

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8869 SENATE HEALTH EDUCATION & SOCIAL SERVICES



State of Alaska  
**ombudsman**  
 A Legislative Service Agency

LEGISLATIVE INFORMATION

F A X T R A N S M I T T A L M E M O

TO: Ben Hayes

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Date: June 21, 1995  
 From: Stuart C. Hayes Ombudsman

Subject: Division of Family and Youth Services ~~accountability~~ ~~complaint~~  
 initial interviews with children who are subjects of child abuse reports.

**Summary of the Complaint**

On February 22, 1993, the Bethel field office of the Division of Family and Youth Services (DFYS) received a telephone call ("report of harm") reporting possible mental and/or sexual abuse of a five year old child. The "reporter" named the child's father as the alleged abuser. The reporter based the allegations upon the reporter's observations of the child and the child's family some months previously, viewed in light of a booklet the reporter had recently received regarding reporting child sexual abuse.

To investigate the report, two social workers interviewed the child at her preschool. As a result of what the child allegedly said in that interview, the social workers stopped the interview, took the child into emergency custody, and sat in while the child was interviewed again, this time by an Alaska State Trooper. During the second interview the trooper determined that the child's father's wrist had accidentally touched the child's bottom during play. After having been in emergency custody for approximately two hours, the child was returned to her parents' home. The DFYS case was closed as invalid.

The child's father complained to the Ombudsman that the whole experience was extremely upsetting and that the family now lives in fear that DFYS might return on any pretext and take the child. The father alleged that interviewing the child and taking emergency custody of her was unreasonable because the particular "report of harm" was insubstantial and because what went on in the initial interview was unreasonably shielded from review. In response to the father's complaint to them, DFYS said, "participating Division personnel acted within full scope of the law and in accordance with Division policy and procedure."

The father was not satisfied with this answer and complained to the Ombudsman that if social workers actually acted within DFYS policy and procedure in this case, then the policy and procedures should be changed. After an extensive review of the circumstances of the incident, the Ombudsman agreed with the father in several respects.

**Summary of Findings**

Although the Ombudsman agreed with DFYS that the social workers acted lawfully, the Ombudsman found partially justified under its own standards the overall allegation: *the Division of Family and Youth Services abused its discretion by deciding to interview complainant's child based on an insubstantial report of harm and by thereafter taking complainant's child into emergency custody.* DFYS did not accept the Ombudsman's finding.

The Ombudsman investigation found that, standing alone, the initial report of harm did not provide sufficient basis to launch a child support investigation. The social worker's intake notes left unanswered fundamental questions about the basis for the reporter's conclusions. For example, although the reporter alleged the child's actions were "reductive", the caseworker failed to support that value judgment with examples indicating the "reductive" nature of the behavior. In addition, although the social workers had available information which would have lessened the credibility of the report, that information was

## Legislative Information Memorandum

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apparently not used to determine whether the interview should take place. Finally, uninvolved pro from child protective services in Washington and Oregon, as well as an experienced teacher in child protection, regarded DFYS' written report of harm as bordering, vague, and lacking in factual observations which would back up the jargon used on the intake notes.

However, from a public policy perspective, the Ombudsman found another issue even more compelling: the only persons present during the interview were the social workers and the young child. As a result, the Ombudsman was unable to independently review the social workers' decision to take emergency custody because (1) DFYS policy does not require caseworkers to keep their original notes, (2) the interview was not audio or video recorded, and (3) the child's teacher was excluded from witnessing the interview without sufficient basis.

Given these circumstances, the Ombudsman was forced to find indeterminate, the allegation that the agency abused its discretion by taking emergency custody based upon the interview at the preschool. The Ombudsman believes an indeterminate finding is unacceptable when it is based on an insufficiency of agency accountability.

### Summary of Recommendations

In the belief that sound public policy supports accountability of agency action, especially in the sensitive area of state interference in private family life, the Ombudsman made the following recommendations:

(1) Caseworkers should never dispose of their original file notes, but should retain them as part of the case file at issue.

(2) DFYS should conduct a feasibility study regarding audiotaping/videotaping of initial interviews with alleged victims of child abuse and neglect. The study will include a cost analysis, review of appropriate literature, pros and cons related to Child Protective Services (CPS) investigations, training needs, legal issues and specified situations that would benefit from taping. This study should be completed by the start of the January 1996 Alaska legislative session.

(3) DFYS policy makers and trainers should continue their efforts to improve social workers' skills, competence and casework knowledge through comprehensive, consistent and timely training opportunities for all DFYS staff.

### Agency Response: Ombudsman Disposition

The agency has accepted final recommendations 2 and 3. The agency has refused to accept final recommendation 1. As a result this complaint was closed as partially justified and partially rectified.

The recommendations in this case were a compromise between the Ombudsman's Office and DFYS. DFYS continues to support the actions of its social workers and the Ombudsman continues to believe the agency made several errors in this case. The agency was unwilling to make a commitment to routinely audio or videotape interviews with children based purely on an Ombudsman recommendation. However, the agency recognizes that whether interviews with children should be recorded in some fashion is an important public concern. Therefore, the agency committed to do a timely review of the issue prior to the upcoming legislative session. HB 348, which would require videotaping of interviews with children was introduced at the end of the first session of the 1995 Nineteenth Alaska Legislature. The Ombudsman hopes that this investigation will be helpful in legislative consideration of the issues that are the subject matter of HB 348.

*A full public version of the Ombudsman report of this investigation is available upon request.*

This report is available to the public upon request

Honorable Drue Pearce

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January 25, 1996

(2) **DFYS Accountability regarding Initial Interviews with Children who are Subjects of Child Abuse Reports.** The Legislature has under consideration House Bill 348 that would require videotaping of interviews with children who are subjects of child abuse reports. In an investigation of alleged abuse of discretion by Division of Family & Youth Services staff in interviewing a child and thereafter taking that child into emergency custody, the Ombudsman initially recommended that when children are interviewed with no other persons present but DFYS employees and the interviewee(s), the interviews either should be audio recorded, or, when possible, video recorded. DFYS proposed a modified recommendation that further research into this subject be conducted; the Ombudsman believed that a promise to "do more research" would not be convincing. In a compromise recommendation, DFYS agreed to conduct a study analyzing the effect of audio/video recording on the state's child protective services program by the time the Legislature convened its 1996 session; accordingly, the Ombudsman modified its recommendation. The Ombudsman still believes the audio/videotaping of DFYS staff's initial child interviews has merit. However, the Legislature should obtain and carefully review the DFYS study of this issue - "Mandatory Videotaping in the Investigation of Child Abuse and Neglect: An Impact Study for the State of Alaska," prepared by the National Child Welfare Resource Center for Organizational Improvement, Edmund S. Muskie Institute of Public Affairs, University of Southern Maine - as it further considers HB 348. (Ombudsman Complaint A093-6593, Division of Family & Youth Services.)

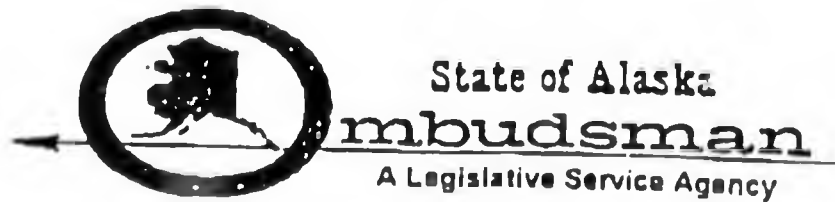
We reaffirm several 1995 legislative recommendations that we believe still merit your favorable consideration:

(1) **Procurement Practices.** As in 1995, we again urge the Legislature to revisit this subject. Procurement practices, particularly small procurements, continue to be troubling problems the Ombudsman is asked to examine. On the basis of a formal investigation conducted by this office, the Ombudsman recommends that a training and certification program for state employees performing the procurement function be enacted. Also, that legislation should strengthen the position of Chief Procurement Officer. The Ombudsman believes that position should oversee, supervise, monitor, audit, and train staff in the procurement function, not merely provide procurement services or serve as Deputy Director, Division of General Services (DGS) in the Department of Administration. In short, we believe the Chief Procurement Officer position should involve a level of "separateness" from the DGS; that is not currently the case. (Ombudsman Complaint J093-1475, Department of Education.)

(2) **Public Records Act (AS 09.25.120).** The Legislature should review the subject matter of this statute and consider if legislation should be enacted clarifying whether the public will have access to reports of criminal investigations where no prosecution occurs. (Ombudsman Complaint J092-1562, Department of Public Safety; see also, Opinion of the Attorney General, Public Release of Police Records, File 663-93-0339; Opinion No. 1, Nov. 25, 1994.)

(3) **Abatement of Electrical Hazards.** Legislation should be enacted modifying AS 18.60.630 granting inspectors authority to issue orders to abate electrical hazards discovered during an inspection that pose an immediate danger to life or safety. (Ombudsman Complaint A091-2030, Division of Labor Standards & Safety, Department of Labor.)

(4) **Agency Policies and Procedures.** The Legislature should insist, either by enacting a statute or adopting a resolution, that state agencies "unwritten policies" be set out either in statute, regulation or in department policy and procedures manuals so that affected members of the public are informed of the policies and procedures that apply to them when dealing with a state agency. As a veteran state employee recently observed, "An 'unwritten policy' isn't worth the paper it isn't written on." We concur. Perhaps this topic usefully might be examined by the Legislature's Administrative Regulation Review Committee in a legislative oversight hearing. (Ombudsman Complaints: J093-2030, Department of Environmental Conservation; A092-0128, Anchorage Pioneers Home, Division of Senior Services, Department of Administration; A093-4506, Division of Oil & Gas, Department of Natural Resources; A094-0668, Alaska Public Utilities Commission.)



**STATE OF ALASKA  
OFFICE OF THE OMBUDSMAN**

**INVESTIGATIVE REPORT**

Department of Health & Social Services  
Division of Family and Youth Services  
Ombudsman Complaint A093-6593

June 21, 1995

Stuart C. Ball  
Ombudsman



State of Alaska  
**Ombudsman**  
A Legislative Service Agency

**INVESTIGATIVE REPORT**

(Finding of Record and Closure)

(Publicly-released report. Edited to remove confidential information per AS 24.55.160)

Ombudsman Complaint A093-6593

June 21, 1995

**SUMMARY OF THE COMPLAINT**

On February 22, 1993, the Bethel field office of the Division of Family and Youth Services (DFYS) received a telephone call (hereafter, "referral" or "report of harm") reporting possible mental and/or sexual abuse of a five year old child. The "reporter" named the child's father, "Mr. X", as the "alleged abuser." The reporter based the allegations upon the reporter's observations of the child and the child's family some months previously, viewed in light of a booklet the reporter had recently received regarding reporting child sexual abuse.

Two social workers interviewed the child at her preschool to investigate the report of harm on February 26, 1993. As a result of what the child allegedly said in that interview, the social workers stopped the interview, took the child into emergency custody, took her to DFYS offices, and sat in while the child was interviewed again, this time by an Alaska State Trooper. After approximately 20 minutes in the second interview, the trooper determined Mr. X's wrist had touched the child's bottom during play, "accidentally." After having been in emergency custody for approximately two hours, the child was returned to her parents' home. The DFYS case was closed as "invalid."

Mr. X said the whole experience was extremely upsetting, especially for the child's mother, Ms. X. He alleged his family now lives in fear that DFYS might return on any pretext and take the child. Mr. X complained to the Ombudsman's office on July 16, 1993, that interviewing the child and taking emergency custody of her was unreasonable under the circumstances. Assistant Ombudsman Emily Read responded by asking the agency to conduct an internal investigation into its actions. Regional Program Auditor Gary Neubauer conducted the review and concluded in a letter to Ms. Read that, "participating Division personnel acted within full scope of the law and in accordance with Division policy and procedure."

Mr. X was not satisfied with this answer and returned to the Ombudsman for further review. Mr. X alleged that if the social workers actually acted within DFYS policy and procedure in this case, then the policy and procedures should be changed.

Specifically, Mr. X alleged that:

- The report of harm the agency received concerning the child did not justify embarking on an investigation. He analogizes to police procedures, where "probable cause" is necessary to obtain a search warrant for police investigations. In contrast

- [REDACTED]
- The evidence the social workers had in this case did not justify taking the child into emergency custody. Mr. X believes the DFYS workers decided they were going to take the child into emergency custody before they had interviewed the child.
  - The Bethel DFYS office is a "loose canon" when it comes to emergency custody of children too often, and the incident involving this case is a prime example. In support of this allegation, Mr. X said he has heard that the Bethel DFYS office took emergency custody of children numerous times in the two and a half years prior to this incident, yet only a few court ordered custody actions have taken place in the same time period.
  - DFYS could not have legitimately taken "emergency" custody of the child when it waited four days after receiving the report of harm before it interviewed the child.
  - Under AS 47.17.027, the child's preschool teacher should have been present during the caseworkers' interview with the child. DFYS erred procedurally by not having the teacher present.
  - If DFYS is not required to audio or video record its initial interviews with children, the agency actions of taking emergency custody based on those interviews is unreasonably shielded from review.

Rephrased to fit within the Ombudsman's statutory framework this office investigated the following allegation:

*The Division of Family and Youth Services abused its discretion by deciding to interview complainant's child based on an insubstantial report of harm and by thereafter taking complainant's child into emergency custody.*

Regional Director, then Assistant Ombudsman, Bea Hagen investigated this complaint. She reviewed the DFYS case file, applicable statutes, regulations, and policies and procedures. In addition, she deposed or interviewed the following persons:

- Mr. X, complainant
- Trooper Terry Asberry, Alaska State Troopers, Bethel
- Elsie Francis, former DFYS caseworker, Bethel
- Mercedes Jewett, DFYS caseworker, Bethel
- Georgina Kacyon, DFYS Intake Supervisor, Bethel
- Gary Neubauer, DFYS Northern Regional Program Auditor, Fairbanks

- Richard Winters, Program Manager, Child Protective Services, Olympia, Washington
- "Susan", Intake Screener, Children's Services Division, Department of Human Resources, Portland, Oregon
- Vickie Koehler, Acting Intake Supervisor, DFYS, Fairbanks
- David Herringshaw, former Bethel DFYS Social Services Associate
- Ron Parker, former DFYS Northern Regional Administrator
- Eva Kopacz, Assistant Professor, University of Alaska, Fairbanks, social work faculty
- Steve Emerson, Social Worker IV, DFYS Staff Training Center, Fairbanks
- Julie Miller, pre-school teacher, Bethel
- Kathy Tibbles, DFYS Social Services Program Officer, Juneau
- Cathleen Connolly, pre-school board member, Bethel
- Barbara Cotting, Aide to Representative Jeannette James

#### **EDITING OF THIS REPORT**

Ombudsman investigators had access to statutorily confidential DFYS files and deposed or interviewed DFYS personnel about confidential information. AS 24.55.160 gives the Ombudsman "access at all times to records of every state agency, including confidential records" and provides that "the ombudsman may not disclose a confidential record obtained from an agency. Because legislators and numerous complainants have raised the public policy issue of whether DFYS interviews with children should be videotaped or audiotaped, the Ombudsman decided to release an edited public version of this report.

Confidential information to which the ombudsman investigator had access was included in a preliminary confidential report to the agency. Information from DFYS records and interviews that would identify the child involved or that is otherwise confidential and not directly relevant to the issues raised by the allegations has been removed from this version of the report. The child which was the subject of the report of harm is referred to as "the child." The complainant is identified as "Mr. X" and his spouse as "Ms. X". DFYS was provided with a draft copy of the final public report so that the agency could review it for confidentiality prior to release.

#### **BACKGROUND**

The X family consists of both parents, the child and a sibling. The child was five at the time of the incident at issue. Both parents had been employed professionals in Bethel for several years prior to the events at issue.

On Monday, February 22, 1993, at 2:40 p.m., social worker Elsie Francis received a telephone call at the Bethel DFYS office from a person who wished to remain anonymous (hereafter identified as "reporter"). The reporter gave his or her name to Ms.

Francis and stated a non-familial relationship to the child. The reporter apparently last had contact with the child approximately six months earlier.

A handwritten narrative on a standard DFYS form entitled, "Family Service Report of Contact" (ROC) and signed by Ms. Francis, described the allegations. The report said in pertinent part:

[Reporter] said that a St. Trooper gave [reporter] a booklet on reporting child SA [sexual abuse] as [portion deleted].

Symptoms the child/family - Father gets really annoyed by children's develop. delays [sic]. He calls them stupid; his anger seems out of proportion to the situation. -

- Child is seductive. "Don't I look pretty" Reporter feels uncomfortable.
- Father always has his daughter w/him when he's not at work.
- They've had her thru 5 diff. providers in the last 5 yrs. [portion deleted].
- Child is interested in sexual things.
- Child hates boys to the pt. of strange.
- child is a manipulative liar
- mother is very passive - [Reporter] questions whether mother is afraid of father. -
- Other child: [portion deleted] victim of family dog bit[e]. . . .
- Child always wants to look sexy. She would wear strapless gowns: "Don't I look pretty." she only wanted to be w/adults; not w/other [children]. Child hates her [sibling].
- [Reporter] feels that parents took child from [care provider] when child was getting too comfortable.
- Child cannot remember simple things. She tells parents what to do - role reversal.
- [sibling] - unusually passive. Displays nervous behavior - neurosis. [sibling] bites other children

Father would call them stupid - "How are these little brats doing?" [Reporter] started telling him what good kids he had. He just would laugh it off. Mother would say, "How are you doing sugar puss, bear, Big . . . [sic] Bear." Everything was puss to her daughter. Mother from [another state]

-[Reporter] was apologetic - felt bad

On the basis of this intake information, Ms. Francis called the Alaska State Troopers to set up an investigation plan. She spoke with Trooper Rosemary Decker.

Ms. Francis next consulted with Intake Supervisor Georgina Kacyon. Ms. Francis later wrote on her ROC form, "She [Trooper Decker] agreed that it might be better for the Troopers to handle situation [rather than the Bethel City Police]."

The notes continued. "[Trooper Decker] said to do a further invest. by interviewing the child & if it is determined that the child is at risk, to call the Troopers. Informed her that [the child] attends school at [deleted] & I would conduct interview on Wed. or Fri."

On Friday, February 26 at 11 00 a.m., Ms. Francis and another social worker, Mercedes Jewett, went to the child's preschool where the child was in class during the day. Prior to interviewing the child, the social workers interviewed the child's teacher, Julie Müller. In pertinent part, the file notes indicate that Ms. Miller said:

"She's right about where she needs to be & socially she's fine." Julie stated [the child's] father usually picks her up from school. Julie also stated, [the child] did not seem to have problems relating to male children and she plays w/male and female children.

Mr. and Ms. X were both notified that the child would be interviewed. Both parents came to the school. Mr. X questioned the social workers' qualifications to investigate the allegations, but nevertheless agreed that the social workers could interview the child.

Ms. Jewett and Ms. Francis interviewed the child alone in a "cloakroom" at the preschool. Each later signed notes to the DFYS file which summarize the interview with the child at her preschool. Ms. Jewett's typewritten notes about the interview stated in pertinent part:

During this interview [the child] stated her father "touches" her "private parts . . . sometimes on Saturday or Sunday." The child identified the areas of her vagina and her bottom on the drawn outline picture of a female child's body. When asked what her reaction to this occurrence was [the child] stated, "I said no."

