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SD 41

SD 102

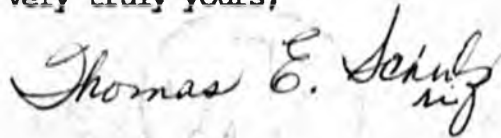
1042

Hon. Robert H. Ziegler, Sr.  
February 21, 1979  
Page 2

as quickly as possible to take effect immediately after its signature by the Governor and thus, cover the period of time between now and the time the new Code comes into effect.

As you know Jeff Currall has left the District Attorney's Office but I have talked to both he and Mike Thompson on this subject before and I am sure they agree with the need for the Bill. I know that Harold Brown does also but I'm not sure that anyone else would agree with my comments about parole. Since I am going to Anchorage to play Supreme Court Justice for awhile, I am going to send them a copy of this letter and ask that they get their comments to you directly as soon as possible. I would really like to see this legislation in effect just as soon as it can get passed.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas E. Schulz". The signature is written in dark ink and is positioned above the typed name and title.

Thomas E. Schulz  
Superior Court Judge

TES:ri

cc: Hon. Jay Rabinowitz, Chief Justice  
Hon. Robert Boochever  
Hon. Roger G. Connor  
Hon. Edmund W. Burke  
Hon. Warren Matthews

POSITION PAPER

Senate Bill 141

rec 7 5th  
prop. [S.I.S.]  
summary lls  
[initials]

"An Act relating to sentencing of Criminal Defendants; and Providing for an Effective Date."

The Dept. of Health & Social Services is in support of Senate Bill 141.

This legislation would provide a means by which a defendant who has received a suspended imposition of sentence may be required to serve a portion of that suspended sentence in incarceration.

This concept allows the court to prescribe a short period of incarceration as a special condition of probation. Thus, the defendant, especially in cases of youthful and/or first offender, will experience incarceration and also receive probation supervision upon release to the community. This "jail therapy" is one attempt to deter offenders from committing additional crimes when used as a part of a probation plan.

At this time, the Department is unable to determine the fiscal impact that would result from this method of sentencing. The Department will be able to make that determination after having gained experience. It should be noted that terms of incarceration served on a continuous basis would probably not have a major impact. However, a sentence to be served on weekends, would be difficult and restrictive from an operational aspect. All correctional centers are presently operating near, at or over capacity. Normally, there is an increase in the population of these facilities over the weekend period. To include offenders sentenced to serve their period of incarceration on weekends would increase the "weekend peaking effect" and possibly cause overcrowding.

Recommended by: Charles F. Campbell 3/28/79  
Charles F. Campbell, Director Date  
Division of Corrections

Approved by: Helen D. Beirne 3/28/79  
Helen D. Beirne, Commissioner Date  
Department of Health & Social Services

SB

162

# COMMITTEE REPORT

## SENATE

FURTHER: None

2/13/79

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

Mr. President:

The Committee on Judiciary has had SB 162  
relating to peace officers

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

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

MEMBERS SIGNING  
DO PASS

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

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
No Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN

cc Chairman Judiciary

from the Desk of

**SENATOR DON BENNETT**

23 February 1979

To: Keith Specking

request the following state employees assigned under Health & Social Services be available to testify before the Senate Judiciary Committee on Tuesday, 27 February, 1:30 p.m. in the Beltz Room, State Capitol:

Lawrence Calderone (Fairbanks)  
Paul Tannenbaum (Anchorage)  
Fred C. Fowler (Anchorage)  
Curtis Masingill (Fairbanks)  
Ron Murry (Fairbanks)

*Thanks for much,  
Don*

# Controversy Rages Over Weapons

## For Probation-Parole Officers

### AG's Office Takes Judge Van Hoomissen to Supreme Court

In short, state probation and parole officers for the time being at least are being allowed to carry concealed weapons and will be allowed to do so until definitive court decisions are made.

The controversy which has the Department of Public Safety, the Department of Health and Social Services, and the Judiciary somewhat in knots has been sometime in the making.

In 1971 probation and parole officers were first given the special state trooper commissions to carry concealed weapons and these commissions were renewed down through the years until 1975. Then, for some reason not made clear, they were not. A number of judges and law enforcement personnel urged that the commissions be renewed contending that the probation and parole officers supervised convicted felons and oftentimes had to arrest them. For matters of safety, they urged that these officers needed to carry weapons for their own safety.

Finally, in November of last year, former Commissioner of Public Safety Richard Burton renewed the special commissions of the parole-probation officers. But the news of the renewal apparently was late in being communicated to Fairbanks.

On December 7, Judge Van Hoomissen issued the following order: "It appearing that to insure their safety and to perform their duties as officers of the Court, Probation Officers of this Court require the use of a firearm.

"Therefore, it is order, that when qualified, each regularly appointed Adult Unit Probation Officer of this Court is authorized to carry a concealed firearm on his or her person."

Judge Van Hoomissen's use of the term "qualified" no doubt referred to special weapons training which is given at a corrections arm academy at Sitka. Each of the probation and parole officers had to pass the same qualifying test as troopers and municipal police officers to be eligible for special commissions to carry concealed firearms.

One of the factors which has complicated the picture is that while probation and parole officers are defined in many state statutes as "peace officers" and as such, it is argued, are allowed by law to carry concealed weapons, the probation and parole officers have been working under a Department of Health and Social Services policy that only those personnel with the special commissions, will, in fact, carry concealed arms.

### Judge Moody Restrains Police Commissioner; Hearing Set March 8

By Tom Snapp  
Editor

A white-hot controversy is raging in Alaska over whether state probation and parole officers should be allowed to carry concealed weapons.

The new Commissioner of Public Safety William R. Nix has tried to revoke special State Trooper commissions of probation and parole officers which would allow them to carry concealed weapons but has been blocked from doing so by a court order.

And the Chief Prosecutor in the state Daniel W. Hickey, assistant attorney general, has taken Superior Court Judge Gerald Van Hoomissen to the State Supreme Court seeking to have an order nullified of Judge Van Hoomissen giving probation and parole officers working out of his court the right to carry concealed arms.

In the latter case, Chief Justice Jay Rabinowitz has refused to grant a stay of Judge Van Hoomissen's order until the high court has ruled on the dispute.

But in the case of 17 probation and parole officers in Fairbanks and Anchorage fighting the dropping of their special commissions by the Department of Safety, Superior Court Judge Ralph Moody has issued a temporary restraining order preventing Public Safety Commissioner Nix from suspending the commissions until a hearing on March 8.

FROM  
ALL ALASKA WEEKLY

15162

-Continued from page 1

On January 24, Public Safety Commissioner Nix wrote a memorandum to Commissioner of Health and Social Services Helen Beirne that he was recalling all special commissions to probation and parole officers.

Wrote Nix:

"Helen, I'm evaluating all special commissions issued by this Department under AS 18.65.010.

"My objective is to limit the issuance of special commissions to only those persons who, in the broadest sense, are actually involved in assisting the State Troopers with the enforcement of all criminal laws of the State. It is my

understanding that probation and parole officers already have statutory authority to make arrests, and the only reason I can see for the special commissions is to carry concealed weapons.

"I have reviewed the Attorney General's opinion J-66-005-75, and it is my conclusion that the Division of Corrections Probation and Parole Officers do not fall within the guidelines I've established for issuing special commissions. In this regard I'm recalling special commissions issued to the below listed persons effective close of business February 4, 1979. I would appreciate it if you would notify those persons

affected and have them return their identification cards to me as soon as possible."

Nix listed: Donald Harvey Allen, Joe Lee Anderson, Dwane A. Burgess, Anuel Frank Byerly, Edward B. Coleman, Fred C. Fowler, Deborah L. Gefvert, Stephen D. Korenek, Artis C. Masingill, Jr., Homer L. Mayo, Peter Mirc, Ronald A. Murray, Gene H. Schafer, Mary E. Sweet, Paul W. Tannenbaum, and Stanley T. Wells.

Twelve of these officers Harvey, Lee, Burgess, Byerly, Coleman, Fowler, Korenek, Masingill, Mayo, Murray, Tannenbaum, and Wells, together with four others—Loy R. Bolt, David Cooper, Harold Fencil, and Jerry Velez—went to the Alaska Public Employees Association and through an Anchorage attorney, Wayne Anthony Ross, filed suit against the State of Alaska.

In the suit, probation and parole officers claim under statutory definition they are peace officers and are authorized to carry concealed weapons while in the performance of their duties and that the revoking of their special commissions constitute a breach of their collective bargaining agreement which the state entered into on May 2, 1977 and effective until December 31, 1979. Such revocations, they allege, would violate the state's duty under the contract to provide them with a safe place to work or safe working conditions.

They asked that Nix be enjoined from revoking the commissions until grievance procedure mandated by the contract be followed and a decision entered. Judge Ralph Moody so ordered until a hearing set for March 8.

In addition, the probation and parole officers ask for a

declaratory judgment that they are "peace officers" and as such, do not need the special state trooper commissions to carry firearms.

After Judge Van Hoomissen had issued his order of December 7 authorizing adult probation officers in his district to carry firearms, he found out that Commissioner of Public Safety Burton had issued special commissions to the officers. Thus, on January 4, Judge Van Hoomissen entered a supplemental order vacating his December 7 order but with the qualification "for so long as the commissioner of Public Safety authorizes the qualified adult probation officers to carry firearms in the performance of their duties."

On February 6, Hickey acting for Attorney General Avrum M. Gross filed a motion for immediate consideration of a stay of Judge Van Hoomissen December 7 order saying it had taken effect again on February 5. On that date allegedly Nix had suspended the special commissions of the probation-parole officers.

In an affidavit filed with the court, Hickey said as a result of Judge Van Hoomissen's order several high-level meetings in the executive branch had been held and it had been determined by Commissioner of Health and Social Services Helen Beirne that probation-parole officers should not carry firearms and, in particular, that concealed firearms should not be carried.

"This decision was reached upon the advice and concurrence of the Attorney General, the Commissioner of Public Safety and the Governor," Hickey said.

Hickey said the policy was not new in that for "quite some time" the division of corrections had not allowed officers to carry firearms in the absence of special com-

missioner of Public Safety.

On the other hand, he said that the Department of Law had advised the division of corrections on a number of occasions that to disobey a court order was beyond the scope of their duties as state employees, and that defiance could subject them to personal liability if a contempt proceeding resulted.

"From discussions with the central office of the division of corrections it appears that the probation-parole officers have construed Judge Van Hoomissen's order either as a directive to carry concealed weapons when they deem it appropriate, or at least as authority for not complying with any departmental policy or directives from the Commissioner to the contrary, Hickey wrote.

"Consequently, Judge Van Hoomissen's original order and supplemental order have created, and continue to create, considerable confusion and dissension within the executive branch vis a vis employees of the Department of Health and Social Services who want to carry concealed weapons and believe that they are entitled to and conceivably directed to as a result of Judge Van Hoomissen's orders."

In the meantime, Judge Van Hoomissen has employed Wayne Anthony Ross, the same attorney representing the probation and parole officers, to represent him before the Supreme Court. And Attorney Ross has filed a lengthy opposition to the application for stay of Judge Van Hoomissen's order filed by Hickey.

In it Ross claims Hickey has not demonstrated any standing to bring the action nor any justification for bringing it.

-Continued on page 13

## Controversy . . . .

-Continued from page 7

He claims Hicke merely makes a speculative conclusion unsupported by either citations of law or fact that "Judge Van Hoomissen's order could have immediate and serious consequences to the administration of justice in the State of Alaska." But he says there are no specific facts shown by affidavit or verified complaint that irreparable injury will result.

Ross also points out that since Nix has been restrained from revoking the special commissions to the parole-probation officers that Judge Van Hoomissen's December 7 order is not in effect and therefore the question is moot.

Ironically, the subject of special state trooper commissions came up in another law suit filed a few weeks ago by Al Rowe, a former state trooper and security supervisor during the construction of the pipeline, against Alyeska Pipeline Service Co. and others, including former Public Safety Commissioner Burton and present Commissioner Nix, then head of NANA Security.

In the suit, Rowe alleges that Burton conspired with Nix and others to furnish special state trooper commissions to security guards on the pipeline to assist Nana Security in establishing a non-union unit at Pump Station 5.

In an interview Wednesday, Judge Van Hoomissen confirmed that he had been approached by former Commissioner of Revenue Sterling Gallagher about his interest in the position of Commissioner of Public Safety. Van Hoomissen said he had replied in the negative.

When Commissioner Burton resigned, it was announced that there was a schism among the ranks in the state trooper organization and instead of naming the commissioner from the organization a person to fill the commissioner slot would be sought from outside the state.

Subsequently, two judges from Anchorage, Judge Van Hoomissen, and a former city police chief were contacted about interest, the acting Commissioner Nix was elevated to Commissioner.



**Superior Court**

**State of Alaska**

FOURTH JUDICIAL DISTRICT

604 BARNETTE STREET

FAIRBANKS, ALASKA

99701

CHAMBERS OF  
GERALD J. VAN HOOMISSEN, JUDGE

February 26, 1979

The Honorable Robert Ziegler  
State Senator  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ziegler:

It has come to my attention that a bill submitted by Senator Bennett which purports to amend AS 01.10.060(6) by adding adult probation and parole officers and correctional officers to subsection 6 of the foregoing statute is coming up for public hearing before the Senate Judiciary Committee on Tuesday, February 27th, in Juneau.

I would like very much to testify before the Senate Judiciary Committee in favor of Senator Bennett's bill, however, because of trial commitments in Barrow I will be unable to appear personally before the committee. I would like you to consider this letter as an endorsement of the bill submitted by Senator Bennett.

As you are probably aware, a great deal of controversy has developed between the executive and the judicial branch of government over the question of whether or not qualified adult probation officers should be allowed to carry firearms. As past presiding judge of the Fourth Judicial District, I entered an order in November authorizing adult probation/parole officers who are qualified by the Alaska State Trooper Academy to carry firearms in the performance of their duties. I do not wish to comment at length upon that order or the subsequent events surrounding that order since there is a case pending before the Supreme Court testing its validity. I do want to say that the order was entered because I am firmly convinced that for the adult probation officers to effectively perform their duties as probation officers for their own safety, they should be allowed to

Senator Robert Ziegler  
February 26, 1979  
Page 2

carry firearms while on duty. I think it is safe to say that I have traveled to the bush areas of this State more than any other Superior or District Court judge. The Fourth Judicial District, which includes Barrow and Bethel Service areas, encompasses an area slightly larger than the State of Texas. We have endeavored over the past five years to provide judicial services to all of the villages within the Fourth Judicial District and its service areas. Necessarily, in the performance of these duties, I am accompanied by probation/parole officers from the Fairbanks office to these remote sites. Since the probation officer is either conducting the presentence investigation or is supervising persons who have been convicted of felonies it is not hard to understand that they are not the most popular people in these remote areas. It is necessary that in the performance of their duties they are required to go into small villages and into dwellings occupied often by a number of people who are antagonistic to the officer. Many times they will find in the course of their duties it is necessary that a probationer or parolee be taken into custody on the spot. Neither Alaska State Troopers nor qualified municipal police officers are available for backup, consequently, the probation/parole officer's safety is in jeopardy when he is required to make an arrest, many times forcefully under such conditions. I have discussed this matter with Mr. Dan Hickey, Chief Prosecutor with the Attorney General's Office, and he assured me that when a probation/parole officer anticipates that he will need backup that he would assure me that the Alaska State Troopers would be present. I consider such an assurance ridiculous under the circumstances for these reasons: (1) the presence of the Alaska State Troopers in the bush areas of the Northern part of the State are many times conspicuous by their absence, and (2) the probation/parole officer just cannot anticipate unforeseen circumstances arising that would jeopardize his safety. It cannot be fairly said that everytime a probation officer goes to the bush he can expect trouble; that simply is not the case. However, trouble does arrive with enough frequency that at least the officer should be allowed to defend himself when faced with life-threatening situations, and have available to him sufficient force to effect an arrest if an arrest is necessary and required under the exigent circumstances. In the fourteen years that I have traveled throughout the bush villages in Northern and Eastern Alaska I have yet to see Mr. Hickey or any member of the Attorney General's office, other than

Senator Robert Ziegler  
February 26, 1979  
Page 3

the ones I have required to be out there, to attend court proceedings. Mr. Hickey is simply not aware of the circumstances that actually exist in the rural areas.

