

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8902 SENATE JUDICIARY

398

Ms. Maureen A O'Neill
3550 Alamosa Dr
Anchorage AK 99502 Phone: 248-4450
Affiliation: Reg. Voter: Y Date POM Sent: 03/04/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 09

Subject:

Message: I ENCOURAGE YOU TO VOTE FOR SB 211 WHICH ADDRESSES ISSUES OF ABUSE AND NEGLECT OF VULNERABLE ALASKANS WHO ARE RESIDENTS OF CARE FACILITIES IN ALASKA. THANK YOU.

Mr. Eldred J Harris
10201 Tartan Cir
Anchorage AK 99507 Phone: 248-1717
Affiliation: Reg. Voter: Y Date POM Sent: 03/14/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 20

Subject:

Message: THE PIONEERS' HOMES PLAN TO PROVIDE CARE AND MEDICAL ATTENTION WITHOUT SIGNIFICANT TRAINING CIRCUMVENTS STANDARDS JUST TO REDUCE OVERHEAD AND IS CONTRARY TO SB 211. VULNERABLE ADULT CARE WON'T BE ENHANCED, RESIDENTS WILL HAVE TO PAY MORE FOR LESS. PLEASE VOTE IN FAVOR OF SB 211.

Ms. Angela A Deutsch
3110 Dos Cir
Anchorage AK 99507 Phone: 343-7218
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60

Subject:

Message: I SUPPORT SB 211.

Ms. Violeta D Cho
3480 Harbor Cir
Anchorage AK 99504 Phone: 333-4319
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60

Subject:

Message: I SUPPORT SB 211.

Mrs. Marta E Marin
12110 Buttermilk Wy
Eagle River AK 99577 Phone: 694-2309
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211.

Mrs. Linda L Howard
6803 Hamlet Cir
Anchorage AK 99502 Phone: 243-7673
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211.

Ms. Connie M Reimers
PO Box 111356
Anchorage AK 99511 Phone: 333-8119
Affiliation: APH Reg. Voter: U Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211.

Mr. Homer J Enrigues
PO Box 104136
Anchorage AK 99501 Phone: 258-3511
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Constituent: C
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211.

Mrs. Kathryn M Riesz
20200 Constitution Dr
Eagle River AK 99577 Phone: 696-7149
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Consituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I STRONGLY SUPPORT SB 211.

Mr. William H Riesz
20200 Constitution Dr
Eagle River AK 99577 Phone: 696-7149
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Consituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I STRONGLY SUPPORT SB 211, IT IS LONG OVERDUE.

Mrs. Dawn L Loar
4301 Merrill Cir
Wasilla AK 99574 Phone: 373-6214
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Consituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211. IT IS LONG OVERDUE.

Mrs. Molly P Hubbs
HC32 6525 E
Wasilla AK 99554 Phone: 745-3629
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Consituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211. IT IS LONG OVERDUE.

Ms. Luisa A Conrad
12457 Crested Butte Dr
Eagle River AK 99577 Phone: 696-6018
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: I SUPPORT SB 211. IT IS LONG OVERDUE.

Mrs. Kathleen H Emmons
16617 Davis St
Eagle River AK 99577 Phone: 694-2184
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: PLEASE PASS THIS BILL TO PROTECT ASSISTED LIVING RESIDENTS FROM ABUSE AND
NEGLECT.

Mr. Kim M Hobbs
SRA Box 6525 E
Wasilla AK 99654 Phone: 000-0000
Affiliation: Reg. Voter: Y Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 60
Subject:
Message: PLEASE PASS THIS BILL TO PROTECT ASSISTED LIVING RESIDENTS FROM ABUSE AND
NEGLECT.

Mr. Edmaund R Lear
4301 Merrill Cir
Wasilla AK 99654 Phone: 000-0000
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Constituent: N
Bill Number: SR 211 Response: Supports Distribution: 60
Subject:
Message: I STRONGLY AGREE ON THIS BILL TO PROTECT OUR VULNERABLE ADULTS.

Ms. Jean Williams
HC02 Box 7470
Palmer AK 99645 Phone: 745-4000
Affiliation: Reg. Voter: U Date POM Sent: 03/15/96 Constituent: N
Bill Number: SB 211 Response: Supports Distribution: 19
Subject:
Message: I AM IN FAVOR OF THE BILLS TO PROTECT ELDERLY FOLKS.

Ms. Kathleen L Fitzgerald

4521 Southpark Bluff Dr

Anchorage AK 99516

Phone: 272-8270

Affiliation:

Reg. Voter: Y

Date POM Sent: 03/18/96

Constituent: N

Bill Number: SB 211

Response: Supports

Distribution: 01

Subject:

Message: KUDOS! THANK YOU FOR SPONSORING SB 211. I STRONGLY SUPPORT.

BRANCH OFFICE:
3601 C ST., STE. 260
FRONTIER BLDG.
ANCHORAGE, AK 99503
(907) 563-5654
FAX 562-3040



MAIN OFFICE
P O BOX 110209
JUNEAU, AK 99811-0209
(907) 465-3250
FAX 465-4716

Alaska Commission on Aging

ALASKA COMMISSION ON AGING

Position paper on SB 211: An Act relating to sexual assault; and relating to endangering the welfare of vulnerable adults.

March 13, 1996

The Alaska Commission on Aging supports SB 211, and urges its enactment. The purpose of SB 211 is to increase the legal protections for vulnerable adults. Specifically, SB 211 establishes that the acts of intentional abandonment, and of neglect of the vulnerable adult, are criminal acts when they are committed in a facility or program licensed by the State, or are committed by an individual who has legally assumed responsibility for the care of such an adult. The mission of the Alaska Commission on Aging is to ensure the honor, dignity, security, and independence of older Alaskans, and to assist older Alaskans in maintaining quality and meaning in their lives. Thus we support SB 211, and the positive contribution it makes to increase the legal protections for seniors in long-term care across our State.

A handwritten signature in cursive script, appearing to read "Donald M. Hoover", written over a horizontal line.

Donald Hoover, Chairman
Alaska Commission on Aging

March 12, 1996

Honorable Johnny Ellis
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Ellis:

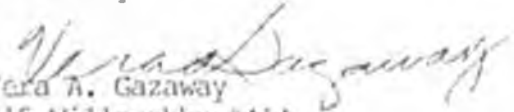
Thank you for introducing Senate Bill 211 legislation to protect vulnerable adults from abuse and neglect.

We have acknowledged that some adults, such as the elderly and the handicapped, are more vulnerable than others. SB 211 identifies and defines acts which endanger the welfare of vulnerable adults. This clarification is needed.

Senate Bill 296 is of equal importance. Legislation requiring fingerprint criminal background checks for persons seeking employment in a nursing home or assisted living facility is badly needed. Many residents in nursing home or assisted living facilities lack the ability to communicate their needs or follow the instructions of their caregiver. While it is true that background checks will not insure competent care, they will do much to eliminate some potential risks.

I strongly support both Senate Bill 211 and Senate Bill 296.

Sincerely,


Vera A. Gazaway
415 Willoughby #414
Juneau, AK 99801

Dear Senator Ellis,

Betty S Ohsa
118 E 3rd Ave
Anchorage AK 99501

On reading the article of
Bobbi Watts in March 9 Anchorage Daily
News brought to mind the heart breaking
crisis of abuse I saw over the years of
visitation as a friend to the subject - ins
and at the mercy of others to care for
them. The abuse and cruelty plus
that you name it I saw it all and
was told there is no law to protect
them or nothing could be done?

Please Senator Ellis help this
bill (SB 211) to pass as there is a
great need for it to pass to protect
the elderly ^{from} of abuse making it
a crime when abuse does take place

Thanking you for caring

Betty S Ohsa

Senator Taylor:

I cannot be at the 1:30PM hearing today for SB211 but want to express my support of it as well as for SB296. As the mother of a 42 year old mentally ill daughter who will likely need to be in an assisted living facility for the rest of her life, and as one in that age bracket where I see close friends going into a variety of retirement homes, I see the need for close supervision of employees in assisted living facilities. The potential for abuse is great and, as the population in Alaska increasingly "greys," it is urgent that we develop strict guide-lines and maintain proper supervision of all employees in both retirement facilities and facilities housing the mentally ill.

As President of both AAMI (The ANCHORAGE Alliance for the Mentally Ill) and CARTA (Central Alaska Retired Teachers) I urge passage of both SB211 and SB296.

Lola J. Reed, 831 W. 19th Ave., Anchorage, AK 99503, (907) 279-3006.

Distribution:

To: Robin Taylor > FAX:19074653922

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 211(STA)

- 1 Page 1, line 13:
- 2 Delete "entrusted to"
- 3 Insert "in [ENTRUSTED TO]"

- 4 Page 2, line 15:
- 5 Delete "entrusted to"
- 6 Insert "in [ENTRUSTED TO]"

- 7 Page 3, line 17:
- 8 Delete "knowingly"

FORUM / LETTERS

State should make abuse, neglect of elderly a crime

By BOBBIE WATTS

Part 1 of 2

I placed my father-in-law, Paul Watts, in Friendship Home Inc., an assisted living home, on March 10, 1995. Two months later, I sent a complaint to the Office of the Long Term Care Ombudsman, because I realized Paul was being abused and neglected by those we paid to care for him.

Paul had kidney disease and was allowed to go for six days without his medication to prevent fluid buildup. He gained 52 pounds, putting added strain on his already weakened heart.

Friendship Home's staff did not properly treat Paul's wounds or turn him in his bed. He was literally being eaten alive by gangrene. They even charged him for water.

One day after I moved him to a new home, he was so swollen he could not fit in a wheelchair and had to be taken on a stretcher to see a doctor. He died four days later.

Many other elderly residents of Friendship Home Inc. also were being abused and neglected. A long list of incidents is documented in a 25-page investigation by the state's Long Term Care Ombudsman.

The owners/managers of Friendship Home Inc., Debi and Tracy Batchelder, sold the home and left the state, most likely never to be charged for what

BOB HALLIHEN / Daily News photo
Bobbie Watts

they did. This kind of abuse, neglect or exploitation of our senior citizens is not a crime.

Statistics show that by the year 2010, 14 years from now, our senior population will triple. We have the fastest growing, per capita, senior population in the nation, according to the Alaska Commission on Aging. The fast-growing senior population in Alaska will require more long-term-care facilities and homes that are staffed with trained, compassionate people to care for them.

I have come forward with my story to cry out to our Legislature to create state laws that will prevent what happened at Friendship Home Inc. from ever happening to one elder Alaskan again.

My goal is to get a bill passed this session that makes abuse, neglect and exploitation of the elderly a crime. I also hope to support legislation that would require fingerprint background checks for all employees of nursing facilities and assisted living homes. Right now, it's possible for someone convicted of assault or sex abuse or drug abuse to walk straight into a job caring for the elderly.

In the past, the Legislature has considered abuse, neglect and exploitation laws but failed to pass anything. I hope to persuade them to pass such a law.

While in Juneau Feb. 20-23, my concerns, and my support of Sen. Johnny Ellis' bill criminalizing neglect of the elderly (SB211), got mixed reactions, and I was surprised at the opposition that I heard about while there. Many legislators and their staff are relying on the position of the Division of Senior Services in echoing their own opposition to SB211.

How can anyone who ever heard or read the report of the investigation on Friendship Home Inc. sit there and tell me that we have adequate criminal

My goal is to get a bill passed this session that makes abuse, neglect and exploitation of the elderly a crime. . . .

Right now, it's possible for someone convicted of assault or sex abuse or drug abuse to walk straight into a job caring for the elderly.

laws on the books? Debi and Tracy Batchelder, former owners of Friendship Home, are sitting in Bangor, Maine, happy that Alaska does not have laws holding them criminally responsible for such horrible abuses.

The Division of Senior Services can take administrative action when dealing with abuse and neglect of the elderly, but it cannot pursue criminal sanctions against those who would victimize our loved ones. The Department of Law has stated, more than once, that the criminal code as it exists is inadequate to fight this problem.

What more do legislators need to hear? How many more "Friendship Homes" need to be brought to light before the Legislature takes action to protect the thousands of elderly citizens in Alaska from the kind of gross abuse and neglect that we have

already seen?

I am encouraged by and proud of the people in Juneau who spent the time to really listen to my experience and my call for help. They committed themselves to researching and learning about the laws that we currently have and the ones that we need.

I ask lawmakers not to rely on secondhand opinions. Ask the people who have personally experienced elder abuse and neglect. Ask the people responsible for investigating and prosecuting the perpetrators. They will tell you what you need to know. They will tell you how to protect our older Alaskans.

□ Bobbie Watts lives in Anchorage. She was the winner of the Daily News "Send Me to Juneau" contest. Sunday, Part 2: A journal of her experience as a citizen lobbyist.



Alaska Star

VOLUME XXVI, Number 10

20 Pages and a 4 page supplement

March 2, 1996

Pioneers to pay more for leaner care

By JEANNE ENRIGHT
Alaska Star Reporter

Some seniors living in the state's Pioneers' Homes may soon be cared for by lesser trained personnel and pay more for it.

In Alaska, approximately 1,800 beds are devoted to patients receiving skilled nursing care. According to Connie Sipe, director of the Division of Senior Services (DSS), 600 of those will be affected by pro-

posed changes at the state's six Pioneers' Homes.

Soon, all Pioneers' Homes will change their status from skilled nursing facilities to enhanced assisted living facilities.

The decision has several serious ramifications.

First of all, as skilled nursing facilities, Pioneers' Homes have been required to comply with certain federal regulations. The Department of Social Services (DSS) has been actively enforcing the

homes' compliance.

As enhanced assisted living facilities, the Pioneers' Homes will no longer be under stringent federal guidelines. The licensing unit of the DSS will enforce its own enhanced assisted living regulations once the change takes place.

Secondly, for Pioneers' Home residents who require total care, the change to enhanced assisted living means that their care will no longer be provided by highly-trained registered nurses (RN). Instead, most

of their care, including the distribution of medications, will be provided by lesser-trained certified nurses aides (CNA).

And lastly, by changing patients' status to "enhanced assisted living," the elders who weren't eligible for longevity bonuses will once again receive their \$200-250 per month.

However, patients who cannot afford to pay the charge for their care — about \$1,000 per month, according to Division of Senior Services Director Connie Sipe —

must turn over their bonuses to the homes to help pay their bills.

Meanwhile, rates charged to Pioneers' Homes residents are on their way up. However, Sipe said that even though rates charged to the patients will be increasing some time in the near future, the homes will not realize an increase in profit.

"When we increase the fees, we aren't going to get extra money. The legislature is going to take away the general fund to the tune of what- (Please see PIONEERS, Page 2)

PIONEERS: Bills address issues

(Continued from Page 1)

...ver we collect," Sipe said. "The numbers (of residents) are staying the same, because we only have so many spaces in the buildings.

"We have been able to avoid cuts to direct care, but we've had to lay off gardeners and assistant cooks and other things, and we have spread the staff to taking care of 85 percent of the people.

"So the homes' whole operation is costing about the same ... but we've taken the staff and the staffing and we have spread it out over twice as many people, every day, getting care."

"And remember, we did not fire or lay off a single nurse — and as we (received) budget cuts, we have, so far, never laid off a direct care position. Positions would be reduced through attrition, with some RN positions being replaced with CNA positions.

"So there is a balance here, but it's a national trend. It's not just us. There are lots more people who are sick and frail every where in the country, and a huge new majority of them are being taken care of in assisted living settings instead of all in skilled nursing homes."

Sipe said that she isn't sure when the Pioneers' Homes change to enhanced assisted living or the price increase would take effect. Bobbie Watts, who became interested in senior issues when her father-in-law was allegedly neglected by a local nursing home, is keeping a close eye on the decisions being made by legislators and officials regarding senior issues.

The citizen-turned-senior advocate just returned from Juneau, where she spoke with legislators about senior issues. She made the following statement about her experience:

"The Division of Senior Services, while responsible for administrative action when dealing with abuse and neglect of the elderly, are not in a position to pursue criminal sanctions against those people who would victimize our loved ones. The Department of Law is responsible for pursuing criminal action against abusers."

Watts is in favor of Senate Bill 211, which was introduced by Sen. Johnny Ellis (D-Anchorage) to address the issues of abuse and neglect of "vulnerable" Alaskans, since these citizens often can't defend themselves, physically or legally.

Ellis also sponsored Senate Bill 296, which mandates fingerprinting and background checks for people seeking employment in institutional settings.

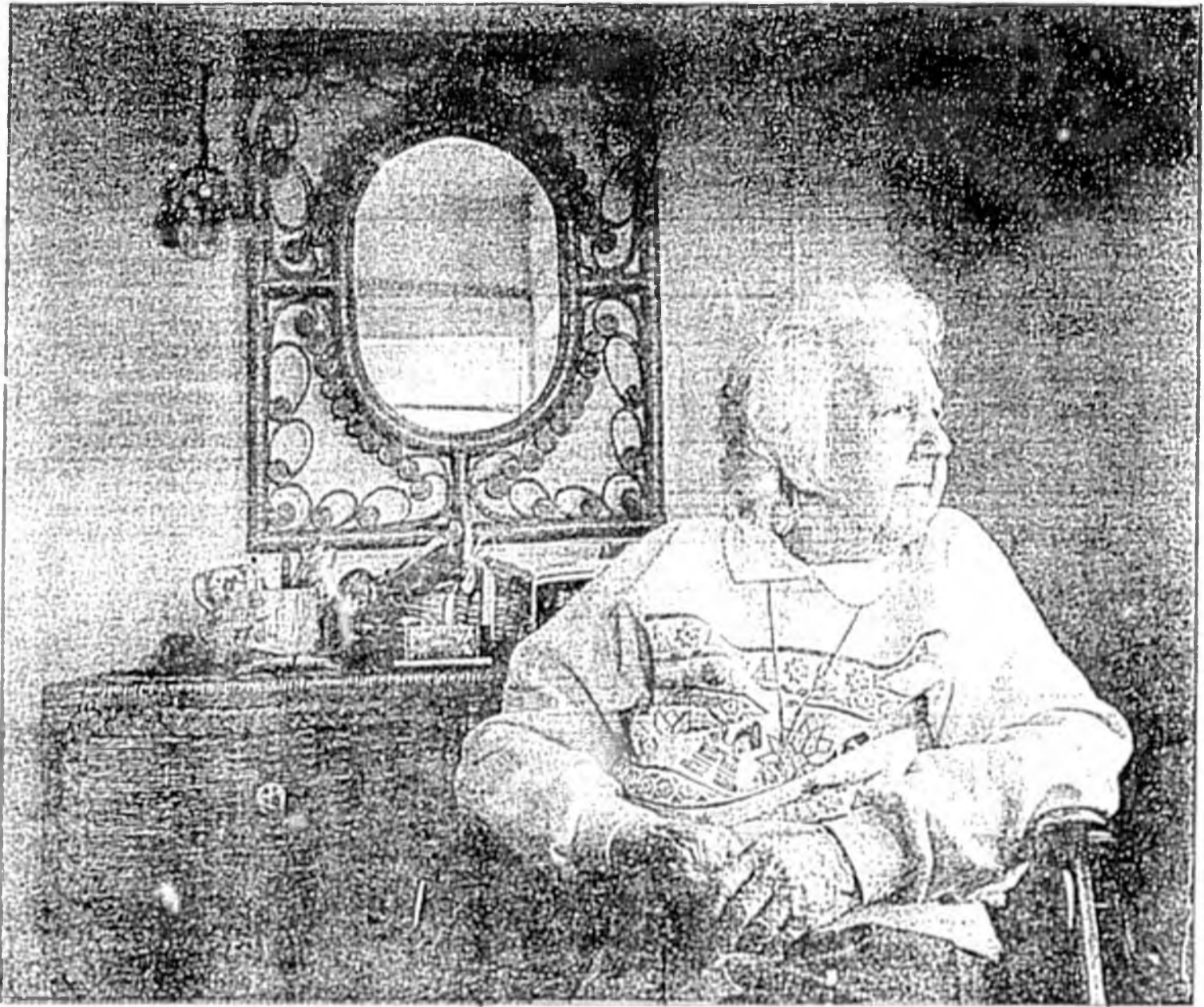
Sipe said that DSS has not decided whether to support the bills. "Another concern that I brought up," Watts said, "is that the Long-Term Care Ombudsman is definitely in the wrong department, you see. She's in the same department as those that run the Pioneers' Homes and license the adult assistance (enhanced assisted living) homes."

