ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
6931 HOUSE JUDICIARY

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,

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[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

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[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.

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

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

By: Michael J. Stark
Michael J. Stark
Assistant Attorney General

cc: Lloyd Hames
Commissioner, Department of Corrections

Douglas L. Blankenship
Deputy Attorney General

Ron Lorensen
Assistant Attorney General

MJS:mm-016

bcc: Larry A. McKinstry, CDCO
John Bodick, OSPA
Frank Prewitt, Corrections
Jana Varrati, Corrections
Carl Nickel, Corrections
Richard Bentsen, Corrections
Dick Franklin, Corrections
Tom Sutton, Corrections

March 02, 1990

Ms. Nikko Koponen
P.O. Box V
Juneau, Alaska 99811

RE: Bill HB545AS33 for Parole & Probation

Dear Ms. Koponen:

I just wanted to write to you to thank you for drafting the above bill to make first time felony offenders parolable. 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 on 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 nonparolable 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 46 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

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,

Niilo Koponen

Representative Niilo Koponen
NK/sp

Alaska State Legislature

Representative Niilo Koponen

House District 21

Pouch V
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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

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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 <u>increased</u> 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.

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 no implied 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.

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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.

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

2/1/91

AMERICA'S CORRECTIONAL CRISIS

A REPORT TO STATE AND LOCAL BAR ASSOCIATIONS

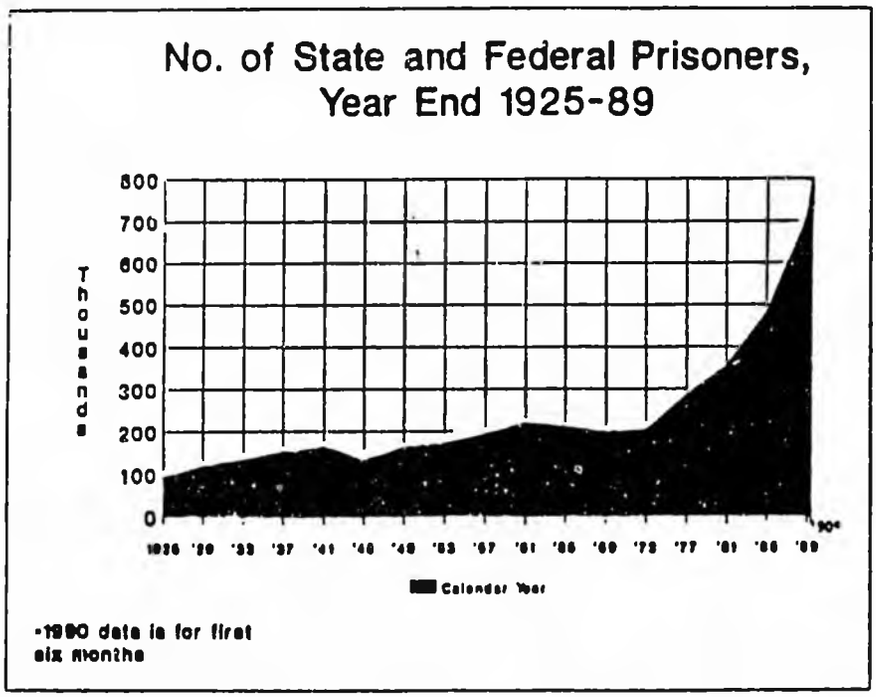
FROM

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.



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

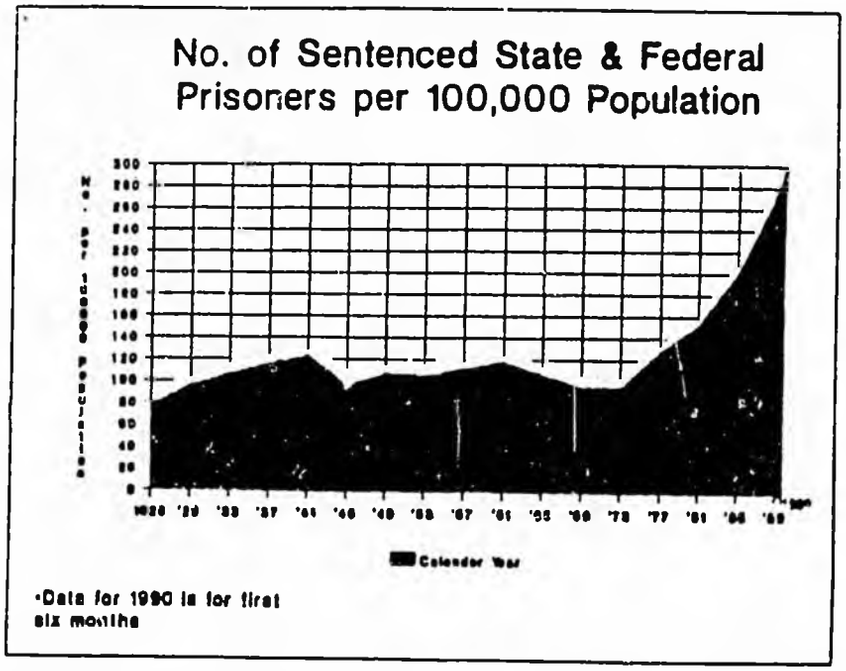
[2] Ibid.

[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.[4] 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]



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[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 probation[10] 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 beds[16] (an 8 to 10%

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[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% or 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

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[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-

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[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.

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[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.

FISCAL NOTE

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. [ ][ ][ ][ ]

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: x [signature]

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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
	Mark Hanley		X	

Chairman's Signature

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 Martel.*

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 offices, 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 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.

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.

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 histories 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 system—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—benefitting 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 officer, over the appropriate restitution.

Some programs, like one run by the sheriff's department in Genesse 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 improverished 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.

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 cellmates 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 Robin'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 McGrory, otherwise displeased 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, McGrory 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 hardnosed 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 operatic 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-

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 "Bon 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 scam 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-

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: "Lt. 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. For 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 same 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.

Time In: _____
Time Out: _____

SIGNED _____

Sec. 12.55.010. Imprisonment on judgment for payment of fine. [Repealed, § 21 ch 166 SLA 1978. For present provisions, see AS 12.55.035(a).]

Sec. 12.55.015. Authorized sentences. (a) Except as limited by AS 12.55.125 — 12.55.175, the court, in imposing sentence on a defendant convicted of an offense, may singly or in combination

(1) impose a fine when authorized by law and as provided in AS 12.55.035;

(2) order the defendant to be placed on probation under conditions specified by the court that may include provision for active supervision;

(3) impose a definite term of periodic imprisonment;

(4) impose a definite term of continuous imprisonment;

(5) order the defendant to make restitution under AS 12.55.045;

(6) order the defendant to carry out a continuous or periodic program of community work under AS 12.55.055;

(7) suspend execution of all or a portion of the sentence imposed under AS 12.55.080;

(8) suspend imposition of sentence under AS 12.55.085;

(9) order the forfeiture to the commissioner of public safety of a deadly weapon that was in the actual possession of or used by the defendant during the commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

(10) order the defendant, while incarcerated, to participate in or comply with the treatment plan of a rehabilitation program that is related to the defendant's offense or to the defendant's rehabilitation, if the program is made available to the defendant by the Department of Corrections.

(b) The court, in exercising sentencing discretion as provided in this chapter, shall impose a sentence involving imprisonment when

(1) the defendant deserves to be imprisoned, considering the seriousness of the present offense and the defendant's prior criminal history, and imprisonment is equitable considering sentences imposed for other offenses and other defendants under similar circumstances;

(2) imprisonment is necessary to protect the public from further harm by the defendant; or

(3) sentences of lesser severity have been repeatedly imposed for substantially similar offenses in the past and have proven ineffective in deterring the defendant from further criminal conduct.

(c) In addition to the penalties authorized by this section, the court may invoke any authority conferred by law to order a forfeiture of property, suspend or revoke a license, remove a person from office, or impose any other civil penalty.

