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that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs." What the gateway theory presents as a causal explanation is a statistical association between common and uncommon drugs. People who have used less common drugs, such as heroin, cocaine and LSD, are likely to have also used marijuana. Most marijuana users never use any other illegal drug. Indeed, for the large majority of people, marijuana is a *terminus* rather than a gateway drug (Zimmer & Morgan, 2002, p. 32).

"(5) a high percentage of adults arrested in this state for domestic violence test positive for marijuana at the time of arrest;"

This would be a meaningful statement only if the percentage of people arrested for domestic violence who test positive for marijuana metabolites were significantly higher than the percentage of people in the general population who would test positive. Another meaningful comparison might be between domestic violence arrestees and people arrested for other types of offenses. But in the absence of any appropriate comparison, this statement conveys essentially no information. To suggest that marijuana use causes violence is completely contradicted by a large body of research, addressed in more detail by Dr. Earleywine in his testimony. Almost all human and animal studies show that marijuana *decreases* rather than *increases* aggression.

"(6) marijuana use by children is associated with an increased risk of attempting suicide;

(7) marijuana consists of over four hundred different chemicals and can affect almost every organ and system in the body, including the lymph system, the heart, and the lungs; marijuana can disrupt memory, attention, judgment, and other cognitive functions and can impair motor coordination, time perception, and balance, especially in children;"

I believe that other witnesses are speaking specifically to these points, so I would simply like to remind the Committee to pay careful attention to any statement such as Finding #6, that marijuana use *is associated with* some particular harm. A statistical association is not, by itself, evidence that marijuana *caused* the harm. Only a longitudinal study that randomly assigns people to either smoke marijuana or not smoke it can produce evidence of causation. Obviously that has not been done, so we're forced to try and draw conclusions from retrospective association studies, which is much more difficult.

Finding #7 is an interesting example of the way the authors of this bill play fast and loose with the facts. The statement that "marijuana...can impair motor coordination, time perception, and balance, especially in children" sounds consistent with what we know about the short-term effects of marijuana in adults--but in fact, no study has ever been conducted in which children were given marijuana and tested for motor function, etc.! The reference to children can only have been added to the bill text in order to sensationalize.

"(8) marijuana smoke contains more carcinogenic hydrocarbons than tobacco smoke and a person who smokes several marijuana cigarettes a week may be taking in as many cancer-causing chemicals as someone who smokes a full pack of tobacco cigarettes every day;"

This assertion, that marijuana smoke contains approximately 20 times the concentration of carcinogenic hydrocarbons found in tobacco smoke, sounds like a gross exaggeration--the source

per cent of those admissions in the U.S. last year were ordered by judges, and the proportion of people entering treatment as a result of a court order has risen substantially. This reflects a sea-change in U.S. criminal justice. Since 1990, there has been an explosion in the number of U.S. "drug courts" which allow individuals charged with some drug offences to avoid jail if they follow a carefully supervised treatment program. At the same time, the idea of "therapeutic justice," as it is sometimes called, has been widely adopted by regular U.S. courts. As a result, Americans charged with marijuana possession today are routinely given a choice between punishment or treatment. Not surprisingly, most choose treatment. Add to this the numbers of high school students required to seek treatment as part of school disciplinary action and workers directed into treatment programs as a result of workplace drug testing, and the increase is readily accounted for. What must be emphasized is that in the vast majority of these cases, treatment occurs *without* there having been a clinical diagnosis of marijuana abuse.

Regarding the disproportionate number of treatment admissions among Alaska Natives, the foregoing should make it clear that it would be readily explained by a higher arrest rate for marijuana possession among Natives. Data by ethnicity are not available, but generally speaking, it appears that the rural arrest rate for marijuana is higher than that for the Anchorage census area. That in turn suggests a disproportionately higher marijuana arrest rate for Alaska Natives.

"(11) Alaska consistently ranks in the top 10 states, and occasionally in the top five states, nationwide, in the amount of marijuana illegally grown indoors, and large amounts of marijuana grown in this state are sold throughout the state and exported to other parts of the United States; the price of high-quality marijuana is hundreds of dollars per ounce and thousands of dollars per pound; testimony received by the legislature in 1999 and confirmed in 2005, shows that marijuana often sells for $500 or more per ounce;"

The most prominent effect of the prohibition of any popular commodity is inflated pricing. Interestingly, marijuana use has been found to be extremely unresponsive to price (Pacula et al., 2001). The elasticity of demand with respect to price was –0.06. That is, a 1% increase in price results in only a 0.06 percent decline in demand. Another way of saying this is that a 16.67% increase in price is required to reduce demand by just 1%. The most recent study available (DeSimone & Farrelly, 2003) found that "adult marijuana demand was not related to its own price" and that for juveniles, price was also irrelevant. This is further demonstration that increased criminal penalties are not an effective means of reducing consumption.

"(12) a large percentage of persons arrested in this state, including adults and juveniles who commit violent offenses, have marijuana in their system at the time of arrest;"

Exactly the same comments apply to this finding as to Finding #5: it would be a meaningful statement only if the percentage of people arrested for violent offences who test positive for marijuana metabolites were significantly higher than the percentage of people in the general population who would test positive. Furthermore, it contradicts the vast literature showing no association between marijuana use and aggression.

"(13) marijuana use by a parent has been, and will continue to be, a major contributing factor to children having easy access to and using marijuana;"

General Accounting Office. *Youth Illicit Drug Use Prevention: DARE Long-Term Evaluations and Federal Efforts to Identify Effective Programs*, Jan 16, 2003. (GAO-03-172R)

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STATEMENT REGARDING S.B, 74 AND H.B. 96

MITCH EARLEYWI E, PH.D., Associate Professor of Psychology, University of Southern California; author, *Understanding Marijuana* (Oxford University Press, 2002)

Like the language in S.B. 74 and H.B. 96, many media reports suggest that cannabis (marijuana) has increased in potency quite dramatically in recent years. These reports have generated considerable debate, and in fact the magnitude of the increase is difficult to document and is most likely greatly exaggerated. In addition, the assumption -- clearly implied in the bills' findings -- that increased marijuana potency translates into greater danger from the drug is untrue.

Reports of a stronger drug actually began over 30 years ago. By the middle of the 1980s, some authors suggested that marijuana's potency had increased by a factor of 100 (MacDonald, 1984). These claims clearly suffered from exaggeration or misinformation. Other arguments about increased potency arose from the University of Mississippi's Potency Monitoring Project, a program that reports the average THC content of cannabis taken in drug arrests. Estimates were extremely low in the 1970s, sometimes below 1%. But these figures are inherently suspect, because cannabis with this little THC has no impact on subjective experience -- that is, it does not produce a "high." The idea that a drug with no effects would increase dramatically in popularity over the years, as marijuana clearly did during the 1960s and 1970s, makes little sense. Thus, these estimates from the 1970s were probably inaccurate reflections of the amount of THC in marijuana available at the time.

Investigators hypothesize that the data from the Potency Monitoring Project underestimate the true amount of THC in marijuana from the 1970s. First, the estimates were based on very few samples of seized cannabis. In some years there were no more than 50 samples to analyze (PMP, 1974-1996). In addition, police may have stored the marijuana in hot lockers that allowed the THC to degrade rapidly (Mikuriya & Aldrich, 1988). Despite the small samples and poor storage, the average THC content in 1976 was 2% (ElSohly, Holley, & Turner, 1984).

An alternative source of potency information, an independent laboratory in California, analyzed many more samples than the Potency Monitoring Project. This laboratory found a large range in THC concentration. In 1973 this laboratory tested over 100 samples and found that marijuana had an average of THC content of 1.6 % (Ratcliffe, 1974). Later analyses ranged up to almost 8% THC (Perry, 1977). Thus, the idea that all, or even most, cannabis of the 1970s had less than 1% THC seems unlikely. Ratcliffe's (1974) estimate of an average potency level of 1.6% may be conservative but credible; the 1976 estimate of 2% may be closer to the truth. And clearly, marijuana much stronger than 2% was available in the mid-1970s

Potency data from the 1980s through the middle of the 1990s suggest that THC content continued to vary dramatically from strain to strain and sample to sample. With improved storage techniques and much larger samples, the Potency Monitoring Project found THC concentrations varied from 2% to almost 4%. Average concentrations approached 4% THC in 1984, 1988, 1990, and 1991 (PMP, 1974-1994). Trends in the rest of the 1990s showed comparable THC content, with a peak around 4.5% THC in 1997. Other cannabinoids like cannabinol and cannabidiol have not increased in

concentration over the years (ElSohly, et al., 2000). Thus, claims of 1000% (Cohen, 1986) or 10,000% (MacDonald, 1984) increases in marijuana potency are clearly inaccurate. A threefold elevation from approximately 1.5% in the early 1970s to 4.5% in the late 1990s may be closer to the truth. A simple doubling from an average of 2% to an average of 4% also seems the most plausible.

Although many media reports warn that increased potency translates into greater danger, scientific data suggest otherwise. Recent alarms about increased mentions of marijuana in emergency rooms have received a great deal of attention, with many authors positing that stronger cannabis has created more emergency room visits. In fact, the data that allegedly support these allegations are extremely questionable. Emergency rooms have no estimates of the strength of the cannabis used by those who appear for treatment. The purported increase in reports of cannabis use in emergency rooms likely stem from improved assessments by emergency room personnel or a gradual decrease in the stigma associated with use of the plant, not from ill-effects caused by marijuana use. Previous work suggests that emergency room assessments of drug use were wildly inaccurate (Roberts, 1996). Because marijuana appears incapable of causing fatal overdoses, it is implausible that the reported increase in ER "mentions" of marijuana is due to life- or health-threatening reactions caused by cannabis.

Marijuana with greater amounts of THC is probably less hazardous than weaker cannabis. First of all, acute administration of the drug is essentially non-toxic. No one has ever died from THC poisoning. Smoking enough cannabis to ingest a lethal amount of THC may be physically impossible. Estimates of a fatal dose of any drug arise from some rather gruesome animal research. Different groups of animals receive large amounts of a

drug until a particular dosage kills 50% of them. Researchers refer to the dose that is lethal for 50% of the animals as the LD 50. Investigators then extrapolate from these data to estimate a lethal dose for humans. The LD 50 for THC is approximately 125 milligrams for every kilogram of body weight (Nahas, 1986). Thus, a 160 pound (approximately 73 kilogram) person would need 9,125 milligrams of THC to have a 50% chance of dying. A typical marijuana cigarette weighs one gram and contains roughly 20 milligrams of THC, suggesting that a lethal overdose would require smoking roughly 450 joints in a brief period . Furthermore, at least 50% of the THC is destroyed in the burning process or lost to sidestream smoke. Given this loss, 900 joints would be a more appropriate estimate of a fatal amount (Doweiko, 1999). The 900 joints would weigh roughly 2 pounds. Although experienced users tell many exaggerated tales about smoking large amounts of cannabis, this dosage exceeds 100 times the quantity typically consumed by the heaviest users.

Marijuana with larger percentages of THC actually has benefits. Stronger cannabis leads to smoking smaller amounts. Smoking smaller quantities could provide some protection against the health problems normally associated with inhaling smoke. Smokers may take smaller, shorter puffs when using more potent marijuana (Heishman, Stitzer, & Yingling, 1989). Smoking less may decrease the amount of tars and noxious gases inhaled, limiting the risk for mouth, throat, and lung damage (Matthias, et al., 1997). Obviously, avoiding smoke completely would eliminate these problems. Thus, eating or vaporizing cannabis products may have fewer negative consequences than smoking them.

For the reasons outlined above, I believe it is inappropriate to base penalties for marijuana-related offenses on purported dangers related to an increase in cannabis potency.

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STATE OF ALASKA, SENATE BILL No 74 "An Act making findings relating to marijuana use and possession;"

EXPERT WITNESS STATEMENT:

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Statement:

It is an honor and privilege to address the Alaskan State Senate about an issue that affects a large number of Alaskans and their families. Our purpose is to assess risks of marijuana use and ask if increased penalties are warranted based on these risks. First, I would like to introduce myself and testify to my expertise in the area of drug abuse and marijuana. I am a life-long Alaskan. I moved to Alaska with my family in 1976. I am an alumna of West Valley High School and UAF. I left Alaska in 1981 for graduate and post-doctoral training. I returned to Alaska in 1990 and have since been employed at UAF where I am currently an Associate Professor in the Department of Chemistry and Biochemistry. I have devoted my life to the study of the brain and how drugs and naturally occurring drug-like chemicals affect the brain. After receiving a Bachelor of Science degree in psychology at UAF, I did graduate work at Mount Sinai School of Medicine in New York, NY, and at Albany Medical College in Albany, New York. My Ph.D. training and research was in neuropharmacology. Pharmacology is the study of the theory and principles of drug action. Neuropharmacology is the study of the theory and principles of drug action on the brain. I was trained by Dr. Stanley Glick, an established neuropharmacologist who has studied drug addiction and abuse and pharmacotherapies for drug addiction for more than 4 decades. My Ph.D. thesis showed how learning is involved in drug addiction. Learned, drug seeking behavior, is now recognized as a primary target for treatment of addictions. I received three years of post-doctoral training at the Karolinska Institute in Stockholm, Sweden in the laboratory of Dr. Urban Ungerstedt, another preeminent neuropharmacologist who pioneered our understanding of dopamine, a neurotransmitter now known to lie at the heart of addiction, motivation and reward. I have published 33 peer reviewed papers and 5 book chapters regarding addiction and aspects of drugs and the brain. I was a leader in establishing a neuroscience program at UAF funded in 2000 by a $7.5 million grant from the National Institutes of Health. Most recently I am recognized as an expert on neuroprotection and neuroplasticity in hibernation, a phenomenon my laboratory studies as a model of tolerance to stroke and neurodegenerative disease such as Alzheimer's and Parkinson's disease. Here I comment on findings purported by the legislature to suggest that

marijuana poses a threat to the public health that justifies prohibiting its use and possession in the state of Alaska, even by adults in private.

Legislative findings and witness s responses:

The legislature finds that:
(1) marijuana has been for many years and continues to be the most commonly used illegal controlled substance in the United States;

Estimates of the number of Alaskans who use marijuana emphasizes the numbers of Alaskans who will be affected by this legislation. In addition to users of marijuana, their families are affected by legal and health related consequences of marijuana use and highlights the importance of rational and informed discussion of these risks.

