ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3375 HJUD HB 554

251

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: THOMAS GRIFFITH
BOX 80105
FAIRBANKS, AK 99708
452-2192

BILL NO: HB 554

SUBJECT: CHANGING PRESUMPTIVE SENTENCING LAWS

MESSAGE:

I SUPPORT HB 554 BECAUSE I STRONGLY FEEL THAT YOU CANNOT DETERMINE INDIVIDUAL CASES THROUGH LEGISLATIVE ACTION. JUDGES SHOULD HAVE MORE SENTENCING ROOM TO DETERMINE APPROPRIATE PUNISHMENT IN INDIVIDUAL CASES. THE WORLD IS NOT BLACK AND WHITE.

DATE: 03/25/86 TIME: 15:26:21 SENT BY: FAIRBANKS LIC

COPIES TO: HOUSE JUDICIARY
HOUSE FAIRBANKS DELEGATION
SENATE FAIRBANKS DELEGATION

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: CRAIG HOWARD
1671 GEORGE BELL CIRCLE
ANCHORAGE 99516
345-7457

BILL NO: HB 554

SUBJECT: CHANGING PRESUMPTIVE SENTENCING LAWS

MESSAGE:

I SUPPORT HB 554 BECAUSE THE STATE DOES NOT HAVE ENOUGH MONEY TO WAREHOUSE CRIMINAL ESPECIALLY FIRST TIME OFFENDERS.

DATE: 03/28/86 TIME: 12:05:46 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

March 25, 1986

Members of The Alaska Legislature
Pouch V MS3100
Juneau, Ak. 99811

Re: HB554 as relating to in-family Sexual Misconduct*

Dear Fellow Citizens:

Although I am not a citizen of the state of Alaska, I have a deep concern for the passage of HB554. One reason is that I am an American Citizen concerned about the welfare of families and keeping them together even when problems arise.

I feel the passage of this bill would enable a large step to be made in reducing crime not making it increase.

I base this one what many states are doing through social programs to help families to get counseling and come to a better understanding of their problems especially in child abuse and many professionals are now giving the entire family counseling without even a jail sentence being required.

I know I am writing about a very serious and complex problem in our country and I truly care about children and their mental health and their mixed emotions of putting...their parents away. Since your mandatory sentencing was passed in 1980, you still do not know what the future might hold as to how minors are going to be affected in the future as they mature.

I sincerely feel that the passage of HB554 COULD bring sexual misconduct in the home into the realm of mental health for healing and save money as well as homes from being destroyed.

Please give this your undivided attention because it is a human problem that affects many individuals and in caring families many have to suffer the consequences not just the accused and the victims but many become victims as they hurt emotionally when loved ones are sent to prison for many years when in most states this is not always true.

When I write you, I have not said all is perfect in my home state and I strive to be informed and to inform others of my findings.

Sincerely,

Carolyn Smith

Mrs. H. F. Smith, Jr. (Carolyn)
4818 Brookwood Dr.
Mableton, Georgia 30059

*this relates to first offense and those of no criminal record and out of character activity with good personal references deserves more humane consideration than a prison term in Alaska or any other state.

SOME REASONS TO PASS HB 554 IN THE STATE OF ALASKA FROM A VERY CONCERNED PERSON - Carolyn Smith (3-24-86) Please copy and give to your friends.

THE PASSAGE OF YOUR PRESUMPTIVE (MANDATORY) SENTENCING IN 1980 was to be a panacea.

TO TRY TO LEGISLATE A CURE FOR CANCER WOULD END IN DEAD FAILURE.

Many crimes or offenses are a result of mental illness just as serious as the disease of cancer.

WE CAN PASS LAWS UNTIL DOOMS DAY BUT UNTIL WE SEE THAT WE MUST ADMINISTRATE TREATMENT WE ARE BY OMISSION AND COMISSION GUILTY OF BLUNDERS AND WE TOO BECOME VICTIMS OF A SINKING SHIP AND DROWN IN THE SEA OF IGNORANCE.

To put all persons with cancer (or mental illness) in prison is compared to the misconceptions of the middle ages when millions died from plagues because no one knew what caused them. Many still view mental illness the same as those people did in the dark ages, saying such is caused by poor upbringing, personal weaknesses or even by divine intervention. Many persons are "thrown-away" because of those who continue to think their action is voluntary and many times THIS IS NOT SO. MANY STILL FEEL THESE PEOPLE DESERVE THEIR PAIN.

We need to send out a life line of healing and counseling to many suffering people especially families instead of issuing a death watch.

THERE MUST BE UNDERSTANDING AND HAVE THE ABILITY TO ABSOLVE HURTS AND WRONGS, PUT INTO ACTION HEALTH AND HEALING AND ADVANCE TO HOPE AND HARMONY WHICH WILL AFFECT HAPPINESS AND WHOLENESS AND HOLINESS AND ANSWER WHATEVER INFLUENCES THERE MAY BE THAT CAUSES ONE TO DECLINE OR ALTERS THEIR LIFE TO BRING DAMAGE. WE MUST NOT BE DEFEATED IN HATE BECAUSE THERE IS NO VICTORY IN HATE.

Harsh laws to suit our hates can someday come back to convict us. That is what justice is all about and is the wisdom of our U. S. Constitution that has lasted all of these years.

"A man should not allow himself to hate even his enemies, because if you indulge this passion on some occasions, it will rise of itself in others; if you hate your enemies, you will contract such a vicious habit of mind, as by degrees will break out upon those who are your friends, or those who are indifferent to you." Plutarch.

IT MUST BE SAID THAT MANY SUFFER MENTAL ILLNESS BECAUSE OF UNRESOLVED HATE AND ANGER. NONE OF US ARE IMMUNE TO MENTAL ILLNESS OR ITS CONSEQUENCES. WE MUST PASS LAWS WITH CARE AND COMPASSION.

PASS HB# 554 FOR ME AND MANY MORE.

April 14, 1986

Alaska State Legislature
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Committee Members:

Just a month left to consider HB#554 or any other legislation that might help families instead of hurting them.

If left undone again this year those that fight for them will gather more support and much of that support will have to come from outside of your state as myself and others who are learning of the uncalled for manner in which families are hurt and hurt.

There is no justification for abuse but there is also no justification to meeting abuse with abuse as I feel is done in the state of Alaska.

This should not be even a debated issue. How can so many people continue to think and react against what is in many cases a suffering family and because of your laws only bring that family more suffering instead of coming to the aid of that family?

As you may have gathered I support those in your state who want to bring about a more compassionate way of handling incest and family related abuse. It can be done and in most areas where compassion is applied the crimes or offenses become less not more. Freedom works that way.

For me immediate arrest that leads to long prison terms is unreal. No matter what a person has done in such incidents an opportunity for individual consideration is guaranteed by the U. S. Constitution but it is my opinion along with many others that a person in Alaska does not have that because of the attitude plus the prejudged sentence before a person is even allowed to contact an attorney. I feel under these circumstances that in Alaska for many they are innocent only until arrested. That is not American.

As an American citizen I am entitled to be a part of any legislation when I feel a person's civil rights are being violated but in my opinion this is not just for a few in your state but many and many more from outside of Alaska will have to become interested in how you make your laws.

People from New York care about what we do in Georgia and Georgians care about what you are doing in Alaska. People in Washington care about what is going on in Florida and there are those in Florida who care about what is going on also in Alaska and so on. That is one reason we are called the UNITED States of America.

Yes, Alaskans you are being watched and there are those who are reading and listening at the debates wondering if you will be willing to solve such an issue without truly calling for "outside" help.

For me I have opinions but for this letter I question your awareness of individual rights even those accused of the most repulsive activity still have all of the rights to be treated without assuming they are guilty until all of the facts are gathered and without emotion.

And if found guilty, the purpose of prison is rehabilitation to bring those persons back to society as whole human beings. In America we must care for all women, children and men. When we stop caring for anyone of them then the other is in danger of being mistreated.

I do care. I also care about our elected officials such as yourself who are put in such positions of making decisions for so many. It is a great task that you have assumed. I just ask you to apply the golden rule, "do unto others as you would have them to do unto you." What law would you want if your dearest one were to appear in court today? OR YOU? Please do not be so sure that it could not happen to you. Believe me it can.

Sincerely,

Ms. Carolyn Smith

Carolyn Smith
4818 Brookwood Dr.
Mableton, Ga.
30059

(404-948-6087)

1601 Anderson Mill Rd
Austell, Ga 30001
April 29, 1986

Representative M. Mike Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Miller:

I wish to express my support for House Bill 554 as regards In Family Sexual Misconduct.

Harsh laws destroy families - in other states families can be put together on the average of two years with counseling and in most cases the father continues to support his family without being forced by law or even being jailed - Many people point out this fact - - - but it is ignored - Children in Alaska seem to suffer beyond what most do in other states at the loss and break-ups of their homes.

Please consider this on the grounds of helping Children - not making their hurt permanent.

Sincerely,
Mrs Ronald E. Myers

4-16-86 (THE TENTH MONTH ANNIVERSARY OF MY PLEADINGS.)

TO:

ALASKA STATR LEGISLATURE
HOUSE JUDICIARY COMMITTEE

POUCH V

JUNEAU, ALASKA 99811

FROM: CAROLYN WADE SMITH

4818 BROOKWOOD DR.

MABLETON, GEORGIA 30059

ATTENTION: M. MIKE MILLER, CHAIRMAN

IN THE PAST MENTAL PATIENTS WERE CHAINED AND BEATEN SO THAT VISITORS COULD BE ENTERTAINED. I AM NOT SAYING PHYSICAL MISTREAIMENT EXISTS IN ALASKA BUT I DO BELIEVE WELL MEANING PERSONS ARE IMPOSING FAR MORE PUNISHMENT THAN IS NECESSARY AND IT IS TO SATISFY THE HATES AND MISUNDERSTANDINGS OF MANY.

I REFER TO HOUSE BILL NUMBER 55'_.

IT SHOULD PASS WITHOUT AN AMENDMENT TO EXCLUDE SEXUAL MISCONDUCT.

I WOULD VENTURE TO SAY THAT AT LEAST 50% OF YOUR PRISONERS IN THE STATE OF ALASKA SHOULD BE OUT-PATIENTS AT SOME CARE FACILITY AND

STATE OF ALASKA SHOULD BE OUT PATIENTS AT SOME SAME FACILITY AND

NOT IN PRISON.

I BASE THIS ON THE ATTITUDES OF THOSE WHO MAKE BLANKET STATEMENTS ABOUT UNHEALTHY BEHAVIOR OF SOME WHO ALL OF THEIR LIVES HAVE BEEN EXAMPLES OF GOODNESS AND MORALITY.

PERHAPS EVEN MORE THAN 50 % SHOULD BE INCLUDED BUT REGARDLESS OF THE EXACT NUMBER, I FEEL CONFIDENT THAT THERE ARE MANY SUFFERING THE CONSEQUENCES OF THE THINKING OF UNINFORMED PERSONS.

I KNOW ONE AND THAT IS ENOUGH FOR ME TO EXPRESS TO YOU MY REGRETS

THAT YOU SEEM TO BE DETERMINED TO CONTINUE IN THE SAME PATH OF MANDATORY SENTENCING FOR THESE PEOPLE.

YOU HAVE THE INFORMATION AND YOU IGNORE IT.

IF YOUR DESIRE IS TO LISTEN TO THE CRY OF THE BITTER MOBS AND WILL NOT LISTEN TO THOSE WHO BEG FOR THEIR VOICE TO BE HEARD THEN YOU ARE NOT GOING TO LISTEN TO ME A SMALL VOICE ALL THE WAY FROM GEORGIA.

I AM NOT A CITIZEN OF ALASKA IN BODY BUT MY HEART IS THERE.

I CAN SAY NO MORE. EXCEPT GOD HAVE MERCY ON YOU.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 28, 1985

JAN 29 1985

Rick Gottardi
P.O. Box 309
Juneau, Alaska 99802

Dear Mr. Gottardi:

This is in response to your recent correspondence concerning presumptive sentencing laws in the State of Alaska.

I would like to be able to offer you an immediate solution to your problems, but I am unable to at this time. The issue of presumptive sentencing is of great concern to many legislators and I am sure the issue will be discussed at some point this legislative session.

Please be advised that I am forwarding copies of your letter to Senator Rodey, Chairman of the Senate Judiciary Committee, and Representative Mike M. Miller, Chairman of the House Judiciary Committee, so that they may notify you of any upcoming legislation and hearings.

Sincerely,

Bill Ray

Bill Ray
Senator
District C

Senator Mr, Bill Ray
165 Behrends Avenue
Juneau, Alaska 99801

January 17-1985

Rick Gottardi
P.O. Box 309
Juneau, Alaska 9980

Yes sir, I was wondering if you for-see in the future any modifications in the Justice system regarding the presumptive sentencing laws of the criminal Justice system, which doesn't let any person sentenced to a presumptive term, be eligible for parole, I think presumptive sentencing is, or should be un-constitutional, I believe any person should be afforded the right to be eligible for parole, even though that person may have made quite a few mistakes, he or she should by right be eligible for parole at some point in there sentence, plus it costs quite a bit to alaskans to have the presumptive sentencing in effect, because of the longer prison sentences and the more people each year that end up in prison for long terms, means more prisons have to be built more money spent, as it is prisons are filling up fast, and not enough prisoners are getting out to make room for the new, there coming in faster than there going out, due to the presumptive sentencing law now in effect since 1980, I think if the presumptive law were to change, or was cancelled out, where-in everyone would be eligible for parole at some point in there sentence, I think we would find a much smoother correctional system, people getting out to make room for the new, would slow the building of new correctional facility costs down, just one facility has many costs, the presumptive sentencing law should be abolished, which would make for a smoother operating Justice system, and would keep

the costs down to a good or fair level, The presumptive — sentencing laws or law is the most un-constitutional law — I've ever heard of, Is there any one you know of who might have more information on this subject??? ...

Any way I'm a prisoner at the Lemon Creek facility, I have been in prison for five years straight I'm never eligible for parole, my crimes are two burglaries, two escapes, one assault, two property damage charges in my five years in prison I've never gotten any rehabilitation education or life skills, this is wasting my life, I was age 20 when I first come to prison, I'm a hyper active individual, and prison life is eating me alive, since I've been in prison I've been beaten up, had my nose broken twice, stabbed in the back once, been sexually assaulted, I guess this is rehabilitation, I've had it real rough, I tried to run away from this situation a couple times, and I've caught more time in jail, I never ran with the intent to commit my crimes, I ran to save myself from more injuries, I sure wish I could go home from this nightmare, I've seen things in a different light, I only — started out with a one year prison term, and now have — 5 years, with no hope for parole, I've never asked for any real help to try to get out of here, because I don't know who to ask for help, I really need to get out of here, my family is falling apart emotionally, driven to drinking problems, due to my confinement, I come to Alaska when I was 8 years old and haven't been out of Alaska since that time, never been any where or seen any thing but Alaska, I'm now age 25, my Grandparents one of which passed away a couple years ago —

who I never even got to meet, another one is real ill, there thinking they will never see me before they pass away, I have to agree I probably never will even get out of prison alive, there just has to be some useful way besides prison that I can pay my debt to society like community services or join the service, something useful, prison is such a waste, there must be something I can do to get out of prison, I'm willing to do anything besides just sit and waste my life in prison, I'm not a dangerous offender, I'm wondering if you know of any one who might be able to help me get out of prison??? I have a real fear of dying in here before my term is up, I would appreciate any help, or information on how I can get help?

Sincerely

Rick Gottardi
P.O. Box 309
Juneau, Alaska 99802

OUTLINE OF THE MATERIAL CONTAINED IN THE LETTER TO THE GOVERNOR

I. Introduction

II. Separate incest from sexual assault because
   A. The important need to preserve the family unit
   B. Incest has been considered by some as a form of love rather than rape.
   C. Incest is considered by some to be worse than sexual assault because it involves the molest of a child by someone s/he loves and trusts.

III. The self referred offender
   A. Allow him to ask for help without requiring the counseling service to report him if
      1. he signs the contract
      2. he remains in the program
      3. he is a first time offender
      4. both the victim and the family want him to remain with them.

IV. Purpose and success of the CSATP

V. Safety guarantee for Alaska's children

VI. Outline of a mandatory counseling and probation program

VII. Comparison of the treatment vs. incarceration chart provided in the Incest: Family Treatment Model draft.

VIII. Comments on the "Offender Disposition Assessment" chart also from the Incest: Family Treatment Model draft.

IX. A comparison of how much money is spent to keep offenders in jail as compared to establishing and using the CSATP as an effective alternative.

X. Suggestion that a CSATP pilot program should be started in 1986 and run for 3 or 4 years to continue only if the results seem to be positive.

XI. Conclusion

Due to the length of the attached letter I have prepared this page as a quick Table of Contents to aid in finding the parts that are of most interest to you or to aid you in referring back to what you have read:

I. Separating incest and sexual assault and why 1

II. The self referred offender 2, 3

III. Placement of the offender in the Colorado diversion program. 3

IV. Purpose and success of the CSATP 4

V. Safety guarantee for the children. 4

VI. Outline of a mandatory counseling and probation program. . . . 5, 6

VII. Comparison of treatment vs. incarceration chart. 5, 6

VIII. Comments on the "Offender Disposition Assessment chart. . . . 6

IX. Comparison of money spent to jail offenders vs. CSATP cost. . . 7

X. Suggestion that a CSATP pilot program be established. 6, 8

Attachments: (1) Treatment vs. Incarceration chart
(2) "Offender Disposition Assessment" chart
(3) Information on the CSATP program: how it is suppose to be set up and operating to give the statisical results that it <u>can</u> only produce when operating correctly.