Ms. Jewett's handwritten notes signed by both workers, and also transcribed at some later time from earlier notes, stated in pertinent part about the interview:

[The child] was informed by worker Elsie Francis that she would be asked to answer some questions and she could ask questions if she did not understand and stop the interview at anytime.

Child stated she was 5 & her birthday is [deleted]. Child stated she understood the difference between truth & lies. Child stated she understood the difference between good touch, bad touch & secret touch. Child stated "once" her friend [deleted] touched her "private parts" at school & she told her mother. Child also stated "Sometimes my Dad touches my private parts on Saturday or Sunday - ~~accidentally~~ [sic]."<sup>1</sup>

<sup>1</sup> The word "accidentally" [sic] was crossed out in the notes and initialed by Ms. Francis. A separate typewritten note in the file signed by Ms. Jewett and Ms. Francis states, "Point of Clarification in regard to the notes of the interview with [the child] on 2/26/93 at 11:25 at the [preschool] with Elsie Francis and Mercedes Jewett. The word "accidentally" [sic] was included on the report as the notes from the above interview were being transferred to an Abuse/Neglect Investigation Sheet while [the child] was talking to

The transferred interview notes go on:

Child stated, the last time this happened was "Saturday," while her mother was in the kitchen & her [sibling] was sleeping. "I was sitting on my dad's lap . . . he touched me the wrong way & I said no." Child identified the areas of her vagina & her bottom on the picture. Child further stated "my dad really did it." Child stated "I feel sad when he touches me" and "he touched me w/his hand."

On the basis of this alleged interchange Ms. Francis stopped the interview and called Ms. Kacyon who advised her that assumption of emergency custody was appropriate under the circumstances. Ms. Francis called the Alaska State Troopers as she had prearranged with Trooper Decker pending the contingency that the interview would produce evidence that sexual abuse had taken place.

Ms. Francis also notified Mr. and Ms. X at that point that the results of the interview made it necessary to assume emergency custody pending further investigation. The social workers then took the child to the DFYS office.

Trooper Terry Asberry came to the DFYS office to conduct another interview with the child. The second interview was tape recorded. In the course of the interview, the child indicated that it was in play that her father touched her private parts. As a result of the trooper interview, DFYS workers returned the child to her parents at home and dropped the emergency custody about two hours after it had begun.

Under section 2.214 of the DFYS child protective services policy manual, an "invalid" case is one, "where there are no facts to support the allegation that a child has suffered abuse or neglect." This type of finding is to be made at the "conclusion of the investigation." The final assessment in the child's case was that the allegation was invalid.

## INVESTIGATION

*Was the report of harm substantial enough in this case to justify the decision to interview the child at her preschool?*

Alaska Statute 47.17.030 provides that DFYS must "investigate" each report of harm to some degree. The law says:

[T]he department shall, for each report received, investigate and take action, in accordance with law, that may be necessary to prevent further harm of the child or to ensure the proper care and protection of the child.

Gary Neubauer, DFYS Regional Program Auditor in Fairbanks, stated that all reports of harm alleging possible physical abuse, sexual abuse or neglect communicated to DFYS are "screened" to determine the need for Division intervention. He said that all screenings do not result in investigations or resulting interviews. If the intake supervisor decides that the report does not justify intervention, it is not assigned to a caseworker for investigation, but is kept for future reference to help evaluate other reports which might be made about the same child or family.

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the state trooper. During the interview with the state trooper [the child] did state, "my dad touches my private parts . . . accidentally" [sic]. However during the earlier interview she did not use the word "accidentally" [sic]

DFYS has general policies and procedures for suspected child sexual abuse cases which were developed in accord with an 1984 Child Sexual Abuse Agreement signed by the governor. This agreement states that the Departments of Health and Social Services, Law, Public Safety and Corrections must develop general policies and procedures concerning interaction between agencies.

According to Section E-1 of the policy, concerning Intra-Family Child Sexual Abuse, the order of investigation should proceed as follows: the worker should speak to the referring person to obtain as complete information as is available. *The worker should call any other collateral people that are appropriate to contact, "before first visit with child and family,"* and look(s) at any previous records. [Emphasis added.] Then, the worker immediately contacts the appropriate law enforcement agency to jointly develop a plan of investigation. The procedure states, "in the majority of cases, the child will be interviewed first.... This preferably will be accomplished through joint interviews." The procedure also provides that the "worker and/or law enforcement" will "make direct contact with [the] child," and "interview the child and secure a statement regarding inappropriate sexual activity -- also expected family reaction...."

Mr. Neubauer noted that the credibility of the reporter and history of false reports would be considered in the decision about whether to assign the case for investigation. The worker would consider behavioral indicators that sexual abuse had occurred as part of the overall analysis. CPS Manual Appendix N-2 contains a "summary chart" of behavioral indicators of sexual abuse. Listed are:

Unwilling to Participate in Certain Physical Activities

Withdrawal, Fantasy or Unusually Infantile Behavior

Bizarre, Sophisticated, or Unusual Sexual Behavior or Knowledge

Poor Peer Relationships

Reports of Sexual Assault by Caretaker

The DFYS Child Protective Services policy manual CPS 2.14, Priority Rating Scale, states that "Each case accepted for investigation will be assigned a priority rating of "Priority 1," "Priority 2" or "Priority 3" contingent on the severity of the reported risk of harm to the child.

DFYS assigned the report of harm concerning this child a "priority 3." Section 2.1.4 of the Child Protective Services Manual defines this as follows: "Priority Three will be assigned to those referrals which indicate that a delay in assessing the situation will not result in significant additional harm to the child."

Mr. Neubauer said a priority rating of 3 for the report about the child was appropriate because the information provided by the reporter did not indicate that the child was in immediate danger, or subject to imminent danger of physical harm, or had suffered serious physical injury as a result of abuse or neglect, or in need of medical attention. He emphasized that although the report made allegations that indicated *possible* sexual abuse, "at the time of receipt of the referral, the child in question had not yet disclosed sexual abuse." If she had, the report would have been rated as a priority 1.

Under procedures in the CPS manual, an interview with the child must be conducted for non emergency priority 1's within 24 hours of the report. A priority 2

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

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Under procedures in the CPS manual, an interview with the child must be conducted for non emergency priority 1's within 24 hours of the report. A priority 2

interview must be within 72 hours and a priority 3 interview should take place within seven calendar days of the report of harm.

Kathy Tibbles, DFYS Social Services Program Officer, said that when a report of harm alleges "behavioral indicators" of sexual and emotional abuse, it should be ranked as a priority 2. However, she said, "The priority system is supposed to be fluid. After the interview, a case could become a high risk case. Technically, priority doesn't matter [except as a framework for response time]." She said that the priority system is a method of handling caseload. When the workload gets too high, the policy is usually to not investigate priority 3 reports until there are three reports about the same family or child. But, she cautioned that even this policy would be a fluid one.

Once a local supervisor determines that a referral, or report of harm, is appropriate for Division intervention and it is given a priority rating, the intake referral is assigned for investigation. Under CPS 2.2.3, minimum standards once an investigation is undertaken are:

- a. One face to face contact with the child.
- b. One face to face contact with the parent/caretaker.
- c. All siblings who live in the same household should be interviewed.
- d. Any collateral contacts as necessary to reach a decision on the report. A collateral contact is any person who is not directly a part of the situation but may have significant information which will aid in determining whether the report is substantiated, unconfirmed or invalid.
- e. Any exceptions to the minimum standards require review and approval by the supervisor.

In other words, once the report of harm about the child was assigned a priority and assigned an investigator, an interview was technically required unless the supervisor, Ms. Kacyon in this case, decided otherwise.

To obtain uninvolved professional viewpoints about whether the report about the child justified launching an investigation, the ombudsman investigator read the referral report in this case to various professionals, excluding names and other identifying material.

Vickie Koehler, Acting Intake Supervisor for the Fairbanks DFYS office said, "I would struggle over that one. There appear to be some things of concern, but there is nothing clear." She continued, "It wouldn't be a priority 1." Ms. Koehler said that the Fairbanks office might do some "collateral contact" if it had a reason to be suspicious of the report. For example, "Often we call the school to see if they have concerns too." She said that the existence of prior reports is important to the decision about whether to investigate. She said a major problem for her is the fact that the report was made so long after the reporter's last contact with the child at issue. However, she said that sexual abuse gets a lot more attention, even in Fairbanks, than other kinds of reports of harm.

At Mr. X's suggestion, the ombudsman investigator interviewed David Herringshaw. Mr. Herringshaw is Mr. X's personal friend, but also worked in the Bethel DFYS office for four and one half years. At the time of the child's interview, Mr. Herringshaw was a Social Services Associate, a position somewhat lower in the hierarchy than a Social Worker. Mr. Herringshaw stated he has a degree in Health Care

Administration and six to seven years background working with abused or wayward children. He said that to be a good social worker, one has to, "Think like a cop with the sensitivity of a pastor."

He said that in general, he believes that, "all reports [of harm] in Bethel [were] incompetently handled" by the Bethel office. He said, "It is not just the X case. That office is out of control." He continued, "You mention sexual abuse in that office [and] it is like a whirlwind - an extreme, gross reaction. If you want to destroy someone's life in Bethel, you turn them in for child sexual abuse."

Mr. Herringshaw opined that the child, "probably made some innocent comment," during the interview which was misinterpreted, and led to the taking of emergency custody. He added, "These people don't know how to ask non-leading questions."

Mr. Herringshaw said that after Ms. Francis received the report of harm concerning the child, but before the interview took place, the report came across his desk in the course of his job duties. He told the ombudsman investigator, "You gotta understand, these people were in my house all the time. I intimately knew the [X] family."

He said he went to Ms. Francis and told her, "I know these people - I know the situation. I know [the child]. She is not a victim. This is a bogus claim. You need to go do some research with the reporter." Mr. Herringshaw said he told Ms. Francis that contrary to what the reporter said, the child was, "just a little girl that loved to dress up and wear makeup." Her sibling was an "aggressive little [child], not a whimpering little thing. [Ms. X] was anything but browbeaten."

Mr. Herringshaw said, "Somehow, this got pushed to the point Elsie *had* to investigate." Mr. Herringshaw said that Ms. Francis normally attended to licensing issues at DFYS. She, "didn't hardly ever do intakes. She didn't want to do the interview." He said, "Elsie is a kind, warm person, but she is not street smart. She would have made a phenomenal social worker, but she quit because of this case."

He said collateral contacts should have been made with the child's current caretakers before interviewing the child. He said that if he had been the screener, he would have taken all the information the reporter offered during the referral call. Then, he would have asked questions. He would have "circumspectly" contacted [deleted] day care workers, and he would have found out the reporter's relationship with the family. He would, he said, "Find out more than what the [reporter] *thinks*, I would find out what [the reporter] *has seen*."

Finally, he said he didn't think the report of harm in the child's case had enough information in it to justify an interview. He said, "Elsie's supervisor [Ms. Kacyon] should have recognized a weak report and required some follow up before deciding to proceed with an interview."

Ms. Francis told the ombudsman investigator, "We did this case by the book. I consulted with my supervisor, Georgina [Kacyon], at every step."

Ms. Francis said that in the small Bethel office, every worker "got a turn as screener, mixed with their other caseload duties." Ms. Francis said, "This one was an unusual report" in that the reporter had had no contact with the child for six months. She said, "I think that's why I didn't go out right away."

Ms. Francis said she remembers speaking about the intake report with Mr. Herringshaw and that she knew Mr. Herringshaw was Mr. X's friend. However, she said she did not discuss her conversation with Mr. Herringshaw with Ms. Kacyon when they conferred about the intake. Ms. Francis said she did not know Mr. X, but she was aware of his [employment position] in Bethel. She also did not know the reporter.

The ombudsman investigator asked Ms. Francis if, in her opinion, the report of harm justified going on the interview. She said, "I don't think it was enough to do an interview. I remember feeling uncomfortable about it. I basically didn't want to do it [the interview]. Ms. Francis said two things that made her uncomfortable were that Mr. X was a former [professional worker] and his was a "white family." She said she, "knew from talking with Georgina [Kacyon] they could turn around and sue [us]."

She said, "In hindsight, I would have wanted to talk to the reporter some more, and I would have wanted to see the book that [the reporter] referred to."

Ms. Francis said she wonders now how many intake calls in Bethel were taken to the interview stage. She suspects that all calls were. Ms. Francis said, "In Bethel, interviews come of every allegation of sexual abuse. . . . [I] think the practice is excessive at times. . . . Any sex abuse allegation in that office is treated as an emergency."

She said that she now believes the screening process in Bethel isn't done properly. She said, "The problem is how the system is set up. The system is wrong in Bethel - we [went] out and interview[ed] on anything."

Ms. Francis opined that the screening process should be changed, "because now, it results in, people getting back at other people." She said, "Right now the law reads if you 'suspect' [abuse] you have to report it." But, she said the screening process should better screen out false reports. She added that Ms. Kacyon was a "relatively new intake supervisor at the time of the child's interview. She was still learning her job." Ms. Francis suggested that to improve the system, DFYS should have people who "do only one job." She said the screener should be separate from the investigator, and that the screener and a supervisor should make the decision to interview a child after they conduct more research into the complaint, if necessary.

In spite of these problems, Ms. Francis said that, "I think I was acting professionally at the time." However, she said that the case was "one of the reasons," she stopped working at Bethel DFYS. She said, "[It was] seeing how it affected the Xs. They were very upset." She continued, "The aftermath was horrible. I felt horrible."

The investigator asked Ms. Francis why she called the Alaska State Troopers rather than the Bethel police to set up an investigation plan. She said the call was a "true accident." She had only remembered at the time that she had worked before with the Alaska State Troopers on such investigations, so she called the Alaska State Troopers.

As intake supervisor, and a Social Worker IV, it was Georgina Kacyon's job to oversee the intake and to review the referrals (reports of harm) and assign them for investigation when appropriate. Ms. Kacyon had been in the child protection field for 10 years prior to this incident. She had been working in Bethel since October 1989.

Ms. Kacyon said that she knew Mr. X only as a professional acquaintance. She knew his position of employment. She said she knew Ms. X's professional status and had talked with her professionally in situations similar to the one involving Ms. X's child. She said that the allegation about the child was awkward because "I was sensitive to, you

know, they were both high profile community members and that this would be very delicate - in dealing with them." Ms. Kacyon said she did not know the reporter.

Ms. Kacyon went on to say:

I remember her [Ms. Francis] saying that the reporter was a [job status] and that she had . . . a presentation on child abuse and had been given a booklet by one of the troopers and she had just picked up on some behavior indicators that [the child] was exhibiting that caused her to suspect that . . . [the child] may be being sexually abused and she had reason to believe it was the father. . . . I remember that we did talk about that to determine whether there was enough to assign it for investigation, and we felt that it did [warrant an investigation].

Ms. Kacyon said that the elapse of time since the reporter observed the behavior did not make a difference in her evaluation about whether to assign the report for investigation. She said, "We often investigate reports that may have had years gone by since someone had observed it and they're just coming forward to report it. . . . We would investigate it even if it occurred several years ago."

In this child's case, Ms. Kacyon said the basis of her screening decision to investigate was, "[T]he reporter . . . suspected on . . . observations that there may be some sexual abuse of the child. Based on her behavior . . . and . . . other factors of how the father treated her and her [sibling]. There was more than just the sexual abuse. There was some mental injury there that needed to be addressed."

The ombudsman investigator also contacted child protection workers in Washington and Oregon, who had the following comments after being read, verbatim - excluding names or other identifying material - what Ms. Francis wrote on her ROC form from the intake interview.

Richard Winters, Program Manager, Child Protective Services, in Olympia, Washington said, "This report calls for collateral contact prior to an interview." He said, "It is one person's opinion and observations. They needed a more recent contact and a second opinion before calling in the troops. This was a vague concern [on the part of the reporter] and a vague suspicion doesn't cut it." He added, "In Washington, I would hope that [the agency] wouldn't do [an interview] on this report without collateral contact supporting it." As an example of the kind of collateral contact which should have been done, he cited contacting the present daycare provider or doing a background check on the alleged abuser.

The ombudsman investigator also spoke with "Susan," an intake screener with the Oregon DFYS equivalent agency, the Children's Services Division of the Department of Human Resources. Susan said that the report about the child was a "borderline case." Depending on which office or supervisor might be consulted, the decision to investigate in Oregon, "might go either way."

However, Susan said that in her opinion, the report would have called for some "follow up." She, "would have needed more information than [the report of harm] to decide to go on an interview. She said she would have asked more questions of the reporter, because, for example, "What one person thinks is seductive, in and of itself, might not be enough [to justify an interview]."

She said she would ask questions regarding the reporter's motive for making the report. She might contact the child's recent daycare provider and see if the provider had similar concerns; if the daycare provider had not noticed anything with the child, the report might not have been investigated. She said that if the report wasn't investigated, her agency would probably have written a letter to the family informing them that concerns about their child had been reported.

The ombudsman investigator also read the report of harm - excluding confidential information - to Eva Kopacz, an assistant professor on the faculty of the University of Alaska, Fairbanks, Behavioral Sciences and Human Services Department. Ms. Kopacz teaches "applied" classes -- how to be a social worker. She came to the University with 18 years prior experience as a licensed clinical social worker. She also has 18 years in clinical practice as a social worker, including experience as an intake screener in states other than Alaska, as well as experience providing inpatient and outpatient psychological services to child victims of sexual abuse. The investigator asked Ms. Kopacz to evaluate the report as if she were the screener.

She said, "I wouldn't feel like this [report] was enough for an interview. I probably wouldn't do an investigation. Behaviors have so many possible factors - this behavior could be normal." She said that she would have filed the report and waited to see if there were other complaints. Or, she might have done some follow up questioning of the reporter before deciding to do an interview.

She said, "Essentially, based on what's written in the report, there is no distinction between observed behavior and the meaning ascribed to the behavior. The report is empty of observations and data. There are no facts. There is no factual information in it that tells you how to come to a reasonable conclusion. I would have a million questions."

For example, she said that some of the behaviors mentioned, such as the child's tendency to dress up, "could be meaningful," but her age, five, "is a dress up age." She said, "We shouldn't attribute adult attitudes and motives to children." She said she would have wanted to know more about the nature of the child's interaction with her father. Ms. Kopacz noted, "You can find 'warning signals' in almost anything." As an example, she said that if one went down a "checklist" for "warning signs" of codependency, "almost everyone would be codependent."

Ms. Kopacz said that after hearing the report of harm from Ms. Francis' notes, her recommendation to DFYS would be to advise intake workers that their notes should describe *behavior* rather than the worker's or the reporter's *conclusions* about the behavior. She said, "I have seen reports with a lot more than this that weren't investigated."

Ms. Kopacz said, "[The report about the child is] full of powerfully loaded conclusions. . . . It is devoid of solid observations, [so] there is no data on which to base conclusions." For example, Ms. Kopacz said that instead of the word, "manipulative", the worker might say, "When Suzy hit Johnny, the following happened. . . ." She said that in this particular report, she would want the reporter to say, "This is why I felt that the child's behavior was seductive."

