transfer men and women to outside facilities. Is this power being used wisely? Because of the importance of public confidence in fair and just punishment, the Committee should discuss prisoner classification with respected correctional officials with a view of recommending appropriate legislative action.

The Committee should also research ways at expanding reliable alternatives to institutionalizing convicted felons, including penitential employment on public works projects.

PAROLE: Parole is the most commonly-used alternative to jail, and our parole system should be reviewed by the Committee to see if it is functioning effectively as a re-entry program.

EQUAL JUSTICE: We know from recent judicial studies that certain groups of people wind up in jail faster than others. The Committee should strive to determine the degree to which justice now obtains in law enforcement, in the courts, and in the correctional institutions.

There is that hope in the New Criminal Code which may help to correct previous inequities in the system. But the Committee should maintain that there is plenty of work yet to be done to straighten out the problems spelled out in the sentencing studies.

(2)

Judiciary Committee Interim Activity

Questions Need Answers

- Police Ethics: Are Alaskan police behaving as they should?
Hear and review complaints about police behavior and administration.
- Police Training: Review of training programs and opportunities.
What can be learned of police attitudes from training curricula and training staff?
- Police Organization: Relationships between local police and state troopers; probation officers; federal marshall and other law enforcement officers (FBI, etc.)
Communication systems; cooperation between agencies.
- Police Funding Sources: Personnel; equipment; state and federal budget;(LEAA, Peace Officers groups, etc.)
- Law enforcement priorities: How crimes get classified (when does it suit the victim, the offender?);
How are police handling narcotic-related crimes(alcohol-related crimes) in order of priorities?
- Public Defender Agency: How much time is spent by a Public Defender with his client during pre-trial, during trial, etc.
- Judges: qualifications; selection; early retirement incentives(?);
Constitutional changes on salary schedule; etc.
- Bails: how set are they for specific crime; bail bonding agencies;
- Parole Board: criteria in releasing an inmate for parole;
quality of decisions made by the board.
- Jury: how much influence on punishment for crime committed;
selection, certain groups of people seem to be serving more often than others (except those excused due to professional constraints).
- General Public: What is the public perception of certain crimes and appropriate punishment; priorities in law enforcement.

- a) Does the public want an elected attorney general or justices?
- b) Does the Supreme Court need to be under one roof?
- c) Would conferences with the police on the beat at different locations be helpful?
- d) Would the public accept seven Supreme Court Justices with the division of responsibilities by criminal (4) and civil (3) cases?
- e) Is the probation system sound and effective?
- f) Should a judiciary committee attend the criminal code education sessions in Sitka or Anchorage for the twelve hour course?
- g) Regarding the juvenile justice system- would a talk and hearing at the McLaughlin Youth Center be beneficial?
- h) Would it be profitable for the Urban area minority justice problems to hold meetings in the Mountain View Community Center?
- i) What about an indepth statistical analysis of crime, length of cases, types of crime, segments of the population involved, by percentage, economic levels, cost average per case, and cost and results of private attorney versus public defenders?

a. Public Defender concept:

- (1.) Does it result in equal justice?
- (2.) Can costs be controlled?
- (3.) Are qualifications for indigency realistic?

b. Salary & Compensation of Judges

This may not be proper subject for interim review by the committee; however, I feel the many comments received in testimony this session suggest need for review in this area.

- c. In addition to the above, I suggest a committee tour of state correctional facilities, including but not necessarily limited to state jail facilities in Anchorage & Palmer, API, and the home for mentally ill.

Specific matters to be investigated: Selection of jury and judges as a whole; slowness of the process; administration of court system in Anchorage.

Ridgeview Women's Center
(4)

- a) We should conduct an oversight review of the Judicial Sentencing Study to assure ourselves that legislative intent is being followed if HB 195 and HB 196 pass and are approved by the Governor.
- b) We should follow the history of several cases from the time of arrest through to final sentence and place of confinement.
- c) We should determine whether or not judges recommendations for rehabilitation are being followed after incarceration.
- d) We should visit the policemen, judges, public defenders, district attorneys, law clerks, correctional officers, and the public Safety and Health and Social Services Commissioner.

4. Groups o. individuals to contact:

In my experiences as a practicing attorney, the various local bar associations in Alaska vary widely in their views and attitudes towards justice matters and public issues. As a courtesy to them, whenever a meeting is held in the Interim in a community with an active bar (Fairbanks, Anchorage, Juneau, Sitka, Ketchikan and Nome) members of the local bar association should be notified.

To the extent that matters arise in public hearings involving complaints against various individuals in the criminal justice system, we should be an active referral system. Many people don't know the existence of the Commission on Judicial Qualifications, and many people do not know the procedures for pursuing complaints against District Attorneys, Public Defenders, and so forth. In this light, it might be helpful to have some participation in our hearings from the Office of the Ombudsman.

Anchorage Black Caucus
Anchorage Native Caucus
Fairbanks Native Association
Alaska Federation of Natives
Non-profit Regional Native Associations
Human Rights Commissior
Ombudsman

Names of groups of individuals to be notified: Lee Jordan, Editor, Chugiak-Eagle River Star, PO Box 1007, Eagle River, AK 99577; Robbie Robinson, Chugiak Community Council, Box 309, Chugiak, AK 99567; Bob Johnson, Eagle River Community Council, PO Box 456, Eagle River, AK 99577; Stephen Dunning, Eagle River Valley Community Council, Box 1644, Anchorage, AK 99510; Tom Henry, Birchwood Community Council, SRA Box 760, Chugiak, AK 99567; Rex Campbell, North Mt. View Community Council, 819 N. Klevin, Anchorage, AK 99504; Fred Selkregg, Northeast Anchorage Community Council, 5811 Radcliffe, Anchorage, AK 99504; Gene Buck, Russian Jack Park Community Council, 5222 East 24th Avenue, Anchorage, AK 99504; Kathleen Bush, 663i East Eighth, Anchorage, AK 99504; The Brown Family, 442 South Flower, Anchorage, AK 99504; Clifford and Jane Bissell, Box 656, Eagle River, AK 99577; Marion E. Daley, PO Box 108, Chugiak, AK 99567; Mike Briggs, Esq., Ely, Guess & Rudd, 510 L Street, Anchorage, AK 99501.

Parents- natural or foster
School Personnel
Campus Life- Anchorage
Concerned People for Better Education- (ALERT)
Mountain View Community Center

GROUPS TO BE NOTIFIED OF HEARINGS:

Commission on the Status of Women
League of Women Voters
Alaska Legal Services
N.A.A.C.P.
Alaska Black Caucus
All Alaska Native organizations
PTA groups
AkPIRG
Other minority group organizations
In District 9 for hearings in Anchorage:

Spenard Community Council (Myron Igtanloc)
Turnagain Community Council (Wilda Marston)

Other information: I would like to have hearings at following areas in House District 8 -- Eagle River, Mt. View, Muldoon, Nunaka Valley.

what happens between the arresting officer and the suspect, I believe, may determine the trend that follows thereafter to the defendant, the inmate, the parolee.

Needless to say, public confidence with the correctional/judicial system has to be maintained, perhaps restored.

Ken Jarvis - Alaska Bar

(7)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465 3800

June 19, 1979

The Honorable Charlie Parr, Chairman
House Interim Judiciary Committee
SR Box 50599
Fairbanks, AK 99701

Dear Representative Parr:

The Research Division of the Legislative Affairs Agency was dissolved by the Legislative Council at its Tuesday, June 12, 1979 meeting in Sitka. The division had in process work which you had requested. The work orders are attached to this letter for your reference. We request your direction regarding the further processing of this work. Various sources may be available for completion of the work including

Legislative Finance Division
House Interim Judiciary Committee

Please contact me at 465-3500 if you have any questions regarding your research requests. We would be happy to assist in channeling your work requests to the source you designate, or, if you should prefer to do so, cancelling the requests.

Thank you for your cooperation in this matter.

Sincerely,



Myrton R. Charney
Executive Director

Attachments

WORK ORDER REQUEST FORM

Nº 7288

KEYWORDS: corrections
minors

ASSIGNED TO Helton

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Juvenile Corrections Systems

REQUESTED FOR House Judiciary Committee BY Peggy Berck EXT. 3718

* DELIVER TO Berck for House Interim Judiciary Committee TAKEN BY Helton

INSTRUCTIONS, EXPLANATIONS

Provide information regarding other states' innovative correctional institutions for juveniles and their alternatives to juvenile incarceration.

All material given to Rocky Plotnick, House Judiciary Committee, 6/15/79. Mh

OBTAIN

*Rui'd
6-15-79
Rocky*

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

Anyone

RETURN _____

TO REQUESTER

APPROVED: _____ Director, Legal Services

GKE Director, Research

REVIEWED _____

IN 6/4 DUE September

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

WORK ORDER REQUEST FORM

Nº 7289

KEYWORDS: defenders, public
public finance

ASSIGNED TO Helton

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Alaska Public Defender Agency

REQUESTED FOR House Judiciary Committee BY Peggy Berck EXT. 3718

* DELIVER TO Berck for House Interim Judiciary Committee TAKEN BY Helton

INSTRUCTIONS, EXPLANATIONS Provide a breakdown of budget for Alaska Public Defender Agency; cost average per case (compare with cost of private attorney); outline of steps required of indigent person for legal assistance through PDA; list of services available; breakdown of verdicts obtained, percent of appeals, percent of sentence appeals; process breakdown of making a complaint against PD, ALSC, DA -- whether Ombudsman handles; outline of follow-up by PD on convicted clients. All material given to Rocky Plotnick, House Judiciary Committee, 6/15/79. Jkh

OBTAIN

*Rec'd
6-15-79
Rocky*

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

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APPROVED: _____ Director, Legal Services

GKE Director, Research

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IN 6/4 DUE _____

TYPED - Draft _____ DATE _____

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SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

WORK ORDER REQUEST FORM

Nº 7290

KEYWORDS: law enforcement
public finance

ASSIGNED TO Helton

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT State Troopers and Municipal Police Departments

REQUESTED FOR House Judiciary Committee BY Peggy Berck EXT. 3718

* DELIVER TO Berck for House Interim Judiciary Committee TAKEN BY Helton

INSTRUCTIONS, EXPLANATIONS Provide a breakdown of the budget for personnel and equipment from state, federal, local, LEAA (note LEAA requirements -- whether in compliance) sources to Alaska State Troopers and municipal police departments in Anchorage, Nome, and Juneau. Also, state the weapons policy and police ethics standards for state troopers and municipal police departments above.