"And you see, that's, like, a big conflict and it makes me nervous when they don't want to come up with a law to protect (people from) those (crimes) that the staff or owners may commit — the charge of neglect."

When asked whose signature is necessary for the final decision to change the homes to enhanced assisted care facilities, Sipe said, "Jim Kohn, the deputy director of the Division of Senior Services ..." unless she or someone else in authority over Kohn decided to contradict the decision, she said.

Kohn was unavailable for comment by press time.

Witness tells of abuse at boarding home



ANNE RAUP/Anchorage Daily News

Idesta Green, 82, helped state investigators in their examination of conditions at Friendship Home, an Anchorage boarding home licensed to care for infirm elderly people. She was moved from the home during the investigation.

State says home abused elderly

Report cites neglect, withholding medication, tormenting Alzheimer's victims

By SHEILA TOOMEY

Daily News reporter

The owners and staff of a private adult boarding home, licensed by the state to care for 16 infirm old people, neglected and abused residents, failed to get medical care for gravely ill patients, withheld necessary medication and tormented Alzheimer's victims, according to a state ombudsman's investigation.

The long-term care ombudsman, responsible for monitoring such homes, has asked the attorney general to consider structural changes, resigning Debra and Tracy Hatchelder, former owners of Friendship Home, and Arthur Lovell, the former manager.

An investigative report dated Nov. 10 says people running the home, on West 64th Avenue in the Sand Lake area, sometimes failed to fill patients' prescriptions or seek emergency medical

Father-in-law's fate creates a crusader

By SHEILA TOOMEY

Daily News reporter

Guilt and its cousin anger pulled Bobbie Watts out of her safe life into a world where ugly things happen. But tenacity and a talent for constructive troubleshooting are keeping her there.

Watts' father-in-law died in June after three months in a local convalescent home. A diabetic, double amputee with lupus and bad kidneys, Paul Watts, 69, needed heavy lifting and transfer,



BOB MULLINEN/Anchorage Daily News

Please see Back Page WATTS: Bobbie Watts.

care, failed to take patients to a hospital lab for appointments, failed to keep patients clean and dress their wounds, failed to provide diabetics with proper blood tests and diet, left old people sitting on toilets or in wet diapers, borrowed money from old people in their

residence in general "callously, intentionally, as recklessly inflicted physical pain, injury or mental distress to residents" of the facility.

Efforts to reach the Hatchelders over three days, through their local attorney, Roger Healy, and by leaving a message

with a woman who worked there, none of them now lives in Fairbanks with her second husband.

According to investigators, "One male resident who was diagnosed with Alzheimer's disease, was repeatedly subjected to

Please see Back Page HOME

HOME: Ombudsman finds abuse and neglect

Continued from Page A-1

cruel and malicious teasing ... in the form of coming up behind him and grabbing him by the trunk and lifting him up, squirting him in the face for long periods of time, or verbally poking fun at his limited mental faculties."

Two residents, including the Alzheimer's victim, died at the home this summer after managers neglected to obtain medical attention for them, the report says, but investigators did not link the deaths to the alleged neglect.

The ombudsman would have recommended the Batchelders' license be revoked, the report says, but they got out of the business in the middle of the investigation and left the state. The home is now operated by a new owner under a different name.

Acting ombudsman Suzanne Armstrong also has asked the U.S. Postal Service to investigate the Batchelders for obstructing the mails by allegedly intercepting mail addressed to a resident. Her report accuses the Batchelders of interfering in the ombudsman's investigation by attempting to intimidate people cooperating with the probe.

The investigation was precipitated in May by two complaints, including one from Bobbie Watts, whose father-in-law lived at Friendship Home from March to June. A double amputee with diabetes, lupus and heart disease, he died June 12, six days after Watts moved him to another home.

Watts said she was referred to Friendship Home by Alaska Regional Hospital. She visited her father-in-law, Paul Watts, 69, almost daily during designated visiting hours. She "shook off" her early concerns about prescriptions not being picked up and

complaints about not getting enough food because she knew he wanted to come home.

"They tried to convince me it wasn't true, that he had Alzheimer's," Watts said in an interview.

Assisted-living homes are intended to be a less restrictive, less expensive environment for people who can't live on their own or with relatives, but who don't require a full-blown nursing home. Watts said she and her husband paid \$3,000 a month for her father-in-law to stay at Friendship Home.

The home was intended to be transitional, Watts said, a place where Paul Watts would learn how to move from his bed to a wheelchair and the bathroom on his own. Watts had cared for her father-in-law for about two years before his second leg was amputated. She says no one told her she could have gotten therapists and public health nurses to work with Paul at his Airport Heights home instead.

Alaska Regional Hospital declined to discuss specifics of the Watts case, but Gail McGill, director of quality management, said all available resources for post-hospital care are discussed with all families.

The hospital did not make any recommendation, but merely provided the Wattses with a list of state-licensed facilities, McGill said. "We explain to them we don't make recommendations because ... we don't have the opportunity to visit places and check them out."

Virginia Smiley, licensing coordinator for the state Division of Senior Services, said having a state license means only that the facility is available and meets minimum standards, not that a home is recommended. Smiley's agency assumed oversight of the state's 66 assisted-living homes for old people

on July 1 from the Division of Family and Youth Services, which licensed the Batchelders in the 1980s.

Before the current investigation, state records show investigators confirmed other complaints against the Batchelders, including neglect of a patient who was found to be dirty, dehydrated, malnourished and with bed sores in 1991; and in 1993 for having more residents than allowed by their license.

Smiley and Armstrong, the acting ombudsman, said that Friendship Home still could be legally operating if the Batchelders hadn't gotten out voluntarily, because the state declined to revoke their license until the investigation was completed.

Armstrong said her office suggested to people inquiring about Friendship Home during the investigation that they not use the facility.

Watts' complaint, filed May 19 while her father-in-law was still a Friendship Home resident, generated the most extensive multiagency investigation in the history of the Long Term Care Ombudsman's Office, Armstrong said.

The Medicaid Fraud Unit in the Attorney General's Office got a search warrant in June to examine conditions at the home and seize records, said assistant attorney general Peter Gamache. His office got involved because several of the home's 16 residents received Medicaid.

The ombudsman and the Board of Nursing recommended Friendship Home be closed, Armstrong said. But DFYS decided it could safely remain open with monitoring, which was done for about two weeks at the end of June and beginning of July, she said. DFYS also required the Batchelders to hire a nurse to oversee patient care and dispense medicines.

The ombudsman's office helped one resident, Idest Green, 82, move out of Friendship Home in August, concerned about her condition and possible retaliation for her cooperation, Armstrong said.

"They took my mail," Green said in an interview Friday at an assistant-living home run by Providence Hospital, where she now is apparently flourishing. "It was dark and you didn't get any care. ... They would put you on the pot and you would sit there for a couple of hours because you couldn't get off."

Gamache said his office is investigating possible criminal violations based on the complaints against the Batchelders, but Alaska doesn't have patient-neglect or abuse laws, he said. "If you have a straight case of a vulnerable adult not being fed or bathed or generally cared for properly, that's wrong but it's not unlawful."

Gamache said he's not sure conditions at Friendship Home "were qualitatively much worse than other places. ... It was a difference in degree, not in specie," he said. "Let's face it, living in an institution's a drag."

During the course of the four-month investigation, the ombudsman's office interviewed 24 people, including cooperative current and past employees, Armstrong said.

"What cannot be amply stated," said the ombudsman's report, "is the sadness and frustration expressed by former employees and residents at the living conditions present at Friendship Home, Inc. It appears that the residents ... were provided only minimal tools for existence, food enough to survive, medical attention only when withholding of such might clearly result in catastrophe, and a place to sit in idleness."

WATTS: On a mission

Continued from Page A-1

watchful eyes as he recuperated from surgery and learned to live without legs.

An investigation by the state long-term care ombudsman concluded Watts was neglected by the owners and staff of Friendship Home, one of more than 60 "assisted-living" boarding homes licensed by the state to care for three or more elders or infirm adults.

Although the ombudsman did not conclude that Watts died of neglect, Bobbie Watts believes he did, and that she should have known something was wrong and gotten him out of Friendship Home earlier.

She moved him after he told her the staff was charging him for water. He died six days later.

"When he passed away, there was that guilt," she said, "being that I placed him there. ... I have all the what-ifs and all this guilt eating at me."

Instead of letting it eat her up, Watts is turning the guilt into action on behalf of Alaska's "elders," as she calls them. First on her to-do list, now that the investigation she initiated is done, is to fax a copy of the Friendship Home report to licensing officials in every state. The former owners of Friendship Home "should never, ever again be allowed to take care of one elderly person," she said.

Paul Watts, a retired track-repair supervisor for the Alaska Railroad, was more like a beloved father than a father-in-law, Bobbie said. "He was a real good guy. He made you feel important, you know. He gave a damn."

Raised in Las Vegas in a dysfunctional family, Bobbie Watts left home at 14. "There was a lack of compassion and caring in my environment when I grew up, and I always wanted to be different."

She survived a "wild" period and came to Alaska in 1960 — "for the great adventure, and to get as far away from my family as I could." Now 35, Watts has spent the last decade raising children and dogs, caring for a husband of 13 years, doing volunteer work and making the kind of home she always wanted. Now she wonders if her personal barricades against life's tougher edges left her more gullible than she should have been.

Although she saw her

father-in-law almost daily during regulated visiting hours, brought food and made cookies for him and other residents, Watts said, it took her a long time to figure out that residents might be treated differently when she wasn't around.

"I could not conceive that someone would do this," Watts said. "It took me a little while to catch on. ... To think I had the poor man there since March. It gives me the creeps."

When she finally figured out something was wrong, Watts filed a complaint with the long-term care ombudsman, a monitor required by the federal government. More determined than ever after Paul Watts died, she followed every twist of the investigation. Weeks turned into months, but she stuck to it, calling regulators and politicians, writing letters, checking repeatedly on what progress was being made. Somewhere along the way, Bobbie Watts, "stay-at-home mom," evolved into Bobbie Watts, unstoppable activist for the elderly.

She even went to work briefly for the people who took over Friendship Home after Paul died, and helped clean it up.

Watts said she's lost 25 pounds since filing her complaint in May. But after months of give and take, acting long-term care ombudsman Suzan Armstrong considers Watts "a real valuable find" for her office.

"She's a very effective communicator, very compassionate, very driven," Armstrong said. "I was constantly being inspired by her, being fueled by her energy."

The ombudsman's office has plans for a program in which volunteers make unannounced visits to state-licensed homes — 380 beds in "assisted-living homes" and 758 nursing home beds around the state.

Armstrong hopes to entice Watts to help organize it. Watts can hardly wait.

"I want those owners to be scared of me when I walk in the door," she said. "I want them people shaking in their boots."

"I never knew I could cause so much trouble," Watts said with grim satisfaction after the report condemning practices she complained of at Friendship Home was released last week. "I was never a troublemaker anywhere until here."

"I've got it. I can take 'em on and then some."

SENATE COMMITTEE REPORT

DATE: 3/11/96

DATE TURNED INTO OFFICE: 3/20/96

The Judiciary Committee considered SB 211

has no further

Relating to sexual assault; and relating to endangering the welfare of vulnerable adults and neglect of vulnerable adults.

Phi Kappa's

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS SB 211 LSTA
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
 - same title
 - new title
- House Bill:
 - same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Ellis</i>	<input checked="" type="checkbox"/>				
<i>Lepta Green</i>	<input checked="" type="checkbox"/>				
<i>Col. Dan</i>	<input checked="" type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Chris Taylor</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>Public Safety</i>	<i>7/14</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>Administration</i>	<i>7/7/96</i>	<input checked="" type="checkbox"/>	
<i>Corrections</i>	<i>7/1/96</i>	<input checked="" type="checkbox"/>	
<i>Dept. of Law</i>	<i>7/6/96</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 4, 1996

SUBJECT: Sectional Summary of SB 211
(Work Order No. 9-LS1296\C)

TO: Senator Johnny Ellis
Attn: Lynn Kenney

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Sections 1 and 2 of the bill provide technical amendments to AS 11.41.410 - 11.46.420 by recognizing that state agencies other than the Department of Health and Social Services license facilities and programs that mentally incapable persons may be residents of or participants in.

Section 3 of the bill creates new crimes of endangering the welfare of a vulnerable adult,¹ committed by intentionally deserting a vulnerable adult, and criminal neglect of a vulnerable adult,² committed by failing to provide support to a vulnerable adult.

GPL:klb
96-156.klb

¹Punishable as a class C felony. See AS 12.55.125(e).

²Punishable as a class A misdemeanor. See AS 12.55.135.

STATE OF ALASKA
Office of the Long Term Care Ombudsman

Report of Investigation

Date: November 30, 1995
Case No: 95-0132-A1
Respondent: Staff and Owners of Friendship Home, Inc
Allegations: It is alleged that:

1. The staff and owners of Friendship Home, Inc., have willfully, intentionally, or recklessly inflicted physical pain, injury, or mental distress to residents of the facility. Owners of Friendship Home, Inc., are Debi and Tracy Batchelder and Friendship Home, Inc., is located at 2721 West 69th Avenue, Anchorage, Alaska.
2. The staff and owners of Friendship Home, Inc., have intentionally failed to provide essential care or services necessary to maintain the physical and mental health of the very vulnerable and frail older Alaskans who reside therein.
3. The staff and owners of Friendship Home, Inc., have unjustly or improperly used the property of another person or another person's resources for their own profit or advantage.
4. The owners of Friendship Home, Inc., contrary to law, have operated their licensed foster home in Anchorage above the 5-person capacity for which they were licensed; have operated an unlicensed home in Anchorage; have operated an unlicensed home in Fairbanks; and have operated their licensed residential care facility in Anchorage above the 16-person capacity for which they are licensed.

5. The owners and staff of Friendship Home, Inc., have administered over-the-counter medications to residents without benefit of medical supervision; have adjusted dosage levels of potent antipsychotic drugs without benefit of medical supervision; have administered the medications of a resident to another for which the medication was not prescribed; and have endangered residents in so doing.
6. The owners of Friendship Home, Inc., have intentionally interfered with the Office of the Long Term Care Ombudsman and have retaliated against persons perceived to have cooperated with the Long Term Care Ombudsman's investigation.

Allegation No. 1: The staff and owners of Friendship Home, Inc., have willfully, intentionally, or recklessly inflicted physical pain, injury, or mental distress to residents of the facility.

First, this allegation consists of several specific allegations of abuse perpetrated by certain employees and former employees against specific residents:

1) On or about May 23, 1995, Allen Hart, a former employee of Friendship Home, Inc., was rough with one of the female residents, causing bruising, while the resident was attempting to leave Friendship Home, Inc.

2) Stacy Miller, a former employee of Friendship Home, Inc., was rough getting the residents in and out of bed on an ongoing basis. Specifically, Ms. Miller would throw residents in bed and roughly pull them out of bed. This rough treatment reportedly began soon after Ms. Miller started her employment on August 17, 1994, and lasted until Ms. Miller ended her employment with Friendship Home, Inc., on July 19, 1995.

3) Autumn Tucker, sometime manager of Friendship Home, Inc., was verbally abusive with several of the residents. Specifically, when asked by the residents when morning medications would be made available to them, Ms. Tucker was overheard saying "I'm just real f---ing busy and I don't have the f---ing time" to the residents. This occurred sometime during the period April - May, 1995.

4) Stacy Miller was verbally and physically abusive with one of the residents. Specifically, Ms. Miller was overheard saying "You're really f---ing pissing me off" and next slapped the resident's hand. This occurred sometime during the period April - May, 1995. This resident, who has since passed away, had Alzheimer's Disease.

5) Stacy Miller and Allen Hart were physically abusive with a resident. Specifically, Ms. Miller and Mr. Hart squirted water from a bottle at the resident's face for a 30-minute period, and laughed at the resident. The resident first tried to defend himself by waving his arms and trying to stop Ms. Miller and Mr. Hart. The resident then tried to hug Ms. Miller and Mr. Hart in an effort to stop them from squirting him. The resident eventually held his head in his hands and shook his head in order to get them to stop. This occurred sometime during the period April - May, 1995. This resident, who has since passed away, had Alzheimer's Disease.

6) Stacy Miller was physically abusive with a resident. Specifically, Ms. Miller, while applying eye drops to a resident, forced the dropper into the eye of the resident, causing the resident to resist because of pain. Ms. Miller then attempted to restrain the resident while forcing the dropper in the resident's eye until the drops had been dispensed. The dropper made direct and painful contact with the resident's eyeball. The resident's eye appeared bloodshot for a period of time after. This occurred sometime during the period April - May, 1995.

7) Stacy Miller was verbally and physically abusive to a resident on several occasions. Specifically, Ms. Miller prepared insulin shots for one of the diabetic patients who is also wheelchair bound and came towards him saying "I'm going to stick you." The resident was frightened and attempted to defend himself. Ms. Miller would laugh, restrain the resident, and quickly jab the needle in the abdominal area of the resident. This occurred several times during the period April - May, 1995.

8) Debi and Tracy Batchelder told one resident that she would be changing internists, despite the fact that she had seen one internist for several years and was happy with him. Debi and Tracy Batchelder persisted and the resident acquiesced when pressured to do so.