(2) marijuana has many adverse health and social effects, and there is evidence that it has addictive properties similar to heroin and other similar illegal controlled substances;

Addiction, operationally defined as drug-seeking behavior, is a combined effect of drug reward and drug withdrawal. Reward, as well as desire to reduce unpleasant symptoms of withdrawal, increases frequency of drug seeking behavior. Human epidemiological data (i.e., statistical analysis of patterns of use) as well as animal data rank addictive properties of marijuana below tobacco, alcohol, cocaine and heroin. Regarding human use, evidence suggests that as few as 10% of individuals who experiment with marijuana become daily users (cf. McRae et al., 2003), and others (Anthony et al., 1994) report that dependence among users is highest for tobacco, followed by heroin, alcohol, cocaine and finally cannabis.

Drug	*Dependence among users (%)*	
	Male	Female
Tobacco	33	31
Heroin	22	25
Alcohol	21	9
Cocaine	18	15
Cannabis	12	5

* Dependence is defined by DSM-III criteria, evaluated via a modified Composite International Diagnostic Interview. Adapted from Anthony et al., (1994).

Laboratory animal data is consistent with low addictive potential of cannabis where positive-reinforcing and dependence-producing actions of THC, the active ingredient in marijuana, have been difficult to demonstrate (reviewed by Tanda and Goldberg, 2003). Three standard techniques, known as conditioned place preference, intracranial self-stimulation, and self-administration, are used to assess addictive potential. All three of these techniques have failed to show consistent, positive reinforcing effects of THC. While Tanda and Goldberg (2003) argue that 3 decades of negative findings regarding abuse potential of marijuana are due to suboptimal conditions

of drug preparation and rates of intravenous administration, other drugs of abuse have not been difficult to optimize for animal studies.

The low addictive potential of cannabis may be due, in part, to the fact that abstinence seldom produces pronounced signs of withdrawal (Anthony et al., 1994; Tanda and Goldberg, 2003). THC is stored in fat tissue, due to its high fat solubility and then slowly released. This slow release likely prevents development of a pronounced withdrawal syndrome when cannabis use is abruptly stopped (Grotenhermen, 2003). Overall, given the difficulty in training animals to self-administer THC and the absence of pronounced withdrawal symptoms, the suggestion that marijuana has addictive properties similar to heroin and other illegal substances is not warranted.

Anthony et al, 1994, Experimental and Clinical Psychopharmacology, 2(3), 244-268.
Grotenhermen, 2003, Drug Disposition, 42(4), 327-360.
McRae et al., 2003, Journal of Substance Abuse Treatment, 24, 369-376.
Tanda and Goldberg, 2003, Psychopharmacology, 169(2), 115-34.

(3) in addition to concerns about marijuana use generally, the legislature is particularly concerned with the rates of use of marijuana by young people and Alaska Natives, which exceed national averages; and,
(4) early exposure of children to marijuana increases the likelihood of lifelong health and social problems, and makes it much more likely that the person will go on to use more potent illegal controlled substances;

A model known as the "gateway theory" of adolescent drug use was first proposed by Kandel (1975). The gateway theory suggests that adolescents typically use tobacco or alcohol before progressing to illicit substances including marijuana. Later studies showed that cigarette or alcohol use predicts subsequent illicit drug use for females while alcohol use predicts progression to illicit drug use in males (reviewed in Helstrom et al., 2004). After cigarette and alcohol use, progression may continue to marijuana, though the cause of this progression is unknown. The simplest explanation for the observed progression is that access to and use of cannabis may reduce perceived barriers against the use of other illegal drugs and provide access to the illicit market of more addictive drugs of abuse such as heroin, cocaine and methamphetamine (Lynskey et al., 2003).

Kandel, 1975, Science, 190, 912-914
Lynskey et al., 2003, JAMA. 2003;289:427-433
Helstrom et al., 2004, Prevention Science,Vol 5(4), 267-277

(5) a high percentage of adults arrested in this state for domestic violence test positive for marijuana at the time of arrest;

To interpret the relationship between positive tests for marijuana and arrests for domestic violence one would need to know, first, what analytical tests were used and, second, if these individuals also tested positive for alcohol. Marijuana intoxication reduces incidence of violence (Hoaken and Stewart, 2003) so a causal relationship is unlikely. Marijuana persists in fatty tissues and consequently plasma where the half-life for elimination varies between 20 to 57 hours (Grotenhermen, 2003).

Grotenhermen, 2003, Drug Disposition, 42(4), 327-360.

Hoeken and Stewart, 2003, Addictive Behaviors, 28, 1533-1554.

(7) marijuana consists of over four hundred different chemicals and can affect almost every organ and system in the body, including the lymph system, the heart, and the lungs; marijuana can disrupt memory, attention, judgment, and other cognitive functions and can impair motor coordination, time perception, and balance, especially in children;

Marijuana contains a large number of chemicals because it consists of the leaves and flowers of plants. Plants are complex mixtures of chemicals. Tobacco, for example is equally as complex, however, nicotine is the primary active ingredient in tobacco. Similarly, delta-9-tetrahydrocannabinol (THC) is the primary active ingredient in marijuana. THC is a chemical that affects the body by interacting with receptors. Receptors are specialized docking sites on cells and drugs bind to these receptors. Receptors that recognize THC are called cannabinoid receptors. There are two types of cannabinoid receptors, CB1 and CB2. Marijuana or THC will have effects where ever these receptors are located. Distribution of these receptors in the brain explains why marijuana intoxication is associated with effects on memory and motor function. Recently, it was found that activation of cannabinoid receptors on immune cells (microglia) in the brain prevents Alzheimer's disease pathology (Ramirez et al., 2005). Activation of CB1 receptors is also known to have therapeutic potential in Parkinson's disease and stroke.

Two other chemicals found in marijuana are cannabinol and cannabidiol. These compounds have some properties similar to THC, but cause less psychoactive effects. These chemicals do, however, have beneficial effects because they, like THC, are antioxidants (Hampson et al., 2000). We consume complex mixtures of chemicals in the foods we eat everyday and sometimes worry that they may cause cancer or other adverse effects. Most evidence on marijuana, however, is pointing to positive effects. Like the complex mixture of chemicals in blueberries, red wine, and chocolate, the mixture of chemicals in marijuana may have beneficial effects on health. Research is focused on identifying the key beneficial components so that these may be isolated and developed as drugs. Most evidence suggests that THC, the ingredient that causes the high also causes positive effects elsewhere in the body through activation of CB1 receptors.

Ramirez et al., 2005, J. Neuroscience, 25(8), 1904-1913
Hampson et al., 2000, Ann N Y Acad Sci. 2000;899:274-82.

(8) marijuana smoke contains more carcinogenic hydrocarbons than tobacco smoke and a person who smokes several marijuana cigarettes a week may be taking in as many cancer-causing chemicals as someone who smokes a full pack of tobacco cigarettes every day;

The real health risks associated with chronic marijuana use may include chronic bronchitis, impaired lung function and increased risks of some types of cancers of the respiratory tract (Moore et al., 2005). Prohibition may be the greatest barrier in identifying these real health risks because prohibition interferes with accurate reporting of marijuana use.

Moore et al., 2005, J Gen Intern Med.,20(1), 33-7

(9) the potency of marijuana in the 1960s and 1970s was very low compared to the potency in 2005; the average amount of delta-9-tetrahydrocannabinol (THC), the main psychoactive ingredient, nationwide, was less than one percent in the 1960s and 1970s, but has increased steadily in the 1980s and especially the 1990s, and by 2003 was more than six times that level, at 6.4 percent; in addition, marijuana grown in this state is often more potent than national averages, and has been tested with THC levels of over 20 percent; marijuana of the potency generally available in 2005 is a strong hallucinogenic drug that can command hundreds of dollars per ounce on the illegal market; the increasing potency of marijuana corresponds to an increase in the number of persons seeking emergency medical care for marijuana-related incidents;

Increased potency does not mean that increased amounts are consumed. People (and animals) typically take less of a drug if the drug is more concentrated. This means that more potent marijuana will likely cause people to smoke less and this will decrease risk of respiratory complications. When research animals are enticed to self-administer THC (Justinova et al., 2003) the amount administered decreases as concentration is increased until animals stop taking the drug at all because the high concentrations produce unpleasant side-effects.

Justinova et al., 2003, Psychopharmacology, 169(2):135-40.

(11) Alaska consistently ranks in the top 10 states, and occasionally in the top five states, nationwide, in the amount of marijuana illegally grown indoors, and large amounts of marijuana grown in this state are sold throughout the state and exported to other parts of the United States; the price of high-quality marijuana is hundreds of dollars per ounce and thousands of dollars per pound; testimony received by the legislature in 1999 and confirmed in 2005, shows that marijuana often sells for $500 or more per ounce;

The cost of marijuana seems irrelevant to the public health risks unless high costs are driving users to crime to pay for marijuana. In contrast to heroin, cocaine and methamphetamine abusers, no evidence exists to suggest that a significant proportion of marijuana users resort to crime to pay for the drug. This is consistent with a low addictive potential of marijuana.

(12) a large percentage of persons arrested in this state, including adults and juveniles who commit violent offenses, have marijuana in their system at the time of arrest;

Marijuana intoxication is known to decrease violent behaviors (Hoeken and Stewart, 2003) suggesting that other drugs, most likely alcohol, are responsible (Parker, 2004).

Hoeken and Stewart, 2003, Addictive Behaviors, 28, 1533-1554.
Parker, 2004, J Psychoactive Drugs, Suppl 2,157-63.

(13) marijuana use by a parent has been, and will continue to be, a major contributing factor to children having easy access to and using marijuana;

Legal and financial hardships incurred by parents as a result of the penalties for possessing marijuana may cause substantially greater detriment to families than does the increased risk of marijuana use by children (Robertson et al., 1996).

Roberson et al., 1996, Br J Gen Pract., 46(412), 671-4.

Summary and Conclusions:

In summary, evidence does not support the assertion that marijuana poses a threat to the public health that justifies prohibiting its use and possession in this State, especially by adults in private. Issues regarding access to children warrant further investigation into the impact of access through illicit channels.

STATE OF ALASKA, SENATE BILL No 74 –"An Act making findings relating to the use and possession..."

EXPERT WITNESS STATEMENT:

PROFESSOR LESLIE LARS IVERSEN, PhD, FRS, University of Oxford, England

Professor Leslie Iversen. PhD, FRS Brief Curriculum Vitae:

Visiting Professor of Pharmacology, University of Oxford 1999-
Director of the Wolfson Centre for Research on Age Related diseases at Kings College London (1999-2004).
Director of the Neuroscience Research Centre for Merck & Co Inc in the UK (1983-1995)
Director of the Medical Research Council Neurochemical Pharmacology Unit in Cambridge, England (1970-1983)

Well known for his research on how drugs interact with chemical messengers in the nervous system and has published more than 300 scientific papers on this topic.
Fellow of the Royal Society of London, and Foreign Associate Member of the US National Academy of Sciences.

Acted as Scientific Advisor to the UK House of Lords Select Committee on Science & Technology review of Cannabis (1998-2000)
Author of "The Science of Marijuana" Oxford University Press, 2000
Member of the UK Government "Advisory Council on the Misuse of Drugs"
Member of the UK Royal College of Physicians Working Party on medicinal cannabis 2004-2005.

Statement:

As a scientist with expert knowledge of the medical and scientific literature on cannabis (marijuana) I feel that the statements in Senate Bill No 74 give an inaccurate picture of the scientific data about marijuana. I wish to make the following comments:

Increased potency of modern marijuana:

It is frequently stated that modern-day marijuana is 10-20-times more potent than that available in the 1960's or 1970's. But the available evidence does not support this conclusion. Scientists at the University of Mississippi Potency Monitoring project in the USA have been measuring the THC content of marijuana seizures since the 1970's. They have reported an increase of approximately 3-fold in the potency of herbal marijuana in the past 3 decades, and this is still by far the most widely used product. The European Monitoring Centre for Drugs and Drug Addiction published an overview of cannabis potency in Europe in July 2004, and reached similar

conclusions in Europe. Some samples originating from Cannabis plants grown under optimal conditions indoors may contain as much as 15-20% THC but these remain relatively rare and account for only a minority of marijuana use.

Addictive nature of marijuana:

It is recognized that some frequent heavy users of marijuana can become psychologically dependent on the drug, but few scientists would rate this in the same category of addictiveness as heroin, cocaine or amphetamines. Unlike heroin addiction, dependence on marijuana affects a minority of regular users (approximately 10%) and most dependent marijuana users are able to quit. I would rate marijuana as more similar to alcohol than to heroin in addictive potential.

Association of marijuana use with domestic violence:

This is an unusual allegation; in most instances intoxication with marijuana is not associated with violent aggressive behavior – although this may occur in rare examples. The abuse of alcohol is far more likely to be a cause of public and domestic violence.

Marijuana contains more than 400 different chemicals:

All plant derived foods or drugs contain complex mixtures of chemicals. Tomato juice, for example, contains more than 400 different chemicals – but this does not make it harmful. The leaves and flowers of the Cannabis plant (marijuana) contain more than 70 complex organic chemicals known as cannabinoids. But of these only one –delta-9-tetrahydrocannabinol (THC) - is capable of activating the cannabinoid receptor in human brain. The other cannabinoids have no known pharmacological activities and are generally regarded as harmless.

Marijuana impairs higher brain functions:

Marijuana temporarily impairs memory and other aspects of cognitive brain function, but this is no different from any other intoxicant drug – for example, alcohol. There is no evidence that marijuana use leads to significant long term damage to the brain.

Marijuana smoke is carcinogenic:

Marijuana smoke contains a similar mixture chemicals to that found in tobacco smoke, including some known carcinogens. Although a single marijuana joint delivers more tar to the lungs than a tobacco cigarette it is very difficult to see how someone smoking several marijuana joints a week could be thought to equate to a cigarette smoker consuming a full pack each day. The arithmetic simply does not add up. Furthermore, although there is a hypothetical risk of lung cancer from marijuana smoke, there is no evidence for such a relationship in fact.

