

SCOMM

#6:4 A

Committee on Alcoholism and Alcohol Related Legislation

Tuesday, August 30, 1977

AGENDA

- | | | |
|---------------|---|---|
| 10:00 - 12:00 | Committee Office
1016 W. 6th Ave, Suite C | Staff briefing
Direction & objectives
Disposition of pending
legislation |
| 12:30 - 1:45 | Voyager Room,
Captain Cook Hotel

<i>10 for lunch</i>
<i>Zoster</i>
<i>Ramp</i>
<i>Hickney</i>
<i>Collette</i>
<i>Jerry</i>
<i>Maria</i> | No Host Luncheon
Informal meeting with Municipality
Bert Hall
Dr. Helen Beirne
Captain David Boyd
<i>Bill</i>
<i>Berners</i>
<i>Ray Dexter</i> |
| 2:00 - 5:00 | 5th Floor Conference Room
Old Community Hospital
825 L Street | Informal meeting with Governor's
Advisory Board on Alcoholism |

Governor's Advisory Board on Alcoholism

August 30, 1977

Dr. Stanley Austin, M.D.
Anchorage

Brother Asaiah Bates
Homer

Marlene Johnson
South Naknek

Rev. Paul Jordan
Anchorage

A. Fred Miller
Ketchikan

Dr. John C. Morris
Fairbanks

Marie Olson
Auke Bay

Robert Winslow
Anchorage

SPECIAL COMMITTEE ON ALCOHOLISM AND ALCOHOL RELATED LEGISLATION

STATUS REPORT, AUGUST 30, 1977

COMMITTEE OFFICES

The office was organized and primary notifications were distributed on July 5th. The Special Committee located the office at 1016 West 6th Avenue, Suite C (directly behind the Legislative Information Office in Anchorage). Due to remodeling and relocation of office furniture, the Committee did not begin full operations from the office until the 7th of July.

Letter contacts with 150 various, federal, state, local and private organizations was effected during the first two weeks of operation. Response from this effort produced numerous requests for additional information, offers to assist in the efforts of the Committee, and requests for the Committee to visit or hold hearings in various places. Follow up communications are continuing.

MEETINGS AND STAFF CONFERENCES

The Committee delegated to the staff the responsibility of initiating contact with each state funded alcoholism program and activity prior to the Committee sitting together to gather testimony. This was done to identify duplication from agency programs and strengthen and accentuate specific comments or program operations. In addition, the Staff acquainted each contact with the purpose and direction of the Committee.

The Staff participated in or met with the following:

a two day conference in McGrath with State officials from the Office of Alcoholism, Mental Health Division, Social Services and other federal program representatives,

State Health Coordinating Committee
Anchorage Municipal Officials
Salvation Army Comprehensive Alcoholism Program
National Council on Alcoholism - Alaska Region
Center for Alcohol and Addiction Studies
Alaska Native Commission on Alcoholism and Drug Abuse
Homer Alcoholism Center
Department of Revenue
Division of Corrections

In addition, the Chairman and Staff visited and toured the various Anchorage Municipality's alcoholism components located in the old Community Hospital. The Staff also followed up with unannounced and unidentified evening and early morning visits to the Alpha Center - detoxification unit. Continuing contacts are planned for the Alcohol Beverage Control Board, Anchorage Police Department, and the Alaska Court System.

FUNDING SOURCES FOR ALCOHOLISM PROGRAMS

As an initial activity, the Committee undertook to identify and quantify all the primary and secondary funding sources available to Alaska's alcoholism programs. To date, the Committee has identified for FY 77/78, State Office of Alcoholism grants program an appropriation of \$2,553,400; line item appropriations of \$ 292,500 directly to specific alcohol programs; plus monies available from the National Institute of Alcohol Abuse and Alcoholism (NIAAA - Public Health Service), US Dept of Education, Indian Health Service, Bureau of Indian Affairs, Dept. of Economic Development, Manpower -CETA program, and Highway and Public Safety programs.

Although the Committee has not finalized any findings, it appears from preliminary analysis that very little coordination exists at the policy (funding) level between various government agencies and between divisions within the government structure. Consequently, duplications occur in combating the problem of alcoholism at the local level.

At times this duplication appears to be caused by competing definitions of "Alcoholism" (mental health, behavior, social, etc.) and results in the involvement of different agencies each appropriating public monies for a solution to the "problem" as they define it.

For example: the State Office of Alcoholism sent a team of specialists into a particular community to assist the area in organizing an alcoholism program and applying for a state grant. However, it was discovered during the process that the area already had received a state grant from the Division of Mental Health for an alcoholism program. In another area the community arranged for public financing of a new Community Center through the Department of Economic Development under the title of "alternatives to drinking building".

It is almost certain the Committee will offer as one of it's first recommendations a requirement that all state grants be submitted on an integrated programming basis with a uniform grant application form.

SPECIAL SENATE COMMITTEE ON ALCOHOLISM AND ALCOHOL RELATED LEGISLATION

PROPOSED ITINERARY

Day One

Anchorage (invitational testimony)
McGrath

Day Two

McGrath
Ruby
Galena (State Program)
Nulato
Anvik
Holy Cross

Day Three

Holy Cross
Napaskiak
Akiachuk
Hooper Bay
Bethel (State Program)

Day Four

Bethel
Nome (State Program)
Kotzebue (State Program)

Day Five

Kotzebue
Kiana
Unalakleet
Fort Yukon (State Program)
Fairbanks (State Program)

Day Six

Fairbanks
Anchorage

Proposed Itinerary con't.

Southeastern portion

Juneau (State Program)

Angoon

Sitka (State Program)

Hoonah

Craig-Klawock

Ketchikan (State Program)

Southcentral portion

Soldotna

Homer

Seward (State Program)

Kodiak (State Program)

Dillingham (State Program)

Second Round Hearings

Anchorage

Fairbanks

Juneau

Ketchikan

SPECIAL COMMITTEE ON ALCOHOLISM AND ALCOHOL RELATED LEGISLATION
JOINT MEETING WITH THE GOVERNOR'S ADVISORY BOARD ON ALCOHOLISM
August 30, 1977

Senator Colletta: Let's get started then, than the chairman and the board for giving us the courtesy of the meeting with us and really in fact wishto have nothing more than an informal discussion with you people. I'll introduce the members of the committee that are here. I'm Mike Colletta , from Anchorage and Senator Ziegler from Ketchikan, Senator Hackney from Fairbanks - Senator Ferguson from kotzebue was unable to attend, and Senator Ray had every intention of beeing here but some unexpected business came up during the noon hour so he will not be here.

Most of you are familiar with what this committee is charged with. I believe a great number of you did appear and did offer testimony on a portion of the Governor's packageas related to excise tax - in Juneau. The balance of the package has been submitted to the committe for study.

Let megive you just a thumb nail review of what the committee has accomplished since theses measures where assigned to us. At this point in time we've engaged ourselve in nothing other than identifying what agencies and organizations and units in the state are interested in working in the area of Alcoholism. That's taken considerable time. We have not gone to any formal hearings in regard to any of the specifics in the Goveernor's alcohol package. we have had meetings withvarious agencies as to their opinions to solutions to the problem of alcoholism without regard to specific legislative proposals. I would feel safe in saying that a consensious of the committee we would like to continue on in this way rather than creating and advisory positon of for or against any particular piece , develop what a general concensus may be towards a partial solution to the serious problem of alcoholism. So with that we would appreciate very much the input from you as a board and more importantly from you as individuals .

Dr. Morris: Senator, with all due respects for Dr. Bierne , I am curious to know why you are present here? I thought this was between this committee and the Governor's advisory Board regarding our own personal opinions regarding the alcoholism in the state and notnecessarily the community of Anchorage? I am a little bit disturbed by your being here. Not knowing that you would be here.

Dr. Beirne: There's no reason I have to be, I think I was interested in any kind of legislation that you were going to persue since I'll be active in it.

Dr. Morris: Well, I don't know that we will be persuing legislation, I thought that we were going to have our opinions listened to by the committee in a more informal atmosphere and perhaps several months down the road from the last few of us confrontation. with the committee. And I would like to be more free in my

opinion.

Dr. Beirne:

Mr. Chairman, I have no objection to leaving.

Senator Colletta:

We thank you for being so gracious.

Dr. Beirne:

I did bring in some more opinions on the involuntary commitment in case that come up. Bob Cole has those.

A. Fred Miller:

I've kind of been wondering what we were going to talk about also and so I kinda was trying to figure out where we were. and it seems like that we're a board that 's appointed to kinda look into the alcohol problems in the state and do what we can about them. I see us as being not in any kind of an adversary position at all, but rather doing what we see, and of course we can be wrong like any body else. But, it seems to me that we're all working for the same purpose and were not - I don't see as being adversarial even though we are appointed by the executive branch. I see us here as trying to find out what we can do about alcohol in the state and the problems that we're having. Some things that occur to us are reflected in the legislative package. And I think it is fair to say that not all of the board members agree unanimously on everything in that package.

Alaska State Legislature



SENATOR MIKE COLLETTA

August 17, 1977

SENATE FLOOR LEADER

Senate

Brother Asaiah Bates
Governor's Advisory Board on Alcoholism
P. O. Box 504
Homer, Alaska 99603

Dear Brother Asaiah,

Thank you for your letter telling me of your appointment to the Governor's Advisory Board on Alcoholism. You, and the other members of the Board, have the more difficult task in dealing with the problem of alcoholism because you must deal with the situation on a continuing basis.

The Senate Special Committee on Alcoholism and Alcohol Related Legislation is studying the problem now and looking into what is currently being done, how much money is being spent (and how), and if more money or a different allocation of existing monies is needed.

We need the assistance of the State Advisory Board to help us understand the existing programs and why some are successful and others fail. Consequently, I have asked State Office Coordinator Bob Cole to arrange for the Board to meet with the Special Committee on Tuesday, August 30, 1977.

I have scheduled the entire afternoon to meet together so that we may have the time necessary to discuss what is currently being done and what needs to be done. Specifically when we meet Tuesday afternoon, the following will be included:

- ...pending alcohol related legislation **H** →
- ...efficacy of combating alcohol abuse through forced **H** →
reduction in availability,
- ...if increased revenues were available for programs, ✓ → FY 79 Budget
how would monies be spent,
- ...approaches to alcohol problems in urban vs. rural Alaska ✓ → Prevention?
- ...how can we effectively maximize local control? ? → Control
of what???

I'm looking forward to meeting with you on the 30th. Thank you again for your letter and your interest in this state problem. Enclosed are the items you requested.

Best Wishes,
Mike Colletta

Mike Colletta
Chairman
Special Committee on Alcoholism

MC/ja

**Cook Inlet
Council
on
Alcoholism**



AN AFFILIATE OF
NATIONAL COUNCIL on ALCOHOLISM

PHONE 262-4220
P.O. BOX 671
SOLDOTNA, AK. 99669

PHONE 235-8001
SRA - BOX 13
HOMER, AK. 99603

*Copy to all
members*

August 25, 1977

Mr. Aisaiah Bates
Governor's Advisory Board of Alcoholism
Homer, Alaska 99610

Dear Mr. Bates:

I would like to take this opportunity to congratulate you on your appointment to the Governor's Advisory Board on Alcoholism. I feel that the Governor has made a very wise choice.

The main purpose of this letter is to acquaint you with the Cook Inlet Council on Alcoholism, bring you up to date on our work and request your help and advice in solving a major problem.

Our Council was incorporated over 20 months ago. For the first 15 months, the only funding we received other than from individuals and businesses was a \$3,000.00 cash appropriation from the City of Homer. Since that time, we have received an additional \$3,000.00 from Homer, \$10,000.00 from the State of Alaska for the period April 1, 1977 to June 30, 1977 and \$35,000.00 from the State of Alaska for F/Y 77-78.

I would like to review our activities and accomplishments during the first 15 months of our existence while receiving no funding other than from the City of Homer and private sources. We accomplished the following:

- Established an office in the Kenai/Soldotna area
- Established an office in the Homer area
- Established the Driver Alcohol Information School for the Alaska Court System in Kenai
- Established the Driver Alcohol Information School for the Alaska Court System in Homer
- Implemented the Alcohol Information Screening Program for the Alaska Court System in Kenai

Mr. Aisaiah Bates
August 25, 1977

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- Implemented the Alcohol Information Screening Program for the Alaska Court System in Homer
- Referring an average of 8 people per month to alcoholism treatment centers
- Experiencing over 150 inquiries per month regarding alcohol and alcoholism
- Presented films and speaking engagements to over 1,000 area people
- Presented the Cottage Program in the Kenai High School
- Presented in service training to the Central Peninsula Hospital and the Homer Hospital

What have all of these activities led to? We had several meetings with the Kenai Peninsula Borough and the Central Peninsula Hospital Service Area Board. These meetings were held to discuss the results of a community needs assessment study we conducted. The study pointed out the need for a detoxification center and treatment center to be established on the Kenai Peninsula.

The results of these meetings was that we had to go before the voters in the October 1976 General Election with our idea of a detoxification center and treatment center and ask for their approval for the Hospital Service Board to study the situation. The voters approved the question with a 60% favorable vote.

Many long meetings followed and the result is that the Central Peninsula Hospital Service Area included \$100,000.00---cash--- in their 1977-1978 budget. In our discussions, we indicated that the need was for a 5 bed detox and 10 bed treatment center and the proposed cost and maintenance for one year was \$350,000. We indicated that the \$100,000 would be inadequate for a successful and continuing program. In essence, we have turned down the \$100,000.

You might wonder why would turn down this sort of funding. We firmly believe in the results of our needs assessment study and in our preliminary cost figures. Anything less would be a budget for failure. We would rather not proceed than proceed with the knowledge that we were heading for failure as failure would ruin any chance for a similar program for many years to come.

This, then, is the crux of our problem: we have convinced the taxpayers of the community of the need for a detox center and treatment center, they responded by allocating \$100,000 of hard earned cash, we cannot---will not---use the money because it is inadequate for success,

Mr. Aisaiah Bates
August 25, 1977

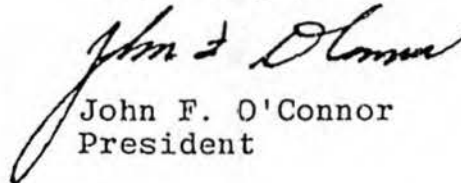
Page 3

and by not using the money, the funds will lapse into the Borough fund balance at the end of the year. Once these funds have lapsed, the chances of getting them again are nil. In essence, 15 months of work and \$100,000 are about to go down the drain.

We wish that you could make, as one of your top priorities, helping us resolve this problem. We, while an unfunded Council, came so far in so short a period of time. We do not want to lose what we have all worked so hard to accomplish.

We wish you would discuss this with the other members of the Advisory Board. If there are any available funds, anywhere, please let us know. This is the opportune time and situation for the State of Alaska to show support to a group of taxpayers who are putting their own hard earned cash on the line first and then asking the State to help them in helping solve one of the States major health problems.

Very truly yours



John F. O'Connor
President

SCOMM

#6:4 B

SPECIAL SENATE COMMITTEE ON ALCOHOLISM AND ALCOHOL RELATED LEGISLATION

September 16, 1977

Anchorage

*Original list in Rolodex updated file
MS 1/25/78
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NAME AND ORGANIZATION

ADDRESS

PHONE #

✓ Peggy Roston (Asst. Municipal Atty)	530 5th Ave } <i>Pouch 6-650</i>	264-4442
✓ Tom Klinkner (Asst. Municipal Atty)	530 5th Ave. } <i>99502</i>	264-4442
✓ Marcelo Quinto	PO Box 583 Juneau, AK	586-2741
✓ Brian S. Porter (Anch. Police Dept/)	625 C St.	279-1441
✓ Dr. Raymond A. Dexter (Salvation Army) Comprehensive Alcoholism Services	Box 4-992	276-1463
✓ Arthur Groom (Anchorage Council on Alcoholism)	<i>PO Box 2172 99510</i>	276-1673
✓ Paul Faulkner (A. A. Hospital and Institutional Chairman)	<i>5901 E 6th 99504</i>	<i>277-6551 333-1644 - 215</i>
✓ Mary Walters (Municipal Planning Dept/)	630 W. 5th Ave.	264-4261
✓ Sister Dorothy Forest (Catholic Archdiocese of Anchorage)	Box 2239	277-1628
<i>Commissioners</i> ✓ Frank Williamson (Dept/ of Health and Social Services)		465-3030
✓ Rex Cooper (State CHAR)		272-1742
✓ Ardi Bury (SACAS)	Box 4- ⁹⁹ 002	276-2898
✓ Bernard Segal (Center for Alcohol and Addiction Studies)	<i>1011 2651 Providence Ave of</i>	272-5522 X131
✓ Dennis Kelso	PO Box 42 Downtown Station	274-9442
✓ Marianne Kufel	PO Box 1450 E SRA	344-1346
✓ George Barail (<i>ANCADA</i> <i>Commissioner</i> Ak. Native <i>Group</i> <i>on the CHAR</i>)	<i>750 E Vincent St #2</i> <i>03</i>	274-5531
✓ Ed Brown (EMS)	211 W. 7th	277-3242
✓ Patricia Rocerb (ALMEA)	503 W. Northern <i>1/2</i> L ^{ts}	272-5656
✓ Capt. David G. Boyd (Salvation Army)	PO Box 4-992	274-1693
Linda DeWaard (National Council on Alcoholism) Had Camera	<i>4510 Snd. Airport Rd. 361</i>	243-4324
Terry McNally (ANCADA) Had Camera	750 E. Fireweed	274-5531

NAME AND ORGANIZATION	ADDRESS	PHONE #
Bert Hall	825 L St.	264-4621
✕ Ralph L. Van Allen	SRA Box 4192	344-5148
✓ Carolyn Rinehart (Anchorage Times)		279-5622
> Leonard Nugen	Box 106 Eagle River, AK	279-2124

Municipality of Anchorage

MEMORANDUM

DATE: September 16, 1977

TO: Senator Mike Colletta, Chairman
Senate Select Committee on Alcoholism

FROM: Behavioral Health Division
Dept. of Health & Environmental Protection

SUBJECT: Considerations for Legislative Action.

