Alaska Judicial Council

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REPORT ON

REPEAT BAIL RECIDIVISTS IN 1973

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April, 1975

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Preliminary Note

The earlier bail report prepared for the Judicial Council described a small group of felony defendants called "repeat recidivists." These were defendants who were released on bail pending the disposition of their case, remanded to custody in connection with another new offense, later released on bail again, and later remanded to custody again. This paper discusses in detail the journey of each of these defendants through the bail system in order to show more exactly the circumstances that led to their releases.

For many of the cases discussed, the disposition and sentence also are set forth briefly, because of the Council's simultaneous study of sentencing in Alaska. Moreover, the sentences often cast light upon why a defendant received a certain bail treatment during the preceding or succeeding events.

Nineteen defendants are discussed in the following pages. Detailed "biographies" of their contacts with the court system are given, describing the crimes charged, arguments made by counsel for or against bail release, and judicial reasons for decisions made. Following all nineteen histories, a summary analysis suggests what conclusions may be warranted.

It will be noted that a few of the nineteen defendants became "repeat recidivists," not actually because they committed a crime while released on bail, but either because they committed a crime while released on probation or a de-

ferred prosecution from a previous 1973 case, or because the law "caught up" with them during a bail release for a crime committed before the release. The histories and decisions regarding these defendants are included, as the release decisions and rearrests are of similar importance to recidivism studies and to the Council's study.

All of the information contained in this report was collected from court records, except where noted, including quotations from persons involved in the proceedings. The occasional inaccuracy or inadequacy of court records was discussed at length in the previous report, but it should be emphasized here that the records summarized below are the same court records that are used by judges and others in the criminal justice process. If misinterpretations of defendants' records are present or important information appears to be omitted, these records nonetheless are the formal records, on the basis of which decisions are made.

It should be further noted, however, that much of the information set forth derives from handwritten log sheets. There may be misinterpretations or misstatements due to the difficulty of dealing with a number of persons' handwriting. Tape recordings of court proceedings are available as part of the public record to anyone interested in further information.

INDIVIDUAL CASE HISTORIES

#1

The first charge against this defendant, a Caucasian male age 21 with a misdemeanor record, was receiving and concealing stolen property (an automobile transmission). Subsequently the defendant was charged with a larceny and a burglary allegedly committed while on bail.

On the receiving and concealing charge, bail was set at $2,500 on the indictment, which issued the same day the defendant was arrested. The defendant was arraigned before Judge Burke. Agi was the district attorney and Jordan, a public defender, was the defendant's attorney. Agi began the bail discussion by saying that he had no objection to the defendant's being allowed to post 10% of the bail set. Jordan then requested that the defendant be released on his own recognizance. Judge Burke asked Agi if there was any objection to the OR release. None was stated, and the court released the defendant on his own recognizance, after questioning him regarding his living situation.

Three months later, the defendant's case went to trial before Judge Kalamarides (with Russell Gallagher, who had been appointed as a "substitute" public defender, representing the defendant). Partway through the trial the state asked for a continuance in order to locate a witness. The judge excused the jury and allowed the defendant to go to the North Slope.

Two weeks later, the defendant was arrested and charged with grand larceny. The complaint alleged that on a

date two weeks preceding the above trial, the defendant stole three guns and then sold them.* The defendant was arraigned in district court before Judge Tucker. The bail project sheet furnished for the proceeding noted that bail had been set at $10,000 upon arrest and that the defendant had a minor prior record. Upon the district attorney's recommendation (his name is not specified in the records), bail was reduced to $1,000. No mention of the pending case was made. The defendant secured release. The official grand jury indictment issuing a few days later also set bail at $1,000.

Within a few days, the defendant had his superior court arraignment on the new case before Judge Occhipinti. Talbot prosecuted and Larson served as the defendant's counsel. The court by then was aware of the previous case, as it said that Gallagher again should be appointed to represent the defendant, but bail remained at $1,000. The case was noted as being alcohol-related.

In the following week, the defendant's first case (receiving and concealing) was dismissed for lack of prosecution upon a motion by the prosecutor Agi, granted by Judge Burke. The state had been unable to find its witness.

A few months later, while the larceny case still was pending and the defendant was released on $1,000 bail, the defendant was arrested and charged with committing a third crime, again allegedly committed during the release period.

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* The defendant's fingerprint card on file at the Department of Public Safety states that he was arrested for burglary, not grand larceny. The defendant also told the bail project interviewer that he had been arrested for burglary.

The charge was burglary in a dwelling, the complaint stating that the defendant broke and entered a house and took a rifle. The defendant was arraigned in district court by Judge Brewer, who set a bail of $5,000. the defendant remained in custody.

Five days later, the defendant was arraigned on the new charge in superior court before Judge Moody, who declined to reduce the bail. However, later that same day the defendant had a full bail hearing before Judge Moody. Ripley was the prosecutor and Weidner the defendant's counsel. At the hearing, Weidner urged that the $1,000 bail from the grand larceny case should be continued for this case. Ripley opposed, saying the bail should be left at $5,000 because the defendant had two failures to appear on his record, and the other felony pending. Weidner responded that the failures to appear had occurred merely in connection with traffic cases, and noted that the defendant was not involved with drugs. The defendant announced that he was supposed to be taking care of his father's business, as his father was out of the state for several months. Judge Moody said that he might consider reducing the bail if the defendant could be released to the custody of someone such as his father, with a curfew, but that the bail would stay at $5,000 until the conditions were met.

A month later, the defendant had another bail hearing before Judge Moody. He was represented again by Weidner, but Balfe was the prosecutor. Weidner had produced a prospective custodian for the defendant, but Balfe stated his opposition

to the release. Judge Moody said he would consider the release now only if the defendant had a job, but allowed the defendant temporary release to the custody of Weidner to look for a job.

A week later there was another bail hearing before Judge Moody, who again refused to reduce bail, although he said he would allow work release if someone could deliver the defendant to the jail each evening.

Less than a week later, there was still another bail hearing, originally scheduled before Judge Moody but transferred by him to Judge Occhipinti. At this hearing, Rice was the district attorney and Esch the public defender. Esch argued for release to the prospective custodian, pointing out that the defendant could not make the $5,000 bail. Rice opposed, urging that $5,000 was reasonable. Judge Occhipinti denied reduction, pointing out that the defendant was on bail when the alleged offense occurred and that he must consider society's need for protection. The judge also interviewed the custodian, and found him not suitable. (He was an older man, lived alone, and had a prior felony conviction, although it was many years old.)

Two weeks later, the defendant filed for yet another bail hearing, which was scheduled for a week in the future but never held because the defendant entered a plea of guilty in the case involving the larceny of the three guns. Shortly after this plea was entered, the defendant's <u>brother</u> confessed to the third case, the burglary involving the rifle. (However, the defendant's brother's case later was dismissed for lack of speedy trial.)

A month later, the defendant was sentenced by Judge Kalamarides for the larceny of the guns.* The state recommended five months in jail, but Gallagher asked that the imposition of sentence be suspended for two years, because the defendant had a job waiting for him and had been in jail for four months already. The judge accepted Gallagher's recommendation, placing the defendant on probation, after ordering him to make restitution for the stolen property.

Nine months later (in 1974), a petition to revoke the defendant's probation was filed, alleging that the defendant had failed to notify his probation officer of his job's termination, had failed to return to Anchorage, and had been in possession of a forbidden firearm.

Judge Occhipinti handled the revocation proceedings, Murphy prosecuting, and Moody, a public defender, representing the defendant. After two hearings, the defendant was released on $1,000 cash bail and told to stay in touch with the court. (He also was on $500 federal bail for possession of an unregistered firearm, and ordered by federal authorities to live with his father.) Ultimately, however, the revocation petition was withdrawn by Murphy, no reason being given on the record. The defendant still is on probation.

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* At the time of the defendant's pleading guilty, the state's sentence recommendation, with which the defendant's attorney, Gallagher, agreed, was two years and five months, with two years suspended. However, Judge Kalamarides ordered a presentence report after hearing the recommendations.

#2

The first 1973 charge against this defendant, a Caucasian female age 20, with a lengthy prior record of shoplifting, prostitutions, failure to appear, and many other offenses, was assault with a dangerous weapon. Subsequently she was arrested seven additional times for crimes committed while on bail or probation, or for bail violations.

The indictment for the assault alleged that the defendant assaulted a man with a knife. She was arraigned in district court by Magistrate Provine on this felony charge and on two misdemeanor charges of soliciting for the purposes of prostitution. Ivan Lawner was the district attorney. The judge allowed the defendant to post a $400 bail for the charge of assault with a dangerous weapon. She was released on her own recognizance for both the counts of soliciting. She secured release with the help of a bail bondsman.

Ten days later the bondsman withdrew her bail and remanded her to custody, apparently because he learned of a prior failure to appear on her record. The next day, however, she was released again by Judge Mason on an unsecured bond in the amount of $500. There were also at this time two misdemeanor charges placed against her of carrying a concealed weapon (a knife).

The defendant was not officially indicted for the charge of assault with a dangerous weapon until a month later. Meanwhile she was arrested while out on bail for

larceny from a person.* The defendant had been indicted by the grand jury prior to this arrest and bail was set on the indictment in the amount of $500. The defendant was arraigned in district court the day of the arrest and released on a $500 corporate securities bail bond, it being noted that although she had no job, her father sent her money. Bittner was the prosecutor. There is no indication that anyone knew of her assault case at this time. The larceny case reached superior court first and was handled by Judge Moody.

When the assault reached superior court a few weeks later, the defendant was arraigned by Judge Occhipinti. He allowed her release to continue on the unsecured appearance bond. Rice was the prosecutor, and Shortell the defendant's attorney. At this proceeding, everyone was aware of her other case, and she pled "not guilty" to both cases. She remained on bail, however.

A month later, a bench warrant issued for her arrest because she had failed to appear for proceedings. Judge Kalamarides issued the warrant and set bail at $2,500 in each case.

The defendant was found and arrested a week later. Although her attorney, Shortell, testified that she had been

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* "Larceny from a person," which is a felony punishable by one to five years, is similar to robbery but without the elements of force and violence, or the putting of the victim in fear.

Later, when this case was dismissed for insufficient evidence, the motion to dismiss described the following factual circumstances--the victim, while drunk, had contacted a prostitute, subsequently passed out, and awoken to find his money missing. He never properly identified the defendant as the woman he had contacted.

in the hospital, she was remanded to custody, unable to secure release under the two $2,500 bails.

A month later, she was released and her cases dismissed under the following condition, to which counsel on both sides, Rice and Shortell, agreed and which was approved by Judge Kalamarides. The defendant was to obtain a one-way ticket to Los Angeles (although she had lived in Alaska for nine years), the defendant remaining in custody until escorted to the plane. The defendant waived her right to speedy trial for two years.

A month later the defendant had returned to Alaska and was charged with another larceny. The complaint alleged that she stole $40 from a person. The same prosecutor handled the preliminary proceedings, Rice, but another public defender handled the case, Weidner.

For this charge, the defendant was not arrested but received a summons to appear. She did appear for her arraignment in district court and was released on her own recognizance. Throughout this case the file contained a bail project interview sheet which stated that the defendant was unemployed and showed that she had a prior criminal record of a juvenile shoplifting in Washington State, an adult shoplifting conviction in California, prostitution charges in California, and two failures to appear in Alaska, including the one earlier in 1973.

The defendant was arraigned in superior court on the new charge a week later, and the OR release continued by

Judge Occhipinti. A few days after that, she was remanded to custody for some misdemeanor charges, but these were dismissed by the time she entered a not guilty plea to the larceny a week later, at which time Judge Occhipinti again released her OR, despite the district attorney's opposition to her release.

A month later, the defendant failed to appear for an appointed court date. The public defender stated that he had been unable to contact her, and Judge Occhipinti issued another bench warrant, with a $1,000 bail attached. Ten days later, when the defendant was located and presented in court, she stated that she had forgotten about the previous appearance, and the judge quashed the bench warrant.

Nearly a month later while still on bail for this larceny, the defendant was arrested and charged with another larceny from a person, involving a wallet with a checkbook in it. She was arraigned in district court the day of the arrest (and the day of the alleged incident) by Magistrate Bray. Bail was set higher than previously, at $2,500. The attorneys present were Ripley for the state and Weidner for the defendant. The defendant remained in custody.

Four days later the defendant was indicted for this larceny in superior court in front of Judge Moody. Bail on the indictment was set at $2,500. The defendant entered a "not guilty" plea. Her attorney, now Esch, argued for a bail reduction. The district attorney, Ripley, argued that bail should be kept as it was because there were many cases

pending against her. Esch then argued that the cases were not serious ones, but Judge Moody denied any reduction.

A week later the defendant had another bail hearing before Judge Moody, at which Esch urged her release because she had a job (although the bail project interview in the file reported that she had no job). The district attorney, now Luffberry, opposed any reduction, and denied that she had a job. The court questioned the defendant and her occupation. She stated that she "lived off friends," had no real job, but had lived in Alaska nine years. Judge Moody reduced the bail to $1,000 and allowed release under the conditions that she observe a 10:00 P.M. to 8:00 A.M. curfew, that she find a job and a place to live that the court approved of, and that she post the bond. The next day the defendant posted bond through the bondsman and was released.

Three days before this release, the indictment for the larceny of the $40 had been dismissed by Judge Burke. (No reason was given except the defendant's attorney's statement that another felony was pending). Two weeks later, however, the defendant was reindicted for the larceny of $40, and arraigned before Judge Occhipinti. Bail had been set on the indictment in the amount of $2,500. The defendant was allowed to remain on the bail posted previous to the reindictment, (which had been an OR release) although the court said it would check on the defendant's bail status. The defendant's attorney, now Bryner, argued to the court that the defendant had had no problem making previous court appearances! The prosecutor, Rice, did not oppose her release.

A week later the defendant was remanded to custody, and a hearing held, because the defendant had failed to appear. Although she had failed to appear because she was in the city jail serving 30 days on a city charge, the bail was fixed at $2,500, after much discussion, and the defendant remained in custody.

A few weeks later, at an omnibus hearing which preceded the trial on the case of the $40 larceny, Esch went before Judge Kalamarides for a bail reduction. The district attorney was Hawley. Esch argued on the defendant's behalf that previously she had not fled the jurisdiction but had merely failed to appear. However, the judge denied the requested reduction, saying he saw no evidence that the defendant was amenable to orders of the court.

Six weeks later the defendant was acquitted for the $40 larceny at a jury trial presided over by Judge Kalamarides. (The attorneys were Hawley and Esch.) The defendant's testimony was that she had not taken the money and that another girl at the scene of the crime was responsible.

The indictment for the case alleging the larceny of the wallet and checkbook had been dismissed just before the trial on the $40 larceny, due to failure to properly allege the elements of the crime. A week after the trial, however, the defendant was reindicted for that charge. Bail on the re-indictment was set at $2,000.