(d) *[Repealed, § 1 ch 188 SLA 1990.]*

parole that may affect the victim. (§ 2 ch 88 SLA 1985; am §§ 12 — 15 ch 59 SLA 1989)

Effect of amendments. — The 1989 amendment, effective August 28, 1989, rewrote subsections (a), (b), and (e); and in subsection (c), substituted the language beginning "to attend meetings" and ending "in writing or in person" for "to comment in writing" in the first sentence and "any written" for "the" in the second sentence.

Sec. 33.16.150. Conditions of parole. (a) As a condition of parole, a prisoner released on discretionary or mandatory parole shall refrain from conduct punishable by imprisonment under state or federal law or municipal ordinance.

(b) The board may require as a condition of discretionary or mandatory parole that a prisoner released on parole

(1) meet family obligations;

(2) pursue employment, education, counseling, or training;

(3) remain within stated geographic limits unless written permission to depart from the stated limits is granted the parolee;

(4) report upon release to the parole officer assigned to the parolee;

(5) report as required to the parole officer assigned to the parolee;

(6) reside at a stated place and notify the board of any change in place of residence;

(7) not possess or control firearms or other dangerous weapons;

(8) refrain from possessing or consuming alcoholic beverages;

(9) submit to reasonable searches and seizures by a parole officer, or a peace officer acting under the direction of a parole officer;

(10) submit to appropriate medical, mental health, or controlled substance or alcohol examination, treatment, or counseling;

(11) submit to periodic examinations designed to detect the use of alcohol or controlled substances;

(12) make restitution ordered by the court according to a schedule established by the board;

(13) refrain from opening, maintaining, or using a checking account or charge account;

(14) refrain from entering into a contract other than a prenuptial contract or a marriage contract;

(15) refrain from operating a motor vehicle;

(16) refrain from entering an establishment where alcoholic beverages are served, sold, or otherwise dispensed;

(17) refrain from participating in any other activity or associating with any other person that the board determines is reasonably likely to diminish the rehabilitative goals of parole, or that may endanger the public.

(c) Except for a condition imposed under (b)(4), (7), (9), (11) or (12) of this section, the board may generally delegate imposition of special

HB

156

Representative Kay Brown ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

During Session
P.O. Box V
Juneau, Alaska 99811
(907) 465-4998

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: Representative Kay Brown

DATE: February 21, 1991

SUBJ: CS SS HB 156 (Judiciary) WORK DRAFT dated 2/18/92
Confidentiality in Cases of Domestic Violence & Sexual Assault

In reference to the upcoming hearing concerning House Bill 156, please find attached the following materials for inclusion in the committee packet:

1) CS SS HB 156 (Judiciary) WORK DRAFT dated 2/18/92
2) Sponsor Statement (revised 2/21/92)
3) Sectional Analysis (revised 2/21/92)
4) Fiscal Note/Department of Public Safety (revised 1/15/92)
5) *Annual Report to Governor Hickel and the Alaska Legislature* Council on Domestic Violence and Sexual Assault (January 1991)
6) *President's Task Force on Victims of Crime*, Final Report 1982
7) Alaska Network on Domestic Violence and Sexual Assault
   — "National Organizations Supporting Victim/Counselor Privilege"
   — "Some States with Victim/Counselor Privilege"
8) Letters of Support
9) *Anchorage Daily News* Editorial (May 9, 1991)

If you have any questions, please contact Sudy Sanders of my staff at 465-4998.

2/21/92 Rep. Kay Brown

SPONSOR STATEMENT

CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92

Providing for Privileged Communications in Cases
of Domestic Violence & Sexual Assault

Domestic violence and sexual assault are growing problems in Alaska. Communities throughout the state have established shelters and safe homes in an effort to provide counseling and safety to victims of these crimes. Since FY 87, the number of nights of safety provided by funded shelters has increased by 44 percent.

As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for their emotional trauma. In order to fully recover from domestic violence and sexual assault crimes, it is necessary for victims to discuss thoughts and feelings with someone who is trained to address these issues. Domestic violence/sexual assault counselors provide this assistance. The relationship that develops between a victim and counselor is fragile and requires trust.

Need for Legislation

Current Alaskan law discourages some victims from coming forward by allowing the court system to subpoena records that disclose all information, given in trust, between a sexual assault counselor and victim. At the request of the Alaska Network on Domestic Violence and Sexual Assault, I have introduced CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92 to make changes to the state laws and establish a general rule that testimony and communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor is privileged and confidential. The bill allows for exceptions to the privileged communication rule in certain instances, for example, such as cases of child abuse or neglect or if the victim is deceased.

CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92 is necessary to encourage and protect the trust relationship between victim and counselor. Victims of domestic violence and sexual assault should be allowed to choose if and when deeply personal information is to become a matter of public record. CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92 would

provide confidentiality for these highly personal, private and confidential communications.

CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92

CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92 would provide that the communications between a victim of domestic violence and/or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the appropriate consent of the victim.

CS SS HB 156 (Judiciary) WORK DRAFT dated 2/18/92 would extend to all victims of domestic violence and sexual assault a testimonial privilege encompassing the contents of communication with a domestic violence or sexual assault counselor and to render immune from discovery or legal process the records of the communications maintained by the domestic violence or sexual assault program.

CS SS HB 156 (Judiciary) WORK DRAFT dated 2/18/92 would make amendments to AS 09.25 (Civil Evidence) and AS 12.45 (Criminal Trial) each adding a new language to provide that confidential communications between a domestic violence or sexual assault victim and a counselor are privileged.

CS SS HB 156 (Judiciary) WORK DRAFT dated 2/18/92 also amends and adds new sections to AS 25.35 (Domestic Violence) to establish a general prohibition, with certain exceptions, regarding compulsory disclosure of confidential communications between domestic violence and sexual assault victims and their counselors.

Exceptions to this general standard of privileged communications include cases involving:

1) reports of child abuse or neglect;
2) evidence that the victim is about to commit a crime;
3) a proceeding where the victim is deceased;
4) a communication relevant to an issue of breach by the victim or victim counselor of a duty arising out of the victim-counselor relationship;
5) a communication that is determined to be admissible hearsay as an excited utterance under the Alaska Rules of Evidence;
6) a children-in-need-of-aid proceeding under AS 47.10;
7) a communication made during the victim-counselor relationship if the services of the counselor were sought, obtained, or used to enable anyone to commit or plan a crime; or

8) a criminal proceeding concerning criminal charges against a victim of domestic violence or sexual assault where the victim is charged with a crime under AS 11.41 against a minor.

Further, the legislation provides that the location of a safe house of the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding unless the court or hearing officer determines that the information is necessary and relevant to the facts of the case.

Discussion

Confidentiality for victims working with domestic violence and sexual assault counselors and shelters serves both the needs of victims and the needs of society to help reduce the damage done by domestic violence and sexual assault crimes.

— As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for the emotional injuries resulting from the crime.

— Without adequate psychological support, many of these victims fail to report the crime and cooperate with the criminal justice system.

— Domestic violence and sexual assault counselors are specifically trained to help victims recover from an assault; skills and techniques employed by counselors are designed to encourage the victim to discuss the emotional aftermath of an assault and thereby normalize the life of the victim.

— Full recovery from an assault requires that victims discuss thoughts and feelings that a victim is unlikely to discuss without the assurance of confidentiality, and this confidentiality should be accorded to all assault victims who desire services whether or not they are able to afford the services of private psychiatrists and psychologists.

— These victims hesitate to turn to friends and family because of the social stigma attached to domestic violence and sexual assault.

In developing this legislation, I have worked very closely with both Joanne Lopez and Barb Miklos of the Alaska Council on Domestic Violence/Sexual Assault, the Department of Public Safety and Cindy Smith, Executive Director of the Alaska Network on Domestic Violence and Sexual Assault. Laurie Otto, House Judiciary Committee Aide to Representative Dave Donley and former Chief Prosecutor for the Department of Law has also assisted me in the development of this legislation.