*All material given to Rocky Plotnick,
House Judiciary Committee, 6/15/79. Mh*

OBTAIN

*Draft
6-15-79
Rocky*

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: _____ Director, Legal Services

GKE Director, Research

REVIEWED _____

IN 6/4 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

CHARLIE PARR

ALASKA LEGISLATURE

S. R. Box 50599
Fairbanks, Alaska 99701
456-5029

Pouch V
Juneau, Alaska 99811
465-3797

June 3, 1979

Senator George Hohman, Chairman
Alaska Legislative Council
Pouch V
Juneau, Alaska 99811

Dear Senator Hohman:

I am sorry for the delay in replying to your request for a work sheet (your undated memo of early June). In keeping with the House leadership decision to fund interim committees on an austerity basis, Committee staff was funded only for six months and Committee action planned only for the period Sep 1 - Dec 31.

The Committee is casting its net widely, investigating matters in the law enforcement, courts, and corrections areas. (Chairmen of the State Affairs and Health, Education and Social Services committees have concurred as far as their jurisdictions are affected.) It is the Committee's intent to secure the widest possible input from the general public, as past experience indicates that testimony in Juneau is too often confined to that from executive branch agencies, court system administrators, and attorneys.

General topics of investigation are:

Law enforcement: priorities; agency budgets, personnel and training, weapons use policies; domestic violence; crime, arrest, conviction, and sentence data; drugs.

Courts: selection and compensation of judges, selection and use of jurors, representation of indigent defendants, need for a court of appeals, integrated bar.

Corrections: alternatives to incarceration, facilities, handling of juveniles, effectiveness of probation and parole.

I had planned the following overall schedule:

July 1 - Aug 31 Research

Sep 1 - Dec 1 Committee meetings and hearings (Anchorage, Fairbanks, Nome, Bethel, Ketchikan)

Dec 1 - Dec 31 Preparation of reports and draft legislation

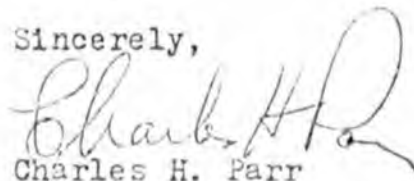
Senator George Hohman (June 28)

This schedule is no longer practicable. Abolition of the Legislative Research Division will require that obtain funding from the Legislative Council for the necessary research, and it is my understanding that mid-July will be the earliest possible date for such funding. This is a significant time-slippage.

The Governor's announced plan for a special session beginning Aug 6 further interferes with my plan of work. If the session drags on, or blows up and a second session is called (both of these are strong possibilities unless the Haul Road is funded year-round) the work of the Committee will be further delayed.

Although I will try to furnish the monthly reports requested in your memo, it is obvious that much cannot be expected until late fall.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Parr".

Charles H. Parr

OUTLINE OF ROCKY'S PROJECTS FOR INTERIM JUDICIARY COMMITTEE 1979

I. Corrections

A. The Master Plan

1. report on summaries by Moyer and Endell
2. existing organizational charts and with suggestions of the master plan
3. effects of master plan on Criminal Justice System
4. sub-committee on hush justice

Read

Draft for Charlie

B. Parole

1. Parole Board
2. effectiveness
3. criteria
4. recommendations of master plan

C. Probation

1. caseloads
2. effectiveness
3. criteria
4. recommendations of master plan

D. Classification

1. transfer of prisoners
2. out-of-state prisoners
3. recommendations of master plan
4. proposed changes by Div. Corrections

E. Facilities

1. committee tour
2. recommendations of master plan
3. current status and plans

F. Correctional & Probation Officers

1. recruitment
2. training
3. qualifications
4. salaries
5. minority distribution
6. affirmative action
7. recommendations of master plan

G. Prison Industry

1. public works projects
2. recommendations of master plan
3. current status

H. Alternatives to Imprisonment

- 1. current plans
- 2. recommendations of master plan

I. Correction Ombudsman

Leno Barrill

- 1. caseload
- 2. types of complaints
- 3. effectiveness

II. Questionnaire

A. General Public

- 1. compile responses in a report

B. Law Enforcement Officers

- 1. obtain mailing list
- 2. send questionnaire
- 3. compile results

*CJPA
Police Standards Council*

III. Juries

A. qualification

B. selection

C. payment

D. exceptions

- 1. current
- 2. proposed

IV. Judges

A. qualification

B. selection

C. report on Judicial Conference

*1) Rocky
2) Judges evaluation of Conference*

D. salaries

E. magistrates

- 1. geographic distribution
- 2. duties
- 3. qualifications
- 4. selection
- 5. salaries
- 6. "acting" magistrates

- F. National Center for State Courts
 - 1. elected judges
 - 2. appellate courts
- G. Commission on Judicial Qualification
 - 1. function
 - 2. authority
 - 3. membership
- H. Judicial Council
 - 1. purpose
 - 2. authority
 - 3. membership

V. Domestic Violence

- A. shelters
 - 1. geographic distribution
 - 2. frequency of use
 - 3. funding
 - 4. staff
 - 5. effectiveness
- B. penalties
 - 1. current law/ordinances
 - 2. proposed changes
- C. police
 - 1. policy
 - 2. use of shelters
 - 3. cooperation with district attorneys
 - 4. who?
- D. alcohol/drug related? *prosecution of D.V.*
 - 1. statistics
 - 2. shelter staff
- E. public awareness *(sensitivity training?)*
 - 1. office on drug abuse
 - 2. shelters
 - 3. women's groups

Federal Legislation

publications:

- need to obtain*
- "Working on Wife Abuse"*
 - "Programs Providing Services to Battered Women"*
 - "Services to Battered Women: Program Dev. in the U.S."*
 - have! -> "The Battered Women"*

VI. Small Claims Court

- A. current system
 - 1. court locations
 - 2. criteria
 - 3. procedure
- B. complications
 - 1. complaints
 - 2. time lag
 - 3. caseloads
- C. alternatives
 - 1. citizen dispute centers
 - 2. explore other areas

VII. Citizen Dispute Centers

- A. what, where they are
- B. how they work
- C. used for
 - 1. domestic violence
 - 2. landlord-tenant differences
 - 3. small claims
- D. Alaskan history
 - 1. Judicial Council
 - 2. Alaska Court System
 - 3. Criminal Justice Planning

*contact:
Ray Preston
Bruce Bortello*

VIII. Miscellaneous Documents

- A. Alaskan Village Justice: An Exploratory Study
- B. 1978 Alaska Court System Annual Report
- C. Plea Bargaining Ban Report
- D. Neighborhood Justice Center Program Models
- E. The New Justice: Alternatives to Conventional Criminal Adjudication
- F. Preliminary Draft Summary of the Master Plan
- G. Jury Procedure Manual

this list continues and should be included with the appropriate topics

Films?

TO PEGGY IN KETCHIKAN
FROM DEBI IN FAIRBANKS
FOR TERRY GARDINER
FROM CHARLIE PARR

IN ANSWER TO YOUR LETTER OF JUNE 18 ON RESEARCH PROJECTS IN LIMBO BECAUSE
LEGISLATIVE RESEARCH DIVISION WIPED OUT. JUDICIARY COMMITTEE HAS FIVE:

DOMESTIC VIOLENCE-

HOW WIDESPREAD IS DOMESTIC VIOLENCE IN ALASKA? ARE POLICE RESOURCES
SIGNIFICANTLY TIED UP BY IT? WHAT ARE THE MOST COMMON KINDS OF CASES? DO
POLICE HAVE LEGAL AUTHORITY AND TRAINING TO HANDLE INCIDENTS? IS THERE A
NEED FOR CHANGES IN STATUTES, FOR A SPECIALIZED AGENCY, OR FOR A PUBLIC INFOR-
MATION EFFORT?

CORRECTIONS-

HOW WELL IS THE CLASSIFICATION SYSTEM WORKING? IS THERE ANY INDICATION OF
RACIAL OR SEX DISCRIMINATION, TO INCLUDE INSTITUTIONAL? WHAT ARE THE
"SUCCESS RATIOS" OF PROBATION AND PAROLE SYSTEMS? SHOULD THEY BE EXPANDED?
WHAT ABOUT ALTERNATIVES - RESTITUTION AND WORK PLANS, FOR EXAMPLE?

ALASKA PUBLIC DEFENDER AGENCY

PROVIDE A BREAKDOWN OF BUDGET FOR ALASKA PUBLIC DEFENDER AGENCY; COST AVERAGES
PER CASE (COMPARE WITH COST OF PRIVATE ATTORNEY); OUTLINE OF STEPS REQUIRED
OF INDIGENT PERSON FOR LEGAL ASSISTANCE THROUGH PDA; LIST OF SERVICES AVAILABLE;
BREAKDOWN OF VERDICTS OBTAINED, PERCENT OF APPEALS, PERCENT OF SENTENCE APPEALS
PROCESS BREAKDOWN OF MAKING A COMPLAINT AGAINST PD, ALSC, DA -- WHETHER OMBUDS-
MAN HANDLES; OUTLINE OF FOLLOW-UP BY PD ON CONVICTED CLIENTS

PEGGY, IM AFRAID OF A RUN AWAY MESSAGE SO WILL CONTINUE IN A MOMENT.
DEBI
EOM

LA21 0050 13.09 LA21 0033 13.10 07/05/79

TO PEGGY IN KETCHIKAN
FROM DEBI IN FAIRBANKS
FOR TERRY GARDINER
CONTINUATION OF MESSAGE FROM CHARLIE PARR

JUVENILE CORRECTIONS SYSTEMS -

PROVIDE INFORMATION REGARDING OTHER STATES' INNOVATIVE CORRECTIONAL
INSTITUTIONS FOR JUVENILES AND THEIR ALTERNATIVES TO JUVENILE INCARCERATION.

