

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
6821 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

CITY OF SEWARD

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MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

THRU: DARRYL SCHAEFERMEYER, CITY MANAGER

FROM: E. PAUL DIENER, MGR. ENGINEERING & UTILITIES

SUBJ: 1991 LEGISLATIVE PACKAGE, CAPITAL IMPROVEMENT PROJECTS

DATE: NOVEMBER 19, 1990

The following listed projects are proposed for the legislative CIP package with descriptions and costs as indicated. The list was developed from unfunded projects in last year's legislative CIP list and the City's three year Capital Improvement Plan.

PRIORITY 1 Seward General Hospital Require \$ 9,675,000

This project is the community's top priority and is being carried over from previous years. The funding includes \$ 9.5 million for a complete new facility including FF&E and \$ 1.2 million to remodel the existing facility as a support and out-patient health center. The total project cost is \$ 10.7 million less local funding of \$ 1,025,000 (land and in-kind contributions), leaving a legislative grant requirement of \$ 9,675,000.

PRIORITY 2 School sidewalks/Iditarod bike trail Require \$ 200,000

These items are the city's designated #2 priority and consists of funding for the construction of a multipurpose sidewalk and bike trail. The sidewalk, to be part of the Iditarod National Historic Trail, will provide safe pedestrian passage particularly for school children along a route from the Seward Highway, up Swetmann Avenue to the Junior/Senior High School, and then to create a trail to the Elementary school, thereby providing life safety travelways where no such walks exist. Currently, children are exposed to a tremendous danger walking on roadways made hazardous by snow, ice and darkness. The other portion of this project is to provide funding to complete the asphaltting of a hiking/biking trail that follows along the Seward waterfront (9/10th of a

1991 LEGISLATIVE PACKAGE

Page two

mile), to provide amenities such as rest areas and signage, protective equipment such as bollards. This project will connect with the sidewalk/trail system described above.

The City of Seward has identified numerous needs for capital projects. Though all projects can be identified in the most-recent CIP document, the Administration would like to include, for emphasis, the following projects in the 1991 legislative package:

<u>Replacement Lowell Creek Bridge</u>	Require	\$ 160,000
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This project was included in last year's legislative package for \$ 500,000. Since then, we have received \$ 340,000 in state emergency funds to pay a portion of the cost of replacing the bridge which is frequently damaged during heavy rains thereby isolating the residents and businesses south on Lowell Point Road and threatening flood damage to city areas in the vicinity of the bridge. DOT/PF has additionally committed to provide four steel bridge beams stored in the local DOT/PF yard. The additional funds - \$ 160,000 - are necessary for a completed project including channeling and rip rap of the channel.

<u>Harbor Float System & Electrical Service</u>	Require	\$ 9,300,000
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This project involves a complete rebuilding and upgrade of the floats, piling and electrical service system in the Seward Small Boat Harbor. This is required because of the deteriorated condition of the floats and piling and the inadequate electrical service. The harbor is over-taxed by demand and the present facility presents a "disaster waiting to happen" unless either the state or the City take the lead in replacing the facility.

The cost breakdown for this project is \$ 2.5 million for piling, \$ 5.6 million for floats and \$ 1.2 million for the electrical system.

<u>SMIC North Dock Expansion</u>	Require	\$ 7,300,000
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As identified by the Seward Port Advisory Committee and the Seward Trade Board, this project is carried over from previous years since 1981 when this project was first introduced to the legislature in the the original SMIC design. The expansion will involve creating 1,500 lineal feet of new dock space providing additional space essential for in-water ship repair, berthing space as well as providing critically needed berthing for log and lumber exports from the sawmill. This project would complete the Seward Marine barrier - a project that has received over \$ 20 million of prior state investment to provide jobs and economic activity for the region. To date, the state's port investment has produced over 300 jobs and over \$ 125 million of investment. Finishing the North Dock

1991 LEGISLATIVE PACKAGE

Page three

will allow the state and city's hopes to be fulfilled in hopes of developing projects that provide income and employment.

Miscellaneous Projects Require \$ 185,000

The following projects have been identified frequently by patrons, visitors and local committees:

Park Improvements	\$ 50,000
New ambulance	95,000
Public bath and shower facility, SBH	<u>40,000</u>
Total	\$ 185,000

Feasibility Studies Funding Require \$ 350,000

This request is for funding required for Corps of Engineers studies for the 1991 season only. Additional funds will be needed in future seasons.

A listing of the studies is as follows:

Seward South Harbor Expansion	\$ 150,000
Lowell Canyon Creek Flood Control	100,000
4th of July Creek Flood Control	<u>100,000</u>
Feasibility Studies Total	\$ 350,000

Ak. Marine Mammal Center Funding Require \$ 250,000

The Seward Association for the Advancement of Marine Sciences (SAAMS), with the support of the City of Seward, is actively pursuing the funding for construction of a \$10 million science, research, rehabilitation and education center involving marine mammals of the northern regions. The funding requirement is for initial planning and design of the facility and for more thorough research of the project and fund-raising tools.

1991 LEGISLATIVE PACKAGE
Page four

In summary, the Administration wishes to present this package to the legislature:

Seward General Hospital	\$9,675,000
School sidewalks/Iditarod bike trail	200,000
Lowell Creek Bridge Replacement	160,000
Harbor Float & Electrical System	9,300,000
SMIC North Dock Expansion	7,300,000
Miscellaneous Projects	185,000
COE Feasibility Studies	350,000
Marine Mammal Center Funding	250,000

Total Legislative Package \$ 27,420,000

A brief description of these projects is attached and more detailed explanations of these items can be found in the "Fiscal Year 1991 Capital Improvement Plan. Upon adoption of the final project and priority list, a detailed package will be assembled for the 1991 legislature.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE RESOLUTION NO. 90-147 IDENTIFYING PROJECTS AND SETTING PRIORITIES FOR THE LEGISLATIVE CIP PACKAGE.

ADOPTED BY THE CITY COUNCIL, CITY OF SEWARD NOVEMBER 26, 1990

CIP PROJECTS DESCRIPTIONS

SEWARD GENERAL HOSPITAL - This item calls for the replacement of the Seward General Hospital facility into a twenty (20) bed unit. The existing building has not complied with hospital and building codes, is unsafe and uneconomical to operate. State and Federal agencies may reject SGH's certification at any time leaving the community without an acute-care health facility. With the new facility, it is conceivable that the financial burden of hospital operations may be lessened by an increase in revenues by area residents relying more upon the facility for treatment and care rather than taking their health care dollars to Anchorage or peninsula hospitals. In addition, a new facility would provide additional motivation for new physicians to establish practices in Seward thereby adding to the quality of care and specialties of services. With industries looking at Seward for possible future development, the presence of a quality health facility will make the community appear more attractive to the industries and families considering locating here. This project has been designated as the City's top priority.

SCHOOL SIDEWALK/IDITAROD BIKE TRAIL - The school sidewalk project, not listed on the City CIP plan, has been placed upon this year's legislative list because of the attention caused to this project's need by local groups and families. The project involves the construction of a sidewalk/bike trail along the major street leading to the Seward Junior/Senior High School, from the Seward Highway, along Swetmann Avenue. Currently, students must walk along the roadway as no such sidewalk exists. This presents an extremely hazardous situation to the safety and welfare of the school children who must share the road with vehicle traffic. The hazard is worsened because of snow, ice and darkness and a vehicle/pedestrian accident is inevitable. The sidewalk will be tied in to the Iditarod National Historic Trail project - a project to construct a hiking/biking trail that will run from the city's south beach to the harbor then to the school and then connecting the high school with the elementary school. Not only will the trail (which has been on Seward's legislative list for the past three years) provide a major capital improvement for the city's park lands but will enhance the life safety factors for the thousands of visitors and the local citizens in pedestrian and recreational needs. Monies will be used to build the sidewalks and to asphalt the trail, provide signage and protective barriers such as bollards and to provide bridges and culverts as needed. The City Council has determined these projects to be the City's #2 priority.

LOWELL CANYON CREEK BRIDGE REPLACEMENT - This project is not contained in the CIP. However, Administration wishes to include this in the legislative package because of the notorious nature of the existing bridge and the successful acquisition of state emergency funds for bridge replacement in the amount of \$ 340,000 due to damage to the bridge in the 1989 flood. During heavy rains and flooding conditions the bridge, located below the outfall, rapidly fills with water restricted by the narrow width of

drainage channel. This hazardous situation escalates because of the accumulation of gravels and debris under the bridge further restricting the channel. As the situation continues, the water may destroy the approaches to the bridge, jeopardizing the foundation and structural integrity of the bridge and causes water to spread to locations along Railway Avenue. Public Works crews, utilizing heavy equipment, risk their personal safety in unblocking the restricted channel during flooding and in attempts to keep the bridge open so that residents and businesses located south of the bridge can have access to the city.

HARBOR FLOAT & ELECTRICAL SYSTEM REPLACEMENT - The present electrical system in the Harbor is inadequate and services slightly over half of the berths. The system has severe salt water corrosion and, at some point in time, the operation of the system will be impractical and unsafe. This item has been mentioned frequently by members of the Port Advisory Committee, members of the Seward Yacht Club and those leasing berth space. Because of the inadequate system, consumers are often rigging up their own electrical power sources (unsafe and not in code conformance) or complaining about the lack of service available for their craft. The need to replace the entire float system itself deserves serious consideration because of the present overload conditions at the harbor and the age of the facility itself. Presently, pilings are deteriorated effecting the stability of the entire float system. The floats are in need on additional floatation as the system sinks under heavy load thereby endangering life and property. With the heavy demand of the harbor, especially during the fishing months when boats may be rafted six and seven deep, the entire structure is suspect for collapse due to the heavy stress upon the system.

SMIC NORTH DOCK EXPANSION - This is another item not on the City CIP yet the project has come under considerable recommendation by the Trade Board and the Port Advisory Committee. In the original proposal of the development of the Seward Marine Industrial Center, an extension of the North Dock southward was designed in order to relieve the swell conditions in the SMIC basin and to provide extra mooring space. With the increase in activity at SMIC over the past year, the need for such an improvement becomes more desirable as additional in-water docking space is needed for ship repair, berthing for fishing and cargo vessels. Though the additional dock would cost a considerable amount, it will be a revenue-producing facility thereby bringing economic activity to the area, the community and the City.

NEW AMBULANCE - A third ambulance is necessary to provide a more reliable service and to maintain an advanced life support capability within the city at all times. A critical situation is present when one of the ambulances is in transport of a patient to Anchorage causing the vehicle to be occupied and out-of-service to the community's needs for hours. This leaves the city with only one ambulance thereby leaving the city in a precarious situation for proper emergency transport and life-safety services, i.e. when the

fiscal planning though there are a multitude of needs and developments that could be implemented if the monies were available. Park improvement monies have been on the legislative list for the past four years yet have never been funded. Among desired projects are the construction of a bathroom facility at Ballaine & Monroe, replacement of tot lot toys that are of potential high-liability risk, grass planting and more amenities such as picnic tables and grills. Some improvements have been made financed primarily by campground collections profits though more could and needs to be done with additional monies. With Seward experiencing growth in population (caused by more families coming to the community because of the increased employment opportunities) and the boom in tourism, the City is in need of developing these public properties to offer the amenities and facilities expected by the patrons.

SMALL BOAT HARBOR BATHROOM/SHOWER FACILITY - A sanitation facility is desired at the north end of the harbor, near "J" ramp, as permanent facilities are located on the south end of the harbor. This item has been mentioned frequently by harbor users and the Port Advisory Committee as a necessary addition to the harbor.

FEASIBILITY STUDIES FUNDING - Local shares of funding will be required to implement Corps of Engineers' studies on the Small Boat Harbor South Expansion, Lowell Canyon Creek Flood Control and 4th of July Creek Flood Control. If the City wishes to proceed on these projects, monies will need to be made available either through local funds or legislative grants. Because of the importance of the projects, Administration would like to forward these grant requests to the state rather than seek the funding from local funding sources.

MARINE MAMMAL CENTER FUNDING - A local group of citizens, supported by research and rehabilitation professionals in the field of marine mammal studies, have formed an association to pursue the construction of the Alaska Marine Mammal Center to be located in Seward. The City of Seward has provided its support to this project which will provide facilities for research, rehabilitation and education involving marine mammals of northern seas. The plan calls for the construction of a \$10 million facility. The request for funding is to acquire funds for design and technical planning for the facility. In addition, the funds will be utilized for other professional services required in the Center's initial development phase.

**APPENDIX II - SEWARD GENERAL HOSPITAL
CERTIFICATE OF NEED**

SHPDA Findings And Recommendation

**SEWARD GENERAL HOSPITAL
Application For Modification
Certificate of Need**

August 30, 1989

**State of Alaska
State Health Planning and Development Agency**

**Planning Section
Division of Administrative Services
Department of Health and Social Services
Post Office Box H-02
Juneau, Alaska 99811
(907) 465-3015**

**APPENDIX I
CERTIFICATE OF NEED**

SHPDA Findings And Recommendation

Seward General Hospital
Certificate of Need
Application For Modification
September, 1989

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REVIEW CRITERIA

1. Relationship To Applicable Plans

The original proposal was found to be the product of a thorough planning process and to be consistent with the Health Systems Plan and the State Health Plan. Extension of completion data as requested by this modification application would not appear to be in conflict with this earlier found consistency.

2. Demonstration of Need

The original state agency review found that the deficiencies within the hospital were the primary demonstration of need for the project. Specifically, the hospital does not meet building fire and life safety codes. The problems include use of non-fire treated wood in the interior and ventilating systems that may contribute to the spread of infection. Additionally, the space is insufficient to comply with code requirements.

The service area for Seward General Hospital is defined as the east peninsula portion of the Kenai Peninsula Borough encompassing Seward, Moose Pass, Cooper Landing, Bear Creek and Hope. The 1984 estimated service area population was 3,850. At the time of the original application, the population of Kenai Borough was expected to double within 10 years. The depression has dramatically impacted this projected growth, however, and the State Demographer's most recent estimate shows a 4.4% growth in the Kenai Borough from 1984 to 1988.¹

The applicant documented and the state agency agreed with an existing need for 9 beds at the time of the original application. The applicant proposed operation of the new facility initially with the ten proposed single rooms, converting to double rooms by adding beds as demand increases. The double bedded rooms appear to be an equitable approach to meeting growth demands as the one time construction cost will provide enough beds for foreseeable increases in demand or changes in service delivery over the economic life of the building. Operating costs will reflect only staffing costs required for the actual utilization.

¹ "1983 Estimates of Alaska's Population", News Release, Alaska Dept. of Labor, July 10, 1989.

3. Availability of Less Costly Alternatives

Several alternatives were considered as mechanisms for meeting the objectives of the proposal. Of the alternatives that provide hospital care consistent with the State Health Plan, the alternative chosen was the least costly.

4. Financial Feasibility

With the exception of the building site, activity related to this project must rely entirely on funding derived from outside the community. The city cannot afford to borrow the money for the project because to do so would result in an increase in patient day costs of \$486 to retire general obligation bonds and \$461 to retire revenue bonds. (These estimates were based on index data supplied by a Seattle bond broker in 1984 and may grossly understate the per diem costs since they rely on what have proven to be inflated population and utilization estimates.)

The applicant states that "...the hospital is working with the state legislature on a program to fund hospital construction via a state-wide bond issue.....If the legislature puts a bond issue (on the state-wide ballot) for funding of health care projects, the election would be held in the fall of 1990 and this could result in a 'Month 0' of January 1991."² "Month 0" refers to the start of an estimated 27 month period necessary for project completion.

The applicant has tried unsuccessfully to obtain a direct legislative grant for this project. This effort has been made, however, during a time in which state revenues have been steadily declining and rigid closures placed on the capital construction budget.

Funding for this project thus must rely on future action by the state legislature. When or if such funds will be made directly available by the state legislature or if, as an alternate means of funding, the legislature will authorize a statewide bond issue and if such an issue can be successfully passed cannot be predicted with any assurance. State participation is essential, however, for this project to be fiscally feasible.

² Letter to Commissioner M. Munson from C. Keith Campbell, CEO Seward Hospital, May 1, 1989.

Depreciation of capital funds received through grants is a reimburseable patient care expense under Medicaid regulation. The impact of this project on the Medical Assistance budget will be limited to an increase of the depreciation basis to reflect the \$9.5 million capital expenditure. The old building will not be used to support hospital functions and, therefore, no depreciation for that asset will be allowable for rate setting purposes.

5. Relationship To Existing Services

Seward General Hospital has a close working relationship with Wesleyan Nursing Home which is also sited in Seward. The Hospital provides inpatient, outpatient, and ancillary services to Wesleyan and sells meals to the Senior Citizens.

The most important impact that the proposal will have on the health care systems is the assurance that hospital and emergency care will continue to be available in the eastern Kenai peninsula area.

6. Availability of Resources

Fiscal resources are discussed in Section 4 above. Personnel resources are deemed adequate since no increases in personnel are anticipated as a result of this project.

The provision of office space and the up-graded medical care facility resulting from this project should enhance efforts to recruit and retain health care professionals in the Seward area. The revenue expected from rental space was not identified by the applicant.

