

Cindy Cashen, Mothers Against Drunk Driving, Juneau Chapter
Alaska Rural Justice and Law Enforcement Commission
Public Testimony
January 6, 2005

Good morning. Thank you for allowing me to speak. I appreciate you coming and allowing us to provide public testimony.

My name's Cindy Cashen and I'm the Executive Director of Mothers Against Drunk Driving, Juneau Chapter.

I've been observing the court system for the past three going on four years and I'm very—As a victim of drunk driving, I'm very happy to see great strides have been made just in the past four years alone, compared to the decades previously.

However, in the rural areas it continues to remain the same where there is a lot of miscommunication, if there's any communication at all.

We deal with victims of drunk driving in villages around Juneau. And it's very disheartening to watch the system either fall apart or not exist. And what is commendable to the court system is that they acknowledge it and that they are trying to work towards changing that.

It's my understanding, talking to people who have worked with the court system in the past for many years, some of them decades, this is relatively new. And so I want to thank you all for being part of the change.

There's a couple of—I don't want to say suggestions, because whenever someone says suggestions to me, I always get defensive. I would like to introduce to you a couple of programs that MADD has that works in places in tribal areas down south.

First I want to let you know that MADD's mission is three parts: we want to stop drunk driving, of course; we want to assist the victims of this violent crime because that's what it is, it's a violent crime. It's not an accident. And last we want to prevent underage drinking. And a major component to deal with all of this, of course is education. And that's a common thread I have heard through all the speakers.

I don't have to tell you all, I'm sure you all know that Alaska has the highest per capita rate of alcohol consumption in the Nation. So it is fitting that our sentences for the consequences of breaking the law in dealing with alcohol are higher than other states. And they are. And that is the reason.

We have such a long history of alcohol related tragedies in this State. And considering we are a relatively young State, that can be disheartening. Fortunately we have resources, such as MADD, available to the State that can introduce programs which have been proven to work based on non-bias studies. Meaning that we don't pay someone to go out and do a study on us to see if it works. We have places such as Duke University which conducts studies one, two, three years long and then they come out. And then we don't just give them a seal of approval. We study their studies to make sure that they are correct. That they've done their job.

There is a program called Protecting me, Protecting you and this is an educational program that goes into the elementary school. It takes children from first grade to fifth grade and it teaches them about how alcohol affects the developing brain. It's only been recent that we know that the brain doesn't quit developing until around the age of twenty-one. We've learned this through the help of science, medical research and MRI's. MRI's have been very helpful in determining how long it takes for the brain to develop and what parts of the brain are affected when alcohol is introduced to it.

Unfortunately—And it's probably nothing that we don't already know from unfortunately, experience. When you introduce alcohol to a developing brain, nothing good comes of it. Nothing good comes of it.

Protecting me, Protecting you empowers the children to make decisions on their own. It's been proven that it takes about five years of education before someone—they need to know something about what their going to be questioned with five years previously. Meaning that we need to teach our kids five years earlier about alcohol and what it can do to you before they can make choices that are healthy for them.

We can't start hitting them in the middle schools or the high schools about education with alcohol, when at that moment that's when they are already being subjected to wanting to try it. Being asked to try it; being peer pressured to try it. That's why Protecting me, Protecting you was started. We have it in inter-city schools. This program works quite well in that it allows each school district, each

school system to develop how they want to work the program. They can have counselors teach it; they can have the teachers teach it. The most effective way of teaching it is to have older kids teach it. High School students and college students are trained to go into the elementary schools and teach the programs.

Its been shown to work and we hope to have it introduced over a three year period to not only the schools in the cities and the towns, but also in the villages. And this can be done through computer now too. As of this month they've now put the program into a computer so that it's very friendly towards every type of school district program.

Another part of the court system I wanted to discuss was youth court. It would be nice to see a youth court supported in the villages. We have seen the excitement and the change that is taken when youth offenders—and these are usually minors consuming first time offenders around the ages of fourteen, fifteen and sixteen—when they have to go before their peers and they discuss in length what happened. And you have a youth, a teenager who is a judge, you have a prosecuting attorney and you have an defending attorney and of course they've been trained in what their rights are and what works.

And they work out what works best for that particular individual for that particular offense. And I need to add, its not just minors consuming its also assault or burglary.

The last thing I want to comment on is the need for longer treatment for high risk drivers. Thirty days is not enough. And its very frustrating to watch our lawyers keep it at the thirty day rate level when we need treatment that is long enough to include and bring into the family. We need the families involved with the treatment process, otherwise the person goes to a thirty day treatment; they're a high risk drunk driving offender, they've been doing this for a long time. You can't just expect them to change in thirty days and go back to their community and keep sober. It's not fair to them. It's not fair to the community. It's not fair to the court system.

That's all I have to say. And I want to thank you for your time.

BURGESS: Thank you very much. Just a couple of quick questions. Does MADD deal with impaired driving beyond alcohol? Or is it primarily alcohol?

CASHEN: We are about alcohol. We do participate in forums and listen to, of course, naturally the effects of other drugs but we focus on alcohol.

BURGESS: Any other questions by any other Commissioners?

_____: How is the youth court supported?

CASHEN: How is it supported?

_____: Yeah.

CASHEN: Right now there's federal funding and there's a lot of it. I happened to have just joined the Juneau Youth Court Board and its—And I've observed them in the past couple of years and it's very—Its amazing to see what a difference they make. It's easy. It's easy and it's not that much money. But there's federal funding available.

And what I've seen is that the smaller towns have hooked on to say Anchorage, Juneau, Fairbanks and they help them get that funding. So what I would recommend is that the villages hook onto these towns such for instance Juneau and start tagging along with that. It's easy and it's not that much money and it's out there.

BURGESS: Any other questions by Commissioners? Commissioner Justin.

JUSTIN: Thank you. The question that I have is kind of really general because it looks at the cost of alcohol use in the State of Alaska.

Does MADD have any studies or published findings on the overall cost that alcohol in the State of Alaska in the justice system or maybe _____?

CASHEN: That's a very good question and comment. MADD doesn't do studies, we take a look at the studies that are done and then we either approve them and back them up or we don't.

And it depends on which study you look at it. According to the McDowell report, alcohol abuse cost the State of Alaska \$463 million dollars.

JUSTIN: Thank you. I knew that the cost was really high. I didn't have any specific numbers. I know some of the costs associated with in the health field because that's my background. But I'd appreciate it maybe if you could forward that study to us. I would like to request that.

CASHEN: Yes. I'll go ahead and do that. Thank you.

_____: Mr. Chairman, can I just a comment. _____ that we did hear some critical remark about youth court and that sometimes its not appropriate. It would be more appropriate _____ Elders. But the common theme even with that criticism is the importance of early intervention. _____ that whether its youth court or looking at Elders in the village that would not allow violations to occur several times before they'll bring in full force of the law in terms of juvenile justice. That _____ Juneau justice _____ - the importance of stepping in early – first infractions-- not waiting until we have a situation that's not salvageable.

CASHEN: I think that's a good comment. We need to remember that the drunk drivers today were—and almost always were minor consumers of yesterday who's cases were dismissed or their sentences were suspended. It's a tragic to see their history. You can see it coming.

BURGESS: Thank you.

END OF STATEMENT

Bob Hamilton
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Good morning, everyone. My name's Bob Hamilton. I'm currently the President of Kootznoowoo Inc., which is the ANCSA Corporation for Angoon.

