

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2453 HJ HB 456 - HB 487 2953

Maryland's Attorney General summarized the situation very succinctly:

"From a historical point of view Maryland's system of electing both the Governor and the Attorney General appears to have effectively served the best interests of the people of this State. That system is but another example of the checks and balances so carefully written in the Constitution of Maryland. It is my opinion that to take away from our citizens the right to elect the Chief Legal Officer of the State is to lessen their direct participation in affairs of government, and I vigorously oppose any such change in our traditional practices."

Election results, both on the State level and in the City of New York, reveal that our sophisticated electorate does not always choose a straight party ticket. At the level of Governor and Attorney General, the people should have the right to split their ticket and choose the best candidates even though they are not necessarily of the same political party. Indeed, the split ballot is proof positive that the people, themselves, are not concerned with whether the Attorney General is of the same political persuasion as the Governor.

3. The elected Attorney General has a direct responsibility to the People.

Also as a facet of the "checks and balances" concept and a further corollary of the "independent" status of the

office is the underlying premise, which has historical, traditional and logical validity, that only the People should be in a position to command the Attorney General's undeviating allegiance and loyalty. The correlative of this concept is that the Attorney General's prime and direct responsibility is to the People.

An elected Attorney General is imbued with a deeper sense of direct responsibility to the public from whom he has received a mandate than is the appointed official whose authority springs singularly from one individual. The elected official innately senses this strong personal and direct responsibility to the People and is thereby inspired to a greater degree of creativity, a broadened initiative and an increased desire to innovate in their behalf. The reaction is almost intuitive. As a result, he is free to act without clearing a matter with the executive hierarchy or obtaining the Governor's approval. I have already detailed my experience in this regard when I established the Consumer Frauds and Protection Bureau, the Real Estate Syndication Bureau and the Civil Rights Bureau in the Department of Law. Also, in this connection, I wish to point out that the Department of Law prepared and had introduced during my tenure, without executive clearance, our own legislative program, in the public interest, to protect

the consumer, the investor and the legitimate business man, as well as bills to reinforce civil rights.

The Attorney General of Wisconsin expressed the concept well:

"An Attorney General also performs numerous functions independently of any state agency. I refer particularly to his activity in such fields as consumer protection and anti-trust enforcement. I believe that an Attorney General who is responsive to the needs of the people can better fulfill these duties which have been entrusted to him by the people.

"It is my firm opinion that a State Attorney General should be an elected official. He should represent and be responsive to all of the people of the state. I believe that the activity of the Attorney General in the field of consumer protection alone is an outstanding example of the way in which elected Attorneys General respond to the needs of their constituents. Appointed officials who are not directly responsible to the voters are not nearly as sensitive nor as responsive to their needs."

Virtually all of the Attorneys General stress "accountability" to the People, rather than to the appointing officer; that the Attorney General should be clothed with an independency of action in protecting the public interest; that, even at the expense of potential lack of harmony, he should enjoy a freedom that is unfettered by any domination whatsoever; and that as a lawyer he should not be an employee, but rather should be allowed freely to exercise his proper

functions both as an officer of the court and as an attorney, bound only by the ethics of his profession and his oath of office.

4. People's right of recall.

Because of the fact that an elected Attorney General bears the burden of direct responsibility to the electorate which give him their mandate, he is subject to the "recall" prerogatives of the electorate. If they are dissatisfied with the performance of their elected Attorney General, they can replace him at the ensuing election. An appointed Attorney General would deprive the electorate of this substantial and salutary power.

The correlative of the right to recall an incompetent incumbent is the right to retain a competent incumbent. This is lost in the case of an appointed Attorney General because, no matter how efficient, competent or successful an appointed Attorney General may be, upon a change of administration he is usually turned out of office.

CONCEPT OF A "DEPARTMENT OF JUSTICE"

I am aware of Proposition No. 49 (introduced by Mr. Hull) which provides for the appointment of the Attorney General by the Governor and for a Department of Justice to be headed by the Attorney General and which further provides that "the legislature shall pass appropriate legislation for the implementation of this department." I am also aware of Resolution No. 24 (introduced by Mr. Sand) to direct the Committee on the Executive Branch to prepare and present a proposition to establish a Department of Justice, "into which shall be consolidated all of the functions, powers, duties and responsibilities of state government in connection with or relating to law enforcement, including, but not limited to, the prevention and investigation of crime, and the detection, identification, apprehension, prosecution, custody and rehabilitation of persons accused or convicted of crime."

Proposition No. 49 is too general and, therefore, difficult for present comment because it leaves everything to legislative implementation. Resolution No. 24 seems to indicate that all police departments, local as well as State, all Sheriffs and District Attorneys, all Correctional, Reform and Prison facilities, as well as the State Division of Parole, shall be under the jurisdiction of the proposed Department of

Justice. It does not define the projected department with sufficient particularity nor reflect the magnitude or complexity of the proposal. Nothing is said of the existing broad civil jurisdiction of the Department of Law.

However, I do have some recommendations which are more appropriate for legislative action:

(1) I am in favor of the greatest coordination and cooperation in the field of law enforcement — in a program such as is conceived under the recently created Crime Control Council (Laws of 1967, Chap. 167), under which Governor Rockefeller has provided an impressive and extensive program. Ex officio, the Attorney General or his designee should be a member of the Crime Control Council.

(2) Another area of interest is the relationship of the Attorney General and the District Attorneys. I am not in favor of appointed District Attorneys under the jurisdiction of the Attorney General. I believe that the District Attorneys should continue to be elected public officials.

However, I am of the opinion that there is room for a closer relationship between the Attorney General and the District Attorneys; this would result in better enforcement of the criminal laws. The Attorney General could be authorized to provide a forum for inter-county cooperation between District Attorneys. Periodic meetings could be mandated at

which attendance by District Attorneys or their representatives would be required. The Attorney General could prepare and disseminate information of common interest and bring law enforcement to new peaks of efficiency and excellence.

(3) Some local prosecutors are ill-equipped to handle complex criminal appeals because of a limited staff. The prosecutors should be permitted to call on the Attorney General for advice, cooperation and aid in appellate matters. To this end, provision could be made for the handling of criminal appeals by the Attorney General if requested to do so by the District Attorneys.

When specific and concrete provisions defining the jurisdiction and powers of a "Department of Justice" are presented, I shall be pleased to submit another Position Paper in which I shall make comments on the proposals.

#### CONCLUSION

In the interest of uniformity and consistency, the Attorney General should be constitutionally designated as the sole and exclusive representative of his public clients in all courts. In this connection I strongly support Proposition No. 365 (introduced by Mr. Reidy), which provides that -

"The attorney-general shall be required and it shall be his duty to represent and appear for the state and all branches of the state government and all state departments, agencies, bureaus, officers and authorities in all litigation in which they shall be involved in all courts, and they shall be represented in the courts by no other persons than the attorney-general or a member of his staff."

The basic duties and powers of the Attorney General should remain intact with the addition set forth in Proposition No. 365. The Attorney General's activities as the State's chief legal officer are vital to the Legislature, to the various departments and agencies of State Government and, above all, to the People of the State of New York.

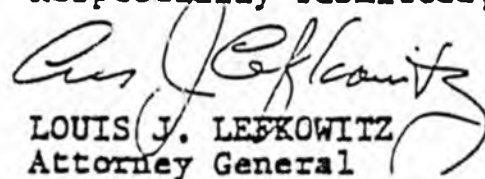
All can be accomplished, however, only if the Attorney General has the independence of an elected public official. That the elective status is productive of the best results is attested to by my immediate predecessors in the office of Attorney General. Our tenure covers the period of the past thirty-five years, during which we have experienced the deepest economic recession in our history as well as the longest period of economic well-being, during which we have had global conflicts, and during which we have come into the nuclear and the space age. Attendant upon these vast and fundamental changes have come a myriad of novel problems with which the Attorneys General have had to cope and for the most part they have successfully and vigorously responded

to the challenges. During these past thirty-five years, the Attorneys General of New York State have been John J. Bennett, Nathaniel L. Goldstein, Jacob K. Javits and I. My three immediate predecessors have authorized me to state that they favor the retention of the office on an elective basis. And so do I.

To sum it up - an elected Attorney General has a measure of independence and a sense of personal and direct responsibility to the public. The elected official has a natural and impelling desire to be creative and to exercise broader initiative in the service of the public. He is free of the fear of dismissal by any superior official if he should exercise contrary independent judgment. He is in the best position to render maximum service to the People and impartial advice to the Governor, the Legislature and State departments and agencies. He can appear in Court without fear or favor - an attorney in the fullest and finest sense of the word.

Dated: Albany, New York, June 1, 1967

Respectfully submitted,

  
LOUIS J. LEFKOWITZ  
Attorney General

ADDENDUM

Former Attorney General Nathaniel L. Goldstein, after declaring that he is for an elective Attorney General, stated:

"During my tenure as Attorney General, I did render opinions in opposition to the wishes of the Administration when, in due conscience, I felt that my interpretation was the legal and proper one. Had I been subject to the Governor's appointive and removal powers, I might have found myself in a very difficult and awkward position."

HOUSE BILL NO. 456

COPY

Early last session Representative Uehling and Representative Ward sponsored HJR 7 which proposed amendments to the Constitution of the State of Alaska relating to the election of the Attorney General. The legislation passed the House but failed to pass the Senate.

Subsequently, HJR 7 has been introduced which would authorize an advisory vote by the registered voters of the State. This would allow the legislature to gauge the feelings of the public and act accordingly.

Submitted by Rep. Jerry Ward's Office

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

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January 19, 1984

The Honorable Mitchell Abood  
Chairman, House State  
Affairs Committee  
Alaska State House of  
Representatives  
Pouch V  
Juneau, AK 99311

Re: Elected AG  
House Bill 456

Dear Representative Abood:

I do not oppose the concept of having the people express their opinion to the Legislature in an advisory vote on the issue of whether or not the attorney general should be elected. However, I would like to comment on the merits of the underlying question of whether or not we should elect the attorney general.

I have lived and practiced law in our state for most of my adult life. I am absolutely convinced that the needs of all Alaskans are best served by having an appointed attorney general. Election of one cabinet level official makes no more sense than the election of some or all other commissioners.

Historically, the Attorney General has been an appointive, rather than elective, official. In England, the Attorney General was appointed by the Crown and only incidentally acquired elective status through a seat in Parliament. In Colonial America, Attorneys General were usually appointed by the Governor of the colony. The Attorney General of the United States still serve at the pleasure of the President with the advice and consent of the Senate. 1/

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1/ Our research indicates that the Attorney General is popularly elected in forty-three states. The Attorney General is appointed by the Governor in five states (New Hampshire, Alaska, Hawaii, New Jersey and Wyoming), three territories and the Commonwealth of Puerto Rico. In Maine, the Attorney General is a "constitutional officer" selected by the Legislature while Tennessee's Attorney General is selected every eight years by the Supreme Court of that state.

The governor, as the state's principal executive officer, needs to have a responsive and reliable Department of Law. I think good management requires an appointed attorney general, but more importantly common sense suggests that the attorney general selection be made by appointment. The delegates to our Constitutional Convention recognized a quarter century ago that, in our vast state with its disparate interests and citizens, the administration of state government requires a strong governor. This still holds true today. The last thing our state needs is an elected attorney general who may have a personal or political agenda which varies from the position of the governor. The friction between the two elected administrative officials can lead to a less responsive state bureaucracy and an unclear accountability of the executive branch to the electorate.

I could relate anecdotes which illustrate this from other jurisdictions having elected attorneys general. Instead, I would rather provide a quotation from the National Municipal League:

All authorities on executive organization agree with the position embraced by the Model State Constitution for more than 40 years that administrative power and responsibility should be concentrated in a single popularly elected chief executive. There is growing recognition that the governor, as the representative of all the people, should be equipped with the constitutional status necessary to exercise constructive leadership as the chief lawmaker and political head of his state. 2/

Studies on administrative reorganization usually argue that fragmentation leads to irresponsibility, but that a single chief executive can be held accountable through the electoral system and, as a consequence, can make the administration more responsive. In my opinion, the Governor of Alaska needs the flexibility and discretion that is implied in an appointed attorney general. Anything less will inevitably drive a wedge between the Governor and the Department of Law to the detriment of the citizens of our state.

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2/ National Municipal Leagues, MODEL STATE CONSTITUTION (6th ed.) 55-66 (1963).

In addition to the practical problems caused by an elected attorney general, experience in other states with an elected attorney general suggests that the Governor's office will incur substantial costs with respect to the use of separate and additional counsel for the Governor. I am of the opinion that this use (and cost) depends on the relationship between the Governor and the elected Attorney General. In a situation where an elected Attorney General and Governor are cooperative, cordial and share a similar political philosophy, the need for additional Governor's counsel will be reduced. Regrettably, this is not always the situation. A 1976 study by the National Governors' Conference explored the role of Governors' legal advisors. The study, which was based primarily on a questionnaire to these counsel, found problems in this relationship:

In many states, the relationship between the Governor and the Attorney General is not a smooth one. In addition to whatever political differences there may be between them, there are several operational areas of potential conflict. These include conflicts over the extent to which the legal talent employed by state agencies should report to the Attorney General or to the agencies; concern that the Governor cannot easily deal with the Attorney General because the Attorney General normally provides "yes-no" answers rather than discussions of the legal risk of various options; and the possible frictions that may normally occur in an attorney-client situation. 3/

While I cannot estimate the actual use and cost of additional counsel to oversee the elected Attorney General on behalf of the Governor, I am convinced there will be some extra cost incurred by the Governor's office to hire and use legal counsel even in the best of times. I sadly regret that the citizens of our state will be required to pay for this additional layer of legal bureaucracy.

