

TU 27 / HJ INTERIM FILES, CORRECTIONS - DEPT. PUB. SAFETY

Further, its age and the general inadequacy of total space availability preclude any recommendation for its renovation, expansion, or recycling.

Palmer: The facility is an excellent candidate for a potential expansion by the D.O.C. of its inmate programs and industries. The Division should consider increasing Palmer's capacity and range of programs through construction of additional housing and work facilities.

Rural Facilities: Bush facilities are uniformly inadequate for the safe, secure and humane housing of accused or sentenced individuals. In no instance were any of the existing facilities found to be suitable for correctional functions.

FACTORS AFFECTING CORRECTIONS POPULATIONS

The size and characteristics of offender populations in a corrections system should determine the policies and practices of that system. The average number of inmates in a prison (or on probation or parole) is directly related to the number of offenders admitted and their average length of stay in the facility or program. In Alaska, the average monthly inmate population has grown from 440 in 1972 to approximately 720 at the end of 1978; this represents a nearly 65 percent increase in the size of the inmate population. The increase in inmate population is apparently attributable to an interaction between increased admissions and increased length of stay for at least a proportion of these admissions. The probation/parole average monthly caseload has grown approximately 36 percent in the same time period.

The number of admissions to a corrections facility or program is dependent upon the crime rate, the arrest rate, the conviction rate and sentencing statutes and practices.

The average length of stay of convicted offenders in corrections programs or facilities is a direct result of sentencing statutes and practices, paroling statutes and practices, and "good-time" statutes and practices.

It is apparent that corrections population levels are the end result of a complex series of decisions, most of which fall outside the jurisdiction of corrections systems. Reasons advanced for the spiraling increases in prison populations reflect the impact of external forces. Prominent among these are rising crime rates and unemployment levels, improved law enforcement, more efficient court processing, tougher attitudes toward offenders, and the age group composition of the (general) population. Some factors to consider:

1. the rise in crime rates may in fact be abating;
2. in Alaska, the violent crime rate showed a decline from 1975 to 1976;
3. crime rates have historically had little or no correlation with incarceration rates;
4. future unemployment levels cannot be accurately predicted so they cannot be reliably utilized as indicators for prison population projection;
5. a changing attitude toward offenders can affect both statutory and discretionary aspects of criminal justice decision making (the Revised Criminal Code recently enacted in Alaska is likely to increase the average daily inmate population by nearly 50 percent);
6. in the realm of corrections population levels, small changes in any of a number of (these and other) factors can have a resounding impact.

Because substantial increases in Alaska's prison population are placing increasing pressure on many of the state's older and more deteriorated facilities, it may well be that a decrease in the inmate population is both necessary and desirable so as to minimize the need for new construction.

It is possible to pinpoint the factors which can reasonably be manipulated. A decrease in prison admissions can be accomplished through decriminalization of selected victimless or minor offenses, increased use of diversion options prior to sentencing, more efficient presentence release programs and increased use of non-incarcerating sentences.

A decrease in the average length of stay of prison inmates can be achieved through a reduction in the maximum sentences imposed for crimes and an increase in the release rate (parole rate, good-time rate, pre-release programs).

A lengthy discussion of inmate population projections is offered in the plan. Two national studies are cited which indicate that Alaska holds one of the top prison population ratios (incarcerations per 100,000 population) in the nation, ranking fifth in one study and seventh in the other (among all 50 states). It is concluded that Alaska's prison population ratio will undoubtedly continue to move towards the national average over the next several decades. Since the Alaska ratio is currently very high it is most likely to fall moderately rapidly towards the national average (77:100,000). Any long term projections for Alaska's population should reflect a gradually declining prison population

ratio rather than a rising ratio due to "normalizing" of the age and sex distribution of Alaskan population. The planners conclude:

It is our firm conclusion that Alaska's prison population ratio is likely to decline consistently from a high of about 150 in 1980 towards a rate in the year 2,000 which should begin to approximate that of the total U. S. A conservative estimate of this trend leads us to expect a ratio of 150 in 1980 dropping slowly to a ratio of 130 in the year 2,000.

However, due to monthly and even daily fluctuations in corrections populations (as much as 20% of the average figure on given occasions) considerable attention could be given to either providing temporary additional holding capacity or to management programs which seek to damp out the daily and monthly variations instead of attempting to provide the maximum number of cells for the highest possible number of prisoners.

The impact of three major policy changes, i.e., the Revised Criminal Code, increased use of pre-release programming for selected inmates, and more efficient use of pretrial release and recognition, was evaluated in arriving at year 2,000 inmate population projections (including all female inmates, a presumption that all Alaska prisoners will be housed in-state and only those who would require minimum, medium or maximum security housing in state operated facilities -- both sentenced and unsentenced).

The planners conclude:

If the alternative diversion programs were to be fully and immediately implemented, the current population of about 740 would be substantially reduced. With more efficient ROR, the total inmate population could be as low as 500; with only pre-release programs being implemented, the secure housed population could decrease to about 600. If both programs were implemented, the secure housed inmate population could be as low as 360 (including females and those federally housed (emphasis in original)).

FACILITY CAPACITY NEEDS UNDER VARIOUS POLICY OPTIONS

The impact of three major policy changes, the new Criminal Code, release on recognizance (ROR), and maximal use of pre-release programs, is translated from statewide average daily population (ADP) estimates into regional estimates of inmate population to be expected by the year 2,000.

Eleven tables are presented indicating estimated average daily populations for the year 2,000 for each of the ten service areas under the three policy changes. Service areas are: Ketchikan, Juneau, Anchorage, Kenai, Kodiak, Bethel, Nome, Fairbanks, Kotzebue and Barrow.

FACILITY RECOMMENDATIONS

In view of the condition of Alaska's existing corrections facilities and the projected capacity needs for the year 2,000 under a range of possible policies, some general proposals for facility replacement or renovation and accompanying new construction are recommended. The existing facilities have been classified into three categories: those which must be replaced and can serve no alternative correctional functions, those which require major renovation to meet standards and fulfill their proposed functions, and those which can be recycled with relatively minor physical modifications.

The facilities which must be replaced are: Ketchikan, Ridgeview, Anchorage Third Avenue and Nome.

The two facilities which require major renovation are Juneau and Fairbanks.

Those facilities requiring only minor additions or renovations are: Anchorage Annex, Eagle River and Palmer (the latter two for industries programs).

Facilities now in use in rural areas are generally inadequate, particularly if regional housing of some sentenced inmates is to be implemented. This implies a need for new facilities, potentially in all five of the remaining service areas defined and not now served by state facilities (i.e., Bethel, Kodiak, Kotzebue, Barrow and Kenai). At a minimum, a replacement facility is needed in Bethel.

The construction of two major new facilities and at least two smaller ones is proposed: a new pretrial facility in Anchorage, a new sentenced inmate facility in Anchorage and new regional facilities in Ketchikan and Bethel. Only the sentenced inmate facility has not been funded at all (emphasis added).

1978 BOND ISSUE PACKAGE

Under the bond issue package approved in November 1978 by the state's voters, correctional funding was allocated as follows (includes master planners comments):

<u>PROJECT</u>	<u>LOCATION</u>	<u>AMOUNT</u>	<u>PLANNERS' COMMENTS</u>
Construct and equip pre-trial jail facility	Anchorage	\$12,367,000	Concur, full, required
Construct and equip a regional jail facility	Ketchikan	1,992,700	Concur, fully required
Construct youth facility	Fairbanks	2,400,000	Plan specifically recommends a direction which would not require this facility

<u>PROJECT</u>	<u>LOCATION</u>	<u>AMOUNT</u>	<u>PLANNERS' COMMENTS</u>
Renovate 6th Avenue Jail Annex facility	Anchorage	\$ 1,421,800	Concur, but would not substantially renovate for continued jail use
Construct youth residence center	None	792,000	Cannot be supported by the analysis of youth services needs contained in the plan
Construct McLaughlin youth facility gymnasium	Anchorage	1,300,000	Concur, well-justified
Construct state jail recreation and program facilities	Juneau	1,300,000	Concur, however, housing and program "spare-trade" should receive simultaneous coordination
Construct classroom and learning lab	Juneau	200,000	Concur, well founded, coordinate with above
Construct correctional facility	Bethel	3,129,000	Concur, clearly warranted
TOTAL (of correctional projects authorized)		\$24,902,500	

In addition, the planners print out that \$1.5 million had previously been allocated for a juvenile/women's facility in Juneau. (Note: the Legislature has also allocated two million dollars for correctional use to house women offenders in anticipation of the closing of the Ridgeview Center in Anchorage.)

Capital cost forecasts are provided in a series of tables which indicate budget requirements under various policy options. The forecasts are offered primarily for the significance which they have in considering these policy options. It is apparent that implementing ROR and pre-release programming can substantially reduce the need for new construction, thereby saving the state of Alaska tens of millions of dollars.

Considering the relatively low cost of staffing and operating such programs, the benefits in terms of capital cost savings alone far outweigh the program costs. The policy choice remains with the State of Alaska, but the capital cost consequence of each course of action seem clear.

The capital costs of accommodating all Alaska inmates in standards-complaint facilities range from \$24,854,000, if maximum ROR and pre-release options were immediately implemented and the current population dropped from the current 740 inmates to an estimated 533, to a maximum projected capital improvements cost of \$130,224,200 in the year 2,000 under the Revised Criminal Code and no ROR or pre-release programs.

JUVENILE CORRECTIONS

Alaska, unlike the majority of states, has taken a strong leadership role in developing statutes and Rules of Procedure which emphasize the objectives of reforming the child and protecting society and require that these objectives be equally weighted. The Rules further require that the medium used to achieve these objectives be that of "providing care equivalent to that which should have been provided by the child's parents." The statute clearly distinguishes between the remedies the state may impose for children in need of aid and for delinquent children. The former has been made the responsibility of the Division of Social Services and the latter the responsibility of the Division of Corrections, both administered by the Department of Health and Social Services.

The present juvenile system is described and problems of divergent practices and procedures are analyzed including arrest, intake, detention and residential services (both private and public), in and out of state.

The following listing of issues and policy recommendations have been presented:

- ° The Alaska Department of Health and Social Services should actualize the purpose clause of the Children's Code and Rules as guiding principles for developing juvenile justice services in the state.

At the moment, institutions are the major medium of service for children who are removed from their family's custody. Foster care is used sparingly, group foster care is not used at all, and basic care group home services are used infrequently.

- ° Juvenile correctional services should remain within the Division of Corrections but should be located in a separate bureau.

- ° The functions of initial receiving and screening of delinquency referrals should be unified within juvenile correction. This service should operate on a twenty-four hour basis. The services provided by this function should be screening for detention and petition and crisis intervention.

- ° The Alaska Department of Law should be the petitioner in all children's matters.

- ° Intake screening and receiving should be solely responsible for the initial detention decision.

- ° The use of contract services as a means of providing services to children in their homes and communities should be greatly expanded.

Shipping children long distances within the state to receive service or, in many instances, transporting them to other states should come to a halt. In the envisioned reorganization of

services, the Bureau's major division would be a community intake, probation and contract services division.

- ° An adolescent residential treatment facility with a capacity of 15 beds should be developed either at API or at McLaughlin. If developed at McLaughlin, it should utilize existing capacity rather than increase the capacity of that facility.

- ° A small group residential facility with a capacity of 20 beds should be developed to serve the Fairbanks community. Preference should be given to contracting these services as that would enable more flexibility in specialization.

- ° Development of a child-based transactional information system should be taken immediately.

- ° Alternatives to detention -- the Alaska Division of Corrections should launch a major initiative immediately to develop alternatives to detention for children awaiting court dispositions.

Alaska is presently detaining at the rate of 15.6 per 1,000, not including that group of children who are detained less than 24 hours. If they were included, the rate would escalate to 44 per 1,000 (national rates are 9.8 per 1,000). "Alaska does seem to have a penchant for detention, no matter what standard you use for comparison," according to the planners. If the state does not pursue alternatives, the planners project that 120 secure detention beds will be needed by 1980. There are now 35 (MYC). A major building program will be required if alternatives to detention are not developed.