9) Debi and Tracy Batchelder pressured a resident to remain at Friendship Home, Inc., despite her being eligible to reside at the Pioneers' Home and her strong desire to move to the Pioneers' Home. The resident first became eligible to transfer to the Anchorage Pioneers' Home on June 17, 1994, and she declined on the same day.

Aside from specific allegations of abuse, Allegation No. 1 also encompasses the mental anguish experienced by residents for a variety of reasons and reported by both employees and residents. This mental anguish was a result of alleged neglect of the residents' nutritional needs wherein residents were not served ample portions of meals and were not offered snacks to supplement those meals. It is reported that several residents complained of being hungry and that at least one resident lost a great deal of weight because she was not eating and not being assisted with eating.

Residents in need of assistance to reposition or shift their weight either in chairs or in bed in order to prevent skin breakdown are reported to have been frequently and consistently ignored. Further, residents wishing to be taken to the toilet or assisted with getting off the toilet (sometimes after an hour had elapsed) are reported to have been frequently ignored.

The residents' need for meaningful activity during waking hours is allegedly ignored and most residents sit idle during the day with the television as the only means of activity. It is alleged that little or no periodicals, reading materials, games, or movies are provided for the residents' enjoyment. It is also alleged that residents are put to bed as early as 5:30 - 6:00 p.m., and awakened as early as 3:30 - 4:00 a.m., despite their personal desire to either stay up longer or sleep until later in the morning.

Many of the residents are alleged to have complained or cried out in pain, only to have their cries ignored. This allegation will be further discussed at Allegation No. 2, but is also pertinent in this discussion of alleged neglect resulting in mental anguish. Several residents are alleged to have been placed in their room with the call button either not working or placed far enough away so the resident is unable to use it. Persistent residents with more acute health problems are alleged to have been viewed as troublesome and ignoring their wishes used as a means of punishment.

Allegation No. 2: The staff and owners of Friendship Home, Inc., have intentionally failed to provide essential care or services necessary to maintain the physical and mental health of the very vulnerable and frail older Alaskans who reside therein.

1) Friendship Home, Inc., did not fill a prescription for one of its residents in a timely manner causing that resident to go without needed prescription drug treatment for a period of 5 days from May 17, 1995, to May 22, 1995.

2) It was reported by former employees that have worked at Friendship Home, Inc., over the last 2 years that the owners of Friendship Home, Inc., frequently neglected to fill many of the residents' medication trays, causing those residents to go without prescribed medication.

3) It is reported by former employees that have worked at Friendship Home, Inc., over the last year that owners or managers of Friendship Home, Inc., have retroactively filled out medication sheets indicating that residents received daily medication when, in fact, they had not, and the person signing the sheets was not on site to give the medication. In other cases, staff and owners of Friendship Home, Inc., have not filled out medication sheets at all for residents prescribed with daily medication.

4) Debi Batchelder, Tracy Batchelder, and Autumn Tucker have not immediately notified physicians when medical attention becomes necessary for some of the residents, and in some cases, not at all. At least one resident died before getting medical attention, despite repeated requests by staff who witnessed her deteriorating condition over a 2-day period and were gravely concerned. Another resident was reported as possibly having a seizure on May 17, 1995. Autumn Tucker was notified by staff at 7:00 a.m., of the possible seizure but no medical attention was sought.

5) Friendship Home, Inc., is not giving regularly scheduled baths for some its residents and several of the residents are reportedly dirty and bad-smelling for lack of adequate bathing.

6) Friendship Home, Inc., is not properly recording progress notes on many of its residents, and in the case of one resident, not at all. The proper recording of progress notes is essential to providing continuity of care, noting exceptions to normal care, and noting follow-up when problems are reported. In this case, large gaps in time occur between progress notes on residents. Progress notes for May, 1995, begin in the middle of May for most of the residents and at least 4 residents did not have progress notes recorded for the month of May, 1995 at all. Several notations appear reporting complaints of pain or seemingly extreme symptoms, but little or no follow-up is recorded. Several employees allege that the recording of progress notes was sporadic and, more often than not, depended on whether state supervision was occurring at the time.

7) Owners and staff of Friendship Home, Inc., are not properly monitoring many of the residents to prevent falls, and owners of Friendship Home, Inc., are neglectful in acquiring bedrails for residents that need them, despite being asked repeatedly by staff to do so.

8) Friendship Home, Inc., did not follow its American Diabetics Association (ADA) nutritional menu for meal planning despite its being posted in a common area and the Batchelder's claims that they followed an approved ADA menu cycle. Several former employees that have worked at Friendship Home, Inc., over a period spanning the last 2 years allege that the menu was almost never followed. Instead, owners of Friendship Home, Inc., purchased inexpensive, bulk frozen food for the residents that is high in sodium and fat. Food stores frequently ran out and one former employee reported that he had to shop for food supplies for the residents with his own money. It is alleged that the prevailing theme was to cut corners rather than provide balanced, adequate meals for the residents.

9) Friendship Home, Inc., is leaving some of its residents in bed for prolonged periods of time thereby causing the residents to develop bed sores. It is alleged that treatment for bed sores is sporadic and sometimes not at all.

10) Friendship Home, Inc., although aware that one of its residents was refusing meals for several days, did not notify a physician or the resident's family. This neglect is alleged to have occurred in May 1995. Another resident, who cannot feed herself, was reportedly left with plates of food in front of her, but she is frequently not provided assistance by staff to eat other than a few bites. This neglect is alleged to have occurred between March and May 1995.

11) A resident of Friendship Home, Inc., has been diagnosed as having a fractured pelvic bone. This resident screamed or complained of pain from at least May 16, 1995, yet went without medical attention until May 24, 1995. Untrained staff "diagnosed" this resident with herpetic lesions and were careful to show other staff the lesions and warn them to wear gloves while assisting this resident. One staff member informed the owners of Friendship Home, Inc., that this resident was in need of medical attention and attempted to consult a home health nurse who was caring for another resident. The staff member terminated her employment with Friendship Home, Inc., in frustration over the situation.

12) A resident of Friendship Home, Inc., was witnessed by several employees to have a dark discharge and was complaining of pain from at least early in May, 1995. As of July 2, 1995, no medical attention was sought for the resident despite several employees urging Autumn Tucker and Debi Batchelder to seek medical attention for the resident.

13) Friendship Home, Inc., failed to assist one of its residents in keeping a May 31, 1995, medical appointment and told the resident's family that the physician's office had called to cancel the appointment. When contacted the physician's office stated that the resident was a "no show" and that it had not canceled the appointment.

14) Friendship Home, Inc., has not had a licensed nurse on staff or on contract from September, 1994 until the end of May, 1995. Sometime during the period September, 1994, to May, 1995, Debi and Tracy Batchelder employed a family member they claimed was a licensed nurse who, in fact, was not a licensed nurse.

15) Friendship Home, Inc., failed to clean and dress wounds of one of its residents who was a double amputee and suffered from a skin condition due to renal kidney disease. This resident, who was subsequently relocated to another facility on June 6, 1995, was diagnosed as being pre-gangrenous as a result of improper care while at Friendship Home, Inc. This resident was also the resident to go without the prescription Lasix for a period of 5 days due to Friendship Home, Inc.'s failure to have the medication refilled. That resident died on June 12, 1995. The cause of death is unknown at this time.

16) Friendship Home, Inc., frequently does not adequately staff the facility during the shift of Autumn Tucker, a family member who cares for her own family upstairs from the main facility. During those times, the 16 residents are cared for by one person, who is also responsible for cooking and serving the meals. At least one resident fell while a staff member was in the facility alone and had called upstairs for assistance. Since no one appeared from upstairs to assist the staff person in a timely manner, the resident spent approximately one hour waiting to be helped up. This incident occurred between March and April of 1995.

17) Residents of Friendship Home, Inc., frequently sit in soiled and wet diapers for prolonged periods of time. This neglect was reported by employees that have worked for Friendship Home, Inc., over the last one year period.

18) A resident of Friendship Home, Inc., began to show signs of illness as early as June 4, 1995, and no later than June 6, 1995. The resident was weak, listless, congested, coughing, and would not eat. Two caregivers informed the nurse employed by the Batchelders and Autumn Tucker that the resident seemed extremely ill and needed to see a doctor immediately. The nurse remarked that he had approached Autumn Tucker about the resident but was told not to worry about it. The nurse also stated that the resident "just has a cold." The resident died on June 8, 1995. No medical attention was sought for the resident prior to her death. The resident's family was not contacted until after her death.

19) On June 14, 1994, a resident of Friendship Home, Inc., with Alzheimer's Disease walked out of the facility unsupervised and was seen by a neighbor falling to his knees by the side of the road. This resident was taken to the Providence Hospital emergency room and diagnosed with a hip fracture.

20) On June 30, 1995, a resident was taken to the Providence Hospital emergency room because of frequent and severe vomiting. The emergency room physician was able to stop the vomiting and advised Friendship Home, Inc., to follow-up with the resident's personal physician that week or **immediately for any new or increasing symptoms**. Later that evening the resident started vomiting again. A staff member apprised Stacy Miller, who was living upstairs with the Batchelders, that the resident was vomiting again and that he needed medical attention. No one from upstairs came down to attend to the resident until the staff member on duty called to report that the resident had died at 3:40 a.m. the following morning. The staff member was not trained in CPR, despite being left alone in the facility to care for the residents, nor was the staff person informed as to which residents were to be resuscitated if necessary.

Allegation No. 3: The staff and owners of Friendship Home, Inc., have unjustly or improperly used the property of another person or another person's resources for one's own profit or advantage.

1) Friendship Home, Inc. keeps all supplies for incontinence in a shared store, regardless of whether or not that resident is on the Medicaid waiver program. Additionally, test strips belonging to diabetic residents on the Medicaid waiver program are reportedly shared with residents not on the Medicaid waiver program. Additionally, it has been reported that one resident's Medicare supplies were shared with other residents sometime in the period between May 1992 and May 1993. When questioned by an

employee, Debi Batchelder reportedly replied that it was okay - that resident owed some supplies back to the Home.

2) Monthly charges for one resident were \$3,000 for board and care and \$500 for medications. This resident had prescriptions totaling less than \$100.00 per month, yet the owners of Friendship Home, Inc., informed the resident that she owes them more money.

3) Resident personal funds were mismanaged by Friendship Home, Inc. Specifically, one resident's funds were taken by the owners of Friendship Home, Inc., for "safekeeping" and were never given back to the resident, despite her having asked about them. This reportedly occurred between the period of October 1994 and May 1995.

4) A resident reportedly wrote a check for \$500.00 to the owners of Friendship Home, Inc., despite that fact she has guardians who pay all bills for services provided by Friendship Home, Inc. This occurred between the period November 1994 and February 1995.

5) On June 6, 1994, the owners of Friendship Home, Inc., secured a loan from a resident in the amount of \$4,500. Reportedly this loan was for the purchase of a van to be used by the owners of the Home to transport residents of the Home. Although there appears to be some credit for the loan on the resident's books, not all of the \$4,500 appears to have been credited, nor has any interest been paid for the loan.

6) Sometime during the period from March 10, 1995, and June 6, 1995, Terry January, an aide for Friendship Home, Inc., borrowed money from one of the residents and never repaid it.

7) One resident of Friendship Home, Inc., was covered by both the Medicaid Waiver program and the resident's family for the same 2-month period - April - May, 1995. Friendship Home, Inc., has stated that they will not reimburse the resident's family for the duplicative payments.

8) Friendship Home, Inc., has withheld mail from at least one resident for a period of approximately 2 years starting in 1993. That mail includes bills for goods and services that the resident has not had an opportunity to pay. When one of the resident's creditors was contacted, they stated that they had contacted Debi Batchelder several times regarding the overdue bill and she stated that she would check and get back in touch with the creditor. Ms. Batchelder never contacted the creditor and bill remains unpaid.

Allegation No. 4: The owners of Friendship Home, Inc., contrary to law, have operated their licensed foster home above the 5-person capacity for which they were licensed; have operated an unlicensed home in Anchorage; have operated an unlicensed home in Fairbanks; and have operated their licensed residential care facility above the 16 person capacity for which they are licensed.

1) Between the period of July 1992 and May 1993, Debi and Tracy Batchelder operated their foster home over the 5-person capacity for which they were licensed. Specifically, residents were increased in number gradually until the residents numbered 12 or 13. When a staff person inquired about the situation Debi Batchelder stated that they had applied for an adult residential care facility level II license with a 16-person capacity and that since they had applied, it was all right to take in more than 5 persons.

2) From the period February 1, 1995, to May 27, 1995, Debi Batchelder, Tracy Batchelder, and Autumn Tucker operated an unlicensed "holding house" for prospective residents of Friendship Home, Inc. This residence is located at 2601 West 69th Avenue.

3). Reportedly operating on a tip from an unidentified "friend" at a state government office, Debi and Tracy Batchelder of Friendship Home, Inc., relocated an extra 17th resident to the holding house when it was learned that an inspection was imminent. This transfer occurred sometime between February 1995 and May 1995. The Friendship House is only licensed for 16 residents.

4) On May 27, 1995, while residing at the holding house, 4 residents were evacuated because of a fire and were placed in the Bonanza Lodge, an Anchorage motel. Those residents were subsequently relocated to an unlicensed facility in Fairbanks, Alaska. When visited by a social worker from the Division of Family and Youth Services, the owners stated at first that they were merely renting an apartment to the residents. The owners next stated that they had been given a temporary license from the Division of Senior Services. The Division of Senior Services did not have the authority to issue temporary or permanent licenses at that time, and when contacted, representatives from the Division of Senior Services stated that at no time did it issue a license to Friendship Home, Inc., prior to the temporary license issued on July 1, 1995.

Allegation No. 5: The owners and staff of Friendship Home, Inc., have administered medications to residents without benefit of medical supervision; have adjusted dosage levels of potent antipsychotic drugs without benefit of medical supervision; have administered the medications of a resident to another for which the medication was not prescribed; and have endangered residents in doing so.

(1) Friendship Home, Inc., has administered insulin to its some of its diabetic patients without testing their blood sugar first. This allegation was widely reported by staff employed at Friendship Home, Inc., as early as January 1995 up to May 1995.

(2) Friendship Home, Inc., allowed untrained/uncertified staff to administer medications, including subcutaneously, to the residents. This administration of medications was not delegated by a licensed nurse.

(3) One resident of Friendship Home, Inc., was given the prescription drug Haldol to control "rambunctiousness." This prescription was for a different person residing at the Home. This administration of Haldol occurred between October 1994 and May 1995.

(4) Two residents of the holding house were given the prescription drug Haldol to control "rambunctiousness." Haldol is an extremely potent antipsychotic drug with single dose effects that last for two to three days. This prescription was for a different person who resides at Friendship Home, Inc. This administration of Haldol occurred between February and May of 1995.

(5) Some residents of Friendship Home, Inc., who have prescriptions for Haldol are being given the drug in varying doses to control rambunctiousness. Specifically, the owners of Friendship Home, Inc., are instructing staff to "jack up" the Haldol prescriptions and slowly withdraw the drug from the resident's system, causing that resident to sleep for long periods of time. This variation of doses administered is done without contacting the residents' physicians. This variation of dosage levels of Haldol was per Debi Batchelder's or Autumn Tucker's order. At least 2 residents of Friendship Home, Inc., were given varying dosage levels of Haldol and both of those residents exhibited extreme symptoms as a result.

(6) Friendship Home, Inc., administered an over-the-counter sleep medication to a resident without regard to the physical effect such medication may have on the resident. This is in lieu of getting a prescribed sleep medication refilled for the resident. When the resident's physician

was contacted it was learned that the particular over-the-counter sleep medication may have a particularly bad effect on the resident given his kidney disease. This administration of over-the-counter sleep medication reportedly occurred in June 1995.

Allegation No. 6: The owners of Friendship Home, Inc., have intentionally interfered with the Long Term Care Ombudsman and have retaliated against persons perceived to have cooperated with the Long Term Care Ombudsman's investigation.

1) Operating on speculation that a particular resident's complaints were the reason for the Ombudsman's investigation, the owners of Friendship Home, Inc., enforced new, stricter eating policies for that resident as a form of retaliation. Specifically, the resident's option to order food from restaurants and have staff assist him was withdrawn by Debi Batchelder, who ordered her staff to serve the resident nothing but food prepared for all Friendship Home, Inc., residents. This alleged retaliation occurred in late May and early June of 1995.

2) An employee of Friendship Home, Inc., was contacted by Robert Collins, a family member of the Batchelders, and told that her husband (also an employee) would be in a lot of trouble if either she or her husband were to cooperate with the Ombudsman's investigation.

3) Employees of Friendship Home, Inc., have been threatened and manipulated in an effort to stop them from cooperating with the Ombudsman's investigation. Specifically, several employees have been warned that the Batchelders have a friend high up in State Government and that if a complaint is made, the Batchelders would be informed of the complaint and the person would be fired.

4) Several former employees report feeling threatened by Autumn Tucker. Specifically, the employees reported that Ms. Tucker is candid in her threats against anyone who "crosses her" and to one listener, threatened to kill anyone who crosses her.

5) An employee of Friendship Home, Inc., was allegedly fired for cooperating with the Office of the Long Term Care Ombudsman. Specifically, the employee was sent a letter early in July 1995 accusing the employee of being rude to residents and for soliciting drugs from the Batchelder's daughters. The employee stated that he had not previously been counseled for being rude to residents, nor had he attempted to solicit

drugs from anyone. The employee stated that he was fired as a means of retaliation.

6) An employee of Friendship Home, Inc., was allegedly fired for cooperating with the Office of the Long Term Care Ombudsman. Specifically, in a letter dated July 3, 1995, to the employee from Tracy Batchelder, Mr. Batchelder stated that the employee was fired for "several incidents of inappropriate behavior" on her part. The employee stated that she had called Mr. Batchelder to request an employee meeting in order to address several problems and concerns that she and other employees had while working with Stacy Miller, the principal subject or co-subject of allegation No. 1, incident Nos. 2, 4, 5, 6, and 7. The employee stated that she was never counseled for inappropriate behavior prior to her termination. The employee further stated that she was warned not to discuss the residents with the nurse monitor from the Division of Senior Services, and that she was treated coldly by Debi Batchelder when it was perceived that she had cooperated with the nurse monitor.

7) An employee of Friendship Home, Inc., was threatened with firing after it was learned that she had been to the Office of the Long Term Care Ombudsman for purposes of an interview. Specifically, Debi Batchelder called the home of the employee several times to ascertain her whereabouts and was told by the employee's husband that she had gone to the Ombudsman's office. When the employee next reported for work, Ms. Batchelder informed the employee that her "friend" from the state had told her that the employee showed up for an interview with the Ombudsman. Ms. Batchelder went further to demand that the employee admit she lied during the interview or else leave her employment with Friendship Home, Inc. Rather than make any such admission, the employee left her employment with Friendship Home, Inc.