General Delivery
Wasilla, Alaska 99687
October 1, 1985

Bill Sheffield, Governor
Office of the Governor
Third Floor, State Capitol
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

This letter is in response to your letter received several months ago regarding what the state is THINKING about doing for incest offenders, their families and sexual assault offenders.

Although it is interesting to see the government so ambitious and involved with working on a solution to an epidemic problem, I think that the only way to eat an elephant is one bite at a time. It seems to me that you are trying to eat the whole elephant and I don't think that that is going to be an effective or thorough as if you did it a bite at a time.

I think it is extremely important and fundamental to whatever program you establish that you start by separating incest from sexual assault. Why? Because they are clearly different. Some of these differences are:

1) Incest occurs in the family and the family unit is so important that those offenders should be rehabilitated so that the family is preserved. Sexual assault occurs outside the family, therefore to incarcerate the offender does not destroy or separate the victim's family and thereby further traumatize the victim.

2) An incest offender rarely commits forcible rape using violence or threats. This has been expressed by the word love. In other words, the difference between incest and sexual assault is love. (I personally disagree with this, but that IS a difference.)

3) Another difference is that incest involves the molest of a child by an adult who the child trusts; therefore, it is considered by some to be a more serious crime than sexual assault or forcible rape is. (I don't agree with this viewpoint either, but it IS a distinguishable difference.)

So, I think that the first step is to separate incest from sexual assault because they ARE different and then take steps to work out solutions for both.

I can say very little to you about sexual assault, so I will leave that to those who are more knowledgeable than I am to handle that.

House bill 88 seems to be placing stricter enforcement on reporting and on child pornography and exploitation. I don't have a problem with that except that I think that reporting on incest should be handled differently than it is for sexual assault.

Recently I received a copy of Henry Giaretto's book, Integrated Treatment of Child Sexual Abuse and I am extremely impressed with the CSATP. I also read the proposed draft, Incest: Family Treatment Model, which you said is a possible treatment solution for sex offenders in this state. Except for a similarity in grammer, the two programs are barely related. I would propose that instead of chopping up Henry Giaretto's program into a number of peices that you use it the way that it was intended. Only 1/3 of it is being used because the other 2/3 needs funding in order to work.

Your letter outlines that self-referred offenders do not continue in treatment and that therefore holding incest as a crime is necessary in order to threaten, compel or force the offender to remain in the treatment program.

I disagree with this and in thinking of a solution to keeping a self-referred offending in the program, I happened onto an idea that comes from pages 34 & 35 of the CSATP manual: "There is a tendency in some families to slip away from the counseling plan or to pursue it less diligently after the prosecution period passes. This behavior is more likely to occur in those cases where the offenses were less severe and settled at the misdemeanor level. To forestall this, the counselor has the parents sign a contract in which they agree to continue with the counseling plan until the counselor decides to terminate it. The counselor answers all questions posed by the parents regarding the contract and why the terms are necessary. It is important for the clients to leave this session with the understanding that the services of the counselor and the CSATP are not provided solely for the purpose of tiding the family through the court process but largely for the purpose of teaching the members of the family--the parents in particular--the skills needed for forming a healthy family unit." I think that herein lies the provision (i.e. signing the contract) that would ensure that the self-referred offender would remain in the program until formally terminated. I think that there could also be other incentives that would encourage an offender or even a POTENTIAL offender to remain in a treatment program until he was officially terminated. I would like to go into these ideas in a little more detail.

An offender who walks into a counseling center, admits that he has just molested his daughter and asks for help has met at least 2 of the 4 goals that the CSATP counselor wants him to come to grips with sooner or later anyway:

1) Recognition that incest can't be condoned or rationalized and
2) Accepting the responsibility for his behavior/actions.

Should he not be encourage and rewarded for his honesty, for admitting that he is psychologically ill and needs help? I think so and I think that you will help MORE families by not pressing charges on those who ask for help. "When justice is distorted in incest cases by retribution in the form of long-term incarceration for the offender and separation of the child from her family, the effects are destructive and expensive both to the family and the community. PERHAPS EVEN MORE

DISTURBING IS THE FACT THAT, IN THOSE COMMUNITIES WHEREIN THE CRIMINAL JUSTICE SYSTEM HAS A REPUTATION FOR BEING CRUELLY PUNITIVE, FAMILIES TROUBLED BY INCEST WILL NOT REPORT THE SITUATION AND THE VICTIMS WILL CONTINUE TO BE VICTIMIZED." (CSATP Manual, page 57)

So an offender turns himself in, admits he molested his daughter and wants help. The counselor explains CSATP and explains to him that he has in fact committed a crime but that if he remains in the program until he is officially terminated, that no criminal charges will be filed against him provided that he has not been arrested or convicted on a similar offense. A similar offense means past incest offenses. If the person is a 2nd time offender he is reported to the authorities and it is then decided whether or not he should be allowed to qualify for the child abuse diversion program.

A person who voluntarily turns himself in or is seeking help through a counseling service should be automatically placed on the child abuse diversion program, after the entire family has been interviewed to determine if that is what the victim and the rest of the family wants. If the victim and the rest of the family wants the offender arrested OR a complete no contact established if the offender is not jailed, then the wishes of the family should be considered FIRST. Perhaps a hearing needs to be held, so that the question is decided by a judge, or perhaps we can agree that the non-offending parent either with or without counseling (as s/he wishes) IS an intelligent enough human being to make that decision. Someone has to make a judgement here; why not allow the person closest to the victim and the situation to have a primary role in that decision, instead of an elected or appointed governmental/political official?

If the family decides or wants to remain together and have gone to the counseling center to receive help and treatment, then the child abuse diversion program should be explained to them. (This is quoted from the Colorado statute "child abuse and neglect diversion program".)

"(1) The district attorney, upon recommendation of the county department or any person, may withhold filing a case against any person accused or suspected of child abuse or neglect and refer that person to a non-judicial source of treatment or assistance, upon conditions set forth by the county department and the district attorney. If the person is so diverted from the criminal justice system, the district attorney shall not file charges in connection with the case if the person participates to the satisfaction of the county department and the district attorney in the diversion program offered."

There should be an agreement between the legal system and the CSATP counselor that if the family is assessed as treatable and the family WANTS help that the counselor will set up and explain the diversion program to the family. The counselor emphasizes that the family must: 1) remain in the counseling program until they are officially terminated and 2) participate to the satisfaction of the counselor. Failure to do this will result in the offender being reported and the possibility of criminal charges being filed. Periodic reports are made by the CSATP counselor to a probation officer and/or district attorney concerning the progress of the offender. The above, of course, is a form of reporting, but it is more of a reward to the offender who has the honesty and integrity to seek help rather than trying to hide the problem andignore it.

"(2) The initial diversion shall be for a period not to exceed two years. This diversion period may be extended one additional one-year period by the district attorney if necessary. Decisions regarding extending diversion time periods shall be made following review of the person diverted by the district attorney and the county department."

According to the CSATP manual it takes about 18 months to 2 years to complete the program. Persons who complete the program and are officially terminated may still feel the need to attend the self help groups such as Parents United.

"(3) If the person diverted successfully completes the diversion program to the satisfaction of the county department and the district attorney, he shall be released from the terms and conditions of the program, and no criminal filing for the case shall be made against him."

But the obvious question that may come to mind is, "but what if it happens again?" Part of the answer to that is found in the Oregon statutes ORS 135.886. "(c)...if the offender has previously participated in diversion, according to the certification of the Department of Justice, diversion shall not be offered..." That seems right to me, because if an incest offender has been offered diversion, completed the CSATP and then molests again, even if it is 10 to 15 years later, he has not gained anything from having gone through the program, and he deserves to be treated as a repeat offender, subject to a long jail sentence, with the possibility of a presumptive sentence attached.

The purpose of the CSATP is to restore the offender to health, mend the marital relationship and teach the parents how to be caring and effective. For the victim, the purpose of the program is to break the cycle of victim becomes molestor (according to a professional counselor nearly 90% of the molestors were once victims). The sucess of the CSATP is that less than 1% of the offenders ever repeat the offense and that "child victims treated by CSATP do not persist in self-abusive behavior (promiscuity and other sexual behavior problems, drug and alcohol abuse, marital difficulties, criminal activities etc.) reported by adults who were molested as children and who did not receive individual or family therapy." The above quote was taken from a CSATP fact sheet which was published in November 1984. These statements convince me that incest is not a recurring disease or that the person is a recovering offender, as your letter suggests, but rather can be treated and cured through the use of the CSATP. That is why I feel that if a remolest occurs even 10 to 15 years later that the offender should be prosecuted as a repeat offender because he obviously did not benefit from the CSATP, and could then be classed as not amenable to treatment.

Throughout your letter, I sense a great concern for the safety of Alaska's children, and I, too, am concerned and have spent many hours thinking, researching and considering the needs of both the parents, children, families and jail overcrowding before sitting down to write and share my solutions with you. It appears to me that the state seems to need an iron clad GUARANTEE that the children of this state are going to be safe from repeat occurrances of incestuous molesting. If I have failed to convince you that the CSATP run CORRECTLY AND EFFECTIVELY CAN CURE AN INCEST OFFENDER AND HIS FAMILY AND MAKE THE FAMILY AND HOME ENVIRONMENT A SAFE PLACE FOR THE CHILDREN, then I suggest that your

GUARANTEE be to require the offender to complete the CSATP to the satisfaction of the DA and/or other concerned individuals and then be placed on probation until the youngest child reaches the age of 18.

Attached to the draft, Incest: Family Treatment Model, were several charts. The most interesting and the most bothersome to me was the one that compared the effects of incarceration vs. the effects of treatment on the incestuous family. I will attach that chart to what I am writing here so that you may follow it as you read my comments on it. The chart compares the effects of incarceration to treatment in the following 4 areas: 1) victimized child, 2) family, 3) offender in treatment (or) jail and 4) society. I would ask you to note the results under #4, society: If the offender has been placed in treatment, the state of Alaska OPENLY ADMITS THAT: the family unit is maintained, the offender is under close court supervision, recidivism is less likely, more cost effective than jail, reduces the need for public assistance funds and may I add, for the benefit of the Cleary suit, that it would greatly relieve the jail overcrowding problem. With the legislative cuts, I wonder what sort of plan Commissioner Endell has to present the Judge about how he intends to relieve jail overcrowding. But the answer is so simple that it was completely ignored. I have lost the copy that I sent to him, but what I had outlined was a program of strict probation, which would need to be coupled with mandatory counseling.

I feel that this program is what should be done for those offenders who are presently serving time in jail as I have already outlined what should be done for future offenders.

First, you need to set up an organized system for interviewing the victims and the families of those incest offenders who are in jail. Ask them if they want the offender released. Ask them if he was released if they think the molesting would continue. Such questions as was the victim raped, how emotionally traumatized is the victim, why does the family want to remain together?, (if they do) will cause these families to objectively face some of the real issues surrounding the molestation and provide them an opportunity to think and consider what is in the best interest of first the victim and secondly, the rest of the family. Perhaps, in some cases, rather than releasing the offender immediately into strict probation and mandatory counseling, it would be better to have him go home on a gradual basis. The INDIVIDUAL NEEDS of EACH victim and her family MUST be considered FIRST.

Second, release into a program of mandatory counseling and strict probation those offenders WHOSE FAMILIES WANT them released. If the family does not feel comfortable having the offender released now, but wishes counseling and time to think about it, allow the offender to be released when the family decides they are ready for it.

The offenders who remain in jail should be required to receive mandatory counseling and when released, should be issued a restraining order if the victim and the family do not desire contact with them, until the youngest child is 18.

Third, strict probation for those offenders who are released could include:
1) Weekly or bi-weekly counseling sessions with a professional counselor.
2) Reporting to a probation officer at LEAST once a week.

3) Monthly interviews for the victim and the non-offending parent to ensure that no remolest had occurred. These interviews could be conducted by a social worker and should be taped and made available to the non-offending parent upon request. This would protect the social worker as well as the child.
4) Required of BOTH parents to take parenting classes to be followed up by monthly or bi-monthly counseling sessions to discuss parenting techniques.
5) Required of both parents to take a human sexuality class.
6) If the molestation was brought about because the offender was drinking or taking drugs, he should be monitored by TASK at least until he has completed the CSATP.
7) The offender as well as the victim, the non-offending spouse, and eventually the entire family should be required to complete all phases of the CSATP counseling program. Failure to do this, would, of course, be a violation of probation and would subject the offender to completing the program in jail. HOWEVER, ATTENDENCE AT THE GROUP SELF-HELP SESSIONS SHOULD BE OPTIONAL.
8) The offender should be required to remain on probation until the youngest child reaches the age of 18. This is to ensure to the state that if the offender messes up that he will spend the rest of the time (until the children are grown) in jail.

Going back to the chart that compares treatment to incarceration, look at 'society' under incarceration and these are the results (AGAIN OPENLY ADMITTED TO BY THE STATE): Family unit is destroyed, $31,000.00 per year cost for imprisonment (mandatory 8 year sentence is $248 thousand) PER offender, increased court costs, public assistance costs to support the family. Now since we have the state CLEARLY ADMITTING that treatment is not only better, but cost effective and still protects the child as well as preserving the families, how many more families do they intend to destroy before they will establish an effective treatment program, which the CSATP is?

The Arizona statutes ARS 8-261 provides for a pilot program for family counseling programs. This was set up in 1973, to be terminated in 1977 unless it was reenacted by the legislature. I looked through the statute update and could not determine if the program had been repealed or if it was still going on and have not written to the state of Arizona to find out if the program is still in effect. However, I think that the idea is a really good one. Begin a pilot program using the CSATP, strict probation, diversion and mandatory counseling for incest offenders. Make it retroactive so that you can ease the jail overcrowding problem, and save $248 thousand per inmate. Make this program available to every convicted (or pending conviction for those awaiting trial) person in jail and also for the potential or future molestor. Begin the program in 1986 when the legislature convenes and evaluate its effectives in 1988 or 1990. What have you got to lose?

The other chart that was attached to the Incest: Family Treatment Model draft, that I would like to comment about and is also attached to this proposal is called "Incest Offender Disposition Assessment." It is a comparison of evaluation criteria to decide if the offender (and family) should be put on a treatment program or if the offender should be kept in jail. I think it is very good except for one thing, which is also

my complaint against the presumptive sentence. Point #3 on both sides deals with past criminal record. I think that needs to be clarified. It this is a second or third offense on incest, and perhaps you might even want to extend that to include any sexual offenses, then the offender probably is not amenable to treatment, unless he has never received treatment before. But perhaps that should be argued in the courtroom and not here. However, if the offender committed a burglery, robbery, fraud etc. those types of offenses are not even related to incest and the offender should be offered a chance at the treatment program. I feel that this is more just, and is in keeping with the current statute regarding sentencing of repeat felons.

A judge can't do a thing with the presumptive 8 year sentence; however, if the offender is going to get 15 because he is a prior felon, then the judge can take certain mitigating factors into consideration and can reduce the sentence by half. One of these mitigating factors is that the prior felony is of a less serious nature. I propose that if the prior felony was unrelated to incest or perhaps to any sexual offense, that the offender should have the same chance to get into the treatment program as does a person who has never committed a crime.

I am also attaching with this letter, the CSATP as was developed by Henry Giaretto so that you can clearly understand how the program is suppose to work, and so that you can begin to implement it NOW in this state. Although it is long, please read it carefully. I am told by a local legislator that the state does not have the money to implement treatment programs. I think that the government is either blind or is enjoying wasting our money!

Bettye Fahrenkamp and several other legislators put together a package of bills to toughen up on the child abuse laws. In this package (she sent me one) it said that there are 400 sexual assault cases a year, and Parents United says that 85% of all sexual assault cases are incest. Assuning that this is correct, that would mean that there are 340 offenders who go to jail each year, costing the state, according to the Governor's comparitive chart on treatment vs. jail, $31 thousand EACH to be incarcerated for ONE YEAR; the total cost for one year to house in jail the 340 offenders is $10 million, $540 thousand. Let's not forget that we have a presumptive 8 year sentence for incest offenders. We've got it over 10 million for just ONE YEAR; for 8 years that is $92 million, $320 thousand to incarcerate those 340 offenders. Compare this to the CSATP. I would like to say that all I have been able to get from counselors in this area is a rough estimate, but that estimate is $10 thousand for the entire 2 year program or $5 thousand a year per family. Or for the 340 offenders that is $3 million, $400 thousand to be placed in the program from start to officially terminated. In some cases it only takes 18 months, so it might be even cheaper for some families.

Mat-Su Counseling Center, here in Wasilla wanted to do some sexual abuse counseling so they applied for a grant of $109 thousand. They were cut back to $35 thousand, but were told they were going to get it. And yet Parents United (the volunteer, non-professional, self-help group which is 1/3 of the program) got $42 thousand! The counseling organizations exist; provide them with funding so that in every city in Alaska where an incest offender lives and there are professional counselors available, the CSATP is funded and operable for those families.

If the family's income entitled them to a public defender instead of a private attorney, then the state should provide them with counseling free of charge. The others should be charged on a sliding scale and the state should pay the difference. After all, even if you provide free counseling to EVERY incest offender and his family in the state, you would still be saving considerably, comparing the counseling program to what it costs to house these inmates in the overcrowded jails.

