

Alaska Criminal Justice Commission
Staff Notes January 23, 2015, 9:00 AM to 12:00 PM
At the Diamond Courthouse, Jury Assembly Room, 123 4th Street Juneau

Commissioners attending: Hon. Alex Bryner (chairing); Ron Taylor (part of the mtg.), Kris Sell, Rick Svobodny, Sen. John Coghill, Hon. Trevor Stephens (part of the mtg) Rep. Wes Keller, Terry Vrabec, Brenda Stanfill, Quinlan Steiner, Jeff Jessee, Hon. Stephanie Rhoades, Greg Razo

Staff Present: Susanne DiPietro, Mary Geddes, Susie Dosik, Teri Carns, Giulia Kaufman (notetaker)

Participants: AG Craig Richards, Cynthia Franklin, Karen Gillis (phone), Carmen Gutierrez, Commissioner Valerie Davidson, Albert Wall, Andre Rosay, Steve Williams, Janet McCabe, Nancy Meade, Chris Provost, Jordan Schilling, Ken Truitt, Kelly Cunningham, Denise Morris (phone), Barbara Armstrong (phone), Corey LePage (phone)

Future Meetings: **Tuesday, February 24, 2015, 10:30 – 3:00 PM (JUN)**
Tuesday, March 31, 2015, 12:00 – 3:00 PM
Tuesday, April 28, 2015, 10:00 – 1:00 PM

The meeting opened at 9:05 AM; Hon. Alex Bryner chaired the meeting.

Welcome and Introductions:

The Chair Hon. Alex Bryner opened the meeting at 9:05 AM and welcomed everybody. A special welcome was given to new ACJC commissioner Sen. Coghill, Attorney General Craig Richards, Valerie Davidson, Commissioner of DHSS, and Albert Wall, Director of the DHSS's Division of Behavioral Health.

Hon. Bryner stated that the Alaska Criminal Justice Commission was created through SB 64. The Commission consists of thirteen members and has a limited term ending on July 1, 2017. The Commission shall evaluate and make recommendations to improve criminal laws and practices, keeping in mind the goals of enhancing public safety, offender rehabilitation, victim restitution and reducing costs. The Commission may recommend legislative or administrative action to the Legislature and the Governor. The Commission, which is staffed by the Alaska Judicial Council, had its first meeting on September 22, 2014.

Discussion about General Issues:

DHSS Representation:

Present on the phone was Karen Gillis, Director of Boards and Commissions within the Governor's Office. The Boards and Commissions office actively recruits, interviews, and vets board candidates throughout the year and recommends qualified candidates to the governor. At any given time, approximately 1200 Alaskans are serving on nearly 130 boards and commissions. In an average year, Governor Walker makes approximately 200 to 300 appointments. Current commission members are appointed until June 30th, 2017; members serving at the will of the governor have easy access to the Boards and Commissions Office.

Some Commissioners have expressed concern that DHSS does not have a 'seat' on the Commission. Razo asked Gillis and legislators Coghill and Keller about the reasoning behind that and who would have the authority to establish permanent DHSS representation on the Commission. Coghill stated that a challenge the Legislature faced was how large the Commission could be before it would not be able to reach a consensus. He stated that it was assumed that representatives of the departments in question would volunteer and attend commission meetings.

Format of Recommendations:

Hon. Bryner posed the question in what type of format the legislature would like to see the Commission's recommendations, especially with regards to language and specificity. Rep. Keller stated that the Commission is asked to make statutory as well as regulatory recommendations. He stated that it would be best if the recommendations would be put forward to the judiciary committees. Sen. Coghill advised commissioners that it would be best if the group followed the guidelines in the statute. Further, he stated that if the Commission identified gaps in a statute or recommended statutory changes, it would be best if the Commission would draft it in statutory language. In addition, Sen. Coghill stated that it is of interested to the legislature that the Commission answers the "why questions" (e.g., why is something not working; what should be done instead). If departments' policies are inconsistent with the direction of SB64, the Commission should approach departments and find out as to why that it the case. Sen. Coghill said that the Commission should also examine mandatory sentencing laws and determine, if they are too rigid.

Rural Alaska:

Razo pointed out that the Commission has to consider the impacts its recommendations will have on rural Alaska. He said that in order for the group to make the right recommendations, travel to rural Alaska is essential, especially in order to understand how practice and policy interact. He also pointed out budgetary constraints with regards to travel. Sen. Coghill said rural justice is a very complex issue. He stated that, at the time, the legislature contemplated the issue but was not able to determine how to effectively address it. Jessee stated that each year the trust sends a rural outreach group to a different location in rural Alaska to gain firsthand experience. He stated that the trust may be able to help with funding for travel.

