

1036 HJ INTERIM FILES, DRUG LAWS-JUVENILE JUSTICE

DRUG

LAW



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 27, 1979

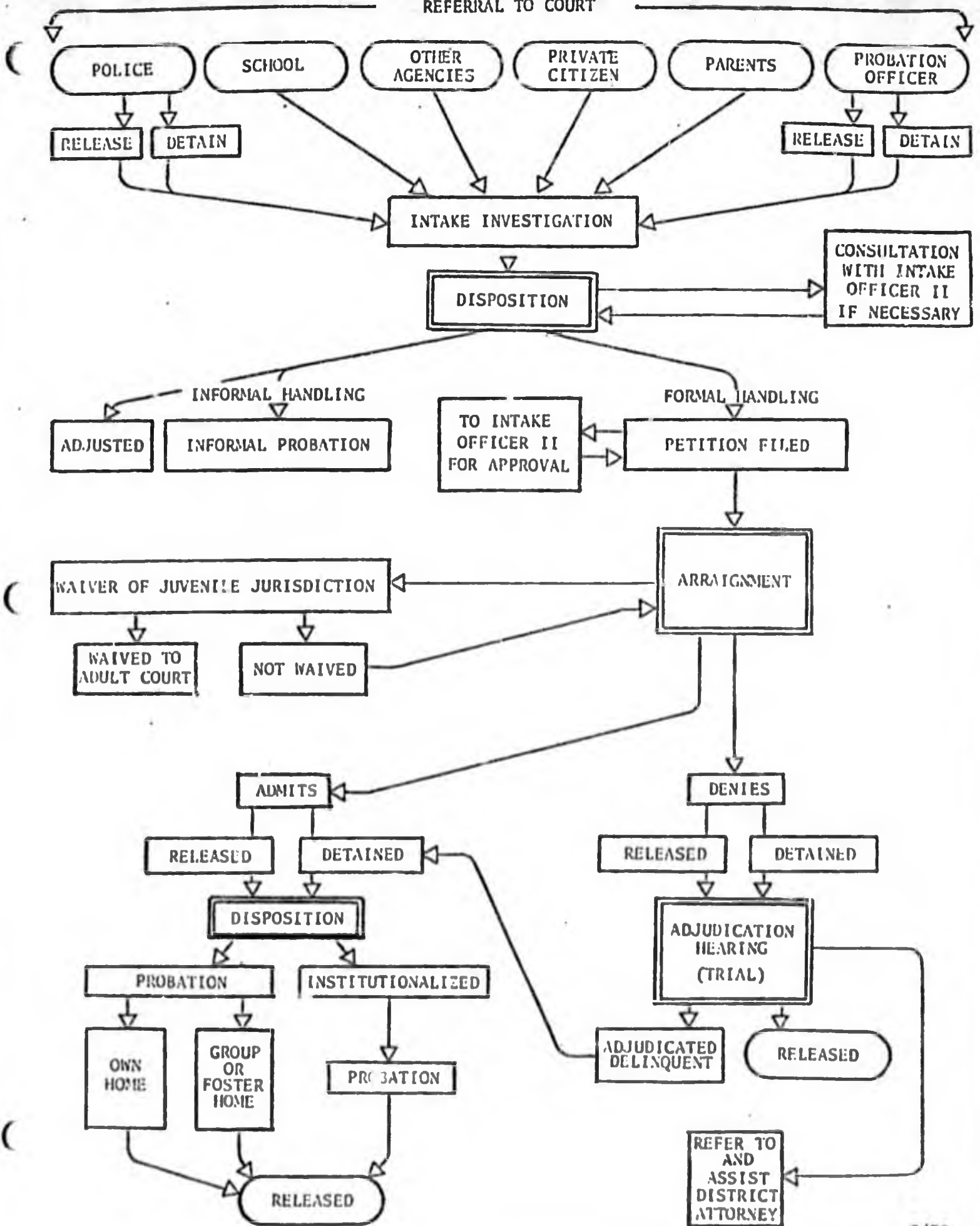
Subject: Drug Laws

At the Committee's request HB 101 has been added to the Drug Report. HB 101 was introduced by Rep. Terry Martin during the 1979 legislative session and currently is in the House Health, Education and Social Services Committee. HB 101 is identical to SB 65 as initially introduced in the 1979 legislative session. However SB 65 was later amended by the Senate Health, Education and Social Services Committee. The CS for SB 65 no longer contains a "no knock" provision whereas HB 101 currently has such a provision. But for this deviation, HB 101 is identical to the CS for SB 65.

