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**Final Report**  
of the  
**Alaska Criminal Justice  
Assessment Commission**

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**May 2000**

## Executive Summary

The Alaska Criminal Justice Assessment Commission (CJAC) was created in 1997 when the National Institute of Corrections selected the State of Alaska to participate in the federally-funded Criminal Justice System Project. The Governor's Criminal Justice Cabinet<sup>1</sup> sought participation in the project to study the problem of prison overcrowding. Its goal was to bring together representatives from across the criminal justice system spectrum and members of the public to participate in the review and to collectively develop recommendations to alleviate the problem. Once Alaska was accepted into the project, Governor Tony Knowles, Chief Justice Warren Matthews, Senate President Mike Miller, and House Speaker Gail Phillips appointed the members of the Criminal Justice Assessment Commission. All three branches of government were represented on the Commission along with a number of other groups and individuals with interests in criminal justice issues.

The Commission began meeting in July of 1997. Participants included representatives from: Alaska's Supreme, Superior and District Courts; the Alaska Court System administration; the Criminal Justice Cabinet; the Public Defender Agency; the Office of Public Advocacy; the Alaska State Legislature; the Alaska Judicial Council; Victims for Justice; the Alaska Native Justice Center; and the substance abuse treatment community. The Commission used a consensus model to carry out its work and develop recommendations.

The Commission created five committees to carry out its work:

- Alcohol Policy Committee;
- Decriminalizing the Mentally Ill Committee;
- Pretrial Practices and Procedures Committee;
- Probation and Parole Committee; and
- Sentencing Committee.

Committee membership included representatives of state and local agencies, treatment providers, and other interested organizations and individuals. Each committee held regular meetings to study issues and generate recommendations and proposals to present to the Commission. The recommendations adopted by the Commission are summarized below.

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<sup>1</sup> In 1995, Governor Knowles directed that a group of his cabinet members meet on a regular basis for the purpose of coordinating efforts in the area of criminal justice planning. This group, consisting of the Attorney General and the Commissioners of the Departments of Public Safety, Corrections, and Health and Social Services, is referred to as the Criminal Justice Cabinet.

# Alcohol Policy Committee Recommendations

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**The Commission supports an increase in the statewide excise tax on alcoholic beverages by measures such as Initiative 99ATAX.**

**Goals:** To reduce crime and child abuse, to increase public safety, and to reduce costs of criminal justice system agencies.

**Commentary:** The Commission believes the excise tax on alcoholic beverages should be increased. Studies show that when the price of alcohol is increased, the amount of alcohol consumed by every type of drinker decreases. A decrease in consumption reduces the number of alcohol-associated problems - violent crime, child abuse, sexual assault, suicide, motor vehicle fatalities, and drunk-driving - all of which result in immense costs to the state. According to a 1989 estimate by the State Office of Alcoholism and Drug Abuse, the state spends \$184,829,417 annually in costs associated with substance abuse. In 1999 dollars, that cost is now \$245,823,125. A tax increase would cost nothing to implement. Yet, it could potentially realize great savings through a reduction in costs associated with alcohol abuse.

Taxes on alcoholic beverages have fallen by almost 75 percent since 1961. In 1961, the tax on the average alcoholic drink was equivalent to \$0.47 in 1997 dollars. In 1997, the average tax on an alcoholic drink in Alaska was only \$0.13. The legislature has not increased alcohol taxes in Alaska since 1983.

The \$.25 per drink tax increase proposed in Initiative 99ATAX would generate \$70 million dollars each year in new tax income. A portion of this, used within the constitutional limits for state spending, could fund rehabilitative treatment programs and services that, in turn, would lead to further savings through decreased recidivism and decreased demand for state services.

**Action Needed:** Requires substantive legislation but no new funding.

**Implementing Agencies:** The legislature and the Department of Revenue.

2. **The Commission supports legislation allowing municipalities to tax alcoholic beverages at a rate independent of the rates used for other sales.**

**Goals:** To reduce crime and child abuse, to increase public safety, and to reduce costs of criminal justice system agencies.

4. **The responsibility for coordination of, and education on, alcohol policy should be vested in one person, rather than shared by many.**

**Goals:** To reduce crime, child abuse and neglect, and other consequences of alcohol addiction, and to reduce the costs associated with those consequences.