- ° The Alaska State Police and local law enforcement agencies should develop training in the use of discretion and diversion by police officers in handling juveniles.

- ° The Division of Corrections should immediately increase its efforts to develop alternative detention and correctional resources, especially in the Second Judicial District.

Staff requirements to perform DOC juvenile corrections functions by judicial districts are estimated for 1978, 1990 and the year 2,000. It is recommended that reorganization of juvenile service within the Division of Corrections and the staffing of community services functions be the first priority. Once that step is accomplished, alternative care should receive top priority, followed by alternative services for children in committed status.

Juneau and Fairbanks have both had bond issues passed approving the construction of juvenile detention facilities. Juneau clearly does not need a secure detention facility for children, neither should the Fairbanks community construct a secure juvenile detention facility. Fairbanks might develop as an alternative a generic facility with intensive programming not to exceed 20 beds in capacity and should not be a maximum security facility. (Elsewhere the planners have also recommended that no juvenile facility be built in Nome as permitted with passage of the 1978 bond issue.)

RURAL CORRECTIONS

This portion of the plan commences with two succinct statements: "the problems confronting corrections in rural Alaska are enormous," and "solutions in any instance must be unique in Alaska." Various geographic, climatic, cultural and economic problems are cited with a major focus on alcohol abuse. The

problems are more fully analyzed by examining standards, reports, studies and policies dating back more than a decade.

In Alaska, because of the significant differences between urban and rural life styles, regionalized service delivery to the extent it is economically feasible seems essential to a reintegrative or community based approach to corrections. There can be no easy or inexpensive solutions to the problems of corrections in rural Alaska. Compromises will be necessary and, at best, even the compromises will be expensive. The full range of correctional resources cannot be made available to all communities desiring them. Most communities are too small and their requirements for these resources are too limited to permit economical or efficient operations. Difficult decisions must be made requiring justification from the perspective of policy, needs and cost (both capital and operational).

A "partial regionalization" plan is promoted by the planners as the best compromise toward meeting inadequate facility needs. (However, the term is not well defined nor are there any priorities identified.) The planners feel that the need for formal diversionary alternatives and resources is substantially less in rural Alaska since "informal alternatives already exist and are relatively widely used."

Probation aides hired on a part time fee-for-services basis are recommended for increasing probation alternatives and supervision for rural clients while providing a meaningful mechanism for involving local communities in the corrections process.

Although alcohol plays an important role in rural crime, the planners recommend that the public drunk should not be the responsibility of the corrections system. The resources of the system should be reserved only for those charged or convicted of criminal offenses. The public drunk should be diverted to other agencies, both local and state. The legislature should authorize the State Office of Alcoholism and provide necessary appropriations to establish sleep-off centers in all communities where state operated correctional institutions or contract jails are now being used for persons detained under the 12 hour law. A plan similar to that of the North Slope Borough, but associating the use of the 12 hour law with a sleep-off center rather than jail confinement, should be adopted elsewhere. The Office of Alcoholism should be allowed full authority to design and operate alcoholism treatment programs, both in correctional institutions and in the community.

The Governor's order to set up advisory boards for state operated or contract correctional facilities in local areas should be promptly implemented. Local participation and community involvement should be achieved through the development of a highly cooperative relationship between the state and the communities. These measures would give local citizens opportunities for significant roles in the correctional process of their own communities and a means of providing input in the development of policies and programs in the state system as they affect offenders from rural areas.

Also recommended is that the legislature should clarify the authority of rural communities to enforce their own ordinances administratively with noncriminal sanctions, the courts should take action to enable the local communities to adopt the conciliation board concept, and corrections should develop standards for institutions and carry out a continuing program of inspection and enforcement.

TECHNICAL SERVICES

Although management style and structure are basic to the achievement of correctional goals, maintenance of adequate quality and quantity of staff at all levels of the organization is also essential. In order to attain this objective, corrections staff must receive adequate training for their positions and they must be encouraged through appropriate career ladders and salary incentives to maintain a professional involvement with the corrections field.

A current "staff profile" of the Division of Corrections is provided which includes various demographic characteristics, education and training levels, an analysis of staff morale and job satisfaction factors.

Staff training is discussed in some detail following the comment that correctional agencies have traditionally been granted low priority within state government budgets and "personnel training programs are all too often regarded as an unaffordable luxury, left unfunded or given only token funding. Alaska has in the past been no exception."

Various national standards as well as local task force, commission, plan and grand jury reports are analyzed for their focus on correctional training. The basic training issues outlined by the planners include: questions concerning the most appropriate type of training for each staff member, the context of training needed which varies with the level of education of the staff member, the amount of work experience in the corrections field, type of responsibilities of the job, location of the statewide training academy, residential vs. nonresidential approach to corrections staff training, and the balance between the use of in-house corrections training staff and tapping outside training resources.

A summary of recommendations would include: a move of the residential form of academy at Sitka to a nonresidential setting in Anchorage (Alaska Pacific University), a balancing of first year training hours to meet national correctional standards of 160 hours (down from DOC present 240 hour academy), a balancing of curriculum so that the emphasis on security does not obscure the need for other knowledge and services in working effectively with correctional clientele, participation of personnel from other sections of the criminal justice system in corrections training (Public Safety, Parole Board, Judiciary, Department of Law, Mental Health, Social Services, Office of Alcoholism and Drug Abuse), preparation of Division-wide annual training plans, formation of an Advisory Training Committee, on-the-job and in-service training programs, and legislative support for personnel and funds.

A long discussion is presented on a corrections career ladder which effectively destroys a militaristic component or functional unit concept which had previously been proposed by the Division of Corrections. The planners stress the necessity for career ladder structure which is available to all correctional employees. Lateral transfers among the three major service units of the Division, lateral entry at any level from outside the system, the use of paraprofessionals, and a reasonable degree of flexibility in substituting education for experience requirements (or vice-versa) are recommended.

Policy development and management support services are explored with particular attention focused on an effective computerized corrections information system. The policy development unit should include a unit head and a staff of two researcher-planners and at least one full time inspector (all correctional facilities -- contract and local jails -- statewide). Management services include fiscal and budget personnel and clerical support. The addition of an accountant to this unit is recommended.

The fiscal management staff of the Division should work closely with the researcher-planners of policy development to ensure that anticipated policy and work changes are accommodated in the budgeting process. Funding should be tied to evaluation performance so that cost effectiveness can be maximized.

Similarly, personnel management is closely related to staff development and training and should be closely coordinated.

Career ladder issues, in particular, affect personnel management within the Division. All of the administrative support services planned within the Technical Services unit (including health care) seem as being very closely related functions.

CRIMINAL JUSTICE DECISION MAKING

Although each is in a separate branch of government, the corrections system is really the instrument of the courts and effective use of a corrections system is therefore highly dependent on the quality of sentencing. Imprisonment is the most serious and most costly of the sentencing alternatives. Unfortunately, offenders have frequently been required to undergo both an inequitable sentencing process and an inconsistent parole process. In addition, the courts largely determine the size of the unsentenced prisoner population detained in Alaska's corrections facilities.

The planners explore various issues in pretrial release and recommend that there is a substantial need to explore more fully the potential for expanded use of summons in felony cases as an alternative to arrest and booking and that legislation should be undertaken to create a uniform pretrial release procedure for Alaska.

Sentencing issues are explored in detail citing several recent research studies, reports and Commission policy statements.

This section's primary focus is on the impact of the Revised Criminal Code. The Code directly affects the sentencing

process and therefore the corrections system. The primary aim of the Code is to increase equity in sentencing while also protecting the public from and punishing multiple offenders. In this regard, the Code is quite consistent with the philosophy of corrections outlined in the first chapter of this plan. The section provides a brief summary of the Code and discusses a method of estimating the impact of the Code on the size of the sentenced inmate population. This type of impact estimate must form the basis for future correctional facility planning for the State of Alaska.

For the corrections system, the consequences of the new Criminal Code would appear to be the substantial reduction in the use of parole and an increase in the average time served and, therefore, an increase in prisoner population. Conclusions are drawn that indicate:

1. the current average length of stay of sentenced felons (including murderers) is 36 months;
2. the minimum average length of stay of sentenced felons (a conservative estimate of impact) may rise to 62 months under the Revised Criminal Code.

The difference in average lengths of stay represent a 72 percent increase in the sentenced inmate average length of stay (ALS) attributable to the new Criminal Code.

The capacity requirements for correctional institutions thus could increase substantially over the next several years due to implementing the Revised Criminal Code. The cost implementation of this increased inmate population, both in capital

and operating expenditures, are significant. The unintended consequence of enacting the Revised Criminal Code may well be to inflate the sentenced inmate population of Alaska's correctional institutions to extraordinarily high levels (emphasis added). Unfortunately, the Code may not go far enough to eliminate sentencing disparity and may go too far in imposing lengthy sentences on recidivist felons.

Implementing any sentencing reform requires the highest level of cooperation between the judiciary, the legislature, law enforcement and the Division of Corrections. Corrections alone cannot hope to improve Alaska's sentencing or pretrial release practices; only with cooperation of the other decision makers involved can true and lasting improvements be achieved. In the relationship between corrections and the courts, corrections planning necessarily must become criminal justice system planning as well.

PAROLE DECISION MAKING

Parole policies and practices have as direct an effect on corrections as do court actions in pretrial release and sentencing decisions. Parole policies determine, within statutory and judicially determined limits, the length of time a sentenced inmate serves in prison, and the type of conditions that are imposed on his or her parole. Even if a sentencing guidelines model is adopted and the need for parole as a means of adjusting for sentencing disparities disappears, parole reintegration

services should not be discontinued. Pre-release programs operated by the Division of Corrections, such as work release and furloughs, will become even more critical if parole is abolished. However, it is not likely that parole decision making will be abolished in Alaska in the near future. It may also prove to be necessary to statutorily provide for some portion of the end of every sentence to incarceration to be served under community supervision (similar to the mandatory release law now in effect).

Given that the Parole Board will continue to function in Alaska for the foreseeable future, it is important that the Parole Board's policies and practices are consistent with the state's overall corrections philosophy and that the Board is provided with sufficient resources and authority to efficiently accomplish its responsibilities.

At present, the Board hears about 300 cases annually, although there may be a considerable variation in number by quarter, from about 60 to 100 or more. On the average, prisoners serve nearly half their terms before being released on parole, approximately two-thirds are eventually granted parole and at any one time there are about 200 offenders on parole.

The planners offer a lengthy discussion of current Alaska Parole Board practices in comparison to the American Correctional Association Accreditation Commission's "Manual of Standards for Adult Parole Authorities" and arrive at the following recommendations:

1. the Alaska Board of Parole be composed of three full time professional members with salaries equivalent to that of a superior court judge.

2. The staff of the Board should be reorganized and augmented.
3. Hearing procedures should be changed upon initiation of a full time Board.
4. A formal prisoner or parolee appeals process should be established.
5. The Board should adopt a parole guideline or matrix system, to be considered as a long term project and the guidelines, based on research, should be used as an aid to decision making and should not entirely replace the discretion of Board members.
6. The Board should prepare and keep up-to-date a manual of policy, rules and procedures, and an administrative manual subject to the provisions of the Alaska Administrative Procedures Act.
7. Legislation should be considered to allow the Board to give credit to parolees whose paroles have been revoked for "time on the street," i.e., under written policy criteria for allowing or disallowing credit for time served in the community.
8. The Board should be authorized by legislation to discharge parolees from parole status at any time after two years of successful community reintegration.
9. Consideration should be given to legislation, and/or changes in Board procedure, under which the Board would conduct initial hearings in the case of prisoners with maximum sentences of five years or less within four months of their commitment, for the purpose of setting a presumptive release date. Prisoners with maximum terms of more than five years would be heard within a month prior to the completion of their maximum terms.
10. A mechanism should be established within the Department of Health and Social Services to assure that the Board of Parole and the Division of Corrections function under a common correctional philosophy and policy.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

CRIME



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

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

From: Margaret W. Berck, Staff

Date: September 13, 1979

Subject: Crimes

The attached materials providing crime and disposition statistics were collected by the now defunct Research Division of the Legislative Affairs Agency. These materials are derived from two sources. The crime statistics were taken from Crime in Alaska - 1978, Criminal Justice Planning Agency, Office of the Governor. Part I crimes denote serious felony offenses; Part II crimes denote less serious felony and misdemeanor offenses. The data on disposition and sentences was taken from the plea bargaining study conducted by the Judicial Council. This data spans an earlier time period than the crime and arrests statistics. The statistics on probation and parole violations were furnished to Legislative Affairs by the Division of Corrections. These statistics are inadequate for determining rates of probation or parole violations. Information on this issue will be provided in the Probation and Parole Report assigned to Ms. Plotnick.