2/21/92 Representative Kay Brown

SECTIONAL ANALYSIS

CS SS HB 156 (Judiciary) — WORK DRAFT dated 2/18/92
Confidentiality Regarding Domestic Violence & Sexual Assault

Section 1

Amends AS 09.25 (Code of Civil Procedure) adding a new section to provide that confidential communications between a domestic violence or sexual assault victim and a counselor are privileged.

Section 2

Amends AS 12.45 (Code of Criminal Procedure) adding a new section to provide that confidential communications between a domestic violence or sexual assault victim and a counselor are privileged.

Section 3

Amends AS 25.35 to provide that communications between a domestic violence or sexual assault counselor and a domestic violence and sexual assault victim are privileged. Compulsory disclosure of these communications is generally prohibited, with certain exceptions, and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the "appropriate consent" of the victim or the victim's parent, legal guardian, or guardian ad litem. Provision is made to allow a minor the opportunity to knowingly waive the confidentiality privilege established under this section if a court determines that the minor is capable of knowingly waiving the privilege. This section provides for exceptions to the general rule of confidentiality in certain instances, including among others, cases involving child abuse or neglect under AS 47.17 or if the victim is deceased.

This section also provides that the location of a safe house or the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding unless the court or hearing officer determines that the information is necessary and relevant to the facts of the case.

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

NATIONAL ORGANIZATIONS SUPPORTING VICTIM/COUNSELOR PRIVILEGE

* President's Task Force on Victims of Crime (1982)
* The National Center on Women & Family Law
* The National Organization for Victim Assistance
* National Victim Center
* National Coalition Against Domestic Violence
* National Coalition Against Sexual Assault
* National Network for Victims of Sexual Assault
* National Woman Abuse Prevention Project

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

SOME STATES WITH VICTIM/COUNSELOR PRIVILEGE*

Alabama

California

Connecticut

Florida

New Hampshire

Illinois

Indiana

Iowa

Maine

Massachusetts

Minnesota

New Jersey

New Mexico

North Dakota

Pennsylvania

Utah

Washington

Wyoming

*Primarily limited to victims of sexual assault and/or domestic violence, although some states include victims of all violent crimes. Also, federal statute under the Victims of Crime Act requires confidentiality of victim records for organizations receiving VOCA funding. About half of Alaska's dv/sa programs receive VOCA funds.

will progress to the point that sexual assault victims do not feel shamed by the crime. In the meantime, victims should not routinely be forced to surrender their privacy.

But that's not the only concern in the equation. A careful balancing against the public's right to know is needed. It's a difficult task, one that is best not dictated by state legislators.

But . . .

Legislature has other ways to help

The proposed rape shield law described above goes too far, but the legislature has other ways to help victims of rape and domestic violence.

First and foremost is money. The state offers grants to 23 agencies that help prevent and treat sexual assault and domestic violence. Vetoes inflicted by outgoing Gov. Steve Cowper, together with new cuts proposed by Gov. Wally Hickel, would reduce those grants by 13 percent.

The House has voted to restore both sets of cuts. But even so, the $5.9 million is barely adequate to help everyone who turns to rape crisis lines and shelters for battered women. And the Senate's figure falls $400,000 short of the House mark.

In addition to spending money, legislators can act on several bills.

One would help victims who need court orders to protect themselves against domestic violence. The right to get an order would be extended to someone whose dating partner becomes threatening. As the murder of Sandra Pogany last summer shows, a spurned lover can turn dangerous even when the relationship falls short of marriage or living together.

Another change would extend the legal privilege of confidentiality to domestic violence and rape counselors. Victims are less likely to seek help if they fear that what they tell a counselor may be aired out in court.

A final worthwhile change would allow shorter presumptive prison terms for victims of domestic violence who turn on their assailants. Enduring abuse doesn't legally excuse assault or murder, but it could justify a lighter sentence.

The House has either passed or is making good progress on these proposals. Work on the Senate side has been slower. If lawmakers are serious about helping those who suffer sexual assault and domestic violence, they'll pass these measures — and restore full funding for agencies serving victims — before the session ends.

QUOTABLE

"This stuff has been used for 4,000 years before the birth of Christ. All of us farmers are conservationists and environmentalists to a point, and if it was harmful I sure wouldn't be doing it."

— Byron Hollembeak, on his plan to use sewage sludge from Fairbanks as fertilizer on his Delta Junction farm.

"The question fo...

But in New Orleans the panhandler's art is more refined. Nobody much asks for money without giving something.

The man with the tongue was on Bourbon Street and right out of a David Lynch movie. He wore a stocking cap, three days of beard and a drab olive jumpsuit.

First he did a mock strip, with a slow teasing roll of his nylon socks, taking ad-

back like a sword s
er. Women squealed.
When he passed
revelers pressed for
fill it. His overhead :
than most.
Mimes, for instanc
those elaborate co
that, considering sult
Orleans, must nee
cleaning every no
then.
Street musicians ar
ferent species of the

Rioters suffered no

RICHARD COHEN

WASHINGTON — Before I became a columnist, I was a reporter — a riot reporter too. I covered riots in Washington, D.C., Harlem, Brooklyn and one of the very worst (26 dead) in Newark. It was in Newark that I got religion — converted to a mild form of Richard Daleyism. It was the late Chicago mayor who suggested busting some heads.

I would not go anywhere near that far. But Washington, D.C., which had itself a fine little riot in a mixed Latino neighborhood for two nights, seemed to go as far as possible in the other direction. In full view of television viewers, stores were looted, cars torched, city buses attacked and the police — well, the police did little. It was not until after the midnight curfew on the second night of the riot that significant arrests were made. Washington had permitted unpardonable no-fault rioting.

Some would disagree. There was "fault," and it was linked to something called "grievances" — lack of housing, jobs and, of course, the cultural differences between Latino immigrants and the local constabulary. (The shooting of a Latino by a police officer triggered the riot.) But in

Newark I learned th
matter how legitimat
underlying grievances,
is a chance to have a
time and to get som
sumer goods on the b
all terms.
Once, I had thought
wise. I had read tha
Watts rioters of 196
exercised some discret
what they trashed or l
Only the stores of p
who lived out of the r
borhood were hit.
But in Newark, I
door-to-door after the
trying to find out
owned the looted store
cal people. I was ofter
— good people, kind p
The residents shook
heads in disbelief. Lo
what had happened to
neighborhood.

DOONESBURY

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 8, 1991. FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 4-22-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: SSHB 156

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 156

CONFIDENTIALITY/DOM. VIOLENCE COUNSELORS

"An Act providing that communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor are privileged and may not be disclosed, with certain exceptions; prohibiting the disclosure of the location of certain types of facilities used by victims of domestic violence or sexual assault and the identities of domestic violence or sexual assault counselors; and providing for an effective date."

RECOMMENDATIONS: [ ] the same title
be replaced with _____ [ ] 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 DPS [ ] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Chris Davis	✓				
Mary Miller	✓				
Mark Stalcup	✓				
Bettye Dalton	✓				
Patti Carney	✓	(CARNEY)			
[illegible]	✓	(LINCOLN)			

CO-CHAIRMAN'S SIGNATURE

Representative Kay Brown ALASKA STATE LEGISLATURE

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During Session
P.O. Box V
Juneau, Alaska 99811
(907) 465-4998

TO: Representative Donley, Chair
House Judiciary

FROM: Representative Kay Brown

DATE: April 25, 1991

SUBJ: HB 156 - Confidentiality in Cases of Domestic Violence and Sexual Assault

The purpose of this memorandum is to request that you schedule HB 156 at your earliest possible convenience. A packet of background material will be submitted for committee members this week. If you have any questions, please contact Cathy Donadio of my staff at 465-4998.

4/18/91 Rep. Kay Brown

SPONSOR STATEMENT

SSHB 156 — Providing for Privileged Communications
in Cases of Domestic Violence & Sexual Assault

Sponsor Substitute for House Bill 156

SSHB 156 would provide that the communications between a victim of domestic violence and/or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the written consent of the victim.

This privilege would be held with the following exceptions:

1) If there is evidence during the discussion that a child is suffering from abuse or neglect;
2) The counselor has reason to believe either the victim or another person is in danger of being severely hurt or killed;
3) The victim is deceased.

