

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 1251

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Memo

To: Senator Hollis French, Chair, Senate Judiciary Committee
From: Senator Gary Stevens
Date: January 17, 2007
Re: Senate Bill 13

I respectfully request a Senate Judiciary Committee hearing at your earliest convenience on Senate Bill 13 "An Act prohibiting a legislator from providing consulting services to a person in the private sector or agreeing to accept consulting fees from a person in the private sector."

Thank you for your consideration of this request.

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Sponsor Statement for Senate Bill 13

“An Act prohibiting a legislator from providing consulting services to a person in the private sector or agreeing to accept consulting fees from a person in the private sector.”

Senate Bill 13 is straightforward and long overdue legislation that will prohibit a legislator from providing consulting services to anyone in the private sector and accepting consulting fees from anyone in the private sector.

In recent months, there has been much attention focused on legislative ethics and the consulting work of some legislators. During this time, it has become clear that the public expects our elected officials to work above the board and for Alaskans. SB 13 is a way to ensure that happens. I urge your support of this important measure.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 16, 2007

SUBJECT: Sectional Summary of SB 13, a bill relating to private consulting work by legislators (Work Order No. 25-LS0106\C)

TO: Senator Garv Stevens
Attn: Doug Sch

FROM: Dan Wayne 
Legislative Counsel

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

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1, the bill's only section, would amend AS 24.60.085 by adding a subsection (c) that prohibits legislators from directly or indirectly providing consulting services to, or agreeing to accept consulting fees from, the private sector.¹

If I may be of further assistance, please advise.

DCW:med
07-016.med

¹ AS 24.60.085 reads:

- (a) A legislator or legislative employee may not
- (1) seek or accept compensation for personal services that is significantly greater than the value of the services rendered taking into account the higher rates generally charged by specialists in a profession; or
 - (2) accept a payment of anything of value, except for actual and necessarily incurred travel expenses, for an appearance or speech by the legislator or legislative employee; this paragraph does not apply to the salary paid to a legislator or legislative employee for making an appearance or speech as part of the legislator's or legislative employee's normal course of employment.
- (b) Notwithstanding (a) of this section, a legislator or legislative employee may accept a payment for an appearance or speech if the appearance or speech is not connected with the person's legislative status.

SB

19

Alaska State Legislature



Senator Hollis French

SB 19 – Executive Ethics

Sectional Analysis

Section 1

Line 10 replaces an “or” in the current statute with an “and”. The effect of the change is to add the condition that the action taken or influence exerted by the officer have an insignificant or conjectural effect on the matter.

Line 11 and 12 adds some explanatory words to the current statute to make it clearer.

Page 1, lines 12 – 14, through page 2, lines 1-16 adds a list of business interests that would be forbidden under the executive act ethics code. The construction of the list is such that any single item possessed by an officer of a member of the officer’s immediate family would be sufficient to preclude that officer from taking official action in connection with the interest.

Section 2

Lines 18 – 21 expand the definition of official action to include most of the day-to-day activities of executive branch employees.



Senator Hollis French

Sponsor Statement

SB 19 – Executive Ethics

SB 19 is a responsible step towards making the Executive Branch Ethics Act clearer, easier to understand, and easier to follow.

Currently the Ethics Act does not spell out clearly what sorts of financial interests constitute a conflict of interest. The bill sets out a series of bright financial lines for executive branch employees. For example, current law provides no guidance whatsoever as to the size of investment that an executive branch employee may own and still take official state action that affects the investment. SB 19 declares that either \$5000 worth of stock, or one percent of a company's stock, whichever is *less*, means that the executive branch employee must not be involved in state actions that impact that investment. While it seems like common sense to have such a concrete definition, current law does not provide one.

It is important to keep in mind that the key question is whether an executive branch employee owns the financial interest and then performs an official act that affects the financial interest. Either one without the other is not a violation.

The bill also describes with particularity other sorts of forbidden financial interests. An executive branch employee may not own a controlling interest in a business, may not own an equity interest in a business worth more than \$5000, may not be a member of a company's board of directors and may not be an employee of a business.

The bill also expands the definition of "official action" to more clearly capture the day to day duties of our executive branch employees.

The state's ethics laws should be clear to executive branch employees, and to the public those employees serve. Please join me in supporting SB 19.

From: RayinAK@aol.com [mailto:RayinAK@aol.com]

Sent: Wednesday, January 17, 2007 11:58 PM

To: undisclosed-recipients

Subject: Legislative proposal for "Open Honest Ethical Government.".. By Ray Metcalfe.

Setting a foundation for Open Honest Ethical Government. Proposed By Ray Metcalfe. January 17, 2007.

APOC IS BROKEN BEYOND REPAIR APOC NEEDS TO BE DISCARDED AND REPLACED

The sheer magnitude of the improprieties of Ben Stevens, VECO, and Fish Marketing Board, which APOC allowed to persist for years, and in some cases defended, makes clear that now it is time to devise a new political watchdog. Think of the proposal below as a new framework for defining and enforcing of the dozens of new ideas that are likely to be proposed over the next few months.

- I propose that APOC be discarded and replaced with a new commission. I recommend a new commission, (at a minimum, those who set in judgment of complaints), be created within the Judiciary branch of government. I recommend this for two reasons.
 1. APOC is dependent on funding from the legislators they are expected to police and their funding appropriations are subject to the Governor's veto. Every time APOC did the right thing, whether the complaint involved the Governor or a member of the majority in the legislature, their funding was either threatened or cut.

Once moved to the Judiciary, the Court would decide what portion of the Judiciary's budget APOC's replacement would receive and how much staff they required. I would expect it to include record keeping staff, staff to review and advise filers of incomplete filings, and at least one investigator unless an investigator in the judiciary it is determined to be in conflict with the constitutionally required separations of powers.

2. Currently, two of APOC's five Commissioners are hand picked by that standard bearer of Republican ethics Randy Ruedrich. Another two are picked by the leaders of the Democratic Party. All but one of the five Commissioners has a vested interest in protecting their fellow party members from accusations of improprieties. Future Commissioners should be picked by a majority vote of the Alaska Supreme Court, from a list of qualified applicants recommended by the Judicial Council.

- I propose that all responsibilities currently in the purview of the Legislative Ethics Committee be transferred to a newly formed Commission in the Judiciary and the existing Legislative Ethics Committee also be disbanded.
 1. In May of 2006, the State Senate passed a bill that would impose a \$5,000 fine on anyone who talks about filing or intending to file an ethics complaint against a Legislator. Former State Senate President Ben Stevens not only served on the ethics committee, he sat in judgment of himself and he voted in favor of the proposed \$5,000 fines mentioned above.
- The New Commission should be empowered to address all public corruption in whatever form it takes. I propose that all restrictions concerning what statutes APOC's replacement has the authority to enforce be lifted.
 1. APOC's most frequent excuse for not perusing a remedy for Ben Stevens' obvious fraud was to say "Not My Job." In example, when I brought clear evidence of bribery to the attention of APOC staff, I was told to take it up with the Legislative Ethics Committee on which Ben Stevens sat.
- I propose the creation of an "Anti-Public Corruption Unit" of not less than three "non-exempt" officer positions (non-exempt meaning they cannot be fired for investigating a powerful public official). Such an office should be within the State Troopers and filled by officers trained in the investigation of public corruption.
 1. Reducing public corruption will pay for its cost many times over. Given the opportunity to address an audience willing to listen long enough to understand the issues, I can prove beyond the shadow of a doubt that our failure to police public corruption has cost this state tens of billions of dollars due to unnecessary losses resulting from legislators and former governors who gave away our oil for a pittance of its real value to Alaska.
 2. If the FBI can find enough work cleaning up our act to busy dozens of agents for a couple of years, certainly we can find enough work for three new Troopers.
- I propose adding a forty-eighth title to Alaska's statutes, titled: "Open Honest Ethical Government."
 1. Alaska currently has forty-seven titles in its statutes. Alaska's statutes currently have a motley assortment of toothless disclosure, ethics, and campaign requirements that are strewn throughout our statutes and selectively enforced, depending on who's in power and who's asking for enforcement.
 2. Alaska's statutes need to be rewritten from top to bottom and consolidated under a single easy to understand "Title 48, Open Honest Ethical Government." Not only do such statutes need to be armed with serious criminal penalties, they need to include workable mechanisms for citizens' enforcement, to include an abbreviated mechanism of recall for legislators who refuse to comply.

(Abbreviated meaning a lower bar for recall. Signatures of 5% of those who voted in their last election, accepting that the question of whether or not they failed to comply should be appealable to the Courts. An abbreviated mechanism should not be available unless noncompliance can be demonstrated.

(Note: Contrary to Speaker Harris's assertion that "our current statutes appear to be working," they clearly are not. When enough signatures had been collected to begin the recall of Ben Stevens, the Division of Elections said we had no proof and tossed our petition. When we challenged the Division of Elections in Superior Court, the State provided Ben Stevens and the Division of Elections with seven attorneys to oppose us. The Court once again said "we had no proof." When the Superior Court ruled against us, Ben Stevens tried to shackle the volunteers for his recall with his attorney's fees. (We were not investigators and should not have been held to the proof standard nor should we have been expected to prove our case within the statutory limit of a 200 word complaint. I suspect the eventual proof of Ben Stevens' skullduggery will fill a filing cabinet.

