

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5346 SJUD HB 344 - HB 371

9/8

HB

344



STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

DATE: April 28, 1988

TO: Senator Jalmar Kerttula  
Chairman  
Senate Judiciary Committee

FROM: Representative Peter Goll

SUBJECT: Abuse of Disabled Persons

Physical and sexual abuse of mentally and physically disabled adults is a problem in Alaska and nationally.

HB 344 establishes mandatory reporting requirements and procedures for investigation of attacks on those adults who are so severely disabled that they are clearly unable to protect themselves.

The Division of Family and Youth Services reports that in 1986, there were 202 actual "reports of harm" to the elderly and 312 "reports of harm" to disabled adults under the age of 65 in Alaska.

That is a total of 514 reported cases in a single year. The reported cases represent only a portion of actual incidents.

I have attached:

1. Letter of support from the "Alaska State Association of Retarded Citizens".
2. Letter of support from the "Association of Retarded Citizens of Anchorage".
3. Letter to Rep. Peter Goll from Mr. David Maltman.

PG:ljb

attachments

# State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
HOUSE JUDICIARY  
HOUSE RULES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3718  
465-4968/4986

914 CLAY COURT  
ANCHORAGE, ALASKA 9950  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

October 19, 1987

TO: REPRESENTATIVE NILO KOPONEN, CO-CHAIR HOUSE HESS  
COMMITTEE  
REPRESENTATIVE JOHNNY ELLIS, CO-CHAIR HOUSE HESS  
COMMITTEE

FROM: MAX F. GRUENBERG, JR. *max*

RE: INTRODUCING "AN ACT RELATING TO PHYSICALLY AND MENTALLY  
DISABLED PERSONS" AS A HESS COMMITTEE BILL

I would very much appreciate it if we could introduce the attached draft bill as a HESS Committee bill.

This bill clarifies certain portions of SB 1, which was signed into law by the Governor.

Section 1 of the bill requires the driver of a vehicle who causes property damage to a physically disabled person's property, such as a wheelchair, to pay for damages. There is no provision in SB 1, now Chapter 69, SLA 1987, to compensate a victim if his property is damaged or destroyed.

Section 2 clarifies AS 11.76.130(a) to require that a person must intentionally interfere with the rights of a disabled person to be guilty of a Class "B" misdemeanor. Thus, a person repairing his sidewalk, for example, would not be criminalized.

Both of these changes certainly reflect our legislative intent in HB 172 last year, now SB 1, passed this year.

Section 3 removes a superfluous requirement for determining eligibility for driver's licenses. The Division of Motor Vehicles already under (5) of this section, retains the ability to refuse a license or permit for a person with a present mental disability. Many people have received

counseling or, at one time were mentally ill. Very few were legally adjudged incompetent. Fewer still were formally restored to competency by the methods provided by law. The mental health community strongly supports the repeal of AS 28.15.031(a)(4). Subsection (5) gives the DMV sufficient authority to protect the public.

I would like to make a motion at our Friday, October 23 meeting that the HESS Committee sponsor the bill and have it pre-filed.

If any committee member objects or requests any amendment (deletion or addition), please contact me at my law office, 276-6844, and I'll be happy to assist.

Thank you very much.

cc: All HESS Committee members

POSITION PAPER

CSHB 344

"An Act relating to the protection of persons with disabilities and to disabled adults who are victims of physical or sexual abuse."

EFFECT OF CSHB 344

Section 1 amends A.S. 09.65.150(a) to include responsibility for property damage incurred when a driver fails to yield for a physically disabled pedestrian so identified in this Section. "Property" under this Section could relate to the mobility aids and appliances utilized by the pedestrian.

Section 2 amends A.S. 11.76.130(a) and limits the crime of interference to those situations where the rights of a disabled person are intentionally prevented or restricted as described.

Section 3 requires certain professionals to report suspected criminal physical and sexual abuse of a disabled adult to the nearest law enforcement agency provided that the disabled adult is unable to report the abuse. CSHB 344 also provides immunity from liability and retaliation to the individual who is reporting the suspected abuse.

The bill appropriately distinguishes between those disabled people who are capable of reporting crimes themselves from those who cannot due to their disabilities. The former should be allowed to make their own decisions regarding reporting of crimes, while the latter must have assistance or they will go entirely unprotected.

Section 4 repeals A.S. 28.15.031(b)(4) which restricts the issuance of a driver's license if a person has a mental disability and has not been restored by the methods provided by law. This provision is unnecessarily restrictive and redundant. AS 28.15.031 (b) (5) provides the Department of Public Safety the authority to revoke or not grant a driver's license to a person with a mental or physical disability.

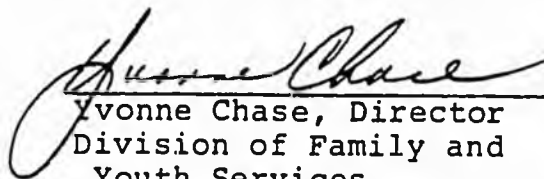
The Department of Health and Social Services (DHSS) supports CSHB 344. The department estimates that 312 reports of harm to disabled adults were received in 1986. Although DHSS attempts to respond to reports of abuse of disabled adults, DHSS currently does not have the necessary resources to provide an adequate level of adult protection services statewide. Further, this bill addresses reports of criminal conduct against adults which is appropriately investigated by law enforcement. The efforts of the two agencies working cooperatively in appropriate cases will further the protection available to disabled people.

CSHB 334 helps by providing a mechanism by which people who are aware of criminal physical and sexual abuse of disabled people are required to report these crimes to the appropriate law enforcement agency. In addition, CSHB 344 clarifies existing law with regard to interference with disabled persons.

Recommended by:

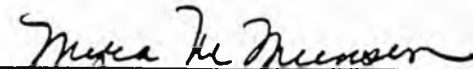


Mel Henry, Director  
Division of Mental Health  
and Developmental Disabilities



Yvonne Chase, Director  
Division of Family and  
Youth Services

Approved by:



Myra M. Munson  
Commissioner  
Department of Health  
and Social Services

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 344 (HESS)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to the Protection of Persons with Disabilities...  
Sponsor: HESS COMMITTEE  
Requestor: \_\_\_\_\_

Agency Affected: HEALTH and SOCIAL SERVICES  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-


FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

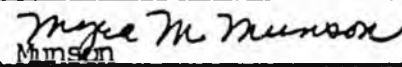
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mel Henry, Director   
Division: Division of Mental Health and Dev. Disabil.

Phone: 465-3370

Date: 2/29/88

Approved by Commissioner: Mvra Munson   
Agency: Health and Social Services

Date: 3/1/88

Distribution (by preparer):

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



Association for Retarded Citizens of Alaska, Inc.  
2211-A Arca Drive, Anchorage, Alaska 99508 • (907) 277-6677

January 23, 1988

Representative Peter Goll  
513 Capitol Building  
P.O. Box V  
Juneau, Alaska 99811

RE: House Bill 311

For an act entitled, "An Act Relating to Protection of Adults with Disabilities who are Victims of Abuse, Neglect or Exploitation."

Dear Representative Goll:

I am writing this letter in behalf of the Board of Directors of the Alaska State Association of Retarded Citizens, who at its January 16, 1988 Board meeting unanimously supported the passing of House Bill 311.

The Alaska State Association for Retarded Citizens is comprised of families, consumers, and professionals all dedicated to speak out in behalf of the interests and rights of persons who are mentally retarded/developmental disabled. We feel that the bill will provide for the protection of those individuals who due to their disability are not able to speak out for themselves.

Again, our strong support for this bill is encouraged. If I can be of any further assistance, please do not hesitate to contact me at 277-6677.

Sincerely,

Mary Jane Starlings  
Executive Director

Margaret R. Lowe, President  
Board of Directors

MJS/sls  
cc: Fran Ulmer



January 23, 1988

Representative Peter Goll  
513 Capitol Building  
P.O. Box V  
Juneau, Alaska 99811

RE: House Bill 311  
For an act entitled, "An Act Relating to Protection of  
Adults with Disabilities who are Victims of Abuse, Neglect  
or Exploitation."

Dear Representative Goll:

I am writing this letter in behalf of the Board of Directors of  
the Association of Retarded Citizens of Anchorage, who at its  
January 14, 1988 Board meeting unanimously supported the passing  
of House Bill 311.

The Association for Retarded Citizens of Anchorage provides  
residential services for persons who are mental  
retarded/developmentally disabled. We feel that this bill will  
provide for the following:

1. The assurance that adults with mental retardation will  
live in a safe program providing quality training  
leading to the least restrictive and most normalized  
setting possible.
2. That professionals in residential, vocational, respite  
and other services provided to adults with mental  
retardation who have reasonable cause to believe that  
an individual has suffered harm as a result of abuse,  
neglect or exploitation shall be afforded the  
opportunity and protection to report the harm to the  
Department of Health and Social Services.
3. That advocates, families, friends, and consumers who  
have reasonable cause to believe that an individual has  
suffered harm as a result of abuse, neglect or  
exploitation within a program in the State of Alaska  
has the opportunity to report the harm to the  
Department of Health and Social Services.

Representative Goll  
DM: ARCA  
DATE: January 23, 1988  
PAGE: 2 of 2

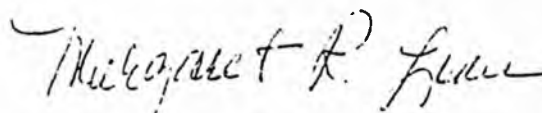
It is all of our responsibilities to advocate in behalf of the interests and rights of persons with mental retardation who may not have the ability to speak out in their own behalf because of their disabilities.

Again, our strongest support for this bill is encouraged. If I can be any further assistance, please do not hesitate to contact me at 277-6677.

Sincerely,



Mary Jane Starlings  
Executive Director



Margaret R. Lowe, President  
Board of Directors

MJS/sls  
cc: Fran Ulmer



**PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED**

325 E. Third, Suite 400  
Anchorage, AK 99501-2606  
(907) 274-3658 TTD

127 S. Franklin  
Juneau, AK 99801  
(907) 586-1627 TTD

250 Cushman, Suite 3H  
Fairbanks, AK 99701  
(907) 456-1070 TTD

February, 27, 1987

Mr. Peter Goll  
P.O. Box 581  
Haines, Alaska 99827

Dear Representative Goll:

We are glad to respond to your request for suggestions for a bill which would protect vulnerable adults from abuse. For your review, we have enclosed a draft document which includes the ingredients we believe necessary for an optimal approach for legislation to remedy this problem

Most importantly, the draft document we offer establishes a penalty for care givers that do not report the abuse and neglect of people with Developmental Disabilities. This provision alone would do a great deal to rectify the current situation. As your bill moves through the legislature we hope the provision for a penalty can be maintained and passed into law.

We appreciate your concern about this serious situation and you can count on our support for your bill. Your interest and sponsorship for this measure will undoubtedly determine its success.

Again, we are pleased to assist you. Do not hesitate to call if we can provide more information.

Sincerely,

David F. Maltman  
Executive Director

DFM:glf  
Enc.

H B

3 4 5

STATE OF ALASKA 1988 LEGISLATIVE SESSION  
FISCAL NOTE

123

Bill Version: CSHB 345(HESS)  
Publish Date: HOUSE 2/11/88

**REQUEST:** \_\_\_\_\_

Revision Date:  
Title: An act relating to coroner's inquests  
Sponsor: Adams & Taylor  
Requestor: House Finance

Agency Affected: Alaska Court System  
BRU: Trial Courts

Components:

<b>EXPENDITURES/REVENUES:</b>		(Thousands of Dollars)					
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	
<b>OPERATING</b>							
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0	
<b>CAPITAL</b>	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>REVENUE</b>	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	

<b>FUNDING:</b>		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0	

<b>POSITIONS:</b>							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

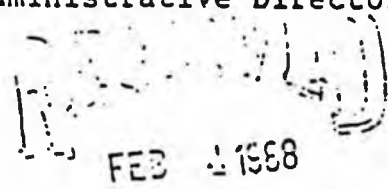
Prepared by: *Jan Strandberg*  
Jan Strandberg, General Counsel  
Division: Alaska Court System

Phone: 264-8228  
Date: 2-1-88

Approved by: *Stephanie Col. for*  
Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 2-1-88

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management & Budget
  - Impacted Agency(ies)
  - Senate Secretary



LEGISLATIVE FINANCE

HB

367

AMENDMENT

SENATE CS FOR CS FOR HOUSE BILL NO. 367 (HESS)

\* Sec. 2. AS 18.65.150 is amended to read:

Sec. 18.65.150. COMPOSITION OF COUNCIL. The council consists of the following persons:

(1) four chief administrative officers or chiefs of police of local governments;

(2) the commissioner of public safety or a designee of the commissioner;

(3) the commissioner of corrections or a designee of the commissioner;

(4) one corrections administrative officer at the deputy director level or higher; and [probation or parole officer;]

[(5) one correctional officer;]

[(6) one person who is the superintendent of a correctional facility;]

[(7)] (5) four members of the public at large with at least two from communities of 2,500 population or less.



REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

# Alaska State Legislature

SCLEDOTNA  
PO BOX 411  
SCLEDOTNA ALASKA 99869  
907 262-7563  
JUNEAU  
BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2689

## House of Representatives

### MEMORANDUM

TO: All Interested Parties  
FROM: Rep. C.E. Swackhammer *Swack*  
DATE: December 15, 1987  
TOPIC: Certification of Correctional  
and Probation/Parole Officers

---

This packet contains House Bill 367 which places the hiring and training requirements of Probation/Parole and Corrections Officers under the purview of the Alaska Police Standards Council. Also attached, are supporting documents.

The opening of Spring Creek Correctional Center, in Seward, represents the return of Alaska's long term, hard core offenders. Spring Creek is Alaska's first maximum security prison.

It seems logical that the hiring and training requirements for custody staff fall under the auspices of the Police Standards Council. The certification process will instill pride and proficiency and will help to develop long term, professional staff.

Probation/Parole Officers will also realize the advantages of certification. Many of these individuals work daily as investigative and arresting officers. Hiring standards and applicable training will enhance their ability and improve their safety.

For these, and the attached reasons, I respectfully request your support.

CES/cn

### History

Police officer standards and training councils or commissions were developed in the 1960's in response to a national recommendation that every state appoint a body that would set mandatory police training, education and selection requirements and/or standards.

At the present time most if not all of the 50 councils or commissions perform the same major functions, they: adopt regulations establishing mandatory minimum standards governing the selection of police officers; establish mandatory minimum training standards; certify police officers; make inquiries and conduct investigations to determine compliance with selection and training regulations and standards.

A recent national survey conducted by the International Association of Directors of Law Enforcement Standards and Training revealed that the commissions and councils collectively expend 150 million dollars per annum in carrying out their duties. They oversee the administration and delivery of over 1,200 recruit basic training courses per annum, oversee the introduction of 300,000 new entrants per year and make possible tens of thousands of in-services and continuing education programs nation-wide.

### Background

The Alaska Police Standards Council is a regulatory and quasi-judicial body that was created by Senate Bill 1, Chapter 178, sponsored by Senator Bill Ray and enacted by the 2nd Session of the 7th Alaska State Legislature, effective July 7, 1972.

The Legislature granted the council the power to adopt regulations establishing minimum selection and training standards for employment as police officers, as well as other regulations for the

administration of the act. The council is composed of nine members appointed by the Governor and they meet formally at least twice each year.

#### Current Status and Organizational Structure

The Council Office is staffed by the Executive Director (0082) and a Secretary I (0084). From their office located in the Public Safety Building in Juneau the Council monitors the employment status of village police officers, municipal police officers and Alaska State Troopers. The Council maintains complete personnel and training records for 1,200 to 1,300 police officers, reviews for compliance all requests from officers for certification, certifies all police training conducted in the state, monitors the personnel files of recruit officers to determine if training and certifications schedules are being followed, provides basic and in-service training, investigates and when appropriate, files civil actions to deny or revoke police officer's certifications. The council also provides limited assistance in locating employment for persons seeking police officer positions and maintains a lending library of training films and publications.

#### Accomplishments

The council, working closely with the various law enforcement agencies and organizations, has directed the activities of the APSC in such a manner as to ensure that the law enforcement community and the citizens of the State of Alaska receive maximum benefits from this program. Some of the council's accomplishments include:

- A major revision of the original regulations that established minimum selections and training standards for employment as a police officer. The result of the revision was the

establishment of comprehensive guidelines for departments and agencies to use in determining an applicant's eligibility for hire.

- Conducting a statewide job analysis study of the police patrol officer positions. The data collected in this project resulted in the expansion of the basic police training academy curriculum from a six week course to a validated eight week course, led to the establishment of a two week mini-academy for officers that have received their training in other states, and provided physicians conducting pre-employment physical examinations with a relevant description of job activities and working conditions that an officer may encounter.
  
- The development and funding through state funds and federal grants of specialized and in-service training for police officers in the subject areas of : Instructor Development, Line Supervisor, Management, Interviewing and Interrogation, Rape Investigation, Criminal Investigation, Sexual assault of Minors, Crime Scene Investigations, Search and Seizure, Alaska Criminal Code; Radar Operation, Field Training Officer, Traffic Accident Investigation, Traffic Accident Reconstruction and Traffic Enforcement Management.
  
- The council in cooperation with the Attorney General's Office has published and distributed the Alaska Field Manual for Police Officers now in its fourth printing.
  
- Development of a training needs survey document that is used by the council to conduct a yearly survey of all agencies. The results of this annual study establishes training priorities, aids training providers in planning their activities and to a degree measures the effectiveness or impact of the prior year training.

- Development of an audit system to compare the departments or agencies personnel roster with that maintained by the council. This review is conducted once yearly and any discrepancies found are corrected immediately.
  
- Joining with the Department of Public Safety, State Parks Department and Anchorage Airport Security in supporting the Island Community College, Pre-Employment Law Enforcement Basic Training Program.
  
