

1959

## The Role of County and Prosecuting Attorneys with Respect to Alcoholism

Louis J. Dughi

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

Louis J. Dughi, The Role of County and Prosecuting Attorneys with Respect to Alcoholism, 49 J. Crim. L. Criminology & Police Sci. 370 (1958-1959)

This Criminal Law is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

feeling of reluctance on the part of district attorneys to use wiretap evidence even though permitted to do so by the people of their respective states? This would benefit the underworld at the expense of the people.

These impediments to criminal prosecution have been placed in the path of law enforcement despite the fact that the increase in serious crime remains one of the major challenges to the survival of our democratic form of government. How can we ever assess the human misery caused by crime in a nation that reports, for example in the year 1957: 12,600 people slain; 21,080 raped; 100,110 wounded or maimed; and where a major crime is committed every 12 seconds? In 1954, J. Edgar Hoover placed the monetary cost of crime in the United States at \$495 per family, a sum ten times the amount expended for religious worship. For every dollar spent for education, the cost of crime is \$1.46, and the rate in moral, physical and human wastage is rising! Does this mean that we are, in truth, losing sight of the fact that one of our basic rights is the right to be secure in our person? If we are not secure in this right, are not the privileges against self-incrimination, search and seizure, and other concomitant privileges of a free society meaningless?

In our modern, complex society, it is so easy to lose sight of high purposes and mistake the form for the substance. We must ever be alert, as prudent men, to prevent the turning of the due process clause from a shield of protection to a sword of destruction of our civil liberties.

As individuals, we do not always think or act instinctively for the collective good. Unfortunately, human nature all too often is selfish and self-centered. Therefore, prosecutors and police must never relax their efforts to maintain the delicate equilibrium between the rights of the individual and the rights of the community. Today, this balance is in a precarious state. If the pendulum shifts too far in one direction, it may destroy the very liberties we are seeking to preserve by bringing about an all too drastic shift in public opinion in the reverse direction. We already have some indication of a trend in this direction. The bill that was offered in the recent session of Congress for the purpose of curtailing the reviewing power of the Supreme Court is one illustration. Such a curtailment of the power of the court is both unwise and unnecessary, but we may get just that sort of reaction unless a proper balance between individual liberties and public protection is maintained.

In my view, one of the results of this most important conference should be to acquaint the members of our respective communities with the vital problems which confront law enforcement officers in preserving the very liberties of our people. It devolves upon us in law enforcement to translate abstract concepts of rights and duties into practical rules for the survival of our free society by the proper and effective enforcement of the criminal law. As Thomas Jefferson said, "The execution of the laws is more important than the making of them."

## THE ROLE OF COUNTY AND PROSECUTING ATTORNEYS WITH RESPECT TO ALCOHOLISM

LOUIS J. DUGHI

The author is County Attorney of Union County, Elizabeth, New Jersey. He holds an A.B. and a LL.B. from Cornell University. Mr. Dughi presented the following paper in Atlantic City, July 30, 1958, at the Annual Meeting of the National Association of County and Prosecuting Attorneys, of which he is a member. As will be evident to the reader of Mr. Dughi's paper, he devoted considerable time and effort in his research upon this very important subject of alcoholism.

The alcoholic has been the illegitimate child of society, and he has incurred more wrath than sympathy. Alcoholism is a disease, and the alcoholic is a sick person who can be helped and is worth helping. It is a general health problem, and therefore everyone's responsibility. I especially commend this problem to you county and prose-

cuting attorneys. Everyone of you is in the position of a community leader, to whom the public looks for new ideas and counselling. In fact, lawyers as a group furnish a very high percentage of community leaders, both in politics and in civic life. As such leaders in your respective counties, I urge you to assume an added responsibility and leadership, in

solving the third most important major health problem in the United States of America today. Rated above alcoholism as major health problems are only heart disease and cancer.

During the course of my preparation for this discussion, I have had communications from most of the 48 State Departments of Health and from the various alcoholic commissions throughout the country, and from The National Committee on Alcoholism which was organized in 1944, with headquarters in New York. My research has indicated the futility of attempting to summarize the work that needs to be done with respect to the tremendous problem that exists. It has been called a billion dollar headache. Actually, inflation has raised this figure ten-fold. The resulting effect of alcoholism is hard to measure. The men and women of this audience are certainly intelligent enough to project the chain reaction of the cost and social consequences of having an alcoholic in any family unit. Those involved in law enforcement can certainly give you alarming figures as to the effect of alcoholism on the incidence of crime.