STATE TROOPERS AND MUNICIPAL POLICE DEPARTMENTS-

PROVIDE A BREAKDOWN OF THE BUDGET FOR PERSONNEL AND EQUIPMENT FROM STATE,
FEDERAL, LOCAL, LEAA (NOTE LEAA REQUIREMENTS -- WHETHER IN COMPLIANCE)
SOURCES TO ALASKA STATE TROOPERS AND MUNICIPAL POLICE DEPARTMENTS IN
ANCHORAGE, NOME, AND JUNEAU. ALSO, STATE THE WEAPONS POLICY AND POLICE
ETHICS STANDARDS FOR STATE TROOPERS AND MUNICIPAL POLICE DEPARTMENTS
ABOVE.

SUGGEST CRIMINAL JUSTICE CENTER, UAA ANCHORAGE BE AGENCY TO CONDUCT. HAVE
HAD PRELIMINARY TALK WITH JOHN HAVELOCK BUT NO IDEA YET OF TIME AND COST.
CHARLIE PARR.

PEGGY,
PLEASE ACKNOWLEDGE THIS MESSAGE AS SOON AS YOU RECEIVE IT AS I HAVE HAD
TROUBLE WITH MY TERMINAL TODAY
THANKS
DEBI
EOM

Anch of Rocky 6/26/79

W.O. # 7290 ^{have}
Budget Troopers, Nome, Juneau.
need rest

WO # 7289 have state budget for Pub Def, steps required
need rest.

WO # 7288 have nothing yet

Domestic Violence

Corrections -

Classification

data { McLaughlin
Ridgeview

Racial discrimination

Domestic Violence:

1- How widespread is domestic violence in Alaska? Are police resources significantly tied up by it? What are the most common kinds of cases? Do police have legal authority and training to handle incidents? Is there a need for changes in statutes, for a specialized agency, or for a public information effort?

Corrections: How well is the classification system working? Is there any indication of racial or sex discrimination, to include institutional? What are the "success ratios" of probation and parole systems? Should they be expanded? What about alternatives - restitution and work plans, for example?

Terry Gardini

In answer to your letter ^{of June 18} ~~on~~ ~~budget~~ research projects in links because Reg. Research Div. wiped out. Judiciary Commission has five:

Suggest Criminal Justice Center, UAA Anchorage be agency to conduct. Have had preliminary talk with John Howlock but no idea yet of time and cost.

WORK ORDER REQUEST FORM

AP 7289

KEYWORDS: defenders, public
public finance

ASSIGNED TO Helton

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Alaska Public Defender Agency

REQUESTED FOR House Judiciary Committee BY Jeggy Berck EXT. 3710

* DELIVER TO Berck for House Interim Judiciary Committee TAKEN BY Helton

INSTRUCTIONS, EXPLANATIONS Provide a breakdown of budget for Alaska Public Defender Agency; cost average per case (compare with cost of private attorney); outline of steps required of indigent person for legal assistance through PDA; list of services available; breakdown of verdicts obtained, percent of appeals, percent of sentence appeals; process breakdown of making a complaint against PD, ALSC, DA -- whether Ombudsman handles; outline of follow-up by PD on convicted clients.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

TO REQUESTER

APPROVED: _____ Director, Legal Services

GKE Director, Research

REVIEWED _____

IN 6/4 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

WORK ORDER REQUEST FORM

N^o 7288

KEYWORDS: corrections
minors

ASSIGNED TO Nelton

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Juvenile Corrections Systems

REQUESTED FOR House Judiciary Committee BY Peggy Barck EXT. 3718

* DELIVER TO Barck for House Interim Judiciary Committee TAKEN BY Nelton

INSTRUCTIONS, EXPLANATIONS _____

Provide information regarding other states' innovative correctional institutions for juveniles and their alternatives to juvenile incarceration.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

Anyone

RETURN _____

TO REQUESTER

APPROVED: _____ Director, Legal Services

GTE Director, Research

REVIEWED _____

IN 0/0 DUE September

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

WORK ORDER REQUEST FORM

177 7290

KEYWORDS: law enforcement
public finance

ASSIGNED TO Helton

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT State Troopers and Municipal Police Departments

REQUESTED FOR House Judiciary Committee BY Peggy Barch EXT. 3718

* DELIVER TO Barch for House Interim Judiciary Committee TAKEN BY Helton

INSTRUCTIONS, EXPLANATIONS) Provide a breakdown of the budget for personnel and
equipment for state, federal, local, LEAA (note LEAA requirements -- whether
in compliance) sources to Alaska State Troopers and municipal police departments
in Anchorage, Nome, and Juneau. Also, state the weapons policy and police
ethics standards for state troopers and municipal police departments above.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

TO REQUESTER

APPROVED: _____ Director, Legal Services

GKE Director, Research

REVIEWED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

IN C/A DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

DRAFT

FINAL

8/7/79

Charlie,

This pertains to
the Bar Assn. Meeting.
Despite the fact that
I have not obtained
permission to Xerox, I
thought that you
would be interested in
Mr. Hancock's comments.

Peggy

TO: Charlie Parr, Chairman, and Members of the House Judiciary
Committee

FROM: Margaret W. Berck, Administrative Assistant

DATE: August 6, 1979

RE: A Six-Week Status Report on Interim Projects Assigned to Berck.

1. Law Enforcement; I have obtained the 1978 budgets for the following law enforcement agencies; Nome Police Department; Fairbanks Police Department; Anchorage Police Department, Juneau Police Department, and the Alaska State Troopers. Furthermore, I have completed a preliminary draft of an analysis of these budgets.

I have obtained a copy of the "use of force" and "use of deadly force" policies for the following law enforcement agencies: Anchorage Police Department, Juneau Police Department, and the Alaska State Troopers. Requests have been made to obtain these policies from the Nome Police Department and the Fairbanks Police Department. Furthermore, I have completed a preliminary draft of an analysis of these policies. This analysis relates these policies to the "Philip Moore Shooting" (I have obtained a copy of the recently released Department of Law's investigation of this matter.) and the statutory changes resulting from the new criminal code.

I intend to compile and report on the following additional issues: priorities; personnel and training; cooperation among the various law enforcement agencies; and compliance with LFAA requirements.

2. Legal Representation of Indigents: I have obtained a copy of the budget for the Public Defender's Office and have made a request for similar information from Alaska Legal Services Corporation. Additionally, I intend to request budgetary information from the court system pertaining to court appointed attorneys for both conflict situations and guardian ad litem.

I have obtained the following substantive information from the Public Defender's Office: caseload statistics; eligibility requirements/verification; mechanisms for complaints; and am awaiting similar information from Alaska Legal Services Corporation.

I have obtained a copy of the recently amended court rule which limits the attorney fees awards in criminal appointments. Furthermore I have obtained a copy of Judge Moody's Order effective for the Third Judicial District which establishes a mandatory list of all attorneys in that district to be available for such appointments. I am familiar with the Juneau Bar Association's position on this issue and am awaiting the state bar's position which will be determined at their September Board meeting.

3. Alaska Exemption Act: I have obtained a great deal of background information on this bill including; statutory references for current Alaska law on this subject; the Uniform Exemptions Act and comments thereto; a matrix comparing current Alaska law with the bill, Oregon law and Washington law; a lengthy sectional analysis of the bill done by Legislative Affairs; a sectional analysis of the bill done by Alaska Legal Services Corporation; and a memorandum on the Interrelationships of Income on Public Assistance Eligibility done by Legislative Affairs.

I have requested Legislative Affairs to provide a legal memorandum on the status of the newly revised Bankruptcy Act, a matter cited by the Commissioners on Uniform State Laws as necessitating a uniform exemptions law for the states.

I intend to write a condensed sectional analysis of the bill.

4. Integrated - Nonintegrated Bar Associations: I have obtained one memorandum on this issue from Legislative Affairs and have requested the following additional information from Legislative Affairs: a memorandum on the constitutionality of the legislature deintegrating the Alaska Bar Association and the statutory mechanisms utilized by nonintegrated states for handling discipline and admissions.

I have completed a report on the Annual Meeting of the Alaska Bar Association which covers this issue in part. I intend to obtain a copy of Legislative Audit's investigation of the Alaska Bar Association in conjunction with its sunset review of this organization when this is available. I also intend to determine from the court system

the amount and nature of state funding currently being provided to the court system. Finally I intend to review the Alaska Integrated Bar Act and the legislative history of this enactment, as well as the current grievance procedures, a matter of which I have already heard complaints about.

draft Fed Law

5. Product Liability: I have obtained a copy of the tentative draft to be introduced into Congress. Although the final draft was to be completed by the end of June, this will not be done until sometime after Labor Day. I have requested Legislative Affairs to provide a memorandum comparing the final draft with current Alaska law.

REGARDING

6. Juvenile Court/ Justice: I have read a great deal of national materials on this issue. As a result of this reading, I have requested certain statistical information from the Department of Health and Social Services number, location, and costs of juvenile placement. Along this line I have obtained a copy of a 1979 memorandum ^{probation services} prepared for Legislative Finance and am awaiting the October release of a performance audit being conducted by Legislative Audit. ^{placement with not probation} I am in the midst of reviewing Alaska law on this subject. After completing this review I intend to compile additional information via discussions with probation, law enforcement, McLaughlin, and court system personnel. Furthermore I intend to determine what number of juvenile delinquents are being diverted into the newly established Adventure Based Education Program. Finally I intend to determine what alternatives to incarceration are being implemented throughout the country, the results of these programs, and the feasibility of establishing similiar programs in Alaska.