7. Relationship To Ancillary And Support Services

The use of an adjacent site for patient care facility construction will ease the staging transition to the new structure and allow continuation of core services during the construction period. The new areas provided for ancillary and support services will enhance and facilitate the provision of these services.

8. Methods And Impact Of Proposed Construction

The design of the hospital as originally proposed was reviewed by the Department of Health and Social Services architect and determined to be carefully planned. The architect did find that construction costs were underestimated. At his recommendation, the Certificate was granted for \$10.5 million. This was \$2.2 million more than

the original estimate provided by Seward. In the current application for modification, Seward has determined that anticipated costs are less than as specified in the Certificate of Need and have requested that the Certificate expenditure authorization be reduced to \$9.5 million. The original application identifies \$200,000 for fixed equipment and \$550,000 for major movable equipment. This equipment would replace existing equipment and will not substantially increase the service volume capability or advance substantially the technological capability of the health care facility.

9. Needs of Medically Underserved Groups

This hospital makes a significant contribution to meeting the health care needs of a rural isolated community.

HEALTH SYSTEMS AGENCY RECOMMENDATION

The South Central Health Planning and Development Agency, Inc., the health systems agency serving the applicant's catchment area, offered no comment or recommendation regarding this application for modification. (This agency has been defunded and no longer maintains an active role in regional health planning activities.)

STATE AGENCY FINDINGS AND RECOMMENDATION

The State Agency finds as follows:

■ This application proposes an extension of the completion date for a project originally reviewed and approved in 1985. The circumstances and conditions that led to the original approval of this project remain equally valid when currently reviewed under the Certificate of Need criteria.

■ Local funding sources have not been found to provide the capital necessary to complete this project. Efforts during the past four years to obtain a state legislative grant to fund the capital costs of this project have proved unsuccessful.

■ The applicant describes a proposed legislative sponsored statewide bond issue in 1990 as a source of funding for this project. However, no assurance can be given that such an issue would be approved by the legislature or accepted by the electorate. The projected completion date for the project under this funding mechanism would be April, 1994.

■ The proposal relies entirely on state funding and will require no repayment of principal or interest by the applicant. Depreciation will be increased to reflect the \$9.5 million capital expenditure. The old hospital building will not be used for hospital functions.

Based on these findings, the State Agency recommends:

1. A modified Certificate of Need be granted to Seward General Hospital;
2. the completion date for this Certificate be extended until April 30, 1994; and
3. the maximum expenditure authorized for activity conducted under this Certificate be reduced to \$9.5 million.

BACKGROUND

The Applicant

The Seward General Hospital is located in Seward, an isolated community of approximately 2,400 population in southeastern Kenai peninsula. The Hospital is owned by the City and is leased for one dollar a year to the Seward General Hospital Association, a local non-profit corporation which operates the facility. Although the City is not directly involved in management of the hospital, City sales taxes are used to defray operational losses at the hospital.

The Proposal

The Seward General Hospital was built in 1958. Although well maintained, the hospital building suffers from deficiencies under the headings of mechanical, electrical, functional, fire prevention, and life safety code violations. In a 1981 state sponsored study of rural health care facilities, Seward ranked third on a priority list of needed hospital projects. In May of 1985, Seward received a Certificate of Need for a \$10.5 million project to correct these deficiencies.

The project involves construction of a new building to house patient care and support services on a site adjacent to the current hospital, remodeling of space in the current building to house physician offices, and using the remainder of the current building for other health and social service programs. Bed capacity will decrease from 33 to 20, and equipment will be modernized, but the scope of services offered will be generally unchanged.

The construction plan includes 10 two-bed rooms. However, the actual number of beds licensed will depend on demand. Four of the 20 beds will be dedicated to obstetrics and another four will be equipped for intensive and coronary care. There will be one operating room, one delivery room, and a two-bay trauma room. Patient service areas planned include radiology, physical therapy, and laboratory, each of which will also have an outpatient component.

The remodeled area of the existing hospital will include physicians' offices, an outpatient clinic, and rental space for other health and social service agencies.

Funding for the project was to be obtained from the State through a legislative grant. However, the oil recession that paralyzed the state's economy since 1985 has

blocked the City from obtaining state funding for this project. The activity authorized by the Certificate was originally to be completed by December, 1987. When it became apparent during the 1987 legislative session that funding would not be available, Seward requested an extension of the completion date which Commissioner Myra M. Munson granted until December, 1988. In December of 1988, Commissioner Munson again extended the expiration date of the Certificate until July, 1989 to allow Seward time in which to prepare and submit a formal application to modify the Certificate.

This modification application was determined complete on June 5, 1989 and, although the scope of the activity would be deferred but unchanged, proposes a reduction in total project cost from \$10.5 million to \$9.5 million. The applicant remains unsure of when state funding may be obtained, but discusses a legislature sponsored statewide bond proposal for health care facility construction. Assuming successful passage of a bond issue in the fall of 1990, the project would begin in January, 1991 and be completed by April, 1994.

JAN 23 1991

KENAI PENINSULA CAUCUS
AN ORGANIZATION REPRESENTING
MUNICIPAL GOVERNMENTS AND CHAMBERS OF COMMERCE
OF THE KENAI PENINSULA BOROUGH
177 North Birch Street, Soldotna, AK 99669
Phone: 262-9107

January 23, 1991

Alaska Legislators
State of Alaska
P.O. Box V (Mail Stop 3100)
Juneau, AK 99811

Dear Legislators:

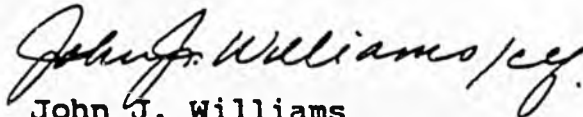
Enclosed please find a copy of the Kenai Peninsula Caucus resolution supporting a legislative grant to fund the replacement of the Seward General Hospital.

The replacement of the Seward General Hospital is the high priority project of the City of Seward for the 1991 legislative session and the Caucus strongly supports the request for funding.

Thank you for your cooperation in this matter.

Sincerely,

KENAI PENINSULA CAUCUS



John J. Williams
Secretary

JJW/clf

KENAI PENINSULA CAUCUS

RESOLUTION 90-12

A RESOLUTION SUPPORTING A LEGISLATIVE GRANT TO FUND REPLACEMENT OF SEWARD GENERAL HOSPITAL.

WHEREAS, Seward General Hospital is one of three acute care hospitals within the Kenai Peninsula Borough; and,

WHEREAS, in 1981 Seward General Hospital was inspected by state and federal regulators and found to be in violation of numerous federal, state and local life safety and accessibility codes; and,

WHEREAS, the State of Alaska, Department of Health and Social Services, pursuant to the provisions of AS 18.07.031-111 and 7AAC 07.010-130, on September 9, 1989, granted Seward General Hospital a Certificate of Need for replacement; and,

WHEREAS, the Certificate of Need authorizes a replacement project of up to ten double-bed, acute-patient-care rooms with a total expenditure authorized for the project of \$9,500,000, not including land and in-kind contributions; and,

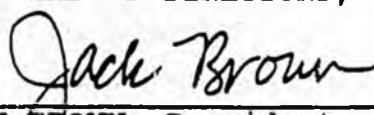
WHEREAS, the replacement of the Seward General Hospital is the single highest priority project for the City of Seward for funding by the 1991 legislative session.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KENAI PENINSULA CAUCUS:

Section 1. The Kenai Peninsula Caucus supports the appropriation of \$9.5 million by the 1991 Alaska Legislature for the replacement of Seward General Hospital.

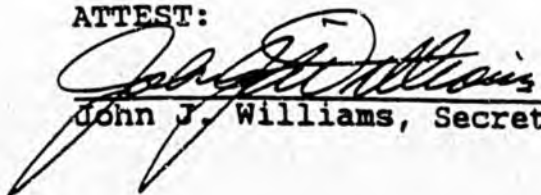
Section 2. The secretary is hereby directed to send copies of this resolution to The Honorable Walter J. Hickel, Governor, State of Alaska; all members of the 1991 Alaska State Legislature; Theodore Mala, Commissioner, Department of Health and Social Services; and the Alaska Hospital Association.

ADOPTED BY THE KENAI CAUCUS BOARD OF DIRECTORS, this 18th day of January, 1991.



JACK BROWN, President

ATTEST:



John J. Williams, Secretary

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Ketchikan General Hospital

3100 TONGASS AVE.
KETCHIKAN, ALASKA 99901

January 26, 1990

Senator Lloyd Jones
P.O. Box V
Juneau, AK 99811

JAN 28 1990

Dear Senator Jones:

I am writing to update you on the current status of the Ketchikan General Hospital Remodeling and Expansion project.

Certificate of Need - The Certificate of Need was filed on October 4, 1989. The State Department of Health and Social Services met with the hospital on November 18, 1989 and made a request on December 4, 1989 for additional information.

The Certificate of Need request was for \$18,890,000 for the total project. The State Department of Health requested the total project be broken down, if possible, to increase funding potential from the state. After study by the architects, the Certificate of Need was amended on January 25, 1990 to include full funding for the project costing \$18,890,000 plus a Phasing Plan that increases the cost by \$1,483,457 and increases construction time to 56 months and seriously disrupts the hospital operations. The Phasing Plan is as follows:

Phase I Cost: \$5,505,570 (plus \$100,000 hospital equipment, plus contingency of 5%, plus \$150,000 project clerk of the works for a total of \$6,018,348)

This phase is the infill between the nursing home and hospital for expansion of emergency and outpatient facilities and corrects critical and long standing code deficiencies in the laboratory.

Phase II Cost: \$8,523,167

This phase consists of constructing a new south addition, new service entrance, new boiler plant, new electrical switch gear, new emergency power facilities, and essentially providing new mechanical/electrical infrastructure for the entire hospital complex.

Phase III Cost \$5,228,720

Phase III consists of constructing alteration work on the space vacated and will be the most disruptive to the operations of the daily business of the hospital. The major departments affected will be X-Ray, Food Service and Materials Management.

KGH

Ketchikan Gen. Hospital Project

KGH Certificate of Need

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The construction plan for the hospital was developed to correct the fire life safety violations, building code violations and space deficiencies that were identified by the state's own assessment in 1982. It is now eight years later and two plans later and our problems have been intensified by increased volumes and new services. I believe the deficiencies have reached a critical level for the hospital to continue to provide high quality services in the future. Ketchikan General Hospital has patiently waited while other hospitals identified in the 1982 reports have been funded by the State of Alaska.

In summary, our request is for the full project or enough to cover Phase I and Phase II. If that is not available, any help would be appreciated.

If you need additional information, please call me at 225-5171 ex. 326 or ex. 389.

Sincerely,



Edward Mahn
Administrator

cc: Jack Pearson, City Manager

EMpa

Ketchikan General Hospital

3100 TONGASS AVE.
KETCHIKAN, ALASKA 99901

JAN 23 1991

January 18, 1991

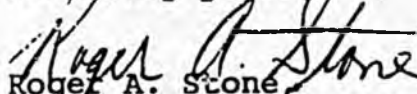
Senator Lloyd Jones
Alaska State Senate
Box V
Juneau, Alaska 99811

Dear Senator Jones:

This letter is to clarify the dollar amount needed to accomplish the planned facility expansion at Ketchikan General Hospital. According to our Certificate of Need dated 5-23-90, we needed \$17,774,000 as a lump sum to complete our facility expansion project all at the same time if construction started during the 1990 construction season. Since construction did not start in the 1990 construction season, our architects, John Rigdon & Mills, estimate our costs have increased approximately 5.5% over last year. Therefore, our current funding need to complete the facility expansion as a single project is estimated to be \$18,751,570. If our expansion project were to be built in three phases our 1990 Certificate of Need estimated the cost at \$19,257,457. Again assuming our costs have increased approximately 5.5%, the phased cost is now estimated to be \$20,316,617.

If you need any additional information or require additional details on the above cost estimates, please contact either Ed Mahn, our Administrator here in Ketchikan, or me if Ed is not available. We sincerely hope the Alaska State Legislature can fund this badly needed project for the Ketchikan Community in the upcoming legislative session.

Sincerely yours,


Roger A. Stone
Chief Financial Officer

KCH

ing with other agencies in t
A troopers vessel visit

ie.
uam

scene, Godfrey said.
A coroner's presumptive death

will attempt to rule whether the two
See 'Investigation' on page 2

Funding would aid cramped hospital

By JANIE DUNWORTH
Daily News Staff Writer

A \$14 million appropriation bill for the expansion and renovation of Ketchikan General Hospital was introduced to the Alaska State Senate on Monday.

The bill, sponsored by Sen. Lloyd Jones, R-Ketchikan, is part of a \$36.9 million appropriation bill that also seeks funding for hospitals in Seward and Kodiak. The bill calls for Seward to receive about \$8.6 million and for Kodiak to receive about \$14.2 million.

According to Jones, the three hospitals were identified for top priority funding in a 1982 inventory and Evaluation Survey prepared for the legislature by the Department of Health and Social Service.

"There are three hospitals that need help now. Ketchikan, Seward and Kodiak have been identified as top priority for replacement and renova-

tion funds in 1982. It's absolutely critical we fund these projects this year. They were in bad shape then, you can imagine how bad off they are now," said Jones.

Problems outlined

About 250 employees at the hospital don't have to imagine how bad it is. They are the ones who must deal with the lack of space and with bathrooms that are now used as closets and closets that are now used as dressing rooms. They must also deal with radioactive isotopes that have been placed in what used to be a bathroom. The pharmacy department must use a closet to mix its medicine and the blood supply in the laboratory has inadequate storage space. The list goes on and on, according to staff.

"There's no slack left. Currently we are faced with serious life-safety codes and deficiencies," said Ed Mahn, hospital administrator.

Mahn said he is "cautiously optimistic" about funding this year. Other employees were less sure than Mahn. They all continue to play the budget waiting game.

The \$18 million expansion and remodeling project has been tagged as the city's number one priority, according to Mahn. In addition, it has been listed as one of the top regional priorities on the Ketchikan Community Legislative Priorities list.

City needs to contribute

If Jones' appropriation bill passes this session, the city will need to come up with a \$4.6 million match for the funding.

Assistant City Manager Bill Jones said the city is still working on its capital project budget and it is too soon to tell if the hospital project will be included. City Finance Director Howard Ward said the budget should be

presented to the Ketchikan City Council in March.

According to Mahn, the need for expansion is illustrated by the increased volume of business at the hospital. He said it has seen a 33 percent increase since 1982. Individual departments are also experiencing increases. While the demand grows, there is no place to accommodate it.

Tim Walker, a medical technologist who has worked in the hospital's lab for four years, said lab activities have doubled. The department reported that it performs between 1,000 and 1,500 tests a week.

A walk through the lab paints a cramped, chaotic picture. Equipment is stacked on desks and the corridor can only accommodate one person in many areas. The blood supply is stacked and another refrigerator is needed. But, Walker said, there isn't room for another refrigerator.

Crowding continues

Dave Smith, director of the radiology and laboratory departments, said there is so little space in the hospital that there isn't any place to put the equipment or to accommodate the technology. He said funding for equipment has been available, but there isn't space.

Smith said he often feels sorry for the patients as they have few if any areas to wait. He said it makes him feel bad when he sees them parading down the hallways in their robes.

Besides the lack of space, other deficiencies have been identified by the State Department of Health. It reported that there are serious life-safety code deficiencies, serious space deficiencies and an asbestos problem.

A lack of parking was identified in the 1982 study as well, but was remedied when the new 60-space parking lot was built.
See 'Hospital' on page 3

Workers lighten seniors' load



Total Brend talks with Jean Elliot during a Case Management visit last week.

Staff photo by Janie Dunworth

Allies claim Basra nearly isolated

By FRED BAYLES
Associated Press Writer

DHAHRAN, Saudi Arabia (AP) — Favored by the desert sun, allied jets stepped up the air war Monday with hundreds more bombing runs against Iraqi targets. The city of Basra, nerve center of Iraq's defense, was believed all but cut off.

Iraq fired two Scuds at Israel and launched a missile at Saudi Arabia, causing injuries and damage in both countries.

"We hated to come back, but we ran out of bombs," an exuberant U.S. Air Force pilot told reporters on his return from a bombing run.

As U.S. air commanders pressed this "battlefield preparation phase," President Bush met with his war advisers to consider ordering American troops onto that battlefield — in a decisive ground war for Kuwait.

Emerging from a White House meeting with Defense Secretary Dick Cheney and joint chiefs chairman Gen. Colin Powell, both just back from Saudi

As for a ground offensive, Bush said, "we're not talking about dates." In Baghdad, the government announced it was reaching still deeper into the Iraqi population — into the schools — for teen-age soldiers to help "destroy the enemies of God and humanity."

Also Monday, Iraq's religious affairs minister, Abdullah Fadel, said "thousands" of civilians have been killed or wounded in allied bombings. It was the first time a senior Iraqi official had spoken of such high civilian losses. The government previously listed 650 civilian dead.