8) On July 12, 1995, Suzan Armstrong, Assistant Ombudsman, and Gail Green, Adult Protective Services, visited Friendship Home, Inc. to interview two residents on different matters. At one point the interview was interrupted by Debi Batchelder, who demanded to know if the interviewers had permission from one of the resident's guardians. Armstrong stated that the nature of the interview did not legally require permission from the guardian and Ms. Batchelder appeared to have been satisfied. Upon leaving the interview, Ms. Batchelder approached Armstrong and stated that the resident's guardian was holding on the telephone to speak with her. After briefly informing the guardian that a call back would be more appropriate, Armstrong returned to the Ombudsman's Office and called the guardian back. The guardian informed Armstrong that Ms. Batchelder had

told her the Ombudsman's Office was there that day to immediately remove the resident from the premises in conjunction with an attempted closure of the facility. Armstrong informed the guardian that Ms. Batchelder has not told the truth about the matter.

9) On Friday, August 11, 1995, Armstrong spoke with Autumn Tucker in order to ascertain when a specific resident could legally move from the facility pursuant to the 30-day notice requirement and to ask if it was Friendship Home, Inc.'s policy to assist its residents with relocation. Armstrong specifically stated that Friendship Home, Inc., would not, in any way, be required to assist the resident any more than its policy for all residents. On Monday, August 14, 1995, the resident was moved from the facility, a full day before planned or anticipated by the new facility. A representative from the new facility stated that the Batchelders told her that the Ombudsman's Office demanded the resident be moved a day early and also demanded that they assist the resident with the move. The elderly resident was quite distressed about the nature and timing of the move.

BACKGROUND

This investigation was initiated by a telephone complaint on May 19, 1995, and a letter complaint, dated May 23, 1995, from a separate source. The Ombudsman's Office contacted Adult Protective Services in the Division of Senior Services, the Division of Family and Youth Services, and the Medicaid Provider Fraud Unit of the Attorney General's Office. Given the fact that several entities were involved in the investigation and/or outcome, it was decided that the Ombudsman's Office would lead the investigation and conduct joint interviews with the Attorney General's Office.

Because of the gravity of the allegations against Friendship Home, Inc., possible emergency closure of the facility was discussed on June 19, 1995, with representatives from the Division of Family and Youth Services, Adult Protective Services, and the Attorney General's Office. However, after a search warrant was served on the facility and representatives from the Division of Family and Youth Services (the licensing authority prior to July 1, 1995) inspected the facility, it was decided that the facility could remain open with conditions. Primarily, Friendship Home, Inc., was required to hire a nurse to oversee the care of the residents and dispense medications. Representatives from the Division of Family and Youth Services and Adult Protective Services were to daily monitor Friendship Home, Inc., to ensure strict compliance with the conditions and verify resident safety.

METHODOLOGY

During the course of the investigation, 24 people were interviewed consisting of current employees of the Home, past employees, residents, family members and guardians of the residents, and staff of other entities having some contact with Friendship Home, Inc. Additionally, voluminous amounts of medical and financial information was obtained either by consent or search warrant. The findings of this investigation are a direct result of the interviews conducted and the information reviewed during the course of this investigation.

FINDINGS¹

Allegation No. 1: The staff and owners of Friendship Home, Inc., have willfully, intentionally, or recklessly inflicted physical pain, injury, or mental distress to residents of the facility.

Substantiated.

As previously discussed, nine specific incidents were reported regarding the willful, intentional, or reckless infliction of abuse of the residents of the facility. Of those nine, eight were substantiated by eyewitness reports. Additionally, Stacy Miller, one of the subjects of allegation No. 1, incident No. 5, admitted to squirting the resident with a water bottle. The only incident not eyewitnessed is allegation No. 1, incident No. 1, involving Allen Hart handling a female resident roughly when she tried to leave the facility. The sole reporter of the incident is the resident. This resident, while seemingly lucid and able to communicate, is very distraught about her living situation and has voiced many complaints about staff in the past. While there is no dispute that the resident did try to leave the facility and that Allen Hart brought her back inside, the degree and type of persuasion used by Mr. Hart is at dispute. Therefore, without any witnesses, allegation No. 1, incident No. 1 cannot be substantiated.

¹ During the course of this investigation, 56 total incidents were alleged regarding Friendship Home, Inc. For purposes of simplicity, those 56 allegations were divided into 6 general allegations with specific incidents enumerated following each allegation. Since each of the six allegations are tied with a specific set of incidents in numerical order, they will be referred to throughout the section on Findings as follows: "Allegation No. 1, incident No. 2," "allegation No. 4, incident No. 2" and so on.

The narrative section in Allegation No. 1, involving complaints of small meals portions, either not offering or refusing to provide snacks, not shifting bed- and chair-fast persons, rigid bed and wake-up times, residents crying out in pain, and punishment of residents by ignoring them have all been corroborated by a large number of persons involved with Friendship Home, Inc.

Allegation No. 2: The staff and owners of Friendship Home, Inc., have intentionally failed to provide essential care or services necessary to maintain the physical and mental health of the very vulnerable and frail older Alaskans who reside therein.

Substantiated

All but one incident enumerated in this allegation were either substantiated by several reports of such, factually checked by the Ombudsman's Office, or both. For example, allegation No. 2, incident No. 1, alleging that Friendship Home, Inc., went five days before refilling a medication for one of its residents, was verified directly with the pharmacy that filled the prescription.

Allegation No. 2, incident No. 8, alleging that the posted A D A cycle menu was not followed was reported by several employees and verified by directly ascertaining what was being cooked and served and inventorying the food stores.

Allegation No. 2, incident No. 13, alleging that Friendship Home, Inc., failed to assist one of its residents in keeping a medical appointment and lied to the resident's family about why the appointment was missed was directly verified by contacting the physician's office and ascertaining that the resident was a "no show."

Allegation No. 2, incident No. 14, was verified by checking a list of all employees of Friendship Home, Inc., and ascertaining with the Alaska State Board of Nursing which, if any, of the employees were licensed to practice nursing in the State of Alaska. Additionally, the Alaska Native Medical Center was contacted because the Batchelders claimed their family member worked as a nurse there in the past. Alaska Native Medical Center had no such person on their list of former employees.

Allegation No. 2, incident No. 15, alleging that Friendship Home, Inc., failed to clean and dress wounds of one of its residents was verified by direct

observation and recording of the resident's condition by the Ombudsman's Office, interviews with several persons involved in the resident's care, and taking testimony as to his condition up to, and immediately after, leaving Friendship Home, Inc.

Allegation No. 2, incident No. 19, involving a resident of Friendship Home, Inc., walking out of the home and breaking his hip was verified by checking with the Providence Hospital emergency room physician and speaking with Autumn Tucker about the incident the same day it happened.

Allegation No. 2, incident No. 20, involving the death of a resident of Friendship Home, Inc., after exhibiting symptoms that necessitated further medical attention, was verified by obtaining emergency room records from Providence Hospital and interviewing a Friendship Home staff person who was on duty the night of the incident, a staff person that was off duty but present during the incident, and a family member present at the emergency room.

Allegation No. 3: The staff and owners of Friendship Home, Inc., have unjustly or improperly used the property of another person or another person's resources for one's own profit or advantage.

Substantiated

Although the Batchelders first began to take Medicaid waivers for their residents no earlier than February of 1995, at least one account of sharing Medicare supplies among residents was reported prior to 1995, and several accounts of sharing Medicaid Waiver supplies were reported. One resident's Medicare supplies were shared among the residents because Ms. Batchelder felt the resident "owed" the home. During a May 1995 unannounced visit to the home, the Ombudsman's Office verified that the only test strips at the facility belonged to one Medicaid Waiver resident even though there were at least three residents being given insulin for diabetes at that time. Supplies for incontinence were unmarked and housed in one area of the facility, and numerous employees reported that diapers are shared among residents, regardless of the type of payment for their care.

Allegation No. 3, incident No. 2 cannot be substantiated. Initially, it was reported that the resident was being charged a total of \$3500 a month - \$3000 a month for care and \$500 a month for prescriptions, despite the fact that the dollar sum of her prescriptions was approximately \$100 per month.

However, it was later learned that the resident was only being charged \$3000 a month for her care and approximately \$100 a month for her prescriptions.

Allegation No. 3, incident No. 4 cannot be substantiated. Although the resident's family reported that the resident stated she had given the Batchelder's \$500 with a personal check, despite the fact that all of her bills are paid by the family, a check of the resident's bank records reveal no such check made out to the Batchelder's or Friendship Home, Inc. Several checks for cash appear on the statements, but it cannot be ascertained that any of the money was given to the Batchelders.

Allegation No. 3, incident No. 5 was verified by Friendship Home, Inc.'s own ledger. A loan in the amount of \$4500 was made by the resident to the Batchelders. The resident stated that the loan was so the Batchelders could purchase a van in order to transport residents. Further, although several credits to the resident's account appear in the ledger, the entire amount is not recorded as having been paid off, and no interest appears to have been paid to the resident.

Allegation No. 3, incident No. 8 involves several packets of unopened mail addressed to a resident being confiscated from the Batchelder's personal residence. The unopened mail included several bills for goods and services. The Ombudsman's Office called one of the creditors on July 5, 1995. The creditor reported that they had spoken with Debi Batchelder three times to ascertain when the bill would be paid. This bill, for \$37.70, is for prescription drugs and dates back to late 1993. On June 21, 1994, Ms. Batchelder stated that she would bring a check to pay for the prescriptions. Ms. Batchelder neither appeared with a check or called the pharmacy about the overdue amount. The account remains overdue but has not been sent to a collection agency because of its amount. The resident was not given this bill, nor apprised of the overdue amount.

Although not specific allegations in this Report of Investigation, the Ombudsman's Office learned that from approximately May 1992 to May 1993, Debi and Tracy Batchelder paid a full time staff member in cash, with no funds taken out for income tax or employment security tax. Allegedly, Tracy Batchelder informed the staff member that she did not have to bother reporting her income to the IRS and that they were not going to report the income, either. Additionally, one full-time staff member and at least 2 part-time staff persons employed at the "holding house," were paid under the table and in cash for their services.

Allegation No. 4: The owners of Friendship Home, Inc., contrary to law, have operated their licensed foster home above the 5-person capacity for which they were licensed; have operated an unlicensed home in Anchorage; have operated an unlicensed home in Fairbanks; and have operated their licensed residential care facility above the 16 person capacity for which they are licensed.

Substantiated.

Allegation No. 4, incident No. 1, involving the Batchelders operating their 5-person foster home over-capacity was reported by former employees and verified by checking the Division of Family and Youth Services (DFYS) complaint file on Friendship Home, Inc. Although DFYS investigated a complaint about the Batchelders being over-capacity and found that, in fact, the Batchelders were operating over-capacity, it was reported to this Office that the Batchelders would hide residents and resident files when DFYS workers would visit for follow-up.

Allegation No. 4, incident No. 2, the operation of a "holding house" for prospective residents of Friendship Home, Inc., was widely reported by former and current employees, as well as family members who housed their loved ones at the holding house in hopes of getting a bed at the Friendship Home, Inc. Although Debi and Tracy Batchelder maintain that the other home was operated by their daughter, Autumn Tucker, family members and staff alike report that Debi Batchelder represented the home as part of the Friendship Home, Inc. Employees working at the holding house were paid, in cash, by Tracy Batchelder, Debi Batchelder, or Autumn Tucker. Additionally, supplies were purchased for both homes at the same time and by the Batchelders. Residents were shuffled between the two homes - either by moving a resident of the holding house to the larger house when a bed became available, or by moving persons in excess of the #16 capacity to the holding house in order to avoid being caught over-capacity.

Also indicative of the relationship between the holding house and Friendship Home, Inc. is the fact that Debi and Tracy Batchelder transported 3 holding house residents to Fairbanks after a fire occurred in the holding house on May 27, 1995. This fire was verified directly by contacting the Anchorage Fire Department and receiving a fire incident report. Since housing 3 or more residents in an unlicensed facility constitutes a violation of the statutes and regulations governing adult residential care facilities, a representative from the Division of Family and Youth Services (DFYS) in Fairbanks was contacted by the Ombudsman's Office and requested to make an

unannounced visit on the Batchelders. DFYS verified that the Batchelders had 3 persons living with them in their Fairbanks home. Debbie Batchelder offered to send one of the residents home to Anchorage because a bed had recently become available in their 16-bed facility in Anchorage.

Allegation No. 4, incident No. 3, involving a resident being moved between the Friendship Home and the holding house and previously discussed above, was reported by several employees and former employees. What is particularly striking is that, apparently, this resident was first placed in the 16-bed home in Anchorage, next moved to the smaller "holding house" when an inspection was imminent, next moved to a Fairbanks home after the fire in Anchorage occurred, and subsequently flown back to Anchorage after DFYS paid its surprise visit to the Fairbanks home. It is no wonder then that this resident, who has been described as having a significant degree of dementia, was wandering around the neighborhood and fell, breaking his hip (See Allegation No. 2, incident No. 17). The Batchelders moved this resident three times in the space of 3 months - between February and May of 1995, and each time the resident started to wander, he was walking in the direction of the holding house.

Allegation No. 4, incident No. 4 was verified by interviews with employees and family members of the holding house residents and by obtaining a fire incident report from the Anchorage Fire Department. Also obtained for purposes of substantiating this incident is a report by Deanna Burrows, DFYS Social Worker - Fairbanks.

Allegation No. 5: The owners and staff of Friendship Home, Inc., have administered medications to residents without benefit of medical supervision; have adjusted dosage levels of potent antipsychotic drugs without benefit of medical supervision; have administered the medications of a resident to another for which the medication was not prescribed; and have endangered residents in so doing.

Substantiated

All separate incidents of abuse of prescription drugs were widely reported by staff whose work experience with Friendship Home, Inc. dates as far back as three years. Additionally, the Ombudsman's Office verified that only 1 resident had diabetes test strips during a May 24, 1995, surprise visit to the Home. During a search of the Batchelder's private quarters, a prescription

bottle of Haldol was found that belonged to a resident that had died several months earlier. It is noteworthy that the bottle of Haldol was found in the kitchen with other medicines and vitamins used regularly and that it was reported that this resident's Haldol was used by the Batchelders on other residents not prescribed Haldol themselves.

Several persons reported that untrained, unlicensed staff were administering prescription drugs to residents, including insulin shots. During the interview process, one staff member was asked if she had given insulin shots. At first this staff member stated that she only assisted the residents in giving themselves insulin shots. When confronted with the information that several people had reported differently, the staff member admitted that, in fact, she had not merely assisted with insulin shots, but she had administered them without the resident participating in the process. It was reported that the Batchelders asked many staff persons to administer medications, as well as to learn how to administer insulin shots. Several certified nurses aids refused to do so because they were untrained by licensed medical staff and the duties had not been delegated by a licensed nurse. One untrained, unlicensed employee stated that she was taught how to give insulin shots by Autumn Tucker who gave her an orange to practice on for a few days. Ms. Tucker is neither a licensed nurse or a certified nurse's aid.

Allegation No. 6: The owners of Friendship Home, Inc., have intentionally interfered with the Office of the Long Term Care Ombudsman and have retaliated against persons perceived to have cooperated with the Long Term Care Ombudsman's investigation.

Substantiated

Allegation No. 6, incident Nos. 5 and 6, involve two employees being fired from Friendship Home, Inc. Neither of the employees were apprised that their job performance was under question. Both employees were perceived by the Batchelders to be cooperating with the Ombudsman's investigation, and both were intimidated because of the perceived participation. Nonetheless, although the termination of Allen Hart for retaliatory reasons is likely, it cannot be substantiated. Mr. Hart is the principal subject of allegation No. 1, incident No. 5, involving abuse of a resident, that allegation is substantiated in this Report, and this type of behavior was cited by the Batchelders as one of the reasons for firing Mr. Hart.

Allegation No. 6, incident No. 7, involves another employee who was told by Debi Batchelder that either she had to admit that she had lied to the Ombudsman's office or leave her position with Friendship Home, Inc., immediately. She left her job immediately. The employee regained her job with Friendship Home, Inc., shortly thereafter.

Allegation No. 6, incident No. 8, involves a visit to Friendship Home, Inc., on July 12, 1995, by Gail Green of Adult Protective Services and Suzan Armstrong, the Assistant Ombudsman. Reports of both employees is on file with the Division of Senior Services.

Allegation No. 6, incident No. 9, involves a resident being moved from Friendship Home, Inc., by Autumn Tucker and Tucker's misrepresentations about the move to the management of the new facility. A report regarding this incident is on file with the Ombudsman's Office, as well as a report from a representative of the new facility where the resident was relocated.

CONCLUSION:

As stated above, all six allegations against Friendship Home, Inc. have been substantiated. During the course of this investigation it was widely reported that the owners of Friendship Home, Inc., Debi and Tracy Batchelder, had very little regard for the frail, elderly residents in their care, and instead, were very concerned with the financial state of the business. Time and time again, employees and former employees commented that money was far more important to the Batchelders than the residents' health, safety, welfare, and rights. This became painfully clear during the course of this investigation. What cannot be amply stated in this report is the sadness and frustration expressed by former employees and residents at the living conditions present at Friendship Home, Inc. It appears that the residents of Friendship Home, Inc., were provided only minimal tools for existence; food enough to survive, medical attention only when withholding of such might clearly result in catastrophe, and a place to sit in idleness.

When residents or staff would complain about the conditions, retribution was swiftly handed out. Residents were ignored and rebellious staff fired. This exacerbated the problems stemming from high staff turnover. Lists of employees dating back almost 3 years were obtained from Friendship Home, Inc., and showed that at least 58 employees had worked at the home during that period. A large number of these employees were hired and fired or quit within a 6-8 week period. Several of the residents reported that they would no sooner get comfortable with the care given to them by new

employees when these employees were suddenly gone. Particularly haunting, also, is the countless reports of residents repeated expressions of gratitude for tasteful food served in ample portions by the few staff that cared to do so or gratitude for the "special" attention given them by lifting them from the toilet before the usual half or full-hour time frame elapsed.

As a final part of this section, some of the allegations have been integrated in a narrative fashion to try to illustrate the level of neglect and abuse that even one resident had to live through at Friendship Home, Inc. One male resident, who was diagnosed with Alzheimer's Disease, was repeatedly subjected to cruel and malicious teasing. This teasing was in the form of coming up behind him and grabbing him by the trunk and lifting him up, squirting him in the face for long periods of time, or verbally poking fun at his limited mental faculties. It was also reported that staff frequently became impatient with this resident when he would wander around the home or hover. This is the same resident that was reported to have been abused by a staff member who was witnessed cursing at him and slapping his hand. It is impossible to imagine what this particular resident perceived about his life. It appears that he was quite verbal in his protestations about the teasing, and, at times, would become quite angry or sad when the persons charged with his care would not listen to him when he said "no." Sadly enough, this is the same resident who began vomiting on June 30, 1995, and without proper medical attention, died on July 1, 1995.