A little bit of my background; I grew up in Craig. My grandfather was one of the founders – George Hamilton of the community. I'm a third Haida.

So I grew up in Craig, which was on the west coast of Prince of Wales and I have lived twenty years in Anchorage and now reside in Juneau.

I spent two years in Hydaburg. I'm very familiar with Angoon. The villages have been hit economically. There's very little work. Lots of crime; lots of drugs and alcohol. So the situation is not really good. And I'm sure that's what your kind of tasked with looking at is what do you do in the face of this.

From my experience, especially in Hydaburg which is kind of notorious, there is almost this combative view point of law enforcement -- of people trying to force laws on us – this kind of thing. That attitude makes it very difficult for anyone to go in there. I've seen VPSO's go in and last maybe a month or two months. Try to arrest certain people; the wrong people and they're gone.

I was speaking to the tribal president at Gambell yesterday and just trying to get some ideas on what to present to you folks. And he said, there should be an orientation for a law enforcement person going in. And then we were talking about that a little bit as far as the community and then he said the community should have an orientation to the law enforcement.

So it started me thinking about that and its kind of true. It's sort of like there's not this viewpoint of laws are necessary; they're helpful in certain ways -- this is why this is all being done. You're not really going to get that anyplace.

And probably even the community such as Juneau, you won't get that.

But it was just an interesting perspective as far as what if you went into a town and you took that approach; you were in the schools; you were at the city council; you

took more of an educational approach -- well here's why we don't allow drunken driving and why should we enforce that in your community and why should everyone be involved in that kind of thing.

So that was an interesting viewpoint because you really look at trying to go in with one police officer – for example Angoon had one for maybe a month and a half. You really can't do it yourself trying to enforce the law. You really have to have the support of the community. So how do you get that?

It can't look like someone from the outside's doing it. Like a trooper goes in and—I don't know—There's different—certain individuals do better with small towns than others when they go in. But it really has to do with the attitude. For example, in Hydaburg if the Troopers are trying to get somebody, they can disappear in a town of five hundred.

And it's just the attitude of the community; if they feel that they're all part of creating a safe community, then they're going to hand these guys up. If they think that somebody's just trying to get one of their guys, it's just like in prison – nobody will squeal. And while I was there, somebody stole a safe out of the ANB hall. The money goes to help the kids on trips and so on. But nobody would report who it was.

It's just like you have to start with the community itself. In that regard, the only thing I've really seen—some things that I think are bright spots -- I serve on the Sealaska Heritage Board and I was at a meeting and they were talking about Haida being taught in the schools again and the changes it was making in the kids. And this is more a positive; this is some things that are actually having a beneficial affect. And the kids are really into it. It's made a change in the community and it really touched me.

And I started thinking about right now as far as Native values, there's kind of resurgence going on which has been very beneficial. Instead of feeling like we're just fighting the things that are being forced down our throat, it's like we can be proud of certain things of our own.

And in fact there was some work done here recently with the Central Council and maybe some of the gentlemen later can speak to that where a list of Tlingit values were put together. And I don't know to what degree its really been gotten out into the schools or whatever it was, but what I've noticed is that when people feel really

self-determined about their life; when they feel like they have certain values that they're trying to live by, that they lead better lives.

I've heard of other programs like this that have been very successful elsewhere. There's a Set a Good Example contest that uses A Way to Happiness booklet which is an honor religious moral code where the kids practice setting good examples and they get rewarded; they get trips to Disneyland and so on and so forth.

I don't know how realistic that is at the village level, I think there is pieces and there's things out there that can be pieced together I think that could make a big difference; that you could really focus on some of these things and get a change.

Because really, the only reason a person gets in trouble with the law is because they're not managing their own life. They're not keeping their own integrity; they're own morals. And maybe they don't even know what those are. A lot of times they don't have the best examples.

So if you can I think focus on those kinds of things, it can make a big difference at the local level. But it has to come, I think, really from inside.

That's all I had.

BURGESS: Thank you very much. Any questions by any of the Commissioners?
Or comments?

JUSTIN: I appreciate your comments and the experience. One of the charges that we have to contend with has to do with the exportation of alcohol in small communities. And you spoke of the high tolerance of behavior in particular communities, in your arena where you're speaking of, do you have the alcohol and subsistence abuse issues that you see elsewhere?

HAMILTON: Oh yeah. Definitely. I think one of the things is – I jokingly call them damp towns. But dry towns like Angoon, where there's not supposed to be any alcohol. It's bootlegged in.

JUSTIN: Do you know the price of the bootlegged alcohol?

HAMILTON: Oh. It's very expensive. Yeah. But it's almost like its own little economy. It's sad to really say, it's like Afghanistan. What do we do with the opium crop? These guys live off of it. A lot of those people are related to city council members. It's not a real cut and dried thing. You can't just say, well we're just going to haul these guys off to jail. And you probably have that from your area too.

JUSTIN: The reason I mentioned that is because it's absolutely correct in my estimation to regard alcohol importation as an economic issue. And that the network perhaps is illegal. But the point to know is not denying that there are set prices no matter where you go in the State of Alaska and the network function.

I think part of what the Commission here needs to do is we start looking at how to offset that kind of a distribution system before you start making laws to take care of it. Thank you.

HAMILTON: Yeah. One of the things, just from growing up on the west coast of Prince of Wales is, Klawock was always a dry town and Craig was wet. So everyone went down to the bars and drank. So then you'd have accidents on the roads and so on.

Well eventually what happened in Klawock is they went the other way and they opened a package store. So I don't know. Drinking is kind of a personal thing whether you drink to excess or moderation or whatever, but they recognized that things were worse having it where everyone went to Craig and then drank and partied and then ran off the road, than having a package store in Klawock. That was just something that I've observed.

BOTELHO: Can you give a couple of examples of ways that you think that a community might be able to establish that core certain or conviction about any of the lawful.... Do you have other ideas – languages—you used the word self-determination. How do you come forth....

HAMILTON: Yeah. I think really if you carry—what I noticed with like in Hydaburg, the example there and a lot of villages in southeast is

that when we started to bring back the language and the arts and someone to carving and the beadwork and so on, people started having more pride in themselves.

It's like well how am I representing my culture? You see. Rather than, am I being a good citizen? It's almost like the good citizen is yet to come. You know what I mean? It's like well at least what I am doing is I'm trying to live more like my forefathers as far as more dignity and so on. And you see it here in Juneau; you see it in the villages to varying degrees. It comes and goes. But it hasn't really gone beyond that phase.

There's probably a progression where like I said, there's been local efforts to come up with some sort of moral code for -- this is the Tlingit way.

And good citizenship in any culture is going to be a lawful citizen. So we're also citizens of the State of Alaska and the United States. But see, I don't think that's really tied in very well. Its like, well that policeman's there to keep you from speeding. I mean, that's how we think of him. We don't think, well maybe speeding will cause accidents; will harm people.

So there's really a disconnect, basically what I see. And it's up to that person to enforce the law; whatever that might be because it's good for us.

BOTELHO: _____ suggest in some respect each community to maximize success about justice needs to reinvent on its own, what its community standards are.

HAMILTON: Yeah.

BOTELHO: And reach some consensus. I think your overall message—the outsider coming in and simply saying this is the way it's going to be and enforcing it, it has no community buy-in.