Civilian deaths estimated
Peace activist and former U.S. Attorney General Ramsey Clark, newly returned to New York from a week in Iraq, said the chief of the country's Red Cross affiliate estimated civilian deaths at 6,000 to 7,000.

In the Middle East and elsewhere, the quest for peace continued.

A Soviet envoy, Yevgeny Primakov, ventured into bomb-battered Baghdad

Ketchikan Daily News / Feb 17, 1991

Tuesday
 Low 5:12 a.m. 4.4 ft.
 High 11:15 a.m. 15.2 ft.
 Low 5:45 p.m. -0.2 ft.
 High

Wednesday
 Low 5:49 a.m. 3.4 ft.
 High 0:13 a.m. 14.0 ft.
 Low 8:17 p.m. -0.8 ft.
 High 11:51 a.m. 15.9 ft.

Weather Special

Two new records high temperature for the 10th of February was set for Arnette Island Sunday. A new record high to 81 degrees broke the previous high of 80 degrees set in 1970. Also the high minimum temperature of 39 degrees set way back in 1983 was broken with a new high minimum temperature of 46 degrees.

Alaska Special

Two weak low pressure centers located just offshore from the Kuskokwim delta and over the Alaska Peninsula brought precipitation to southern portions of Alaska. The precipitation was mainly in the form of snow over the Aleutians and the Pribilofs.

There was rain over the southeast Alaska peninsula and Kodiak Island, and a mixture of rain and snow over Bristol Bay, the Alaska Peninsula, the Sushina valley and the north gulf coast. Bethel, in the Yukon-Kuskokwim delta, reported periods of freezing rain during the morning. Otherwise skies were mostly cloudy over the remainder of Alaska today.

Strong northerly winds blew over the Bering Sea, with both Gambel and Saint Paul Island reporting winds gusting over 35 miles per hour. Saint Paul also had a blowing snow advisory in

Coast.
 It snowed over much of inland New York state and parts of Pennsylvania, Ohio and Michigan. Snow also fell from east central Illinois to south-east Iowa. Snowfall during the six hours ending at 1 p.m. EST included 4 inches at Syracuse, N.Y., and 1 inch at Bradford, Pa. There were no reports of heavy rain during the same six hours.

Winds to near 40 mph over parts of New York state and western Pennsylvania brought ash clouds of 23 below zero at Massena, N.Y., 19 below at Bradford, Pa., and 15 below at Buffalo, N.Y.

The low for the Lower 48 states Monday morning was minus 10 degrees at Caribou, Maine. Temperatures around the nation at 9 p.m. ranged from 9 degrees at a New National Falls, Minn., to 85 at Palm Springs, Calif.

Gulf Summary

By The Associated Press
 Tuesday's forecast for Iraq is for quiet weather to continue, according to Accu-Weather Inc.

The private forecast service in State College, Pa., said the sky will be sunny to partly cloudy through the entire Mideast. Temperatures will be in the low 80s in Iraq and Israel while readings in the upper 80s and low 70s will prevail in Saudi Arabia. Tuesday night will bring patchy clouds and light winds throughout the area.

(Some countries in the region, including Iraq, are no longer providing surface observations normally used in forecasting. Accu-Weather bases its predictions on satellite photos, and measurements from the countries still providing weather data.)

Estimated Middle East Temperatures:

	Hi	Lo
Tuesday		
Amman	82	40
Baghdad	80	32
Cairo	82	42
Damascus	59	30
Dhahran	72	57
Jiddah	78	54
Riyadh	72	49
Tehran	40	25

U.S. command spokesman, Marine Brig. Gen. Richard Neal, said

bombers have destroyed many of the key links into and out of Baara, which lies in a region crisscrossed by rivers and other waterways. The Americans reported continuing successful strikes against tanks, artillery and Iraqi bunkers in the Kuwait theater.

Capt. Dewey Gay, the F-16 pilot who "hated to come back," said his flight "pretty much got all the tanks.... This was one of the best ones in a while."

Brightening skies Monday enabled air commanders to mount 2,900 sorties over 24 hours, hundreds more than on any recent day. The U.S. command said 750 missions were directed against Iraqi positions in the Kuwait theater, including 200 against the dug-in Republican Guard, the Iraqi army's elite units.

Baara was again hit hard. The southern Iraqi port is both headquarters for the Iraqi defense and a transshipment

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Launchers reportedly hit Desert Storm officers also reported likely hits against four Iraqi mobile

Hospital

Continued from page 1
 berth was completed in June.

Asbestos a problem
 The areas of the hospital targeted for renovation and expansion include the emergency and radiology departments, the laboratory, support areas, conference rooms and private patient rooms. Asbestos removal is also slated as part of the project.

Mahn said the asbestos problem will be contained or "encapsulated" in areas of renovation and removed from areas of remodeling.

In addition, the project calls for the replacement of the mechanical, heating and electrical facilities. Mahn said the hospital does not have the required fire sprinklers, which are included in the project.

Mahn is hoping to receive good news from the Legislature in July. If the appropriation comes through, an 8-month design process will start. He said construction could take between three and four years, depending on the number of project phases.

In addition to the appropriations bill, Jones also introduced Senate Bill No. 67, which would place a systematic, rational procedure for ranking hospital and nursing home projects to help get the worthiest and neediest projects funded.

Rep. Cheri Davis, R-Ketchikan, said it is hard to make the call about the hospital funding. She said it is difficult to know with a new governor and administration.

"I hope it will go well. We're going to fight for it. None of us know what the governor's plan is," she said.

In brief

Hearings scheduled

The House Resources Committee is sponsoring a legislative public hearing on three house bills dealing with the Alaska Mental Health Lands Trust.

House Bill No. 58 calls for appropriations to the Alaska Mental Health Trust Escrow Account while House Bill No. 59 reconstitutes the mental health lands trust under the Alaska Mental Health Enabling Act of 1956.

In addition, House Bill No. 79 will be addressed. It calls for the establishment of a mental health trust authority.

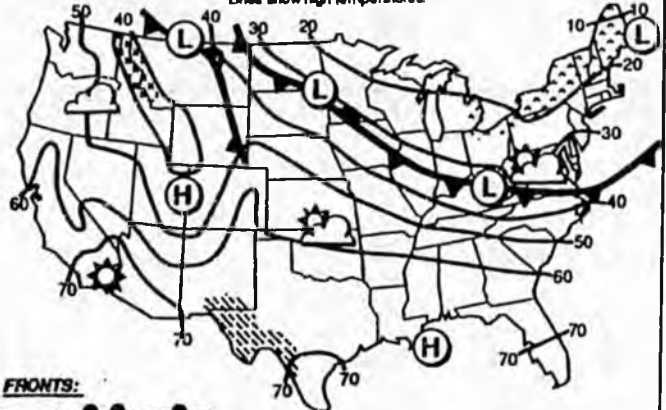
Testimony will be limited to the land/mental health trust issue only and persons interested in testifying or observing may do so at 3 p.m. Wednesday at the Legislative Information Office on Front Street.

In addition, the House Labor and Commerce Committee has planned a public hearing on House Bill No. 78, which relates to employment rights based on pregnancy, childbirth and related conditions, sick leave and family leave.

Testimony will be taken at the teleconference, which starts at 1 p.m. Tuesday at the LIO in Ketchikan.

Lower 48 Weather

The Accu-Weather® forecast for noon, Tuesday, Feb. 12.
 Lines show high temperatures.



FRONTS:
 COLD WARM STATIONARY

Pressure:
 (H) HIGH (L) LOW SHOWERS RAIN T-STORMS FLURRIES SNOW ICE SUNNY PT. CLOUDY CLOUDY

©1991 Accu-Weather, Inc.

the Saudi capital. Israeli authorities said the Scud there fell into a desert area in the central part of the country. U.S.-supplied Patriot missiles destroyed the incoming Scud near Riyadh, but falling debris injured two people, officials said.

Early Tuesday, a missile with a conventional warhead hit a residential area in Israel, officials said. Army spokesman Brig. Gen. Nachman Shai did not say how many people were hurt but that "most of them are only slightly wounded. Perhaps one or two

Iraqi radio and old male student report to military. In January, the lowered the age of military service in Iraq. Iraq will not and will never a radio said.

Since the early week-old war, it silent on the casualties.



Valentines for

Lobster stuffed Filet Mignon
 Tender filet stuffed with lobster, green onions, mushrooms and herbs. Broiled to perfection and served with bearnaise sauce.

Halibut & Prawns Vanu

A filet of halibut stuffed with mushrooms and edam cheese. hollandaise sauce with two and three sauteed prawns.



Your Choice for
 \$60 plus tax

Includes a rose for the ladies and a bottle of Charley's regular dinner will be available Music by "Hotfoot"

Reservations Recommended 225-

Ketchikan's finest Dining and Entertainment

Ketchikan General Hospital

3100 TONGASS AVE.
KETCHIKAN, ALASKA 99901-5746
PHONE 907-225-5171
FAX 907-225-2173

Facts and Figures

- Ketchikan General Hospital was built in 1962 with the capacity to service 46 acute care patients.
- The hospital building is owned by the City of Ketchikan while the hospital management has been operated by the Sisters of St. Joseph of Peace since its opening.
- Island View Manor Nursing Home was built as an addition to the hospital in 1968. The nursing home has a capacity of 31 beds.
- Currently, the hospital is a regional provider of service to an area of over 25,000 people including Ketchikan, Prince of Wales Island, Petersburg and Wrangell.
- Annually, over 17,000 patient days are provided on an inpatient basis, over 19,000 people are cared for as outpatients and over 10,000 people are treated as emergency patients.
- Twenty-four hour Emergency Room physician staffing began in May 1989.
- In the last four years, Ketchikan General Hospital has been purchasing state-of-the-art diagnostic equipment for the Imaging Service Department to meet the changing needs of the community.
- Ketchikan General Hospital generates over \$15 million dollars in revenue a year and has a combined direct and indirect economic impact on the community in excess of \$13 million.
- The medical staff consists of 17 physicians who have made Ketchikan their home.
- Specialists from Ketchikan General Hospital travel to outlying communities on a monthly basis to hold clinics.
- Ketchikan General Hospital was the first employer to offer employer-run daycare in Alaska.
- The hospital is one of the largest employers in Ketchikan with over 250 full and part-time employees.
- In 1982, a report from Alaska's State Department of Health made immediate recommendations to make changes to Ketchikan General Hospital to meet current life safety code regulations.

more

KGH

Renovation

- The State Department of Health's recommendations called for immediate expansion of the Laboratory Department and an upgrade to the energy system.
- Kerchikan General Hospital completed a long-range plan to cover the needs of our community until the year 2010. This long-range plan included demographics, population forecast, and the space needs of the hospital.
- In all areas of the plan, the hospital was found to have:

Serious life safety code deficiencies
Serious space deficiencies
Serious Asbestos problem
Lack of parking

- The total projected cost of the remodeling project is \$ 18.9 million.
- Parking has been addressed and the new 60 space parking garage was completed June 1990.
- Areas still needing renovation and expansion due to growth, technology and minimum requirements of regulating bodies include:

Emergency Department	an additional 1,500 sq ft.
Surgery Department	an additional 2,100 sq ft.
Imaging Services Department	an additional 2,400 sq ft.
Laboratory Department	an additional 1,150 sq ft.
Material Management Department	an additional 2,600 sq ft.
Dietary Department	an additional 3,000 sq ft.
Maintenance Department	an additional 4,500 sq ft.
Other support departments	an additional 7,750 sq ft.

- The Emergency department exceeded its projected 2001 need by over 3000 patients in 1990.
- Complete expansion and remodeling will increase space by 25,000 sq ft., adhere to life safety codes and provide the needed service to the communities in Southern Southeast.
- Without renovation, service and care given to our patients will suffer as will our role as a regional provider of health care.

###

**ALASKA STATE HOSPITAL & NURSING HOME ASSOCIATION
STATEMENT**

**SUPPORT- HB 214 - HEALTH FACILITY CONSTRUCTION GRANTS
HB 149 - APPROPRIATIONS: SEWARD HOSPITAL; KODIAK ISLAND
HOSPITAL/LONG TERM CARE FACILITY; KETCHIKAN
GENERAL HOSPITAL/LONG TERM CARE FACILITY**

MARCH 1991

The 1981 Legislature authorized and funded a study by the Department of Health and Social Services of the plant condition and functional adequacy of 15 rural hospitals and nursing homes in Alaska.

Anchorage and Fairbanks hospitals were not included. Valley Hospital, Palmer, and Sitka Community Hospitals did not participate as they were currently under construction or reconstruction in 1982. Denali Center in Fairbanks did not exist at this time.

Overview of Surveyed Facilities -

A study team evaluated the adequacy of the physical facilities at each hospital or long term care unit. A number of serious problems and deficiencies were discovered.

Generally, the deficiencies observed in the health care facilities surveyed are due to the advances and changing techniques in the medical field, coupled with more stringent building, fire and life safety codes which have been adopted over the last few years.

1982 Prioritization of Surveyed Hospitals and Nursing Homes -

In conducting the inventory and evaluation study of the 15 hospitals and long term care facilities in 1982, architectural consultants identified six facilities which were in greater need of immediate attention than others, due to their more severe physical and functional deficiencies. The Department assigned a committee to review the report.

This committee consisted of one member from:

The Alaska Medical Facility Authority,
The Alaska State Hospital Association,
Southeast Alaska Health Systems Agency, Inc.,
South Central Health Planning and Development, Inc.,
The Medical Care Advisory Committee, and
The Statewide Health Coordinating Council.

The ranking provided by the committee was based only upon the relative severity of all physical and functional deficiencies found at each facility and did not consider other factors such as facility utilization or population trends.

The Committee ranking was as follows:

- *1. Cordova Community Hospital and Long Term Care Facility

A.S.H.N.H.A. Position Statement

- *2. Petersburg General Hospital and Long Term Care Facility
- 3. Seward General Hospital
- 4. Kodiak Island Hospital and Long Term Care Facility
- 5. Wesleyan Nursing Home, Seward
- *6. Wrangell General Hospital
- *7. South Peninsula General Hospital and Long Term Care Facility
- 8. Ketchikan General Hospital and Island View Manor
- *9. Central Peninsula General Hospital
- *10. Bartlett Memorial Hospital
- 11. Valdez Community Hospital
- 12. St. Ann's Nursing Home, Juneau
- *13. Norton Sound Regional Hospital

* Completed (Central Peninsula and Bartlett Memorial utilized local bonding)

HB 214, Health Facilities Construction Process/Grants -

HB 214 creates the Health Facility Review Board, composed of seven members appointed by the Governor within the Department of Health & Social Services. The Board will advise the Department in establishing priorities for possible capitol construction grants for non-profit health facilities.

By October 15 of each year the Department shall submit to the Governor and within the first ten days of each regular legislative session, a construction grant schedule with budgets. Each facility applying for grants will have been required to have a Certificate of Need and meet all provisions of HB 214.

HB 149, Health Facility Capitol Construction Grants Kodiak, Ketchikan, & Seward - SB 111 appropriates:

Kodiak Island Borough Hospital/LTC	- \$14,250,000.00 (State Grant)
Kodiak Borough Appropriate	- \$ 4,750,000.00 (Local Match)
Total	- \$19,000,000.00
Seward General Hospital	- \$ 8,603,438.00 (State Grant)
City of Seward Appropriate	- \$ 2,867,813.00 (Local Match)
Total	- \$11,471,251.00
Ketchikan General Hospital	- \$14,063,678.00 (State Grant)
City of Ketchikan Appropriate	- \$ 4,687,893.00 (Local Match)
Total	- \$18,751,571.00

FOR MORE INFORMATION CONTACT:

**Harlan Knudson - 586-1790, Juneau
Alaska State Hospital & Nursing Home Association
319 Seward, #11; Juneau, Alaska 99801**

#



Alaska State Legislature
House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

SUBJECT OF MEETING:
 HB 149 APPROPRIATION: MUNICIPAL GRANTS
 FOR HOSPITALS

DATE: March 27, 1991

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
✓ RAY CAMARDELLA	Kodiakboro	KODIAK ISLAND BOROUGH 710 MILL BAY RD.	99605	486-5787	486-5736	<input checked="" type="radio"/> Y <input type="radio"/> N	Kodiak Hospital
✓ DORIS PABE	Seward	Seward General Hosp PO Box 365, Seward	99664	224-5205	224-5345	<input checked="" type="radio"/> Y <input type="radio"/> N	Seward Hosp.
Daryl Schertmeyer	Seward	CITY OF SEWARD P.O. Box 167 Seward	99664	224-3331		<input checked="" type="radio"/> Y <input type="radio"/> N	Seward Hosp
ALAN AUSTERMAN	City of Kodiak	Box 33172 Juneau, AK 99803			789-1547	<input checked="" type="radio"/> Y <input checked="" type="radio"/> N	HB 149
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	

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* DELIVER TO: LHSCHES
*
* ORIGINAL
* SENT: 03/27/91 TIME: 10:31
* FROM: LTCCKTN
* SUBJECT: 91-03-127;FS;HEALTH;3-27
* PRINT DATE: 03/27/91 TIME: 10:31
*
*****

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SUBJECT LINE TO READ: TC NO.; PL/FS; SHORT SUBJECT; DATE

```

T/C NO: 91-03-127
DATE: MARCH 27, 1991
SPONSOR: HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES
SUBJECT: HB 149: APPROP: MUNICIPAL GRANTS FOR HOSPITALS
          HB 150: APPROP: ANCHORAGE NEIGHTBORHOOD HEALTH CTR
          HB 173: APPROP: UNALASKA HEALTH CARE FACILITY
          SB 43: APPROP: NURSES DETERMINATION OF DEATH
GOVERNOR:
SITE: KETCHIKAN

```

FINAL STATS

TESTIFIED

NAME (REFERENCED BY)	ADDRESS	PHONE	BILL NO.
1. JACK PEARSON, CITY MANAGER, CITY OF KETCHIKAN	334 FRONT ST, KTN, AK	99901 225-6035	HB 149
2. ALAIRE STANTON, VICE MAYOR, CITY OF KETCHIKAN	334 FRONT ST, KTN, AK	99901 225-9655	HB 149
3. ED MAHN, KETCHIKAN GENERAL HOSPITAL	3100 TONGASS, KTN, AK	99901 225-7562	HB 149

```

TESTIFIED: 3
UNABLE: 0
OBSERVED: 0
TOTAL: 3

```

START TIME: 7:35 AM

END TIME: 8:30 AM

HB

150

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7828

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 485-3704

ALASKA STATE HOUSE

CHAIR
RULES COMMITTEE


JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS MEMORANDUM

TO: Rep. Georgianna Lincoln, co-Chair
House Health, Education and Social Services Committee

FROM: Rep. Johnny Ellis 

DATE: March 19, 1991

RE: House Bill 150

Thank you for scheduling House Bill 150.