In addition, in states where the attorney general is elected, the heads of executive departments often hire their own attorneys. In jurisdictions with elected attorneys general, there is often a proliferation of house counsel on the staff of major departments. Historically, such counsel have been employed

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3/ National Governors' Conference, Center for Policy Research and Analysis, LEGAL ADVICE FOR THE GOVERNOR, 7 (November, 1976).

Representative Mitchell Abood  
Chairman, House State Affairs Committee

January 19, 1984  
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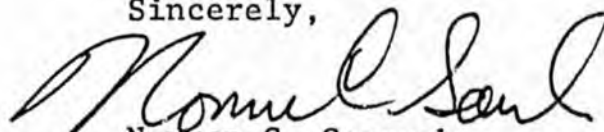
by executive branch agencies to give department heads a "second" opinion in controversial matters in states having an elected attorney general. Such counsel usually do not have the authority to litigate, but they do provide legal advice to department heads. Without centralized legal service and advice, each agency will rely on advice from its own lawyers. Therefore, agencies will receive differing interpretations as they raise legal issues. This in turn will make consensus among different agencies on issues more difficult to achieve. The result is that public policy decisions in the executive branch will be delayed to the detriment of the public and the legislature. In addition, these house counsel frequently submit amicus briefs in litigation affecting their department's programs. It is not unusual in states with an elected attorney general to see four or five separate briefs filed in a single matter, representing the varying viewpoints of different agencies, in addition to the attorney general's brief. If nothing else, this needless duplication insures that the courts and the public will be confused about state policy on many issues.

In my estimation, the cost for such additional counsel in Alaska could easily exceed \$1.0 million annually, within a few years. This cost is simply not warranted by any rational criteria and should be further questioned in light of diminishing revenues. We have many more basic needs in Alaska which command the state government's immediate attention. Surely we do not want a needless layer of extra lawyers embedded in state agencies.

In summary, it is my opinion that electing the Attorney General will split administrative responsibility and executive authority, diffuse the political accountability of the executive branch to the public, add more attorneys to state government, contribute to more intense bureaucratic infighting among agencies, delay the resolution of executive branch policy decisions, and create a higher rate of growth in the state operating budget.

Please call upon me at your earliest convenience if I can provide additional information on this matter.

Sincerely,



Norman C. Gorsuch  
Attorney General

NCG:vrh

# The Anchorage Times

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ROBERT B. ATWOOD  
Editor and Publisher

WILLIAM J. TOBIN  
Associate Editor  
And General Manager

FRED DICKEY  
Executive Editor

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Friday, January 30, 1961

## Another good reason

ONE WAY for Alaska to avoid having legislative lawyers sue administration lawyers is to elect an attorney general who is beholden to neither.

Add that to a long list of reasons to make the attorney general one of the very limited number of elected officials in the State of Alaska. As a matter of fact, there are only two — the governor and the lieutenant governor. Commissioners who head the various administrative departments are appointed by the governor.

This extremely restricted opportunity for the people to elect the public officials who presumably serve them is a unique provision of the Alaska Constitution. It was deliberately adopted, for the reason that those who were here at the time the new state was created wanted a powerful chief executive.

They wanted leadership and accountability. When it came to steering this new ship of state, those Alaskans back in the middle '50s wanted a single captain on the bridge.

IT WAS a good idea. There was need for a powerful hand at the helm of a state with little income, a small population and a million needs. The governor had marching orders to assemble a team and get the show on the road — with the concurrence, of course, of the legislative branch.

It had a fine beginning. For the most part, the executive and legislative branches worked in concert toward a common goal during years of

economic struggle.

But not even the visionary constitutional delegates, and the voters who applauded their work in those dimming last days of the territory, could have perceived the day when Alaska would be rolling in money and a single field could produce a trillion dollars worth of oil.

The coming of that wealth produced a Mount St. Helens eruption in the Juneau bureaucracy. Not only did executive agencies swell in size and number, the legislature ballooned as well. It added offices and staffs and interim agencies and even went so far as to hire its own legal counsel, separate from the attorney general's office.

OVER THE YEARS, the attorney general became more the lawyer of the governor than of the state government as a whole. That produced an adversary situation with the legislators who often wanted a different legal opinion than they could expect from the Department of Law.

Their answer was to hire lawyers who would provide opinions supporting the legislature's interests. The result is that public funds are used to finance one set of state lawyers doing battle with another set.

An independent attorney general's office, headed by an elected chief not beholden either to the governor or the legislature, could provide both with unbiased and unfettered legal guidance. The people, as well as state officials, would be better served.

# Let the voters decide

EDITORIAL PAGE

## The Anchorage Times

ROBERT B. ATWOOD  
Editor and Publisher

WILLIAM J. TOBIN  
Associate Editor  
and General Manager

FRED DICKEY  
Executive Editor

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Sunday, March 29, 1981

IN FORTY of the 50 states, the attorney general is elected to his post.

It is a system that obviously works well, because the people are the ones who decide who should fill this high office. And an attorney general answerable to the people is one who is responsive and responsible.

It's strange, therefore, to see the burning vigor that marks the opposition to letting the people of Alaska choose their attorney general. Yet there are those who apparently fear the people.

For example:

"I can think of no single change that would be more damaging, more harmful, more dangerous to the character of government."

THAT'S THE astonishing view of Superior Court Judge Thomas Stewart of Juneau, who testified the other day before a legislative hearing on a proposed constitutional amendment that would require the election of Alaska's attorney general, who is now an appointee of the governor and answerable only to him.

More damaging? More harmful? More dangerous?

How can this be? What is being proposed is part and parcel of the democratic form of government in which the people have the right to elect their leaders. Are elections damaging, harmful and dangerous to the character of our government?

We confess to lacking the judicial wisdom that graces members of Alaska's Superior Court. But all along we thought the character of our government was rooted in the elective process.

There are many Alaskans

— and we're among them — who believe the present system of having the attorney general appointed, rather than elected, has proved less than satisfactory.

We don't buy the argument of former Attorney General Norm Gorsuch that "legal competence and electability are not necessarily equal." The statement is incomplete. The rest of it is that "legal competence and appointability are not necessarily equal, either."

IT'S QUITE POSSIBLE that an incompetent lawyer might be elected attorney general. But his shortcomings would be readily evident and it's a sure thing that he would serve only a single term.

It's also quite possible — in fact, very likely — that some extremely capable men and women would seek election to the office, were it up to the people to decide. An elected attorney general would be his or her own person, with his or her reputation on the line. And he or she would be no lackey to any governor, or any legislature.

There's no doubt that were the office an elected position, it would be used by many as a stepping stone to higher office — the governorship, for example, or a seat in the U.S. House or U.S. Senate. But what's wrong with that?

Rep. Fred Brown, the Fairbanks Democrat who heads the House Judiciary Committee sponsoring this constitutional change, sees this as a means of strengthening government. So do we. And we hope he prevails so that this matter can be brought to the ballot for a vote of the people.

# The Anchorage Times

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ROBERT B. ATWOOD  
Editor and Publisher

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Associate Editor  
And General Manager

FRED DICKEY  
Executive Editor

Page A-6

Monday, April 20, 1981

## The better way

IT'S TOO BAD that former Attorney General Avrum Gross doesn't think it's a good idea for Alaskans to elect their attorney general. But just because he feels that way detracts not one iota from the merit of the proposal.

It would be astonishing were Mr. Gross, who now teaches a couple of courses at Stanford University law school, to come out for an elected attorney general. His public career has been as an appointed legal spokesman for Gov. Jay Hammond.

Fortunately, there are other legal experts — whose qualifications and public service careers are at least as good as those of Mr. Gross — who feel precisely the opposite. They offered testimony contrary to that of Mr. Gross by satellite communication facilities in a hearing last week before the House Judiciary Committee.

The attorneys general of Pennsylvania and Colorado and the assistant attorney general of California told the committee that an elected attorney general is more independent of the governor and administration and thus less vulnerable to political repercussions from decisions.

FORTY of the nation's 50 states elect their attorney general. Alaska is one of only five states where the office is filled by appointment of the governor. In the other five the selection is made in a variety of ways, including legislative appointment.

Mr. Gross, however, thinks the Alaska way is best. Were it otherwise, he contended, the governor would attempt to

shift blame for administration failures onto the attorney general rather than have a clear responsibility himself.

That's a pretty feeble defense of the present system.

If anything goes wrong in the administration of any program, regardless of the attorney general, any governor is going to be politically adept enough to dance out of the line of responsibility.

THE ATTORNEY general of Pennsylvania told members of the Judiciary Committee that Pennsylvanians voted overwhelmingly in favor of a constitutional amendment to make the office elective because they felt the attorney general was "not responsive to public needs" and that there was a "cozy arrangement" between the attorney general and the governor.

Colorado's attorney general said an elected attorney general carries "at least the aura of having an independent political base" and can say no to the governor "when the governor ought to be said 'no' to."

An assistant California attorney general said an elective attorney general is more efficient than an appointive one and "is not necessarily a threat to the functioning of the governor."

Those comments make sense for Alaska. And the legislature should take steps to bring this constitutional change to the ballot.

There seems little doubt that the amendment would be approved, if the legislature would only give the people a chance to vote.

# The Anchorage Times

ROBERT B. ATWOOD  
Editor and Publisher

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And General Manager

DREX HEIKES  
Managing Editor

Page A-10

Thursday, July 2, 1981

## Memo to politicians

STATE OFFICIALS who depend on votes of Alaskans for their public offices would be wise to arrange for the attorney general to be elected. A statewide poll . . . Dittman shows that public support is overwhelming.

In response to the simple question "Should the attorney general be elected?" 61 percent responded affirmatively and 27 percent preferred appointment.

That was the quick reaction from Alaskans scattered far and wide. The idea of electing that important official was favored by 73 percent of those in rural areas, 63 percent in Central Alaska (Fairbanks), 56 percent in Southcentral, 67 percent in Anchorage.

Only in Southeast Alaska was the response different. There it was 41 percent for appointment and 42 percent for election.

A SECOND QUESTION put to the same respondents built up still more the case in favor of the elective process.

It cited some of the powers that go with the office of attorney general. Upon hearing them, the respondents were 71 percent for and only 21 percent against.

That question put it this way: "If you knew that the attorney general of Alaska, who is appointed, also appoints all

state prosecutors and district attorneys throughout the state, would you support having the attorney general remain an appointed position or would you support the attorney general becoming an elected position?"

Those favoring election gained 10 points while those for appointment lost 6 points.

TWO MESSAGES are handed to the politicians in that poll. The first is that a substantial majority of Alaskans want their attorney general elected, not appointed. The second is that the proposal gains strength when Alaskans are reminded of the power that lies in the office.

A politician can readily see the significance. He is disappointing his constituents if he ignores the proposal and he may discover his reelection in jeopardy if the day comes when a candidate campaigns against him on that issue.

In rural areas the final lineup was 86 percent for election. In Central Alaska 75 percent. In Southcentral 71 percent and in Anchorage 74 percent. Even in Southeast Alaska many voters changed their minds on the second question. The final tally there was 54 percent for election and only 34 percent for appointment.

## No matter how you cut it

THE UNIVERSAL preference of the majority of Alaskans for electing the state's attorney general was pointed up in many different ways in a Dittman poll that showed 71 percent in support and only 21 percent opposed.

Dittman reported that the election proposal has overwhelming support in almost every bracket of the population, be it based on age, sex, income, educational attainment, party registration.

AMONG ALASKANS who have registered as Democrats or Republicans, 72 and 73 percent, respectively, favor election. Non-partisans were 69 percent in favor. Alaskans aged 18 to 24 are 77 percent in favor, those 56 and over, 75 percent and those in between range from 68 to 72 percent.

The poll showed 76 percent of the women and 66 percent of the men favor election. Homemakers are 75 percent for it. Private and public sector employees as a whole favor it 71 to 74 percent. Among state employees, however, the idea is not so popular. Yet more than half (56 percent) are for it.

Support of the election proposal declines as family incomes increase but the majority in all categories favor it. In

low income groups 77 percent favor it while in higher income households 67 percent do.

Curiously, the idea of electing the attorney general is more popular among those who don't bother to register, and hence probably don't vote, than among those who do. Those not registered showed 73 percent for election while registered voters were 71 percent favorable.

THE RESULTS of that Dittman survey will be engraved on the minds of those who plan political campaigns. And Dittman's final analysis might inspire some of them to get on the bandwagon to amend the constitution so as to give the people the elective power they want.

That analysis was, "Presenting information regarding the attorney general's powers and responsibilities causes a strong shift to the elected option — especially among the 'undecided' respondents. In total, the undecided percentage declines from 12 to 7½ and more than 5 percent of those who favored the current appointed status changed their minds to support the elected provision when it was learned that the attorney general has broad appointive powers of his own."