Believing that Ben Stevens' term of office would be over before we could get a ruling from the Supreme Court, we elected to take our complaints to APOC, who tossed our complaints and/or recommended "no penalty" over and over again. When we took our evidence to the Attorney General, his three page reply could have been summed up in three words. "Go Screw Yourself." We may have won in the Court of Public Opinion, but had it not been for the FBI, the "Good Old Boy System" may well have saved Ben's Senate Seat. Clearly our current laws do not work.)

3. In addition to appropriate criminal penalties for Courts to consider, compliance with "Title 48" needs to be a condition of holding any elected office or appointed position.
4. It needs to be clear that the New Commission has the authority to remove any elected or appointed official who has refused to come into compliance, or in the Commission's opinion, attempted to conceal substantive information that should have been disclosed, or if they attempted to deceive the public. This authority should be subject only to a review of the Courts, and in the case of a member of the Legislature, subject to over rule only by the Courts or a majority vote of both houses of the Legislature.
5. Just as it is a crime for people of authority to remain silent over child abuse, it needs to be a crime for a fellow Legislator to remain silent when he or she possesses knowledge of bribery or other criminal infractions of the newly created "Title 48 Open Honest Ethical Government: AS:48:01-99"

(I provided every legislator with several packets of information demonstrating evidence of Ben Steven's bribery. I received two responses. (1.) We in the Senate Minority can't afford to rock the boat; we need to preserve what little working relationship we have with the Senate Majority. (2.) A note from a Member of the House Majority reading "Not in this office Ray")

- I propose a constitutional amendment barring all closed door meetings of the Legislature and all other forms of secrecy in the discussion, and/or conduct of Alaska's economic interests.
 1. As a legislator I was a reluctant to participant in closed door meetings. In hindsight, I cannot think of a single subject we ever debated behind closed doors, that wouldn't have better served the public's interest if it had been discussed in the light of day for all to see and hear.
 2. Any legislator who says the subjects discussed in closed caucus meetings "are restricted to strategy and procedural questions" is lying.

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See same as above attached in an MS Word document.

Personnel board calls for ethics act revision**RENKES: Statement calls probe by Bundy appropriate.**

By PAULA DOBBYN
Anchorage Daily News

(Published: March 12, 2005)

Alaska's executive branch ethics act is vague about what a governor should do when confronted with a possible ethics violation by his attorney general, and the law should be clarified, members of the state personnel board said Friday.

"Anytime you can have a law that you can get three or four different opinions about, it needs to be revised," said Debra English, chairwoman of the three-member board.

The matter arose earlier this week when the personnel board unveiled a settlement with former Alaska Attorney General Gregg Renkes, who resigned last month amid conflict-of-interest allegations involving his stock ownership in a company he promoted as a state official. By settling with Renkes, the board dismissed a complaint by Rep. Eric Croft, D-Anchorage, and former Wasilla Mayor Sarah Palin, a Republican.

Croft and Palin argue that the governor should have referred the Renkes matter to the personnel board in October, immediately after a newspaper story reported Renkes' stock holdings, rather than waiting until December, when he received a formal complaint from Palin and Croft. The two said Murkowski should not have hired Anchorage attorney Robert Bundy to investigate, as he did in October.

The board appeared to agree initially.

In a written statement Tuesday, English said the ethics act is "quite clear that alleged ethics violations by the attorney general are to be investigated by an independent counsel selected by the state personnel board." She reiterated that position in an interview.

But Thursday, the board issued a second statement saying Gov. Frank Murkowski acted appropriately by hiring Bundy.

"There is nothing in the Act prohibiting the governor from hiring an independent investigator to investigate potential misconduct, before the formal complaint was filed," the board said.

The board decided it needed to clarify its position, said Ron Otte, a personnel board member and former state public safety commissioner.

"Our initial press release wasn't clear," Otte said Friday. "There was probably a fair amount of confusion."

Both Otte and English said Friday that Murkowski acted appropriately when Croft and Palin filed their complaint in December. As required by law, he referred it to the personnel board, which appointed Anchorage labor lawyer Tom Daniel to investigate the matter.

As far as what Murkowski should have done in October, upon first learning of Renkes' potential conflict from the newspaper, the law doesn't provide specific guidance, they said.

A governor could seek an advisory opinion from the attorney general under normal circumstances, but that wasn't an option in this case because Renkes, the state's top lawyer, was the subject of the allegation, Otte said.

But as Renkes' ethics supervisor, Murkowski was charged with determining if his attorney general violated the ethics act and he chose to do that by hiring Bundy to find out, which is reasonable, Otte said.

But the law doesn't say how or when Murkowski should have acted in such circumstances, and that should be clarified, he said. "It's not a well-written law."

In retrospect, it might have been better for the governor to refer the matter to the personnel board from the beginning, Otte said, but there is nothing in the law that required Murkowski to do so.

Palin on Friday again criticized the governor's initial response to the Renkes revelations and said she suspected that someone in the governor's office pressured the board to say explicitly that Murkowski had not violated ethics act procedures.

"It's patently false," responded Becky Hultberg, Murkowski's spokeswoman.

Daniel, the independent counsel hired by the personnel board, said he was not asked by anyone in the governor's office to change the board's position. He also took issue with Palin and Croft's contention that they helped negotiate the terms of the Renkes settlement, which included the release of thousands of pages of depositions.

Although the board has dismissed the Renkes complaint, the settlement requires Daniel to offer a legal opinion as to whether the former attorney general's \$126,000 investment in KFx Inc. was significant enough to constitute a conflict of interest. Bundy concluded that it was not.

Daily News reporter Paula Dobbyn can be reached at pdobbyn@adn.com or 257-4317.

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Report takes new view of Renkes**PERSONNEL BOARD: Ex-official's interest in trade deal is termed "significant."**

By MATT VOLZ

The Associated Press

(Published: April 16, 2005)

A report released Friday says former Attorney General Gregg Renkes' interest in a trade deal he helped broker was "significant," a finding that conflicts with an earlier investigation that cleared him of all but one violation of the state's ethics code.

Thomas Daniel, the state personnel board's independent counsel, concluded that Renkes' ownership of between \$71,880 and \$124,680 in KFx Inc. stock was significant as defined by Alaska law.

Daniel stopped short of saying Renkes violated ethics laws. A finding of legal significance is not the same as a conclusion that the law was broken, he wrote. A complete investigation and hearing would have to be conducted, which cannot happen because the case was settled in March, he wrote.

The finding contradicts the conclusion of an investigator hired by Gov. Frank Murkowski that said Renkes' holdings fell short of that "significant" interest and therefore he did not breach state ethics laws.

Renkes resigned in February in the midst of the scandal. No action will be taken against him as a result of the new findings because of the settlement.

Neither Renkes nor Daniel could be reached for comment Friday.

"This has not been an easy decision because of the absence of clear guidance in the Alaska Ethics Act and the regulations interpreting it," Daniel wrote in his report. "The fact that another well-respected lawyer has reached a different conclusion demonstrates that reasonable minds can differ about the application of the act to the facts here."

Daniel urged a clarification of the state's ethics laws.

Daniel's conclusions were based on the report by former U.S. Attorney Robert Bundy, the investigator hired by Murkowski.

KFx has a patented drying process that was to be part of preparing Beluga coal for sale to Taiwanese utilities. Renkes helped put together an agreement between Alaska and Taiwan to promote the export of coal while owning the stock. The allegations against Renkes accused him of helping put the deal together knowing KFx, and his stock, would benefit.

Renkes denied a conflict of interest and said he resigned because of what he characterized as continued personal attacks.

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Experts question Renkes' large holding of KFx stock

PORTFOLIO: Shares were the biggest single portion of attorney general's investments.

By PAULA DOBBYN and BILL WHITE

Anchorage Daily News

(Published: October 31, 2004)

KFx Inc., a Denver company seeking to convert Alaska's low-grade Beluga coal into a high-energy fuel, represented an unusually large part of state Attorney General Gregg Renkes' investment portfolio, according to independent financial experts.

KFx -- Renkes' most actively traded stock -- was worth \$116,000, about 14 percent of the \$817,458 portfolio at the end of September. That sizable percentage made it the most important holding in the attorney general's account and gave him an "overweighted" position in KFx compared to a typical diversified portfolio, according to investment professionals. The second biggest holding, General Electric, was less than one-third the size of KFx, and at 4.5 percent of the total portfolio it represented a more typical size, the investment experts said.

KFx stands out as an obscure company in a 62-stock account packed with such Fortune 500 firms as Ford Motor Co., Procter & Gamble, Microsoft and McDonald's.

The attorney general's interest in KFx triggered a special investigation this month of whether he had a conflict of interest that pitted his personal finances against his official activities as attorney general.

Former U.S. Attorney Robert Bundy launched his investigation at Gov. Frank Murkowski's request after reports surfaced about Renkes' KFx holdings. The inquiry, which has an initial budget of \$25,000, is expected to focus on possible ethics violations and not insider trading, a question some analysts have considered since the information first came out.

KFx has a coal-drying technology it says could make the undeveloped Beluga coal deposits across Cook Inlet from Anchorage attractive to Taiwanese buyers. Renkes brought KFx to the attention of state trade officials, and he reviewed an agreement the state signed last month with Taiwan to promote the sale of Beluga coal processed with KFx technology.

Besides the stock holdings, it was revealed that Renkes was a former technical adviser and public affairs consultant for KFx and is a business partner with John Venners, brother of KFx's chief executive, Ted Venners.

