

Technical Notes
And Briefing Papers

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The Mental Health Commitment Process

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I. COMMITMENT PROCESS IN A NUTSHELL

Once a petition for judicial commitment has been pre-screened by the Welfare Department and has been approved by the County Attorney and signed and filed by an approved petitioner (one whom the County Attorney can both legally and ethically represent as an "interested person"), a Probate Court's comprehensive order is promptly signed directing:

1. That the patient be taken, where a bed has already been reserved, by a sheriff's mental health deputy (not in uniform and without marked vehicle) or held, if already hospitalized, to closed psychiatric (or other appropriate) facility,
2. to be held no less than five nor more than 14 days for examination, evaluation, and (only) emergency treatment*,
3. that a hearing be conducted at the hospital or other facility within such time, with
4. notice to be given to all interested parties (including patient, all relatives of patient, patient's attorney, petitioner, witnesses, examiners, Welfare Department) of the date and time and place of hearing, and,
5. the appointment of an attorney for the patient to see patient at the hospital well in advance of the hearing and to represent patient in the proceedings including the calling of the patient's witnesses and cross-examining all others, and
6. the appointment of two mental health examiners (psychiatric/psychological) who will:
 - a. see and interpret patient's hospital course as reflected by medical chart in facility where patient was held, and
 - b. make diagnostic evaluation from independent examination prior to hearing, then at the hearing (in patient's presence) will
 - c. hear testimonial evidence from witnesses as alleged in petition regarding patient's recent behavior and condition; then, based upon a, b and c above, will
 - d. advise the court via interpretation and opinion.

The Court then hears evidence from patient or on patient's behalf, if offered.

* Medications can be forcibly given only if patient's condition is such that there is imminent danger of injury to self or others--same test as for emergency hold by physician.

At the close of such hearing the Court considers the evidence presented and considers less restrictive alternatives and ultimately decides whether: (253A.07 Subd. 13 & 17a)

- A. To commit patient to involuntary inpatient hospitalization, care and treatment (to a state hospital or to a private hospital consenting to receive patient) for a period not to exceed 60 days (subject to later extension if needed);
- B. To stay a commitment with continuance of it's jurisdiction on condition that patient follow a certain treatment program voluntarily (to commit later if not carried out), or
- C. To dismiss the petition; if patient is no longer in such need.

II. EMERGENCY HOLDS

The authority to ~~involuntarily transport~~, admit or hold a mental health patient without a court order exists in 253A.03 and .04 in five circumstances:

- A. Apparently Imminently Dangerous Person Transported.
A peace officer or health officer (includes psychiatric social worker, public health nurse, certified consulting psychologist and physician) may take a person into custody and transport him to a licensed physician or hospital if such officer has reason to believe ~~that~~ such person is mentally ill or mentally deficient ~~and is in imminent danger of injuring himself or others if not immediately restrained.~~ This authority is conditioned upon such officer making application for admission with a statement describing the circumstances under which custody was taken and reason why, (253A.04 Subd. 2).
(Appendix, pg. 20)
- B. Apparently Imminently Dangerous Person Held.
When a licensed physician, (a) agrees with the belief of the peace or health officer as to such person's imminent danger after duly examining such ~~person~~ and considering the clinical history contained in the application for admission, or (b) determines that a person who has already been admitted to a psychiatric facility as a voluntary patient has now become imminently dangerous; such licensed physician may proceed under 253A.04 Subd. 1 by making a written statement (with the consent of the head of hospital):
 - 1. that he has examined the person not more than 15 days prior thereto,
 - 2. that he is of the opinion that the person is:
 - a. mentally ill
 - b. inebriate,
 - c. mentally deficient

3. is in imminent danger of causing injury to himself or others if not immediately restrained, and
4. reasons for the above opinion, and
5. that there is not time to obtain a court order to prevent such anticipated injury.

Such physician's statement should be placed in the patient's chart or other recognized place of keeping where a patient's attorney or other lawful inquiring authority might scrutinize the same as to its legal sufficiency.

Such physician's statement may also be used as sufficient authority for a peace officer or health officer (not necessarily exercising his own discretionary judgment as to imminent danger) to transport a patient to hospital.

Once this physician's statement, commonly referred to as an "emergency hold", has been properly executed the patient may be held up to 72 hours after admission, exclusive of Saturdays, Sundays, and legal holidays unless a petition for commitment is filed during such time, tolling the 72 hour limit until the court's Order to Confine has issued. (Appendix, pg. 20)

- C. Voluntary Mental Health Admittee Seeking To Leave Private Facility.
Where a patient is voluntarily hospitalized in a private facility, said patient shall be free to leave the hospital within 12 hours of his request to leave, unless held under one of the above provisions. (253A.03 Subd. 1).
- D. Publicly Intoxicated Person Transported and Held.
A peace officer or health officer or one working under their supervision may take an intoxicated person from a public place and transport him to a mental health facility including a "detox center" (or if not endangering himself or others may transport to his home) and upon such officer's application for admission of such intoxicated person, likewise stating circumstances and reasons, such intoxicated person may be admitted for emergency care and treatment with the consent of the head of facility, whereafter such intoxicated person may be held up to 72 hours after admission, exclusive of Saturdays, Sundays, and legal holidays, unless a petition for commitment is filed which tolls the running of such 72 hours until a "court hold order" issues (253A.04 Subd. 3).
- E. Voluntary C.D. Admittee Seeking To Leave Public Facility.
A patient voluntarily admitted to a public facility (or detox center) as a drug dependent person when requesting to leave in writing may nevertheless be detained for three days exclusive of Sundays and legal holidays whereafter he would have to be released unless the head of hospital believes such release not to be in the best interest of such person, family or public in which case such head of hospital shall petition for commitment.

Before any petition may be *lawfully* filed, three separate and distinct features of the statute must be applied to its preparation.*

- A. Enable the court to make required findings that all less restrictive alternatives to commitment have been attempted and/or considered, etc. (253A.07, Subd. 13)
- B. have a written recommendation from an examining licensed physician or have made reasonable efforts to obtain the same and so state under oath. (253A.07, Subd. 1)
- C. Be reasonably certain that provable facts are alleged which, if proven, will satisfy the statutory burden of proof (basic rule of pleading).

Provision A necessitates some means by which efforts be applied to procure viably effective treatment programs for proposed patients through persuasion to voluntariness or through guardianship. These efforts apparently should take place both before and after the petition is filed.

When applied after a petition is filed the Court may engage in this effort by:

1. bearing evidence and then making findings such as will justify a commitment; but staying such commitment on condition that the patient agree and pledge to follow the directions of a person acknowledged to be in charge of the treatment program for a certain period, or
2. by otherwise continuing jurisdiction to allow a voluntary undertaking by the patient without findings.

In either case a violation of the conditions would, when reliably reported, lead to commitment or at least to a re-hearing for further evidence pursuant to the County Attorney's motion. Such stays or continuances are ordered by the Court when the proffered voluntary undertaking appears to be a bona fide effort to be made; while its court-appointed monitor would be kept informed.

Efforts to procure viably effective treatment programs for proposed patients through persuasion toward voluntariness, when applied before a petition is filed, is definitively identified as "pre-petition screening." It is suggested by this outline that it is engaged in by many, including petitioner, counselor or social worker, physician, County Attorney, etc., as a corporate effort. Social workers with specialized knowledge and experience in mental health problems and having familiarity with community care and treatment resources are ideally suited

* This statement is founded in both statutory requirements as cited and in ethical and constitutional considerations of "probable cause" and equal protection; whether allegation is mental illness or inebriety.

to the function of "pre-petition screening", when a request arises from within the community for involuntary intervention. These social worker types would carry no ongoing case load; would render no ongoing social services and would initially respond to the request by:

1. providing information and referral services in those cases where other resources (ie; other county agencies) hold out services designed to meet the apparent needs underlying the problem.
2. apprising the proposing petitioner of the need to procure, if possible, an examination and recommendation by a licensed physician to support a petition.
3. apprising the proposing petitioner of the need for ultimately notifying all known next of kin and to attempt to procure their in-put of corroborative evidence or information germane to the proposed intervention.
4. advising proposing petitioner of the nature and quality of the burden of proof and related ramifications, ie; if proposed patient is employed, is the employer satisfied as to the work product? (Better that a social worker arrange these kinds of sensitive inquiries rather than the County Attorney exerting an investigative thrust.)
5. contacting the proposed patient, if no physician's statement in support of a petition has yet been procured and if all other information persuades that involuntary intervention is necessary (for the welfare of the patient and/or the safety of the community) and that the legally required burden of proof (per 253A.07 Subd. 17 (a)) probably can be met. At such point would now go out or send an appropriate colleague out to see and
 - a. confront the proposed patient with what others see to be patient's problem, and
 - b. make an effort to persuade the proposed patient to go into treatment or be examined to "determine" whether or not treatment is needed, and
 - c. make evaluative observations of proposed patient and the surrounding circumstances, thence rendering an assessment report accordingly.

