



Expanding Protection for Sexual Assault Victims

A Report in Support of AK House Bill 112

2/23/17

The Community United for Safety and protection is asking Alaskan legislators to close a loophole that allows police to have sexual contact and sexual penetration with people who are under active criminal investigation as victims, witnesses, or defendants. In prostitution sting operations that are conducted under the guise of rescuing sex trafficked victims, police are able to have penetrative sex and other sexual contact with sex workers and sex trafficked victims.

This is especially alarming when youth are targeted for “rescue.” It is time for Alaskan legislators to take the lead in drawing a line in the sand and saying this behavior is not acceptable and it is a criminal act.

Index of Supporting Documents:

Rachel's story:

<http://sextraffickingalaska.com/rachels-story/>

Vivian's story:

<http://sextraffickingalaska.com/groped-during-a-prostitution-sting/>

Michelle's story:

<http://sextraffickingalaska.com/michelle-police-officer-coerces-sex-from-16-year-old/>

Recording and transcript of State Troopers interacting with a woman who had reported to them that she was a sex trafficking victim:

<http://sextraffickingalaska.com/alaska-state-troopers-sting-sex-trafficking-victim/>

Description of Detective Detective Dojaque receiving a hand job during a prostitution sting operation at a massage parlour:

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Research findings that 26% of Alaskan sex workers and 60% of Alaskan sex trafficking victims reported being sexually assaulted by police officers:

<http://sextraffickingalaska.com/pdfs/AKSWR.pdf>

Alaska State Trooper's Reality Show, S2, E12, showing police wiping something from a handcuffed women's hands after she interacted with an undercover officer during a prostitution sting operation (start watching at 15m):

<https://www.youtube.com/watch?v=fx6z1nxBmrY&t=1706s>

Alaska Supreme Court finding that sexual contact during a prostitution sting is not a due process violation:

Municipality of Anchorage v Flanagan, 1982

APD Officer Eric Frank Feitchinger's successful defense of producing BDSM themed child pornography as an investigative technique:

3AN-90-8896 CI

Supreme Court rules Alaska State Trooper should not have been fired for sex with crime victim:

<https://www.adn.com/anchorage/article/supreme-court-trooper-shouldnt-have-been-fired-sex-domestic-violence-victim/2014/05/08/>

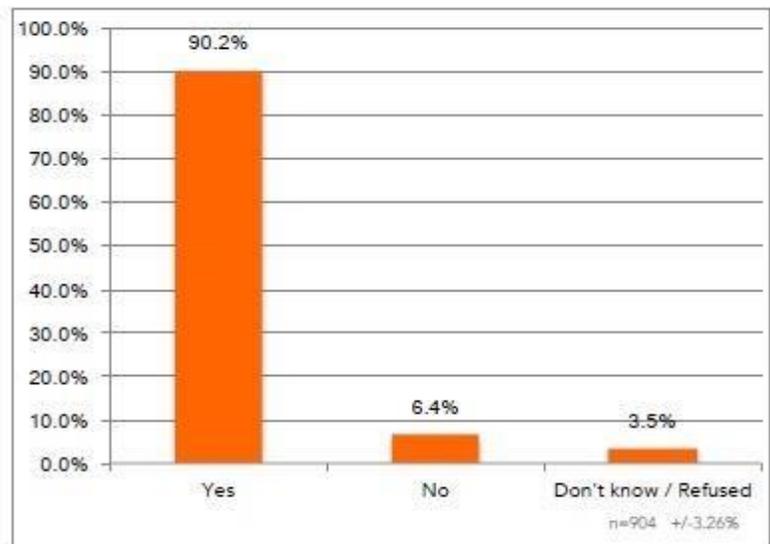
State v PSEA, 2014

Currently police sexual misconduct in Alaska is criminalized in two specific ways:

1. Coercion – if a police officer, probation officer, etc., uses the threat of arrest or return to jail to coerce someone into sexual contact or intercourse, it is not sexual assault under Alaska state law but it is coercion. This was decided in 2012 in the case of probation officer James Stanton, who was convicted of coercing 14 women in his care into having sexual contact with him to avoid going to jail.
2. In Custody – it is sexual assault for a police officer to have sexual intercourse or sexual contact with a person who is in their custody or apparent custody. This statute came into being after the Henry Rollins case via a Governor’s bill in 2013.

The problem:

It is NOT illegal in Alaska for police officers to use sexual intercourse or sexual contact as an investigative tool, or for police officers to have sexual intercourse or contact with victims, witnesses, or alleged perpetrators of crimes they are actively investigating. 26% of Alaskan sex workers and 60% of Alaskan sex trafficking victims reported having been sexually



assaulted by a police officer. It also seems that police having sex with assault victims after “rescuing” them is something that has occurred to some extent in Alaska. This damages the capacity of Alaska police agencies to act in the interest of public safety.

Currently well over 67,000 people have signed a Care2 petition asking Alaskan lawmakers to make this illegal. A December 2016 survey performed by Hays Research Group found that 92.9% of Alaskans were not aware that police are able to have sex during prostitution stings and 90.2% of Alaskans think it should be illegal for police to have sex with prostitutes during prostitution stings.