The defendant did not appear for the scheduled arraignment. The district attorney was Murphy and the defendant's attorney Esch. Judge Occhipinti ordered the bondsman

to "produce the defendant" since he still held a $1,000 bail for the case (which apparently had not been exonerated when the first indictment was dismissed). Judge Occhipinti also reduced the bail from the new indictment to $1,000. The bondsman did not produce the defendant, however, and four days later Judge Occhipinti issued a bench warrant for her arrest, setting bail at $2,000.

Within a week, the defendant was found, remanded to custody, and arraigned. At the arraignment, Judge Occhipinti reiterated his reduction of the bail to $1,000, with the condition that the defendant furnish the district attorney with her current address and observe a curfew. She was unable to post bond and secure release, however, until over two weeks had passed.

A week after she secured release, a bench warrant was issued for her arrest by Judge Occhipinti, the warrant alleging that she had violated the curfew. The next day she was remanded to custody and remained in custody.

Two weeks later she pled guilty in the wallet and checkbook case to the "lesser included offense" of petty larceny. Judge Kalamarides accepted the plea and sentenced her the same day to the maximum sentence for the crime, one year (with credit for time served).

One year had been the district attorney's recommendation, which he based on the defendant's prior record. Esch had recommended a halfway house, but Judge Kalamarides said that both special rehabilitation and work release were decisions for the Division of Corrections. The defendant

also was told by the judge that if she wanted "education," she must request it from the Division of Corrections. Subsequently she did request it, but she claimed that it was not provided. Five months later she requested a modification of the sentence, but the motion was denied, the court saying that the 60-day time limit within which it could modify the sentence had passed. However, the court did assert that the Division of Corrections was to arrange for the defendant's education. The defendant presently is incarcerated in the Anchorage jail.

#3

This defendant was a black male in his thirties who had a record of property offenses, forgeries, and drug conviction, as well as many arrests with no dispositions indicated. Prior to his 1973 cases, he had been convicted of several other felonies in Alaska, the most recent being several check forgeries and a heroin possession, in 1971. For these he had been sentenced by Judge Moody to long jail terms with all but two years suspended. (Many of his offenses prior to 1973 had been committed while he was on bail for other charges.) When the defendant was arrested in 1973, he was on probation from these cases. He was rearrested two more times in 1973 for crimes committed while on bail from his first 1973 case.

The defendant's first 1973 charge was accessory after the fact, to a larceny. (The co-defendant, the accused larcenist, was defendant #13.) Bail on the complaint was set at $5,000 by Magistrate Bray.

At the district court arraignment, also before Magistrate Bray, the public defender, Byrne, asked that bail be reduced to $500 or that the defendant be released on his own recognizance. The district attorney, whose name was not specified, urged that bail be reduced only to $2,000. There was a bail project interview sheet furnished for this case, containing the defendant's record and noting that the case was drug-related, the defendant having used heroin off and on for 17 years. The defendant also was noted as a 10-year resident of Alaska and a musician. Magistrate Bray reduced

the bail to $1,500. The defendant did not secure release, however, and the indictment that ensued left bail at $1,500.

At the defendant's arraignment in superior court before Judge Occhipinti, Shortell, representing the defendant, again asked for an OR release. The district attorney, Rice, objected. The court refused the OR release, saying that $1,500 was a reasonable bail. The following day the defendant secured release through the bondsman.

Two months later, the defendant was charged with both grand larceny and burglary in a dwelling, allegedly occurring while out on bail. At district court arraignment, Judge Brewer set bail at $1,500, and the defendant was released, again with the help of the bondsman. The record does not state what district attorney was present at this proceeding and does not mention either the defendant's being on bail from the previous case or his prior record.

The grand jury indictment that followed also set bail at $1,500. When the defendant was arraigned on the indictment before Judge Occhipinti, bail was continued as posted. Rice was the prosecutor and Koziol the public defender. As Rice had been the prosecutor in the earlier case, presumably he was aware of the charge.

Less than three weeks later, the defendant was arrested and charged with another burglary and larceny, alleged to have been committed while on bail from the above burglary. (A co-defendant in these charges was defendant #18.) This time Magistrate Bray set bail at $25,000 on the complaint. When the defendant was arrested and brought before Judge Tucker

for arraignment in district court, Judge Tucker left the bail at $25,000, upon an unnamed district attorney's announcing that there were two or three cases pending against this defendant. The indictment that issued a week later also set bail at $25,000.

The day following the defendant's arrest and district court arraignment on these new charges, the bondsman revoked his bail in the previous two cases, because there had been a "breach of contract." At the court proceeding at which the revocation occurred, the district attorney, Rice, and public defender, Susan Burke, discussed continuing the $1,500 bonds in each of the first two cases without mentioning that the defendant had been arrested for another case for which he was on $25,000 bail.

The defendant remained in custody for the rest of the proceedings, which also included a probation revocation. Eventually, the defendant pled guilty to some of the counts of grand larceny and burglary, and the accessory after the fact charge was dismissed. Judge Burke sentenced the defendant to a total of ten years, recommending to the Division of Corrections that the defendant be placed in a facility that could provide treatment for his narcotics addiction. Presently the defendant is at the Family House in Anchorage.

#4

This defendant, a Caucasian male age 21 with no prior record, was on bail from a 1972 case when he first was arrested in 1973. Subsequently the defendant failed to appear for a court proceeding, and later was rearrested for a crime while under a deferred imposition of sentence.

The defendant had been charged in 1972 with burglary in a dwelling, and had been released on his own recognizance by Judge Fitzgerald. He was a student (only 20 years old at the time of the first offense) and lived with his parents. The offense was noted in the file as being "drug related." The defendant entered a not guilty plea in 1972 approximately two months after being arraigned on the burglary charge, but there was little further action in the case until shortly after the defendant was arrested for his second offense (his first 1973 case) six months later, when the burglary case was dismissed upon the defendant's motion that he had not received a speedy trial. The prosecutor in the 1972 case was Rice, and the defendant's court appointed attorney was Edward Reasor. Judges were Fitzgerald--indictment, Occhipinti--arraignment, Davis--entry of not guilty plea, Moody--indictment on second offense, to be discussed below, and Burke--dismissal of first charge.

The defendant's first 1973 case, for which he was rearrested above, was "inciting the commission of a felony," (five counts of this offense). The indictment stated that defendant "talked" one person--apparently his girl friend--into writing checks that were without sufficient funds.

(Later, at trial, the defendant claimed that he had no knowledge of the checks being bad. At trial, the girl friend also was prosecuted for the bad checks.) For this case, the prosecutor again was Rice, but the defendant hired a private attorney, Douglas Baily. The public defender was appointed to the case before it went to trial, however.

The original bail set in this case was $5,000, on a secret indictment signed by Judge Moody. However, the defendant was released OR at arraignment by Judge Burke. No reasons were given.

Two months later, a bench warrant was issued by Judge Davis, because the defendant had failed to appear for a pretrial proceeding. Bail was set on the warrant in the amount of $1,000. Baily said the defendant had been notified several times, but that he was in Kodiak fishing. (Later the defendant said that his attorney knew he was in Kodiak. In fact, the court file contains a strongly-worded letter from the defendant's attorney to the defendant, urging him to get back to Anchorage as quickly as possible.)

Seven weeks later, the defendant was arrested in Kodiak and remanded to custody. (Rice was the prosecutor and Koziol the public defender.) Judge Occhipinti allowed the $1,000 bond to continue. A week later, however, the defendant secured release by posting corporate securities in the amount of $1,000.

Two and a half months later, the case began a jury trial before Judge Lewis. Part way through the trial, the case was negotiated, and the defendant pled guilty to one of

the counts, all the other counts being dismissed. Following the district attorney's recommendations, Judge Lewis deferred the imposition of sentence for one year, placing the defendant on probation for a year, and attaching the following conditions--that the defendant make restitution (in the amount of $685) within six months, that he show receipts for all payments to his probation officer and that he report all his activities to his probation officer.

Six months later a petition to revoke the defendant's probation was filed, grounds being that he had failed to make restitution and had been charged (in district court) with possession of marijuana. The defendant could not be located, and Judge Lewis issued a bench warrant with a $1,000 bail attached. Two weeks later the defendant was arrested, and secured release by posting a $1,000 corporate securities bond. The disposition of this case was not studied, as it was a district court case.

Eventually the deferred imposition of sentence was revoked. The defendant was sentenced to two years probation and ordered to make the restitution, to find a job, and to submit to drug tests and searches. The defendant presently is on probation.

#5

This defendant was a Caucasian male age 22, without a prior record. He was charged with committing two crimes while out on bail in 1973.

The first case against this defendant charged possession of both hard and soft drugs for sale. Ten bags of cocaine were discovered in the defendant's possession during the investigation of an auto accident. The soft drug involved was liquid hashish. The defendant was arraigned in district court and bail was set at $2,500 by Judge Jones. (The bail project interviewed the defendant, but there was not enough information to complete a report.)

The defendant was able to post the required bond and secure release. A few weeks later, the defendant appeared in superior court to be arraigned on the charges before Judge Occhipinti, who allowed the same bail release to continue. Agi was the prosecutor, and the defendant hired a private attorney, Fuld.

Two months later, the defendant was arrested and charged with two counts of selling a soft drug (marijuana and amphetamines). The sale of the amphetamines was alleged to have taken place during the bail release, but the sale of marijuana was alleged to have occurred prior to the defendant's first arrest. Bail was set on the indictment in the amount of $2,000, which the defendant posted in a release signed by Judge Tyner. There is no record in the files of any district court arraignment or district court bail proceedings.

The defendant was arraigned for this second case in superior court before Judge Occhipinti four days after posting the $2,000 bond. Bond was continued. The prosecutor was Ripley, and the defendant's attorney Fuld. No request for a different bond was made.

Less than a month later, the defendant was indicted for another sale of marijuana, the date of the alleged offense being early the same day he was arrested for the second case (indicating that he was on bail from the first case at the time, but not from the second). Bail on this indictment was set at $1,000. The defendant was arraigned in superior court before Judge Moody. Merriner was the district attorney and Fuld the defendant's attorney. The district attorney and bondsman agreed that the money posted in the previous cases should be allowed to cover this one, and the judge concurred. The defendant was released from custody.

Two months later, after plea negotiations, the defendant pled guilty to some of the counts (or lesser included ones) in each case. The district attorney, Ripley, recommended 18 months jail for a sentence, while Fuld recommended less, saying on behalf of his client that his "youth and stupidity" should excuse him. Judge Occhipinti, pointing out that the defendant had been charged with three felonies and had committed crimes while out on bail, followed the district attorney's recommendation, noting that it was rather lenient. The defendant served most of his sentence at Eagle River, and the defendant presently is at a halfway house in Anchorage.

#6

This defendant, a Caucasian male age 23 with a record of several past felonies, was on probation from a 1972 case when he first was arrested in 1973. Subsequently in 1973, he was charged twice with committing crimes while out on bail. Both the 1972 and 1973 cases are discussed below, in order to give a full picture of his contacts with the court system.

The defendant's first 1972 case, which resulted in the above probation, was grand larceny (the larceny of two leather coats from a store). In that case, bail was set at $1,000 on the indictment, and the defendant posted the amount in corporate securities after being arraigned before Judge Occhipinti. Several weeks later, the defendant entered a guilty plea and was sentenced by Judge Occhipinti to 60 days (with work release) plus sixteen months probation. The prosecutor was Williams, and the defendant's attorney Bookman, a public defender.

Four months later, still in 1972, the defendant was arrested for robbery. He was charged with taking $435 from his victim after threatening him with a revolver. He was arraigned in district court and a $2,000 bail was set by Judge Tucker. The prosecutor was Bittner. The defendant remained in custody. A week later bail was reduced to $500 by Judge Mason, due to the fact that defendant had a wife and child. The prosecutor at that date was Luffberry. Larson represented the defendant. A few days later the defendant secured release through posting a $500 corporate securities bond.

Nine days later, when the official indictment for the charge issued, bail on the indictment was fixed in the amount of $5,000. The defendant was arraigned in superior court the next day before Judge Occhipinti and was remanded to custody.

The following day, the defendant had a bail hearing before Judge Burke. Judge Burke refused to reduce bail because of the defendant's prior convictions. Rice was the prosecutor and Jordan the public defender.

Ten days later the defendant had a bail hearing before Judge Occhipinti, who also refused to reduce bail, saying he would prefer "No bail" and that if the defendant wanted a reduction he would have to go before the same judge (Burke). At this proceeding Hawley prosecuted, and Jordan was the defendant's attorney.

The next day at a bail hearing before Judge Burke, reduction again was denied. The judge said the defendant was a danger to the community, and that $5,000 was not unreasonable. This time Rice was the prosecutor, and again Jordan was the defendant's attorney.

Two weeks later, Judge Burke again denied reduction, allowing the defendant to be released only to his attorney when requested. The judge gave the following reasons for refusing reduction: the defendant had minimal ties to the community (he had lived here less than a year, and only had his wife and child), robbery was a serious charge and the evidence in the case was substantial, the defendant's financial resources were minimal, the defendant's character was "questionable" as there was evidence

of past addictions, the defendant had a prior record, and the defendant had been on probation at the time of the alleged offense.

A month later a petition to revoke the defendant's probation was filed, bail being covered by the $5,000 in this case.

Two months later (now in 1973), the defendant entered a guilty plea to the lesser included offense of petty larceny before Judge Carlson. The sentence, which both counsel agreed on, was 115 days jail with credit for over 100 days already served. The defendant served his sentence and was released from jail very shortly.

A few days after being released, the defendant was arrested on his first 1973 case, which charged robbery, assault with a dangerous weapon, and burglary in a dwelling, all arising out of an incident occurring since his release. The complaint charged the defendant with taking a television, two speakers, $85 and a small pistol from two victims. Bail on the complaint was set at $50,000. The defendant was arraigned before Judge Moody on an indictment which set bail at $80,000. A bail project sheet was furnished for this case, showing the defendant to have a past record of narcotics violations and robberies in California. The defendant remained in custody. (The indictment was dismissed shortly, but the defendant immediately reindicted for the same charges.)

The defendant remained in custody for nearly two months after being charged with this case. At that time he had

a bail hearing before Judge Hanson. The prosecutor was Hawley and the defendant's attorney Van Winkle. Van Winkle asked for a reduction to $5,000. Hawley totally opposed any reduction. The judge reduced the bail to $30,000 without stating any reasons.

Two months later the defendant was still in custody, however. At that time another reduction was granted by Judge Occhipinti. He reduced the bail to $1,000, with the conditions that the defendant submit to searches of his vehicle and person (the case is noted as being drug-related), that he pursue a program at Langdon Clinic (a drug treatment facility), that he submit to polygraphs with the exception of this case, that he obtain employment, and that he contact his attorney twice a week. The district attorney, Mackey, agreed to this reduction and conditions, since the defendant had been in jail so long.

The defendant still did not obtain release, however, and a week later his attorney (still Van Winkle) requested another bail reduction, but it was refused. Ten days after that, a reduction was granted, however, to $500, as the defendant secured release by posting a corporate securities bond in that amount. There is no record of any hearing at which the reduction was granted.