- The review and approval of a total of 2,783 basic certificates, 581 Intermediate certificates, 402 advanced certificates, 616 permanent instructor certificates, 221 temporary instructor certificates and approval of over 750 law enforcement training courses.
  
- Investigation into matters that resulted in the formal denial or revocation of 17 police officer certificates.

#### Conclusion

The primary goals of the council are to improve the delivery of training, ensure that employment standards are job related and work toward further increasing the professionalism of officers throughout the state.

In Alaska there are currently 1,052 active, full-time police officers and approximately 250 active permanent instructors who must meet the minimum employment and/or training requirements established by the council. Attrition requires continuous effort on the part of the council to assist state and local agencies by ensuring that entry level requirements are adhered to and that the training remains job relevant and available.

## SUPPORT RATIONALE

Although certification will have specific benefits to both correctional officers and probation/parole officers, there are also general advantages to the certification process. It lends consistency to hiring, training and discipline.

The aforementioned issues are beneficial to both the employer and the employee. Developing stringent guidelines for qualifications reduces the time needed for the initial selection process. The employer will be able to be selective, based on the criteria and the potential employees will be able to do a self evaluation as to whether or not s/he is eligible for employment.

Once the initial selection is completed, uniform training policies and procedures will aid in assuring each individual receives adequate and appropriate training that specifically relates to the job assigned.

Certification will also give esteem to the employee. This esteem, stemming from meeting stringent criteria, should reflect on work performance and self-confidence. These two attributes are necessary in all lines of work, but is critical in the correctional setting.

Corrections is an element of the criminal justice system, the welfare and safety of the public rests with the correctional officer, as well as those professionals in probation and parole services.

Putting the certification process under the auspices of the Alaska Police Standards Council offers another important facet. Not only will the council be comprised of law enforcement and correction personnel, if this legislation is passed, it already includes scrutiny by council members from the public at large. Public input will impact on the way corrections operates by providing nongovernmental viewpoints.

Above and beyond the standardizing of screening policies and procedures, consistent training policies and general input into the operations of corrections, are the specific values to the officers.

More specifically, correctional officers are dealing with known and convicted offenders. Their demeanor and performance of duties must be accomplished within the "letter of the law;" some will be responsible for armed supervision of offenders. The legal impact of the use of deadly force is monumental. Certification will not only train the officers in correct performance, it will also aid

greatly in the selection process of whom is psychologically fit to be called upon to perform in life threatening circumstances.

A constitutional mandate of corrections is the reformation of the offender. The criteria of certification will assist the officer in providing appropriate supervision to enhance rehabilitation.

The screening process is important for correctional officers because history has proven that less than favorable personal and work histories of officers can lead to unlawful acts. This can be manifested by illicit relationships between officers and offenders, as well as unlawful acts that jeopardize the safety of society and the institution.

The probation/parole officer, too, has a great deal of responsibilities in performance of his/her duties. Besides offering supervision of offenders in the community, these officers, oftentimes, must act as arresting officers actually making physical arrests.

Training in supervision and arrest of offenders is critical to assure proper procedures are followed to aid in compliance with legal mandates. Likewise, training will also help greatly in protecting the officers in life threatening situations.

Besides critical situations, certification will simply lead itself toward promoting professionalism. Stringent hiring criteria, exhaustive training and physical/mental mandates provide the common bonding necessary to assure professional delivery of services. This is essential for complying with the constitutional mandate of protecting society and the reformation of the offender.

ALASKA POLICE STANDARDS COUNCIL

48th Meeting: November 13, 1987  
Alaska Vocational Technical Center  
Seward, Alaska 99664

MINUTES

November 13, 1987

A.P.S.C. Members Present

Louis A. Bencardino, Chairman  
Seward Police Dept.

E.L. Mayfield, Council Member  
Willow, Alaska

Shirley Robards, Council Member  
Sitka, Alaska

Ronald L. Otte, Chief of Police  
Anchorage Police Dept.  
Council Member

Kevin C. Clayton, Chief of Police  
Bethel Police Department  
Council Member

John L. McKibben, Chief of Police  
Palmer Police Department  
Council Member

Floyd H. Richmond, Council Member  
Ketchikan, Alaska

A.P.S.C. Staff Present

Jack W. Wray  
Executive Director

Vicky L. Hesse  
Secretary I

Visitors Present

Billy Andrews  
Special Agent  
FBI/Anchorage

Stephanie Joannides  
Assistant Attorney  
General

Chief Duane S. Udland  
Soldotna Police Dept.

Chief Richard A. Ross  
Kenai Police Dept.

C.E. Swackhammer  
Representative  
Soldotna, Alaska

Lt. Lonnie Kalar  
Kenai Police Dept.

Charles Kopp  
Anchorage, Alaska

Lt. Shirley Warner  
Anchorage Police Dept.

The meeting adjourned for a break at 10:59 a.m.

The meeting reconvened at 11:16 a.m.

APSC STATUTE CHANGE - Chairman Bencardino introduced Representative Swackhammer. Representative Swackhammer informed the Council that he Chairs the Subcommittee on Corrections and the comments he will be addressing is more in terms of policy and procedures.

Listed below are some of deficiencies the Committee has found in Corrections.

1. Poor screening policy & procedures.
2. Lack of consistent training policies.
3. Retention policy based on disciplinary action was not consistent over a period of time.
4. Total lack of public input into the way Corrections is run, its strictly administration.

Representative Swackhammer stated he felt a certification process for corrections and probation/parole officers would be appropriate. He stated he also felt it would be an appropriate function of the APSC.

Representative Swackhammer felt that through a certification process it would establish good screening procedures in the hiring of corrections officers, and provide consistent training standards for Corrections.

Representative Swackhammer stated that he would not introduce legislation unless he had the support of APSC. If he had the Council's support he felt he could get legislation passed through the second session.

Discussion followed regarding corrections officers, and the probation/parole officers being certified.

John McKibben stated that he felt irregardless whether this Council's oversees it, he thinks it is definitely needed. He personally supports this Council doing it, but he would support any Council doing it.

Chairman Bencardino asked if there were any objections in this Board taking on this obligation of being able to certify corrections officers as well as police officers.

John McKibben made a motion that we support the assumption of those responsibilities by this board and support legislation that will enable us to do so. Floyd Richmond seconded.

Chairman Bencardino asked if there was any further comments on this motion.

John McKibben was interested if there was any audience comments regarding APSC certifying Correctional Officers.

Chief Ross stated his concern was that APSC resources have been inadequate in the last several years. He also felt if this legislation is proposed there would be a need for a realistic fiscal note with it to provide for the resources not only to put the regulations together, but implement training, and if that fiscal note did not go through, then he would not want to see it under this board.

Chairman Bencardino called for a vote on the motion, all were in favor, the motion passed unanimously.

Representative Swackhammer suggested the Council meet in Juneau in January to hold a special meeting.

Representative Swackhammer informed the Council that both the Commissioner of Corrections and Public Safety support this concept.

# STATE OF ALASKA THE LEGISLATURE

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 15, 1988

SUBJECT: Sectional analysis of HB 367  
TO: Representative C.E. Swackhammer  
FROM: Jack Chenoweth  
Legislative Counsel

The following is a sectional analysis of HB 367.

Section 1 restates the current statement of policy applicable to the Alaska Police Standards Council by incorporating reference in it to "probation and parole officers and correctional officers," the two personnel groups that are subject to certification under the amendments proposed by this legislation. (AS 18.65.130)

Section 2 changes the membership of the Alaska Police Standards Council, adding two to the current nine members, and specifying that the new members shall be the commissioner of corrections (or the commissioner's designee) and a probation or parole officer. (AS 18.65.150)

Section 3 specifies that the commissioner of corrections serves a member of the Council for the duration of his or her term, and that a designee of the commissioner is to serve for the duration of the service of the commissioner with the designation. (AS 18.65.160)

As to probation and parole officers and correctional officers, section 4 adds to the powers of the Council:

- \* the responsibility to establish minimum standards for their employment in permanent and probationary positions;
- \* certification of individuals as qualified for employment in these positions;
- \* the responsibility to establish minimal criteria for requirements for basic training courses for these positions;
- \* authority to consult with local governments and others designated concerning development of training programs for these positions; and,

\* authority to investigate an applicant for one of these positions in order to assure that the applicant meets the minimum qualifications for the position. (AS 18.65.220)

The change in the caption to AS 18.65.230 made by section 5 reflects the additional responsibility given the Council for establishing and maintaining training programs for probation and parole officers and correctional officers in this section. (AS 18.65.230)

Section 6 adds new codified sections that

\* direct the Council to establish qualifications for employment of persons as correctional officers; prescribe the means of providing evidence that an applicant meets the prescribed qualifications; and provides for issuance of a certificate evidencing that the applicant meets the prescribed standards; (AS 18.65.241)

\* direct the Council to establish qualifications for employment of persons as probation and parole officers; prescribe the means of providing evidence that an applicant meets the prescribed qualifications; and provides for issuance of a certificate evidencing that the applicant meets the prescribed standards; (AS 18.65.243)

\* spell out the circumstances when the Council may deny a correctional officer certificate or a probation or parole officer certificate to an applicant or revoke a correctional officer certificate or a probation or parole officer certificate previously issued to an applicant; (AS 18.65.245)

\* limits the employment of persons as correctional officers to persons who hold valid correctional officer certificates, with exception made for those employed on a probationary basis, for a period as determined by the Council; (AS 18.65.247)

\* limits the employment of persons as probation and parole officers to persons who hold valid probation and parole officer certificates, with exception made for those employed on a probationary basis, for a period as determined by the Council. (AS 18.65.249)

The new material added by bill section 7 authorizes, but does not require, a municipality to require that persons employed in a municipal corrections facility meet the requirements of this chapter that are applicable to correctional officers. (AS 18.65.280)

I have provided definitions for the three classes of employee covered by this bill in section 8. (AS 18.65.290)

The remainder of the bill are uncodified sections that cover effective dates and transitional provisions.

Section 9: Subsection (a) makes an exception to those employed as correctional officers on the effective date of the Act; those persons may continue to be employed and are not required to secure a certificate from the Council. However, under subsection (b), if a person who has the benefit of the exception under (a) ceases to be employed after the effective date of the Act, that person may only be employed again as a correctional officer if he or she first secures a certificate from the Council.

Section 10: Subsection (a) makes an exception to those employed as probation and parole officers on the effective date of the Act; those persons may continue to be employed and are not required to secure a certificate from the Council. However, under subsection (b), if a person who has the benefit of the exception under (a) ceases to be employed after the effective date of the Act, the person may only be employed again as a probation or parole officer if he or she first secures a certificate from the Council.

In the main, section 13 would make the bill take effect July 1, 1988. There are exceptions: section 11 delays the effective date of AS 18.65.247, the provision requiring that a correctional officer obtain a valid certificate as a condition of employment, to a date six months after the Council adopts pertinent regulations; section 12 likewise delays the effective date of AS 18.65.249, the provision requiring that a probation or parole officer obtain a valid certificate of employment, to a date six months after the Council adopts pertinent regulations. The intent underlying both sections is to impose these additional employment-related requirements only after the Council has had fair opportunity to develop and adopt standards and initiate related training opportunities for persons seeking certification under AS 18.65.130 - 18.65.290.

JBC:bb  
WKB1/063

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1988

SUBJECT: Draft SCS CSHB 367 (HESS)

TO: Senator Paul Fischer, Chair  
Senate Health, Education and Social Services  
Committee

FROM: Jack Chenoweth  
Legislative Counsel

The three amendments are incorporated into the draft committee substitute, but none of them precisely as submitted.

Amendment #1: The bill does not use the term "probation/parole officer." It distinguishes between the two. I have split the definition in two parts and made other adjustments I thought necessary.

Amendment #2: The amendment, redefining "correctional officer," is incorporated substantially as offered. It is, as you realize, an essential change if this bill is to work.

Amendment #3: Two additional persons are added by this amendment, bringing the council membership to 13. The two appointees appear in paragraphs (5) and (6) of AS 18.65.150 (bill section 2).

Rather than leave the House Letter of Intent to chance, I also incorporated those provisions into this bill draft. The first paragraph of the House-passed letter appears as the last sentence of bill section 9(a). The second paragraph of the letter of intent appears as bill section 11.

If the draft or this memo prompts questions, please contact me.

Enclosure

JBC:bb  
b4/103

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

Senate CS For CS  
BILL VERSION: For HB 367 (HESS)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: April 12, 1988  
Title: An Act Altering the Composition,  
Membership and Duties of the APSC  
Sponsor: Representative Swackhammer  
Requestor: Senate HESS

Agency Affected: Public Safety  
BRU: Alaska Police Standards  
Council  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		30.1	30.9	31.7	32.6	33.5
TRAVEL		9.1	9.1	9.1	9.1	9.1
CONTRACTUAL		4.4	4.4	4.4	4.4	4.4
SUPPLIES		.5	.5	.5	.5	.5
EQUIPMENT		5.6				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	49.7	44.9	45.7	46.6	47.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	49.7	44.9	45.7	46.6	47.5
FEDERAL FUNDS						
OTHER						
TOTAL		49.7	44.9	45.7	46.6	47.5

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No inflation factors are included in these cost calculations.

Program implementation is scheduled to begin July 1, 1988. Initial costs will include funding a Clerk IV position (Range 9A) with salary and

Prepared by: Jack W. Wray *Jack W. Wray* Phone: 465-4378  
Division: Alaska Police Standards Council Date: 4-12-88

Approved by Commissioner: Arthur English *A. English* Date: 4-12-88  
Agency: Public Safety

Distribution (by preparer):

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

ANALYSIS CONTINUED:

Benefits calculated at 30.1 for the first year, and the purchase of data processing and office equipment at a one-time cost of 5.6. Space is currently available in the Alaska Police Standards Office; utilities, communications, and commodities are estimated for the classified position. Travel cost increases are a result of the addition of four new council positions, plus the increase in staff travel to conduct compliance inspections and attend administrative hearings.

Position Title Clerk IV		No. of Positions 1	Range/Step 9A	Barg. Unit GGU
Time Status PFT	Staff Months 12.0	Location Juneau		Election District 4
Type of Expenditure		Amount		
1	2	3		
Salary	20.8			
Benefits	9.3			
Premium Pay				
Other				
Total Personal Services		30.1		
Travel				
Contractual		3.4		
Commodities		.5		
Equipment		3.3		
Other				
Total Cost		37.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	37.3		
GF Program Receipts	1005			
Other				
Justification				
<p>This position will provide clerical support needed through the typing and filing of correspondence, maintenance of personnel and training files, and responding to requests for library and training materials.</p> <p>Support costs include minimal contractual and supply costs and one time purchase of data processing equipment.</p>				

**Request For  
New Position**

Agency Public Safety  
 BRU Alaska Police Standards Council  
 Component \_\_\_\_\_

Page 3 of 3  
 Revised Date \_\_\_\_\_

**FY 89**

BILL NO: SCSCSHB44(SA)

DATE: April 25, 1988

TITLE: An Act relating to motor  
vehicle liability insurance  
and vehicle registration

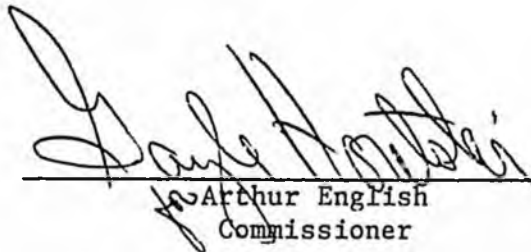
CONTACT: Bill Brown  
465-4335

DEPARTMENT OF  
PUBLIC SAFETY

This bill will require a person, prior to registering a motor vehicle, to certify that the vehicle is insured. The bill also repeals the sunset clause of the current Mandatory Insurance Law, which will sunset January 1, 1989, if no action is taken, and amends that law to correct two problem areas. In addition, the bill increases the annual registration fee for commercial vehicles by \$1.00, and changes the definition of "proof of financial responsibility".

The current Mandatory Insurance Law has had a positive effect on the number of uninsured motorists. It is felt that repeal of the sunset of that law is beneficial to the general motoring public. The new section of law dealing with certification of insurance at the time of vehicle registration will have some impact on the mail-out renewal program for the first couple of years until the public is familiar with the requirements. It may also have an effect on further reducing the number of uninsured motorists. The increase in fees will require minor computer program and form modifications.

The department supports this bill.



Arthur English  
Commissioner

THE ALASKA POLICE STANDARDS COUNCIL ACT

(Amended January 30, 1984)

AS 18.65.130. POLICY. The administration of criminal justice affects the health, safety, and welfare of the people of this State, and requires education and training of a professional quality. It is a primary public interest that applicants meet minimum standards for employment as police officers and that criminal justice education and training be made available to police officers serving in a probationary capacity and police officers already in regular service. It is of secondary public interest to encourage the establishment of preliminary training programs for persons seeking to become police officers.

AS 18.65.140. CREATION. There is created in the Department of Public Safety the Alaska Police Standards Council.

AS 18.65.150. COMPOSITION OF COUNCIL. The council consists of the following persons:

- (1) four chief administrative officers or chiefs of police of local government;
- (2) the Commissioner of Public Safety or his designee;
- (3) four members of the public at large with at least two from the communities of 2,500 population or less.

AS 18.65.160. APPOINTMENT. The Commissioner of Public Safety or his designee shall serve during his continuance in office. Other members of the council shall be appointed by the Governor for staggered terms of four years, except that no member may serve beyond the time he holds the office which made him eligible for appointment. A vacancy on the council shall be filled for the remainder of a member's unexpired term in the same manner as the original appointment.

AS 18.65.170. CHAIRMAN AND VICE CHAIRMAN. The council shall select its chairman and vice chairman annually.

AS 18.65.180. HOLDING OTHER OFFICE. Membership on the council does not disqualify a member from holding any other public office or employment.