So far I have addressed myself only to the rural areas. The need for a qualified adult probation/parole officer to carry firearms in the urban areas I don't think needs much exposition. Suffice it to say, the people the probation officer is dealing with are convicted felons. They have already demonstrated to the satisfaction of the court or the jury that they do not hold in highest respect the laws and regulations necessary to keep order in society. A probation officer can handle his caseload in two ways: he can sit at his desk and merely check off people who report in from time to time, or he can go out into the community where the probationer has to live, work, raise his family and face the problems that all of us face in everyday life. I am very fortunate in the Fourth Judicial District of having five outstanding probation officers who are sincerely interested in helping their probationers to establish themselves as productive members of society. This effort on the part of the probation officer necessarily requires that they be in a position to call to task probationers who demonstrate no desire to adhere to our laws or conform their conduct to society's demands. Again, the officer cannot anticipate a life-threatening situation is going to arise. I think it is fair to say that most of the people that our adult probation/parole officers deal with recognize that the officers are trying to help them and they themselves have a desire to become again the so-called solid citizen. It is nevertheless a fact that an increasing number of persons on probation do not entertain these same thoughts. In a conversation with the Attorney General, Avrum Gross, approximately two weeks ago, concerning the order I entered, he stated to me that he would take personal responsibility for any probation officer who was injured or killed in the line of duty. I have no doubt that he would feel badly if such a thing happened, however, his assurance and his assumption of responsibility would be a small consolation to a seriously injured probation officer or his widow.

I'm sorry, Senator, this letter is so long but I feel that the issue is an important one, and one that deserves the favorable consideration of the legislature. I do not feel that it is absolutely essential that adult probation/parole officers or correctional officers be specifically included under subsection 6 of

Senator Robert Ziegler  
February 26, 1979  
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AS 01.10.060, since they already fall into the definition of "peace officer".

I'm enclosing herewith an excerpt of a letter written by Daniel Hickey, Chief Prosecutor, to Mr. James Mayer, Executive Director, Alaska Police Standards Council, dated September 18, 1977, defining a peace officer. I suggest to the committee that a probation/parole officer in the performance of his regular duties as such can perform and is required to perform all of the duties outlined by Mr. Hickey on page 3 of that letter. The passage of Senator Bennett's bill would not, in my opinion, suddenly make probation/parole officers "peace officers". It is my position that they are already peace officers and Senator Bennett's bill would clarify a situation which has given rise to a great deal of controversy and conflicting opinions and regulations within State government. The adult probation/parole officers in the Fourth Judicial District have even been threatened with criminal prosecution under AS 11.55.010 and .020 because of the disagreement as to their status. The new criminal code which becomes effective January 1, 1980, will eliminate the problems that have arisen under our present code. The passage of Senator Bennett's proposed bill will eliminate the problem between now and the effective date of the new code. I sincerely urge its passage.

Again, I am sorry that I will not be able to appear before your committee personally, however, if you have any questions with reference to my position on this bill, please do not hesitate to call on me at my office, 452-1580, or at my home 479-3 1.

Thanking you for your courtesy and consideration in this matter, I am

Very truly yours,

*Gerald J. Van Hoomissen*  
Gerald J. Van Hoomissen  
(signed by secretary as directed)

GJVH/sp

Enclosure

"peace officer" as used in AS 01.10.60(6) has been given a more restricted meaning and includes public law enforcement officers having full law enforcement authority within a particular jurisdiction.

Quite clearly, a peace officer is defined in the first clause of AS 01.10.060(6) to mean public law enforcement officers having full police duties which as a general rule would include the following minimum requirements: the power to arrest and to issue citations for minor offenses; the power to detain a person taken into custody until that person can be arraigned before a judge or magistrate; the power to use all necessary and reasonable force authorized by law, including the use of deadly force in limited circumstances; the authority to conduct investigations into suspected or known violations of the criminal law; the power to search with or without a warrant, persons, dwellings and other forms of property for contraband and evidence of a crime; the authority to suppress riots and to maintain order during emergencies and natural disasters; the authority to execute process issued by a court; and, in general, the discretionary authority to take such other action as is consistent and necessary with the exercise of these enumerated powers when essential to maintain the public peace, such as the authority to carry a concealed weapon. See e.g., AS 11.55.020.

*P.O.'s  
have all  
these  
powers  
& responsibilities*

FOURTH JUDICIAL DISTRICT

IN THE MATTER OF: )  
)  
)

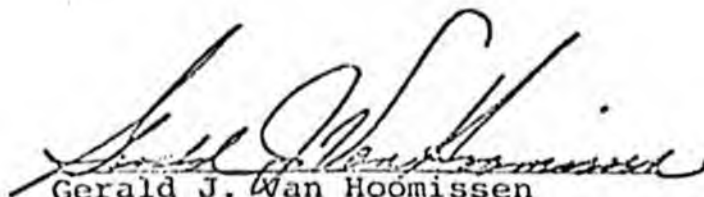
The Authorization for )  
Probation Officers to )  
Carry Concealed Firearms. )  
)  
)  
\_\_\_\_\_ )

SUPPLEMENTAL  
ORDER

Subsequent to the time that the Court had originally considered the question of whether Probation Officers of this court could be allowed to carry firearms without a specific permit from the Commissioner of Public Safety of the State of Alaska, but prior to the Order entered December 7, 1978, authorizing adult Probation Officers in this district to carry firearms provided they were qualified to do so, the Commissioner of Public Safety did in fact issue commissions to the qualified adult Probation Officers to carry firearms in the performance of their duties.

Consequently, the Order of December 7, 1978, is unnecessary and shall be and hereby is VACATED for so long as the Commissioner of Public Safety authorizes the qualified adult Probation Officers to carry firearms in the performance of thier duties.

DATED at Fairbanks, Alas' a, this 4 day of January, 1979.

  
Gerald J. Wan Hoomissen  
Superior Court Judge

cc: District Attorney  
Div. of Corrections  
Supreme Court

FOURTH JUDICIAL DISTRICT

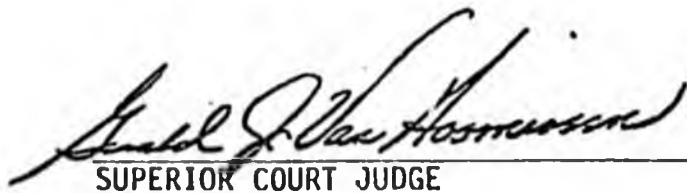
IN THE MATTER OF

AUTHORIZATION FOR PROBATION  
OFFICERS TO CARRY  
CONCEALED FIREARMS

It appearing that to insure their safety and to perform their duties as officers of the Court, Probation Officers of this Court require the use of a firearm.

THEREFORE, IT IS ORDERED, that when qualified, each regularly appointed Adult Unit Probation Officer of this Court is authorized to carry a concealed firearm on his or her person.

DATED at Fairbanks, Alaska, this 7 day of December,  
1978.

  
SUPERIOR COURT JUDGE



## ALASKA PEACE OFFICERS ASSOCIATION FARTHEST NORTH CHAPTER

AFZT-PM-W

9 February 1979

Mr. Wayne Anthony Ross  
Attorney at Law

Dear Sir,

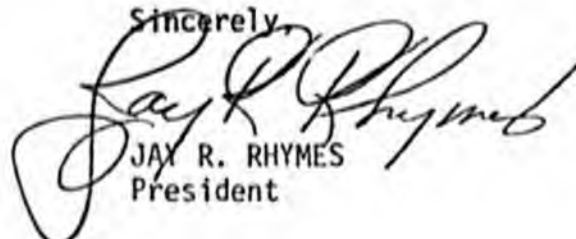
Information concerning the recent objection for Removal of Commissions for Adult Parole and Probation Officers to carry concealed weapons in the performance of their duties has been brought to our attention. This alarming objection comes as a grave disappointment and extreme concern for our fellow Law Enforcement Officers. The reasoning for this action considering their role in the Criminal Justice System is baffling to say the least. These Officers confront on a daily basis known felons who without question have little or no respect for law and order and even less for representatives of Law Enforcement.

These Officers have all met the Police Standards Council and are fully qualified. Additionally a vast majority have previous Law Enforcement background which include the attendance of Police Academies and various Law Enforcement Seminars. Many Law Enforcement Officers were personally contacted and expressed their concern over this action.

The Farthest North chapter of APOA gave their vote of confidence in addressing Former Commissioner Burton's Task Force report in 1976 for commissioning these officers. Our position is unchanged and speaking for the largest chapter of APOA we fully support and indorse the Parole and Probation Officers of Fairbanks Office. They are without question true professionals and exhibit the highest standards of any parole and probation office I have worked with.

Having been associated with Law Enforcement work over the last nineteen (19) years there is little question in my mind that these Officers of the Adult Parole and Probation Office are fully qualified and warrant the commission to carry weapons, by virtue of their extreme high potential of encountering a felon who has little regard for Law Enforcement representatives. The decision of this action impacts greatly upon their mission. It is our sincere wish that in the final analysis that these Officers be permitted to retain their Commissions.

Sincerely,



JAY R. RHYMES  
President

cc: Adult Parole/Probation  
Executive Board APOA



State APOA Office  
P.O. Box 3520 DT  
Anchorage, AK 99510  
Phone 337-7712

February 9, 1979

Governor Jay S. Hammond  
Pouch "A"  
Juneau, Alaska 99811

Dear Governor Hammond:

It has come to my attention that the Acting Commissioner of Public Safety has recently attempted to rescind the Special Commissions that had been extended to the Adult Probation/Parole Officers of the State. I observe that Commissioner Nix's opinion is inconsistent with the decision that had been previously made by Commissioner Burton. Commissioner Burton and previous representatives of the Department of Public Safety were so convinced of the Probation/Parole Officers' need to protect themselves, that to resolve the dispute between the Attorney General and the Probation/Parole Officers, Commissioner Burton, as others have done in the past, issued Special Officer status pursuant to AS 18.65.010. Probation/Parole Officers have not changed their role or function. Their job, if anything, has become tougher in recent years.

The zealous attempt of the Attorney General to strip the Adult Probation/Parole Officer of the concealed firearm is beyond comprehension. I understand the Attorney General has focused on the definition of peace officer and has argued that the legislature's failure to specifically include the Probation/Parole Officer meant that the legislature must have meant to exclude the class from the coverage of the definition. It is observed that in the Criminal Code, which recently passed the legislature and which will go into effect January 1, 1980, the legislature specifically defined a peace officer as: "a public servant vested by law with a duty to maintain order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders." This new definition of "peace officer" includes Probation/Parole Officers. I have also been apprised that the Attorney General has taken issue with a court order issued by Superior Court Judge Gerald J. VanHoomissen. The court order specifically orders that the Adult Probation/Parole Officer of the Fourth Judicial District is authorized to carry a concealed firearm.

Court action to resolve the Special Commission issue is pending in the Third Judicial District. Action to resolve the Attorney General's question concerning Superior Court Judge Gerald J. VanHoomissen's court order is pending a Supreme Court Hearing in Fairbanks. A great deal of effort is being expended by the Attorney General in opposing judicial and executive efforts in trying to disarm the State's Adult Probation/Parole Officers.

It is difficult to understand why the Attorney General has taken such a fanatic position in attempting to disarm the Adult Probation/Parole Officer of this critically needed tool. It would appear that the Attorney General's motivations for taking issue with such a trivial matter is motivated by something other than a fact of law.

It has been my personal observation that on numerous occasions, the Adult Probation/Parole Officer, while acting within his authority, has initiated and assisted in investigations and the arrests of dangerous and armed felons. I, as a supervisor of a narcotics unit over the past four years, have had occasion to work closely with the Adult Probation/Parole Officers in Fairbanks and have found their actions to be of the highest quality and professionalism. I have participated in investigations where the presence of an armed Probation/Parole Officer was of a great advantage to the safety of all concerned.

Why such tunnel-visioned focus on this issue is not yet understood.

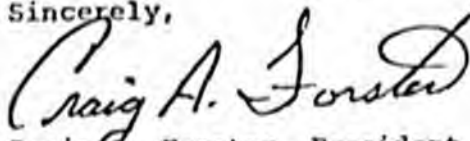
I understand that one area frequently argued by the Attorney General is that a State Trooper or other police officer could be called upon to accompany an Adult Probation/Parole Officer when violence is expected. It would be a serious waste of manpower to require an additional police officer to assist when the Adult Probation/Parole Officer is more than capable of handling the situation at hand. It should be noted that the most dangerous situations are not always the most obvious situations.

When the State sends out an Adult Probation/Parole Officer to effect an arrest of a felon (all arrests made by the Adult Probation/Parole Officers are felonies), it will be done peaceably if possible or forcibly if necessary. It is beyond my comprehension how the Attorney General and the Acting Commissioner of Public Safety can rationalize their attempts to disarm these officers. We should be careful not to make their jobs so dangerous to perform that they might shrink from their duties and hesitate from the action which the proper protection of society demands.

I submit that the continued arming of our Adult Probation/Parole Officers is in the best interest of the citizens of this state. I am writing you in an effort to keep you informed of law enforcement's position in this important issue. I simply seek to make our position known and sincerely hope it will not create any animosities.

Your attention to this important issue would be greatly appreciated.

Sincerely,



Craig A. Forster, President  
Alaska Peace Officers Association  
656 7th Avenue  
Fairbanks, Alaska 99701

# ALASKA PEACE OFFICERS ASSOCIATION



Capital City Chapter  
P. O. Box 751  
Juneau, Alaska 99802

27 February 1979

Mr. Wayne Anthony Ross  
Attorney at Law

Dear Mr. Ross:

The Capital City chapter of the Alaska Peace Officers Association has recently been advised of an effort to prevent select probation officers handling adult caseloads from carrying a concealed weapon (hand gun) in the performance of their official duties.

This has been an on-again, off-again situation for a considerable number of years, to the point that many members of our association have been concerned about the extent State government is willing to go in providing avenues of legal and administrative relief for criminal offenders and, at the same time, fail to recognize the need of those Justice System personnel who are hired and sworn to uphold the law.

In our opinion, government is supposed to represent the best interests of the people and, in doing so, ensure that the probation officers in this case, who are public servants, have the necessary equipment to properly discharge their duties in the safest manner possible.

This most recent action directed against probation officers who exercise, by law, their authority to arrest with or without a warrant, the very same criminal element as police, many of which the police would not even think of apprehending, if unarmed and expected to do so, only tends to reinforce our concern about the criminal element's welfare and rights being placed above the safety and welfare of those government employees charge with enforcing the law.

No one can argue philosophy with any degree of success in the face of cold facts and reality concerning this matter. When a probation officers happens upon a probation or parole violator, there are two thing he will know for sure if he is prohibited from carrying a firearm in the performance of his duties.

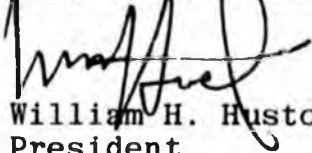
- A. He will know for sure that he is not armed.
- B. He will have no way of knowing whether the violator is armed or not.

Mr. Wayne Anthony Ross  
Attorney at Law  
February 27, 1979  
Page Two

In view of such facts, it would appear an easy decision to make: allowing probation officers to carry firearms in the performance of their duties.

