

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5723 HOUSE JUDICIARY 127

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1986 NOME ASAP OVERVIEW

NEW CASES

90 new cases were added in 1986. This represented a 31% decrease from 1985. There were three NASAP Coordinators in 1986 and this personnel turnover may have negatively affected the number of NASAP referrals.

72 screenings were completed in 1986. This represented a 37% decrease from 1985. 24 cases were handled for management only (no screening was required). This represented a 26% increase from the previous year. Most of the case management only cases involved incarcerated clients assigned/or recommended corrections counseling by the Nome Court.

11 clients were reassigned to other forms of treatment or back to treatment at agency/client request. For example, a noncompliant client was reassigned to residential from outpatient counseling at the agency's request and clients who successfully completed outpatient counseling were reassigned to aftercare counseling.

NASAP had 30 active cases at the end of 1986. There were 85 active cases at the end of 1985. It should be noted that 22 additional cases were closed in 1986 as compared to 1985. This statistic, along with personnel turnover, may have contributed to the decreased caseload.

REFERRAL SOURCES

58 cases were referred by the Nome Trial Court in 1986. This represented 81% of the total number of cases referred to NASAP by all referral sources. In 1985, 65% of the new cases were referred by the Nome Trial Court.

There were no referrals from other trial courts in 1986. In 1985, 7 cases were referred by other trial courts. The absence of referrals from other courts may be explained by the accessibility of closer ASAPs throughout the state.

3 cases were referred by the Prosecution in 1986. Although 9 cases were referred by the Prosecution in 1985, this just represented a 3% decrease in the total number of new cases referred. The Prosecution cases were referred through the Pretrial Diversion Program. The Diversion Program was inactive during the first quarter of 1986, which may have contributed to a decrease in the total number of cases referred by the Prosecution in 1986.

There was little change in the total number of cases referred by the Defense Attorney in 1986 (13 and 11 for 1985 and 1986, respectively). Due to the decrease in the total number of referrals in 1986, this statistic represented a 4% increase in 1985.

CHARGES

More than half (57%) of the clients referred in 1986 were charged with DWI. This was a 6% increase over 1985. In turn, the 1985 statistic represented a 16.8% increase over 1984 and 1983 statistics. The rising percentages may be a direct result of the increased enforcement of drunk driving statutes by the Nome Police and Alaska State Troopers.

The next most frequent offense among NASAP clients in 1986 was "assault" (21%). The percentage of clients charged with this crime decreased 7% from 1985, although the number of clients charged with assault remained virtually unchanged (14 and 15 for 1985 and 1986, respectively).

The number of clients charged with "minor consuming alcohol" decreased from 16 in 1985 to 1 in 1986. There is no explanation as to why defendants charged with this crime were not referred to NASAP in 1986.

72% of the clients in 1986 had no prior DWI convictions. This percentage was virtually unchanged from the previous year. There was also little change among the percentages of clients with one (1985-15%, 1986-17%), two (1985-6%, 1986-4%), three (1985-3%, 1986-4%), and more (1986-0%, 1985-1%) prior DWI convictions.

CLIENT CHARACTERISTICS

89% of the clients referred to NASAP in 1986 were male and 11% were female. This statistic represented an increase in the percentage of male clients from 1985. 80% of the clients referred to NASAP in 1985 were male and 20% were female.

Almost half (47%) of the clients in 1985 were between the ages of 20 and 29. The next most frequent age group was defendants between the ages of 30 and 39 (26%). The age breakdown has remained fairly stable over the past four years.

As in previous years, most of the NASAP clients in 1986 fell into two race categories: Alaska Native and Caucasian. However, the percentage of Caucasians screened increased from 14% in 1985 to 21% in 1986. Subsequently, the percentage of Alaska Natives screened decreased from 84% in 1985 to 68% in 1986.

52% of the clients screened in 1986 were employed. This represented an 8% decrease from 1985. It should be noted that 1985 marked the first year where the number of employed clients exceeded the number of unemployed clients.

The percentage of clients with under \$5,000 income remained the largest category in income statistics for 1986 (30%). This represented an 11% decrease from 1985. The statistic for the \$10,000-15,000 income category represented a 7% increase from 1985. There was little change in the statistics for the \$20,000+ income categories for the past two years (21% and 19% for 1985 and 1986, respectively).

46% of the NASAP clients screened in 1986 completed high school or earned a GED. 24% did not complete high school or earn a GED. Both of these percentages were the same as those obtained in 1985. However, the number of clients who had earned a college degree increased from 2% in 1985

to 9% in 1986.

63% of the clients in 1986 were single and 11% were married. In 1985, 72% of the clients were single and 14% were married. Subsequently, the 1986 statistics revealed slight increases in the divorced and separated categories.

SCREENING AND DRINKER CLASSIFICATION

77% of the clients screened in 1986 were classified as problem drinkers. This represented a 5% increase from 1985.

The percentage of clients in the presumptive drinker classification remained unchanged from 1985 (8%).

The percentage of clients in the nonproblem drinker classification remained unchanged from 1985 (15%).

EDUCATION AND TREATMENT REFERRALS

The most frequent treatment referral in 1986 was inpatient treatment (26%). This represented a 20% increase from 1985. Although this statistic reflected an increase in the percentage of clients classified as problem drinkers, it also reflected an increase in the number of defendants "assigned" inpatient treatment by the Nome Court. During the past four years, outpatient counseling was the most frequent treatment referral.

The next most frequent treatment referral in 1986 was outpatient counseling (22%). This represented an 11% decrease from 1985. The number of outpatient counseling referrals would have been higher, however, village clients were assigned to complete the NLRC Correspondence Course due to their inability to attend counseling sessions in Nome.

A total of 42% of the clients screened in 1986 were assigned to some type of alcohol education (Alcohol Information School-14%, NLRC Correspondence Course-21%, Alcoholic's Anonymous-7%) as compared to 28% in 1985.

90% of the clients screened in 1986 were assigned to education or treatment. The remaining 10% were referred for evaluation, had pending assignments, were not given an assignment, or referred to an outside agency. 68% of the clients screened in 1985 were assigned to education or treatment. The 1986 statistic represented a 22% increase in education/treatment referrals.

CLIENT MONITORING AND FOLLOW-UP

343 follow-up reports were processed in 1986 (300 satisfactory reports and 51 unsatisfactory reports). This number was significantly down from 1985 and reflected the decreased number of active cases.

188 written reports were filed, 136 letters were sent (61 failure to comply letters), and 142 phone calls were made (31 failure to comply calls). These numbers were significantly up from 1985 and may have reflected communication problems created by personnel turnover in the NASAP office.

The NASAP Coordinators attended 228 court arraignments and 58 change of plea hearings in 1986. The NASAP Coordinators also went to court to testify or be

available to answer questions about an affidavit or screening recommendation in 11 instances during 1986. 13 affidavits were filed in 1986 as compared to 25 in 1985.

ASSIGNMENT COMPLETED/TERMINATED

122 cases were closed in 1986. This represented a 23% increase from 1985. 54% of the cases were closed due successful completion of assignment. This represented a 7% increase from 1985.

APPENDIX

	Past Year	Current Year
<u>CASELOAD SUMMARY</u>		
New Cases Added	129	90
Screenings Completed	113	72
Screenings Transferred	1	3
Case Management Only/No Screening	19	24
Bench Warrant Reassignment to ASAP	--	--
Agency Reassignment by ASAP	29	11
Cases Closed	99	122
Affidavits Filed	25	13
<u>CASELOAD ACTIVITIES</u>		
Total Follow-Up Reports Processed	485	343
Written Reports Filed	112	188
Court Appearances	30	11
Letters Sent	49	136
<u>CLASSIFICATION SUMMARY</u>		
Screenings Completed	113	72
Problem Drinker	83	58
Presumptive Problem Drinker	9	6
Non-Problem Drinker	17	11
Unidentified/Pending	4	0
<u>STAGE OF CASE</u>		
Post Sentence	73	46
Pre-Sentence	19	15
Deferred Prosecution	14	7
Suspended Imposition of Sentence	2	2
Other	5	2

SOURCE OF REQUESTED SCREENING:

<u>Name</u> Court	84	58
Other Trial Courts (Alaska)	7	--
Out-of-State	--	--
Prosecution	9	3
Other (including Defense Attorney)	13	11

<u>CHARGE AT TIME OF ASAP REFERRALS</u>	Past Year	Current Year
City DWI	—	—
State DWI	58	41
Disorderly Conduct	1	—
Mal. Destruction of Property	3	—
Shoplifting/Removal of Merchandise	2	—
Trespass	7	1
Assault	14	15
Reckless Driving (Original Charge)	—	2
Careless Driving (Original Charge)	—	—
Reduced from DWI	—	—
Drunk on Roadway	—	—
Drinking in Public	—	—
Minor Consuming	16	1
Others	10	11
No Charge	2	1
 <u>PRIOR DWI CRIMINAL CONVICTIONS</u>		
No Prior DWI	81	52
One Prior DWI	17	12
Two Prior DWIs	7	3
Three Prior DWIs	3	3
More than Three Prior DWIs	1	—
Information Not Available	4	1

<u>TREATMENT REFERRALS</u>	Past Year	Current Year
Alcohol Information School/Education	7	10
Outpatient Counseling	38	16
Inpatient Treatment	7	19
Correspondence	17	15
Alcoholics Anonymous	8	5
Evaluation	4	4
Assignment Pending	14	3
No Assignment	5	0
Other (Including Village Volunteer Counseling and NASAP Supervision)	13	4

	Past Year	Current Year
<u>CLIENT CHARACTERISTICS</u>		
Sex:		
Male	90	64
Female	23	8
Race:		
Caucasian	16	15
Black	0	0
Native	95	49
Other	0	1
Unknown	2	7
Employment Status:		
Employed	68	27
Unemployed	41	37
Unknown	4	8

CLIENT CHARACTERISTICS CONT.:

	Past Year	Current Year
Age:		
Under 19	3	9
20 - 29.	74	34
30 - 39.	22	19
* 40 - 44.	12	4
44 - 49.		5
** 50 - 59.	12	1
60 and Older		—
 Marital Status:		
Married.	16	8
Divorced	7	4
Separated.	4	4
Widowed.	1	1
Single	81	44
Unknown.	4	11

* past year's figure only includes 40-49

** past year's figure only includes 50 and above

	Past Year	Current Year
<u>CLIENT CHARACTERISTICS CONT.:</u>		
Family Income:		
\$45,000 +		1
\$40,000 - 45,000.		1
\$35,000 - 40,000.		1
\$30,000 - 35,000.		3
\$25,000 - 30,000.		3
* \$20,000 - 25,000.	24	5
\$15,000 - 20,000.	10	5
\$10,000 - 15,000.	10	11
\$5,000 - 10,000	19	7
\$5,000 or less.	46	21
Unknown	4	14
Education:		
0-11.	28	17
12 or GED	64	33
12+	14	7
College Degree.	2	7
Unknown	5	8

* past year's figure only includes \$20,000+

KETCHIKAN ALCOHOL SAFETY ACTION PROGRAM

ANNUAL REPORT

1986

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ASAP

JAN 19 1987

KETCHIKAN OVERVIEW

1986 PROGRAM STATISTICS

NEW CASES

During 1986, there were 410 new cases opened, an increase of 20% over 1985. A total of 328 screenings were completed.