So I suggest to you again to start a pilot program. What have you got to lose? You instead can GAIN (1) the restoration of the family to health, (2) less likelihood of there being a repeat of the offense, and (3) a savings of $89 million.

In my letter to Commissioner Endell as well as in this letter to you, I have outlined how to do this because it is also a solution to the jail overcrowding problem, that the Divison of Corrections is suppose to solve as Judge Serdahely wanted to know what they intend to do about it as a component to the Cleary suit. It is a simple, but I feel, workable solution and I think that every family in this state who is missing a parent because s/he is in jail for incest should be interviewed and asked if they want the offender released into a mandatory treatment program. If the answer is no, the offender stays in jail; if the answer is yes then release the offender on strict probation.

I feel that I have outlined some very basic ideas in both my letter to Commissioner Endell and in this letter, and if you do not feel that they adequately guarantee the safety of children in this state, then I would like to work with you, any probation officers, legislators, counselors, social workers or anyone else to find a WORKABLE PRO FAMILY solution to the problem of incest so that families are restored to health, rather than destroyed and fragmented.

I sincerely hope that I am not ignored, laughed at, or my letter is thrown in the trash can. If I have not objectively looked at this from every angle and you feel that my solutions contain loopholes, I would like very much to hear from you.

I think that Mr. Giarretto's program is inspired, cost effective and could reduce the amount of money it now takes to operate the jail system in this state.

I look forward to hearing from you at your earliest convenience and working with you to implement these programs. Thank you for considering my ideas.

Sincerely,

Lynette Drumbarger

cc: Any interested Alaskan

VOCAL
General Delivery
Wasilla, Alaska. 99687

Incest Offender Disposition Assessment

Evaluation Criteria Indicating Community Treatment:

- No physical force or threats of harm to victim
- Regressive behavior rather than chronic sexual fixation on children
- No other criminal record
- Offender takes responsibility for offense
- Offender concerned about impact on victim
- Offender genuinely distressed about his behavior
- Offender has dependable social and occupational skills
- Offender doesn't evidence other major psychopathology (psychosis, retardation, alcoholism, severe depression, organic brain dysfunction, etc.)
- The victim is assured protection and safety
- The mother is willing to invest emotional support to the child
- A treatment program exists
- There is consensus among child protective services workers, civil court and superior court that the offender and family are amenable to treatment

Evaluation Criteria Indicating Incarceration:

- Offender used threats or actual violence in committing offense
- Offender has chronic sexual fixation on children with progressive increase in aggression over time.
- Offender has multiple chronic difficulties with the law
- Offender continues to deny or minimize offenses or projects responsibility for behavior (such as blaming the victim or his state of intoxication
- Offender continues to be more concerned about consequences on himself than the victim
- Offender incapacitated victim with alcohol or drugs
- Offender used bizarre or ritualistic acts
- Offender forced victim into prostitution or pornographic activities
- Incestuous behavior compounded by evidence of serious psychopathology (psychosis, substance abuse, organic brain dysfunction)
- Multiple types of indiscriminate sexual activity evidenced by offender (such as exposing, peeping, sexual contact with animals, fetishisms, etc.)

Effects of Prosecution/Treatment Model

Victimized Child

Child is Protected
- °offender is out of home
- °or child is in substitute care

Lessens guilt for reporting
Immediate therapeutic support
Strengthens mother/child bond
Peer support
Less likely to recant

Family

Potential (hope) for intact family
Therapeutic Support
Less disruption of family unit
Husband continues financial support

Offender in Treatment:

Prosecution takes place
More likely to admit guilt
Will enter therapeutic process willingly and earlier
Receives support to change
Recidivism is less likely
Can continue employment
Can continue to support family
Can participate in the cost of treatment

Society:

Family unit is Maintained
Offender is under close court supervision
Recidivism is less likely
More cost effective than prison
Reduces need for public assistance funds

Effects of Prosecution/Punishment Model

Victimized Child

Child is Protected
- °offender is in prison
- °child may be in substitute care

Increases guilt for reporting
Older victimized child less likely to report (aware of consequences)
Increases guilt for father's imprisonment
Revictimization by court process
Blamed by mother and other family members for breakup of family
Isolation from family and peers
Increased possibility for acting out behavior
More likely to recant

Family

Reduced likelihood that family will reunite (pessimism)
Polarizes spouse to choose between victim and offender
Increased disruption and instability
Family loses financial support and may become dependent on public funds

Offender in Prison:

Prosecution takes place
More likely to intensify denial, justification, minimization, blame
Motivation to change lessened
Offender's self worth further reduced
Pathological behavior subsides only to reappear on release
Greater alienation from society
Recidivism is more likely
Treatment solely at state expense

Society:

Family unit is Destroyed
Offender is incarcerated and society is protected
Recidivism is more likely
$31,000 per year cost for imprisonment (5 years minimum)
Increased court costs
Public assistance costs to support family

INSTITUTE FOR THE COMMUNITY AS EXTENDED FAMILY
P.O. Box 952, San Jose, California 95108 (408) 280-5055

CHILD SEXUAL ABUSE TREATMENT/TRAINING PROGRAM FACT SHEET

The Child Sexual Abuse Treatment Program (CSATP) of Santa Clara County, California, started in 1971, by Hank Giarretto, Ph.D., has provided in-depth professional and self-help treatment to more than 6,000 sexually abused children and their families. Over 16,000 individuals have been served, many more than by any other single organization in the nation. In 1977, the CSATP staff began to conduct regularly scheduled training workshops which thus far have resulted in the establishment of 140 additional CSATPs in the U.S., Canada and Australia.

A CSATP is made up of three components: The first consists of the integrated interventions of the professional law enforcement, criminal justice and human services agencies; the second consists of the self-help groups known as Parents United, Daughters and Sons United and Adults Molested as Children United; and the third consists of the cadre of trained volunteers. The persons representing these components work cooperatively for the child-victim's best interests, i.e., with the common understanding that this objective is satisfied, in the majority of cases, if the child can be returned to his/her family—a family headed by parents who have been taught to be caring and effective.

Key features and results of the Santa Clara County CSATP approach are:

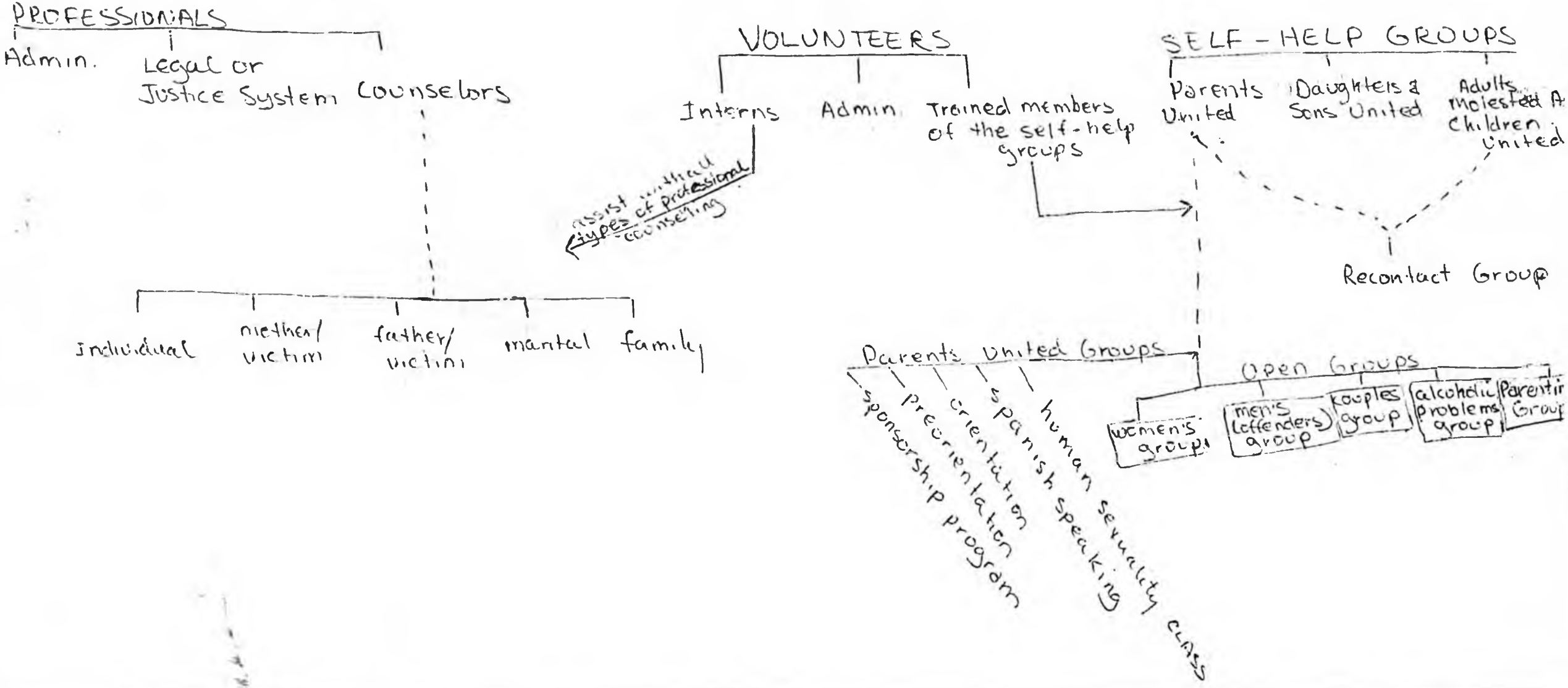
- The intensive public education effort encourages victims and their parents to report abusive situations. The annual referral rate has increased from 30 cases in 1971 to over 1,000 cases in 1984. (The current active caseload averages 1,000 individuals.)
- Repeated interrogation of the child is avoided since about ninety percent of father-offenders confess their sexually abusive behavior to the authorities.
- Over ninety percent of the children avoid foster or institutional placement and remain with their mothers and siblings (father-offenders are given no-contact orders and leave their home).
- After long term therapy, father-offenders are returned to their homes only if they are deemed both physically and psychologically safe for their children.
- The reported recidivism rate among father-offenders who have been treated has remained at less than one percent.
- Child-victims treated by CSATP do not persist in the self-abusive behavior (promiscuity and other sexual behavior problems, drug and alcohol abuse, marital difficulties, criminal activities, etc.) reported by adults who were molested as children who did not receive individual and family therapy.
- The CSATP method is cost-effective:
  a. Typically, a CSATP is coordinated by personnel in existing official agencies (child protective services, mental health agencies, probation and police departments).
  b. Due to the use of volunteers, especially in the crisis stages, the cost to the community for client contacts is very low (less than $3 per contact-hour).
  c. Most of the families are reconstituted and, therefore, the community is not saddled with costs of foster home and institutional placements and welfare payments.
  d. Because most of the fathers confess (about 90%), the costs due to prolonged court proceedings are sharply curtailed.
  e. The fathers usually are rehabilitated within the community and do not receive long prison sentences. Those serving short jail sentences are placed on work furlough. The county and the state, therefore, avoid the high costs of incarceration and of family upkeep.
  f. Since the fathers continue to work, there are no losses in federal and state tax revenues due to unemployment.

Above all must be stressed the ability of the CSATP to induce children and their parents to report the abusive situations and to treat them successfully. From a humane viewpoint, it is immensely gratifying to note that the children will not suffer lifelong devastation from the incestuous experience. From a social health viewpoint, it is also rewarding to realize that when treated early, abused children are not likely to become the future social derelicts and/or criminals of society, as attested to by recent studies indicating that about eighty percent of our prisoners were physically, and/or sexually abused as children. A detailed description of the principles, methods and results of the CSATP is given in the book, "Integrated Treatment of Child Sexual Abuse" by Dr. Giarretto.

MARCH 1985

This chart outlines or diagrams Chapter 4 "The Integrated Psychosocial Approach" from the CSATP manual

Child Sexual Abuse Treatment Program (CSATP)



Treatment Premises Regarding the Incestuous Family

From the working principles of humanistic psychology tested by firsthand experience with incestuous families, the following major premises regarding the interpersonal dynamics of the families were developed and are fundamental to the treatment approach.

1. The family is viewed as an organic system. Family members assume behavior patterns to maintain system balance (family homeostasis).
2. A distorted family homeostasis is evidenced by psychological and/or physiological symptoms in family members.
3. Incestuous behavior is one of the many symptoms of a dysfunctional family.
4. The marital relationship is a key factor in family organic balance and development.
5. Parent–child incestuous behavior is not likely to occur when parents enjoy mutually beneficial relations.
6. High self-concepts in the mates is a prerequisite for a healthy marital relationship.
7. High self-concepts in the parents help to engender high self-concepts in the children.
8. Individuals with high self-concepts are not apt to engage others in hostile, aggressive behavior. In particular, they do not undermine the self-concept of their mates or their children through incestuous behavior.
9. Conversely, individuals with low self-concepts are usually angry, disillusioned, and feel they have little to lose. They are primed for behavior that is destructive to others and themselves.
10. When such individuals are punished in the depersonalized manner of institutions, the low self-concept/high destructive-energy syndrome is reinforced. Even when punishment serves to frustrate one type of hostile conduct, the destructive energy is diverted to another outlet or turned inward.
11. Productive case management of the molested child and her family includes therapeutic procedures that alleviate the emotional stresses of the experience and the resulting punitive action of the community and that enhance the processes of self-awareness and self-management, as well as feelings of family unity and growth.

General Delivery
Wasilla, Alaska 99687
February 21, 1986

Dear Judiciary Committee Members:

I have a tape of the teleconference on House Bill 354 which I have listened to again and would like to make comments on it.

The women in Bethel, specifically Diane Carpenter seemed concerned that before this bill could be passed that rehabilitation programs needed to be established. Especially she seems critical of incest offenders and sexual assault offenders, as does Leslie Iron Mat-Su.

For that reason I am enclosing a letter that I wrote to the Governor which contains a CSATP attachment which explains the Giarretto model. I especially call your attention to the CSATP fact sheet (a diagram of how the entire program should be operating is on the back) and to page XIV, which immediately follows the fact sheet--the part titled "California State Assembly Bill 2208" as well as the next 2 pages 6 & 7, which starts with "The Problem". That problem exists in this state also:

1) Methods used by the criminal justice system to handle incest cases:
   (a) separation
   (b) punishment
   (c) interest in child and family stops after the father's conviction has been obtained
   (d) break up of family unit i.e. divorce

2) Counseling

On a personal note, my husband and I have tried to get counseling for 5 years: (a) a year before the arrest (b) during the prosecution period and (c) while a private attorney was filing an appeal. The private attorney told us that he could not advise us to get counseling (in fact he advised against it) because whatever my husband would say to the psychologist could be used against him in a trial.

If you will read the CSATP fact sheet you will note that the recidivism rate for this program is less than 1% and that child victims treated by this method do not persist in promiscuity neither do they have drug, alcohol or marriage difficulties as do victims who do not receive treatment.

I feel that this program needs to be established in its entirety across the entire state. (Only 1/5 of it--Parents United--is in operation.) It is only when the entire program is used that recidivism can be as low as the fact sheet declares it to be: less than 1%.

The doctor, Anthony Hance (?) from Juneau who is a sexual assault therapist and who testified at the Feb. 21st teleconference said that the Worse offenders, the repeaters or the most dangerous sexual assault offenders and he specifically said he was NOT speaking about 1st time offenders, had a repeat rate of 10-15%. It seems like we would draw a logical conclusion that a father (because he also said that the child molestor in most cases was also a good prospect for rehabilitation) who is an incest offender and a first time offender would not only be a good prospect for rehabilitation but would also be less likely to ever re-offend. I think that in the WORST and MOST DANGEROUS sexual assault offenders have a recidivism rate of 10-15% that it would be consistent to say that 1st time incest offenders would have a recidivism rate of less than 4% as the fact sheet states.

Mr. Hance (?) also said that other states gave long jail sentences unless the offender opted for a 2 year stay in a hospital in an in-patient facility followed by a relatively long term out-patient program and closely monitored probation period. I have been told that an excellent program of this type is in Oregon at the Oregon State Hospital in Salem. If Mr. Hance (?) has information on this program I would like to read it as I feel that this would do a great deal to help protect the children (an incest offender is generally a non-violent offender who is not a danger to society as a whole, but who needs to be taught to relate his love to his children in a healthy "normal" way so that he is not a danger to his family, and yet keep the family intact instead of destroying and fragmenting it which unfortunately happens in so MANY cases.

The chart before the fact sheet called Treatment vs. Prosecution was sent to me by Governor Sheffield and I hope you will take note that it admits that the effects of jail are generally destructive to those families troubled by incest and heaps on the victim continued abuse!

I am writing these things because you seemed to gather a great deal of criticism for HB 554, especially from the Bethel people, that the bill was premature because rehabilitation programs do not yet exist. They were especially critical of the sexual assault/incest offenders.

The members of YCCL strongly maintain that incest and sexual assault offenses are such distinct and different crimes that they need to be treated as separate crimes and that especially incest offenders, who have families who want to maintain the family relationship need the CSATP to help them.

If you decide to agree with the people in Bethel and begin to concentrate on rehabilitation programs for sex offenders, I ask you to please consider the enclosed CSATP ~~one~~ which SUCCESSFULLY operates in Calif., and has since 1971. It is for this reason that I have enclosed the CSATP information along with my ideas to incorporate it in this state. Due to the length of this information, it costs me nearly $5.00 a set to have them xeroxed and so I have enclosed only one. I hope that you are able to have it copied if you need additional copies. Also, if you are able to provide a copy to Dr. Hance (?), I would really appreciate it. I agree with everything he said and would appreciate his comments on the letter I wrote as well as on the CSATP itself.

