

019 SJUD DISTRICT ATTY. - FISH & GAME BALL FORFEITURE SCHEDULE 85



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James O. Smith
Signature of Camera Operator

11/7/89
Date

DISTRICT
ATTORNEY

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
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POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

December 23, 1985

The Honorable Patrick Rodey
Alaska State Senate
2335 Lord Baranof
Anchorage, AK 99503

The Honorable M. Mike Miller
Alaska House of Representatives
P. O. Box 1494
Juneau, AK 99802

Dear Senator Rodey and Representative Miller:

In addition to our normal presentations, department-by-department, the Criminal Justice Working Group believes it would be helpful to meet jointly with the Senate and House Judiciary Committees, at a convenient date in January in Juneau to discuss the overall operation of the justice system at present, and in the future. If you agree we would appreciate hearing from your staff so that a specific date and time can be arranged. We anticipate the meeting will take approximately one and one-half hours, and will be attended by representatives from each of our offices.

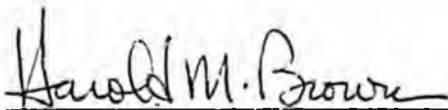
The group is requesting a similar joint meeting with the Senate and House Finance Committees.

We look forward to your response

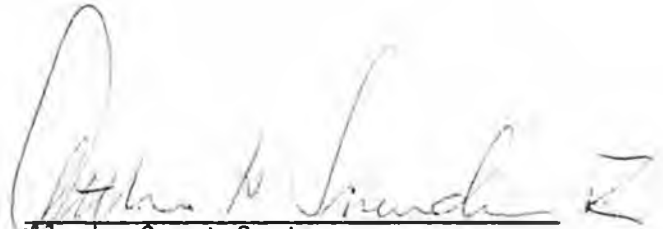
Sincerely,

Criminal Justice Working Group

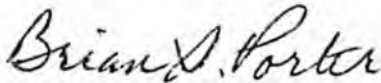
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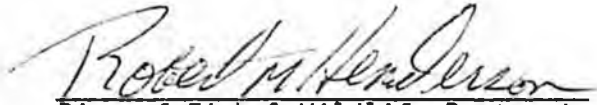
Department of Law
Harold M. Brown, Attorney General
Chair



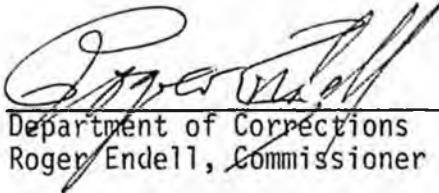
Alaska Court System
Arthur H. Snowden, II
Administrative Director



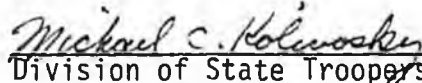
AK Association of Chiefs of Police
Brian Porter, Chief



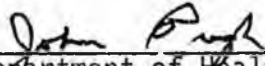
Div. of Fish & Wildlife Protection
Robert M. Henderson, Colonel



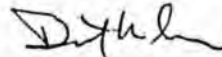
Department of Corrections
Roger Endell, Commissioner



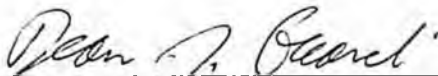
Division of State Troopers
Michael Kolivosky, Colonel



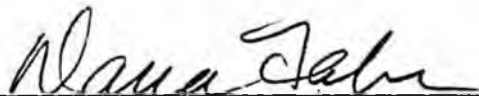
Department of Health and
Social Services
John Pugh, Commissioner



Office of Public Advocacy
Brant McGee, Executive Director



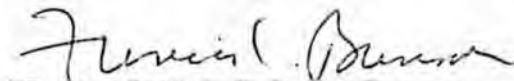
Department of Law
Dean Guaneli, Acting Chief
Criminal Division



Public Defender Agency
Dana Fabe, Public Defender



Department of Public Safety
Robert Sundberg, Commissioner



Alaska Judicial Council
Francis Bremson, Director

CONSULTING ENGINEERS



BOX 200345

COUNCIL OF ALASKA

ANCHORAGE ALASKA 99520

Patrick Rodey
2335 Lord Baranof Drive
Anchorage, Alaska 99503

Dear Senator Rodey:

The architectural, engineering and land-surveying societies in Alaska have been working with the members of the past three legislatures in an attempt to obtain passage of legislation which would mandate the competitive selection process of governmental agencies when contracting for professional services. Such legislation is also known as a "mini-Brooks" act, since it has its genesis in the Federal Brooks Act.

The enclosed 18 minute VHS tape was prepared by American Consulting Engineers Council as an explanation of consultant-selection procedure which is embodied in Senate Bill 204, "an Act relating to contracts for architectural, engineering and land surveying services". We urge you to spend a few minutes watching this presentation.

A mini-Brooks act will require the selection of a professional consultant on the basis of qualifications to perform the required services, with cost of services considered only in negotiations with the selected firm. If no agreement can be reached between agency and consultant, negotiations may be terminated and consideration given to the second-placed firm.

The negotiation process provides an opportunity to discuss the desired scope of the project and to eliminate any misunderstandings there may be, since it is an impossibility, short of designing the project, to write a scope of work which will be understood in the same way by all proposers. It is important to note that there are now over thirty-five states which have legislation similar to the Brooks Act, but not one which has a requirement for price-bidding of professional services contracts.

We have been told many times by legislators that what we propose is "special interest" legislation. We agree, with the exception of a definition of the "special interest" involved. Instead of a few beneficiaries, there will be over a half-million, the entire population of the State. The benefits are passed on to the general public in the form of better design,

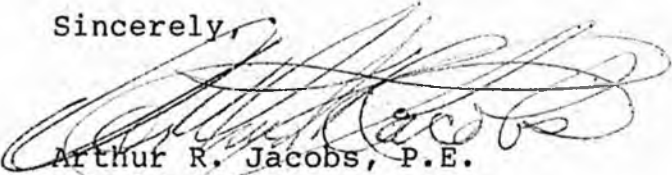
better and less expensive construction completed on schedule with fewer change orders, and lower maintenance costs.

Those who advocate price-bidding of professional services will argue that it would result in lower first costs. This we do not contest, but we also point out that, because of unavoidable ambiguities in the description of the scope of work (on which a bidder must base his offer), and without a "meeting of minds" prior to determination of cost of services, there is created a marvelous opportunity for the consultant to add to his compensation, as the job progresses, by way of contract change orders. Worse, the low bidder will scrimp on research during the design process, the result being lower quality, more expensive construction. With price-bidding, the professional consultant is taken from his traditional role of agent and advocate for the Owner and placed in an adversarial position, interested more in getting the job done than in doing it the correct or best way. Since repeat business will depend on low bid alone, and not on a developed reputation, there would be no incentive to perform at any more than minimum level.

Recently, engineering projects in Fairbanks and Anchorage were bid. In each case the low bid was just over \$19,000, while the high bids were \$126,000 and \$142,000, with several bids between in each case. Quite obviously, the scope of work was not defined clearly enough for all bidders to understand in the same way. That is the kind of situation which will be avoided by a mini-Brooks act.

We of the engineering, architectural and land-surveying professions urge you to vote in favor of Senate Bill 204, as originally proposed.

Sincerely,



Arthur R. Jacobs, P.E.
President

PRESS RELEASE

December 5, 1985

Contact: Pat Rodey

FOR IMMEDIATE RELEASE

276-6731

Senator Pat Rodey (D-Anchorage) today announced his intention to file a supplemental appropriation to cover the budget shortfall in the operating funds of the Department of Law's Criminal Division.

"As Chairman of the Senate Judiciary Committee I am naturally concerned if there are inadequate funds available to prosecute violators of the law," Rodey said. "It's not advisable from a public policy perspective to ignore offenses simply because the checkbook is empty. It's a sure way to insure that laws become deadletters."

Rodey declined to specify the amount he will seek in the appropriation at this time. "We need to refine the figure before we submit it," Rodey said, but noted that the division had projected a shortfall of between \$300,000 and \$400,000 for F.Y. 1986. "Of course, that only covers current operations, with no increase for priorities that the legislature has set such as child sexual assault prosecutions. We may want to address those needs in the same bill."

Rodey cited the increase in total criminal filings, as well as the increasing complexity of cases as reasons for the shortfall in the division's funds. "A complex case, such as the Peel prosecution in Ketchikan, is a real drain on an agency, and difficult to plan for when budgets are being prepared a year in advance."

Noting the rising cost of the criminal justice system and declining state revenues, Rodey indicated that the legislature was in for some tough decisions in the future. "We are going to have to decide which state programs will be discontinued, but protection of the public is among the most fundamental obligations of government. I just can't justify cutting back on criminal prosecutions when we are debating the size of swimming pools in Anchorage."

DAs cut back in face of budget shortage

By JOHN LINDBACK
Daily News reporter

JUNEAU — A projected budget shortage this year of \$300,000 to \$400,000 may force state prosecutors to cut back on the number of misdemeanor defendants they take to court.

Dean Guaneli, acting chief of the state Department of Law's criminal division, said Monday that district attorneys throughout the state are being told to cut back on expenses such as travel for witnesses, fees to hire expert witnesses and overtime for division workers.

And job vacancies within the criminal division will remain open in order to save money, Guaneli said.

"We're in a terrible situation. Every year we have some problems, but not like this," he said.

The spending cuts are likely to be directed at misdemeanor cases that will be expensive to prosecute because of witness travel costs or other factors, he said.

"We are not going to cut back on felony cases," he said. "If it's a misdemeanor, we are going to have to take a real hard look at the case and

dismiss it if it means spending that kind of money."

Guaneli said he asked Attorney General Hal Brown and Gov. Bill Sheffield to consider sending the legislature a request in January to bail the criminal division out of its budget shortage for fiscal year 1986, which ends June 30 of next year.

Last session the legislature did not approve a Sheffield request to increase the number of criminal division attorneys from 74 to 81 in order to cope with an 18 percent increase in criminal cases — particularly child sexual as-

sault and narcotics defendants.

In the \$11.4 million operating budget the legislature approved for the criminal division was enough money to hire just one new attorney. The criminal division is authorized to hire 179 people in 15 offices across the state.

In 1984, about 22,000 cases were handled by the criminal division. In 1985, the total increased to 26,000.

The number of felony cases brought to the division by law enforcement agencies increased from 3,600 in 1984 to 4,300 in 1985, Guaneli said.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

December 2, 1985

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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AND APPEALS
1031 WEST 4TH AVENUE, SUITE 316
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

The Honorable Patrick M. Rodey
Alaska State Legislature
2335 Lord Baranof
Anchorage, Alaska 99503

Dear Senator Rodey:

This is in response to your letter of October 10, requesting data on the increase in caseload for the Criminal Division between FY 84 and FY 85. I apologize for the delay, however our computerized case tracking system is not currently set up to provide statistics in the way you requested, so it has taken some time to pull things together.

The chart below shows felony defendants,^{1/} by offense type, referred for prosecution. The numbers reflect the most

1/ A universal problem in compiling prosecution statistics is whether to focus on the number of cases (i.e., potentially involving more than one defendnt, each charged with more than one offense), the number of separate defendants, or the total number of offenses. In Alaska most co-defendants can obtain severance and separate trials, therefore it does not make much sense to keep track of "cases." Keeping track of total offenses as the sole measure of workload is misleading because, although a two-count indictment may involve more work than a one-count indictment, it does not take twice as much effort. We therefore count separate defendants, listed by the most serious charge, sometimes referred to as the "primary" charge.
(Footnote Continued)

serious charge for each defendant, so that a person charged with two counts of murder and one count of robbery will show up as a single murder defendant. Similarly, someone charged with ten counts of child abuse will show up as a single defendant under the category "Sex Assault-Child Victim." As you can see, we have had significant increases in child sexual assault and other serious crimes. This will be discussed in more detail later.

FELONIES

<u>Offense (Increase in Referrals)</u>	<u>FY 84</u>		<u>FY 85</u>	
	<u>Referrals</u>	<u>Declined</u>	<u>Referrals</u>	<u>Declined</u>
Murder (36%)	50	8%	68	10%
Manslaughter/Neg Hom (-35%)	46	59%	34	35%
Assault (13%)	714	20%	810	30%
Kidnapping (47%)	19	16%	28	43%
Sex Assault-Adult Victim (9%)	227	38%	248	51%
Sex Assault-Child Victim (57%)	343	34%	537	40%
Robbery (5%)	116	33%	122	16%
Arson (231%)	13	23%	43	37%
Theft/Bad Checks (18%)	570	29%	673	32%
Burglary (17%)	558	28%	652	26%
Criminal Mischief (-1%)	184	24%	182	28%
Forgery (65%)	91	32%	150	24%
Weapons Offenses (10%)	40	18%	44	20%
Drug Offenses (9%)	505	28%	551	24%
All Other Felonies (14%)	<u>168</u>	<u>45%</u>	<u>191</u>	<u>33%</u>
TOTAL (19%)	3,649	31%	4,333	31%

(Footnote Continued)

We also keep a total of all other charges, sometimes called "secondary" charges, although we do not find that information to be particularly useful, especially since many of these secondary charges are simply alternate legal theories for a single offense.

The next chart shows misdemeanor defendants, by offense type, referred for prosecution. For convenience, I have consolidated many similar offenses into large categories.

MISDEMEANORS

<u>Offense (Increase in Referrals)</u>	<u>FY 84</u>		<u>FY 85</u>	
	<u>Referrals</u>	<u>Declined</u>	<u>Referrals</u>	<u>Declined</u>
DWI (14%)	4,042	4%	4,619	4%
DWLS (33%)	2,235	26%	2,983	29%
Assault (27%)	1,640	36%	2,077	32%
Other Driving Offenses (-13%)	2,138	8%	1,867	12%
Trespass/Crim Mis/DC (16%)	1,595	27%	1,856	28%
Liquor Offenses (45%)	791	19%	1,150	16%
Theft/Bad Checks (7%)	961	31%	1,026	31%
Fish & Game (9%)	881	7%	958	12%
All Other (-6%)	<u>1,319</u>	<u>26%</u>	<u>1,235</u>	<u>27%</u>
TOTAL (14%)	15,602	18%	17,771	18%

In FY 84 the Criminal Division also opened files on 2,853 other matters including probation revocations, appellate matters, juvenile proceedings, etc. In FY 85, 3,956 such files were opened (an increase of 39%), the greatest increases being in probation revocations.

Both of the above charts also show the declination rate for each type of offense, thus providing some measure of the number of cases actually filed.^{2/}

Just as an aside, I feel that the case "screening" function is one of the most important aspects of our prosecution program. It is something that defense lawyers and judges seem to forget about, because they never have to bother with cases that are "screened out," i.e., declined for prosecution. However, it takes an enormous amount of time to review a case and research the law, to be able to make an intelligent decision about whether or not to decline a case or to accept it at a lower level. Declining cases also means that

2/ It is often difficult to decide when a "case" has been "declined." If the most serious charge referred to us is ultimately charged as a lesser included offense, we do not treat it as a declined prosecution. For example, if the police bring us a case that they believe to be a first degree murder, we do not list it as a declination even if it is ultimately charged as criminally negligent homicide. On the other hand, if the most serious charge is declined, it is listed as a declination even if some other secondary offense is charged. For example, if the police arrest someone for murder and robbery, and the prosecutor decides that only the robbery can be proven, then we will list that as a declined murder prosecution. The robbery will be counted in our statistics as a secondary offense which was accepted for prosecution, but it will not appear on the above charts. Thus you must view this declination figure with caution. Although most charges are accepted for prosecution at the same level they were referred, some obviously are charged at a lower level and are not counted as declined. Conversely, a few cases listed as "declined," will nonetheless result in a prosecution for some secondary offense.

prosecutors must spend a great deal of time with victims and the police, who are usually not particularly pleased about the result. Therefore, although not every one of the 4,300 felony defendants referred to us in FY 85 resulted in a prosecution, I think that the number 4,300 fairly represents our felony caseload for the year.

In addition to all these quantitative measures, I think that some qualitative remarks are also appropriate. When I was a young public defender intern in Juneau in 1975, I recall that serious felony cases were very rare. It was very unusual to have homicides, sexual assaults or felony assaults in Juneau, and we hadn't had an armed robbery in many years. Now, such crimes are a weekly occurrence. The same thing is happening all over the state--the crimes are becoming much more violent, and cases of all sorts are becoming more complex.

Because of the overall increase in numbers of crimes, and the increase in the seriousness of crimes, we have had to set some priorities on the cases we prosecute. For example, in Anchorage we have begun to focus on large-scale drug trafficking, with very good results. However, these large drug investigations and prosecutions have a price. They are extremely labor intensive and, because our narcotics prosecution unit has not been funded, very few of them can be pursued and other cases suffer when we do in fact pursue one.