HEALTH CENTER EXPANSION

House Bill 150 appropriates \$1.28 million for the expansion of the Anchorage Neighborhood Health Center. The Health Center needs to expand in order to serve uninsured and low income people. In 1990, over 58 percent of the Health Center's patients were uninsured. An additional 24 percent were Medicaid and/or Medicare patients.

CANNOT SERVE 75% OF ANCHORAGE AREA PATIENTS

At this time, ANHC is only able to treat 25 percent of Anchorage's low income residents. They cannot meet the needs of the other 75 percent without additional space and health care providers.

ANHC SERVES MORE THAN ANCHORAGE

Additionally, the numbers of patients served who live outside the Anchorage area is increasing. In 1989, nine percent of ANHC's patients were from outside the Anchorage, Palmer, Wasilla and Girdwood area. In 1990, the number had nearly doubled to 17 percent.

CUTS TO ANHC

The ANHC was hit hard by Governor Cowper's Social Services Block Grant and line item vetoes in 1990. The losses to ANHC totalled \$687,000, which amounts to 22 percent of the ANHC FY91 budget. But the losses to low income, uninsured and homeless people of Anchorage is much worse. The cuts eliminated dental services at ANHC and resulted in losses in maternal and child health programs, cancer screening programs and health care for the homeless. Additionally, it eliminated a grant for prenatal care and delivery services for low income high risk patients.

HEALTH CARE IS NECESSARY

The ANHC needs help to recover from last year's vetoes. The proposed budget to expand the building and thus serve more low-income residents seems miniscule in comparison to the cost of leaving people without any sort of health care.

— Over —

Sponsor Statement

ANCHORAGE NEIGHBORHOOD HEALTH CENTER
SOURCES AND APPLICATIONS OF FUNDS

SOURCES:

Request for funds from the State Legislature and/or Governor's Office	\$1,280,000
Community Development Block Grant (pending approval)	32,000
Community Development Block Grant	<u>25,000</u>
TOTAL SOURCES	<u>\$1,337,000</u>

APPLICATIONS:

Bid Ready Architectural Package	\$ 57,000
New Construction	518,000
Site Work	150,000
Cut and Patch existing building at addition interface	100,000
Construction Contingency (10% of new construction)	76,800
Existing Building Renovation	51,800
Upgrading Existing Mechanical Systems	125,000
Project Administration	71,775
Purchase of Adjacent Lot for Parking	50,000
Demolition of Building on Adjacent Lot	15,000
Paving and Lighting for Additional Parking	31,625
Equipment and Furniture	<u>90,000</u>
TOTAL CONSTRUCTION COSTS	<u>\$1,337,000</u>

Anchorage Neighborhood Health Center
Sources and applications of Funds

CORRECTION

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

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7828

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 485-3704

ALASKA STATE HOUSE

CHAIR
RULES COMMITTEE


JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

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Additionally, the numbers of patients served who live outside the Anchorage area is increasing. In 1989, nine percent of ANHC's patients were from outside the Anchorage, Palmer, Wasilla and Girdwood area. In 1990, the number had nearly doubled to 17 percent.

CUTS TO ANHC

The ANHC was hit hard by Governor Cowper's Social Services Block Grant and line item vetoes in 1990. The losses to ANHC totalled \$687,000, which amounts to 22 percent of the ANHC FY91 budget. But the losses to low income, uninsured and homeless people of Anchorage is much worse. The cuts eliminated dental services at ANHC and resulted in losses in maternal and child health programs, cancer screening programs and health care for the homeless. Additionally, it eliminated a grant for prenatal care and delivery services for low income high risk patients.

HEALTH CARE IS NECESSARY

The ANHC needs help to recover from last year's vetoes. The proposed budget to expand the building and thus serve more low-income residents seems miniscule in comparison to the cost of leaving people without any sort of health care.

— Over —

Sponsor Statement

**ANCHORAGE NEIGHBORHOOD HEALTH CENTER
SOURCES AND APPLICATIONS OF FUNDS**

SOURCES:

Request for funds from the State Legislature and/or Governor's Office	\$1,280,000
Community Development Block Grant (pending approval)	32,000
Community Development Block Grant	<u>25,000</u>
TOTAL SOURCES	<u>\$1,337,000</u>

APPLICATIONS:

Bid Ready Architectural Package	\$ 57,000
New Construction	518,000
Site Work	150,000
Cut and Patch existing building at addition interface	100,000
Construction Contingency (10% of new construction)	76,800
Existing Building Renovation	51,800
Upgrading Existing Mechanical Systems	125,000
Project Administration	71,775
Purchase of Adjacent Lot for Parking	50,000
Demolition of Building on Adjacent Lot	15,000
Paving and Lighting for Additional Parking	31,625
Equipment and Furniture	<u>90,000</u>
TOTAL CONSTRUCTION COSTS	<u>\$1,337,000</u>

ANCHORAGE NEIGHBORHOOD HEALTH CENTER
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TOTAL CONSTRUCTION COSTS	<u>\$1,337,000</u>

Anchorage Neighborhood Health Center
Sources and applications of Funds

ANCHORAGE NEIGHBORHOOD HEALTH CENTER CAPITAL EXPANSION

The need for low-cost health care services in Alaska is highlighted by the following remark from the Anchorage Daily New, February 1991: "Today, an estimated 90,000 Alaskans - nearly double the number of a decade ago - lack adequate medical insurance or do not have any insurance at all, according to a State legislative task force." The cost of uncompensated care is particularly high in Alaska because there are no State or County hospitals available. The municipal health services are staffed by nurse practitioners who provide well-child care, immunization, STD services, etc. By comparison, in Seattle, uninsured persons who are cared for by the city or county become a financial burden on all taxpayers of the city because they most likely are treated by public facilities. Anchorage Neighborhood Health Center continues to be the only Public Health Services Act Community Health Center in the State of Alaska providing primary health care services to medically indigent, low-income, uninsured individuals residing in the Municipality of Anchorage.

The major objective for 1991 continues to be the need for more space for treating patients and more parking area outside the facility. Center providers continue to operate without adequate space. When all providers are present, there are only about two exam rooms per provider, which reduces efficiency and results in patient backup in the waiting room. U.S. Public Health Services recommends three exam rooms as a minimum for each medical provider. The medical providers who work on the main floor have no private work space. Each small provider office is shared by four providers. Providers cannot make private phone calls or concentrate on their work because of conversations, staff going in and out of the room, phones ringing, etc. The Center desperately needs more exam rooms, some private office space for providers, and an expanded waiting area for patients. At busy times, some patients must stand because of inadequate waiting room space. Patients continue to complain about the lack of adequate parking, especially during the winter months (about six months of the year), when street and alley parking is difficult or impossible due to the height of the snow. In addition, a portion of the Center's parking area is used for piling snow taken from the rest of the parking lot. The Municipality has advised the Center that it will need to provide additional parking spaces for any future expansion. An upgraded mechanical room is also needed to accommodate the expansion, but more importantly, an emergency lighting system is needed.

Although the planned expansion may see contradictory in light of the Governor's budget cuts of July 1990, we believe there is no significant related impact. While Dental funds were cut to the extent that the program was discontinued, our capital investment and community need is such that these dental offices should not be renovated to accommodate medical services. In addition, the loss of the Prenatal grant impacted high-risk obstetric patients, many of whom are referred elsewhere. These patients may still utilize the Center for basic health care. Patient load has not been significantly impacted.

In Alaska, the drop in oil prices in the late 1980s led to the governor's reduction of the State budget in July 1990. ANHC's response to these budget reductions has been to discontinue the dental program and contracted service for high-risk pregnant patients. The cuts have had no impact on the numbers of patients being seen by the medical clinic. The overcrowding in the medical clinical areas of the ANHC physical plant still exists. ANHC is pursuing an expansion and renovation plan for the physical plant.

ANCHORAGE NEIGHBORHOOD HEALTH CENTER CAPITAL EXPANSION

The mission of the Center is to provide primary medical, dental and related health care services responsive to the community needs. ANHC is the only source of comprehensive primary medical care for low income persons in Anchorage. The Center offers a sliding fee scale for low and moderate income persons and has a policy of never refusing treatment due to a patient's inability to pay.

The population of Anchorage is about 235,000, with approximately 48,000 low income persons as defined by Federal poverty guidelines for Alaska which is set at 125% of the poverty level for the "lower 48" states. The State of Alaska, based on a more realistic application of cost differences, has a higher level of income for establishing the poverty level (138%). Under the State of Alaska formula about 60,000 persons in Anchorage would be considered low income. In 1989, 48% of the Center's patients were below the Federal poverty guidelines. Compared to 1990, the percentage of users who have incomes below this poverty level has increased by 8%. Approximately three quarters of the Center's patients are below the poverty guidelines for Alaska.

In 1990, 58% of the Center's patients were uninsured. An additional 24% were Medicaid and/or Medicare patients. ANHC serves a diverse ethnic population. The Center's patients include a higher proportion of Blacks and Hispanics than does the Anchorage area. Sixty-six percent of the patients served by the Center reside in the four medically underserved and low income subcommunities of Anchorage: Fairview, Muldoon, Spenard and Mountain View.

ANHC is only able to treat 25% of Anchorage's low income residents. Our ability to meet the needs of the other 75% is hindered by lack of space and health care providers. In 1989, Anchorage Neighborhood Health Center had 39,000 patient visits. Preliminary statistics for 1990 indicate an increase in medical visits over 1989. This steady growth in patients has caused a need for building expansion.

The proposed 2,800 square foot building expansion and related renovation would provide for adequate examination rooms, treatment rooms and offices for physicians and other health care providers. Patient waiting areas would be enlarged to relieve overcrowding. The laboratory would be enlarged to improve patient care and increase efficiency. An emergency lighting and fire alarm system would be added. Finally, additional furniture and equipment such as examination tables, and medical instruments would be purchased to make the expanded facilities fully functional. Building expansion line item cost detail is provided on page three.

ANCHORAGE NEIGHBORHOOD HEALTH CENTER
SOURCES AND APPLICATIONS OF FUNDS

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Equipment and Furniture	<u>90,000</u>
TOTAL CONSTRUCTION COSTS	<u>\$1,337,000</u>

Hess Mmbis:
- Arrived in
Rep. Sinco's office
on March 28th.

- Do not know from whom!

- Related to HB150
which was considered
in HESS on 3/27/91.

PB

7-LS0036A

HOUSE BILL NO. 150

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ELLIS, Brown

Introduced: 2/20/91

Referred: Health, Education and Social Services, Finance

Funding Information:	General Fund	\$1,280,000
	Other Funds	-0-
		<u>\$1,280,000</u>

A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the Department of Health and Social Services
2 for a grant to the Anchorage Neighborhood Health Center; and providing for an effective
3 date."

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

5 * Section 1. FINDINGS. The legislature finds that the Anchorage Neighborhood Health Center
6 provides primary medical, dental, and related health services necessary to meet community needs; the
7 center is the only source of primary health care for low income persons in Anchorage; the center can
8 only treat 25 percent of the over 48,000 low income persons in Anchorage due to a shortage of space;
9 expansion of the center is necessary in order to meet community needs for health care services.

10 * Sec. 2. The sum of \$1,280,000 is appropriated from the general fund to the Department of Health
11 and Social Services for payment as a grant under AS 37.05.316 to the Anchorage Neighborhood Health
12 Center for expansion of facilities.

13 * Sec. 3: The appropriation made by this Act is for a capital project and lapses under AS 37.25.020.

14 * Sec. 4. This Act takes effect July 1, 1991.

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*
* DELIVER TO: LHSCHES
*
* ORIGINAL
* SENT: 03/27/91 TIME: 08:33
* FROM: LIOCMIL
* SUBJECT: 91-03-127;FS;(H)HESS;3/27
* PRINT DATE: 03/27/91 TIME: 08:34
*
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SUBJECT LINE TO READ: TC NO.; FL FS; SHORT SUBJECT; DATE