REFERRAL SOURCES

This year, reports showed that 100% of all referred cases originated in the Ketchikan District Court. This increase reflects a change in court procedure in the event a case is heard in Craig or another out-lying area. These cases are being referred directly to programs near the city in which they are being heard.

STATE/MUNICIPALITY CASES

In 1986, the City of Ketchikan Police Department made 76 arrests for DWI, while the Alaska State Troopers made 98 similar arrests, for a total of 174 DWI arrests. This reflects a decrease of 30% over last year's DWI arrests.

CHARGE WHEN REFERRED TO KETCHIKAN ASAP

DWI charges made up 47% of the caseload in the Ketchikan ASAP office in 1986. There were 154 other alcohol related charges as compared to 186 in 1985. The DWI charges reflected a 10% decrease in comparison to 1985. The other alcohol related offenses represented 53% of the cases screened in 1986 compared to 57% in 1985.

CLIENT CHARACTERISTICS

PERSONAL CHARACTERISTICS

Approximately 84% of the 328 clients screened in the Ketchikan ASAP office were males and 16% were females. The racial origin consisted of 64% Caucasian, 35% Alaska Native, and 1% Other or Unknown. The highest concentration in the Age Category was found in the 20-29 Group, with 38% of the total falling into this category. The next highest concentration was found in the 19/Under Group, with 77 or 23% falling into this bracket, and the third highest concentration was in the 30-39 Group, with 75 or 22% of the clients screened.

Employment status questionnaires revealed 56% Employed, 42% Unemployed, and 2% Unknown. The number of clients earning between \$5,000 and \$45,000 per year reflected only 29% of the total clients screened while the number of clients earning less than \$5,000 or whose income was unknown represented 71% of the clients screened.

It is this preparer's conclusion that these employment statistics represent or closely parallel the continuing downturn in the economy in and around Ketchikan.

The marital status questionnaire revealed that 20% of the clients screened were married-equal to the 1985 stats, 15% were divorced-a 2% decrease over 1985, 6% were separated or widowed-consistent with last year, and 59% were single-and increase of 2% over last year.

PRIOR CRIMINAL RECORD

Over all the cases screened, 70% of the clients had no prior DWI conviction, 22% had one prior, 7% had two priors, and 1% had three priors. No one screened had more than three. These statistics were parallel to the ones reported in 1985.

SCREENING AND DRINKER CLASSIFICATION

Screenings were completed on 328 cases. Classified according to established procedures, approximately 66% were placed in the Problem or Presumptive Problem category. 34% were in the Non-Problem category.

This compares to 62% in the Problem category in 1985, and 37% in the Non-Problem category in the report.

EDUCATION AND TREATMENT REFERRALS

In keeping with established referral procedures, 111 clients classified as Non-Problem were assigned to Substance Abuse Information School. 158 clients classified as Problem Drinkers were referred to outpatient counseling while 20 were referred to inpatient treatment. The remaining clients were referred to Alcohol Education Correspondence Courses (2), AA (4), further evaluation (9), or other (1). Twenty-three were given no assignment. The majority of the 23 receiving no assignment were assigned to ASAP as a result of Minor Consuming arrests and were in for "Screening Only" at a judge's request.

CLIENT MONITORING AND FOLLOW-UP

In 1986, the Ketchikan ASAP office processed 889 follow-up reports to agencies providing services in the area of treatment. Other than standard forms, 21 written reports were filed. There were 606 letters written to clients to accomplish the desired results, an increase over 1985 but demonstrative of the difficulties encountered with notifying clients who are frequently working out of town and unable to be contacted otherwise. Affidavits were filed for 159 cases in 1986, an increase of 67% over 1985.

ASSIGNMENT COMPLETED/FOLLOW-UP

In 1986, the Ketchikan ASAP office closed 242 cases as successful completions, a 10% decrease from last year. Thirty-five cases were closed because they were opened for "Screening Only" or for other reasons.

KETCHIKAN ALCOHOL SAFETY ACTION PROGRAM

BRIEF SUMMARY

In February of 1986, the Ketchikan ASAP office received an on-site visit by Diana Mulholland of the Anchorage ASAP office. While in Ketchikan, Ms. Mulholland met with Assistant Chief of Police Ben Neff, Public Defender Carmen Gutierrez, State Trooper John Glass, District Court Magistrate Susan E. Thomsen, Area Court Administrator Kristen Carlisle and Assistant District Attorney Mark Ellis. An exit interview was held at Gateway Mental Health Center with GMH Director Wes Terwilliger and Alcohol Program Coordinator Charlie Laub present, as well as Ken Goodrich, ASAP Administrator and GMH Administrative Assistant Ann Graham.

Quarterly reports were distributed April 14, 1986, to the District Attorney's office, District Court, and the City Attorney's office. In that same month, Ken Goodrich gave a presentation to the U. S. Forest Service explaining the function of the Alcohol Safety Action Program.

For a two week period during the month of May, the KASAP office hours were reduced to four hours a day in the absence of the Administrator. Mr. Goodrich was in Anchorage attending the University of Alaska for the Annual School of Alcohol Studies and a subsequent vacation. During that period, Beth Dexter was in charge.

In June of this year, Beth Dexter resigned and was replaced the following month by Kathy Lux. During June, an ASAP Systems Conference was also conducted. Emily McKenzie of the Anchorage ASAP office held the conference. Attending were Ketchikan District Court Magistrate Susan E. Thomsen, District Court Judge G. L. Gucker, Asst. D. A. Steve West, a representative of the City of Ketchikan Police Department Patrick Orten, KADAS Coordinator Charlie Laub, Area Court Administrator Kristen Carlisle, Structured Residential Center Administrator Arlene McCary, K.I.P. Counselor, KADAS Harry Day, KADAS Outpatient Counselor Supervisor Tom Coyne, COHO-Craig Alcohol Program Counselor Dick Puckett, KADAS Board Member James Galley, KASAP Data Coordinator Beth Dexter, a representative of Families in Action Betty Wilson, Public Defender Kevin Callahan, and SOADA representative George Mundel

In November, another on-site visit was conducted by Pat Smith from the Anchorage ASAP office. No major problems were encountered but Ms. Smith gave some guidelines on client flow and suggested we implement a more formal method of reporting from treatment to KASAP on client status. While in Ketchikan, Ms. Smith met with Dan Anslinger of the Ketchikan Police Dept., Assistant D.A. Mark Ellis, John Glass of the Alaska State Troopers, and Judge G. L. Gucker of the Ketchikan District Court.

	Past Year	Current Year
<u>CASELOAD SUMMARY</u>		
New Cases Added	340	410
Screenings Completed	435	328
Screenings Transferred	21	6
Case Management Only/No Screening	0	0
Bench Warrant Reassignment to ASAP	45	14
Agency Reassignment by ASAP	86	35
Cases Closed	271	242
Affidavits Filed	95	159
<u>CASELOAD ACTIVITIES</u>		
Total Follow-Up Reports Processed	710	889
Written Reports Filed	71	21
Court Appearances	104	68
Letters Sent	148	606
<u>CLASSIFICATION SUMMARY</u>		
Screenings Completed	435	328
Problem Drinker	261	206
Presumptive Problem Drinker	8	12
Non-Problem Drinker	164	110
Unidentified/Pending	2	0
<u>STAGE OF CASE</u>		
Post Sentence	308	218
Pre-Sentence	127	104
Deferred Prosecution	0	3
Suspended Imposition of Sentence	0	2
Other	0	0

	Past Year	Current Year
<u>SOURCE OF REQUESTED SCREENING:</u>		
<u>KETCHIKAN Court</u>	433	328
Other Trial Courts (Alaska)	1	0
Out-of-State	1	0
Prosecution	0	0
Other	0	0

CHARGE AT TIME OF ASAP REFERRALS

	Past Year	Current Year
City DWI	72	76
State DWI	177	98
Disorderly Conduct	26	25
Mal. Destruction of Property	1	0
Shoplifting/Removal of Merchandise	0	0
Trespass	12	11
Assault	18	15
Reckless Driving (Original Charge)	3	0
Careless Driving (Original Charge)	0	0
Reduced from DWI	0	0
Drunk on Roadway	0	0
Drinking in Public	0	0
Others	126	103
No Charge	0	0

PRIOR DWI CRIMINAL CONVICTIONS

No Prior DWI	310	227
One Prior DWI	96	73
Two Prior DWIs	21	23
Three Prior DWIs	5	5
More than Three Prior DWIs	1	0
Information Not Available	2	0

TREATMENT REFERRALS

	Past Year	Current Year
Alcohol Information School/Education	136	111
Outpatient Counseling	229	150
Inpatient Treatment	28	20
Correspondence	7	2
Alcoholics Anonymous	6	4
Evaluation	9	9
Assignment Pending	1	0
No Assignment	18	23
Other	1	1