7. Drugs:

Continue research on HB 479.

Review research done by LAA-covering other state laws.

Research the constitutionality of delegating authority to advisory committee.

Re-fine the amounts.

Enforcement-who does what-Coast Guard, State, Feds.

Law enforcement procedures.

Get studies being done by Sentencing Commission-Judicial Council;

Teriy White.

8. Crimes: (Misdemeanors and felonies)

Number of crimes in Alaska
Number of arrests
Number of convictions.
Types of sentences given.
How does the defendant get classified.
Minorities
Personal histories of several cases.
Effect of New Criminal Code
Length of cases
Segments of population involved-social-economic.
Cost average per case.

Review statistics compiled by Sharmon.
Contact Charlie Adams-Criminal Justice Planning.

9. Sentencing and Bail Practices: (Minorities)

Sentencing practices: oversight review of Judicial Sentencing Study-to be certain that the intent of HB 195, HB 196 is followed. Furthermore, determine what the court system is doing in this area. What is the effect of the new criminal code. What about SIS.

Bail practices: bail, bail bondsman, ROR, How are amounts set for specific crimes.

10. Court of Appeals: I intend to obtain the following: ABA report cited by Rabinowitz at Bar Meeting ^{AND} Finance Committee report on court system budget. I have completed a report on the Alaska Bar Association meeting which covers this issue in part. Furthermore I have requested Legislative Affairs to provide a legal memorandum on the difference, if any, between a legislative and a constitutional court.



CJ MONITOR

a review of criminal justice issues in the states

VOL. II, NO. IV

July, 1979

CRIMINAL RESTITUTION

Restitution is the payment by an offender to a victim for losses incurred as the result of a crime. Traditionally, losses to victims of crime have not been a function of the criminal court. In the past, victims had two alternatives to recover losses: to initiate a civil action; and to receive compensation through an insurance company. Recent legislation and new programs have encouraged the use of criminal restitution as a condition of sentencing or as an alternative sentence in criminal law.

Restitution is often confused with victim compensation. Victim compensation describes public compensation of crime victims rather than repayment by the offender. Approximately 25 states have passed legislation to establish such programs which generally make awards to victims of violent crime. To avoid double payment, most state legislation provides that any monies paid by the offender to the victim be recovered up to the amount paid out by the program.

Restitution can be made either through a monetary payment or direct services rendered from the offender to the victim. In some instances, the offender will make restitution by performing services to the community. The type and amount of restitution to be made depends on the principal goal to be achieved. Whether that goal is victim restoration, punishment, or offender rehabilitation, it is important that the intent of a law or program be clear. If the main goal to be achieved is offender rehabilitation, partial restitution to the victim may be satisfactory. If the primary purpose of restitution is to restore victim loss, full restitution may be more appropriate.

The success of restitution, either in forcing the offender to take responsibility for his or her actions or compensating the victim, depends on several factors. These include:

1. The offender's willingness to make restitution.
2. The offender's present financial situation.
3. The offender's ability to maintain employment.

It is important these factors be considered and that the amount of restitution ordered be reasonable. Inability to pay is not grounds for revocation and imprisonment.



National Conference
of State Legislatures
Earl S. Mackey/Executive Director

Criminal Justice Project
1405 Curtis Street, 23rd Floor
Denver, Colorado 80202
Phone: 303/623-6600

Critics of restitution often argue that imposing a financial condition as a term of probation, parole or suspended sentence may hinder rehabilitative efforts by discouraging the offender or "setting that person up for failure." Probation and parole officers often comment that pressure to collect restitution may interfere with the client-officer relationship and may disrupt other requirements of supervision. Victims of crime have the right to initiate a civil action to recover losses which should remain a function of the civil court.

Restitution statutes differ in application and approach among the states. Some states specifically provide that restitution be used as a term and condition of either probation or parole or both. Others provide restitution as an alternative sentence and a few have established restitution centers. A handful of states also have provisions for restitution in their juvenile codes. Among the states that have restitution laws are ARKANSAS, COLORADO, CONNECTICUT, OHIO, IDAHO, IOWA, NEW YORK, MISSISSIPPI, NEW MEXICO, NORTH CAROLINA, TENNESSEE, VIRGINIA and MAINE. Restitution is most commonly ordered for property loss and damage and certain medical expenses. Losses such as pain and suffering are normally not considered.

Although only a few state juvenile codes mention restitution, most allow the court to impose appropriate conditions upon disposition. A 1977 survey by the Institute of Policy Analysis in Eugene, Oregon, entitled, "Restitution Requirements for Juvenile Offenders: A Survey of the Practice in American Juvenile Courts," found that 86 percent of juvenile courts randomly sampled support the use of restitution.

NEW YORK provides that juveniles may be required to make monetary restitution up to \$1,000 as a condition of placement, probation or suspended sentence. The New York Family Court Act also allows juveniles to perform community service work. In CONNECTICUT, the court may order the juvenile to perform community service work or make restitution to the victim. In MISSISSIPPI, restitution is to be paid out of the child's assets through either direct services or monetary payments, or both, to the victim.

In NORTH CAROLINA, restitution may be made a condition of probation, work release or parole at the time of sentencing an adult. Restitution can include community service or other activities which aid the defendant's rehabilitation. When community service is ordered, the type of work done most often is related to either the crime committed or the skills of the offender. An appropriate community service order for an offender convicted of vehicular assault would be 10 hours of work in the emergency ward of a community hospital for a specified number of weeks.

Both NEW MEXICO and IOWA law provide that restitution may be used as a condition of probation. NEW MEXICO extends this condition to those persons on parole. In both states, the defendant must submit a restitution plan to the court. If the court modifies the amount of restitution owed, the court must submit a written statement indicating the reasons for the departure.

CONNECTICUT law provides that restitution specialists, upon order of the court, investigate and report on the victim's loss and the defendant's financial situation when imposing a sentence of probation or conditional discharge.

Restitution may be a condition of any sentence imposed in MAINE. The Court in making an order of restitution is mandated to consider the conduct of the victim, failure to report the crime within 72 hours without good cause, and the offender's ability to pay.

TENNESSEE passed legislation in 1976 to establish residential restitution centers inside or outside of the state prison. Only felony offenders whose sentence is five years or less are eligible. Offenders are allowed to work to reimburse victims for losses and are required to pay room and board. Restitution centers are similar to work release centers, but the main goal to be achieved is the payment of restitution.

In 1976, COLORADO passed legislation allowing restitution to be used as a condition of parole. As a result of the law, the LEAA funded the Colorado Crime Victims Restitution Program as one of the seven projects to study offender behavior, victim attitude and cost effectiveness. Colorado law also allows restitution to be used as a condition for probation.

The LEAA has funded several restitution programs which operate at different points in the criminal justice system and involve different target populations. For information on Adult Restitution Programs, contact:

Office of Criminal Justice Programs
LEAA
633 Indiana
Washington, D.C. 20531

NCSL ANNUAL MEETING

The NCSL Annual Meeting will be held July 23-27, 1979, at the San Francisco Hilton Hotel. NCSL is expecting the largest attendance to date at an NCSL Annual Meeting --- 3,000 delegates.

Two concurrent sessions on criminal justice issues will be held; a session on arson is scheduled on Wednesday, July 25, and a session on sentencing guidelines will be held on Thursday, July 26. General conference speakers include Senator Howard Baker, Governor Jerry Brown and Lou Harris.

LEAA REORGANIZATION: MATCHING FUNDS

Federal legislation to reorganize the LEAA (Justice System Improvement Act of 1979) has passed the U.S. Senate and should come up for consideration in the House this month. The new legislation will replace the Crime Control and Safe Streets Act which expires September 30, 1979.

The legislation provides that planning and administrative funds for State Planning Agencies (SPAs) be matched by the state on a 50/50 basis rather than 90/10 provided under the existing act. Under the new legislation, the majority of action funds will then be match-free. In preparing FY 80 budgets, a limited number of SPAs submitted budgets to their legislatures which reflected the matching ratios in the new legislation.

LEAA has since implemented a limited policy to waive the 90/10 requirement and allow those SPAs to escalate implementation of the new legislation by matching administrative and planning funds on a 50/50 basis. In order for the existing guidelines (90/10) to be waived, SPAs must present "clear evidence of prior legislative commitment" to LEAA by July 31, 1979. Legislators should be aware the LIAA is not encouraging SPAs to request matching funds on a 50/0 basis for FY 80. After the legislation is passed, all SPAs will be required to request funds on a 50/50 basis for FY 81 in order to meet the requirements of the new act.

"This project is supported by Grant Number 79-DF-AX-0038, awarded by the Law Enforcement Assistance Administration, United States Department of Justice. Points of view or opinions stated in this publication are those of the National Conference of State Legislatures and do not necessarily represent the official position of the United States Department of Justice."

NCSL Criminal Justice Project Staff: Lanny Proffer, Director; Mary Fairchild, Research Assistant; Alice Anneberg, Administrative Assistant. Subscription price for non-legislative subscribers is \$10 per year.