Major narcotics rings are always carefully planned and organized and it requires the same degree of planning and organization to put them out of business permanently. A good example is the single big drug case that the state was able to pursue in FY 85 -- the "Black Gold" heroin ring in Anchorage. It was indeed a big case: 29 separate individuals, most charged with selling heroin, almost all of whom were granted separate trials, thus creating 29 cases out of a single operation. So far there have been no acquittals, although a few have fled the state and are now fugitives. In addition, some defendants have cooperated with federal authorities in the prosecution of their Seattle source. These good results are merely the end-product of thousands of hours of work.

The "Black Gold" investigation required the "full-time" (12 hours a day, 6 or 7 days a week) direction and legal assistance of two experienced prosecutors for over two months. In addition to obtaining over 25 search warrants, the prosecutors consulted on a daily, sometimes hourly, basis with and guided the efforts of three teams of officers: a "surveillance" team varying from 10-20 officers to keep track of the members of the ring; a "buy" team of 4-8 officers working closely with informants to purchase narcotics; and an "investigation" team of 2-6 officers who compile telephone records and other evidence in order to discover links between individuals and organizations.

This type of effort is the only way that big drug rings are broken up. But the investigation requires 2-3 months, the actual prosecution (grand jury, pretrial hearings and trial) takes 6-8 months, and forfeiture proceedings (to confiscate drug money and other property) can drag on for even longer. Thus a single prosecutor can manage at most only one of these operations per year. More of these operations could be run out of business if more prosecution resources were available.

For FY 85 the legislature created 2 additional attorney positions (plus a paralegal and secretary) to form a major narcotics unit in Anchorage. However, the unit was seriously short-funded and could not be created. Although the Governor requested funding in FY 86, none was forthcoming.

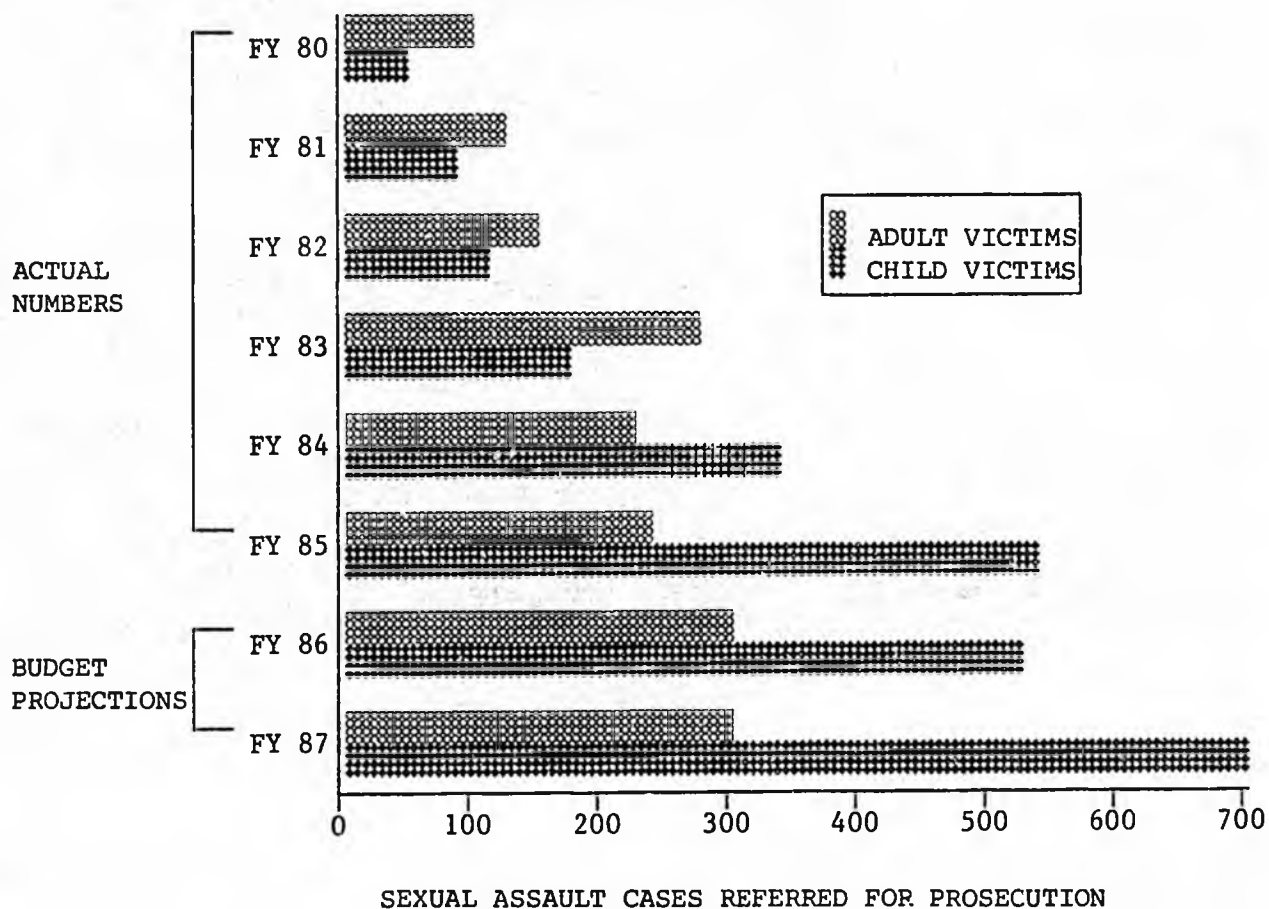
A narcotics prosecution unit is critical. With the opening of the international wing at the Anchorage airport, there has been an increase in the number of international flights with passengers "off-loading" in Anchorage. With new routes of access to Alaska, and new types of drugs to deal in, traffickers will have a field day. The time to strike is now, before new organizations get established in Alaska to fill in the void left by the prosecution of the Resek-Marin family (FY 84), the Black Gold ring (FY 85) and, most recently, the Azzarella-Serra organizations (FY 86).

Another priority that we have set is for the prosecution of sexual offenses. A number of years ago we placed emphasis on the problem of adult rape; the emphasis has now shifted to child sexual abuse.

The problem of criminal child abuse (both sexual and physical abuse) was partially addressed last session in House Bill 88, which resulted in significant FY 86 fiscal note funding increases for social workers (Division of Family and Youth Services) and criminal defense attorneys (Public Defender and Public Advocate), but inadequate increases for prosecution services. The increase in child abuse described in last year's budget has continued to the point where the budget estimate of the number of cases anticipated in FY 86 was exceeded a year early in FY 85 and the Criminal Division has been forced to turn away more child abuse cases than ever before.

Several years ago the legislature devoted specific resources to the problem of adult rape. As a result, the Criminal Division formed special rape prosecution teams and provided training for prosecutors in rape cases. The number of rape cases had been growing rapidly and the Anchorage Daily News called Anchorage "Rape City, U.S.A.". However, perhaps as a result of this focus on the rape problem, the number of adult rapes has levelled off at about 250-300 cases per year since

FY 83, as can be seen on this chart. There are no such encouraging signs with child sexual abuse.



Because of the shame and embarrassment felt by sexual assault victims of all ages, it is not surprising that when one child victim comes forward, others are encouraged to do so. It is often the case that when one case of abuse is discovered, other children in the same family or same school will disclose that they, too, have been victimized. Just a few years ago, adult victims of rape started to come "out of the closet." Now it is the children's turn.

Child abuse takes many forms: physical abuse, neglect, and sexual abuse (including commercial exploitation such as child prostitution rings and pornography). Child abuse feeds on itself, because a person who was physically or sexually abused as a child will often abuse his or her own children. A "ripple effect," is thus created, with each generation containing more abusers. This in turn increases the amount of public funds which must be spent on family counseling, juvenile delinquency, mental health, and a range of criminal justice programs.

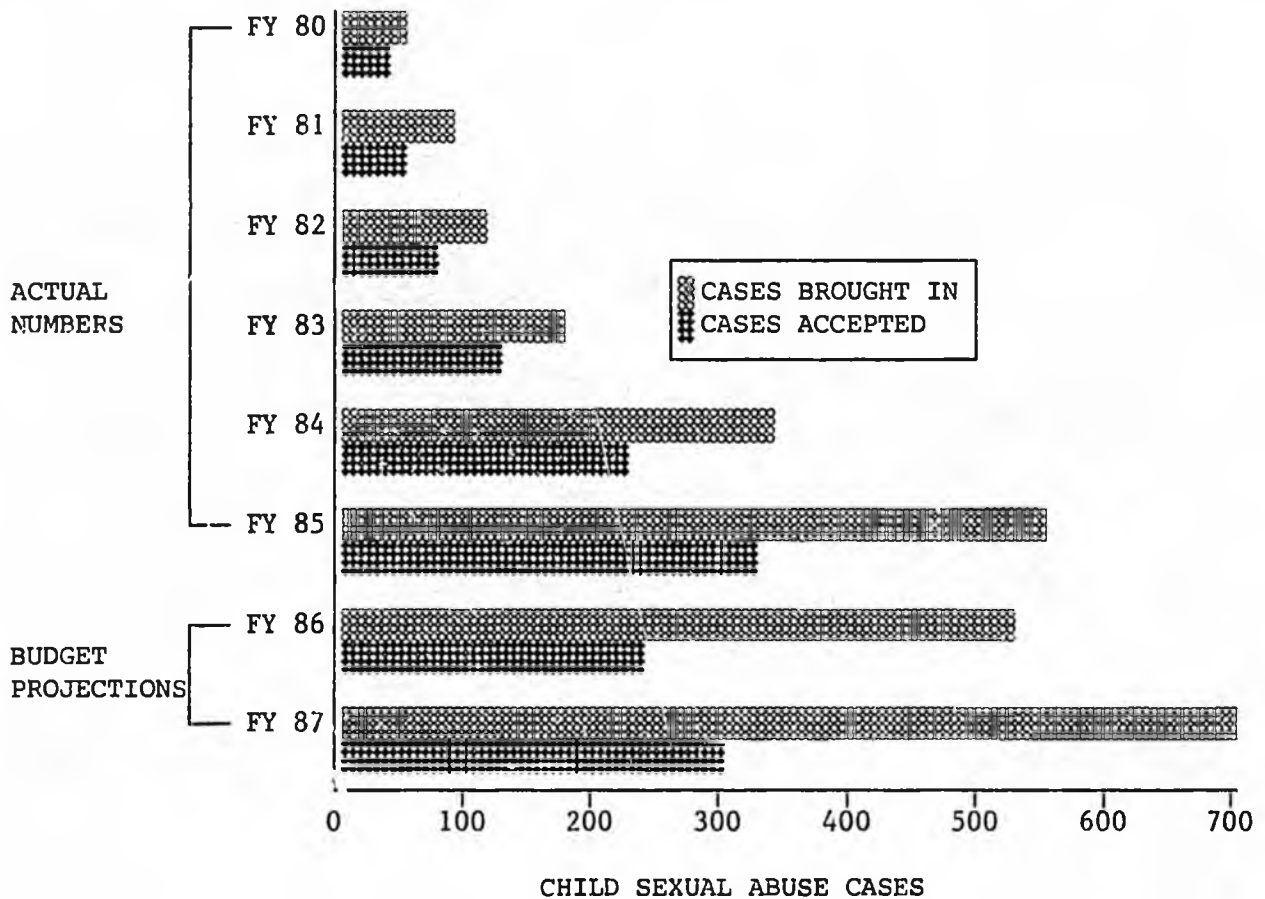
As it turned out, a number of paralegal positions requested, but not funded, for FY 86 have now been provided by way of a federal grant. These positions will assist in interviewing and counseling victims and non-offending parents, in order to help them overcome the trauma often associated with the abuse. However, the number of prosecuting attorneys must be increased, particularly in Anchorage, Barrow, Juneau, and Kenai. In many areas, such as Barrow and Kenai, the criminal division is also responsible for handling civil actions, often on an emergency basis, to place abused children in the care of the state or foster parents, to terminate the parental rights of abusers, to obtain child support enforcement, or to handle juvenile delinquency proceedings.

In FY 87 it is estimated that 700 child sexual abuse cases will be brought to Criminal Division offices for prosecution. Because many cases involve multiple victims, the total number of abused children who came into contact with the criminal justice system is likely to approach 1000 or more in a single year. That is more than 1% of the total Alaska population of children -- both boys and girls -- from age 5 to 14, the age group most victimized. (Department of Labor statistics show about 86,000 children in this age group as of July 1, 1984.) This means that within a ten-year period more than 10% of all Alaskan children will be the victim of child abuse serious enough that the case will be reviewed by the Criminal Division. This realization is particularly disturbing because only a percentage of reported abuse cases ever reach a prosecutor's desk, and only a much smaller percentage ever get reported at all. (The Kinsey Report, completed over three decades ago, found that 1 out of every 4 girls, and 1 out of 8 boys, had been the victim of sexual abuse before adulthood, although the results of the report have been doubted by many until just recently.)

Statistics from the Division of Family and Youth Services confirm this frightening trend. Reported abuse and neglect cases more than doubled between FY 78 and FY 83.

During that same period, the number of reports of child sexual abuse increased by nearly 300 percent. In addition, probably as a result of better training and investigative techniques, the number of substantiated cases increased sixfold. (Child Abuse and Neglect in Alaska: A Report to Governor Bill Sheffield, August 28, 1984.)

As can be seen on the chart below, the actual number of criminal child abuse cases in FY 85 exceeded even the pessimistic budget projections for FY 86. Currently in Anchorage alone, a new child abuse case is brought in for prosecution every working day! Child abuse cases are legally and factually complex, and take a tremendous emotional toll on attorneys and victims alike. Each case usually involves multiple "counts" (separate incidents) of child abuse by the offender. In most cases the victim has been assaulted many times; often there are several victims; sometimes there are both multiple incidents and multiple victims. Even if a case is not prosecuted, it takes an enormous amount of time interviewing victims and families, researching the law, and reviewing police reports, to be able to make that determination.



The number of child sexual abuse cases brought in to Criminal Division offices for prosecution in FY 82 was about 100. In three short years that number has swelled to almost 550 in FY 85, far outstripping available prosecution resources. From 1979-84, the division rejected (i.e., declined to prosecute) about 32% of all sexual assault cases. In FY 85, because of the crush of child sexual abuse, the division was forced to reject 44% of all sex cases. The only thing about child sexual abuse that has leveled off is the division's ability to prosecute any more cases.

In addition to the specific problems described above of more violent crime, more sophisticated drug trafficking, and more reported child abuse, there is also the problem of there being simply more and more cases of all types to be prosecuted. As a result of the population increase in certain areas of the state, as well as an increase in the number of judges and public defenders, we need additional attorney positions and pretrial diversion counsellors in order to maintain basic prosecution services.

The expanding population base in Alaska has meant more cases to be prosecuted. Much of this population increase is made up of young adult males in the age bracket that is most likely to commit crimes. The problem is most acute in Anchorage, Juneau, and Kenai. The planned military build-up in Fairbanks will only intensify the situation. In a single year, the number of cases brought to Criminal Division offices increased 18% -- from just over 22,000 (FY 84) to over 26,000 (FY 85). Felony cases were up 19%, misdemeanors up 14%, and other cases (appeals, probation revocations, etc.) up 39%.

The Criminal Division simply cannot prosecute any more cases -- it is currently turning them away in record numbers. (Last year the Division was brought over 4,300 felony cases, but prosecuted only 3,000 -- 31% were declined for prosecution.) In order to keep up with the staggering number

of cases the Division must (1) continue to turn away more and more cases or (2) be given additional prosecutors and pretrial diversion counsellors. New attorneys are needed, not only to prosecute those cases deserving of prosecution, but also to carefully review the thousands of extra cases brought in every year in order to make an intelligent decision about whether to prosecute. New pretrial diversion counsellors will be able to handle additional offenders in the pretrial diversion program, thus freeing up valuable attorney time to be devoted to more serious cases. This program is one of the most successful new Criminal Division services, last year collecting over \$190,000 in restitution and arranging over 23,000 hours of community work service.

Census figures show that the Anchorage Borough population increased 38% between 1980 and 1984, and that well over 60,000 more people are now living there. This population increase represents much more than the population of places like Juneau and Ketchikan, each of which have three full-time prosecutors. However, the Anchorage office has not received any additional positions designed to allow the office to keep pace with this population increase, and thus has the lowest prosecutor-to-population ratio of any office in the state, with Kenai a close second. Despite the need for prosecutors, the Anchorage office is regularly called on to assist in outlying offices, thus further reducing its prosecution capability.