Thank you.

Very truly yours,



William H. Huston  
President  
Capital City Chapter  
Alaska Peace Officers Association

P. O. Box 751  
Juneau, Alaska 99802

PROBATION - PAROLE

JAN 04 1979

CROSS CROSS

MSG. 1-6. JAN. 4, 1979

ED COLEMAN

NRO - FAIRBANKS, AK

ED, HERE IS THE LIST YOU ASKED FOR CONCERNING PAROLEES AND PROBATIONERS WITH DANGEROUS WEAPONS. THE FOLLOWING WERE SEIZED IN 1978:

OFFICER	DATE	STATUS	ITEM
ANDERSON	1-17-78	PROBATIONER	CHAPTER .44 SPEC. PISTOL.
KORENEK	2-78	PROBATIONER	DAGGER
MURRAY	3-24-78	PROBATIONER	.22 RIFLE
MURRAY	3-24-78	PROBATIONER	.30-30 RIFLE
MURRAY	3-24-78	PROBATIONER	.22 RIFLE
MURRAY	3-24-78	PROBATIONER	.20 GAUGE SHOTGUN
MURRAY	3-24-78	PROBATIONER	.30: 1899 RIFLE
MURRAY	3-24-78	PROBATIONER	.380 LLAMA PISTOL 27100 RND. A. 19
ALLEN	7-78	PROBATIONER	SM&W 29 44 MAG
ANDERSON	8-23-78	PROBATIONER	RUGER 44 MAG.
KORENEK	12-21-78	PROBATIONER	COLT 357 MAG.
KORENEK	12-21-78	PROBATIONER	CHAPTER 38 SPECIAL
ALLEN	12-29-78	PROBATIONER	ROSSI 12 GA SHOTGUN/DOUBLE BARREL.
		(INTERSTATE)	19 1/2"

ROD MURRAY

PLEASE ACK. RECEIPT OF THIS MSG./LOIS

STATE OF ALASKA

Class Specification

PROBATION OFFICER II

4343-16

Definition:

Under general supervision, carries a caseload involving office and field work in probation and parole, pre-sentence investigation, supervision and guidance of youth and adult parolees or probationers.

Distinguishing Characteristics:

This is the fully qualified professional journeyman level class which is distinguished from Probation Officer I by the independence of action, latitude of judgment exercised, and by the assignment of any case. It is distinguished from the Probation Officer III class in that normally a Probation Officer II does not supervise other Probation Officers although he may be responsible for training of Probation Officer Trainees and Probation Officer I's.

Examples of Duties:

Counsels parolees and probationers, helps them to understand their problems, and adapts the treatment program to the individual.

Develops employment opportunities for persons eligible for or on parole or probation.

Works with and secures the cooperation of social, law enforcement, recreational, religious, educational and other agencies concerned with the rehabilitation of parolees and probationers.

Utilizes casework methods in the supervision of parolees and probationers, and makes individual diagnoses and progress reports indicating case prognosis.

Investigates cases of parole or probation violators, compiles evidence required to effect the suspension of parolee or probationer, and apprehends violators for return to custody.

Compiles case histories, dictates correspondence, and prepares reports.

Maintains personal contacts at office and periodically visits with parolees and probationers to assist them with problems of social readjustment.

Cooperates with local and state police, institutional and judicial officials in the supervision of parolees or probationers.

Performs other related duties as required.

Knowledges, Skills and Abilities:

Knowledge of: Principles and practices of counseling, guidance, and placement; cause, extent, and treatment of delinquency and criminality; procedures of parole and probation casework and court procedures; habits; attitudes and psychology of persons with delinquent tendencies; community resources and agencies which

APOA Membership

July 18, 1977

John E. Baus

1977 ANNUAL PAT TOBIN SHOOT  
- SCORES -

The following are the scores fired at the 1977 Annual Pat Tobin Memorial Shoot held on July 17, 1977:

1. Ward Schute, Elelson AFB - 98.8 with 25X.
- DOC 2. Don Allen, DOC - 98.8 with 20X.
3. Ken Turcotte, Elelson AFB - 98.4 with 16X.
4. Steve Devore, Elelson AFB - 98.0 with 21X.
- DOC 5. Ron Murray, DOC - 97.6 with 18X.
6. Richard Wolfe, FPD - 97.6 with 15X.
7. Tom Campbell, Elelson AFB - 97.2 with 22X.
8. Louie Fleming, Elelson AFB - 96.4 with 19X.
9. John Addis, AST - 96.4 with 19X.
10. Robert Wolfe, Elelson AFB - 96.4 with 16X.
11. John Baus, FPD - 96.0 with 24X.
- DOC 12. Steve Korenek, DOC - 95.6 with 18X.
13. Jim Lowe, FPD - 95.2 with 9X.
14. Doug Woolley, FPD - 94.0 with 21X.
- AST X 15. George Pollitt, AST - 94.0 with 10X.
16. George Hiller, Elelson AFB - 93.6 with 16X.
17. Ken Fore, Elelson AFB - 92.8 with 18X.
18. Noel Napollilli, FPD - 92.4 with 23X.
19. Gary Vogt, FPD - 92.0 with 3X.
- DOC 20. Wayne Jones, DOC - 90.8 with 19X.
21. Jim Barclay, FPD - 90.8 with 7X.
22. Terry Zee, APS - 90.4 with 15X.
23. Robert Coleman, Elelson AFB - 90.4 with 12X.
24. Herb Kallman, APS - 90.4 with 10X.
25. Victor Gunn, FPD - 89.2 with 4X.
26. Jim McCann, AST - 88.8 with 12X.
27. Don LaSage, FPD - 88.4 with 9X.
28. Gene Kalus, AST - 88.0 with 9X.
29. Joel Head, US Army - 86.4 with 12X.
30. Fred Schumacher, APS - 85.2 with 9X.
31. Pete Gunn, APS - 84.8 with 13X.
32. Rick Cummings, FPD - 84.8 with 11X.
33. Skip Harrington, APS - 82.4 with 12X.
34. Tom Barnese, US Army - 81.2 with 12X.
35. Pete Villarreal, Elelson AFB - 81.2 with 9X.
36. Ken Razza, Elelson AFB - 79.6 with 13X.
37. Ken Keber, FPD - 79.4 with 8X.
38. Ted Maynor, APS - 77.6 with 15X.
39. Jerry Prater, FPD - 76.0 with 9X.
40. Roland Bonneville, FPD - 76.0 with 8X.

AP & P  
DOC 2ND PLACE

1978  
3rd PLACE

September 22, 1976

CC  
All  
PO's  
James  
1/24/76  
710

OPEN LETTER TO ALL APOA  
CHAPTERS

LADIES & GENTLEMEN:

RE: Full Peace Officer Statutory  
Definition for Probation Officers

As a result of a continuing need to fully protect and provide for State Probation Officers who do, most definitely, go about their duties which are comprised of traditional peace officer functions, I am writing you for your support and requesting this support based on the attached material which includes a copy of written evidence of strong support from the FAR NORTH APOA CHAPTER.

It is respectfully and earnestly requested that the support from all of the APOA chapters be condensed into strongly written form clearly stating that your support encompasses not only the inclusion of State Probation Officers as peace officers in the public employee's retirement system, but also includes that State Probation Officers be clearly defined as peace officers under all Alaska Statutes which functionally and authoritatively bestow full peace officer powers.

It is further requested that this unanimous recommendation from APOA be addressed to the Governor, the Legislature, and the Commissioner of Health and Social Services, with copies to our Director and Chief of Probation Services, and this writer.

Enclosed are excerpts from a letter, dated 6-7-76, from the President of FAR NORTH APOA to Commissioner Burton endorsing what is requested of all chapters.

Also find enclosed a letter, of March 4, 1975, that I wrote to Commissioner Burton in an attempt to reinstate our Special Officer Commissions we have formerly had, which have always been poor substitutes for fully legislated peace officer status. The letter briefly summarizes some of the kinds of hazardous job functions we must perform in the field, and it also registers a profound concern for the personal safety of our professional staff that they and I still share.

Like other peace officers, probation officers deal with convicted felons and adjudicated delinquents every working day of their lives. And there is no doubt that these offenders are becoming more violent and aggressive. It is only a matter of time until we are assisting one of our staff member's survivors or visiting an injured probation officer in a local hospital.

It has occurred that probation officers have routinely entered an offender's residence alone and unarmed, and, in the past, have had to back away from making an arrest, when probable cause was in evidence, because the officer had no firearm as emergency support. Subsequently, this has left the probationer or parolee free to escape or destroy evidence which would have supported a revocation action.

Some probation officers have long met minimum police standards of police training and have possessed special officer commissions to act as peace officers. These commissions were issued by the Department of Public Safety and have to be renewed every year. Commissioner Burton of Public Safety has stated very clearly that these commissions are issued for the purpose of enlisting our personnel for emergency peace officer duty under his command and are not issued to our

staff to aid in carrying out our duties. Presently, Commissioner Burton is withholding the renewal and the initial issue of commissions pending an Attorney General's opinion regarding the commissions, defining how and for what purpose they should be issued.

A probation officer should not have to rely on another department or agency in order to do his job. It is obvious that these people should have sufficient legislative authority to accomplish any task the job demands. As present Alaska Statutes are drawn, an earlier Attorney General's opinion has clearly stated that these laws do not recognize probation officers as peace officers.

In the past five years, probation officers in the Anchorage region alone have seen a rise in the incidence of threats of bodily harm and death from probationers, parolees and anonymous callers. A minor assault has thus far occurred and offenders from Anchorage proper have recently experienced an increased incidence of seizure of deadly weapons they had in their possession. These weapons have taken the form of handguns and concealed knives. More recently a loaded, snub-barrelled .38 revolver was seized from a female offender considered to be a "fringe group" or "soft core" felon compared to many of our drug-related cases who are into hard core criminal activity in order to support their criminal proclivities, drug habits or the drug habits of others. Probation-Parole Field Services has no control over the severity of criminal cases given to its custody. These kinds of cases are reality. And many do go armed with deadly weapons concealed, or have ready access to these deadly weapons, during their release time. Of that there is no doubt as our cases of record and local police indicate clearly.

As stated in the attached material, the Anchorage superior Court Judges--in 1971--recommended that probation officers be allowed to carry concealed firearms in the course of duty. This is certainly a necessary part of full peace officer authority.

And, lest there be any doubt about the reality of where our thoughts lie, we probation officers do not agree with the idea that people must be hurt and blood must be let in order to substantiate the inherent risk that probation officers have in the course of their work.

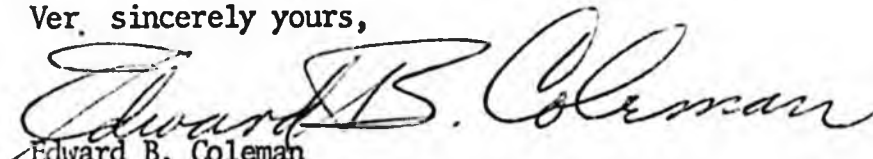
Because of all reasons herein included in this letter and attachments, legislation making probation officers peace officers is needed to better protect the public and our employees.

NOTE: APOA, during the June, 1976 Crime Conference, indicated that if possible I should attempt to attach a dollar estimate to the total cost of bringing State Probation Officers under the peace officer retirement system. An attempt was made to obtain professional assistance from the Division of Retirement to facilitate an actuarial estimate of cost. Division of Retirement personnel informed me that they were unable at this time to provide me with such an estimate, it being a rather involved and costly process. Therefore, available resources have not permitted the obtaining of this information. However, it is important to note that that part of full peace officer status, which legislation could provide, would include approximately 65 probation officers statewide; we are not talking about literally hundreds of people in this or other job classes.

Page Three

Your consideration and unified endorsement for full peace officer status by appropriate legislation is extremely appreciated. It is respectfully requested that each chapter communicate its decision on this matter to the President of APOA as soon as possible.

Ver. sincerely yours,



Edward B. Coleman  
Probation Officer IV & Regional Administrator  
APOA Member

EBC:bjh

2 Enclosures

cc: William Huston, Director  
Walt Jones, Asst. Director & Chief  
Probation-Parole Field Svcs.  
All Supervisors, SCRO  
John Cain, Regional Administrator, N. Reg.  
President APOA

March 4, 1975

Richard L. Burton, Commissioner  
Department of Public Safety  
Pouch N--State Capitol  
Juneau, Alaska 99301

RE: Special Officer Commissions,  
A.S. 13.65.010

Dear Commissioner Burton

As you requested, applications, in addition to the ones you have already received, are enroute to you. My application will have to go via our Central Office for endorsement by our Director and then on to you. We are retaining our commission cards until you pass individual judgment on each applicant, as per your recent phone conversation with Duncan Fowler on February 27.

We would like to apprise you of the history of how we originally got into this business of Special Officer Commissions. Briefly, in 1971, the dangerous type of offender we were burdened with investigating, supervising, and arresting (often without the aid of police who were engaged in other important investigations and protective work) had increased in alarmingly significant numbers. It was clear to us, and local police, that the vicious audacity of the violence-orientated offenders we dealt with had grown accordingly. The face of crime, so to speak, had worsened so much that threats to life and highly charged situations were becoming much more routine to our staff. The police remarked to us that more common offenders, apart from these I speak of, were carrying firearms concealed as a matter of habit, at one time or another, during their time on the street.

The situation is even worse now, but then we knew, (as did our Director, Charles Adams) that it was time to arm our professional staff with at least the very minimum of personal protective equipment for field use. In November of 1971 the Judges of the Superior Court of the Third Judicial District recognized our serious plight. In writing they unanimously, (with the exception of the Family Court Judge), endorsed the carrying of concealed firearms for the personal protection of our staff.

Col. Dankworth, then Director of the Alaska State Troopers, agreed to provide annual firearms training particularly tailored to meet our needs. It was made clear, by all concerned, that the arms were to be used only in emergency self protection. They would be drawn only on an individual who is offering an irrefutable and unswerving, felonious threat to life and body and where no other defense alternative is available. We were, and are, restricted from using these arms in any other way by Division policy. It is important to also tell you that Col. Dankworth, after being made aware of our profound need, suggested that our professional staff, charged with the responsibility for adult cases, apply for Special Officer Commissions.

The growth of population and crime of this area--with its commensurate number of heavy offenders that we must deal with--frankly, bears on us with the full weight of its volatile mass. Our problem with Special Officer Commissions, as it now stands, could not have materialized at a more critical time. In few words, we are extremely worried about the personal safety of our people who may shortly run the risk of being totally unarmed and therefore have that much more risk for great bodily harm and murder. I do not for a moment believe anyone wants to see one of our officers killed or maimed, (not that the designation by commission and a weapon is remotely absolute protection, nothing is) before some provisions for minimal personal protection are a reality.

Our quarterly informal meetings, over the past year, between our adult line staff and Capt. Anderson's troopers have proved mutually helpful in fostering closer cooperation and understanding between our two agencies which must work together. I hope that in this spirit, we can work out some means to insure that any of these needed training to qualify can be assisted locally to allow our limited numbers to fulfill our work requirements in the safest way possible and still come up to applicable standards.

Thank you very much for your indulgence and any assistance possible. It honestly does mean so much to our staff and their best efforts toward more safely and effectively discharging the responsibilities of their work.

Sincerely,

  
Edward B. Coleman  
Regional Administrator

BC/rk

c: Charles Adams, Director of Probation/Parole Services  
Walter B. Jones, Chief of Probation/Parole Services

In the spring of '72, after receiving approval from our higher authorities, academic firearms training was obtained from Bob Penman of the Alaska State Troopers. As I recall, the actual firing of weapons in '72 was not accomplished as a unit then. Firing for qualification along with more classroom training followed through out 1973 and 1974. We were about to schedule our annual training for 1975 and had obtained an ammunition supply just prior to receiving your notifications. This will be held in abeyance pending your final decisions.