**Commentary:** The Commission believes that the state must address the problem of alcohol abuse using a highly visible, focused, and coordinated approach. Many Commissioners, including those from Law, Public Safety, Health and Social Services and Administration, currently share responsibility for dealing with the impact of alcohol abuse. No one person has the responsibility to develop policies and implement measures that go to the root of the problem. At the federal level, the creation of a cabinet level drug "czar" has dramatically enhanced public visibility of the drug problem and has focused attention on coordinated approaches to the problem. This administration should consider the creation of a similar position for alcohol issues. Due consideration also should be given to broadening and strengthening the existing Governor's Advisory Board on Drug and Alcohol Abuse.

**Action Needed:** Requires substantive legislation and funding.

**Implementing Agencies:** The legislature and the executive branch.

5. **The legislature should increase the number of members on the Alcohol Beverage Control Board from five to seven, with the two additional members representing the public health or medical community and the law enforcement community.**

**Goals:** To make the Alcohol Beverage Control Board more reflective of and responsive to the public's interests.

**Commentary:** Given the pervasive impact of alcohol on Alaska society, it is imperative that the public interest be fairly represented in each and every decision of the ABC Board. AS 04.06.020 mandates that two members of the board be actively engaged in the alcoholic beverage industry. Historically though, at least one other member of the board has created a majority for alcohol dispenser interests because of past experience in the industry. While

**Goal:** To decrease rural and Bush crime by decreasing unlawful drinking in dry towns.

**Commentary:** In rural and Bush Alaskan communities, the amount of violent crime is directly proportional to the amount of alcohol consumed by the residents. The majority of villages in four rural regions (those surrounding Bethel, Nome, Kotzebue, and Point Barrow) have responded by prohibiting the sale and importation of alcohol, but the hub communities in these four regions remain either “damp” or “wet.” The Commission believes that measures designed to restrict the availability of illegally-imported alcohol in the dry areas of Alaska will reduce violent crime in those areas.

The Legislature should amend AS 04.11.010(c) to reduce by half the amount of alcohol necessary to trigger the “possession for sale” presumption. The legislative change to AS 04.11.010(c) should include a point system for each type of alcoholic beverage, so that liquor laws can be better monitored and enforced. The proposed amendment is:

- (c) In a criminal prosecution for possession of alcoholic beverages for sale in violation of (a) of this section, the fact that a person possessed more than [12 LITERS OF DISTILLED SPIRITS, 24 LITERS OR MORE OF WINE, OR 12 GALLONS OR MORE OF MALTED BEVERAGES] 24 points or more individually or in combination of distilled spirits, wine, or malt beverages in an area where the sale of alcoholic beverages is restricted or prohibited under A.S. 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale. This is based on the following point system: 1 liter of distilled spirits = 4 points; 1 liter of wine = 2 points; 1 liter of malted beverages = 1 point.

**Action Needed:** Requires substantive legislation. Initially, legislation may lead to a need for increased funding due to a potential increase in the number of bootlegging violations. However, this initial spike in violations (and funding) is not expected to continue for the long-term. The Commission anticipates an overall reduction in criminal justice system costs through a reduction in alcohol-related crime.

- 7(c). **The Office of the Governor should strongly request that the United States Postal Service put a higher priority on curtailing the illegal mailing of alcohol to dry communities and increase its level of cooperation with state, local and tribal law enforcement.**

**Goals:** To decrease alcohol-related crime in dry communities and reduce criminal justice system costs.

**Commentary:** The Chief Inspector of the U.S. Postal Service for the Alaska Region could greatly increase the interception of illegally imported alcohol by placing a higher priority on stopping alcohol importation by mail. Increased cooperation with state, local and tribal law enforcement in cases involving violations would have a strong deterrent value in local communities. Last year, the majority of alcohol violations discovered by postal employees were not forwarded to state enforcement officials for follow-up investigation or prosecution. More prosecutions would deter future violations.

**Action Needed:** Requires agency policy change or action. Initially, may lead to a need for increased funding due to a potential increase in the number of violations. However, this initial spike in violations (and funding) is not expected to continue for the long-term. The Commission anticipates an overall reduction in criminal justice system costs through a reduction in alcohol-related crime.

**Implementing Agencies:** The Governor, the court system, law enforcement agencies, prosecution and defense agencies, and the United States Postal Service.