Less than a month later, the defendant was rearrested for a robbery alleged to have occurred in the month since the release. The complaint alleged that he stole money from a person after threatening him with a gun. The defendant was arraigned in district court, where bail was set at $25,000. The defendant remained in custody. A week later he was

officially indicted, bail on the indictment also being set at $25,000.

Two weeks later Judge Occhipinti reduced the bail substantially, to $500 in both the pending cases, although he ordered the defendant to report to his attorney daily. The judge gave the following reasons for the reduction: the defendant had passed a polygraph, and the victim could not be located. The defendant remained in custody, however, the $500 likely being an additional requirement to the $1,000 that had previously been posted, although not specified as such.

A few days later the defendant was indicted for another case, the alleged offense having occurred a few days before the above robbery while he was on bail from the previous case of robbery, assault and burglary. The indictment charged both grand larceny and larceny in a building for stealing a coat of a value greater than $100. Bail on the indictment was set at $30,000. The defendant remained in custody. The case was noted as being drug-related.

Two weeks later, as the result of negotiations in the above cases and probation revocation petitions, the defendant pled guilty to one count of robbery, one count of larceny, and one probation revocation, and was sentenced by Judge Moody. He received six years for the robbery, four for the larceny, and 18 months for the probation revocation, all concurrent.

At the sentencing, the public defender noted that the defendant had confessed to the crimes, and that he had

provided information leading to indictments against other persons. He also explained that the real reason the defendant had approached his victims had been to get marijuana and that then the circumstances "just turned into a robbery." The judge said, "I hope you did it because of drugs, not bad nature--if you ever come before me again, you get the maximum." The defendant presently is at the Eagle River facility.

#7

The first 1973 charge against this defendant, a twenty-three year old Caucasian male with no prior record, was burglary in a dwelling. He was accused of forcing the door on his uncle's house and taking the television set. He posted a $5,000 corporate bond after bail was set by Judge Brewer at district court arraignment. He was sentenced several months later without ever having been remanded to custody. He was placed on probation.

A month later, this defendant was arrested for a charge of felon in possession of firearms. He remained in custody under a $2,500 bail set by Magistrate Provine at arraignment.

A week later a bail hearing was held before Judge Occhipinti, at which the public defender, Bryner, requested an OR release, stating that the defendant had had no problems appearing in court in the past. The defendant's mother also testified regarding a drug problem of the defendant, and indicated willingness to take custody of him. However, the judge would not consider bail reduction pending a psychiatric report and the probation officer's report. (The defendant was noted as being a heroin addict and having suicidal tendencies.)

Two weeks later the defendant secured release by posting a $2,000 corporate sureties bond, although there is no record anywhere in the file of court action reducing the bail to $2,000. The release was signed by Judge Fitzgerald. A petition to revoke probation from the above case already had been filed, however.

A week later Judge Occhipinti issued an order temporarily revoking bail pending two psychiatric reports, one by a private psychiatrist to determine whether the defendant should be released prior to being admitted to API for the second test and report, which was to determine whether the defendant was a danger to himself or others. (The defendant's attorney, then Boyko, had requested the private examination, and the district attorney, Rice, had said he had no objection but that he wanted the defendant in custody.)

Ten days later, the defendant's sentence for the first offense (the burglary) was reviewed by Judge Carlson, who had imposed the sentence, as it had been a "deferred imposition of sentence." At the proceeding, the defendant moved for the bail revoked above to be restored, and the motion was granted in part. Judge Carlson allowed OR release pending the finding of a custodian and location for the defendant to live that was acceptable to the probation officer. The defendant's attorney, Boyko, had urged release because the court's previous orders had not been followed, as the defendant was in the city jail, not at API. The district attorney, Balfe, had said he had no objection to a supervised release and the probation officer also had approved of the release.

The defendant did <u>not</u> secure release, however. He was still in custody two weeks later when he admitted the allegations in the probation revocation petition and was sentenced to seven years, the seven years being suspended and the defendant placed on probation for seven years on the condition that he complete the narcotics rehabilitation program at the Family

House in Anchorage. (The felon in possession charge was dismissed by the state, which also agreed to the sentence to Family House.)

The defendant stayed at Family House only a few weeks and then left and voluntarily turned himself in to the jail. A petition to revoke his probation (the seven years' probation) subsequently was filed, and bail set at $10,000. The defendant already was in jail, and the defendant stayed in jail.

A few months later the defendant made a motion before Judge Occhipinti for modification of his sentence for the burglary, as the chief reason he had been given the long sentence was to encourage his participation in the Family House program. At the modification proceeding, the district attorney, public defender and Division of Corrections all agreed on a sentence recommendation, which the judge accepted, of nine months jail (credit for time served)* with an additional five years probation, the defendant to submit to drug tests and enroll in a drug program.

A few months later, after the defendant had served his sentence, he was arrested for possession of heroin. No bail was set on this indictment. When the defendant was arraigned, Judge Occhipinti set the bail at $5,000. The defendant was unable to post it. A few days later a petition to revoke the defendant's five years probation was filed, Judge Occhipinti setting a $10,000 bail.

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* No record had been kept of the amount of time spent in custody, and the court had said it would trust Bryner since he had never misled the court in the past.

A week later the defendant had a bail hearing, again before Judge Occhipinti. The defendant's attorney, Boyko, requested release under $1,000 plus the condition that the defendant submit to urinalysis three times a week at the discretion of the probation officer. The prosecutor, Talbot, concurred. The judge appeared reluctant to grant the motion, saying the defendant already had been given a chance, but then said he would try again. The bail was reduced to $1,000 for both the outstanding cases, and the next day the defendant posted the bond and was released.

A few months later, felony check forgery charges were instituted against the defendant, in district court, the alleged forgeries having occurred while the defendant was on bail. (The checks belonged to his mother.) The defendant was remanded to custody.* A few weeks later a supplemental petition to revoke the defendant's five years probation was filed, based on the forgery charges. Bail was set at $5,000 by Judge Kalamarides, on the district attorney's recommendation. The defendant already was in custody.)

The defendant remained in custody and later was ordered to remain in custody without bail upon admitting the allegations in the supplemental petition to revoke. (Such action is legal, as the law gives no absolute right to bail pending probation revocation proceedings.)

Eventually, the defendant was sentenced by Judge Burke to five years in jail (his five-year probation was

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* In point of time, this case goes beyond the original data search, and the bail amount is not available.

revoked and the five-year sentence executed against him, the other cases being dismissed by the prosecutor, Talbot). Although the judge strongly recommended that the defendant be placed in the Eagle River facility and be offered psychiatric counseling, treatment for personality problems, and work release when feasible. The defendant was not placed in Eagle River, however.

The defendant became eligible for parole in January, 1975, but presently is still in jail in Juneau.

#8

This defendant, a young Native Alaskan woman age 20, had no record of misdemeanor or felony convictions at the beginning of 1973, but did have past failures to appear in traffic offenses. In 1973 she was charged with three property offenses, failed to appear once, and escaped from custody three times.

The defendant first was charged with larceny in a building, the complaint alleging that she stole a purse containing $55, credit cards and checks, from the GAAB Health Department office during a meeting there with one of the employees. Before the defendant was arrested, Judge Jones fixed bail on the complaint in the amount of $5,000. After arrest, the defendant was arraigned in district court by Judge Tyner, who approved an unnamed district attorney's recommendation for a reduction to a $3,000 cash or corporate bond. The defendant remained in custody, however.

A week later, after having some drug tests, the defendant had a hearing on bail in district court before Judge Mason. Luffberry was the prosecutor and Bryner the defendant's attorney. Bail remained unchanged while another drug test was ordered, however.

The next day at another bail review (where Bryner again represented the defendant but Mackey prosecuted) the defendant was released on her own recognizance by Judge Mason, who noted that she was a lifelong resident of Anchorage, and ordered her not to leave Anchorage. Two days later, when the official indictment issued, signed by Judge Occhipinti, it affirmed the Own Recognizance release. Nothing further happened

in the case for several months.

Approximately two months later, the defendant was arrested for a burglary not in a dwelling. She was apprehended at the scene of the crime, a restaurant, where a window had been broken and the owner was missing cash from the register. The owner told the police that the defendant was there "without any purpose." The missing money was found in the defendant's purse wrapped in a napkin.

The defendant was arraigned that same day in district court before Judge Tucker. The district attorney, Agi, recommended that bail be set at $10,000. The court agreed. The defendant's attorney was Shortell.

The next day, the defendant had a bail review in district court before Judge Jones. The prosecutor again was Agi. The name of the defendant's attorney was not specified on the record, but he asked for an OR release. Various statements were made regarding whether or not the defendant was a drug addict and whether there were other charges pending in which she was a suspect. A "Manhattan bail project" sheet was furnished for this proceeding, showing that the defendant lived with her sister-in-law, that in addition to the above, she had three soliciting cases pending against her for which she was on $900 bail, and that she had failed to appear in the past on traffic offenses. The judge reduced the bail to $5,000. However, the defendant remained in custody.

Two days later, the official indictment issued, signed by Judge Occhipinti, fixing bail in the amount of $5,000. At superior court arraignment the next day, the defendant's

attorney, now Moody, moved that bail be reduced to $500, but Judge Occhipinti reduced it only to $1,000, which was the prosecutor Mackey's recommendation. The defendant then posted a corporate sureties bond and was released. Nothing happened in this case either for several months. A few weeks later, the first case was dismissed due to insufficient evidence presented to the grand jury.

Approximately a month later, the defendant was arrested for another larceny, grand larceny. The complaint charged an offense that had been committed before the cash register burglary (the second offense charged), but still while the defendant was on bail for the larceny of the purse (the first offense charged and eventually dismissed). The complaint alleged that she had taken a package that had been sent by mail to another person, containing a stereo valued at $111. Bail on the complaint was set at $10,000.

The defendant was arraigned for this charge in district court before Judge Tyner, who continued the bail at $10,000. The prosecutor, Luffberry, pointed out to the judge that the defendant had been on bail, and called the judge's attention to the bail project interview sheet showing the defendant was unemployed and had other cases pending.

The next day, however, Judge Tyner released the defendant OR to the custody of her brother-in-law, giving her a curfew and telling her to consume no alcohol. No district attorney was present. Bryner was present for the defendant. The pending cases were discussed.

The indictment for this new charge issued the next day, signed by Judge Occhipinti, with the above OR release conditions attached. However, at superior court arraignment that same day, the district attorney, Merriner, asked for a bail increase. Bryner objected, and Judge Occhipinti set a bail hearing for five days later.

Neither the defendant nor her attorney were present for the bail hearing, however, it being noted in the file that two days earlier the defendant had been at the Alaska Native Hospital going through drug withdrawal and that the hospital had agreed to hold her for twenty-four hours. She escaped after several hours, however, and Judge Kalamarides issued a bench warrant for failure to appear, setting bail at $10,000.

Ten days later, the defendant was found and arraigned on the bench warrant in district court before Judge Tucker, who continued the $10,000 bail. The case is noted in the file as being heroin-related.

The defendant had a bail hearing before Judge Lewis two weeks later. Bryner argued that $10,000 was an unreasonable bail, and asked for $3,000. He noted that the defendant had failed to appear only once. He asked that she be allowed to post 10% of whatever bond was set. The district attorney, Talbot, recommended $5,000 but went along with the 10% plan. The judge set bail at $3,000, allowing 10% to be posted. The defendant secured release.

Four months later, when the defendant had not been located for two weeks, Judge Kalamarides issued a bench warrant

for her arrest, setting bail at $5,000. A month later the defendant was found and arrested in Fairbanks. However, a teletype slip from the Fairbanks police shortly after her arrest reads ". . . (defendant) . . . AKA . . . (seven aliases) decided she did not like the hospitality of state jail, so she escaped last week. We are looking for her but have not had much luck." Judge Kalamarides promptly issued another bench warrant, setting bail at $5,000, and forfeited the previous bail.

A few weeks later the defendant again was found in Fairbanks, arrested, and this time kept in custody. The bail project sheet noted that she had been employed in Fairbanks, and that she had the above matters pending against her as well as several district court matters including driving without a license and driving while intoxicated.

A few months later, Judge Kalamarides ordered a pre-sentence report prepared for her cases (although she had not yet entered guilty pleas). Six weeks later she pled guilty to the cash register burglary and pled to the lesser included offense of petty larceny in the stolen package case.

At the sentencing, the district attorney, Murphy, recommended three years jail with one and one-half suspended for the burglary, and six months jail for the larceny, to be served concurrently. The public defender, Moody, argued for two years probation. There was discussion about her drug habits. The judge said he was "impressed" with the presentence report, but the court record does not show what sentence was recommended therein. The judge sentenced the defendant to

three years on the burglary, suspending two of them, and to 120 days concurrent on the petty larceny, saying he believed the defendant was "salvageable." The defendant was given credit for time served.

Three months after the sentencing, the parole board sent a letter to Judge Kalamarides, reporting that the defendant was being considered for parole and asking for comments. At a subsequent meeting of the parole board, the defendant was granted parole, but the probation office did not approve of her proposed parole plan. Pending the formulation of a new plan, the defendant was placed in API, from whence she absconded. Presently there is a warrant out for her arrest.

#9

This defendant, a black male age 33 with a lengthy record from California of burglary, forgery and other offenses, was on probation from a 1972 Alaska case when he was charged with his first 1973 offense. Subsequently, this defendant failed to appear once, was charged with two other offenses alleged to have been committed while he was on bail and one alleged to have been committed while on bail pending sentencing, and also failed to return to the jail from work release when serving the sentence. The saga of this defendant is set forth below.

The defendant had been released successfully on bail in 1972. He was at that time charged with defrauding an innkeeper. Bail had been set at $1,000 in district court by Judge Jones, and the defendant secured release by posting a corporate securities bond through a bondsman. The defendant was sentenced to one year on the charge (and ordered to make restitution), but all but ten days of the one year was suspended and the defendant placed on probation for the remainder. The district attorney and public defender agreed on the sentence, the district attorney stating that the defendant was making an attempt to "overcome his past."

Seven months later, in 1973 but before any 1973 offenses were committed, a petition to revoke the defendant's probation was filed, alleging that he had failed to make restitution, failed to report to his probation officer, and had not given notification that he had quit his job. Judge

Occhipinti issued a bench warrant for the defendant's arrest, setting bail on the warrant at $500. When the defendant was arrested and arraigned on the petition to revoke a week later, he was released on the $500 bail. The district attorney at this proceeding was Rice, and the defendant's attorney, Bryner.

Two weeks later, Bryner requested that the matter be postponed in order to allow the defendant to go to Louisiana to attend to some probate matters. Judge Occhipinti questioned the bail that had been allowed, saying it was too low if the defendant was leaving the state, but left it as it was. The prosecutor again was Rice.