Renkes has said he did not violate the state's ethics law. That law says in part: "A public officer may not use, or attempt to use, an official position for personal gain."

Renkes said he disclosed his stock ownership in public filings as required by law.

Renkes is a member of Gov. Murkowski's inner circle. The governor, through his spokesmen, has said he had no



Renkes (Photo by Marc Lester / Anchorage Daily News)

Click on photo to enlarge

knowledge of Renkes' holdings in KFx.

extent of Renkes' stock holdings is disclosed in documents filed with two sources. He files an annual financial statement with the Alaska Public Offices Commission. And, as one of six trustees overseeing the state's \$28 billion Permanent Fund, Renkes must report his buying and selling of stocks and bonds.

The disclosures show Renkes' buying and selling activity from Oct. 23, 2003, through Sept. 28. The documents reveal a busy investor.

During those 11 months, he bought or sold shares on 373 occasions -- more than once a day on average.

KFx was not only the single largest holding by far, Renkes traded no other stock more heavily. He bought or sold KFx shares on 11 occasions during the past year, boosting his holdings to 13,100 shares as of Sept. 28.

Because of the controversy, Renkes said last week, he sold all his KFx stock on Oct. 6 and is donating his profits to charity.

The attorney general has said his broker managed his stock account and bought and sold shares on his own. However, Renkes could trade stocks in his retirement account himself, and the disclosure statements place 12,000 of the KFx shares in that account. The disclosures don't reveal which account his trades were made in. Renkes' Juneau broker, Dale Anderson, has said the retirement account has had virtually no trading activity.

While Renkes and Anderson say the broker did the trading over the past year, some financial experts find that hard to believe.

"It would be highly unusual for a broker to be adding to an overweighted position without the consent of the client," said David Gottstein, an Anchorage investment adviser and owner of Dynamic Capital Management. "I suspect each one of these trades was directed by Renkes."

Unless a broker has an extraordinary track record, it's unlikely that a client would have given him so much latitude to trade, said Richard Cohen, a University of Alaska Anchorage assistant professor of finance.

"If it were me, I would not let the guy do that much trading" without my input, Cohen said.

Renkes' ties to KFx date back to at least the late 1990s, when he was a consultant to the company.

KFx has a patented coal-drying technology called K-Fuel, designed to upgrade low-grade coal. The company has never commercialized the technology, has no operating plant and has some 20 years of losses. From 2001 through 2003, it posted only \$78,306 in revenue while amassing \$63.4 million in losses.

In October 2001, just over a year before he became Alaska attorney general, KFx gave Renkes 25,000 shares in payment for \$91,250 in professional services, according to filings with the U.S. Securities and Exchange Commission.

By the time he became attorney general in December 2002, Renkes had pared that stake to 12,000 shares, according to his financial disclosures.

But he grew his holdings while attorney general. Between Nov. 14, 2003, and last March 22, Renkes bought and then sold 3,500 shares of KFx.

In the following months, he went on a buying spree: 500 shares on April 6, 200 shares on May 4, 100 more on the same day, 100 shares on June 15 and 200 more on Aug. 3.

Between a rising stock price and the extra shares, the value of Renkes' KFx holdings mushroomed from \$31,000 in late 2002 to \$115,542 a month ago on Sept. 28.

During this last spate of buying, state trade officials who work in the governor's office were negotiating a Taiwanese trade deal that involved KFx's patented coal-drying process, called K-Fuel. The agreement envisioned a \$1 billion project in the Beluga coal field west of Anchorage, including the construction of a \$350 million coal-drying plant that would use K-Fuel.

After Renkes introduced KFx to the state officials, he publicly promoted the company in a news conference, reviewed the trade agreement for the state and appeared at a signing ceremony in Anchorage in late September.

In a Sept. 30 interview, the attorney general said he limited his involvement in the trade discussions because he "didn't think it was appropriate for me to be the deal person. But I'm knowledgeable about Asia. I'm familiar with our resources. I'm trying to help develop that relationship."

"I try to avoid all appearances of impropriety," Renkes said.

Since then, Renkes has declined interview requests. Both Renkes and the governor's office have repeatedly stated that they won't talk about anything related to KFx until Bundy's report is finished.

Financial analysts, including Gottstein, who studied Renkes' portfolio and trading activity at the Daily News' request, say several obvious questions arise.

"What did he know, and when did he know it? Did he have influence on KFx after he came into office, and did he have material, nonpublic information of KFx at any time? In either case, a submission on a financial report doesn't cut it," Gottstein said.

Noting the five separate KFx buys totaling 1,100 shares during the past six months, finance professor Cohen said, "The timing is interesting since the Taiwanese delegation conferred with Alaska state officials beginning in March."

A person could be liable for insider trading if they misappropriate confidential material information about a company and then use that information to trade in the market, said Richard Painter, a law professor at the University of Illinois and an insider trading expert.

"If the governor's office says 'We want to include you in these negotiations,' and then the person trades on it without informing the source of the information, in this case the governor's office ... then you have misappropriation of information for purposes of trading," said Painter, adding that he doesn't know the details of the Renkes-KFx affair.

"I'm not saying he could be tagged for insider trading," Painter said.

Diane Denis, associate professor of finance at Purdue University, said, "He has to be buying shares while he knows information that the public doesn't know yet that is likely to have a material impact on the price of the stock.

Denis noted that insider trading cases can be hard to prove and that there's lots of "gray area" in the law. It would be up to the federal Securities and Exchange Commission's enforcement unit to investigate and decide whether to bring an action, Denis said.

Given the size of Renkes' KFx position, his past relationship as an adviser and his business ties with at least one KFx insider, he certainly had motivation to try to help the company, Cohen said.

"There's definitely something that doesn't smell good," he said.

Answers to some of the questions surrounding Renkes' activities may lie in a stack of state documents on KFX under the control of Murkowski chief of staff Jim Clark.

Clark has delayed releasing those documents, sought under an Oct. 6 public records request, until sometime this week while he personally reviews them.

Reporter Paula Dobbyn can be reached at pdobbyn@adn.com or 257-4317. Business editor Bill White can be reached at bwhite@adn.com or 257-4311.

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SB

20

Alaska State Legislature



Senator Hollis French

Sponsor Statement

SB 20 – Legislative Disclosures

SB20 is a simple bill designed to clarify Alaska Public Office Commission reporting requirements for legislators and other public officials.

Under the current legislative ethics code a public official must disclose the nature of any work performed as personal services for which compensation greater than \$1000 is received. SB20 simply adds language to the existing statute to require the filer to provide a substantive description of what was done for the contract, as well as the approximate number of hours spent.

The public has repeatedly appealed for more substantive disclosures, and SB20 provides the increased degree of openness they are calling for. This will assure the public that the compensation public officials receive for outside work does not conflict in any way with their public duties, without unduly burdening citizen legislators who perform legitimate duties outside of the public realm.

The clarification the bill provides will also help APOC fulfill its mission of encouraging the public's confidence in their elected and appointed officials.

Please join me in support of this important ethics legislation.

Alaska State Legislature



Senator Hollis French

SB 20 – Disclosure

Sectional Analysis

Section 1 makes four changes to the current statute.

Lines 3-4 add to the statute the requirement to report dividends received for personal services from limited liability companies.

Lines 6-9 add to the statute the requirement to describe the nature of the services performed in exchange for income with enough detail to inform a person with ordinary understanding, unless the services were rendered pursuant to a professional license.

Lines 10-11 add to the statute the requirement to report the total number of hours that either were spent or will be spent in performing the services

Lines 12-17 rewrite paragraph (C) of the existing statute to require that the amount of income received from each source by a legislator or legislative director be disclosed. The bill removes the condition that the source of income be known to have a substantial interest in legislative, administrative or political action.

Section 2 adds a definition of “professional license”

Section 3 sets the effective date at July 1, 2007

Rep. Holmes ←

To Gov. Palin & each Alaska legislator

PETITION

Re: Permission to Testify about Effectively Dealing with Corruption in State Government

I petition you to allow me to address, in open meeting, Alaska elected officials about dealing with representative government incompetence, corruption and poor ethics. My authority to command your attention is the inherent sovereignty of an informed citizen over government, as recognized by the Alaska and US Constitutions. By your oaths of office, I conjure you to recognize this.

For courtesy's sake, I resubmit, in the attached published letters, the foundation of my testimony and idea for simply controlling corruption and ethics standards in government. This is so you can reasonably determine that I am sensible and sincere.

I ask for this widest possible official audience because of my treatment at the hands of state lawmakers and the governor last year. My petition to be heard by the House and Senate Rules committees, concerning inoculating lawmakers against destructive ignorance, prejudice and corruption, was refused – though they had proper jurisdiction over legislative rules. I have documented evidence of this. I reported this rejection and a summary of my intended testimony and solution to the governor and all 60 legislators. Only about 8 lawmakers responded. None expressed interest in a simple proven solution to controlling ethics lapses and corruption, or recognized the corruption inherent in what I experienced. I have documented evidence of this. Yet I only wanted to help the Legislature improve its performance and ethics standards in a gentle fashion. This year, corruption and ethics are now being given emergency attention. This is apparently due to the attitude of the new governor, embarrassment over the gross corruption uncovered by the FBI, and embarrassment over ethics lapses now being punished by APOC. I hope I will now be decently treated.

