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**Recommendations**  
of the  
**Alaska Criminal  
Justice Council**

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**January 2003**



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Alaska Criminal Justice Council*

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# Criminal Justice Council

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## Acknowledgments

The Alaska Criminal Justice Council has spent the past two and a half years working to carry out the recommendations made by the Criminal Justice Assessment Commission in May 2000. In large part, it has succeeded. The essence of the Criminal Justice Council is its shared approach to achieving progress for Alaska's criminal justice system that could not happen by the efforts of any one agency. CJC members worked daily with the legislature, municipal and state governments and the public to accomplish mutual goals. In some projects, one group took the lead; in others, a different group or coalition. In all, the state and its citizens benefitted.

This report summarizes progress towards meeting the CJAC goals and establishes new goals for the criminal justice system in the coming years. The mission remains the same: to ensure that offenders are held accountable, to assure that the criminal justice system protects public safety, to improve the system's cost effectiveness, and to relieve prison overcrowding. The background information and recommendations offered here are intended to fulfill that mission.

CJC recognizes the invaluable contributions of its members:

- Chair, Bruce Botelho, Attorney General, 1993 - 2002;
- Co-chair, Margaret Pugh, Commissioner of Corrections, 1994 - 2002;
- Former and current Commissioners of Health and Social Services, Karen Perdue, 1994 - 2001, and Jay Livey, 2001 - 2002;
- Former and current Commissioners of Public Safety, Glenn Godfrey, 1994 - 2002 and Del Smith, 2002 - present;
- Public Defender Barbara Brink, 1997 - present;
- Public Advocate Brant McGee, 1985 - present;
- Administrative Director of the Courts Stephanie Cole, 1997 - present; and
- Former Judicial Council Executive Director William Cotton, 1990 - 2001, and current Executive Director Larry Cohn, 2001 - present.

The members were capably assisted by staff, including Cindy Cooper (Deputy Attorney General, 1996 - 2002), Pat Gullufsen (Deputy Attorney General, 2002), Russ Webb, (Deputy DHSS Commissioner, 2001 - 2002), Elmer Lindstrom (Deputy DHSS Commissioner, 2001 - 2002), Margot Knuth (Special Assistant to DOC Commissioner, 1994 - 2002), and Chris Christensen (Deputy Director, Alaska Court System). CJC staff for this report included Staff Director Teri Carns, Contract Attorney Jenny Miller, and, Executive Secretary Pat Scott. The Department of Corrections has provided funding for the Criminal Justice Council, and the Alaska Judicial Council has housed the staff and provided administrative support. Appendix C of this report lists the committee members and interviewees who contributed to the work of CJC during the past year.

New legislators, state officials and staff must decide how to use the recommendations and materials in this report. The CJC members offer them as a basis for moving forward to serve Alaska citizens by keeping the criminal justice system effective, focused on public safety and maximizing the use of state resources to reduce recidivism, aid victims, and improve services to both urban and rural areas.

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## I. Introduction

This report of the Alaska Criminal Justice Council (CJC) updates the Interim Status Report of the CJC of January 2002, and, together with that report, provides clarification and follow-up on the recommendations made by the Alaska Criminal Justice Assessment Commission (CJAC) in that Commission's Final Report, dated May 2000. Between June and August 2002, interviews were conducted with criminal justice professionals around Alaska to elicit and address issues of concern to practitioners in the field. This report includes findings from those interviews and policy proposals developed by the CJC to highlight priorities in Alaska's criminal justice system.

Recommendations made by practitioners concurred in the need for:

- ample funding for meaningful, substantive legislation;
- less "feel-good" legislation with little impact on the state;
- meaningful consequences responsive to particular offenses;
- corrections programs that address the broad spectrum of defendants' rehabilitative needs;
- a paradigm of integrated treatment, including substance abuse treatment for individuals and their families in their home communities, within the context of daily stressors that they will face upon completion of their treatment program; and
- safe housing, transportation, education and childcare.

The CJC recommends a cautious but explorative use of therapeutic models, and urges the incoming administration to place children – their health, well-being and development – at the forefront of any program affecting the state's citizenry. This report assesses and comments on the current status of aspects of the criminal justice system, and creates a road map for successful development of criminal justice in Alaska.

### A. Project History

#### 1. The NIC Criminal Justice Project

Alaska enjoys a strong history of interagency cooperation in criminal justice. The Criminal Justice Planning Agency (early 1970s - 1982), the "criminal justice working groups" of the 1980s, the Alaska Sentencing Commission (1990 - 1992), and Governor Hickel's criminal justice working group (1992 - 1994) created appreciation for the benefits of inter-branch cooperative working

groups.<sup>1</sup> Alaska criminal justice system agencies were accepted as participants in the National Institute of Corrections (NIC) Criminal Justice System Project in 1997. The Project, funded by the U.S. Department of Justice, was intended to aid in developing more cost-effective, efficacious and efficient criminal justice sanctions that served the needs of the state. For Alaska, the only state selected for participation, the Project was yet another way to collaborate.

## 2. The Criminal Justice Assessment Commission

In October 1997, then-Governor Tony Knowles, then-Chief Justice Warren Matthews, then-President of the Senate Mike Miller and then-Speaker of the House Gail Phillips signed a resolution appointing members of their respective governmental branches to the “Criminal Justice System Task Force,” which then became known as the Criminal Justice Assessment Commission (CJAC). Appointed members came from the Alaska Supreme Court, the Alaska trial courts, the Alaska Judicial Council (AJC), the Departments of Corrections (DOC), Health and Social Services (DHSS), Law, and Public Safety (DPS), the Public Defender Agency, the Office of Public Advocacy (OPA), the Alaska Mental Health Trust Authority (MHTA), the Native Justice Center, the Hiland Mountain Advisory Group, Victims for Justice, the Municipality of Anchorage, and AllVest, as well as the Alaska State Legislature.<sup>2</sup> CJAC met quarterly.

CJAC created five subcommittees to address the areas of alcohol policy, the mentally disabled, pretrial practices and procedures, probation and parole, and sentencing. Each subcommittee met regularly to discuss policy and facts, and to generate recommendations. In addition, CJAC held two longer conferences, that most Commission and subcommittee members attended. The recommendations developed and submitted to these conferences, along with recommendations made by the NIC after its own preliminary assessment of Alaska’s criminal justice system,<sup>3</sup> form the bulk of the recommendations adopted by CJAC and contained in that Commission’s Final Report.<sup>4</sup> The Final Report contains a full history of CJAC’s development and recommendations.<sup>5</sup>

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<sup>1</sup> For a more detailed history and description of Alaska’s criminal justice coordination efforts, see *Final Report of the Alaska Criminal Justice Assessment Commission*, May 2000, at 4-7 (hereinafter “Final Report”) (available from the Alaska Judicial Council).

<sup>2</sup> See List of Participants, *infra* Appendix A.

<sup>3</sup> See Chase Riveland *et al.*, *A Preliminary Report to the Criminal Justice Commission* (1999) (available for viewing at the offices of the Alaska Judicial Council). NIC provided staff and technical assistance throughout the project.

<sup>4</sup> See *Final Report*, *supra* n. 1.

<sup>5</sup> See *id.*

In summary, CJAC recommended:

- Increasing funds available to state and local governments for substance abuse programs through increased taxes on alcohol sales;
- Developing measures to reduce substance abuse related crime;
- Exploring all available means to reduce the disproportionate number of Alaska Natives and other minorities throughout the justice system;
- Taking steps to address issues regarding the state's prison population suffering from mental disabilities;
- Encouraging the provision of adequate treatment beds, outpatient programs and follow-up care for offenders with substance abuse, mental health, sex offender, and other treatment needs;
- Developing new programs and expanding the use of existing programs to divert some offenders from the justice system through the use of alternative sanctions such as community work service and restitution, and through use of treatment alternatives;
- Making needed statutory and policy changes to streamline criminal justice processes such as through statewide standardization of various procedures;
- Finding better ways to assure that misdemeanor offenders comply with court orders and conditions to better protect the public and to aid rehabilitation;
- Finding ways to more effectively serve communities statewide, emphasizing the need to cooperate with local governments and other organizations, especially in rural areas;
- Improving interagency communication and policy-making procedures; and
- Encouraging agencies and local governments to incorporate principles of restorative justice – holding offenders accountable to the victim and community – into programs and policies throughout the criminal justice system to the extent appropriate and feasible.<sup>6</sup>

### 3. The Criminal Justice Council

CJAC also recommended creating a successor organization to carry out the above recommendations. In response, state agencies created the CJC in May 2000. The eight member group included the commissioners of the Department of Law, DOC, DHSS, and DPS, as well as the Public Defender Agency, OPA, the Court System and the AJC.<sup>7</sup> The CJC continued to direct subcommittee efforts

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<sup>6</sup> See *Final Report, supra* n. 1, at 2.

<sup>7</sup> See List of Participants, *infra* Appendix A. As stated, the Alaska Court System is a member of the Criminal Justice Council and representatives from the Alaska Court System actively participate in CJC activities. However, the Court System is in a unique position with regard to the CJC because of the judiciary's status as a separate branch of government, and because the judiciary must maintain its neutrality with regard to issues that may later come before it in its decision-making capacity. Therefore, representatives of the Alaska Court System did not vote or take positions on recommendations concerning the passage of substantive legislation and executive branch issues and policies.

and, in January 2002, published the Interim Status Report of the Alaska Criminal Justice Council.<sup>8</sup> The Interim Report described progress in carrying out the CJAC recommendations.

## B. The Need for Further Criminal Justice Review

In a time of increasing crime nationwide, Alaska has surpassed even the high national average. In the year 2000, Alaska ranked 48<sup>th</sup> among all states in population, but 33<sup>rd</sup> among all states in robberies per 100,000 people, 31<sup>st</sup> in burglaries, 26<sup>th</sup> in murders, 24<sup>th</sup> in vehicle thefts, 23<sup>rd</sup> in property crimes, 22<sup>nd</sup> in larceny thefts, 10<sup>th</sup> in violent crimes and aggravated assaults, and first among all states in calendar year forcible rapes.<sup>9</sup> In 2001, while the national overall crime average increased by 2.0%, in Anchorage, the state's most populous city,<sup>10</sup> the overall average increased by 2.7%. While national figures on violent crimes (including murders, rapes, aggravated assaults and robberies) increased by only 0.3%, that same category exploded in Anchorage, climbing 14.4% in 2001.<sup>11</sup>

Alaska's prison populations have increased as well. In 1996, Alaska had 2,967 individuals incarcerated in the state's 16 institutions, with 259 individuals incarcerated in out-of-state facilities, for a total of 3,226 individuals imprisoned; by January 1, 2002, there were 2,992 individuals incarcerated in those same 16 state institutions, with 819 inmates in out-of-state facilities, totaling 3,811 inmates.<sup>12</sup>

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<sup>8</sup> Alaska Judicial Council, *Interim Status Report of the Alaska Criminal Justice Council*, January 2002 (hereinafter "Interim Report").

<sup>9</sup> See The Disaster Center, *Alaska Crime Rates 1960 - 2000* (visited Aug. 26, 2002) <<http://www.disastercenter.com/crime/akcrime.htm>> (citing the Federal Bureau of Investigation's Uniform Crime Reports).

<sup>10</sup> Of the 626,932 people living in Alaska in Census Year 2000, 260,283 (41.5%) lived in Anchorage. See U.S. Census Bureau, *State and County Quickfacts* (last modified May 30, 2002) <<http://quickfacts.census.gov/qfd/states/02/02020.html>>.

<sup>11</sup> Cf. Ben Speiss, *Murkowski Gets Tough*, Anchorage Daily News, Aug. 8, 2002, at B1 ("Between 1995, when Gov. Tony Knowles and Ulmer took office, and 2001, violent crime has fallen 8 percent statewide. . . . Property crimes have fallen 25 percent.") (emphasis added).

<sup>12</sup> See Alaska Dep't of Corrections' Division of Administrative Services, *2000 Offender Profile* at 5 (visited Aug. 26, 2002) <<http://www.correct.state.ak.us/corrections/admin/docs/profile2000.pdf>> (showing that in 2000, there were 2,757 inmates incarcerated in-state, with an additional 826 inmates out-of-state, for a total of 3,583 inmates. Of the 826 prisoners housed out-of-state in 2000, 793 (96.0%) were held at the Arizona Detention Center in Florence); *Correctional Populations: 2001*, 19 ALASKA JUST. F. 5 (Summer 2002) (showing the Florence population to have represented 94.8% of the number of Alaskans incarcerated out-of-state on January 1, 2002). In-state facilities are shown on the map at Appendix D.

While no one cause can be tied to the increase, studies have presented a strong correlation between substance use and abuse and crime. The McDowell Group, a research-based consultant firm hired by the DHSS Governor's Advisory Board on Alcoholism and Drug Abuse to examine the economic costs of alcohol and other drug abuse in Alaska, published the second phase of its report in November of 2001.<sup>13</sup> The McDowell Group "speculated that alcohol and other drug abuse plays a role in 85 percent to 95 percent of all incarcerations in Alaska."<sup>14</sup> Using national figures, the McDowell Group paper further attributed to the state \$453 million in costs associated with alcohol abuse, and \$161 million in costs associated with other drug abuse.<sup>15</sup>

Yet, at the same time, resources allocated for treatment in the state have declined. Governor Tony Knowles has acknowledged limited legislative support to pay for treatment programs during the last two years.<sup>16</sup> Allocation of resources to treatment initiatives ranks among the most pressing of concerns voiced by CJAC and the CJC.

### C. Summary of Findings, Foci, and Recommendations

The CJC recommendations that follow emphasize problems and successes in criminal justice. New recommendations, based on specific concerns of criminal justice professionals, also have been incorporated. They include recommendations to:

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<sup>13</sup> The paper falls short of determining the true costs; it states that "Alaska-specific data were not available on the amount of crime, health and medical costs, lost production, and public assistance that can be attributed to alcohol and other drug abuse. Estimates rely on national norms based on tested methodologies. National norms are based on a lower prevalence of alcohol abuse and dependence than is the case in Alaska." McDowell Group, Inc., *Economic Costs of Alcohol and Other Drug Abuse in Alaska, Phase Two* at 4 (Nov. 13, 2001) (hereinafter "Economic Costs"). The Report recommends "[c]omprehensive development of Alaska specific data." *Id.*

<sup>14</sup> *Id.* at 12.

<sup>15</sup> *See id.* at 1.

<sup>16</sup> *See, e.g.*, House Journal Text for HB 172, *Letter from Knowles to Porter of July 3, 2001* (visited Aug. 27, 2002) <[http://www.legis.state.ak.us/basis/get\\_jrn\\_page.asp?session=22&bill=HB172&jrn=1900&hse=H](http://www.legis.state.ak.us/basis/get_jrn_page.asp?session=22&bill=HB172&jrn=1900&hse=H)> (with regard to funding appropriated to House Bill 172, "An Act relating to therapeutic courts for offenders," the Governor wrote that, "[i]n signing this bill, I note the inadequacy of the funds provided to implement it. Of the \$2 million estimated to adequately establish and operate this program, the legislature granted only \$1.4 million. We cannot expect to reach the anticipated success of these new initiatives without providing the resources they require."); House Journal Text for HB 179, *Letter from Knowles to Porter of July 3, 2001* (visited Aug. 27, 2002) <[http://www.legis.state.ak.us/basis/get\\_jrn\\_page.asp?session=22&bill=HB179&jrn=1900&hse=H](http://www.legis.state.ak.us/basis/get_jrn_page.asp?session=22&bill=HB179&jrn=1900&hse=H)> (with regard to funding appropriated to House Bill 179, "An Act relating to underage drinking and drug offenses," the Governor wrote that, "[u]nfortunately, this strong law will go on the books without adequate funds. Less than half of the funds needed to fully implement it were appropriated – \$800,000 out of the needed \$1.75 million. While the legislature acknowledges the imperative to help our youth who have alcohol problems, it was unwilling to fully attack the problem and make our best effort to suppress it. I look forward to a greater future commitment to Alaska's youth.").

- Continue the work of the CJC, with limited expanded membership, through statutory mandate;
- Support victims' services throughout the criminal justice system;
- Increase the statewide excise tax on alcoholic beverages by an amount significant enough to allow the legislature to effectively increase prevention and treatment of alcoholism;
- Use revenues generated from the excise tax on alcohol to fund prevention and treatment programs and other means that effectively address problems caused by alcoholism and substance abuse;
- Increase interagency coordination on alcohol policy;
- Allow youth courts to resolve charges of underage possession and consumption of alcohol, as well as falsification of identification, for those offenders enrolled in Alaska's schools who are age eighteen and younger. Recommend parent or guardian participation in every youth court proceeding;
- Increase industry responsibility for curbing minor consumption;
- Increase the number of substance abuse treatment beds for Alaskan DOC clients in need of intensive residential alcohol treatment, especially women, and individuals with children;
- Continue the "therapeutic community" substance abuse treatment program for female inmates, and expand or create similar programs for inmates with children;
- Encourage agencies and substance abuse treatment providers to develop a standard information release form to reduce delays caused by use of varying standards;
- Encourage agencies and substance abuse treatment providers to develop standard assessment protocols, including a specified range of reciprocal assessment tools, to reduce delays caused by use of varying standards, and encourage early assessment, consistent with a defendant's constitutional rights;
- Incorporate mental health screening as a component of all substance abuse assessments, and substance abuse assessments as a component of all mental health screening;
- Increase the degree of assessment given each incarcerated defendant to include assessment of substance abuse, mental disabilities, HIV, and Hepatitis C treatment needs, and educational and vocational needs, and provide for periodic follow-up assessments as appropriate;
- Expand eligibility in the Felony Drug Court to include appropriate offenders charged with delivery of substances;
- Expand use of therapeutic justice principles statewide;
- Encourage treatment and other alternatives to incarceration for those charged with driving under the influence, especially in rural communities;
- Explore options, including regulation and legislation, that require the alcohol industry to make more efforts to reduce incidents of alcohol-related offenses and alcohol abuse;
- Study the utility of requiring ignition interlock devices on all cars belonging to or regularly driven by persons on probation or parole for alcohol-related offenses, whether or not the court has ordered treatment;
- Afford limited driver's licenses to individuals on probation or parole for alcohol-related offenses who are actively engaged in efforts to maintain sobriety or treatment, whether or not that treatment is court-ordered;
- Create state-sponsored public education media campaigns aimed at encouraging youths and adults (including parents, guardians, and spouses), in both urban and rural Alaska, to

decrease consumption of alcohol and other substances, and creating awareness of criminal penalties for alcohol and substance-related offenses;

- Expand probation supervision in small communities;
- Establish after-care and re-entry programs and procedures to emphasize the continued treatment and monitoring of defendants released from institutional custody, especially sex offenders and those with underlying substance abuse issues and mental disabilities;
- Relocate Alaskan prisoners from Arizona to the State of Alaska;
- Focus measures to alleviate prison overcrowding on crime reduction and prevention means, including allocation of resources;
- Focus measures to alleviate prison overcrowding on increasing both Community Residential Center capacity and institutional capacity (hard beds) in existing facilities. Any new hard-bed facilities should be run by the state, whether or not built by the private sector;
- Focus measures to alleviate prison overcrowding on reducing the amount of time an offender spends incarcerated. Accomplish this by increasing the use of house arrest, electronic monitoring, parole, greater use of parole for non-dangerous geriatric offenders and those with major medical or mental disability, intermediate sanctions, and *Nygren* credit;
- Promote criminal justice responses and solutions that emphasize rehabilitation and deterrence;
- Reexamine fines levied against those charged with DUIs;
- Examine the utility and success of the City of Anchorage and state's vehicle forfeiture program;
- Increase treatment opportunities for incarcerated offenders, especially alcohol and substance abuse treatment, and treatment for sexual offenders; and
- Increase opportunities for educational and vocational advancement in correctional institutions.

## D. Table of Recommendations

<p>"FR": <i>Final Report of the Alaska Criminal Justice Assessment Commission</i> (May 2000).                      "IR": <i>Interim Status Report of the Alaska Criminal Justice Council</i> (Jan. 2002).                      "FSR": <i>Final Status Report of the Alaska Criminal Justice Council</i> (Jan. 2003).</p>		
Number	Recommendation	Recommendation Status
<b>A. General Policy Recommendations</b>		
A-1. FR p. 51 IR p. 11 FSR p. 18	Create a small organization to implement the recommendations made by the Commission, to resolve policy issues, to provide liaison with federal and other governments, and to take responsibility for longer-range criminal justice planning.	Successfully completed
A-1a. FSR p. 18	Continue and expand efforts of the CJC through statutory mandate.	New
A-2. FR p. 52 IR p. 26 FSR p. 19	Encourage criminal justice system agencies to continue to work together to develop criminal justice information systems that interact efficiently and that provide data to enable policymakers to make reliable decisions on policy issues.	Continue
A-3. FR p. 52 IR p. 16 FSR p. 19	Review and evaluate systems for monitoring of misdemeanor probation and pretrial conditions, giving consideration to the special needs of the different populations expressed throughout these recommendations. The successor organization to CJAC should recommend a system or systems that will improve the likelihood that offenders will comply with court conditions and orders.	Revised See also Recommendation B-15
A-4. FR p. 53 IR p. 17 FSR p. 20	Explore further the principles of restorative justice.	Continue
A-4a. FSR p. 22	Encourage appropriate departments and agencies to support victims' services throughout the criminal justice system.	New
A-5. FR p. 54 IR p. 18 FSR p. 22	Explore all available means to reduce the disproportionate numbers of Alaska Natives and other minority offenders and victims in the justice system. These efforts should include increased reliance on local justice initiatives and treatment programs.	Continue
<b>B. Alcohol and Substance Abuse Policy Recommendations</b>		
B-1. FR p. 54 IR p. 27 FSR p. 40	Increase the statewide excise tax on alcoholic beverages by an amount significant enough to allow the legislature to effectively increase prevention and treatment of alcoholism.	Revised



B-1a. FSR p. 41	Use revenues generated from the excise tax on alcohol to fund prevention and treatment programs and other means that effectively address problems caused by alcoholism and substance abuse in Alaska, consistent with the constitutional mandate regarding dedicated funds.	New
B-2. FR p. 55 IR p. 27 FSR p. 41	Allow municipalities to tax alcoholic beverage sales at a rate independent of the rates imposed on other sales.	Continue
B-3. FR p. 56 IR p. 33 FSR p. 42	Remove the statutory cap on alcohol license fees and increase wholesale license fees to fund increased enforcement of Title 4 statutes.	Continue
B-4. FR p. 57 IR p. 33 FSR p. 42	Increase interagency coordination on alcohol policy.	Revised/New
B-5. FR p. 57 IR p. 33 FSR p. 42	Restructure the Alcohol Beverage Control Board.	Continue
B-6. FR p. 58 IR p. 11 FSR p. 43	Remove the law enforcement functions of the Alcohol Beverage Control Board from the Department of Revenue and place them in DPS.	Continue
B-7. FR p. 58 IR p. 28 FSR p. 44	Amend AS 04.11.010(c) to decrease the amount of alcohol that individuals may presumptively possess for their own use.	Continue
B-7a. FR p. 60 IR p. 11 FSR p. 44	Amend AS 04.11.150 to require monitoring of liquor sales in package liquor stores located within 100 miles of a dry community.	Continue
B-7b. FR p. 61 IR p. 12 FSR p. 45	Request that the United States Postal Service put a higher priority on curtailing illegal mailing of alcohol to dry communities and increase its level of cooperation with state, local and tribal law enforcement.	Successfully completed
B-8. FR p. 61 IR p. 18 FSR p. 46	Evaluate and recommend programs for diversion, incentives for treatment, prevention, and enhanced consequences to better modify underage drinking behaviors without triggering the appointment of counsel and jury trials.	Continue

B-8a. FR p. 62 IR p. 28 FSR p. 47	Allow youth courts to resolve charges of underage possession and consumption of alcohol, as well as falsification of identification, for those offenders enrolled in Alaska's schools who are age eighteen and younger. Amend AS 47.12.155 to recommend parent or guardian participation in every youth court proceeding.	New
B-8b. FSR p. 48	Increase industry responsibility for curbing minor consumption.	New See also Recommendation B-23
B-9. FR p. 63 IR p. 28 FSR p. 49	Increase the number of substance abuse treatment beds for Alaska DOC clients in need of intensive residential alcohol treatment, especially women and individuals with children.	Revised See also Recommendation B-11a
B-10. FR p. 63 IR p. 29 FSR p. 51	Study the use of Title 47 civil commitment procedures for alcoholics and addicts and consider further changes to reduce jail stays by chronic substance abusers.	Continue
B-11. FR p. 64 IR p. 12 FSR p. 51	Create a "therapeutic community" substance abuse treatment program for male inmates.	Continue
B-11a. FSR p. 51	Continue the "therapeutic community" substance abuse treatment program for female inmates, and expand or create similar programs for inmates with children.	New
B-12. FR p. 65 IR p. 13 FSR p. 52	Encourage agencies and substance abuse treatment providers to develop a standard information release form to reduce delays caused by use of varying standards.	Continue
B-12a. FSR p. 53	Encourage agencies and substance abuse treatment providers to develop standard assessment protocols, including a specified range of reciprocal assessment tools, to reduce delays caused by use of varying standards. Agencies should use these protocols as early in the criminal justice process as possible, consistent with a defendant's constitutional rights.	New
B-12b. FSR p. 53	Incorporate mental health screening as a component of all substance abuse assessments, and substance abuse assessments as a component of all mental health screening.	New
B-13. FR p. 65 IR p. 20 FSR p. 54	Encourage state agencies, treatment providers, tribal entities, and community organizations to collaborate to establish programs and procedures that emphasize the treatment and monitoring of underlying alcohol, drug and inhalant abuse and mental disabilities, including therapeutic justice approaches.	Continue
B-13a. FSR p. 56	Expand eligibility in the Felony Drug Court to include appropriate offenders charged with delivery of substances.	New

B-13b. FSR p. 56	Expand use of therapeutic justice principles statewide.	New
B-14. FR p. 66 IR p. 20 FSR p. 56	Increase state-sponsored, voluntary use of Naltrexone in conjunction with alcohol treatment as a condition of bail or probation.	Revised
B-15. FR p. 67 IR p. 21 FSR p. 57	Expand DHSS's Alcohol Safety Action Program (ASAP) through legislation and funding.	Continue
B-16. FR p. 68 IR p. 34 FSR p. 59	Create more community aftercare for abusers being released from substance abuse programs by DOC.	Continue See also Recommendation E-7
B-17. FR p. 68 IR p. 21 FSR p. 59	Support culturally-relevant programs for alcohol treatment.	Continue
B-18. FR p. 69 IR p. 34 FSR p. 60	Make treatment assessments available to all defendants with alcohol issues prior to sentencing, and mandate that if a defendant is ordered to treatment, any program required as a sentencing condition be justified by assessment.	Continue See also Recommendations B-12a, B-12b
B-19. FR p. 70 IR p. 34 FSR p. 60	Create a statutory mitigating factor for use at criminal sentencing, recognizing when the wrongful conduct was substantially affected by an organic brain disorder.	Continue
B-20. FR p. 70 IR p. 21 FSR p. 61	Respond more quickly to offenders with chronic substance abuse problems by identifying them early in their contact with the criminal justice system.	Continue See also Recommendations B-12a, B-12b
B-21. FR p. 71 IR p. 29 FSR p. 61	Develop adequate facilities and services, including housing, to address the unique needs of offenders who are suffering from both serious mental disabilities and substance abuse problems.	Continue
B-22. FSR p. 63	Encourage treatment and other alternatives to incarceration for those charged with DUI, especially in rural communities.	New
B-23. FSR p. 63	Explore options, including regulation and legislation, that require the alcohol industry to make more efforts to reduce incidents of alcohol-related offenses and alcohol abuse in the state.	New See also Recommendation B-8c
B-24. FSR p. 65	Study the utility of requiring ignition interlock devices on all cars belonging to or regularly driven by those persons on probation or parole for alcohol-related offenses, whether or not the court has ordered treatment.	New

B-25. FSR p. 67	Amend AS 28.15.201 to afford limited driver's licenses to those individuals on probation or parole for alcohol-related offenses who are actively engaged in efforts to maintain sobriety or treatment, whether or not that treatment is court-ordered. Mandate ignition interlock devices on all cars belonging to or regularly driven by persons with limited licenses.	New
B-26. FSR p. 67	Create state-sponsored public education media campaigns that encourage youths and adults (including parents, guardians and spouses), in both urban and rural Alaska, to decrease use of alcohol and other substances. Media campaigns should also create awareness of criminal penalties for alcohol and substance-related offenses.	New
<b>C. Mentally Disabled Policy Recommendations</b>		
C-1. FR p. 72 IR p. 22 FSR p. 72	Continue to support the Coordinated Resources Project (CRP) in Anchorage. Using an evaluation of outcome measures, make any necessary improvements to enable a permanent project in Anchorage and successful replication statewide.	Continue
C-2. FR p. 73 IR p. 22 FSR p. 73	Support the Jail Alternative Services Project (JAS) in Anchorage. Using an evaluation of outcome measures, make any necessary improvements to enable a permanent project in Anchorage and successful replication statewide.	Continue
C-3. FR p. 74 IR p. 23 FSR p. 75	Train state and local agency personnel to manage mental health crises and respond appropriately to mentally disabled misdemeanor offenders.	Continue
C-4. FR p. 74 IR p. 30 FSR p. 75	Make a continuum of housing options and services for stable mentally disabled misdemeanor offenders available upon release from custody.	Continue
C-5. FR p. 75 IR p. 31 FSR p. 76	Make a continuum of support, rehabilitation, treatment and supervision services available for mentally disabled individuals.	Continue
C-6. FR p. 76 IR p. 35 FSR p. 76	Provide sufficient community resources and treatment for individuals with organic mental disorders.	Continue
C-7. FR p. 77 IR p. 35 FSR p. 76	Create sufficient detoxification beds to meet the need in hub communities, and train staff in detox centers.	Continue

C-8. FR p. 77 IR p. 23 FSR p. 77	Support the Providence Psychiatric Emergency Room.	Continue
C-9. FR p. 78 IR p. 13 FSR p. 78	Provide adequate Designated Evaluation and Treatment (DET) beds in hub communities throughout the state for use as private sector alternatives to API and DOC beds.	Continue
<b>D. Pretrial Practices and Procedures Policy Recommendations</b>		
D-1. FR p. 78 IR p. 35 FSR p. 80	Evaluate the existing Anchorage Municipal Prosecutor's Pretrial Diversion Program. Using an evaluation of outcome measures, make any necessary improvements to enable a permanent project in Anchorage and successful replication statewide.	Continue
D-2. FR p. 79 IR p. 31 FSR p. 80	Develop a pretrial release electronic monitoring program.	Continue See also Recommendations A-3, F-7a
D-3. FR p. 80 IR p. 23 FSR p. 81	Assure that adequate pretrial data will be included in the development of the state's new management information systems and that criminal justice system agencies share new and existing data.	Continue See also Recommendation A-2
D-4. FR p. 80 IR p. 24 FSR p. 81	Establish a process to resolve issues related to <i>Nygren</i> credit.	Resolved See also Recommendation F-7b
D-5. FR p. 81 IR p. 36 FSR p. 82	Develop and implement bail schedules for appropriate offenses and offenders.	Continue
D-6. FR p. 82 IR p. 36 FSR p. 82	Evaluate the viability of a pretrial bail evaluation and supervision unit using private sector resources and working under the direction of the court.	Continue
<b>E. Probation and Parole Policy Recommendations</b>		
E-1. FR p. 82 IR p. 13 FSR p. 84	Standardize forms and procedures used in petitions to revoke probation and parole.	Continue
E-2. FR p. 83 IR p. 31 FSR p. 85	Make available additional treatment programs, including substance abuse and sex offender treatment programs, particularly in rural areas.	Continue See also Recommendations B-9, B-11, B-13, B-16, B-17, C-5, C-6
E-3. FR p. 84 IR p. 31 FSR p. 85	Expand the DOC's Enhanced Probation Program to other large cities and to rural communities in partnership with other community organizations.	Continue

E-4. FR p. 84 IR p. 32 FSR p. 86	Provide a community-based program for probation and parole supervision that uses partnerships with other agencies, regional organizations and tribes and villages to expand services and treatment.	Continue See also Recommendation A-5
E-5. FR p. 85 IR p. 24 FSR p. 86	Supplement probation supervision with video supervision of offenders, particularly in small communities.	Continue
E-5a. FSR p. 87	Expand probation supervision in small communities.	New
E-6. FR p. 86 IR p. 25 FSR p. 87	Use volunteers where appropriate to help in the supervision and treatment of probationers and parolees.	Continue
E-7. FSR p. 87	Urge state agencies, treatment providers, tribal entities, and community organizations to collaborate to establish aftercare and re-entry programs and procedures. Emphasize the continued treatment and monitoring of defendants released from institutional custody, especially sex offenders and those with substance abuse issues, and mental disabilities.	New See also Recommendations A-5, B-16
<b>F. Sentencing and Prison Overcrowding Policy Recommendations</b>		
F-1. FR p. 86 IR p. 14 FSR p. 93	Amend AS 12.30.010(b) to allow judges to use performance bonds for offenders released on bail. Amend Criminal Rule 41 to allow judges to order forfeiture of a performance bond if an offender fails to comply with the conditions of release.	Successfully completed
F-2. FR p. 87 IR p. 14 FSR p. 94	Amend AS 12.55.025(c) to grant the sentencing judge authority to allow a defendant to report for service of sentence on a date other than the date the sentence is imposed.	Successfully completed
F-3. FR p. 87 IR p. 36 FSR p. 94	Double the dollar amounts that define the levels of property crimes.	Continue
F-4. FR p. 88 IR p. 14 FSR p. 94	Amend AS 33.05.070 to clarify the appropriate judicial district in which the adjudicative phase of a probation violation hearing shall be heard.	Continue
F-4a. FSR p. 95	Implement DOC's plan to relocate Alaskan prisoners from Arizona to Alaska.	New
F-5. FSR p. 95	Focus measures to alleviate prison overcrowding on increasing prevention measures and reducing crime.	New

F-6. FSR p. 96	Focus measures to alleviate prison overcrowding on increasing both Community Residential Center (CRC) capacity, and institutional capacity (hard beds) in existing facilities. Any new hard-bed facilities should be run by the state, whether or not built by the private sector.	New
F-7. FSR p. 96	Focus measures to alleviate prison overcrowding on reducing the amount of time an offender spends incarcerated. Reduce the amount of time an offender spends incarcerated by increasing the use of house arrest and electronic monitoring, both pre- and post-trial; using <i>Nygren</i> credit; and creating a special parole board for non-dangerous geriatric offenders and those with major medical or mental disability.	New See also Recommendations A-3, D-2, D-4
F-8. FSR p. 98	Focus future policy and legislative measures to alleviate prison overcrowding on improving the transition from incarceration to probation or parole as a priority.	New
F-9. FSR p. 98	Promote criminal justice responses and solutions that emphasize rehabilitation and deterrence.	New
F-10. FSR p. 99	Reexamine fines levied against those charged with DUIs.	New
F-11. FSR p. 99	Examine the utility and success of the City of Anchorage and State's vehicle forfeiture programs.	New
F-12. FSR p. 100	Increase the number of treatment opportunities available during incarceration, including alcohol and substance abuse treatment, and treatment for sexual offenders.	New See also Recommendations B-11, B-11a
F-12a. FSR p. 102	Increase the degree of assessment given each incarcerated defendant to include assessment of substance abuse, mental disabilities, HIV, and Hepatitis C treatment needs, and educational and vocational needs, and to provide periodic follow-up assessments as appropriate.	New See also Recommendations B-12a, B-12b
F-12b. FSR p. 102	Increase opportunities for educational and vocational advancement in correctional institutions.	New

## II. Alaska's Criminal Justice System: Background & Recommendations

### A. General Policy

#### 1. Background

In its May 2000 report, CJAC made five general recommendations. These focused on issues that cut across the work of all subcommittees, including:

- the need to provide a method for carrying out CJAC recommendations;
- shared information for all agencies;
- monitoring of misdemeanor offenders;
- attention to minority disproportions in the justice system; and
- emphasis on principles of restorative justice.

**a) Restorative Justice** - Given the relatively new emergence of the theory of restorative justice in mainstream criminal justice policy, it is worthwhile to note some of its applications in Alaska. Principles of restorative justice operate in many of the state's agencies; in some instances, the legislature has incorporated the principles into statutes. Most restorative justice programs focus on two principles: 1) recognizing and fulfilling the victim's needs for restitution and healing;<sup>17</sup> and 2) recognizing the need to hold the offender accountable for the injuries he or she caused. The community plays a role in meeting these needs by providing the environment and resources necessary for justice to occur. Restorative justice does not eliminate the need for incarceration; offenders who pose significant safety risks to the public will still require supervision. However, in both small rural areas where victims are known and offenders frequently identified and in larger communities like Anchorage where crime has more potential to be anonymous, principles and elements of restorative justice can aid in creating a respectful environment, even during incarceration.

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<sup>17</sup> See generally John Braithwaite, *Restorative Justice: Assessing Optimistic and Pessimistic Accounts*, in 25 *Crime and Justice, A Review of Research* (Michael Tonry ed., Univ. of Chicago Press 1999). But see Michael E. Smith, *What Future for "Public Safety" and "Restorative Justice" in Community Corrections?*, *Sentencing & Corrections: Issues for the 21<sup>st</sup> Century* (U.S. Dep't of Justice, June 2001), at 5. Smith contends that "important segments of the U.S. victims' movement are opposed to one, another, or all restorative justice initiatives." *Id.* He cites as reasons for that opposition the utilization of victims as "props in a psychodrama focused on the offender"; the restorative system's agenda of repressing a victim's need to blame the offender; the threat restorative justice poses to advancements in the victims' rights movement, such as the "right to be a victim, to insist on the offender being branded a criminal, to blame the offender, and not to be 'victimized all over again by the process.'" *Id.*



Goals of restorative justice include: providing restitution and healing for victims; healing the relationship between the victim and the offender; fostering accountability and reparation from offenders; healing the victim's community (including the victim, the offender, and their families, friends and support networks). Restorative justice is a new paradigm of justice in Alaska. One example is found in the State's conclusion that any effort to address criminal justice must appreciate the victims as well as the offenders. Despite the fact, or the perception, that the interests of victims often coincide with the interests of prosecutors and even police, there remained a need for legislation specifically geared to advocacy on behalf of victims. The legislature created the Office of Victims' Rights in July 2002, to give victims a voice, and afford an avenue for redress where the system fails to protect or further harms crime victims.

