

Options presented
by the Judiciary Work Group
to the
Alaska Rural Justice and Law Enforcement
Commission
April 14, 2005

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-4 (J-14): Pass Through Funding to Tribal Foster Homes

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

There is a need to increase the number of Alaska Native foster homes for Alaska Native children, and to facilitate the pass-through of foster care subsidy payments for foster care placements ordered by tribal courts.

Option:

Recommend enactment of a state law similar to those portions of HB 193 or SB 125 which give the Commissioner the discretion to set appropriate standards for foster home placements and grant waivers in appropriate circumstances, and which resolve problems with state liability issues; and in the event this becomes law, request DHSS to consult with tribes over the foster care licensing standards.

Also, support enactment of federal legislation similar to that in S. 672, introduced in March 2005, allowing tribes to directly apply for and administer Title IV-E from the federal government, while maintaining consistent funding levels for the states.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- There is a shortage of Alaska Native foster care homes for Alaska Native children.
- Additionally, tribes currently lack a mechanism for accessing federal foster care subsidy payments for tribally-ordered foster care placements.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

This would serve the best interests of Alaska Native children needing foster home placements, by increasing the supply of suitable foster homes available in state child protection cases, and by increasing the resources available to support tribally-ordered foster care placements.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-5 (J-25): Alcohol Jurisdiction

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Alaska Native Villages should have a territorial basis, without creation of “Indian country,” to regulate and control alcohol, including civil authority over non-Indians. The law should also allow federal prosecution of both members and non-members.

Option:

Recommend that 18 USC §§ 1156 and 1161 be amended, possibly on a “pilot project” basis for some Alaska Native Villages, along the following lines:

§ 1156. Intoxicants possessed unlawfully

(a) Whoever, except for scientific, sacramental, medicinal or mechanical purposes, possesses intoxicating liquors in the Indian country or where the introduction is prohibited by treaty or an Act of Congress, or possesses any intoxicating liquors or other controlled substances regulated by an Alaska Native Village Controlled Substance Ordinance pursuant to subsection (c) within the geographic area governed by such Ordinance, or within an area covered by an Alaska Local Option Law, shall, for the first offense, be fined under this title or imprisoned not more than one year, or both; and, for each subsequent offense, be fined under this title or imprisoned not more than five years, or both.

(b) The term "Indian country" as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations, and this section does not apply to such lands or rights-of-way in the absence of a treaty or statute extending the Indian liquor laws thereto.

(c) The federally recognized tribal governments of Alaska Native villages shall have authority to enact and enforce laws regulating transactions involving alcoholic beverages, prohibiting the sale, importation, or possession of alcoholic beverages, and prohibiting the sale, importation or possession of substances illegal under state, federal or tribal law, within the exterior boundaries of the villages' core townships identified for village corporation land selections by section 12(a) of the Alaska Native Claims Settlement Act or within a five-mile radius of the village center, as defined by the tribal government; provided, that for Alaska Native villages within incorporated cities the authority provided by this section is limited to Alaska Natives and to transactions involving Alaska Natives, and shall apply to the extent the tribal law does not conflict with the city's alcohol beverage local option law, if any. Alaska Native villages shall submit laws adopted pursuant to this section to the Secretary of the Interior, and the Secretary

shall certify and publish those laws within the Federal Register within 180 days, provided that the law is consistent with the Indian Civil Rights Act. Alaska Native villages are authorized to enter into agreements with the State of Alaska or subdivisions thereof respecting jurisdiction over and enforcement of alcoholic beverage and drug control laws.

(d) For violations of Ordinances enacted under subsection (c), an Alaska Native Village Tribal Court may impose civil sanctions, including but not limited to fines, forfeitures, community service, and treatment requirements, on any individual found to have violated the applicable ordinance, but may not impose any criminal sentences on any individual who is not a member of a federally recognized tribe. Any civil or criminal tribal court proceedings must be conducted in accordance with due process and other applicable requirements of the Indian Civil Rights Act.