The last time that the Juneau District Attorney's office received an attorney position was over 9 years ago, in 1975. Since that time the population and caseload have doubled, the number of superior court judges has doubled, and the number of state public defenders now equals the number of prosecutors. (Since criminal defense work is handled partly by public defenders and partly by private counsel, the total number of full-time defense attorneys in Juneau now far exceeds the number of prosecutors.) In addition, the typical felony case in Juneau has become much more serious and complex, thus resulting in a significant increase in pretrial proceedings. Service to the bush areas of Southeast Alaska has also increased due to increased crime in those areas.

The caseload of the Kenai District Attorney's Office has also doubled since the last attorney position was added 5 years ago, particularly drunk driving and fish and game cases caused primarily by the heavy recreational use of the Peninsula by Anchorage area residents. In FY 85 the small three-attorney Kenai office prosecuted 780 DWI cases -- 25% more than the entire Anchorage office. (In Anchorage a large percentage of DWI cases are handled by the municipal prosecutor.) The public defender agency in Kenai has added a third position, thus putting the prosecutor's office at a disadvantage compared with the number of available defense attorneys. Moreover, recent population increases make the Kenai prosecutor-to-population

ratio the second lowest in the state, only slightly ahead of Anchorage.

The Barrow office has been open for the last three years and is staffed with a resident prosecutor. However, the continued increase in serious felony cases in Barrow has reached the point that Fairbanks must provide additional attorney assistance to Barrow on nearly a full-time basis, thus reducing the number of prosecutors in Fairbanks. The single resident attorney in the Barrow office simply cannot provide adequate service to the North Slope area in light of the overall caseload and the need to devote more resources to child protection (including child support enforcement and juvenile delinquency proceedings). Moreover, the recent addition of a second public defender position means that Barrow has twice as many public defenders as public prosecutors.

One of your specific questions related to the impact of additional court resources on Criminal Division operations. As we have always said in the past, more judges means we must have more prosecutors. If we do not, then our prosecution efforts will suffer. Let me explain why.

The criminal justice system, like any other system, works best when it reaches a state of equilibrium; that is, the number of cases that move through the system must be able to

be adequately handled by the resources available in each criminal justice agency. If one agency increases its productivity, it affects the "balance" in the system. Cases begin to move through the system either more quickly or more slowly, and both results affect our ability to effectively prosecute the cases.

For example, if more cases come into the system, either because the police increase the number of field officers, or if the prosecutors reduce their screening standards and accept more cases, or if crime simply increases, then more and more cases must be processed. If the system (courts, prosecutors, public defenders) is not prepared to meet this increase, then there will be long delays, cases will stack up and there will be more cases pending adjudication. This means that more and more cases will approach the four-month rule deadline, and available civil judicial resources will have to be diverted to criminal cases to avoid dismissals. Every good lawyer knows that delay benefits the defense; witness frustration and attrition being one of the primary reasons.

Conversely, if because of the addition of judicial resources, cases start moving more quickly through the system, then there may not be enough trial attorneys to go around and they may not have adequate time to prepare for trial. Currently in Anchorage so many cases are going to trial that

several prosecutors have been required to appear in two courtrooms at one time because two of their cases were called to trial at once. Under these circumstances, it is unreasonable to expect that another prosecutor who is unfamiliar with the facts can simply step in and take over the case--they are not, after all, fungible commodities. As a result, prosecutors have been sanctioned, and in some instances have been ordered out of another judge's courtroom to be present for a different judge's case. This kind of helter-skelter practice does not allow enough time for proper trial preparation, and is bad for office morale. In addition, the frequent schedulings and reschedulings make it difficult to coordinate witnesses and other trial logistics.

If I had to make an assessment as to which agency is out of sync, I would have to say it is the Criminal Division. The number of judges in most areas of the state is probably adequate, with the possible exception of Palmer and Kenai. Cases are for the most part moving through the system within the four-month rule limit. The number of defense counsel is also adequate. In most areas of the state the number of public defenders now equals the number of public prosecutors. With the creation of the Office of Public Advocacy and the availability of private retained counsel, prosecutors in this state are definitely out-manned. Prosecutors are therefore forced to carry a much higher caseload than the average defense attorney and, in addition, must review and screen a large percentage of cases that never get filed. (We are currently so

backed up in Anchorage in reviewing child abuse cases that it will probably take several months to catch up, if we ever do.)

I understand that the court system will request additional superior court judges this year in Palmer, Kenai, Dillingham, and Ketchikan. Obviously any such increase in judicial resources must be matched by a corresponding increase in prosecution resources. For example, additional judges in Palmer and Kenai will at a minimum require one additional prosecutor in each area. In addition, Anchorage judges who currently travel to Kenai and Palmer will now be able to devote more attention to Anchorage cases, thus necessitating at least one extra prosecutor in Anchorage. Without these increases, the Criminal Division simply will not be able to keep up. Our screening standards cannot get much higher consistent with adequate public protection, and we cannot maintain the current pace of trials in Anchorage without decreasing the conviction rate and contributing to the high turnover of experienced prosecutors that we have undergone over the last two years.

You also specifically asked about position increases since FY 84. As you can see from the chart below, since FY 84 the Criminal Division has only received legislative funding for two attorney positions (in Palmer and Dillingham) that were not directly related to the fiscal impact of new criminal justice

legislation. (I will be glad to supply you with information on paralegal and clerical positions should you so desire.)

<u>Position/Location</u>	<u>Funding Source</u>
FY 86 Attorney IV (Anchorage)	HB 88 (Child protection legislation)
FY 85 Atty V (Dillingham)	Regular budget
Atty III (Palmer)	Regular budget
2½ Atty III (Anch & Fairbanks)	HB 7 (Mandatory Auto Insurance) ^{3/}
Atty V (Anchorage)	HB 571 (Increasing the number of judges)
2 Atty IV (Anchorage)	Narcotics prosecution unit approved without funding
FY 84 2 Atty III (Ketchikan & Bethel)	HB 270, HB 6, HB 214 ^{4/}
½ Atty III (Anchorage)	HB 10 (Imitation Controlled Substances)

In short, there have been no new attorney positions given to the Criminal Division to keep pace with the sophistication and complexity of large-scale drug trafficking in Alaska, and only a single position (by way of the HB 38 fiscal note) to address the explosion in child abuse cases. There has only been one attorney position (the FY 85 Palmer attorney) to address the increase in caseload due to the ever-expanding population base.

3/ Currently about 60% of the misdemeanor caseload in Anchorage is for Driving With A Suspended or Revoked License, much of which is a result of failure to have insurance or failure to prove financial responsibility.

4/ These fiscal notes relate to new laws on drunk driving (HB 6), child pornography (HB 270) and a superior court judgeship in Valdez (HB 214).

Finally, I would like to call your attention to another budgetary problem that we have been experiencing in recent years. As you know, there have been a number of very serious, highly publicized crimes that have required lengthy (and very expensive) trials. These kinds of cases force us to divert scarce resources from our normal caseload. Currently State v. John Peel is just such a case in point. In the past few years we have absorbed all the costs of major prosecutions of this sort: Meach (four teenagers killed in Anchorage), Stumpf (contract killing in Anchorage), Mortgage Company of Alaska (fraud in Anchorage), and Resek-Marin (about 25 drug trafficking cases in Anchorage). The Mackay case is likely to be the next one in line. In other cases, such as Hastings (6 killed in MacCarthy) and Hansen (17 women killed in Anchorage), we save a lot of time and money if the defendants plead guilty, but we can't always count on that happening.

However, the complexity of the Peel case has made it far more expensive than any of these others. In short, it is simply draining us this year. We have had to divert personnel from Anchorage, Juneau, and Sitka to help out with the normal Ketchikan-Petersburg-Wrangell calendars, and we have diverted large amounts of witness travel and contractual money from the central office in Juneau. If we are to continue to vigorously pursue these kinds of cases without completely disrupting the rest of our operations, there must be some recognition of the

need for a special appropriation (similar to the special funds available for oil and gas litigation) for these completely unanticipated major cases.

We are appreciative of your longstanding support of the Criminal Division. If we can be of further assistance, please let me know.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: Dean J. Guaneli

Dean J. Guaneli
Acting Chief of the
Criminal Division

DJG/gb-70

PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503



DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

✓ KB copy

F.Y.I.

October 10, 1985

Dean Guaneli, Section Supervisor
Legal Services Section
Criminal Division
Department of Law
Pouch KC
Juneau, Alaska 99811

*P.M.R. - I'm TRYING
TO GET SOME BASELINE
DATA TO JUSTIFY YOUR
REQUEST ON ADDITIONAL
PROSECUTORS. KB*

Dear Mr. Guaneli:

I have been approached by some members of the Department of Law who have expressed a concern that the legislature has not allocated sufficient funds for the criminal prosecution function, especially in light of recent Title 11 amendments. As Chairman of the Senate Judiciary Committee, I am naturally concerned if there are inadequate resources to devote to priorities that the legislature has established.

Accordingly, I would appreciate receiving from your agency some statistical information on case processing that I understand is available through the P.R.O.M.I.S. system. Specifically, I would like to know:

- 1) The number of misdemeanor and felony cases (by offense types) forwarded to the D.A.'s office for prosecution during FY 84, and FY 85.
- 2) The number of cases (by offense types) actually filed on for the same fiscal years.
- 3) All position increases for FY 84 and FY 85 by District Attorney Office.
- 4) Offense category increases and decreases noted by your office.
- 5) Your impressions of the impact of additional court resources on the criminal division's operations.

I appreciate your assistance in this matter, and please let me know if you need any clarification of my request.

Sincerely,

Pat
Patrick M. Rodey

PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503



V KB copy

DURING SESSION
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

October 10, 1985

Dean Guaneli, Section Supervisor
Legal Services Section
Criminal Division
Department of Law
Pouch KC
Juneau, Alaska 99811

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- 5) Your impressions of the impact of additional court resources on the criminal division's operations.

I appreciate your assistance in this matter, and please let me know if you need any clarification of my request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat", enclosed within a large, loopy circular flourish.

Patrick M. Rodey

PAT RODEY

Red Room AT 12:00
B-CLUB

When young people confront our juvenile justice system, injustice is a frequent result. The system seldom provides the justice that is so desperately needed, it does not always help the non-criminal youth who fall into its domain and it frequently fails to protect society from the violence of the few truly dangerous juveniles that are outside the law. It is this last problem that we are addressing today, the truly dangerous youth who more rightfully fall within the jurisdiction of the adult court rather than under juvenile procedure.

Before we examine the specific issue of legislative waiver of certain youthful offenders to adult court we should review the purpose of the juvenile justice system. Simply stated, juvenile justice is based on the obvious notion the juveniles are young and therefore their culpability for criminal acts is diminished. Furthermore, research indicates that much of delinquency may be a symptom of adolescence that will be outgrown in most circumstances. Accordingly, the juvenile system seeks to rehabilitate youths and protect them from the stigma of conviction through treatment, supervision and confidentiality. As you may know, the law currently allows minors to be prosecuted as adults if the state can show by a preponderance of the evidence that a juvenile is not amenable to treatment.

I do not quibble with the purposes of this system, and I do not believe that legislative or automatic waiver of certain juveniles does harm to the overall purposes of juvenile justice. My bill would automatically waive 16 and 17 year old juveniles from juvenile court into adult court if there is probable cause to believe that they have committed murder, kidnapping or sexual assault in the first degree. My proposed bill addresses acts that are clearly unacceptable in any society, offenses that are so heinous that any 16 or 17 year old juvenile knows that they have clearly and irrevocably stepped beyond the notion of delinquency and have entered the realm of criminality. Murder, rape, and kidnapping are adult offenses and deserving of an equal level of response from society.

I recognize and acknowledge that a troublesome aspect of this approach is what to do with the youthful defendant before, during and, assuming conviction, after trial. My bill would allow the Division of Family and Youth Services to retain custody of the defendant throughout this procedure and would only transfer the defendant to adult corrections when the defendant reached their 19th year, and only if more than a year remained on their sentence. The state should obviously protect the offender from possible victimization and I would oppose throwing any juvenile, regardless of their offense, in with adult offenders.

~~Finally,~~ I also realize that, even given the seriousness of these offenses, that there may exist mitigating circumstances because of the offender's age that argue against the imposition of a presumptive sentence. Accordingly, my bill would remove the stipulation that presumptive and mandatory minimums apply in these cases, and therefore give a sentencing judge the widest latitude in fashioning the most appropriate sentence. For instance, a conviction under Murder in the First Degree carries a minimum term of 20 years. This would not apply to juveniles waived under my proposal.

Actually, Alaska is fairly fortunate, for our problems with youthful offenders are far less serious than for the nation as a whole. The Division of Family and Youth Services reports that juvenile arrests for serious, violent crime averages 2%, as compared to 4.2% nationally. In calendar year 1983 that translated out to 116 arrests in the most serious category of offenses. Some would say that indicates a success that shouldn't be ~~expected~~ ^{timid} with, I don't agree. The possibility of deterring some juveniles from committing these types of offenses by broadcasting a clear message cannot be overlooked. In one particularly brutal murder a 18 year old offender told his 16 year old companion to club the victim to death because he was a juvenile and wouldn't be prosecuted for it. Make no mistake, the majority of juveniles in this age category are cognizant of the legal

ramifications of their acts, and they are aware that if they remain within the juvenile system they are released when they become adults.

Another argument used against automatic waiver is the belief that the current system of waiver works sufficiently. Again, I don't agree. Unfortunately, we do not have very reliable data on its use and misuse but know that it has been applied in cases ranging from murder in the first degree to minors consuming alcohol. At a recent legislative hearing on this topic an opponent of automatic waiver cited the following statistics; of 17 waivers requested over a three year period 11 were approved, 1 was withdrawn, 4 denied and 1 was pending. Because of a records failure we don't know what each of the cases represented, but if attempts have been made to waive juveniles for consuming alcohol I'm not surprised that some have been denied. More important, if only 17 waivers were attempted over a three year period, what of the approximately 300 remaining cases of serious juvenile crime? Are we to assume that they were all amenable to treatment? I think not. Current waiver hearings can be quite complex and consume the resources of defendant and prosecution alike. In some cases I have been told that a waiver has not been pursued because there were inadequate resources to devote to the task, not because they were not warranted.

As Ted Kennedy once said on this issue, "...the major problem confronting the juvenile justice system is fundamental, and can be traced to an unrealistic myth; that juvenile courts are somehow equipped to rehabilitate and treat all juveniles...". "Age cannot justify treating the 17 year old rapist or murderer differently from his adult counterpart. The poor, the elderly - those most victimized by crime - do not make those distinctions. Nor should the courts."

I believe Senator Kennedy is right, an automatic waiver for 16 and 17 year old defendants in major crimes cases is not only appropriate, but the best course.

MEMORANDUM OF AGREEMENT

The Alaska Court System and the Division of Risk Management, Department of Administration, agree that the State of Alaska will provide liability coverage for employees of the Alaska Court System, under the terms of this memorandum.

I Coverage.

The State of Alaska will pay on behalf of any employee of the Alaska Court System all sums which the employee becomes legally obligated to pay as damages because of any claim or claims, including claims for personal injury, made against the employee and reported to the Division of Risk Management, by reason of any act, error or omission of the employee in the employee's official capacity (including but not limited to judicial, ministerial, administrative and management acts). Coverage includes exemplary and punitive damages awarded in conjunction with any covered claim.

II Defense and Settlement.

(a) The State of Alaska has the duty upon request from an employee covered under this memorandum to defend any suit against an employee alleging acts, errors or omissions covered under this memorandum. In addition, the State of Alaska will defend and pay all fees, costs and expenses incurred in the defense of claims made in conjunction with disciplinary proceedings arising from an act, error or omission of the employee in the employee's official capacity.

(b) The State of Alaska has the right to investigate the facts underlying the claim and to settle any claim as it deems

expedient. However, the State of Alaska will not settle a claim without first advising the employee and considering the employee's concerns, if any, about whether a settlement should occur.

(c) The State of Alaska will select and retain counsel to represent the employee in any action associated with a claim under this memorandum. An employee's preference about which attorney should be selected will be taken into account by the division in selecting counsel if the employee informs the division of the preference.

III Persons Covered.

Persons covered include all employees of the Alaska Court System, whether full-time or part-time, while acting in the scope of their employment for the State of Alaska. A person formerly employed by the Alaska Court System is covered under this memorandum for acts, errors or omissions which occurred while the person was employed by the Alaska Court System.

IV Territory Covered.

This policy applies to acts, errors or omissions occurring anywhere in the world.