HAMILTON: Yeah. A law enforcement officer comes into enforcement law, he gets in trouble with the wrong people right away and he's gone. What can he get support for? Locally.

And then he has at least a little direction to go and somewhere to move from. Its not just that's the end of it. I mean there's been some severe tragedies in Angoon brought on by drinking and fighting and things that escalate over time that weren't stopped soon enough.

But you usually can't just jump in the middle of something like that if you're new or even if you've been there a while. So you do have to have support for it and these tragedies happen again and again. You see them coming, but there's no real mechanism for let's not go off the road here, let's try to redirect this thing – with the kids drinking or couples fighting or whatever it is. But you see it and you see the sad consequences of it.

_____ : We've heard _____ a lot about a lack of law enforcement presence in the villages around the State. And the fact that that presence doesn't exist ___ being a problem ___ allows for _____ violence and lawless behavior to continue.

And then we've heard a lot about how when the law enforcement presence is provided, it's outside the core organization of the village and not effective or _____ what we're talking about here. So _____ choice there. What do you think and what would be your recommendation to the Commission? What's the missing did you see in Angoon or Hydaburg—the fact that you spent a couple of years in Hydaburg and know that area well. And I've been into Hydaburg—I'm sure others have--from times and it's a difficult place.

HAMILTON: It is.

_____ : It's a tough place for law enforcement.

HAMILTON: Yeah.

_____ : What would be--And it's a little bit of insular place, I mean, that village one where, I think people coming in from the outside do have a difficult time.

HAMILTON: Oh, definitely.

_____ : _____ so what would be the missing element? It's a tough question. But what could you offer the Committee? What could we add to the mix in a place like Hydaburg that could improve the situation and make it a safer place?

HAMILTON: Yeah. I think Mayor Botelho got it. He kind of touched on it as far as what is it that's important to that community.

Myself, a law enforcement person might see it from a different perspective; be it a Trooper coming in or whatever. And a lot of it is—And you'll talk to different Mayors who will say we can't have local enforcement; we can only have Troopers here. And you hear about it. I hear about it too. Well why is that? Because that divorces you completely as far as any kind of responsibility. Well it's the State's job to do this. No. It's your community; it's your neighbors; it's your relatives. You see what I mean?

So somehow you have to start bringing that in. I don't know how this would go in Hydaburg, but if you had a community meeting and you sat down with them and said, okay what do you see as the most important thing from the community perspective that we need to be addressed here.

Somehow they have to have some accountability and some responsibility in the thing. It's too easy to say, well that's his job. And that doesn't work. It's already proven that doesn't work. And there's never enough money and enough policemen to do it because you don't have community support.

A crime happens, everybody knows who did it and nobody says anything. And it's so easy to trip into that. And guys do it constantly out there and they fail. And they go; I don't want to do that. I'm going to work for the State Troopers and I don't

want to work at a local level anymore. There's a huge burn-out rate at these small towns where there's just like one guy. So my hat's off to anyone who tries to do it, because I know what they're up against.

But the community, they have to somehow get the community to buy into here's what we're going to do. Be it a curfew or whatever it is. Where do we start? Do you want the kids off the street by ten at night or something. But see, everybody's got to help the guy out. You start someplace and you say, hey we managed to accomplish something. Here we did, not I did. I chased those kids all home.

So it's different from town to town, but somehow you have to get some kind of process going where there's some involvement, I would say.

_____: Thank you.

HAMILTON: Yeah. You're welcome.

BURGESS: Thank you very much.

HAMILTON: Okay. Thank you.

END OF STATEMENT

Chris Howard, Pelican Fire Department
Alaska Rural Justice and Law Enforcement Commission
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My name's Chris Howard. I'm glad to be here and say something. A little background of myself, I've been in the Pelican Fire Department for about twenty years. A volunteer only.

I've been a medic for thirteen years; carried the rescue radio 911 call-out twenty-four hours a day a month at a time.

I also happen to be a victim of arson which is a horrible crime. Arson does not care of your color, your race, your age, anything. It just takes.

Now I have a complaint about the investigation and how the investigation has been dealt with by the Alaska State Troopers. I've had evidence, video evidence, and as a fireman I know more than likely you're going to catch the arsonist at the fire – at the fire scene especially in a small community.

Now I was called out to put out my own building, for one. Now being the only one that knew how to operate the fire engine and the hydrant system, of course, I went and got everything rolling and everything going. And then I also got a video camera and I videotaped the fire scene and the people there and the evidence of foot tracks going in and out the building.

I also that evening contacted the State Troopers, the Fire Marshals Office and the local Juneau Fire Department.

Now at this time there was also a murder investigation going on in Tenakee. And due to that, the Jerry Gentile—the State Fire Marshal showed up. He—Actually. Oh, I'm excuse that. That was a different incident. Sorry.

This fire happened in September. So it was long after that.

Anyway Jerry Gentile showed up and did an investigation. He took his investigation and handed it over to the State Troopers. Now the video I took, I surrendered to the State Troopers to try and help with this arson investigation. I

was later given that tape back from the investigating Trooper saying, oh there's nothing on it.

I reviewed that tape before I gave it to him with two other federally certified firemen. There was something there.

Now after the fire, I was assaulted. Of course, something like this happens when people involved don't want to get caught. They want to start doing things that will either put the investigation off to one side or to run you away or make their problem go away – which would be the victim.

The victim is who's going to accuse them or whatever.

So I was assaulted. There happened to be an eighteen year old kid who witnessed it. I had no idea he witnessed it. Now I contacted the Troopers about the assault and the same Trooper who was doing the investigation on the arson shows up, interviews me and interviews the guy who did the assault and interviews the eighteen year old high school kid. It's a cut and dried case of assault. I never hear anything about it. Months later I contact the Trooper again. Oh gee, I'm sorry, I apologize I forgot to do the paperwork.

Okay. So months later, I contact the Sitka district attorney. Whatever happened? Oh I never got it. So now I'm a victim of arson, now I'm a victim of assault and the assault's cut and dried. The arson's a little harder to prove.

But overall there was an eyewitness to the arson and she didn't tell me what happened. Now he was interviewed by the Troopers. But when he was interviewed by the Troopers, he was interviewed in front of two other people. To me that's sloppy investigation work. If you really want to get down to the truth, you don't interview somebody in front of other people who may know something or may be involved.

Now later on, this last summer there was another building that burned and _____ for it. Now I have no idea what happened there or anything, but I do know there was a little bit of talk about it. Nothing to indicate arson or accident or anything, but it was more or less, oh gee which boat house is next type of attitude.

Now the real problem we have here is that hey, you know what, nobody got hurt. I rolled the engine; we kept the town from burning down. Yes, they're very sorry they did it. You know they are. I could forgive them. Sure. My building was

uninsured. I lost a large amount of money and personal business that's just tough. It's really hard.

But the real problem we have is now we have individuals that have been allowed to—because of the sloppiness of the investigation get away with arson. And what are they going to do next? It's like they were rewarded. I don't even think they were interviewed, to be honest with you.

And the Maggie B. murder investigation ___ parallel to that was the quality of the investigation on that murder case too. I related a parallel of the sloppiness of it. And that's how that came up.

BURGESS: Thank you.

HOWARD: Yeah.

BURGESS: Any questions?