Ms. Kopacz also said that Ms. Francis' report contained, "Lots of jargon but not much description. What bothers me, the jargon is not descriptive of behavior." She said, "Increasingly, the whole message in the field is: don't make conclusions -- describe the behavior." A worker should say, "It is my impression that. . . ." and, "the impression is

based upon . . . " The worker should clearly differentiate the source of the report, such as, "Per report of the mother. . . ."

However, Ms. Kopacz added, "Often, the decision to investigate is based on subjective impressions rather than factual data. There is a place in [such a] decision for judgment calls."

The ombudsman investigator also read the report of harm text to Stephen Emerson, Social Worker IV, Staff Training Center, DFYS, Fairbanks. It is Mr. Emerson's job to train caseworkers on agency policy and procedure. He said, "There's a lot there. [Based upon that report] I would assign someone to talk to the child because of the possible emotional abuse that was alleged." He noted, for example, the allegation that Mr. X called his children "stupid." In addition, he said the report contained, "a billion red flags for sex abuse." He cited, for example, that common themes in sexual abuse are that the parent always has the child with him, and that care providers are changed frequently. He said that in his opinion, the report did not sound inordinately vague. He said, "Each allegation [in this report] alone, out of context, may not have resulted in an [interview]. It was the number and the overall flavor of the allegations which justifies concern."

He said that even if an investigation isn't geared toward sexual abuse but is the result of a neglect report, for instance, he has found it best to ask the child about sexual abuse in the initial interview. Mr. Emerson said that the younger the child at issue, the greater the chances that the report would be assigned for investigation. He added that in the case of this report, "I would want to know if there had been other reports about this family." He said, "If [a supervisor] is on the fence, assign. It is better to err on the side of safety for a child."

#### *Did the interview justify the emergency custody decision?*

The only available evidence about what transpired in the child's interview comes from the two social workers who were present and their transcribed notes in the DFYS file.

CPS Manual Policy and Procedure 2.2.5, Investigation Child/Victim, includes guidelines for social workers to follow when interviewing children. There are also comprehensive interviewing guidelines in Appendices 0-1, Interviewing General Guidelines in 0-2, and Interviewing the Young Sex Abuse Victim with the Aid of Dolls. Upon hire, each caseworker accomplishes a Pre-Service Orientation through division policies and procedures in the form of a self-study guide and test.

During their first months of hire, all child protective service workers receive what is called CORE training in four increments. Mr. Neubauer said the first three increments relate to child sexual abuse:

The first increment, CORE Training 101, lasts three days (18 hours) and consists of a variety of topics including Introduction to Sexual Abuse, The Spectrum and Dynamics of Sexual Abuse, and Indicators of Sexual Abuse. The second increment, CORE 102, lasts five days (30 hours) and consists of a variety of topics including Characteristics of the Casework Interview, Interviewing Strategies and Their Utility, Building Trainee Skills in Interviewing and The Dynamics of Resistance: Implications for the Casework Interview. The third increment, CORE Training 103, lasts three days (18 hours) and consists of topics including The Effects of Abuse and Neglect on Infants and Toddlers, The Effects of Abuse and Neglect on

Preschool Children. The Effects of Abuse and Neglect on School Age Children. The Effects of Abuse and Neglect on the Development of Adolescents

Ms. Francis told the ombudsman investigator she had conducted sex abuse interviews with children prior to the child's. She said she had participated in DFYS CORE training before the interview, and she had been with DFYS about two and a half years prior to this incident

Ms. Francis said she went to the interview, "with a neutral perspective -- [I] didn't know if sexual abuse had happened or not." She said that she was deliberately trying not to ask "yes and no" questions or "leading questions" during the interview. Ms. Jewett, the other social worker present in the room with the child, was silent during the interview, but took notes. Ms. Francis did not take any notes.

Ms. Francis said that during the interview, the child "showed" where she was "touched" by "pointing" at locations on her body. She also pointed to parts of an outline picture of a little girl. Ms. Francis said that as soon as the child indicated her father had touched her inappropriately, "I stopped the interview right there." Ms. Francis said she didn't want to ask the child any more questions because she didn't want the child to have to describe the incident twice.

Ms. Francis said that when Ms. Jewett was *rewriting* her notes of the preschool interview, she mistakenly inserted the word, "accidentally," because the child hadn't said that the touching was accidental until the second interview, the one with Trooper Asberry. Ms. Francis said she noticed the error when she read Ms. Jewett's transcription, so she crossed out the inaccurate word, initialed the change, and the two social workers made a separate memorandum explaining the change.

Ms. Francis said she doesn't remember what was done with Ms. Jewett's original notes, which she believes were also written on DFYS Report of Contact forms. Ms. Francis said it was not a "general practice" to rewrite notes for the file, but it was not uncommon. Ms. Francis said she did not keep the outline drawing she used during the interview in the file because the child had made no marks upon it.

Ms. Jewett said that although she has a bachelor's degree in social work and had been working in jobs connected with social services since 1986, the child's interview was her first experience with child protection because she had only been employed with DFYS for about four days previously. She had not yet had any of the CORE training, but had reviewed the CPS manual. She went with Ms. Francis to observe the interview as part of her on-the-job training. Ms. Francis asked her to take notes.

Ms. Jewett remembers that the interview took place in "kind of like a . . . cloak room. Elsie explained things to her [the child]. Like, did she know the difference between good touch and bad touch and telling a lie and telling the truth, and that type of thing." Ms. Jewett said, "[The child] said her father had touched her private parts. . . . Actually, it seems like she may have said something like, 'My Dad really did it.' Or, 'He really did that,' or something. She was not upset through the interview at all. She was really calm. You know, just talking matter-of-factly, and didn't seem upset at all."

When asked if she remembers the exact words the child used in the interview, Ms. Jewett said, "The one I do remember is that she said her dad touched her 'private parts.' That's the word, that's the way I remember it because I remember I had thought about it after . . . and that's what she said. In just those words."

Ms. Jewett remembers taking notes on a ROC form during the interview. She remembers typing the notes over, "so that they would be readable." She said she is sure the original notes were thrown away.

Ms. Jewett also remembers writing "accidentally," in error, on other transcribed notes which Ms. Francis and she both signed. She said, "I remember that, I did that. I took notes when she [the child] was talking to Elsie [Francis], then I also took notes when the child was talking to the trooper. You know, when she was talking to the trooper she said, "accidentally." And then . . . I put that in on the wrong sheet, because as it turned out I didn't need to take notes when she talked to the trooper at all."

Ms. Jewett said she typed an addendum to the file explaining the error on the ROCS rather than simply rewriting the notes accurately because, "We had already given it [the ROC containing the error] to the troopers."

Ms. Jewett said that the trooper interview was "longer" than Ms. Francis'. She said, "You know you don't want to grill them [the child] unnecessarily, since it was known that after you talk with the child, then somebody else has to talk to them again." She noted that compared to the interviews she has done since the one at issue, "[the child] was really articulate. . . . Usually, the kids that I've dealt with, they're a lot less willing to talk about things. A lot of the kids -- I guess not all of them -- but now, that kind of stands out."

Concerning the interview with Trooper Asberry, Ms. Jewett said, "I remember him demonstrating, like picking somebody up . . . which is what was determined to have happened in this case is that her dad picked her up with his hands on bottom. Picked her up in the air. And I remember him demonstrating that to her, and she was saying, 'Yeah, you know, like that.'"

*Is DFYS sufficiently accountable for what transpires in initial interviews with children who are the subject of child abuse investigations? Should DFYS tape record or video tape its initial interviews with children who are interviewed as the result of reports of harm?*

Ms. Kacyon said that there is no office policy about whether to keep a social worker's original working notes in the file or to throw them away after they are rewritten on ROC forms. She said that it is routine to throw them away.

After Mr. X consulted an attorney about the incident concerning the child, Ms. Kacyon forwarded a copy of a letter from that attorney to the Attorney General's office in Anchorage by facsimile transmittal on March 10, 1993. She wrote on the transmittal cover sheet, "We are completing our documentation of our investigation and will be forwarding a copy to Julie & Gail for Torts Review." When the ombudsman investigator asked what documentation was being "completed" at that time, Ms. Kacyon said, "I think Elsie was completing her investigation. Writing up her investigation."

When the ombudsman investigator pointed out that the facsimile was dated almost three weeks after the incident, Ms. Kacyon said she remembers reminding Ms. Francis "several times" that she needed to get her investigation written up. She noted that Ms. Francis was also the licensing specialist in the office and had other responsibilities then, when the office was also short staffed. "That was the reason," she said.

CPS Policy and Procedure Manual Section 1.5 deals with "case recording." It states in pertinent part that the "purpose and intent" of proper record keeping is to provide

"a clear account of the need for service and the Divisions' response." Proper record keeping also "serve[s] to meet the Division's responsibility to be accountable for services delivered."

The manual provides, "The case record is the basic tool required to prepare and present a case for court. The worker should remember that every case of child abuse and/or neglect has the potential of going to court. Complete and proper records can also be an aid in defense in lawsuits against the agency and/or worker." The policy is for "Case recording [to be] maintained on the Report of Contact (ROC) sheets." Nothing in the manual addresses whether the case recording notes are to be original notes or notes transcribed from original notes. Nothing in the manual addresses keeping original notes.

CPS 1.5, Case Recording, provides in pertinent part:

- d. The record should be specific on who, what, when, where, why and how

Examples:

- A. "John is a very frightened boy." Frightened how? About what? In which situation?
- B. "He was abusive to his child." Abusive how, when, to what extent?
- C. "Mrs. N says she can no longer cope." Says to whom? No longer cope with what?
- D. "Debbie and her mother have a communication problem." A Communication problem with whom? Communicating what?

...

- G. Subjective words such as "the house was filthy" should be avoided. Use descriptive observations, such as "dirty dishes were piled all over the counter and table, there were several piles of dirty clothing on the floor and there were old scraps of food on the floor throughout the kitchen and living room."

Assistant Professor Kopacz said, "One of the purposes of notes is to be able to substantiate the reasons for intervention." She said it is common for social service agencies to destroy original notes because otherwise, such notes can be subpoenaed in court. However, she said she believes it would be appropriate to say that original notes should be kept until a case is closed. Finally, she said, "In my opinion, it would be a good idea to keep original critical notes in a file, and in a protective setting, if we were not taping an interview, I would keep my original notes, for reasons of accountability, self-protection, and for doing a good job. I might want to look back at my original notes."

When asked why DFYS does not audio record its interviews with children as do the Alaska State Troopers, Mr. Neubauer said, "It has been discussed," within the agency. However, he said that one reason against such recording is "the interview process is intimidating enough."

Ms. Jewett remembers that the tape recorder was located on the desk during Trooper Asberry's interview and that its presence did not seem to distract the child. She said that she does not see how it would be any problem to record social workers' interviews similarly. She said, "I don't see how it would be a problem, and it would be a lot easier than taking notes."

Ms. Kacyon said that there has been "some discussion" about taping initial interviews with children but, "[T]here's been some reluctance to do that because of not having the training to do that within the division. I know that the police have the training to do that." She added that on one occasion, a new Bethel social worker taped an interview. "She wasn't aware that it wasn't done and she just taped an interview and then it was used in the [court] case." Ms. Kacyon said that she's been told that "training" is an issue. "You know, we have different attorneys representing us so every time we get a new attorney there's a different opinion too . . . I've been told that there can be some legal problems with [taping] and I've just been given different explanations."

Appendix 0-3 to the CPS manual concerns interviewing techniques for incest cases when interviewing the victim. Page 8 of that section provides that when the interviewer makes a transition in the interview from general questions to more direct questions, like "Is someone bothering you," or "Is that person in your family," the interview "(should be taped)." [Emphasis added.]

In 1994, the second session of the Eighteenth Alaska Legislature failed to consider House Bill 350 which would have required that all official interviews with children who are alleged to have been abused or neglected be videotaped. The bill's prime sponsor was Representative Jeannette James and was co-sponsored by Representative Gene Theriault, both of North Pole. The bill was introduced at the request of a group of her constituents. Senator Mike Miller of North Pole also introduced a companion bill, Senate Bill 323. According to Representative James' aide, Barbara Cotting, HB 350 "died" in the House Judiciary Committee, the first committee to which it was referred; SB 323 died in the Senate Health, Education & Social Services Committee.

Ms. Cotting told the ombudsman investigator, "I thought this bill would be easy to get through, but the agencies were all up in arms [about it]." She continued, "I'd never seen anything like it, it got incredible resistance, mainly on the grounds of expense and what it would do to children who were already afraid." She said it would be fair to say that it, "Got complete resistance from all state agencies that would have been affected." She said the resistance included comments that taping initial interviews would also be an invasion of the privacy of the children at issue.

DFYS set out the reasons it opposed HB 350 in its bill analysis for the Office of the Governor. The bill analysis said in pertinent part:

This bill would require the Department to videotape all interviews with children. Since the majority of initial interviews do not occur in the office, the Department would have to obtain cameras and hire additional staff in order to comply with the requirement that all interviews be videotaped. In FY93 . . . 9,323 investigations were completed. In many cases, more than one interview is conducted with a child before the investigation is complete. Thus this bill would require that all interviews that comprise these investigations would have to be videotaped.

Interviews with children occur in schools, hospitals, the homes of friends, or the children's homes. They may be conducted in the same setting as

other children or adults who may be upset by the proceedings. The logistics of arranging to take a videocamera along on these interviews, when sometimes they are arranged on short or no notice, would complicate investigations considerably. In addition, tact, sensitivity and considerable skill are required on the part of interviewers in alleged child abuse and neglect investigations. Therefore, it would be unrealistic for the interviewer to simultaneously conduct the interview and tape the proceedings. An aide would need to be available to operate the cameras, as they would need to be able to participate in the process with sensitivity and protection to the child's and the family's confidentiality.

Social Workers and police officers are intimidating to children when investigations are being conducted. Cameras will make the process even more intimidating, and are likely to cause many children to refuse to discuss abuse or neglect which legitimately needs to be investigated. One way to mitigate the threatening nature of the videotaping would be to remodel offices with one-way mirrors and hidden cameras in each office. However, the costs of renovation would also be significant. In addition, to remove a child to an office for an interview would require the Division to assume emergency custody, which is not advisable in many cases, and is another cost to the child welfare and legal systems.

...

Other solutions might better address the concerns raised by the sponsor of this bill. Training of police officers and of investigating social workers are important elements. Interviews that police agencies conduct with alleged perpetrators are, to our knowledge, routinely audiotaped. . . .

This bill could have some negative unintended consequences. One is that children could be at risk if interviews were delayed due to lack of, or malfunctioning, equipment. It is often essential that children be interviewed as quickly as possible to take appropriate action to protect them.

Another concern is that DFYS would have to maintain a chain of evidence on the taped interview if it were to be used by law enforcement agencies. DFYS does not have the staff, facilities, or expertise to adequately track or store tapes for that purpose. In addition, there is the possibility of equipment failure leading to "gaps in tapes" which could lead to genuine cases of abuse not being prosecuted because the problems in taping could be used by the defense as a reason to drop the case altogether.

Kathy Tibbles, DFYS Social Services Program Officer in Juneau, said that in spite of its opposition to HB 350, the division has no policy against tape recording or video recording initial interviews with children. She said, "It is a recommended practice in sexual abuse allegations, but there is no policy to do so."

She said that agency workers need room to apply discretion about whether to record an interview. An important reason the agency opposed HB 350 is because it would have required videotaping *all* interviews and the discretion of professionals would have been lost. She said that in many reports of harm which lead to interviews with children, the allegation does not involve sexual abuse. However, even reports of neglect are

capable of provoking interviews which might lead to disclosures by the child of sexual abuse.

Other states also have resisted taping interviews at the initial stages. Mr. Winters (with CPS in Washington) said that in Washington, "We have avoided video and audio taping initial interviews with children like the plague." He said there were two main reasons for the agency position. First, having possession of tapes "sets up a whole new requirement for record keeping." He indicated that this record keeping would be administratively burdensome for reasons of cost, space and security. Second, he said that the Washington attorney general's office decided that the existence of such tapes set the stage for defense challenges which "avoid the real issue," which is whether or not there was abuse. He indicated that potential questions by defense attorneys about interviewing technique, and phrasing, or eye contact, "open the agency up to additional elements of challenge."

However, he said that personally he has always been in favor of taping initial interviews. Not only for reasons of agency accountability, but for the protection of children. He said, "Not infrequently, a child recants a first disclosure."

Mr. Winters said that Washington caseworkers are not required to keep original notes of interviews in their files. A caseworker usually will transcribe a narrative of the interview into their computer and may not necessarily take notes during an interview.

"Susan," the Oregon intake screener consulted by the ombudsman investigator, said that Oregon social workers work so closely with law enforcement that a policeperson would have been present at the initial interview. However, these initial interviews are not tape recorded. Susan said that in Oregon, interviews with children are not videotaped until after a court decides there is "reasonable cause" to take a child into protective custody. She continued, "People have to trust we're doing our jobs regarding accountability for first interviews." She said that caseworkers have no motive to make up disclosures of sexual abuse, and that they are "neutral observers."

Susan uses yellow pads on which to record her original notes from interviews. She then transfers the notes as a narrative to agency forms, and shreds her original notes.

Ms. Kopacz said that the controversy surrounding whether to tape record or videotape initial interviews with children calls into play "a balance between wanting to protect the family and providing safety for children."

She said that in a child protection case, "the only way to review a case is to tape it." She said that more and more, professionals are saying that the first interview with a child is critical and should only be done by the very skilled with that particular age group. She said, "It is so easy to suggest and reinforce things with children." She noted that false reports alleging sexual abuse are becoming common in custody battles between separating parents.

Ms. Kopacz said that a video tape is a much better source for review than an audio tape. She said that research indicates that 80 to 95 percent of what people respond to is visual or non-verbal, and that whenever there is a conflict between verbal and non-verbal messages, people will pay more attention to the non-verbal messages. She said that videotaping of interviews would not require skilled personnel. "It is possible to get a wide angle lens which will cover the entire room." She concluded, "but audio taping is better than nothing."

*Should the child's preschool teacher have been present during the child's interview with the social workers?*

AS 47.17.027 provides in pertinent part:

(a) If the department . . . provides written certification to the child's school officials that (1) there is reasonable cause to suspect that the child has been abused or neglected . . . school officials shall permit the child to be interviewed . . . before . . . receiving permission from the child's parent . . . A school official *shall be present* during an interview at the school *unless* the child objects or the department or law enforcement agency determines that the presence of the school official will interfere with the investigation. [Emphasis added.]

Mr. X alleged that the social workers never told his child's preschool teacher that she could, or should, be present during the interview. The DFYS case file contains a copy of a form document signed by Ms. Francis which was given to Ms. Miller when the caseworkers arrived at the preschool. The name of the preschool is handwritten in a blank on the form. In addition to other language apparently crafted to comply with the "certification" required by AS 47.17.027, it "certifies" that, "[an] interview is necessary to determine whether abuse or neglect has occurred." One sentence reads, "In the opinion of the Division, the presence of a district representative *will/will not* be detrimental to the interview." [Emphasis added.] That sentence was not modified by Ms. Francis to clarify whether or not the division made a decision about the propriety of a teacher's presence during the child's interview.

