



# A Guide to Alaska's Criminal Justice System

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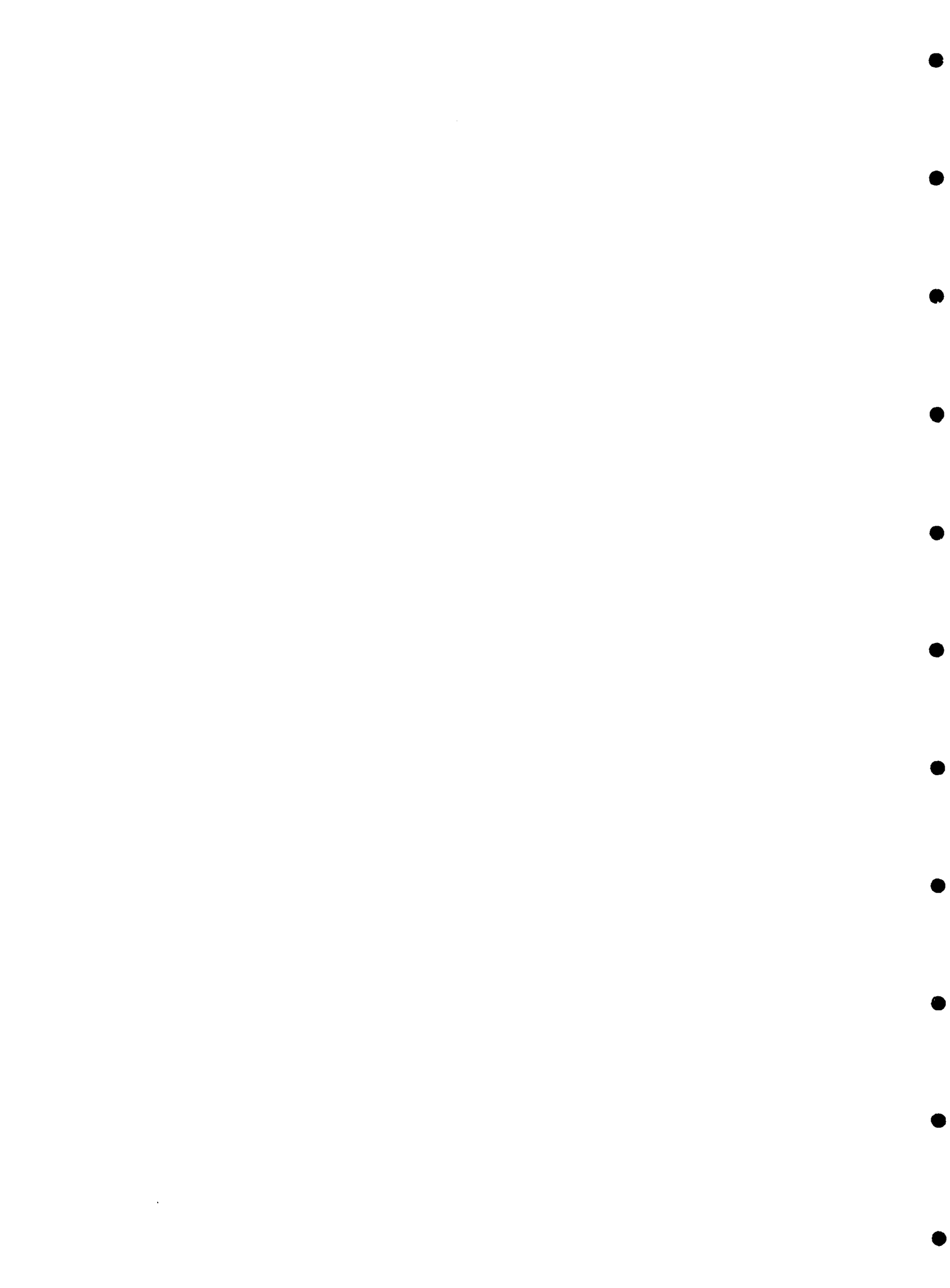
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# A Guide to Alaska's Criminal Justice System

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The Alaska Judicial Council developed this guide at the request of the Alaska Legislature and upon the recommendation of the Alaska Sentencing Commission.

The Judicial Council is a state agency charged by the Alaska Constitution to make recommendations that improve the administration of justice.

## **Acknowledgments**

The Judicial Council would like to express its appreciation to the many people who contributed to this booklet, including victims' advocates, judges, attorneys and other workers in the criminal justice system. Numerous people contributed their knowledge, time and useful suggestions on the substance and format of this guide, and many sent us invaluable comments on drafts. Thanks to all who gave so freely of their expertise, time and support.

## **Note to the Reader**

In 1992, the Alaska Sentencing Commission concluded that the criminal sentencing system is extremely difficult to understand. It recommended that an explanatory guide be created to help members of the public understand this important area of government. This guide begins the educational process by explaining Alaska's criminal justice system from the time someone commits a crime to the offender's release from state supervision. The information in the guide comes from Alaska statutes and case law, court rules, the Sentencing Commission's research and reports, and Alaska criminal justice agencies including the Judicial Council.

This guide does not cover everything about criminal justice. It will need to be updated as laws change and we learn more about what information citizens find most helpful. Please complete the evaluation form at the end to bring omissions or errors to our attention, and to help us increase the guide's usefulness.

## Purpose of This Guide

This guide describes Alaska's criminal justice system from the time someone commits a crime to the offender's release from state supervision. It talks about the system in nontechnical terms, so that citizens who do not specialize in criminal justice can understand it. It also defines technical terms so that people who need to understand the system can follow the events in a particular case.

The guide has seven sections:

- 1) **What is law? basic background on the law:** criminal law and procedure, sources of criminal law, the differences between federal, state, and local laws, the structure of the court system . . . . . (page 2)
- 2) **What are Alaska's laws? Alaska criminal law:** constitutions, statutes, and regulations, crime classification, sentencing . . . . . (page 5)
- 3) **What happens in a criminal case?** stages in the criminal justice process: how to follow a case through the criminal system, flow chart of the system, the roles of police, prosecutors, victims, defendants, defense attorneys, juries, judges and magistrates, jails and prisons, probation and parole officers . . . . . (page 11)
- 4) **special courts:** tribal courts, municipal laws, juvenile courts . . . . . (page 29)
- 5) **resources:** addresses and phone numbers for state agencies and community groups, library resources . . . . . (page 36)
- 6) **legal terms:** words and phrases commonly used . . . . . (page 43)
- 7) **index:** where to find specific topics . . . . . (page 56)
- 8) **pictorial summary:** drawings depict a typical criminal case's progress through the system . . . . . (Appendix A)

This guide does not cover everything about criminal justice. All cases are different, and laws often change. This booklet is not a substitute for hiring a lawyer or working with a victim advocate. Most cases need special attention by an expert. Look in the section on resources and referrals to find out how to contact lawyers, victim advocates, and other agencies that can help you.

# Basic Background on the Law

## Criminal Law and Procedure

When a crime occurs, the criminal justice system tries to answer many questions.

- ▶ What happened?
- ▶ Who appears to have committed the crime?
- ▶ What law or laws did the person break in committing the crime?
- ▶ Can the government prove that this defendant committed the crime?
- ▶ If so, how should the government punish the defendant?
- ▶ What can anyone do to help change the defendant's behavior in the future?

Many people help answer these questions: police, prosecutors, defense attorneys, juries, judges, probation and parole officers, and institutional officers. All this makes the system seem complicated and hard to understand.

Laws and regulations define what acts are **crimes**, and how the government will punish them. Citizens report crimes and act as witnesses, but only the government can prosecute a crime. A person who commits some acts like assault may break both civil and criminal laws. An assault victim can sue the offender for committing a **tort** (personal injury) and ask a court to order the offender to pay money damages. The state can prosecute the same offender for the same assault and ask for imprisonment, fines, other punishments, restitution to the victim, and rehabilitation programs.

**Criminal procedure** refers to the rules that police, attorneys, and courts must follow before they convict a person of a crime. Criminal procedure includes court rules, laws, constitutional rights, and case law. The rules cover the length of time until trial, the defendant's right to an attorney, the evidence used at trial and sentencing, the victim's rights, and much more.

## Sources of Criminal Law

The American legal system grew from ancient laws in Babylonia, Greece, and Israel. People put their religious values, social ideas, and theories about government into the law. Their legal systems try to balance the competition between the interests of individuals and those of groups. Early Americans borrowed the common law from England, but added ideas from the Indians, the French, and their own unique experiences. Four kinds of laws resulted:

- ▶ **Constitutions** set up the basic structure of government in the United States and each of the fifty states. They describe each of the three branches of the government (legislative, executive, and judicial), and the powers of the state. Constitutions state the rights of citizens to be free from abuses of governmental power.
- ▶ **Statutes** are laws that Congress or the state legislatures write. Cities, boroughs, and tribal governments also can adopt their own laws and **ordinances** to govern their citizens. Law-making bodies like legislatures define what the people of that state or community consider a crime.
- ▶ **Case law** (also known as "common law") is written by the courts. Case law is based on earlier decisions by courts in similar situations, settled legal principles, existing laws, and constitutions. Judges use these principles and laws to decide what to do in each new case. Courts interpret statutes and regulations, but do not create or define crimes. The courts also make rules about how to handle cases.
- ▶ **Regulations** are created by the executive branch of each government. They set out ways of dealing with specific problems. Some regulations (such as fish and game, and health and safety regulations) create and define crimes.

### **Federal, State and Local Branches of Government**

America's governments (federal, state, and local) handle different problems. Each layer of government controls (has **jurisdiction** over) certain issues.

- ▶ The **federal government** includes the President, Congress (the United States Senate and House of Representatives), and the Supreme Court. Agencies under the President enforce laws that Congress made against drugs and weapons trafficking, organized crime, bank robberies, crimes occurring on military bases and in national parks, immigration, and fishing violations on the high seas.
- ▶ **State government** in Alaska includes the Governor, the Legislature (Alaska Senate and House of Representatives), and the Alaska Supreme Court. The state legislature makes laws which define crimes in Alaska. The state Attorney General (appointed by the Governor) enforces the laws against murder, sex offenses, assault and domestic violence, robbery, burglary, theft, driving while intoxicated, drug and liquor smuggling, and fish and game offenses.

- ▶ **Local governments** exist in many places in Alaska. Most towns and boroughs have mayors, assembly or council members, and police. No city or borough has its own court system. The state court system hears city and borough cases. Local governments write and enforce laws against driving while intoxicated, traffic offenses, smuggling alcohol, gambling, prostitution, and disturbing the peace.
- ▶ **Tribal governments** exist across Alaska. Most have governing councils, and some have executive agencies and tribal courts. Tribal governments do not always have three separate branches of government. Tribes often make laws about assault and domestic violence, driving while intoxicated, disturbing the peace, and smuggling alcohol. The extent of authority of tribal governments is a hotly contested issue in Alaska today.

## **The Alaska Court System**

The judicial branch of Alaska's government is the Alaska Court System. The state court system has four levels of courts. Unlike most states, Alaska has no county or municipal courts.

The highest state court is the Alaska Supreme Court. The supreme court is an appellate court, which means that it usually does not hear evidence or take testimony. Appellate courts review the decisions of lower courts and issue written decisions. Many appellate court decisions are printed in the *Pacific Reporter*, a national case reporting system.

The supreme court's five justices hear appeals from civil and criminal cases. They can choose to review criminal case decisions made by the Court of Appeals. The justices also make **court rules** about how the courts must handle cases.

The Alaska Court of Appeals also is an appellate court. The court of appeals' three judges review the criminal case decisions of superior and district court judges.

Superior and district court judges try cases. Superior court judges hear all felony cases and some misdemeanors. Twenty-nine superior court judges sit in courts in Anchorage, Barrow, Bethel, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, Sitka, Valdez, and Wrangell-Petersburg, and travel to smaller towns to hear cases. The superior courts use **masters** to hold hearings and make recommendations to the judge in children's cases.



District court judges hear misdemeanor cases, and felony cases if the supreme court appoints them. Nineteen district court judges sit in Anchorage, Fairbanks, Homer, Juneau, Ketchikan, and Palmer. The district court includes **magistrates**, who have fewer powers than a district court judge. Magistrates hear cases in many small communities.

The Governor appoints judges from a list of qualified attorneys recommended by the Alaska Judicial Council. Judges do not run for office but citizens vote on their retention in general elections. Masters and magistrates are hired by the court system; citizens do not vote on their retention.

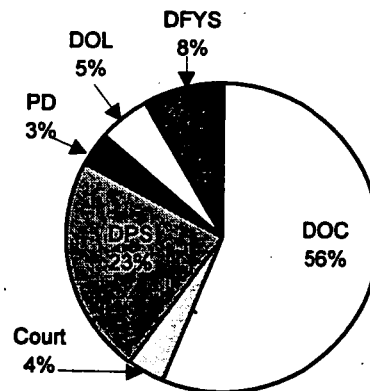
## Alaska Criminal Law

Alaska criminal law starts with the state constitution and laws. The constitution, which took effect at statehood in 1959, guards the citizens' rights to a fair trial. It also requires that judges' sentencing decisions balance protecting the public with victims' rights and the need to reform offenders. The Alaska legislature passes laws that define crimes and set sentences. The legislature decides how much money to spend each year for justice, reflecting state priorities for enforcement, punishment, and treatment.

Local governments pass laws and help pay for the prosecution, punishment, and treatment of offenders. Some state agencies also can write regulations that define crimes in technical areas, such as fish and game. These statutes, ordinances, and regulations frame a trial judge's decisions.

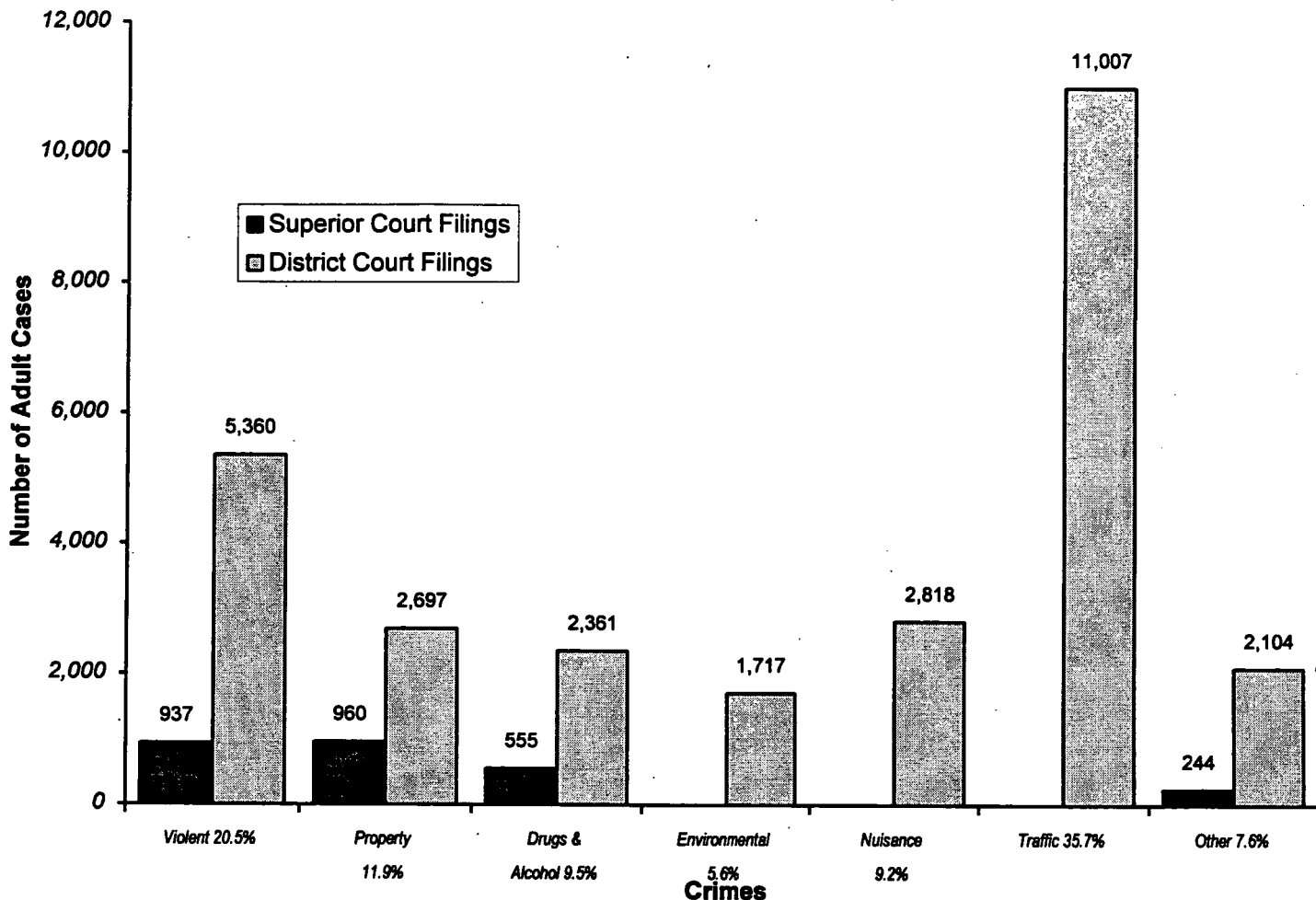
The Supreme Court and the Court of Appeals write case law in response to individual appeals. They review the documents in a case from the trial court, but do not take more evidence. They decide whether the state met all procedural requirements in prosecuting the case and whether the judge applied the constitution and statutes properly. Case law corrects errors in individual cases, and guides judges in future cases.

The criminal justice budget reflects state priorities for enforcement, punishment, and treatment.