# The Anchorage Times

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Sunday, November 22, 1981

## Weak arguments

**RIGHT OFF THE BAT**, there was a loud objection to the Anchorage Crime Commission's proposal that Alaska's attorney general and the local prosecuting attorneys should be elected. The complaints came from the appointed attorney general and one of his appointed district attorneys.

The flaws they see in the proposal are worthy of public review.

For one thing, they said, electing such officials would bring the justice system into politics. They would become subject to pressure from members of the public with axes to grind.

For another, they argue, lawyers would run for attorney general and district attorney in hopes of using the positions as stepping stones to higher political office.

**BUT THOSE** aren't necessarily flaws. On the contrary, it's possible to argue that those prospects would offer an enormous improvement in the way things are done in Alaska.

Take the second objection first. Under the Alaska constitution, only two state government officials are elected statewide — the governor and the lieutenant governor. Everybody else in the system, including the judges, is appointed by the governor or by department heads appointed by him.

The only other elected officials in Alaska are the city or borough mayors, elected locally; 60 members of the legislature, elected in local districts, and the three members of the state's congressional delegation, elected statewide. Not much of a stepladder on

which people interested in public service can climb toward higher office.

An elected attorney general naturally would be looked upon as a potential candidate for governor or U.S. senator or congressman. What's wrong with that? It might be a powerful incentive for the one occupying that spot to do an outstanding job.

**AS TO THE COMPLAINT** that an elected attorney general might be subject to public pressure, again the advantages are compelling.

Why shouldn't the attorney general have to dance on a hot public griddle if the people become alarmed over deficiencies in the administration of justice?

The system as it now exists makes the attorney general the personal lawyer of the governor, his political defender and his legal arm in waging political warfare against the legislature and the public.

So long as he remains protected by the governor's skirts, the attorney general is immune from public pressure. All kinds of policies can be legitimized, even though they might infuriate wide segments of the public and frustrate the aspirations of the people.

Legal opinions issued by the attorney general bind state agencies. They can be tools of the governor to guide, maneuver, control and stop all kinds of enterprises — economic and otherwise.

An attorney general answering to the public through the political process would have the freedom to respond to public concerns in ways that are not possible now.

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February 3, 1984

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TREASURER  
ANCHORAGE

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LEW M. WILLIAMS

The Honorable Mitch Abood  
Chairperson  
State Affairs Committee  
Alaska House of Representatives  
1024 West Sixth Avenue  
Anchorage, AK 99501

RE: House Bill 456

Dear Representative Abood:

I understand that the House State Affairs Committee is holding hearings this afternoon on HB 456 which would authorize an advisory vote by the citizens of the State of Alaska concerning the wisdom of electing the State's Attorney General.

In that regard, I request that the attached letter be submitted as a part of the Committee's record of testimony on HB 456. The attached letter, sent by then Alaska Bar President Karen Hunt to Representative Barnes, details the results of an advisory poll conducted by the Bar Association of its members concerning not only the election of the Attorney General, but the election of district attorneys and judges as well.

I ask that the members of your Committee, during its deliberations, consider the findings of that poll and the many reasons given for finding that the election of the Attorney General does not serve the public interest.

Should you have any questions, please do not hesitate to contact me. I have provided you with a sufficient number of copies for each member of your Committee. Let me thank you in advance for your consideration of the attached information.

Respectfully yours,

ALASKA BAR ASSOCIATION

Randall P. Burns  
Executive Director

## ALASKA BAR ASSOCIATION

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P.O. BOX 278  
ANCHORAGE, ALASKA 99510  
AREA CODE 907/272-7469

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RICHARD J. RAY, DISCIPLINARY ADMINISTRATOR AND BAR COUNSEL

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March 4, 1982

Representative Ramona Barnes  
Chairperson  
House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: Election of Attorney General, District Attorneys and Judges

Dear Mrs. Barnes:

The Board of Governors of the Alaska Bar Association limits its legislative activities to those issues which impact on the administration of justice and the delivery of legal services to the public. One set of such issues is whether the present system should be changed to provide for the election of the Attorney-General, District Attorneys and/or judges. Below is a very brief discussion of the results of a February poll taken of the members of the Alaska Bar Association on those issues. The Board has directed that I communicate these results to you for your information. Thirty-five percent (35%) of the attorneys responded as follows:

- |    |                          |                   |
|----|--------------------------|-------------------|
| 1) | elect Attorney General : | No 71 %, Yes 29 % |
| 2) | elect District Attorney: | No 79 %, Yes 21 % |
| 3) | elect Judges:            | No 82½%, Yes 17½% |

Each respondent was given an opportunity to comment and repeatedly the following concepts were discussed.

The judicial branch of government in Alaska was deliberately not made a representative, elected body. It is an integral part of a three-branch, checks and balance

Page Two  
Rep. Ramona Barnes  
March 4, 1982

system of government. Further, judges should not interpret the law because of a temporary, single, explosive political issue: the need for predictability and uniformity in our laws is too vital to the welfare of Alaskans. Likewise, judges should be able to uphold "unpopular laws" which safeguard the rights of individuals or groups who are not a part of the electorate who supported the people elected.

Of equal concern to the respondents was the realization that special interest groups could unduly influence court decisions and District Attorney prosecutions because of the amount of campaign contributions they could raise or the "party machinery" they could control. Likewise, concern was expressed about the backlog and system slowdown that would occur while judges and district attorneys planned for, solicited funds for and conducted an election campaign. This could be particularly harmful in small communities which have only one judge or District Attorney. Additionally, concern was expressed about the lack of uniformity of law enforcement that would result because district attorneys would be elected on different "platforms".

The concerns expressed about election of the Attorney General included possibility (in Alaska perhaps probability) of the Attorney General and Governor being of two different parties thereby introducing non-productive dissention in the administrative branch. The Attorney General's office becoming primarily a stepping stone to running for Governor was also mentioned as a disruptive possibility.

The confirmation by the legislature was viewed by some respondents as encouraging scrutiny of the Attorney General by elected representatives thereby giving the voters final say about the Governor's selection. Likewise, the retention election of judges provides voter acceptance or rejection of the performance of judges. This process was viewed as a good balance and check on the initial appointment process.

Of particular interest are the uniform comments from attorneys who have practiced law and lived in states where judges and/or district attorneys and/or the Attorney

Page Three  
Rep. Ramona Barnes  
March 4, 1982

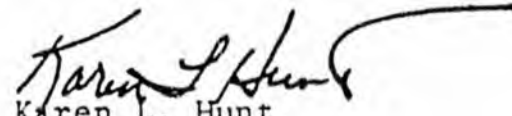
General are elected. Each respondent who so indicated such experience was opposed to changing our present system. The states of California, Illinois, Florida, Idaho and Oregon were specifically mentioned.

One example was emphasized where (in Florida) a new law school graduate entered the race for a judgeship at the last minute raising substantial campaign funds by attacking the judge's decision which had upheld a statute of the state legislature. He won thereby removing a judge with much experience and a solid reputation for fairness and efficiency on the the bench. He was thereby committed to a particular interpretation of a statute regardless of the facts of the case that might come before him. This result is contrary to the genius of our Anglo-Saxon system of justice which begins with the unalterable proposition that each party before the court has an absolute right to have his case decided solely upon the facts before the court.

The most repeated concept expressed by respondents who said judges, district attorneys and the Attorney General should be elected was that governmental decision makers should be elected by the voters.

We will try to provide such additional information or further discussion you may desire to the extent that we know or can ascertain the views of our members.

Yours very truly,

  
Karen L. Hunt  
President

KLH:et

cc: Members of House

FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 456  
 Title: "...advisory vote...election of the Attorney General"  
 Sponsor: Rep. Ward  
 Requestor: House State Affairs  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: Admin. of Justice, Public Protection  
 BRU, Program or Subprogram(s) Affected: Legal Services, Prosecution  
Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: 1-18-84  
 Approved by Commissioner: Norman C. Gorsuch Date: 1-18-84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note  
Analysis  
HB 456

January 18, 1984

This bill authorizes an advisory vote, at the next general or special election, whether the legislature should propose a constitutional amendment that, if approved by the qualified voters of the state, would permit the election of the attorney general. Because this bill only authorizes an advisory vote, its enactment will not have a fiscal impact on the department's operations.

HB 456

Grants Pass, Oregon  
February 19, 1983

TO MY FRIENDS IN THE ALASKA LEGISLATURE:

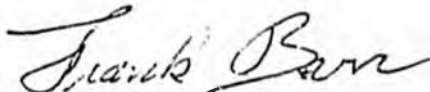
Almost thirty years ago I proposed that the state of Alaska elect its attorney general. Although my proposal was finally rejected by the Constitutional Convention in 1956, I have never abandoned my conviction that the attorney general should be "the people's attorney," elected by and responsible to the citizens of Alaska.

For that reason, I am pleased to support House Joint Resolution 7, which proposes an amendment to the state constitution providing for the election of the attorney general. HJR 7, if approved by both houses, would allow the electorate to determine the nature of the state's highest law enforcement officer.

I urge every legislator to fully consider this important bill. If you decide that your constituents deserve a truly impartial attorney general who is ultimately responsible to the people, then I encourage you to support the passage of HJR 7.

Thank you for your attention.

Respectfully,



FRANK BARR  
Delegate, Alaska Constitutional  
Convention (1955-56)

H B

4 2 9

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 3/6/84

REQUEST

Bill/Resolution No.: CS for HB 479  
Title: Bail Schedule

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: Div. of Parks

Sponsor: Hayes & Liska  
Requestor: 1/9/84  
Date of Request:

BRU, Program or Subprogram(s) Affected:  
Park Management/Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Mike Lee Phone: 264-2123  
Division: Parks Date: 1/26/84  
Approved by Commissioner: *Robert D. Bennett Deputy* Date: 3/6/84  
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 11/27/83

I. REQUEST

Bill/Resolution No.: CSHB 479 (Res)  
 Title: Bal. Schedule  
 Sponsor: Haye  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Natural Resources  
 Program Category Affected: Div. of Parks  
 BRU, Program of Subprogram(s) Affected: Park Management/Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mike Lee Phone: (907) 264-2123  
 Division: Parks Date: 11/23/83  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Department: Natural Resources

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

9/14/8

## Analysis of Fiscal Note for Bail Schedule legislation

Present System - Each person cited for a violation of a park regulation must go to court. If a Park Ranger cites an Anchorage person for a minor violation in Ninilchik, approximately ten days later the Ranger and the individual must attend the court session in Kenai. Both individuals spend at least one day in the Kenai court plus the cost of meals, lodging and transportation. These expenditures and inconveniences do not include the costs of a judge, court clerks, District Attorney and the correspondence necessary to document the case, which generally run \$300-400 for each arraignment.

Proposed System - A bail schedule would establish a predetermined fee for violation of regulations or statues and the person would have the option of not contesting the citation and sending in the fee or challenge the violation and ask for a court appearance. It is anticipated that most people will elect not to challenge the citation and simply send in the fee. This would save money for the individual, the District Attorney's office, the courts and parks staff. The only cost we anticipate on this matter is for the printing of citation forms at an annual cost of \$1000.00 to \$2000.00. This is approximately what is spent on the existing citation program, so no real new costs should occur. Because of the savings in costs for the state, the individual, and more efficient management of our Park Rangers, the Bail Schedule will be a cost-effective program.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

To: Committee Members

From: Committee Staff

Date: February 10, 1984

Re: CS HB 479

---

Committee staff, after reviewing HB 479, has discovered several statutory problems with the bill, thus felt it necessary to draft a committee substitute that has the very same intent, but with much cleaner language.

Section 1 of CS HB 479 writes language into the criminal code (AS 12.25) which allows an acceptance for people who have received a citation to not have to appear in court. This gives clear acceptance, where the original bill did not do this.

Section 2 clearly gives the park ranger enforcement authority to issue citations. This was not present in the original bill.

Section 3, -subsection (a) allows a peace officer arresting and citing authority in a state park or recreational facility.

-subsection (b) requires the State Supreme Court to establish a bail schedule for those offences committed inside a state park. This is the same as in the original bill, but new language allows for the DNR to aid in establishing the bail schedule (citation amount).

-subsection (c) is the same as in the original bill, but clarify the problem of people who forget to sign the citation. In the original bill, if a person forgot to sign the citation, but sent in the penalty money, the court could not deposit the money.

-subsection (d) is the same as in the original bill. This says that when you pay your bail, you are then formally convicted of the misdemeanor which you committed.

-subsection (e) is the same, less the last sentence, which is addressed in new subsection (f). Subsection (e) says that if a person fails to pay the bail amount, the citation then is considered a summons.

-subsection (f) is new language that just makes sure that the penalty imposed will not exceed the bail amount. With the original bill language, there was a question as to whether a judge could impose a higher penalty if the person lost his/her case.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

To: Co-Chairman Ringstad

From: Committee Staff

Date: January 31, 1984

Re: HB 479

---

This afternoon's meeting will consider HB 479, by Representatives Hayes and Liska, which would allow a Department of Natural Resources arresting or citing officer to issue a citation when a person is arrested or cited for the commission of an offense that is a misdemeanor within a state Park.

Section 1 (a) provides arresting and citing power to an officer, if a person commits an offense that is a misdemeanor within a park.

Section 1 (b) requires the state Supreme Court to determine by rule or order what offenses that may be disposed of without a court appearance. Also the Court is to establish a schedule of bail amounts, which are not to exceed fines prescribed by law.