AS 18.65.190. COMPENSATION AND EXPENSES. The members of the council receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

AS 18.65.200. MEETINGS. The council shall meet at least twice a year. The chairman shall set the time and place of the meeting, either on his own motion or on written request by any three members of the council.

AS 18.65.210. REPORTS. Repealed.

AS 18.65.220. POWERS. The council has the power to:

- (1) adopt regulations for the administration of AS 18.65.130 - 18.65.290;

AS 18.65.260. GRANTS. (a) The Council may accept donations of property, both real and personal, and grants of money from a governmental unit or public agency, or from an institution or person. An arrangement made under this section shall be detailed in the annual report of the council. The report shall include the identity of the donor, the nature of the transaction, and the conditions of the grant, if any. All money received by the council under this section shall be deposited in the State treasury to the account of the council.

(b) The council shall provide for and administer a funding program authorized in (a) of this section. In the administration of the program the council shall promote the most efficient and economical program for police training, including the maximum utilization of existing facilities and programs to avoid duplication.

AS 18.65.270. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT. Section 150-290 of this chapter shall be administered in compliance with the Administrative Procedure Act.

AS 18.65.280. EXEMPTIONS. (a) The Commissioner and Deputy Commissioner of Public Safety and the chief administrative officer of local police departments are exempt from the requirements of AS 18.65.240. However, a person appointed chief of a local police department after July 1, 1981 who performs any operational duties, shall meet the requirements of AS 18.65.240(a)(1).

(b) Any local government with an established police training program meeting the requirements of AS 18.65.220(2) and (3) may exclude itself from the requirements of AS 18.65.240 by ordinance. The exclusion has no effect on eligibility to receive federal or State grants.

AS 18.65.290. DEFINITIONS. In sections 130-290 of this chapter:

- (1) "council" means the Alaska Police Standards Council;
- (2) "police officer" means a full-time employee of the State or a local police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; carry a concealed weapon; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace; and
- (3) "chief administrative officer" means a chief of police or other official who is head of a police department in a political subdivision.

# Alaska State Legislature

SENATOR KEN FANNING  
P.O. BOX 80929  
COLLEGE, ALASKA 99708



P.O. BOX V—STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3880

Senate

APR 22 1988

## MEMORANDUM

DATE: APRIL 21, 1988  
TO: SENATOR KERTTULA  
FROM: SENATOR KEN FANNING  
RE: HB 367

Handwritten signatures, including one that appears to be "Ken Fanning" and another that is more stylized, possibly "Belt".

I would like to take this opportunity to explain to you the idea and breakdown regarding HB 367 ( and the various changes ). As you may recall from H.E.S.S. Committee meetings the primary thrust behind this legislation is to provide training and certification programs for Correctional/Probation/Parole Officers. The legislation also provides additional members to the Alaska Police Standards Council for these new purposes.

Several members associated with the corrections industry around the state indicated concerns to me regarding the form in which HB 367 passed the House of Representatives. They felt that the legislation which had passed did not carry fair representation on the council for the above groups. As a result, we held several meetings with the sponsor, Representative Swackhammer, who by the way has done a lot of constructive work on the bill, and contacted the correctional officers around the state who were concerned, gathered information and came to a concurrence relative to the amendment that was unanimously adopted in the H.E.S.S. Committee. The amended version of HB 367 provided for Correctional Officer representation on the council for the first time. All groups involved concurred in the amendments.

As you know, there are approximately 1,000 policemen in the state who are represented by four Chiefs of Police and the Commissioner of Public Safety, and approximately 200 Probation Officers in the state who will be represented by one Probation Officer on the council. Correctional Officers numbering approximately 800 had no representation other than the Commissioner until we added two in the H.E.S.S. committee version.

Senator Kerttula  
April 21, 1988  
Page 2

Some of the Chief of Police members who sit on the council expressed their concerns that they preferred only "supervisory personnel" ( no rank & file or line officers ) on the council. I have no problem with changes that would make all members of the council "supervisory personnel" if that seems to be the desire of those involved. However, extensive contact by Correctional Officers all over the state have convinced me that their opinion is - if they do not have at least (2) Correctional Personnel (for a total of four new members on the council - including the Commissioner & Parole Officer) that the bill is simply not acceptable to them and they would rather not have certification .

It seems obvious that having five representatives from the Police side and four from the Corrections side, the majority of influence still rests with the existing Police Standards Council members. Since the new legislation deals only with Correctional Officers, it seems imperative to me that the corrections folks receive proper representation.

Furthermore, recently the Department of Public Safety seems to have become more aware and concerned over the H.E.S.S. bill, and Commissioner English has expressed his opposition to this version of the bill. As a result, we find ourselves in the present controversy.

I continue to remain in a cooperative position in order that we may resolve this issue in a compromising spirit, in conference committee, if necessary. Thank you for your attention to this matter.

HB

371



*Rodey*

# Alaska State Legislature

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## House of Representatives

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3111 "C" STREET, SUITE 410  
ANCHORAGE, ALASKA 99503  
(907) 581-2033

DURING SESSION  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4939

REPRESENTATIVE  
**ALYCE HANLEY**  
DISTRICT 9, SEAT B

MEMBER  
HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE  
REGULATION REVIEW COMMITTEE

*Presumptive 1/20/30  
unclassified felony*

April 29, 1988

MEMORANDUM

TO: Senator *Jag* Jalmar Kerttula, Chairman  
Senate Judiciary Committee

FROM: Representative Alyce Hanley *Alyce Hanley*

SUBJECT: HB 371 - "An Act relating to attempted murder in the first degree."

I would like to formally request a hearing on HB 371 which passed the House on April 28, 1988. This legislation is similar to SB 352 introduced by Senator Halford and cosponsored by 7 other Senators.

The reason for introducing HE 371 was to provide the opportunity for a judge to sentence a person convicted of attempted murder in the first degree to a maximum sentence of more than 20 years. This bill would change attempted murder in the first degree from a Class A Felony to an Unclassified Felony.

It's important to recognize that for a person to be guilty of attempted murder in the first degree, intent has to be proven. Because a person fails to achieve his goal or because the victim refuses to die, is not justification for the penalty to be so dramatically different from murder in the first degree.

Currently, attempted murder in the first degree is a Class A Felony with a presumptive sentence of five years and a maximum imprisonment of 20 years. This is identical to the sentencing for 1st degree assault. If mitigators and the calculation of "good time" are taken into account, an offender could be out in less than 2 1/2 years.

A compromise was achieved in the House Judiciary Committee and agreement was reached on a penalty similar to murder in the second degree. The Judiciary Committee Substitute for HB 371 provides for a definite term of imprisonment of at least five years but not more than 99 years.

## BILL EXPLANATION

SUBJECT: HB 371 - An act relating to attempted murder in the first degree

HB 371 will provide judges with the flexibility to sentence a person convicted of attempted murder in the first degree to a maximum sentence of more than 20 years. This bill changes attempted murder in the first degree from a Class A Felony to an Unclassified Felony. Section 1, 2, 3 and 4 simply add language to make attempted murder in the first degree an unclassified felony. Section 5 makes the penalty for attempted murder in the first degree the same as murder in the second degree, kidnapping or misconduct involving a controlled substance in the first degree.

### Background

A deliberate, intentional attempt to kill another person is one of the most heinous crimes that a person can commit. Only the completed murder itself could be more serious. The penalties prescribed under existing law do not reflect the seriousness of this conduct. Under present law, for example, a parent who improperly touches his child's genitals receives a more severe sentence than that imposed upon a person who deliberately, but unsuccessfully, attempted to kill the child.

In order for a person to be guilty of attempted murder in the first degree, intent has to be proved. Currently, attempted murder in the first degree is a Class A Felony with a presumptive sentence of five years and a maximum imprisonment of 20 years. This is identical to the sentencing for 1st degree assault. Mitigators are completely independent of the the calculation for "good time" which takes 1/3 off a given sentence. A judge can mitigate a sentence down to 1/2 of the presumptive sentence over 5 years. Under current law a sentence could be 2 1/2 years and the offender with still get good time of 1/3 off the sentence.

The Judiciary Committee Substitute for HB 371 is a compromise on the penalty section of the bill and provides for a definite term of imprisonment of at least five years but not more than 99 years. Good time will still apply to this sentence.

HB 371 Briefing Packet

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addressing attempted murder and solititation for murder

# ALASKA PEACE OFFICERS ASSOCIATION

DDC Coordinator  
P.O. Box 240106  
Anchorage, AK  
99524-0106  
(907) 786-1807

State APOA Office  
P.O. Box 240106  
Anchorage, AK  
99524-0106  
(907) 786-1807



January 19, 1988

Representative Alyce Hanley  
P.O. Box V  
Juneau, Alaska 99811

Dear Alyce,

I enjoyed our conversation in your office while i was in Juneau. Thank you for taking the time to talk with me. I hope you find our position statement to be helpful.

Let me confirm that I know there is no one in Juneau more supportive of law enforcement than you and we appreciate that.

I spoke with the Board of Directors about the sentence for Attempted Murder. I can safely say that for the examples given (Pfeil, had he lived, and the little girl who is now basically a vegetable) they felt 20 years was not enough. There was no consensus on the ending time (50, 60, 99, open ended). I suppose whatever you develop from your research you can count on our support.

I am more than willing to contact the APOA Chapter Presidents for them to poll their memberships for cases where attempted murder were, or could have been charged. I will also ask them about cases involving a solicitation to commit murder.

If there is any more I can do to help the passage of the bills the 'coalition' has outlined, or with the bills you sponsor please call.

Sincerely,

Lt. Shirley A. Warner  
Vice President, APOA  
786-6656

8 FEB 88

The Honorable Alyce Hanley  
Alaska State Representative  
P.O. Box V  
Juneau, AK 99811

FEB 1988  
RECEIVED

Dear Representative Hanley:

Lt. Shirley Warner of Anchorage Police Department has asked law enforcement officers to send you information concerning sentencings of attempted and solicitation of murder.

I worked the investigation concerning Dr. Salgado's hiring of a drug addict to kill Dr. Martino. The enclosed article from the Fairbanks Daily News Minor may be of some value to you. As you can see, this man who had a great deal of public trust and confidence, will once again prey on the unsuspecting public if released after serving only five years. That is a very short time for the heinous crime he committed.

Please call me if I can be of any further assistance. The complete case report (FPD C# 83-18178), is available if necessary.

Sincerely,

*Mike A. Nielsen*  
Mike A. Nielsen, Lieutenant  
Fairbanks Police Department  
(907) 459-6500

*656 7th Aven*

Enclosure:

*Fairbanks AK 99701*

Fairbanks Daily News Miner

## Salgado seeks reduced sentence

By KRIS CAPPS

Staff Writer

Fernando Salgado, a former Fairbanks neurologist, incarcerated for nearly four years for trying to arrange the murder of a rival neurologist in 1933, asked this week to have his sentence of 10 years without parole reduced.

The judge agreed to allow him parole eligibility at the discretion of the parole board, based on a 1986 change in state law. The law, which went into effect after Salgado's sentencing but which can be legally applied to his case, allows for automatic parole eligibility for consecutive sentences.

Salgado, 48, was sentenced to two consecutive five-year sentences without parole. He must serve the first five years of his sentence before he can meet Parole Board guidelines.

Salgado, 48, who was also a neurologist here, was convicted in 1984 of hiring one of his drug-addict patients to kill Dr. Ronald Martino, the other neurologist in town. He was also convicted of giving the hit man prescription drugs as payoff for the intended murder.

The hit man never did kill Martino. Instead, he secretly recorded conversations of he and Salgado discussing the contract murder, and eventually notified authorities.

As a result of the conviction, Salgado's license to practice medicine was permanently revoked on April 19, 1985.

According to letters written to Superior Court Judge Jay Hodges, which are now part of Salgado's public court file, Salgado says he is anxious to return to Spain upon his release.

"I am very tired, almost exhausted, from being incarcerated for such a long time," Salgado wrote in a March 1987 letter.

He said authorities at Hiland Mountain Correctional Center gave him a little corner of the jail greenhouse as a painting studio and he has become a serious artist since his incarceration. He said he has painted 121 oil paintings and sold every one of them.

He said he keeps his own piano in one of the classrooms and is allowed to keep a pet cat, which he occasionally is also allowed to take to cat shows.

"Just last Sunday, I took him to a cat show held at the Armory in Anchorage where he won 10 ribbons, all first place," Salgado wrote.

He also worked as program assistant to inmates in the jail's sex-offender program.

"For over two years now, I have been longing to return to Spain to

see my family and to live there for the remainder of my life," Salgado wrote. "If for some reason I do not enjoy living in my Native land, I might relocate to Argentina where I have many friends."

At this week's hearing, Salgado was described as a model prisoner who is currently assigned to a half-way house.

Defense Attorney Bill Bryson said Salgado refers to his criminal offense as "his crazy period." He also said Salgado promised never to get in that delusional state again.

### Larson to appear in benefit-concert

The Farthest North Chapter of the Alaska Peace Officers Association will present the Nitty Gritty Dirt Band and Nicolette Larson in concert May 7 for two shows at Hering Auditorium. Representatives of the association will be telephoning local businesses to sell advertising and tickets. Tickets can be ordered by calling 451-8577.

Proceeds from the shows will benefit area organizations such as youth hockey, basketball and football teams, the Boy and Girl Scouts, Women in Crisis Counseling and Assistance, and two college scholarships.

# Metro Saturday

SECTION

C

Anchorage Daily News Saturday, November 1, 1986

## Doctors tell grim story of child's abuse

By **HERLA TOOMEY**  
Daily News reporter

Tina Sweetin's brain is bruken and blunted, like the brain of a 95-year-old woman who never learned to walk or talk or feed herself or control her bladder.

Tina will be 2 in January. Her father, Jimmy, has been convicted of fracturing her skull, of nearly drowning her, of turning her from an ordi-

nary baby into a twilight being — blind, retarded, permanently brain damaged, unlikely to ever be able to take care of herself.

Tina was Exhibit A Friday at the first of three court hearings to consider how much time Jimmy Sweetin should spend in jail for what he did. And whether the child's mother, Margaret Sweetin, should do any time

at all for not taking the baby to a doctor.

Tina squaled and fretted as pediatrician Jeff Brand inventoried for Superior Court Judge Seaborn Buckalew the outward signs of her inner damage — sightless eyes, permanently clenched thumbs, abnormal reflexes. Buckalew, a tall, distinguished looking grandfather, came down from the bench and watched with

arms folded across his black robe as the prosecution table became an impromptu examining table.

Brand told the judge that Tina is probably also deaf, but her foster mother says she can tell voices apart, so maybe not.

The demonstration didn't last very long. "I think I've seen enough," said Buckalew, looking grim, as he has every

time this case has come before him.

Of three particularly horrible child abuse cases taken before a grand jury in March by Anchorage District Attorney Victor Krumm, Tina is the only victim not expected to heal. The two other children had broken bones and burns, but escaped brain damage. Their abusers have also been convicted and are await-

ing sentencing.

On June 20, Jimmy Sweetin, 25, pleaded no contest to three counts of assault and one count of failing to get medical aid for his child. The complaint against him says he admitted holding Tina by her ankles when she was about a year old and dropping her two feet to the floor on her

See Page C3 ABUSED



## Mat-Su assembly turns to the right after fall elections

By **CHRIS OELICH**  
Daily News reporter

**PALMER** — The Matanuska-Susitna Borough Assembly has veered onto a new course since this fall's elections, setting sail under a more pro-development and regulation philosophy, according to some members of the new assembly majority.

Some aspects of the change

Steve Cypra and John Musgrove have generally made up the opposition. By neither Strawn nor Musgrove ran for reelection this season, and the two new assemblymen — Fred Lloyd and Gary Silvers — seem to fall in step with Palmquist and Holmes.

At last week's assembly meeting, the first with the new majority, Palmquist

# ABUSED CHILD: Brain damage is permanent

Continued from Page C-1

head, apparently to stop her crying.

He also has admitted to burning her with the heating element of an electric frying pan.

But it was his holding her under water in the bathtub. It was the near drowning on March 6 that deprived her brain of oxygen for more than five minutes and did massive cerebral damage, the doctors explained Friday.

Lack of oxygen causes the brain to swell, said radiologist Richard Hill. But the brain is in an enclosed space. When it swells, blood vessels get crushed and "then the cells die because they don't get enough blood or oxygen." Tina's brain has shrunk to the size it would be if it had been used for 95 years, he said.

Sweetin told police he put Tina under water - not for very long - to clean her after she spit up on herself.

Tina will soon be 2, but she is less developed than an average 6-month-old, said Brand. She goes to physical therapy two or three times a week, but "I don't believe she would ever become toilet trained," he said. "I don't believe she will be able to feed herself." There is every possibility she'll be wearing diapers when she's 35. "There is every possibility she'll have to spend her life in an institution."

It's hard to be certain exactly how damaged Tina is, the doctors said, and impossible to predict whether she will improve. For instance, it may be that her eyes can see, said Dr. Hill, but her damaged brain just can't recog-

nize the images being transmitted.

What Tina's eyes would have seen Friday, if they could, was her father, a former military man who was unemployed at the time of his arrest, slumped motionless in his chair at the defense table, seeming to move not an inch over the two hours the hearing lasted. She would have seen her 24-year-old mother, a small, attractive woman with long red hair, fussing over her newest child, 6-week old Christopher, during the breaks.

Jimmy Sweetin is in jail. His wife is free on bail.

Margaret Sweetin has had four children in addition to Tina and was known to social workers long before Tina turned up in the emergency room at Humana Hospital last January. Two of her chil-

dren by another husband had been adopted or given to foster parents before Tina was hurt.

District Attorney Victor Krumm referred in court to a 4-year-old who was in the home when Tina was hurt but who has since been removed because of suspected abuse.

Christopher, the newest Sweetin, is officially a ward of the state. He hasn't turned up with any injuries and remains at home with his mother.