A month and a half later, the defendant was arraigned on his first 1973 charge, receiving and concealing stolen property. (This offense was alleged to have been committed several months earlier, while the defendant was on probation, not while he was bailed pending the probation revocation.) The indictment charged the defendant with receiving and concealing $2,000 worth of jewelry and a pistol case. The defendant was arraigned in district court before Judge Jones, where bail was set at $2,000, with work release allowed. The prosecutor was Agi.

The next day, the defendant had a bail hearing in district court before Judge Jones, who released the defendant OR, despite the fact that the district attorney, now Bittner, noted that the defendant presently had two felonies and two misdemeanors pending against him, one of which was an assault. The victim of the assault, a woman with whom the defendant lived,

who was referred to throughout the case file as his "common-law spouse" or "wife," testified at the bail hearing that she had no objection to the defendant's release if he would leave her alone. The defendant's employer also requested his release. (Throughout the case files for this defendant, there are letters from his employer urging his release.) The release included an order that the defendant have no contact with his "wife," and reside with his brother.

A few days later the defendant failed to appear for a court proceeding. Judge Moody issued a bench warrant with bail set in the amount of $10,000. Four days later the defendant was arrested, and the bench warrant was quashed by Judge Occhipinti, who released the defendant, allowing the $500 bond posted for the previous charge of probation violation to stand for this case also (upon the district attorney Mackey's recommendation, the defendant's attorney Jordan having asked for an OR release.)

Two days later the defendant was arrested for an assault with a dangerous weapon, allegedly occurring during the most recent bail release. The complaint charged that the defendant rammed an auto, in which were his "wife" and a boy friend, three times with his own auto. The defendant was arraigned in district court and bail set at $2,500 by Judge Tyner.

The defendant remained in custody for two days, until he was released on his own recognizance at a district court bail hearing by Judge Jones. The defendant's attorney,

again Jordan, argued that the assault merely was the result of a domestic conflict, and pointed out that the defendant was employed. The district attorney, again Mackey, argued against OR, saying the defendant was dangerous, and pointed out his prior record. The court observed that the defendant had broken his last bail condition by seeing his wife, but the public defender said that it was the defendant's wife who had come to see him. The judge released the defendant with the orders that he not contact either of the persons that were in the car, nor have any weapons in his possession, and that the defendant's "spouse" be ordered not to see him either.

When the grand jury indictment issued for the charge three days later, bail was fixed on the indictment in the amount of $5,000. The defendant had his superior court arraignment three days later in front of Judge Moody, who remanded the defendant to custody pending a bail hearing the following day. Judge Burke presided over the bail hearing and released the defendant under an unsecured $5,000 bond. Again, the public defender Jordan argued that the defendant had a job and noted that the defendant had family ties. Again the district attorney Mackey argued that the defendant was dangerous, noted his prior failure to appear, and reported to the court that there was another case against the defendant pending before the grand jury.

Two months later, the defendant did appear in court, and entered not guilty pleas (in both the above case and the

previous receiving and concealing case) in front of Judge Occhipinti, who continued the unsecured release. (The defendant also waived his speedy trial rights in the receiving and concealing case, no reason being given.)

Two months later, just a few days before the defendant's trial on the receiving and concealing charge was to begin, the defendant was arrested for a charge of attempting to pass a forged check (amount of $253.50). He was arraigned in district court before Judge Tyner, who set bail at $5,000, which the defendant posted through a bondsman. Agi was the prosecutor, and West a substitute public defender. There was no discussion of prior cases.

The next day, the defendant was tried by a jury before Judge Burke, for the charge of receiving and concealing. The trial was over in a day, the jury was unable to reach a verdict, and the next day a mistrial was declared. That same day, however, the bondsman "pulled bond" on the attempted forgery charge and remanded the defendant to custody. Judge Tyner kept the bail at $5,000, and the defendant remained in custody. No attorneys' names are on the record. Still that same day, however, the defendant was allowed work release by Judge Occhipinti.

The indictment on the assault charge was returned two days later, bail fixed also at $5,000. A few days after that, the receiving and concealing charge was dismissed, for reasons stated on the record as lack of a speedy trial (the district attorney agreeing to the dismissal even though the defendant had earlier waived his right to speedy trial).*

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* The defendant's attorney (a public defender) argued successfully that the earlier waiver should be considered ineffective.

However, this was the case for which one mistrial already had been declared, and the dismissal actually was part of a plea bargain.

On the same day as the receiving and concealing case was dismissed, the defendant pled guilty to the assault with a dangeous weapon. (Actually, he pled to the lesser included offense of assault and battery, this plea resulting from negotiations involving the previous dismissal.) The defendant was sentenced on the assault that same day by Judge Burke to thirty days in jail, which the defendant was to start serving two days later by voluntarily turning himself in at the jail. Judge Burke also recommended work release and noted, in following the state's recommendation, that although his sentence would be more severe if the offense were not a "husband/wife" dispute, more punishment than he was giving would be little deterrent to this defendant but some punishment was necessary because innocent parties were too easily hurt through such actions.

That same day, the defendant was arraigned in superior court on the attempt to pass a forged check. Judge Moody allowed the defendant's previous release, under the unsecured bond, to cover this case also, until the defendant was to begin serving the above sentence. The attorneys were Rice and Larson. The court and attorneys were aware of the other cases.

The defendant served his thirty days, with a successful temporary release for Christmas, and at the end of the thirty days he had a hearing regarding bail in the one case that was still unsettled, the charge of attempt to pass a forged

check. This hearing was held before Judge Kalamarides; Rice was the prosecutor, and Shortell, the public defender. The public defender began this hearing by asking what the present bail was. Then he asked the court for an OR release, claiming that the defendant had not failed to appear in the past and was not a danger to the community. The district attorney agreed that he was unlikely to fail to appear and was not a danger. The court reduced the bail to $1,000, but the public defender argued that the defendant could not make the $1,000 bail and should be released OR. The court refused, saying the defendant's record showed him to be dangerous, but the court did say it would allow work release.

At the omnibus hearing occurring a few weeks later, before Judge Lewis, the defendant finally did secure release. The Court "reduced" the bail by allowing the defendant to post 10% (after the authorities had brought the wrong defendant to court and the matter had to be continued). Rice and Shortell again were the attorneys.

Two months later, the defendant appeared in court and pled guilty to the forgery charge, before Judge Burke. The defendant attempted to waive the presentence report, but the judge ordered one. The judge exonerated the defendant's bail and released him OR pending sentencing.

A month and a half later, the defendant was sentenced by Judge Burke to 18 months in jail (the district attorney's recommendation). Work release was granted by the judge "reluctantly" in view of the defendant's record. The judge said that any violations would result in an order that the defendant

serve the entire term without work release.

The very next day, the defendant failed to return from work release to the jail. Judge Burke issued a bench warrant for his arrest, ordering that the defendant be held without bail when arrested. The defendant never was found, however.

A few weeks after the failure to return to the jail, an indictment issued against the defendant for a charge of passing a forged check (amount $45), allegedly forged while the defendant was on bail pending sentencing in the last case. The indictment set bail in the amount of $10,000.

As of April 2, 1975, the defendant still was at large.

#10

Defendant, a black female age 19 with a minor juvenile record, first was arrested for two property offenses and subsequently in 1973 was arrested for violating bail conditions, for committing a crime while on bail, for committing a crime while on probation, for failing to appear, and for fleeing the jurisdiction.

In her first case, she was charged with one count of burglary in a dwelling, and one count of receiving and concealing stolen property. The complaint stated that the defendant and two co-defendants had broken and entered a dwelling with intent to steal, the property stolen and concealed being a jewelry box.

The defendant was arrested the same day of the alleged offense and arraigned the next day in district court. The district attorney, Rice, requested that bail be set at $25,000, and Judge Tyner so ordered.

Five days later, at a bail hearing also in district court, but before Judge Tucker, the public defender, Bryner, requested that bail be lowered to $1,000 with a custodial release. Rice urged that bail be left as it was or be lowered to only $10,000. Bail was reduced to $3,500 by Judge Tucker. The judge also added the conditions that the defendant not have contact with one of the co-defendants (her boyfriend) nor live with her foster mother, who was that co-defendant's natural mother. The next day, the defendant secured release by posting $3,500 bail.

One week later, the defendant was remanded to custody, the record showing that the defendant was suspected of a further burglary or robbery (not committed during the past week, however), and suspected also of violating bail conditions, particularly association with the above co-defendant and possible drug abuse. At this time Bryner requested drug tests, protesting that there had been no signs of abuse or withdrawal while the defendant had been in jail earlier. Judge Occhipinti kept the defendant in jail, however, until he could review the reports of the tests requested by Bryner. Two days later, the defendant was released by Judge Occhipinti under the same bond ($3,500).

Ten days later, the defendant was remanded to custody for a burglary allegedly committed while the defendant was on bail. The complaint charged that the defendant stole some food stamps from a purse in an unlocked apartment. The stamps were found in the defendant's possession.

At district court arraignment the day following the arrest, Judge Brewer set the bail at $3,500 (an additional $3,500 to what had been posted previously), although both the public defender and the district attorney had agreed on $1,000 or less. The defendant remained in custody with a bail hearing scheduled for several days later, but there is no record anywhere in the files of such a hearing ever having been held. This second case was handled by the same prosecutor as the first, Rice, but by a different public defender, Larson.

A month later, the defendant pled guilty to the food stamp burglary, and the charges for the previous burglary and receiving and concealing were dismissed. The crime was noted in the file as being "drug-related." A pretrial order by Judge Burke in the first case--the receiving and concealing which was dismissed--shows that he was going to follow the state's sentence recommendation of a one-year suspended imposition of sentence subject to the special condition that the defendant participate in a narcotics rehabilitation program at Langdon Clinic. In this second case Judge Carlson suspended the imposition of sentence for two years, on the condition that the defendant serve 60 days, saying to the defendant, "There's a chance you'll go straight because your former associates are now in jail." He also recommended that the defendant be involved with a "Partners' Program" (a drug counseling program). She was placed on probation after serving her 60 days.

Approximately two months later, the defendant was arrested for two more burglaries. The new complaint alleged two separate offenses of breaking and entering a dwelling, one an occupied apartment, from which nothing was stolen, and one unoccupied, from which she stole a jar of money. This case was handled by the same district attorney but by still another public defender (Shortell). The bail was set at $10,000 at a district court arraignment before Judge Mason. At this time, the defendant apparently had two other district court cases--misdemeanors--pending against her, and Judge

Mason also was informed of her prior felony. The defendant remained in custody, but for unstated reasons Judge Mason refused the district attorney's request for a drug test. That same day, however, the defendant had a bail review in superior court, where Judge Occhipinti ordered the drug test, but left the bail at $10,000.

A week later, the Grand Jury returned an indictment on the charge. The bail affixed to the indictment was $20,000. At the superior court arraignment before Judge Occhipinti, the defendant's counsel, Shortell, asked that the bail be reduced to $5,000. The district attorney, Rice, opposed the motion, pointing out the defendant's prior record, saying she was a danger to herself. Judge Occhipinti said he would not release the defendant unless there was supervision. Shortell said he would investigate the possibilities, stating that the defendant's family was aware of her prior offense.

Ten days later, at another bail hearing, Judge Occhipinti released the defendant on her own recognizance on the conditions that she observe a 6:00 P.M. curfew, that she reside and babysit at the home of family friends, and that she leave there only with that family. Both the attorneys at this hearing were different than at the previous one, Ripley for the state and Bryner for the defendant. (The offense was noted as being heroin-related.)

The defendant came to court and entered a "not guilty" plea a few weeks later in front of Judge Kalamarides,

but two months later she failed to appear for a proceeding. The public defender reported that the defendant had left the area, because she (the defendant) thought the case had been disposed of. Judge Kalamarides issued a bench warrant with a $5,000 bail attached.

Three months later, while the defendant was still unlocated, a petition to revoke the defendant's probation (from the earlier food stamp burglary case) was filed, grounds being that she had failed to report to the Division of Corrections and had left the state. Judge Moody issued another bench warrant, setting bail again at $5,000. Six weeks later the defendant was arrested in Seattle.

When the defendant was arraigned the next day in Anchorage on both outstanding bench warrants, Judge Burke allowed "no bail." A few weeks later, the defendant pled guilty to one of the burglary counts in the third case, Judge Burke advising the defendant that entering a guilty plea meant that probation from her earlier case probably would be revoked, as well as opening up the possibility that she could receive up to two consecutive ten year terms on each of the two newest counts. (She was pleading guilty to only one count, however.) The judge then ordered a presentence report. The date for the sentencing was fixed for approximately five weeks later.

Two weeks before the sentencing, a supplemental petition to revoke the defendant's probation was filed. Bail was continued at $5,000 by Judge Occhipinti. (She was in custody and had been since her Seattle arrest.) At a bail

hearing a week later, before Judge Burke, the defendant's attorney Ravin (appearing for Bryner) asked for a $1,000 bail, reporting that the defendant was going to school and had been in jail for nearly two months. The district attorney, now Merriner, opposed, arguing that she had a prior failure to appear, had had a prior suspended imposition of sentence revoked, that she could go to school while at the jail, and noted that she would be given credit for time served anyway. Judge Burke denied a bail reduction.

Two weeks later the defendant was sentenced by Judge Burke to five years, but he suspended the five years, and placed the defendant on probation. She also was simultaneously sentenced for the probation revocation, to a concurrent five years, with the five years suspended. At the sentencing hearing, the testimony presented on the defendant's behalf consisted of the following. Her father reported that she could live with him, a state trooper reported that her attitude had improved, and the defendant testified that although her boyfriend had got her "hooked" on drugs she was ready to go "straight" but she needed strict conditions. The judge noted that although the presentence report had recommended against placing the defendant on probation again, he would give the defendant a chance on the basis of the trooper's testimony.

Three and a half months later (in 1974), a motion to revoke probation in this case (and the preceding) was filed, because the defendant had been arrested for another burglary.

At the arraignment in front of Judge Burke the defendant admitted guilt, and the court said, "I will just put you in jail," although the public defender requested school release. (The district attorney meanwhile said he would not prosecute this or any other cases if she admitted the allegations in the revocation complaint, which she had.) A few weeks later Judge Burke denied another motion for work release, saying the matter was one for the Division of Corrections. Subsequently the five year sentences formally were ordered to be served (with credit for time previously served in all the cases). The defendant presently is in jail in Juneau.

#11

This 23 year old Caucasian male first was arrested for a 1973 robbery and subsequently was arrested for two drug offenses. He had only a minor prior record before these events.

The robbery complaint charged the defendant with robbing a person at gun point, and set bail at $5,000. The defendant was arraigned in district court before Magistrate Provine, who continued bail at $5,000, the defendant remaining in custody.

Two days later at a district court bail review, the defendant's attorney Larson, a public defender, asked that the defendant be released on his own recognizance. Larson noted that the defendant was a long time resident of Anchorage and was attending school. Although Williams, the district attorney, argued that bail was sufficient as it was, Judge Mason reduced the bail to $1,000, also allowing the defendant to secure release by posting 10% with the court. The district attorney then asked for at least a curfew, and Judge Mason imposed a 10:00 P.M. curfew, except for evenings when the defendant was attending a class.