	Past Year	Current Year
<u>CLIENT CHARACTERISTICS</u>		
Sex:		
Male	371	276
Female	64	52
Race:		
Caucasian	300	209
Black	1	0
Native	123	113
Other	10	5
Unknown	1	1
Employment Status:		
Employed	240	183
Unemployed	187	138
Unknown	8	7

	Last Year	Current Year
<u>CLIENT CHARACTERISTICS CONT.:</u>		
Family Income:		
\$45,000 +	11	6
\$40,000 - 45,000.	12	4
\$35,000 - 40,000.	5	3
\$30,000 - 35,000.	20	11
\$25,000 - 30,000.	19	8
\$20,000 - 25,000.	29	14
\$15,000 - 20,000.	24	10
\$10,000 - 15,000.	48	18
\$5,000 - 10,000	58	23
\$5,000 or less.	79	41
Unknown	132	190
Education:		
0-11.	66	76
12 or GED	232	209
12+	41	42
College Degree.	2	1
Unknown	3	0

CLIENT CHARACTERISTICS CONT.:

Past Year

Current Year

Age:

Under 19	80	77
20 - 29.	175	125
30 - 39.	104	75
40 - 44.	32	21
44 - 49.	20	14
50 - 59.	22	12
60 and Older	2	5

Marital Status:

Married.	90	68
Divorced	76	48
Separated.	16	14
Widowed.	4	3
Single	247	195
Unknown.	2	0

SEWARD ASAP
ANNUAL REPORT - 1986

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ASAP
JAN 16 1987

SEWARD ASAP
ANNUAL REPORT - 1986

NEW CASES

A total of one hundred and forty four cases were referred to the Seward ASAP office during 1986. This figure represents a 9 month total rather a 12 month total as the Seward ASAP office was closed for 2 months during the summer due to the absence of the ASAP Administrator for maternity leave. In addition, the Seward District Court did not hold court during the month of December. The referral rate, therefore, averaged 16 new cases per month for 1986.

REFERRAL SOURCES

The main referral source for the Seward ASAP office is the Seward District Court. A few referrals come from other ASAP offices in the state, other trial courts in Alaska, and some are probation referrals that the ASAP office monitors. Ninety nine percent of the referrals are post sentence.

The Seward ASAP office and the Seward District Court continue to coordinate very smoothly. The ASAP office also monitors community work service referrals for the court. Meetings are held on an as-needed basis between the ASAP Administrator and the District Court magistrate and clerk in regards to any policy change or refinements.

CHARGES

Seventy five percent of the cases referred were for DWI charges. Three percent of the charges were for Trespass and Assault, six percent were for Reckless Driving charges (reduced from DWI) and the remaining sixteen percent were Minor Consuming, Disorderly Conduct, and Minor in Possession. Approximately forty nine percent were first offenders.

CLIENT CHARACTERISTICS

Eighty five percent of the clients screened were caucasian. Seventy four percent of these were male clients. The majority of clients were between 30 and 39 years of age and single. Sixty percent were employed, but the average wage earned was \$5,000 per year or less. Fifty six percent of those screened had a high school diploma and twenty seven percent had some college or training beyond the twelfth grade.

SCREENING AND DRINKER CLASSIFICATION

Sixty five percent of the clients screened out as problem drinkers. Thirty two percent were classified as non-problem drinkers, and three percent were unidentified. Forty two percent of the clients had previous DWI offenses.

EDUCATION AND TREATMENT REFERRALS

Twenty seven percent of those screened were referred to Alcohol Information School. Sixty five percent were referred to outpatient counselling and three percent were scheduled for an evaluation by the treatment agency to determine the degree of alcohol abuse.

CLIENT MONITORING AND FOLLOW-UP

538 follow-up reports were processed during 1986. 331 letters were sent out as part of the tracking system, and 78 affidavits were filed with the District Court. 20 cases were monitored for community service assignments for the Court as well.

ASSIGNMENT COMPLETED/TERMINATED

A total of 134 cases were closed by the ASAP office during 1986. Many of these cases were old cases that had been screened by Seward Life Action Council prior to the opening of the ASAP office and had been set up as monitor only by the ASAP administrator.

	Past Year	Current Year
<u>CASELOAD SUMMARY</u>		
New Cases Added	164	144
Screenings Completed	127	85
Screenings Transferred	7	9
Case Management Only/No Screening	37	20
Bench Warrant Reassignment to ASAP	32	16
Agency Reassignment by ASAP	9	3
Cases Closed	89	134
Affidavits Filed	118	78
<u>CASELOAD ACTIVITIES</u>		
Total Follow-Up Reports Processed	656	538
Written Reports Filed	210	340
Court Appearances	19	13
Letters Sent	486	331
<u>CLASSIFICATION SUMMARY</u>		
Screenings Completed	127	85
Problem Drinker	87	53
Presumptive Problem Drinker	6	2
Non Problem Drinker	27	28
Unidentified/Pending	7	2
<u>STAGE OF CASE</u>		
Post Sentence	115	84
Pre-Sentence	5	1
Deferred Prosecution	1	0
Suspended Imposition of Sentence	1	0
Other	5	0

SOURCE OF REQUESTED SCREENING:

	Past Year	Current Year
<u>Seward Court</u>	110	75
Other Trial Courts (Alaska)	16	10
Out-of-State	1	0
Prosecution	0	0
Other	0	0

<u>CHARGE AT TIME OF ASAP REFERRALS</u>	Past Year	Current Y
City DWI	0	1
State DWI	85	64
Disorderly Conduct	0	0
Mal. Destruction of Property	0	0
Shoplifting/Removal of Merchandise	0	0
Trespass	0	1
Assault	0	1
Reckless Driving (Original Charge)	0	0
Careless Driving (Original Charge)	0	0
Reduced from DWI	2	5
Drunk on Roadway	0	0
Drinking in Public	0	0
Others	40	13
No Charge	0	0
<u>PRIOR DWI CRIMINAL CONVICTIONS</u>		
No Prior DWI	86	49
One Prior DWI	27	30
Two Prior DWIs	7	5
Three Prior DWIs	2	1
More than Three Prior DWIs	1	0
Information Not Available	4	0

<u>TREATMENT REFERRALS</u>	Past Year	Current Year
Alcohol Information School/Education	27	27
Outpatient Counseling	73	40
Inpatient Treatment	0	0
Correspondence	0	0
Alcoholics Anonymous	0	0
Evaluation	25	15
Assignment Pending	2	0
No Assignment	0	2
Other	0	1

Past Year

Current Y

CLIENT CHARACTERISTICS

Sex:

Male	99	65
Female	28	20

Race:

Caucasian	109	72
Black	1	0
Native	16	11
Other	0	2
Unknown	1	1

Employment Status:

Employed	71	51
Unemployed	56	34
Unknown	0	0

Yast Year

Current Y

CLIENT CHARACTERISTICS CONT.:

Family Income:

\$45,000 +	2	3
\$40,000 - 45,000.	2	1
\$35,000 - 40,000.	0	0
\$30,000 - 35,000.	3	0
\$25,000 - 30,000.	4	7
\$20,000 - 25,000.	8	8
\$15,000 - 20,000.	5	7
\$10,000 - 15,000.	12	13
\$5,000 - 10,000	24	18
\$5,000 or less.	28	21
Unknown	39	7

Education:

0-11.	18	9
12 or GED	44	48
12+	39	23
College Degree.	4	5
Unknown	22	0

CLIENT CHARACTERISTICS CONT.:

	Past Year	Current Year
Age:		
Under 19	8	12
20 - 29	50	26
30 - 39	44	29
40 - 44	14	5
44 - 49	4	7
50 - 59	5	4
60 and Older	2	2
 Marital Status:		
Married	27	24
Divorced	30	20
Separated	9	2
Widowed	1	0
Single	47	32
Unknown	13	7

TO:

ELLEN MOORE

465-4362

for [unclear] [unclear]
Rep. [unclear]

1/16 [unclear] [unclear] (DUI's)

Insurance District Court [unclear]

Ketchikan + NOME + HOMER + SEWARD	1st 9 pages
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17 ASAP
EM...
EMMY MCKENZIE
264-0735
FOR FBX

of DWI (prior)
growing
- more chance of lienholders -

Governors Rep. for Highway
Safety
BL-MONTY 4/12 -

Table 1.54

Criminal sanctions, administrative licensing actions, and related actions for driving while intoxicated offenses