(3)

Two more questions have come to mind since the teleconference:

1) Sec. 11 AS 33.15.180(a) on page 5--are you allowing 2nd and 3rd time offenders a parole option after 1/3 of their time is served? In other words would a 2nd time class A felon who gets a 9 year presumptive sentence, be allowed parole in 3 years if the parole board decided that he should? and

2) Some of my friends who could not make it to testify at this teleconference, and who were not in the legislative information offices would like to testify at the next teleconference. Is the next teleconference on this bill going to be for the general public or is it limited to just the people who attended the last teleconference, but didn't get to testify?

Please let me know and also on behalf of Al Sharp, myself and the other inmates, wives and supporters of VOCAL, we would all like Mr. Bloksin to know that we admire his courage in introducing such a controversial bill which would greatly aid in the restoration of families instead of their destruction. I asked my representative last year to do the same, and he refused, and so even though I cannot vote for you because I live in Wasilla, I thank you for introducing this bill.

Sincerely,

Lynette Drumbarger

Lynette Drumbarger

HB554

4/1/86

Lynnette Dumbarger -
sent ref.
child sexually Treatment program
by Henry Diolette -

only has less than 1% recidivism rate

diff for ord in jail to get counsel
only place in S Central Regional Center
run by guards, not counselors

counselors $90 p/hr - $80 at discount
in advance -

offenders victims family get counseling,
but not offender.

can't get counseling for 3 years possibility
of another trial - confidentiality law

Palmer highest paid inmate can't
afford counseling price

need sliding scale for counseling

offenders family need counseling as well as
victims family

File

JAN 24 1985

Alaska State Legislature

House of Representatives

RECEIVED
JAN 23 1985

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 23, 1985

Mrs. Brenda D. Palmer
4941 Wren Drive
Juneau, Alaska 99801

Dear Mrs. Palmer:

Thank you for your letter concerning Alaska's presumptive sentencing law.

Your comments have merit and I have taken the liberty of forwarding a copy of your letter to the House Judiciary Committee which is chaired by Representative Mike Miller of Juneau.

Please do not hesitate to contact me on any other matters of concern to you.

Sincerely,

Representative Jim Duncan

Mrs. Brenda D. Palmer
4941 Wren Drive
Juneau, Alaska 99801
Ph. 789-0772

January 7, 1985

Mr. Jim Duncan
Alaska State Legislator
P. O. Box 690
Juneau, Alaska 99802

Dear Mr. Duncan;

I am writing to you in regards to my husband Theadore R. Palmer, who was sentenced on October 25th, 1984 to a five year prison sentence by Superior Court Juder Walter Carpeneti. Judge Carpeneti imposed a five year sentence with one year suspended, to be served on probation. Ted was sentenced pursuant to the presumptive sentence laws of this state, Alaska Statutes AS 12.55.125-AS 12.55.175. My husband had two prior felony convictions and therefore he was subjected to a three year presumptive sentence for the class C felony that he was convicted on. My husband was also found not guilty of four burglarys during this same trial.

There was a co-defendant in this same case who had plead no contest to the thefts and also the burglarys that occurred on Colt Island in June of 1983, his name is Gerald Tauscher. Gerald Tauscher plead no-contest to these charges on July 25, 1983. He was also subjected to the presumptive sentencing laws of this state and he was also out of the Oregon State Prison on a seven (7) year parole. Mr. Tauscher plead no contest to these charges in July of 1983 and after just ~~a few days of~~ his no-contest plea he was allowed to be released from jail on a third party O.R. Gerald Tauscher was in his middle 40's and has an extensive felony ~~record of~~ twenty two (22) seperate felony convictions, the State of Oregon had not even put a parole hold upon Mr. Tauscher even after he was convicted of these charges on his no-contest plea of July 1983.

When it came time for Judge Carpeneti to sentence Gerald Tauscher for the class B and class C felonies, Mr. Carpeneti found that it would be manifestly unjust to sentence Gerald Tauscher to the presumptive thirteen (13) year prison sentence and Judge Carpeneti further found extraordinary circumstances in his case pursuant to AS 12.55.165 and referred Tauscher to a three Judge Sentencing panel. Tauscher was free for over a year awaiting sentencing. When the three Judge sentencing panel did sentence Gerald Tauscher, they gave him a nine(9) year suspended sentence, placed him on probation for five (5) years, and required him to spend four (4) months in jail. The jail term is to be served in the following manner, 60 days to be served starting December 1st,1984 and end on February 1985, and 60 days to be served starting December 1st, 1985, and end on February 1986. It is also important to note that in Gerald Tauschers case, the court had found that there were five (5) aggravating factors and no (0) mitigating factors. In my husbands case, the court only found three (3) aggravating factors, but also the court found one (1) mitigating factor, plus my husband was found not guity of the Colt Island burglarys and was in fact found guilty of a lessor degree felony than Tauscher was. Another thing that is important to note in my husbands case is that my husband helped the Alaska State Troopers recover almost

3/6/86

A SHORT NOTE

HOUSE OF REPRESENTATIVES
HOUSE JUDICIARY COMMITTEE

Subject HB 554

ON behalf of Those Serving Time UNDER The Presumptive LAW.

If the Principles of INCARCERATION ARE To PROVIDE ALASKA Prisoners with CONSTRUCTIVE rehabilitation, Than ANY NOTIONS of VINDICATING harsh PUNISHMENTS while dropping rehabilitation efforts ARE Counter-Productive Theories.

ACCORDINGLY, UNDER OUR OWN ALASKA Constitution, IT STATES, "THAT PENAL Administration SHALL be based ON The objectives of Reformation" This by itself, JUSTIFIES ANY reasoning behined repealing ALASKA'S Presumptive SENTENCING LAWS for FIRST-TIME offenders.

THANK YOU

Respectfully,
Frank Turney
Prisoner ADVOCATE

INSIDE IS A LETTER To the EDITOR regarding this HB 554

456-7362

APR - 2 1985

April 15, 1985

To Whom It May Concern:

I'm writing you in concern with the presumptive sentence that is now in effect. My main concern is that you are judging all First Degree Sexual crimes together when all crimes are different and should be judged as such.

To say that a person who has assaulted an older woman, anywhere from 20 yrs. and up and a person who has assaulted a child are not in the same category. The person who assaulted the child has definitely some kind of problem and should be given treatment. Where as in the other case, it could be more of a disagreement between the two people involved, and the sentence should reflect the circumstance surrounding the case. The judges should have the authority to discriminate between the two. He should be able to take the facts surrounding the case and decide how serious the crime is. This is the judge's job in the judicial system.

As in my case, I was picked up by a girl at a bar in Spenard and she drove us to my apartment. She says one thing happened and I say something different. Well, the D.A. took me to trial twice on this same charge with no new evidence. The first time, the jury decide 7-5 in my favor, and the second trial I was found guilty through Mr. Rothschild"s theatric characteristics.

Now, I'm awaiting a 8 year prison term for my first crime without any recourse in 28 years of my life. I have been in Alaska since 1968 and have no prior arrest record, with a very good work history. What I'm saying is that to judge me with this presumptive sentence is unjust. To take me out of society for 8 years will harm me more than anything.

I see the presumptive law as warhousing criminals and not rehabilitating them. Please give this some thought for other people who might have the same circumstances as me!

Larry A. Dely Jr.

Larry A. Dely Jr.
C.I.P.T.
P.O.Box 103155"L"
Anchorage, Ak.
99510

LETTERS IN OPPOSITION

SUSITNA

BUSINESS AND PROFESSIONAL WOMEN'S CLUB
P.O. BOX 104832 ANCHORAGE, ALASKA 99510

April 21, 1986

Don Clocksin, Chairman
House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, AK 99801

Re: House Bill 554 - Presumptive Sentencing

Rep. Clocksin:

The members of Susitna BPW are against passage of the referenced bill.

This bill, the members feel, gives the first offender too much of an advantage while the victim is most disadvantaged, not only in that the victim has been traumatized, but that the guilty person may very well not suffer any penalty whatsoever.

We feel that the bill, as written, gives judges a very limited choice of penalties that lean heavily toward benefit to first offenders, whether or not those offenders are guilty of misdemeanors or felonies.

Further, this is a bad time, financially, to suggest that more parole officers be hired to see that offenders on parole or probation are adhering to the provisions of their freedom.

Yours very truly,

Georgia Eastlund

Georgia Eastlund, Chairman
Legislative Committee

cc: Mike M. Miller
Robin Taylor
John Sund
Max Gruenberg
Fritz Pettijohn
Randy Phillips

Fairbanks
North
Star
Borough

Mayor: Juanita Helms

March 10, 1986

Honorable Don Clocksin
Alaska State Legislature
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Dear Representative Clocksin:

The Fairbanks North Star Borough has reviewed HB 554, which addresses presumptive sentencing for certain felony crimes. We recognize the need for a means to reduce overcrowding the state jails. However, to be acceptable, any reduction in presumptive jail terms should be replaced with a suitable alternate sentence. We have investigated one alternative that may be suitable for some offenses, described in the attached program outline. The concept of Community Work Service has received support from the Fairbanks City Council, the Fairbanks North Star Borough Assembly, and the Greater Fairbanks Chamber of Commerce Board of Directors as shown in the attached resolutions.

While the program described is a locally run program, we subsequently held discussions with the Department of Corrections and the Department of Law's Pretrial Diversion Program, and currently feel the best way to implement such a program is through expansion of the current Pretrial Diversion Program. Such an expansion would require additional funding for both administration of the program and for direct supervision of the work performed. The direct supervision is essential to the success of this type of program, and could be contracted to an organization to avoid adding positions to the state payroll.

P.O. Box 1267 Fairbanks, Alaska 99707 (907) 452-4761

In summary, the Fairbanks North Star Borough urges you to consider such a program as a means of reducing overcrowding in the jails and would lend its support to a substitute measure including community work service in place of the reduced jail term.

Sincerely,

Juanita Helms

Juanita Helms
Borough Mayor

JH:rlf

Attachments

cc: Interior Delegation
Representative Albert Adams, Chairman, House Finance Committee
Senator Jan Faiks, Chairman, Senate Finance Committee
Representative Max F. Gruenberg, Jr., Co-chairman, House Health, Education and Social Services Committee
Senator Patrick Rodey, Chairman, Senate Judiciary Committee
Linda Anderson, Legislative Liaison

Introduced by: Council Member Whitney
Date : January 13, 1986

RESOLUTION NO. 2740

A RESOLUTION SUPPORTING COMMUNITY SERVICE WORK.

WHEREAS, overcrowding in Alaska's jails is becoming a problem of critical proportions; and

WHEREAS, for certain types of crimes, community service may be an appropriate alternative to jail time; and

WHEREAS, community work service programs can provide needed services to the community in addition to reducing incarceration costs to local and state agencies; and

WHEREAS, in this period of declining state and federal revenue income, programs which will result in long-term cost savings need to be implemented; and

WHEREAS, the Fairbanks North Star Borough proposes to operate a Community Service Work Program provided that start-up funds may be made available from the State of Alaska;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that they endorse and support the concept of a Community Work Service Program to be operated by the Fairbanks North Star Borough; and

BE IT FURTHER RESOLVED, that the Fairbanks City Council recommends that the Alaska State Legislature supports and funds this program; and

BE IT FURTHER RESOLVED, that the Fairbanks City Council requests the Alaska State Legislature to explore possible legislation to permit structured community service in lieu of mandatory jail time for certain offenses.

PASSED and APPROVED this 16th day of January, 1986.

Bill Walley

BILL WALLEY, Mayor

ATTEST:

Helen B. Green

HELEN B. GREEN, Acting City Clerk

By: Juanita Helms
Introduced: 12/19/85
Adopted: 12/19/85

RESOLUTION NO. 85-099

A RESOLUTION SUPPORTING COMMUNITY WORK SERVICE

WHEREAS, overcrowding in Alaska's jails is becoming a problem of critical proportions; and

WHEREAS, for certain types of crimes, community service may be an appropriate alternative to jail time; and

WHEREAS, Community Work Service Programs can provide needed services to the community in addition to reducing incarceration costs to local and State agencies; and

WHEREAS, in this era of declining State revenues, programs which will result in long-term cost savings need to be implemented; and

WHEREAS, the Fairbanks North Star Borough proposes to operate a Community Work Service Program, provided that start-up funds are available from the State of Alaska.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Assembly endorses and supports the concept of a Community Work Service Program operated by the Fairbanks North Star Borough; and

BE IT FURTHER RESOLVED that the Fairbanks North Star Borough Assembly recommends that the Alaska State Legislature support and fund this program; and

BE IT FURTHER RESOLVED that the Fairbanks North Star Borough Assembly requests the Alaska State Legislature to explore possible legislation to allow structured community service in lieu of mandatory jail time for certain offenses.

PASSED AND APPROVED THIS 19TH DAY OF DECEMBER, 1985.

Sandra Scott Stringer
Presiding Officer

ATTEST:

Nona Lisa Shuler
Clerk of the Assembly

Fairbanks
North
Star
Borough

Mayor: Juanita Helms

COMMUNITY WORK SERVICE PROGRAM

FAIRBANKS NORTH STAR BOROUGH

DECEMBER 1985

P.O. Box 1267 Fairbanks, Alaska 99707 (907) 452-4761

WHAT IS COMMUNITY WORK SERVICE?

Through Community Work Service Programs (CWSP), persons convicted of minor crimes are sentenced to perform useful service to the community instead of spending time in already crowded jails. Upon sentencing by the Court System, these persons are directed to the program office where they are scheduled to perform their required number of hours. Some sentences can be structured such that any hours not completed by a stated deadline must be served in jail. This eliminates the need for extensive follow-up. Community Work Service sentencing is appropriate for cases such as shoplifting, driving while intoxicated, littering, and other minor non-violent crimes.

HOW CAN COMMUNITY WORK SERVICE BENEFIT THE COMMUNITY AND THE STATE?

In this era of declining State revenues, innovative cost saving measures must be examined. Conditions in Alaska's jails are reaching crisis proportions. Overcrowding can be solved by construction of new facilities, however this is costly and time-consuming. Currently it costs the State of Alaska and the City of Fairbanks over eighty-five dollars a day to keep a prisoner in Fairbanks Correctional Center. Misdemeanants can be incorporated into a Community Work Service Program for about twenty-five dollars a day.

This year, the City of Fairbanks Police Department is anticipating a budget shortfall as a result of the expiration of their contract with the Fairbanks Correctional Center for the housing of City prisoners. With this expiration, the cost to the City unexpectedly increased from twenty-seven dollars per prisoner per day to over eighty-five dollars. CWSP would be an appropriate alternative to jail time for many City violations, thus reducing the City's incarceration costs.

In addition to the direct cost savings to the City and the State, the Fairbanks North Star Borough and other local agencies would benefit by using CWS labor to perform needed services to the community for which revenues are not available. Examples of tasks which could be performed by CWS labor are: litter pickup, weeding and watering of flowerbeds, painting of picnic benches and playground equipment, snow shoveling for the elderly, removing brush from ski and dog-mushing trails, major cleaning of public facilities such as swimming pools and ice arenas, and preparation of materials for mass mailings. Most of these tasks are services which would not otherwise be provided; therefore CWS labor would supplement rather than replace existing jobs. An additional benefit of CWS is that improved levels of maintenance in public facilities can increase facility life and therefore decrease need for capital funds for replacement or renovation of facilities.

WHAT IS THE HISTORY OF COMMUNITY WORK SERVICE PROGRAMS IN FAIRBANKS?

The need for a Community Work Service Program has evolved over the past several years as a result of other programs which have grown to unwieldy size. In the summer of 1982, a Litter Abatement Program was developed for the Fourth Judicial District in a cooperative effort by the Alaska State Troopers, the Fairbanks Police Department, the Alaska Department of Environmental Conservation, the Fairbanks North Star Borough Division of Environmental Services, and the Court System. Under this program, the Troopers and the City Police made an active effort to cite litter offenders. The Court System then referred these offenders to the FNSB Environmental Services Division to participate in litter pickup.

Soon, however, the judges started referring more than just litter offenders to the program. By the end of the summer of 1983, more offenders were referred to the Environmental Services Division than could be supervised by the existing staff. Early in 1984, the Greater Fairbanks Chamber of Commerce formed a Beautification and Litter Control Committee. Under the auspices of this committee, a temporary supervisor was hired to direct court referrals during the summer of 1984. These persons were used primarily for beautification and litter pickup projects. During the summer of 1985, the Fairbanks North Star Borough and the Beautification and Litter Control Committee hired a student intern from the University of Alaska to utilize court referred participants in beautification projects.

While these various programs have provided useful service to the community, they are at best a temporary stopgap to deal with a fulltime, year-round problem. As a result, the community and in particular, the Beautification and Litter Control Committee began to look for alternative methods to meet the needs of misdemeanants sentenced to community service, as well as to tap this large potential labor resource for appropriate community projects. By this time, the Municipality of Anchorage had developed a highly successful Community Work Service Program. Using this program as a guide, the outline for a Fairbanks CWSP was developed.

HOW WOULD THE COMMUNITY WORK SERVICE PROGRAM BE STRUCTURED?

