Alaska Justice Forum

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The Exclusionary Rule--What Is It?

"... Nothing can destroy our government more quickly than its failure to observe its own law, or worse, its disregard of the charter of its own existence ..." Mapp v. Ohio, 367 U. S., 643 (1961)

by Peter S. Ring
Criminal Justice Center

Since 1914 in the federal courts, and since 1961 in all state courts, decisions of Unites States Supreme Court have required the suppression of evidence resulting from unconstitutional searches and seizures.

This is known as the exlusionary rule.

Because it prohibits the introduction of otherwise reliable evidence, the rule has required that on occasion, the factually guilty should go free. For this reason more than any other, the rule has evoked considerable controversy in the 15 years that it has been applied uniformly in all 50 states.

Briefly stated, the rule is usually thought to be based upon three premises:

1. As a deterrent to illegal police behavior.
2. To preserve the integrity of the judicial process.
3. To protect individual rights.

The first of these might be said to provide a factual premise while the latter two may be said to provide legal and moral premises for the rule.

Historic Development

In order to explore the potential for developing reasonable alternatives to the exclusionary rule, it is essential that we understand the historical development of its rationale.

This rule was first applied to federal criminal prosecutions in 1914 in **Weeks v. United States**, 232, U. S. 383 (1914).

"... the tendency of those who execute criminal law to obtain convictions by means of unlawful seizures and forced confessions ... should find no sanction in the judgment of the courts ..."

Personal Rights Premise

The personal rights premise was developed in the **Weeks** decision. The Court noted:

> The tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures and in forced confessions, the latter often obtained after subjecting accused persons to unwarranted practices, destructive of rights secured by the Federal Constitution, should find no sanction in the judgment of the courts which are charged at all times with the support of the constitution and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights. 232 U. S. at 391.

Moreover, the Court noted that if evidence obtained while violating the right of individuals could be used against the accused, the guarantees of the Fourth Amendment "might as well be stricken from the constitution." (232 U. S. at 393)

Thus, the Court justified the use of the exclusionary rule as preserving the victim's right of privacy and as a means of preventing further invasion of his constitutional rights.

Theory of Judicial Integrity

Other commentators have suggested that the decision in **Weeks** was based not only on personal rights but also on the theory of judicial integrity. Support for this contention can be found in the following language from that decision:

> In a government of laws, ... existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law, it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face. 277 U. S., at page 485, (dissenting opinion) 364, U. S. at 223.

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Parole Board Adopts Guidelines

By Samuel H. Trivette
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The members and staff of the Alaska Board of Parole have been quietly working on making some significant changes in its philosophy and operating procedures for the last few years. The direction of the board has changed significantly during this time and is about to receive another major overhaul.

The board has adopted a policy to implement a "parole guidelines model" as the method of releasing sentenced offenders on parole. If the grant money is received as anticipated, this approach could be in full operation by the fall of 1978.

Just Deserts

This approach is basically a "just deserts" model, insuring the uniformity of punishment through tightly structured discretion. This "just deserts" idea has been gaining increased prominence in the criminal justice field in the last few years.

It suggests a person's sentence should be based upon what he did, and not what someone thinks he might do in the future.

If the crime committed is severe, his punishment should also be severe in order to express the requisite degree of condemnation. A minor crime should provide for a mild sanction.

Offenders whose offenses are equally serious deserve penalties of equal severity.

Discretion Not Abolished

Proponents of this model and of similar models realized at the outset that discretion cannot be abolished in the criminal justice system. The system can only hope to identify the areas of discretion, isolate and structure the discretion, and keep as much public visibility as possible to insure that discretion is not abused and will be continually reviewed.

Guidelines Described

The guidelines consist of a table, set up on a grid, with an X and Y axis. On the vertical axis common criminal offenses are listed in four or five categories, going downward from the least serious to the most serious. The criminal offense is taken from the judgment. The top horizontal axis contains the criminal history/risk scores, also in four or five categories going left to right from the best risk to the worse risk.

The offender's risk score is derived from concrete, verifiable information from his file, including such items as number of prior convictions, age at first conviction, serious drug problems, previous probation experiences, etc.

Where each of the offense categories intersect each of the criminal history/risk scores on the grid, a customary range of time normally served is established for that offense with the given background. This tightly structured discretion would require the release of persons convicted of similar crimes with similar backgrounds within the same range of time.

Deals Only With Sentence Disparity

Let me emphasize that this guideline approach deals only with the problems of unwarranted disparity in sentences of those offenders sentenced to periods of incarceration.

The decision of whether or not to grant probation or to incarcerate would still be the responsibility of the judiciary, and they have a great deal of discretion in a large majority of cases, even with the revisions suggested by the Criminal Code Revision Subcommission.

In summary, the parole guidelines model tightly structures parole release discretion through the adoption of explicit parole standards, and makes the decision-making more visible and subject to review.

The disparities in the length of time offenders serve would be greatly reduced. In making decisions, the board would be looking at the offender's previous behavior, rather than attempting to guess at future behavior.

Only concrete, verifiable factors would be considered. Although we know that one of the best predictors of future criminal behavior is prior criminality, the distinction between prediction and having the "punishment fit the crime" is a critical and significant one in helping the public understand the Parole Board's operation.

Advantages

Based upon research and information available from other jurisdictions the following positive features would accrue to the criminal justice system as the result of the board's adoption of a parole guidelines approach to releasing offenders.

A. It would be established in statute and in administrative rule that the primary purpose of incarceration in correctional facilities is for the punishment of the offender.

The punishment must be commensurate with the severity of the offense and the offender's prior criminal history, i.e., George Jackson could no longer be required to serve 12 years for larceny of $70 and Claudine Longette could not be sentenced to serve only 30 days for a homicide. An offender who embezzled $150,000 would serve considerably more time than the offender who took a $150 jacket from Sears ("just deserts").

Corrections would still be responsible for offering programming to offenders in correctional facilities, but the parole release date would not be tied to the programming, which we have known for years has absolutely no correlation with success or failure on parole. Programming would still be encouraged in a non-coercive manner.

Little emphasis would be placed on trying to predict behavior on parole once released. Considerable research has told us that when we try to predict the future dangerousness of people, or who will succeed on parole, we obtain a high percentage of "false positives," those people mistakenly characterized as a poor risk or as being dangerous, who have no difficulty when they are released.

B. The guidelines system assures that release is based on concrete, verifiable criteria so that the offender's personal history, social status, or family situation would not be used as bases for the decision.

It removes the subjectivity from the decision-making and reduces the "game playing" often associated with board hearings. Decisions outside the guidelines could be made only for a good cause, requiring specific written reasons.

C. The guidelines model will reduce inherent unwarranted discrepancies in the lengths in the sentences being served by

Model

offenders sentenced throughout the state. I emphasize that these discrepancies in sentencing are no reflection on the ability of our state judiciary, but simply a limitation because of the number of offenders sentenced by approximately 40 judges statewide.

No matter how proficient these 40 people come in following the general principles established by our Supreme Court, it is unlikely they will obtain the degree on consistency and equity that a small collegial body of board members following specific written standards whose primary fucntion is and has been for decades, the fixing of terms of incarceration.

The "guidelines" is a better vehicle for handling this problem than appellate review as the guidelines deal with all sentenced offenders required to serve six months or more, not just those who decide to appeal. The role of the board is obviously changing. The board is developing a new kind of expertise with the adoption of the "just deserts" concept—the skill in developing standards for duration of confinement.

D. Parole release dates would be established early in the sentence (within six months of sentencing) and these release dates could be changed only if the offender was involved in serious misconduct or if he was severely emotionally disturbed at the time of the release date. This aspect of the guidelines itself provides some very positive benefits for the criminal justice system.

1. The offender no longer faces the uncertainty of not knowing when he had served "enough time" and is to be released. Game playing on the part of all parties is greatly reduced since the release decision is based upon the concrete information rather than individual biases or assumptions.
2. It would allow the Division of Corrections to project institutional populations with a much greater degree of accuracy, and enable the administration to much more accurately assess the need, if present, for additional correctional facilities.
3. Allows the Division of Corrections to know early in the sentence, offenders' release dates so that they can adequately program the offenders without fear that a substantial change would be made in the release date. This would be a great help in the classification system and assist Corrections in utilizing more appropriate criteria for the classification decision.

E. Guidelines would make administrative appeals and court appeals of Parole Board decisions much easier to process and the issues easier to define with the concrete criteria and the guidelines matrix.

F. Adoption of the system would reduce a large number of routine, detailed letters being sent to all offenders not being paroled, even through frequently the offenders would be released within any realistic guidelines table established.

It would allow parole board staff to devote more time to policy, program concerns, and other important issues.