Furthermore the governor's proposed drug bill has been added to the Drug Report. The governor's bill was released in "work draft" form as revision resulting from public comment is contemplated prior to its introduction in the 1980 legislative session.

DELINQUENCY CASES

REFERRAL TO COURT





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 concensus 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.

INTEGRATED
AND NON-
INTEGRATED
BAR ASSOC.



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 08.06.010, 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.

SB 104

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 21, 1979

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

TO: Charles Parr, Chairman
House Judiciary Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

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

I. The Differences.

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

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

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

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

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

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

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

Thus, Supreme Court justices and Superior Court judges shall be

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

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

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

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

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

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

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

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

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

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

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

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

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

II. Inherent powers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. Status of present courts.

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

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

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

RAB:slk

JUVENILE JUSTICE



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: Juvenile Justice

I. INTRODUCTION

The House Judiciary Committee has been assigned the 1980 sunset review of programs provided by the Department of Health and Social Services relating to the confinement of juveniles. In order to properly assess these juvenile programs and facilities, it seems that the committee must first become acquainted with the entire juvenile justice system. This memo is the first in a series on this issue and is intended to provide a preliminary background on juvenile law in Alaska as well as detailed statistics on juvenile placements and costs.

II. BACKGROUND

Alaska law defines a juvenile as a person under 18 years of age. In Alaska two classes of juveniles, alleged delinquents and children in need of aid, are subject to juvenile court jurisdiction. A delinquent juvenile is one who was found to have committed an act that would be considered a crime if committed by an adult. A child in need of aid is one who was found to have committed an offense that would not be

criminal if committed by an adult or is found to be an abused or neglected child. These noncriminal offenses are frequently designated as status offenses and under Alaska law include running away from home or refusing to accept available care. It should be noted that if an Alaskan juvenile is charged with traffic, fish and game, or parks and recreation violations, that would constitute a misdemeanor if committed by an adult, the juvenile is prosecuted in district court as if he or she were an adult.

The statutory distinction between the delinquent and the child in need of aid is significant to determining the remedies the state may impose for such juveniles. The intent of the statute is clear: children in need of aid require protection and delinquent children require correction. In theory the circumstances under which, and the facilities in which, the two groups may be detained prior to court disposition - or after commitment - differ. Children in need of aid are not subject to detention, delinquent children are.¹ Children in need of aid may not be committed to closed correctional facilities but delinquent children may be.²

Furthermore, this distinction is evident at the operational level. Services for delinquent children are provided by the Division of Correction, whereas services for children in need of aid are provided by the Division of Social Service. Both divisions are administered by the Department of Health and Social Services but under separate philosophies, separate regulations, and differing procedures.

¹In practice, a status offender may be subject to detention if no other facilities exist in which to provide temporary care for the child.

²It should be noted, however, that children in need of aid who violate their probation conditions may be incarcerated with delinquents in closed facilities. The result is that a two-time status offender may ultimately be treated in the same fashion as a delinquent. LAM v. State, 547 P2d. 827(1976).

Finally, this distinction is further preserved at the court level. Intake services for delinquent children are furnished by court intake staff in Fairbanks and Anchorage and by the Division of Corrections in the remainder of the state. Intake for children in need of aid is provided by the Division of Social Services in all four court districts.

This distinction is in accord with national trends evidenced in the Juvenile Justice and Delinquency Prevention Act of 1974. This federal act mandates that states participating in the act no longer hold status offenders in detention and correctional facilities.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01 - JUNEAU 99811

AUG 24 1979

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

Dear Ms. Berck:

This is in response to your request for statistical information on juvenile placements made by the Division of Social Services. Information regarding juvenile placements made by the Division of Corrections is being sent to you under separate cover.

The current client information system for the Division of Social Services was introduced in February, 1977. The system was fully operational in July, 1977. Prior to that date the only data which were maintained in a retrievable format were financial data. As a result, prior to July, 1977, the only data available are the total dollars spent on a Budget Request Unit basis. It is not possible to identify the number of children served during Fiscal Years 1976 and 1977.