Our routine duties encompass adult felony case supervision in the field, working in close field cooperation with Alaska State Troopers and the Anchorage Police Department members comprising the joint police Metropolitan Drug Unit, Adult Pre-sentence Investigations, Interstate Placement Investigations of felons applying for transfer, bail supervision when Court ordered on those charged with all types of violent crimes, to name some of the more prominent functions of more dangerous proportions.

It is important to note the reality of the extreme "bodily-harm and death" threats that we have seen on the definite increase over the past several years from felons and anonymous people. One more recent threat was delivered to a probation officer with the command that he change a pre-sentence recommendation on the report to the Court or face great personal violence or death. Needless to say this officer did not change his recommendation for "time to serve" on this drug dealer. The man was sentenced to prison. Another instance saw your Troopers and our probation officer at Kenai intercept a felon who had avowed to visit our regional office in Anchorage and kill all officers present. As I write this letter, one of our more pernicious drug-orientated felons we have on probation, allegedly had a "contract" put out on him. Our assigned probation officer reported that the contract of murder to this person, (whom our officer was personally contacting frequently in the community), was verified by federal authorities and a local district attorney. His defendant has been removed from Anchorage for his own personal safety. Our officers, being closely indentified by the criminal element as an advocate and influence for the offender's assisting police and prosecutors, never did, and never will, have a place to hide from the "contract" man or other malignant segments of the local criminal culture. One of our "bush" officers was recently threatened with death. He is assigned to the Bethel area. I could go on, but I'm sure you get the idea. With your vast experience, you are many times more familiar with this type of cancer than most segments of the criminal justice system.

We do appreciate your reviewing and updating the procedures for the issuing of Special Officer Commissions. I think all concerned must be sure of exactly who is vested with this authority, his preparation, specific training, and character. Believe me, we also want to be sure our training is adequate.

We also realize there are possibly some of our officers who may not qualify by interpretation of statute and related administrative code. Since the work these professional staff must do will not abate, I do ask, for any of those who may be judged as not qualifying, that local training be made available in the Anchorage area. Then those who have a real need for commissions will have an opportunity to obtain them consistent with our legal work requirements which must be steadily met with our limited assigned personnel.

ALASKA PEACE OFFICERS ASSOCIATION

Dated  
6/7/75

Letter to  
Commissioner  
Burton,  
Public Safety



PROBATION - PAROLE OFFICERS IN DOING THEIR JOB RUN INTO VERY DANGEROUS SITUATIONS AND NEED THE PROPER TOOLS TO FUNCTION IN THEIR DESIGNATED CAPACITY. LOCALLY, PROBATION PAROLE HAS BEEN OF GREAT ASSISTANCE TO US AND HAVE BEEN SUPPORTIVE IN LAW ENFORCEMENTS COMMON GOAL OF PROTECTING THE PUBLIC. TO IGNORE THEIR EXISTENCE AND POTENTIAL USEFULNESS IN PROTECTING SOCIETY WOULD BE A DISSERVICE TO LAW ENFORCEMENT AND THE COMMUNITY. WE URGE THAT THE ABOVE MENTIONED RECOMMENDATIONS BE GIVEN SERIOUS CONSIDERATION AND IMMEDIATE IMPLEMENTATION.

IN CONCLUSION WE HOPE THAT PROGRAMS INITIATED BY THE TASK FORCE WILL BE CARRIED THROUGH TO THEIR CONCLUSION AND NOT SHUFFLED TO THE BACK BURNER AFTER PUBLIC ATTENTION WAS MOVED ELSEWHERE. A PROGRESS REPORT, BY THE TASK FORCE, AFTER A REASONABLE PERIOD OF TIME TO IMPLEMENT THE VARIOUS PLANS TO INTERESTED PARTIES AROUND THE STATE MIGHT ALSO BE A GOOD IDEA.

WE THANK YOU FOR SOLICITING OUR COMMENTS AND SUGGESTIONS AND TRUST THE FOREGOING WILL BE OF SOME HELP TO YOU IN A WORTHY CAUSE ALL OF US HAVE A STAKE IN.

SINCERELY,

*Nancy Vest*  
PRESIDENT FAR NORTH APOA

TRAINING:

YOUR RECOMMENDED PROGRAM IS LONG OVERDUE AND SHOULD PROVIDE MANY BENEFITS TO CORRECTIONS'S PERSONNEL. THE TASK FORCE STUDY OF CORRECTIONS DID NOT ADDRESS ITSELF TO PROBATION - PAROLE IN IT'S STUDY AND THEREFORE HAD NO RECOMMENDATIONS TO MAKE IN THE AREA OF PROBATION - PAROLE WHICH IS A PART OF CORRECTIONS. WE FEEL THAT SINCE PROBATION - PAROLE OFFICERS GO OUT IN THE FIELD AND PART OF THEIR JOB IS TO ARREST PROBATION - PAROLE VIOLATORS, THAT THEY BE PROPERLY TRAINED IN THE AREA OF ARREST, SEARCH AND SEIZURE, WEAPONS TRAINING, AND TEMPORARILY BE COMMISSIONED SPECIAL OFFICERS PRIOR TO INTRODUCING LEGISLATION TO OFFICIALLY MAKE THEM PEACE OFFICERS.

The above is an excerpt from a letter to the Commissioner of Corrections. The letter also contains other material not directly related to this letter.

Plaintiffs have received no such guidelines, nor have they had a chance to comment thereon. Plaintiffs have not had an opportunity to review the referenced Attorney General's opinion unless such opinion is one of those attached hereto. There being no opportunity for Plaintiffs to receive or comment on the proposed decision there has been no opportunity to submit the decision to the grievance process.

As the safety of State employees is the brunt of this dispute and APEA is the representative of those employees, APEA respectfully requests that this court enjoin the named Defendant from instituting or enforcing the decision of Commissioner Nix until such time as the procedure as provided in the contract between Defendant State of Alaska and Plaintiff APEA, can be followed. Article 17 of the subject contract further sets out procedures for determining whether or not the denial of the use of weapons constitutes an unsafe working condition. It is necessary under Article 17 for the Department of Labor to make such determination. Further, the State of Alaska is contractually bound to take no disciplinary action against Plaintiffs should they refuse to work on an unsafe job.

For these reasons Defendants should be enjoined from enforcing the decision of Commissioner Nix until such time as the matter has been handled pursuant to the contract and a decision is entered.

## II

THIS COURT SHOULD DECLARE THAT UNDER ALL APPLICATIONS ALASKA LAW PROBATION/PAROLE OFFICERS ARE "PEACE OFFICERS"

The Probation/Parole officers seek a declaratory judgment from this court that they are peace officers under Alaska Law.

Alaska Statute 33.05.010 puts the probation system under the authority of the Commissioner of the Department of Health and Social Services (see also A.S. 33.20.200(1)).

The Commissioner has the duty to assign to the superior court qualified probation officers (A.S. 33.05.020(a)) and the Commissioner may assign these probation officers duties concerning the administration of the parole system (A.S. 33.05.020(b)). As shown by the Affidavit of Edward Coleman, most if not all of the probation officers have parole functions. These probation/parole officers are officers of the Superior Court and subject to the authority of the Superior Court. (A.S. 33.05.030). These officers have the power of arrest (A.S. 33.05.070 and A.S. 33.15.210).

Alaska Statute 12.25.010 sets forth who may make an arrest. It states:

Persons authorized to arrest. An arrest may be made by a peace officer or by a private person.

It is clear therefore that probation/parole officers under Alaska Statutes who make arrests, make those arrests either as a peace officer, or as a private citizen.\*

Since A.S. 33.03.030 makes these probation/parole officers, officers of the Superior Court, and not all private persons are officers of the Superior Court, probation/parole officers have more authority and responsibility than a private person.

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\* A.S. 12.25.010 gives only two categories of persons who can make arrests: peace officers or private persons. In Attorney General's Opinion No. 36 issued September 18, 1977, the Attorney General's Office admits that "the term 'peace officer' is not restricted to commissioned officers employed by the Department of Public Safety." The Attorney General then goes on to state that to "be considered a peace officer in the fullest sense" a person designated "with the powers of a peace officer" must "also actively participate during substantially all of his working hours in law enforcement activities." The Attorney General thereby adds a third category, his own, to those persons allowed to arrest. This third category is apparently sandwiched in the Attorney General's scheme of things somewhere between a private person and a "peace officer in the fullest sense." Perhaps: this hybrid could be called a "peace officer with less than full sense"? Or a "mini peace officer". Unfortunately for the Attorney General, this "less than full sense peace officer" exists only in the Attorney General's mind and has no basis in law. A rose by any other name is still a rose. A person, with peace officer power, by any other name is still a peace officer.

The Attorney General has taken the position that this greater authority and responsibility held by probation/parole officers still does not make probation/parole officers peace officers. (See Attorney General's opinion No. 36, rendered September 18, 1977, supra).

Alaska Statutes however conflict with the Attorney General's opinion.

AS 01.10.060 defines "peace officer" as, among other things: Any. . .other officers whose duty it is to enforce and preserve the public peace." Since A.S. 33.05.010 requires the Commissioner of Health and Social Services, and hence his agents, to "enforce" the probation laws and such laws are aimed at maintaining public peace,\* A.S. 01.10.060(6) would seem to imply, at least, that the Commissioner's probation/parole officers are peace officers under A.S. 01.10.060(6).

As the United States Supreme Court stated in U.S. ex rel Marcus v Hess, (1943) 317 U.S. 537, 557, 87 L.Ed 443, 456, 63 Sup. Ct. 379, if "(this) court is justified in reading a statute, not narrowly as through a keyhole, but in the broad light of the evils it aimed at, and the good it hoped for, it is here." As shown in Edward Coleman's affidavit, probation/parole officers deal on a day to day basis with persons known and found, by a court of competent jurisdiction,

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\* On September 29, 1976, President Ford signed into law the Public Safety Officers' Benefits Act of 1976 (42 U.S.C. §3796 et seq.) which authorizes the Law Enforcement Assistance Administration (LEAA) to pay a benefit of \$50,000.00 to specified survivors of "public safety officers" found to have died as a direct and proximate result of a personal injury sustained in the line of duty. "Public safety officer(s)" is defined as "a person serving a public agency in an official capacity. . .as a law enforcement officer or as a fireman." Among those for whom coverage is intended are persons involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws, including police, corrections, probation, parole and judicial officers. Since the United States government recognizes probation and parole officers as officers involved in public safety, it is reasonable for this court to find such officers are involved in enforcing public peace.

to be felons, many with a propensity for violence. Thus the need for firearms for protection of the individual officers is readily apparent. Therefore this court should not narrowly construe AS 01.10.050 to eliminate probation/ parole officers from the statutes' definition of peace officers.

A.S. 01.10.050 is far from clear however and this court is certainly well justified in looking elsewhere in the statutes to ascertain the extent of the meaning of the phrase "peace officer."

The phrase "peace officer" is defined elsewhere in the Alaska Statutes.

A.S. 11 30.100 defines a "peace officer" as among other things.

An officer or employee of an authorized representative of an officer or employee of . . .the State. . .who has authority to either (A) arrest a person by taking him into custody or (B) detain a person under a warrant, order or other legal process.

The definition of a "peace officer" contained in A.S. 11.30.100 is clearer than that in A.S. 01.10.050 and since probation/parole officers are "officers" (A.S. 33.05.030) and "employees of the State" (A.S. 33.05.020) and have authority to "arrest" (A.S. 33.05.070) or "detain under a warrant" (A.S. 33.15.210) it is clear that under the definition of "peace officer" contained in A.S. 11.30.100, State of Alaska, Department of Health and Social Service probation/parole officers are "peace officers" for purposes of that section, at least.

If probation/parole officers are "peace officers" for purposes of A.S. 11.30.090 making it a crime to escape from a peace officer" it makes no sense to hold, as the Attorney General apparently does, that probation/parole officers are not "peace officers" for purposes of A.S. 01.10.050 and A.S. 11.55.020.

A.S. 11.55.010 makes it a crime to carry a concealed

weapon. A.S. 11.55.020 exempts from this prohibition against carrying a concealed weapon "peace officer(s) whose duty it is to serve process or make arrest". Since probation/parole officers have among their duties, the duty to make arrests (A.S. 33.05.070 and A.S. 33.15.210) and since A.S. 01.10.050 implies and A.S. 11.30.100 clarifies probation/parole officers are, in fact, peace officers, it should be clear that the exemption against carrying concealed weapons contained in A.S. 11.55.020 applies to probation/parole officers.

Other states, too numerous to mention, have held probation/parole officers to be peace officers. See for some examples, In Re Ronny, 242 NYS2d 844 (1963); Figaro v Ward, 383 NYS2d 529 (1976); People v Clark, 69 Calif.Rptr 218 (1968); People v Cloud 81 Calif.Rptr 716, (1969).

The Alaska Legislature has attempted to clarify for the Attorney General and perhaps for others the meaning of the phrase "peace officer". In 1975 the legislature again gave us a definition of "peace officer" in A.S. 39.35.680(14), which clearly showed the legislature's intent to include officers of the Division of Corrections as "peace officers". A.S. 39.35.680(14) was amended in 1975 to include in its definition of a "peace officer", "correctional officer(s)" and "correction superintendent(s)".

It is believed that the Legislature introduced this clarification of the term "peace officer" because of a letter written by the Attorney General's office on February 19, 1975, to Charles Adams, Jr., then Director of the Division of Corrections. That Attorney General's letter (a copy of which is attached hereto) also held that Division of Corrections employees were not "peace officers" for purposes of Title 39, Alaska Statutes. Immediately thereafter the legislature amended A.S. 39.35.680(14) to specifically include correctional officers and corrections superintendents.

The Attorney General's opinion 36 of September 18, 1977, completely ignores this 1975 expression of legislative intent. The Attorney General in his letter of December 27, 1977, continues to deny that correction officers are "peace officers" for purposes of A.S. 11.55.020, a sort of "if kittens were born in an oven, they wud be bisquits" approach referred to by Peter Dunne Finley. (See King, Life of Fuller, 237.)

In addition to the 1975 attempt by the legislaure to define "peace officer," effective January 1, 1980, A.S. 11.81.900 defines a peace officer as:

A public servant vested by law with a duty to maintain order or to make arrest. whether the duty extends to all offenses or mited to a specific class of offenses or off. ers.

That this new definition of "Peace officer" effective January 1, 1980, includes probation/parole officers, simply cannot be denied.\* Probation/parole officers are "public servants" since they are "an officer or employee of the State" (A.S. 11.81.900(47)(A)) and are vested by law with a duty to make arrests (A.S. 33.05.070 and A.S. 33.15.210) even though their duty may be "limited to a specific class of offenses (probation/parole violations) or offenders" (probation/parole violators).

Despite the implied wording of A.S. 01.10.060 and the clear wording of A.S. 11.30.100, A.S. 11.81.900, and A.S. 39.35.680(14) that the term "peace officer" applies to probation/parole officers, the Attorney General and the Department of Public Safety construe the law to deny probation/parole officers the benefit of the peace officer exemption of A.S. 11.55.020, from the crime of carrying concealed weapons.\*\*

\* Although, if the Attorney General's Office runs true to form, they probably will deny it.

\*\* As shown by the memorandum from William Nix, Commissioner, Department of Public Safety, dated January 24, 1979, Commissioner Nix is attempting to withdraw special commissions granted to probation/parole officers because, among other things "(T)he only reason I can see for the special commission is to carry concealed weapons."

Lord Atkin's statement in Liversidge v Anderson

(1942) A.C. 206, 245 quoting Lewis Carroll, Through the Looking Glass, ch. 6 is appropriate here to describe the Attorney General's and Department of Public Safety's position.