Section 1 (c) allows the person cited to mail or personally deliver to the clerk of the court, within 15 days of being cited, the bail amount, which the officer has written on the citation.

Section 1 (d) provides that when a cited person forfeits his/her bail, a judgement of conviction shall be entered. In other words, when you pay your bail, you are then formally convicted of the misdemeanor which you committed. This section also states that bail forfeited and forfeit of items seized from the offender is a complete satisfaction for the offense.

Section 1 (e) provides for the situation where an offender fails to pay the bail amount. If this happens, the citation issued shall be considered a summons as for a charge of a misdemeanor and the offender shall be proceeded against in the manner prescribed by law. Note however, the maximum penalty may not exceed the bail amount for that offense set out in the bail schedule, as determined by the Supreme Court.

# STATE OF ALASKA

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF PARKS**

BILL SHEFFIELD, GOVERNOR

619 WAREHOUSE AVE., SUITE 210  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-2653

November 8, 1983

The Honorable Joe L. Hayes, Speaker  
Alaska House of Representatives  
P. O. Box 1821  
Anchorage, Alaska 99510

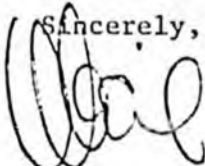
Dear Representative Hayes: *Joe,*

I appreciated the opportunity to meet with you recently. I'm specifically excited over the possibility of your introducing legislation to authorize the State Supreme Court to establish a bail fee schedule for park violations.

Our rangers occasionally apprehend persons vandalizing recreation facilities, operating vehicles in closed areas, building fires in closed areas under dangerous circumstances--to name a few violations. Without a bail schedule, both the violator and usually the ranger must appear before a judge or magistrate. This simply uses up valuable staff time, inconveniences the minor violator, clogs our courts.

I've enclosed a question and answer sheet and draft legislation. I would sincerely appreciate your efforts to see this draft bill become law. If there is anything I can do for you, let me know.

Sincerely,



Neil C. Johannsen  
Director

Attachments

## Fact Sheet on Bail Legislation

The State Division of Parks is proposing legislation which would allow the Supreme Court to set a bail forfeiture schedule for violations of State Statutes and Alaska Administrative Codes which apply to State Parks.

1. Why is a bail schedule for violation of park regulations necessary?

At the present time any citation issued for violation of State Park Regulations means a mandatory court appearance -- usually in the court nearest where the violation occurs. This means that a person -- perhaps an Anchorage resident -- who receives a citation for exploding fireworks in a Kenai Peninsula park, must return to Kenai to make the mandatory appearance.

2. What does the court system think about the problem?

The courts are very crowded. Presently they must schedule time to see each individual regardless of how he/she intends to plead. On small violations this is an obvious waste of time to all parties.

3. Why is this legislation needed?

Under present law a bail schedule for violations is only allowed for traffic regulations. This new legislation would allow and instruct the Supreme Court to set a bail schedule for violation of park regulations.

4. Would a bail schedule eliminate court appearances in all cases?

No, the park ranger/peace officer issuing the citation could still summon an individual to a mandatory court appearance if the violation were of unusual significance. Any individual could still plead not guilty and request a court appearance.

5. Is this new for Alaska?

No, the most notable example is the bail schedule for traffic violations. Traffic court would be literally overwhelmed without this help. The Fish & Wildlife Protection Division is also requesting legislation for a bail schedule on fish and game violations.

6. Does the Federal Government have a bail schedule?

Yes, the National Park Service has a bail schedule which they revised in 1982 and will revise again in the fall of 1983. The attached schedule includes such items as: camping over the time limit - \$100.00; pets not on leash - \$50.00; fireworks - \$50.00, etc. The U.S. Fish & Wildlife Service has a very similar schedule and they say it saves the public a great deal of money in travel costs (to and from court) alone.

7. Would a bail schedule be favored by the Department of Natural Resources/Division of Parks?

Yes, park enforcement people need to retain discretionary authority to use the bail schedule or cite into court, but they, too, would be able to spend a great deal more time in the field if they were not tied up in court appearances. Additionally, fewer court appearances would result, thus helping to alleviate the glut of work facing the Alaska Court System and unnecessary demands upon state park rangers.

DENALI NATIONAL PARK AND PRESERVE  
BAIL SCHEDULE Revised 11/82

PART 2 - PUBLIC USE AND RECREATION

2.1 ABANDONED PROPERTY

Superseded by 36CFR 13.22  
and 36CFR 13.63(c)

2.2 AIRCRAFT

(a) Superseded by 36CFR 13.13  
(b) Air Drop \$100.00  
(c) Operate in accordance with  
current FAA regulations Court

2.3 AUDIO DEVICES

(a) Operation of any noisy device \$ 50.00  
(b) Public address system \$ 50.00  
(c) Aerials \$ 25.00

2.4 BEGGING AND SOLICITING

(a) Begging \$ 50.00  
(b) Hitchhiking \$ 50.00  
(c) Commercial soliciting \$ 50.00

2.5 CAMPING

(a) Superseded by 36CFR 13.18(a)  
and 36CFR 13.63(b)  
(b) Superseded by 36CFR 13.18(a)  
and 36CFR 13.63(b)  
(c) Camping over designated time  
limit \$100.00  
(d) Permanent camping facilities \$100.00  
(e) Digging or leveling campsite \$100.00  
(f) Failure to clean and clear site  
before departure  
--Failure to remove camping equipment \$ 50.00  
--Leaving camp refuse in exposed or  
unsanitary condition \$100.00  
(g) Camping within 25 ft. of water,  
main road, hydrant \$ 25.00  
(h) Base camp for hunting \$250.00  
(i) Quiet hours (10 PM to 6 AM) \$ 25.00  
(j) Former Mt. McKinley National Park:  
Wood gathering (not dead and down) \$100.00  
(j) Lands in 12/2/80 Additions:  
Superseded by 36CFR 13.20(b)(4)

2.6 CLOSURES/PUBLIC USE LIMITS

(a)(2) Failure to observe closed  
areas/visiting hours \$ 50.00  
(b)(4) Entry into area without permit,  
registration, or reservation \$ 50.00  
(b)(5) Entry into area in violation of  
posted restrictions \$ 50.00

- |  |          |
|--|----------|
| (d) Throwing or dropping a lighted cigarette, match, or other burning material, etc. | \$150.00 |
| (e) Smoking in areas closed to smoking   | \$ 50.00 |
| (f) Starting a fire in areas closed to fires   | \$ 50.00 |

DEPARTMENT OF PUBLIC SAFETY

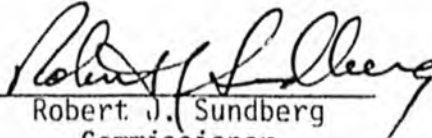
POSITION PAPER - HB 479

Support

January 25, 1984

HB 479 - "An Act relating to issuance of citations ... within state parks and recreational facilities."

By allowing officers in the Department of Natural Resources to issue citations, the Alaska State Troopers and other law enforcement agencies are relieved of a responsibility that they have never been staffed to do properly.

  
Robert J. Sundberg  
Commissioner

INTRODUCTION OF BILLS (House)

HB 477, (cont'd)

Introduced January 9 and referred to Health, Education & Social Services, Finance.

1983 Permanent Fund Dividends  
(extending application period)

HOUSE BILL NO. 478, by Reps. Adams, M. M. Miller, Duncan, Grussendorf & Uehling. Would extend up to May 15, 1984 the time period for which an Alaska resident may apply for the 1983 Permanent Fund dividend. Applicants must have met the six month residency requirement on March 31, 1983. The dividend may not be paid from money appropriated or otherwise allocated for years other than 1983. The Department of Revenue could not pay 1983 dividends to late applicants until after March 1, 1984. The Department would be responsible for adoption of regulations to implement the extended deadline. Provides Act takes effect immediately.

Introduced January 9 and referred to State Affairs, Finance.

State Parks  
(citations for violations)

HOUSE BILL NO. 479, by Reps. Hayes and Liska. Would require a Dept. of Natural Resources arresting or citing officer to issue a citation when a person is arrested or cited for the commission of an offense that is a misdemeanor committed within a state park or recreational facility subject to the Department's supervision.

Require the state Supreme Court to determine by rule or order those offenses that are amenable to disposition without court appearance and to establish a schedule of bail amounts, not to exceed fines prescribed by law, for each offense.

If the offense for which the citation is issued is one that may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense. Would allow the person cited to mail or personally deliver to the clerk of the court the bail amount. Provides that when bail has been forfeited, a judgment of conviction shall be entered. Bail forfeited and the forfeit of items seized is a complete satisfaction for the offense, and the offender is to be given a receipt stating that fact. If the cited person fails to pay the bail amount or appear in court as required, the citation shall be considered a summons as for a charge of a misdemeanor and the offender shall be proceeded against in the manner prescribed by law. The maximum penalty may not exceed the bail amount for that offense set out in the bail schedule, as determined by the Supreme Court.

Does not provide for an effective date (becomes law 90 days following Governor's signature).

Introduced January 9 and referred to Resources, Judiciary, Finance.

Regulations  
(reasons for/expiration)

HOUSE BILL NO. 480, by Reps. Bettisworth and Liska. Would require that the notice for the proposed adoption, amendment or repeal of a regulation include ". . . the reason for the proposed regulation; (7) a general statement of anticipated impacts

RECEIVED  
ANCHORAGE, ALASKA  
FEBRUARY 22 1981

02034 ANCHORAGE AK 117 02-22 935A AST

PMS REP JOHN RINGSTAD

POUCH V

JUNEAU AK

STRONGLY URGE YOUR FAVORABLE PASSAGE OF CSHB479 (HAYES LISKA,  
ORIGINAL SPONSORS) AND HB486 (BETTINSORTH). THE FIRST BILL  
ALLOWS A FINE SCHEDULE FOR MINOR PARK REGULATION VIOLATIONS  
AND THUS SAVES PARK RANGER TIME AND HELPS UNCLOG COURTS.  
THE SECOND SIMPLY ALLOWS THE DIVISION OF PARKS AND OUTDOOR  
RECREATION TO CHARGE FEES. AN AMENDMENT RESTRICTING THE  
PROGRAM TO DEVELOP CAMPGROUNDS, TOURS OF HISTORIC SITES AND  
FOR PUBLIC USE CABINS IS ACCEPTABLE. THIS BILL WILL ALLOW  
OPENING OF WICKERSHAM HOUSE, PRIVATE CONCESSION OPERATION OF  
CERTAIN FACILITIES AND THE GENERATION OF REVENUE INTO THE  
GENERAL FUND, THUS REDUCING GOVERNMENT SUBSIDY OF CERTAIN  
EXPENSE RECREATION FACILITIES. NO CHARGES WOULD BE ESTABLISHED  
FOR THE MORE COMMON ACTIVITIES IN STATE PARKS.

THANK YOU.

NEIL C JOHANNSEN, DIRECTOR  
DIVISION OF PARKS AND OUTDOOR RECREATION  
DEPT OF NATURAL RESOURCES

1981 FEB 22 AM 10 08

H B

487

# COMMITTEE REPORT

## HOUSE

(7)

FURTHER: FINANCE

1/20/34

Date: 2/10/34

The Committee on JUDICIARY has had 92d SSB 487

"An Act making appropriations for a statewide crime lab facility in Anchorage; and providing for an effective date."

under consideration and recommends:

- 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  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

*Alfred B. Russell*  
*John J. ...*  
*Alfred B. Russell*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

*Alfred B. Russell*  
*Alfred B. Russell - Chairman*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Alfred B. Russell*  
 CHAIRMAN

TE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: 2d SSHB487  
Title: Statewide Forensic Sciences Lab

Sponsor: Rep. Furnace  
Requestor: House State Affairs  
Date of Request: 1-12-84

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: Justice

BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES		195.4	353.0	374.2	396.7	420.5
200 TRAVEL		7.5	10.6	11.2	11.9	12.6
300 CONTRACTUAL		22.5	71.8	76.1	80.7	85.5
400 SUPPLIES		14.0	14.8	15.7	16.6	17.6
500 EQUIPMENT					150.0	150.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>						
<b>CAPITAL</b>		239.4	450.2	477.2	655.9	686.2
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		239.4	450.2	477.2	655.9	686.2
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME		7	7	7	7	7
PART-TIME						
TEMPORARY		7	7	7	7	7

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allain *F.C.A.* *1/11* Phone: 269-5691  
Division: Alaska State Troopers Date: 01/06/84

Approved by Commissioner: Robert J. Sundnes *hmg* Date: 1/13/84  
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FISCAL NOTE  
SECTION IV ANALYSIS

This legislation provides funds for the construction of a 17,000 square foot Statewide Crime Laboratory in Anchorage. The attached Schedule I details the Capital Cost and Schedule II details the Operating Costs. The vast majority of the Operating Costs represents a shift in direction for the Crime Lab from a limited service A.S.T. facility to becoming a full-service operation designed to meet the needs of all law enforcement agencies in the state. Personal Services costs for FY'85 reflect the hiring of the seven new staff members at various dates throughout the year. (See supporting schedules.) and other costs at 75% of a full years' cost.

FY'86 and each subsequent year reflect an anticipated 6% inflation rate and the cost of maintenance contracts on the new equipment.