The information provided below follows the format of your information request as it applies to the Division of Social Services.

1. Total DSS juvenile placements (foster homes, emergency shelters, group homes and institutions, both in-state and out-of-state):

FY 78 - 1904
FY 79 - 2100 (full year estimate)

2. Total costs of DSS juvenile placements:

FY 76* - \$3,635,529.74
FY 77* - \$4,553,004.19
FY 78* - \$6,173,790.46
FY 79**- \$6,385,850.90

*From prior year authorization balances.

**From current year authorization balances as of 06/30/79.

5. The Division of Social Services' authority and responsibility for the placement of children is based on AS 47.10. The Division of Social Services serves abused, neglected, abandoned children or runaways who fall under the statutory category of a "child in need of aid" whereas the Division of Corrections serves delinquent minors (AS 47.10.010).
6. As of August 10, 1979 there are 495 licensed foster homes. The number of beds available totals 1,030.

The differences in foster home data attached to the October 26, 1978 memorandum to which you referred are a result of the way in which the data were presented. On Attachment #5, the data are presented for July, August, and September, 1978. In order to obtain the total unduplicated number of foster homes, it is necessary to add the totals for each month:

July total = 33 homes
August total = 33 homes
September total = 29 homes

The data presented in Attachment #4 represent the number of foster homes licensed and certified by the Department of Health and Social Services. The responsibility for the licensure and certification of foster homes has been delegated to the Division of Social Services. The data provided in Attachment #4 was compiled from the computerized facilities management system. This system, which was implemented in January, 1978, was designed for the collection of licensing data and for the monitoring of the licensing function. Attachment #4 reflects that 17 homes have been licensed for Division of Corrections' use. Some of the homes licensed for use by the Division of Social Services are shared by the Division of Corrections. This may account for some of the difference in the two totals.

7. Total DSS foster care placements (in-state and out-of-state):

FY 78 - 1047
FY 79 - 1180 (full year estimate)

8. Total costs of DSS foster care placements:

FY 76 - \$1,419,513.10
FY 77 - \$1,656,392.55
FY 78 - \$2,094,579.32
FY 79 - \$2,089,642.22

11. The daily costs for Division of Social Services' placements are provided in Attachment #1.

12. The names and locations of all public and private institutions are provided in Attachment #2.

This information is a standard report sent to all Division of Social Services' officers from the facilities management system. It includes the rates (FY 79) and addresses. In discussion with the Quality Control section of this Department, they stated that the rates attached to your request were reasonably accurate.

Under full cost of care, an audit must be performed at the end of each year and the rates adjusted accordingly but always after the year's payments have been made. Not all audits for FY 78 have been finalized; and audits for FY 79 have not begun.

13. Included in Attachment #2 are all out-of-state institutions. Prior to FY 79, all out-of-state institutions were required to formulate an agreement with the Division of Social Services as to services provided and monthly costs. Again, this was just financial data. Due to the agreements signed and the constancy of these agreements, it has taken almost the entire FY 79 year to completely encode these in our current payment information system. Thus, individual institutional rates for FY 76, FY 77, and FY 78 are not available. The cost figure in Attachment #2 would be for FY 79 and the first part of FY 80.

14. & 17.

The non-encoding of the individual institutions into the current payment system also resulted in the Division of Social Services not having an accurate recording system for data retained. Consequently, the number of children placed outside of Alaska in FY 76, FY 77, and FY 78 is not available. For current FY 79 estimates see Attachment #3.

Total Dollars: FY 76 - \$1,429,513.10
 FY 77 - \$1,656,392.55
 FY 78*- \$429,329.04
 FY79**- \$738,856.42

*Due to transition to billing system and differences in State accounting system.

**Through May, 1979.

We hope that this information is of assistance to you. If you have any further questions, please feel free to contact me again.