The Community Work Service Program will be operated by the Fairbanks North Star Borough Parks and Recreation Division. Initially, a program director will be hired to finalize the details of the CWSP operation. This director will establish the necessary working relationships with the Court System and the City and State Prosecutor's offices. Upon initial implementation of the program, a minimal staff will be hired, a secretary and a work service supervisor.

The secretary will be required to answer phone calls, process paperwork, and make initial contact with the work service participants. Initially both the program director and the work service supervisor will spend most of their time in the field supervising workers. As the number of participants increases, more supervisors will be hired to handle the work load. In addition, public facilities may provide supervisors who will be trained by the CWSP in order to direct crews of work service participants.

Misdemeanants would be referred to the CWSP by the judges and magistrates, as well as by Pre-trial Diversion services. Upon initial contact with the program, the participants will be assigned a specific date to commence their service. Screening will be conducted at the beginning of their first day of work. Complete records of hours worked will be maintained for each participant. Follow-up contacts of participants who have not completed their assignments will be provided by the CWSP employees. Reports on each participant will be provided to the Court System when the hours are completed or the participants are disqualified from the program. Reasons for disqualification will include: fighting, possession or use of alcohol or drugs while working, refusal to follow orders, health problems, or repeated absences.

If the necessary agreements are instituted, the State of Alaska and the City of Fairbanks will be billed monthly for supervision and processing charges for each person sentenced to the program in lieu of jail time. These revenues will accrue to the General Fund of the Fairbanks North Star Borough until they are appropriated to the Community Work Service Program to cover the program

expenses. This method of charging will allow the flexibility for the program staff to be expanded or contracted as demand warrants. In addition, participants could be charged a $20 per person processing charge to defray some of the costs of the program.

WHAT RESOURCES ARE REQUIRED FOR THE COMMUNITY WORK SERVICE PROGRAM?

Although the ultimate goal of this program is to be self-supporting, funds to cover the start-up will be required. This funding proposal reflects the cost of a "bare-bones operation for the final four months of FY86, and for the entire FY87. The attached budget reflects the salaries of three employees (program director, work service supervisor, and secretary), commodities, and contractual services. In order to eliminate the need for immediate capital expenditure, the Fairbanks North Star Borough will provide hand tools for use by the participants, and surplus vehicles for transporting participants.

COMMUNITY WORK SERVICE PROGRAM BUDGET
MARCH 1, 1986 - JUNE 30, 1987

Personal Services (three employees)	$155,660
Commodities (office supplies, fuel, auto parts)	5,800
Contractual Services (communications, travel, auto repair)	5,000
Capital Outlay	0
Grant Indirect Charges	8,945
TOTAL	$175,405

Requested revenues:

CITY OF FAIRBANKS GRANT	$80,000
STATE OF ALASKA GRANT	$95,405

Other possible sources of revenues:

Processing charge - $20 per person paid by participants
City and State payments for sentences in lieu of jail time

RESOLUTION #3-385

RESOLUTION PERTAINING TO A FAIRBANKS COMMUNITY WORK SERVICE PROGRAM

WHEREAS, overcrowding in Alaska's jails is becoming a problem of critical proportions; and

WHEREAS, for certain types of crimes, community service may be an appropriate alternative to jail time; and

WHEREAS, Community Work Service Programs can provide needed services to the community in addition to reducing incarceration costs to local and State agencies; and

WHEREAS, in this era of declining State revenues, programs which will result in long-term cost savings and which will eventually be self-supporting need to be implemented; and

WHEREAS, the Fairbanks North Star Borough Administration proposes to operate a Community Work Service Program and is requesting $188,200 in start-up funds from the State of Alaska for this program,

NOW, THEREFORE BE IT RESOLVED, that contingent on Fairbanks North Star Borough Assembly approval, the Greater Fairbanks Chamber of Commerce endorses and supports the concept of a Community Work Service Program operated by the Fairbanks North Star Borough; and

BE IT FURTHER RESOLVED, that the Greater Fairbanks Chamber of Commerce recommends that the Alaska State Legislature support and fund this program.

DATED THIS 15 DAY OF March, 1985.

GREATER FAIRBANKS CHAMBER OF COMMERCE BOARD OF DIRECTORS

By _____

Title President and Chief Executive Officer

AND

By _____

Title Chairman of the Board of Directors

ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET • ANCHORAGE, ALASKA 99507-1599
TELEPHONE (907) 786-8500

TONY KNOWLES
MAYOR

BRIAN S. PORTER
CHIEF

March 20, 1986

The Honorable M. Mike Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Miller,

I felt compelled to write to you and express our department's position on House Bill 554. We oppose this Bill. The Alaska Association of Chiefs of Police is also opposed to this proposed legislation.

H.B. 554 totally unbalances a criminal sentencing structure that was written to create uniform, fair but firm treatment of criminal offenders.

I have heard Representative Clocksin state that our current sentencing laws do not protect the public nor rehabilitate offenders as is required by our Constitution, thus this proposal. H.B. 554, it would appear, is designed to reduce sentences in almost all categories of crime.

Article 1, Section 12 of the Constitution of Alaska states ..."Penal administration shall be based on the principle of reformation and upon the need for protecting the public". The commentary following this statement discusses these principles in terms of goals and objectives not absolutes. The problem, though, is that <u>if</u> we are not rehabilitating, we would be <u>knowingly</u> failing in the protection of the public by shortening sentences. That, it would appear to me, would be unconstitutional. It should not be necessary to state that when a violent or habitual criminal is isolated, the public <u>is</u> being protected.

I have heard Representative Clocksin state, in effect, that persons released from jail in Alaska are more dangerous than before they entered. This I firmly doubt. All the studies I've seen can state only one predicator with certainty, and that is that people tend to reduce active antisocial behavior and violence with age, i.e. the longer a violent person is incarcerated the <u>less</u> likely he is to be a threat to the individual safety of others upon release.

The total provisions of H.B. 554 would remove presumptive sentencing in first offenses from <u>all</u> felony crimes except Murder 1 and Murder 2. It would further eliminate presumptive sentencing second and subsequent Class B and C felony crimes. The Bill adds to the few remaining presumptive sentences the mitigators that the sentencing judge must consider reduction of sentence for those "under 25 years of age" and those who demonstrate "sincere remorse".

As previously indicated and certainly evidenced recently in Alaska, violence is a product of youth. "Sincere remorse", I would submit, is impossible to determine and merely fodder for future defense motions and appeals. Youthful thespians would have an automatic sentence reduction. I have heard that the term "appears amenable to treatment" has been suggested as an additional or replacement mitigator. This term has the same inherent defects as "sincere remorse", and, not really facetiously, how could we ascertain that one is amenable to a function we can't perform?

Let's face it. This Bill is an attempt to reduce the operation costs of the State. There are alternatives in place, in the pipeline and yet to be tried that should occur before we merely throw up our hands and throw open the jail doors.

The fact is we are beginning to see a leveling of most serious offenses. No one could have predicted the explosion of sexual assault/incest cases we've experienced in the last few years, but [illegible] will peak. It could well be that our current sentencing structure has affected this leveling. Let's give it a chance and not throw the baby out with the bath-water.

Sincerely,

Brian S. Porter

Brian S. Porter
Chief of Police

BSP:vka

Soldotna Police Department
P.O.Box 2499
Soldotna - Alaska 99669

Duane Udland
Chief of Police

March 5, 1993

Representative Mike Miller
Chairman of the House Judiciary
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Miller:

I would like to express my opposition to House Bill 554 which is presently in your committee. This Bill, if enacted, would be a disservice to the citizens of the State of Alaska. House Bill 554 is so sweeping that it virtually eliminates presumptive sentencing. House Bill 554 would take us back to the days where sentences are arbitrary and unequal across the State.

In addition I believe that the mediating factors that are in House Bill 554 are inappropriate. For instance having a mediating factor that the defendant was under the age of 25 would give those persons under 25 a virtual license to commit crimes. The section where a defendant demonstrates sincere remorse for the commission of the offense would only cause defense attorneys to argue this point for every defendant that appeared at a sentencing.

I understand that there are primarily two reasons why this Bill has been brought to your committee. One reason is the overcrowding in the prisons and the other reason is that it is believed that there is not enough emphasis on rehabilitation under our present code. I like other Alaskans wish that we did not have to spend money on jail space however, we can't get away from the fact that we have a high crime rate in the State of Alaska and that this trend will probably continue for many years. We are simply going to have to provide more jail space for those persons who are sentenced for crimes. I do agree somewhat with the argument that our present presumptive sentencing provides little encouragement for rehabilitation, however I think that House Bill 554 goes too far in this direction. I would suggest that we look at

specific crimes and perhaps lower the presumptive sentence and then add on some probation or parole time.

I think there are many people in the State who believe that some modification to our presumptive sentencing needs to be made.

I believe that there are some areas that should be looked at in presumptive sentencing, but I would also submit that presumptive sentencing for the most part has done what it was designed to do and that is get criminals off the street.

I thank you for your consideration in this and hope that you and your committee do not pass this Bill in its present form.

Sincerely,

Duane L. Ueland

Chief Duane Ueland
Soldotna Police Department

DU/mt

S.T.A.R.

Bus. 276-7279
24-hr.
Crisis 276-RAPE

March 24, 1986

Representative Don Clocksin
Pouch V
Juneau, AK 99811

Representative Clocksin:

Standing Together Against Rape, Inc., (S.T.A.R.), is the Anchorage sexual assault crisis agency providing services which include a 24-hour crisis line, legal and medical accompaniment, and information on sexual assault to the municipality and the State since May 1978.

It is with great concern that we respond to your proposals in HB 554 which would abolish presumptive sentencing for sexual assault offenses in the first degree as well as reduce second and third felony convictions for sexual offenses in the second and third degree. The reasons for the proposals, as outlined in your letter to Representative Mike M. Miller, are: 1) first and foremost, a concern for Alaska's overcrowded prisons; 2) the need to allow more judicial discretion in sentencing, 3) the need to focus on rehabilitation; 4) the elimination of "excessive" sentences for first-time offenders; and, 5) to provide for increased reporting and prosecution of sexual assault offenses, particularly incest cases.

The following comments are in response to your proposals in HB 554. Sections 2, 3, 4, 5, and 7 will be addressed in the sequence of 5, 2, 3, 4, and 7.

Section 5. AS 12.55.125(i)

Section 5 proposes the removal of the eight year presumptive sentence for sexual assault in the first degree and sexual abuse of a minor in the first degree.

As with any crime, the severity and harshness of a sentence should be suited to the seriousness and gravity of the crime. Sexual assault is a serious crime which can include any or a combination of the following; sodomy, fellatio, cunnilingus, vaginal intercouse, and masturbation. Any of these may be accompanied by the transferral of sexually transmittable diseases and/or serious or permanent physical injury. Psychological scarring may also last throughout the life of the victim.

Currrent studies indicate that one in three girls and one in seven boys will be assaulted before eighteen years of age. Alaska continues to lead the nation with the highest figure of rape per capita, three times higher than the national average. According to statistics from the Division of Family and Youth Services, reports of child sexual abuse increased 530% from 1980-1984. The Anchorage Police Department's Child Sexual Assault Unit handled an average of 52 cases per month for 1985. That average has already increased by approximately 13% for the first two months of 1986. Under the Violent Crimes Compensation Program for 1985, sexual assault claims exceeded all other categories of claims, including homicide and other types of assault. Of the 91 claims filed, 67 were for sexual abuse of a minor. The impact of sexual assault has been so severe in our state that the creation of at least 20 agencies state-wide has resulted to provide necessary services to victims.

The tragedy of sexual assault for many families is often compounded by unexpected costs for counseling, medical attention, and leave from work. In Anchorage counseling and therapy per hour on the average* can run anywhere from $70.-125. Trauma often associated with sexual assault can place individuals in such emotional despair and anguish that jobs are lost or left behind and lives dramatically changed.

For society, the impact of sexual assault of children is often felt two-fold. First, when the crime is committed against a child and thus against the state (provided it is a criminal offense). Second, when some child victims grow into adulthood and become either offenders themselves or involved in illicit activities. 75% of one group of sex offenders was found to have been victimized themselves as children. Studies also reveal that a vast majority of prostitutes were also sexually abused as children.

Sexual assault reaches beyond the lives of innocent victims and its hard-felt consequences impact all of society. It shocks not only our communities' consciousness but the very fibre of societal morals and values we wish to uphold. It is a serious crime and a very serious problem in Alaska. Until the burden it imposes upon innocent victims and the severity it places upon our State can be lifted we must continue to regard it as a crime whose gravity warrants the present presumptive eight year sentence.**

Section 2. AS 12.55.125(d)

Section 2 reduces the terms for presumptive sentencing under class B felonies from four years to three for second felony convictions and from six years to five for third felony convictions.

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* Counseling and therapy for victims of sexual assault are also available on a sliding fee scale by some private individuals and some profit and non-profit organizations. S.T.A.R. offers short-term counseling for no fee. (Contingent upon available funding.)

** The present eight year presumptive sentence can be mitigated or aggravated. Good behavior also allows for release after approximately six years. The average length of incarceration for sex offenders under this term is between 4-8 years.

Sexul assault in the second degree, sexual abuse of a minor in the second degree, and unlawful exploitation of a minor are class B felonies.

Sexual assault in the second degree includes contact without consent and sexual penetration with a person suffering from a mental disorder, defect or one who is incapacitated. Sexual abuse of a minor in the second degree includes sexual penetration between an individual who is 16 years of age and older and a victim who is 13, 14, or 15 years of age; or an offender 18 years of age or older who aids, induces, causes, or encourages a person who is under 16 to engage in sexual contact.

Child sex offenders can involve children in sexual activity through fondling and manipulating the childs genitals or having the child fondle and manipulate their genitals. For many child sex offenders, sexual contact is only the initial sexual exploitation leading up to increased sexual activity or full penetration. Often acting through an authoritarian position (i.e., teacher, parent, guardian) the offender may use force, threats, misrepresent the touching as normal or unintentional, or a necessary precondition for parental love and security. Sexual contact for children can be scary, confusing, make them feel bad or guilty, or encourage the child to become involved in sexually precocious behavior. Many children "act out" assault(s) by engaging in sexual activity with other children.

For sex offenders who take a advantage of those suffering from a mental disorder, a mental defect or incapacitation, their actions can only be viewed as incomprehensible. Not only are they taking a advantage of a mentally defenseles or physically incapacitated individual, but their obvious lack of compassion and humanity toward the victim is paramount to the crime.

Due to the seriousness of crimes for sexual assault offenses under class B felonies, the present presumptive sentences should be maintained at a minimum---not reduced by the proposed one year reductions for second and third felony convictions.

Section 3. AS. 12.55.125(e)

This section reduces the terms for second felony convictions from two years to one year and for third felony convictions from three years to two years for class C felonies.

Sexual abuse of a minor in the third degree falls under a class C felony. The sexual offense involves an offender who is 16 years of age or older who engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender.

Forced sexual contact at any age is psychologically demoralizing and emotionally enervating. As presented in comments under Section 5 and 2, sexual assault is a serious and heinous crime. The degree of seriousness of sexual assault in the third degree warrants the present two year and three year sentences for second and third felony convictions respectively.

Section 4. AS 12.55.125(g)

Section 4 proposes the inclusion of the term "presumptive sentencing" for (c) and (i) of this bill, "except to the extent permitted under AS 12.55.155-12 55.175."

This section is not clear. This section proposes inclusion of the term "presumptive sentencing", while Section 5 of the bill proposes abolishing the presumptive term under (i). Therefore a presumptive term would not be used (as a starting point) from which to determine mitigating and aggravating factors.

Could we receive clarification on this section.

Section 7. AS 12.55.155(d)

Section 7 proposes the addition of eight mitigating factors to the existing fifteen. These mitigators would impact sentencing for sexual assault offenses that are unclassified, and class B and C felonies. (See attachment)

Comments for this section will address these mitigators in relation to sexual assault dynamics and why these mitigators may be unsuitable.

(17) defendant is under the age of 25

It is interesting that age should play a factor as a mitigator, especially in light of the fact that Alaska has the youngest population in the nation. The average mean age is 26. Therefore, it would seem highly likely that many offenders coming before the courts would be under 25 years of age.

Sex offender data taken by the Department of Corrections show that the largest (38.9%) age bracket for incarcerated inmates is 20-29. S.T.A.R. 1985 statistics also show that the largest age bracket for assailants identified by the victims is between ages 19-30. Because a young population is naturally representative in our state and because age 25 appears within the largest age group for offending, there seems no apparent reason to allow it as a mitigating factor.

It is also unclear why this particular age (25) has been selected as a factor. Currently the State recognizes the significance of age for two reasons: 1) the determination of minor status; and, 2) eligibility status to buy and consume alcohol. Ages 18 and 21 respectively.

If rehabilitative motives are the reasoning for this age, studies show that rehabilitation should take place during the teen years. Psychologis and researchers in the field suggest primary prevention before age 18 and before the adolescent becomes involved in single or repeated sex offenses. Many sex offenders begin to display deviant sexual behavior by age 15. Therefore, strong efforts should be placed on rehabilitating juvenile sex offenders. Follow-up studies in their mid-twenties and thirties would be useful information, however, in determining the success of juvenile sex offender treatment.

(18) the defendant has demonstrated good potential for rehablitation

Presently there is no known treatment model which provides an ascertainable success rate. Studies on the dynamics of sex offenders are presently underway and treatment programs are relatively new. Unfortunately, the prognosis so far has been rather alarming. There is no known treatment model which provides with certainty that a sex offender will not re-offend again. Although some treatment models offer some percentage of success, many of these models are based upon the word of the offender disclosing continued sexual offending.