PART I
CRIMES REPORTED
 1973 - 1978

TABLE 1

YEAR	POPULATION	TOTAL OFFENSES	VIOLENT CRIMES	PROPERTY CRIMES	CRIMINAL HOMICIDE	FORCIBLE RAPE	AGGRAVATED ASSAULT	ROBBERY	BURGLARY	LARCENY/THEFT	MOTOR VEHICLE THEFT
1973	330,000	16,213	1,269	15,044	33	147	868	221	3,852	9,456	1,736
Rate Per 100,000		4,943.3	384.5	4,558.8	10.0	44.5	263.0	67.0	1,167.3	2,865.5	526.1
1974	337,000	17,658	1,527	16,131	46	166	1,017	298	3,932	10,016	2,183
Rate Per 100,000		5,239.8	453.2	4,786.6	13.7	49.3	301.8	88.4	1,166.8	2,972.1	647.8
1975	404,000	21,655	1,859	19,796	39	177	1,176	467	4,266	12,179	3,351
Rate Per 100,000		5,413.7	464.6	4,949.1	9.7	44.2	294.0	116.7	1,066.5	3,044.8	837.8
1976	417,000	23,385	1,983	21,402	41	192	1,264	486	4,538	13,817	3,047
Rate Per 100,000		5,567.9	472.1	5,095.8	9.8	45.7	300.9	115.7	1,080.5	3,289.8	725.5
1977	425,000	25,025	1,949	23,076	47	255	1,232	415	5,634	14,072	3,370
Rate Per 100,000		5,819.7	453.2	5,366.5	10.9	59.3	286.5	96.5	1,310.2	3,272.6	783.7
1978	420,000	24,001	1,729	22,272	54	254	1,042	379	5,330	14,212	2,730
Rate Per 100,000		5,714.5	411.7	5,302.8	12.9	60.5	248.1	90.2	1,269.0	3,383.8	650.0

Advance copy from Crime in Alaska, 1978, Criminal Justice Planning Agency

PART II CRIMES

As in 1976, the Alaska State Troopers and Juneau Police Department collected and submitted data about reported Part II crimes. The State Troopers jurisdiction covers a wide cross-section of the state's population and therefore is indicative of the statewide relationship between Part I and Part II crimes.

Table 45 presents an analysis of the Part I and Part II crimes reported to the State Troopers during 1975-1977. During 1977, Part I crimes accounted for fifty-five percent and Part II crimes for forty-five percent. The Part I crimes are accounting for an increasing portion of the offenses reported.

Those offenses which account for the majority of the Part II crimes are Driving While Intoxicated (12%), Vandalism (9%), Other Offenses (7%), Other Assaults (5%), Narcotic Drug Violations (2%), Carrying or Possession of Weapons (2%), and Embezzlement or Fraud (2%). The remainder represent one percent or less.

Those offenses which showed an increase over their contribution in 1976 are Driving While Intoxicated (+1%) and Vandalism (+1%). Narcotic Drug Violations and Other Offenses showed decreases of one and two percent, respectively. All other offenses stayed at the same rate of contribution.

ALASKA STATE TROOPERS
Reported Part I and Part II Offenses
1975-1977

TABLE 45

Offense	1975		1976		1977	
	Offenses	Percent	Offenses	Percent	Offenses	Percent
Total Part I Offenses	6,266	47%	7,087	54%	7,480	55%
Part II Offenses						
Negligent Homicide	99	1%	97	1%	67	1%
Other Assaults	658	5%	686	5%	668	5%
Forgery & Counterfeiting	62	1%	63	•	142	1%
Embezzlement & Fraud	242	2%	249	2%	225	2%
Stolen Property	50	•	49	•	64	•
Weapons	226	2%	245	2%	216	2%
Prostitution & Vice	33	•	11	•	8	•
Sex Offenses	145	1%	125	1%	132	1%
Offenses Against Family	67	•	43	•	37	•
Narcotic Drug	618	5%	344	3%	322	2%
Liquor Laws	172	1%	142	1%	138	1%
Drunkenness	11	•	•	•	•	•
Disorderly Conduct	126	1%	144	1%	106	1%
Vagrancy	1	•	•	•	2	•
Gambling	20	•	6	•	3	•
Driving While Intoxicated	1,563	12%	1,403	11%	1,629	12%
Vandalism	961	7%	1,101	8%	1,196	9%
Arson	72	1%	69	1%	81	1%
Other Offenses	1,883	14%	1,184	9%	1,021	7%
Total Part II Offenses	7,029	53%	5,968	46%	6,077	45%
Total Part I & II Offenses	13,295	100%	13,055	100%	13,557	100%

• Less than 1%

Table 46 presents the distribution of the offenses reported to the Juneau Police Department. Part I crimes accounted for twenty-two percent and Part II crimes for seventy-eight percent of the total offenses reported during 1977. This distribution is radically different from 1976's but identical to 1975's.

During 1977, those offenses which accounted for the largest proportions were Disorderly Conduct (29%), Other Offenses (12%), Vandalism (9%), Liquor Law Violations (9%), Other Assaults (8%), Driving While Intoxicated (5%) and Narcotic Drug Violations (2%).

Those offenses which showed increases were Disorderly Conduct (+12%), Other Assaults (+6%), and Other Offenses (+2%). Narcotic Drug Violations (-2%), Vandalism (-2%), Liquor Law Violations (-1%) and Driving While Intoxicated (-1%) showed decreases.

JUNEAU POLICE DEPARTMENT
REPORTED PART I & PART II OFFENSES
1975 - 1977

TABLE 46

OFFENSE	1975		1976		1977	
	Offenses	Percent	Offenses	Percent	Offenses	Percent
Total Part I Offenses	908	22%	892	33%	673	22%
Total Part II Offenses						
Negligent Homicide	0		0		0	
Other Assaults	144	3%	60	2%	244	8%
Forgery & Counterfeiting	26	1%	11	*	19	1%
Embezzlement & Fraud	45	2%	17	1%	50	1%
Stolen Property	11	*	9	*	8	*
Weapons	1	*	14	1%	25	1%
Prostitution & Vice	5	*	6	*		
Sex Offenses	9	*	12	*	16	1%
Off. A/Family	15	*	22	1%	8	*
Narcotic Drug	181	6%	107	4%	52	2%
Liquor Laws	275	7%	277	10%	253	9%
Drunkenness	509	13%	82	3%	1	*
Disorderly Conduct	1,018	25%	450	17%	815	29%
Vagrancy			1			
Gambling	1	*				
Driving while Intoxicated	206	5%	161	6%	153	5%
Vandalism	349	9%	301	11%	280	9%
Arson	2	*	6	*	3	*
Other Offenses	412	10%	257	10%	343	12%
Total Part II Offenses	3,223	78%	1,797	67%	2,260	78%
Total Part I & Part II Offenses	4,131	100%	2,689	100%	2,883	100%

* LESS THAN 1%

STATE OF ALASKA
 Clearance Rates
 Part I Offenses
 1977

TABLE 47

	Actual Offenses ¹	Offenses Cleared ²	Percent Cleared
Murder - Non-negligent Manslaughter	43	31	72%
Forcible Rape	211	66	31
Rape by force	155	47	30
Attempts to commit forcible rape	56	19	34
Robbery	294	83	28
Firearm	20	53	24
Knife or cutting instrument	41	10	24
Other dangerous weapon	17	3	18
Strong-arm (hands, fist, feet, etc.)	116	17	15
Aggravated Assault	1,147	741	65
Firearm	399	239	60
Knife or cutting instrument	227	143	63
Other dangerous weapon	192	120	63
Hands, fist, feet, etc. - Aggravated Injury	329	229	70
Burglary	5,400	892	17
Forcible entry	3,128	571	18
Unlawful entry - no force	1,948	300	15
Attempted forcible entry	324	21	6
Larceny - Theft	11,665	3,000	26
Motor Vehicle Theft	3,058	361	12
Autos	1,469	166	11
Trucks and buses	755	107	14
Other vehicles	834	88	11
TOTAL PART I OFFENSES	21,918	5,174	24%

* Reported offenses less unfounded complaints

** * caused by accident or exceptional means

STATE OF ALASKA
1977 ARRESTS
BY OFFENSE AND AGE

TABLE 64

OFFENSE	Under 18	18to24	25 & Over	Row Total
Count -				
Row % -				
Column % -	1	13	20	34
MURDER	3%	38%	59%	100%
NEGLIGENT MANSLAUGHTER	2	6	6	14
	14%	43%	43%	100%
FORCIBLE RAPE	3	3	33	61
	5%	41%	54%	100%
ROBBERY	35	64	24	123
	28%	52%	20%	100%
AGGRAVATED ASSAULT	49	150	259	458
	11%	33%	56%	100%
BURGLARY	714	329	86	1,129
	63%	29%	8%	100%
LARCENY- THEFT	1,618	742	642	3,002
	54%	25%	21%	100%
MOTOR VEHICLE THEFT	223	125	50	398
	56%	31%	13%	100%
OTHER ASSAULTS	104	376	567	1,047
	10%	36%	54%	100%
ARSON	27	6	10	43
	63%	14%	23%	100%
FORGERY & COUNTERFEIT	23	28	30	81
	28%	35%	37%	100%
FRAUD	13	69	104	182
	7%	36%	57%	100%
EMBEZZLEMENT	14	26	19	59
	24%	44%	32%	100%
STOLEN PROPERTY	49	55	30	134
	37%	41%	22%	100%
VANDALISM	256	132	116	506
	51%	26%	23%	100%
WEAPONS	66	157	176	399
	17%	39%	44%	100%

* LESS THAN 1%

OFFENSE	Under 18	18to24	25 & Over	Row Total
PROSTITUTION	9	105	61	175
	5%	60%	35%	100%
SEX OFFENSES	26	51	108	185
	14%	28%	58%	100%
DRUG ABUSE	394	262	141	797
	49%	33%	18%	100%
GAMBLING OFFENSES	7	7	79	86
	8%	8%	92%	100%
AGAINST FAMILY	1	126	334	461
	*	27%	73%	100%
DRIVING UNDER INFLUENCE	74	1,000	2,430	3,504
	2%	29%	69%	100%
LIQUOR LAWS	915	474	429	1,818
	50%	26%	24%	100%
DRUNKENNESS	3	47	137	187
	2%	25%	73%	100%
DISORDERLY CONDUCT	120	688	778	1,586
	8%	43%	49%	100%
VAGRANCY	1	16	79	96
	1%	16%	79%	100%
ALL OTHER OFFENSES	424	1,472	1,545	3,441
	12%	43%	45%	100%
SUSPICION	5	1		6
	83%	17%		100%
CURFEW AND LOITERING	566			566
	100%			100%
RUNAWAYS	294			294
	100%			100%
Part I Count-	2,643	1,448	1,114	5,205
Row % -	51%	28%	21%	100%
Column % -	44%	22%	14%	25%
Part II Count-	3,398	5,087	7,115	15,590
Row % -	22%	33%	45%	100%
Column % -	56%	78%	86%	75%
TOTAL Count-	6,031	6,535	8,229	20,795
Row % -	29%	31%	40%	100%

