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Alaska State Legislature

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March 13, 1986

N O T I C E

The attached work draft copy of A Search for Control: The Effect of Alcohol on Public Rights and Private Wrongs is provided for your information only and is not for publication at this time. The Joint Special Committee on Local Option Laws will be meeting within the next few days to review and revise the draft. A copy of the final report, when prepared, may be obtained from my office.

Johne Binkley
Chairman
Joint Special Committee on
Local Option Laws

[redacted]

A SEARCH FOR CONTROL:

THE EFFECT OF ALCOHOL ON PUBLIC RIGHTS AND PRIVATE WRONGS

REPORT TO THE LEGISLATURE

JOINT SPECIAL COMMITTEE ON LOCAL OPTION LAWS

Representative Johne Binkley, Chairman
Senator John Sackett
Senator Vic Fischer
Senator Edna DeVries
Representative Katie Hurley
Representative John Sund

March 1986

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Prologue

The following letter was submitted to the Committee by a Village Public Safety Officer working in a mid-Kuskokwim village. The description of life in a village terrorized by alcohol abusers reflects much of the testimony presented during Committee hearings, although the problems described in the letter are more severe than those which exist in many places.

December 6, 1985

Honorable Committee Members:

I am presently the VPSO in the village of _____. A very unpopular position at the present time. I recognize that the #1 problem in this village is alcohol abuse. 99.9% of the calls and complaints I get are alcohol related. I've been doing this job for at least 3 months now and I admit that because of alcohol abuse throughout the community that this is the most depressing and discouraging job on earth. No exaggeration intended. Because alcohol abuse is so prevalent, at all levels of the community, from the very young to the very old, that drinking to the point of oblivion is the accepted norm for the majority of the population. And what that accepted norm means is: the alcohol abusers, i.e. the bad guys look at themselves as the good guys. Anybody else, the sober, are regarded as the bad guys. And so it is; the community actually lives in constant fear of itself.

As VPSO, alone, with the nearest help about 90 miles away, and in regards to alcohol abuse, all I can do is pick up the pieces, so to speak, after the alcohol binge is over, and care for the victims, usually the innocent, young children that are neglected and sometimes abused, older persons, or women or weaker men, who get beat upon by the drunks who the next day no longer have any recollection of their actions. The real abusers simply sleep it off until the next binge with alcohol.

I'm seeing a lot of horror stories here that I would not have known were possible. Men with facial cuts and bruises,

women with black eyes who outright refuse to talk about what happened. It is heroic not to 'rat' on another person.

Oh, I forget to mention, this is a community that voted for banning the importation and sale of alcoholic beverages. A law that cannot be enforced most of the time. The booze comes in by way of Red Devil and McGrath, stowed away beneath groceries, personal baggage, hidden on a person or mailed in mixed with groceries shipped into the community by friend or relative.

I'm a firm believer in individual rights, even in regards to purchasing and drinking alcohol....except in this community where alcohol abuse is still out of control. Perhaps there are other villages like this one, although I doubt it. The only hope lies in the fact that a good portion of this community is really sick and tired of living with alcohol abuse...even those persons who drink too much themselves. However, as it is now, whenever alcohol is imported into the village, the whole village goes on an alcohol binge.

I know of two (2) families only who no longer drink at all. And no one drinks in moderation. Alcohol abusers carry the day.

Because of this situation, in this village, living in terror of itself, I recognize a sickness, a disease, so deeply set in alcohol that the individuals no longer know what is good and not good for themselves, their families, relatives, friends and neighbors. Under these most severe conditions, stricter enforcement tools are needed. It should be a crime for anybody to sell liquor, beer and alcohol to another person living in a village like _____. Or for anybody to possess any type of alcohol within this community (including homebrew), just as long as alcohol abuse is prevalent. I would also recommend that an Alaska State Trooper be stationed here for a set amount of time, like maybe a year or two.

Although I've only been VPSO in _____ for 3 months, I've otherwise lived in this area since fall (August) 1972. I'm raising a family here too. Beginning in 1979, I've seen 3 good friends die from drownings, alcohol related, six in plane crashes, alcohol related, and one person who was murdered, also alcohol related. I personally know of at least six rape victims in a similar period of time between 1979 and 1985...all were alcohol related. I know of at least four elderly members of the community that have been beat up, both women and men, as well as younger people. I know of one case where a boyfriend beat up his girlfriend, using his hands and feet, blows to the head and body and when finished with the beating, actually 'pissed' on the victim. The victim was pregnant and the baby was born with respiratory problems and died about a month after birth. I

know a guy who got his arm broken trying to save a girl from being beaten on. And so on and so on, horror stories ad infinitim.

Just one more thing. You will not find these stories in the official statistics. Most of these case, mentioned in this letter, were never reported. In fact, perhaps only about 10% of all alcohol related crimes and incidents ever get reported. About 90% is never reported. In a village like _____, the only crimes that get reported are the ones perpetrated many times by the same individual. This individual is turned into the troopers as a last resort, meaning that the community has given this individual one break after another, never reporting the crimes, until the community as a whole is completely terrorized by this individual. Yet, when that same individual is brought before a judge, he is always treated as a first offender and he is therefore released to the very community that he has so terrorized, just to start his revenge on those who turned him in. And so the community lives in terror...at night doors are locked, barred and blockaded.

Alcohol abuse...strikes terror in the hearts of everyone...but it is still the individual abuser who is actually striking fear and terror in others.

Respectfully submitted,

P.S. One of the _____ teachers, going through his second year in the village, described to me recently what he thinks it is like to live in the village: "It's just like living on Fourth Ave. in Anchorage all the time," he said. "Would you like to raise your family on Fourth Ave. Would anyone even consider opening a school on Fourth Ave.? That's what I'm doing. In _____, I'm raising a family and teaching school in an environment just like Fourth Ave."

Another teacher, a single male, lives in continuous fear of his life or at least physical well-being whenever a certain village bully is in the village. Right now the individual is in jail. It is a well-known fact that this teacher is the best the community has ever had, yet because of the terror of alcohol abusers, this teacher will not return after the end of this school year.

A third teacher, an elderly lady, spends almost all of her awake time in the school building. She is so afraid she will not venture anywhere in the community except the post office.

Summary of Report

> It seems like people are being lost between two [sets of] laws...It's been very recent that the State laws have been implemented to our communities...It seems like our laws that were with us for many years, its just like state law took our laws and threw them out the window. It doesn't seem to work for our people anymore. Since state implemented the laws to us it seems like it created a lot of problems, in terms of alcohol-related deaths, suicides, murders, sexual abuses, things like that.
>
> Teddy Coopchiak, Togiak elder

> When we ask for the state troopers to come and help out with problems that we're facing, the answer is always, "We don't have the money."
>
> James Sipary, Toksook Bay

> We have a very alarming violence problem in communities, in the villages. I have to attribute most of it to alcohol...We had more homicides in this detachment than in any other detachment in the state for fiscal year 1984 - 1985...I don't have the time to investigate misdemeanors. My Troopers don't go out and investigate misdemeanors...I don't have the personnel to do it.
>
> Captain Joe DeTemple, Alaska State Troopers D Detachment Commander

Introduction

The numbers of social problems stemming from alcohol abuse in Alaska are staggering. The ravaging affects of alcohol are particularly acute in the isolated native communities of rural Alaska. People in the villages are struggling to accept and accommodate the demands of a Western legal system which is unable to cure the social ills and which appears unresponsive to local needs.

Until recently, alcohol was prohibited in many areas of Alaska from the time alcohol was first introduced into the state. Prohibition was accomplished either by statute or through traditional authority exercised by village councils. Villages may no longer ban alcohol altogether; they are precluded from doing so as a result of the enactment of the present local option law.[1] Many villagers wish to ban alcohol in their communities because they believe that alcohol prohibition is a way to prevent serious social problems from occurring. Moreover, many villagers and analysts believe that existing bans on importing alcohol cannot be enforced unless possession of alcohol is also banned. Therefore, the city councils of several communities in the Yukon-Kuskokwim Delta asked the Legislature to provide them with the statutory authorization to ban possession of alcohol.

Joint Special Committee on Local Option Laws

In order to determine whether Alaska's problems with alcohol abuse are of sufficient severity to legally justify legislation which could result in prohibiting adults from possessing alcoholic beverages in their own homes, the Fourteenth Legislature created the Joint Special Committee on Local Option Laws. The mandate of the Committee, was "to take testimony and collect data on the subject of local

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[1]A.S. 04.11.490 - A.S. 04.11.496

option elections on the question of banning possession of alcoholic beverages within a community."[2]

Three Senators and three Representatives were appointed to serve as members of the Committee. The members are: Senator John Sackett, Senator Vic Fischer, Senator Edna DeVries, Representative Johne Binkley, Representative Katie Hurley and Representative John Sund. Representative Binkley was elected to be Chairman of the Committee, and Laurie H. Otto, an attorney with the Bethel law firm of Otto & Constantino, was hired to advise the Committee on the wide variety of issues with which it was faced.

Committee hearings were held in eighteen far-flung communities throughout Alaska during November and December 1985. The locations of the hearings were: Aniak, Akiachak, Emmonak, Toksook Bay, Nunapitchuk, Bethel, Togiak, Dillingham, Anchorage, Shishmaref, Nome, Gambell, Selawik, Kotzebue, Minto, Barrow, Arctic Village and Fort Yukon.

As a result of travelling through rural Alaska in the winter on small planes and snow machines, Committee Members learned about the isolation of life in rural Alaska, and the degree to which each community must depend on its internal resources. Committee Members experienced some of the sorrows and joys of village life. While Committee hearings were being held in both Nunapitchuk and Selawik, village

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[2]Senate Concurrent Resolution 23, Fourteenth Legislature, First Session

residents were searching the rivers and tundra for persons missing in alcohol-related incidents.[3] These tragedies were balanced by the excitement of watching the landing of a bearded fur seal in Gambell, and of seeing the faces of children in Arctic Village when Santa Claus made his yearly arrival.

Committee Findings

Two significant facts were made clear to the Committee as a result of the hearing testimony. First, villagers want to have strong and healthy communities, but their ability to turn this desire into reality is limited because they do not have meaningful input into, and thus control over, most of the governmental decisions which directly affect their lives. Second, the problems related to alcohol abuse in the villages cut across every aspect of community and family life. In the minds of many villagers, community loss of control over government is closely related to the failure of individual community members to take responsibility for themselves and their families by abusing alcohol.

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[3]In Nunapitchuk, the missing man was not found, and is presumed to have fallen through the ice while extremely intoxicated, and to have drowned. In Selawik, the two missing people were found after several days, between Kotzebue and Selawik. Apparently, the people had left Kotzebue for Selawik in an intoxicated condition, without filling the gas tank on their snowmachine. The snowmachine ran out of gas.

Individuals abuse alcohol, in part, because of a belief that they have lost control over their lives.[4] The resulting abusive, and alcohol-related, behavior is not effectively controlled in many communities. The lack of community control over deviant behavior is caused, in part, by a reasonable belief that enforcement solutions can only be provided by state government. Realistically, however, state government does not have the either the resources or ability to cure local social ills. Thus, the alcohol-related deviant behavior is not controlled and the problems appear to escalate with each passing year.

The belief that enforcement solutions can only be provided by state government is based on the extremely strong dependency relationship binding rural villagers to the state and federal governments. At virtually all levels, and with the best of intentions, government has assumed responsibility for the lives of villagers. In so doing, however, the message has been conveyed that people need not take responsibility for their own lives and for the well-being of their own communities.

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[4] See, e.g., Richard H. Robbins, "Alcohol and the Identity Struggle: Some Effects of Economic Change on Interpersonal Relations," pp. 158-190 at 171, in Beliefs, Behaviors, & Alcoholic Beverages: A Cross-Cultural Survey, University of Michigan Press, 1979.

Recommendations for Local Option Legislation

After considering a vast body of evidence, the Committee found that the harm caused by alcohol abuse is so pervasive, serious and overwhelming that villages should have the authority to ban possession of alcohol. Because a measure banning possession of alcohol will only be effective if it receives substantial community support, the Committee decided that the local option election procedure should be followed by communities wishing to ban possession. The Committee also determined that statutory amendments authorizing communities to ban possession of alcohol should be designed to maximize internal community implementation and local enforcement of the law. If the law were structured in this way, communities would gain more control over local problems, local self-government efforts would be encouraged, and greater responsibility for controlling deviant community behavior would be returned to the villages.

The Committee has proposed legislation which would add a new alternative to the present local option law: an option to ban possession of alcohol, including homebrew. Incorporated municipalities which elect to ban possession would be able to do so by municipal ordinance; established villages could prohibit possession of alcohol by opting to implement an identical state statute. The only permissible penalty for possessing alcohol in violation of a ban would be a fine or community service. Violation of a ban on

possession of alcohol would not be a criminal offense and violators would not receive a criminal record.

The proposed legislation authorizes the Alaska Supreme Court to set a bail forfeiture schedule for violations of the law. Because the statute allows for bail forfeiture, persons not contesting a citation for possessing alcohol could simply mail the appropriate amount of bail to the nearest court in lieu of a fine. Because many villagers have limited access to cash, community service performed under the direction of the city or village council could be substituted for cash bail. One hour of community service would be equal to $5.00 in cash. Persons contesting a citation would be entitled to a court trial before the nearest judicial officer, and would have the option of performing community service in lieu of any fine imposed by the court. Immediate confiscation of the contraband liquor would be allowed. Forfeiture and destruction of confiscated alcoholic beverages would be permitted in cases where a person either forfeits bail or is convicted of violating the law.

Additional Recommendations

In addition to the local option legislation which has been proposed, the Committee has five recommendations based on the testimony presented during the hearings and the research conducted on behalf of the Committee:

1. The penalty for minor consuming alcohol should be

reduced from its current status as a misdemeanor to a violation punishable by penalties similar to those proposed for possession of alcohol in violation of a local option law. The present laws are rarely enforced by the police, or prosecuted by the district attorneys. Since lack of enforcement engenders disrespect for laws, the statute should be made easier and cheaper to enforce. Additionally, as a matter of policy, there is little social benefit to be gained from giving young people a criminal record for possessing alcohol.

2. During Committee hearings, a large number of people testified that "drunk in public" should be recriminalized.[5] This issue is complicated and the Committee is not prepared to recommend recriminalization of public intoxication at this time. However, there appear to be significant problems with the Uniform Alcoholism and Intoxication Treatment Act, particularly in rural Alaska. The Committee recommends that the Uniform Act be carefully studied and evaluated by the Legislature to determine whether it continues to

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[5]In 1981, the House Task Force on Violent Crime noted similar concerns about the legislative decision to decriminalize "drunk in public". The concerns stemmed from the Task Force conclusion that most violent crimes are predictable and based on long histories of alcohol abuse by criminal offenders. See House Task Force on Violent Crime, "Report to the First Session, Twelfth Alaska Legislature," June 1981.

represent an appropriate approach to Alaska's problems with alcoholism and alcohol abuse.[6]

3. The Committee recommends that increased efforts be made in the areas of substance abuse education and prevention of alcohol abuse. Alcohol and drug abuse education must be made a mandatory part of the curriculum at all grade levels in the public schools, with community elders and leaders taking part in the education process to the greatest extent possible. Treatment programs based on a model relevant and workable for Alaskans living in isolated rural villages need to be developed and implemented.

4. Funding for troopers working in rural Alaska and for village public safety officers needs to be increased. The increase in funding must be accompanied by the placement of a greater emphasis on enforcement of laws punishable by misdemeanor penalties. An attempt must be made to intervene in the lives of abusive drinkers before they become unresponsive to social and legal pressures.