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T/C NO: 91-03-127
DATE: 3/27
SPONSOR: H HESS
SUBJECT: HB 149, 150, 173, SB 43
MODERATOR: JUDY
SITE: ANCHORAGE

```

FINAL STATISTICS

TO TESTIFY

NAMES/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. ELEANOR ANDREWS/ANHC	715 L ST	276-1454	HB 150
2. LINDA WEBBER/AKPA	1227 W 9	276-4910	HB 163

Alaska Native Health Corporation

TO OBSERVE:

NAME/ REPRESENTING	ADDRESS	PHONE	BILL NO.
1. ROSYLAND FRAZIER/ANHC	715 L ST	258-7888	HB 150

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TESTIFIED: 2
UNABLE: 0
OBSERVED: 1
TOTAL: 3

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START TIME: 7:30 AM END TIME: 10:00

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HOUSE COMMITTEE REPORT

(7)

Date Referred: February 20, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/27/91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 150

HOUSE BILL NO. 150

APPROP: ANCHORAGE NEIGHBORHOOD HEALTH CTR

"An Act making a special appropriation to the Department of Health and Social Services, for a grant to the Anchorage Neighborhood Health Center; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____ the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Cheri Davis</i>				
George Davis	<i>J. G. Gonzales</i> (GONZALES)		X	
John Carney	<i>(CARNEY)</i>			
<i>Betty Davis</i>				
_____	<i>Mary Miller</i> (LINCOLN)		X	

CO-Chairman's Signature

HB

151

Alaska State Legislature
Representative Niilo Koponen

House District 21

Pouch V
Juneau, Alaska 99811
(907) 465-4992

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

February 19, 1991

Mr. Tom Kuleck
P.O. Box 919
Palmer, AK 99645

Dear Tom:

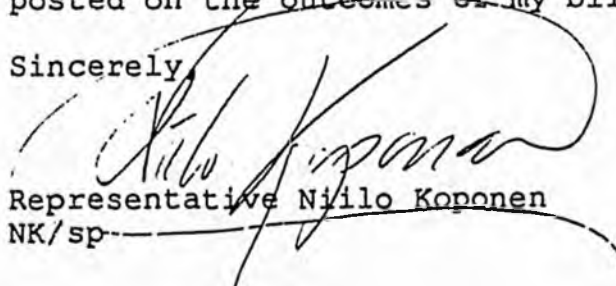
Thank you for your letter of February 12, 1991. We do now have Mandatory Parole in Alaska as a result of recent changes in the law. It does not yet apply to the period under presumptive sentence. We also have a new provision for training and treatment programs which has not yet been implemented although the new deputy Commissioner assures us they take the law (which is permissive) as mandatory and are planning such programs.

As a result I have decided to split HB 30 in two again. One bill will provide parole even under presumptive sentencing provided the inmate successfully completes a corrections training or treatment program appropriate to their case. The second bill will provide for pilot programs and provide funding for them. Corrections will also be allowed to develop alternatives to incarceration in a state facility, including monitored work release, home arrest, etc.

The programs you and Chris have developed sound great. They appear to be the sort of thing we need more of. Assisting others through activities like that should give a person credit toward release. I will give your letter to our legal drafter, probably for inclusion under the second bill.

Thank you for taking the time to write. I will keep you posted on the ~~outcomes of my~~ bills.

Sincerely,



Representative Niilo Koponen
NK/sp

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE KOPONEN

NAME: MARY LOU WIRUM
TITLE:
ADDRESS: 1240 S STREET
CITY: ANCHORAGE ZIP: 99501
PHONE: 276-3628
BILL NO:
SUBJECT: HB 544 AND HB 545/SENTENCING

MESSAGE: PLEASE SUPPORT HB 544 AND HB 545. MANY YOUNG FIRST TIME OFFENDERS, AFTER SERVING APPROPRIATE SENTENCES AND COMPLETING COUNSELING, SHOULD BE GIVEN OPPORTUNITY FOR PAROLE SO THAT GROWTH AND CONTINUED REHABILITATION CAN CONTINUE IN A NORMAL NON-PRISON SETTING. ALTERNATIVE SENTENCING CAN SAVE THE STATE MILLIONS OF DOLLARS AND BENEFIT MANY YOUNG OFFENDERS, SO THEY CAN BECOME CONTRIBUTING MEMBERS OF SOCIETY. /BN

POMID: 03092145
DATE: 03/27/90
TIME: 09:21:45
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

BARNES	BOUCHER	ADAMS
BOYER	BROWN	BINKLEY
COLLINS	COTTEN	COGHILL
DAVIDSON	DAVIS, C.	DUNCAN
DAVIS, M.	DONLEY	ELIASON
ELLIS	FINKELSTEIN	FAHRENKAMP
FOSTER	FURNACE	FAIKS
GOLL	GRUENBERG	FISCHER
GRUSSENDORF	HANLEY	FRANK
HOFFMAN	HUDSON	HALFORD
JACKO	KUBINA	JONES
LARSON	LEMAN	KELLY
MACLEAN	MARTIN	KERTTULA
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NAVARRÉ	PETTYJOHN	POURCHOT
PHILLIPS	RIEGER	RODEY
SHARP	SHULTZ	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		WAROFF

March 02, 1990

Mr. Niilo Koponen
P.O. Box V
Juneau, Alaska 99811

RE: Bill HB545AS33 for Parole & Probation

Dear Mr. Koponen:

I just wanted to write to you to thank you for drafting the above bill to make first time felony offenders paroleable. Many first time offenders have been successfully rehabilitated and, if released, could contribute much to our society.

I am particularly interested in this bill as I have a cousin, Bill (William) Cook, who has been in Fairbanks Correction Center since April of 1986 for a sex offender charge. Bill was 34 years old when committed and this was his first, and I believe the last, time he has been charged with a crime; however, his sentence was a 12 year nonparoleable sentence - much longer than many murderers spend in jail. Since Bill has been in the center, he has taken a two-year sex offenders treatment program. He works in the library and has become a certified paralegal as well as a member of the bar association.

Bill has been told that when he is paroled, he can work for an attorney in Fairbanks that he has become friends with. He wants to

finish college and become an attorney when finally paroled. Bill is currently 38 years old and has served 4 years already. Without this bill he will be unable to leave the Center until he is 16 years old. Can you imagine how he'll feel going to school at that age?

Thanks again for introducing the bill. If I can be of help at any time, please feel free to contact me at 404/436-6140.

Sincerely,

Jane Wilbanks
704 Country Park Drive
Smyrna, Georgia 30080

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

POSITION PAPER

HB 151 "AN ACT RELATING TO PAROLE"

The Alaska Sentencing Commission's 1990 report to the Governor and the Alaska Legislature stated that, "Alaska has had the largest percentage increase in prison population in the country." Prisons are overcrowded, incarceration rates are climbing, and corrections budgets continue to grow. Current sentencing practices, including presumptive sentencing, make it increasingly difficult to free up prison space that could be utilized for more serious felons. Overcrowding can lead to judicial intervention and premature release. It is our responsibility to deal with the growing crisis. HB 151 is intended as one step to resolving these problems.

The intent of HB 151 is to allow a prisoner (otherwise ineligible for discretionary parole) upon successful participation in and completion of a treatment plan or a rehabilitation program ordered by the court or prescribed by the department, to be released on parole. If the Department finds that the prisoner need not be incarcerated for the protection of the public, a determination to authorize the release of a prisoner on parole may take place. It is the responsibility of the Department of Corrections to provide the proper rehabilitation programs at its facilities and, if necessary, to require continued participation in a program as a condition of probation or parole. The board may revoke parole if the parolee violates the terms set by the board.

The Alaska Constitution sets protection of the public and rehabilitation of the offender as the goals of sentencing. In the truest sense, the public is not protected if the offender is not rehabilitated. Sentencing practices which work against rehabilitation do not protect the public.

The department has defined its mission to include providing work, education, and rehabilitation programs that will enhance an offender's economic self-sufficiency and integration into the community. These programs must be administered in a just and equitable manner within the least restrictive environment consistent with public safety. This legislation should act as a vehicle to assist the department in fulfilling its goals.

Alaska State Legislature
Representative Niilo Koponen

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Juneau, Alaska 99811
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SPONSOR STATEMENT (ADDENDUM)

Since the Hammond Administration the Corrections operating budget has increased 272% the highest rate of increase of any department of the State government. The Corrections Budget actually exceeded the 272% increase due to the fact that facility leases are hidden in the Department of Administration budget, and lease purchases in excess of \$20 million annually (principally the Spring Creek prison near Seward) occur in the "front end" of the annual operating budget.

Higher incarceration rates have not decreased crime rates in Alaska or elsewhere. In fact, prisons often appear to have operated as "crime schools" in some states. Crowded conditions have limited supervision of inmate activities leading to organization of groups such as the "Aryan Brotherhood", the "Mexican Mafia", the "Black Panthers," and other, lesser-known, networks, both vicious and benign. This does not appear to have occurred to any great extent in Alaska, but a facility such as Spring Creek does pose that possibility.

The Alaska Constitution allows incarceration for two reasons: protection of the public and rehabilitation of the offender. In reality, the two are one, as protection of the public is not served if the offender is not rehabilitated prior to final release from supervision by the courts and Corrections. Alaska has only a limited number of programs which contribute to rehabilitation, and they suffer from constraints imposed by statutes and underfunding. Successful sexual offender programs in other states (e.g. Vermont) rely on release from incarceration upon successful completion of the program, followed by community supervision and transitional counseling. Nationally, it has been found that continued incarceration after program completion without community transitional counseling, leads to increased recidivism.

HB 151 addresses the problem created by our presumptive sentencing statutes, which have essentially transferred sentencing decisions to the prosecutor's office without due consideration of the need for rehabilitation of the offender or public protection. Present statutes limit treatment to incarceration of an offender in a correctional facility. HB 151 would continue the authority of the Department of Corrections over offenders for the full term of their sentences, but permit enrollment of the prisoner into programs designed for their rehabilitation.

Prisons: \$100 million problem

The Alaska prison system is overflowing with prisoners. All prisons and jails are over capacity levels. Why? It seems to me the Department of Corrections is very reluctant to release any prisoners; and once free, why do so many violate their parole? I'm not talking about a few, but 85 percent of paroled prisoners end up back in jail. This is because DOC gets 100 million dollars a year, and wants even more. DOC is stealing your taxes and oil money. They have purposefully kept prisoners months past their due release date, by taking their good time for the slightest infraction, and leaving them behind bars to add to the congestion and ever crowding at chaotic levels.

Releasing prisoners on non-violent crimes, with six months or less to their release date, and putting a stop to the prisons taking a prisoner's good time would drop prison levels 20 percent and save the taxpayer and state millions of dollars in costly additions due to overcrowding.

Also, put a stop to parole officers who violate a parolee's rights about such things as missing AA meetings because of work, or buying a car without telling the parole officer. Violations like these small infractions are sick and unjust, when a person has a job and a place to live and a family to support. Why punish a man when he has solid goals and a new positive chance in life and has learned from his mistakes? Let prisoners out with less than six months, for a non-violent crime. Keeping them in jail and taking their good time just adds to this \$100 million problem.

— Robert Britton

Penal administration shall be based on the principle of reformation and upon the need for protecting the public.¹

Introduction

Under Alaska's constitution, the principles of reformation and the necessity of protecting the public constitute the touchstones of penal administration. The operation of the state penal system is dependent upon a properly staffed and functioning department which has, in addition to probation and parole functions, the responsibility for treatment, rehabilitation, and custody of incarcerated offenders.² The goals anticipated by these broad constitutional standards include

- rehabilitation of the offender into a noncriminal member of society
- isolation of the offender from society to prevent criminal conduct during the period of confinement
- deterrence of the offender after release from confinement or other treatment

The State Constitution and appellate court decisions do not imply that Penal administration of justice would be inexpensive. In fact, Alaska ranked second in the country, behind Washington, D.C., in the amount of state and local revenue consumed on justice systems.³ There are, however, many factors which drive the cost of criminal justice. For corrections, serious consideration must be given to the consequences of understaffing, inadequate training and idle time for prisoners.

¹ Constitution of Alaska, Art. I, § 12

² State v. Chaney, Sup. Ct. Op. No. 653, 477 P.2d 441 (1970)

³ Alaska Sentencing Commission, 1990 Annual Report to the Governor and the Alaska Legislature, December 1990, pg. 27.

Over the years The Washington Monthly has tried to convince liberals that they're too soft on criminals who are dangerous and conservatives that they are too hard on those who aren't. Michael Dukakis's difficulties with the Willie Horton case made it clear that we failed to get at least part of our message across, which explains last month's cover story ("When Criminal Rights Go Wrong," Paul Savoy), as well as this one, and others to come.

Sentences That Make Sense

Making the punishment fit the crime

by James Bennet

It was very hard, last July, to figure out what the sentence handed Oliver North meant. A jury had convicted him of three crimes: aiding and abetting obstruction of Congress, destroying and falsifying official documents, and accepting an illegal gratuity (the security system). The sentence included probation, a fine, and community service. There seemed to be something in it for everyone. Where Richard Viguerie saw "vindication," *The Washington Post* found proof that "You run a rogue policy even out of the White House . . . at your peril." Mary McGrory worried that the sentence demonstrated "there is no limit to what presidents can get away with in this country," but *The Wall St. Journal* celebrated it as a triumph over "the criminalization of political differences," on a par with the abolition of the Alien and Sedition Acts.

To those not paid for their opinion, the only obvious conclusion was that Judge Gerhard Gesell had thought long and hard, trying to come up with a sentence to fit the criminal. That made sense. And as everyone knows, the jails are crowded, so putting a nonviolent felon like North on probation, with a combination of punishments, seemed sensible as well. But the chaos of conclusions drawn in the press indicated that, though Gesell had sought to punish North, the effect of his sentence was ambiguous. The man had betrayed his public office, destroyed evidence, and lied to Congress. Wouldn't a few months in jail have made the punishment clear?

James Bennet is an editor of The Washington Monthly. Research assistance was provided by Ethan Feinsilver and Ned Marvel.

Both aspects of that ambivalent response have merit, and their implications go far beyond the sentence of Oliver North. There are other convicts who should be in prison but aren't, and there are many more who are locked up but needn't be. Together they constitute a major challenge for the American justice system: It's time to start keeping the right people out of prison, and putting the right people in.

The federal system is holding 56 percent more prisoners than it was built to, the California state system, 75 percent. We pay almost \$10 million a day to build prisons, and prison construction is the fastest-growing sector of many states' spending. When this boom is completed, a lot of state systems and the federal system still won't have enough beds. "Prison overcrowding" has a mixed meaning for inmates. For them, it means that what was once a storeroom or a gym is now a cell or a dormitory, and that fewer and fewer can get vocational training or drug treatment. But for many, it also means they'll be getting out early. And for some criminals, it means they're less likely to be going in at all.

In New London, Connecticut, drug dealers sent away for 10 years have been released in fewer than four months to make room. In the District of Columbia, a planned police sweep of drug-ridden areas was canceled because there was no place to put the new prisoners. While the average prison sentence quadrupled in length between 1965 and 1985, time served remained constant, thanks to court orders capping prison populations that squeeze some inmates out early. Under the logic of release plans used to

deal with these caps, a man sentenced yesterday to two years for credit card fraud would be held, while a rapist who had served seven years of an 8-to-15-year sentence would be released.

Rather than forcing corrections officers to decide whom to let out in a crisis, judges should be thinking more carefully about whom to jail in the first place. "There aren't enough beds," said Judge John Byrnes of the Eighth Circuit Court in Baltimore. "We've got to learn to discriminate." He gives the example of a man convicted of a nonviolent felony, say car theft, who has a wife, child, and regular job. Judges realize that putting the man in prison would mean putting his family on welfare, but the Department of Corrections provides no other option. One way to punish the man more inexpensively, Byrnes said, would be to let him work at his job during the day while spending his nights in the city jail.

Byrnes was describing a form of "alternative sentencing." The driving principle of this approach to corrections is that incarceration should be viewed as the toughest long-term punishment, not the only one. That's not a new idea; it's the theory behind probation, which judges have used for years to avoid sentencing criminals to prison. A criminal with a suspended sentence—like North—must obey any conditions of probation the judge sets: how often he has to check in with his probation officer, how many hours of community work he has to do. Hanging over his head is the threat that if he fails to comply, his suspended term will come to life, and he'll wind up in jail. That technique has enormous potential. By expanding the range of punishments that can accompany a suspended sentence and sharpening supervision by probation officers, judges can punish—and possibly rehabilitate—some criminals either without sending them to prison or by adding just a brief prison term to a sentence's mix of sanctions.

In a few cases, alternative sentencing involves matching the punishment to the crime, as Dante would have: forcing a man convicted of driving drunk to work in a hospital emergency room or a slumlord to live in one of his firetraps. Usually, though, the sentences aren't that symmetrical; they're just sensible. Alternative punishments include options like house arrest, fines, victim restitution, intensively supervised probation, and community service. Some programs, like a model probation system in Georgia, have cut recidivism rates among convicts below those of people jailed for similar crimes, for about one-eighth the cost of prison. Others, like a community service program in New York City, don't pretend to make angels out of the petty criminals they divert from cells: They set out only to punish, to cost less, and to save bed space for dangerous felons.

Who might be eligible for this type of sentence? Obviously not remorseless violent offenders, like the conscienceless killers of the Kansas farm family depicted in Truman Capote's *In Cold Blood*. That they should be imprisoned for a very long time is a self-evident message that our corrections systems, which keep paroling and furloughing Willie Hortons, seem

Remorseless violent offenders should be imprisoned for a very long time. But it doesn't make sense that almost half of the nation's prison space is taken up by nonviolent criminals. They may not all be Jean Valjeans, but they aren't all Ted Bundys either.

to have never quite gotten. Habitual nonviolent criminals, the ones who start stealing again as soon as they return to the streets, also must be locked up for a long time. But it doesn't make sense that almost half of the nation's prison space is taken up by nonviolent criminals. They may not all be Jean Valjeans, but they aren't all Ted Bundys either.