The area of involuntary commitment of persons who are incapable of protecting themselves and others due to chronic alcoholism appears to be in need of Legislative action. This could be called "protective custody" and could be amended into either or both the present uniform alcoholism act or the proposed House Bill No. 472 ¹⁷⁶ ~~118~~ ⁷³³ which speaks to involuntary commitment of those with mental health problems. The present Statutes address this issue but are not clear, thus discouraging the testing of the law. You have been presented a packet of legal opinions on this issue.

There are two other major populations of concern in the so called alcoholism group which impact not only the well being of themselves but the well being of those innocent persons who become the victims of their alcoholic or derelict irresponsible action.

One group is part of the so called "public inebriate" population. This group is a fair percentage of the so called alcoholic population but very visible and a source of harassment and often a danger to themselves and others. They are often of an apathetic or irresponsible nature without a personal residence or funds. They often frequent the bars and utilize their public support monies on alcohol for the purpose of a warm environment and companionships rather than the need for alcohol per se. They are in need of a protective environment where they can feel the security of having a place to live and companionship. Many of them could partially pay for their support via social security, aid to the disabled, longevity bonus, and possibly native support systems. A facility for this type of individual could have minimal or no security with a work oriented program and cultural related activities. It should not have to be treatment oriented or overly expensive.

Such a facility would take a fair number of revolving door clients from the Walk In Center (ALPHA) rolls and allow the programs which deal with the diagnosis and treatment of alcoholism per se to concentrate on this population.

The second group which is a much larger population and of significant danger to themselves and others is the "driving drunk." This appears to be a significantly different category of people. They have money enough to own a car and as a rule have a job and a home. They may or may not be addicted to alcohol or a combination of alcohol and drugs, but have in common that they are irresponsible in their drinking-driving habits and thus a danger to society.

Of the approximate 8,000 criminal offenses during the past year, 2,200 were alcohol related. Nine hundred sixty-one citations were issued for driving while under the influence (DWI) from July 1976 through July 1977. This averaged out to 80 tickets per month in the Anchorage area. Most of these individuals received suspended sentences partly because there is no facility available in which to serve the sentence. Many are placed on DWI education programs but the follow up is minimal. It appears

that the legislation relating to this group of persons is adequate but facilities and programs are not. Additional monies must be appropriated to meet these needs. Quite possibly it should be appropriated through the Department of Public Safety and tied in closely with education-treatment programs.

The type of facility needed for these individuals does not have to be maximum security and certainly would be much less expensive than placement in a traditional jail type setting. The sentence would probably be light and partially for the purpose of forcing an education program and monitoring activities on release. Certainly a facility such as the Point Worenzoff (AATC) facility could serve this purpose but additional funding is needed.

If by chance there is an alcohol related crime involved which demands a longer sentence it would appear that such a facility as the Palmer Adult Camp could be utilized. It is, my understanding, that it has a minimal population at this time, compared to its holding capabilities. The Palmer facility also has the capabilities of being an adult protective custody facility with a skill or work oriented program. Such a program could be funded through Social Services rather than Alcoholism or Public Safety, but once again planning and appropriations are necessary.



Helen D. Beirne, Ph.D.
Behavioral Health Services Manager

HDB:epw

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Senator Colletta: The hearing for Anchorage is scheduled for October the 19th, South Central on the 17th and 18th, South ~~East~~ Alaska I believe between the 14th and 13th of November. If you would all please bear in mind ^{that} we wish to discuss only the one topic today, and that's the discussion on the Public Inebriant problem. We would like to ask Mrs. Beirne to open up the presentation here ^{and} then I do have a list of people here present now just unless there is someone who has a time crunch I'll just take them in the order they appear on my list. If someone does have that time crunch, please say so and I'll see you before the next person. Dr. Beirne.

Dr. Helen Beirne

Thank-you Senator ^{Colletta and} Senator Ray. I want to express the appreciation on the part of the Municipality for your coming ^{up} to Anchorage and for holding the hearings which I think many of us feel are extremely important if we're going to meet the needs of the public inebriant in Anchorage. I have here a very short presentation, that I ^{thought I} would express some of my views at the moment, and give reference to some material we have which I think the committee has already been privy to but perhaps some others ^{who are} ~~that are~~ concerned would find it helpful. I'd say that the areas involved during ^{of} commitment or protective custody as we are probably going to refer to it, of persons who are incapable of protecting themselves or others due to chronic alcoholism appears to be in need of some legislative action. We could call this protective custody, and it could be, it seems to me amended into either the present Uniform Alcoholism Act or possibly there's a possibility it could be ammended into one of the new bills which will be before you next year, or is before you. House Bill #472 which is one which speaks to involuntary commitment of those with mental health problems. This particular bill, as I read it over seems to have a less cumbersome commitment proceeding. I'm not recommending that they be one and the same, but that perhaps ~~the~~ ^{maybe the} proceedings that are spoken to in that bill might be a little less cumbersome than the ones we have at the present time. There also is House Bili #733 in 1976 which had a better commitment procedure, but which did not pass, ~~but~~ which might be an excellent reference. It appears to us that the present statutes although they speak to involuntary commitment or protective custody, are so cumbersome and unclear that people are unwilling to test them. Therefore we are finding it very difficult to open even though they are demonstrating lack of to hold them even though they are demonstrating a lack of ^{capacity} ~~ability~~ to manage their own affairs or rather they are even harmful to themselves and others. And this has been ^{an} ~~the~~ issue I think with all of us here at the table, and we're very concerned that something be clarified so that we are capable of exercising that particular concept. We also feel there are two major populations in the city which we have to discuss at the same time we discuss what we're ~~are~~ calling the public inebriant, and the one group is what we are calling the so called public inebriant population and this ^{is a} group ^{which} is a fair percentage of the so called alcohol population. They're very visable and a souce of

Beirne

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Dr. Helen Beirne
Cont.

harrassment to the people especially in downtown areas. It's the visibility that's bothering a number of people as much as the fact that these people are human beings who need treatment. And it's creating a pressure on many of us to get them out of sight in any way possible. Alright, this is one group. We're finding that some of these people are apathetic, irresponsible in nature, they have no personal residence and no funds. They frequent bars and use public support money on alcohol for purpose of a warm environment and companionship. Rather than the fact that they want alcohol per se, so we feel that we are talking about a fair number of these inebriants who really are probably social service cases or of a derelict or an irresponsible nature. Many may not even be that, they may be disenfranchised or displaced people from the rural areas. There has been a recommendation made in the past perhaps we can think in terms of a different type of facility for these types of individuals. We feel that if such a facility were found it would probably be a minimal security, work oriented program, possibly cultural related activities and it would not necessarily have to be treatment oriented, nor would it have to be overly expensive. Such a facility would take a number of people out of our Alpha Center or our walk-in center, and would allow them those people who come in there more time and more alcoholism money would be spent for alcohol per se rather than the people who just don't have homes. ~~The second group we have to mention which is a much larger~~ The second group that we have to talk about of course, that which is a much larger population and I'll just mention it in passing and that is the driving drunk.

TP
during We're finding that this is a large number of people, some of the recent statistics we get are that 8,000 criminal offences over the past year, of those 2,200 were alcohol related. There were 961 citations in the Anchorage area, these were DWI's, they were very few of them sentenced, although the drunken public law is adequate, we don't have the facilities to house the individuals. Once again, these are people who probably are, many of them like ourselves, they own a car, they can afford a car, they have a home, and a job and they are given sentences which are suspended because there is no place to hold them.

They do not need maximum security, the possibility is that they need a place where they can be sentenced for three days with the main issue of sentencing being that they have some education forced upon them, driving education. They are good people, they are wage earners, they're tax supporters, they are irresponsible drinkers, driver-drinkers. and so here is another area where we need some type of facility where people can be placed for some type of treatment, and to carry out the letter of the law, which at the present time is a good law. I only mention this in passing. The one we're here today to talk about is the voluntary commitment or protective custody. And I think both of those are the true inebriants and those that are more of the delinquent or irresponsible type into consideration, and we talk about

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Dr. Helen Beirne

that I have here ^{the} some opinions ^{which} that have been given to us up to this point ^{by our} City Attorneys, as well as from the Attorney General, ^{and} in almost every case it frightens people ^{sometimes} after they read these opinions to go ahead and exercise an involuntary commitment proceedings. We also have here a the Peters vs. the State case which many of them base their opinions on. I probably have about 10 copies of these which some people may be in having. Thank You. ^{interest}

Senator Ray

That's the one in Barrow?
That's the one that Gochever wrote, right?

Senator Colletta

Senator Ray do you have any questions for Dr. Beirne?

Senator Ray

No I think she's covered it pretty well, I would disagree with some of her points ^{the} in saying that the majority of alcoholics ^{the over 90% of} are visible. I think the majority of alcoholics the closet type _____ and housewives and people who work and miss time at work, unhappy in their jobs, perhaps just ^{they're} ~~living~~ with their life, looking for something else to do. The visible ones, I don't think are the necessity, That's the end result.

Dr. Helen Beirne

Mr. Chairman, ^{May I just} ~~I'd like to~~ answer that.

Senator ~~Ray~~ Colletta

Please

Dr. Helen Beirne

As a matter of fact, I think, if I said that, I didn't intend that. It is exactly the opposite. This group we're talking about is only probably only 5% of the total alcoholic population and we're putting 90% of our money into them. ^{they're} We are putting it into them because they are visible and a ^{harassment} to the public.

Senator Ray

I misunderstood you then Helen, because I thought you said the average drunk or wino I guess you'd say that you see up and down the street I don't know what you're going to do with them except put him away ^{Place} somewhere ^{for his own} good, and the good of the rest of people, I suppose.

Dr. Helen Beirne

^{May I just make one other statement?} I think I ^{have} really should expand on the fact that the ^{involuntary commitment} group ^{Address this} that Senator Ray is talking about. We have many ^{problem} ^{Address this} closet drinkers, many people whom an involuntary type of commitment with a humane substance to it, would certainly help that type of individual.

Senator Colletta

Senator Ray

Senator Ray

Then you're going to have to get around the law ^{as it is} ~~because~~ written now. It's not a crime to be a drunk.

Senator Colletta

Dr. Beirne

Dr. Helen Beirne

Indeed that's so. I personally might like to see it go back to where it is a criminal offence. But I would like to see ~~something where we could hold to~~ something where we could hold them against their will if they are ^{incapable} of making decisions.

46 Dr. Helen Beirne Cont. and are a harm to themselves and ^{much} to the public as we've attempted to do with mental health people.

Senator Ray Do you think you will get public support to repeal the act to make drunkenness a crime, again?

Dr. Helen Beirne I don't have the feeling that we would get the support to make it a crime again, but I think we would get much support in strengthening the ~~present~~ ^{commitment} law.

Senator Ray Well the commitment law now is ^{put} ~~the~~ people a way, they are a menace to themselves of someone else. ^{if} It doesn't say anything about just walking around and falling down, sitting around down on 3rd Avenue or whatever you call it, down in South Franklin in ^{judg} Judau, unless they are harassing someone ^{both} and then it becomes disorderly conduct. I think that if you read the Peter's case in which ^{judge} Goocheever went in some ^{great} detail on it and seemed to be strung out on it pretty good. I think it's about 16 pages long and he put 8 pages of it to Uniform Alcoholism Treatment Act or whatever they call it. So, I don't know Helen, I'm ⁱⁿ disagreement with you but I don't know what the public support would be.

Dr. Helen Beirne Maybe some other individuals can give an idea of what they think public support might be.

Senator Colletta Senator Ray?

Senator Ray Yeah, I'd like to hear somebody else.

Senator Colletta I have no objections to allowing an informal atmosphere but ^{for} the sake of time let's limit ~~the~~ questions from any one who wishes the immediate speaker, let's limit it to ^{about} 5 minutes.

Senator Ray Let's here what Brian has to say. Let's here what the police would do in rounding up the drunks and _____

Senator Colletta Mr. Porter.

Mr. Brian Porter Well, the police throughout the state I think are ^{this} the first people to have to respond to the new act, and ~~it~~ has been said, it's a civil procedure with what appears to be as many or more rights and protections for the client as a criminal procedure. It's a foreign procedure to us, and very hard and cumbersome to work. We're not adapted to civil law nor do we have, frankly the time to put into ^{requirements of the} the involuntary civil commitment. In terms of alternatives, the public acceptability, that's probably not our ~~field~~ but the state right now as I understand it is looking at obtaining funds to take a really in depth look at their criminal justice procedure, from stem to stern. With the idea of not making little finite detail changes but major changes and I would think that this particular issue since it is of such importance with ⁱⁿ the state would be amenable to being addressed in that research to see if there is a procedure that could be developed that is

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Mr. Brian Porter between criminal and civil. That, just off the top of my head, perhaps could have the expediency of the criminal procedure but ~~and~~ have the privacy as we do with criminal records in other instances that would make it publically acceptable. I think probably I have a problem right off the start but the act as it's constituted now that this is an illness. I think a person can choose where he elects to be ill. Which takes it out of an illness in terms of public intoxication, and that's the problem we're talking about now. If there were some middle ground procedure that would be workable, that we could work, and then actually make an effect on this kind of problem on the street. It may be publically acceptable, and it may be efficient enough to operate. There is one other alternative method that I know was somewhat successful in St. Louis a number of years ago. The person was picked up by a police officer with a summons on a criminal charge was written but he was taken to a treatment facility. The law allowed a certain amount of time for this person to become rational and then the treatment people looked at him, examined him, tried to define the problem and said we have determined that you have this kind of a problem, we've had time to look at your past history and we give you a physical examination and all of that, and we think that you need x program of treatment. We would like you to volunteer for that program of treatment. If you choose not to, there is a summons written by the police in your file here that we will send on to the court and you will go on for disposition there. YOU can't treat someone unless you possess them for the period of treatment short of an involuntary procedure which is too cumbersome to really work. We're not treating anyone.

Senator Ray If you want to treat alcoholism I guess you'd have to get a psychiatrist for the world. That would be the ultimate. Find out what the problem is and cure the problem, and cure the effect.

Senator Colletta Dr. Beirne, do you wish to expound?

Dr. Helen Beirne I hadn't given thought to the one I thought was a very cogient statement that Brian made and that was something with the expediency of a criminal procedure but keeping it on the privacy level of mental illness. That is just sort of a compromise thing that should probably be looked into I think one of the reasons that was such a distaste for having a criminal procedure is that possibly they felt that even anything on the record, although kept private might enter future working relationships, and put people on welfare roles where otherwise they could be working individuals. but there might be ways to handle that.

Mr. Brian Porter One of the things that the state study is going to address is a form of hearing outside of the formal court setting. Hearing officers and administrative proceedings that will be closed to _____. The civil remedies that are in the act now require jury trials and formal court settings and the privacy gone anyway.

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Senator Colletta You know we do have, are fortunate to have two gentlemen here courtesy of Governor Hammond's administration and we do have Commissioner Williamson here from the Health and Social Services and Mr. Richard Peters from the Attorney General's Office. Mr. Peters I wonder if you could comment on what Mr. Porter has said in the review process

Mr Richard Peters Well it would seem to me that what he is aiming at is an ideal solution
Well his, what he is aiming at it seems to be an ideal solution if it capable of being worked out. It's what is most desirable I think. I'm sure there's no disagreement with that. Whether a system could be devised and be incorporated. with both those' features. We're, the bill for example, which is before you now was submitted by the Governor last year that was mainly to incorporate, to merge these two offices and also to clean up the _____ facility and private facility, public facility and no changes were made as to commitment procedures but there is no reason they shouldn't be made if that is what a desirable substitute can be found. We really haven't gone into that phase, this is the first time I've heard such a suggestion as this but it certainly has merit. If we give it a direction in which to investigate anyway.

Senator Ray We had a hard time, I don't know if _____ was in the house, we had a hard time getting the drunks off of the highway remember. Were you there then when we did

Dr. Helen Beirne No , I wasn't

Senator Ray Yeah, this simple bill keeping a drunk off of the highway. Yeah, you know you can't infringe on personal liberties. If he wants to walk up and down the highway drunk, he can. If he gets hit by a car then it's his fault, he wasn't paing attention to him. That's what I was talking about, public acceptance. I don't know if the swing will come the other way, if the pendulum has swung back, but the liberality that we've experienced over the last period of maybe 10 years, I don't know. Now we're talking about the attorney generals office is very interested in legalizing the use of cocaine and here we're talking about putting drunks in jail. I don't know.

Senator Colletta Anyone else wish to comment?

Paul Faulkner Mr. Colletta?

