

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11373 SENATE STATE AFFAIRS

Alaska State Legislature

Session:
State Capitol Building, Room 418
Juneau, Alaska 99801-1182
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145 Main Street Loop Road
Suite 221
Kenai, AK 99611
Phone: (907) 283-2690
Fax: (907) 283-2763

Representative Kelly Wolf *House District 33*

SPONSOR STATEMENT for HCR 25

Alaska Wild Salmon Week

Relating to declaring June 28 – July 4, 2004 as Alaska Wild Salmon Week

Alaska is the largest commercial wild salmon fishery in the world and employs more than 29,000 people. Nearly 95% of all commercially caught salmon in the United States are harvested in Alaska. In the last decade, state salmon harvest totaled more than \$4.5 billion, making salmon extremely vital to Alaska's economy.

For both visitors and Alaskans, the sport of fishing is one of the most popular activities in the state. Last year, approximately 470,000 resident and non-resident licenses were issued for sport fishing.

Beyond the importance of commercial and sport fishing, salmon has been a nutritional source for generations of Alaskans and is a large part of the state's heritage. Rich in Omega 3 oils, salmon is a healthy food that can help lower cholesterol and reduce the risk of heart disease.

House Concurrent Resolution 25 would proclaim June 28 – July 4, 2004 as "Alaska *wild* Salmon Week". This proclamation will recognize the salmon industry as a huge part of all Alaskan's lives and raise public awareness of one of Alaska's most important industries by promoting and celebrating the catching and eating of salmon.

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DOCUMENT(S)
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United Cook Inlet Drift Association

43961 K-Beach Road, Suite E • Soldotna, Alaska 99669 • (907) 260-9436 • fax (907) 260-9438 • ucida@acsalaska.net

January 30, 2004

To: Governor Murkowski
Senators
Representatives

Dear Sir, Senator, and Representative:

We wholeheartedly support HCR 25 to create the Alaska Wild Salmon Week on June 28-July 4, 2004. The families and fishermen that commercially, recreationally, and subsistence use wild salmon in Cook Inlet support the resolution for an Alaska Wild Salmon Week. We would be pleased to participate in appropriate civic functions in celebration and recognition of the role that wild salmon represent in our society.

Thank you for your time and efforts in this matter.

Roland R
Sincerely,

Roland R Maw
Roland R. Maw, PhD
UCIDA Executive Director

Cjh



COOK INLET FISHERMAN'S FUND

Non-profit Advocate for all Commercial Fishing Gear Types in Area H

P.O. Box 39408 Ninilchik, AK 99639 phone/fax 907-260-5614

Dear Representative Wolf,

January 30, 2004

As you know we are a 275 member commercial fishing organization that has made steady efforts to maintain and improve the viability of the fishing industry. A management system of maximum sustained yield means a fishery living up to its full potential, thus providing the jobs needed on the Kenai Peninsula. With maximized returns all users benefit.

The nutritional value of wild Alaska salmon is widely known. Some fishermen now take time to bleed and ice the salmon they catch. The Kenai Peninsula Borough has developed a salmon branding program and created the "Kenai Wild" brand, promoting this with increasing success.

Your resolution for Alaska Wild Salmon Week does a great job of not only promoting wild salmon, but also serves to remind all of the cultural and historical significance of the salmon fishery.

Cook Inlet Fisherman's Fund appreciates and wholeheartedly supports H.C. 25.

Sincerely, _____ Douglas F. Blossom, President

Officers

Doug Blossom, President
John McCombs, Vice Pres.
David Martin, Treasurer
Janet Clucas, Secretary

Board of Directors

Dan Ducker Butch Leman
Tengue Vanek Tim Keener
Steve Vanek Mark Ducker
Chris Garcia

Support Staff

Joe Malatesta, Sr., Consultant
John McCombs, Editor



February 4, 2004

Representative Kelly Wolf
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99811

Dear Rep. Wolf:

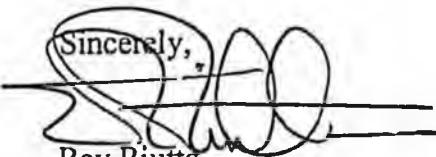
House Concurrent Resolution 25, relating to Alaska Wild Salmon Week, has been introduced by you in the House again this year, and will focus the attention of legislators on the positive aspects of this wonderful wild resource. The Alaska Seafood Marketing Institute commends the interest of the Alaska State Legislature in Alaska Salmon.

House Concurrent Resolution 25 includes language that gives recognition to the State of Alaska's model fisheries management regime and the importance of Alaska's protection of salmon habitat. The measure also brings attention to the vital economic importance of the salmon resource to the citizens of Alaska. According to the Alaska Dept. of Fish and Game's website, the 2003 commercial salmon harvest of more than 173 million salmon was worth more than \$195 million to Alaska harvesters alone: the seventh biggest harvest in 100 years.

The important role of salmon as a nutritious food, including the sustenance it has provided for generations of Alaska's people engaging in traditional subsistence and personal use harvest, is articulated in House Concurrent Resolution 25, and the wording of the measure emphasizes an important fact: that community economies throughout Alaska depend on Alaska's wild salmon fishery.

Alaskans from one end of the state to the other, from Anchorage, Alaska's largest fishing village, to the rural communities along the coast, may observe the occasion by participating in activities focusing on the catching and eating of salmon. Thank you for introducing HCR 25 and for your support of our salmon industry.

Sincerely,



Ray Riutta
Executive Director



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892

**DALE BAGLEY
MAYOR**

VIA FAX: (907) 465-3835

January 27, 2004

Representative Kelly Wolf
State Capitol, Room 418
Juneau, Alaska 99801-1182

Dear Representative Wolf:

It is my understanding that you are proposing a resolution designating June 28 - July 4, 2004, as Alaska Wild Salmon Week. I would like to add my support.

Sincerely

Dale Bagley
Kenai Peninsula Borough Mayor



KENAI PENINSULA BOROUGH

Community & Economic Development Division
43335 Kalifornsky Beach Road, Suite 16
Soldotna, Alaska 99669

BUSINESS: (907) 262-6355 · FAX: (907) 262-6762
jbrown@borough.kenai.ak.us

DALE BAGLEY
MAYOR

January 28 2003

VIA FAX (907) 465-3835

Representative Kelly Wolf
State Capitol, Room 418
Juneau, Alaska 99801-1182

Dear Representative Wolf:

On behalf of the commercial fishing industry, we would like to thank you for your recognition and continued support.

The goal of Cook Inlet Salmon Brand is to revive and enhance the commercial fishing industry by establishing a quality certification program for Cook Inlet salmon and to promote that product to high-end niche markets. This program has received statewide and national recognition for its efforts to revitalize the commercial fishing industry.

Your resolution, designating June 28 to July 4, 2004 as **Alaska Wild Salmon Week**, would definitely assist us and acknowledge the importance of our efforts. I wish to add my support of your resolution.

Please let me know if you have any questions.

Sincerely,

Jack Brown
Business Development Manager

/bun



Kenai Peninsula Small Business Development Center

Red Diamond Center
43335 K-Beach Road
Suite 16
Soldotna, Alaska 99669

SOLDOTNA (907) 262-7497
HOMER (907) 235-4121
SEWARD (907) 224-7228
FAX (907) 262-6762

SUBCENTERS

- Anchorage
- Fairbanks
- Juneau
- Kenai Peninsula
- Matanuska-Susitna
- Rural Outreach

PROGRAMS



A partnership program of
the US Small Business
Administration and the
University of Alaska

January 29, 2003

VIA FAX (907) 465-3835

Representative Kelly Wolf
State Capitol, Room 418
Juneau, Alaska 99801-1182

Dear Representative Wolf:

The Small Business Development Center is very aware of the phenomenal effort put forth by our Alaska fishing industry to establish a quality certification program for Cook Inlet salmon, that would gain recognition through-out the United States and beyond our borders.

Your resolution, to designate June 28 to July 4, 2004 as **Alaska Wild Salmon Week**, would definitely assist and recognize the importance of their program goals. I wish to join in support of your resolution.

Please let me know if you have any questions.

Sincerely,

Mark Gregory
Director
Kenai Peninsula SBDC

/bun

KENAI WILD

Cook Inlet Salmon Brand, Inc.

43335 Kalifornsky Beach Road Soldotna, AK 99669
Tel (907) 262-6355 Fax (907) 262-6762

January 29, 2004

VIA FAX (907) 465-3835Representative Kelly Wolf
State Capitol, Room 418
Juneau, Alaska 99801-1182

Dear Representative Wolf:

The goal of Cook Inlet Salmon Brand is to revive and enhance the commercial fishing industry by establishing a quality certification program for Cook Inlet salmon and to promote that product to high-end niche markets.

This program has received statewide and national recognition for its efforts to revitalize the commercial fishing industry. We welcome any assistance that would enhance our goals, and your resolution designating June 28 to July 4, 2004 as Alaska Wild Salmon Week, would be identified as such.

As President of the Cook Inlet Salmon Brand, Inc., I wish to add my support of your resolution.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Powell', written over a horizontal line.

Mark Powell
President
Cook Inlet Salmon Brand, Inc.

/bun



Salamatof Seafoods Inc.

P.O. Box 1450
Kenai, Alaska 99611

(907) 283-7000
FAX (907) 283-8499

January 30, 2004

Dear Legislators:

As one of the processors of Alaska wild salmon we strongly support House Concurrent Resolution 25 designating June 28 – July 4, 2004 as Alaska Wild Salmon Week. This resolution will promote the value and marketing of the wild Alaska salmon, which is what, will help create a stable economic outlook for commercial fishing and the tourism industries. It is a pleasure to extend aid to help pass this resolution.

Thank you for your time and consideration in this worthy matter.

Sincerely,


Robert L. Scott, President
Salamatof Seafoods, Inc.

State Capitol
Juneau, Alaska 99801
907.465.3520 465.5400 FAX
www.ligov.state.ak.us



550 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263 FAX
LL_Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

January 28, 2004

Representative Kelly Wolf
State Capitol
Juneau, AK 99801

Dear Representative Wolf:

Re: HCR 25: Alaska Wild Salmon Week

Thank you for again sponsoring a resolution promoting and proclaiming Alaska Wild Salmon Week. I look forward to June 28-July 4, 2004 to do my part to participate in activities focused on the catching and eating of salmon.

The five species of wild Alaska salmon are recognized worldwide as a superior product that provides outstanding nutritional benefits. Our State is well recognized, by resident and tourist alike, for providing incredible opportunities to harvest and enjoy this fish.

Alaskans have historically harvested salmon for hundreds, perhaps thousands of years. The commercial salmon industry has developed and changed during the past century and still contributes greatly to our workforce and economy. Many people now also enjoy recreational harvesting of salmon.

As you know, my own family has been engaged in the harvesting, processing and consumption of salmon for several generations. I heartily endorse your resolution.

Sincerely,

A handwritten signature in cursive script that reads "Loren D. Leman".

Loren Leman
Lieutenant Governor



United Southeast Alaska Gillnetters

P.O. Box 23378, Ketchikan, AK 99901 (907) 247-2471 Fax (907) 225-0241 Email: usaag@pci.net

January 28, 2004

The Honorable Kelly Wolf
House of Representatives
State Capitol – Room 418
Juneau, Alaska 99801

Send Via Fax To: 907-465-3835

Dear Representative Wolf;

The United Southeast Alaska Gillnetters Association (USAAG) represents about 150 small business owners who catch salmon by drift gillnetting in Southeast Alaska and market salmon throughout the United States. Many of our members participate in other fisheries such as crab, shrimp, longline, and dive fisheries. We support HCR 25 that designates June 28, to July 4, 2004 as Alaska Wild Salmon Week. This is particularly important as it will draw public awareness to Alaska wild salmon during our July 4th Independence Day celebration when salmon barbeques are especially popular. We also hope it will increase all Alaskans awareness of the importance of our salmon industry to the states economy. We appreciate your efforts in introducing this resolution and supporting our salmon fishery.

If we can further assist in supporting this legislation, please do not hesitate to contact us.

Yours truly,

A handwritten signature in black ink, appearing to read "Kenneth Duckett".

Kenneth Duckett
Executive Director



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

January 27, 2004

Representative Kelly Wolf
State Capitol (MS 3100)
Juneau, AK 99801

Re: HCR 25, Relating to Alaska Wild Salmon Week June 28 – July 4, 2004

Dear Representative Wolf,

United Fishermen of Alaska wholeheartedly supports the designation of Alaska Wild Salmon Week for June 28 – July 4, 2004.

This designation will promote public awareness of the importance of salmon to Alaska's way of life and economy. Not only is salmon a mainstay of the state economy, exports of salmon help reduce the national trade balance of payments deficit.

We especially appreciate the inclusion of the term "wild". With the recent international and nationwide press concerning the PEW-funded study that shows generally higher toxins in farmed fish than in wild fish, including the word "wild" will help spread awareness of the distinction that Alaska salmon are wild, and safe to eat.

We also appreciate the good timing of the week you have chosen. This will give a good opportunity for promotions leading up to the biggest barbeque day of the year on the Independence Day holiday. In addition, it comes during the peak of the tourist season when visitors to Alaska from throughout the world will take notice.

We appreciate your efforts to raise public awareness of the importance of salmon.

Sincerely,

Mark D. Vinsel
Interim Executive Director

Copy: Representative Paul Seaton, Co-Chair, House Special Committee on Fisheries
Representative Peggy Wilson, Co-Chair, House Special Committee on Fisheries

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Druggers Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Keta • At-sea Processors Association
Bristol Bay Reserve • Chignik Regional Aquaculture Association • Chignik Seiners Association • Concerned Area "M" Fishermen • Cordova District Fishermen United
Crab Rationalization and Buyback Group • Douglas Island Pink and Chum • Groundfish Forum • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
Kodiak Seiners Association • North Pacific Fisheries Association • Northern Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association
Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen

HCR

29

SENATE COMMITTEE REPORT

DATE: 3/24/04

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 4/7/04

State Affairs Committee considered HOUSE CONCURRENT RESOLUTION NO. 29 am

HCR 29 SUPPORT THERAPEUTIC COURTS

Relating to support for therapeutic courts for repeat driving while under the influence offenders.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ACS	3/24/04			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John J. Conduff</i>			←	
<i>Bert K. Thurman</i>			✓	
CHAIR: <i>[Signature]</i>			✓	

Alaska State Legislature



Representative Cheryl Heinze

Sponsor Statement

HCR 29

This House Concurrent Resolution recognizes therapeutic courts and their effectiveness in treating alcoholism, particularly in regards to Driving Under the Influence (DUI).