PART I

62

9

DISPOSITION OF ARRESTED FELONY CASES
ANCHORAGE, FAIRBANKS, AND JUNEAU 1975-76*

	<u>NUMBER OF CASES</u>	<u>CASES THAT DID NOT GO TO COURT</u>	<u>CASES DISMISSED BY COURT</u>	<u>CASES WITH GUILTY PLEA</u>	<u>CASES TRIED</u>
Class I Murder & Kidnapping	19	0	5 26.3%	4 21.1%	10 52.6%
Class II Other Violent Felonies	497	57 11.5%	221 44.4%	155 31.2%	64 12.9%
Class III Burglary, Larceny & Receiving	598	73 12.2%	237 39.6%	259 43.3%	29 4.9%
Class IV Fraud, Forgery, & Embezzlement	252	17 6.7%	157 62.3%	66 26.2%	12 4.8%
Class V Drug Felonies	360	64 17.8%	179 49.7%	83 23.1%	34 9.4%
Class VI "Morals" Felonies	45	9 20%	19 42.2%	17 37.8%	0
TOTAL	1771	220 12.4%	818 46.2%	584 33%	149 8.4%

* Data from the plea bargaining study by the Judicial Council

Prepared by:

Legislative Affairs Agency
Research Division
March 5, 1979

Table VI-1. Percentage of All Cases Resulting in Conviction and Active Sentence of Thirty Days or More, by Offense Class, Time Period, and Year

(Percentage Base in Parentheses)

<u>Felony Offense Class</u>	<u>Period 1</u>	<u>Period 2</u>	<u>Period 3</u>	<u>Period 4</u>	<u>Year 1 (1974-75)</u>	<u>Year 2 (1975-76)</u>
<u>Class 1</u> (Murder and kidnapping)	60.0% (10)	42.9% (14)	58.3% (12)	42.9% (7)	50.0% (24)	52.6% (19)
<u>Class 2</u> (Violent felonies other than murder and kidnapping)	21.9 (233)	22.0 (314)	24.2 (240)	20.6 (257)	21.9 (547)	22.3 (497)
<u>Class 3</u> (Burglary, larceny, receiving)	11.7 (273)	14.2 (261)	15.7 (325)	20.9 (273)	12.9 (534)	18.1 ¹ (598)
<u>Class 4</u> (Fraud, forgery, embezzlement, felony bad checks)	17.4 (155)	16.1 (143)	9.2 (152)	22.0 (100)	16.8 (298)	14.3 (252)
<u>Class 5</u> (Drug felonies)	13.9 (144)	15.4 (208)	20.6 (194)	12.0 (166)	14.8 (352)	16.7 (360)
<u>Class 6</u> (“Morals” felonies)	18.9 (37)	13.0 (23)	20.8 (24)	19.0 (21)	16.7 (60)	20.0 (45)
<u>All Felonies</u>	16.8 (852)	17.7 (963)	18.5 (947)	19.3 (824)	17.2 (1815)	18.9 (1771)

1. Year 1 - Year 2 difference significant at .05 or less.

Table VII-1. Mean Active Sentences, in Months, for Offense Classes and Frequently Occurring Specific Offenses, by City and Policy Year

<u>Offense Class</u> ²	All Cities					
	1974-75	1975-76				
Class 1 Murder and kidnapping	171.2	238.8				
Class 2 Other violent felonies	24.8	22.7				
Class 3 Burglary, larceny, receiving	6.8	4.3				
Class 4 Forgery, fraud, embezzlement	9.5	6.2				
Class 5 Drug felonies	8.0	25.4				
Class 6 "Morals" felonies	25.5	16.6				
<hr/>						
	Anchorage		Fairbanks		Juneau	
	1974-75	1975-76	1974-75	1975-76	1974-75	1975-76
<u>Class 1</u>	93.4	258.4	262.0	211.2	----	---- ¹
<hr/>						
<u>Class 2</u>	13.9	24.6	38.9	22.1	24.0	0.6
Rape ³	69.0	115.5	120.0	72.0	----	----
Robbery	32.3	25.8	108.0	35.6	----	----
Attempted robbery	4.8	33.5	----	----	----	----
Use of firearms in robbery, etc.	----	----	82.3	64.3	----	----
Assault with dangerous weapon	16.8	11.7	16.0	20.3	4.3	1.3
Misd. assault and battery	0.9	1.1	1.1	1.4	1.5	1.2
Misd. careless use of firearm	0.2	0.2	----	----	----	----
<hr/>						
<u>Class 3</u>	5.0	4.0	11.3	5.0	1.5	2.2 ²
Burglary in dwelling-occupied	22.0	7.5	1.0	1.5	----	--
Burglary not in dwelling	2.5	6.1	4.4	12.1	6.5	5.2
Larceny over \$100	5.0	3.7	37.2	10.0	----	----
Buying, receiving, concealing stolen property	4.0	2.7	13.5	5.7	----	----
Misd. unauthorized entry	0.6	1.7	0.1	1.8	0.4	0.4
Misd. larceny	0.9	0.6	0.5	0.3	----	----
Misd. buying, receiving, concealing stolen property	----	----	0.0	0.7	----	----

1. Dash indicates sample very small or no cases.
2. Indicates class of felony initially charged. Offense of which defendant convicted may be misdemeanor or lesser felony, but is usually of same type as original.
3. Specific offenses named are those of which defendant was actually convicted.

Table VII-1. (Continued)

	Anchorage		Fairbanks		Juneau	
	1974-75	1975-76	1974-75	1975-76	1974-75	1975-76
<u>Class 4</u>	10.2	7.8	8.5	3.1	8.7	7.3
Forgery of debt	18.0	11.3	15.9	12.0	----	----
Bad check over \$50	1.7	3.0	----	----	----	----
Embezzlement by employee over \$100	3.4	12.0	----	----	----	----
Fraudulent use of credit card	----	----	0.0	0.0	----	----
Obtaining property by false pretenses	40.0	1.5	0.0	0.1	----	----
<u>Class 5</u>	11.0	10.0	0.9	47.1	9.6	5.5
Possession of narcotic	0.0	21.0	0.5	33.9	----	----
Sale of narcotic	18.5	9.6	3.0	71.6	----	----
Possession of HDS drug for sale	5.5	13.7	----	----	----	----
Sale of HDS drug	14.6	9.6	0.7	0.0	----	----
Misd. simple possession of HDS (excluding marijuana)	0.5	0.0	----	----	----	----
<u>Class 6</u>	22.1	6.0	34.7	36.0	3.0	0.1

(Sample sizes for specific Class 6 offenses too small for comparison of means.)

TO : Sharman Haley
Legislative Affairs Agency

DATE: February 22, 1979

FILE NO

TELEPHONE NO

FROM: Dr. Richard Mohr *RM*
Research Coordinator
Division of Corrections

SUBJECT: Parole Statistics

The frequencies which you requested are noted in the table below. I am sorry that there is nothing in our records which identifies the specific nature of offenses leading to violations. If you wish further amplification, please call me at 465-3377.

		<u>1977</u>	<u>1978</u>
PROBATION	New charges	65	58
	Technical Violations	41	46
PAROLE	New Charges	13	15
	Technical Violations	16	14

RM:cmf

cc: Walt Jones



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

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

From: Margaret W. Berck, Staff

Date: September 13, 1979

Subject: Integrated and Nonintegrated Bar Associations

I. INTRODUCTION

Mechanisms for regulating the legal profession vary from state to state. Thirty states, including the State of Alaska, and the District of Columbia have established integrated bar associations to fulfill certain of these regulatory responsibilities. In order to practice law in an integrated bar state, one must be a member of the bar association. This mandatory membership requirement vests an integrated bar association with certain admission, licensing, and disciplinary functions. The 20 remaining states have nonintegrated bar associations. In these states membership in the state bar association is voluntary and such associations serve primarily as social clubs. In nonintegrated states, the regulation of the legal profession is generally the responsibility of the supreme court. The court typically establishes a board or commission for this purpose. In a few nonintegrated states, the attorney general's office is responsible for the disciplinary function.

II. THE ALASKA BAR ASSOCIATION

The integrated status of the Alaska Bar Association was established in 1955 through the legislative enactment of the Alaska Integrated Bar Act.¹ Prior to the integration of the Alaska Bar Association, the judiciary was vested with the disciplinary function, while the attorney general was responsible for the admissions function. The Alaska Integrated Bar Act was introduced by Representative Kalamarides as a result of numerous complaints arising out of the then-existing disciplinary and admission practices. In 1955 the territorial legislature, concluding that such matters could be better handled by the lawyers themselves, established the integrated bar in Alaska.

Pursuant to Alaska statute, the Alaska Bar Association is governed by a nine-member Board of Governors. The Board of Governors serve without salary and are elected by the membership at large. As statute requires the Board of Governors to be elected from the membership, there are no lay persons on the board. Rules concerning admission, discipline, and definition of the practice of law must be embodied in the Alaska Bar Rules.² Although the Board of Governors is empowered to approve and recommend Alaska Bar Rules, the Alaska Supreme Court is vested with the authority to promulgate those rules. The Board of Governors may adopt bylaws and regulations consistent with the Alaska Bar Rules; however, such bylaws and regulations are specifically exempt from the requirements of the Administrative Procedure Act.

¹See AS 08.08.010, et seq.

²To date no rule has been developed which would define the practice of law.

The scheme for adopting Bar Rules and bylaws and regulations consistent with those Bar Rules reflects the roles of the Alaska Bar Association and the Supreme Court in regulating the legal profession. In essence, the Supreme Court has the ultimate rule-making authority in admissions, licensing, and discipline. The Board of Governors conducts adjudicatory hearings, but is primarily relegated to recommending appropriate action to the Supreme Court.

III. SHOULD THE INTEGRATED STATUS OF THE ALASKA BAR ASSOCIATION BE CONTINUED

During the 1980 legislative session, the House Judiciary Committee is scheduled to conduct a sunset review of the Alaska Bar Association. Pursuant to the sunset statute, this committee is required to submit to the Speaker of the House a report specifying its findings and recommendations as to the continuance or termination of the Association. This report must be submitted no later than the 60th day of the legislative session. As a result of these responsibilities, preliminary consideration should be given to the advantages and disadvantages of both integrated and nonintegrated bar systems.

A. Cost Factor

The primary disadvantage of the nonintegrated bar system is that it requires the establishment of a state bureaucracy to provide for the admission, licensing and disciplining of those authorized to practice law in the state. Any increased taxpayer costs resulting from such a move must be carefully analyzed.

Other professions regulated by state agencies are subject to nominal annual licensing fees. For example, a physician is subject to a \$50 fee, while lawyers, \$180. The extent to which these nominal

fees defray the costs of regulating the profession is significant. If taxpayers support most of the costs of regulating all professions but for the legal profession, what justifies this differentiation. Furthermore, should it be determined that it is more expensive to regulate lawyers than doctors, the burden on the taxpayer can be reduced by increasing the license fees for lawyers.

Costs resulting from the admission function of the Alaska Bar Association are absorbed by current application fees. Individuals seeking admission to the bar are required to pay \$5 for the application form and a \$250 examination fee. Should application fees be structured to absorb admission costs, no additional financial burden falls on the taxpayer.

Furthermore, it should be noted that the Alaska Bar Association is not completely independent of state financial resources. For many years the Alaska Bar Association was furnished with free office space, use of equipment and supplies provided by the court system. Several years ago, when the Bar Association was required to vacate those offices, moving expenses were provided by the court system. Currently office space for the Bar Association is being subsidized by the Department of Law at the rate of \$10,000 per annum, raising a question of conflict of interest.³

Additionally, for the past several years state funds have been provided to defray the association's expenses for disciplinary proceedings. In 1978 the Bar Association received \$58,600 from the state; in 1979, \$36,700, and the Allocation for 1980 is \$51,000.⁴ This state

³This information was disclosed by Richard Barrier, Manager, Fiscal Operations and Deputy Administrator, Alaska Court System.