HOWARD: Thanks

END OF STATEMENT

Alfred McKinley
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Thank you very much. First of all, my name is Alfred McKinley Senior. And I'll give you a little background about myself.

I was born and raised in Hoonah, Alaska. And I traveled around with the State as I worked for the federal government. After thirty-five years and seven months, I worked in the financial management and sometimes I'm an auditor and I guess nobody likes auditors.

I retired in '94 and after I retired in '94, I started working for my people and it looks like I'm working harder than I did when I was working for the federal government.

Well anyway, my background, actually I went to school at Mt. Edgecombe School and after Mt. Edgecombe I was drafted into the armed forces and I have a total of seven years in the military – from '51 to '57. In the armed forces, I was a personal management specialist supervisor and I worked with the FBI. Any FBI's in here?

And that's when I started getting interested in law, when I worked with the FBI, CIA. And right at this time I'm an executive committee member of the Grand Camp Alaska Native Brotherhood. And I'm also on the judicial community of the Central Council Tlingit and Haida Indians of Alaska. And that's about it, I guess, that I can give you.

First of all, I got notified, just like what Paul has stated. I just looked at my computer last night around nine o'clock about this public testimony and there wasn't very much time. But anyway, we got into my computer and started typing, but I wrote down what I have stated.

Thank you for giving me the opportunity to testify on the problems we have with the State Court System in the State of Alaska.

My name is Alfred McKinley Senior; appointment chairman of the legislative community; grand camp Alaska Native Brotherhood and I'm also on the judicial committee Central Council Tlingit and Haida Indians of Alaska.

I'll cite the problem which occurred last year.

One of our Native people pleaded guilty on charges, but the person was not aware of what was going on. After he became aware of the charges and he realized what is going on, he changed his plea to not guilty. The court denied his plea and was sentenced.

Just like what Paul stated, this person actually went to Arizona.

In my opinion, his United States Constitution was violated including the Indian Civil Rights Act of 1968. There are ten paragraphs. I will only quote eight through nine.

Number eight states that denied to any person within the jurisdiction the equal protection of its laws or deprive any person of liberty or property without the due process of law.

I guess due process comes under the Fifth Amendment.

Number nine, past senate bill of attainder or ex post facto law or ten -- deny to any person the choose of any offense punishable by imprisonment, the right upon due request to trial by jury of not less than six persons.

Like what Paul has stated, sometimes our people are tried and sentenced without even a jury trial. And that's a violation according to the Constitution of the United States.

The above reasons are why a lot of our Native people are imprisoned today.

Enclosed is the resolution 19 which was adopted by the Alaska Native Brotherhood and the Alaska Native Sisterhood's Grand Camp last year at the Sitka Convention.

The Alaska Native Brotherhood actually consists of the entire Southeast Alaska, Anchorage – I think we have some in Barrow – all up in that area.

And when we meet, we actually discuss problems of our people to better our Native people. Actually, the resolution that was passed, actually it's a lengthy resolution. But I will attach it. It's all typed written.

I think I can just read the resolve clause. I think that will be it. I think that'll be short enough so I won't go over that ten minutes. Like Roberts Rules, I guess, you go over that and that's it. I'm familiar with Roberts Rules with the ANB. I know them front wards and backwards.

Therefore be it resolved that Alaska Native Brotherhood and the Alaska Native Sisterhood in Convention in Sitka, Alaska of October 8, 2004 adopt this resolution and stand by the purpose of the Grand Camp Constitution which states in part, to overcome the narrow of injustice of race and prejudice. And to create a true respect in Natives in other persons with whom they deal.

Further resolved, the Grand Camp of Alaska Native Brotherhood and Sisterhood call upon Alaska Native leaders, tribes, parents and young people to resist racism, discrimination, intolerance by speaking up and awareness of good public policy and education and laws enforcement without themselves responded in violence of civil disobedience or narrowing public discussion.

And we further resolve the Governor of Alaska, local government officials, school district officials and Alaska's State Troopers and local police departments are hereby called upon and request increase in public education providing protection of citizens and heighten awareness against intolerance, hate-crimes, violence, stalkings, rapes, racism and institution racism profiling and discrimination.

And we finally resolve that the United States Department of Justice – I guess that's your people – Federal Bureau of Investigation Civil Rights Division is hereby requested to undertake an investigation of the Alaska State Troopers and the local municipal police departments to inquire into patterns of discrimination reported by victims and the description investigation practices of these law enforcement agencies.

Signed by the Grand President, Ronald Williams and its signed by the ANS Grand President Joanna Dipdall. And attested therefore by Natalie Williams, the Grand Camp Alaska Native Sisterhood Grand Secretary.

And to alleviate some of these things as far as sentences of our people. I'd like to point out like my brother-in-law was John Hope Junior who was actually hit by an automobile and the person that actually hit my brother-in-law was on the cell phone and intoxicated.

Well anyway the person, he killed my brother-in-law -- he died. In the meantime, the person that hit him actually was given one year. But if our Native people hit a non-Native, he'd probably get about the maximum of ten years.

So there is lots of discrimination in the State of Alaska and that needs to be looked at by the FBI.

Anyway, something needs to be looked at. Not only on the streets but in the federal offices, state offices, municipal governments – they need to look all the way down the line. Get someone in there and start checking it out.

I know there's discrimination out there. It really hurts. Like when I served in the armed forces, there's no discrimination in the armed forces. And sometimes, I wish I had stayed in there. But when you're a sergeant, I guess it's really difficult. But you get to be hated, but you need to bring back those people alive; back and send them home if you want to get out of the services.

I mean, those are the things that I used to do in the armed forces. And while in the armed forces, I actually worked with the FBI and get the person back that had went AWOL – brought him back home. And I just tell the mother and dad that you need to get this person back or he'd be a man without a country and it'll be hard and difficult for that person to get a job.

Those are the type of things that I did in the armed forces. When I got out, I went on to college and that's where I received my degree from Denver, Colorado. And I worked for the federal government and so forth.

But those are my testimonies. But it's really getting better, getting better. There's lots of crimes out there against our people and the police officers—I talked with the police officers and I told them, you need to do something about it. A lot of our people – Native people – are getting beat up on the streets there. If you don't do anything about it – I said, okay what do we need do then? If you don't correct that. I said, we'll start teaching our Native kids how to fight. Is that what you want? The police officer said no.

We were taught how to take care of ourselves. How to annihilate the enemy and so forth in the armed forces. And I have my brother here, Frank White. He's a force recon individual. Do you know what a force recon individual can do?

And that's my testimony and I hope that you will look and thank you for coming up to Alaska and take care of some of these problems that we have in the State of Alaska. It's kind of difficult. After I retired from the federal government, I didn't know all these things were going on until I retired. I just took care of myself; went to work for eight hours and got back and teach financial management throughout the United States and Alaska.

That's all I have. Any questions?

BURGESS: Thank you, sir. Any questions by any of the Commissioners? Commission Justin.

JUSTIN: Thank you. I applaud your background and your sense of civic duty. I did have a question for you on the resolution. In the resolution, one of the terms you used is "intolerance". And perhaps you could speak a bit as to how you would apply that term to some of the Commissions work, particularly in _____. Particularly in the findings we're expected to come up with on alcohol and juvenile justice.