Ms. Miller told the ombudsman investigator that when the two social workers came in the preschool the day of the interview, Ms. Francis, "looked and acted uncomfortable." Ms. Miller said that she knew Ms. Francis, and later thought Ms. Francis was uncomfortable either because she, "wasn't sure of the complaint," or simply because she knew Ms. Miller. The social workers told Ms. Miller they, "needed to interview [the child]," but didn't tell Ms. Miller what the complaint was. Ms. Miller said she remembers that the social workers asked her "If the parents had 'put her [the child] down' or called her dumb." Ms. Miller told them that she had not observed behavior like that.

Ms. Miller said she asked the social workers, "if I needed to be with them when they talked to the child." She said one of the workers told her, "No, the interview needs to be private." Ms. Miller said that the social workers did not point out to her that there was a statute which said the teacher should be at the interview unless there was a determination the teacher's presence would interfere with investigation.

Ms. Miller said that the issue of whether a teacher should be present during DFYS interviews has been "grappled with" since the child's interview. Cathleen Connolly, a former preschool board president who is also an attorney with Alaska Legal Services in Bethel, told the ombudsman investigator that she understood that "They waved some paper at Ms. Miller that was an agreement with another school district, and not our preschool."

Ms. Francis' file notes state that she discussed with the child's teacher the fact that the school had no existing protocol about interviewing children. The notes reflect that because the school did not have a protocol, it requested that the caseworkers contact the child's parents before the interview. Both Ms. Francis' notes and Ms. Jewett's notes indicate that Mr. X gave them permission to interview the child when he arrived at the preschool prior to the interview.

A letter from Assistant Attorney General Julie E. Bryant dated March 24, 1993, to Mr. X's attorney said, "[T]he department presented the preschool with the proper certification to interview the child as indicated by AS 47.17.027. However, that statute does not mandate a school official to be present during the interview." It went on, "Before the interview with the child was conducted, both parents were informed and Mr. X gave his permission for the interview to take place. At that point, based on that permission, a school official's presence was not needed to conduct the investigation."

*Is the Bethel DFYS office too aggressive in taking emergency custody or conducting sexual abuse investigations?*

Mr. X alleged that a secretary to Bethel Judge Dale Curda told him that in the 2 1/2 year period prior to his complaint, the Bethel DFYS office took numerous emergency custodies, but only a few custodies were ordered by the court in the same time period. This indicated to Mr. X that DFYS must be taking too many emergency custody actions. He reasoned that if the emergency custody actions were really necessary, more would go further, to the court ordered stage, and the court would support DFYS's action.

Under CINA statutes at AS 47.10.142 and AS 47.10.010, DFYS may take emergency custody of children, "upon discovering" that a child has been sexually abused or is in imminent and substantial danger of being sexually abused by the child's parent. However, those emergency custodies may never be scrutinized in a court proceeding. Only if the agency decides custody longer than 12 hours is necessary to protect the child, must the agency file a petition with the court alleging that the child is a child in need of aid. The statute provides this must be done within 12 hours after custody is assumed. However, if the child is released from emergency custody within 12 hours the agency must merely file a "report" with the court within 12 hours of release of custody, explaining why the child was taken into emergency custody.

In this child's case, a "report" was filed with the court in the form of an affidavit of Elsie Francis, dated March 8, 1993. The affidavit said the report of harm was determined "invalid" when the child was questioned by the Alaska State Troopers. The affidavit was dated March 8, 1993, about 10 days after the emergency custody was terminated.

Mr. Neubauer had an explanation for why DFYS typically might assume emergency custody but drop it before formally petitioning the court for continued custody. He said that in his opinion, the DFYS policy of "family centered services" promotes a reluctance of social workers not to take long term custody of children when it can be avoided. Instead, social workers attempt to return children to their parents as soon as possible, or to place children with close family relations.

Mr. Neubauer said he suspects that most often, emergency custody actions are taken then dropped without a court hearing when social workers perceive children to be at risk, but parents then voluntarily allow their children to stay with a relative temporarily. This situation would not require a court petition. Mr. Neubauer said this scenario would likely be particularly true in village areas where there are often many relatives in the vicinity. The idea would be that the child would be out of the home only temporarily, for a night or a week or two and then would go home when the situation there had improved. Social workers would regard this as an "open intake" which would be informally monitored and which would not require court participation.

To explore Mr. X's allegation the Bethel DFYS takes too many emergency custodies, the ombudsman investigator looked at DFYS statistics. DFYS offices record their statistics on PROBER, a computerized data base. Those statistics indicate for FY93

that the Bethel district had intakes for 259 families alleging various harms, including sexual abuse, neglect, runaways and mental injury. Of those families, 50 had children taken into emergency custody (approximately 19 percent). Barrow had intakes for 76 families with eight families having children taken into emergency custody (approximately 10 percent). Nome had 111 families with intakes involving their children, and 28 of those families had emergency custody taken (approximately 25 percent). In Kotzebue, 102 families had intakes, 11 families had children taken into emergency custody (approximately 11 percent). Accordingly, the Bethel office has neither the highest nor the lowest percentages of emergency custody actions per intake among the four presumably similarly situated areas.

DFYS statistics indicate that statewide in FY93, there were 2,249 referrals for sexual abuse. These amounted to 15.4 percent of all types of reports of harm. Other types include neglect, physical abuse, mental injury and abandonment. Of the 2,249 referrals for sexual abuse, 1,586, or 70.5 percent were assigned for investigation statewide.

In FY93, Bethel investigated 67 of 157 sexual abuse referrals, or 42.5 percent. Barrow investigated 55 of 96 sexual abuse referrals, or 57.3 percent. Nome investigated 21 of 35 sexual abuse referrals, or 60 percent. Kotzebue investigated 21 of 21 sexual abuse referrals, or 100 percent. These statistics indicate that compared with the three other offices, Bethel DFYS investigated the lowest percentage of its sexual abuse referrals, and far fewer than the 70.5 percent investigated statewide.

Of the investigated sexual abuse referrals in Bethel, five percent were found invalid, 47.5 percent were substantiated, and 47.5 percent were found unconfirmed. In Barrow, 10 percent were found invalid, 75 percent were substantiated, and 15 percent were unconfirmed. In Nome, 5.3 percent were found invalid, 31.6 percent were substantiated and 63.2 percent were unconfirmed. In Kotzebue, 87 percent were found substantiated and 12.5 percent were unconfirmed. Statewide, six percent were found invalid, 35.8 percent were found unsubstantiated, and 57.9 percent were unconfirmed. These statistics indicate that Bethel social workers found second fewest substantiated allegations in the four areas.

## ANALYSIS AND PROPOSED FINDINGS

Mr. X believes the social workers embarked on their investigation assuming that he was guilty of abusing his child. He believes this attitude was unfair and was directed personally against him. He stated that it is his understanding that even police need "probable cause" to obtain a search warrant. In contrast, he said, practically no evidence is apparently needed to launch an investigation for child abuse and so interfere in a family's private life.

None of the three social workers involved in this incident knew Mr. X more than casually. Both Ms. Francis and Ms. Kacyon said they were relieved when the interview with Trooper Asberry showed that if Mr. X had touched the child in an improper place, it had been accidental, and in play. Investigation indicated that none of the social workers displayed any animosity toward Mr. X concerning this event. There is no evidence that any social worker treated this report more harshly than others. Under AS 47.17.030, DFYS is required to investigate each report of harm as much as "necessary" to protect the child.

For the most part, the workers in this case followed procedure. After she took the telephone call from the reporter, Ms. Francis properly consulted her intake supervisor,

Ms. Kacyon, who decided the allegations warranted an investigation. She assigned the investigation to Ms. Francis. Because the allegations were based on behavioral indicators and not observed or disclosed sexual abuse, the report was given a priority 3. Although Ms. Tibbles would arguably have assigned the report a priority 2, Mr. Neubauer gave reasonable arguments for why a priority 3 was also appropriate. Accordingly, DFYS had 7 days in which to investigate the allegation. Ms. Francis interviewed the child four days after the report, which is within procedural timelines.

The primary issues from Mr. X's perspective are: 1) did the initial report of harm justify the interview, and 2) did the interview justify the emergency custody? DFYS employees are vested by law with the discretion to make these difficult decisions. In this case the Ombudsman must determine whether an abuse of that discretion has occurred. The Ombudsman's policy and procedures manual states that to make a finding of abuse of discretion the evidence must show that, in the exercise of its judgment, the agency:

- (A) did not proceed according to law;
- (B) based its decision on an erroneous choice of standards or principles;
- (C) based its decision on considerations not supported by evidence;
- (D) based its decision on considerations that are not relevant; or
- (E) made a decision that is clearly contrary to the reasonable inferences or deductions to be made from the evidence.

#### *The Decision to Assign and Interview*

While the report of harm was primarily conclusory in nature rather than factual, it did invoke possible "red flags" for child abuse as indicated by the DFYS manual summary chart of behavioral indicators of sexual abuse. The reporter's allegations in this case could arguably be interpreted as touching upon three of five indicators. The reporter indicated the child wore strapless gowns and allegedly said, "Don't I look pretty," in a seductive manner. This could be regarded as either "fantasy" or "sophisticated, unusual sexual behavior or knowledge." Granted, other interpretations are quite possible and may even be more likely, but the inference drawn by DFYS is plausible and supported by agency standards.

Similarly, the fact that the reporter said the child "hates boys to the point of strange" could be an indicator of "poor peer relationships," if accurate. In addition, as Mr. Emerson said, a trained social worker is taught that a parent's pattern of changing caretakers frequently can be a sign of ongoing sexual abuse. Whether the reported five caretakers over five years was accurate or if so, constitutes "frequent" changes, are separate questions.

As a result, the decision to assign the report of harm and conduct the interview was clearly in accordance with law. Nor were the standards or principles applied or the inferences drawn from the evidence clearly erroneous.

However, the most reasonable inferences are only as good as the evidence from which they are drawn. Likewise, correct standards applied to faulty facts will yield problematic results. At the extreme, if a reporter simply alleged that he or she "felt" that sexual abuse was occurring, or simply stated that "the red flags were all there," without offering supporting facts, a conclusion that an abuse investigation was warranted would

not be supported by the evidence. Put another way, the fact that behavioral indicators of sexual abuse have been alleged does not mean that the existence of the indicators was supported by relevant evidence, or that contrary evidence can be ignored. The same can be said for red flags of mental injury.

As a result, analysis must still determine whether DFYS' conclusion that indicators of abuse were present (the "considerations" referenced in Ombudsman standards) was supported by evidence.

Ms. Francis' intake notes memorializing the report of harm do not conform to the case recording policy at CPS 1.5 requiring who, what, when, where, why, and how specifics in the record. For the most part, Ms. Francis' notes describe the reporter's *conclusions* about the child's alleged behavior rather than the behavior itself. These conclusions were filtered through the reporter's imagination and Ms. Francis' mental translation.

The intake notes left unanswered fundamental questions about the basis for the reporter's conclusions. For example:

- what behavior indicated that the child was "seductive?"
- where did the strapless gown come from and what was the context in which it was worn?
- what "sexual things" was the child "interested" in?
- why did the reporter think it suggestive that Mr. X "[had] his daughter w/him when he's not at work?"
- how did the child indicate hatred of boys?
- in what context did Mr. X call his children "stupid?" who else was present?
- who were the alleged five different day care providers?

If Ms. Francis did elicit more specific facts from the reporter, she could not remember them when she spoke with the ombudsman investigator and her case notes were not helpful.

Uninvolved professionals from child protective services in Washington and Oregon, as well as an experienced teacher in the field, regarded Ms. Francis' written report of harm as borderline, vague, and lacking in specific factual observations which would back up the jargon used on the intake notes.

Further, it is disturbing that collateral contacts were not used in the decision making process in this case although collateral contacts *prior* to the initial interview are suggested by the 1984 Child Sexual Abuse Agreement and were named as important steps in light of this particular report of harm by Washington and Oregon caseworkers as well as by an assistant professor of social work.

Two "collateral contacts" in fact occurred and could have been considered in deciding whether to assign the report of harm or go ahead with the interview

First, Mr. Herringshaw, a DFYS employee, knew the X family on a personal basis and told Ms. Francis that the report should be checked out further because it did not match what he knew about the family dynamics. He said that in his observation, the children were not timid and that Ms. X was not the "browbeaten" person" hinted at by the reporter.

However, Ms. Kacyon, the agency decision-maker, was not aware of Mr. Herringshaw's information because Ms. Francis did not mention it to her. The fact that the report was assigned a priority 3 shows that Ms. Kacyon did not regard it as an emergency; Ms. Francis should have given Ms. Kacyon the opportunity to use Mr. Herringshaw's information to provoke further inquiry before she made a decision to investigate.

Even absent that information, given the borderline nature of the information and suggested agency procedure, Ms. Kacyon arguably should have instructed Ms. Francis to recontact the reporter as well as other collateral contacts prior to assigning the report for investigation.

The second collateral contact was with the child's preschool teacher at the time of the interview. However, she was not contacted until the investigators arrived to conduct the interview. Nevertheless, the teacher also contradicted the reporter's observations. She told caseworkers that the parent did not "put down" the children, the child was socially "fine," and that she did not seem to have problems relating to male children. Presumably she would have provided the same information had she been contacted by phone, prior to the decision to investigate. Both collateral contacts lessened the credibility of the intake report. Ms. Francis should have conveyed them to Ms. Kacyon and allowed her to reconsider the investigation decision even at that point.

Although CPS 2.2.3 states that an investigation "requires" one face to face contact with the child, it also states, "any exceptions to the minimum standards require review and approval by the supervisor." This seems to indicate that once a case is assigned for investigation, it is not necessarily an irreversible process. Ms. Kacyon could have reconsidered her decision to investigate and interview the child in light of Mr. Herringshaw's comments about the family and Ms. Miller's comments that the child was socially right on target.

It must be remembered that the first question here is whether the agency inappropriately launched an in-school interview to determine whether abuse had occurred, not whether the agency reached inappropriate conclusions after investigation. Clearly, an investigative agency cannot be required to demonstrate that allegations are true before an investigation is undertaken. Yet even investigative efforts resulting in exoneration can harm those under investigation. As a result, some minimal threshold of factual support for allegations should be required before steps which may cause harm or embarrassment are undertaken.

While the reporter's initial allegations did conclusively invoke *possible indicators* of child abuse, they contained few specific *facts supporting the existence of those indicators*. Even those few facts were refuted by other observers, including an agency staffer and a current day care teacher. Ms. Kacyon, the decision-maker, was not given the opportunity to consider relevant information in making the decision to interview the child, and should herself have ordered further collateral contacts.

Although it is a close call, the considerations (behavioral indicators) cited by the agency to defend its decision to interview the child were not sufficiently supported by the

evidence. While the agency did not base its decision on irrelevancies, it failed to consider relevant and material information available to it. As a result, the Ombudsman proposed to find the allegation justified, that DFYS abused its discretion when it decided to interview Mr. X's child based upon the report of harm.

### *The Decision to Take Custody*

Mr. X also alleged that the evidence the social workers found upon investigation did not justify taking emergency custody of the child and that his case is a prime example of how the Bethel office is a "loose cannon" in general, investigating too many sexual abuse allegations and taking emergency custody too frequently.

The ombudsman investigator compared DFYS statistical information about reports of child sexual abuse in four similar population areas. Compared to Nome, Kotzebue, and Barrow offices, Bethel DFYS is the most conservative as to the number of sexual abuse referrals investigated. Bethel DFYS is in the middle as to percentages of emergency custody actions taken per number of intakes. Assuming that the other three offices are not out of line, the weight of the evidence is that the Bethel office is not "out of control," in this respect.

While these statistical manipulations do not account for all variables, they do indicate that Bethel is performing comparably to other DFYS districts similarly situated. This indicates that while there is a perception even among some social work professionals that the Bethel DFYS office is not properly screening reports of sexual abuse, DFYS statistics refute the allegation.

However, investigation of Mr. X's allegation raised an additional question: as a broad policy matter, is DFYS being held sufficiently accountable for its actions in making emergency custody decisions? Mr. X's complaint illustrates the issues: does the DFYS file in the child's case contain enough information so that the caseworker's actions are fairly reviewable?

Mr. X believes that because the agency does not routinely tape record its initial interviews with children, the emergency custody decisions based on those interviews are unreasonably shielded from review.

Although the agency might argue that the state interest in protecting children overcomes an interest in accountability at the initial interview level, Mr. X raises a good point. A point which was supported by the difficulty the ombudsman investigator faced in attempting to effectively review the discretionary decision-making in this case.

The child's file did not contain original notes, so nothing but potentially self-serving testimony and after-the-fact transcribed notes from the persons whose discretion was being questioned were available as a review tool. Though Bethel DFYS's interest in protecting the child would certainly overcome her parents' right to noninterference by DFYS, the agency action should not be so shielded from scrutiny.

The Department of Health and Social Services's Bill Analysis for HB 350 gave many reasons DFYS did not support videotaping initial interviews. Among these were many addressing administrative convenience. For example, the agency does not want to worry about tracking chains of custody or storing tapes; it does not want to "train" its workers to use video cameras. The agency doesn't want the expense of video cameras. Other reasons included that children might be intimidated by the camera, and that defense lawyers would have more to question in court cases if tapes exist. On the other hand,

Ms. Tibbles told the ombudsman investigator that DFYS is not necessarily adverse to taping some initial interviews, but simply wants to retain discretion in the matter.

Social workers questioned by the ombudsman investigator, however, either said that audio taping would not be a problem and might be easier than note taking, or said that a videotape would be the best way to review a case. Mr. Winters even said that a taped initial interview might capture a disclosure which might otherwise be recanted, adding that children frequently recant at a second interview. Finally, even DFYS's own policy and procedure manual provides that interviews concerning incest cases "should be taped."

The Ombudsman finds that, as a policy matter, administrative convenience does not justify lack of agency accountability in this sensitive area. From the perspective of effective child protection, the arguments for videotaping, or at least audio taping initial interviews, are as powerful as those against it. Further, agency argument that "training" would be excessively burdensome in either an audio or video scenario is unconvincing in this technological age when even three year olds run recording devices and many families already own camcorders. Similarly, where video and tape recorders might have intimidated children of the 1960's, the same likely cannot be said for children of the 1990's. While video cameras are admittedly expensive, audiotape recorders are not.

In this case, if the child's preschool teacher had been present during the interview, at least some accountability would also have been present. There would have been a non-agency witness to what the child said during the interview.

It appears that there is some confusion in the Bethel office about the statutory requirement to include a school official in most DFYS interviews of children at schools. In this case, Ms. Francis should have required that a school official attend the interview unless there was some reason a school official's presence would have been detrimental. Instead, the social workers actively excluded the teacher.

Assistant Attorney General Julie Bryant argued that in a technically legal sense Ms. Miller's presence was not necessary because Mr. X gave prior permission for the interview. The Ombudsman finds that whether or not the assistant attorney general's interpretation of the statute is correct, the agency's procedures were improper because the teacher was told she could not attend *without any apparent basis for the exclusion*. If Ms. Miller had been present, an important check and balance upon the caseworker's interviewing technique would have been in place. While the investigator did not research the legislative intent for including the mandatory "shall be present" language in AS 47.17.027, the plain language is there and should have been obeyed.