Without the foregoing kind of confrontation/persuasion effort being carried out by a "mental health professional", some courts view the sworn statement in the petition, by

a family member, "that all reasonable efforts to persuade the proposed patient to be examined have been unavailing and no examination can be obtained" as being unacceptable, on the theory that those having lived "too close" to the problem for too long have necessarily lost their capacity to be persuasive to the proposed patient.

The role of the pre-petition screening social worker is contemplated as professional; that is, making discretionary judgments as guided by their own established professional discipline. Their duty to carry out these pre-petition screening duties would seem to be owed directly to the Court and to the public rather than to the County Attorney who does not direct their function but who does provide legal guidance and advice regarding the standards (discussed above) to be applied.

It is expedient (convenient for petitioner and efficient) to have these social workers collocated with the County Attorney. A necessary by-product of these screening endeavors is the accumulation of information which is evidence. Who actually drafts the language of the petition is a matter of local choice to be worked out. If the social worker is willing and able to put on a "para-legal hat" for this purpose there would seem to be no conflict of interest. The social worker's notes, in any case, would remain their own work product and should never become a part of the County Attorney's file.

The Court may choose to receive separate particulars regarding the screening of each individual case from these pre-petition screening social workers or may simply rely on the uniform application of the system; the efficacy of which judicial notice can be taken. In either case, the finding of probable cause (as to all three of the legally required features) can thus be made from the face of the petition and a recognition of such screening process.

Therefore, in summary, the process of pre-screening a petition is complete and a necessary involuntary intervention may properly go forward, once these following three conditions have occurred:

1. the pre-petition screener has made a systematic determination that all less restrictive alternatives to commitment have been attempted and/or fully considered and rejected, and
2. a licensed physician's statement is available (in hand) to accompany the petition for filing or the "fully" reasonable effort to obtain the same has been made, as discussed above, then
3. an evaluation of the available evidence is made by the County Attorney or on his behalf toward satisfying the applicable burden of proof through an appropriate petitioner.

Where a large number of cases are processed in the same time period, the use of a legal assistant of an evidence review form may be helpful to the process and in preparing for hearing. Documentary evidence as well as witnesses' testimony should not be overlooked if made in the ordinary course of business and not for the purpose of this hearing. Examples may include other court documents, agency records, police reports, hospital records, business or employment records, etc.

IV. THE ROLE OF THE COUNTY ATTORNEY

In Mental Health proceedings the interests of the public are coupled with those of private party petitioners. At times the County Attorney will find himself proceeding solely in behalf of the public interest and he also represents the individual petitioner when requested by the petitioner or the Court. The various functions in which the County Attorney may be obliged to participate include the following: (253A.07 Subd. 15)

- A. Pre-petition evaluation of evidence as discussed above, including the selection of an appropriate petitioner.
- B. Drafting or approving the contents of the petition which are the pleadings.

When the interest of public safety appears to require the allegation of dangerousness to the public (253A.02 Subd. 17) in order to enable the Court to commit patient to secure confinement, there may be recalcitrance or outright objection from the individual petitioner. Since the overall primary role of County Attorney is in the public interest, the petitioner's objections should be overridden and if necessary a substitute petitioner should be procured.

- C. Representing the petitioner and the public interest at the commitment hearing by presenting such evidence as will meet the burden of proof through testimony of witnesses, expert opinions, hospital charts and records and other pertinent documents; compelling when necessary by use of subpoena power. (Appendix, pg. 27)

To adequately represent the petitioner in each commitment proceeding the County Attorney may be expected by the Court to carry out certain implementing or coordinating functions necessary to an effective hearing. These functions, if not implemented by the Clerk of Court may devolve upon the County Attorney to:

1. Procure hospital space and other evaluative arrangements (prior to the pick up order).
2. Assist in the coordination of court itinerary for hearings held at mental health centers.
3. Coordinate with sheriff or hospital the execution of orders to pick up or hold patients for evaluation and hearing.
4. Draft certain orders (see appendix).

- D. Continuing such advocacy when "re-hearing" is required under 253A.19 Subd. 6 or when it becomes necessary by motion to bring a stayed or continued matter back before the Court by reason of patient's failure to keep the conditions thereof while the Court's jurisdiction has remained over the matter. (See X(A) p.17)
- E. Representing a "head of hospital" when in the course of directing a committed patient's treatment program it becomes necessary to apply to the Court for permission to use electro-shock therapy which is "an unusually intrusive form of treatment" under the "legislative" dicta expressed in Price v. Sheppard, et al, 307 Minn. 250 (1976).

A "Price Hearing", as an ancillary proceeding, may immediately follow the commitment hearing or may arise later during the commitment and is heard by either the committing court or the court in whose county the treating hospital is situated. The Court must appoint an attorney for the patient and a guardian ad litem who ought not to have participated in the commitment process and is interested and able to scrutinize the evidence. The applicant-physician is the County Attorney's client in these proceedings, whose testimony should touch on those matters the Court is bound to consider:

1. the extent and duration of changes in behavior patterns and mental activity effected by the treatment;
2. the risks of adverse side effects;
3. the experimental nature of the treatment;
4. its acceptance by the medical community of this state;
5. the extent of intrusion into the patient's body and the pain connected with the treatment, and
6. the patient's ability to completely determine for himself whether the treatment is desirable.

Shock therapy and psychosurgery would seem to be the only forms of treatment presently embraced by the Price Rule since a later denial by the Court to consider Mandamus and Prohibition, where forced doses of intermuscular major tranquilizers were being challenged, In re the Alleged Mental Illness of Paul Fusa (unreported No. 46912, June 15, 1976), thereby impliedly excluding major tranquilizers, whether oral or IM, from "unusually intrusive therapy".

- F. Giving adversary legal response to writs or appeals which challenge the committing court's actions or judgments or which challenge a hospital's right to carry out treatment under court order, ie; Fusa above.

Appeals from judgments of commitment are taken on the record which must be furnished to those unable to pay the cost thereof (253A.19 Subd. 3) and are to the District Court in the manner prescribed in Chapter 48A. 49 (per 253A.21 Subd. 3). County Attorney may also exercise this right of appeal, as well as responding.

Writs of Habeas Corpus lie to test the legal sufficiency of the holding procedure but do not lie for the purpose of determining whether a committed patient is sufficiently recovered to be released. See State ex rel Dr. John T. Anderson v. V. A. Hospital, 268 Minn. 213 128 N.W. 2d 710 (1964).

- G. Attending and participating in special review board hearings when patients, theretofore committed as Mentally Ill and Dangerous or Psychopathic Personality, are sought to be released or transferred from secure confinement, (see 253A.15 Subd. 2 and 253A.16) and to resist all proposed releases where public safety appears threatened.
- H. The procuring of a provisional discharge revocation when the patient has violated his provisional discharge contract, endangered himself or another or otherwise reverts to a seriously decompensated state. (See 253A.14 Subd. 7 and M below).
- I. Taking matters on appeal for determination by higher courts when adverse judgments vitally affect the public interest in matters of broad community concern (see 253A.16 Subd. b, c, and e and 253A.21 Subd. 5) and meeting constitutional challenges.
- J. Rendering advisory opinions to members of the psychiatric or chemical dependency treating sector within the community.
- K. Making various legal determinations bearing upon county financial responsibility (as in cases where residents of other counties are committed from this county), (see 253A.20, Subd. 2).
- L. Drafting Orders: County Attorney is oft relied upon to draft proposed District Court orders, when in the course of criminal proceedings:
 - 1. the prosecutor and defense attorney agree that the ends of justice would better be served by diverting prosecution to a prospective mental health treatment program (when a M'Naghten defense would probably be successful anyway) and the criminal matter is conditionally held in abeyance (on non-trial status) to abide the outcome of a commitment proceeding and ensuing treatment program. Example: defendant charged with Terroristic Threats but later diagnosed to be acutely psychotic. (Appendix, pg. 30)
 - 2. defendant, by pre-plea psychiatric examination, is found to be incompetent to stand trial and an order under Rule 20.01 is needed. (Appendix, pg. 31)
 - 3. defendant is found Not-Guilty by Reason of Mental Illness and an order is required under Rule 20.02. (Appendix, pg. 29)
 - 4. defendant resumes competency and must be returned to court. (Appendix, pg. 32)
- M. Attending and participating in "due process" hearings. (See X (C) p.17)

V. WHO MAY FILE?

An "interested person" who may file a petition means any adult person interested in the proposed patient's welfare. Typically included are immediate family members, other relatives, friends, ex-spouse, social worker or administrator of social service agency, hospital administrator, nursing home administrator, Veteran's Service Officer, parole officer, police officer.