§ 1161. Application of Indian liquor laws

Except as provided in section 1156(c), the provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title [18 USCS §§ 1154, 1156, 3113, 3488, and 3669], shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the Federal Register.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- The Work Group was deeply divided over Option J-5A, to propose yet another commission to study the alcohol problem in Alaska.
- The tragic consequences of alcohol and drug abuse in rural Alaska are well known. According to the final report of the Alaska Commission on Rural Governance and Empowerment, the alcohol-related mortality rate of Alaska Natives is three and one-half times that of non-Natives, and the incidence of fetal alcohol syndrome (FAS) among Alaska Natives is three times that of non-Natives. More than 97% of crimes committed by Alaska Natives are committed under the influence of alcohol or drugs.
- All available vehicles should be mobilized to combat this problem, tribal as well as state and federal.
- Existing federal and state laws and programs are not sufficient to combat this problem effectively. Although existing state local option laws enable villages to ban or restrict importation of alcohol, these laws and state drug laws are enforced and prosecuted primarily from regional centers. Defendants are tried in state courts, away from the villages. Penalties for initial offenses are neither certain nor severe. For youthful offenders,

serious intervention is needed when the youth first gets into trouble, yet under the state system an individual can accumulate any number of minor offenses before serious attention is paid by the criminal justice system. Geographic and cost constraints will always prevent the state from having magistrates, troopers, prosecutors, etc., anywhere but in the largest communities. Second-class city governments, where they exist, also operate under too many constraints to effectively address alcohol and substance abuse. Most second-class city governments in villages have little or no tax base. State law does not provide for municipal courts, and small cities rarely enforce municipal criminal ordinances because of the costs associated with prosecuting cases in distant state courts.

- Tribal courts can intervene earlier and more effectively, dealing with offenders in their own communities. The best solutions to community alcohol problems are those which begin within the community. Tribal governments are in place, and are the only government in many villages. They are better situated to enforce and adjudicate minor offenses in remote communities than the state. Tribal courts are already dealing with juvenile offenses and child protection cases, many of which entail alcohol problems which the tribal courts need to deal with.
- There is state law precedent for extending authority to village councils in unincorporated communities. Village councils have authority to impose and enforce dog control ordinances within a 20-mile radius of the village, AS 03.55.030. The state local option law, AS 04.11.508, uses a five-mile radius as the jurisdictional perimeter of villages without city governments.
- There is historical precedent for federal and tribal regulation of alcohol within Alaska. In the late 1800s, Congress, in response to court rulings that Alaska was not “Indian country,” acted legislatively to designate Alaska as “Indian country” for the purpose of the then-federal Indian liquor laws. In the early 1980s, the Secretary of the Interior published tribal alcohol ordinances for three Alaska villages (Northway, Minto, and Chalkyitsik).
- This proposal adds federal enforcement authority to the tools to combat substance abuse in Alaska’s Native Villages as well as other rural areas.
- Portions of this are loosely patterned after language considered in the original enactment of the legislation creating the Rural Justice Commission.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Federal legislation confirming that Alaska Native tribes have concurrent jurisdiction over alcohol and drug related offenses would enable village Alaska to address substance abuse locally. It would help fill serious gaps in state services, without divesting the state of jurisdiction or authority.

Extending to Alaska's tribes the clear authority to enforce alcohol and drug laws is a logical and necessary step toward effectively addressing the substance abuse problem in rural Alaska.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-5A: Alcohol and Drug Control

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

The abuse and misuse of alcohol and drugs is a perennial and predominant reason for criminal behavior and violence in rural Alaska. There is still a need for effective initiatives to stem the illegal distribution and misuse of alcohol and drugs in rural Alaska, but no clear consensus about whether new tribally driven or state created options will be better able to respond to this challenge.