This chart shows how the state divided funds among state criminal justice agencies in fiscal year (FY) 1994. Local cities and boroughs spend additional money for police and prosecution services. Some defendants pay the costs of their own defense. The chart does not show all treatment services. Overall, the state spends about 13% of its money (including capital budget) each year to deal with crime.

# **The Alaska Court System Handled 32,915\* Adult Criminal Cases in Fiscal Year 1994 (July 1, 1993 - June 30, 1994)**



Source: Alaska Court System Annual Report: FY 1994

\* This chart does not show 2,155 misdemeanor cases filed in lower-volume district courts; it shows the remaining 30,760 adult criminal cases filed in FY 1994.

Most adult crimes are misdemeanors filed in district court. Only 8% of all criminal filings in FY 1994 were felonies. The most common crimes are traffic-related misdemeanors, like drunk driving, reckless driving, and driving with a suspended license (38%). The courts handled another 47,139 traffic cases in FY 1993 that did not have criminal penalties, like speeding and expired license plates. Most adult crimes are misdemeanors filed in district court (86%) of non-traffic crimes), rather than felonies filed in superior court (14%).

Violent crimes include murder, assault, robbery, and sex offenses. Property crimes include burglary, theft, and vandalism. Drug and alcohol crimes include possession and sale of drugs and bootlegging. Nuisance crimes include disorderly conduct, trespass, harassment, and criminal mischief. Environmental crimes include littering, fish and game, and animal control offenses. Other crimes include unlawful weapons possession and less common offenses against public order.

## Crime Classification

The legislature defines crimes and sets out permissible punishments. Crimes and punishments are found throughout the Alaska Statutes: driving offenses are in Title 28, Fish and Game offenses are in Title 16, alcohol offenses in Title 4, and most other offenses in Title 11. Sentencing statutes for adults are located primarily in Title 12, with parole in Title 33. Juveniles (those under 18) must obey the same laws as everyone else. Juvenile procedure and sentencing are different, however, and those laws are found in Title 47.

The criminal code (Titles 11 & 12) divides crimes into several types: felonies, misdemeanors, and violations. **Felonies** are serious offenses, for which the sentence can include imprisonment for a year or more. **Misdemeanors** are less serious crimes that still can lead to imprisonment for up to one year. **Violations** are minor infractions that cannot be punished by imprisonment, and generally are punished by fines. Most traffic tickets and health code violations fall into this category.

Alaska's laws define six types of felonies and two types of misdemeanors:

- ▶ **murder**, which includes only first-degree murder;
- ▶ **unclassified felonies**, which include second-degree murder, attempted murder, selling heroin to a minor, and kidnapping;
- ▶ **unclassified sexual offenses**, which include first-degree sexual assault (rape) and first-degree sexual abuse of a minor (sexual penetration with anyone under 13, son or daughter under 18);
- ▶ **class A felonies**, which include manslaughter, armed robbery, arson with risk or physical injury, selling heroin to an adult, and first-degree assault;
- ▶ **class B felonies**, which include unarmed robbery, theft over \$25,000, selling cocaine or marijuana to a minor, burglary in a dwelling, bribery, perjury, second-degree assault, and second-degree sexual abuse of a minor;
- ▶ **class C felonies**, which include negligent homicide, burglary not in a dwelling, third-degree assault, theft of \$500-\$25,000, check forgery, possession of heroin or cocaine, selling marijuana, and bootlegging.
- ▶ **class A misdemeanors**, which include fourth-degree assault, theft of \$50-\$500, drunk driving, refusing a breath test, resisting arrest, wanton waste of a moose, and trespass in a dwelling;
- ▶ **class B misdemeanors**, which include carrying a concealed weapon, gambling, and possession of marijuana.

## Sentence Lengths Set by Alaska Legislature

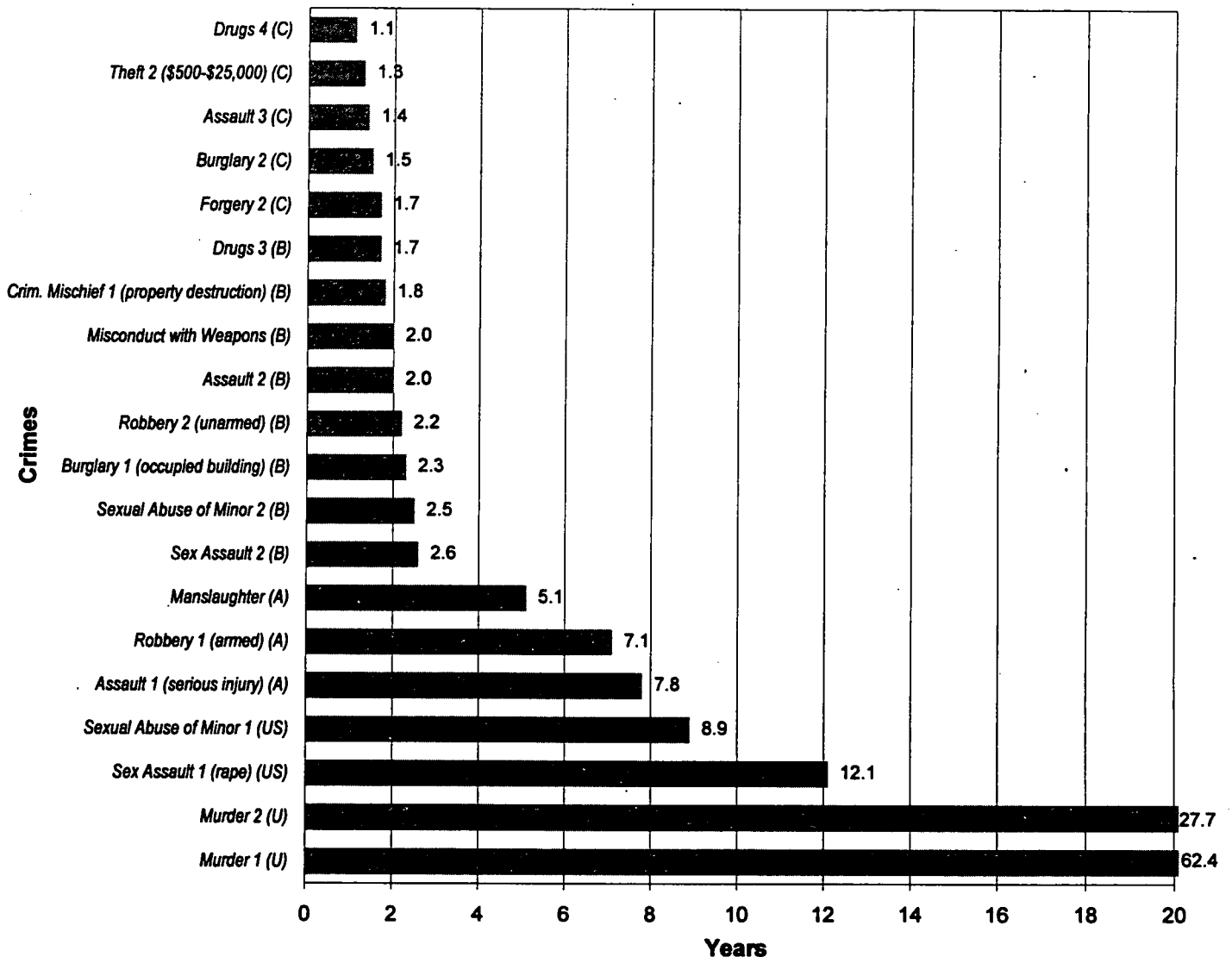
Offense	First Felony Conviction	Second Felony Conviction	Third Felony Conviction	Maximum Fine
Murder	20-99 years			\$75,000
Other unclassified felonies	5-99 years			\$75,000
Unclassified sexual offenses	4-30 years presumptive 8	7.5-30 years presumptive 15	12.5-30 years presumptive 25	\$75,000
Class A felonies	2.5-20 years presumptive 5/7	5-20 years presumptive 10	7.5 - 20 years presumptive 15	\$50,000
Class B felonies	0-10 years	0-10 years presumptive 4	0-10 years presumptive 6	\$50,000
Class C felonies	0-5 years	0-5 years presumptive 2	0-5 years presumptive 4	\$50,000
Class A misdemeanors	0-1 year			\$5,000
Class B misdemeanors	0-90 days			\$1,000
Violations	No imprisonment			\$300

This chart shows the general range of sentences set by the Alaska Legislature for various crimes. In some cases, longer sentences apply to defendants who knowingly direct the crime at a police or correctional officer. For some Class A felonies, a longer presumptive term applies if the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury. Under certain circumstances, a three-judge panel may sentence outside the presumptive ranges. Some offenses have mandatory minimum sentences not shown on this chart, which may not be reduced.

Most offenders will serve less time than the judge imposes. All offenders serving longer than three days can earn credit for good behavior, which can reduce a sentence by up to one-third. About one-third of offenders also can apply for parole.

This chart has been adapted from Alaska Sentencing Commission, 1991 Annual Report, p.17, and AS 12.55.035, .125, .135.

## Average Sentence Length for Common Felonies



This graph shows the average sentence length for offenders sent to prison for the most common felonies during the years 1984-1987. It represents the time to serve imposed by the judge, although the offender may serve less time because of good time and/or parole. These figures come from Alaska Judicial Council, *Alaska's Plea Bargaining Ban Re-evaluated*, Tables C-2 to C-7 (1991). These sentences represent averages only, and cannot be used to predict what sentence an individual defendant may receive in a particular case.

The Alaska Court of Appeals has set benchmark sentences that affect a number of the crimes shown here. The court has held that a first felony offender convicted of an aggravated case of an unclassified sex offense (involving multiple counts or multiple victims) should receive a sentence in the 10-15 year range. Second-degree murder (an unclassified offense) should receive a sentence in the 20-30 year range. First felony offenders committing typical class B felonies should receive sentences in the 1-4 year range. First felony offenders convicted of class C felonies ordinarily should not receive longer than a 2-year sentence. Normally, a first felony offender should receive a more favorable sentence than the presumptive sentence for a second felony offender.

U = unclassified      US = unclassified sex offense      A = class A      B = class B      C = class C

## Sentencing

The criminal code sets **mandatory minimum** sentences for the most serious offenses (twenty years for first-degree murder; five years for second-degree murder, attempted first-degree murder, and kidnaping). The code also has mandatory minimum sentences for drunk driving, refusing a breath test, driving with a suspended license, fourth-degree assault in domestic violence cases, and a few other offenses. The judge must sentence the offender to at least the minimum period of imprisonment, but can sentence to more.

The code sets **presumptive** sentences for some felony offenses and offenders committed by typical or average offenders. The idea behind presumptive sentencing is that offenders with similar records, committing similar crimes, should get similar prison sentences. A presumptive sentence is a prison sentence that applies to typical or average offenses, with lower and upper limits for less and more serious offenses. For example, the presumptive sentence for first-degree (armed) robbery committed by a first offender is seven years. (A **first offender** has no other adult felony convictions, but may have a history of juvenile crimes or adult misdemeanors.) Under this system, the judge will give the robber a seven-year sentence if the crime is about as serious as the typical robbery, and if the robber's background indicates he or she is about as dangerous as the typical robber.

A judge uses **aggravating and mitigating factors** set by the legislature to increase or decrease presumptive sentences. In the robbery example above, an offender with a juvenile felony record or a history of related misdemeanors could get a sentence longer than the presumptive, as could one who committed the robbery in a particularly dangerous way. The legislature sets longer presumptive sentences for offenders with prior felony convictions, offenders who attack police officers and prison guards, and first offenders committing more serious crimes.

If the judge believes it would cause manifest injustice (obvious unfairness) to impose the adjusted sentence, the judge may refer the case to a **three-judge panel** of three trial judges. These judges can impose a different sentence from the presumptive if justified, from no time in prison up to the maximum sentence.

Alaska's presumptive sentencing statutes do not cover all offenses or combinations of offenses. In some cases, the Alaska Court of Appeals has created **benchmark** sentences, similar to presumptive sentences, which trial courts use to keep sentences more consistent and fair. These benchmarks apply to first offenders convicted of Class B

felonies, aggravated cases of sexual assault and sexual abuse of a minor, and second-degree murder, among others. There are no presumptive or benchmark sentences for first offenders committing Class C felonies or misdemeanors. For these offenders, trial court judges have more discretion to base the length and type of sentence on individual circumstances.

Each crime gets a separate sentence. An offender may have assaulted the same person several times, or several people one time. Depending on the circumstances, the judge may make the sentences **consecutive** (following one another), concurrent (running at the same time), or partially **concurrent** (partially overlapping).

For all sentences, Alaska law tells the sentencing judge to balance several factors:

- how serious the offense is compared to similar offenses;
- the offender's prior criminal history and the likelihood of rehabilitation;
- whether confining the offender is necessary to keep the public from further harm;
- the general nature of the offense, including harm to the victim or threat to the public order;
- whether the sentence will deter (discourage) this offender or others from committing crimes;
- the need to express a sense of community disapproval.

## Stages in the Criminal Justice Process

This section describes the way adult felonies and misdemeanors usually move through the criminal justice system. Cases differ greatly, especially between urban and rural locations. Crime victims, witnesses, and defendants often are surprised and frustrated by how long a criminal case can take. Misdemeanors nearly always move faster than felonies, and cases with guilty pleas move much faster than cases that go to trial.

The defendant has a right to a **speedy trial**, which means a trial within 120 days of arrest or notification of the charges. The defense and prosecution can agree to skip certain steps to speed up the proceedings. Or, defendants can agree to **waive** (skip) the speedy trial rule, to allow more time for writing motions, developing evidence, or negotiating a plea. Generally, there will be a number of delays and continuances in felony cases.

## How Does a Case Start?

**Investigation:** Many criminal cases begin with police investigation of a reported crime. A crime victim or witness may report a crime to the police, or to someone who tells the police. The police may interview the victim or witness and look for evidence at the scene of the crime. If the police are able to identify a suspect, they can check the suspect's criminal record and look for other evidence that might connect the suspect to the crime. If there is no particular suspect, the police can check reports of similar crimes to see if a suspect or pattern can be identified. For complicated crimes, a thorough investigation often can take quite a while.

**Arrest:** An arrest happens when a police officer takes a person into custody on suspicion of a crime and does not let the person leave. An officer can arrest a person without a warrant if the officer has **probable cause** (reasonable grounds) to believe that the person committed a felony. If the crime was a misdemeanor, the officer can arrest the person without a warrant only if the officer sees the crime committed, or in some domestic violence or drunk driving cases. Police can arrest an offender using a warrant from the court that tells police to find the accused person and bring him or her before the court.

**The police:** Police protect lives and property. They respond to reports of crime, patrol areas to prevent or observe crime, investigate potential criminal behavior, arrest suspected offenders, collect evidence for the prosecutor, and testify in court. They try to prevent crime by helping neighborhoods and schools to build stronger communities. Besides dealing with crime, police give first aid, direct traffic, and work on suicide prevention, and provide disaster relief.

Alaska has many law enforcement agencies. The **state troopers** work all across the state, enforcing primarily state laws. **Village public safety officers** enforce state and local laws in villages. **City and borough police** enforce state and local laws and ordinances. Federal marshals, state fish and game officers, and airport and university police also enforce laws.

Some cases start without arrest. A police officer can give a **citation** (like a traffic ticket) that requires the person to go to court on a certain day. Or, the court can send the accused a **summons**, telling the person to come to court on a specific date.

**Booking:** After arrest, police can take the defendant to a police station or jail for booking. The police or jail officials will fingerprint and photograph the defendant, and write down the charges against the person. The defendant has the right to call an attorney. For less serious offenses, the defendant often can pay bail right away to get out of jail. If the defendant stays in jail, corrections officers will search him or her for weapons or drugs, can take personal possessions for safekeeping, and may attend to medical problems. Police may ask to talk to the defendant, for drug and alcohol tests,



or for permission to search the defendant's house or car. In Anchorage, the defendant may go before a magistrate immediately for a bail hearing.

**Complaint or information.** The police report the crime to the prosecutor, who usually prepares the charges against the defendant. A criminal complaint or information says that the defendant committed a particular crime or crimes. Each **count** describes violations of separate laws, or crimes against separate victims. Complaints and informations are used for misdemeanor offenses and some felonies. Some felony cases are prosecuted with **indictment** by a grand jury.

### **What Happens First in Court?**

**Arraignment.** At the defendant's first hearing the court tells the defendant about the reasons for arrest and about his or her legal rights. The defendant has a right to a lawyer at arraignment.

District court judges or magistrates hear most misdemeanor arraignments. The misdemeanor defendant must plead either guilty, not guilty, or *nolo contendere*. A plea of **nolo contendere** (no contest) is nearly equal to a guilty plea. It means the defendant does not contest the charges but does not admit them either. The defendant gets the same punishment, but does not admit civil liability.

**The magistrate:** Magistrates have less authority than a judge. Magistrates can try and sentence misdemeanors with the consent of the defendant, can try and sentence municipal ordinance violations, can do felony preliminary hearings and bail hearings, and can issue search warrants and arrest warrants. Unlike judges, magistrates need not be lawyers.

A *nolo contendere* plea can give some protection against civil lawsuits. If the defendant refuses to make any plea, the court enters a plea of not guilty.

If the misdemeanor defendant pleads guilty, the judge tells the defendant about the penalties for the offense and the rights the defendant gives up by pleading guilty. The judge makes sure that the defendant really committed the crime, and that no one threatened or tricked the defendant into pleading guilty. In misdemeanor cases, the judge usually sentences the defendant immediately after the guilty plea.