G. The Parole Board maintains the flexibility to continually revise and update the guidelines based upon current community values and research being compiled on the guidelines criteria. It can handle unusual cases effectively with minimal cost to the citizens of the state. The need for correction of defects and omissions has been necessary in all guideline systems and they can be much more easily handled by an administrative body.

H. The adoption of these specific guidelines with appropriate tables will enable us to explain the policies of the Parole Board to the general public and thus promote the understanding of the responsibility of the Parole Board and of other segments of the criminal justice system.

I. The parole guidelines model is supported nationally by many critics of traditional parole that realized many of the goals the "flat-time" "presumptive," or "determinate" sentencing schemes can be better addressed by a well-developed guidelines model.

The parole guidelines model has received strong support from many longtime criminal justice administrators, criminal justice academicians, judiciary, and others.

In November 1977, the American Bar Association on the Legal Status of Prisoners recommended legislation along the lines of our parole guidelines model as envisioned in our recent grant proposal.

J. The parole guidelines model was presented to the Criminal Code Revision Subcommission in November 1977, and the proposed legislation adopted by them requires the guidelines be established through the cooperative efforts of the executive and judicial branches of government.

The "Joint Advisory Commission on Prison Terms and Standards" would be the first legislatively mandated cooperative body in the criminal justice system with the specific responsibility for improving the quality of parole decision-making by utilizing the expertise of both Parole Board members and sentencing judges.

BURGLARY WORKSHOP

The Traffic Institute of Northwestern University is sponsoring a Robbery and Burglary Control Workshop, Sept. 25-29, at Nashville, Tenn.

The purpose of the workshop is to develop effective crime reduction program relating specifically to robbery and burglary through preventive and tactical efforts.

Subjects covered during the workshop will include:

- Crime reporting and clearance.
- Community crime prevention programs.
- Resource allocation.
- Patrol management techniques and strategies.
- Communications and holdup information services.
- Analysis of robbery and burglary factors.
- Goals of police service.
- Use of decoys.
- Model tactical units.
- Management of special tac units.
- Tactical approaches to robbery and burglary.
- Tactical holdup alarm systems.
- Nonuniformed patrol apprehension strategy and tactics.
- Police patrol and crime prevention productivity measures.

The workshop fee is $300 and registration can be made through:

Registrar
The Traffic Institute
405 Church Street
Evanston, Ill. 60204

TASC--A Treatment Alternative to

by Marian Kowacki
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Treatment Alternatives to Street Crime is a mechanism to place pre- and post-trial criminal offenders for entry into community-based treatment programs.

The primary components of the program are:

1) Screening;
2) Diagnostic Evaluation;
3) Monitoring.

Initial Screening

All clients are initially screened in order to determine their eligibility for program participation. This involves a preliminary assessment of their substance abuse problem and a review of their current and past criminal involvement. Persons involved with major crimes of violence, such as armed robbery, murder, rape, are not eligible for program participation. Similarly, persons with OMVI/DWI charges are also excluded from program participation. These criteria were established by the Law Enforcement Assistance Administration, the funding agency for the Anchorage TASC program.

Once the initial determination of eligibility has been completed a criminal records check is conducted in order to verify the information that has been obtained from the client. During this initial determination of eligibility the TASC program is explained to the client and any questions are answered. The client signs a program participation form which details their responsibilities and obligations to the TASC program, and the necessary consent to release confidential information forms.

The TASC program conducts regular screening at the two pre-trial detention facilities in Anchorage, the Sixth Avenue Correctional Center and the Ridgeview Correctional Center for Women.

TASC also receives referrals from other sources such as Public Defender Agency private attorneys, district attorney, probation and parole officers, and other treatment and social service agencies. TASC also conducts diagnostic evaluations for presentence reports for the Division of Corrections on both TASC and non-TASC participants, upon receipt of the required consent to disclose confidential information from the client.

To Identify the Problem

Diagnostic evaluation is utilized to identify the problem areas of each client. This instrument collects information regarding the client's drug or alcohol problem, any past treatment experience, education, employment, training, family and social adjustment, motivation, health and welfare status, and legal history. This assists in gaining a fuller understanding of the client and of the interplay of various aspects of his or her life on their current situation.

This information is utilized in determining the nature and extent of the problems they are facing and is a primary determinant of the subsequent referral to treatment.

This diagnostic evaluation was designed on the basis of reviews of several operational TASC programs, drug treatment programs and the state of the art that is available from both the National Institute on Drug Abuse and the National Institute on Alcoholism and Alcohol Abuse. The information obtained is subsequently sent to the treatment program where the client is being referred in order to give the agency information about the client and further avoids duplication of effort by the treatment agency.

In addition to the diagnostic information provided to the treatment program, TASC also provides the program with a brief summary of the problem areas that have been identified and a recommendation as to the treatment focus.

Continuous Monitoring

Monitoring constitutes an ongoing contact and supervision of the clients in the TASC program. This involves, at the minimum, weekly contact with all active TASC clients. For drug-involved cases a minimum of a weekly urinalysis screening is required of the clients, whether they are involved in an outpatient or residential program.

Regulations prohibit urinalysis screening for alcohol-involved cases, unless so ordered by the courts.

The monitoring focuses on the following areas: no criminal involvement, drug-free urinalysis, employment if outpatient or education/training, and progress in treatment.

The participation agreement that each client signs identifies their responsibilities to TASC. In summary these are: attending treatment as scheduled, no subsequent criminal involvement, and no illicit drug usage as measured by urinalysis.

Persons that are required to provide urine samples are currently calling the program three days a week. On one of the days that they call in they are informed that a sample is required and they are expected to come to the program that day and provide a sample for urinalysis. If a client fails to submit a sample it is registered as a positive ("dirty"). Each urine obtained is observed in order to minimize any attempts at sample falsification or adulteration.

Currently, samples are shipped to an outside testing agency for testing, however, in the future we plan to conduct urinalysis screening at the TASC office. This will provide us with prompt results, rather than the current process of waiting seven to ten days. The testing system will be certified by the Center for Disease Control and shall be involved in a continuous proficiency testing program to assure quality of the system.

Regular Reports Required

As a part of the monitoring process TASC submits a monthly report to the appropriate criminal justice agency regarding the client's attendance, urinalysis results and progress in treatment.

Each of the treatment agencies to which clients are referred has entered a formal agreement which specifies the information which is provided to TASC, defines the manner in which referrals are made, and clearly states the responsibilities of both TASC and the treatment agency.

TASC provides the treatment agency with a copy of the diagnostic information about the client, a copy of the participation agreement and a copy of the client's consent to release confidential information.

Street Crime

If the client is involved in an outpatient program TASC is notified if the client does not meet a scheduled treatment appointment. The treatment agency also submits a monthly written report to TASC which summarizes the number of appointments the client had and the number that the client attended.

The client participates with the understanding that two unexcused absences from scheduled treatment in a 14-day period will result in their termination from TASC. The treatment agency also reports on the client's progress in treatment.

The TASC program reports the results of urinalysis, if appropriate, and includes a brief report of the TASC contacts during the month with the client. This report is then forwarded to the appropriate criminal justice agency—probation or parole officer, district attorney, or judge as appropriate.

The criteria for participation and continued involvement in TASC are based on objective measurable items: participation and attendance to treatment schedule, criminal involvement, urinalysis for drug-involved cases.

The client's involvement in TASC does not replace their responsibility to their probation or parole officer. In some instances involvement with TASC may not involve a formal treatment referral but may involve areas such as education or training or employment.

If it becomes apparent in such an instance that the client is encountering difficulties then there would be a reassessment and a referral to treatment or other services as appropriate. In some cases a client may be transferred from one treatment program to another, dependent upon their actual progress and other situational variables.

At the present time TASC has entered formal agreements with the following agencies: Narcotic Drug Treatment Center, Open Door Clinic, Akeela House, Studio Club, Salvation Army Comprehensive Alcoholism Services, Cook Inlet Native Association, Family Resource Center, Anchorage Community Mental Health Center, and is exploring other resources within the community, both public and private.

We have received referrals from treatment programs, family members and friends of potential clients, probation and parole officers, Parole Board, defense and district attorney's and other social service agencies in the community.

A Linking Agency

The TASC program was established with the goal of serving as a linking agent between the Criminal Justice and Treatment systems of the Anchorage community.

Communication and coordination with these agencies has been a focal point for program development. Through this type of cooperation with various agencies the TASC program is able to operate in an effective manner. We have recently initiated discussions with Mr. Huston, Director of the Division of Corrections, to explore areas in which the TASC program services can be made available to Corrections personnel.