Option:

Congress should create and adequately fund a joint federal, state and tribal commission to examine any and all options to effectively address the control of alcohol and drugs in Alaska Native villages.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

The Judicial Services Work Group was deeply divided over Option J-5 to propose federal legislation that would have defined the territorial jurisdiction and empower Alaska Native villages to adopt and enforce local alcohol and drugs ordinances against both Natives and non-Natives, but all agreed that the abuse and misuse of alcohol and drugs is a critical justice problem that still elude effective solutions.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

If enacted by Congress, this Option would at least provide a mechanism to consider and propose solutions to the most persistent problem affecting criminal and violent behavior in Alaska's Native villages. The risk is that it will prove to be yet another commission whose recommendations fail to meaningfully address the problem.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-6 (J-7): Tribal Court Referrals of Juveniles to State Division of Juvenile Justice

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

In particular cases there may be a need for traditional Alaska Native village justice systems to draw more effectively upon state juvenile agencies

Option:

Urge the Division of Juvenile Justice to make agreements with Tribes and tribal courts to coordinate the disposition of juvenile offenses as currently permitted under state law.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Currently, tribal courts and councils often work with juveniles and their parents in response to the child's delinquent or troublesome behavior in the village. Such proceedings do not usually come to the attention of state authorities, and some village justice systems prefer this outcome because it keeps their minors from acquiring juvenile records within the state court system.
- Other Village justice systems, however, would prefer to coordinate more closely with DJJ in screening and disposition of juvenile offenders. Specifically some village justice systems might wish to refer a juvenile to DJJ, with the consent of DJJ. This option urges DJJ to discuss with interested tribal councils whether such a referral mechanism might be achieved.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Better coordination among tribal and state juvenile justice systems.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-7 (J-29): Do not create Rural/Urban Designations

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

There should be no arbitrary distinctions among Alaska tribes based solely on their geographic locations in the more urban Alaskan boroughs and municipalities. Tribes in several of these locations have ongoing, successful relationships with boroughs and municipalities in the adoption, delivery and maintenance of law enforcement, judicial and corrections services that would be unnecessarily hindered by such distinctions.

Option:

Adoption, delivery and maintenance of law enforcement, judicial and corrections services should be without arbitrary distinction among Alaska tribes based solely on their geographic locations in the more urban Alaskan boroughs and municipalities.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

The Tlingit and Haida Status Clarification Act of 1994 (25 U.S.C.A. §1212(4)) and the Indian Reorganization Act (25 U.S.C.A. §476(f)) both prohibit the administration from diminishing the privileges and immunities of tribes without the consent of Congress. The Commission has heard testimony that the exclusion of the City and Borough of Sitka from the Commission's review has already disrupted long-established and effective relationships between the Sitka Tribe and the Sitka municipal government.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

This Option would discourage needless legal complexity and confusion by fostering uniform adoption, delivery and maintenance of law enforcement, judicial and corrections services to Alaska Native communities wherever located. It would also ensure that Alaska's more urban municipalities would have the same access to these justice services as rural municipalities. This Option is also essential to the adoption, delivery and maintenance of uniform justice services.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-8 (J-29): Intergovernmental Relations

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Greatly increased cooperation among federal, state and tribal governments is essential to enable all three governments to most effectively adopt, deliver and maintain law enforcement, judicial and corrections programs, services and functions at the village level. Policies that are inconsistent with a co-operative relationship among the federal, state and tribal governments are also inconsistent with the government-to-government relationship with tribes acknowledged by both the federal and state executive and judicial branches as well as the United States Congress.

Option:

The United States Congress and the Alaska Legislature should require their respective executives to evaluate its proposed legislation to ensure that it will further cooperation among federal, state and tribal governments in the adoption, delivery and maintenance of law enforcement, judicial and corrections programs, services and functions at the village level.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

The Indian Child Welfare Act (“ICWA”) and Indian Self-Determination and Education Assistance Act have effectively fostered government-to-government cooperation. In Volume 1 of its 1994 *Final Report*, the Alaska Natives Commission recommended that “Fostering Alaska Tribal Governance” was essential to implementing ICWA and addressing law enforcement and dispute resolution problems. It recommended that Congress “should establish policies and relationships supporting tribal governments” and that the state should “clear obstructions to successful implementation of policies and programs” by recognizing “the existence of Native tribes in Alaska.” See *Final Report* at pp. 73 and 77. Alaska Executive Order 186 and the subsequent 2001 Millennium Agreement partially implemented this recommendation.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

This fundamental policy attitude is essential to the adoption, delivery and maintenance of most of the other Options being considered the Commission.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option # JS-9 (J-18): Providing Technical Assistance for Tribal Judicial Systems

Statement of Need:

There is a need for technical assistance in the areas of basic tribal court design, procedures, and operation, and also in the areas of tribal constitution and code development, membership and enrollment, judicial ethics, tribal court administration, tribal-state collaboration, and inter-tribal collaboration, that is respectful of and supports traditions, customs, practices and values.