I know of only one authority which might justify the suggested method of construction. 'When I use a word,' Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean, neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean so many different things.' 'The question is,' said Humpty Dumpty, 'which is to be master--that's all'.

The Superior Court in Fairbanks has found that probation officers require the use of a firearm "to insure their safety and perform their duties as officers of this court" and has authorized, by court order, each regularly appointed Adult Unit Probation Officer of that Court to carry a concealed weapon firearm on his or her person, when qualified (see order of Judge Gerald Van Hoomison dated December 7, 1978, attached hereto.) Other Superior Court Districts are in agreement with Judge Van Hoomison. In addition Federal probation officers in this District have been given authority by the Federal District Court to carry weapons concealed.

We ask this court therefore to declare that under Alaska law, probation/parole officers are peace officers. We also ask this court to restrain and enjoin the State of Alaska from enforcing the provisions of A.S. 11.55.010 against its probation/parole officers until such declaratory ruling by this court is made whereupon such enforcement will be mooted.

The purpose of the legislature in enacting the deadly weapon law was to protect the public from the menace of concealed deadly weapons, and in construing the statute it is the duty of the Court to have in mind the legislative intent and to give the statute such reasonable construction as will effectuate its purpose. Hampton v Commonwealth (1934) Ky. 626, 78 S.W.2d 748.

Respectfully submitted this 5th day of February,  
1979, at Anchorage, Alaska.



WAYNE ANTHONY ROSS  
Attorney for Plaintiffs

Anthony  
ROSS  
ATTORNEY AT LAW  
SUITE 100  
1000 BROADWAY  
ANCHORAGE, AK 99501  
277-6773  
276-5307

1 IN THE SENATE

J. BENNETT AND STIMSON

2 SENATE BILL NO. 162

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to peace officers."

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

8 \* Section 1. AS 01.10.060(6) is amended to read:

9 (6) "peace officer" means any officer of the state troopers,  
10 members of the police force of any incorporated city or borough, United  
11 States marshals and their deputies, <sup>DESIGNATED</sup> probation officers who supervise  
12 adults, parole officers, correctional officers, and other officers whose  
13 duty it is to enforce and preserve the public peace;

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Official Business

# Alaska State Legislature

Senate

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

March 4, 1979

## LETTER OF LEGISLATIVE INTENT

### SB 162

The term, "peace officer," is specifically defined for purposes of the Public Employees' Retirement System in AS 39.35.680(27). It is not intended that the general definition of "peace officer" in SB 162 change or modify in any way the meaning of the term, "peace officer," in the Public Employees' Retirement System statutes.

The committee is most reluctant to be placed in a position of prejudging the Alaska Supreme Court. The problem which brought about the introduction of this bill is now on appeal to that court. The committee finds itself in an awkward situation in the middle of a dispute between judicial, probation-parole and corrections officers on the one hand and the Departments of Law and Health and Social Services on the other.

It is thought that the problem could best be resolved by removing Probation, Parole and Corrections from the Department of Health and Social Services and placing them under the auspices and supervision of the court system.

\_\_\_\_\_  
Senator Ziegler, Chairman

\_\_\_\_\_

\_\_\_\_\_



Superior Court

State of Alaska

FOURTH JUDICIAL DISTRICT

604 BARNETTE STREET

FAIRBANKS, ALASKA

99701

CHAMBERS OF  
GERALD J. VAN HOOMISSEN, JUDGE

February 26, 1979

The Honorable Robert Ziegler  
State Senator  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ziegler:

It has come to my attention that a bill submitted by Senator Bennett which proports to amend AS 01.10.060(6) by adding adult probation and parole officers and correctional officers to subsection 6 of the foregoing statute is coming up for public hearing before the Senate Judiciary Committee on Tuesday, February 27th, in Juneau.

I would like very much to testify before the Senate Judiciary Committee in favor of Senator Bennett's bill, however, because of trial commitments in Barrow I will be unable to appear personally before the committee. I would like you to consider this letter as an endorsement of the bill submitted by Senator Bennett.

As you are probably aware, a great deal of controversy has developed between the executive and the judicial branch of government over the question of whether or not qualified adult probation officers should be allowed to carry firearms. As past presiding judge of the Fourth Judicial District, I entered an order in November authorizing adult probation/parole officers who are qualified by the Alaska State Trooper Academy to carry firearms in the performance of their duties. I do not wish to comment at length upon that order or the subsequent events surrounding that order since there is a case pending before the Supreme Court testing its validity. I do want to say that the order was entered because I am firmly convinced that for the adult probation officers to effectively perform their duties as probation officers for their own safety, they should be allowed to

Senator Robert Ziegler  
February 26, 1979  
Page 2

carry firearms while on duty. I think it is safe to say that I have traveled to the bush areas of this State more than any other Superior or District Court judge. The Fourth Judicial District, which includes Barrow and Bethel Service areas, encompasses an area slightly larger than the State of Texas. We have endeavored over the past five years to provide judicial services to all of the villages within the Fourth Judicial District and its service areas: Necessarily, in the performance of these duties, I am accompanied by probation/parole officers from the Fairbanks office to these remote sites. Since the probation officer is either conducting the presentence investigation or is supervising persons who have been convicted of felonies it is not hard to understand that they are not the most popular people in these remote areas. It is necessary that in the performance of their duties they are required to go into small villages and into dwellings occupied often by a number of people who are antagonistic to the officer. Many times they will find in the course of their duties it is necessary that a probationer or parolee be taken into custody on the spot. Neither Alaska State Troopers nor qualified municipal police officers are available for backup, consequently, the probation/parole officer's safety is in jeopardy when he is required to make an arrest, many times forcefully under such conditions. I have discussed this matter with Mr. Dan Hickey, Chief Prosecutor with the Attorney General's Office, and he assured me that when a probation/parole officer anticipates that he will need backup that he would assure me that the Alaska State Troopers would be present. I consider such an assurance ridiculous under the circumstances for these reasons: (1) the presence of the Alaska State Troopers in the bush areas of the Northern part of the State are many times conspicuous by their absence, and (2) the probation/parole officer just cannot anticipate unforeseen circumstances arising that would jeopardize his safety. It cannot be fairly said that everytime a probation officer goes to the bush he can expect trouble; that simply is not the case. However, trouble does arrive with enough frequency that at least the officer should be allowed to defend himself when faced with life-threatening situations, and have available to him sufficient force to effect an arrest if an arrest is necessary and required under the exigent circumstances. In the fourteen years that I have traveled throughout the bush villages in Northern and Eastern Alaska I have yet to see Mr. Hickey or any member of the Attorney General's office, other than

Senator Robert Ziegler  
February 26, 1979  
Page 3

the ones I have required to be out there, to attend court proceedings. Mr. Hickey is simply not aware of the circumstances that actually exist in the rural areas.

So far I have addressed myself only to the rural areas. The need for a qualified adult probation/parole officer to carry firearms in the urban areas I don't think needs much exposition. Suffice it to say, the people the probation officer is dealing with are convicted felons. They have already demonstrated to the satisfaction of the court or the jury that they do not hold in highest respect the laws and regulations necessary to keep order in society. A probation officer can handle his caseload in two ways: he can sit at his desk and merely check off people who report in from time to time, or he can go out into the community where the probationer has to live, work, raise his family and face the problems that all of us face in everyday life. I am very fortunate in the Fourth Judicial District of having five outstanding probation officers who are sincerely interested in helping their probationers to establish themselves as productive members of society. This effort on the part of the probation officer necessarily requires that they be in a position to call to task probationers who demonstrate no desire to adhere to our laws or conform their conduct to society's demands. Again, the officer cannot anticipate a life-threatening situation is going to arise. I think it is fair to say that most of the people that our adult probation/parole officers deal with recognize that the officers are trying to help them and they themselves have a desire to become again the so-called solid citizen. It is nevertheless a fact that an increasing number of persons on probation do not entertain these same thoughts. In a conversation with the Attorney General, Avrum Gross, approximately two weeks ago, concerning the order I entered, he stated to me that he would take personal responsibility for any probation officer who was injured or killed in the line of duty. I have no doubt that he would feel badly if such a thing happened, however, his assurance and his assumption of responsibility would be a small consolation to a seriously injured probation officer or his widow.

I'm sorry, Senator, this letter is so long but I feel that the issue is an important one, and one that deserves the favorable consideration of the legislature. I do not feel that it is absolutely essential that adult probation/parole officers or correctional officers be specifically included under subsection 6 of

Senator Robert Ziegler  
February 26, 1979  
Page 4

AS 01.10.060, since they already fall into the definition of "peace officer".

I'm enclosing herewith an excerpt of a letter written by Daniel Hickey, Chief Prosecutor, to Mr. James Mayer, Executive Director, Alaska Police Standards Council, dated September 18, 1977, defining a peace officer. I suggest to the committee that a probation/parole officer in the performance of his regular duties as such can perform and is required to perform all of the duties outlined by Mr. Hickey on page 3 of that letter. The passage of Senator Bennett's bill would not, in my opinion, suddenly make probation/parole officers "peace officers". It is my position that they are already peace officers and Senator Bennett's bill would clarify a situation which has given rise to a great deal of controversy and conflicting opinions and regulations within State government. The adult probation/parole officers in the Fourth Judicial District have even been threatened with criminal prosecution under AS 11.55.010 and .020 because of the disagreement as to their status. The new criminal code which becomes effective January 1, 1980, will eliminate the problems that have arisen under our present code. The passage of Senator Bennett's proposed bill will eliminate the problem between now and the effective date of the new code. I sincerely urge its passage.

Again, I am sorry that I will not be able to appear before your committee personally, however, if you have any questions with reference to my position on this bill, please do not hesitate to call on me at my office, 452-1580, or at my home 479-3591.

Thanking you for your courtesy and consideration in this matter, I am

Very truly yours,

Gerald J. Van Hoomissen  
(signed by secretary as directed)

GJVH/sp

Enclosure

"peace officer" as used in AS 01.10.60(6) has been given a more restricted meaning and includes public law enforcement officers having full law enforcement authority within a particular jurisdiction.

Quite clearly, a peace officer is defined in the first clause of AS 01.10.060(6) to mean public law enforcement officers having full police duties which as a general rule would include the following minimum requirements: the power to arrest and to issue citations for minor offenses; the power to detain a person taken into custody until that person can be arraigned before a judge or magistrate; the power to use all necessary and reasonable force authorized by law, including the use of deadly force in limited circumstances; the authority to conduct investigations into suspected or known violations of the criminal law; the power to search with or without a warrant, persons, dwellings and other forms of property for contraband and evidence of a crime; the authority to suppress riots and to maintain order during emergencies and natural disasters; the authority to execute process issued by a court; and, in general, the discretionary authority to take such other action as is consistent and necessary with the exercise of these enumerated powers when essential to maintain the public peace, such as the authority to carry a concealed weapon. See e.g., AS 11.55.070.

*P.O.'s  
have all  
these  
powers &  
responsibilities*


IN THE MATTER OF: )  
 )  
 )  
 The Authorization for )  
 Probation Officers to )  
 Carry Concealed Firearms. )  
 )  
 )  
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SUPPLEMENTAL  
ORDER

Subsequent to the time that the Court had originally considered the question of whether Probation Officers of this court could be allowed to carry firearms without a specific permit from the Commissioner of Public Safety of the State of Alaska, but prior to the Order entered December 7, 1978, authorizing adult Probation Officers in this district to carry firearms provided they were qualified to do so, the Commissioner of Public Safety did in fact issue commissions to the qualified adult Probation Officers to carry firearms in the performance of their duties.

Consequently, the Order of December 7, 1978, is unnecessary and shall be and hereby is VACATED for so long as the Commissioner of Public Safety authorizes the qualified adult Probation Officers to carry firearms in the performance of thier duties.

DATED at Fairbanks, Alaska, this 4 day of January, 1979.

  
 Gerald J. Wan Hoornissen  
 Superior Court Judge

cc: District Attorney  
 Div. of Corrections  
 Supreme Court

IN THE MATTER OF

AUTHORIZATION FOR PROBATION  
OFFICERS TO CARRY  
CONCEALED FIREARMS

It appearing that to insure their safety and to perform their duties as officers of the Court, Probation Officers of this Court require the use of a firearm.

THEREFORE, IT IS ORDERED, that when qualified, each regularly appointed Adult Unit Probation Officer of this Court is authorized to carry a concealed firearm on his or her person.

DATED at Fairbanks, Alaska, this 7 day of December,  
1978.

  
\_\_\_\_\_  
SUPERIOR COURT JUDGE



**ALASKA PEACE OFFICERS ASSOCIATION  
FARTHEST NORTH CHAPTER**

AFZT-PH-W

9 February 1979

Mr. Wayne Anthony Ross  
Attorney at Law

Dear Sir,

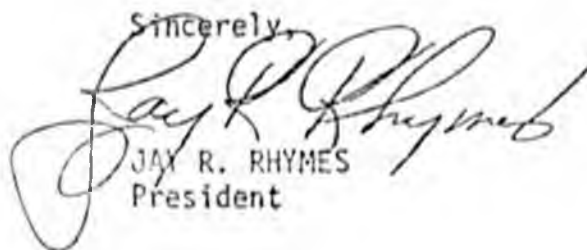
Information concerning the recent objection for Removal of Commissions for Adult Parole and Probation Officers to carry concealed weapons in the performance of their duties has been brought to our attention. This alarming objection comes as a grave disappointment and extreme concern for our fellow Law Enforcement Officers. The reasoning for this action considering their role in the Criminal Justice System is baffling to say the least. These Officers confront on a daily basis known felons who without question have little or no respect for law and order and even less for representatives of Law Enforcement.

These Officers have all met the Police Standards Council and are fully qualified. Additionally a vast majority have previous Law Enforcement background which include the attendance of Police Academies and various Law Enforcement Seminars. Many Law Enforcement Officers were personally contacted and expressed their concern over this action.

The Farthest North chapter of APOA gave their vote of confidence in addressing former Commissioner Burton's Task Force report in 1976 for commissioning these officers. Our position is unchanged and speaking for the largest chapter of APOA we fully support and indorse the Parole and Probation Officers of Fairbanks Office. They are without question true professionals and exhibit the highest standards of any parole and probation office I have worked with.

Having been associated with Law Enforcement work over the last nineteen (19) years there is little question in my mind that these Officers of the Adult Parole and Probation Office are fully qualified and warrant the commission to carry weapons, by virtue of their extreme high potential of encountering a felon who has little regard for Law Enforcement representatives. The decision of this action impacts greatly upon their mission. It is our sincere wish that in the final analysis that these Officers be permitted to retain their Commissions.

Sincerely,

  
JAY R. RHYMES  
President

cc: Adult Parole/Probation  
Executive Board APOA



State APOA Office  
P.O. Box 3520 DT  
Anchorage, AK 99510  
Phone 337-7712

February 9, 1979

Governor Jay S. Hammond  
Pouch "A"  
Juneau, Alaska 99811

Dear Governor Hammond:

It has come to my attention that the Acting Commissioner of Public Safety has recently attempted to rescind the Special Commissions that had been extended to the Adult Probation/Parole Officers of the State. I observe that Commissioner Nix's opinion is inconsistent with the decision that had been previously made by Commissioner Burton. Commissioner Burton and previous representatives of the Department of Public Safety were so convinced of the Probation/Parole Officers' need to protect themselves, that to resolve the dispute between the Attorney General and the Probation/Parole Officers, Commissioner Burton, as others have done in the past, issued Special Officer status pursuant to AS 18.65.010. Probation/Parole Officers have not changed their role or function. Their job, if anything, has become tougher in recent years.