Another example is DOC's Division of Community Corrections' attempt to place more probation officers in rural and small villages across the state so as to provide opportunities for rehabilitation and reintegration for offenders within family and community support systems. Across the state, professionals in the fields of criminal justice reject the notion that incarceration is the best and only option for all of those currently imprisoned. Yet another example of promise is the increased use of therapeutic justice principles statewide: projects based on these principles are showing empirical success.<sup>18</sup>

Several other programs with these goals operate throughout the state.<sup>19</sup> They include the Municipality of Anchorage's Pretrial Diversion Program, and Restorative Justice Program,<sup>20</sup> juvenile victim-offender mediation, victim impact panels and classes; circle sentencing, the Dillingham

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<sup>18</sup> At this writing, the AJC is in the process of evaluating several of these projects. Call the AJC for further information on evaluations.

<sup>19</sup> See *Final Report*, *supra* n. 1, at 41-43.

<sup>20</sup> See AS 12.45.120. The statute reads:

If a defendant is held to answer on a charge of misdemeanor for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised except when it was committed

- (1) by or upon a peace officer, judge, or magistrate while in the execution of the duties of that office;
- (2) riotously;
- (3) with an intent to commit a felony;
- (4) larcenously;
- (5) against
  - (A) a spouse or a former spouse of the defendant;
  - (B) a parent, grandparent, child, or grandchild of the defendant;
  - (C) a member of the social unit comprised of those living together in the same dwelling as the defendant; or
  - (D) a person who is not a spouse or former spouse of the defendant but who previously lived in a spousal relationship with the defendant.

*See id.*

Village Public Safety Officer (VPSO) Project, tribal courts and councils, community policing, and community probation.

The following general policy recommendations update the May 2000 text and propose three new recommendations.

## 2. General Policy Recommendations

### **A-1. Create a small organization to implement the recommendations made by the Commission, to resolve policy issues, to provide liaison with federal and other governments, and to take responsibility for longer-range criminal justice planning.**

**Goals:** To provide continuing criminal justice agency policy and planning coordination; to increase the ability of agencies to work together effectively; and to enable inter-branch cooperation to improve the functioning of the criminal justice system.

**Status:** The Alaska Criminal Justice Council (CJC) was established in May 2000 by state agencies. The eight members meet periodically to resolve issues facing their agencies and work toward implementing CJAC recommendations. The CJC differs from the Criminal Justice Cabinet by including members outside of the executive branch. In January 2002, the CJC compiled the *Interim Status Report of the Alaska Criminal Justice Council*,<sup>21</sup> updating readers on the status of CJAC recommendations. The Alaska Judicial Council (AJC) staffed both CJAC and the CJC, providing research, administrative structure and technical assistance.

**Action Needed:** No further action is required.<sup>22</sup>

### **A-1a. Continue and expand efforts of the Criminal Justice Council through statutory mandate.**

NEW
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**Goals:** To provide a continuous presence in Alaska criminal justice policy with participation of entities not represented on the present CJC.

**Method:** The CJC recommends the continuation of a coordinated group as a statutory body. This group, whether known as the Criminal Justice Council or reinstated under a new name, should consider limited expansion of its membership to include the MHTA, the legislature, and municipal representatives. The CJC recommends that each branch of government appoint its own representatives.

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<sup>21</sup> See *Interim Report*, *supra* n. 8.

<sup>22</sup> For continued efforts, see Recommendation A-1a below.

**Action Needed:** New appointments. Legislation. Continued funding.

**A-2. Encourage criminal justice system agencies to continue to work together to develop criminal justice information systems that interact efficiently and that provide data to enable policymakers to make reliable decisions on policy issues.**

**Goals:** To provide sufficient data to policy makers in all branches of government to make cost-effective decisions that improve the administration of justice.

**Status:** In 1998, DPS published Interface Specifications. These required, as part of the Records Improvement Plan, any agency information upgrade project that seeks grant funding to interface with the Alaska Public Safety Information Network (APSIN). Currently, only the Anchorage Police Department has a fully-automated interface with APSIN. This interface eliminates duplicate data entry through the simultaneous entry of data into both APD's system and APSIN.

Other criminal justice agencies are replacing their information systems. DPS's Criminal Justice Information Advisory Board (CJIAB) is working with the State to provide for the interactions among criminal justice information systems. At its December 1998 meeting, CJIAB agreed to provide policy oversight for the APSIN redesign; DPS has contracted with Science Applications International Corporation (SAIC) to redesign APSIN.<sup>23</sup> CJIAB is bolstered by the efforts of three subgroups: Technical, Operations and Administrative. SAIC has begun to interview APSIN users as well as those chosen to serve who "need information from the system to support agency operations, but who may not use the system directly;"<sup>24</sup> SAIC will use information from the interviews to make design changes and modifications deemed necessary by the subgroups.

**Action Needed:** Continued efforts.

**A-3. Review and evaluate systems for monitoring misdemeanor probation and pretrial conditions, giving consideration to the special needs of the different populations expressed throughout these recommendations. The successor organization to CJAC should recommend a system or systems that will improve the likelihood that offenders will comply with court conditions and orders.**

REVISED

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<sup>23</sup> In 1998, DPS "hired MTG Consultants to write an APSIN Migration Plan in 1998. MTG conducted individual and group interviews and distributed questionnaires to APSIN users and managers to document needs for the new system. We incorporated those findings into 'system requirement specifications' in our APSIN Redesign Request for Proposals." Memorandum from Del Smith, Commissioner, State of Alaska Dep't of Public Safety, to CJIAB Members 1 (Aug. 26, 2002) (on file with AJC). At this writing, CJIAB members had been asked to assign subgroup appointees to review the system requirement specifications (available at <http://www.dps.state.ak.us/apsin/>). *See id.*

<sup>24</sup> *See id.*

**Goals:** To respond to the need for better methods of assuring that offenders comply with court conditions and orders; and to reduce use of bench warrants and incarceration.

**Status:** In response to a 50% failure-to-appear rate at initial court hearings for out-of-custody defendants and CJAC's recommendation with regard to misdemeanor offenders, the CJC "Monitoring and Notification" subcommittee was formed. The subcommittee reviewed systems to fill the gap in services, and focused on developing a system to notify offenders in Anchorage of court appearances and of court orders that required compliance. The subcommittee proposed an automated telephone-based system that would inform defendants of court dates, initial meetings with court-appointed attorneys, jail remand dates, alcohol and domestic violence screening, and other appointments. The proposed program has not yet been funded.

At present, the Anchorage Municipality provides some monitoring for domestic violence offenders, and DHSS's Alcohol Safety Action Program (ASAP) monitors alcohol-related misdemeanors. The CJC recommends that ASAP's role be formally recognized, and that the legislature appropriate funds for expansion.<sup>25</sup>

**Action Needed:** Legislative action and funding.

**A-4. Explore further the principles of restorative justice.**<sup>26</sup>

**Goals:** To increase accountability of offenders; to repair the harm resulting from individual crimes to the maximum extent possible; and to increase the participation of communities and victims in that process.<sup>27</sup>

**Status:** Holding offenders accountable requires action by the justice system. DOC has trained its staff and community volunteers to apply principles of restorative justice. In December 2000, DOC Commissioner Margaret Pugh created a Restorative Justice Task Group to make recommendations to the Department; that Task Group recommended starting a Victim-Offender Dialogue Program. While few participants have taken advantage of the service, the program enables victims to address their offenders personally, in a restorative setting. DOC's victims' coordinator conducted a training for approximately 25 Community Corrections, institutional and private sector personnel in September 2002, and is currently working to establish formal procedures for future dialogues. DOC expects

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<sup>25</sup> See also Recommendation B-15, *infra* p. 57.

<sup>26</sup> See Smith, *supra* n. 17 (discussing the need for "[c]ombination rather than competition . . . for the proponents of both restorative justice and public safety" and finding that "combination *is* possible. The collaborations and transformations separately required by these reform agendas have more in common than most of their proponents assume.").

<sup>27</sup> See *infra*, Appendix B, Comparison of Justice Theories (describing the primary focus of restorative justice as being divided equally among the offender, the community and the victim, and citing as examples victim-offender mediation, circle sentencing, family group conferencing, reparative probation, citizen boards, and some tribal courts).

that within six months to one year it will be actively making services available per victim request.

Victim Impact classes, which are given reciprocal credit statewide, are in most major field offices and institutions statewide, having spread since their introduction in 1999. To complement curriculum, a restorative justice video is being created in cooperation with the Ohio Department of Corrections.

Since 1998, DOC has conducted cognitive skills building for offenders statewide. This program is designed to help people understand that their thinking frequently encourages their actions: if they think victimizing behavior is okay, they will be more inclined to victimize. The cognitive skills building approach introduces offenders to the impact their behavior has on others.

Another restorative justice approach began in January 2002 when SB 105 took effect.<sup>28</sup> The legislation improves collection of restitution and gives victims more of a voice in the system. The Office of Victims' Rights (OVR), was established by legislation in 2002, to "assist crime victims in obtaining the rights crime victims are guaranteed under the constitution and laws of the state with regard to the contacts crime victims have with the justice agencies of the state."<sup>29</sup> Funded by the legislature, the OVR is the first of its kind in the nation; while other victims' organizations exist nationwide and locally,<sup>30</sup> none but the OVR exist within the legislative branch.<sup>31</sup>

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<sup>28</sup> See 2001 Alaska Sess. Laws Ch. 92.

<sup>29</sup> AS 24.65.110(a) (effective July 1, 2002); AS 24.65.250(1) (defining "justice agency"); AS 24.65.250(2) (defining "victim") (incorporating by reference AS 12.55.185(16)(A)).

<sup>30</sup> The Departments of Law, Corrections and the Municipal Prosecutor both have positions devoted solely to victim coordination. See, e.g., AS 12.61.015 (describing statutory duties of the prosecuting attorney towards crime victims). DOC's Victim Services Unit is not codified.

<sup>31</sup> When first proposed in 2000, OVR authority was given to the executive branch. Governor Knowles vetoed the bill. Later legislation, placing the OVR under the legislature, passed unanimously in the House and Senate and was signed into law on July 5, 2001. See Senate Journal Text for SB 105, *Letter from Knowles to Halford of July 5, 2001* (visited Sept. 17, 2002) <[http://www.legis.state.ak.us/basis/get\\_jrn\\_page.asp?session=22&bill=SB105&jrn=1873&hse=S](http://www.legis.state.ak.us/basis/get_jrn_page.asp?session=22&bill=SB105&jrn=1873&hse=S)>. See also Senate Journal Text for SB 105 (visited Sept. 17, 2002) <[http://www.legis.state.ak.us/basis/get\\_jrn\\_page.asp?session=22&bill=SB105&jrn=1873&hse=S](http://www.legis.state.ak.us/basis/get_jrn_page.asp?session=22&bill=SB105&jrn=1873&hse=S)> ("In signing this bill aimed at assisting Alaska victims of crime, I must sadly note the worthwhile program it establishes will start off at risk due to underfunding. The legislature recognizes the great value of helping victims collect their court ordered restitution, but neglects to fully fund the resources to perform this task to its maximum potential. Of the \$305,000 requested for the Department of Law to set up the collection service, only \$200,000 was granted. In addition, the legislature refused to fund DOC's mandate to furnish new and expanded information on inmates for the purposes of Permanent Fund dividend denial. The effort must be worthwhile because the legislature intends to fund an Office of Victims' Rights with the denied dividend money. Yet allowing the department its relatively small funding request to fulfill this mission was ignored. How disheartening that we continue to establish new programs with the expectation they can be implemented at zero cost.").

The statute gives the Office jurisdiction and obligation to advocate on behalf of victims of all felony offenses, all Class A misdemeanors involving domestic violence, and all misdemeanors involving Title 11.41 crimes. The Victims' Advocate and Associate Advocate Attorney act as the victim's advocate where the victim complains of being denied rights under state law<sup>32</sup> or the constitution.<sup>33</sup> The OVR may also speak on behalf of the victim at the victim's request, where the victim declines to personally give a victim impact statement.<sup>34</sup> OVR also can investigate a justice agency's actions.<sup>35</sup> The OVR has embarked on a public education campaign to inform both agencies and individuals of its existence. Since its doors opened on July 15, 2002, the OVR has handled complaints and referrals, and expects to continue.

The CJC recommends that individual criminal justice system agencies and the criminal justice system agencies working together should explore further application of the principles of restorative justice.

**Action Needed:** Continued public awareness and education.

**A-4a. Encourage appropriate departments and agencies to support victims' services throughout the criminal justice system.**

NEW

**Goals:** To advance the practice of restorative justice in the state.

**Method:** Increase public awareness of the victims' services available. Support victims' use of services through funding and continued legislative mandate.

**Action Needed:** Educational programs to reinforce the use of victims' services by agencies and departments that have regular contact with victims.

**A-5. Explore all available means to reduce the disproportionate numbers of Alaska Natives and other minority offenders and victims in the justice system. These efforts should include increased reliance on local justice initiatives and treatment programs.**

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<sup>32</sup> See AS 24.65.120(a).

<sup>33</sup> See AS 24.65.120(a); Alaska Const. art. I, § 24.

<sup>34</sup> See AS 24.65.110(b).

<sup>35</sup> If an OVR investigation suggests wrongdoing by a justice agency, the OVR first notifies the agency that the investigation was done and delivers a drafted report to the agency. See AS 24.65.150(a). Only once the OVR has obtained the agency's permission can the Office release the report to the public. See AS 24.65.150(c). The OVR is immune from suit, and its work product and opinions are privileged. See AS 24.65.200 ("Except as may be necessary to enforce the provisions of this chapter, the determinations, conclusions, thought processes, discussions, records, reports, and recommendations of or information collected by the victims' advocate or staff of the victims' advocate are not admissible in a civil or criminal proceeding, and are not subject to questioning or disclosure by subpoena or discovery.").

**Goals:** To reduce the disproportionate number of Alaska Natives and other minority offenders and victims in the criminal justice system.

**Status:** The most recent census comparison available showed that of Alaska's 626,932 residents in 2000, 434,534 (69.3%) were white; 98,043 (15.6%) were Alaskan Native and Native American; 21,787 (3.5%) were African American and black; 28,425 (4.5%) were Asian/Pacific Islanders; and 25,852 (4.1%) were Hispanic.<sup>36</sup> By contrast, of the 3,812 Alaskans incarcerated as of January 31, 2001, 1,737 (45.6%) were white; 1,420 (37.3%) were Alaskan Native and Native American;<sup>37</sup> 446 (11.7%) were African American and black; 86 (2.3%) were Asian/Pacific Islanders; and 107 (2.8%) were Hispanic.<sup>38</sup> Of 4,589 individuals in Community Residential Centers in 2002, 2,103 (45.8%) were white; 1,734 (37.8%) were Alaskan Native and Native American; 518 (11.3%) were African American

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<sup>36</sup> See *Profiles of General Demographic Characteristics for Alaska, 2000*, U.S. Dep't of Commerce, Bureau of the Census.

<sup>37</sup> Of 301 women incarcerated on January 1, 2002, 97 (32.2%) were Alaska Native or Native American (up from 31.7% in 2000). Of 3,510 men, 1,323 (37.7%) were Alaskan Native (up from 37.0% in 2000). See *Correctional Populations: 2001*, *supra* n. 12, at 5; cf. *2000 Offender Profile*, *supra* n. 12, at 10. Of the 1,420 Alaskan Native or Native Americans incarcerated as of January 1, 2002, 1,323 (93.2%) were male. See *Correctional Populations: 2001*, *supra* n. 12, at 5; cf. *2000 Offender Profile*, *supra* n. 12, at 37 (showing that of the 1,577 Native Alaskans incarcerated on December 31, 2000, 1,478 (93.7%) were male). In 2000, of all offenses committed by incarcerated Alaskan Natives, 36.8% involved assault or sexual offenses. See *id.* at 39. Alcohol and drug offenses amounted to 9.1%. See *id.* at 38.

<sup>38</sup> See *Correctional Populations: 2001*, *supra* n. 12, at 5. Undesirable disproportion thus exists only with respect to Alaska Natives and African Americans in Alaska, with whites, Asians, and Hispanics under-represented in the criminal justice system.

Nationally, a recent Justice Policy Institute study found that in 1999 and 2000 combined, "there were more African American men in prison and jail (791,600) than were in higher education (603,000)":

Between 1980 and 2000, JPI estimates that 3 times as many African American men were added to the prison systems than were added to the nation's colleges and universities.

JPI estimates that in 2000 there were 13 states where there were more African American men incarcerated in prisons than in college: Alaska, Connecticut, Delaware, Indiana, Louisiana, Michigan, Missouri, New Jersey, Ohio, Oklahoma, Pennsylvania, Texas and Wisconsin. (For states other than Alaska, Connecticut and Delaware, state estimates do not include the vast majority of incarcerated African American men in jails).

Over the past two decades, 38 states (and the federal prison system) were estimated to have added more African American men to their prison systems than were added to the enrollment of their respective higher education systems.

*National Summary – Fact Sheet: Cellblocks or Classrooms? The Funding of Higher Education and Corrections and Its Impact on African American Men*, Justice Policy Institute (last visited Sept. 15, 2002) <[http://justicepolicy.org/coc1/fact\\_national.htm](http://justicepolicy.org/coc1/fact_national.htm)>. But see Fox Butterfield (N.Y. Times), *Study: More Black Men in Jail Than College*, Anchorage Daily News, Aug. 28, 2002, at A-3 ("Some criminal justice experts cautioned that it was somewhat misleading to compare the number of black men in jail and prison with the number in colleges and universities, because the number in jail and prison included all adult black men ranging upward from 17 years old, while the number in institutions of higher learning was confined to a smaller age range.").

and black; 97 (2.1%) were Asian/Pacific Islanders; and 88 (1.9%) were Hispanic.<sup>39</sup> These numbers were similar to those found in 2000.<sup>40</sup>

Alaska's rural communities are largely populated by Alaska Natives.<sup>41</sup> Access to services (including treatment, probation and parole), heightened chance of identification and therefore arrest (in urban settings offenders may remain anonymous; in rural communities, chances for identification are greater), and customs and other circumstances may lead to overall disproportions in the criminal justice system.

The CJC further notes the interconnection between alcohol and crime prevalent among Native Alaskans, as well as other defendants. It recommends increasing efforts to inform Native communities about the harms associated with alcohol and substance use and abuse.<sup>42</sup>

**Action Needed:** Further review of data and options for reducing disproportions.

## B. Alcohol and Substance Abuse Policy

### 1. Background

**a) The Correlation Between Substance Abuse, Lack of Treatment and Crime** - Currently, data show that Alaskans' per capita consumption of alcohol ranks among the highest of all states.<sup>43</sup> In 1999, Alaskans aged 14 years and older consumed 2.7 gallons per capita,

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<sup>39</sup> See *Correctional Populations: 2001*, *supra* n. 12, 5.

<sup>40</sup> See *2000 Offender Profile*, *supra* n. 12, at 10, 23, 26 (figures on Dec. 31, 2000).

<sup>41</sup> See Alaska Advisory Committee to the U.S. Commission on Civil Rights, *Racism's Frontier: The Untold Story of Discrimination and Division in Alaska*, Apr. 2002, at 5.

<sup>42</sup> See also Recommendation B-26, *infra* p. 67.

<sup>43</sup> See National Institute of Alcohol Abuse and Alcoholism, *Apparent per capita alcohol consumption: National, State, and Regional Trends, 1977-98*, Dec. 2000, at 7 (available at [www.niaaa.nih.gov/publications/Cons98.pdf](http://www.niaaa.nih.gov/publications/Cons98.pdf)) (ranking Alaska fifth in national consumption of ethanol for 1998, behind New Hampshire, Nevada, the District of Columbia, and Delaware). "Between 1997 and 1998, per capita consumption of all alcoholic beverages combined in the top decile States decreased, except Alaska which showed an increase." *Id.*



compared to a national average of 2.19 gallons per capita.<sup>44</sup> Reported drug use in Alaska exceeded that in any other state,<sup>45</sup> and Alaskan illicit drug or alcohol dependence was the nation's highest.<sup>46</sup>

Public safety, health care, and public assistance are among the areas impacted by alcohol and other drug abuse. The extent of these impacts is evident in the level of alcohol and other drug dependency and its associated cost on the Alaska economy. . . . The cost of . . . dependence to the Alaska economy is estimated to be \$614 million during 1999. . . . Costs by category include:

- \$319 million from productivity losses [including diminished production, alcohol and substance abuse treatment, incarceration, and mortality].
- \$146 million from criminal justice and protective services [including law enforcement, corrections, victimizations, property damage, medical expenses, and legal and judicial].
- \$123 million from health care [including nursing homes, prescription drugs, residential and outpatient alcohol and drug treatment, medical outpatient and hospital care for illnesses and injuries, and specific diseases].
- \$21 million from traffic crashes [including property damage, fatality, and minor and major injury].
- \$4 million from public assistance [including administration of payments for Alaska Temporary Assistance Program, Old Age, Survivors, and Disability Insurance, and food stamps].<sup>47</sup>

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<sup>44</sup> By July 10 of this year, 15,849,738 gallons of alcohol had been distributed or sold in Alaska for FY'02. See Alaska Department of Revenue, *Report of Alcoholic Beverages Distributed or Sold 6/11/2002-7/10/2002* (last modified Aug. 13, 2002) <<http://www.tax.state.ak.us/ALCOHOL/2002rpts/200212.pdf>>. The most recent national data available is from 1998, when the national average was 2.19 gallons per capita. See National Institute of Alcohol Abuse and Alcoholism, *Apparent per capita ethanol consumption for the United States, 1850-1998* (visited Aug. 28, 2002) <<http://www.niaaa.nih.gov/databases/consum01.txt>>. See also NIAAA, *Apparent per capita alcohol consumption in gallons of ethanol for population 14 years and older by state, United States, 1996* (visited Aug. 28, 2002) <<http://www.niaaa.nih.gov/gallery/epidemiology/spc96.htm>>.

<sup>45</sup> See National Families in Action, *A Guide to Drug-Related State Ballot Initiatives* (last modified Apr. 23, 2002) <[http://www.nationalfamilies.org/guide/rankings\\_use.html](http://www.nationalfamilies.org/guide/rankings_use.html)> (showing Alaska's rate of use of any illicit drug, including marijuana, to be 10.7% compared to a national average of 6.9%).

<sup>46</sup> See *id.* (showing Alaska's rate of dependence to be 7.3% compared to a national average of 4.8%).

<sup>47</sup> See *Economic Costs*, *supra* n. 13. The McDowell Group's report does not include a variety of other costs associated with crime, including costs of investigating offenses, arrests, prosecution and defense, and so forth.

The CJC finds the twinned problems of alcohol and substance use and abuse to be among the most significant obstacles to wellness in the state.<sup>48</sup> They affect the health of Alaskans through a myriad of consequences: domestic violence, child abuse and neglect (including less pre-natal care and the infliction of Fetal Alcohol Syndrome and Fetal Alcohol Effects on the young), and driving under the influence injuries and fatalities,<sup>49</sup> to name just a few.

Without access to treatment, Alaskans are at a much greater risk of committing crimes, and subsequent incarceration. In a study of incarcerated offenders in 2001, it was found that

*about two out of three who were incarcerated in the past year and needed treatment when they were on the outside either had not obtained specialty treatment or any treatment at all, despite severe substance abuse problems. Outreach and increased availability of specialty services for persons with criminal histories is an attractive intervention strategy.*

There was also evidence of unmet demand for treatment in the prisoner sample that needed it. . . . [G]reater availability of services might have reduced the consequences of the respondents' substance use disorders and in some cases perhaps might have prevented the crimes that brought these inmates into custody.<sup>50</sup>

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<sup>48</sup> While the term "substance abuse" can be understood to exclude alcohol abuse, for the purposes of this CJC report, the term will be used inclusively, except where noted, with "substance abuse" referring to all substances that correlate to intoxication. Unless otherwise noted, "alcohol" refers collectively to malt beverages, distilled spirits, and wine. With respect to drinking, it is thought that addiction drives some to excess. For others, "thinking drinkers," social drinking becomes problematic in an instant's incident only.

<sup>49</sup> Alcohol and drug use is thought to have contributed to 30 (28.7%) of 106 traffic fatalities. In 2000, 43.0% of traffic fatalities in Alaska were related to alcohol, having declined slightly in the preceding year. The national average, which rose slightly in 2000, was 31.0%. See George Bryson, *Crashland: Alaska's Traffic Fatality Rate Increases As the Nation's Tapers Off, But Don't Blame the Moose*, Anchorage Daily News, Oct. 6, 2002, at D1, D5. In 2001, there were 17,448 alcohol-related traffic fatalities nationwide, of which 43 occurred in Alaska. The state number represents 50% of all traffic related deaths in Alaska. See *Rating the States: An Assessment of the Nation's Attention to the Problems of Drunk Driving and Underage Drinking* (Mothers Against Drunk Driving (MADD), 2002). In a recent report, Mothers Against Drunk Driving (MADD) gave Alaska an overall grade of D-, ranking as one of the worst three states in the nation overall in the combined categories of Political Leadership (where Governor Knowles received a B+, the House received a C+, and the Senate received a C-), BAC Testing, Data and Records (grade: C-), Law Enforcement Programs (grade: D), Administrative Measures and Criminal Sanctions (grade: C), Underage Drinking and Drinking and Driving Control (grade: F), Victim Issues (grade: C), Laws (grade: D), and Fatality Trends (grade: F). See *id.* MADD's report is available online at [www.madd.org/stats/0,1056,5546,00.html](http://www.madd.org/stats/0,1056,5546,00.html).

<sup>50</sup> *Substance Abuse Treatment Needs of Alaska's Newly Incarcerated Prisoner Population Prior to Incarceration: Final Report, Executive Summary*, State of Alaska, Dep't of Health and Social Services, Dec. 26, 2001, at 6-7.

The great number of Alaskans needing and desiring treatment, coupled with the cost of alcoholism and substance abuse to the state suggests “that treatment and relapse prevention services should be available for the vast majority of prisoners.”<sup>51</sup> The state has added some new bedspace, responding to CJAC recommendations.<sup>52</sup> The CJC now recommends new treatment capacity, and cites the economic benefits of treatment over incarceration: DOC estimates that incarcerating an individual for one year costs the state \$41,358.15.<sup>53</sup> By comparison, the most expensive therapeutic program in 2001, the Anchorage Felony Drug Court, is estimated to cost \$16,950 per year per participant.<sup>54</sup>

The lack of support for treatment expenditures may be partly based in misperceptions of addiction. Often overlooked in the struggle for sobriety, incidents of perceived “failure” are common in rehabilitation and do not necessarily preclude recovery. Nor do failures make a program unsuccessful. With respect to alcoholism, for example:

It is important to note, however that [a]lcoholism is a chronic, progressive, but treatable disease. As in all chronic diseases, relapse is a part of the disease process. A client being readmitted to treatment after a period of time in remission is not uncommon. Relapse is defined as “to regress after partial recovery from an illness.”<sup>55</sup>

Yet the public may presume treatment to be a one-shot opportunity; if an individual lapses in progress, the lapse is often defined as a failure in either the individual or the program. In promoting and advancing funding for alcohol and substance abuse treatment, the realities of relapse are

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<sup>51</sup> See *id.* at 7. The entire report is available at the DHSS webpage. See *Substance Abuse Treatment Needs of Alaska’s Newly Incarcerated Prisoner Population Prior to Incarceration: Final Report* (State of Alaska, Dep’t of Health and Social Services, Dec. 26, 2001) (visited Sept. 12, 2002) <<http://health.hss.state.ak.us/press/pdfs/AKPrisonerFinalReport.pdf>>.

<sup>52</sup> New treatment included grants from the Mental Health Trust Authority (MHTA) to DHSS for development of two Family Wellness Camps:

The project seeks to replicate, at two new regional summer camps, the success of culturally based family treatment that has been provided at the Old Minto Spirit Camp. The camps will include intermediate care services for families in a remote location that incorporates traditional treatment components with culturally appropriate activities.

Alaska Mental Health Trust Authority, *2001 Annual Report* 28 (2001). Moreover, a residential treatment program is now offered at the Wildwood Correctional Center, funded through MHTA and federal government matching funds. See *infra* pp. 31-32.

<sup>53</sup> Based on an average cost of \$113.15 per day in 2002.

<sup>54</sup> See *Interim Report, supra* n. 8, App. C., at 1 (charts prepared in connection with agency presentations to the Alaska legislature on House Bill 172 in March 2001).

<sup>55</sup> State of Alaska, Dep’t of Health and Social Services, *Fiscal Year 2003 Budget Overview* 67 (visited Aug. 28, 2002) <<http://health.hss.state.ak.us/publications/budgetoverviewfy2003.pdf>>.

frequently hidden, playing into existing misconceptions about treatment and recovery. Improving treatment programs in Alaska calls for open discussion and public education. Without public awareness, there is little hope for a constituency to support or protect those programs.

**b) Access to Supportive Services** - A recent study showed that

on any given day, an average of 302 people who wanted treatment for alcoholism or other substance abuse were waiting on a waiting list for services in the communities surveyed. These Alaskans include women with children, men awaiting release from jail for crimes committed ‘under the influence’ of their addictions, and teenagers who may develop into chronic alcoholics if the course of their lives is not altered.<sup>56</sup>

And while a “waiting list is a critical indicator of treatment need,” “it is an accepted fact that the waiting list under represents the number of people who need and would accept treatment if services were immediately available.”<sup>57</sup> If services are not available, no-one creates a waiting list. Women with substance abuse problems who have children, for example, are not factored into the wait list population simply because there is no specific list for them to be on.<sup>58</sup> Yet approximately 74.8% of women waiting for treatment have children.<sup>59</sup> With wait periods averaging 51 days for women and 66 days for men,<sup>60</sup> the time spent wait-listed for treatment often results in diminished success: hopefuls eventually move, lose interest in or motivation for rehabilitation, or become ill from their substance abuse.

Currently, Alaska has treatment capacity at each of its thirteen correctional facilities. Two three-day residential alcohol treatment programs are offered by state-approved alcohol treatment providers: Starting Point’s La Casa Program in the Mat-Su area, and Genesis Recovery Services’ Three-Day Program in Anchorage. The Minto Family Recovery Camp, run by the Tanana Chiefs Conference, “is a traditional setting without water and electricity at the site of the Old Minto village on the Tanana River. The camp model is to engage in all traditional activities and participate in traditional

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<sup>56</sup> See *Waiting in Line for Treatment*, State of Alaska, Dep’t of Health and Social Services, 2001, at 2.

<sup>57</sup> *Id.* at 2.

<sup>58</sup> See *id.* at 3 (finding that “the treatment programs themselves establish the waiting lists.”).

<sup>59</sup> See *id.* at 3. Because treatment needs often affect individuals’ ability to provide safe living conditions for their children, “[a]lmost half of the women waiting for treatment had children in out-of-home placement (foster care or other living situations).” *Id.* See also Recommendation B-9, *infra* p. 49.

<sup>60</sup> See *Waiting in Line for Treatment*, *supra* n. 56, at 3.

counseling.”<sup>61</sup> Specifically, the camp uses Athabaskan tribal values to enhance treatment. Adults may reside at Old Minto for a maximum of 35 days. The program is open most of the year, but is closed during break-up and during those times when transportation up-river is unfeasible.

Upon release from incarceration, treatment beds are available to DOC clients on furlough or probation/parole in the following community residential substance abuse treatment programs: Clitheroe Center (Anchorage) (eleven beds for furloughees, two beds for probationers/parolees); Akeela House (Anchorage) (five beds for furloughees); Gastineau Manor (Juneau) (two beds for probationers/parolees); Ralph Perdue Center (Fairbanks) (three beds for furloughees, one bed for a probationer/parolee); Maniilaq (Kotzebue) (one bed for a furloughee); Safe Harbor (Kodiak) (one bed for a furloughee); PATC (Bethel) (one bed for a furloughee), totaling 22 residential substance abuse treatment beds for furloughees, and five for probationers/parolees. An average of 95 individuals are released from DOC’s jails, prisons and halfway house beds every day.<sup>62</sup>

Other substance abuse treatment providers have contracted with DOC to provide outpatient treatment, aftercare, or continuing care to individuals in accordance with the Assessment Specialist’s assessment. These are: Alaska Human Services, The Recovery Connection, R.I.T.E., Inc., the Salvation Army Clitheroe Center, Starting Point, The Vet Center, MatSu Recovery Center, and the Ernie Turner Center.<sup>63</sup> Individuals are responsible for the cost of their treatment, some of which may come from private insurance, Medicare or other funding.

**(i) The Dual-Diagnosis Population<sup>64</sup>** - According to the National Mental Health Association, mental illness occurs in 37% of alcohol abusers and 53% of drug

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<sup>61</sup> See *Circles of Care Project: Substance Abuse Service Providers in Interior Alaska and Statewide* (visited Sept. 9, 2002) <[http://www.uaf.edu/psych/COC/COC\\_Substance\\_Abuse.htm](http://www.uaf.edu/psych/COC/COC_Substance_Abuse.htm)>.

<sup>62</sup> Email from Margot Knuth, Strategic Program Coordinator, Dep’t of Corrections, to Teresa Carns, Staff Director, Criminal Justice Council (Nov. 29, 2002).

<sup>63</sup> With the exception of the MatSu Recovery Center in Wasilla, all programs are located in Anchorage.

<sup>64</sup> The term “dual diagnosis” is used in this report to connote a concurrent diagnosis of mental health disability and substance abuse, in keeping with terminology used by CJAC in its report. See, e.g., *Final Report, supra* n. 1 at 32. Current terminology accurately posits many of these individuals as “multiple diagnosis” or “polydiagnosis.”

abusers; of those diagnosed as mentally ill, 29% abuse substances.<sup>65</sup> Current thinking is that the mental component of the dual-diagnosis may begin prior to the substance abuse:

In an attempt to feel calmer, more peppy, or more cheerful, a person with emotional symptoms may drink or use drugs . . . Frequent self-medication may eventually lead to physical or psychological dependency on alcohol or drugs. If it does, the person then suffers from not just one problem, but two. In adolescents, however, drug or alcohol abuse may merge and continue into adulthood, which may contribute to the development of emotional difficulties or psychiatric disorders.

In other cases, alcohol or drug dependency is the primary condition. A person whose substance abuse problem has become severe may develop symptoms of a psychiatric disorder: perhaps episodes of depression, fits of rage, hallucinations, or suicide attempts.<sup>66</sup>

In 2000, an estimated one in six state prisoners nationally had a mental health diagnosis.<sup>67</sup> In the last quarter of 2001, an average of 17 dually-diagnosed individuals were wait-listed for treatment statewide.<sup>68</sup> Among priorities identified by the Alaska Mental Health Board are decriminalizing mental illness, provision of rural mental health services, and system accountability.<sup>69</sup>

The dually-diagnosed population needs safe housing options.<sup>70</sup> “One of the requirements of supportive housing is provision of associated supportive services that allow people to remain in their

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<sup>65</sup> See National Mental Health Association, *Substance Abuse: Dual Diagnosis* (visited Oct. 5, 2002) <<http://www.nmha.org/infoctr/factsheets/03.cfm>> (citing the Journal of the American Medical Association). According to a National Institute of Mental Health study, individuals with antisocial personality disorder are at a 15.5% increased risk for substances abuse, those experiencing a manic episode a 14.4% increased risk, those with schizophrenia a 10.1% increased risk, those with panic disorders a 4.3% increased risk, those with a major depressive episode a 4.1% increased risk, those with obsessive-compulsive disorder a 3.4% increased risk, and those with phobias a 2.4% increased risk. See *id.*

<sup>66</sup> *Id.*

<sup>67</sup> Allen J. Beck *et al.*, *Mental Health Treatment in State Prisons, 2000*, Special Report (U.S. Dep’t of Justice, July 2001), at 3.

<sup>68</sup> See *Chemical Dependency Treatment List*, C&S Management (2001), at 3.

<sup>69</sup> See Alaska Mental Health Board, *Current AMHB Priorities 1* (Apr. 2002).

<sup>70</sup> See *In Step – The Plan: Comprehensive Integrated Mental Health Plan*, Alaska Dep’t of Health and Social Services, Nov. 2001, at 54. Housing options include public housing and accessible units (permanent housing operated by AHFC); crisis and emergency respite slots; community intermediate drug treatment facilities; not-for-profit sponsored supported apartments; assisted living facilities; and group homes. See *id.*

own homes.”<sup>71</sup> Despite the “bewildering array of housing programs,”<sup>72</sup> housing remains inaccessible to many mental health consumers who need it.

Supportive housing services exist at Glenwood and Oxford House, but with limited space. In 2001, a non-profit purchased the Grizzly Inn in Anchorage to renovate as a nonprofit motel. The 28-unit residence named the Safe Harbor Inn is funded by API’s Community Mental Health Replacement Project.<sup>73</sup> The motel offers transitional housing,<sup>74</sup> upon referral from one of 36 participating organizations,<sup>75</sup> and rooms are available to dually-diagnosed individuals who are compliant with their medications.

In FY ‘00, DOC began working with DHSS and the Alaska Housing Finance Corporation (AHFC) to increase housing for offenders with serious mental disabilities and concomitant substance abuse issues. In FY ‘01, AHFC awarded a grant to Valley Residential Services for the construction of Palmer’s Delphi House, a facility that now provides eight beds for “hard-to-serve” adults with mental disability and a history of incarceration and/or commitment at the Alaska Psychiatric Institute (API). The Mental Health Trust Authority (MHTA) will provide operational assistance for two years. The Trust, in cooperation with DHSS, also awarded grants for Fairbanks’ Community Mental Health Center (eight beds), Juneau’s Salmon Creek facility (eight beds), and Anchorage’s Ed’s Place (sixteen beds). The MHTA and DHSS also recently awarded pre-development FY’03 funding to St. Vincent DePaul for Juneau’s Salmon Falls facility (sixteen units), and to the Kenai Peninsula Housing Initiative for Homer’s Homes By the Sea (eight units). These projects remain under review; if awarded, funding will be issued at the end of December 2003.

**(ii) Incarcerated Substance Abusers** - Three types of Inmate Substance Abuse Treatment (ISAT) programs are available in Alaska’s correctional institutions:

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<sup>71</sup> *Id.* at 54 (“These services often are covered by Medicaid.”).

