

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0  
Date: Sat, 08 Sep 2007 06:26:32 -0800  
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Subject: Re:

Hello Subcommittee Members,

I have reviewed the minutes and **I totally disagree** that "the first issue to resolve is the peremptory challenge of judges, including the possible use of video conferencing as a means of mitigating that problem." In fact, what has happened this week has made me realize, unless voluntarily elected to by the respondent, holding hearings at the hospital are a constitutional violation of respondents' right to a public proceeding. The peremptory challenge problem would be largely eliminated if referrals to the Probate Masters were discontinued as they should be in light of the impossibility of meeting the statutory deadlines with them in the middle as set forth in my August 16th Memo. Respondents must have a meaningful right to have the hearing public and that means they have to be at the court house. This must be changed immediately. Respondents must be asked on the record if they want the hearing open or closed to the public and that choice must be meaningful and not behind the locked doors of the hospital.\*

As I stated in my August 16th e-mail, I think the illegal issuance of *ex parte* orders should be dealt with immediately. **Every current *ex parte* order being issued is unconstitutional and that must be corrected immediately.**

In connection with my current ongoing nightmare case, I reviewed the statutes again and have an even better understanding of the statutory framework, which was carefully drawn to protect peoples' constitutional rights. This framework has since been dispensed with wholesale for the convenience of the hospital, the Attorney General's Office and the courts, at the expense of respondents' constitutional rights.

In addition to the points made in my memorandum about the *ex parte* process, AS 47.30.715. Acceptance of Order, provides

[When a facility receives a proper order for evaluation, it shall accept the order and the respondent for an evaluation period not to exceed 72 hours. The facility shall promptly notify the court of the date and time of the respondent's arrival. \*The court\*](#)

*shall set a date, time and place for a 30-day commitment hearing, to be held if needed within 72 hours after the respondent's arrival, and the court shall notify the facility, the respondent, the respondent's attorney, and the prosecuting attorney of the hearing arrangements. Evaluation personnel, when used, shall similarly notify the court of the date and time when they first met with the respondent.*

(emphasis added).

[REDACTED]

I think the committee would benefit from a presentation by me about the AS 47.30 statutory frame work and a discussion about it. I have a flow chart I could make up in mind.

\*I recommend Al Gore's new book, "The Assault on Reason," which has an excellent discussion of the harms of closed proceedings and the constitutional underpinnings of people's right to public proceedings.

At 01:34 PM 9/6/2007, Jennie Marshall-Hoenack wrote:

Attached you will find the minutes for the August 17 kick off meeting.

*Jennie Marshall-Hoenack*

Find the ACS Telephone Book online @ <http://www.state.ak.us/courts/formsint/dir-pub-1.pdf>

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