Sincerely,



Allen K. Korhonen
Deputy Commissioner

Enclosures

STATE OF ALASKA
IN-STATE FOSTER HOMES
RATE SCHEDULE
(EFFECTIVE JULY 1, 1975)

Attachment #1

	JUNEAU AREA (SE)		KETCHIKAN AREA (SE) ³		SOUTHCENTRAL AREA		NORTHERN AREA ⁴	
	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates
5 & (Month) Under (Day)	\$180.00 5.92	\$193.00 6.51	\$176.00 5.79	\$194.00 6.38	\$176.00 5.79	\$194.00 6.38	\$187.00 6.15	\$206.00 6.77
6 Thru (Month) 12 (Day)		240.00 7.89		233.00 7.66		233.00 7.66		248.00 8.15
13 & (Month) Over (Day)	\$255.00 8.38	\$281.00 9.24	\$247.00 8.12	\$272.00 8.94	\$247.00 8.12	\$272.00 8.94	\$263.00 8.65	\$289.00 9.50

- NOTES:
1. New rates represent a 10% C.O.L.A. over FY 1975 rates.
 2. Monthly rates x (12/365) = Daily Rates.
 3. Includes Petersburg, Kake and Wrangell.
 4. Includes Bethel.
 5. The rate schedule includes a new age grouping, 6 through 12, to more accurately reflect costs for this age group.
 6. The above schedule is applicable only to foster parents residing in Alaska. The rates to be paid foster parents residing in the contiguous United States will be the same paid by the city, state, or county Welfare Department in which the foster parent resides.
 7. The new rates apply to the geographic location (city or regional area) of the foster parent -- not to the District or Region to which the case is assigned. The mailing address of the foster parent is the determining factor in all questionable cases.
 8. Crippled and handicapped children placed in foster homes by the MCH program of division of Public Health are exempt from provisions of above schedule. Foster parents caring for these special category short-term placements will be authorized \$12.00 per day per child without regard to age in the Southeastern and Southcentral regions. The rate of \$15.00 will be paid in the Northern Region.

STATE OF ALASKA
IN-STATE FOSTER HOMES
FEE SCHEDULE
(EFFECTIVE JULY 1, 1976)

	JUNEAU AREA (SE)		KETCHIKAN AREA (SE) ³		SOUTHCENTRAL AREA		NORTHERN AREA ⁴	
	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates
5 & (Month) Under (Day)	\$198.00 6.51	\$218.00 7.17	\$194.00 6.38	\$213.00 7.00	\$194.00 6.38	\$213.00 7.00	\$206.00 6.77	\$227.00 7.46
6 Thru (Month) 12 (Day)	\$240.00 7.89	\$264.00 8.70	\$233.00 7.66	\$256.00 8.42	\$233.00 7.66	\$256.00 8.42	\$248.00 8.15	\$273.00 8.98
13 & (Month) Over (Day)	\$281.00 9.24	\$309.00 10.16	\$272.00 8.94	\$299.00 9.83	\$272.00 8.94	\$299.00 9.83	\$289.00 9.50	\$318.00 10.45

- Notes:
1. New rates represent a 10% C.O.L.A. over FY 1976 rates.
 2. Monthly rates x (12/365) = Daily Rates.
 3. Includes Petersburg, Kake and Wrangell.
 4. Includes Bethel.
 5. The above schedule is applicable only to foster parents residing in Alaska. The rates to be paid foster parents residing in the contiguous United States will be the same paid by the city, state, or county Welfare Department in which the foster parent resides.
 6. The new rates apply to the geographic location (city or regional area) of the foster parent -- not to the District or Region to which the case is assigned. The mailing address of the foster parent is the determining factor in all questionable cases.
 7. Crippled and handicapped children placed in foster homes by the MCH program of the Division of Public Health are exempt from provisions of the above schedule. Foster parents caring for these special category shortterm placements will be authorized \$13.20 per day per child without regard to age in the Southeastern and Southcentral regions. The rate of \$16.50 will be paid in the Northern Region.