Option:

Support the provision of consistent, quality technical assistance to tribal judicial systems through non-profit Native corporations, other appropriate tribal organizations, agencies, or other appropriate entities. Any such technical assistance should be supportive of traditions, customs, practices and values.

Rationale for Option:

- Technical assistance for tribal judicial systems is essential for assisting tribes in providing quality service and ensuring the application of due process and respect for traditions, customs, practices and values.

Impact Statement:

With quality technical assistance tribal courts will be more effective in providing quality judicial services and collaborating with state and other tribal court systems.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option # JS-13 (J-22): Inter-Tribal Judicial Systems

Statement of Need:

Inter-tribal court development needs to be locally driven.

Option:

No federal mandate for regionalization of tribal courts should be pursued, as this would deprive tribal courts of several of their prime strengths, i.e., their accessibility to village residents, their ability to devise local solutions to local conflicts, and acceptance of tribal court decisions by village residents. The Commission should support pooling of tribal resources only when it is tribally initiated and tribally designed. Tribes should be free to develop a wide range of models for inter-tribal court development as an idea pool. The federal government should continue to provide federal grants for voluntary inter-tribal court development, including technical assistance for inter-tribal court cases on an ad hoc basis for cases where multiple tribes share jurisdiction.

Rationale for Option:

- As most Alaskan tribal courts depend on volunteer judges and existing tribal staff for court clerks, the extent of any gain in efficiency which could be achieved by regionalization is questionable.
- As to federal funds being used for tribal court development, training and technical assistance, much of this is already provided on regional or statewide bases.

Impact Statement:

When inter-tribal courts are developed by tribal initiative, they have the respect and support of the communities they serve.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option # JS-14 (J-6-A): DJJ Delegation to Tribes

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

There is a need to better utilize available vehicles for state agencies to draw upon Native Alaskan traditional justice systems.

Option:

Amend AS 47.12.988 to allow the Division of Juvenile Justice (DJJ) to delegate its authority to tribes in situations in which DJJ and a tribe wish to cooperate and share resources with respect to tribal juvenile offenders, as follows:

In this chapter, when authority exercised by the department may also be exercised by an entity selected by the department, the entity that the department may select in order to exercise authority is limited to

- (1) a municipality;
- (2) a corporation;~~or~~
- (3) two or more persons recognized by the community and operating under contract or license from the department; or
- (4) a tribe as defined by the Indian Child Welfare Act (25 USC §1903(8)).

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Alaska Statute 47.12.010 states that one purpose of Alaska’s juvenile delinquency laws is to “encourage and provide opportunities for local communities and groups to play an active role in the juvenile justice process in ways that are culturally relevant.”
- AS 47.12.988 allows the Department of Health and Social Services to select “an entity” to exercise authority; however, “an entity” does not include a tribal entity. Adding a new paragraph (4) would address this.
- The Community Juvenile Justice Assistance Program is one example of a program that has worked extremely well in rural Alaska.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

More culturally appropriate proceedings can be held and sentences fashioned.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-15 (J-8): Expand Therapeutic Courts

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

There is a need for a diversity of state court approaches to substance-abuse-related offenses.

Option:

The state court system should continue and expand its progress in the establishment and utilization of therapeutic courts.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Indications are that therapeutic courts are effective in dealing with substance-abuse related offenses.
- The Alaska Court System should be saluted for its efforts in this direction and encouraged to continue those efforts.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

More of an emphasis on a “medical model” for processing of substance-abuse related offenses, and diminution of recidivism.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option # JS-16 (J-15): Tribal Participation in Juvenile Proceedings

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Provide tribes, as defined in ICWA, an opportunity for notice and to be heard at sentencing and disposition or before in state court with respect to juvenile proceedings and afterwards.