By FY'88 it is anticipated that advances in technology will require replacement or new equipment to meet court evidence requirements each year.

ANCHORAGE COMBINED FACILITY

CAPITAL COSTS

1) Construction Costs

Crime Lab - 17,000 sq. ft. \$3,825.0

DOT/PF Overhead, Architect,  
Planning Contingency, etc. \$1,147.0

CS SS HB 33 (402.0) 745.0

Subtotal \$4,570.0

2) Equipment 962.0

3) Commodities - Initial Stock 71.0

TOTAL \$5,603.0

ANCHORAGE COMBINED FACILITY

FY'85 OPERATING COSTS

100 Personnel Services

See attached schedule

\$195,403

200 Travel

In-state & out-of-state travel needed  
to attain and maintain professional  
expertise

\$10,000 per full year. x 75% =

7,500

300 Contractual Services

Telephone \$ 12,500

Electricity 9,100

Other Utilities 3,500

Building Repairs & Maintenance 4,900

Subtotal 30,000 X 75% 22,500

(Note: Costs of maintenance agreements  
of an estimated \$40,000 yearly will  
begin in FY'86.)

400 Commodities

Heating Fuel \$ 17,600

Miscellaneous 1,100

Subtotal 18,700 X 75% 14,025

TOTAL \$239,428

FISCAL YEAR 1985

100 Personal Services      Increased Staff

Job Class Range	Trace Evidence Specialist Range 19	Firearms & Tool Marks Specialist Range 19	Forensic Chemist Range 19	Serologist Range 19	Fingerprint ID Specialist Range 17	Admin Ass't II Range 14	Questioned Documents Examiner Range 19	Total
Annual Salary	\$38,124	\$38,124	\$19,062	\$19,062	\$16,542	\$ 6,723	\$ 9,531	\$147,168
Overtime	-0-	-0-	-0-	-0-	-0-	1,552	-0-	1,552
Sub total	\$38,124	\$38,124	\$19,062	\$19,062	\$16,542	\$ 8,275	\$ 9,531	\$148,720
Benefits	6,833	6,833	3,416	3,416	2,965	1,483	1,708	26,654
SBS	2,337	2,337	1,169	1,169	1,014	507	584	9,117
Health Insurance	2,728	2,728	1,364	1,364	1,364	682	682	10,912
Total	\$50,022	\$50,022	\$25,011	\$25,011	\$21,885	\$10,947	\$12,505	\$195,403
Starting Date	7/1/84	7/1/84	1/1/85	1/1/85	1/1/85	4/1/85	4/1/85	

BASE YEAR

100 Personal Services      Increased Staff

Job Class Range	Trace Evidence Specialist Range 19	Firearms & Tool Marks Specialist Range 19	Forensic Chemist Range 19	Serologist Range 19	Fingerprint ID Specialist Range 17	Admin Ass't II Range 14	Questioned Documents Examiner Range 19	Total
Annual Salary	\$38,124	\$38,124	\$38,124	\$38,124	\$33,084	\$26,892	\$38,124	\$250,596
Overtime	-0-	-0-	-0-	-0-	-0-	2,483	-0-	2,483
Sub total	\$38,124	\$38,124	\$38,124	\$38,124	\$33,084	\$29,375	\$38,124	\$253,079
Benefits	6,833	6,833	6,833	6,833	5,930	5,265	6,833	45,360
SBS	2,337	2,337	2,337	2,337	2,028	1,801	2,337	15,514
Health Insurance	2,728	2,728	2,728	2,728	2,728	2,728	2,728	19,096
Total	\$50,022	\$50,022	\$50,022	\$50,022	\$43,770	\$39,169	\$50,022	\$333,049

FISCAL YEAR 1986

100 Personal Services      Increased Staff

Job Class Range	Trace Evidence Specialist Range 19	Firearms & Tool Marks Specialist Range 19	Forensic Chemist Range 19	Serologist Range 19	Fingerprint ID Specialist Range 17	Admin Ass't II Range 14	Questioned Documents Examiner Range 19	Total
Annual Salary	\$40,411	\$40,411	\$40,411	\$40,411	\$35,069	\$28,506	\$40,411	\$265,532
Overtime	-0-	-0-	-0-	-0-	-0-	2,632	-0-	2,632
Sub total	\$40,411	\$40,411	\$40,411	\$40,411	\$35,069	\$31,138	\$40,411	\$268,264
Benefits	7,243	7,243	7,243	7,243	6,286	5,581	7,243	48,082
SBS	2,477	2,477	2,477	2,477	2,150	1,909	2,477	16,444
Health Insurance	2,892	2,892	2,892	2,892	2,892	2,892	2,892	20,242
Total	\$53,023	\$53,023	\$53,023	\$53,023	\$46,397	\$41,520	\$53,023	\$353,032

1.	POSITION TITLE Trace Evidence Specialist*				RANGE/STEP 19/A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 1 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		38,124		50.0					
6.	Benefits		6,833							
7.	Supplemental Benefits		2,337							
8.	Fixed Benefits		2,728							
9.	TOTAL PERSONAL SERVICES		01							
	Travel		02							
	Contractual		03							
12.	Commodities		04							
13.	Equipment		05							
14.	Other									
15.	TOTAL COST				50.0					
	RECEIPT CODE		FUNDING SOURCE							
16.			Federal Receipts 1002		50.0					
17.			G.F. Match 1003							
18.			General Funds 1004							
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
FOR B&M USE ONLY										
4A KEY NUMBER _____										

The Trace Evidence Examiner can narrow the origin of minute bits of evidence such as human hair and fibers, that are exchanged during fight or rape, to a group that includes (or excludes) the suspect. The paint chips and broken headlights of a hit and run fatality may be analyzed to determine if they match the paint and headlight of the suspects car.

The position will function in the new expanded Statewide Forensic Science Laboratory and provide a new expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska

\* New classification pending.

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
PROGRAM Crime ID & Apprehension  
BRU Alaska State Troopers/S&S  
COMPONENT Laboratory Services

**FY 85**

Page 1 of 7  
Revised Date \_\_\_\_\_

1.	POSITION TITLE Firearms & Tool Marks Specialist *				RANGE/STEP 19	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.																					
2.	TYPE OF POSITION PFT	STAFF MONTHS 12.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 2 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.																							
3.	CONTINUATION LEVEL				JUSTIFICATION																										
4.	TYPE OF EXPENDITURE																														
	1		2		3																										
	PERSONAL SERVICES																														
5.	Salary		38,124																												
6.	Benefits		6,833																												
7.	Supplemental Benefits		2,337																												
8.	Fixed Benefits		2,728																												
9.	TOTAL PERSONAL SERVICES		01		50.0																										
	Travel		02																												
	Contractual		03																												
12.	Commodities		04																												
13.	Equipment		05																												
14.	Other																														
15.	TOTAL COST				50.0																										
<p>The Firearms &amp; Tool Marks Specialist can match a spent bullet to the gun that fired it by examination of the microscopic markings on the bullet caused by the irregularities on the inner surface of the gun barrel, among other capabilities. As a Tool Marks Specialist, he can identify the tire iron or other implement found in the suspect's car as the one that did or did not pry open the window or door of the victim's home by using a microscope to compare and match the nicks on the blade of the tire iron to the impressions left in the window sill.</p> <p>The position will function in the new expanded Statewide Forensic Science Laboratory and provide a new expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.</p>																															
<p>* New classification pending.</p>																															
<table border="1"> <thead> <tr> <th>RECEIPT CODE</th> <th colspan="2">FUNDING SOURCE</th> </tr> </thead> <tbody> <tr> <td>16.</td> <td>Federal Receipts</td> <td>1002</td> </tr> <tr> <td>17.</td> <td>G.F. Match</td> <td>1003</td> </tr> <tr> <td>18.</td> <td>General Funds</td> <td>1004</td> </tr> <tr> <td>19.</td> <td>I-A Receipts</td> <td>1005</td> </tr> <tr> <td>20.</td> <td>Program Receipts</td> <td>1028</td> </tr> <tr> <td>21.</td> <td>Other</td> <td></td> </tr> </tbody> </table>											RECEIPT CODE	FUNDING SOURCE		16.	Federal Receipts	1002	17.	G.F. Match	1003	18.	General Funds	1004	19.	I-A Receipts	1005	20.	Program Receipts	1028	21.	Other	
RECEIPT CODE	FUNDING SOURCE																														
16.	Federal Receipts	1002																													
17.	G.F. Match	1003																													
18.	General Funds	1004																													
19.	I-A Receipts	1005																													
20.	Program Receipts	1028																													
21.	Other																														
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4A KEY NUMBER _____																															

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
 PROGRAM Crime ID & Apprehension  
 BRU Alaska State Troopers/S&S  
 COMPONENT Laboratory Services

**FY 85**

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1.	POSITION TITLE Forensic Chemist *				RANGE/STEP 19	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 6.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 3 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		19,062							
6.	Benefits		3,416							
7.	Supplemental Benefits		1,169							
8.	Fixed Benefits		1,364							
	TOTAL PERSONAL SERVICES		01		25.0					
	Travel		02							
	Contractual		03							
12.	Commodities		04							
13.	Equipment		05							
14.	Other									
15.	TOTAL COST				25.0					
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Match 1003					
18.					General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1028					
21.					Other					
FOR B&M USE ONLY										
4A KEY NUMBER										

The Forensic Chemist tests and analyzes unknown substances. By testing substances thought to be illegal drugs, he can determine the type drug, its relative purity and the substances that may be mixed with the drug. He can also identify small amounts of accelerants from a suspected arson fire by testing charred and burned materials found at the fire, as well as other tasks requiring chemical analysis.

The position will function in the new expanded Statewide Forensic Science Laboratory and provide an additional expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.

\* New classification pending.

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
 PROGRAM Crime ID & Apprehension  
 BRU Alaska State Troopers/S&S  
 COMPONENT Laboratory Services

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**FY 85**

1.	POSITION TITLE Serologist/Toxicologist*				RANGE/STEP 19	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 6.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 4 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		
3.	CONTINUATION LEVEL		ADDITION	X	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>The Forensic Serologist/Toxicologist analyses of body fluids found at the crime scene, can limit the population group of the assailant to those within certain blood groups, thus eliminating persons with other blood groups and characteristics as suspects in a given crime. Toxicology detects and identifies the presence of drugs or poisons in body tissues, fluids and organs. These tests are used in determining the presence and extent of alcohol that may have contributed to a death, as one example.</p> <p>The position will function in the new expanded Statewide Forensic Science Laboratory and provide an additional expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.</p> <p>* New classification pending.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	19,062								
6.	Benefits	3,416								
7.	Supplemental Benefits	1,169								
8.	Fixed Benefits	1,364								
9.	TOTAL PERSONAL SERVICES	01		25.0						
	Travel	02								
	Contractual	03								
12.	Commodities	04								
13.	Equipment	05								
14.	Other									
15.	TOTAL COST			25.0						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	25.0						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
PROGRAM Crime ID & Apprehension  
BRU Alaska State Troopers/S&S  
COMPONENT Laboratory Services

**FY 85**

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Revised Date \_\_\_\_\_

1.	POSITION TITLE Fingerprint ID Specialist*			RANGE/STEP 17	BARC. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 6.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 6 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.	
3.	CONTINUATION LEVEL	ADDITION	A	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	16,542							
6.	Benefits	2,965							
7.	Supplemental Benefits	1,014							
8.	Fixed Benefits	1,364							
9.	TOTAL PERSONAL SERVICES	01	21.9						
10.	Travel	02							
	Contractual	03							
12.	Commodities	04							
13.	Equipment	05							
14.	Other								
15.	TOTAL COST		21.9						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	21.9					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							

The Fingerprint Examiner can compare fingerprints found on a gun or some other surface to those of the suspect based upon the matching of the characteristics of the fingerprint ridges that are unique to each individual. (The Automated Fingerprint Identification System, funded during the 1982 session of the legislature is now being developed and installed).

The position will function in the new expanded Statewide Forensic Science Laboratory and provide an additional expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.

\* Rewrite of class specification in progress.

FOR B&M USE ONLY

4A KEY NUMBER

13 REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
 PROGRAM Crime ID & Apprehension  
 BRU Alaska State Troopers/S&S  
 COMPONENT Laboratory Services

FY 85

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 Revised Date

1.	POSITION TITLE Questioned Document Examiner *				RANGE/STEP. 19/A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 3.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 6 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2		3					
PERSONAL SERVICES										
5.	Salary		9,531							
6.	Benefits		1,708							
7.	Supplemental Benefits		584							
8.	Fixed Benefits		682							
TOTAL PERSONAL SERVICES			01		12.5					
	Travel		02							
	Contractual		03							
12.	Commodities		04							
13.	Equipment		05							
14.	Other									
15.	TOTAL COST				12.5					
RECEIPT CODE                      FUNDING SOURCE										
16.			Federal Receipts 1002							
17.			G.F. Match 1003							
18.			General Funds 1004		12.5					
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
FOR B&M USE ONLY 4A KEY NUMBER _____										

The Questioned Documents Examiner can ascertain the source or authenticity of a document through the many characteristics of an individual's handwriting, as well as through the variations in typewriter letters as a function of the use and wear to the machine's moving parts, and through the analyses of inks and different types of paper.