MCKINLEY: Well intolerance actually was—To me I think it that would be ___ permissible. If a citizen's born and this is a free country and we all work for that democracy. And like what their trying to do in Bagdad and all of these places, what the United States is trying to do over there. But on the judicial committee that I am on, we're trying to establish a tribal judges – a tribal judge in Alaska where we can be a better job than the State government because we know our culture.

Our culture actually _____ individuals. Like for example, with me, I'm an Eagle. I'm Eagle, Shark Wishkee'don (phonetic) from Hoonah. And if a child actually is born and the child gets abandon, well to me, I will assign that child to the same clan like me. Not to just anybody. The way the law is written, it says if you can't find anybody to take care of that child, then it goes to a non-Native. And its kind of difficult to—I try to work with our people to establish some of these things too.

I'm glad now I'm reading the American Indian law and some of these terminologies that they use in there are really different from financial accounting. And it's really something else. Like

sporadic, all these terminologies that they use. Its really something else.

I have a friend, that's Marie Hogan. She's from Canada originally. And when she said that I don't know about these liars. She said liars. That's how she says it since she's from Canada. What do you mean, the liars? That's supposed to mean, lawyers? Yeah. Whatever you call it. But I don't like these liars. That's all kinds of things that I—I have all kinds of stories in this area.

But I grew up—My dad raised me up real good in the non-Native world. And I guess that's one reason why most of us—every one of my brothers and sisters are gone to college or got to where we want to go. I was fortunate to have a dad that actually taught us all these things.

Any questions? I'll be glad to answer them.

BURGESS: Any more questions? Well thank you very much. We appreciate your testimony. Didn't you have a copy of that resolution you could leave for us.

MCKINLEY: Oh. I'll leave that right here.

BURGESS: Thank you.

END OF STATEMENT

Paul Nelson
Alaska Rural Justice and Law Enforcement Commission
Public Testimony
January 6, 2005

My name is Paul Nelson. I'm a member of the Alaska Native Brotherhood, Camp 5 in Haines. The ANB in Haines has formed a legal commission to assist people with legal problems and I'm the Chairman of that legal commission.

I'd like to start with a quote from a speech that Senator Georgiana Lincoln made in 2001. And I quote, "there is no disagreement that there is an obvious disparity in the percentage of Alaska Natives entering the justice system. The question must be asked, what keeps the situation from resolution."

To address this, I would like to take a closer look at the cases that the two gentlemen testified by phone. The ANB has been involved with both of those cases and assisted both of those gentlemen to get out of prison.

For example, Mr. Richard Warren, he lived in Yakutat. He had no prior offenses. He was forty-five years old. When he was arrested, he was appointed a court appointed attorney because he could not afford one. In that same hearing, his bail was set at \$25,000. So here we have the court saying yes, that's correct, you don't have enough money for a lawyer, but we're going to nail with \$25,000 in bail. That is a violation of the United States Constitution: Fifth, Eighth and Fourteenth Amendments and the Alaska Constitution, Article One Sections One, Three, Seven, Eleven and Twelve.

A jury trial was scheduled in Mr. Warren's case and in the omnibus hearing where that was scheduled, the order was written – the defendant will not waive trial by jury. While awaiting trial, because he could not afford his \$25,000 bail, of course if was incarcerated at the Lemon Creek Correctional Center. Mr. Williams was forced to submit to DNA and blood testing. Because of a mere accusation against him, this was prior to any trial or any conviction, the judge ordered that he submit to blood and DNA testing.

These tests also violate the United States Constitution and the Alaska Constitution.

In a recent case titled "David S. Noye" versus the State of Alaska, it was opinion 1906 dated November 14, 2003, the Alaska Court of Appeals ruled that the privacy

of the individual as guaranteed in the Alaska Constitution, Article One, Section Twenty-two cannot be invaded by the State.

So here we have the Court saying, as we all know I think, you can have four ounces of pot in your house according to the Alaska Supreme Court, but Mr. Warren had to give up his blood and his DNA simply because someone accused him of a crime and he could not afford to make the bail.

On January 3, 2003, Mr. Warren's public defender filed his first and only motion to discover evidence. This was ten days before Richard's trial. His first and only motion.

His public defender knew full well the discovery request was not timely in this type of case. The prosecution brought expert witnesses. The public defender did not bring any expert witnesses. The prosecution did not depose any witnesses.

On February 5, 2003 Mr. Warren was offered a deal. He did not know the consequences of the deal; he was not presented a document to sign. To this day, he has never seen the deal that was made. He was not given a copy of it. His attorney told him – his public defender said you're going to either spend years in prison if you don't take this deal.

While Richard had already sat in jail for months and he was scared. And this was his attorney advising him; well you better take this deal. So Richard did. He soon realized the mess that he'd gotten him in. He was now a convicted felon; unable to own a gun. Branded as a child molester. And we want to remember that owning a gun is essential for Richard's subsistence lifestyle. But here he is now, he can't even own a gun.

Well he asked for a post conviction release, and as he told you, his public defender did nothing.

While he was incarcerated, Richard was told by his probation officer that he should not file a post conviction release and that if he did file a post conviction release, he would be shipped to Arizona. Richard did a file a post conviction release and the following day he was shipped to Arizona.

Now remember, Richard had never been out of Alaska in his life before he was arrested. But courtesy of the State of Alaska, he got to visit Arizona.

Now when he was in the Lemon Creek Correctional Center, he was denied access to the law library. The State of Alaska Department of Correction rule 81402 states that the law library shall be open for a minimum of six hours per day.

I spoke with the Commissioner of the Department of Corrections, Mark Anthrum, and explained the problem with the law library access not complying with the DOC's policy manual. The Commissioner said he would look into it and call me back. The Commissioner called me back the next day stating that he had called Lemon Creek and found and I quote, Richard is not being denied access to the law library, he can use the law library for one and a half hours per day then he is forced to do something else, close quote.

I responded, that sounds like discrimination. The Commissioner responded and I quote, it is not discrimination, we are just forcing Richard to do something else.

Now this is a copy of the appeal that was finally filed by his public defender and the ruling is, it's late. This is his State appointed attorney who did not take the time or who knows why it's late. I don't think too many of us here are probably attorneys, but I think we know that there's time deadlines and if you don't file on time, it's thrown out.

So this man's life is tossed out because his attorney can't get it in on time. His public defender.

Now when Richard finally got out on parole, he was dumped onto the streets of Juneau, literally. There was no plan for him to try to get home and to make his life start again in Yakutat. He was forced to stay in Juneau; spend his money in a motel room until his parole officer finally said, okay I've checked out Yakutat you can go home. But none of this was planned before he was let out of jail. He was literally dumped on the streets and could've very easily ended up back in jail. Fortunately he's home now.

The other issue I'd like to touch on, is the denial of access to the grand jury. The Alaska Native Brotherhood has found that the grand jury in the State of Alaska is a private tool of the District Attorney.

The District Attorney has made it so it is virtually impossible for the people of Alaska to access the grand jury. The Alaska Native Brotherhood asked for and finally got after months of wrangling and a personal promise from then Governor

Loren Leman that he would assist us to get a grand jury hearing. We finally got one. But it took literally months to get before the grand jury.

I approached the grand jury and I asked them; eighteen people sitting in that room – I said, have you ever seen this booklet? And they said, no what's that? It's the Alaska Grand Jury Handbook. I handed them each a copy because I had a pretty good feeling they had never seen it. So what was happening in that grand jury and happens in every grand jury in this State, the grand jurors are taken in; the District Attorney tells them exactly what he wants them to know; he tells them exactly what he wants them to do and he does not provide them with this booklet as he is supposed to provide them.