<sup>72</sup> Letter from Barry Creighton, Consumers Consortium, to Richard Rainery, Executive Director, Alaska Mental Health Board (May 15, 2002), at 21 (on file with the Alaska Judicial Council) (Alaska Mental Health Board FY2004-2005 Operating Budget Proposal also available at [akmhcweb.org/Announcements/2002rfr/employment.pdf](http://akmhcweb.org/Announcements/2002rfr/employment.pdf)).

<sup>73</sup> Most rooms have two beds. The Safe Harbor Inn allows up to nine people to occupy a room. Six rooms at the Inn are pre-reserved: three by Cook Inlet Tribal Council, two by the Salvation Army shelter, and one by the Veterans Administration.

<sup>74</sup> Guests pay \$375.00 per month (mentally disabled guests are eligible to receive funding from CMH/API for the first thirty days of their stay). The average length of stay, as of October 22, 2002, was 43 days. The Safe Harbor Inn operates at full capacity; on October 22, 2002, 32 individuals were wait-listed for occupancy.

<sup>75</sup> Referring institutions include AWAKE and API. At this writing, DOC’s Assessment Specialist is not linked to the Safe Harbor Inn’s program.

- **Intervention**

Formerly known as the “ISAT Stand-alone Education Programs,” intervention programs require the Basic Alcohol and Drug Education curriculum and interpersonal progress as part of an education program aimed at helping inmates to understand substance abuse. Where defendants are not assessed as needing treatment, the programs aid prevention measures, deterring future substance abuse.<sup>76</sup>

- **Intervention Plus an Introduction to Treatment**

This level of programming is a “cohort program:” inmates proceed through the program at the same rate, with twelve starting and completing it together. During pre-trial incarceration, the jail identifies each individual’s treatment needs. DOC uses the assessment to place inmates who are convicted.<sup>77</sup> If a defendant’s sentence is shorter than the treatment program, DOC can refer the defendant to a community treatment program.

- **Outpatient Substance Abuse Treatment (in institution)**

This level of programming requires an assessment identifying a need for outpatient care. The program includes education, primary care, and aftercare, all offered within DOC facilities.<sup>78</sup>

- **Intensive Outpatient Treatment (in institution)**

This program includes a weekly minimum of nine hours, focused on substance abuse education, individual and group counseling and other activities, and transition care.<sup>79</sup>

- **Residential Substance Abuse Treatment Services**

This level of programming, also known as “therapeutic communities,” targets chronic substance abusers with “serious histories of addiction and related crime,” and aims to “teach inmates a new way of living by shaping behavior and reinforcing accountability.”<sup>80</sup> RSAT

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<sup>76</sup> Intervention programs are located at the Anchorage Jail (services provided by one full-time and one half-time ISAT counselor from Clitheroe Center), Palmer (one full-time and one half-time ISAT counselor from Akeela, Inc.), Mat-Su Pretrial (half-time ISAT counselor from Akeela, Inc.), Ketchikan (half-time ISAT counselor from City of Ketchikan Gateway), Yukon-Kuskokwim (one full-time ISAT counselor from Gastineau Human Services), and Fairbanks (one full-time and one half-time ISAT counselor from Akeela, Inc.).

<sup>77</sup> The program is only available at Cook Inlet Pretrial, the men’s felony intake center in Anchorage.

<sup>78</sup> Outpatient treatment is located within Lemon Creek (one full-time ISAT counselor from Gastineau Human Services), Meadow Creek (one full-time ISAT counselor from Clitheroe Center), Spring Creek (two full-time ISAT counselors from Akeela, Inc.), and Wildwood (two full-time ISAT counselors from Akeela, Inc.).

<sup>79</sup> Two different versions of the program exist. One, located at Anvil Mountain Correctional Center (one full-time ISAT counselor from Gastineau Human Services), targets Alaska Natives in and around the Nome area, with culturally-competent treatment for ten inmates. As a cohort program, inmates in the AMCC program live together in a dorm during the primary care phase. The other program, at Point MacKenzie Rehabilitation Center (three full-time ISAT counselors from Akeela, Inc.), works mainly with felony DUI defendants. Like its sister program at AMCC, Point MacKenzie’s program houses participants together as they prepare for re-integration into the community.

<sup>80</sup> Sarah Williams, *DOC Inmate Substance Abuse Treatment Program: A Continuum of Care*, Overview, DOC (Jan. 1, 2002).



programs include six to twelve months of in-institution treatment apart from the general prison population.<sup>81</sup> Therapeutic communities are in place for both men and women.<sup>82</sup>

**(iii) Title 47 Alcohol Holds**<sup>83</sup> - “The majority (89 percent) of non-criminal holds in community jails are due to intoxication,” rather than mental health emergencies.<sup>84</sup> Despite being intoxicated enough to made protective custody “necessary for the protection of the person’s health or safety,”<sup>85</sup> the detainee often goes to a correctional facility to wait out the 12-hour hold. During FY’01, 2,710 Title 47 holds were admitted to state correctional facilities.<sup>86</sup>

**c) The Therapeutic Courts** - Therapeutic courts in the state include: the Felony Drug Court, the Mental Health Court (Coordinated Resources Project),<sup>87</sup> the Felony DUI Courts in Anchorage and Bethel, and the Anchorage Wellness Court.<sup>88</sup>

**(i) Felony Drug Court** - Presided over by Judge Stephanie Joannides since June of 2001, the Felony Drug Court is a pilot program that offers offenders the dismissal of the cases against them as an incentive to undertake treatment. Referrals to the Felony Drug Court come from many sources, although the District Attorney has the final word on a defendant’s

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<sup>81</sup> The women’s program, located at Hiland Mountain Correctional Center (three full-time ISAT counselors and three full-time RSAT counselors from Akeela, Inc.) has 48 beds. The men’s program, located at Wildwood Correctional Center (six full-time RSAT counselors from Akeela, Inc.), has 42 beds.

<sup>82</sup> Women do well in treatment. A 2000 study of Hiland’s RSAT program revealed that participation reduced recidivism by almost two-thirds. See *Hiland Mountain Correctional Center (MHCC): Women’s Residential Substance Abuse Treatment (RSAT) Program Two Year Outcome Report*, Alaska Dep’t of Corrections (Nov. 1, 2000).

<sup>83</sup> The term “Title 47 hold” refers to two different alcohol detainments: a twelve-hour protective custody hold pursuant to AS 47.37.170, and an involuntary commitment to treatment for 30 days pursuant to AS 47.37.190, that can be augmented with an additional 180 days upon further commitment pursuant to AS 47.47.205. This discussion focuses on the use of prison beds to temporarily detain seriously intoxicated or incapacitated persons for protective custody up to twelve hours in duration. See AS 47.37.170.

<sup>84</sup> See *In Step*, *supra* n. 70, at 26.

<sup>85</sup> AS 47.37.170.

<sup>86</sup> See *Title 47 Holds in DOC Correctional Facilities by Fiscal Year*, Alaska Dep’t of Corrections, Aug. 8, 2001, at 3. FY’00 Title 47 holds totaled 2,322. The highest total in the past ten years was in FY’96, when 3,185 Title 47 holds were admitted to state correctional facilities. See *id.* at 2.

<sup>87</sup> The Mental Health Court and Jail Alternative Services Project are discussed in detail in the context of the mentally disabled. See Sec. C(1)(b), *infra* p. 69.

<sup>88</sup> The newest pilot project in therapeutic justice, the Family Care Court began on August 15, 2002, as a twelve-family pilot project under the joint auspices of OPA and the Anchorage District Court. Because the Care Court deals with children in need of aid, rather than criminal defendants, it is not included in this discussion.

participation. Eligibility requirements include a charge for a crime committed in Anchorage while under the influence of, addicted to, or in possession of illegal substances.

After opting in, an eligible defendant is screened for other criteria (appropriateness of treatment and need), and must then plead guilty or no contest to the current charge. Staff assign the defendant to housing and weekly court appointments, an intensive out-patient treatment program, and various monitoring provisions (these can include daily breathalyzers, weekly drug testing and home and/or work visits by a probation officer). Program completion results in dismissal of the current charges.<sup>89</sup>

The Felony Drug Court is a difficult and time-consuming process that requires defendants to manage their own freedom. The high level of supervision, and consequent lack of privacy are disincentives to some defendants, who see jail time as an easier road. As of October 23, 2002, the program had 13 clients. The program is not currently available to those charged with delivery.

Federal funding for the Felony Drug Court expires in 2003. Participating agencies are planning for replacement funding. Several defendants have progressed to Phase III of the program and may graduate by 2003.

**(ii) Felony DUI Courts: Anchorage and Bethel** - Under legislation passed in 2001, the DUI Courts in Anchorage and Bethel were implemented to address defendants with past DUI offenses, within the context of existing community resources and “cultural traditions of their locales.”<sup>90</sup> Referrals to the DUI Courts are made by the District Attorneys in Anchorage and Bethel, often upon the recommendation of public defenders, other attorneys or judges.<sup>91</sup> Eligibility requirements for the Anchorage court include a current felony DUI or felony refusal charge, or a similar past charge for which the defendant is on probation, or a current DUI or refusal charge with a record of two or more DUI or refusal convictions in the preceding ten years.<sup>92</sup> In addition, the Felony DUI Courts’ victim-concerned approach requires that victims must be consulted prior to a defendant’s admission to the program.<sup>93</sup> The Felony DUI Court program lasts 12-18 months, and

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<sup>89</sup> See Alaska Court System, *Felony Drug Court* (last modified July 19, 2002) <<http://www.state.ak.us/courts/drugct.htm>>.

<sup>90</sup> Teresa Carns et al., *Therapeutic Justice in Alaska’s Courts*, 19 Alaska L. Rev. 1, 40 (June 2002) (internal quotation omitted).

<sup>91</sup> See Alaska Court System, *Felony DUI Therapeutic Court* (last modified July 19, 2002) <<http://www.state.ak.us/courts/duict.htm>>.

<sup>92</sup> See *id.*

<sup>93</sup> Moreover, victims may request reports on the defendant’s progress throughout his or her participation in the program. See Carns, *supra* n. 90, at 40.

operates in similar fashion to the Felony Drug Court.<sup>94</sup> Program completion may result in suspension of both fines and jail time.<sup>95</sup> Both eligibility requirements and the program in Bethel differ from these Anchorage parameters. As of October 23, 2002, the Anchorage DUI Court had 32 participants.

**(iii) Wellness Court** - The Anchorage Wellness Court focuses on the use of Naltrexone to supplement treatment and monitoring of misdemeanants with alcohol problems. It can admit forty offenders per case coordinator. The Wellness Court also uses cognitive therapy to aid rehabilitation (a similar program in Juneau also uses voluntary Naltrexone with mandatory treatment). A variety of sources refer possible participants to the Wellness Court. If a participant has other pending cases, the Wellness Court usually hears all of them. The Wellness Court uses case managers and treatment providers to form a team dedicated to a participant's success. The emphasis on monitoring furthers that effort.

Amendments to AS 28.35.030 in Section 33 of House Bill 4 give judges discretion to reduce an offender's sentence and fine if a DUI misdemeanant participates in a therapeutic court:

If the court determines that the person has successfully completed a court-ordered treatment program, the court may suspend up to 75 percent of the mandatory minimum sentence required under (b)(1) of this section and up to 50 percent of the minimum fines required under (b)(1) of this section. This subsection does not apply to a person who has already participated in a court-ordered treatment program two or more times.<sup>96</sup>

**d) Naltrexone Use** - Naltrexone "marks a new era in alcoholism treatment:"

Introduced in 1948, disulfiram is an aversive agent that produces unpleasant symptoms in patients who drink.

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<sup>94</sup> After opting in, an eligible defendant is screened for other criteria (appropriateness of treatment and need), and must then plead guilty or no contest to the current charge. Staff then assign the defendant to housing and weekly court appointments, an intensive out-patient treatment program, and various monitoring provisions (these can include daily breathalyzers, weekly drug testing and home and/or work visits by a probation officer). *See* Alaska Court System, *supra* n. 91.

<sup>95</sup> *See* Alaska Court System, *Felony DUI Therapeutic Court* (last modified July 19, 2002) <<http://www.state.ak.us/courts/duict.htm>>.

<sup>96</sup> AS 28.35.030(q) (effective July 1, 2002).

Unlike disulfiram, naltrexone and other potential agents now under NIAAA investigation directly target hallmark features of alcoholism: abnormal alcohol-seeking behavior, impaired control over alcohol intake, and physiological dependence manifest in craving when alcohol is removed.<sup>97</sup>

Naltrexone use is correlated to a reduction or elimination of alcohol cravings, giving defendants a period of several months to benefit from the treatment and personal changes that give a base for long-term sobriety. Used in conjunction with other treatments in the Wellness Court, Naltrexone use is entirely voluntary. A physician who assesses for dosage variations and indications prescribes the drug. Defendants cover all medical expenses incurred in obtaining a prescription for Naltrexone, laboratory tests, physician or clinic expenses, and the cost of the drug itself.<sup>98</sup>

The Wellness Court is cooperating with DOC to set up a pilot program, funded by House Bill 4, that explores offender use of Naltrexone before release.

**e) Minor Consuming** - A recent national report estimated that underage drinking alone costs the United States approximately \$53 billion annually.<sup>99</sup> Negative effects of alcohol on youth include damage to the brain and cognitive functioning, academic/work problems, compromised health, sexual behavior, delinquency, suicide, auto accidents, and increased risk of alcohol dependence and use of other drugs.<sup>100</sup> Despite these effects, underage youth drank about one-quarter of all alcohol consumed in the United States.<sup>101</sup>

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<sup>97</sup> See National Institute on Alcohol Abuse and Alcoholism News Releases, *Naltrexone Approved for Alcoholism Treatment*, National Institutes of Health (last modified Oct. 2000) <<http://www.niaaa.nih.gov/press/1995/naltre.htm>>.

<sup>98</sup> Currently, the DuPont pharmaceutical brand, ReVia, sells for \$5.50/pill or \$660 for 120 pills (standard supply for the 120-day course of treatment). The generic drug, Naltrexone, sells for \$4.00/pill, or \$480 for the required 120 days. See District Court for the State of Alaska at Anchorage, *Naltrexone Treatment Order*, at 3 (rev. Aug. 15, 2000).

<sup>99</sup> Levy, et al., *Underage Drinking: Intermediate Consequences and Their Costs* (Pacific Institute for Research and Evaluation Working Paper, June 1999) (reporting the following break-down of costs: violent crime, \$29,368,000,000; traffic crashes, \$19,452,000,000; suicide attempts, \$1,512,000,000; treatment, \$1,008,000,000; Fetal Alcohol Syndrome, \$493,000,000; drowning, \$426,000,000; alcohol poisonings, \$340,000,000; and burns, \$189,000,000; totaling \$52,788,000,000).

<sup>100</sup> See National Center on Addiction and Substance Abuse at Columbia University, *Teen Tiplers: America's Underage Drinking Epidemic* 16-21 (visited Aug. 28, 2002) <[http://www.casacolumbia.org/usr\\_doc/Underage1.pdf](http://www.casacolumbia.org/usr_doc/Underage1.pdf)>.

<sup>101</sup> See *id.* at 1. Of the country's residents in 2000, 28.6% were age 18 and under. See *Age: 2000, Census 2000 Brief 4* (visited Oct. 19, 2002) <<http://www.census.gov/prod/2001pubs/c2kbr01-12.pdf>>. See *2001 National Household Survey on Drug Abuse, Chapter 3*, U.S. Dep't of Health and Human Services, Substance Abuse Mental Health Services Administration, (last modified Sept. 4, 2002) <<http://www.samhsa.gov/oas/nhsda/2k1nhsda/vol1/Chapter3.htm>> ("About 10.1 million persons aged 12 to 20 reported drinking alcohol in the month prior to the survey interview in 2001 (28.5 percent of this age group). Of these, nearly 6.8 million (19.0 percent) were binge drinkers and 2.1 million (6.0 percent) were heavy drinkers. All of these 2001 rates are similar to rates observed in 2000. Males aged 12 to 20 were more likely

Many efforts have been made to protect juveniles from the effects of alcohol. A recent bill passed unanimously in the House<sup>102</sup> and Senate: effective July 1, 2002, House Bill 281 imposed civil liability on individuals licensed to serve alcohol who serve to a person under the age of 21.<sup>103</sup> The law assigned further liability to those who provide alcohol to a minor who, while under the influence of the alcohol, becomes liable to another for civil damages substantially related to the consumption of the alcohol.<sup>104</sup> After-the-fact measures, however, have little deterrent effect on minors choosing to drink alcohol.

The legislature enacted a “Use It, Lose It” law in 1994 to control underage alcohol use. It administratively revoked the driver’s license of any minor found using alcohol.<sup>105</sup> After the Superior Court<sup>106</sup> and the Alaska Supreme Court<sup>107</sup> found the law unconstitutional, the legislature amended the statute to require “the DMV to reinstate a revoked driver’s license if the underlying offense is not prosecuted, is dismissed, or results in a not guilty verdict.”<sup>108</sup>

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than their female peers to report binge drinking in 2001 (22.0 vs. 15.9 percent). Among people aged 12 to 20, past month alcohol use rates in 2001 ranged from 19.7 percent for Asians and 19.8 percent among blacks to 31.6 percent for whites. Binge drinking was reported by 21.7 percent of underage whites and 18.5 percent of underage American Indians or Alaska Natives, but only by 10.7 percent of underage Asians and 10.5 percent of underage blacks.”).

The industry’s potential difficulty in curbing alcohol abuse in the state can be broken down into the economic ramifications of reduced consumption for specific groups. For example, it is estimated that underage drinkers consume one quarter of all alcohol consumed nationally:

If alcohol use among underage drinkers and the heaviest drinkers (an average of nine drinks a day) were eliminated entirely and heavy drinkers (more than two drinks a day) converted to moderate drinkers, the total loss to the industry could be up to \$56 billion or 52 percent of 1998 consumer expenditures on alcohol. The alcohol industry (especially beer producers) has a substantial economic interest in developing and maintaining heavier drinking. For the industry, eliminating underage drinking and the heavy drinking it spawns represents an inherent conflict of interest.

*Teen Tiplers*, *supra* n. 100, at 12. With regard to taxation, rate increases reduce the alcohol beverage and hospitality industries’ ability to make money, as more expensive drinks may translate to fewer drinkers.

<sup>102</sup> See House Journal Text for HB 281 (visited Aug. 26, 2002) <[http://www.legis.state.ak.us/basis/get\\_jrn\\_page.asp?session=22&bill=HB281&jrn=2465&hse=H](http://www.legis.state.ak.us/basis/get_jrn_page.asp?session=22&bill=HB281&jrn=2465&hse=H)>.

<sup>103</sup> See 04.21.020(a)(1)

<sup>104</sup> See AS 04.21.020(d).

<sup>105</sup> See former AS 28.15.183 (found unconstitutional by *State v. Niedermeyer*, 14 P.3d 264 (Alaska 2000)).

<sup>106</sup> See *Quinn v. State*, No. 3AN-95-8805 Ci (Alaska Sup. Ct., Feb. 13, 1997).

<sup>107</sup> See *Niedermeyer*, 14 P.3d 264.

<sup>108</sup> *Id.* at 272, n. 36 (citing AS 28.15.183(i)(2)). The onus has thus been placed on the district attorney’s office to prosecute minors for consumption. If the district attorney’s office does not pursue prosecution, minors charged with consuming or possessing alcohol may be left with only a \$100 fine.

House Bill 179 established a graduated system of punishment for minors charged with consuming, possessing or controlling alcohol. When a minor offender has not been previously convicted,<sup>109</sup> or has received a suspended imposition of sentence for minor consuming or possession, the minor is subject under the law to a fine in an amount between \$200-\$600, required to attend alcohol information school, and placed on probation. On second offense, repeat minor consuming, the minor is subject to a fine of \$1,000, a minimum of 48 hours of community work service, license revocation for a period of three months, and probation. On third offense, habitual minor consuming (a class B misdemeanor), the minor faces a maximum \$1000 fine and 90 days in jail, license revocation for a period of six months, a minimum of 96 hours of community work service, and probation. The law requires a jury trial and court-appointed counsel for a second or third minor consuming offense.

Since its effective date in July 2001, decisions such as Superior Court Judge Ben Esch's order in *State v. Auliye*,<sup>110</sup> have held that a minor consuming defendant is entitled to a jury trial and court-appointed counsel for a first offense. The Court of Appeals recently affirmed.<sup>111</sup>

(i) **Youth Courts** - Youth courts can reduce recidivism in young offenders, as shown in a recent study.<sup>112</sup> The Urban Institute reviewed teen courts in four states, including Alaska.<sup>113</sup> Alaska's success with youthful offenders was unparalleled. Only 6% of the teenagers committed new offenses over a six-month period, compared to a 23% recidivism rate for

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<sup>109</sup> "Previously convicted" means a conviction or an adjudication as a delinquent for a violation of AS 11.71, AS 28.35.030, AS 28.35.032, AS 28.35.280, AS 28.35.290 or a law or ordinance in another jurisdiction with substantially similar elements. See AS 04.16.05(k)(3); 2001 Alaska Sess. Laws Ch. 65 sec. 2. However, some suggest that "not previously convicted" means no previous convictions or adjudications for any offense.

<sup>110</sup> *State v. Auliye*, 2NO-01-427 Cr. (Alaska Sup. July 2001).

<sup>111</sup> *State v. Auliye*, 57 P.3d 711 (Alaska Ct. App. 2002) (holding that "all youths (including first offenders) who are charged with violating AS 4.16.050 are entitled to trial by jury and if they are indigent, to counsel at public expense").

<sup>112</sup> The Urban Institute's Evaluation of Teen Courts (ETC) Project "located seven different theoretical perspectives that could be related to questions about the impact of teen court on youth recidivism. . . . : 1) peer justice, 2) procedural justice, 3) deterrence, 4) labeling, 5) restorative justice and repentance, 6) law-related education, and 7) skill building." See J. Butts et al., *The Impact of Teen Court on Young Offenders* (Urban Institute Justice Policy Center, Apr. 15, 2002), at 8 (available at [www.urbaninstitute.org/UploadedPDF/410457.pdf](http://www.urbaninstitute.org/UploadedPDF/410457.pdf)). For a comparison of the theoretical perspectives, see *id.* at 9.

<sup>113</sup> The United States Department of Justice funded the project.

offenders referred to the Division of Juvenile Justice during 1995 who were “charged with a delinquency offense that would have qualified for Anchorage Youth Court in 2001.”<sup>114</sup>

The Anchorage Youth Court (AYC) works with offenders between the ages of 12 and 18 who are still in the Anchorage school system and who were arrested by the Anchorage Police Department for minor criminal offenses.<sup>115</sup> Alaska’s youth courts are the only youth courts in the country to be “adjudication authorized” through state law to decide cases.<sup>116</sup> Funded largely by the Municipality and the Alaska Division of Juvenile Justice, the AYC also receives donations and small grants from other private entities.<sup>117</sup>

In cooperation with the District Attorney’s office, the AYC worked out a basic sentencing matrix, which includes mitigators and aggravators for consideration. The offender’s personal circumstance is then taken into account, and a plan including educational outreach, restitution and deterrent methods is tailored to the individual. Students are never adjudged by peers from their own school; past problems with intimidation of student judges by defendants have been minimal. Parent or guardian participation in AYC is optional, but there is an 80% participation rate.<sup>118</sup>

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<sup>114</sup> Butts, *supra* n. 112, at 27, 28. Of the other states in the study, Arizona registered a 9% recidivism rate, Maryland 8%, and Missouri 9%. *See id.* at iv. Because Alaska has referred its youthful offenders to Youth Courts consistently since 1996, “the project had to select an (*sic.*) historical comparison group,” and used “first-time offenders referred to the Division of Juvenile Justice during 1995, the year before the Anchorage Youth Court began to grow to its present size.” *Id.* at 21, 22.

<sup>115</sup> Criminal offenses include shoplifting, vandalism, credit card fraud (usually involving a youth employee misusing customer credit cards), reckless endangerment, and misconduct involving a weapon (usually BB guns). Despite minor possession and consumption of alcohol being among the “[m]ost common offenses” handled by youth courts across the country, *see* Butts, *supra* n. 112, at 3, Alaska youth courts are not sanctioned to adjudicate those charges. *See* AS 47.12.400(a); Recommendation B-8b, *infra* p. 48. AYC did handle minor possession of marijuana for a time; however the practice was discontinued by DJJ directive in Spring 2002.

<sup>116</sup> *See* Butts, *supra* n. 112, at 3.

<sup>117</sup> According to the Juvenile Intake program’s literature, “[t]he total number of delinquency reports received in Anchorage has fallen 10.2 % from 1994 to 1999 (based on state of Alaska fiscal year),” “despite a 13.5% increase in population during those same years of the 10 through 17 year old age group.” *See* Pamphlet, *The Difference With the Making a Difference Program: A Balanced Approach to Juvenile Justice Through a State, Municipal, and Community Partnership 1* (Anchorage Youth Court, et al., 2001). Other benefits of the program include an increase in juvenile accountability, stemming in part from faster intervention, “which makes consequences more meaningful;” a savings of municipal and non-profit dollars on services now provided by youth during community work service hours (i.e., McLaughlin Youth Center residents clean the city bus stalls, which also has the additional benefit of reducing vandalism, as the youth develop pride in keeping these areas clean and do not want them damaged); and meaningful prevention efforts whereby parents can bring problem or troubled youth to the Intake Unit for “courtesy visits,” in an effort to prevent them from committing any delinquent acts. *See id.* at 2-3.

<sup>118</sup> Fairbanks’ North Star Youth Court has a similar rate. Mat-Su’s Youth Court reports a parent or guardian participation rate of over 99.0%.

The AYC is but one agency working in Anchorage to efficiently and effectively work with juvenile offenders. The Municipality's funding for the Juvenile Intake Officers makes Anchorage the only Division of Juvenile Justice office statewide that offers services on the weekend, which speeds intervention. Upon arrest, APD officers distribute the "Directive to Contact Juvenile Intake" form. This document, used only in Anchorage, reduces the amount of time between arrest and initial DJJ contact with the offender. Agencies, including the AYC, the Resolution Center, and Volunteers of America work with the Juvenile Intake Unit to provide meaningful and rapid interventions. The program is funded by the Municipality.

## 2. Alcohol and Substance Abuse Policy Recommendations

**B-1. Increase the statewide excise tax on alcoholic beverages by an amount significant enough to allow the legislature to effectively increase prevention and treatment of alcoholism.**<sup>119</sup>

REVISED

**Goals:** To reduce crime and child, abuse, maltreatment and neglect; to increase public safety; and to reduce costs of criminal justice system agencies.

**Method:** The CJC appreciates the legislature's passage of an alcohol tax under House Bill 225, raising the excise tax on alcohol from between 3-4 cents per drink to \$.10 per drink. Nevertheless, the CJC finds that current tax is (a) insignificant as a deterrent to the purchase or consumption of alcohol; (b) inconsequential as a public safety measure to reduce crime and child abuse and costs of criminal justice system agencies in dealing with the problems caused by chronic and problem drinkers; (c) inadequate given that the Division of Alcohol and Drug Abuse budget was cut (FY'03 treatment grants requested totaled \$47.2 million, but only \$39.0 million passed legislatively, thus leaving a funding gap in program allocations);<sup>120</sup> and (d) insufficient if revenues generated by the tax are not directed to prevention and treatment measures, and thus represent no real gain to curbing alcohol abuse in the state. The CJC recommends an amount in the range of \$.25 per drink (the original CJAC recommendation) to \$1.00. The current tax will not deter people with the desire to drink from consuming alcohol; to be a deterrent, the tax must raise the price per drink to a level that affects the purchaser's decision to buy (less so for price-sensitive

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<sup>119</sup> Excise tax with regard to alcohol consumers. Brewers, distillers, bottlers, jobbers, wholesalers, and manufacturers in the state are required to pay taxes in accordance with AS 43.60.010.

<sup>120</sup> See *Component Summary - FY'03 Operating Budget - Conf. Comm. Structure 9* (visited Oct. 24, 2002) <<http://www.legfin.state.ak.us/>>. The amount is over \$2.9 million less than was allocated in FY'02, when the Division received 6.9% less than requested. See *id.*



populations such as juveniles). Such a calculation requires consideration of the per capita income.<sup>121</sup> The CJC recommends the increase as an appropriate funding source.

**Action Needed:** Legislative action.

**B-1a.** Use revenues generated from the excise tax on alcohol to fund prevention and treatment programs and other means that effectively address problems caused by alcoholism and substance abuse in Alaska, consistent with the constitutional mandate regarding dedicated funds.

NEW

**Goals:** To provide greater resources aimed at reducing the negative effects of alcoholism and substance abuse in Alaska.

**Method:** Currently, revenues generated from the excise tax on alcohol are pooled in the general fund. The CJC recommends creating a distinct fund reserved for prevention and treatment programs and similar efforts, consistent with the constitutional mandate regarding dedicated funds. The CJC further recommends that such monies be used to expand, and not supplant, current funding aimed at meeting prevention and treatment goals.

**Action Needed:** Legislation.

**B-2.** Allow municipalities to tax alcoholic beverage sales at a rate independent of the rates imposed on other sales.

**Goals:** To reduce crime and child abuse; to increase public safety; and to reduce costs currently carried by criminal justice agencies.

**Status:** Originally included in HB 225, this language was deleted in the final version. Like local option laws, taxation should reflect the community's perception of the local problem. This measure would allow communities to take ownership of their individual alcohol situation, growth and wellness, and would provide resources to address the problem. The current alcohol tax rate cannot exceed the highest sales tax in the municipality.<sup>122</sup>

**Action Needed:** Legislation.

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<sup>121</sup> In 1990, Alaska ranked sixth in the nation among states in personal income per capita. By 1999, its rank had dropped to seventeenth. See U.S. Census Bureau, *State Rankings: Personal Income Per Capita in Constant (1996) Dollars* (visited Aug. 27, 2002) <<http://www.census.gov/statab/ranks/rank14.txt>> (citing U.S. Bureau of Economic Analysis). In 2000, Alaska's personal income per capita in current (2000) dollars was \$30,064 compared to a national figure of \$29,676. See U.S. Census Bureau, *Statistical Abstract of the United States: 2001*, Table No. 652 (visited Aug. 27, 2002) <<http://www.census.gov/prod/2002pubs/01statab/income.pdf>>.

<sup>122</sup> See AS 4.21.010(c). Current sales taxes on alcohol around the state are: Bethel, 5%; Fairbanks, 5%; Juneau, 3%; Kotzebue, 6%; Unalakleet, 5%. See 40 *Alaska Taxable 2000* 10-12 (Alaska Dep't of Community and Economic Development, Jan. 2001) (visited Oct. 22, 2002) <<http://www.dced.state.ak.us/cbd/osa/pub/00Taxable.pdf>>.

**B-3. Remove the statutory cap on alcohol license fees and increase wholesale license fees to fund increased enforcement of Title 4 statutes.**

**Goals:** To provide better enforcement of Title 4 laws regarding sales and distribution of alcohol; to make that enforcement more aggressive.

**Status:** No action has been taken. Under current law, liquor wholesalers pay a licensing fee calculated on the amount of sales that they complete, up to a statutory cap of \$10,000 (the maximum license fee charged to a wholesaler who distributes more than \$1,000,000 of alcoholic beverages). Because revenue generated through license fees is already earmarked for local enforcement of Title 4 laws, CJAC deemed this “an appropriate and reasonable means to generate additional revenue.”<sup>123</sup> The increase would also assign some of the costly effects of alcohol to the industry itself.

**Action Needed:** Removing the cap would require recalculation of licensing fees, but would not require creation of any new oversight agencies.

**B-4. Increase interagency coordination on alcohol policy.**

REVISED

**Goals:** To reduce crime and child abuse and neglect, other consequences of alcohol addiction, and costs associated with those consequences.

**Method:** In 2000, CJAC recommended that “[t]he responsibility for coordination of, and education on, alcohol policy should be vested in one person, rather than shared by many,” as a means “[t]o reduce crime, child abuse and neglect, and other consequences of alcohol addiction, and to reduce the costs associated with these consequences.”<sup>124</sup> CJAC believed that this would enhance public visibility of the alcohol problem and increase coordinated approaches to the problem.<sup>125</sup>

The CJC now recommends that agencies develop new strategies to achieve this goal, especially coordinating policy development among all affected agencies and the public.

**Action Needed:** Interagency cooperation.

**B-5. Restructure the Alcohol Beverage Control Board.**

REVISED

**Goals:** To make the Alcohol Beverage Control Board reflective of and responsive to the public’s interests.

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<sup>123</sup> See *Final Report*, *supra* n. 1, at 56.

<sup>124</sup> See *id.* at 57.

<sup>125</sup> See *id.*

**Status:** CJAC recommended that the legislature “increase the number of members on the Alcohol Beverage Control Board from five to seven, with the two additional members representing the public health or medical community and the law enforcement community.”<sup>126</sup> CJAC made this recommendation to improve the balance of public and alcohol industry interests on the ABC Board.

The CJC reported in 2002 that while

[t]he legislature did not act on this recommendation . . . . Governor Knowles nominated, and the legislature confirmed, the appointment of former Anchorage Police Department Chief Duane Udland as one of the three public members of the Alcohol Beverage Control Board . . . . In addition, the Fairbanks member of the Board is a consultant to the Mental Health Trust and the third public member is employed by the Copper River Native Health Center. Neither member is a physician or medical practitioner, but both give some voice to the public health and medical communities. Therefore, although the CJAC recommendation was not implemented, some of its concerns have been addressed.”<sup>127</sup>

The CJC continues to recommend an increase in membership. The influence of private interests is directly linked to the legislature’s small excise tax increase, and to general failures in meaningfully addressing the alcohol problem in Alaska.

**Action Needed:** Legislative action.

**B-6. The legislature should remove the law enforcement functions of the Alcohol Beverage Control Board from the Department of Revenue and place them in the Department of Public Safety.**

**Goals:** To improve enforcement of Title 4 liquor laws; to reduce violent crime and other harmful consequences of alcohol abuse.

**Status:** The Interim Report stated that “[t]he Department of Public Safety is satisfied with the present situation.”<sup>128</sup> The CJC continues to recommend that the investigative and law enforcement functions of the ABC Board be reassigned to the State Troopers. The Troopers are better trained and equipped to enforce laws statewide.<sup>129</sup>

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<sup>126</sup> See *id.* at 57.

<sup>127</sup> See *Interim Report*, *supra* n. 8, at 33.

<sup>128</sup> See *id.* at 11.

<sup>129</sup> One further component of this recommendation is the expansion of the State Troopers’ presence in rural Alaska.

The CJC also notes the difficulties of enforcement inherent in state law. For example, state law requires warning signage to be posted with respect to three health and legal matters: dangers of alcohol consumption during pregnancy, penalties for serving minors, and penalties for minor presence on the premises.<sup>130</sup> The law provides for the provision of such signs by the Board,<sup>131</sup> but does not require a peace officer or an employee of the ABC Board to issue a citation for a violation of this law.<sup>132</sup>

**Action Needed:** Legislative action.

**B-7. Amend AS 04.11.010(c) to decrease the amount of alcohol that individuals may presumptively possess for their own use.**

**Goals:** To deter illegal alcohol sale and possession in dry communities; and to decrease rural crime by decreasing unlawful drinking in dry and damp communities.

**Status:** The quantity of alcohol currently accepted as reasonable for individual consumption correlates to the infiltration into and abuse of alcohol in dry and damp communities.

CJAC proposed amending AS 04.11.010(c) to include a point system assigned to each type of alcohol beverage (malted beverage, distilled spirit, or wine), and recommended a reduction by half of the amount of alcohol necessary to trigger the presumption that an individual possesses alcohol with the intent to sell. Legislation introduced in the 2001 Legislative Session (House Bill 132) proposed to decrease the amount of alcohol that could be presumptively possessed in a damp community from 12 to 10.5 liters, but no decrease was enacted in the final version of the bill. The CJC continues to encourage the originally recommended decrease.

**Action Needed:** Legislative action.

**B-7a. Amend AS 04.11.150 to require monitoring of liquor sales in package liquor stores located within 100 miles of a dry community.**

**Goals:** To deter illegal alcohol sale and possession in dry communities; and to decrease rural crime and criminal justice system costs.

**Status:** CJAC recommended that package stores within 100 miles of a dry community be restricted in the amount of alcohol they can provide to damp communities to six liters per month, per person. House Bill 132 establishes procedures for operating liquor delivery

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<sup>130</sup> See AS 04.21.065(b).

<sup>131</sup> See AS 04.21.065(c).

<sup>132</sup> See AS 04.21.065(d)-(e).

sites, “distribution centers,” in damp communities.<sup>133</sup> The CJC anticipated that the “use of delivery sites will likely curtail the illegal mailing of alcohol to dry communities and increase cooperation among the Postal Inspector, state, local and tribal law enforcement.”<sup>134</sup>

Distribution centers need the cooperation of hub communities and villages for maximum effectiveness. The influx of alcohol via snowmachine, private plane and boat compound the insufficiencies of the enforcement agencies in rural Alaska to control alcohol use in damp and dry areas.

In enacting House Bill 132, the Legislature restricted all package stores that deliver to damp communities, regardless of their proximity to a dry community, to providing a maximum of 10.5 liters of distilled spirits, or 24 liters of wine, or 12 gallons of malt beverages per month, per person. While broader in its geographic scope (the law applies to all package stores delivering to damp communities), the law is less restrictive than suggested in the amount of liquor available for consumption. Further amendments to the law should decrease the amount of hard alcohol to six liters per month. The CJC recommends that local entities, including tribal courts and village elders, have the authority to take a much more aggressive role in assessing and controlling alcohol distribution. Local groups should help develop single distribution centers in rural Alaska for communities that want them.