By jurisdiction, as of January 1986

Jurisdiction	Criminal sanctions					Administrative licensing actions			Other actions				
	Term of imprisonment	Mandatory minimum term of imprisonment	Fine	Mandatory minimum fine	Community service	Restitution	Pre-conviction licensing action	Suspension or revocation	Mandatory minimum term of withdrawal	Alcohol education or treatment program	Education or treatment program as alternative to sanctions	Vehicle impoundment/ confiscation	Vehicle forfeiture
Alabama	S	S	S	S	(b)	S	S	S	S	S	S	S	S (\$24.35.038)
Alaska	S	S	S	S	(b)	S	S	S	S	S	S	S	S
Arizona	S	S	S	S	(b)	S	S	S	S	S	S	S	S
Arkansas	S	S	S	S	(b)	S	S	S	S	S	S	S	S
California	S	S	S	S	(b)	S	S	S	S	S	S	S	S
Colorado	S	S	S	S	(b)	S	S	S	S	S	S	S	S
Connecticut	S	S	S	S	(b)	S	S	S	S	S	S	S	S
Delaware	S	(f)	S	S	S	(e)	S	S	S	S	S	S	S
District of Columbia	S	S	S	S	S	S	S	S	S	S	S	S	S
Florida	S	S	S	S	S	S	S	S	S	S	S	S	S
Georgia	S	S	S	S	S	S	S	S	S	S	S	S	S
Hawaii	S	S	S	S	S	S	S	S	S	S	S	S	S
Idaho	S	S	S	S	(b)	S	S	S	S	S	S	S	S
Illinois	S	S	S	S	S	S	S	S	S	S	S	S	S
Indiana	S	S	S	S	S	S	S	S	S	S	S	S	S
Iowa	S	S	S	S	S	S	S	S	S	S	S	S	S
Kansas	S	S	S	S	S	S	S	S	S	S	S	S	S
Kentucky	S	S	S	S	S	S	S	S	S	S	S	S	S
Louisiana	S	S	S	S	S	S	S	S	S	S	S	S	S
Maine	S	S	S	S	S	S	S	S	S	S	S	S	S
Maryland	S	S	S	S	S	S	S	S	S	S	S	S	S
Massachusetts	S	S	S	S	S	S	S	S	S	S	S	S	S
Michigan	S	S	S	S	S	S	S	S	S	S	S	S	S
Minnesota	S	S	S	S	S	S	S	S	S	S	S	S	S
Mississippi	S	(e)	S	S	S	S	S	S	S	S	S	S	S
Missouri	S	S	S	S	S	S	S	S	S	S	S	S	S
Montana	S	S	S	S	S	S	S	S	S	S	S	S	S
Nebraska	S	S	S	S	S	S	S	S	S	S	S	S	S
Nevada	S	S	S	S	S	S	S	S	S	S	S	S	S
New Hampshire	S	S	S	S	S	S	S	S	S	S	S	S	S
New Jersey	S	S	S	S	S	S	S	S	S	S	S	S	S
New Mexico	S	S	S	S	S	S	S	S	S	S	S	S	S
New York	S	S	S	S	S	S	S	S	S	S	S	S	S
North Carolina	S	S	S	S	S	S	S	S	S	S	S	S	S
North Dakota	S	S	S	S	S	S	S	S	S	S	S	S	S
Ohio	S	S	S	S	S	S	S	S	S	S	S	S	S
Oklahoma	S	S	S	S	S	S	S	S	S	S	S	S	S
Oregon	S	S	S	S	S	S	S	S	S	S	S	S	S
Pennsylvania	S	S	S	S	S	S	S	S	S	S	S	S	S
Puerto Rico	S	S	S	S	S	S	S	S	S	S	S	S	S
Rhode Island	S	S	S	S	S	S	S	S	S	S	S	S	S
South Carolina	S	S	S	S	S	S	S	S	S	S	S	S	S
South Dakota	S	S	S	S	S	S	S	S	S	S	S	S	S
Tennessee	S	S	S	S	S	S	S	S	S	S	S	S	S
Texas	S	S	S	S	S	S	S	S	S	S	S	S	S (\$67011-7)
Utah	S	S	S	S	S	S	S	S	S	S	S	S	S
Vermont	S	S	S	S	S	S	S	S	S	S	S	S	S
Virginia	S	S	S	S	S	S	S	S	S	(n)	S	S	S
Washington	S	S	S	S	S	S	S	S	S	(y)	S	S	S
West Virginia	S	S	S	S	S	S	S	S	S	(y)	S	S	S
Wisconsin	S	S	S	S	S	S	S	S	S	(y)	S	S	S
Wyoming	S	S	S	S	S	S	S	S	S	S	S	S	S

Notes: See Note, Table 1.53. "The sanctions listed for convictions of alcohol driving offenses... are those specified by statute. If a sanction is not specified by law... it is not listed" (U.S. Department of Transportation, National Highway Traffic Safety Administration, Digest of State Alcohol-Highway Safety Related Legislation, January 1983 [Washington, D.C.: U.S. Department of Transportation, 1983], (pp. 1, 2)). "Term of imprisonment" refers to both jail sentences and prison sentences. "The term 'mandatory sanction' means either a criminal sanction or an administrative licensing action which must be imposed by either a court or administrative agency" (Source, p. 1-1). "Pre-conviction licensing action" refers

to provisions which enable the State licensing agency to suspend a license prior to conviction based on blood alcohol concentration level. "Mandatory minimum term of withdrawal" refers to a mandatory minimum term of either license suspension or revocation. Because of variation among the jurisdictions within categories of sanctions, e.g., terms of imprisonment or amounts of fines, the Source document as well as individual jurisdictions' statutes should be consulted. In the table, "S" indicates that such a provision is provided expressly by statute. Statutes should be consulted for the full text and meaning of specific provisions.

Table 1.54

Statutory provisions authorizing blood alcohol concentration tests for persons suspected of driving while intoxicated, and sanctions for refusal to take such tests

By Jurisdiction, as of January 1986

Jurisdiction	Preliminary breath test			Implied consent chemical test	
	Statutory authorization	Sanctions for refusal to submit to preliminary breath test		Sanctions for refusal to take implied consent chemical test	
		Criminal	Administrative licensing action	Arrest required for consent	Criminal
Alabama			Yes		S
Alaska	S	S	Yes	S	S
Arizona			Yes		S
Arkansas			Yes		S
California			Yes		S
Colorado	S		Yes		S
Connecticut			Yes		S
Delaware	S		No		S
District of Columbia			Yes		S
Florida	S		Yes		S
Georgia			Yes		S
Hawaii			Yes		S
Idaho			No		S
Illinois			Yes		S
Indiana	S		No		S
Iowa	S ^a		No ^b		S
Kansas			Yes		S
Kentucky	S		Yes		S
Louisiana			Yes		S
Maine			No		S
Maryland	S		Yes		S
Massachusetts			Yes		S
Michigan	S		Yes		S
Minnesota	S	S	No		S
Mississippi	S		No		S
Missouri			Yes		S
Montana			Yes		S
Nebraska	S	S	Yes	S	S
Nevada	S		Yes		S
New Hampshire	S		Yes		S
New Jersey			Yes	S	S
New Mexico			Yes		S
New York	S ^c	S	Yes		S
North Carolina	S		Yes		S
North Dakota	S		Yes		S
Ohio			Yes	S	S
Oklahoma			Yes		S
Oregon			Yes		S
Pennsylvania	S		No		S
Puerto Rico	S		Yes		S
Rhode Island	S		Yes	S	S
South Carolina			Yes		S
South Dakota	S		Yes		S
Tennessee			No		S
Texas			Yes		S
Utah			Yes		S
Vermont	S		(d)		S
Virginia	S		Yes		S
Washington			Yes		S
West Virginia	S		Yes		S
Wisconsin	S		Yes		S
Wyoming			Yes		S

Notes: See Note, table 1.53. In the table, "S" indicates that such a provision is provided expressly by statute. Statutes should be consulted for the full text and meaning of specific provisions.

^a Applies only when there has been either an injury or death related accident.

^b Arrest may be a prior condition to an implied consent chemical test under certain circumstances but is not required in all conditions.

^c Limited to drivers involved in accidents and traffic law violations.

^d Unclear, but probably not.

Sources: U.S. Department of Transportation, National Highway Traffic Safety Administration, *Digest of State Alcohol-Highway Safety Related Legislation*, 4th ed., March 1986 (Washington, DC: USDO, 1986), pp. 3-1--3-377. Table adapted by SOURCEBOOK staff.

Table 1.56

Criminal sanctions, administrative licensing actions, and related actions for driving while intoxicated offenses

By jurisdiction, as of January 1986--Continued

^aNot for first offense but may apply to second and/or subsequent offenses.

^bMay be required where involved in accident causing damages, injury, or death.

^cAdministrative per se with a blood alcohol concentration level of 0.15 percent; the period of license revocation is 1 year.

^dWhere there has been a previous conviction or if defendant is under 21 years of age.

^ePolice may take and hold a drivers' license for 24 hours if the driver has a blood alcohol concentration level of 0.10 percent or more.

^fThese minimum sanctions may not be suspended by the Court; the law is silent as to prohibiting the Court from placing a person on probation.

^gYes, but only if convicted of driving with suspended or revoked license.

^hFirst offense only.

ⁱIn lieu of fine.

^jIn lieu of imprisonment for first offense and in lieu of fine for second and subsequent offenses.

^kIn lieu of fine or imprisonment except for injury related driving while intoxicated offenses.

^lAfter two-thirds of license suspension period has passed, offender may be issued a license if they have completed an alcohol education/treatment program. Special provisions apply.

^mIf defendant consents.

ⁿA limited license may be issued for employment purposes or attendance at an alcohol treatment program.

^oThe law does not specifically prohibit suspending or placing persons on probation for the minimum imprisonment term.

^pIn lieu of imprisonment.

^qApplies to all offenses, however, injury must have been intentionally inflicted for the victim to be compensated.

^rAdministrative per se with a blood alcohol concentration level of 0.13 percent; the period of revocation varies with number and type of alcohol related convictions.

^sExcept for the driving while intoxicated death or bodily injury offense.

^tWhere there is serious bodily injury or a 0.20 percent blood alcohol level.

^uTo be paid by the defendant if a sentence is either suspended or deferred.

^vWhere there has been a previous conviction. Also, license may be seized if the blood alcohol concentration level is 0.10 percent or above.

^wMay be imposed if defendant is an alcoholic or suffering from acute alcohol intoxication.

^xAdministrative per se with a blood alcohol concentration of 0.08 percent.

^yGenerally no; but there are limited alternatives.

Source: U.S. Department of Transportation, National Highway Traffic Safety Administration, *Digest of State Alcohol-Highway Safety Related Legislation*, 4th ed., March 1986 (Washington, DC: U.S. Department of Transportation, 1986), pp. 3-1--3-379. Table adapted by SOURCEBOOK staff.

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I GUIDELINES FOR PROSECUTING FORFEITURE ACTIONS :
FISH, GAME AND GUIDING

A. Statutory Authority: Forfeiture in Fish, Game and Guiding Violations

Several statutes provide authority for forfeiture of equipment and illegally taken fish and game; these include AS 16.05.190, AS 16.05.195, and AS 08.54.210. The statute primarily used as a basis for in rem forfeiture of illegally used equipment is AS 16.05.195, enacted in 1974. That statute provides, in relevant part:

(a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title, or regulation promulgated under this title, be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding
...or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that an item specified above was used in or in aid of a violation of this title or regulation promulgated under it.