Senator Colletta Please

Paul Faulkner I'm Paul Faulkner. I'm the intern representative for the State of Alaska Hospitals and Institutions. and I'm employed at API. We currently have at API today what is commonly refered to as the Moody Blank Check. For those of you who are not familiar with this any Peace Officer or Correction Officer can pre-determine a mental state of a patient and subsequently transfer them to API to the security unit. This then can give ample opportunity for screening and

Paul Faulkner
Cont.

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determination as to the mental capacity of the individual. Perhaps something similar to this could be so ordained for the City of Anchorage or the State of Alaska in which a determination could be made as to the alcoholics capabilities of understanding right from wrong., and whether he could function in the community and if could not, then he could in fact be committed under this type of order to x agency for a period of time and a determination could then be made as to continuing treatment. It is working remarkably well with mental patients. and could be then in turn, I'm not suggesting that API take alcoholics, they could in turn be this format could be utilized. for the alcoholic.

Senator Ray

You're talking of municipal living and not necessarily bush living because the morays are entirely different.

Paul Faulkner

Yes, I have a, it could perhaps be extended so that any magistrate or judge could give this carte blanche to a determining officer. In this particular case, probably the arresting officer or his immediate supervisor.

Senator Colletta
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Any additional comment? If not then we have a request, one gentleman must leave. We'll hear him next. Marcello Quinto, President of the Alaska Native commission on Alcoholism and Drug Abuse.

Marcello Quinto

Yes, I'm Marcello Quinto and I'm President of the Alaska Native Commission on Alcoholism and Drug Abuse. _____ a non-profit organization set up about 4 years ago which we provide some input and information on programs for the rural areas. We have been operating on a state wide basis for the last 4 years. We have gone record as a board as supporting the Governor's Package Treatment in a couple different areas, One really relatively stale, the distribution of alcohol which has really concerned a lot of the smaller rural areas for different reasons. and the other area is the excise tax pretty much because of the rural communities being so far out it's been so costly to try and develop programs in that area. We pretty much wanted to hear to _____ the fact that we do support it also understand and appreciate the actions you're going through now to certainly try and work through and deal with the problems Don't, I do have some good testimony, will follow with this in Juneau but I think probably the key areawhich is to indicate that we are a concerned group , we do have programs that are being, that are active around the state of Alaska and certainly we have been gone through as a growing unit have also identified with the need for dollars to operate the programs. and would certainly appreciate and work with any systems that you're committee would provide.

Senator Colletta

Thank-you. Mr. Quinto, before you leave could we get you to reflect on the one topic that we wish to discuss today and that is involuntary committment, or protectiv custody?

Marcello Quinto

We have discussed it as a board on several occasions recognizing that the areas that I represent are reletively very small and certainly can't provide the facilities for you know in every

 Marcello Quinto small, little community that we're speaking of . we do recognize that in many cases, especiall in rural Alaska the need for some involuntary restriction, especially when he's not, he's uncotrollable. But how do you provide that activity in such a small rural area. You don't have a state trooper in every community, yet you have accessability to alcohol to every small community throughout the state. And it's become a very serious problem in many many cases that have been, we've been aware of is the, trying to restrain the alcoholic or the alcohol abuser from physical force. It's been probably the key area to why we've needed some type of restriction. Right now you don't have it..

Senator Colletta Thank You. Senator Ray

Senator Ray Marcello, you said that you supported the Governor's package.

Marcello Quinto We supported in, pretty much in concept.

Senator Ray Do you also support his beleive that unless you increase the tax on alcohol, that no new facilities will be built?

Marcello Quinto Not necessarily

Senator Ray You want the facilities irrestpective of the problem that we recognize as, I think the folks in most places major problem is, irrespective of where the money comes from if it comes from oil or fish or anyplace else, we need the facilities first and then we'll worry about the money next.

Marcello Quino That's really kind of key to us. Yes we recognize that in any tax issue that we are not that niave that you really need the public support as you say, before in order to get it. WE recognize the need and hope that you'll recognize the ability to take care of that.

Senator Ray The legislature in it's stupidity, I guess you'd say, whatever you'd care to classify them down in the legislature had several projects dealing with alcoholism that were red-lined because of the taxes weren't increased comproble to what the government felt.

Marcello Quinto Well I guess the thing is, you ah ___ (Machine turned off as it was thought tape had ended.)

Dr. Helen Beirne Senator Colletta. I'd just like to ask a question of Marcello since within the Municipality we are finding that some of our major problems are dealing with the native population! That, I think they have probably been misplaced, they've come into town, and have no way of getting back home again and there is a question as to whether they truly have a true alcoholism problem or whether they have no place to go and so they are using ^{support money} support on alcohol in order to have companionship. But, let's assume that some of them are walking into the walk-in center on the average of 8 to 10 to 12 maybe even 20 times a month. They're revolving in and out, in and out and apparently we are not taking care of them, we're not doing

Dr. HElen Beirne
Cont.

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what should be done for them. Do you think that if there was a long term care facility that was skill oriented with minimum security and if there was some sort of a commitment procedure after a person rotated in and out of such facilities 10 times and and someone said they could not take care of themselves and committed them from 30 to 60 days to a facility. Would you feel that that would be against any of our civil rights, activities, or I mean even thinking about a type of facility such as like this a Palmer Adult camp which has such a highly skill oriented program out there. It's outside of the city, it's away from the city and I'm only refering now to Natives because I'm talking to you but we have many un-Native who fall in the same catagory. What would you think of something of that nature?

Marcello Quinto

I guess that my first reaction to that , Dr. Beirne is that I was trying to remember, I believe that ~~When~~ they first set up the honor farm out at, outside why wasn't that initially a 30 day or 60 day , once you went into that facility you had to be their 30 to 60 days? When they first started that program, though I thought that was 30 to 60 days, you had to be there. Wasn't that under the court? Mayby I'm wrong I really don't know. I would say that in order for any , you know, obviously if we're , you know, you're aware of yourself until you get them into there for a period of time where you can work with the person, yeah, you're probably going to get better results. You ask me the question wheter or not my civil rights of any native or any non-native to be restricted for 30 or 60 days, I would immagine if they're a menace to themselves and certainly to the community I would say yes, probably necessary. You ask anybody else the same question and they'd tell you hell no I don't want to be restricted for any reason. You tell me there's no drunken public law, why should I be confined? I don't know. I know that you would probably get better results, but in terms of relative , I don't know who , was afforded there, you know I was asking to go back to step back and maybe pick up some of the old laws that are available. Certainly we recognize that it is a problem in rural areas. and a number of areas that we've had to try to constrain people but you know.

Senator Ray

I wonder if there is a difference in what Helen saying, and though and I'm sure that he

Marcello Quinto

Maybe I misread the question

Senator RAY

The police officers here understand and get somebody put in for 5 years for use of heroin and drugs etc. and how many times are they removed from society, and they have counseling and all the rest of it, how many times are those people do they come by heroin when they're in the joint. How many times? In other words, you're not curing anything, you've got to get to the basic problem , to what makes the quy do it to state with. What makes him, before he's to the point where it becomes a physiological change, where his system changes I'm not a doctor, but if you can get him before that time, and cure his problem, then you got it made, but once his system requires it, metabolism breaks down, or whatever you

Senator Ray call it once that happens, then you're dealing with an entirely
Cont different problem, then you're dealing with an illness, but
previous to that time you have a problem with the head perhaps

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ra
r yo
Marcello Quinto Well you have time involvement there too, you know and that's
what you're saying to is that unless they have the time
to work in the field with that person they really can't get
to the bottom of the issue, what is the problem. I guess
another area that _____ you know, you have so many of the
Native people that do come into the Anchorage - Fairbanks
general area that come in for after season work or what ever
it is and they mill around and they do end up at the bars
I guess they're the visible drunk that you see. Can you
restrict them, I, and not go against their civil rights,
under today's laws, no you can't. You would go against it.
Those are the things you people are wiser than I will have
deal with.

Senator Ray And yet we have all these programs, all these alcohol programs
we have people running around telling the, bringing the
Native people in from their usual existence, kind of a nomadic
hunting and fishing and what ever they are. We're going save
them and so we bring them into the community, into the population
centers because you're going to get a check once a month or
whatever, depends on who your state program is and after they
drink that up, they sit around the rest of the time waiting to
get the next check. And the next time you got a problem so
you, pretty soon ya got a bunch of drunks milling around and
you're going to put them in jail because, why?
Because they can't take care of them selves. they've been taking
care of themselves a good many years before we ever were here.

Senator Colletta Any additional comment? Yes

George Barail My name is George Barail, I'm an Executive Director of the
Alaska Native Commission, and I work for Marcello and the
rest of the Board. In regards to involuntary committment and
the laws which are in the Governor's Package which tend to
regulate the sale and distribution, you know the two are
related, in that if you don't have anything, any laws in
regards to the sale and distribution of the beverage alcohol
expecially in the rural areas and no involuntary committment
or anybody who is prepared to enforce involuntary committment
then it doesn't do any good. if you have one without the other
you must have a organization or a body of people who are going
to not only be able to enforce the sale and distribution, but
also take care of the person who, or involuntary committment
who does present a danger primarily to themselves and to other
members of the community, and as you know that happens quite
a bit in the rural areas. When an accident relating to the
discharge of firearms, drownings and so forth, most of those
are alcohol related. And I'd like to provide a comment in
regards to what Dr. Beirne said about involuntary committment
or a facility to place those people in an area such as
Anchorage or Fairbanks, while that is very good, and is something
which a good facility is needed however, again that does no
good if we're taking in regards to the Native population because
you mentioned they go back to their community again.

George Barail
Cont.

and without some kind of continuing support from their own Community you can expect, of course to see them back in that _____ time and time again. So what you need, you need a number of things and that is primarily to getting with a source of referrals from the community and also, once they return to the community is continuing support for those people. and of course that's what we don't have right now.

Senator Ray

Alaska, if we get down to basics Alaska is a legally allowed the sale and consumption of alcoholic beverages. and that doesn't mean for the white man in the municipalities and not the Native in the bush. or a white man who goes to the bush, he's allowed to drink and I don't, I think we're going to have to sit down and address ourselves to basics, getting a drying out center is wonderful and staffing it with a half dozen psychiatrists to tell these poor people they're addicted to the use of alcohol and their problems are, or listen to what their problems are. But when you're talking about commitment for 30 days, Unless you eliminate the original problem, he'll be right back with it just the same as a heroin user or anything else.

Senator Colletta

Sir

Arthur Groom

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I'm Arthur Groom, I'm with the Anchorage Council on Alcoholism and I have just personal views to express not those of the Council. Our director ask me my opinions yesterday and I told her and she asked that I voice them here. To begin with, at the start of the meeting Senator you reminded us that this is a talk about the nuisance of the public inebriant and the danger of the drunk driver. There is no purpose in this meeting of talking of a long term treatment for alcoholism which is an incurable disease. It has nothing to do with taxes or where liquor is sold. As for the public inebriant and drunk driver my own opinion is very, very simple. Certainly, not costly at all. A matter of protective custody, Dr. Beirne mentioned the possible holding for three days. I'm in complete agreement with that for this reason I'm a comfortable alcoholic myself, I do not drink, I have not for a long time. I've been arrested many, many times, in my drinking career, and I learned this very, very simply that the holding of the drunk which is done in many communities, for 6 hours, 8 hours at which time the blood level would show he is no longer legally drunk. and releasing him does not do a bit of good because the physical craving for a drink is still there. The idea of holding for three days, which I think is so good there wouldn't be any legal commitment no judges, attorneys, bondsmen or anything like that involved. Just holding in protective custody for three days because after 72 hours, the drunk has a freedom of choice. as to rather he wants to drink or not. I think in less than 72 hours there isn't any choice there. He must, I know I went through this. I would get out of jail, and walk around the corner to the nearest bar and start again. And that would get the public inebriant out of public view, it would get the dangerous drunk driver off the street. It absurd to arrest somebody for drunk driving, and permit him to be bailed out right away and to find him a pittance of \$300.00. It accomplishes nothing and all of us know that.

Arthur Groom
Cont.

But to hold the person for 72 hours he does then have a freedom of choice to whether he wants to go back to drinking. Less than that he must. Thank you that's all I have to say.

Senator Colletta

Dr. Williamson

Commissioner Frank
Williamson

I just wanted to ask Dr. Beirne one question. Helen, you mentioned what you felt was a need for a facility. It wouldn't have to be a treatment oriented thing, a more of a program, sort of think. I'm just curious about this idea, talked a little bit with others about it. How do you, what elements would you have in such a program, that you feel might stop further revolving door syndrom.

Dr. Helen Beirne

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Recently we had what we called a provider's workshop. WE Large number of people in the Anchorage area that are providing services for people with alcoholism related problems here. One of the outstanding issues that arose, and one of the major considerations were that we have a number of people who probably drink because they want the companionship or because they want warmth, or that they have no place else to go. and there's a good possibility that maybe a third of them might possibly fall in this category. If indeed we could get a long term, skill oriented facility some of these people are going to have to stay there. They don't belong in a nursing home they don't belong in a pioneer home they need just a protective environment where they can do their thing. Some of them are receiving SSI checks, receiving longevity bonuses Aid to the Disabled, Almost enough to support themselves. Some additional work and skill that they have, they probably could support to the total amount of 4 or 5 hundred dollars a month. which could manage to keep the facility running. The old honor farm we used to have here in Anchorage was similar to that. AT that time it was a criminal offence to be drunk and many people would go out and break a window about this time of the year, to get committed so they would be warm for the winter. We're probably going to have a number of, especially in the Fairbanks area, that are going to be picked up for breaking and entering because they are going to be freezing and they'll break a window and crawl in someplace warm. And they'll be picked up and thrown into jail for the winter. In essence, maybe if we have a protective type facility, and with the recognition that we're probably going to probably have to spend a big share of their time there, they could possibly support themselves with present income. whatever it might be. public, and some private. We might be having a preventive type program. that would keep them from becoming criminally involved. and having to go into traditional type jail cells which is so expensive.

Commissioner Frank
Williamson

The you think that people such as what we're referring to here as the public inebriant would voluntarily _____

Dr. Helen Beirne

I think many would, Many would voluntarily go in. I think some of them would skip out occasionally and go out on a binge. but I think they would come back. It's better to have them out one weekend on a binge, and back in there the rest of the time, then it would to have them out here on 4th Ave. night after

Dr. Helen Beirne night curled up around a hot pipe.
Cont.

Commissioner Frank Thank You.
Williams.

Paul Faulkner

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Senator Colletta, again. Like Arthur I am a recovering alcoholic and I have a long period of sobriety. I've also been a professional in the field of alcoholism for approximately 15 years (TAPE TURNED OVER) ...go on record as an individual taxpayer, voter in the State of Alaska and state there is no viable treatment center in the state of Alaska, period. AS a recovering alcoholic a short term treatment center really alleviates that condition for that period of time, long term treatment in my experience, my past, my background is the only concept. The endorsement of the old Palmer facility and or the Alcantra Youth Camp which is still owned by the state I understand might be the answer that we're seeking. we're looking to actually remove the public inebriant off the street. And in removing that public inebriant off the street for a period of 30 days or less we're going to have the revolving door that Helen was referring to and a program, we will say 6 months we will have, probably a better recovery rate. Doing this by, of course tremendous therapy and a lot of the other things that we

Senator Colletta

Time is rapidly eroding on us here. Discussion is excellent but none the less let's try to confine the balance of the morning, then if we have additional time we'll give it to cross-comment, but ah Dr. Ray Dexter, Salvation Army.

Dr Ray Dexter

I agree with what Arthur's been saying, we have this experience with our walk-in center. that people come in, spend the night and go back on the street drinking. What they're coming for really is the shelter, a place to get away from the cold and going back. To deal with an alcoholic I think we all recognize that motivation has a great deal to do with it. and that pre-supposes some kind of rational choices on their part. When you have a person that is dried out over night just enough to be able to walk back on the street again he isn't still at that point capable of making any kind of rational choice. Unless we have some way of holding somebody so that you can do something motivational counseling with him. and doing something, trying to get him into a long term treatment. Again I agree with the other gentlemen that long term treatment for most of these people is really the only viable alternative. But until there capable of making some rational choices and actually submitting to some kind of treatment, we don't have a handle on them. they walk right out again on us. and we have this revolving door syndrome that we're all familiar with. I would very much support some kind of handle where people can be committed, at least to the place where they are capable of making some choices. so how long that would be I think, is a question. Certainly 3 days, is going to get rid of the immediate effect of intoxication. Whether 3 days is enough really to do any motivational counseling and get it what some of the sources are intrinsic sources of their problem is another question.

Dr. Ray Dexter
Cont.

But I think if you can hold somebody for at least those 3 days so that they are capable of some kind of rationality they're just going to go back on the street again and continue their drinking until they get to the place where they're going to be so mentally incapacitated with chronic brain damage that they will be capable of being committed then to some other kind of institution. Hopefully we would like to get them before that happens so that we can intervene in the process of alcoholism so that they don't get there. I see, unless we have a handle so that we can keep somebody who is obviously incapacitated, who is just going to go out and continue his process we really have no way of dealing with this kind of person.

Dr.