Further, the legislation provides that the location of a safe house of the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding.

Discussion

Domestic violence and sexual assault are growing problems in Alaska. Communities throughout the state have established shelters and safe homes in an effort to provide counseling and safety to victims of these crimes. Since FY 87, the number of nights of safety provided by funded shelters has increased by 44 percent.

As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for their emotional injuries. In order to fully recover from these crimes it is necessary for victims to discuss thoughts and feelings with someone who is trained to address these issues. Domestic violence/sexual assault counselors provide this assistance. The relationship that develops is fragile and requires trust.

Current Alaskan law discourages some victims from coming forward by allowing the court system to subpoena records that disclose all information,

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 156

Revision Date: _____
Title: An Act providing communications ... are privileged ...
Sponsor: Brown, et al
Requestor: _____

Department Affected: Public Safety
BRU: Council on Domestic Violence & Sexual Assault
Component: _____

COMPONENT SERIAL NO. | | | | |

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

This bill is expected to have no fiscal impact on the Council on Domestic Violence and Sexual Assault.

Prepared by: Barbara Miklos, Executive Director BJM Phone: 465-4356
Division: Council on Domestic Violence & Sexual Assault Date: April 19, 1991
Approved by Commissioner: Richard L. Burton Richard L. Burton
Agency: Department of Public Safety Date: _____

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

Rev 10/90 CDVSA 89 4/18/91

COUNCIL ON
DOMESTIC VIOLENCE
AND SEXUAL ASSAULT

ANNUAL REPORT
TO
GOVERNOR HICKEL
AND THE
ALASKA LEGISLATURE

JANUARY 1991

excerpts - Council on Dom. Violence Report

INTRODUCTION

"We found that the perception you shared when you gave us our charge is unfortunately true. The innocent victims of crime have been overlooked, their pleas for justice have gone unheeded, and their wounds - personal, emotional and financial - have gone unattended."

In a letter to President
Ronald Reagan from the
President's Task Force
on Victims of Crime, 1982

"The problem of family violence has existed for generations, yet it is only recently that this phenomenon has begun to receive the attention it deserves."

Chief William L. Hart
Chairman, U.S. Attorney
General's Task Force on
Family Violence

Societies and shelters for the protection of animals existed in the United States before there was legislation to protect children who were abused. We have made progress since then. As a country, we have developed legislation and programs to protect children and adults who are victims of family violence. As a state, Alaska has programs and policies that are models for the rest of the country. However, much still needs to be accomplished. According to data compiled by the staff of the U.S. Senate Judiciary Committee, there are three times as many animal shelters in the United States as there are shelters for battered women.

Domestic violence and sexual assault continue to be major problems in our country and our state. People continue to be killed, beaten and raped in record numbers. Although violent crime in general is declining, violent crimes against women (including domestic violence) are increasing. Since 1974, the rate of assaults against young women (ages 20 - 24) has risen almost 50%; for young men it has decreased. Data from the National Crime Survey shows that women are the victims of violent crime committed by family members at a rate three times that for men. Also, according to the Survey, spouses or ex-spouses commit more than half of all violent crimes committed by relatives against women.

A woman is beaten every 18 seconds and 4,000 battered women are killed every year in the United States. Nationwide, more than one million abused women each year seek medical assistance for injuries caused by battering. In Alaska, 26% of adult women have been physically abused by a spouse sometime during their lives and most of the battered women were abused at least once a month. It is estimated that a minimum of 13,200 women living in Alaska have required medical treatment by a doctor or hospital for injuries sustained by abuse at some time in their life. In 1988, fifty

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

COUNCIL ON
DOMESTIC VIOLENCE
AND SEXUAL ASSAULT

ANNUAL REPORT
TO
GOVERNOR HICKEL
AND THE
ALASKA LEGISLATURE

JANUARY 1991

excerpts - Council on Dom. Violence Report

COUNCIL MEMBERS AND STAFF

COUNCIL MEMBERS:

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Susan King, Secretary

Council on Domestic Violence
and Sexual Assault
Department of Public Safety
P.O. Box N
Juneau, AK 99811-1200
Phone: (907) 465-4356

Location:

Public Safety Building
450 Whittier Street
Room 204
Juneau, Alaska

INTRODUCTION

"We found that the perception you shared when you gave us our charge is unfortunately true. The innocent victims of crime have been overlooked, their pleas for justice have gone unheeded, and their wounds - personal, emotional and financial - have gone unattended."

In a letter to President
Ronald Reagan from the
President's Task Force
on Victims of Crime, 1982

"The problem of family violence has existed for generations, yet it is only recently that this phenomenon has begun to receive the attention it deserves."

Chief William L. Hart
Chairman, U.S. Attorney
General's Task Force on
Family Violence

Societies and shelters for the protection of animals existed in the United States before there was legislation to protect children who were abused. We have made progress since then. As a country, we have developed legislation and programs to protect children and adults who are victims of family violence. As a state, Alaska has programs and policies that are models for the rest of the country. However, much still needs to be accomplished. According to data compiled by the staff of the U.S. Senate Judiciary Committee, there are three times as many animal shelters in the United States as there are shelters for battered women.

Domestic violence and sexual assault continue to be major problems in our country and our state. People continue to be killed, beaten and raped in record numbers. Although violent crime in general is declining, violent crimes against women (including domestic violence) are increasing. Since 1974, the rate of assaults against young women (ages 20 - 24) has risen almost 50%; for young men it has decreased. Data from the National Crime Survey shows that women are the victims of violent crime committed by family members at a rate three times that for men. Also, according to the Survey, spouses or ex-spouses commit more than half of all violent crimes committed by relatives against women.

A woman is beaten every 18 seconds and 4,000 battered women are killed every year in the United States. Nationwide, more than one million abused women each year seek medical assistance for injuries caused by battering. In Alaska, 26% of adult women have been physically abused by a spouse sometime during their lives and most of the battered women were abused at least once a month. It is estimated that a minimum of 13,200 women living in Alaska have required medical treatment by a doctor or hospital for injuries sustained by abuse at some time in their life. In 1988, fifty

percent of female murder victims in Alaska were killed by their husbands or boyfriends.

Children raised in violent homes suffer the effects of living in this environment and are at higher risk for physical and sexual abuse. Children raised in violent homes are 1500% more likely to be physically abused or seriously neglected. Nearly fifty percent of abusive husbands batter their wives when they are pregnant, making these battered women four times more likely to bear infants of low birth weight. These women had twice as many miscarriages as non-battered women.

Former U.S. Surgeon General Dr. C. Everett Koop identified domestic violence as the number one health threat to women and declared it to be a public health issue. In one of his final speeches as U.S. Surgeon General, Koop stated: "The mind set that any type of violence that results in physical and mental damage is a private or family matter or a tradition should be abhorent to us all. Battery is the single most significant cause of injury to women in this country." Dr. Koop went on to note that in the United States, an estimated 40% of all women have experienced some type of sexual abuse as children and as many as 44% of adult women report completed or attempted rape, including rape by their husbands or other family members.

People from all walks of life have come to recognize the seriousness of the problems and the need for a comprehensive and coordinated response to domestic violence and sexual assault. A study by the National Council of Juvenile and Family Court Judges recommends that courts treat family violence as a serious crime. The Honorable Stephen B. Herrell, Chairman of the group and a judge from Portland, Oregon, says that violence against women and children has created a generational cycle of violence that cannot be broken without strong intervention by the courts.

Responses to sexual assault have been improved, but sexual violence against women continues to rise. During the past ten years, rape rates have risen nearly four times as fast as the total crime rate. According to data provided by a criminological study conducted in 1990, rape remains the most under-reported of all major crimes; only 7% of all rapes are reported to police. One in five adult women will be raped at some time in their lives and one in four women now in college will be attacked by a rapist. Alaska continues to have one of the highest incidences of rape in the country. In 1989 in Alaska, there were 53 reported cases of forcible rape against adult women per 100,000 population compared to the national rate of 38 cases per 100,000.