My testimony will verifiably show that:

1. the current measures being considered against corruption and ethics lapses are acceptable, but are superficial. Such solutions naturally permit problems to mutate until those solutions later no longer work.
2. the full discipline of our constitutional form of government is itself the ultimate control over corruption – if enough of it known and fully practiced. Our republican form of government is based on a vastly verified study and debate by our founding fathers about the strengths and weaknesses of all other government forms that preceded it. So failures to control corruption and ethics lapses are actually evidence of cooperative incompetence at using the constitutional devices and disciplines that make up our political heritage.
3. the common solution lawmakers are using to address their overwhelm from the volume of legislative material naturally leads to corruption. Specifically, addiction to trusted lobbyists and practicing follow-your-caucus-leader is discredited by the history of aristocrats and monarchs. People-based information and research support for leaders is practically unknown, much less used, despite our political heritage from early America and from our Alaska native cultures.
4. the example set by modern elected representatives and chief executives is probably the most major influence behind skyrocketing high school dropouts and disinterest in learning. Youth consistently see how people must join an aristocracy – born of money, "who you know", prominence and popularity in the community, and name recognition – to be elected to run things or to be empowered to call the shots. Why know history, civics, math or even how to study if you can get "experts" and advisors to know this for you when you're in power?
5. there is a simple remedy for current conditions that is historically proven.

May I please be given the respect of a public hearing before legislators so I can discharge my duty of preserving the existence of my state?

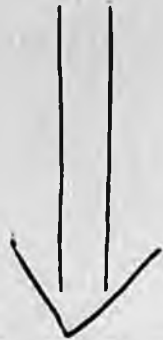
Stuart L. Thompson 1/22/07

Stuart L. Thompson

Direct responses to lookitover@worldnet.att.net or VM 1-877-950-7980 as am currently working in SE cities
Permanent address: PO Box 870702, Wasilla, AK 99687

ON SUBMISSIONS

The Editor: Letters will be edited for length, fact accuracy, and a civil tone. All letters, including e-mail, must include a phone number for verification.



'Educated competence' needed in government

To the editor:
People moan about political corruption, destructive partisanship by representatives, and undue influence by special interests, yet carelessly accept empty rhetoric from politicians. Let's talk seriously about making our form of government work to its potential.

Consider that the Alaska Constitution's Article 2, Sect. 12, last sentence reads: "The legislature shall regulate lobbying."

What? This is the very thing that nearly all Alaskans complain the Legislature doesn't do enough of. Here are excuses given by past and present politicians for brushing this off:

A- "Lobbying is part of the fabric of democracy." Yet common sense shows lobbying works best to the degree just a few or one person calls the political shots, which sounds like aristocracy or monarchy in action. History calls efficient lobbying "having the ear of the king."

B- "Lobbyists perform valuable educational and research services for the legislature on complex issues." Yet it's self-evident that whoever controls the information diet of a mind controls most of its conclusions and decisions.

What powers such hypocrisy?

Basically, current political traditions and practices are increasingly turning away from people-based government principles. Example: how to successfully harvest and organize a population's ideas, contributions and efforts toward state and national goals is rarely practiced, or even understood.

See LETTERS, Page A5

LETTERS

Continued from Page A4

This is demonstrated by the common assertion "Representatives are elected to make the hard decisions for everyone." Yet this defines aristocracy, not representative government.

Furthermore, politicians who rebel against "how things are done" are suppressed and demoralized by our modern tradition-oriented political infrastructure. Consequently, it's why citizen apathy is never actually addressed. Apathy serves benevolent elected aristocrats that masquerade as representatives very well.

How have political traditions come to have more influence than constitutional oaths of office? Well, consider this. U.S. founding fathers were at least partially educated in Greek and Latin. This naturally drove their comprehension and use of English words derived from these languages.

The word "represent" is derived from Latin words for "show or give again." This obviously applies to a constitutional republic that is supposed to reflect the will and ideas of its citizens.

But modern dictionaries and politicians give the word "represent" in government another meaning. They use "be an agent or official in behalf of."

Yes. Look it up.
This goes beyond the original theory of Congress acting as a check against mob rule. An agent by definition isn't required to reflect the ideas and thinking of his clients. He just has to provide for their

well-being and interests based on his judgment of realities.

Now you see why even well-meaning elected officials tend to ignore their constituents in favor of knowledgeable lobbyists. It's obviously more efficient for an "agent" to do so.

Consequently, "we" citizens have to pass initiatives about lobbying and even, in desperation, attempt to move the Capitol. Unbelievably, all this visibly proceeds from faulty comprehension of just one key word.

There's an easy and inexpensive way to change all this. Our Legislature is constitutionally commanded to provide rules to maximize cooperative efficiency for doing the public's business (Article 2, Sect 12). But current legislative rules fail to include the most successful method of all time at accomplishing just that. The Rules don't require on-the-job self-education by legislators about the craft of government. Yet true professionals have always proven commitment to results and ethical standards through career-long self-education about their work. Why should Alaska lawmakers be any different?

In remedy, the Legislature could pass this simple rule:

"Each member of the Legislature shall spend at least three hours per week each session personally studying government forms and lawmaking, including histories of their successes and failures. At the beginning of each term, each legislator shall take a voluntary exam about government to have a benchmark to individualize personal studies.

The regularly freshened exam shall be composed by Alaska's social studies teachers, under the supervision of the Lt. Governor's office, with Alaska Supreme Court oversight."

Let's make our government run on educated competence.

Stuart Thompson



SB

36

ALASKA STATE LEGISLATURE

Sen. Lesil McGuire, Chair
Sen. Gary Stevens, Vice-Chair
Sen. Lyda Green
Sen. Hollis French
Sen. Con Bunde




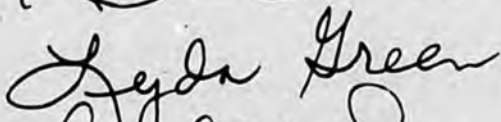
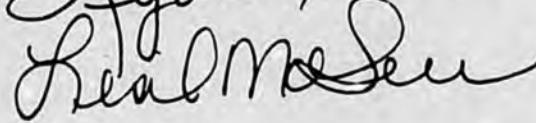
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(907) 465-2995
Fax (907) 465-6592

SENATOR LESIL MCGUIRE
CHAIR, STATE AFFAIRS

Letter of Intent SB 36 – *“Sentencing for Alcohol-Related Crimes”*

The legislature recognizes that laws alone may not achieve the same level of behavioral correction that counseling and treatment are designed to provide. It is therefore the intent of the legislature that the courts, when addressing those who are first time violators of AS 12.55.015 (a) (13) in this act, use when available, Therapeutic Court in lieu of a standard sentencing.

If openings in the Therapeutic Court are not available, the legislature intends that standard sentencing for a class A misdemeanor be carried out as set out in AS 11.56.768 (b) (d) of this Act.

 SEN. FRENCH
 SEN. GREEN
 CHAIR MCGUIRE

COMMITTEE COPY

SENATE BILL NO. 36

Senator Hollis French

Capitol Room 504
465-3892
465-6595 fax



MEMORANDUM

Date: March 19, 2007

To: Leg. Legal

From: Cindy Smith 465-6641 *cls-*

RE: Senate Bill 36

Please amend CSSB36 (STA) as follows and prepare a final (S)JUD CS:

On Page 3, line 17:

Following "alcohol"

Insert:

"and that, based on the defendant's history, there is reason to believe that imposing a requirement that the defendant refrain from consuming alcohol is necessary to protect the public"

Thanks! Call me if you have any questions.

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 36 (STA)

Page 3, line 17:

Following "alcohol":

Insert:

"and that, based on the defendant's history, there is reason to believe that imposing a requirement that the defendant refrain from consuming alcohol is necessary to protect the public"

Rationale: In CSSB 36(STA) under proposed AS 12.55.015(a)(13)(B), before a court can order the defendant to refrain from drinking for up to a lifetime, if the person has been convicted of drunk driving for a third time or the drunk driving resulted in a death or serious physical injury to another person, the court must find that imposing such a sentence is necessary to protect the public.

Under the proposed AS 12.55.015(a)(13)(A) the court may also order a person convicted of a first offense felony under AS 11.41 if the offense was substantially influenced by alcohol, to refrain from drinking alcohol for up to a lifetime. This offense may include, for example, assault in the third degree, a class C felony, which can consist of causing only physical injury by means of a dangerous instrument such as a car. There is no requirement that the court find

that imposing such a sentence is necessary to protect the public under AS 12.55.015(a)(13)(A). This doesn't make sense.

Ordering a person, including a person who may be addicted to alcohol, to refrain from drinking as either part of a sentence or as a condition of probation or parole for up to the rest of his or her life is not an inconsequential part of a sentence. This is particularly true if the person has been convicted of misdemeanor drunk driving as is possible under proposed AS 12.55.015(a)(13)(B), which has a maximum term of incarceration of one year, or of assault in the third degree under the proposed AS 12.55.015(a)(13)(A), which has a maximum term of incarceration of five years. Litigation over whether such a sentence or condition would involve a violation of due process of law or cruel and unusual punishment may be avoided if, under both scenarios, the court is required to find that the prohibition of drinking is necessary to protect the public.

Alaska State Legislature

SENATOR
GENE THERRIALT
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Senate

While in session:
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Memorandum

To: Senator French / Chairman of Senate Judiciary

From: Senator Therriault

Gene Therriault

Date: February 23, 2007

Re: Hearing Request for CSSB 36

.....
I respectfully request the Senate Judiciary take up CSSB 36 (Sta Aff.) for hearing.