Margaret Sweetin pleaded no contest in May to a single misdemeanor count of criminal non-support, meaning she failed to get aid for Tina. She faces a maximum of one year in jail.

Jimmy Sweetin faces a possible maximum of 46 years in prison. The hearing will continue on Nov. 13.

# MAT-SU ASSEMBLY: More favorable to development

Continued from Page C-1

ers legislation in the future, which would set up half-mile-wide corridors around selected streams such as Willow and Little Creeks.

The rivers legislation failed last year, but representatives Ron Larson and Katie Hurlie have promised to support versions of the bills next time around.

Palmquist called the recreational rivers a lock-up. Cypre called her stream access stance - part and parcel of an environmental attitude.

*'We don't come from the lock-up philosophy, let's put it that way. I would say we're pro-development.'*

— Rose Palmquist

separation distance between houses and Mat-Su lakes is included in the same ordinance as the stream easement change. The required distance now stands at 75 feet. Under the new rules, it would be cut to 45 feet.

Without park down all the houses and lakes they ought to be able to pay for it, he said.

According to Gary Lippitt of the state Department of Fish and Game, lakes set back provide greater access to fish spawning areas, water quality and shoreline wildlife.

change from five years of overzealous planning and unwieldy bureaucracy. For others, the election represents a return to the long-range problems of unbalanced development.

Now in the minority, Cypre said he's most concerned about the possibility of decision making outside the public eye.

When you have people who are so philosophically close together, it's easy for them to share things with each other and start talking about the details of local government, said Lippitt.

NOV

C4 Anchor  
KYOCCERA  
PARASOUND  
HNICS

kay m. levins  
SHOOTER

FROM WORTHINGTON FORD: I'm trying to get a vehicle from Worthington Ford, I feel compelled at to expect. Here's what up in for routine 6,000-mile the attendant that I also re and new oil and air filters rantly work be performed on I went to get the truck, they t. Then they located it - still d the work was done and that bolts in the front end but on the warranty work ed the air filter had not been a showed the vehicle had not e truck back to Worthington's he service department. They en changed because I had not excuse for the lube job not I out, they hadn't done the e the truck so the job could be t up. I was charged again for  
complaint to Paul Cunningham, what had happened. To date, tionally, I don't know if my nal inspection of brake fluid, hat matter, a new oil filter. I problem still is present. I rs to be prepared when doing Ford. You may REALLY get  
I'll get to hear the dealership s days and several phone calls e they wouldn't discuss your th you didn't ask for help or

11/14/86

# metro /

## Woman's children often hurt

### Witnesses testify during sentencing hearing

By SHEILA TOOMEY  
Daily News reporter

Bad things happen to the children of Margaret Sweetin

At 6, Jimmy, had open welts from a belt buckle, up and down both legs, when the state finally took him in 1983. He always seemed to be hungry. Leroy was four and couldn't talk. When asked by a doctor to undress, he did so and automatically assumed a sexual position. The state took him in March.

And then there's Tina. She's almost 2 and not quite brain dead from being dropped on her head and held under water in the bathtub.

Margaret Sweetin says she never hurt her kids. And, in fact, she has not been charged with child abuse. It seems that Margaret Ann, as everyone calls her, has a weakness for men who like to beat up babies.

She and her current husband, Jimmy Sweetin, spent Thursday afternoon in an Anchorage courtroom for the second installment of a marathon sentencing hearing relating to Tina's injuries. Jimmy has pleaded no contest to three felony assault charges and a misdemeanor. He faces a maximum sentence of 46 years.

But Thursday's hearing focused mostly on Margaret Ann. She has been convicted of a single misdemeanor, of failing to get Tina's fractured skull medically treated. That's all she was indicted for.

District Attorney Victor Krumm said earlier in the case that Margaret Ann was charged in accordance with information available at the time her case went to the grand jury, in March.

Krumm has learned a lot more about Margaret Ann since then. Under his questioning, social workers, counselors, doctors and foster parents have been taking the witness stand and sharing that information with Judge Seaborn Buckalew. Buckalew can sentence her to a maximum of one year.

Margaret Ann is 25, but she's lived a lot in those years. She's been married three times and has borne five children. Three other pregnancies ended in miscarriage. Three of her children — Jimmy, Leroy and Tina — have been taken from her at different times. One, Valerie, she gave up voluntarily at birth.

The fifth, Christopher, 2 months old, remains in her care.

Listen to Virginia Sulesky, Leroy's foster mother, describe what the 4-year-old boy was like when she got him in March.

"He was like an uncaged little animal coming into the house. We thought he was crippled or something. He held his arms funny and walked with a gait. His skin

See Page B-3, CHILDREN

## Ship master



Carol Frantz looks out her window on an island in Flat Lake as he

## When a hovercraft

By CHRIS GIEGER  
Daily News reporter

**BIG LAKE** — In November, the ice sings to Art and Carol Frantz from all directions. Freezing water surrounds the couple's island home on Flat Lake, two lakes back from Big Lake and beyond the reach of roads. The shifting cracks perform a repertoire of mournful groans, bird-songs and occasional rifle shots.

But the Frantzes have paid a price for the winter symphony. With miles of water and four-wheel-drive roads between Art Frantz's home and his job in Anchorage, he has until recently faced an exceptional daily commute.

In the summer, Frantz boats about a mile across Flat Lake to his waiting car, then drives a back road to reach the highway. Winter is easy. He simply drives seven miles over Flat Lake, Mud Lake and Big Lake to the main road.

And in the isolating weeks of freeze-up and break-up, when the lakes are too solid to boat but too liquid to drive on, Frantz resorts to the only other alternative — a hovercraft.

"After about six months here, (Art) said, 'Whose idea was it to move up here?'" Carol Frantz said. "I said, 'It was yours.'"

On Aug. 1, Art Frantz retired from his job with Anchorage Municipal Light & Power. He doesn't miss rising at 4 a.m. every day to commute over ice, snow, water and dirt, he said. But thanks to their island location, the Frantzes' elaborate transportation set-up remains a necessity.

If not for the hovercraft, they'd now be spending their fourth week in a row trapped on the island by uncertain ice.



Art Frantz idles his

Being stranded in Flat Lake is not Carol Frantz's first time. Since the coup in 1980, she's suffered other Big Lake winter maladies.

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## Considering bid for leadership job

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appropriations subcommit-  
tee, Stevens said this would  
put him in the best possible  
position to secure funding for  
the new light infantry divi-  
sion in Alaska.

In addition, Stevens said he  
has a chance to become the  
ranking Republican on the  
Rules Committee, a powerful  
panel which sets the proce-  
dures for the Senate.

On the negative  
side, Stevens admitted that

he may be forced to cut two  
or three of his committee  
staff aides.

He hopes the Democrats  
will retain his staff on the  
defense appropriations sub-  
committee, saying "they are  
professionals."

Stevens said he will try to  
absorb his committee aides  
onto his personal staff but  
said "there may be two or  
three people that I have no  
place for."

Continued from page B-1

"But that's not the same."  
She glanced at her husband  
and laughed.

The Frantzes moved to  
Alaska in 1959 from the Po-  
cono region of Pennsylvania.  
He was working as an assis-  
tant foreman in a machine  
shop there, and figured — at  
— 20 years from then — he'd  
still be working in the ma-  
chine shop.

"I didn't want to know  
what I was going to be doing  
in 20 years, so I came to

Alaska," he said.

After almost 20 years in  
Anchorage, the Frantzes  
found their island paradise  
and made their move. Antici-  
pating the transportation dif-  
ficulties ahead, they bought  
the hovercraft first, along  
with several boats.

Not only did they have to  
reach the island, they had to  
ferry construction materials  
to remodel the A-tranacation  
already there.

The hovercraft is not a  
particularly fancy machine.  
Originally built of plywood,

it has substituted alumi-  
num for the body. Three peo-  
ple can squeeze beneath its  
canvas canopy in a crutch.

A horizontal turbine cre-  
ates a cushion of air between  
the hovercraft's rubber skirt  
and the ground. A vertical  
propeller pushes it forward  
with airboat style fins for  
steering. Two controls — a  
throttle and steering wheel —  
control everything, although  
in this case control is a rel-  
ative concept.

Careening without friction

across the lake, the machine  
turns from side to side like a  
confused curling stone. If he  
pressed his luck, Frantz said,  
he could probably reach 100  
miles an hour. But stopping  
is another story, about half-  
way home, he begins throt-  
tling back periodically,  
touching metal skids to the  
ice to prevent an unhappy  
landing.

You have to plan way  
ahead when you want to  
stop, Frantz said. "Last  
year I hit the dock once."

## CHILDREN: Mother charged with failure to get help

Continued from Page B-1

color was bad, almost ash-  
en."

He couldn't feed himself  
with utensils. His speech was  
an unintelligible garble ex-  
cept for words like mama,  
papa or doggie. His condition  
could only have resulted  
from long-term neglect or  
worse, other witnesses testi-  
fied.

Here's social worker Andy  
Linn, his voice crackling as he  
describes his first encounter  
with Leroy before the Swee-  
tins were arrested.

"He came up to me. He  
gripped on to my leg. He  
grabbed my hand and he  
started to kiss my hand.  
We didn't have enough infor-

mation to take custody.  
He didn't want us to leave  
but we left anyway."

Leroy was desperate, said  
Linn.

The Sweetlins were ar-  
rested in March because of  
what happened to Tina. Jim-  
my Sweetlin has admitted  
holding his daughter then  
about 14 months, three feet  
off the ground and dropping  
her on her head. He has  
pleaded no contest to holding  
her head under water in the  
bathtub, although there is  
some dispute about how long  
he held her there.

Tina is not likely to im-  
prove. She has massive brain  
damage. She can't see, can't  
stand, can't talk, can't think.  
Leroy is doing better. He

lives in a nice house and goes  
to counseling. When she in-  
vites him to play, said his  
counselor, Leroy always  
picks the bathroom toys and  
often has the daddy doll hold  
the baby doll under water in  
the bathtub. He freezes and  
goes into a near trance when  
anyone chastises him, even  
mildly, his foster mother tes-  
tified.

Still, Leroy is doing bet-  
ter. He has learned to speak  
in sentences. He has used his  
new skill to tell both his  
counselor and his foster  
mother that he doesn't want  
to go home because "mummy  
and daddy used to hurt me."

There hasn't been much  
discussion about Jimmy  
Sweetlin's background, but  
Margaret Ann didn't invent  
her parenting techniques.  
She learned how to bring up  
children from the people who  
brought her up.

She was neglected as a  
child and put for a while into  
foster care. She returned to  
her mother's home where  
when she has 13 or younger,  
her stepfather began to sexu-  
ally abuse her, according to  
testimony. She was pregnant  
at 15 by him, and again two  
years later. Before he died,  
he had fathered her first  
three children, divorced her  
mother and married her.

When the sexual abuse be-

gan, Margaret Ann told her  
mother about it but her  
mother refused to believe  
her, said Rosalie Nadeau of  
the Crisis Center. When the  
truth became undeniable,  
mom blamed Margaret Ann.

Over the years, Margaret  
Ann has gone from man to  
man, from boyfriend to hus-  
band, even back to her step-  
father once when no one else  
would take her in. And each  
of the men mentioned in  
court Thursday hurt Marga-  
ret Ann's children, said  
Krumm.

Many social agencies have  
tried to help Margaret Ann  
learn new ways, but they  
have been hampered by her  
I.Q. of about 80 and by the  
well-taught lessons of her  
youth.

Regardless of whether her  
children are abused by her or  
"by the men she chooses to  
live with," said Nadeau, "the  
result is — the children  
Margaret Ann has produced  
have suffered pretty serious  
injury and abuse."

"She is a tragic young  
woman," Nadeau said. "She  
has had a really unfortunate  
life. I'm not sure that  
justifies inflicting pain on  
helpless children who didn't  
ask to be here."

The sentencing hearing is  
scheduled to continue next  
Friday.

**Nordiska**  
Arctic Survival Equipment

UP TO 29% OFF



at Sixth Avenue and Juneau  
Street at about 1:30 a.m.

Weitz, 27, was in a pickup  
truck that matched one work-  
ed in connection with a Qwik  
Stop robbery.

When Officer Cindy Mc-  
Each sought cover from  
Weitz's bullets, Weitz drove  
her car and sped off but  
rammed into a concrete wall  
two blocks away. Police offi-  
cers responding to McEach's  
call for help chased Weitz,  
ducking shots and returning  
his fire.

Hanson and another offi-  
cer arrived at the scene with  
dogs to track the suspect.  
Hanson, without his dog  
caught up with Weitz on 10th  
Avenue, off Northern Street,  
according to the prosecution.  
Weitz was hiding in a dark  
spot between a inspection and  
a fence. Hanson was wearing  
a bullet proof vest but the  
shot struck him above his  
protection.

Other officers chased Weitz  
another half block, wounding  
him three times before tak-  
ing him into custody.

## Snowstorm hits Juneau

The Associated Press

JUNEAU — The first snow  
of the season came in a big  
way to Juneau this week,  
throwing a wet white blan-  
ket over the Alaska Muni-  
cipal League's annual confer-  
ence and catching local snow-  
off-guard.

Juneau got 4.1 inches of  
snow between Sunday and  
Thursday, according to the  
National Weather Service.  
Almost half of it fell Wednes-  
day, leaving slushy streets  
and roadside snowbanks  
three and four feet high.  
Skies cleared Thursday.

The weather service said  
the average Juneau snowfall  
for the entire month of No-  
vember is 11.6 inches.

The heavy fall Wednesday  
kept all major airline flights  
out of Juneau Municipal Air-  
port, and with them, many  
people headed for the Muni-  
cipal League conference.

Its organizers were count-  
ing on the diverted flights  
arriving Thursday.

# space agency

discussing the Challenger tragedy last January and the following investigation "was filled with doublespeak."

The seven-member shuttle crew, including teacher Christa McAuliffe, perished when Challenger exploded shortly after liftoff.

Lutz quoted a NASA official who said:

"The normal process during the countdown is that the countdown proceeds, assuming we are in a go posture, and at various points during the countdown we tag up the operational loops and face to face in the firing room to ascertain the facts that project elements that are monitoring the data and that are understanding the situation as we proceed are still in the go direction."

Morton Thiokol, the maker of the booster rocket, and Rockwell International, the main contractor to build the shuttle, also were cited by the committee.

"Officials of Morton Thiokol," Lutz said, "when asked why they reversed earlier decisions not to launch the shuttle,"

See Back Page, **DOUBLEPEAK**

**SNOW SHUTTLES**

High in the upper teens with north wind to 15 mph. Cloudy tonight with a low near 15. Snow likely Sunday with a high in the lower 20s.

High Friday.....	18
Low Friday morning.....	13
Normal high Nov. 21.....	26
Normal low Nov. 21.....	13
Record high Nov. 21 (1949).....	50
Record low Nov. 21 (1965).....	13

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**FOR HOME DELIVERY**  
CALL 267-4400  
6 a.m. to 6 p.m.

# initiate refinancing program

By **JIM ERICKSON**  
Daily News Business Reporter

The Alaska Housing Finance Corp., unwilling heir to nearly \$100 million worth of Alaska homes whose owners could not keep up the payments, may begin renting out some of its vacant houses and plans to initiate a "hardship" refinancing program that officials hope will slow the corporation's runaway foreclosure rate.

The steps will not cure the

problem of record number of homeowners falling behind on their monthly mortgage payments to AHFC, said Ron Lehr, the agency's executive director.

"It's one of those situations where you try to do a little bit here, and a little bit there," Lehr said. "The panacea is \$40 a barrel oil... or some kind of major upturn in the economy."

Since the housing market

first spiraled into a nosedive in 1985, AHFC has seen its delinquency rate climb from less than 2 percent in mid-1983 to 12.2 percent in October. To cope, AHFC instituted a program allowing hard-pressed homeowners to rent their homes and created an assumable loan program, yet delinquencies continued unabated.

In October, about one of

See Back Page, **AHFC**

## Judge takes kids away from mom

By **SHEILA TOOMEY**  
Daily News reporter

A Superior Court judge reached through the back door of the criminal justice system Friday in an effort to save the children of Margaret Sweetin from a future filled with abuse and neglect.

Judge Seaborn Buckalew sentenced Sweetin to six months in jail for not helping her 14-month-old daughter, Tina, the day Sweetin's husband Jimmy deliberately dropped the baby on her head, fracturing her skull.

The "failure to support" charge is a misdemeanor and the maximum sentence is a year.

But, in an unusual move, Buckalew went on to effectively remove all three of Sweetin's children from her custody for at least five years — a move usually reserved to civil judges in proceedings held behind the closed doors of family court.

He did it by putting Sweetin on supervised probation for five years and ordering, as a condition of probation, that

she have no contact with any of her children unless a probation officer gives written permission.

He said he didn't think she should be allowed to visit the children because of testimony that the older ones become upset and fearful when she visits.

Buckalew also ordered that Sweetin not be allowed to live with any children for the next five years, a provision requested by Anchorage Dis-

See Back Page, **NEGLECT**



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## Anchorage

### How to call the

- Arts, Linda Billington
- Business news, Bill White
- Bus notes, Kathleen
- City Editor, W.P. Dougan
- Community, Andrew Per-
- Editorial page, Susan Ne-
- Homes, Trish Brown
- Journal Bureau, John Lin-
- Kenai Bureau, Ronnie Ch-
- Letters, Michael Carey
- Lifestyles, Gary Nelson
- Mat-Su Bureau

### Classified advert!

- Anchorage
- Wasilla
- Anchorage hours: 7 a.m. Monday through Friday, 7:30 a.m. to 6 p.m. Saturday, 9 a.m. to 2 p.m. Sunday
- Wasilla hours: 8 a.m. Monday through

*Anchorage Daily News 11/27/86*

# NEGLECT: Judge takes children away from mom

Continued from Page A

The Attorney General's office is acting as a safeguard against a possible future marriage between Sweetin and a man with young children. She plans to divorce Jimmy

"Painful, damaging evidence" left him with "absolutely no reservations" that any child in Sweetin's care was in physical danger, said Buckalew.