Other studies which have not relied upon confirmation of the offender to disclose continued offenses indicate that recidivism is high. A 1980 study conducted by Atascardero State Hospital showed that 55% of treated mentally disordered sex offenders were subsequently convicted of new crimes less than five years after release. Keep in mind that approximately 90% of all sexual assaults go unreported and that only 1 in 60 sexual crimes actually lead to arrest.

Assuming the idea of sex offender "rehabilitation" is to restore behavior which is acceptable to society, it is difficult, if not downright impossible, to evaluate a sex offender's prognosis for rehabilitation since there is no known model upon which to base this prospect.

Even if it were possible to diagnose someone as an excellent candidate for rehabilitation, the fact remains that the individual has been found guilty of committing a serious crime. It is important to note that our justice system works to punish and deter as well as rehabilitate.

(19) the defendant has no record of criminal law violations

This was deleted according to the January teleconference on HB 554.

(20) the defendant has demonstrated sincere remorse for the offense

Clinically recognized dynamics of sexual offenders follow a pattern which demonstrates that most offenders: 1) are sexually attracted to the offense (i.e., the idea of rape, child sexual assault, incest); 2) carry out the sexual attraction or fantasy by committing the offense; 3) experience a period of regret, remorese and/or guilt; 4) rationalize the crime by denying or minimizing the offense and vowing "never to commit the crime again"; and, 4) go through a period of suppression where the desire is kept in check or controlled. This pattern is not necessarily sequential and some components may be left out. Because sincere "remorse" is schematic to the dynamics of sexual offenders there is no reason why it should be used as a mitigating factor for sexual assault offenses.

Despite apparent honesty and sincerity, statements from sex offenders concerning present/future behavior cannot be viewed as reliable indicators or truthful assertions. Plethysomographic* observations show that although an

* A plethysmograph is a device used to assess sexual arousal patterns.

offender may openly declare a lack of interest in a deviant offense, recorded bodily responses contradict these declarations. Sex offenders studied in one treatment program were confronted with statements made in the initial interview and ple hysmograph results which were contradictory. 62% recanted their original statements and admitted to sexual interest and arousal to deviant sexual behavior. So, even though sincere remorse may be expressed, it does not negate the fact that the offender may still retain a high interest in the criminally offensive behavior and be at high risk to re-offend.

In addition, this mitigator raises three questions: 1) What if one individual is able to express remorse more convincingly than another?; 2) Would this mitigator only serve to create incentives for theatrical flair in order to receive a lesser sentence; and, 3) What if our observations are those of sincere regret by the offender that his/her crime was discovered instead of sincere remorse?

(21) the offense was [illegible]ed and not premeditated

Studies by Gene Able, renowned psychiatrist and researcher in the field of sex offenders, indicate that most sexual assaults are not isolated and are premeditated: in a study of 411 incarcerated sex offenders, the average number of victims per offender before apprehension was 336. The average number of attempted assaults was 581.

First-time offenders are rarely one-time only offenders. For sex offenders, the probability of a new offense increases with each past offense. Popular opinion which holds that many incest offenders are first-time offenders and "incest" only a few time and never outside the home is negated by studies: Among 159 men who reported incest with girls and women, 49% had molested young girls and 12% young boys outside the home. The average number of completed incest acts with female children was 83.4 and for male children 51.3.

As a general rule, most sex offenders deny or minimize their crime when apprehended and will consequently repudiate not only the crime which has been discovered but also any other offenses preceeding thereof.

(22) the defendant's capacity to formulate the requisite culpable mental state for the offense was diminished to a degre insufficient to constitute a complete defense

This mitigator would seem to apply to any case where alcohol or drugs were proven to be used by the defendant. Presently, factors related to voluntary use of alcohol or drugs cannot be used as a defense during criminal trial proceedings.

It is unfortunate this mitigator is under consideration since alcoholism is considered a serious health problem in our state. The 1984 Annual Report to the Legislature by the Office of Alcoholism and Drug Abuse states that 55% of all crime in Alaska has been determined to be alcohol related. Our courts presently refer offenders to alcohol treatment programs during sentencing. This mitigator may serve only to overlook the problem by diminishing its

seriousness and minimizing its significance.

(23) the defendant sought counseling or other mental health treatment for the conduct underlying the criminal offense before discovery of the offense or apprehension of the defendant

Sex offenders typically do not volunteer for counseling or request assistance in prevention. Most who seek help are doing so because their crime(s) has been discovered.

Although the admittance of sexual deviant behavior by the offender is a necessary step in receiving and benefitting from treatment, it is important, nevertheless, to realize that a serious crime has been committed. For victims there is no turning back from the trauma, horror, guilt, self-blame, and self-abasement suffered. Counseling and mental health treatment programs are just as available before the offense as they are after the offense.*

It seems this mitigator would only serve to disregard the serious physical and/or psychological injury suffered by the victim during and after the commission of the crime. Under this mitigating factor, justice would not be served especially for those victimized repeatedly before the offender decided to seek counseling. (See statistics in comments for (21).)

(24) the defendant, before apprehension, notified law enforcement authorities of the defendant's involvement in the criminal conduct

Comments for proposed mitigator (22) also apply here.

The choice to offend or not to offend is present before the commission of the crime. The choice to offend should be penalized, not mitigated after the fact.

In conclusion of comments on HB 554, we urge reconsideration of Sections 2, 3, 5 and 7, which includes mitigators (17), (18), (20), (21), (22), and (23). These sections do not adequately reflect the serious impact of sexual assault on victims or the state of Alaska, nor address and acknowledge factors and dynamics related with sexual assault offenses. We also respectfully request clarification of Section 4.

As Alaskans, we share some of the concerns presented in your letter to Representative Mike M. Miller. These concerns were also the basis for HB 554. We differ, however, on solutions to address these concerns.

1). concern for Alaska's overcrowded prisons

Alaska's overcrowded prison condition is a challenge which cannot be ignored. reducing or providing for no sentences in order to alleviate prison populations is not the answer. Segregation and incarceration of sex offenders are essential

for three reasons: 1) the public is protected from further risk, harm or injury; 2) incarceration validates society's condemnation of sexual assault as a serious crime; and, 3) this provides for an opportunity for the offender to receive treatment. As a society, we must continue to gather data and information on sexual assault dynamics in order to gain a better understanding of the issue. Insight offered through research and study will enable us to evaluate the best means possible to serve the needs of the victim, the offender and the public. But until we have a greater understanding of this perplexing problem, we must work to protect the innocent from further risk.

In a time of declining oil revenues, creative measures must be taken to balance not only the budget but also the needs of communities. We urge all legislators to consider the responsibility of the state to protect the health, safety and welfare of its citizens. We also strongly urge for alternative measures, other than reduced prison terms, to alleviate our current prison overcrowding condition.

2.) The need to allow more judicial discretion

As indicated in the brief amount of information presented in these comments, sexual assault dynamics are complex and intricate. Unfortunately, most legal professionals who have the greatest impact on sexual assault cases have little or no knowledge of the issue. Presently legal professionals such as judges, probation officers (pre-sentencing officers) and parole board officials are neither required or provided with training on this issue. Judge Victor Carlson has submitted a letter with our comments to attest to this fact. If judicial discretion is to be considered, then information relative to the merits of sexual assault cases must be provided at the very least.

We encourage workshops, seminars, and trainings to judges and all legal professionals on the dynamics of sexual assault. This information should be provided regardless of whether or not presumptive sentencing is altered. If the citizens of the State wish to maintain the present presumptive terms, then elected public officials should not only consider those wishes but acknowledge them in the law.

3). The need to focus on rehabilitation

Treatment and counseling for sex offenders is a relatively new field of study. The most promising results so far have been those reflected in a study conducted by Abel, entitled The Treatment of Child Molesters. The 1984 study involved 86 non-incarcerated individuals who participated on a volutary basis. The treatment effects appear to recede over time yet a twelve-month follow up showed a success rate of 79.2%. It is important to note that the success rate is based almost entirely on the word of the offender. Success rates for rapists, particularly those who are aroused and engage in violent or sadistic sexual activity, are significantly lower.

If rehabilitation is possible, we must endeavor to study and provide treatment programs. But it is of utmost importance that we focus equally, if not more energetically, on the victims of sexual assault. If, as studies indicate, that the vast majority of offenders have been sexually abused themselves as children, then we must provide for victim treatment and counseling as a preventive measure as well as a necessary service. This point should be given considerable consideration due to the significant increase of child sexual abuse reporting over the past five years in our state. As stated in our comments for HB 554 for Section 7 (22), juvenile offenders should be provided with necessary treatment well before eighteen years of age.

We encourage mandatory treatment during incarceration and out-patient counseling after release for all sex offenders, and an equal, if not greater emphasis and support of programs, state agencies, and organizations which provide prevention and intervention in child sexual abuse as well as counseling for all vicitms of sexual assault.

4. The punishment is often excessive

Punishment for sexual assault is rarely, if ever, excessive. Memories of the physical and emotional trauma associated with the sexual assault will last throughout the victims' lifetime. For children who are victims, there is a chance that: 1) the deviant sexual behavior will be reenacted in adulthood; 2) some victims will continue to be victimized in battering relationships or illicit activities; 3) they will acquire acute psychological dissociative behaviors, such as multiple personalities; and, 4) their strongest childhood memories will be of their sexual service at the hands of a loved one, trusted adult or a stranger. For adult victims, there is a series of physiological and psychological hurdles to overcome in order to carry on with their lives. As indicated in comments for HB 554, sexual assault is a serious crime and one of Alaska's most serious social problems.

Since the Alaska Court of Appeals handed down Covington v. State, ____P.2d___, Opinion No. A-203, July 26, 1985, prosecution for sexual assault cases has been made more difficult and subsequently sentences for the crime more lenient. Covington requires a particular time, date and place for each single offense before a count can be listed. In cases involving children who have been abused repeatedly over a period of time, it is highly unlikely that the actual number of offenses will be listed due to the inability of the child to remember all the exact times, dates and places of the assaults. Instead, only a few are recalled, often based laregly on such memorable dates as birthdays, holidays, school breaks or especially traumatic episodes. Thus, not even the totality of the crime is punished.

As stated in our comments for HB 554, and the above, sexual assault is a serious and grave problem in Alaska. Present presumptive terms are not excessive. Any action taken to change presumptive terms should result in an increase---not a decrease in sentencing.

5. Abolishing presumptive sentencing will encourage the reporting and prosecution of sexual assault offenses, particularly incest.

Some professionals believe that the true trauma of child sexual victimization is not so much the actual abuse as the reaction from family members, friends and the community. And that trauma is especially experienced by incest victims who, after reporting, must now face subsequent prosecution of a family member. There is no way to determine from this claim, what the long-term effects of the victimization would be if the abuse is not reported v.s. the trauma associated with reporting.

Studies so far indicate that incest victims are more severely impacted psychologically and experience more pathological disturbances in later life due to sexual abuse than non-incest victims. Reporting laws serve to provide for intervention of the abuse; whereas prosecution not only allows the child to realize the wrongfulness of the act but also provides societal support by protecting the child from further harm. Incarceration of the offender also allows time for the incest victim to receive counseling as well as acquire an advance in years so that autonomy can be established. The earlier intervention and counseling is made available, the greater the childs ability to avoid further sexual abuse. Perhaps emphasis should be placed on various community systems (legal, medical, private programs, state agencies) to respond more positively to the victim to decrease the chance of re-victimization.

We support present presumptive terms for sex offenses, regardless of the relationship of the offender to the victim. It is conceivable that increased community awareness and understanding of sexual assault dynamics and trauma may prevent re-victimization. Therefore we encourage increased efforts to provide information to the community. As far as the concern for factors which discourage reporting, there is no study to date which supports the theory that incest victims are less likely to report due to presumptive sentencing.

Alaska is a young and growing state which appears to be beset by a quandary of societal ills which include aggressive crime rates, a high alcoholism rate and ever increasing reporting of sexual assault and child abuse. It is the responsibility of us all to accept not only the magnitude of these problems but also to seek viable solutions and answers. This will not be an easy task. But if we as Alaskans are to keep emphasizing our states great natural resources, then we must also begin to cultivate and nurture the needs of her greatest resource of all---her people. We must focus upon the symptoms and causes of our societal dilemma, not just the results. We must explore further than HB 554. As a program we offer our knowledge and experience on sexual assault dynamics, and as individuals we offer our interest and concern in making solutions possible.

Thank you for the opportunity to comment on HB 554 and your concerns.

Respectfully submitted,

Dana Cassidy
Executive Director

C. Longoria

Carrie Longoria
Legal Advocate

cc: House Judiciary Committee
Governor Bill Sheffield
Hal Brown
Co-Sponsors of HB 554
Senator Pat Rodey

CL/sjj

ATTACHMENTS

1) Changing A Lifetime of Sexual Crime

2) Covington V. State of Alaska, Opinion # A-203, July 26, 1983

3) Issues in the Evaluation of the Sex Offender

4) State Statutes on Sexual Offenses

5) The Teenage Sex Offender

6) The Treatment of Child Molesters

SOURCES

1) Gene G. Abel, M.D., Judith V. Becker, Ph.D., Jerry Cunningham-Rathner, B.A., Joanne L. Rouleau, Ph.D., Meg Kaplan, Julie Reich, The Treatment of Child Molesters, Paper, March 1984.

2) Gene G. Abel, Judith V. Becker, William D. Murphy, Barry Flanagan, Identifying Dangerous Child Molesters, Violent Behavior: Social Learning Approaches 1978.

3) Gene G. Abel, Mary S. Mittleman, Judith Becker, Jerry Cunningham-Rathner, Louis Lucas, The Characteristics of Men Who Molest. Presented at the World Congress of Behavior Therapy, December 10, 1983.

4) Duke University School of Law, Alaska Law Review, December 1985, Volume II, No. II.

5) Irwin S. Drelblatt, Ph.D., Issues In the Evaluation of the Sex Offender, The Washington State Psychological Association Meeting, May 1982.

6) David Finkelhor, Richard Gelles, Gerald T. Hotaling, Murray A. Straus, The Dark Side of Families, Sage Publications, 1983.

7) David Finkelhor, Child Sexual Abuse, MacMillan, Inc., the Free Press, N.Y. 1984

8) Robert E. Freeman-Longo, Ronald V. Wall, Changing A Lifetime of Sexual Crime, Psychology Today, March, 1986

9) David P.H. Jones, False Reports of Child Sexual Abuse: Do Children Lie? Abstract

10) Elizabeth Stark, Anne H. Rosenfeld, Views of Child Molesters, Discovering and Dealing with Deviant Sex, Psychology Today, April, 1985.

11) Vernon L. Quinsey, On The Assessment of Sex Offenders at Oak Ridge, The Ontario Lieutenant Governor's Board of Review, 1984.

12) The Sexual Assault Center, Harborview Medical Center, The Teenage Sex Offender, February, 1981.

13) Irving Praeger,"Sexual Psychopathy" and Child Molesters: The Experiment Fails, Journal of Juvenile Law, Vol. 6, No. 1, 1982.

14) Violent Crimes Compensation Board, State of Alaska, 12th Annual Report 1985 Statistics.

Superior Court
State of Alaska

THIRD JUDICIAL DISTRICT
303 K STREET
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99501 2083

Chambers of
VICTOR D. CARLSON, Judge

March 14, 1986

The Honorable Don Clocksin
Alaska House of Representatives
Pouch V - Mail Stop 3100
Juneau, Alaska 99811

Re: House Bill No. 554

Dear Representative Clocksin:

This letter is to request that the Legislature encourage and provide incentives for police officers, prosecuting attorneys, defense attorneys, probation officers, Corrections personnel and judges to participate in training programs relating to child and adult victim sexual and physical abuse. Without an understanding of the dynamics of the crimes of sexual and physical abuse of minor and adult victims, the professionals may lack the necessary sensitivity to important aspects of these cases, thereby causing greater harm to the victims and possibly misjudging the seriousness of what occurred.

Personally, it has been helpful to me to participate in the five-day University of Washington Harborview Hospital program for lawyers, social workers, police officers and judges (I am the only Alaska judge to have participated). I paid my own tuition and expense to participate. I believe everyone involved in these cases should be exposed to a similar educational experience.

Thanking you for considering my comments, I am

Very truly yours,

Victor D. Carlson
Superior Court Judge

VDC:rw

THE COURT OF APPEALS OF THE STATE OF ALASKA

CHARLES COVINGTON,

Appellant,

v.

STATE OF ALASKA,

Appellee.

File No. A-203

OPINION

[No. 491 - July 26, 1985]

Appeal from the Superior Court of the State of Alaska, Fourth Judicial District, Fairbanks, Jay Hodges, Judge.

Appearances: Larry Cohn and Carl Forsberg, Birch, Horton, Bittner, Pestinger & Anderson, Anchorage, for Appellant. John A. Scukanec, Assistant Attorney General, Office of Special Prosecutions and Appeals, Anchorage, and Norman C. Gorsuch, Attorney General, Juneau, for Appellee.

Before: Bryner, Chief Judge, Coats and Singleton, Judges.

SINGLETON, Judge.

Charles Covington was convicted of two counts of lewd and lascivious acts towards a child, former AS 11.15.134, and four counts of sexual assault in the first degree, former AS 11.41.410(a)(4)(B). He received a composite sentence of forty years with ten years suspended. Covington appeals, challenging his conviction and sentence. We reverse Covington's conviction and remand for a new trial.