This legislation gives judges the ability, as a condition of sentencing, to prohibit the use of alcohol by felons convicted of violent crimes against people.

Thank you.

Alaska State Legislature

SENATOR
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Senate

While in session
State Capitol
Juneau, Alaska
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SENATE DISTRICT F

Sponsor Statement SB 36

Alcohol Ban Option For Certain Violent Felons

In the interest of public safety and reducing the rate of recidivism among certain violent offenders, I have introduced Senate Bill 36 giving judges a new option when sentencing felons who commit crimes against persons. (As 11.41)

In instances that clear and convincing evidence shows a long-term pattern of alcohol abuse as a major contributing factor in the commission of a violent crime against a person, or in the case of extreme DUI convictions, a judge may impose as a condition of sentencing, up to a lifetime prohibition on the use of alcohol.

This legislation is intended to accomplish three main objectives. The first is to allow courts to remove a controlled substance from those who have a long track record of being dangerous when they use it. The second is to prevent future acts of violence by establishing a different threshold for re-arrest before actual violence may occur. The third goal is to establish a lifelong deterrent to offenders who might be tempted to use a substance that unleashes their violent nature.

Memorandum

To: Senator Theriault

From: Dave Stancliff

Date:

Re: Effects of SB 36 (Alcohol prohibition option in sentencing)

.....
I have outlined the type of convictions that would bring in to play the new sentencing option contained in SB 36.

These would be felony convictions under AS 11.41 (crimes against persons) Typical examples would be murder, rape, as well as the most serious types of assault that often occurs in cases of domestic violence.

Also added in Judiciary: multiple (three or more) DUI convictions, or any DUI conviction where death or serious physical injury has occurred.

- Note: Also last session in Judiciary the lifetime ban was modified to "*up to*" a lifetime ban. The rationale behind this change was to give judges a full range of options and not simply an all or nothing approach in considering this sentencing option.

Example of how the new sentencing option could be used:

1. A person is convicted of a violent felony offense, multiple DUI's, or DUI that involves death or serious physical injury.
2. The judge would have to be convinced that such a crime would not have been committed if the person did not have a history of alcohol abuse.
3. The judge could then add as a condition of sentencing a ban on the use of alcohol for any period deemed appropriate.
4. Once back in society, if the offender violates the no alcohol use provision, they could be incarcerated for up to one year for the first offense and up to five years for more multiple violations.

Goals:

1. To protect citizens from alcohol induced violent crime.
2. To provide a meaningful deterrent to convicted felons who chronically abuse alcohol.
3. To send a message to those who turn violent when they use alcohol that extended patterns of such behavior could jeopardize their privilege as adults to consume alcohol.
4. To give potential victims of repeated violence, as well as those who care about offenders who are trying to re-enter society, the ability to contact law enforcement for protection before another act of violence occurs.



Unhooked Science Readings

The unhooked.com science section contains selected educational readings from the scientific and popular literature about alcoholism, addiction, and recovery. The views expressed in the articles are those of their authors and not necessarily those of the science pagemaster or the webmaster or of the person who suggested the article to the list. This material is made available solely for the nonprofit educational use of unhooked.com readers as an aid in their personal recovery, and no other use is authorized or intended. [Click here for the current Science Section reading list.](#)

Domestic Violence & Alcohol and Other Drugs

"Alcohol is associated with a substantial proportion of human violence, and perpetrators are often under the influence of alcohol." Eighth Special Report to the U.S. Congress on Alcohol and Health (Secretary of Health and Human Services, September 1993)

Studies of domestic violence frequently document high rates of alcohol and other drug (AOD) involvement, and AOD use is known to impair judgment, reduce inhibition, and increase aggression. Alcoholism and child abuse, including incest, seem tightly intertwined as well. The connection between child abuse and alcohol abuse "may take the form of alcohol abuse in parents or alcohol intoxication at the time of the abuse incident." [1] Not only do abusers tend to be heavy drinkers, but those who have been abused stand a higher probability of abusing alcohol and other drugs over the course of their lifetime.

Alcohol consistently "emerges as a significant predictor of marital violence." [2] Alcoholic women have been found to be significantly more likely to have experienced negative verbal conflict with spouses than were nonalcoholic women. They were also significantly more likely to have experienced a range of moderate and severe physical violence.

Studies have shown a significant association between battering incidents and alcohol abuse. Further, a dual problem with alcohol and other drugs is even more likely to be associated with the more severe battering incidents than is alcohol abuse by itself. The need for preventing alcohol and other drug problems is clear when examining the following statistics are examined:

- In 1987, 64 percent of all reported child abuse and neglect cases in New York City were associated with parental AOD abuse.[3]
- A study of 472 women by the Research Institute on Addictions in Buffalo, NY, found that 87 percent of alcoholic women had been physically or sexually abused as children, compared to 59 percent of the nonalcoholic women surveyed (Miller and Downs, 1993).[4]
- A 1993 study of more than 2,000 American couples found rates of domestic violence were almost 15 times higher in households where husbands were described as often drunk as opposed to never drunk.[5]
- Battered women are at increased risk of attempting suicide, abusing alcohol and other drugs, depression, and abusing their own children.[6]
- Alcohol is present in more than 50 percent of all incidents of domestic violence.[5]

While alcohol and other drug use is neither an excuse for nor a direct cause of family violence, several theories might explain the relationship. For example, women who are abused often live with men who

drink heavily, which places the women in an environment where their potential exposure to violence is higher.

A second possible explanation is that women using alcohol and other drugs may not recognize assault cues and even if they do, may not know how to respond appropriately. Third, alcohol and other drug abuse by either parent could contribute to family violence by exacerbating financial problems, child-care difficulties, or other family stressors. Finally, the experience of being a victim of parental abuse could contribute to future alcohol and other drug abuse.

To reduce the incidence of these problems in the future, prevention of alcohol and other drug abuse must be a top priority. For more information, call the National Clearinghouse for Alcohol and Drug Information at 1-800-729-6686.

All statistics cited in this Making the Link fact sheet come from the following sources:

1. Widom, Cathy Spatz. "Child Abuse and Alcohol Use." Research Monograph 24: Alcohol and Interpersonal Violence: Fostering Multidisciplinary Perspectives. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 1993.
2. Kantor, Glenda Kaufman. "Refining the Brushstrokes in Portraits of Alcohol and Wife Assaults." Research Monograph 24: Alcohol and Interpersonal Violence: Fostering Multidisciplinary Perspectives. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 1993.
3. Chasnoff, I.J. Drugs, Alcohol, Pregnancy and Parenting, Northwestern University Medical School, Departments of Pediatrics and Psychiatry and Behavioral Sciences, Hingham, MA, Kluwer Academic Publishers, 1988.
4. Miller, Brenda A. and Downs, William R. "The Impact of Family Violence on the Use of Alcohol by Women," Alcohol Health and Research World, Vol. 17, No. 2, pp. 137-143, 1993.
5. Collins, J.J., and Messerschmidt, M.A. Epidemiology of Alcohol-Related Violence. Alcohol Health and Research World, 17(2):93-100. U.S. Department of Health and Human Services, National Institute on Alcohol Abuse and Alcoholism, 1993.
6. Fact Sheet on Physical and Sexual Abuse, Substance Abuse and Mental Health Services Administration, April 1994.

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Vol. 150 No. 8, August 1996

ARTICLE

Illicit substance use, gender, and the risk of violent behavior among adolescents

C. P. Dukarm, R. S. Byrd, P. Auinger and M. Weitzman
Division of Adolescent Medicine, University of Rochester (NY) School of Medicine and Dentistry, USA.

OBJECTIVES: To analyze data from a nationally representative sample of high school students to investigate the relationship between substance use and violent behavior among adolescents and to examine this relationship in both male and female adolescents. **DESIGN:** Cross-sectional analyses of the 1991 Centers for Disease Control and Prevention's Youth Risk Behavior Survey. **SETTING:** Public and private schools in the 50 states. **PARTICIPANTS:** The participants were 12,272 high school students. **MAIN OUTCOME MEASURE:** To determine the prevalence of weapon carrying and physical fighting among male and female adolescents. **RESULTS:** A significant increase in the number of female adolescents carrying weapons and physically fighting was associated with all forms of substance use. Reports of carrying a weapon increased with recent alcohol consumption (34% vs 17%, $P < .001$) and use of marijuana (48% vs 22%, $P < .001$), cocaine (71% vs 25%, $P < .001$), and anabolic steroids (62% vs 25%, $P < .001$). The prevalence of physical fighting was also significantly higher among adolescents who used illicit substances than among adolescents who denied drug use. The risk of violent behavior increased significantly, and was of equal magnitude, for adolescent females and males who used illicit substances. **CONCLUSIONS:** Alcohol and illicit substance use are highly associated with increased risk of violent behavior. These data also demonstrate that the risk of violence by adolescent females who are substance users is substantial.

THIS ARTICLE HAS BEEN CITED BY OTHER ARTICLES

Predictors of Aggression at School: The Effect of School-Related Alcohol Use

Finn and Frone

NASSP Bulletin 2003;87:38-54.

ABSTRACT

Jocks, Gender, Binge Drinking, and Adolescent Violence

Miller et al.

J Interpers Violence 2006;21:105-120.