The zealous attempt of the Attorney General to strip the Adult Probation/Parole Officer of the concealed firearm is beyond comprehension. I understand the Attorney General has focused on the definition of peace officer and has argued that the legislature's failure to specifically include the Probation/Parole Officer meant that the legislature must have meant to exclude the class from the coverage of the definition. It is observed that in the Criminal Code, which recently passed the legislature and which will go into effect January 1, 1980, the legislature specifically defined a peace officer as: "a public servant vested by law with a duty to maintain order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders." This new definition of "peace officer" includes Probation/Parole Officers. I have also been apprised that the Attorney General has taken issue with a court order issued by Superior Court Judge Gerald J. VanHoomissen. The court order specifically orders that the Adult Probation/Parole Officer of the Fourth Judicial District is authorized to carry a concealed firearm.

Court action to resolve the Special Commission issue is pending in the Third Judicial District. Action to resolve the Attorney General's question concerning Superior Court Judge Gerald J. VanHoomissen's court order is pending a Supreme Court Hearing in Fairbanks. A great deal of effort is being expended by the Attorney General in opposing judicial and executive efforts in trying to disarm the State's Adult Probation/Parole Officers.

February 9, 1979

Page -2-

It is difficult to understand why the Attorney General has taken such a fanatic position in attempting to disarm the Adult Probation/Parole Officer of this critically needed tool. It would appear that the Attorney General's motivations for taking issue with such a trivial matter is motivated by something other than a fact of law.

It has been my personal observation that on numerous occasions, the Adult Probation/Parole Officer, while acting within his authority, has initiated and assisted in investigations and the arrests of dangerous and armed felons. I, as a supervisor of a narcotics unit over the past four years, have had occasion to work closely with the Adult Probation/Parole Officers in Fairbanks and have found their actions to be of the highest quality and professional. I have participated in investigations where the presence of an armed Probation/Parole Officer was of a great advantage to the safety of all concerned.

Why such tunnel-visioned focus on this issue is not yet understood.

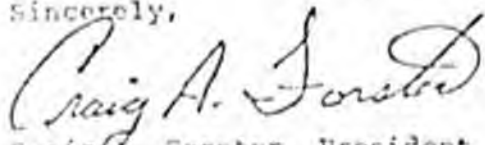
I understand that one area frequently argued by the Attorney General is that a State Trooper or other police officer could be called upon to accompany an Adult Probation/Parole Officer when violence is expected. It would be a serious waste of manpower to require an additional police officer to assist when the Adult Probation/Parole Officer is more than capable of handling the situation at hand. It should be noted that the most dangerous situations are not always the most obvious situations.

When the State sends out an Adult Probation/Parole Officer to effect an arrest of a felon (all arrests made by the Adult Probation/Parole Officers are felonies), it will be done peaceably if possible or forcibly if necessary. It is beyond my comprehension how the Attorney General and the Acting Commissioner of Public Safety can rationalize their attempts to disarm these officers. We should be careful not to make their jobs so dangerous to perform that they might shrink from their duties and hesitate from the action which the proper protection of society demands.

I submit that the continued arming of our Adult Probation/Parole Officers is in the best interest of the citizens of this state. I am writing you in an effort to keep you informed of law enforcement's position in this important issue. I simply seek to make our position known and sincerely hope it will not create any animosities.

Your attention to this important issue would be greatly appreciated.

Sincerely,



Craig A. Forster, President  
Alaska Peace Officers Association  
656 7th Avenue  
Fairbanks, Alaska 99701

# ALASKA PEACE OFFICERS ASSOCIATION



Capital City Chapter  
P. O. Bcx 751  
Juneau, Alaska 99802

27 February 1979

Mr. Wayne Anthony Ross  
Attorney at Law

Dear Mr. Ross:

The Capital City chapter of the Alaska Peace Officers Association has recently been advised of an effort to prevent select probation officers handling adult caseloads from carrying a concealed weapon (hand gun) in the performance of their official duties.

This has been an on-again, off-again situation for a considerable number of years, to the point that many members of our association have been concerned about the extent State government is willing to go in providing avenues of legal and administrative relief for criminal offenders and, at the same time, fail to recognize the need of those Justice System personnel who are hired and sworn to uphold the law.

In our opinion, government is supposed to represent the best interests of the people and, in doing so, ensure that the probation officers in this case, who are public servants, have the necessary equipment to properly discharge their duties in the safest manner possible.

This most recent action directed against probation officers who exercise, by law, their authority to arrest with or without a warrant, the very same criminal element as police, many of which the police would not even think of apprehending, if unarmed and expected to do so, only tends to reinforce our concern about the criminal element's welfare and rights being placed above the safety and welfare of those government employees charge with enforcing the law.

No one can argue philosophy with any degree of success in the face of cold facts and reality concerning this matter. When a probation officers happens upon a probation or parole violator, there are two thing he will know for sure if he is prohibited from carrying a firearm in the performance of his duties.

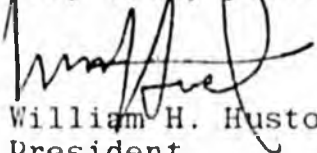
- A. He will know for sure that he is not armed.
- B. He will have no way of knowing whether the violator is armed  
or not.

Mr. Wayne Anthony Ross  
Attorney at Law  
February 27, 1979  
Page Two

In view of such facts, it would appear an easy decision to make: allowing probation officers to carry firearms in the performance of their duties.

Thank you.

Very truly yours,



William H. Huston  
President  
Capital City Chapter  
Alaska Peace Officers Association

P. O. Box 751  
Juneau, Alaska 99802



STATE OF ALASKA

Class Specification

PROBATION OFFICER II

4343-16

Definition:

Under general supervision, carries a caseload involving office and field work in probation and parole, pre-sentence investigation, supervision and guidance of youth and adult parolees or probationers.

Distinquishing Characteristics:

This is the fully qualified professional journeyman level class which is distinguished from Probation Officer I by the independence of action, latitude of judgment exercised, and by the assignment of any case. It is distinguished from the Probation Officer III class in that normally a Probation Officer II does not supervise other Probation Officers although he may be responsible for training of Probation Officer Trainees and Probation Officer I's.

Examples of Duties:

Counsels parolees and probationers, helps them to understand their problems, and adapts the treatment program to the individual.

Develops employment opportunities for persons eligible for or on parole or probation.

Works with and secures the cooperation of social, law enforcement, recreational, religious, educational and other agencies concerned with the rehabilitation of parolees and probationers.

Utilizes casework methods in the supervision of parolees and probationers, and makes individual diagnoses and progress reports indicating case prognosis.

Investigates cases of parole or probation violators, compiles evidence required to effect the suspension of parolee or probationer, and apprehends violators for return to custody.

Compiles case histories, dictates correspondence, and prepares reports.

Maintains personal contacts at office and periodically visits with parolees and probationers to assist them with problems of social readjustment.

Cooperates with local and state police, institutional and judicial officials in the supervision of parolees or probationers.

Performs other related duties as required.

Knowledges, Skills and Abilities:

Knowledge of: Principles and practices of counseling, guidance, and placement; cause, extent, and treatment of delinquency and criminality; procedures of parole and probation casework and court procedures; habits; attitudes and psychology of persons with delinquent tendencies; community resources and agencies which

July 18, 1977

John E. Baus

1977 ANNUAL PAT TOBIN SHOOT  
- SCORES -

The following are the scores fired at the 1977 Annual Pat Tobin Memorial Shoot held on July 17, 1977:

1. Ward Schute, Eielson AFB - 98.8 with 25X.
- DOC 2. Don Allen, DOC - 98.8 with 20X.
3. Ken Turcotte, Eielson AFB - 98.4 with 16X.
4. Steve Devore, Eielson AFB - 98.0 with 21X.
- DOC 5. Ron Murray, DOC - 97.6 with 18X.
6. Richard Wolfe, FPD - 97.6 with 15X.
7. Tom Campbell, Eielson AFB - 97.2 with 22X.
8. Louie Fleming, Eielson AFB - 96.4 with 19X.
9. John Addis, AST - 96.4 with 19X.
10. Robert Wolfe, Eielson AFB - 96.4 with 16X.
11. John Baus, FPD - 96.0 with 24X.
- DOC 12. Steve Korenek, DOC - 95.6 with 18X.
13. Jim Lowe, FPD - 95.2 with 9X.
14. Doug Woolley, FPD - 94.0 with 21X.
- AST X 15. George Pollitt, AST - 94.0 with 10X.
16. George Hiller, Eielson AFB - 93.6 with 16X.
17. Ken Fore, Eielson AFB - 92.8 with 18X.
18. Noel Napollilli, FPD - 92.4 with 23X.
19. Gary Vogt, FPD - 92.0 with 3X.
- DOC 20. Wayne Jones, DOC - 90.8 with 19X.
21. Jim Barclay, FPD - 90.8 with 7X.
22. Terry Zee, APS - 90.4 with 15X.
23. Robert Coleman, Eielson AFB - 90.4 with 12X.
24. Herb Kallman, APS, - 90.4 with 10X.
25. Victor Gunn, FPD - 89.2 with 4X.
26. Jim McCann, AST - 88.8 with 12X.
27. Don LaSage, FPD - 88.4 with 9X.
28. Gene Kallus, AST - 88.0 with 9X.
29. Joel Head, US Army - 86.4 with 12X.
30. Fred Schumacher, APS - 85.2 with 9X.
31. Pete Gunn, APS - 84.8 with 13X.
32. Rick Cummings, FPD - 84.8 with 11X.
33. Skip Harrington, APS - 82.4 with 12X.
34. Tom Barnese, US Army - 81.2 with 12X.
35. Pete Villarreal, Eielson AFB - 81.2 with 9X.
36. Ken Razza, Eielson AFB - 79.6 with 13X.
37. Ken Keber, FPD - 79.4 with 8X.
38. Ted Maynor, APS - 77.6 with 15X.
39. Jerry Prater, FPD - 76.0 with 9X.
40. Roland Bonneville, FPD - 76.0 with 8X.

AP 3 P  
DOC 2ND PLACE

1978  
3rd PLACE

September 22, 1976

All  
P's

OPEN LETTER TO ALL APOA  
CHAPTERS

LADIES & GENTLEMEN:

RE: Full Peace Officer Statutory  
Definition for Probation Officers

As a result of a continuing need to fully protect and provide for State Probation Officers who do, most definitely, go about their duties which are comprised of traditional peace officer functions, I am writing you for your support and requesting this support based on the attached material which includes a copy of written evidence of strong support from the FAR NORTH APOA CHAPTER.

It is respectfully and earnestly requested that the support from all of the APOA chapters be condensed into strongly written form clearly stating that your support encompasses not only the inclusion of State Probation Officers as peace officers in the public employee's retirement system, but also includes that State Probation Officers be clearly defined as peace officers under all Alaska Statutes which functionally and authoritatively bestow full peace officer powers.

It is further requested that this unanimous recommendation from APOA be addressed to the Governor, the Legislature, and the Commissioner of Health and Social Services, with copies to our Director and Chief of Probation Services, and this writer.

Enclosed are excerpts from a letter, dated 6-7-76, from the President of FAR NORTH APOA to Commissioner Burton endorsing what is requested of all chapters.

Also find enclosed a letter, of March 4, 1975, that I wrote to Commissioner Burton in an attempt to reinstate our Special Officer Commissions we have formerly had, which have always been poor substitutes for fully legislated peace officer status. The letter briefly summarizes some of the kinds of hazardous job functions we must perform in the field, and it also registers a profound concern for the personal safety of our professional staff that they and I still share.

Like other peace officers, probation officers deal with convicted felons and adjudicated delinquents every working day of their lives. And there is no doubt that these offenders are becoming more violent and aggressive. It is only a matter of time until we are assisting one of our staff member's survivors or visiting an injured probation officer in a local hospital.

It has occurred that probation officers have routinely entered an offender's residence alone and unarmed, and, in the past, have had to back away from making an arrest, when probable cause was in evidence, because the officer had no firearms emergency support. Subsequently, this has left the probationer or parolee free to escape or destroy evidence which would have supported a revocation action.

Some probation officers have long met minimum police standards of police training and have possessed special officer commissions to act as peace officers. These commissions were issued by the Department of Public Safety and have to be renewed every year. Commissioner Burton of Public Safety has stated very clearly that these commissions are issued for the purpose of enlisting our personnel for emergency peace officer duty under his command and are not issued to our

staff to aid in carrying out our duties. Presently, Commissioner Burton is withholding the renewal and the initial issue of commissions pending an Attorney General's opinion regarding the commissions, defining how and for what purpose they should be issued.

A probation officer should not have to rely on another department or agency in order to do his job. It is obvious that these people should have sufficient legislative authority to accomplish any task the job demands. As present Alaska Statutes are drawn, an earlier Attorney General's opinion has clearly stated that these laws do not recognize probation officers as peace officers.

In the past five years, probation officers in the Anchorage region alone have seen a rise in the incidence of threats of bodily harm and death from probationers, parolees and anonymous callers. A minor assault has thus far occurred and offenders from Anchorage proper have recently experienced an increased incidence of seizure of deadly weapons they had in their possession. These weapons have taken the form of handguns and concealed knives. More recently a loaded, snub-barrelled .38 revolver was seized from a female offender considered to be a "fringe group" or "soft core" felon compared to many of our drug-related cases who are into hard core criminal activity in order to support their criminal proclivities, drug habits or the drug habits of others. Probation-Parole Field Services has no control over the severity of criminal cases given to its custody. These kinds of cases are reality. And many do go armed with deadly weapons concealed, or have ready access to these deadly weapons, during their release time. Of that there is no doubt as our cases of record and local police indicate clearly.

As stated in the attached material, the Anchorage superior Court Judges--in 1971--recommended that probation officers be allowed to carry concealed firearms in the course of duty. This is certainly a necessary part of full peace officer authority.

And, lest there be any doubt about the reality of where our thoughts lie, we probation officers do not agree with the idea that people must be hurt and blood must be let in order to substantiate the inherent risk that probation officers have in the course of their work.

Because of all reasons herein included in this letter and attachments, legislation making probation officers peace officers is needed to better protect the public and our employees.

NOTE: APOA, during the June, 1976 Crime Conference, indicated that if possible I should attempt to attach a dollar estimate to the total cost of bringing State Probation Officers under the peace officer retirement system. An attempt was made to obtain professional assistance from the Division of Retirement to facilitate an actuarial estimate of cost. Division of Retirement personnel informed me that they were unable at this time to provide me with such an estimate, it being a rather involved and costly process. Therefore, available resources have not permitted the obtaining of this information. However, it is important to note that that part of full peace officer status, which legislation could provide, would include approximately 65 probation officers statewide; we are not talking about literally hundreds of people in this or other job classes.

March 4, 1975

Richard L. Burton, Commissioner  
Department of Public Safety  
Branch II--State Capitol  
Juneau, Alaska 99801

RE: Special Officer Commissions,  
A.S. 13.65.010

Dear Commissioner Burton

As you requested, applications, in addition to the ones you have already received, are enroute to you. My application will have to go via our Central Office for endorsement by our Director and then on to you. We are retaining our confidential records until you pass individual judgment on each applicant, as per your remarks in our conversation with Duncan Fowler on February 27.

I would like to apprise you of the history of how we originally got into the business of Special Officer Commissions. Briefly, in 1971, the number of violent offenders we were burdened with investigating, supervising, and arresting (without the aid of police who were engaged in other law enforcement and protective work) had increased in alarmingly significant numbers. It was clear to us, and local police, that the vicious brutality of the violence-oriented offenders we dealt with had grown accordingly. The facts of crime, so to speak, had worsened so much that threats to life and highly charged situations were becoming much more routine to our staff. The police remarked to us that more dangerous offenders, apart from these I speak of, were carrying firearms concealed as a matter of habit, at one time or another, during their time on the street.