Summary and Conclusions:

Marijuana contains an intoxicant drug (THC) that has modest dependence liability; the smoke can irritate the lungs and there is a potential risk, as yet unproven, of lung cancer. Nevertheless, I conclude that the medical risks associated the marijuana use do not equate to those of "harder" drugs such as heroin, cocaine or amphetamines. In my view marijuana is a relatively safe drug, and its use does less medical/social harm than alcohol or tobacco.

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April 07, 2005

Testimony of Gregory T. Carter, MD

This document is provided in regards to Alaska State Senate Bill No. 74 and House Bill 96, which intend to re-criminalize marijuana. I wish to comment on a number of scientific inaccuracies in the "findings" section of these bills. I am a practicing physician and medical researcher, studying the medicinal uses of marijuana (cannabis). I have published and lectured in this area extensively. This is all documented in my curriculum vitae, which I have also made available.

The overall health consequences of recreational marijuana use -- even heavy, chronic use -- are fairly minor, particularly if one avoids smoking. This is something an increasing number of marijuana users are doing by use of relatively simple devices known as vaporizers. The addiction and dependence potential of marijuana is relatively low, much lower than tobacco and alcohol. According to an Institute of Medicine study in 1999, the addiction rate of marijuana is less than half that of alcohol and less than one-third that of tobacco. A proportion of regular users of cannabis will develop some tolerance. A number of studies have demonstrated that acute cannabis smoking produces minimal effects on complex cognitive task performance in experienced cannabis users.

Marijuana does not cause aggression or violent behavior but rather tends to reduce it. In contrast, alcohol is well documented to lead to aggression in some people. Statements in SB 74 legislation (section 2.5) such as, "A high percentage of adults arrested in this state for domestic violence test positive for marijuana..." are misleading and meaningless without a complete analysis of the dependent and independent variables involved in the episodes. To the degree that such statements are intended to imply that marijuana is a cause of violence, the research overwhelmingly suggests that such a conclusion is simply wrong. This is much akin to the early links purportedly found between coffee drinking and cancer, which later turned out to be spurious. They simply reflected the fact that many coffee drinkers also smoked tobacco.

Indeed marijuana is a complex plant, with several existing phenotypes, each containing over 400 chemicals. Approximately 70 are chemically unique and classified as plant cannabinoids. There are also naturally occurring cannabinoids produced in the human body and these are part of our natural physiology controlling mood, pain, and appetite, among other functions. Delta-9 tetrahydrocannabinol (THC) is the most powerful psychoactive ingredient in marijuana, and this is the active ingredient in

dronabinol (Marinol). The Food and Drug Administration (FDA) first licensed and approved dronabinol in 1986 for treatment of nausea and vomiting associated with chemotherapy. The indication was expanded in 1992 for the treatment of anorexia associated with weight loss in patients with AIDS wasting syndrome.

Dronabinol was initially made available by prescription as a schedule II drug, the most restrictive category of drugs that are legal for medical use under federal law. However, since there has never been a reported overdose or serious, life-threatening side effect, the United States Drug Enforcement Administration, in cooperation with the Food and Drug Administration, reclassified the scheduling status of dronabinol from a Schedule II (CII) to a Schedule III (CIII) controlled substance. Under this less-restrictive schedule, dronabinol prescriptions can now be phoned in, with multiple refills authorized on a single prescription. Dronabinol is 100% THC, the strongest ingredient in natural marijuana, and the Federal government licenses it with minimal prescribing restrictions. The strongest natural marijuana—which is only seen relatively rarely—would only contain 25-30% THC by weight. From a pharmacological perspective, marijuana is actually remarkably safe, with relatively low toxicity, notably lower than that of many legal medicinal and recreational drugs. Lethal doses in humans have never been described. The theoretical lethal dose in 50 percent (LD50) is estimated to be 1 to 20,000 or 1 to 40,000. In plain English, that means, it would require 1500 pounds of cannabis smoked in fifteen minutes to induce a lethal effect. In contrast, you can quite easily kill yourself with a bottle of extra-strength Tylenol or aspirin.

The claim that today's marijuana is so much stronger and more dangerous than it was in 1975 (made in section 2.9), implying that it is effectively a different drug, is scientifically preposterous. The same, ridiculous argument could be made regarding today's coffee, comparing a triple shot espresso drink of today with the Maxwell House of yesterday. The only difference between this example and marijuana is that one can overdose on caffeine and there are potentially serious health consequences of extreme caffeine intake, including cardiac arrhythmia, acute hypertension, and stroke. With marijuana, no such consequences have been documented.

Further, according to the Federal Government's own website (WhiteHousedrugpolicy.gov), which was last updated on October 16, 2004, the average potency of marijuana today stands at approximately 5 percent THC. Indeed, this figure is an increase over past years. THC content averaged 4 percent in the 1990s, and just under 3 percent for the 1980s. However, in terms of drug strength, this increase is nearly inconsequential. Marijuana poses no risk of fatal overdose, regardless of THC content, and studies indicate that recreational pot smokers readily distinguish between high and low potency marijuana and moderate their use accordingly just as an alcohol consumer would drink fewer ounces of (high potency) bourbon than they would ounces of (low potency) beer.

With regard to the increase in people allegedly in treatment for "marijuana abuse" (mentioned in section 2.10), this is reflective of the increase in marijuana arrests, as the majority of such admissions are court mandated. This is a sign of more aggressive law enforcement, not proof of addiction. Since 1995, approximately 5.5 million Americans have been arrested on marijuana charges. Nearly 90 percent of them were charged with possession only, and approximately one out of three were first-time, youthful (age 14 to 19 years old) offenders. Naturally, most judges are hesitant to sentence these defendants to jail or saddle them with a criminal record. Their only alternative is drug

treatment.

What is the end result of all this? Admissions to drug rehabilitation clinics among adolescent marijuana users have increased dramatically since the mid-1990s. However, this rise in marijuana admissions is due exclusively to a proportional increase in teens referred to drug treatment by the criminal justice system. In fact, since 1995, the proportion of admissions from all sources other than the criminal justice system has actually declined, according to the federal Drug and Alcohol Services Information System (DASIS). Consequently, DASIS reports that today, "over half (54 percent) of all adolescent marijuana admissions [are] through the criminal justice system," with an additional 25 percent coming from referrals from schools and substance abuse providers.

Although recent science has provided truly astounding evidence about cannabis and its relative dangers and benefits, government studies from around the world have affirmed this for over a century. As far back as 1894, The Indian Hemp Drugs Commission concluded, "the moderate use of hemp drugs is practically attended by no evil results at all." In 1925: The Panama Canal Zone Report concluded, "The influence of marijuana has apparently been greatly exaggerated. There is no evidence that it has any appreciably deleterious influence on the individual using it." In 1944 the LaGuardia Commission Report concluded "there is no direct relationship between the commission of crimes of violence and marijuana. Marihuana does not lead to morphine or cocaine or heroin addiction." In 1969, the British Wooten Report stated, "we think that the dangers of marijuana use as commonly accepted in the past have been overstated. There is no evidence that in Western society serious physical dangers are directly associated with the smoking of cannabis."

More recently, in 1970, the Canadian LeDain Commission Report found that "physical dependence to cannabis has not been demonstrated and it would appear that there are normally no adverse physiological affects occurring with abstinence from the drug, even in regular users." In 1972 the National Commission on Marihuana and Drug Abuse, also known as the Nixon Commission, concluded "there is little proven danger of physical or psychological harm from the experimental or intermittent use of natural preparations of cannabis. Moreover, existing social and legal policy is out of proportion to the individual and social harm engendered by the drug." In 1972, the Dutch Baan Commission found that "cannabis does not produce tolerance or physical dependence. The physiological effects of the use of cannabis are of a relatively harmless nature."

In 1977, the Commission of the Australian Government concluded, "one of the most striking facts is that its acute toxicity is low compared with that of any other drugs. No major health effects have manifested themselves in the community." In 1982, the National Academy of Sciences Report observed "over the past 40 years, marijuana has been accused of causing an array of antisocial effects including, provoking crime and violence, leading to heroin addiction, and destroying the American work ethic in young people. "These beliefs have not been substantiated by scientific evidence." In 1995, the report by the Dutch Government concluded, "cannabis is not very physically toxic. Everything that we now know leads to the conclusion that the risks of cannabis cannot be described as 'unacceptable.'" In 1999, the Institute of Medicine published a series of reports on marijuana, documenting it's low toxicity and high therapeutic potential.

Arguably marijuana is neither a miracle compound nor the answer to everyone's ills. Yet it is not a compound that deserves the tremendous legal and societal commotion

that has occurred over it. Over the past 30 years, the United States has spent billions in an effort to stem the use of illicit drugs, including marijuana, with limited success. Some very ill people have had to fight long court battles to defend themselves for the use of a compound that has helped them. There is no evidence that recreational marijuana use has increased in states that allow for its medicinal use. Moreover, prohibition strategies have never proven terribly effective at limiting the use of a substance for any reason, whether alcohol or other compounds. In my opinion, the medicinal marijuana user should never be considered a criminal in any state. Most major medical groups, including the Institute of Medicine, agree that marijuana is a compound with significant therapeutic potential. Over a decade ago the Drug Enforcement Administration (DEA) studied the medicinal properties of cannabis *[Re Marijuana Rescheduling Petition,* United States Department of Justice, Drug Enforcement Administration, Docket No. 86-22, 9/6/1988]. After considerable study, Administrative Law Judge Francis L. Young concluded that marijuana should be transferred to schedule II to make it available to doctors and patients, stating:

> "There are those who, in all sincerity, argue that the transfer of marijuana to Schedule II will *send a signal that marijuana is "OK"* generally for recreational use. This argument is specious. It presents no valid reason for refraining from taking an action required by law in light of the evidence . . . .The evidence in this record clearly shows that marijuana has been accepted as capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in the light of the evidence in this record."

Judge Young's recommendation was ignored. Marijuana remains in schedule I. During the past thirty years, researchers, mostly funded by the federal government, have studied every conceivable way that marijuana might be harmful to individual users and society. They have found very little evidence of any major physiological, psychological or social harm that can be directly attributed to marijuana. Despite all this, over a decade later the DEA and the rest of the federal government persist in their policy of total prohibition.

The scientific process continues to evaluate the therapeutic effects of marijuana through ongoing research and assessment of available data, and the trend is clearly toward greater appreciation of marijuana's beneficial effects and relatively low toxicity. Our legal system should take a similar approach, using science and logic as the basis of policy making rather than political views and societal trends that are more reflective of a paranoia over perceived potential harmful effects of recreational marijuana use, which, in fact, are not substantiated by the medical literature.

While Alaska does have a medical marijuana law, my understanding is that patients have great difficulty obtaining their medicine, and some have already testified that they fear this legislation will make their already-difficult situation even worse. That alone should be reason to look upon this legislation with great skepticism.

Respectfully submitted.

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CURRICULUM VITAE

GREGORY T. CARTER, M.D.
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EDUCATION:	1981	Bachelor of Science (B.S.), Honors, Physiology University of California, Davis
	1982	Master of Science (M.S.), Physiology University of California, Davis B.A. Horwitz, Ph.D., advisor
	1986	Doctor of Medicine (M.D.) Loyola University Chicago Stritch School of Medicine
INTERNSHIP:	1986-87	Internal Medicine University of California, Davis Medical Center
RESIDENCY:	1987-90	Physical Medicine and Rehabilitation University of California, Davis Medical Center
FELLOWSHIP:	1990-91	National Institute on Disability and Rehabilitation Research Neuromuscular Disease post-doctoral research fellow, W.M. Fowler, Jr., M.D., advisor
MEDICAL LICENSURE:	1987	California G060691
	1994	Washington MD00031534
BOARD STATUS:	1987	Diplomate, National Board of Medical Examiners Certificate 320604
	1991	Diplomate, American Board of Physical Medicine and Rehabilitation, Certificate 3481
	1992	Diplomate, American Board of Electrodiagnostic Medicine, Certificate 1562

ACADEMIC APPOINTMENTS:

1990-1994	Assistant Professor of Physical Medicine and Rehabilitation, University of California Davis, School of Medicine

1994-99	Clinical Assistant Professor of Rehabilitation Medicine, University of Washington, School of Medicine
1999-present	Clinical Associate Professor of Rehabilitation Medicine, University of Washington, School of Medicine
2003-present	Adjunct Associate Professor of Physical Medicine and Rehabilitation, University of California Davis, School of Medicine
2005-pending	Clinical Professor of Rehabilitation Medicine, University of Washington, School of Medicine (promotion submitted to Academic Senate by Department Chairman)

CURRENT ACTIVE HOSPITAL PRIVILEDGES:

Providence Hospital Centralia

Providence Saint Peter Hospital

University of Washington Hospitals (U.W. Medical Center, Harborview Medical Center, Fred Hutchinson)

Children's Hospital and Regional Medical Center

PROFESSIONAL EXPERIENCE:

1991-94	Medical Director, Outpatient Clinical Services and Muscular Dystrophy Association Clinics, Department of Physical Medicine and Rehabilitation, University of California, Davis Medical Center
1994-	Attending Physician, Department of Rehabilitation Medicine, University of Washington Medical Center, Seattle, WA
1994-	Medical Director, Physical Medicine and Rehabilitation Services, Providence Centralia Hospital, Centralia, WA
1995-2000	Co-Director, Muscular Dystrophy Association Clinics at: Providence St. Peters Hospital, Olympia, WA, and Mary Bridge Childrens Hospital, Tacoma, WA.
1999-	Regional Medical Director, Physical Medicine and Rehabilitation Services, Providence Health System, Southwest Washington Service Area
2000-	Director, Adult and Pediatric Muscular Dystrophy Association Neuromuscular Disease Clinics at Mary Bridge Childrens Hospital, Tacoma, WA and Providence St. Peters Hospital, Olympia, WA.
2000	Medical Director, Hospice Program, Providence Sound Home Care, Lewis County
2001	Medical Consultant for Quality Assurance, Electrodiagnostic Medicine, Washington State Department of Labor and Industries

2002	Co-Director, Muscular Dystrophy Association-Amyotrophic Lateral Sclerosis Center, University of Washington
2003	Medical Consultant for Quality Assurance, Physical Medicine and Rehabilitation, Washington State Department of Labor and Industries
2004	Chair, Quality Improvement Council, Providence Centralia Hospital
2004	President elect, Medical Staff, Providence Centralia Hospital
2004	Medical Consultant/Peer Reviewer for Board of Medical Quality Assurance, State of Washington

PROFESSIONAL MEMBERSHIPS:

Fellow, American Academy of Physical Medicine and Rehabilitation

Fellow, American Association of Electrodiagnostic Medicine

Diplomate, Association of Academic Physiatrists

Washington Physicians for Social Responsibility

POST GRADUATE MINI-FELLOWSHIPS

1995	MayDay Fellowship, University of Washington, School of Medicine, Multidisciplinary Pain Center, John Loeser, M.D., advisor
1999	Hartford Foundation Geriatric Medicine Fellowship, University of Washington, School of Medicine, Department of Internal Medicine, Division of Gerontology and Geriatric Medicine, Itamar Abrass, M.D., advisor

HONORS/AWARDS:

1980-81	University of California President's Undergraduate Fellowship (awarded twice)
1981	Graduation with Honors, University of California, Davis
1981	University of California, Davis, Departmental Citation for Outstanding Undergraduate Accomplishment
1991	Citation Award for Outstanding Contributions to the Sacramento Area Special Olympics
1994	Best Research Paper Published by a Physiatrist Award from the American Academy of Physical Medicine and Rehabilitation/Education and Research Foundation: **Carter GT**, Kikuchi N, Abresch RT, Walsh SA, Horasek S, Fowler WM: Effects of exhaustive concentric and eccentric exercise on murine skeletal muscle. *Arch Phys Med Rehabil* 1994; vol. 75, no. 5:555-559.