Services for victims of domestic violence and their children are crucial in order to save lives and reduce the pain and suffering caused by these crimes. Victims of sexual assault must receive crisis intervention services so they can overcome the trauma. Without assistance, they may continue to relive the event and live in fear for their life and safety. The report from the U.S. Attorney General's Task Force on Family Violence states that "Shelters are an important resource for a diverse group of victims of family violence who must leave home to escape life-threatening

abuse and have nowhere else to go. Among the most important services shelters offer for battered women and their children are immediate safety, counseling, referrals to alcohol and drug treatment programs and assistance in seeking employment and permanent housing.

Services for child victims must be available to help them cope with the horrors they have encountered. Children from violent homes suffer emotional and physical disorders as a result of their family situations. Many of these children are victims of physical and sexual abuse, who need to be protected and helped. Helping these children will not only ease the pain, but also prevent future problems. Alcohol and other drug abuse, suicide and criminal behavior are often caused by abuse suffered in childhood. Services for children are important to stop the cycle of abuse.

Treatment for batterers is an integral part of the system to protect victims. Experience has shown that most battered women return to the violent relationships. This happens for many reasons, including the lack of financial resources to allow them to live independently. Without counseling and treatment for batterers, violence in these relationships generally becomes more frequent and severe, often resulting in death.

Alaska is fortunate to have a comprehensive, coordinated system for addressing the pain and suffering caused by family violence. In FY91, the Council on Domestic Violence and Sexual Assault is funding 23 community-based programs to provide services to victims of domestic violence and their families. These programs also provide important educational services to their communities as well as outlying communities. Without an all-out effort by community members, family violence will not be stopped. In FY90, Council-funded programs served 9,729 clients. Almost 8,000 of these clients were victims of domestic violence and their children. These victims and their children were provided almost 53,000 nights of safety in shelters or safe homes. The need for these services can be seen in the numbers of clients as well as the tremendous increases in demand for services. Since FY87, the number of nights of safety has increased by 44%.

The mission of the Council on Domestic Violence and Sexual Assault is to provide immediate safety and support to victims of domestic violence and sexual assault in life-threatening situations and to reduce the incidence of domestic violence and sexual assault in Alaska. The Council accomplishes this through serving as a funding agency for community-based programs. The Council processes applications for funding and monitors programs that receive grants and provides technical assistance to programs and other community groups. It also serves as a planning and coordinating agency for domestic violence and sexual assault services provided by various agencies. This report presents major Council initiatives in 1990, describes programs funded by the Council, presents statistical data gathered from programs in FY90 and identifies issues of concern and possible solutions.

obtain injunctive relief orders in cases of domestic violence as well as other protections provided to victims of domestic violence be expanded to include people in dating relationships. Police officers may arrest for domestic violence misdemeanor assaults even if it was not committed in their presence; it is also important that this protection be provided in dating relationships.

2. Teen Violence, an Issue for Legislative Consideration

In December, 1989, the Council held a statewide teleconference on teen violence. After hearing from the people testifying, the Council agreed the problem merited the attention of the Legislature and requested that the House and/or Senate Health, Education and Social Services Committees hold hearings on the topic of teen violence. Many people who testified at the Council's teleconference wanted to address their concerns to legislators, and had suggestions for legislation and for needed services.

People who testified work with teens either through domestic violence programs, youth-serving agencies, or schools. Many people testified to the growing trend toward violence among youth and observed that young people state that "violence is a way to have fun". A clinical psychologist in Fairbanks stated that he feels teen violence is symptomatic of societal breakdown.

Many teens are victims of violence. One participant who works with pregnant teenagers spoke of the many young women who are either present or past victims of abuse, as well as some who are abusive to their own child. For some, violence begins in the womb.

A representative from the Division of Public Health, Department of Health and Social Services, testified that violence has replaced infection as the major cause of death for adolescents in the United States, with violent deaths accounting for 77% of all adolescent deaths. Accidents are the highest causal factor, with alcohol being implicated in over half the accidental deaths. Homicide is the second leading cause of teenage fatality in the U.S.; with a 300% increase of teenage homicide between 1950 and 1980. The third leading cause of teenage death is suicide, quadrupling since 1950.

3. Confidentiality of Victim Counseling

Domestic violence and sexual assault programs have identified the need to develop legislation that makes victim counseling legally privileged and not subject to defense discovery or subpoena. This type of legislation is important because it protects victims from further abuse by the system. If the confidential communications exchanged between victims and counselors during treatment can be used as evidence in criminal proceedings, counseling may not benefit victims, and, in fact, may add to their trauma. Victims often speak to their counselors about fears and feelings arising from the crime. Those who are

under the impression that they are revealing such information solely for therapeutic purposes often feel betrayed when their counselors are compelled to disclose their communication before the public at an open trial. Victims who realize in advance that their communications may be subject to disclosure may avoid counseling altogether. The President's Task Force on Victims of Crime recommended that legislation be enacted making designated victim counseling legally privileged.

PRESIDENTS TASK FORCE ON VICTIMS OF CRIME

Final Report

December 1982

I was upset when I was asked about my new location where I lived, and when I had to give my children's names, the man who had caused these problems was sitting in the courtroom and I was telling him how he or someone else could find me.—a victim

When victims or witnesses testify, they are frequently asked for their home address, sometimes by the prosecutor. Prosecutors should stop soliciting this sensitive information and should object to defense efforts to obtain it. Only when the defense is able to establish that the address is clearly relevant to credibility or to the facts of the case should the question be allowed.

Executive and Legislative Recommendation 2: Legislation should be proposed and enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena.

A number of organizations and victim/witness units provide psychological crisis counseling to ease the real and profound psychological trauma of victimization. Since the development of rape crisis centers, the need for and benefits derived from counseling for rape victims has become well established. Testimony before the Task Force confirms that counseling is necessary for many violent crime victims as well as their families. Such counseling has proven extremely beneficial and should be strongly encouraged at all levels.

This experience brought me closer to death than one could ever imagine, not only because of the gun, but because of the rape itself. I felt ashamed, and I thought I wanted to die. My heart felt like it was going to burst. Crying and talking with people I could trust helped to relieve the pressures. I needed to share feelings with people who would keep my secret for however long I needed them to.—a victim

Although some centers have made psychiatrists or psychologists available, the vast majority of the work has been done by social workers, nurses, or by people who have been victims themselves. During the counseling process, victims speak of their fears and feelings arising from the crime; these reactions are often related to their personal history and psychological makeup.

Failure to extend confidentiality to crisis counseling incurs the risk of undermining the effectiveness of the counseling. Some victims who need this kind of help now fear to seek it. Without the protection of confidentiality, victims have found their files subpoenaed by the defense, and feel betrayed when thoughts and feelings that they considered private are opened to public scrutiny in a courtroom.

Statutes that were passed before the importance of victim counseling became recognized extend confidentiality only to counseling by psychologists and psychiatrists. These statutes protect only those who

can afford private treatment by these professionals; they do not shield the vast majority of victims.

At least one state has enacted a statute making rape victims' communications to counselors legally privileged.[1] While this is a step in the right direction, we believe that the privilege should encompass the counseling of all crime victims. Because of the responsibility of the prosecutor to afford discovery to the defendant, it is not contemplated that this counseling privilege extend to the prosecutor's office.

It was a great relief to have someone to talk to, who would in no way pass onto others what I thought, felt, or did at that confusing time.—a victim

Notes

1. The State of Pennsylvania has codified this privilege in 42 Pa. C.S.A. § 5945.1, "Confidential communications to sexual assault counselors."

4/18/91
Rep. Kay Brown

Sectional Analysis

SSHB 156 — Confidentiality Regarding Domestic Violence & Sexual Assault

Section 1

Findings and Purpose.

Section 2

Amends AS 18.66 to provide that communications between a domestic violence or sexual assault counselor and a domestic violence or sexual assault victim would be privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the written consent of the victim. Provides for exceptions to this rule of confidentiality in cases involving child abuse, if the victim is deceased, or if the failure to disclose information would place the victim or another person in imminent danger. Provision is also made to allow a minor to waive the confidentiality privilege established under this section.