V Claim Reports.

A claim is considered to be reported to the State of Alaska only when the Division of Risk Management, or its designee, first receives verbal or written notice of the claim or of an event which could reasonably be expected to give rise to a claim.

VI Exclusions.

Coverage under this memorandum does not apply:

(a) to any claim arising from the intentional violation of a penal statute or ordinance by an employee; however, this exclusion does not effect the coverage to any other employee;

(b) to any damages arising out of a claim or claims alleging a conflict of interest between the employee's official capacity and any of the employee's activities as a director, officer, partner, investor or trustee of any private, public or charitable organization; however, the State of Alaska will defend any such claims until a final adjudication of liability.

VII Definitions.

(a) "Personal Injury" means

(1) an injury arising from false arrest, detention or imprisonment, wrongful entry or eviction or other invasion of private occupancy, malicious prosecution, or abuse of process;

(2) an injury arising from the publication or utterance of a libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of any individual's right of privacy;

(3) any claim for bodily injury, sickness, disease or death of any person or for injury to or destruction of any tangible property, including loss of use, when the claim arises from an act, error or omission in the employee's official capacity;

(4) any claim for damages brought pursuant to 42 U.S.C. section 1983.

(b) "Claims Expense" means

(1) fees charged by an attorney(s) selected to represent the employee;

(2) all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a claim, suit or proceeding arising in connection with a claim.

(c) "Claim" means a demand received by an employee for damages or equitable relief and includes the service of suit on the employee, any form of communication addressed to and received by the employee which makes demand for damages or equitable relief, or the institution of arbitration or disciplinary proceedings against the employee. Any written form of communication which the employee has knowledge of and indicates an intent to sue the employee shall be treated as a claim.

(d) "Disciplinary Proceedings" means proceedings before the Judicial Conduct Commission, the Alaska Bar Association, the Alaska Public Offices Commission, or any similar entity, but does not include grievances under the Alaska Court System personnel rules.

VIII Notice of Claim or Suit.

If claim is made or suit is brought against an employee, the employee shall immediately forward to the General Counsel for the Alaska Court System every demand, notice, summons or other process received by the employee or the employee's representative. The General Counsel shall immediately forward these documents to the Division of Risk Management.

When an employee becomes aware of any act, error or omission, which could reasonably be expected to be the basis of a claim or suit covered under this memorandum, written notice shall be given by or on behalf of the employee to the General Counsel

for the Alaska Court System as soon as practicable, together with the fullest information obtainable. The General Counsel shall immediately forward the notice and information to the Division of Risk Management.

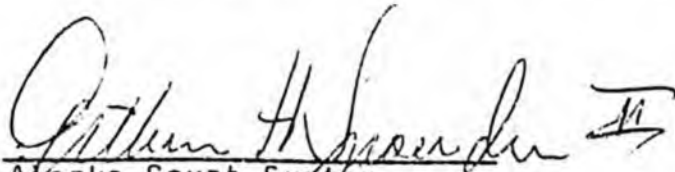
IX Assistance and Cooperation of the Employee.

The employee shall cooperate with the State of Alaska and, upon the state's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the employee because of acts, error or omissions with respect to which coverage is afforded under this memorandum, and the employee shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The employee shall not, except at the employee's own cost, admit liability, voluntarily make any payment, assume any obligation or incur any expense.

X Subrogation.

In the event of any payment under this memorandum, the State of Alaska shall be subrogated to all the employee's rights of recovery against any person or organization, and the employee shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The employee shall do nothing after loss to prejudice such rights.

This agreement is effective immediately.



Alaska Court System

Dated: 4-22-85

Attorney General

Dated: _____

Division of Risk Management

Dated: _____

Murder cases show increase

by Jim Springer
Times Writer

The number of murder cases sent to prosecutors in Alaska increased by 36 percent between fiscal years 1984 and 1985, paralleling a dramatic rise in nearly all felony categories, according to state Department of Law statistics.

From 1984 to 1985, the number of murder cases considered by state prosecutors rose from 50 to 68, acting Criminal Division Chief Dean Guaneli stated in a letter to Sen. Pat Rodey. Prosecution was declined in 10 percent of those cases, according to the division statistics released last week.

The number of child sexual abuse cases referred to prosecutors also soared, increasing by 57 percent to 537, Guaneli said, but prosecution was declined in 40 percent of those cases.

The overall rise in the number of felony referrals made between July 1984 and July 1985 amounted to 19 percent, with prosecutors handling about 4,300 felonies during that period, said Guaneli. In

his letter, a response to an inquiry by Rodey, Guaneli pleaded for additional money from the legislature. He said prosecutors are at the limit of their resources now and will not be able to take on greater workloads without more help.

"The Criminal Division simply cannot prosecute any more cases — it is currently turning them away in record numbers," he said. Of the 4,300 felonies seen by the division last year, 3,000 were prosecuted, he stated.

If murder cases are to be pursued vigorously without disrupting the division, "there must be some recognition of the need for a special appropriation," he stated. Contested murder cases require large amounts of cash for travel expenses, contractual fees and other needs, he said.

Rodey, who chairs the Senate Judiciary Committee, said he intends to file a supplemental appropriation to cover a projected shortfall of between \$300,000 and \$400,000 in the Criminal Division.

See Prosecutors, page A-8

Inside:

- Guatemala elects president
— page A-3
- Fans mourn John Lennon
— page A-3
- OPEC action may cut prices
— page D-1
- Bengals thrash
 wboys
— page E-1

Prosecutors try to cope with increasing number of cases

Continued from page A-1

"We are going to have to decide which state programs will be discontinued, but protection of the public is among the fundamental obligations of government. I just can't justify cutting back on criminal prosecutions when we are debating the size of swimming pools in Anchorage," said Rodey, referring to a controversy over the size of a proposed pool for Bartlett High School.

He said he will await a detailed analysis of budget needs by the division before drafting his bill. The division is drawing

on an \$11.4 million budget approved by the legislature last year.

Because of the increase in overall criminal charges, and the increase in the seriousness of the charges, district attorneys must screen and prioritize the cases that are pursued, said Guaneli.

A top priority of the division has been prosecution of sexual offenses, including adult rape and child sexual abuse, said the acting chief prosecutor.

Under existing trends, "... within a 10-year period more than 10 percent of all Alaskan children will be the victim of

child abuse serious enough that the case will be reviewed by the Criminal Division," he said.

In FY 1985, prosecutors had 537 child-abuse referrals sent to them, and Guaneli projected that number to rise to 700 cases by FY 1987. The division declined to prosecute 40 percent of the 1985 referrals, he said.

"Currently in Anchorage alone, a new child-abuse case is brought in for prosecution every working day . . . In most cases the victim has been assaulted many times; often there are several victims," said Guaneli.

"The only thing about child

sexual abuse that has leveled off is the division's ability to prosecute more cases."

Rodey and Sen. Jan Faiks, Finance Committee co-chair, said recent passage of a number of child-abuse bills has placed additional pressure on the Criminal Division, without providing additional funding to follow through with prosecution.

"It's a hollow promise if we don't provide the resources to prosecute those cases," said Rodey, D-Anchorage. "Put very simply, without efforts to enforce the law, any new laws won't be effective."

"It seems to me they (the Criminal Division) would be at the head of the list for additional funding," said Faiks, R-Anchorage. "They didn't get an increase when the child-abuse laws were passed. There has to be some strong looks at the Criminal Division."

District attorneys have also concentrated on cracking down on large-scale drug operations, but those efforts are extremely time-consuming and labor-intensive, said the chief prosecutor. "Because our narcotics prosecution unit has not been funded, very few of them can be pursued

and other cases suffer when we do in fact pursue one," he wrote.

The number of misdemeanor referrals to the Criminal Division rose by 14 percent in 1985, from 15,602 to 17,771, according to division statistics. Prosecutors declined to pursue 18 percent of those cases. Guaneli reportedly said last week that the number of misdemeanors prosecuted may be cut back in order to handle the increase in felony cases.

Rodey said the legislature will have to consider the plight of the Criminal Division and do some prioritizing of its own.

Dec 11, 1985 Anchor Times

Justice unfunded

THERE HAS TO BE another answer to the problem of too many crimes and too few prosecutors besides just throwing more money at a growing crisis.

Democratic Sen. Pat Rodey of Anchorage says he is going after a \$400,000 supplemental appropriation next month for the state Department of Law's criminal division.

That's on top of a 1985 budget of \$11.4 million, which officials say is simply not adequate for the manpower and resources required to take to court all the felony cases on file.

THERE'S NO END to that course. More prosecutions surely will mean an additional burden on the court system, which will need more judges, more support staffs, more courtrooms and more dollars to pay for juries and the costs that come with trials.

Assuming more convictions, we'll need money for more jail cells, more guards, more prison maintenance, more parole officers, and so

on and so on.

Despite the horrendous spectre such projections raise, surely anything is better than what state prosecutors say now is the case: felony charges, including murder and child sexual abuse cases, are being dropped because the rising tide of such ugly crimes has left the state without the manpower to prosecute.

OFFICIALS SAY 10 percent of the murder cases and 40 percent of the abuse cases are never taken to court.

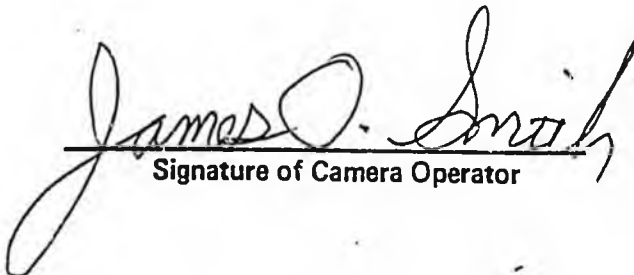
That's awful. As a matter of fact, the whole situation is awful — that the crimes were committed in the first place and that the state can't seek justice in the courts because its existing prosecution forces are overloaded.

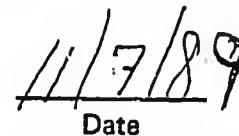
Society somehow must find a way to deal with these shocking increases in violent crime. But even at times of tighter budgets and declining revenues, there is no way for the state to avoid providing the necessary funds to prosecute those charged with murder and mayhem.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

FISH + GAME

BAIL

FORFEITURE

SCHEDULE

ADV. COMM.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, AK 99501

KARLA L. FORSYTHE
General Counsel

February 5, 1985

Senator Pat Rodey
Chair, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

I have attached a copy of a supreme court order appointing you to the fish and game bail forfeiture schedule advisory committee. Formation of the committee is required by AS 16.05.165(b). A copy of this statutory provision is attached.

I will be serving as the court system's liaison with the committee, and can be reached at 264-0634 if you have any preliminary questions.

The division of fish and wildlife has compiled a proposed schedule which I have circulated to judges, magistrates and court clerks, with a response deadline of February 4, 1985. After the division has an opportunity to review comments from court system personnel, the division will forward to me a final draft of the proposed schedule, accompanied by commentary explaining why the division has recommended that each listed offense be included on the schedule.

I will forward the proposed schedule and commentary to you, and will set a response deadline for your written comments. Your comments will then be forwarded to the supreme court for its consideration in adopting the schedule.

I anticipate that the advisory process can be conducted in writing, and that it will not be necessary to convene the committee for a meeting.

Again, if you have any questions about the process, please let me know.

Sincerely,

Karla L. Forsythe
General Counsel

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 615

Relating to the appointment of the fish and game bail forfeiture schedule advisory committee

IT IS ORDERED:

In accordance with AS 16.05.165(b), the following persons are appointed to serve on the fish and game bail forfeiture schedule advisory committee:

Captain Wayne Fleek, Division of Fish and Wildlife Protection, Department of Public Safety [P. O. Box 6188 Annex, Anchorage, Alaska 99502];

Captain Jack Jordan, Division of Fish and Wildlife Protection, Department of Public Safety [453 South Valley Way, Palmer, Alaska 99645];

Deputy Commissioner Dennis D. Kelso, Department of Fish and Game [P. O. Box 3-2000, Juneau, Alaska 99802];

Deputy Commissioner Steven Pennoyer, Department of Fish and Game [P. O. Box 3-2000, Juneau, Alaska 99802];

Judge H. E. Crutchfield, District Court Judge [604 Barnette Street, Room 313, Fairbanks, Alaska 99701];

Judge George Gucker, District Court Judge [415 Main Street, Ketchikan, Alaska 99901];

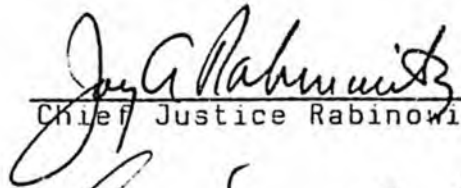
Senator Pat Rodey, Chair, Senate Judiciary Committee [Pouch V, Juneau, Alaska 99811]; and

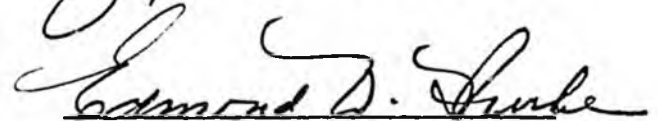
Representative Mike Miller, Chair, House Judiciary Committee [Pouch V, Juneau, Alaska 99811].

These appointments are effective through December 31, 1986, unless otherwise ordered by the court.

DATED: January 31, 1985

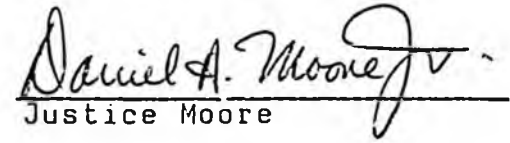
EFFECTIVE DATE: January 31, 1985


Chief Justice Rabinowitz


Justice Burke


Justice Matthews

Justice Compton


Justice Moore

Sec. 16.05.160. Duty to arrest. Each peace officer designated in AS 16.05.150 shall arrest a person violating a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52, in the peace officer's presence or view, and shall take the person for examination or trial before an officer or court of competent jurisdiction unless in the judgment of the peace officer it would be in the state's best interest to issue a warning or a citation under AS 16.05.165. (§ 21 art I ch 94 SLA 1959; am § 5 ch 132 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 3, 1984, substituted "a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52" for "this chapter, or any

regulation made under this chapter," deleted "immediately" preceding "for examination or trial," and added the language beginning "unless in the judgment of the peace officer" at the end of the section.

Sec. 16.05.165. Form and issuance of citation. (a) When a peace officer stops or contacts a person concerning a violation of this title except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.180.

(b) The supreme court shall specify by rule or order those misdemeanors that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two officers of the division of fish and wildlife protection of the Department of Public Safety, two representatives of the Department of Fish and Game, two district court judges, and the chairpersons of the House and Senate Judiciary Committees of the legislature. The maximum bail amount for an offense may not exceed the maximum fine specified by law for that offense. If the misdemeanor for which the citation is issued may be disposed of without court appearance, the issuing peace officer shall write on the citation the amount of bail applicable to the violation.

(c) A person cited for a misdemeanor for which a bail amount has been established under (b) of this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

(1) the amount of bail indicated on the citation for that offense; and
(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited.

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail and all seized items is a complete satisfaction for the misdemeanor. The clerk of the court accepting the bail shall provide the offender with a receipt stating that fact.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

February 28, 1985

Senator Pat Rodey
Chair, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

My letter to you of February 26 included a copy of a memorandum from Captain Wayne Fleek. Please discard the previous memorandum, and substitute the memorandum enclosed with this letter.

I regret any inconvenience caused by this substitution.

Additionally, I have enclosed copies of the regulations and statutes cited on the proposed schedule, so that you may read the language of these provisions as you review the schedule.

Thank you again for your assistance.

Sincerely,

Karla L. Forsythe
General Counsel

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(5) Southeast. (§ 9 art I ch 94 SLA 1959; am § 1 ch 82 SLA 1968; am § 7 ch 206 SLA 1975)

Sec. 16.05.305. Clerical assistance for boards. The Board of Fisheries and the Board of Game are authorized to hire and set the compensation for one clerical assistant for each board. (§ 8 ch 206 SLA 1975)

Sec. 16.05.310. Special board meetings. A board may meet at any time upon the call of the commissioner or upon the request of two board members. (§ 6 art I ch 94 SLA 1959; am § 9 ch 206 SLA 1975)

Sec. 16.05.315. Joint board meetings. The Board of Fisheries and the Board of Game may hold a joint meeting upon the call of the commissioner or a board to resolve any conflicts in regulations of the boards and to consider matters, as determined by the commissioner or a board, which require the consideration of both boards. (§ 10 ch 206 SLA 1975)

Sec. 16.05.320. Quorum. A majority of the members of a board constitutes a quorum for the transaction of business, for the performance of any duty, and for the exercise of any power. However, a majority of the full board membership is required to carry all motions, regulations and resolutions. A majority of the members of the boards of fisheries and game constitute a quorum for the transaction of business in a joint board meeting. A majority of the membership of the boards is required to carry all joint motions, regulations and resolutions of the boards. (§ 10 art I ch 94 SLA 1959; am § 3 ch 71 SLA 1973; am § 11 ch 206 SLA 1975)

Article 3. Licensing of Sport Fishing and Hunting.