**Action Needed:** Legislative action.

**B-7b. Request that the United States Postal Service put a higher priority on curtailing illegal mailing of alcohol to dry communities and increase its level of cooperation with state, local and tribal law enforcement.**

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<sup>133</sup> The city of Barrow, for example, voted to go dry in special elections held on the local option laws for parts of 1995, parts of 1996 and parts of 1997. Barrow voted to go damp in 1997, and voted for a distribution center in 1999. Under the city’s regulations, individuals wishing to possess and/or import alcohol must hold an alcohol permit. All citizens are presumed eligible for a permit; however, those previously convicted of domestic violence or DUI are not granted permits and those newly convicted of such offenses have their permits revoked. Permit holders may import and possess alcohol in the amounts of (per calendar month): 13.5 gallons of malt beverage; 20 liters of wine; and 4.5 liters of distilled spirits. The city of Barrow has no current information about the success of the distribution center in decreasing alcohol-related crime and criminal justice system costs. However, CJAC reported that, in the year following Barrow’s dry vote

the level of reported violence and the crime rate fell dramatically. Felony assaults declined by 86 percent; fights broken up by the police declined by 61 percent; drunk driving stops declined by 79 percent; suicide attempts declined by 34 percent; and domestic dispute calls declined by 27 percent. When alcohol was restricted in Barrow, school attendance rates shot up; fetal alcohol exposure fell 35 percent; alcohol-related injuries fell 43 percent; harm to children fell 32 percent; and alcohol-related outpatient visits to the Barrow hospital decreased.

*Final Report, supra n. 1, at 27-28 (citing Hugh Dellios, Booze and Darkness Are Deadly Mix in Barrow: Alcohol Pits Inupiat Values Against Those From Outside, Anchorage Daily News, Nov. 10, 1995, at B4; A.Y. Chiu et al., Impact of Banning Alcohol on Outpatient Visits in Barrow, Alaska, 278 JAMA 1775-1777 (1997)).*

<sup>134</sup> See *Interim Report, supra n. 8, at 12.*

**Goals:** To decrease alcohol-related crime in dry communities; and to reduce criminal justice system costs.

**Status:** In 2001, DPS received a federal grant that included funding for an alcohol interdiction prosecutor to be assigned to the State's Office of Special Prosecutions and Appeals. Beginning in October 2001, the prosecutor coordinated increased enforcement with the United States Postal Service. The "bootlegging" prosecutor was cross-designated with the federal government as an Assistant United States Attorney. Staff changes in both agencies have delayed full use of the position and its powers, but the agencies remain enthusiastic about future shared activities.

**Action Needed:** No further action is needed.

**B-8. The Commission's successor organization should evaluate and recommend programs for diversion, incentives for treatment, prevention, and enhanced consequences to better modify underage drinking behaviors without triggering the appointment of counsel and jury trials.**

**Goals:** To reduce the number of youthful offenders incarcerated; to encourage healthy life choices for children as children and as future adults; and to provide meaningful consequences for illegal conduct without creating obstacles to healthy, productive futures.

**Status:** The CJC supports the notion that children are entitled to legal representation in any proceeding if their welfare is at risk. Full-blown criminal prosecutions may not be effective in modifying underage drinking behaviors. While entitled to a jury trial under *Auliye*,<sup>135</sup> most minor consuming cases do not proceed to trial.<sup>136</sup> The CJC thus recommends that judges consider the minor's treatment needs after arraignment. An assessment could lead to either court-mandated education or to treatment. The CJC recommends that no minor consuming defendant be exempt from the assessment-intervention procedure.

To implement this recommendation, the CJC recommends establishing a Minor Consuming Assessment Specialist position within the Division of Juvenile Justice, DPS, or DHSS. The CJC further recommends that a committee of experts, including participants from DOC (possibly DOC's Assessment Specialist), ASAP, the MHTA, the Department of Education or local school board substance abuse specialists, DPS, and the Anchorage

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<sup>135</sup> See *State v. Auliye*, 57P.3d 711 (Alaska Ct. App. 2002).

<sup>136</sup> Rationales behind the decision not to prosecute are a) the expense of prosecuting what many see as a minor offense; and b) difficulty in formulating charging decisions that reflect the minor offender's status, both as a defendant and as an alcohol consumer. Current enforcement of House Bill 179 is, in some jurisdictions, frustrated by a lack of tracking system within the Department of Law. The result has been that all offenders have been treated as first-time offenders.

Youth Court, be convened to discuss appropriate intervention, education, and treatment modalities.

**Action Needed:** Funding for a Minor Consuming Assessment Specialist; committee study and collaboration.

**B-8a.** **Allow youth courts to resolve charges of underage possession and consumption of alcohol, as well as falsification of identification, for those offenders enrolled in Alaska's schools who are age eighteen and younger. Amend AS 47.12.155 to recommend parent or guardian participation in every youth court proceeding.**

REVISED

**Goals:** To increase parental participation in their children's wellness; to increase parental monitoring, supervision and discouragement of minor alcohol and substance abuse activity; to reduce underage drinking; and to decrease violent and nonviolent juvenile crime.

**Method:** The CJC understands that juveniles obtain alcohol through many illegitimate means with few penalties for the minor or the provider, while licensed establishments are penalized for selling to minors who have false identification. Minors have significant access to alcohol using fraudulent identification (whether fabricated or borrowed),<sup>137</sup> and law enforcement often does not respond.

The youth court statute grants youth courts jurisdiction over cases

involving a minor whose alleged act that brings the minor within the jurisdiction of AS 47.12.010 - 47.12.260 constitutes a violation of a state law that is a misdemeanor or a violation or constitutes a violation of a municipal ordinance that prescribes a penalty not exceeding the penalties for a class A misdemeanor under state law.<sup>138</sup>

The minor consuming law only specifies the classification of crime for the habitual minor consuming charge (class B misdemeanor);<sup>139</sup> it is thus possible that the youth courts already have jurisdiction over those offenses. The CJC makes this recommendation to clarify existing authority, or create it, if needed.

AYC has the infrastructure and interest needed to carry out a two-year pilot program. The CJC recommends creation and funding of this program, with an evaluation at the end of the two years. The evaluation should review recidivism, referral rates, and other outcome measures.

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<sup>137</sup> In violation of AS 04.16.060.

<sup>138</sup> AS 47.12.400(a).

<sup>139</sup> See AS 04.16.050.

The CJC also recommends increasing parental and guardian participation by amending AS 47.12.155 to recommend parent or guardian participation in any youth court proceeding that affects their child's interests or liberty.

**Action Needed:** Legislative action.

**B-8b. Increase industry responsibility for curbing minor consumption.**

NEW
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**Goals:** To effectively deter minors from drinking; and to increase public health and public safety.

**Method:** The CJC urges the alcohol and hospitality industries to become more active and accountable in reducing juvenile consumption of alcohol. Useful actions could include increased measures to curtail the use of fake identification, measures to increase industry accountability in the event that minors are served alcohol, prevention programs targeted at underage drinkers, and industry support of treatment.

Currently, underaged persons attempting to enter licensed premises with false identification and purchase alcoholic beverages may be fined not more than \$5,000 and imprisoned for not more than one year. In addition, the minor's driver's license is revoked.<sup>140</sup>

Current state law punishes bars that serve minors, allow minors to be served or allow minors to enter and remain on premises where alcohol is furnished.<sup>141</sup> However, where a minor drinks and is or causes another to be injured as a result of the intoxication, the law only imposes civil liability on an establishment where the licensee, agent or employee fails to secure "in good faith from the person a signed statement, liquor identification card, or driver's license . . . that indicates that the person is 21 years of age or older."<sup>142</sup>

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<sup>140</sup> See AS 28.15.187(b) ("[T]he peace officer shall seize the person's driver's license if it is in the person's possession and shall deliver it to the department with a sworn report describing the circumstances under which it was seized.").

<sup>141</sup> See AS 04.16.052. Only parents, guardians or spouses may provide alcohol to minors, and only away from licensed premises. See AS 04.16.051(b). Violation of the law is a Class C felony. See AS 04.16.051(d). A recent amendment changed the statute to read:

A person acting with criminal negligence who violates this section is guilty of a class C felony if (1) within the five years preceding the violation, the person has been previously convicted under (A) this section; or (B) a law or ordinance of this or another jurisdiction with elements substantially similar to this section; or (2) the person who receives the alcoholic beverage negligently causes serious physical injury to or the death of another person while under the influence of the alcoholic beverage received in violation of this section; in this paragraph, (A) "negligently" means acting with civil negligence; and (B) "serious physical injury" has the meaning given in AS 11.81.900.

*Id.* (as amended by HB 330) (effective Sept. 25, 2002); House Journal Text for HB 330 (visited Sept. 8, 2002) <[http://www.legis.state.ak.us/basis/get\\_jrn\\_page.asp?session=22&bill=HB330&jrn=4058&hse=H](http://www.legis.state.ak.us/basis/get_jrn_page.asp?session=22&bill=HB330&jrn=4058&hse=H)>.

<sup>142</sup> AS 04.21.020(a)(1).



Enforcement measures are often ineffective when up against adolescent guile. Although most licensed premises serving alcohol possess a book containing descriptions and illustrations of driver's license designs from each of the United States and provinces of Canada, many minors use a valid license that is registered to someone other than the minor who is using it to buy alcohol.

One innovation available to bars and establishments licensed to serve alcohol is an electronic scanner that "read[s] the magnetic strips or bar codes of information included on driver's licenses issued by all but nine states;" scanners

verify a customer's age and an ID's authenticity by making sure the information on the front of the card matches the data encoded in it.

Once an ID is swiped, the customer's name and age pop up on a screen as the device reads – and then stores on a computer disk – personal information such as height, weight, birth date, address, and, in some states, Social Security number.

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The American Association of Motor Vehicle Administrators says that 41 states have licenses that have magnetic strips and bar codes.

But merchants say some of the states don't activate the data strips or bar codes immediately, making the scanners difficult – if not impossible – to use consistently.<sup>143</sup>

Alaska driver's licenses do not contain magnetic strips. The CJC encourages the Department of Motor Vehicles to again consider the redesign of driver's licenses to include a magnetic strip.<sup>144</sup> The CJC suggests the use of scanners for every purchase made in bars, restaurants that serve alcohol and stores that sell alcohol. Information obtained by scanners should not be used for solicitation, and legislation or municipal ordinances should enact privacy protections to that end.

**Action Needed:** Legislative action. Revenues collected from the alcohol excise tax could support the DMV funding needed.<sup>145</sup>

**B-9. Increase the number of substance abuse treatment beds for Alaska DOC clients in need of intensive residential alcohol treatment, especially women and individuals with children.**

REVISED
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<sup>143</sup> CNN.com/SCI-TECH, *High-tech Used to Thwart Underage Sales: ID Scanners Help Bars, Convenience Stores Confirm Identity* (visited Sept. 12, 2002) <<http://www.cnn.com/2002/TECH/ptech/08/15/id.scanners.ap/?related>>.

<sup>144</sup> Recently, the Department added holograms to the license that helped prevent fabrication. However, the holograms have now been discontinued.

<sup>145</sup> See Recommendation B-1a, *supra* p. 41.

**Goals:** To decrease crime; to prevent Fetal Alcohol Syndrome and alcohol-related birth defects; to lower rates of recidivism; to reduce costs associated with alcohol and substance abuse; and to reunify families separated by the affects of alcohol and substance abuse.

**Status:** An analysis of treatment needs showed that, at certain times throughout the fall and winter of 2001, treatment components sought were general co-ed residential treatment; long-term co-ed residential treatment; women’s treatment; women and children’s treatment; youth program; dual-diagnosis residential treatment; outpatient programs generally, and intensive outpatient programs.<sup>146</sup> Another table indicated that treatment needs in Anchorage are higher than anywhere else in the state, except for Bethel-area men.<sup>147</sup> Treatment programs for women, and for women with children were in much greater demand in Anchorage than anywhere else in the state.<sup>148</sup> “Because we don’t have enough service capacity in programs that treat women with children, some women face a painful choice: to wait months for treatment, or to break up the family.”<sup>149</sup>

Alaska currently has treatment capacity for DOC clients at each of its thirteen institutions, including the Hiland and Wildwood RSAT programs. Two three-day residential alcohol treatment programs are offered by State-approved alcohol treatment providers: La Casa and Genesis Recovery Services, Inc.’s Three-Day Program. The Anchorage Department of Health was recently awarded a \$500,000 SAMHSA grant for the Alaska Women’s Resource Center. In October 2002, the Center expanded residential treatment for women by six beds (to a total of nine), and now has a total of fifteen beds for women with children.

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<sup>146</sup> See *Chemical Dependency Treatment List*, *supra* n. 68, at 3 (showing treatment needs on Oct. 15, Nov. 1, Nov. 15, and Dec. 15, 2001).

<sup>147</sup> See *id.* at 1 (except for in the month of October, when the greatest demand was reported in Anchorage. Fairbanks had an increase in need of 42 men between Oct. 15 and Nov. 1, when it had more men on wait lists than did Anchorage, and then declined again over the latter half of November).

<sup>148</sup> See *id.* at 6. A description of the Hiland Mountain Correctional Center’s Women’s RSAT program is included at Recommendation B-11a, *infra* p. 52.

DOC has no formally articulated policy directly addressed to the needs of this inmate population, and the [D]epartment does not consider a prisoner’s status as a parent when making facility assignments. Neither of the other state agencies involved with children – the Department of Education and the Department of Health and Human Services – has assembled data on children of prisoners.

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An FY 2003 request to the legislature for a half-million dollars to study the issue was rejected.

*Children of Incarcerated Parents*, 19 Alaska Just. F. 3 (Summer 2002).

<sup>149</sup> *Waiting in Line for Treatment*, *supra* n. 56, at 4 (attributed to Jay Livey, Commissioner, Dep’t of Health and Social Services).

The CJC recommends that allocation of treatment beds be made on a case-by-case, based on need, to provide individualized treatment.<sup>150</sup>

**Action Needed:** Funding.

**B-10. Study the use of Title 47 civil commitment procedures for alcoholics and addicts and consider further changes to reduce jail stays by chronic substance abusers.**

**Goals:** To more effectively address treatment needs of chronic substance abusers; and to reduce the number of incarcerated substance abusers for whom treatment, more than incarceration, will serve rehabilitation efforts.

**Status:** Individuals in custody under Title 47 have serious medical conditions. While commitment to treatment would be beneficial, it is insecure custody – individuals can opt to leave treatment at any time – and the expense of court time and the bureaucracy involved in the commitments may be outweighed by the real possibility that the individual will not, in fact, remain. Moreover, criminalization of an individual without justifiable conduct (i.e., one who has not committed an illegal act) has civil rights implications.

**Action Needed:** Agency review and collaboration.

**B-11. Create a “therapeutic community” substance abuse treatment program for male inmates.**

**Goals:** To prevent future addiction-related crime and recidivism through the treatment of chronic substance abusers while in custody.

**Status:** The Wildwood Correctional Center (WCC) Men’s Residential Substance Abuse Treatment Program began in October 2000, and is considered by DOC to be a “major component accomplishment:”

Wildwood opened a Residential Substance Abuse Treatment (RSAT) Program in October 2000 utilizing Federal passthrough and Mental Health Trust Authority funding. This “therapeutic community” houses 42 defendants who participate in a ten to twelve month extremely intensive treatment program. Typically, the clients in this type of program have failed repeatedly at lesser treatment modalities, have serious addiction issues and often have a very high recidivism rate. The program got a strong start during its first year of operations with 68 men being admitted to the program; of those admitted, 8 of

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<sup>150</sup> See also Recommendation B-11 below.

them graduated and are currently transitioning into Alaska's communities.<sup>151</sup>

The Wildwood RSAT Program is funded entirely by Federal monies. The CJC recommends that new funding be sought to ensure that the program continues.

**Action Needed:** Continued support.

**B-11a. Continue the “therapeutic community” substance abuse treatment program for female inmates, and expand or create similar programs for inmates with children.**

NEW
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**Goals:** To prevent future addiction-related crime and recidivism through the treatment of chronic substance abusers while in custody; to prevent fetal alcohol syndrome and other substance-related birth defects; and to encourage healthy parenting and child-rearing.

**Method:** The Hiland Mountain Correctional Center's Women's Residential Substance Abuse Treatment (RSAT) Program began treating inmates at Hiland on November 1, 1998. “It is an intensive six to twelve month therapeutic community for women with serious substance abuse problems and related criminal histories. Special features of the program include an RSAT Social Worker, a Transition Counselor, and a component called Living in New Knowledge Successfully (LINKS) for women with children.”<sup>152</sup>

A study undertaken two years later of twenty RSAT graduates and a comparison group of equal size “clearly indicate[s] that participation in the RSAT Program reduced the re-incarceration rate.”<sup>153</sup>

**Action Needed:** Continued support.

**B-12. Encourage agencies and substance abuse treatment providers to develop a standard information release form to reduce delays caused by use of varying standards.**

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<sup>151</sup> State of Alaska, *FY2003 Governor's Operating Budget: Department of Corrections, Wildwood Correctional Center Component Budget Summary 3* (last modified Dec. 27, 2001) <<http://www.gov.state.ak.us/omb/03OMB/budget/DOC/comp720.pdf>>.

<sup>152</sup> “The Salvation Army Clitheroe Center is the contract treatment provider for the program. The program consists of Inmate Substance Abuse Treatment (ISAT) positions that are state funded and RSAT positions that are federally funded with a twenty-six percent state match.” *Hiland Mountain*, *supra* n. 83, at 2.

<sup>153</sup> *See id.* at 1. The comparison group was comprised of women in need of treatment who were unable to qualify for the RSAT program “due to lack of time” to serve. The report shows that six of the twenty RSAT graduates in the community were re-incarcerated, but that only one felony offense (assault) and one misdemeanor offense were involved: “[t]he other incarcerations . . . were due to violations of community supervision.” *Id.* This compares to nine comparison group women being re-incarcerated, with a total of five felony (four possession or sale of controlled substances charges, and one assault charge), and eleven new misdemeanor offenses.

**Goals:** To get addicted offenders into treatment quickly; to facilitate proper monitoring of treatment; and to economize the process by avoiding duplicative action.

**Status:** The criminal justice agencies have informally resolved much of the previous problem without developing a standard form. More discussion and work is needed to address the issue of maintaining confidentiality in the process.

**Action Needed:** Further collaboration.

**B-12a.** Encourage agencies and substance abuse treatment providers to develop standard assessment protocols, including a specified range of reciprocal assessment tools, to reduce delays caused by use of varying standards. Agencies should use these protocols as early in the criminal justice process as possible, consistent with a defendant's constitutional rights.

NEW

**Goals:** To provide for speedy assessments; to enhance interagency uniformity in assessment and diagnosis; and to generate assessments and data which can be shared among different agencies efficiently.

**Method:** Assessment affects an offender's status and opportunities within the criminal justice system significantly. Of course, efforts at early assessment must be fully protective of an accused's constitutional protections against self-incrimination, the right to counsel, the right to due process, the psychotherapist-patient privilege, and to avoid unfair stigmatization due to mental health issues. Standardizing the assessment process will alleviate this and other difficulties, and allow more prompt and effective intervention.

The CJC suggests adding a self-reporting component to assessments. A brief questionnaire, with assurances of these protections, designed to encourage open disclosure about personal aspects of offender's history, including marital status, education, vocation, medical history (including mental disabilities), and criminal history, could help ascertain the offender's drug use and history, treatment history, and self-assessed treatment needs.<sup>154</sup>

**Action Needed:** The CJC strongly recommends that the agency or coalition assigned to develop any standard assessment protocols include membership from the Public Defender Agency and the Office of Public Advocacy.

**B-12b.** Incorporate mental health screening as a component of all substance abuse assessments, and substance abuse assessments as a component of all mental health screening.

NEW

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<sup>154</sup> See, e.g., Matthew L. Hiller *et al.*, *Kentucky Reentry Courts: Evaluation of the Pilot Programs*, University of Kentucky Center on Drug and Alcohol Research (Nov. 2001), Appendix (Treatment Screening Questionnaire). The questionnaire used in the Kentucky model "took only fifteen minutes to complete, and could be completed effectively in a small group setting with a single tester, thus limiting costs." *Id.* at 41.

**Goals:** To provide a more integrated approach to services; and to reduce recidivism by increasing individualized treatment.

**Method:** Provide for mental health screening specialists in all correctional, residential and outpatient intervention and treatment programs. A recent federal report underscores the need “to continue working vigorously with state mental health and substance abuse systems to promote and expand the availability of integrated treatment services.”<sup>155</sup> As of June 30, 2000, 16 of the 24 state correctional facilities in Alaska screen inmates at intake, 10 conduct psychiatric assessments, 6 provide 24-hour mental health care, 12 provide therapy/counseling, 19 distribute psychotropic medications, and 18 help released inmates obtain mental health services.<sup>156</sup> The CJC recommends that DOC standardize screening statewide.

**Action Needed:** DOC policy change and funding.

**B-13. Encourage state agencies, treatment providers, tribal entities, and community organizations to collaborate to establish programs and procedures that emphasize the treatment and monitoring of underlying alcohol, drug and inhalant abuse and mental disabilities, including therapeutic justice approaches.**

**Goals:** To reduce recidivism; and to reduce criminal justice system costs.

**Status:** Findings on national, state and local levels indicate that treating an offender’s alcohol or substance abuse problem or mental disability is critical to reducing recidivism.<sup>157</sup> Jurisdictions across the country and in Alaska are using a variety of different approaches to provide offenders with necessary treatment and support services.<sup>158</sup> Some divert offenders prior to entry of a plea and dismiss cases after treatment conditions are

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<sup>155</sup> *Report to Congress Frames Agenda for Co-Occurring Disorders*, 14 Alcoholism & Drug Abuse Wkly. (Dec. 9, 2002), at 2 (internal quotation omitted) (citing Substance Abuse and Mental Health Services Administration, *Report to Congress on the Treatment and Prevention of Co-Occurring Substance Abuse and Mental Disorders* (Dec. 2, 2002)). SAMHSA Administrator Charles Curie describes SAMHSA’s goal as creating “a system that allows any door to be the right door for the services an individual needs. Any person entering mental health care, substance abuse treatment, primary care, school-based clinics/guidance counselors, homeless shelters or jails/prisons should be screened for a mental disorder and for substance abuse, then provided appropriate treatment.” See Charles G. Curie, “From the Field,” in 14 Alcoholism & Drug Abuse Wkly. (Dec. 9, 2002), at 5.

<sup>156</sup> See Allen Beck *et al.*, *Prison and Jail Inmates at Midyear 2001*, (U.S. Dep’t of Justice, Apr. 2002), at 5.

<sup>157</sup> “Most criminal justice system professionals estimate that well over 50 percent of defendants convicted of drug possession will recidivate with a similar offense within 2 to 3 years.” *Looking At a Decade of Drug Courts* (Drug Court Clearinghouse and Technical Assistance Project, rev. 1999) (visited Dec. 2, 2002) <<http://www.american.edu/academic.depts/spa/justice/publications/decade1.htm>>. Nationally, within three years of their arrest in 1994, 67.5% of released drug possession offenders were rearrested. See Patrick A. Langan & David J. Levin, *Recidivism of Prisoners Released in 1994*, (U.S. Dep’t of Justice, June 2002), at 8 (available at [www.ojp.usdoj.gov/bjs/pub/pdf/rpr94.pdf](http://www.ojp.usdoj.gov/bjs/pub/pdf/rpr94.pdf)).

<sup>158</sup> See generally Section II(B)(1)(b), *supra* p. 28.

satisfied;<sup>159</sup> some allow only for post-plea participation with probation conditions that require monitoring and treatment. Programs may be designed for juveniles or adults, felons or misdemeanants. Some focus on specific populations, such as drunk drivers, drug offenders or mentally disabled offenders.

Key components of many programs include: establishing eligibility criteria and screening procedures; providing a range of treatment to meet varying needs; integrating treatment services with justice system case processing; interaction after disposition between judges and offenders; frequent monitoring and evaluation; and partnerships between the courts, public agencies, and community-based organizations.

In May 2002, CJAC reported that “[p]romising results in other jurisdictions lead the Commission to recommend that more programs and procedures emphasizing the treatment and monitoring of underlying substance abuse and psychological disorders be established in Alaska.”<sup>160</sup> Since that time, Alaska has become a leading model for therapeutic courts around the country.<sup>161</sup>

House Bill 172, enacted in 2001, established pilot therapeutic courts for in both Anchorage and Bethel. The Anchorage DUI Court focuses on defendants with multiple DUI offenses. The Bethel court focuses on offenders with alcohol abuse problems. Four other therapeutic courts now operate in Anchorage: the Felony Drug Court, the Mental Health Court (including the Coordinated Resources Project (CRP), the Anchorage Wellness Court, and the Family Care Court.<sup>162</sup> Judges in Juneau, Fairbanks, and other communities are working to establish therapeutic courts or to use therapeutic justice principles in appropriate cases.

Alaska’s therapeutic courts have yet to be evaluated for success as a whole system. A new article describes the history, methodologies, and potential of therapeutic justice in Alaska. While finding that “[t]herapeutic justice is too new a practice in Alaska to have been evaluated for its effectiveness,” the writers nonetheless observe a state-wide willingness to evaluate and explore therapeutic justice as an alternative to “other approaches [that] have not lessened recidivism or the ever-growing costs of the justice system.”<sup>163</sup>

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<sup>159</sup> See, e.g., discussion on the Anchorage Municipal Prosecutor’s Pretrial Diversion Program, Section II(D)(1)(a)(ii), *infra* p. 79.

<sup>160</sup> *Final Report*, *supra* n. 1, at 66.

<sup>161</sup> See, e.g., Crime Justice Research Institute, *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Ft. Lauderdale, San Bernardino, and Anchorage* (U.S. Dep’t of Justice, Apr. 2000) (visited Dec. 15, 2002) <<http://www.ncjrs.org/html/bja/mentalhealth/chap4.html>>.

<sup>162</sup> See *supra* n. 88.

<sup>163</sup> See Carns, *supra* n. 90, at 54.

Therapeutic justice is time-consuming. To properly provide for success, resources must expand to include more calendar time, treatment and monitoring resources, more lawyers (public defenders and district attorneys both), and data collection for evaluation. The CJC recommends that a formal review of the therapeutic courts be undertaken to assess need within the individual courts, and outcomes.

**Action Needed:** Agency policy action and funding.

**B-13a. Expand eligibility in the Felony Drug Court to include appropriate offenders charged with delivery of substances.**

NEW

**Goals:** To increase the number of individuals eligible for the Felony Drug Court; to reduce recidivism; to decrease the use and abuse of substances; and to reduce costs carried by criminal justice agencies.

**Method:** The Felony Drug Court's eligibility should broaden to include appropriate dealers and others who make available controlled substances. The funding difficulties of the Felony Drug Court may affect this recommendation.<sup>164</sup>

**Action Needed:** Funding.

**B-13b. Expand use of therapeutic justice principles statewide.**

NEW

**Goals:** To increase care and attention paid to individuals experiencing chronic substance abuse issues or mental disability issues; to reduce recidivism; and to reduce costs absorbed by the criminal justice system.

**Method:** Therapeutic court programs operate in Anchorage, Juneau, and Bethel. Other judges use therapeutic justice principles for some defendants. The CJC recommends evaluating potentials for success in rural Alaska, as well as in regions with strong community treatment programs (e.g., Fairbanks and Kenai) that could collaborate with the state courts and other agencies to provide the focused care of the therapeutic courts.

**Action Needed:** Evaluation. Future funding may be necessary depending on the evaluation's outcome.

**B-14. Increase state-sponsored, voluntary use of Naltrexone in conjunction with alcohol treatment as a condition of bail or probation.**

REVISED

**Goals:** To reduce crime and recidivism.

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<sup>164</sup> See Sec. B-1(c)(i), *supra* p. 34.



**Status:** Naltrexone is currently used in the Anchorage and Juneau Wellness Courts, as a part of treatment and monitoring activities. Although it is not a panacea for alcoholism, nor a cure for the disease, it controls cravings in many defendants and positive outcomes have been shown with use.<sup>165</sup> The CJC recommends supporting pilot programs (such as that being considered within DOC) to gain empirical experience and data on success, and generally favors the entirely voluntary use of Naltrexone in conjunction with other treatment modalities and after-care.

**Action Needed:** Agency policy change; education.

**B-15. Expand DHSS's Alcohol Safety Action Program (ASAP) through legislation and funding.**<sup>166</sup>

**Goals:** To increase the success of alcohol and substance abuse treatment and thus reduce probation revocations and recidivism.

**Status:** DHSS describes ASAP's responsibilities as follows:

The basic ASAP function is to provide case management and accountability for DWI and other alcohol and drug related misdemeanor cases. This involves screening cases referred from the district court into drinker classification categories, as well as managing and monitoring cases throughout education and/or treatment requirements. In addition Anchorage ASAP staff is responsible for statewide quality assurance, training, providing for statewide data collection through the ASAP MIS, and management of the eight statewide ASAP grantees.<sup>167</sup>

The CJC lauds ASAP's role in monitoring misdemeanor probationers with alcohol problems, but acknowledges that the program has inadequate resources to meet the need. In FY'01, DHSS requested appropriations in the amount of \$1.4 million to restore and expand ASAP services throughout the state. DHSS received only \$46.9 thousand for ASAP expansion. The funding was used to restore ASAP services in Juneau, Ketchikan, Kotzebue, and Seward.<sup>168</sup>

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<sup>165</sup> "Naltrexone appears to reduce craving in abstinent patients and to block the reinforcing effects of alcohol in patients who drink. The latter effect lessens the likelihood that patients who drink a small amount of alcohol will return to heavy drinking." See NIAAA, *supra* n. 97.

<sup>166</sup> ASAP services are available in Anchorage, Bethel, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Mat-Su (located in Palmer), and Seward.

<sup>167</sup> See *DHSS Fiscal Year 2003 Budget Overview*, *supra* n. 55.

<sup>168</sup> The Seward office was funded to be open for only ten hours per week. See *Interim Report*, *supra* n. 8, at 21 (reporting that while DHSS requested \$1.4 million to restore and expand ASAP services throughout the state, the Department received only \$46,900).

FY'02 marked no significant change. The Governor's Office recommended FY'03 funding of \$2,865,300 to stabilize ASAP programs. DHSS proposed to continue the current level of services provided in FY'02 through a FY'03 increment of \$323,700, and recommended expanded services through an increase of \$1,318,400 general fund resources.<sup>169</sup> The plan credits CJAC with providing the basis for the expansion:

In FY2001 the Anchorage ASAP was responsible for providing case management and monitoring services to 4,374 new cases; FY2002 case management is estimated at 4,500 new cases. In the Alaska Criminal Justice Assessment Commission (CJAC), Final Report May 2000, the Commission strongly recommended that the legislature restore funds to ASAP and expand its monitoring ability.

This increment would establish 3 PFT positions for the Anchorage ASAP Office, and reclassify one existing position from PPT to PFT. The additional staffing would allow the office to handle the increase of referrals, eliminate current backlog of new cases, ensure timely monitoring of referrals, and provide the resources needed to effectively link clients to best and/or appropriate services and intensively monitor the "high-risk" client.

The Alaska Alcohol Safety Action Program – Institute for Circumpolar Health Efficacy Study Report conducted by Dr. Brian Saylor, University of Alaska Anchorage found that 65-66% of the clients referred to the ASAP system did not re-offend within three years of the first DWI offense.<sup>170</sup>

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<sup>169</sup> See State of Alaska, Dep't of Health and Social Services, *FY2003 Governor's Operating Budget: Alcohol and Drug Abuse Services Budget Request Unit Budget Summary*, "Alcohol and Drug Abuse Services Summary of BRU Budget Changes by Component From FY2002 Authorized to FY2003 Governor," 11 (last modified Dec. 18, 2001) <<http://www.gov.state.ak.us/omb/03OMB/budget/H&SS/bru99.pdf>>. Cf. State of Alaska, Dep't of Health and Social Services, *FY2003 Governor's Operating Budget: Alcohol and Drug Abuse Services Budget Request Unit Budget Summary*, "BRU Financial Summary by Component," 10 (last modified Dec. 18, 2001) <<http://www.gov.state.ak.us/omb/03OMB/budget/H&SS/bru99.pdf>> (showing that actual FY'01 allocations from the general fund totaled \$1,101,100 and FY'01 allocations from other sources totaled \$5,200, for a total allocation of \$1,106,300; FY'02 authorized allocations in the total amount of \$1,223,200, with all dollars coming from the general fund; and Governor's FY'03 proposed general fund allocations of \$2,865,300).

<sup>170</sup> *DHSS Fiscal Year 2003 Budget Overview*, *supra* n. 55.

However, the legislature authorized only \$1,396,100 of the \$2,865,300 general fund money that the Governor requested for ASAP services around the state. Together with the \$150,800 in receipts services, the total ASAP budget for FY'03 is \$1,546,900.

The CJC reiterates CJAC's view of ASAP as "one of the most important alcohol abuse intervention tools in the state," and also "strongly recommends that the legislature restore funds to ASAP and expand its monitoring ability."<sup>171</sup>

**Action Needed:** Legislative action and funding.

**B-16. Create more community aftercare for abusers being released from substance abuse programs by the Department of Corrections.**

**Goals:** To reduce recidivism by supporting continued sobriety for released offenders.

**Status:** Little action has been taken with respect to this CJAC recommendation.

Only 27 community residential treatment beds exist for DOC clients – Bethel, Maniilaq, and Kodiak have only one bed available each. Of 611 arrestees in Anchorage in 2000 who were studied,<sup>172</sup> 53.3% of males and 47.9% of females tested positive for drug use (including marijuana, cocaine, heroin, phencyclidine, benzodiazepines, propoxyphene, methadone, methaqualone, barbituates, and amphetamines).<sup>173</sup> Yet only eighteen aftercare residential substance abuse treatment beds exist for DOC clients. It is doubtful that, even if treated during incarceration, these individuals can sustain their progress after release without aftercare.

**Action Needed:** Funding.

**B-17. Support culturally-relevant programs for alcohol treatment.**

**Goals:** To enhance treatment effectiveness.

**Status:** FY'02 allocations for traditional recovery camps throughout rural Alaska were \$100,000.<sup>174</sup> FY'03 continuation funding to Sitka, Dillingham and Kodiak stands to be \$203,700. The CJC recommends the use of native community members/elders to work

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<sup>171</sup> *Final Report, supra* n. 1, at 67.

<sup>172</sup> This was the number agreeing to participate in the survey and providing a urine sample. *See* Matthew Giblin, *Aspects of Drug Use: Arrestees in Anchorage, 2000*, 18 Alaska Just. F. 6 (Fall 2001).

<sup>173</sup> *See id.* at 8.

<sup>174</sup> *See Interim Report, supra* n. 8, at 21 (noting that the Division of Alcohol and Drug Abuse requested \$357,000 in ADA grants).

with Alaskan Native participants, and development of culturally-appropriate treatment for other ethnic groups.

**Action Needed:** Agency policy; legislative action (appropriations to DHSS and DOC).

**B-18. Make treatment assessments available to all defendants with alcohol issues prior to sentencing, and mandate that if a defendant is ordered to treatment, any program required as a sentencing condition be justified by assessment.**

**Goals:** To avoid unnecessary complications in meeting sentencing requirements; and to enhance the possibility of rehabilitation.

**Status:** DOC's Assessment Specialist must assess all defendants with substance abuse problems following sentencing.<sup>175</sup> Logistics factor into the decision to perform assessments post-sentencing; to do so prior to sentencing would mean a great increase in the number of assessments to be performed.<sup>176</sup> Moreover, DOC sees treatment as more valuable post-sentencing, when the flow of treatment will not be interrupted with court dates and continuances.<sup>177</sup>

The CJC recommends that all defendants with alcohol issues have assessments. If the court orders treatment as a sentencing condition, the assessment should provide the justification for the treatment. Assessments should include not only the mandatory HIV testing, but testing for Hepatitis C, which occurs in many treatment participants.

**Action Needed:** Agency and judicial action.

**B-19. Create a statutory mitigating factor for use at criminal sentencing, recognizing when the wrongful conduct was substantially affected by an organic brain disorder.**

**Goals:** To increase the flexibility and discretion available to judges in fashioning appropriate sentences for organically impaired offenders; and to decrease the likelihood of recidivism.

**Status:** No legislation has been drafted yet. The CJC continues to recommend that this action be taken.

**Action Needed:** Substantive legislation. No funding is required.

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<sup>175</sup> The Assessment Specialist is more fully described at Recommendation B-20, *infra* p. 61.

<sup>176</sup> Telephone Interview with Constance Bai, Assessment Specialist, Dep't of Corrections (Sept. 12, 2002). Defense attorneys also worry that defendants could jeopardize their rights by revealing the types of information required.

<sup>177</sup> *See id.*

**B-20. Respond more quickly to offenders with chronic substance abuse problems by identifying them early in their contact with the criminal justice system.**

**Goals:** To reduce recidivism and its related costs.

**Status:** MHTA has provided funding to DOC to create an Assessment Specialist position. Serving under DOC's Chief Classification Officer, the Assessment Specialist is a probation officer responsible for early classification of offenders, to give offenders with substance abuse problems faster and more efficient entry into facilities with programs to match their needs.

DOC conducts assessments post-sentencing for confined misdemeanants, while defendants are in transition or in Community Residential Centers, and whenever there are "dueling assessments," i.e., assessments from another state-approved agency,<sup>178</sup> at no fee to defendants. Assessments outside of the Anchorage area are performed telephonically, unless circumstances afford in-person visits. Referrals come from a variety of service providers, including Akeela House, Clitheroe Center, the Women's Resource Center, Alaska Human Services, the Ernie Turner Center, MatSu Recovery Center, and the Recovery Center.

While the MHTA grant began in July 2001, the position was not actually filled until April 15, 2002. The grant is set to expire July 1, 2003. No official decision has been made as of this writing with regard to renewal.

**Action Needed:** Continue funding. Expand services to other areas.

**B-21. Develop adequate facilities and services, including housing, to address the unique needs of offenders who are suffering from both serious mental disabilities and substance abuse problems.<sup>179</sup>**

**Goals:** To reduce recidivism; and to reduce the number of admissions and lengths of stay in DOC and API beds.

**Status:** Defendants, especially those with both mental disabilities and substance abuse problems, need safe and supportive housing to succeed when no longer institutionalized. The CJC recommends that state criminal justice and mental health agencies coordinate housing efforts under a central dispatcher. One suggestion, from Consumers Consortium,

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<sup>178</sup> Aside from the general purposes of assessment, the idea behind DOC's Specialist is to provide offenders an unbiased assessment; whereas other assessment providers may be motivated to make recommendations for higher required levels of care, the DOC Assessment Specialist has no such agenda.

<sup>179</sup> See also Sec. B(1)(b)(i), *supra* p. 29.

is that a full-time housing specialist position be created in Anchorage.<sup>180</sup> The CJC supports this recommendation.