Sweetin's mother, sitting in the front row of the spectator section with a younger daughter, cried as Buckalew reviewed the damage done to Tina Jimmy Sweetin was not there. He has pleaded no contest to three felony counts and is awaiting sentencing.

Until Friday, when she was led out of Buckalew's third-floor courtroom in handcuffs, Margaret Sweetin was free and had custody of her newest baby, 3-month-old Christopher Buckalew made clear his concern that state officials allowed this to happen and his belief that he had a special obligation to act because they had failed to

"It seems like it would be negligence on my part not to prohibit contact with Christopher as part of probation," Buckalew said. "I think I have got a primary responsibility to protect that child."

"That action has not been taken by the Attorney General's office."

Buckalew said he didn't want another judge presiding over some future trial with Christopher as the victim.

Defense attorney Glenn Cravez said the legislature has specifically reserved child custody decisions to family court and cautioned Buckalew that his sentence might be illegal. Krumm, while applauding the decision, said he didn't know if it would survive an appeal.

So far there have been three court hearings to consider the evidence against Margaret and Jimmy Sweetin. At each of these hearings there has been angry grumbling from social workers, lawyers, witnesses and others about the minor charge brought against Margaret and the fact that she still had Christopher. "I'm appalled that she was not charged with a felony," said Rosalie Nadeau, director of the Anchorage Crisis Center.

Assistant Attorney General Pat Kennedy, whose office made the decision to leave Christopher with his mother, said the state got limited legal rights to Christopher within a month of his birth.

"She still had the child because at the time we took custody she had only been charged with a misdemeanor," said Kennedy.

Krumm said the state took an abused child from Sweetin in 1983 and social workers knew before he did that she was more than an innocent bystander.

But Kennedy said Margaret Sweetin's "record all revolves around injury to her children by other people. The intention, if she moved in with any male, was to take physical



Defense attorney Glenn Cravez and defendant Margaret Sweetin listen to Judge Seaborn Buckalew during sentencing Friday.

custody of the child."

"Now that she's going to jail, I'm sure we're going to be taking custody."

Sweetin, 24, started life on the receiving end of abuse and neglect. As a child she was taken at least once from her home and placed in foster care. Her stepfather, now dead, sexually abused her and eventually fathered three children on her while she was in her early teens. Somewhere along the line, he divorced her mother and was allowed to marry Sweetin, a series of events Buckalew characterized as so bizarre it was like "taking a visit to another planet."

Sweetin has been married three times, had five children and three miscarriages. She will have no more children. She had a tubal ligation after Christopher's birth.

Except for one girl, given up for adoption at birth, all of her children have been abused or severely neglected, according to evidence presented in court. It appears from records compiled in Alaska, Illinois and other states, that the abuse — both physical and sexual — was committed by Sweetin's husbands and perhaps by some boyfriends along the way.

She has been accused only of neglecting her children, of not feeding them properly, of making them eat off the floor and spending their days in locked rooms until their physical and mental growth was stunted.

In March, her fourth child, Tina Sweetin, then about 14 months old, was rushed to the hospital by paramedics, a near-drowning victim. Margaret's husband, Jimmy Sweet-

in, was later charged with holding the baby's head under water for five minutes or more, causing severe and permanent brain damage. The child's fractured skull, an earlier injury, was discovered at that time, as was a bad burn.

Tina and Leroy, 4, the only other child then living with the Sweetins, were taken by the state and are now in foster homes, but Sweetin has not relinquished parental rights to them and Krumm expressed concern that they might someday be returned to her care.

In 1983, a 6-year-old was taken by the state and put up for adoption.

"The conduct is the worst I have ever seen," said Buckalew as he handed down the sentence. "Why would let these things happen to these children, I don't know."

# ARMS for mul

Continued from

Sen. Daniel P. Moynihan, N.Y., a former Intelligence Committee member, attended the hearing simply. "I can't say I heard, and I don't know," he said.

Congressional hearings were present at both the House and Senate hearings as testimony was given but Casey's testimony was not.

As he was leaving the hearing, Casey was asked if the law had been violated and he said, "Of course not." Casey and his associates at the House committee are customary under oath.

Sen. Mitch McConnell, Ky., said "there is a technical violation of the law" on notifying "my counsel to the House" would be one a mistake at the hearing.

The day began with the House committee meeting with John Poindexter, security adviser to the President. Then the House heard for two hours. The hearing met with him for two hours, and then resumed its meeting at 10:30 a.m.

In Tehran, the Ayatollah Khomeini said the controversy represented the government's victory in the war.

The judge, said Reagan University "caused" and the States was not to stop the fire from spreading. The As reported.

Senate and prohibit the public of closed testimony members were their remarks. Several however, that would be the first on the Iran probe.

"The members shellshocked by a congressional further hearing, peered."

Several members said they to learn from testimony that special in the knew the answers questions that they suggested indicate serious in the man's covert operation.

The administration members were said to be questions over shipping the arms to a congress.

Casey told Congress first Israeli settlement in September been authorized. Israel was listed for sent the official questioning saying.



# HAPPY THANKSGIVING

# Anchorage Daily News

VOL XLII NO 330 304 PAGES

ANCHORAGE ALASKA, THURSDAY NOVEMBER 27, 1986

## Reagan orders investigation of National Security Council

By BERNARD WEINRAUB  
The New York Times

WASHINGTON — Amid the crisis over secret dealings with Iran and the Nicaraguan rebels, President Reagan appointed a three-member panel Wednesday to investigate the role of his own National Security Council.

■ **STAYING ON:** A spokesman said Secretary of State George P. Shultz does not intend to quit. A-3

■ **DENIAL:** Israel's foreign minister insists his country did not profit from the arms deal with Iran. A-9

Nonetheless, on Capitol Hill several Democratic committee chairmen in the House and the Senate made it clear that they intended to press

forward with their own inquiries on the disclosures about the affair. Some Democrats called for the resignation of Donald Regan, the White

House chief of staff

The president's action, announced shortly before he left for Thanksgiving at his ranch in California, came as the Justice Department broadened its investigation into the secret arms shipments to Iran

See Back Page. REAGAN

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## Father gets 26 years

Judge: Sweetin's acts 'barbarous'

By SHEILA TOOMEY  
Daily News reporter

A father who committed "multiple barbarous acts" against his infant daughter has already separated himself from a normal society, a Superior Court judge concluded Wednesday. But to make the separation complete, Judge Seaborn Buckalew sentenced Jimmy Sweetin to 26 years in prison.

"He has effectively excommunicated himself from humankind," Buckalew said during a 24-hour sentencing hearing. "That's why he can't lift his head up here in the courtroom."

And indeed, Sweetin, 26, sat at the defense table with his head bowed, as he has each time he has been brought into court and forced to listen

See Back Page. SWEETIN

### weather



Increasing clouds today with north winds to 15 mph. High 10

### CHARTING HARD TIMES IN ANCHORAGE

#### RIISING UNEMPLOYMENT

9% increase 1985-86 Statewide



SOURCE: U.S. Labor Department Bureau of Labor Statistics

#### MORE FOOD STAMPS

1% increase 1985-86

Household receiving stamps

## Poverty has

This year, more folks in

By ELIZABETH PULLIAM and SHEILA TOOMEY  
Daily News reporters

A car door slams in the parking lot of a deserted shopping center. A woman, panting and disheveled, rushes into a storefront food bank. She emerges with bread and milk in a small paper sack. And, since it's a good day, there's also an onion and a fresh green pepper.

Listen. A machine blip-blips in the intensive care unit at a local hospital, broadcasting the failing heartbeat of a baby born too soon. Every blip plunges her parents deeper and deeper into debt. Their health insurance disappeared with dad's job.

Listen. A wracking cough shares the pre-dawn stillness outside the welfare office at Fourth Avenue and Gambell Street. The lineup snakes along the sidewalk, around the corner and down the alley. Budget cuts mean there are fewer case-workers and the word is out. Get there early or wait all day.

Listen. "Now is the toughest time I've ever seen," said Judy Sharpe, a social worker at Providence Hospital.

Almost 30,000 Alaskans are out



Today the gins its th Neighbor-to-h Again this t we'll be writt folks in Anch use some help you, our read share some of The help you neighbors bef help today. Ye about that ar Neighbor-to-N styles, Page D-

...mental illness, the kind associated with stress, is on the way up. People are worried about being about to lose their house, their job, their insurance," said Dr. Aron Aul of the Langdon Clinic.

As snow falls on the Tullaghan Mountains and the wind rushing through the passes brings another winter to the Anchorage bow, people whose job it is to deal with the fear and the anger, the frustration and despair say things are going to get worse. Unemployment benefits are running out for workers who lost their jobs when the

People who haven't gotten sick yet will. People who made it through their last crisis thanks to a permanent fund dividend check won't get another until next winter. Those who didn't get out while the getting was good —

"I don't even think about leaving — this is my bump," says Al Horton, 25, an out-of-work meatcutter from Homer. "I'll make it through somehow." Poverty in Anchorage doesn't stare out into the street like the empty windows of a tenement. It's bundled under parkas and watch caps. It's locked behind the doors of over-

There are a lot of poor people out there," said Myrna Orme of Headstart. "But unlike the Lower 48 you don't see them. It's because they're indoors and not out on the street. But they're just as poor and they're just as sad." Listen over the next few weeks. Listen to the sound of the safety net tearing.

## SWEETIN: Judge hands down 26-year prison sentence for child abuse



Jimmy Sweetin weeps during sentencing.

Continued from Page A-1

to details of the injuries suffered by his daughter, Tina, now nearly 2.

He had pleaded no contest to charges that he, on different occasions over a period of weeks, burned Tina with the electric element from a frying pan, deliberately dropped her on her head, causing a massive skull fracture, and, in March, held her head under water in the bathtub for five minutes or more.

He broke his court silence briefly Wednesday with tears, and with a plea that Buckalew take into consideration his spotless background and exemplary service as a petty officer in the Navy.

"Nobody wants to hear that I am sorry," Sweetin told the judge. "Nobody wants to hear that I love my daughter. I have never been in trouble with the law before. I don't have a violent background... I'm very thankful right now that I have the forgiveness of God... I'm very, very sorry. I do love my daughter. That's all." Sweetin said he believes God will look after Tina.

Buckalew responded: "I think God is the only one that can cure her now. Miracles aren't performed by people on this planet."

In addition to the 26-year prison term, Buckalew effectively barred Sweetin from contact with his two children for the next 31 years without written permission from a probation officer and any agency involved in protecting the children. He also barred Sweetin from living in any "family-type situation" involving children under age 16. Tina, her baby brother Christopher and a step-brother, Leroy, are all now in foster homes.

Margaret Sweetin, Jimmy's wife, is now serving a six-month jail term for failing to get medical aid for Tina. She was not charged with abusing her children, but evidence at her sentencing last week indicated a history of child neglect dating back to before she met and married Sweetin.

District Attorney Victor Krumm had asked that Jimmy Sweetin be sentenced to 46 years for his assaults on Tina.

"He didn't do it to her on one occasion," Krumm said. "This is a man who is in the process of killing that child. It's taking him weeks to do it."

Krumm called Sweetin's description to police of the near-drowning incident chilling. Sweetin said Tina spit up on herself and he held her

under water briefly to clean her.

While she was under, her eyes were opened, her hands were straight up and it seemed like I seen her take a gasp for air."

Sweetin said he did not hold her under water for anywhere near five minutes, but doctors said it would have taken that long to account for the damage done.

Tina's brain damage is so severe "she would have been better off if they had just finished her," Krumm said. The child is blind, probably deaf and is unlikely ever to be able to care for herself, according to medical testimony presented at an earlier hearing.

"She won't be able to do anything," Krumm said. "She's dead... She doesn't even know we're out here any more."

Buckalew agreed that the offenses Sweetin committed were among the worst possible assaults — committed against someone who couldn't fight back, against a member of his family who had a right to be safe in her own home. Both circumstances justified increasing the normal seven-year presumptive sentences for the skull fracture and the near-drowning, he said.

But, Buckalew noted, Sweetin was himself an abused child, beaten severely by a stepfather from the time he was 4 until he was placed in a group home as a teenager. Battered children often grow into batterers, he said. "I am pretty much persuaded that if he wasn't a battered child... he probably would not be sitting here in this courtroom," the judge said.

Buckalew sentenced Sweetin to 15 years for the near drowning, 10 years for the skull fracture, five years suspended for the burning incident and one year for failing to get medical aid for his daughter, a misdemeanor. He is likely to serve about 17 years before being eligible for parole.

Defense attorney Lionel Riley urged Buckalew to consider that Sweetin was not a danger to the general public, only to children in a stressful family situation. Sweetin was driven to the breaking point by his inability to get a decent job, Riley said, and by the fact that his wife, for the first time, was bringing in more money than he was.

"Tina is a member of the public," Buckalew said. "She's as important as anyone in this courtroom."

## REAGAN: President orders investigation of NSC; Congress plans its own inquiries

...the appointment of Tower... about it Regan is sick about... tration officials.

# Judge refuses 'liar' Rodriguez new trial

By KIM RICH  
Daily News reporter

Convicted child pornographer Carlos "Chiro" Rodriguez will not get a new trial, according to an Anchorage Superior Court judge who said Rodriguez is a liar.

The court does not find

Chiro Rodriguez a credible witness. "The court does not believe Mr. Rodriguez," Judge Ralph Moody said in a written order handed down Tuesday.

Rodriguez had requested a new trial claiming that he received ineffective counsel

during his 1981 trial. Rodriguez, 48, was convicted of 25 felony counts, including rape, and operating a teen-age child pornography, prostitution and burglary ring.

He is currently serving an 8 1/2 year sentence in an Outside prison.

Rodriguez was back before Moody last week in an Anchorage courtroom during a hearing held to determine if he received effective counsel during his trial. Moody is the same judge who had tried and sentenced Rodriguez.

Moody also rejected Rodriguez' claim that Schapira failed to aggressively represent him because Rodriguez couldn't come up with up to \$50,000 to pay Schapira in addition to fees Schapira was receiving from the state.

Neither the existence of this fee contract or Rodriguez' failure to pay Schapira additional money affected the quality of Schapira's representation of Rodriguez. Rodriguez was satisfied with Schapira's representation until after he got convicted. He got the idea for filing this motion, after the trial from other prisoners who were filing similar motions," Moody said.

In his ruling, Moody dismissed all of Rodriguez' claims that his court appointed attorney, Mitch Schapira, failed to adequately represent him.

Specifically, Moody said there was no evidence that Schapira's ability to defend Rodriguez was impaired by prescription medication he was taking at the time for a back injury.

# Couple charged with abuse of infant who's left in coma

By KIM RICH  
Daily News reporter

An Anchorage couple was arraigned on child abuse charges Tuesday in Superior Court as their year-old daughter lay in a coma at a local hospital.

Jimmy D Sweetin, 25, and Margaret A Sweetin, 24, each entered not guilty pleas before Judge Victor Carlson.

Jimmy Sweetin is charged with four counts of first-degree assault, one count of third-degree assault and one count of criminal nonsupport.

Margaret Sweetin is named only in the criminal nonsupport charge. That charge alleges that the couple failed to get medical care for a "serious" head injury to the child.

The incidents occurred between January and March, according to court records.

Jimmy Sweetin has been jailed on \$100,000 cash-only bail. Margaret Sweetin is not in custody.

According to court records, on March 6, paramedics responded to a possible drowning at 3911 E. 7th Ave. where they found the Sweetin's infant, Tina, unconscious. The child was taken to Humana Hospital Alaska where she has remained in a coma. She is on life-support systems.

According to police, Jimmy Sweetin told police that the child had been eating when she vomited on herself. Sweetin said he took the child into the bathroom where he attempted to wash the vomit off by placing her in a bathtub partially filled with water.

Police say Sweetin told them that he held the child's head "submerged with one hand while washing the vomit off the child's body with the other hand."

Police say that doctors at the hospital also found that the child had other, older injuries, including a skull fracture, a broken collarbone, a damaged ear drum and a burn on her left wrist.

Both Sweetins are scheduled for trial in June.

# Officials want boundary settled

By SUE CROSS  
The Associated Press

JUNEAU — Alaska officials want the United States government to step up efforts to settle a dispute with the

people of the United States," said the resolution, which will be sent to President Reagan, Secretary of State George Shultz and a handful of other federal officials.

Further complicating the dispute are \$108 million in leases for oil and gas drilling rights in the area that the United States sold in 1984.

The oil companies have not

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# Spring

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# Newcomb has violent history

By RONNIE CHAPPELL  
Daily News Staff

Gary Frank Newcomb, 33, is a convicted killer who has eluded Alaska police dragnets three times in the past five months.

In October, he became the only man to break out of the Wildwood Correctional Facility in Kenai. He was being held in a maximum security cell at the pretrial building. He had been loose ever since.

Those who know Newcomb describe him as an intelligent, ruthless, violent sociopath who has spent most his life behind bars. He began using aliases as a juvenile. He stabbed a man to death in a fast food restaurant. Before coming to Alaska he shot a bystander in the chest following a traffic incident.

He may be responsible for the 1982 disappearance of a Soldotna man, according to

See Back Page NEWCOMB

## THE ELUSIVE TRAIL OF GARY NEWCOMB

Oct. 1: Saws his way out of the Wildwood Correctional Facility in Kenai, the only person to ever escape.

Oct. 5: Newcomb is spotted by Alaska State Troopers on the banks of the Kenai River trying to pry his Volkswagen out of the mud, but he manages to elude them.



OCTOBER NOVEMBER DECEMBER JANUARY FEBRUARY MARCH

Halloween: Troopers are tipped that Newcomb will try to leave the Kenai Peninsula in costume after a party. Officers staking out the party say Newcomb never shows.