PORTION STRICKEN FROM THE RECORD DUE TO A REQUEST FOR ANONYMITY

Dr. Ray Dexter

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Now we do have a handle on people run afoul of the law because of alcoholism and we are working with the courts now in terms of commitment to our program, with a signed bench warrant if they defect. so in the sense that we give them an alternative that is really very unpleasant. They either stay with treatment or they go to jail. That can hold people. But you can't hold somebody if they haven't committed a crime. as the law currently. And it's this crowd that I think we're concerned about at now. Not the people who have committed a misdemeanor or a felony that you have a chargeable offence Those kind of people we do have a handle on and we can keep them in treatment or they go to jail. It's the people who really have no other crime except being totally incapacitate through the use of alcohol that we really have no way of keeping and treating. and at least bringing them to the place where they can elect themselves to do something about it. And until we have that kind of handle I see no hope for the cronic kind of drunk we get in our walk-in center that come in and sleep off a night and then go back out on the street and drink, because they're committed to drinking.

PORTION STRICKEN FROM THE RECORD DUE TO A REQUEST FOR ANONYMITY

Senator Colletta

Representative Lethin

Representative
Lethin

(Representative Lethin asked about the methods of the Lutheran Hospital in Chicago, and was answered that the speaker, although only vaguely familiar with the Lutheran Hospital, feels all viable programs work in conjunction with Alcoholics Anonymous. Moving a person from treatment to a life time program is simply to motivate him. Many programs utilize Alcoholics Anonymous. Alcoholics Anonymous current recovery rate is 64%, nationwide. Presently membership in Alcoholics Anonymous is between 1 1/2 to 2 million. The speaker also made the comment, If it works, don't fix it.))

Senator Colletta Would voluntary, involuntary commitment be one step closer to this motivational attitude?
(Speaker agreed, Told Senator Colletta he was in jail)
Hit the mule between the eye, just get his attention.
Captain Boyd

Captain David
Boyd

39/

I'd like to speak primarily to process of involuntary commitment I think where you can establish and I think a criteria would need to be established to exercise any involuntary commitment and it could be established on the base of so many times in a detox or so many arrests per, whatever I think in order to get that involuntary commitment and get the proverbial 2 x 4 between the eyes or whatever I think that's really essential and how long a person can be committed the way the law stands now it is difficult even for protective custody, they have to be, as I understand the law, pretty much comotose. before they could be protectively, taken into protective custody and it makes it pretty difficult to do that sort of thing. I think where you could establish some record of 3 or 4 times in detox in 6 months or mayby one tome a month in detox in 6 months should be a sufficient criteria to put a person in, commit him for a period of time in which it takes to get him to begin to look at himself whether it be 3 days or a week or a month or a what, I think the answer may be short term 'cause commitment would be more favorable to long-term I think where you could establish a long period of abuseive alcohol I think it would be a lont easier at that point then to establish some sort of further commitment to a treatment facility of some kind. I heartily appreciate these men here who have given their testimony this morning and we've believe strongly in an AA approach. We don't beleive that's the only approach but we beleive it and we incorporate it in our treatment program. on a voluntary basis and on an involuntary basis for some of our clients. and so I think there's just a million approaches to dealing with an alcoholic. in terms of thereputic processes.

Senator Colletta Senator Ray

Senator Ray

You mentioned the present law as being perhapes _____ scope that, in other words you're afraid, and I read some of the opinions put out by the City of Achorage and I think they were written primarily to make sure that everybody understood that the City of Anchorage would not be liable in any personal damzbe suites in picking up the drunk that's the, was the motivation behind it. I think the law is written, I'm not an attorney, but I've been in the legislature long enough to be able to recognize some of the methods that people use in determining what the law says. I think that that law is pretty broad and I _____ bow to my senior there from Juneau from the attorney general's office. It's written broad enough so that you could take . person in custody and I think even in the Goochever's opinion in the Supreme Court. That he admitted in there that you take them in for their own protectivie custody if they were in danger of harming themselves or others. Now when you say that, that is pretty broad.

Unknown Well if you take him in custody, as I understand the law you have to have a doctor right there who says, Yeah they have to be in protective custody

Senator Ray That's not true. That is not the law.

Unknown Or within a very short period of time the doctor has to make a decision, is that the way you understand it?

Dr. Helen Beirne Yes, as I understand it, he can be held for 48 hours but within a 24 hour period they do have to have medical surveillance.

Senator Ray Right

Dr. Helen Beirne after 48 they have to see a district or superior court

Senator Ray Right, but if there isn't a facility planned by the state I don't know how many there are recognized that's in a village in, and they're afraid to take him home and leave him in their house and so they freeze to death so they take them into protective custody and put him in the jail for a period of 10 to 12 to 15 hours, there's no doctor requirement or anything else. You can make a search of the person and everything else. And it's not a violation of your constitutional rights or anything else.

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Senator Colletta Mr. Porter

Brian Porter Senator, the problem with that, I think in Anchorage is probably in urban areas, is that I think the law precludes the use of the correctional facility if there is a recognized facility, unless the recognized facilities are not equipped or are of the persuasion to people who don't wish to be there consequently the state jail has interpreted that to say if there is a facility we can't take them under those procedures so they're still right back

Senator Colletta Commissioner, do you wish to comment?

Commissioner Frank Williamson No

Senator Colletta Alright. Norene Pedrick.

Dr. Helen Beirne I might just introduce Mary Walters who is representing the Planning Department, she probably has nothing to say She's here instead of Norene Pedrick

Mary Walters There are no comments.

Senator Ray What about the person who gets inebriated one time in 10 years? He's not an alcoholic, and there's no reason to be committed to anything other than to his bed and blanket, and you're going to throw him in jail for 3 days?

Brian Porter

I tell you what we used to do with that type of individual. We had a system whereby a guy could do that twice a year get taken home. If he didn't have a home, he would be held for 4 hours and kicked loose with no criminal record, and

Senator Ray

And then what would the civil rights organization ~~say to~~ or people connected with civil rights come around and say Hey, you let this guy, we saw and they have a picture of this man that you carrying him into your police car, but you didn't put him in jail you took him home, while you took the other guy to jail

Brian Porter

Well it's funny, that type of organization that initiated the abort of this, but that was of course when we putting everyone

Senator Ray

See the basis for these questions is in the possible realm of corrective legislation and I'm not being argumentive, I hope that, explain it to everybody, see I'm just being the devil's advocate and when we get down here and have to deal with legis'ators (Laughter)

Unknown

33
we have to diffrentiate between our cronic alcoholic and an occasional imbiber who takes too much and there are criteria for alcoholism and I think we can incorporate that into the law. There's now problem there, I think thers's pretty well documented, established criteria for what is a cronic alcoholic. I don't think there would be any legal problem with this and an occasional drinker who over imbibes is really not one of our problems

Senator Ray

They're under the ^{existing} Goochever law is what I'm getting at

Unknown

Yeah, this is true. Under the existing law

Senator Ray

Don't you agree Helen, under the existing law you need some kind of correction so you can differentiate between the guy that got drunk on his 50th wedding aniversary because he didn't want to go home. (Laughter)

Dr. Helen Beirne

I don't know as I agree with that or not.

Paul Faulkner

There are 2 or 3 methods of testing , our Rectors test, the Gelling test. These can make a determination immediatly.

Senator Coletta

Father Farrel

Sister Dorothy
Forest

I;m sorry, he's not here. I'm just representing him.

Senator Colletta

Do you wish to speak ma'am?

Sister Dorothy
Forest

The only think is that we know the problems that the Church and it really has been a problem, we've been all through the house, they're really coming into the church and outside and it's really dangerous for them. I believe that the Father told us this morning they got in with the police and we'll

Sister Dorothy
Forest Cont.

cooperate with the police, 'cause the situation is beyond control right now, and one think I jsut add to that. I agree with Dr. Beirne when she talked about this long because we have these inebriets that are long. long, term. I mean they'll never get better , they're cronic alcoholics what they could do is have a rehabilitation where they would really get a skill and do something that would be constructive and get some kind of dignity and self-esteem and they would be contributing to something. Now they're just drinking and this would be a chance where a lot of Native's are carvers, or they, people have skills and they're something else besides being and drunk. and this would put them together and they could have some kind of treatment or counseling and maybe the group would help one another. So that is why I really support that.

Senator Colletta

Thank-you Sister. Any comments for the Sister? With that I think we'll call for a 5 minute recess, let everybody stretch, air the room out a little bit and get coffee back here.

RECESS

Senator Colletta

Ma'am, I'm sorry, I didn't get your name.

Ardi Bury

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My name is Ardi Bury and I work for the Salvation Army Alcohol Abuse Services and I'm a referral specialist. and I realize that we're on the public inebrient but I wanted to bring up something Helen brought up and it's very important to me and it's the drunk driver in this state. She said in here there's a much larger population of drunk drivers than public inebriets and that's so, and my case load tells me that's so. Right now we have some, we have a training _____ for it, we have classes here, we're working toward controlling this sort of thing and being accountable to courts. but as always any kind of program like this Public Safety does for a while, and it's supposed to go into the courts or whatever, later. Public Safety has given us, I think, a good beginning and if we only take their opinion and their word for it, and go ahead. I think in Anchorage we got a pretty good start. I don't know much about the other _____. I beleive that when we catch a drunk driver we probably catch a very early alcoholic, if he's alcoholic at all and then we have the beginning _____ intervention Senator Ray talked about, they're so much easler to treat than somebody who's 4th Ave. alcoholic. I like _____ in the state or part of Anchorage and I beleive that it's really hard for the Legislature to address this. That's about all I have to say, I just wanted to bring it up and say it's urgent.

Sentor Colletta
S

Thank-you. Senator Ray? Representative Lethin? The next individual we're going to hear from is L. E. Ed Brown.

Senator Ray
L. E. Ed Brown

I think probably the only one of the few things that I can address is, I'm with the Emergency Medical Service in Anchorage. The Paramedics. Now we get all aspects of the alcoholic.

L. E. Ed. Brown
Cont.

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problem, more than just the 4th Ave. kinds which is one of the easier ones for me to address, because we see so much of that. We also see them in the highway scene, we see them in the home, from the criminal aspect, but I think probably the area that we're most involved in on a continual basis is the cronic alcoholic, the people who are involved in alcoholism on 4th Ave. Now, at times before the Community patrol system was set up, we had to transport a lot of these people to hospitals which many times we get them to a hospital and they would beat us back downtown. It got to be kind of a real hassle for us and our people tend to take the attitude that Hey, you know, why take a guy to a hospital when he'll beat us back downtown. Well, they kind of held it inside them because they have to go on every call they make. They do go on a call, and as I said before with the Central Patrol System _____ they helped us greatly in that we, if a person was not seriously injured we could call up on these people to relieve us of this person, but there are times when the Central Patrol System can't respond or aren't able to respond and we have to transport these people to a hospital which is the only place we do transport them in an emergency situation. Now a lot of times, it's documented, we have had this type of an individual in our units, going to a hospital and all of our other units are being tied up and have an emergency call for somebody with a true heart attack or somebody in shock or something of a life or death situation. happen, and we can't respond to it because we have this individual in our unit. And this again, is bad on our people because there out there for the emergency situation, the person that's really sick, in their estimation, medically sick and you have to deal with the alcoholic that we do on 4th Ave. with this type of situation I believe this would get public sentiment, would have a great deal of effect if we were to have some possibly important type person have an attack, a heart attack, or whatever, life or death situation, and we can not get to them because we have this type of individual in our rig already going to the hospital. Naturally the department would feel bad because we weren't able to respond. but I think that possibly if there were a situation like this arise, and there is an investigation, which there very easily could be they would find that the reason for not being able to respond and having this alcoholic in our unit, may raise some public sentiment.

Senator Colletta

Thank-you Senator Ray?

Senator Ray

I was wondering if there were any volunteers who wanted to have a heart attack? (laughter)

Senator Colletta

Representative Lethin?

Dr. Helen Beirne

May I just ask a question? Since the Salvations Army's Emergency Service Control has come into business, I presume it has relieved you considerably, but I think my question would be, probably you are still picking up the people who are injured, and be inebriated but they would also be injured and be paramedic cases. Do you find a number of them,

Dr. Helen Beirne
Cont.

the same person you pick up time after time after time that you escort to the hospital

L. E. Ed Brown

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That's true and I think that possibly each one of our 30 personnel on the street could probably stand on the corner of 4th and c and pick out each and every one of them. that they haul on a day to day basis. They could probably etell you each and every one of them who have beat them back downtown from the hospital. our reports are publically filed they can be checked and on any particular given day, take a 7 day period and take any day, and probably find at least a half a dozen people that we haul on a daily basis, for no other apparent reason then maybe a bar owner wants to get them out of a bar, they are falling down, and we get many calls, emergency type calls, for a man down, well we don't know what a man down is and we don't know who it is and we just assume that the person is really ill. So we may not have a unit that's close by for instance if it's a four _____ call, we hear it _____, well maybe it's impossible, the unit from the Spenard area would have to go on it's call, which means they're going red lights and sirens on an emergency call downtown, 4th and C for a man down, get down there and find out that a man is just sitting down ther sleeping. So there's lots of dangers and hazards in this particular type of clientele and 99 and 9/10ths of the time, they don't call for the service it's others that call for them. It's a bad situation and those are the people that I would like to see some direction toward getting them or finding them a facility, some kind of a treatment thing.

Dr. Helen Beirne

I like to make one other comment. In addition to Ed's services which have been on going a long period of time, the Emergency Service of the Salvation Army. I think the last time they gave me a _____ something like 100 calls in a day sometimes. Now that's in addition to what Ed is getting. There is much _____ as to whether this is only 300 people we're talking about, some people estimate 2000. I think it's probably somewhere under 500 so you can imagine how many of these people are being picked up time and time again. If we do only have 4 or 500 in this particuiar population. and what it's costing the taxpayers.

Unknown
S/A ?

We actually know most of these fellas on a first name basis. they're that familiar to us, we just pick them up and bring them in and they go out again and we pick them up. They know us and we know them,

Senator Colletta

Thank-you

Unknown
Paul Fairclough ?

If I could address a question to Ed. Ed the Alaska State Troopers recently have come forth with a volunteer service in Eagle River. If a proposal were made I wonder if we could develope volunteer patrols to supliment your EMS patrol.

L. E. Ed Brown

Well, in the 9 years I've been with the service, and been involved in Eagle River, to my knowledge there has never been an alcoholic problem in Eagle River.

Unknown
P. 4

No, I'm referring to ASP's new volunteer services they got up there. Could we not in fact develop a volunteer patrol to at least supplement your patrol, your EMS patrol, at least on a volunteer basis.

Unknown S/Amy

Anybody held for three days wouldn't beat the truck downtown.

Unknown

I don't think it would work because of the liability

Paul Faulkner

That would be the problem, liability

Unknown S/Amy

And the problem is, unless you have some way of holding these people, we have the same problem, that they do, they beat us downtown again. If we can bring them to our walk-in center but, they don't have to stay they can walk right out again and do what they were doing before.

Unknown

'Cause a majority of the hospitals don't want to keep them there.

Unknown

But they'll bill the state though

Sentaro Colletta

Doug Weiford, Yvonne Alfred, Tom Quintner, Peggy Rosten

Peggy Rosten

I have nothing to say, I'm just here on behalf of the Municipality. I'm in charge of drafting legislation. so that when it comes to the point that we have a legislative proposal, I'll be the person that will draft it and make my recommendations on it. I hope to be down in Juneau next session

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Senator Colletta

Thank-you

Senator Ray

It's an improvement (Laughter)

Senator Colletta

Barbara Hoffman,

Unknown

Barbara Hoffman is not here

Senator Colletta

Bill Farber

Unknown H.B.?

Bill is with the State Troopers, is he not? I don't see anyone else here representing them.

Senator Colletta

Dennis Kelso,

Dennis Kelso

I don't wish to make any comments now

Senator Colletta

Leonard Nugen

Leonard Nugen

Yeah, I don't know what all ya been over this morning, but I assume it has to do with the public inebriant and the DWI's. and so forth

Senator Colletta

Right, those two issues.

Leonard Nugen

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The big thing that I see with the drunk that's on 4th Ave. or the alcoholic is that we do need a way to hold him, we do need some legislation where we can court commit these people. And pick them up and get them dried out at least enough so they can think off that avenue. You know, we talk about emergency patrol and stuff, if we had a place and could commit these people that I have heard just since I've been here, it's the same people over, and over and over and if we look at the expense of what it's costing us as taxpayers then we need a way to hold these people, if we're going to have to take care of these people, let's do it a little cheaper way. I know there's a lot of people against court committing people, involuntary commitment, but I was one of those people that were committed approximately 18 years ago, and I wouldn't be standing here sober today had they not court committed me. Made me a ward of the State of Oregon, and as a result I'm sober today. and I hope a worthwhile citizen. Again we talk about the DWI, just went to court with one yesterday, I will be going back to court with another one that I have right now in the Studio Club and one's 50 DWI's the other has 60 DWI's when the court had these people in the beginning, you can turn them out to this class once a week, that just isn't cutting it. We got to get these people to treatment, and that's when you do it, when you got a handle on them. The guy's in trouble right then, and I think deserves a choice, the one hell of a big fine or whatever, or treatment. We can, and we need these things. You know, another man that had this past summer got 7 1/2 years. He wasn't so lucky as these other people. And it was his second, there were two people died as a result of it. And, so these are the kind of things that we got to have something to head off when we have a handle on these people, and they're turned right back out on the street. I know that if I drink, I don't know what I'll do, so I know I can't drink. Somebody had to get a hold on me, to tell me I couldn't drink, to tell me why I couldn't drink what was wrong with me, when I wasn't drinking. These are the kinds of things that I'm looking at today, and this is a continual thing, we got these two particular people. One of them should have been treated back in 1971 when he got his first DWI, you can set up all the classes you want to he can come to them half drunk once a week, once a month, it might, it will help some. But what about after he gets 6 of them, what happens when we're falling short some where. We need something more than what we got. Somebody's not doing their job the first time, or we wouldn't have 6 up and we do need a way to hold these people whether we do it with the court, however, I don't know but I know, I know something's got to be done. and I do feel if we do something of this nature that it's going to save the taxpayers money it's going to save peoples lives, and it's going give us something to work with, you know there's a lot of us working. and I for one work on an average about 16 hours a day. And there isn't enough money to pay time and wages. I just lost one of the best help I've ever had because there is no money to pay her wages with. These are the kinds of things, we got 30 people in the Studio Club today, and 2 more on the way so there will be 32 there very soon. We're trying to do

Leonard Nugen Cont. something with these people. I would much rather get somebody even come from jail if I got some kind of a hold on them. They say it don't work, but it works.