The cooperation and assistance of the Correctional Center personnel and Superintendents has been a important facet of program development and operation. This type of support has also been demonstrated by the Probation and Parole officers, Pre-Sentence Investigation Unit staff, and the Parole Board. The staff of the District Attorney's office, both State and Municipal have also been involved in the project and have assisted in program operations. The AJIS information which we utilize as a part of our screening, authorized by the Governor's Commission on the Administration of Justice and the United States Department of Justice, is retrieved through the assistance of the District Attorney's office. We have also entered into formal agreements for referral of clients with the Alcohol Safety Action Program and the Pre-Trial Intervention Project, as well as ongoing contact with agencies such as the New Start Center, and the National Alliance of Businessmen.

TASC is neither a client advocate nor a part of the Criminal Justice system, but rather an objective third party which assesses drug- and alcohol-involved individuals in order to determine their appropriateness for treatment.

To insure the neutrality of the TASC program and to assist in further program development and refinement there is an Advisory Board composed of the following members: Representative Ed Dankworth; Superior Court Judge Ralph E. Moody; United States Marshal Opel; Area Court Administrator, James Arnold; Sgt. Trudeau, Anchorage Police Deputy, Metro Unit; Major James Vaden, Alaska State Troopers; James Gould of District Attorney's office; Jerry Schreiner of the Public Defender Agency; Sam Trivette of the State Board of Parole; and Ben Berrera, a private citizen who has been on the Mayor's Advisory Board on Drug Abuse.

The Advisory Board is presently exploring the possibility of the addition of other members.

This group oversees the functions and activities of the TASC program and brings their experience and expertise to assist in the program's growth and development.

The Advisory Board receives information pertaining to program operations from their respective positions and contacts with the community, and from the TASC program itself. The Board also receives all of the reports and other information that is generated by an independent evaluation firm, the Health & Welfare Planning Council, Vancouver, Washington.

The evaluators have recently mailed a survey instrument to the participating agencies to receive feedback on program operations and to identify areas that are in need of improvement or refinement.

The evaluators also receive copies of all of the data gathered on clients and will be comparing the information and program performance with other TASC projects they are evaluating. History of the Anchorage TASC project:

First Suggested in 1976

In December 1976, evaluators from the Drug Abuse Council, Inc., a nationally known Drug Abuse Policy study and evaluation group, reviewed the Anchorage Drug Abuse programs. It was their recommendation that the Municipality consider developing a TASC project as the evaluation indicated a considerable number of

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The Exclusionary Rule

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The concept of the judicial integrity appeared once again in the Court's decision in **Mapp v. Ohio,** 367 U. S., 643 (1961). In that decision, which applied the exclusionary rule to the states, the court observed: "But as we said in **Elkins,** 'there is another consideration—the imperative of judicial integrity . . .' The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy our government more quickly than its failure to observe its own law, or worse, its disregard of the charter of its own existence." 367 U. S., at 659.

Again, in **Mapp,** the Court noted, "Our decision, founded on reason and truth, gives to the individual not more than that which the constitution guarantees him, to the police officer no less than to which honest law enforcement is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice." 367 U. S. at 660.

Integrity Theory Weakened

It should be noted that the **Mapp** Court's support for nondeterrence based premises supporting the exclusionary rule was weakened considerably by the effect of its decision in **Linkletter v. Walker** [381 U. S., at 618 (1964)], in which the Court refused to reverse state court convictions based on the use of illegally obtained evidence during the period between **Wolf** and **Mapp.**

From a philosophical perspective, deterrence could not be enhanced by retroactive application. In so holding, however, the court tacitly refused to recognize the "personal rights" of those individuals who had been convicted with the aid of illegally obtained evidence. And, the premise of upholding judicial integrity was similarly undermined by the refusal to apply **Mapp** retrospectively.

Heavy reliance on the judicial integrity premise as a basis for the rule is further weakened by the Court's decisions with respect to standing to challenge the introduction of illegally obtained evidence.

The court has emphasized the personal nature of the right and consequently denied standing to those individuals whose Fourth Amendment rights were not directly violated. This conclusion is clearly inconsistent with the theory of preserving judicial integrity.

When the Constitution is being protected, the relationship of an individual to evidence obtained in violation of constitutional mandates should be irrelevant. When such evidence is admitted, illegal behavior is sanctioned by the court in question.

Exclusion as a Deterrent

Standing in sharp contrast to the premises of judicial integrity or personal right, is the third rationale for the exclusionary rule.

The concept that the exclusionary rule serves as a deterrent to law enforcement first found credence in the Supreme Court's decision in **Wolf v. Colorado.** [338 U. S., 25 (1949)] The majority in **Wolf** expressed their view as follows:

> Granting that in practice the exclusion of evidence may be an effective way of deterring unreasonable searches, it is not for this court to condemn as falling below the minimal standards assured by the due process clause a state's reliance upon other methods, which if consistently enforced, may be equally effective. 338 U. S., at 31.

Further in their opinion, the majority noted:

> We cannot brush aside the experience of states which deem such conduct by the police too slight to call for a deterrent remedy not by way of disciplinary measures but by overriding the relevant rules of evidence. 338 U. S. at 31, 32.

Intended to Prevent Official Misconduct

The deterrence premise of the exclusionary rule assumes that law enforcement will be discouraged from engaging in unreasonable searches and seizures by excluding the fruits of those seizures from admission as evidence in proceedings against the accused.

Deterrence is designed to prevent official misconduct. It is intended also to have an educational effect which would produce fewer violations of the Fourth Amendment.

Thus, from the perspective of the deterrence premise, the exclusionary rule is designed to deal with the future, to protect the public from general police misconduct in the future, rather than to redress the individual right of the victim.

In **Mapp,** in overruling its decision in **Wolf,** the Supreme Court relied heavily on the premise of deterrence. It did, in passing, however, make note of the two other premises supporting the exclusionary rule: judicial integrity, and personal rights.

Deterrence Primary Justification

It is useful to stress the apparent current pre-eminence of the deterrence rationale.

In **Elkins,** the Court emphasized that the purpose of the rule was to deter police misconduct and not to vindicate the rights of the defendant. The court noted:

> **The rule is calculated to prevent, not to repair. Its purpose is to deter—to compel respect for the constitutional guarantee in the only effectively available way—by removing the incentive to disregard it. 364, U. S., at 217.**

In **Alderman v. United States,** 394 U. S., 165 (1969), the Court refused to extend the exclusionary rule to individuals whose Fourth Amendment rights were not violated.

The Court stated that the primary purpose of the rule was deterrence and that the added social cost of excluding additional evidence exceeded any increase in deterrence.

In **United States v. Calandra,** 414 U. S., 338 (1974), the Supreme Court appeared to have finally taken the position that the primary justification for the exclusionary rule is deterrence of police misconduct.

Calandra involved a case where federal agents, acting pursuant to a search warrant which specified the seizure of evidence of gambling and bookmaking, seized evidence relating to Calandra's likely association in loan sharking operations. No charges were brought against him.

". . . To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution . . ."

A few months later, a grand jury investigating loan sharking called Calandra to testify. Prior to the government's granting of immunity, Calandra successfully evoked the protection of the exclusionary rule. The District Court found that the search warrant was not based on probable cause and that the search exceeded the scope of the warrant.

Not only did it suppress the evidence, but it also held that Calandra could not be forced to answer any questions before the grand jury based on this evidence.

Not a Personal Constitutional Right

The Supreme Court, in a 6-3 decision, reversed. Examining the exclusionary rule in the context of deterrence, the court held that because the potential for damage to the grand jury's investigatory functions substantially exceeded any deterrent effect, the rule would not be extended to evidence presented in that arena. "The rule is a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the party aggrieved." 414 U. S., at 338.

The majority in **Calandra** did not recognize the judicial integrity rationale as an independent basis for the rule.

The Court said that illegal conduct is not sanctioned by extending the rule to a situation which doesn't further the deterrent function. As the dissent pointed out, ". . . the Court today discounts to the point of extinction the function of . . . judicial integrity." 414 U. S., at 360.

The dissenters in **Calandra** viewed judicial integrity as the essential basis for the exclusionary rule. They found deterrence "at least only a hoped for effect of the exclusionary rule, not its ultimate objective."

They argued that the rule as created in **Weeks** was designed to fulfill the Supreme Court's role as "guardians of the Bill of Rights" and enabled the courts "to avoid the taint of partnership in official lawlessness" and assured the people "that the government would not profit from its lawless behavior." 414 U. S., at 357.

They found the rule to be an intrinsic part of the Fourth Amendment with constitutional significance quite apart from any deterrent effect.

Integrity Not Offended By Good Faith Conduct

In **United States v. Peltier,** 422 U. S. 531, 538 (1975) the court observed that judicial integrity "is not offended if law enforcement officials reasonably believed in good faith that their conduct was in accordance with the law even if decisions subsequent to the search and seizure have held that conduct of the type engaged in by the law enforcement officials is not permitted by the Constitution."