STATE OF ALASKA
IN-STATE FOSTER HOMES
RATE SCHEDULE
(EFFECTIVE JULY 1, 1977)

		JUNEAU AREA (SE)		KETCHIKAN AREA (SE)		SOUTHCENTRAL AREA		NORTHERN AREA ⁵	
		Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates
5 & Under	(Month)	\$218.00	\$228.00	\$213.00	\$238.00	\$213.00	\$228.00	\$227.00	250.00
	(Day)	7.17	7.50	7.00	7.50	7.00	7.50	7.46	8.22
6 thru 12	(Month)	\$264.00	\$274.00	\$256.00	\$274.00	\$256.00	\$274.00	\$273.00	\$300.00
	(Day)	8.70	9.00	8.42	9.00	8.42	9.00	8.98	9.86
13 & Over	(Month)	\$309.00	\$320.00	\$299.00	\$320.00	\$299.00	\$320.00	\$18.00	\$350.00
	(Day)	10.16	10.52	9.83	10.52	9.83	10.52	10.45	11.51

- Notes:
1. New rates represent a 10% C.O.L.A. for Fairbanks and a 7% C.O.L.A. for the remainder of the State over the FY 1977 rate and adjusting Juneau rate to equal Southcentral rate.
 2. Monthly rates x (12/365) = Daily Rates
 3. Includes Bethel.
 4. The above schedule is applicable only to foster parents residing in Alaska. The rates to be paid foster parents residing in the contiguous United States will be the same paid by the city, state, or county Welfare Department in which the foster parent resides.
 5. The new rates apply to the geographic location (city or regional area) of the foster parent -- not to the District or Region to which the case is assigned. The mailing address of the foster parent is the determining factor in all questionable cases.
 6. Crippled and handicapped children placed in foster homes by the MCH program of the Division of Public Health are exempt from provisions of the above schedule. Foster parents caring for this special category short term placement will be authorized \$14.12 per day per child without regard to age in the Southeastern and Southcentral regions. The rate of \$18.15 will be paid in the Northern region.

STATE OF ALASKA
IN-STATE FOSTER HOMES RATE SCHEDULE
EFFECTIVE JULY 1, 1979 - JUNE 30, 1980

		Southeastern Region (Juneau)		Southern Region (Ketchikan)		Southcentral Region (Anchorage)		Northern Region (Fairbanks)		Northwestern Region (Kotzebue - Barrow)		Western Region (Bethel)	
		Old Rates/New Rates		Old Rates/New Rates		Old Rates/New Rates		Old Rates/New Rates		Old Rates/New Rates		Old Rates/New Rates	
4 & Under	(Month) (Day)	\$265.00 8.71	\$291.00 9.56	\$265.00 8.71	\$291.00 9.56	\$265.00 8.71	\$291.00 9.56	\$305.00 10.03	\$334.00 10.99	\$345.00 11.34	\$387.00 12.71	\$345.00 11.34	\$378.00 12.42
5 thru 11	(Month) (Day)	\$293.00 9.63	\$321.00 10.57	\$293.00 9.63	\$321.00 10.57	\$293.00 9.63	\$321.00 10.57	\$337.00 11.08	\$370.00 12.15	\$381.00 12.53	\$430.00 14.13	\$381.00 12.53	\$418.00 13.74
12 & Over	(Month) (Day)	\$350.00 11.51	\$384.00 12.63	\$350.00 11.51	\$384.00 12.63	\$350.00 11.51	\$384.00 12.63	\$403.00 13.25	\$442.00 14.52	\$455.00 14.96	\$511.00 16.69	\$455.00 14.96	\$499.00 16.42

1. New rates represent implementation of 7 AAC 50.720 (c). Area differentials used as established in the State salary schedule.
2. Month rates x (12/365) = Daily Rates.
3. The above schedule is applicable only to foster parents residing in Alaska. The rates to be paid foster parents residing in the contiguous United States will be the same paid by the city, state, or county Welfare Department in which the foster parent resides.
4. The rates apply to the geographic location (city or regional area) of the foster parent -- not to the District or Region to which the case is assigned. The mailing address of the foster parent is the determining factor in all questionable cases.
5. Crippled and handicapped children placed in homes by the MCH program of the Division of Public Health are exempt from provisions of the above schedule. Foster parents caring for this special category short term placements will be authorized \$16.50 per day per child without regard to age in the Southeastern, Southern, and Southcentral regions. The rate of \$21.13 will be paid in the Northern Region.
6. The policy of the Division of Social Services is to use the daily rate only.
7. Emergency Foster Care rates are as follows:

Southeastern	\$15.79	Northern	\$18.15
Southern	\$15.79	Northwestern	\$21.11 (Barrow)
Southcentral	\$15.79	Western	\$20.53