Now I provided them these booklets. By the end of the hearing, the grand jurors were waving them in the air saying now we know what our rights are.

Now I don't know what the answers are, but I would like to make a few suggestions, if I might.

We need to get the grand jury back to where it is accessible to the people as it is supposed to be by both Constitutional and State law. We need to educate our children and the people as to what their civil rights are.

I went to school in Alaska and I'm sure I was an obnoxious high school student, but I do not remember anything being stressed or even told about how important it was to know your civil rights; how important it is to know how to get out of jail on your own because the public defenders' not going to help you. And how critical it can be to your life if you're falsely accused or even properly accused that you know how to take careful of yourself in our judicial system.

And finally, I would like to say that this hearing was not well advertised. I only found out about it two days ago. And I think it could've been more well advertised and I think you would have got more people here.

Thank you very much.

BURGESS Thank you. Any questions by any of the Commissioners?
Commissioner Justin.

JUSTIN: Thank you much for your presentation. I appreciate it. You mentioned that the Alaska Native Brotherhood has formed a

commission that you had chaired—you were chairing the commission. How long has this commission been in effect?

NELSON: I believe we started in 2002. That's just from memory. I'd have to do some research, but this was just camp five. I don't know of any other camps that have actually started a legal commission or committee.

JUSTIN: _____ the commission has plans to continue its work and maybe look other _____ of the justice system?

NELSON: Yes. Definitely. We're open to complaints from anyone and we do meet and look into problems that we feel are occurring in the justice system.

JUSTIN: Thank you.

BURGESS: Any other questions? Thank you very much for your testimony.

NELSON: Thank you.

END OF STATEMENT

Joe Soneman
Alaska Rural Justice and Law Enforcement Commission
Public Testimony
January 6, 2005

Hi. I'm Joe Soneman. I live at 324 Willoughby here in Juneau. I'm an attorney and I also first earned a Ph.D. in government. So there's a lot that I don't know. The more you learn, the more you learn how much more there is.

And my interest is perhaps a little divergent from yours, but I've been interested in the subject of what's happening in Alaska's correctional system for some time and so that's what I'd like to talk to you about. But I'd like to first sort of loop way out and then come back to that so bare with me.

(Discussion regarding time limit between Burgess and Soneman)

So I'm going to start off as I said talking about something pretty far out and then come back. And that far out area has to do with the European Economic Community. Gee whiz, what does that have to do with anything, but we'll get there.

After World War II, the Nation's of Europe sort of looked around and said what happened to us; we thought we were at the head of everything and here's this upstart Nation – the United States that's not even two hundred years old and they're doing fine and we're in ruins. So they set out more or less to try and imitate us. I am simplifying it.

But one of the things they did along way was they said, okay we're going to set up a free trade area just as the United States trades freely between its States; the Nations of Europe would trade.

But it was hard for them to get used to that because for so long they had been nationalistic and had tried to protect their home industry. So there was a court to administer the early Treaty of Rome and the court is called the European Court of Justice. And the first series of cases which came to it were known as Beer and Wine Cases because there were a lot of issues involved in the production of beer or wine.

One of these cases is called Cassis de'sean (phonetic). Cassis is a blackberry brandy. And Germany had passed a consumer protection measure saying that Cassis in order to be sold in Germany had to have a certain percentage of alcohol. And you won't be too surprised to find out that all German Cassis had that percentage of alcohol, but no French Cassis did. Okay. But remember, the whole point of the European Economic Community was to have free trade, not to bar one country's imports to another.

And so the European Court of Justice cut through the ostensible reason for the German law with a very interesting principal and that principal is what I hope you will remember, rather than all the previous stuff.

And the principal was a measure—I'm paraphrasing it—but a measure which has an effect equivalent to that of a prohibited measure is itself prohibited. What a wonderful concept. That was great. Because in saying that they said, you can't fool us; you can't fool us by saying this was for consumer protection. We see that the effect was to ban all French Cassis coming into German and you've signed a treaty saying that you're supposed to allow it, so we're going to throw out that consumer protection law.

Well this is a great principal. I look for it also in the United States law and I found it in a few cases in employment law where for example if something is—you may have heard this—if its spatially neutral that has a discriminatory effect. Very often that law or measure, as it was said in the European instance, is thrown out.

And in Alaska, I look for this principle also in Alaska law, and it pops up mostly in usury transactions. People have gotten very creative sometimes in trying to disguise a contract which actually ends up being far too high in interest rate and the courts in Alaska are very good at penetrating through that subterfuge.

So I've seen this principal now in different areas of the world; in Europe, in federal law and in Alaska and now I come a little closer to where you're at. And I asked myself, what's the situation with considering the whole Alaska criminal justice system? Okay. What is the effect of that? And is it equivalent to a prohibited discriminatory effect?

And I turn to the website for the Department of Corrections which has a very interesting graph on page seven—this is on the website—and its now called the offender profile. It used to be called the inmate profile. But the inmate profile is very interesting because somebody at Corrections was very courageous, I think in

presenting the graph that's on page seven. It shows the rise in the State population as opposed to the rise in the prison population.

And in simplifying the numbers, which I'll hand out to you later, but basically the State population is going up at a relatively gradual rate of about 37% to 40% increase over a ten year period, while the prison population is going up at about 60% rate. So the prison population is increasing a rate, which is 50% higher than the whole population. So something is very skewed; very unusual it seems to me is going on in Alaska in the criminal justice system. The prison population is going up very rapidly.

And then after we look at the prison population, let's look at the number of Natives who are in prison. Because that was the point – was to see if there was a discriminatory effect. And if there is, then there's something wrong with the whole Alaska criminal justice system.

I don't have all the numbers. As I said at the beginning, there's a lot that I don't know. But again, there's an Alaska Natives Commission which gives numbers for the number of Alaska Natives in Alaska; about 86,000 in 1990; up from about 64,000 in 1980 and I found another source that said there were about 98,000 Alaska Natives in the year 2000.

So the rate of increase in Alaska Natives is slowing down. It's still rising, but the rate of increase is slowing down.

I don't have all the numbers for the prison population because the offender profile in the Division of Corrections website is only for one year at a time. It doesn't show all the figures for the past and in fact it's only been there for five years.

The net effect of what I'm finding though is it shows that out of 34,028 inmates, 16,091 were Natives or 49%. Thank you. And yet in the whole population Natives are only 15%, so the number of Natives who are in prison is about three times that of the whole population. Okay.

So now I'm getting down a little closer to your point of interest, I think.

I don't have enough information yet to offer you concrete suggestions on what to do about this, but I am pointing out to you that there seems to be a problem in the effect of the criminal justice system in Alaska. And if there's a problem in the effect, then the principal that I began with says you should change the system.

Thank you.

BURGESS: Mr. Soneman, please continue.

SONEMAN: Well actually, I was about pretty close to done. I just wanted to say that I did give copies of the details of – its just one page – two sides -- of the research that I did.

You've probably been working up to this meeting for months, but I only heard about it two days ago. So you have to forgive me that.

I also have one packet of some of the background statistics that I will give to your secretary, I guess. And as I say, I don't really have a lot of answers for you or recommendations except to say that if the effect is discriminatory then there's a real problem and the whole needs to be revised.

