

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of )  
A Request for Information )  
)  
)  
)

Case No. 3AN-16-00695 DN

**API RESPONSE TO ORDER OF AUGUST 24, 2020**

Dr. Gotzsche has never asked for API's patient records. He has always asked for court files and the court recording of the hearing. Dr. Gotzsche styles himself as very knowledgeable and his counsel is in fact quite knowledgeable about Alaska's civil commitment procedures. Dr. Gotzsche knew what he was asking for; he did not make a mistake or overlook something. Every request Dr. Gotzsche has been for "court files" or "court recordings" or the recordings of the hearings. The authority that Dr. Gotzsche has cited is Administrative Rule 37.7. Dr. Gotzsche has never cited AS 47.30.845, or HIPAA, or any other authority. API does not understand how the plain language of Dr. Gotzsche's request can be read as anything other than what it is.

The court invited API to comment on how Dr. Gotzsche can obtain API's files on these patients. Respectfully, API's comment is that Dr. Gotzsche should not obtain API's files on these patients, because he never asked for them. Should Dr. Gotzsche decide, four years after this began, to expand his request, he should formally do so, and API should be allowed to formally respond about such issues as the exponential increase in the invasion of patient privacy and the associated administrative burden. The court also invited API to comment on who should do the redaction of API files. API

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suggests court staff. API does not have enough staff to handle a project of this magnitude, which will run for reviewing thousands of pages for each patient. If we are talking about 30 patients, the court should expect that at least 45,000 pages would have to be reviewed. Apart from the logistical issues, API would be concerned about the idea of DHSS staff doing the review at all, as there would be separation of powers issues, *see Granato v. Occhipinti*, 602 P.2d 442 (Alaska 1979)(court cannot command DHSS to perform specific tasks in absence of specific statutory authorization or constitutional imperative). And API does not suggest that some third party do the review, because such a third party would either be Dr. Gotzsche's contractor, and the court has already indicated that it is not willing to turn API files over to Dr. Gotzsche, or the court system's contractor, and it seems inappropriate for the court system to get so highly involved on Dr. Gotzsche's behalf that it contract with a third party.

Dr. Gotzsche asked for court files, not API files. Dr. Gotzsche knew what he was doing, and that is the scope of his request. The court should not expand his request when he has not.

DATED August 28, 2020.

CLYDE "ED" SNIFFEN, JR.  
ACTING ATTORNEY GENERAL

By: /s/ Steven J. Bookman  
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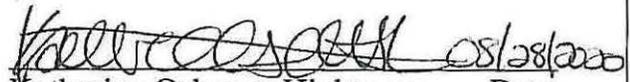
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**CERTIFICATE OF SERVICE**

I certify that on this date, true and correct copies of the *API Response to Order of August 24, 2020* and this *Certificate of Service* were served to the following parties via U.S. Mail:

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