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[6]There is no legal impediment to making drunk in public a criminal offense under either the state or federal constitutions. See, Powell v. Texas, 392 U.S. 514 (1968) and Vick v. State, 453 P.2d 342 (Alaska 1969). However, in order to criminalize public drunkenness, the legislature would need to effectuate a change in state policy by amending the Uniform Alcoholism and Intoxication Treatment Act, A.S. 47.37.010, et seq., and by enacting a new statute which prohibits being drunk in public.

5. Executive agencies need to improve their data collection efforts. Further, a serious commitment must be made to using the data collected as the basis for developing and evaluating state policies. In order for officials to reach rational decisions, a consistent historical record, which allows for a reasonable assessment of the repercussions of state action, must be available.[7]

History of Alcohol Regulation in Alaska

> The message of the 1962 [Association of Village Council President's] village meeting was not good. Councils discovered that general prohibitions of liquor backed by village consensus and historically by teacher-missionaries and territorial officials would not receive the backing of state law.
>
> Stephen Conn, Town Law and Village Law

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[7]The recommendation to improve the state's efforts at collecting data is not new, and is frequently made by researchers assigned the task of making policy recommendations to the legislature. See, e.g. Thomas D. Lonner, Janet R. Eidson, and Paul B. Cunningham, "Legislative Action and Village Social Health: The Assessment of Change Through the Use of Statewide Agency Information Systems," 1984; and Alaska Native Health Board, Inc., "Rural Health Issues Study and Statewide Suicide Evaluation Project," 1985. A study which evaluates what went wrong in an area of rural Canada which has experienced dramatic alcohol-related problems points out the disastrous results of making well-intentioned policy decisions without an adequate factual basis. Anastasia M. Shkilnyk, A Poison Stronger Than Love: The Destruction of an Ojibwa Community, Yale University Press, 1985.

> The State said one person can drink in his house and no one can come and bother him. When [I] first heard that, [I] and other people went to [the] city council and told [the council] not to do that. [I] backed it up with what would come later on...if one person drinks in a house without anybody stopping him it will become a problem. [I] tried to tell them, but the city council wouldn't listen to [me].
>
> Dan Nanalook, Togiak elder

From the time of initial Russian contacts with native Alaskans, through the present-day local option legislation, alcohol regulation has been a consistent theme of law enforcement in rural Alaska. Although alcohol has generally been legally available for non-natives, in most of rural Alaska it has only been in the past ten to twenty years that natives have been freely permitted to drink.

Alcohol was used by the Russians as a way to tie workers to the Russian-American Company. The only legal alcohol was that available through the Company stores, and it was rationed out to native workers according to Company policy. The manufacture of homebrew was prohibited through an employment contract which provided:

> Everyone in the service of the Company is forbidden, under any pretext whatsoever, to distill liquor from herbs, roots, berries, Company grain, and so forth; or to buy or barter liquor from visiting foreigners and trade in it on Company premises, to make loans or give money to each other for drinking purposes, then drink liquor or use it in any way at all...[8]

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[8]Stephen Conn, Alcohol Control and Native Alaskans - (Footnote Continued)

The terms of this contract were vigorously enforced.

Following the purchase of Alaska in 1867, the United States military governed the territory until passage of the Organic Act of 1884. Originally, the military prohibited alcohol in the territory by classifying Alaska as an Indian reservation, however, the courts found this classification to be inappropriate.[9] Congress then passed special legislation, extending to Alaska laws which prohibited liquor sales on reservations to Alaska. These laws initially prohibited only commercially-sold liquor, but when it soon became apparent that homebrew was a problem, that too was banned.

Congress responded to Alaskans' pleas for a civil government with passage of the First Organic Act of 1884. Under Section 14 of the Act, "...the importation, manufacture, and sale of intoxicating liquors in said district except for medicinal and scientific purposes is hereby prohibited."[10] Despite the language of the Organic Act, the non-native population took the position that Congress had passed the prohibition law solely for the

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(Footnote Continued)
From Russians to Statehood, 1980. Professor Conn has written a series of papers on the history of legal institutions in rural Alaska. The research contained in Professor Conn's papers on "bush justice" provided the foundation for the historical information set forth in this report.

[9] United States v. Seveloff, 1 Ak. Fed. Rpts. 64 (1872)

[10] 37 Stat. 512

natives. Although sale of alcohol to natives was considered a serious offense, juries refused to charge non-natives selling alcohol to non-natives.

Enforcement of the prohibition laws was hampered by Alaska's size and the unavailability of adequate transportation. Moreover, the Alaska Commercial Company actively opposed the enforcement of liquor regulations because alcohol was used by the Company as a way to purchase furs. In remote areas where the Alaska Commercial Company was the only source of imported food and equipment, supplies were withheld from liquor enforcement officers as a means of driving them out of the Territory.

In order to enforce the liquor laws, as well as laws prohibiting the indiscriminate slaughter of marine mammals, the Treasury Department sent enforcement officers to Alaska on revenue cutters. Although the officers on the cutters discovered the manner in which alcohol was being illegally distributed to the natives, once again difficulties enforcing the law caused by Alaska's immense size were quickly encountered. A solution to the enforcement problem was suggested: "the right to search suspected vessels for contraband goods."[11]

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[11]Captain C.L. Hooper, Report on the Cruise of the U.S. Revenue-Steamer Corwin in the Arctic Ocean, November 1, 1880, quoted in Stephen Conn, "Alcohol Control and Native Alaskans - From the Russians to Statehood: The Early Years," 1982

The next enforcement step was the creation of a territorial Indian police force in 1885, which was a fixture of Alaska law enforcement until at least 1907. The objective of this force was "the promotion of cleanliness, sobriety and good order among the Indians."[12] In the villages where these officers were located, "the manufacture of the vile intoxicating compound known as "hoochinoo" has been entirely broken up."[13]

With the Alaska gold rush in the late 1890's came a new approach to liquor regulation in Alaska - for the non-native population. Outright prohibition was replaced by laws which allowed licensed liquor outlets. The benefit of this approach was that revenues collected from high liquor outlet license fees could be used to pay for public schools and buildings. However, the purchase of alcohol by, or sale to, Alaska natives was still prohibited:

> If any person shall, without the authority of the United States, or some authorized officer thereof, sell, barter, or give to any Indian or half-breed who lives and associates with Indians, any spiritous, malt or vinous liquor or intoxicating extracts, such person shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in the penitentiary for a term not to exceed two years.[14]

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[12]Governor Swineford, Territorial Governor of Alaska, Report to the Secretary of the Interior, 1885, quoted in Stephen Conn, "Alcohol Control and Native Alaskans - From the Russians to Statehood: The Early Years," 1982

[13]Id.

[14]Alaska Territorial Governor, Report to the Secretary of the Interior, 1909

The policy of prohibition for Alaska natives was continued by the new territorial legislature in a 1915 law making the act of giving or selling alcohol to a native a misdemeanor punishable by a fine or imprisonment. Natives soliciting, or attempting to purchase, alcoholic beverages were subject to the same sanctions as the seller.[15] This law outlived national prohibition, and was not repealed until 1953 when federal laws prohibiting drinking by American Indians were abolished.

The 1915 legislature also passed a joint resolution providing for an election on whether voters wanted the Territory of Alaska to be "wet" or "dry." When put before the electorate, the Alaska "Bone-Dry Law" passed by a margin of nearly two to one.[16] Despite its technical applicability to the entire population of Alaska, the "Bone-Dry Law" was primarily enforced against natives, and non-natives selling to natives. Repeal of the "Bone-Dry Law" quickly followed the elimination of national prohibition in 1932. The "Bone-Dry Law" failed and attempts to suppress liquor among the natives proved ineffective. The laws failed because of inadequate enforcement efforts and because:

> The Indian like the white man throughout the Fourth Division has become adept in the ways and means of screening himself from the eyes of the law, hiding his illicit distillery in secretive

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[15]Alaska Legislature Ch. 51, SLA 1915

[16]Becky Smith, "Prohibition in Alaska," Alaska Journal, 3:170-179

> places...These places being off of the regular route of travel and out of sight and ear shot, the officer in search and travel on hurriedly trip; will most likely overlook them.[17]

Although the "Bone-Dry Law" was repealed and the ban on selling liquor to natives was largely unenforced, prohibition continued to be a fact of life in rural Alaska. The Indian Reorganization Act was extended to Alaskan villages in the mid-1930's and provided for tribal governments with legitimate fining and jailing authority.[18] In most IRA communities, ordinances were passed banning the use and possession of liquor. These villages perceived themselves as dry and enforced the prohibitions against possession or use of alcoholic beverages through the 1960's,[19] despite the liberalization of both state and federal legal policies relating to possession of alcohol by natives.

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[17]Letter from H.E. Seneff, Special Officer for the Suppression of Intoxicating Liquor to Governor George Parks, July 1, 1930 which is appended to Stephen Conn, "Alcohol Control and Native Alaskans - From the Russians to Statehood: The Early Years," 1982.

[18]This authority was arguably made illegal following statehood by the Alaska Constitution which provided for a centralized judicial system. Victor Fischer, Alaska's Constitutional Convention, University of Alaska Press, 1975. However, up to and including 1986, some communities which do not have state judicial officers do have village councils which continue to act as both legislative and judicial bodies.

[19]In the 1980's, some Alaskan villages have reasserted powers granted to them by the Indian Reorganization Act. Among the recent actions taken under the authority of the IRA, are bans on alcohol within village boundaries.

At the first meeting of the Association of Village Council Presidents (A.V.C.P.), an organization of villages in the Yukon-Kuskokwim Delta begun in 1962,[20] regulation of alcohol was a major topics considered. Discussions at this meeting focused on the development of uniform ordinances which would apply throughout the Delta. As an example, the person chairing the meeting presented the ordinances used in his village:

> 1. If anyone from any other village should get drunk in town or making trouble, should be fined $10.00.
> 2. Anyone making alcoholic brew without a license will be reported to the State Police.
> ...
> 6. If a man is drunk and makes trouble, will be stopped by the council and if he does not obey the council will be fined $10.00.
> ...[21]

Council leaders attending the A.V.C.P. meeting were informed that under state law they did not have the authority to ban alcohol, even if doing so was in the community interest. Further, representatives of the state legal system attending the meeting advised that enforcement

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[20]Although A.V.C.P. was not formed until 1962, regional organizations, such as the Regional Council of Yupik Village Chiefs, had existed in the Yukon-Kuskokwim Delta for many years.

[21]Stephen Conn, Town Law and Village Law: Satellite Villages, Bethel and Alcohol Control in the Modern Era - The Working Relationship and its Demise, 1982.

of such laws could make council leaders subject to lawsuit or arrest.

> Though state law had removed direct responsibility over village crime from the villages, the state legal apparatus was not prepared to prevent crime in the villages or to deal with minor offenses, this in an epoch when councilmen perceived that village liquor control and action against minor offenses was the key to prevention of serious crime in the village...[22]

During A.V.C.P. meetings throughout the 1960's, the region's problems with alcohol continued to be a focus of discussion, as village leaders sought ways to control misconduct by community residents. Region leaders were frustrated by state legal officials who did not offer any institutional support to villages which wished to remain dry and to retain the ban on alcohol. As these villages were made to recognize their dependence on authority originating outside their communities, ordinances banning alcohol were abandoned in many places. The communities were forced to rely on the state troopers and a remote legal process which appeared to take action against a person only after an incident of serious criminal behavior.

As direct controls on the availability of alcohol disintegrated, law enforcement efforts focused on controlling the behavior of intoxicated individuals. Public drunkenness and other minor acts of drunken criminal behavior often resulted in jail sentences - in communities

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[22] Id.

where law enforcement services were readily available. In remote villages, leaders continued to complain about the lack of consistent service provided by the troopers.

In 1972, Alaska adopted the Uniform Alcoholism and Intoxication Treatment Act.[23] The Uniform Act reflected a policy decision that intoxicated persons should not be subjected to criminal penalties simply for consuming alcoholic beverages, that public drunkenness should not constitute a crime, and that, instead of jail, persons with problems related to alcohol abuse should be afforded treatment opportunities.

The Alaska Supreme Court interpreted the Uniform Act to preclude statutes, regulations, and ordinances which, as a practical matter, would result in the criminalization of public drunkenness.[24] In urban Alaska, this decision was welcomed by police departments because it shifted the burden of dealing with public inebriates from the police to the medical community. However, the reaction was different in rural Alaska:

> While urban police cheered, rural police were puzzled. What were they going to do about intoxicated persons, especially those incapacitated, when no sophisticated medical facilities (nor willing medical personnel) were available? People in the Arctic, incapacitated

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[23] A.S. 47.37.010 et seq.

[24] Peter v. State, 531 P.2d 1263 (1975)

ten steps from their front door, let alone out on the streets, would quickly freeze to death.[25]

Although the Uniform Act was amended in 1976 to allow incapacitated and intoxicated persons to be taken into protective custody, these terms were narrowly drawn. Only those persons who are actually unconscious, totally incapable of caring for themselves, or otherwise in need of help, can be taken into custody.[26] Those persons who are simply drunk (and potentially dangerous) can not legally be taken into protective custody.

In 1980, the legislature responded to a large body of evidence demonstrating the strong relationship between alcohol abuse and crime by passing a "local option law."[27] Under the law, communities that want to limit the importation or distribution of alcoholic beverages can hold elections and choose one of several options for regulating alcohol. The available options are:

1. Prohibition of the sale of alcohol;
2. Prohibition of the sale and importation of alcohol;
3. Restriction of the type of license available for selling alcohol (i.e. beer and wine only);
4. Restriction of alcohol sales to community-owned liquor stores.

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[25]Kim L. Moeller, "Alcohol Abuse and the Police in Rural Alaska: The North Slope Borough and City of Barrow Experience," 2d Ed., January 1979.

[26]A.S. 47.37.170(a)(b) and (j); A.S. 47.37.270(11)

[27]A.S. 04.11.490 et seq.

The local option law has been held to be a constitutional exercise of legislative power.[28] At present, 67 communities throughout Alaska have chosen to ban the sale and importation of alcohol through use of the local option process.

Studies of Alaska's Local Option Law

> What is achieved by the local option law may not be control over alcohol but control over community.
>
> Tom Lonner and Ken Duff, Village Alcohol Control and the Local Option Law, June 1983

> The villages' attitude in the region visited was that if a new technology to stem the tide of alcoholism is available, "let's get it."...If a community improves, no one will be able to tell which particular new (since 1980) tool (e.g., local option, selective enforcement, intimidation, extralegal enforcement, elders' meetings, religious meetings, peer counseling, natural helpers, spirit committees, school prevention programs, talking circles, community development, counselors, mental health and suicide programs, safe houses, women's shelters, treatment programs, protective custody, VPSO, courts, trooper support, self-determination movement) did the trick. The whole is seen as operating, not only the individual parts.
>
> Steve Edwards and Tom Lonner, Feasibility Study on the Effects of the Local Option Law on Local Communities, November 1985

The University of Alaska, through its Center for Alcohol and Addiction Studies and its School of Justice, has

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[28] Harrison v. State, 687 P.2d 332 (1984)

completed several studies of Alaska's local option law.[29] The studies were conducted primarily for the purpose of evaluating the effects of implementation of the local option law in rural Alaskan communities. The results and findings of these local option studies are presented in this section.[30]

In evaluating the local option law, the researchers were hampered by the non-existence of adequate data, particularly in relation to criminal justice problems in rural Alaska. Because agency-generated data is extremely limited and, in large part, documents only negative events, the researchers based their conclusions on local communities' perceptions of positive indicators of change.

Communities are adopting a wide variety of control measures, including the local option law, in an attempt to prevent residents from abusing alcohol. The local option law is an indirect method of controlling alcohol-related behavior and is used because villages do not have direct

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[29]Thomas D. Lonner and J. Kenneth Duff, "Village Alcohol Control and the Local Option Law," June 24, 1983; Thomas D. Lonner, Janet R. Eidson, and Paul B. Cunningham, "Legislative Action and Village Social Health: The Assessment of Change Through the Use of Statewide Agency Information Systems," 1984; Steven M. Edwards and Thomas D. Lonner, "Feasibility Study on the Effects of the Local Option Law on Local Communities," November 1, 1985.