Further, the legislation provides that the location of a safe house or the identity of a domestic violence counselor may not be discloseed in a civil, criminal, legislative or administrative proceeding.

Section 3

Immediate effective date.

Sectional Analysis

Abused Women's Aid in Crisis, Inc.
100 W. 13TH AVENUE • ANCHORAGE, AK 99501 • (907) 279-9581

TESTIMONY IN SUPPORT OF HB156

Submitted by Nancy K. Scheetz-Freymiller
Executive Director

I hope with my testimony this morning to emphasize critical importance and need for HB156 in terms of the safety of women impacted by domestic violence and the ability to provide the services they need.

At AWAIC we have seen more than 600 women per year involved in domestic violence. After 14 years, we have seen thousands of women enter both the shelter and the justice system. Therefore, I believe we speak with some authority. I will divide my testimony into justified support from both the women's and the agency's point of view. Confidentiality needs to be protected for the benefit of both.

1. FOR THE WOMEN/VICTIMS–Confidentiality must be protected for a simple issue of safety or potentially saving one's life. Release of files must be the woman's choice. Just this week, a woman sought help . Her partner had assaulted her and was threatening to kill her. She had moved three times. Still, she received 15 calls per day where he taunted her with, "not today honey". If she brought charges and files could be subpoenaed, could the system guarantee her safety–guarantee prosecution and conviction? I think not. Other pieces of the justice system must be in place before we can continue to place the victim in jeopardy without any choice in the matter. Release of "her files" needs to be "her choice". She is the one taking all the risks. She is the one needing to assess the risks and the consequences. It is her life. Many brave women make the choice to release their file, to prosecute. When they make that choice, we do all we can to support them.

In addition, what are the consequences to the woman, if she seeks help at our agency, tells her story, displays justified frustrations and anger about what has been done to her, then it is used against her in court. She not only loses trust in anyone, she loses the opportunity to receive help to change her situation.

2. FOR AWAIC–How can we help the women in crisis if everything she says can be used against her in court? The privileges granted to other professionals protect the communication so that the individual may be served.

Abused Women's Aid in Crisis, Inc.
100 W. 13TH AVENUE • ANCHORAGE, AK 99501 • (907) 279-9581

We, on the other hand, have been forced to make some very significant choices: guarding the safety and trusted communication of the client or possibly breaking the law.

We have worked with attorneys to quash subpoenas when the notice and timing have been sufficient. That method can work but depends on the situation and the attitudes and opinions of the attorneys in that particular case. We have stood outside a courtroom waiting to be called and ready to deny the information. Fortunately, our testimony was not needed. We have stood before a judge and compromised for in-camera-review of the file. This was not an effective solution for us. Again, the file is not totally protected, but subject to the opinion and discretion of that particular judge.

We have seen men use the subpoena power for the reason of locating the woman, placing her in jeopardy and going against our prime reason to exist--to provide safety and confidentiality.

We have seen three domestic violence-related murders in Anchorage just this past year. Can the court system promise this woman protection when they have made placed her life in jeopardy. I do not think so. This is a serious social issue with high risks and highly serious consequences.

We are not saying we do not believe in prosecution. We support strong prosecution. We are saying the victim should have the choice to release her files, her confidential communication with a counselor. She suffers the consequences. She should have the choice of whether to take the risks. And AWAIC should be protected so that we can offer the confidentiality needed to provide our helping service. Otherwise, the very nature, the very reason for our existence is eroded.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

HOUSE BILL 156

The Alaska Network on Domestic Violence and Sexual Assault strongly supports House Bill 156, which provides that communications between a victim of domestic violence or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal or legislative proceeding without the victim's consent.

The first rape crisis centers and domestic violence shelters in Alaska opened their doors in the mid-1970's as part of a national movement toward recognizing the pervasiveness of these crimes and the long-term trauma and emotional needs suffered by victims of domestic violence and sexual assault. Rape and domestic violence assaults were commonly underreported and underprosecuted because of the stigma attached to the crimes, and because of the victim's fear--both of the perpetrator, and of the criminal justice system itself, where the victim's credibility rather than the defendant's culpability often became the focus of the trial.

The 7700 victims and minor children served by Alaska's domestic violence and sexual assault programs last fiscal year came to our programs only because they felt that we would respect their confidences and would not take their decision-making out of their hands. The counseling and advocacy offered by sexual assault and domestic violence programs has led to increased reporting and greater success in prosecution of both crimes in Alaska. This has, paradoxically, been based on an assurance to the victim that what is said to a program counselor or advocate will be maintained in absolute confidentiality --- that we won't tell her friends, her family, or even the police or courts what she has said to us unless she decides this is what she wants.

Programs make this promise to their clients, and make it in good faith. However, as rape crisis centers and domestic violence shelters have become an integral part of society, they have attracted the attention of attorneys seeking information about victims. Here, as in

the rest of the nation, tactics such as subpoenas of counselors and their files are threatening to undermine the victim/counselor relationship -- and thereby the effectiveness of the programs themselves -- by forcing disclosure of confidential information. And we know that such forced disclosures do effect the actions of victims. When the Pennsylvania Supreme Court refused to provide privilege in a widely publicized rape case, the number of callers who refused to give even their names on the crisis line of the center involved in the case rose from 32% to 61%.

In response to this problem, states began enacting privilege for the victim/counselor relationship. The first such statute was enacted 11 years ago in California. Since that time 24 states have enacted such statutes which focus on domestic violence and/or sexual assault victims (although 5 states have provisions for all victims of violent crimes).

The Network believes that the victim/counselor relationship clearly meets the criteria laid out by Wigmore in his Rules of Evidence. Communications are originated in confidence that they will not be disclosed; this confidentiality is clearly essential to the relationship between the parties; the relationship is one which society has found to be valuable and which the State of Alaska clearly supports, and the injury done by the violation of confidentiality adversely effects not only the relationship itself, but the very ability of the State to address these crimes effectively.

The Federal Victims of Crime Act also prohibits programs receiving VOCA funds from disclosing records in administrative or judicial proceedings. Fifteen of the twenty-three programs funded by the Council on Domestic Violence & Sexual Assault receive VOCA funds.

The current lack of such a privilege in state law also tends to promote inequity of treatment based on income. If a victim has the money to consult a psychiatrist or an attorney regarding her situation, her communications are protected by State law. Many of the victims who come to our programs cannot afford either of these alternatives, although their need for protected communication is the same.

The Network urges your support for this important bill.

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

NATIONAL ORGANIZATIONS SUPPORTING VICTIM/COUNSELOR PRIVILEGE

* President's Task Force on Victims of Crime (1982)
* The National Center on Women & Family Law
* The National Organization for Victim Assistance
* National Victim Center
* National Coalition Against Domestic Violence
* National Coalition Against Sexual Assault
* National Network for Victims of Sexual Assault
* National Woman Abuse Prevention Project

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

SOME STATES WITH VICTIM/COUNSELOR PRIVILEGE*

Alabama

California

Connecticut

Florida

New Hampshire

Illinois

Indiana

Iowa

Maine

Massachusetts

Minnesota

New Jersey

New Mexico

North Dakota

Pennsylvania

Utah

Washington

Wyoming

*Primarily limited to victims of sexual assault and/or domestic violence, although some states include victims of all violent crimes. Also, federal statute under the Victims of Crime Act requires confidentiality of victim records for organizations receiving VOCA funding. About half of Alaska's dv/sa programs receive VOCA funds.

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
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SEXUAL ASSAULT

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What are the recognized requirements for the creation of privileges which provide protection from the disclosure of communications?

1. The communication must originate in confidence that it will not be disclosed.

2. The element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties.

3. The relationship must be one which, in the opinion of the community, must be sedulously fostered.

4. The injury that would inure to the relationship must be greater than the benefit thereby gained for the correct disposal of litigation.