Section	Section
330. Licenses and tags required	of licenses and tags
335. Complimentary licenses	400. Persons exempt from license requirement
340. License and tag fees	405. Taking game by proxy for the blind
341. Free license for disabled veterans	407. Nonresident hunting game animals must be accompanied by guides
346. Permit applications	408. Nonresident alien hunter to be accompanied by guide
350. Expiration of licenses and tags	410. License forfeiture
360. Commissioner of revenue charged with license issuance	420. Violations
370. Reports by licensees	430. Penalties
380. Commissioner of revenue may appoint agents	
390. Fees and compensation for issuance	

Sec. 16.05.330. Licenses and tags required. (a) Except as otherwise permitted in this chapter, a person may not engage in sport fishing, including the taking of razor clams; in hunting, trapping, or fur dealing; in the farming of fish, fur, or game; or in taxidermy, without having the appropriate license or tag in actual possession.

(b) When obtaining the appropriate license or tag in (a) of this section, an applicant who asserts residency in the state shall provide the license vendor with the proof of residence that the department requires by regulation. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 42 SLA 1968; am § 1 ch 140 SLA 1968)

Opinions of attorney general. — Alaska's fish and game laws are applicable as federal law on military reservations. 1964 Op. Att'y Gen., No. 2.

Hunting or fishing at a military reservation must be in accord with Alaska laws regulating seasons, bag limits, methods of taking, etc. 1964 Op. Att'y Gen., No. 2.

But military personnel are not required to comply with licensing requirements while on reservation. 1964 Op. Att'y Gen., No. 2.

Since AS 16.05.940(14) does not grant special resident privileges to military personnel, which is a requisite for requiring them to purchase licenses for use on military reservations under 10 U.S.C. 2671(a) (2), they cannot be required to do so. 1964 Op. Att'y Gen., No. 2.

Construing this section and AS 16.05.340 against federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is not required to obtain an Alaska trapping license to trap on military lands. 1977 Op. Att'y Gen. No. 21.

Collateral references. —

35 Am. Jur. 2d, Fish & Game, § 45.

38 C.J.S., Game, § 15.

Applicability of state fishing license laws or other public regulations to fishing in private lake or pond. 15 ALR2d 754.

Right to kill game in defense of person or property. 93 ALR2d 1366.

Public rights of recreational boating, fishing, wading, or the like in inland stream the bed of which is privately owned. 6 ALR4th 1030.

Sec. 16.05.335. Complimentary licenses. The commissioner of revenue shall annually, at the request of the governor, provide the governor with not more than 50 complimentary fishing and hunting licenses and appropriate big game tags which the governor may distribute to distinguished visitors to Alaska for their use in any one season during their visits to the state. The complimentary license for sport fishing or hunting or both shall be inscribed by the governor with the inclusive dates for its authorized use. The governor shall advise the Department of Fish and Game on any complimentary issuances, which information shall be available to the public. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 31 SLA 1963; am § 1 ch 6 SLA 1965)

Sec. 16.05.340. License and tag fees. (a) Fees for licenses and tags are as follows:

- (1) Resident sport fishing license \$10
- However, the fee is 25 cents for a resident who is blind.
- (2) Resident hunting license 12
- (3) Resident hunting and trapping license 15
- (4) Resident trapping license 3
- (5) Resident hunting and sport fishing license 22
- (6) Resident hunting, trapping, and sport fishing license . . . 25

However, the fee is 25 cents for an applicant who is the head of a family or a dependent member of that family, or who is solely self-supporting, upon proof presented by the applicant that the applicant

the first sentence of (a) was redrafted in 1983 to conform to the style of Alaska Statutes and the phrase "to the nonresident" was inserted near the end of the sentence to correct a manifest error of omission.

Effect of amendments. — The first 1982 amendment substituted "guide licensing and control board" for "depart-

ment" in the first sentence of subsection (a) and in subsection (b), and made other minor changes.

The second 1982 amendment substituted "this subsection" for "this section" in two places in the second sentence of subsection (a) and added "under AS 11.56.200" to the end of subsection (a).

Sec. 16.05.408. Nonresident alien hunter to be accompanied by guide. (a) It is a class A misdemeanor for a nonresident alien (1) to hunt, pursue, or take marine mammals unless personally accompanied by a licensed marine mammal guide; or (2) to hunt, pursue, or take a big game animal as defined by the Board of Game unless personally accompanied by a licensed master guide, registered guide, or class-A assistant guide under AS 08.54.

(b) A nonresident alien, when purchasing a big game tag for the taking of an animal specified in (a) of this section, shall first furnish to the state, on a form provided by the state, an affidavit showing that the nonresident alien will be accompanied in the hunt by a person who is qualified under the terms of (a) of this section. A nonresident alien shall have a copy of the affidavit in possession while in the field hunting. A person who falsifies the required affidavit is guilty of perjury under AS 11.56.200. (§ 2 ch 74 SLA 1982; am § 3 ch 13 SLA 1983)

Revisor's notes. — Enacted as AS 16.05.407(d) and (e). Renumbered in 1982.

Effect of amendments. — The 1983 amendment rewrote subsection (a).

Sec. 16.05.410. License forfeiture. (a) Upon conviction of a person of a first violation of AS 16.05.330 — 16.05.430 or of a federal or state law or regulation for the protection of the sport fish and game of the state, the court may, in addition to the penalty imposed by law, revoke the person's license.

(b) Upon subsequent conviction of a person for a violation of AS 16.05.330 — 16.05.430 or of a federal or state law or regulation for the protection of the sport fish and game of the state, the court shall revoke the person's license.

(c) A person whose license has been revoked as provided in (b) of this section may not purchase another license of the same type for a period of not less than two years nor more than three years from the date of revocation as determined by the court.

(d) *[Repealed, § 2 ch 32 SLA 1968.]*

(e) *[Repealed, § 2 ch 32 SLA 1968.]* (§ 8 art II ch 94 SLA 1959; am § 17 ch 131 SLA 1960; am § 1 ch 56 SLA 1962; am §§ 4, 5 ch 75 SLA 1964; am § 2 ch 32 SLA 1968)

Sec. 16.05.420. Violations. (a) A false statement as to a material fact in an application for license makes the license issued upon it void. A person who knowingly makes a false statement or knowingly omits

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a material fact in an application violates AS 16.05.330 — 16.05.430.

(b) A person to whom a license or tag has been issued under this chapter may not alter, change, loan, or transfer the license or tag. A person may not use a license or tag that has been issued under this chapter to another person.

(c) [Repealed. § 2 ch 32 SLA 1968.]

(d) [Repealed. § 2 ch 32 SLA 1968.] (§ 7 art II ch 94 SLA 1959; am § 16 ch 131 SLA 1960; am §§ 6, 7 ch 75 SLA 1964; am § 2 ch 32 SLA 1968)

Collateral references. — Entrapment with respect to violation of fishing laws, 75 ALR2d 709.

Sec. 16.05.430. Penalties. (a) A person who violates AS 16.05.330 — 16.05.420 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

(b) The proceeds of all fines shall be transmitted by the court to the proper state officer for deposit in the general fund of the state. (§ 10 art II ch 94 SLA 1959; am § 18 ch 131 SLA 1960)

Cited in Schuster v. State, Sup. Ct. Op. No. 1305 (File No. 2911), 553 P.2d 925 (1976).

Article 4. Licensing of Commercial Fishing Crewmembers and Vessels.

Section	Section
440. Expiration date for licenses	buoys, or both, used in the taking of
450. Issuance of licenses	king crab and requirements for
460. Commissioner of revenue may	buoys
appoint agents	660. License exemption
470. Fee for issuance of licenses and in-	662. Fishing derbys
terim-use or entry permits	665. Falsification of application for
475. Registration of fishing vessels	license
480. Commercial fishing license	680. Unlawful purchases
490. Vessel license	685. Processing on commercial crab
495. Vessel license exemption	fishing vessels
510. Unlicensed vessel unlawful	690. Record of purchases
520. Number plate	710. License forfeiture
530. Annual renewal of vessel license	720. Penalties
632. Identification of shellfish pots or	

Sec. 16.05.440. Expiration date for licenses. Licenses issued under AS 16.05.440 — 16.05.720 expire at the close of December 31 following their issuance, and shall be renewed annually upon application and payment of the license fees required by AS 16.05.440 — 16.05.720. (§ 2 art III ch 94 SLA 1959)

**CHAPTER 75.
STATEWIDE PROVISIONS**

Article

1. General
(5 AAC 75.001-5 AAC 75.015)
2. Methods and Means
(5 AAC 75.020-5 AAC 75.034)
3. Closed Waters and Prohibited Acts
(5 AAC 75.050-5 AAC 75.070)
9. Definitions
(5 AAC 75.995)

**ARTICLE 1.
GENERAL**

Section

1. Application of regulations
2. Liability for violations
5. Possession of licenses, stamps and harvest record
10. Possession of sport-caught fish
15. Sale of sport-caught fish unlawful

5 AAC 75.001. APPLICATION OF REGULATIONS. This chapter applies only to sport fishing activities which are permitted as provided in 5 AAC 46 - 5 AAC 75, unless otherwise specified by emergency order or emergency regulation.

Authority: AS 16.05.251

5 AAC 75.002. LIABILITY FOR VIOLATIONS. Unless otherwise provided in 5 AAC 42 - 5 AAC 77, or in AS 16, a person who violates a provision of 5 AAC 42 - 5 AAC 77 is strictly liable for the offense, regardless of that person's intent. (Eff. 6/30/83, Reg. 86)

Authority: AS 16.05.251

5 AAC 75.005. POSSESSION OF LICENSES, STAMPS AND HARVEST RECORD. All persons engaged in sport fishing or in possession of fish must show their sport fishing licenses, Harvest Records and special permits or stamps to any local representative of the department or to any peace officer of the state upon his request.

Authority: AS 16.05.251(a)(4),(7),(10)
and (12)

5 AAC 75.010. POSSESSION OF SPORT-CAUGHT FISH. Sport-caught fish, their parts, and articles manufactured from such fishes may

be possessed within the state by any person at any time, and may be transported within and exported out of the state by any person at any time except that no person may possess any unpreserved fish, or part of one, not legally taken by himself, unless he furnishes, upon request of any peace officer of the state, a statement signed by the person taking the fish stating the type of fish, number of fish, location, date taken, and license number. The statement is unnecessary if the person possessing the fish is accompanied by the person who took the fish. No person may possess fish which were not legally taken.

Authority: AS 16.05.251(a)(2),(3),(4),
(7) and (10)

5 AAC 75.015. SALE OF SPORT-CAUGHT FISH UNLAWFUL. No person may buy, sell or barter sport-caught fish or their parts.

Authority: AS 16.05.251(a)(4),(7) and (10)

**ARTICLE 2.
METHODS AND MEANS**

Section

20. Sport fishing gear
21. Ice fishing gear
22. Fresh water sport fishing
23. Gear for single-hook waters
24. Gear for fly-fishing-only waters
25. Gear for conventional fly-fishing tackle waters
27. Use of explosives or toxicants
28. Use of underwater spear
30. Sport fishing gear for herring and smelt
31. (Repealed)
33. Sport fishing gear for burbot
34. Sport fishing gear for northern pike

5 AAC 75.020. SPORT FISHING GEAR. Unless provided in 5 AAC 75.021-5 AAC 75.049, or by the area regulations in 5 AAC 46-5 AAC 70, sport fishing may only be conducted by the use of a single line having attached to it not more than one plug, spoon, spinner, or series of spinners, or two flies, or two hooks. The line must be closely attended.

Authority: AS 16.05.251(a)(4)

5 AAC 75.021. ICE FISHING GEAR. Sport fishing through the ice is permitted with the use of two lines, provided only one hook or artificial lure is used on each line.

Authority: AS 16.05.251(a)(4)

5 AAC 75.022. FRESH WATER SPORT FISH-
ING. (a) Fish may not be taken in fresh water
by means of

(1) fixed or weighted hooks and lures (except
those of standard manufacture) or multiple
hooks and lures to which a weight is attached in

such a manner that when retrieved the weight follows the hook:

(2) multiple hooks with gap between point and shank larger than one-half inch, unless permitted in the area regulations in 5 AAC 46 - 5 AAC 70;

(3) repealed 4/3/83.

(4) spear, unless permitted by the area regulations in 5 AAC 46 - 5 AAC 70;

(5) arrow, unless permitted by the area regulations in 5 AAC 46 - 5 AAC 70.

(b) Live fish may not be used as bait when sport fishing in fresh water.

(c) It is unlawful to intentionally snag or attempt to snag any fish in fresh water. Fish unintentionally hooked elsewhere than in the mouth must be released immediately. "Snag" means hook a fish elsewhere than in the mouth. (In effect before 1983; am 4/3/83, Reg. 85)

Authority: AS 16.05.251(a)(2) and (4)

5 AAC 75.023. GEAR FOR SINGLE-HOOK WATERS. (a) In waters designated as single-hook waters, sport fishing is permitted only as follows:

(1) with not more than one single hook with gap between point and shank one-half inch or less;

(2) hooks or lures (including those of standard manufacture) may not have additional weight attached to them; weights may be used only ahead of the hook or lure.

(b) Multiple hooks are prohibited in waters designated as single-hook waters. (In effect before 1984; am 4/28/84, Reg. 90)

Authority: AS 16.05.251

5 AAC 75.024. GEAR FOR FLY-FISHING-ONLY WATERS. In waters designated as fly-fishing-only waters, sport fishing is permitted only as follows:

(1) with not more than one unweighted, single-hook fly with gap between point and shank three-eighths inch or less;

(2) weights may be used 18 inches or more ahead of the fly. (In effect before 1984; am 4/28/84, Reg. 90)

Authority: AS 16.05.251

5 AAC 75.025. GEAR FOR CONVENTIONAL FLY-FISHING TACKLE WATERS. In waters specifically restricted to conventional or traditional fly-fishing tackle, sport fishing is permitted with

(1) rod, reel and line combination designed so that the weight of the line provides the impetus to propel the "fly";

(2) use of all fixed-spool, bait casting, open or closed-faced spinning, spin casting or other similar reels designed so that the weight of the terminal tackle (lures, sinkers, baits, etc.) provides the primary impetus for casting is prohibited;

(3) only one single-hook, unweighted, artificial fly is permitted;

(4) no weights may be attached to the line or leader. (In effect before 1984; am 4/28/84, Reg. 90)

Authority: AS 16.05.251

5 AAC 75.027. USE OF EXPLOSIVES OR TOXICANTS. The use of any explosive or toxicant for taking any fish in the waters of Alaska is prohibited.

Authority: AS 16.05.251(a)(4) and (7)

5 AAC 75.028. USE OF UNDERWATER SPEAR. In salt water, spears may be used to take fish, subject to applicable seasons and bag limits, by persons who are completely submerged.

Authority: AS 16.05.251(a)(4)

5 AAC 75.030. SPORT FISHING GEAR FOR HERRING AND SMELT. In salt water, herring and smelt may be taken with the use of 15 or less unbaited single or multiple hooks attached to a single line.

Authority: AS 16.05.251(a)(4)

**PART 3.
GAME**

Chapter

- 81. Hunting
(5 AAC 81.010-5 AAC 81.930)
- 82. Big Game Photography Contest
(5 AAC 82.010-5 AAC 82.060)
- 84. Trapping
(5 AAC 84.010-5 AAC 84.300)

**CHAPTER 81.
HUNTING**

Article

- 1. Licenses, Harvest Reports, Harvest Tickets, and Tag Fees
(5 AAC 81.010-5 AAC 81.022)
- 2. Permits and Reports
(5 AAC 81.030-5 AAC 81.060)
- 3. Hunting Methods and Means
(5 AAC 81.070-5 AAC 81.126)
- 4. Possession and Transportation
(5 AAC 81.130-5 AAC 81.195)
- 5. Use of Game
(5 AAC 81.200-5 AAC 81.218)
- 6. Controlled Use Areas
(5 AAC 81.220-5 AAC 81.238)
- 7. Areas Closed to Hunting
(5 AAC 81.239-5 AAC 81.260)
- 8. State Game Refuges and Sanctuaries
(5 AAC 81.270-5 AAC 81.300)
- 9. Hunting Seasons and Bag Limits
(5 AAC 81.310-5 AAC 81.360)
- (5 AAC 81.380-5 AAC 81.385)
- 10. Marine Mammals (5 AAC 81.400)
- 11. General Provisions
(5 AAC 81.900-5 AAC 81.930)

Editor's Note: The amendments to 5 AAC 81.040, 5 AAC 81.055, 5 AAC 81.075, 5 AAC 81.145, 5 AAC 81.216, 5 AAC 81.237, 5 AAC 81.238, 5 AAC 81.250, 5 AAC 81.320, 5 AAC 81.330 and 5 AAC 81.340, adopted by emergency regulation and effective 9/3/81, were repealed under AS 44.62.250 on 9/12/81. The identical amendments became effective as permanent regulations on 9/30/81. The history notes under these sections state both amendment dates.