SYSTEMIC ISSUES

During the course of this investigation, several systemic issues were identified. These issues will be addressed by separate report in the near future.

RECOMMENDATIONS

Before the conclusion of this investigation, the Batchelders took steps to divest themselves of Friendship Home, Inc., and it is presently being operated by a separate entity. Not surprisingly, it has been reported that the condition of Friendship Home, Inc., and its residents immediately after the Batchelders left the facility were deplorable. The residents were hungry, dirty, and grateful for any amount of attention and activity that was directed towards them. The beds, bedding, floor, furnishings, and appliances were also dirty. Had the Batchelders chosen to retain their positions as owners/managers of Friendship Home, Inc., the Office of the Long Term

Care Ombudsman would have recommended that the Batchelders' assisted living license be immediately revoked pursuant to AS 47.33.550. Since the Batchelders and Autumn Tucker no longer have an assisted living license, the Office of the Long Term Care Ombudsman recommends the following:

1. Neither Debi Batchelder, Tracy Batchelder, or Autumn Tucker be allowed to hold a license for assisted living in Alaska at any time in the future .
2. The U.S. Postal Inspector of the United States investigate Debi and Tracy Batchelder for obstruction of mails (18 U.S.C. 1701), obstruction of correspondence (18 U.S.C. 1702), and delay or destruction of mail (18 U.S.C. 1703).
3. The Alaska State Department of Law, Attorney General's Office, Medicaid Provider Fraud Unit continue its investigation of the Batchelders and Autumn Tucker for the numerous criminal statutes that may have been violated including several violations of AS 44.21.237 - Interference with the Long Term Care Ombudsman.

EXIT INTERVIEWS

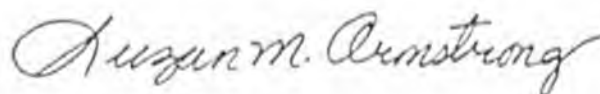
Interviews with Allen Hart and Stacy Miller were conducted on June 12, 1995, and July 19, 1995, respectively. Additionally, a follow-up telephone interview was conducted with Allen Hart on September 5, 1995. Both Miller and Hart were informed as to the allegations against them and given an opportunity to respond.

A copy of this report was submitted to Debi and Tracy Batchelder and Autumn Tucker on November 30, 1995. The Batchelders and Autumn Tucker were given 10 working days to respond to the Report of Investigation.

DISTRIBUTION

Copies of this report are submitted to the Debi Batchelder, Tracy Batchelder, Autumn Tucker, Division of Senior Services; Division of Family and Youth Services; the Department of Law, Medicaid Provider Fraud Unit; the U.S. Postal Service, Office of the Inspector General; Anchorage Postmaster; and to the complainants.

Respectfully submitted,



Suzan M. Armstrong
Assistant Long Term Care Ombudsman²

² Mr. William O Connor, the former Long Term Care Ombudsman, oversaw the drafting of this report of investigation and concurred with the findings

January 29, 1996

"Send Me to Juneau"
Attention: Matt Zencey
Anchorage Daily News
1001 Northway Drive
Anchorage, AK 99514

Dear Mr. Zencey:

My name is Bobbie Watts and my reason for needing to go to Juneau is to contact as many lawmakers as possible regarding an issue of greatest importance: Our senior citizens need laws on our state books punishing those who abuse, neglect, or exploit them. Also, mandatory fingerprinting for all employees of assisted living facilities and nursing home facilities is imperative.

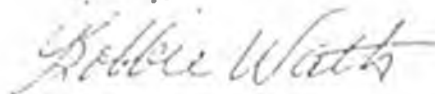
I placed my father-in-law, Paul Watts, in Friendship Home, Inc., an assisted living facility, on March 10, 1995. In May 1995 I sent a complaint to the Office of the Long Term Care Ombudsman because I realized Paul was being abused and neglected by those we paid to care for him. Many other elderly residents of Friendship Home, Inc, were also being abused and neglected.

The owners/managers of Friendship Home, Inc., Debi and Tracy Batchelder, and other staff had committed horrendous abuses towards the residents. The Batchelders left the state most likely never to be charged for what they did. There are no laws for abuse, neglect, or exploitation of our senior citizens. Mr. Zencey, our parents, grandparents, other relatives, and you or I may need to be placed in a facility one day, and it would be a little reassuring to know that our caretaker is not a criminal and that Alaska laws protect us when they are.

Statistics show that by the year 2010, 14 years from now, our senior population will triple. We have the fastest growing, per-capita, senior population in the nation, according to the Alaska Commission on Aging. The fast-growing senior population in Alaska will require more long-term care facilities and homes that are staffed with trained, compassionate people to care for them. I have come forward with my story to cry out to our legislature to create state laws that will prevent what happened at Friendship Home, Inc., from ever happening to one elder Alaskan again.

My goal is to get a bill passed this session that makes abuse, neglect, and exploitation of the elderly a crime. I also hope to support legislation that would require fingerprint background checks for all employees of nursing facilities and assisted living homes. In the past, the legislature has examined the need for abuse, neglect, and exploitation laws. For reasons unknown to me, this endeavor was discarded. I would like to bring to Juneau my experience as a concerned family member and citizen in order to enlist legislative support for crucial protections for the elderly. I'll never know if I can't try.

Sincerely,



Bobbie Watts
1527 Columbine
Anchorage, AK 99508 ph 277-1696

Ms. Maureen A O'Neill

3550 Alamosa Dr

Anchorage AK 99502

Phone: 248-4450

Affiliation: Reg. Voter: Y Date POM Sent: 03/04/96 Consituent: N

Bill Number: SB 211 Response: Supports Distribution: 09

Subject:

Message: I ENCOURAGE YOU TO VOTE FOR SB 211 WHICH ADDRESSES ISSUES OF ABUSE AND NEGLECT OF VULNERABLE ALASKANS WHO ARE RESIDENTS OF CARE FACILITIES IN ALASKA. THANK YOU.

NOTE: Ms. O'Neill is a registered Republican in District 12.

Bill offers protection for vulnerable adults

By JEANNE ENRIGHT
Alaska Star Reporter

A helpless elderly woman screams in pain for eight days before getting medical attention at an assisted living home. At the same home, another elderly woman develops a cough, becomes weak, listless and congested, and loses her appetite. Caregivers become concerned and want to take her to a doctor, but the manager of the home forbids it. The resident dies two days later.

Suzanne Armstrong, acting Long-Term Care Ombudsman for the state, said these are two very real examples of neglect that recently occurred in Alaska.

On Thursday, a public hearing will be held in the Senate State Affairs Committee for a bill that would make it a criminal offense to commit such acts.

Senate Bill 211, which is sponsored by Sen. Johnny Ellis (D-Anchorage), is referred to as the "Vulnerable Adults' Bill."

The bill, which also covers crimes of sexual abuse and desertion of vulnerable adults, could be a first step in putting legislation on the books for people and issues not covered by current laws.

Ellis said two incidents prompted him to sponsor a bill protecting older or vulnerable people.

First he watched a spot on ABC's popular television news show, "20/20," which showed repeated cases of abuse and neglect in assisted living homes.

But it was Bobbie Watts' story of her neglected father-in-law that proved to be the last straw for Ellis.

Watts had placed her father-in-law in the Friendship Home in Anchorage. According to a Long-Term Care Ombudsman's report, the home had been negligent in his care, as well as that of other patients.

"I want to make it very clear that Alaska has cleaner, better, more modern facilities for nursing care and Pioneers' Homes than many other places," Ellis said.

"But you know, budget cutbacks have precipitated changes in Pro-

(Please see ELDERLY, Page 2)

ELDERLY: Abuse not covered under laws

(Continued from Page 1)
neers' Homes over the last three to four years that a number of people think are moving in the wrong direction.

"We need to make sure that (experts) look at that and say, 'Are we compromising the care of these senior citizens for some ulterior motive or for some reason that's ... not justifiable?'" he said.

Armstrong said that abuse and neglect of the elderly is not all that uncommon — even in Alaska.

"We found, time and time again, that frail elderly residents were not given adequate medical attention, nutrition and personal care. SB211 would address this portion of our investigations," Armstrong said.

However, Armstrong said, neither this bill nor current laws protect seniors from physical abuse such as slapping, mental abuse such as teasing or financial exploitation.

"The numerous findings of abuse, both physical and mental, that we found at Friendship Home Inc. would not be covered under SB211, nor are they covered under current assault laws," Armstrong said.

"What I'm hearing (from a lot of people) is that criminal laws cover abuse, and they do not. If they did, the Batchelders (former owners of the Friendship Home), would be here in Alaska answering for crimes. They're not. They're sitting somewhere in Maine," Armstrong said.

"This may be for another day,

but at some point, I believe it should be addressed. Criminal laws on assault often don't address cases of abuse."

What Armstrong said is true, said Assistant District Attorney Peter Gamache. Certain types of abuse do not fall under any current statutes.

Assault generally refers to using bodily force that causes someone physical pain. Harassment deals with touching someone in an "offensive" way. Reckless endangerment deals with recklessly placing another at risk of serious bodily harm. Theft statutes protect the elderly from having their property stolen.

But none of these statutes may apply to vulnerable adults, because these people, by definition, cannot defend themselves.

Gamache said a vulnerable adult is defined as a person 18 years old or older who because of physical or mental impairment is unable to meet their own needs or seek help without assistance.

Gamache thinks these people need more legal protection because they can't call for help if they are being abused or neglected. They can't name their perpetrators in a courtroom.

Lynn Kenney, legislative aide to Ellis, said that the senator wanted to address these issues, but was advised by the Department of Law that such a bill would be harder to get through.

"We worked with the Depart-

ment of Law; in fact, we had drafted a (version) of the bill that went further, but we were advised (not to pursue mental abuse) because it is difficult to prove in court," she said.

Watts, who just returned from Juneau where she lobbied for the bill, said that some lawmakers said they were opposed to SB211.

When Kenney was asked who opposes the bill and why, she said, "I don't know. I've been baffled by it myself."

Kenney said that she doesn't know how much the bill, if passed, would cost taxpayers. She said she requested fiscal notes from various administrative offices, but hasn't received them yet.

Ellis has another piece of legislation in the works to help protect the elderly.

Senate Bill 296 would mandate fingerprinting and background checks for people seeking employment in nursing homes or assisted living facilities.

The bill also calls for prohibiting the hiring or retention of certain nursing home and assisted living employees convicted of specified offenses, such as drug use and sexual abuse.

Kenney said concerned citizens can go to the Legislative Information Office in Anchorage to testify, via telephone, at a Senate State Affairs hearing on SB211. The hearing is set to begin at 3:30 p.m., but Kenney advises people to get to the office by 3:15 p.m.

FORUM / LETTERS

'I went to Juneau': Diary of a citizen lobbyist

By **BOBBIE WATTS**
Part 2 of 2

Tuesday, Feb. 20

11:30 a.m. I meet Matt Zecey of the Daily News, and we head to the State Capitol so he can show me around. We turn a corner and he sees Gov. Knowles going into a coffee shop. We go in and meet the governor and his press secretary, Hob King. Both are very polite, and Gov. Knowles remarks that he hopes we will have a chance to meet about my issues. Wow — what a start!

I spend the rest of the day papering the Capitol building with my background information, meeting Lynn Kenney, who works for Sen. Johnny Ellis (D-Anchorage), and practicing my presentation on Rep. Ramona Barnes (R-Anchorage). I'm afraid that I didn't present very well my first time out. Hopefully, with practice, I will become more confident about speaking to these very important persons about an equally important issue.

Wednesday, Feb. 21

I finish delivering background information and check in with Lynn Kenney. Sen. Ellis has introduced Senate Bill 211, which makes it a criminal offense to neglect a vulnerable adult.

Finally someone in the Legislature recognizes the need for such legislation.

Lynn mentions that the bill is opposed by the Division of Senior Services. I am honestly puzzled at why the division, which is supposed to protect the elderly, is opposing this bill.

3 p.m. Sen. Lyda Green (R-Wallace) cannot keep her appointment with me. So I meet with Mike (Sen. Green's staffer). He offers to do research from other states regarding abuse and neglect.

3:30 p.m. I meet with Sen. Johnny Ellis. Sen. Ellis is concerned that his bill will not be considered because of the Division of Senior Services is opposed to it. He states that he would be more comfortable if someone from the majority were to cosponsor it. He offers to remove his name as sponsor if it means the bill would progress.

Sen. Ellis states that this is a people issue and not a political issue and that this is not a political grandstand on his part. I find him to be very honorable and desirous of seeing a bill that passes to protect the elderly no matter who sponsors it.

4:30 p.m. I arrive at the office of Rep. Cynthia Toohey (R-Anchorage) where Hen Brown, her staffer, greets me. Hen immediately states that he has spoken with Connie Sipe, Director of Senior Services, and relays the opinion that there is no need for a specific law to punish people who abuse and neglect the elderly. He also states that Alaska has laws that adequately deal with the problem.

I feel shoved into a corner. I try my best to debate with Hen and Rep. Toohey, but am truly concerned at how misinformed they are. I wouldn't be



EDITOR'S NOTE: Bobbie Watts is the winner of the Daily News "Send Me to Juneau" contest. This is her report on her experience.

here in Juneau if Alaska had adequate laws to prosecute persons who abuse and neglect. This is a fact that somehow escapes Rep. Toohey and her staff.

Rep. Toohey closes our meeting by telling me to "get a life" and "get over the gull!" She also suggests that I enroll at the University of Alaska nursing program and become a nurse. I am shocked and upset at so cavalier an attitude toward my mission and my experience.

3 p.m. I head to House Speaker Gail Phillips' (R-Homer) office. I meet staffer Judy Jordan, who is very kind. I am brought into Gail Phillips' inner office. I find Rep. Phillips very attentive and concerned. As it happens, her own parents are in a long term care home in Alaska. I hope she will take a close look at SB 211 and agree it needs to be passed this session.

As I am leaving the Capitol Building, I run into Lynn Kenney, Sen. Ellis' aide. Lynn asks if I would like to attend a birthday party in honor of Pat Pourchot, legislative liaison for Gov. Knowles. I agree and later meet some very wonderful and concerned people — Patrick Lounsbury of Rep. Brian Porter's staff, Donna, assistant to Pat Pourchot, Pat Pourchot, himself, and lobbyist Fate Putman. This was quite a group! After a man named Jim Ayers leaves our company, I turn to Lynn and ask, "Was that an important person?" Everyone within hearing distance giggles, and I am informed that Mr. Ayers is the governor's right hand man! Innocence is a fresh and somewhat comical idea in Juneau this time of year.

Thursday, Feb. 22

Back to back appointments. Very busy day ahead.

9:30 a.m. Sen. Robin Taylor (R-Wrangell). Fifteen minutes of chatting about families in general. He is quite pleasant. We are interrupted, and we reschedule for 1 p.m.

11 a.m. Sen. President Drue Pearce (R-Anchorage) is too busy to meet with me right away so I meet with Laura Williams, her staffer. Laura has done research and cannot find any laws regarding abuse or neglect of the elderly. She is quite concerned for elder Alaskans. She gives me some tips, and she reassures me that I am doing the right thing and to keep going. I get to chat with Sen. Pearce on my way out of her office. She is very pleasant.

1:30 p.m. What a nightmare! This appointment: Is with Sen. Randy Phillips (R-Eagle River), and I am dismayed as soon as his staffer Jerry starts quoting Connie Sipe, the Senior Services official who opposes SB 211.

Here we go again. Opposing SB 211 is such an amazing stance to me. Sen. Phillips' bigger issue seems to be that I must be a constituent of Sen. Ellis. He implies that only a constituent of the bill's sponsor would be here today to argue for it! As a matter of fact, I mention that I am a constituent of Sen. Phillips but what difference does it make? Sen. Phillips then looks at my current address and continues to argue whose constituent I am (I own a home in Eagle River and still vote there, even though I'm temporarily living in East Anchorage because I need to be near my doctors for medical treatment.) If your loved one is a victim of abuse and neglect, what is the difference whose constituent is whose?

2:30 p.m. Appointment with Sen. Bert Sharp (R-Fairbanks) is canceled. I am disappointed because Sen. Sharp is the committee chairman who will decide whether SB 211 will get its first hearing. Since there is no way to reschedule, I will need to get in touch with his office when I return to Anchorage. I feel that

After a man named Jim Ayers leaves our company, I turn to Lynn and ask, "Was that an important person?" Everyone within hearing distance giggles, and I am informed that Mr. Ayers is the governor's right-hand man!

when he finally hears what a compelling need we have for such legislation, he will schedule a committee hearing as soon as possible.

3 p.m. Back to Sen. Robin Taylor's office. He tells me I am doing a great job. Thank you! Hut will he support SB 211?

3:15 p.m. I run into Lynn Kenney and invites me to the office of Sen. Georgianna Lincoln (R-Interior), to help celebrate the senator's birthday. Sen. Lincoln says she hopes I have time to return to her office and talk about my experience. I also meet Rep. Tom Brice (D-Fairbanks).

3:45 p.m. I meet with Pat Pourchot, legislative liaison for Gov. Knowles. He is understanding and kind. I believe he is open to SB 211. Good!

4:15 p.m. I meet with Laurie Otto, deputy attorney general, Criminal Division. She mentions a case of gross abuse and neglect that happened in the summer of 1995 in Anchorage. She states that if SB 211 had been in place, the Department of Law could have prosecuted the case more fully. Instead, the perpetrator received a suspended sentence. She likes SB 211 and states that she will return a telephone call placed to her from Connie Sipe, the bill's chief opponent. Thanks, Laurie!

I am determined to keep my mission alive! Protect Alaskan elders.

5 p.m. Time to meet Gov. Knowles. This meeting makes me the most nervous. I meet Lynn Kenney outside the governor's office. Lynn has been so supportive. We are greeted by Bruce Scandling, special assistant to the governor. We go into the inner office where I shake hands with Gov. Knowles. Gov. Knowles tells me that my issue is very important and that he is pleased with my accomplishments.

Bruce mentions a discussion he had with Connie Sipe. He surprises me by asking about my desire to volunteer for the Long Term Care Ombudsman (I wanted to volunteer, but some people apparently think I have a conflict of interest because of my work to expose the abuses at Friendship Home).

Bruce asks what I expected to accomplish volunteering for the program. Did I want to go into nursing homes and investigate? I answer that it was not my goal to investigate — I would have been happy to volunteer to answer sweet telephones and do filing all day. The governor cannot understand why such a small program

was unable to accept my help.

This prompts me to mention that the Long Term Care Ombudsman's Office is located in the very agency it often has to investigate (the Division of Senior Services, which manages Pioneer Homes and licenses assisted living homes). The Long Term Care Ombudsman Investigated Friendship Home Inc., where my father-in-law had lived, and had identified a need for criminal abuse laws early on. Yet, the Division of Senior Services is opposing SB 211. How does this affect the position of Long Term Care Ombudsman? How can the Long Term Care Ombudsman Investigate Pioneer Homes when it is in the same division? The governor looks quite puzzled and says he will investigate that concern.