Other services need coordination, too. The Recovery By Choice program was first funded in 2002

to help lower the API utilization by providing intensive services to a select number of consumers who were identified as being at special risk of re-hospitalization. API found that about 80 patients in any year were very “high users” of API. The idea of Recovery by Choice was to take those 80 patients and essentially provide constant supervision and intervention to keep them from being re-admitted to API.<sup>181</sup>

Yet only five places were allotted, and few clients were served. The Division of Mental Health and Developmental Disabilities has been working with the South Central Counseling Center to develop a program capable of meeting the goals of Recovery By Choice for a greater client pool. Operating through SAMHSA funding since October 2002, Intensive Services developed a pool of 94 individuals, who, over a two-year period, met certain parameters (re: days of hospitalization). Ten clients are currently enrolled, and a pilot fee-for-services structure is in place.<sup>182</sup> Clients are assessed based on the likelihood of imminent hospitalization or institutionalization, and service (including monitoring) is available for extended night and weekend hours. Intensive Services aims to foster a 50% reduction of hospital “bed days.”

The perceived need for services also prompted the Consumers Consortium “Flexible Support Services Program.” The Consortium describes the target population as “[p]eople who, without special services, are at substantial risk of needing a bed-connected service (hospital or community-crisis bed).”<sup>183</sup> The program would include medications, psychiatric services, counseling services, peer support, routine medical care, housing, personal items, and case management. The model requires quick response: participating agencies must respond to client needs within 24 hours of the initial request.<sup>184</sup> Funding for the program has not yet been finalized.

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<sup>180</sup> Responsibilities of the specialist would include: arranging housing for consumers; representing mental health consumers’ interests during housing planning efforts around the state and at other junctures; and providing consumer-run housing programs with administrative and technical assistance. *See* Letter from Barry Creighton to Richard Rainery, *supra* n. 72, at 17.

<sup>181</sup> *Id.*

<sup>182</sup> Fees represent new money into the state system.

<sup>183</sup> *See* Letter from Barry Creighton to Richard Rainery, *supra* n. 72, at 17.

<sup>184</sup> *Id.*

Dually-diagnosed defendants also need adequate transportation.<sup>185</sup> To that end, the Consumers Consortium proposed a consumer transportation program, “designed to provide consumer-run organizations with funding to operate vehicles which they are able to obtain through donations or grants, or to use the Coordinated Public Transportation Systems such as CARTS.”<sup>186</sup> Although cost-effective, the program did not receive funding. The CJC recommends convening a forum with local public and private transportation providers for the purpose of establishing common ground in the effort to support people with mental disabilities as they move out of incarceration.

**Action Needed:** Agency policy action and funding.

**B-22. Encourage treatment and other alternatives to incarceration for those charged with DUI, especially in rural communities.**

NEW

**Goals:** To reduce incidents of DUI and DUI fatalities; to deter DUI offenses; and to increase public safety.

**Method:** Current law imposes criminal sanctions on individuals who operate motor vehicles, aircraft or watercraft with a blood alcohol content (BAC) of 0.08 or above.<sup>187</sup> The reduction (from a BAC of 0.10) was advocated by the Government’s Advisory Board on Alcoholism and Drug Abuse,<sup>188</sup> Mothers Against Drunk Driving, and the Municipality of Anchorage/DHSS Office of Community Health Promotion,<sup>189</sup> and passed in 2001.<sup>190</sup> Other changes in DUI law have made punishments stricter. Still, these laws cannot improve public safety without adequate treatment and rehabilitation. The CJC recommends that no new laws be considered or enacted to increase penalties for DUI until adequate funding for treatment and rehabilitation is in place.

**Action Needed:** Funding.

**B-23. Explore options, including regulation and legislation, that require the alcohol industry to make more efforts to reduce incidents of alcohol-related offenses and alcohol abuse in the state.**

NEW

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<sup>185</sup> “Transportation is a symbol of dignity and self-esteem and is invaluable to the interconnection between consumer run organizations and the [Mental Health] System.” *Id.* at 15.

<sup>186</sup> *Id.*

<sup>187</sup> See AS 28.35.030(a)(2).

<sup>188</sup> See, e.g., *Alaska’s Greatest Hidden Tax: The Negative Consequences of Alcohol & Other Drug Abuse and Dependence*, Annual Report (Advisory Board on Alcoholism and Drug Abuse), Feb. 2001.

<sup>189</sup> See MOA/DHSS Community Health Promotion, *Alcohol and Anchorage: Community Problems Related to Alcohol* (visited Sept. 3, 2002) <[http://www.maddalaska.com/images/Alcohol\\_Handout.pdf](http://www.maddalaska.com/images/Alcohol_Handout.pdf)>.

<sup>190</sup> HB 132 (2001).

**Goals:** Increase public safety by decreasing DUI-related injuries and fatalities; heighten public awareness of the effects of alcohol on drivers of motor vehicles, including aircraft, watercraft and snowmachines.

**Method:** Current law requires that servers make a preliminary determination about the sobriety of the person they are being asked to serve; licensees, agents or employees of establishments licensed to sell alcohol may be held civilly liable for injuries caused to or by an intoxicated individual as a result of the intoxication where the licensee, agent or employee serves or allows to be served alcohol to one already intoxicated, or where that person is allowed to remain on the premises.<sup>191</sup> While state law requires licensees, their agents and those “employees who sell or serve alcoholic beverages or check the identification of a patron to complete an alcohol server education course approved by the board”<sup>192</sup> it does not require them to refuse service even if they “reasonably [believe] that the consumption of alcohol by that person may result in serious harm to that person or to others.”<sup>193</sup>

Urban communities like Anchorage provide alcohol through a variety of licensed establishments. While state law limits the number of licenses by population,<sup>194</sup> the number of liquor licenses in Anchorage exceeds the limit by close to 70 licenses, due to establishments that have been “grandfathered in.”<sup>195</sup>

Establishments in Anchorage have the advantage of being on local bus lines, or in reach of taxi cabs. Establishments along the highway systems in and out of towns, however, rely almost entirely on patrons arriving by private vehicle for business. That is to say, they know that for every individual who becomes intoxicated in their establishment, there exists a real chance that a DUI will be committed, and a further risk that a DUI-related injury or fatality will occur. Bars and restaurants serving alcohol could have several options: supplying customers with mini-breathalyzers so the customer could make the decision about driving;<sup>196</sup> keeping control of customers’ car keys until they are ready to leave the

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<sup>191</sup> See AS 04.16.030(a); AS 04.21.020(a)(2).

<sup>192</sup> AS 04.21.025. “The training must include the subjects of the effects of alcohol consumption, identifying a drunken person, determining valid identification, intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts by agents and employees of licensees.” See *id.*

<sup>193</sup> AS 04.21.055 (“A licensee, an agent, or employee *may refuse* to sell, give, or serve alcoholic beverages to a person if the licensee, agent, or employee reasonably believes that the consumption of alcohol by that person may result in serious harm to that person or to others.”) (emphasis added).

<sup>194</sup> See 04.11.400.

<sup>195</sup> See *Alcohol and Anchorage*, *supra* n. 189, at 3.

<sup>196</sup> This suggestion targets the “thinking drinker,” one to whom consequences of drinking and driving, if pointed out, will affect his or her decision to drive under the influence or to choose an alternative form of transportation. One product is Sharper Image’s “Digital Alcohol Breath Tester,” which retails for \$99.95. The small, portable, battery operated device allows a user to determine blood alcohol content within a range of .000% to .200% by blowing into it



establishment, and returning keys only after the customers submit to breath tests; providing transportation for any patron to whom the establishment serves enough alcohol to put over the legal BAC limit; or using a scanner to detect fraudulent use of identification.<sup>197</sup>

**Action Needed:** Legislative action; voluntary action by establishments.

**B-24. Study the utility of requiring ignition interlock devices on all cars belonging to or regularly driven by those persons on probation or parole for alcohol-related offenses, whether or not the court has ordered treatment.**

NEW

**Goals:** To increase public safety through a decrease in injuries and fatalities caused by drunk drivers, and increase accountability for those convicted of alcohol-related offenses.

**Method:** Ignition interlock devices connect a breathalyzer to a car's ignition. Where the breathalyzer detects a BAC in excess of Alaska's legal limit (0.08), the interlock prevents the car from starting.<sup>198</sup> "Thirty seven states have laws providing for use of ignition interlock devices primarily for multiple DWI offenders."<sup>199</sup>

While the device's effectiveness has had limited study,<sup>200</sup> available empirical evidence indicates a positive outcome.<sup>201</sup> The concern that the interlock device will not function in

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through a disposable mouthpiece. An LCD screen displays the results; where a BAC exceeds 0.050%, an on-screen alert and beep warns the user. The least expensive model on the market, the disposable BreathScan Tester, is also used by blowing through a tube, and can be used fifteen minutes or more after consuming alcohol. After blowing, the user shakes the tester, and waits two additional minutes. The user then compares the color change of the device to the original color, much like modern pregnancy tests. The device retails for \$2.25 per unit, although it must be ordered in quantities of 100.

<sup>197</sup> See Recommendation B-8b, *supra* p. 48.

<sup>198</sup> "Of course, the breath analyzer is a useful tool only if drivers are unable to disconnect or alter the [ignition interlock] system. While this is a valid concern, studies have shown that the success rate of tampering attempts is minimal." See Barbara J. Morse & Delbert S. Elliot, *Effects of Ignition Interlock Devices on DUI Recidivism: Findings from a Longitudinal Study in Hamilton County, Ohio*, National Commission Against Drunk Driving, 38 Crime & Delinquency 131-157 (1992).

<sup>199</sup> M.M. Levy & J.F. Frank, *A Review of Research on Vehicle Sanctions in the USA*, National Highway Traffic Safety Administration, at 2 (visited Nov. 29, 2002) <[http://www.vv.se/traf\\_sak/t2000/527.pdf](http://www.vv.se/traf_sak/t2000/527.pdf)>.

<sup>200</sup> See *id.* at 4 ("In 1999, a review of the current research concluded that '... the weight of the evidence ... suggests that the ignition interlock holds great promise to assist in efforts to reduce DWI among the [repeat offender] group.' This conclusion is supported by the only random-assignment study conducted to date.").

<sup>201</sup> The "random-assignment" study was conducted in Maryland. See K.H. Beck *et al.*, *Effects of Ignition Interlock Licence Restrictions on Drivers With Multiple Alcohol Offenses: A Randomized Trial in Maryland*, 89 Am. J. Pub. Health 1696 (1999). That study found that offenders assigned to interlocks had a significant reduction in recidivism (65% decline) compared to offenders not assigned interlocks during the one year period the interlocks were on the vehicles. The study findings also suggest that the benefits obtained in recidivism depend on continued use of interlocks on offenders' vehicles. In the Maryland study, after the interlocks were removed from

extreme cold is addressed by the Alaska Administrative Code,<sup>202</sup> although no data are currently available on specific failure rates.

Current state law gives the court discretion to order installment of an ignition interlock device.<sup>203</sup> The CJC recommends that an appropriate agency receive funding to study the viability of mandatory installation.<sup>204</sup> If the study supports this, the legislature could amend AS 12.55.102(a) to mandate ignition interlock devices on all cars regularly driven by an individual convicted of an alcohol or substance-related offense. The CJC supports the exception made in AS 12.55.102(b) for vehicles owned or leased by an offender's employer. For these vehicles and drivers, the CJC recommends other safeguards, such as mandatory breath or blood tests.<sup>205</sup> Current state law also allows a court imposing probation for a DUI conviction to "reduce the fine required to be imposed . . . by the cost of the ignition interlock device."<sup>206</sup> The CJC supports use of this law.

**Action Needed:** Legislative action; funding for study.

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offenders' vehicles the reductions disappeared. These findings are consistent with those reported in Alberta, Canada as well as in North Carolina and Ohio. *Id.* (footnotes omitted). The Ohio study referred to above studied a volunteer pool of both first-time offenders with a BAC equal to or greater than .20% at arrest, repeat offenders who had at least two convictions within the previous decade, and offenders who, at the time of arrest, refused to undergo a BAC test.

Judges were more likely to offer the device to offenders who had multiple DUI convictions or those they perceived to be a greater risk for repeat DUI, such as offenders who had prior drug or alcohol arrests. Offenders who accepted the device also were more likely to have a history of multiple DUI arrests. Thus, offenders who participated in the ignition interlock program were more likely to be chronic drunk drivers than first time offenders.

During a 30 month period, offenders whose cars were equipped with an ignition interlock device had significantly fewer repeat DUI arrests than offenders who had their license suspended. Specifically, the DUI rearrest rate for the license suspension group was approximately three times as great as that of the interlock group. In addition, only four interlock offenders were arrested for driving a non-interlock vehicle compared to 41 license suspension offenders who were arrested for driving any vehicle, suggesting that individuals in the ignition interlock program were less likely to violate their court-imposed driving restrictions.

National Commission Against Drunk Driving, *Abstract: Effects of Ignition Interlock Devices on DUI Recidivism: Findings from a Longitudinal Study in Hamilton County, Ohio* (visited Nov. 29, 2002) <<http://www.ncadd.com/tsra/abstracts/025.html>> (citing Morse & Elliot, *supra* n. 198, at 131-157).

<sup>202</sup> See Alaska Admin. Code tit. 22, § 15.030 (addressing prewarming techniques and labeling instructions).

<sup>203</sup> See AS 12.55.102(a). See also AS 12.55.102(e) ("In this section, 'ignition interlock device' means equipment designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage, and that has been certified by the commissioner of corrections under AS 33.05.020(c).").

<sup>204</sup> For a comprehensive bibliography of the issue, see ICADTS Working Group on Alcohol Ignition Interlocks, *Alcohol Ignition Interlock Devices, I: Position Paper*, International Council on Alcohol, Drugs and Traffic Safety (July 2001), at 21-24 (available at [www.icadts.org/reports/AlcoholInterlockReport.pdf](http://www.icadts.org/reports/AlcoholInterlockReport.pdf)).

<sup>205</sup> See AS 12.55.102(b).

<sup>206</sup> AS 28.35.030(g); see also AS 12.55.102(d).

**B-25. Amend AS 28.15.201 to afford limited driver's licenses to those individuals on probation or parole for alcohol-related offenses who are actively engaged in efforts to maintain sobriety or treatment, whether or not that treatment is court-ordered. Mandate ignition interlock devices on all cars belonging to or regularly driven by persons with limited licenses.**

NEW

**Goals:** To aid rehabilitation progress (including access to employment, family and treatment) through more efficient transportation and freedom of movement.

**Method:** If a defendant can show that a driver's license is necessary for his or her livelihood, a judge may provide for a limited license to be issued to one whose license has been revoked.<sup>207</sup> Current law restricts issuance of limited licenses to the final sixty days of revocation, for those individuals who have had their driver's licenses revoked, are currently in or have successfully completed an alcohol or substance abuse treatment program, whose revocation did not result from a violation of AS 28.15.181(a)(8) (failure to submit to testing), and for whom a limited license is determined by the Department of Motor Vehicles or the court to pose no "excessive danger" to public safety.<sup>208</sup>

The CJC recommends amending AS 28.15.201(d) to afford limited licenses to those individuals charged with refusing to submit to a chemical test while under arrest for operating a motor vehicle, commercial vehicle, or aircraft while intoxicated, or as authorized pursuant to AS 28.35.031(g).<sup>209</sup>

The CJC also recommends amending AS 28.15.201(d) to extend the time period for which an individual meeting the conditions listed therein may be granted a limited license. Finally, the CJC recommends amending AS 28.15.201 to require ignition interlock devices on all cars belonging to or regularly driven by those persons issued limited licenses.

**Action Needed:** Legislative action. Revenue for DMV expenses could be allocated from the excise tax on alcohol.

**B-26. Create state-sponsored public education media campaigns that encourage youths and adults (including parents, guardians and spouses), in both urban and rural Alaska, to decrease use of alcohol**

NEW

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<sup>207</sup> See AS 28.15.201(a).

<sup>208</sup> See AS 28.15.201(d).

<sup>209</sup> See AS 28.35.031(g) ("A person who operates or drives a motor vehicle in this state shall be considered to have given consent to a chemical test or tests of the person's breath and blood for the purpose of determining the alcoholic content of the person's breath and blood and shall be considered to have given consent to a chemical test or tests of the person's blood and urine for the purpose of determining the presence of controlled substances in the person's blood and urine if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person.").

**and other substances. Media campaigns should also create awareness of criminal penalties for alcohol and substance-related offenses.**

**Goals:** To reduce the consumption of alcohol and other substances in the state; to reduce the occurrence of Fetal Alcohol Syndrome and Fetal Alcohol Effects; to reduce the occurrence of DUI injuries and fatalities; to foster healthy generations with less alcohol and substance dependence; to create a society grounded in an understanding of alcohol and other substances, and the risks inherent in alcohol and substance use and abuse.

**Method:** Campaigns against tobacco use in Alaska have demonstrated the power of media to help reduce alcohol and substance dependence. Television and radio commercials and public postings do more than create a forum for discussion, they provide people, including youths so often subject to peer pressure, information and language to use in that discourse. Instead of “just say[ing] no,” public service announcements can empower people to say “no, because . . .” giving reasoned arguments for their healthy choices. Tobacco ads that describe the risks for disease associated with use, provide an effective model for alcohol and substance-related announcements.

**Action Needed:** Agency action.

## C. Mentally Disabled Policy

### 1. Background

Of Alaska’s 626,932 residents,<sup>210</sup> 45,000 (including approximately 15,000 children) are estimated to suffer some form of mental disability or organic brain disorder.<sup>211</sup> The effect on the criminal justice system is significant:

People with psychiatric disabilities and/or substance abuse disorders are often incarcerated because of crimes resulting from their illness. Treatment and services are limited to those in crisis. In 1997, DOC conducted a study to determine the prevalence rates for inmates with mental illness, developmental disabilities, substance abuse disorders, or age related dementia. Results indicated that on January 15, 1997, 37 percent of all the inmates in institutions were either mentally ill, chronic alcoholics, and/or developmentally disabled.<sup>212</sup>

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<sup>210</sup> Census 2000 figures. See U.S. Census Bureau, *supra* n. 10.

<sup>211</sup> See Alaska Mental Health Board, *2002 Fact Sheet 1* (2002).

<sup>212</sup> *In Step*, *supra* n. 70, at 29 (showing an increase in percentage of inmates treated for mental illness from 8% in FY’95).

**a) Care of the Mentally Disabled in Custody** - According to the DHSS, in FY'00, 14% of inmates were treated for serious mental illness, or 2,556 inmates.<sup>213</sup>

In 2000, DOC served 2,556 inmates with serious mental illness. Of this population, at the time of arrest, 22 percent were homeless, 20 percent had stopped taking their medication before their crime, and 17 percent were suicidal. Other grim statistics tell us that 68 percent were intoxicated during their crime; 77 percent had a co-occurring substance use disorder, 19 percent a history of special education, and 16 percent a below average IQ. In addition, 30 percent had prior psychiatric hospitalization and 28 percent had attempted suicide.<sup>214</sup>

**b) Coordinated Resources Project (Mental Health Court) and Jail Alternative Services** - The Coordinated Resources Project (CRP) is a post-booking or post-conviction pilot project in Anchorage District Court that diverts misdemeanor offenders interested in pursuing treatment. "The mission of the CRP is to divert people with mental disabilities charged with misdemeanor offenses from incarceration and into community treatment and services and to prevent further contacts with the criminal justice system."<sup>215</sup> Participation requires that a defendant have no felony record, including the current offense, and be "a beneficiary of the Alaska Mental Health Trust Authority diagnosed with a mental illness, developmental disability, dementia or other related brain disorder, or alcoholism with psychosis."<sup>216</sup> The mental disability must have contributed to the offense or contact with the justice system, and involvement with the CRP must reduce the potential for recidivism/contact with the justice system. Participants also must pledge voluntary adherence to recommended treatment plans.<sup>217</sup>

The CRP can handle up to forty defendants. Unlike other courts, the CRP has no master-calendar system, making it slower-paced, geared to sensitivity to defendants with cognitive disabilities. Two judges oversee the program, only one of whom will see a particular defendant through the process.

Referrals come from a variety of sources (judges, APD, attorneys, defendant, families, etc.). Program administrators also proactively screen the daily arraignment calendar for previously eligible

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<sup>213</sup> *See id.* at 28.

<sup>214</sup> *In Step, supra* n. 70, at 28.

<sup>215</sup> Alaska Court System, Anchorage District Court, Coordinated Resources Project (CRP), *Anchorage Mental Health Court Project: Policies and Procedures* (July 2002) at 4.

<sup>216</sup> *Id.* For a complete description of qualifying disorders, see *id.* at 4-6.

<sup>217</sup> *See id.*

participants to provide a safety net for eligible defendants whose disability might otherwise go unnoticed. Upon opting-in to the program, a defendant receives case coordinator services (funded by MHTA). The case coordinator links the defendant with community services, and then works with the defendant and service provider to create a plan to present for court approval. The plan is then ordered as a condition of probation, and the court monitors it through status hearings.<sup>218</sup>

Some CRP participants also receive services from the Jail Alternatives Services Project (JAS), an MHTA project run by DOC. Eligibility requirements include a misdemeanor offense, major mental disability and associated organic brain injury or psychosis, and confinement in the Anchorage jail. JAS has space for forty defendants at a time, up to five of whom must have an organic brain injury.<sup>219</sup>

After a defendant opts in, JAS assigns a coordinator/caseworker to develop a treatment plan, obtain services, act as a liaison with the court, and monitor the participant's housing, treatment and daily living situation to ensure stability, health and court compliance.<sup>220</sup> A defendant may opt out of JAS.

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<sup>218</sup> See generally *id.* See also *The Court Coordinated Resources Project – Mental Health Court in Alaska*, 18 Alaska Just. F. 1 (Winter 2002).

<sup>219</sup> See Crime Justice Research Institute, "The Anchorage Mental Health Court: Target Problem and Rationale," in *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Ft. Lauderdale, San Bernardino, and Anchorage* (U.S. Dep't of Justice, Apr. 2000) (visited Oct. 9, 2002) <<http://www.ncjrs.org/html/bja/mentalhealth/chap4.html>> ("JAS clients who have organic brain impairment are placed with agencies specifically dedicated to addressing their problems, some of which are permanent in nature and do not respond to treatment. . . . These placements are intended to be permanent in that the clients can stay there even after the jurisdiction of the court has ended.").

<sup>220</sup> See *id.* "Only the state hospital, with limited capacity, is available to meet the needs of participants requiring in-patient treatment services:"

For JAS mental health court participants, an important aim is to reduce the level of supervision and structure provided to the clients over time as their level of independence increases, and to develop strong links to treatment so that treatment will continue after the probationary period and mental health court involvement.

Day treatment is supplied to the JAS program mainly by the South Central Counseling Center, which provides substance abuse treatment, training in social and independent living skills, daily medication dispensing, and vocational training. Each defendant is assigned to a team based upon individual treatment needs. Most of the JAS defendants require an intensive level of treatment accompanied by an aggressive outreach component. (Staff will go out in the community to look for them if they fail to appear for group sessions or medication). The JAS program also contracts with the South Central Foundation in Anchorage, which works primarily with the native Alaskan population. That program provides day treatment programs as well as cultural links and activities, some outreach, and limited housing. While most JAS clients require day treatment, at least at first, some are stable enough, or become stable enough, to be placed in vocational programs or to take on part-time jobs.

Unfortunately, only a small percentage of JAS clients have the ability to ever hold a job.

*Id.*

If the defendant fails to meet JAS requirements, he or she is not disqualified from participation, but is relegated from JAS to the more generalized CRP to explain the noncompliance to the court. Only upon failing in CRP will a defendant's original charges be reinstated.

According to the Department of Justice,

Some data are available for the specially funded JAS Program option from its early period of operation. From July 6, 1998, to June 30, 1999, 138 defendants were identified as eligible to enter the JAS Program. Only about 26 percent decided to enter the treatment program, however. This low rate of enrollment initially was apparently due to the large number of eligible defendants who were sentenced or released before they could be assessed for the program and processed by the JAS coordinator. As of February 2000, there were 49 participants, of whom 71 percent are male and the average age is 31. The population is composed mainly of native Alaskans (39 percent), Caucasians (39 percent), and African-Americans (20 percent). Most have co-occurring substance abuse problems. JAS participants have fairly extensive prior criminal histories, averaging 7 prior convictions, and almost all have a history of psychiatric hospitalization, averaging nearly 10 prior admissions. Early program information suggests that about half of the JAS participants, like those sentenced in the normal fashion, were rearrested for new offenses during the recent 12 months. Of the 49 individuals who have entered the JAS Program since its inception, 17 individuals have been rearrested on new misdemeanor charges, and only one has been rearrested on a felony charge.<sup>221</sup>

**c) The Need for Transitional Housing** - Safe and supportive housing is critical for dually-diagnosed individuals, and it is equally important for Alaska's mentally disabled population.<sup>222</sup> The number of people who enter API and are discharged homeless or to street communities is at an all-time high: "[t]he number of API patients discharged as homeless has increased from 45 in 1996 to 111 in 2000, indicating a need for more housing for this population."<sup>223</sup>

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<sup>221</sup> See *id.* At this writing, JAS has served 84 defendants since its inception. New data are expected by late 2002.

<sup>222</sup> See Section B(1)(b)(i), *supra* pp. 29-31. "Because they generally have low incomes and often face discrimination in the housing market, people who are the most disabled are the most vulnerable to homelessness." *In Step, supra* n. 70, at 51.

<sup>223</sup> In 1996, less than 4% were discharged as homeless; in 2000, the number exceeded 7%. See *id.*

Fewer than 400 beds in supported housing units were available statewide in 2000 for those with mental disability;<sup>224</sup> many of these beds are unavailable to DOC clients.

**d) Title 47 Holds** - Persons experiencing a mental health emergency can be temporarily placed in a correctional facility under Title 47.<sup>225</sup> Law enforcement officials with little training in mental health disabilities often arrive first at the scene of such a crisis. In Anchorage, the Providence Psychiatric Emergency Room<sup>226</sup> can eliminate many concerns about mental health evaluation and services. In rural areas with few hospitals to conduct evaluations, a Title 47 mental health hold may translate to a long period of waiting in jail.

## 2. Mentally Disabled Policy Recommendations

**C-1. Continue to support the Coordinated Resources Project (CRP) in Anchorage. Using an evaluation of outcome measures, make any necessary improvements to enable a permanent project in Anchorage and successful replication statewide.**

REVISED

**Goals:** To respond appropriately to mentally disabled persons; to relieve jail overcrowding; to reduce recidivism; and to enhance public safety.

**Status:** The Coordinated Resources Project is a pilot project in the Anchorage District Court for misdemeanor offenders interested in pursuing treatment. The CRP, where a defendant faces the same judge for all proceedings, has operated since 1998. The MHTA recently extended funding for the CRP until 2004-2005, providing for an additional case coordinator and related clerical assistance (expected to allow the CRP to increase its client capacity by at least twenty participants). The MHTA grant also provides for the public defender position to remain, and adds a social worker position to the CRP, through the Public Defender Agency. The CRP is exploring many funding options, and is working with DHSS on using federal funds for Medicaid reimbursement for its participants.

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<sup>224</sup> See *id.* at 55.

<sup>225</sup> See AS 47.30.700 *et seq.*

<sup>226</sup> See Recommendation C-8, *infra* p. 77.



The CJC recommends continued support, including administrative and clerical resources, of CRP.<sup>227</sup>

**Action Needed:** Continued funding. Agency policy action.

**C-2. Support the Jail Alternative Services Project (JAS) in Anchorage. Using an evaluation of outcome measures, make any necessary improvements to enable a permanent project in Anchorage and successful replication statewide.**

**Goals:** To respond appropriately to incarcerated mentally disabled persons; to relieve jail overcrowding; to reduce recidivism; and to enhance public safety.

**Status:** JAS's initial three-year grant from the MHTA was extended, and now expires at the close of FY'05. Recent funding provides for an additional case coordinator for JAS.

JAS primary program goals include aims to "[i]dentify the total number of mentally ill misdemeanants arrested in Anchorage in FY-99, FY-00, and FY-01;"<sup>228</sup> "[t]rack and reduce clinical (i.e. hospitalization) and legal (i.e. arrest rates) recidivism;"<sup>229</sup> "[r]educ[e] jail

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<sup>227</sup> The Alaska Judicial Council has developed and implemented evaluation standards. See Teresa Carns, *Evaluating the Anchorage Mental Health Court*, 18 Alaska Just. F. 2 (Winter 2002).

<sup>228</sup> C&S Management Associates, *Jail Alternative Service Program Evaluation: July 1, 1998 - June 30, 2002*, Sept. 2002, at 31. According to the most recent data available on JAS, this goal has been completed:

Of the previously identified 331 individuals that were assessed as eligible for JAS, 84 have now been served, of which 32 remain in active service, 20 have successfully completed the program, and 32 have been vacated for a variety of reasons. During the fiscal year 2002, 18 new individuals were admitted to the JAS program, an increase from the 12 new clients that were admitted the previous year.

*Id.*

<sup>229</sup> *Id.* Recent data indicate success:

JAS clients continue to demonstrate reduced clinical recidivism upon entering JAS; a reduction that continues following release from the program. This decrease in clinical recidivism is evidenced by decrease in the rate of hospitalizations during JAS compared the 12-month period just prior to JAS (0.96 admissions per client to 0.88 admissions per client) with an accompanying decrease in the median length of stay (6.00 days to 5.00 days). These decreases, when taken together, translate into a decrease of about 81 patient-days per year at API.

Legal recidivism is measured through arrest rates and associated lengths of incarceration. JAS clients continue to show decreased legal recidivism while on JAS compared to the 12-month period immediately preceding JAS. This decrease continues into the period after JAS for those who successfully graduate. The rate of arrests for all clients decreased from 2.2 arrests per person to 0.9 arrests per person while participating in JAS. For those who graduate from the program, this rate dropped to a remarkable 0.2 arrests per person in the period after release from JAS. This is significant since this rate of arrest is during a period when there is no legal leverage to ensure compliance. The median lengths of incarceration associated with these arrests decrease while the client is active in JAS.

*Id.*

time for mentally ill offenders;”<sup>230</sup> and “[i]dentify gaps in community mental health services.”<sup>231</sup>

Initial JAS data suggest positive outcomes for the project, citing less legal recidivism (from 2.2 arrests per person during the twelve months prior to entering JAS, to 0.9 arrests per person during JAS; and from 0.9 arrests per person during JAS to 0.2 arrests per person in the period following graduation from the program),<sup>232</sup> a savings of 2,379 jail days (or

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<sup>230</sup> *Id.* at 32. As noted above, recent data indicate success:

[T]he average length of stay for individuals in JAS decreases compared to lengths of incarceration during the preceding 12-month period. The median length of stay decreased from 14.00 days to 10.00 days and the total number of days decreased from 5,405 to 3,026 during a comparable period in JAS. This represents a decrease of 2,379 days of bed utilization at DOC facilities. More importantly, however, this represents time that mental health consumers are spending in appropriate community-based services rather than incarcerated in jail.

*Id.*

<sup>231</sup> *Id.* at 32. The Department of Corrections identified and discussed gaps in service in their initial program progress reports published in August 1999 and February 2000. This evaluation did not include an assessment of the community mental health care system. We noted, however, that the incidence of JAS clients who were homeless decreased from over 10% last year to just over 6% this year, indicating an effort to close the service gap for client housing. JAS staff and the data support the belief that appropriate housing is a key ingredient in client success in the community. In this evaluation, we did examine the impact of substance abuse disorders on legal and clinical recidivism. Clients with co-occurring substance abuse disorders are substantially more likely to be arrested or hospitalized than individuals without those disorders. This is critical since, as noted in previous years’ reports, appropriate treatment for persons with co-occurring disorders is still in short supply in Anchorage, although some progress is being made.

*Id.*

<sup>232</sup> *See id.* at 16-21. “After leaving JAS, clients who are vacated tend to return to pre-JAS levels.” *Id.* at 18.

approximately \$272,086.23),<sup>233</sup> and reduced clinical recidivism (from a 52.4% rate of admission to API in the twelve months prior to entering JAS, to a 41.7% rate of admission to API during JAS).<sup>234</sup> The CJC recommends continued support of JAS.

**Action Needed:** Agency funding.

**C-3. Train state and local agency personnel to manage mental health crises and respond appropriately to mentally disabled misdemeanor offenders.**

**Goals:** To ensure better identification, diversion, and appropriate referrals of mentally disabled individuals to community support programs; and to relieve jail overcrowding.

**Status:** The Municipal Prosecutor's Office in Anchorage, the State Public Defender, the Department of Law, and Gorton & Logue (contract municipal public defense services) all offer this training to appropriate staff. Law enforcement staff are trained and working with the Providence Psychiatric Emergency Room.<sup>235</sup> In addition, DOC offers yearly training on tools for identifying mental disabilities, including suicidal tendencies, depression and personality disorders. The CJC recommends that agencies continue to provide this training, updating it as needed.

**Action Needed:** Agency policy action.

**C-4. Make a continuum of housing options and services for stable mentally disabled misdemeanor offenders available upon release from custody.**

**Goals:** To reduce the likelihood of recidivism; and to reduce inappropriate use of jail beds and psychiatric beds.

**Status:** The Safe Harbor Inn operates in this capacity in Anchorage, and a similar facility is planned in Palmer.

DOC has received funds to increase assisted living beds in Fairbanks, Anchorage, and Bethel. Private, for-profit organizations in the community run homes for ten to sixteen people, with 24-hour staff supervision. These housing situations would not provide on-site treatment as part of the program. However, with adequate transportation, existing out-patient treatment could partner with assisted living programs for needed services.<sup>236</sup>

**Action Needed:** Agency policy action.

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<sup>233</sup> See *id.* at 16-17.

<sup>234</sup> See *id.* at 11-15.

<sup>235</sup> See Recommendation C-8, *infra* p. 77.

<sup>236</sup> See Recommendation B-21, *supra* p. 61.

**C-5. Make a continuum of support, rehabilitation, treatment and supervision services available for mentally disabled individuals.**

**Goals:** To successfully reintegrate seriously mentally disabled offenders into the community; to reduce recidivism; and to reduce the number of admissions and lengths of stay in DOC and API beds.

**Status:** DOC continues its support for the Community Mental Health Centers throughout the state. The CJC recommends continued support, as well as inquiry into the Consumers Consortium Flexible Support Services recommendation.<sup>237</sup>

**Action Needed:** Agency policy action.

**C-6. Provide sufficient community resources and treatment for individuals with organic mental disorders.**

**Goals:** To reduce recidivism; and to reduce the number of admissions and lengths of stay in DOC and API beds.

**Status:** No action has been taken. The CJC recommends continued pursuit of this recommendation, and suggests exploring the Consumer Consortium Flexible Support Services recommendation.<sup>238</sup>

**Action Needed:** Agency policy action and funding.

**C-7. Create sufficient detoxification beds to meet the need in hub communities, and train staff in detox centers.**

**Goals:** To reduce the number of Title 47 alcohol holds in jails statewide.

**Status:** In FY'00, DOC handled more than 2,300 Title 47 holds, up from the 2,060 that initially prompted CJAC's concern.<sup>239</sup> In the past five years, the number of holds at Anchorage's 6<sup>th</sup> Avenue Jail has climbed steadily, as it has at Mat-Su Pretrial. Other facilities, such as Fairbanks, Lemon Creek and Yukon-Kuskokwim Correctional Centers, experienced declines until FY'99, followed by marked increases (the number of Title 47 holds at Lemon Creek fell from 228 in FY'97 to 155 in FY'99, and then increased to 291 by the end of FY'01. Fairbanks' holds fell from 999 in FY'97 to 771 in FY'99, and then

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<sup>237</sup> See Recommendation B-21, *supra* p. 61.

<sup>238</sup> See *id.*

<sup>239</sup> See *Title 47 Holds in DOC Correctional Facilities by Fiscal Year*, Alaska Dep't of Corrections, Aug. 8, 2001, at 2-3.

increased to 1,026 by the end of FY'01. At Yukon-Kuskokwim, holds decreased from 650 in FY'97 to 543 in FY'99, and then rose to 743 by the end of FY'01).<sup>240</sup>

Non-criminal mental health holds, on the other hand, have declined in some areas. DHSS data indicate that holds in some regions dropped significantly: Fairbanks, Bethel, and Anvil Mountain's combined rate of non-criminal holds fell from 2,348 in FY'95 to 1,432 in FY'00, a difference of 39.1%.<sup>241</sup>

The decrease in holds may be the result of local agencies such as police, hospitals, and treatment facilities working together intensively to increase appropriate placement of people in protective custody. It appears this cooperative effort paid off. For example, in Fairbanks in fiscal year 1996, there were 1,321 non-criminal holds. In fiscal year 2000, the number dropped to 793.<sup>242</sup>

The CJC supports community law enforcement collaboration, and training modules to enforce agreed-on placement protocols. The CJC recommends continued work to increase funding for detox beds and for training.

**Action Needed:** Agency policy action; funding for more beds and for training.

#### **C-8. Support the Providence Psychiatric Emergency Room.**

**Goals:** To provide an alternative to booking individuals in DOC facilities; and to decrease the demand for API by diverting individuals in crisis to more appropriate and cost-effective treatment and care.

**Status:** Still very new, the Providence Psychiatric Emergency Room (PPER) is located at Providence Alaska Medical Center.<sup>243</sup> A joint effort of the Department of Health and Social Services and Providence, the PPER serves individuals in Anchorage who are suffering a mental health crisis brought on by either mental disability or co-occurring substance abuse and mental disability. The PPER is open 24 hours a day, seven days a week, and will not refuse service. "The SPE will improve access to . . . appropriate care and treatment," and "will provide an unobstructed, clearly identified route for these persons (and for family, friends, police, emergency personnel and others assisting them)

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<sup>240</sup> *See id.*

<sup>241</sup> *See In Step, supra* n. 70, at 27; *Final Report, supra* n. 1. Of FY'00 holds, 779 non-criminal Title 47 holds were handled by community jails. *See In Step, supra* n. 70, at 26.

<sup>242</sup> *See id.* at 27.