LA 11 0015 15.04 LA21 0015 15.04 06/28/79

TO TRUDY FBX
FR CHARITY ANCH

THE FOLLOWING IS FOR REP. PARR

PLEASE CALL HIM AT 456-5029 THANKS

QUESTIONS FOR THE GENERAL PUBLIC

1. WHAT DO YOU SEE AS THE MAJOR CRIME PROBLEM IN ALASKA?
 2. WHAT DO YOU SEE AS THE MAJOR CRIME PROBLEM IN YOUR COMMUNITY?
 3. DO YOU THINK ALASKAN LAWS ARE ADEQUATE?
 4. IF NOT, WHY, AND WHAT ALTERNATIVES DO YOU SUGGEST?
 5. IF YOU HAVE SERVED ON A JURY IN THE PAST 3 YEARS, WAS IT HANDLED FAIRLY?
 6. DO YOU THINK ANYONE SHOULD BE EXCUSED FROM JURY SERVICE? IF SO, WHO?
 7. HOW DO YOU PERCEIVE LAW ENFORCEMENT OFFICERS?
 8. DO YOU FEEL THE NUMBER OF LAW ENFORCEMENT OFFICERS IN ALASKA AND YOUR COMMUNITY IS ADEQUATE?
 9. IF NOT ADEQUATE, WHAT CHANGES DO YOU SUGGEST?
 10. DO YOU FEEL THE ALASKA COURT SYSTEM OFFERS FAIR, IMPARTIAL TREATMENT?
 11. SHOULD ALASKAN JUDGES BE ELECTED?
- (MORE TO FOLLOW EOM

LA 11 0016 15.17 LA21 0016 15.17 06/28/79

12. DO YOU THINK THE ALASKA PUBLIC DEFENDER AGENCY REPRESENTS ITS CLIENTS ADEQUATELY? DOES ALASKA LEGAL SERVICES? DO COURT APPOINTED LAWYERS?
13. SHOULD ALASKA ESTABLISH AN INTERMEDIATE COURT OF APPEALS?
14. WHAT DO YOU THINK OF THE QUALITY OF ALASKA'S PRIVATE LAWYERS?
15. DO YOU THINK NEIGHBORHOOD DISPUTE CENTERS ARE USEFUL ALTERNATIVES TO THE JUDICIAL SYSTEM?
16. DO YOU THINK WOMEN'S SHELTERS ARE USEFUL FOR BATTERED WOMEN?
17. IF NOT, WHAT ALTERNATIVES DO YOU SUGGEST?
18. WHAT DO YOU THINK OF THE JAIL SYSTEM IN ALASKA?
19. DO YOU PERSONALLY KNOW OF ANYONE INVOLVED IN A DOMESTIC DISTURBANCE?
20. ARE YOU AWARE OF ANY CULTURAL OR RACIAL BIASES IN THE CRIMINAL JUSTICE SYSTEM?
21. SHOULD JUVENILES BE PLACED IN JAIL?
22. IF NOT, WHAT ALTERNATIVES WOULD YOU SUGGEST?

END OF FIRST QUESTIONNAIRE

EOM
LA 11 0017 15.29 LA 21 0017 15.29 06/28/79

THIS IS SECOND QUESTIONNAIRE (PART ONE)

QUESTIONS FOR LAW ENFORCEMENT OFFICERS

1. WHAT DO YOU SEE AS THE MAJOR CRIME PROBLEM IN ALASKA?
 2. WHAT DO YOU SEE AS THE MAJOR CRIME PROBLEM IN YOUR AREA?
 3. DO YOU FEEL EXISTING LAWS ARE ADEQUATE TO HANDLE THIS PROBLEM?
 4. IS PROSECUTION OF CRIME EFFECTIVE?
 5. IF NOT, DO YOU HAVE POSSIBLE ALTERNATIVES?
 6. DO YOU FEEL THE ALASKA COURT SYSTEM OFFERS FAIR, IMPARTIAL TREATMENT?
 7. ARE YOU AWARE OF ANY CULTURAL OR RACIAL BIASES WITHIN THE LAW ENFORCEMENT SYSTEM?
 8. WOULD YOU BE WILLING TO PARTICIPATE IN CULTURAL OR RACIAL AWARENESS TRAINING?
 9. WHAT WOULD THE POSITIVE AND NEGATIVE EFFECTS OF AWARENESS TRAINING BE?
 10. DO YOU THINK IT IS IMPORTANT FOR CRIMINAL JUSTICE AGENCIES TO INCREASE THEIR AFFIRMAATIVE ACTION HIRING EFFORTS?
 11. HOW DO YOU PERCEIVE YOURSELF AS A LAW ENFORCEMENT OFFICER?
 12. HOW DO YOU THINK THE PUBLIC PERCEIVES LAW ENFORCEMENT OFFICERS AND DO YOU THINK THAT PERCEPTION IS JUSTIFIED?
- MORE TO FOLLOW EOM

LA 11 0018 15.40 LA 21 0018 15.41 06/28/79

13. DO YOU THINK THE ALASKA PUBLIC DEFENDER AGENCY GIVES ADEQUATE REPRESENTATION TO ITS CLIENTS? WHAT ABOUT COURT APPOINTED LAWYERS?
 14. WHAT DO YOU THINK OF SHELTERS FOR BATTERED WOMEN?
 15. DO YOU HAVE ANY OTHER SOLUTIONS TO AID BATTERED WOMEN?
 16. DO YOU THINK NEIGHBORHOOD DISPUTE CENTERS ARE USEFUL ALTERNATIVES TO THE JUDICIAL SYSTEM?
 17. SHOULD JUVENILES BE INSTITUTIONALIZED?
 18. IF NOT, WHAT ALTERNATIVES DO YOU SUGGEST?
- END OF QUESTIONS

CHARLIE, I AM STILL IN ANCHORAGE. WILL MEET WITH CITY POLICE TOMORROW TO GET PHILIP MOORE FOLLOW UP AND MAILING LIST FOR QUESTIONNAIRE. I AM ALSO GETTING STATEWIDE TELEPHONE BOOKS TOMORROW. PLEASE CALL THE LEG INFO OFFICE AT 2 P.M. FRIDAY CALL COLLECT 278_3668 OR 274_9518 I ~~will~~ *will be* here to discuss the questions. Bye. Rocky.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

June 13, 1979

Charlie Parr
S.R. Box 50599
Fairbanks, Alaska 9907701

Dear Charlie:

As Rocky and I returned from Sitka yesterday after attending the Bar Association Meetings and the Judicial Conference and I will be leaving tomorrow to visit my mother in Florida, I wanted to briefly let you know the status of the interim projects assigned to me.

Prior to leaving for Sitka, I did quickly outline the various issues contained in each of my projects. These various issues ~~XXXXXXXXXX~~ were obtained ^{from} by the remarks submitted by the committee members, conversations with you and a few of my own ideas. I enclose that outline for your comments. After compiling this outline, I discussed the various items with Legislative Research staff and we agreed as to what items they would handle and what I would handle on my own. Shortly thereafter, Legislative council determined to de-fund that research arm and that decision was later confirmed in Sitka yesterday. At the Legislative Council meeting in Sitka it was stated by Sen. Hohman that those research projects that the Research arm was in the midst of doing would be taken care of. I don't know if the projects that I assigned Research were on his list or if in fact ~~the status will be going to found true~~ ^{that will be gone}. I have heard no word from Research as to the re-assignment of my projects or what they were able to complete before their termination. I will try to determine that information today.

My status report is as follows:

1. I plan to write 4 reports on the meetings in Sitka. This work will be completed while I am in Florida.
2. Law Enforcement-I was unable to speak with the head of training in Sitka while I was there as he was out of town. Legislative Research indicated that they had the budget and just had to type it up ~~for~~ in a report form. I have not heard from them on this point.
3. Free Attorneys-I have received some materials from ALSC, and have requested more information. This ~~is~~ ^{we} expect to have in the office upon my return. Legislative Research ~~were~~ ^{was} to compile the PD stuff, but I don't know ~~what~~ ^{if} they were able to do ~~it~~ ^{anything}.
4. Alaska Exemption Act-I had obtained all the commentary while the session was on, and intend to do a sectional analysis while I am in Florida.

P2994

5. Integrated Bar vs. Non-integrated Bar. I have a report which was done during the session by research-legal. I was able to gather additional information and comments at the Bar Meeting and those will be included in my report on the Bar Meeting. Leg. Research was to write those 20 some states that have non-integrated bars to determine the methods by which discipline and admissions are handled as the first report lacked ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ any details. Because of their situation they said that they were going to write the letters and request that the information be sent directly to me. I don't know if they did this.

P2994

6. Product Liability. I got a copy of the proposed legislation and sent off to DC for additional information. A new version is contemplated to be published in June in the Federal reister. I intend to review this (as well as the Alaska case law in the area-there were three major opinions this past year form the AK. Supreme court) while I am in Florida. I expect that the draft I do in Florida will require additional supplements upon my return for I intend to solicit comments from those Alaskan attorneys who are in involved in this area. I was able to identify one such attorney at the Bar Meeting.

7. Drugs. I hope to research the consitutionality of the delegation issue while in Florida and also review the ~~xxxxx~~ 4 binders of materials that Research was able to compile for me prior to their termination. I also plan to complete the over-view of HB 479 which is in rough presently.

8. Juvenile Court-I have just recently obtained a "cost of keeping in insitution" study done by finance and Health and Social services last year. These materials will be reviewed while I am in Florida. I have also found out that Legislative Audit is presently doing a performance audit on the juvenile sytem. I hope to get in touch with them about that upon my return to the state.

9. Crimes. I have the statistics done by research while the session was on and will review these in Florida. I have other materials which I obatined during the judicial conference to incorporate.

P2994

10. Sentencing. The judicial conference provided some information and materials useful for this report. I hope to get the Judiciary's sub-committee's report on sentencing and drug offense upon my return to the state. Furthermore at the conference I found out that the Human Right Commssion's , Mr. Kemp, is studing pre-sentencing reports. I hope to get that as well upon my return.

My vacation plans are to leave tomorrow and to return to Juneau on July 11. I had made these plans prior to the decision about Research. I feel ~~xxxxxx~~ guilty about leaving, but am hesitant to change my plans because I got a money saving deal on the advance ticketing procedure. For that reason I am planing on doing as much as possible while I am home. If I believe that our project will suffer, I will return earlier than planned and just pay the extra. Some of that will depend upon how quickly I am able to get through with the work I am taking.