Finally, in **Stone v. Powell,** 428 U. S. 465 (1976), Justice Powell speaking for the majority noted that:

> The primary justification for the exclusionary rule then is the deterrence of police conduct that violates Fourth Amendment rights. Post **Mapp** decisions have established that the rule is not a personal constitutional right. 428 U. S. at 486.

If our interpretation of the effect of post **Mapp** decisions is correct, then the exclusionary rule, in the context of current court make-up, might be sustained only if evidence could be presented which supports the conclusion that it does have deterrent value.

In the absence of an empirical demonstration of its deterrent effectiveness, it seems likely that the Court might be persuaded to discard the current interpretation of the exclusionary rule.

What If It Does Not Deter?

As a consequence, it behooves us to investigate whether or not research has provided data which support a conclusion that the exclusionary rule does not serve as a deterrent to lawless police action.

There have been efforts, in recent years, towards developing an empirical data base supporting the conclusion that the exclusionary rule does not deter unlawful police action.

Two studies funded by LEAA have concluded that the exclusionary rule is not effective. (See generally: James E. Spiotto, "Search and Seizure: An Empirical Study of the Exclusionary Rule and Its Alternative." J. Leg. Studies 243 (1973); and Dallin H. Oaks, "Studying the Exclusionary Rule and Search and Seizure: 37 & Chi. L. Rev. 665 (1970).)

While some commentators have legitimately criticized the methodologies involved in both of those studies (see generally: Critique "On the Limitations of Empirical Evaluations of the Exclusionary Rule: A Critique of the Spiotto Research and the United States v. Calandra." 69 NW. U.L. Rev. 740 (1974).) The current Court is likely to rely heavily on them should it decide to overrule **Mapp** and its application of the exclusionary rule to the states.

". . . Our cases evidence the fact that the rule of exclusion and our reversal of convictions for its violations are not sanctions which put an end to illegal search and seizure . . ."

If the Burger Court does decide to overrule **Mapp** it may turn to supportive language contained in previous cases. In **Irvine v. California,** 374 U. S., 128 (1954), Justice Jackson speaking for the Court noted: "We think that the **Wolf** decision should not be overruled for the reasons so persuasively stated therein. We think, too, that a distinction of the kind urged would leave the rule so indefinite that no state court would know what it should rule in order to keep its processes on solid constitutional ground." 374 U. S., at 134.

Further in the decision Justice Jackson pointed out:

> "What actual experience teaches us we do not know. Our cases evidence the fact that the federal rule of exclusion and our reversal of convictions for its violations are not sanctions which put an end to illegal search and seizure by federal officers. That the rule of exclusion and reversal results in the escape of guilty persons is more capable of demonstration than that it deters invasions of the right by the police. A case is made, so far as the police are concerned, when they announce that they have arrested their man.

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Opinions of Note

Steven A. Menard
v.
State of Alaska
Opinion No. 1623
Appeal from the Superior Court, Fourth Judicial District, Fairbanks, Judge James R. Blair.

In affirming the conviction of Steven A. Menard for assault with a dangerous weapon, the Alaska Supreme Court said the use of the so-called Mann instruction is in error and admonished Alaska trial courts to cease using that instruction. But the court did not hold that the use of the instruction would always be a reversible error.

The instruction reads:

> It is reasonable to infer that a person ordinarily intends the natural and probable consequences of acts knowingly done or knowingly omitted. So unless the contrary appears from the evidence, the jury may draw the inference that the accused intended all the consequences which one standing in like circumstances and possessing like knowledge should reasonably have expected to result from any act knowingly done or knowingly omitted by the accused.

It has been criticized because the phrase "so unless the contrary appears from the evidence" shifts the burden of proof from the prosecution to the defendant to prove lack of intent. Most courts in other jurisdictions have held that reversal is not required when the instructions on intent, when taken as a whole, were adequate to insure that the jury was not misled.

In this case the supreme court noted that Menard was acquitted of the specific intent charge, stabbing with intent to wound, thus the instruction regarding proof of intent became largely irrelevant and the error in this case was harmless beyond reasonable doubt.

Menard also argued on appeal that reasonable apprehension of bodily harm by the victim is an element which must be included in the definition of assault, citing Oregon case law.

Because Alaska statutes do not define "assault," the supreme court said, it is necessary to look to the interpretation of the Oregon Supreme Court prior to 1900 when construing Alaska statutes which originated in Oregon. It is presumed statutes are adopted with the interpretations which by the highest court of the states from which they are borrowed.

The supreme court, therefore, accepted the holding of the Oregon court, in a case more recent than that cited by Menard, that neither fear nor apprehension are necessary elements in the crime of assault.

The supreme court also found no error in the trial judge's exclusion of a portion of a psychiatrist's testimony regarding the administration of a sodium amytal (truth serum) test as a diagnostic interview.

This, the supreme court said, was within the discretion of trial court judge to exclude evidence in which the probative value may be outweighed by the prejudicial effect on the jury.

Edward Kimoktoak
v.
State of Alaska
Opinion No. 1624
Appeal from the Superior Court, Third Judicial District, Anchorage, Superior Court Judge Ralph E. Moody, District Court Judge John D. Mason.

The Alaska Supreme Court announced it has adopted the view that it is reversible error *per se* for a court to allow a jury to separate during deliberations without the stipulation of the defendant.

The court said it adopted this position because of the inherent difficulty in obtaining reliable information on whether there has been any misconduct during the period of separation.

In so doing the court reversed the conviction of Edward Kimoktoak for operating a motor vehicle while intoxicated. In that trial shortly before the Fourth of July weekend, 1976, the trial court, in the absence of the defendant and over objection of defense counsel, heard testimony of the request of the jury to hear a replay of a portion of testimony and the court decided to allow the replay following the three-day holiday. Defense counsel objected to this as well.

The case was remanded for a new trial.

Roy Alton Green
v.
State of Alaska
Opinion No. 1625
Appeal from the Superior Court, Fourth Judicial District, Fairbanks, Judge James R. Blair.

The Alaska Supreme Court said the state did not exercise due diligence in its efforts to locate the absent chief witness against the defendant and it was prejudicial error to use the recorded testimony of the witness at trial. The conviction of Roy Alton Green was reversed and remanded for a new trial.

The court said that the failure to the state to inquire of the U. S. Post Office for a possible forwarding address or of her former employer precluded a finding that due care had been exercised.

In response to another argument raised on appeal that the offense of careless use of firearms can be committed only with a loaded and operable firearm, the supreme court said a loaded and operable firearm is not a necessary element of the offense where what is charged is the pointing or aiming of the firearm at a person.

The court said that in its view the statute is broad enough to reach the use of firearms for other than assaultive purposes.

The court said firearms can be instruments of intimidation even when unloaded and the statute is designed to cover types of conduct which would not amount to assault in many instances.

Charles Allen Johnson
v.
State of Alaska
Opinion No. 1612
Appeal from the Superior Court, Third Judicial District, Anchorage, Judge Peter J. Kalamarides.

The Alaska Supreme Court reversed the conviction of Charles Allen Johnson for sale of narcotics because of the failure of the trial judge to follow the dictates of Rule 31(f) of the Alaska Rules of Criminal Procedure which prohibits the use of a sealed verdict over the defendant's objection.

Brief digests of Alaska Supreme Court Opinions and the issues involved relating to criminal justice.

Stephen Zerbe
v.
State of Alaska
Opinion No. 1627
Appeal from the Superior Court, Third Judicial District, Anchorage, Judge James K. Singleton.

The supreme court held that if negligence is the cause for a false imprisonment, then a claim can be filed against the state which would otherwise be barred by the false imprisonment exception to the Alaska government claims statute.

The issue was raised by Stephen Zerbe who was originally charged with driving on overweight vehicle. But the complaint was dismissed prior to arraignment and Zerbe did not attend.

The judge, apparently uninformed of the dismissal issued a bench warrant and Zerbe was arrested five months later when he applied for a chauffeur's license at the police department. He was subsequently held in jail for nine hours unable to make a telephone call to raise bail.

When released he had the bench warrant quashed on grounds of the earlier dismissal. He later filed suit against the state claiming state employes were negligent in failing to inform the judge of the dismissal and that jail personnel were negligent in failing to allow him to make a telephone call to secure bail.

The superior court ruled that the claim was barred by Alaska's government claims statute which does not permit claims against the state for false imprisonment, false arrest, and certain other specific acts.

Because of the lack of Alaska case law relating to this statute the court had to turn to federal case law for interpretation of the similar federal statute. Here case law was divided, but the Alaska Supreme Court said the line of cases permitting claims arising from negligence appeared better reasoned.