The governor says that he had read the December article in the Anchorage Daily News about the Friendship Home case and that he was appalled at the gross neglect and abuse that had taken place there. The governor says he will take a close look at SB 211. He says he does not know of a bad bill coming from Sen. Ellis. The governor and I shake hands and have our picture taken together. I'm so glad that I voted for him.

6 p.m. I head out with Lynn Kenney to unwind from my long, tiring day. I am very touched when I meet others who have dealt personally with loved ones being abused and neglected. They understand the urgency to get laws on our books immediately.

Friday, Feb. 23

10:15 a.m. I head back to Anchorage with mixed emotions. I have reached a number of compassionate, caring professionals who heard my story and pledged to do something about it. I did not reach everyone. For whatever reason, their ears and hearts were closed. I feel a stronger sense of purpose after having spent almost four days with the very persons who we elect to run our state and protect its citizens.

On a lighter note, I am looking forward to getting back to my life in Anchorage — a husband, four children and three dogs, not to mention my mission to advocate for the senior citizens of Alaska and, perhaps, start a non-profit organization that advocates for the elderly. Rep. Toohey told me to "get a life." Today, I can smile about that. I have a life. I have a mission.

© Bobbie Watts lives in Anchorage

Elderly deserve oversight

Many of us who work with Anchorage's elderly population are appalled by the recent abuse, neglect and tormenting of elderly residents in an Anchorage boarding home, as reported in both the Long Term Care Ombudsman's report and in your newspaper.

It is important, however, for the public to understand that there are care providers in many Anchorage care settings — both large and small — who give enormous effort to provide personalized, loving care to older residents — care that goes above and beyond the basics required by licensing regulations.

The owner of each facility is ultimately responsible for establishing the tone or "philosophy" of their establishment and for the recruitment and monitoring of their staff, so care is provided in a manner that supports this philosophy.

We applaud the existence of the Office of the Long Term Care Ombudsman, which received and investigated the complaints of the families. Without this program, Alaskans would have little protection from those who would prey on this frail, vulnerable population.

— Tom Boling, operations administrator
Providence Extended Care Services
Anchorage

SB

219

Alaska State Legislature

SENATOR

MIKE MILLER

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Senate

Senate District 11

Memorandum

To: Senator Robin Taylor
Chairman, Senate Judiciary Committee

From: Senator Mike Miller 

RE: Scheduling SB 219

Date: January 30, 1996

I respectfully request that you schedule SB 219 for a hearing at your earliest convenience. This is in response to the Administration's decision to destroy seized and surplus firearms rather than sell them at auction, as has been the practice. SB 219 prevents the destruction of these weapons and allows the sale of forfeited firearms and ammunition through federally licensed firearms dealers.

Alaska State Legislature

SENATOR

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Senate District 1

Sponsor Statement

The purpose of SB 219 is to restore the right of the State of Alaska to sell surplus firearms, and end the recent practice of destroying such firearms rather than reselling them. This bill will result in funds being generated for the State from the sale of such firearms.

For over ten years, the State of Alaska sold surplus firearms at public auction. Recently, such sales, at least for handguns, was discontinued and the State began to destroy surplus handguns rather than offer them for sale.

On June 20, 1995, Commissioner of Administration Mark Boyer, wrote a memo to the Governor's Chief of Staff, Jim Ayers, regarding the disposal of the State's "surplus firearms". Mr. Boyer stated: "Receipts received from the disposal of these firearms contribute to the funding of the Property Management Program". The "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". There is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime". Despite these facts, Mr. Boyer proposed "only hunting rifles and shotguns (should) be sold at public auction" and that "hand guns would be destroyed".

Mr. Ayers approved, saying "This is clearly in the public interest and better government". Destruction of these firearms is not in the public interest and does nothing to promote better government. Such destruction of valuable state assets, prevents the sale of usable firearms through federally registered dealers to citizens who would use these firearms in a law abiding manner. Such destruction, also deprives the state of an important revenue source.

On September 14, 1995, fifty surplus firearms, including desirable collectors items, and surplus State trooper guns, were destroyed by a cutting torch. State estimates show the firearms destroyed had a market value of \$13,925.00.

Over 500 surplus firearms await destruction. These firearms represent significant potential revenue to the State of Alaska if they are sold at public sale.

Other firearms, such as sawed-off shotguns and unregistered fully automatic firearms, cannot be lawfully sold. Under State law, such firearms must be destroyed. Firearms which are, because of their quality, or because of defects or poor condition, unsafe for use, shall continue to be destroyed.

The Legislature has a responsibility to protect the property of the State against an administration bent on destroying valuable, revenue producing assets, especially in view of the current revenue shortfall.

GUNS: State scraps plan to destroy surplus stock

Continued from Page B-1

wise valuable, and that it was illegal to destroy state property that could be profitably sold.

The subtext of the dispute is the old good guns vs. bad guns debate. The administration and a local victims' group think reducing the number of handguns in circulation will reduce the number used in crimes. Ross and his colleagues say guns aren't bad, but that people who misuse them are.

Knowles still does not want to sell handguns to the public, Otte said. "He simply does not think that is good policy."

But the reaction to destroying the guns — described by Otte as "fairly mixed" — was apparently critical enough to convince the administration to abandon the new policy.

Now only illegal or mechanically unsafe weapons will be destroyed, Otte said. Long guns will be sold, as previously planned. Antiques, curios

and collectibles will be kept and perhaps given to museums. Some of the guns will be loaned to gun safety programs around the state for use in firearms education.

Additionally, a better inventory system will be designed and better efforts made to find owners before anything is sold. Inventories will be made available to police agencies around the state who might be able to use some of the weapons.

Sales of what's left will be restricted to police officers and law enforcement agencies.

"This meets all of the tests of all the people the governor has heard from," Otte said Wednesday.

It doesn't meet Ross's test. And he doubts the board of the Alaska Gun Collectors Association will agree to dismiss the lawsuit. "I'm pleased with this first step," Ross said. "Probably the next step is to work with the Legislature to fine tune how they will be required to dispose of them."

State's guns spared

Buyers limited to peace officers

By SHEILA TOOMEY
Daily News reporter

The Knowles administration has backed off its decision to destroy state surplus guns rather than sell them at auction, as has been the practice.

Citing "lots of input from the public," Public Safety Commissioner Ron Otte said legal guns the state can't use will now be sold to a licensed dealer who promises to resell them only to police officers and law enforcement agencies.

The retrenchment is "a good first step" toward settling a lawsuit filed in September by the Alaska Gun Collectors Association, said attorney Wayne Anthony Ross.

But it's not enough, said Ross, who represents the gun collectors.

"To restrict sales to police officers doesn't make sense," Ross said. "The idea of banning citizens from purchasing them is philosophically repugnant."

Reflecting a position he first adopted when he was mayor of Anchorage, Knowles decreed in September that the 300 or so seized, found and surplus handguns in the state's possession should not be returned to the street by auctioning them to the general public, as had been done for at least 10 years.

In a test run, 50 guns were cut up by welders on Sept. 14, after a Superior Court judge refused to issue an injunction to stop their destruction. Ross argued that inadequate efforts had been made to find the owners of the lost and unclaimed weapons, that many of the guns were collector's items or other-

Anchorage Daily News

Thursday, January 18, 1996

WEAPONS DESTROYED
PROPERTY DESTRUCTION #23574
SEPTEMBER 13, 1995

NOTES: ESTIMATED MARKET FOR MOST WEAPONS IS AS LISTED IN GUN TRADER'S GUIDE, 18TH EDITION
THE PROPERTY MANAGEMENT SECTION HAS NO RECORDS REGARDING WEAPONS ACQUISITION.

ITEM #	MANUFACTURER	CALIBER	SERIAL #	LENGTH	ACTION	DEPARTMENT	TAR #	REPORTED AS	ESTIMATED MARKET VALUE	ESTIMATED SALES VALUE
1	Uzi 45	45	002753		Auto	Public Safety	57887	Evidence	\$900.00	\$0.00
2	Winchester 12 gauge, Md 1200	12 ga	L1322784	under 18"	Pump	Public Safety	37182	Forfeiture	\$200.00	\$0.00
3	Winchester 12 gauge, Md 1300	12 ga	L2571702	under 18"	Pump	Public Safety	37191	Forfeiture	\$250.00	\$0.00
4	High Standard 12 gauge P 17	12 ga	3243379	under 18"	Pump	Public Safety	11762	Confiscation	\$200.00	\$0.00
5	Mossberg 12 gauge, Md 500 A	12 ga	L545893	under 18"	Pump	Public Safety	37191	Forfeiture	\$200.00	\$0.00
6	Western Field 12 gauge, Md M550AB	12 ga	G387206	under 18"	Pump	Public Safety	11761	Excess	\$250.00	\$0.00
7	Ingram 9 mil	9 mm	12345		Auto	Public Safety	8788E	Excess	\$150.00	\$0.00
8	Intratec 22	22	043731		Auto	Public Safety	37191	Forfeiture	\$795.00	\$0.00
9	RPB, Inc	9 mm	453078		Auto	Public Safety	6788E	Excess	\$150.00	\$0.00
10	Ingram 9 mil	9 mm	2-2000450		Auto	Public Safety	6788E	Excess	\$795.00	\$0.00
11	Interdynamic 9 mil	9 mm	00557		Auto	Public Safety	6788E	Excess	\$150.00	\$0.00
12	Corby 9 mil	9 mm	890023597		Auto	Public Safety	6788E	Excess	\$250.00	\$0.00
13	Corby 9 mil	9 mm	890023598		Auto	Public Safety	6788E	Excess	\$250.00	\$0.00
14	Colt 223	223	W1024082		Auto	Public Safety	59825	Forfeiture	\$975.00	\$0.00
15	H & R 10 gauge, Md 176	10 ga	AX625811	under 18"	Single	Public Safety	67886	Excess	\$145.00	\$0.00
16	Mossberg, Md 600 A	12 ga	G958777	under 18"	Pump	Public Safety	67705	Excess	\$175.00	\$0.00
17	H & R Survival Rifle (12-1015) 116	22	41043	under 15"	Single	Public Safety	67886	Excess	\$95.00	\$0.00
18	Fie. Md TFX22	22	1X58782		Rev	Public Safety	5787*	Unclaimed	\$95.00	Damaged \$30.00
19	Thon Tiger 39	38	0081420		Auto	Public Safety	3719*	Unclaimed	\$160.00	\$150.00
20	Ruger Blackhawk 41	41	147-20422		Rev	Public Safety	3719*	Forfeiture	\$210.00	\$200.00
21	Smith & Wesson 357, Md 27-230	357	12200560		Rev	Public Safety	3719*	Forfeiture	\$295.00	\$250.00
22	Ruger 9 mil	9 mm	301-51879		Auto	Public Safety	3719*	Forfeiture	\$265.00	\$225.00
23	Smith & Wesson 22, Md 48-431	22	243K915		Rev	Public Safety	3719*	Forfeiture	\$295.00	\$250.00
24	Ruger 357	357	57101257		Rev	Public Safety	3719*	Forfeiture	\$270.00	\$250.00
25	Beretta 380	380	A24580Y		Auto	Public Safety	3719*	Forfeiture	\$255.00	\$250.00
26	Liana 45	45	A85675		Auto	Public Safety	3719*	Forfeiture	\$265.00	\$250.00
27	Lord 25	25	108197		Auto	Public Safety	3719*	Forfeiture	\$130.00	\$100.00
28	Ruger 22	22	255751		Rev	Public Safety	37191	Unclaimed	\$185.00	\$150.00
29	Crosman Pellet	None			Air	Public Safety	37181	Unclaimed	\$35.00	\$25.00
30	Ruger 357	357	172-42390		Rev	Public Safety	37191	Forfeiture	\$270.00	\$250.00
31	Colt 357, Md Trooper MKV	357	02105V		Rev	Public Safety	37191	Forfeiture	\$260.00	\$250.00

WEAPONS DESTROYED
PROPERTY DESTRUCTION #23574
SEPTEMBER 13, 1995

32	Glock 10 mil	P 17 (3)	10 mm	UM108US		Auto	Public Safety	37191	Forfeiture	\$475.00	\$500.00
33	Smith & Wesson 38, Md W-S	(2)	38	103591		Rev	Public Safety	37191	Unknown	\$180.00	\$75.00
34	Colt 22, Md Huntsman	P 15 (1)	22	0517203		Auto	Public Safety	37191	Forfeiture	\$285.00	\$300.00
35	Smith & Wesson 45	P 32 (2)	45	1HASC91		Auto	Public Safety	37191	Forfeiture	\$435.00	\$400.00
36	AMT 380	P 36 (2)	380	DD4470		Auto	Public Safety	37191	Forfeiture	\$170.00	\$150.00
37	Interarms 38	P 23 (1)	38	0404674		Auto	Public Safety	37191	Unclaimed	\$245.00	\$200.00
38	Balkal KB Inc	P 23 (1)	380	A012730		Auto	Public Safety	37191	Forfeiture	\$120.00	\$100.00
39	Ruger 357 Blackhawk	P 23 (1)	357	135995		Rev	Public Safety	37191	Forfeiture	\$210.00	\$180.00
40	Smith & Wesson 38, Md 387-37	(2)	38	338211		Rev	Corrections	68917	Excess	\$225.00	\$150.00
41	Smith & Wesson 357		357	ADC8483		Rev	Corrections	68917	Excess	\$265.00	\$210.00
42	Smith & Wesson 357		357	AVF 4747		Rev	Corrections	68917	Excess	\$265.00	\$210.00
43	Smith & Wesson 357		357	ACB2517		Rev	Corrections	68917	Excess	\$265.00	\$210.00
44	Smith & Wesson 357		357	ABC4363		Rev	Corrections	68917	Excess	\$265.00	\$210.00
45	Smith & Wesson 357	3h (2)	357	1AAH5261		Rev	Corrections	68917	Excess	\$265.00	\$210.00
46	Smith & Wesson 357		357	ABC3839		Rev	Corrections	68917	Excess	\$265.00	\$210.00
47	Smith & Wesson 357		357	ACLS562		Rev	Corrections	68917	Excess	\$265.00	\$210.00
48	Smith & Wesson 357		357	ACLS507		Rev	Corrections	68917	Excess	\$265.00	\$210.00
49	Smith & Wesson 357		357	ABC3084		Rev	Corrections	68917	Excess	\$265.00	\$ 0.00
50	Smith & Wesson 357		357	1ADB9600		Rev	Corrections	68917	Excess	\$265.00	\$210.00
										\$13,925.00	\$5,265.00

Wayne
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January 4, 1996

To the members of the Alaska Legislature:

Re: Wilful destruction of valuable State property by State officials;
Lawsuit filed by AK Gun Collectors Association to attempt to end
such practice

Dear Legislator:

On June 20, 1995, Mark Boyer, Commissioner of the Alaska Department of Administration, wrote a memo to Jim Ayers, the Governor's Chief of Staff, regarding the disposal of the State's "surplus firearms".

The memo said that the State's Property Management section had accumulated "approximately 600 firearms since the last disposal of firearms in August (1994)" and that "(r)ceipts received from the disposal of these firearms contribute to the funding of the Property Management Program". The memo stated that, in the past, the disposal process "recirculates legal firearms", and the "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". The memo further stated that "(t)here is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime". (Emphasis mine.) Despite this fact, the memo recommended that "only hunting rifles and shotguns (should) be sold at public auction" and that "(h)andguns would be destroyed".

Mr. Ayers, the Governor's COS, penned a note to the memo which stated: "Mark - This is clearly in the public interest and better government. Thank you." Without notice to the public, the Administration then set about implementing the destruction of these firearms.

On 13 September 1995, after learning of the proposed, and imminent, destruction of these firearms which are, among other things, an important source of revenue for the State, the Alaska Gun Collectors Association (AGCA) filed a complaint in Superior Court seeking an injunction against the State, the Department of Public Safety, and the Department of Administration, to prevent the destruction of these firearms.

Plaintiff's Motion for Temporary Restraining Order was denied when Assistant Attorney General James Baldwin told the court that the State was only going to destroy "Saturday Night Specials, sawed-off shotguns, and assault weapons". Mr. Baldwin later advised a concerned citizen that Sgt. Michael Marrs and LT Skip Coile, AST, "reviewed the firearms and determined there were no antique or collectible firearms on the list to be

January 4, 1996

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destroyed".

Fifty surplus firearms were destroyed by a cutting torch on 14 September 1995. Most of these firearms were not "Saturday Night Specials, sawed-off shotguns, and assault weapons". Many of these firearms were, in fact, collectors items. By the State's own estimate, the fifty firearms that were destroyed had a market value of \$13,925.00.

On or about the 26th of September 1995, the AGCA filed an amended complaint again seeking an injunction and seeking, among other things, damages against the Governor, his COS (Mr. Ayers), the Commissioner of Administration (Mr. Boyer), and the Commissioner of Public Safety (Mr. Otte), "personally, in favor of... the State of Alaska, for the total value of each and every firearm they have destroyed or will destroy in the future...".

The defendants filed an answer, on or about 25 October 1995, admitting that "before September of 1995 surplus firearms were disposed of by sale" but stating that "the policy of the defendant State of Alaska is to refrain from selling surplus and forfeited handguns directly to the public". Defendants admitted "that on September 14, 1995 approximately 50 deadly weapons were destroyed" but denied any conspiracy, denied that public notice was required before destruction, and denied that the "weapons belonged to anyone other than the defendant Department of Administration". For affirmative defenses, the defendants claimed, among other things, that the plaintiffs lack standing to bring the suit, that the defendants are immune from suit, and that the defendants "were authorized by law to destroy deadly weapons transferred to the Department of Administration as surplus state property".

Plaintiff has been furnished with a list of the firearms that were destroyed, as well as a list of firearms that are proposed for future destruction.

Defendants have recently filed a Motion to Dismiss plaintiff's Complaint, alleging, among other things, immunity and that plaintiff lacks standing to bring the suit in question. The plaintiff has not yet responded to that Motion.

While the AGCA, and its more than 300 members, believes it has standing to bring such a suit, the Legislature is really the body who has the responsibility to protect the property of the State, and thus the people of Alaska, against an Administration bent on destroying valuable, revenue producing, state assets to further its own political agenda. This is particularly true in view of the current revenue shortfall that the State is experiencing.

It is respectfully requested that the Legislature intervene in this suit, against the Administration, on behalf of the people of the State. It is also requested that the Legislature adopt legislation this session that will prevent such destruction of State assets in the future.

Should you have any questions, please feel free to contact me.