My address in Florida is: P.O. Box 182, Gulf Breeze, Florida 32561. My phone is 904-932-2870.

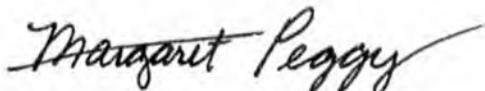
I hope that you can read this letter. Please excuse the errors, but I don't ~~want~~ want to waste the time to re-type it.

Upon my return to Juneau I plan to hire a typist to type the work I plan to do in Florida. I will send these to you for your comments.

One thing you should note. Someone at the Judicial Conference asked me if you were going to be ~~involved~~ involved in the selection of certain members on the sentencing commission established by HB 195 and 196. I believe that three members of the commission were to be selected by the Legislature.

I trust that you and Karen are having a nice summer.

Sincerely yours,

A handwritten signature in cursive script that reads "Margaret Peggy".

Margaret W. Berck

Interim House Judiciary Committee Projects Assigned to Berck.

1. Law Enforcement.

Priorities, how set and by whom, rationale.

How is the defendant's charge determined.

Cooperation with-local police, FBI, Federal marshalls,
probation officers.

Recruitment and Training-curriculum, qualifications, minorities.

Budget-state, Federal, local, LEAA (note LEAA requirements-
whether in compliance.) Break out in budget-personnel/
equipment.

Weapons policiy and other Police ethics.

Send questionnaire to police officers.

2. Free Attorneys.

workload, verification of indigency, are indigent clients getting
fair representation. Questions should be directed to: ALSC, PD,
Court Appointed Attorneys, Federal Appointments. Query does the
Court system ever seek reimbursement for certain appointments, ie
attorneys for children.

How much time is spent by atty. with client before and during
trial. Follow up during imprisonment. Judges recc.

Cost average per case-for PD and Private atty. Results of PD
versus private attorney.

Public Defender Concept: does it result in equal justice? Can costs
be controlled? Are qualifications for indigency realistic?

How are complaints against PD, ALSC, DA handled. Ombudsman?

Verdicts obtained, % of appeals, % of sentence appeals.

Case law.

3. Alaska Exemption Act.

Do a sectional analysis of HB 56 for the Committee.

4. Integrated versus Non-intergrated ^{ba} Associations.

See report prepared by Dick Bradley, LAA.

The following states have non-integrated bar associations:
Arkansas; Colorado; Connecticut; Delaware; Hawaii; Illinois;
Indiana; Iowa; Kansas; Vermont; Maine; Maryland; Massachusetts;
Michigan; Minnesota; New Jersey; New York; Ohio; Pennsylvania;
and Tennessee. Need to check local laws in these states to
determine the methods by which admissions and discipline are
handled.

What is the Alaska history on this issue. Dick says that in the old
days discipline was handled by the judiciary and AG controlled
admissions. This was prior to the integrated bar association in AK.

Note: Letter from Kull indicates that AK Bar is to a degree
subsidized for admission and disciplinary actions. Dick indicates
that money is obtained from the court system for disciplinary
activities. How much is this?

Peggy

Peggy

5. Product Liability.
Charlie received a questionnaire re: to a bill in Congress or a new uniform act. I can't find this correspondence.

Review the status of AK Law. Review other states and possibility of the uniform act.

6. Drugs.
Continue research on HB 479.
Review research done by LAA-covering other state laws.
Research the constitutionality of delegating authority to advisory committee.

Re-fine the amounts.

Enforcement-who does what-Coast Guard, State, Feds.

Law enforcement procedures.

Get studies being done by Sentencing Commission-Judicial Council; Terry White.

7. Juvenile Court.
McLaughlin Youth Center.
Number of Children sent outside the state.
Effects of the new criminal code.
Local facilities in Alaskan communities.
Probation services.
Alternatives to incarceration.
Appointment of Counsel.
Costs-does court seek reimbursement.
Minorities.

8. Crimes. (Misdemeanors and felonies)

Number of crimes in Alaska

Number of arrests

Number of convictions.

Types of sentences given.

How does the defendant get classified.

Minorities

Personal histories of several cases.

Effect of New Criminal Code

Length of cases

Segments of population involved-social-economic.

Cost average per case.

Review statistics compiled by Sharmon.

Contact Charlie Adams-Criminal Justice Planning.

8. Sentencing, Probation, Bail.

Sentencing practices: parole, probation, SIS, bail,
bail bondsman, ROR.

Effect of new criminal code.

Is parole system functioning effectively as a re-entry program?
Minorities.

How is bail set for specific crimes.

Parole Board- criteria for releasing inmate for parole;
quality and quantity of decisions.

Oversight review of Judicial Sentencing Study-to be certain that
legislative intent of HB 195, HB 196 is followed (Did those
pass?)

June 28, 1979

Senator George Hohman, Chairman
Alaska Legislative Council
Pouch V
Juneau, Alaska 99811

Dear Senator Hohman:

I am sorry for the delay in replying to your request for a work sheet (your undated memo of early June). In keeping with the House Leadership decision to fund interim committees on an austerity basis Committee staff was funded only for six months and Committee action planned only for the period Sep 1 - Dec 31.

The Committee is casting its net widely, investigating matters in the law enforcement, courts, and corrections areas. (Chairmen of the State Affairs and Health, Education and Social Services committees have concurred as far as their jurisdictions are affected.) It is the Committee's intent to secure the widest possible input from the general public, as past experience indicates that testimony in Juneau is too often confined to that from executive branch agencies, court system administrators, and attorneys.

General topics of investigation are:

Law enforcement: priorities; agency budgets, personnel and training, weapons use policies; domestic violence; crime, arrest, conviction, and sentence data; drugs.

Courts: selection and compensation of judges, selection and use of jurors, representation of indigent defendants, need for a court of appeals, integrated bar.

Corrections: alternatives to incarceration, facilities, handling of juveniles, effectiveness of probation and parole.

I had planned the following overall schedule:

July 1 - Aug 31 Research

Sep 1 - Dec 1 Committee meetings and hearings (Anchorage, Fairbanks, Nome, Bethel, Ketchikan)

Dec 1 - Dec 31 Preparation of reports and draft legislation

Senator George Hohman (June 28)

This schedule is no longer practicable. Abolition of the Legislative Research Division will require that obtain funding from the Legislative Council for the necessary research, and it is my understanding that mid-July will be the earliest possible date for such funding. This is a significant time-slippage.

The Governor's announced plan for a special session beginning Aug 5 further interferes with my plan of work. If the session drags on, or blows up and a second session is called (both of these are strong possibilities unless the Haul Road is funded year-round) the work of the Committee will be further delayed.

Although I will try to furnish the monthly reports requested in your memo, it is obvious that much cannot be expected until late fall.

Sincerely,

Charles H. Parr

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE COUNCIL

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

To: LEGISLATIVE INTERIM COMMITTEES
From: GEORGE HOHMAN *G.H.*
Re: REQUEST FOR INFORMATION

The Legislative Council is preparing a series of information packets on issues confronting Alaskans.

The packets will be available to legislators and other interested parties and will provide material for a presentation on the issue selected.

These packets will be the first elements in the Council's program to develop a bank of information that will be available to inform Alaskans on key issues confronting them and requiring resolution through appropriate action.

To assist the Council in preparing these packets, I am requesting that each interim committee complete the attached WORK SHEETS by JUNE 15, 1979 and forward them, along with any appropriate back-up materials, to:

Senator George Hohman, Chairman
Alaska Legislative Council
Pouch V
Juneau, Alaska 99811

Having reviewed proposed interim committee action, I anticipate that committee work will facilitate and expedite workings of the 1980 legislative session.

I expect that proposed legislation will result from the work of most interim committees. In order to insure maximum benefit from committee work I am requesting the following information:

- A. Written MONTHLY progress reports on committee work.
- B. Progress report presentation to the Legislative Council at the ~~SEPTEMBER~~ SEPTEMBER 1979 Council meeting.
- C. Presentation of proposed legislation to the Legislative Council at the ~~DECEMBER~~ DECEMBER 1979 Council meeting.

Written material should be submitted to:

Senator George Hohman, Chairman
Alaska Legislative Council
Pouch V
Juneau, Alaska 99811

If you have any questions, please contact me at

465-3880 or
465-4849

Thank you for your help.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE COUNCIL

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

WORK SHEET

SUBJECT OF COMMITTEE'S WORK:

HISTORICAL PERSPECTIVE: (Please outline the historical development of the issue being addressed by the committee. Include an inventory of any other efforts to address the issue you are studying.)

CURRENT STATUS: (Please outline the current status of the issue/problem being addressed by the committee. Include an inventory of all governmental and private involvement in the issue at this point.)

OTHER PERSPECTIVES: (Please include an inventory of efforts by governmental, private or other entities to address the general issue/problem being considered by the committee.)

DIRECTIONS: (Please outline any appropriate recommendations for action on the issue being addressed.)

Please include complete information, including appropriate back-up material, on all areas listed on the WORK SHEET. I am attaching an (Example) WORK SHEET as a general outline of what I am asking for.

Thank you for your cooperation.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

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 1:30

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

Peggy,

Here are my topics for the report to Legislative Council:

✓ Domestic Violence - will report on Conference - HB 392 is it the answer?

Corrections

- classification
- facilities
- monitoring the Master Plan
- educational funding
- Committee tours of institutions

✓ Citizen Dispute Centers

Judges

- Commission on Judicial Qualifications - complaints
- Travel of the Supreme Court
- Judicial Conference in Sitka
- Will attend Justice Innovations Conference

✓ Parole Board

- sunset
- discrimination
- criteria: violations, parole granted, denied, or revoked

Questionnaires

- general public
- Alaska Peace Officers
- getting good responses

Sunset review of Human Rights Commission(haven't done anything)

Public Hearings in Eagle River, Anchorage, Bethel, Fairbanks, Nome, and Ketchikan



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

May 5, 1979

Charlie:

Attached is a tentative schedule of interim activities up to the time the Committee starts fall hearings.