(b) Items classified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them...transported or possessed contrary to the provisions of this title or a regulation promulgated under it.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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I GUIDELINES FOR PROSECUTING FORFEITURE ACTIONS :
FISH, GAME AND GUIDING

A. Statutory Authority: Forfeiture in Fish, Game and Guiding Violations

Several statutes provide authority for forfeiture of equipment and illegally taken fish and game; these include AS 16.05.190, AS 16.05.195, and AS 08.54.210. The statute primarily used as a basis for in rem forfeiture of illegally used equipment is AS 16.05.195, enacted in 1974. That statute provides, in relevant part:

(a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title, or regulation promulgated under this title, be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding
...or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that an item specified above was used in or in aid of a violation of this title or regulation promulgated under it.

(b) Items classified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them...transported or possessed contrary to the provisions of this title or a regulation promulgated under it.

- (d) It is no defense that the person who had the items specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of its use.
- (e) No forfeiture may be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.
- (f) An item forfeited under this section shall be disposed of at the discretion of the department.

The legislature passed this statute partly in response to procedural questions that arose in the case State v. Graybill, 545 P.2d 629 (Alaska 1976), where forfeiture was demanded by the state in a criminal case involving illegal possession and transportation of a bear hide. Graybill had argued that it was mandatory for the state to initiate a separate in rem civil proceeding in order to seek forfeiture of the airplane used in the violation. The supreme court rejected this argument and held that under AS 16.05.190, which was the only fish and game forfeiture statute at the time, an aircraft could be forfeited in a criminal proceeding.

AS 16.05.190, which was not repealed or replaced by AS 16.05.195, provides authority for the state to seize guns, traps, nets, aircraft, etc., and provides that upon conviction of the offender of a violation of the fish and game code, the

equipment may be forfeited by court order. AS 16.05.190 differs from AS 16.05.195 in that it does not address civil in rem procedures, and it specifies that illegally taken fish and game shall be forfeited by the court upon conviction; it does not, however, address the disposition of vessels, aircraft or other equipment forfeited by a court. In contrast, AS 16.05.195 establishes that forfeited equipment "shall be disposed of at the discretion of the department" [of Fish and Game].

Generally, when bringing an in rem forfeiture action, AS 16.05.195 is the appropriate statutory authority; use AS 16.05.190 for obtaining a search and seizure warrant or for obtaining a court order disposing of illegally taken fish or game in a criminal proceeding.

In addition to the forfeiture authority provided in Title 16 for fish and game violations, AS 08.54.210(b) provides in pertinent part:

[A] person who engages in guiding or transporting activity during the period his license is suspended or revoked under this chapter [guiding chapter, Title 8, Alaska Statutes] is guilty of a felony punishable, upon conviction, by a fine or not more than \$5,000 and by imprisonment for not less than one year nor more than 3 years. In addition to punishment for a felony, all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear and other equipment and paraphernalia used in, or in aid of, guiding or transporting activity engaged in during the period of suspension or revocation shall be confiscated by persons authorized to enforce this chapter. [Emphasis added]

This statute uses the term "confiscate" rather than "forfeit" but the terms have been used synonymously, State. Conservation Department v. Brown, 53 N.W.2d 859 (Mich. 1952), and thus the statute provides a separate forfeiture authority for guiding violations.

It is clear, both from the statutes discussed above and from case law, that the state has the authority to seek forfeiture of vessels, aircraft and other equipment used in violation of fish and game and some guiding statutes or regulations both in a criminal case brought against the individual or in a civil in rem action brought against the vessel or airplane itself. State v. Graybill, 545 P.2d 629 (Alaska 1976).

B. Civil In Rem Actions.

In contrast to a criminal action, which is prosecuted by the district attorney's office, a civil in rem action is brought by the attorney general. An in rem proceeding is substantially different from a criminal action, and provides certain strategic advantages. First, the in rem complaint is brought against the aircraft or vessel itself as the defendant, and no individual people need be named as defendants in the case.

Service is effected on a vessel or aircraft by actual or constructive seizure of the equipment (with a warrant), by posting the item with a copy of the complaint, and by filing notice of forfeiture by publication. The warrant should be

obtained under Alaska Rule of Criminal Procedure 37. See F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980). The registered owner and any known claimants should be notified of the action, but need not be made parties. United States v. Pollastrine, 8 Alaska 104 (D. Alaska 1929); United States v. Bleasby, 257 F.2d 278 (3d Cir. 1958); People v. One 1971 Mercury Sedan, 168 P.2d 443 (Ct. App. Cal. 1946).

Secondly, the in rem proceeding is a civil action and therefore the rules of evidence, burden of proof, and discovery provisions for civil cases are applicable. Civil rules provide considerably more expansive discovery than criminal rules, and the civil burden of proof by a preponderance of the evidence applies. Case law shows that in rem forfeitures are considered, although civil actions, "quasi criminal in nature". Graybill v. State, 545 P.2d 629 (Alaska 1976). This holding does not, however, mean that a criminal burden of proof applies. Judge Madsen, who rendered the superior court decision in F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980), cert. denied, ___ U.S. ___, 71, L. Ed.2d 284 (1982), stated in his decision granting forfeiture of a fishing vessel:

The court, after having heard and weighing the testimony of the witnesses and the exhibits, finds that the state has met its burden by clearly and convincingly proving by a preponderance of the evidence.

See also, State v. Rice, 626 P.2d 104 (Alaska 1981); U.S. v. Twelve Ermine Skins, 78 F. Supp. 734 (D. Alaska 1948).

Because the in rem action is civil rather than criminal, the case must be filed within two years (AS 09.10.070); in rem civil actions are not bound by the criminal procedure four-month rule.

Most forfeiture statutes, like AS 16.05.195, are silent on the question of whether a jury trial is of right. The opportunity for a jury trial will probably be favored in Alaskan courts, but because of the complexity and nature of civil forfeiture proceedings, judge trials are preferable, as is the practice in admiralty. In general, courts look to admiralty procedures in handling forfeitures, U.S. v. \$5,372.85 U.S. Coin and Currency, 283 F. Supp. 904 (D.N.Y. 1968); One Plymouth Automobile v. U.S., 165 F.2d 186 (5th Cir. 1947). Also see, F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980), cert. denied, ___ U.S. ___ 71 L. Ed.2d 284 (1982). As a general rule, admiralty cases are tried by a court, not a jury. The Paolina S., 11 F. 171 (_____ 1880); Clark v. U.S., 5 F. Case No. 2, 837 (C.C. Pa. 18__); see also, Humble Oil & Refining Co. v. Philadelphia Ship Maintenance Co., 342 F. Supp. 786 (D. Pa. 1972); American of Puerto Rico, Inc. v. Transocean Tankers Corp., 317 F. Supp. 798 (D. Puerto Rico 1969); Texas Menhaden Co. v. Palermo, 328 F.2d 579 (6th Cir. 1964).

Some courts refuse to apply admiralty procedure that denies a trial by jury in civil forfeitures for state or federal

drug violations. This position is based on the argument that although admiralty forfeitures are prosecuted in rem according to admiralty practice, seizures on land are not admiralty cases but "common law informations," in which a jury trial is demandable. People v. One 1941 Chevrolet Coupe, 231 P.2d 832 (Cal. 1951); One Plymouth Automobile v. U.S., 165 F.2d 186 (5th Cir. 1947). The court in People v. One 1941 Chevrolet Coupe, 231 P.2d 832 (Cal. 1951) distinguishes between forfeitures of contraband, where there is no right to trial by jury, and forfeitures of otherwise lawful instrumentalities, where trial by jury is a constitutional right. The court in State Conservation Dept. v. Brown, 55 N.W.2d 859 (Mich. 1952) held that forfeiture actions are statutory and not founded in the common law, and claimants therefore are not accorded a right to a jury trial.

Another important distinction between a criminal case and an in rem civil action, is that the in rem civil forfeiture is not considered strictly a punishment or penalty, but rather is a deterrent and remedial, i.e., it is a way to remove an instrumentality from the hands of one using it improperly, in order to protect the state's resources. Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663 (1974); Gulp v. U.S., 523 F.2d 557 (8th Cir. 1975). A court may be more willing to order forfeiture in a civil in rem proceeding than in a criminal action where there may be a large disparity between the maximum fine or penalty (generally, the maximum fine for fish and game violations is \$1,000 and one year in jail) and the value of the vessel or

aircraft that is seized and forfeited, which may be in excess of \$1,000,000. However, many courts, while recognizing the deterrent and remedial aspects, still view forfeitures as primarily a punishment or penalty and not favored in the law. See One Cocktail Glass v. State, 565 P.2d 1265 (Alaska 1977).

Because the value of property subject to forfeiture may be so great, some courts favor granting partial forfeiture of the equipment, or ordering forfeiture of a bond or other security in lieu of the item itself. F/V American Eagle v., State, 620 P.2d 657 (Alaska 1980), cert. denied, ____ U.S. ____ 71 L.Ed.2d 284 (1982).

Neither AS 16.05.195 nor the rules of civil procedure in Alaska provide specific guidelines for the procedure to be followed in an in rem action. The closest rules or guidelines are, as discussed above, the Federal Admiralty Rules that relate to bringing a complaint or libel against a vessel, and Alaska Rules of Civil Procedure 4 and 5; courts will look to these procedures as guidelines for the action.

C. Guidelines for Bringing Civil In Rem Actions.

An action for forfeiture of valuable equipment such as a vessel or airplane is an extreme measure and represents the harshest penalty for a fish and game violation. On the other hand, vessels and airplanes provide a unique opportunity to

deplete the fish and game populations of the state, and it is for this reason that special consideration has been given to the matter by the legislature, which granted broad authority for forfeiture under AS 16.05.195.

In determining whether to prosecute in rem a boat or aircraft used in a fish and game violation, one should keep in mind that forfeiture actions are difficult and time-consuming to prosecute and may take up to three to five years attorney commitment time. Therefore, the following is an outline of the criteria to assess before bringing a civil forfeiture action:

1. Does the violation involve a substantial commercial benefit to the violator, i.e., a "windfall profit"? E.g., big game guiding, commercial fishing, fish guiding.
2. Is the violation, even if committed by a sport hunter or fisherman, egregious? Is there any intent involved or was the crime a mistake that would be excused if strict liability did not apply to fish and game violations? E.g., herding and harassing game, grossly over limit on fish or game, waste, inhumane kill, destruction of significant breeding stock, hunting in closed area. In particular, is there a likely detriment to the species or stock?