A superior court indictment issued for the robbery the next day, also setting bail at $1,000. The defendant was arraigned before Judge Moody (Hawley prosecuting and Larson defending) and continued his release under the bond posted above, Judge Moody ordered a 10:30 curfew. A month later the defendant's attorney requested that the curfew be moved up to midnight, but Judge Occhipinti denied the request, saying he saw

no sufficient reason to make the change.

After several weeks the defendant was indicted for selling cocaine while released. Bail was set on the indictment in the amount of $5,000. The defendant was arrested and arraigned in superior court before Judge Occhipinti. Rice was the prosecutor and Bryner the defendant's public defender. Bryner moved for a bail continuation from the previous case or for bail review, but Rice opposed any reduction. A bail hearing was granted for five days later. Meanwhile the defendant remained in custody.

The bail hearing took place before Judge Occhipinti. Hawley was the prosecutor and Bryner the defendant's attorney. Bryner argued that there was no indication that the defendant used drugs and that he had always appeared in court for appointed proceedings. The judge noted that the defendant was charged with committing a crime while on bail. Hawley said he had no opposition to the defendant's being released to his mother. Ultimately Judge Occhipinti ruled that the 10% cash bond that had been posted in the robbery case could cover both cases, with the special condition that the defendant observe a curfew from 5:00 P.M. to 8:00 A.M.

A month later, at the request of Rice, the prosecutor, and with the agreement of Shortell, the defendant's attorney, a presentence report was ordered prior to the completion of plea negotiations. The defendant was continued on bail. A few weeks later Judge Occhipinti informed the attorneys that he could not go along with proposed plea negotiations, as the presentence

report had not convinced him that the defendant should not serve time. Ultimately the case was reassigned to Judge Burke, and the defendant received a two year suspended imposition of sentence, Talbot prosecuting and Shortell representing the defendant.

A few weeks after this sentence the defendant was charged with another offense, a sale of marijuana occurring while he was on bail in the previous cases. The initial bail set on the complaint for this offense was $1,000. The defendant was arrested and arraigned before Judge Occhipinti. Rice was the prosecutor and Van Winkle represented the defendant. A bail hearing was scheduled for the following day, but by then the defendant's father had posted the bond and secured his son's release. Van Winkle shortly withdrew from the case, and Gruenberg, an attorney in private practice, was appointed by the court as a substitute public defender.

The defendant waived his right to speedy trial in this case and received a deferred prosecution. (His probation officer in the previous case had reported that the defendant had been cooperative, had caused no problems, and had kept in touch regularly.) Talbot was the prosecutor, and Judge Burke the judge in the case. Prosecution was deferred until April 23, 1975, at which time Talbot said he would file a motion to dismiss the case, citing the defendant's background, family situation and the merits of the complaint as warranting such action.

#12

This defendant was on bail pending sentencing in a 1972 case when he first was arrested in 1973. He was charged twice with committing crimes while on bail, and he also failed to appear once for court proceedings. The defendant was a Caucasian male age 21 with no prior record.

In 1972 the defendant had been charged with both robbery and receiving and concealing. The complaint alleged robbing a person of his watch and $50 at gun point, and receiving and concealing both the watch and a painting and some furniture allegedly stolen from the Kenai Chamber of Commerce. Later in 1972 the defendant pled guilty to the robbery count (the court reserving the right to dismiss the other counts until sentence was imposed) and the defendant was continued on the OR release that had been granted by Judge Occhipinti while Judge Burke ordered a presentence report.

The day before the defendant was arrested for his first 1973 case, Judge Burke issued a bench warrant for the defendant's arrest at the request of the presentence report investigator, because the defendant had failed to come to a scheduled interview. (The letter from the investigator refers to the bail at the time as $1,000, not OR.) The bench warrant issued by Burke was for the defendant's arrest "without bail."

The day after this warrant issued, the defendant was arrested and charged with burglary and receiving and concealing. The complaint alleged that early in 1973 he received and concealed a variety of items stolen from a "import shop." Judge

Tyner had set bail on the complaint at $1,000. The defendant was released at district court arraignment before Magistrate Bray, posting the $1,000 through the help of the bondsman. Bittner was the district attorney. No mention of the other case was made.

However, sometime that day Bittner or the district court found out about the other case and bail was raised by Magistrate Bray to $10,000. By the time the defendant was arraigned in superior court two days later by Judge Van Hoomisen, the defendant was back in custody. The official indictment charged the defendant only with burglary, while a codefendant was charged with the receiving and concealing. Bail was set on the indictment at $10,000.

At the arraignment, Merriner was the prosecutor and Byrne the defendant's attorney. With regard to bail, Byrne argued that the bench warrant with no bail should be quashed because the defendant had voluntarily turned himself in, and he argued for an OR release for the defendant, noting his strong ties to the community and his family. He said that the reason the defendant had failed to come to the presentence interview was that he was sick and had no phone. Byrne further stated that he believed the defendant was only an accessory to this new charge and noted that the bail originally had been set only at $1,000. Merriner opposed the reduction, noting that the defendant actually lived in Kenai (only his parents lived here) and that another burglary involving the defendant was being investigated. He also pointed out that the bail had been

raised previously at the request of the Division of Corrections. The court ruled that the bail would stay at $10,000 for both cases. Then, however, Byrne reported that the defendant's sister was getting married and that his father was ill with cancer, and asked release for the defendant to go to the sister's wedding, which was to be their last family reunion. The court granted release for this purpose.

Four days later Judge Burke issued a bench warrant for the defendant's arrest, his mother reporting that he had escaped from her custody. Bail was set at $50,000. The defendant was found and arrested a month later.

When he was arrested, he was arraigned on the warrant before Judge Occhipinti. Bail was left at $50,000, covering both cases. The defendant was allowed to visit his father periodically, accompanied by an officer.

A few months later Judge Burke released the defendant OR to the custody of his mother (without any court hearing) because his father was dying. During this release the defendant was arrested and accused of selling a soft drug, about $40 worth of marijuana, while at a fairgrounds with his girlfriend. After this arrest the defendant was interviewed by a person from the bail project, who reported to the court that he was unemployed. The defendant was arraigned in superior court before Judge Burke. Bail on the indictment, which issued before the arrest, was set at $1,000.

At arraignment Agi was the prosecutor and Coates the public defender. Bail was continued at $1,000. The defendant's

father still was dying, but neither the attorneys nor the judge expressed concern over the fact that this was his second offense while out on bail. Although the log of the transcript reports that the defendant was not in custody at the arraignment, a proceeding is recorded the next day at which Judge Kalamarides denied a requested reduction of the bail. The file notes that later that day, the defendant secured release by posting $1,000 worth of corporate securities.

The defendant ultimately was sentenced on all three charges by Judge Burke, to a five year deferred imposition of sentence, with the condition that five months be served in jail first. The judge noted that a deferred imposition really was meant for first offenders, which this defendant was no longer, but that the state and the Division of Corrections recommended the sentence, taking the position that the defendant was a minimal risk. The defendant presently is in jail.

#13

This defendant, a Caucasian female age 27, was released on bail three times in 1973, and each time she was rearrested for committing a new offense during the release period. The defendant had a lengthy record of larcenies when she was first arrested in 1973, and several of her previous larcenies had been prosecuted in Alaska in the last few years. For all the earlier 1970 cases, she had been released on bail successfully. The previous cases had been handled by Judges Fitzgerald, Occhipinti and Moody, by prosecutors Kernan, Bosch, Goltz and Page, and by defense attorneys Soll, Bookman and Rubinstein.

The defendant was not even on probation when she first was arrested in 1973. (She had been sentenced to a combination of jail plus probation for the previous offenses, and had served her sentences successfully.) During the 1973 court proceedings, she noted once that she had been "doing all right until her boyfriend got out of jail and she started using heroin again." (She was referring to defendant #3.)

The first charge against her in 1973 was larceny in a building, the complaint alleging that she stole two coats from a store. Upon arrest, the defendant was released on a $1,000 bond by Judge Tyner. The following day at district court arraignment, the bond was continued by Judge Mason. There was no mention of her prior criminal record.

A few days later, the defendant was arraigned in superior court before Judge Occhipinti. Hawley was the prosecutor and Larson, a public defender, was the defendant's

attorney. The defendant was allowed to continue on bond, although Judge Occhipinti said, "If she is involved with drugs, I will revoke all bail and have her sit in jail." Neither attorney responded that they had knowledge of drug involvement.

Two weeks later, the defendant was arrested for a grand larceny allegedly occurring ten days after her release. The indictment charged that she stole a tape recorder from a store. She failed to appear in court for the appointed superior court arraignment, but the bondsman promised Judge Moody that he would have her there the next day. (There were no district court proceedings.)

There was no bail set on the indictment, but it indicated that bail was to be set at arraignment. However, at the arraignment the next day, Judge Moody did not set any new bail, and the defendant remained released on the bail in the previous case. A month later, when the defendant appeared in court and entered a not guilty plea in this case before Judge Occhipinti, the defendant's attorney Byrne specifically requested that the bail in the first case be allowed to cover the second, and with no opposition from the prosecutor, Mackey, the judge agreed.

A few days later, the defendant was arrested for another larceny in a building allegedly committed during this last bail release (stealing two blouses from a store. For this arrest, Judge Tyner set bail higher, at $2,500, but the defendant secured release through a bondsman. At the district court arraignment, Magistrate Provine continued the

$2,500 release. A week later, when the defendant was arraigned on the new charge in superior court before Judge Moody, the bond was continued. The prosecutor was Rice, and the public defender was Jordan.

Subsequently, within a day after entering a not guilty plea in the second case, the defendant failed to appear for an omnibus hearing for the first case. Judge Moody issued a bench warrant, but quashed it later that same day when the defendant appeared.

A month later the defendant was indicted for another larceny in a building. The complaint alleged that she stole a leather coat from a store during her release. Bail was set by Magistrate Bray on the complaint at $5,000.

At district court arraignment before Bray the day after the defendant was arrested, her attorney Byrne requested that bail from the previous three cases be allowed to continue as the bail in the new case. However, the district attorney Rice opposed, noting that he had "five or six files concerning her." He requested that bail be increased to $10,000. However, Magistrate Bray left it at $5,000. The indictment issuing a few days later also set bail at $5,000.

Within a few days, the defendant was arraigned on the new charge in superior court before Judge Occhipinti. Rice was present for the state. Shortell, representing the defendant, asked for a bail reduction, but it was denied.

Four days later, the defendant had a bail hearing, again before Judge Occhipinti. At this proceeding Hawley

prosecuted, and the defendant was represented by another public defender, Bryner. Bryner asked for a reduction to $2,500, but Hawley opposed, noting that the defendant had "gotten into trouble" every time she had been released. The court said the defendant needed a "strong" release plan, and that a release to her mother was not adequate. Bryner reported that Langdon Clinic, a drug treatment facility, unfortunately was unwilling to take custody. The district attorney suggested that she might go to Family House, another drug rehabilitation residence. The proceeding ended with Judge Occhipinti continuing the bond as it was, the defendant remaining in custody.

Two weeks later, the defendant was found competent to stand trial in all four cases. A month later, however, Judge Occhipinti was disqualified from the cases, and the cases assigned to Judge Kalamarides. That same day the defendant had a bail hearing before Judge Kalamarides. At this proceeding Hawley again represented the state, but Branson, a substitute public defender,.was appointed. Hawley agreed to the defendant's release under a $2,500 bail, provided that she submit to drug tests (urinalyses) three times a week. The judge allowed her release under these conditions.

Four days later, Judge Kalamarides issued a bench warrant for the defendant's arrest because she had failed to appear for the drug test. Bail on the warrant was $10,000. At a hearing before Judge Kalamarides the next day, after the defendant's arrest, she said she had not known where she was

supposed to go for the test. The public defender (Branson) affirmed that the defendant had come to his office the next week day to inquire (the first test had been scheduled for a Friday, and the defendant had come Monday). The district attorney, Rice, asked that bail be increased to $50,000, accusing the defendant of being a heroin addict. Judge Kalamarides remanded the defendant to custody under a $10,000 bail.

A month later, after extensive plea bargaining, the defendant pled guilty to all four cases in return for a two-year deferred imposition of sentence under the condition that she go to Family House. Presently the defendant has been at Family House for a year and a half.

#14

This defendant was a young, Black male age 21, on juvenile probation, who also had an Alaska misdemeanor record. He was employed, a student, and had lived in Alaska with his father for 14 years, according to the bail project interview sheet. He committed two felonies while on bail in 1973.

The defendant first was arrested for burglary. Bail on the warrant for this arrest was set at $10,000 by Judge Mason. A co-defendant in this case was defendant #17.

At district court arraignment, Judge Mason reduced the bail to $2,000, no reason being given. The defendant secured release by posting the bond. The indictment that issued a few days later also set bail at $2,000. The superior court arraignment took place before Judge Moody, who left bail as it was. Hawley was the district attorney, and Jordan the defendant's attorney.

Less than a month later, the defendant was arrested and charged with attempting to pass a forged check in the amount of $246.95. The arrest took place the same day as the alleged forgery. Bail was set in district court at $1,000. There was no discussion of the previous case or the defendant's record. The defendant secured release by posting the bond. The indictment that issued six days later also set bail at $1,000. The defendant was arraigned in superior court before Judge Occhipinti. Bittner was the district attorney and Shortell the defendant's attorney. The secured release was allowed to continue.

A month and a half later, the defendant was arrested for armed robbery (three counts, all part of the same event). At district court arraignment before Judge Tucker, the prosecutor was Williams. The defendant was represented by an attorney whose name was not on the record. The district attorney asked for a $50,000 bail, noting the other two cases, but the court refused, saying that $50,000 was too high and that the defendant was being "railroaded." Bail was set at

Six days later the defendant had a bail hearing, also before Judge Tucker. Ripley was the prosecutor, and Shortell the public defender. Shortell argued that the defendant would appear and was not a danger. Ripley argued against reduction, saying the defendant was a convicted felon and had two failures to appear on his record. Shortell then noted that he lived with his father, that the failures to appear were merely in connection with traffic offenses, and that his prior convictions had been as a juvenile.

The court, alluding to the fact that the defendant was on bail from two other cases and also on probation, said that the case required "substantial bail," although maybe not $25,000. Shortell noted that the defendant was registered as a student, and told that court that one of the charges pending against him (carrying a concealed weapon, a misdemeanor) had been dismissed. However, the court denied reduction.

The next day there was another bail hearing with the same attorneys. Tucker again denied reduction, and said there should be no further hearings unless there was a "change in circumstances."

Two days later, the defendant was arraigned on the indictment in superior court before Judge Occhipinti. At this proceeding, Rice was the prosecutor and Van Winkle the public defender. Van Winkle asked that bail be reduced to $5,000, saying that the defendant had a job and that his father would supervise him. Rice argued that if reduction was to be considered, there should be a full hearing on the matter. Van Winkle then asked for temporary work release, but Judge Occhipinti said no.