Reason and ethics dictate that the County Attorney, who "shall" represent the petitioner when requested, have the inherent right of refusal to represent any person in whom there is likely to be a conflict of interest; anyone likely to mis-represent or distort the truth. Thus the County Attorney should exercise selectivity over whom should sign petitions.

Among those probably inappropriate for the role of petitioner are a divorcing spouse, a neighbor or landlord who is suffering an on-going course of nuisance or waste, an adverse party vs. the proposed patient in pending litigation, or anyone else being seriously aggrieved by patient's conduct, or a treating physician.

At times it is advisable to have more than one person join in signing a petition. The uncertainty of one co-petitioner's availability to appear at the hearing may be compensated by the other showing up. Also, some feel less intimidated if not seemingly acting as the sole "enemy".

V. GROUND FOR PETITIONING COMMITMENT

A civil petition for judicial commitment (see form) may allege Mental Illness, Mental Deficiency or Inebriety, or any combination thereof.

A. Mental Illness (a psychiatric or other disorder) may include:

1. functional psychiatric mental disorders, ie; acute schizophrenia and acute manic depressive psychosis, or
2. severe (suicidal) depression, or
3. severe character disorders, ie; sociopath/psychopath (probably dangerous to the public), or
4. organic brain syndrome; (brain damage), due to:
 - a. traumatic injury, oxygen starvation or toxicity
 - b. arteriosclerotic accident (stroke)
 - c. arteriosclerosis (hardening of the arteries)--senility

- B. Mental Deficiency includes mental retardation and/or reduced intellectual capacity from brain damage. (See definition next page).
- C. Inebriety includes alcoholism and all drug dependency.

At times an inebriate will manifest psychotic symptoms or a mentally ill person will seem to habitually abuse alcohol. In such cases it may be wise to allege both grounds and arrange for evaluation in a psychiatric facility rather than a detoxification center so that the court can better sort out what the *primary* problem is that needs treatment. (Sometimes a schizophrenic patient will instinctively "treat" his own mental illness with alcohol and seem chemically dependent but actually requires mental illness treatment). There are occasions where a particular State Hospital, disagreeing with the committing diagnosis will discharge the patient who would otherwise have been treated for another mental health problem; had the commitment been on dual grounds. (Occasionally a marginally mentally deficient patient will have developed such a severe behavior disorder as to fall within the definition of Mental Illness.) Resulting commitment of patients on any of the foregoing grounds are to non-secure facilities and such patients may be provisionally released or discharged from commitment by the "head of hospital" at any time without the Court's approval, unless criminal charges are pending.*

Where additional proof of dangerousness to the public seems feasible and compellingly appropriate the County Attorney would add such allegation to mental illness. If the existence of clear and present danger to others is successfully proven by the showing of a history of dangerously aggressive acts to others while in a mentally ill state, the Court would adjudicate patient Mentally Ill and Dangerous and may then commit to a secure hospital: Minnesota Security Hospital at St. Peter for male patients and Anoka State Hospital, locked section, for female patients. (Ch. 253 & 253A.16 Subd. 5)

The same secure commitment is authorized for patients alleged and committed as Psychopathic Personality. Under Ch. 526.09 and .10 which incorporates by reference all of the procedures for hearing, commitment and release in Ch. 253A, the County Attorney, when satisfied that good cause exists therefore (apparently analogous to the exercise of prosecutorial discretion) shall prepare a petition alleging Psychopathic Personality (sexual psychopath--see definition).

When a patient is duly committed either as Mentally Ill and Dangerous or as Psychopathic Personality pursuant to an Order Upon Final Determination, (subject to the right to a 60 day re-hearing), (a) a transfer to open hospital (b) a provisional discharge, or (c) a discharge must first undergo hearing before a special review board, receive positive recommendation to the Commissioner of Public Welfare, result in a Commissioner's Order, (from which the County Attorney has the right of appeal; first to a three judge panel of County Judges; thence to Supreme Court) before becoming effective 30 days later. (253A.16 Subd. 5)

*Hospital should be informed in Judgment of Commitment if criminal charges are pending. (253A.15 Subd. 1)

VII. BURDENS AND STANDARDS OF PROOF

A. Burdens of proof derived from definitions:

1. 253A.02 Subd. 3. "Mentally ill person" means any person diagnosed as *having a psychiatric or other disorder which substantially impairs his mental health and as being in need of treatment or supervision*. For the purpose of involuntary commitment of a person as mentally ill it is necessary for the court to find:

- a. that the person is a mentally ill person, and
- b. that involuntary hospitalization is necessary for the welfare of the person or the protection of society as defined in section 253A.07 Subd. 17, clause (a).

253A.02 Subd. 17. If, upon completion of the hearing and consideration of the record which shall be made pursuant to the rules of evidence, the court finds the proposed patient is a mentally ill person, and

- a. that the evidence of the proposed patient's conduct clearly shows that his customary self-control, judgment, and discretion in the conduct of his affairs and social relations is lessened to such an extent that hospitalization is necessary for his own welfare or the protection of society; that is, that the evidence of his conduct clearly shows: (i) that he has attempted to or threatened to take his own life or attempted to seriously physically harm himself or others; or (ii) that he has failed to protect himself from exploitation from others; or (iii) that he has failed to care for his own needs for food, clothing or shelter, safety or medical care; and
- b. after careful consideration of reasonable alternative dispositions, including, but not limited to, dismissal of petition, out-patient care, informal or voluntary hospitalization in a private or public facility, appointment of a guardian, or release before commitment as provided for in section 253A.12 and finds no suitable alternative to involuntary hospitalization, the court shall commit such patient.

2. 253A.02 Subd. 5. "Mentally deficient person" means any person who has been diagnosed as *having significantly sub-average intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior who is in need of treatment or supervision*. For the purpose of involuntary commitment of a person as mentally deficient it is necessary for the court to find:

- a. that the person is a mentally deficient person, and
- b. that involuntary commitment to a residential training center or hospital is necessary for the welfare of the person or the protection of society as defined in section 253A.07 Subd. 17, clause (b).
- c. (1) that the evidence clearly shows that the person is so deficient in daily living skills, self-control or the conduct of his affairs and social relations that commitment to a residential training center or hospital is necessary for his own welfare or the protection of society; that is that the evidence clearly shows (i) that he is unable and had not cared for his own needs for food, clothing, shelter, safety or medical care or (ii) that he has failed to protect himself from exploitation from others or (iii) that he has attempted to seriously physically harm himself or others; and (2) after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of petition, informal or voluntary placement in a residential training center or hospital, or appointment of a guardian, and finds no suitable alternative to involuntary commitment to a residential training center or hospital, the court shall commit such person.

3. 253A.02 Subd. 4. "Inebriate person" means any person determined as being *incapable of managing himself or his affairs by reason of the habitual and excessive use of intoxicating liquors, narcotics, or other drugs*. For the purpose of involuntary commitment of a person as inebriate it is necessary for the court to find:

- a. that the person is an inebriate person, and
- b. that involuntary hospitalization is necessary for the welfare of the person or the protection of society as defined in section 253A.07 Subd. 17, clause (d).