The Ombudsman concludes that Ms. Francis' failure to include Ms. Miller as a witness to the interview was an error. Compounding the error was the fact that the caseworkers did not memorialize the interview with their original notes. That transcribed notes can be unreliable is clear by the facts of this case: e.g. Ms. Jewett's insertion and later redaction of the word "accidentally" in her transcription.

Unfortunately, due to this combination of circumstances, it was impossible in this complaint independently to review the critical issue of whether the workers abused their discretion by taking the child into emergency custody.

Therefore, the Ombudsman proposed to find this portion of Mr. X's allegation indeterminate.

### *Proposed Overall Finding*

Under Ombudsman regulations, when one allegation or portion thereof is found indeterminate and another is found justified, the overall allegation is found partially justified. As a result, the Ombudsman proposed to find partially justified the allegation that:

*The Division of Family and Youth Services abused its discretion by deciding to interview complainant's child based on an insubstantial report of harm and by thereafter taking complainant's child into emergency custody.*

### **PROPOSED RECOMMENDATIONS**

The Ombudsman proposed to find part of this allegation indeterminate because agency practices made the allegation incapable of adequate investigation. The Ombudsman proposed the following recommendations:

(1) Caseworkers should never dispose of their original file notes, but should retain them as part of the case file at issue.

(2) DFYS should adopt a policy that interviews with children, during which no other persons are present but agency employees and the interviewee(s), should be audio recorded. When possible, such interviews should be videotaped. The agency should consult with the Alaska State Troopers to learn how similar interviews are recorded as a regular practice of that agency.

(3) The division should consult with the Department of Law, in particular the assistant attorney general assigned to it, and then review with all division social workers their obligation under AS 47.17.027 to have a school official present during school interviews.

(4) DFYS policy makers and trainers should work together with Bethel caseworkers to tighten up existing procedures in the Bethel office so that record keeping is accomplished timely and is more fact oriented, affidavits to the court are filed on time, screening decisions are made critically, and persons whom the Bethel social workers contact are made aware of their rights and responsibilities concerning child protection.

### **AGENCY RESPONSE TO OMBUDSMAN'S PRELIMINARY REPORT**

Under AS 24.55.180, "Before giving an opinion or recommendation that is critical of an agency or person, the ombudsman shall consult with that agency or person." This is done to give the agency an opportunity to tell the Ombudsman's Office if the report contains errors of any kind and to provide any response it wishes to be included in the final report. The agency responded to this preliminary report by letter dated April 28, 1995.

The Commissioner stated, "After reviewing this investigative report, it is the general opinion of the Department of Health and Social Services that appropriate judgment and discretion were exercised by the DFYS Bethel field office." In other words, the agency did not accept the Ombudsman's finding that the Bethel DFYS office should have conducted further research or made collateral contacts before social workers interviewed the X's child.

However, the Commissioner also wrote, "In general, we conclude that a thorough, detailed and objective investigation was conducted." In other words, the agency did not dispute the facts found in the Ombudsman's investigation.

Regardless of what the Ombudsman and the agency could further argue to justify their opposing points of view regarding whether the social workers abused their discretion in this case, there is no individualized remedy the Ombudsman is prepared to suggest for Mr. X and his family. Each discretionary decision made by DFYS social workers in the future must be made on its own merits. Even if the agency were to agree with the Ombudsman's finding in this case, the interview with this child already has been conducted. The report of harm ultimately was determined invalid. Investigation *did not find* that the social workers *deliberately* abused their discretion.

Therefore, because the agency response offers nothing which changes the Ombudsman's opinion regarding the facts of this particular case, the proposed finding stands: the Ombudsman agrees with Mr. X that the decision to interview his child solely on the basis of the particular report of harm was an error.

Because of the paucity of available objective evidence, the Ombudsman was unable to evaluate the social workers' decision to take emergency custody. As a result, the Ombudsman was forced to find indeterminate, the allegation that the agency abused its discretion by taking emergency custody based upon the interview at the preschool.

As a public policy matter an indeterminate finding is unacceptable when it is based on an insufficiency of agency accountability. Accordingly, two of the Ombudsman's proposed recommendations addressed accountability issues for the future.

The first proposed recommendation was that caseworkers should never dispose of their original file notes, but should retain them as part of the case file at issue. The agency response requested that the Ombudsman modify the recommendation to read, "DFYS should train staff in effective investigative note-taking and record entries so that critical information is properly recorded in case files." The agency director wrote, "I believe doing a good job and knowing what information should go into notes makes the work more accountable."

The agency's proposed modification is unacceptable because, in the Ombudsman's opinion, it insufficiently addresses the accountability issue. While, of course, further and continued staff training is a laudable goal, this does not adequately resolve the point of the recommendation which is to assure that social workers' *original* impressions are retained in the file. Accordingly, the Ombudsman retains its proposed recommendation as the final recommendation on this issue.

The second proposed recommendation was that initial DFYS interviews with children be either audio or videotaped. The agency agreed that this important issue must be addressed. However, rather than make a policy change based on the Ombudsman's recommendation, the agency proposed the recommendation be modified to provide for further research on the issue as a "first step" toward reconsideration of its present policy allowing discretionary audio recording of child protection interviews. A generalized promise to "do more research" would not have been convincing. But, the agency has committed to concluding such a study by the time the legislature convenes in January 1996. Because, as the agency states, "no thorough study has been completed to analyze the issue and its effects on child protective services in this state," the Ombudsman will modify the recommendation as requested by the agency.

The Ombudsman's third proposed recommendation asked that all social workers be specifically retrained in their obligations under AS 47.17.027 to have a school official present during school interviews. The agency responded, "[W]e believe that the social workers [in this case] acted appropriately, due to the fact that the father came to the school prior to the interview and had given his permission for the interview to be conducted." Stated otherwise, the agency continued to characterize as a deliberate one, the social workers' decision not to have a teacher present at the child's interview.

The Ombudsman's investigation indicated, however, that if the social workers knew of the statutory requirement to have a school official present unless that presence would interfere with the investigation, they did not express that knowledge to either Julie Miller, the preschool teacher, or Mr. and Ms. X. Those witnesses said they did not know of the requirement and were not informed of it at the scene. In addition, there was no evidence the social workers had any basis for believing a teacher's presence might interfere with the interview. Investigation could not definitively determine whether the social workers knew of the requirement, decided not to mention it, or had forgotten it.

However, the Ombudsman's reading of AS 47.17.027 is that DFYS social workers should interpret the statute to mean exactly what it says: "a school official *shall be present* during an interview at the school unless the child objects or the Department or law enforcement agency determines that the presence of the school official will *interfere* with the investigation." [Emphasis added.] This was not done in the child's interview and the agency did not satisfactorily explain the omission. Therefore, the Ombudsman continues to believe the agency erred in this respect in this case.

The Ombudsman's proposed recommendation on this issue suggested that the requirements of AS 47.17.027 be reviewed with the agency's attorney and with all social workers. The agency responded, "Knowledge and protocol related to statutes and regulations should be clearly covered in our CORE training components." In this case, however, both social workers had completed the CORE training components.

The agency suggested modifying the proposed recommendation by including it within recommendation 4 which addresses further training of social workers. As set out below, DFYS has retrained its Bethel social workers in their responsibilities under AS 47.17.027. Therefore, the Ombudsman agreed to modify the recommendation as requested.

Finally, the Ombudsman's proposed recommendation number 4 was directed specifically at retraining the Bethel DFYS office concerning several other issues which arose during investigation of this complaint. The agency responded that in summer 1993 the Bethel office actually underwent further training as a regular part of agency procedures. The agency said, "At the request of then Director, Deborah Wing, a Training Plan was established for the Bethel Family Services office last summer following a July visit to Bethel by Steve Emerson, Staff Training Center. During this visit Individual Training Needs Assessments (ITNA) were completed for each staff member and a plan was established to meet those training needs, as identified. During the past six (6) months the Bethel field office has received 69 hours of training including CORE training..."

In conclusion, while not admitting any errors on the part of the DFYS Bethel staff concerning this situation, the agency has in fact retrained its Bethel staff in CORE issues (including AS 47.17.027) and the other issues addressed by the Ombudsman's proposed recommendation. Accordingly, the Ombudsman will modify its final recommendation 4 as requested by the agency.

**FINAL FINDING**

The Ombudsman finds that DFYS social workers in Bethel abused their discretion in this case when deciding to interview the X's child based upon a particularly weak report of harm without considering available collateral information. In addition, the Ombudsman was unable to reach a conclusion independently regarding the allegation that the workers abused their discretion when taking the child into emergency custody because the initial interview was not audio or video recorded and original notes of the interview were not retained by the agency. Therefore, the Ombudsman finds partially justified the overall allegation that:

*The Division of Family and Youth Services abused its discretion by deciding to interview complainant's child based on an insubstantial report of harm and by thereafter taking complainant's child into emergency custody.*

**FINAL RECOMMENDATIONS**

In the belief that sound public policy supports accountability of agency action, the Ombudsman makes the following recommendations:

(1) Caseworkers should never dispose of their original file notes, but should retain them as part of the case file at issue.

(2) DFYS should conduct a feasibility study regarding audiotaping/videotaping of initial interviews with alleged victims of child abuse and neglect. The study will include a cost analysis, review of appropriate literature, pros and cons related to CPS investigations, training needs, legal issues and specified situations that would benefit from taping. This study should be completed by the start of the January 1996 Alaska legislative session.

(3) DFYS policy makers and trainers should continue their efforts to improve social workers' skills, competence and casework knowledge through comprehensive, consistent and timely training opportunities for all DFYS staff.

The agency has accepted final recommendations 2 and 3. The agency has refused to accept final recommendation 1. As a result this complaint will be closed as partially justified and partially rectified.

**SB**

**195**

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Fisheries Business Tax Credit BRU: Revenue Operations  
 Component: Income and Excise Audit  
 Sponsor: Senator Zharoff  
 Requestor: (S) HES COMPONENT SERIAL NO. 113

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( GF )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

This bill extends the due date for contributions to the A. W. "Winn" Brindley memorial scholarship account for which taxpayers may claim a credit against their fisheries business tax liability. This bill does not affect the calculation or maximum amount of credit that may be claimed. Currently, contributions are required to be made during a tax year to qualify for credit. This bill authorizes taxpayers to make contributions subsequent to close of the tax year, no later than the earlier of the tax payment date or tax due date, and still claim credit against the preceding tax year.

This bill will not impact operating expenditures or fisheries business tax revenue.

Prepared by: Robert N. Bartholomew  
 Division: Income and Excise Audit  
 Approved by Commissioner: [Signature]  
 Agency: Department of Revenue

Phone: 465-2320  
 Date: 1/12/96  
 Date: 1/12/96

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**SB**

**212**

# ADA

1/1, 1995

FLEFAX - (907)274-2960

Ms. Martha A. Reinbold  
Executive Director  
Alaska Dental Society  
3400 Spenard Road, Suite 10  
Anchorage, Alaska 99503

*Response on proposed  
AK dental statute  
language change to  
prevent the state board  
from taking action on  
a dental license solely  
for practicing "alternative  
dentistry."*

Dear Martha:

This responds to your request for an opinion on whether the proposed legislation about alternative dentistry is consistent with the ADA Principles of Ethics and Code of Professional Conduct. It is impossible to say for sure without seeing the exact wording of the bill, but my initial impression is that it may be inconsistent with the ADA Code.

I base this opinion on the prototype from the medical practice act which you provided. It prohibits the medical board from basing a finding of professional incompetence solely on the fact that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient.

In contrast, the ADA Code recognizes that dentists may be incompetent who recommend certain treatments to their patients, even if no physical harm results. Code Section 1-K, Representation of Care, and the two advisory opinions published thereunder prohibit dentists from making false or misleading representations about the care they render to their patients. Generally such representations concern the treatment's therapeutic value.

The patient is induced to pay money for something that has little or no value according to accepted scientific knowledge or research. The patient is usually not informed that the treatment is unconventional or experimental in nature. Physical harm is not required to establish a violation of Section 1-K, but it often exists. For example, the patient may be induced to forego accepted treatment for a particular condition in reliance on the dentist's claims for the unconventional treatment, suffering harm as a result.

OCT-27-1995 16:47 FROM

TO

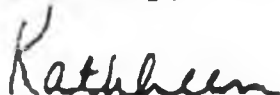
919072742960 P.02

Ms. Reinbold  
October 27, 1995  
Page 2

In summary, I would be concerned that the proposed amendment to the dental practice act might undermine patient protection against fraud afforded by Section 1-K of the ADA Code. You may also wish to consider whether the proposed legislation would limit similar protection against deceit, fraud and intentional misrepresentation currently afforded by Section §8.64.326(2) of the Alaska dental practice act.

I hope this information is helpful. Please call me at 1-800-621-8099, ext. 2914 if you have any questions or would like to discuss.

Sincerely,



Kathleen M. Todd  
Director  
Council on Ethics, Bylaws  
and Judicial Affairs

/xt



## Alaska Dental Society

3400 Spenard Road, Suite 10  
Anchorage, Alaska 99503  
(907) 277-4075 • FAX: 274-2960

January 16, 1995

Representative Cynthia Toohey  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Toohey:

Ben Brown has sent us a copy of SB #212 introduced on January 11, 1996 and has asked for our comment.

Anticipating this situation, the Alaska Dental Society, in October contacted the American Dental Association for a legal interpretation. We received a response on October 27th from ADA attorney Kathleen Todd, Director for the Council on Ethics, Bylaws and Judicial Affairs. I have quoted from her letter.....

"It is impossible to say for sure without seeing the exact wording of the bill, but my initial impression is that it may be inconsistent with the ADA Code.

I base this opinion on the prototype from the medical practice act which you provided. It prohibits the medical board from basing a finding of professional incompetence solely on the fact that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient.

In contrast, the ADA Code recognizes that dentists may be incompetent who recommend certain treatments to their patients, even if no physical harm results. Code Section 1-K, Representation of Care, and the two advisory opinions published thereunder prohibit dentists from making false or misleading representations about the care they render to their patients. Generally such representations concern the treatment's therapeutic value.

The patient is induced to pay money for something that has little or no value according to accepted scientific knowledge or research. The patient is usually not informed that the treatment is unconventional or experimental in nature. Physical harm is not required to establish a violation of Section 1-K, but it often exists. For example, the patient may be induced to forego accepted treatment for a particular condition in reliance on the dentist's claims for the unconventional treatment, suffering harm as a result.

2

**January 16, 1998**  
**Representative Cynthia Toohay**

In summary, I would be concerned that the proposed amendment to the dental practice act might undermine the patient protection against fraud afforded by Section 1-K of the ADA Code. You may also wish to consider whether the proposed legislation would limit similar protection against deceit, fraud and intentional misrepresentation currently afforded by Section 08.38.315 (2) of the Alaska dental practice act."

Based on Ms. Todd's concerns, the Alaska Dental Society will stand opposed to this proposed legislation. I have attached the pertinent pages from the ADA Principles of Ethics and Code of Professional Conduct (January, 1995) and the pertinent pages from the Alaska dental statute, (September, 1995).

We appreciate your interest in hearing our position.

Sincerely,



**Martha A. Reinbold**  
**Executive Director**  
**Alaska Dental Society**

cc: Sam Kito, Lobbyist

**James A. Clark, DMD, President**  
**Alaska Board of Dental Examiners**

**Phyllis L. Pendergraft, DMD, President**  
**Alaska Dental Society**

American Dental Association

**E**

ADA  
PRINCIPLES OF  
**ETHICS**  
AND CODE OF

**C**  
PROFESSIONAL  
**CONDUCT**

American Dental Association  
Council on Ethics, Bylaws and Judicial Affairs  
211 East Chicago Avenue  
Chicago, Illinois 60611  
With official advisory opinions  
revised to January, 1995

With official advisory opinions  
revised to January, 1995.



72811

he dentist, upon completion of such treatment, is obliged to return the patient to his or her regular dentist unless the patient expressly reveals a different preference.

#### 1-E. CONSULTATION AND REFERRAL.

Dentists shall be obliged to seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those who have special skills, knowledge, and experience. When patients visit or are referred to specialists or consulting dentists for consultation:

1. The specialists or consulting dentists upon completion of their care shall return the patient, unless the patient expressly reveals a different preference, to the referring dentist, or if none, to the dentist of record for future care.
2. The specialists shall be obliged when there is no referring dentist and upon a completion of their treatment to inform patients when there is a need for further dental care.

#### 1-F.

1. A dentist who has a patient referred by a third party or a "second opinion" regarding a diagnosis or treatment plan recommended by the patient's treating dentist should render the requested second opinion in accordance with this Code of Ethics.

In the interest of the patient being afforded quality care, the dentist rendering the second opinion should not have a vested interest in the ensuing recommendation.

#### 1-F. CHILD ABUSE

Dentists shall be obliged to become familiar with the warning signs of child abuse and to report suspected cases to the proper authorities consistent with state laws.

#### 1-G. USE OF AUXILIARY PERSONNEL.

Dentists shall be obliged to protect the health of their patients by only assigning to qualified auxiliaries those duties which can be legally delegated. Dentists shall be further obliged to prescribe and supervise the patient care provided by all auxiliary personnel working under their direction.

#### 1-H. JUSTIFIABLE CRITICISM.

Dentists shall be obliged to report to the appropriate reviewing agency as determined by the local component or constituent society instances of gross or continual faulty treatment by other dentists.

Patients should be informed of their present oral health status without disparaging comment about prior services.

Dentists issuing a public statement with respect to the profession shall have a reasonable basis to believe that the comments made are true.

#### Advisory Opinion

1. A dentist's duty to the public imposes a responsibility to report instances of gross or continual faulty treatment. However, the heading of this section is "Justifiable Criticism." Therefore, when informing a patient of the status of his or her oral health, the dentist should exercise care that the comments made are justifiable. For example, a difference of opinion as to preferred treatment should not be communicated to the patient in a manner which would imply mistreatment. There will necessarily be cases where it will be difficult to determine whether the comments made are justifiable. Therefore, this section is phrased to address the discretion of dentists and advises against disparaging statements against another dentist. However, it should be noted that where comments are made which are obviously not supportable and therefore unjustified, such comments can be the basis for the institution of a disciplinary proceeding against the dentist making such statements.

#### 1-I. EXPERT TESTIMONY.

Dentists may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.

#### Advisory Opinion

1. It is unethical for a dentist to agree to a fee contingent upon the favorable outcome of the litigation in exchange for testifying as a dental expert.

#### 1-J. REBATE AND SPLIT FEES.

Dentists shall not accept or render "rebates" or "split fees."

#### 1-K. REPRESENTATION OF CARE.

Dentists shall not represent the care being rendered to their patients in a false or misleading manner.

#### Advisory Opinions

1. Based on available scientific data the ADA has determined through the adoption of Resolution 42H-1986 (Trans. 1985:536) that the removal of amalgam restorations from the non-allergic patient for the alleged purpose of removing toxic substances from the body, when such treatment is performed solely at the recommendation or suggestion of the dentist, is improper and unethical.

The Council reminds constituent and component societies that before a dentist can be found to have breached any ethical obligation the dentist is entitled to a fair hearing.

2. A dentist who represents that dental treatment recommended or performed by the dentist has the capacity to cure or alleviate diseases, infections or other conditions, when such representations are not based upon accepted scientific knowledge or research, is acting unethically.