[30]Unless otherwise noted, the findings and conclusions in this section are those set forth in the University of Alaska studies prepared by Thomas D. Lonner, J. Kenneth Duff and Steven Edwards.

control over either the use of alcohol by community members or the resulting alcohol-related deviant behavior. Local option is considered to be a significant and indispensable tool because it helps prevent problems from occurring. Many other and varied tools are used in conjunction with the local option law to control alcohol abuse, such as: assertions of tribal authority, support for the village public safety officer program and organization of elders meetings.[31]

The ingredients for controlling alcohol-related problems in villages include:

1. A clear identification of the source of the problem;
2. Community consensus on the problem;
3. The means to control the source or supply of alcohol;
4. Council support for controlling alcohol and

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[31]Other researchers have noted the need for each community to take an individualized approach to controlling alcohol-related problems. See, e.g. Anne Shinkwin and Mary Pete, "Alaskan Villagers' Views on Problem Drinking: 'Those Who Forget'," Human Organization, 41:315-322, Winter 1982:

> It is clear that a single approach to drinking problems in native Alaskan communities cannot be expected to be successful. Programs must be designed that accommodate the highly variable community contexts that apparently characterize these communities. In this case study, a common cultural tradition has not resulted in communities today of a single type, and this has significantly affected their responses to the management of drinking.

enforcement of the law;

5. Active community and agency involvement in alcohol control activities;
6. Continuity of control over long periods of time; and
7. Certainty of enforcement and punishment.

The local option law appears to be implemented most frequently in communities which have a predominantly native population; are not regional centers; do not have a road system linking the village to other communities; have not retail alcohol outlets; and only recently have had continuous contact with a culture different from that which is dominant in the village. It is unlikely that communities outside rural Alaska, or a community which serves as a regional hub, will vote to ban the sale and importation of alcohol.

The most frequently used option allows for banning the sale and importation of alcohol. The use of the most restrictive option reflects the desire of many villages to severely limit access to alcohol. If villages could totally prohibit both the manufacture and possession of alcohol, many communities would opt for complete prohibition, and for the ability to search and seize persons and residences suspected of harboring liquor. Indeed, a number of villages included both of these powers in their petitions for local option elections, only to find that the Division of Elections rejected their petitions. Many villagers are

frustrated and cannot understand why their powers to institute prohibition and searches are limited, since their motive in doing so would be to "save human lives, entire communities, and entire cultures."

In those communities which have implemented the local option law, there has been a significant reduction in alcohol-related dangerous behavior. This reduction is much greater, proportionally, than the reduction in availability of alcohol. The indicators upon which the researchers relied in concluding that the local option law has resulted in changes of behavior are: less public drinking and public drunkenness, declines in the amount of alcohol-related interpersonal violence and accidents, and marked improvements in the physical appearance and scholastic performance of the children of drinking parents.

In addition to the direct benefits, other positive side effects of the local option law have been identified. These benefits resulted from the process used in making the decision to regulate alcohol. By implementing the law through an election, the burden of responsibility for the law shifted from the council and village leaders to the entire voting population. As a result, both law-making and enforcement have been made easier.

Although the immediate effect of the local option law was a steep decline in the number of alcohol-related problems, the positive effects of the law have eroded over time. The rates have not, however, returned to the high

levels which existed before passage of the local option law. In general, the people whose behavior seems most changed by the local option law are those people who need assistance in staying sober, or in moderating alcohol intake. The drinking behavior of these people is not so abusive or dangerous as to be beyond the influence of the social, peer or legal pressure that becomes a part of village reality as a result of the local option law.

The VPSO program and the local option law are mutually sustaining. Neither the law without an enforcement officer, nor an enforcement officer without the local option law, are sufficient to combat alcohol-related problems. However, if a village adopts a local option law and delegates enforcement of the law exclusively to the city council members, the VPSO, or the state trooper, the law will not succeed. The effectiveness of the law in controlling village problems is directly dependent on peer pressure and the desire of the entire community to limit the availability of alcohol.

Despite its benefits, there are problems with the current local option law. These problems include: the complexities of the law are perceived to inhibit enforcement; lack of village control over which cases are pursued through the criminal justice system; and pressures placed on VPSOs who work without community-wide support, sufficient trooper support, or adequate training.

Other problems with the current local option law flow from the belief of many villagers that after a community elects to ban the sale and importation of alcohol, the law will result in the village being "dry." Frustrations developed when people realized that the law was neither self-executing, nor would its passage immediately stop all alcohol-related problems in the community. People were surprised to learn that: possession of alcohol was not against the law; homebrew was not against the law; the law did not authorize warrantless searches; the law could be rescinded in a future election; the complexities of evidence law and legal process needed to be learned and followed in order to ensure convictions; and the troopers would not immediately and automatically respond to reports of local option law violations.

The local option law also does not regulate the availability of alcohol to village residents outside the boundaries of the community. Villagers travel to regional centers, purchase liquor and become intoxicated. As a result, the villages view the larger towns which serve as regional centers to be significant sources of alcohol, and alcohol-related problems. Although both perceptions may be accurate, there may be a hidden benefit from exporting village drinking to the regional centers because, in some respects, they offer a safer drinking environment than the villages. The regional centers are a safer place to drink because these communities have substantially better law

enforcement and health care facilities than do the villages. Dangerous behavior is, therefore, more likely to be controlled in the regional centers. The increased load on the service agencies in the regional centers is not viewed by the agencies as either significant or difficult to handle.

The researchers point out that the concept of prohibition, or regulating alcohol, is not a novel one for Alaska natives, who lived under such a ban until at least 1953. Even after the formal ban was lifted, alcohol did not become readily available in isolated rural communities due to strict internal village controls over alcohol, in combination with bad transportation systems, lack of money, and the absence of a heavy market demand for liquor. Thus, older Alaska natives, who are in a position to weigh the costs and benefits of legal prohibition against the price villagers have paid for its disappearance, have concluded that prohibition is necessary for the survival of the village.

Since villagers accurately perceive that the local option law was written specifically for them, they do not understand why the law did not provide them with the tools they believe to be necessary to accomplish their objectives. If voting "dry" means "no more alcohol, no more drinking, and no more drunks", which is how many villagers interpret "dry", then people want the power to enforce prohibition, to put an end to homebrew, and to seize privately-held alcohol.

Villagers concerns about alcohol are not based on moral judgments about drinking, or a desire to intrude on the power of individuals to make decisions about their personal health. The primary reason people want to ban alcohol is because it is intimately related to the deaths of village members. The deaths of young people are of particular concern because many villagers believe that the survival of their culture is completely dependent on the caliber of future community leaders, many of whom are dying in alcohol-related incidents.

The 1985 Local Option Hearings

The Joint Special Committee on Local Option Laws was created by Senate Concurrent Resolution 23 which specifically mandated that the Committee "hold public hearings in rural communities and...take testimony and collect data on the subject of local option elections on the question of banning possession of alcoholic beverages within a community." In its initial meeting, after considering financial and time constraints, the Committee decided to limit the hearing locations to communities in the western and northern portions of the state. This decision was made because most of the communities which have chosen to take advantage of the present local option law are located in western and northern Alaska.

Alaskan communities are extremely diverse, in terms of location and cultural composition. They vary in size from tiny traditional villages to large modern cities. The governmental structures range from home-rule boroughs to tribal councils. Variety also exists in the ways communities regulate alcohol: in some places alcohol is freely available, in others its availability is regulated, and in still others, "extralegal" means are used to prohibit alcohol entirely.

In holding the hearings, the Committee attempted to visit a representative sample of Alaskan communities in order to learn as much as possible about the problems faced by each. The hearings lasted approximately three hours in each community, and over 200 people participated by providing oral testimony. Written testimony was accepted from those people unable to testify in person.

Contact was made with political leaders, health professionals, representatives of the legal system, residents of neighboring villages, and other interested persons in each community in advance of the Committee hearing. The contacts were made to ensure full participation in the hearing process, and were supplemented by newspaper and radio advertising about the hearings. Interpreters assisted the Committee in communities where a substantial portion of the population did not speak English.

A community-by-community summary of a small percentage of the testimony presented during the hearings follows. The

sole purpose of providing partial summaries is to set forth the kinds of problems caused by alcohol abuse in each community. Many other topics were discussed in depth during the hearings, including individual observations on the wisdom of amending the local option law. All of the testimony was relied upon by Committee Members in reaching conclusions about what recommendations for legislation should be made.[32] Full transcripts of the hearings have been prepared and made part of the Committee hearing record. To provide some perspective on the enumerated community problems, basic data has been provided about each community in which hearings were held.

Aniak, November 18, 1985

Population:	475
Racial Composition:	72% Yupik Eskimo or Athabascan 27% Caucasian and Other
Community Status:	Incorporated as 2d Class Municipality in 1972
Alcohol Status:	Sale of alcohol is illegal under state local option law;

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[32]Topics discussed during the hearings included: individual perceptions about whether the local option law has, or has not, reduced the number of alcohol-related problems; whether the social problems with alcohol abuse are of sufficient severity to justify invading the privacy of the home by banning possession of alcohol; enforcement problems with the local option law; search and seizure issues confronted by enforcers of the local option law; the relationship between education and prevention and the occurence of alcohol-related problems; the relationship between unemployment and alcohol abuse; and the degree to which homebrew creates community problems. whether the social problems with alcohol abuse are of sufficient severity to justify invading the privacy of the home by banning possession of alcohol.

importation of alcohol is permissible

Crime in Aniak is 95% alcohol-related and alcohol is involved in 100% of the violent crimes (assaults, murders and sexual assaults). There is an average of three to five assaults in Aniak a month. Very few women are beaten where alcohol is not involved. Of the clients at the Aniak Counseling Center, 95% are referred by the court after having been charged with an alcohol-related crime. Most are single males between the ages of 23 and 35-45.

Deaths in the Aniak area in the last few years have almost all been related to alcohol. In the past year and four months, there have been five alcohol-related deaths in Aniak alone.

Children of alcohol abusers suffer problems with their schooling. They do not get enough sleep at night and do not get their homework done because of parents drinking and partying in the home. Children of drinkers take over parental chores and care for younger siblings. Almost all cases of child abuse and neglect involve alcohol abuse. Many children of drinkers suffer from malnourishment, and some have health problems caused by mothers drinking during pregnancy.

In the villages surrounding Aniak, over 60% of the people drink to the point where they cause problems for themselves and other people. More juveniles drink in the

villages than in Aniak, perhaps because baby-sitters are not used in the villages, and children are taken with parents to drinking parties.

Akiachak, November 18, 1985

Population:	438
Racial Composition:	91% Yupik Eskimo 9% Caucasian and Other
Community Status:	Incorporated as 2d Class Municipality in 1974[33]
Alcohol Status:	Both the sale and importation of alcohol are illegal under an ordinance established by the I.R.A. Council[34]

Alcohol has been an on-going problem for Akiachak, and for the region, for several decades. It is the number one cause of death for native people. All the major crime and family problems in Akiachak are related to alcohol.

Many people have committed suicide while intoxicated; others have gotten drunk, disappeared and have never been

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[33]Although Akiachak was incorporated as a second class city in 1974, the community has effectively, although not legally, dissolved the municipality and has turned its governmental responsibilities over to the I.R.A. Council. The state Local Boundary Commission has refused to approve a petition for dissolution of the Akiachak municipal government and this refusal is currently the subject of active litigation in the Bethel Superior Court.

[34]State law does not recognize the validity of Akiachak's ordinance prohibiting the sale and importation of alcohol despite the approval of the ordinance by the I.R.A. Council. Akiachak has not held a local option election under state law.

found. Within the last year, the deaths of three people in Akiachak have been alcohol-related.

Specific alcohol-related problems in Akiachak include: accidents resulting from people handling firearms and other dangerous instruments when they are drinking; children being sexually abused; and fighting within families.

Witnesses from Kwethluk attending the hearing stated that the alcohol-related problems in Kwethluk are the same as those in Akiachak. Many people in Kwethluk have been prosecuted for committing alcohol-related crimes, including serious assaults and homicides.

Emmonak, November 19, 1985

Population:	567
Racial Composition:	91% Yupik Eskimo 9% Caucasian and Other
Community Status:	Incorporated as 2d Class Municipality in 1969, maintains Active I.R.A. Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1981 under state local option law

Alcohol is a problem in Emmonak. The majority of crimes are alcohol-related. It is rare that a serious crime, such as sexual assault or homicide, occurs without the involvement of alcohol. There are alcohol-related deaths, drownings and suicides. Women are beaten and become rape and incest victims because of alcohol in the home and in the village.

Children of alcohol abusers have both physical and emotional problems. They come to school late, sleepy, and

embarrassed because their parents have been drinking. Children of drinkers follow in their parents' footsteps by using and abusing alcohol. As a result, there are young people from Emmonak in jail for alcohol-related crimes, including rape and sexual abuse.

Bootleg whiskey costs $100 a bottle in Emmonak. When people spend their money on alcohol, less cash is available to provide for the needs of the rest of the family. Food and clothing can not be purchased for the children of people who spend their cash on liquor.

Alcohol has a ripple effect throughout the entire community. Drinkers create problems for people that work in offices, and people that run businesses. Neither the village corporation, nor the city government, can function when it is being run by people abusing alcohol.

Toksook Bay, November 19, 1985[35]

Population:	333
Racial Composition:	94% Yupik Eskimo 6% Caucasian and Other
Community Status:	Incorporated as 2d Class Municipality in 1972, maintains active I.R.A. Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1981 under state local option law

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[35]Testimony in Toksook Bay was given by persons from Tununak, Chefornak, Mekoryuk, Kipnuk and Toksook Bay. The summary of testimony includes statements made by persons from each village. All five villages have banned the sale and importation of alcohol under the state local option law.

Alcohol causes problems in this region. The biggest problem is the number of people dying alcohol-related deaths such as accidents, drownings and murders. Families have been burned out of their homes in alcohol-related fires. Serious crimes are committed by persons under the influence of alcohol.

When young people are drinking in the village, the elders worry and can not sleep. The drinkers cause problems not only for their own family, but also for the entire village by being disruptive and making others feel uneasy.

Alcohol can interrupt critically important subsistence activities. For example, last year two people were shot and wounded in an alccohol-related incident during the time when everyone in the village goes to spring fish camp. The families of those who were wounded had to leave fish camp before they had finished getting the necessary amount of fish.

<u>Nunapitchuk, November 20, 1985</u>

Population:	641
Racial Composition:	96.5% Yupik Eskimo 3.5% Caucasian and Other
Community Status:	Incorporated as 2d Class Municipality in 1969, maintains active I.R.A. Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1981 under state local option law

Alcohol-related drownings are a particular problem for Nunapitchuk. People also have died in fires, and other accidents which involve alcohol abuse. There are a growing

number of such deaths each year, and include the deaths of young adults.

Intoxicated people cause disruption within their families and within their community. When people abuse alcohol, their attitudes change. They do not show respect for elders. Elders become uneasy and fearful, and can not eat or sleep, as a result of concern about the behavior of alcohol abusers.

Problems often arise in the village as a result of persons consuming alcohol in their homes. Innocent people, including children, are hurt by alcohol abusers. Parents are driven out of their houses by adult children getting drunk in the family home. Essential and irreplaceable family tools, such as snowmachines and boat engines, are broken or destroyed by persons under the influence of alcohol.

A witness from Kasigluk testified that the problems with alcohol are not just in one village, but in the entire region.