The court said, "Today, when various branches of government collect and keep copious records concerning numerous aspects of the lives of ordinary citizens, we are unwilling to deny recourse to those hapless people whose lives are disrupted because of careless recordkeeping or poorly programmed computers. We see no justification for immunizing the government from damaging consequences of its clerical employees' failure to exercise due care."

The court held that it was negligent recordkeeping, rather than false imprisonment, which caused Zerbe's injuries and the claim should be treated in the same manner as any other negligence case against the state.

Elliott P. Johnson
v.
State of Alaska
Opinion No. 1628
Petition of Review from the Superior Court, First Judicial District, Sitka, Judge Duane Craske.

In this petition of review concerning the admissibility of a series of statements by an assault victim prior to her death as exceptions to the hearsay rule, the supreme court said:

1. While statements made for the purposes of medical diagnosis or treatment are admissible, the trial judge erred in admitting portions of the statements which identified an alleged assailant.

2. The trial judge applied a too restrictive standard in determining the admissibility of a dying declaration—"the abandonment of all hope" standard; and that the "awareness of impending death" standard should have been applied.

Four statements were made by the victim, Elizabeth Johnson. The first two were made to a practical nurse and doctor at the hospital where she was treated. The medical personnel at first thought she had been run over by a car, but in her statements the woman said she had been beaten and identified her assailant.

The last two statements were made to a Sitka police officer before and after surgery and after Mrs. Johnson was advised that her condition was very serious and that she might not survive. The doctor did not advise her of the certainty of her death because he regarded that as an unsound medical practice that would depress a patient and further reduce already small chances of recovery.

In these two statements Mrs. Johnson first said she did not know who had beaten her, but in the final statement, in response to leading questions by the police officer, she again identified her assailant.

In the subsequent criminal prosecution the defendant filed a motion to suppress the statements. The trial judge denied the motion regarding the first two statements, allowing their admission as statements made for the purpose of medical diagnosis or treatment.

The trial judge granted the motion to suppress the last two statements stating that he could not find that the victim had "abandoned all hope."

Regarding the admissibility of the first two statements as an exception to the hearsay rule, the supreme court said statements of a patient of an existing body condition are generally admitted as evidence of the facts stated because of a high likelihood of truthfulness resulting from the patient's belief that the doctor will rely on such statements for diagnosis and treatment.

Statements going to the cause of a patient's condition also may be desirable for diagnosis and treatments and are admissible for the same reason.

The trial court was correct in admitting Mrs. Johnson's statements as to the general cause of her condition, the supreme court said, but the trial court erred in admitting those portions of the statements which identified her assailant.

The supreme court said such information entering the realm of fixing fault or indicating identity is not relevant to medical diagnosis or treatment and should be excluded as they lack assurances of reliability.

(The exception to the hearsay rule permitting statements made for the purpose of medical diagnosis or treatment is set forth in Rule 803 (4) of the Federal Rules of Evidence. An identical provision is contained in proposed rules of evidence being considered by the Alaska Supreme Court.)

The subject of dying declarations was discussed by the supreme court in **Hewitt v. State**, 514 P.2d 6 (1973). At that time the court divided evenly, with four judges participating. The prevailing opinion written by Justice Roger G. Connor said the

(Continued on Page 10)

Points on Appeal

Brief descriptions of points being raised in criminal appeals filed with the Alaska Supreme Court.

Edward D. Badget
v.
State of Alaska
File No. 4156

Filed July 14, 1978 by Johnson, Chrisenson and Glass, attorneys.

Appellant alleges the following errors by the trial court:

- In the use of a special jury instruction.
- In initially refusing to present separate verdicts to the jury covering the three separate forms of manslaughter upon which a verdict could be returned.
- There was insufficient evidence to sustain the jury's verdict that the defendant was guilty of manslaughter by culpable negligence.

David R. Stobaugh
v.
State of Alaska
File No. 3729

Filed July 7, 1978, by G. R. Eschbacher, attorney.

Stobaugh appeals from a conviction for burglary and seven-year sentence arguing that:

- The trial court erred in denying the defendant's motion to dismiss the charge for failure to proceed to trial within the required time period set forth in Criminal Rule 45.
- The trial court erred in failing to suppress the defendant's statement or confession at the time of arrest and a confession in the judge's chambers.
- The trial court erred in denying the defendant's request to allow the jury to consider both the elements of trustworthiness and voluntariness of the confession.
- The trial court erred in failing to grant a new trial.
- The seven-year sentence was excessive and should be reduced.

Donald E. Schultz
v.
State of Alaska
File No. 4152

Filed July 6, 1978 by Dick L. Madson, attorney.

Appellant alleges error in the denial of his motion to suppress evidence.

Thomas Schanrock
v.
State of Alaska
File No. 3783

Filed July 10, 1978 by Brian Shortell, Public Defender.

Appellant argues on appeal from a conviction for lewd and lascivious acts towards a child that:

- The defendant's constitutional right to confront his accuser was denied by the trial court's evidentiary rulings concerning the alleged victim's sexual and social behavior, specifically:
  - A. The trial court improperly excluded evidence of prior bad acts committed by the alleged victim, which established the witness' motive, bias and prejudice against the defendant.
  - B. The trial court improperly excluded a prior inconsistent statement by the alleged victim.

Evans v. State
File 4086

Filed June 6, 1978. Appellant urges ten errors in all:

1. The exclusion of evidence related to the insanity defense;
2. Denial of a motion for a bifurcated trial;
3. Improper restriction of voir-dire;
4. Restriction on the cross-examination of a witness;
5. Exclusion of the testimony of a witness;
6. Refusal to admit the tape recording of a psychological test;
7. Ruling that the defendant must testify to cure hearsay problems;
8. Refusal to order a new presentence report or alternatively to grant a request for the continuance of sentencing;
9. Excessive sentence;
10. Refusal to give defendant's proposed instructions on diminished capacity and unconscious acts.

Raymond Anthony Harvey
v.
State of Alaska
File No. 3921

Filed July 11, 1978 by Bruce A. Bookman, attorney.

In an appeal arising from a conviction of negligent homicide, the appellant argues that:

- The trial court erred in failing to dismiss the indictment on the grounds of insufficient evidence at the grand jury.
- The trial court erred in failing to limit evidence of prior bad acts of the defendant.
- The trial court erred in failing to limit the jury's consideration of the facts and offense set out in the indictment.

Opinions of Note

(Continued from Page 9)

proper standard for admitting dying declarations requires the abandonment of all hope of recovery.

Justice Robert C. Erwin wrote at that time that the applicable standard should be "laboring under a sense of impending death," without requiring abandonment of all hope.

Since then Federal Rules of Evidence has been enacted which no longer require "abandonment of all hope of recovery." Rule 804(b)(2) requires only a belief that death is imminent. (This provision is also included in the proposed Alaska Rules of Evidence which are being considered by the Alaska Supreme Court.)

The supreme court said that when the proper standard is used—awareness of impending death—then Mrs. Johnson's final statement must be admitted. The admission of the statement made prior to surgery was described as a more closely balanced and the admissibility of that statement was left to the judge.

The Exclusionary Rule

". . . The disciplinary or educational effect of the Court's releasing the defendant for police misbehavior is so indirect as to be no more than a mild deterrent at best . . ."

(Continued from Page 7)

Rejection of the evidence does nothing to punish the wrongdoing official, while it may, and likely will release the wrongdoing defendant. It deprives society of its remedy against one lawbreaker because he is pursued by another. It protects one against whom incriminating evidence is discovered, but does nothing to protect innocent persons who are the victims of illegal but fruitless searches. The disciplinary or educational effect of the Court's releasing the defendant for police misbehavior is so indirect as to be no more than a mild deterrent at best. Some discretion is still left to the states in criminal cases, for which they are largely responsible, and we think it is for them to determine which rule serves them best." 374 U. S., at 135, 136.

Where is Empirical Evidence?

". . . Empirical statistics are not available to show that the inhabitants of states which follow the exclusionary rule suffer less from lawless searches and seizures than do those states which admit evidence unlawfully obtained . . . it cannot positively be demonstrated that enforcement of the criminal law is either more or less effective under either rule . . ."

The current Court, if it decides to reverse **Mapp**, might also rely on language from **Elkins**. There, Justice Stewart speaking for a unanimous Court observed:

Mere logical symmetry and abstract reasoning are perhaps not enough, however, to support a doctrine that would exclude relevant evidence from the trial of a federal criminal case . . . . Yet, any apparent limitation on the process of discovering truth in a federal trial ought to be imposed only on the basis of considerations which outweigh the general need for untrammelled disclosure of competent relevant evidence in a court of justice." 364 U. S., at 216.