**Are you the victim of a crime?** If you are the victim of a crime, your cooperation with the police and prosecutor is an important part of the case. The justice system works much better when victims of crime can cooperate with police and prosecutors. Once a crime is reported, even if you do not want to press charges, the police and prosecutor may continue to prosecute a case and call you to testify. If the defendant has a trial, the victim usually testifies as one witness at the trial.

Victims of crimes in Alaska have the right to:

- ▶ know the date of trial and sentencing;
- ▶ be present at most court proceedings;
- ▶ have their phone numbers and addresses kept confidential;
- ▶ be protected from further harm;
- ▶ make statements at sentencing and parole hearings;
- ▶ receive restitution from the offender; and
- ▶ know when the offender is released from jail.

You have the right to make a victim impact statement for the presentence report about the physical and emotional harm you have suffered, your economic losses, the need for restitution, and your recommendation for an appropriate sentence. The victim impact statement lets the offender and the judge know about the harm you have suffered. If you need restitution (repayment) for medical bills, property loss, or lost wages, you can ask the judge to require the offender to pay you back from prison wages, permanent fund dividends, wages after release, or other sources of income. If the crime was a felony or a domestic violence assault, you have the right to appear and testify at sentencing.

The Violent Crimes Compensation Board can give some victims financial compensation. Most prosecutor's offices, the police or state troopers, and many victim groups have application forms for this money. Victims' groups can help you understand the justice system, get medical aid, or protect yourself from further harm. The Resources section of this booklet has a list of these groups. Victim-witness coordinators in some prosecutors' offices help victims prepare testimony or meet other needs.

Victim-offender mediation is a new voluntary program for victims and non-violent, less serious juvenile offenders in Anchorage. The victim meets with the offender to talk about the harm the victim suffered and how the crime changed the victim's life. Mediation helps the offender understand the seriousness of the crime and its effect on a real person. For the victim, it may provide a feeling of closure and a sense that the victim need not fear the offender in the future. Victims for Justice in Anchorage, listed in the back of this booklet, can give more information on mediation.

You also can sue the defendant for damages such as lost wages, medical bills, and pain and suffering, if restitution in the criminal case does not cover all of these costs. If you want to do this, you should consult a lawyer. The state will not pay for the lawyer to file the civil lawsuit. You must file the suit in court within certain time limits.

**Are you accused of a crime?** If the police or prosecutors are investigating you for a crime, you should call a lawyer as soon as possible. Criminal convictions can have far-reaching consequences for you and for your family and friends. Criminal law and procedure are complicated. For violations and some less serious misdemeanors, you may be able to represent yourself well enough, but you might want to talk to a lawyer. Even if you decide to plead guilty, a lawyer can help you give the judge and prosecutor favorable information that might change your sentence. The sooner you call an attorney, the more the attorney can help you.

Defendants who have the money to pay a lawyer hire a private attorney. If you cannot afford a lawyer, ask to speak to a public defender, a state-funded lawyer who represents clients who do not have much money. The Public Defender Agency has offices in most cities where there is a superior court. If the public defender cannot represent you, the court will appoint the Office of the Public Advocate or a private attorney. Local governments also hire attorneys to defend persons accused of violating local laws. If you are convicted of the crime, the judge can require you to pay the cost of the court-appointed attorney or public defender. Juvenile offenders are entitled to counsel just like adults.

People charged with crimes in Alaska have the right to:

- ▶ not talk to police;
- ▶ not be searched without a warrant;
- ▶ not let their homes be searched without a warrant;
- ▶ choose whether they will testify at trial;
- ▶ require witnesses to testify at trial; and
- ▶ have a jury trial for many offenses.

Anyone charged with a crime in Alaska is presumed innocent until the state proves that he or she is guilty, or until the person pleads guilty. Your lawyer helps you safeguard these rights.

In felony cases, the defendant comes before the court within twenty-four hours after arrest for a **first appearance**. A district court judge or magistrate reads the charges and advises the defendant of his or her rights. The defendant does not enter a plea until a formal arraignment in the superior court. At the superior court arraignment, if the defendant pleads guilty or no contest, the court tells the defendant about the possible penalties, makes sure that facts support the plea, and decides whether the defendant entered a voluntary plea. Then, the judge sets a date for sentencing. If the defendant pleads not guilty, the judge sets a date for trial.

**The defense attorney:** Defense attorneys represent people accused of crimes. Lawyers protect the legal rights of defendants and ensure that the court hears their side of the story. Defense counsel represent defendants at bail hearings, in plea bargaining with the prosecutor, through pretrial motions on legal and evidence issues, at trial, at sentencing, and on appeal. Defense attorneys often hire investigators to find witnesses and evidence for trial.

The right of a criminal defendant to be represented by counsel is a fundamental protection for individual liberty in our system of criminal justice. We have a complicated adversary system. Defendants need attorneys to challenge governmental authority and accusations of crime. In this way, the criminal justice system tries to protect the community from crime and still protect the rights of individual defendants.

**Bail hearing.** Alaska law gives defendants the right to bail before conviction. The bail hearing usually happens at the same time as the arraignment or first appearance, unless the defendant paid bail at the police station. The judge decides whether to release the defendant before trial. Sometimes, judges release defendants on their **own recognizance** (OR release) without posting bail, or with an unsecured appearance bond. In many cases, the prosecution asks that the defendant post a **secured bond**, which means leaving money or other property with the court. If the defendant can pay the money for the secured bond, or get a bail bondsman to put up the money (usually for a 10% fee), the defendant can stay out of jail. The judge may require a secured bond:

- ▶ if the case is a serious felony;
- ▶ if the defendant might not appear in court; or
- ▶ if the defendant might hurt other people or the community.

The judge often sets conditions of release, such as restrictions on drinking, driving, or approaching the victim. The judge can appoint a **third-party custodian**, usually an employer or relative, who must see that the defendant goes to court and obeys the conditions of release. If the defendant does not comply with the conditions, the judge can raise the bail, change the conditions, or put the defendant in custody. The prosecutor can charge a separate offense of **failure to appear** if the defendant skips the court date. The defendant may forfeit a secured bond for failure to appear. The judge can hold a third-party custodian in contempt of court if he or she fails to tell the court about any violations of the conditions of release.

**Screening.** The prosecutor looks at all cases to see if the state should continue to press charges. The prosecutor usually talks to police before making this decision. Prosecutors may dismiss (screen out) cases if the evidence is not strong enough, if important evidence is missing, or if other pending cases will send the defendant to jail anyway. The prosecutor also can reduce charges to less serious levels, such as from felonies to misdemeanors.

**The prosecutor.** A prosecutor is an attorney who works on behalf of the citizens of a city or the state. The prosecutor decides whether police have collected enough evidence against a suspect, and then decides what crime to charge. The prosecutor can negotiate the charges and sentences with the defendant and the defendant's lawyer. If the defendant agrees to plead guilty or nolo contendere, the prosecutor may agree to lower or dismiss charges, recommend that the judge impose a certain sentence, or suggest other conditions. If the case goes to trial, the prosecutor prepares and presents cases. At sentencing the prosecutor gives the judge information, and makes recommendations. In case of an appeal, the prosecutor represents the government.

In Alaska, the Attorney General hires and supervises all district attorneys and assistant district attorneys in the state. The Department of Law has offices in most cities where there is a superior court. Some cities and boroughs hire their own attorneys to prosecute local laws.

The prosecutor can dismiss or reduce charges, or try to resolve the charges in other ways that serve the interests of justice.

**Preindictment hearing** (Anchorage only). In Anchorage, the state prosecutor meets often with defense attorneys to talk about the new cases that have started in the past few days. If they reach an agreement about how they will handle a case, and the defendant also agrees, they tell the judge at a pre-indictment hearing about their decision. Judges usually hold pre-indictment hearings twice weekly. Although judges don't take pleas at these hearings, they may agree that defendants can waive rights, such as the right to a speedy trial.

**Indictment.** An indictment is a written accusation of a crime made by a grand jury, based on evidence presented by the prosecutor. The grand jury is a panel of citizens who hear the state's evidence against the accused in a closed hearing. Police officers, victims and witnesses appear by **subpoena** (court order). The purpose is to determine if there is enough evidence to take the case to trial. Felony defendants have the right to be charged by indictment, but they may waive that right and agree to let the prosecutor file charges in an information. They often do this as part of a plea agreement.

**The grand jury:** The grand jury has twelve to eighteen citizens who serve for several weeks. The prosecutor brings evidence of felonies. Each case may take an hour, or as long as several days. Unlike trial jurors, grand jurors can question the witnesses themselves. If the grand jury decides that the evidence is strong enough for trial, it indicts the defendant and the case goes on from there. If the grand jury decides the evidence is weak, it does not return an indictment. The grand jury meets privately. Defendants, victims and the public cannot attend unless subpoenaed. Grand juries in Alaska can investigate and make recommendations about public welfare and safety.

**Preliminary hearing.** If the case does not go before a grand jury within ten days, the defendant can ask for a preliminary hearing. At this hearing in district court, both sides present evidence and witnesses to the judge. The judge decides whether the prosecution has shown probable cause to hold the defendant for the grand jury. If not, the judge dismisses the charges.

**Omnibus hearing.** After the defendant has been charged in superior court, the judge usually holds a hearing shortly before the trial. The defense and prosecution make **motions**, which are requests for legal rulings by the judge. The judge decides what evidence will be admitted, which witnesses may testify, when the trial will take place, and other questions.

**Change of plea.** Most criminal cases do not go to trial. Defendants often decide to plead guilty or no contest in between the arraignment and the date set for trial. Sometimes the defendant's lawyer will negotiate with the prosecutor to reach a **plea bargain** or **plea agreement**. In a plea agreement, the defendant agrees to give up the right to trial and to plead guilty or no contest. In return, the prosecutor agrees to dismiss or reduce some charges, or to make favorable recommendations at sentencing. If the defendant decides to plead guilty or no contest, the judge holds a hearing to be sure the defendant understands the right to trial and is giving it up voluntarily.

### **How are Trials Conducted?**

**Trial.** Only a few criminal cases ever go to trial: about 1% of misdemeanors and 7% of felonies statewide. At trial, each side has a chance to present evidence and arguments about the facts. A jury or a judge decides whether the prosecution has proven beyond a reasonable doubt that the defendant is guilty of the charges.

**The trial court judge:** The judge acts as an impartial decision-maker in the adversary system. Trial court judges oversee a large part of the criminal justice process. Judges make decisions about bail, appointment of defense counsel, motions on legal issues, trial, sentencing, and probation revocations. A bailiff helps the judge by assuring that no one interferes with the jury. The in-court clerk records the proceedings on tape and takes care of all of the paperwork. In adult cases, most court records are open to the public through the court clerk's office.

The defendant has a right to a jury trial if the conviction could result in a jail sentence, loss of a valuable license, or a large fine that implies that the defendant is a criminal. Six-person juries hear misdemeanors in district court. The parties and judge may agree to waive jury trial in favor of a bench trial, where the judge alone decides issues of fact and law.

**Voir dire.** Voir dire (pronounced "vwar deer") is the process of jury selection. The judge questions jurors about their qualifications and their freedom from bias or prejudice. The prosecution and defense can ask each juror about impartiality. Attorneys often ask jurors if pretrial publicity or strong personal views would influence their decisions. They may challenge a juror for cause, asking the judge to dismiss a person who they think cannot be fair or impar-

**The jury:** A jury is a group of citizens who listen to the evidence presented at trial, decide disputes about facts, apply the law given by the judge, and come to a verdict of guilty or not guilty. The court selects potential jurors in Alaska randomly from the list of adults receiving permanent fund dividends. From the pool of citizens called to court on a particular day, the judge and attorneys choose the jurors who serve for each trial. The jurors presume that the defendant is innocent until proven guilty. Jurors are only permitted to hear certain facts of the case and may not be given any additional information as to the character of the defendant or the victim.

tial. They also can make a peremptory challenge of a juror, excusing the juror without giving any reason why he or she should not sit on the case. In felony cases, each side has ten peremptory challenges; in misdemeanor cases, each side has three.

**Conduct of trial.** The trial opens with the prosecutor and defense attorney describing the evidence and what they plan to prove. The prosecutor goes first. He or she offers evidence such as testimony by witnesses, documents, photographs, laboratory test results, and physical objects, to convince the jury that a particular crime was committed and that the defendant committed it.

Questions about whether the jury should hear some particular evidence, and about the way the trial is going, often come up. The judge may ask the jury to leave the courtroom during these discussions, so that jurors will not hear inadmissible evidence. Whenever one side presents evidence, the other side can **cross-examine** (question) the witness testifying about it. Sometimes the parties **stipulate** (agree on the record) how to handle a particular piece of evidence. The judge tells jurors not to talk about the case with anyone, even with each other, while the evidence is being presented.

The defense attorney often puts on evidence to dispute the prosecution's case or to raise reasonable doubt that the defendant committed the crime. However, the defendant has the right to offer no evidence at all. The defendant also has the constitutional right to testify or not to testify at trial. Sometimes, the defendant will offer an **affirmative defense**, admitting that he or she committed the crime but saying that there was a legal reason for doing it. Then the defendant must give evidence to prove the affirmative defense.

When the defense finishes, the prosecution may **rebut** (contradict) the evidence presented by the defense. At the end of the evidence, both sides make a **closing argument**, talking about the facts raised at trial and offering theories upon which the jury can base a verdict.

**Jury deliberations.** After the defense and prosecutor finish, the judge gives the jury **jury instructions**, telling the jury about the laws and how to apply them to the facts of the case. The jurors meet privately to decide what facts were proven, to apply the law, and to decide whether to find the defendant guilty or not. In many cases, the judge instructs the jury that it can convict the defendant of the most serious offense charged or of a **lesser-included offense**, a less serious version of the crime charged. The jurors must reach a unanimous verdict in a criminal trial. If they cannot (a **hung jury**), the jurors are discharged and the prosecutor can try the case again. If a mistake occurs

during the trial or jury deliberations, the judge can order a **mistrial**, and the prosecutor can ask for a new trial. An **acquittal** (not guilty verdict) absolves the accused, who may not be tried again on the same charges (double jeopardy). A **conviction** (guilty verdict) is followed by sentencing or setting a date for sentencing.

## **What Happens After Conviction?**

**Presentence report.** In most felony cases, the judge sets the sentencing date a few weeks after the conviction so that probation officers can prepare a presentence report. The report describes the defendant's background, past criminal record, psychological tests, details of the crime, prospects for rehabilitation, and statements of the victim. Some reports include sentencing recommendations.

**Probation officers:** Probation and parole officers work in **community corrections**, part of the Department of Corrections. They carry out the orders of the judge, supervising felony offenders who are not sent to jail or prison or who have already served their terms of imprisonment. Probation officers monitor the offender's conduct to make sure the offender is complying with all the conditions of probation. They may try to help the offender find work, obtain drug and alcohol treatment, and become a law-abiding citizen. They also write presentence reports for the judge. The Department of Corrections has probation offices in most cities that have a superior court.

**Sentencing.** Judges often see sentencing as one of their toughest jobs. The law requires the judge to consider both the protection of the public and the reformation of the offender. Sentencing calls for insight into human nature, compassion and tough-mindedness, awareness of the social attitudes and customs of the community, and predictions about an offender's future behavior. The judge's choice of sentence is based on many factors. These include the charging decisions of the police and the prosecutor, recommendations by the prosecutor, defense attorney, and presentence report, what programs and prison space the Department of Corrections has available, the victim's interests, and other testimony.

At the **sentencing hearing**, both the prosecution and the defense can call witnesses to talk about the circumstances of the crime, the effect on the victim and the community, the offender's background, and the prospects for rehabilitation. The victim has the right to testify at the sentencing hearing about the effect of the crime and what type of sentence the judge should impose. The presentence report writer may testify. The judge always asks the defendant if he or she has anything to say. The judge sentences the offender within the limits set by the legislature and the appellate courts.



After sentencing, the defendant can request a **sentence** modification, asking the judge to change the sentence or reduce it. If the sentence was illegal for any reason, the judge can modify it any time. Otherwise, the defendant must ask for a change within sixty days of the sentencing. The judge also can modify the sentence if the law changes or if the purpose of the sentence is not being fulfilled.

**Appeal.** After a guilty verdict at trial, a defendant has the right to appeal the conviction and the sentence to a higher court. A defendant can appeal the conviction on the basis that the trial court judge incorrectly decided an important issue. Common grounds for appeal include an invalid arrest, improperly admitted evidence, and incorrect jury instructions. A defendant also may appeal a sentence to jail of 45 days or more.

Because of the constitutional protection against double jeopardy, the prosecutor cannot appeal the jury's decision to acquit the defendant. Under certain circumstances, the prosecutor can appeal court rulings and the length of the sentence. If the appellate court decides that the sentence was too lenient, it cannot increase the sentence; but in the future trial judges will be guided by the appellate court's decision.

The parties have the right to one appeal to a higher court. After that, the higher court can decide whether to grant any further appeals.

**Imprisonment.** Most offenders convicted of serious felonies such as rape, manslaughter and murder must serve several or many years in jail. Offenders convicted of less serious felonies such as burglary and assault must go to jail if they have a history of other felonies. A few misdemeanors, such as drunk driving, require jail time. Judges send offenders to jail to protect the public, express the community's condemnation, or deter the offender and others.

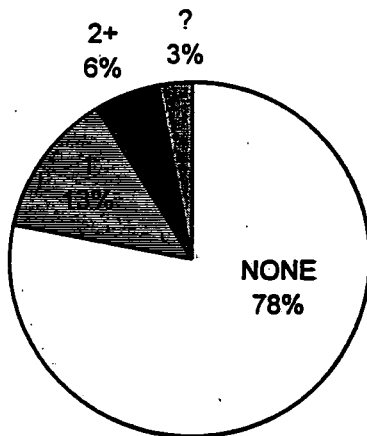
Judges often combine a term of imprisonment with other requirements. The judge can sentence an offender to jail and suspend part of the time. During the suspended time, the offender stays on probation, and may go back to jail if he or she violates probation conditions.