ABSTRACT

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Anabolic Androgenic Steroids and Aggression: Studies Using Animal Models

McGINNIS

Annals NYAS Online 2004;1036:399-415.

ABSTRACT | FULL TEXT

Characterization of Interpersonal Violence Events Involving Young Adolescent Girls vs Involving Young Adolescent Boys

Mollen et al.

Arch Pediatr Adolesc Med 2004;158:545-550.

ABSTRACT | FULL TEXT

A Cross-national Study of Violence-Related Behaviors in Adolescents

Smith-Khuri et al.

Arch Pediatr Adolesc Med 2004;158:539-544.

ABSTRACT | FULL TEXT

Predicting Fatal Assault Among the Elderly Using the National Incident-Based Reporting System Crime Data

Chu and Kraus

Homicide Studies 2004;8:71-95.

ABSTRACT

Adolescent Assault Injury: Risk and Protective Factors and Locations of Contact for Intervention

Cheng et al.

Pediatrics 2003;112:931-938.

ABSTRACT | FULL TEXT

Early Risk Factors for Violence in Colombian Adolescents

Brook et al.

Am. J. Psychiatry 2003;160:1470-1478.

ABSTRACT | FULL TEXT

National Survey of Pediatricians' Violence Prevention Counseling

Borowsky and Ireland

Arch Pediatr Adolesc Med 1999;153:1170-1176.

ABSTRACT | FULL TEXT

African American Mothers in South Central Los Angeles: Their Fears for Their Newborn

Schuster et al.

Arch Pediatr Adolesc Med 1998;152:264-268.

ABSTRACT | FULL TEXT

Demographic, Intrinsic, and Extrinsic Factors Associated With Weapon Carrying at School

Kodjo et al.

Arch Pediatr Adolesc Med 2003;157:96-103.

ABSTRACT | FULL TEXT

Adolescent Suicide Attempts: Risks and Protectors

Borowsky et al.

Pediatrics 2001;107:485-493.

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Alcohol Controversies

Alcohol and Sexual Assault: The Connection

by Scott Hampton, Psy.D.

Alcohol and sexual assault often happen together. According to some research, 30 percent of all sexual assaults occur when the perpetrator is under the influence of alcohol. In some cases, the victim is also intoxicated. Drinking makes it easy for the perpetrator to ignore sexual boundaries, while the victim's intoxication makes it more difficult for her to guard against an attack.

A common misunderstanding is that if people commit sexual assaults only when drunk, then (a) the drinking must have caused the assault and (b) sobriety and alcohol counseling are adequate to prevent future assaults. These erroneous conclusions confuse correlation and causation. To illustrate consider the correlation between consciousness and sexual assault. Perpetrators of sexual assault typically commit sex assaults only when they are awake, but it would be ridiculous suggest that being awake caused them to commit sexual assaults. So, what is the relationship between alcohol and sexual violence?

First, alcohol use does not cause sexual violence. Putting alcohol into your system does not cause you to commit a s assault anymore than putting gasoline into your car causes to drive to the airport. Gasoline makes it easier to do what

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want to do (e.g., drive a car) while alcohol also makes it easier to do what you want to do (e.g., grope women). If you do at least think about doing something when sober, you are more likely to do it when drunk. For example, no one worries about becoming so intoxicated that he will lose control and stab himself in the eye with a fork. Why? Because he would never consider doing that when sober.

Alcohol acts as a permission slip. By reducing inhibitions, alcohol often makes it more likely that someone will choose to sexually assault another person. As one man in a violent offender program noted, "When I first came to your program, you told me that I hit my wife because I was drunk; now I realize that I drank so that I could hit her." He realized that alcohol was not an excuse or even an explanation for the abuse. Instead, alcohol was a way that he had tried to avoid responsibility for the abuse.

Sexual assault occurs despite alcohol use, not because of it. When someone is extremely intoxicated, we call that person "impaired." "Impaired" means that you have more difficulty performing tasks. Therefore, if you are going to sexually assault someone when drunk, you have to try harder, focus your attention and be more determined than if you were sober. In effect, people who sexually assault when drunk, do so, not because they are intoxicated, but despite their intoxication. They have to overcome the impairment to commit the sexual assault.

Memory loss is not the same as lack of intent. If a perpetrator of sexual assault claims that he has no specific recollection of the assault, that does not mean that he had no intention of doing it at the time. All it means is that the perpetrator is currently either unable or unwilling to report his state of mind when the assaults occurred. For example, sometimes we hear perpetrators report on events that were acceptable (e.g., "I remember drinking and dancing") but not the events that could result in arrest and prosecution (e.g., "I don't recall fondling that person"). Or the perpetrator will not recall the offense but will be able to assert with confidence what his state of mind was at the time (e.g., "I had no desire for sexual gratification."). How can you NOT remember what you did, but be absolutely certain what your motives were when you did it? How does alcohol know which memories to delete and which to keep intact?

Sexual assault and substance abuse are separate issues. If

someone violates sexual boundaries while drunk, that person has two problems that need to be addressed. Taking responsibility for alcohol consumption addresses only half the problem. The perpetrator also needs to take responsibility for the sexual violence. On the most basic level, the perpetrator needs to learn that all sexual contact without permission is sexual violence.

To address this, good sex offender programs teach the principles of sexual consent. These principles are:

1. **Privilege.** Sex is never a right; it is always a privilege, honor, a gift that can either be granted or taken away from the person you wish to have contact with.
2. **Permission.** Since sexual contact is always a privilege, always must seek permission before initiating contact. In addition, you need to be sober enough to know whether or not you have been given permission. Permission requires that the other person is capable, at the time, of giving permission (e.g., that person is old enough, sober enough, and not coerced by you to say "Yes.") If the other person is afraid to say "No" because you have a position of power or authority, you cannot know whether your potential sexual partner truly wishes to have contact with you (even if she does not actively resist your advances).
3. **Justification/Intent.** There is no excuse for engaging in sexual contact without consent. Sexually respectful people adopt the philosophy of "First Do No Harm." Those who do not respect sexual boundaries should not be allowed to explain or minimize their use of aggression as the result of alcohol or drug use, stress, deviant arousal patterns, lack of control or misunderstandings.
4. **Responsibility.** The only person who ever is responsible for a sexual assault is the perpetrator. The victim never is. As members of their community, we share responsibility for holding perpetrators accountable for their violence. How do we do this? By never blaming victims for the harm they suffered. By remembering that sexual violence is not a part of the disease of alcoholism." By never letting a perpetrator's sexual access and satisfaction become more important than the victim's sexual safety and autonomy. Keeping these principles in mind, we can make great strides in achieving sexual safety in our community.

Dr. Scott Hampton is Director of Ending the Violence, home of the Consexuality Project, a sexual violence prevention initiative. He can be contacted at endingtheviolence@aol.com. Posted with slight editing by permission of Dr. Hampton. The Ending the Violence site is located at www.endingtheviolence.info

References and Readings

Additional Information

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Alcohol and sexual violence: key findings from the research

Andrea Finney

Sexual violence is a serious public health and criminal justice problem. Many men and women suffer sexual violence, a number of whom experience severe physical injuries or subsequently develop mental health problems. Alcohol is an important dimension in sexual violence – many perpetrators are drinking when they attack their victims or have alcohol abuse problems. Furthermore, many victims have alcohol 'problems'. This report presents the key findings from published UK and international research on the relationship between alcohol and sexual violence. As sexual violence is often committed in the context of intimate partner relationships, this report relates to Findings No. 216 (Finney, 2003a).

Key points

- The British Crime Survey estimates that one in ten women have been sexually victimised since age 16 (Myhill and Allen, 2002).
- Many perpetrators have drunk alcohol immediately prior to the incident and/or have drinking problems (Grubin and Gunn, 1990).
- Perpetrator alcohol consumption is sometimes associated with increased sexual violation and physical aggression (Brecklin and Ullman, 2002).
- The tendency for drinking to be a shared activity, the pharmacological effects of alcohol and beliefs and expectations about the effects of alcohol are important in explaining why sexual violence is frequently committed by or against people who have been drinking (Testa and Parks, 1996; Abbey et al., 2001).
- Many victims develop drinking problems as a response to victimisation and problematic drinking is an early predictor of post-traumatic stress disorder development among victims (Darves-Bornoz et al., 1998).

Sexual violence affects many people's lives profoundly. Among over 48,000 police recorded sexual offences during the 12 months to April 2003, there were more than 11,000 rapes and almost 24,000 indecent assaults against females and over 800 rapes and 4,000 indecent assaults against males (Salisbury, 2003). However, official data considerably underestimate the true extent of sexual violence.

The British Crime Survey (BCS) estimates that less than one in five incidents of female sexual victimisation comes to police attention (Myhill and Allen, 2002). In addition, a study of female rapes coming to police attention in 1996 showed over one-quarter were not subsequently recorded (Harris and Grace, 1999).

The 1998 and 2000 sweeps of the BCS included self-completion questionnaires on sexual victimisation and provide the most recent and reliable figures on the nature and extent of adult sexual violence. (Note: published BCS findings relate to sexual victimisation among women only.)

According to the BCS 2000 (Myhill and Allen, 2002), about one in every 100 women (aged 16–59) had experienced some form of sexual victimisation in the previous year, just under half of whom had experienced rape. This suggests there were an estimated 61,000 female victims of rape in England and Wales in the year preceding the 2000 BCS. One in ten women reported some form of sexual victimisation since the age of 16.