253A.02 Subd. 20. "Drug dependent person" means any inebriate person or any person *incapable of managing himself or his affairs* or unable to function physically or mentally in an effective manner because of the use of a psychological dependency producing drug including alcohol.

The italicized language in all three grounds above is the operative language amounting to the essence of the minimum burden of proof.

- B. The standard of proof for civil commitment which currently satisfies the U. S. Supreme Court as meeting due process standards is "Clear and Convincing" evidence per Addington v. Texas, U. S. Supreme Court #77-5992 (Filed Apr. 30, 1979), 441 U.S. 418, 99 S.Ct. 1804.

There is a dictum in the Minnesota case of Anthony Lausche v. Commissioner of Public Welfare, et al, 302 Minn. 65 225 NW 2d 366, (1974), 420 U.S. 933 (cert. den.) to the effect that when the commitment is to be "dangerous to the public" the standard of proof must be *beyond a reasonable doubt* in order to justify security hospital confinement for a period which is terminable only after other special adversary proceedings prove favorable to the patient.

However, the Addington case tends to suggest the possibility that our State Supreme Court may not stand on this prospective standard, in view of the recognition that all commitments under the Texas commitment statute require proof of dangerousness to self or others, and in view of Chief Justice Burger's reasoning:

" . . . given the lack of certainty and the fallibility of psychiatric diagnosis, there is a serious question as to whether a state could ever prove *beyond a reasonable doubt* that an individual is both mentally ill and likely to be dangerous."

- C. Proceedings "restoring patient to legal capacity" as provided for in Ch. 253A.19 enable a committed patient to have the question of "need of continued hospitalization" determined by the court of commitment. The burden of proof in such proceedings is upon the petitioner (patient); In re Restoration to Capacity of Masters, 216 Minn. 553, 13 NW 2d 487 (1944). The standard of proof is by a *fair preponderance*.

Proceedings for (a) transfer to open hospital (b) provisional discharge or (c) discharge ["restoration"] of a committed Mentally Ill and Dangerous patient are before a Special Review Board, pursuant to 253A.14 Subd. 2 (a), 253A.16 Subd. 5, where the burden and standard of proof is likewise upon the petitioner by a *fair preponderance*. (per Lausche).

An aggrieved party from Special Review Board determinations (either the patient or the County Attorney) who petition for "rehearing and reconsideration" before an "appeal panel" of three judges pursuant to 253A.15 (c) and (b) has the burden of proving by a *fair preponderance* the condition of the patient at these de novo proceedings. See Anthony Lausche v. Commissioner of Public Welfare, et al (supra).

VIII. WHAT LIABILITY MAY RESULT?

All persons acting in good faith who procedurally or physically assist in any aspect of an involuntary intervention under this chapter are provided with immunity from liability (criminal or civil) as a matter of law. (253A.21 Subd. 2)

However, false statements made for the intended purpose of accomplishing such involuntary intervention would not only constitute malice (for purpose of civil liability) but are actionable criminally as a gross misdemeanor. (253A.21 Subd. 1)

This not only serves to protect against the mischief of "rail-roading" into commitment but would also apply to a peace officer who, with punitive motives, might procure the admission of a motorist into a detoxification facility when insufficient evidence of DW exists.

IX. PRIVACY, PRIVILEGE AND ACCESS OF INFORMATION

- A. The hearing is not open to the public. "The Court may exclude from the hearing any person not necessary for the conduct of the proceedings except those persons to whom notice was given...." (253.07 Subd. 12).
- B. Notwithstanding the law with respect to privileged communications (M.S. 595.02 (4)), widely known as the "doctor/patient privilege", the Hospitalization and Commitment Act waives any such medical privilege otherwise existing between patient and physician, as to any physician who provides information with respect to a patient (pursuant to any provision of this chapter--see 253A.21 Subd. 2, second sentence) including the following purposes:
 - 1. the supporting statement by a licensed physician which is the priority requirement under 253.07 Subd. 1 for filing with the petition. (Appendix, pg. 21)
 - 2. the report of examiners submitted to the court under 253.07 Subd. 2.
 - 3. testimony elicited from an examiner at the hearing under 253.07 Subd. 11.
 - 4. the hospital charts and records made as a regular course of hospital business during any in-patient evaluation ordered by the court under the supervision of an examining/admitting physician would fall within this same waiver of privilege and should be deemed admissible in evidence when offered by the County Attorney as an exception to the hearsay exclusion and as a necessary reflection of the evaluation process.

It is suggested that such in-patient hospital chart should always be offered in evidence by the County Attorney so that it may be regarded as a part of the record in the event of appeal.

- C. The Minnesota Data Privacy Statute deals with the collection, security and dissemination of records and other data. Pertinent parts thereof may be found under M.S. Ch. 15.162, .1641, .1642, .167, .1671 and Ch. 15.17.

Efforts by Mentally Ill patients and particularly those patients who have been adjudicated Mentally Ill and Dangerous, who may be out on provisional discharge status could well constitute a threat to others if allowed to discover specific sources of information which did not come into hearing as evidence. This problem could arise when a social worker with the responsibility for monitoring the rehabilitation of a provisionally discharged Mentally Ill and Dangerous patient receives confidential communications concerning patient's current paranoid, threatening, or otherwise decompensating conduct.

No discussion of the details of this act will be attempted here, except to suggest that under this act application may be made to the Commissioner of Administration to have certain kinds of data given emergency classification, however, there are certain limitations on the use of such information when so classified.

- D. Traditional views held by the medical and kindred clinical professions suggest that a patient must not look at his own medical chart. Ch. 144.335 repudiates this tradition by authorizing access by or in behalf of a patient to complete and current information possessed by a provider of health care services involving diagnosis, treatment and prognosis. This expressly *includes* treatment of a medical, psychiatric or mental condition.
- E. The Code of Federal Regulations, Department of Health, Education and Welfare, Public Health Service provides for confidentiality of alcohol and drug abuse patient records in Part two of Subd. Ch. A of Ch. 1, Title 42, CFR. The unconditional confidentiality of records as applied to these provisions purports even to prohibit disclosure of the fact that a certain patient is in fact currently being held within a facility for diagnosis, treatment or detoxification of a drug abuse patient; *even in response to an inquiry by a peace officer, including a federal marshal, seeking such certain persons custody pursuant to a valid and subsisting felony warrant.* Any such disclosure, amounting to a violation of this unconditional confidentiality is subject to a fine of "not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense." (Sec. 2.14 (a)). The potential conflict of laws here is at least twofold: it would purport to obstruct criminal justice and it runs counter to the waiver of medical privilege under Ch. 253A.21 when a physician was or is in charge of such "a drug abuse patient."

X. "DUE PROCESS" HEARINGS

- A. When findings have been made by the court based on evidence adduced, but commitment was stayed (conditioned upon patient's pledge to follow a certain program) for an agreed period of continuing jurisdiction, and the court is later reliably informed of a breach of the conditions and thereupon orders such stay *revoked*; the County Attorney, continuing his advocacy on behalf of the petitioner, arguably has the burden of (a) notifying patient what is intended as proof in support of the revocation and (b) proving at a "Morrissey type" hearing the facts of such breach.
- B. When a patient's status report (60 day report) is filed by the "head of hospital" with the committing court within 60 days of the initial commitment under 253A.07, Subd. 23, which report recommends further hospitalization, the court may issue an order upon final determination which extends the commitment to an indeterminate term. (Subd. 25).

Except where "*Mentally Ill and Dangerous or Psychopathic Personality*" is sought to be extended, no hearing is required by the statute.

It is reasonably arguable that under constitutional standards of due process a patient should be afforded a right to some form of judicial review or at least administrative review of the bases for such final order before such order becomes absolute. It then follows that due notice of such a right of review would require communication.

Hennepin County Probate Court has just recently inaugurated the practice of notifying patients by personal service of such orders upon final determination together with notice of right to hearing upon written demand. Either the County Attorney or the Attorney General (in the case of a state hospital) may represent the hospital in support of so extending the hospitalization.

- C. When a patient's provisional discharge is revoked as provided for in Ch. 253A.15 Subd. 7 by the "head of hospital", such patient may be returned to the hospital by a peace officer if necessary and under the committing court's order if necessary.

The statute does not provide standards for such revocations nor any review process for an aggrieved patient.