#### 1-L. REPRESENTATION OF FEES.

Dentists shall not represent the fees being charged for providing care in a false or misleading manner.

#### Notes

1. A dentist who accepts a third party\* payment under a copayment plan as payment in full without disclosing to the third party\* that the patient's payment portion will not be collected, is engaged in overbilling. The essence of this ethical impropriety is deception and misrepresentation; an overbilling dentist makes it appear to the third party\* that the charge to the patient for services rendered is higher than it actually is.

2. It is unethical for a dentist to increase a fee to a patient solely because the patient has insurance.

3. Payments accepted by a dentist under a governmentally funded program, a component or constituent dental society sponsored access program, or a participating agreement entered into under a program of a third party\* shall not be considered as evidence of overbilling in determining whether a charge to a patient, or to another third party\* in behalf of a patient not covered under any of the aforesaid programs constitutes overbilling under this section of the Code.

4. A dentist who submits a claim form to a third party\* reporting incorrect treatment dates for the purpose of assisting a patient in obtaining benefits under a dental plan, which benefits would otherwise be disallowed, is engaged in making an unethical, false, or misleading representation to such third party\*.

5. A dentist who incorrectly describes on a third party\* claim form a dental procedure in order to receive a greater payment or reimbursement or incorrectly makes a non-covered procedure appear to be a covered procedure on such a claim form is engaged in making an unethical, false, or misleading representation to such third party\*.

6. A dentist who recommends and performs unnecessary dental services or procedures is engaged in unethical conduct.

\*A third party is any party to a dental prepayment contract that may collect premiums, assume financial risks, pay claims, and/or provide administrative services

#### 1-M. PATIENT INVOLVEMENT.

The dentist should inform the patient of the proposed treatment, and any reasonable alternatives, in a manner that allows the patient to become involved in treatment decisions.

#### 1-N. CHEMICAL DEPENDENCY.

It is unethical for a dentist to practice while abusing controlled substances, alcohol or other chemical agents which impair the ability to practice. All dentists have an ethical obligation to urge impaired colleagues to seek treatment. Dentists with first-hand knowledge that a colleague is practicing dentistry when so impaired have an ethical responsibility to report such evidence to the professional assistance committee of a dental society.

#### Principle - Section 2

#### EDUCATION.

The privilege of dentists to be accorded professional status rests primarily in the knowledge, skill, and experience with which they serve their patients and society. All dentists, therefore, have the obligation of keeping their knowledge and skill current.

#### Code of Professional Conduct

#### 2-A. DISCLOSURE OF CONFLICT OF INTEREST

A dentist who presents educational or scientific information in an article, seminar or other program shall disclose to the readers or participants any monetary or other special interest the dentist may have with a company whose products are promoted or endorsed in the presentation. Disclosure shall be made in any promotional material and in the presentation itself.

#### Principle - Section 3

#### GOVERNMENT OF A PROFESSION.

Every profession owes society the responsibility to regulate itself. Such regulation is achieved largely through the influence of the professional societies. All dentists, therefore, have the dual obligation of making themselves a part of a professional society and of observing its rules of ethics.

#### Principle - Section 4

#### RESEARCH AND DEVELOPMENT.

Dentists have the obligation of making the results and benefits of their investigative efforts available to all when they are useful in safeguarding or promoting the health of the public.

ARTICLE 3  
UNLAWFUL ACTS.

Section

315. Grounds for discipline, suspension or revocation of license  
320. Summary license suspension  
340. Penalties

Sec. 08.36.315. Grounds for discipline, suspension or revocation of license. The board may revoke or suspend the license of a dentist, may reprimand, censure, or discipline a dentist, or both, if the board finds after a hearing that the dentist

(1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing or billing for professional dental services or engaging in professional activities;

(3) advertised professional dental services in a false or misleading manner;

(4) received compensation for referring a person to another dentist or dental practice;

(5) has been convicted of a felony or other crime that affects the dentist's ability to continue to practice dentistry competently and safely;

(6) engaged in the performance of patient care, or permitted the performance of patient care by persons under the dentist's supervision, that does not conform to minimum professional standards of dentistry regardless of whether actual injury to the patient occurred;

(7) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

(8) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or dependence on alcohol or other drugs that impairs the dentist's ability to practice safely;

(D) physical or mental disability;

(9) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(10) permitted a dental hygienist or dental assistant who is employed by the dentist or working under the dentist's supervision to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.070(a)(11);

(11) failed to report to the board a death that occurred on the premises used for the practice of dentistry within 48 hours.

Sec. 08.36.320. Summary license suspension. (a) [Repealed 1987.]

(b) [Repealed 1987.]

(c) The board may summarily suspend the license of a licensee who refuses to submit to a physical or mental examination under AS 08.36.070(b)(1). A person whose license is suspended under this section is entitled to a hearing by the board within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

(d) [Repealed 1987.]

(e) [Repealed 1987.]

Sec. 08.36.340. Penalties. A person who violates any provision of this chapter or regulations adopted under this chapter for which no specific penalty is provided is guilty of a class B misdemeanor.

ARTICLE 4  
GENERAL PROVISIONS.

Section

350. Application of chapter  
360. Practice of dentistry defined  
365. Rights of dentists  
370. Definitions

Sec. 08.36.350. Application of chapter. (a) This chapter applies to a person who practices, or offers or attempts to practice dentistry in the state except

(1) a dental surgeon or dentist in the military service in the discharge of official duties;

(2) a dentist in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or other agency of the federal government, in the discharge of official duties;

(3) a physician or surgeon;

(4) a dentist providing care in an isolated area by authority of a permit issued under AS 08.36.271;

(5) a dentist licensed in another state who is teaching or demonstrating clinical techniques at a meeting, seminar or limited course of instruction sponsored by a dental or dental auxiliary society or association or by an accredited dental or dental auxiliary educational institution;

(6) a dentist licensed in another state who provides emergency care to an injured or ill person who reasonably appears to the dentist to be in immediate need of emergency aid in order to avoid serious harm or death if the care is provided without remuneration.

(b) A person excepted from this chapter under (a) of this section shall be

# Alaska State Legislature

Sen. Lyda Green, Chairman  
Sen. Loren Leman, Vice-Chairman  
Sen. Mike Miller  
Sen. Johnny Ellis  
Sen. Judith Salo



State Capitol  
Room 423  
Juneau, Alaska 99801-1182  
907-463-3762

## Senate Committee on Health, Education and Social Services

### SB 212 Disciplinary Sanctions for Dentists

#### Sponsor Statement

SB 212 was introduced by request to address two main concerns. First, it insures the rights of dentists to practice the safe dentistry method of their choice and secondly, by insuring this right, the bill provides dentists the same level of protection against board sanctions physicians currently receive under the law.

Fear of state board sanctions is prevalent in Alaska as well as across the country by dentists who practice or would like to practice non-traditional means of dentistry. The premise behind this bill is that it is not the role of government to restrict new ideas and methods, but to insure the safety of its consumers and the quality of its professionals. SB 212, by making a minor modification in the Alaska Statutes, will create a system where this premise will become practice.

The language of this bill is taken from AS 08.64.326 (State Medical Board--Grounds for imposition of disciplinary sanctions) which was adopted in 1990 as a part of HB 146. With the passage of this bill, dentists will also be able to advise their patients of safe, alternative methods without fear of sanctions.

This bill has a zero fiscal note from the Department of Commerce and Economic Development.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SB 212

Revision Date: \_\_\_\_\_  
 Title: An Act relating to the grounds for revoking or  
suspending a dental license....  
 Sponsor: Senate HESS  
 Requestor: Senator Green

Department: Commerce and Economic Development  
 BRU: Occupational Licensing  
 Component: Operations

COMPONENT SERIAL NO. 1844

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0
---------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

SB 212 amends AS 08.36.315 of the dental statutes by adding a new subsection to prevent disciplinary action against a licensee solely on the basis of unconventional or experimental practice unless the board finds demonstrable physical harm to a patient. New funds are not required to implement this provision.

Prepared by: Jennifer Strickler, Administrative Officer  
 Division: Occupational Licensing  
 Approved by Commissioner: William L. Hensley  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: January 12, 1996  
 Date: 1-15-96

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**SB**

**214**

**OFFICE OF THE GOVERNOR**

**OFFICE OF MANAGEMENT AND BUDGET**

FEB 09 1996

P.O. BOX 110020  
 JUNEAU, ALASKA 99811-0020  
 PHONE: (907) 465-4660  
 FAX: (907) 465-3008

February 9, 1996

The Honorable Steve Frank  
 The Honorable Rick Halford ✓  
 Co-Chairs, Senate Finance Committee  
 State Capitol  
 Juneau, AK 99801-1182

Dear Co-Chairs Frank and Halford:

To support the work of the Alaska Mental Health Trust Authority (AMHTA) and provide for a more comprehensive review of all programs relating to mental health trust beneficiaries, we think it would be helpful to compile all mental health operating, capital and administration budgets into a single appropriations bill. Therefore, please consider the following amendments to SB 214, the mental health bill we submitted to you earlier this month.

**1.) TITLE CHANGE TO SB 214**

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date." This change will allow inclusion of capital projects relating to mental health to facilitate programmatic review of the integrated mental health package.

**2.) AMENDMENTS TO SB 214**

a.) Amend Section 2, page 1, line 8, "Shortfalls", to read "If either Mental Health Trust Authority Authorized Receipts (AS 37.14.038) or Mental Health Trust Administration Receipts (AS 37.14.036) fall short of the estimates appropriated in this Act . . . ." (This amendment has been suggested to clearly reference back to the mental health trust settlement income account which is only administered by the Alaska Mental Health Trust Authority under AS 37.14.039.)

Also in response to the concerns of the AMHTA (see their attached letter, items 2, 9 and 13), we suggest the following amendments:

b.) Amend Section 3, page 2, lines 3 and 4 to read ". . . Health Funds [and], from [the] Mental Health Trust Authority Authorized Receipts (AS 37.14.036), and from Mental Health Trust Administration Receipts (AS 37.14.036) [income account], as set out in the fiscal year 1997 . . . ."

c.) (1) Section 3, page 6, line 5, is amended to read:

	Allocations
Psychiatric Emergency Services	<u>5,581,100</u> (5,331,100)

(2) Section 3, page 6, line 8, is amended to read:

Services for Seriously Emotionally Disturbed Youth	<u>6,288,500</u> (6,538,500)
--	---------------------------------

d.) Section 3, following page 6, line 20, a new appropriation is added as follows:

• • • • • <u>Department of Revenue</u> • • • • •		
	Appropriation	Other Funds
<u>Alaska Mental Health Trust Authority</u>	<u>893,500</u>	<u>893,500</u>

e.) The fund sources noted in Section 4, page 8, line 15, and in Section 5, page 10, line 4 should be amended as follows:

"Mental Health Trust Authority Authorized Receipts (AS 37.14.036)"

f.) Within Section 4, page 8, line 20, insert the following:

DEPARTMENT OF REVENUE

<u>MENTAL HEALTH TRUST ADMINISTRATION RECEIPTS (AS 37.14.036)</u>	<u>893,500</u>
<u>*** TOTAL FUNDING ***</u>	<u>893,500</u>

**3.1 CAPITAL ADDITIONS**

New sections should be added to Senate Bill 214 for capital projects supporting mental health trust beneficiaries. These proposed projects were included in the Alaska Mental Health Trust Authority proposed capital budget on pages 33-34 of the AMHTA Final Report. These projects will be funded through a combination of General Fund/Mental Health, Mental Health Trust Authority Authorized Receipts, and State (AHFC) Corporation Receipts. Funding sections should be adjusted for department and summary information. The explanatory notes in parentheses would not be part of the amendments.

	Appropriation	General Funds	Other Funds
<b>DEPARTMENT OF HEALTH AND SOCIAL SERVICES</b>			
(a) <b><u>DHSS Data Integration Project</u></b> (50% from General Fund/Mental Health funds (1037) and 50% from MHTA Authorized Receipts (1092) for linkage of the department's administrative and program data bases at the client level so beneficiary needs and services can be tracked accurately)	<u>150,000</u>	<u>75,000</u>	<u>75,000</u>
(b) <b><u>Alcoholism and Drug Abuse Emergency Services Modifications</u></b> (100% MHTA Authorized Receipts (1092) to allow seven detox beds to go "on-line".)	<u>150,000</u>		<u>150,000</u>
(c) <b><u>Moving/Renovation Costs for Aniak Community Mental Health Center</u></b> (100% MHTA Authorized Receipts (1092) under AS 37.05.316 to relocate the Center and renovate the new location)	<u>125,000</u>		<u>125,000</u>

	Appropriation	General Funds	Other Funds
(d) <b><u>Gateway Mental Health Center Clinic Addition/Renovation (Ketchikan)</u></b>	<b><u>212,000</u></b>		<b><u>212,000</u></b>
(100% MHTA Authorized Receipts (1092) under AS 37.05.316 for Gateway Mental Health Center addition and renovation)			
 (e) <b><u>Competitive Grants for Remodeling/Renovation of Mental Health Facilities</u></b>	 <b><u>250,000</u></b>		 <b><u>250,000</u></b>
(100% MHTA Authorized Receipts (1092) for competitive grants for remodeling and renovation of facilities serving trust beneficiaries.)			

**DEPARTMENT OF REVENUE**

(f) <b><u>DHSS Beneficiary and Special Needs Housing Program</u></b>	<b><u>500,000</u></b>		<b><u>500,000</u></b>
(50% AHFC Corporation Receipts (1022) and 50% MHTA Authorized Receipts (1092) for home improvements and modifications to improve accessibility for beneficiary families)			
(g) <b><u>Pioneer Homes Renovations, Repairs &amp; Modifications</u></b>	<b><u>543,800</u></b>		<b><u>543,800</u></b>
(50% AHFC Corporation Receipts (1022) and 50% MHTA Authorized Receipts (1092). This project will complete the ADRD units in Sitka and Fairbanks Pioneers Homes and new units in the Palmer and Juneau Pioneer Homes.)			
(h) <b><u>Add lapse date information for capital projects</u></b>			
<u>The appropriations made by sections 3 (a) - 3 (g) are for capital projects and are subject to AS 37.25.020.</u>			

**4.) AMENDMENTS TO SB 213**

- a.) Delete Section 26, page 37, line 20 [Alaska Mental Health Trust Authority 893,500].  
(will now be in the amended version of SB 214)
- b.) Delete Section 27, page 56, line 15 [Mental Health Trust Administration 893,500].  
(will now be in the amended version of SB 214)
- c.) Amend Section 27, page 56, line 16 to read "Total Funding 124,380,400".  
(to reflect the deletion of (b) above)
- d.) Delete Section 28, page 62, line 10 [Mental Health Trust Administration 893,500].  
(will now be in the amended version of SB 214)

The Honorable Steve Frank  
The Honorable Rick Halford

February 9, 1996

e.) Amend Section 28, page 62, line 11 to read "Total Funding 3,585,204,400".  
(to reflect the deletion of (d) above)

Thank you for your consideration of these amendments.

Sincerely,

A handwritten signature in cursive script that reads "Annalee McConnell". The signature is written in dark ink and is positioned above the printed name and title.

Annalee McConnell  
Director

Attachments

# Alaska Mental Health Trust Authority

3601 C Street, Suite 742  
Frontier Building  
Anchorage, AK 99503  
Phone: (907) 269-7960  
FAX: (907) 269-7966

January 24, 1996

The Honorable Tony Knowles  
Governor of Alaska  
PO Box A  
Juneau, AK 99811

Dear Governor Knowles:

Thank you for the December 15, 1995 letter from Annalee McConnell explaining the differences between the Governor's proposed FY97 operating budget and the Alaska Mental Health Trust Authority's recommendations. This letter contains the Authority's response to your explanation.

The Authority appreciates the consideration you and your staff gave to our recommendations. We thank you, the Office of Management and Budget, and the offices of the Commissioners of Health and Social Services, Corrections and Administration for establishing an open and professional dialog with the Authority and our staff concerning the financial needs of the State's integrated comprehensive mental health program.

The Authority recognizes the financial difficulties faced by the State of Alaska. We know you must make overall budget reductions to close the State's fiscal gap. Nonetheless, we believe that the reductions made to the funding for the State's integrated comprehensive mental health program fail to recognize real needs of the Authority's beneficiary population and the fiscal pressures faced by the organizations that serve these beneficiaries. Our specific comments follow.

## All Departments

1. Your recommendation changes the funding level of 13 components to reflect salary adjustments and changes in risk management and information services chargebacks. While the Authority recognizes these changes as necessary, we believe these changes set a double standard — certain cost increases for state agencies are funded, while no cost increases for nonprofit organizations that provide direct services are funded (and in some cases decrements are taken). The State has for several years failed to fund increments related to increased costs of service, maintenance of effort, continuation, or similar purposes. We believe the State should recognize that costs of providing services do increase, and such costs should be funded for both state agencies and nonprofit organizations providing direct services.
2. The operating budget you submitted appropriates funding to state agencies from fund source 1092 — Mental Health Trust Settlement Income Account. Under the terms of the Mental Health Settlement, Mental Health Trust income cannot be appropriated except for administrative expenses incurred by the Authority. The Authority recognizes that the administration agrees and understands that direct appropriation of Mental Health Trust income is inconsistent with the settlement legislation. The Authority requests that you retitle this fund source "Mental Health Trust Authority Authorized Receipts" (MHTAAR) or a similar title that recognizes the Authority's decision-making role in regards to these funds.
3. The fund source used for Authority funding to the Department of Health and Social Services for mental health programs (1092) is inconsistent with the fund source used for Authority funding to the

Department of Natural Resources to manage trust lands (1007 — Inter-Agency Receipts). The Authority recommends you use fund source 1092 for both agencies. Moneys for the Authority's operations are, under the terms of the settlement, appropriated by the Legislature and should therefore be separately coded consistent with your budget request (1094 — Mental Health Trust Administration).