<sup>243</sup> The program was at one time referred to as the API Single Point of Entry Program.

to access the most expedient, least restrictive and most clinically appropriate crisis treatment.”<sup>244</sup>

**Action Needed:** Continued support. No new funding is required.

**C-9. Provide adequate Designated Evaluation and Treatment (DET) beds in hub communities throughout the state for use as private sector alternatives to API and DOC beds.**

**Goals:** To eliminate the use of jail beds for Title 47 mental health holds; to reduce the costs of transporting mentally disabled offenders in need of crisis intervention to Anchorage; and to maximize the use of third-party revenues, including Medicaid, that are not available to the state to cover API or DOC costs.

**Status:** Effective June 30, 2001, SB 154 repealed the termination (sunset) date of the DET services assistance program. The program established consistent methods for DHSS to pay for voluntary or involuntary inpatient psychiatric services for individuals who pose a danger to themselves or others due to mental illness, or who are gravely impaired by mental health symptoms, and who have no third party payor and cannot afford the high costs of hospitalization. The provision of these services in local communities fits within the objectives of serving mental health consumers close to their homes.

**Action Needed:** Continue to expand the number of DET beds statewide.

## D. Pretrial Practices and Procedures Policy

### 1. Background

On October 24, 2002, the number of unsentenced incarcerated defendants in state correctional facilities was 1,171.<sup>245</sup> No further data are available on the number of those defendants who are awaiting trial. With third-party custodians becoming a requirement statewide rather than an alternative to bail, more defendants are unable to meet court-ordered supervisory standards, and remain incarcerated prior to trial. State expenditures on pretrial incarceration represent a cost that can be lessened through alternative means of supervision, particularly monitoring (electronic and other). CJAC found the benefits of monitoring to include: “increased accountability . . .; reduced

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<sup>244</sup> Joint Statement of Agreement between Providence Alaska Medical Center and the Alaska Department of Health and Social Services, Mar. 23, 2001 (visited Oct. 9, 2002) <<http://health.hss.state.ak.us/dmhd/api/doc/jtstatement.doc>>.

<sup>245</sup> Of these, 1,050 were men, and 121 were women. Telephone Interview with Sarah Williams, Program Coordinator, Division of Institution, Dep’t of Corrections (Oct. 24, 2002).

recidivism resulting from . . . treatment; significant reductions in . . . resources spent . . . enforcing court-ordered conditions; and increased safety for victims and the larger community.”<sup>246</sup>

**a) Program Models** - By increasing defendants’ time spent in the community, monitoring has a positive influence on defendants. Defendants on pretrial release are expected to go to treatment programs and work with community service providers on relevant issues (e.g. family services, employment training). Monitors can contact pretrial defendants, reminding them of court dates, treatment mandates, and other appointments, and providing “wake-up calls” on appointment dates. Monitors can also communicate with appropriate agencies about defendants’ noncompliance and, if necessary, provide information to law enforcement to procure warrants.

**(i) The Alaska Safety Action Program (ASAP)** - CJAC found that ASAP “can serve as one possible model for monitoring.”<sup>247</sup> Using the mail, staff keep connected to clients, notifying defendants by letter of screening appointments, and program assignments, and to service providers, contacting community resources of incoming clients, notifying agencies of noncompliance and working cooperatively with service providers to find appropriate services for clients.

**(ii) Anchorage Municipal Prosecutor’s Pretrial Diversion** - An exemplary program in Anchorage is the Municipal Prosecutor’s Pretrial Diversion Program.<sup>248</sup> This gives defendants an opportunity to avoid incarceration by completing community work service hours, paying a fine, satisfying conditions of probation, and, in some cases, receiving treatment, education or meeting other requirements.<sup>249</sup> The program notifies clients by mail only of failure to complete treatment and other requirements. The letter they receive instructs defendants that they must comply within 90 days or risk having prosecution reinstated. If a defendant contacts the Municipal Prosecutor’s Office, staff review consequences of noncompliance, and may work with the defendant to reset deadlines and make other arrangements to assist the defendant in meeting requirements.

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<sup>246</sup> *Final Report, supra* n. 1, at 44.

<sup>247</sup> *Final Report, supra* n. 1, at 47.

<sup>248</sup> The program is codified at Sec. 8.05.060 of the Anchorage Municipal Code.

<sup>249</sup> *See* AMC 8.05.060(B).

## 2. Pretrial Practices and Procedures Policy Recommendations

### **D-1. Evaluate the existing Anchorage Municipal Prosecutor's Pretrial Diversion Program. Using an evaluation of outcome measures, make any necessary improvements to enable a permanent project in Anchorage and successful replication statewide.**

**Goals:** To replicate programs with demonstrated success in reducing costs of criminal justice system agencies.

**Status:** Since 1989, the Municipal Prosecutor's pretrial diversion program has diverted an average of 27% of cases accepted for prosecution. Offenders plead guilty to the charged offense in order to qualify for the program. In lieu of trial or sentencing upon plea, the offender completes a program created by the Municipal Prosecutor's Office; upon successful completion, the offender avoids jail time or a fine. CJAC reported that

[i]n 1998, 78 percent of those referred completed the program successfully, made restitution to victims, performed community work service, obtained driver's licenses and met other requirements. The program requires relatively few resources for its operation, relying on referral of appropriate cases by the staff attorneys and one part-time staff person who runs the program.<sup>250</sup>

The Commission recommended that the program be evaluated to measure its success and assess for "potential applicability in other locations."<sup>251</sup> The CJC continues to support that idea.

CJAC also recommended that the state implement a pilot program within the Anchorage Municipal Prosecutor's Office to fast-track minor misdemeanor cases. Several considerations cause the CJC to now withdraw that recommendation. Resources, both within the Anchorage Municipal Prosecutor's Office are tight. The defendant's interests in avoiding incarceration would not well be served in faster progression through charging decisions and plea talks. The arrangement could also be seen to over-step the judicial role in the process, making a preliminary determination of eligibility for treatment and other services.

**Action Needed:** Evaluation and committee review.

### **D-2. Develop a pretrial release electronic monitoring program.<sup>252</sup>**

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<sup>250</sup> *Final Report, supra* n. 1, at 79.

<sup>251</sup> *Id.*

<sup>252</sup> A fuller discussion of electronic monitoring appears at Section F(a)(i), *infra* p. 89.



**Goals:** To reduce the unnecessary use of jail beds; to ensure compliance with conditions of release; and to ensure the protection and safety of the public.

**Status:** Pursuant to AS 33.30.061 and AS 33.30.065, electronic monitoring is currently available post-trial in Anchorage/Palmer/Wasilla (capacity of 90), Fairbanks (15), Juneau (15), and Ketchikan (15). Programs incorporate monitoring with use of a sobriety, urinalysis and/or a drug patch, an ankle bracelet, and, in some cases, therapeutic court. The state could easily increase the number of participants served (in fact, Anchorage/Palmer/Wasilla began with only capacity for 60 participants).

The CJC recommends expanding the use of electronic monitoring to pretrial defendants, under DOC's direction. The CJC further recommends that its successor organization convene to address whether *Nygren* credit should be given for time spent on electronic monitoring.

**Action Needed:** Continued expansion where appropriate; agency policy.

**D-3. Assure that adequate pretrial data will be included in the development of the state's new management information systems and that criminal justice system agencies share new and existing data.**

**Goals:** To create and share the quantitative information necessary for pretrial policy planning and decision making.

**Status:** Alaska Judicial Council data on pretrial offenders and practices in Anchorage will take one step toward filling this need. State agencies should continue to develop pretrial information in their justice information systems, and should share that data routinely.

**Action Needed:** Continued work through the Criminal Justice Information Advisory Board.

**D-4. Establish a process to resolve issues related to *Nygren* credit.<sup>253</sup>**

**Goals:** To maximize appropriate use of alternatives to incarceration.

**Status:** The *Nygren* subcommittee of the CJC was established to conduct an inquiry into programs to be considered for *Nygren* affiliation; that survey resulted in the subcommittee's agreement that a number of programs clearly met *Nygren* criteria. The subcommittee also drafted "Order Releasing Defendant Into Residential Facility" and "Certificate of Compliance with Court Order" forms for use in evaluating an offender's status with regard to *Nygren* criteria. The latter document includes a "Release of Information;" with the offender's signed consent, the treatment program can share information about compliance with the court and prosecutor.

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<sup>253</sup> More discussion about *Nygren* credit is found at Recommendation F-7, *infra* p. 96.

Litigation defining *Nygren* qualifications did more to advance uniformity of practice than the subcommittee was able to accomplish; through two 2002 cases, the issue has been resolved. In the first, *State v. Fortuny*,<sup>254</sup> the state Court of Appeals held that participation in a residential treatment program must be pursuant to court order, but that time spent on approved releases for work was eligible for credit. Decided two months later, *Potter v. State*<sup>255</sup> awarded credit for court-ordered time spent in a CRC.

**Action Needed:** No further action is required.

**D-5. Develop and implement bail schedules for appropriate offenses and offenders.**

**Goals:** To maximize efficient use of court system resources; to minimize inappropriate or unnecessary incarceration; and to increase fairness.

**Status:** No action has been taken on this recommendation.

**Action Needed:** Agency policy action.

**D-6. Evaluate the viability of a pretrial bail evaluation and supervision unit using private sector resources and working under the direction of the court.**

**Goals:** To maximize efficient use of court system resources; to minimize inappropriate or unnecessary incarceration; and to increase fairness.

**Status:** No action has been taken on this recommendation. The agency responsible for implementation should be determined during the development process.

**Action Needed:** Committee action.

## E. Probation and Parole Policy

### 1. Background

Probation and parole services are Alaska's best link to the rehabilitation of defendants and the preservation of public safety. The CJC recommends using supervision methods that best provide for defendants' reintegration into the community, including treatment, education, and vocational training in the defendants' home communities.

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<sup>254</sup> 42 P.3d 1147 (Alaska Ct. App. 2002) (remanding to the Superior Court).

<sup>255</sup> 2002 WL 818059, Op No. 4569 (Alaska App. 2002) (unpublished).

**a) Risk Assessment** - Once an offender has entered the criminal justice system, DOC looks at the individual: the risk that person presents to the community or individuals, the opportunity to reduce that risk during incarceration, and the related opportunity for rehabilitation. In considering appropriate probation and parole programs, DOC uses a risk assessment tool, the Level of Service Inventory - Revised (“LSI-R”).<sup>256</sup> The LSI-R identifies defendant qualities and unmet needs (e.g., education, employment, community contacts) that create the most risk for the community. The Division of Community Corrections uses the LSI-R with all offenders, except those convicted of serious sex offenses.<sup>257</sup>

**b) Supervision and Monitoring**

**(i) Village Public Safety Officers** - In 1999, the legislature funded a Village Public Safety Officer (VPSO) pilot project in Dillingham with the Bristol Bay Native Corporation. This project provided supervision of offenders returning to villages on felony probation or parole. Corrections staff worked closely with BBNA and the Alaska State Troopers to establish a formal working relationship between VPSOs and DOC. They used VPSOs to assist with drug and alcohol testing, home visits, monitoring behavior in the village, distributing monthly report forms, monitoring violations of conditions of supervision, administering community work service, and providing a consistent point of contact for department inquiries. The success of the Dillingham/Bristol Bay VPSO project set the stage for SB 145.

Signed into law in July 2002, SB 145 authorizes the use of VPSOs to work cooperatively with probation officers in supervising offenders in rural communities statewide. The law brings together native corporations and DPS to recruit and employ VPSOs; positions are funded by the Alaska State Troopers, but the native corporations maintain employer status. Together, the Troopers and the native corporations supervise 84 VPSO positions across the state.

**(ii) Audio-Visual Tools** - DOC also uses audio-visual equipment to monitor and supervise felony defendants in rural areas. Systems operate throughout the state. Some question the cost-benefit equation of installing and maintaining equipment in towns like Venetie, where only two or three people are on probation, but, overall, audio-visual systems are thought to be a helpful tool.

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<sup>256</sup> The LSI-R is also used in presentencing reports for felony offenders.

<sup>257</sup> Sex offenders are assessed via the Static ‘99 risk tool. The Static ‘99 uses those factors that are unchangeable (e.g., age at first offenses). Where a sex offender scores low on the Static ‘99, he or she is assessed using the Sonar risk tool. This new tool uses a range of ten dynamic factors to identify which impact the offender’s chances of recidivism (e.g., education, employment, social contacts, history of child sexual abuse). Where an offender scores low on the Sonar, he or she is assessed using the LSI-R for more basic criminogenic factors. DOC is using the Sonar as part of a three-year research program, and aims to develop a hybrid (static and dynamic factor) tool.

c) **After Care: Re-entry Courts** - Re-entry courts are projects that allow those released from incarceration to receive court-ordered rehabilitative services, judicial monitoring and supervision.<sup>258</sup> The need to focus correctional efforts on re-entry is emphasized by the fact that an average of 95 defendants leave DOC institutions every day. Many of these exits will be followed soon by re-incarceration. National statistics show that 67.5% of defendants released from prison will return within three years.<sup>259</sup> Re-entry courts often include treatment services for substance abuse in a judge-designed program while incarcerated, followed by a program akin to Felony Drug Court upon release.

In Kentucky, one program gave a minimum of six months of residential, prison-based treatment, after which clients were “shock probated,” and placed under local drug courts’ ambit of care.<sup>260</sup> Phase I of re-entry lasted a minimum of one month, and included a minimum of four drug court sessions per month, five group sessions per week, and three urine tests per week. Success in Phase I led to Phase II, which lasted a minimum of eight months, and consisted of a minimum of two drug court sessions per month, three group sessions per week, and two urine screens per week. Having satisfied Phase II requirements, clients entered the final phase of re-entry. Phase III lasted a minimum of three months, and involved at least one drug court session per month, one group session a week, and one urine test per week.<sup>261</sup>

One advantage of the re-entry model is the judicial involvement. Offenders appear to respond better to supervision than to any other form of supervision (e.g., probation/parole officers); the effectiveness of this model may stem from defendants’ perception of the judge as a power figure, or from their fear of reincarceration.

## 2. Probation and Parole Policy Recommendations

### **E-1. Standardize forms and procedures used in petitions to revoke probation and parole.**

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<sup>258</sup> One such court, the Kentucky Reentry Court pilot program, was studied in great detail by the State Justice Institute at the University of Kentucky. The report finds “that combining prison-based treatment and Drug Court shows promise.” Hiller, *supra* n. 154, at 45. See also *id.* at ii (finding that “5 of the 6 clients were still active in treatment (1 had absconded). These individuals showed high levels of behavioral compliance with treatment expectations. Several were promoted to either phase 2 or phase 3 of the Drug Court, none had tested positive for illicit drug [*sic*] on urine tests, none had received a new criminal charge, and most were employed; whereas, the majority were unemployed prior to entering Drug Court.”).

<sup>259</sup> See *Recidivism of Prisoners Released in 1994*, *supra* n. 157, at 1.

<sup>260</sup> See Hiller, *supra* n. 154, at 7.

<sup>261</sup> See *id.* at 7-8.

**Goals:** To increase fairness by using consistent procedures statewide; to reduce staff and court time; and to allow probation and parole officers to work statewide without retraining for a specific locale.

**Status:** DOC is working with other agencies to standardize the forms and procedures used in petitions to revoke probation and parole.

**Action Needed:** Continued agency action.

**E-2. Make available additional treatment programs, including substance abuse and sex offender treatment programs, particularly in rural areas.**

**Goals:** To reduce recidivism; to make use of local resources and family or community networks; and to improve the likelihood of rehabilitation.

**Status:** Funding is not currently available to address this recommendation.<sup>262</sup>

**Action Needed:** Agency policy action, and funding.

**E-3. Expand DOC's Enhanced Probation Program to other cities and to rural communities in partnership with other community organizations.**

**Goals:** To provide an alternative to the incarceration of revoked probationers and parolees; and to provide the resources for rehabilitation needed to reduce recidivism.

**Status:** The Enhanced Probation Program (EPP) began in 1996 with funding from federal grants. This DOC program serves as an alternative for probationers and parolees who otherwise would have been incarcerated for technical violations of their conditions.

By combining six to eight months of intensive probation/parole supervision with accountability programs, EPP saves the state about \$80/day (cost of incarceration, less costs of the enhanced supervision) and it has reduced recidivism rates for technical probation/parole violators in Anchorage. DOC created a modified EPP program in Juneau for third DUI offenders. This program provides electronic monitoring and breath alcohol monitoring if the defendant violates conditions of parole or probation. The program includes victim-impact classes and pre-treatment cognitive skills classes to better prepare the offender for substance abuse treatment.

Elsewhere, the program is used by DOC, but no further funding has been dedicated to that use. Victim-impact classes are offered in Fairbanks, Palmer, Juneau, Point McKenzie, and Kodiak; DOC is developing them in Sitka, Barrow, Nome, and Kotzebue. DOC will be adding cognitive skills programs in Fairbanks, Juneau, and Point McKenzie correctional facilities.

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<sup>262</sup> *But see* Recommendations B-9, B-13b, B-17, and C-6.

The CJC supports funding to continue the program in Anchorage, to expand it to other major Alaskan communities, and to increase its use in rural communities in partnership with other community organizations and tribal courts.

**Action Needed:** Agency policy action, and funding.

**E-4. Provide a community-based program for probation and parole supervision that uses partnerships with other agencies, regional organizations and tribes and villages to expand services and treatment.**

**Goals:** To provide alternatives to incarceration for offenders, both at initial sentencing and after probation and parole violations; to use local resources and family or community networks to increase the number and types of treatment and supervision for probationers and parolees; and to reduce recidivism by providing more effective treatment and better follow-up.

**Status:** SB 145 authorizes VPSOs to assist in supervising offenders in rural Alaska, and increases salaries for current and future VPSOs.<sup>263</sup> As of January 2002, the legislature funded 84 VPSO positions statewide.<sup>264</sup>

**Action Needed:** Continue to encourage collaboration and cooperation.

**E-5. Supplement probation supervision with video supervision of offenders, particularly in small communities.**

**Goals:** To enhance the consistency of probation and parole supervision; and to assist the offender in maintaining residency in his or her home community.

**Status:** DOC has installed video supervision in Hoonah, Yakutat, Haines, Cordova, Juneau, Fairbanks, and Galena. Satellite difficulties have delayed installation in Hooper Bay, but is planned. Equipment is available but not yet used in Craig, due to administrative resistance to video supervision (for fear that video presence will result in a decreased personal probation presence there).

The CJC encourages the use of trained probation and parole officers in the supervision of offenders. If trained officers cannot personally contact offenders, they can effectively use video conferencing. A risk exists that offenders will “clean up” for the interview and manipulate or falsify their status to the observer. Video conferences cannot replace the valuable contact of a personal interview, but DOC should supplement its services by using video conferencing in communities with weather or staffing difficulties.

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<sup>263</sup> 2001 Alaska Sess. Laws Ch. 97.

<sup>264</sup> Kelley Sharrow, “VPSO Training Off to Exciting Start” in *What’s Up D.O.C.?*, Division of Community Corrections, at 1 (visited Oct. 22, 2002) <<http://www.correct.state.ak.us/corrections/communitycorr/News/NewsJanuary2002.pdf>>.

**Action Needed:** DOC policy, funding.

**E-5a. Expand probation supervision in small communities.**

NEW

**Goals:** To increase the supervisory powers of and probationer/parolee access to probation and parole officers.

**Method:** The VPSO pilot program in Dillingham, funded in 1999 by the legislature with the Bristol Bay Native Corporation, still operates.<sup>265</sup> This program's success can serve as a model for pilot programs statewide, and will partially meet the current supervisory need.

**Action Needed:** Continued expansion of successful models.

**E-6. Use volunteers where appropriate to help in the supervision and treatment of probationers and parolees.**

**Goals:** To increase the supervisory powers of and probationer/parolee access to probation and parole officers.

**Status:** The CJC does not recommend the use of volunteers in the role of probation/parole officers. However, given the myriad of duties already assumed by probationers/parolees, including administrative (including check-ins), educational (teaching other defendants within DOC programs) and secretarial responsibilities, the CJC believes that DOC can benefit by using qualified volunteers for many duties. Examples of potential volunteer use are the use of tribal councils in supervising probation in rural areas, and the Direct Observer (Naltrexone) Program. The State could employ Vista recruits, or volunteers with other agencies that provide their own funding and training.

**Action Needed:** Agency action.

**E-7. Urge state agencies, treatment providers, tribal entities, and community organizations to collaborate to establish aftercare and re-entry programs and procedures. Emphasize the continued treatment and monitoring of defendants released from institutional custody, especially sex offenders and those with substance abuse issues, and mental disabilities.**

NEW

**Goals:** To reduce recidivism; to increase judicial involvement with offenders during and post-incarceration; and to encourage rehabilitation.

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<sup>265</sup> See Section E4, *supra* p. 86.

**Method:** State and federal agencies should develop re-entry courts. During custody, DOC should give offenders information on the program, and offer enrollment in “prerequisite” education and treatment-centered classes. After release, judicially-supervised programs would help maintain participation in treatment, maintenance of sobriety, and reintegration in the community.

**Action Needed:** Agency collaboration, funding.

## F. Sentencing and Prison Overcrowding Policy

### 1. Background

Despite a lower incarceration rate than the nation as a whole,<sup>266</sup> Alaska’s correctional population growth exceeded the national average in 2001: nationally, prison populations grew by 1.1%, while the number of incarcerated individuals in Alaska grew by 8.9%.<sup>267</sup>

Prison populations were already high, in part due to the 1980, 1982, and 1983 Criminal Code revisions that redefined many offenses and established mandatory minimum sentences and presumptive sentences for many others. CJAC found that the 1980 revisions and subsequent amendments’

change in sentencing structure, together with subsequent statutory revisions and new case law, increased prison populations by: 1) increasing the percentage of offenders required to serve time in jail; 2) increasing the sentence lengths for many offenders; and 3) implementing changes that tended to increase the amount of time an offender actually served.<sup>268</sup>

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<sup>266</sup> Prisoner data is from 2001 shows:

The national rate of incarceration in prison at the end of 2001 was 470 sentenced prisoners per 100,000 U.S. residents – up from 411 in 1995. About one in every 112 men and one in every 1,724 women were sentenced prisoners under the jurisdiction of state or federal authorities. The Alaska rate of incarceration was 300 sentenced inmates per 100,000.

*Correctional Populations: 2001*, *supra* n. 12, at 4.

<sup>267</sup> *See id.* “Ninety-two percent of the incarcerated population at the beginning of 2002 was male.” *Id.* at 5. For further breakdown of the corrections population, see Recommendation A-5, *supra* pp. 22-23.

<sup>268</sup> *See Final Report*, *supra* n. 1, at 21 (including a detailed discussion of Criminal Code amendments and effects).



The past decade also saw an 86.6% increase in DOC's funding: 1990 allocations for DOC totaled less than \$97 million, compared to the \$181 million authorized for FY'03.<sup>269</sup> Increased police presence and prosecution aggravated the situation, increasing the difficulty of meeting the treatment and other needs of this booming population. High rates of incarceration take a heavy toll on the state as a whole. High incarceration rates detract from community and economic growth; with fewer contributors to the economy (both present and future), less wellness, less productivity and less overall achievement.

**a) Alternatives to Incarceration** - Chronic offenders resistant to treatment, violent offenders who may be incapable of rehabilitation, and those who present unmitigable public safety risks, including some child abusers, may require incarceration. Where appropriate, however, criminal justice goals of deterrence, rehabilitation, punishment and public safety may be fulfilled through the use of alternative means: house arrest, electronic monitoring, and *Nygren* credit.

**(i) House Arrest and Electronic Monitoring** - As described,<sup>270</sup> the house arrest program/electronic monitoring (HAP/EM) involves use of a sobriety, urinalysis, and an ankle bracelet. The defendant pays the cost of the monitoring (\$12/day), in addition to the cost of the sobriety (an additional \$2/day). DOC can waive the costs for indigents.<sup>271</sup> To be eligible for HAP, a defendant must be classified suitable for community custody, meet DOC furlough eligibility standards; be serving "sentences greater than 30 days and less than 2 years," have a record free for a minimum of 120 days of disciplinary measures or infractions, be incarcerated for an offense not involving domestic violence or sexual offenses, and have no record of past sexual offenses, be free from drugs prior to entering HAP, and "agree in writing to the terms and condition of the program."<sup>272</sup> Participation in HAP is contingent on DOC findings concerning public safety; the offender's potential for rehabilitation, current offenses, substance use and criminal history;

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<sup>269</sup> See *Correctional Populations: 2001*, *supra* n. 12, at 4 ("DOC budget increase parallels the growth in the correctional population since 1990 – an increase of 94 percent, from 2,362 at the end of 1990 to 4,587 at the beginning of 2002.").

<sup>270</sup> See Recommendation D-2, *supra* p. 81-82.

<sup>271</sup> See AS 33.30.065(d). See also James Wanamaker, *Therapeutic Things You Can Do Without Breaking A Sweat (Or Causing Your Court Administrator to Have Heart Failure . . .)*, Compilation, at 6 (on file with the Alaska Judicial Council).

<sup>272</sup> *Id.* at 7. DOC has a "Terms & Conditions" check-list formatted form for participants to initial throughout to indicate understanding, and sign to indicate agreement, see Alaska Dep't of Corrections House Arrest Program, Electronic Monitoring Application, Terms & Conditions, although the form is not in regular use system-wide.

sentencing court recommendations; and other relevant criteria.<sup>273</sup> Electronic monitoring in Alaska is governed by AS 33.30.061, and more significantly by AS 33.30.065.

Electronic monitoring data from FY'01 showed a 92% success rate.<sup>274</sup> Filed May 3, 2002, House Concurrent Resolution 26 supports “increased use of the house arrest program/electronic monitoring with sobriety monitoring as a means of preventing crime and reducing the high costs of imprisonment in Alaska.”<sup>275</sup>

(ii) **Nygren Credit** - Alaska defendants may receive credit for time served subject to court-ordered restrictions that “approximat[e] those experienced by one who is incarcerated.”<sup>276</sup> *State v. Nygren*, decided in 1983, described eligible programs as follows:

residents are invariably sent there by court order; the facilities require residency, and residency requirements are sufficiently stringent to involve a definite element of confinement; residents of the facilities are subject to twenty-four hour physical custody or supervision; any periods during which residents may be permitted to leave the facilities are expressly limited, both as to time and purpose; while in the facility, residents are under a continuing duty to conform their conduct to institutional rules and to obey orders of persons who have immediate custody over them; and residents are subject to sanctions if they violate institutional rules or orders and to arrest if they leave the facility without permission.<sup>277</sup>

*Nygren* has been applied to give credit to defendants who spend time in custody of residential alcoholism treatment facilities,<sup>278</sup> and Community Residential Centers.<sup>279</sup> Defendants are required to pay for their own treatment.

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<sup>273</sup> See *Wanamaker*, *supra* n. 271, at 7.

<sup>274</sup> Of 325 studied, 25 were terminated from the electronic monitoring program. Of those 25, three were rearrested, two escaped from their device, and twenty were violated by program personnel for infractions such as alcohol consumption. Telephone Interview with Bruce Richards, Special Assistant, Office of the Commissioner, Dep't of Corrections (Aug. 8, 2002).

<sup>275</sup> H.R. Con. Res. 26, 22d Legis. (2002).

<sup>276</sup> *State v. Nygren*, 658 P.2d 141, 146 (Alaska App. 1983).

<sup>277</sup> *State v. Nygren*, 658 P.2d at 146.

<sup>278</sup> See *State v. Fortuny*, 42 P.3d 1147 (Alaska Ct. App. 2002).

<sup>279</sup> See *Potter v. State*, 2002 WL 818059, Op. No. 4569 (Alaska App. 2002) (unpublished).

**b) Special Corrections Populations** - Certain offenders can present statistically less risk to public safety: geriatric prisoners and those prisoners with significant medical or mental disabilities. The probability of recidivism has been found to reduce with age, while the cost of incarcerating seniors, who generally have higher medical expenses, is greater than that for younger offenders.<sup>280</sup> Yet

[a]t the end of 2000, there were about 44,200 prisoners in state or federal prisons aged 55 or older. Their number has more than doubled over the past decade.<sup>281</sup> With more and more prisoners serving longer prison sentences, this population will expand rapidly unless something is done to reverse the trend. The Census Bureau estimates that, within the next decade, this age group will make up 20 percent of the U.S. prison population, and 30 percent by 2030.<sup>282</sup> As offenders age, beyond a threshold at least, they “age-out” of their crime-prone years. A survey of state and federal prisons conducted by the National Center on Institutions and Alternatives found that the majority of elderly prisoners (52 percent) are incarcerated for nonviolent offenses.<sup>283</sup> The costs for incarceration of older offenders, estimated at \$69,000 per year, are three times the \$22,000 average it costs to keep younger, healthier offenders in prison.

The primary reason for the higher cost is the greater health care needs of older prisoners, many of whom require intensive medical services and constant bed care. Even if originally sentenced to prison for a violent crime, physically debilitated, aged prisoners obviously present little current risk to public safety. [It is estimated] that a conservative prison release policy that would target only nonviolent offenders over the age of 55 who have served at least one-

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<sup>280</sup> See Judith Greene and Vincent Schiraldi, *Cutting Correctly: New Prison Policies for Times of Fiscal Crisis, Executive Summary* (Justice Policy Institute, Feb. 2002) (<[http://www.cjcj.org/cutting/cutting\\_es.html](http://www.cjcj.org/cutting/cutting_es.html)> (“Within a decade, 20 percent of the prison population will be over 55, and by 2030, 30 percent of prisoners will be over 55. Elderly prisoners, who bear little threat to public safety, also cost three times more to incarcerate than younger prisoners (mainly due to health care costs).”). See also Jenifer Warren, *Graying at the Gray-Bar Hotel*, Anchorage Daily News, July 28, 2002, at F1 (“As they grow more feeble and sick, geriatric prisoners become less dangerous. At some point in life, scholars agree, a sort of ‘criminal menopause’ sets in and felons grow less impetuous, less prone to violence. . . . ‘So the costs of imprisonment go way up at the same time the benefits of imprisonment, in terms of public safety, go way down,’ said Franklin Zimring, a professor at the University of California Berkeley’s Boalt Hall School of Law.”).

<sup>281</sup> See Greene & Schiraldi, *supra* n. 280, at n. 63 (citing Allen J. Beck & Paige Harrison, *Prisoners in 2000*, (U.S. Dep’t of Justice, 2001).

<sup>282</sup> See *id.* at n. 64 (internal citation omitted).

<sup>283</sup> See *id.* at n. 65 (citing National Center on Institutions and Alternatives, *Imprisoning Elderly Offenders: Public Safety or Maximum Security Nursing Homes?* (NCIA 1998)).

third of their sentence would save more than \$900 million in annual prison costs.<sup>284</sup>

In Alaska, where 1980 criminal code enactments had the effect of quadrupling the state's prison population by 1999,<sup>285</sup> the effects of geriatric incarcerations are apt to be particularly high: if even half of individuals arrested in the 80s and early 90s were over the age of thirty,<sup>286</sup> by now, many of the thousands incarcerated under the new laws have reached senior status among inmates.<sup>287</sup>

The infirm (for reasons of either physical or mental disability) present a similar disproportion between risk to public safety and economic cost. For prisoners whose incarceration poses no or only slightly greater restriction than do their disabilities, early releases could represent considerable savings for the state.

**c) The New Anchorage Jail** - The new Anchorage jail cost \$56 million and can house 396 prisoners, with expansion potential to house an additional 192.<sup>288</sup> Designed to be a "one-stop shop," the jail was intended to provide a "central booking area" and a "generally . . . more efficient approach to inmate care":

The court function within the jail is intended to be used primarily for arraignments and other process proceedings. The court room is not intended to be used for trials. The new jail court's space will allow

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<sup>284</sup> See *id.* at n. 66. "Recently, the state of Virginia has initiated a release program for elderly inmates called the Conditional Release of Geriatric Inmates provision." See *id.* at n. 67 (internal citation omitted) (discussing Senate Bill 1167).

<sup>285</sup> See *Final Report, supra* n. 1, at 20 ("In raw numbers, prisoners increased from 1,069 in 1982 to 4,268 in June of 1999.").

<sup>286</sup> See *2000 Offender Profile, supra* n. 12, at 7, 11 (showing 48.2% of the 2000 institutional population to be comprised of those between 25 and 39 years of age). While only 4.6% of the 2000 prison population was over the age of 55 (another 2.2% populated the state's Community Residential Centers), see *id.* at 7, 23, harsher sentences under the current criminal code will probably create a larger geriatric population in coming years.

<sup>287</sup> Nationally from 1980-1993, there were 4,504 male and 1,290 female inmates per 100,000 residents between the ages of 25 and 39. In contrast, there were only 222 male and 8 female inmates per 100,000 residents over the age of 45. See Shaffer Library of Drug Policy, *Correctional Populations in the United States 1980-1993, Executive Summary* (visited Dec. 2, 2002) <<http://www.druglibrary.org/schaffer/GovPubs/corr93.htm>> (citing Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics 2000*, (U.S. Dep't of Justice, 2002) (available at [www.albany.edu/sourcebook/](http://www.albany.edu/sourcebook/))).

<sup>288</sup> See Steve Fishback, *The Design of the New Anchorage Jail*, 18 Alaska Just. F. 4 (Fall 2001). See also *id.* at 6 ("These additional rooms were indicated on the early design drawings to ensure their compatibility. Utility connections, air systems and even structural connection points have been constructed to accommodate the expansion. . . . When it is time, the 200-bed addition will be relatively simple and cost effective.").

the current magistrate's space in the Boney Building to be closed after hours, thus reducing security staff costs for the court system.<sup>289</sup>

Moreover, the architecture was "intended" to support

private, but non-contact, interview space for professional discussions. The prisoner and visitor are separated by a glazed security barrier that is equipped with speaker ports for communication. . . . Visiting for prisoners in medical segregation and those in higher security settings is by way of video visitation from one of the several video visitation stations available to the public.<sup>290</sup>

Attorneys disagree about the jail's success in meeting these intentions.<sup>291</sup>

## 2. Sentencing and Prison Overcrowding Policy Recommendations

### **F-1. Amend AS 12.30.010(b) to allow judges to use performance bonds for offenders released on bail. Amend Criminal Rule 41 to allow judges to order forfeiture of a performance bond if an offender fails to comply with the conditions of release.**

**Goals:** To relieve jail overcrowding.

**Status:** Effective September 4, 2000, AS 12.30.020 allows judges to use performance bonds for offenders released on bail.<sup>292</sup> Also amended was Rule 41 of the Alaska Rules of Criminal Procedure, so as to require judges to order forfeiture of a performance bond if the offender fails to comply with conditions of release.<sup>293</sup>

**Action Needed:** No further action is required.

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<sup>289</sup> *Id.* at 4.

<sup>290</sup> *Id.*

<sup>291</sup> For example, while the building was supposed to reduce security costs at the courthouse by providing an after-hours venue, in reality, the night magistrate has never used the court facility in the jail: aside from costs, another rationale for conducting night proceedings (especially those concerning domestic violence cases) at the new jail was that the facility, with its many armed corrections and police officers, offered domestic violence petitioners a safer environment than did the courthouse, which has only unarmed court security personnel on night duty. Yet advocates for victims of domestic violence objected to the new system, perceiving the jail as a more dangerous place to be than the courthouse. Thus, domestic violence orders are processed at the Boney Courthouse until 9:00 p.m. only, during which time there are unarmed security guards present. Other matters are heard by the night magistrate after 9:00 p.m., but no security is present in the courthouse at all.

<sup>292</sup> *See* AS 12.30.020 (amended by 2000 Alaska Sess. Laws Ch. 124, § 4).

<sup>293</sup> *See* Alaska. R. Crim. P. 41(h)(1).

**F-2. Amend AS 12.55.025(c) to grant the sentencing judge authority to allow a defendant to report for service of sentence on a date other than the date the sentence is imposed.**

**Goals:** To conform the statute to existing practice.

**Status:** Effective September 4, 2000, the sentencing judge may allow a defendant to report for service of sentence on a date other than the date on which the sentence is imposed.

**Action Needed:** No further action is required.

**F-3. Double the dollar amounts that define the levels of property crimes.**

**Goals:** To have property value amounts keep pace with inflation.

**Status:** No action has been taken on this recommendation. The CJC continues to recommend that value amounts be increased so as to satisfy the statutory criteria for sentencing propriety (also known as the *Chaney* criteria).<sup>294</sup> Current amounts were established under the 1977 Revised Criminal Code since which time inflation has significantly reduced the value of the United States dollar.<sup>295</sup>

**Action Needed:** Legislative action. No funding is required.

**F-4. Amend AS 33.05.070 to clarify the appropriate judicial district in which the adjudicative phase of a probation violation hearing shall be heard.**

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<sup>294</sup> *State v. Chaney*, 477 P.2d 441, 443-44 (Alaska 1970). The sentencing criteria are now codified at AS 12.55.005, which requires a court, in imposing sentence, to consider:

- (1) the seriousness of the defendant's present offense in relation to other offenses;
- (2) the prior criminal history of the defendant and the likelihood of rehabilitation;
- (3) the need to confine the defendant to prevent further harm to the public;
- (4) the circumstances of the offense and the extent to which the offense harmed the victim or endangered the public safety or order;
- (5) the effect of the sentence to be imposed in deterring the defendant or other members of society from future criminal conduct;
- (6) the effect of the sentence to be imposed as a community condemnation of the criminal act and as a reaffirmation of societal norms; and
- (7) the restoration of the victim and the community.

*See also* AS 12.55.005 ("The purpose of this chapter is to provide the means for determining the appropriate sentence to be imposed upon conviction of an offense. The legislature finds that the elimination of unjustified disparity in sentences and the attainment of reasonable uniformity in sentences can best be achieved through a sentencing framework fixed by statute as provided in this chapter.").

<sup>295</sup> "\$2.92 in the year 2001 has the same 'purchase power' as \$1 in the year 1977." John J. McCusker, *Comparing the Purchasing Power of Money in the United States (or Colonies) from 1665 to Any Other Year Including the Present*, Economic History Services, 2001 (visited Oct. 10, 2002) <<http://www.eh.net/hmit/ppowerusd/>>.

**Goals:** To clarify existing case law; and to allow a change of venue to the location where the probation violation incurred, and to increase the number of witnesses to the violation of probation who can personally attend revocation proceedings.

**Status:** Where a defendant violates conditions of probation in a jurisdiction other than the original sentencing jurisdiction, he or she is entitled to have the probation violation heard before the original sentencing judge. The defendant must thus be arraigned in the jurisdiction within which the violation occurred, and then transported to the sentencing city, away from likely witnesses to the violation. The situation is further frustrated by the current prohibition by some judges on telephonic testimony of probation officers. Cooperation of some defendants in permitting change of venue to the location where the probation violation occurred (through waiver) eases these complications, but only where judges are willing to offer that waiver to defendants.