Criminals requiring only a short prison term include white-collar felons like North, the Savings and Loan con artists, and Jim Bakker (who just got 45 years for fraud). Prison is useful in these cases not only to punish, but to deter. Jail's power as a deterrent increases with the social rank of the person contemplating a crime. After reading Tom Wolfe's *The Bonfire of the Vanities*, who could forget how just one morning in a Bronx holding tank transformed Sherman McCoy, the fallen bond trader? That was fiction, true, but based on one solid fact: The comfortable can still be scared straight—not so much by the length of the potential sentence as by the guarantee that there will be some real jail time. Hot-blooded criminals, for whom the crime was an act of passion to be forever regretted and never repeated, may also require only a short term, joined to suspended time and some alternative punishment. The prospect of hard time is the chief advantage of the suspended

sentence: if a man beats up a close friend after a drunken argument, chances are a judge can safely punish him without separating him from the community; but if he goes back and does it again, the judge can invoke the suspended term and put the thug away.

Maybe because only grisly crimes make for good news stories and movie plots, it's a bit surprising to look at what types of criminals are actually stuffing our cells. Some 81 percent of the prisoners in the federal system are in for nonviolent crimes like embezzling and evading taxes, and 34 percent of state prisoners have no record of violence. For 18 months, Brandeis University's National Institute for Sentencing Alternatives has been studying the criminal histo-

ries of the 17,000 state prisoners in North Carolina, where the costs of corrections have more than doubled in the past 10 years. The Institute's director, Mark Corrigan, said his staff found that 20 to 30 percent of North Carolina's prisoners might be safely punished outside prisons. That figure is consistent with studies the institute has done for Maine, Arkansas, and Alabama.

The institute is recommending several options to the North Carolina legislature. For example, car thieves might be placed in a residential program, in which they would be required to hold a full-time job. Of their earnings, some would go to pay back their victims, some would go to pay for their program, and some would go to their own savings—and some, of

course, would go to pay taxes. Right now, North Carolina's only option is to pay between \$11,000 and \$23,000 a year to jail them.

Robojudge

At the same time that alternative sentences are making more sense than ever, Congress and state legislatures are passing laws that prevent judges from using them. Congress enacted bills revising sentencing practices four times in the 1980s: 1982, 1984, 1986, and 1988. Every year was an election year, and every law was a little more "tough on crime."

Perhaps the most radical change—with the most dire implications for crowding in the federal sys-

tem—came in 1984, when Congress created the U.S. Sentencing Commission. It directed the group to overhaul the old "indeterminate" system of sentencing, which allowed judges great discretion, often producing wide disparities in sentences for the same crime. The Sentencing Commission mapped out guidelines with which judges must calculate all sentences by determining a crime's "offense level," achieving what one judge called "sentencing by computer." Thanks to a bias of the commission toward longer sentences, more criminals are going to jail for longer periods.

The guidelines kicked in for crimes committed after November 1, 1987. Combined with the mandatory minimum sentences Congress enacted for drug of-

Restitution: Real Fine For Criminals

by Karen Lehrman

"Under our system of law," then-House Majority Whip Tony Coelho said last spring, "John Mack owed his debt to society, not to this young woman." But Mack, who subsequently became Jim Wright's right-hand man, had slashed the young woman's throat, not "society's." Mack had beaten the young woman over the head with a hammer and left her for dead. Pamela Small's family paid thousands of dollars to have her face and skull reconstructed. Besides sitting in jail for a few years more than the 27 months he served, shouldn't Mack have had to contribute *something* (like maybe everything he owned) to repair some of the damage he'd done?

Today, Coelho's "logic" notwithstanding, he probably would have. Federal judges and judges in 23 states are required either to order criminals to compensate their victims or to explain in writing their reasons for not doing so. And in the last few years, an almost underground system of victim restitution programs has sprung up across the country. In one of these programs, while incarcerated, Mack might have had to work off his victim's medical bills. He might have had to sit

across a table from his victim and face up to what he'd done to her. He might have been moved enough to apologize, which, in Small's words, "would have helped. If only symbolically."

The concept of victim restitution, of course, is hardly new. In the Bible, Zacchaeus, a corrupt tax collector, had to pay Israelites four times what he had taken from them and then give half of what he had left to the poor. Throughout much of medieval times, restitution was the method of choice to recompense victims. But in 1116, England's Henry I, son of William the Conqueror, made himself the victim of all criminal crimes. A fortunate side effect of this move was that the state got to keep all compensation. The role of the victim gradually disappeared from the criminal justice system; to seek compensation, a victim was forced to go through arduous and often prohibitively expensive civil court proceedings.

The idea of victim restitution resurfaced in the late 1960s, propelled by a general dissatisfaction with both institutionalization and probation. Restitution could hold a crook accountable for his crime—benefiting the victim, the community, and perhaps even the offender. One of the most innovative restitution programs was started in the

Quincy, Massachusetts, District Court by Judge Albert Kramer in 1975. Kramer thought there existed a better option for first-time offenders than putting them back on the streets or in jail. He put them to work.

His Earn-It program found offenders minimum-wage, part-time jobs in the community (at department stores, grocery stores, car washes, gas stations—whichever local businesses would take them). The criminals gave two-thirds of their earnings to their victims until the debt was paid, keeping the rest. For many offenders, it was their first job; for others, it was the first time they had borne responsibility.

The program was so successful—approximately 80 percent fulfilled their restitution obligations—that even offenders convicted of violent crimes were included. Now there is no longer an Earn-It program per se at Quincy court; there's a probation department that does creative restitution and community service sentencing. The department hands out about 1,000 restitution orders a year, at an average of \$400 each. In 1988, \$350,000 passed from criminals to victims.

More than 500 jurisdictions now offer some type of victim restitution program, whether set up on the Quincy employment-focused model, on a work center model (for those who need incarceration), or on a more victim-oriented model (where paying off the victim is more important than finding the offender a job). In general, the victim's role in these programs has been growing, often out of sheer practicality. Rather than just leave the restitution up to the judge, many jurisdictions have adopted the "arbitration" method, which protects the offender against exaggerated claims and offers the victim a chance for real input. Essentially, the two parties haggle, through a probation of-

ficer, over the appropriate restitution.

Some programs, like one run by the sheriff's department in Genesee County, New York, eliminate the middleman and have the criminal and victim negotiate face to face—even in cases involving violent crimes. According to Burt Galloway, a professor of social work at the University of Minnesota, who has run several mediation programs, when the criminal meets his victim face-to-face he often apologizes—and he's more likely to pay back in full. Besides the financial benefits, restitution is thought to bring psychological comfort to victims by restoring their sense of fairness and control over their lives. Victim-offender meetings also bring a feeling of closure.

Given these benefits of restitution, judges should have to require it in all cases involving damages. And there should be some mechanism so that the impoverished criminal who comes into money later doesn't get off scot-free. Mack was making just over \$5,000 a year when he attacked Small, but by the time the story broke last year he was earning roughly \$89,500.

Not only would a system like this better sensitize judges to the needs of victims, it would force them to use restitution in white-collar cases. The complexity and large amount of money involved in these cases currently discourage the use of restitution. Many savings and loan executives, for example, could never in their lifetimes pay back all the people they robbed. These guys usually wind up getting fined and serving some time. But just because they can't pay their victims back doesn't mean we shouldn't make them try. Should Charles Keating get convicted, would you rather see him sitting around in the prison camp in Danbury, Connecticut, or, after putting in a little time, working off his debt in a downtown car wash? ■

Karen Lehrman is assistant editor of The New Republic.

fenses, the new rules are sending some prison terms through the roof. "I had a young man who was a senior [in college] and a varsity athlete," said a district court judge in Washington, D.C. The man had started dealing drugs on campus—a crime the new laws punish severely. "The long and the short of it was that he's been sent to jail for 12 years. I would have sent him to jail, but not for 12 years. His life is ruined.

For some prisoners, a little time behind bars can go a long way. Witness the recent photo of Ivan Boesky—hunched over, with scraggly hair and beard, in sneakers and sagging sweatpants.

He's going to come out of jail a middle-aged hoodlum."

In the first six months of 1989, after all these new laws had begun to operate, the combined state and federal prison population grew more than twice as fast as it had ever grown. And we haven't seen anything yet. Expanded definitions of felonies are mostly responsible for swelling the population now. In Delaware, for example, possession of more than five grams—about the weight of a nickel—of any controlled substance, including marijuana, is classified as a "violent crime." The criminal automatically goes to jail. But the sentence also carries a mandatory term: three years without parole or time off for good behavior. The guidelines and mandatory minimums mean that a couple of years down the road, today's prisoners—like the college drug dealer—won't be getting out when their predecessors used to. Despite projected prison construction (much of which was planned without considering the effects of these new rules) inmates will begin to stack up like never before, ratcheting up the pressure on our hit-or-miss early release systems.

Stars and bars

Luckily for him, Oliver North committed his crimes before the guidelines came into effect. The

commissioners were particularly tough on white-collar criminals. An expert in applying the new rules said North would probably have landed at level 19: 30 to 37 months in prison, followed by two to three years on supervised release. Well, justice is finally blind. Unfortunately, she's also more clumsy than ever. Certainly a man whose crime was abuse of power should lose his liberty for a while. There could be no more effective punishment for him and no better example for potential White House felons. But three years of prison for crimes like North's amount to revenge, not punishment.

The new rules have made uniform what the system's lack of alternatives has encouraged for years. Jean Harris, then the 58-year-old headmistress of the Madeira School for girls in McLean, Virginia, murdered her lover in a jealous rage in 1981. She got 15 years to life. She's served eight years at a New York State prison, where she's written two books and had two heart attacks. In *They Always Call Us Ladies*, Harris wrote that before going to jail, she imagined arriving would be "like landing on the moon." It's safe to say she's now better informed; she's been humiliated by guards, tortured by the screams of insane women, and very lonely. She surely learned long ago the lessons that prison can teach.

In a 1987 *Mademoiselle* column on Harris, Barbara Grizzuti Harrison wrote, "Where there is crime there must be punishment." Right on—but that doesn't mean, as Harrison concludes, that justice can be served only if Harris stays behind bars. *The New York Times* made a similar lapse in reasoning in a 1988 editorial arguing that justice will be served only if Harris gets clemency. Judges shouldn't have to mete out punishment the way the rest of us switch on a lamp. If Harris doesn't deserve complete liberty, but further prison time is too harsh, she could now be punished more mildly with some sort of service. If she needs tougher punishment than that, a judge could stick her in a residential facility, fine her into penury, and divide her days between teaching kids and scrubbing pots and toilets. But why are we still paying so much money to keep this harmless old woman in jail?

Enter Zsa Zsa Gabor. Gabor slapped a police officer last June and went on to make a media circus out of her trial. All in all, said Beverly Hills Municipal Judge Charles J. Rubin in sentencing her, "she demonstrated an attitude of continual contempt for the legal system." He gave her a "split sentence": not just fines and community service but also three days in the county jail. Gabor's husband has said that the "rich and famous" shouldn't have to go to jail; the beauty of the sentence is that it's exactly that attitude that put Gabor there.

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Gabor is now trying to turn her sentence into a celebrity charade, like her trial. But the television cameras won't be able to follow her inside. The former Miss Hungary will probably find that the petty indignities—getting finger-printed and patted down, wearing the plain blue jail suit—and real frustrations of her three days will make her regret her behavior. Ask any careless driver how it felt to spend a few hours pacing the cement floor and eyeing his cell-mates in a sheriff's lockup, waiting for a sleepy friend to arrive with the money: for some prisoners, a little time behind bars can go a long way. There could be no more striking image of incarceration's quick and lasting effects than *The New York Post's* recent shot of Ivan Boesky—onetime insider-trader and current inmate—hunched over, with scraggly hair and beard, in sneakers and sagging sweatpants, a pair of shoes clutched in his left hand and a duffle bag in his right. The man will undoubtedly wear a suit again one day. But he, and we, will know where he's been.

North by North's desk

The dash of jail time for Gabor was crucial to Judge Rubin's creative mix of sanctions. Somehow, it made the sentence seem appropriate in a way that Oliver North's and Jim Bakker's were not. The day after North's sentencing, *The Washington Post* editorial board sounded worried—as though, after a long night of head-scratching, it was still trying to convince itself that Judge Gerhard Gesell had done the right thing. At bottom, the *Post* decided, North's sentence was "fair enough": "He won't have to go to prison, but he's hardly gone unpunished."

Make that "nearly gone unpunished." Gesell fined North \$150,000. It should take him exactly six speeches to come up with it. Then there's that \$23,000 Marine pension (almost the price of a whole speech), automatically canceled by the conviction for shredding documents. *The Wall Street Journal* called this "North's biggest punishment." This fall, it occurred to Congress that it was time to revisit the shredding law. It exempted from the statute any "retired regular officer of the Armed Forces of the United States." "Mr. President," drawled Jesse Helms from the Senate floor, "I will just say to Ollie North: this one is for you."

The community service requirement seemed the most satisfying provision for all commentators. It's what North's lawyer, Brendan Sullivan, asked for, invoking the curious logic of high-priced defenders that their clients' willingness to perform a community service sentence should be regarded as cause for awarding one. Even Mary McGarry, otherwise dis-

pleased with the sentence, conceded that the service would mean "frustration for a hotshot." The *Post* editorial board, still unhappily chewing it all over, found a strange way to stretch the service out: North was "required to give 1,200 hours of community service (atop the time already given to his defense) . . ." [emphasis added]

Robert McFarlane's lawyer said he was "working with quadriplegics." The word that people familiar with McFarlane's volunteer service kept using to describe it was "lobbying."

Gesell said he hoped the service would remind North of values he overlooked in the "elite isolation of the White House." But North seems just to have traded one form of elite isolation for another. He's working with Save America's Future (SAFE), a new group based in Washington that hopes to prevent drug use among children and teenagers. Everyone seems to think he's a great guy, but it's hard to get a handle on exactly what he does. He doesn't help set policy, and he doesn't help put it into action in the field. He works in an "administrative capacity" to help "coordinate activities." This fall, in a story about his service for *Fairfax* magazine (no, he never described what he does), North wrote, "If I can, in some small way, help to save a goodly number of the young people of Washington from the evil of drugs then I will have fulfilled some small part of my obligation as a Christian."

According to Wilbur Atwell, the director of SAFE, North has worked outside of the office *once* since he started his service in August. During his first month (coincidentally, before the interest of the press waned) he put in close to 150 hours. Atwell called that "extraordinary." But since then, North's been doing between 12 and 15 hours per week, somewhat less than the 16 he was scheduled to perform. He's not even there at set times—Atwell described his schedule as "flexible." Last July, McGarry announced that North had been awarded "a commission in the drug war." But when it comes to battling drugs, the heavily decorated Lt. Colonel has turned out to be

just another spare-time desk jockey.

After the sentencing last spring, Sullivan, North's lawyer, requested a stay of payment of the fines pending an appeal, scheduled for February. But he added that "Lt. Colonel North does *not* seek a stay of the sentence of probation conditioned on community service." In a perverse way, the *Post* turned out to be right: North's 1,200 hours of community work are a continuation of "the hours already given to his defense." North "would like to begin promptly the important community service program ordered by the Court," wrote Sullivan. In other words: We'll skip the punishment, thanks, but we'll take the moral credential.

Abuse by 'Best Use'

Much careful work goes into producing an alternative sentence like North's. Once guilt is determined in a high-profile case, the defense and the prosecution work up "sentencing memos" presenting their vision of the ideal sentence. They tend to disagree. A probation officer puts together a third, supposedly unbiased memo. In less glamorous cases, the judge often gets no report at all. In the jurisdictions where probation officers do assemble reports, the officers

are frequently so overwhelmed that they can manage to make only a call or two before plugging the convict into a familiar sentencing formula. A larger investment in our probation offices would go a long way toward dealing with overcrowding, not just by boosting supervision but by producing hard-nosed appraisals of all criminals' eligibility for alternatives. Barring that investment, alternatives to incarceration are likely to remain too rare for the broke criminal.

In the meantime, lawyers at tonier firms have turned the sentencing memo into an art form. In his operative 17 page memo, Sullivan switches so quickly from trumpeting the independent counsel's malice ("The IC's memorandum shows it will stop at nothing in its effort to crush Oliver North . . . the blows it strikes . . . are as foul as any we have seen") to softly stroking a violin through tales of North's heroism in war and suffering under press scrutiny, that by the end, when Sullivan suddenly changes tactics and appeals to reason ("There is no need to incapacitate or rehabilitate Lt. Colonel North."), the reader can only, limply, agree. Where Michael Deaver's memo, running 49 pages (including table of contents), graphically treats him as a pathetic character ("Mr. Deaver was feverish, confused, disoriented, lethargic, and was experiencing both auditory and visual hallu-