3. Is the equipment, vessel, vehicle, or aircraft an integral part of the violation? E.g., spotting from aircraft, using boat for access to closed area.
4. Is this the second or third similar violation by the offender?
5. Is there a significant need to deter the public that necessitates bringing a case to civil trial on evidence that would not support a criminal action? E.g., violation occurring on identified vessels but crewmen now known.
6. What is the value of the equipment, vessel, vehicle, or aircraft relative to the commercial profit or damage to the resource?

If the violation does not fit one or more of these categories, civil forfeiture is probably not appropriate.

D. Relationship Between Civil and Criminal Actions.

A criminal case against an individual for a fish or game violation is an action independent of any in rem proceeding for forfeiture. Haas v. One 1965 Ford Auto, 529 P.2d 410 (Or. App. 1974). See also State v. Graybill, 545 P.2d 629 (Alaska 1976). A judge in a criminal action has authority to forfeit, as part of the criminal sentencing procedure, the equipment, aircraft, vessels, etc. used in or in aid of a violation of the

fish and game statutes or regulations, under AS 16.05.190; whether a prosecuting attorney in a criminal case will ask for forfeiture is a decision to be made by the district attorney. Many cases will involve a criminal prosecution only, for example, where a private sport hunter flies his aircraft to an open hunting area where he is then involved in a minor game violation not related to the use of the airplane; here the attorney general would not bring a civil in rem proceeding because the case does not fall within the category of cases outlined above.

Because an action in rem for forfeiture is independent of any criminal prosecution, a forfeiture action may be brought even though the individual defendant in the underlying criminal case was acquitted. United States v. One 1961 Cadillac Hardtop, 207 F. Supp. 693 (D. Tenn. 1962); U.S. v. Three Thousand Two Hundred Thirty Six Dollars, 167 F. Supp. 495 (D. Alaska 1958). Also, there may be situations where no criminal case can be brought, yet where there is sufficient evidence to proceed with a civil in rem action (for example, when there is no positive identification of the pilot or passengers of an aircraft, but there is a clear description of the aircraft used in a violation). Cases resting on circumstantial evidence are particularly appropriate for civil action because the extensive discovery procedures available can identify critical evidence.

If both civil and criminal actions are contemplated, it is best to bring both cases simultaneously, or as near to the same time as possible. If the cases are brought simultaneously,

and if the criminal case, which will probably be heard first, is dismissed or if the defendants are acquitted, the defendants will not be in a position to argue that the in rem case was brought merely because the criminal case was lost and the state is "out to get" the defendants. Furthermore, it is very helpful for an assistant attorney general to attend a criminal case before trying the same general issues in a subsequent civil in rem action. The criminal court might decline to grant forfeiture, even if the case were won by the district attorney, and the attorney general in that situation would be in a position to continue with the in rem action against the aircraft or vessel itself. This may be particularly appropriate in cases, such as fishing in closed areas, where a maximum criminal penalty is insufficient to deter the conduct, because the value of the harvest far exceeds the criminal fine. In some instances the criminal court may choose not to order forfeiture because of the pending civil action.

If a criminal case is won and forfeiture is granted but the judgment is appealed, the attorney general may wish to proceed with an action in rem on the theory that if the criminal conviction were overturned on appeal, the in rem action would still be valid. Although the attorney general need not wait for the final outcome of a criminal action before proceeding in rem, strategy may favor staying action in the civil case until the criminal action is over. The primary advantage of this sequence is that it will preclude the criminal defendant's resort to the

fifth amendment right to remain silent which might hinder evocation of pertinent evidence in the civil suit.

II MECHANICS OF BRINGING CIVIL FORFEITURE ACTIONS

A. Notification.

As mentioned above, it is important that the district attorney's office notify the attorney general's office (and vice versa) of any fish and game violation that involves a possible forfeiture, if the violation falls within the guidelines for civil prosecution in rem as outlined above. It is essential for the attorney general's office to become involved in the case from the very beginning, so that the attorney general's office can review the evidence and make a determination as to whether there is sufficient basis to proceed with a civil in rem case.

If there is a stipulation to release the vessel or airplane in the criminal action, the attorney general's office has a strong interest in making sure that the release will cover the subsequent civil in rem action, i.e., the release must provide for a sufficient bond or other security for the equipment, and include an agreement that the vessel or aircraft is properly insured and will not leave the state or be sold or encumbered. The release agreement should also obviate the need to re seize the vessel or aircraft for the civil in rem action in order to "serve" the item.

B. Seizure and Service of Process.

A.S. 16.05.195 provides: "Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action." At least one superior court judge in Anchorage has ruled that, notwithstanding this language, the state must actually or constructively seize the equipment in order to bring it within the court's jurisdiction; merely filing a notice of lis pendens was held insufficient to obtain jurisdiction. State v. One Blue and White PA-18 Airplane, No. 3AN-78-900 Civ. (Super. Ct. Third Jud. Dist. Alaska, Sept. 1978). There are several other reasons why actual seizure may be appropriate. First, looking to the Rules of Admiralty for guidance in bringing an in rem action, seizure is the means for bringing the action, and the libel must be posted on the vessel. (Supplemental Rule C, FRCP provides that the clerk of court issue an arrest warrant when a verified complaint is filed.) Since an action in rem is brought against the item itself, it may be necessary to "serve" the aircraft or vessel while it is within the jurisdiction of the court; due to the high mobility of aircraft and vessels, seizure may be the only way to assure that the res will be within or remain within the jurisdiction of the court. It would be pointless to bring a forfeiture action against an aircraft or vessel that may subsequently disappear from the jurisdiction of the court or be sold or otherwise encumbered.

Seizure for an in rem civil case should be made upon a warrant issued by a superior court judge. Evidence obtained as the result of an illegal search may not be admissible in a civil in rem action. One 1958 Plymouth Sedan v. Pennsylvania, 380 U.S. 693 (1965). However, as long as the evidence supporting the forfeiture is not tainted, it can be argued that an illegal seizure of the defendant's property is not a basis for dismissal of the case. See, The Ship Richmond v. United States, 9 Cranch 102, 3 L.Ed. 670 (1815); United States v. One Chevrolet Sedan, 7 Alaska 605 (D. Alaska 1927). The court in Boyd v. United States, 116 U.S. 616 (1886) distinguished between a search for and seizure of a man's private books and papers for the purpose of obtaining information or using them as evidence against him, and seizure for the purpose of forfeiture. In United States v. One Ford Coupe Auto, 272 U.S. 321 (1926), the court held that where property declared forfeit by a federal statute is seized by one having no authority to do so, the United States may "adopt" the seizure with the same effect as if it originally had been made by a duly authorized officer.

C. Release.

Depending on the circumstances, it may be desirable to allow the defendant property to be released pending trial.

If an aircraft or vessel is released on stipulation, it is important that the agreement provide either a bond or

promissory note or at least insurance coverage for the value of the vessel or aircraft. If a bond is secured, it should cover at least the full value of the vessel, with a provision for alteration of the stated value in the event that the property increases in value during the pendency of the litigation. It may be impossible to accomplish this as a practical matter. In that event, it is best to establish the security or bond in much the same manner as bail. Any stipulation for release should also include a provision that the owner not sell or otherwise encumber the property, and that the owner will produce the item upon demand.

D. Service and Parties.

In accordance with admiralty procedure, service on a ship (or airplane) can be effected by posting a copy of the complaint on the property and leaving a copy with the person having control of it, and by publication of a notice of filing a forfeiture complaint.

Alaska courts may require personal service of the notice of filing a forfeiture action on all ascertainable owners or claimants, so a title search should be made in connection with service of process. The U.S. Supreme Court has ruled that where the government knew that the owner of a forfeited car was not at the address to which notice was sent, the service was inadequate. Robinson v. Hanrahan, 409 U.S. 29 (1972).

Because the action is in rem, there are no "necessary" parties to the action, other than the "res" and the state. Utah Liquor Control Comm'n. v. Wooras, 93 P.2d 455 (Utah 1939). For a case contra this general rule, see People v. Broad, 12 P.2d 941 (Cal. 1932). The presence of the owner or claimant is not necessary for the action to proceed. The owner of the item, or anyone claiming an interest in it, although not named as a party, may appear and make a defense, either by filing a claim and answer or by moving to intervene. People v. One 1941 Mercury Sedan, 168 P.2d 443 (Ct. App. Cal. 1946).

Because of AS 16.05.195(e), a lis pendens giving notice of the forfeiture action must be filed against the ship or aircraft, with the U.S. Coast Guard, FAA, or local recording district, as appropriate. In the case of vessels, the U.S. Coast Guard will file the notice, with the vessels documentation papers.

III DISPOSITION OF FORFEITED EQUIPMENT

AS 16.05.195 provides that equipment, including aircraft and boats, forfeited for a fish and game violation is to be disposed of at the discretion of the Department of Fish and Game. The statute does not require that the department sell the equipment at public auction, nor does it specify that the department pay off liens or mortgages on the forfeited equipment. However, the Alaska Supreme Court, in State v. Rice, 626 P.2d 104

(Alaska 1981) held that where a third party (in that case, a financial institution) had done all it reasonably could be expected to do to avoid illegal use of equipment in which it had an interest, it was entitled to remission of its interest in the forfeited equipment.

FORFEITURE CHECKLIST: INITIATING THE ACTION

1. Seizure Warrant, Affidavit of Return. (n.b. - separate court number and file for the seizure warrant).
2. Receipt and Inventory of aircraft/floats, skis, or vessel and gear.
3. Civil Complaint for Forfeiture, Summons (post on vessel or airplane), Return.
4. Title Search.
5. Notice of Filing Complaint - send to owner and lienor.
6. Motion for Service by Publication, Affidavit, Order.
7. Notice of Filing Complaint (for publication in newspaper).
8. Affidavit of Publication.
9. Lis Pendens (file in Oklahoma City, for aircraft, or State Recording Office further equipment).
10. Stipulation for Release, bond, insurance coverage, etc.