Department of Health and Social Services

4. You recommend transferring \$1,000.0 from the Medicaid Community Health Grant component to the Medicaid Services component. The Authority concurs with this recommendation.
5. You recommend combining the Medicaid Non-Facility and Medicaid Facility components into a single component. The Authority recognizes that decreased funding for State agency operations requires simplifying all State procedures, including budgeting. The Authority further recognizes that the flexibility caused by such a change can be helpful to program management. The Authority is concerned that the balance between facility-based and non-facility based services could be unreasonably changed by administrative action during the year. The Authority requests that the Department report periodically to the Authority and appropriate beneficiary boards during the fiscal year concerning the actual expenditures for facility-based and non-facility based services.
6. You recommend combining all of the Division of Mental Health and Developmental Disabilities components into a single Budget Request Unit. The Authority recognizes that decreased funding for State agency operations requires simplifying all State procedures, including budgeting. The Authority further recognizes that the flexibility caused by such a change can be helpful to program management. The Authority is concerned that the balance between components could be unreasonably changed by administrative action during the year. The Authority requests that the Authority and appropriate beneficiary boards be notified prior to any transfers between components with GF/MH funding during the fiscal year.
7. You recommend a 1% decrement to a series of BRUs and components. While the Authority recognizes the State's fiscal problems require budget changes, we believe this is not reasonable in light of the state's commitment under the settlement to continue to fund core mental health services.
8. You recommend transfer of \$220.1 from General Community Mental Health Grants to Psychiatric Emergency Services Grants and transfer of \$56.0 from Designated Evaluation and Treatment to Psychiatric Emergency Services Grants. The Authority understands that this conforms the FY97 request to actual FY96 funding. The Authority is concerned with the lack of public process in this transfer and requests that future similar transfers be reviewed with the Authority and appropriate beneficiary boards prior to any action being taken.
9. You show a transfer in of \$250.0 from Harborview for MH Grants Crisis Respite Services under Services for Seriously Emotionally Disturbed Youth. The Authority after consultation with the Department of Health and Social Services requests this transfer instead be placed in the Psychiatric Emergency Services component.
10. Your budget request transfers \$385.0 from Harborview for placement of the Sourdough Unit residents in community programs. The Authority supports this transfer, as evidenced by our agreement to provide an equal amount of Trust Income in the Harborview budget during the transition period. The Authority recognizes this funding is for a partial year, and is not annualized, and requests your FY98 budget request include the full amount of the transfer. Under the Harborview close-out plan, some of the Harborview residents will be transferred to programs operated by the Department of Administration, Division of Senior Services. The Authority is concerned that there has been a lack of communication

between the DHSS Division of Mental Health and Developmental Disabilities and the DOA Division of Senior Services regarding necessary community capacity-building within DSS for the transfer of responsibility for the Harborview Sourdough Unit residents. The Authority requests the Commissioner of Health and Social Services to facilitate meetings between DHSS/DMHDD, DOA/DSS, and the Authority to determine the appropriate division of Harborview Sourdough Unit funding between the two divisions.

11. Your budget request includes a decrement of \$585.0 from Harborview. It is our understanding that the administration is committed to use Harborview savings to support community-based beneficiary programs. The Authority requests you reconsider this decrement, and instead transfer the savings from Harborview close-out to appropriate community-based beneficiary programs.

Department of Corrections

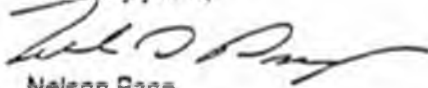
12. Your recommended funding base for the Department of Corrections shifts \$241.6 from GF/MH to GF for Inmate Health Care, and \$412.0 from GF/MH to GF for Inmate Programs. The Authority maintains its position that mental health services are needed for Alaska's prison population, and that these amounts should continue to be budgeted as GF/MH and used to support mental health service needs. The Authority is concerned with the lack of communication from the Department of Corrections concerning the change in Inmate Programs, and asks the administration to ensure that the Authority is consulted regarding any changes to mental health programs within the Department of Corrections. The Authority requests that the Authority and appropriate beneficiary boards be consulted prior to any changes between GF/MH and GF funding during the fiscal year or in future budget requests.

Department of Revenue

13. Your budget requests funding for the Authority's operations in the regular State operating budget. After some reconsideration the Authority recommends the appropriations for its operations be placed instead in the comprehensive integrated mental health program funding bill. This will ensure that all mental health programs, their support and administration, can be reviewed together.

Governor, once again the Authority thanks you and your staff for the excellent working relationship your administration has created with the Authority and our staff. We appreciate your consideration of the needs of Alaska's mental health trust beneficiaries.

Sincerely yours,



Nelson Page  
Chair

cc: Representative Mark Hanley, Co-chairman, House Finance Committee  
Representative Richard Foster, Co-Chairman, House Finance Committee  
Senator Steve Frank, Co-Chairman, Senate Finance Committee  
Senator Rick Halford, Co-Chairman, Senate Finance Committee  
Representative Terry Martin, Chairman, Legislative Budget & Audit Committee

**MENTAL HEALTH CAPITAL PROJECTS**

**Comparison of FY97 Governor's Request with Alaska Mental Health Trust Authority Recommendations**

Administering Department	Project Title	Project Description	97 GOV GF/MH 1037	97 GOV MHTA Auth Rcpts 1092	97 GOV Corp Rcpts 1022	97 GOV TOTAL	AMHTA Recommendation	Difference FY97 Governor and FY97 AMHTA
H&SS (AHFC)	DHSS Beneficiary and Special Needs Housing Program	Continuation of home modifications, including barrier removal and accessibility enhancements geared to serving special populations of adults and youth. Modifications and home improvements for beneficiary families. Jointly administered by DHSS and AHFC.		250.0	250.0	500.0	500.0	0.0
H&SS	Alcoholism and Drug Abuse Emergency Services Modifications	Funds for seven detox beds to go "on-line" in FY97. Funds could be used for facility renovation, medical equipment, beds, or bedding.		150.0		150.0	150.0	0.0
H&SS	Moving/Renovation -- Aniak Community MH Center	Funds a required move of the Kuskokwim Native Association Community Counseling Program building from FAA site to a site near the Community Center. Also renovates building.		125.0		125.0	125.0	0.0
H&SS	Clinic Addition/ Renovation -- Ketchikan	Completes unfinished project of remodel of clinic waiting area, support staff area, and medical records storage area at the Gateway Center for Human Services in Ketchikan.		212.0		212.0	212.0	0.0
H&SS	Remodel/Renovate Facilities-- Competitive Grants	Competitive grants for remodeling and renovation of facilities serving mental health trust beneficiaries.		250.0		250.0	250.0	0.0
Admin (AHFC)	Pioneer Homes Renovations, Repairs, and Modifications	Facility completion of units in Pioneer homes located in Palmer and Juneau and to complete the new ADRD units in Sitka and Fairbanks. Jointly administered by DOA and AHFC.		271.9	271.9	543.8	543.8	0.0
H&SS	Data Integration Project	Provide linkage of the department's administrative and program data bases at the client level so beneficiary needs and services can be tracked accurately.	75.0	75.0		150.0	150.0	0.0
H&SS	ADA Mandated Compliance	Partial funding of large identified need to bring mental health program facilities into compliance with the Americans with Disabilities Act.					300.0	(300.0)

MENTAL HEALTH CAPITAL PROJECTS								
Comparison of FY97 Governor's Request with Alaska Mental Health Trust Authority Recommendations								
Administering Department	Project Title	Project Description	97 GOV GF/MH 1037	97 GOV MHTA Auth Rcpts 1092	97 GOV Corp Rcpts 1022	97 GOV TOTAL	AMHTA Recommendation	Difference FY97 Governor and FY97 AMHTA
H&SS	ADA Upgrades	Pay for 50% of the cost of upgrading grantee facilities statewide to meet ADA requirements. Three-year plan put forth by ABADA to make facilities accessible to clients with disabilities.					300.0	(300.0)
various	Vehicles for coordinated client services	Acquisition of vehicles that can be used across programs that assist mental health trust beneficiaries					1,000.0	(1,000.0)
H&SS	Program modifications - agency & state facilities	Modifications for agency and state contracted facilities.					200.0	(200.0)
H&SS	Crisis respite and/or clinic replacement/ renovation	Reconfigures existing facilities into integrated facilities that include crisis respite space and/or clinic replacement or renovation					500.0	(500.0)
H&SS	Remodel/ rehabilitation of existing facilities	Grants to upgrade current facilities to include re-roofing, carpeting and reconfiguration; replace vehicles, computers and other office equipment/furniture for programs and facilities.					750.0	(750.0)
H&SS	Construction of new and replacement facilities	Purchase/construction of facilities for existing services. Will be prioritized via RFP process and funded based on the merit of the proposals submitted					1,000.0	(1,000.0)
Admin	New adult day care facilities in Chugiak and planning for new adult day care facility in Palmer	Both facilities have ADA compliance problems. Chugiak has 20 to 30 clients in the area that could receive services. Palmer needs additional space for current clients and has an additional eight clients waiting for services.					993.2	(993.2)
H&SS	Adaptive Equipment	Procurement of adaptive equipment as recommended by the Governor's Council on Disabilities and Special Education.					300.0	(300.0)
GRAND TOTAL			75.0	1,333.9	521.9	1,930.8	7,274.0	(5,343.2)

Comparison of AMHTA Mental Health Funding Recommendations with  
Governor's FY97 Mental Health Operating Request

BRU	COMPONENT	97 GOV GF/MH 1037	97 GOV MITA Auth Rept 1092	97 GOV MH Admin Repts 1094	Total 97 GOV MH	Total 97 AMHTA Mental Health Recommendation	Difference FY97 Governor and FY97 AMHTA	Summary of Change
<b>DEPARTMENT OF ADMINISTRATION</b>								
Senior Services	Pioneers Homes	420.8	0.0	0.0	420.8	414.0	6.8	Salary/Risk Mgmt/ Information Services adjustments
Senior Services	Protection, Community Services, and Administration	209.5	0.0	0.0	209.5	210.2	-0.7	Formerly Senior Services Administration, Salary/Risk Management/ and Information Services adjustments
Senior Services	Home and Community-Based Care	1,871.6	0.0	0.0	1,871.6	2,721.6	-850.0	Formerly Office of Public Advocacy BRU. Transfer in from H&SS for \$250.0 in GF/MH was discussed with the AMHTA Board. Of the \$1,100,000 proposed by AMHTA, (\$850,000) was left unfunded.
Legal and Advocacy Services	Office of Public Advocacy	619.8	0.0	0.0	619.8	611.1	8.7	Salary/Risk Mgmt/ Information Services adjustments
<b>Department of Administration Totals</b>		<b>3,121.7</b>	<b>0.0</b>	<b>0.0</b>	<b>3,121.7</b>	<b>3,956.9</b>	<b>(835.2)</b>	
<b>DEPARTMENT OF CORRECTIONS</b>								
Statewide Programs	Inmate Health Care	3,073.0	0.0	0.0	3,073.0	3,317.9	-244.9	Salary/Risk Mgmt adjustments. Increment approved for \$80.0 in GF/MH. Switch fund of \$241,600 GF/MH to GF to correct error. Of the \$110,000 request, \$30,000 increment for prison mental health psychiatric residency program was not funded.
Statewide Programs	Inmate Programs	369.3	0.0	0.0	369.3	781.3	-412.0	Switch fund of \$412,000 GF/MH to GF to reflect est. % of Mental Health programming.
<b>Department of Corrections Totals</b>		<b>3,442.3</b>	<b>0.0</b>	<b>0.0</b>	<b>3,442.3</b>	<b>4,099.2</b>	<b>(656.9)</b>	

Comparison of AMHTA Mental Health Funding Recommendations with  
Governor's FY97 Mental Health Operating Request

BRU	COMPONENT	97 GOV	97 GOV	97 GOV	Total	Total	Difference	Summary of Change
		GF/MI	MIITA	MIIT Admin	97 GOV	97 AMIITA	FY97 Governor	
		1037	Auth Rcpt 1092	Rcpts 1094	MI	Mental Health Recommendation	and FY97 AMIITA	
<b>DEPARTMENT OF EDUCATION</b>		<b>one component only</b>						
Teaching and Learning Support	Basic Education and Instructional Improvement	227.9	0.0	0.0	227.9	227.5	0.4	Formerly Education Program Support BRU; Salary Adjustment
<b>DEPARTMENT OF HEALTH AND SOCIAL SERVICES</b>								
Medical Assistance	Medicaid Services	20,683.7	0.0	0.0	20,683.7	19,683.7	1,000.0	New component includes transfers in from the former Medicaid Non-Facility, Medicaid Facilities, and SGM for Medicaid Eligible Community Health Clients
Family and Youth Services	Foster Care	1,547.9	0.0	0.0	1,547.9	1,547.9	0.0	AMIITA base funding level adopted by Governor
Family and Youth Services	Residential Child Care	3,522.0	0.0	0.0	3,522.0	3,522.0	0.0	AMIITA base funding level adopted by Governor
Family and Youth Services	Northern Region	81.8	0.0	0.0	81.8	80.4	1.4	Salary/Risk Mgmt Adjusted
Family and Youth Services	McLaughlin Youth Center	62.1	0.0	0.0	62.1	62.1	0.0	AMIITA base funding level adopted by Governor
Family and Youth Services	Fairbanks Youth Facility	81.6	0.0	0.0	81.6	81.6	0.0	AMIITA base funding level adopted by Governor
Maniilaq	Maniilaq Alcohol & Drug Abuse	522.4	0.0	0.0	522.4	522.4	0.0	AMIITA base funding level adopted by Governor
Maniilaq	Maniilaq Mental Health/DD Svcs	350.0	0.0	0.0	350.0	353.5	(3.5)	Decrement of 1% of FY97 adjusted base GF in line 700
Norton Sound	NS Public Health Services	98.3	0.0	0.0	98.3	99.3	(1.0)	Decrement of 1% of FY97 adjusted base GF in line 700
Norton Sound	NS Alcohol & Drug Abuse Services	232.2	0.0	0.0	232.2	232.2	0.0	AMIITA base funding level adopted by Governor
Norton Sound	NS Mental Health/DD Services	402.4	0.0	0.0	402.4	406.5	(4.1)	Decrement of 1% of FY97 adjusted base GF in line 700
SE Alaska Regional Health Corp	SEARHC Alcohol & Drug Abuse Services	140.6	0.0	0.0	140.6	140.6	0.0	AMIITA base funding level adopted by Governor
SE Alaska Regional Health Corp	SEARHC Mental Health Services	125.2	0.0	0.0	125.2	126.5	(1.3)	Decrement of 1% of FY97 adjusted base GF in line 700
Tanana Chiefs Conference	TCC Alcohol & Drug Abuse Svcs	202.4	0.0	0.0	202.4	202.4	0.0	AMIITA base funding level adopted by Governor
Tanana Chiefs Conference	TCC Mental Health Svcs	529.8	0.0	0.0	529.8	535.2	(5.4)	Decrement of 1% of FY97 adjusted base GF in line 700

Comparison of AMHTA Mental Health Funding Recommendations with  
Governor's FY97 Mental Health Operating Request

IRU	COMPONENT	97 GOV	97 GOV	97 GOV	Total	Total	Difference	Summary of Change
		GF/MH 1037	AMHTA Auth Rept 1092	MH Admin Repts 1094	97 GOV MH	97 AMHTA Mental Health Recommendation	FY97 Governor and FY97 AMHTA	
Tlingit Haida	T-H Alcohol & Drug Abuse Svcs	6.0	0.0	0.0	6.0	6.0	0.0	AMHTA base funding level adopted by Governor
Yukon-Kuskokwim Health Corp.	Y-K Alcohol & Drug Abuse Svcs	418.5	0.0	0.0	418.5	418.5	0.0	AMHTA base funding level adopted by Governor
Yukon-Kuskokwim Health Corp.	Y-K Mental Health Services	907.4	0.0	0.0	907.4	916.6	(9.2)	Decrement of 1% of FY97 adjusted base GF in line 700
State Health Services	Maternal, Child, & Family Hlth	73.6	250.0	0.0	323.6	323.6	0.0	\$250.0 increase for Healthy Families Program funded from the Trust Income Account in accordance with the AMHTA. Transfer in from Harborview Development Center of \$150.0 GF/MH. \$590.0 of the AMHTA proposed increase of \$740.0 could not be funded.
State Health Services	Infant Learning Program Grants	3,503.3	0.0	0.0	3,503.3	4,093.3	(590.0)	
Alcohol and Drug Abuse Svcs	ADA Administration	767.7	0.0	0.0	767.7	769.1	(1.4)	Salary-Risk Mgmt Adjusted. Decrease of (\$15.5) GF/MH due to elimination of Advisory Board costs.
Alcohol and Drug Abuse Svcs	Alcohol/Drug Abuse Grants	7,943.8	0.0	0.0	7,943.8	8,341.4	(397.6)	Of the \$622.6 increments requested, \$397.6 remains unfunded.
Alcohol and Drug Abuse Svcs	Correctional ADA Grant Component	331.5	0.0	0.0	331.5	331.5	0.0	AMHTA base funding level adopted by Governor
MH/DD Services	Community DD Grants	20,753.4	0.0	0.0	20,753.4	21,487.4	(734.0)	Transfer in \$310.0 for 2nd yr costs for Harborview Discharge of Clients w/ Developmental Disabilities and \$250.0 for DD Respite Care Svcs. Decrement replaces GF with Medicaid Waiver funds. Of the \$925,000 increments requested, \$365,000 remains unfunded.
MH/DD Services	Gen Community Mental Hlth Grants	2,418.2	0.0	0.0	2,418.2	2,858.3	(420.1)	Transfer of \$220.1 to Psychiatric Emergency Services Grants. Unallocated Grant Reduction of \$200.0 for Community Mental Health.

Comparison of AMHTA Mental Health Funding Recommendations with  
Governor's FY97 Mental Health Operating Request

BRU	COMPONENT	97 GOV	97 GOV	97 GOV	Total	Total	Difference	Summary of Change
		GF/MH 1037	MHTA Auth Rept 1092	MHT Admin Repts 1094	97 GOV MII	97 AMHTA Mental Health Recommendation	FY97 Governor and FY97 AMHTA	
MH/DD Services	Psychiatric Emergency Services	5,581.1	0.0	0.0	5,581.1	4,999.0	582.1	BUDGET AMNDMNT-Transf \$250.0 Harborview, Transf \$56.0 Designated Eval & Treatment, \$56.0 Chronically Mentally Ill, \$220.1 from General Comm M II Grants for crisis respite program in Juneau/ fund an experimental emergency services program in Fairbanks.
MH/DD Services	Services to the Chronically Mentally Ill	10,918.7	0.0	0.0	10,918.7	10,589.7	329.0	In FY97 this component also includes the former Medicaid Community Mental Health Grants. Transfer out of (\$56.0) to Psychiatric Emergency Services and transfer in from Harborview for \$385.0 to fund Sourdough Discharge.
MH/DD Services	Designated Eval & Treatment	1,046.3	0.0	0.0	1,046.3	1,852.3	(806.0)	Transfer out of (\$56.0) to Psychiatric Emergency Services. The proposed increment of \$750.0 could not be funded.
MH/DD Services	Services for Seriously Emotionally Disturbed Youth	6,288.5	0.0	0.0	6,288.5	7,038.5	(750.0)	BUDGET AMENDMENT-- Transfer reversed (\$250.0 from Harborview for MII Grants Crisis/Respite Services is now going to Psychiatric Emergency Services); \$750.0 increment could not be funded.