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from the government to assist the disabled in living outside hospitals. Among other tasks, he's been helping her file for tax-exempt status. The word that people familiar with McFarlane's volunteer service kept using to describe it was "lobbying." McNew wouldn't talk about her work with McFarlane. "How the hell did you find out about that?" she asked.

McNew's project is unquestionably worthwhile. In fact, it's so worthwhile that you'd expect a man like McFarlane to contribute his skills and talents to

Beefing up probation offices is not expensive, particularly in comparison to prison costs. Georgia's Intensive Supervision in Probation program costs about \$1,700 per year per offender. Prison in Georgia costs \$13,500.

it during his free time. Instead, he gets to contribute them during what is quite literally his unfree time, his substitute jail time. How did he wind up with this toothless service? "He has a vast experience, you know, he has managerial skills and understanding of the legislative process," said his judge, Aubrey Robinson.

It doesn't take much of an imagination to come up with the sorts of absurdly nonpunitive sentences Best Use would justify: an insider trader could be ordered to lecture business school classes on ethics; or an actor who sexually exploited a 16-year-old could be ordered to give a handful of antidrug talks to high-school students; or—now stretching the imagination a bit—an upscale clothier guilty of tax evasion could be required to put on a fashion show to raise money for the city budget; or a rock-band manager who assisted in smuggling 19.5 tons of marijuana into the U.S. could be sentenced to produce, oh, three antidrug concerts and to cut an album. . . . Wait a minute. Those are all actual sentences. And by the way:

Wilkes Bashford lost money for the city of San Francisco with his fashion show. And Harold "Doc" McGhee, the manager of "Don Jovi," is now a defendant in the Louisiana trial of what may turn out to be the largest drug ring in U.S. history.

There's just no punishment in making Robert McFarlane lobby in "elite isolation" during his free time. It can be punitive—or at least educative and possibly rehabilitative—for white-collar criminals to work in worlds they would otherwise have no contact with, and for all criminals to work at duties they would otherwise never perform. McFarlane might learn something from working in a soup kitchen; drug dealers might benefit from being stripped of their jewelry and warm-up suits and sent to scrub and paint the walls of the housing projects they've abused.

It's worth noting that Judge Jackson did not assign Deaver to use his skills as a lobbyist and PR czar (as his sentencing memo had suggested, listing a few programs seeking help with fundraising and public awareness campaigns). Part of the sentence Jackson gave Deaver, who lied to both Congress and a federal grand jury, oozes Best Use: Deaver has to spend 500 hours educating medical students at Georgetown University on alcoholism. But he also has to spend a thousand hours working at a shelter for addicts and alcoholics in inner-city Washington. Deaver says he feels like he's contributing to the shelter, where, among other projects, he has started diction classes for residents whose English he thought would prevent them from ever holding a job. "I have a lot more time," he said, "and a lot more to learn."

But Deaver hasn't been complying with all the requirements of his sentence. He hasn't been spending nights and weekends at the shelter, as Judge Jackson stipulated he should "as circumstances permit and warrant." Not that anyone's likely to call him on the infraction. It's so piddling, the system reasons, and probation officers are so busy. And that's the final, sad seam of white-collar alternative sentencing. The soft sentence gets softer over time.

That's why, just as prison is essential for people like Gabor, who feel they live above the law, it's necessary for criminals who abuse the public trust. The screams Jean Harris still hears in the night would affect North or McFarlane or Deaver just as deeply and send an unmistakable signal to others who might consider committing crimes like theirs. Had North been given some prison time, he might have ended up in the Petersburg prison camp 25 miles south of Richmond. It's a minimum-security prison, with no fence. But it's not exactly summer camp. The cells are tiny and shared by two. The grounds are spotless, but only because the inmates spend their days pick-

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ing up cigarette butts and shining floors. One afternoon in December, a group of prisoners was hard at work, painting a spotless white wall white.

But real jail will always be the best deterrent. In the intermediate level prison across the driveway from the camp, life is more regimented. Contrary to popular fears and fantasies, *Midnight Express* could not have been filmed in most American prisons. But that doesn't mean that scenes from it won't occasionally flicker through your head. At Petersburg, you work eight hours a day in an electronics factory, and (once you get a pass) you can use the library and the gym. But the obvious features—the fences covered with barbed wire that always surround you—and the more subtle ones—the lack of doors on the bathroom stalls—quickly wipe away any illusion of elite isolation. You don't have to experience much of this to know real punishment. Brendan Sullivan would never have told Judge Gesell: "I, Colonel North would like to begin promptly the important incarceration period ordered by the court."

Cool and unusual punishment

Before jurisdictions start diverting more convicts into community programs, they'll have to beef up their probation offices. In Baltimore's alternative sentencing program, a total of 10 "managers" supervise 2,000 criminals. That far exceeds a reasonable number. A load of about 25 convicts is about right for one officer; with so few clients, he would have more time to keep an eye on each and to provide the sorts of services, like job counseling, that used to be considered part of the job. With bigger probation offices, every sentencing report could become a thing, if not of beauty, at least of use. (An increase in supervision is not expensive, particularly in comparison to prison costs. Georgia's Intensive Supervision in Probation program, in which two to four probation officers supervise between 25 and 55 criminals, costs about \$1,700 per year per offender; prison in Georgia costs \$13,500.) Besides better probation, tightly supervised residential drug programs are a must, given the high percentage of drug-addicted criminals. Strict residential treatment tends to cut recidivism more than prison does. It not only removes the criminal from the population (as prison does), it decreases drug dependence and shrinks the chances that a criminal will steal again to feed his habit (as prison doesn't).

Georgia "recognized sooner than most states the relationship between prisons and money," says Corrigan of the National Institute for Sentencing Alternatives. The result, in 1982, was the ISP program, probably the most impressive—and most straightforward—alternative sentencing scheme. ISP has spread,

with variations, to jurisdictions around the country. In Georgia, a probation officer provides job counseling while a surveillance officer keeps tabs on the criminals, each of whom must check in, face to face, five times a week during the 6 to 12 months they're in the program. Each participant has to put in 132 hours of community service and hold a full time job or pursue educational or vocational training. Generally, the judge imposes alcohol and drug testing, a curfew, and fines or victim restitution. Fees paid by probationers support the program. When Georgia launched this fancy form of probation, some criminals regarded it as too tough. Offered ISP, they elected to go to prison instead.

Georgia's 1986 evaluation of ISP came up with a "success rate"—with success defined as no new crimes or technical violations during the 18 months after graduation—of 80 percent. That's a lower recidivism rate than was found among regular probationers or among people incarcerated for similar original crimes. And less than 1 percent of all ISP graduates had gone on to be convicted of violent crimes.

A more high-tech alternative, which excites corrections experts and features writers around the country, is electronically monitored house arrest: You wear an electronic tagging device—such as an anklet that sends a radio signal to a receiver in your telephone—or you perform regularly for a two-way video monitor, and you stay home. Other gadgets permit probation officers to test their clients for alcohol without stirring from the office. Like an ISP program, this is a flexible punishment. The convict can keep working, or perform community service, while remaining at home during set hours.

The alternative most popular with the tough on-crime crowd is the so-called "boot camp" for young male offenders. William Bennett has boosted boot camps as a cheap alternative to prison that scares young people straight. In a few months, young men are subjected to military-style discipline, complete with men in uniform calling them "maggots" and making them do push-ups in the wee hours. Georgia led the way on this alternative as well; there are now some 15 camps in 11 states, with many more under construction or on the drawing board.

Preliminary studies have cast some doubt on the value of boot camps as they're generally run. For one thing, they are turning out to be costlier than prison; for another, they don't seem to cut down recidivism. Sometimes the discipline has gone too far, with inmates winding up badly beaten. Run more wisely, however, the camps might work. In New York state, boot camp lasts for six months, twice as long as most. And officials supervise and assist the inmates

for a year after they graduate. But without that kind of intensive, long-term effort, the camps seem likely to take tough, aggressive young men and make them tougher, more aggressive, and prouder of their muscles. "I look at this as a fitness program," Robert Bennett, a 19-year-old thief, told the *Los Angeles Times*.

VERA smart

The VERA Institute in New York City runs a community service program for petty criminals, most of whom would otherwise be serving two to three months in prison. VERA sets the offenders to work for 70 hours. According to Susan Powers, who supervises the project, 50 to 60 percent of participants complete their service; those who don't are referred back to the courts for resentencing. Possibly because it got burned in the mid-seventies for being particularly soft on crime (see Tom Bethell, "Criminals Belong in Jail," *The Washington Monthly*, January 1976), VERA emphasizes that the service is punitive. To an extent it is, though clearly it's no match for prison. "It's obviously not incapacitative and it's not rehabilitative—our recidivism stats are about the

same as a population with a short jail term," said Powers. The program doesn't work miracles. But it does tell the offenders that society disapproves; it costs \$800 to \$1,000 per convict, much less than jail; it keeps some beds free in New York's strained facilities; and it gets vacant lots cleaned up, scarred walls painted, and ravaged park areas tended.

Programs like VERA's show that it's possible to experiment with alternatives and remain realistic about crime. Instead of imprisoning judges within strict sentencing ranges, state and federal guidelines should start encouraging them to explore sensible punishments besides incarceration. The real lesson of Oliver North's sentence is not that abusers of the public trust deserve some jail time, or even that alternative sentencing, as applied to celebrity defendants, is a joke. It's more simple than either of those: Our corrections system can be flexible.

We tried soft on crime, and that didn't work. Now we've tried tough on crime, and the results have been just as unimpressive. Maybe we should try smart on crime. As state and federal lock-ups approach gridlock, the challenge to our criminal justice system is to take the elegant, custom-tailored sentence and start marketing it retail.

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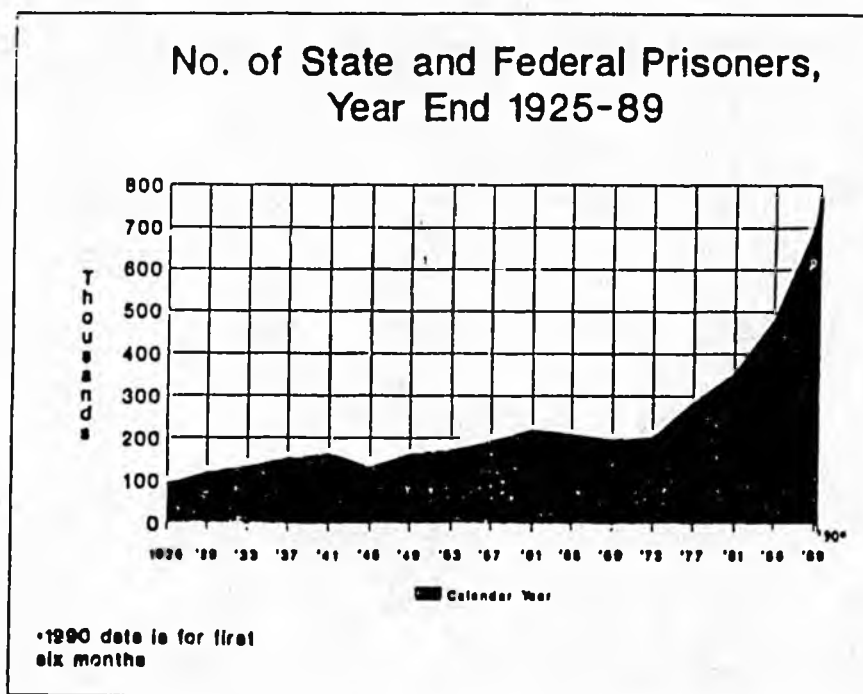
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AMERICA'S CORRECTIONAL CRISIS
A REPORT TO STATE AND LOCAL BAR ASSOCIATIONS
FROM
THE SECTION OF CRIMINAL JUSTICE

The growth of America's prison population is out of control. We need the help of the organized bar to bring reason to public debate on this issue.

What is happening?

Despite a basically static crime rate, we have almost quadrupled the number of persons in state and federal prisons since 1970. In 1970 we had roughly 197,000 persons behind bars.¹ In 1980 the number was 316,000.² As of June 30, 1990, it had jumped to 755,425.³ Chart 1 presents the data from 1925 to mid-year 1990.



¹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: State and Federal Prisoners, 1925-85, at 2 (Washington, D.C., October 1986).

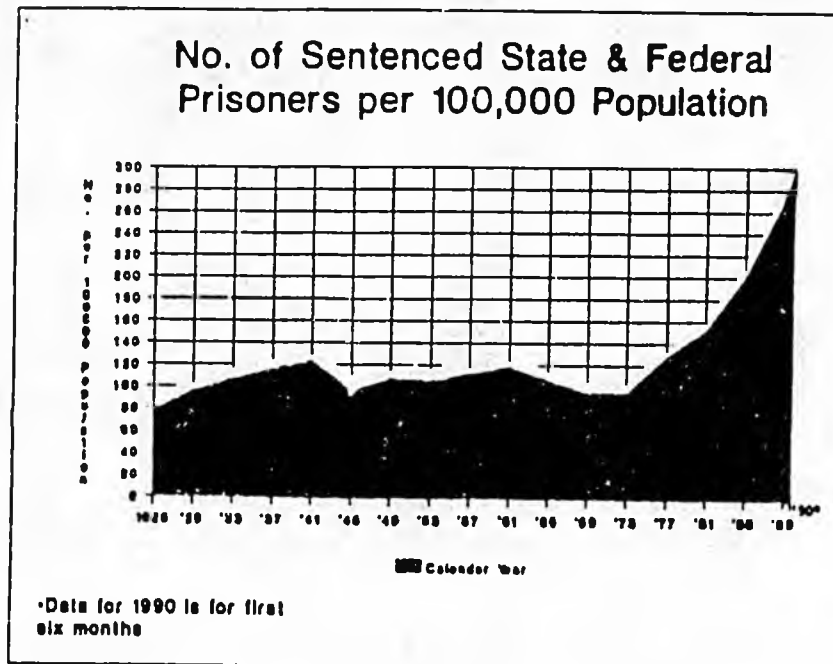
² Ibid.

³ Department of Justice Press Release 90-54(H), at page 1 (October 7, 1990).

The growth is not slowing. It is getting steeper. During the past few years, the rate of growth has been roughly 7% to 8% per year.⁶ During 1989, however, the prison population grew at a rate of 13.1%. We added more than 82,000 inmates last year, more than during any previous twelve months in our history.⁵ That is the equivalent of 1600 more inmates, or four new prisons, per week.

The phenomenal growth rate continued during the first half of 1990, rising another 42,862 inmates--a 12% annual growth rate. The Director of the Justice Department's Bureau of Justice Statistics reported the twelve month growth as "the largest annual growth in 65 years of prison population statistics."⁶

The number of inmates per capita has grown at the same rate. See Chart 2. In 1980 we incarcerated 138 Americans per 100,000 adults in the population.⁷ On June 30, 1990, the number had grown to 289 per 100,000 adults.⁸



⁴ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, at 1 (Washington, D.C., May 1990).

⁵ Ibid.

⁶ Department of Justice press release, supra note 3.

⁷ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: State and Federal Prisoners, 1925-85, supra, note 1.

⁸ Department of Justice Press Release, supra, note 3.

Add the number of inmates in local jails (344,000 in 1988).⁹ The result is more than 1 million Americans behind bars, or one for every 250 adults.

If all of our prison and jail inmates were in one place, its population would exceed that of nine states. Vermont, Rhode Island, North Dakota, South Dakota, Delaware, Montana, Wyoming, Nevada and Alaska each have fewer inhabitants than do our prisons and jails combined.

There are almost 2.5 million persons on probation¹⁰ and another 400,000 on parole.¹¹ Altogether there are almost 4 million Americans under correctional supervision. One in 49 adults is serving a criminal sentence.¹² One in 27 men.¹³ Among men between the ages of 20 and 29, 1 in 4 blacks, 1 in 10 Hispanics and 1 in 16 whites are serving a criminal sentence.¹⁴

The rates of growth are different in different states. The populations in ten states have increased by more than 150% during the past ten years: California (263%); New Hampshire (258%); New Jersey (249%); Alaska (234%); Nevada (193%); Arizona (192%); Ohio (162%); Pennsylvania (162%); Hawaii (157%); Utah (154%).¹⁵

We have been building new prisons at an unprecedented rate. In 1989 alone, we added 40,000 to 60,000 new beds¹⁶ (an 8 to 10%

⁹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Census of Local Jails 1988 (Washington, D.C., February 1990).

¹⁰ U.S. Department of Justice, Bureau of Justice Statistics, Probation and Parole (Washington, D.C., November 1989).

¹¹ Ibid.

¹² U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Probation and Parole 1988 at 1 (Washington, D.C., November 1989).

¹³ Ibid.

¹⁴ Marc Mauer, Young Black Men and The Criminal Justice System: A Growing National Problem, at 3 (The Sentencing Project, Washington, D.C., February 1990).

¹⁵ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, supra, note 4 at 3.

¹⁶ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, supra, note 4 at 7. (differences based on highest and lowest rated capacities)

increase) at a capital cost of about \$1.5 billion.¹⁷ As a nation, we will spend about \$16 billion this year to build and operate prisons and jails.¹⁸

But we are falling hopelessly behind. At last report, only 10 states were operating at or below 95% of their rated capacity (using the highest of several measures of rated capacity).¹⁹ The Federal system and those of 38 states are filled beyond their highest rated capacities. Prisons in the District of Columbia and 42 states and territories are under federal court order for unconstitutional crowding.²⁰ One in every eight jails has a federal court "cap."²¹

The consequence--a proliferation of "back door" release mechanisms, including more liberal parole policies, increased good time, and emergency release programs when institutions reach their federally-imposed "caps."

It is interesting to note that all seven states reporting a prison population decline during the first six months of 1990 (Colorado, New Mexico, Rhode Island, Tennessee, Alaska, Oregon, and West Virginia) are all under court orders dealing with unconstitutional conditions of confinement.

Why are we doing this--spending fortunes in public funds, at a time of hugh public budget deficits, to lock up more and more people?

It is not because of increased crime. While per capita imprisonment has increased by more than 100% during the past ten years, per capital reported crime has decreased by 3.5%.²² Per

¹⁷ Estimate, based on average construction cost of \$50,000 per cell. National Council on Crime and Delinquency, NCCD Focus (San Francisco, California, December 1989).

¹⁸ Marc Mauer, Americans Behind Bars: A Comparison of International Rates of Incarceration, at 3 (The Sentencing Project, Washington, D.C., January 1991).

¹⁹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners in 1989, supra, note 4 at 7.

²⁰ National Prison Project, Status Report: The Courts and Prisons, Page i (Washington, D.C., January 1, 1990).

²¹ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Census of Local Jails 1988, supra, note 8 at 7.

²² U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports 1989, at 48 (Washington, D.C. 1990).

capita violent crimes have increased by 11%,²³ but per capita murders and burglaries have both actually decreased, by 15% and 24% respectively, over that time.²⁴ The number of households touched by crimes of violence and theft has dropped from one in three in 1975 to one in four in 1989.²⁵

It is true that crime rates in America remain high. One in every 13 households is affected by a burglary or violent crime committed by a stranger each year.²⁶ But it is not true that higher crime rates justify the increases in incarceration that we have experienced.

What other explanations are there?

- o Public opinion. Crime has become a major political issue in this country. Public officials attempt to outdo each other in their "get tough on crime" rhetoric, thereby reinforcing public misperceptions that crime is increasing. In particular, the public perceives, unrealistically, that tougher law enforcement can rid our streets of drugs.
- o Mandatory minimum sentences. The legislative response is ever higher mandatory minimum sentences, which have one overall effect--to force judges to send first offenders, especially first-time drug offenders, to prison.
- o Technology. Better law enforcement information systems produce more complete prior criminal history information. An offender who would have appeared to be a first-offender ten years ago is now shown to have several prior convictions. As a result, he will get a much longer sentence.

Massive urine testing is a second technological factor. Most states now require persons on probation or parole to submit regular urine samples. Courts revoke their status if the samples show drug use. The number of persons entering prison from parole violations is increasing faster than the number of new admissions from court. In California today, more persons are coming into the prisons from parole violations than from new sentenc-

²³ Ibid.

²⁴ Ibid.

²⁵ U.S. Department of Justice, Bureau of Justice Statistics, Bulletin: Households Touched by Crime, 1989, at 1 (Washington, D.C., September 1990).

²⁶ Id., at 5.

es (including probation violations). The primary reason for parole revocation is "dirty urine."

What should we do?

No one today contends that we should attempt to return to the level of incarceration of 1970, or even 1980. But we do need to stop the trend of ever-higher prison populations. Enough is enough, for our public pocketbooks if for no other reason.

The decade of the '80s was a time for expanding our correctional capacity. The decade of the '90s needs to be devoted to making more effective use of that capacity--by ensuring that space is available to lock up all truly dangerous criminals. To do that, we have to find other ways to punish the non-dangerous.