Some findings from the research on sexual violence and rape:

- Sexual violence is undoubtedly perpetrated by and against both men and women (Emmers-Sommer and Allen, 1999 – US).
- However, adult victims are predominantly female (Testa and Parks, 1996 – US).
- Women are most often sexually victimised by a man they know, typically a current or ex-partner (Myhill and Allen, 2002; Harris and Grace, 1999).
- In combined 1998 and 2000 BCS sweeps, 67% of rapes against women were committed by current or ex-partners or 'dates'. The assailant was a stranger in only 8% of rapes (Myhill and Allen, 2002).
- Attacks by partners and ex-partners are also the incidents most likely to result in victim injury (Myhill and Allen, 2002).

'Sexual violence' refers here to any form of physical sexual assault, completed and attempted rape. The focus is on sexual violence against people aged 16 years and over, female victimisation and male perpetration except where stated otherwise. Research from the US is often drawn on as relatively little alcohol-related sexual violence research has been undertaken in the UK. (Where examples of research are given, the country where the research is published is indicated unless the research is from the UK.)

Whilst findings from the US are largely transferable to the UK, beliefs and expectations are sensitive to cultural differences. Therefore, some generalisations should be made cautiously.

Key findings are presented here from national and international research on:

- prevalence of drinking by perpetrator and victim at the time of sexual violence
- the association of alcohol 'problems' with such violence

- the characteristics and consequences of alcohol-related sexual violence
- the role of alcohol in sexual violence.

Key research recommendations are also identified.

Prevalence of alcohol-related sexual violence

International research indicates a strong association between alcohol use – both 'drinking in the event' and long term drinking patterns – and sexual violence.

Drinking in the event

Drinking in the event refers to drinking at the time of the incident.

Research indicates a substantial proportion of sexual violence perpetrators are drinking at the time of the incident:

- In a UK study of 142 men imprisoned for rape, 58% reported drinking in the six hours prior to the rape. A further 12% had used a combination of alcohol and drugs (Grubin and Gunn, 1990).
- In a survey of 10,000 US State prisoners, 57% of those convicted of rape reported drinking at the time they committed the crime (Bureau of Justice Statistics, 1983; reported in Martin, 1992 – US).
- A national US victimisation survey found offenders had used alcohol and/or drugs in 61% of sexual violence incidents, most (76%) of whom had used alcohol alone (Brecklin and Ullman, 2001 – US).

(Note: in self-report studies there may be a tendency for perpetrators to over-report drinking in the event to minimise personal responsibility.)

Findings on the proportion of sexual violence victims who are drinking in the event vary widely:

- A review of six North American arrestee studies, mostly using police report data, reported six to 36% of victims consumed alcohol prior to the event (Roizen, 1997 – US).
- In a review of seven US college student sexual victimisation surveys, victims were drinking in between 35% and 81% of incidents (Testa and Parks, 1996 – US).

Problem drinking

There is also evidence that both perpetrators and victims are more likely to be problem drinkers.

Studies indicate many sexual violence perpetrators are 'heavy' or 'problem' drinkers:

- Among 142 imprisoned rapists in the UK, researchers deemed 37% were 'alcohol dependent' at the time of interview (Grubin and Gunn, 1990).
- Among a sample of Canadian imprisoned offenders (72 rapists, 34 child molesters and 24 nonsexual violent offenders), almost half (46%) the rapists were 'severe alcohol abusers' compared with 4% of the non-sexual violent offenders. Notably, differences in drug abuse were less pronounced (Abracen et al., 2000 - Canada).

Studies also indicate many sexual violence victims are more likely to be problem drinkers:

- A US study of 238 female undergraduate students found those with histories of severe sexual victimisation (attempted or completed rape) reported greater weekly alcohol consumption rates than non-victimised women (Corbin et al., 2001 - US).
- Among 296 male and female Greek college students, men and women with self-report histories of unwanted sexual contact reported heavier alcohol consumption than those without such histories (Larimer et al., 1999 - Greece).
- In a Canadian study of 358 gay and bisexual men, alcohol abuse was almost three times more common among those who reported having experienced non-consensual sex by another man (in childhood, adulthood or both) compared with non-victimised men (Ratner et al., 2003 - Canada).

Characteristics and consequences of alcohol-related sexual violence

Victim-offender relationship

Although most sexual assaults occur between people who know each other, alcohol-related sexual assaults are more likely to occur between people who do not know each other well (Abbey et al., 2001 - US; Testa and Parks, 1996 - US). Koss et al. (1988 - US) examined alcohol involvement in rapes characterised by different victim-offender relationship types in a sample of US college women. Alcohol was consumed by both victim and offender most often in cases of casual dates, and least often in rapes involving spouses or family members.

Situational characteristics

Violence in general commonly occurs in and around licensed premises and alcohol is a factor in many such incidents (see Finney, 2003b). Licensed premises are also associated with greater frequency of sexual attacks (Combs-Lane and Smith, 2002 - US). Alcohol-related sexual violence is more likely to occur in bars and at parties than at either person's home (Abbey et al., 2001).

There is often both offender and victim drinking in incidents of sexual violence (Abbey et al., 2001 - US; Martin, 1992 - US). Using US police report data, Amir (1971 - reported in Roizen, 1997 - US) found two-thirds of alcohol-related rape cases involved both victim and offender drinking. This is likely to reflect the importance of drinking alcohol and of pubs and parties as settings for socialising and strongly relates to the finding that most sexual assaults involve people who know each other.

Rarely, however, is the victim the only person to have been drinking (Abbey et al., 2001 - US; Martin, 1992 - US). For example, Brecklin and Ullman (2002 - US) found that only two out of 859 female victims of sexual assault had been drinking when the offender had not.

Outcome severity

Research suggests that the severity of sexual violence varies with alcohol use. North American studies of official data show alcohol-related rapes involved greater physical force by the offender and greater victim injury compared with incidents in which neither party was drinking (Collins and Messerschmidt, 1993 - US; Hodge, 1993). US survey research suggests that offender drinking increases the likelihood and severity of victim injury (e.g., Brecklin and Ullman, 2002 - US).

Evidence on the effects of alcohol use on the level of sexual violation is mixed:

- Official data suggest sexual humiliation is likely to be greater when the offender has been drinking (Roizen, 1997 - US).
- Other, survey-based, studies suggest that rape completion is more likely if the offender has been drinking (e.g. Brecklin and Ullman, 2002 - US) while others suggest perpetrator drinking is not related to rape completion at all (e.g. Abbey et al., 2002 - US). Using national US victim data, Brecklin and Ullman (2001 - US) found rape completion was less likely if the offender had been drinking, relating in part to effective victim resistance.
- Using data from a national sample of college women, Ullman et al. (1999 - US) found offender drinking did not relate directly to severity of sexual violation. However, offender drinking did relate to the level of offender aggression with respect to sexual violence against women.

Contrasting findings may relate to varying methods and definitions employed in different studies.

Increased victim drinking levels are associated with decreased offender aggression, victim resistance and physical injury (e.g., Abbey et al., 2002 - US; Brecklin and Ullman, 2002 - US). They are, however, associated with increased risk of completed, compared with attempted, rapes (Abbey et al., 2002 - US).

The role of alcohol

Any behaviour committed in the context of alcohol consumption, violent or otherwise, results from interaction between factors relating to the individual, to the immediate environment and to the alcohol consumed.

Research indicates that alcohol is best seen as contributing to violent behaviour, rather than causing it (McCord, 1993 - US). Further, the role of alcohol is likely to be multifaceted. Graham et al. (1998 - Canada) describe the alcohol-related factors which may relate directly or indirectly to violence as falling into four groups:

- 'cultural' factors, relating to how alcohol and its relation to violence are understood in society
- 'person' factors, relating to individuals' responses to, expectations and beliefs about alcohol
- 'pharmacological' factors relating to the psychopharmacological properties of alcohol
- 'context' factors, relating to the physical and social circumstances in which alcohol is consumed.

A number of theories have been proposed to explain how alcohol contributes to sexual violence, many of which have found support in research. Some of these are discussed below.

Disinhibition

Perpetrator intoxication may disinhibit sexual and physical aggression, and decrease the ability to understand a victim's non-consensual signals (Collins and Messerschmidt, 1993 - US). Intoxicated victims may be less able to identify assault before it becomes severe or less able to defend themselves effectively, or they may be more likely to enter risky situations (Testa and Parks, 1996 - US). This may relate to the finding that alcohol is more often present in spontaneous sexual acts compared with those which are 'planned' (Collins and Messerschmidt, 1993 - US).

Beliefs and expectations

Beliefs and expectations about alcohol appear to be especially important in alcohol-related sexual violence.

There are a number of ways beliefs about drinking can affect behaviour:

- Alcohol is widely believed to increase sexual desire and capacity, and also increase aggressive behaviour, especially in men. This may predispose some men to act sexually and aggressively after drinking alcohol (Abbey et al., 2002).
- Many sexual violence perpetrators blame alcohol for their transgressions and heavy drinkers are especially likely to invoke alcohol as a post-offence excuse (Abbey et al., 2001).
- A US study of college 'date rapists' (Kanin, 1984; in Abbey et al., 2001) found most (62%) reported they had committed rape because they had been drinking.
- Additionally, women who drink alcohol are commonly viewed as being more sexually available and promiscuous than women who do not (Abbey et al., 2001 - US). Wild et al. (1998) found perpetrators are blamed less by third parties when the victim is drunk, regardless of perpetrator drinking.
- Also, women who drink in certain contexts may present 'easier' targets to sexually aggressive men who perceive them to be more sexually available (Testa and Parks, 1996 - US).