1995	National Catholic Education Association Distinguished Graduate Award
1998	Excellence in Research Writing Award, Association of Academic Physiatrists: Wineinger MA. Abresch RT, Walsh SA, **Carter GT**: Effects of aging and voluntary exercise on the function of dystrophic muscle from mdx mice. *Am J Phys Med Rehabil* 1998; 77(1):20-7.
2001-	*Best Doctors*, listing, elected by peers; www.bestdoctors.com
2002	Excellence in Clinical Care Award, Muscular Dystrophy Association
2003-	Listing in "Guide to America's Top Physicians"; Consumers' Research Council of America; www.consumersresearchcncl.org
2005	AcademicKeys Who's Who in Medical Sciences Eduction: http://medicine.academickeys.com/whoswho.php

PROFESSIONAL/ACADEMIC ACTIVITIES

1991-94	Qualified Medical Examiner, Worker's Compensation Fund, State of California
1992-	*Ad Hoc* Referee, *Muscle & Nerve, Archives of Physical Medicine and Rehabilitation, American Journal of Physical Medicine and Rehabilitation*
1992-	Advisory Board, Charcot-Marie-Tooth International
1994-	Ethics Committee, Providence Centralia Hospital
1996-	Approved Medical Examiner, Department of Labor & Industries, State of Washington
1995-6	Rehabilitation Technical Advisory Committee/Governor's Trauma Steering Committee, State of Washington
1996-98	Editor-in-Chief, *Journal of Neurovascular Disease*
1997-99	Executive Board, Lewis County Children with Special Needs, Inc.
1998	Guest Editor, *Physical Medicine and Rehabilitation Clinics of North America* volume on Rehabilitation of Neuromuscular Disorders. Philadelphia, W.B. Saunders Co., 1998.
1998-99	Editorial Board, EMG On-line Case of the Month Series, American Academy of Physical Medicine and Rehabilitation, www.aapmr.org
1998-	Participating Respondent, Muscular Dystrophy Association "Ask the Experts" on-line forum, www.mdausa.org
1998-	Co-Chair, Ethics Committee, Providence Centralia Hospital
1998-	Ethics Committee, Providence St Peter Hospital, Olympia, WA
1999-	Editorial Board, *The American Journal of Hospice and Palliative Care*

1999-	Chairman, Pharmacy and Therapeutics/Infection Control Committee, Providence Centralia Hospital
1999-	Medical Advisory Board, Muscular Dystrophy Association, Southwest Washington
2000	Guest Editor, *Physical Medicine and Rehabilitation Clinics of North America* volume on Advances in the Diagnosis and Management of Peripheral Nerve Disease. Philadelphia, W.B. Saunders Co., (print date Feb 2001).
2001	Practice Parameter Joint Committee, American Academy of Neurology and the American Academy of Physical Medicine and Rehabilitation, "Approach to the Diagnosis of Polyneuropathy in the Clinic"
2002	Clinical Services Advisory Committee, Muscular Dystrophy Association, National Office, Tucson, AZ
2002	Faculty, Dannemiller Memorial Education Foundation (by invitation)
2002	Practice Guidelines Committee, American Academy of Physical Medicine and Rehabilitation (by invitation of Dr. Dan Dumitru, President of AAPM&R)
2002	Neuromuscular Guidelines Steering Committee, Joint Committee, American Academy of Neurology and the American Academy of Physical Medicine and Rehabilitation
2002	Neuromuscular Disease Self Assessment Examination Subcommittee, American Academy of Physical Medicine and Rehabilitation
2003	Board Examiner, by invitation, American Board of Physical Medicine and Rehabilitation
2004-	Editorial Board, *The Journal of Clinical Neuromuscular Disease*

GRANTS/CLINICAL TRIALS:

1990-91 National Institute on Disability and Rehabilitation Research Training Grant #G0087C2005 (post-doctoral fellowship)

1990-93 Project Director, National Institute on Disability and Rehabilitation Research Training Center Grant #H133B80016-03

1993-94 Director of Research and Co-Director, National Institute on Disability and Rehabilitation Research Training Center Grant #H133B30026.

1996-Program Evaluation Subcommittee/Advisory Committee, National Institute on Disability and Rehabilitation Research Training Center Grant #H133B30026.

1997-Charcot Marie Tooth Research Fund, Providence Healthcare Foundation

1998-Principal Investigator, National Institute on Disability and Rehabilitation Research Training Center Grant #HB133B980008: Pain in Neuromuscular Disease: Incidence, Severity and Relationship to Physical Impairment and Disability; funding 10/01/98 -

10/01/2003.

1998-Program Evaluation Subcommittee/Advisory Committee, National Institute on Disability and Rehabilitation Research Training Center Grant #H133B980008.

2002-Co-investigator (Mark Jensen, Ph.D., principal investigator), National Institutes of Health Program Project Grant 2P01HD33988-06A1; Relationship Between Pain and Disability in Neuromuscular Disease

2003-Principal Investigator, Endo Pharmaceuticals, Protocol EN3220-010: LidodermLabel Testing Trial

2003-Principal Investigator, National Institute on Disability and Rehabilitation Research Training Center Grant # H133B03118: Promotion of Health and Wellness Through Community Recreation and Exercise: Impact of Impairment, Pain, Self-efficacy, and Envornomental Barriers in Neuromuscular Disease; funding approved 10/01/03 - 10/01/2008.

2003-Principal Investigator, Genzyme sponsored trial for alpha-glucosidase replacement in children and adults with Acid Maltase Deficiency (Pompe's disease)

2003-Co-principal investigator, Prednisone trials in Duchenne Muscular Dystrophy, through the Cooperative International Neuromuscular Research Group (CINRG)

NATIONAL PRESENTATIONS:

1994	Co-Chairperson and Course Faculty, "Natural History Profiles of Neuromuscular Diseases", presented at the American Academy of Physical Medicine and Rehabilitation Annual Meeting, Los Angeles, CA
1996	Course Faculty, "Palliative and Rehabilitative Strategies in ALS", University of Texas, Health Sciences Center, San Antonio
1996	Chairperson and Course Faculty, "Update on Motor Neuron Disorders"; by invitation; American Association of Electrodiagnostic Medicine annual meeting
1998	Moderator and Course Faculty: "STIR MRI: Usefulness Compared to Electromyography as a Diagnostic Tool for Neuromuscular Disorders", presented at the American Academy of Physical Medicine and Rehabilitation Annual Meeting
2001	"Adaptations to Exercise in Animal Models of Neuromuscular Disease"; by invitation; Consensus Conference on Muscle Physiology; San Diego, CA
2001	"Magnetic Resonance Spectroscopy in Metabolic Myopathies"; by invitation; American Association of Electrodiagnostic Medicine, Albuquerque, NM
2001	Plenary Session faculty, by invitation, "Magnetic Resonance Imaging: Anatomic and Physiologic Aspects of Muscle Evaluation";, American Association of Electrodiagnostic Medicine, Albuquerque, NM

2002	Dannemiller Memorial Education Foundation invited faculty; Seminars on Painful Neuropathies: Diagnostic Approach, Pathophysiology,and Treatment, Seattle, WA and Dallas, TX
2003	Chairperson and Course Faculty, by invitation, "The Role of Exercise in Neuromuscular Diseases", presented at the American Academy of Physical Medicine and Rehabilitation Annual Meeting, Chicago, IL
2003	Grand Rounds, by invitation, "Adaptations to Exercise in Animal Models of Neuromuscular Disease"; Loyola University Medical Center, Department of Orthopedics and Rehabilitation; Chicago, IL
2004	"Chronic Pain in Persons with Neuromuscular Disease"; joint scientific meeting of the American Pain Society and the Canadian Pain Society. Vancouver, British Columbia, Canada
2004	Course faculty, by invitation, "Rehabilitation Management of Peripheral Neuropathy", presented at the American Academy of Neurology Annual Meeting, San Francisco, CA
2004	Course faculty, by invitation "Rehabilitation Management of Peripheral Neuropathy"; presented at the American Academy of Physical Medicine and Rehabilitation Annual Meeting, Phoenix, AZ
2005	Course faculty, by invitation "The Role of Cannabinoids in Treating Neruomuscular Disorders"; presented at the National Organiation for the Reform of Marijuana Laws (NORML) Annual Meeting, San Francisco, CA
2005	Course faculty, "Electrophysiological Tools and Their Use in the Rehabilitation of Myopathies", by invitation; presented at the American Academy of Neurology Annual Meeting, San Francisco, CA (pending April 10)
2005	Course faculty, by invitation; "Methods of Assessing Muscle Function in Neuromuscular Disease"; Course C, American Association of Electrodiagnostic Medicine, Monterey, CA, (pending September)
2005	Plenary Session faculty, by invitation; "Rehabilitation of Neuromuscular Disorders"; Plenary Session, American Association of Electrodiagnostic Medicine, Monterey, CA, (pending September)

ON-GOING DIDACTIC PRESENTATIONS

1. Yearly Grand Rounds speaker, Department of Rehabilitation Medicine, University of Washington

2. Lecturer, Board Review Course; "Muscular Dystrophy and Other Related Disorders"; Department of Rehabilitation Medicine, University of Washington

3. Lecturer, "Muscular Dystrophies"; Graduate School of Physical and Occupational Therapy; University of Washington

PUBLICATIONS (MedLine citations are noted with PMID number):

1. Guttas JJ, **Carter GT,** Horwitz BA. Plasma membrane protection against the acute effects of inorganic lead on the respiratory rates of intact liver cells. *J Toxicol Environ Health* 1983; 12:731-737 PMID:6668620 [PubMed – indexed for Medline]

2. Kilmer DD, **Carter GT,** Lieberman JS. Prophylaxis in control of seizures in brain injured patients. *West J Med* 1988; 49(2):266-7

3. **Carter GT,** Yang CS, Abresch RT, Lieberman JS, Fowler WM. Pulmonary assessment in patients with facioscapulohumeral dystrophy [abs]. *Arch Phys Med Rehabil* 1989; 71(11):A67

4. **Carter GT,** Kilmer DD, Rosen BS. The peril of espresso machines. *West J Med* 1990; 153(6):664-5 PMID:2293482 [PubMed – indexed for Medline]

5. **Carter GT,** Fowler WM, Lieberman JS. Maximum static airway pressures in patients with limb-girdle and facioscapulohumeral dystrophy [abs]. *Arch Phys Med Rehabil* 1990; 71(10):822

6. **Carter GT,** Kilmer DD, Bonekat HW, Lieberman JS, Fowler WM. Phrenic nerve involvement in Charcot-Marie-Tooth disease [abs]. *Arch Phys Med Rehabil* 1991; 72(10):827

7. **Carter GT,** Longley KJ, Entrikin RK. Muscular dystrophy in *mdx* mice: electromyograpny and nerve conduction [abs]. *Faseb J* 1991; 5(4):A900

8. **Carter GT,** Longley KJ, Walsh SA, Entrikin RK. Lack of effect of amitriptyline in murine myotonia [abs]. *Faseb J* 1992; 6(4):A1299

9. **Carter GT,** Johnson ER, Bonekat HW, Lieberman JS. Laryngeal diversion in the treatment of intractable aspiration in motor neuron disease. *Arch Phys Med Rehabil* 1992; 73(7):680-682 PMID:1622326 [PubMed – indexed for Medline]

10. **Carter GT,** Kilmer DD, Bonekat HW, Breslin EH, Johnson ER. Pulmonary function in hereditary spinocerebellar ataxia [abs]. *Arch Phys Med Rehabil* 1992; 73(10):1000

11. Johnson ER, **Carter GT,** Fowler WM. Spine deformity profiles in neuromuscular disease [abs]. *Arch Phys Med Rehabil* 1992; 73(10):1001.