Two knowledgeable commentators have observed recently that our current process is both too lenient and too severe.²⁷ Because we have few options other than prison and probation, judges put some persons on probation, when they need a more severe sanction, only because their crimes don't warrant jail. Others go to prison merely because their crimes are "too serious" for probation.

A number of programs have been developed in recent years to punish criminals without locking them up. Electronic monitoring to incarcerate an offender in his own home is one. Fines, community service, and restitution are others. Shock probation (including a very short prison stay), night and weekend confinement, and "boot camps" for drug offenders are still others.²⁸

But there is no single answer for the whole country. Our correctional and crime problems differ in different parts of the country and from state to state. Each state will therefore have to devise its own unique answer.

²⁷ Norval Morris and Michael Tonry, Between Prison and Probation--Intermediate Punishments in a Rational Sentencing System (New York, Oxford University Press 1990). See also, Daniel J. Freed and Barry Mahoney, Between Prison and Probation: Using Intermediate Sanctions Effectively, The Judges' Journal, Vol. 29, No. 1 at 6 (Winter 1990).

²⁸ For information on the general topic see Petersilia, Expanding Options for Criminal Sentencing (The Rand Corporation, Santa Monica, California, November, 1987); Electronic Monitoring and Correctional Policy: Techniques and Applications (NIJ Research Report, NCJ 104817); Fines as Criminal Sanctions (NIJ Research in Brief, NCJ 106773); Shock Incarceration: An Overview of Existing Programs (NIJ Issues and Practices, NCJ 114902); Roger J. Lauren, Community Managed Corrections (American Correctional Association, 1988).

What can the organized bar do?

Get involved.

The integrity and legitimacy of our legal system is at stake. The public's view of the courts and the justice system--and hence its view of the legal profession as a whole--is determined by its perception of how well the criminal justice system is working. It is not working very well today.

Almost every state has some sort of statewide advisory committee working on its correctional problems. A representative of the organized bar on such a group could make a difference. Judges and prosecutors, especially those who have to stand for election, have great difficulty taking a strong public position that could be mischaracterized as "soft on crime." Criminal defense lawyers do not have the same public credibility on this issue that the leaders of the organized bar can have.

Lawyers are needed for prison conditions litigation. ABA President Jack Curtin has asked the National Conference of Bar Presidents to create a special committee on this topic. Its goal would be experimental programs in several jurisdictions involving the bar in ensuring that our bulging prisons and jails operate consistently with constitutional requirements.

The ABA's criminal Justice Section stands ready to assist, with information, materials, and speakers with up-to-date information on the problem and possible solutions.

**SUMMARY OF
THE FINAL SETTLEMENT AGREEMENT AND ORDER
(FSA)**

**CLEARY V. SMITH
3AN-81-5274 Civ.**

**Prepared by Michael J. Stark
Assistant Attorney General**

Overview

The FSA is a court approved settlement that was implemented on November 1, 1990 after more than nine years of litigation. Settlement discussions took place over 18 months and consisted of more than 350 hours of face-to-face negotiations. These negotiations involved the active participation of high level corrections officials; and drafts of the proposed settlement were circulated to and comments solicited from correctional superintendents, the attorney general's office, the governor's office on policy development, as well as from former Governor Cowper. The end result was a comprehensive 88 page document which resolved a multitude of issues in the case, including an appeal before the Alaska Supreme Court involving more than 20 issues.

The FSA is broken down into 11 sections as follows:

- I. Coverage
- II. Principles of Judicial Interpretation and Definitions
- III. Facility Requirements
- IV. Operational Requirements
- V. Rights and Opportunities To Be Provided Inmates
- VI. Rehabilitation Programs and Services
- VII. Classification, Administrative Segregation, Discipline, and Grievances

- VIII. Overcrowding
- IX. Future Monitoring, Modification and Enforcement of Agreement
- X. Resolution of Pending Appeals and Claims
- XI. Plaintiffs' Fees and Costs, and Release of Plaintiffs' Counsel

While the FSA is obviously organized along subject matter lines, some comments are common to a number of sections which cross these subject lines.

First, a significant number of the provisions in the FSA were already required by earlier orders of the court in this case, by Alaska's statutes, or by the federal or state constitutions. Thus, the FSA does not change this settled law. These provisions address such subjects under Section III as: heat, lighting and ventilation, non-smoking area, plumbing, gymnasium/recreation area, law library, visitation rooms, and attorney-client rooms; under Section IV as: staffing, staff training, fire and life safety, sanitation, inmate personal hygiene, inmate clothing, bedding, housing, food services, medical and dental care, and mental health services; under Section V as: exercise and recreation, visitation, telephone communication, mail communication, inmate information, access to courts and legal services, access to the law library and legal materials, and religious freedom; under Section VI as: availability of programs for female inmates, counseling, lifeskills program, educational services, vocational training/work programs, rehabilitation services, special women's services, prerelease assessments, parole planning, participation in programs and services, and program supervision; under Section VII as: classification, administrative segregation, discipline, and hearing advisors.

Secondly, a significant number of the provisions in the FSA merely restate practices followed for years by the department of corrections because they are based on principles of sound correctional management. While I will not list these provisions in this summary, they are addressed in the department's regulations and policy and procedures. I am available to discuss these provisions in more detail if that is your desire.

Lastly, a considerable cost savings was realized by the settlement of this case due to the avoidance of the lengthy litigation that would have occurred had the department pursued its appeal of the trial court's decision which followed the trial in this case in 1984. Because of the passage of time since the trial in this case, the supreme court would have remanded the case to the trial court to update the record. This would have resulted in

essentially another trial.¹ The litigation costs that were avoided are separate and apart from the costs that were likely to result from an adverse order of the court, particularly in the areas of mental health and overcrowding.

Major Issues Addressed in the FSA

As is evident by the prior discussion as well as a review of the table of contents of the FSA, most of the issues addressed in the FSA are fairly innocuous, and simply restate much of what the department is obligated to do anyway. There are a number of provisions, however, which have fiscal impact and are therefore potentially controversial. A discussion of these issues follows.

New Facility for Women

Paragraph III. L on page 8 of the FSA obligates the department to establish an additional facility or devote part of an existing facility for long-term sentenced women, to be in operation no later than July 1, 1994. In the event the department does not receive sufficient funding by July 1, 1991 to design the facility, or sufficient funding by July 1, 1992 to construct the facility, the plaintiffs have reserved the right to bring an action challenging the department's policies and practices toward long-term sentenced women offenders.² The legislature retains the authority to appropriate the necessary funds or not, as it deems fit.

Mental Health Care

Paragraphs IV. K. 4-7 on pages 21-23 of the FSA obligate the department to establish a 30 bed forensic unit to provide intensive inpatient mental health treatment for acutely and chronically mentally ill inmates who cannot adequately function in the general inmate population. The provisions require that the facility be staffed by a number of mental health professionals and correctional staff.

¹ The trial in this case took place in 1984, and lasted almost two months.

² The department's FY 91 budget contained an appropriation for the design of the women's facility in Juneau. Some question exists as to the appropriation since the department's plan to construct the facility in Juneau has been modified, and it is now planned for the Anchorage bowl area.

This unit was recently opened by the department by virtue of having received six-month funding by the last legislature. The department converted one of its housing modules at the Cook Inlet Pretrial Facility (CIPT) so as to accommodate this obligation. In order to remain in compliance with this requirement, the department must receive full funding in its FY 92 budget for the forensic unit staff positions.

Paragraph IV. K. 9 on page 23 of the FSA obligates the department to seek funding for the establishment of a halfway house for mentally ill offenders. The department received \$400,000 from the last legislature, as did the department of health and social services, to jointly fund the facility. The department has sent out RFPs on two occasions for this purpose, but has not received any bids to provide such a facility for anything approaching the \$800,000 that is available. The department is presently evaluating its options.

Paragraph IV. K. 10 on page 24 of the FSA obligates the department to conduct a comprehensive assessment of the mental health needs of its inmate population by July 1, 1991, and to submit a funding request to the legislature for any additional staffing or facilities that may be necessary to provide appropriate housing, care, and programming for mentally ill offenders.

This portion of the FSA avoided litigation which was likely to result in court-ordered remedies requiring the expenditure of considerably more resources than required by the FSA. As a result of the nationwide trend toward deinstitutionalization of mentally ill persons in the last 10 years, many people formerly handled by the civil mental health system have ended up in the criminal justice system. Alaska is no exception; and it is estimated that 10-25 per cent of the inmate population is mentally ill and in need of mental health services. Accordingly, the legislature's positive response to this area of the FSA is important in both responding to the serious need that exists and in avoiding the more costly expenditure of resources that is likely to result from litigating the issues if the department's requests for funding are not granted.

Education and Vocational Training

Paragraphs VI. D. 2-5 on pages 45-47 of the FSA require the department to provide a postsecondary degree program at five facilities by September 1990, and to expand the program to at least one facility in both the northern and southeastern regions by September 1991. This requirement is a carryover from an order of the court issued in 1983, but is not as onerous as it might seem. Under these provisions, the department is only obligated to pay for the administrative costs of the program, which consist primarily of

computer and cable hookup fees, purchase and installation of satellite dishes, and satellite user fees (the program is delivered through teleconference and video presentation).³ The inmates who participate in the program are required to pay for their own tuition and books the same as ordinary citizens. Many of the 80 or so inmates that are enrolled in this program, which leads to an associate of applied science degree in business computer information systems, obtain the necessary resources by applying for a federal grant. Initial responses to the program have been extremely positive; and the department is hopeful that participating inmates will have a low rate of recidivism after release.

Paragraph VI. E on page 47 of the FSA obligates the department to provide some form of vocational training at each sentenced facility by July 1, 1992. In addition, the department is required to assess each of its vocational training programs to determine which can be certified by the University of Alaska, a trade union, or other certifying entity such as the U.S. Department of Labor. The department is obligated to seek the necessary funding to ensure that certified programs exist in all sentenced facilities by July 1, 1992. The department has already obtained certification for a number of its vocational training programs, and is presently assessing its other programs to determine what steps and costs may be necessary to have them certified.

Overcrowding

The most important issue addressed in the FSA is prison overcrowding. Since overcrowding has the potential for adversely affecting every facet of correctional administration, the parties devoted more time and effort on resolving this issue than any other in the case.

Section VIII on pages 69-77 and paragraph IX. B.4(c) on page 83 of the FSA address overcrowding.⁴ Section VIII addresses this issue in two ways.

First, in order to protect against crowding in state correctional facilities, the department is obligated to seek legislative approval for a prison overcrowding emergency act during the 1991 legislative session. This bill, which has been drafted and is presently undergoing review in the governor's office,

³ Many of the administrative costs are one time fees.

⁴ Paragraph III. G on pages 6-7 of the FSA addresses cell size and dayroom space, which are based on the standards articulated in section VIII of the FSA.

provides a two-step mechanism for relieving prison overcrowding. If the prison population in the state correctional system exceeds its maximum capacity for a 45-day period, certain prisoners not otherwise eligible for discretionary parole become parole eligible after serving at least half their sentences. Prisoners convicted of the most serious felony offenses are not eligible for this special parole consideration.

If the parole eligibility of these offenders has not helped to provide adequate relief such that the prison population has dropped below its maximum capacity within four months, then certain lower risk offenders within 120 days of their release date, who have served at least half their sentences, would be released early into supervised probation or parole. The bill makes clear that no prisoner becomes eligible for special discretionary parole consideration or for early release if the maximum capacity of the correctional system will be increased or additional space will become available by contract so that the prison population will not exceed maximum capacity within 45 days.

Secondly, the FSA obligates the department to promulgate regulations by which the maximum capacity of each correctional facility shall be determined. The regulations must include a number of criteria upon which capacities will be based, the most important of which is cell size and square footage per inmate. These standards are based upon applicable standards from the American Correctional Association, the mission and design of Alaska's facilities, the view of expert consultants as to the appropriate capacities of Alaska's correctional facilities, court decisions, and the department's experience over the last several years with its growing prisoner population.⁵ The maximum capacities that result from applying the criteria in the FSA are, for the most part, considerably more favorable than those ordered by the trial judge in his post-trial order of 1986, and which were stayed pending the department's appeal to the supreme court.⁶

Under paragraph VIII. E on pages 75-76 of the FSA, until such time as an overcrowding bill is enacted, the correctional system and individual facilities are subject to court ordered remedies if the prison population exceeds the established capacities beyond specific time frames. While certain facilities have had trouble staying within their maximum capacities, the department has been fortunate in having fewer prisoners than expected entering the system this winter. Thus, the department has

⁵ Alaska's prison population has tripled since 1980.

⁶ One reason why the department was interested in settling the issue of overcrowding was the quantum increase in prison population that had occurred since the trial in 1984.

not yet had to appear in court for a violation of the interim population measures. If an overcrowding bill is not adopted by the 1991 legislature, the plaintiffs have the right to go back to court to seek relief. If such a bill is enacted, its provisions supersede the interim measures in the FSA and the plaintiffs may not seek any relief from the court. In other words, by adopting the overcrowding bill, the provisions of which would only be implemented in a true overcrowding emergency, the legislature would preclude the court from ordering any remedies or otherwise interfering with the discretion to manage the correctional system accorded the executive and legislative branches of government by the Alaska Constitution. In addition, it will provide a breathing space during which more long term solutions to growing prison populations can be explored.⁷

Other Important Provisions

Section IX. A on pages 78-79 of the FSA provides for court oversight of the department to end by June 30, 1991, assuming substantial compliance with the provisions of the FSA. The department was able to secure agreement by the plaintiffs and the court to permit it to oversee its own compliance with the FSA. At a time when most state correctional systems are under court oversight, including Alaska for the last eight years, this is a significant achievement.

Section IX. B on pages 79-81 of the FSA (as well as section VII. E) require any inmate complaining of a violation of the FSA to exhaust all available administrative remedies before being allowed to go to court. This should result in a reduction in the amount of litigation the department has to respond to. In addition, the department successfully negotiated a favorable standard as to what constitutes a violation of the FSA.

Lastly, paragraph IX. B. 4 on pages 81-82 of the FSA provides for an extremely liberal standard by which the parties may seek a modification of the terms of the FSA as conditions or circumstances change. If the department is able to establish an impressive record of compliance with the FSA over time, this paragraph will enable it to seek a court order vacating some or all of the provisions of the FSA.

⁷ This was one of the principal purposes for the creation of the Sentencing Commission.

Honorable Fran Ulmer

February 21, 1991
Page 8

Conclusion

As I am sure you realize, it is not possible to discuss the FSA in any great detail in a letter. I am available to respond to any questions you or other members of the legislature may have regarding any aspect of the FSA.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

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STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. H.B. 151

Revision Date: _____ Department Affected: Corrections
 Title: "An Act relating to parole." BRU: Statewide Programs
 Component: All Institutions, Statewide Programs
 Sponsor: Rep. Koponen
 Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	50.0	50.0				
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	50.0	50.0				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	50.0	50.0				
FEDERAL FUNDS						
OTHER						
TOTAL	50.0	50.0				

POSITIONS:

FULL-TIME	0	0				
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

The \$50.0 in personal services relates to overtime costs of institution employees. After two years the program impact would diminish, therefore, little fiscal impact.

Prepared By: Tom Sutton, Director Phone: 465-3376
 Division: Administrative Services Date: 04/01/91
 Approved by Commissioner: *[Signature]*
 Agency: Department of Corrections Date: 04/01/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HOUSE COMMITTEE REPORT

(7) Date Referred: February 20, 1991 FURTHER REFERRALS: Judiciary Finance

Date of Committee Action: April 16, 1991

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 151

HOUSE BILL NO. 151 PAROLE ELIGIBILITY/REHABILITATION PROGRAM

"An Act relating to parole."

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] a new title
 [] have attached amendments(s)
 [x] do pass
 [] do not pass
 [] no recommendations
 [x] individual recommendations
 [] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 [x] fiscal impact Dept. of Corr. 4/1/91 [X] fiscal note(s) _____
 [] zero fiscal note _____ [] zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Patty King</i>				
<i>J. C. Long</i>				
<i>Chris Davis</i>				
<i>Mark Ranley</i>			X	

[Signature]
 Chairman's Signature