Peggy and I have broken up the subject responsibilities as follows:

Peggy

- X Law Enforcement ✓
- Sentencing/Probation/Bail ✓
- Crimes ✓
- Juvenile Court ✓
- Drugs ✓
- X Free Attorneys ✓
- X Integrated Bar ✓
- X Product Liability ✓
- X Alaska Exemption Act (HB56) ✓
- Court of Appeals*

Rocky

- Judges
- Jury System
- Citizen Dispute Center/Small Claims
- Domestic Violence
- Corrections
- Committee Coordination, etc.

This work division is flexible and Peggy and I expect to help each other.

My Juneau mailing address is Box 578, Douglas, Alaska 99824 and my phone number is 586-6938, or leave a message at my folks place, 364-3177.

Peggy will use Pouch V, Juneau, Alaska 99811 as her mailing address and the phones in this office will be left connected. Those numbers are 465-3882 and 465-3718.

June 13 somewhat
appearing

Interim House Judiciary Committee Projects Assigned to Berck.

1. Law Enforcement.

- * Priorities, how set and by whom, rationale.
- * How is the defendant's charge determined.
- Cooperation with-local police, FBI, Federal marshalls, probation officers.
- Recruitment and Training-curriculum, qualifications, minorities.
- Budget-state, Federal, local, LEAA (note LEAA requirements-whether in compliance.) Break out in budget-personnel/equipment.
- Weapons policy and other Police ethics.
- Send questionnaire to police officers.

FY78 full yr.
Arizona
NONE
JANUARY

Police standards pg. 7 ARE EMPLOYEES
BPDE - Police ASSN.

2. Free Attorneys. * 6/4/79 - sent off to ALSC for info.

- workload, verification of indigency, are indigent clients getting fair representation. Questions should be directed to: ALSC, PD, Court Appointed Attorneys, Federal Appointments. Query does the Court system ever seek reimbursement for certain appointments, ie attorneys for children.
- How much time is spent by atty. with client before and during trial. Follow up during imprisonment. Judges recc.
- Cost average per case-for PD and Private atty. Results of PD versus private attorney.
- Public Defender Concept: does it result in equal justice? Can costs be controlled? Are qualifications for indigency realistic?
- How are complaints against PD, ALSC, DA handled. Ombudsman?
- Verdicts obtained, % of appeals, % of sentence appeals.
- Case law.

PD - Budget -
Verification
Employment
ALSC

3. Alaska Exemption Act.

FIA. - Do a sectional analysis of HB 56 for the Committee.

4. Integrated versus Non-integrated Bar Associations.

See report prepared by Dick Bradley, LAA.

The following states have non-integrated bar associations: Arkansas; Colorado; Connecticut; Delaware; Hawaii; Illinois; Indiana; Iowa; Kansas; Vermont; Maine; Maryland; Massachusetts; Michigan; Minnesota; New Jersey; New York; Ohio; Pennsylvania; and Tennessee. Need to check local laws in these states to determine the methods by which admissions and discipline are handled.

Send *
letters
before I
leave.

What is the Alaska history on this issue. Dick says that in the old days discipline was handled by the judiciary and AG controlled admissions. This was prior to the integrated bar association in AK.

Note: Letter from Kull indicates that AK Bar is to a degree subsidized for admission and disciplinary actions. Dick indicates that money is obtained from the court system for disciplinary activities. How much is this?

Request legal opinion re: whether legislature has authority under AK. Const. to de-integrate;

* FIA. → NEED TO GET AK LAW ON SUBJECT

5. Product Liability,
Charlie received a questionnaire re: to a bill in Congress or a new uniform act. I can't find this correspondence.

Review the status of AK Law. Review other states and possibility of the uniform act.
found act in Fed reg + sent off to N.C.S.L. for additional materials. 6/14/79.

6. Drugs.
Continue research on HB 479.
FIA. → Review research done by LAA-covering other state laws.
FIA. → Research the constitutionality of delegating authority to advisory committee.
Re-fine the amounts.
Enforcement-who does what-Coast Guard, State, Feds.
Law enforcement procedures,
Get studies being done by Sentencing Commission-Judicial Council; Terry White.

7. Juvenile Court,
McLaughlin Youth Center,
Number of Children sent outside the state.
Effects of the new criminal code,
Local facilities in Alaskan communities,
Probation services,
Alternatives to incarceration.
Appointment of Counsel,
Costs-does court seek reimbursement,
Minorities.

Corrections + Div. of Social Services Kids under

will tomorrow * need to get
Leg. Audit - Jerry Wilkerson
mdrpt - performance Audit
Wednesday
Bob Schoeder - Leg Finance
Costs of Kids in Institutions.
Walt Jones - div. of CORRECTIONS
Adventures in Education
CRA - Bill out this session

8. Crimes. (Misdemeanors and felonies)

Number of crimes in Alaska
Number of arrests
Number of convictions.
Types of sentences given.
How does the defendant get classified,
Minorities - Sharmon - minority committee
Personal histories of several cases,
Effect of New Criminal Code
Length of cases
Segments of population involved-social-economic,
Cost average per case.

Review statistics compiled by Sharmon.
Contact Charlie Adams-Criminal Justice Planning.

Before leave - Review Sharmon's Report

Ward Statter
Figures given to sample corrections
SB. 12
Mar. 4/7 3980
obtained

9. Sentencing, Probation, Bail.

Sentencing practices: parole, probation, SIS, bail, bail bondsman, ROR.

Effect of new criminal code.

Is parole system functioning effectively as a re-entry program? Minorities.

How is bail set for specific crimes.

Parole Board- criteria for releasing inmate for parole; quality and quantity of decisions.

Oversight review of Judicial Sentencing Study-to be certain that legislative intent of HB 195, HB 196 is followed (Did those pass?)

10. Court of Appeals



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMORANDUM

TO: Charlie Parr
FROM: Rocky Plotnick
DATE: September 17, 1979

Over the weekend I read the report, Women Offenders in the Alaska Criminal Justice System. It is easily read so I have enclosed a copy for you. Also, I found an article on F.O.I. and am sending that. Happy reading.

In case you don't have any, I have enclosed a per diem claim sheet. Terry Martin came by the office this morning to fill out his and I am sending the other members that participated theirs.

Do you want me to send any of the packets I prepared to members or should I hang on to them? In the meantime I am going to write up what I already have (that wasn't done last week) and concentrate on the Committee's interests. From my notes I made this tentative

- list:
- 1) domestic violence - concentrate on HB 392 - what does it do? - is there a need for change in the law? - (Does this mean I shouldn't go to the conference on domestic violence in Seattle?)
 - 2) citizen dispute centers - send for information in San Francisco - success rates - does the court system need legislation to establish?

- 3) corrections - write up summary of Master Plan - how are prisoners currently classified, including outside the state - is there a breakdown on the classification of minorities? - who or how are the locations of correction facilities determined? - is there a category for race in job applications for corrections? - what about the funds for education at Ridgeview/Eagle River?
- 4) judges - get the travel time for Supreme Court Judges in the past year (fiscal or calendar) - how much was spent on travel and where did they go? - confirm the number of complaints the Judicial Qualifications Committee receives and the action taken - how are they planning to "advertise" or let the public know they exist?
- 5) parole board - find out exactly what technical violations are with specific examples - are there any statistics on minorities in terms of paroles granted, denied, or revoked? - how does the board determine character witnesses? - what specific factors are taken into account to determine granting of parole? - what is "good time" and how does it play a part in parole? - get some past board members to testify at invitational hearing - follow-up on Nel's question about parole being granted before 1/3 of the sentence - obtain copies of audit's report and mail to members

A N N O U N C E M E N T

The House Judiciary Committee is holding a series of public hearings and you are invited to testify.

The Committee is particularly interested in your comments on the Criminal Justice System in Alaska. If you have had contact with law enforcement officers, the court system or correctional facilities, the Committee is interested in hearing about your experience.

Furthermore, the Committee is interested in Discrimination, Domestic Violence, Lawyers, as well as, specific Bills: SB 104, the Court of Appeals; HB 392, Domestic Violence; HB 252, Selection of Jurors; HB 479, Drug Law; and HB 56, Rights of Debtors and Creditors.

House Judiciary Committee Members

Charlie Parr, Chairman
Nels Anderson, Vice-Chairman
Ramona Barnes
Fred Brown
Thelma Buchholdt
Hugh Malone
Terry Martin
Pat O'Connell
Randy Phillips

Interim Project

I. Court System

statistics: most of info. now relates to appellate time frames
need info on trial court time frames

*Court System
Judicial Council
Center for Criminal Justice (Bonnie Boedeker
John Havelok)
Public Defender*

II. Law Enforcement

no. of crimes; no. of arrests. try to determine trends, ie
increases in murders, decreases in armed robberies, etc.

Look back for last 4 or 5 yrs.

*CS PD (Roger Reeves)
Public Safety
Dept. of Law
City Police Depart.*

III. Corrections

info on parole and probations; violations.

*H#35
Public Safety*

Info needed to present to committee at first Sept. meeting
Need to get with Rocky to decide what can be done in Juneau
and what should be handled in Anchorage.

cc. to Rocky



Alaska State Legislature
House of Representatives

Berch

April 2, 1979

To Rep. Charlie Parr
From Rep. Thelma Buchholdt *Thelma*
Subject Judiciary Committee Interim Activity

Yes, I'd like to participate in the interim work of the House Judiciary Committee.

I'll be available to attend hearings in and out of the state, except during the following:

June 16-30; July 1-13; August 20-26; September 16-30;

October 1-6; November 21-24; December 22-31.

Specific topics that I want considered include the following:

POLICE: Ethics, Recruitment, Training, Organization, Funding Source.