OPERATOR'S
SEIZURE INFORMATION
(AIRCRAFT)

1. Make of aircraft _____
2. Model of aircraft _____
3. Official F.A.A. Registration No. _____
4. Engine Serial No(s). _____
5. Airframe Serial No. _____
6. Floats (Skiis) type _____
7. Floats (Skiis) - Serial No. _____
8. Floats (Skiis) - Estimated value today _____
9. Description of aircraft, (wheels, STOL kits, stall fences,
types of fabric, color scheme, etc.)

10. Value when purchased \$ _____
11. a. Date of last reappraisal _____, 19____
b. Value at last reappraisal \$ _____
c. Name and address of appraiser _____

12. Estimated value today \$ _____
13. Place and date of most recent overhauls or repairs
_____, 19____
_____, 19____
14. a. Name of owner(s) _____
b. Address of owner _____

Tele. () _____

15. Liens. _____

Name & Address	Balance	Date Incurred	Payment Schedule
a. _____ _____	_____	_____, 19__	\$ _____ per mo.
b. _____ _____	_____	_____, 19__	\$ _____ per mo.
c. _____ _____	_____	_____, 19__	\$ _____ per mo.

16. Insurance coverage.

Names of	Insurance Company	Type of Insurance	Amount of Insurance	Premium Amount and Due Date
a. _____	_____	_____	_____	\$ _____ per _____; Due _____
b. _____	_____	_____	_____	\$ _____ per _____; Due _____
c. _____	_____	_____	_____	\$ _____ per _____; Due _____

17. Description of instruments, radios, and appurtenant equipment and other paraphernalia.

Item	Model No.	Serial No.	Date of Purchase	Condition
a. _____	_____	_____	_____	_____
b. _____	_____	_____	_____	_____
c. _____	_____	_____	_____	_____
d. _____	_____	_____	_____	_____

DATED this _____ day of _____, 19__ , at

_____, Alaska.

Signature of Operator(Owner)

OPERATOR'S
SEIZURE INFORMATION
(VESSEL)

1. Name of vessel _____
2. Kind of vessel _____
3. Official U.S.C.G. No. _____
4. Port of Registry _____
5. ADF&G No. AK _____
6. Value when purchased \$ _____
7. a. Date of last reappraisal _____, 19__
- b. Value at last reappraisal \$ _____
- c. Name and address of appraiser _____
8. Estimated value today _____
9. Place and date of most recent overhauls or repairs
 _____, 19__
 _____, 19__
10. a. Name of owner _____
- b. Address of owner _____

 Tele. () _____

11. Names of others with a right, title or interest in vessel
 (e.g. Banks, NOAA, state, materialmen, supplies, crews
 wages, etc.)

Name & Address	Balance	Date Incurred	Payment Schedule
a. _____	_____	_____, 19__	\$ _____ per mo.

b. _____	_____	_____, 19__	\$ _____ per mo.

12. Insurance coverage.

FORM NO. 2 (cont.)

Names of	Insurance Company	Type of Insurance	Amount of Insurance	Premium Amount and Due Date
a. _____	_____	_____	_____	\$ ___ per ___ ; Due _____
b. _____	_____	_____	_____	\$ ___ per ___ ; Due _____
c. _____	_____	_____	_____	\$ ___ per ___ ; Due _____

13. Description of navigational equipment, fishing gear and other paraphernalia.

Item	Model No.	Serial No.	Date of Purchase	Condition
a. _____	_____	_____	_____	_____
b. _____	_____	_____	_____	_____
c. _____	_____	_____	_____	_____
d. _____	_____	_____	_____	_____
e. _____	_____	_____	_____	_____
f. _____	_____	_____	_____	_____
g. _____	_____	_____	_____	_____
h. _____	_____	_____	_____	_____
i. _____	_____	_____	_____	_____
j. _____	_____	_____	_____	_____
k. _____	_____	_____	_____	_____
l. _____	_____	_____	_____	_____

Alaska. DATED this _____ day of _____, 19__ at _____,

Signature of Operator

Operator's Printed Name

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

JUDICIAL DISTRICT AT _____

STATE OF ALASKA,)
)
 Plaintiff,)
)
 vs.)
)
 ONE RED AND WHITE PIPER)
 airplane, _____, Serial)
 Number _____ and)
 contents thereof, including)
 appurtenant instruments,)
 radios, and floats,)
 Serial No.s _____ and _____,)
 JOHN DOE and JANE DOE,)
)
 Defendants.)
 _____)

Civil No. _____

COMPLAINT FOR FORFEITURE AND DAMAGES
(AS 16.05.195)

The State of Alaska, through its Attorney General,
alleges as follows:

First Cause of Action

1. This is an action for forfeiture of Piper
N _____ [describe] and the contents of the aircraft,
including appurtenant instruments and radios. This action is
brought under AS 16.05.195.

2. On or about _____, 19____, in the
vicinity of _____,
Judicial District, State of Alaska, the above-described aircraft
was used by defendants _____
to [describe violation]

These actions constitute violations of fish and game regulations

3. AS 16.05.195 provides that aircraft and other paraphernalia or gear may be forfeited to the state upon judgment of a court of competent jurisdiction in an action in rem that the aircraft and paraphernalia or gear were used in or in aid of a violation of a fish or game statute or regulation.

4. On _____, 19___, pursuant to a seizure warrant issued on _____, 19___, the above-described aircraft, its floats and equipment were seized at _____, Alaska, _____ Judicial District, and the aircraft, floats and equipment are or will be within the jurisdiction of this court during the pendency of the proceedings in this matter.

WHEREFORE, the State of Alaska prays for:

I. Judgment forfeiting the above-described aircraft, floats, and equipment to and for the use of the State of Alaska.

II. Costs, attorney fees and such further relief as the Court may deem appropriate.

Second Cause of Action

1. The State of Alaska realleges and reaffirms the allegations of paragraphs 1 through 4 above.

2. This is an action for damages, for the value of [describe resource]

taken in violation of Alaska fish and game statutes and

regulations. This action is brought under AS 16.05.195, which provides that an action for damages may be joined with an action for forfeiture of aircraft and equipment used in or in aid of a violation of an Alaska fish and game statute or regulation.

3. The defendants _____ are, and at all times relevant to this action have been, residents of _____, Alaska, _____ Judicial District.

4. On or about _____, 19____, in the vicinity of _____, _____ Judicial District, State of Alaska, defendant _____

[describe violation]

in violation of Alaska Fish and Game regulation _____

- the offense being [describe]

5. As a result of the actions of defendants _____ described above, the State of Alaska has been irreparably damaged by the illegal appropriation of _____ in an amount no less than \$ _____.

WHEREFORE the State of Alaska prays for relief as follows:

I. Damages in an amount not less than \$ _____ said damages to be proven more specifically at trial.

II. Costs, attorney fees and such further relief as

this Court may deem appropriate.

DATED at Anchorage, Alaska this _____ day of
_____, 19____.

ATTORNEY GENERAL

By:

Assistant Attorney General

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

_____ JUDICIAL DISTRICT AT _____

DIRECTIONS FOR SERVICE

STATE OF ALASKA,)	DATE:
)	
Plaintiff,)	COURT NO.:
)	
vs.)	SERVICE NO.:
)	
ONE RED AND WHITE _____)	
airplane, N _____, Serial)	
Number _____ and contents)	
thereof, including appurtenant)	
instruments and radios, and floats,)	
Serial Nos. _____ and _____, and)	
_____)	
)	
Defendants.)	
_____)	

Nature of Writ: COMPLAINT FOR FORFEITURE AND DAMAGES
 (AS 16.05.195) and SUMMONS

SERVE: One red and white _____
 airplane, N _____ Serial
 Number _____ and contents
 thereof, including appurtenant
 instruments and radios, and floats,
 Serial Nos. _____ and _____, by
 posting a copy of this complaint
 and summons upon said aircraft,
 located at the Fish and Wildlife
 Protection hangar, State of Alaska,
 Department of Public Safety, Lake
 Hood, Anchorage, Alaska.

Please make return of service to:

 Clerk of the Superior Court
 303 K Street
 Anchorage, Alaska 99501

with copy to:

Office of the Attorney General
1031 4th Avenue, Suite 200
Anchorage, Alaska 99501

ATTORNEY GENERAL

By: Assistant Attorney General

SEIZURE WARRANT FORMS

A civil forfeiture action must be coupled with actual or constructive seizure of the res. At least one state superior court judge has ruled that filing a notice of seizure and a lis pendens in the appropriate recording office is not sufficient constructive seizure. Physical seizure or chaining or immobilizing the equipment and attaching a copy of the complaint is appropriate. An item may be seized without a warrant under AS 16.05.190, but a subsequent seizure warrant should be obtained even in such a case in order to obtain judicial approval.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

JUDICIAL DISTRICT AT _____

Warrant to Seize

IN THE NAME OF THE STATE OF ALASKA

TO ANY PEACE OFFICER AUTHORIZED TO EXECUTE WARRANTS

Sworn testimony has been given by _____,
Alaska Fish and Wildlife Enforcement Officer, on _____,
19____, that he has reason to believe that a [describe item]
registration number _____, is at this time at or near
_____, _____ Judicial District,
State of Alaska. Pursuant to AS 16.05.170, AS 16.05.190, and
AS 16.05.195, the aircraft:

1. Is evidence of the particular crime of _____
in violation of _____ and _____.
2. Is evidence of the particular crime of _____
in violation of _____.
3. May be forfeited to the State of Alaska under AS 16.05.195, upon determination by a court of competent jurisdiction, in a proceeding in rem, that the aircraft was used in or in aid of a violation of an Alaska Fish and Game statute or regulation.

I am satisfied that there is probable cause to believe that the aircraft so described above was used in or in aid of a violation of _____

I am satisfied that there are grounds for issuance of a warrant to seize the aircraft described above under AS 16.05.170 et seq., and AS 16.05.195, as well as on the other foregoing grounds.

I am satisfied that seizure of the above-described aircraft is necessary in order to insure that the aircraft will come within the jurisdiction of this court.

FORM NO. 5 (cont.)