⁴The reason disbursements in 1979 were lower than the previous year, and also lower than the 1980 allocation, was because the court system overpaid the Bar Association by some \$11,000 in 1978. It should be noted that the court system has never audited the Bar Association relative to these expenses.

funding comprises approximately one-half of the association's expenses for disciplinary proceedings.⁵

Obviously, a more detailed cost assessment is needed to determine the weight of this objection to the nonintegrated bar system. However, it appears that the existing state financial support combined with fixing appropriate license and admissions fees may eliminate this tax burden objection.

B. Legislative Authority

The Alaska Supreme Court contends that it has the inherent power to admit, discipline, and disbar Alaskan lawyers. The source of this power is never defined beyond the recitation that it is an exercise of the Supreme Court's inherent power and jurisdiction over attorneys as officers of the court. Under this theory it seems that the Alaska Supreme Court has permitted the delegation of certain of these responsibilities to the Alaska Bar Association. Shortly after the enactment of the Alaska Integrated Bar Act, the Supreme Court held that the act did not detract from its inherent powers to govern the practice of law in Alaska, but the act, on the contrary, merely adds helpful machinery. In upholding the validity of the act, the court noted various provisions deferring to its inherent authority. For example, it cited: that decisions of the Board of Governors are merely recommendatory; that the review of such decisions before the Supreme Court are not limited in scope; and that only final orders of the Supreme Court work disbarment or reinstatement.

In a subsequent decision, the Alaska Supreme Court held that one section of the act, which attempted to mandate that the Supreme Court give full accord to a recommendation of the Board of Governors, was an unconstitutional invasion of its inherent powers.

⁵Initial billings submitted to the court system to obtain these state funds contained the names of those individuals subject to ongoing disciplinary proceedings in violation of the confidentiality required by Bar Rule 31.

Although the Alaska legislature is empowered under the Alaska Constitution to prescribe the jurisdiction of the courts and to change the Rules of Court, such arguments most likely would not be persuasive in view of the Supreme Court's adamant posture on this issue. The Supreme Court has stated that the power of the courts to discipline attorneys has long been recognized and cannot be defeated by the legislative branch of government.

The Supreme Court's position has prompted the Alaska Bar Association to contend that it is not a state agency. This contention has been raised in two different lawsuits filed against the association. One suit alleges that the Bar Association conducted a meeting in violation of the public meeting law. The lower court found for the Bar Association and currently the matter is before the Alaska Supreme Court. The other suit arose out of an investigation by the Ombudsman pertaining to the adequacy of resolving citizen complaints against lawyers and the propriety of salary and fringe benefits for the Bar Counsel. The Bar Association's refusal to submit to the official jurisdiction of the Ombudsman has resulted in litigation presently pending before the Superior Court in Anchorage.

The Supreme Court's exclusive jurisdiction over Alaskan attorneys impacts the policy considerations before this committee. If the committee determines to sunset or de-integrate the Alaska Bar Association, without establishing any statutory mechanisms for admitting, licensing and disciplining attorneys, the Supreme Court would continue to bear the responsibilities for this regulation. Termination of the Alaska Bar Association would not de-regulate attorneys. On the other hand, should the committee determine to sunset or

de-integrate the Alaska Bar Association and establish statutory mechanisms for regulating attorneys, deference must be made to the Supreme Court's authority. Even should these statutory mechanisms not invade the Supreme Court's jurisdiction, nothing but good faith would require the Supreme Court to abide by them. It was in just such a context that 20 years ago the Supreme Court upheld the validity of the Integrated Bar Act and still abides by much of that act today.



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

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

From: Margaret W. Berck, Staff

Date: September 13, 1979

Subject: Drug Laws

Current drug laws in Alaska are antiquated. The Uniform Controlled Substances Act, based on the federal controlled substances act of 1970, has been adopted in some form by 44 states.

At the close of the 1977 regular legislative session, the Governor introduced a bill which would have revised Alaska's drug laws. Upon introduction the Governor thought that the bill had the support of all segments of the law enforcement community. Subsequently, it was found that this consensus did not exist. Not wishing to tear the Administration and the Legislature apart in the middle of an election year, the Governor withdrew the bill at the commencement of the 1978 session.

Two bills revising Alaska's drug laws were introduced in the 1979 legislative session. One, HB 479, was introduced by Representative Parr and is currently in the House Health, Education, and Social Services Committee. The other, CS for SB 65, was introduced by Senator Dankworth and is currently in the Senate Judiciary Committee.

Recently the Governor has announced that he intends to introduce a drug bill during the 1980 session.

Undoubtedly, all of these drug bills will be given a judiciary referral. Copies of HB 479 and CS for SB 65 are enclosed for review and consideration.

Insert P D Report

Currently the court system had no idea what the rate of recoupment is for these billings. The court system does not maintain accounts of totals owed or totals recovered. This discovery, which resulted from ~~my~~ the investigation conducted for this report, has prompted the court system into considering ~~maintaining such an account.~~
the establishment of such accounts.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

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

From: Margaret W. Berck, Staff

Date: September 13, 1979

Subject: Alaska Public Defender Agency

I. INTRODUCTION

The Alaska Public Defender Agency (PD) was established by the Alaska Legislature in 1969¹ to serve the needs of indigent defendants. The agency is administered by the public defender who is appointed by the governor from two or more persons nominated by the judicial council. This appointment is subject to confirmation by majority of the members of the legislature in joint session. The PD serves a term of four years and may be retained for another term; however the retention must be confirmed by the legislature. Currently the PD position is filled by Mr. Brian Shortell.

The PD operates six offices in the state and, additionally, contracts² with one private law firm and one local Alaska Legal Services Corporation office to provide legal representation to indigent defendants.

¹See AS 18.85.010 - AS 18.85.170.

²The PD is empowered to contract for legal services pursuant to AS 18.85.130(b).

Although generally the court appoints the PD to represent indigent defendants, under certain circumstances the court may appoint a private attorney to serve as a substitute defender.³ The bulk of these appointments arise when the PD has a conflict of interest and such legal representation would constitute a professional ethical violation. Consideration of this issue is addressed in a separate report. However it should be noted that the financial eligibility requirements are essentially the same regardless of whether a private attorney or the PD is appointed to represent the defendant.

II. SERVICES PROVIDED BY PD

The scope of legal services provided by the PD is generally defined in Alaska statutes. Pursuant to AS 18.85.100, an indigent is entitled to legal representation in the following circumstances: if he or she is being detained by a law enforcement officer in connection with a serious crime; if he or she is formally charged with, or being detained under a conviction of, a serious crime; if he or she is on probation or parole; if he or she is a juvenile charged with a delinquent act or a status offense; or if he or she is the subject of an involuntary mental health commitment. "Serious crime" is defined as a criminal matter in which a person is entitled to legal representation under the U.S. constitution or the Alaska constitution.⁴ This right to counsel has been interpreted by the U.S. Supreme Court and the Alaska Supreme Court as including any offense for which the defendant may be incarcerated, lose a valuable license, or suffer a heavy fine. As a result of this broad constitutional right to

³See AS 18.85.130(a).

⁴See AS 18.85.170(5)(A).

counsel, the PD is responsible for providing legal representation to defendants charged with both state felonies and state and city misdemeanors.

In addition to those types of cases immediately evident on the face of the statutory provisions, it should be noted that the PD is responsible for providing legal representation in the following matters: contempt proceedings in which the defendant may be subject to a criminal penalty, for example, a parent taking illegal custody of a child; post-conviction relief proceedings including, for example habeas corpus petitions, petitions to modify sentences, appeals, prisoner complaints, parole board proceedings, classification hearings, expungement proceedings, and probation revocation hearings.

The average caseload handled by an assistant PD is 246 cases. The average caseload of an assistant PD by judicial district is as follows: first judicial district, 202; second judicial district, 222; third judicial district, 255; fourth judicial district, 304.

These averages, if anything, are low. Since they are based on new cases filed in fiscal year 1979, they do not reflect cases carried over from the preceding year. Furthermore, although I did not include Mr. Shortell as a service delivery attorney, I did count both Kodiak and Nome, the contract offices, as having two attorneys when, in fact, those offices have one to two attorneys available for PD services.

Additional caseload characteristics for the PD are attached at the conclusion of this report.

III. PD FINANCIAL ELIGIBILITY REQUIREMENTS

The financial eligibility requirements for PD legal representation is embodied generally in Alaska statutes. In accordance with AS 18.85.100(b) attorney services and court costs are to be provided at public expense "...to the extent that the person, at the time the court determines indigency, is unable to provide for payment without undue hardship." To the extent that a person is able to provide for legal representation or other costs, the court may order him or her to pay for such items. Such payments shall be paid into the state general fund.⁵ As a condition of receiving PD services, a person must affirm his indigency under oath to the court and execute a waiver authorizing release to the court of income information pertaining to any income source the person has had during the immediately preceeding three years.⁶

Any person who has received PD assistance shall pay the state for the assistance if he or she was not entitled to it at the time indigency was determined. The attorney general may bring an action on behalf of the state to recover payment from such person.⁷

Thus, the courts are responsible for making determinations of indigency. Such determinations must be made in light of the statutory definition of indigency. An indigent is defined as a person who,

"...at the time his need is determined, does not have sufficient assets, credit, or other means to provide for payment of an attorney and all other necessary expenses of representation without depriving the party or his dependents of food, clothing or shelter and who has not disposed of any assets since the commission of the

⁵See AS 18.85.100(c).

⁶See AS 18.85.100(d).

⁷See AS 18.85.150.

offense with the intent or for the purpose of making himself eligible for assistance..."⁸

In practice, for most parts of Alaska, indigency determinations are made by the district court judges. When a defendant requests counsel at public expense, he or she is provided with a form "affidavit of indigency"⁹ to complete and return to the court. Subsequently, a hearing is held before the district court judge at which time the defendant is examined more particularly as to his or her alleged indigency status. At the conclusion of the hearing the judge will appoint the PD if he believes that representation at public expense is proper. Furthermore, the district court judge may appoint the PD, but order the defendant to pay a portion of the costs of legal representation. It should be noted that the judges apparently reach these decisions without the assistance of any "in-house" guidelines or criteria.

In Anchorage, the mechanism for determining indigency status differs in several regards from the above general practice. First, the magistrates are responsible for making recommendations to the court on all indigency determinations of those defendants who are in state custody. Such recommendations are made on a specified court system form¹⁰ and filed in the defendant's case file. Second, when the court is faced with a borderline indigency situation, it may request the pre-trial services caseworker to recommend appropriate action to the court. The pre-trial services caseworker makes such recommendations without any

⁸See AS 18.85.170(4).

⁹This form, entitled Affidavit of Financial Inability to Employ Counsel, is attached at the conclusion of this report.

¹⁰A copy of this form, entitled Request for Appointed Counsel, is attached at the conclusion of this report. It should be noted that this is the only form used by the magistrates.

"in-house" guidelines or criteria. The caseworker utilizes two court system forms to make these recommendations.¹¹ Factors considered by the caseworker include: spouse's income, number of dependent children, outstanding debts and the nature of those debts, assets, and ability to obtain a loan. For example, enlisted military personnel may present a sufficiently low enough income to qualify, but would be rejected since they have a regular income and are generally good credit risks. Although the caseworker never requests tax returns to confirm wages, the caseworker does validate the income and debt allegations by phoning the Wages and Hours Division and creditors. If the individual or spouse is unemployed, the caseworker requires the individual to present his or her, or the spouse's, unemployment records.

If the caseworker finds that the individual has sufficient income or assets to bear a portion of the expenses of legal representation, the caseworker recommends to the court that the individual pay a certain amount, up to \$750 for a misdemeanor, or up to \$1850 for a felony. The rationale for these maximum amounts is that that is what a private attorney would charge.¹² At the conclusion of a case in which the defendant was ordered to pay a portion of the legal representation expenses, the PD is required to submit a time sheet. The individual is then billed at the rate of \$30.00 per hour of PD services.

¹¹Copies of these forms, entitled Request for Appointed Counsel and Financial Statement, are attached at the conclusion of this report.

¹²Undoubtedly, private attorneys would dispute those estimations.