In the case of patients committed to state hospitals as Mentally Ill or Inebriate, a Commissioner's directive issued in 1974 entitled Policy Bulletin #24 provides for specific conditions to be agreed to by the patient in a provisional discharge contract and further provides certain standards

*Caveat: Obtain adequate waivers in avoidance of such problem as was reversed--*In the Matter of Mental Illness of Marjorie L. Fitzpatrick, Minn. Dist. Ct. Blue Earth Co. 5th Jud. Dist. East. App. Dvn. File Nos. 38826/22798 (September 12, 1978).*

and procedures for effecting the revocation thereof. This directive is based upon the stipulated order of the U. S. District Court in Anderson (supra at p. 14) which was followed by a similar stipulated "Civil Rights Act" class action: Elwood Flick, et al v. Arthur Noot, et al, 4-78 Civil 359, (D. Minn. 1979) which similarly covers Mentally Deficient patients' provisional discharges and revocations. The most important feature of this "Federal Court Legislation" is that it purports to require hearings to justify such revocations by state hospitals, though probably not applicable to revocations by [private] "heads of hospitals" not within the litigated class.

Whether or not the County Attorney actively represented the moving party in procuring the revocation of the provisional discharge, it is apparent that he has standing to appear at such hearing (in the approximate role of co-counsel to the Attorney General) to assist in meeting the burden of proof.

There is no statutory or case law at the time of this writing (January 1980) providing for hearing to justify revocation of the provisional discharge of a patient adjudicated Mentally Ill and Dangerous or Psychopathic Personality. However the current policy-practice by the Commissioner of Public Welfare is to provide a hearing under the Anderson case guidelines.

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STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota, :
 Plaintiff, :
 -vs- :
John Doe, :
 Defendant. :

WHEREAS, this Court is informed by the staff of Ancker State Hospital that the herein named defendant has now regained competency for purposes of answering the charges herein to which no plea has yet been entered and,

NOW THEREFORE IT IS HEREBY ORDERED that the Hennepin County Sheriff transport the person of the said defendant, John Doe, from Ancker State Hospital to the Hennepin County Jail forthwith and,

IT IS FURTHER ORDERED that the said defendant be made to appear before this Court at the criminal calendar thereof as soon as practicable and as soon as counsel may be heard.

BY THE COURT:

Stanley O. Kane, Judge of
District Court

DATED: _____

STATE OF MINNESOTA

County of _____

1
ss.APPLICATION BY PEACE OR HEALTH
OFFICER FOR EMERGENCY HOSPITALIZATION

Re _____

Address _____

I, the undersigned, peace officer or health officer, of _____ County, have taken the above named person into custody believing him to be a mentally ill person in imminent danger of causing injury to himself or others if not immediately restrained. This person was taken into custody under the following circumstances and for the following reasons _____

and I hereby apply for his emergency hospitalization at _____

Dated _____ 19____

Address _____

10-1057

STATE OF MINNESOTA

County of _____

1
ss.

STATEMENT OF MEDICAL OFFICER

Re _____

I, the undersigned, a medical officer of _____ Hospital, state that I have made a preliminary examination of the above named person and from such examination I am of the opinion that he has symptoms of mental illness and appears to be in imminent danger of harming himself or others.

Dated _____ 19____

Note: This form to be used in conjunction with form 10-1058.

STATE OF MINNESOTA

County of _____

ss.

PHYSICIAN'S STATEMENT IN SUPPORT
OF EMERGENCY HOSPITALIZATION

Re: _____

Address _____

I, the undersigned licensed physician, state that I examined the above named person within the last fifteen days on _____, 19____, and as the result of such examination, I am of the opinion that the above named person is a (mentally ill — imbecile) person in imminent danger of coming injury to himself or others if not immediately restrained by reason of _____

and that an order of the court cannot be obtained in time to prevent such anticipated injury

Dated _____, 19____

Address _____

HC 2348

HC 2349

STATE OF MINNESOTA

County of _____

ss.

NOTICE TO PATIENT OF RIGHTS
UNDER EMERGENCY HOSPITALIZATION
(In compliance with M.S. 253.35 Sub. 3)

Re: _____

Alleged Mentally Ill — Imbecile

TO THE ABOVE NAMED PATIENT

1. You are hereby notified that you have the right to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day or night, and that you may consult privately with an attorney, personal physician and at least one member of the family.
2. You are hereby further notified that you have the right to be discharged 72 hours after your emergency admission exclusive of Saturdays, Sundays, and legal holidays, unless a petition for judicial commitment of you becomes filed in the probate court.
3. You are hereby further notified that you have the right to a change of venue to the probate court of the county of your legal residence in Minnesota.
4. You are hereby further notified that you have the right to make written request of the hospital that you be transferred to informal status.

Dated _____, 19____

HOSPITAL

By: _____

I hereby certify that the original of the above notice was on this date handed to the above named patient and that it was left with him.

Dated _____, 19____

HOSPITAL

By: _____

STATE OF MINNESOTA
County of _____

PHYSICIAN'S STATEMENT IN SUPPORT
OF EMERGENCY HOSPITALIZATION

I, _____
Address _____

I, the undersigned licensed physician, state that I examined the above named person within the last fifteen days
_____ 19____ and as the result of such examination, I am of the opinion that the
above named person is a (mentally ill - inebriate) person in imminent danger of coming harm to himself or others
not immediately restrained by reason of _____

I state that an order of the court cannot be obtained in time to prevent such anticipated injury.

Dated _____ 19____
Address _____

STATE OF MINNESOTA
County of _____

NOTICE TO PATIENT OF RIGHTS
UNDER EMERGENCY HOSPITALIZATION
(In compliance with M.S. 253.25 Sub. 3)

Alleged Mentally Ill - Inebriate
TO THE ABOVE NAMED PATIENT

You are hereby notified that you have the right to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day or night, and that you may consult privately with an attorney, personal physician and at least one member of the family.

You are hereby further notified that you have the right to be discharged 72 hours after your emergency admission exclusive of Saturdays, Sundays, and legal holidays, unless a petition for judicial commitment of you becomes filed in the probate court.

You are hereby further notified that you have the right to a change of venue to the probate court of the county of your legal residence in Minnesota.

You are hereby further notified that you have the right to make written request of the hospital that you be transferred to informal status.

Dated _____ 19____
By: _____ HOSPITAL

I hereby certify that the original of the above notice was on this date handed to the above named patient and it was read with him.

Dated _____ 19____
By: _____ HOSPITAL

STATE OF MINNESOTA

PROBATE COURT

County of Washington

File No. _____

PETITION FOR JUDICIAL COMMITMENT

By _____

Alfred J. Smith, III - Mentally Detriment - Inmate

_____ residing at _____ Street,
_____ Minnesota, to the best of his knowledge, information, and belief, respectfully
represents:

1. He is interested in the estate of _____
2. Patient is born _____ 19____ at _____
3. Patient resides at _____ Minnesota
4. Patient has settlement in _____ County, Minnesota, for the purpose of judicial
commitment
5. Patient's spouse and nearest next of kin
Name Relationship Age Address

6. Patient is not a lunatic
7. Patient is believed to be mentally ill mentally deficient, or insane _____

8. Patient is further believed to be mentally ill mentally deficient or insane as evidenced by the
physician's statement furnished herewith. If none, complete No. 9
9. Detainer's unable to procure a physician's statement herewith _____
10. Patient is, is not presently, or was at any time _____
11. Patient is, is not presently, hospitalized at _____
12. Patient was last committed to the State Hospital at _____ Minnesota by the
_____ Court. Probate Court is at about _____ 19____
and has received appropriate treatment at the following hospital _____

13. Patient is, is not, under the care of Dr. _____

14. Return back to the following property: (provide an address or location)

County _____

WHEREFORE petitioner prays that judicial consideration be made of the instant application.

STATE OF MINNESOTA

County of _____

ss

_____ being duly sworn, says that he is the petitioner
above entitled proceeding, that he had read the foregoing petition and knows the contents thereof, the
same is true to his own knowledge except as to those matters therein stated as information and he
as to those matters he believes to be true.