YOU ARE HEREBY COMMANDED to seize the aircraft designated in this warrant above, registration number _____, serving this warrant between 7:00 a.m. and 10:00 p.m. Upon seizing said aircraft, you are commanded to hold it secure pending further court order, leaving a copy of this warrant, a copy of the supporting affidavits, if any, and a receipt for the property taken, and to prepare a written inventory of the property seized and to return this warrant and bring the property before me (or a receipt thereof) within ten (10) days of this date, as required by law.

(SEAL)

DATED: _____, 19____. _____
Judge/Magistrate

RETURN

I received the attached Warrant to Seize on _____, 19__, and have executed it as follows:

On _____, 19__, at _____ (a.m.)(p.m.), I seized the property described in the warrant, and I left a copy of the warrant (with) (at) _____.

The following is an inventory of the property taken pursuant to the warrant:

This inventory was made in the presence of _____ and of _____.

I swear that this inventory is a true and detailed account of all property taken by me on the authority of this warrant.

Name and Title

SIGNED and SWORN to before me this _____, day of _____, 19__.

(SEAL)

Judge/Magistrate

NOTICE OF FORFEITURE

Vessels, airplanes, vehicles, fishing gear, hunting equipment, fish and game or parts of fish and game, including aquatic plants subject to civil forfeiture under AS 16.05.190 and .195 are typically subject to various claims of interest. To avoid allegations that persons claiming an interest in objects have been denied due process, a notice of forfeiture should be signed by the clerk of court and served upon all persons known to have an interest in the items. In addition, publication in local or industry newspapers giving notice of the criminal or civil forfeiture action provides further compliance with judicial due process standards of notice. Notice to lienholders or owners of record must also be provided before forfeiture in a criminal action, and the interest of an "innocent" lienholder who has taken all reasonable steps to insure that the item was not used illegally cannot be forfeited, State v. Rice, No. 13969 BE, (Superior Ct, Fairbanks May 16, 1979). A joint venture, however, may not be deemed an "innocent" third party. F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980).

The Notice of Forfeiture summarizes the complaint and advises interested parties how to obtain copies of the complaint and how to file a claim to the res. This notice is a substitute for the more costly publication of the entire complaint.

Each Notice of Forfeiture should allow an opportunity for the interested party to obtain a hearing for release of the res. Several state supreme courts have decided the state must

take the initiative to set up this hearing. Other states conclude the hearing is not mandatory. Alaska law does not require such a hearing (the omission is a major point on appeal in the F/V American Eagle v State, 620 P.2d 105 (Alaska 1980) cert denied, and State v. Rice, 626 P.2d 104 (Alaska 1981). Because petitions for release will always be entertained by our courts, the opportunity for a hearing should be confirmed.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

JUDICIAL DISTRICT AT _____

STATE OF ALASKA,)
)
Plaintiff,)
)
vs.)
)
THE F/V MR. WONDERFUL, its)
paraphernalia and gear, the)
proceeds of 52,349 pounds of)
king crab delivered pursuant)
to ADF&G Fish Ticket)
No. E 534219, LARRY EDFINGER)
and PAUL TATUM,)
)
Defendants.)
_____)

No. 3AN__ - __ CIV

NOTICE OF FORFEITURE

TO: The above-named defendants and all other persons claiming any right, title or interest in the F/V Mr. Wonderful, its paraphernalia and gear.

On _____, 19__ an action under AS 16.05.105. **

The complaint alleges the illegal taking, possession and transportation of king crab in waters subject to the jurisdiction of the State of Alaska on or about September 16, 1978.

You must file claim to the defendant items with the clerk of this court and with the Attorney General's Office on or

** For the forfeiture of the F/V Mr. Wonderful, its paraphernalia and gear and proceeds of 52,349 pounds of Alaska king crab landed on September 16, 1978 under ADF&G ticket No. E 534219 was commenced in the Superior Court in Anchorage.

FORM NO. 7 (cont.)

before 20 days after service by mail or personal delivery or within 30 days after the last date of publication of this notice whichever is sooner. After filing your claim you must, within twenty (20) days after receiving a copy of the complaint, file with the court and serve on the Office of the Attorney General, State of Alaska, 420 L Street, Suite 100, Anchorage, Alaska, 99501, Telephone (907) 276-3550, your answer. If you fail to do so judgment will be entered for the relief demanded in the Complaint.

DATED this _____ day of _____, 19__ at Anchorage,
Alaska.

Clerk of the Courts
303 K Street
Anchorage, Alaska 99501

RELEASES

A. AIRCRAFT.

In general, it is simpler not to release seized aircraft pending litigation unless directed otherwise by the court; however, if the case is likely to take a long time to resolve, or state storage facilities are full, it may be advisable to release under appropriate terms. A bond or other security, preferably in twice the value, should be posted in order to cover unforeseen problems and potential losses or liabilities. If an aircraft is not released, it should be carefully stored with the engine "pickled", and be kept under adequate custodial care.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
JUDICIAL DISTRICT AT _____

STATE OF ALASKA,)
)
 Plaintiff,)
)
 vs.)
)

No. 3AN ____ - ____ CIV.

STIPULATION FOR RELEASE OF AIRCRAFT

I

This is an action for forfeiture of the above-described defendant items.

II

The known parties with an interest, right or title to the defendant items are:

1. (State of Alaska) _____
2. (Government bureaus) _____
 - a. Taxes _____
 - b. Loans _____
3. (Owner/Operator) _____
4. (Bank) _____
5. (Lienor or Mortgagor) _____
6. (Materialmen and Mechanics) _____
7. (Other) _____

III

The above-described aircraft was seized on _____, 19____, under (a warrant issued on _____ in the _____ court of _____ Alaska).

IV

It is presently in the best interests of all parties that the defendant items name in Exhibit A to this agreement be provided an opportunity to engage in lawful activities until _____, 19____, (or such time as a [district or superior] court decision on forfeiture is rendered).

THEREFORE the parties agree as follows:

1. Plaintiff, which has limited storage facilities, agrees to release, under the terms and conditions of this stipulation, the described aircraft with appurtenant instruments and radios, to the control and custody of _____, hereinafter referred to as "custodian", or his agent or designated employees. The aircraft is subject to and remains under the state's constructive seizure.
2. Custodian shall meet all obligations on the defendant items without delay. The obligations and dates of payments presently known are:

	<u>Lender</u>	<u>Total</u>	<u>Monthly Payments</u>	<u>Due Date</u>
a.	_____	_____	_____	_____
b.	_____	_____	_____	_____
c.	_____	_____	_____	_____

3. Each lender shall confirm receipt of each required payment in writing within five days of due date.

4. Custodian _____ as registered/joint-owner of the aircraft in _____, agrees to keep and maintain the aircraft within the State of Alaska and neither sell, dispose, nor otherwise encumber or diminish his ownership or equity in the aircraft unless specifically authorized by order of the court or upon stipulation with the state.

5. Custodian agrees to hold the state harmless for any damages or obligations which may occur after delivery to custodian under this agreement. Custodian agrees to abide by all orders of this court or any appellate court, interlocutory or final, and will deliver the aircraft to the state at such place and such time as may be directed to this court or any appellate court in the same or better condition as received from the state by virtue of this order, ordinary wear and tear excepted.

6. Custodian agrees to obtain insurance (hull and liability) on the items being delivered in an amount equal to their replacement value and to keep such a policy in force for the full replacement amount at all times.

7. The parties agree upon the following value of the defendant items listed in Exhibit A at the time of seizure.

<u>Date of Seizure</u>	<u>Value \$</u>
_____	_____
_____	_____

8. To secure the state's interest in the aircraft, custodian shall (post a bond in the amount of _____) or (deposit the sum of \$ _____ in cashier's check with the clerk of the court, _____, court, State of Alaska).

9. (Bond/deposit) shall be increased whenever there is an assessed increase in value of the defendant items equal to twenty percent of the value given in item number 7 above. Custodian agrees that in the event of the accidental loss of the aircraft, or substantial loss to the aircraft, or loss of the aircraft by theft or act of God, or otherwise, or his failure to return the aircraft upon court order forfeiting his interest in the aircraft, the (stipulated value of the aircraft on deposit as set forth in paragraph 7) or (bond) shall be forfeited to the State of Alaska. The state shall retain the accrued interest on the amount deposited. In the event of partial damage to the

aircraft, custodian shall either repair the damage, and restore the aircraft to the same or better condition which existed prior to the damage, to the satisfaction to the state, or forfeit that percent of the stipulated value required to restore the aircraft to the same condition which existed before the damage.

10. Custodian shall be penalized as follows for delay in delivery from the time custodian or his representative receives oral or written notice of a decision of forfeiture.

<u>Delay (Days)</u>	<u>Penalty</u>
a. 0-1	None
b. 2-3	5% of the value of paragraph _____ or the value of the returned items at time of delivery, whichever is higher.
c. 4-5	10%
d. 6-7	50%
e. More than 7	Forfeiture of bond/value on deposit.

11. Custodian shall do no act with the aircraft, nor permit nor allow any act to be done by his agents or employees that could subject it to forfeiture or seizure by this state, any other state, federal or private authorities, and agrees to keep the aircraft current in annual inspections, and to keep and maintain the aircraft in accordance with all Federal Aviation Administration regulations and directives.

12. Custodian absolves the State of Alaska, its agents and employees, of any liability for damage that might have

occurred while the aircraft was in state custody, and further agrees to receive the aircraft as is and where is at the time of release.

13. In the event that improvements are made to the aircraft during the aircraft's release, including but not limited to the addition of avionics, overhauling or replacing the engine(s), repairing or replacing mechanical parts of the aircraft, refabricating, etc., beyond ordinary maintenance including annual and 100 hours inspections, the state will reimburse the custodian for any additional fair market value over that at the time of seizure, which is directly attributable to the improvements in the aircraft at the time of forfeiture, if the aircraft is forfeited in this action. If the parties cannot agree, the fair market value for the improvements shall be determined by the court.

14. This Stipulation and Release of the aircraft becomes effective only upon two days written notice to the undersigned Assistant Attorney General and to the Department of Public Safety, Fish and Wildlife Protection, the two days to be counted excluding legal holidays and weekends. After two days' notice, the aircraft shall be released only between the hours of 8 a.m. and 4 p.m., Monday through Friday.