According to the PD, defendants are required to pay a portion of the expenses in approximately 50 percent of all PD cases. The court system estimates that in nine months, from October 1978 through June 1979, approximately \$51,417.59 was recovered from such defendants. The bulk of this recovery, some \$45,399.39, was obtained in the Third Judicial District.

Currently the court system has no idea what the rate of recoupment is for these billings. The court system does not maintain accounts of totals owed or totals recovered. This discovery prompted the court system into considering the establishment of such accounts.

IV. CLIENT GRIEVANCE PROCEDURE

A PD client basically has two recourses for lodging complaints against the agency. One, the client may initiate with the Alaska Bar Association a grievance action against a particular attorney employed by the PD.¹³ Upon receipt of a complaint, the Alaska Bar Association usually writes the PD for an explanation. Ultimately the Alaska Bar Association is empowered to reprimand or dis-bar the attorney involved. Two, the client may file a complaint with the Office of the Ombudsman. Generally the ombudsman is empowered to investigate complaints, report his findings to the agency involved, and publish his opinion and recommendations.¹⁴ It should be noted that one public defender indicated that complaints lodged with the ombudsman were ineffectual.

¹³The grievance procedure of the Alaska Bar Association will be addressed in a separate report in conjunction with the Committee's sunset review of that association.

¹⁴See AS 24.55.010, et seq.

V. PD BUDGET

The primary source of funding for the PD is derived from a legislative appropriation out of the general funds each year. Total expenditures by the PD in fiscal year 1978 were \$2,107,400; authorized expenditures for fiscal year 1979 were \$2,101,700. The fiscal 1978 PD budget by judicial districts, together with individual offices and professional staff positions was:

<u>DISTRICT</u>	<u>PROFESSIONAL STAFF</u>	<u>BUDGET</u>
<u>First Judicial District</u>		\$ 297,200.00
Ketchikan Office	2 Attorneys	
Juneau Office	2 Attorneys	
<u>Second Judicial District</u>		108,100.00
Nome - Larsen, Timbers & VanWinkle (on contract)	1 to 2 Attorneys 1 to 2 Attorneys	
<u>Third Judicial District</u>		1,024,200.00
Anchorage Office	13 Attorneys	
Kenai Office	1 Attorney 1 Paralegal	
Kodiak - Alaska Legal Services Corporation, Kodiak Office (on contract)	1 to 2 Attorneys	61,607.95
<u>Fourth Judicial District</u>		591,200.00
Bethel Office	1 Attorney 1 Paralegal	
Fairbanks Office	5 Attorneys	

(Each PD office has village responsibilities, as well as those arising out of the community in which the office is located.)

Currently the PD contends that it is under-budgeted by some four attorney positions. National guidelines defining appropriate caseloads for public defenders have been established by the National Conference on Criminal Justice under the Law Enforcement Assistance Administration. Every assistant public defender in Alaska carries a caseload in excess of those guidelines. Between fiscal years 1978 and 1979, the PD's caseload increased by some 646 cases. Due to particularly heavy individual attorney caseloads in the Fourth Judicial District, the PD sought additional funds from the legislature last regular session so that another attorney might be added to the Fairbanks office. The PD was unsuccessful in this effort. As a result of this funding deficiency, PD services in the bush are adversely impacted to a greater extent than urban service.

FY 78

ALASKA PUBLIC DEFENDER AGENCY
 FY 78 NEW CASE FILES
 JULY 1, 1977 - JUNE 30, 1978

	Parole Board	Misdemeanor-City	Misdemeanor-State	Felony	Juvenile	Sanity	Appeal	Total
Ketchikan	22	--	145	60	72	21	6	326
Juneau	<u>13</u>	<u>--</u>	<u>239</u>	<u>95</u>	<u>38</u>	<u>3</u>	<u>12</u>	<u>400</u>
Total 1st District	35	--	384	155	110	24	18	726
Nome	<u>2</u>	<u>--</u>	<u>199</u>	<u>73</u>	<u>38</u>	<u>--</u>	<u>8</u>	<u>320</u>
Total 2nd District	2	--	199	73	38	--	8	320
Anchorage	--	943	700	532	138	160	72	2545
Kenai	--	--	252	82	25	--	7	366
Kodiak	<u>11</u>	<u>74</u>	<u>294</u>	<u>101</u>	<u>31</u>	<u>--</u>	<u>5</u>	<u>516</u>
Total 3rd District	11	1017	1246	715	194	160	84	3427
Fairbanks	29	--	746	235	210	36	17	1273
Bethel	<u>55</u>	<u>--</u>	<u>337</u>	<u>81</u>	<u>30</u>	<u>--</u>	<u>--</u>	<u>503</u>
Total 4th District	84	--	1083	316	240	36	17	1776
Total Cases for FY 78	132	1017	2912	1259	582	220	127	6249

FY 79

ALASKA PUBLIC DEFENDER AGENCY
NEW CASES FILED

7/1/78 through 6/30/79

	Felony	Misdemeanor		Juvenile	Sanity	Appeal/ Other	TOTAL
		City	State				
Ketchikan	101	--	171	100	7	4	383
Juneau	54	--	324	32	1	13	424
Total 1st. Dist.	155	--	495	132	8	17	807
Nome	64	--	309	66	--	4	443
Total 2nd Dist.	64	--	309	66	--	4	443
Kenai	91	--	292	19	--	12	414
Kodiak	146	123	228	14	1	31	543
Anchorage	530	1283	692	120	157	82	2864
Total 3rd Dist.	767	1406	1212	153	158	125	3821
Bethel	66	--	274	43	--	36	419
Fairbanks	201	--	914	181	29	80	1405
Total 4th Dist.	267	--	1188	224	29	116	1824
TOTAL NEW CASES	1253	1406	3204	575	195	262	6895

(Continued from page 1)

III. SUPPORT OBLIGATIONS

1. Your age _____ 2. Marital status _____
3. Who do you support? _____

NAME	RELATIONSHIP	AGE

IV. PRESENT FINANCIAL OBLIGATIONS

IF BEHIND, HOW MUCH

- | | | |
|---------------------------------|---------------------------------------|-------|
| 1. Food | _____ / <input type="checkbox"/> None | _____ |
| 2. Rent | _____ / <input type="checkbox"/> None | _____ |
| 3. Utilities | _____ / <input type="checkbox"/> None | _____ |
| 4. Car payments | _____ / <input type="checkbox"/> None | _____ |
| 5. Furniture & TV payments | _____ / <input type="checkbox"/> None | _____ |
| 6. Child support or alimony | _____ / <input type="checkbox"/> None | _____ |
| 7. Past court fines | _____ / <input type="checkbox"/> None | _____ |
| 8. Other loans or time payments | _____ / <input type="checkbox"/> None | _____ |

V. ADDITIONAL INFORMATION

1. What is your present bail status? _____

2. What efforts have you made to hire a lawyer? _____

3. Have you tried to borrow money to hire a lawyer? _____

4. What help do you expect from relatives or friends? _____

5. Where do you get the money to support yourself and family? _____

(Continued on page 3)

(Continued from page 2)

STATEMENT OF FINANCIAL RESPONSIBILITY

I understand that to the extent I am able to pay for an attorney, the other necessary services and facilities of representation, and court costs, the court may order me to pay for these items. Further, I understand that I must pay the State of Alaska for any assistance given to me by the Alaska Public Defender Agency if it is determined I was not entitled to the assistance.

GENERAL WAIVER

I hereby authorize anyone, including my past employers, to release to the Alaska Court System, all information concerning any income source I have had for a period of three years immediately preceding my first court appearance in the case which the Public Defender Agency is representing me. I understand that this information may be made available to the Attorney General upon request after the conclusion of my case, except as it may tend to incriminate me.

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

I declare, under oath, that (this affidavit has been read to me)
(I have read this affidavit)

and that the statements contained therein are true. I further certify that I have read or have had read to me the Statement of Financial Responsibility and the General Waiver authorizing release of income information.

Executed this _____ day of _____, 19 __, in Juneau Alaska.

Signature

Mailing Address

Residence Address

City/State/Zip Code

Telephone Number

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19 ____.

Clerk of Court/Deputy Clerk/
Notary Public
My Commission Expires _____

IN THE DISTRICT COURT FOR THE STATE OF ALASKA

AT ANCHORAGE

() STATE OF ALASKA)
() MUNICIPALITY OF ANCHORAGE)
Plaintiff)
vs.)
Defendant)

CASE NO.
REQUEST FOR APPOINTED COUNSEL

Name Charge
Address DOB Phone
Soc. Sec. No.
Present employer How Long
Member of Union (Yes, No) Which One?
Marital Status Number of Dependents?
Assets: Home or other Properties
Bank Accounts
Vehicle(s)
Other Information

STATEMENT OF FINANCIAL RESPONSIBILITY/GENERAL WAIVER

I understand that to the extent I am able to pay for an attorney, other necessary services and facilities of representation and court costs, the court may order me to pay for these items. Further, I understand that I must pay the State of Alaska for any assistance given to me by the Alaska Public Defender Agency or other appointed counsel if it is determined I was not entitled to the assistance.

I authorize anyone, including my past employers, to release to the Alaska Court System all information concerning any income source I have had for a period of three years immediately preceding my first court appearance in which appointed counsel is representing me. I understand that this information may be made available to the Attorney General upon request after the conclusion of my case except as it may tend to incriminate me.

I declare, under oath, that I have read or have had read to me the Statement of Financial Responsibility and the General Waiver. I further declare that this financial statement is true. I understand that if I give false information in the Financial Statement I may be prosecuted for perjury under AS 11.30.010.

DATE DEFENDANT

Subscribed and sworn to before me on 1979.

JUDGE/CLERK

The defendant has requested that the court appoint an attorney at state expense to represent him. I recommend that this request be Denied Approved.

Signature

IV. FINANCIAL STATEMENT

A. Income information (after taxes, but before other deductions):

Your total net income during the past 12 months _____
 Your spouse's total net income during the past 12 months _____

Your total NET monthly income from:	Spouse's NET monthly income from:
Wages _____	Wages _____
Welfare _____	Welfare _____
Unemployment _____	Unemployment _____
Other (specify) _____	Other(specify) _____
Other (specify) _____	Other(specify) _____

Indicate Specific details here _____

B. Assets (All property, paid for or not, including such things as land cars, campers, airplanes, snowmobiles, tools, guns, valuable collections jewelry, furs, etc. Also include cash on hand, savings or checking accounts, life insurance policies, annuities, stocks, bonds, or other liquid securities. Indicate where cash, cash accounts, and securities are located and worth of each.

Description and locations of asset(s)	Equity
(1) _____	_____
(2) _____	_____
(3) _____	_____
(4) _____	_____
(5) _____	_____
(6) _____	_____
None _____	

Are you dependent upon any of the above to guarantee your survival or employment? (Yes No) If yes, indicate which assets (besides cash) and the reason. _____

C. Debts (Indicate the names of all persons and establishments you are indebted to, what you are indebted for, i.e. land, rent, personal loan, food, car, etc. The total amount you now owe, and the amount and terms of payment. List ALL monthly expenses.)

Creditor	Reason	Present Balance	Monthly Expense
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____
(5) _____	_____	_____	_____
(6) _____	_____	_____	_____
(7) _____	_____	_____	_____
None _____			

Are you behind in any of your payments? (Yes No) If yes, indicate which ones and how much behind. (1) \$ _____ . ()\$ _____
 ()\$ _____ , ()\$ _____ ()\$ _____

D. Summary of financial statement:

(1) Total family income for the past 12 months	_____
(2) Total assets (equity)	_____
Cash	_____
(3) Total debts	_____
(4) Total family income each month	_____
(5) Total family expenses each month	_____
Amount behind	_____
(6) Total discretionary income each month	_____

✓ Bonnie, Ready for
xeroxing, but need
to type last page
again.

✓ Staple reports to
attachment + place in
Legal Representation for
Indigents file.