Source: Wigmore's Rules of Evidence, 2291 and 2285, McNaughton Rev. Ed 1961

POSITION PAPER / COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

Bill No: DRAFT CSSSHB 156 (JUD) Date: February 28, 1992
Contact: Joanne F. Lopez
465-4356

Title: "An act providing that communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor are privileged ... "

The Council on Domestic Violence and Sexual Assault supports DRAFT CSSSHB 156 (JUD) which provides that communications between a victim and a domestic violence or sexual assault counselor are privileged.

Confidentiality is essential to assure victim safety. The Council on Domestic Violence and Sexual Assault requires that Council-funded programs assure that confidential communications are kept confidential, and that the programs will not provide information to anyone outside their agency without the consent of the victim.

Protection for these communications is available in 20 states for victims of sexual assault and in 24 states for counseling of domestic violence victims. Five other states have covered all victim counseling as recommended by the President's Task Force on Victims of Crime. Victims often speak to their counselors about their fears and feelings arising from the crime, and believe that they are revealing such information in a confidential environment for therapeutic purposes. To betray that trust would undermine the client-counselor relationship. Victims who realize that their communications may be subject to disclosure may avoid counseling altogether. This occurred in Pennsylvania following a Supreme Court decision that victim/sexual assault counselor communications did not have an absolute privilege. Some centers noticed a decline in calls from victims and some women discontinued counseling for fear their conversations would not be kept private.

Some victims can afford to seek help from private therapists, to whom communications who are privileged under other laws, but many victims are not able to afford such services. DRAFT CSSSHB 156 (JUD) would extend the victim-counselor privilege to all victims, regardless of their economic status.

Victim reporting of sexual assault and domestic violence crimes and willingness to cooperate with the criminal justice system has increased dramatically in Alaska over the past 12 years. This is due in part to the victims belief that their communications would remain confidential. Client-counselor privilege should be protected by law. The Council on Domestic Violence and Sexual Assault supports this legislation.

Andy Klamser

Andy Klamser, Chair
Council on Domestic Violence and
Sexual Assault

VIRGINIA M. ESPENSHADE
ATTORNEY AT LAW

P.O. BOX 1752
HOMER AK 99603

PHONE: (907) 235-7680
FAX: (907) 235-7564

February 27th, 1992

Representative Kay Brown
Juneau, Alaska
FAX #465-2278

Dear Representative Brown:

I strongly support the bill establishing the privileged status of Client/ Counselor communications for Domestic Violence and Sexual Assault Counselors. I have practiced Family Law for over six years in the Third Judicial District and have dealt with numerous cases involving Domestic Violence. It is my position that the protection of said information is justified by the importance of frank and candid communication and the expectations of privacy in this type of counseling. These cases are often ones dealing with issues of life threatening circumstances, and the interest in encouraging frank assessment far outweighs the interest in availability of evidence.

Please feel free to contact me with any questions.

Thank you for the opportunity to be heard.

Sincerely,

Virginia M. Espenshade

Virginia M. Espenshade

To: Representative KAY Brown

From: Thomas R. Lucas, Esq.

Subj: Statutory Counselor / victim privilege

The purpose of this FAX is to express my complete and absolute support of your Bill to create a counselor / victim privilege for individuals seeking help after being impacted by domestic violence. As an attorney and as president of the Board of Directors of Abused Women's Aid In Crisis, Inc. (AWAIC), I am familiar with the arguments both pro and con for the granting of such a privilege. Although the discovery of relevant information is a very important aspect of our Judicial System, I firmly believe that a victim's need for confidentiality at a traumatic & devastating point in her life far outweighs the Judicial System's need for discovery of counselor / victim files. More specifically, I would oppose any exception to your bill for civil or criminal litigation except where another victim is implicated (e.g. A child).

If you have any questions or desire further information, please do not hesitate to contact me.

TEL: 248-1025
FAX: 248-1032

Alaska Women's Resource Center

111 W. 9th Ave., Suite 4 ● Anchorage, Alaska 99501 ● (907) 276-0528

February 28, 1992

Rep. Kay Brown
Alaska State House

Dear Kay,

Please accept these comments in support of HB 156. Domestic Violence counseling on an outpatient basis is one of four program specialities at AWRC and represents our second largest program in terms of allocated budget. We have three domestic violence counselor advocates on staff and and ever-growing demand for services in this area.

We support HB 156's efforts to extend protection to communications between domestic violence victims and their counselors. Such communications are frequently the same kinds of discussion which might occur between doctor and patient or between lawyer and client. But experience has shown that the successful treatment of domestic violence does not necessarily require the services of a psychiatrist or a psychologist. Consequently, domestic violence counselors do not have the same protection we accord, without debate, to communications with a doctor or with a lawyer.

We have been fortunate at AWRC to avoid unfortunate incidents over the subject because we are also subject to federal confidentiality requirements (as a result of our alcoholism & substance abuse program) which prohibit the release of information without a court order. We urge you to support HB 156 and the important protection it provides to victims of domestic violence.

Sincerely,

Theda Pittman — Executive Director
Marion Brown — Program Director
Donna Knight — Counselor Advocate

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Some victims can afford to seek help from private therapists, to whom communications who are privileged under other laws, but many victims are not able to afford such services. DRAFT CSSSHB 156 (JUD) would extend the victim-counselor privilege to all victims, regardless of their economic status.

Victim reporting of sexual assault and domestic violence crimes and willingness to cooperate with the criminal justice system has increased dramatically in Alaska over the past 12 years. This is due in part to the victims belief that their communications would remain confidential. Client-counselor privilege should be protected by law. The Council on Domestic Violence and Sexual Assault supports this legislation.

Andy Klamser, Chair
Council on Domestic Violence and
Sexual Assault

3/19/91

advocates for victims of violence

P.O. Box 524 • Valdez, Alaska 99686
24 Hour Crisis Line (907) 835-2999 • Office (907) 835-2980

Representative Kay Brown
Alaska State Legislature
House Of Representatives
POB U
State Capitol
Juneau, Alaska 99811

Dear Ms. Brown:

When a victim of domestic or sexual violence is making a decision to seek help, the stigma and issues of safety that are very often life threatening many times impede that decision. More often than not many victims do not get the help that is needed because of the above mentioned concerns. Without adequate psychological support many of the victims fail to report the crime and also to cooperate with the criminal justice system.

The support and help needed is available through specifically trained domestic and sexual violence counselors. However, full recovery requires that victims discuss thoughts and feelings with complete assurance that confidentiality will be maintained. House Bill 156 would provide that confidence that the communications between a victim of domestic or sexual violence would remain confidential. I would like to state my full support of House Bill 156.

If I can be of any further help or assistance please call.

Sincerely,

Evie

Evie Smith
Ex. Director

Alaska Women's Resource Center
111 W. 9th Ave., Suite 4 • Anchorage, Alaska 99501 • (907) 276-0528

APR 19 1991

House Health, Education & Social Services
April 22, 1991 Hearing - SSHB 156
Testimony by Theda Pittman, Executive Director, AWRC

The Alaska Women's Resource Center is a private, not for profit, corporation which specializes in services for women in the areas of substance abuse; domestic violence; pre-maternal and health information; and employment. With 15 years of service in the community, the Resource Center also provides substantial information and referral services.

Federal regulations on the confidentiality of patient records apply to AWRC because our services include counseling for substance abuse and a small halfway house for women in recovery called "New Dawn."

The following remarks concerning confidentiality and alcohol and drug abuse clients apply to victims of domestic violence or sexual assault as well:

> The main reason we protect confidentiality is that it makes our patients feel more secure. They can be more honest because they know that their privacy is protected. The more honest people are, the faster they get well.
>
> - David G. Evans, Attorney
> Addiction & Recovery Magazine, 8/90

With respect to the victims of domestic violence or sexual assault they also get well faster when the people who beat them up can't use the victim's own comments against them.

Discussions with counselors often take place at a time when the victim may have fallen prey not only to physical blows, but also to the notion that this violence would not be happening to them if they didn't deserve it, if they hadn't somehow provoked it, if they'd only behave.