Subscribed and sworn to before me this _____

day of _____ 19____

Notary Public _____ County, Minnesota

My Commission Expires _____

State of Minnesota

County of _____

Personal Commitment

PRISONER COMMITTEE

ss

Notary Public _____

Petition for Judicial Commitment

Except for copy hereof is acknowledged this

day of _____ 19____

COUNTY WILLIAM DEPARTMENT

ss

Notary Public

County of _____

Notary Public

STATE OF MINNESOTA

PROBATE COURT

County of _____

File No. _____

Re

ACKNOWLEDGMENT OF PETITIONER
CONCERNING IMPLICATIONS OF A
JUDICIAL COMMITMENT PROCEEDINGS

Alleged Mentally Ill - Mentally Deficient - Incontinent

I, _____, desiring to file a petition for the judicial commitment of the above named person hereby acknowledge and fully understand the following:

1. That a petition for judicial commitment is an application to the probate court to hold a hearing at which my presence will be required, to determine if said person is in need of treatment and hospitalization as I intend to allege, and that a judicial commitment of said person can result in said person's loss of freedom.
2. That the law requires that a petitioner must be a reputable person, and that included among the qualifications of a reputable person are sincerity of purpose and freedom from any malice.
3. That any hospitalization of said person will be expected to be paid for if funds are available from a person legally responsible therefore.
4. That if the court determines after a hearing that said person is in need of treatment and hospitalization, the court may order commitment of said person to the proper hospital for such treatment.
5. That if the court determines that said person is not in need of treatment the court will discharge said person and order an immediate release from any further custody.
6. That said person, if not already hospitalized, can be taken into custody and ordered held for observation, evaluation and hearing in the psychiatry section of _____ Hospital, or if said person already is hospitalized, that the hospital can be ordered to hold said patient for examination and hearing.
7. That at least five days notice of the hearing has to be given to said person personally and to such other persons as the court determines, that said five days notice is given when and immediately after said person is in custody in order that said person cannot contend that he is being unduly deprived of his freedom and right to a timely hearing according to law, and that said person has the right to engage an attorney, and that if an attorney is so engaged, every effort may be made by such attorney to obtain said person's immediate release.
8. That said person will be under the custody and control of the superintendent of the hospital in which said person will be ordered held, and that the attending psychiatric staff are qualified to diagnose the condition of said person after observation and will be making a report thereof to the court together with their recommendations.
9. That I should give my full cooperation to the attending psychiatric staff and superintendent of the holding hospital.
10. That I may request an assistant county attorney to represent me as petitioner at the hearing, and I further understand that the assistant county attorney probably will not be present at the hearing unless I so request prior to the day of the hearing.

Dated _____ 19__

Petitioner

I acknowledge that I have a copy of the above

Petitioner

STATE OF MINNESOTA

PROBATE COURT

County of _____

File No. _____

Re:

ORDER TO APPREHEND AND CONFINED,
FOR EXAMINATION, HEARING, APPOINTING
GUARDIAN AD LITEM, APPOINTING
ATTORNEY, AND NOTICE

Alleged Mentally Ill - Mentally Deficient - Incurable

A petition is _____

of the above named person, born on _____ for the judicial commitment of said named person
as mentally ill - mentally deficient - incurable having been filed herein on _____ 19____

AND IT APPEARING that the best interests of said person, his family and the public will be served by the immediate
apprehension and observation of said person as hereinafter provided.

IT IS ORDERED that _____ take said person into custody
and transport him to _____ Hospital
Minnesota and that the Head of said Hospital receive said person for observation, evaluation, diagnosis, emergency treatment,
and if deemed necessary by the Head of Hospital in safe and secure confinement.

IT IS FURTHER ORDERED that the person taking the above named person into custody shall not be in
uniform, and may not use a motor vehicle marked as a police vehicle.

IT IS FURTHER ORDERED that said _____ be examined by
_____ and _____ not
later than _____ 19____ at _____ o'clock _____ M. at
_____ as to his need for hospitalization and that a hearing
on said matter be held before the Court on _____ 19____
at _____ o'clock _____ M. or as soon thereafter as counsel can be heard at _____
_____ and that said patient shall appear or be
made to appear before the Court at said time and place.

IT IS FURTHER ORDERED that _____ whose
address is _____ and whose telephone number is _____
is hereby appointed guardian ad litem for said patient in these proceedings and attorney for said patient subject to the right of
said patient to engage any other attorney he may choose.

IT IS FURTHER ORDERED that this Order and Notice be served personally upon said patient (his attorney and his
guardian ad litem) by a uniformed - non-uniformed officers and upon _____

by mailing or handing to each of said persons a copy hereof, all forthwith.

NOTICE IS HEREBY GIVEN that a hearing will be held on said petition for judicial commitment within fourteen (14)
days from the date of the filing of said petition unless said time is extended by the Court for good cause and that at least
two (2) days notice of the place, date and time of said hearing will be given to each of you.

YOU ARE FURTHER NOTIFIED that each of you may attend said hearing and each of you, except patient's counsel,
may testify thereat.

Dated at _____ Minnesota this _____ day of _____ 19____

PROBATE
CLERK

Private Judge

CONSENT

I do hereby consent to all as provided in them for the patient named in the foregoing Order for the purpose these proceedings.

Signed _____ 19____

STATE OF MINNESOTA

County of _____

RETURN OF SERVICE

I hereby certify and return that at said County and State, on the _____ day of _____ 19____, I served a copy of the above Order upon the within named patient, _____ personally by reading the same to him and handing _____ and leaving with him a true and correct copy thereof.

I hereby certify and return that at said County and State, on the _____ day of _____ 19____, I served a copy of the above Order upon the _____ Guardian Ad Litem, personally by handing to and leaving with him a true and correct copy thereof.

I hereby certify and return that at said County and State, on the _____ day of _____ 19____, I served a copy of the above Order upon the _____ personally by handing to and leaving with him a true and correct copy thereof.

Dated _____ 19____

Sherril of _____ County, Minn.

By _____ Deputy

File No.
State of Minnesota
County of _____

PROBATE COURT

vs.

Donald B. Merrill, Defendant

Order to Apprehend and Confine,
for Examination, Hearing,
Appointing Guardian Ad Litem,
Appointing Attorney, and Notice

Filed this _____

day of _____

19____

STATE OF MINNESOTA

PROBATE COURT

County of _____

File No.

Re:

NOTICE TO PATIENT OF RIGHTS
UNDER JUDICIAL COMMITMENT

Alleged Mentally Ill — Mentally Deficient — Incompetent

TO THE ABOVE NAMED PATIENT

1. You are hereby notified that you have the right to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night and that you may consult privately with an attorney, personal physician and at least one member of your family.
2. You are hereby notified that the court shall fix a time and place for the hearing which shall be held within 14 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. When any proposed patient has not had a hearing on a petition filed for his commitment within 14 days from the date of filing of said petition, or within the extended time, the proceedings shall be dismissed. The proposed patient, or the head of a hospital or other institution in which the patient is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is thereafter held within five days of the date of such demand, exclusive of Saturdays, Sundays and legal holidays, the petition shall be automatically discharged if the patient is being held in a hospital or other institution pursuant to court order. For good cause shown, the court may extend the time of hearing on demand up to an additional 30 days.

Dated _____ 19____

HOSPITAL

By _____

I hereby certify that the original of the above notice was on this date handed to the above named patient and that it was left with him.

Dated _____ 19____

HOSPITAL

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100 101

STATE OF MINNESOTA

File No.

County of _____

Re:

NOTICE OF ADMISSION
TO HOSPITAL

Patient

Address: _____

TO: _____
 _____ to above patient
 (Relationship)

Address: _____

and TO: _____ COUNTY WELFARE DEPARTMENT

Address: _____

You are hereby notified that the above named patient was admitted to the _____

Hospital is an alleged severely ill -- mentally deficient -- inebriate patient on the _____ 19_____.