In 2001 there were 85 traffic related fatalities. Over half of them were directly related to drunk driving. The cost and effectiveness of dealing with Drunk drivers in the conventional court system is prohibitive to say the least

Therapeutic Courts on the other hand have a proven success rate as well as being significantly cheaper for the state. Conventional incarceration methods cost roughly six times as much as treatment from therapeutic courts.

HCR 29 encourages the Department of Law and the Public Defender Agency to actively participate in the startup of therapeutic courts in communities where there is a large population of DUI offenders and local support for therapeutic courts.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HCR29-ACS-TC-2-27-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Support Therapeutic Courts BRU Alaska Court System
Component Trial Courts
Sponsor Representative Heinze
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HCR 29.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
Division Alaska Court System Date/Time 2/27/04 10:03 AM
Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/27/2004
Agency Alaska Court System

Anchorage Wellness Court
Summary of Facts
2003 Update

February 14, 2004

Prepared By:

Alan R. McKelvie
Justice Center
University of Alaska, Anchorage

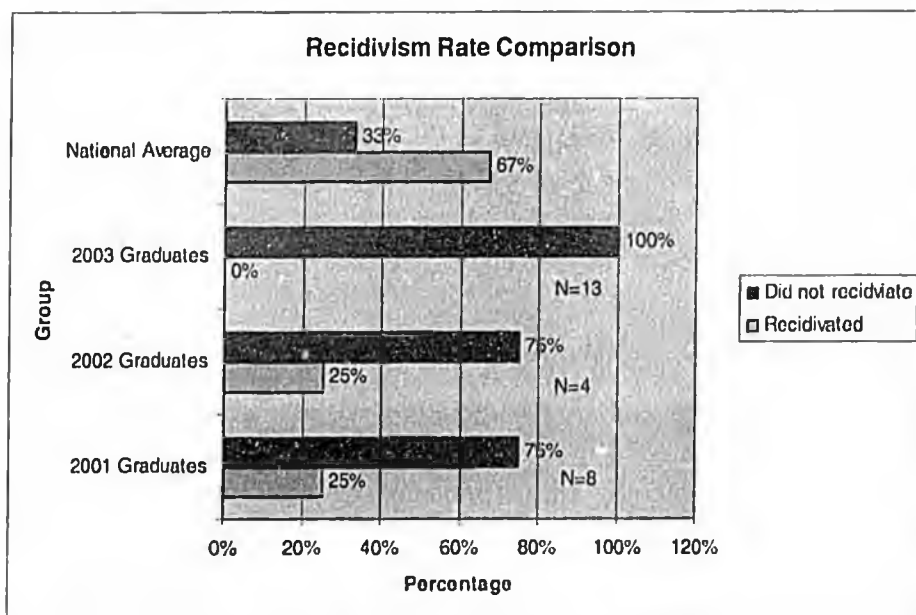
Anchorage Wellness Court: Summary of Facts

Executive Summary

Anchorage Wellness Court, a therapeutic court for alcoholic misdemeanants, has been operating for three years under Judge James N. Wannamaker of the Anchorage District Court. Participants enter the 18-month program under a plea agreement that gives them a reduced sentence if they complete the program. During their 18 months in the program they must:

- Stay alcohol and drug free,
- Be monitored for sobriety,
- Attend treatment for their addiction,
- Take naltrexone for the first four months,
- Attend a weekly group for people on naltrexone,
- Attend a weekly workbook based cognitive behavioral group,
- Attend AA,
- Appear before the judge at regular intervals,
- Be rewarded or sanctioned for progress,
- Be employed,
- Pay restitution,
- Pay most of their treatment costs.

As of December 31, 2003, twenty-five participants had completed this rigorous 18-month program and graduated from Wellness Court. (An additional 5 have graduated since January 1, 2004). The Justice Center obtained recidivism data from the Alaska Court System's case management system and the Department of Corrections movement files. The data consisted of all filed arrests, bookings and convictions for the 2001, 2002, and 2003 participants from January 2001 to February 2004. The results are as follows:



*Based on post-graduation convictions.

Anchorage Wellness Court: Summary of Facts

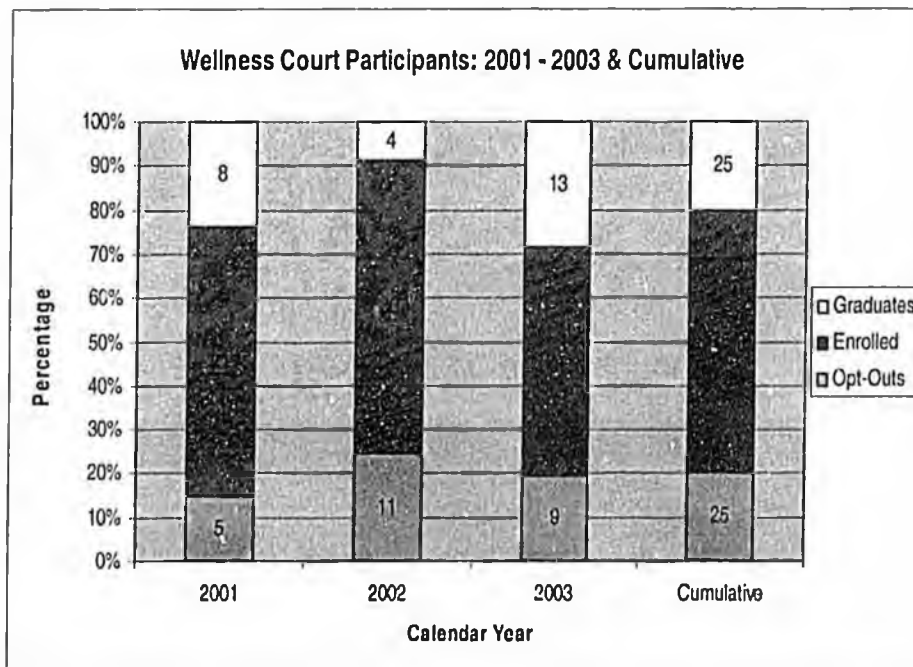
Statistical Summary

Gender and age of the 2003 Wellness Court participants varied little compared to previous years. Males comprised 72% percent of the group, compared to 67% in 2002, and 68% in 2001. Females comprised 28% in 2003, 33% in 2002 and 32% in 2001. The average age of participants was also similar.

	2001 Wellness Court	2002 Wellness Court	2003 Wellness Court*	Comparison Group
<i>Total participants</i>	34	45	46	30
<i>Gender</i>	11 female (32%) 23 male (68%)	15 female (33%) 30 male (67%)	13 female (28%) 33 male (72%)	5 female (17%) 25 male (83%)
<i>Average Age of all participants</i>	41	43	41	40
<i>Average Age of male participants</i>	42	43	42	39
<i>Average age of female participants</i>	39	42	41	46

*2003 participant total includes 30 individuals who were carried over from 2002. There were 16 new participants in 2003.

Figure 2 illustrates the Wellness Court participant activity for the years 2001 through 2003 and cumulative. The opt-out category includes participants who violated conditions of release.



Anchorage Wellness Court: Summary of Facts

Figure 2

Anchorage Wellness Court: Summary of Facts

Figure 3 illustrates the gender breakdown of the Court participants. As shown in the first table the ratios are similar across years.

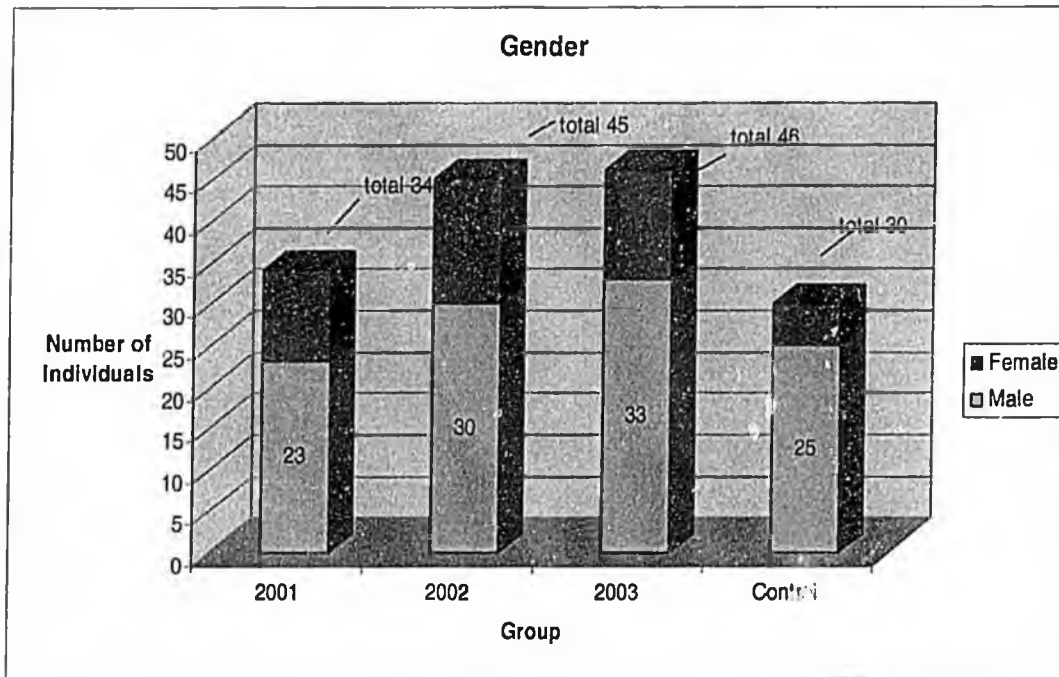


Figure 3

As in previous years the Ethnic makeup of Court participants is primarily Native Alaskan and Caucasian. Only eight individuals fell outside of these two groups.

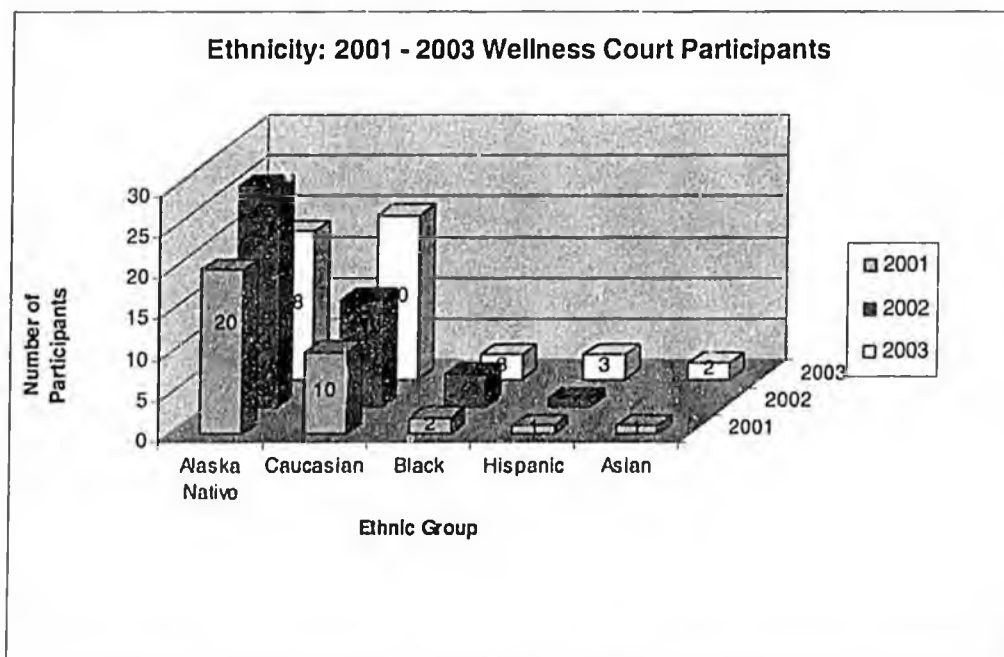


Figure 4

Anchorage Wellness Court: Summary of Facts

Nearly all of the Wellness Court participants are repeat offenders. Before entering Wellness Court, 2003 participants had accumulated 143 DUI offenses for an average of 3.1 per person. They had also committed 324 non-DUI offenses for an average of 7.0 per person.