**Action Needed:** Statutory amendment.

**F-4a. Implement DOC's plan to relocate Alaskan defendants from Arizona to Alaska.**

NEW

**Goals:** To provide defendants more opportunities for meaningful interaction with their support networks and family members; to eliminate expenditures resultant in profits out of state; and to provide for greater community restoration through local placements.

**Method:** According to the Bureau of Justice Statistics: "On June 30, 2001, 11,800 State prisoners nationwide had been placed in other States or in Federal facilities – representing about 0.9% of all State prisoners."<sup>296</sup> Alaska had the third highest number, with 777 (18.5%) of its inmates housed out-of-state.<sup>297</sup>

The CJC recommends the cessation of placements in Arizona, and, where feasible, the relocation of Florence residents to Alaskan facilities.

**Action Needed:** DOC action. Legislative funding.

**F-5. Focus measures to alleviate prison overcrowding on increasing prevention measures and reducing crime.**

NEW

**Goals:** To reduce prison populations; to make available and increase treatment, education and vocational opportunities for those offenders who require incarceration; to reduce recidivism; to increase public safety; and to reduce the cost of crime in the state.

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<sup>296</sup> Beck, *supra* n. 156, at 5.

<sup>297</sup> *See id.* (showing the number of out-of-state inmates to be down from December 31, 2000, when 825 inmates were incarcerated outside Alaska).

**Method:** The CJC recommends using early intervention and education programs in the schools. Encouraging parental participation will provide an opportunity for community learning, as well as for youth to learn from the histories of elders in their own community.

**Action Needed:** Agency policy action, very little funding.

**F-6.** **Focus measures to alleviate prison overcrowding on increasing both Community Residential Center (CRC) capacity, and institutional capacity (hard beds) in existing facilities. Any new hard-bed facilities should be run by the state, whether or not built by the private sector.**

NEW

**Goals:** To provide for incarceration needs in Alaska.

**Method:** Generally, the CJC recommends a reduction in the number of incarcerated offenders. This recommendation thus only applies to the extent that additional beds are necessary to keep pace with unavoidable population growth; even so, the CJC recommends countering prison population increase stemming from a general population increase by employing suggestions listed in Recommendations F-7a. - F-7c.

The CJC further recommends that the state manage any new institutions or facilities, and opposes privatized prisons.

**Action Needed:** DOC action; legislative action.

**F-7.** **Focus measures to alleviate prison overcrowding on reducing the amount of time an offender spends incarcerated. Reduce the amount of time an offender spends incarcerated by: increasing the use of house arrest and electronic monitoring, both pre- and post-trial; using *Nygren* credit; and creating a special parole board for non-dangerous geriatric offenders and those with major medical or mental disability.**

NEW

**Goals:** To reduce prison populations; to make available and increase treatment, education and vocational opportunities for those offenders who require incarceration; to reduce recidivism; to provide appropriate supervision for offenders for whom incarceration is no longer necessary; to increase public safety; and to reduce the cost of crime in the state.

**Method:** Reducing the amount of time an offender spends incarcerated amounts to savings of close to \$100/day (taking into account the costs of supervising offenders in another fashion). The CJC recommends consideration of the following:



1) increased electronic monitoring, which offers a manageable, affordable means of monitoring and supervising many offenders.<sup>298</sup>

2) increased *Nygren* credit for time spent in state-approved treatment programs and Community Residential Centers, whether participation is court-ordered or requested by a defendant. The CJC recommends that the state evaluate and certify *Nygren*-approved treatment programs, then adopt a pro-forma approach to streamline the management of *Nygren* credit.<sup>299</sup> *Nygren* credit should not replace jail time altogether. Given the deterrent value of time served in incarceration, the CJC recommends that judges determine, case by case, the appropriate amount of time for a defendant to spend in jail and in residential treatment.

3) increased programs for early release of defendants who are medically or mentally disabled or elderly. The CJC supports the type of inquiry proposed by the Justice Policy Institute, and recommends that AS 33.16.085(a), AS 33.16.900(1) and AS 33.30.017(c) be amended in accordance with proposed House Bill 511 to provide for release on medical and mental disability parole where appropriate, and that House Bill 511 be redrafted to provide for geriatric release where appropriate.<sup>300</sup>

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<sup>298</sup> See Recommendation D-2, *supra* pp. 80-81.

<sup>299</sup> More discussion on protocols of *Nygren* credit is found at Recommendation D-4, *supra* pp. 81-82.

<sup>300</sup> AS 33.16.085(a) currently reads:

Notwithstanding a presumptive, mandatory, or mandatory minimum term a prisoner may be serving or any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term of at least 181 days, may, upon application by the prisoner or the commissioner be released by the board on special medical parole if the board determines

(1) for a prisoner convicted of

(A) an offense other than a violation of AS 11.41.434 - 11.41.438, that the prisoner is severely medically disabled or a quadriplegic as certified in writing by a physician licensed under AS 08.64, was not severely medically disabled or a quadriplegic at the time the prisoner committed the offense or parole or probation violation for which the prisoner is presently incarcerated; or

(B) a violation of AS 11.41.434 - 11.41.438, that the prisoner is a quadriplegic as certified by a physician licensed under AS 08.64 and was not a quadriplegic at the time the prisoner committed the offense or parole or probation violation for which the prisoner is presently incarcerated; and

(2) that a reasonable probability exists that

(A) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;

(B) because of being severely medically disabled or a quadriplegic, the prisoner will not pose a threat of harm to the public if released on parole; and

(C) release of the prisoner on parole would not diminish the seriousness of the crime.

Proposed House Bill 511 (2002) sought to amend the statute to read:

Notwithstanding a presumptive, mandatory, or mandatory minimum term a prisoner may be serving or any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term of at least 181 days, may, upon application by the prisoner or the commissioner be released by the board on special medical parole if the board determines that

(1) the prisoner is severely medically or mentally disabled as certified in writing by

**Action Needed:** The CJC recommends that leadership from the alcohol and substance abuse treatment communities, as well as prosecutors, public defenders, and judges take part in assessing the issue of *Nygren* credit. Legislative enactment for medical parole.

**F-8. Focus future policy and legislative measures to alleviate prison overcrowding on improving the transition from incarceration to probation or parole as a priority.**

NEW

**Goals:** To reduce the number of parole and probation violations and subsequent incarcerations.

**Method:** Increase programs for substance abuse treatment, employment training and education in existing DOC facilities. Also, provide opportunities for prisoners to explore housing options and make decisions about healthy, safe living conditions prior to release.

**Action Needed:** DOC action; increased treatment, housing, education and employment.

**F-9. Promote criminal justice responses and solutions that emphasize deterrence and rehabilitation.**

NEW

**Goals:** To eliminate funds spent to incarcerate defendants for whom alternatives to imprisonment will be effective; to reserve prison space for those truly in need of isolation from the community for reasons of public safety; and to concentrate prison programs on rehabilitation with less distraction of resources from those for whom incarceration is the only viable option.

**Method:** The CJC recommends convening a policy committee to reexamine the 1980 criminal code amendments, evaluating them for necessity, costs and benefits. The committee should assess crime rates, prison growth, public safety and other factors to decide what parts of the 1980 changes are still effective.

- 
- a physician licensed under AS 08.64;
  - (2) a reasonable probability exists that
    - (A) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;
    - (B) because of the prisoner's medical or mental disability, the prisoner will not pose a threat of harm to the public if released on parole; and
    - (C) release of the prisoner on parole would not diminish the seriousness of the crime;
  - (3) the care and supervision that the prisoner requires can be provided in a more medically appropriate or cost-effective manner than by the department;
  - (4) the prisoner is physically or mentally incapacitated to an extent that incarceration does not impose significant additional restrictions on the prisoner; and
  - (5) the prisoner is expected to remain subject to the medical or mental disability throughout the entire period of parole and there is no reasonable expectation that the prisoner's medical or mental disability will improve noticeably.

**Action Needed:** Legislative reform, and agency policy action.

**F-10. Reexamine penalties levied against those charged with DUIs.**

NEW

**Goals:** To more purposefully sanction offenders; to increase the opportunity for treatment among offenders.

**Method:** Under current law, penalties for first-time offenders include a minimum fine of \$1,500.<sup>301</sup> Second-time offenders pay \$3,000, and third-time offenders \$4,000, after which fines increase by \$1,000 with each subsequent conviction to a maximum of \$7,000.<sup>302</sup> Where a person is convicted of a felony DUI,<sup>303</sup> the fine increases to \$10,000.<sup>304</sup>

Fines do not deter many Alaskan DUI offenders because of relatively low incomes and high other DUI expenses. Offenders must commit their Permanent Fund Dividends (PFD) to authorities in satisfaction of the fine (if they receive a PFD). This creates bureaucratic and administrative work for the governing agency and for the courts, and leaves the offender without funds to direct towards treatment (the offender's incarceration is likely to also jeopardize his or her employment status, worsening the offender's economic status). Meanwhile, as discussed,<sup>305</sup> offenders incarcerated for short periods of time receive little or no treatment. The mandatory minimum prison terms – 72 hours and twenty days – cost the State between \$300 and \$2,500 dollars per prisoner. Residential treatment might benefit the state more than incarceration for these offenders. A panel of experts should be convened and consulted to consider the efficacy of punishment for first and second-time offenders, the most meaningful forms of punishment for those classes, and the potential for treatment (via residential or out-patient programs).

**Action Needed:** CJC review.

**F-11. Examine the utility and success of the City of Anchorage and State's vehicle forfeiture programs.**

NEW

**Goals:** To more purposefully punish offenders; and to reduce criminal justice system expenditures on programs that deplete resources.

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<sup>301</sup> See 2002 Alaska Sess. Laws Ch. 60 § 28 (amending AS 28.35.030(b)(1)(A)).

<sup>302</sup> See *id.* (amending AS 28.35.030(b)(1)(B)-(F)).

<sup>303</sup> See AS 28.35.030(n) (“A person is guilty of a class C felony if the person is convicted under (a) of this section and has been previously convicted two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense.”).

<sup>304</sup> See AS 28.35.030(n)(1).

<sup>305</sup> See Sec. B(1)(b)(ii), *supra* pp. 31-32.

**Method:** The City of Anchorage, through the APD, has run a vehicle forfeiture program since January 1, 1994.<sup>306</sup> The Department has recently asked the city auditor to determine the cost effectiveness of the program. The APD does not expect to find the program worthwhile. Most cars auctioned bring little money, cannot be sold, or are owned by the bank or borrowed. APD expects that no data will show that forfeiture deters drunk driving.

The State recently initiated a similar forfeiture program, impounding cars belonging to felony DUI offenders.<sup>307</sup> State and local officials worry that APD arrests will capture many felony DUI offenders, creating conflicts between the two forfeiture programs. If the Anchorage program proves uneconomical, the CJC recommends eliminating both programs. If the Anchorage programs appears successful, state and municipal policy-makers should coordinate their efforts.

**Action Needed:** Assessment.

**F-12. Increase the number of treatment opportunities available during incarceration, including alcohol and substance abuse treatment, and treatment for sexual offenders.**

NEW

**Goals:** To provide more treatment for incarcerated offenders; to reduce recidivism correlated to alcohol and substance abuse and sexual offenses; to increase public safety; and to better harmonize imprisonment and reintegration goals.

**Method:** Currently, Alaska's treatment needs outpace its capacity: between October 15 and December 15, 2001, an average of 49.8 incarcerated individuals were awaiting treatment in Alaskan institutions.<sup>308</sup> Of those, an average of 15 were awaiting general, co-ed residential treatment, 36 were awaiting long-term residential treatment, 2.8 were awaiting treatment in a women's program, 1 was awaiting treatment in a program for women with children, 2 were awaiting dual-diagnosis residential treatment, 2 were awaiting outpatient treatment, and 2 were awaiting intensive outpatient services.<sup>309</sup> Average waiting times ranged between 11 days and over three months.<sup>310</sup>

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<sup>306</sup> See AMC 9.28.020(C)(5)(b); AMC 9.28.026.

<sup>307</sup> Forfeiture is in all cases at the discretion of the court. See AS 28.35.030(b)(3) (where an individual is convicted of a class A misdemeanor, the court "may order" forfeiture); see also AS 28.35.030(n)(5) (where an individual is convicted of a class C felony DUI, the court "may order" forfeiture).

<sup>308</sup> See *Chemical Dependency Treatment List*, C&S Management (2001), at 4 (showing that on November 1, 2001, as many as 53 incarcerated males were awaiting treatment).

<sup>309</sup> See *Id.* at 14-15.

<sup>310</sup> See *Id.* at 22 (finding wait times for the various components of care to be as follows: general, co-ed residential treatment program, 80.55 days; long-term residential program, 87.18 days; women's program, 45.48 days; women with children program, 107 days; youth program, 11.17 days; dual-diagnosis residential treatment program, 43.33 days; outpatient services, 31.70 days; and intensive outpatient services, 28 days).

In 2000, 556 of Alaska's 3,583 incarcerated offenders (about 16 percent) were convicted of sex offenses.<sup>311</sup> The Alaska Sex Offender Assessment and Treatment Program (SOATP) is offered through Lemon Creek and Meadow Creek Correctional Centers.<sup>312</sup>

At Meadow Creek, 78 beds are dedicated to sex offender treatment: 18 are used for pre-treatment and assessment, and the remaining 60 for treatment. Treatment, centered on goals as opposed to phases, progresses from

assessment and treatment planning into Core Treatment. Core Treatment is structured on Core Goals that must be completed by all participants, as well as Additional Goals determined by the needs of the individual participant.

To be eligible for comprehensive programming, inmates must be within 18 months to 6 years of their projected release/parole eligibility date.

The average time for completing Core Goals is 17 months. The average time to complete each Additional Goal is 3 months.<sup>313</sup>

A 1996 study of sex offenders in the then-existent treatment program at Hiland Mountain Correctional Center from 1987 to 1995 found treatment effective in reducing recidivism in sex offenders for those who successfully completed the program.<sup>314</sup> However, few individuals completed the program.<sup>315</sup> As described in earlier parts of this report, treatment is one of the most economically viable aspects of criminal justice.<sup>316</sup> By expanding treatment opportunities during incarceration, the state could reduce recidivism and costs of incarceration.

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<sup>311</sup> See *2000 Offender Profile*, *supra* n. 12, at 13-14, 17 (including Attempted Sexual Abuse of a Minor (65), Attempted Sexual Assault (39), Incest (0), Rape (1), Sexual Abuse of a Minor (255), Sexual Assault (193), Solicitation Sexual Abuse of a Minor (3)).

<sup>312</sup> Lemon Creek's program is a "pre-treatment" service provided by Tongas Community Counseling Center. Lasting a minimum of four months, and up to one year, the Lemon Creek program includes assessment, and group and individual counseling for 24 incarcerated offenders whose sentence is insufficient to support treatment while in prison. The program is designed to prepare inmates to enter comprehensive treatment at Meadow Creek, and incorporates some of Meadow Creek's "Core" components for those offenders whose sentences, while long enough to afford pre-treatment, are insufficient to complete the comprehensive treatment offered at Meadow Creek. Offenders usually enter the pre-treatment program with at least six months before their sentence runs. See Mary West *et al.*, *Sex Offender Treatment Programs: 50-State Survey*, Colorado Dep't of Corrections, Aug. 2000, at 4 (visited Sept. 15, 2002) <[http://www.doc.state.co.us/admin\\_reg/PDFs/SO-report-send2.pdf](http://www.doc.state.co.us/admin_reg/PDFs/SO-report-send2.pdf)>.

<sup>313</sup> See *id.* at 3.

<sup>314</sup> See *Sex Offender Treatment Program: Initial Recidivism Study, Executive Summary*, Alaska Dep't of Corrections Offender Programs, Alaska Justice Statistical Analysis Center, Justice Center, University of Alaska Anchorage (last modified Aug. 28, 2002) <<http://www.uaa.alaska.edu/just/publications/9602sotp.html>>.

<sup>315</sup> See *id.*

<sup>316</sup> See Sec. B(1)(a), *supra* p. 24.

**Action Needed:** Funding.

**F-12a.** **Increase the degree of assessment given each incarcerated defendant to include assessment of substance abuse, mental disabilities, HIV, and Hepatitis C treatment needs, and educational and vocational needs, and to provide periodic follow-up assessments as appropriate.**

NEW

**Goals:** To increase the effectiveness of treatment for defendants in custody; and to give defendants the best chance at rehabilitation after release.

**Method:** Develop screening programs within the concept of “wrap-around” services: a pool of resources, including DHSS and the Department of Education, that cooperates to deliver services. Fund the program through state Medicaid revenues.

**Action Needed:** DOC action.

**F-12b.** **Increase opportunities for educational and vocational advancement in correctional institutions.**

NEW

**Goals:** To reduce recidivism; to increase productivity of defendants, both in custody and upon release; and to advance employment opportunities for defendants upon release through the attainment of skills and knowledge.

**Method:** Between 1985 and 2000, Alaska decreased state spending on higher education by 53%, while increasing spending on corrections by 45%.<sup>317</sup> The CJC recommends that corrections encourage defendants to complete high school, GEDs, and vocational training.<sup>318</sup> Volunteers could help with literacy, prisoner education and vocational training programs, through either federally-subsidized programs like Teach For America or VISTA, or state initiatives.

**Action Needed:** DOC policy. Volunteer coordination.

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<sup>317</sup> See *Cellblocks or Classrooms? The Funding of Higher Education and Corrections and Its Impact on African American Men*, Justice Policy Institute, at 6 (last modified Sept. 4, 2002) <[http://www.justicepolicy.org/coc1/jpi\\_coc.pdf](http://www.justicepolicy.org/coc1/jpi_coc.pdf)>.

<sup>318</sup> In 1997, an average of 14.2% of state inmates had below or equal to an eighth-grade education, 28.9% had some high school education, 18.5% were high school graduates, and 2.7% had a college education or beyond. Nationally, 51.2% had not finished high school. See *Correctional Populations in the United States, 1997* (U.S. Dep’t of Justice, Nov. 2000), at 48 (Table 4.1)). See also Stephen Steurer *et al.*, *Three State Recidivism Study* (Correctional Education Association, Sept. 30, 2001), at 39 (available at [www.ceanational.org/documents/3StateFinal.pdf](http://www.ceanational.org/documents/3StateFinal.pdf)) (finding that “offenders who participated in correctional education programming [had] lower re-arrest rates than those offenders who did not participate in correctional education programming;” that “correctional education participants [had] lower re-conviction rates than non-participants;” and “that correctional education participants [had] lower re-incarceration rates than non-participants”). Alaska has not compiled data on either point.

### III. Conclusion

Criminal justice efforts in Alaska have continued to deter future crimes, sanction offenders, and aid in their rehabilitation and reintegration to the community. Yet we can do more. With reallocation and prioritization, ample resources exist statewide to provide for continual innovation in the criminal justice arena – from assessment, to treatment, to re-entry. Leadership must take its lead from Alaska’s criminal justice practitioners in recognizing the costs to our state of stagnation: for a healthy future, the administration must commit to tackling the issues outlined in this report, and doing so with the dedication, thought and devotion worthy of its constituency.

Recent work by Alaska’s criminal justice leaders has led to substantial progress in creating effective new programs and revenues to improve public safety and reduce the number of future offenders. These initiatives include new DUI laws, rapid spread of therapeutic justice principles that promise increased accountability by offenders, laws to improve victim services, and increased revenues for prevention, treatment and enforcement in criminal justice. Through wise use of alcohol excise tax funds and thoughtful use of existing funds, the state can reduce the number of people incarcerated and simultaneously increase the safety of citizens. This report provides a starting point for a safer and healthier future for all Alaskans.

## Appendix A

### CJC Survey Participants



# Appendix A

## Criminal Justice Council

### Members

Chair, Bruce Botelho, Attorney General  
Co-chair, Margaret Pugh, Commissioner, DOC  
Barbara Brink, Public Defender  
Larry Cohn, Executive Director, Alaska Judicial Council  
Stephanie Cole, Administrative Director of the Alaska Court System  
Jay Livey, Commissioner, Department of Health and Social Services  
Brant McGee, Director, Office of Public Advocacy  
Del Smith, Commissioner, Department of Public Safety

### Other Participants

Chris Christensen, Deputy Director, Alaska Court System  
Pat Gullufsen, Deputy Attorney General  
Margot Knuth, Strategic Program Coordinator, Department of Corrections  
Elmer Lindstrom, Deputy Commissioner, Department of Health and Social Services  
Chrystal Smith, Special Assistant, Office of the Attorney General  
Russ Webb, Deputy Commissioner, Department of Health and Social Services

### Staff

Teri Carns, Staff Director  
Jenny Lora Miller, Staff Attorney  
Pat A. Scott, Executive Secretary

### Former Members

William Cotton, former Executive Director, Alaska Judicial Council,  
May 2000 - June 2001  
Glenn Godfrey, former Commissioner, Dep't of Public Safety, May 2000 - June 2002  
Cindy Cooper, former Deputy Attorney General, May 2000 - February 2002  
Karen Perdue, former Commissioner, Dep't of Health and Social Services,  
May 2000 - October 2001

## Criminal Justice Assessment Commission Membership 1997 - 2000

Co-Chair, Bruce Botelho, Attorney General\*

Co-Chair, Arthur Snowden, former Administrative Director, Alaska Court System\*

Judge Elaine Andrews, Presiding Judge, Third Judicial District

Honorable Ethan Berkowitz, State Representative

Barbara Brink, Public Defender\*

Natalie Brooks, Chair, Highland Mountain Advisory Group

Stephanie Cole, Administrative Director, Alaska Court System\*

Cindy Cooper, Deputy Attorney General\*

William Cotton, Executive Director, Alaska Judicial Council

Harry Davis, District Attorney, Fairbanks

Justice Dana Fabe, Alaska Supreme Court (Chief Justice 2000 - 2003)\*

Judge Michael Jeffery, Presiding Judge, Second Judicial District

Jeff Jessee, Executive Director, Alaska Mental Health Trust Authority

Larry Jones, Executive Director, Parole Board\*

Janice Lienhart, Director, Victims for Justice

Honorable Georgiana Lincoln, State Senator

Blair McCune, Deputy Public Defender

Brant McGee, Director, Office of Public Advocacy\*

Vicki Otte, Executive Director, ANSCA Regional Corp. Presidents and CEOs Association

Ron Otte, Commissioner, Department of Public Safety\*

Judge Charles Pengilly, Fairbanks Superior Court

Karen Perdue, Commissioner, Department of Health and Social Services\*

Frank Prewitt, Consultant, Cornell Corrections

Margaret Pugh, Commissioner, Department of Corrections\*

Judge Stephanie Rhoades, Anchorage District Court\*

John Richard, Anchorage Municipal Prosecutor\*

Dr. David Sperbeck, Mental Health Supervisor, Department of Corrections

Judge David Stewart, Alaska Court of Appeals

Honorable Jerry Ward, State Senator

Judge Michael Wolverson, Anchorage Superior Court

Lynda Zaugg, Director, Division of Community Corrections\*

\* CJAC Steering Committee Members

Staff Director, Teri Carns, Alaska Judicial Council

# Survey of Criminal Justice Professionals

## Alaska Court System:

### *Judges:*

Dana Fabe, Chief Justice, Supreme Court, Anchorage  
Elaine Andrews, Presiding Judge, Third Judicial District, Superior Court, Anchorage  
Michael Jeffery, Presiding Judge, Second Judicial District, Superior Court, Barrow  
Stephanie Joannides, Superior Court, Therapeutic Courts, Anchorage  
Charles Pengilly, Superior Court, Fairbanks  
Stephanie Rhoades, District Court, Mental Health Court, Anchorage  
James Wanamaker, District Court, Wellness Court, Anchorage

### *Administration:*

Stephanie Cole, Administrative Director  
Chris Christensen, Deputy Director  
Christine Johnson, Deputy Director  
Wendy Lyford, Third District, Area Court Administrator  
Pat McBride, Court Analyst  
Jean Sagan, Administrative Attorney  
Kathi Trawver, Project Manager, CRP

## Alaska Judicial Council:

Larry Cohn, Executive Director

## Department of Administration:

### *Office of Public Advocacy:*

Brant McGee, Director, Office of Public Advocacy  
Muriel Kronowitz, Coordinator, Family Care Court

### *Public Defenders:*

Barbara Brink, Public Defender, Anchorage  
Paul Canarsky, Supervising Attorney, Fairbanks  
Marjorie Mock, Assistant Public Defender, Anchorage  
Blair McCune, former Deputy Public Defender

## Department of Corrections:

Margaret Pugh, Commissioner, Juneau  
Lynda Zaugg, Director, Community Corrections  
Betsy Robson, Director, Inmate Programs  
Margot Knuth, Strategic Program Coordinator  
Dr. David Sperbeck, Mental Health Supervisor  
Gary Webster, Assistant Director, Division of Institutions  
Sarah Williams, Program Coordinator  
Mike Jordan, Case Manager, Felony Drug Court

## Department of Health and Social Services:

Elmer Lindstrom, Deputy Commissioner  
Russ Webb, Deputy Commissioner

Loren Jones, Director, Division of Alcoholism & Drug Abuse  
Ron Taylor, Coordinator, Alcohol Safety Action Program  
Pam Watts, Director, Governor's Advisory Board on Alcoholism and Drug Abuse

**Department of Law & Other Prosecution:**

***State:***

Pat Gullufsen, Deputy Attorney General, Juneau  
Dean Guaneli, Chief Assistant Attorney General, Juneau  
Harry Davis, former District Attorney, Fairbanks  
Dwayne McConnell, District Attorney, Kenai  
Jay Hodges, Assistant District Attorney, Fairbanks  
Tim Terrell, Assistant Attorney General, Corrections

***Municipal:***

Bruce Roberts, Municipal Attorney, Anchorage

**Department of Public Safety and Other Law Enforcement:**

***State:***

Del Smith, Commissioner of Public Safety  
Doug Norris, Deputy Director, Alaska State Troopers

***Municipal:***

Mark Mew, Deputy Chief, Anchorage Police Department

**Department of Revenue:**

Jeff Jessee, Executive Director, Mental Health Trust Authority

**Legislature:**

Honorable Ethan Berkowitz, Representative, Anchorage  
Steve Branchflower, Director, Office of Victims' Rights  
Tamara de Lucia, Associate Advocate Attorney, OVR

**Private/Corporate:**

Jim Crary, Senior Contracts Engineer, BP  
Frank Prewitt, Cornell Corrections  
Vicki Otte, Executive Director, ANCSA Regional Corp. Presidents and CEOs Association

Private/Therapeutic Services:

Harry Brod, Director, Men & Women's Center

Janet McCabe, Partners for Progress

Ken Duff, Director, Akeela Treatment Services

Jill McLeod, Center for Therapeutic Justice

Matt Felix, Executive Director, National Council on Alcohol & Drug Dependence, Juneau

Thea Whitehead, Community Liaison, Partners for Progress, Anchorage Wellness Court

Sharon Leon, Executive Director, Youth Court

University of Alaska:

Karen Perdue, Associate Vice President for Health

Robert Langworthy, Director, UAA Justice Center

Toni Moras, Editor, Justice Forum, UAA Justice Center

## Appendix B

### Comparison of Justice Theories

## Appendix B

### Comparison of Justice Theories

	<b>Retributive Justice</b>	<b>Therapeutic Justice</b>	<b>Restorative Justice</b>	<b>Community Justice</b>
<b>Definition of Crime</b>	Crime is a breach of a rule created by the sovereign. Crime should be addressed by professionals who are not connected to the victim or the offender.	Crime often is a manifestation of illness of offender's body or character. Crime should be addressed by considering the healing or damaging effects of the justice system, particularly on the offender.	Crime is a disruption of community harmony and relationships. Crime should be addressed in the community by the community, the victim and the offender.	Crime is committed by people who are not invested in the community and is caused by complex social problems. Crime should be addressed in the community by a partnership between the community and criminal justice agencies.
<b>Primary Focus</b>	Focus on defendant.	Focus on therapeutic or anti-therapeutic effects of justice process on defendant's actions, including teaching accountability.	Equal focus on offender, community and victim.	Focus on enhancing and sustaining community life as a way of preventing crime and exerting social control.
<b>Sentencing Goals</b>	Vindicate social values, deter defendant and others, isolate defendant from community, rehabilitate defendant if possible. Primary beneficiary is government, second is society and third, the victim.	To use the justice process in a manner that produces the most positive effects for all parties. Society and victim benefit from offender rehabilitation, restitution, accountability.	Repair the harm, heal victim and community, restore offender to healthy relationship with community through offender accountability, encourage community to take responsibility for responding to crime.	Similar to goals of restorative justice; however, community justice also attempts to address some of the social problems underlying crime, and to involve local residents in planning and decision-making.
<b>Use of Incarceration</b>	A primary form of sanction.	Used as a sanction; also to protect community (comparable to quarantine).	May be necessary to protect community; restorative justice principles should be applied within institutions	May be necessary to protect community
<b>Measures of Success</b>	Fairness of process; equality and proportionality of sanctions ( <i>i.e.</i> , sanctions are related to seriousness of crime and similarly situated offenders receive uniform sanctions).	Regained health of offender; offender demonstrates accountability in work, family, community; low recidivism; satisfaction of participants in process (including judges, attorneys).	Emotional and financial restitution for victim, restoration of community harmony, return of offender to valued role in community, low recidivism.	Citizens are directly involved in setting crime-response priorities, all citizens are strongly invested in the community, and crime rates decrease.
<b>Examples</b>	Current criminal justice system, most youth courts.	Wellness court, drug court, mental health court, DWI court, some tribal courts, some youth courts.	Victim-offender mediation, circle sentencing, family group conferencing, reparative probation, citizen boards, some tribal courts	Community policing and prosecution, Navajo Peacemaker courts, community courts, some tribal courts

Compiled in part from Judge Edward J. Cashman, *Materials on Restorative Justice* (NJC Document, 1998) and NIJ *Research in Brief* No. 3 (Sept. 1999) by Susanne DePietro of the Alaska Court System. The purpose of the table is to highlight elements of different theories, without taking a position on the validity of the theory.

## Appendix C

### Table of Distribution of Alaska Justice System Needs and Resources



## Appendix C

### Table of Distribution of Alaska Justice System Needs and Resources December 20, 2001

The attached Table of Distribution of Alaska Justice System Needs and Resources was originally created in 1997 for the Supreme Court Advisory Committee on Fairness and Access. It has been substantially modified since to provide more detailed information about numbers of offenses, reports of harm to children, and numbers of probationers and parolees in each community of the state. This cover sheet is a key to the sources of the data, and explanation of how to use the Table. Please contact the Alaska Judicial Council at [teri@ajc.state.ak.us](mailto:teri@ajc.state.ak.us), or (907)279-2526x6 for further information.

<b>Reference Example: Distribution of Alaska Justice System Needs and Resources - 2000</b>											
	2000 Census DCED <b>2</b>	% Native 2000 Census DCED <b>3</b>	Court 2000 <b>4</b>	Tribal Council or Court 1999 <b>5</b>	Trooper Police VPSO <b>6</b>	Jail, Correctional Facility, or Lock-Up <b>7</b>	Reported Offenses 2000+ DPS/PD <b>8</b>	Reported Arrests 2000+ DPS/PD <b>9</b>	DFYS Reports of Harm 1999/2000 <b>1</b>	Local Option Status 2000 <b>1</b>	N of Probation/ Parolees 2000 <b>12</b>
<b>First Judicial District<sup>1</sup></b>											
<b>Haines Borough (2,392 Total Population) (Number of Crimes in Remainder of Census Area = 2)</b>											
Covenant Life	102	2.0%	R		VPO (City)		NA / -	NA / -			
Excursion Inlet	10	0.0%					NA / -	NA / -			
Haines	1,811	18.5%	M		Troopers Police	X	113 / NA	29 / 545	40/**		2
Chilkat Indian Village ☉			R	Tribal Council and Court			NA / -	NA / -			
Chilkoot ☉			R	Tribal Council			1 / -	NA / -			

1. **Table is organized by judicial district (first through fourth), borough and census area**, based on information from the state Department of Community and Economic Development (DCED). Communities included on the table are only those listed by DCED for the 2000 census. Native entities within the state recognized and eligible to receive services from the U.S. Bureau of Indian Affairs (i.e., tribes) are designated with ☉ ( PL.93-638 The Indian Self-Determination and Education Assistance Act). Note that in some instances, no population is shown for a tribe, because all of the tribal members live (and are reported in) another community. Example: Chilkat Indian Village and Chilkoot (First Judicial District) are tribes, all of whose members live in Haines or one of the nearby communities. Cities in **bold** have a sitting superior or district court judge.
2. **2000 Census DCED** Data for this column comes from DCED reports of 2000 Census data.
3. **% Native, 2000 Census DCED** Data for this column also comes from DCED.
4. **Court 2000** This column shows the level of court service to each community. SC = superior court; DC = district court; M = magistrate located in the community; R = road access from community to the court; V = magistrate position vacant in 2000.
5. **Tribal Council or Court 1999** As of 1999, this community had a tribal court or tribal council that acted as a tribal court when needed.
6. **Trooper/Police/VPSO 2001** Law enforcement resources in the community as of September 2001. VPO= Village Peace Officer.
7. **Jail, Correctional Facility or Lockup** Incarceration facilities available in the community as of late 1999.
8. **Reported Offenses 2000, DPS/PD** The first information in the column shows the number of all criminal offenses reported to Department of Public Safety in 2000 from this community. NA = information not available (not all communities report to DPS). The second number shows offenses reported by the police department in that community, if the community had a police department and if the department tracked reported offenses (not all did). A "-" in the column indicates that it did not have a police department; "NA" indicates that it did have a police department but no information about reported offenses. The Criminal Justice Council worked with an Alaska Native

Justice Center intern to call each police department in the state to ask for the information about reported offenses and reported arrests (next column). The information is not otherwise available from any central source.

9. **Reported Arrests 2000, DPS/PD** See Reported Offenses, above, for symbols and explanation of how data were collected. This column shows reported arrests, rather than offenses. Please note that for some small communities adjacent to larger ones that the information is probably not available because it is reported in the column for the larger community (e.g., Lutak, Mosquito Lake and Mud Bay all are small communities served by Haines law enforcement and court resources).
10. **DFYS Reports of Harm 1999/2000** Reports of harm to children filed with the Division of Family and Youth Services (DFYS) in 1999 and in 2000. Asterisk (\*) indicates fewer than six reports of harm, to protect the confidentiality of the families involved. As with reported arrests and offenses, data for smaller communities may be reported in the totals for adjacent larger communities. Data from both 1999 and 2000 are shown because the numbers can vary widely from year to year; a more reliable sense of the community needs comes from looking at more than one year's worth of data.
11. **Local Option Status 2000** This column shows whether the community has voted on the question of alcohol in the community, and the results of that vote as of 2000.
12. **N of Probation/Parole 2000** This is the number of probationers and parolees living in each community in 2000 (for the entire year).

## Table of Distribution of Alaska Justice System Needs and Resources 2000

	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>First Judicial District</b>											
<b>Haines Borough (2,392 Total Population) (Number of DPS offenses in Remainder of Census Area = 2)</b>											
Covenant Life	102	2.0%	R		VPO (City)		NA/-	NA/-			
Excursion Inlet	10	0.0%					NA/-	NA/-			
Haines	1,811	18.5%	M		Troopers Police	X	113/NA	29/545	40/**		2
Chilkat Indian Village ☉			R	Tribal Council and Court			NA/-	NA/-			
Chilkoot ☉			R	Tribal Council			1/-	NA/-			
Lutak	39	10.3%	R				NA/-	NA/-			
Mosquito Lake	221	8.6%	R				7/-	NA/-			
Mud Bay	137	4.4%	R				NA/-	NA/-			
<b>Juneau Borough (Number of DPS offenses in Remainder of Census Area = 59)</b>											
Douglas	5,297	17.3%	R				NA/-	NA/-	NA/7		
Douglas Indian Association ☉				Tribal Council or Court			NA/-	NA/-			

Cities in bold have a sitting superior or district court judge.

☉ Native entities within the state of Alaska recognized and eligible to receive services from the U.S. Bureau of Indian Affairs. P.L.93-638 The Indian Self-Determination and Education Assistance Act.

SC-Superior Court, DC-District Court, M-Sitting Magistrate, V-Magistrate Position Vacant

+ Number of offenses reported by Dept of Public Safety/  
Offenses reported by local police.

++ Number of arrests reported by Dept. of Public Safety/  
Arrests reported by local police.