Bethel, November 20, 1985

Population:	4432
Racial Composition:	50.5% Yupik Eskimo and Athabascan 49.5% Caucasian and Other
Community Status:	Second Class Municipality, incorporated in 1957
Alcohol Status:	Sale of alcohol is prohibited under the state local option law; importation of alcohol is

permissible. [36]

Most of the witnesses testified as representatives of government and social service agencies based in Bethel

Alaska State Troopers: Most of the violence in the region, and 90% of the crime, is alcohol-related. The problem with alcohol-related violence is "very alarming." The troopers do not have the time, or money, to investigate misdemeanors. There are too many serious felonies which must be investigated.

Of 150 deaths investigated by the troopers in the Bethel area in the past three years, 75 were alcohol-related: 24 were drownings, 11 were suicides and 15 were "very violent, vicious homicides." Despite the comparatively low population in the detachment, the number of assaults was higher than everywhere in the state except Anchorage, as shown in Table 1, using figures provided by the troopers. There are comparatively few burglaries in the region. However, the burglaries which are committed are done with the intent to steal alcoholic beverages, or to secure a warm place to make homebrew. At least one murder

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[36] In the past two decades, Bethel has vacillated between allowing alcohol to be sold within the community and prohibiting the distribution of alcohol. A recent ballot measure which would have allowed the sale of alcohol was defeated by the voters. A separate vote to ban the importation of alcohol also failed.

was committed by a person after he had broken into his victim's house to steal alcohol.

TABLE 1

Criminal offenses by Trooper Detachment: FY84-85

	Southeast	Anchorage	Kenai Chain Kodiak	Bethel Nome Kotzebue	Fairbanks
Homicide	1	7	6	8	4
Rape	11	54	23	38	24
Robbery	3	13	8	1	10
Assault	208	364	293	333	260
Burglary	244	718	302	150	385
Larceny	557	220	361	78	606
Auto Theft	123	220	109	24	130
Arson	8	9	5	11	11
TOTALS	1155	2474	1107	643	1430

Bethel Police Department: In 1984, the Bethel Police Department investigated 18 deaths; the majority were homicides and all but one was alcohol-related. Assaults and sexual assaults were also a problem. Since an aggressive policy of picking up drunks under the protective custody statute has been instituted, these numbers have decreased

dramatically. In 1985, there have been only three death investigations. Although all were alcohol-related, two were accidental deaths and one was a suicide.

Of all Bethel police cases in 1985, 56% were alcohol-related. Police officers responding to calls for assistance in private residences accounted for 39% of the police activity; 90% of these cases were alcohol-related. Of cases involving criminal acts, 80-90% were alcohol-related. Assaults and sexual assaults were 99% alcohol-related.

Bethel District Office of Probation and Parole: Of the 139 probationers or parolees who are currently under supervision, 92% are native, 6% are Caucasian and 2% are black, with 18% living in Bethel and 82% living in 50 different remote villages. The crimes for which offenders are under supervision are: 40% assaults, 28% sexual assault or abuse, 21% burglary or theft, 6% homicides, 4% alcohol or drug offenses, and 1% all other offenses. In 96% of the cases alcohol was involved in the underlying offense.

The Bethel office has one of the highest parole and probation revocation rates in the state. At least 98% of the revocations are alcohol-related. Nine out of ten offenders under supervision come from homes where there has been chronic substance abuse by one or both parents.

Yukon-Kuskokwim Delta Regional Hospital: Bethel has the largest and busiest Indian Health Service hospital outside of Anchorage. The second most frequent cause for

admission to the hospital, is for accidents and injuries including rapes, assaults, three-wheeler accidents, suicide attempts, and frostbite. Approximately 70-80% of the accidents and injuries are directly alcohol-related. Other medical problems directly related to alcohol are child abuse, child neglect and sexual abuse.

Elders suffering from mental anguish is another problem which is frequently encountered at the Bethel hospital. Elders come into the hospital with vague complaints - aches and pains that do not fit into any recognized syndrome. After lengthy discussions with the patient, the underlying cause of the complaints usually turns out to be concern about a son or daughter who is drinking.

Southwestern Council for the Prevention of Child Sexual Abuse: Statistics relating to child sexual abuse in the Bethel area have been compiled since 1981. In 1981, there were 17 cases of child sexual abuse reported; in 1982, there were 27 cases; in 1983, there were 86 cases; in 1984, there were 121 cases; from January 1 to June 30, 1985, there were 130 cases; and from July 1 to October 31, 1985, there were 60 cases reported. These figures reflect only those cases that were processed through the legal system. Of the reported cases, alcohol was involved at least 70% of the time. The percentage of cases which are alcohol-related appears to be growing. In most incidents, the offender is someone known to the victim.

District Attorneys Office: Alcohol is intimately related to virtually every criminal case in the Yukon-Kuskokwim Delta. It is also intimately related to the vast majority of social service cases.[37]

Tundra Women's Coalition: In 1984, TWC provided direct client services to 697 people. Of these, 316 were experiencing physical or emotional abuse and 36 were experiencing sexual abuse. The TWC shelter provided a total of 4,456 nights of protection to 221 women and 259 children. Approximately one-half of these women identified a village in the Delta area as their permanent place of residence. Alcohol was involved in the cases of approximately 92-95% of the abused clients served through the TWC program. The percentage of cases which were alcohol-related stayed at the same level in 1985.

Bethel Group Home: The Bethel Group Home is a treatment facility for emotionally disturbed or delinquent

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[37] In explaining the effect of alcohol on the Yukon-Kuskokwim region, the District Attorney used the following analogy: "[Alcohol] in a lot of villages is a toxic material. A toxic material that is shortening life spans, that is causing deaths, either in the form of accidents or homicides, that is severely impacting people's health, that is destroying families. If we had a toxic material that was being dumped into the water supply and that were being consumed by the people and causing those effects, we wouldn't have any hesitation to say, 'Whatever needs to be done to stop that is going to be done.' Alcohol for some reason is viewed differently... [But] the poison is killing people, and I don't think that just because it has the name alcohol or liquor that we can ignore the toxic character of the substance."

boys. Of the clients served by the Group Home, 85% either had an active alcohol problem at the time they entered the program, or at some time in the past. Ninety-five percent of the boys with a background of abusing alcohol came from families who had at least one member with an alcohol problem. Eighty percent of the boys had an immediate relative die an alcohol-related death and 30% of the deaths were suicides. Seventy percent of the residents had committed an act of violence while under the influence of alcohol. Eighty-five percent of all residents had been the victim of a violent crime within the family. Eighty percent of the boys came from families with active domestic violence problems.

Togiak, November 25, 1985

Population:	513
Racial Composition:	Unknown; the majority of the population is Yupik Eskimo
Community Status:	Incorporated as 2d Class Municipality in 1969, maintains active I.R.A. Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1982 under state local option law

In Togiak, close to 100% of the police cases are alcohol-related. The police respond to at least ten calls a week. Approximately half of the police calls are for problems with juveniles which are alcohol-related. There are serious problems with alcohol-related domestic violence in Togiak.

There have been a number of deaths and drownings where alcohol was an underlying cause. Alcohol has been involved in suicides in the village. People have frozen to death while intoxicated. In the winter, there are problems with people travelling to Dillingham on snowmachines to buy liquor and getting lost between Togiak and Dillingham. Every year searchers need to be sent out to look for people who have gotten lost.

There are people in the community with very serious drinking problems. When parents drink, children stay with grandparents for two to three days, or until the parents stop drinking. When parents are drinking heavily and spending all their money on alcohol, there often is no money left to buy food and winter clothing for the children.

When people drink and cause trouble in small villages like Togiak, everyone in the community is disturbed. Neighbors living near alcohol abusers may be kept awake the entire night.

Dillingham, November 26, 1985

Population:	1656
Racial Composition:	57% Yupik Eskimo 43% Caucasian and Other
Community Status:	Incorporated as 1st Class Municipality in 1963
Alcohol Status:	Both the sale and importation of alcohol are allowed

The alcohol problems in the Bristol Bay region are devastating, with the worst devastation occurring in the

villages. Alcohol is not just making people miserable, it is obliterating a culture.

Approximately 50% of all police cases are alcohol-related each year. During the summer, alcohol is involved in as high as 90% of the cases. Of the violent crimes committed in Dillingham, 95% were alcohol-related. Alcohol-related charges include domestic violence, assaults and shoplifting. There are many cases of driving while intoxicated and alcohol-related accidents. In recent years, alcohol has contributed to the deaths of three people in motor vehicle accidents.

In the first ten months of 1985, there were 404 people picked up and placed in protective custody in Dillingham. Of these, 85-90% were from villages. In the same period of time, the police responded to 2097 alcohol-related complaints.

Between January and November 1985, 674 cases were referred to the local district attorney for prosecution. Of these cases, 209 people were charged with fish and game violations. Alcohol was involved in 400 of the remaining 465 cases, including 85 cases of driving while intoxicated, 62 cases of domestic violence (all were alcohol-related), 30 cases of misconduct involving weapons (28 were alcohol-related), and 81 cases of minors consuming alcohol or illegal liquor importation.

A large number of people in the region die from alcohol-related causes such as drowning, freezing to death

or accidents. Alcohol is directly involved in at least 50-60% of the deaths. Long-term medical problems caused by alcohol abuse also causes the deaths of local residents.

The Dillingham agency which provides services to victims of domestic violence and sexual assault reported that alcohol is definitely involved in 60% of the cases handled by the agency, and may be involved in an additional 26% of the cases. Many of the agency clients are from dry villages in the Bristol Bay region. Some are villagers who abuse alcohol and are sexually assaulted while in Dillingham; others are victims of alcohol-related domestic violence which occurs in the village. Alcohol-related domestic violence is a serious problem in the villages.

Counselors travelling to rural communities, and working with juveniles, see children with serious alcohol problems. Children as young as six years old are starting to drink. Based on information received from both children and teachers in the Bristol Bay region, it appears that sixty percent of all children under ten have been drunk at least once, all children have tasted liquor by the time they are ten years old, and those over ten drink once a week.

Other children have parents who abuse alcohol, and these children are being emotionally and spiritually harmed. They stay at school as long as possible because they are afraid to go home and face violent family situations. Babies with fetal alcohol syndrome are born at the local hospital and their numbers appear to be increasing.

Anchorage, December 9, 1985

Population:	248,263
Racial Composition:	85.2% Caucasian 5.3% Black 5.1% Native 4.3% Other
Community Status:	Unified as a Home Rule Municipality in September 1975
Alcohol Status:	Both the sale and importation of alcohol are allowed

Testimony in Anchorage was given primarily by persons discussing the policy implications of amending the local option law, and by persons from rural communities for whom it was convenient to testify in Anchorage. The testimony of rural residents has been incorporated into the summary of testimony from the community closest to that in which the person resided.

Shishmaref, December 10, 1985

Population:	393
Racial Composition:	93% Inupiat Eskimo 7% Caucasian and Other
Community Status:	Incorporated as 2nd Class Municipality in 1969, maintains active IRA Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1983 under state local option law

In Shishmaref, between 85% and 95% of all police cases are alcohol-related. All of the felonies are alcohol-related and included assaults with weapons and sex crimes.

Within families, alcohol precipitates incidents of domestic violence and family crisis. The use and abuse of

alcohol is threatening the structure of the extended family. Children and grandchildren in some families are either excluded, or exclude themselves, from extended family activities in an effort to be protected from alcohol abusers.

Nome, December 11, 1985

Population:	3861
Racial Composition:	61% Inupiat and Siberian Yupik Eskimo 39% Caucasian and Other
Community Status:	Incorporated as 1st Class Municipality in 1901
Alcohol Status:	Both the sale and importation of alcohol are allowed

Alcohol is a significant contributing factor in 80% of the crimes in the Nome region, and 95% of the violent crimes (homicides, serious assaults, and sexual assaults). Incidents of probation violations are 95% alcohol-related. Much of the property crime is motivated by a desire to get alcohol. Homes are broken into by persons intending to steal liquor, or money is stolen specifically to enable the thief to buy alcoholic beverages.

Children in need of aid proceedings handled by the Nome District Attorney's Office are generally brought for one of two reasons: either parents are drinking or children are sexually abused. There is an overlap between the two categories of cases because alcohol contributes to the phenomenon of child sexual abuse. Drinking parents may neglect or physically abuse their children.

There is a pattern of children first entering the system as children in need of aid because their parents are abusing alcohol, next being charged with alcohol-related acts of juvenile delinquency, and finally, when they become adults, being sent to jail for alcohol-related crimes. Children from families with severe alcohol abuse problems appear to have a high probability of becoming involved in the criminal justice system later in life. Juvenile delinquency cases are alcohol-related in the same percentages as adult crime.

Of clients that begin alcohol treatment in Nome, very few are from families which are comprised of healthy, sober people. Each person that comes into treatment affects, and is affected by, many other people.[38] 99.9% of clients

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[38]A Nome alcohol counselor related the following example of how the abusive use of alcohol hurts children: "I went into a community...I'm not sure if the alcohol came in on the plane that I was on or if it came on another plane that came in that day. There were two sober adults for the entire week that [I was] in that particular village. That was myself and...[a] teacher...From watching the kids from day one to day five, it was just incredible...how the behaviors changed in those children. The children were from kindergarten up to about seventh grade. There were maybe nine or eleven children, total, in that school. By the second day two of the children had started bedwetting, and their clothes were not changed through the entire week I was there...On day three they started falling asleep in the classroom, and the teacher just let them because they were up during the night. It was either the last day or that Thursday that one of the parents came into the school...[The] eleven kids [were working] in different areas [of the room]. The parent came in and it was immediate: all eleven kids went into different kinds of behavior. About three of them stood up, [put their hands over their ears,

(Footnote Continued)

entering treatment have been the victims of alcohol-related physical or sexual abuse.

Gambell, December 11, 1985

Population:	441
Racial Composition:	96% Siberian Yupik Eskimo 4% Caucasian and Other
Community Status:	Incorporated as 2nd Class Municipality in 1963, maintains active IRA Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1981 under state local option law

Approximately 120 criminal cases are filed yearly in Gambell, and 90% are alcohol related. Most charges are brought for either assault and battery or importation of alcohol in violation of the local option law. Only three to four felonies are committed yearly, and are mostly assaults with dangerous weapons. All of the felonies are alcohol-related.

All of the cases handled by the magistrate in the past 18 years involving children being placed in state custody on an emergency basis were alcohol-related. In cases where juveniles were charged with violating the law, alcohol was involved 99% of the time.

Alcohol abuse directly interferes with the education of young people. Students come late to class and are not

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(Footnote Continued)
and started rhythmically rocking back and forth],...two of them hid under tables and chairs...And <u>that</u> is [alcohol] affecting other people."

alert. Drinking adults keep the youngsters awake so they are tired when they come to school. Other children drink because they have been around adults who are using alcoholic beverages. It is hard to teach children with alcohol in their bloodstream.

There are more alcohol problems in the spring and early fall in Gambell than in the summer, late fall and winter. People do not drink when there is hunting or whaling to be done, or in the fall when the weather starts getting cold and money is needed to pay for fuel.

Selawik, December 12, 1985

Population:	545
Racial Composition:	Unknown; the majority of the population is Inupiat Eskimo
Community Status:	Incorporated as 2nd Class Municipality in 1977
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1983 under state local option law[39]

If alcohol were not a problem in Selawik, there would be no need for a magistrate. Of the 82 people brought before the magistrate in 1985, all had been drinking at the time of committing the offense with which they were charged.

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[39] Selawik has held three local option elections: as a result of the first election, sale and importation were banned; after the second election, importation was allowed; and, in a third election held within months of the vote to allow importation, the community once again voted to ban the sale and importation of alcohol.

The police respond to approximately 40 calls a week. On the average, 30 of the calls are for alcohol-related incidents. Felonies are committed 3 to 4 times a week, and all of the felonies are alcohol-related, as are all incidents involving violence. In the recent past, there has been one alcohol-related murder in Selawik. There are a large number of suicides in Selawik, and the surrounding region, and alcohol is involved 94% of the time.