Five days later the defendant had a bail hearing before Judge Burke, Rice prosecuting and Shortell once again representing the defendant. Shortell urged that the defendant should be released because he had a job; but Rice opposed, saying the defendant was dangerous. Judge Burke, noting the other charges pending against him, said the defendant was dangerous and refused to reduce bail.

Two and a half months later, Shortell again appeared before Judge Burke to seek a bail reduction. Rice again prosecuted. Burke refused, telling the defendant's attorney that he would have to appeal the matter to a higher court if he wanted a reduction.

The defendant was tried by a jury and convicted of two of the three counts of robbery. The earlier two cases were dismissed in the interests of justice after these convictions were obtained. Judge Kalamarides, who presided over the trial, sentenced the defendant to ten years, with the recommendation that one-third be served before parole eligibility. (The dis-

trict attorney had asked for the maximum on each count--15 years--to be served consecutively, but the judge said that this defendant was not the worst type of offender.) The defendant appealed both his conviction and sentence, the latter on the grounds that it was excessive. Both appeals are pending. The defendant presently is in the Juneau jail.

#15

This defendant was a Native Alaskan male age 38 with an extremely long prior record. His prior record began with an attempted rape in Fairbanks over 20 years ago and continued with many more felonies, mostly burglaries. He had spent three years at McNeil Island, but was back in Anchorage in 1970. The case files since that date note his problems as being alcohol and drug related.

In 1971 the defendant had been convicted of burglary again and sentenced by Judge Fitzgerald to six months in jail. (His burglary consisted of breaking and entering with intent to steal liquor.) In 1972 he again was convicted of burglary, under the same circumstances, and received another six months, from Judge Carlson.

In 1973 the defendant was arrested for another similar burglary. At district court arraignment before Judge Tucker, an unnamed district attorney recommended a $500 bail, saying that the defendant had no money and no possessions. The judge set bail in that amount, and the defendant remained in custody.

The defendant was arraigned in superior court before Judge Burke a few days later, the official indictment also setting bail at $500. The defendant remained in custody until two weeks later, when he managed to post the $500 bond. Several months later the defendant secured an OR release from Judge Occhipinti, the public defender Anderson having requested that the defendant's bond be exonerated in order to allow him

to pay tuition at Anchorage Community College.

The defendant failed to appear for a court proceeding two months later. Judge Kalamarides issued a bench warrant with a $1,000 bail attached. When the defendant was arrested several months later, his attorney, Koziol, said the defendant had been in the Alaska Native Hospital, and assured the court that he could be placed in custody there while the case was pending. The district attorney, Rice, agreed that the defendant had a drinking problem and that there would be no advantage to jailing him. Judge Occhipinti, however, remanded the defendant to the jail, refusing to release him to the hospital.

The next day, at a meeting before Judge Occhipinti the bench warrant was quashed, but the judge again refused to release the defendant. Mackey prosecuted, and Susan Burke represented the defendant. A week later, however, Judge Occhipinti did release the defendant OR to the custody of the Alaska Native Brotherhood alcohol program. Mackey again prosecuted, and Koziol once again represented the defendant. Throughout the proceedings against this defendant, the attorneys on both sides varied constantly--more noticeably than usual.

A month later the defendant was found competent to stand trial. However, he waived his right to speedy trial in order to gain a deferred prosecution for one year. He then continued on release.

While on the OR release and deferred prosecution (now in 1974), the defendant was arrested for joyriding in Cantwell and held there under $100 bail by Barbara Wright, the magistrate.

The next day he was arraigned in Anchorage before Judge Tucker. The defendant asked for a reduction, but the prosecutor, Agi, urged that the $100 bail be continued. The next day the defendant posted $100 and was released. Subsequently, the defendant was arrested for grand larceny. For this he was held on $1,000 bail by Judge Kalamarides. The bail project tried to interview him for this case, but they reported that "he would not get out of bed and did not want to be interviewed."

After plea negotiations for these two cases, the defendant was sentenced on the joyriding, and the larceny was dismissed. The defendant served a sentence of 3 months with credit for time served on the joyriding, and then his OR release in the above burglary case was reinstated.

Within a few months, the defendant was arrested for a very serious assault with a dangerous weapon. The complaint alleged that he cut his victim's head and face with a knife. No bail was set on the complaint signed by Magistrate Bray. At district court arraignment before Judge Brewer (with no attorneys present) bail was set at $5,000. A few weeks later, however, the case was dismissed because the victim could not be located.

Another week later the defendant was indicted for the same charge, the victim having been found and having testified before the grand jury. The warrant issuing for the defendant's arrest set bail at $10,000.

The defendant was arrested and brought before Judge Kalamarides for superior court arraignment. Murphy was the

district attorney and Moody the public defender. Moody requested that the defendant be released on his own recognizance, but the district attorney opposed, alluding to the circumstances of the crime and saying that the defendant was a danger. The court noted that the charge was serious and continued bail at $10,000.

A year now had passed since the defendant had waived his right to speedy trial and received a deferred prosecution in the above burglary (the first 1973 case). He now renewed his waiver indefinitely, to allow the assault to be disposed of simultaneously. Judge Buckalew allowed the waiver, Talbot prosecuting and Esch representing the defendant.

A month later, however, the assault charge was dismissed on the grounds that hearsay evidence had been used before the grand jury (without sufficient explanation). At this proceeding, the prosecutor, now Hawley, asked Judge Buckalew to increase the bail in the still-pending burglary case, to $1,000, because of the defendant's dangerousness and prior record. Esch argued that any bail at all was "excessive" as the defendant had no means, and claimed there was no necessity to hold him. Hawley then noted that the victim (in the assault, which had just been dismissed) had been horribly cut up and that the defendant was dangerous and should be kept in jail. The judge agreed, and set bail at $2,500.

A week later the burglary charge also was dismissed, for "insufficient evidence," and the defendant was released.

Within a month the defendant was arrested for another burglary. Again, he refused to be interviewed by the bail

project, although they did furnish the court with his prior record. At district court arraignment before Judge Tyner, bail was set at $25,000 at the prosecutor Hawley's request. The defendant remained in custody.

The defendant was arraigned in superior court before Judge Occhipinti, Branchflower prosecuting and Esch defending. Esch brought up the matter of bail at the arraignment (the indictment also had set bail at $25,000), but the judge refused to reduce it.

A few months later (in 1975) the defendant pled guilty to "attempted unauthorized entry" and was sentenced to four months (with credit for 93 days already served). The court, Buckalew, noted that the defendant "just had a severe drinking problem," the district attorney Hawley agreeing on the sentence.

A month later (again, in 1975) after the sentence had been served, the defendant was arrested for attempting to pass forged and stolen checks. Bail was set at $5,000 by Judge Mason at district court arraignment, and continued at superior court arraignment before Judge Buckalew. The case presently is pending. The defendant is in custody.

#16

This defendant, a Black male, was older than most repeat recidivists, thirty-six. He was a heroin user, but had no prior criminal record, with the exception of a few misdemeanors several years in the past. He was arrested for numerous drug offenses in 1973.

The defendant's first arrest was for sale of a narcotic drug, but the arrest did not result in formal prosecution until after he was rearrested for another drug offense. The files contain no record of bail being set for this first arrest, of the defendant being placed in custody, or of any further activity until after the defendant was arrested for his second offense.

The second offense was possession of a narcotic drug. Bail was set on the indictment in the amount of $2,500. The defendant secured release through posting an appearance bond after being arraigned in superior court before Judge Moody.

Two weeks later the defendant was arrested again for the earlier charge of selling narcotic drugs. An indictment had issued, fixing bail at $50,000. The defendant first was arraigned in district court before Magistrate Provine, who left the bail at $50,000. The defendant subsequently was arraigned in superior court before Judge Occhipinti, bail remaining at $50,000. Ripley was the prosecutor, and the defendant hired a private attorney from out of state.

The following day, the defendant had a bail hearing

before Judge Burke, who said he would allow the bail posted in the previous case ($2,500) to cover this case also, if the defendant were subject to periodic drug tests (urinalyses). However, on the record the judge stated by mistake that he was continuing a $5,000 bond. Thus the next day the defendant still was in custody, and the matter had to be reopened to allow the court to correct its mistake (actually the mistake of the district attorney advising Burke) and reduce the bail to $2,500. Also at this proceeding, the attorneys argued over whether or not the required drug tests were constitutional. The court ruled that they were, saying there was no difference from fingerprinting. The defendant secured release, subject to the bond and the drug tests.

The next day the defendant was indicted for another possession of a narcotic drug. His girlfriend was a co-defendant. This offense was alleged to have occurred before the second and first cases were filed but after that first arrest. The grand jury indictment set bail at $10,000.

The defendant did not appear in court at the time appointed for the arraignment. Judge Kalamarides issued a bench warrant with another $10,000 bail attached, although the warrant was not to go into effect until later that afternoon, in order to give the defendant's attorney a chance to secure the defendant's presence. Talbot was the prosecutor. Later that afternoon, the defendant did appear, with his attorney. Talbot recommended that the defendant be allowed to post an unsecured $10,000 appearance bond in the new case, since the

defendant was "a citizen of some substance." Judge Moody so ordered, also quashing the bench warrant.

After several months the first two cases against this defendant were dismissed due to the deaths of two key witnesses and to anticipated evidentiary challenges. On the third case the defendant had a trial by jury and was found guilty, after his attorney made every conceivable challenge to the evidence or the jury.

Judge Occhipinti, who had presided over the trial, sentenced the defendant to six years with one-third to be served before parole eligibility. The defendant also had challenged the presentence report as being "unfair in every way." (The report showed him to have a good deal of "illegal income," although the judge noted that the background section showed the defendant to be a "fine man.")

The defendant filed appeals of both his conviction and sentence. Pending these he was placed in the Eagle River facility.

The defendant also requested that he be bailed pending the appeals. Judge Kalamarides took the matter under advisement. Ripley still was prosecuting (he had taken the case to trial). At first, the judge said he would not set a bail in view of the defendant's life style and conviction, but then said he would reconsider the matter after the defendant had a polygraph test to establish that he had not committed the crime he had been convicted of.

Less than a month later Judge Kalamarides decided

to admit the defendant to bail. He released him on the conditions that he post a $10,000 secured bond, that he not leave the state, that he provide the court with a schedule of places where he could be reached, that he have weekly contact with his attorney, and that he not associate with drug dealers and other persons involved with drugs.

Within two months the defendant was arrested on a federal charge of conspiracy to distribute heroin. Shortell (at this time in private practice) was retained by the defendant.

A few weeks after this federal arrest, Ripley moved to increase the bail in the state case, alleging that the defendant had violated his bail conditions. Judge Kalamarides held the matter in abeyance pending the defendant's securing release under federal bond. A month later (now in 1975) Judge Kalamarides held the motion "moot" because the defendant still was in federal custody. However, the defendant secured federal release shortly thereafter.

In the next month Shortell moved to withdraw from the case, and asked that the public defender be appointed. Ripley questioned the defendant's eligibility, noting the defendant was out on a high amount of federal bail. Judge Occhipinti granted Shortell's motion, however, and in February 1975 he appointed the public defender to the case.

#17

This defendant, a black male age 23, had committed several robberies while out on bail in 1969 and 1970. He was on parole when first arrested in 1973 and subsequently was arrested twice for felonies committed while on bail.

In mid-1970 the defendant had been sentenced to fifteen years by Judge Occhipinti (the sentence to run consecutively with a two year sentence on an earlier robbery), but the defendant appealed his conviction and sentence, the sentence was vacated, and the defendant resentenced in 1972 to ten years, the parole board being allowed to consider parole whenever they saw fit. (The judge recommended that the defendant be incarcerated in the Juneau jail where he was enrolled in a job training course.) In May 1973 the defendant was released on parole.

Two months after his release, the defendant was arrested for burglary (the same burglary that was the first 1973 case for defendant #14). The warrant issuing for his arrest set bail at $10,000. The day after his arrest, he was arraigned in district court before Judge Mason. After discussion of the defendant's parole status, and the facts that he was employed and lived with his mother, an unnamed district attorney suggested a bail of $5,000, which the judge set. The next day the defendant's mother posted a property bond and secured his release.

The indictment that issued also set bail at $5,000. When the defendant was arraigned in superior court before Judge Kalamarides, the posted property bond was continued. Hawley

was the prosecutor. The defendant's attorney was Jordan.

Three months later, while this case still was pending, the defendant was arrested for two separate crimes allegedly committed during the release--a robbery and a burglary. The warrant issuing for this arrest set bail at $50,000. The defendant was interviewed by a person from the Bail Project before he was arraigned on these charges, and the Bail Project furnished the court with his entire prior record plus information regarding both a grand larceny charge earlier in 1973 and two 1973 failures to appear (one in a traffic matter).

The defendant was arraigned in district court before Judge Mason. The defendant's father was present. (The prosecutor and defense attorney were unnamed.) The judge set a $10,000 bail for each charge. The defendant's father asked if $10,000 worth of corporate securities could be posted to cover both cases, but the court said not without a full bail review. The defendant remained in custody. A week later, when the defendant was arraigned in superior court before Judge Occhipinti, the defendant was still in custody. Bail on the indictment was set at $20,000 combined for both charges.

The following week the defendant had a trial by jury on the first case, which ended in a hung jury. Before he was tried again, another charge issued against him, for sale of a narcotic drug.

This offense was alleged to have occurred while he was on bail pending the first case, before he was arrested for the second case. He was arraigned in district court before

Magistrate Provine. Bail already was set on the indictment in the amount of $50,000, and the defendant remained in custody under this bail.

A few days after arraignment, the defendant had a bail hearing before Judge Burke. An unnamed district attorney requested a reduction to $10,000. The defendant's attorney (for this proceeding a court-appointed public defender) urged that the defendant should be considered innocent until proven guilty. The court noted that the defendant had prior convictions, however, was presently charged with extremely serious crimes, and thus should be considered a danger to the community. Ultimately, the judge reduced the bail to $10,000. Yet the defendant remained in custody because of the $20,000 bail set in the second case.

The defendant had a trial by jury on the burglary count in the second case and was acquitted. After this acquittal, the defendant's attorney, again Webb, asked Judge Kalamarides to allow the bail posted in the first case to cover the remaining count in the second case. The district attorney, Merriner, opposed, but stated his agreement to five days' temporary release. However, Judge Kalamarides refused, saying the defendant either deserved bail release or he did not, and that there would be no reduction and no temporary release.

The defendant began a trial on the other count in the second case, the robbery, but became ill in the middle of it. Eventually, however, the jury found him guilty. The

third case, the drug charge, was dismissed at the same proceedings at which a presentence report was ordered for the robbery conviction, because the key witness had died. The district attorney further asked Judge Kalamarides to hold off the robbery sentencing until the defendant's first case could be adjudicated also, in order that the state could seek an "habitual criminal" prosecution against the defendant, but the judge denied the motion. The sentencing resulted in the defendant's receiving a fifteen year term, with one-third to be served before parole eligibility. Ultimately, the defendant's first case was dismissed by Judge Burke "in the interests of justice, further prosecution not warranted." The defendant presently is incarcerated in the Juneau jail.