OLD RATES = FY 79

NEW RATES = FY 80

ATTACHMENT # 3

Frederick McGinnis
Deputy Commissioner
Department of Health and
Social Services

April 13, 1979

John R. Pugh *J.R.P.*
Field Director
Division of Social Services

Out-of-State Placements for
Division of Social Services
and Division of Corrections

SE-S
NW
SE
Fbx/Ber

	<u>Corrections</u>	<u>Social Services</u>	
	<u>Institutional Placements</u>	<u>Institutional Placements</u>	<u>Foster Care</u>
First Judicial	19	16	13
Second Judicial			2
Third Judicial	9	4	25
Fourth Judicial	7	26	20
TOTAL	35	46	60

JRP/gj

<u>Division of Corrections</u>	<u># Homes</u>		<u>Capacity</u>		<u>TOTAL</u>
Nome	1	X	2	=	2
Fairbanks	1		2		2
"	1		3		3
Anchorage	4		1		4
	7		2		14
	2		3		6
	1		5		5
	<u>17</u>				<u>36</u>
<u>Division of Social Services</u>					
Ketchikan	27	X	1	=	27
	16		2		32
	5		3		15
	2		4		8
	1		5		5
	<u>51</u>				<u>87</u>
Juneau	24	X	1	=	24
	15		2		30
	6		3		18
	4		4		16
	1		5		5
	2		6		12
	<u>52</u>				<u>105</u>
Nome	23	X	1	=	23
	28		2		56
	9		3		27
	5		4		20
	1		5		5
	<u>66</u>				<u>131</u>
Fairbanks	27	X	1	=	27
	22		2		44
	9		3		27
	8		4		32
	2		5		10
	<u>68</u>				<u>140</u>
Anchorage	74	X	1	=	74
	80		2		160
	48		3		144
	18		4		72
	5		5		25
	1		20		20
	<u>326</u>				<u>495</u>
Bethel	14	X	1	=	14
	20		2		40
	7		3		21
	2		4		8
	<u>43</u>				<u>83</u>

TOTAL STATEWIDE

	<u>Homes</u>	<u>Total Capacity</u>
Division of Corrections	17	36
Division of Social Services	606	1,041
	<u>623</u>	<u>1,077</u>

These figures represent the total Foster Homes licensed and certified by the Department of Health and Social Services.

In response to your questions concerning the number of foster homes and beds currently available to the Division of Corrections, the following information is furnished which reflects average number of spaces available by category or by region for the first quarter of FY-79.

<u>NRO (Fairbanks)</u>	<u>Homes</u>	<u>Beds</u>	<u>Total in Placement</u>
July 1978	<u>5</u>	<u>7</u>	5
August 1978	<u>5</u>	<u>7</u>	5
September 1978	<u>5</u>	<u>7</u>	4
<u>SERO (Southeastern)</u>			
July 1978	<u>4</u>	<u>6</u>	4
August 1978	<u>3</u>	<u>5</u>	3
September 1978	<u>3</u>	<u>5</u>	4
<u>SCRO (Anchorage)</u>			
July 1978	<u>21</u>	<u>38</u>	25
August 1978	<u>25</u>	<u>44</u>	21
September 1978	<u>21</u>	<u>40</u>	19

Homes
 July total = 33
 August total = 33
 September total = 29

Beds: July total = 51
 August total = 56
 September total = 52

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01 - JUNEAU 99811

AUG 28 1979

Margaret W. Berck
Counsel to House Judiciary Committee
Alaska State Legislature
House of Representatives
Pouch "V", State Capitol Building
Juneau, Alaska 99811

Dear Ms. Berck:

In response to your request for information on juvenile placements, I am enclosing statistical reports provided by the Division of Corrections. In addition, the following are narrative responses to your questions not included in the statistical reports.

1. (Referring to Question #5 of your request)

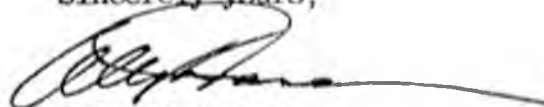
Juveniles who have been adjudicated delinquent are placed with the Division of Corrections. These youngsters have committed offenses that would be considered criminal if committed by an adult. These youngsters placed with the Division of Social Services have not committed criminal offenses and/or may be in need of aid because of family problems, i.e. parents unable to provide adequate care, neglectful parents, or serious adjustment problems.