VPO Village Police Officer

R-Road access to court

\*\* Five or fewer reports of harm (DFYS)

VPSO Village Public Safety Officer

NA Information is not available

- No police department

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Juneau, City & Borough	30,711	16.6%	SC/DC/M		VPO Troopers Police	X	222/1,261	132/432	932/725		241
<b>Ketchikan Gateway Borough (14,070 Total Population) (Number of DPS offenses in Remainder of Census Area = 1,183)</b>											
Ketchikan ☉	7,922	22.7%	SC/DC/M	Tribal Council or Court	VPO Troopers Police	X	322/10,600	81/1,880	319/314		163
Saxman ☉	431	70.1%	R	Tribal Council or Court	VPSO		144/-	57/-	NA/**		2
<b>Prince of Wales - Outer Ketchikan Census Area (Number of DPS offenses in Remainder of Census Area = 1)</b>											
Annette							0/-	1/-			
Coffman Cove	199	6%					19/-	7/-	**/8		1
Craig ☉	1,397	30.9%	M	Tribal Council or Court	VPO(City) Police	X	96/402	31/NA	67/98		11
Edna Bay	49	4.1%					3/-	3/-			
Hollis	139	9.4%	R				18/-	3/-	**/**		1
Hydaburg ☉	382	89.5%	R	Tribal Council or Court	VPSO		113/-	38/-	19/29		3
Hyder	97	4.1%					14/-	1/-			
Kasaan ☉	39	48.7%		Tribal Council or Court			10/-	4/-			
Klawock ☉	854	58.1%	R	Tribal Council or Court	VPO(City) Troopers Police	X	113/195	33/NA	31/60	Wet	3

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Metlakatla ☉	1,375	89.7%		Tribal Council and Court	VPO Police	X	5/551	1/61	**/13		8
Meyers Chuck	21	9.5%					10/-	NA/-			
Naukati Bay	135	9.6%			VPSO		39/-	13/-		Wet	4
Point Baker	35	8.6%					4/-	NA/-			
Port Protection	63	11.1%					2/-	NA/-		Wet	
Thorne Bay	557	4.8%	R		VPSO		109/-	46/-	9/18		2
Whale Pass	58	3.4%					10/-	1/-			
<b>Skagway - Hoonah - Angoon Census Area (Number of DPS offenses in Remainder of Census Area = 5)</b>											
Angoon ☉	572	86.4%	M	Tribal Council or Court	Local Police	X	8/NA	4/NA	14/**	Dry	3
Cube Cove	72	1.4%					NA/-	NA/-			
Elfin Cove	32	0.0%					2/-	1/-			
Game Creek	35	8.6%					NA/-	NA/-			
Gustavus	429	8.2%					34/-	14/-	**/-		
Hobart Bay	3	33.3%					2/-	NA/-			
Hoonah ☉	860	69.4%	M	Tribal Council or Court	VPO(City) Police	X	140/852	24/102	16/**		5
Klukwan ☉	139	88.5%					2/-	NA/-	/**		
Neets Bay							4/-	4/-			

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Pelican	163	25.8%	R	Village Council	VPSO	X	17/-	3/-	**/**		
Skagway ☉	862	5.1%	M	Tribal Council or Court	Police	X	5/-	NA/-	**/**		1
Tenakee Springs	104	4.8%			VPSO		10/-	3/-			
Whitestone Logging Camp	116	6.9%					NA/-	NA/-			
<b>Sitka Borough (Number of DPS offenses in Remainder of Census Area = 5)</b>											
Sitka ☉	8,835	24.7%	SC/M	Tribal Council and Court	VPO Troopers Police	X	141/NA	61/NA	222/179		43
<b>Wrangell - Petersburg Census Area (Number of DPS offenses in Remainder of Census Area = 19)</b>											
Kake ☉	710	74.6%	M	Tribal Council or Court	Police VPO	X	24/155	4/70	6/**	Wet	1
Kupreanof	23	0%			VPO(City)		NA/-	NA/-			
Petersburg ☉	3,224	12.0%	M	Tribal Council or Court	VPO Troopers Police	X	43/NA	21/146	43/58		9
Port Alexander	81	13.6%					4/-	2/-		Damp	
Rowan Bay							1/-	1/-			
Thom's Place	22	13.6%	R				NA/-	NA/-			
Wrangell ☉	2,308	23.8%	M	Tribal Council or Court	VPO Police	X	22/1,149	7/324	34/102		14
<b>Yakutat Borough (Number of DPS offenses in Remainder of Census Area = 1)</b>											

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Yakutat ☉	808	46.8%	M	Tribal Council or Court	VPSO Police VPO(City)	X	95/NA	58/NA	16/NA		3
<b>Second Judicial District</b>											
<b>Nome Census Area (Number of DPS offenses in Remainder of Census Area = 12)</b>											
Brevig Mission ☉	276	92.0%		Tribal Council or Court	VPSO	X	34/-	22/-	**/10	Dry	4
Council ☉ (Seasonal summer fish camp)	0	0.0%	R	Tribal Council or Court			NA/-	NA/-			
Diomedede ☉	146	93.8%		Tribal Council or Court			20/-	11/-	16/35	Dry	1
Elim ☉	313	94.9%		Tribal Council or Court	VPSO VPO	X	66/-	38/-	**/40	Dry	3
Gambell ☉	649	95.8%	R	Tribal Council or Court	VPO	X	163/-	84/-	26/29	Dry	7
Golovin ☉	144	92.4%		Tribal Council or Court	VPSO	X	15/-	13/-	/**	Dry	1
King Island Native Community ☉	0	0.0%		Tribal Council or Court			NA/-	NA/-			
Koyuk ☉	297	94.3%		Tribal Council	VPSO VPO	X	50/-	20/-	12/26	Dry	6
Mary's Igloo ☉	0	0.0%		Tribal Council or Court			NA/-	NA/-			

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>Nome</b> ☉	3,505	58.7%	SC/M	Tribal Council or Court	VPO Troopers Police	X	131/4,907	50/389	90/328		97
Port Clarence	21	0.0%					NA/-	NA/-			
St. Michael ☉	368	93.2%		Tribal Council or Court	VPSO VPO	X	85/-	48/-	22/25	Dry	3
Savoonga ☉	643	95.5%	R	Tribal Council or Court		X	46/-	27/-	7/13	Dry	3
Shaktoolik ☉	230	94.8%		Tribal Council or Court	VPSO VPO(City)	X	47/-	16/-	7/8	Dry	2
Shishmaref ☉	562	94.5%		Tribal Council or Court	VPSO	X	44/-	29/-	6/32	Dry	1
Solomon ☉	4	75.0%	R	Tribal Council or Court			5/-	NA/-			
Stebbins ☉	547	94.7%		Tribal Council or Court	VPSO	X	188/-	99/-	11/24	Dry	16
Teller ☉	268	92.5%	R	Tribal Council or Court	VPO	X	48/-	22/-	**/21	Damp	2
Unalakleet ☉	747	87.7%	M	Tribal Council and Court	VPSO Police	X	11/-	3/-	20/39	Damp	8
Wales ☉	152	90.1%		Tribal Council or Court	VPSO	X	9/-	3/-	/**	Dry	2
White Mountain ☉	203	86.2%		Tribal Council or Court	VPSO	X	27/-	20/-	9/10		2



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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000++ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>Northwest Arctic Borough (7,208 Total Population) (Number of DPS offenses in Remainder of Census Area = 0)</b>											
Ambler ☉	309	86.7%	V	Tribal Council or Court	VPO	X	53/-	42/-	**/12	Dry	2
Buckland ☉	406	96.8%		Tribal Council	VPSO VPO	X	11/-	8/-	NA/**	Dry	2
Deering ☉	136	94.1%		Tribal Council or Court		X	7/-	3/-	6/NA	Dry	1
Kiana ☉	388	92.8%	R	Tribal Council	VPSO VPO	X	45/-	27/-	9/24	Dry	0
Kivalina ☉	377	96.6%		Tribal Council		X	38/-	33/-	**/11	Dry	2
Kobuk ☉	109	93.6%		Tribal Council or Court	VPSO	X	7/-	5/-	13/**	Dry	4
<b>Kotzebue ☉</b>	3,082	76.7%	SC/M	Tribal Council or Court	VPO Troopers Police	X	48/3,338	21/1,004	84/107	Damp	69
Noatak ☉	428	96.0%		Tribal Council or Court		X	38/-	28/-	**/9	Dry	2
Noorvik ☉	634	95.0%	R	Tribal Council or Court	VPO	X	111/-	98/-	12/13	Dry	2
Red Dog Mine	32	68.8%					NA/-	NA/-			
Selawik ☉	772	95.3%	M	Tribal Council	VPSO VPO	X	144/-	124/-	25/44	Dry	8
Shungnak ☉	256	94.5%	R	Tribal Council or Court	VPSO	X	22/-	18/-	**/**	Dry	2

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>North Slope Borough (7,385 Total Population) (Number of DPS offenses in Remainder of Census Area = 16)</b>											
Anaktuvuk Pass ☼	282	88.3%		Tribal Council or Court	VPO	X	0/NA	NA/83	NA/16	Dry	4
Atqasuk ☼	228	94.3%		Tribal Council or Court	VPO	X	NA/NA	NA/66		Dry	4
<b>Barrow</b> ☼	4,581	64.0%	SC/M	Tribal Council and Court for Juvenile Offenses	VPO Troopers Police	X	NA/NA	NA/2,769	237/272	Damp	74
Deadhorse						X	2/-	NA/-			
Inupiat Community Arctic Slope ☼				Tribal Council or Court			NA/-	NA/-			
Kaktovik ☼	293	84.0%		Tribal Council or Court	VPO	X	-/NA	-/42	**/14	Dry	4
Nuiqsut ☼	433	89.1%		Tribal Council or Court	VPO	X	-/NA	-/266	6/67	Dry	2
Point Hope ☼	757	90.6%	R	Tribal Council or Court	VPO	X	1/NA	NA/188	**/24	Dry	10
Point Lay ☼	247	88.3%			VPO	X	0/NA	0/86	NA/26	Dry	4
Prudhoe Bay	5	80.0%					1/NA	NA/18			
Wainwright ☼	546	93.0%		Tribal Council or Court	VPO	X	13/NA	9/89	**/NA	Dry	10

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>Third Judicial District</b>											
<b>Aleutians East (2,697 Total Population) (Number of DPS offenses in Remainder of Census Area = 28)</b>											
Akutan ☉	713	16.4%		Tribal Council or Court	VPSO	X	7/-	3/-	NA/**		1
Belkofski ☉	0	0.0%		Tribal Council or Court			NA/-	NA/-			
Cold Bay	88	17.0%			Troopers	X	4/-	2/-			
False Pass ☉	64	65.6%		Tribal Council or Court	VPSO	X	9/-	2/-			
King Cove ☉	792	47.9%			VPO(City) Police	X	0/NA	0/81	7/**		1
Nelson Lagoon ☉	83	81.9%		Tribal Council or Court	VPSO	X	4/-	0/-	NA/**		1
Pauloff Harbor ☉	0	0.0%					NA/-	NA/-			
Sand Point ☉	952	44.2%	V	Tribal Council or Court	Police VPO	X	2/NA	NA/230	**/8		4
Unga ☉	0	0.0%					NA/-	NA/-			
<b>Aleutians West (Number of DPS offenses in Remainder of Census Area = 18)</b>											
Adak	316	37.3			VPSO	X	15/-	12/-			
Atka ☉	92	91.3%		Tribal Council or Court		X	3/-	2/-	7/10		1
Attu CG Station	20	0.0%					NA/-	NA/-			

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Nikolski ☉	39	69.2%		Tribal Council or Court			6/-	3/-	**/NA		
St. George ☉	152	92.1%		Tribal Council or Court		X	7/-	6/-	**/17		1
St. Paul ☉	532	86.5%	V	Tribal Council or Court	VPO(City) Police	X	0/NA	0/74	16/11		4
Unalaska ☉	4,283	9.3%	M	Tribal Council or Court	Police	X	37/3,782	28/296	45/31		2
<b>Anchorage Borough (Number of DPS offenses in Remainder of Census Area = 1,669)</b>											
<b>Anchorage</b>	260,283	10.4%	SC/DC/M		Troopers Police	X	NA/NA	58/15,828	6,002/6,034		1,989
Eagle River - Chugiak	28,000	0.0%	R		Troopers		NA/-	NA/-	NA/113		
Eklutna ☉	394	13.2%	R	Tribal Court	Anchorage Police Dept.		2/NA	NA/NA	NA/**		
Girdwood	2,000	0.0%	R		Troopers		243/-	112/-	**/**		
<b>Bristol Bay Borough (1,258 Total Population)</b>											
King Salmon	442	30.1%	R		VPO(City) Troopers Police		33/-	13/-	**/6		1
Naknek ☉	678	47.1%	M	Tribal Council or Court	VPO(City)	X	113/-	90/-	**/**		3
South Naknek ☉	137	83.9%		Tribal Council or Court			9/-	1/-	NA/6		1

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>Dillingham Census Area (Number of DPS offenses in Remainder of Census Area = 0)</b>											
Aleknagik ☉	221	84.6%	R	Tribal Council or Court	VPSO VPO(City)	X	51/-	29/-	73/8		4
Clarks Point ☉	75	92.0%		Tribal Council or Court		X	12/-	3/-	10/**		1
<b>Dillingham ☉</b>	2,466	60.9%	SC/M	Curyung Tribal Council	VPO Troopers Police	X	49/164	7/118	106/53		57
Ekuk ☉	2	0.0%		Tribal Council or Court			NA/-	NA/-			
Ekwok ☉	130	93.8%		Tribal Council or Court	VPSO	X	70/-	33/-	13/*		1
Koliganek ☉	182	87.4%		Tribal Council or Court	VPSO	X	12/-	4/-	15/**		2
Manokotak ☉	399	94.7%		Tribal Council and Court	VPSO VPO	X	30/-	8/-	23/9	Dry	1
New Stuyahok ☉	471	96.0%		Tribal Council or Court	VPSO	X	19/-	14/-	28/7		3
Portage Creek ☉	36	86.1%		Tribal Council or Court			NA/-	5/-	**/**		1
Togiak ☉	809	92.7%		Tribal Council and Court	VPSO VPO	X	28/NA	4/56	18/9	Dry	12
Twin Hills ☉	69	94.2%		Tribal Council or Court			0/-	0/-	12/NA		2

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000++ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
<b>Kenai Peninsula Borough (49,691 Total Population) (Number of DPS offenses in Remainder of Census Area = 271)</b>											
Anchor Point	1,845	6.4%	R				168/-	84/-	51/42		10
Bear Creek	1,748	16.2%	R				NA/-	NA/-			
Beluga	32	25.0%					1/-	NA/-			
Clam Gulch	173	5.8%	R				88/-	44/-	10/**		
Cohoe	1,168	7.7%	R				34/-	9/-			
Cooper Landing	369	4.9%	R		Troopers		191/-	55/-			1
Crown Point	75	9.3%	R		Troopers		NA/-	19/-			
Diamond Ridge	1,802	4.9%	R				10/-	NA/-			
Fox River	616	0.2%	R				0/-	0/-			
Fritz Creek	1,603	5.1%	R				96/-	60/-	**/10		
Funny River	636	3.5%	R				NA/-	NA/-			
Halibut Cove	35	2.9%					0/-	0/-			
Happy Valley	489	9.4%	R				28/-	9/-			
<b>Homer</b>	3,946	6.2%	DC/M		Troopers Police	X	280/5,678	216/-	108/118		25
Hope	137	5.8%	R				22/-	9/-			
Jakolof Bay	40	0.0%					1/-	0/-			
Kachemak	431	10.0%	R				2/-	NA/-	**/NA		
Kalifonsky	5,846	7.4%	R				565/-	246/-			

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Kasilof	471	6.2%	R				211/-	116/-	33/33		6
<b>Kenai</b> ☉	6,942	12.1%	SC/M	Kenaitze Indian Council and Tribal Court	Troopers Police	X	158/1,838	94/NA	340/374		215
Lowell Point	92	4.3%	R				NA/-	NA/-			
Miller Landing	74	0.0%	R				NA/-	NA/-			
Moose Pass	206	10.7%	R				102/-	60/-			
Nanwalek ☉	177	93.2%		IRA Council			12/-	7/-	20/NA	Damp	2
Nikiski	4,327	10.1%	R				671/-	277/-	107/175		16
Nikolaevsk	345	4.9%	R				36/-	18/-	9/26		
Ninilchik ☉	772	16.6%	R	Tribal Council and Court			216/-	110/-	9/18		4
Port Graham ☉	171	88.3%			VPSO	X	11/-	5/-	11/7		1
Primrose	93	6.5%	R				NA/-	NA/-			
Ridgeway	1,932	7.9%	R				NA/-	NA/-			
Salamatof ☉	954	22.3%	R	Tribal Council or Court			NA/-	NA/-			
Seldovia	286	23.1%		Tribal Council or Court	Police	X	NA/-	NA/-	8/**		
Seldovia Village ☉	144	40.3%					10/-	4/-			
Seward	2,830	20.9%	M		Troopers Police	X	401/NA	257/NA	40/59		19

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Soldotna	3,759	6.9%	R		Troopers Police		730/3,960	318/285	185/267		40
Sterling	4,705	4.6%	R				689/-	239/-	62/104		17
Sunrise	18	11.1%	R				1/-	NA/-			
Tyonek ☉	193	95.3%		Tribal Council and Court	VPSO		NA/-	22/-	**/**		
<b>Kodiak Island Borough (13,913 Total Population) (Number of DPS offenses in Remainder of Census Area = 399)</b>											
Afognak ☉	0	0.0%		Tribal Council or Court			63/-	27/-	**/NA		
Akhiok ☉	80	93.8%		Tribal Council or Court	VPSO VPO(City)		16/-	14/-	8/NA		
Aleneva	68	1.5%					NA/-	NA/-			
Chiniak	50	4.0%	R				NA/-	NA/-			
Kaguyak ☉	0	0.0%					NA/-	NA/-			
Kanatak ☉	0	0.0%					NA/-	NA/-			
Karluk ☉	27	96.3%		Tribal Council or Court			6/-	NA/-	NA/**		
<b>Kodiak</b>	6,334	13.1%	SC/M	Tribal Council or Court	VPO Troopers Police	X	677/6,748	108/NA	158/151		91
Kodiak Station	1,840	2.9%	R				NA/-	57/-	**/**		
Larsen Bay ☉	115	79.1%		Tribal Council or Court	VPSO	X	20/-	7/-	**/NA		1



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Lesnoi Village (Woody Island)☉	0	0.0%		Tribal Council or Court			3/-	NA/-			
Old Harbor ☉	237	85.7%		Tribal Council or Court	VPSO	X	102/-	95/-	10/**		1
Ouzinkie ☉	225	87.6%		Tribal Council or Court		X	23/-	12/-	**/NA		
Port Lions ☉	256	63.7%		Tribal Council or Court	VPSO	X	NA/-	9/-	NA/**		
Womens Bay	690	11.9%	R				14/-	12/-			
<b>Lake and Peninsula Borough (1,852 Total Population) (Number of DPS offenses in Remainder of Census Area = 10)</b>											
Chignik ☉	79	60.8%		Tribal Council or Court	VPSO VPO(City)	X	17/-	19/-	NA/**		
Chignik Lagoon ☉	103	82.5%		Tribal Council or Court			11/-	NA/-	NA/**		
Chignik Lake ☉	145	87.6%		Tribal Council or Court			5/-	3/-	**/7		
Egegik ☉	116	76.7%		Tribal Council or Court		X	97/-	69/-			3
Igiugig ☉	53	83.0%		Tribal Council or Court			11/-	7/-	NA/**		
Iliamna ☉	102	57.8%		Tribal Council or Court		X	30/-	7/-		Damp	1

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Ivanof Bay ☼	22	95.5%		Tribal Council or Court			5/-	2/-			
Kokhanak ☼	174	90.8%		Tribal Council or Court		X	10/-	7/-	NA/**	Dry	1
Levelock ☼	122	95.1%		Tribal Council or Court	VPSO	X	20/-	9/-	**/8		1
Newhalen ☼	160	91.3%		Tribal Council or Court	VPSO	X	30/-	16/-	NA/**		
Nondalton ☼	221	90.0%		Tribal Council or Court		X	NA/-	4/-	9/8	Damp	1
Pedro Bay ☼	50	64.0%		Tribal Council or Court		X	4/-	NA/-	**/NA		
Perryville ☼	107	98.1%		Tribal Council or Court			7/-	1/-	**/**		1
Pilot Point ☼	100	86.0%		Tribal Council or Court	VPSO	X	17/-	6/-	NA/7		1
Pope-Vannoy Landing	8	50.0%					NA/-	NA/-			
Port Alsworth	104	22.1%					1/-	NA/-			
Port Heiden ☼	119	78.2%		Tribal Council or Court	VPSO	X	12/-	1/-			
Ugashik ☼	11	81.8%		Tribal Council or Court			28/-	NA/-			

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<b>Matanuska-Susitna Borough (59,322 Total Population) (Number of DPS offenses in Remainder of Census Area = 334)</b>											
Alexander Creek							1/-	NA/-			
Big Lake	2,635	10.6%	R		Troopers		778/-	319/-	99/108		41
Buffalo Soapstone	699	7.4%	R				NA/-	NA/-			
Butte	2,561	5.5%	R				311/-	132/-	7/NA		
Chase	41	0%					NA/-	NA/-			
Chickaloon ☉	213	16.9%	R	Tribal Council and Court			31/-	9/-	31/6		2
Farm Loop	1,067	5.3%	R				NA/-	NA/-			
Fishhook	2,030	5.0%	R				NA/-	NA/-			
Gateway	2,952	7.4%	R				NA/-	NA/-			
Glacier View	249	10.4%	R				NA/-	NA/-			
Houston	1202	12.3%	R				168/-	65/-	12/25		11
Knik-Fairview	7,049	8.7%	R				NA/-	NA/-	NA/7		
Knik River ☉	528	11.5%	R				1/-	NA/-			
Lake Louise	88	10.2%	R				NA/-	4/-			
Lakes	6,706	7.0%	R				NA/-	NA/-			
Lazy Mountain	1,158	4.7%	R				NA/-	NA/-			
Meadow Lakes	4,819	8.1%	R				NA/-	NA/-			

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Palmer	4,533	12.5%	SC/DC/M		Troopers Police	X	1,226/701	580/419	325/247		446
Petersville	27	7.4%	R				21/-	NA/-			
Point MacKenzie	111	5.4%	R				67/-	NA/-			
Skwentna	111	7.2%					94/-	NA/-			
Susitna	37	10.8%					1/-	NA/-			
Sutton	1,080	25.9%	R				127/-	52/-	9/15		11
Tanaina	4,993	7.7%	R				NA/-	NA/-			
Talkeetna	772	9.1%	R		Troopers		425/-	207/-	21/6		8
Trapper Creek	423	11.3%	R				43/-	18/-	9/8		2
Wasilla	5,469	9.1%	R	Knik Tribe	Police		3,670/1,177	1,464/NA	550/565		247
Willow	1,658	6.0%	R				350/-	183/-	49/50		25
Y	956	11.2%	R				NA/-	NA/-			
<b>Valdez-Cordova Census Area (Number of DPS offenses in Remainder of Census Area = 129)</b>											
Chenega Bay ☉	86	77.9%		Tribal Council or Court	VPSO		NA/-	4/-			
Chisana	12	0.0%					NA/-	NA/-			
Chistochina ☉	93	63.4%	R	Tribal Council or Court			8/-	NA/-			1

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Chitina ☉	123	48.8%	R	Tribal Council and Court			51/-	35/-	**/NA		1
Copper Center ☉	362	50.6%	R	Tribal Council and served by Kluti Kaah Court			170/-	98/-	13/**		5
Copperville	179	21.2%	R				NA/-	NA/-			
Cordova ☉	2,454	15.0%	M		VPO Police Troopers	X	92/350	36/NA	69/56		9
Eyak ☉	168	8.3%	R				NA/-	NA/-			
Gakona☉	215	17.7%	R	Tribal Council and served by Kluti Kaah Court			10/-	5/-	NA/**		1
Glennallen	554	12.1%	M		Troopers	X	167/-	70/-	**/6		2
Gulkana ☉	88	73.9%	R	Tribal Council and served by Kluti Kaah Court			34/-	18/-	**/NA	Dry	1
Kenny Lake	410	13.4%	R				32/-	11/-	12/7		1
McCarthy	42	0.0%					14/-	1/-	**/NA		
Mendeltna	63	7.9%	R				4/-	2/-			
Mentasta Lake ☉	142	71.1%	R	Tribal Council and Court			67/-	42/-	**/9		1
Nelchina	71	9.9%					20/-	NA/-			
Paxson	43	0.0%	R				18/-	9/-	NA/**		

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Silver Springs	130	11.5%	R				NA/-	NA/-			
Slana	124	15.3%	R				11/-	NA/-	**/**		
Tatitlek ☉	107	85.0%		Tribal Council or Court		X	7/-	NA/-		Dry	1
Tazlina ☉	149	30.2%	R	Tribal Council and served by Kluti Kaah Court			79/-	41/-	**/**		1
Tolsona	27	14.8%	R				16/-	NA/-			
Tonsina	92	9.8%	R				30/-	19/-			
<b>Valdez</b>	4,036	10.2%	DC/M		Troopers Police	X	53/737	33/411	6/12		31
Whittier	182	12.6%	V		VPO Police	X	14/NA	NA/NA			
Willow Creek	201	11.9%	R				NA/-	NA/-			
<b>Fourth Judicial District</b>											
<b>Bethel Census Area (Number of DPS offenses in Remainder of Census Area = 10)</b>											
Akiachak ☉	585	96.4%		Tribal Council and Court	VPSO VPO	X	18/-	9/-	33/8		4
Akiak ☉	309	95.1%		Tribal Council or Court	VPSO VPO(City)	X	30/-	12/-	22/54	Dry	2
Aniak ☉	572	73.3%	M	Tribal Council or Court	Troopers	X	157/-	74/-	49/55		2

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Atmautluak ☼	294	95.9%		Tribal Council or Court	VPSO VPO	X	7/-	5/-	**/13	Dry	1
<b>Bethel</b> ☼	5,471	68.0%	SC/M	Orutsarami ut Native Council	VPO(City) Troopers Police	X	84/773	56/NA	554/408	Damp	289
Chuathbaluk ☼	119	94.1%		Tribal Council or Court	VPSO	X	34/-	NA/-	21/41		1
Chefornak ☼	394	98.0%		Tribal Council or Court		X	7/-	3/-	8/**	Dry	3
Crooked Creek ☼	137	93.4%		Tribal Council or Court			24/-	NA/-	25/14		1
Eek ☼	280	96.8%		Tribal Council or Court	VPSO VPO	X	21/-	9/-	**/10	Dry	0
Georgetown ☼	3	100.0%		Tribal Council			NA/-	NA/-			
Goodnews Bay ☼	230	93.9%		Tribal Council or Court	VPSO	X	34 -	17/-	6/16	Dry	4
Kasigluk ☼	543	96.7%		Tribal Council or Court	VPO	X	5/-	3/-	**/6	Dry	6
Kipnuk ☼	644	98.0%		Tribal Council and Court	VPSO VPO	X	24/-	8/-	36/20	Dry	3
Kongiganak ☼	359	97.2%		Tribal Council or Court	VPSO		19/-	15/-	73/45	Dry	2
Kwethluk ☼	713	94.8%		Tribal Council and Court	VPSO VPO	X	24/-	11/-	17/30	Dry	6

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Kwigillingok ☉	338	97.9%		Tribal Council and Court	VPSO VPO	X	11/-	2/-	10/**	Dry	
Lime Village ☉	53	0.0%		Tribal Council or Court			NA/-	NA/-	**/6		
Lower Kalskag ☉	267	95.5%		Tribal Council or Court	VPO	X	32/-	26/-	14/NA	Dry	7
Mekoryuk ☉	210	96.7%		Tribal Council and Court	VPSO	X	26/-	14/-	**/**	Dry	3
Napaimute ☉	0	0.0%		Tribal Council or Court			NA/-	NA/-			
Napakiak ☉	353	96.6%		Tribal Council or Court	VPSO VPO	X	74/-	48/-	45/65	Dry	4
Napaskiak ☉	390	98.2%		Tribal Council or Court	VPSO VPO	X	17/-	8/-	43/16	Dry	6
Newtok ☉	321	96.9%		Tribal Council and Court			13/-	2/-	6/**	Dry	0
Nightmute ☉	208	94.7%		Tribal Council or Court		X	12/-	4/-	**/15	Dry	1
Nunapitchuk ☉	466	95.9%		Tribal Council or Court	VPSO VPO	X	NA/-	/-	7/**	Dry	4
Oscarville ☉	61	100%		Tribal Council or Court			NA/-	NA/-	NA/**		1
Platinum ☉	41	92.7%		Tribal Council or Court			5/-	NA/-	NA/**	Dry	0

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Quinhagak ☼	555	97.3%	R	Tribal Council and Court	VPO	X	14/-	9/-	31/NA	Dry	4
Red Devil ☼	48	52.1%		Tribal Council or Court			2/-	1/-	NA/**	Damp	1
Sleetmute ☼	100	89.0%		Tribal Council or Court	VPSO	X	16/-	12/-	7/20		0
Stony River ☼	61	85.2%		Tribal Council or Court			13/-	7/-	**/**		1
Toksook Bay ☼	532	97.6%		Tribal Council or Court	VPSO	X	47/-	17/-	21/16	Dry	3
Tuluksak ☼	428	94.2%		Tribal Council or Court	VPSO VPO	X	21/-	12/-	8/25	Dry	6
Tuntutuliak ☼	370	98.9%		Tribal Council and Court	VPSO VPO	X	22/-	10/-	24/22	Dry	4
Tununak ☼	325	96.9%		Tribal Council or Court	VPO	X	20/-	10/-	13/NA	Dry	1
Umkumiute	0	0.0%					NA/-	NA/-			
Upper Kalskag ☼	230	90.4%			VPSO VPO	X	18/-	6/-	6/NA	Dry	0
<b>Denali Borough (1,893 Total Population) (Number of DPS offenses in Remainder of Census Area = 80)</b>											
Anderson	367	6.5%	R				26/-	16/-	NA/7		1
Cantwell ☼	222	27.0%	R	Tribal Council and served by Kluti Kaah Court	Troopers	X	344/-	132/-	**/8		1

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Ferry	29	0.0%					2/-	1/-			
Healy	1,000	5.3%	M	Tribal Council	Troopers		167/-	89/-	**/23		4
McKinley Park	142	3.5%	R				16/-	9/-			
<b>Fairbanks North Star Borough (82,840 Total Population) (Number of DPS offenses in Remainder of Census Area = 808)</b>											
College	11,402	12.4%	R				4/-	6/-			
Eielson AFB	5,400	1.5%	R				22/-	7/-	31/83		
Ester	1,680	7.8%	R				2,841/-	1670/-			2
<b>Fairbanks</b>	30,224	13.3%	SC/DC/M		Troopers Police	X	1,127/2,965	1,132/NA	2,794/1,619		697
Fox	300	9.7%	R				4/-	1/-	**/NA		3
Harding Lake	216	2.8%	R				4/-	3/-			
Moose Creek	542	4.2%	R				1957/-	911/-	**/**		
North Pole	1,570	7.2%	R		Police		41/1517	24/559	28/345		69
Pleasant Valley	623	8.3%	R				1/-	NA/-			
Salcha	854	5.6%	R				3/-	1/-	NA/**		7
Two Rivers	482	6.6%	R				NA/-	NA/-	NA/10		1
<b>Southeast Fairbanks Census Area (Number of DPS offenses in Remainder of Census Area = 35)</b>											
Alcan Border	21	23.8%	R				8/-	6/-			
Big Delta	749	2.1%	R				16/-	13/-			

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Chicken	17	0.0%					3/-	NA/-			
Delta Junction	840	5.6%	M		Troopers	X	351/-	151/-	175/51		10
Deltana	1,570	3.8%	R				NA/-	NA/-			
Dot Lake	19	5.3%	R				NA/-	NA/-			1
Dot Lake Village ☉	38	73.7%	R	Tribal Council or Court			11/-	1/-	NA/**		
Dry Creek	128	0.0%	R				10/-	2/-			
Eagle	129	7.0%	R			X	NA/-	NA/-			1
Eagle Village ☉	68	44.1%	R	Village Council			22/-	10/-	NA/**		
Fort Greely	461	2.0%	R				18/-	6/-			
Healy Lake ☉	37	73.0%		Tribal Council or Court			9/-	90/-	**/**		
Northway	95	82.1%	R		Troopers		88/-	52/-			2
Northway Junction	72	58.3%	R				NA/-	NA/-			
Northway Village ☉	107	95.3%	R	Tribal Court			NA/-	NA/-	**/34		
Tanacross ☉	140	90.0%	R	Tribal Court			28/-	9/-	NA/**	Dry	1
Tetlin ☉	117	97.4%	R	Tribal Council and Youth Court	VPSO		33/-	17/-	NA/**	Dry	2
Tok	1,393	19.0%	M		Troopers	X	262/-	129/-	NA/39		2

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<b>Wade Hampton Census Area</b>											
Alakanuk ☼	652	97.9%		Tribal Council or Court	VPO	X	27/-	12/-	24/79	Dry	8
Andreafsky ☼	127	90.6%					NA/-	NA/-			
Bill Moore's Slough ☼	0	0.0%		Tribal Council or Court			NA/-	NA/-			
Chevak ☼	765	95.9%	M	Tribal Council and Court	VPSO	X	49/-	21/-	15/**	Dry	8
Chuloonawick ☼	0	0.0%					NA/-	NA/-			
Emmonak ☼	767	93.9%	M	Tribal Council or Court	VPO	X	35/-	18/-	28/75	Dry	5
Hamilton ☼	0	0.0%					NA/-	NA/-			
Hooper Bay ☼	1,014	95.8%		Tribal Council or Court	VPSO VPO	X	59/-	26/-	36/92	Dry	13
Kotlik ☼	591	96.1%		Tribal Council or Court	VPO	X	26/-	17/-	34/47	Dry	4
Marshall ☼	349	97.7%		Tribal Council or Court	VPSO VPO	X	75/-	7/-	30/33	Dry	3
Mountain Village ☼	755	93.5%		Tribal Council or Court	VPSO VPO	X	30/-	17/-	66/68	Dry	8
Nunam Iqua ☼ (formerly Sheldon Point)	164	93.9%		Tribal Council or Court	VPSO VPO	X	5/-	2/-	25/16	Dry	1
Ohogamiut ☼	0	0.0%					NA/-	NA/-			

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	2000 Census DCED	% Native 2000 Census DCED	Court 2000	Tribal Council or Court 1999	Trooper Police VPSO 2001	Jail, Correctional Facility, or Lock-Up	Reported Offenses 2000+ DPS/PD	Reported Arrests 2000+ DPS/PD	DFYS Reports of Harm 1999/2000	Local Option Status 2000	Number of Probationers/ Parolees 2000
Paimiut ☉	2	0.0%					NA/-	NA/-			
Pilot Station ☉	550	97.6%		Tribal Council or Court		X	98/-	68/-	25/54	Dry	5
Pitkas Point ☉	125	93.6%		Tribal Council or Court			21/-	15/-	18/14		0
Russian Mission ☉	296	93.9%		Tribal Council or Court	VPSO	X	58/-	35/-	6/15	Dry	3
St Mary's ☉	500	87.6%	M	Tribal Council or Court	VPO(City) Troopers, Police	X	10/-	5/-	14/62	Damp	8
Scammon Bay ☉	465	97.4%		Tribal Council or Court	VPSO VPO	X	41/-	18/-	28/41	Dry	5
<b>Yukon-Koyukuk Census Area (Number of DPS offenses in Remainder of Census Area = 3)</b>											
Allakaket ☉	97	95.9%		Tribal Council or Court	VPSO		38/-	10/-	24/23	Dry	2
Alatna ☉	35	97.1%		Village Council			6/-	4/-	NA/**		
Anvik ☉	104	90.4%		Tribal Council or Court	VPO		29/-	12/-	21/9		5
Arctic Village ☉	152	92.1%		Tribal Council or Court			14/-	NA/-	19/**		2
Beaver ☉	84	95.2%		Tribal Council or Court	VPSO	X	17/-	1/-	**/15		2
Bettles	43	23.3%		Tribal Council or Court			12/-	5/-	**/NA		

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Birch Creek ☉	28	100%		Village Council			11/-	5/-	19/**	Dry	
Central	134	9.7%					8/-	NA/-	**/NA		
Chalkyitsik ☉	83	97.6%		Tribal Council or Court			18/-	10/-	**/**	Dry	2
Circle ☉	100	85.0%	R	Tribal Council or Court		X	31/-	25/-	**/13		1
Circle Hot Springs			R				12/-	NA/-			
Coldfoot	13	0.0%					19/-	NA/-			
Evansville ☉	28	53.6%		Tribal Council or Court			0/-	0/-			
Flat	4	0.0%					NA/-	NA/-			
Fort Yukon ☉	595	88.7%	M	Tribal Council and Court	VPO Police	X	7/74	NA/47	52/22	Wet	2
Four Mile Road	38	26.3%	R				NA/-	NA/-			
Galena ☉	675	67.4%	M	Tribal Council or Court	VPO Troopers	X	34/-	17/-	49/26		4
Grayling ☉	194	91.8%		Tribal Council or Court		X	42/-	20/-	54/6	Damp	4
Holy Cross ☉	227	96.5%		Tribal Council or Court	VPO	X	13/-	6/-	30/11		1
Hughes ☉	78	79.5%		Tribal Council or Court	VPSO	X	11/-	4/-	7/**	Damp	1

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Huslia ☉	293	95.2%		Tribal Council or Court	VPSO VPO	X	42/-	28/-	36/13	Damp	1
Kaltag ☉	230	87.0%		Tribal Council or Court	VPO	X	71/-	43/-	31/22		3
Koyukuk ☉	101	91.1%		Tribal Council or Court		X	54/-	32/-	20/6		
Lake Minchumina	32	12.5%		Tribal Council or Court			1/-	NA/-			
Livengood	29	13.8%	R				NA/-	9/-			
Manley Hot Springs ☉	72	23.6%	R	Tribal Council or Court			7/-	NA/-	**/NA		
McGrath ☉	354	54.6%	R	Tribal Council or Court	VPSO	X	57/-	27/-	9/**		1
Minto ☉	258	92.2%	R	Tribal Court	VPSO		74/-	4/-	NA/**	Dry	2
Nenana ☉	402	47.3%	M	Tribal Council and Court	Troopers Police	X	130/-	89/-	14/12		4
New Allakaket	36	100.0%					NA/-	NA/-			
Nikolai ☉	100	81.0%		Tribal Council or Court			4/-	NA/-	**/**	Dry	1
Nulato ☉	336	94.0%		Tribal Council or Court	VPSO	X	40/-	16/-	85/15		3
Rampart ☉	45	91.1%		Tribal Council and Court			14/-	4/-	**/NA		

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Ruby ☉	188	86.2%		Tribal Council and Court	VPSO	X	22/-	16/-	21/9		1
Shageluk ☉	129	96.9%		Tribal Council or Court	VPSO		24/-	10/-	39/24	Dry	0
Stevens Village ☉	87	95.4%		Tribal Council or Court		X	11/-	1/-	13/NA	Dry	2
Takotna ☉	50	42.0%		Tribal Council or Court	VPSO		4/-	2/-	**/6		0
Tanana ☉	308	81.5%	R	Tribal Court	VPO Police	X	11/-	8/-	**/8	Wet	2
Telida ☉	3	100%		Tribal Council or Court			NA/-	NA/-			
Venetie ☉	202	96.5%		Tribal Council or Court			44/-	28/-	10/**		1
Wiseman	21	19.0%					3/-	3/-			
<b>Total Population in State</b>	<b>626,932</b>	<b>15.6%</b>					<b>33,232/ 53,874</b>	<b>13,873/ 26,964</b>			<b>5,575</b>



## Appendix D

### Map of Corrections Institutions in Alaska

# Appendix D

## Map of Corrections Institutions in Alaska