#18

This defendant had a criminal record from both California and Alaska prior to 1973, having been convicted of frauds and forgery in California, and assault with a dangerous weapon and passing a forged check in Alaska. The defendant was a Black male, age 28. In 1973, he was charged with committing several crimes while out on bail, although he did always appear in court for appointed proceedings. His prior Alaska cases are discussed below because he had recidivated on bail prior to 1973 as well.

When the defendant had been prosecuted in Alaska for assault with a dangerous weapon in 1968, he had been released on a $1,000 bond by Judge Davis and had committed another assault with a dangerous weapon. Upon the second assault, Judge Fitzgerald set bail at $5,000, but eventually the judge granted a reduction to $3,000 and allowed the defendant release through posting 10% of the amount, under the condition that he reside with his parents and observe a curfew. This bail release concluded successfully. The defendant was convicted on the assault charges in both cases after trial by jury. He was sentenced to three years on one case, parole at the discretion of the parole board, and five years probation on the other case.

Two years later (in 1971), after being paroled and while also on probation, the defendant was charged with passing a forged check. Judge Fitzgerald set bail at $2,000. The defendant remained in custody, was convicted, and was sentenced

to 18 months (with credit for time served). The case was noted in the file as being drug-related.

In mid-1973, the defendant was arrested for robbery, the fact statement alleging a robbery at gun point. Bail on the indictment was set at $10,000. The defendant was arraigned in superior court before Judge Moody. A bail interview sheet was furnished showing the defendant's prior record, and indicating that he still lived with his parents and was unemployed.

Two weeks after arraignment the defendant had a bail hearing before Judge Occhipinti. Mackey was the prosecutor, and Jordan the public defender. Bond was reduced to $5,000 under the conditions that the defendant seek employment, live at a residence approved by his probation officer, not associate with other probationers or parolees, and observe a curfew after work hours.

The defendant did not secure release, however, and two weeks later he had another bail hearing before Judge Occhipinti. The attorneys were Bittner and Shortell. Judge Occhipinti reduced the bail again to $2,000, with the conditions that the defendant observe a curfew, submit to urinalysis at any time it was requested, not work at night, and carry no firearms. Four days later, the defendant posted the bond and was released.

Within two weeks the defendant was indicted for attempting to pass a forged and stolen check in the amount of $345.56. The offense was alleged to have occurred during the bail release. At district court arraignment before Judge Mason, a district

attorney requested a $25,000 bail, which the judge set.

Three days later there was a bail hearing in district court before Judge Mason. Mackey was the prosecutor, and Bryner the defendant's attorney. Bryner asked for a reduction to $1,000 or $1,500, saying that $25,000 was excessive, especially in light of the fact that the defendant was a long-time resident of the area and unlikely to flee. Mackey opposed, pointing to the defendant's prior record and saying that the defendant would be a danger to the community if released. Bryner then urged that the case against the defendant was weak. The court left bail as it was, saying there was "reasonable cause to be concerned."

A few days later, when the official indictment issued, bail was set on it at only $2,500. The grand jury log notes recorded a decision to continue bail at $2,500. How the bail had gotten reduced to this amount is not stated anywhere. It seems likely that someone perhaps misread the district court order, since it was very clear at the district court hearing that bail was $25,000.

The defendant was arraigned before Judge Occhipinti the day following the issue of the indictment. He was represented by Moody, a public defender. Moody requested a reduction from $2,500, which Mackey opposed. The court noted that the defendant had other charges pending and refused to reduce the bail.

A few weeks later, the defendant's attorney, now Shortell, requested that the bail posted in the previous case

($2,000) be consolidated with this one; but the prosecutor, Rice, objected to the motion. Judge Occhipinti stated his reluctance to allow consolidation, noting that the case might be drug-related. The defendant's probation officer reported to the court that the defendant was not employed and had not always kept in touch with him, but that the defendant was "friendly." Rice further argued against reduction on the grounds that the defendant did not have a job. Finally the court denied consolidation of the bails, saying the defendant needed a supervised release. The next day, however, the defendant posted the $2,500 bond and thus secured release.

Three days later the defendant was charged with another crime. This offense was not alleged to have occurred during this bail release but during the previous one. The charges were several counts of burglary and larceny. Among the items stolen was the check that was alleged to be forged in the previous case. Bail on the complaint was set at $25,000 by Magistrate Bray.

When the defendant was arraigned in district court, Judge Jones kept the bail at $25,000. The district attorney urged this "for the protection of society," noting the defendant also had been charged with armed robbery and possession of heroin in California the same year. (This information appears in no other files.) When the indictment issued two weeks later, bail also was set at $25,000. The defendant remained in custody.

Within the next month, the defendant's first 1973 case went to trial but was dismissed partway through due to insufficient evidence. A few weeks later the state moved successfully to consolidate the last two cases for trial. (The motion was opposed by the defendant's attorney, Shortell, but granted by Judge Burke.)

The defendant had a bail hearing that same day before Judge Occhipinti. Merriner was the district attorney and Shortell the defendant's attorney. Shortell moved that the bails be consolidated and that the $25,000 be reduced to match the other, as the defendant had spent six weeks in jail already. Merriner opposed any reduction because of the defendant's prior record and heroin involvement. However, the judge did reduce bail to $5,000 altogether ($2,500 for the forgery case and an additional $2,500 for the burglary; the $5,000 also was to cover a probation revocation petition), but also required that the defendant be in the custody of his father at all times. The judge warned that if the defendant ever was found not in the custody of his father, the father would forfeit the entire $5,000. (Shortell had argued that the father was a responsible person, and the defendant's father had been present at the hearing.) The defendant secured release.

Two weeks later the defendant asked Judge Occhipinti to amend his bail conditions. Shortell again was the defendant's attorney. Ripley, who was now the prosecutor, stated no objections to the requested changes in conditions, which were that the defendant be allowed to go downtown with his parents, and

that he be allowed to drive his truck to and from work. The judge allowed the changes in conditions.

A month later the defendant was arrested for selling heroin, the sale allegedly occurring during the release. Bail on the indictment was set at $50,000 and was not reduced when the defendant was arrested, arraigned, and remanded to custody. A week later the defendant was charged with another heroin sale, also allegedly occurring during the most recent bail release. (Both these cases later were dismissed due to the death of a key witness.) Bail on this indictment was set at $10,000. The defendant had one bail hearing on these drug cases, but Judge Kalamarides refused to reduce the bail.

Eventually the defendant was tried on the earlier charges that had been filed against him and was found guilty of the attempt to pass the forged check. The other charges resulted in acquittals and mistrials. At trial the defendant testified that another defendant (#3) had stolen the checks and forged them, and that he merely cashed one of them. The defendant was sentenced by Judge Burke to six years, with one-third to be served before the defendant could become eligible for parole. The court reasoned in sentencing that it would be a mistake to put the defendant on probation because of his age, his prior record, the nature of his present charges, and the need to deter others. The defendant presently is in the Juneau jail.

#19

This Caucasian male defendant, age 20, was on both probation and bail from 1972 cases when he first was arrested in 1973. Subsequently he was arrested for two more crimes in 1973. (Prior to 1972 the defendant had only a minor prior record of illegal possession of a moose and possession of a soft drug.)

Early in 1972 the defendant had been convicted of burglary, for which he had been released on $5,000 bail successfully by Judge Occhipinti. For that crime he received a deferred imposition of sentence for 18 months, also from Judge Occhipinti. Within a few months, still in 1972, he was charged with passing forged checks. (From late 1971 to late 1972 he was charged with forging a number of checks belonging to his mother.) Bail was set at $2,000 by Judge Tucker on the complaint. After the defendant was arraigned in district court before Judge Jones, he secured release by posting the bond. Judge Occhipinti allowed the $2,000 bond to continue upon indictment and arraignment in superior court. (The indictment indicates that the checks were for under $50, although the total amount forged eventually totalled $1,760.) The defendant was noted as being a heroin addict.

Early in 1973 a petition to revoke the defendant's probation was filed. Judge Moody allowed the bond posted in the forgery case to cover the probation revocation petition also. Rice was the prosecutor and Byrne the defendant's attorney.

A few months later, while still on bail for the forgery case, the defendant was arrested and charged with his

first 1973 case, attempt to pass a forged check, during the release period. The case proceeded by information (the defendant waived indictment). There is no record in the file of any bail being set. However, the defendant was not arraigned on this case until he pled guilty to the 1972 case and was sentenced, at which time he was arraigned and pled guilty to the 1973 case. He was sentenced at the same proceeding on both cases by Judge Carlson (attorneys Hawley and Larson agreeing on the sentence) to a three-year deferred imposition of sentence, the defendant to be placed on probation and to attend a drug program. (At the same proceeding, the defendant's 1972 deferred imposition of sentence was amended to add additional probation time.)

Less than a month later, the defendant was charged with three check forgeries, all occurring at different times in the past month. He was arraigned in district court before Judge Mason. Larson represented the defendant. The district attorney, whose name was not specified, asked for a $15,000 bail, the record saying he "gave reasons." A bail hearing was scheduled for the next day, but first Judge Mason released the defendant to the custody of his mother for one evening.

At the hearing the next day, Preston, the district attorney, argued that the mother was not a suitable custodian, saying that she was an alcoholic and pointing to the previous offenses the defendant had committed recently while living with her. Preston also noted that the defendant was a suspect in other burglaries. Larson said nothing that was

recorded on the written record, and the court set a $15,000 bail, allowing the defendant to go to Langdon Clinic for treatment.

A week later at the preliminary hearing in the case, two of the three forgery counts were dismissed. A few days later the defendant had a bail hearing in superior court before Judge Carlson on the remaining count.

At this proceeding Larson again represented the defendant. Agi prosecuted. A petition to revoke the defendant's probation also had been filed, with the bail set at $2,000. Larson, seeking reduction to $500-1,000, told the judge of the defendant's progress with drug withdrawal and explained that the defendant had been in solitary confinement in the jail. Larson also noted that the defendant's crime had not been against a person, and that the defendant was a long-time resident of Anchorage who would not flee the jurisdiction if released. Agi agreed that the defendant had not demonstrated violence. Although the judge noted that release might not protect the public, he released the defendant OR in all pending matters, with the condition that the defendant be in the custody of his mother and go to Langdon for counseling and drug tests, saying this was the "last time he would be lenient" with the defendant.

Two and a half months later, while the defendant still was on bail, he was arrested and charged with five counts of burglary in a dwelling (all incidents occurring on the same day). At district court arraignment before Judge

Mason, bail was set at $10,000. The defendant remained in custody. (The record does not state what attorneys were present.)

The defendant remained in custody for the rest of the proceedings against him, although he did have a bail hearing a few months later before Judge Kalamarides. Bryner was representing the defendant at this time, but a prospective bail witness was ill, and the hearing never was concluded although it was continued a few times.

The defendant eventually pled guilty to many of the counts against him and was sentenced to five years by Judge Occhipinti with the recommendation that the defendant be placed in the Palmer Adult Camp and the requirement that the defendant serve one-third of the sentence before parole. A sentence appeal was filed by Bryner on the grounds that the sentence was excessive, but the appeal was withdrawn, because as six months later the one-third requirement was eliminated at a hearing before Judge Occhipinti (Van Winkle representing the defendant, and Ripley the prosecutor not objecting) because the defendant had not been sent to Palmer as recommended. The defendant presently is in the Juneau jail.

Summary and Conclusions

The preceding biographies have substantiated the experience of each "repeat bail recidivist" in 1973. Their histories are further charted in table form below in order that generalizations can be made. Yet the difficulty of summarizing these happenings in a single table is evident from the preceding narratives. Each individual story has differed, both in criminal circumstances and defendant characteristics as well as in involvement of attorneys and judges.

The table below shows the crime with which each defendant was charged each time he or she was arrested and placed in custody, the initial bail that was set, the type of bail release, if any, that eventually was allowed, and the circumstances of any rearrest following the release. Names of attorneys and judges involved in the proceedings are not included in the table, however, nor are statistical computations performed regarding which judges or attorneys were responsible for the releases most often. Although some judges' and attorneys' names do appear more frequently in the preceding narratives than others, that fact alone does not necessarily indicate that those persons made more "bail mistakes." Rather, the phenomenon may be a result of some judges having served more time on the criminal bench, or some attorneys having been assigned to "intake duty" or 1:30 hearings more often than others. It should be noted, however, that every superior court judge in Anchorage who served on the criminal bench in 1973 was responsible for some of the releases leading to

recidivism. (It also should be noted that only four of these defendants (21%) hired private attorneys, compared to 23% of all felony defendants in Anchorage in 1973, and thus private attorneys were not more successful in securing re-releases for their clients.)

Following the table, statistical computations and further summary are provided.

TABLE I

DETAILS OF BAIL RELEASES FOR REPEAT RECIDIVISTS IN 1973

	First Arrest				Second Arrest				Third Arrest				Fourth Arrest				Fifth Arrest			
Defendant	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release
#1	Receiving & Concealing Stolen Property	Stolen auto transmission	$2500	OR	Grand Larceny	Stole 3 guns	$10000	$1000	Burg.	Stole rifle from house	$5000	Not Released								
#2a	Assault with Deadly Weapon	Assaulted man with Knife(no harm to victim)	$400	$400	Larceny from a person	Stole money from man	$500	$500	FTA		$2500 each case	Not Released (cases dismissed)								
#2b	Larceny from a Person	Stole $40	Summons	OR	Failure to Appear		$1000	OR	Larc. from a person	Stole wallet with checkbook	$2500	$1000 + conditions	FTA	(was in city jail)	$2500	Released after acquittal on $40 larceny, still on bail for larceny of wallet ($1000)	FTA		$2000	$1000
#3	Accessory after the fact	Accessory to Larceny of a coat	$5000	$1500	Grand Larceny & Burg.		$1500	$1500	Grand Larceny & Burg.		$25000	Not Released								
#4	Burg.		--	OR	Inciting Commission of a felony	Talked girlfriend into writing bad checks for several hundred dollars	$5000	OR	FTA	Was fishing in Kodiak but had notices from attorney	$1000	$1000								
#5	a. Possession of hard drug for sale b. Possession of soft drug for sale	a. Cocaine (10 bags) b. liquid hashish (1 bottle)	$2500	$2500	2 counts sale of soft drug	marijuana, amphetamines	$2000	$2000	1 Sale of soft drug	Sale of marijuana	$1000	No additional bail required; bail continued from other cases ($4500)								

NOTES

1. Crime derives from the grand jury indictment charge except when a defendant was remanded for failing to appear (FTA). [Although punishable as felonies, failures to appear rarely are prosecuted formally with an indictment, etc., but they do often result in a change in the defendant's bail status.]
2. Circumstances. Exact circumstances for burglaries often were not set forth in the complaint or indictment.
3. Bail Set refers to the bail first in time found in the court records for each offense, whether on the complaint, arraignment or indictment.
4. Bail release refers to the amount of bail under which defendant secured release. Bail release conditions most frequently were curfew, drug tests, employment requirements, custodial releases to an individual or organization, or contact with an attorney at specified intervals.
5. When a defendant had a case or set of cases concluded before other cases were filed, the sets of arrests are noted as set "a," "b," etc.