\* New classification pending.

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
PROGRAM Crime ID & Apprehension  
BRU Alaska State Troopers/S&S  
COMPONENT Laboratory Services

**FY 85**

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1.	POSITION TITLE Administrative Assistant II				RANGE/STEP 14/A	BARC. UNIT SUPV.	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 3.0	RP NUMBER	PCN NUMBER	BRU PRIORIT 7 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		
3.	CONTINUATION LEVEL	ADDITION	X	JUSTIFICATION						
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	inc O/T	8,275							
6.	Benefits		1,483							
7.	Supplemental Benefits		507							
8.	Fixed Benefits		682							
9.	TOTAL PERSONAL SERVICES		01	11.0						
	Travel		02							
	Contractual		03							
12.	Commodities		04							
13.	Equipment		05							
14.	Other									
15.	TOTAL COST			11.0						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004							
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This position is needed to support the six new professional positions being requested and part of this Capital Project and the two new additional professional positions added to the Crime Lab during FY'83 and FY'84 through RP. Without this additional administrative support the professional staff will loose much of its productive capacity performing administrative tasks that could more economically be done by this position.

This position will supervise the other clerks presently employed in the Crime Lab including those in the O/L Photo section.

**13** REQUEST FOR  
NEW POSITION

AGENCY Department of Public Safety  
 PROGRAM Crime ID & Apprehension  
 BRU Alaska State Troopers/S&S  
 COMPONENT Laboratory Services

**FY 85**

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 Revised Date \_\_\_\_\_



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4990

Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

## Committee on Judiciary

2d SSHB 487  
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- B. "Criminalistics Analysis--Additional Information on Costs"  
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- B. "Delays in FBI Lab Exams"  
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- C. "FBI Laboratory"  
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- "Organizational Location of Crime Lab"  
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Robert J. Sundberg, Commissioner, Department of Public Safety.
- B. Letter of Support  
Lawrence J. Nelson, Special Agent in Charge, Federal Bureau of Investigation.
- C. Letter of Support and Resolution  
Richard A. Ross, Secretary/Treasurer, Alaska Association of Chiefs of Police.

MEMBERS:  
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

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William G. Klein, Chief of Police, City of Wrangell.
- F. Letter of Support  
Ben Maxon, Director, Tanana Department of Public Safety.
- G. Letter of Support  
William T. Bagron, Chief, Cordova Department of Public Safety.

## THE DEVELOPMENT of a CRIME LABORATORY in ALASKA\*

*During the 1983 Legislative Session, \$402,000 was authorized for the architectural and engineering aspects of a modern crime laboratory to analyze evidence found at the scene of a crime. To be located adjacent to the existing Trooper headquarters in Anchorage and managed by them, the proposed 17,000 square foot facility would provide tests and analyses of crime scene evidence to all law enforcement agencies in Alaska, at no cost to those agencies.*

*The contract has been signed with an Anchorage Architectural and Engineering firm. Site survey and soils testing has been completed by the Department of Transportation and Public Facilities. Progress has been so rapid that the Department of Transportation believes construction could begin in the Spring of 1984, if construction funds can be made available. Nationwide advertising for a Professional Laboratory Director has been completed and the successful applicant will be hired in early 1984. An appropriations bill (HB-487) has been prefiled by Representative Walt Furnace (D) Anchorage for introduction in the 1984 session of the Legislature for funding of the construction and first years operating cost of \$5.842 million.*

\* \* \* \* \*

Within the last decade or so, a series of Supreme Court decisions relative to search and seizure, interrogation, and confessions have had the effect of limiting the scope of permissible investigative activities by law enforcement agencies nationwide. This situation has resulted in the increased analysis of physical evidence by crime laboratories and subsequent use of test results in courtroom trials, which often becomes a crucial part of judicial proceedings.

The analyses and tests performed upon crime scene evidence assists both the investigator and the prosecutor in their efforts to reconstruct and explain the crime, the crime scene and information about the possible offender. The results of crime lab tests provide facts contributing to the exoneration of the innocent and the establishment of proof of the guilty.

\* This paper summarizes the more extensive report issued by the Department of Public Safety in September 1982 entitled "The Development of a Full Service Forensic Laboratory for Law Enforcement in Alaska". Copies are available upon request thru the Director, Alaska State Troopers, Anchorage.

The modern lab requires highly skilled scientists and technicians who use costly materials and sophisticated instrumentation in an expensive environment, for there can be no compromise in the quality of the work they perform.

A modern, fully equipped Crime Lab presents a wide array of expertise.

Some of these are:

- \* Toxicology: A Toxicologist detects and identifies the presence of drugs or poisons in body tissues, fluids and organs. These tests are used in determining the presence and extent of alcohol that may have contributed to a death, as one example.
- \* Firearms and Tool Marks Examination: The Examiner can match a spent bullet to the gun that fired it by examination of the microscopic markings on the bullet caused by the irregularities on the inner surface of the gun barrel, among other capabilities. As a Tool Marks Specialist, he can identify the tire iron or other implement found in the suspect's car as the one that did or did not pry open the window or door of the victim's home by using a microscope to compare and match the nicks on the blade of the tire iron to the impressions left in the window sill.
- \* Forensic Serology: The Forensic Serologist, through analyses of body fluids found at the crime scene, can limit the population group of the assailant to those within certain blood groups, thus eliminating persons with other blood groups and characteristics as suspects in a given crime.
- \* Questioned Documents Examination: The Questioned Documents Examiner can ascertain the source or authenticity of a document through the many characteristics of an individual's handwriting, as well as through the variations in typewriter letters as a function of the use and wear to the machine's moving parts, and through the analyses of inks and different types of paper.
- \* Forensic Chemistry: The Forensic Chemist tests and analyzes unknown substances. By testing substances thought to be illegal drugs, he can determine the type drug, its relative purity and the substances that may be mixed with the drug. He can also identify small amounts of accelerants from a suspected arson fire by testing charred and burned materials found at the fire, as well as other tasks requiring chemical analysis.

- \* Trace Evidence Examination: The Trace Evidence Examiner can narrow the origin of minute bits of evidence such as human hair and fibers, that are exchanged during a fight or rape, to a group that includes (or excludes) the suspect. The paint chips and broken headlights of a hit and run fatality may be analyzed to determine if they match the paint and headlight of the suspects car.
- \* Fingerprint Examination: The Fingerprint Examiner can compare fingerprints found on a gun or some other surface to those of the suspect based upon the matching of the characteristics of the fingerprint ridges that are unique to each individual. (The Automated Fingerprint Identification System, funded during the 1982 session of the legislature, is now being developed and installed).

It is the use of carefully gathered evidence, analyzed by the latest methodologies of the physical and natural sciences that builds both a strong case against the guilty, while eliminating other persons as suspects.

Unfortunately, state and local law enforcement agencies in Alaska do not have such a laboratory. In fact, Alaska is the only state without a crime lab. The rudimentary facilities in the Alaska State Troopers building in Anchorage are limited by space, personnel and budget to only narcotics testing, fingerprint comparisons and some crime photography.

Historically Alaska has depended upon the FBI lab to perform criminalistics tests and has done so to a greater degree than any other state. While this dependence upon the FBI has worked reasonably well in the past, the FBI has recently suffered budget cuts as part of the general decrease in federal government services. As a result, some test results may not be received for up to six months. Since the Speedy Trial Rule in Alaska requires trial within 120 days of the arrest, test results may not be available by the time of trial, nor can additional investigation occur as a result of the outcome of the tests. Thus the investigation and prosecution functions are adversely affected.

Federal budgetary restrictions and a 1980 General Accounting Office report charging the Bureau's policy of free laboratory services actually inhibits the growth of statewide crime laboratories creates doubt that the extent of FBI services of the past will continue. Charges for certain services have already been instituted, and requests for laboratory examinations are carefully scrutinized.

Recently the FBI questioned the need for tests in a State Trooper's case that involved a double Homicide. Any further curtailment of service will be even more serious since Alaska is both increasing its population and experiencing a general crime increase while crime is generally decreasing nationwide. (Alaska had the highest incidence in the United States for rape in 1979, was number two in 1980, and first again in 1981 and 1982. Alaska was also second in murder in 1982. According to a recent public opinion survey, among other findings, Alaskans believe a basic cause of crime is the failure of the justice system to punish criminals.

While Alaska has some of its forensic tests performed by private laboratories elsewhere, this is not a good alternative for several reasons. Alaskan law enforcement agencies have no control over the scheduling, priorities, or the methodologies and techniques used by these facilities, nor is there any control over the caliber of personnel performing the tests. Additionally, such tests are usually expensive, since a profit is being made and the state has to pay a fee for all tests performed plus the travel and expenses of the technicians from the "lower 48" states who testify during trial.

Perhaps the most compelling reason for a full services crime lab is the high evidentiary value of the crime scene evidence that has been analyzed and tested, for the test results provide irrefutable information about the suspect to either link him to a crime, or to eliminate him from any further investigation. Laboratory test results can thus provide a high degree of proof of guilt.

The continuing lack of a crime lab to service Alaska's law enforcement efforts is affecting the decisions and perceptions of some police officers. Knowing they cannot obtain test results and analyses in a timely and affordable manner, some officers have had to place a decreasing value upon physical evidence found at the crime scene and therefore tend to rely upon other means to develop their case. Therefore their case will lack the high evidentiary value that often results from crime lab examinations. Any future, long term lack of a statewide lab, in the face of reduced services from the FBI, will probably result in the emergence of several small efforts by local enforcement agencies to provide their own testing facilities. These will likely be of limited scope, overlapping and fragmented efforts of unknown value. The smaller police departments, unable to afford their own limited facilities, and unable to pay the high costs charged by private labs elsewhere will simply do without.

The above reasons argue forcefully for the development of a statewide crime lab to provide services for all law enforcement agencies in Alaska. The next questions are how big a facility is needed, what services need to be provided and what are the costs involved?

Based upon the existing workload and the forecasted workload within the immediate future, the following staff personnel would be hired:

1. An additional Forensic Chemist
2. Serologist
3. Trace Evidence Technician
4. Firearms and Tool Marks Examiner
5. Administrative Assistant
6. Fingerprint I D Specialist
7. Questioned Documents Examiner

Full operating costs above current expenditures for the new facility and the additional personnel will be \$391,400. per year after the Lab is completed.

The lab would honor all requests by law enforcement agencies, by either performing the work in house or through contract for the less frequent tests elsewhere. Tests and related services would be provided by the lab at no cost to the requesting agencies.

The proposed lab would be constructed adjacent to the Troopers Headquarters in Anchorage, on state-owned land. Substantial assistance has been obtained from the FBI Laboratory during an intensive on-site visit to obtain their recommendations for construction requirements, space needs for scientific personnel and instrumentation, and the factors that should be used in calculating overall construction costs.

Using data recommended by the FBI to provide a Crime Lab with the staff earlier noted, plus those in the existing facility, necessary instrumentation, and the numerous support requirements, a classroom for training police officers, and space for expansion in the years ahead will require a structure of about 17,000 square feet. FBI data indicates that cost per square foot is about 180% of the cost of commercial construction due to the unique plumbing, heating, ventilation and construction aspects required by a forensic laboratory.

Estimated costs of the new lab are as follows:

Construction	\$3.825 million
Indirect Costs \$1.147 (\$ .402) =	.745
Equipment	.962
Supplies and Materials	.071
First Year's Operating Costs	<u>.239</u>
Total	\$5.842 million - in 1984

An estimated 12% inflation factor would increase costs by a like amount if construction occurs during FY'85 rather than FY'84.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
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January 26, 1983

MEMORANDUM

To: Representative Walt Furnace

From: Leonard Steinberg, Research Staff *LS*

Re: Criminalistics Analysis--Additional Information On Costs  
Research Request 83-11

Steve Levi of your office requested additional information on the costs of criminalistic analysis performed by both public and private institutions. Also included is an update on the FBI crime lab's involvement in court proceedings in Alaska and the specific analytical techniques used by the FBI.

Criminalistics Analysis Costs--Findings

Many different rate structures are used to establish the prices of criminalistics analysis services. Most prices are based on hourly rates, though some labs charge a flat fee for each individual service. In general, labs are reluctant to charge flat fees because there is considerable variability in the amount of time required to analyze different pieces of evidence. Apparently some tests, such as toxicology, are very routine and their costs are affected by economies of scale. Other examinations, however, such as firearm and toolmark identification, vary greatly in the amount of time required for each examination.

Hourly rates vary from twenty-three to one hundred dollars per hour with the public and non-profit facilities providing the lowest hourly rates. Most private criminalistics analysis organizations provide only limited services, primarily for defense counsel's rebuttal of a prosecutor's evidence. In fact, there are very few private laboratories; most of the private sector activity in criminalistics is from individuals formerly associated with a criminalistics lab who are experts in interpreting the laboratory data. The private laboratories which do exist are small and their costs are high, in part, due to their low volume.

Five public, one private non-profit, and three private for-profit criminalistics laboratories were sampled for the cost of their services. The results are listed below by each organization.

Contra Costa County Sheriff's Crime Lab

Like most counties in California, the Contra Costa County Sheriff's Crime Lab provides criminalistics analysis for all law enforcement agencies, municipal, county, state and federal, located in that county for no charge. The lab occasionally contracts to provide its services to public agencies outside the county, and charges only the additional costs it incurs in making these services available. In general, its extra costs are only labor; their labor rate has been estimated at \$23 per hour.