The solution:

Sexual assault by those acting as peace officers needs to be brought out of the personnel realm and into the realm of criminal law. Specific language to address sexual

penetration and sexual contact with victims, witnesses, or defendants under active investigation by an officer should be added to the sexual assault statute.

CUSP proposes adding the underlined language to AS 11.41.425 and AS.41.427:

*(4) while employed in the state by a law enforcement agency as a peace officer, or while acting as a peace officer in the state, engages in sexual penetration with a person with reckless disregard that the person is in custody or the apparent custody of the offender, [OR] is committed to the custody of a law enforcement agency, **or the person is the victim of or witness to a crime under investigation by the peace officer;***

Common Questions

But the police say this doesn't really happen?

The overwhelming evidence says that it does – in research done at UAF in 2014 26% of Alaskan sex workers and 60% of Alaskan sex trafficking victims reported being sexually assaulted by a police officer. Additionally, some charging documents have reported police officers getting hand jobs and Season 2, Episode 12 of the Alaska State Troopers Reality show showed officers wiping what appeared to be semen from a woman's hand while she was in handcuffs – the officer was still in his underwear. That woman is available to speak with law makers upon request.

You can listen to Rachel's story of police having sex with her during a prostitution sting here: <http://sextraffickingalaska.com/rachel-another-victim-of-state-sponsored-rape/>

And Michelle's story of being coerced into performing oral sex on an Anchorage police officer as a juvenile here:

<http://sextraffickingalaska.com/michelle-police-officercoerces-sex-from-16-year-old/>

And you can listen to a recording made by Alaska State Troopers of their follow up with a woman who had reported being a victim of sex trafficking or read a transcript here: <http://sextraffickingalaska.com/alaska-state-troopers-sting-sex-trafficking-victim/>

<i>"[After being sexually assaulted by "I myself have had them pose as an officer] I never thought of the customers and actually complete a police as someone I could go to for sexual act with me and then try to help, because more than likely arrest me however I didn't touch the they're going to bust you or want money so they couldn't arrest me you to do them a favor. One way and, um... I felt raped after. or another you were gonna end up Completely raped." in a bad place."</i>

In a letter to state officials, a former mental health counselor described what a client who had been a police officer told him about prostitution stings: “the officer in question reported to me, in an individual therapy setting, that he had been on loan to another police agency in Alaska, (the Anchorage Police Department), engaged in a sting operation regarding sex workers, or ‘prostitutes.’ In his relating of a specific encounter, he chuckled, laughed, and appeared to brag about having engaged in sexual act(s) with a woman he soon after arrested for offenses related to her profession as a sex worker.”

Essentially this is a question of epistemology – how do you know what you know? – do you believe a person in authority who tells you that it never happens, or do you believe the overwhelming evidence and testimony of those it has happened to? Besides, if it never happened why would making it illegal be a problem?

But the police told me that if police did have sexual intercourse or contact with a crime victim, witness, or defendant they were investigating the officer would be arrested?

In charging documents against Yin Mei Tran Lau (3AN-14-8995CR) Detective Dawn Neer of the Anchorage Police Department describes Detective Dojaque receiving a hand job from an alleged sex trafficking victim, but Detective Dojaque was not arrested.

An Alaska State Trooper had sex with a victim after arresting her assailant, but he was not arrested. He was fired, but in *State v Public Safety Employees Association* in 2014 the Alaska Supreme Court determined that he had not broken any rules or laws and should not have been fired, saying: "Blinkered to the breadth of the allowable inquiry, the court today looks for—and fails to find—“any explicit, well-defined, and dominant public policy requiring termination, rather than suspension, as the only proper discipline for a trooper’s consensual and noncriminal sexual misconduct.”

(<https://www.adn.com/anchorage/article/supreme-court-trooper-shouldnt-have-beenfired-sex-domestic-violence-victim/2014/05/08/> or find the case here: <https://govt.westlaw.com/akcases/Search/Template/Party>)

Season 2, episode 12 of the Alaska State Troopers Reality Show showed the aftermath of a police officer having a hand job, but that officer was not arrested.

In 2014 the Alaska State Troopers Special Crimes Investigative Unit followed up with a woman who had reported being a victim of sex trafficking via a prostitution sting, and although the recording (listen here: <http://sextraffickingalaska.com/alaska-statetroopers-sting-sex-trafficking-victim/>) features the officer moaning, saying he’s never had that before, and asking if she can feel his heartbeat, he was not arrested.

Why don’t you just report the police to the police?

We have! In 2015 we made a complaint to the state Office of Professional Standards about the State Trooper’s own recording of a prostitution sting during which a trooper

can be heard moaning and saying he's never had that before and asking the sex trafficking victim if she can feel his heartbeat down there, but the Department of Public Safety asserted that no contact had taken place and that this was a standard way of building rapport with crime victims.