The situation is even worse now, but then we knew, (as did our Director, Sheriff [Name], and others) that it was time to arm our professional staff with at least the very minimum of personal protective equipment for field use. In November of 1971 the Judges of the Superior Court of the Third Judicial District recognized our serious situation, in writing they unanimously, (with the exception of the Family Court Judge) endorsed the carrying of concealed firearms for the personal protection of our staff.

W. Bankworth, then Director of the Alaska State Troopers, agreed to work on annual firearms training particularly tailored to meet our needs. There was a fear, by all concerned, that the arms were to be used only in cases of extreme self-defense. They would be drawn only on an individual who is offering an immediate and unswerving, felonious threat to life and body and there is no other alternative available. We were, and are, restricted from using these weapons in any other way by Division policy. It is important to also tell you that our staff, for being made aware of our personal need, suggested that our staff should be held legal with the responsibility for adult cases, apply for Special Officer Commissions.

In the spring of '72, after receiving approval from our higher authorities, academic firearms training was obtained from Rob Penman of the Alaska State Troopers. As I recall, the actual firing of weapons in '72 was not accomplished as a unit drill. Training for qualification along with more classroom training fell well through 1973 and 1974. We were about to schedule our annual training for 1975 and had obtained an ammunition supply just prior to receiving your notifications. This will be held in abeyance pending your final decisions.

Our routine duties encompass adult felony case supervision in the field, working in close field cooperation with Alaska State Troopers and the Anchorage Police Department members comprising the joint police Metropolitan Drug Unit, Adult Sentence Investigations, Interstate Placement Investigations of felons applying for transfer, bail supervision when Court ordered on those charged with all types of violent crimes, to name some of the more prominent functions of more conspicuous proportions.

It is important to note the reality of the extreme "bodily-harm and death" threats that we have seen on the definite increase over the past several years from felons and anonymous people. One more recent threat was delivered to a probation officer with the command that he change a pre-sentence recommendation of the report to the Court or face great personal violence or death. Needless to say this officer did not change his recommendation for "time to serve" on this drug dealer. The man was sentenced to prison. Another instance saw your trooper intercept a felon who had avowed to visit our regional office in Anchorage and kill all officers present. As I write this letter, one of our more pernicious drug-orientated felons on probation, all rights held, is on contract put out on him. Our assigned probation officer reported that the man had a murder to this person, (whom our officer was personally controlling through the community), was verified by federal authorities and a lot of other things. His defendant has been removed from Anchorage for his own good. Our officers, being closely indentified by the criminal element as an authority and influence for the offender's assisting police and prosecutors, never did, and never will, have a place to hide from the "contract" man or other malignant segments of the local criminal culture. One of our "bush" officers was recently threatened with death. He is assigned to the Bethel area. I could go on, but I want you to get the idea. With your vast experience, you are many times more familiar with this type of cancer than most segments of the criminal justice system.

We do appreciate your reviewing and updating the procedures for the issuance of Probation Officer Commissions. I think all concerned must be sure of exactly who is vested with this authority, his preparation, specific training, and character. Believe me, we also want to be sure our training is adequate.

We also realize there are possibly some of our officers who may not qualify by interpretation of statute and related administrative code. Since the work done by probation staff must do will not abate, I do ask, for any of those who may be just a bit short qualifying, that local training be made available in the Anchorage area. Those people who have a real need for commissions will have an opportunity to obtain them consistent with our work requirements which must be steadily met with the limited assigned personnel.

The growth of population and crime of this area--with its corresponding number of heavy offenders that we must deal with--frankly, bears on us with the full weight of its volatile mass. Our problem with Special Officer Commissions, as it stands, could not have materialized at a more critical time. In few words, we are extremely worried about the personal safety of our people who may shortly run the risk of being totally unarmed and therefore have that much more risk for great bodily harm and murder. I do not for a moment believe anyone wants to see one of our officers killed or maimed, (not that the designation by commission and a weapon is remotely absolute protection, nothing is) before some provisions for minimal personal protection are a reality.

Our quarterly informal meetings, over the past year, between our adult line staff and Capt. Anderson's troopers have proved mutually helpful in fostering closer cooperation and understanding between our two agencies which must work together. I hope that in this spirit, we can work out some means to insure that any of those needing training to qualify can be assisted locally to allow our limited numbers to fulfill our work requirements in the safest way possible and still conform to applicable standards.

Thank you very much for your indulgence and any assistance possible. It has meant so much to our staff and their best efforts toward more safely and effectively discharging the responsibilities of their work.

Sincerely,



Ward B. Coleman  
Regional Administrator

WC/rk

cc: Charles Adams, Director of Probation/Parole Services  
Walter B. Jones, Chief of Probation/Parole Services

ALASKA PEACE OFFICERS ASSOCIATION

Dated 6/7/75

Letter to  
Commissioner  
Burton,  
Public Safety



PROBATION - PAROLE OFFICERS IN DOING THEIR JOB RUN INTO VERY DANGEROUS SITUATIONS AND NEED THE PROPER TOOLS TO FUNCTION IN THEIR DESIGNATED CAPACITY. LOCALLY, PROBATION WHOSE HAS BEEN OF GREAT ASSISTANCE TO US AND HAVE BEEN SUPPORTIVE IN LAW ENFORCEMENT'S COMMON GOAL OF PROTECTING THE PUBLIC. TO IGNORE THEIR EXISTENCE AND POTENTIAL USEFULNESS IN PROTECTING SOCIETY WOULD BE A DISSERVICE TO LAW ENFORCEMENT AND THE COMMUNITY. WE URGE THAT THE ABOVE MENTIONED RECOMMENDATIONS BE GIVEN SERIOUS CONSIDERATION AND IMMEDIATE IMPLEMENTATION.

IN CONCLUSION WE HOPE THAT PROGRAMS INITIATED BY THE TASK FORCE WILL BE CARRIED THROUGH TO THEIR CONCLUSION AND NOT SHUFFLED TO THE BACK BURNER AFTER PUBLIC ATTENTION HAS MOVED ELSEWHERE. A PROGRESS REPORT, BY THE TASK FORCE, AFTER A REASONABLE PERIOD OF TIME TO IMPLEMENT THE VARIOUS PLANS TO INTERESTED PARTIES AROUND THE STATE MIGHT ALSO BE A GOOD IDEA.

WE THANK YOU FOR SOLICITING OUR COMMENTS AND SUGGESTIONS AND TRUST THE FOREGOING WILL BE OF SOME HELP TO YOU IN A WORTHY CAUSE ALL OF US HAVE A STAKE IN.

SINCERELY,

*Nancy Wright*  
PRESIDENT FAR NORTH AREA

TRAINING:

THE RECOMMENDED PROGRAM IS LONG OVERDUE AND SHOULD PROVIDE MANY BENEFITS TO CORRECTIONS'S PERSONNEL. THE TASK FORCE STUDY OF CORRECTIONS DID NOT ADDRESS ITSELF TO PROBATION - PAROLE IN IT'S STUDY AND THEREFORE HAD NO RECOMMENDATIONS TO MAKE IN THE AREA OF PROBATION - PAROLE WHICH IS A PART OF CORRECTIONS. WE FEEL THAT SINCE PROBATION - PAROLE OFFICERS GO OUT IN THE FIELD AND PART OF THEIR JOB IS TO ARREST PROBATION - PAROLE VIOLATORS, THAT THEY BE PROPERLY TRAINED IN THE AREA OF ARREST, SEARCH AND SEIZURE, DEFENSE TRAINING, AND TEMPORARILY BE COMMISSIONED SPECIAL OFFICERS PRIOR TO IMPLEMENTING PROBATION TO OFFICIALLY MAKE THEM PEACE OFFICERS.

The above is an excerpt from a letter to the Commissioner of Corrections from other material not direct.



POUCH V

JUNEAU, ALASKA 99811

TELEPHONE 465-4922

# Alaska State Legislature

## Senate

March 2, 1979

SENATOR

*Bill Ray*

CHAIRMAN

COMMITTEE ON TRANSPORTATION

COMMITTEE ON TITLE IV CODE REVISION

BLUE RIBBON COMMISSION  
ON THE STATE PERSONNEL ACT

Keith Stell  
Rt. 5, Box 5557  
Juneau, Alaska 99803

*Keith*  
Dear Mr. Stell:

This is to acknowledge receipt of your correspondence concerning Senate Bill 162.

I have taken the liberty of forwarding a copy of your letter to Senator Ziegler, Chairman of the Judiciary Committee, for his information and consideration.

Thank you for taking the time to share your views with me. You may be assured that I will consider your thoughts when this bill is brought up on the Senate floor.

Sincerely,

*Bill*

Bill Ray  
Senator  
District C

cc: Senator Ziegler

*COPY*  
*SEN ZIEGLER*  
*ACKNOWLEDGE*  
*TO SENDER*

Keith Stell  
Rt. 5, Box 5557  
Juneau, Alaska 99803

February 27, 1979

Senator Bill Ray  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ray:

SUBJECT: Senate Bill #162--Probation Officer as Peace Officer

Senator Ray, there is currently a bill being introduced by Senator Bennett from Fairbanks and Senator Stimson from Anchorage dealing with Probation Officers as Peace Officers. The bill as written limits the Peace Officer status to adult Probation Officers only. I believe it is unfair and not equitable to not include all Probation Officers, both those who deal with juveniles and adults, in this bill. Further, the bill may be somewhat discriminatory toward those Probation Officers in Southeast who deal both with juveniles and adults and who are called upon to arrest both categories of probationers. Therefore, if and when the bill comes to your attention, I would certainly appreciate it if you would argue in favor of the inclusion of all Probation/Parole Officers and not just the ones dealing with adult offenders.

Thank you for your consideration of this matter.

Sincerely,

*Keith*  
Keith Stell  
Regional Administrator  
Probation/Parole  
Southeast Alaska

KS/ra

P.S. Similar letters have been sent to Representatives Miller and Duncan.

## Bill Would Allow Concealed Weapons For Parole-Probation Officers

By Joe La Rocca

Juneau-Five state parole, probation and corrections officers from Fairbanks and Anchorage, defied the official position of the Hammond administration here Tuesday and urged the Senate Judiciary Committee to approve legislation which would enable them to carry handguns in the official performance of their duties.

The committee took no action on the bill and Chairman Robert Ziegler (D-Ketchikan) scheduled another meeting for Sunday afternoon to hear the administration's opposing testimony. Ziegler said

Superior Court Judge Gerald Van Hoomissen of Fairbanks would also be invited to testify.

The controversy flared up in the state's two largest cities after state Public Safety Commissioner W.R. Nix recently withdrew special commissions authorizing the state's 32 parole, probation and corrections officers to carry concealed weapons on the job.

The dispute has already been drawn into the state's superior court's at Anchorage and Fairbanks which have issued rulings effectively restoring the officers' right to bear short arms while on duty.

Tuesday's hearing focused on legislation introduced two weeks ago by State Senator Don Bennett (R-Fairbanks). The measure, Senate Bill 162, would include probation, parole and corrections officers under the legal definition of "peace officers" who are authorized by law to carry handguns.

Urging passage of the bill were Curtis Masingill, Ron Murray, and Lawrence Calderone, of Fairbanks; and Paul Tannenbaum and Fred Fowler of Anchorage.

Senator Ziegler said he would take further testimony on Sunday from several administration officials including Dr. Helen Beirne, Commissioner of the State Department of Health and Social Services, parent agency of the Division of Corrections, Dan Hickey, Chief State prosecutor, and Public Safety Commissioner Nix.

Contacted here Tuesday, Commissioner Beirne told the All-Alaska Weekly that "at this time I cannot support the bill." She said she could not support it until she has had an opportunity to study its impact upon the other state agencies it would affect beside her department

including the departments of Public Safety and Law.

Said Commissioner Beirne: "It's a policy we're working on that has not been determined yet."

One probation officer, Curtis Masingill, a Fairbanks supervisor, told the Judiciary Committee that anytime his colleagues go into the field to do their job they are placing themselves in jeopardy because they deal most with convicted felons often with records of violent crime including murder.

Giving them legal status as "peace officers," except he added, "when you are doing your specific duties and there is a possibility that you would be in some kind of jeopardy."

Ray said he believes the move to secure "peace officer" status for probation and parole officers was largely motivated by their hopes of entering the peace officers retirement program which is more liberal than the retirement program for other state employees but Masingill denied Ray's assertion.

"Sure, we would like to have it," he said, "But that is not why we are asking for peace officer status."

Ray replied: "I would be inclined to soften my attitude if you would agree to leave the classified service and to into the exempt service where you could be fired if you do a bad job."

Masingill said: "Most good officers would put their badges on the table."

Another Parole Officer Fred Fowler of Anchorage told the committee that he and his colleagues are required to take 240 hours of training at the state troopers academy in Sitka to qualify them to carry weapons.

Senator Bennett, sponsor of the bill, told the committee that matters such as retirement did not enter into his support for the bill. Said Bennett, "I'm just concerned that when parole or probation officers are ordered by the courts to go into the field to check on parolees, or arrest them, that they are armed and able to defend themselves."

Chairman Ziegler said he does not favor the measure because he knows of no need or support for it in Southeastern Alaska. But Ziegler promised the

Continued on Page 15

## Weapons . . .

Continued from page 3

sponsor that it would be reported out of the committee early next week following Sunday's hearing.

Ziegler told the All-Alaska Weekly he has "reached the inescapable conclusion" that corrections, parole, and probation officers do not belong in the Department of Health and Social Services.

He said that when administration witnesses appear before the committee on Sunday the first question he will raise is whether anyone in the administration would seriously object to transferring the parole, probation and corrections officers from the Department of Health and Social Services to the jurisdiction of either the Department of Public Safety or the State Court System where he thinks they belong.

TO: William H. Huston *WH*  
Director

DATE: November 2, 1977

FILE NO:

Thru: Charles E. Sothan  
Deputy Director

TELEPHONE NO 465-3376

FROM Walter B. Jones, Jr. *WBJ*  
Assistant Director, Juvenile Services

SUBJECT: Special Commissions

Problem

Probation and Parole Officers are obligated to investigate, supervise, and, when necessary, arrest adult felons every normal working day. A larger percentage of felons referred to our service appear to be violent. This behavior change has not occurred rapidly, but has surfaced over a period of years; subsequently, it has been difficult to identify. Approximately four to five years ago, a few probation officers commenced requesting training and protection for themselves when making certain home calls and investigating interstate compact supervision requests. More recently, many field personnel desire training in self-defense and the use of firearms with the authority to carry a concealed firearm when performing hazardous duty. Our active caseload seems to have a higher percentage of violent offenders on it than it used to have a few years ago. Police are reluctant to respond to our calls for assistance when making an arrest because of their own priorities and low manpower resources.

As a result of complaints from the field regarding hazardous duty and lack of equipment and training to cope with the problem, we commenced collecting data to determine if the complaints were realistic or just the desires of a few who wanted to be something that they were not.

The following data depicts the quantity and type of incidents and acts against Probation/Parole staff during the period of January 1974 to October 1977.

Probation and Parole Regions

	<u>South Central</u>	<u>South East</u>	<u>Northern</u>
A. Assaults			
1. Verbal Threats - unarmed	5	16	
2. Threats with a weapon		1	1
B. Assaults and Battery			
1. Unarmed	1	3	5
2. Armed	1	2	
	<hr/>	<hr/>	<hr/>
Totals	7	22	6

Probation and Parole Regions (continued)

	<u>South Central</u>	<u>South East</u>	<u>Northern</u>
C. Weapons confiscated from felons under supervision			
1. Handguns	9		4
2. Long guns	3	1	
3. Knives	3	2	
4. Other	2	1	
	<hr/>	<hr/>	<hr/>
Totals	17	4	4

In addition to the above statistics, our officers have had to retreat from certain hazardous home calls where violations were noted because the officers did not have assistance and no weapon to support their arrest. As a result, evidence was lost and subsequent revocation hearings were considerably weakened.