According to Gerald Mitosinko, the lab's director (415 372-2466), the Contra Costa County Crime Lab has calculated the amount of time it has spent on various criminalistics procedures during the last several years. The average amounts of time required are listed below by different types of examinations. In parentheses is a rough approximation of the costs of these examinations, calculated on the basis of the time shown multiplied by the labor cost of \$23 per hour.

Amphetamines	.7 hours (\$16)	Heroin	1.36 hours (\$31)
Cocaine	.5 hours (\$12)	Marijuana	.39 hours (\$9)
Explosives	4.83 hours (\$111)	Document	2.84 hours (\$65)
Shoe/Tire Prints	4.17 hours (\$96)	Firearms ID	11.91 hours (\$274)
Fiber & Hair	5.18 hours (\$119)	Toolmarks ID	7.13 hours (\$164)

Dallas County -- Southwestern Institute of Forensic Sciences

The Southwestern Institute of Forensic Sciences is a Dallas County agency. According to Director Irving Stone (214 638-9980), the Institute charges a fixed rate by the type of service performed. The rates have been set on the assumption that labor rates are approximately \$50 per hour. In addition, the Institute charges a flat \$200 fee for testimony and travel. The Institute's fee schedule and background information is being sent in the mail, but examples of their charges are listed below.

Documents Exam .....	\$50	Fingerprint Exam .....	\$50
Bullet Exam .....	\$35	Typewriter Comparison .....	\$50
Serial Number Restoration .....	\$50	Search for Spermatzoa .....	\$15

Representative Walt Furnace  
January 26, 1983  
Page Three

Tool Mark Comparison .....	\$50	Search for Blood or Seminal Stains .....	\$15
Hair & Fiber Analysis .....	\$30	Analysis of ABO/RH From Dried Stains .....	\$40

#### Connecticut State Police Forensic Sciences Laboratory

Dr. Henry Lee, is the Chief of the Forensic Sciences Laboratory in the state of Connecticut (203 238-6324). Dr. Lee explained that in addition to providing criminalistic analysis services for law enforcement authorities throughout Connecticut for no charge, his lab charges law enforcement authorities in surrounding states only for the cost of materials used in criminalistic analysis and for the time required for testimony.

Dr. Lee said that his lab has twenty-six employees and an annual budget of approximately \$500,000.

#### Washington State Police Crime Lab

George Ishi is the Director of the Washington State Police Crime Lab (206 464-7073). According to Mr. Ishi, the Washington State Police Crime Lab does provide criminalistics analysis services to other public agencies under contract. The lab charges \$60 per hour plus any unusual expenses such as for special chemicals, special instruments, or testimony. Mr. Ishi is sending an analysis of the time spent by his lab on different types of criminalistic procedures.

#### Kansas City, MO, Regional Criminalistics Laboratory

According to Gary Howell of the Regional Criminalistics Laboratory in Kansas City, MO (816 234-5000), public sector laboratory that charges \$30 per hour to all public agencies within a surrounding five county region and \$45 per hour to other public agencies outside that five county region. Howell was careful to say that it is impossible to predict how much time any particular examination will require.

Howell said that time spent by his staff testifying is billed at the same rate as laboratory time. Howell calculated that his lab spends about 20,000 hours examining evidence each year. Howell is sending additional information in the mail.

#### Northern Illinois Police Crime Lab

The Northern Illinois Police Crime Lab is a private non-profit membership agency organized to provide criminalistics services to municipal

police departments throughout Northern Illinois, an area with a population of approximately 500,000. The lab's Director, Andrew Principe (312 432-8160), explained that each member municipality pays an annual assessment based on its population as illustrated in the table below.

<u>Population of City</u>	<u>Annual Fee</u>
1000	\$1500
3500	\$3100
20,000	\$11,500
50,000	\$25,800
70,000	\$29,800
100,000	\$35,800

The Northern Illinois Police Crime Lab also provides criminalistic analysis for non-member public organizations at a cost of \$75 per hour, with a one-hour minimum charge. In addition, when the lab's staff is required to testify, the charge for that service is \$200 for the first hour and \$50 per hour thereafter.

According to Mr. Principe, the lab's annual budget of about \$300,000, is primarily from the annual membership fees. The lab employs a staff of ten and the lab has \$500-600,000 worth of equipment.

#### Forensic Science Associates

Forensic Science Associates is a private for-profit criminalistics laboratory located in the San Francisco area that does not provide routine types of analysis; Forensic Science Associates does not do toxicology, blood alcohol analysis, or drug identification. Peter Barnett (415 653-3530) said that his firm's fee is \$70 per hour and the amount of time he spends on any one procedure varies considerably. Most of this firm's work is for private defense counsel.

#### Criminalistic Laboratory

Criminalistic Laboratory is also a private for-profit small volume lab in the San Francisco area. According to the lab's Chuck Morton (415 451-0767), some of their work is performed for public agencies, but most of their work is also for private defense counsel. Criminalistic Laboratory charges \$75-100 per hour depending on the analysis being conducted. In addition, Criminalistic Laboratory also has some

fixed fees for standard procedures, such as paternity testing (\$70-80 per sample), blood grouping (\$75 per sample), saliva analysis (\$50 per sample) and others.

Western Laboratories

Western Laboratories, also in the San Francisco area, is primarily a private for-profit medical laboratory. However, Western Labs does perform toxicology, forensic alcohol, and autopsy service under contract to Alameda County. Dr. Paul Herman, head of the lab, said that fixed fees are charged for these services and is sending a fee schedule by mail. Dr. Herman warned, however, that Western's fees are expected to rise by about 20% in the near future.

FBI Crime Lab Update

According to Larry Nelson, the FBI's agent in charge in Alaska, in federal FY 82, FBI examiners made fifty-one trips to Alaska to testify in court. In forty-seven cases, testimony was actually given in court and four cases were resolved prior to the FBI examiner's scheduled court appearance.

The fifty-one trips made by FBI examiners to Alaska in FY 82 were to present testimony about the following analytical procedures.

<u>Type of Examination</u>	<u>Number of Examinations</u>
Firearm and Toolmark Identification .....	17
Hair and Fiber Analysis .....	15
Serology and Blood Type Examinations .....	13
Neutron Activation Tests .....	3
Paint Analysis .....	1
Metallurgy Analysis .....	1
Document Examination .....	1



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
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January 24, 1983

MEMORANDUM

To: Representative Walt Furnace  
From: Leonard Steinberg, Research Staff *L.S.*  
Re: FBI Examination of Legal Evidence  
Research Request 83-11

Steve Levi of your office requested the following information:

- 1) The number of Alaska criminal cases which made use of the FBI crime lab in Washington D.C.;
- 2) How many legal cases went to court with FBI assistance;
- 3) How often the FBI's time for analysis exceeded Alaska's 120 day limitation for court appearances; and
- 4) What specific evidence has been sent to the FBI for analysis.

Our attempts to answer these questions involved contacting: the Federal Bureau of Investigation in Anchorage and in Washington D.C.; the State of Alaska's Chief Prosecutor and the Anchorage District Attorney; the Alaska State Troopers; and the municipal police in Anchorage and Fairbanks.

Number of Alaska Criminal Cases Involving the FBI's Crime Lab

The table below lists the number of Alaska cases and the number of different examinations of Alaska evidence that were performed by the FBI's crime lab in federal fiscal years 1980, 1981, and 1982. (The federal fiscal year runs from October 1 to September 30; FY 80, for example began October 1, 1979 and ended September 30, 1980.) This information was obtained from Manuel Marquez, of the Federal Bureau of Investigation in Washington D.C.

The number of examinations performed is many times larger than the number of cases because each case often includes many different items and each item may undergo numerous different examinations.

Representative Walt Furnace  
January 24, 1983  
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<u>Year</u>	<u>Number of Cases</u>	<u>Number of Examinations</u>
1980	181	10,744
1981	209	13,531
1982	236	19,510

#### Number of Legal Cases Which Went to Court With FBI Assistance

There are no records of the number of times the FBI's crime lab analysis has actually been used in court. Though FBI crime lab examiners frequently travel to Alaska to testify in criminal proceedings, only rough estimates of the number of visits are available.

According to Larry Nelson, the FBI's chief agent in Alaska, not a month goes by without one of the FBI's crime lab examiners traveling to Alaska to make a court appearance. Captain Smith, of the Anchorage Police Department, said he knew of at least 6 FBI crime lab examiners that visited Alaska during the last year.

The FBI in Washington D.C. may maintain records on number of visits examiners make to testify in Alaska courts, but the FBI declined to make that information available to us. The use of FBI examiners or laboratory analysis could be reconstructed by reviewing all the criminal files of the District Attorneys in Alaska, but doing so would require a substantial amount of time.

#### Excessive Time Required For FBI Analysis

Law enforcement authorities in Alaska are concerned that the FBI's crime lab will not analyze and return the evidence to Alaska in time to meet the requirement, unless waived by the defendant, that criminal trials take place within 120 days of an arrest.

There is little evidence of the FBI's laboratory analysis failing to arrive in time for a trial. The State Troopers have described one case (Alaska vs. Lewis, 1981) in which the trial court suppressed use of the FBI's lab report received the morning of the trial, but that case was complicated by other factors and the suppression was overturned on appeal.<sup>1</sup>

No other specific cases of laboratory analysis too late for use in court have been cited. However, Fairbanks Police Chief Matthew Kiernan estimated that perhaps in one percent of his cases he was unable to use the

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<sup>1</sup> Department of Public Safety. The Development of a Full Service Forensic Laboratory for Law Enforcement in Alaska. September 1982. Page 11.

Representative Walt Furnace  
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Page Three

FBI's laboratory analysis in court because of delays. Other Alaska law enforcement authorities indicated that, to their knowledge, evidence has always arrived in time, but not without the use of personal contacts between the law enforcement authorities in Alaska and FBI examiners in Washington D.C. Estimates of amount of time normally required for an FBI analysis ranged from two to six months.<sup>2</sup>

#### Specific Evidence Sent To The FBI For Analysis

It was not possible to obtain a list of the specific legal evidence which has been sent from Alaska to the FBI for analysis in the time available to complete this research request. All law enforcement authorities were contacted but regular records of what has been submitted for analysis have not been maintained.

The FBI crime lab in Washington D.C. may maintain records of what it has analyzed for Alaska, but this information was not made available to us. A list of the specific evidence sent to the FBI for analysis could be reconstructed by going through all the criminal files of the law enforcement authorities in Alaska, but doing so would require a substantial amount of time.

The FBI's crime lab conducts all known types of criminal analysis. Examples of Alaskan criminal evidence currently analyzed by the FBI include: questioned documents, body fluids, firearms, trace metals, voice prints, hair, fibers, and fingerprints.

#### Additional Information

Currently, all FBI service (analysis and expert witnesses) are available free of charge. The FBI crime lab's work is well respected and the examiners make excellent witnesses. However, many of Alaska's law enforcement officials spoke of the federal government's intention to cease providing lab services for state and local police.

The FBI, while supporting the development of regional criminal analysis laboratories, denies any intention of reducing services to state and local law enforcement authorities.

\* \* \* \* \*

We hope this information is useful to you. Please let us know if we can be of any further assistance.

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<sup>2</sup> Captain Smith of the Anchorage Police Department estimated normal FBI turnaround time at two months while Major Korhonen of the Alaska State Troopers estimated normal turnaround times of five to six months.

# MEMORANDUM

# State of Alaska

TO: M. James Messick  
Assistant to Commissioner  
Director's Office  
Anchorage, Alaska

DATE: January 24, 1984

FILE NO:

TELEPHONE NO: 269-5620

FROM: Lieutenant Robert E. Jent  
Commander  
Criminal Investigation Bureau

SUBJECT: Delays in F.B.I. Lab Exams

Reference our conversation whereby you requested specific examples of investigations we have had, which lab exams by the F.B.I. were requested and delay in obtaining same jeopardized prosecution; resulted in a request for a continuance; or hindered further investigation.

I queried all C.I.B. personnel and Fairbanks G.I.U. concerning this with the following results:

1. E82-6580 (Fairbanks) Brian Ault homicide - a continuance was granted because evidence came back from the F.B.I. Lab too late for the defense to have an examination (State vs Michael Stephens).
2. I83-65819 (Anchorage) A rape which occurred on October 1, 1983 at Anchorage International Airport - the suspect was arrested on October 1, which started the 120 day rule. Evidence processed and sent to Lab October 15 to October 25. First report from the F.B.I. Lab was on oral report on January 3, 1984. Currently, we are still awaiting results of some exams and if the defendant had not waived two months of the four month rule, prosecution would be unlikely due to time running out.
3. I83- (Anchorage) Sexual assault. Defendant arrested and evidence obtained on October 27, 1983. Still awaiting return of evidence by the F.B.I. It is anticipated that the defense will also want to have evidence examined probably resulting in a continuance. Trial has been set for February, 1984.
4. Sergeant Randy Johnston provided the following for consideration:

Generally, laboratory examination letters communicate opinions which are much more conservative than the true opinion of the examiner, often leading the investigator to believe that the connective evidence is not as strong as he had hoped it would be. For example, a letter might say: "The hair from the victim's blouse has characteristics that are similar to those found in head hairs from the suspect.", or "could be head hairs from the suspect." If the author of the letter was right here in Anchorage where he could show and tell his findings to the investigator, the conversation might go like this: "The probability that the hair found on the victim's blouse if the suspect's head hair, is very high. Look at this. This characteristic is very rare to find. And 15 other characteristics match.", etc.