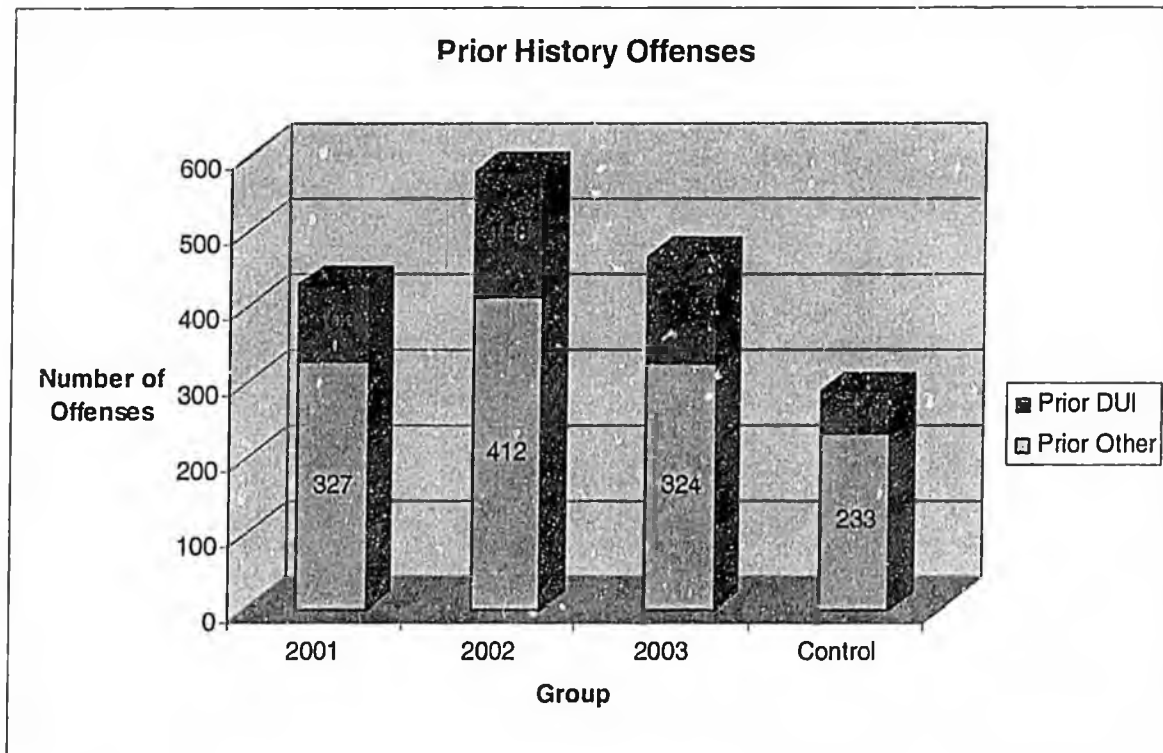


Figure 5

WELLNESS COURT BULLETPOINTS

- The defendant enters a plea of “no contest” or “guilty” and their sentences are deferred for the duration of the treatment
- The judge works with a group: Defense + prosecuting attorney, a case manager and a member of local law enforcement (corrections or police)
- Participants are required to attend weekly or bi-monthly court hearing where their process is evaluated and they are either rewarded or sanctioned depending on their performance.
- Upon completion of the program the participants’ sentences are carried out according to previously negotiated agreements. This includes dismissal, reduction of sentence or probation.
- Wellness Court uses Naltrexone to help offenders kick their alcohol habit
- The entire program lasts for about 12-18 months
- Participants engage in weekly supervised drug and alcohol testing
- The post program recidivism rate of the eight 2001 graduates was zero and the post program relapse rate was also zero.

- The national recidivism rate is around 65%, the wellness court's rate over the last 3 years is 75%.

ALASKA ALCOHOL STATISTICS

- Alaskan death rates by alcohol is twice that of the US average
- 80-95% of all criminal activity in Alaska is alcohol related
- After being released from jail 75% of felony level DUI offenders are rearrested.
- Alcohol and drug abuse costs Alaskans approximately \$614 million each year
- Incarceration costs about \$113 a day for conventional jails. Wellness courts cost about 10% of that.
 - o Costs are split between the state and the participant about 50-50 (48% par, 52% state)
 - o Total cost of wellness court treatment averages about \$11,708. Conventional jail treatment costs about \$61,811

HJR

14

SENATE COMMITTEE REPORT

DATE: 5/14/03

FURTHER:

DATE TURNED
IN TO OFFICE: 5/17/03

State Affairs Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 14(STA)

HJR 14 NATIONAL WHEELCHAIR GAMES

Urging that the 2006 National Veterans Wheelchair Games be held in Anchorage, Alaska.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR # _____

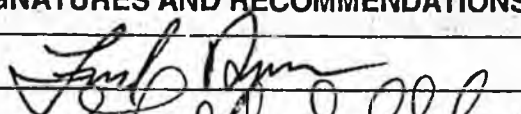
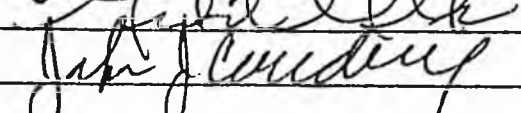


NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
H. MUA	5/2/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
	✓			
CHAIR: 	X			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR NO. 14
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Military and Veterans Affairs
 Title 2006 National Veterans Wheelchair G BRU _____
 Component _____
 Sponsor Croft Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services			0.0			
Travel			0.0			
Contractual			0.0			
Supplies			0.0			
Equipment			0.0			
Land & Structures			0.0			
Grants & Claims			0.0			
Miscellaneous			0.0			
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 HJR NO.14 resolves that the Alaska State Legislature urges Anthony J. Principi, Secretary of Veterans Affairs, and Joseph L. Fox, Sr., President, Paralyzed Veterans of America to hold the 2006 National Veterans Wheelchair Games in Anchorage, Alaska. No fiscal impact anticipated.

Prepared by: John W. Cramer Phone 465-4602
 Division: Administrative Services Date/Time 5/2/03 1:57 PM
 Approved by: _____ Date 5/2/2003
 Agency: _____

REPRESENTATIVE ERIC CROFT

SPONSOR STATEMENT HJR 14

2006 National Veterans Wheelchair Games

This resolution urges the United States Department of Veterans Affairs and the Paralyzed Veterans of America to hold the 2006 National Veterans Wheelchair Games in Anchorage. Hosting the games in Anchorage would show Alaska's support and respect for our nation's veterans and its accessibility to people of all physical capabilities.

Alaska is proud of its veterans and those from other states. The National Veterans Wheelchair Games is an excellent way for paralyzed veterans to showcase their amazing accomplishments and to inspire all those with whom they come in contact both disabled and not.

The National Veterans Wheelchair Games are the largest annual wheelchair sporting event in the world and will bring an estimated 1,300 to 1,500 visitors to Alaska. With food, hotels and related tourism activities, these participants and their families and supporters will not only inspire Alaskans, but they will also add millions of dollars to the Alaskan economy.



THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

National Veterans Wheelchair Games

"I can't even walk any more. Can I still compete in track?" "Do you really think a quadriplegic can play rugby?" "You mean to say I've got to tackle stairs in the wheelchair slalom event?" Welcome to the National Veterans Wheelchair Games, where all answers are a resounding "Yes!"

Started in 1981, these Games promote rehabilitation and wellness through rigorous sports competition. Now the largest annual wheelchair sports event in the U.S., it gives newly disabled veterans a chance to gain and enhance sports skills while introducing them to experienced wheelchair athletes. Veterans compete according to their ability in such sports as basketball, softball, track and field, rugby, slalom, and many others.

The spirit at these Games inspires every veteran to achieve his or her personal best. The event is co-sponsored by the Department of Veterans Affairs and the Paralyzed Veterans of America.

"Last year was my first Games and it was fantastic! It gave me confidence, and was the most rewarding and challenging event for the disabled that I'd ever seen. It's broadened my abilities...and the confidence I'd lost has started to come back."

Evo Marini, 55
Air Force combat veteran of Vietnam,
Missouri City, Texas

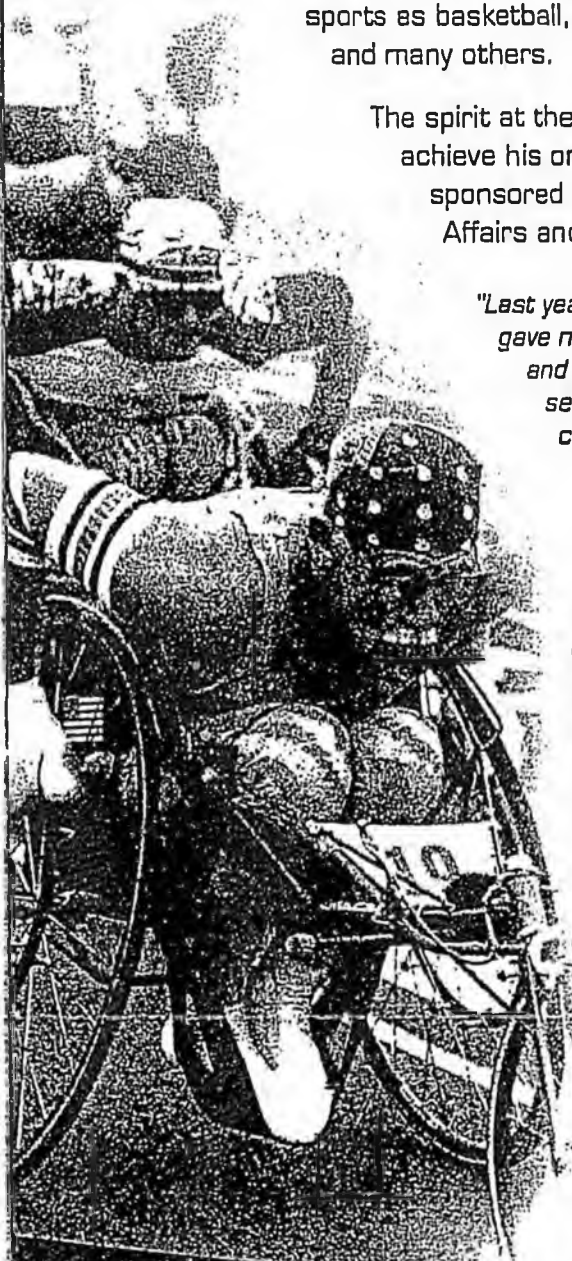
"This is a great event to help people get back into participating in life. Sports helped me adjust and accept my disability. Some doors have closed, but many more have opened, including the opportunity to represent the United States in three international Paralympic Games."

Laura Schwanger, 41
Army veteran, Williamstown, N.J.



CONTACT

National Veterans Wheelchair Games
Tom Brown, Program Director
South Texas Veterans Health Care System
San Antonio, Texas 78284
(210) 617-4125





APR 14 2003

Alaska Disabled Veteran Sports Program, Inc.

P.O. Box 241586, Anchorage, Alaska 99524, Voice (907) 272-1094, Fax (907) 272-1094

State of Alaska
House of Representatives
Resolution in Support of 2006 National
Veterans Wheelchair Game Held in Alaska

April 13, 2003

I have been involved in the wheelchair games since 1999. I represented Alaska in San Juan, Puerto Rico. Since then I have participated in the wheelchair games in San Antonio, Texas and New York City. At each event, I have been asked, "when are we coming to Alaska?" We have the opportunity to host the National Veterans Wheelchair Games in July of 2006.

These games are the largest wheelchair competition in the world. Approximately 1300 to 1400 individuals will be involved. As well as the athletes, coaches, referees, and support staff, many family members accompany the competitors. The games not only let the athletes visit different cities nationwide, the residents of the cities can see what can be done by individuals in wheelchairs and how the disabled adapt to their changing environment. It also gives everyone a chance to see the latest in technology and products available to everybody.

I am sure that Alaska will be a great host and the wheelchair games will be a huge success.

This resolution is important as it shows the Veterans Administration in Alaska that we have the support of all Alaskans.

Yours sincerely,

George Pikus

Vice President/Program

Director for Alaska Disabled

Veterans Sports Program

Where there's a will there's a way.

NUMBER OF PAGES = 11



ANCHORAGE
Convention &
Visitors Bureau

DATE: April 23, 2003
TO: Mark Gnad/Rrepresentative Eric Croft
FROM: Julie Dodds/Anchorage convention & Visitors Bureau
RE: National Veteran Wheelchair Games

Mark:

Here is some information and some letters of support. I hope it is enough information. If you need additional information or have any questions please call me at 907 257-2327.

I am mailing you a couple of videos. If you would please send them back to me when you are through, or if you do need to keep them, just let me know so I can get replacements.

Please call me when you receive this and let me know if this is what you were looking for.

Thank you for your support.

Take care.

Julie Dodds
National Sales Manager
Anchorage Convention & Visitors Bureau
524 West Fourth Avenue
Anchorage AK 99501-2212
Toll Free: 888-257-2381 ext 327
Local: (907) 257-2327
Fax: (907) 278-5559

Email: jdodds@anchorage.net

Wild About Anchorage!
Anchorage: 2002 All-America City

www.anchorage.net

524 W. Fourth Avenue
Anchorage, Alaska
99501-2212

907-276-4118
Fax 907-278-5559

www.anchorage.net
Email: info@anchorage.net

NATIONAL VETERANS WHEELCHAIR GAMES JULY 2006

Representatives from the VA and Paralyzed Veterans of America (PVA) have completed an initial site inspection in Anchorage last Fall, September 2002. They toured the local facilities and met with the hoteliers, Egan Convention Center, Sullivan Arena, Anchorage School District and Airport Representatives, along with the Department of Veterans Affairs Alaska Healthcare System and Regional Office to discuss the feasibility of Anchorage hosting these Games. Their findings were that Anchorage does have the facilities to host these Games. They are going to do a final site inspection this summer, July 2003, following the Wheelchair Games in Long Beach, California.

Dates-

Currently looking at July 2-7, 2006.

Hotels-

"Hotel Facilities to include at least 600 rooms that can reasonably be made accessible for wheelchairs. Accessibility refers to entrance into the hotel, number of elevators, door widths, size of lobby/registration area and width of hallways. In addition, 250 rooms are needed for sponsors, officials, and VIP's."

The hotels in Anchorage have tentatively committed 900 rooms. This includes the five largest downtown properties and does not include the many other hotels in and around the downtown Anchorage area.

Transportation-

Currently working with the Anchorage School District and First Student.