Wayne
Anthony
Ross

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January 4, 1996
QUICK SUMMARY

To the members of the Alaska Legislature:

Re: Wilful destruction of valuable State property by State officials;
Lawsuit filed by AK Gun Collectors Association to attempt to end
such practice

June 20, 1995 - Boyer writes memo to Ayers regarding the disposal of the State's "surplus firearms" proposing destruction of handguns. Excerpts: "Receipts received from the disposal of these firearms contribute to the funding of the Property Management Program". The "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". "There is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime". Proposes that "only hunting rifles and shotguns (should) be sold at public auction" and that "(h)andguns would be destroyed".

Ayers approves saying "This is clearly in the public interest and better government".

The Administration sets about implementing the destruction of these firearms.

September 13, 1995 - Alaska Gun Collectors Association (AGCA) files complain in Superior Court seeking an injunction. Baldwin tells court that the State was only going to destroy "Saturday Night Specials, sawed-off shotguns, and assault weapons". TRO denied.

September 14, 1995 - Fifty surplus firearms, including desirable collectors items, destroyed by cutting torch. State estimates the firearms destroyed had a market value of \$13,925.00.

September 26, 1995 - AGCA files amended complaint again seeking an injunction and personal damages against the Governor, his COS, the Commissioner of Administration, and the Commissioner of Public Safety.

October 25, 1995 - Defendants file answer admitting destruction and stating new State policy of destruction. transferred to the Department of Administration as surplus state property".

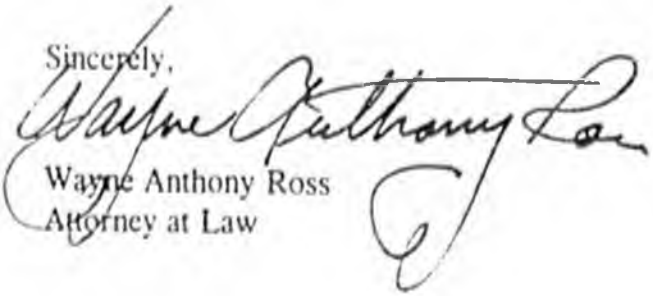
December, 1995 - Defendants file Motion to Dismiss plaintiff's Complaint, alleging, among other things, immunity and plaintiff lack of standing to bring the suit.

The Legislature has responsibility to protect the property of the State against an Administration bent on destroying valuable, revenue producing, state assets to further its own political agenda especially in view of the current revenue shortfall.

January 4, 1996

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Sincerely,

A handwritten signature in cursive script that reads "Wayne Anthony Ross". The signature is written in dark ink and is positioned to the right of the typed name.

Wayne Anthony Ross

Attorney at Law

cc
AGCA

276-5307

JUN 21 1995

TO: Jim Ayers
Chief of Staff
Office of the Governor

ADMINISTRATIVE OFFICE
Date: June 20, 1995

FROM: Mark Boyer *M. Boyer*
Commissioner
Department of Administration

SUBJECT: Surplus Firearms Disposal Decision Briefing

*Mark -
This is clearly
in the public's interest
and better government.
Thank you
J. A.*
cc'd CS

OBJECTIVE:

Prudent disposal of state-owned and confiscated firearms.

APPLICABLE STATUTES: AS 22.20.120, AS 12.36.060, AS 34.45.060, AS 44.68.110, AS 36.30.070

PROBLEM STATEMENT:

The Property Management section accumulated approximately 600 firearms since the last disposal of firearms in August. The statutes (AS 12.36.60) governing confiscated deadly firearms require the Commissioner of Public Safety to dispose of the firearms. The Commissioner may declare the firearms surplus and transfer them to the Surplus Property Program for sale to the public. Excess State Trooper firearms are also transferred to the Surplus Property Program and sold to the public. Illegal firearms, such as sawed-off shotguns, are destroyed by Public Safety and are not included in sales. Receipts received from the disposal of these firearms contribute to the funding of the Property Management Program.

With the rise of violent crimes and shootings in Anchorage, a local group has objected to public auctions of firearms without background checks. Large-volume, low-cost State disposal of handguns make it very easy and inexpensive for anyone to buy a handgun. Critics argue our disposal sales could put firearms in the hands of criminals or be used in a violent crime. Some cities and organizations in other states offer rewards and trade-ins to remove handguns from general circulation and destroy them to protect the public safety. To date, our disposal process recirculates legal firearms.

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mswcid/firearms 066 (June 20, 1995)

With the enactment of the federal Brady Bill, some have argued the State should conduct a background check prior to selling handguns. Federal law considers the State a private owner. We do not hold a federal firearms license nor can we obtain one. Since federal law considers the State a private owner, we are not required to conduct background checks. The State of Alaska has the means to conduct background checks, however, it has been suggested that to do so could be construed as a violation of individual rights.

BACKGROUND:

Property Management section has sold excess service revolvers and confiscated firearms for the past decade. In years past, these firearms have been included in auctions where a variety of items are sold. Because of changes in the federal law (Brady Bill) and not knowing how these changes would affect the sale of State property, we opted not to include these items in the normal auction setting.

In Anchorage, on August 9, 1994, Property Management section conducted its first exclusive firearms auction. There were 341 line items and proceeds were \$59,977.00—approximately 25% of our annual state budget. However, this sale also generated a substantial amount of negative press coverage reaching as high as the Governor's Chief of Staff. A local television station covered the sales as a news item with the spin that we were remiss by not obtaining background checks. A group known as Victims of Violent Crimes criticized the sale of firearms as inappropriate because the firearms could be used in violent crimes. Handgun sales have the potential of generating quick press-worthy controversy. Mid-level officials in the Departments of Public Safety and Administration were interviewed the morning of the last auction—by early afternoon the Commissioners of Public Safety and of Administration and the Chief of Staff were involved in the issue. This issue generated instant controversy and has the potential of eliciting emotional responses from various groups on either side of the issue.

Currently, Property Management has over 600 firearms in its control. Sixty of the firearms are rifles or shotguns and the remainder are handguns. We continue to receive large quantities of lost, abandoned, and confiscated firearms. The Department of Public Safety advises they will excess more shortly. The change-out of Public Safety service revolvers has increased our inventory. Our facilities to store large volume of firearms for extended periods of time is limited. The most efficient means of disposal is a separate firearms auction this summer. In the interim, we will request Public Safety to retain confiscated and excess firearms in their facilities due to our limited secure storage capacity.

OPTIONS:

1. Status Quo—Sell firearms as a part of our normal auction activities (keeping a low profile), or/and continue to conduct exclusive firearms sales. Neither type of sale would include background checks.

2. Require our auctioneer to conduct background checks on handgun sales as part of our contract requirements. All of our auctioneers in the past ten years have had federal firearms licenses as a part of their business.
3. Discontinue the disposal of firearms through sales.
4. Sell only rifles, which are typically used by hunters, and destroy handguns.
5. Sell only to licensed gun dealers by permitting only licensed dealers to participate in firearms auctions.

DISCUSSION:

Option 1 allows the sale of firearms to continue in the same manner as in past years. This option is well within the law because the Brady Bill does not apply to the State. One of the complaints we have heard is the State does not prevent placing firearms in the hands of criminals. There is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime. While there is no way to ensure the firearms would not be used improperly, Brady Bill background checks should, at a minimum, be performed for handguns if full disposals are to continue. This alternative redistributes handguns to the public without background checks. Continuation of this disposal method is not recommended.

Option 2 continues public auctions of all firearms and requires handgun sales background checks utilizing the auctioneer as a licensed firearms dealer. However, it has been argued that this is a breach of an individual's civil rights. Further, firearms purchasers might challenge our right to conduct background checks and could file suit on the matter. Since federal law sets the minimum requirements, we believe the State could adopt the federal requirement or stronger policies.

This is the method utilized by the Municipality of Anchorage to sell their firearms. According to Fred Kattenback, Deputy Chief of Procurement, to date they have had no complaints. If they receive a complaint, he believes the Municipality would discontinue the sales and destroy all excess firearms. This option ensures a background check but is not recommended since it recirculates all types of handguns to the general public.

Option 3 discontinues the sale of firearms. Adopting this policy also would severely impact the Property Management budget as approximately 25% of our state budget is derived from this source and would require a contract with cost to the State for certified destruction of firearms. Criticism from firearms buyers, including sportsman hunters, could be expected. This option is not recommended as it prevents sales of hunting rifles and significantly impairs our program receipt capabilities.

Option 4 sells only hunting rifles and shotguns at public auction. Handguns would be destroyed. We estimate that 90% or more of the firearms received for disposal are handguns.

Hunting rifles and shotguns make up a small number of the collected or abandoned firearms. This policy would result in a loss of revenue, but would contribute to anti-crime efforts. There are benefits to public safety by removal of handguns from property disposal. Many of these weapons, known as "Saturday Night Specials," are easy to conceal and could readily be involved in a violent crime.

It would prevent the likelihood of handguns falling into the hands of someone who would use it to commit a crime. It would be appropriate for Public Safety to supervise the destruction of handguns and certify what firearms are appropriate to transfer for public disposal sales. Hunting rifles and shotguns disposed of by Public Safety or excess to State needs would be sold at public auction. While subject to criticism from firearms buyers, it could be part of the administration's anti-crime initiatives and reduce the odds of a State-disposed handgun ever being involved in a violent crime or injury.

Option 5 permits only licensed gun dealers to submit bids on firearms for disposal. The Brady Bill requires all licensed gun dealers to conduct background checks prior to selling handguns. The issue of the Brady Bill background checks would be resolved with this alternative. Under this option, invitations to the firearms disposal auctions would be sent to licensed gun dealers. An auction would be conducted, but only licensed dealers would be allowed to participate. On the negative side, the firearms would be sold at lower prices to gun dealers and resold to the public at higher prices. Aside from the loss of revenue, the eventual outcome of this option is the same as option 1.

RECOMMENDATIONS

Option 4 is recommended as the best disposal policy. Handguns would no longer be recirculated to the general public, but destroyed by the Department of Public Safety. Hunting rifles and shotguns would be sold to the public.


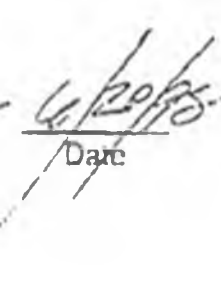
Security and storage will no longer be a problem since handguns make up the 90% of the firearms and would be destroyed by Public Safety. General Services will receive a certificate of destruction listing the destroyed handguns and continue to receive receipts for hunting rifles and shotguns sold to the public.

The benefits of this alternative include:

- an estimated 550 handguns this fiscal year and approximately 300 handguns in future fiscal years will be taken out of circulation,
- x
- the potential for use of these handguns in the commission of a violent crime or accidental injury is eliminated;
- x

- organized citizen groups, such as Victims of Violent Crimes, critical of firearms disposals in the past should be satisfied with the limited disposal and background checks;
- x
- firearms used for hunting will still be available to the general public, sportsmen, and hunters, and will bring in the highest per firearm disposal sales prices for the program;
- x
- the opportunity for critical press during disposal actions is reduced; and
- removal of handguns designed for use as concealed weapons ("Saturday Night Specials") is in the best interest of Public Safety.

This alternative should be pursued as the most responsible and prudent approach to firearms disposal for excess State-owned and confiscated firearms

 _____ Approved	 _____ Date	_____ Disapproved	_____ Date
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA GUN COLLECTORS)
ASSOCIATION, INC.,)

Plaintiff,)

vs.)

STATE OF ALASKA, the)
ALASKA DEPARTMENT OF PUBLIC)
SAFETY, the ALASKA)
DEPARTMENT OF ADMINISTRATION,)
GOVERNOR TONY KNOWLES, JIM)
AYERS, MARK BOYER, and)
RON OTTE,)

Defendants.)

Case No. 3AN-95-07791 Civil

AFFIDAVIT OF NORMAN B. GRANT, JR.

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

Norman B. Grant, Jr., being first duly sworn, deposes
and states:

1. My name is Norman B. Grant, Jr. My address is Box
9-1909, Anchorage, Alaska 99509.

2. I have a B.S. degree from Harvard University. I
have also taken two years of machine tooling at Lowell Institute

AFFIDAVIT OF NORMAN B. GRANT, JR. PAGE 1

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of Technology, gunsmithing courses from Colorado College, and courses in small engine and computer science at U.A.A.

3. I have been employed, from time to time, in retail sales of firearms at Great Northern Guns in Anchorage, Alaska.

4. I have been a collector of firearms since 1946 and have participated in most of the major gun shows in Alaska since the late 1960's.

5. I am a member of the following gun collecting organizations:

- A. The Ohio Gun Collectors Association;
- B. The Dallas Arms Collectors;
- C. The Mannlicher Collectors Club;
- D. The Mossberg Collectors Association; and
- E. The Savage 24 Collectors. I am a founder of the Savage 24 Collectors.

6. I am a former member and Director of the Alaska Gun Collectors Association, and one of its founders.

7. I served for several years on the Gun Collectors Committee of the National Rifle Association of America. I am also

a founder of the Alaska Society for the Preservation of Gun Collecting, which is in its formative stage.

8. I have been a firearms auctioneer, both in Alaska and elsewhere.

9. I have been an annual attendee at the ...A National Gun Collectors Seminars held throughout the country for the last five years, since the Seminars' inception.

10. I am a retired NRA certified NRA Rifle and Pistol Instructor.

11. I have judged firearms displays for a number of years, both locally and nationally.

12. I served as a consultant for the National Firearms Museum Selection Committee in Washington, D.C. As such, I participated in determining which firearms in the National Firearms Museum should be kept in the permanent collection, and which firearms should be deaccessioned.

13. I have been qualified as an expert on firearms in both the Alaska State and Federal courts, and have testified as such in various cases.

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14. At the request of Attorney Wayne Anthony Ross, on 18 September 1998 I traveled to Elmendorf Air Force Base, Alaska, where I inspected some of the firearms that were destroyed by the defendants and their agents. I have also obtained a list of the firearms that were destroyed from the State of Alaska.

15. I have been advised that the State's attorney represented to this court, on or about 12 September 1995, at the hearing where plaintiff sought a temporary restraining order, that the firearms that the State intended to destroy "are in essence sawed off shotguns, some Class III assault rifles and small handguns... commonly known as 'Saturday Night Specials'". If the State's attorney told the court this, the State's attorney was either mis-informed, or not candid, with this court. Most of the firearms I personally examined did not fit into such categories, by anyone's definition or by anyone's stretch of the imagination. I am also informed that the State's attorney told this court that the State had "two Alaska State Troopers review the manifest of these weapons that are set for destruction and its been determined that none of these guns would have any value to a collector". If

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the State did have two troopers review these firearms and those troopers determined that there were no collector firearms in the firearms that were destroyed. they don't know how to tell a "collector" gun from an axe handle, because "collector" guns were destroyed by the State on 15 September 1995.

16. The first firearm I examined had been a lovely little .22 caliber Colt "Huntsman", a version of the Colt "Woodsman". A Colt "Woodsman" is a lovely little semi-automatic pistol that was first manufactured prior to World War I, and continued in the Colt line until the early 1970's, in various versions. The Colt I saw was a late model, that is, a model manufactured after World War II. All of these little Colt "Woodsman" pistols, in all variations, have great collector interest since they were high quality firearms that are no longer manufactured. Indeed, there are a number of collectors of national repute who specialize in these lovely little firearms. The Colt "Woodsman" has always been popular in Alaska, and was favored by hunters and trappers who wished a handy, compact .22 pistol with a reputation for reliability. The Colt I examined had

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been totally destroyed by what appeared to be heat from a welding torch.

17. The second firearm I examined was a very unusual U.S. Air Force survival rifle, known as an M4. This little bolt action rifle was in .22 Hornet caliber and is quite rare. While I have not fully researched this firearm, I believe that it may not have been released for sale to civilians because of its short barrel, which is approximately 14 inches long, and thus, it would be subject to Federal regulations governing short-barreled rifles. Nonetheless, that survival rifle has much collector interest, and could have been offered to museums which feature unusual firearms, such as the National Firearms Museum in Washington, D.C. The rifle I examined had been totally destroyed by what appeared to be heat from a welding torch.

18. The third firearm I examined was a Glock semi-automatic pistol. This pistol had been in almost new condition before it was destroyed. The Glock pistol had created some controversy when first introduced because it was falsely labeled by the press as a "plastic gun". After its introduction, however,

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the Glock's popularity took off, and many police departments throughout the country have adopted it as their duty sidearm. Recently, a Glock Collectors Association has been formed and that group had a fine exhibit at the last NRA Annual Meetings. The Glock is a relatively expensive, high quality pistol, and is much in demand. The Glock I examined had been totally destroyed by what appeared to be heat from a welding torch.

19. The fourth firearm I examined was an unusual Uzi in 45 caliber. This model is rarely seen in this country and would be a great addition to any advanced collector of military or automatic weapons. This piece appeared to have been in good condition prior to having been destroyed by heat from a welding torch.

20. I next examined a group of five shotguns. This group of shotguns included a Winchester Mod 1200 12 gauge, a Winchester Mod 1300 12 gauge, a High Standard 12 gauge pump, a Mossberg Mod 500A 12 gauge, and a Western Mod 550ABD, also in 12 gauge. All of these guns are the same kind that are used every hunting season in Alaska by duck, grouse, ptarmigan, and rabbit

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hunters. The destroyed shotguns had barrels which had been shortened to less than legal length, but they could have, in all but one case, been easily refitted with a new barrel and restored to good, legal shooters. The actions appeared to have been in good condition, and the cost of the barrel refitting would have cost less than one-third of the cost of a new gun. Alternatively, the shortened barrels could have simply been taken off of the shotguns and the actions could have been legally sold.

21. I saw a Lorcin 25 caliber vest pocket pistol, possibly a different model than any I have previously seen. It was impossible to be sure, for the little piece had been severed in two by the heat of a welding torch. As a collector who specializes in this kind of firearm, I would have liked to research this piece before its destruction.

22. There was a Liama .45 caliber semiauto pistol, which is a Spanish clone of the Colt Model 1911 .45 that was carried by American troops through two world wars. There are numerous people who swear by these guns and many collectors who specialize in them because of the model variations available to the knowledgeable.

This is a heavy, hard to conceal piece, that a trapper might keep at his cabin to protect against bears. The Llama was cut in two (almost) by the heat of a welding torch.

23. There was a single shot H & R 10 gauge shotgun and a Mossberg 600AT shotgun, both with shorter than legal barrels; actions cut in two by the heat of a welding torch. Both shotguns could have been restored into practical hunting pieces with the addition of new barrels. Alternatively, the shortened barrels could simply have been thrown away or destroyed and the actions sold legally.

24. There were two Ruger 357 Magnum revolvers that had been destroyed by the heat of a welding torch. Ruger revolvers have long been collectors' delights. There is a National Ruger Collectors Club which puts on exhibits all over this country at major Gun Shows and exhibitions. These firearms, in addition to their sporting uses, have collector's value because of the number of variations that were manufactured. I was not able to determine anything further about these two revolvers due to their damaged condition, except the fact that these appeared to have been in nice

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condition prior to being cut apart across the middle by a torch.