12. **Carter GT,** Kilmer DD, Bonekat HW, Lieberman JS, Fowler WM. Evaluation of phrenic nerve and pulmonary function in hereditary motor and sensory neuropathy, type I. *Muscle Nerve* 1992; 15:459-462 PMID:1565114 [PubMed – indexed for Medline]

13. **Carter GT,** Longley KJ, Entrikin RK. Electromyographic and nerve conduction studies in the *mdx* mouse. *Am J Phys Med Rehabil* 1992; 71(1):2-5 PMID:1739439 [PubMed – indexed for Medline]

14. Longley KJ, Entrikin RK, **Carter GT,** Horasek SJ. Antagonism of myotonia by dexamethasone in muscular dystrophy of the chicken [abs]. *Faseb J* 1992; 6(4):A1299

15. **Carter GT,** Longley KJ, Walsh SA, Entrikin RK. Lack of effect of amitriptyline in murine myotonia. *Am J Phys Med Rehabil* 1992; 71(5):279-282 PMID:1388974 [PubMed – indexed for Medline]

16. Breslin E, Booth J, Lord B, **Carter GT,** Bonekat HW, Volz B, Mercer K, Siefkin A. Respiratory responses to unsupported arm exercise (UAE) in Charcot Marie Tooth (CMT) [abs]. American Thoracic Society *Am Rev*

Resp Dis 1993; 147(4):A532

17. Abresch RT, Fowler WM, Larson DB, Horasek SJ, Walsh SA, **Carter GT**. Contractile abnormalities in dystrophin-less (*mdx*) mice [abs]. *Med Sci Sports Exer* 1993; 5(5):S15

18. Breslin EH, **Carter GT**, Mercer K, Bonekat HW, Lee K. Fatigue in patients with Charcot-Marie-Tooth [abs]. *Arch Phys Med Rehabil* 1993; 74(11):1256-57

19. **Carter GT**, Bonekat HW, Milio L. Successful pregnancies in the presence of spinal muscular atrophy: two case reports. *Arch Phys Med Rehabil* 1994; 75(2):229-231 PMID:8311683 [PubMed – indexed for Medline]

20. Wineinger MA, **Carter GT**, Abresch RT, Walsh SA, Horasek SJ, Fowler WM. Effect of aging on the histological, biochemical and contractile properties of dystrophin-deficient (*mdx*) mice [abs]. *J Cell Biochem* 1994; S18D:525

21. **Carter GT**, Wineinger MA, Walsh SA, Horasek SJ, Abresch RT, Fowler WM. Effect of voluntary wheel-running exercise on muscles of the *mdx* mouse [abs]. *J Cell Biochem* 1994; S18D:526

22. **Carter GT**, Kilmer DD. Posterior interosseus nerve entrapment in the presence of hereditary motor and sensory neuropathy, type I [abs]. *Muscle Nerve* 1994; 17:1085

23. **Carter GT**, Kikuchi N, Horasek S, Walsh SA. The use of fluorescent dextrans as a marker of sarcolemmal injury. *Histo Histopathol* 1994; 9(3):443-447 PMID:7526906 [PubMed – indexed for Medline]

24. Kawasaki RI, **Carter GT**, McDonald CM, Kilmer DD. Electromyographic and muscle biopsy findings in limb girdle syndromes [abs]. *Arch Phys Med Rehabil* 1994; 75(9):1050

25. **Carter GT**, Kikuchi N, Abresch RT, Walsh SA, Horasek S, Fowler WM. Effects of exhaustive concentric and eccentric exercise on murine skeletal muscle. *Arch Phys Med Rehabil* 1994; 75(5):555-559 PMID:8185449 [PubMed – indexed for Medline]

26. **Carter GT**. Neuromuscular disorders, in Dell Orto AE, Marinelli RP (eds): *Encyclopedia of Disability and Rehabilitation*. New York, Simon & Schuster MacMillan, 1995; pp. 509-515

27. **Carter GT**, Wineinger MA, Walsh SA, Horasek SJ, Abresch RT, Fowler WM. Effect of voluntary wheel-running exercise on muscles of the *mdx* mouse. *Neuromusc Disord* 1995; 5(4):323-331 PMID:7580246 [PubMed – indexed for Medline]

28. **Carter GT**, McDonald CM, Chan TT, Margherita AJ. Isolated femoral mononeuropathy to the vastus lateralis: EMG and MRI findings. *Muscle Nerve* 1995; 18:341-344 PMID:7870114 [PubMed – indexed for Medline]

29. **Carter GT.**: Phrenic nerve involvement in Charcot-Marie-Tooth disease. *Muscle Nerve* 1995; 18:1215-1216 PMID:7659121 [PubMed – indexed for Medline]

30. Fowler WM, Abresch RT, Aitkens SA, **Carter GT**, Johnson ER, Kilmer DD, McCrory MA. Impairment and disability profiles of neuromuscular diseases: design of the protocol. *Am J Phys Med Rehabil* 1995; 74(5):S62-69 PMID:7576423 [PubMed – indexed for Medline]

31. McDonald CM, Abresch RT, **Carter GT**, Fowler WM, Johnson ER, Kilmer DD. Profiles of neuromuscular disease: Duchenne muscular dystrophy. *Am J Phys Med Rehabil* 1995; 74(5):S70-92 PMID:7576424 [PubMed – indexed for Medline]

32. McDonald CM, Abresch RT, **Carter GT**, Fowler WM, Johnson ER, Kilmer DD. Profiles of neuromuscular disease: Becker muscular dystrophy. *Am J Phys Med Rehabil* 1995; 74(5):S93-103 PMID:7576425 [PubMed – indexed for Medline]

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ON-LINE PUBLICATIONS

1. **Carter GT:** Posterior Interosseus Neuropathy. www.aapmr.org CME On-line EMG Case of the Month Series May 1998

2. **Carter GT:** Femoral Mononeuropathy. www.aapmr.org CME On-line EMG Case of the Month Series September 1998.

3. **Carter GT:** Paraneoplastic Neuropathy. www.aapmr.org CME On-line EMG Case of the Month Series Febraury 1999.

4. **Carter GT**: e-Medicine: Rehabilitation Management of Neuromuscular Diseases. Physical Medicine and Rehabilitation: http://www.emedicine.com/pmr/topic233.htm

Law Enforcement Against Prohibition

Jack A. Cole

Executive Director
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"This is Not a War on Drugs—it's a War on People."

Jack Cole knows about the war on drugs from several perspectives. Cole retired as a Detective Lieutenant after a 26-year career with the New Jersey State Police. For twelve of those years Cole worked as an undercover narcotics officer. His investigations spanned the spectrum of possible cases, from street drug users and mid-level drug dealers in New Jersey to international "billion-dollar" drug trafficking organizations. Cole ended his undercover career living nearly two years in Boston and New York City, posing as a fugitive drug dealer wanted for murder, while tracking members of a terrorist organization that robbed banks, planted bombs in corporate headquarters, court-houses, police stations, and airplanes and ultimately murdered a New Jersey State Trooper.

After retiring, Cole dealt with the emotional residue left from his participation in the unjust war on drugs by working to reform current drug policy. He moved to Boston to continue his education. Cole holds a B.A. in Criminal Justice and a Masters degree in Public Policy. Currently writing his dissertation for the Public Policy Ph.D. Program at the University of Massachusetts, his major focus is on the issues of race and gender bias, brutality and corruption in law enforcement. Cole believes ending drug prohibition will go a long way toward correcting those problems.

Cole has taught courses to police recruits and veteran officers on ethics, integrity, moral decision-making, and the detrimental effects of racial profiling. He has also presented papers at international conferences and spoken on drug policy reform in the European Parliament, as well as over 300 times to students, educators, professional, civic, benevolent, and religious groups in Australia, Canada, Central America, Europe, New Zealand, and across the United States. Cole is passionate in his belief that the drug war is steeped in racism, that it is needlessly destroying the lives of young people, and that it is corrupting our police. Cole's discussions give his audience an alternative prospective of the US war on drugs from the view of a veteran drug-warrior turned against the war.

To book a speaker contact
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EXPERIENCE:

March 2002 to Present

LAW ENFORCEMENT AGAINST PROHIBITION (LEAP)
Founding member and executive director of 2,000 member international, nonprofit educational organization giving voice to police, judges, prosecutors, corrections officials, and former DEA agents, who are working to lower the incidence of death, disease, and addiction by ending drug prohibition. LEAP has a bureau of 85 Law-Enforcement Speakers and membership in 48 countries.

June 2001 to Present

RECONSIDER: Drug Policy Forum, Syracuse, New York
Public speaker on the failed current drug policies, offering alternative reform policies driven by the concept of "harm reduction."

May 2001 to June 2001

Regional Community Policing Institute of New England
Contracted to teach "Building Trust: Community Policing Philosophy" to all members of Providence, Rhode Island Police Department.

March 2000 to August 2000

Northeastern University, Center for Criminal Justice Policy Research
Created interactive multimedia presentations on compact disks to be used by the Regional Community Policing Institute in teaching a course titled "Building Trust: Ethically Based Community/Police Partnerships to police throughout New England."

May 1998 to July 1999

McCormack Institute, University of Massachusetts
Process evaluator for the Office of Community Oriented Policing Service, U.S. Department of Justice. Evaluated the first year start-up process for the Regional Community Policing Institute of New England.

October 1996 to September 1999

Massachusetts Criminal Justice Training Council
Public policy consultant engaged in evaluating and certifying all of the police academies and academy instructors in Massachusetts. Installed and maintained LAN and WAN computer networks to provide access for Police Academies throughout Massachusetts. Taught courses in Ethics and Moral Decision Making to entry-level police officers at Norwood Police Academy.

June 1997 to January 1998

Streamline, Inc. and NCMMOS, Inc.
Public policy consultant on law enforcement issues during the creation of "Policing in Massachusetts: The Beat Goes On," an interactive multimedia program to train police instructors on the Massachusetts Criminal Justice Training Council's new curriculum and pedagogy for "Policing in a Democratic Society."

June 1996 to September 1996

Mayor Thomas Menino's Commission on the Boston Municipal Police Served as public policy consultant assisting in evaluating the effectiveness and efficiency of the Boston Municipal Police.

October 1964 to March 1991	**New Jersey State Police, Retired, Lieutenant** Duties included: Supervising Alcoholic Beverage Control Enforcement Unit, Missing Person Unit and Child Sexual Exploitation Squad, Fugitive Unit, and various cases of International Narcotic Trafficking; creating the first statewide-computerized tracking systems for the Fugitive and Missing Persons Units and software for laptop computers capable of streamlining the control of the evidence handling at crime scenes. Investigative duties included case management and computer programming, surveillance, undercover activities, and intelligence analysis during fourteen years in the Narcotic Bureau. Other responsibilities included training police from Florida, Michigan, New Jersey and Virginia in fugitive apprehension and missing person recovery.
Special Assignments:	**International - Billion Dollar - Cocaine Conspiracy** Originated and directed a three-year investigation of a Colombia-based cocaine-trafficking organization. Worked eighteen months with the Drug Enforcement Administration and the Office of the United States Attorney in Brooklyn, New York, preparing that case for a prosecution. The case resulted in the first official acts of drug-policy diplomacy between the US and Colombia.
	National Terrorist Investigation Deep cover operative and intelligence officer for a three-year State Police investigation responsible for the capture of all members of a terrorist organization that robbed banks, planted bombs in corporate headquarters, court-houses, police stations and airplanes and in 1981 murdered a New Jersey State Trooper.
1974 to 1984	**Battered Person's Resource Center, Inc.** Cofounder, Treasure, grant writer, and public speaker. Trained personnel from law-enforcement, courts, hospitals, welfare agencies, and the public, about issues of domestic violence.
1976 to 1984	**Jersey Battered Women's Service** A founding member with served five years on the Board of Trustees and headed the speakers bureau for the first federally-funded battered women's shelter in New Jersey.
EDUCATION:	**University of Massachusetts** Doctoral Candidate in Public Policy Program, 1994 to present. Master of Science in Public Policy, 1999 Bachelor of Science in Criminal Justice, 1994
MILITARY:	**United States Marine Corps** – Four years
SPEAKING VENUES:	Spoke on drug-policy reform around the world at over 340 venues including civic, professional, religious, and educational organizations—appearances on 58 radio and 19 television programs and interviews in 57 newspapers, as well as a testifying before 6 State legislative committees and the European Parliament in Brussels, Belgium.

Alaska State Legislature

Please enter into the record my testimony to the SENATE JUDICIARY
Committee name

Committee on SB74 Crimes Involving Marijuana, dated 4-11-05
Bill/Subject

THE "FINDINGS" SUPPORTING THIS STATUTE ARE ARGUEABLE ASSERTIONS AND NOT SOLID FACTS. THERE IS EVIDENCE OF SOMETHING DOES NOT MAKE IT FACT. THERE IS EVIDENCE NEIL ARMSTRONG AND APOLLO ELEVEN NEVER WENT TO THE MOON. THE "EVIDENCE" DOES NOT MAKE IT TRUE.

HOW CAN THE THREAT TO SOCIETY FROM AN ADULT, ONLY, WITH 4 OUNCES, ONLY, OF MARIJUANA, ONLY, IN THEIR HOME, ONLY, FOR PERSONAL USE, ONLY, BE SUCH A GRAVE THREAT AS TO GIVE THE EXECUTIVE AND LEGISLATIVE BRANCH ENOUGH OF A COMPELLING INTEREST TO OVERRIDE THE JUDICIAL BRANCH AND YET NOT BE OF SUFFICIENT COMPELLING INTEREST TO PROVIDE ADDITIONAL FUNDING TO HANDLE THE HUNDREDS OF NEW FELONY CASES THAT THE DEPARTMENT OF ADMINISTRATION FISCAL NOTE PREDICTS THIS WILL CREATE.

FAMILIARIZE YOURSELVES WITH ALASKA STATUTES SEC. 11.76.110, INTERFERENCE WITH CONSTITUTIONAL RIGHTS, ESPECIALLY (3), A CLASS A MISDEMEANOR

Signed: James Barhart JAMES BARHART
Testifier

SELF AN ALASKAN ADULT COVERED UNDER RAVIN
Representing (Optional)

P.O. BOX 872533 WASILLA, ALASKA 99687
Address

746-2828
Phone number

Alaska State Legislature

Please enter into the record my testimony to the Judiciary, HES, Finance
Committee name

Committee on SB 74 - Crimes Involving Marijuana, dated 3/21/05, 4/11/05 Whenever it goes to finance
Bill/Subject

There has been no proof beyond a reasonable doubt that any of the "findings" in Sec. 2 are true or not misleading. And I object to the Governor and the legislature using these hearings to present one sided "expert" testimony to support the "findings" just so that they can be used later as "facts" They are not facts! I also object to the governor's attempt to go around the constitution and bypass the Alaska Supreme Court with this unconstitutional unlawful bill. This is clearly an attack on the Constitution of Alaska. I also object to the fact that there is no honest fiscal plan. I can't believe no additional enforcement funding would be needed.

Signed: Deborah Anne Bloom
Testifier

Representing (Optional)

7362 W. Parks Hwy #327, Wasilla 99654-9132
Address

Phone number

Brian Hove

From: Michael W. Macleod-Ball [mwm@akclu.org]
Sent: Wednesday, April 20, 2005 11:21 AM
To: Brian Hove
Subject: AkCLU testimony

Attachments: testimony-mwm05411.doc

testimony-mwm054
11.doc (31 KB)...