**NATIONAL VETERANS WHEELCHAIR GAMES
JULY 2006**

EVENT	VENUE(S)	ADDITIONAL INFORMATION
Track:	Sullivan Arena/Mulcahy Stadium/Kosinski Fields	8 lane certified track
	East High School	8 lane certified track
Swimming:	Bartlett High School Pool	Olympic size 50 meter
Basketball, Quad Rugby:	Sullivan Arena/Mulcahy Stadium/Kosinski Fields	3 Courts
	University of Alaska Anchorage	1 Court
Bowling:	AMF East 40 Lanes	40 lanes
	Polar Bowl	40 lanes
	Park Lanes	34 lanes
	Center Bowl	30 lanes
	Jewel Lake Bowling Center	26 lanes
Field Events:	Sullivan Arena/Mulcahy Stadium/Kosinski Fields	
Slalom, Table Tennis, Weightlifting,	Egan Center/Sullivan Arena	
Opening/Closing Ceremonies	Egan Center/Sullivan Arena	
Exposition and Registration:	Egan Center	
Archery:	Sullivan Arena/Mulcahy Stadium/Kosinski Fields	
Nine Ball:	Hawollan Brian's	20 tables
	Anchorage Billiard Palace	16 tables
	Minnesota Billiards	15 tables
	Runarack Billiards	14 tables
Banquet facilities:	Egan Center/Sullivan Arena	



DEPARTMENT OF VETERANS AFFAIRS
Alaska Healthcare System and Regional Office
2925 DeBarr Road
Anchorage AK 99508-2989

December 16, 2002

In Reply Refer To: 463/135

Chair, Bid and Site Selection Committee (11K)
Attention: Mr. Tom Brown
Department of Veterans Affairs
South Texas Veterans Healthcare System
7400 Merton Minter Blvd.
San Antonio, TX 78229

Dear Mr. Brown:

It is my pleasure to fully support the Alaska VA Healthcare System and Regional Office (AVAHSRO) as the host site for the 2006 National Veterans Wheelchair Games.

We look forward to working with your office and the Paralyzed Veterans of America in making 2006 the best in the history of the games.

The AVASHRO appreciates this opportunity and hopes you will select our facility and region for the 2006 National Veterans Wheelchair Games. Please find enclosed our bid package for this event.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Spector".

Alex Spector
Director

Enclosure



Municipality of Anchorage

Office of the Mayor

George P. Wuerch, Mayor



December 9, 2002

Ms. Julie Dodds
National Sales Manager
Anchorage Convention & Visitors Bureau
524 W. 4th Avenue
Anchorage, AK 99501-2212

Dear Ms. Dodds,

On behalf of the Municipality of Anchorage, I am pleased to support the Anchorage Convention & Visitors Bureau's bid to host the National Veterans Wheelchair Games in July 2006.

From numerous experiences, be assured that the community is very capable of hosting such an event, and doing so in a way that makes it a most memorable for participants and visitors.

We understand the commitment required to host a major event such as this. Capable organizers and countless volunteers have proven time and again that they are up to the challenge, and hopefully we will get the chance to do so again.

Good luck with your bid to host a successful National Veterans Wheelchair Games in Anchorage.

Sincerely,

George Wuerch
Mayor



December 6, 2002

Anchorage School District

4600 DeBarr Road
P. O. Box 190614
Anchorage, Alaska 99519-0614
(907) 742-4000

SCHOOL BOARD

Jake Metcalfe
President

Tim Steele
Vice President

Mary Marks
Clerk

Harriet A. Drummond
Treasurer

Rita Holthouse

Debbie Oslander

John Steiner

SUPERINTENDENT

Carol Comeau

TO WHOM IT MAY CONCERN:

I have been asked to write a letter of support for the Anchorage Convention & Visitors Bureau to host the National Veterans Wheelchair Games to be held in July 2006. The idea of the games coming to Anchorage is very exciting, and I certainly support the Convention & Visitors Bureau in their endeavor to bid for this event.

When individuals from the Veterans Administration (VA) and the Paralyzed Veterans of America (PVA) were in Anchorage to do a site inspection to see if Anchorage had the facilities to host this event, they were able to meet with District representatives to discuss transportation, facilities, and rentals issues. Steve Kalmes, Director of ASD Transportation, and Sharon Schoonmaker, Rentals Manager, were very supportive and agreed to further discussions once Anchorage is awarded the bid.

Anchorage recently hosted the 2001 Winter Special Olympic World Games, which many of our students participated in and supported. It was a great benefit to them and we see this event as another inspirational and educational opportunity for our 50,000 students.

I encourage you to consider Anchorage as the site of the National Veterans Wheelchair Games in July 2006.

Sincerely,

Carol Comeau
Superintendent

December 3, 2002

Mr. Tom Brown
Director
National Wheelchair Games
South Texas Veterans Health Care System
7400 Merton Minter Blvd.
San Antonio TX 78284



ANCHORAGE
Convention &
Visitors Bureau

Dear Mr. Brown:

The Anchorage Convention & Visitors Bureau is extending a warm invitation to you and the participants of the National Veterans Wheelchair Games to come to Anchorage in July of 2006.

We are excited about the possibility of hosting your distinguished group. Anchorage is a fabulous destination that offers not only first-class accommodations and meeting facilities, but also excellent airline service from the "Lower 48."

The possibilities to experience, in conjunction with a conference, some of Alaska's famous attractions and activities are endless: glaciers, mountains, wildlife, Native art, day cruises, fishing and flightseeing options are waiting for you.

When the participants of the National Veterans Wheelchair Games come to Anchorage, they will experience the warm hospitality that Alaskans offer their visitors. For many delegates, attending a meeting in our city is an once-in-a-lifetime opportunity to visit America's Last Frontier, a dream for many in the nation!

I offer you the full assistance of the ACVB and its staff to making your convention a most memorable and successful event.

We look forward to greeting you in Anchorage for one of your most enjoyable conferences!

Sincerely,

Bruce Bustamante
President & CEO

624 W. Fourth Avenue
Anchorage, Alaska
907-276-4188

907-276-4188
Fax 907-276-4359

www.anchorage.net
E-mail: info@anchorage.net

December 12, 2002

Mr. Tom Brown
Director
National Wheelchair Games
South Texas Veterans Health Care System
7400 Merton Minter Blvd.
San Antonio, TX 78284



Dear Tom:

I am most delighted to hear of your positive interest in Anchorage as a site for the 2006 National Wheelchair Games. It was a pleasure to have met you when you were up last. Being the Chief Operating Officer of the Special Olympics World Winter Games, (held in Anchorage in March of 2001), talking with you brought back many exciting and fond memories. The thought of Anchorage being given *another* opportunity to host a world-class sporting event, such as this, is unbelievable.

As you might remember from our conversation, the World Games hosted over 6000 people from nearly 80 nations. Typical to Alaskan's frontier spirit, we had over 6000 volunteers with 2000 on the waiting list. Those 2000 excess volunteers initiated a new "Spectator Team" program that I could easily see taking off at the National Wheelchair Games. Adopting a country or team approach became the task for these spectator teams leaving everyone involved with "home town" cheering squads. You would not believe the roar of the crowds as you entered each of the sporting venues around the city.

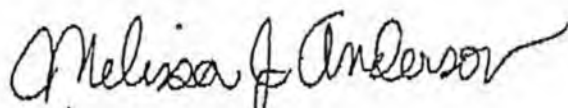
As one person, so profoundly wrote after the Games, "Take time to contact a friend or colleague who might have been in Anchorage during the Games. You will hear about the 'sense of place' projected by this city and felt by participants. You will hear about the winter beauty of the surrounding mountains and sea. You will hear descriptions of Alaska and Alaskans which convey 21st Century diversity with 19th Century friendliness, openness, and happiness – and about a city which is large enough to throw a world class party, yet small enough to still get excited about having out of town guests."

Anchorage's huge success with the World Games should make it clear of our cities capacity and readiness to host another world-class event - the National Wheelchair Games.

Sign me up! Sign up nearly 6000 other volunteers. There is no doubt that you will be warmed by the Alaskan Spirit and amazed by the time and energy Alaskan's will give the National Wheelchair Games.

Please feel free to contact me should you have any questions regarding the World Games and any of the programs that were initiated (such as the Spectator Teams or the Educational programs) because of the Games. I could talk about them for hours.

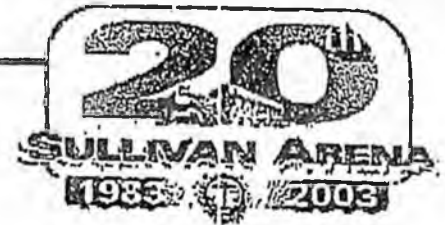
Sincerely,



Melissa J. Anderson
2001 Special Olympics World Winter Games
Executive Director and Chief Operating Officer
melissa@alaskadestinations.com
907-244-0504

December 10, 2002

SMG ALASKA INC.
George M. Sullivan Sports Arena



Julie Dodds
National Sales Manager
Anchorage Convention & Visitors Bureau
524 W. Fourth Avenue
Anchorage, AK 99501-2212

Dear Ms. Dodds,

Sullivan Arena and Ben Boeke Ice Arena are excited about the possibility for Anchorage to host the National Veterans Wheelchair Games in July 2006!

As official venues of the Opening and Closing Ceremonies of the 2001 Special Olympic World Winter Games, Sullivan Arena and Ben Boeke Ice Arena have proven to be ideal facilities for events of substantial size and importance.

SMG of Alaska, Inc. Sullivan Arena, and Ben Boeke Ice Arena embrace this opportunity, and welcomes the Wheelchair Games to our great city.

Please let me know if we can assist you with your bidding process.

Thank you.

Regards,

Tanya Hoak
Director of Sales and Marketing
SMG of Alaska, Inc.





Private Management for Public Facilities

SMG of Alaska Inc.

William A. Egan Civic and Convention Center

November 26, 2002

Mr. Tom Brown
Director
National Wheelchair Games
South Texas Veterans Health Care System
7400 Merton Minter Blvd.
San Antonio, TX 78284

Dear Mr. Brown:

Thank you for your interest in the Egan Center! We are pleased to be considered as the location for the 2006 National Wheelchair Games tentatively scheduled for July 2-7, 2005. Alternate date of July 9-15, 2006.

The William A. Egan Civic and Convention Center is very versatile in configuration and our staff takes the extra effort to ensure your event is a success. Our facility is fully A.D.A. compliant; with power assist doors to lobby and elevator access to all floors. Our Executive Chef Richard Hubbard is one of only six Certified Executive Chefs in Alaska. In all departments our friendly, professional staff strive to surpass the expectations of our guests.

We are centrally located near all the major downtown hotels, shopping and restaurants. There are three parking garages combined with on street parking providing 3000 spaces within a three-block radius and parking can be arranged for your attendees. The cost to your participants is \$2.50 for all day parking when arranged in advance. Our meeting rooms are spacious making your attendees very comfortable and we have a large pre-function space available for your use for exhibits, coat check or registration.

If I can be of any assistance or if you have any questions please call, my direct line is 907-263-2848 and my email address is phyllis@egancenter.com. Our website is www.egancenter.com.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis Rice".

Phyllis Rice
Event Coordinator

cc: Julie Dodds, ACVB

HJR

18

→ "Are prepared to make"

→ Amend #1

Adopted w/o obj.

Delete "have made"

SENATE COMMITTEE REPORT

DATE: 3/28/03

FURTHER:

DATE TURNED
IN TO OFFICE: 4/2/03

State Affairs Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 18(MLV) am
HJR 18 SUPPORTING U.S. ARMED FORCES

Supporting the men and women of the United States armed forces.

and recommends:

- be replaced with Senate CS HJR 18 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
<u>HMVA</u>	<u>3/24/03</u>		<input checked="" type="checkbox"/>	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>			<input checked="" type="checkbox"/>	
CHAIR: <u>[Signature]</u>	<input checked="" type="checkbox"/>			

Alaska State Legislature

Chair

Military and Veterans Affairs Committee

Vice-Chair

Labor and Commerce Committee

Member

Resources Committee

State Affairs Committee

Joint Armed Services Committee

Finance Subcommittees

House Environmental Conservation

House Military & Veterans' Affairs

House Court System



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

Session:

Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931

Fax: (907) 465-4316

Toll Free: (800) 870-4391

Interim:

716 W. 4th Ave., #330
Anchorage, AK 99501-2133

Phone: (907) 269-0205

Fax: (907) 269-0207

Representative_Bob_Lynn@legis.state.ak.us

SPONSOR STATEMENT

HJR 18

This resolution recites the long history of outrages by dictator Saddam Hussein as reason and need for supporting our United States Armed Forces, led by United States Armed Forces Commander-in-Chief George W. Bush, in changing the current regime in Iraq.

It is essential to the *esprit de corps* and eventual victory of our Armed Forces in Iraq that all our service members - from enlisted rank to the rank of commander-in-chief - know they have the support of Alaskans, as expressed through their elected representatives in the Alaska Legislature.

Your support is urged. May God Bless and protect our brave United States Armed Forces service members.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHJR 18(MLV)
 (H) Publish Date: 3/26/2003

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Support Of American Armed Forces BRU _____
 Component _____
 Sponsor Representative Lynn
 Requester House Military & Veterans' Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide Phone 907-465-4931
 Division House Special Committee on Military and Veterans' Affairs Date/Time 3/26/03 9:09 AM
 Approved by: Representative Bob Lynn Date 3/26/2003
 Agency Chairman

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

To Senator G. Stevens

Testimony

Word of HJR 18 "Supporting the men and women of the US armed forces" reached me only this weekend. Initially, on reading the title I was pleased with the Legislature's initiative. But it changed to astonishment when I read the resolution's language. I am sorry, but I must urge you to reconsider the current language for two good reasons. The first is your oath of office to uphold and apply the Alaska and US constitutions. The other is to avoid turning an honorable and warranted declaration into a disjointed, ill-considered communication. Now I will be specific without intentionally blunting the sponsors' valid purposes.

AK Constitution Article II, Sect. 13, "Form of Bills", requires every bill to be confined to one subject (with two narrow exceptions). Resolutions also must follow this wisdom, if only to avoid legal challenges and the stupid consequences of forgetting history. Four "whereas's" of the current version of the resolution do not focus on communication of support of men and women of our armed forces. They focus instead on the political positions, decisions, and judgment of our chief elected public servant and his administration. The "Be it resolved" statement is in fact an unabashed political endorsement and is completely off the subject of the resolution's title. Since our constitutional republic allows for administrations to change during wartime, support of our troops isn't automatically tied to specific national political personalities or their policies. Your reference is the Pledge of Allegiance, which very specifically doesn't include language that a citizen's allegiance applies to any political personality or position - like the US military oath does, or like was done for kings and aristocrats in history.