**ARTICLE 1.
LICENSES, HARVEST REPORTS,
HARVEST TICKETS, AND TAG FEES**

Section

- 10. Harvest tickets and reports
- 15. (Repealed)
- 20. Licenses, age requirements, and showing licenses and tags to officers
- 21. Muskoxen tag fees
- 22. Brown and grizzly bear tag fee exemption

5 AAC 81.010. HARVEST TICKETS AND REPORTS. (a) No person may hunt for deer, sheep, or moose in any game management unit, or for caribou in Units 9, 12, 16-21, or 25(c), unless the person has in his or her personal possession a nontransferable harvest ticket for the species of game animal being hunted. However, no harvest ticket is required for big game taken by a permittee under the conditions of a permit hunt.

(b) No person may hunt for moose or sheep in any game management unit, or for caribou in Units 9, 12, 16-21, or 25(c), unless the person first obtains a harvest report for the species, which accompanies the harvest ticket. A person issued a harvest report shall comply with the reporting requirements of (g) of this section.

(c) Immediately upon killing a big game animal for which a harvest ticket is required by (a) of this section, the hunter shall validate the harvest ticket by completely removing from the ticket the day and month on which the kill was made, without obliterating or destroying any other month or day printed on the ticket.

(d) A person taking a big game animal for which a harvest ticket is required by (a) of this section shall keep the validated harvest ticket in his actual possession at all times until the animal is delivered to the location where it will be processed for consumption.

(e) No person may refuse to produce or permit inspection of a big game harvest ticket upon the request of any person authorized by AS 16.05.150 to enforce provisions of AS 16.05 or regulations adopted under it.

(f) Harvest tickets and accompanying harvest report forms may be procured without cost from any licensing agent or department office. At the time of issuance, the number of the harvest ticket must be entered on the hunter's license; the number of each harvest ticket issued the previous calendar year must also be entered on the hunter's license if the harvest ticket is still valid.

(g) Within 15 days after taking the bag limit allowed for the species of game for which a harvest ticket is required, the hunter shall fill out the information requested on the harvest report and mail it to the address printed on the report; a person not taking game, or taking less than the allowable bag limit, shall fill out the information requested on the harvest report and mail it to the address printed on the report within 15 days after the closing date of the open season for the species listed on the report.

(h) No person may hunt for caribou in Units 22(A), 22(B), 23, 24, 25 (except 25(C)), or 26 unless he first obtains an arctic caribou harvest report. (In effect before 1980; am 7/4/80, Reg. 75; am 4/5/81, Reg. 78; am 6/30/84, Reg. 90)

Authority: AS 16.05.255
AS 16.05.370

5 AAC 81.015. HARVEST TICKETS.
Repealed 4/5/81.

5 AAC 81.020. LICENSES, AGE REQUIREMENTS AND SHOWING OF LICENSES AND TAGS TO OFFICERS. (a) No license is required of a resident of this state under the age of 16 for hunting or trapping. Licenses and big game tags are required of all nonresidents regardless of age, for hunting and trapping.

(b) Upon request by a person authorized to enforce AS 16 or regulations promulgated thereunder, the following items must be presented for inspection: licenses and tags, birds, mammals or fish taken or possessed under the provisions of AS 16 or regulations promulgated thereunder, apparatus designed to be, and capable of being used to take birds, mammals or fish.

(c) A resident may not take a muskox or brown/grizzly bear without previously purchasing a numbered, non-transferable, appropriate tag, issued to him. The tag must be

affixed to the animal immediately upon capture and must remain affixed until the animal is prepared for storage, consumed or exported. (In effect before 1980; am 7/4/80, Reg. 75)

Authority: AS 16.05.255(3)
AS 16.05.340(9)
AS 16.05.345

Editor's Note: See AS 16.05.330 - 16.05.420 for licenses and information.

5 AAC 81.021. MUSKOXEN TAG FEES. (a) The resident tag fee for bull and cow muskoxen taken on Nelson Island under 5 AAC 81.320(10) is \$25.

(b) The resident tag fee for cow muskoxen taken on Nunivak Island under 5 AAC 81.320(10) is \$25. (Eff. 4/5/81, Reg. 78; am 7/17/82, Reg. 83)

Authority: AS 16.05.346(a)

5 AAC 81.022. BROWN AND GRIZZLY BEAR TAG FEE EXEMPTION. No resident tag or tag fee is required for taking brown or grizzly bear in game management Units 12, 20(E), 22, or 23. (Eff. 6/14/84, Reg. 90)

Authority: AS 16.05.255
AS 16.05.340(a)(16)

ARTICLE 2. PERMITS AND REPORTS

Section

- 30. Permits required
- 40. Permits issued by the department
- 50. (Repealed)
- 55. Permit hunts
- 60. Reports required.

5 AAC 81.030. PERMITS REQUIRED. The activities listed in 5 AAC 81.040 are permitted only in accordance with the terms of a non-transferable permit that will be issued at the discretion of the commissioner. No person may make a false statement as to any material fact on a permit, affidavit, or report form required by these regulations, or as prescribed by the board or department under these regulations. (In effect before 1980; am 7/4/80, Reg. 75)

Authority: AS 16.05.255(10)
AS 16.05.340

the specified quota of wolves is taken for a specified area:

(D) the commissioner may limit the number of permits issued in any unit and the number of wolves authorized to be taken under each permit;

(E) a permit must be returned to the nearest department office within five days after the expiration of the permit, unless otherwise specified;

(F) when a permit is returned to the department, the permittee shall notify the department of the date when, and location where, wolves were taken, and shall provide other information the department may request at the time the permit is issued;

(G) the department may require a permittee to check in and out at a specified location;

(H) wolves taken under a permit become the property of the permittee only if the permittee has complied with all pertinent game laws and regulations and the conditions of the permit;

(I) no permit may be issued to a nonresident. (In effect before 1980; am 7/4/80, Reg. 75; am 9/3/81 - 9/12/81, Reg. 80; am 9/30/81, Reg. 79; am 7/17/82, Reg. 83; am 4/21/83, Reg. 86; am 6/30/84, Reg. 90)

Authority: AS 16.05.255
AS 16.05.340
AS 16.35.010

Editor's Note: 5 AAC 81.040 (Permits issued by the department) and 5 AAC 81.050 (Permits issued by the commissioner) are repealed effective 7/4/80, and are re-adopted as 5 AAC 81.040 (Permits issued by the department).

5 AAC 81.050. PERMITS ISSUED BY THE COMMISSIONER. Repealed 7/4/80.

5 AAC 81.055. PERMIT HUNTS. (a) The following restrictions apply to all permit hunts:

(1) an incomplete permit application or one containing false statements is void;

(2) multiple permit applications from one person for any hunt are all void;

(3) permits must be in the possession of the hunter while hunting;

(4) permit issuance:

(A) permits will be issued in the order applications are received or on a lottery basis;

(B) a successful applicant must obtain his permit and appropriate licenses and big game tags within the time period specified by the department;

(C) unless otherwise provided, when a drawing is undersubscribed, surplus permits become void and will not be allocated;

(5) permits are nontransferable;

(6) immediately upon killing a big game animal for which a permit is required, the hunter shall cancel his permit by completely removing from the permit the day and month on which the kill was made without obliterating or destroying any other month or day printed on the permit.

(b) The department will, at its discretion, apply the following conditions to the conduct of permit hunts when necessary to the management of the species hunted:

(1) a permittee shall register at a designated station before entering the field, and again upon leaving;

(2) a permittee shall demonstrate

(A) ability to identify the species hunted;

(B) ability to identify the area to be hunted;

(C) knowledge of weapon safety and use;

(3) a permittee shall attend an orientation course;

(4) a permittee shall carry a portable radio while in the field;

(5) a permittee who is successful in taking an animal for which a permit is issued shall present specified biological specimens to a check station or nearest department office within a time specified by the department;

(6) a permittee must be accompanied by a department representative;

(7) not more than a specified number of permittees may hunt during any time period, and permittees will be restricted to specified subdivisions within the area being hunted;

(8) a permittee's use of mechanized vehicles for hunting big game and transporting meat from the hunting area will be restricted;

(9) a permittee who cancels his plans to hunt must notify the department at a designated office within a time specified by the department;

(10) a permittee shall be restricted to use of specified minimum ballistic size and type of weapons in the permit hunt;

(11) a permit applicant shall sign an acknowledgement indicating that he has read and understands, and agrees to abide by the conditions specified for that hunt;

(12) a permittee may only hunt during specified hours of each day during the hunt;

(13) permit applicants must be at least 10 years old;

(14) multiple permit applications for any one species are all void;

(15) a permittee shall submit, within a time specified by the department, information on the hunt on a form supplied by the department;

(16) the permit applicant must hold a valid Alaska hunting license; however this does not apply to residents 15 years of age or younger; the number of the applicant's valid hunting license must be entered on the permit application; a resident 15 years of age or younger shall enter his age in place of a license number.

(c) The permit hunts listed below are subject to the following special conditions, in addition to those of (a) and (b) of this section:

(1) Dall sheep permit hunt in the Tok Sheep Management Area: a maximum of 10 percent of the available permits will be issued to nonresident hunters and a minimum of 90 percent to resident hunters; any nonresident permits not applied for will be available to residents;

(2) brown bear permit hunt in Unit 8:

(A) a maximum of 40 percent of the available permits will be issued to nonresident hunters, and a minimum of 60 percent to resident hunters;

(B) applications by nonresidents accompanied by resident relatives within the second degree of kindred will be entered in the resident drawing; for each season, a maximum of four permits for nonresident hunters accompanied by resident relatives within the second degree of kindred will be issued; however not more than one permit will be issued per individual hunt as described in the permit hunt supplement published by the department, in each calendar year;

(C) A nonresident guided hunter or the hunter's agent may apply for a permit on a first-come first-served basis at the Kodiak game division office; the department may only issue a permit to an applicant who presents proof that the applicant will be accompanied by a guide as required in AS 16.05.407 (a).

(3) Subsistence permits for hunting caribou in Unit 13 will be issued under the following conditions:

(A) a nonresident is ineligible to apply for or receive a permit;

(B) the bag limit per permit is one caribou;

(C) 500 subsistence permits will be available;

(iii) the applicant lives, and has lived for the previous five years, in a household where fish and game not commercially taken has comprised more than half of the meat and fish of the diet;

(iv) no other member of the applicant's household has applied for a permit under this paragraph during the current regulatory year;

(F) for the purpose of this paragraph, "household" means all persons domiciled in the same residence.

(7) Any Unit 22 or 23 nonresident brown/grizzly bear permits that are not issued for the drawing permit hunt will be issued on a first-come first-served basis to applicants who possess a valid nonresident hunting license and a nonresident brown/grizzly bear tag. These permits will be available at the Nome and Kotzebue game division offices, respectively, five days following the drawing. (In effect before 1980: am 7/4/80, Reg. 75; am 9/3/81 - 9/12/81, Reg. 80; am 9/30/81, Reg. 79; am 7/17/82, Reg. 83; am 6/30/83, Reg. 86; am 6/30/84, Reg. 90)

Authority: AS 16.05.255

5 AAC 81.060. REPORTS REQUIRED. (a) A report of activities authorized by permits in 5 AAC 81.040 must be made in accordance with instruction on the permit and submitted to the department before or upon the expiration of the permit.

(b) A written report detailing the circumstances of the taking of game in defense of life or property shall be made to the department within 15 days after taking of game for this reason.

(c) The purchase or acquisition through consignment or barter of furs or hides of game shall be reported to the department on forms provided for this purpose within 30 days of the close of each calendar month in which such business is transacted.

(d) Repealed 7/2/78.

(e) No drawing hunt permittee who fails to supply a report required under 5 AAC 81.055 may hold or be issued any drawing hunt permit

during the next regulatory year. A permittee aggrieved by this subsection will be granted a hearing before the commissioner or the commissioner's designee if the permittee makes a request in writing to the commissioner within 90 days after the conclusion of the permit hunt for which he or she has failed to provide a report. (In effect before 1980; am 7/4/80, Reg. 75; am 6/14/84, Reg. 90)

Authority: AS 16.05.255
AS 16.05.370

ARTICLE 3. HUNTING METHODS AND MEANS

Section

- 70. (Repealed)
- 72. General game provisions
- 75. Big game
- 80. Small game
- 90. Fur animals
- 100. (Repealed)
- 110. Unclassified game
- 115. Waterfowl, snipe, and cranes
- 120. (Repealed)
- 125. Control of predation by wolves
- 126. Wolf predation control programs

5 AAC 81.070. BIG GAME. Repealed 4/5/81.

5 AAC 81.072. GENERAL GAME PROVISIONS. The following methods and means of taking game are prohibited:

(1) by shooting from, on, or across a highway;

(2) with the use of poisons except with the written consent of the Board of Game;

(3) with the use of helicopter or rotorcraft in any manner, including transportation either to or from the field of any unprocessed game or parts of game, hunters or hunting gear, or any equipment used in the pursuit or retrieval of game; this paragraph does not apply to transportation of hunters, hunting gear, or game during emergency rescue operations in a life-threatening situation;

(4) unless otherwise provided in this chapter, from any mechanical vehicle or from a motor-driven boat unless the motor has been completely shut off and the boat's progress from the

promulgated thereunder. (In effect before 1980; am 7/4/80, Reg. 75)

Authority: AS 16.05.255(3)
AS 16.05.920
AS 16.05.930

5 AAC 81.145. TRANSFER OF POSSESSION. (a) No person may transfer possession of game or parts of game that he has taken unless he provides immediately upon request of any person authorized to enforce AS 16 or regulations promulgated thereunder, a statement, signed by himself and the person to whom the game or its parts were transferred, stating the date of the transfer and the name and address of the person to whom the game was transferred.

(b) No person may possess or transport any game or parts of game not taken by himself unless he provides immediately upon request of a person authorized to enforce AS 16 or regulations promulgated thereunder, a statement signed by the person who took the game, stating that person's name, address, and license or permit number, and the place the game was taken.

(c) Repealed 3/28/82.

(d) A person who takes an animal that has been marked or tagged by the department for scientific studies must, within a reasonable time, notify the department of the date when, and the place where, the animal was killed, and any ear tags, collars, tattoos, or other identification must be retained with the hide until it is sealed, if sealing is required, and in all cases any identification equipment must be returned to the department. (In effect before 1980; am 7/4/80, Reg. 75; am 9/3/81 - 9/12/81, Reg. 80; am 9/30/81, Reg. 79; am 3/28/82, Reg. 81)

Authority: AS 16.05.255(2)
AS 16.05.370
AS 16.05.920

5 AAC 81.150. TERMINATION OF POSSESSION. Repealed 6/30/77.

5 AAC 81.160. EVIDENCE OF SEX AND IDENTITY. (a) No person may possess or transport a mountain sheep unless both horns accompany the animal.

(b) Whenever the taking of a big game animal, except sheep, is restricted to one sex, no person may possess or transport, within the unit or subunit where taken, the carcass of that species of big game which does not have sufficient portions of the external sex organs attached to indicate conclusively the sex of the animal. However, this section does not apply to the carcass of a big game animal which has been cut and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(c) Whenever moose antler standards have been established as part of the bag limit for a unit or subunit under this chapter, no person may possess or transport, within the unit or subunit where taken, the moose carcass or its parts unless the antlers accompany the carcass or its parts. Antlers lacking the minimum number of brow tines on one side of the antler must be naturally attached to the unbroken, uncut skull plate; however, this subsection does not apply to a moose carcass or its parts that have been cut and placed in storage or otherwise prepared for consumption after arrival at the location where it is to be stored or consumed. (In effect before 1980; am 7/4/80, Reg. 75)

Authority: AS 16.05.255(3)
AS 16.05.920

5 AAC 81.170. EXPORTATION OF SKINS. (a) The raw skins of wild fur animals may not be shipped, mailed or otherwise transported out of Alaska without properly executing an export permit (shipping tag) and an export report (postcard) provided by the department and available from the department, a post office, or commercial carrier.