Option:

Amend Title 47 to permit tribes (as do other victims) to participate in sentencing or other appropriate juvenile proceedings.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

Frustrating experiences of rural communities with juvenile sentencing and disposition. Would also enable tribal communities to incorporate matrilineal and other traditional values and methods in resolution of juvenile issues.

A. S. 12.55.011 allows for community participation in restorative justice

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Would improve communication between community and court about sentencing of juveniles and ensure more effective sentences.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-17 (J-1): DOC Native Hire

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Alaska Natives, over-represented in Alaska's prison population, need to have a substantially greater presence in the staffing of corrections agencies.

Option:

Increase the number of Alaska Natives who work in corrections (as well as those who work as VPSO's and in other law enforcement roles). This might be done with targeted recruitment campaigns, including films, DVDs, a workbook or written guide, and website, with materials geared to high school age Natives.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- “Modeling” is an important component of incarceration; often close emotional bonds can form between prison personnel and inmates. Positive and support Alaska Native role models in those settings can be conducive to rehabilitation.
- Higher proportion of locally-hired probation officers will also heighten the level of cultural awareness of probationers' home communities.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Lower recidivism rates should result from more Native employees within Corrections Department, including probation officers, due in part to positive role modeling and to better communication between probationers and their probation officers. Efforts to recruit more Alaska Native employees must be conducted within the equal protection constraints of state and federal law.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-18 (J-2): Inmate Health Care

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Health care needs of Alaska inmates need to be better addressed.

Option:

Congress should pass legislation that enables the Alaska Native Health Service to allow for billing for health care services provided to Alaska Native inmates, or provide health care directly to Alaska Native inmates.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Unhealthy life styles of many Alaska prison inmates can lead to medical problems.
- ANHS is likely to provide health care to Native inmates prior to incarceration and after release; having ANHS provide service to those inmates during incarceration should improve continuity of care
- Better coordination **collaboration** between ANHS and probation officers after release might better serve the health and other interests of the probationer

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Better health care treatment for inmates; possible cost savings to State.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-19 (J-3): In-State Incarceration of Native Inmates

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Alaska needs to find alternatives to housing Alaska inmates in out-of-state facilities. ***Particularly for Alaska Natives sent to such facilities***, the separation from family and community enhances alienation and is likely to retard rehabilitation and re-entry into the community. This also creates hardships for inmates' families.

Option:

Have State of Alaska explore other options, including working with Native Regional Corporations and non-profits.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Having Alaska inmates housed outside is perceived by all as a weak point in the system.
- The temptation to just “build more prisons” should be resisted – if we build them, they will fill. Yet clearly, Alaska’s current prisons are over capacity, particularly if out-of-state inmates were to be returned to Alaska.
- Various Alaska communities have embarked on campaigns to build new facilities, resulting in community resistance, controversy and changed decisions.
- One or more Regional Corporations, as private sector entities, might be invited to collaborate with outside businesses on construction and/or administration of a new facility.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

If a method can be found to keep inmates within the State in a financially feasible way, inmates and their families will benefit, along with local economies.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-20 (J-4): Re-Entry Programs

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Re-entry of prisoners into the community needs to be facilitated in culturally relevant ways.

Option:

Develop a re-entry program for Alaska inmates moving back into smaller communities, focusing on restorative justice and the role of the Village in assisting in the rehabilitative process.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- The Department of Corrections has already initiated cooperative programs of this type with Southcentral Foundation, Yukon-Kuskokwim Health Corporation, and Cook Inlet Tribal Council.
- These efforts should be expanded and relationships with local Councils encouraged to facilitate the re-entry process.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Recidivism rates should decrease as successful re-entries are increased.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-21 (J-9): Mandatory FASD Screening

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

There is a need better to monitor those offenders suffering from Fetal Alcohol Spectrum Disorder (FASD).