Dated _____ 19____

HOSPITAL

Dr. _____

1994-1995, 2001-2002, 2003-2004, 2005-2006, 2007-2008, 2009-2010, 2011-2012, 2013-2014, 2015-2016, 2017-2018, 2019-2020, 2021-2022, 2023-2024, 2025-2026, 2027-2028, 2029-2030, 2031-2032, 2033-2034, 2035-2036, 2037-2038, 2039-2040, 2041-2042, 2043-2044, 2045-2046, 2047-2048, 2049-2050, 2051-2052, 2053-2054, 2055-2056, 2057-2058, 2059-2060, 2061-2062, 2063-2064, 2065-2066, 2067-2068, 2069-2070, 2071-2072, 2073-2074, 2075-2076, 2077-2078, 2079-2080, 2081-2082, 2083-2084, 2085-2086, 2087-2088, 2089-2090, 2091-2092, 2093-2094, 2095-2096, 2097-2098, 2099-2100, 2101-2102, 2103-2104, 2105-2106, 2107-2108, 2109-2110, 2111-2112, 2113-2114, 2115-2116, 2117-2118, 2119-2120, 2121-2122, 2123-2124, 2125-2126, 2127-2128, 2129-2130, 2131-2132, 2133-2134, 2135-2136, 2137-2138, 2139-2140, 2141-2142, 2143-2144, 2145-2146, 2147-2148, 2149-2150, 2151-2152, 2153-2154, 2155-2156, 2157-2158, 2159-2160, 2161-2162, 2163-2164, 2165-2166, 2167-2168, 2169-2170, 2171-2172, 2173-2174, 2175-2176, 2177-2178, 2179-2180, 2181-2182, 2183-2184, 2185-2186, 2187-2188, 2189-2190, 2191-2192, 2193-2194, 2195-2196, 2197-2198, 2199-2200, 2201-2202, 2203-2204, 2205-2206, 2207-2208, 2209-2210, 2211-2212, 2213-2214, 2215-2216, 2217-2218, 2219-2220, 2221-2222, 2223-2224, 2225-2226, 2227-2228, 2229-2230, 2231-2232, 2233-2234, 2235-2236, 2237-2238, 2239-2240, 2241-2242, 2243-2244, 2245-2246, 2247-2248, 2249-2250, 2251-2252, 2253-2254, 2255-2256, 2257-2258, 2259-2260, 2261-2262, 2263-2264, 2265-2266, 2267-2268, 2269-2270, 2271-2272, 2273-2274, 2275-2276, 2277-2278, 2279-2280, 2281-2282, 2283-2284, 2285-2286, 2287-2288, 2289-2290, 2291-2292, 2293-2294, 2295-2296, 2297-2298, 2299-2300, 2301-2302, 2303-2304, 2305-2306, 2307-2308, 2309-2310, 2311-2312, 2313-2314, 2315-2316, 2317-2318, 2319-2320, 2321-2322, 2323-2324, 2325-2326, 2327-2328, 2329-2330, 2331-2332, 2333-2334, 2335-2336, 2337-2338, 2339-2340, 2341-2342, 2343-2344, 2345-2346, 2347-2348, 2349-2350, 2351-2352, 2353-2354, 2355-2356, 2357-2358, 2359-2360, 2361-2362, 2363-2364, 2365-2366, 2367-2368, 2369-2370, 2371-2372, 2373-2374, 2375-2376, 2377-2378, 2379-2380, 2381-2382, 2383-2384, 2385-2386, 2387-2388, 2389-2390, 2391-2392, 2393-2394, 2395-2396, 2397-2398, 2399-2400, 2401-2402, 2403-2404, 2405-2406, 2407-2408, 2409-2410, 2411-2412, 2413-2414, 2415-2416, 2417-2418, 2419-2420, 2421-2422, 2423-2424, 2425-2426, 2427-2428, 2429-2430, 2431-2432, 2433-2434, 2435-2436, 2437-2438, 2439-2440, 2441-2442, 2443-2444, 2445-2446, 2447-2448, 2449-2450, 2451-2452, 2453-2454, 2455-2456, 2457-2458, 2459-2460, 2461-2462, 2463-2464, 2465-2466, 2467-2468, 2469-2470, 2471-2472, 2473-2474, 2475-2476, 2477-2478, 2479-2480, 2481-2482, 2483-2484, 2485-2486, 2487-2488, 2489-2490, 2491-2492, 2493-2494, 2495-2496, 2497-2498, 2499-2500, 2501-2502, 2503-2504, 2505-2506, 2507-2508, 2509-2510, 2511-2512, 2513-2514, 2515-2516, 2517-2518, 2519-2520, 2521-2522, 2523-2524, 2525-2526, 2527-2528, 2529-2530, 2531-2532, 2533-2534, 2535-2536, 2537-2538, 2539-2540, 2541-2542, 2543-2544, 2545-2546, 2547-2548, 2549-2550, 2551-2552, 2553-2554, 2555-2556, 2557-2558, 2559-2560, 2561-2562, 2563-2564, 2565-2566, 2567-2568, 2569-2570, 2571-2572, 2573-2574, 2575-2576, 2577-2578, 2579-2580, 2581-2582, 2583-2584, 2585-2586, 2587-2588, 2589-2590, 2591-2592, 2593-2594, 2595-2596, 2597-2598, 2599-2600, 2601-2602, 2603-2604, 2605-2606, 2607-2608, 2609-2610, 2611-2612, 2613-2614, 2615-2616, 2617-2618, 2619-2620, 2621-2622, 2623-2624, 2625-2626, 2627-2628, 2629-2630, 2631-2632, 2633-2634, 2635-2636, 2637-2638, 2639-2640, 2641-2642, 2643-2644, 2645-2646, 2647-2648, 2649-2650, 2651-2652, 2653-2654, 2655-2656, 2657-2658, 2659-2660, 2661-2662, 2663-2664, 2665-2666, 2667-2668, 2669-2670, 2671-2672, 2673-2674, 2675-2676, 2677-2678, 2679-2680, 2681-2682, 2683-2684, 2685-2686, 2687-2688, 2689-2690, 2691-2692, 2693-2694, 2695-2696, 2697-2698, 2699-2700, 2701-2702, 2703-2704, 2705-2706, 2707-2708, 2709-2710, 2711-2712, 2713-2714, 2715-2716, 2717-2718, 2719-2720, 2721-2722, 2723-2724, 2725-2726, 2727-2728, 2729-2730, 2731-2732, 2733-2734, 2735-2736, 2737-2738, 2739-2740, 2741-2742, 27

STATE OF MINNESOTA

County of _____

PROBATE COURT

File No. _____

ORDER DIRECTING WELFARE DEPARTMENT
TO MAKE INVESTIGATION

Whereas, Section 261 - Minnesota Statutes - Inheritance

is known for the judicial commission in the above named person through it _____
Minnesota, having been held herein it is

ORDERED that the _____ County Welfare Department make an investigation into the financial, administrative, family relationships, residence, social history, and general health of said person in this matter. The report of the investigation is to be filed with the court prior to the hearing on said evidence in the _____ County in the field of the _____ and the _____ of the _____.

Date _____
CLERK OF COURT

Probate Court

Hereby certify that a copy of the above order was this date received by the Welfare Department in _____ County.

MC 275B

STATE OF MINNESOTA
County of Hennepin

PROBATE COURT

THE STATE OF MINNESOTA

To _____

GREETING

You are hereby commanded, that laying aside all and singular your business and excuses you be and appear before the Referee in Probate for the County of Hennepin at the Government Center, in the City of Minneapolis, in Said County, on the _____ day of _____ 19____ at _____ o'clock in the _____ noon, then and there to give evidence in the matter of the _____

Heret fail not on pain of the penalty that will fall thereon

Dated _____ 19____

Referee in Probate of Hennepin County

Patient: _____

Date: _____

EVIDENCE SUMMARY

Witnesses to be Sworn:	Testimony To Be Used As Evidence:	Subpoena?
<u>Petitioner(s):</u>		
<u>Concerned Person:</u>		
<u>Concerned Person:</u>		
<u>Concerned Person:</u>		
<u>Documentary Evidence:</u>	<u>Purpose Submitted:</u>	
1. _____		
2. _____		
3. _____		
<u>Additional Information to be Investigated:</u>		

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
SOUTHERN JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

-vs-

File No.

Jane Smith,

Defendant.