Senator Colletta Thank-you. Senator Ray.

Senator Ray I agree with what he's saying but he, I'm trying to see (TAPE TURNED) cause to themselves or to others, yet how do you propose to take a drunk who hasn't done anything

Leonard Nugen That hasn't done anything?

Senator Ray That hasn't done anything but get drunk.

Leonard Nugen If we're picking him up and detoxing him twice a week, he's costing me money.

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Senator Ray He's costing you money, that's agreed, but what I'm talking about is the criminal, or the criminal act to keep him confined. You just by your own admission said we can't keep him confined even now when they're picked up driving while intoxicated you say ya got a swinging door. And yet we're trying to figure out some way to pick them up and throw them in the can for drinking.

Leonard Nugen I'm not talking about throwing him in the can, I'm talking about a court commitment, involuntary commitment to get this man dried out and get some treatment into him. There's people been on that avenue for 15 or 20 years, and you know that Senator and I know that

Senator RAY I can go down there and pick out half of them myself

Leonard Nugen That's right, so this is the thing When do we, if we're going to have to go to all this expense and he becomes a nuisance to society, if he's a nuisance than we have got to do something Now I don't know, we have got to have laws, we have got

Senator Ray It's the public consent that I'm talking about. What I first talked to Helen about, perhapes you weren't here. Can you get the public to respond, and enforce legislation providing for involuntary commitment on drunks. I don't know.

Leonard Nugen I beleive we can, I beleive we can whip

Senator Ray I don't know

Leonard Nugen If you could point out to these people x number of tax dollars over here of what talking _____ and what it would cost with this committment

Senator Ray We keep telling about the capitol every day and it they don't seem to understand that. (Laughter)

Senator Colletta Ma'am I'm going to hold comments from the others until the committee is finished.

Senator Ray I'm in agreement, I'm just trying to figure out what kind of a public reception you're going to get.

Leonard Nugen Well, I think it would be good. I think people are getting tired of being scared of even driving on the road. Those of us that are sober and when you really look at how many times people have been in jail, with 5 or 6 DWI's and when you really look at the public inebriated down here on 4th Ave. _____ weekly, month, until you know that you can't treat him right here in town, you got to get something outside of town, where you can hold this man and give him some good food, I don't mean ~~me~~ treat him, I don't mean jail him, I mean give him treatment and have something, an alternative. It's either that or if he walks off then jail him, if he wants jail, let's take care of the man, at least he's not laying out here freezing to death or he's not going to cause somebody else to be dead.

Senator Colletta Thank-you, Representative Lethin? Ma'am?, Mr. Nugen I believe there's another question.

Unknown No, I really didn't have another question, I wanted to say that I agree with him and I again want to come back to this, I don't think it has to be a criminal law. I think that we're back to the civil proceeding if possible. Another think, I think there's a consensus around this table, we know this should happen, and if this many people can't influence and educate people who don't know, then there's something wrong with us.

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Senator Ray How many people here have been arrested for drunk while driving? (Pause) How many of you have been picked up for being inebriated? (Pause) How many of you spent a night in jail? (Pause) (Laughter) What I mean is, sure the majority of the people here are most working with a program or programs associated with the problem directly, but you're talking to somebody else when you're talking to the public which surprised me when they put the bill through in fact I voted against it, on the drunkenness being a crime. Which allowed the situation to get to where it is now. and they have these very liberal people sitting in the legislature at that time, and that's the result. Just like you have a kid riding out and don't have to tell his parents any thing about his medical or any thing else. You think that's right?

Senator Colletta Prior to calling the next

Senator Ray You think that's right?

Senator Colletta Prior to calling the next

Senator Ray You just lost me pal.

Senator Colletta I can't pass up the opportunity nor can I resist taking the liberty to comment on that last show of hands. Mr. Porter probably, in his new position will never spend a night in jail again, anyway. (Laughter) The crux of what I'm wanting to say is there's more than one way to skin a cat, he recently has been promoted so there's no more night work. (Laughter)

Senator Ray How long ago since we worked together Brian? 14 years, 16 years?

Brian Porter 14, 15 years ago.

Senator Ray That's when I was head of the ABC Board.

Senator Colletta There's usually a source from where all problems stem. (Laughter)

Senator Ray I was not the first Chairman. (Laughter)

Senator Colletta Ken Hume, or is someone representing the Downtown Businessmen's Association? That concludes the names on the list that I have. If there are others here that do not appear on my list, we do have approximately 10 minutes before the noon recess. Does someone else wish to speak? Yes, sir.

Ralph L. Van Allen All I hear here we seem to want to pass laws to lock these people up.

Senator Colletta Sir, would you identify yourself?

Ralph L. Van Allen Ralph Van Allen. and put this guy in a certain program or etc. Now we got different programs, approaches and everything else. My approach is aversion therapy. Why don't we set up a hospital also it's a volunteer, if he goes out on a Saturday night, gets drunk, next morning he's hung over. Make it a voluntary, so the State's paying for it. We're talking \$17 million it's costing us taxpayers. For \$2,000. you can cure that man, and then you can get him into AA and other programs and he will stay cured. You're going to have to make a program where, when he's hung over, that's when he wants help, and he will seek help if he can get it without being condemned the rest of his life. And I'm sure you're going to find people who would go to the program, but when you start threatening and your going to lock him up and make him go to this and if he misses one meeting then we, he gets stuck in jail for a week or something like that. Nobody's going to go for that.

25

Unknown How do you force him to take the therapy

Ralph Van Allen I said it would be voluntary. They guy, if he is drunk and he's hung over before he gets that next drink if he can pick up that phone and call and say, Hey, admit me, he's going to go, but if he gets that first drink, he's going to say no, I don't want to drink, I don't want to be cured, I don't want any help, I don't need the help, I've had my drink for the day.

Unknown How many you know got cured that way?

Ralph Van Allen Voluntarily?, Myself

Senator Colletta O.K. Additional Comments

Ralph Van Allen I know a lot of people, a lot of drunks that just said I can't handle that stuff and just quit it. Flat.

Senator Ray He's got more than a kernel of truth in what he's saying. You're not going to force people to be sober, there's no way man.

Ralph Van Allen When he's hung over and sick

Senator Ray You know that yourself.

Ralph Van Allen that's when he wants help

Senator Ray You have to motivate yourself to do it. How did you get out of it. One day you looked in the mirror and said "My God, is that me?"

Ralph Van Allen Well, that's a long story.

Senator Colletta O.K. Any additonal comments on

Senator Ray Kris I think had something to say

Senator Colletta O.K., Kris?

Representative Lethin I just wanted to ask Helen if she had heard anything about this Lutheren Hospital down in Chicago.

Dr. Helen Beirne Ah, yes, i've heard of it. We had a group of people with the university about 3 years ago from that hospital that put on a couple workshops. Apparantly has a good track record.

24 Representative Lethin Just kind of programs _____

Dr. Helen Beirne Indeed, it incorporates several things. It incorporates AA, treatment, I don't know if involuntary treatment, usually people go there voluntarily. I would like to comment on what the gentleman here said. We do have state supported facilities for people who do go voluntarily. We're putting a great deal of money into programs that are of that. They are there.

Ralph Van Allen Well who get's the help from those programs?

Dr. Helen Beirne Who ever asks for it.

Senator Ray I think what we're going to have to do you know, is, I picture the alcoholism programs as more or less of a big funnel. Like this, and you have all these people swimming around here telling everybody what to do and justifying their own existance in the program, and it gets smaller and smaller, by the time it gets down here, there's very little that comes out of the end of that funnel. If you could just somehow manage to turn that around so that the bigger base goes out to the public treatment and the smaller base is with the thinkers and, I think we would improve everything. Other than that I don't have too much improve everything. Other than that I don't have too much too say.

Senator Colletta Anyone else wish to comment.

Unknown
Dr. Dexter

I think one of the problems
I think one of the problems in developing legislation of this kind is that you have to have a pretty clear, concise definition of the kind of population you're looking for. If you just make it drunkenness then obviously the public is going to get pretty excited about the trampling on of their civil rights. If you have a pretty clear definition of what population you're talking about, the cronic alcoholic who are again pretty measureable, then I think you have a pretty good chance of the public support.

23
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Senator RAY

Yeah, but how do you measure them? How do you measure them if it's not a crime and there isn't any public records to be kept on admissions or released then there's no public, for all intents and purposes, there's nothing public

Dr. Dexter

But it is an illness, and it is a definable illness, that has pretty

Senator Ray

When it get's to that extent, it's an illness. When it gets to that it's

Dr. Dexter

Yeah, and I

Senator Ray

questionable whether it's an illness or not.

Dr. Dexter

But as I say, it is, there are pretty specific criteria you can look for. and if you build these into the law, I think you can get public support for it.

Senator Ray

If you go along with what Ed says, then it's the same people and if you write it in to the law, a person who has been picked up in a certain length of, by Emergency, by medical ~~treatment~~ or been brought into protective custody so many times then we'll have a certain period of time that's what we're talking about, that he goes.

Dr. Dexter

That's only one measureable aspect of it.

Senator Ray

That's right, I understand what you're say, but that's about the approach you're going to have to take. You're not going to be able to throw, this as a chatch-all

Dr. Dexter

No

Senator RAY

That's when you're going to have you're problems with your civil rights groups and anybody that feels like it then they're the ones that are going to come down there and are beating on your doors. Oh, some of us are a little bit more hard headed and say too bad.

Senator Colletta

Dr. Beirne

Dr. Helen Beirne

May I ask Brian one question? The people who come in actually with DWI's, they actually are given sentences. They become a

Dr. Helen Beirne
Cont. court related case, at this point, don't they? Now, we'll see in the paper where it's a 30 day sentence, with 30 days suspended. Of course we know that some of them have good attorneys but is it a possibility that many are not being sentenced because there is no place to hold them. You can't afford to take up a cell for a common, good citizen who happens to be an alcoholic and is irresponsible driving drinking. If you had a place with less security, do you think a number of these people would stay there? Take their week sentence, whatever it is and take a forced education program with that.

22
Brian Porter The kinds of people we're talking about are the kinds of people that the _____ with the last 20 years that I know of. We have probably a better escape ratio from a totally open prison farm than McNeil Island.

Senator Ray Where they can walk away.

Dr. Helen Beirne I guess what I'm thinking about is that we have many of these people again who are, who have jobs. They're probably people who certainly don't want to go in jail 3 or 4 days because of their reputation and because of other things. If there was a place where they could serve their sentence which would not have to be maximum security do you feel that a number of them would stay there and serve a 5 day sentence, take a forced education program and it might possible do some benefit to keep them from their irresponsible driving habits again.

Brian Porter Well, we admit to being a total fundamentalist in believing there is some effect from deterrents. We know the kind of person who is going to receive a short sentence, I think it ought to be as exemplary as possible, something that he wouldn't want to repeat. So I would rather he do that in jail. If you're going to have a treatment program, create an environment that will facilitate treatment, if you're going to punish, punish, if you're going to treat, treat. Don't treat in the jail and don't

Paul Faulkner Don't punish in treatment.

Senator Ray The other, what was that when I was up two weeks ago, I made a tour of the sixth street annex over there on the, I think the rate of capacity there on any given day is the _____ was rated for 96 occupancy and the day I was there at 2:00 in the afternoon they had 148 people and that's why I asked some of you if you'd ever spent a night in jail. You might try it some time and see how, good citizens don't want to go back to jail, I'll guarantee you that. Where he doesn't mind that you wash him up and press his suit and give him a couple of meals, get him on his feet again, he don't mind that at all, he take that and the chance to read the book or sit there and look at it. And say yeah, I'm getting it, I'm pulling all this stuff in and go out and do the same thing again. In other words all you got is just a dry out center for some people. That's what the majority of the alcoholic programs in Alaska are now are just dry out places for people.

Senator Colletta Mr. Cole, would you like a few minutes?

Mr. Cole I don't think so Senator. I've got a whole list of notes I've taken on this involuntary commitment that I'd like to sit down and _____

Senator Colletta Thank-you, It's noon and I'd like to ask the staff if there is any need for a 1:00 continuance?

Jerry Abramczyk Not since we've finished here.

Senator Colletta If not, then I'd wish to thank all of you for taking the time and sharing your views with us and hopefully we'll see many of you in the coming weeks and especially on October 19th at the public hearing in the City of Anchorage. The Committee leaves this afternoon for Western Alaska

Senator Ray Some of the Committee leaves for Western Alaska (Laughter)

Senator Colletta I might take just one minute to explain some of the controversy that may have arisen over the Committee's activities I did speak with the Governor in regards to a press release on the lack of publicity regarding our activities and he pleaded total ignorance and I'm forced to believe him. I think there was a breakdown in communication, which is the problem we're talking about (Laughter) but none the less there are State monies that we do expend, the Committee considered it in their wisdom there was no sense in advertising it the Metropolitan areas of our Western leg. But I did notify and I'm hopeful that we'll have exceptional input from Western Alaska. WE mailed out 850 personal letters and we made over 50 personal telephone calls to individuals who are concerned with this problem. We have spots running on 10 radio with the message being translated into the Yupik language so I don't know why the Governor says it isn't publicized. He is correct it is not being publicized in Anchorage, it's not time for input here, so the Committee is working, that's what I wish to leave you with and I thank you all for coming, and we'll see you on the 19th

Senator RAY Can I just enlighten the

Senator Colletta Yes

Senator Ray I talked to the Governor yesterday on the same matter, and he responded in the fact that he had been acquainted by some of the legislators that their people in their villages had not been apprised of the meeting and, simply because those villages were not on the agenda I suppose although the people from those villages were invited to participate in the hearings being held and while being totally ignorant on it, that and a variety of other subjects, he did apologize more or less to the Committee and particularly to the Chairman.

Senator Colletta Thank You

UNITED STATES GOVERNMENT

Memorandum

TO : Chief, Social Work Service (122)

DATE: July 1, 1977

FROM : Program Planning Specialist (122A)

SUBJECT: Proposal for a no-cost community rehabilitation center (Sheltered Workshop - Residential Care Unit).

There is a definite need for an after-care unit in Anchorage which would serve a population of veterans in need of a structured environment and provide purposeful, directed activities of economic value to the veterans and community. It would also provide an attractive sheltered living arrangement. This would be a no-cost to agency situation. The population served would be those who have been in multiple rehabilitation programs and half-way living situations as well as in boarding homes, nursing homes and hospitals. The population would necessarily be limited, at the onset, to those who have individual income in small amounts such as VA pension, Supplemental Social Security income, State Welfare funds and/or small compensations from other sources.

The setting would be one of a live-in sheltered work-shop arrangement which would eventually become a producing unit of marketable materials manufactured by the individuals living in the facility and therefore sharing in the income derived from the sale of those commodities.

It is projected that social service agencies all have many clients they support, who are very possibly living in poor environments and do not receive the proper follow-up care, therefore becoming candidates for further rehabilitative or medical problems. The bulk of these clients are supported by monies from some source. Those monies might very well be directed toward their own self support, therefore returning a degree of integrity to them and possibly returning some to the main stream in time. I would establish a semi-permanent residence for those not able to return to regular community living.

The depth of talents and dormant skills in both alcoholics and other individuals who have become non-productive is often great. These individuals may not be utilizing any of their skills to any degree. They have sometimes lost many of their skills but may very possibly be able to regain some of them and put them into proper use in a sheltered work-shop living situation.

I will report here-in, facts in establishing such a unit.

Purpose is to fill a void which has been created by a lack of reinforcement in present rehabilitation programs and to serve a population of those in need which has not previously been properly done. We wish to prevent further disintegration of individuals from mental, physical and social incapacities. This will establish a method to maintain gains which individuals have made in previous rehabilitation programs and very possibly enhance those gains to a



point where they can re-establish in the community. This method will attempt to stop the recycling of individuals entering the rehabilitation system and make a more purposeful use of monies spent by agencies toward rehabilitation. We wish to create an environment which is conducive to preventing development of dependencies and produce an attitude and environment which may very possibly do exactly the opposite. It will also alleviate much of the further costs of hospitalization. Built into the program would be a method to maintain and/or rebuild the family stability with a distinct possibility of re-establishing family and social relationships which very possibly might have been lost otherwise. In a sheltered workshop the clients would work on contracts which would afford them a percentage of the profits on each commodity sold, and therefore would maintain a feeling of productivity. Within the unit would be a native craft area wherein native individuals would be allowed to work on their individual items and thus sell them on the market for a proper price; and also afford a training area to enhance the inherent skills of many native men in the art and carving area.