Because of the importance of public confidence in our policemen/state troopers, we must be sensitive to how the general public views our police. Working with respected policemen from all parts of Alaska, the Committee should review police behavior, recruitment policy, training programs and staffing, working relations of local and state officers, budgetary needs and sources.

Additionally, the Committee should become familiar with law enforcement priorities, and how such priorities get set.

PRISON: Public policy in Alaska has historically opposed the construction of a maximum security prison, and prison classification staff has awesome power to transfer men and women to outside facilities. Is this power being used wisely? Because of the importance of public confidence in fair and just punishment, the Committee should discuss prisoner classification with respected correctional officials with a view of recommending appropriate legislative action.

The Committee should also research ways at expanding reliable alternatives to institutionalizing convicted felons, including penitential employment on public works projects.

PAROLE: Parole is the most commonly-used alternative to jail, and our parole system should be reviewed by the Committee to see if it is functioning effectively as a re-entry program.

EQUAL JUSTICE: We know from recent judicial studies that certain groups of people wind up in jail faster than others. The Committee should strive to determine the degree to which justice now obtains in law enforcement, in the courts, and in the correctional institutions.

There is that hope in the New Criminal Code which may help to correct previous inequities in the system. But the Committee should maintain that there is plenty of work yet to be done to straighten out the problems spelled out in the sentencing studies.

GROUPS TO BE NOTIFIED OF HEARINGS:

Commission on the Status of Women
 League of Women Voters
 Alaska Legal Services
 N.A.A.C.P.
 Alaska Black Caucus
 All Alaska Native organizations
 PTA groups
 AkPIRG
 Other minority group organizations
 In District 9 for hearings in Anchorage:
 Spenard Community Council (Myron Igtanloc)
 Turnagain Community Council (Wilda Marston)

Note: I'm particularly interested in working on the topics listed on the first page, as what happens between the arresting officer and the suspect, I believe, may determine the trend that follows thereafter to the defendant, the inmate, the parolee.

Needless to say, public confidence with the correctional/judicial system has to be maintained, perhaps restored.

Here's to hard labor during the interim!

Judiciary Committee Interim Activity

Questions Need Answers

- Police Ethics:** Are Alaskan police behaving as they should?
Hear and review complaints about police behavior and administration.
- Police Training:** Review of training programs and opportunities.
What can be learned of police attitudes from training curricula and training staff?
- Police Organization:** Relationships between local police and state troopers; probation officers; federal marshalls and other law enforcement officers (FBI, etc.)
Communication systems; cooperation between agencies.
- Police Funding Sources:** Personnel; equipment; state and federal budget; (LEAA, Peace Officers groups, etc.)
- Law enforcement priorities:** How crimes get classified (when does it suit the victim, the offender?);
How are police handling narcotic-related crimes (alcohol-related crimes) in order of priorities?
- Public Defender Agency:** How much time is spent by a Public Defender with his client during pre-trial, during trial, etc.
- Judges:** qualifications; selection; early retirement incentives(?);
Constitutional changes on salary schedule; etc.
- Bails:** how set are they for specific crime; bail bonding agencies;
- Parole Board:** criteria in releasing an inmate for parole;
quality of decisions made by the board.
- Jury:** how much influence on punishment for crime committed;
selection, certain groups of people seem to be serving more often than others (except those excused due to professional constraints).
- General Public:** What is the public perception of certain crimes and appropriate punishment; priorities in law enforcement.

The Role of the Judicial Council

Membership:

Seven members: three attorney members appointed by governing body of the organized state bar and three nonattorney members appointed by the governor. The latter are subject to confirmation by a majority of the members of the legislature in joint session. /1

Appointed for six years. /1

Chief justice of the supreme court is ex officio the seventh member and chairman. /1

Duties:

Conducts studies for improvement of the administration of justice and makes reports and recommendations to the supreme court and to the legislature at intervals of not more than two years. /2

Nominates two or more persons for a vacancy in an office of supreme court justice or superior court judge, district court judge, and public defender. /3

Performs other duties assigned by law. /4

Conducts evaluations of justices and judges for each retention election and provides information and recommendations to the public or the justices and judges before the retention election. /5

-
- /1 Sec. 8, art. IV, Constitution of the State of Alaska
/2 Sec. 9, art. IV, " "
/3 Sec. 5, art. IV, Constitution of the State of Alaska
and AS 22.05.080, 22.10.100, 22.15.170 and 18.85.030.
/4 Sec. 9, art. IV, Constitution of the State of Alaska
/5 AS 22.05.100, 22.10.150, 22.15.195

ALASKA JUDICIAL COUNCIL

Michael Rubenstein
Executive Director

Chief Justice Rabinowitz
Chairman Ex Officio

Lay Members:

Kenneth Brady

John Longworth

Robert Moss

Law Members:

Marcus Clapp

Michael Holmes

Joseph Young

PATRICK M. O'CONNELL
REPRESENTATIVE
DISTRICT 13



ROUTE 2, BOX 743
SOLECTNA, ALASKA 99669
(907) 262-4216

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

House of Representatives

28 March 1979

Rep. Charlie Parr, Chairman
House Judiciary Committee
Pouch V State Capitol
Juneau, Alaska 99811

Mr. Parr:

In response to your memo relating to interim work for the
Judiciary Committee, I offer the following:

1. Yes -- I am interested in participating.
2. The months of July and August would be best for me; the
months of September through December would be
difficult as I expect to be teaching at Kenai
Central High School first semester next fall.
3. Some areas of concern which I would like to see investigated:
 - a. Public Defender concept:
 - (1.) Does it result in equal justice?
 - (2.) Can costs be controlled?
 - (3.) Are qualifications for indigency realistic?
 - b. Salary & Compensation of Judges
This may not be proper subject for interim
review by the committee; however, I feel the
many comments received in testimony this
session suggest need for review in this area.
 - c. In addition to the above, I suggest a committee
tour of state correctional facilities, including
but not necessarily limited to state jail
facilities in Anchorage & Palmer, API, and
the home for mentally ill.

*our
facilities*

Very respectfully,

Patrick M. O'Connell
Patrick M. O'Connell
Representative

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8



3960 REKA DRIVE - B6
ANCHORAGE, AK 99504
PHONE (907) 333-2432

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-4943

March 29, 1979

MEMORANDUM

TO: Judiciary Chairman- Representative Charlie Parr
FROM: Representative Terry Martin
SUBJECT: Judiciary Interim Committee Activity

1. I think it is most apropos that the judiciary committee devote time during the interim to do indepth study, and review, observation, and investigation of many aspects of the judiciary system, law enforcement agencies and correction or rehabilitation facilities.
2. I would do my best to attend all meetings because something of this nature is greatly needed in Alaska. Just the fact that the system is receiving an indepth overview will greatly alleviate the anxieties, frustrations and misunderstandings that the public has of the system.
3.
 - a) Does the public want an elected attorney general or justices?
 - b) Does the Supreme Court need to be under one roof?
 - c) Would conferences with the police on the beat at different locations be helpful?
 - d) Would the public accept seven Supreme Court Justices with the division of responsibilities by criminal (4) and civil (3) cases?
 - e) Is the probation system sound and effective?
 - f) Should a judiciary committee attend the criminal code education sessions in Sitka or Anchorage for the twelve hour course?
 - g) Regarding the juvenile justice system- would a talk and hearing at the McLaughlin Youth Center be beneficial?
 - h) Would it be profitable for the Urban area minority justice problems to hold meetings in the Mountain View Community Center?
 - i) What about an indepth statistical analysis of crime, length of

Page Two
Representative Charlie Parr
March 29, 1979

cases, types of crime, segments of the population involved,
by percentage, economic levels, cost average per case, and
cost and results of private attorney versus public defenders?

4. Groups to contact (in addition to Phillips-Anderson reports):

Parents- natural or foster
School Personnel
Campus Life- Anchorage
Concerned People for Better Education- (ALERT)
Mountain View Community Center

cc: Judiciary Committee Members

TM/sb

S T A R

Standing Together Against Rape

P.O. Box 3356

Anchorage, Alaska 99510

(907) 277-2467

March 29, 1979

Mr. Michael Rubenstein
Alaska Judicial Council
303 K Street
Anchorage, AK 99501

Dear Mr. Rubenstein:

It has recently come to my attention that the Alaska Judicial Council may have an interest in researching how rape is investigated and prosecuted in Alaska. As this is an interest strongly shared by S.T.A.R., I urge you to devote the considerable expertise of the Judicial Council to this research.

Two issues are primary: the "unfounded" rate of rape cases, and screening practices by the District Attorney.

Law enforcement determines that approximately 17% of forcible rapes in Alaska are unfounded each year, or four times the usual 4% unfounded rate for all Part I offenses. As there are no clear guidelines for determining an unfounded case, the determination often seems spurious: dependent on a law enforcement officer's perception of the victim, her relationship with the offender, her occupation, etc. Any officer along the line, apparently, from the initial investigator, to the detective, to the person who fills out reports, can determine that a case is unfounded.

The cumulative effect of an unreasonable "unfounded" rate is that of reinforcing a stereotype which has plagued women for millennia, that women will "cry rape" for revenge or for a lark. Our own experience in counseling rape victims, most of whom do not report the incident to police, is that only a very few, mentally disturbed individuals will report a rape when none has occurred.

Police attitudes which precipitate a high unfounded rate may, in part, be responsible for the low rate of cases reported.

In a very cursory study of rapes reported to the Anchorage Police Department, I found that over half of the reported cases were Native women. It is my suspicion that cultural considerations militate against Native women reporting a rape, and thus that the rate of rape among Native women is even higher. Further, I would suspect that the "unfounded" rate is higher among Native victims than white.

I know that you are studying racism in the criminal justice system, and suggest that the treatment Native women receive as victims of either rape or domestic assault is a legitimate area of inquiry vis-a-vis racism.