If the offender spent time in jail waiting for trial and sentencing, the judge gives the offender credit for **time served**, deducting the time spent waiting in jail from the total sentence. If the time spent waiting is about the length of an appropriate sentence, the judge may sentence an offender to time served and release him or her.

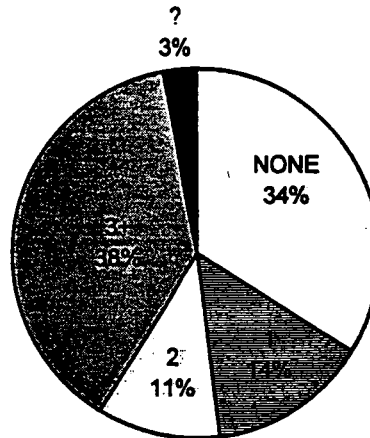
## Offender Profile

The Department of Corrections writes presentence reports in most felony cases. These reports give the judge information about the defendant's criminal record, substance abuse problems, education and work history, the nature of the crime, and the impact of the crime on the victim. These charts come from a study of presentence reports filed between 1986-1991 done by the Alaska Sentencing Commission.

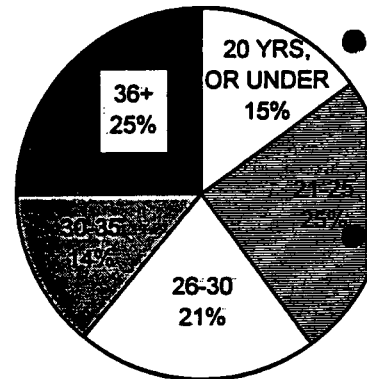
Felony offenders in Alaska tend to be young (under 30) and undereducated (half did not finish high school). Most have longstanding problems with alcohol (73%) and drugs (55%). At least 38%, possibly more, were under the influence of alcohol at the time of the offense.



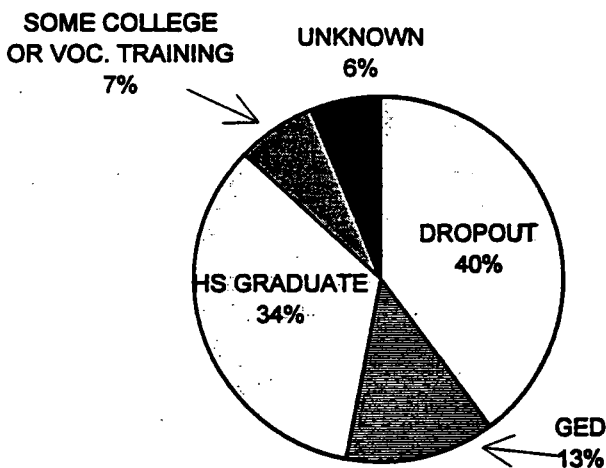
Most felony offenders do not have a prior felony record



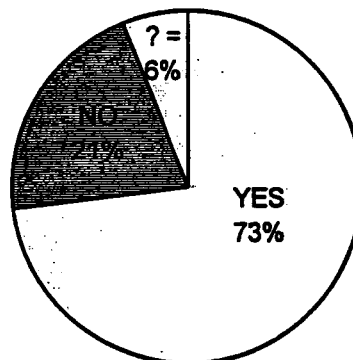
Many felony offenders have one or more prior misdemeanors



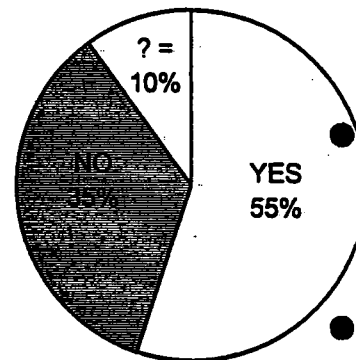
Most offenders are less than 30 years old at the time of the crime



Nearly half of felony offenders did not finish high school



Most felony offenders are chronic alcohol users



About half of felony offenders are chronic drug users

**Probation.** If it serves the best interests of the public and the offender, a judge may place the offender on probation for a definite length of time up to 10 years. The judge can sentence to probation instead of imprisonment or after imprisonment. The judge can impose any **conditions of probation** related to the offense, or to the offender's rehabilitation, that do not unnecessarily restrict the offender.

Courts supervise probation in several ways. **Court probation** means that if the offender fails to pay fines and meet the conditions of probation, the court will issue a **bench warrant** to bring the offender back to court. **Supervised probation** means that the offender reports to a probation officer regularly, and complies with the court's conditions and officer's requirements. Probation officers can arrange for additional help such as job counseling, education, and housing. Only felony offenders have supervised probation.

Judges often impose these conditions of probation:

- ▶ report for alcohol screening and get treatment if recommended;
- ▶ do not drink or use drugs and submit to monitoring;
- ▶ **forfeit weapons** used in the crime (give them to the court) and do not carry other weapons;
- ▶ report to the probation officer regularly;
- ▶ stay employed, look for work, or go to school;
- ▶ pay fines to the court (common for traffic offenses and fish and game offenses);
- ▶ pay **restitution** to the victim (repairs, medical bills, counseling bills, and other losses);
- ▶ do **community work service**, some hours of volunteer work for a local organization;
- ▶ follow **restraining orders** to stay away from the victim (a common condition in sexual abuse and domestic violence cases);
- ▶ stay away from certain people or neighborhoods (**area restrictions**) (common in prostitution and drug cases);
- ▶ forfeit things used in the crime, such as airplanes and boats used on illegal hunting trips;
- ▶ give up **revoked or suspended licenses** (such as driving and hunting licenses);
- ▶ go to **anger management** programs for assaultive or abusive offenders; and
- ▶ go to **sex offender counseling**.

**Probation revocation.** If the offender does not follow the conditions of probation, the probation officer can take him or her back to court. The offender can have an attorney at any court hearings. The judge can put more restrictions on the offender, can revoke probation and send the offender to jail, or both.

**Alaska is using more alternatives to imprisonment:** The Alaska criminal justice system has always used conditions of probation and parole to hold offenders accountable. As prison costs have risen and prison overcrowding has become a problem, the state has emphasized non-prison alternatives for some crimes.

For some offenders, good programs may protect the public as well as jail. Many offenders have substance abuse problems. Requiring them to get treatment and watching them carefully may reduce both present and future crime. Imprisonment is not the worst punishment for some offenders. They find jail or prison easier than making real changes, like staying sober or keeping a job.

Alternative punishments are not used for all offenders, especially very violent criminals and offenders with long criminal records. Those offenders have a chance for treatment while in prison, because most will be released eventually.

**Serving a sentence of imprisonment.** Once the judge sentences an offender to prison, the offender goes to the custody of the Department of Corrections. In rural areas, offenders can serve short periods of imprisonment in a local jail. In larger towns, short-term inmates go to state facilities designed for them. Jails generally have limited counseling and education programs available.

The Department of Corrections decides where an inmate will serve time by using a system of **classification**. Classification is based on the nature of the inmate's crime and prior record, release date, treatment needs, institutional work history, and behavior problems. An institution is then chosen for its **security** (the number of bars and fences between the inmate and the outside world) and its levels of **custody** (the type of supervision and number of limits placed on the inmate's liberty within the institution).

**Correctional institutions:** The Division of Institutions, part of the Alaska Department of Corrections, runs the state prison system. Prisons and pretrial facilities located across the state provide secure conditions to keep offenders in custody. Most prisons offer work, education and treatment programs to most inmates. The Department of Corrections works with private contractors to provide **halfway houses**, where offenders can work or go to school during the day and stay locked up at night. Seventeen smaller communities have **local jails**, run by local police. Offenders stay in these jails after arrest; some also serve short sentences there.

Offenders begin longer terms in one of ten **state prisons**. Prison programs include alcohol and drug treatment, college and adult basic education classes, anger management, and vocational classes. Some prisons offer work training, sex offender treatment, or other specialized programs. While in prison, many offenders work as prison cooks,

maintenance workers, and launderers. State prisons provide medical and dental care and some mental health care for prisoners. With good institutional behavior, the classification system gradually reduces the inmate's level of custody and allows more participation in programs. The lowest level of supervision, **community custody**, allows inmates to serve their remaining time in halfway houses or on work release. Many institutions provide prerelease classes and counseling.

Alaska correctional institutions have rules about most parts of an inmate's life, including daily schedule, telephone access and mail, books and magazines, showers, and drug monitoring. The prisons use a disciplinary system of institutional infractions, penalties, and grievance procedures. They encourage good behavior with good time, privileges, and the chance to take part in some programs.

**Special Programs.** In addition to prisons, the Department of Corrections runs a number of specialized programs. These include:

- ▶ **halfway houses** (also known as community residential centers, or CRC's): Offenders often go to work or school during the day, then return to a halfway house at night. Halfway houses are run by private contractors.
- ▶ **work release programs:** Offenders work during the day and return to a jail or prison cell at night.
- ▶ **furloughs:** Offenders get treatment, find work, pay restitution, and learn how to live in the community. Furloughs are designed for offenders nearing the end of their sentence.
- ▶ **electronic monitoring:** Offenders wear an electronic bracelet that alerts officials if the offender goes outside a certain area. Electronic monitoring is used for less serious offenders.
- ▶ **day reporting centers and intensive supervised probation:** These are experimental programs that offer support, extra attention, and more supervision for offenders who need more structure or special programs.

## Institutions Run by the Alaska Department of Corrections

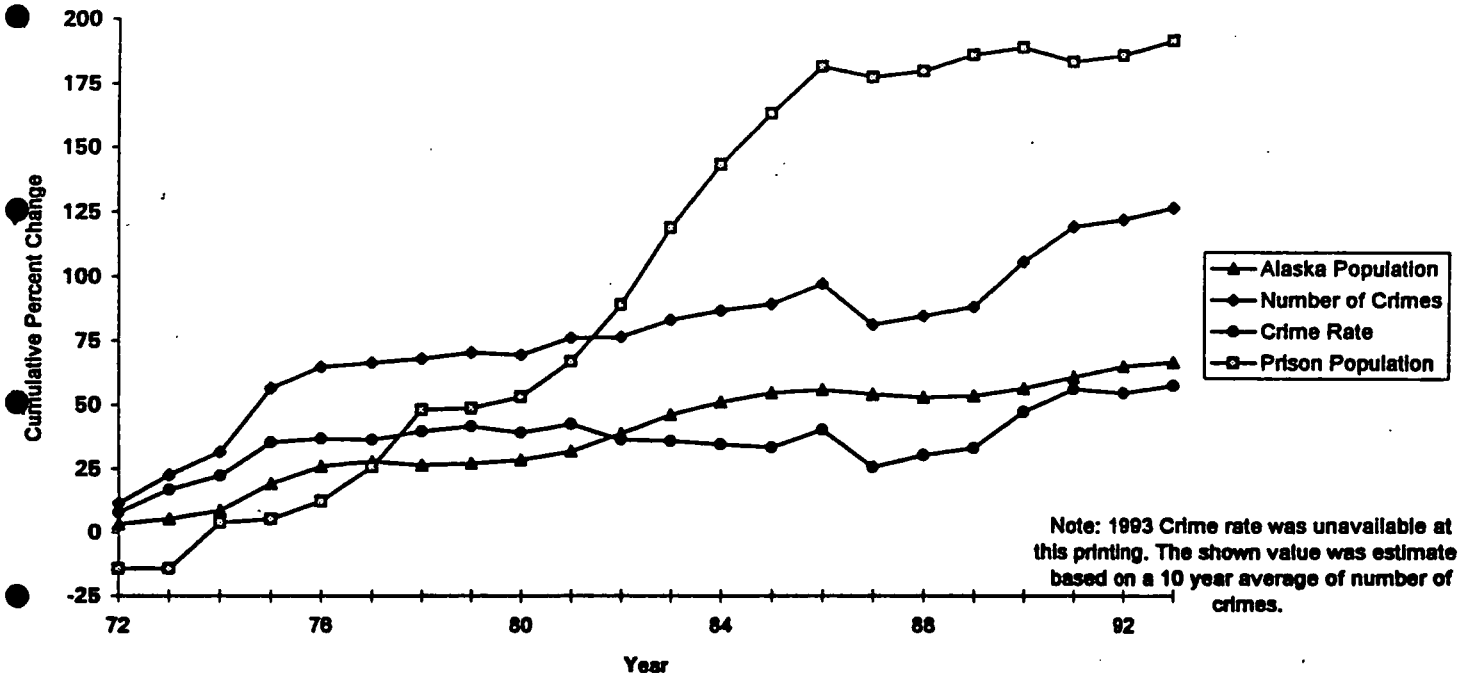
Institution	Location	Approximate Capacity	Description
Anchorage Annex (Sixth and C)	Anchorage	104	Men: pretrial & sentenced Women: pretrial only
Anvil Mountain	Nome	102	Men & Women: pretrial & sentenced
Cook Inlet Pretrial (CIPT)	Anchorage	397	Men only: pretrial
Fairbanks	Fairbanks	189	Men & Women: pretrial & sentenced
Hiland Mountain Meadow Creek	Eagle River Eagle River	225 62	Men: sentenced Women: sentenced
Ketchikan	Ketchikan	47	Men & Women: pretrial & sentenced
Lemon Creek	Juneau	164	Men & Women: pretrial & sentenced
Mat-Su Pretrial	Palmer	79	Men & Women: pretrial
Palmer	Palmer	341	Men only: sentenced
Spring Creek	Seward	466	Men only: sentenced Maximum security
Wildwood Wildwood Pretrial	Kenai Kenai	204 112	Men & Women: sentenced Men & Women: pretrial
Yukon-Kuskokwim	Bethel	88	Men: pretrial & sentenced Women: pretrial only

All institutions offer programs that include courses such as Adult Basic Education, GED preparation, stress and anger management, family counseling, Alcoholics Anonymous, suicide prevention, cross-cultural awareness, CPR/first aid, and parenting. Since offenders stay in pretrial facilities for relatively short periods of time, while waiting for trial and sentencing, programs in pretrial facilities are more limited. Sentenced institutions also offer vocational training, remedial reading, computer literacy, university courses, and planning for transition from prison. Lemon Creek offers a pretreatment program for sex offenders while Hiland Mt. provides a full treatment program. Additionally, a number of the sentenced institutions provide vocational programs. Institutions with a fair number of Alaska Native offenders have potlatches and programs of special interest to Natives. Not all programs are available in all prisons or to all inmates.

In addition to the institutions run by the Department of Corrections, Alaska has fifteen jails run by local jurisdictions through a contract with the Department of Corrections. These jails are located in:

Bristol Bay	Craig	Sitka	Kodiak
Cordova	Dillingham	Unalaska	Kotzebue
Haines	Homer	Valdez	Barrow
Petersburg	Seward	Wrangell	

### Population Trends 1972 - 1993



#### Prison overcrowding is a problem in Alaska

Overcrowding is a problem for prisons and jails across the country. Governments and citizens worry about the cost of corrections. Alaska's prison population tripled during the early 1980s from 770 in 1980 to 2,428 in 1986, reaching 3,252 in 1994. The prison population expanded much faster than the general population or the crime rate, for several reasons. The state budget grew rapidly during the late 1970s and early 1980s, and Alaska greatly increased the number of police, prosecutors, judges, and prison beds. As police and prosecutors worked more professionally, the rate of conviction for serious offenses went up, resulting in longer sentences for many offenders. The state prosecuted sex offenses more vigorously, especially sexual abuse of a minor cases. (Drug offenses have caused increased prison population in many other states, but this has not been a big factor in Alaska). Presumptive sentencing laws required longer sentences and restricted parole eligibility.

Alaska built many new jail and prison beds during the early 1980s, but did not keep up with the increase in prison population. In 1983, some prisoners sued the state because of overcrowding and lack of rehabilitation opportunities. As part of the settlement of that case (*Cleary*), the court set a maximum number of prisoners for each institution. To keep under these population caps, the Department of Corrections often moves prisoners between institutions. Sometimes offenders must wait to serve their time in jail. Overcrowding has led the state to explore other ways of housing offenders, such as greater use of halfway houses and sending prisoners to prisons in other states. Rather than spend the money to add new prison beds, the legislature has encouraged the Department of Corrections and the court system to use alternatives to imprisonment wherever possible.

The Department of Corrections provided the prison population figures on this chart. The Department of Labor provided Alaska population numbers. The Department of Public Safety reported the number of crimes. The crime rate was calculated by dividing the number of crimes in a year by the general population, to provide a rate of crimes per 100,000 population.

**Discretionary Parole.** About one-third of imprisoned offenders are eligible to apply for discretionary parole. Some offenders become eligible to apply after serving one-fourth to one-third of their sentences; presumptively sentenced offenders must serve the full presumptive term. Offenders apply for parole based upon a good institutional record and plans for work and housing after release. Victims have the right to comment in writing at parole hearings and to know when the offender will be released from jail.

The parole board screens offenders carefully, rejecting many applications. The parole board looks at the risk the offender poses to the community, the recommendations of institutional officers, housing and employment plans for release, completion of treatment, and victim input. It also considers the amount of time the offender has spent in jail, compared to other similar offenders. If the board grants parole, it sets conditions to

**The parole board:** The governor appoints five citizens to the parole board. Eligible offenders apply to the board for release. The members use guidelines to help them make their decisions. They balance the need for protection of the community, the victim's needs, and the interests of the offender. Parole board members look for evidence of rehabilitation of the offender and ability to function in the community.

reduce risk to the public and to increase the parolee's chance for success. If an offender does not comply with the conditions of parole, the parole board can hold a revocation hearing. The board can set new restrictions or return the offender to prison.