**8. Recommendations relating to underage drinkers.**

- 8(a). **The Commission's successor organization should evaluate and recommend programs for diversions, incentives for treatment, and enhanced consequences to better modify underage drinking behaviors without triggering the appointment of counsel and jury trials. The successor organization should explore the feasibility of creating a new misdemeanor offense for repeat minor consuming alcohol offenders, and of changes to administrative driver's license revocations to encourage treatment.**

show 89 percent of the defendants who completed Youth Court, by successfully satisfying their court-imposed conditions, did not come back to the justice system before their eighteenth birthday. The Commission believes that use of youth courts to help reduce underage drinking for offenders 18 to 20 warrants further study. Because the Youth Court system is staffed principally by unpaid volunteers, it costs little to operate. Greater use in youthful offender cases could lead to substantial savings for all criminal justice system agencies and the Department of Motor Vehicles.

**Action Needed:** Requires action by the Commission's successor organization.

**Implementing Agency:** The Commission's successor organization.

9. **The State should increase the number of substance abuse treatment beds for Alaskans in need of intensive residential alcohol treatment.**

**Goals:** To decrease crime, recidivism and related costs by treating alcohol abuse and addiction.

**Commentary:** Alcohol programs that provide the intensive residential treatment needed by many long-term or chronic alcohol abusers are constantly and severely short of space. The few existing programs usually refuse treatment to clients who have a previous history of violence, even though effective treatment of these persons could provide a great public benefit by reducing future violent crime. The treatment bed shortage also means that few resources exist to permit the involuntary commitment of alcoholics, who pose a risk to themselves or others, resulting in the use of expensive jail beds. More programs are needed.

**Action Needed:** Requires agency policy action and funding.

**Implementing Agencies:** The legislature, the Department of Corrections, and the Department of Health and Social Services.

10. **The Department of Health and Social Services should review the progress made in the use of Title 47 civil commitment procedures for alcoholics and addicts and consider further changes to reduce jail stays by chronic substance abusers.**

12. **The state should encourage the development of a standard information release form and a standard interpretation of that form to be used among various substance abuse treatment providers and state agencies.**

**Goals:** To get addicted offenders into treatment quickly, to facilitate treatment monitoring, and to achieve savings by avoiding duplicative action.

**Commentary:** Federal and state laws impose confidentiality requirements on substance abuse assessment and treatment information. These create significant barriers to the sharing of information between treatment providers and state agencies working with a client. Clients may sign a release that permits the information to be released, but differing interpretations of releases based on differing reasons for their existence result in limited use of the release. Development of a standardized release form(s) for limited purposes would speed the assessment and treatment of offenders and reduce delay and duplication of effort.

**Action Needed:** Requires agency policy action but no new funding.

**Implementing Agencies:** The Department of Corrections and the Department of Health and Social Services.

13. **State agencies, treatment providers, tribal entities, and community organizations should collaborate to establish programs and procedures that emphasize the treatment and monitoring of underlying alcohol, drug and inhalant abuse and psychological disorders.**

**Goals:** To reduce recidivism, by directly addressing the underlying addiction and mental health problems contributing to criminal conduct, and to reduce criminal justice system costs.

**Commentary:** The federal government and state and local governments are beginning to believe that treating an offender's addiction or mental disability may be the best way to prevent recidivism. Jurisdictions are using a variety of different approaches to provide offenders with treatment. Some divert offenders prior to entry of a plea and dismiss cases after successful completion of treatment. Some allow only for post-plea participation with probation conditions that require monitoring and treatment. Programs may be designed for juvenile offenders or adults, felons or misdemeanants. Some



**Implementing Agency:** The court system in cooperation with treatment programs.

15. **The state should encourage the expansion of the Department of Health and Social Services Alcohol Safety Action Program (ASAP) through legislation and funding.**

**Goals:** To increase the success of alcohol and substance abuse treatment and thus reduce probation revocations and recidivism.

**Commentary:** ASAP screens offenders for problem drinking, refers offenders to treatment programs, and monitors compliance with court-ordered alcohol treatment. The legislature created ASAP in 1977 to identify problem drinkers early in their contacts with the criminal justice system. Administered through the state Department of Health and Social Services, ASAP screens all persons convicted of driving while intoxicated for alcohol problems. For ten years, it also monitored other offenders' compliance with drug and alcohol treatment, anger management, counseling, parenting training, and other matters. ASAP also monitored court-ordered random drug-screening tests, and forwarded positive results to prosecutors. ASAP provides the only routine supervision for misdemeanor offenders who are not supervised by parole/probation officers.

Alcohol abuse is a major factor in domestic violence ["DV"] assaults. An estimated 50 percent of the 3,000 DV protective order requests filed in Anchorage in 1998 were alcohol or drug-related. Courts can order an alcohol assessment and treatment when issuing a six-month DV order, but they rarely do so because no monitoring is available. If the scope of its monitoring abilities were expanded, ASAP could perform this function.