(b) The export permit must be attached to the outside of any package containing raw skins of wild fur animals for export and must include a statement that the skins were legally taken and possessed. No carrier or post office may accept for shipment out of Alaska any raw skins of wild

5 AAC 81.176. SEALING OF MOOSE ANTLERS AND SURRENDERING OF MOOSE JAWS. Repealed 9/30/81.

5 AAC 81.180. SEALING OF BEAR SKINS AND SKULLS. (a) No person may possess in Alaska, transport, or export from Alaska, the skin or skull of a bear, whether taken inside or outside Alaska, unless each has been sealed by an authorized representative of the department. Seals must remain on the hides while in Alaska or until the tanning process has commenced. A brown bear taken within Unit 8 may not be transported from that unit until it has been sealed.

(b) Notwithstanding the provisions of (a) of this section, a person taking a bear may possess the unsealed skin and skull of the bear taken for a period not to exceed 30 days from the time of taking for the purpose of transporting the skin and skull to an authorized representative of the department for sealing. The skin and skull of a bear shall be sealed within 30 days from the time of taking or shall be tendered immediately for sealing upon the request of an authorized representative of the department.

(c) A person who possesses a bear skin and skull shall present the skin and skull for sealing to an authorized representative of the department and shall, in addition, complete a report on the appropriate form provided by the department. A skin and skull accompanied by a completed temporary sealing form signed by the person who took the bear shall be considered properly tendered for sealing if it is received by an authorized representative of the department within 30 days from the time of taking.

(d) The hide and skull of a bear must accompany each other until a representative of the department has removed a rudimentary premolar tooth from the skull and sealed both the skull and the hide.

(e) As used in this section, "bear" means brown and grizzly bear in all units, and black bear (including the cinnamon and blue color phases) in Units 1 through 7, 11 through 16, and 20.

(f) No person may falsify any information required to be set forth, either on the sealing

form provided by the department or on the temporary sealing form. (In effect before 1980; am 7/4/80, Reg. 75; am 6/30/83, Reg. 86)

Authority: AS 16.05.255
AS 16.05.920

5 AAC 81.185. SEALING OF WOLF, WOLVERINE, AND LYNX. (a) No person may possess in the state, transport or export from the state the untanned skin of a wolf, wolverine, or lynx whether taken inside or outside of the state unless it has been sealed by an authorized representative of the department. Seals must remain on the hides while in the State of Alaska or until tanning process has commenced.

(b) Notwithstanding the provisions of (a) of this section, a person taking a wolf or wolverine may possess the unsealed skin of the wolf or wolverine taken for a period not to exceed 60 days from the time of taking, and may possess the unsealed skin of a lynx taken for a period not to exceed 30 days following the close of the lynx hunting season in the game management unit where taken, for the purpose of transporting the skin to an authorized representative of the department for sealing. The skin of a wolf or wolverine must be sealed within 60 days from the time of taking or must be tendered immediately for sealing upon the request of an authorized representative of the department. The skin of a lynx must be sealed within 30 days following the close of the lynx hunting season in the game management unit where taken or must be tendered immediately for sealing upon the request for an authorized representative of the department.

(c) A person who takes a wolf, wolverine or lynx shall present the skin for sealing to an authorized representative of the department and shall, in addition, complete a report on an appropriate form provided by the department. The long bones of the left front leg (radius and ulna bones) of wolves taken in Units 20, 23, 24 and 26 must remain naturally attached to the hide of any wolf taken until the hide is sealed. A skin accompanied by the completed temporary sealing form signed by the person who took the wolf, wolverine or lynx shall be considered properly tendered for sealing if it is received by an authorized representative of the department within the time period for sealing

(b) Big game killed or injured in a vehicular accident is the property of the state. The operator of a motor vehicle that collides with a big game animal resulting in death or injury to the animal must notify the State Troopers or Fish and Wildlife Protection as soon as possible. (In effect before 1980; am 9/3/81 - 9/12/81, Reg. 80; am 9/30/81, Reg. 79)

Authority: AS 16.05.255(3)
AS 16.05.257

5 AAC 81.217. QUANTITY OF MEAT TO BE SALVAGED FROM WILD FOOD ANIMALS. Repealed 7/2/75.

5 AAC 81.218 FEEDING OF GAME. No person may intentionally feed bears, wolves, foxes, or wolverines, or intentionally leave human food or garbage in a manner that attracts these animals. This prohibition does not apply to the use of legal bait materials for trapping fur animals, nor does it apply to the use of bait for hunting black bears under 5 AAC 81.040(4). (In effect before 1983; am 4/21/83, Reg. 86; am 6/30/84, Reg. 90)

Authority: AS 16.05.255

ARTICLE 6. CONTROLLED USE AREAS

Section

- 220. (Repealed)
- 221. (Repealed)
- 222. (Repealed)
- 223. (Repealed)
- 224. (Repealed)
- 225. (Repealed)
- 226. (Repealed)
- 227. (Repealed)
- 228. (Repealed)
- 229. (Repealed)
- 230. (Repealed)
- 231. (Repealed)
- 232. (Repealed)
- 233. (Repealed)
- 234. (Repealed)
- 235. (Repealed)
- 236. (Repealed)
- 237. Controlled use areas.
- 238. Management areas

5 AAC 81.220. WEST CHUGACH MANAGEMENT AREA. Repealed 7/27/79.

5 AAC 81.221. DELTA MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.222. GLACIER MOUNTAIN MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.223. LAKE LOUISE MANAGEMENT AREA. Repealed 7/27/79, 4/5/81.

5 AAC 81.224. SOURDOUGH MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.225. CLEARWATER CREEK MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.226. ALASKA PENINSULA MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.227. YANERT-WOOD RIVER MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.228. MACOMB PLATEAU MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.229. TOK MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.230. TONSINA MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.231. PARADISE MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.232. FORT RICHARDSON MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.233. KALSKAG MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.234. KOYUKUK MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.235. KANUTI MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.236. MINTO FLATS MANAGEMENT AREA. Repealed 4/5/81.

5 AAC 81.237. CONTROLLED USE AREAS. The following are areas in which access for hunting is controlled:

(1) The Delta Controlled Use Area, described as follows, is closed to the use of motorized

MEMORANDUM

State of Alaska

TO: Ms. Karla Forsythe
General Counsel
Alaska Court System

DATE: February 19, 1985

FILE NO:

TELEPHONE NO:

FROM: Capt. Wayne A. Fleek *Wayne Fleek*
Director's Office
Fish & Wildlife Protection

SUBJECT: Uniform Bail Schedule

The twenty violations of A.S. 16 or 5 A.A.C. included on the proposed bail schedule may comprise up to two-thirds of our divisions annual citations.

They are generally our less serious violations and are not normally detrimental to the resource by themselves.

Violations numbered 1 through 8, 16, 17, and 18 fall into the "methods and means" category with the remainder being "administrative."

These violations can be generally classed under two categories, "administrative violations" or "methods and means violations."

These violations were chosen for initial inclusion because we felt they would significantly reduce the number of hours spent by the public and the criminal justice system in resolving violations that could be treated similar to traffic infractions, by mail, and thereby allow all concerned to devote more time to more serious crimes.

It is our plan to review this list annually and add to or delete from the list as necessary.

WAF/pvo

UNIFORM FISH & GAME BAIL SCHEDULE

1.	5 AAC 75.022(c)	ATTEMPT TO SNAG	\$100
2.	5 AAC 75.022(c)	FAIL TO RELEASE	\$100
3.	5 AAC 75.020	SPORT FISHING WITH MORE THAN ONE LINE	\$ 50
4.	5 AAC 75.022(a)(2)	MULTIPLE HOOK WITH GAP LARGER THAN 1/2"	\$ 50
5.	5 AAC 75.022(a)(1)	USING FIXED OR WEIGHTED HOOK	\$ 75
6.	5 AAC 75.022(a)(2)	USING LURE WITH MULTIPLE HOOK OVER 1/2"	\$ 75
7.	5 AAC 75.022(a)(4)	USING SPEAR - SPORT FISHING	\$100
8.	5 AAC 75.022(a)(5)	USING ARROW - SPORT FISHING	\$100
9.	A.S.16.05.330(a)	SPORT FISHING WITHOUT LICENSE IN POSSESSION	\$ 50
10.	A.S.16.05.330(a)	HUNTING WITHOUT LICENSE IN POSSESSION	\$100
11.	A.S.16.05.420(a)	FALSE STATEMENT ON SPORT FISH LICENSE APPLICATION	\$ 75
12.	A.S.16.05.420(a)	FALSE STATEMENT ON HUNTING LICENSE APPLICATION	\$150
13.	5 AAC 81.010	HARVEST TICKET - NOT IN POSSESSION; FAIL TO VALIDATE	\$100
14.	5 AAC 81.060	FAIL TO SUBMIT REQUIRED REPORT	\$ 75
15.	5 AAC 81.180	FAIL TO SEAL BEAR OR POSSESS UNSEALED BEAR SKIN OR SKULL	\$100
16.	5 AAC 81.218	FEEDING GAME	\$ 50
17.	5 AAC 81.160(a)	POSSESS MOUNTAIN SHEEP WITHOUT BOTH HORNS	\$100
18.	5 AAC 81.160(b)	NO EVIDENCE OF SEX ATTACHED	\$100
19.	5 AAC 81.055(b)(15)	FAILURE TO SUBMIT REGISTRATION PERMIT HUNT REPORT	\$ 50
20.	5 AAC 81.185	FAIL TO SEAL WOLF, WOLVERINE, LYNX	\$100

(Revised 2/8/85)



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, AK 99501

KARLA L. FORSYTHE
General Counsel

February 26, 1985

Senator Pat Rodey
Chair, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

In your capacity as a member of the fish and game bail forfeiture advisory committee, established by supreme court order under AS 16.05.165(b), I have enclosed for your review and comment a copy of the proposed uniform fish and game bail schedule. This schedule is proposed by the division of fish and wildlife protection, Department of Public Safety. I have also attached a copy of a brief memorandum from Captain Fleek to me discussing the rationale for including these various offenses on the proposed schedule, as well as a copy of the underlying legislation (Chapter 132, SLA 1984).

Please review the proposed schedule, both for appropriateness of the included offenses, and appropriateness of the proposed bail forfeiture amounts, and provide your written comments to me no later than March 25, 1985. Your comments and the proposed schedule will then be forwarded to the supreme court.

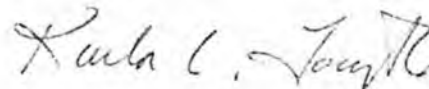
After the effective date of a supreme court order adopting the fish and game bail forfeiture schedule, citations issued by the fish and wildlife division for these offenses will provide that the person cited may within 15 days forward the bail forfeiture amount to the court along with a plea of no contest and a waiver of the right to appear in court. When bail has been forfeited, a judgment of conviction will be entered. If a person cited wishes to plead not guilty, the person will be scheduled for a nonjury trial. If found guilty, the penalty imposed may not exceed the bail amount established for the offense.

When a person has been convicted during a two year period of two or more offenses for which a forfeiture bail amount has been set, a peace officer may file a civil action in district court to revoke the person's license.

If you have questions about the proposed offenses and bail forfeiture amounts, Captain Wayne Fleek, who is a member of the committee, can be reached at 269-5541. If you have questions about the implementation procedure or the history of this legislation, please call me at 264-0634.

Thank you again for your assistance in reviewing the proposed schedule. I anticipate receiving your comments by March 25.

Sincerely,



Karla L. Forsythe
General Counsel

KLF:smh

cc: Arthur H. Snowden, II
Gayle Horetski
Susan Miller

MEMORANDUM

State of Alaska

TO: Ms. Karla Forsythe
General Counsel
Alaska Court System

DATE: February 19, 1985

FILE NO:

TELEPHONE NO:

FROM: Capt. Wayne A. Fleek *WAF*
Director's Office
Fish & Wildlife Protection

SUBJECT: Uniform Bail Schedule

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It is our plan to review this list annually and add to or delete from the list as necessary.

WAF/pvo

UNIFORM FISH & GAME BAIL SCHEDULE

1.	5 AAC 75.022(c)	ATTEMPT TO SNAG	\$100
2.	5 AAC 75.022(c)	FAIL TO RELEASE	\$100
3.	5 AAC 75.020	SPORT FISHING WITH MORE THAN ONE LINE	\$ 50
4.	5 AAC 75.022(a)(2)	MULTIPLE HOOK WITH GAP LARGER THAN 1/2"	\$ 50
5.	5 AAC 75.022(a)(1)	USING FIXED OR WEIGHTED HOOK	\$ 75
6.	5 AAC 75.022(a)(2)	USING LURE WITH MULTIPLE HOOK OVER 1/2"	\$ 75
7.	5 AAC 75.022(a)(4)	USING SPEAR - SPORT FISHING	\$100
8.	5 AAC 75.022(a)(5)	USING ARROW - SPORT FISHING	\$100
9.	A.S.16.05.330(a)	SPORT FISHING WITHOUT LICENSE IN POSSESSION	\$ 50
10.	A.S.16.05.330(a)	HUNTING WITHOUT LICENSE IN POSSESSION	\$100
11.	A.S.16.05.420(a)	FALSE STATEMENT ON SPORT FISH LICENSE APPLICATION	\$ 75
12.	A.S.16.05.420(a)	FALSE STATEMENT ON HUNTING LICENSE APPLICATION	\$150
13.	5 AAC 81.010	HARVEST TICKET - NOT IN POSSESSION; FAIL TO VALIDATE	\$100
14.	5 AAC 81.060	FAIL TO SUBMIT REQUIRED REPORT	\$ 75
15.	5 AAC 81.180	FAIL TO SEAL BEAR OR POSSESS UNSEALED BEAR SKIN OR SKULL	\$100
16.	5 AAC 81.218	FEEDING GAME	\$ 50
17.	5 AAC 81.160(a)	POSSESS MOUNTAIN SHEEP WITHOUT BOTH HORNS	\$100
18.	5 AAC 81.160(b)	NO EVIDENCE OF SEX ATTACHED	\$100
19.	5 AAC 81.055(b)(15)	FAILURE TO SUBMIT REGISTRATION PERMIT HUNT REPORT	\$ 50
20.	5 AAC 81.185	FAIL TO SEAL WOLF, WOLVERINE, LYNX	\$100

(Revised 2/8/85)



LAWS OF ALASKA

1984

Source

SCS CSSSHB 404 (Res)

Chapter No.

132

AN ACT

Relating to fish, game, and other animals; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 2, 1984
Actual Effective Date: July 3, 1984

AN ACT

Relating to fish, game, and other animals, and providing
for an effective date.

* Section 1. AS 12.25.190(c) is amended to read:

(c) The person cited for the crime shall give a [HIS] written promise to appear in court by signing at least one copy of the written citation prepared by the peace officer and the officer shall deliver a copy of the citation to the person. The written promise requirement of this subsection does not apply to motor vehicle and traffic citations under AS 28.05.151 and fish and game citations for which a ball schedule has been established under AS 16.05.163.

* Sec. 2. AS 16.05.050 is amended to read:

Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commissioner has, but not by way of limitation, the following powers and duties:

(1) assist the United States Fish and Wildlife Service in the enforcement of federal laws and regulations pertaining to fish and game;

(2) through the appropriate state agency, acquire by gift, purchase, or lease, or other lawful means, land, buildings, water, rights-of-way, or other necessary or proper real or personal property when the acquisition is in the interest of furthering an objective or purpose of the department and the state;

(3) design and construct hatcheries, pipelines, rearing

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1 ponds, fishways, and other projects beneficial for the fish and game
2 resources of the state;

3 (4) accept money from any person under conditions requiring
4 the use of the money for specific purposes in the furtherance of the
5 protection, rehabilitation, propagation, preservation, or investiga-
6 tion of the fish and game resources of the state or in settlement of
7 claims for damages to fish or game resource;

8 (5) collect, classify, and disseminate statistics, data and
9 information that, in the commissioner's discretion, will tend to
10 promote the purposes [OBJECTS] of AS 16 except AS 16.51 and AS 16.52
11 [THIS CHAPTER];

12 (6) capture, propagate, transport, buy, sell, or exchange
13 fish or game or eggs for propagating, scientific or stocking purposes;

14 (7) Repealed]

15 (7) [(8)] provide public facilities where necessary or
16 proper to facilitate the taking of fish or game, and enter into co-
17 operative agreements with any person to effect them;

18 (8) [(9)] exercise administrative, budgeting, and fiscal
19 powers;

20 (9) [(10)] construct, operate, supervise, and maintain
21 vessels used by the Department of Fish and Game;

22 (10) [(11)] authorize the holder of an interim-use permit
23 under AS 16.43 to engage on an experimental basis in commercial taking
24 of a fishery resource with vessel, gear, and techniques not presently
25 qualifying for licensing under this chapter in conformity with stan-
26 dards established by the Alaska Commercial Fisheries Entry Commission;
27 [.]