Alcohol causes many problems within families, such as domestic violence, child neglect and the breaking up of homes. Children suffer the most from abusive drinking. Some suffer from malnourishment; others need to undergo surgery because they were not properly cared for by drinking parents. Children are left alone when adult family members get drunk. There are more accidents in homes where people drink.

The homes of alcohol abusers are cold, because the cash income is used for alcohol instead of stove oil. A fifth of whiskey costs $120 in Selawik, and a pint costs $60.

Witnesses from Ambler and Shungnak attending the hearing testified that both villages have alcohol-related problems similar to those experienced in Selawik.

<u>Kotzebue, December 12, 1985</u>

Population:	2981
Racial Composition:	80% Inupiat Eskimo 20% Caucasian and Other
Community Status:	2nd Class Municipality, incorporated in 1958
Alcohol Status:	Both the sale and importation of

alcohol are allowed

Crimes are committed by people because they have had too much to drink 45% of the time in Kotzebue. Someone involved, either the victim or the suspect, has been drinking in 85-90% of the cases. In the region surrounding Kotzebue, 95% of the crimes are alcohol-related. It is very rare that a violent crime is committed without the involvement of alcohol. There is a problem in Kotzebue with alcohol-related suicides.

The major reason for the state taking custody of children is parents abusing alcohol or drugs, and not caring for their children.

The troopers stationed in Kotzebue spend a great deal of time conducting search and rescue missions for people who have been drinking, and who get lost between Kotzebue and one of the nearby villages. These searches waste time and money.

Minto, December 16, 1985

Population:	153
Racial Composition:	92% Athabascan 8% Caucasian and Other
Community Status:	Unincorporated; I.R.A. Council
Alcohol Status:	Both the sale and importation of alcohol have been banned since 1983 under state local option law; in addition Minto has tribal laws banning alcohol from the community which are enforced by the Minto Tribal Court

The Minto policeman responds to approximately 20 calls a month. A large percentage of the calls involve either violence, or children who have been abandoned or abused. All of these cases are alcohol-related. Ten felonies occur in Minto during the average year, including sexual assaults and homicides, and these cases all involve alcohol. Five to ten incidents a month involving juveniles occur: 50% of such incidents are alcohol-related.

In 1985, three Minto villagers died from causes which were directly alcohol-related. Suicides, and suicide attempts, are a problem in Minto. When people get drunk and drown in the river, both the village corporation and the state spend a great deal of money on searches that could be better spent for such things as education of young people.

Elders in Minto are afraid to go to bed at night when they know people in the village have been drinking. The fear comes from the knowledge that the elders would be unable to defend themselves if a drunk came into their house during the night. The elders have medical problems caused by fear and depression arising out of the drinking problems of others.

When there is a lot of alcohol in the village, children go to school tired, fall asleep during class and can not pay attention. Children of drinkers go to school with dirty clothes, get more colds than other children, and do not eat properly. These children appear to be nervous, depressed

and lonely. Pregnant mothers hurt their unborn children through fetal alcohol syndrome.

Parents become estranged from their children as a result of alcohol. Children go to live with their grandparents while parents are drinking, and sometimes refuse to return to life in the parental home. If the grandparents are out of the village, the children have nowhere to go. Incidents of child abuse occur when parents are drinking.

Spouses of persons who drink suffer from physical abuse and live in constant danger of bodily harm. Mothers are afraid for both themselves and their children.

When shipments of alcohol come into the village, the health aides are frequently called for assistance in the middle of the night. There are many alcohol-related accidents in Minto.

Barrow, December 17, 1985

Population:	3037
Racial Composition:	60% Inupiat Eskimo 40% Caucasian and Other
Community Status:	Incorporated as 1st Class Municipality in 1959, located within the North Slope Borough, which is a Home Rule Borough
Alcohol Status:	The sale of alcohol is prohibited under state local option law, although the importation of alcohol is allowed.[40]

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[40]A local option election was held in Barrow on March 3, 1986. The question on the ballot was, "Shall the sale

(Footnote Continued)

There are many tragic alcohol-related incidents which occur in Barrow. Between September and December 1985, there have been six alcohol-related deaths. In the same time period, only one person died from natural causes. For the past three to four years, between ten and twelve people annually have died alcohol-related deaths from motor vehicle accidents, suicides and homicides.

Of all calls to which the Barrow Emergency Medical Technicians respond, 50% are alcohol-related. However, in analyzing just the cases where people have been seriously injured, the vast majority involve alcohol.

The North Slope Department of Public Safety, which provides law enforcement services to all of the North Slope Borough communities, makes approximately 600 arrests a year. In the majority of these cases, the offender was intoxicated. In addition to the arrests, approximately 500 people are placed in protective custody each year.

Elderly people live in fear of alcohol abusers. On many occasions, elders have been forced to leave their own homes for as long as a week at a time because their child or grandchild is uncontrollably drunk and refuses to leave the house.

(Footnote Continued)
and importation of alcoholic beverages be prohibited in Barrow? (yes or no)." As of March 7, 1986, it appears that alcohol will not be banned in Barrow. According to Kathleen Strasbaugh, Barrow City Attorney, the vote tally on March 7, 1986 was Yes-271 votes and No-332 votes, with 176 questioned ballots left to be counted.

The entire community of Barrow can be disrupted by a single case of whiskey coming into town while whaling activities are taking place. If people stay on shore and drink, instead of going out and getting whales, an entire season of whaling may be lost.

Children of parents who drink to excess have many problems. Some drop out of school, others begin drinking when they are as young as five or six years old. Children may have no place to stay when their parents are an a drinking binge. Drinking parents abuse their children both intentionally and unintentionally. In one family, a child was suffocated in bed by a father who was drunk and had passed out.

In Barrow, the standard price for a bottle of bootleq whiskey is $40. However, when the supply is low and during the holidays, the price goes up to between $60 and $100. Abusive drinkers spending money on bootleg whiskey causes financial problems for many families.

Arctic Village, December 18, 1985

Population:	111
Racial Composition:	88% Athabascan 12% Caucasian and Other
Community Status:	Unincorporated; I.R.A. Council; Arctic Village is part of the Venetie Indian Reservation
Alcohol Status:	Possession, sale, and importation of alcohol are banned under tribal laws and enforced by the Arctic

Village Tribal Court[41]

Arctic Village does not have a problem with alcohol. The last act of violence that occurred in Arctic Village was a stabbing in the early 1970's, but this was not charged as a criminal offense.[42]

Fort Yukon, December 18, 1985

Population:	701
Racial Composition:	63% Athabascan 37% Caucasian and Other
Community Status:	Incorporated as Second Class Municipality in 1959
Alcohol Status:	The sale of alcohol is restricted to a community owned liquor store under state local option law, alcohol importation is allowed.[43]

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[41]The tribal laws banning alcohol in Arctic Village are actively enforced. Persons arriving in Arctic Village are subjected to baggage and personal searches. The asserted authority for conducting the searches is based on the status of Arctic Village as part of the Venetie Indian Reservation. The leaders of Arctic Village take the position that the reservation is private land and, as private land owners, searches are legitimately imposed as a condition of being allowed on private land.

[42]According to Fairbanks District Attorney Harry Davis, it is accurate that there is not a problem with crime in Arctic Village. The district attorney believes this is because Arctic Village has a strong village council which makes all the "troublemakers" leave the village. However, the district attorney noted that when Arctic Village people go to Fort Yukon, they often get drunk and become the victims of crime.

[43]In late 1984, Fort Yukon banned the sale and importation of alcohol. Within days of the effective date of this vote, a new petition was certified to place the issue once again before the voters. Technical problems with the petition delayed the vote until August 1985, and in this election voters decided to once again allow the sale and

(Footnote Continued)

There are problems with people abusing alcohol in Fort Yukon, and elementary school children are said to suffer as a result of alcohol abuse. However, witnesses in Fort Yukon declined to state the specific nature of the problems.[44]

The Social Costs of Alcohol Abuse

> A person who dies can not be replaced by someone else.
>
> Carl Flynn, Tununak elder

> Alcohol is like a whiplash. Elders are being emotionally beaten because of alcohol.
>
> Anesia Hoover, Kasigluk elder

> Village populations are so small, interrelated, and interdependent that they become vulnerable to the entire array of negative effects associated with excessive drinking, including interpersonal violence, child neglect, loss of economic opportunity, demoralization, and physical deterioration. Therefore, the alcohol-related social impacts severely impair family and community morale, perpetuate a cycle of negative, even disastrous, events, and jeopardize the physical and cultural survival of the village.

(Footnote Continued)
importation of liquor in Fort Yukon. Fort Yukon reverted to its status before the ban on importation: alcohol may be imported and may be sold by a community-owned liquor store. As of February 1986, the community-owned liquor store has not yet been relicensed by the state, and has not yet reopened for business.

[44]Although Fairbanks District Attorney Harry Davis reports that Fort Yukon has a significant alcohol-related crime problem, he states that very few of the misdemeanors are successfully prosecuted. The district attorney believes is because Fort Yukon selectively enforces the laws based on political considerations, and because misdemeanor cases arising in Fort Yukon are tried in Fort Yukon. The district attorney states that Fort Yukon jurors very seldom vote to convict based on their realistic fear of retaliation from defendants.

Consumption of Alcohol

The overall level of alcohol consumption, regardless of beverage source, determines the prevalence of dangerous drinkers and alcohol-related problems, both nationally and within Alaska.[45] Alaska has a high rate of annual consumption in comparison to both the rest of the world and the rest of the United States. Moreover, Alaska has historically shown a dramatic increase over the years in the average annual alcohol consumption rate. For example, the average annual consumption of absolute alcohol per drinker increased by 80% between 1958 and 1975 in Alaska. This rate is 100% greater than the nationwide rate of increase in the level of alcohol consumption.

In analyzing which factors most affect per capita consumption rates, a recent study pointed to three variables: the cost of alcohol, the hours in which alcohol is available for sale, and the number of outlets in which alcohol may be purchased.[46] Thus, states with "strict,

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[45]Analysis of Alcohol Problems Project, Dennis Kelso, Project Director, "Working Papers: Descriptive Analysis of the Impact of Alcoholism and Alcohol Abuse in Alaska, 1975," 1977, Volume IV at 104.

[46]P.C.H.S. Group for The Alaska Council on Prevention of Alcohol and Drug Abuse, Inc., "Analysis of Availability Factors Related to Per Capita Alcohol Consumption," February
(Footnote Continued)

tight, or conservative" liquor laws were found to have low per capita consumption rates, and states with "permissive, loose, or liberal" liquor laws have high per capita consumption.

Medical Consequences

(Footnote Continued)
1985.

Other studies support the finding that availability of alcohol is inextricably linked to numbers of alcohol-related problems. Jerome Rabow, Ph.D. and Ronald K. Watts, Ph.D. in "Alcohol Availability, Alcoholic Beverage Sales and Alcohol-Related Problems," Journal of Studies on Alcohol, 43:767-799, 1982, reached a conclusion similar to that contained in the above-cited February 1985 study, in a comparison alcohol consumption rates in California counties. Rabow and Watts found this phenomenon to cut across cultural lines: "Availability has an effect on alcohol problems independent of social area characteristics."

On the other hand, commentators have pointed out that factors other than availablity impact the rate of alcohol consumption:

> Consumption is associated with several of the sociocultural, economic and availability factors but is fully explained by none of them...Economic and legislative approaches to the problems are readily short-circuited by illegal availability...If the experience with Prohibition is any guide, the overall average reduction in intake accounted for by law-abiding citizens may not serve to reduce heavy drinking among those less scrupulous.

Israel Colon, Ph.D., Henry S.G. Cutter, Ph.D. and Wyatt C. Jones, Ph.D., "Prediction of Alcoholism from Alcohol Availability, Alcohol Consumption and Demographic Data," Journal of Studies on Alcohol, 43:1199-1213, 1982.

The research of both Rabow and Colon expanded on work done by Reginald Smart in 1977. Smart had found that income and urbanization had a closer relationship to both per capita consumption and alcoholism rates than simply the availability of beverage alcohol. Reginald Smart, "The Relationship of Availability of Alcoholic Beverages to Per Capita Consumption and Alcoholism Rates," Journal of Studies on Alcohol, 38:891-896, 1977.

Chronic alcohol consumption has toxic effects on every part of the body, with medical consequences ranging from slight impairments to life-threatening diseases. The most common location of disease is the liver, which is the organ responsible for removing alcohol from the body. Because the liver is essential for detoxification and metabolism, alcoholic liver disease has an indirect adverse effect on many other parts of the body.[47]

Excessive alcohol intake may directly injure the gastro-intestinal tract, muscles, and the pancreas. The cardiovascular system, the nervous system, and the endocrine system may be damaged by alcohol travelling through the body in the blood stream. Finally, there is evidence of a strong association between chronic alcohol use and cancer of the stomach, large intestine, pancreas and liver.[48]

Alcohol-related diagnoses in the Indian Health Service Hospital system are about three times the rates for the entire United States and double the rates for races other than Caucasian. For ages 15 to 44 years, generally years of high productivity, the IHS rate for alcohol-related

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[47]U.S. Department of Health and Human Services, "Fifth Special Report to the U.S. Congress on Alcohol and Health," December 1983.

[48]Id.

diagnoses is more than four times that of the total United States. See Table 2.[49]

TABLE 2

Discharge rates per 10,000 from Indian Health Service and contract general hospitals and from non-Federal short-stay hospitals by first-listed diagnosis and age, 1981

Age at admission	Alcoholic psychosis		Alcoholic dependence syndrome		Alcoholic nondependent abuse of alcohol		Liver disease	
	IHS	U.S.	IHS	U.S.	IHS	U.S.	IHS	U.S.
All ages	11.8	2.9	35.8	19.7	5.8	1.7	6.4	1.9
Under 15 years	0.0	0.0	0.6	0.6	0.9	0.4	0.0	0.0
15-44 years	19.0	3.1	50.5	22.6	8.6	2.1	8.0	1.1
45-64 years	20.1	6.3	83.2	38.3	8.9	2.3	18.9	5.2
65 years and over	4.9	2.0	21.7	13.6	4.4	1.6	4.2	2.4

Source: Indian Health Service, 1982

Mortality

Studies have consistently shown that alcoholics and heavy drinkers have significantly higher death rates than the rest of the population.[50] In analyzing specific causes of death, alcoholics show particularly high death rates from

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[49] Id. at 8

[50] Analysis of Alcohol Problems Project, Dennis Kelso, Project Director, "Working Papers: Descriptive Analysis of the Impact of Alcoholism and Alcohol Abuse in Alaska, 1975," Volume IV, 1977.

cirrhosis of the liver, heart disease and hypertension, cancer of the upper digestive and respiratory tracts, pneumonia, and vascular lesions of the central nervous system.[51] Moreover, the numbers of homicides, suicides, and accidental deaths are increased as a result of alcohol.

Alaska has an extremely high rate of death from both voluntary and involuntary acts of violence - including fires, drownings, accidents, suicides, and homicides. Accidents are the leading cause of death in Alaska.[52] The number of accidental deaths in Alaska is over twice the national average: Alaska has 103.5 accidental deaths per 100,000 population, compared to a national rate of 47.9 accidental deaths per 100,000.[53] A large majority of Alaska's accidental deaths are alcohol-related, as seen in Table 3.

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[51] Id. Although alcohol contributes to these causes of death, other factors are also involved.

[52] Alaska Department of Health and Social Services, "The Data Appendix to State Health Plan," July 1983.