BURGESS: You have touched on a concern regarding the Corrections issues that has been raised by other testimony before the Commission and its certainly something that the Commissioners want to take a look at it. So we appreciate you raising this with us and you can certainly provide us with the details.

SONEMAN: You and members of your Commission probably know more details, but I believe the Alaska Court System some years ago undertook an equality and sentencing effort. And yet the inequality seems to persist. So that's the only other thing I can add at the moment.

BURGESS: Actually there was a report issued by the Court System on February or so that did raise some concerns about sentencing in Alaska and potential discriminatory effects. And I think the Court System is taking a look at that. And we don't have proposal from the Court system yet, but we do have fresh statistical data that was compiled by the Traditional Council related to the issue of sentencing and the statistical disparities that exist.

SONEMAN: And I have heard, but I have no statistics for you. Some people have thought that perhaps some of the problem may also be in decisions about probation and parole. But I have no information on that. Thank you very much.

BURGESS: I'm sorry, before you leave, were there any other questions by any of the other Commissioners?

_____ : The Corrections System is a reflection or a segment of the overall justice system and so it really goes much farther in looking at decisions about arrest; decisions about prosecution. The product is reflected in the prison system that way. I think it raises a major—how we're allocating our resources.

SONEMAN: I'm certainly not blaming Corrections at all even though – as a percent of the budget, when you have that big an increase in population, it's also affected Alaska's budget -- the amount going to Corrections.

But they consider themselves the warehouse for the end result of the criminal justice system. But if the warehouse is containing something that's that skewed compared to the general population, there seems to be a problem somewhere in there.

BURGESS: Thank you very much.

END OF STATEMENT

Richard Warren
Alaska Rural Justice and Law Enforcement Commission
Public Testimony (via telephone)
January 6, 2005

My name's Richard Warren. I've been wrongfully accused for a crime back in July 10, 2001.

I was denied bail, third party and house arrest through the whole time I was incarcerated up until trial. And the trial in February 4th through the 7th 2003 I was denied witnesses for my defense. My attorney did not take depositions or even ask for an expert witness. There was no evidence against me in this crime.

The only witnesses that we're allowed to have; that's the ones that the complaintiff has testified and contacted, but even then those testimonies did not point at me as a criminal. They say that there was no reports or any phone calls made from anybody July 4, 2002. They discovered that the first report came from myself on June 1, 2002 when they took me out to ____ beat me and almost killed me.

All that came out in court. But as we on, we discovered on the appeal that there's quite a few testimonies missing from the trial transcripts to what was said in court.

We went for an appeal under merit and post conviction review. _____ merit newly discovered evidence _____ on my case. We went before the judge – Mr. Weeks (phonetic) at the general trial court and it was the same judge that had handled the case from the beginning to the end.

The court has ruled for a new trial, but the State has turned around and denied a new trial. And they have chosen not to prosecute this case. And I was released on August 7, 2003 and the court date on August 8, 2003 and I've been trying to find a lawyer ____ here in the State of Alaska to handle my lawsuit for civil rights violation.

I am still 'til this day I'm unable to contact a lawyer. And the attorney who represented me in trial was Phil Bowenburg (phonetic) for a 2003 trial in February. There was testimonies missing from the actual compact disc from the trial; _____ attorneys _____ Anchorage asked me a question to my case there was a medical exam and the medical exam has proven that and nothing went wrong.

The State still haven't determined who is involved with the coaching that this alleged victim – on who coached will be _____ Lena Walker or her mom, Ava Alice Mandregan (phonetic).

And yet until this day these people are still walking around as a free person and I was arrested. They gave ___ same charges failed to register even though my case was dismissed and sealed by the State, the State says I was exonerated, but I wasn't.

On June 29, 2004 I was supposed to appear in court before the Magistrate in Skagway for a failure to register as a sex offender and when the ___ found out that I was arrested for that. It was automatically dismissed before going to court.

And the arrest happened in May 26, 2004 and I still hadn't had heard anything that if my records were cleaned from this case. It was on October 3, 2003; the Juneau Empire has printed an article on my case. But the release of the courts' decision _____.

I'm not sure where else to go; what else to do. There's no attorneys like ___ said doesn't want to take my case. They've told me to just forget about it and even the next attorneys to file a lawsuit for me and I'll try to work on it by phone if necessary and he up and refused to do that as well.

I have transcripts of trials and the grand jury transcripts. I have a list of witnesses. I have the list of jurors. I have the list of the grand jurors who handled the indictment I have affidavits of the District Attorneys that shows that there's a lot of reasons for a new trial and a lot of reasons for a dismissal for the first trial. But they have chosen not to.

I was sentenced to eight years; zero suspended; no parole; no probation. And I am waiting for an appeal to be raised.

That's pretty much all I have for now. But on May 3, 2003 we had a hearing for for a new trial on appeal. And both of my attorneys; _____ Bob and Dan has appeared for that.

From July 6, 2001 I have transcripts of the grand jury. Now the testimonies on that from the witnesses on that; nobody showed three witnesses for the indictment. The alledged victim, who was A M L, the initials for Amber Marie Land, did not testify at the grand jury. But she was able to testify at the trial on February 4, 2003

through the 7th of 2003. And she testifies again in May 30, 2003 for the hearing of a new trial on appeal.

They had also found out that there are inconsistent testimonies.

That's pretty much all the information I have at this moment.

BITZER: Thank you, Mr. Warren. Just wait a second in case one of the Commissioners has a question for you.

WARREN: Okay.

BURGESS: Any questions? Commissioner Schubert.

SCHUBERT: Mr. Warren, you mentioned that someone beat you.

WARREN: Yes.

SCHUBERT: I didn't understand that at all.

WARREN: On June 1, 2001 I was accused of sexually assaulting my cousin's daughter and she took me up the road. She wanted to talk to me privately; so it was uptown next to the bank and she wanted me to jump in the car with her and go for a ride so we can talk. And I didn't know what was going on at that time.

I volunteered and went ahead to see what was going on because she stated that it had to do with me and one of the officers—one of the police officers that was involved was _____. So I went there not knowing what was going on. Nobody said anything except for her husband. And there was four people and one of me wanted to settle my _____ Ava and Angie and her husband, David beat me and started accusing me of this. Didn't give me a chance to explain anything.

SCHUBERT: Okay. Thank you.

BURGESS: Any other questions by Commissioners?

WARREN Excuse me? You're breaking up, I can't hear you.

BITZER: Mr. Warren, thank you for your testimony. The Commission thanks you and I don't think there's any further questions, so we'll say goodbye at this time.

You can submit testimony in writing or fax or on the website as well. So please don't hesitate to give a call via the Alaska Native Justice Center if you have any further testimony to provide to the Commission.

WARREN: Okay.

BITZER: And thank you for your time today.

WARREN: Great. Thank you.

END OF STATEMENT

Frank White
Alaska Rural Justice and Law Enforcement Commission
Public Testimony
January 6, 2005

My name is Al Frank Sewhite (phonetic) Senior. I'm a tribal leader of my tribe – the Wolf House; the Wolf Tribe.

I belong to the ANB Camp 2. I've been appointed by the Grand Camp president for the legislative committee. I'm also on the Tlingit and Haida Central Council delegate.

Before I signed up – I don't have my notes here. I didn't know, but I'll have it faxed to you.