Also in 2015, with the assistance and urging of Ms. Wilcox and Mr. Williams (both, at the time, special assistants to Governor Walker), we tried to report an officer who had sex with Rachel to completion during a prostitution sting (<http://sextraffickingalaska.com/rachel-another-victim-of-state-sponsored-rape/>) but Captain McCoy (at the time Sergeant of Internal Affairs) informed us that if there had been no coercion and she had not been under arrest at the time, it would not be a criminal investigation but a personnel issue. As a personnel issue, there would be no

privacy or protections for Rachel and the officer would be notified of Rachel's name and address within four days of her complaint.

We believe we have done more than our due diligence in attempting to address these matters through the means available with the respective police agencies and now it is time for law makers to act to bring this behavior out of the personnel realm and into the criminal courts. It is time to bring the sexual assault statute in line with Alaskan values and the wishes of Alaskan voters.

Is it a due process violation?

In 1982 in *Flanagan vs Municipality of Anchorage*, Flanagan claimed a due process violation because a police officer had gotten a hand job from her. The Alaska Supreme Court ruled that "Any case involving a

potentially tenable due process claim would require the existence of outrageous police conduct, shocking the universal sense of justice and violating the concept of fundamental fairness... We do not think that Chandler's [the officer's] conduct approaches this level of seriousness."

However, as the universal sense of justice has evolved, other courts have found that it is a due process violation. In *State of Minnesota v. Betsey Lou Burkland* (2009), the court ruled that "when a police officer's conduct in a prostitution investigation involves the initiation of sexual contact that is not required for the collection of evidence to establish the elements of the offense, this conduct, initiated by the investigating officer, is sufficiently outrageous to violate the 'concept of fundamental fairness inherent' in the guarantee of due process."

"I had just touched the cop's penis right before they busted in and cuffed me... I asked over and over again to wipe it off. The idea of icky oil with dick germs on it just sitting on my hands grossed me out. Had the session gone normally I would have been able to wash up on my own accord. Not being free to wash that oil off my hands really pissed me off. They were trying to 'save' me but they didn't care what kind of germs they were allowing to sit on my skin."

A little history of police sexual misconduct in Alaska:

1990: Anchorage Police Officer Eric Frank Feitchinger successfully demonstrated that he did not violate any Anchorage PD policies in using juvenile Eagle Scout volunteers to make master/slave BDSM themed child pornography. Because he could demonstrate this, he was acquitted of criminal charges and received a judgement against APD for firing him in 3AN-90-8896CI.

2005: Anchorage PD treated rape allegations against Officer Anthony Rollins as a personnel rather than criminal issue for way too long and in 2012 was ordered to pay \$5.5 million dollars to victims. 2013's SB22, which made it illegal for police to sexually penetrate or have sexual contact with people in their custody was an attempt to make criminal behavior like Rollins', but the new law would not apply to all of Rollins' rapes.

<https://www.adn.com/alaskanews/article/lawsuits-rollins-rape-case-cost-anchorage-55-million/2012/09/04/>

2007: Alaska Supreme Court found that a state trooper should not have been fired for sex with a domestic violence victim after arresting her assaulter because he had not broken any rules or laws. It was treated entirely as a personnel

issue. <https://www.adn.com/anchorage/article/supreme-court-trooper-shouldnt-have-beenfired-sex-domestic-violence-victim/2014/05/08/>

2012: In the James Stanton case a judge found that the sexual assault statute is too narrow to apply to law enforcement officers who use their badge to extort sex: "In 2012, an Anchorage judge dismissed the sexual assault charges, saying if the women agreed to sex to avoid or hide drug tests the acts were, by law, consensual."

<https://www.adn.com/crimejustice/article/lawsuit-against-fired-probation-officer-details-years-job-sexual-abusetroubled/2014/08/24/>

2012: Prosecutorial issues with police sexual assault cases:

<http://juneauempire.com/local/2012-02-10/judge-accepts-plea-deal-brian-ervin-finds-sexabuse-victim-credible>

2015: a Selawick VPSO was charged with providing alcohol to a 13-year-old. Investigators apparently didn't investigate enough and HR didn't successfully address the issue either, because while awaiting trial in that case, Mr. Norton provided alcohol to and then raped a 16year-old who then stopped breathing and died.

<http://www.ktuu.com/news/news/selawickteen-dies-after-substitute-village-patrol-officer-supplies-alcohol/36548648>

2015: the new sexual assault statute was successful in this case:
ktuu.com/news/news/formerbethel-police-officer-charged-with-attempted-sexual-assault/36289998

A 2016 Associated Press review of 1000 officers who've recently lost their licenses for sexual misconduct, much of it involving children, and police department responses: <http://bigstory.ap.org/article/fd1d4d05e561462a85abe50e7eaed4ec/ap-hundredsofficers-lose-licenses-over-sex-misconduct>

Case 3ANS-14-8995, page 14-15:

“After KONG finished massaging his back and arms, he turned onto his back, facing up on the massage table. When KONG was standing by his right side, he pulled down the towel and looked at KONG. He pointed to his penis with his left hand and motioned like having being manually masturbated with his right hand. KONG looked at the door that was ajar to the room and then looked back down over Det DOJAQUE’S penis and reached her hand under the towel, touching his penis. At that time, Det DOJAQUE gave the predetermined take down signal and the entry team entered the business”