[53] Id. at I-67

TABLE 3

Mortality Data for Selected Causes of Death in Alaska: 1980-1982[54]

Death cause	1980 Total deaths	1980 Alcohol related n	1980 Alcohol related %	1981 Total deaths	1981 Alcohol related n	1981 Alcohol related %	1982 Total deaths	1982 Alcohol related n	1982 Alcohol related %
Drowning	86	58	67.4	132	90	68.1	118	80	67.7
Suicide	72	58	80.5	66	53	80.3	56	45	80.3
Alcoholism	16	16	100	11	11	100	8	8	100
Cirrhosis	36	29	80.5	51	30	58.8	41	25	60.9
Fires	23	12	52.2	27	14	51.8	19	10	52.6
Traffic	107	50	48.5	100	53	53	143	94	65.7
Homicide	33	27	81.8	50	41	82	54	44	81.4
TOTAL	373	252	67.5	437	292	66.8	439	306	69.7

Suicide

High rates of suicide have been linked to heavy chronic drinking and the depressing, and isolating, condition of life as an alcoholic. One of the more frequent causes of death among chronic drinkers is suicide and a large proportion of suicide cases are alcoholics.[55] As high as four out of five persons who attempt suicide have been

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[54]Alaska Department of Health and Social Services, Office of Alcoholism and Drug Abuse, "Annual Report to the Legislature," 1982-1984.

[55]Wolfgang Schmidt and Robert Popham, "Alcohol Consumption and Physical Health," 1975.

drinking. Alcoholics commit suicide from six to fifteen times more frequently than the general population.[56]

Suicide attempts and completions occur more frequently among Alaska's native population than among non-natives.[57] At the present time, the highest at-risk groups for attempting suicides are 15-24 year old native males and females. Table 4 shows the relationship between age, sex and suicides in 110 rural Alaskan communities. In rural Alaska, suicide attempts quadrupled during the past decade; in comparison, urban suicide attempts doubled over the same period of time. The frequency of rural suicide attempts is double the rate of attempts in urban areas of the state.

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[56] Id.

[57] Alaska Native Health Board, Inc., "Rural Health Issues Study and Statewide Suicide Evaluation Project," November 1985.

Table 4

Alcohol-related Attempted and Completed Suicides in 110 Rural Alaska Communities by Race by Sex: 1982-84[58]

	NATIVE				NON-NATIVE			
	Attempted		Completed		Attempted		Completed	
Year	M	F	M	F	M	F	M	F
1982	3/44	37/50	17/32	3/4	2/8	1/7	2/4	0/0
1983	28/39	43/58	17/22	1/2	9/16	9/17	2/3	1/2
1984	52/65	76/103	18/19	5/6	5/10	6/19	3/4	0/0

Source: Unverified responses to 1985 ANHB Suicide Survey sent to Community Health Aides, Police Departments and Hospitals.

Northwest Alaska has the highest suicide rate in the state: the number of Inupiats committing suicide in the NANA region is seven times the national average and between 1.7 and 5.8 times higher than the rates of native suicide in other regions of the state.[59] This rate has increased substantially over the course of the past decade. Alcoholics and alcohol abusers comprise 71% of the persons either attempting or committing suicide.[60] Although alcohol

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[58] Id. at 89

[59] Robert Travis, "Suicide in Northwest Alaska," White Cloud Journal, 3:23-30, 1983

[60] In his study, Travis defined an alcoholic as "being intoxicated with problems more than 6 times a year (problems may be legal, medical or family)." The definition used for alcohol abuser was "being intoxicated with loss of control between two and six times a year (loss of control may refer

(Footnote Continued)

appears to be more a facilitator of suicide than an underlying cause, fully 86% of the suicides and suicide attempts in Northwest Alaska are alcohol-related. This reflects a greater correlation between alcohol and suicide than is seen in other native American societies.[61]

In an attempt to understand factors contributing to the alarming rate of suicide by Alaska Natives, a study of suicide survivors was conducted by a psychiatrist working in conjunction with the Alaska Native Medical Center in Anchorage.[62] In his report, the psychiatrist observed the high correlation between alcohol and suicide, and noted that most of the suicide attempts studied were impulsive acts rather than premeditated. As a conclusion, the following advice was offered by the author of the study:

> Limiting the easy availability of alcohol would reduce the overall level of traumatic death. Currently some native villages are considering measures to restrict the sale or importation of liquor...However, ultimately to reverse the tragic and disproportionate hazard of suicide among...Native Alaskans, the cultural causes will need to be addressed by Natives who have regained hope and control of their own lives. (Emphasis added)[63]

(Footnote Continued)
to blackouts, drinking to get drunk, going on binges, or fighting while drunk)."

[61] Id.

[62] Brian L. Kost-Grant, M.D., "Self-inflicted Gunshot Wounds Among Alaska Natives," Public Health Reports, 98:72-78, January-February 1983.

[63] Id. at 77-78

Crime

The relationship between alcohol and crime was explained by the head of Alaska's Public Defender Agency[64] during a 1982 Conference on Violence:

> Probably the clearest factor leading to violence...is alcohol. The vast majority of our caseload of offenses involve alcohol, and I think that unless the alcohol question is dealt with, violence is going to continue. ...[V]iolence clearly begets violence. Many of our clients charged now with crimes of violence have been victims of violence in the past. Sexually assaulted children have been repeating that pattern with their own children. Abused physically by their parents, they become abusive people. In terms of possible solutions, the alcohol problem is the first one to combat.[65]

Testimony presented during past legislative hearings documents the relationship between violent crime and alcohol abuse.[66] In 1981, police, prosecutors, judges, community leaders and victims told the House Task Force on Violent Crime that "alcohol abuse and violent crime are inseparable." The Task Force found that crime is significantly more of a problem in rural Alaska than in the

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[64]The Public Defender Agency provides legal representation to people charged with crimes who can not afford to hire a private lawyer.

[65]Dana Fabe, "Criminal Justice and Violence in the 1980's," pp. 88-89 in Knowlton Johnson (Ed.), Insights and Strategies for Confronting Violence: Conference Proceedings, Proceedings of the 1982 Conference on Violence, School of Justice, University of Alaska.

[66]House Task Force on Violent Crime, "Report to the First Session, Twelfth Alaska Legislature," June 1981.

cities. For example, the sexual assault rate for Alaska villages was 99.2 cases per 100,000 people, compared to the statewide sexual assault rate of 51.6 cases per 100,000. The homicide rate in villages was 28.4 per 100,000, compared to a statewide murder rate of 10.8 cases per 100,000.

The relationship between alcohol and crime was explored by the Alaska Judicial Council in 1980.[67] The Judicial Council gathered data from all ten Superior Court locations in the state. Information contained in felony presentence reports relating to offender drug and alcohol abuse, in the period of time from July 1976 to July 1979, was analyzed. As reflected in Table 5, the Judicial Council data showed a strong relationship between alcohol and crime. The correlation was highest in the category of violent crime.

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[67]Alaska Judicial Council, Memorandum from Nick Maroules to Michael Rubinstein, "Relationship of Drug and Alcohol Use to Crime," January 11, 1980, Appendix D in Alaska Department of Health and Social Services, Office of Alcoholism and Drug Abuse, "Annual Report to the Legislature," 1981.

TABLE 5

Frequency of Use of Drugs and Alcohol
At Time of Offense for Four Offense Classes[68]

	Used Drugs	Used Drugs & Alcohol	Used Alcohol
Violent Offenses	3.2%(19)	4.9%(29)	56.3%(330)
Property Offenses	4.0%(29)	4.4%(32)	39.2%(286)
Forgery/Fraud Offenses	2.7%(7)	0.8%(2)	9.1%(24)
"Morals" Offenses	1.1%(1)	9.9%(9)	46.2%(42)

The Judicial Council conducted a second analysis of the relationship between alcohol and felony crime, using 1980 data.[69] In this study, urban felony cases were evaluated separately from rural cases. As shown in Tables 6 and 7, a strong correlation was found to exist between alcohol use and crime. Violent crime was more frequently linked to alcohol use, in both urban and rural areas, than other categories of criminal activity.

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[68] Id.

[69] Alaska Judicial Council, "Alaska Felony Sentences: 1980," December 1982

TABLE 6

Frequency of Use of Drugs and/or Alcohol
At Time of Offense for Five Offense Classes*
(Urban Courts - 1980)[70]

Class of Offense:	Total Cases	Used Drugs	Used Drugs & Alcohol	Used Alcohol
1. Murder/Kidnapping	(n=14)	-----	21.4%	78.6%
		-----	(3)	(11)
2. Violent Felonies	(n=142)	2.1%	4.2%	65.5%
		(3)	(6)	(93)
3. Property Offenses	(n=195)	2.6%	2.6%	46.2%
		(5)	(5)	(90)
4. Fraud Offenses	(n=24)	-----	12.5%	12.5%
		-----	(3)	(3)
5. "Other" Offenses	(n=9)	11.1%	_____	22.2%
		(1)	_____	(2)

*Percents indicate proportion of all cases within class.

[70] Id.

TABLE 7

Frequency of Use of Drugs and Alcohol
At Time of Offense for Five Offense Classes*
(Rural Courts - 1980)[71]

Class of Offense:	Total Cases	Used Drugs	Used Drugs & Alcohol	Used Alcohol
1. Murder/Kidnapping	(n=4)	-----	-----	100.0%
		-----	-----	(4)
2. Violent Felonies	(n=142)	1.4%	4.9%	80.1%
		(2)	(7)	(113)
3. Property Offenses	(n=151)	2.6%	5.3%	55.6%
		(4)	(8)	(84)
4. Fraud Offenses	(n=16)	-----	-----	6.3%
		-----	-----	(1)
5. "Other" Offenses	(n=13)	-----	15.4%	46.2%
		-----	(2)	(6)

*Percents indicate proportion of all cases within class. Drug offenses omitted from this analysis.

The relationship between alcohol and misdemeanor crime in 1981 was evaluated by the Judicial Council as part of a study of misdemeanor sentencing patterns.[72] The figures reflected in Table 8 show that misdemeanor offenders frequently have been using alcohol at the time their crime is committed.

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[71] Id.

[72] Alaska Judicial Council, "Alaska Misdemeanor Sentences: 1981," December 1983.

TABLE 8

1981 Misdemeanors
Breakdown by Community of
Alcohol and/or Drug Use at Time of Offense[73]

	No Evidence		Alcohol		Drugs		Alcohol & Drugs		Alc/Drugs (Not Spec.)	
	n	(%)	n	(%)	n	(%)	n	(%)	n	(%)
Anch.	193	(42.2)	240	(52.5)	2	(0.4)	13	(2.8)	9	(2.0)
Barrow	5	(10.0)	43	(86.0)	0		2	(4.0)	0	
Bethel	12	(10.6)	100	(88.5)	1	(0.9)	0		0	
Fair.	55	(21.7)	177	(70.0)	3	(1.2)	12	(4.7)	6	(2.4)
Juneau	22	(21.6)	74	(72.5)	0		6	(5.9)	0	
Kodiak	21	(21.6)	72	(74.2)	1	(1.0)	3	(3.1)	0	
Nome	13	(11.1)	102	(87.2)	0		2	(1.7)	0	
Sitka	21	(23.6)	64	(71.9)	1	(1.1)	2	(2.2)	1	(1.1)
TOTAL	342	(26.8)	872	(68.2)	8	(0.6)	40	(3.1)	16	(1.3)

In addition to these statewide studies, the relationship between alcohol and criminal activity has been evaluated in at least one specific region of the state. Tables 9 and 10 show that most incidents of criminal activity in the mid-Kuskokwim area of southwest Alaska were

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[73] Id.

found to be alcohol-related for study years 1979 and 1981-1982.[74]

TABLE 9

Total and alcohol-related incidents by village: 1979

Village	total incidents number	total incidents instigated by natives	total incidents instigated by adult male natives	alcohol-related incidents number
Aniak	19	14	9	15
Chuathbaluk	2	2	2	2
Crooked Creek	15	15	11	15
Kalskag, Lower	4	4	3	2
Kalskag, Upper	1	1	1	1
Red Devil	1	1	0	1
Sleetmute	6	2	0	6
Stony River	4	3	3	3
Between villages	3	3	3	1
TOTAL	55	45	32	46

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[74]David L. Marshall and Susan Soule, "Law Enforcement Incidents, Mid-Kuskokwim: 1979," July 1, 1980; and David L. Marshall, "Law Enforcement Incidents, Mid-Kuskokwim: 1981-1982," May 31, 1983.

TABLE 10

Total and alcohol-related incidents by village: 1981-1982

village	total incidents number	total incidents instigated by natives	total incidents instigated by adult male natives	alcohol-related incidents number
Aniak	6	5	3	2
Chuathbaluk	1	1	1	1
Crooked Creek	7	7	7	5
Kalskag, Lower	7	7	6	4
Kalskag, Upper	9	9	8	7
Sleetmute	22	21	11	20
Stony River	5	4	3	3
TOTAL	57	54	40	42

Families

Heavy drinking appears to have a profound affect on family stability. In families with at least one alcoholic spouse, the rate of separation and divorce is seven times that of the general population. Alcoholism is involved in 40% of family court problems nationwide. One third of the persons interviewed in a 1982 survey felt that alcohol caused problems in their families.[75]

Domestic Violence

An excellent and well-documented study of spouse abuse in three southwestern Alaskan Eskimo communities

[75]U.S. Department of Health and Human Services, "Fifth Special Report to the U.S. Congress on Alcohol and Health," December 1983.

categorically found that a strong relationship between problem drinking and wife beating exists.[76] In two of the communities studied, the incidence of spouse abuse was found to be ten times greater than that reported nationally.

The domestic violence problems linked to alcohol are not limited to incidents of spouse abuse: child abuse and parent abuse were also found to be common in the villages studied. With two exceptions, all cases of child abuse discovered by the researchers involved alcohol. In addition, child neglect was found to be characteristic of households containing problem drinkers. Parent abuse (for example, threats made to a parent of sufficient severity to cause the parent to leave the house) appears to be 100% alcohol-related.

In comparing men who abuse their spouses with those that do not, the researchers found that the abusers had a history of exposure to spouse abuse in their childhood home. Compared to non-victims, most victims did not have a background of abuse in their own families. These findings suggest that spouse abuse may become more widespread as children from violent homes make families of their own.[77]

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[76]Anne D. Shinkwin and Mary C. Pete, "Homes in Disruption: Spouse Abuse in Yupik Eskimo Society," August 1983

[77]Significantly, the researchers found that when the problem drinker stopped abusing alcohol, the domestic violence usually stopped.

Tables 11 and 12 show the relationship between problem drinking and abusive behavior which was found to exist.

TABLE 11[78]

Proportion of people in spouse abusing relationships who are problem drinkers

	Spouse Abusing Couples % of Problem Drinkers	
	Males	Females
Kotlik	100%	9%
Emmonak	100%	30%
Hooper Bay	*85%	**39%

*Three more batter only when drunk, raising the percentage of alcohol involvement to 94% One is a non-drinking victim whose wife is a problem drinker.

**One abuses her husband.

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[78] Id. at 49

TABLE 12[79]

Violence among problem drinkers

	Problem drinkers		
	Kotlik	Emmonak	Hooper Bay
Total Percent of Problem Drinkers Involved in Violence	71%	72%	66%
Type of Violence			
Non-domestic only	32%	22%	33%
Domestic only	18%	23%	21%
Non-domestic and Domestic	21%	28%	13%

Another study of the relationship between alcohol abuse and domestic violence was conducted in 1982 by analyzing questionnaires completed by clients at a battered women's shelter in Anchorage.[80] This study found that the use of alcohol and drugs was a major contributing factor in domestic violence: 46% of the spouse abusers were reported to always use alcohol or drugs during their violent episodes, and 63% were using alcohol or drugs during the most recent episode of violence. Among spouses reported as substance abusers, 53% were always violent when using

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[79] Id. at 53

[80] David Basham and Denise Brothers, "An Investigation of Alcohol and Drug Abuse Among Battered Women in Anchorage," p. 198-206 in Knowlton Johnson (Ed.), Insights and Strategies for Confronting Violence: Conference Proceedings, Proceedings of the 1982 Conference on Violence, School of Justice, University of Alaska, 1983

alcohol or drugs, and 83% were using alcohol or drugs during the most recent episode of violence.