FACTS

Covington's victim was his natural daughter, D.C.O. She testified at trial that Covington began sexually abusing her when she was nine or ten years old. D.C.O. was eighteen years old at the time of trial. D.C.O. testified that Covington slept with her, touched her breasts, and penetrated her vagina with his finger. After D.C.O.'s mother's death in November 1977 when D.C.O. was thirteen years old, Covington told her that she reminded him of her mother and had D.C.O. sleep with him in his bed.

Shortly before D.C.O.'s sixteenth birthday, Covington began having sexual intercourse with her. D.C.O. testified that she had sexual intercourse with Covington "practically every night," until she moved out in March 1983. Covington allegedly told her that he did not want her to "grow up naive like [her] mother."

C.C., D.C.O.'s brother, the thirteen-year-old son of the defendant, also corroborated D.C.O., testifying that on Mother's Day 1982 he saw an empty condom package on the night table next to the bed in which Covington and D.C.O. were sleeping but that he could not see if they had clothes on, nor could he remember if the door of the bedroom had been shut. He also testified that throughout 1982 his father and sister were sleeping in the same bed.

Covington testified in his own defense. He conceded that he had slept in the same bed with D.C.O. from August or September 1979 until D.C.O. moved out in March 1983, but contended that he had never fondled or penetrated her with his fingers or penis. He stated that the

bedroom door was always open and that D.C.O. had slept with him at her own request and not because of anything he said or did. He also denied the truth of earlier out-of-court tape recorded statements in which he admitted having had sexual intercourse with D.C.O. after her sixteenth birthday. Covington's testimony also suggested that D.C.O. was motivated to lie in order to obtain custody of her younger sister and prevent Covington from moving out of state with her.

I.

Covington challenges the indictment and the trial court's refusal to grant him a bill of particulars. The indictment charged Covington as follows:

> Count I charged lewd or lascivious acts occurring "from on or about the month" of July 1978 through December 4, 1978, "at or near Fairbanks."
>
> Count II charged lewd or lascivious acts "from on or about" January 1, 1979, through December 4, 1979, "at or near Fairbanks."
>
> Count III charged sexual penetration "on or about" October 1, 1981, through December 4, 1981, "at or near Fairbanks."
>
> Count IV charged sexual penetration "on or about" January 1, 1982, through October 1, 1982, "at or near Fairbanks."
>
> Count V charged sexual penetration "on or about" October 2, 1982, through November 1, 1982, "at or near Fairbanks."
>
> Count VI charged sexual penetration "on or about" November 2, 1982, through December 4, 1982, "at or near Fairbanks."

Covington argues that the trial court abused its discretion in denying his pretrial motion for a bill of particulars or, in the alternative,

his motion to dismiss the indictment. He contends that the indictment violated due process because it was not sufficiently specific to inform him of the nature and cause of the accusation. Ak. Const. art. I, § 11; U.S. Const. amend. VI; see also AS 12.40.100; Alaska R. Crim. P. 7(c).[1]

Covington argues that the indictments must be sufficiently clear to avoid surprise as to the specific acts and specific dates upon which those acts occurred. He argues that he was prejudiced because D.C.O. testified for the first time at trial that sexual intercourse had begun in October 1980, a year earlier than alleged before the grand jury or in the indictment. He points out that D.C.O. testified before the grand jury

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1. Alaska Statute 12.40.100 states:

> Contents of Indictment. (a) The indictment shall be direct and certain as it regards
>
> (1) the party charged;
>
> (2) the crime charged; and
>
> (3) the particular circumstances of the crime charged when they are necessary to constitute a complete crime.
>
> (b) The statement of the facts constituting the offense shall be in ordinary and concise language, without repetition, and in a manner which will enable a person of common understanding to know what is intended.

Alaska Rule of Criminal Procedure 7(c) states in pertinent part:

> The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged . . .

that sexual intercourse began in 1981.[2] The state argues that no bill of particulars was necessary and the indictment was sufficient in this case. It relies on authorities which hold that leeway is necessary in charging sexual abuse and sexual intercourse with minors because children who are the victims of abuse may find it difficult to recall precisely the dates of offenses against them months or even years after the offense has occurred. See People v. Fritts, 140 Cal. Rptr. 94 (Cal App. 1977); State v. Roberts, 610 P.2d 558, 559 (Idaho 1980); State v. Wonser, 537 P.2d 197 (Kan. 1975); Commonwealth v. Lamory, 436 N.E.2d 992 (Mass. App. 1982); Commonwealth v. Vernazzarro, 409 N.E.2d 1326 (Mass. App. 1980); State v. Healey, 562 S.W.2d 118, 129-30 (Mo. App. 1978); State Davis, 70 A.2d 761 (N.J. Super. 1950). The state quotes State v. Roberts, 610 P.2d 558 (Idaho 1980), for the proposition that allegations of lewd and lascivious conduct with a minor "on or about the months between June and September 1976," and "on or about the months of May, 1976 [and] June, 1976" were:

> set forth with sufficient specificity to allow [the defendant] to prepare his defense and to protect him from double jeopardy.

610 P.2d at 559. The state reasons that this is particularly true where the defense is a "blanket denial" of sexual activity with the victim as opposed to an alibi defense as to specific dates. State v. Roberts, 610 P.2d at 559; People v. Fritts, 140 Cal. Rptr. at 97. See also People v. Long, 370 N.E.2d 1315 (Ill. App. 1977).

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2. Covington was not convicted of any acts of sexual penetration of D.C.O. prior to October 1980.

A review of the transcript bears out the state's contention that no unfairness occurred here. In the instant case, D.C.O. testified at trial that her father began having sexual intercourse with her shortly before her sixteenth birthday. She became confused about whether it was 1980 or 1981 but remembered that it had started in October because her father later celebrated the occasion as their "anniversary." D.C.O. told the grand jury that the defendant began having sexual intercourse with her in October 1931. Covington testified that he had never had sexual intercourse or sexual contact with his daughter at any time. He admitted, however, that he had been sleeping with her on an almost nightly basis since 1979. Thus Covington's denial, in the state's view, was just as effective as it would have been if the indictment had been more specific. State v. Roberts, 610 P.2d at 559; People v. Long, 370 N.E.2d at 1322. We generally agree with the state, and the authorities cited by the state, that the indictment was sufficient to alert Covington to the elements of the offenses he allegedly committed and sufficiently informed him so that he could defend himself and protect himself against further prosecutions for the same offense. See, e.g., Russell v. United States, 369 U.S. 749, 763-64, 82 S. Ct. 1038, 1046-47, 8 L.Ed.2d 240, 250-51 (1962); Price v. State, 437 P.2d 330, 331 (Alaska 1968); Adkins v. State, 389 P.2d 915, 916 (Alaska 1964). We also agree with the state that the broad rights to discovery granted a criminal defendant under the Alaska Rules will render a bill of particulars unnecessary in most cases. See Alaska R. Crim. P. 16; Lupro v. State, 603 P.2d 468, 472 (Alaska 1979).

The facts of this case, however, raise a more significant issue--that of Covington's right to a unanimous verdict. In considering

this issue, we start with the premise that the accused has a right to a unanimous verdict: a conviction may properly be entered only if the jury unanimously finds that all essential elements of the offense charged were proved beyond a reasonable doubt. Thus all jurors must agree that the defendant committed a single offense. State v. James, 698 P.2d 1161 (Alaska 1985). Where one jury instruction may encompass two separate incidents, the trial judge must instruct the jury that if a guilty verdict is returned, the jurors must be unanimous as to the incident or incidents of which they find the defendant guilty. James, 698 P.2d at 1166, citing Burrell v. United States, 455 A.2d 1373, 1379 (D.C. App. 1983). See also Johnson v. Louisiana, 406 U.S. 356, 362, 92 S. Ct. 1620, 1624, 32 L.Ed.2d 152, 159 (1972). In James, the supreme court was concerned with the application of this rule to a charge of a single offense where the state introduced evidence indicating different means of committing the same offense. The court held that the jury need not be unanimous regarding the means used to commit a single offense, reversing James v. State, 671 P.2d 885 (Alaska App. 1983).

The situation is substantially different here. The state charged Covington with separate counts of lewd and lascivious acts and sexual assault but proceeded at trial to present evidence of numerous separate criminal acts. D.C.O. was unable to recall any specific events or dates which would distinguish the circumstances of one assault from another. C.C. did corroborate, in part, a separate incident on Mother's Day of 1982 when he observed the empty condom package. Under these circumstances, there is substantial doubt that the jury convicting Covington of each count had a specific incident in mind. While we agree with the state's

authorities that an indictment is sufficient which charges a specific incident, the precise date of which the witness is uncertain, the witness must nevertheless have a specific incident in mind. Sexual abuse of a minor is not a "continuing offense." See State v. Petrich, 683 P.2d 173, 176-77 (Wash. 1984) (where a number of sexual incidents occur at separate times and places, and the only connection between incidents is identity of the victim, a continuing offense has not been proved). In Petrich, the court reached the following conclusions regarding protection of the defendant's right to unanimous verdict:

> When the evidence indicates that several distinct criminal acts have been committed, but defendant is charged with only one count of criminal conduct, jury unanimity must be protected. We therefore adhere to the Workman rule, [State v. Workman, 119 P. 751 (1911) (where the evidence tends to show two separate commissions of the crime, prosecutor must elect between them)] with the following modification. The State may, in its discretion, elect the act upon which it will rely for conviction. Alternatively, if the jury is instructed that all 12 jurors must agree that the same underlying criminal act has been proved beyond a reasonable doubt, a unanimous verdict on one criminal act will be assured. When the state chooses not to elect, this jury instruction must be given to ensure the jury's understanding of the unanimity requirement.

683 P.2d at 178.

We also agree with the Washington court's reasons for adopting this rule:

> These options are allowed because, in the majority of cases in which this issue will arise, the charge will involve crimes against children. Multiple instances of criminal conduct with the same child victim is a frequent, if not the usual, pattern. Note, The Crime of Incest Against the Minor Child and the States' Statutory Response, 17 J. Fam. Law 93, 99 (1978-79). Whether the incidents are to be charged separately or brought as one charge is a decision within prosecutorial discretion. Many factors are weighed in making that decision, including the victim's ability to

> testify to specific times and places. Our decision in this case is not intended to hamper that discretion or encourage the bringing of multiple charges when, in the prosecutor's judgment, they are not warranted. The criteria used to determine that only a single charge should be brought, may indicate that the election of one particular act for conviction is impractical. In such circumstances, defendant's right to a unanimous verdict will be protected with proper jury instructions.

Id.

In the instant case, the state did not elect specific incidents, nor was a clarifying instruction given. Under these circumstances, we find reversible error and remand for new trial.[3]

II.

Covington filed a motion for a protective order prohibiting the state from introducing evidence of alleged sexual relations between Covington and D.C.O., occurring prior to July 1978 and after December 1982. The trial court denied Covington's motion in reliance on Burke v. State, 624 P.2d 1240 (Alaska 1980). In Burke, the supreme

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3. A number of courts have reached similar results utilizing slightly different legal theories. See, e.g., People v. Creighton, 129 Cal. Rptr. 249 (Cal. App.1976); People v. Abdullah, 25 P.2d 40 (Cal. App. 1933); State v. Pace, 212 P.2d 755 (Or. 1949). Cf. People v. Pries, 440 N.Y.S2d 116 (N.Y. App. 1981); People v. MacAfee, 431 N.Y.S.2d 149 (N.Y. App. 1980) (requiring specific acts and dates to be spelled out in the indictment).

court considered this issue in the context of Evidence Rule 404(b)[4] and Evidence Rule 403.[5] The court noted that where the specific crime charged was sexual abuse of a minor, the common law position supported by an overwhelming majority of states is that evidence of prior similar conduct with the same victim is admissible. 624 P.2d at 1247. The court affirmed admissibility of the evidence stressing that all of the acts involved the same victim. The court accepted two closely related rationales: first, the evidence tended to establish the ongoing relationship between the accused and the victim and explained, in part, the victim's inability to specifically describe separate incidents; and, secondly, it served to explain the victim's testimony in its context, particularly indicating why she might acquiesce in the defendant's demands. 624 P.2d at 1249-50. We believe both of those rationales are applicable here and justify the admission of the evidence. Given our holding today that the prosecution must either

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4. Alaska Rule of Evidence 404(b) provides:

> Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person or to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

5. Alaska Rule of Evidence 403 provides:

> Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

elect to prove a particular incident or that the jury must be instructed that it must unanimously agree on a particular incident, we believe the evidence is highly material to explain the witness' difficulties in specifying incidents so that her testimony may be considered in the context in which it arose. We find no error.

III.

Covington argues that the trial court erred in refusing to permit extrinsic evidence that D.C.O. had made false charges of sexual assault. During voir dire, D.C.O. admitted that she had made accusations against her grandfather and a man by the name of J.D. The trial court precluded the defense from calling the grandfather to deny the accuracy of the charges. Covington contends that the evidence was admissible to challenge D.C.O.'s credibility and its exclusion violated his sixth amendment right to confront the witnesses against him. See, e.g., Davis v. Alaska, 415 U.S. 308, 316, 94 S. Ct. 1105, 1110, 39 L.Ed.2d 347, 353-54 (1974). The state argues that the evidence was irrelevant since past incidents had nothing to do with whether the victim had been sexually assaulted by Covington. Further, the state argues that a swearing contest between the victim and her grandfather would not have assisted the jury in evaluating her credibility. See, e.g., A.R.E. 403; Dyer v. State, 666 P.2d 438 (Alaska App. 1983). This issue has received substantial attention in the reported cases. See, e.g., 3A Wigmore on Evidence § 963 (Chadbourn rev.ed. 1970). The state does not contend, and the trial court did not hold, that the evidence of prior accusations by D.C.O. was precluded by Alaska's rape-shield statute. See, e.g., AS 12.45.045; A.R.E. 404(a)(2). See Commonwealth v. Bohannon, 378 N.E.2d 987 (Mass. 1978).

A majority of the courts which have considered the issue permit such evidence only if the defendant makes a showing out of the presence of the jury that the witness' prior allegations of sexual assault were false, as, for example, where the charges somehow had been disproved or where the witness had conceded their falsity. See, e.g., State v. Hutchinson, 688 P.2d 209, 211-13 (Ariz. App. 1984); People v. Alexander, 452 N.E.2d 591 (Ill. App. 1st Dist. 1983); Commonwealth v. Bohannon, 378 N.E.2d at 991-92; State v. Anderson, 686 P.2d 193, 198-201 (Mont. 1984); State v. Demos, 619 P.2d 968, 970 (Wash. 1980). We find this approach appropriate and adopt this rule for Alaska. We hold that a defendant who wishes to use this kind of evidence at trial must obtain a preliminary ruling from the trial court that it is admissible. The matter should be brought up out of the jury's presence.

In the instant case, defendant's offer of proof did not establish the falsity of the alleged prior complaints. We assume that on remand Covington will be given a reasonable opportunity to attempt to show the falsity of the prior accusations.

The judgment of the superior court is REVERSED. This case is REMANDED for new trial.[6]

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6. Covington raises three other issues which our disposition makes it unnecessary to reach. He contends that, first, the trial court abused its discretion in denying him the opportunity to depose witnesses prior to trial; second, the trial court abused its discretion in denying a new trial; and third, the trial court imposed an excessive sentence.

Changing a Lifetime of Sexual Crime

CAN SEX OFFENDERS EVER ALTER THEIR WAYS? SPECIAL TREATMENT PROGRAMS PROVIDE SOME HOPE.