Between 1988 and 1995, ASAP's caseload almost doubled but its budget shrank. It closed five offices and significantly cut back on monitoring offenders' compliance with treatment. Many misdemeanants' compliance with court-ordered treatment is no longer monitored. The Commission views the Alcohol Safety Action Program (ASAP) as one of the most important alcohol abuse intervention tools in the state. The Commission strongly recommends that the legislature restore funds to ASAP and expand its monitoring ability.

make it worthwhile on an overall cost-benefit analysis. Federal and state agencies that fund alcohol treatment have criteria that programs must meet before receiving funding. Programs that incorporate “cultural” elements do not always meet these agencies’ criteria. Establishing the effectiveness of new or alternative treatment modalities to the satisfaction of these agencies is often difficult. Many Native offenders therefore go untreated. For example, many treatment programs require literacy skills. If a young Native client lacks literacy skills, it may be appropriate to encourage him or her to obtain a GED and become literate. A different approach may be more appropriate for an older Native client whose lack of literacy is more related to bilingual issues and who is returning to a village. Very few programs currently exist that can respond appropriately to these needs. The Commission believes the state should support the development of treatment programs that incorporate appropriate cultural elements to treat Alaska Natives.

**Action Needed:** Requires agency policy action but no immediate funding.

**Implementing Agencies:** The legislature, the Department of Health and Social Services, and the Department of Corrections.

18. **Judges who sentence individuals with alcohol issues should ensure that offenders are assessed for treatment. Specific treatment programs should not be required unless justified by a prior assessment.**

**Goal:** To avoid unnecessary complications in meeting sentencing requirements.

**Commentary:** Some rural treatment providers expressed concern that sentencing judges order offenders to complete a *specific* treatment program before the offender had undergone an alcohol assessment. They also expressed concern that many of their clients did not understand why the judge ordered alcohol treatment, noting that this lack of understanding prevents effective treatment. They asked that sentencing judges ensure offenders are assessed for treatment, that they consider the assessment’s recommendations regarding treatment, and that they explain to the offender why they are requiring alcohol assessment and treatment.

**Action Needed:** Requires possible agency policy action but no new funding.

assessment and treatment decisions, as well as time spent waiting for trial and, if convicted, sentencing decisions.

**Action Needed:** Requires agency policy action but no new funding.

**Implementing Agencies:** The Department of Corrections, the Department of Health and Social Services, and, possibly, the court system.

21. **State and local agencies should develop adequate facilities and services, including housing, to address the unique needs of offenders who are suffering from both serious mental disabilities and substance abuse problems.**

**Goals:** To reduce recidivism and to reduce the number of admissions and lengths of stay in DOC and API beds.

**Commentary:** DOC estimates that, on a given day, 77 percent of the mentally ill inmates (679 individuals) treated by DOC staff are “dual-diagnosis,” having both substance abuse disorders and mental health disorders. Offenders suffering both from mental disabilities and from alcohol or drug addiction often have unique treatment needs based on their “dual-diagnosis.” Violent or aggressive behavior is not unusual for these individuals, making treatment problematic. All of the existing community-based programs exclude violent offenders. Part of the Community Mental Health/API 2000 Project will create state-supported dual diagnosis treatment beds in Anchorage. It also will provide psychiatric treatment in conjunction with detoxification and substance abuse treatment. DHSS will use federal funds to design cross-cultural and cross-diagnosis training for mental health and substance abuse providers and to streamline the delivery of services to individuals with dual diagnoses. The state should continue to support this project and ensure that sufficient beds are made available at the community level. The state should also explore ways to expand Medicaid funding streams for substance abuse and mental health services. In addition, the state should support the creation of more treatment programs for dually-diagnosed offenders who are incarcerated. The only DOC programs with a specific treatment component targeted at meeting the needs of inmates with co-occurring substance abuse and mental illness are the substance abuse groups held on DOC’s mental health units. Additionally, although not specifically

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**Action Needed:** Requires substantive legislation but no new funding.

**Implementing Agencies:** The legislature and the Department of Revenue.

2. **The Commission supports legislation allowing municipalities to tax alcoholic beverages at a rate independent of the rates used for other sales.**

**Goals:** To reduce crime and child abuse, to increase public safety, and to reduce costs of criminal justice system agencies.

**Commentary:** Under present Alaska law, cities may not impose a sales tax on alcohol that is higher than the tax imposed on the sale of any other item. See AS 4.21.010(c). Permitting cities to exercise their discretion to tax alcoholic beverages at a rate determined by the community, independent of the taxes assessed on other sales, would produce many of the same benefits described in the commentary to Recommendation B-1 above.