A resolution by definition should attempt to be a representative voice of the people and express their common feelings. If you check with your constituents of every political stripe and position, it's unlikely that any will object to a declaration of support for our armed forces personnel - provided that there are no partisan overtones. Of course, HJR 18 wouldn't be necessary at all, if all three branches of US government applied the methodology of the US Constitution (ref: Article I & II) to get a democratically decided Declaration of War. Every administration since Truman has avoided this proven method of getting general public support - by using the War Powers Act to transfer, by "resolution", the actual power of making war to a presidential decision. This places the decision to go to war with one man - instead of with the People through representation. Yet it's the People's support that is needed to avoid the disrespect of soldiers and veterans that we have seen since the Korean War!

If the AK Legislature wants to support and give endorsement to President Bush and his administration's judgment and decisions, it should do so as a separate resolution to one about our armed forces, as per the above supreme law.

I also very strongly recommend that more attention be given to using readily verified and specific facts when asserting such things as stated in the current resolution version. Generalizations that are half-truths will embarrass everyone because of the lack of professionalism displayed. It will also embarrass the troops - which they don't deserve. Composition displaying outright ignorance will also embarrass and not honor the men and women of the US military, who must use measured force to make up for destructive ignorance and failures of government and civilization.

Example: To assert that Iraq failed to comply with UN Security Council Resolution 1441 is the United States and the Coalition's position - but it is not the position of the UN Security Council who, as the originator, is legitimately the only one to declare a breach of its own resolution. HJR18 language thus implies UN support for military action when the events of the last few months have definitely shown we didn't get it. The language employed implies significant ignorance of what the UN is, what the entire value of having a UN resolution is, and even what - and why - Secretary of State Colin Powell was doing at the UN all winter.

Example: What is exceedingly unprofessional is saying that the US and Coalition forces have "made the ultimate sacrifice" as a statement of support for our armed forces. Apparently not knowing the origin or definitions of these words/phrase, this resolution is stating how all our men and women serving in Iraq have died as a reason to support them! How can you use a concept so beautifully used by Abraham Lincoln to honor our war dead in such a meaningless and mistaken way? Did anyone even proof read this resolution for grammar and word usage? This is very sloppy use of education. With this line alone you are defeating the purpose of the resolution as stated in the title.

I strongly urge you to review and correct HJR 18 for legal violation, accuracy, and ill displayed education in its composition.

Stuart Thompson
PO Box 211228
Anchorage, AK 99521
E-mail: lookitover@worldnet.att.net
March 28, 2003



Rep. **BOB LYNN'S RALLY COMMENTS**

March 28, 2003 (copy) TAPS 1075

Ladies and Gentlemen: "War is an ugly thing, but it is not the ugliest of things. The decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth war is much worse. A man who has nothing for which he is willing to fight, nothing he cares about more than his own personal safety, is a miserable creature who has no chance of being free, unless made so by the exertions of better men than himself."

Those are the words of English philosopher John Stuart Mill, born almost 200 years ago. I first heard those words, 30 years ago, when I was serving in Vietnam – and those words are as relevant today as they were those three decades ago.

If there's one thing I learned in Vietnam, it's this: there's only one thing more important than bombs and bullets to winning a war, whether it's in Vietnam or Iraq – and that's morale. When a fighting man loses his morale, he can lose his life. It's an attack on your morale when the terminally naïve – that's the most generous thing I can say – to protest against a war you are trying to win and trying to survive. I'm here to tell you that it's disheartening, and just plain dangerous, to be in a war, and not to have support from the folks back home. God Bless you for being here today, and witnessing your support to our troops.

All sane people pray for peace, but there are times when action is necessary, and this is one of those times. Yes, antiwar protestors have a right to protest – this is America, not Iraq - but that doesn't mean they're right – and that doesn't mean their activities don't damage morale. We want our president, the commander-in-chief of our armed forces, and every person in

uniform - to know they will have all the support they need to finish the job, from the commonsense Alaskans here at this rally - whether it takes weeks, months, or years - in the words of our president, "as long as it takes."

Some of our troops will sacrifice their lives to protect our freedom, and protect us against terrorists. Paraphrasing the words of a patriotic lady in Alabama, I can tell you something for sure – Jane Fonda, Martin Sheen, Rosie O'Donnell - and all their "sicko" friends - will never sacrifice their lives for us. It was not the silly seditious movie stars who fought and died for us on the shores of Iwo Jima, the jungles of Vietnam, or the bloody beaches of Normandy - it was the United States Armed Forces.

We hear talk of human shields. Well, I'll tell you where you can find thousands of human shields: the Armed Forces of the United States of America in Iraq. These brave folks are human shields for America, and they're marching through hell on the way to Baghdad to shield American homes and families from Iraqi component of the Axis of Evil. And if you want to see the human shields of American history, just walk through any national cemetery and look around. There lie the honorable, heroic, human shields, the brave Americans who didn't get on television and talk about being a human shield for the enemy.

I want every one of us here today to dedicate themselves to being a human shield for all that is good about America. Please God, help us be stand proud and recognize our Blessings. Let us be the human shields of prayer, of encouragement, and support for the President, our troops and their families and our country. God Bless America!



Alaska State Legislature

APR 15 2002

Please enter into the record my testimony to the Senate State Affairs
 committee name
 committee on HJR 018C, dated 4-1-03
 bill/subject

I am not in support of HJR 018C. I do not support the decisions of President George W. Bush and his administration in starting this war without the support of the United Nations and without exhausting all other non-violent methods, such as continuing inspections and demands for the destruction of weapons in Iraq.

I do not feel that Iraq was presenting an immediate threat to our country and can not justify our aggressive response. This is especially true when the inspectors felt they were making some progress with those methods.

I do not support our president or our nation in this combat.

Signed: Charlotte Adamson
 Testifier

Representing (Optional)
394 NoView Ave. Homer, Alaska
 Address

907-235-2725
 Phone No.



Alaska State Legislature

APR 15 2002

Please enter into the record my testimony to the Senate ~~State~~ State affairs office committee name

committee on Education HJR 018C, dated 4-1-02 bill/subject

Senator Lynn - I believe that if your bill were sound you would not feel that you need ~~ed~~ to use put downs and degrading comments against the individuals testifying. Sadly it seems that you are a part of the divisive problem.

Yes Senator, I have the most important job of all - Helping to raise the children of Alaska. Would you prefer both my husband and I work, so I could send my children to day care? Please be aware that you are a leader in your state and that you have an obligation to THINK before you SPEAK!

Signed: Alana L. Grear
Testifier Alana L. Grear

Representing (Optional)
515 Rangewick Homer AK 99603
Address
907-235-3227
Phone No.



Alaska State Legislature

APR 15 2002

Please enter into the record my testimony to the Senate State Affairs
committee name

committee on HJR 018c, dated 4-1-03
bill/subject

Because I don't feel that this committee can truly "HEAR" what people ^{are} ~~are~~ ^{testifying} saying, I'd like to make this written comment.

- Please strike lines 8-14 due to the fact that we are now failing to comply with UN resolutions.
- Please add "are prepared" to line 1 of page 2.
- Please strike lines 3-5 of page 2 as this is part of their jobs as warriors and is redundant.
- Please strike "President George W. Bush" from line 7 and replace it with "our troops."

People in Homer who are demonstrating their right to assembly are starting to be threatened for their stand. Please find a less divisive resolution.

Signed: Alana L. Grear
Testifier Alana L. Grear

Representing (Optional)
515 Rangeview, Homer AK 99603
Address
907-235-3227
Phone No.

COVER SHEET

Anchorage Legislative Information Office
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To: Senate State Affairs

Atten: Chair: Sen. Stevens Fax: 465-3517 Phone: _____

From: _____ Phone: _____

Instructions: Public Testimony from 4/1/03 SSTA
meeting. HR 18

Sent: _____ Date: 4/1/03 Time: _____

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Number of Pages: 3 (counting cover sheet)

Transmitted by: Anc. LIO

March 27, 2003

RE: HJR 18 Supporting Military Action Against Iraq

Dear Alaska State Legislators,

Thank you for this opportunity to present my testimony today.

My name is Christopher Riggio and I live in Anchorage, Alaska, a resident of Alaska since 1993. I am also a former officer in the United States Air Force and I served in the Middle East during the Persian Gulf War in 1990 and 1991. I have seen war and I am against the blind use of violence to solve international problems.

I am here today on behalf of the Iraqi people, the American troops and their families, and the millions of Americans who cannot be here today to speak out against this war in Iraq. More specifically, I am here today to voice my strong opposition to HJR 18. This invasion of Iraq is immoral, illegal, and unjust. This war is also in violation of international law, as well as the United Nations Charter. President Bush's arguments for this inappropriate use of force are illegitimate and unsupported by facts. I urge you to consider the grim realities of this conflict – that this is a war about oil and imperialism.

I am deeply saddened by the amount of suffering and death that is occurring right now, as I speak. For example, just one week ago, it was reported that one group of U.S. soldiers came upon a large group of wounded Iraqi soldiers, women, and children who begged for help as every one of these people suffered from multiple wounds and every one of them had lost at least one limb. In the Anchorage Daily News late last week, a photo of coffins with dead U.S. soldiers, draped with the U.S. flag. Also in the newspaper, reports of the World getting angrier at the United States for this immoral war. Matters are not getting better – they are only getting worse.

Why is the world angry at us? Because we did not give inspections a chance. Because the Bush Administration was so bent on war that they did not do all they could to pursue a peaceful solution. The world is angry because we have violated international law. And because we have acted preemptively, without just cause. Iraq did not pose an immediate threat, had not attacked us, nor had they threatened to attack us.

Why does it appear that so many Americans support this war? This I would credit to the impressive marketing job that the Bush Administration and its corporate media connections have sold to Americans. Already, Exxon-Mobil, Shell, Haliburton, Bechtel, and other American corporations with close connections to the Administration are signing contracts for oil and for re-construction. And all of this is coming out of our pockets. Bomb them, using U.S. taxpayer dollars, then re-build them with U.S. taxpayer dollars. And you and I, as well as this State, will suffer because of this. But this suffering is insignificant compared to that of the Iraqi people, U.S. soldiers, and Americans who have been hurt, traumatized, and scarred by this horrific genocide that is occurring as we speak. As you should know, the cost of this war does not and will not end with the end of the actual conflict and re-building. There will be hundreds of thousands of emotionally and physically wounded human

beings who will suffer from this war for the rest of their lives. People devastated by the losses of loved ones. Waters poisoned by the chemicals of burning oil, U.S. bombs, and U.S. depleted uranium, currently being used on Iraqi people.

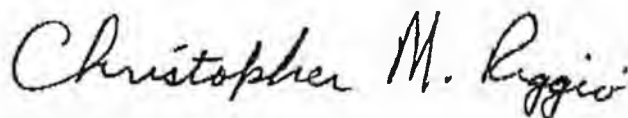
Over one week ago, Congress nearly unanimously passed a resolution similar to HJR 18 supporting the war and supporting the troops. But less than one week earlier, Congress also passed a bill drastically cutting support to the Veterans Administration which is already limping along and unable to support all of its several million veterans from WWII, Korea, Vietnam, Gulf War I, and the hundreds of other U.S. military actions occurring throughout the world such as those in Panama, Grenada, Somalia – the list goes on. And we still haven't figured out what is wrong with the thousands of veterans suffering from the Gulf War Syndrome. Who are we supporting with these ridiculous resolutions? It really is the Bush Administration and the multinational corporations lined up at the feeding trough for a piece of Iraq who we are supporting. And yet there will be thousands of U.S. veterans from this war who will need help dealing with the physical and emotional problems resulting, but they will likely be abandoned by their country at that point.

Let's support our troops by calling an end to this illegal war, and stopping the killing, both of Iraqi citizens, Iraqi military, and U.S. soldiers. Let us end this slaughter, this bloodshed, and destruction of life on earth. Let the inspections work. Let's act like a global citizen instead of a global tyrant. Let us work with the international community, instead of unilaterally and against it.

Again, I urge you to end debate on HJR 18 and shelve this proposal for eternity. I strongly encourage you have a backbone – unlike our Congress – and stand up for what is right and just, and pass a resolution condemning this destructive war. Please, for the sake of human life, our children, and our earth, do what is right instead of blindly following the man in charge just because he is the President.

I, for one, vote for peace and true democracy now. Please join me.

Respectfully,



Christopher M. Riggio, PE
Veteran, Persian Gulf War
Former Captain, USAF
4031 Woronzof Drive
Anchorage, Alaska 99517
(907)245-1967

Page 1 of 2
Robert Ward

March 27 2003

To the Senate State Affairs Committee

I ~~strongly~~ strongly object to the wording of HJR 18. If it is the intent of the legislative body in Juneau to send a message of support to our troops currently engaged in deadly fighting in Iraq and around the globe, then sections of this resolution must be removed. I feel it is a disservice to our men and women in uniform to link them in this single document to the many questionable actions taken by the President and his administration. Also, by being resolved to support President Bush in this document you are implying a support for the President's policies as they pertain to this war and as they pertain to our Service men and women and the Veterans of past service to our country.

In my view, the President himself shows little support for our troops when he asks Congress for a tax cut of over ^{1.4 TRILLION} 800 million dollars while at the same time allows the Veterans health care system to continue to be underfunded. The VFW's commander in chief Ray Sisk states " With an aging veteran population in need of health care and with 200,000 vets waiting 6 months or more for their FIRST appointment in VA, the health care system which veterans have come to depend on remains unable to respond to all of their needs." VFW officials estimate that the VA budget is at least 2 billions dollars short of what is needed. Is this how the President shows support for our troops? The President also wants to cut dissability payments to retired veterans by deducting from their retirement pay the amounts paid by their dissability coverage. The President is also proposing cuts in the funding of education for the children of our Military men and women. Is this how the President supports our troops?