After discussing the concept that the crook will go free because the constable erred, Justice Stewart stated:

"Yet however felicitous their phrasing, these objections hardly answer the basic postulate of the exclusionary rule itself. The rule is calculated to prevent, not to repair. Its purpose is to deter—to compel respect for the constitutional guarantee in the only effective available way—by removing the incentive to disregard it." 364 U. S., at 216.

Justice Stewart went on to note:

Empirical statistics are not available to show that the inhabitants of states which follow the exclusionary rule suffer less from lawless searches and seizures than do those states which admit evidence unlawfully obtained. Since as a practical matter it is never easy to prove a negative, it is hardly likely that conclusive factual data could ever be assembled. For much the same reason, it cannot positively be demonstrated that enforcement of the criminal law is either more or less effective under either rule." 364 U. S., at 218.

Finally, the Court might well refer to language contained in the majority opinion in **Wolf**. Speaking for the majority, Justice Frankfurter noted:

"But the ways of enforcing such a basic right (the protection against unlawful search and seizures), raise questions of a different order. How such arbitrary conduct should be checked, what remedies against it should be enforced, the means by which the rights should be made effective, are all questions that are not to be so dogmatically answered as to preclude the varying solutions not susceptible of quantitative solution." 338 U. S., at 27.

". . . That the rule of exclusion and reversal results in the escape of guilty persons is more capable of demonstration than that it deters invasion of the right by police . . ."

Alternative Remedies

The questions would still remain that if the exclusionary rule was not available as a means of deterring unlawful activity by law enforcement officials, what other remedies might be available to take its place? In all of the Court's decisions dealing with the exclusionary rule, from **Weeks** through **Irvine**, **Mapp**, and **Calandra**, various members of the Court have pointed out a variety of remedies which might serve as effectively as the exclusionary rule in deterring unlawful conduct.

Among the more commonly suggested remedies include: reliance on actions in tort, proceeding under Federal statutes for violations of civil rights, criminal sanctions, the use of injunctive relief, internal or external police review boards, ombudsmen, and increased and improved training of law enforcement personnel.

The proposal which will appear in the second installment of this article will consider each of these alternatives and their relationship to the three rationales which at varying times have provided the underpinning for the exclusionary rule.

Contribute!

All our readers are encouraged to contribute articles and notices of events pertinent to criminal justice. The more practitioner participation we have, the more effective our work will be in providing a single forum for the entire field.

Justice Training Calendar

POLICE

Sept. 4-Nov. 22. Traffic Management Institute. Louisiana State University. Baton Rouge, La.

Sept. 5-Nov. 22. Law Enforcement Institute. Louisiana State University. Baton Rouge, La.

Sept. 6-8. Crisis Intervention Workshop. North Central Texas Regional Police Academy, Arlington, Tex.

Sept. 6-8. Burglary Investigation. Case Western Reserve University. Cleveland, Ohio.

Sept. 11-13. Body Armor, Weapons and Ammunition Workshop. IACP. Albany, New York.

Sept. 11-13. Rape Investigation Workshop. Theorem Institute. Denver, Colo.

Sept. 11-14. Crime Analysis. IACP. Phoenix, Ariz.

Sept. 11-15. Sex Crimes Investigation Workshop. North Central Texas Regional Police Academy. Arlington, Tex.

Sept. 11-15. Homicide Investigation. Florida Institute for Law Enforcement. St. Petersburg, Fla.

Sept. 11-15. Physical Fitness Programs For Police. IACP. San Francisco, Calif.

Sept. 11-22. Law Enforcement Supervision. Regional Criminal Justice Training Center. Modesto, Calif.

Sept. 11-29. Technical Accident Investigation. The Traffic Institute. Evanston, Ill.

Sept. 11-Oct. 20. Polygraphic Training Course. National Training Center for Polygraph Science. New York, N. Y.

Sept. 12-14. Criminal Investigation Seminar. University of Missouri. Columbia, Mo.

Sept. 12-14. Seminar on Audits/Financial Investigations that Detect Fraud and Embezzlement. Association of Federal Investigators. Chicago, Ill.

Sept. 12-14. Crime and Law Enforcement in Parks and Recreation Areas. Case Western Reserve University. Cleveland, Ohio.

Sept. 13-Dec. 8. Basic Police Academy. Regional Criminal Justice Training Center. Modesto, Calif.

Sept. 17-23. First Comprehensive Training Course on White Collar Crime Enforcement Strategies and Techniques. National Center on White Collar Crime. Seattle, Wash.

Sept. 18-20. Police Fleet Management—Selection and Maintenance of Police Vehicles and Auxiliary Equipment. IACP. Columbus, Ohio.

Sept. 18-21. Police Executive Development Program. Criminal Justice Center and Alaska Association of Chiefs of Police. Anchorage, Alaska.

Sept. 18-21. Police Labor Relations. IACP. Boston, Mass.

Sept. 18-22. Supervision of Personnel. Case Western Reserve University. Cleveland, Ohio.

Sept. 18-22. Management and Operation of Narcotic Units Workshop. IACP Atlanta, Ga.

Sept. 18-29. Narcotics Conspiracy Investigation. Institute on Organized Crime. Miami, Fla.

Sept. 21-24. Law Enforcement Hypnosis Seminar. Law Enforcement Hypnosis Institute. Atlanta, Ga.

Sept. 23-24. Polygraph Interrogation Workshop. National Training Center of Polygraph Science. Memphis, Tenn.

Sept. 23, 30. Crowd Control and Use of Chemical Agents. Regional Criminal Justice Training Center, Modesto, Calif.

Sept. 24-28. Midwestern Burglary Investigation Training School. University of Missouri. Columbia, Mo.

Sept. 25-29. Special Weapons and Tactics. Case Western Reserve University. Cleveland, Ohio.

Sept. 25-29. Police Juvenile Procedures. IACP. Norfolk, Va.

Sept. 25-Oct. 6. Criminal Investigation. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 1-6. Traffic Accident Investigation. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 2-4. Hostage Negotiation. Florida Institute for Law Enforcement. St. Petersburg, Fla.

Oct. 2-6. Developing Administrative Staff Skills. IACP. Washington, D. C.

Oct. 2-13. On-Scene Accident Investigation. The Traffic Institute. Evanston, Ill.

Oct. 3-5. Major Case Investigations. Case Western Reserve University. Cleveland, Ohio.

Oct. 3-5. Seminar on Audits/Financial Investigations that Detect Fraud and Embezzlement. Association of Federal Investigators. Chicago, Ill.

Oct. 7-Nov. 4. Arrests and Firearms. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 9-13. Police Budget Preparation Workshop. The Traffic Institute, Evanston, Ill.

Oct. 12-13. Crime and the Elderly. Case Western Reserve University. Cleveland, Ohio.

Oct. 16-19. Police Performance Evaluation and Appraisal Workshop. The Traffic Institute. Evanston, Ill.

Oct. 16-19. Developing Police Computer Capabilities. IACP. Nashville, Tenn.

Oct. 16-19. Legal Problems in Police Administration. Traffic Institute. Evanston, Ill.

Oct. 16-20. Responses to Hostage-Taking Workshop. IACP. Norfolk, Va.

Oct. 16-24. 46-hour course in Firearms, Arrest and Search and Seizure. Case Western Reserve University. Cleveland, Ohio.

Oct. 16-Nov. 3. Technical Accident Investigation. The Traffic Institute. Evanston, Ill.

Oct. 16-Nov. 17. Organized Crime Investigators' Course. Institute on Organized Crime. Miami, Fla.

Oct. 16-Dec. 15. Basic Police School. Case Western Reserve University. Cleveland, Ohio.

Oct. 17-Jan. 26. Basic Police Academy. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 18-20. Tactical Approaches to Crimes in Progress. Case Western Reserve University. Cleveland, Ohio.

Oct. 23-26. Equal Employment Opportunity and Affirmative Action. IACP. New Orleans, La.

Oct. 23-27. The Allocation and Distribution of Police Manpower. IACP. San Francisco, Calif.

Oct. 23-Nov. 3. Police Middle Management. Cook County Sheriff's Department. Chicago, Ill.

Oct. 25-27. Hostage Procedures and Negotiations. Case Western Reserve University. Cleveland, Ohio.

Oct. 30-Nov. 1. Detection and Identification of Illegally Used Explosives. Bureau of Alcohol, Tobacco and Firearms. Reston, Va.

Oct. 30-Nov. 2. Police Discipline. IACP. Orlando, Fla.

Oct. 30-Nov. 3. Hostage Negotiation. Florida Institute for Law Enforcement. St. Petersburg, Fla.