The unit is a semi-self supporting unit with payment for care coming from the individual, SSI, possible VA, State Welfare, Office of Vocational Rehabilitation and/or the Municipality. Also native organizations may very well be able to have voluntary input, these would include BIA, CINA and other regional native corporations. Other possibilities in the future are direct grants, possibly from the State Legislature and several othersources.

In this type of unit volunteer help would be solicited from various agencies, such as Veterans of Foreign Ward, Disabled American Veterans, Alcoholics Anonymous and service organizations such as the Lions Club, Elks Club, Shrine, Salvation Army, Catholic Charities and Jaycees.

The recycling of individuals in rehabilitation programs has become an almost laughing matter, in that it appears many individuals receiving rehabilitation do nothing with what they have learned or gained after they leave the programs. A large void is in the employment area. No agency, to my knowledge, is doing a great deal about re-employing individuals which they have "rehabilitated" and they pay very little or no attention to their living arrangements. Therefore, the work which has been accomplished is by and large lost.

Most of the individuals placed in the unit, would be those which rehabilitation programs would find rather unacceptable. Those who have small incomes and are able to pay for their own care, would also be able to gain more income from the sale of whatever commodities would be made and sold in the unit. Those who do not have incomes would very possibly be able to pay for their own care from the income derived from the sale of their products.

In summary, the purpose of this report is to indicate a willingness and desire to establish such a unit to both enhance the Veterans Administration Programs and to assist other agencies in having some logical after-care for individuals who otherwise would not gain a great deal from whatever efforts are being made in their behalf by other agencies. It will require a great deal of cooperation between agencies and it will require, of course, a staff of individuals who are knowledgeable, willing and capable of using their innovative

3.

abilities in a proper way. A further report of the physical structure, cost factors and staff requirements will be submitted.

WILLIAM V. HOGG

STAFF REQUIREMENTS

- I. Resident Director
 - A. College graduate- Masters Degree/Social Sciences
 - B. Over 35 years of age
 - C. Capable of innovating- see job description.
- II. Assistant Director
 - A. Degree- Social Science
- III. Administrative Officer
- IV. Vocational Training Staff
 - A. Public Relations- Sales and Promotion
Acts as salesman, ideaman and community liason.
 - B. Shop foreman (Supr.)
Runs wood shop and arts and crafts area
 - C. Vocational Rehabilitation Specialist
Planning projects and coordinating abilities with work.
 - D. Social Worker (SWA)
Acts as Counselor and advisor
 - E. Resident shift personnel
2 for each day shift & for swing. 1 for graveyard and 2 relief.
- V. Cooks (2)
 - A. Chief cook
 - B. Assistant Cook
- VI. Maintenance Staff
- VII. Director of Volunteers (Non-paid)
- VIII. Executive Secretary

PHYSICAL STRUCTURE - PROJECT CHUGIAK ELEMENTARY SCHOOL - TWO FLOORS

+ Has

.. Has not

- + 1. Kitchen, Dining and Serving Capacity.
- + 2. Recreational (Multi-Purpose Room).
- + 3. Adequate Lavatory Facilities.
- 4. Needs Installation of Showers.
- 5. Needs Floor Tile Replacement - Upstairs and Downstairs.
- 6. Repairs to Stage.
- + 7. Has Adequate Office Space
- + 8. Nursing Station (Convert Front of Old Principal's Office or Use Existing Nurses Station).
- 9. Void of Furnishings.
- + 10. Occupational Therapy Area or Crafts Area in Old Kindergarden.
- 11. Emergency Lighting Needs Battery Replacement.
- 12. No Sprinkler System.
- 13. No Laundry Facilities.
- 14. Roof Needs Repair.
- + 15. Grounds are Spacious and Ideal for Outside Activities.
- + 16. Large Storage Area.
- + 17. Heating Facilities are Adequate
- 18. Large Rooms Need Dividers for Living Area, Beds etc.
- 19. Inside Painting Necessary.
- 20. No Wheel Chair Access Ramps.

MEMORANDUM

JAN 13 1977
AM PM
7,8,9,10,11,12,1,2,3,4,5,6

TO: Bert Hall, Health Director

FROM: Allan Tesche, Assistant Municipal Attorney

DATE: June 23, 1976

SUBJECT: Legal Guidelines for Short Term, Involuntary
Commitments Under the Uniform Alcoholism and
Intoxication Treatment Act.*4*
Mike
for your
review prior
to Fri AM
meeting

This memorandum outlines some of the more important legal issues involved in implementing provisions of the Uniform Alcoholism and Intoxication Treatment Act as amended by the most recent session of the legislature. Before turning to the substantive discussion however, let me first point out several important general principles upon which the Act is founded and which will inevitably guide any court called upon to review the legality or appropriateness of administrative or legal actions taken by the Municipality pursuant to the Act. First, the coverage of the Uniform Act is relatively broad. The legislature intended to deal with a wide variety of problems related to intoxication and alcoholism, and prohibited contrary municipal enactments. See Peter v. State, 531 P2d 1263 (Alaska 1975). Second, the Act expresses a clear policy that alcoholism should be treated not as a crime but as a disease. AS 47.37.010 states that "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 that they may lead normal lives as productive members of society". The Act consistently favors medical treatment over detention or confinement of intoxicated persons and where confinement in detention facilities is permitted, they are narrowly limited to special or extraordinary circumstances. Because the legislature was unusually explicit in expressing its intent that alcoholism is to be treated as a disease rather than a crime, reviewing courts will examine detention or imprisonment of alcoholics with careful scrutiny. Finally, throughout the Act appear numerous provisions which are designed to protect the fundamental constitutional rights of persons who may be committed voluntarily or involuntarily, to alcoholism programs and treatment facilities. While many of these provisions, especially those which impose strict limits on the time period for commitments and require adversary

proceedings before long term commitments may be imposed, place special burdens on program administrators and local officials, the Act consistently and vigilantly protects the due process rights of individuals involved. Local alcoholism programs, therefore, must at every step be designed to ensure that persons involuntarily committed to such programs are guaranteed their full complement of procedural and substantive constitutional protections.

SHORT TERM EMERGENCY CARE

-AS 47.37.170(a) as amended now reads:

(a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help or a person who appears to be intoxicated in or upon a licensed premises where intoxicating liquors are sold or consumed who refuses to leave upon being requested to leave by the owner, an employee, or a peace officer, may be taken into protective custody and assisted by a peace officer or member of the emergency service patrol to his home, an approved public treatment facility, an approved private treatment facility, or other appropriate health facility. If all of the preceding facilities, including the person's home, are determined to be unavailable, a person taken into protective custody and assisted under this subsection may be taken to a state or municipal detention facility in the area.

AS 47.37.170(b) as amended now reads:

(b) A person who appears to be ^{INCAP}incompacitated by alcohol in a public place shall be taken into protective custody by a peace officer or a member of the emergency service patrol and immediately brought to an approved public treatment facility, an approved private treatment facility, or other appropriate health facility or service for emergency medical treatment. If no treatment facility or emergency medical service is available, a person who appears to be incapacitated by alcohol in a public place shall be taken to a state or municipal detention facility in the area, if that appears necessary for the protection of the person's health and safety.

Section 170 and other provisions of the Act clearly allow voluntary commitment of alcoholics to approved public treatment facilities. The Act gives administrators of such facilities discretion in deciding whether or not to admit such persons for treatment, and if they are refused admission, administrators should refer such persons to other approved public treatment facilities. AS 47.37.160(b).

Section 170(a) also permits short term, involuntary commitment of a "person who appears to be intoxicated in a public place and to be in need of help". For the purposes of this section, a person is intoxicated if they are one "whose mental or physical functioning is substantially impaired as a result of the use of alcohol". AS 47.37.270(10). "Substantially impaired" probably means something more than merely affected or influenced by alcohol, it means impairment of physical or mental capabilities to a significant degree. Under this section, a person intoxicated in a public place may be taken either to his home, an approved public treatment facility, an approved private treatment facility, or other appropriate health facility by either a member of the emergency service patrol or a peace officer. Only where all of the preceding facilities, including the person's home, are determined to be unavailable, may an intoxicated person be taken into protective custody and placed in a state or municipal detention facility. Similarly, a person who appears to be intoxicated in or about a licensed premises who refuses to leave upon being requested by either the owner, an employee, or a peace officer may be taken into protective custody under the same restrictions.

AS 47.37.170(b) allows persons "incapacitated by alcohol in a public place" to be taken into protective custody by a peace officer or member of the emergency service patrol and brought to approved public or private treatment facilities or other appropriate health facilities for emergency medical treatment. For the purposes of this section, "incapacitated by alcohol means a person who, as a result of consumption of alcohol, is rendered unconscious or has his judgment or physical mobility so impaired that he cannot readily recognize or extricate himself from conditions of apparent or imminent danger to his health or safety". AS 47.37.170(j). Only where no approved treatment facility or emergency medical service is available, and where it appears necessary for the protection of the person's health or safety, may a person who appears to be incapacitated by alcohol in a public place be taken to a state or municipal detention facility pursuant to this subsection.

Only peace officers or members of emergency service patrols may make involuntary commitments under Section 170. You should be aware that only certain individuals are designated peace officers, and that emergency service patrols are patrols consisting of "persons trained to give assistance in public places to persons who are intoxicated." Members of emergency service patrols should be capable of providing first aid in emergency situations and should be capable of transporting intoxicated persons to their homes and from public treatment facilities. AS 47.37.230. Your Department should be aware that the State of Alaska has the

authority to promulgate regulations for the establishment, training, and conduct of emergency service patrols, and should take care that the Municipal Emergency Service Patrol, when established, fully complies with such regulations.

Section 170 permits involuntary commitment to "approved private treatment facilities which are inspected, regulated and approved pursuant to AS 47.140. "Approved public treatment facilities" means a treatment agency operated under the direction and control of the State Department of Health and Social Services or one which provides treatment through a contract with the State of Alaska" under AS 47.37.130(g) and which complies with standards and regulations issued for such facilities by the State of Alaska pursuant to AS 47.37.140. You should take care that public and private treatment facilities used by your department in connection with its alcoholism programs have been approved by the State of Alaska and fully comply with all regulations the State may issue under the Act.

Persons committed to public or private treatment facilities under Section 170 may be detained at such facilities only as long as they are incapacitated by alcohol up to 48 hours after admission. Persons who are taken to detention facilities may be detained only until a public or private treatment facility or emergency medical service is made available, or until they are no longer intoxicated or incapacitated by alcohol or, for a maximum period of twelve hours, whichever occurs first. AS 47.37.170(j). Hence, it appears that the legislature limited short term confinements and detention facilities under §170 to twelve hours while allowing short term confinements up to 48 hours in approved public or private treatment facilities.

INTERMEDIATE COMMITMENTS

AS 47.37.180 allows involuntary commitments in approved public treatment facilities for longer than 48 hours if certain requirements are met.

"An intoxicated person who has threatened, attempted to inflict, or inflicted physical harm on another or is likely to inflict physical harm on another unless committed, or is incapacitated by alcohol" may be committed for involuntary intermediate care by Section 180. Applications for such commitments are made to administrators of approved public treatment facilities and may be made by physicians, spouses, guardians, or relatives of the persons to be committed, or any other responsible person. Administrators of approved public treatment facilities have the discretion to refuse applications if, in their opinion, the application and

accompanying documentation failed to sustain grounds for commitment. AS 47.37.180(d).

Persons may be involuntarily detained under Section 180 only until the administrator of the treatment facility determines that grounds for commitment no longer exist or no more than five days, whichever is shorter. If, however, a petition for long term involuntary commitment pursuant to AS 47.37.190 (discussed below) is filed within five days after a Section 180 commitment and the administrator of such facility finds that grounds for emergency commitment still exist, he may detain the person until the petition for long term commitment is heard and determined but no longer than 10 days after filing such petition. AS 47.37.180(e). This subsection would, in essence, permit commitment in such facilities up to 15 days. Finally, it should be noted that subsection (f) of 47.37.180 requires that persons involuntarily detained under that section be given within 24 hours after their commitment a written explanation of their right to counsel and an opportunity to consult with legal counsel.

LONG TERM INVOLUNTARY COMMITMENT

AS 47.37.190 authorizes long term commitments up to 30 days in the custody of the State Office of Alcoholism for treatment in an approved public treatment facility. A person may be so committed if he is an alcoholic who "habitually lacks self control in using alcoholic beverages and who has threatened, attempted to inflict, or inflicted physical harm on another, and that unless committed is likely to inflict physical harm on another or who is incapacitated by alcohol." Long term commitment proceedings under Section 190 are initiated by written petition of the person's spouse, guardian, relative, certifying physician, or an administrator in charge of an approved public treatment facility.

Of the three major forms of involuntary commitment, Section 190 proceedings offer the most procedural and substantive protections for the rights of persons committed. Section 190 guarantees persons committed the right to have a jury hear and consider evidence relating to their mental and physical condition, representation by counsel or other persons during the proceeding, examination by a physician of the patient's choosing or a court appointed physician, and other constitutional protections normally associated with criminal proceedings. Persons may be committed under Section 190 for no longer than 30 days but may be committed for a further period of up to 90 days if an order for recommitment is filed in a timely manner and approved by the court.

Long term commitments under Section 190 are essentially custody proceedings brought to commit persons to the custody or care of the State Office of Alcoholism; the Municipality should not initiate Section 190 proceedings until it is

certain that the State is willing to assume the responsibility for the treatment or care of persons whose custody would be awarded to the State.

As the Uniform Act is fairly complicated and for different situations sets forth detailed and specific rules, I urge your department to seek legal counsel prior to the initiation of any short term, intermediate, or long term involuntary commitment programs to make sure that the precise requirements of the Act are met, and to reduce our liability exposure.

AT/ejt



The Salvation Army's COMPREHENSIVE ALCOHOLISM SERVICES

DAVID G. BOYD, Captain
Director

CLARENCE WISEMAN
GENERAL

RICHARD E. HOLZ
TERRITORIAL COMMANDER

ARTHUR SMITH, Major
DIVISIONAL COMMANDER

MEMORANDUM

To: Ed Stewart, Alcoholism Program Manager
Municipality of Anchorage

From: Paul Piper, Program Director
SACAS

Date: March 23, 1977

Subject: Legal interpretation of "incapacitated by alcohol"

At approximately 10:15 this morning, as per your instructions, I called Mr. Allen Tesche directly with the following question, "Can we hold as incapacitated by alcohol an individual who has been in our program for detoxification and who has been recently medicated such that if he should leave against medical advice and drink, there is great potential for physical harm, including the possibility of death to the individual". After exchanging several questions and answers, Mr. Tesche's opinion is that if the individual's judgement is so incapacitated that he/she is unable to recognize the danger, or potential danger to themself, and there is a strong possibility that the individual will endanger themself, and that is related to alcohol, and alcoholism and the effects of alcohol, that we could make the decision to hold the individual until they are beyond the danger point.

Mr. Tesche stated that the key in this type of situation is to determine the current functioning level of judgement of the client and the involvement of alcohol or alcoholism.

On the basis of this understanding of our phone communication, I am issuing appropriate orders to staff. If my interpretation is in error in any place, I would appreciate being notified as soon as possible in writing so that the error may be corrected.

Municipality of Anchorage

MEMORANDUM

See
MAR 18 1977
CMO

DATE: March 15, 1977

TO: Dr. Helen Beirne, Behavioral Health Services Manager

FROM: Steve White, Legal Intern

SUBJECT: Legal Issues Raised at 9 March, 1977, Alcoholism Program Meeting

This memo addresses several legal issues which were raised during Wednesday's meeting. I recommend that you consider them when preparing your procedural manual for the program.

A. Protection from Civil and Criminal Liability.

As Allan Tesche pointed out, Section 47.37.170(g) of the Uniform Act protects members of the Emergency Service Patrol from liability in their duties only so long as they are complying with the other provisions of that section. It is clear, then, that no immunity would be granted unless your field orders strictly comply with the procedural requirements of AS 47.37.170.

Qualified protection for personnel at the Treatment Center is provided by AS 09.65.090 which states:

Section 09.65.090 Civil Liability for Emergency Aid. (a) A person at a hospital or other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death, is not liable for civil damages as a result of an act or omission in rendering emergency aid. (b) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

There should be no question that your detoxification center would qualify as an "other location". Therefore, the issue will be determined by the patient's condition. For patients who need aid to prevent their serious harm or death, the statute provides immunity from ordinary negligence. For those patients undergoing routine treatment for non-serious conditions, program personnel will be liable for their ordinary negligence. In neither event, will they be immune from liability for their gross negligence, recklessness, or intentional behavior.

The difference between ordinary negligence, gross negligence, and recklessness is a matter of the degree of carelessness. Ordinary negligence is a failure to take the degree of care that a reasonable person, similarly trained and in like circumstances, would take. Where personnel fail to take precautions or proper actions due to their inadvertence, unskillfulness, or incompetence, ordinary negligence can be found. Gross negligence and recklessness are characterized by a greater degree of carelessness. They will be found where personnel consciously choose actions with the knowledge that they contain a high risk of harm to others. [Leavitt v. Gillaspie, 433 P.2d 61, 65 (Alaska 1968)] Intentional misconduct, of course, would arise when personnel act with the desire that a patient be harmed.

B. Notification of Kin.

Section 43.37.170(f) of the Uniform Act provides:

(f) If a patient is admitted to an approved public treatment facility, his family or next of kin shall be promptly notified. If an adult patient who is not incapacitated requests that there be no notification of next of kin, his request shall be granted.