Comparison of AMHTA Mental Health Funding Recommendations with  
Governor's FY97 Mental Health Operating Request

BRI	COMPONENT	97 GOV GF/MI 1037	97 GOV MIITA Auth Rcpt 1092	97 GOV MIIT Admin Rcpts 1094	Total 97 GOV MI 1037	Total 97 AMIITA Mental Health Recommendation	Difference FY97 Governor and FY97 AMIITA	Summary of Change
MI/ID Services	Mental Health/ID Admin	3,373.0	0.0	0.0	3,373.0	3,410.0	(37.0)	Salary/Risk Mgmt/Information Services adjustments (+\$42.2); transfer of (\$15.0) to API to provide support to Mental Health/ID Administration positions; Decrement (\$64.2) to reduce administrative costs through reorganization/efficiencies.
MI/ID Services	Alaska Psychiatric Institute	5,950.3	0.0	0.0	5,950.3	5,850.0	100.3	Salary/Risk Mgmt/Information Services adjustments (+\$85.3); transfer in \$15.0 from Mental Health/ID Admin.
MI/ID Services	Harborview Developmental Center	2,150.0	1,695.0	0.0	3,845.0	4,375.0	(529.2)	Salary/Risk Mgmt/Info Svcs adjust (+\$55.8); Decrement (\$585.0) 2nd yr plan Harborview closure; transfer (\$1695.0) GF/MI for Sourdough Discharge, Respite Care, Sr Svcs Support, Infant Learning, Dually Diagnosed Svcs; add \$1695.0 MI Rcpts to replace GF/MI
Medicaid Community Mental Health Grants	Medicaid Community Mental Health Grants	0.0	0.0	0.0	0.0	1,000.0	(1,000.0)	In the Governor's FY97 budget, the \$1,000.0 was transferred into the Medical Assistance BRI, Medicaid Services Component, to eliminate the confusion of federal funds in one appropriation and the state matching funds in another.
Mental Health Trust Boards	Alaska Mental Health Board	382.9	0.0	0.0	382.9	379.0	3.9	Salary/Risk Mgmt Adjustments
Mental Health Trust Boards	Advisory Board on Alcoholism and Drug Abuse	334.7	0.0	0.0	334.7	331.8	2.9	Salary/Risk Mgmt Adjustments
<b>Health and Social Services Totals</b>		<b>101,752.1</b>	<b>1,945.0</b>	<b>0.0</b>	<b>103,697.1</b>	<b>106,967.3</b>	<b>(3,270.2)</b>	

Comparison of AMHTA Mental Health Funding Recommendations with  
Governor's FY97 Mental Health Operating Request

BRU	COMPONENT	97 GOV GF/MI 1997	97 GOV MITA Auth Rept 1992	97 GOV MIIT Admin Repts 1994	Total 97 GOV MI	Total 97 AMITA Mental Health Recommendation	Difference FY97 Governor and FY97 AMITA	Summary of Change
<b>DEPARTMENT OF LAW (one component only)</b>								
Civil Division	General Legal Services	67.2	0.0	0.0	67.2	66.2	1.0	Formerly Legal Services BRU Operations Component; Salary/Risk Management Adjustments
<b>DEPARTMENT OF REVENUE (one component only)</b>								
Alaska Mental Health Trust Authority	Alaska Mental Health Trust Authority	0.0	0.0	893.5	893.5	893.5	0.0	BUDGET AMENDMENT-- switch from general operating appropriations bill to the comprehensive mental health bill
<b>UNIVERSITY OF ALASKA (one component only)</b>								
University of Alaska Anchorage	Anchorage Campus	200.0	0.0	0.0	200.0	200.0	0.0	AMITA base funding level adopted by Governor
<b>ALASKA COURT SYSTEM (one component only)</b>								
Alaska Court System	Trial Courts	39.3	0.0	0.0	39.3	39.3	0.0	AMITA base funding level adopted by Governor
<b>GRAND TOTALS</b>		<b>108,851.3</b>	<b>1,945.0</b>	<b>893.5</b>	<b>111,689.8</b>	<b>116,450.7</b>	<b>(4,760.9)</b>	

## SENATE BILL NO. 213

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/12/96

Referred: Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act making appropriations for the operating and loan program expenses  
 2 of state government, for certain programs, and to capitalize funds; making  
 3 appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska.  
 4 from the constitutional budget reserve fund; and providing for an effective  
 5 date."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 \* Section 1. ALASKA CLEAN WATER FUND. The sum of \$8,815,400 is appropriated  
 8 to the Alaska clean water fund (AS 46.03.032) for the Alaska clean water loan program from  
 9 the following sources:

10	General fund	\$1,469,200
11	Federal receipts	7,346,200

12 \* Sec. 2. ALASKA HOUSING FINANCE CORPORATION. (a) The sum of \$50,000,000  
 13 from the available unrestricted cash in the general account of the Alaska housing finance

1		APPROPRIATION	APPROPRIATION FUND SOURCES		1	
2		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	2
3	• • • • •		• • • • •			3
4	• • • • • DEPARTMENT OF REVENUE • • • • •					4
5	• • • • •		• • • • •			5
6	ALASKA STUDENT AID CORPORATION		9,109,000	1,832,100	7,276,900	6
7	PROGRAM ADMINISTRATION	1,044,000				7
8	STUDENT LOAN OPERATIONS	6,107,900				8
9	WICHE STUDENT EXCHANGE PROGRAM	193,600				9
10	WAMI MEDICAL EDUCATION	1,309,000				10
11	FEDERAL STUDENT AID	454,500				11
12	CHILD SUPPORT ENFORCEMENT		14,464,100	1,954,800	12,509,300	12
13	ALCOHOLIC BEVERAGE CONTROL BOARD		647,200	647,200		13
14	MUNICIPAL BOND BANK AUTHORITY		562,000		562,000	14
15	PERMANENT FUND CORPORATION		29,113,200		29,113,200	15
16	ALASKA HOUSING FINANCE CORPORATION		30,701,800		30,701,800	16
17	OPERATIONS	11,694,400				17
18	RURAL HOUSING	2,703,800				18
19	PUBLIC HOUSING	16,303,600				19
20	<del>ALASKA MENTAL HEALTH TRUST AUTHORITY</del>		<del>893,500</del>		<del>893,500</del>	20
21	REVENUE OPERATIONS		33,094,100	8,321,100	24,773,000	21

*Delete  
 (will now  
 be in SB 214)*

*See 26  
 page 37  
 1/20/20*

1	DEPARTMENT OF REVENUE (CONT.)		1
2	BENEFITS SYSTEMS RECEIPTS	75,400	2
3	STATE CORPORATION RECEIPTS	48,577,400	3
4	INTERNATIONAL AIRPORT REVENUE FUND	24,500	4
5	PUBLIC EMPLOYERS RETIREMENT FUND	14,241,300	5
6	TEACHERS RETIREMENT SYSTEM FUND	8,228,000	6
7	JUDICIAL RETIREMENT SYSTEM	103,400	7
8	NATIONAL GUARD RETIREMENT SYSTEM	16,400	8
9	STUDENT REVOLVING LOAN FUND	20,800	9
10	UNIVERSITY RECEIPTS	30,400	10
11	PERMANENT FUND DIVIDEND FUND	4,595,400	11
12	INVESTMENT LOSS TRUST FUND	16,400	12
13	CAPITAL IMPROVEMENT PROJECT RECEIPTS	1,222,000	13
14	PUBLIC SCHOOL FUND	57,200	14
15	<del>MENTAL HEALTH TRUST ADMINISTRATION</del>	<del>895,500</del> Delete	15
16	<i>amend.</i> TOTAL FUNDING ***	124,380,400 125,272,900 <i>revised</i>	16
17	DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES		17
18	FEDERAL RECEIPTS	942,600	18
19	GENERAL FUND MATCH	75,700	19
20	GENERAL FUND RECEIPTS	98,894,400	20
21	GENERAL FUND/PROGRAM RECEIPTS	3,119,500	21

1	STATEWIDE FUNDING SUMMARY (CONT.)		1
2	ALASKA CLEAN WATER LOAN FUND	447,900	2
3	MARINE HIGHWAY SYSTEM FUND	79,686,000	3
4	INDV/FOUND'T'N/CORP GIFTS/GRANTS/BEQUESTS	920,300	4
5	STORAGE TANK ASSISTANCE FUND	3,203,900	5
6	INFORMATION SERVICES FUND	20,407,400	6
7	POWER COST EQUALIZATION	19,947,700	7
8	GENERAL FUNDS - DESIGNATED	26,366,600	8
9	CLEAN AIR PROTECTION FUND	1,943,900	9
<del>10</del>	<del>MENTAL HEALTH TRUST ADMINISTRATION</del>	<del>893,600</del> <i>Delete</i>	10
11	••••• TOTAL FUNDING •• <i>raised</i>	<u>3,586,087,900</u> <i>3,585,204,400</i>	11

[SECTION 29 OF THIS ACT BEGINS ON PAGE 63]

SENATE BILL NO. 214

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/12/96  
Referred: STA, HES, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act making appropriations for the operating <sup>and capital</sup> expenses of the state's  
2 integrated comprehensive mental health program; and providing for an effective  
3 date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. PURPOSE. In accordance with AS 37.14.003 and AS 37.14.005, the  
6 appropriations made by this Act are for the state's integrated comprehensive mental health  
7 program.

8 \* Sec. 2. SHORTFALLS. <sup>either</sup> If <sup>authority authorized</sup> mental health trust <sup>(AS 37.14.036) or</sup> receipts <sup>Mental Health Trust Receipts (AS 37.14.C.36)</sup> fall short of the estimates  
9 appropriated in this Act, the affected appropriation is reduced by the amount of shortfall in  
10 receipts.

11 (SECTION 3 OF THIS ACT BEGINS ON PAGE 2)

1 • SEC. 3. THE FOLLOWING APPROPRIATION ITEMS ARE FOR 1  
 2 OPERATING EXPENDITURES FROM THE GENERAL FUND/MENTAL 2  
 3 HEALTH FUNDS ~~AND~~ FROM THE MENTAL HEALTH TRUST Authority Authorizing Receipts (AS 37.14.036) and from Mental 3  
 4 ~~INCOME ACCOUNT~~ Health Trust Administration Receipts (AS 37.14.036) AS SET OUT IN THE FISCAL YEAR 1997 4  
 5 BUDGET SUMMARY BY FUNDING SOURCE TO THE AGENCIES 5  
 6 NAMED AND FOR THE PURPOSES EXPRESSED FOR THE FISCAL 6  
 7 YEAR BEGINNING JULY 1, 1996, AND ENDING JUNE 30, 7  
 7 1997, UNLESS OTHERWISE INDICATED. 7

9	10	APPROPRIATION		APPROPRIATION FUND SOURCES		9
		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	
11	• • • • •		• • • • •			11
12	• • • • • DEPARTMENT OF ADMINISTRATION		• • • • •			12
13	• • • • •		• • • • •			13
14	SENIOR SERVICES		2,501,900	2,501,900		14
15	PIONEERS HOMES	420,800				15
16	PROTECTION, COMMUNITY SERVICES, AND ADMINISTRATION	209,500				16
17	HOME AND COMMUNITY-BASED CARE	1,871,600				17
18	LEGAL AND ADVOCACY SERVICES		619,800	619,800		18
19	OFFICE OF PUBLIC ADVOCACY	619,800				19

1 DEPARTMENT OF HEALTH AND SOCIAL SERVICES (CONT.)

2		APPROPRIATION	APPROPRIATION	FUND SOURCES	2	
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	3
4	GENERAL COMMUNITY MENTAL HEALTH GRANTS	2,438,200				4
5	PSYCHIATRIC EMERGENCY SERVICES	<del>5,331,100</del>	5,581,100			5
6	SERVICES TO THE CHRONICALLY MENTALLY ILL	10,918,700				6
7	DESIGNATED EVALUATION AND TREATMENT	1,046,300				7
8	SERVICES FOR SERIOUSLY EMOTIONALLY DISTURBED YOUTH	<del>6,538,500</del>	6,288,500			8
9	MENTAL HEALTH/DEVELOPMENTAL DISABILITIES					9
10	ADMINISTRATION	3,373,000				10
11	ALASKA PSYCHIATRIC INSTITUTE	5,950,300				11
12	HARBORVIEW DEVELOPMENTAL CENTER	3,845,800				12
13	MENTAL HEALTH TRUST BOARDS		717,600	717,600		13
14	ALASKA MENTAL HEALTH BOARD	382,900				14
15	ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE	334,700				15
16	* * * * *		* * * * *			16
17	* * * * * DEPARTMENT OF LAW * * * * *					17
18	* * * * *		* * * * *			18
19	CIVIL DIVISION		67,200	67,200		19
20	GENERAL LEGAL SERVICES	67,200				20

\* \* \* \* \* DEPARTMENT OF REVENUE \* \* \* \* \*

ALASKA MENTAL HEALTH Trust Authority

893,500

893,500

1 • SEC. 4. THE FOLLOWING SETS OUT THE FUNDING BY 1  
 2 AGENCY FOR THE APPROPRIATIONS MADE IN SECTION 3 2  
 3 OF THIS ACT. 3

4 DEPARTMENT OF ADMINISTRATIVE 4  
 5 GENERAL FUND/MENTAL HEALTH 3,121,700 5  
 6 \*\*\* TOTAL FUNDING \*\*\* 3,121,700 6

7 DEPARTMENT OF CORRECTIONS 7  
 8 GENERAL FUND/MENTAL HEALTH 3,442,300 8  
 9 \*\*\* TOTAL FUNDING \*\*\* 3,442,300 9

10 DEPARTMENT OF EDUCATION 10  
 11 GENERAL FUND/MENTAL HEALTH 227,900 11  
 12 \*\*\* TOTAL FUNDING \*\*\* 227,900 12

13 DEPARTMENT OF HEALTH AND SOCIAL SERVICES 13  
 14 GENERAL FUND/MENTAL HEALTH 101,752,100 14  
 15 MENTAL HEALTH TRUST <sup>Authority Authorized</sup> RECEIPTS 1,945,000 15  
 16 \*\*\* TOTAL FUNDING \*\*\* 103,697,100 16

17 DEPARTMENT OF LAW 17  
 18 GENERAL FUND/MENTAL HEALTH 67,200 18  
 19 \*\*\* TOTAL FUNDING \*\*\* 67,200 19

20 UNIVERSITY OF ALASKA 20  
 21 GENERAL FUND/MENTAL HEALTH 200,800 21

DEPARTMENT OF REVENUE  
 MENTAL HEALTH Trust Administration Receipts (AS 37.14.036) 893,500  
 \*\*\* TOTAL FUNDING \*\*\* PAGE 8 893,500

1 • SEC. 5. THE FOLLOWING SETS OUT THE FUNDING FOR

2 THE APPROPRIATIONS MADE IN SECTIONS 3 <sup>and</sup> \_\_\_\_\_ OF THIS ACT.

3 GENERAL FUND/MENTAL HEALTH 108,051,300

4 Authority Authorized  
MENTAL HEALTH TRUST/RECEIPTS 1,945,000

5 • • • • • TOTAL FUNDING • • • • • 110,796,300

6 • SEC. 6. THIS ACT TAKES EFFECT JULY 1, 1996.

Add new section or sections for capital items (7 projects  
Total (5 in DHSS and 2 in DOR) and adjust funding sections  
accordingly by department and in summary form.)

Add lapse date information for capital projects

SENATE BILL NO. 213

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/12/96

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A BILL

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 13 from the available unrestricted cash in the general account of the Alaska housing finance

1	APPROPRIATION		APPROPRIATION FUND SOURCES		1
	2	3	4	5	
3	ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	3
4	*****	*****			4
5	***** DEPARTMENT OF REVENUE *****	*****			5
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 (will now  
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*See 26  
 page 37  
 June 20*

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15	<del>MENTAL HEALTH TRUST ADMINISTRATION</del>	<del>893,500</del> <i>Delete</i>	15
16	<i>amend</i> TOTAL FUNDING ***	124,380,400 <i>125,273,900 reverse</i>	16
17	DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES		17
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10	<del>MENTAL HEALTH TRUST ADMINISTRATION</del>	<del>893,500</del> <i>Delete</i>	10
11	* * * * * TOTAL FUNDING * * <i>revised</i>	<del>3,586,087,300</del> <i>3,585,204,400</i>	11
12		[SECTION 29 OF THIS ACT BEGINS ON PAGE 63]	12

**Alaska Mental Health Trust Authority  
FY97 Funding Strategy  
Operating Budget Requests  
Items Unfunded in Governor's Request**

<b>Dep't</b>	<b>BRU</b>	<b>Beneficiary Service</b>	<b>Funded</b>	<b>Unfunded</b>
DOA	Senior Services	Care Coordination/ Purchased Services for Seniors	250.0	650.0
DOA	Senior Services	Increased Respite for Seniors	0.0	200.0
DHSS	State Health Services	Healthy Families Program	250.0 MH	0.0
DHSS	Health Grants	Infant Learning Program Grants	150.0	590.0
DHSS	Comm. M. H. Grants	Mental Health Crisis Respite	250.0	500.0
DHSS	Comm. D. D. Grants	Developmental Disability Respite Services	250.0	175.0
DHSS	Inst. & Admin.	12 Sourdough Unit residents to community programs	385.0 MH	0.0
DHSS	Inst. & Admin.	8 HDC residents to community programs	310.0 MH	0.0
DHSS	Inst. & Admin.	Harborview Closeout Offset	1,000.0 MH	0.0
DHSS	A. & D.A. Services	MH/Chronic Alcoholism Dual Diagnosis Treatment	100.0	268.0
DHSS	A. & D.A.	Emergency Care for Chronic Alcoholics	125.0	129.6
DHSS	Comm. M.H. Grants	Mental Health Voluntary/Involuntary Inpatient Care	0.0	750.0
DHSS	Comm. D.D. Grants	Developmental Disability Vocational Services	0.0	500.0
DOC	SW Op's	Prison Mental Health Psychiatric Residency Program	0.0	30.0
DOC	SW Op's	Psychiatric Nurse Assistants for Women Offenders	80.0	0.0
General Fund/Mental Health MHTA Authorized Receipts			1,205.0 1,945.0MH	3,792.6

# Alaska Mental Health Trust Authority

## Guiding principles for the comprehensive integrated mental health program adopted 2/9/96

### CREATING THE COMPREHENSIVE PLAN

- Agent for change. The plan is for use as an agent for change.
- Inclusion. The planning needs to be an inclusive process—including inviting many people to participate in the process.
- Common principles. The plan should use principles shared by Boards and administration, such as providing services close to home, etc.
- Outcome-oriented. The plan should be oriented to consumer functional outcomes rather than defined by detail/process.
- Data. There must be accurate data for planning use. The purpose of this data is to assist in creating & evaluating the comprehensive plan.
- Measurable. It must have benchmarks and be measurable.
- A blueprint. It should be a working document and used as a blueprint to work from, toward funding, priority, concepts of service rather than too many specifics.

### COMPREHENSIVE PROGRAM

- Innovative. An integrated Mental Health Program must be innovative, imaginative, forward thinking.
- Integration. Integrating services and resources where efficiency, effectiveness, and access are enhanced is a priority.
- Early intervention and prevention. The comprehensive program may include services for populations broader than the beneficiary groups without expanding beneficiary group definitions. It could include prevention or early intervention services for persons at risk of becoming beneficiaries. The Trust considers prevention of these conditions, where possible, to be part of its mandate.
- Education. Educate the public and beneficiaries regarding the needs of the beneficiaries, resources available to meet those needs, and strategies for prevention.
- Targeted resource use. We should target time-limited resource use at appropriate level at time of need in order to prevent higher level long term use of resources.
- Customer driven services. The program is for beneficiaries, not services, and is of value to individuals/ families/ groups of beneficiaries.
- Parity. Program outcomes address service system parity.

### FUNDING SYSTEM

- Time-limited. We should maximize amount of Trust Income for time-limited short term operating and capital funds, using general fund-mental health for ongoing funding.
- Change agent. Trust income should be used for comprehensive integrated mental health program change.
- Funding is customer-driven. Funding system should provide consumers with a choice of services and providers. Program funding should follow customers.
- Cost sharing. Beneficiaries should share the costs of services.