Oct. 30-Nov. 3. Field Training Officer. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 1-3. Body Armor, Weapons and Ammunition Workshop. IACP Kansas City, Mo.

Nov. 6-9. The Police Executive and the Law. IACP. Atlanta, Ga.

Nov. 6-17. Selective Traffic Enforcement Program. The Traffic Institute. Evanston, Ill.

Nov. 6-17. Law Enforcement Planning Officers Seminar. The Traffic Institute. Evanston, Ill.

Nov. 6-17. Standards for Driver Examinations. The Traffic Institute, Northwestern University. Evanston, Ill.

Nov. 6-17. Federal Investigators Advanced Seminar. National Institute of Professional Education for Investigators. San Francisco, Calif.

Nov. 6-17. Investigation of Sex Crimes. Southern Police Institute. Louisville, Ky.

Nov. 7-9. Rape Investigation. Case Western Reserve University. Cleveland, Ohio.

Nov. 7-18. Motor Fleet Accident Investigation Workshop. Traffic Institute. Evanston, Ill.

Nov. 11-22. Supervision of Police Personnel. The Traffic Institute. Evanston, Ill.

Nov. 13-16. Advanced Police Computer Applications and Management. IACP. San Diego, Calif.

Nov. 13-17. Basic Fingerprinting. Case Western Reserve University. Cleveland, Ohio.

Nov. 13-17. Training for Trainers. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 13-17. Workshop on Management of Job-Related Stress. IACP. Phoenix, Ariz.

Nov. 13-17. Vehicle Theft Investigation. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 15-17. Interview and Interrogation. Florida Institute for Law Enforcement. St. Petersburg, Fla.

Nov. 27-30. Police Decision-Making and Leadership Development Seminar. Traffic Institute. Evanston, Ill.

Nov. 27-Dec. 1. Crowd and Spectator Violence. IACP. Miami, Fla.

Nov. 27-Dec. 1. Traffic Law Enforcement. The Traffic Institute. Evanston, Ill.

Nov. 27-Dec. 1. Burglary Investigation. Florida Institute for Law Enforcement. St. Petersburg, Fla.

Nov. 27-Dec. 1. Jail Operations. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 29-March 9. Basic Police Academy. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 30-Dec. 3. Law Enforcement Hypnosis Seminar. Law Enforcement Hypnosis Institute. Los Angeles, Calif.

Dec. 2 and 9. Crowd Control and Use of Chemical Agents. Regional Criminal Justice Training Center, Modesto, Calif.

Dec. 4-6. Police Fleet Management: Selection and Maintenance of the Police Vehicle and Auxiliary Equipment. IACP. Daytona Beach, Fla.

Dec. 4-7. Personal Adjustment Problems of Law Enforcement Personnel Seminar. The Traffic Institute. Evanston, Ill.

Dec. 4-8. Advance Office Course. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 4-15. Command Seminar. Institute on Organized Crime. Miami, Fla.

Dec. 5-7. Criminal Law Seminar. University of Missouri. Columbia, Mo.

Dec. 6-8. Executive Development. Florida Institute for Law Enforcement. St. Petersburg, Fla.

Dec. 11-15. Executive Development. IACP. Orlando, Fla.

Dec. 11-15. Traffic Accident Investigation. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 11-15. Arrest and Firearms, 832 PC. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 12-13. Institute on Crime and Law Enforcement in Parks and Recreation Areas. Case Western Reserve University. Columbus, Ohio.

JUDICIAL

Sept. 10-15. Personnel Administration. Institute for Court Management. Minneapolis, Minn.

Sept. 17-22. Sentencing Felons, Graduate Course. National Judicial College. Reno, Nev.

Sept. 17-Oct. 6. General Jurisdiction. National Judicial College. Reno, Nev.

Sept. 24-27. Forecasting Judicial and Support Personnel. Institute for Court Management. San Francisco, Calif.

Sept. 24-27. Appellate Judges Seminar. ABA Judicial Administration Division and Appellate Judges Conference. Boston, Mass.

Sept. 24-29. Civil Litigation, graduate course. National Judicial College. Reno, Nev.

Oct. 1-6. Criminal Evidence, graduate course. National Judicial College. Reno, Nev.

Oct. 9-12. Annual Meeting, State Judicial Educators Association. Hyannis Resort, Maine.

Oct. 16-27. Coroner Training. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 22-26. Appellate Court Administration. Institute for Court Management. San Francisco, Calif.

Oct. 22-26. Appellate Judges Seminar. ABA Judicial Administration Div. and Appellate Judges Conference. San Francisco, Calif.

Oct. 22-27. Evidence, specialty course. National Judicial College. Reno, Nev.

Oct. 22-Nov. 3. Special Court Jurisdiction. National Judicial College. Reno, Nev.

Oct. 25-28. Annual Conference, National Conference of Metropolitan Courts. Atlanta, Ga.

Oct. 29-Nov. 3. Search and Seizure, specialty course. National Judicial College. Reno, Nev.

Nov. 5-10. Alcohol and Drugs, specialty course. National Judicial College. Reno, Nev.

Nov. 5-17. Fall College. National College of Juvenile Justice. Reno, Nev.

Nov. 5-17. Non-Lawyer Judges, General Course. National Judicial College. Reno, Nev.

Nov. 8-10. ABA Traffic Court Seminar. ABA Judicial Administration Div., National Conference of Special Court Judges, and National Judicial College. New Orleans, La.

Nov. 12-15. Building and Evaluations Court Information Systems. Institute for Court Management. Location to be Announced.

Nov. 12-17. Administrative Law, advanced course. National Judicial College. Reno, Nev.

Nov. 12-17. Sentencing Misdemeanants, specialty course. National Judicial College. Reno, Nev.

Nov. 15-18. Annual Education Conference. National College of Probate Judges. Austin, Tex.

Dec. 3-8. Decision-Making Process—graduate course. National Judicial College. Reno, Nev.

Dec. 3-8. Court Administration. National Judicial College. Reno, Nev.

Dec. 3-8. Evidence—graduate course. National Judicial College. Reno, Nev.

Dec. 10-15. Decision-Making Skills and Techniques. National Judicial College. Reno, Nev.

Dec. 10-15. Administrative Law Procedure. National Judicial College. Reno, Nev.

CORRECTIONS

Sept. 11-22. Basic Correctional Academy. Regional Criminal Justice Training Center. Modesto, Calif. Also offered: Oct. 2-13; Oct. 30-Nov. 10; Nov. 27-Dec. 8.

Sept. 14-21. National Training Institute on Community Residential Treatment Centers. National Institute of Corrections. Dallas, Tex.

Sept. 25-27. Crisis Intervention. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 10-13. Group Counseling. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 17-19. Probation Supervisor. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 23-27. Probation Case Management, Phase I. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 26-27. Narcotics and Dangerous Drugs. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 6-7. Reality Therapy. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 27-Dec. 1. Jail Operations. Regional Criminal Justice Training Center. Modesto, Calif.

Nov. 27-Dec. 8. Basic Correctional Academy. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 11-15. Probation Case Management, Phase II. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 11-15. Correctional Ancillary Program. Regional Criminal Justice Training Center. Modesto, Calif.

MANAGEMENT

Sept. 11-13. Planning and Budgeting. Theorem Institute. San Diego, Calif.

Sept. 27-29. Strategies for Change. Theorem Institute. San Diego, Calif.

Oct. 2-27. Leadership and Organizational Innovation. University of Pittsburgh. Pittsburgh, Pa.

Oct. 23-27. Criminal Justice Fiscal Administration Techniques and Practices. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 3-8. Budget, Planning and Financial Controls. Institute for Court Management. San Diego, Calif.

Fall Class Schedule

BACCALAUREATE PROGRAM

UNIVERSITY OF ALASKA, ANCHORAGE

Course No.	Title	Cred.	Days	Time	Inst.	Dates
Just. 110	Intro. to Justice	3	MWF	8:15- 9:45	Angell	9/11—12/22
Just. 251	Criminology	3	TTh	9:45-11:15	Endell	9/12—12/21
Just. 210	Principles of Corrections	3	MW	1:30- 3:00	Endell	9/11—12/20
Just. 252	Substantive Criminal Law	3	MW	10:45-12:15	Ring	
Just. 330	Justice and Society	3	TTh	11:30- 1:00	Havelock	9/12—12/21
Just. 360	Justice Processes	3	TTh	1:30- 3:00	Angell	9/12—12/21
Just. 394	Paralegal Studies	3	TTh	Evenings	Havelock	9/13—12/20
Just. 492	Anthropology and the Law	3	TTh	3:15- 4:45	Conn	9/12—12/21
Just. 398	Practicum Research	1-6	Arr.	Arr.	Barry	Arr.
Just. 494	Rural Justice	3	MW	3:25- 4:45	Conn	9/11—12/20

UNIVERSITY OF ALASKA, FAIRBANKS

Course No.	Title	Cred.	Days	Time	Inst.	Dates
Just. 110	Intro. to Justice	3	MWF	10:20-11:20		
Just. 210	Principles of Corrections	3	M	7:00-10pm		
Just. 221	Justice Organization and Management	3	Th	7:00-10pm		
Just. 250	Development of Law	3	Tu	7:00-10pm		
Just. 251	Criminology	3	TTh	9:40-11:10		
Just. 297	Indiv. Study	1-6	Arr.	Arr.		
Just. 320	Practicum	1-6	Arr.	Arr.		
Just. 492	Seminar	3	Tu	7:00-10pm		
Just. 497	Indiv. Study	1-6	Arr.	Arr.		