This section implies that the incapacitated patient has a lesser right to confidentiality than does a patient who is sober. Only the latter may prevent the immediate notification of his family or next of kin. However, this reading is contrary to both AS 47.37.210 and to Federal Regulations. (Part II, Subchapter A, Chapter 1 of Title 42, Code of Federal Regulations) These require confidentiality of the patient's involvement and records regardless of his condition. The Federal Regulations permit disclosure only with the patient's written consent or in the event of a medical emergency. Furthermore, they expressly supercede any state law which would authorize or compel disclosures prohibited by them.

Consequently, the program should not notify a patient's family about his admission unless either written consent has been obtained, or the patient is suffering from a serious medical condition beyond mere intoxication.

C. Chemical Restraint of Patients.

The injection of sedatives into unruly patients can raise the issues of invasion of personal privacy, battery, and unauthorized medical practice. Although the statutes and cases do not specifically deal with chemical restraints, the introduction of foreign substances into a person without his consent necessarily impinges on his constitutional right of privacy. In addition, it presents

the legal question of whether this method is "excessive force" in that particular situation. Generally, one may counter aggression or violence with only that force necessary to neutralize the threat. Any additional force, can create civil liability for battery.

It is possible that the injection itself, if performed by unqualified personnel, can create liability for unauthorized medical practice. For this reason, it is a standard procedure of the Alaska Psychiatric Institute and the Anchorage Police Department to transport violent persons to licensed medical professionals for sedative injections.

Considering these problems, I recommend that your program use chemical restraint, if at all, as a last resort. The program should attempt physical restraint of the patient before turning to injection. If chemicals are used, it is imperative that they be administered by licensed medical personnel.

RICHARD W. GARNETT III
Municipal Attorney

By: Steve White
STEVE WHITE
Legal Intern

SW:ljc

cc: Charles Anderson, Chief of Police

Municipality of Anchorage

MEMORANDUM

DATE: March 9, 1977
TO: Helen Beirne
FROM: Allan E. Tesche, Steve White
SUBJECT: Alcoholism Program Components

After our meeting this morning, I made a few notes of what I consider major elements of a program description for involuntary commitments under the Uniform Alcoholism and Intoxication Treatment Act. Perhaps this outline could help you in organizing a procedures manual with the Salvation Army.

I. Emergency Services Patrol

A. Establishment

AS 47.37.230

1. Certification by State Office

- a. requirements
- b. implementation plans

2. Qualification of Members

- a. training
- b. experience
- c. character
- d. personal - age? physical?, etc.

3. Training of Patrol - description

AS 47.37.230

- a. care of intoxicated persons
- b. first aid
- c. The State Act/Regulations
- d. standing orders

B. Function of Patrol

1. Personnel Involved

- a. shifts and hours

- b. Pairs or individuals
- 2. Areas of Operation - priority places
- 3. Equipment Involved
 - a. vehicles
 - b. radio communication
 - c. equipment in vehicles
 - d. clothing/uniforms
- 4. Supervision
 - a. lines of authority
 - b. re-training, evaluation
 - c. emergencies

II. Voluntary Walk-in Procedures

- A. Determination of Whether to Admit and Treat
 - 1. Medical Examination
 - 2. Other Criteria? Who Decides? AS 47.37.150(1)-(3)
 - 3. If no Admission, Obligation to Refer to other Public Facility if Available AS 47.37.160(b)
Transportation -- AS 47.37.170(c)
- B. Method and Scope of Treatment
 - 1. Integration with that of Involuntaries?
- C. Confidentiality of Fact of Treatment, Records

III. Initial Contact with Client-Involuntaries

- A. Observations
 - 1. Danger to Self or Society AND
 - 2. Intoxicated OR
 - 3. Incapacitated AS 47.37.170(j)
- B. Contact and Actions Taken on Street
 - 1. Identification of Patrol Members

2. Intoxicated Persons
 - a. transport home
 - b. to de-tox if home unavailable or if patient requests it. AS 47.37.170(a)
3. Incapacitated Persons AS 47.37.170(b)
 - a. transport to de-tox
 - b. first aid
 - c. care, restraints during trip
 - d. records keeping/call in
4. If Police Needed-See Police Protocol Agreement
5. Search of Persons-Pat Down AS 47.37.170(i)

IV. Detention at De-tox

- A. Initial Screening Decisions
 1. Who Makes Screening Decision
 2. Criteria for Distinguishing between Intoxicated and Incapacitated Persons
 3. When Made (upon arrival)
- B. Intoxicated Persons
 1. To be Released if They Request
 2. Urge Voluntary Submission to Treatment
 3. May Transport to Other Treatment Facilities if De-tox Treatment Unavailable
- C. Incapacitated Persons - Admission Procedures
 1. Search of Persons
 - a. when
 - b. what for
 - c. procedures
 2. If de-tox Unavailable for Incapacitated Persons, What Next?

- a. Must be Taken to Private Treatment Centers (AATC?) or Hospital, if Available
 - b. if Facilities in (a) above area Unavailable, to jail AS 47.37.170(B)
- 3. Physical Examination AS 47.37.170(C)
 - a. when: "ASAP"
 - b. who - licensed M.D. only
 - c. what components, forms used
- 4. Admission Decision
 - a. who makes
 - b. when made AS 47.37.150(1)-(3)
 - c. criteria used
 - d. how recorded, forms used
- 5. Statement of Rights
 - a. substance
 - (1) to know where individual is
 - (2) to consult with attorney
 - (3) to contact family/friends if requested
 - (4) to confidentiality of records
- 6. Procedure
 - a. when rights read - must be at meaningful tim and place
 - b. whose responsibility
 - c. notation
- V. De-tox Facilities, Equipment, and Staffing
 - A. Facilities
 - 1. holding units - describe
 - 2. offices

- 3. other
- B. Equipment
 - 1. medical supplies
 - 2. bedding/furniture
 - 3. administrative
- C. Staffing
 - 1. supervision
 - a. who, qualifications
 - b. when on duty
 - c. describe responsibilities
 - d. emergency situations
 - 2. employees
 - a. shifts and hours of employees
 - b. training and qualifications
 - c. duties

VI. Care Component

- A. Physical Safety AS 47.37.170(i)
 - 1. Protection from Self
 - a. removal of dangerous objects from person
 - b. isolation
 - c. physical restraints
 - d. other - chemical restraints
 - 2. Protection from Others AS 47.37.170(i)
 - a. isolation of violent persons
 - b. police agreement
 - 3. Persons responsible for safety

- B. Individual treatment plan must be Prepared AS 47.37.150(4)

C. Counselling

VII. Release

A. Involuntary Commitments

1. When: 48 hours maximum, sooner if no longer
incapacitated AS 47.37.170(d)

2. Release Decision

a. who makes

b. criteria

c. recording of release and decision

B. Release from Jail (where treatment originally
unavailable)

1. No more than 12 Hours, or sooner, if

2. Person no longer incapacitated or intoxicated, or

3. Treatment becomes available

4. Responsible adult assumes custody AS 47.37.170(i)

C. Voluntary Commitments

1. when: on request AS 47.37.160(b), 170(d)

D. Supplemental Assistance (housing, etc). AS 47.37.160(c)

E. Transportation to other facilities AS 47.37.170(c)

VIII. Out-Patient Treatment Component

A. Legal Requirements

1. Preference for out-patient care in making
admission decisions AS 47.37.150(2)

2. Out-patient care shall be encouraged when
clients leave AS 47.37.160(c)
AS 47.37.150(5)

B. Program Description

C. Mechanics

1. Staff

- 2. Equipment
- 3. Facilities
- D. Other components of treatment program
- IX. Program Evaluation Component AS 47.37.140
- X. Police/Trooper Protocol - Should Concern Following Areas
 - A. Under what circumstances will APD respond to request to take intoxicated person:
 - 1. to de-tox
 - 2. or to jail
 - B. Automatic response by APD if person refuses to leave bar?
 - C. When will APD arrest
 - 1. Behavior at de-tox
 - D. Will APD do involuntary 12 hour Civil Commitments at State Jail if our facility "unavailable"? This requires communication between Jail and De-tox concerning availability at de-tox
- XI. General Areas of Concern
 - A. Client Confidentiality AS 47.37.210
 - B. Use of Physical Force
 - C. Visitation and Communication AS 47.37.220
 - D. General Goals/Philosophy of Program

RICHARD W. GARNETT III
Municipal Attorney

By: ALL E Tesche
ALLAN E. TESCHE
Assistant Municipal Attorney

By: Steve White
STEVE WHITE
Legal Intern

MEMORANDUM

DATE: February 3, 1977

TO: Ed Stewart, Alcoholism Program Manager

FROM: Steve White, Legal Intern

SUBJECT: Legal Opinions on Aspects of the Alcoholism Program

Rec
FEB 7 1977
DMLD

This memorandum addresses itself to inquiries which were directed to the Department of Law by Mr. Gordon Stockdale, Treatment Services Manager of the Salvation Army. In order to implement the Alcoholism Program through his agency, he desired legal opinions on the following questions:

1. May the Program require a patient to reveal his social security number?

Under the provisions of the Privacy Act of 1974, a government agency which requests that an individual reveal his social security number must inform him whether this disclosure is mandatory, the authority for this request, and what uses will be made of it. Unless the agency was maintaining a system of records and was validly requiring disclosure before 1 January, 1975, it may not deny any benefit provided by law to the individual who refuses to reveal his number. [Pub.L. No. 93-579, Section 7(A)(1), (2) (December 31, 1974)]. One might argue that an amendment to the Social Security Act, contained in the Tax Reform Act of 1976 [Pub.L. No. 94-455, Section 1211 (October 4, 1976)], supercedes this restriction. Section 1211 allows a government agency to require disclosure of the number, but only if that agency is administering, among other permissible programs, one which provides "general public assistance". Since this term is a legal expression that is uniformly applied to welfare and other income subsistence programs, it is doubtful that alcoholism treatment can qualify under 1211's allowance.

Considering only the provisions of the Privacy Act, then, it is clear that the Alcoholism Program may request a patient's social security number provided that, at the same time it furnishes him with the information concerning voluntariness, authority, and intended use. However, since alcoholism treatment would be considered a "benefit provided by law" (AS 47.37.170), unless disclosure was authorized and compelled by this program prior to 1975, a patient may not be denied treatment solely because he refuses to reveal his number.

2. What are the legal requirements of confidentiality in the Alcoholism Treatment Program?

Both Alaska Statutes and Federal Regulations require confidentiality in alcoholism treatment programs. AS 47.37.210 states that registration and other records of treatment are confidential and are privileged to the patient. Information from records may be made available for alcoholism research, but only if the patient's name is not disclosed. Even greater protection is afforded minor patients. Alaska Statute 47.10.090 provides that all information, pertaining to a minor and prepared by a government agency, is privileged and cannot be disclosed without a juvenile court's permission. Although this section deals primarily with cases brought in court, the language is broad enough to cloak juveniles' records with general immunity from discovery and with protection from disclosure.

Federal Regulations require a comprehensive cloak of confidentiality around those alcohol programs which are assisted by the Federal government. Generally speaking, these regulations provide that records which pertain to the identity, and treatment of present and former patients are confidential. These may be disclosed only with the patient's written consent, or in the event of a medical emergency, or in order to conduct research, evaluations, and audits, or where one has obtained an appropriate court order. (Part 2, Subchapter A, Chapter 1 of Title 42, Code of Federal Regulations). The Regulations spell out specific guidelines for these and other situations, and they should be consulted for any questions regarding the extent of disclosure (Section 2.18), the use of identification cards (Section 2.20), and the guidelines for consent (Section 2.31), as well as the areas of disclosure without consent (Subpart D) and court orders (Subpart E).

Mr. Stockdale indicated that the treatment of minor patients was an area of concern for his agency. Section 2.15 of the Federal Regulations addresses itself directly to this point. Since Alaska law authorizes medical treatment of minors without parental consent (AS 9.65.100), only the minor may consent to the disclosure of his records, or the fact of his treatment, to his parents or others. However, this limitation is bypassed if the minor lacks the mental or physical capacity to make a rational decision in the matter. When the situation poses a threat to his physical well-being which would be reduced by disclosure of certain information, the regulation allows program personnel to communicate this information to the parents.

The overall thrust of these regulations then, is to segregate the fact of alcoholic treatment from the identity of any particular patient. Keeping this general purpose in mind should alert program personnel to any potential violations of these regulations during their day-to-day handling of records and information. Specific questions and long-term policy decisions should be referred either directly to the text of the regulations, or to this Department.

3. Is a minor legally capable of giving consent for his own treatment of alcoholism?

Section 9.65.100 of the Alaska Statutes distinguishes between a minor who is emancipated, i.e., living apart from his parents and managing his own financial affairs, and a minor who is still living with, and financially dependent upon his parents. In the former case, the minor may give unqualified consent for his own medical treatment. In the latter situation, the minor may grant consent, but he must be given counseling prior to treatment if his parents cannot be contacted or, if contacted, are unwilling to grant or withhold consent.

Therefore, prior to treating a patient 18 years or younger, the program should determine whether the minor is still living with and financially dependent upon his parents or legal guardians. If so, the program should attempt to contact them and to gain their consent to treatment. If unsuccessful in either of these efforts, the program should counsel the minor prior to accepting his consent and to rendering treatment. Concerning the nature of this "counseling", the statute only states that the counselor shall "keep in mind not only the valid interest of the minor but also the valid interest of the parent or guardian and the family unit". [AS 9.65.100(2)]. Of course, consent gained from any source should be committed to a signed writing.

4. Does the fact of intoxication either void or qualify the consent given by a patient for his treatment?

Neither Alaska Statutes or case law directly addresses the issue of tort liability when consent is given while intoxicated. AS 11.70.030 provides that intoxication is not a defense to a criminal act, but intoxication may be considered by the court when a particular motive, purpose, or intent is a necessary element of the crime. By analogy, one may argue that since intoxication does not excuse a criminal act, neither should it negate the voluntary act of granting consent. Intoxicated consent should stand as a complete defense to any action for tort liability.

This analogy is strained, however, due to the historical distinction between tortious and criminal conduct. It is questionable practice to draw and rely upon parallels between them. Furthermore, the qualification in AS 11.70.030 may subvert this analogy. Since intoxication can disqualify motive or purpose in criminal acts, it can be argued that it may likewise diminish the mental elements necessary for informed consent.

Consequently, the Alcohol Program should not rest entirely upon this analogy. When possible, personnel should not solicit written consent for treatment until the patient can comprehend the meaning of the act he is performing. In questionable situations, I recommend

that several persons be present who can testify regarding the patient's capacity to understand the nature, extent, and consequences of his treatment.

RICHARD W. GARNETT III
Municipal Attorney

Steve White

Steve White
Legal Intern

SW:ljc

cc: Bert Hall
Gordon Stockdale

Municipality of Anchorage

MEMORANDUM

DATE: January 26, 1977

TO: Ed Stewart

FROM: Allan *AT* Tesche, Assistant Municipal Attorney

SUBJECT: Selected Legal Issues Arising Under AS 47.37.

Rec
JAN 31 1977
LMO

At your request I have prepared a summary of important legal issues which confront the Department and its prime contractor in the administration of the Comprehensive Alcoholism Program pursuant to AS 47.37.010 *et seq.* You should realize that my comments here are by no means an exhaustive treatment of every conceivable legal issue raised by the Uniform Act, rather this memo highlights only those issues which appear legally significant to me at this time. Certainly your office will return with more precise questions regarding the Act as you begin the Emergency Service Patrol and related programs; those questions will, of course, receive more thorough attention by our legal staff. Finally, I strongly suggest that you and the Salvation Army read the Uniform Act very carefully and slowly in order to understand the legal limits of alcoholism programs under the Uniform Act. For this purpose I have prepared several copies of the act (complete with the most recent 1976 amendments) and attached them hereto, and urge you to become intimately familiar with its provisions.

AS 47.37.140 Requires the State Office of Alcoholism to set standards for "approved" treatment facilities, permits state inspection and registry of facilities, requires disclosure of information concerning use of facilities to the State office, and provides for suspension or revocation of State approval.

Note that the language of 47.37.140(a) requires establishment of the state standards for facilities "before their approval as public or private treatment facilities" (emphasis added). Standards shall "concern only the health conditions to be met and standards of treatment to be afforded patients. I am aware that the state office has adopted elements 1-8 of the JCAH Accreditation Manual for Alcoholism Programs, effective July 1, 1977. But the state has not yet devised its "procedure by which alcoholism programs will apply for approval as a public or private facility." (letter of Bob Cole to Ed Stewart, November 23, 1976) That the state has not, by its own admission, completed the process of implementing the new regulations at least raises the question of whether any facility can be officially approved until the state issues the final regulations regarding procedures for application and approval. I suspect that absent the final regulations regarding application and approval, a facility could qualify for some sort of interim approval if it met the substantive requirements of the JCAH Manual.

