



# alaska judicial council

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## MEMORANDUM

**TO:** Stephanie J. Cole, Administrative Director, Alaska Court System

**INFO:** Captain Doug Norris, Alaska State Troopers  
Commissioner Ronald Otte, Department of Public Safety  
Commissioner Margaret Pugh, Department of Corrections

**FROM:** Susanne Di Pietro, Staff Attorney

**DATE:** July 23, 1999

**RE:** Evaluation of Bethel Video Link

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You asked the Judicial Council to evaluate the Bethel video link. I spent the day in Bethel on 7/12/99 observing the video link in operation, and spoke to the people who use it, including court personnel, troopers, the Bethel District Attorney and Public Defender, and personnel at the Yukon Kuskokwim Correctional Center. Generally, everyone interviewed for this report liked the system and thought it worked well. However, the Council strongly recommends that the system be modified to provide confidential communication between an attorney in court and a client in the YKCC if the system is to be used when a defendant is represented by counsel in the courtroom.

### The Bethel Video Link

The Department of Public Safety installed the video link equipment in Bethel in 1997. The Bethel video link is a two-way, interactive video and audio link between the Bethel courthouse and Yukon Kuskokwim Correctional Center (YKCC). The Department of Public Safety maintains the system.

Hardware located at the court and the jail includes television monitors and cameras, microphones and speakers, telephones, and facsimile machines. Monitors in the courtroom allow the judge, attorneys and spectators to see the defendant at the YKCC. The monitor at the YKCC allows the defendant to see the judge on half the screen and the DA on the other half. The cameras in the courtroom can be moved by the judge, but not enough to focus on the defense table. The courtroom monitors and cameras sit on wheeled carts so that they can be moved between courtrooms, although court personnel report that they seldom move the equipment because it is somewhat unwieldy.

Video arraignments at the YKCC occur in the facility's only conference room. That same room is used for staff meetings and trainings, inmate orientation, inmate visits and special inmate classes. The defendant being arraigned sits on a folding chair in front of the camera mounted on the monitor. The microphone sits on the floor in front of the chair. Other defendants wait on chairs or benches nearby.

The video link uses fiber optic cable to transmit video and audio. The video resolution is high quality. The audio is acceptable, although soft-spoken defendants can be difficult to hear in the courtroom. People interviewed for this evaluation reported that the dial-up communications link system sometimes fails or requires multiple attempts before connecting.

### **Current Use**

The Bethel court currently uses the video link to conduct misdemeanor arraignments and bail settings, entry of misdemeanor pleas and occasionally, felony first appearances and misdemeanor sentencing.

Because few defendants are represented by counsel at these early hearings, defense attorneys seldom participate. When they do, they participate from the courthouse. During the proceedings, a participating attorney can speak to the client using a phone located in the courtroom; but people in the courtroom can hear both sides of the conversation. The public defender asked that DPS and the court system provide a more private means of attorney-client communication.

## **Potential Future Uses**

Several people interviewed for this report were interested in expanding use of the video link to other non-evidentiary hearings such as omnibus hearings, status hearings or first hearings on petitions to revoke probation. The limiting factor for expanding into other uses is space at the YKCC. The superintendent believes that any additional court proceedings would conflict with other events scheduled in the conference room.

## **Recommendations**

- 1. The system as currently configured is adequate for most current uses, but it should be modified to allow confidential attorney-client communication.**

The current system of video arraignments is adequate for the great majority of proceedings for which it is used because defense attorneys seldom participate in misdemeanor arraignments and felony first appearances. However, the Council recommends that the video arraignment system not be used for any hearing when the defendant is represented by an attorney who is in the courtroom until the system is modified to provide confidential communication between the attorney and client. The Council is concerned that conducting such a hearing through a televised arraignment would significantly affect the defendant's right to effective representation. Options include a booth on a courtroom wall or a phone in a room near the courtroom. Also, DPS should modify the audio system so that the speakers are automatically muted when the attorney and client are using the phone (Anchorage has a similar audio system). Finally, the Council emphasized that defendants who plead guilty or no contest have the right under court rule 38.2 not to be sentenced by video, and the Council recommended that judges make this option clear to defendants.

The second area for improvement involves images on the monitor. DPS should consider providing a camera that allowed the defendant to see the defense attorney. This change would be especially important if the system was expanded to other uses.

- 2. The system must be modified if its use were to be expanded.**

The changes recommended above would be essential if the court system decided to expand use of the system to include hearings and proceedings in which the defense attorney typically is present and participating. For those types of proceedings, defendants at the jail must be able to communicate more privately with their attorney and should be able to see their attorney at least some of the time.

As mentioned earlier, the more important limiting factor for expanding the use of the video link is space at the YKCC. DPS and the court system might work with the Department of Corrections to plan for video arraignment space at the YKCC.

**3. The system could be used more often.**

Several people interviewed for this report commented that the non-Judicial Services Troopers who share responsibility for prisoner transport sometimes prefer to transport prisoners rather than using the video link. The Judicial Services officer uses the video link most often and is very familiar with the system (he did not receive formal training but taught himself how to operate it by observing the GTE technician). Officers who are not as familiar with the system might be inclined to use it more if they received formal training.

**4. The court system should consider designing the new Bethel courthouse to accommodate future uses for interactive video, including video conferencing.**

Video conferencing between the courthouse and the correctional facility (or other court locations, e.g., Fairbanks) is potentially promising. Probation officers, presentence reporters, pretrial investigators and others could meet with in-custody defendants via video link. The courthouse design committee should at least consider whether the new courthouse could be designed to accommodate these or other potential future uses.