Nov. 6: Troopers are told that Newcomb is holed up somewhere in a group of cabins in North Kenai. Twenty-four Troopers carry out a cabin-by-cabin search, finding gear covered by Newcomb's fingerprints. The subject is gone.

March 3: Acting on a tip, two Anchorage Police Department officers confront Newcomb in a Mountain View barber shop. He manages to grab an officer's gun, shoot both officers and flee. Several hours later he is captured.

# Barber spotted escapee in chair

By DAVID POSTMAN  
Daily News Staff

Magic Jackson said he was looking forward to cutting the customer's hair because the man said he was getting married and I was looking forward to doing him a special good.

But Jackson, a student at Anchorage Harbor College, said he thought something was wrong when his instructor told him to give the man a shampoo he hadn't asked for.

"I took him over to the sink. I saw the police officers coming in and then the instructor said, 'No, why don't we do a dry cut,'" Jackson said.

What Jackson couldn't see, but other barbers and customers could, were two Anchorage Police officers with guns drawn coming in the front and back doors. Jackson said later that one of his fellow students had recognized

See Back Page BARBER

## NEWCOMB: Captured convict has history of violence, elusive ways

Continued from Page A-1

courtroom testimony. And when he escaped from the Wildwood Correctional Facility in Kenai he was awaiting sentencing on what may be the biggest armed robbery in Alaska history.

According to police, Newcomb is a powerfully built man who is in excellent physical condition. He's the kind of fugitive who is not afraid to hide in a crowd, or make casual contact with members of the public.

The search for Newcomb began in early October when he sawed his way out of a maximum-security cell in Kenai. Prison officials don't know where he got the saw. And they didn't realize that he was gone until the next morning.

Forty Peninsula policemen and a tracking dog combed the surrounding countryside. The trail went cold in downtown Kenai where people later reported that they had seen a man matching Newcomb's description drinking a beer in a local bar and hitchhiking along the Spur Highway.

The sightings continued for four days. Most of the leads

were dead ends, but then a Ciechanski Road resident reported that Newcomb had come to his house to borrow an automobile jack. Troopers found Newcomb trying to pry a red Volkswagen out of the mud at Castaway Cove, a recreational subdivision on the banks of the Kenai River.

Two troopers closed to within 50 yards, and ordered Newcomb to stand up and move away from the vehicle. Instead, Newcomb moved behind the car, kicked off his rubber cannery boots and fled across a narrow footbridge onto a small, heavily wooded island.

The troopers pursued Newcomb until they lost sight of him. Then they stopped and waited for assistance. During the five-hour search that ensued, Newcomb eluded a police dog, a helicopter and a dozen policemen.

A month later, police got another chance when they learned that Newcomb was holed up in a remote cabin in North Kenai. Twenty-four troopers, assisted by a helicopter, came up empty handed. They did find camping equipment and an off-road vehicle with Newcomb's fin-

ger prints all over it. That was the last police saw of Newcomb until he surfaced Tuesday in an Anchorage barber's chair.

Newcomb's criminal record is checkered with violent crimes.

In 1974, he was convicted of manslaughter after he and George Betzner — who would team with him nine years later in a Sterling fur robbery — killed a man during a knife fight in a Jack-in-the-Box restaurant.

When released from prison, he was involved in a traffic incident that escalated into bloodshed. Newcomb, a motorcyclist, claimed that a motorist had tried to sideswipe him. When the car finally stopped, Newcomb leaped in the window, climbed inside and beat up the driver. He then drove the car to a remote location where he continued the assault.

A passerby answered the driver's call for help. White Newcomb beat the second man, the first fled. Newcomb pursued him, but was unable to catch him. He then returned to the car and shot the second man — who was conscious but unable to move

in the chest.

Newcomb fled to Alaska, where he was involved in what may be the biggest robbery in Alaska history. It occurred the night of Feb. 10, 1983 when Newcomb and two other armed men broke into the home of Sterling fur dealer Ed Whittaker. Newcomb and his accomplices made off with pelts, raw furs, coats and other finished goods valued at \$350,000.

A Kenai jury was unable to decide if Newcomb was guilty or innocent the first time he was tried. The second time, he fired his attorney and represented himself. The second jury found Newcomb guilty of armed robbery.

Before the trial, co-defendant Betzner reneged on a deal requiring him to testify against his longtime friend.

Fear that Newcomb would harm his wife and child probably prompted Betzner's decision to refuse to testify, a source close to the case said. Those who did testify said they were afraid of Newcomb because they believed him responsible for the 1982 disappearance of a Soldotna man known to them as "Joe Willy."

## BARBER: Recognized escapee

Continued from Page A-1

the man as escaped convict Gary Newcomb and called police. But, at the time, Jackson didn't know who's hair he had been cutting.

The policemen put their guns away as they approached Jackson's customer.

They stood on either side of the man with shoulder-length, sandy blond hair, blue jeans and a red plaid shirt and said they needed to ask him a few questions. The man didn't seem concerned, Jackson said.

But when the officers tried to search the man, pulling up his shirt and reaching around his back, he jumped out of the chair and began fighting with them.

"They pulled him out of the chair and told him to go along with them and he wasn't about to," said Norman Rollness, who was waiting for a haircut a few chairs down.

As they fought, most of the 25 or so people in the barber shop dove for cover, some running out of the building.

"They were tussling on the floor. I was trying to get out of the way and I heard three shots," Jackson said. Witnesses said the man took one of the officers' revolvers dur-

ing the fight.

"I heard, 'Pow! Pow!' and there was a pause and then 'Pow!' again," Jackson said. "There was a lot of hollering and then things got quiet."

Both officers had been shot and could do nothing when the gunman turned and ran toward the back door.

"I heard the shots and saw this guy running toward me. At the door, he stopped, turned around, squatted and shot again for good measure," said Ron Farley, who was getting his hair cut in the back of the shop. He said the final shot seemed to go into the ceiling.

Officer Francis Patrick O'Brien slumped in a chair, trying to stop the bleeding from his left shoulder. Officer Preston "Jack" Chapman, who was shot in the neck, lay on the floor and seemed to fall in and out of consciousness.

Customers and barbers tried to give first aid "but there wasn't much we could do," Farley said.

At least one bullet was found in the Family Restaurant next door. Nick Nelson said he was drinking coffee when the bullet came screaming through the wall above his head. "It got plaster in my coffee," he said.

# Officers shot, convict captured

## Police capture long-sought fugitive after tense five-hour standoff

By RICHARD MAUER  
Daily News reporter

The law caught up with escaped convict Gary Newcomb Tuesday night, but not before he stole a policeman's service revolver and shot the officer and his partner inside a crowded barber school in Mountain View Tuesday afternoon. Newcomb fled from there into a neighborhood of apartment houses and duplexes and for five hours eluded a huge force of officers cordoning off the neighborhood. He was finally captured in an alley at 10:10 p.m.

The two wounded officers were reported in stable condition at Humana Hospital-Alaska. Officer Preston "Jack" Chapman, 38, was shot once in the neck and once in the buttocks. He was critical but stable after undergoing surgery for an hour to remove the slug from his neck.

Officer Francis Patrick O'Brien, 42, was shot in the shoulder and was reported in stable condition. Police spokesman Joe Young said that the bullet that struck Chapman missed all his vital organs.

Newcomb's last hours of freedom were spent hiding in a apartment while a police tactical weapons squad surrounded and then attacked the house next door at 340 Price St., which is where a witness thought Newcomb was. After a tense standoff, the officers fired tear gas and concussion grenades into the house and searched it, only to come up

empty until police began an apartment-by-apartment search of the area that Newcomb leaped from the window of his hideout and ran into an alley. He was captured just north of Peterkin Avenue.

His arrest ended a five-hour blockade of a large section of Mountain View. Patrolmen with copies of Newcomb's mug shot blocked off every major intersection leading out of Mountain View and searched every vehicle that left, setting off huge traffic jams in the waning minutes of the afternoon rush hour and on into the frigid night. Many motorists traveling on the Glenn Highway, Mountain View Drive and Bragaw Street were directed to open the trunks of their cars.

No one, including residents, was being



See Back Page, CAUGHT

Anchorage police officers hold Gary Newcomb after his capture on Price Street late Tuesday night.

Anchorage Daily News/Jim Lavrakas

## CAUGHT: Convict nabbed after shooting two officers

Continued from Page A-1

allowed into the area into which the suspect melted.

From the start, police were convinced that their suspect was master escape artist Newcomb, 33, who has successfully eluded police through a series of close calls with authorities since he escaped from Wildwood Correctional Facility in Kenai in October. He had killed a man in California and was under sentence for convictions of kidnapping, attempted murder and robbery.

The day's dramatic events began unfolding around 5 p.m. when a man with shoulder-length, sandy blond hair, blue jeans and a plaid shirt walked in to Anchorage Barber College at 3519 Mountain View Drive. The man said he was getting married and asked for haircut.

One of the student barbers, believed by his fellow students to have once been a corrections officer, looked at the customer and made the connection. It was Gary Newcomb.

Police were called at 5:05

p.m. One of the instructors tried to distract his most-wanted customer with the full treatment until they arrived. While Newcomb was being led to the shampooing sink, officers Chapman and O'Brien, guns drawn, popped in through the doors, one from the front, the other from the back.

According to witnesses at the school, the officers put their guns away, then stood on either side of Newcomb, who by this time was seated in a chair, and said they wanted to ask him some questions. When they tried to search him, Newcomb leaped from the chair, wrestled with the officers, and grabbed the service revolver from one of the officers. He fired at least three shots and ran out the back door.

The barber shop had been crowded with customers, including children, but it emptied quickly. One witness said that the gunman stopped at the rear door just before leaving, turned, and fired once more into the shop.

"One bullet pierced the wall of the Family Restaurant next door. A customer said it left a trail of plaster in his coffee.

Within moments of getting the call that two officers were down, squad cars raced to the area and roadblocks were set up. Motorists on their way home from work were greeted at busy intersections by officers toting shotguns and drawn revolvers. Other policemen fanned out through the neighborhood north of the barber school, and dogs were called in to sniff out the suspect.

Anchorage police said it was one of their biggest man-hunts ever, with 75 to 100 officers participating.

Neighbors, alerted by the troubles outside their doors, called in reports or signaled to officers with sightings. Newcomb was tracked down to apartment 2B at 340 Price St. According to one neighbor, Newcomb had been liv-



Paramedics take police Officer Francis P. O'Brien to the hospital. O'Brien was shot in the shoulder Tuesday.

ing in the apartment in the maroon and brown single-story duplex for about three weeks.

Police surrounded the building around 6 p.m., taking vantage points from the apartment house next door and from an abandoned building across the alley at 331 Mumford St.

But while all that was going on in their midst, other neighbors, including children, were nonchalant about the danger in the midst. A few strolled the sidewalks as if nothing was going on, while a young boy played by the window of an apartment kitty-corner to the one under guard.

People coming home from work or shopping walked along Mumford Street as police with shotguns ducked up alleys, closing in on Newcomb's residence.

It is a poor neighborhood,

the sort of place a man on the run might find refuge, a place of cheap duplexes and four-plexes, chain link fences and barking dogs.

"What's going on?" asked a woman who left her apartment house without her coat on.

"They're after a guy who just shot two cops," she was told.

"You're kidding," she said. It was more than an hour before police made a concerted effort to clear the streets and neighboring apartments.

While a state trooper helicopter hovered overhead, the police Crisis Intervention Response Team arrived at the neighborhood at 7 p.m. and fanned out among the buildings. They began firing tear gas grenades and finally concussion bombs before entering the apartment.

No one was there.

He had apparently been

holed up in Apt. 12A in 330 N. Price St. next door.

About 10 p.m., after searching one apartment and the laundry room of 330 CIRT officers said they saw movement in the apartment. Seconds later, a back window was broken and Newcomb was out.

He ran through an alley and tried to skirt in front of Price Street, said officer Ron Wade, but changed his mind when a trooper helicopter illuminated his movements.

"I think he saw the lights, and he cut back between the buildings," said officer Ron Wade.

Newcomb ran for cover between the buildings, and slipped underneath an orange van parked in front of 330 N. Price.

Khan, a Rotweiler tracking dog, ran to the van and

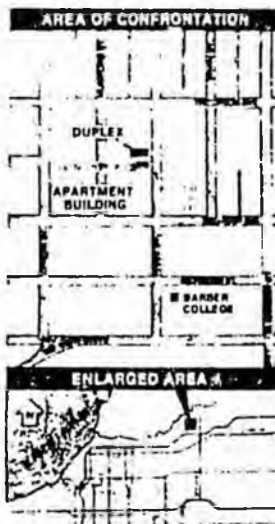
began to attack K-9 officer Kelley Schucke pulled the dog back, and ran with him to the van's other side.

Newcomb was starting to slide out, with a weapon drawn, Wade said. The dog attacked again, knocking the gun from his hand and Schucke made the arrest.

No shots were fired and there was no fight, Wade said.

Newcomb was hustled to a cruiser, handcuffed and surrounded by police. He had a bloody lip and there appeared to be blood coming from his right ear.

Daily News reporters Hal Bertson, Ronnie Chappell, Patti Epler, Jim Erickson, Nancy Montgomery, David Postman and Hal Spencer also contributed to this story.



# Prosecution: Hatred fueled murder

## Mackay defense argument scheduled next; case could go to jury Friday

By SHEILA TOOMEY

Daily News reporter

FAIRBANKS — Neil Mackay's hatred for Robert Pfeil consumed his life and spilled over into the life of his son, robbing the boy of love, attention and even space, prosecutor Peter Gruenstein told jurors Wednesday at Mackay's murder trial.

"There was one long, dark shadow over Bob Pfeil's otherwise sunshine-filled life," said Gruenstein. "Robert Pfeil had but one mortal enemy in the world and he sits before you, awaiting the justice he deserves."

Gruenstein took slightly more than three hours to summarize the state's case against Mackay, 63, a former Anchorage lawyer and businessman. Mackay is accused of paying strip club manager Gilbert Pauole \$10,000 to arrange Pfeil's death. Mackay was once married to Pfeil's sister and the two men were long-time enemies.

The defense will give its closing arguments today, with prosecution rebuttal scheduled for Friday, when the jury should get the case.

The evidence against Mackay is

straightforward, Gruenstein said, much of it coming from Mackay's own mouth. He urged jurors to listen carefully to a taped telephone conversation between Mackay and Pauole, made under police supervision just hours after Pauole was arrested on Nov. 8, 1985.

Pauole told Mackay police were closing in and asked for getaway money. "Imagine what the reaction of an innocent man would be," said Gruenstein. "Confusion, outrage, anger."

"Mr. Mackay's first reaction is, 'Well, where are you calling from?'"

"There are a hundred reactions that would be plausible and consistent with an innocent person," said Gruenstein. But not Mackay's response: "Don't say too much, you know. You're going to implicate yourself."

This tape, all by itself, is enough to erase any reasonable doubt about Mackay's guilt, he told jurors.

Gruenstein also pointed to a sheet of addresses relating to Bob Pfeil that was typed on Mackay's typewriter and found in Pauole's Seattle home, to the testimony of a jailhouse snitch who

said Mackay made incriminating statements to him, and to a phone call from Pauole's Anchorage home to Mackay's Honolulu apartment at 9:08 p.m. the night Pfeil was shot.

Pauole said he called Mackay and reported that the job was done. But, during the trial, Scotty Mackay, Neil's 14-year-old son, testified that he, not his dad, answered the phone that night and no one was on the line.

"Scotty's story is incredible," Gruenstein said. The boy was able to "remember the time and the date even though he wasn't asked about it for 15 months ... until January of this year."

Consider the likelihood that a young boy could do this, Gruenstein told jurors, "then ask yourself why the defense would present such evidence."

"So much of this case can be understood through Scotty because, as you know, in a very real sense, that's where it all began."

By "it," Gruenstein meant the alleged murder motive — Mackay's long-abiding fear and hatred of Bob Pfeil and the rest of the Pfeil family. Using

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## MACKAY: Trial nears end

Continued from Page D-1

a huge "hatred/fear/frustration" chart, Gruenstein traced the history of the Pfeil-Mackay feud, beginning in the late 1960s with Bob Pfeil's opposition to the marriage of Mackay and Pfeil's sister Muriel.

Animosity flamed in 1976, when Muriel died in a still unsolved car bombing and it burned brightly during years of court fights over Scotty and the management of Muriel's estate.

Mackay was obsessed, Gruenstein said, and the obsession got worse over the years, not better. He feared Pfeil would kidnap Scotty. He feared Pfeil would poison Scotty's mind against him with suspicions about who was responsible for Muriel Pfeil's death. Bob Pfeil believed Mackay was.

Mackay hated the fact that Pfeil controlled Scotty's inheritance and would one day be an influential person in Scotty's life because of it, said Gruenstein.

"It gnawed on him and gnawed on him."

Papers from 10 years of legal battles over all these years littered every surface in the apartment Mackay and Scotty shared. Although the son of a millionaire, Scotty had no bed of his own because Mackay turned the boy's bedroom into an office, Gruenstein said. Scotty had nowhere to eat dinner, because Mackay's legal papers covered the dining room table.

Instead, Scotty "has to clear a corner of the coffee table in the living room to eat the food a neighbor has brought," he said.

Because of his father's obsession, Scotty "doesn't know whether his own grandmother is alive. . . . It's a heart-rending image when you stop to think about it."

"The motive in this case is as powerful as evidence can ever be," Gruenstein said.

Anticipating a direct attack by the defense on the credibility of the state's main witness, Pauole, Gruenstein said Pauole was no friend to the state.

No one's asking jurors to believe Pauole "because he is



Fairbanks Daily News-Miner/Charles Mason  
**Peter Gruenstein**



a fine human being," he said. Pauole came into court a confessed murderer. He should be believed because other evidence corroborates his story.