28 (11) [(12)] not later than January 31 of each year, provide
29 to the commissioner of revenue the names of those fish and shellfish

1 species which the commissioner of fish and game designates as develop-
2 ing commercial fish species for that calendar year; a fish or shell-
3 fish species is a developing commercial fish species if, within a
4 specified geographical region,

5 (A) the optimum yield from the harvest of the species
6 has not been reached;

7 (B) a substantial portion of the allowable harvest of
8 the species has been allocated to fishing vessels of a foreign
9 nation; or

10 (C) a commercial harvest of the fish species has
11 recently developed;

12 (12) initiate or conduct research necessary or advisable to
13 carry out the purposes of AS 16 except AS 16.51 and AS 16.52;

14 (13) enter into cooperative agreements with agencies of the
15 federal government, educational institutions, or other agencies or or-
16 ganizations, when in the public interest, to carry out the purposes of
17 AS 16 except AS 16.51 and AS 16.52.

18 * Sec. 3. AS 16.05.100 is amended to read:

19 Sec. 16.05.100. FISH AND GAME FUND ESTABLISHED. There is cre-
20 ated a revolving "Fish and Game Fund," which shall be used exclusively
21 for the following: (1) to carry out the purposes and provisions of
22 AS 16, except AS 16.51 and AS 16.52, [THIS CHAPTER] or other duties
23 that may be delegated by the legislature to the commissioner or the
24 department; and (2) to carry out such purposes and objectives within
25 the scope of AS 16 except AS 16.51 and AS 16.52 [THE CHAPTER] as may
26 be directed by the donor of any such funds.

27 * Sec. 4. AS 16.05.150 is amended to read:

28 Sec. 16.05.150. ENFORCEMENT AUTHORITY. The following persons
29 are peace officers of the state and they shall enforce AS 16 except

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AS 16.51 and AS 16.52 [THIS CHAPTER]:

- (1) an employee of the department authorized by the commissioner;
- (2) a police officer in the state;
- (3) any other person authorized by the commissioner.

* Sec. 5. AS 16.05.160 is amended to read:

Sec. 16.05.160. DUTY TO ARREST. Each peace officer designated in AS 16.05.150 shall arrest a person violating a provision of AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], or any regulation adopted [MADE] under AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], in the peace officer's presence or view, and shall take the person [IMMEDIATELY] for examination or trial before an officer or court of competent jurisdiction unless in the judgment of the peace officer it would be in the state's best interest to issue a warning or a citation under AS 16.05.165.

* Sec. 6. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.165. FORM AND ISSUANCE OF CITATION. (a) When a peace officer stops or contacts a person concerning a violation of AS 16 except AS 16.51 and AS 16.52 or of a regulation adopted under AS 16 except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.180.

(b) The supreme court shall specify by rule or order those misdemeanors that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two officers of the division of fish and wildlife protection of the Department of Public Safety, two

1 representatives of the Department of Fish and Game, two district court
2 judges, and the chairpersons of the House and Senate Judiciary Commit-
3 tees of the legislature. The maximum bail amount for an offense may
4 not exceed the maximum fine specified by law for that offense. If the
5 misdemeanor for which the citation is issued may be disposed of with-
6 out court appearance, the issuing peace officer shall write on the
7 citation the amount of bail applicable to the violation.

8 (c) A person cited for a misdemeanor for which a bail amount has
9 been established under (b) of this section may, within 15 days after
10 the date of the citation, mail or personally deliver to the clerk of
11 the court in which the citation is filed by the peace officer

12 (1) the amount of bail indicated on the citation for that
13 offense; and

14 (2) a copy of the citation indicating that the right to an
15 appearance is waived, a plea of no contest is entered and the bail is
16 forfeited.

17 (d) When bail has been forfeited under (c) of this section, a
18 judgment of conviction shall be entered. Forfeiture of bail and all
19 seized items is a complete satisfaction for the misdemeanor. The
20 clerk of the court accepting the bail shall provide the offender with
21 a receipt stating that fact.

22 (e) If the person cited fails to pay the bail amount established
23 under (b) of this section or to appear in court as required, the cita-
24 tion is considered a summons for a misdemeanor.

25 (f) Notwithstanding other provisions of law, if a person cited
26 for a misdemeanor for which a bail amount has been established under
27 (b) of this section appears in court and is found guilty, the penalty
28 that is imposed for the offense may not exceed the bail amount for
29 that offense established under (b) of this section.

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1 * Sec. 7. AS 16.05.170 is amended to read:

2 Sec. 16.05.170. POWER TO EXECUTE WARRANT. Each peace officer
3 designated in AS 16.05.150 may execute a warrant or other process
4 issued by an officer or court of competent jurisdiction for the en-
5 forcement of AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], and
6 may, with a search warrant, search any place at any time. The judge
7 of a court having jurisdiction may, upon proper oath or affirmation
8 showing probable cause, issue a warrant in all cases.

9 * Sec. 8. AS 16.05.251(a) is amended to read:

10 (a) The Board of Fisheries may adopt regulations it considers
11 advisable in accordance with the Administrative Procedure Act (AS 44.-
12 62) for

13 (1) setting apart fish reserve areas, refuges and sanctuar-
14 ies in the waters of the state over which it has jurisdiction, subject
15 to the approval of the legislature;

16 (2) establishing open and closed seasons and areas for the
17 taking of fish;

18 (3) setting quotas, [AND] bag limits, harvest levels, and
19 sex and size limitations on the taking of fish;

20 (4) establishing the means and methods employed in the
21 pursuit, capture and transport of fish;

22 (5) establishing marking and identification requirements
23 for means used in pursuit, capture and transport of fish;

24 (6) classifying as commercial fish, sport fish or predators
25 or other categories essential for regulatory purposes;

26 (7) [ENCAGING IN BIOLOGICAL RESEARCH,] watershed and habi-
27 tat : protection, and [FISH] management, conservation, protection, use,
28 disposal, propagation and stocking of fish;

29 (8) investigating and determining the extent and effect of

1 disease, predation, and competition among fish in the state, exercising
2 control measures considered necessary to the resources of the
3 state;

4 (9) ENTERING INTO COOPERATIVE AGREEMENTS WITH EDUCATIONAL
5 INSTITUTIONS AND STATE, FEDERAL, OR OTHER AGENCIES TO PROMOTE FISH
6 RESEARCH, MANAGEMENT, EDUCATION AND INFORMATION AND TO TRAIN PERSONS
7 FOR FISH MANAGEMENT; 1

8 (9) [(10)] prohibiting and regulating the live capture,
9 possession, transport, or release of native or exotic fish or their
10 eggs;

11 (10) [(11)] establishing seasons, areas, quotas and methods
12 of harvest for aquatic plants;

13 (11) [(12)] establishing the times and dates during which
14 the issuance of fishing licenses, permits and registrations and the
15 transfer of permits and registrations between registration areas is
16 allowed; however, this paragraph does not apply to permits issued or
17 transferred under AS 16 43

18 * Sec. 9. AS 16.05.251 is amended by adding a new subsection to read:

19 (c) If the Board of Fisheries denies a petition or proposal to
20 amend, adopt, or repeal a regulation, the board, upon receiving a
21 written request from the sponsor of the petition or proposal, shall in
22 addition to the requirements of AS 44.62.230 provide a written expla-
23 nation for the denial to the sponsor not later than 30 days after the
24 board has officially met and denied the sponsor's petition or pro-
25 posal, or 30 days after receiving the request for an explanation,
26 whichever is later.

27 * Sec. 10. AS 16.05.255(a) is amended to read:

28 (a) The Board of Game may adopt regulations it considers advis-
29 able in accordance with the Administrative Procedure Act (AS 44.62)

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For

(1) setting apart game reserve areas, refuges and sanctuaries in the water [WATERS] or on the land [LANDS] of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of game;

(3) establishing the means and methods employed in the pursuit, capture and transport of game;

(4) setting quotas, AND bag limits, harvest levels, and sex, age, and size limitations on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators or other categories;

(6) methods, means, and harvest levels necessary to control predation and competition among game in the state [INVESTIGATING AND DETERMINING THE EXTENT AND EFFECT OF PREDATION AND COMPETITION AMONG GAME IN THE STATE, EXERCISING CONTROL MEASURES CONSIDERED NECESSARY TO THE RESOURCES OF THE STATE AND DESIGNATING GAME MANAGEMENT UNITS OR PARTS OF GAME MANAGEMENT UNITS IN WHICH BOUNTIES FOR PREDATORY ANIMALS SHALL BE PAID];

(7) [ENGAGING IN BIOLOGICAL RESEARCH,] watershed and habitat improvement, and [GAME] management, conservation, protection, usc, disposal, propagation and stocking of game;

[(8) ENTERING INTO COOPERATIVE AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND STATE, FEDERAL, OR OTHER AGENCIES TO PROMOTE GAME RESEARCH, MANAGEMENT, EDUCATION, AND INFORMATION AND TO TRAIN PERSONS FOR GAME MANAGEMENT;]

(8) [(9)] prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(9) [(10)] establishing the times and dates during which

1 the issuance of game licenses, permits and registrations and the
2 transfer of permits and registrations between registration areas and
3 game management units or subunits is allowed.

4 * Sec. 11. AS 16.05.255 is amended by adding a new subsection to read:

5 (c) If the board of Game denies a petition or proposal to amend,
6 adopt, or repeal a regulation, the board, upon receiving a written
7 request from the sponsor of the petition or proposal, shall in addi-
8 tion to the requirements of AS 44.62.230 provide a written explanation
9 for the denial to the sponsor not later than 30 days after the board
10 has officially met and denied the sponsor's petition or proposal, or
11 30 days after receiving the request for an explanation, whichever is
12 later.

13 * Sec. 12. AS 16.05.340(a)(7) is amended to read:

14 (7) Nonresident [VISITOR'S] special sport fishing li-
15 cense -- valid for the period inscribed on the license

- 16 (A) For 14-day license.....\$20
- 17 (B) For three-day license..... 10

18 * Sec. 13. AS 16.05.340(a)(10) is amended to read:

19 (10) Nonresident hunting and sport fishing license..... 96

20 A nonresident may not take a big game animal without previously pur-
21 chasing a numbered, nontransferable, appropriate tag, issued under [TO
22 THE NONRESIDENT AS PROVIDED IN] (15) of this subsection. The tag must
23 [SHALL] be affixed to the animal immediately upon capture and must
24 [SHALL] remain affixed until the animal is prepared for storage, con-
25 sumed, or exported. A tag issued but not used for an animal may be
26 used to satisfy the tagging requirement for an [ANY OTHER] animal of
27 any other [THE] species [NAMED] for which the tag fee is of equal or
28 less value.

29 * Sec. 14. AS 16.05.350 is amended to read:

1 exclusively for the commercial capture of salmon in commercial salmon
2 administrative management areas that include state water between the
3 latitude of Point Romanof and the latitude of Cape Newenham, and state
4 water surrounding Nunivak Island [THE DRAINAGE SYSTEM OF THE YUKON AND
5 KUSKOKWIM RIVERS], or at a set net site, is exempt from the licensing
6 requirements of AS 16.05.490.

7 * Sec. 17. AS 16.05.685(c)(2) is amended to read:

8 (2) "registration area" means a specific king crab registra-
9 tion area as designated by regulation of the Board of Fisheries
10 [AND INCLUDES THE BERING SEA SHELLFISH AREA AND THE WESTERN ALEUTIAN
11 ISLANDS KING CRAB AREA].

12 * Sec. 18. AS 16.05.831(a) is amended to read:

13 (a) A person may not waste salmon intentionally, knowingly, or
14 with reckless disregard for the consequences. In this section,
15 "waste" means the failure to utilize the majority of the carcass,
16 excluding viscera and sex parts, of a salmon intended for [WHICH ARE
17 TO BE]

18 (1) sale [SOLD] to a commercial buyer or processor;

19 (2) [UTILIZED FOR] consumption by humans or domesticated
20 animals; or

21 (3) [UTILIZED FOR] scientific, educational, or display pur-
22 poses.

23 * Sec. 19. AS 16.05.900(a) is amended to read:

24 (a) A person who violates AS 16.05.870 - 16.05.895 [OR 16.05.920
25 OR ANY REGULATION ADOPTED UNDER THIS CHAPTER] is guilty of a class A
26 misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE
27 THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY
28 BOTH. A PERSON WHO VIOLATES A REGULATION ADOPTED UNDER THIS CHAPTER
29 FOR THE REGULATION OF COMMERCIAL FISHERIES SHALL BE PUNISHED AS

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1 PROVIDED IN AS 16.95.720].

2 * Sec. 20. AS 16.05.920 is amended to read:

3 Sec. 16.05.920. CERTAIN ACTS MADE UNLAWFUL. (a) Unless permit-
4 ted by AS 16.05 - AS 16.40 [THIS CHAPTER] or by regulation adopted
5 under AS 16.05 - AS 16.40 [THIS CHAPTER], a person may not take,
6 possess, transport, sell, offer to sell, purchase, or offer to pur-
7 chase fish, game, or marine aquatic plants, or any part of fish, game
8 or aquatic plants, or a nest or egg of fish or game.

9 (b) A person may not knowingly disturb, injure, or destroy a
10 notice, signboard, seal, tag, aircraft, boat, vessel, automobile,
11 paraphernalia, equipment, building or other improvement or property of
12 the department used in the administration or enforcement of AS 16
13 except AS 16.51 and AS 16.52 [THIS CHAPTER], or a poster or notice to
14 the public concerning the provisions of AS 16 except AS 16.51 and
15 AS 16.52 [THIS CHAPTER], or a regulation adopted under AS 16 except
16 AS 16.51 and AS 16.52 [THIS CHAPTER], or a marker indicating the
17 boundary of an area closed to hunting, trapping, fishing or other
18 special use under AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER].
19 A person may not knowingly destroy, remove, tamper with, or imitate a
20 seal or tag issued or used by the department or attached under its
21 authority to a skin, portion, or specimen of fish or game, or other
22 article for the purpose of identification or authentication in accord-
23 dance with AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER] or a
24 regulation adopted under AS 16 except AS 16.51 and AS 16.52 [THIS
25 CHAPTER].

26 * Sec. 21. AS 16.05.920 is amended by adding new subsections to read:

27 (c) A person may not import, possess, transport or release in
28 the state live venomous reptiles, live venomous reptile eggs, live
29 venomous insects, or live venomous insect eggs, except in accordance

1 with the terms of a permit issued under (d) of this section. This
2 prohibition does not apply to bees as defined in AS 03.47.040. A
3 person who violates this subsection is guilty of a misdemeanor and may
4 be cited as set out in AS 16.05.165.

5 (d) A permit required under (c) of this section may be granted
6 only if, in the determination of the commissioner, the applicant
7 demonstrates a valid educational purpose for seeking the permit. A
8 valid educational purpose includes display in educational institutions
9 and in zoos.

10 * Sec. 22. AS 16.05 is amended by adding a new section to read:

11 Sec. 16.05.925. PENALTY FOR VIOLATIONS. A person who violates
12 AS 16.05.920, or a regulation adopted under this chapter or AS 16.20,
13 is guilty of a class A misdemeanor. However, a person who violates a
14 regulation adopted under this chapter for the regulation of commercial
15 fisheries is subject to the penalties set out in AS 16.05.720.

16 * Sec. 23. AS 16.05.930(c) is amended to read:

17 (c) AS 16.05.920 does not prohibit rearing and sale of fish from
18 private ponds, the raising of wild animals in captivity for food or
19 the raising of game birds for the purpose of recreational hunting on
20 (OR) game hunting preserves, under regulations adopted by the appro-
21 prate board. In this subsection, "animals" includes all animal life,
22 including insects and bugs.

23 * Sec. 24 AS 16.05.940 is amended to read:

24 Sec. 16.05.940. DEFINITIONS. In AS 16.05 - AS 16.40 [THIS
25 CHAPTER]

26 (1) "aquatic plant" means any species of plant, excluding
27 the rushes, sedges and true grasses, growing in a marine aquatic or
28 intertidal habitat;

29 (2) "barter" means the exchange or trade of fish or game,