AS 47.37.150 Requires the State Office to set standards or criteria for admission of persons into Alcoholism programs. Note, however, that the Uniform Act requires the State Office to use at least three guidelines in setting admissions standards:

1. Wherever possible, patients should be admitted voluntarily rather than involuntarily. You should, therefore, structure the admissions procedure for the Municipality's program in such a way as to comply with state admissions procedures remembering that the legislature has expressed a decided preference for voluntary rather than involuntary admission. 47.37.150(a).
2. The Act also expresses a clear preference for "out-patient or intermediate treatment" over in-patient care. 47.37.150(b). Hence admissions standards should permit in-patient care only if out-patient or intermediate care will be ineffective.
3. 47.37.150(c) mandates that individuals who have withdrawn from earlier treatment or who have relapsed from earlier treatment may not, on the sole basis of such withdrawal or relapse, be denied admission to the program.
4. As part of every patient's admission, staff should quickly prepare an individual treatment plan or program, and maintain the plan for the patient. AS 47.37.150(d)
5. Note that AS 47.37.150(d) requires a "continuum of coordinated treatment services" after a person leaves a facility.

AS 47.37.160 permits alcoholics to voluntarily apply for treatment in approved public facilities.

Note that, consistent with state regulations, the administrator of the facility has the discretion to decide whether the person seeking treatment will be admitted. If the administrator refuses admission to one seeking treatment, he shall, wherever possible, refer that person to another public treatment facility 47.37.160(b).

Note also that persons leaving in-patient care should be encouraged to consent to continuing out-patient or intermediate treatment.

AS 47.37.170 permits both voluntary and involuntary commitments of certain alcoholics up to 48 hours.

Note that 47.37.170(a) permits intoxicated persons to voluntarily consent to emergency, short term treatment.

Note that 47.37.170(a) permits peace officers or patrol members to take an intoxicated person into protective custody if that person, after being requested to leave, refuses to leave a bar, or is in a public place and in need of help. For the purposes of 47.37.170(a) "intoxicated person" means a person "whose mental or physical functioning is substantially impaired as a result of the use of alcohol. This definition seems to describe an individual who is somewhat less than "incapacitated" by alcohol. Note, however, the additional "need of help" requirement.

Once in protective custody, 47.37.170(a) requires that the intoxicated person in need of help be taken to the following places:

1. his home
2. an approved public treatment facility
3. an approved private treatment facility
4. other appropriate "health facility"
5. jail. (only if none of the above are available)

Interestingly enough, the Act does not seem to allow detention of "intoxicated" persons in need of help pursuant to Section 170. The new language of Section 170, where it speaks to the dangerous or belligerent drunk, allows only his removal from a bar or harm-threatening situation, and "commitment" to an approved facility. By not setting time limits on how long one so apprehended could be detained, we must presume that he may legally leave the facility on his own request at any time following commitment. Hence Section 170(a) has limited usefulness for this kind of person: it can get him out of a bar and protect other people from his acts, but it cannot keep him in detox against his wishes.

Your practical solution, of course, is to initiate commitment proceedings under Section 180 (discussed below) if you suspect that an intoxicated person detained under Section 170 needs, but will refuse, treatment.

Note that 47.37.170(b) does allow detention of persons "incapacitated by alcohol" in certain facilities, following the order of preference discussed above. For the purposes of 47.37.170(b) "incapacitated by alcohol" means:

a person who, as the result of consumption of alcohol, is rendered unconscious, or has his judgment or physical mobility so impaired that he cannot readily recognize or extricate himself from conditions of apparent or imminent danger to his health or safety.

Observe that "incapacitated by alcohol" as used in 47.37.170(b) means something more serious than "intoxicated in need of help" as required by 47.37.170(a). 47.37.170(d) allows detention of such incapacitated persons in an approved treatment facility only as long as he remains incapacitated by alcohol or for 48 hours which ever is sooner.

Note that 47.37.170(c) requires prompt examination of all persons admitted to emergency treatment by a licensed physician.

Note that 47.37.170(f) requires public treatment facilities to promptly notify the next of kin of persons admitted to treatment unless an intoxicated person in need of help requests that such notice not be given.

Note that involuntary detentions under 47.37.170 are not arrests [47.37.170(i)], that detaining officer may take reasonable measures, including searches of persons detained, to protect themselves [47.37.170(i)] and that detaining officers who comply with Section .170 are not criminally or civilly liable thereby 47.37.170(g).

AS 47.37.180 describes procedures for intermediate commitment to certain treatment facilities.

Note that under 47.37.180(a)-(f) a means is provided for commitment of certain intoxicated persons to involuntary treatment in an approved public treatment facility for up to 48 hours. Intoxicated persons who have threatened, or have actually inflicted physical harm may be involuntarily committed if the other requirements of Section 180 are met.

As the language of Section 180 indicates, both intoxicated and incapacitated persons may be committed under that section. While the statutory definition of "intoxicated" found at 47.37.270(10) as qualified by 47.37.180(a)(1) is somewhat expansive, I would suggest a narrower definition that is more consistent with recent court decisions: For the purposes of Section 180 commitments, an intoxicated person is one whose mental or physical functions are so impaired by the use of alcohol that the person cannot, without the help of family or friends, survive safely in freedom, or if allowed to remain free, poses an immediate threat to the physical safety of other persons.

Note that Section 180(a) also provides an alternate way for detaining incapacitated persons contrasting the potentially shorter 170 commitments of those same persons.

47.37.180 also details additional commitment procedures for both intoxicated and incapacitated persons under that section:

1. Note who may bring the individual to the facility: peace officers, a health officer, the patrol, the person himself, his wife, guardian, or any other interested person. 47.37.180.
2. Note who may make written application for a Section .180 commitment: the same people who may bring the individual to the facility. 47.37.180(b).
3. Note that the application for a Section 180 commitment must be in writing and must "state facts to support the need for emergency treatment and be accompanied by a physician's certificate supporting the need for emergency treatment and stating that the physician has examined the person sought to be committed within two days before the certificate's date" 47.37.180(b). The physician's certificate and other documentation used in connection with the application for commitment under this section, should set forth specific and detailed facts which demonstrate that the individual to be committed is either intoxicated and harmful or is incapacitated by alcohol according to the more restrictive definitions I've suggested above.
4. Note that the Administrator of the facility must approve the application for commitment. 47.37.180(c), (d).
5. Note the time limits of subsection(c) without court order, one may be detained under Section .180 for no more than 48 hours, or when on the advice of medical staff, the administrator determines that the grounds for commitment no longer exist. 47.37.180(e). But with a court order approved by a District or Superior Court judge, one may be detained under Section 180 for up to 5 days. But if a petition for involuntary commitment under Section 190 is filed within 5 days from the date of admission, and grounds exist for continued emergency commitment, the person may be detained for no more than 10 days following the date the petition for .190 commitment is made. I would strongly suggest that you require

the individual detained or his counsel to appear with your legal representatives when seeking judicial approval of commitments beyond 48 hours. These proceedings should, consistent with due process, be sufficiently adversarial in nature so that the detained persons rights are adequately and independantly safeguarded by counsel.

Note that 47.180(f) requires copies of the documentation used in connection with the .180 commitment be served on the individual detained and that he be given an explanation of his right to counsel and an opportunity to consult with counsel.

AS 47.37.190 describes procedures for involuntary long term commitments to the custody of the State Department of Health and Social Services. The legal aspects of Section 190 are not discussed here.

AS 47.37.210 protects confidentiality of patient records. Remember also the Federal act as well.

AS 47.37.220 guarantees all patients in approved treatment facilities the right to visit family, friends, and counsel, subject to reasonable program limitations.

AS 47.37.230 permits establishment of emergency service patrols and requires the state office to issue regulations "for the establishment, training and conduct of emergency service patrols." Patrols must conform to state standards to permit members to perform the duties and enjoy the protections of the Uniform Act.

RICHARD W. GARNETT III
Municipal Attorney

Allan E. Tesche
Assistant Municipal Attorney

AET:ljc

cc: Bert Hall

MEMORANDUM

State of Alaska

TO: Robert L. Cole, Coordinator
Office of Alcoholism
Department of Health and Social Services

DATE: January 12, 1977

FILE NO:

TELEPHONE NO:

FROM: Avrum M. Gross
Attorney General

SUBJECT: Liability of the Office of Alcoholism if treatment facilities receive temporary approval under AS 47.37

By: *Elizabeth R. Arnold*
Elizabeth R. Arnold
Assistant Attorney General

The Office of Alcoholism has raised three questions relating to its approval of alcohol treatment facilities throughout the state:

1. Is an "approval" under AS 47.37.140 a license?
I have found no legislative history on AS 47.37 which sheds light on this point. /1 There is, however, no requirement in AS 47.37 that all alcoholic treatment facilities in the State be approved by the Office of Alcoholism. Consequently, the Office's approval does not seem to have the effect of a general

/1 The Health, Education and Social Services Committee of the state House and Senate kept no written minutes in 1972. The bill was referred to the Finance Committee of both houses, where minutes were taken. The minutes from these committees (attached) do not address the question of approval from the Office but may be useful for your office to have on file. There is no letter from the Attorney General's Office in our 1972 files reviewing the bill for the governor. The governor allowed the bill to become law without his signature because of "some question as to certain provisions of the legislation." (no specifics) 1972 Senate Journal 1388-89.

The two opinions (informal) of the Attorney General interpreting aspects of AS 47.37 are also attached for your files, although they do not discuss what "approval" means. Commentaries on the Uniform Act, on which AS 47.37 is based, offer no explanation of the approval concept.

license in the area. 12

The Office's approval does have the effect of a license, however, for facilities under its direct control or providing treatment through contract. AS 47.37.130(g) and .270(3). A reading of AS 47.37 shows that such public treatment facilities funded by the Office of Alcoholism should not be able to operate a program without the Office's approval: AS 47.37.160 (voluntary treatment of alcoholics), AS 47.37.170 (treatment for intoxicated persons and those incapacitated by alcohol), AS 47.37.180 (emergency commitment), AS 47.37.190(a) (persons who may petition for involuntary commitment), and AS 47.37.200(f) (treatment of a persons involuntarily committed to the custody of the Office) all refer only to an "approved public treatment facility."

12 Compare a true licensing statute such as AS 47.35.100, which provides:

LICENSE REQUIRED. (a) Without a license issued by the department in accordance with its regulations no person may operate an agency providing any of the following services;

- (1) the placement of children for foster home care;
- (2) the placement of children for adoption; or
- (3) individual and family counseling.

(b) The license shall remain in effect until revoked for cause. The department shall give written notice of revocation at least 90 days before the effective date of the revocation.

(c) In this section "agency" does not include an individual who occasionally provides the services set out in (a) of this section.

If the Office of Alcoholism withdraws its approval of a facility operating under contract, there seems to be nothing in the statutes to prohibit its operation if it meets other applicable state requirements. The facility would have to operate without money from the Office of Alcoholism and without any other benefits of the Office's approval such as possible eligibility for third party payments or commitment of patients in the custody of the Office to the facility or transfer of patients from an approved public facility.

As to private treatment facilities, it would seem that the Office of Alcoholism should not contract with unapproved private facilities (AS 47.37.030(2)) nor should its grantees transfer patients to an unapproved private facility (AS 47.37.180(3)) ¹³ since without inspection and approval the Office of Alcoholism cannot insure that a private facility is providing "adequate and appropriate treatment". AS 47.37.030(c) There seems to be nothing in the statute which prohibits private treatment facilities from operating in the State without approval by the Office of Alcoholism if they comply with other state requirements.

The "approval" required in AS 47.37 may be in conflict with other licensing statutes. Several states seem to have recognized this problem in adopting the Uniform Alcoholism and Intoxication Treatment Act. The Georgia statute which corresponds to AS 47.37.140, Ga. Code An. 99-3908, provides:

(b) The department shall include rules and regulations pertaining to treatment for alcoholism in existing licensing programs for health care institutions. Special inspections shall be made for treatment facilities that are not subject to existing licensing laws governing hospitals and nursing homes.

¹³ AS 47.37.200(i) states that a competent patient committed to the custody of the Office for treatment, or his parent, sibling, adult child or guardian may arrange with a private facility for transfer from an approved public facility. The transfer is not initiated by the Office or the treatment facility, however.

The corresponding section of the Illinois Uniform Act provides that the State Department of Public Health shall prescribe the standards and perform the inspections of public and private treatment facilities (in consultation with the state Department of Mental Health) but that the standards shall not apply to any facility located in a licensed hospital in the state. 91 1/2 Ill. Ann. Stat. § 509(1), (4), (7).

If the Office of Alcoholism believes that no alcoholic treatment facilities in the state should be able to operate without its approval, it should try to have AS 47.37 amended during this legislative session to make this point clear. The relation between approval by the Office of Alcoholism and licensing of health care facilities by other agencies could also be clarified by legislative amendment to AS 47.37, as in the Georgia and Illinois statutes cited above.

2. and 3. Can the Office of Alcoholism issue temporary or presumptive approval of programs in anticipation of future inspection and if so, what would be the potential liability of the office and/or the program if a patient were not properly treated by the program?

a. Programs now operating under contract with the Office of Alcoholism:

For programs now under contract with the Office of Alcoholism it seems reasonable to issue an interim approval.

The steps set out in your request -- 1) establishment of standards; 2) inspection based on standards; 3) approval by the Office after inspection; 4) operation of the program -- are those created by AS 47.37.140. Consequently, no program should be operating at this time with state alcohol funds if the facility is not approved by the Office of Alcoholism after inspection.

The inspections and grants made by the Office are arguably proof of de facto approval. Furthermore, the Office's defunding of at least one treatment facility could be seen as proof that the Office is operating under some "standards" as required by AS 47.37.140(a) -- even if these standards are not published. The terms of the contract with each facility

might also be seen as embodying the Office's standards. /4

The Office of Alcoholism is concerned about its liability if it issues an interim approval since it fears that certain existing programs will not be able to meet the standards effective July 1, 1977. The Office's liability would not seem to be increased by such an interim approval, especially since it is now funding facilities which are admitted unapproved because of an absence of standards required by the 1972 statute.

With or without approval by the Office of Alcoholism, a facility is liable for treatment of a patient which rises to the level of negligence (or medical malpractice in the case of medical personnel) under ordinary principles of tort law, and it should have insurance to cover such liability. A judge or jury would decide whether the conduct of the employees of the facility was so unreasonable and out of bounds as to constitute negligence (or malpractice).

As to the Office's liability, with or without official approval of facilities which are receiving its grants, its contract with the facility may contain a "save harmless"

/4 The Office of Alcoholism might take the position that it has not yet begun to operate under AS 47.37 and is still operating only under AS 47.30, which provides for a grant-in-aid program for alcoholism treatment facilities with no statutory or regulatory requirements for program "approval" based on established "standards" as in AS 47.37. If this position is taken, however, the office must explain why it has not begun to implement the provisions of AS 47.37 since the act was passed in 1972.

clause -- one which provides that the State of Alaska is not liable for negligent acts or omissions by the grantee which cause harm to a third person. This type of clause might protect the state now and after approval based on the July 1, 1977 standards. The Office of Alcoholism is, however, ultimately responsible for providing "adequate and appropriate treatment" to all persons treated for intoxication or alcoholism or incapacity because of alcohol at facilities funded by the Office. AS 47.37.130(c). If the Office is or should be aware of grossly inadequate or inappropriate treatment at any facility which is receiving state alcoholism funds, a court might find that it is the duty of the Office to intervene in spite of a "save harmless" clause in the grant.

An interim approval for those treatment facilities now under contract with the Office of Alcoholism could be based on the most recent inspection or on a new on-site inspection, either of which shows that the facility will most likely be able to meet the standards in 7 AAC 29.010-.900 by the effective date of July 1, 1977. The facilities could be required to set out in writing what they plan to do to implement the July 1, 1977 standards between now and then. Furthermore, the facilities should be informed in writing that such approval is temporary and does not assure approval after July 1, 1977, if the facility cannot meet the standards by then.

The need for approval based on the recently promulgated standards soon to be found at 7 AAC 29 arises from two situations: 1) the facilities' desire for eligibility for third party payments such as Blue Cross/Blue Shield and 2) the perceived need to begin or increase involuntary commitments of alcoholics to the custody of the Office for treatment in approved public treatment facilities under AS 47.37.190-.200.

In both these situations the effect of an interim approval by the Office will be tempered by other forces. 1) Blue Cross/Blue Shield undoubtedly requires more than state approval of a facility before making third party payments to it. Presumably some independent investigation would be made. The third party payor should understand that the Office's approval does not guarantee the facility's ability to comply with the new state standards after July 1,

1977. 2) In an involuntary commitment hearing, AS 47.37.200 provides:

No court may order the commitment of a person unless it determines that the office is able to provide adequate and appropriate treatment for him.

A court would be obliged to look at the treatment facility to which the Office was proposing to commit the person and to determine whether that or another facility could provide adequate and appropriate treatment. The court should be apprised of the fact that the Office's interim approval does not mean that the program will definitely be able to meet the new state standards after July 1, 1977.

b. Programs now operating without state funds:

The question is more difficult for facilities which receive no state funds but desire approval, mainly for third party payment purposes. If the Office of Alcoholism has acted to date as though the facilities were approved -- by inspecting them, for example, or listing them or requiring them to file information with the Office (AS 47.37.140(b) - (d)), then perhaps the same de facto approval arguments apply as to programs receiving state funds, and interim approval is reasonable. There might be an equal protection problem if interim approval were granted to those facilities now under contract with the Office but not to other facilities, where each could show the same likelihood of meeting the July 1, 1977 standards by that date.

The Office's attention is called to the statutory requirements for other regulations besides the recently promulgated standards, including those governing admission to treatment facilities -- e.g., AS 47.37.130(d) and (g), AS 47.37.150, AS 47.37.160(b). The Attorney General's Office is available to work with the Office of Alcoholism in developing and promulgating these regulations.

ERA:jf