This so-called "victim mentality" creates another situation which demands confidentiality, no matter how tempting it might be to act otherwise. Cases of domestic violence or sexual assault can be an incredible frustration in the legal system when a victim drops the charges or is unable to pursue them, but such frustrations can not appropriately be dealt with unless the victim's needs remain primary.

Those of us fortunate enough to feel safe and secure can hardly empathize with those who are in, or who have left, violent situations. Our efforts to help such people can only be undermined by laws which make their recovery efforts public information. Even worse, we may become part of the problem. I urge your support for SSHB 156.

Thank you for providing this opportunity to present testimony.

Kenai-Soldotna Women's Resource & Crisis Center

Representative Kay Brown
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

April 18, 1991

Dear Representative Brown,

We are writing in support of Sponsor Substitute for HB 156. As I am sure you know, we feel this bill is vital to the legal protection of victim records.

Our work with victims of domestic violence and sexual assault depends not only on our ability to keep confidence, but a victim's trust in our commitment to do so. If and when a victim discovers that her efforts to heal, by sharing confidential information, have been sabotaged by our agency through the judicial system, she will no longer trust us, one of the few agencies committed to her safety, welfare and ongoing support.

As is so often the case, the statutes, as they stand, allow others to make a victim's choices for her. Our work to empower victims to make their own choices, to make their own decisions concerning to whom they will or will not divulge information, will be enhanced by the passage of this bill. We have a social duty to insure that victims receive advocacy and justice.

In the early 1980's, the President's Task Force on Victims of Crime recommended that state governments enact legislation providing protection for victim counseling. We look forward to the passage of Sponsor Substitute for HB 156 as Alaska's commitment to the empowerment of victims.

Sincerely,

Joanne F. Lopez

Joanne F. Lopez
Executive Director

325 South Spruce Street

KODIAK WOMEN'S RESOURCE AND CRISIS CENTER

P.O. BOX 2122, KODIAK, ALASKA 99615
Business Phone: (907) 486-6171 Crisis Line Phone: 486-3625

April 18, 1991

Representative Kay Brown
PO Box V
State Capitol
Juneau, AK 99811

I have worked as the Executive Director at the Kodiak Women's Resource & Crisis Center for the past four years. I support HB156 with the amendments offered in the House.

This bill, which relates to privileged communication in cases of Domestic Violence & Sexual Assault, addresses long-standing concerns re: disclosure of communications between Domestic Violence & Sexual Assault victims and counselors.

Current Alaska law discourages some victims from coming forward to seek needed services by allowing the Court System to subpoena records that disclose all information given in trust to Domestic Violence & Sexual Assault counselors.

Victims of Domestic Violence & Sexual Assault share deeply personal thoughts and feelings with Domestic Violence & Sexual Assault counselors and the relationship that develops is fragile and requires trust. In order to encourage and protect that relationship, Confidentiality must be assured for these personal and private communications . Victims of Domestic Violence & Sexual Assault should be allowed to chose if and when this information is to become public record.

HB156 with the amendments offered in the House, would protect victim's rights to privacy and encourage victims of Domestic Violence & Sexual Assault to reach out for safety and counseling.

Sincerely,

Letitia A. Raub
Executive Director

lar/dw

Sitkans Against Family Violence

April 16, 1991

Rep. Kay Brown
P.O. Box V
Juneau, AK 99811

Dear Rep. Brown,

I am writing in support of HB 156, which would provide confidential protection to the communications between domestic violence and sexual assault counselors and their clients.

People recovering from the trauma of abuse or assault need to be able to seek appropriate counseling without fear that the deeply personal information they share might be subpoenaed for use in the courtroom. The same information, discussed with a physician or therapist, would be held confidential. Counselors in domestic violence and sexual assault programs are often more appropriate, and are certainly the most accessible means of support for victims of violence. The legal protection of confidentiality must be extended to communications between domestic violence and sexual assault counselors and their clients.

Thank you for your attention to this matter.

Sincerely,

Kathleen McGraw

Kathleen McGraw
Executive Director

P.O. Box 6136 Sitka, Alaska 99835 Phone: (907) 747-3370

S. T. A. R.

Bus: 276-7279
24-Hour Crisis:
276-STAR (7827)

APR 22 1991

FAX #465-2278

April 18, 1991

Representative Kay Brown
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

RE: House Bill 156 (Confidentiality of Records)

Dear Representative Brown,

Standing Together Against Rape (S.T.A.R.) would like to take this opportunity to strongly urge you to support passage of House Bill (HB) 156. This agency has worked with victims of sexual assault since 1978. Many of our victims reveal personal and private details of their lives that they would not wish to be disclosed in a courtroom. There is a federal law in effect which provides this confidentiality to victims, but no corresponding state legislation.

At the present time, when S.T.A.R. is served with a subpoena we must attempt to get the subpoena quashed.

For over 13 years S.T.A.R.'s education program has encouraged people to report sexual assault and that telling is the first step to healing. In the event this bill is not passed, S.T.A.R. has grave concerns that victims will not feel safe in telling us or coming to our office for crisis intervention.

Therefore, so that we can continue to aid our clients and future victims who contact this agency, S.T.A.R. requests passage of HB 156 so that confidentiality between our clients and our staff can remain private. Our clients trust us to keep their sexual assault confidential. Our clients should be the only ones to authorize disclosure of their records.

Thank you for your consideration of this request for passage of HB 156.

Sincerely,

Mary Lou Parsons
Executive Director

STANDING TOGETHER AGAINST RAPE
1057 W. Fireweed ~~3905 Baxter~~ • Anchorage, Alaska ~~99503~~ 99503
A United Way Agency

South Peninsula Womens Services, Inc.

MAR 27 1991

March 22, 1991

Representative Kay Brown
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Brown:

Thank you for your recent letter concerning HB156. The need for this type of legislation has long been apparent to counselors and advocates working with victims of family and sexual violence.

Despite increased public awareness on domestic violence and sexual assault, a large portion of the population still feels that family problems should remain within the family. The difficulty many victims face in reaching out is a sense that they are being disloyal to their partner. For many there is also the very real danger that by going outside the home for help they may be at an even greater risk. The shame and fear many victims feel is often an inhibitor in obtaining assistance.

One of the most basic premises of S.P.W.S. has been that of confidentiality and safety; the two must go hand in hand. Victims need a safe place in which to openly discuss their situation without fear of retaliation or judgement. They need someone who can help them identify the full gamut of their options and ascertain the appropriate course of action for the individual's situation. S.P.W.S. always has and always will place the highest value on granting victims this very basic safety mechanism. All staff are trained from the beginning to safeguard client information with the exception of child abuse and the threat of danger to another. Yet, without legislative support, the agency is continually faced with the threat of subpoenas and search warrants. Limited agency resources have had to go toward quashing subpoenas and protecting this basic issue. It is the agency's policy to go to the point of being held in contempt of court in order to protect the client's confidences. This goes against our very grain as we are an agency that believes the most effective way to stop violence in the home is by using the existing legal structure.

P.O. Box 2328 Homer, Alaska 99603 Ph.235-7712

HB156 will go a long way in improving the effectiveness of domestic violence and sexual assault agencies around the state. On behalf of the staff and Board, and most importantly the clients of S.P.W.S., I extend to you my full support.

Sincerely,

Jayne Andreen

Jayne Andreen
Executive Director

cc: Representative Mike Navarre
Representative Gail Phillips
Senator Paul Fischer

JA/ca

Tundra Women's Coalition
P.O. Box 1537 • Bethel, Alaska 99559 • 907 343-3455

April 18, 1991

Representative Kay Brown
P.O. Box V
Juneau, Alaska 99811

Dear Representative Brown:

I am writing in support of House Bill #156. I believe this bill is necessary to ensure that communications between victims of domestic violence and sexual assault and their counselors will be confidential.

Confidentiality is essential for victims if they are seeking help and healing. As an advocate/counselor at a women's shelter, I see the trauma victims suffer due to the betrayal of the perpetrators. If the victims' trust in their counselors is also betrayed, where are they going to turn for help?

I urge you to consider this important issue and support House Bill #156.

Thank you,

Connie Tucker

Connie Tucker
Outreach Advocate