It would seem that the first actual record that we have of over-indulgence of fermented fruit is in the book of Genesis where we are told that Noah's first project after beaching the ark was to plant a vineyard "And he drank of the wine and was drunken." Then in the book of Deuteronomy, chapter 21, verses 20 and 21, we find a law in Israel requiring the fathers of all disobedient sons to take them to the elders of the city saying "This our son is stubborn and rebellious, and is a glutton or a drunkard. All of the men of this city shall stone him to death with stones." To this day the method of dealing with the alcoholic has changed very little. Now, however, instead of stoning him, we have more humanitarian means of punishing him—fines and jails. Social ostracism still exists. Many people continue to feel that alcoholism is self-imposed, therefore the victim should be punished until he stops drinking. On the other hand, when a *sober* person steps into a modern automobile, breaks the laws of the road, drives too fast and has a terrible accident and is injured, what do we do? We take him quickly to the nearest hospital and secure the best medical help to repair the physical damage and make the victim well again. It never occurs to anyone that the victim brought the accident upon himself, and that, while still in an injured condition, he should be thrown in jail and punished, instead of being treated. He did not

intend to have the accident, that is true, but he did intend to do the things that made it possible. The alcoholic has no intention of getting drunk when he takes the first drink; like the automobile driver, he thinks "It won't happen to me" but he does get drunk and our first thought is not of treatment but of punishment.

All down through the ages from the time Noah's family found him drunk, various means have been employed to control the drinking of alcoholic beverages or discontinuing the manufacture entirely. In 2250 B.C., we find that the King of Babylon in the code of Hammurabi imposed a number of price fixing and dispensing controls on alcoholic beverages. Then in 75 A.D., the Emperor Domitian destroyed half of all Roman vineyards and forbade the planting of more. This law, like many others in the intervening years, lasted only a short time before it was repealed. So after centuries of experience, it has been decided that controls and punishment are not the answer to this problem.

It has taken an enlightened people a long time to realize this and to start to work from an entirely different angle, that of education, research, prevention, treatment and rehabilitation. It has not been many years since mental illness was "lunacy" and mentally ill people were "crazy." Up until very recent years, these sick people were required to spend their lives behind bars. A very high percentage of those going to institutions today are being returned to their homes as normal, healthy people after receiving specialized treatment. Science has discovered new drugs in the treatment and cure of diseases heretofore considered hopelessly incurable. Is it too much to expect that this new approach to alcoholism will eventually solve and control it? Can we somehow prevent the destruction of so many otherwise useful citizens, ruining not only the individual involved, but some of those around him as well?

The alcoholic we speak of is not only the skid row bum of the major cities of the United States; they constitute only 15% of the nation's overall alcoholism problem. Who are the other 85%? They are Mrs. Jones down the street; Mr. Brown, the best electrician in town; the Vice-President of some real estate company; or someone else you know very well. They are charming people, usually gracious and very anxious to please for several months at a time. Then, for no obvious external reason, they are off on a one to four week drunk, upsetting everyone around them and destroying

much of what they have built up during the preceding months. These are the people whom we usually think of as being "so normal; if he just didn't drink." They have an amazing ability to maintain themselves, and their emotional turmoil shows up only in their drinking. After the bender, they are remorseful, apologetic and conscientious, and rapidly rebuild their previous position as accepted members of society.

For many years, there was very little action taken in our own states, although there has been here and there an attempt to have state and local centers for rehabilitation and treatment of the alcoholic. Since 1930, however, there has been a revived interest in alcoholism, and with that interest there has been developed some specialized activities in treatment, education, and research. A new underlying philosophy has characterized fresh modes of action. State governmental programs have been started. Fresh approaches to the problem of alcoholism were evidenced by the appearance of a new research council on the problems of alcoholism, the founding of Alcoholics Anonymous, and the development of a special program of study on alcoholism at Yale University Laboratory of Applied Physiology. New goals of investigation or treatment were projected by each.

Chronologically, it is interesting to record that Alcoholics Anonymous was founded in 1934, and in 1938 the research council brought together an eminent group of scientists to initiate its activities. In 1940 the first issue of "The Quarterly Journal of Studies on Alcohol" appeared. In 1943, the first session of the Yale Summer Schools of Alcohol Studies was held, and the Yale planned "Out-patient Clinic for the Treatment of Alcoholics" was opened in the same year. In 1945, the rapid development of specialized activities continued as the National Committee for Education on Alcoholism was organized; and the Connecticut legislature authorized an independent governmental agency to deal with this problem. The social vacuum was slowly filling up with specialized programs. Alcoholics Anonymous, by far the most successful non-medical therapeutic approach, has quietly expanded as a grass roots movement which is democratic in its organization, spiritual in its teachings, and moral in its goals—and it is reaching persons inaccessible to other help. The Connecticut Commission on Alcoholism now directs one of the largest of the state governmental programs in the United States, providing treatment, education,

and research. The Connecticut approach is committed to the underlying philosophy that the alcoholic is susceptible to treatment; that the alcoholic is worth rehabilitating; that there should be systematic controlled study of the problem; that activity should be based on tested information, and that there is to be continued evaluation of results. This is a departure from the thinking that alcohol is the cause of alcoholism, or that intoxication and alcoholism are the same thing.