In the interest of time, Hon. Bryner asked the legislators, if they had any issues or questions they wanted to bring forward to the group; both legislators said they did not. The group proceeded with the agenda.

Presentations:

ABC Board's Recommendations to Legislature for Changes to Title 4 (Cynthia Franklin, Director ABC Board)¹

Franklin gave a presentation about the Board's recommended changes to Title 4. Title 4 regulates the manufacture, barter, possession, and sale of alcoholic beverages; Title 4 has not been updated since 1980 and the current laws are outdated and confusing. The recommended Title 4 revisions include the clarification of the ABC Board's purpose, the simplification and update of the licensing system, the reformation of underage drinking penalties, and the reduction of the alcohol availability in local option communities.

¹ Please refer to the attached PPT presentation for more details.

One of the focuses of her presentation was the reduction of the penalties for underage drinking offenses. She stated that these offenses represent the largest group of Title 4 offenses (i.e., about 75%) and about a third of those cases are eventually dismissed; yet, minors whose charges were dismissed are still visible in CourtView. She stated that one recommended approach to handle these cases is to impose a \$500 fine, which can be reduced to \$50, if defendants show proof of treatment. If they are unable to obtain treatment or pay the fine, the amount will be taken out of their PFD. As to criticism with regards to the reduction of penalties, Franklin and Judge Rhoades agreed that the reason why MAC defendants end up in jail is not the offense itself but rather non-compliance or violations; both pointed out that jail is not the answer to incentivize youth and to reduce recidivism.

PACE Program Explanation and Expansion (Ron Taylor, DOC Commissioner and ACJC Member):

Taylor informed the group that the PACE (Probation Accountability with Certain Enforcement) is a program established in 2010 that views probation violations in a different way. The goal is to address probation violations in a swift and consistent manner (e.g., short jail time; expedited hearings). The Program currently runs in Anchorage (200 spots), Palmer (40 spots) and Juneau (10 spots). The program is currently expanding; the DOC has created 14 new positions to support the program. Also in a couple of months the program will start in Fairbanks (40 spots). The program focuses mostly on felony probation violations but will also be expanded to parole violations.

Recidivism Reduction (Carmen Gutierrez, Owner of Justice Improvement Solutions and Contractor for the Alaska Mental Health Trust Authority):

Carmen Gutierrez is the contractor for the AKMHTA and tasked with writing the recidivism reduction plan, a requirement through HB266 (click [here](#) for a brief overview). She stated that the report is due on February 2nd, 2015 and that she is now finalizing the draft. She said that the first part of the report outlines the current situation and challenges in the state. She informed the group that the drivers of the growing prison included the incarceration of non-violent as well as unsentenced offenders. She pointed out that in 2002 most offenders were incarcerated for violent offenses. However, by 2012 most offenders were incarcerated for violent offenses, especially drug and property offenses as well as PTRPs. In addition, DOC's facilities are currently maxed out and operating above capacity (101%); Gutierrez said that according to DOC data 40% of this population are unsentenced pre-trial offenders. She also pointed out that these offenders are spending more time unsentenced than even five years ago. If offenders are unsentenced, they can only be held at certain DOC facilities and are unable to qualify for treatment programs. As a result, they spend less time sentenced during which they may not be able complete treatment. She stated that her major recommendation is to have PEW's Justice Reinvestment Initiative provide technical assistance to the state.

Jessee added that the jail is not the answer in reducing recidivism, but rather providing treatment, housing, and employment. He pointed out that is especially important to keep this in mind with regards to the current fiscal situation; Gutierrez agreed.

Staff Reports (Mary Geddes, Project Attorney):

- Ethics Report

Geddes reported that the Commission just filed its quarterly report and that there were no reported ethical violations.
- Videoconferencing and Meeting Arrangements

Geddes informed the group that video conferencing will be available for the next workgroup meetings. However, commissioners will not be able to participate from their work station but will have to go to an external location. She stated that she is still looking into using facilities at the AKMHTA but will have to talk to Jessee to determine how much it would cost the Trust to host the meetings.
- Webpage

The webpage still consists of two pages, the notification and the resource page. The notification pages displays meeting schedules and will in the future also display meeting notes/summaries. The resource page displays resource materials categorized by topic; new items are listed on the top of the page on a monthly basis. Suggestions with regards to materials on and layout of the webpage are welcome.
- Information about Federal Funding Opportunities: RFPs

Geddes informed the group about the following external funding opportunities:

 - [Justice Reinvestment Initiative: Maximizing State Reforms FY2015 Competitive Grant Announcement](#)
 - [Second Chance Act Statewide Adult Recidivism Reduction Strategic Planning Program FY2015 Competitive Grant Announcement](#)
 - [Swift Certain and Fair Sanctions Program FY2015 Competitive Grant Announcement](#)
 - [Smart Policing Initiative FY2015 Competitive Grant Announcement](#)
- Contacts with PEW: Justice Reinvestment Initiative (Susanne DiPietro, ED AIC)

DiPietro informed the group about the PEW Justice Reinvestment Initiative, an initiative that provides free technical assistance to states to advance data-driven, fiscally sound policies and practices in the criminal and juvenile justice systems that protect public safety, hold offenders accountable, and control corrections costs. DiPietro stated that although the state missed its window to work with PEW in the fall of 2014, they may have another opening in the late spring/early summer of 2015. She said that PEW requires a letter of support of the three branches of government in order for them to provide assistance. AG Richards asked why it did not work out and was interested to learn about potential downsides of the project. DiPietro responded that it was not quite clear as to why the project did not go through but that it was mostly a timing issue. The group agreed and Jessee added that some people were also afraid that PEW was going to interfere with the state's independent policy making. However, he and DiPietro informed Richards that they simply make recommendations and do not require the legislatures to pass certain policies. Richards said to send a proposal to him and he will forward it to the Governor.
- Budget Concerns (Susanne DiPietro, ED AIC)

DiPietro informed commissioners about budgetary constraints and said that it would save hundreds of dollars if commissioners could make their flight reservations two weeks in advance. She also stated that if commissioners would prefer to travel on their agency's budget that would also be an option.

Work Group Reports:²**Barriers to Reentry (Stanfill):**

- One of the primary issues discussed was whether Alaska should consider to fully or partially opt out of the SNAP program
- Other issues included Title 28 offenses and public access to court records

Pre- and Post-trial Laws and Processes (Steiner):

- Issues discussed included bail and pre-trial release, DOC data, the role of third party custodians, pre-trial risk assessment, and the ongoing bail survey (expected to be completed by the end of February)

Rural Criminal Justice (Razo):

- Issues discussed included transportation costs, availability of data (MAJIC), bail issues, and the role of the AFN. While there is overlap with other groups but this group's primary focus is how these issues play out in rural AK.

Classification of Crimes and Applicable Sentences (Bryner):

- Issues discussed included reclassification of drug offenses (especially MICS4).

Sentencing Alternatives (Rhoades):

- Issues discussed included different diversion programs at the municipal (ANC, JUN) as well as the state level and the role of the therapeutic courts

Work Group Issue:

The Workgroup on Barriers to Re-entry has identified an issue for consideration by the full Commission.

"Our Workgroup has been discussing an Alaska statutory 'opt-out' of the federal lifetime ban on Food Stamps for otherwise eligible persons who have ever been convicted of drug felonies. Alaska is one of only 10 states that still maintain an absolute ban. Food Stamps are a federal benefit administered by each State. The benefit itself is 100%-funded by the feds; administrative costs are split 50-50 with each State. More states have chosen a simple opt-out from the ban, but a nearly equal number have chosen a modified ban which may condition eligibility on completion of treatment or probation, or a court or agency certification of some kind. In her paper and FAQ on the topic [sent to the Commission last week], Mary Geddes has explained why a simple opt-out may make more sense administratively." (J.Jessee)

The meeting did not end on time, and Commissioner Taylor had to leave at 12 o'clock. However, the commissioners present wanted to take a vote on the food stamp question. All commissioners present indicated that they were able to make an informed vote on the issue. Steiner made a motion that the Commission should recommend to the legislature that the state fully opt out of the SNAP program. However, if any of the absent commissioners (Taylor, Coghill, Keller) informed staff that they wanted more discussion of the issue, staff would inform the workgroup, the workgroup would write up a one page brief, and the Commission would take a second vote in February. Stanfill

² For more detailed information about the work groups please refer to the Working Group Summaries (Dec 18th to Jan 12th, sent out by Mary on 01/15/15)

seconded the motion. The motion was unanimously supported by all Commissioners present: Bryner, Sell, Svobodny, Stephens, Vrabec, Stanfill, Steiner, Jessee, Rhoades, Razo.

Future Directions:

- With regards to the fact that it has been difficult to finish the agenda in the past and the Commission was not able to finish the agenda for this meeting, commissioners asked that the meeting time for February would be extended, and that any presentation be scheduled for later in the meeting.
- Hon. Bryner asked that the workgroups zero in on specific issues, prioritize them and establish a timeframe in which to address them. Further, he asked if a workgroup is ready to bring an issue to the whole group, they should write a brief so that commissioners who are not part of the workgroup can make an informed vote. A format for the briefs will be agreed upon in the near future.