25. There were two Ruger Blackhawks, one a .41 caliber and one a .357 caliber. There was also a Ruger Single Six revolver .22 caliber revolver destroyed. As I previously stated (refer to paragraph 24), Ruger revolvers are highly regarded by the collectors of Ruger handguns. The three revolvers that were destroyed might well have been collector pieces, but after being cut into lumps by the torch they were impossible to accurately assess.

26. There was another Ruger handgun, this time a .22 caliber semi-automatic, one of the recent guns from the Ruger factories. This type firearm enjoys a solid reputation as a less expensive hand gun, not easily concealable because of its size. It was cut apart at the action by the heat of a welding torch.

27. I spent some time examining a group of so-called "assault" weapons. Some of these firearms were made in a semi-automatic version, which would mean that such a firearm would not be an "assault weapon" at all. There were 6 pieces, being 2 Ingrams, 2 Cobrays, one RPB, and an Interdynamic, all in 9mm

caliber. None of these firearms appeared to have been in poor condition prior to being cut up. One of the Ingrams may have been a true collectors piece because of its receiver, but I was not able to ascertain much about these firearms because they were butchered too badly by the heat of a welding torch.

28. I examined a Colt .223 rifle, similar to, or of the type of firearms used by U. S. Troops for the past 30 plus years in defense of this country. If in the full automatic version, known as an M-16, this rifle could have been utilized by many police agencies in the State, or by the National Guard. If in the semi-automatic version, known as an AR-15, this type of firearm is in great demand by Military Marksman teams. In Southeast Alaska these rifles are in great demand for deer hunting. Generally very accurate, the AR-15 has replaced the famous M-1 Garand of WW-2 and the Springfield of WW-1 for formal target competition. No longer manufactured for civilians in its pure form, this piece would definitely make some collector a happy person, especially if it had a history attached to it. Before its destruction, this rifle had a value of \$1,000.00 or more. After being cut up with the welding

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torch, it was rendered worthless.

29. Another piece I examined was an Intertec .22 caliber. This little semi automatic rifle reminded me of a happy Saturday I once spend in a sand pit with its mate and a carton of .22 loads. A fun little gun for informal snooting sessions, this one was cut apart at the head of the bolt by the heat of a welding torch.

30. There was a group of 4 firearms, possibly cut together. One was an FIE .22 revolver, one an Interarms .38 caliber, one a "Tigon Tiger" .38 semi auto (I have never seen one before), and one a Baikal KB .380 auto, an imported imitation of a Marakov. While none of these handguns were of particularly high quality, their low cost could have provided a firearms to some Alaskans who could not afford to purchase something more expensive. These inexpensive but practical firearms were now cut with a torch so that there was no value left.

31. I found it most disconcerting to see a Smith & Wesson Model 27 .357 Magnum revolver, once long-barreled, totally destroyed. This model revolver is one of the "Backbone" guns of

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the Alaskan Bush, a workhorse that never fails, a protective device shooting diverse loads, a handloader's delight. This revolver was an extremely high quality firearm, and has always been much in demand by people who know their firearms. Its barrel had been cut off, and its action and receiver torched into a glob.

32. There was another S&W, a Model 48-4 .22 caliber magnum revolver with what was left of an 8 inch barrel. High quality and expensive, this firearm was designed to be a neat compromise between the .22LR and the .22 Hornet, a great piece to teach shooting to a person ready to move up to a higher caliber, and an ideal small game hunting handgun. It had been cut in two by the heat of a welding torch.

33. There was a Beretta .380 semi-auto, so badly chopped up I could not be sure of the model. I wondered how carefully this firearm was checked before destruction?? It might have possibly been one of the eighty odd pieces that had been specially made to commemorate an end run at the original Beretta plant. Unfortunately, this firearm had been also cut and burned apart and was too far destroyed to be readily identified.

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34. There was a Colt Trooper, MK V, .357 magnum. This had once been a high quality firearm. What finish was left showed good condition. Known informally as a "bread-and-butter" piece, these were originally made for police departments and later spread to civilian use due to their rugged reliability. Now destroyed.

35. There was a S&W .45 caliber semi-auto pistol. This was of recent manufacture, in stainless steel, and looked as if it could have been real fine condition. The Anchorage police department has chosen to carry the S&W .45 semiauto as a duty firearm. This pistol has many variations, but I could only wonder if it could have been a rare one. It was impossible to tell which variation it had been in the massacred condition in which it was seen.

36. There was a little AMT .380 stainless steel back-up gun. Lots of these are carried by police officers throughout the country as second weapons. Once high quality, it had now been destroyed.

37. There was a S&W Model 36, .38 special caliber, "Chief's Special", a small J-frame revolver carried by undercover

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police officers all over the world as a principal weapon, easily concealable, tested over the years, and as reliable as a handgun can be.

38. There was a group of ten S&W Model 686s, .357 magnum, stainless steel revolvers, impossible after the torch caught them to tell condition, but by reputation and personal knowledge one of the toughest, longest lasting firearms ever on the market. These may have been Alaska State Trooper issued, or used by some other State Agency. The historical value, thirty years from now to a collector, or seventy years, of a firearms issued to, and used by the troopers of the State of Alaska, cannot be appreciated now. Anyone knowledgeable about such state police issued firearms need only look at what has happened to the issued and personal firearms of the Texas Rangers over the same period of time. They have increased and increased in value to such an extent that they are almost impossible to afford to purchase. Instead of offering a good investment for Alaskans, however, these high quality revolvers, purchased originally by the people of Alaska, were gutted and cut apart by a welding torch.

AFFIDAVIT OF NORMAN B. GRANT, JR. PAGE 15

39. Lastly, there was a lonely Crossman Pellet Pistol. One wondered what its crime was that justified it being cut in two by the welding torch. Not even a firearm, this little pellet gun could have brought joy to a youngster, and the opportunity for his or her parent to instill, in that youngster, knowledge of gun safety and the joy of owning that "first gun".

40. The firearms destroyed by the State of Alaska were worth in excess of Ten Thousand Dollars (\$10,000.00). A few of the firearms could not have been sold in their then current configuration. Shotguns with barrels with less than 18 inches could have been sold if the offending barrels had been removed, or if longer barrels had been installed. Several of the firearms may have been fully automatic. These could have been made available to military, police, or museums specializing in such firearms, or many of the parts could have been sold legally (although not the receivers). Most of the firearms were fully functional, useful, firearms that any Alaskan would have been proud to own and use. Some of the firearms had substantial collector value.

41. Even if the State did not want to sell the firearms

themselves, the guns could have been traded to police suppliers, or other jobbers, for police equipment or other items that the State would otherwise have had to purchase.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Norman B. Grant, Jr.
Norman B. Grant, Jr.

SUBSCRIBED AND SWORN to before me this 9 day of January 1996.

Karen S. Burns

Notary Public in and for Alaska
My Commission Expires: 8-13-99

I certify that a true and correct copy was mailed to:

James Baldwin, Esq.
State of Alaska
Department of Law
Box 110300
Juneau, AK 99811-0300

this ___ day of January, 1996.

Wayne Anthony Koss



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Sec. 12.35.050. Disposition of property taken. [Repealed, § 42 ch 143 SLA 1982. For present provisions, see AS 12.36.]

Sec. 12.35.060. Malicious procurement of search warrant. A person who maliciously and without probable cause causes a search warrant to be issued and executed is guilty of a misdemeanor. (§ 4.06 ch 34 SLA 1962)

Sec. 12.35.070. Search of defendant in presence of judge or magistrate. When a person charged with a crime is believed by the judge or magistrate before whom that person is brought to have on the person a dangerous weapon, or anything that may be used as evidence of the commission of the crime, the judge or magistrate may direct the accused to be searched in the presence of the judge or magistrate, and the weapon or other thing be retained subject to the order of the judge or magistrate or the order of the court in which the defendant may be tried. (§ 4.07 ch 34 SLA 1962)

Secs. 12.35.080 — 12.35.110. Disposition of stolen property. [Repealed, § 42 ch 143 SLA 1982. For present provisions, see AS 12.36.]

Sec. 12.35.120. Definition of search warrant. A search warrant is an order in writing, signed by a judge or magistrate or signed at the direction of a judicial officer in accordance with AS 12.35.015, directed to a peace officer, commanding the peace officer to search for personal property and bring it before the judge or magistrate. (§ 4.01 ch 34 SLA 1962; am § 14 ch 8 SLA 1971; am § 20 ch 143 SLA 1982)

NOTES TO DECISIONS

Quoted in Johnson v. Johnson, 849 P.2d 1361 (Alaska 1993).

12-36

Chapter 36. Disposition of Recovered or Seized Property.

- Section**
- 10. Property disposition
 - 20. Return of property
 - 30. Disposal of unclaimed property used as evidence
 - 40. Disposal of property whose owner unknown

- Section**
- 50. Remission of forfeited property
 - 60. Disposal of forfeited deadly weapons
 - 90. Definitions

Cross references. — For provisions relating to abandoned property, see AS 34.45.110 — 34.45.780.

Collateral references. — 68 Am. Jur. 2d, Searches and Seizures, §§ 212-215; 79 C.J.S., Searches and Seizures, §§ 217-220.

1

Sec. 12.36.010. Property disposition. When property not belonging to a law enforcement agency comes into the custody of the agency, the property shall be disposed of in accordance with this chapter. (§ 21 ch 143 SLA 1982)

Sec. 12.36.020. Return of property. (a) A law enforcement agency may return property in its custody to the owner or the agent of the owner if

(1) the property is not in custody in connection with a children's court proceeding, a criminal proceeding, or an official investigation of a crime; and

(2) the property in custody is not subject to forfeiture under the laws of the state.

(b) In a criminal proceeding or a children's court proceeding involving the wrongful taking or damaging of property where photographs of the property are used as evidence in place of the property, the prosecuting attorney may release the property to the owner upon presentation of satisfactory proof of ownership.

(c) If wrongfully taken or damaged property is not photographed and authenticated under AS 12.45.086 and the property is used as evidence in a criminal proceeding or a children's court proceeding, the law enforcement agency in possession of the property shall return it to the owner upon presentation of satisfactory proof of ownership within 60 days after the final disposition of the case. (§ 21 ch 143 SLA 1982)

Revisor's notes. — In 1995, in subsection (c), "AS 12.45.086" was substituted

for "AS 12.80.050" to reflect the 1995 renumbering of AS 12.80.050.

NOTES TO DECISIONS

Municipal liability for unauthorized property transfer. — The municipal police had no authority to unilaterally transfer a criminal defendant's money seized by a search warrant because it was within the custody and exclusive jurisdiction of the court, and the transfer of the

money without court approval to a federal agency violated this section, rendering the federal agency's forfeiture actions invalid, and consequently, the municipality liable for the full value of the resulting conversion. *Johnson v. Johnson*, 849 P.2d 1361 (Alaska 1993).

Sec. 12.36.030. Disposal of unclaimed property used as evidence. (a) If property that is used as evidence in a criminal proceeding or a children's court proceeding, including wrongfully taken or damaged property, is not claimed by the owner within one year after the final disposition of the case, the law enforcement agency having custody of the property shall dispose of it under (b) of this section.

(b) The law enforcement agency shall dispose of that part of the property referenced in (a) of this section that is

(1) subject to AS 34.45.110 — 34.45.780 in accordance with AS 34.45.110 — 34.45.780;

(2) not subject to AS 34.45.110 — 34.45.780 by selling the property in the same manner as a sale upon execution; after paying the expenses for the preservation and sale of the property, the law enforcement agency shall dispose of the proceeds of the sale in the same manner as money collected upon a judgment. (§ 21 ch 143 SLA 1982; am § 4 ch 133 SLA 1986)

Sec. 12.36.040. Disposal of property when owner unknown. When the owner of property is unknown and the property comes into the possession of a law enforcement agency as suspected evidence of a crime but is not used in a criminal proceeding or a children's court proceeding, or when the property comes into the possession of a law enforcement agency by other means, the property shall be held for two years. If the property is not claimed within two years of the date it comes into the possession of a law enforcement agency, the property shall be disposed of as provided in AS 12.36.030(b). (§ 21 ch 143 SLA 1982)

NOTES TO DECISIONS

Quoted in *Wilson v. State*, 756 P.2d 307 (Alaska Ct. App. 1988).

Sec. 12.36.050. Remission of forfeited property. (a) A claimant seeking remission of the claimant's interest in a weapon ordered forfeited under AS 12.55.015(a)(9) shall prove to the court by a preponderance of evidence that the claimant

(1) has a valid interest in the weapon, acquired in good faith;

(2) did not knowingly participate in the commission of the crime in which the weapon was used; and

(3) did not know or have reasonable cause to believe that the weapon was used or would be used to commit a crime.

(b) Upon a showing that a claimant is entitled to relief under (a) of this section, the court may order that the weapon be released to the claimant.

(c) A claim may not be filed under this section more than 120 days after the entry of the last final judgment in the case in which the weapon was ordered forfeited. (§ 1 ch 169 SLA 1988; am § 29 ch 50 SLA 1989)

Legislative history reports. — For an analysis of the 1989 amendment to (a) of this section, see Senate-House Joint Jour-

nal Supplement No. 10, May 5, 1989, p. 5, under "Sec. 29."

Sec. 12.36.060. Disposal of forfeited deadly weapons. (a) A deadly weapon forfeited under AS 12.55.015(a)(9), unless remitted under AS 12.36.060, shall be disposed of by the commissioner of public safety under this section. The commissioner of public safety may declare a weapon surplus and transfer it to the commissioner of administration. A weapon suitable for law enforcement purposes, ballistics testing, training, or identification may be retained by the Department of Public Safety or transferred to the municipal law enforcement agency making the arrest that led to the forfeiture. A weapon that is unsafe or unlawful shall be destroyed.

(b) The commissioner of public safety may adopt regulations necessary to carry out the provisions of this section. (§ 1 ch 169 SLA 1988)

Sec. 12.36.090. Definitions. In this chapter,

(1) "final disposition of a case" means the time when all appeals have been exhausted or the time when all appeals that could have been taken has expired;

(2) "law enforcement agency" means a public agency that performs as one of its principal functions an activity relating to crime prevention, control, or reduction or relating to the enforcement of the criminal law; "law enforcement agency" does not include a court;

(3) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders. (§ 21 ch 143 SLA 1982)

Chapter 37. Authorized Communications Interceptions.

Article

1. Interception of Private Communications (§§ 12.37.010 — 12.37.130)
2. Pen Registers and Trap Devices (§ 12.37.200)
3. Communications in Electronic Storage (§ 12.37.300)
4. General Provisions (§ 12.37.900)

Legislative history reports. — For which enacted this chapter, see 1993 governor's transmittal letter on the bill House Journal 488 — 489 (HB 187) that became ch. 61, SLA 1993.

Article 1. Interception of Private Communications.

Section

10. Authorization to intercept communications
20. Application for order authorizing a communication interception
30. Requirements for an order authorizing a communications interception

Section

40. Contents of order authorizing a communications interception; limitations on disclosure
50. Privileged communications
60. Collateral authority of court; interpretation of 12.37.010 — 12.37.130

against the claimant under this chapter or AS 11.71. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(g) — (i). Renumbered in 1983. failure to furnish notification required under this chapter, see AS 11.71.050(a)(4).
Cross references. — For penalty for

Sec. 17.30.118. Petition for release of seized items. (a) A claimant under AS 17.30.116(b) may at any time petition for release of a seized item as follows:

- (1) to a court in which a warrant for seizure has been issued;
- (2) to a court in which a criminal or civil action alleging forfeiture of the item has been filed; or
- (3) before an action is filed, or if no seizure warrant was issued, to a court in the judicial district in which the violation took place.

(b) An item may not be released by the court under (a) of this section unless the claimant gives adequate assurance that the item will remain in subject to the court's jurisdiction and

- (1) the court finds that the release is in the best interests of the state; or
- (2) the claimant provides a bond or other valid and equivalent security equal to twice the assessed value of the item. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(j) and (k). Renumbered in 1983.

Sec. 17.30.120. Petition for sale of seized item. A claimant may petition the court for sale of an item before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interests of the state and the preservation and maintenance of the item seized. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(l). Renumbered in 1983.

Sec. 17.30.122. State disposal of forfeited property. Property forfeited under AS 17.30.110 — 17.30.126 other than controlled substances shall be disposed of by the commissioner of administration in accordance with applicable law. The commissioner of administration may

- (1) destroy property harmful to the public;
- (2) sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs.

(3) take custody of the property and authorize its use in the enforcement of this chapter or AS 11.71, or transfer it to another agency of the state or a political subdivision of the state for a use in furtherance of the administration of justice;

(4) take custody of the property and remove it for disposition in accordance with law;

(5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition; or

(6) transfer ownership of an aircraft to the Alaska Wing, Civil Air Patrol. (§ 4 ch 45 SLA 1982; am § 2 ch 18 SLA 1983)

Revisor's notes. — Formerly AS 17.30.110(m). Renumbered in 1983. **Effect of amendments.** — The 1983 amendment added paragraph (6).

Sec. 17.30.124. Remittance to claimant. (a) Upon a showing that a claimant is entitled to remittance under AS 17.30.110 — 17.30.126, the court shall order that

(1) if the claimant is entitled to the item, it shall be delivered to the claimant immediately;

(2) if the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at the claimant's choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

(b) An offender who used an item subject to remission in violation of this chapter or AS 11.71 shall be assessed a fine which may not be less than the cost of any lien payment or remittance made by the state plus the reasonable costs of the seizure. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(n) and (o). Renumbered in 1983.

Sec. 17.30.126. Forfeiture of controlled substances. (a) A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter or AS 11.71 is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety or the commissioner's designee, including a municipal law enforcement agency authorized under AS 17.30.114(b) of this section to retain custody of controlled substances, is responsible for the disposal of controlled substances which have been forfeited. The controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the commissioner.

(b) Plants from which controlled substances may be derived and which have been planted or cultivated in violation of this chapter or AS 11.71, or which are grown in the wild, may be seized and summarily forfeited to the state. (§ 4 ch 45 SLA 1982)

Revisor's 17.30.110(p) an

Sec. 17.30.130. conclusion under it is by a decision in accordance with the provisions entitled to a

Section 140. Education

Sec. 17.30.131. health and designed to connection

(1) assistance in correctional institutions

(2) promotion of controlled substances in the interest of the community

(3) consultation with the community in the development of a plan

(4) evaluation of proposed actions and their consequences

(5) dissemination of information to the public and to interested parties

(6) with the assistance of the community in their efforts to reduce the incidence of controlled substances

(b) The research and development of

(1) establishment of a system of identification and control

(2) maintenance of a system of identification and control

(A) development of equipment and procedures for the detection and control of controlled substances

(B) detection and control of controlled substances in the community