By Indictment dated April 18, 1973 a Grand Jury of Hennepin County charged defendant, Jane Smith with the crime of Murder in the First Degree charged to have been committed on April 1, 1973, and,

The defendant entered pleas of not guilty and not guilty by reason of mental illness to the Indictment and the matter proceeded to trial by jury, and

By verdict dated February 8, 1974 the jury determined that defendant had committed the crime of First Degree Murder, and,

The trial then continued on the plea of not guilty by reason of mental illness, and on February 23, 1974 the jury returned a verdict finding the defendant not guilty by reason of mental illness:

IT IS THEREFORE ORDERED: Pursuant to Rule 20.02, Subd. 3(1) of the Rules of Criminal Procedure that the Hennepin County Probate Court cause the Defendant, Jane Smith, to be clinically evaluated to determine whether or not she is mentally ill or mentally ill and dangerous and in need of inpatient care and treatment and whether the same must be under secure confinement; all as contemplated by the provisions of the Minnesota Hospitalization and Commitment Act and further that the said Probate Court conduct a hearing thereon and to make any orders necessary to carry out such civil commitment proceedings under said Act and.

IT IS FURTHER ORDERED that the Hennepin County Sheriff transport the person of the said defendant from the Hennepin County Jail to the closed psychiatric unit of Golden Valley Health Center Northwest and that the head of said hospital receive said Jane Smith and provide with respect to said person, observation, evaluation, diagnosis, emergency treatment and care in safe and secure confinement in preparation for such civil commitment proceedings in Probate Court and.

IT IS FURTHER ORDERED that in the event the Hennepin County Probate Court should find the said Jane Smith to be mentally ill or mentally ill and dangerous and in need of hospitalization, care and treatment, she may be committed directly to an appropriate institution by the Probate Court without further action by or referral to this Court but in no event shall the defendant and patient herein be released from safe and secure custody and confinement until further order of this Court and.

IT IS FURTHER ORDERED that in the event the Hennepin County Probate Court should not find the said Jane Smith to be mentally ill or mentally ill and dangerous, the said Jane Smith be referred back to this Court for further proceedings herein.

BY THE COURT:

Douglas R. Ardani, Judge of Hennepin
County District Court

DATED:

State of Minnesota,
Plaintiff,
- vs -
John Doe,
Defendant.

3 3 3 3

D.C. File No. :

C.A. File No. :

WHEREAS, the herein named defendant has been charged by Complaint dated the 28th day of October, 1977 with the crime of Arson in the Second Degree (Minnesota Statutes 1976 §609.562), to which charge no plea has yet been entered and,

WHEREAS, this Court is informed by a report from Doctor _____ of Hennepin County Medical Center that defendant exhibits "delusional thought pattern involving the Mafia's being out to get him, has poor insight and judgment, paranoid psychosis and needs hospitalization" and that his unlawful conduct was probably a result of a mental or emotional disturbance and,

WHEREAS, this Court is further informed by Assistant County Attorney _____, in the exercise of his prosecutorial discretion, that the community interest and the defendant's rehabilitation would best be served by procedurally diverting the defendant to a prospective treatment program and by placing the matter herein on the Miscellaneous Calendar, on inactive status, and the State waives the right to proceed criminally on condition that defendant cooperate and comply with such treatment program and,

WHEREAS, said defendant, through Assistant Public Defender _____, waives the right to speedy trial and concurs in the foregoing proposals;

NOW THEREFORE IT IS HEREBY ORDERED that the Hennepin County Sheriff transport the person of the said John Doe from the Hennepin County Adult Detention Center to the Minnesota Security Hospital at St. Peter, Minnesota and,

IT IS FURTHER ORDERED that the Medical Director of said Minnesota Security Hospital receive the person of John Doe and hold him for observation, evaluation, diagnosis, emergency treatment, care and confinement until further order of this Court or of the Hennepin County Probate Court and,

IT IS FURTHER ORDERED that a hearing be held by the Hennepin County Probate Court to determine whether or not the said John Doe is mentally ill or mentally ill and dangerous and in need of involuntary inpatient hospitalization, care and treatment and,

IT IS FURTHER ORDERED that in the event the Hennepin County Probate Court should find the said John Doe to be mentally ill or mentally ill and dangerous and in need of inpatient hospitalization, care and treatment, he may be committed directly to an appropriate institution by the Probate Court without further action by or referral to this Court and,

IT IS FURTHER ORDERED that in the event the Hennepin County Probate Court should not find the said John Doe to be mentally ill or mentally ill and dangerous, the said John Doe shall be referred back to this Court for further proceedings herein.

BY THE COURT:

Judge of Hennepin County District Court

DATED:

State of Minnesota,
Plaintiff,
- vs -
John Doe,
Defendant.

FINDINGS OF FACT CONCLUSIONS
OF LAW AND ORDER UNDER RULE 10.01

D. C. File No.
C. A. File No.

FINDINGS OF FACT

The herein named defendant remains charged by complaint dated June 10, 1978, with the crimes of Count I Kidnapping, and Count II Criminal Sexual Conduct in the First Degree and the psychiatric and psychological staff at Minnesota Security Hospital has clinically evaluated the defendant pursuant to an order of this Court June 13, 1978 and has rendered and transmitted its report dated July 9, 1978 to this Court informing in the following pertinent particulars to-wit:

- 1) "our working psychiatric diagnosis is chronic paranoid schizophrenia, currently actively psychotic."
- 2) "he seems incapable of understanding the legal proceedings against him and participating in his defense, and therefore it is our judgment that he is incompetent to stand trial."
- 3) "we recommend that Mr. Doe be referred to the Hennepin County District Court for civil commitment proceedings as mentally ill and dangerous to the public and that he be returned to Minnesota Security Hospital for further care and treatment." and,

The defendant has been made to re-appear before this Court on this date pursuant to its order dated July 13, 1978 for further proceedings herein pursuant to Rule 10.01 of the Minnesota Rules of Criminal Procedure.

CONCLUSIONS OF LAW

From the sworn facts alleged in the said complaint dated June 10, 1978, this Court finds probable cause to exist for the belief that the crimes as alleged were committed and,

The defendant John Doe is presently mentally ill so as to be incapable of understanding the proceedings against him and participating in his defense and thus requires commitment to a secure hospital for treatment as mentally ill and incompetent person.

ORDER

IT IS HEREBY ORDERED, that the Hennepin County Sheriff transport the person of the said John Doe, in secure custody, to the Minnesota Security Hospital and,

IT IS FURTHER ORDERED that the Superintendent and Medical Director of the said Minnesota Security Hospital receive and hold the said John Doe for further observation, evaluation, diagnosis, emergency treatment, care and confinement until further order of this

Court or the Hennepin County Probate Court and.

IT IS FURTHER ORDERED that the Hennepin County Probate Court hold a hearing to determine whether said defendant is then and there incompetent to stand trial and whether defendant is so mentally ill or mentally ill and dangerous as to be in need of inpatient hospitalization, care and treatment in accordance with the terms and provisions of Chapter 253A of the Minnesota Statutes and to make any orders necessary to carry out such purpose and.

IT IS FURTHER ORDERED that in the event the Hennepin County Probate Court should find the said John Doe to be mentally ill or mentally ill and dangerous and in need of such hospitalization, he may be committed directly to the said Minnesota Security Hospital by the Probate Court for hospitalization, periodic evaluation and treatment as an incompetent and mentally ill or mentally ill and dangerous person until such time as he shall have become competent to understand the proceedings against him and participate in his defense and.

IT IS FURTHER ORDERED that in the event the Probate Court should so commit the defendant in accordance with the provisions hereinbefore stated, the said medical director of Minnesota Security Hospital shall receive and hold the defendant and patient John Doe for such hospitalization, care and treatment and make periodic evaluation with regard to his competency to understand the proceedings against him and to participate in his defense and to make reports in such regard, and as to any other significant change in status, to this Court not less frequently than once every six months, not permitting his release until further order of this Court or of the Hennepin County Probate Court and.

IT IS FURTHER ORDERED that in the event the Probate Court should not find the defendant and patient herein John Doe mentally ill or mentally ill and dangerous and in need of hospitalization, care and treatment and said John Doe shall be referred, in secure custody, back to this Court for further proceedings herein and.

IT IS FURTHER ORDERED that the criminal proceedings herein be and hereby are stayed to aside the outcome of the hospitalization, care and treatment of the said defendant and patient until he has returned to a competent state of mind and.

IT IS FURTHER ORDERED that copies hereof be served upon counsel for the parties hereto and that any objections hereto be filed with the Court within 10 days of the date of such service.

BY THE COURT:

Stanley B. Kane, Judge of District Court

DATED: _____