The Anchorage study also found a relationship between the severity of violence and substance abuse. The more extreme the violence, the more likely that the spouse was using alcohol or drugs: 57% of the women suffering a relatively low level of violence reported that their spouse used alcohol or drugs, while 87% of those suffering extreme abuse had chemical-using spouses. A much higher degree of violence and alcohol or drug abuse was reported by native clients, both in terms of family history and the reason the client sought assistance at the Anchorage.

Other conclusions of significance reached by the Anchorage researchers are:

1. The history of violence in the male's family is of far more importance in contributing to his violent behavior than is his history of alcohol or drug use, although his use is associated with more severe violence.
2. In cases where women have been mistreated as children, the frequency of beatings tends to be greater.

Alcohol and Pregnancy

Heavy drinking during pregnancy increases the risk of miscarriage and can result in alcohol-related birth

defects.[81] When consumed in large amounts, alcohol can cause fetal alcohol syndrome.[82] Fetal alcohol syndrome appears to occur at a rate of 1 to 3 cases per 1,000 births.[83] The primary characteristics of fetal alcohol syndrome can be grouped into four categories:

1. Central Nervous System: Eighty percent of fetal alcohol syndrome patients are mentally retarded. Other central nervous system symptoms are poor motor coordination, reduced muscle tone, tremulousness, irritability in infancy, and hyperactivity in childhood.
2. Growth Deficiencies: Over 80% of fetal alcohol syndrome patients have prenatal and postnatal reduction in body length, weight and head circumference.
3. Facial Abnormalities: A pattern of abnormal features of the face and head is frequently seen in fetal alcohol syndrome patients.
4. Other Malformations: Fetal alcohol syndrome patients suffer malformations of various organ systems, including cardiac, urogenital, and

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[81] U.S. Department of Health and Human Services, "Fifth Special Report to the U.S. Congress on Alcohol and Health," December 1983.

[82] Id.

[83] Id.

skeletal.[84]

Alcohol-related birth defects occur more frequently than fetal alcohol syndrome.[85] Low birth weight is the leading cause of infant mortality in Alaska, and alcohol consumption by the mother during pregnancy is one of the factors leading to low birth weight.[86]

Children of Alcoholics

Children of alcoholics have been the subject of a great deal of study over the past ten years. Researchers have found that there is a substantial relationship between having an alcoholic parent and development of alcoholism. A compilation of research conclusions reflects the following facts about children of alcoholics:[87]

1. 50% of alcoholics are children of alcoholics.
2. 36% of the children of alcoholics are heavy abusers of alcohol. In comparison, an evaluation of the children of families with serious problems other

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[84]James Gorman, "Alcohol Related Morbidity and Mortality, Medical Diagnosis and Treatment: A Concept Paper," March 15, 1982.

[85]U.S. Department of Health and Human Services, "Fifth Special Report to the U.S. Congress on Alcohol and Health," December 1983

[86]Alaska Native Health Board, Inc., "Rural Health Issues Study and Statewide Suicide Evaluation Project," 1985.

[87]Cindy Scales and Joyce Schwettman, "Children of Alcoholics: Facts and Recommendations," 1985.

than alcoholism, shows that 16% abuse alcohol.

3. One out of four children in school has at least one parent who abuses alcohol.
4. Children of alcoholics are frequent victims of incest, child neglect, and other forms of violence and exploitation. In 90% of child abuse cases, alcohol is a significant factor.
5. A disproportionate number of children being referred to school authorities for discipline and entering the juvenile justice system or mental health facilities, are children of alcoholics.
6. Children of alcoholics are prone to experience a range of psychological difficulties, including learning disabilities, anxiety, attempted and completed suicide, eating disorders and compulsive achieving.
7. Family alcoholism is responsible for native students dropping out of high school at a higher rate than other students.
8. Over 50% of people served by Employee Assistance Programs are adult children of alcoholics.

This data is supported by anthropological field work. For example, an analysis of Athabascan drinking habits discussed the reaction of children to parental drinking.[88]

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[88]Greg Brelsford, "Athabascan Drinking Behavior: A (Footnote Continued)

The anthropologist observed that when parents became intoxicated, children maintained and managed the household. Older siblings fed, dressed and cared for younger siblings, thus protecting them from neglect. Children cared for parents rendered helpless by alcohol, and occasionally protected other family members from violent outbursts of the drinking parent. In extreme situations, children left home and stayed temporarily with relatives or friends while their parents were drinking.

Economic Costs

The economic cost to society from alcohol abuse is high. Various methodologies have been used for measuring the cost of alcohol abuse to the State of Alaska in dollars. One study concluded that the total cost for fiscal year 1984, including direct and indirect costs, was $195,500,000.[89] Table 13 summarizes the specific figures used in arriving at this total.

(Footnote Continued)
Preliminary Ethnography," Department of Health and Social Services Quarterly, 14-20, Winter 1977.

[89]California Health Research Foundation, "Economic Costs to State of Alaska for Alcohol, Drug Abuse and Mental Illness, 1983-1984," 1985

TABLE 13

Costs to the State of Alaska for Alcohol Abuse: 1984

CORE COSTS	$169,600,000
Direct	25,400,000
Treatment	22,300,000
Support	3,100,000
Indirect	144,200,000
Mortality	41,800,000
Morbidity	102,400,000
Reduced Productivity	92,100,000
Lost Employment	10,300,000
OTHER RELATED COSTS	$25,400,000
Direct	18,000,000
Motor Vehicle Crashes	7,200,000
Crime	6,800,000
Public	6,100,000
Private	600,000
Property Loss/Damage	100,000
Social Welfare Program	500,000
Other	3,500,000
Indirect	7,400,000
TOTAL	$195,500,000

Another analysis of the economic cost of alcohol abuse has been prepared by the State Office of Alcohol and Drug

Abuse (SOADA). The figures developed by SOADA indicate that the cost of alcohol abuse in Alaska is $185,294,061.[90] Since the state gains $14,868,433 in income from alcohol excise taxes, the net loss to the state under the analysis prepared by SOADA is $170,425,628[91] Table 14 summarizes the specific figures used in arriving at this total.

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[90]These figures are based on a methodology developed and explained in Volume I of "Working Papers: Descriptive Analysis of the Impact of Alcoholism and Alcohol Abuse in Alaska, 1975," by the Analysis of Alcohol Problems Project, Dennis Kelso, Project Director. At the time the 1975 study was completed, the total economic cost attributable to alcoholism and alcohol abuse amounted to $131.2 million. This amount was compared to figures prepared for the United States as a whole and found to be 65% greater than a corresponding adjusted national estimate.

[91]According to James Gorman, the Health Planner for SOADA responsible for updating the economic analysis first developed by the Analysis of Alcohol Problems Project, id., these figures represent a conservative estimate of the cost of alcohol abuse to the State of Alaska. For example, none of the dollars spent on running the Alaska Psychiatric Institute are included in the figures, despite the fact that Gorman reports that at least 10% of the persons institutionalized at A.P.I. are there for solely alcohol-related problems.

TABLE 14

Selected Computations of Alcohol Related Costs: 1984

Public Assistance Payments:		$5,828,210
Medical Assistance Payments:		5,650,892
Social Services: Foster care, Institutional care for children, Daycare, Protective Services, Homemakers (*some drug costs included)		8,718,444
Motor Vehicle: Accidents, Fatalities, Injuries, Property Damage		31,903,460
Criminal Justice System: Prosecution, Enforcement, Courts, Corrections		78,644,355
State Office of Alcoholism & Drug Abuse:		15,109,700
Costs of Lost Production:		19,870,000
Estimated Institutional Excess Costs, Health and Medical Care		19,569,000
	TOTAL COSTS	$185,294,061
Net Revenue to State from License Fees and Taxation	TOTAL REVENUE	$14,868,433
	NET COST	$170,425,628

Legal Issues Presented by Proposal to Ban Possession of Alcohol

Federal Law

The Twenty-first Amendment to the United States Constitution[92] gives states the power to absolutely prohibit, or to limit and regulate, traffic in intoxicating liquors within their borders.[93] In Ziffrin, Inc. v. Reeves,[94] the Court clearly stated that a state may absolutely prohibit the manufacture of intoxicants, their

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[92] In pertinent part, the Twenty-first Amendment provides that "The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited."

[93] See e.g., California v. LaRue, 409 U.S. 109, 114 r'hrg. denied 410 U.S. 948 (1972):

> While the States, vested as they are with general police power, require no specific grant of authority in the Federal Constitution to legislate with respect to matters traditionally within the scope of the police power, the broad sweep of the Twenty-first Amendment has been recognized as conferring something more than the normal state authority over public health, welfare and morals.

It is important to note, however, that the Twenty-first Amendment does not empower the states to prohibit or regulate the importation of alcoholic beverages into federal lands within the states which are under the exclusive jurisdiction of the United States, such as national parks and military reservations. Collins v. Yosemite Park & Curry Co., 304 U.S. 518 (1938). See also, Alaska Legal Services Corporation, "Applicability of Alaska Title 4 Alcohol Local Option Law Regarding Federal Enclaves Within Alaska," June 21, 1982.

[94] 308 U.S. 132 (1939)

transportation, sale, or possession, irrespective of when or where produced or obtained, or the use to which they may be put. States "may adopt measures reasonably appropriate to effectuate"[95] such prohibitions and may "exercise full police authority in respect of them."[96]

A specific "right to privacy" does not exist under the federal constitution. However, the Supreme Court has found that certain of the specific protections provided in the Bill of Rights have "penumbras" which create "zones of privacy."[97] In evaluating the federal right to privacy, the Alaska Supreme Court has stated:

> ...the federal right to privacy arises only in connection with other fundamental rights, such as the grouping of rights which involve the home. And even in connection with the penumbra of home-related rights, the right of privacy in the sense of immunity from prosecution is absolute only when the private activity will not endanger or harm the general public.[98]

Given the nature of the privacy rights which the Court has found to be protected by the federal constitution, it is

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[95] Id. at 108

[96] Id.

[97] Griswold v. Connecticut, 381 U.S. 479 (1965). In Griswold, the Court held that "specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance." 381 U.S. at 484.

[98] Ravin v. State, 537 P.2d 494, 500 (1975)

unlikely that the right to consume alcohol would fall within the boundaries of protected behavior.[99]

State Law on Regulating Alcohol

Local option alcohol laws under Title 4 of the Alaska Statutes have existed since at least 1962. Prohibition laws existed, and were upheld, even before Alaska became a state.[100] In In re Kaye,[101] the court acknowledged that the right to sell liquor could be prohibited altogether in Alaska. After statehood, in upholding delegation of rule-making authority to the Alcohol Beverage Control Board, the court stated in Boehl v. Sabre Jet Room,[102], that the legislature has the power to impose either complete prohibition or any other conditions deemed necessary "to afford the greatest degree of protection to the citizens of the state."[103]

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[99] Griswold v. Connecticut, 381 U.S. 479 (1965) (right of married persons to contraception information); Roe v. Wade, 410 U.S. 113 (1973) (right to choose abortion); Stanley v. Georgia, 394 U.S. 557 (1969) (right to possess obscene matter in the home). The Alaska Court of Appeals has stated that, as a matter of federal constitutional law, the consumption of alcoholic beverages does not rise to the same level as the above-enumerated rights. Harrison v. State, 687 P.2d 332 (Alaska App. 1984)

[100] See History of Alcohol Regulation in Alaska, supra at 15

[101] 11 Ak. Rpts. 556, 562 (Ak. Dist. Ct. 1948).

[102] 349 P.2d 585 (Alaska 1960)

[103] Boehl v. Sabre Jet Room, 349 P.2d at 589

The Supreme Court distinguished regulation of alcoholic beverages from regulation of other commercial enterprises because alcohol "possesses the capacity for grave and harmful effects upon the public welfare."[104] In reaching this conclusion, the court did not rely on an extensive evidentiary record. Instead, the court found as a "matter of common knowledge that lack of restraint in this field is almost invariably damaging to the community."[105]

Privacy Issues

Article I, Section 22 of the Alaska Constitution states, "The right of the people to privacy is recognized and shall not be infringed." This explicit constitutional right grants greater protection of individual privacy interests than the federal Constitution. In 1975, the Alaska Supreme Court relied on the privacy provision of the state constitution in ruling that adults could not be prohibited from possessing marijuana in their own homes for personal use.[106] The court found that the state had not demonstrated

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[104] Id. at 589

[105] Id.

[106] Ravin v. State, 537 P.2d 497 (Alaska 1975). A common misconception about the Ravin decision is that the court found a constitutional right to possess marijuana. This contention was specifically rejected by the court, which clearly concluded "that there is not a fundamental consitutional right to possess or ingest marijuana in Alaska." Id. at 502. The challenger to the existing local

(Footnote Continued)

the existence of any legitimate state interest in regulating such conduct strong enough to justify breaching the privacy of an individual's home.[107]

In its ruling, the court emphasized that privacy in the home is a fundamental right under both the federal and Alaska constitutions. However, the court was equally emphatic that privacy is not an absolute right. The right to privacy

> must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare. No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely.[108]

Therefore, an analysis of whether a statutory provision violates constitutional privacy protections must consider whether the state has demonstrated a sufficient public welfare justification for the statute and whether there is a "close and substantial relationship" between the statute and protection of the public welfare.[109] If such a relationship

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(Footnote Continued)
option law in Harrison v. State, 687 P.2d 332, 338 (Alaska App. 1984), conceded that an absolute right to consume alcohol does not exist in Alaska.

[107] In so ruling, the court noted that the "effects of marijuana on the individual are not serious enough to justify widespread concern, as least as compared with the far more dangerous effects of alcohol, barbituates and amphetamines." (Emphasis added) 537 P 2d. at 509-510.

[108] Id. at 504

[109] Id.

is not shown in cases where fundamental rights are involved, statutory prohibitions will be found unconstitutional:

> The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest...The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.[110]

In State v. Erickson,[111] the court applied the Ravin standard to a claim that the statutory prohibition against cocaine possession and use in the home violated the right to privacy. After an extensive discussion of the effects of cocaine, the court determined that cocaine presents a "substantial potential for harm" to the public welfare.[112] This was "a sufficient showing of societal risk" to legitimize prohibiting that which would be constitutionally protected in the absence of such a showing.[113] Therefore, the court ruled that criminalizing the personal use and possession of cocaine, by adults in their homes, does not impermissibly infringe on the individual's right to privacy.

In considering a challenge to that portion of the local option law which allows communities to ban importation of

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[110] Id. at 511

[111] 574 P.2d 1 (1978)

[112] Id. at 22. As part of its evidentiary summary, the court acknowledged factual support for the contention that "cocaine is probably less dangerous than alcohol, barbiturates or amphetamines.

[113] State v. Erickson, 574 P.2d at 22 n. 144

alcohol, the court in Harrison v. State,[114] began its analysis by ruling that there is no fundamental right to possess or consume alcohol in Alaska. However, the court pointed out that the privacy amendment to the state constitution "shields the ingestion of food, beverages or other substances."[115] As a result of the determination that these activities are constitutionally protected, their regulation must be justified as a legitimate health and welfare measure. Since a law banning importation is strongly related to consumption of alcohol in the home, the Harrison court evaluated whether the ban on importation violates state constitutional privacy protections. The court emphasized that because the importation law indirectly regulates consumption of alcohol in the home, the state "bears a heavy burden of justifying the regulation as a legitimate health and welfare measure."[116]

After referring to undisputed evidence which "unmistakably established a correlation between alcohol consumption and poor health, death, family violence, child abuse, and crime,"[117] the Court of Appeals held that the state had met its burden of justifying the local option law

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[114] 687 P.2d 332, 338 (Alaska App. 1984)

[115] Id.