Victims have the right to comment in writing at parole hearings and to know when an offender will be released from prison. The Department of Corrections has recently opened an Office of Crime Victims Advocacy to give victims information on sentencing, parole hearings, release dates, collecting restitution, and victim rights. This office is listed in the Resources section of this booklet.

**Mandatory parole or mandatory release.** Offenders earn early release from prison or jail by accumulating **good time**, days credited for good behavior while in prison. The law requires DOC to deduct good time from the sentence imposed, one day for every two days served. If offenders do not lose their good time through misbehavior, the department releases them after they serve two-thirds of their sentences. Good time is an important prison management tool, since it gives offenders an incentive to cooperate with institutional rules. Although the parole board cannot refuse to release offenders who have earned good time, it can impose release conditions similar to probation or parole conditions. The parole board holds revocation hearings if the offender does not comply with the conditions.



**Unconditional Discharge.** Once an offender serves the sentence and completes all of the legal requirements of probation or parole, he or she is discharged from the criminal justice system. Felons who commit crimes of moral turpitude (most violent and property crimes) can not vote until they are unconditionally discharged. Some offenders receive a **suspended imposition of sentence** to see if they can straighten out their lives. If they successfully complete all of the sentence conditions, these offenders can have the conviction set aside. Otherwise, adult offenses remain a permanent part of the offender's criminal record.

## **Other Courts and Laws**

The state criminal system for adult offenders prosecutes the majority of criminal cases in the state of Alaska. Cities, boroughs, and tribes handle violations of local laws. The Division of Family and Youth Services (DFYS) and the Alaska Court System have a separate system for juvenile offenders.

**Tribal courts.** Half or more of the villages in rural Alaska have tribal courts or tribal councils that can resolve disputes for the residents of the village. Some of these organizations hear cases that would be criminal in nature if handled by the state court, such as public drunkenness, disorderly conduct, domestic violence, and bootlegging. The tribal court or council often can impose fines, community work service, alcohol treatment, or other conditions. Community residents staff the courts, and all parties participate voluntarily. Tribal courts and councils work with village public safety officers, village police, state troopers, and the state's justice system agencies.

**Municipal offenses.** Some cities and boroughs in Alaska have their own laws or ordinances that cover misdemeanors committed within city or borough limits. Some of these ordinances overlap with state law, and some cover issues of local concern like prostitution, traffic, sale of alcohol, and gambling. Although local police and prosecutors enforce these ordinances, the cases are heard in state courts. Convicted offenders may serve time in either state or local jails.

**Juvenile Court.** Juvenile court proceedings differ greatly from the system for adults. Although juveniles (persons under 18) must obey the same laws as the rest of the population, the justice system responds very differently when they break the laws. The juvenile justice system rests on the principle that many juveniles can be rehabilitated and can learn to act responsibly. The system is not as adversarial as the adult system, and uses different language.

Most juvenile cases involve less serious crimes such as theft and underage drinking. Some juveniles commit very serious offenses, and the prosecutor may ask that the worst offenders be tried as adults. Waiver to adult court is automatic for sixteen and seventeen year olds who commit unclassified and most Class A felonies. A prosecutor or intake officer also may request a waiver if a juvenile, even one under sixteen, has committed a particularly serious crime, if the juvenile has committed a number of crimes, or if it seems unlikely that the juvenile can be rehabilitated before age 20.

Because the juvenile system emphasizes rehabilitation, the proceedings remain closed to the public. Only authorized persons may see juvenile records. Victims of juvenile crime can attend a hearing, but reporters may not. Reporters may not print the names of juveniles who are arrested or convicted of crimes while they remain in the juvenile justice system. However, if juveniles later commit crimes as adults, their juvenile records may be used against them. Juveniles have the same constitutional rights as adults, including the right to remain silent and the right to an attorney.

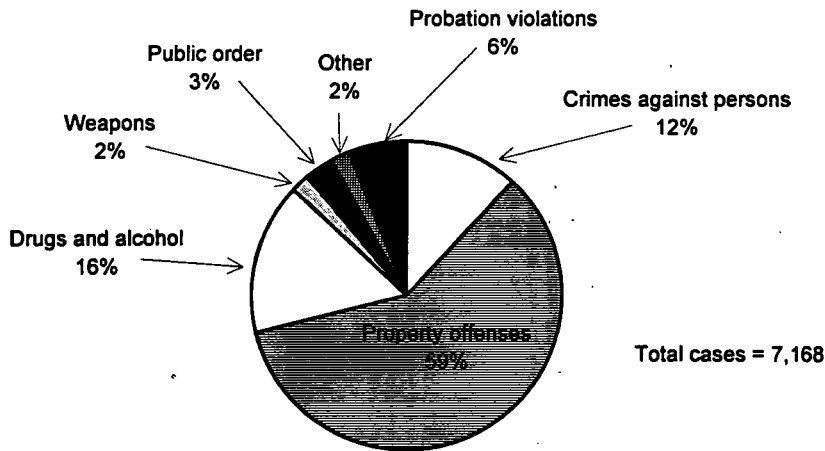
Police refer juvenile cases to the Division of Family and Youth Services (DFYS), in the Department of Health and Social Services. Often juveniles come to the attention of the police or other officials for running away or being abused at home. In those cases, DFYS may file a civil petition asking the court to declare that the juvenile is a child in need of aid (CINA). If the juvenile has committed a crime, DFYS assigns a juvenile probation intake officer to the case. DFYS handles all juvenile crimes except traffic offenses, fish and game violations, and parks and recreation violations.

The confidentiality of juvenile cases, combined with the emphasis on rehabilitation, leads to the impression that nothing happens to juvenile offenders. In fact, juvenile probation officers and courts have many choices.

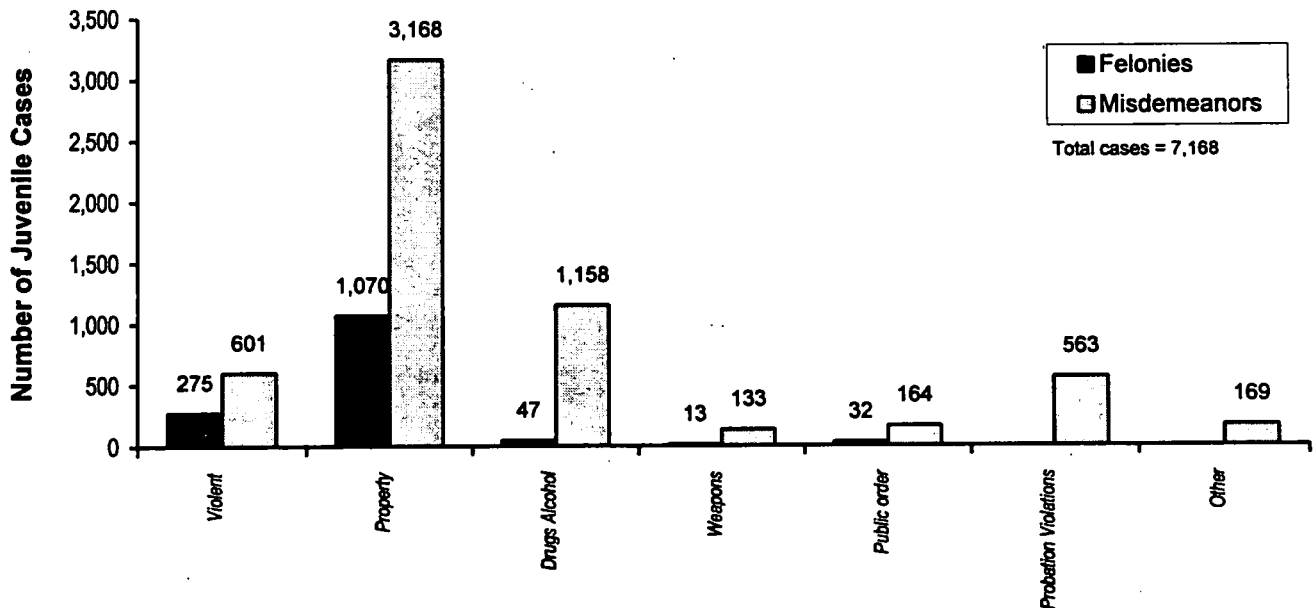
1) A juvenile case usually begins when a police officer refers a case to a juvenile probation intake officer. The intake officer investigates the crime, and decides if there is probable cause to believe the juvenile committed the crime and if there is enough evidence to prove it (similar to the screening role of the prosecutor in adult crimes). If the evidence is insufficient, the officer dismisses the case.

**The juvenile probation officer:** Police refer juvenile crimes to the Division of Family and Youth Services (DFYS), part of the state Department of Health and Social Services. The juvenile probation office plays two roles. Intake officers investigate the offense, decide how to proceed, and present the case to the court. Juvenile probation officers implement the sentence, supervise the terms of probation, and decide which juvenile facility is most appropriate.

## Many Juvenile Crimes Are Property Offenses

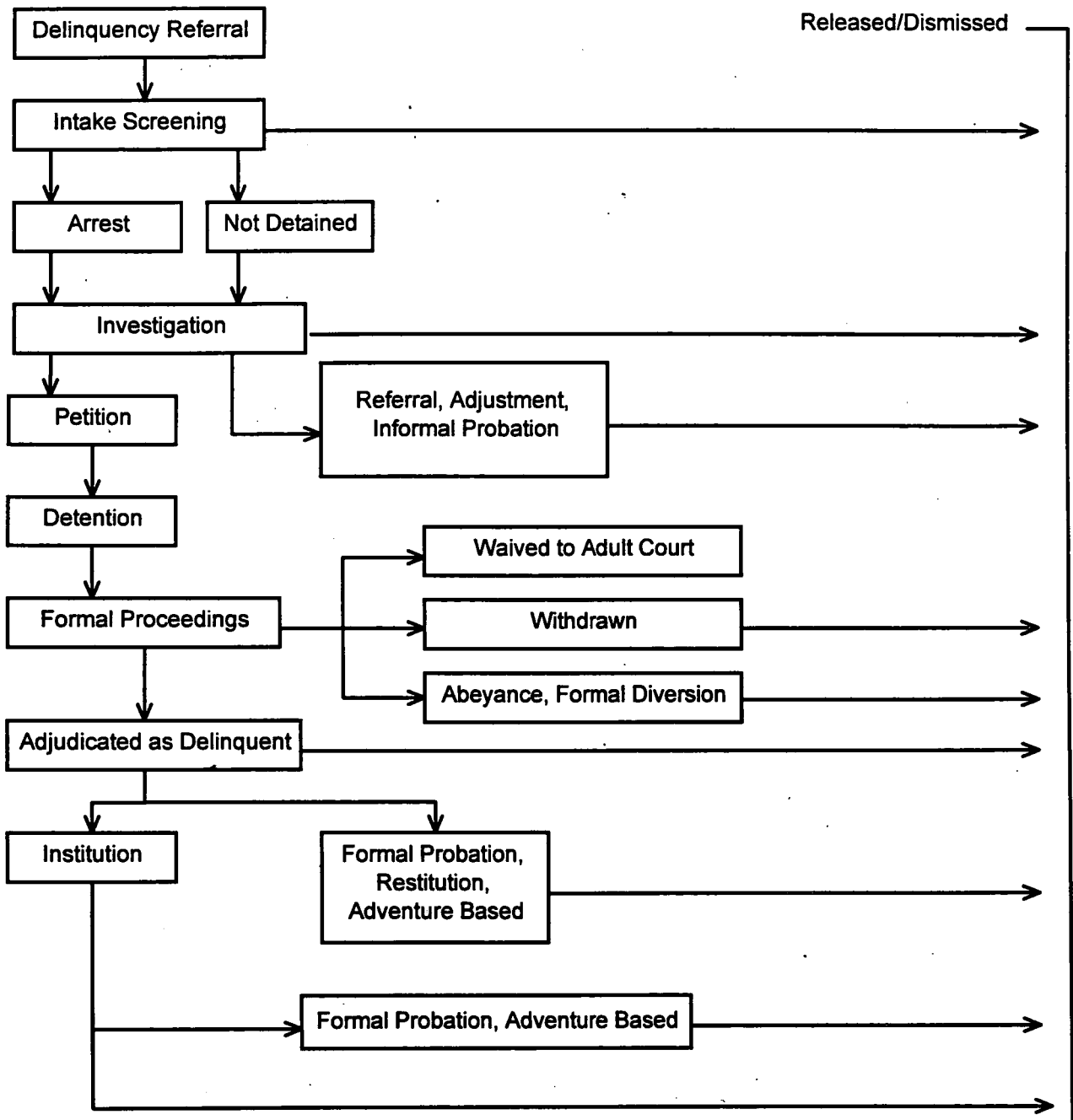


## Most Juvenile Crimes Are Misdemeanors



These charts show the types of juvenile probation cases referred to DFYS in FY 1993. Most juvenile crimes are property offenses, often theft and burglary or non-violent. Most juvenile crimes would be considered misdemeanors if committed by an adult. These figures come from the DFYS Annual Report, March 1993, p. 34.

## The juvenile justice system has many alternatives to deal with delinquent youth.



The juvenile probation officer handles most cases without referring the offender to court. The intake officer may warn the youth and his or her parents, require restitution, refer the offender and victim to voluntary victim-offender mediation, community work service, substance abuse treatment, or place other conditions on behavior. The court may impose conditions of probation or may send the youth to an institution or an "adventure-based" program, a short-term, intensive training and awareness program. Chart taken from DFYS Annual Report, March 1993, p. 32.

2) The officer may decide that there is enough evidence to prove the case, but it would serve the best interests of the community and the juvenile not to prosecute. The officer can **adjust** the case informally. He or she may meet with the offender and the offender's family and issue a warning, or refer the victim and offender to voluntary mediation. The intake officer also can require payment of restitution, individual or family counseling, community work service, or completion of a diversion program. The department resolves most juvenile cases this way. A large majority of juveniles whose cases are adjusted do not return to the juvenile system.

3) With the consent of the youth and the family, the intake officer may put the youth on **informal probation** for up to six months, without going to court. The parents and youth agree that if the youth violates the conditions of informal probation, the intake officer can take the original charges to court. The intake officer may require restitution, counseling, community work service, or completion of a diversion program.

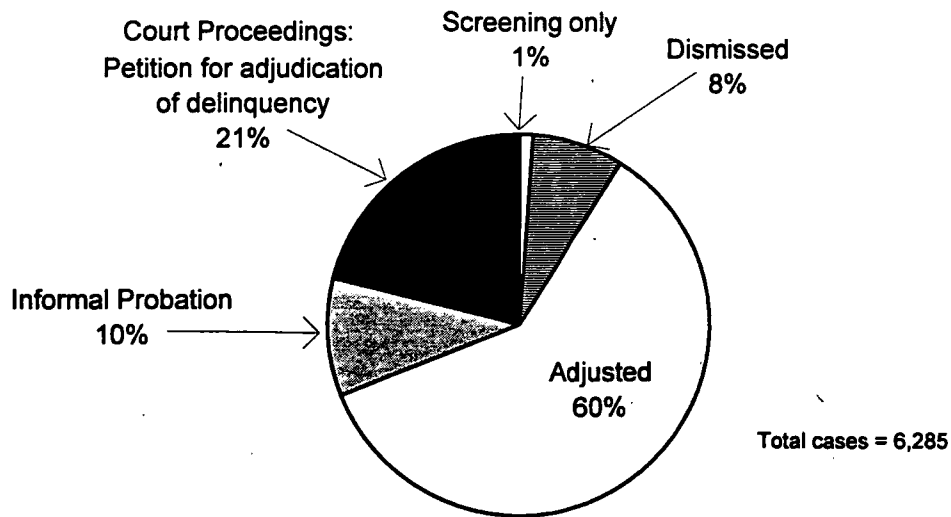
**The guardian ad litem:** In some cases, juveniles accused of crimes have conflicts with their parents or have no adult who can help them protect their interests. The judge may appoint a guardian ad litem to represent the juvenile, in addition to the juvenile's lawyer. Guardians ad litem investigate the offense, determine the needs of the juvenile, try to resolve the problem, advise the juvenile, and advocate the juvenile's best interests to the juvenile probation officer and to the court. The Office of Public Advocacy hires some guardians ad litem; the court contracts with others.

4) The intake officer may decide that the case requires formal court intervention and an **adjudication of delinquency**. The intake officer files a delinquency petition with the court. Intake officers must file petitions in serious felony cases and in cases where the victim has lost so much that the offender will need a long time to make restitution.

5) A superior court judge or **master** may hear the case in court. In rural locations, the local magistrate can hold preliminary and emergency proceedings. The court can exercise different degrees of control over the youth. Without adjudicating the juvenile delinquent, the court may hold the case in **abeyance** for up to a year, allowing the youth to fulfill conditions like paying restitution and staying out of trouble. If the youth satisfies the conditions, the court can dismiss the case. The court can place the juvenile in formal diversion, with the consent of the youth and the parents, again with conditions.

**The Master:** In juvenile cases, courts often appoint a special judicial officer called a master to hear evidence and make recommendations to a superior court judge. The judge may appoint someone to hear a single case or many cases. Masters hear most juvenile cases in Anchorage and Fairbanks.

## Most Juvenile Cases Are Handled Without Court Proceedings



This chart shows the outcome of all juvenile probation cases referred to DFYS in FY 1992. Most juvenile crimes are "adjusted," which means that the juvenile probation officer meets with the youth and his or her parents and gives the youth a warning. Adjustment may include payment of restitution, community work service, or participation in a diversion program. Data taken from DFYS Annual Report, March 1993, p. 37.