One thing, I spent time in the Marines. I joined in '55 and I got out; formally discharged in '62. I went over to Vietnam as an advisor. I raised to the rank of Staff Sergeant.

The thing I'd like to touch up on is that if you check the records, the people that are being incarcerated right now, about eighty to ninety percent of them are Native people. The majority of them are being sent to Arizona, which is a private institution, I believe.

My Camp hired a lawyer to investigate this. And he did. It was pretty shocking material that he brought back. The food that they were giving these inmates down there -- a lot of them are our people that's why we send them down there. Anyway, were labeled not for human consumption and the water was not fit. Now these Natives that we asked too when they came back, they said the same thing.

I had one incident. I was in Okinawa and coming back. It really opened my eyes of what our people were going through; not only my people.

I was in the non-commissioned officers club there and this sergeant sat down beside me. He was in the army. To open a conversation, he asked me—he said hey serge is what do you think about the racial thing in the military? I looked at him. I said as a marine I only look at the color of their uniform. And that stopped it there.

But when I came home, I noticed it; that our people are pressed down. When I went home I joined the police and then I was sent to the Sitka police academy. It was run by the Alaska State Troopers. I graduated from there.

I spent two years at home in Hoonah. Incidental, that's where I'm from. Born and raised in Hoonah.

A position opened up in Kake so I applied for there too. And I went there and I worked there for two years. Then I decided to move to Metkatla where I got into law enforcement there, which was a lot different because it's a reserve – a federal reserve. There are different laws. Not really different, it's just how it's worded and how it applies.

In the meantime, Kake had a position for a Chief of Police, so I applied for that and I got that and I moved back to Kake. And that's where I retired from.

When I arrested a Native guy, he more or less got rushed through and was sentenced. And like that gentleman over there testified earlier, sometimes the bail was high and the accused didn't have enough so he was held incarcerated. But if it was the same kind of felony, sometimes almost carbon copy, the Caucasian his whole thing would be cut in half. The sentencing; everything. They cut his bail down so much that he could afford it. But not so for the Native.

They claimed that discrimination is not here in Alaska but it's under the surface pretty much. It's always been there.

I'd like to go back to my hometown. Our men served in the military from World War I. World War I we had two from Hoonah, maybe three.

World War II all the young guys went; all the way up to forty years old. And in the Korean War, the same thing. Some of them didn't wait for draft to join. And when it came my time, right after I graduated from high school in '55—I had a pretty good time in high school. I had the State record in track. I had a State record of four-forty; a half mile and the high jump. But that was broken a long time now.

My brother came around and broke it. Upon graduation I had a scholarship to play basketball for Oregon State but I passed that up to become a Marine.

But also in the years that I worked as a law enforcement, I noticed that they favor the Caucasians. When I retired, I told the Mayor who was Lonnie Anderson at the time, that it was a tough pull. I tried to treat everybody real equal. Our Constitution says that we're all supposed to be all equal.

And then I noticed that some certain people have more equal rights than we have.

And I'm pretty glad and happy that I got to have my say here in front of you – from Washington. Thank you for coming to listen to us.

Like I said, I would implement it more if I wasn't rushed out of my place by my brother. I forgot my notes. Everything's coming from the heart though; what I believed in and what I saw as a law enforcement.

What he said about John Hope who was a prominent Native leader. And this guy hardly had any time. If one of my people hit a moose, he'd spent maybe five or ten years in jail.

Right now it's going to be interesting. My nephew died because of injuries—internal injuries he sustained from two guys about three days ago. And that's going to be interesting to observe what the outcome is going to be on that. And these two people are Caucasians that did it to him.

A lot of times our people will not go to the aid of another brother because we observe and we obey the laws of the United States. Some of died for it and some of us fought for it – for that flag. When you're in a foreign country—when you see that flag flying, that's the most beautiful sight you ever saw. The most beautiful flag in the world.

And yet some people have low disregard about the American flag. But we do, as Natives. We do. We as Natives, we're a unique people here in Alaska. My people were never pushed into a reservation; they tried. The Russians tried and the Americans tried, but they couldn't do it.

Well I talk like a free man. I was so shocked that this what we're talking about—When I went down to Fort Bing Georgia to go through jump school—as a marine I became a jumper and I'm so used to walking into any joint—anyplace and my buddies would pull me back and they'd point at a sign. No colors or Indians or dogs allowed. And here I was being trained to defend the United States. It kind of hurts when I think about it. I told my father. I came home on leave. He said, just

remember you're defending your country; your country. He emphasized it. And that eased the pain for me.

Thank you for listening.

BURGESS: Thank you very much, Mr. Williams. I think you have some notes or other written comments you'd like to submit to us later on, we'd sure appreciate having those. And on behalf of the Commission, I want to express our condolences about your nephew and I want to thank you and your brother for your service to the United States.

WILLIAMS: Thank you.

BURGESS: Any questions by any of the Commissioners? Commissioner Schubert.

SCHUBERT: You mentioned that you had your attorney do a study or something. And I'm wondering if you would provide a copy of that to us.

WILLIAMS: Yes, I will. I'll be faxing all this to her.

BURGESS: Thank you very much, sir.

END OF STATEMENT

Mr. Williams
Alaska Rural Justice and Law Enforcement Commission
Public Testimony (via telephone)
January 6, 2005

Hello. My name's _____ Williams. I was arrested in October of 2002 and I was instructed and defended by the public defenders agency and I had no idea of what I was supposed to do or the court rules or procedures. And I was not assisted by any public defenders agencies.

I tried to find out what I was supposed to do and I had a very difficult time getting people as witnesses that were mentioned in the defense case. The public defenders agency did not call these witnesses and they did not call Annie down. Professional witnesses into my case. I had to file afterwards; after I attempted or entered a plea – I told the agency that I wanted to appeal and I asked for his assistance and he said he could not assist me in filing an appeal.

And then after sentencing, to take the _____ I was not assisted by the agency. I was pretty much left alone to do whatever _____. I guess I'm not sure what I'm supposed to do. But I have filed the wrong papers. I filed a PCR first and I did most of this paperwork on my own.

I was supposed to file an appeal first, but as I said, I was left alone. So I filed a PCR and then I got myself back to—into appeals after the PCR was denied.

So now I am doing an appeal in Anchorage and I have a new attorney, which I never heard from him very much. I called him and asked him to return calls and its like hard to get a hold of him and I'd be waiting for a phone call by the phone and I haven't heard from him.

And he made a statement that when I was incarcerated that an attorney cannot apply to go against each other on this appeal. So I had very difficult time trying to have my appeal filed. And from day one I did not know and still do not know how a court procedures and how ____ supposed to assist my attorney.

And now I'm stuck in a situation where I'm having a very hard time trying to get out of--and I just had a hard time doing all this alone. But _____ assisted from the public defenders or now it's the public advocacy.

I'm not sure what else I can add.

BURGESS: Any questions by any of the Commissioners?

_____ : Mr. Williams, what crime are you charged with?

WILLIAMS: Sexual abuse of a minor.

_____ : Thank you.

BURGESS: Any other questions by any of the Commissioners? Thank you very much for your testimony. We appreciate it. If you have anything you want to submit in writing as your case concludes, let us know. But we appreciate you taking the time to talk to us today.

WILLIAMS: Okay.

BURGESS: Thank you.

WILLIAMS: Thank you.

END OF STATEMENT