[116] State v. Harrison, 687 P.2d at 338

[117] Id.

as a health and welfare measure. In so ruling, the court made specific reference to previous rulings of the Alaska Supreme Court which had expressly recognized "the deleterious effects of consuming alcoholic beverages" and which had expressly found that alcohol is more dangerous than either marijuana or cocaine.[118] The Court of Appeals upheld the law by concluding that "enactment of Alaska's local option law bears a close and substantial relationship to the legitimate legislative goal of protecting the public health and welfare by curbing the level of alcohol abuse in our state."[119]

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[118] Id. at 338-39

[119] Id. at 339. The court rejected Harrison's assertion that the local option law is not substantially related to a legitimate state purpose because the moderate consumption of alcoholic beverages may be medically beneficial:

> While moderate use of alcoholic beverages may be beneficial, the evidence showing the harmful effects of consumption is undisputed. The legislature, after considering the severe social costs of alcohol abuse, concluded that all communities should have the option of controlling the level of local distribution and availability. Even though decreased restrictions on the availability of alcoholic beverages may, as Harrison argues, increase the proportion of moderate consumers to alcohol abusers, broadened access to alcoholic beverages will undoubtedly increase the absolute number of alcohol abusers. The threat posed to society by widespread alcohol abuse is enormous.

Possession by Consumption

In 1972, the Legislature passed the Uniform Alcoholism and Intoxication Treatment Act.[120] The Uniform Act included a declaration of state policy relating to persons abusing alcohol:

> It is the policy of the state that alcoholics and intoxicated persons should not be criminally prosecuted for their consumption of alcoholic beverages and that they should be afforded a continuum of treatment so they may lead normal lives as productive members of society.[121]

In Peter v. State,[122] the Alaska Supreme Court considered at length the underlying purpose of the Uniform Act and of the concurrent repeal of Alaska's public drunkenness statute.[123] The court found that the Uniform Act was passed as a response to changing societal attitudes towards those who are unable to deal with alcohol responsibly:

> [The Uniform Act] incorporates into the law the realization that alcoholism is a disease, and that symptoms of this disease, i.e., public drunkenness, should not be made the subject of criminal sanctions. Rather, the legislature has decided that the proper reaction is to treat these manifestations of the disease of alcoholism through a comprehensive care program. To the

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[120] A.S. 47.37.010 et seq.

[121] A.S. 47.37.010

[122] 531 P.2d 1262 (Alaska 1975)

[123] Until its repeal, A.S. 11.45.032 prohibited being drunk and drinking in public, and made each offense punishable by a maximum $300 fine, 30 days imprisonment, or both a fine and imprisonment.

extent that prior laws would defeat this purpose, they must fall.[124]

The court then invalidated a regulation making it a misdemeanor to appear upon or along a highway or street in an intoxicated condition. This ruling was based on a finding that "there is an irreconcilable conflict between an act, a principal purpose of which is to decriminalize public drunkenness," and the regulation in question.[125] The court found the regulation to be "little more than a law prohibiting public drunkenness in the guise of a traffic regulation."[126]

In a different context, the Bethel Superior Court relied on Peter and invalidated a municipal ordinance prohibiting the carrying, concealing and transporting of open containers of intoxicating liquor in public by persons under the influence of intoxicating liquor.[127] The court found that the ordinance was impermissible because it ran afoul of the purpose of the Uniform Act, and was merely "a lever by which the City attempts to criminalize public drunkenness."[128]

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[124] Id. at 1271

[125] Id.

[126] Id.

[127] City of Bethel v. John, et. al., B-77-13039 Cr. (1977)

[128] Id. at 9

If a law banning possession of alcohol were interpreted to mean that an intoxicated person could be convicted of a law violation simply for possessing alcohol within his blood supply, such a law might be invalidated under the analysis applied in the above-cited cases. There appears to be little distinction between prohibiting being drunk in public and prohibiting possession of alcohol, when that alcohol is possessed solely within the body.[129]

Criminal, Civil and Quasi-criminal Penalties

In Alaska, the law provides an array of remedies for statutory violations. Persons engaging in prohibited behavior may be prosecuted under the state criminal laws, may be subjected to civil suit, or may be sanctioned by imposition of civil monetary penalties within the context of the rules of criminal procedure. The sanctions which

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[129] In addition to the conflicts with the Uniform Act discussed above, there is authority which suggests that internal possession of a controlled substance, standing alone, is insufficient to prove knowing possession of the substance. See, e.g., State v. Flinchpaugh, 659 P.2d 208, 211 (Kan. 1983)("Once a controlled substance is within a person's system, the power of the person to control, possess, use, dispose of, or cause harm is at an end. The drug is assimilated by the body."), and Hunnicutt v. State, Memorandum Opinion and Judgment No. 550 at 4 (Alaska App., March 28, 1984)("On appeal, the state concedes that internal possession alone cannot support a conviction."). Of course, the offender's state of intoxication could clearly be used as circumstantial evidence of prior possession.

combine aspects of both civil and criminal law are referred to as quasi-criminal offenses.[130]

In general, civil actions are brought to protect the rights of individuals, or to remedy private wrongs.[131] The procedural setting in which these actions are heard is controlled by the rules of civil procedure. Ordinary criminal enforcement mechanisms, such as arrest for failing to respond to a summons, are not available.[132]

The definition of criminal offense was first set forth by the Alaska Supreme Court in Baker v. City of Fairbanks.[133] The court held that criminal offenses are those for which a violation may be penalized by incarceration, by loss of a valuable license, or by a fine of such magnitude that it indicates criminality. Criminal offenses are also those which "connote criminal conduct in the traditional sense of the term."[134]

In clarifying the latter phrase, the court has said that offenses "connote criminal conduct" when they have

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[130] State v. Clayton, 584 P.2d 1111, 1114 (Alaska 1978); State v. O'Neill Investigations, Inc., 609 P.2d 520, 525-26 (Alaska 1980)

[131] State v. O'Neill Investigations, 609 P.2d at 525.

[132] State v. Clayton, 584 P.2d at 1113

[133] 471 P.2d 386, 402 (Alaska 1970)

[134] Id.

"been long established as part of the common law proscribing criminal conduct"[135] A criminal connotation may also arise where contemporary social values place "public opprobrium"[136] on the conduct.[137]

Quasi-criminal offenses are those which are not serious, and do not connote criminality, yet are intended to be enforced within the context of the criminal justice system.[138] There are both civil and criminal aspects of quasi-criminal statutes. Civil monetary penalties are used as the sole sanction for noncompliance with the statute, however, criminal procedures, such as arrest for failing to respond to a summons, are available as enforcement tools. If an offense is classified as quasi-criminal, a violator is not entitled to a jury trial, nor is court-appointed counsel available.[139] However, like a criminal case, "A

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[135] Alaska Public Defender Agency v. Superior Court, 584 P.2d 1106 (Alaska 1978)

[136] "Opprobrium is defined as "something that brings disgrace" or "public disgrace or ill fame that follows from conduct considered grossly wrong or vicious." Webster's Third New International Dictionary, G. & C. Merriam Co., 1961.

[137] Alaska Public Defender Agency v. Superior Court, 584 P.2d at 1110

[138] State v. Clayton, 584 P.2d 1111 (Alaska 1978)

[139] Baker v. Fairbanks, 471 P.2d 386 (Alaska 1970); Alexander v. Anchorage, 490 P.2d 910 (Alaska 1971); Alaska Public Defender Agency v. Superior Court, 584 P.2d 1106 (Alaska 1978)

quasi-criminal proceeding 'is for the protection of the public.'"[140]

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[140] Id. at 1114, citing Bray v. State, 140 Ala. 172, 37 So. 250, 253 (Ala. 1904):

> A prosecution for the violation of a municipal ordinance, designed for the preservation of the public peace, the security of the person or property, or the protection of public morals, has been held frequently by this court to be a quasi-criminal proceeding and not a civil action.

[141] This section sets out the legal support for conclusions reached by the Committee about the effect of proposed amendments to the local option law. See section entitled Legislative Findings and Conclusions, infra at _____.

[142] See also Alaska Constitution, article 1, section 9

[143] Carlson v. State, 676 P.2d 603 (Alaska App. 1984), quoting State v. Currie, 41 N.J. 531, 197 A.2d 678, 684-85 (1964):

> [V]iolations are generally tried quickly and informally before local police magistrates who are in some instances not even attorneys at law. The

(Footnote Continued)

Collateral Legal Issues[142]

The Fifth Amendment to the United States Constitution provides in part: "[N]or shall any person be subject for the same offense to be twice put in jeopardy of life or limb."[143] If a person is charged and tried or convicted for an offense, the fifth amendment precludes the filing of subsequent charges based on the same incident. However, the double jeopardy clause is triggered only where a person is charged with an "offense." In Alaska, infractions are not considered to be offenses for purposes of double jeopardy.[144]

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[142]This section sets out the legal support for conclusions reached by the Committee about the effect of proposed amendments to the local option law. See section entitled Committee Findings and Conclusions, infra at 107.

[143]See also Alaska Constitution, article 1, section 9.

[144]Carlson v. State, 676 P.2d 603 (Alaska App. 1984), quoting State v. Currie, 41 N.J. 531, 197 A.2d 678, 684-85 (1964):

> [V]iolations are generally tried quickly and informally before local police magistrates who are in some instances not even attorneys at law. The evidential presentation may be very limited and the legal representation may likewise be very limited or entirely absent. The maximum fines and terms of imprisonment are minor in comparison to those fixed for violation of our Crimes Act...The elements of oppression or harassment historically aimed at by the constitutional and common law prohibition are not significantly involved; and permitting the second prosecution would not violate the reasonable expectations attendant upon the first proceeding while barring it would operate withgross unfairness to the State.

Under Criminal Rule 45(b), a person charged with a felony, a misdemeanor or a violation shall be tried within 120 days. Service of a traffic infraction citation has been found to trigger Criminal Rule 45, and to bar prosecutions for subsequent charges based on the same incident filed after more than 120 days.[145]

The United States Constitution, in the Fourth Amendment, provides that: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause..." The Fourth Amendment applies, and, unless the case is exceptional, search warrants must be obtained, in all contexts: criminal, civil and quasi-criminal.[146]

Committee Findings and Conclusions

Findings:

Finding Number One: The abusive use of alcohol interferes in a serious manner with the health, safety, rights and privileges of Alaskans, and with the public welfare.

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[145] Koch v. State, 653 P.2d 664 (Alaska App. 1982).

[146] Camara v. Municipal Court, 387 U.S. 523 (1967); Marshall v. Barlow's Inc., 436 U.S. 307 (1978).

Finding Number Two: The public health and welfare will, in fact, suffer if the abusive use of alcohol is not controlled.

Finding Number Three: The prohibition of alcohol in rural Alaskan villages is an effective tool for controlling the abusive use of alcohol.

Finding Number Four: Serious crimes, and a wide variety of other social problems, could be prevented if the possession of alcohol were prohibited.

Finding Number Five: There is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, death, suicide, crime, family violence, family stability, and child abuse.

Finding Number Six: The level of dangerous alcohol-related behavior is directly tied to the level of alcohol consumption, and the level of alcohol consumption is directly tied to both the cost and availability of alcohol. A law prohibiting possession would limit the availability of alcohol, and would increase the cost of illicitly-available liquor.

Finding Number Seven: The dangers resulting from alcohol abuse are particularly acute in rural Alaska because the communities are small, isolated, without adequate law enforcement, without adequate health care facilities, and populated by people who are closely related and interdependent.

Finding Number Eight: The most damaging type of abusive alcohol-related behavior is that which affects innocent victims, such as children and elders. Children are particularly vulnerable, and as a result of parental alcohol abuse, suffer from a broad range of serious problems.

Finding Number Nine: The abusive use of alcohol perpetuates an escalating pattern of crime and violence from generation to generation.

Finding Number Ten: The most serious harm to the innocent victims of alcohol abuse takes place in private homes and behind closed doors. In communities which have chosen to ban the sale and importation of alcohol, and which have significant alcohol-related social problems, most drinking takes place in private homes.

Finding Number Eleven: The economic cost of alcohol abuse is high, and can not be afforded by either the State of Alaska, or small communities that do not have an independent source of revenue.

Finding Number Twelve: A significant number of rural Alaskan communities want, and would use, the authority to ban possession of alcohol. These communities have had a long-standing belief that alcohol should be completely banned, and this belief is based on a lengthy history of alcohol prohibition in rural villages.

Finding Number Thirteen: The policy decision to ban possession of alcohol is one which must be made by local government. If local authorities are precluded from making

such a decision, self-government efforts are undermined, respect for the state legal system is lost, and the public welfare is damaged.

Finding Number Fourteen: Although Alaska law permits communities to ban the sale and importation of alcoholic beverages, the present law is unenforceable because the possession of alcoholic beverages, including homebrew, is permitted.

Finding Number Fifteen: Despite the serious impact which the abusive use of alcohol has on the public health, safety and welfare, possession of alcohol in violation of a ban is not a serious offense and does not connote criminality. Penalties for violating a ban on alcohol should be limited to civil fines and confiscation of the liquor. Criminal procedures should be used to enforce the civil penalties since the ban on alcohol is for the protection of the public. "Possession of alcohol in violation of a local option law" is a quasi-criminal infraction.

Finding Number Sixteen: A fine of $1000 is not of such a magnitude that it indicates criminality in either urban or rural Alaskan communities.

Finding Number Seventeen: "Possession of alcohol in violation of a local option law" is an infraction, and is not an "offense" for purposes of constitutional double jeopardy considerations.

Finding Number Eighteen: A determination of whether "possession of alcohol in violation of a local option law" is a violation under Criminal Rule 45(b) should be left to the judiciary.

Finding Number Nineteen: The entire Committee Report to the Legislature, which is entitled "A Search for Control: The Effect of Alcohol on Public Rights and Private Wrongs" is adopted by the Committee and, in its entirety, represents a complete recitation of the Findings of the Joint Special Committee on Local Option Laws.

Conclusions:

> [The alcohol problem] is more serious than any war that's going on in the world. Wars have purpose ...but alcohol that abuses young children and all that kind of thing, it is totally no good to nobody.
>
> Neil Charlie, Minto elder

The severity of Alaska's problems with alcohol cannot be overemphasized, or exaggerated. Alcohol-induced tragedies have become a reality of daily life across the entire state, and have repeatedly forced Alaskans to recognize the fragility and vulnerability of human existence. Every possible tool must be available for use in combatting the threat posed by alcohol.

Since Alaskan communities are extremely diverse, the tools available to fight alcohol abuse must be equally varied. Approaches to controlling alcohol which are effective in cities such as Anchorage or Juneau, are unlikely to work in the predominantly Eskimo villages of the

Yukon-Kuskokwim Delta. Similarly, alcohol control mechanisms which help stop the disintegration of homogenous and isolated Eskimo villages, would be completely out of place in a complex urban community. The laws must be flexible enough to provide solutions to the problems faced in all communities.

Villagers have repeatedly told the Committee that they want the power to completely prohibit alcohol. The broad range of problems which are associated with alcohol abuse, as set forth more fully in the Findings of Fact, legally and morally justify legislative action which grants villages that power. Therefore, the recommendation of the Committee is that the local option law be amended and that communities be granted the power to ban possession of alcohol.

Appendix A

The following documents have formed the basis for the Committee report and have specifically and formally been made a part of the hearing record. In addition to the documents listed, transcripts have been made of all eighteen Committee hearings held during November and December 1985. The transcripts have also specifically and formally been made a part of the hearing record and were heavily relied upon by the Committee in making the Findings of Fact contained in this report.

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