**Action Needed:** Requires substantive legislation but no new funding.

**Implementing Agencies:** The legislature and local communities.

**3. The legislature should remove the statutory cap and increase wholesale license fees to fund increased enforcement of Title 4 statutes.**

**Goal:** To provide better enforcement of laws regarding sales and distribution of alcohol.

**Commentary:** Enforcement of Title 4 laws regarding the sale and distribution of alcohol needs to be more aggressive. More aggressive enforcement requires additional funding for more enforcement personnel. Increasing the revenue generated through license fees, which are already earmarked for local enforcement of Title 4, is an appropriate and reasonable means to generate additional revenue.

Under existing law, liquor wholesalers pay a licensing fee calculated on the amount of sales that they complete, up to a statutory cap of \$10,000 (the maximum license fee charged to a wholesaler who distributes more than \$1,000,000 of alcoholic beverages.) The legislature should remove the cap on those fees. A wholesaler who sells \$2,000,000 worth of alcoholic beverages should be expected to pay a higher licensing fee than someone selling half that amount. Increasing the wholesale liquor license fees would generate approximately \$350,000 to \$500,000 in new revenue.

**Action Needed:** Requires substantive legislation but no funding.

**Implementing Agencies:** The legislature, the Department of Revenue, and local communities.

4. **The responsibility for coordination of, and education on, alcohol policy should be vested in one person, rather than shared by many.**

**Goals:** To reduce crime, child abuse and neglect, and other consequences of alcohol addiction, and to reduce the costs associated with those consequences.

**Commentary:** The Commission believes that the state must address the problem of alcohol abuse using a highly visible, focused, and coordinated approach. Many Commissioners, including those from Law, Public Safety, Health and Social Services and Administration, currently share responsibility for dealing with the impact of alcohol abuse. No one person has the responsibility to develop policies and implement measures that go to the root of the problem. At the federal level, the creation of a cabinet level drug "czar" has dramatically enhanced public visibility of the drug problem and has focused attention on coordinated approaches to the problem. This administration should consider the creation of a similar position for alcohol issues. Due consideration also should be given to broadening and strengthening the existing Governor's Advisory Board on Drug and Alcohol Abuse.

**Action Needed:** Requires substantive legislation and funding.

**Implementing Agencies:** The legislature and the executive branch.

5. **The legislature should increase the number of members on the Alcohol Beverage Control Board from five to seven, with the two additional members representing the public health or medical community and the law enforcement community.**

**Goals:** To make the Alcohol Beverage Control Board more reflective of and responsive to the public's interests.

**Commentary:** Given the pervasive impact of alcohol on Alaska society, it is imperative that the public interest be fairly represented in each and every decision of the ABC Board. AS 04.06.020 mandates that two members of the board be actively engaged in the alcoholic beverage industry. Historically though, at least one other member of the board has created a majority for alcohol dispenser interests because of past experience in the industry. While

alcohol dispenser interests should be represented on the board, adding two members, one from the public health or medical community and one from the law enforcement community, will provide a broader range of interests and ensure that the public interest is better protected. Additional travel and lodging costs for two individuals for the regular meetings of the Alcohol Beverage Control Board would be minimal.

**Action Needed:** Requires substantive legislation and minimal additional funding.

**Implementing Agencies:** The legislature and the Department of Revenue.

6. **The legislature should remove the law enforcement functions of the Alcohol Beverage Control Board from the Department of Revenue and place them in the Department of Public Safety.**

**Goals:** To improve enforcement of Title 4 liquor laws and thus reduce violent crime and other harmful consequences of alcohol abuse.

**Commentary:** The enforcement authority of the Alcoholic Beverage Control Board is undermined by a lack of investigative personnel as well as by the lack of clarity in its mandate. The purpose of the Department of Revenue is to raise revenue, not to assist law enforcement. To ensure quality enforcement of Title 4, this function should be moved to a law enforcement department. Licensing functions would remain with the Alcoholic Beverage Control Board.

**Action Needed:** Requires substantive legislation but no new funding.

**Implementing Agencies:** The legislature, the Department of Revenue, and the Department of Public Safety.

7. **Recommendations relating to dry communities.**

- 7(a). **The legislature should take steps to deter illegal alcohol sale and possession in dry communities by amending AS 04.11.010(c) to decrease the amount of alcohol that individuals may presumptively possess for their own use.**