Thanks.
Pax



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

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

From: Margaret W. Berck, Staff

Date: September 13, 1979

Subject: Court Appointed Attorneys for Indigents in the Alaska
Court System.

I. INTRODUCTION

Under certain circumstances, legal representation is provided for indigents by court appointed counsel. State courts are required to furnish such representation for indigent defendants in criminal proceedings when for good cause the public defender cannot represent the defendant.¹ In addition, the courts are authorized to appoint counsel to represent a child's interests in a divorce proceeding when custody, visitation or support are at issue.² Finally, pursuant to a recent supreme court case, an indigent party in a divorce action is entitled to court appointed counsel if child custody is at issue and his or her spouse is represented by Alaska Legal Services Corporation³

¹See AS 18.85.130.

²See AS 09.65.130.

³See Flores v. Flores, Alaska Supreme Court, opinion number 1675, July 13, 1979.

II. COURT APPOINTED COUNSEL IN CRIMINAL ACTIONS

An indigent defendant is entitled to a court appointed attorney when the public defender for good cause cannot provide legal representation. The bulk of these appointments arise when the public defender has a conflict of interest precluding such representation. The majority of the public defender conflicts occur in multiple defendant cases. In a criminal proceeding against two or more indigent defendants, the public defender for conflict of interest reasons may represent only one of the defendants. Another frequently occurring public defender conflict involves the representation of informers. If the public defender is representing a client against whom an informer has provided state's evidence, the public defender is precluded from representing the informer should he or she be subsequently charged with a criminal offense.

Pursuant to statute, court appointed counsel are entitled to reasonable compensation according to a schedule of fees promulgated by the supreme court and reimbursement for expenses necessarily incurred.⁴ Since 1974 the responsibility of providing payments for these services has lodged with the Alaska court system.

In fiscal year 1979 the court system was faced with a \$566,000 deficit due to unanticipated bills submitted by court appointed attorneys. Two factors contributed to this deficit. First, the court system did not maintain an account of the appointments as they were made. Second, insufficient monitoring mechanisms led to incurring one billing for over \$100,000 and another at \$60,000. To cover this deficit, the court system sought a supplemental appropriation, but was

⁴See AS 18.85.130.

able to obtain only 75% of the deficit or \$406,000 from the 1979 legislature.

This funding situation has triggered a number of responses. First, the Alaska Supreme Court amended Administrative Rule 15 which provides for the compensation of court appointed attorneys. Although the new rule does not alter the rate of compensation, \$40.00 per hour, it does establish maximum limitations. For example, the maximum attorney fee award for cases disposed of by trial is \$500 for misdemeanors and \$2500 for felonies. Additionally, extraordinary expenses will be reimbursed only with the prior approval of the trial judge, presiding judge, or administrative director of the court system.⁵

Although it is estimated that the level of compensation established by the new rule will meet 80% of the awards sought under the prior rule, the private bar has objected strongly to the new fee schedule. The Alaska Bar Association contends that the legal profession should not be singled out to bear the financial burden of implementing the constitutional right to counsel. To overcome the resistance by private attorneys to accept such appointments, two judicial districts have had to establish mandatory lists of all attorneys in the district from which appointment selections are now made. Previously selections were made from volunteer lists. The use of these mandatory lists raises competency of counsel problems for those attorneys who have never handled a criminal case. The case law in this area indicates that the courts have the authority to establish mandatory appointment systems since those attorneys who believe that they would be incompetent have the option to hire another attorney to stand in their place.

⁵A copy of this amended Administrative Rule is attached at the conclusion of this report.

To resolve these problems a special committee was established comprised of representatives from the executive and judicial branches of government as well as representatives from the Board of Governors of the Alaska Bar Association. As a result of this committee's findings and recommendations, the Alaska court system has solicited contract offers⁶ from each attorney in the state to provide these legal services. The immediate goal of this solicitation is to obtain contracts within the court system's budgetary constraints which would provide these legal services on a state-wide basis for a period of four months. It is contemplated that payments under these contracts would be made in one of two ways. One, the contractor would be provided a lump sum amount for all such appointments occurring within a certain designated geographical area. Two, the contractor would be paid on a per case basis with set fees for each misdemeanor, felony and appeal appointment occurring within a designated geographical area. In addition, provision is made to permit the reimbursement of specified out-of-pocket expenses. Maximum limitations for these expenses are fixed at \$50.00 for each misdemeanor and \$100.00 for each felony. In order to obtain reimbursement in excess of these limitations, the contractor must seek prior approval from the trial judge, presiding judge, or from the administrative director. As the deadline for submitting offers under this solicitation was September 4, 1979, the court system is in the midst of reviewing all of the offers and no contracts had been let at the time of writing this report.

⁶Another solution to this problem, considered by the special committee, was the establishment of a Conflicts Office in the Office of the Governor. In essence, the Conflicts Office would have constituted an alternative public defender agency. As this solution was apparently rejected by the special committee, it is not addressed in this report.

In fiscal year 1979, the court system expended \$1,025,000 to \$1,050,000 for the services of court appointed attorneys in criminal cases. The fiscal 1980 allocation for these services is \$593,100. Although the implementation of the new fee schedule together with the possibility of securing contractual services may permit the court system to operate within its budgetary allocation, it is conceivable that additional funding will be required. If such is the case, any experiment with contractual services will provide valuable data as to the financial efficiency of this solution to the criminal appointment problem.

III. COURT APPOINTED ATTORNEYS IN DIVORCE ACTIONS

As noted in the introduction to this report, indigents are occasionally provided with counsel at public expense in divorce proceedings. Pursuant to statute, guardian ad litem are generally appointed to represent the child's interest if custody, visitation or support are at issue. Furthermore, in July 1979, the Alaska Supreme Court held that an indigent party to a divorce action in which child custody is at issue is entitled to a court appointed attorney if Alaska Legal Services Corporation is conflicted.

Attorneys appointed in these proceedings are compensated at \$40.00 an hour. There are no maximum limitations on these fee awards. In fiscal year 1979 the court system was allocated \$192,500 for guardian ad litem appointments, but disbursed \$294,200 for these appointments. The court system was able to make up the difference, some \$100,000, by savings accumulated under other items. The fiscal 1980 allocation for guardian ad litem expenses is \$199,700.

As a result of both the increasing costs of guardian ad litem appointments and the unanticipated expenses created by the recent supreme court ruling, problems similar to those encountered in the criminal appointments may arise with respect to these civil appointments. If such problems occur, solutions similar to those implemented for the criminal appointments may have to be established for these appointments as well.

Amending Administrative Rule
15 Relating to Compensation
of Court Appointed Counsel in
Criminal Cases.

IT IS ORDERED:

1. Paragraph (f) of Rule 15, Rules Governing the Administration of All Courts is amended to read:

(f) Attorneys shall be compensated at the rate of \$40.00 per hour; provided that total compensation for any case shall not exceed the following schedule:

- (1) Misdemeanor disposed of following a plea of guilty or nolo contendere, or by dismissal....\$ 250
- (2) Misdemeanor disposed of following trial.....\$ 500
- (3) Felony disposed of following a plea of guilty or nolo contendere, or by dismissal....\$1,250
- (4) Felony disposed of following trial.....\$2,500
- (5) Probation or parole revocation proceeding or a proceeding under Criminal Rule 35(b)
 - (i) Misdemeanor.....\$ 350
 - (ii) Felony.....\$1,000
- (6) Appeal, including combined sentence and merit appeals:
 - (i) From the district court.....\$ 500
 - (ii) From the superior court.....\$1,500
- (7) Sentence appeal:
 - (i) From the district court.....\$ 250
 - (ii) From the superior court.....\$ 750
- (8) Petition for review, including any additional or successive petitions in the same case:
 - (i) From the district court.....\$ 350
 - (ii) From the superior court.....\$1,000

Multiple counts or charges in an indictment or information are to be considered as a single case for purposes of compensation under this rule, but in the discretion of the presiding judge, they may be treated as separate cases if separate trials have been ordered under Criminal Rule 14. Additional compensation for proceedings not specifically listed in this schedule may not be awarded except under (h) of this rule.

2. Paragraph (g) of Rule 15, Rules Governing the Administration of All Courts, is amended to read:

(g) Extraordinary expenses will be reimbursed only if prior authority has been obtained from the assigned trial judge, from the presiding judge, or from the Administrative Director. The assigned trial judge may authorize extraordinary expenses up to a total amount not to exceed \$1,500.00, and the presiding judge may authorize an amount not to exceed an additional \$1,500.00. Extraordinary expenses exceeding \$1,500.00 may be authorized only in extremely complex cases by

the Administrative Director upon the recommendation of the presiding judge. In this paragraph, "extraordinary expenses" are limited to expenses for

- (1) investigation;
- (2) expert witnesses; and
- (3) necessary travel and per diem by the defendant, appointed counsel, and witnesses. Travel and per diem may not exceed the rate authorized for state employees.

3. Rule 15, Rules Governing the Administration of All Courts is amended by adding new paragraphs to read:

(h) If necessary to prevent manifest injustice, the Administrative Director may authorize payment of compensation or expenses in excess of the amounts allowed under this rule.

(i) If the Administrative Director determines that the best interest of the Court System would be served, he may enter into agreements to provide representation for indigent defendants in criminal cases. The provisions of an agreement entered into under this paragraph supersede the other provisions of this rule.

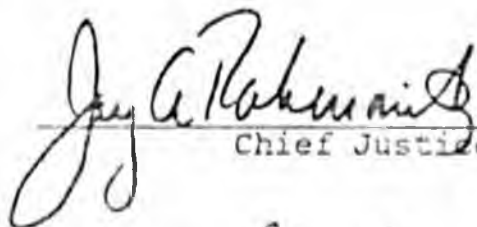
4. The limitations adopted in Paragraphs 1 and 2 of this order apply to all services performed on or after the effective date of the order, including services performed under appointments made before the effective date; provided, however, that the limitations specified shall apply only to services performed after this date.

DATED: June 29, 1979

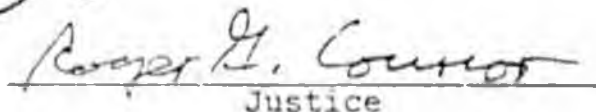
EFFECTIVE DATE: July 1, 1979

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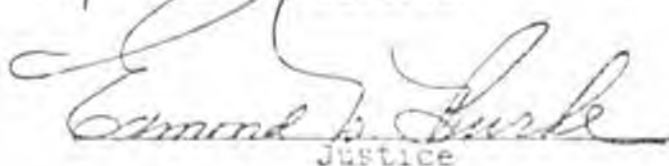
Chief Justice



Justice



Justice



Justice



Justice

* Justice Brochever would prefer entering into agreements to provide representation for indigent defendants in criminal cases.

DEPARTMENT
OF PUBLIC
SAFETY



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

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

From: Margaret W. Berck, Staff

Date: November 26, 1979

Subject: Report on Department of Public Safety

As a matter of courtesy, I sent a copy of my report on the Department of Public Safety to the Department for their comments and any necessary updating. Rather than providing individual comments or responses, the Department had the entire report retyped incorporating their clarifications and latest information. The Department's version of my report is attached hereto. You should note that this report includes the number of minority and women troopers. That information was not available at the time of writing my report.

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

From: Margaret W. Berck, Staff

Date: September 13, 1979

Subject: The Department of Public Safety

I. INTRODUCTION

The Department of Public Safety (DPS) is comprised of two law enforcement divisions, the Division of Alaska State Troopers and the Division of Fish and Wildlife Protection.¹ Currently, these two Divisions have 405 commissioned officer positions. The Division of Alaska State Troopers has 291 such positions, with 17 vacancies; the Division of Fish and Wildlife Protection has 100 such positions, with 10 vacancies. In addition, 10 full and 30 training positions (30 vacancies²) are assigned to the Alaska State Trooper Academy and 4 positions (2 vacancies) are assigned to the Office of the Commissioner. Because of a maintenance budget, DPS is unable to increase these positions during fiscal year 1980. Officers assigned to either of the main two law enforcement divisions must meet the same qualifications requirements and pass the same entrance examination. Both law enforcement Divisions have the same ranking structures and rates of pay. An officer enters DPS at range 74 and, after the satisfactory completion of his or her one-year probationary period, receives a range 76 salary.³

¹Other divisions include the Division of Motor Vehicles, the Division of Administrative Services and the Division of Fire Prevention, but for the purposes of this report, remarks are limited to the two main law enforcement divisions.