I believe also that it is a disservice to our Service men and women to link them in this document to the illegal actions of our President as recognized by the United Nations and by the vast majority of world governments. Under fundamental international law, military force is permissable only in self-defense or when authorized by the UN Security Council. The

President's new doctrine of "preventive war" has no legitimacy under international law. We've heard a great deal about UN Res 1441. The President has often referred to Iraq being in material breach of this resolution and claims authorization in this resolution to use force to enforce Iraqi compliance. It is fraudulent to claim that 1441 automatically provided for the use of force. Force can only be authorized by the Security Council under Article 42 of the UN charter. The US did not obtain this authorization. The Council cannot cede that decision to individual member states. How many times have we heard the "in material breach of UN 1441" as a pretext to war? If the President wants to use non-compliance to UN resolutions as cause for war, then perhaps he should look at the record of Israel. Between 1967 and 2000, Israel has been the subject of 138 UN resolutions, most notably UN res. 242.

Our President has also resorted to deception and outright lies in his attempt to "sell" this war to the skeptical American public and people throughout the world. He has tried to imbed in the minds of Americans a connection between Iraq and the tragedy of 9-11. Not a shred of credible evidence was produced. Forged documents were presented accusing Iraq of buying materials from Niger which could be used to produce nuclear weapons. When these documents were turned over to the Iraq Nuclear Verification Office, in a matter of a few hours they were deemed to be forgeries.

In his desperate attempt to win Security Council votes in the UN, our President allowed the bugging and wiretapping of the offices of countries on the Security Council to gain intelligence on their thinking.

Secretary of State Colin Powell, in his arguments to the Security Council used plagiarized documents from a doctoral thesis that was 10 years old and tried to pawn them off as current intelligence.

Time and again we hear about Sadam's use of chemical weapons on his own people and how deplorable this is. Our own President Reagan, Vice President Bush, and Donald Rumsfeld are no less accountable for these atrocities as they provided these deadly materials to Sadam themselves! Is that NOT deplorable? What did they think he would do with these materials?

The continued imposition of double standards and the application

of hypocritical policies by this President cause me tremendous embarrassment as an American. George Bush has placed our beloved sons and daughters in harms way and has engaged them in an illegal war that goes unsupported by most of the countries in this world including many of our longstanding allies. George Bush has wrecklessly squandered worldwide support for us in the aftermath of the 9-11 attacks. George Bush has deemed the Greatest International body of diplomacy in history to be irrelevant. George Bush has fractured NATO. George Bush has alienated Americans from the rest of the world. George Bush has NOT created a safer world as he proclaims.

If it is the intent of the legislative body of the State of Alaska to show support for our Military personell, I strongly urge you to remove the linkage to the support of the President in these matters. The information I shared with you are not just words. These are documented facts.

Many years ago, Albert Einstein said " Never do anything against conscience, even if the state demands it." Do not jump onto the bandwagon of blind patriotism solely for political expediency. It is your patriotic duty to search for the truth with regards to the policies of our nation and the implimentation of them. Be open to the truth and let your conscience guide you. If you sign onto this resolution as it is, it is your own integrity in full public view that is at stake.

Honor the men and women of our Military. Their bravery. Their sacrifice. Honor them and remove the wording that includes support for the President in this document.

Thank You for listening. Robert F. Ward, Homer, Alaska.

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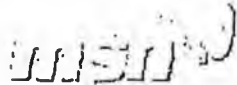
SSTA 4/1 hearing on HJR18

Submitted by Kate Finn

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 CC : "Rep. Kevin Meyer" <Representative_Kevin_Meyer@legis.state.ak.us>, ombudsman <ombudsman@npr.org>
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Fairbanks Coalition for Peace and Justice Resolution in Honor of the Men and Women of the United States Armed Forces and in Support of Peace and Justice in Iraq, the United States and All Nations.

On this 28th Day of March, 2003,

BE IT NOW RESOLVED BY THE FAIRBANKS COALITION FOR PEACE AND JUSTICE:

WHEREAS the men and women of the United States Armed Forces have been sent into battle in Iraq; and

WHEREAS the men and women of the United States Armed Forces must sacrifice their personal safety in duty and service to their country; and

WHEREAS the men and women of the United States Armed Forces have made the ultimate sacrifice; and

WHEREAS the men and women of the United States Armed Forces must leave their families, their spouses, partners and children, for an uncertain and prolonged period of time; and

WHEREAS the men and women of the United States Armed Forces believe that they are fighting for the liberation of the Iraqi people; and

WHEREAS the men and women of the United States Armed Forces may be required to remain in Iraq for several years to assist in the restoration of peace and rebuilding of the nation's infrastructure;

THEREFORE BE IT RESOLVED that the Fairbanks Coalition for Peace and Justice honors the brave men and women engaged in the conflict in Iraq; and be it

Submitted by Kate Finn

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will continue to work for a swift resolution to the conflict so as to minimize all loss of life; and be it

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will steadfastly petition our nation's government to honor its commitment to the men and women of the United States Armed Forces to provide full health care, disability pay, education and all other just and equitable benefits to our veterans and their families.

FURTHERMORE:

WHEREAS the present conflict in Iraq is neither just nor legal under recognized international law; and

WHEREAS the President of the United States and his administration did enter into this unjust and illegal conflict willfully; and

WHEREAS the President of the United States and his administration did undermine the diplomatic processes of the United Nations by knowingly providing false documents and incomplete intelligence regarding Iraq's possession of weapons of mass destruction; and

WHEREAS the President of the United States and his administration promoted the unsubstantiated notion that Iraq was linked to the September 11 terrorist acts; and

WHEREAS the President of the United States and his administration did circumvent the United Nations inspections and declare a so-called "preventive war" on Iraq when that nation offered no clear and present danger to the United States;

BE IT HEREBY RESOLVED that the Fairbanks Coalition for Peace and Justice believes these actions of the President of the United States and his administration to be impeachable offenses; and be it

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will join the rest of the world in demanding a full accounting of the loss of life, both military and civilian; and be it

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will work for electoral reform to provide honest representation of the will of the People of the United States; and be it

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will steadfastly petition that the United States Congress shall adequately fund all necessary humanitarian aid to the people of Iraq and shall pay for the reconstruction of all damage to the Iraqi infrastructure; and be it

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will join the rest of the world in calling upon the United States government to involve the

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United Nations fully in the reconstruction of Iraq's government, economy and infrastructure; and be it

FURTHER RESOLVED that the Fairbanks Coalition for Peace and Justice will continue to work for peace and justice in Iraq, the United States and all nations, thereby ensuring that the men and women of the United States Armed Forces will never again sacrifice their lives and health in an unjust and illegal attack on any nation.

COPIES of this resolution shall be sent to the Honorable Kofi Annan, Secretary-General of the United Nations; the Honorable Jacques Chirac, President of France; the Honorable Gerhard Schröder, Federal Chancellor of Germany; the Honorable Vladimir Putin, President of Russia; the Honorable Tony Blair, Prime Minister of the United Kingdom; the Honorable George W. Bush, President of the United States; the Honorable Richard B. Cheney, Vice-President of the United States and President of the U.S. Senate; the Honorable Bill Frist, Majority Leader of the U.S. Senate; the Honorable Thomas Daschle, Minority Leader of the U.S. Senate; the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; the Honorable Nancy Pelosi, Minority Leader of the U.S. House of Representatives; General Tommy Franks, Commander-in-Chief, U.S. Central Command; and to the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Vive la resistance! Stacey Fritz Coordinador, No Nukes North PO Box 84997
Fairbanks, AK 99708 (907) 457 -5230 cell (907) 388-3846 info@nonukesnorth.net

North Star Media Institute NSMI / BDP
Anchorage, Alaska 99511-1284
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SUBMITTED BY KATE FINN
ANCHORAGE POINT AK 99556

HJR

22

SENATE COMMITTEE REPORT

DATE: 5/13/03

FURTHER:

DATE TURNED
IN TO OFFICE: 5/14/03

State Affairs Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 22(RLS)

HJR 22 PATRIOT ACT AND DEFENDING CIVIL LIBERTIES

Relating to the USA PATRIOT Act, the Bill of Rights, the Constitution of the State of Alaska, and the civil liberties, peace, and security of the citizens of our country.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
LAW	5/6/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>				
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	X			

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CRS Report for Congress

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The USA PATRIOT Act: A Legal Analysis

April 15, 2002

Charles Doyle
Senior Specialist
American Law Division

The USA PATRIOT Act: A Legal Analysis

Summary

The USA PATRIOT Act passed in the wake of the September 11 terrorist attacks. It flows from a consultation draft circulated by the Department of Justice, to which Congress made substantial modifications and additions. The stated purpose of the Act is to enable law enforcement officials to track down and punish those responsible for the attacks and to protect against any similar attacks.

The Act grants federal officials greater powers to trace and intercept terrorists' communications both for law enforcement and foreign intelligence purposes. It reenforces federal anti-money laundering laws and regulations in an effort to deny terrorists the resources necessary for future attacks. It tightens our immigration laws to close our borders to foreign terrorists and to expel those among us. Finally, it creates a few new federal crimes, such as the one outlawing terrorists' attacks on mass transit; increases the penalties for many others; and institutes several procedural changes, such as a longer statute of limitations for crimes of terrorism.

Critics have suggested that it may go too far. The authority to monitor e-mail traffic, to share grand jury information with intelligence and immigration officers, to confiscate property, and to irapose new book-keeping requirements on financial institutions, are among the features troubling to some.

The Act itself responds to some of these reservations. Many of the wiretapping and foreign intelligence amendments sunset on December 31, 2005. The Act creates judicial safeguards for e-mail monitoring and grand jury disclosures; recognizes innocent owner defenses to forfeiture; and entrusts enhanced anti-money laundering powers to those regulatory authorities whose concerns include the well being of our financial institutions.

This report, stripped of its citations and footnotes, is available in an abbreviated form as *The USA PATRIOT Act: A Sketch*, CRS REP.NO. RS21203. In addition, much of the information contained here may also be found under a different arrangement in a report entitled, *Terrorism: Section by Section Analysis of the USA PATRIOT Act*, CRS REP.NO. RL31200 (Dec. 10, 2001). A wider array of terrorism-related analysis appears on the CRS terrorism electronic briefing book page.

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The USA PATRIOT Act: A Legal Analysis

Introduction

Congress passed the USA PATRIOT Act (the Act) in response to the terrorists' attacks of September 11, 2001.¹ The Act gives federal officials greater authority to track and intercept communications, both for law enforcement and foreign intelligence gathering purposes. It vests the Secretary of the Treasury with regulatory powers to combat corruption of U.S. financial institutions for foreign money laundering purposes. It seeks to further close our borders to foreign terrorists and to detain and remove those within our borders. It creates new crimes, new penalties, and new procedural efficiencies for use against domestic and international terrorists. Although it is not without safeguards, critics contend some of its provisions go too far. Although it grants many of the enhancements sought by the Department of Justice, others are concerned that it does not go far enough.

The Act originated as H.R.2975 (the PATRIOT Act) in the House and S.1510 in the Senate (the USA Act).² S.1510 passed the Senate on October 11, 2001, 147 *Cong.Rec.* S10604 (daily ed.). The House Judiciary Committee reported out an amended version of H.R. 2975 on the same day, H.R.Rep.No. 107-236. The House passed H.R. 2975 the following day after substituting the text of H.R. 3108, 147 *Cong.Rec.* H6775-776 (daily ed. Oct. 12, 2001). The House-passed version incorporated most of the money laundering provisions found in an earlier House bill, H.R. 3004, many of which had counterparts in S.1510 as approved by the Senate.³ The House subsequently passed a clean bill, H.R. 3162 (under suspension of the rules), which resolved the differences between H.R. 2975 and S.1510, 147 *Cong.Rec.* H7224 (daily ed. Oct. 24, 2001). The Senate agreed, 147 *Cong.Rec.* S10969 (daily

¹ P.L. 107-56, 115 Stat. 272 (2001); its full title is the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT)."

² H.R. 2975 was introduced by Representative Sensenbrenner for himself and Representatives Conyers, Hyde, Coble, Goodlatte, Jenkins, Jackson-Lee, Cannon, Meehan, Graham, Bachus, Wexler, Hostettler, Keller, Issa, Hart, Flake, Schiff, Thomas, Goss, Rangel, Berman and Lofgren; S.1510 by Senator Daschle for himself and Senators Lott, Leahy, Hatch, Graham, Shelby and Sarbanes.

³ H.R. 3004 was introduced by Representative Oxley for himself and Representatives LaFalce, Leach, Maloney, Roukema, Bentsen, Hooley, Bereuter, Baker, Bachus, King, Kelly, Gillmore, Cantor, Riley, Latourette, Green (of Wisconsin), and Grucci; and reported out of the House Financial Services Committee with amendments on October 15, 2001, H.R.Rep.No. 107-250. H.R. 3004, as reported out, included Internet gambling amendments that were not included in H.R. 2975/H.R.3108.

ed. Oct. 24, 2001), and H.R. 3162 was sent to the President who signed it on October 26, 2001.

Criminal Investigations: Tracking and Gathering Communications

A portion of the Act addresses issues suggested originally in a Department of Justice proposal circulated in mid-September.⁴ The first of its suggestions called for amendments to federal surveillance laws, laws which govern the capture and tracking of suspected terrorists' communications within the United States. Federal law features a three tiered system, erected for the dual purpose of protecting the confidentiality of private telephone, face-to-face, and computer communications while enabling authorities to identify and intercept criminal communications.⁵

The tiers reflected the Supreme Court's interpretation of the Fourth Amendment's ban on unreasonable searches and seizures.⁶ The Amendment protects private conversations, *Berger v. New York*, 388 U.S. 41 (1967); *Katz v. United States*, 389 U.S. 347 (1967). It does not cloak information, even highly personal information, for which there is no individual justifiable expectation of privacy, such as telephone company records of calls made to and from an individual's home, *Smith v. Maryland*, 442 U.S. 735 (1979), or bank records of an individual's financial dealings, *United States v. Miller*, 425 U.S. 435 (1976).