Context

The relationship between alcohol and sexual violence is likely, in some cases, to reflect the contexts in which people often meet, socialise and consume alcohol. Increased risk of sexual violence at bars and parties may relate to greater exposure to potential assailants (Combs-Lane and Smith, 2002 - US) or because people commonly expect other people within drinking settings to be receptive to sexual advances (Abbey et al., 2001 - US).

Strategy

Alcohol may be used as a strategy for perpetrating rape (Brecklin and Ullman, 2001 - US), perhaps because people believe alcohol has incapacitating, courage-building or aphrodisiac qualities (Abbey et al., 2001 - US). Many 'date rapists' report deliberately getting a woman drunk in order to have sexual intercourse with her (Abbey et al., 2001 - US). Testa and Parks (1996 - US) suggest acquaintances or strangers may find it easier to act aggressively when the victim is intoxicated. Conversely, perpetrators of sexual violence against intimate partners may be better able to coerce, rather than force their victims, by employing powers of authority, fear or persuasion as alternative strategies.

Alcohol and the role of victimisation

The development of alcohol problems among victims may be a result of the experience of sexual violence rather than contributing to sexual victimisation. Alcohol use is a common response in times of psychological stress and US research supports suggestions that sexually assaulted women consume alcohol partly to self-medicate (Miranda et al., 2002 – US). Alcohol abuse is an early predictor of post-traumatic stress disorder in sexual violence victims (Darves-Bornoz et al., 1998 – Europe). Acierno et al. (1999 – US) also suggest that alcohol abuse is associated with an increased risk of post-traumatic stress disorder following rape. The precise process in the development of alcohol problems is, however, likely to be complex. Abbey et al. (2001 – US) suggest that drinking during sexual encounters can help past victims cope with negative feelings about sex but doing so puts them at greater risk of future violation.

Conclusions

Alcohol use in the event is common in incidents of sexual violence and perpetrator and victim drinking is common. This may be a function of the situation in which sexual violence occurs, or the influence of alcohol-related pharmacological and expectancy effects on sexual behaviour. Alcohol use is more likely in incidents of sexual violence between people who do not know each other well than intimates and the presence of alcohol has implications for the severity of sexual violence outcomes. Alcohol problems are common among male perpetrators of sexual violence. Alcohol problems are also common among sexual violence victims, which in many cases develop following victimisation. Alcohol relates to sexual violence via a number of direct and indirect pathways.

Research gaps and recommendations

UK research on alcohol-related sexual violence is sparse. Research is needed to identify what types of sexual crimes are committed by which type of people, under what circumstances, and the roles alcohol plays in the commission of these crimes.

The following are key knowledge gaps.

- The prevalence of alcohol involvement in a variety of sexual violence types.
- The type of drinking (intoxication in the event; chronic drinking) implicated in sexual violence.

- The influence of person-related factors (such as aggressive disposition; beliefs and expectancies) on alcohol-related sexual violence.
- The relative role of alcohol in sexual violence characterised by different combinations of victim-offender relationships and settings (domestic; social settings).
- The role of alcohol in potentially high risk and marginalised groups, for example, young people, specific ethnic or cultural groups, students, homeless people, dependent drinkers and victims of domestic violence.
- The role of alcohol in non-reporting by sexual violence victims.

Finally, theories of the relationship between alcohol and sexual violence need to be developed and tested.

However, sexual violence is undoubtedly a difficult and sensitive subject to research, fraught with ethical and practical dilemmas. Studies need to look at the multitude of factors potentially related to alcohol in sexual violence and their interrelations (Abbey et al., 2001 – US). Research findings can vary quite substantially depending on who is asked about sexual violence and alcohol use (offender, victim or officials). Research, therefore, needs to use multiple approaches to strengthen knowledge and validate findings.

Reporting rates for sexual offences are low and alcohol use compounds this outcome (Fisher et al., 2003 – US). This suggests official data should not be relied upon alone. Experiences of sexual violence are not always interpreted as transgressions by victims and offenders (Koss et al., 1988 – US). It is therefore necessary to carefully construct definitions of sexual violence. Brecklin and Ullman (2002 – US) suggest conducting surveys presented, for example, as surveys on personal safety with a focus on interpersonal violence rather than as 'crime' surveys. Additionally, however, victims who have been drinking may be less likely to realise or recall they have been sexually assaulted (Abbey et al., 2001 – US). This needs to be acknowledged when interpreting research findings.

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DATA POINTS: Alcohol and traffic deaths

- Between 1982 and 1993, 266,291 deaths in the United States were alcohol-related -- one fatality every 30 minutes.
- Traffic fatalities in alcohol-related crashes rose by 4 percent from 1994 to 1995. The 17,274 alcohol-related fatalities in 1995 (41 percent of total traffic fatalities for the year) represent a 24 percent reduction from the 22,715 alcohol-related fatalities reported in 1985 (52 percent of the total).
- The National Highway Traffic Safety Administration estimates that alcohol was involved in 41 percent of fatal crashes and in 7 percent of all crashes in 1995.
- The 17,274 fatalities in alcohol-related crashes during 1995 represent an average of one alcohol-related fatality every 30 minutes.
- More than 300,000 people were injured in crashes where police reported that alcohol was present -- an average of one person injured approximately every two minutes.
- Approximately 1.4 million drivers were arrested in 1994 for driving under the influence of alcohol or narcotics. This is an arrest rate of one for every 127 licensed drivers in the United States.
- In 1995, 32 percent of all traffic fatalities occurred in crashes in which at least one driver or nonoccupant had a blood-alcohol content of .10 or greater. More than two-thirds of the 13,564 people killed in such crashes were themselves intoxicated. The remaining one-third were passengers, nonintoxicated drivers, or nonintoxicated nonoccupants.

- The rate of alcohol involvement in fatal crashes is three and one-third times as high at night as during the day (62.3 percent vs. 18.8 percent). For all crashes, the alcohol involvement rate is nearly five times as high at night (14 percent vs. 3 percent).

- In 1995, 32 percent of all fatal crashes during the week were alcohol-related, compared to 54 percent on weekends. For all crashes, the alcohol involvement rate was 5 percent during the week and 11 percent during the weekend.

- In 1995, 32.5 percent of all fatal traffic accidents involved drivers with a blood-alcohol content of greater than .10.

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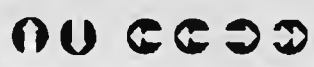
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THE ROLE OF AGGRESSION-RELATED ALCOHOL EXPECTANCIES IN EXPLAINING THE LINK BETWEEN ALCOHOL AND VIOLENT BEHAVIOR

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Abstract:

Studies have demonstrated an acute effect of alcohol on violent behavior. A remaining issue is the motivation of some offenders for using alcohol before offending. A common explanation is based on the relationship between daily drinking habit and drinking before offending. Drawing upon the deviance disavowal assumption, the embolden hypothesis, and expectancy theories, the present study argues that alcohol may be used intentionally to promote or excuse the violent consequences of drinking. Using data from the 1993 Buffalo Longitudinal Study of Young Men, the present study examines the independent effect of aggression-related alcohol expectancies on drinking before offending and the interactive effect of aggression-related alcohol expectancies and daily alcohol consumption on drinking before offending. The results indicate a significant effect of aggression-related alcohol expectancies on alcohol use before offending. This supports the

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argument that drinking may be a means for carrying out violent acts. A significant interactive effect was found between aggression-related alcohol expectancies and daily alcohol consumption. "Heavy" daily alcohol consumption increased the likelihood of drinking before offending for individuals who had high aggression-related alcohol expectancies more than those who had low such expectancies. Aggression-related alcohol expectancies moderated the effect of daily drinking on drinking before offending. The implications of these findings are discussed for the link between alcohol and violence.

Keywords:

Alcohol, Violence, Expectancies

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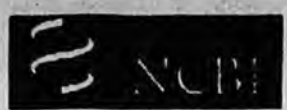
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Alcohol and violent pornography: responses to permissive and nonpermissive cues.

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Both alcohol consumption and violent pornography have been implicated independently in the commission of sexual aggression. In addition to alcohol consumption, the presence of alcohol in the context of violent pornography may act as a permissive cue to influence judgments of such material's acceptability and self-reported likelihood of engaging in sexually violent behavior. To test this proposition, an experiment which varied beverage condition (alcohol vs no alcohol), expectancy set (expect vs do not expect alcohol) and a permissive (presence of alcohol) vs nonpermissive (absence of alcohol) cue was conducted on both male and female subjects. Secondary analyses on male subjects alone investigated the role of the personality trait hypermasculinity in affecting judgments. Results showed that (1) alcohol itself rather than expectancy set influenced judgments and willingness to engage in sexual violence; (2) the presence of alcohol interacted with alcohol consumption to affect willingness to engage in sexual violence; (3) men high in hypermasculinity judged the violent pornographic story more positively than did men low in this trait; and (4) alcohol interacted with hypermasculinity to affect acceptability judgments, but only for men low on this trait. These findings are consistent with cognitive disruption models and show promise for future investigations of the influence of permissive cues, as well as the role of hypermasculinity.

MeSH Terms:

- Adult
- Aggression/psychology*
- Alcohol Drinking

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