He dismissed defense suggestions that Pauole fingered Mackay in order to get a deal — 20 years maximum in prison. Pauole would have gotten the same deal no matter who he named as the principal in the conspiracy, as long as he had proof he was telling the truth, such as the phone tapes.

"The State of Alaska entered into an agreement with Junior Pauole because it had to," said Gruenstein. "Neil Mackay associated with Junior Pauole because he wanted to, because he chose to."

When the defense starts pounding on Pauole in their closing, said Gruenstein, jurors should remind themselves that Pauole was Mackay's friend, associate, tenant, a man Mackay sent his son's report card to.

The defense is trying to put Pauole on trial in place of their client, Gruenstein said. "Neil Mackay is the issue in this trial and all the evidence points in one direction. It points to Neil Mackay."

## MARIANNE PFEIL: FACING HER FAMILY'S PAST



Anchorage Daily News/Erik Hill

Marianne Pfeil walks from the Anchorage airport terminal after returning from a day at the trial of Nell Mackay in Fairbanks.

# Widow says she must see it through

By **SHEILA TOOMEY**

Daily News reporter

**F**AIRBANKS — Most mornings Marianne Pfeil leaves her home by 6:30 and drives to Anchorage International Airport, where she boards an Alaska Airlines flight for one more trip into the past.

Flight #89 takes her to Fairbanks, where her former brother-in-law is on trial, charged with murdering her husband. "This is my life on stage up there, my family. I have to finish it."

In Courtroom D, on the second floor of the state courthouse, she takes a seat in the darkened spectator section and settles down for another day of *The State of Alaska vs. Neil Mackay*.

Mackay is accused of paying an Anchorage nightclub owner \$10,000 to have her husband, Robert Pfeil, killed. Pfeil was shot by a gunman on Oct. 12, 1985 and died a month later.

Despite talk of gangsters and drug dealers, of strip joints and snitches, which has dominated large parts of the testimony so far, this trial is essentially a family affair.

In addition to the murder charged, Mackay is suspected by some, including Marianne, of arranging the death in 1976 of his ex-wife, Muriel Pfeil Mackay, Robert's sister. Both sides say the two killings are linked, so there has been testimony about Muriel's death, about her nasty divorce from Neil in

1975, about the bitter battle after he death over custody of her son, Scotty.

Bob and Muriel's mother has testified. She's 87 now. Mackay's sister has taken the stand. They became estranged during the custody fight. Scotty, now 14, has testified; the woman now reportedly taking care of him is Mackay's first wife, Barbara Homay.

It's a family affair. Marianne Pfeil sits and listens, five hours a day, to her family's bloody linen being washed in public. She says she cannot stay away. She says she can't step forward into her future until the past is done.

"There was one day I felt like

See Back Page, **MARIANNE**

# MARIANNE PFEIL: She takes a daily flight to the trial so she can put the past to rest

Continued from Page A-1

screaming. . . There was a day when they talked about me. I thought, 'If they don't stop, I'm going to scream.'"

Using a pass given to her by Alaska Airlines, her husband's employer for nearly 30 years, Pfeil commutes to Fairbanks each day the trial is in session. She hasn't missed a day since opening statements began, on Feb. 10.

"Yes, I'm tired," she admits. "It's getting to me a little bit, the immenseness of it all. And springtime, I think, being alone in springtime. It just hits you all of a sudden. . . This is going to be over and I'm going to be alone for the rest of my life."

Most days Pfeil sits on a front row bench no more than 10 feet behind Mackay. They never speak, but she studies him during the long hours of repetitious questioning and mind-numbing legal arguments. She can describe his nervous mannerisms and tries to figure out what he's reading or writing.

"He smiled at me once," she said. "I wondered why."

She did not smile back.

The people who carried out the killing of her husband have all been tried and convicted. But this trial is different, said Pfeil. "This is the only one that matters to me. The others, they never wanted to hurt me. . . This is the one."

In some ways Mackay's trial, with all its unhappy memories, is easier than the ones that went before. Then she was hearing for the first time how killers stalked her family, watched her home, how her husband died.

"I'm not shocked any more," she said. "Last spring was worse."

Last spring, at the trial of Larry Gentry, Pfeil rarely spoke. She sat alone most of the time and sometimes reacted emotionally to what she heard. But another year has passed and mourning is not a natural state for her. Her ebullient personality is reasserting itself.

Now she asks questions and expresses definite opinions about the witnesses and what they say. She is a woman of definite opinions. She is also friendly, often chatting with witnesses and other spectators in and outside the courtroom. She brings extra copies of the morning paper up from Anchorage each day and shares candy bars. Once she baked Swedish almond tarts for the prosecutors and the people who sit nearby.

Right behind Pfeil, in the second row of seats, sits Norma Gentry, mother of Larry Gentry, who is now serving 25 years in prison for helping to plan Bob Pfeil's death. Mrs. Gentry is also in the courtroom every day.



A wedding day photo Marianne Pfeil carries in her purse: From left are Robert Pfeil, Marianne, Muriel Pfeil Mackay and Neil Mackay, and Muriel C. Pfeil.

Norma Gentry has moved to Fairbanks temporarily so she can attend the trial and listen for something that might help her son. She takes notes for his appeal.

At Larry Gentry's trial in Anchorage last year, Marianne and Norma kept their distance from each other, sitting across the aisle in a much larger courtroom, each wrapped in her own grief. But it's hard to get very far away from anyone in Courtroom D, so Norma and Marianne have struck up a friendly relationship. Both 53 years old and bereft of someone they love, the two women have accepted that neither is responsible for what happened.

"I understand why she's here," said Pfeil. "I can see her plight. . . I don't have any bad feelings toward her. She's a nice, friendly lady. I'm sure she tried the best she could. Don't you know how kids go out and find drugs? It can

happen to anyone. I feel sorry."

Norma Gentry believes her son was wrongfully convicted, so the two women avoid the subject when talking to each other.

Pfeil is Swedish and speaks with a Swedish accent. She is an attractive woman who is always well-coiffed and dressed in expensive clothes that she insists she buys on sale. She was a stewardess for SAS when she married Bob Pfeil, about six weeks after they met.

Pfeil looks a little sheepish admitting this.

"We didn't know each other very much," she said, "but I knew right away he was the one I wanted to marry. I always said that he bought a pig in a sack but . . . our marriage got better and better."

She carries a snapshot in her purse; it was taken outside the church the day she and Bob got married. In the picture Marianne hugs Bob's arm while he grins. Next to the happy couple stand the best man and the maid of honor, Neil Mackay and Muriel Pfeil. Grandma's there, too. Marianne takes the picture out once in a while and shows it to people.

The daily schedule is killing, but it's not the airborne commute that's tiring, just the length of the day.

"I used to make two, three trips a day like this when I was flying to Paris and London. I'm not more tired because I'm flying." The flight takes less than an hour.

In Fairbanks, the trial usually recesses by 1:30. Pfeil catches a 4 p.m. flight back to Anchorage. It gets in at about 5 and she goes directly from the airport to a two-hour aerobics class at the Captain Cook.

"That helps me. . . After that class, I feel refreshed. . . Then I sit in the Jacuzzi and listen to lawyers talk."

She is home by 8:30 p.m. and should be in bed by 11 but rarely makes it. It's hard to go to bed that early, she says, especially in the springtime.

Pfeil says she is not bitter and that seems to be true. But sitting through the trial every day is more than just an existential exercise, or a way to mourn or an effort to postpone the future. Pfeil believes Mackay is guilty and she wants to see him convicted.

"Of course it matters what the verdict is," she said in answer to a question. ". . . We can maybe see Scotty again. Wouldn't that be nice? Grandma, she says, 'I just hope I can see Scotty once before I die.'"

Yes, the verdict matters.

"However it goes," said Pfeil, "it will be easier for her to accept 'if I see how the system works. . . how hard the prosecution works."

"No," she says, "I couldn't possibly stay away."

# Anchorage Daily News

PAGES

ANCHORAGE, ALASKA, TUESDAY, MAY 20, 1988

PRICE 25 CENTS

## Salvage yard explosion hurts 2



Anchorage Daily News/Ena Hill

Anchorage firefighters hose down automobile after the explosion.

### Officials suspect bomb rigged to car's ignition

By LARRY CAMPBELL  
Daily News reporter

An auto salvage yard owner and one of his employees were severely injured Monday afternoon when an explosion ripped through the owner's car parked outside his midtown business.

Anchorage police said Andy Twogood, 42, was undergoing surgery and was listed in critical condition Monday night at Providence Hospital. Fred Newbauer, 38, was listed in serious condition at Providence.

Police, city fire department arson investigators and the federal Bureau of Alcohol, Tobacco and Firearms suspect a bomb — rigged to detonate through the ignition switch — may have been planted in the car. Authorities have not ruled out the possibility that the blast also could have been caused by fumes leaking from a gasoline can found later inside the burned car.

The explosion occurred about 1:45 p.m. in front of ABC Auto Recycling, 5705 Old Seward Highway. The car was parked straddling the sidewalk next to the highway's northbound lanes and had been there for perhaps two hours, said a salvage yard employee.

The blast created a fire that quickly

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## BLAST: Automobile explosion at Anchorage salvage yard injures 2 men

Continued from Page A-1

engulfed Twogood's 1973 Oldsmobile station wagon, blew open its engine hood and punched outward the car's roof over the driver's seat.

Police closed the highway between Tudor and Dowling roads for about six hours. They cordoned off the area about 50 yards north and south of the blast, where shards of glass were scattered.

Police on Monday began questioning employees and business associates, searching for a motive in the suspected bombing.

ABC employee Warren Troxel said Twogood and Newbauer were supposed to be going to pick up parts for one of the company's fork lifts. Investigators believe the explosion was sparked when Twogood turned his ignition key.

Gil Vandermark was working at Alaska Fastener and Tool Supply directly across the street when the blast went off.

"It sounded like a 747 landing on the building," Vandermark said. "It shook the building hard."

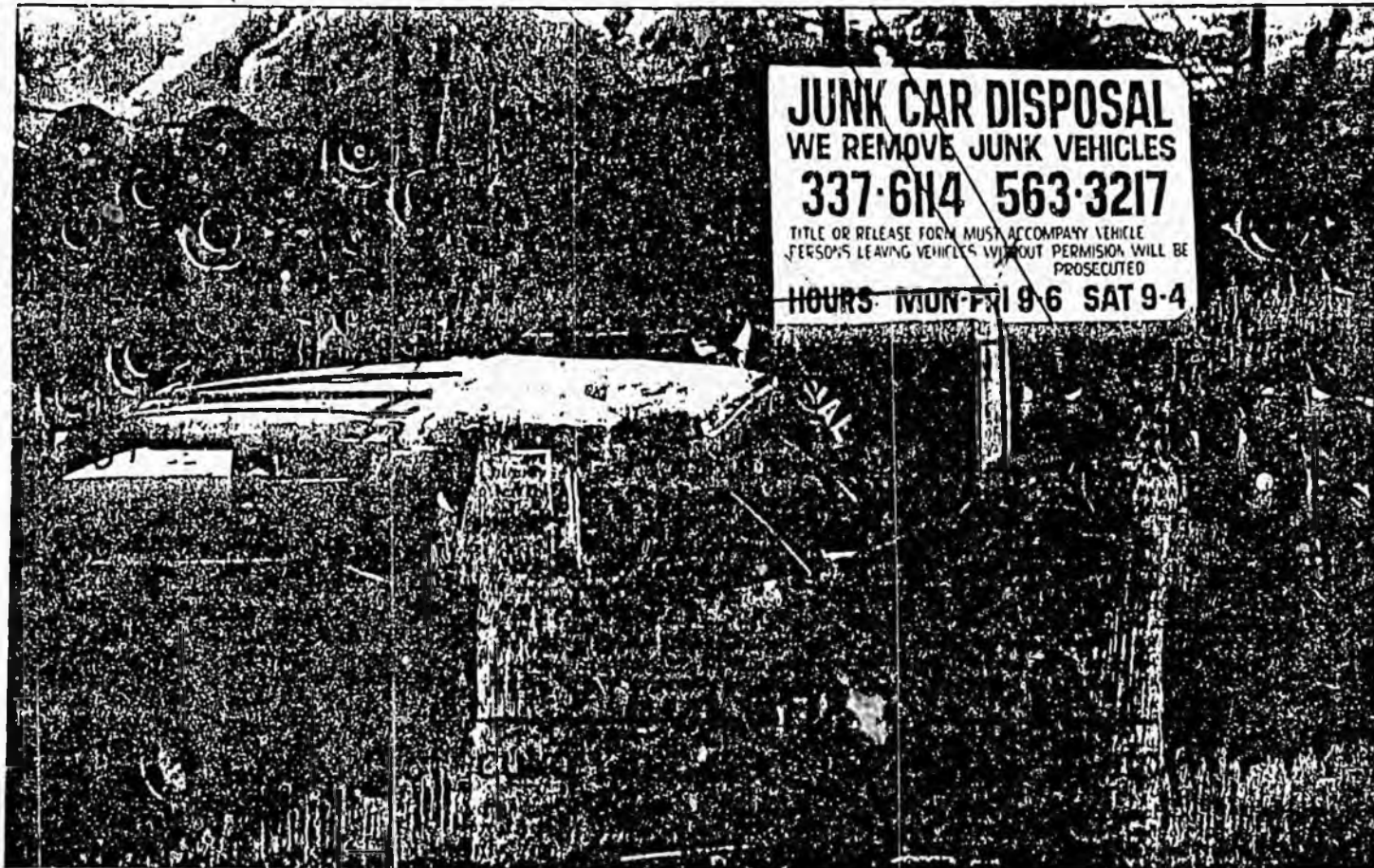
Terry Akins and Darin Allen said they saw the explosion while driving by.

"I saw him (Twogood) open the driver's door and it just exploded," Akins said.

"The blast just came straight out — Boom," Allen said.

Another witness, Rex Feil, was sitting at his desk at National Supply Company, also across the street.

"The one guy (Newbauer) half-jumped and was half-thrown out of the passenger's side," Feil said. "And I remember this white smoke when it exploded. It threw the windshield way down the street, and shattered glass hit windows all the way over here."



Larry Arend, Anchorage Police Department homicide investigator, looks over the remains of car after explosion.

Anchorage Daily News/Erk Hill

Immediately after the blast, the critically injured Twogood was on his hands and knees trying to crawl away from the flaming wreckage, said Jerry Kennitz, who was near the salvage yard's office.

"He come to about here and just collapsed," Kennitz said, pointing to a spot in the dirt about 10 yards from the

car. "His face was all bloody. He looked like he'd gotten the worst of it."

Witnesses said Newbauer, who had been sitting in the car's front passenger seat, emerged with his left arm seriously slashed and bleeding.

"Fred came in here and we had a hard time ever getting him to sit down," Troxel said.

"He just kept saying, 'They ain't gonna cut my damn arm off.'"

The police bomb squad examined the charred car with a robot first to ensure there was nothing left to blow up before sifting for evidence by hand.

Twogood is new to Anchorage, having built his career in auto salvage in Fairbanks. He

still owns a car rental business in Fairbanks.

He bought the ABC salvage and used parts yard in Anchorage April 15 from former owners, Rod and Sheila Lewis. The Lewises still own a towing business in South Anchorage.

"I think he came down here because things are a little tight in Fairbanks, and he

was a good opportunity to expand," Sheila Lewis said Monday.

For the past six months, he has leased his Fairbanks salvage yard business to new operators. Fairbanks police last Friday served search warrants on his tenants and found remains of recently stolen vehicles, apparently stripped for parts.

## Explosion victim still in critical condition

By LARRY CAMPBELL  
Daily News reporter

An Anchorage auto salvage dealer remained in critical condition Tuesday from injuries suffered when his car exploded outside his business Monday afternoon.

Andy Twogood, 42, owner of ABC Auto Recycling, 5705 Old Seward Highway, suffered massive burns and internal injuries when what authorities believe was an explosive device ripped through his 1973 Oldsmobile station wagon, parked outside his salvage yard.

Also injured in the explosion was Fred Newbauer, 38. Newbauer was sitting in the passenger seat of the car and suffered burns and extensive injuries to his left arm. He was reported in fair condition Tuesday at Providence Hospital.

The blast at about 1:45 p.m. shook brick buildings across the street and blew shards of glass, including the car's entire windshield 50 to 60 yards in all directions.

Anchorage Fire Department arson investigators, police and federal Alcohol, Tobacco and Firearms investigators were still looking for answers to the apparent intentional bombing Tuesday. Part of the search included short interviews with the victims.

"We got a little bit more from them today," arson investigator Pat Patterson said Tuesday. "It's especially hard for Twogood. He has to answer with head movements, hand movements, and hand writing."

"Right now, we're still looking for the how and the why."

Twogood is a former Fairbanks auto salvage yard owner who bought the ABC yard last month.

Anchorage authorities are still looking for additional witnesses, and are asking anyone with information to call police of the Arson Hotline, 522-3473.

## Pathologist testifies at trial

The Associated Press

JUNEAU — An Oregon pathologist told a jury Wednesday that a woman accused of failing to get medical help for her dying son should have known something was seriously wrong with the child before his death.

Natalie Iris Pinkerton, 22, is charged with criminally negligent homicide in the death of her 20-month-old son, Richard A. Johnson. The boy died Easter Sunday 1986 after being hit.

Dr. William Brady, who performed an autopsy on the child, told the jury the injury that killed the boy is common in cases of child abuse. Peter Paulo, Pinkerton's live-in boyfriend, has pleaded no contest to a charge of criminally negligent homicide in the death.

Prosecutor Rick Svobodny has claimed Paulo hit the child in the abdomen hard enough to drive his intestine into the spine. The intestine

ruptured, causing a massive infection and the child's death, he said.

"A 20-month-old child would have been crying and wailing quite obviously" from the extreme pain caused by the developing internal infection, Brady said.

In addition, Brady said the youngster probably went into shock and became unconscious. The doctor said somebody who knew the child would be able to tell the difference between unconsciousness and sleep.