Congress responded to *Berger* and *Katz*, with Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. 2510-2522 (Title III). Title III, as amended, generally prohibits electronic eavesdropping on telephone conversations, face-to-face conversations, or computer and other forms of electronic communications, 18 U.S.C. 2511.⁷ At the same time, it gives authorities a narrowly defined process for electronic surveillance to be used as a last resort in serious

⁴ The Department's proposal, dated September 20, 2001, came with a brief section by section analysis. Both the proposal (*Draft*) and analysis (*DoJ*) were printed as an appendix in *Administration's Draft Anti-Terrorism Act of 2001, Hearing Before the House Comm. on the Judiciary*, 107th Cong., 1st Sess. 54 (2001).

⁵ For a general discussion of federal law in the area prior to enactment of the Act, see, Stevens & Doyle, *Privacy: An Overview of Federal Statutes Governing Wiretapping and Electronic Eavesdropping*, CRS REP.NO. 98-327A (Aug. 8, 2001); Fishman & McKenna, *WIRETAPPING AND EAVESDROPPING* (2d ed. 1995 & 2001 Supp.).

⁶ "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized," *U.S. Const.* Amend. IV.

⁷ Although there are technical differences, the interception processes are popularly known as wiretapping, electronic eavesdropping, or electronic surveillance. The terms are used interchangeable here for purposes of convenience, but strictly speaking, wiretapping is limited to the mechanical or electronic interception of telephone conversations, while electronic eavesdropping or electronic surveillance refers to mechanical or electronic interception of communications generally.

criminal cases. When approved by senior Justice Department officials,⁸ law enforcement officers may seek a court order authorizing them to secretly capture conversations concerning any of a statutory list of offenses (predicate offenses), 18 U.S.C. 2516.⁹

⁸ "The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of' one or more predicate offense, 18 U.S.C. 2516.

⁹ The predicate offense list includes (a) felony violations of 42 U.S.C. 2274 through 2277 (enforcement of the Atomic Energy Act of 1954), 42 U.S.C. 2284 (sabotage of nuclear facilities or fuel), or of 18 U.S.C. ch. 37 (espionage), ch. 90 (protection of trade secrets), ch. 105 (sabotage), ch. 115 (treason), ch. 102 (riots), ch. 65 (malicious mischief), ch. 111 (destruction of vessels), or ch. 81 (piracy); (b) a violation of 29 U.S.C. 186 or 501(c) (restrictions on payments and loans to labor organizations), or any offense which involves murder, kidnapping, robbery, or extortion, and which is punishable under title 18 of the United States Code; (c) any offense which is punishable under 18 U.S.C. 201 (bribery of public officials and witnesses), 215 (bribery of bank officials), 224 (bribery in sporting contests), 844 (d), (e), (f), (g), (h), or (i) (unlawful use of explosives), 1032 (concealment of assets), 1084 (transmission of wagering information), 751 (escape), 1014 (loans and credit applications generally; renewals and discounts), 1503, 1512, and 1513 (influencing or injuring an officer, juror, or witness generally), 1510 (obstruction of criminal investigations), 1511 (obstruction of State or local law enforcement), 1751 (presidential and presidential staff assassination, kidnaping, or assault), 1951 (interference with commerce by threats or violence), 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), 1958 (use of interstate commerce facilities in the commission of murder for hire), 1959 (violent crimes in aid of racketeering activity), 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), 1955 (prohibition of business enterprises of gambling), 1956 (laundering of monetary instruments), 1957 (engaging in monetary transactions in property derived from specified unlawful activity), 659 (theft from interstate shipment), 664 (embezzlement from pension and welfare funds), 1030 (*computer abuse felonies*), 1343 (fraud by wire, radio, or television), 1344 (bank fraud), 2251 and 2252 (sexual exploitation of children), 2312, 2313, 2314, and 2315 (interstate transportation of stolen property), 2321 (trafficking in certain motor vehicles or motor vehicle parts), 1203 (hostage taking), 1029 (fraud and related activity in connection with access devices), 3146 (penalty for failure to appear), 3521(b)(3) (witness relocation and assistance), 32 (destruction of aircraft or aircraft facilities), 38 (aircraft parts fraud), 1963 (violations with respect to racketeer influenced and corrupt organizations), 115 (threatening or retaliating against a Federal official), 1341 (mail fraud), 351 (violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, or assault), 831 (prohibited transactions involving nuclear materials), 33 (destruction of motor vehicles or motor vehicle facilities), 175 (biological weapons), 1992 (wrecking trains), a felony violation of 1028 (production of false identification documentation), 1425 (procurement of citizenship or nationalization unlawfully), 1426 (reproduction of naturalization or citizenship papers), 1427 (sale of naturalization or citizenship papers), 1541 (passport issuance without authority), 1542 (false statements in passport applications), 1543 (forgery or false use of passports), 1544 (misuse of passports), or 1546 (fraud and misuse of visas, permits, and other documents); (d) any

Title III court orders come replete with instructions describing the permissible duration and scope of the surveillance as well as the conversations which may be seized and the efforts to be taken to minimize the seizure of innocent conversations, 18 U.S.C. 2518. The court notifies the parties to any conversations seized under the order after the order expires, 18 U.S.C. 2518(8).

Below Title III, the next tier of privacy protection covers some of those matters which the Supreme Court has described as beyond the reach of the Fourth Amendment protection – telephone records, e-mail held in third party storage, and the like, 18 U.S.C. 2701-2709 (Chapter 121). Here, the law permits law enforcement access, ordinarily pursuant to a warrant or court order or under a subpoena in some cases, but in connection with *any* criminal investigation and without the extraordinary levels of approval or constraint that mark a Title III interception, 18 U.S.C. 2703.

Least demanding and perhaps least intrusive of all is the procedure that governs court orders approving the government's use of trap and trace devices and pen registers, a kind of secret "caller id", which identify the source and destination of calls made to and from a particular telephone, 18 U.S.C. 3121-3127 (Chapter 206). The orders are available based on the government's certification, rather than a finding of the court, that the use of the device is likely to produce information relevant to the investigation of a crime, any crime, 18 U.S.C. 3123. The devices record no more than the identity of the participants in a telephone conversation,¹⁰ but neither the orders nor the results they produce need ever be revealed to the participants.

The Act modifies the procedures at each of the three levels. It:

offense involving counterfeiting punishable under 18 U.S.C. 471, 472, or 473; (e) any offense involving fraud connected with a case under title 11 or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States; (f) any offense including extortionate credit transactions under 18 U.S.C. 892, 893, or 894; (g) a violation of 31 U.S.C. 5322 (dealing with the reporting of currency transactions); (h) any felony violation of 18 U.S.C. 2511 and 2512 (interception and disclosure of certain communications and to certain intercepting devices); (i) any felony violation of 18 U.S.C. ch. 71 (obscenity); (j) 49 U.S.C. 60123(b) (destruction of a natural gas pipeline), 46502 (aircraft piracy); (k) 22 U.S.C. 2778 (Arms Export Control Act); (l) the location of any fugitive from justice from an offense described in this section; (m) a violation of 8 U.S.C. 1324, 1327, or 1328; (n) any felony violation of 18 U.S.C. 922, 924 (firearms); (o) any violation of 26 U.S.C. 5861 (firearms); (p) a felony violation of 18 U.S.C. 1028 (production of false identification documents), 1542 (false statements in passport applications), 1546 (fraud and misuse of visas, permits, and other documents) or a violation of 8 U.S.C. 1324, 1327, or 1328 (smuggling of aliens); (p) 229 (*chemical weapons*), 2332 (*terrorist violence against Americans overseas*), 2332a (*weapons of mass destruction*), 2332b (*multinational terrorism*), 2332d (*financial transactions with countries supporting terrorism*), 2339A (*support of terrorist*), 2332B (*support of terrorist organizations*); (r) any conspiracy to commit any of these, 18 U.S.C. 2516(1)(crimes added by the Act in italics). Other than telephone face to face conversations (*i.e.*, electronic communications), the approval of senior Justice Department officials is not required and an order may be sought in any felony investigation, 18 U.S.C. 2516(3).

¹⁰ Or more precisely, they reveal no more than the identity of the numbers assigned to the telephone lines activated for a particular communication.

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- permits pen register and trap and trace orders for electronic communications (e.g., e-mail)
- authorizes nationwide execution of court orders for pen registers, trap and trace devices, and access to stored e-mail or communication records
- treats stored voice mail like stored e-mail (rather than like telephone conversations)
- permits authorities to intercept communications to and from a trespasser within a computer system (with the permission of the system's owner)
- adds terrorist and computer crimes to Title III's predicate offense list
- reinforces protection for those who help execute Title III, ch. 121, and ch. 206 orders
- encourages cooperation between law enforcement and foreign intelligence investigators
- establishes a claim against the U.S. for certain communications privacy violations by government personnel
- terminates the authority found in many of these provisions and several of the foreign intelligence amendments with a sunset provision (Dec. 31, 2005).

Pen Registers and Trap and Trace Devices. In section 216, the Act allows court orders authorizing trap and trace devices and pen registers to be used to capture source and addressee information for computer conversations (e.g., e-mail) as well as telephone conversations, 18 U.S.C. 3121, 3123. In answer to objections that e-mail header information can be more revealing than a telephone number, it creates a detailed report to the court, 18 U.S.C. 3123(a)(3).¹¹

¹¹ "Where the law enforcement agency implementing an ex parte order under this subsection seeks to do so by installing and using its own pen register or trap and trace device on a packet-switched data network of a provider of electronic communication service to the public the agency shall ensure that a record will be maintained which will identify – (i) any officer or officers who installed the device and any officer or officers who accessed the device to obtain information from the network; (ii) the date and time the device was installed, the date and time the device was uninstalled, and the date, time, and duration of each time the device is accessed to obtain information; (iii) the configuration of the device at the time of its installation and any subsequent modification thereof; and (iv) any information which has been collected by the device. To the extent that the pen register or trap and trace device can be set automatically to record this information electronically, the record shall be maintained electronically throughout the installation and use of the such device.

"(B) The record maintained under subparagraph (A) shall be provided ex parte and under seal to the court which entered the ex parte order authorizing the installation and use of the device within 30 days after termination of the order (including any extensions thereof)," section 216(b)(1).

The use of pen registers or trap and trace devices was limited at one time to the judicial district in which the order was issued, 18 U.S.C. 3123 (2000 ed.). Under section 216, a court with jurisdiction over the crime under investigation may issue an order to be executed anywhere in the United States, 18 U.S.C. 3123(b)(1)(C), 3127(2).¹²

Communications Records and Stored E-Mail. With respect to chapter 126, relating among other things to the content of stored e-mail and to communications records held by third parties, the law permits criminal investigators to retrieve the content of electronic communications in storage, like e-mail, with a search warrant, and if the communication has been in remote storage for more than 180 days without notifying the subscriber, 18 U.S.C. 2703(a),(b). A warrant will also suffice to seize records describing telephone and other communications transactions without customer notice 18 U.S.C. 2703(c). In the absence of the probable cause necessary for a warrant but with a showing of reasonable grounds to believe that the information sought is relevant to a criminal investigation, officers are entitled to a court order mandating access to electronic communications in remote storage for more than 180 days or to communications records, 18 U.S.C. 2703(b),(c). They can obtain a limited amount of record information (subscribers' names and addresses, telephone numbers, billing records and the like) using an administrative, grand jury, or trial court subpoena, 18 U.S.C. 2703(c)(1)(C). There is no subscriber notification in record cases. Elsewhere, the court may delay customer notification in the face of exigent circumstances or if notice is likely to seriously jeopardize the investigation or unduly delay the trial, 18 U.S.C. 2705.

In order to streamline the investigation process, the Act, in section 210, adds credit card and bank account numbers to the information law enforcement officials may subpoena from a communications service provider's customer records, 18 U.S.C. 2703(c)(1)(C).¹³

Another streamlining amendment, section 220, eliminates the jurisdictional restrictions on access to the content of stored e-mail pursuant to a court order.

¹² The Justice Department urged the change in the name of expediency, "At present, the government must apply for new pen trap orders in every jurisdiction where an investigation is being pursued. Hence, law enforcement officers tracking a suspected terrorist in multiple jurisdictions must waste valuable time and resources by obtaining a duplicative order in each jurisdiction," *DoJ* at §101. Here and throughout citations to the United States Code (U.S.C.) without reference to an edition refer to the current Code; references to the 2000 edition of the Code refer to the law prior to amendment by the Act.

¹³ Prior to the amendment, "investigators [could] not use a subpoena to obtain such records as credit card number or other form of payment. In many cases, users register with Internet service providers using false names, making the form of payment critical to determining the user's true identity. . . . this information [could] only be obtained by the slower and more cumbersome process of a court order. In fast-moving investigation[s] such as terrorist bombings—in which Internet communications are a critical method of identifying conspirators and in determining the source of the attacks—the delay necessitated by the use of court orders can often be important. Obtaining billing and other information can identify not only the perpetrator but also give valuable information about the financial accounts of those responsible and their conspirators," *DoJ* at §107.

Previously, only a federal court in the district in which the e-mail was stored could issue the order. Under section 220, federal courts in the district where an offense under investigation occurred may issue orders applicable "without geographic limitation," 18 U.S.C. 2703.¹⁴

The Act, in section 209, treats voice mail like e-mail, that is, subject to the warrant or court order procedure, rather than to the more demanding coverage of Title III once required, *United States v. Smith*, 155 F.3d 1050, 1055-56 (9th Cir. 1998).