Brian -

In today's hearing, I told the committee that I'd submit my written testimony. I'm not sure that you have it. The Chairman referenced my written testimony when he was discussing the exhibits with Mr. Parker - but he may have been referring to my written testimony to HESS. The points for Judiciary are somewhat different. I have attached my written testimony intended for Judiciary to this email and would appreciate your making it part of the record in accordance with my comments to the committee earlier today.

Also, the Chairman said that the Committee would be notifying the parties when the bill was due to come up again. Will we be included in that group or was he simply referring to the administration folks to whom he was speaking at the time?

Thanks.

Wes

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Testimony of Michael W. Macleod-Ball, Executive Director, before the Senate Judiciary Committee Regarding SB 74 (marijuana legislation)

Thank you Chairman Seekins for this opportunity to address the committee. I'd also like to thank your staff for doing their best to keep us up to date on schedules and the like and for keeping their good humor despite their many competing interests. My name is Michael Macleod-Ball and I'm the executive director of the Alaska Civil Liberties Union.

I have submitted a written copy of my testimony before the Senate HESS committee for your consideration. Today, I'd like to address several other points that we believe to be important for this committee to consider.

History of legislation and case law

First, it's important to fully understand the history - the context in which this debate exists. The Ravin decision of 1975 has been much maligned as the decision that legalized marijuana in Alaska. That reputation is unfair and only part of the story. Ravin was much more about defining the scope of privacy than it was about legalizing marijuana. The privacy amendment to the Alaska Constitution had only recently been enacted at the time of the Ravin decision.

At its core, Ravin stood for the proposition that there are zones of privacy and if the government makes a law invading that privacy zone, it needs to be for a compelling reason. In that sense, the privacy right is just like any other fundamental right – free speech, right to worship – restrictive legislation needs a strong justification....something more than the basis for legislative action that doesn't infringe upon a fundamental right. You wouldn't enact a law barring all public discussion of whether marijuana is harmful. You wouldn't enact a law barring all Presbyterians from worshipping. Similarly, you wouldn't enact a law restricting an individual's right to be left alone.

Ravin declared that there is a protected zone of privacy in one's home. Ravin also stands for the proposition that an activity that doesn't harm someone else is due greater deference. In evaluating marijuana laws in light of the privacy amendment, the Ravin court said that the risks of marijuana were not so great as to justify state infringement of the zone of privacy.

It's important to note what Ravin did not do. It did not bar legislation related to driving under the influence. It did not bar legislation aimed at prohibiting commercial cultivation. It did not bar legislation prohibiting sales of marijuana. It did not bar legislation prohibiting use by minors. And no court decision since then has done any of

these things. So – all the talk by the administration about marijuana as a cash crop, needing to bar sales to kids, etc., is irrelevant to the issues before you in this bill. Such things are illegal now and will be illegal in the future.

After the Ravin decision, this body adopted legislation in effect codifying its terms. That legislation was the origination of the four ounce threshold for personal possession in the home, not the court decision. In 1990, a referendum attempted to recriminalize marijuana. Just last year, an appeals court overturned that decision. Once again, the decision was not about marijuana per se, but rather about the procedural means by which a constitutional right can be restricted. A constitutional amendment requires a 2/3 vote of the legislature plus the affirmative vote of the populace. It was logical that the court would not permit the dilution of a duly adopted constitutional provision based solely on a referendum. To do otherwise would have discounted the right of the legislature to initiate such constitutional provisions.

Because the referendum was not a valid procedure to change the constitution, the court was left to determine the state of the law with respect to marijuana – and it was clear that the law in effect immediately prior to the referendum would control. That law included the four ounce limit for personal use and possession which this law seeks once again to overturn.

Some risk isn't enough

As noted previously, the Ravin court acknowledged that marijuana had some risks associated with it. It considered a wealth of evidence, more in some ways than this panel has, and concluded that there was debate about the risks of marijuana, some evidence suggested greater risk than other evidence. That risk, however, was insufficient to justify government intrusion into the privacy of the home. What's more – the court even anticipated the presence of children in the home and said that even with kids in the home there was insufficient threat to public safety or welfare to justify a government invasion of the privacy of the home.

Findings should match the facts and the state's claims are exaggerated

Taking it all together, the obvious question is whether there is any way the legislature can act to restrict marijuana use and possession in the home. We believe the answer is 'no' given the current state of the science and the nature of the right being infringed.

The risks associated with the private possession of marijuana for personal use in the home simply haven't been demonstrated to exist – if they even exist to any greater degree than they did in the 1970's. In this bill, the findings overstate the known risks of marijuana in the hope that the courts will defer to these findings and agree that the stated risks justify restriction. To counter those exaggerations, you will hear testimony from internationally renowned experts who will tell you that the risks of marijuana are not substantially greater than 30 years ago. You will hear them say that the findings do not

reflect the best science. You will hear them say that the administration's testimony exaggerates or misleads or takes scientific conclusion out of context.

Compare this to the administration's overstatements: At a hearing last week, they asserted that kids get their pot at home from family. But you look at the actual study they relied on to make that statement, you'll see that kids mostly get their pot from friends. Only a small fraction get it from family members. And there is no indication that when they get pot from the home, they're getting it from adult family members. The materials submitted to Senate HESS and the testimony provided there made the alarming claim that 15% of rape suspects have smoked marijuana in the hours before the arrests. But if you look at the study from which that claim is drawn, you'll find that over 70% of those same suspects have consumed alcohol in the hours before arrest. And you'll find there is no indication whether the marijuana smokers also drank alcohol...and you'll find that the authors of the study were so concerned with the alcohol correlation that they provided much additional follow on information about alcohol use. And you'll find they deemed the marijuana link minor, perhaps trivial, in scientific terms...and deemed it unworthy of more detailed review. Those are just two examples of the administration's overstatements – if you had more time to look at their information, you might just find more.

If you want to be honest with the Alaskan public about this by adopting accurate findings, you have to admit that the weight of the evidence does not support the findings and does not justify a restriction on private possession of small amounts of marijuana for personal use in the home. The evidence may suggest driving while under marijuana's influence should be banned – but it already is and this legislation doesn't change that. It may suggest that commercial cultivation should be banned – but it already is and this legislation doesn't change that. This legislation does ban possession of any amount, no matter how small, even for private consumption in the home – and the findings are a smokescreen, without any support relevant to that restriction.

Findings will be subject to judicial review

The end result of this will be another court challenge...and the court this time will be left in the position not of defining the privacy right and not of explaining the proper way to amend the constitution, but rather of revealing the fallacy of these proposed findings. When a fundamental right is involved, the court will not simply defer to legislative findings. Clarence Thomas, when on the appellate court, said that simply saying so cannot make black into white or slavery into freedom. In this case, simply saying there is justification to invade the privacy of the home won't make it so. If this legislature doesn't wish to take the time to evaluate all the science methodically and with impartiality, the courts will certainly do so. And they'll find what other eminent and impartial panels have found – that marijuana has some risks, but far fewer than alcohol, tobacco, and other substances.

Criminalization doesn't help – it just creates more criminals and poverty

What should this legislatur do? If, as we suspect, there is a predisposition to ban marijuana in public and in private, then a constitutional amendment is the only way to go. We'd oppose such a movement, but there would be no doubt of the validity of the process, if successful. Significantly, nothing has been offered to show that criminalization works. The administration has decried the increase in usage rates – and impliedly blamed the court's privacy rulings. But as discussed earlier, we had effective prohibition for close to 15 years from the referendum until the decision negating that vote. If the administration's claims of increased usage are true, they occurred in a climate of perceived prohibition. If the concern of this legislature is really usage rates, why not focus on things that have been shown to work for other substances. Focus on education, focus on prevention.

At the very least, focus on all of the science presented to you today – if you look at it with an open mind, we believe you will be unable in good conscience to approve the findings you have before you in support of a restriction on a fundamental right.

Thanks for your attention and I'll be happy to answer questions.

Senator French:

I've printed lists of all cases from CRIMES that we received in 2003-2004 where the most serious charge of conviction was for MICS 4, MICS 5 or MICS 6. I think the best way of assessing sentences is to look at the most serious charge. It is possible to also look at cases where the marijuana charge is a secondary offense to something more serious, but I think that just adds a complicating factor to getting an handle on the typical sentences imposed.

There were approximately 220 MICS 4 convictions per year, with by far the majority being for possession of heroin, cocaine, methamphetamine and other dangerous drugs. Of the 15% of MICS 4 convictions that involved marijuana, the vast majority of those were for growing, selling or possessing with intent to sell one ounce or more, which is not changed by the bill. There were only four MICS 4 cases per year (eight total cases for the two-year period) of possession of one pound or more of marijuana. It appears that all of them involved marijuana growing. Only one of those eight defendants received any jail time, and that was only one month; five of the eight received SIS judgments. The average period of probation was 32 months, with 24 months being the shortest and 40 months the longest period of supervision. It seems reasonable to conclude, for purposes of fiscal note analysis, that judges will not impose sentence more severe than this if the legislature makes it a MICS 4 offense to possess from 4-16 ounces of marijuana.

Of the approximately 70 MICS 5 convictions annually, there was less than a handful each year involving possession of ½ to 1 pound of marijuana. The reason such cases are rare is that persons with that much marijuana are usually convicted of MICS 4 or 5 for growing, selling of possessing with intent to sell. Half of these defendants received no jail time at all, and the other half received sentences of 10-30 days, with periods of probation ranging from one to three years. Under the bill, these handful of offenders would be prosecuted for MICS 4, and would likely receive sentences comparable to those described in the preceding paragraph, that is, little or no jail time, and a probationary sentence.

Of the approximately 500 MICS 6 convictions each year, the vast majority are convicted as a result of public possession. This is anecdotal, because of the way the MICS 6 statute is written. However, drug prosecutors in Anchorage, Fairbanks, and Kenai, who handle 67% of all MICS 6 cases, all independently told me that by far the most common scenario, comprising upwards of 90% of the cases, is possession of marijuana in a motor vehicle, as a result of the driver being stopped for a traffic violation. An analysis of the sentences imposed in MICS 6 cases appears in the footnote.[1]

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[1] Of the 500 MICS 6 sentences, approximately 40 received active jail sentences (actual imprisonment) of one to five days, another 10 got 6-10 days, 9 were sentenced to 11-20 days, 3 served 21-40 days, 3 got 41-60 days and only one got the maximum sentence of 90 days. The

MICS 6 cases involving in-home possession of four ounces to ½ pound of marijuana are quite rare, again because persons with that much marijuana are usually convicted of MICS 4 or 5 for growing, selling of possessing with intent to sell.

MICS 6 cases involving in-home possession of less than four ounces of marijuana are rare and are generally dismissed. We do not expect there to be any significant change in the way police agencies deal with in-home possession of less than four ounces. As I indicated in committee testimony, it is likely that such cases will never come to the attention of prosecutors unless some other crime brings the police to the residence. In any event, cases of in-home possession of less than four ounces would become MICS 5 under the bill. As described in the preceding paragraph, MICS 5 cases involving possession of ½ to one pound ordinarily receive suspended sentences or only a very short period of jail time, and we do not expect any significant change in sentences for amounts less than four ounces.

In the committee today you also asked about the number of marijuana arrests. I don't have the number of arrests, but I can tell you how many defendants were referred. In 2003 we received cases with 1480 defendants charged with at least one MICS 6 count, 184 defendants charged with at least one MICS 5 count, and --- defendants charged with at least one MICS 4 count. These numbers include cases in which there were other charges, including more serious charges.

Let me know if you have questions.

Dean
April 20, 2005

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remaining 86% (more than 430 defendants) received no jail time. I looked up the two defendants who, between 2003-2004, received maximum sentences of 90 days, and found that both had records of other convictions. As I was flipping through the list, and out of curiosity, I also looked up the record of a person who got a sentence of 50 days, one Travis Smallwood. Aside from vehicle theft, criminal mischief, driving with a suspended license and a previous conviction for MICS 6, Mr. Smallwood was also charged with SAM2 and convicted of SAM3 in 2000, and later two cases of failing to register as a sex offender were dismissed. In 2002 he was charged with MICS 4 and convicted of MICS 5, apparently involving selling marijuana. Then in 2003 he was convicted of MICS 6 and got 50 days. The prosecutor in the Smallwood's SAM case? Hollis French.

Alaska Civil Liberties Union

An Affiliate of the American Civil Liberties Union
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FAX TRANSMISSION COVER SHEET

To: Sen. Ralph Seekins Date: 04/27/05

Firm: _____ Fax #: 465-5241

From: Michael W. Macleod-Ball, Executive Director

3 Pages in Transmission (Including Cover Sheet)

NOTES:

See attached letter requesting time to address revised findings on Senate Bill 74.

Alaska Civil Liberties Union

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April 27, 2005

Sent via fax (907-465-5241)
Original via regular U. S. Mail

Senator Ralph Seekins
Chairman, Senate Judiciary Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, AK 99801-1182

RE: Senate Bill 74 – *An Act making findings relating to marijuana use and possession....*

Dear Chairman Seekins:

I am writing in regard to the above referenced bill and, in particular, the Senate Judiciary Committee's consideration of revised findings recently offered by the administration.

As you are aware from testimony presented by the administration, the findings associated with the bill are critical to its ability to survive judicial challenge. Administration representatives have recently put forward alternative findings, and in the course have acknowledged that the original findings were overstated, misleading, or deficient in some way. As you are also aware, such was the thrust of the testimony of many of the opponents of the bill before your committee as well as before the Senate Health, Education and Social Services ("HESS") Committee previously.

We are now faced with a new set of findings, yet the opponents of the bill have not had the opportunity to provide input on the new proposed findings. In many ways, the new findings are as deficient as the originals. Given their importance to the bill, it is essential for the committee to hear expert commentary on the new findings so that they can gauge their validity and appropriateness. In particular, while we believe it would be most appropriate for HESS to evaluate these findings, in the absence of referring the bill back to HESS and because the corresponding bill has not received a HESS referral on the House side, it's essential that the Judiciary Committee commit to a full hearing on these revised findings.