Brady told the jury the boy's life could have been saved had he been brought to a doctor earlier.

Prosecutors claim Paulo struck the boy while Pinkerton was out of the home at garage sales.

Brady described old bruises on the child's head. Svobodny during several court hearings has charged that Pinkerton lied about injuries Paulo inflicted on the child.



Marie and David Rothenberg

The Associated Press

## Burned boy wants dad kept in prison

'Write this down: I don't want him getting out, because I'm afraid he'll hurt me ...'

By NANCY WRIDE  
Los Angeles Times

FULLERTON, Calif. — David Rothenberg is bound for "the Pipeline," an acre of concrete craters where hordes of teen-age boys flock every day to ride, "tube" and "shred" the walls on skateboards. The most famous burn victim in America and his driver are temporarily lost on a freeway.

"Uh, I think we passed it," David mutters in that aren't-adults-dumb-sometimes tone that 11-year-olds have.

During a detour for directions at a convenience store, the sixth-grader creates a stir of double-takes as he buys a soda, a scene that, by now, he shrugs off. The only skateboard park in California, however, is another matter.

It's like being the new kid on the block all over again at this mecca of male bonding and competition, in Upland, Calif., 20 miles northeast of Fullerton. With his scarred arms, legs and face and special leather protective gear, he stands out from the bare-chested, sweating boys hot-dogging on the face of the cement walls.

He nevertheless tackles a couple of beginner bowls as other kids gawk and whisper, wondering what has happened to this boy. Though tentative, David holds his own and earns some appreciative gazes for, as one boy curiously remarked, "going for it."

Declaring the day his best in a year, he vows to return.

The gloss, after five years, has worn off the celebrity status bestowed upon the little New

York boy, set afire by his father March 3, 1983, and scarred beyond recognition — the comeback kid heralded in front-page headlines, the 6-year-old who battled back from near-fatal burns and captured America's heart with his determination to live.

After months of surgeries to graft skin on the third-degree burns that ravaged 90 percent of his body — first at University of California, Irvine, Medical Center and later at the Shriners Burn Institute in Boston — David triumphantly returned home to his mother's Brooklyn brownstone, where he was greeted by more than 1,000 people who had filled the streets, waving streamers and banners.

He went back to grade school. He was the

See Page F-7, APRAID

## AFRAID OF FUTURE: Burned boy wants his father kept behind prison bars

Continued from Page F-1

campus champ, the boy to befriend, even after he and his mother, Marie Rothenberg, began a new life in Fullerton with a friendlier climate and closer proximity to his plastic surgeon.

But the boy whose triumphs have inspired burn victims nationally is now on the verge of adolescence. And sometimes, he says with a sigh, just growing up is "hard."

A new chapter in this story of a jealousy-consumed father who used his most powerful weapon to hurt the wife who divorced him has thrown an undertow of terror into their otherwise stable routines.

The man who forever changed their lives with a 2 1/2-gallon jug of kerosene and a match, Charles David Rothenberg, is scheduled to be paroled less than two years from now. He has announced in an interview with the Los Angeles Times that he intends to move to Whittier, Calif., 20 minutes away from the boy and his mother.

It doesn't seem fair, Marie Rothenberg says, her eyes filling with tears, that impending adulthood will impose its own brand of sentencing on David while his father will be free Dec. 11, 1989.

"Write this down," David says. "I don't want him getting out, because I'm afraid he'll hurt me. . . . I never want to see him again."

While the fire propelled the family into the public's attention, the tragedy probably began a generation ago. Neither parent had "Father Knows Best" upbringings, and their son would not either.

Marie Siderowicz grew up in Pennsylvania with eight brothers and sisters. Their mother was an alcoholic. The parents divorced. The mother abused her children, so they were taken from her and given to their father. They had a stepmother who "invented the word wicked," Marie said. Of her family life, she said, "It was hard."

Rothenberg claims to have been born to a prostitute who deposited him at an orphanage in the Bronx, where she periodically visited him. This was more painful than not having a mother at all, he said, because it left no question for the other children and himself that he was unwanted.

By all accounts, Rothenberg was still a doting and nurturing father. "He was always a good provider, a good father," Marie Rothenberg now says. "I never doubted he loved Davey."

Charles bought most or all of the boy's clothes and offered what child support money he could afford from his wages as a cab driver or waiter. He walked his son to and from school almost every day, sometimes carrying him in his arms.

But there was a troubling side to Charles Rothenberg.

He had a criminal record before he was 18. The most serious of his crimes was an attempted armed robbery, for which he was arrested and jailed. Marie, who married Rothenberg in February, 1975, at the age of 25, divorced him in 1978 while he was serving a prison sentence for check forgery.

She never brought David to see his father during that 2-year period, theorizing that the boy was too young to understand and could be told when he was older. But Rothenberg would never forgive her for that.

Police theorized that that may explain, in part, why Rothenberg — who was charged in a warrant with vandalizing and embezzling money from the Manhattan restaurant for which he worked, and who knew Manhattan detectives were after him — decided to take his son with him when he fled New York late that February of 1983.

Rothenberg had picked up his son for what was to have been a week-long stay, first at his home down the street from Marie's and later in the Catskills.

After several days, Marie Rothenberg, unable to reach her son by phone, learned from one of his classmates that David had not been in school all week.

Toward the end of that week, Rothenberg telephoned Marie from Buena Park, Calif. He said that they were at a farm in upstate New York, assured her that David was fine but said that he needed to spend more time with the boy.

Marie, who suspected they were in California because Rothenberg slipped and referred to the time difference, angrily told him that he had no right to keep their son longer than planned and that he would never see his son once they returned to Brooklyn. That pivotal conversation, both parents agree, was to be the trigger for the tragedy.

That same day, father and son went together to a hardware store, where Rothenberg paid \$8.47 for a plastic bottle of kerosene.

The following day, they checked out of a Holiday Inn, where the clerk remembered Rothenberg telling her his son had a terminal disease, "and that he didn't have long to live." It was the morning of March 2.

Before noon, they checked into Room 139 of the nearby Travelodge, where a desk clerk recalled what a striking pair the darkly handsome man and his look-alike son were — and so obviously devoted to each other. David had even been allowed to choose the room that had the waterbed he wanted.

Around midnight, with the help of a pill from his father, David Rothenberg lay sleeping in his underwear and a T-shirt.

The kerosene had been poured around the bedspread and a match was lit within three feet of the door, which was then closed. A motel guest told police that from her second-floor room she saw a man stoop down as though picking up something, and then he shut the motel room door, climbed into his white car and sped off.

When he was halfway to the boulevard, there was an explosion. Room 139's window blew out, and motel guests remember hearing screams and sobs coming from behind the wall of flames.

Rothenberg was arrested at a San Francisco YMCA a week after the fire. He confessed to police and reporters that he tried to kill his son because he had decided, "If I can't have him, nobody can." He steadfastly refused to consider the possibility of an insanity plea and was given the maximum sentence at the time, 13 years, by a judge who later wept in his chambers.

Rothenberg is now in Soledad State Prison, surrounded by the Gablan Mountains in the Salinas Valley, right off U.S. 101.

There are 5,500 inmates there, about 200 of them, like Rothenberg, housed in protective custody. That is where inmates who have committed particularly heinous crimes are kept for their own safety.

The father who set his son afire lives in the same cellblock as Sirhan B. Sirhan, the man who killed Robert F. Kennedy, and mass murderer Juan Corona.

He said he agreed to an interview in hopes that he will receive "help in reaching my son" in a reunion that "could ultimately help David."

He admitted, however, that nothing really prevents him from corresponding with his boy, other than the difficulty in finding words for his guilt and regret.

Rothenberg, without hesitation, calls the fire "the act," "the tragedy" or "this situation" or "what happened." He says he will never forgive himself and expects that most others will not either. In fact, he realizes that David and his mother "are probably very angry at me. I mean, look what I've done."

Rothenberg answered almost every question except the one that mattered most, the one that won't go away, the question that even his fellow inmates ask him: Why?

He described what he was thinking in the hours before the fire, but he did not explain why a man afraid of losing the most important person in his life would try to kill him. Each time he was asked, he brought up his former wife.

"It's hard, it's ... it's difficult, you know? God, I don't know ...," Rothenberg said. "It had a lot to do with that phone call with Marie. ... the way I was treated. I was an angry person. I wasn't angry with my son. ... My problem was, I'm sorry I took it out on my own kid. ... Marie, I'm not trying to justify my act, but ... I was mad at Marie and took it out on the wrong person."

He remembers kissing his son goodbye before torching him, and said: "I wish I would have died with him. Actually, I feel like a coward; I feel like I should've died."

Once he is released, he said, he is not sure what he will do beyond getting a job, and he doesn't know what that would be.

"I have no idea," he said, running his hands through his hair.

Does he think he can resist the urge to see his son, the single purpose he said he has for living, especially if he lives nearby?

"I've come to the conclusion that it's up to Marie and my boy" whether there will be a father-son reunion, Rothenberg said. "It must be devastating for her (as a parent) like it is for myself ... because people are very, very cruel out there.

"But I don't plan — and make it clear — I don't plan to hurt anybody. God, no!"

Psychologists and experts in child murder and abuse say it is difficult to find common denominators among parents who harm or kill their offspring, although it is not as unusual as one might think. Frequently, the specialists say, the parent has low self-esteem, was himself socially isolated, neglected or abused as a child, and feels a lack of control about his or her life.

But there are also parents who have been tortured terribly by their own families who never hurt anyone.

Under determinant sentencing laws, 13 years was the maximum penalty Orange County Superior Court Judge James Franks could give Rothenberg for one count of attempted murder and two counts of arson that included great bodily injury. Public outrage over cases in which victims have been disfigured but survived attempted murders, as in the cases of Rothenberg and Lawrence Singleton, who hacked off the forearms of a teen-age girl in Northern California, have resulted in increases by state lawmakers in prison time for virtually all serious felonies.

The work-incentive law allows prisoners one day off for every day they work or participate in an education program, up to half their sentence. That means that if Rothenberg continues to be a model prisoner, he will have been imprisoned 6½ years for his crimes.

There is not a lot of elaboration about emotions at the age of 11, when hugging your mother in public is considered "gross." Occasionally David shares a glimpse. In a school paper on the subject — "If You Could Change Anything in the World, What Would It Be?" — David wrote: "I would change the way people feel about me."

Though in most respects a typical 11-year-old — he turns 12 in June — David is poised beyond his years, a byproduct of exposure to grown-ups and the media and grappling with a tragedy that adults would struggle with. During the trip to the skateboard park, he manned the tape recorder, moving it from his mouth to the driver's like a reporter.

His defense on some subjects is yes-no answers, but he thinks questions through and then responds thoughtfully, speaking clearly. When the topic is his father, he frequently spits out the sentences bitterly.

He loved his dad, he said simply. They had so much fun together. "I was so excited about going to Disneyland with him," he said. It rained much of that week in March, 1983, but it didn't spoil their good time. Father and son went to the Magic Kingdom twice, played video games and pinball and stuff and, um, my dad played a lot of racquetball," David said.

His father, whom he now calls "crazy," seemed normal, if a bit nervous.

"But then, that night he was like, really weird. He kept repeating himself."

Most of the rest of that night has apparently been blocked from his memory. Despite the sleeping pill he said his father told him was aspirin, David woke up as the fire licked at the edges of the bed. "I woke up and the gas got to me, and I just collapsed right at the door," he said.

David, told that his father has said he still doesn't know why he burned his son, is very sorry and believes a reunion will help them both, reacts strongly, his voice becoming loud. "I think he's lying! About being sorry and wanting to see me! I think he's crazy and, you know," he said, lifting the tape recorder to his mouth, "I don't want to see him again!"

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

	FIRST FELONY	SECOND FELONY	THIRD FELONY
Sexual Assault in the First Degree; Sexual Abuse of a Minor in the First Degree	4-[8]-30 5-[10]*-30	7½-[15]-30	12½-[25]-30
"A" Felony	2½-[5]-20 3½-[7]**-20	5-[10]-20	7½-[15]-20
"B" Felony	0-10***	0-[4]-10	3-[6]-10
"C" Felony	0-5***	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder, Kidnapping,  
Sexual Assault I,  
Misconduct Invol-  
ving Controlled  
Substance I - \$75,000  
A, B, or C Felony - \$50,000  
A misdemeanor - \$ 5,000  
B misdemeanor - \$ 1,000  
Violation - \$ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - \$100,000 or  
3 X pecuniary gain -  
whichever is greater

MAXIMUM TERM OF IMPRISONMENT  
FOR MISDEMEANORS

A misdemeanor - 1 year  
B misdemeanor - 90 days

SENTENCES FOR  
UNCLASSIFIED FELONIES

Murder I: 20-99 years  
Murder II, Kidnapping,  
Misconduct Invol-  
ving Controlled  
Substance I: 5-99 years

KEY

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

- \* Ten year presumptive term applies if defendant possessed a firearm, used a dangerous instrument or caused serious physical injury.
- \*\* Seven year presumptive term applies if first A felony conviction, other than manslaughter, and defendant possessed a firearm, used a dangerous instrument or caused serious physical injury or directed offense at peace officer or other emergency responder.
- \*\*\* Presumptive sentencing may apply if offense directed at peace officer or other emergency responder.

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree  
AS 11.41.100  
20-99 years

Murder in the Second Degree  
AS 11.41.110  
5-99 years

Sexual Assault I  
AS 11.41.410  
Maximum of 30 years

Kidnapping  
AS 11.41.300  
5-99 years

Sexual Abuse of a Minor I  
AS 11.41.434  
Maximum of 30 years

Misconduct Involving a  
Controlled Substance I  
AS 11.71.010  
5-99 years

CLASSIFIED FELONIES

5-2

A	B	C
Attempted Unclassified Felony AS 11.31.100 (d) (1)	Attempted A Felony AS 11.31.100 (d) (2)	Attempted B Felony AS 11.31.100 (d) (3)
Solicitation of Unclassified Felony AS 11.31.110 (c) (1)	Solicitation of A Felony AS 11.31.110 (c) (2)	Solicitation of B Felony AS 11.31.110 (c) (3)
Manslaughter AS 11.41.120	Assault II AS 11.41.210	Criminally Negligent Homicide AS 11.41.130
Assault I AS 11.41.200	Sexual Assault II AS 11.41.420	Assault III AS 11.41.220
	Sexual Abuse of a Minor II AS 11.41.436	Custodial Interference I AS 11.41.320
Robbery I AS 11.41.500	Unlawful Exploitation of a Minor	Sexual Abuse of a Minor III AS 11.41.220

	Sexual Abuse of a Minor II AS 11.41.436	Sexual Abuse of a Minor III AS 11.41.320
Robbery I AS 11.41.500	Unlawful Exploitation of a Minor AS 11.41.436	Sexual Abuse of a Minor III AS 11.41.220
Arson I AS 11.46.400	Robbery II AS 11.41.510	Incest AS 11.41.450
Escape I AS 11.56.300	Extortion AS 11.41.520	Coercion AS 11.41.530
Promoting Prostitution I AS 11.66.110(a)(2)	Theft I AS 11.46.120	Theft II AS 11.46.130
Criminal Possession of Explosives with Intent to Commit Murder or Kidnapping AS 11.61.240(b)(1)	Issuing a Bad Check, \$25,000 or more AS 11.46.280(d)(1)	Concealment of Merchandise, \$500 or more AS 11.46.220(c)(1)
Misconduct Involving Con- trolled Substance II AS 11.71.020	Burglary I AS 11.46.300	Removal of Identification Marks, \$500 or more AS 11.46.260(b)(1)
	Arson II AS 11.46.410	Unlawful Possession (of Altered Property), \$500 or more AS 11.46.270(b)(1)
	Criminal Mischief I AS 11.46.480	Issuing a Bad Check, \$500 or more AS 11.46.280(d)(2)
	Forgery I AS 11.46.500	Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285(b)(1)
	Scheme to Defraud AS 11.46.600	Obtaining a Credit Card by Fraudulent Means AS 11.46.290(a)(1), (2)
	Defrauding Creditors, \$25,000 or more AS 11.46.730(c)(1)	Burglary II AS 11.46.310
	Bribery AS 11.56.100	Criminal Mischief II AS 11.46.482

	<p>Criminal Mischief I AS 11.46.480</p> <p>Forgery I AS 11.46.500</p>	<p>AS 11.46.270 (b) (1)</p> <p>Issuing a Bad Check, \$500 or more AS 11.46.280 (d) (2)</p> <p>Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285 (b) (1)</p>
	<p><sup>1)</sup> Scheme to Defraud AS 11.46.600</p> <p>Defrauding Creditors, \$25,000 or more AS 11.46.730 (c) (1)</p> <p>Bribery AS 11.56.100</p> <p>Receiving a Bribe AS 11.56.110</p> <p>Perjury AS 11.56.200</p> <p>Escape II AS 11.56.310</p> <p>Interference with Official Proceedings AS 11.56.510</p> <p>Receiving a Bribe by a Witness or Juror AS 11.56.520</p> <p>Criminal Possession of Explosives with Intent to Commit a Felony AS 11.61.240 (b) (2)</p> <p>Promoting Prostitution I AS 11.66.110 (a) (1) and (3)</p>	<p>Obtaining a Credit Card by Fraudulent Means AS 11.46.290 (a) (1), (2)</p> <p>Burglary II AS 11.46.310</p> <p>Criminal Mischief II AS 11.46.482</p> <p>Forgery II AS 11.46.505</p> <p>Criminal Possession of Forgery Device AS 11.46.520</p> <p>Criminal Simulation \$500 or more AS 11.46.530 (b) (1)</p> <p>Tampering with a Witness I AS 11.56.540</p> <p>Offering a False Instrument for Recording AS 11.46.550</p> <p>Misapplication of Property \$500 or more AS 11.46.620</p> <p>Falsifying Business Records AS 11.46.630</p>