

Impeachment standards up in air

by Marla Williams

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JUNEAU—The consciences of 20 Alaska lawmakers rather than any written law will likely determine what is considered an impeachable offense, and what standard of proof is used to judge Gov. Bill Sheffield.

That's the gist of a 52-page report from the Legislative Legal

Division.

"We know that an impeachable offense is not something trivial," says Anchorage Senator Joe Josephson, a member of the Rules Committee, which will hold the impeachment hearings.

"We think that we know that an impeachable offense need not be crime, but we don't know much more than that...lawmakers

are going to have to determine what is an impeachable offense. There just aren't any hard and fast rules or laws," Josephson says.

Exactly what constitutes an impeachable offense is the "threshold question" says Sheffield defense attorney, John Conway.

And it probably won't be until

lawmakers answer that question that Sheffield's attorneys will know how hostile a territory they must enter in their defense of the governor.

Conway says that he and co-

of an official's conduct has been based on those three criteria, Conway says, only high crimes such as treason or bribery, or extremely dangerous official misconduct, have been con-

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defense counsel Philip Lacovara believe three criteria should be used to judge whether an official's conduct is impeachable.

"First, you have to ask if the conduct was obviously wrong," says Conway, "then whether the conduct of the official presented a threat to the order of political society."

The third, and possibly most crucial point, says Conway, is "whether allowing the individual to remain in office creates an actual danger to the public."

Historically, when judgement

sidered impeachable.

In all the thousands of pages of evidence gathered by the Juneau grand jury, investigating the Sheffield Administration's handling of a \$9.1 million dollar lease for state office space in Fairbanks, Conway says, there is nothing that justifies impeaching Sheffield.

But Josephson says the jury is still out on the arguments made by Sheffield's lawyers.

"I've heard the Governor's counsel say that, even if the grand

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jury's report is correct, Sheffield's actions don't rise to an impeachable offense. But I haven't made that determination," he says. "The Governor's innocence is only a contention of his attorneys."

Senate President Don Bennett has asked for advice from the legislature's regular legal staff, and from the special counsel hired just for the impeachment hearings.

"We're still searching for the truth," says Bennett.

"We'd like to agree on some kind of standard but the final decision is going rest on the individual senators," Bennett says.

The legislature's legal staff say in their report they believe the state's founding fathers were intentionally vague on the topic of impeachment.

But after combing 25-year old notes from Alaska's constitutional convention, the attorneys suggest there are four criteria the framers of the state's constitution would want present day lawmakers to

use to judge Sheffield's conduct. Those standards include:

—Impeachment should be for misconduct of official duties or abuse of official position. But violation of a criminal statute is not necessary.

—The effect of the conduct should be such that it seriously undermines the public's faith in the official's ability to carry out his duties.

—The official's overall conduct in office, not just a single action, may be considered.

The primary purpose of impeachment should be to protect the public, not punish the offending official.

Bennett and Josephson both say they would like lawmakers to agree on a standard for impeachment before the hearings begin next Monday.

"If we don't have a standard in the Senate, we could report an impeachment article that will not have great credibility," says Josephson. "I feel the public is entitled to know what our standard is."