	First Arrest				Second Arrest				Third Arrest				Fourth Arrest				Fifth Arrest			
Defendant	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release
#6	Robbery, Assault with a Deadly Weapon, Burg.	Took TV, speakers, $85, pistol from 2 victims at gunpoint, hit one victim with gun	$50000	$500	Robbery	Robbed victim of money at gunpoint	$25,000	Not Released (but reduced to $500)	Grand Larceny; Larceny in a Building**	Stole coat from store, value: over $100)	$30000	(Reduced to $500) Not Released								
#7a	Burg.	Stole TV from Uncle's house	$5000	$5000																
#7b	Felon in possession of firearms (2 counts)*	2 different days, possession of 2 different guns	$2500	$2000																
#7c	Possession of Hard Drug*	Heroin	$5000	$1000	Check Forgery	Forged mother's checks	$5000	Not Released												
#8	Larceny in a Building	Stole purse in an office	$5000	OR	Burg.	Stole money from a restaurant	$10000	$1000	Grand Larceny	Stole package with stereo (value $111)	$10000	OR with conditions	FTA	Left Ak. Native Hosp. without permission	$10000	10% of $3000	FTA	Failure to contact attorney; escaped Fairbanks jail	$5000, & forfeit previous bail	Not Released
#9	Rcv. & Conc.	Jewelry ($2000) & pistol case	$2000 with work release	OR	FTA		$10000	$500 (previously posted for probation revocation proceedings)	Assault with a Deadly Weapon	Rammed car of common-law wife & boyfriend; no harm to victims	$2500	OR	Attempt to pass forged check	Check for $253.50	$5000	10% of $1000 (following guilty plea, reduced to OR)	Passing a forged check	Check for $45	$10000	Defendant at large
#10a	Burg., Rcv. & Conc.	Stole jewelry box from house	$25000	$3500	Burg.	Stole food stamps from apartment	$3500	Not Released until sentenced												
#10b	2 Burg.*	1 occupied apartment; 1 jar of money stolen	$10000	OR & conditions	FTA	Defendant left area, thinking case finished	$5000	Not Released												
#11	Robbery	Robbed person of money at gunpoint (amount unknown)	$5000	10% of $1000 & conditions	Sale of Hard Drug	Cocaine	$5000	Bond continued from previous case (10% of $1000)	Sale of Soft Drug	Marijuana	$1000	$1000								
#12	Robbery, Rcv. & Conc.	a. Robbed person at gunpoint of watch & $50; b. Stolen painting & furniture	$6000	OR & conditions	Burg.	Burglarized store	$1000	$1000 (later raised to $10000 & defendant remanded to custody)	FTA	On temporary release for sister's wedding	$50000	OR & conditions	Sale of Soft Drug	Marijuana worth $40	$1000	$1000.				

* Defendant on probation; previous case(s) disposed.
** Offense committed during bail release in first 1973 case.

First Arrest					Second Arrest				Third Arrest				Fourth Arrest				Fifth Arrest			
Defendant	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release	Crime	Circumstances	Bail Set	Bail Release
#13	Larceny in a Building	Stole 2 coats from store	$1000	$1000	Grand Larceny	Stole tape recorder (value over $100) from store	None	Bail continued from previous case	Larc. in a Bldg.	Stole 2 blouses from store	$2500	$2500	Larc. in a Bldg.	Stole coat from store	$5000	$2500 & conditions	FTA	Failed to appear for drug test	$10000	Not Released
#14	Burg.		$10000	$2000	Attempt to pass a forged check	Amount of $246.95	$1000	$1000	Armed Robbery	Robbed 3 people at gunpoint of rings, money, carkeys and car	$25000	Not Released								
#15	Burg.		$500	$500 (Later reduced to OR)	FTA		$1000	OR & conditions	Grand Larceny		$1000	Not released until sentence served for misdemeanor, then previous OR release cont'd	Assault with a Deadly Weapon	Cut man with knife on face and head	$5000	Not Released				
#16	Possession of Narcotic Drug	Heroin	$2500	$2500	Sale of Hard Drug***	Heroin	$50000	Bail posted in previous case continued ($2500) & conditions	Possession, Hard Drug	Heroin	$10000	Unsecured bond, $10000								
#17	Burg.		$10000	$5000	Robbery, Burg.	a. Robbed 2 men at gunpoint of jewelry, cash. b. Stole TV from house	$50000	Not Released	Sale of Hard Drug**	Heroin	$50000	Not Released								
#18	Robbery	at gunpoint	$10000	$2000 & conditions	Attempt to pass a forged check	Stolen check, $345.56	$25,000	$2500	Burg.(2), Grand Larc.(2)	Two offices, stole TV, radio, typewriter, etc.	$25000	$2500 & conditions	Sale, Hard Drug	Heroin	$10000	Not Released				
#19a	Passing forged check	(Passed 52 forged checks) Only 2 listed on complaint, total under $50	$2000	$2000	Attempt to pass a forged check		None	Pled guilty at arraignment												
#19b	Passing forged check* (3 counts)	3 stolen checks for $90	$15000	OR	Burg. (5 counts)	Broke & entered 5 apartments	$10000	Not Released												

*** Date of alleged offense preceded first 1973 case.

* Defendant on probation; previous case(s) disposed.
** Offense committed during bail release in first 1973 case.

The preceding chart reveals several points meriting emphasis. Firstly, it can be seen that most of the crimes of which these defendants were accused were not extremely serious offenses. Very few were violent offenses against persons. Of all 61 offenses, there were only seven robbery charges and four assault with a dangerous weapon charges, and only one of the robbery charges and only one of the assaults resulted in physical harm to the victim. The defendants instead tended to be charged with repeated felony property crimes (30), drug crimes (12), and check forgeries (9).

In studying these defendants, it was learned that six of the defendants had district court charges pending also for relatively similar circumstances, and seven others pled to misdemeanors, the cases originally having been filed as felonies in the prosecutor's discretion. Considering the minor nature of many of these felonies, especially their aspect of non-violence, it may be concluded that many of these defendants secured release because they were not considered a serious threat to the community. In fact, these 19 defendants may not be the "worst" 1973 offenders, for persons who committed more serious crimes or who recidivated a first time on bail with a serious crime may have had bail conditions set so strict that they were not released afterwards.

A second generalization noticeable from the chart, however, is that most of the bails set were not "lenient" unconditional or Own Recognizance bails but were secured money bails; and most of the releases that were obtained were

secured releases, not Own Recognizance or unsecured releases. Table II shows the total number of release decisions that resulted in rearrests for recidivism, 46, and shows the types of releases, dividing them into two categories, "first releases" (before the defendant recidivated on bail), and "subsequent releases."

TABLE II

TYPES OF BAIL RELEASES RESULTING IN RECIDIVISM≠

Type of Release	Number of Releases			
	First Release		All Subsequent Releases	
OR	8 (36%)		7 (29%)	
10%	1		3	
Secured, $500 or less	4		2	
Secured, $1000 or less	2	59%	6	58%
Secured, $2000 or less	4		2	
Secured, $5000 or less	3*		4 (all $2500)	
	22		24**	

≠ Including failures to appear

* $2,500, $3,500, and $5,000.

** Plus 1 Temporary Release (defendant released for one day; escaped)

Out of all 46 releases, only 15 (or 33%) were OR. Almost as many OR releases were given after a defendant had already recidivated (29%) as at the first bail release (36%). Only four of all 46 (9%) were 10% bonds, but there was an increase in the number of 10% bonds required for subsequent releases, (only one for "first releases" and three for "subsequent releases"). Thirteen first releases were secured (59%), and 14 second releases (58%). The two largest bonds posted, $3,500 and $5,000, were both posted at the time of a first release, but for "subsequent releases" the number of secured bonds between $500 and $1,000 increased threefold.

It should be further noted that Table I showed that 14 of the 22 first releases were obtained only after the bail originally set was reduced (64%), and 17 of the 24 subsequent releases involved a bail reduction (71%).

Further comments on the chart and the preceding narratives may be more telling by emphasizing that the vast majority of these bail decisions or recommendations were made by judges and attorneys who were not ignorant of the defendant's pending cases and personal background but were provided with such information. Although there were 16 instances of a release apparently occurring before the district court or district attorney received information of the defendant's pending cases in all but 2 cases the "recidivism" did not occur until after the case had reached superior court, where the judge and district attorney were provided with information but allowed the release to continue. The

persons recommending or authorizing releases often gave reasons for their decisions, and reviewing these reasons may shed light on the releases that resulted.

Very few releases were allowed because the judge was positive the defendant was a safe bail risk. As noted, generally some security was required. In many cases releases or reductions were allowed reluctantly by the judge, often apparently sometimes because an attorney made a persua--sive argument for release (or a weak argument against release). In many cases judges were faced with the knowledge that the presumption of a defendant's innocence must be protected until he is proved guilty, and that the judge must attempt to foster a safe bail release if one is at all possible. Many of the release decisions apparently were arrived at because judges, or attorneys, thought there was at least a possibility that the defendant could be released safely.

In certain situations, however, particular defendants "surprised" the judge by making bail and securing release after the judge had refused to reduce the bail. Some of these defendants secured release simply because the bail set was not high enough to keep them in jail. Others were able to hire a bondsman or had relatives or friends who pledged a substantial amount of assets on their behalf.

Some releases were allowed for reasons that had less relation to the safety of the defendant's release than to another consideration--visits to a dying relative, retaining a job in order to keep a family from becoming a welfare burden,

or continuing a semester in school. About half the time the judge released a person because the district attorney, as well as the defendant's attorney, supported (or at least did not oppose) the release. And 7 of the 19 defendants (37%), even after the third arrest, were released on bail again, often because the judge and district attorney still did not consider them serious offenders.

Certain defendant characteristics can be summarized from the narratives, which may provide guidance for future release decisions. Eleven of the defendants (58%) had no felony record prior to 1973. This compares with a figure of 53% of all released defendants having no prior record.[1] Eight (42%) had prior felony records compared to 21% of the entire released defendant population in Anchorage;[2] seven of them had records of three or more felonies. Six of the 19, all prior felons (and 5 of the three-time felons) were on parole or probation when first arrested. Thus, perhaps the nature of a defendant's prior record is at least an indication of his recidivist tendencies.

Very few of the defendants had a solid work history. With the exception of three black males, all considerably older than most defendants, the repeat recidivists tended to be unemployed, employed in a haphazard fashion, or occupied as students. The majority were considered "indigent" and thus were eligible for public defender services. Yet most of the

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1. Bail in Anchorage, Alaska Judicial Council, 1975, p. 48.

2. Id.

defendants who were released were considered able to care for themselves if released. In fact, several defendants secured release despite their unemployment because they appeared well enough off to be able to lead a non-criminal existence, often because they had upstanding parents or were enrolled in school. These defendants were rearrested nonetheless, and their apparent ability to care for themselves was deceptive.

A very apparent characteristic of these defendants is drug or alcohol use and/or dependency. Seventeen of the 19 (89%) are noted in their files as being drug users or having drug or alcohol problems. Further study would be necessary to compare this percentage with the percentage of all other defendants who were users or addicts, but the figure is noticeably high.

Another characteristic connecting most of the defendants is long-time residence in Alaska or the Anchorage area, and local family ties. Only 2 of the 19 defendants (11%) did not have "community ties." (Community and family relationships often are used to argue that a defendant can be safely released, and thus the characteristic of local residence may partly explain how recidivists got re-released.) Yet further study is necessary to determine if perhaps an even greater percentage of persons released on the basis of such ties do <u>not</u> recidivate.

A final noteworthy pattern among these defendants is their "interrelationships." At least 6 of these 19 defen-

dants were related in one way or another to at least two other of the 19 defendants (as co-defendants, foster-siblings, "victims" of the same government informant, or just as friends). Additionally, thirteen of the defendants had co-defendants in at least one case, including co-defendants who were not repeat recidivists.

In the situations of the Caucasians who had co-defendants, most of the co-defendants had only one charge in 1973, or if they recidivated, were only one-time recidivists. The Blacks, on the other hand, were co-defendants in each others' cases repeatedly. Also many more of the Blacks had co-defendants who either were not released after the first recidivism or who had only one 1973 charge. [The two Native Alaskans had no co-defendants.]

References in trial testimony and court hearings to the co-defendants who did not recidivate, or who recidivated only once, or who were not released after the first recidivism but were involved with these 19, suggest connections among these persons that provided either social pressure or support for their activities, especially in joint thefts and illegal sales. Thus, it may be concluded that a defendant's acquaintances are of importance to his recidivist tendencies.

Many defendants who do not repeat while on bail exhibit characteristics similar to the ones discussed above, however, and hence none of the above factors can be considered decisive indicators that a person is likely to recidivate once or several times. Particularly the factor of community resi-

dence is in general considered favorable to defendants in the bail decision. Because 19 simply is too small a number of defendants from which to make statistically significant predictions beyond 1973, it is vital that a comparable group be studied for at least one additional year, 1974, before solid conclusions can be drawn.

In the meantime, one necessary improvement in the system can be made. There appears to be no reason why a judge, when faced with a bail decision for a person who has just been arrested but already was on bail, cannot be provided with the kind of detailed biographical data that has been presented in this report. The summaries here are merely the result of scrutinizing the existing court files to see what can be learned about a defendant and his situation.

The best method of getting such information to the judge by the time of the defendant's first appearance would be to assign the task to the Pretrial Services Agency. A staff member could be required each morning to first check the list of persons to be arraigned that afternoon with the alphabetical list in the court clerk's office of persons against whom cases previously have been filed or are pending, and note which persons on the arraignment list presently are on the "alpha" list. Then the Pretrial Services Agency could request from the clerk the files of all past cases for any such defendants and prepare a sheet of relevant personal and criminal background factors found therein, including any prior history of failing to appear for proceedings or

recidivating while out on bail.

If it is not feasible to prepare such a "pre-bail" report before the 1:30 arraignment, there should be an automatic application of the 48-hour rule[1] (the rule which allows the prosecutor to request a 48-hour postponement of the setting of bail in order to study the need for conditions).

In either case, if bail already has been set upon arrest and the defendant already has secured release, the bond automatically should be exonerated and the defendant remanded to custody pending the bail decision in the next 48 hours. (Unlike the procedure for recourse against a lenient sentence, a bail condition always can be made more stringent.)[2]

Such a procedure should come into effect whenever a person is accused of being a "recidivist" while on bail, not merely when the person is rearrested the third time and accused of "repeat recidivism" (the focus of this study). Hopefully, such scrutiny will reduce the number of releases that result in recidivism.

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1. AS 12.30.020(a) amended by Ch. 39 SLA 1974.

2. AS 12.30.020(g).