From the letter, the investigator may feel he has one of several suspects which cannot be eliminated. From his looking at the results he may feel that more investigation of that particular suspect is in order.

And it is not practical to call the lab every time we receive a lab examination letter.

Also, obviously it would be beneficial to a case to get results of lab analysis quickly. Results of analysis of material found in a car may be all that is needed to reach P.C. for a warrant for another place. Time is always of the essence in search warrant situations.

5. Sergeant Jim McCann provided his comments as follows:

I know of no specific cases that have been continued because of F.B.I. Lab delay because I am extremely careful in getting my evidence in to the lab and I always communicate personally with the assigned examiners to insure their availability. I think all cases are in jeopardy of being lost or continued because of F.B.I. delay, but with the F.B.I. Lab's skill and professionalism and a little extra work and luck, we always seem to slide by.

I think our own full service lab will streamline the entire system. In every major crime trial, there is something that comes up that requires further, (sometimes on the spot) exams, expert testimony, etc. That most times F.B.I. examiners will not be able to perform for one reason or another. Usually the examiners are so booked up they get into town one day, meet with the D.A. and the investigator, testify the next day and leave Alaska on an evening flight. We never have them for rebuttal.

I spoke with D.A. Harry Davis and he cannot recall any recent cases where we have had any of these problems. He attributes this to the lab, and to a somewhat smaller case load. He agrees though that the jeopardy is always there. Mr. Davis concluded with his request for some sort of mobile crime scene team to consistently process major crime scenes professionally.

In conclusion, I might add that the F.B.I. is rather eager to get us into the lab business, they do not really want us any more.

If I receive anything further that you might use, I will keep you advised.

REJ/sab

# MEMORANDUM

# State of Alaska

TO: Mr. James Messick  
Assistant to Commissioner  
Anchorage, Alaska

DATE: 1/16/84

FILE NO:

TELEPHONE NO:

FROM: *RW*  
Sgt. Rollie A. Port, #10  
G.I.U., Palmer Post  
B Detachment  
Alaska State Troopers

SUBJECT: F.B.I. Laboratory

Currently, the Palmer Investigation Unit has 2 cases which have had to be postponed, due to the time it has taken the F.B.I. to process evidence which is essential to the prosecution case.

1. Suspect Donald "Pete" Criner, arrested on 10/20/83 for two (2) counts of Kidnapping, 1 count of 1st Degree Sexual Assault, 1 count of 1st Degree Assault and 4 counts of 2nd Degree Assault. On 1/9/84m trial was set and had to be continued because the lab results were not finished.

Suspect Joseph Oswald, was arrested on Sept. 27th, 1983 on 3 counts of 1st Degree Sexual Assault, with a court date of 1/16/84. On 1/16/84, the F.B.I. Lab report was received, however, the lateness of the report had forced the defense attorney in the case to ask for a continuance today.

RAP:kf

# MEMORANDUM

State of Alaska

11

TO: Colonel T. R. Anderson  
Director  
Alaska State Troopers

DATE: April 14, 1982

FILE NO:

TELEPHONE NO:

FROM: Lieutenant John Lucking *JL*  
Acting Commander  
Criminal Investigation Bureau

SUBJECT: FBI Lab Services

As a matter of information to you, be advised of the following recent events this past week.

In our homicide case I82-3203 (double murder) evidence was sent to the FBI Lab for analysis. This included some hair and fiber tests. We received a phone call from the lab in which they discussed the necessity of our requested examinations.

In our homicide case I81-50020 (double murder) evidence was sent to the FBI Lab for analysis. This also included hairs and fibers for testing. Again we received a phone call from the lab in which they discussed the necessity of our requested examinations.

I believe these events demonstrate the pressure the FBI Lab is under in attempting to accommodate all requests.

*FY82. 50 cases - 200 hairs - 1920 tests -  
12 fiber tests & hair analysis*

*51 trips in fiscal '83 - 1/2 hr -*



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
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March 15, 1983

MEMORANDUM

To: Representative Bob Bettisworth  
From: Leonard Steinberg, Research Staff *L.S.*  
Re: Organizational Location of Crime Lab  
Research Request 83-101

Ralph Bennett of your office requested information on where within the governmental structure of other states criminalistics laboratories are located. He also asked us how other states protect the independence of the laboratories. Several states, national criminalistics organizations, and academic experts were contacted; our findings are summarized below.

Findings

While most states have criminalistics laboratories, there is considerable diversity in the location of these institutions within the structure of state governments. Many labs are part of state police organizations. In other states, the labs are in a separate division but still within the same department as the state police. Labs have also commonly been located under the auspices of the Attorney General. Though more unusual, some labs have been incorporated into state health departments, and at least one state has consolidated all state laboratories in one division within their Department of General Services. In addition, at least one state has a crime lab system completely independent from any other state agency.

In our interviews three primary arguments were made for not placing a laboratory under the auspices of a state police organization. First, charges of laboratory bias and insufficient credibility appear to diminish with greater laboratory independence. Some states allow criminal defendants access to state crime labs, in part, to prove the objectivity of the labs. Second, laboratories within police organizations sometimes have failed to effectively compete for limited government funding. Third, laboratories within police organizations may fail to attract and retain high quality personnel because: a) pay and benefits are generally lower than the uniformed officers they work under; b) lab employees lack promotional opportunities as only sworn officers are usually admitted into the leadership ranks of police organizations; and c) lab employees consider themselves scientists and prefer a less structured and more academic environment than is usually found within police organizations.

Representative Bob Bettisworth  
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The primary argument in favor of locating crime labs in a police unit is increased responsiveness to law enforcement needs. Additionally, some experts feel that there are fewer problems with the security and confidentiality of criminal evidence when crime labs are within police organizations. Last, some experts feel that being in a police department will allow better working relationships to be built between scientists and police officers

#### Alaska

Anchorage District Attorney Victor Krumm did not think that placing the lab within the State Trooper's organization would create a credibility problem. Mr. Krumm pointed out that many states have labs associated with their law enforcement organizations. He added that the nation's most respected lab is part of the Federal Bureau of Investigation (FBI).

#### American Academy of Forensic Sciences

Ken Field is the Executive Director of the American Academy of Forensic Sciences (303/596-6006), a professional organization of forensic scientists. According to Mr. Field, the credibility of criminalistics labs increases as the labs become more independent of law enforcement organizations. Field said that police labs in general have a poor reputation; too often, according to Field, non-scientists are placed in charge of police labs resulting in inappropriate management decisions and the closing off of promotional opportunities for lab employees.

Mr. Field stated that the ideal structure would be to have labs as part of the court system. At the very least, Field suggested setting up the crime lab as a division separate from the State Troopers within the Department of Public Safety.

#### American Society of Crime Laboratory Directors (ASCLD)

Jerry Chisum (209/576-6215), is the current president of ASCLD, acknowledged that police labs are often accused of bias. According to Chisum, the desires of a police captain or lieutenant too often take precedence over the judgment of a civilian laboratory director.

In California, where Mr. Chisum is employed, there are many crime labs which are part of local county sheriff's offices. Additionally, there is a state wide system of 15 crime labs that are part of the California Department of Justice. Mr. Chisum has worked in both systems and stated a strong preference for working under the Attorney General.

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He also pointed out that some states have crime labs within their health departments. This practice apparently began with the need to perform certain homicide related medical examinations. However, Mr. Chisum noted that health department labs are almost invariably run by medical doctors and are generally poorly equipped and staffed to deal with non-medical procedures.

#### Southwestern Institute of Forensic Sciences

The Southwestern Institute of Forensic Sciences, a criminalistics laboratory in Dallas Texas, is an independent Dallas County agency. Mr. Irving Stone, Chief of the Physical Evidence Section (214/638-9982), stated that while the Institute performs work for all city and county police in their area, it is not under the supervision of any law enforcement unit. The Institute reports directly to the elected county commissioners.

According to Mr. Stone, the benefits of being an independent agency are less competition for funds and better credibility in court. Stone suggested placing the crime lab under the authority of the Attorney General.

#### California State Crime Labs

Mr. Al Biasotti, (916/739-5484) a manager of the California Department of Justice's Bureau of Forensic Sciences, stated that labs attached to police organizations always have problems of bias. According to Biasotti, independent labs can attract better personnel because the "forensic scientist" strongly prefers being independent of a law enforcement agency.

The California Department of Justice has had a state crime lab since the 1930s, and in the early 1970s, the system was expanded to 15 facilities. Attached as Appendix A are standards and other information California has used to establish its state crime labs.

#### Illinois State Crime Labs

Mr. Bruce Van der Kolk, (217/782-4975) is Director of the Bureau of Scientific Services, Illinois Department of Law Enforcement. The Department of Law Enforcement was created through governmental reorganization in 1977. The Law Enforcement Department also includes the bureaus for the state police, state investigators, internal investigators, and administration. The crime labs in Illinois, therefore, are in the same governmental unit as the police, but are not part of the police organization.

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Prior to the 1977 reorganization, Illinois' crime labs independently defended their own budget before the Illinois legislature. According to Mr. Van der Kolk, the crime labs were not successful competitors with other state organizations for budget dollars. Since the 1977 reorganization, the Department of Law Enforcement has been more successful in getting state funding for the crime labs.

Mr. Van der Kolk argued that credibility is not the primary reason for maintaining the independence of crime labs. He maintained that the real reason is that scientists and police officers have difficulty understanding each others needs. Illinois has tried to have a sworn liaison police officer attached to every lab, but Mr. Van der Kolk is not convinced that this program has been successful. Mr. Van der Kolk explained that differences between sworn police officers and civilian lab employees in pay structure, benefits, and promotional opportunities exacerbates their differences.

#### Wisconsin State Crime Lab

According to Crime Laboratory Bureau Director Dan Dowd (608/266-2031), about 15 years ago Wisconsin's crime lab was transferred from the University of Wisconsin to the Law Enforcement Services Division of the Wisconsin's Department of Justice. Other Law Enforcement Services Division sections include a crime information group (records and statistics) and the training and standards section.

Mr. Dowd supports the location of the crime lab within the Attorney General's office; none of the other employees there are sworn officers nor has there been competition for funds. He speculated that the crime lab has fared better as an arm of the Attorney General than it would have on its own.

According to Mr. Dowd, crime labs have more in common with academic than with police institutions. He perceives the lab more as a friend of the court than as an advocate. In fact, Wisconsin statute allows defendants access to the lab and Mr. Dowd feels this helps the lab avoid charges of bias. Dowd says the lab is well respected by defense counsel even though less than 5 percent of its work is for defendants. The Wisconsin crime lab statutes are attached as Appendix B.

#### Arizona Crime Lab

The state crime lab in Arizona is part of the Criminal Justice Support Bureau of the Department of Public Safety. The Department of Public Safety was created in 1969 by merging many existing agencies including the highway patrol, narcotics and investigations, and operations bureaus. Cliff Van der Ark with the Arizona crime lab(602/262-8395) stated

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that his lab has not experienced credibility problems. One advantage of being part of a police organization, according to Mr. Van der Ark, is maintaining security. However, he mentioned that the same respect for the security of criminal evidence is likely to exist in an Attorney General's office.

#### Alabama Crime Lab

The crime lab system in Alabama (10 labs) is a completely independent state agency. Taylor Noggle (205/887-7001) stated that in 1935 the legislature created a full service crime lab that also handles all autopsy functions traditionally performed by medical examiners. The crime labs in Alabama are not connected to their state police nor their attorney general's office. The Director of the Alabama crime lab is appointed by the Attorney General, but cannot be removed except by impeachment; since 1935, the crime lab has had only three directors.

According to Mr. Noggle, the credibility of Alabama's labs can be traced to the high quality of lab staff. Mr. Noggle said that Alabama has been able to retain qualified personnel due to a relatively high pay scale and promotional opportunities.

Alabama's lab analyzes evidence for both prosecutors and defendants. However, Mr. Noggle estimated that less than 1 percent of the lab's work was performed for defendants.

#### Virginia Crime Lab

Warren Johnson, Director of Virginia's crime lab, stated that Virginia is the only state that has consolidated all state laboratories into a single government unit. The crime lab, together with the health, environmental, and consumer protection labs, make up the Division of Consolidated Laboratory Services within the Department of General Services. This organizational structure was created in 1972 to reduce costs (shared equipment and space) and increase effectiveness (sharing expertise).

Despite these theoretical gains, Mr. Johnson feels that the consolidation approach has been unsatisfactory. In fact, little equipment or space is shared because of the crime lab's need to insure the security of criminal evidence. Mr. Johnson said that there is only one piece of equipment that is regularly shared with other labs. Additionally, he expressed concern that the crime lab is left out of all planning for the criminal justice system because all other law enforcement agencies are in a different department. However, Mr. Johnson did acknowledge the usefulness of having easy access to the scientific experts associated with the other laboratories. In conclusion, he does not recommend the consolidated laboratory approach, but does recommend crime labs be independent from police organizations.