We would agree to limit the presentation of testimony to the validity of the revised findings alone. You are aware that we wanted additional time to make a more detailed presentation on the findings in their original form. For purposes of this request, we would restrict our expert testimony from delving into further discussion of the substance of the bill or its constitutionality – except as it relates directly to the revised findings. As before, we continue to maintain that a full understanding of all the scientific research about marijuana would take months of hearings. However, we will gratefully accept any time the Committee is willing to

provide on the subject and will do our best not to waste the Committee's time with superfluous or irrelevant information. We will also work with the committee to establish a limited list of witnesses to be invited to testify.

Our experts are scattered across the country, so some advance notice would be helpful. We will make do, however, with whatever flexibility you can provide. You should feel free to contact me and I will in turn contact our team of experts to arrange their attendance at the appointed time. My office number is listed above or you can reach me on my cell phone at 230-0665.

Sincerely,

MWMacL-Ball

Michael W. Macleod-Ball
Executive Director
mwm@akclu.org

cc: Sen. Charlie Huggins (by fax only – 465-3265)
Sen. Gene Therriault (by fax only – 465-3884)
Sen. Hollis French (by fax only – 465-6595)
Sen. Gretchen Guess (by fax only – 465-6615)

TIMOTHY HINTERBERGER, ASSOCIATE PROFESSOR, UNIVERSITY OF ALASKA
Testimony on SB 74 before the Senate Judiciary Committee, 4 May 2005

I am an Associate Professor in the Biomedical Program and the Department of Biological Sciences at the University of Alaska Anchorage. I have been the chair of the Nervous System course in the medical school curriculum of the WWAMI Program at UAA since 1992, with an affiliate appointment in the Department of Biological Structure at the University Of Washington School Of Medicine. I mention my university affiliations only to establish my credentials; my statements are not intended to represent the official positions of the University of Alaska or the University of Washington, their administrations, or their boards of regents.

The reason I have taken the time to testify against SB 74 and HB 96 is that, as a medical educator, I find it extremely troubling that these bills attempt to disregard the existing scientific consensus on the health, social, and economic effects of our current marijuana policy and replace it with so-called "findings" that have little or no validity. In my previously submitted written testimony, I tried to describe the process by which genuine scientific consensus is determined, and I included a point-by-point rebuttal of the original findings, based on the best of these published reviews and commission reports. You also received testimony from a number of other independent experts who pointed out major errors in the findings of the bills.

On April 11 before this Committee, the Asst. Attorney General admitted that the original findings in SB 74 were so seriously flawed that the Administration had no choice but to withdraw them and replace them with revised findings. On April 20 we received these revised findings, and we were not surprised to see that they continue to adopt statements of alleged fact that were utterly refuted in both written and oral testimony provided by multiple experts. Although some statements in the original findings have been removed, they have been replaced with new allegations that are equally unsupportable or illogical. In the interest of time, I will concentrate on the entirely new statements in the revised findings.

Finding 1

The claim of "dramatically" increased potency rests the unbelievable value of 1% THC from the "1960s and 1970s". The statement that "marijuana today...is often sold in smaller amounts..." is evidence that any increase in potency *is* resulting in use of smaller quantities. The line about teenagers' price range is ridiculous on its face: kids have always bought and sold pot in quantities they can afford. The claim that large numbers of persons seek emergency medical care due to marijuana related incidents is not supported by any peer-reviewed data. In fact, the very latest clinical data show that use of cannabis is not independently associated with injuries requiring hospitalization, according to the March 2005 issue of the Journal of Trauma Injury, Infection, and Critical Care. A research team at State University of New York at Buffalo, Department of Family Medicine, conducted a retrogression analysis of approximately 900 trauma patients with positive toxicology screens for drugs and alcohol. The authors found, "Alcohol and cocaine use is independently associated with violence-related injuries, whereas opiate use is independently associated with nonviolent injuries and burns. ...Associations of positive toxicology test results for...cannabis...with injury type, injury mechanisms, and outcomes were not statistically significant."

Finding 2

The claim that hundreds of Alaskans undergoing treatment for marijuana abuse is evidence of great harm we have already - butted on three fronts: any "correspondence" between increased potency and increased "treatment admissions" is entirely spurious, not evidence of causation; "treatment admissions" are overwhelmingly coerced; and "emergency medical care due to marijuana-related incidents" deceitfully distorts the data. High rates of coerced treatment of youngsters and Natives may simply reflect their greater exposure to legal and school disciplinary actions, resulting from their lower socioeconomic status.

Finding 3

Regarding dependence on marijuana, we have heard testimony from Deputy Director of Behavioral Health Christi Willer* that DSM-IV includes as evidence of "dependence" simply getting caught! As a neuroscientist, I am particularly annoyed to see completely misleading references to basic neurochemistry. In fact, many, many behaviors "...affect some of the same neurochemical processes" as does THC consumption, including eating, sex, and even shopping. Regarding Marijuana Anonymous, it turns out that these "Anonymous" organizations exist for everything from gambling and overeating, to lip balm use and cluttering. There are Clutterers Anonymous chapters in CA (16 chapters), DE, CN, DC, MD, ME, MA, MI, MN, NE, NJ, NY, OH, PA, TX, VA, and WA—is this "persuasive evidence" of anything?

Finding 4

This revised finding makes claims that confuse correlation with causation and that were already thoroughly rebutted. The latest issue of the journal Psychiatry Research reports that among recent cannabis users, average age of schizotypal symptoms significantly *preceded* age of first use of cannabis. When cases were analyzed individually, the authors affirmed that the majority of respondents in the "Recently Used" [marijuana] group reported schizotypal personality disorder symptoms *prior* to their initiation of use. The authors wrote that "Although researchers recognize an association between cannabis use and psychosis, whether or not cannabis contributes to the development of psychosis remains less clear...The current study...suggest[s] a temporal precedence of schizotypal traits *before* cannabis use in most cases. These findings do not support a causal link between cannabis use and schizotypal traits."

Finding 5

The complex interplay between alcohol abuse and marijuana use was well addressed in previous testimony, particularly that by Dr. Lester Grinspoon. Please note the term used here, "correlative effect"— I challenge the Asst. Attorney General to define it, and I would not blame the Committee members if they feel insulted by this attempt to befuddle them with meaningless, pseudoscientific jargon.

Finding 6

As we have previously noted, the large variety of chemical compounds found in marijuana is of no particular significance. No one disputes that THC binds to neuronal receptors—if it didn't it would have no effect. The relative carcinogenic properties of cannabis smoke vs. tobacco smoke have already been addressed, by me and by others. Regarding bacteria and fungus, there is no evidence (other than anecdotal) that cannabis harbors pathogenic species[†]. Pesticide and fungal contamination, to the degree that it exists, is an artifact of prohibition; under cannabis regulation

there would be standards limiting contamination, and enforcement thereof (as there are for Dutch medicinal cannabis).

Finding 7

The claim that marijuana use is associated with violent crime we have already completely debunked. Frankly I am amazed to see it still appearing in these revised findings. (People are not found to have "marijuana in their system" [sic], nor are they even found to have THC in their systems—they are found to have THC's inactive metabolites.)

Finding 8

This finding begins by again confusing correlation with causation, here regarding the coincidence of parent and child use. It then goes on to misstate the data: the NSDUH Report "How Kids Obtain Marijuana," March 14, 2004, does *not* say they most often "get marijuana at home," it says "they obtained it...inside a home, apartment, or dorm" as opposed to "in a public building, outside in a public area, inside a school building, or outside on school property." Since "family member" is undefined in the report, it may very likely have been an older brother or cousin who does not live in the same household. The lack of deterrent effect from criminal penalties has already been addressed in prior testimony.

The references accompanying the revised findings are also deeply flawed. To give just one example, under (3), the second bullet where it reads "Scientists have demonstrated ..." refers to a July 1997 report in the journal Science wherein "Rats were treated daily for 2 weeks with the potent synthetic cannabinoid HU-210. Withdrawal [was] induced by the cannabinoid antagonist SR 141716A". Nobody believes that this realistically models cannabis use by humans, as explained by Grinspoon and others in a response in the August 1997 issue of Science. In the 7 years since the report, it has not been replicated or extended by any lab, including the authors' own, nor did it influence the conclusions of the later British and Canadian commissions on marijuana that we have cited.

Do the Committee members really want to burden themselves with having to weigh scientific evidence ranging from neuropharmacology to family dynamics? I respectfully suggest that trying to hold hearings on complex medical and sociological studies is an inappropriate use of Alaska legislators' extremely limited and valuable time. If the Alaska State Senate truly wishes to produce reliable findings on marijuana, they should do as many other legislative bodies around the world have done and convene an expert commission, and then give it plenty of time to do its work. I would further respectfully suggest that, for now, the Senate has no alternative but to remove all findings from this bill.

These revised findings before us today are just as bad if not worse than the original ones. Twice now, the Administration has presented you with a set of findings that you would, I believe, have been embarrassed to pass into law. How many chances are you going to give the Administration to work on them? The Legislature simply does not have time to do the job of screening multiple sets of flawed findings brought to it by an Administration that wishes to "assist" "...the courts in Alaska to come to different conclusions about state statutes..."

* It is worth noting that every one of the witnesses who has testified in support of this bill has a vested interest in seeing laws against marijuana maintained and seeing this bill passed. With all due respect to the Asst. Attorney General, Behavioral Health personnel, and members of the federal Office of National Drug Control Policy, their livelihoods (and to a lesser extent, that of the State Troopers) benefit from maintaining the perception that marijuana is a dangerous drug. Our expert witnesses, on the other hand, are independent academics who have no financial or other vested interest in one side of the issue or the other.

Furthermore, the opinions of Behavioral Health staffers regarding the need in rural Alaska to increase penalties for marijuana possession are not the only opinions out there. I had a chance to talk last month with the personnel director at the YKHC hospital in Bethel. He was discussing their problems with turnover (40% annually) and the poor preparedness of high school students for work or further education. I asked him about substance abuse as part of the problem, and specifically whether increasing penalties for marijuana would make any difference. He said it would not.

† According to the Lip Balm Anonymous Home Page, "Overuse of a balm or jelly creates a crust on the lips which traps bacteria and fungi creating a state of permanent inflammation."

SB

83

SENATE COMMITTEE REPORT

DATE: 2/16/05

FURTHER:

DATE TURNED
IN TO OFFICE:_____

Judiciary Committee considered SENATE BILL NO. 83

SB 83 TERM. PARENTAL RTS/CINA/DELINQUENCY CASES

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

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#

[ ] **APPROPRIATION - no fiscal note**

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

24-GS1108\G
Mischel
2/23/05

CS FOR SENATE BILL NO. 83( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child-in-need-of-aid proceedings and juvenile delinquency proceedings; relating to findings in permanency hearings in child-in-need-of-aid proceedings; amending Rule 17.2, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

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

*** Section 1.** AS 25.23.180 is amended by adding a new subsection to read:

(j) In a relinquishment of parental rights executed under (a) of this section, a parent may retain privileges with respect to the child, including the ability to have future contact, communication and visitation with the child. A retained privilege must be stated with specificity in the writing, and, if a termination order is entered

following the relinquishment, the court shall incorporate a retained privilege into the termination order. A relinquishment may not be withdrawn or invalidated, nor may a termination order be vacated, on the grounds that a retained privilege has been withheld from the relinquishing parent or that the relinquishing parent has been unable, for any reason, to act upon a retained privilege.

*** Sec. 2.** AS 43.23.005(f) is amended to read:

(f) **The** [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE] commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state

(1) in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual**; or**

(2) while in the custody of the Department of Health and Social Services in accordance with a court order under AS 47.10 or AS 47.12 and placed outside of the state by the Department of Health and Social Services for purposes of medical or behavioral treatment.

*** Sec. 3.** AS 47.10.020(a) is amended to read:

(a) Whenever circumstances subject a child to the jurisdiction of the court under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency to make a preliminary inquiry and report for the information of the court to determine whether the best interests of the child require that further action be taken. **The court shall make the appointment on its own motion or at the request of a person or agency having knowledge of the child's circumstances.** If, under this subsection, the court appoints a person or agency to make a preliminary inquiry and to report to it, **or if the department is conducting an investigation of a report of child abuse or neglect, the court may issue any orders necessary to aid the person, the agency, or the department in its investigation or in making the preliminary inquiry and report. Upon** [THEN, UPON THE] receipt of the report **under this subsection**, the court may

(1) close the matter without a court hearing;

(2) determine whether the best interests of the child require that further

action be taken; or

(3) authorize the person or agency having knowledge of the facts of the case to file with the court a petition setting out the facts.

*** Sec. 4.** AS 47.10.020 is amended by adding a new subsection to read:

(e) Nothing in this section requires the department to obtain authorization from the court before

(1) conducting an investigation of a report of child abuse or neglect; or

(2) filing a petition.

*** Sec. 5.** AS 47.10.080(*l*) is amended to read:

(*l*) Within 12 months after the date a child enters foster care as calculated under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and permanent plan developed in the hearing are governed by the following provisions:

(1) the persons entitled to be heard under AS 47.10.070 or under (f) of this section are also entitled to be heard at the hearing held under this subsection;

(2) when establishing the permanent plan for the child, the court shall make appropriate written findings, including findings related to whether

(A) and when the child should be returned to the parent or guardian;

(B) the child should be placed for adoption or legal guardianship and whether a petition for termination of parental rights should be filed by the department; and

(C) the child should be placed in another planned, permanent living arrangement and what steps are necessary to achieve the new arrangement;

(3) if the court is unable to make a finding required under (2) of this subsection, the court shall hold another hearing within a reasonable period of time;

(4) in addition to the findings required by (2) of this subsection, the court shall also make appropriate written findings related to

(A) whether the department has made the reasonable efforts required under AS 47.10.086 to offer appropriate family support services to remedy the parent's or guardian's conduct or conditions in the home that made

the child a child in need of aid under this chapter;

(B) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter; [AND]

(C) if the permanent plan is for the child to remain in out-of-home-care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child; **and**

(D) whether the department has made reasonable efforts to finalize the permanent plan for the child;

(5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan; if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department.

* **Sec. 6.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.145. Expert witness testimony regarding absent parent, guardian, or custodian. If the court finds by clear and convincing evidence that a parent, guardian, or custodian of a child cannot be located after a reasonable search for the parent, guardian, or custodian has been conducted by the department, the court may conclude that the testimony of a qualified expert witness would support a finding that continued custody of the child by the absent parent, guardian, or custodian is likely to result in serious emotional or physical damage to the child.