²The 30 positions attached to the State Trooper Academy are funded to be filled to capacity only during periods of recruit academy sessions.

³In the Anchorage area, range 74 pays \$1829 per month; range 76 \$2119.

Officer positions with both such Divisions are located throughout the State.⁴

II. RECRUITMENT AND TRAINING

Presently, DPS is seeking to recruit more minorities and women to the force. This recruitment effort is the result of protracted negotiations with the Human Rights Commission. Since the Human Rights Commission had found that the written examination,⁵ used by DPS in its selection process, was culturally biased, a new examination was developed.⁶ This examination will be administered to applicants in October, 1979.

In order to attract large numbers of minorities and women for the October entrance examination, DPS is currently in the midst of notifying Native corporations, the Bureau of Indian Affairs, and various minorities' and women's organizations of employment opportunities with DPS. In addition, the examination will be given in the eight major cities of Alaska, as well as, any other location where there are at least three applicants desiring to take the examination. Furthermore, DPS is negotiating with the Bureau of Indian Affairs so that the Bureau might provide travel funds to any Native applicant who might have to travel to another location in order to take the examination.

DPS recognizes the need to increase the number of minority and female commissioned officers within its Divisions of State Troopers

⁴ See Appendix to this report for exact locations of officers, as well as, detachment organization.

⁵ Although DPS utilizes separate written examinations for various promotional positions, apparently the Human Rights Commission negotiations only pertained to the entrance examination.

⁶ This new entrance examination is also used by the Anchorage Police Department.

and Fish and Wildlife Protection. DPS believes the number of minority and female commissioned officers should approximately equal the percentage of minorities and females in the Alaska labor force from which commissioned officers are selected.

On October 1, 1979, the Alaska State Troopers, Fish and Wildlife Protection, the Commissioner's Office and the Academy had 376 filled commissioned positions (29 vacancies). Of these 376, thirty-eight (38) were minority or female: 10.01%.

To insure the attainment of this goal, DPS has entered into an agreement to modify the normal selection process. Normally, DPS considers on a one to five ratio. For example, if DPS had one position available, it would normally select that individual from the top five on the eligible list for the position. However, under their affirmative action plan, DPS intends to consider for selection all the minority and female applicants who appear on the eligible list under "the rule of the whole" (list). Some of those individuals may be offered positions ahead of white males even should the white males score better on the examinations. Under this process it is possible that the next group of troopers employed may be predominantly minorities and women.

In addition to the written examination, applicants for trooper positions must undergo a medical examination and a polygraph examination. Currently, psychological examinations are not required. In the past, applicants were required to submit to a psychological screening. This was conducted by a psychiatrist in Anchorage and costs \$500 per evaluation. This procedure was subsequently abandoned by DPS primarily because it found the evaluations to be useless.

Applicants who failed the psychological evaluation would seek an opinion from another psychiatrist and frequently obtain a completely different opinion. One such applicant was ultimately hired by DPS and has made a fine trooper. Despite difficulties in the past, DPS is seeking to incorporate some type of psychological evaluation in their selection process. DPS has contracted with a police psychiatrist who subjects trainees at the State Trooper Academy to simulated stress situations. Trainees are then assigned grades upon the basis of their responses. The behavior of these trainees is being traced, once they have been placed on the force, to determine if there is any correlation between the test results and on-the-job behavior. Should this test ultimately be validated, it will be incorporated in the DPS selection process.

Applicants must also take an agility test. Currently, however, the results of this test alone, would not eliminate an applicant from the selection pool. The test is not a pass/fail examination. DPS is attempting to validate this test in order that it might be established as one of their selection criteria.

Once the applicant has successfully completed the required examinations described above, together with a comprehensive background investigation, and is selected by DPS for hire, he or she must then complete the Alaska State Trooper training requirements. These training requirements must be completed prior to the end of the officer's one-year probationary period. The first portion of training is conducted at the Public Safety Academy⁷ located in Sitka. The State Trooper Recruit

⁷Although normally the State Trooper Academy has two sessions each year to accommodate the average yearly turn-over rate of 24+ officers, because of a maintenance budget for fiscal year 1980, DPS intends to hold only one Academy session in 1980.

Academy consists of 13 weeks of instruction on various law enforcement subjects, including a course of Emergency Medical Technician and 40 hours on cultural sensitivity. The second portion of training consists of three months of field training. Field training is basically on-the-job training under formalized close supervision. All of this and the completion of a 12 month probationary period allows the officer to obtain a Basic Certificate and promote to Range 76.

Presently, DPS is in the midst of completely revising its "shoot and no shoot" instruction at the academy. In the past, DPS brought instructors up from Los Angeles to provide this training. However, DPS has found that there was no coordination between what was taught at the academy and what was later taught in the field. As a result of this finding, DPS intends to retrain every state trooper on this specific issue. This training will provide the officer with instruction on when he or she may grab, unstrap, draw, and aim his or her weapon. Before the officer is permitted to shoot an assailant, the assailant must present the ability and opportunity to endanger the officer or other person(s). Furthermore, the officer or other person(s) must be in actual jeopardy. It is contemplated that this training will be completed by July 1980.

III. COOPERATION AMONG LAW ENFORCEMENT AGENCIES

Alaska law⁸ requires DPS to assist other departments of the state, municipal, and federal governments in the enforcement of criminal laws and regulations pertaining to those departments. In practice, agreements between DPS and other law enforcement agencies may be either written or verbal. With municipalities, where there is concurrent law

⁸See AS 18.65.090; see also 18.65.060 and AS 18.65.080.

enforcement jurisdiction between the Alaska State Troopers and local law enforcement officers, most of the agreements are verbal. An example of coordination between the Alaska State Troopers and a municipal police department is the Metro Unit in Anchorage. This is a combined city-state drug enforcement unit. Furthermore, combined state-federal law enforcement efforts are also usually of an informal nature. Alaska State Troopers will frequently coordinate investigation efforts with federal agencies in the drug enforcement area, as well as, violent crimes, such as bank robberies.

The Fish and Wildlife Protection Division of DPS contracts with NOAA in order to enforce fish and game laws in the crab fishery beyond the three mile limit. This contractual relationship permits officers from both agencies to deputize each other to facilitate this joint law enforcement effort.

DPS enforces state criminal laws both inside and outside the National Monuments. The Division of Fish and Wildlife Protection does not enforce National Wildlife or National Park regulations inside the monuments, but it is responsible for enforcing state fish and game laws inside the USFS Admiralty Island and Misty Fiords monuments. A copy of DPS policy on this issue is attached at the conclusion of this report.

Although these cooperative arrangements exist with respect to other law enforcement agencies, Commissioner Nix contends that there is not enough cooperation between police, prosecutors, courts and corrections to develop a cohesive strategy for curbing Alaska's increasing crime situation.

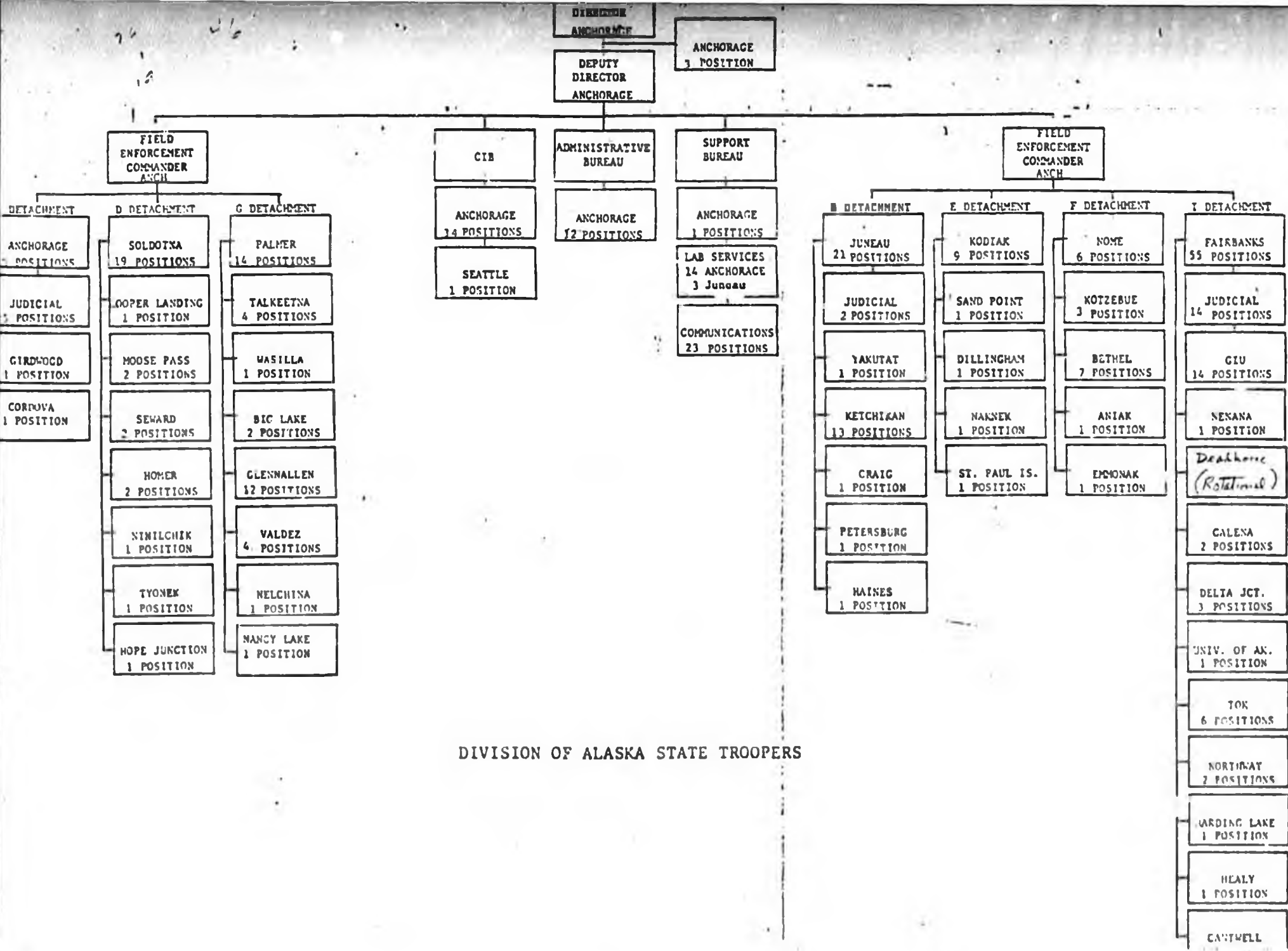
DPS is moving gradually in the direction of becoming a state

police force. DPS desires not to duplicate services in the urban areas. Recently, in line with this philosophy, law enforcement in the Anchorage bowl area was made primarily the responsibility of the Anchorage Police Department. Although DPS believes that combined state-local law enforcement efforts are necessary, it would like to reduce the level of its involvement in, for example, the Metro Unit in order that better services might be had in the bush. Response time for major crimes in rural Alaska is presently five days. The DPS hopes to reduce this response time to three days in the coming year.

IV. DPS PRIORITIES

DPS law enforcement priorities are first, protecting life; second, protecting property; and third, protecting resources. Aside from these basics, the DPS does not make selective enforcement decisions, nor does the DPS believe that such decisions would be good public policy.

Although specialized units, such as fraud, drug, traffic, and criminal investigation exist within the Division of Alaska State Troopers, should the DPS budget require a reduction of officer positions, a generalist would be kept over a specialist. This management position is a result of the DPS philosophy not to engage in selective law enforcement.



DIVISION OF ALASKA STATE TROOPERS