Option:

Promulgate a policy and procedure requirement within the Department of Corrections in cooperation with the Alaska Court System that a standardized FASD screening tool be developed and included as part of the presentence investigation and report for all felony defendants to be considered by the judge at time of sentencing.

Congress should provide funding to develop the capacity in Alaska to perform full FASD evaluations through the formation of additional multidisciplinary evaluation teams throughout all regions of the state.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Both within a prison and after release, the special characteristics of an FASD offender (failure to grasp cause and effect, impulsiveness, etc.) can be understood better and adjusted for to some extent, but only if the diagnosis has been made.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Course of rehabilitative treatment during incarceration, and plans for re-entry into the community, are apt to work better if FASD is accurately diagnosed.

Basic FASD screenings are problematic in that the traits identified can often be the result of other conditions such as dyslexia or organic brain impairment.

A full FASD evaluation is a multidisciplinary process resulting in a medical diagnosis. As such, a multidisciplinary team headed by a doctor performs the evaluation. There are currently 14 teams based primarily in rural Alaska, including one based at API. The focus of the teams is almost exclusively on

children. Expanding the focus to the criminal justice system will require that additional capacity be developed.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-22 (J-10): Culturally Relevant Treatment Options

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Culturally relevant treatment options are more apt to be effective with Alaska Native offenders.

Option:

Greater federal and state support for culturally relevant treatment options.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Locally-developed treatment programs which resonate with those values deeply ingrained in a culture stand a greater chance of rehabilitative success for individuals raised in that culture.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Enhanced rehabilitation, reduced recidivism.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-23 (J-11): Home Community Probation

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Probation officer coverage in the villages is insufficient.

Option:

Focus the new recruitment effort to hire qualified Alaska Natives as probation officers. Continue increasing utilization and training of Village Public Safety Officers in that role. Consider contracting with Village Councils to provide oversight of community service work.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- The Dept of Corrections has been training and utilizing VPSO's in this role.
- Experience from years ago in the Village of Chistochina indicates that arrangements with Village Councils can supply this need.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Increased supervision of offenders under probation and parole supervision in rural Alaska.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-24 (J-12): Electronic Monitoring Technology

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

There is a need to utilize developing technologies to facilitate probation supervision in rural as well as urban communities.

Option:

The Department of Corrections should be encouraged to continue the evaluation of electronic monitoring technology for use in rural Alaska and include training on its use to Village Public Safety Officers.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- Current electronic monitoring technology can indicate that the probationer is not where s/he is supposed to be; new GPS technology can indicate where the probationer actually is.
- Simultaneously, this technology by itself is not sufficient, in the absence of a law enforcement presence, to protect the community.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

This technology, if used in conjunction with other measures to increase actual law enforcement personnel, could enhance probation monitoring and public safety in small communities.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-25 (J-13): Probation Officer Hiring

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

The number of probation officers, and the number of Alaska Native probation officers, should be increased.

Option:

Along with enhancing targeted recruitment efforts (see J-1 above), the Department of Corrections should take steps to attain and maintain competitive salaries. Also the Department should consider developing equivalencies for the current 4-year degree requirement (e.g., proficiency exam, experience level).

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

- The Department is having difficulty maintaining sufficient staffing; there are current ten vacancies which the Department has been trying to fill.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Probation services will be improved, for rural as well as urban residents.

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Judicial

Option# JS-26 (J-16): Tribal Participation in Treatment of Juveniles

Statement of Need: *(What issue are you addressing with this option? 1 – 2 sentences.)*

Improve coordination with community in juvenile treatment when the minor returns to the community.

Option:

Adopt or amend state law to permit tribes to participate in juvenile delinquency treatment especially after minors return to their communities.

Rationale for Option: *(What research/opinions did you utilize to help formulate the option?)*

Frustrating experiences of rural communities with lack of involvement with resolution of juvenile delinquency when minor returns to community. Would also enable tribal communities to incorporate matrilineal and other traditional values and methods in treatment of juvenile delinquency.

Impact Statement: *(If adopted by the Commission and enacted as written – describe what would change?)*

Would improve effectiveness of juvenile delinquency treatment at the community level.