We are in the process of adequately training our personnel at the Academy in the use of weapons and other self-defense alternatives in expectation that sooner or later probation officers will receive permission to carry a concealed weapon, either by statute or special commission, in order to implement the full scope of their duties in a safe manner. I would not like to think that management was remiss in its performance to line staff by not exposing staff to the necessary training and support to enable staff to carry out all of their duties. I personally would not feel good if a probation officer was seriously injured or killed because he or she was not trained or equipped to enforce all the conditions of probation and parole.

Solution

I recommend that you request Commissioner Burton of Public Safety to issue Special Commissions to qualified probation/parole officers, as an interim measure, until legislation is enacted to allow our staff to carry weapons concealed.

In return for these commissions, we agree to:

1. Meet State Trooper training standards that pertain to self-defense and weapons.
2. Assist Troopers when assistance is requested with staff who hold commissions.
3. Deal with a felony offense when it presents itself and no other law enforcement personnel are in the immediate vicinity to handle it with staff who hold commissions.

4. Obtain each Presiding Superior Court Judge's written support for the commissions.
5. Arm only Probation Officers who work with adult offenders.

Please find attached to this memo our training curriculum which, I have been assured by our staff development officer, meets minimum trooper academy standards on this subject.

Many of our existing staff already meet these standards and have previously held commissions.

WBJ:pnl

Attachments

TO: [ William H. Huston, Director  
Division of Corrections

DATE: February 23, 1977

Thru: Charles E. Sothan  
Deputy Director

FILE NO:

FROM: Michael J. Gilbert  
Staff Development Officer

TELEPHONE NO: 465-3376

SUBJECT: Staff Study

Early Retirement for the Division of Corrections  
Central Office Operational Management Staff  
and Probations/Parole Officers

---

A. Statement of the Problem

The State of Alaska, Division of Corrections Operational Management Staff (see Enclosure 1) and the entire Probation/Parole Career Field are not under the Early Retirement System. This situation prevents effective career development by reducing promotion potential of the Correctional Officers already covered since individuals are, in effect, penalized for accepting a promotion above the position of Correctional Superintendent. The lack of Early Retirement status blocks effective lateral movement of qualified personnel between Probation/Parole Officer career fields and the Correctional Officer career field. Additionally, the Probations and Parole Officer is exposed to many of the same hazards and stresses as uniformed police.

B. Facts Bearing on the Problem

1. Alaska Statute 39.35.680(14) defines "Peace Officer and Fireman" as an "...employee who is employed full time in the state as a peace officer, chief of police, correctional officer, correctional superintendent, fish and game biologist or technician, fireman, or fire chief;".
2. The State of Alaska, Public Employees Retirement System Information Handbook, defines "Peace Officer and Fireman" as an "...employee who is employed full time in the state as a peace officer, chief of police, correctional officer, correctional superintendent, qualified employee of the Department of Fish and Game, fireman, or fire chief;". There is no indication of the definition of a "...qualified employee of the Department of Fish and Game".
3. The definition of "Public Safety Officer" and "fireman" by the Federal Government under the Public Safety Officer's Death Benefits Act of September 29, 1976, is:

"The Act 'Public Safety Officer' as 'a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman'. 'Law Enforcement Officer' means 'a person involved in crime

February 23, 1977

and juvenile delinquency control or reduction, or enforcement of criminal laws. This includes but is not limited to police, corrections, probation, parole, and judicial officers.'

'Fireman' is defined by the Act to include 'a person serving as an officially recognized or designated member of a legally organized volunteer fire department'". (See Enclosure 2.)

4. The first person to collect a \$50,000 death benefit under the Public Safety Officers Death Benefit Act was Paul J. Weber, age 26, of Topeka, Kansas, a Probation and Parole Officer. (See Enclosure 3.)
5. The 1976 State of Alaska, Standards and Goals for Criminal Justice prepared by the Governor's Commission on the Administration of Justice tasked the Division of Corrections to create a "series of career ladders to attract and retain qualified employees." (Reference page 29, paragraph 7.2.3.) Career ladders are ineffectual unless there are benefits associated with a promotion or lateral movement. The choice between potential advancement or the loss of benefits earned over a period of years is a negative factor that prevents acceptance of promotion or lateral movement by many correctional officers. Because of this barrier, many corrections personnel view themselves as locked into their present position without advancement opportunity.
6. The Corrections operational personnel not included in the Early Retirement System are identified by positions in Enclosure 4. Inclusion of these positions in the early retirement represents an additional 64 positions. The average age of the persons currently holding these positions is 38.5 years, with 5.3 years of state employment. It would take the average Corrections Operational Management Staff or Probation Officer 16.5 years to reach the retirement age of 55 and 14.7 years to obtain the full twenty-year retirement benefits. In effect, it will be approximately 15 years before the retirement funds deposited by these employees will be significantly effected by claims for Early Retirement Benefits.
8. The training costs to the Division of Corrections range from \$4,700 to \$6,500 per man for Academy style training (see Enclosures 6A and 6B). The money spent on the expansion of the Early Retirement System will be defrayed by reduced training expenditure by reducing the turnover rate (three to five less new hires per year to be trained would balance the overall costs).
9. Probation and parole personnel are authorized to make arrests, are officers of the court and, in many areas of Alaska, represent the only law enforcement agency in the region. The Probation and Parole Administrators may, at any time, be placed in the field when emergencies arise to perform duties of a similar nature, which they have done in the past, and are fully trained for.

10. The hazardous nature of probations and parole work is a very real factor that must be faced daily by the Probation/Parole Officer. The chart below depicts the quantity and type of assaults/assaults and battery committed against Probations/Parole Officers during the period of January 1974 to December 1976.

	<u>Probation and Parole Regions</u>		
	<u>Southcentral</u>	<u>Southeast</u>	<u>Northern</u>
<b>A. Assaults</b>			
1. Verbal Threats - unarmed	5	16	Not recorded
2. Threats with a dangerous weapon		1	1
<b>B. Assaults and Battery</b>			
1. Unarmed	1	3	5
2. Armed with a weapon	1	2	
Totals	7	22	6
<b>C. Weapons Confiscated from Felon Under Supervision</b>			
1. Handguns	3		1
2. Rifles		1	
3. Knives	3	2	
4. Other	2	1	

Enclosure 7 provides narrative examples of several assault and assault and battery situations. Note the photograph of a weapon confiscated from a felon client in the Fairbanks area.

11. The Division of Corrections Central Office has experienced significant difficulty in obtaining qualified correctional officers for available management positions because of the inequality of the two retirement systems.
12. Correction Operational Managers and the Correctional Training Officers are experienced correctional personnel who, as part of their regular duties visit all institutions to perform various services. Additionally, these same personnel are subject to reassignment to any of the correctional institutions in case of emergency or shortage of personnel.
13. The Alaska Statute 39.36.680(14) is the statute that effectively separates out the Corrections Operational Management personnel and the Probations and Parole personnel. Enclosure 8 provides alternative samples of wording for the revision of this statute.

## 2. Conclusions

That the Operational Organization of the Division of Corrections, as defined by the Organizational Chart shown in Enclosure 9 be included under the Early Retirement

February 23, 1977

System. This will enable the development of an effective career ladder system that provides upward and lateral mobility.

2. That AS 39.35.680(14) be revised and submitted to the Legislature for approval.

3. Recommendations

That the rewording of AS 39.35.680(14), as shown in Enclosure 7, Alternative ~~0~~, 1 be adopted for a legislative proposal.

UJG:pnl

Enclosures

Corrections Operational Management Staff

Director

Deputy Director

Assistant Director - Adult Correctional Services

Assistant Director - Probations and Parole Services

Chief of Security (and future staff)

Staff Development and Training Officer

Training Officer III

Training Officer II

Training Officer I

Interstate Compact Officer

Alternative Care Coordinator

Classification Officer

Francis S. L. Williamson  
Commissioner  
Dept. of Health & Social Services

September 7, 1977

William H. Huston  
Director  
Division of Corrections

Request for Legislation  
Early Retirement Status

The Governor's Task Force on Corrections, the Governor's speech of December 12, 1975 and the Governor's Commission on the Administration of Justice have all formally recognized the significant career development problems that exist within the Division of Corrections. Under the current structure it is extremely difficult for staff members to advance above the line supervisor level. One of the unnecessary blocks preventing advancement is the inclusion of the Correctional Officer series, through Correctional Superintendent under the twenty year early retirement program while the Probation-Parole Officer career field and the Correctional Management Staff are excluded. The net effect of this practice is that an individual desiring promotion or lateral movement must decide whether or not to leave their retirement program. This has resulted in several individuals refusing promotion opportunities.

An Actuary was conducted by the Division of Retirement and Benefits to obtain the fiscal impact. The actuary report indicated that the expense would be approximately \$298,000 for FY 1978 (plus inflation and benefit increases).

I have enclosed a copy of a draft staff study further documenting the need for inclusion of Probation Officers and Correctional Management Staff under the early retirement system for your reference.

For these reasons, I am submitting this request for legislation to be drafted setting forth the following:

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

AS 39.35.680 (14) is repealed and reenacted to read:

"Peace officer and Fireman" means an employee who is employed in the state as a peace officer, chief of police, probation officer, probation administrator, correctional officer, correctional superintendent, correctional managers (subject to assignment to a correctional institution during emergency situations), correctional training officers, qualified employee of the Department of Fish and Game, fireman or fire chief.

MJC/mr

Paul Arnoldt, Director  
Division of Retirement & Benefits  
Department of Administration

September 20, 1977

465-3376

William H. Huston, Director  
Division of Corrections  
Department of Health  
and Social Services

REQUEST FOR A  
FORMAL ACTUARY REPORT

On November 30, 1976, an actuary was requested to ascertain the financial impact of enrolling the Corrections management staff and probation/parole staff in the "early" retirement system. This request never received a formal response from the Division of Retirement and Benefits. Mr. Robert Cates, the former director, provided only an informal handwritten note indicating that the estimated costs for FY-78 was \$288,000. I have enclosed a copy of the original data, actuary request, and Mr. Cates' handwritten response for your reference and use (see Enclosure 1). We have requested legislation that would include both the probation/parole staff and the correctional management staff. Since the submission of the original request, the total staff included under the proposed legislation has increased from 59 to 65 (52 probation/parole field staff and 13 correctional management staff). Enclosure 2 identifies the specific Corrections management staff members by position title and includes the number of probation field staff members by their respective region. These minor additions have not significantly affected the figures listed for average age or length of service originally computed for the first request.

The legislation we have requested will, if passed, become effective during FY-79; consequently, we will require an actuary establishing the anticipated costs for FY-79 if these additional staff members are included under the 20 year "early" retirement program.

Thank you for your assistance in this matter.

Will:pul

Enclosures

MEMORANDUM  
My EARLY RET.  
File

TO: Paul Arnoldt  
Director  
Division of Retirement & Benefits  
Department of Administration

DATE: September 27, 1977

FILE NO:

TELEPHONE NO: 465-3376

A-1-8  
A-1-16  
D-4-20

FROM: William H. Huston  
Director  
Division of Corrections  
Dept. of Health & Social Services

SUBJECT: Actuary for Early Retirement  
Status

On September 19, 1977, in our meeting, you indicated that complete updated data would be needed to conduct a comprehensive actuary. Attached is the data requested.

In the actuary report, I would like costs to be established for the first year, and every fifth year thereafter, for the full 20 years required to fully complete the early retirement cycle. Additionally, I will need to have separate computations for the central office staff (13 positions), for the probation staff (57 positions), and for the complete list of 70 positions in order to determine our actual course of action in this matter.

Thank you for your assistance.

WHH/mjr  
Attachment

NAME	SS #	D.O.B.	AGE	D.O.H.	LENGTH OF SERVICE	JOB CLASS/TITLE	(PCN)	MONTHLY SALARY	RANGE
CENTRAL OFFICE									
William H. Huston	207-22-6018	05/01/31	46.33	07/01/64	13.17	Director of Corrections	064001	3847.00	26D
Charles E. Sothan	506-36-0189	07/31/35	42.1	09/16/76 + 5 mos	1.42	Deputy Director	064063	2973.00	23B
Walter B. Jones, Jr.	516-34-9593	07/01/34	43.17	3/9/64-5/10/65 3/7/67-Present	11.33	Assistant Director	064036	3445.00	22K
Lewis Reece	553-28-0360	12/10/39	37.80	09/26/72	5.0	Alternative Care Coord.	064005	2474.00	20C
Michael Dindinger	533-46-5958	05/01/47	30.33	10/04/71	5.92	Coord., Prisoner Prog.	064435	2296.00	20A
Michael Gilbert	002-34-4007	02/27/47	30.58	11/12/76	.83	Staff Dev. & Trng. Ofcr.	064161	2474.00	21A
Thomas T. Zaruba	574-14-9375	05/14/44	33.33	04/69-Present	10.93	Chief of Security	064511	2567.00	21B
Herb Maschner	535-30-3516	09/02/34	43.00	09/05/73	4.00	Assistant Director	064510	2762.00	22B
Robert Spinde	386-28-5605	01/23/32	45.67	04/22/69	8.42	Classification Officer	064512	2567.00	21B
John Babcock	101-42-7974	02/18/50	27.58	10/10/73	3.92	Training Officer II	064553	1983.00	18A
Ron Epperson	536-44-5582	05/03/48	29.33	05/17/74	3.32	Training Officer II	064554	2058.00	18A
Harrison Robinson	429-60-8151	06/14/34	43.25	03/26/76	1.5	Training Officer I	064552	1921.00	17A
Vacant Position	-	-	-	-	-	Training Officer III	064555	2214	19A
Central Office Summary		Average Age:	37.71	Average Serv.	5.81	Total Monthly Salary:		33581.00	

NAME	SS #	D.O.B.	AGE	D.O.H.	LENGTH OF SERVICE	JOB CLASS/TITLE	(PCN)	MONTHLY SALARY	RANGE
PROBATION AND PAROLE OFFICERS - SERO									
Keith Stell	521-44-2934	02/05/37	40.58	09/01/65	12.00	Probation Officer IV	064013	2973.00	20K
Russell Webb	444-50-4616	12/03/49	27.50	03/01/77	0.50	Probation Officer II	064121	1777.00	16B
Karen Rogers	542-42-4483	03/16/41	36.50	10/01/73	3.92	Probation Officer II	064341	1912.00	16D
Marlyn Olsen	387-52-0528	04/27/49	28.42	04/28/75	2.42	Probation Officer II	064357	1842.00	16C
Robert Hubby	568-46-7277	07/04/37	40.17	10/01/73	3.92	Probation Officer III	064012	2296.00	18D
Kermit Hummries	555-68-6861	08/13/47	30.17	05/13/74	3.33	Probation Officer III	064316	1983.00	18A
Neal King	519-16-1511	07/14/25	52.17	05/30/71	6.25	Probation Officer III	064349	2567.00	18F
Barton Penny	517-40-7440	01/03/41	36.68	06/16/69	8.25	Probation Officer III	064314	2474.00	18J
Robert Collins	571-58-6875	11/15/42	34.83	03/05/74	3.50	Probation Officer II	064011	1842.00	16C
Lynda Zaugg	574-18-8902	09/23/49	28.00	02/15/74	3.58	Probation Officer II	064469	2058.00	18A
William Alway	528-16-8506	06/26/21	56.17	08/03/71	6.09	Probation Officer II	064342	2058.00	16F
Robert Wild	574-18-3353	03/13/47	30.50	11/25/69-8/71 06/72-8/72 12/74-01/06/75 09/16/77-Present	3.08	Probation Officer II	064343	1712.00	16A

SERO Summary Data

Total Positions: 12 Ave. Age: 36.83 Ave. Serv.: 4.75

Total Monthly Salary:

25191.00