Since 1930 most of the states in our country have been instituting programs for the prevention of alcoholism. There are now only four states which have no organized program and rely only on voluntary groups. The big majority of our states have legislated to provide special agencies for the problem of alcoholism in varying degrees of emphasis. Some few states have created integrated agencies to work with the mental hospitals; and a few states have integrated the program into state hospitals. Some states have limited the program to study commissions, anticipating enabling legislation in the future. Indicative of the current interest in the problem is the fact that as recently as only 14 years ago not a single state had a formal program on alcoholism; whereas now 44 states have passed laws recognizing alcoholism as a public health program and are engaged in official action with respect to alcoholism; and on a national level, the United States Public Health Service has set up the National Institute of Mental Health as a focal point in the definitive approach to alcoholism as a whole.

In the light of all these official state and national efforts, and the activities of non-governmental organizations such as "Alcoholics Anonymous," what then is the role, if any, of the county or prosecuting attorney, and why should he be at all concerned? The answer is that mere legislation and enabling acts, by any congress or state assembly, are ineffectual unless they have the support of the various units of government, and the county unit of government is probably the most convenient unit of government to tackle the problems on as close to the grass roots level as is possible. And in this connection, remember this: The success of "Alcoholics Anonymous" has been the intimacy of the program that has been reaching the people in the neighborhoods by its wide membership and close individual supervision. Its attack on the problem has been on a grass roots level.

State agencies in our populous areas must

perform be limited in their ability to get to the bottom of the individual problems without the help of more local support. Most counties now have rehabilitation agencies for the mentally sick, for the chronically ill and other diseased people, and these agencies could effectively expand their facilities to cover alcoholism. As a county leader, who is ordinarily charged with the responsibility of advising the governing body you can bring to the attention of the members of that governing body the great humanitarian work that is required for the benefit of the community at large.

We have come a long way through the leadership of many enlightened people in bringing this once hidden skeleton in our society to the foreground as a disease. We have come a long way in having established in so many states legislation for the education, treatment, and prevention of alcoholism. The time has now come when the county level of state government should take the initiative in supplementing the work of the state agencies. There is no doubt that whether you adopt the agency approach of education, prevention, and treatment, as in Connecticut; or whether you adopt the integrated agency approach such as has been set up in 12 states, including Delaware, Massachusetts, New Jersey, New York, and Pennsylvania; or whether you adopt the state hospital program approach that is now being used in Arkansas, California, Maine, Mississippi, and in Ohio and other states; or whether you use the study approach now being applied in West Virginia, Arizona, Washington, South Carolina, and other states, the county can become a vital part of the program—in fact, the final salvo for the success of this program.

Many counties have already assumed some part of the responsibility in this problem. The implementation of a state plan by the county and the use by the county agencies of the benefits of state research and cooperating state fund allotments would seem to be in order. If there is any question in the mind of any county official as to the need of a county to embark upon this program, one must point out the growing amounts of money that are being spent each year and listed on county budgets for the rehabilitation and for the payment of welfare for indigent families who are the victims of an alcoholic breadwinner. Also for consideration

is the matter of payments to hospitals for the care and maintenance of indigent persons who have become wards of the county through the problem of alcoholism. As a matter of fact, it should be only necessary to point out the ever increasing cost of conducting our courts and maintaining our jails, of operating and supervising the administration of justice in our police courts, in matters which are directly or indirectly attributable to this problem called alcoholism. Any intelligent county official should and could be readily convinced that an investment in the prevention and cure of this social problem and malady is certainly warranted.

It is of interest to consider what has been done in Michigan on the local governmental level. The Michigan program includes several treatment plans: Lay counselling, drug therapy, "Alcoholics Anonymous," psychological treatment, psychiatric therapy, and medical treatment. These range from part time information and referral centers, with a one person staff, to a well staffed clinic. Most of the centers are operated by local health departments and jointly financed by tax funds from the local unit of government, or the county, and from the state board and other support. The state board of Michigan does not establish or operate treatment programs; that is left up to the city and county.

This nation continues to play a leading role in the development of public health programs. Progress in public health has usually stemmed from the leadership of professional people. The public health problem of the alcoholic presents certain characteristics which are unique. Contemporary concern has not arisen from professional groups, but from those afflicted, their families, and their friends. There is no recognized specific causative agent. Alcoholism is a complex individual and social disorder which cuts across many specialized areas. It impinges upon the fields of medicine, physiology, social welfare, religion, penology, politics, and economics. Specialists in different fields tend to see the problem from one particular point of view, and this fact has retarded a solution. But the lawyer is trained to gather all of the facts and to draw well founded conclusions. The lawyer, by his social position, and by the area of his influence, is in a position to do something constructive in leading all groups into effective action.