Finally, the Act resolves a conflict between chapter 121 and the federal law governing cable companies. Government entities may have access to cable company customer records only under a court order following an adversary hearing if they can show that the records will evidence that the customer is or has engaged in criminal activity, 47 U.S.C. 511(h). When cable companies began offering telephone and other communications services the question arose whether the more demanding cable rules applied or whether law enforcement agencies were entitled to *ex parte* court orders under the no-notice procedures applicable to communications providers.¹⁵ The Act makes it clear that the cable rules apply when cable television viewing services are

¹⁴ Speaking of the law before amendment, DoJ explained, "Current law requires the government to use a search warrant to compel a provider to disclose unopened e-mail. 18 U.S.C. §2703(a). Because Federal Rule of Criminal Procedure 41 requires that the 'property' to be obtained 'be within the district' of the issuing court, however, the rule may not allow the issuance of §2703(a) warrants for e-mail located in other districts. Thus, for example, where an investigator in Boston is seeking electronic e-mail in the Yahoo! account of a suspected terrorist, he may need to coordinate with agents, prosecutors, and judges in the Northern District of California, none of whom have any other involvement in the investigation. This electronic communications information can be critical in establishing relationships, motives, means, and plans of terrorists. Moreover, it is equally relevant to cyber-incidents in which a terrorist motive has not (but may well be) identified. Finally, even cases that require the quickest response (kidnappings, threats, or other dangers to public safety or the economy) may rest on evidence gathered under §2703(a). To further public safety, this section accordingly authorizes courts with jurisdiction over investigations to compel evidence directly, without requiring the intervention of their counterparts in other districts where major Internet service providers are located," *DoJ* at §108.

¹⁵ *See e.g.*, *DoJ* at §109 ("Law enforcement must have the capability to trace, intercept, and obtain records of the communications of terrorists and other criminals with great speed, even if they choose to use a cable provider for their telephone and Internet service. This section amends the Cable Communications Policy Act ('Cable Act') to clarify that when a cable company acts as a telephone company or an Internet service provider, it must comply with the same laws governing the interception and disclosure of wire and electronic communications that apply to any other telephone company or Internet service provider. The Cable Act, passed in 1984 to regulate various aspects of the cable television industry, could not take into account the changes in technology that have occurred over the last seventeen years. Cable television companies now often provide Internet access and telephone service in addition to television programming. Because of perceived conflicts between the Cable Act and laws that govern law enforcement's access to communications and records of communications carried by cable companies, cable providers have refused to comply with lawful court orders, thereby slowing or ending critical investigations").

involved and that the communications rules of chapter 121 apply when a cable company or anyone else provides communications services, section 211.

Electronic Surveillance. To Title III's predicate offense list, the Act adds cybercrime (18 U.S.C. 1030) and several terrorists crimes, sections 201, 202.¹⁶ A second cybercrime initiative, section 217, permits law enforcement officials to intercept the communications of an intruder within a protected computer system (*i.e.*, a system used by the federal government, a financial institution, or one used in interstate or foreign commerce or communication), without the necessity of a warrant or court order, 18 U.S.C. 2511(2)(i). Yet only the interloper's intruding communications, those to or from the invaded system, are exposed under the section. The Justice Department originally sought the change because the law then did not clearly allow victims of computer trespassing to request law enforcement assistance in monitoring unauthorized attacks as they occur.¹⁷

Criminal Investigators' Access to Foreign Intelligence Information.

The Act clearly contemplates closer working relations between criminal investigators and foreign intelligence investigators, particular in cases of international terrorism.¹⁸ It amends the Foreign Intelligence Surveillance Act (FISA) to that end. As originally enacted, the application for a surveillance order under FISA required certification of the fact that "*the purpose for the surveillance is to obtain foreign intelligence information,*" 50 U.S.C. 1804(a)(7)(B)(2000 ed.) (emphasis added), although it anticipated that any evidence divulged as a result might be turned over to law enforcement officials. Defendants often questioned whether authorities had used a FISA surveillance order against them in order to avoid the predicate crime threshold for a Title III order. Out of these challenges arose the notion that perhaps "the purpose" might not always mean the sole purpose. The case law indicated that, while an expectation that evidence of a crime might be discovered did not preclude a FISA order, at such time as a criminal prosecution became the focus of the investigation

¹⁶ 18 U.S.C. 229 (chemical weapons), 2332(terrorist acts of violence committed against Americans overseas), 2332a(use of weapons of mass destruction), 2332b(acts of terrorism transcending national boundaries), 2332d(financial transactions with countries which support terrorists), 2339A(providing material support to terrorists), and 2339B(providing material support to terrorist organizations).

¹⁷ "Because service providers often lack the expertise, equipment, or financial resources required to monitor attacks themselves as permitted under current law, they often have no way to exercise their rights to protect themselves from unauthorized attackers. Moreover, such attackers can target critical infrastructures and engage in cyberterrorism," *DoJ* at §106. Elsewhere the Act defines "electronic surveillance" for purposes of the Foreign Intelligence Surveillance Act (FISA) to emphasize that the law enforcement authority for this intruder surveillance does not confer similar authority for purposes of foreign intelligence gathering, section 1003 (50 U.S.C. 1801(f)(2)).

¹⁸ For a general discussion of federal intelligence and law enforcement cooperation, *see*, Best, *Intelligence and Law Enforcement: Countering Transnational Threats to the U.S.*, CRS REP.NO. RL30252 (Dec. 3, 2001).

officials were required to either end surveillance or secure an order under Title III.¹⁹

The Justice Department sought FISA surveillance and physical search authority on the basis of "a" foreign intelligence purpose.²⁰ Section 218 of the Act insists that foreign intelligence gathering be a "significant purpose" for the request for the FISA surveillance or physical search order, 50 U.S.C. 1804(a)(7)(B), 1823(a)(7)(B), a more

¹⁹ Before FISA, several lower federal courts recognized a foreign intelligence exception to the Fourth Amendment's warrant clause. It is here that the "primary purpose" notion originated. In *United States v. Truong Dinh Hung*, 629 F.2d 908, 915 (4th Cir. 1980), decided after FISA on the basis of pre-existing law, the court declared, "as the district court ruled, the executive should be excused from securing a warrant only when the surveillance is conducted 'primarily' for foreign intelligence reasons. We think that the district court adopted the proper test, because once surveillance becomes primarily a criminal investigation, the courts are entirely competent to make the usual probable cause determination, and because, importantly, individual privacy interests come to the fore and government foreign policy concerns recede when the government is primarily attempting to form the basis for a criminal prosecution." Subsequent case law, however, is not as clear as it might be: see e.g., *United States v. Duggan*, 743 F.2d 59, 77 (2d Cir. 1984) ("FISA permits federal officials to obtain orders authorizing electronic surveillance 'for the purpose of obtaining foreign intelligence information.' The requirement that foreign intelligence information be the primary objective of the surveillance is plain not only from the language of Sec. 1802(b) but also from the requirements in Sec. 1804 as to what the application must contain. The application must contain a certification by a designated official of the executive branch that the purpose of the surveillance is to acquire foreign intelligence information, and the certification must set forth the basis for the certifying officials's belief that the information sought is the type of foreign intelligence information described"); *United States v. Pelton*, 835 F.2d 1067, 1075-76 (4th Cir. 1987) ("We also reject Pelton's claim that the 1985 FISA surveillance was conducted primarily for the purpose of his criminal prosecution, and not primarily for the purpose of obtaining foreign intelligence information. . . . We agree with the district court that the primary purpose of the surveillance, both initially and throughout was to gather foreign intelligence information. It is clear that otherwise valid FISA surveillance is not tainted simply because the government can anticipate that the fruits of the surveillance may later be used . . . as evidence in a criminal trial"); *United States v. Sarkissian*, 841 F.2d 959, 907-8 (9th Cir. 1988) ("Defendants rely on the primary purpose test articulated in *United States v. Truong Dinh Hung*. . . . One other court has applied the primary purpose test. Another court has rejected it . . . distinguishing *Truong*. A third court has declined to decide the issue. We also decline to decide the issue"); *United States v. Johnson*, 952 F.2d 565, 572 (1st Cir. 1991) ("Appellants attack the government's surveillance on the ground that it was undertaken not for foreign intelligence purposes, but to gather evidence for a criminal prosecution. FISA applications must contain, among other things, a certification that the purpose of the requested surveillance is the gathering of foreign intelligence information. . . . Although the evidence obtained under FISA subsequently may be used in criminal prosecutions, the investigation of criminal activity cannot be the primary purpose of the surveillance").

²⁰ "Current law requires that FISA be used only where foreign intelligence gathering is the sole or primary purpose of the investigation. This section will clarify that the certification of a FISA request is supportable where foreign intelligence gathering is 'a' purpose of the investigation. This change would eliminate the current need continually to evaluate the relative weight of criminal and intelligence purposes, and would facilitate information sharing between law enforcement and foreign intelligence authorities which is critical to the success of anti-terrorism efforts," *DoJ* at §153.

demanding standard than the "a purpose" threshold proposed by the Justice Department, but a clear departure from the original "the purpose" entry point. FISA once described a singular foreign intelligence focus prerequisite for any FISA surveillance application. Section 504 of the Act further encourages coordination between intelligence and law enforcement officials, and states that such coordination is no impediment to a "significant purpose" certification, 50 U.S.C. 1806(k), 1825(k).²¹

Protective Measures. The Act reenforces two kinds of safeguards, one set designed to prevent abuse and the other to protect those who assist the government. The sunset clause is perhaps the best known of the Act's safeguards. Under the direction of section 224, many of the law enforcement and foreign intelligence authorities granted by the Act expire as of December 31, 2005.²² The Act also fills some of the gaps in earlier sanctions available for official, abusive invasions of privacy. Prior law made it a federal crime to violate Title III (wiretapping), chapter

²¹ "(k)(1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against – (A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power; (B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or (C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power. (2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 104(a)(7)(B) or the entry of an order under section 105." FISA defines "foreign power" and "agent of a foreign power" broadly, *see* note 33, *infra*, quoting, 50 U.S.C. 1801.

²² "(a) Except as provided in subsection (b), this title and the amendments made by this title (other than sections 203(a)[sharing grand jury information], 203(c)[procedures for sharing grand jury information], 205 [FBI translators], 208 [seizure of stored voice-mail], 210[subpoenas for communications provider customer records], 211[access to cable company communication service records], 213[sneak and peek], 216[pen register and trap and trace device amendments], 221[trade sanctions], and 222[assistance to law enforcement], and the amendments made by those sections) shall cease to have effect on December 31, 2005.

"(b) With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect," section 224.

The sections which expire are: 201 and 202 (adding certain terrorism crimes to the predicate list for Title III), 293(b)(sharing Title III information with foreign intelligence officers), 204 (clarifying the foreign intelligence exception to the law enforcement pen register and trap and trace device provisions), 206 (roving foreign intelligence surveillance), 207 (duration of foreign intelligence surveillance orders and extensions), 209 (treatment of voice mail as e-mail rather than as telephone conversation), 212 (service provider disclosures in emergency cases), 214 (authority for pen registers and trap and trace devices in foreign intelligence cases), 215 (production of tangible items in foreign intelligence investigations), 217 (intercepting computer trespassers' communications), 218 (foreign intelligence surveillance when foreign intelligence gathering is "a significant" reason rather than "the" reason for the surveillance), 219 (nationwide terrorism search warrants), 220 (nationwide communication records and stored e-mail search warrants), 223 (civil liability and administrative discipline for violations of Title III, chapter 121, and certain foreign intelligence prohibitions), and 225 (immunity for foreign intelligence surveillance assistance).

121 (e-mail and communications records), or chapter 206 (pen registers and trap and trace devices).²³ Victims of offenses under Title III and chapter 121 (but not chapter 206) were entitled to damages (punitive damages in some cases) and reasonable attorneys' fees,²⁴ but could not recover against the United States.²⁵ Chapter 121 alone insisted upon an investigation into whether disciplinary action ought to be taken when federal officers or employees were found to have intentionally violated its proscriptions, 18 U.S.C. 2707.

The Act augments these sanctions by authorizing a claim against the United States for not less than \$10,000 and costs for violations of Title III, chapter 121, or the Foreign Intelligence Surveillance Act (FISA), by federal officials, and emphasizing the prospect of administrative discipline for offending federal officials, section 223.

Finally, the Act instructs the Department of Justice's Inspector General to designate an official to receive and review complaints of civil liberties violations by DoJ officers and employees, section 1001.

The second category of protective measures applies to service providers and others who help authorities track and gather communications information. For example, section 815 immunizes service providers who in good faith preserve customer records at the government's request until a court order authorizing access can be obtained.²⁶ Another allows providers to disclose customer records to protect the provider's rights and property and to disclose stored customer communications and records in emergency circumstances, section 212. Under pre-existing law providers could disclose the content of stored communications but not customer records. The Justice Department recommended the changes in the interests of greater protection against cybercrimes committed by terrorists and others.²⁷ A third section,

²³ 18 U.S.C. 2511, 2701, and 3121 (2000 ed.), respectively.

²⁴ 18 U.S.C. 2520 and 2707 (2000 ed.).

²⁵ *Spock v. United States*, 464 F.Supp. 510, 514 n.2 (S.D.N.Y. 1978); *Asmar v. IRS*, 680 F.Supp. 248, 250 (E.D.Mich. 1987).

²⁶ Prior law already granted service providers immunity for disclosure of customer records in compliance with a court access order, 18 U.S.C. 2703(f).

²⁷ "Existing law contains no provision that allows providers of electronic communications service to disclose the communications (or records relating to such communications) of their customers or subscribers in emergencies that threaten death or serious bodily injury. This section amends 18 U.S.C. §2702 to authorize such disclosures if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.

"Current law also contains an odd disconnect: a provider may disclose the *contents* of the customer's communications in order to protect its rights or property but the current statute does not expressly permit a provider to voluntarily disclose *non-content* records (such as a subscriber's login records). 18 U.S.C. 2702(b)(5). This problem substantially hinders the ability of providers to protect themselves from cyber-terrorists and criminals. Yet the right to disclose the contents of communications necessarily implies the less intrusive ability to disclose non-content records. In order to promote the protection of our nation's critical infrastructures, this section's amendments allow communications providers to voluntarily disclose both content and non-content records to protect their computer systems," *DoJ* at