6) If the court adjudicates the juvenile delinquent, it can order **probation without custody**, releasing the youth to his or her parents or a suitable home. The court will impose conditions of probation. A juvenile probation officer will design a case plan, monitor the home placement, provide counseling and other services, set restitution payments, and report violations to the court.

7) If the court adjudicates the youth delinquent, it can order **probation with custody**, placing the youth in the custody of DFYS. DFYS still may release the youth to the home of a parent or guardian, or place the offender in a foster home, group home, or residential care facility. A DFYS probation officer monitors conditions of probation. The court may order the youth to participate in a short-term intensive training program called Adventure-Based Education, designed to change poor behavior and lack of responsibility.

8) If the court believes that the juvenile needs greater restrictions, the judge can order commitment to a juvenile facility, commonly called **institutionalization**. DFYS decides if the youth should go to a correctional school, detention home, or a secure, long-term detention facility. Juvenile facilities provide secure custody, behavior management, education, health care, substance abuse and family counseling, and work opportunities.

9) Finally, the juvenile court may **waive** the case to adult court. Sixteen and seventeen year-olds who commit unclassified and Class A felonies automatically go to adult court. The court also will waive jurisdiction if it finds that the youth cannot be rehabilitated before the age of 20. The superior court will try the juvenile as an adult and, if convicted, the juvenile will serve time in an adult prison.

A juvenile adjudicated delinquent has the right to **appeal** from the court's decision. Grounds for appeal include procedural error, violation of constitutional rights, and insufficient evidence presented at the hearing. If the juvenile's circumstances have changed since placement, he or she may request a review hearing to ask for a more suitable placement. The juvenile has a right to be present and to be represented by a lawyer. The court automatically holds review hearings once a year.

The court seals **juvenile records** to keep them confidential. Police, military, and government officials may inspect them with consent of the court. If the juvenile successfully completes the terms of the sentence, and has no more trouble with the law, the adjudication of delinquency will remain confidential. The goal of the juvenile system is to help youths in trouble become law-abiding citizens.

#### JUVENILE INSTITUTIONS RUN BY THE DEPT. OF HEALTH AND SOCIAL SERVICES

Institution	Description
Fairbanks	20 short-term detention beds 20 long-term detention beds
Bethel	Short & long-term detention Locked facility Alaska Native programs
Nome	Short & long-term detention Open campus Alaska Native programs
McLaughlin (Anchorage)	Long-term detention 80 open campus beds (least serious offenders) 25 secure detention 20 closed treatment unit (most dangerous offenders)
Johnson (Juneau)	Short-term detention

All juvenile facilities are coeducational, although they may have separate residential arrangements for young men and women. All juvenile facilities provide access to high school classes, diagnostic evaluation, special education services, behavior management, medical care, AIDS and substance abuse prevention, and crisis counseling. Long-term facilities offer individual and family counseling, recreation, voluntary religious services, and work opportunities. Substance abuse and sex offender treatment may also be available.

## **Resources**

### **Government Agencies and Community Groups**

#### **Lawyers for Defendants**

Alaska Public Defender (court-appointed, adult and juvenile)  
900 West 5th Avenue, Suite 200  
Anchorage, AK 99501  
907-264-4400

Offices in Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, and Sitka

Office of Public Advocacy (court-appointed, adult and juvenile)  
900 West 5th Avenue, Suite 525  
Anchorage, AK 99501  
907-274-1684

Offices in Anchorage, Fairbanks, and Juneau

Alaska Bar Association Lawyer Referral Service (private counsel)  
510 L Street, Suite 602  
Anchorage, AK 99501  
907-272-0352 or 1-800-478-9999

#### **Services for Victims**

##### ***State Agencies***

Anchorage District Attorney (victim-witness coordinators)  
310 K Street, Suite 520  
Anchorage, AK 99501  
907-269-6300

District Attorney Offices in Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, and Sitka

Council on Domestic Violence and Sexual Assault (Department of Public Safety)  
Box 111200  
Juneau, AK 99811-1200  
907-465-4356

Violent Crimes Compensation Board (Department of Public Safety)  
Box 111200  
Juneau, AK 99811-1200  
907-465-3040 or 1-800-764-3040



### *Other Organizations (by region)*

**ANCHORAGE:** Victims for Justice  
619 East 5th Avenue  
Anchorage, AK 99501  
907-278-0977

Standing Together Against Rape (STAR) (sex offenses)  
1057 West Fireweed Lane, Suite 230  
Anchorage, AK 99503  
907-276-7273 (Crisis Line) 907-276-7279 (Business) or  
1-800-478-8999 (Crisis Line)

Abused Women's Aid in Crisis (AWAIC) (domestic violence)  
907-272-0100

**BARROW:** Arctic Women in Crisis  
907-852-0261 or 1-800-478-0267

**BETHEL:** Tundra Women's Coalition  
907-543-3456 or 1-800-478-7799

**DILLINGHAM:** Safe and Fear-Free Environment  
907-842-2316 or 1-800-478-2316

**EMMONAK:** Emmonak Women's Shelter  
907-949-1434 or 1-800-478-1434

**FAIRBANKS:** Women in Crisis-Counseling & Assistance  
907-452-2293 or 1-800-478-7273

**HOMER:** South Peninsula Women's Services  
907-235-7712

**JUNEAU:** Aiding Women from Abuse and Rape Emergencies  
P.O. Box 20809  
Juneau, AK 99801  
907-586-1090 or 1-800-478-1090

**KENAI:** Kenai/Soldotna Women Resource & Crisis Center  
907-283-7257

**KETCHIKAN:** Women in Safe Homes  
907-225-9474 or 1-800-478-9474

**KODIAK:** Kodiak Women's Resource & Crisis Center  
907-486-3625

**KOTZEBUE:** Maniilaq Women's Shelter  
907-442-3969 or 1-800-478-3312

**PALMER:** Valley Women's Resource Center  
907-746-4080 or 1-800-478-4090

**NOME:** Bering Sea Women's Group  
907-443-5444 or 1-800-570-5444

**SEWARD:** Seward Life Action Council  
907-224-3027

**SITKA:** Sitkans Against Family Violence  
907-747-6511 or 1-800-478-6511

**UNALASKA:** Unalaskans Against Sexual Assault and Family Violence  
907-581-1500 or 1-800-478-7238

**VALDEZ:** Advocates for Victims of Violence  
907-835-2999

### **State Agencies**

Alaska Court System  
303 K Street  
Anchorage, AK 99501  
907-274-8611

Superior Courts in Anchorage, Barrow, Bethel, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, Sitka, Valdez, and Wrangell-Petersburg

Alaska Department of Corrections  
4500 Diplomacy Drive  
Anchorage, AK 99508-5918  
907-269-7350

Alaska Department of Law, Criminal Division  
P.O. Box 110300  
Juneau, AK 99811-0300  
907-465-3428

(Also see District Attorneys)

Alaska Parole Board (in Department of Corrections)  
P.O. Box 112000  
Juneau, AK 99811-2000  
907-465-3384

Division of Family and Youth Services  
P.O. Box 110630  
Juneau, AK 99811-0630  
907-465-3191

Offices in Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau,  
Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, and Sitka

Division of Motor Vehicles  
5700 East Tudor Road  
Anchorage, AK 99507  
907-269-5551

Alaska State Troopers/Village Public Safety Officer Program  
5700 East Tudor Road  
Anchorage, AK 99504  
907-269-5641

detachments in Fairbanks, Juneau, Palmer and Soldotna; posts across the  
state

## **Complaints**

Commission on Judicial Conduct (investigate individual complaints about judges)  
310 K Street, Suite 301  
Anchorage, AK 99501  
907-272-1033 or 1-800-478-1033

Alaska Judicial Council (evaluate judges)  
1029 West 3rd Avenue, Suite 201  
Anchorage, AK 99501-1981  
907-279-2526

State of Alaska Ombudsman (complaints about state agencies)  
P.O. Box 102636  
Anchorage, AK 99510-2636  
Interior and Northern Alaska 1-800-478-2624  
Southcentral Alaska 1-800-478-2624  
Southeast Alaska 1-800-478-4970

Anchorage Municipal Ombudsman (complaints against Anch. municipal agencies)  
P.O. Box 196650  
Anchorage, AK 99519-6650  
907-343-4461

Alaska Bar Association (complaints about lawyers)  
offices in Anchorage, Juneau and Fairbanks  
P.O. Box 100279  
Anchorage, AK 99510-0279  
907-272-7469      Outside Anchorage: 1-800-770-9999

Alaska Bar Association: Lawyer Referral Service  
Box 100279  
Anchorage, AK 99510  
907-272-0352

### **Other Sources of Information**

Alaska Sentencing Commission  
(reports & recommendations on sentencing, 1990-1992)  
c/o Alaska Judicial Council  
1029 West Third Avenue, Suite 201  
Anchorage, AK 99501-1981  
907-279-2526

Anchorage Crime Prevention Committee  
(a committee of the Anchorage Chamber of Commerce)  
441 W. 5th Avenue, #300  
Anchorage, AK 99501-2309  
907-272-2401

Committee members include representatives from law enforcement, the court system, youth corrections, criminal justice agencies and concerned business leaders. The committee generates ideas and takes suggestions from the public about how to prevent crime, reviews proposed state and municipal crime legislation and makes recommendations to the Chamber of Commerce, and conducts community outreach and education (including an annual Crime Prevention Fair in Anchorage).

University of Alaska Justice Center (studies in criminal justice)  
3211 Providence Drive  
Anchorage, AK 99508  
907-786-1810

## Reference Materials

### Overview of Criminal Law

- M. Belli, *Everybody's Guide to the Law*, chapter 18 (Harcourt Brace Jovanovich 1986)
- A. Coffey, *An Introduction to the Criminal Justice System and Process*, chapter 1 (Prentice-Hall 1974)
- Reader's Digest, *You and the Law*, chapters 1 & 4 (Reader's Digest rev. ed. 1984)
- A Crime Victim's Guide to the Alaska Criminal Justice System*, Victims for Justice and Alaska Judicial Council (1995), provides an overview of the criminal justice systems written specifically for victims.

### Alaska Constitution

- Article I, § 1: equal protection
- Article I, § 7: due process
- Article I, § 8: grand jury
- Article I, § 9: double jeopardy, self-incrimination
- Article I, § 11: rights to speedy trial, jury, bail, counsel, subpoena, confront witnesses
- Article I, 14: search and seizure, warrants
- Article II: legislature
- Article III: governor/executive branch
- Article IV: court system

### Alaska Statutes

- Title 4: alcohol offenses
- Title 11: definitions of crimes and defenses
- Title 12: criminal procedure and sentencing
- Title 16: fish & game offenses
- Title 22: court system
- Title 28: motor vehicle offenses
- Title 33: prison, probation, parole
- Title 47: juvenile justice system, alcohol, social services

### Alaska Administrative Code (regulations)

- Title 5: fish and game regulations
- Title 7: juvenile justice regulations
- Title 13: victims compensation board, motor vehicle regulations
- Title 22: prison, probation, parole regulations

### **Municipal and Borough Codes**

Anchorage, Juneau, Ketchikan, and Sitka have criminal codes for their areas. Many villages have local codes also.

### **Case Law**

West's Pacific Reporter publishes cases decided by the Alaska Supreme Court and Court of Appeals. Cases are printed in chronological order, which makes them hard to find. To research a topic, use West's Alaska Digest, the Alaska Law Review casenotes, or an on-line computer search service. Paralegal training or assistance is usually necessary to do case law research.

## Legal Terms

### A

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**ACCUSED:** the person charged with a crime; also known as the defendant.

**ACQUITTAL:** a release from a criminal charge by a court, usually when the jury or judge finds the defendant "not guilty" after a trial.

**ADJUDICATION (Juvenile):** a juvenile court proceeding at which a judge decides whether or not a juvenile is delinquent. If the judge finds a juvenile delinquent, the court decides whether the juvenile needs treatment, supervision, or rehabilitation.

**ADMISSIBLE EVIDENCE:** evidence the judge or jury can consider in deciding a case.

**AFFIDAVIT:** a written statement sworn before a notary or officer of the court.

**AFFIRMATIVE DEFENSE:** an explanation for a crime that makes the act noncriminal, such as duress, or that changes the sentence, such as heat of passion or insanity. The defendant has the burden of proving the defense by a preponderance of the evidence.

**AGGRAVATING FACTOR:** a fact about the crime or offender that lets the judge increase a presumptive sentence, such as a history of similar offenses or a particularly vulnerable victim.

**ALLEGATION:** a statement made by a person in the case who claims it can be proved as a fact.

**APPEAL:** the legal procedure by which a person asks a higher court to review the decision of a lower court.

**APPELLANT:** the person who appeals a decision of the lower court.

**APPELLATE COURT:** a court that reviews decisions made by a lower court on questions of law and procedure. The appellate court can affirm, reverse, or remand the original decision for more proceedings.

**APPELLEE:** the person who won in the lower court.

**ARRAIGNMENT:** usually the first court proceeding in a criminal case. The judge tells the defendant what the alleged offenses are, and what rights defendants have. The judge asks the defendant to plead guilty, not guilty, or nolo contendere (no contest).

**ARREST:** the legal restraint of a person for the purpose of charging the person with a crime. Police also can arrest a person for investigation in some circumstances, or for violation of a court order.

**ARREST WARRANT:** a legal document issued by the court authorizing the police to arrest someone.

**ARSON:** intentionally causing a fire or explosion in a building.

**ASSAULT:** causing physical harm to another person. Alaska has four degrees of assault, depending on the seriousness of the victim's injuries, the weapon used, and the offender's intent. Fourth degree assault is a misdemeanor; the more serious assaults are felonies.

**ATTORNEY:** a graduate of a law school, admitted to practice before the courts of a

jurisdiction. The attorney advises, represents, and acts for the client or government.

## **B**

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**BAIL:** the release of a person who was arrested or imprisoned. The court can tell the defendant to pay a bond of money or securities, require another person to take responsibility for the defendant, or let the defendant go on the defendant's promise to appear in court ("own recognizance"). Bail is intended to assure the defendant's presence in court and to protect the public.

**BAIL HEARING:** a proceeding at which a judge or magistrate decides whether to release a defendant before trial, and under what conditions. Defendants often must deposit a sum of money with the court to assure their appearance in court.

**BAIL BONDSMAN:** an individual who arranges with the court for a defendant's release from jail. The bail bondsman promises the court that he will pay the full bail if the defendant does not come to court when required. The defendant pays the bondsman for this service.

**BAILIFF:** a person appointed by the court to keep order in the courtroom and to have custody of the jury.

**BENCH WARRANT:** an order issued by a judge for the arrest of a person--the defendant, a witness, or other participant in the judicial proceeding--who failed to appear in court as required. Judges also issue warrants for the arrest of defendants when charges or indictments are filed.

**BEYOND A REASONABLE DOUBT:** the degree which a juror must be sure of the facts in the case before finding the defendant guilty.

**BILL OF PARTICULARS:** a document that tells the defendant about the specific occurrences that the prosecution plans to prove during the trial. It limits the prosecution to asking about only those occurrences.

**BOOKING:** a police or jail action officially recording the arrest, person arrested, and reasons for arrest. Fingerprints and photographs are taken at booking.

**BOUND OVER:** a change of jurisdiction to another court, such as when a district court judge transfers a felony case to the superior court.

**BRIEF:** a written statement of the facts and legal arguments governing a case, presented from the perspective of one party.

**BURDEN OF PROOF:** the requirement of proving a fact or facts in dispute in a case. For instance, the prosecutor must produce enough evidence (facts) to prove "beyond a reasonable doubt" the guilt of the defendant.

**BURGLARY:** entering a building with intent to commit a crime in the building. It is first-degree burglary if the building is a dwelling, if the defendant carries a gun or uses a dangerous instrument, or if the defendant tries to hurt a person inside. Otherwise, the offense is second-degree burglary. Both crimes are felonies.

## **C**

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**CALENDAR:** a daily list of cases to appear before the court. Some courts call this list a docket. At "calendar call," the court sets trial dates for a large number of cases.

**CHAIN OF CUSTODY:** documentation of all persons who have had responsibility for a piece of evidence to prove that no one has damaged or tampered with it. The



court often requires proof of custody for items stolen in a theft, drugs seized in a narcotics case, and so forth.

**CHANGE OF VENUE:** moving a case begun in one place to another location for trial. The court can change venue when the defendant cannot obtain a fair trial in the place where the crime was committed.

**CHARACTER EVIDENCE:** the prosecutor cannot use evidence about the defendant's character to show that the alleged crime was consistent with that character. The court may admit evidence about the defendant's character when it would help to prove some aspect of the offense such as intent, preparation, method, or motive.

**CHARGE:** an accusation briefly describing the crime(s) the suspect allegedly committed. The police or prosecutor spell out the charge(s) in an indictment, information, or complaint.

**CIRCUMSTANTIAL EVIDENCE:** indirect evidence that this person committed this crime. Examples of circumstantial evidence include finding the defendant's gun at the scene of the crime and testimony that someone saw the defendant near the scene shortly before the crime occurred.

**CITATION:** an order issued by police requiring a person to appear in court at a later date. Also, a reference to a legal authority such as a statute or court case.

**COMMON LAW:** the system of law that started in England and was later developed in the United States. Common law comes from unwritten customs and principles upheld by judicial precedent rather than from acts passed by legislatures. Also called "case law."

**COMMUNITY WORK SERVICE:** as part of a sentence, a judge may order a defendant

to do a certain number of hours of volunteer work for a community or government organization.

**COMPLAINANT:** the victim of a crime who brings the facts to the attention of the authorities.

**COMPLAINT:** a written statement of the essential facts about the offense charged; usually filed at the beginning of the case.