ASSOCIATE DEGREE PROGRAM

ANCHORAGE COMMUNITY COLLEGE

Course No.	Title	Cred.	Days	Time	Inst.	Dates
Corr.-PA 110	Intro. to Criminal Justice	3	TTh	9:45-11:15	Congdon	9/11—12/23
Corr.-PA -Law 113	Constitutional Law	3	MW	8:30-10pm	Miller	9/11—12/23
PA-Law 150	Evidence	3	MW	6:45- 8:15pm	Miller	9/11—12/23
Corr.-PA -Law 220	Practicum Field Observation	3	Arr.			
Corr.-PA 221	Justice Organization	3	TTh	6:45- 8:15pm	Congdon	9/11—12/23
Corr.-PA 250	Dev. of Law	3	MW	3:15- 4:45	Miller	9/11—12/23
Corr.-PA 251	Criminology	3	TTh	3:15- 4:45	Congdon	9/11—12/23
PA 294A	Forensic Pathology	3	T	6:45- 9:45pm	Miller	9/11—12/23
Corr. 293A	Crime and Justice	0-1	Arr.		Congdon	9/11—12/23

MATANUSKA-SUSITNA COMMUNITY COLLEGE

Course No.	Title	Cred.	Days	Time	Inst.	Dates
Just. 221	Justice Organization and Management	3	T	7:00-10:00pm	Endell	

KODIAK COMMUNITY COLLEGE

Course No.	Title	Cred.	Days	Time	Inst.	Dates
Just. 252	Substantive Criminal Law	3	Tu	11:30- 2:30	Ring	

Training Calendar

(Continued from Page 14)

JUVENILE

Sept. 10-13. Advocacy Skills and Children's Rights in the Juvenile and Family Court. Fourth Annual Juvenile Court Training Conf. National Council of Juvenile and Family Court Judges. Denver, Colo.

Sept. 10-15. Juvenile Justice Management, Advanced Seminar. Institute for Court Management. Snowmass, Colo.

Sept. 17-22. Juvenile Justice Management, Advanced Seminar. Institute for Court Management. Snowmass, Colo.

Sept. 18-22. Basic Juvenile Hall. Regional Criminal Justice Training Center. Modesto, Calif.

Oct. 1-7. Juvenile Justice Management Institute. National College of Juvenile Justice. Reno, Nev.

Oct. 31-Nov. 2. National Symposium CIP Dimensions of Placement. National Council of Juvenile and Family Court Judges. Nashville, Tenn.

Nov. 13-17. Advanced Juvenile Hall Training. Regional Criminal Justice Training Center. Modesto, Calif.

Dec. 10-15. Juvenile Justice Management, Basic Seminar. Institute for Court Management. Snowmass, Colo.

Dec. 10-15. Juvenile Justice Management Program, Phase I. Institute for Court Management. Aspen, Colo.

PROSECUTION

Sept. 17-21. Organized Crime. National College of District Attorneys. Pittsburgh, Pa.

CRIME PREVENTION

Sept. 10-22. California Crime Prevention Institute. Loss Prevention, Inc. Pomona, Calif. Repeats Oct. 8-20.

Dec. 4-7. Crime and the Senior Citizen Workshop. IACP. Miami, Fla.

LEGAL

Sept. 6-8. Lawyer's Assistant Workshop for Administrator. Practicing Law Institute. New York, N. Y. Repeats Sept. 20-22.

Treatment Alternatives

(Continued from Page 5)

individuals were entering the Criminal Justice system who had drug or alcohol problems for whom no formal treatment mechanism existed.

An application was made to the Criminal Justice Planning Agency and the Law Enforcement Assistance Administration for funds to develop a TASC project in Anchorage. The grant was awarded and initial grant activity was begun in late October of 1977. From November of 1977 to January of 1978 the initial program development was conducted, with staff hired in early February and full project operation beginning on March 1, 1978.

From March to June, 34 clients were enrolled into treatment through TASC. Of this number over 50% had never been involved in any treatment, of these 15% were alcohol- and 85% were drug-involved cases.

Since the beginning of the program three have been terminated from treatment for violation of their participation agreement—two on arrest for new crime and one for violation of the conditions of probation. Two other clients have been terminated as they would not participate in treatment. Of the drug-involved group better than 80% have been involved with heroin. To date the TASC program has screened over 100 persons who have been potentially eligible for program participation of whom 34 were enrolled. Currently we have projected that the program will become involved in referring 125 to community treatment programs.

The evaluation data also will be examined to gather information that can assist in making the screening more accurate and improve subsequent program performance.

The TASC program is a program which offers an alternative for certain individuals to receive treatment in lieu of incarceration. Participants that do not abide by the provisions of participation agreement are promptly terminated from the program and the appropriate criminal justice agency is notified. In situations where TASC is a condition of a deferred prosecution, or suspended imposition of sentence the client is then faced with having either prosecution initiated or the sentence imposed.

National History

The concept of TASC was initially developed by the Special Action Office of Drug Abuse Prevention and tested for the first time in 1972.

The concept developed from a recognition of a cycle for persons with drug problems involving arrest-incarceration-release and rearrest.

TASC was to serve as an initiative to attempt to break this vicious circle through identifying drug-involved individuals and placing them in supervised community treatment programs. This would set up the dynamic of providing treatment for these individuals and concomitantly reducing the recidivism rates of offenders, reducing the cost to the criminal justice system and reducing the social and economic costs to the community.

After the initial project was established other projects were replicated in other parts of the country. During this process of development the TASC projects worked exclusively with heroin addicts.

In 1976 the TASC program was expanded to include other drug abusers and non-OMVI alcohol-involved cases. Since that time over 54 such projects have been established across the country. As of December 1977, 34,371 clients had completed TASC programs nationally and 3,887 clients were enrolled in treatment at that time. Over 50% of the clients that have entered TASC had never been involved in treatment before. Of the 34,371 clients that were involved with TASC, 41% had successfully completed the program and 35% had dropped out or been terminated.

The Anchorage TASC program is currently in the fifth month of operation. It is supported through grant from the Law Enforcement Assistance Administration with a funding level of 237,000 of which 10% is local match funding for a 15-month period.

Executive Development Course for Alaska Police Chiefs

The Criminal Justice Center of the University of Alaska and the Alaska Association of Chiefs of Police are jointly sponsoring a Police Executive Development Program for Alaskan police chiefs and executive command officers.

The program will be held Sept. 18-21 on the Alaska Methodist University Campus with participants' costs of instruction, materials, travel, room and board to be paid through arrangements made by the Continuing Professional Development Unit of the Criminal Justice Center.

It is the purpose of the program to provide professional education and training in management techniques and executive development for Alaskan police chiefs and executive officers. Many departments in Alaska historically have not had the budgets sufficient to permit this type of training programs for their police chiefs and executive officers.

The program has been developed through the cooperation and participation of the Police Executive Institute of the Police Foundation, Washington, D. C.

Members of the Police Executive Institute Staff and faculty who will conduct the program include: Undersheriff Sherman Block, Los Angeles County Sheriff's Department, Los Angeles, Calif.; Chief Raymond C. Davis, Santa Ana (Calif.) Police Department; Chief A. J. Brown, Fort Worth (Tex.) Police Department; Chief Roy C. McLaren, Arlington County Police Department, Arlington, Va.; G. Patrick Gallagher, Police Executive Institute, Washington, D. C.; and Cappy Gagnon, Police Executive Institute, Washington, D. C.

Subjects to be covered during the program will include:

- Police Administration.
- Administration of a small police agency.
- Managing Change, grantsmanship, project development and political considerations.
- Personnel Selection, training and career development.
- Personnel Issues, misconduct, stress, vicarious liability.
- Police leadership.
- Managing patrol operations, resource allocations.
- Managing the investigative function, productivity, case screening and special operations.
- Police research.
- Budget planning and preparation.
- Media relations.
- Problem Identification.

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