2. (Referring to Question #6 of your request)

The Division of Corrections had 40 foster home spaces as of July 1, 1979. This number refers to the number of spaces, not to the number of foster homes. If only foster homes are considered alone on that date, then 25 foster homes were available in which there was a total licensed space for 40 juveniles.

The other questions relating to juvenile placements in the Division of Corrections are included in the enclosed material. However, if you find you need additional information, we will be happy to provide it for you.

Sincerely yours,



Allen Korhonen
Deputy Commissioner

STATE OF ALASKA
IN-STATE FOSTER HOMES RATE SCHEDULE
EFFECTIVE JULY 1, 1979 - JUNE 30, 1980

	Southeastern Region (Juneau)		Southern Region (Ketchikan)		Southcentral Region (Anchorage)		Northern Region (Fairbanks)		Northwestern Region (Kotzebue - Barrow)		Western Region (Bethel)	
	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates	Old Rates	New Rates
4 & Under (Month) (Day)	\$265.00 8.71	\$291.00 9.56	\$265.00 8.71	\$291.00 9.56	\$265.00 8.71	\$291.00 9.56	\$305.00 10.03	\$334.00 10.99	\$345.00 11.34	\$387.00 12.71	\$345.00 11.34	\$378.00 12.42
5 thru 11 (Month) (Day)	\$293.00 9.63	\$321.00 10.57	\$293.00 9.63	\$321.00 10.57	\$293.00 9.63	\$321.00 10.57	\$337.00 11.08	\$370.00 12.15	\$381.00 12.53	\$430.00 14.13	\$381.00 12.53	\$418.00 13.74
12 & Over (Month) (Day)	\$350.00 11.51	\$384.00 12.63	\$350.00 11.51	\$384.00 12.63	\$350.00 11.51	\$384.00 12.63	\$403.00 13.25	\$442.00 14.52	\$455.00 14.96	\$514.00 16.89	\$455.00 14.96	\$499.00 16.42

1. New rates represent implementation of 7 AAC 50.720 (c). Area differentials used as established in the State salary schedule.
2. Month rates x (12/365) = Daily Rates.
3. The above schedule is applicable only to foster parents residing in Alaska. The rates to be paid foster parents residing in the contiguous United States will be the same paid by the city, state, or county Welfare Department in which the foster parent resides.
4. The rates apply to the geographic location (city or regional area) of the foster parent -- not to the District or Region to which the case is assigned. The mailing address of the foster parent is the determining factor in all questionable cases.
5. Crippled and handicapped children placed in homes by the MCH program of the Division of Public Health are exempt from provisions of the above schedule. Foster parents caring for this special category short term placements will be authorized \$16.50 per day per child without regard to age in the Southeastern, Southern, and Southcentral regions. The rate of \$21.18 will be paid in the Northern Region.
6. The policy of the Division of Social Services is to use the daily rate only.

Department of Health and Social Services
Full Cost of Care

	<u>Audited Rate</u>	<u>FY 1980</u>
Alaska Children's Services		
Aquarius House	_____	\$ 79.04
Anchorage Receiving Home	_____	91.91
Colletti Group Home	_____	51.77
Jesse Lee Home	_____	92.93
Mary Johnson Home	_____	113.00
North Star Group Home	_____	53.23
Alaska Baptist Family Service	_____	47.59
Alaska Youth Village	_____	64.01
Bethel Group Home	_____	27.50
Booth Memorial Home	_____	101.05
Covenant High School	_____	17.96
Hullup Home	_____	55.05
Juneau Receiving Home	_____	66.37
Kenai Peninsula Community Care	_____	59.78
Ketchikan's Children's Home	_____	47.87
Kodiak Baptist Mission	_____	22.06
Nome Group Home	_____	79.55
Nome Receiving Home	_____	77.03
North Slope Borough Children's Home	_____	98.14
North Star Children's Home	_____	47.04
Presbyterian Hospitality House	_____	79.62
Sitka Receiving Home	_____	41.75
Turning Point Boy's Ranch	_____	67.48