**CONCURRENT SENTENCES:** a judge's decision to allow the defendant to serve more than one sentence at the same time.

**CONFESSION:** the defendant's oral or written admission of guilt. The state cannot use the confession against the defendant at trial unless the defendant confessed voluntarily.

**CONFRONTATION, RIGHT TO:** the U.S. and Alaska Constitutions give the defendant the right to confront the witnesses against him or her. This includes the defendant's right to be present at every important stage of the case, the right to cross-examine adverse witnesses, and the right to subpoena witnesses.

**CONSECUTIVE SENTENCES:** a requirement by the judge that the defendant serve two or more sentences separately, one after the other. Judges can make sentences partially concurrent and partially consecutive.

**CONSOLIDATION:** the act of joining together two or more charges or defendants for a single trial.

**CONTEMPT OF COURT:** any act calculated to embarrass or obstruct a court in the administration of justice or calculated to lessen its authority or dignity.

**CONTINUANCE:** the postponement of legal proceedings until some future time or date.

**CONVICTION:** the court's judgment that the defendant is guilty of a criminal offense based on the verdict of a judge or jury, or on the defendant's plea of guilty or nolo contendere.

**CORRECTIONAL INSTITUTION:** a prison, jail, or other facility for imprisoning offenders.

**CORROBORATING EVIDENCE:** evidence that supplements evidence already given and tends to strengthen or confirm it.

**COUNT:** one of the parts of a complaint, indictment or information. Each count alleges a separate offense.

**COURT:** a chamber or other room where trials and other judicial hearings take place. A judge presides over the court. "The court" also refers to the judge rather than to the room or building.

**COURT CLERK:** an individual who keeps a record of court proceedings each day and records future dates for the judge's calendar. This person takes charge of all case files and paperwork for each day.

**CRIME:** any act that the legislature has decided to punish by imprisonment and to prosecute in a criminal proceeding.

**CRIMINAL JUSTICE SYSTEM:** the combination of police, courts and corrections agencies that operates collectively to prevent crime, enforce the criminal law, and punish and rehabilitate offenders.

**CRIMINAL MISCHIEF:** the offense of intentionally damaging property. It can be a felony or a misdemeanor, depending upon the amount and type of damage.

**CROSS-EXAMINATION:** the questioning by a party or attorney of the opponent's witness, after the direct examination. The court usually limits cross-examination to the credibility of the witness and to matters raised on direct examination.

**CUSTODY:** detained by authority of the law—arrest and detention. The courts often release defendants to the custody of a responsible third person before trial. They also often let juveniles stay in the custody of a parent or guardian during proceedings and after disposition.

## **D**

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**DEFENDANT:** the person charged with a crime; also called the accused.

**DE NOVO:** literally anew, as in trial de novo—the granting of a new trial.

**DETENTION:** the legal confinement of a person awaiting criminal or juvenile proceedings.

**DFYS:** the Division of Family and Youth Services, part of the Alaska Department of Health and Social Services. DFYS handles juvenile criminal cases, as well as foster care, Child In Need of Aid, (CINA) and other services.

**DIRECT EVIDENCE:** proof of facts by witnesses who saw the acts done or heard the words spoken, as distinguished from circumstantial or indirect evidence.

**DISCOVERY:** pre-trial procedures which reveal the evidence which will be offered by the parties.

**DISMISSED WITH PREJUDICE:** when the judge dismisses the charges against the accused and does not let the state file the charges again.

**DISMISSED WITHOUT PREJUDICE:** when the judge dismisses one or more charges against the defendant, but lets the state refile the charges later.

**DISPOSITION:** the outcome of a case, which may include dismissal, conviction, or other action.

**DIVERSION:** the official suspension of criminal proceedings against an alleged offender. The person may go to a treatment or care program as a condition of the diversion.

**DOUBLE JEOPARDY:** a constitutional protection that keeps the government from prosecuting a person twice for the same charges.

**DUE PROCESS OF LAW:** the constitutional and common law principles that protect fairness and justice in the courts. The constitutional guarantee of due process requires that every person have the protection of a fair trial.

## **E**

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**EVIDENCE:** information offered to the court or jury to prove something.

**EXCLUSION OF WITNESSES:** an order requiring witnesses to stay out of the courtroom until the judge calls them to testify. The judge tells these witnesses not to discuss the case or their testimony with anyone except the attorneys in the case.

**EXHIBITS:** documents, charts, weapons, or other tangible evidence used in a court case.

**EX PARTE:** a judicial proceeding or action that involves only one of the parties in a case.

**EXPERT EVIDENCE:** testimony given in relation to some scientific, technical, or professional matter by a qualified person. Experts can testify only on matters that are beyond the experience of ordinary citizens.

**EXTRADITION:** the process of returning a fugitive from one state or country to another, usually so that the government can send the fugitive to trial.

## **F**

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**FELONY:** in Alaska any criminal offense that carries a possible sentence of one year or more in jail.

**FINE:** a sum of money paid as a form of punishment. A "day-fine" uses the defendant's ability to pay and the seriousness of the offense as factors in deciding the amount of the fine.

**FOUNDATION:** a party seeking to have evidence admitted often must first "lay a foundation" by showing preliminary facts related to the evidence. For example, before an eyewitness can testify about what happened during an alleged crime, someone must show that the witness actually saw the crime.

**FORFEITURE:** a court order requiring the defendant to give the government an item connected to the crime. Property commonly forfeited includes cars, planes, or weapons used in a crime, and money, animals, or goods gained by the crime.

**FORGERY:** counterfeiting or altering a document like a deed, a will, or a check, or knowingly using a forged document. Forgery can be a felony or misdemeanor.

**FY 1993:** fiscal year 1993; in Alaska, from July 1, 1992, to June 30, 1993. State agencies receive their budgets and often issue reports to cover a fiscal year.

## **G**

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**GOOD TIME:** days credited to the offender's sentence for good behavior in prison. If the offender does not lose good time through misbehavior, he or she can be released after serving two-thirds of the sentence. Good time gives offenders an incentive to comply with prison rules.

**GRAND JURY:** a body of citizens that hears evidence against a person suspected of a crime and decides if they have probable cause to charge the suspect formally. In Alaska, the grand jury also can conduct its own investigations and issue reports.

**GUARDIAN AD LITEM:** a person appointed by the court to represent the rights of a child in a legal matter. The court also may appoint a guardian ad litem for a person who is legally incapable of managing his or her own affairs.

**GUILTY:** a plea accepting guilt, or a verdict from a judge or jury that the prosecution has met its burden of proof.

**GUILTY BUT MENTALLY ILL:** when the defendant committed the crime but, as a result of mental disease or defect, did not know it was wrong or could not control his or her conduct. The defendant is still subject to imprisonment combined with mental health treatment.

## **H**

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**HABEAS CORPUS:** an order to bring a person before the judge that issued the order. The court then decides whether the person has been held in custody without due process of law.

**HALFWAY HOUSE:** also called a community residential center (CRC). A residential facility for offenders on furlough, probation or parole. Offenders can leave the building by themselves to find or keep a job, go to school, go to treatment programs, and so forth. An offender must get permission to leave, and must be back by a set time. CRC's usually offer special programs to help offenders in a variety of ways.

**HEARSAY:** evidence not based upon a witness's personal knowledge, but on information the witness got from someone

else. Hearsay evidence is usually admissible in very limited circumstances.

**HOMICIDE:** the killing of one human being by another. Homicide may be murder, manslaughter, or criminal negligence. It may even be non-criminal, as in self-defense.

**HUNG JURY:** a jury unable to agree unanimously on whether to convict or acquit a defendant.

## **I**

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**IMMUNITY:** protection from a duty or penalty. A witness may be granted immunity from prosecution to encourage the witness to answer questions. Otherwise, the witness might refuse to answer to avoid self-incrimination.

**IMPANELLING:** the process by which the court selects potential jurors and swears them in.

**IMPEACHMENT OF WITNESS:** an attack on the credibility of a witness or the accuracy of the witness's testimony.

**INADMISSIBLE EVIDENCE:** evidence that cannot be used at a hearing or trial because it is irrelevant, misleading, improperly obtained, or for some other reason.

**INCARCERATED:** jailed, imprisoned.

**INCOMPETENT:** refers to persons whose testimony the court will not admit because of mental incapacity, immaturity, lack of proper qualifications, or similar reasons. This term also describes defendants, who, because of a physical or mental disorder, cannot help their lawyers prepare a defense or cannot understand the nature of proceedings against them.

**INDICTMENT:** a document prepared by a grand jury formally charging a person with a crime. Also called a true bill.

**INDIGENT:** a person who cannot afford an attorney.

**INFORMATION:** a sworn affidavit charging a person with a crime based on facts supplied to the prosecutor.

**INSANITY:** the degree of mental disorder, defect, or disease that relieves a person of criminal responsibility for his or her actions. The judge can send a defendant found not guilty by reason of insanity to prison, unless the defendant proves that he or she is no longer dangerous.

**INTAKE:** a process occurring early in juvenile criminal actions, when a DFYS intake officer decides how to proceed with the case.

## **J**

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**JAIL:** a facility for incarcerating those convicted of a crime or those charged with a crime and awaiting trial. Jails are usually used for offenders serving short sentences.

**JUDGE:** a public official appointed to hear and decide cases in a court of law.

**JUDGMENT:** the official decision of a court.

**JUDICIAL NOTICE:** a court finding that parties do not need to prove certain facts because most people know them or can find them from reliable sources. Examples include geographic facts, historical events, and weather information.

**JURISDICTION:** the legal authority of a court over the defendant or the subject matter of the dispute.

**JURY:** a panel of citizens who evaluate the evidence presented to them and decide the truth of the matter in dispute.

**JURY INSTRUCTIONS:** instructions that the judge gives to the jury. Jury instructions explain the principles of law that the jury should apply to the facts of the case to reach a verdict.

**JUVENILE:** a person who, because he or she is under 18 years old, is within the sole jurisdiction of the juvenile court unless bound over for adult processing.

## **K**

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**KIDNAPING:** restraining or hiding another person with the intent of holding the victim for ransom, using him or her as a shield or hostage, or injuring or sexually assaulting the victim. Kidnaping is among the most serious felonies.

## **L**

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**LEADING QUESTION:** a question asked in words that instruct or suggest to the witness what to answer. This type of question is prohibited on direct examination.

## **M**

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**MAGISTRATE:** a judicial officer with less authority than a judge. Magistrates issue search and arrest warrants, try and sentence violations, try and sentence misdemeanor cases with the consent of the defendant, and conduct felony bail hearings.

**MANSLAUGHTER:** causing the death of another person under circumstances not amounting to murder in the first or second degree.

**MASTER:** an attorney appointed in juvenile or other proceedings to hear the facts of a case and make recommendations to the judge.

**MISCONDUCT INVOLVING CONTROLLED SUBSTANCES:** criminal drug possession, manufacture and sale. Alaska law sets out six degrees of this offense, ranging from major drug trafficking (an unclassified felony), to possession of marijuana (a Class B misdemeanor).

**MISCONDUCT INVOLVING WEAPONS:** prohibited possession, use or sale of firearms. First-degree misconduct (a Class C felony) includes gun possession by a felon and illegal weapon sales. Second-degree misconduct includes recklessly discharging a gun and carrying a gun while intoxicated. Third-degree misconduct includes carrying a concealed weapon and bringing a gun into a bar. The lesser degrees of misconduct are misdemeanors.

**MISDEMEANOR:** an offense that authorizes a sentence of imprisonment up to one year in jail.

**MISTRIAL:** a trial that the judge has ended and declared void before the verdict because of some extraordinary circumstance or some fundamental error prejudicial to the defendant that cannot be cured by appropriate instructions to the jury.

**MITIGATING FACTOR:** a fact about the crime or offender set out by law that lets the judge reduce a presumptive sentence.

**MOTION:** a request by a party in a case that the court make a certain ruling.

**MURDER:** first-degree murder includes killing another person with intent to kill, by forced suicide, or through torture. Second-degree murder includes killing another person with intent to cause

serious physical injury, during another serious felony (felony-murder), or while acting in a way that shows extreme indifference to the value of human life.

## N

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**NOLO CONTENDERE OR NO CONTEST:** a plea in a criminal offense indicating that the defendant neither admits nor denies the charges, but does not contest the facts of the case. The criminal case proceeds as if the defendant pled guilty. A plea of no contest cannot be used against the defendant to decide liability in a separate civil case.

**NOT GUILTY:** a plea by a defendant denying guilt. Also, a verdict indicating that the prosecution failed to meet its burden of proof, also known as an acquittal.

## O

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**OBJECTION:** opposition to the form or content of a question asked by opposing counsel. The judge rules on the validity of the objection. Parties also can object to evidence or to the conduct of opposing counsel.

**OFFENSE:** the violation of any criminal law.

**OFFER OF PROOF:** when a judge excludes evidence, the party asking to have the evidence admitted makes an "offer of proof" to the court about what the evidence would have shown. For example, a party might state on the record what the witness would say if permitted to answer the question, and what the answer would prove. The offer of proof gives the trial court a chance to reconsider, and preserves the question for appeal.

**OPINION EVIDENCE:** evidence of what the witness thinks, believes, or infers about a fact in dispute, as distinguished from

personal knowledge of the facts, usually only admissible if the opinion comes from an expert witness.

**OPINION OF THE COURT:** a written or oral statement by a judge explaining the reasons for a decision.

**ORDINANCE:** a law passed by a local government.

**OVERRULE:** the term used when the judge denies a point raised by one of the parties, as in "objection overruled."

**OWN RECOGNIZANCE (OR):** the defendant's release from custody based on the defendant's promise to appear in court, without giving money or security for bail. Sometimes the court imposes special conditions such as remaining in the custody of another, following a curfew, or keeping a job.

## **P**

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**PARDON:** the power of the governor of a state to relieve a convicted person from the legal consequences of the conviction.

**PAROLE, DISCRETIONARY:** the release of an inmate from prison by the parole board, before the whole sentence is served, on condition of good behavior. A parole officer supervises the parolee until the term of the parole ends. Parole can reduce the costs of imprisonment and increase the chance of rehabilitation.

**PAROLE, MANDATORY:** the release of an inmate from prison after serving the prison term minus good time. The Department of Corrections must release an inmate who has earned good time, but the parole board can set conditions of supervision if the sentence was over two years.

**PEREMPTORY CHALLENGE:** when choosing a jury, each side can reject a fixed number of potential jurors without giving any reason. In Alaska, each side also can peremptorily challenge the judge assigned at the beginning of the case, without giving a reason.

**PERJURY:** the offense of giving false testimony under oath. It is a felony.

**PETITION:** a document filed in juvenile court setting forth the facts that bring the youth within the jurisdiction of the court, and stating that the youth needs treatment, supervision or rehabilitation.

**PLEA:** the defendant's response to the prosecution's charges. A defendant may plead guilty, not guilty, no contest, or not guilty by reason of insanity.

**PLEA BARGAINING:** negotiations between the defense and the prosecution to resolve a criminal case without a full trial. For example, the prosecution can agree to dismiss some charges if the defendant pleads guilty to the other charges, or the defendant can agree to plead guilty to a lesser charge. The defendant can agree to plead guilty to a charge in exchange for the prosecution's agreement to recommend a certain sentence to the court.

**PRELIMINARY HEARING:** a district court hearing at which the judge decides whether probable cause exists to believe that a felony was committed and that the defendant committed it.

**PREPONDERANCE OF EVIDENCE:** proof that would lead the trier of fact (judge or jury) to find that the existence of the contested fact is more probable than not. Courts use this standard in criminal trials when the defendant asserts an affirmative defense. It is a lower burden of proof than proof beyond a reasonable doubt.

**PRESENTENCE REPORT:** a thorough background investigation ordered by the court in felony cases to help decide the appropriate sentence. A probation officer prepares the presentence report.

**PRETRIAL DETAINEE:** a defendant in custody awaiting trial or, on occasion, awaiting the filing of charges.

**PRIMA FACIE CASE:** evidence presented by the prosecution that, unless contradicted, would prove each element of the crime beyond a reasonable doubt. If the prosecution cannot make a prima facie case, the court will grant the defendant's motion for judgment of acquittal.

**PRO SE:** a Latin expression for a defendant who acts as his or her own attorney. Also known as "pro per."

**PROBABLE CAUSE:** facts and circumstances that would make a reasonable person believe that someone has committed a crime, or that property that the government can seize is at a designated location. Depending on the circumstances, a police officer, grand jury or judge may decide that probable cause exists.

**PROBATION:** release of a convicted defendant, either without imprisonment or after some imprisonment, subject to conditions imposed by the court. A probation officer may supervise the offender. If the offender violates the conditions of probation, the probation officer can ask the court to revoke probation. If the judge revokes probation, he or she can change the conditions or send the offender to jail.

**PROBATION MODIFICATION:** a formal court proceeding started by the defendant, the prosecutor, or the probation officer, to change the defendant's conditions of probation.

**PROSECUTOR:** a government attorney who represents the citizens' interests in criminal cases. The prosecutor charges crimes, takes cases to trial or negotiates pleas, and makes recommendations at sentencing.

**PUBLIC ADVOCATE:** an attorney working for the Office of Public Advocacy who represents indigent adults and juveniles accused of crimes.

**PUBLIC DEFENDER:** an attorney working for the Public Defender Agency who represents indigent adults and juveniles accused of crimes.

## Q

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**QUESTION OF FACT:** a fact about which the parties disagree. The judge or jury decides whether the parties have proven the fact.

**QUESTION OF LAW:** a legal question about which the parties disagree. The judge decides the proper interpretation of the law in the case.

## R

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**RAP SHEET:** a chronological list of an adult offender's prior record of criminal arrests and dispositions. The law restricts public access to the list.