* **Sec. 7.** AS 47.10.990(16) is amended to read:

(16) "mental health professional" has the meaning given in AS 47.30.915**, except that, if the child is placed in another state by the department, "mental health professional" also includes a professional listed in the definition of "mental health professional" in AS 47.30.915 who is not licensed to practice by a board of this state but is licensed by a corresponding licensing authority to practice in the state in which the child is placed**;

* **Sec. 8.** AS 47.12.990(10) is amended to read:

(10) "mental health professional" has the meaning given in

AS 47.30.915, **except that, if the minor is placed in another state by the department, "mental health professional" also includes a professional listed in the definition of "mental health professional" in AS 47.30.915 who is not licensed to practice by a board of this state but is licensed by a corresponding licensing authority to practice in the state in which the minor is placed**;

*** Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need of Aid Rules of Procedure, is amended to read:

(f) **Additional Findings.** In addition to the findings required under paragraph (e), the court shall also make written findings related to

(1) whether the Department has made reasonable efforts required under AS 47.10.086 or, in the case of an Indian child, whether the Department has made active efforts to provide remedial services and rehabilitative programs as required by 25 U.S.C. Sec. 1912(d);

(2) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid; [AND]

(3) if the permanent plan is for the child to remain in out-of-home care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child**; and**

(4) whether the Department has made reasonable efforts to finalize the permanent plan for the child.

*** Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Section 5 of this Act takes effect only if sec 9 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

*** Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).

SB 83

FRANK H. MURKOWSKI
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 25, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

D. r President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, relating to eligibility for Permanent Fund dividends for certain children in the custody of the state, and relating to child in need of aid proceedings under AS 47.10 and juvenile delinquency proceedings under AS 47.12.

The bill would add language to AS 25.23.180 to permit parents to relinquish their parental ghts to a child while retaining certain privileges, such as ongoing communication or visitation with the child. This proposed amendment is in response to a recent Alaska Supreme Court decision holding that current law prohibits a parent from retaining any rights or privileges in a relinquishment. In some cases, ongoing contact with the parent is in the child's best interest, particularly in cases involving adoption by relatives or family acquaintances. Before the Supreme Court's decision, retention of privileges in relinquishments was a common practice. The proposed amendment would authorize retained privileges in appropriate cases.

The bill would add language to AS 43.23.005 to allow children who are placed temporarily by the Department of Health and Social Services (DHSS) outside of the state--in out-of-state treatment facilities, for example--to maintain their eligibility for Permanent Fund dividends. Some children require long-term treatment of a nature that is currently unavailable in this state; such children are at risk of losing their Permanent Fund dividend eligibility if they remain placed out of state for more than a year and are unable to return to the state to meet permanent fund dividend eligibility requirements. These Alaskan children should not lose the privilege of dividend eligibility as a result of being placed by the DHSS in a treatment program that is only available out-of-state.

The bill would add language to AS 47.10.020 to clarify that the court may issue any orders necessary to aid the DHSS in its investigation of an allegation of child abuse or neglect. Orders to aid DHSS are not prohibited by existing law;

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however, the proposed clarification would resolve any ambiguity regarding the ability of judges to issue such orders.

The bill also would add a new provision to permit courts to dispense with unnecessary and costly expert witness appearances in child in need of aid cases involving parents who cannot be located or identified. Under existing federal law, in order for a court to authorize the out-of-home placement of, or termination of parental rights to, an Indian child, the court must consider the testimony of a qualified expert witness. In cases involving a parent whose whereabouts remain unknown despite a diligent search, this federal law would appear to require that an expert witness be called solely to support the self-evident finding that placement of a child with the parent who cannot be found is likely to place the child at risk of harm. The proposed addition to AS 47.10 would permit a court to conclude, as a matter of law, that the testimony of a qualified expert witness would support a finding that placing the child with an absent parent would place a child at substantial risk of serious harm. This provision will satisfy federal legal requirements.

Finally, the bill would amend the definition of the term "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings. In order to authorize placement of children in secure residential psychiatric treatment facilities, courts must hear the testimony of a "mental health professional." The current definition of that term, contained in AS 47.30.915, excludes professionals who may be licensed to practice in other states, but not in Alaska. The testimony of such professionals is often critical in cases involving Alaska children who are already placed out of state by DHSS. Thus, expansion of the existing definition is necessary to ensure that Alaska children who are placed outside of this state receive the psychiatric treatment they need.

Each of the provisions of this bill constitutes a step toward making Alaska's children safer, healthier, and more secure, without unreasonably expanding governmental powers.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

24G-1
2/18/2005
(1:46 PM)

AMENDMENT #1

OFFEREL IN THE SENATE JUDICIARY COMMITTEE BY _____

TO: SB 83

Page 1, line 4, following "**delinquency proceedings;**":

Insert "**relating to findings in permanency hearings in child in need of aid proceedings; amending Rule 17.2, Alaska Child in Need of Aid Rules;**"

Page 3, following line 6:

Insert a new bill section to read:

"* **Sec. 5.** AS 47.10.080(*l*) is amended to read:

(*l*) Within 12 months after the date a child enters foster care as calculated under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and permanent plan developed in the hearing are governed by the following provisions:

(1) the persons entitled to be heard under AS 47.10.070 or under (f) of this section are also entitled to be heard at the hearing held under this section;

(2) when establishing the permanent plan for the child, the court shall make appropriate written findings, including findings related to whether

(A) and when the child should be returned to the parent or guardian;

(B) the child should be placed for adoption or legal guardianship and whether a petition for termination of parental rights should be filed by the department; and

(C) the child should be placed in another planned, permanent living arrangement and what steps are necessary to achieve the new arrangement;

(3) if the court is unable to make a finding required under (2) of this subsection, the court shall hold another hearing within a reasonable period of time;

(4) in addition to the findings required by (2) of this subsection, the court shall also make appropriate written findings related to

(A) whether the department has made the reasonable efforts required under AS 47.10.086 to offer appropriate family support services to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter;

(B) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter; [AND]

(C) if the permanent plan is for the child to remain in out-of-home care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child; **and**

(D) whether the department has made reasonable efforts to finalize the permanent plan for the child;

(5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan; if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department."

Renumber the following bill sections accordingly.

Page 3, following line 28:

Insert new bill sections to read:

"*** Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need of Aid Rules, is amended to read:

(f) **Additional Findings.** In addition to the findings required under paragraph

(e), the court shall also make written findings related to

(1) whether the Department has made reasonable efforts required under AS 47.10.086 or, in the case of an Indian child, whether the Department has made active efforts to provide remedial services and rehabilitative programs as required by 25 U.S.C. Sec. 1912(d);

(2) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid; [AND]

(3) if the permanent plan is for the child to remain in out-of-home care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child**; and**

(4) whether the Department has made reasonable efforts to finalize the permanent plan for the child.

* Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Section 5 of this Act takes effect only if sec. 9 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

Renumber the remaining bill section accordingly.

SENATE BILL NO. 83

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/26/05
Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

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

*** Section 1.** AS 25.23.180 is amended by adding a new subsection to read:

(j) In a relinquishment of parental rights executed under (a) of this section, a parent may retain privileges with respect to the child, including the ability to have future contact, communication, and visitation with the child. A retained privilege must be stated with specificity in the writing and, if a termination order is entered following the relinquishment, the court shall incorporate a retained privilege into the termination order. A relinquishment may not be withdrawn or invalidated, nor may a

termination order be vacated, on the grounds that a retained privilege has been withheld from the relinquishing parent or that the relinquishing parent has been unable, for any reason, to act upon a retained privilege.

* **Sec. 2.** AS 43.23.005(f) is amended to read:

(f) **The** [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE] commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state

(1) in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual**; or**

(2) while in the custody of the Department of Health and Social Services in accordance with a court order under AS 47.10 or AS 47.12 and placed outside of the state by the Department of Health and Social Services for purposes of medical or behavioral treatment.

* **Sec. 3.** AS 47.10.020(a) is amended to read:

(a) Whenever circumstances subject a child to the jurisdiction of the court under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency to make a preliminary inquiry and report for the information of the court to determine whether the best interests of the child require that further action be taken. **The court shall make the appointment on its own motion or at the request of a person or agency having knowledge of the child's circumstances.** If under this subsection, the court appoints a person or agency to make a preliminary inquiry and to report to it, **or if the department is conducting an investigation of a report of child abuse or neglect, the court may issue any orders necessary to aid the person, the agency, or the department in its investigation or in making the preliminary inquiry and report. Upon** [THEN, UPON THE] receipt of the report **under this subsection**, the court may

(1) close the matter without a court hearing;

(2) determine whether the best interests of the child require that further action be taken; or

(3) authorize the person or agency having knowledge of the facts of the

case to file with the court a petition setting out the facts.

*** Sec. 4.** AS 47.10.020 is amended by adding a new subsection to read:

(e) Nothing in this section requires the department to obtain authorization from the court before

(1) conducting an investigation of a report of child abuse or neglect; or

(2) filing a petition.

extent of search in question

*** Sec. 5.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.145. Expert witness testimony regarding absent parent, guardian, or custodian. If the court finds by clear and convincing evidence that a parent, guardian, or custodian of a child cannot be located after a reasonable search for the parent, guardian, or custodian has been conducted by the department, the court may conclude that the testimony of a qualified expert witness would support a finding that continued custody of the child by the absent parent, guardian, or custodian is likely to result in serious emotional or physical damage to the child.

*** Sec. 6.** AS 47.10.990(16) is amended to read:

(16) "mental health professional" has the meaning given in AS 47.30.915**, except that if the child is placed in another state by the department, "mental health professional" also includes a professional listed in the definition of "mental health professional" in AS 47.30.915 who is not licensed to practice by a board of this state but is licensed by a corresponding licensing authority to practice in the state in which the child is placed**.

*** Sec. 7.** AS 47.12.990(10) is amended to read:

(10) "mental health professional" has the meaning given in AS 47.30.915**, except that if the minor is placed in another state by the department, "mental health professional" also includes a professional listed in the definition of "mental health professional" in AS 47.30.915 who is not licensed to practice by a board of this state but is licensed by a corresponding licensing authority to practice in the state in which the minor is placed**.

*** Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 83
(S) Publish Date: 1/26/05

Revision Date/Time (Note if correction):
Dept. Affected: Health & Social Services

Title: RELATING TO CHILDREN IN NEED OF AID
RDU: Children's Services
Component: Front Line Social Workers

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR
Component No.: 2305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (0)						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost:
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill addresses a number of different issues related to children in the custody of the department. The bill modifies various sections of Alaska Law by:

1. Allowing a parent to retain privileges of ongoing contact or communication with a child, when appropriate, after relinquishment of parental rights;

2. Maintaining permanent fund dividend eligibility for Alaskan children temporarily placed outside the state by the Department of Health and Social Services (DHSS)
3. Clarifying the court's authority to issue orders to aid the DHSS in its investigations of child abuse and neglect;

Prepared by: Marcia Kennai, Deputy Commissioner
Phone 465-3191
Division: Office of Children's Services
Date/Time 12/27/2004
Approved by: Joel S. Gilbertson, Commissioner
Date 12/29/2004
Agency: Department of Health and Social Services

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 83

ANALYSIS CONTINUATION

4. Modifying the circumstances under which the DHSS may assume emergency custody of a child in order to better protect abused and neglected children;
5 Establishing a definition of "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings, and
6. Allowing the court to make findings regarding the testimony of expert witnesses in cases where parents cannot be located.

Passage of this bill will not have a fiscal impact on the department.

Sectional Analysis of SB 83/HB 114 (Child in need of aid omnibus)

(Prepared by the Department of Law, February 11, 2005)

HB 114/SB 83 would allow certain privileges to a parent when relinquishing parental rights; allow a child placed out of state while in custody of the Department of Health and Social Services not to be disqualified from receiving a permanent fund dividend on that basis alone; clarify the court's authority with regard to the investigation of abuse or neglect of a child; allow the court to rely on certain expert testimony in the case of an absentee parent, guardian, or custodian; and broaden the definition of "mental health professional."

I. Change to add parental privileges at relinquishment (AS 25.23.180) (Section 1):

Sec. 1: Section 1 provides that a parent may retain certain privileges with respect to a child when relinquishing parental rights, including the ability to have future contact, communication, and visitation with the child. A relinquishment cannot be invalidated, nor a termination order vacated, if a retained privilege has been withheld from the relinquishing parent or if a relinquishing parent fails to exercise a retained privilege.

II. Changes to statute regarding eligibility for a permanent fund dividend (AS 43.23.005) (Section 2):

Sec. 2: Section 2 allows the commissioner of the Department of Revenue to waive the permanent fund dividend's physical presence requirement for an individual who is in the custody of the Department of Health and Social Services and placed outside of the state for medical or behavioral treatment.

III. Changes regarding Department of Health and Social Services' investigation of abuse or neglect of a child (AS 47.10.020) (Sections 3 and 4):

Sec. 3: Section 3 amends the section regarding the investigation of the abuse or neglect of a child to describe when the court shall appoint a person or agency to make a preliminary inquiry and report for the information of the court, and to permit the court to issue orders necessary to help a person, agency, or the Department of Health and Social Services in its investigation or in making the preliminary inquiry and report to the court.

Sec. 4: Section 4 adds a new subsection that states that nothing in the section requires the Department of Health and Social Services to obtain court approval before investigating a report of harm or filing a petition. This places in statute current practice.

IV. Changes to allow a court to rely upon certain expert testimony (Section 5):

Sec. 5: Section 5 adds a new subsection to the chapter regarding children in need of aid (AS 47.10) to allow a court, in certain circumstances, to conclude that the testimony of a qualified expert witness would support a finding that continued custody of a child by an absent parent, guardian, or custodian is likely to result in serious damage to the child.

V. Changes to broaden the definition of "mental health professional" (Sections 6 and 7):

Sec. 6: Section 6 amends the definition of "mental health professional" in the chapter regarding children in need of aid (AS 47.10) to include a professional who is licensed to practice in a state other than Alaska when the Department of Health and Social Services has placed a child in that state.

Sec. 7: Section 7 amends the definition of "mental health professional" in the chapter regarding delinquent minors (AS 47.12) to include a professional who is licensed to practice in a state other than Alaska when the Department of Health and Social Services has placed a child in that state.

VI. Effective date (Section 8):

Sec. 8: Section 8 provides that the bill would take effect immediately.