BY ROBERT E. FREEMAN-LONGO AND RONALD V. WALL

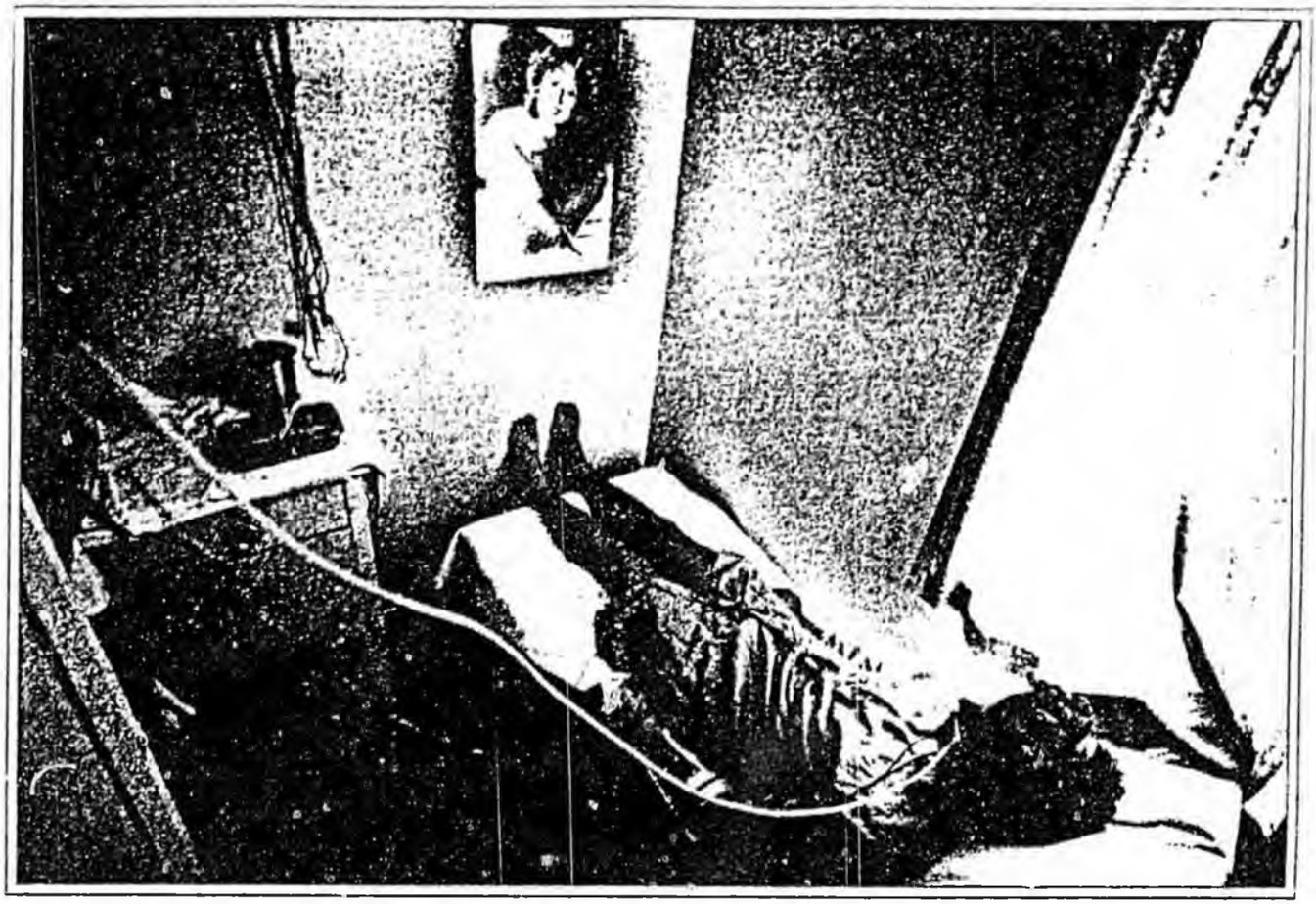
Fred was a hunter. On weekends he'd drive around the city looking for wooded areas with small footprints or listening carefully for the sounds of his prey. If he found a good spot, he'd park a few blocks away, walk back and wait excitedly for a child to come by. Fred would talk the child into disrobing—offering to pay for cooperation—so he could perform oral sex on the child while masturbating. Eventually, needing more excitement throughout the years, he would threaten uncooperative children with his hunting knife.

By the time Fred came into our treatment program for imprisoned sex offenders at Oregon State Hospital in Salem, he was 48 years old and had been fantasizing about molesting young boys and girls for 36 years. In one six-month period he molested an estimated 35 children; as with many other sex offenders, his total count of young victims—many forced into oral or anal intercourse—probably numbers in the hundreds.

Fred is an unusually compulsive and violent child molester, who has spent more than 25 years in prison, but in many ways he epitomizes the problem posed by all sex offenders (such as child molesters and rapists). We send many of them to jail when we can, both to protect ourselves and to punish them. But most return to the streets—sometimes quite quickly—and their imprisonment, far from being a deterrent, may have exacerbated their problems. Estimates of the recidivism rate among untreated sex offenders range between 35 and 80 percent. Not only do these people often go on to commit more sex crimes, but their behavior may help to create a future generation of sex offenders.

Fred is a good example of the progression from victim to victimizer. At the age of 6 he was molested by his stepfather, and at age 9 he was anally raped by a 17-year-old. When he was 10 he had intercourse with some female cousins, and by age 11, he had sexually molested two 8-year-old girls, an act that led to the first of his many incarcerations.

Breaking such a chain of victimization—which we have found in more than half of our clients—requires, we believe, not only imprisonment but



Prisoners' sexual responses to deviant sexual stimuli are tested with the penile plethysmograph. These responses can be lessened by pairing arousing pictures and aversive stimuli such as whiffs of ammonia.

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Once clients are assessed and accepted, our treatment begins. We view sex offenders as people with a complex mix of social, psychological and, sometimes, biological problems. Thus, depending on the individual needs of each client, we use mixtures of group psychotherapy, education, behavioral therapy and possibly chemotherapy—nearly every technique currently being used to treat sex offenders. We also believe that sex offenders need to be accountable for their behavior, so our program is organized on a guided self-help basis. That is, it is largely client-run, directed by the clinical staff.

MORE THAN HALF OF THE SEX OFFENDERS WE TREAT HAD BEEN SEXUALLY VICTIMIZED THEMSELVES.

All participants begin their treatment with group psychotherapy, a technique more widely used among sex-offender treatment programs than individual therapy because it is usually more effective and less costly. The groups are run by a client-leader, under a therapist's supervision. These offenders know one another better than anyone else does and are astute in recognizing one another's techniques of denial and evasion.

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CORRECTION

THIS DOCUMENT
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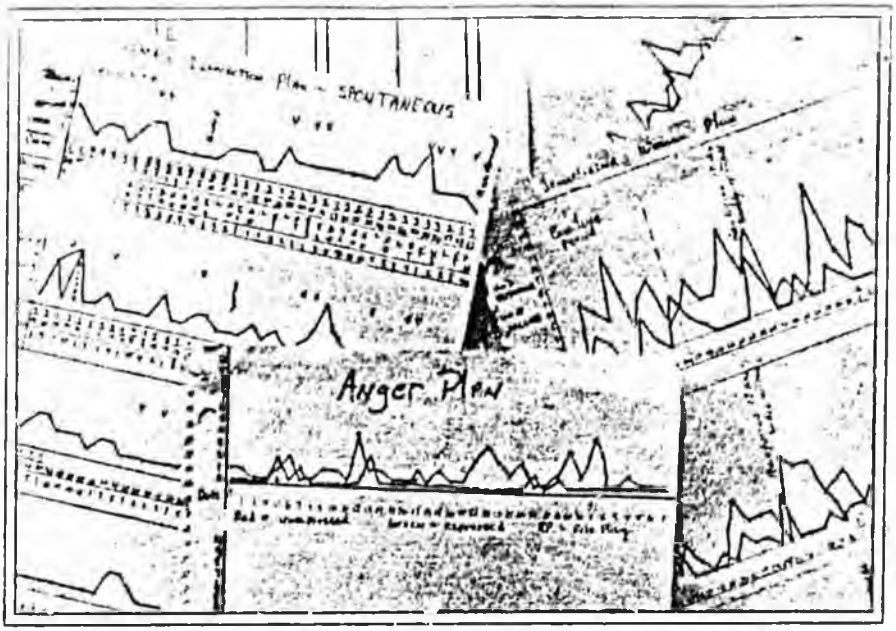


Prisoners develop plans for dealing with anger and deviant sexual behavior.

treatment. Sexually deviant behavior is usually deeply ingrained, and most sex offenders need extensive psychological help to change the thought and behavior patterns that lead them to insinuate or force themselves sexually upon other people, whether children or adults.

Our inpatient treatment program for imprisoned sex offenders is one of about 18 formal state-run intensive treatment programs for convicted sex offenders in the United States. Although the first program was launched in California in 1948, most current programs, like ours, were developed only during the past decade. They owe their existence to growing recognition that imprisonment alone is ineffective in preventing deviant sexual behavior.

A primary focus of our program is "relapse prevention." We provide intensive preparation for our clients' return to the community and offer continuing support after they return. Typically, after they have been inpatients in our program for 2 to 2½ years, they shift to "prerelease" status for six months (working or studying by day and returning to the hospital at night). Subsequently, while they're living full-time in the community on parole, they participate in our outpatient aftercare program for 18 months, receiving group counseling twice a week at first, then gradually decreasing visits to twice a month.

Prisoners who volunteer to participate in our program know that it has many psychologically difficult features, that their participation will not hasten their release and that our aftercare program has more restrictive requirements than normal parole does. They may, however, drop out of the inpatient program at any point and return to prison—an option chosen by more than half of those we accept.

To aid in selecting clients for our program—and in choosing and shaping their treatment, evaluating their progress and determining when they are ready for discharge from the inpatient program—we rely heavily on psychological and physiological assessment. The data we obtain are also used by parole and probation personnel to aid in determining an offender's risk to the community. While we can never be certain how a client will behave after release, our data can contribute to more accurate prediction.

One major assessment issue concerns the individual's pattern and intensity of sexual deviancy and aggressiveness. To determine this we use interview data, court and other records, as well as a battery of tests of personality, intelligence, self-esteem, depression, anger, cognitive processes and drug and alcohol abuse.

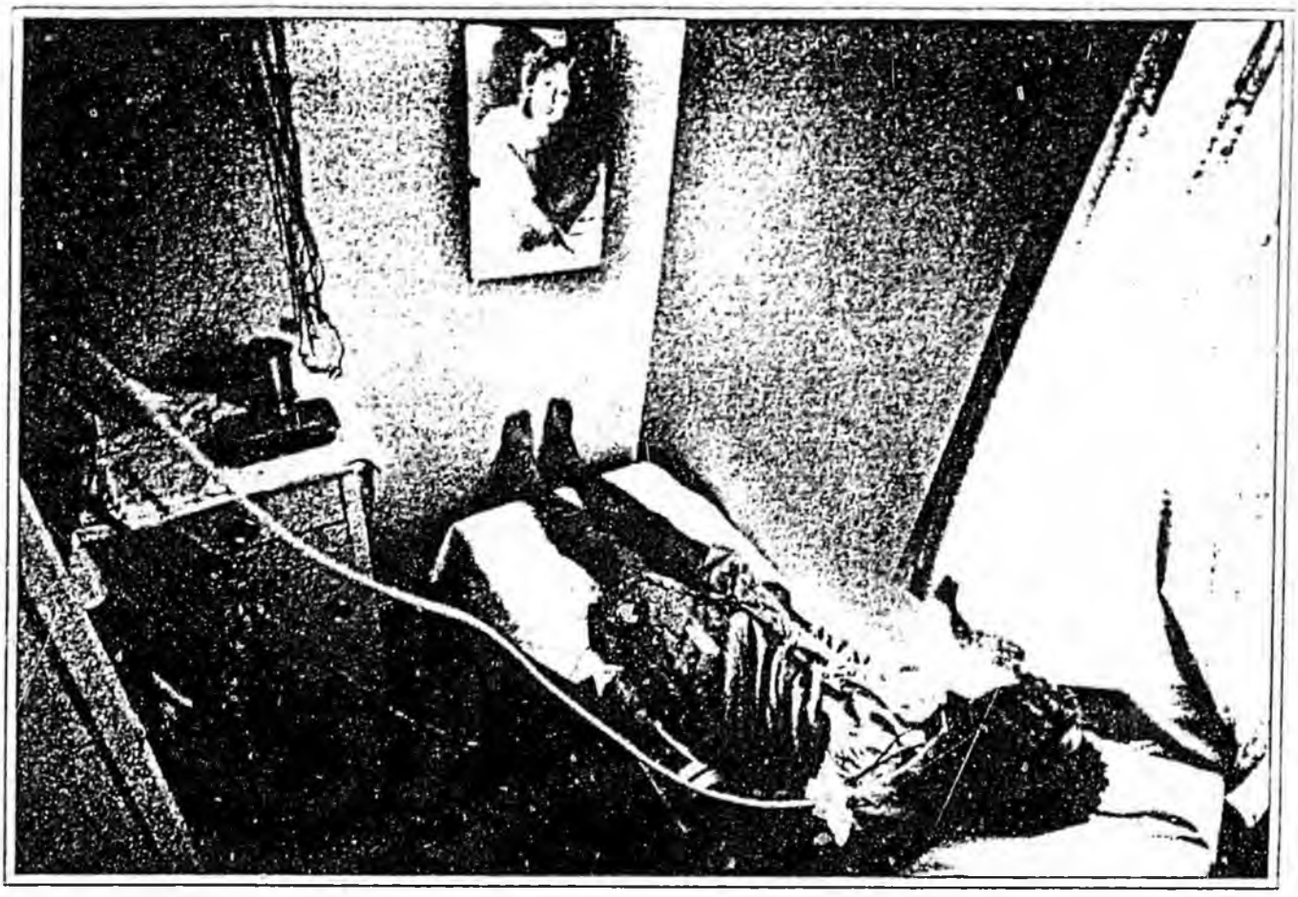
The offenders themselves are an important source of information concerning their backgrounds and their sexual, marital and family histories. But we also attempt to corroborate the information they provide, since most, if not all, offenders have been hiding or covering up their sexual deviancy problems for a long time and are well-practiced in lying about their lives.

They're more likely to be open with us if, when we interview them, we act as if we already know about their deviant behavior. For example, on the assumption that most sex offenders have a pattern of repeated offenses, we don't ask whether an offender committed the crime for which he was imprisoned, we ask him how many times he has committed it. And most often he will acknowledge more offenses than are on his record.

We ask prospective program participants to provide an autobiography detailing their sexual histories, noting particularly any incidents of sexual victimization as a child; when their deviant acts began; how often and when they took place; whether and under what conditions force was used; and whether there were any progressive or escalating patterns of deviant sexual behavior. We corroborate this information with police and court reports, interviews with family or relatives and with any documented past history.

One of the more difficult aspects of assessing and treating imprisoned sexual offenders is developing adequate behavioral measures of their deviance patterns and how these are affected by treatment. Since we cannot monitor their problem behavior or their progress in controlling it until they are back in the community and have opportunities for further abuse, we must use a variety of surrogate measures.

We test their responses to deviant and nondeviant sexual stimuli by presenting them with slides, audiotapes or videotapes of scenes likely to be arousing or with their own detailed de-



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Most of the sex offenders in our program lack the social skills needed for responsible community living—partic-

ularly skills in coping with the challenges of everyday life at work and at home. For example, some may be unduly passive in situations requiring more assertive behavior (such as handling a problem with a boss or a spouse), then may become angry and behave inappropriately and impulsively. One man, jealous when his wife went to work in an all-male office and upset that their sex life had diminished at about the same time, committed incest with his child instead of talking with his wife about his concerns.

Through a number of courses that combine classroom lessons with role-playing and practice, clients learn to understand themselves and their behavior better and acquire more socially acceptable coping patterns. The courses include rational emotive therapy, anger management, drug and alcohol education and even assertiveness training.

One course deals with sex-role stereotypes as well as myths, misconceptions and irresponsible thinking and behavior concerning human sexuality. We provide lectures and films by professional sex therapists on techniques of appropriate sexual behavior. In addition, we encourage clients to discuss and practice dating skills; they role-play in class with female hospital-staff volunteers such simple—but for some quite difficult—acts as asking a woman to join them for coffee or a movie.

To help offenders become more empathic and encourage the development of more caring, respectful relationships, we offer a course in which films (such as *Something About Amelia*), lectures, written assignments and discussion are used to stress how one's behavior affects others. To help offenders appreciate the impact of sexual assault on other people, we invite adult victims of sexual assault (not the offenders' own victims) to discuss how they felt about being abused. These often highly charged exchanges help break through the wall of denial that can make sex offenders believe their victims enjoy the experience.

Some prisoners in our program also participate in a special group therapy for offenders who themselves have been abused in one way or another. We encourage them to deal with their feelings surrounding their own victimization, while they learn that it is neither an excuse nor a sole explanation for their victimizing others. To prevent them from using their own victimization to rationalize their behavior, they are placed in this therapy group only after they have accepted responsibility for their crimes and have begun to deal adequately with their own victimizing behavior.

ONE MAN, JEALOUS OF HIS WIFE, WHO WORKED IN AN ALL-MALE OFFICE, HAD MOLESTED HIS CHILD IN RESPONSE.

Group psychotherapy and classroom approaches are augmented by behavioral therapy, which we, like many others, have found can often help clients control or reduce their deviant sexual behavior. But many sex offenders have been getting reinforcement (excitement, gratification and orgasm) from their deviant behavior for decades and it is difficult to counteract, especially in less cooperative or less motivated offenders.

We use several widely accepted behavioral treatment techniques, usually progressing from less- to more-psychologically and physiologically intrusive treatments. "Covert sensitization" is likely to be the first behavioral therapy used. It is designed to increase a client's awareness and understanding of how his sexually aggressive behavior affects himself and others. In theory, and usually in practice, when an offender becomes more aware of the consequences of his deviant behavior, he is likely to become uncomfortable or uneasy about such behavior.

The prisoner is first asked to write several scenarios of how he prepares for an assault—his emotions and behavior preceding the attack and, specifically, how he selects and "sets up" his victim. He also writes several scenarios describing the natural or social consequences of such an assault. At first these are likely to focus on the victim, later on the victim's family and, finally, on his own family. He then privately reads the scenarios into a tape recorder, repeatedly pairing the preassault descriptions and their consequences. A therapist reviews and critiques the tapes, which often provide new, in-depth information on the client's preassault behavior and may later be played and discussed in group therapy. In later sessions, after describing his preassault behavior, the offender will describe more appropriate behavior that might follow his preparations, such as walking away from a potential victim.

Group therapy can give sex offenders support and self-understanding.

Many sex offenders are obsessed with deviant sexual fantasies, sometimes so severely that they interfere with concentration on any task. We use "boredom tape therapy" to make them less interested in such fantasies. The offender writes out several of his most powerful and exciting fantasies, then breaks these down into very brief segments consisting of just a few sentences. He then tape-records while reading each segment aloud repeatedly for an hour, or until he's extremely bored. These tapes, like other therapy tapes, are also reviewed and critiqued by the therapist.

One of the more powerful behavioral techniques is aversive conditioning with odors and/or electric shock, which we use to reduce sexual arousal and interest in deviant sexual themes. During treatment sessions, the thera-