**REASONABLE DOUBT:** an actual and substantial doubt about the defendant's guilt arising from a fair consideration of all the evidence in the case. If a jury has a reasonable doubt about the truth of the charge, then it must give a verdict of not guilty.

**REBUTTAL:** evidence that explains away or contradicts the evidence of the other side. Generally refers to evidence that the prosecutor presents after the defense has completed its case.



**RECIDIVISM:** repeated criminal activity. A recidivist is a repeat criminal.

**REDIRECT EXAMINATION:** questions following cross-examination, asked by the party who first examined the witness.

**REHABILITATION OF WITNESS:** an attempt to re-establish the credibility of a witness whose testimony has been attacked, or whose character has been discredited during cross-examination.

**REST:** a party "rests" when it has presented all the evidence it intends to offer.

**RESTITUTION:** to pay back, to make whole again. A judge can make the defendant pay the victim of the crime for any money spent or lost because of the crime, including medical and counseling costs, lost wages, and lost or damaged property.

**RESTRAINING ORDER:** a court order forbidding the defendant to do certain acts, or to approach or harass certain persons. Violation of a restraining order can lead to arrest.

**REVOCATION HEARING:** a court hearing requested by a probation officer to decide whether the offender violated the conditions of probation and what the consequences should be. The parole board holds similar hearings for parole violations.

**ROBBERY:** taking or attempting to take property by force from the presence of another person. It is first-degree robbery when the defendant uses or pretends to use a dangerous instrument (such as a gun or knife) or attempts to cause serious physical injury to the victim. It is second-degree robbery without these factors. Both are felonies.

## S

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**SEARCH AND SEIZURE:** the police practice of looking for and then taking evidence useful in the investigation and prosecution of a crime. The United States and Alaska Constitutions set limits on searches and seizures. Except in certain urgent circumstances, police must get a search warrant prior to the search and seizure.

**SEARCH WARRANT:** an order issued by a judge that lets police officers look through certain premises, vehicles or containers for certain things or persons, and bring them before the court.

**SELF-DEFENSE:** protecting one's person or property against an immediate injury attempted by another. The state cannot punish a person criminally to the extent that he or she acted in justified self-defense.

**SELF-INCRIMINATION:** the Alaska and U.S. Constitutions provide that an accused person has a right to remain silent, and the right to the presence and advice of an attorney, before any police questioning while the accused is in custody. Statements and evidence obtained in violation of this rule cannot be used in the defendant's criminal trial. A defendant must be notified of these rights (often referred to as *Miranda* warnings). The defendant can remain silent throughout the trial.

**SENTENCE:** the penalty imposed on a defendant after conviction for a crime. A sentence can include a combination of imprisonment, probation, restitution, community work service, treatment, fines, or other restrictions and punishments.

**SEQUESTRATION:** keeping jurors together throughout the trial and deliberations (or just during deliberations), and guarding them from contact with other sources of information about the trial.

**SEVERANCE:** separation of the trials of two or more defendants, or separation of charges for the same defendant, to prevent prejudice that might arise if tried together.

**SEXUAL ABUSE OF A MINOR:** sexual conduct by an adult with a young person. First-degree sexual abuse of a minor includes sexual penetration with a person under 13 (with or without the victim's consent), or sexual penetration of a person under 18 living with the defendant or in the defendant's care. Second-degree sexual abuse of a minor includes sexual contact with a person under 13, sexual penetration with a person 13-15 years old, or sexual contact with a young person living with the defendant or in the defendant's care. Both are felonies.

**SEXUAL ASSAULT:** also known as rape. First-degree sexual assault includes sexual penetration (of the genitals, anus or mouth) without consent of the victim. Second-degree sexual assault includes sexual contact (knowingly touching the victim's genitals, anus, or female breast) without consent. Both are felonies.

**SPEEDY TRIAL:** the constitutional right of an accused person to have a trial free from unreasonable delay.

**STATUTE:** a law passed by the state legislature.

**STATUTE OF LIMITATIONS:** the time limits within which the state must prosecute a defendant or else be barred from prosecuting the person for that particular crime.

**STIPULATION:** an agreement by attorneys on opposite sides of a case about facts or procedures. It does not bind the parties unless both agree and the judge approves it.

**SUBPOENA:** a court order requiring a witness to appear and give testimony before the judge.

**SUMMONS:** a written order from a judge telling a person to appear at a certain time and place to answer charges or questions.

**SUSPENDED IMPOSITION OF SENTENCE (SIS):** in some cases, the judge does not impose a sentence until after the defendant has completed certain conditions similar to probation, including jail time. If the defendant meets all conditions, the judge can set aside the conviction. If not, the judge can impose sentence. SIS is most often used for young, first offenders.

**SUSPENDED SENTENCE:** in some cases, the judge can suspend part or all of a sentence to imprisonment and give probation instead. If the defendant fails to meet the conditions, the judge can impose the suspended time.

**SUSTAIN:** to support, as in "the judge sustained the objection because he found the question irrelevant."

## **T**

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**TESTIMONY:** evidence given by a witness who took an oath to tell the truth.

**THEFT:** taking the property of another with intent to deprive the person of it. Thefts are felonies or misdemeanors, depending on the amount and conditions of the crime.

**TRANSCRIPT:** the official, word-for-word record of a trial or hearing.

**TRIAL:** a formal judicial proceeding through which courts decide criminal and civil disputes.

## V

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**VENUE:** place of trial.

**VERDICT:** the formal conclusion of a judge or jury, deciding whether the prosecution has proven that the defendant is guilty of the crime.

**VIOLATION:** an offense that carries no jail time but may be penalized by a fine not exceeding \$300. A violation is not considered a crime.

**VOIR DIRE:** the questions asked of potential jurors by the attorneys or judge to decide whether the jurors will serve on the jury.

## W

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**WAIVER:** the intentional and voluntary giving up of a known right. A person can waive a right by agreeing to give it up, or the judge can infer the waiver from circumstances. Examples: waive jury; waive speedy trial; waive presentence report.

**WARRANT:** a written order from a judge that authorizes a police officer to make an arrest or a search, or carry out a judgment.

**WORK RELEASE:** a program that lets inmates of jail or prison leave their place of imprisonment during the day to work at a job.



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**Appendix A**  
**Pictorial Summary**



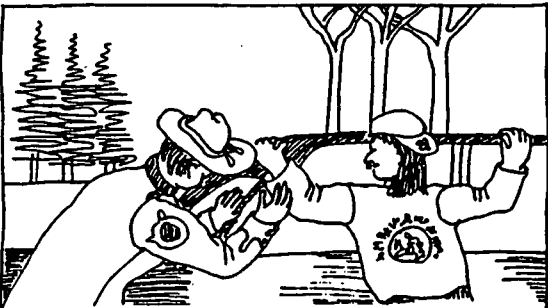




LINDA IS ROBBED AT GUNPOINT AT AN AUTOMATIC TELLER MACHINE. A PASSERBY SEES THE ROBBER AND HELPS LINDA CALL THE POLICE.



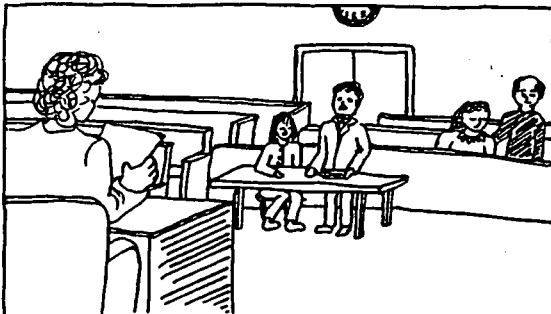
POLICE COME AND INTERVIEW LINDA AND THE WITNESS AT THE SCENE. THEY DESCRIBE THE ROBBER AND HIS CAR. POLICE BROADCAST A BULLETIN OVER THEIR RADIO.



LATER THAT EVENING, POLICE STOP A MAN WHO MATCHES THE WITNESS' DESCRIPTION. THEY ARREST HIM AND TELL HIM HIS RIGHTS.



AT THE JAIL, TIM IS FINGERPRINTED. HIS ROCKETS AND POSSESSIONS ARE SEARCHED, AND HE CALLS A LAWYER. HE STAYS IN JAIL OVERNIGHT.



TIM GOES TO COURT THE NEXT DAY. THE JUDGE RELEASES HIM TO THE CUSTODY OF A FRIEND, SETS BAIL CONDITIONS, AND APPOINTS A LAWYER.



TIM'S BAIL CONDITIONS ARE NO DRINKING OR DRUGS, A CURFEW, AND LOOK FOR A JOB. HIS LAWYER SAYS HE WILL ASK ABOUT A LOWER CHARGE.



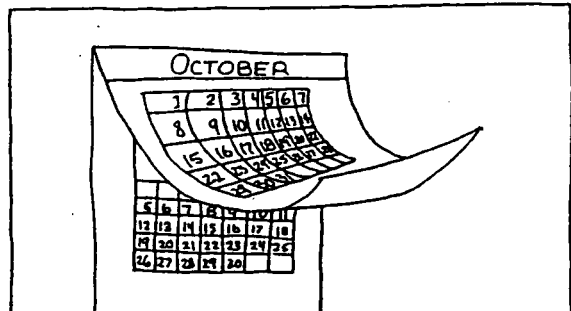
TIM'S ATTORNEY TELLS THE PROSECUTOR THAT TIM HAS A JOB AT A CAR WASH. HE SUGGESTS THEY DROP THE CHARGES, BUT THE PROSECUTOR SAYS "NO."



THE PROSECUTOR TAKES THE CHARGES TO THE GRAND JURY. AFTER HEARING THE WITNESSES THE JURORS DECIDE THAT TIM SHOULD BE CHARGED WITH ROBBERY.



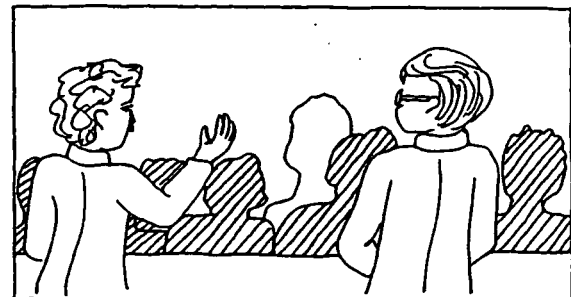
THE JUDGE ARRAIGNS TIM ON THE CHARGE AND ASKS HOW HE PLEADS. TIM SAYS "NOT GUILTY." THE JUDGE KEEPS HIS BAIL CONDITIONS THE SAME.



IN A FEW WEEKS, TIM AND HIS LAWYER COME TO COURT FOR A HEARING. AFTER DECIDING SEVERAL DISPUTES, THE JUDGE SETS A TRIAL DATE.



ALTHOUGH MOST DEFENDANTS PLEAD GUILTY, TIM DECIDES TO GO TO TRIAL. HIS ATTORNEY'S INVESTIGATOR TALKS TO WITNESSES AND LOOKS AT EVIDENCE.



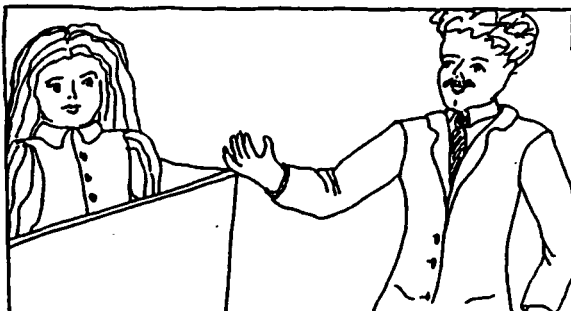
BEFORE TRIAL, THE LAWYERS ASK THE POTENTIAL JURORS ABOUT THEIR IDEAS AND BACKGROUNDS. THEY AGREE ON TWELVE PEOPLE TO HEAR THE CASE.



THE TRIAL STARTS WITH THE LAWYERS TELLING THE JURY AND JUDGE WHAT THEY THINK THE EVIDENCE SHOWS. THE PROSECUTOR TALKS FIRST.



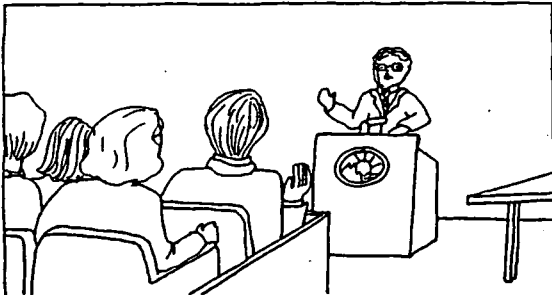
THE PROSECUTOR CALLS WITNESSES AND PRESENTS EVIDENCE TO PROVE THAT TIM IS GUILTY BEYOND REASONABLE DOUBT. WITNESSES MUST COME TO COURT.



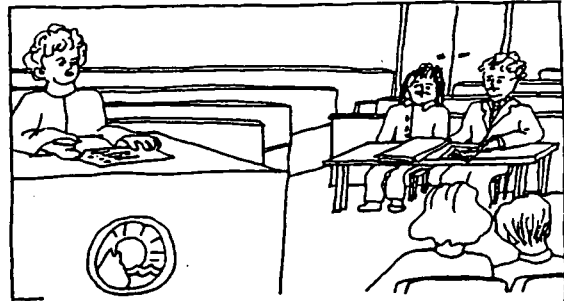
THE ATTORNEYS ASK QUESTIONS OF THE WITNESSES THEY CALL. THEY ALSO CAN CROSS-EXAMINE THE OTHER SIDE'S WITNESSES.



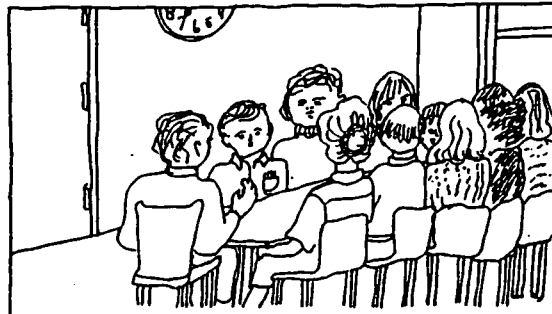
THE DEFENDANT CAN CHOOSE WHETHER TO TESTIFY. TIM DECIDES THAT HE WON'T. HIS ATTORNEY CALLS OTHER WITNESSES TO CAST DOUBT ON THE STATE'S CASE.



AFTER THE LAWYERS HAVE PRESENTED ALL THE EVIDENCE, THEY SUM UP THE CASE FOR THE JURY. THE PROSECUTOR GOES FIRST, THEN THE DEFENSE.



THE JUDGE TELLS THE JURY ABOUT THE LAWS THAT APPLY TO THE CASE, HOW TO CONSIDER THE EVIDENCE, AND HOW TO AGREE ON A VERDICT.



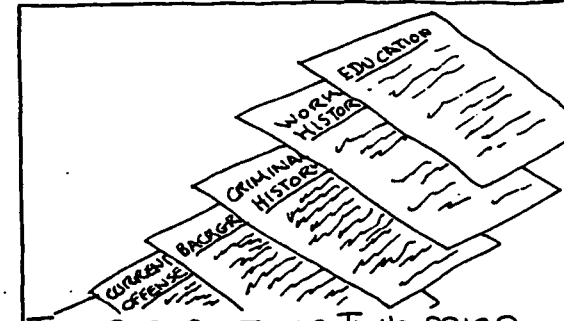
THE JURY MEETS PRIVATELY TO DECIDE IF THE PROSECUTOR HAS PROVEN TO THEM THAT TIM IS GUILTY. ALL MUST AGREE ON THE VERDICT.



THE JURORS FIND TIM GUILTY. THEY GO BACK TO THE COURTROOM TO DELIVER THEIR VERDICT. THE JUDGE SETS A DATE FOR SENTENCING.



FOR SEVERAL WEEKS BEFORE THE SENTENCING, TIM, THE LAWYERS, AND THE PROBATION OFFICER WORK ON A PRE-SENTENCE REPORT.



THE REPORT TELLS TIM'S PRIOR CRIMES, HIS WORK AND SCHOOL HISTORY, THE OFFENSE, AND OTHER FACTS FOR THE JUDGE TO CONSIDER.



AT SENTENCING, THE JUDGE HEARS FROM THE LAWYERS, TIM, THE VICTIM, AND OTHERS. THE JUDGE DECIDES TO IMPOSE THE PRESUMPTIVE SENTENCE.



TIM MUST GO TO JAIL FOR AT LEAST TWO-THIRDS OF THE TIME IMPOSED. THE JUDGE ALSO MAKES HIM REPAY THE VICTIM AND GO TO SCHOOL.



## Guide To the Criminal Justice System Evaluation Form

*Your answers to all the following questions will help us improve this guide. All answers will remain confidential.*

1. Are you a(n): ☐ Member of public ☐ Attorney ☐ Judge ☐ Paralegal  
☐ Counselor/Therapist ☐ GAL ☐ Other \_\_\_\_\_.

2. Gender: ☐ Male ☐ Female

3. Ethnicity: ☐ Caucasian ☐ African American ☐ Alaska Native  
☐ Asian American ☐ Hispanic ☐ Other \_\_\_\_\_

4. Age: \_\_\_\_\_ years.

5. The information provided in this guide was (circle one):

Very Useful

1

2

3

4

Not Useful

5

6. The information provided was (circle one):

Easy to Understand

1

2

3

Hard to Understand

4

5

7. What did you learn from this guide that will help you most?

8. What other information should this guide include?

9. Other comments, suggestions:

*Thank you for your help!*

Please return to: Alaska Judicial Council, 1029 W. 3rd Avenue, Suite 201, Anchorage, AK 99501  
Phone: (907) 279-2526 Fax: (907) 276-5046





