

Staff Summary of Plenary Meeting
ALASKA CRIMINAL JUSTICE COMMISSION
Thursday, August 25, 2016, 1:00 PM –4:00 PM
East Conference Room, Denali Commission,
510 L St., 4th floor, Anchorage

Commissioners attending: Jeff Jessee, Jahna Lindemuth, Walt Monegan, Greg Razo, Stephanie Rhoades, Kris Sell (phone), Brenda Stanfill, Trevor Stephens, Quinlan Steiner, Dean Williams.

Commissioners absent: John Coghill, Wes Keller, Alex Bryner.

ACJC Staff: Barbara Dunham, Susanne DiPietro, Susie Dosik, Brian Brossmer, Staci Corey, Teri Carns

BJA Funded TA Provider: Melissa Threadgill, CJI (phone).

Participants: John Skidmore, Kaci Schroeder (Law), Jeff Laughlin (DPS), Diane Casto, Karen Forrest, Randall Burns, Alysa Wooden, Tony Piper (DHSS), Nancy Meade (ACS), Taylor Winston (OVR), Rebecca Brunger, Morgan Jaco, Carrie Belden, Geri Fox (DOC), Jordan Shilling (Sen. Coghill's office, phone), Staff to Rep. Kreiss-Tompkins, (phone), Nikki Haynes (Fairbanks Reentry Coalition, phone), Brad Gillespie and Donald Revels (Department of Labor), Kara Nelson (Haven House, Juneau, phone), Josie Garton, Tracey Wollenberg (PDA), Janet McCabe, Doreen Schenkenberger, Cathleen McLaughlin (Partners), Russ Webb (Board of Directors, Mental Health Trust), Kristy Becker (API).

Meeting called to order, introductions, agenda

Commission Chair Gregory Razo called the meeting to order at 1:02 p.m. He noted that this was a public meeting of the Commission, audio-conferenced, with public comment periods scheduled for later in the meeting. Chairman Razo introduced Attorney General Jahna Lindemuth as a new Commission member, and welcomed Commission members and guests.

The Chair asked for additions to the agenda. Judge Rhoades asked that Mr. Jessee be shown as a co-presenter with her for the Behavioral Health discussion.

Ms. Stanfill asked for a discussion of the time limits for work group meetings.

Judge Rhoades moved to approve the modified agenda. Ms. Stanfill seconded the motion, and members approved it unanimously.

Approval of June 23, 2016 Meeting Summary

The Chair asked for a motion to approve the June 23, 2016 meeting summary. Mr. Jessee so moved, and Judge Rhoades seconded the motion. Members approved it unanimously.

Election of Chair

Chairman Razo said that his term expires in October, and that he would open the floor to nominations for the position of Chair of the Commission. Mr. Jessee nominated Mr. Razo, and Judge Stephens seconded the motion. Mr. Razo said that he had given the matter considerable thought and was willing to serve as chair for another year. Mr. Razo called for further nominations, but there were none. Members voted unanimously to retain Mr. Razo as the Commission's chair for another year.

SB 91 Implementation issues and report

Implementation Grant Funds. Ms. DiPietro said that the state has applied for a federal grant that will provide technical assistance and funding for the first two years of implementation of SB 91. Along with the grant funds, BJA provides technical assistance to states such as Alaska that are implementing criminal justice reform. That technical assistance is being provided in Alaska by Melissa Threadgill of CJI and other CJI staff who will help the Commission complete the grant application process, and will provide technical assistance throughout the grant period. Ms. Threadgill explained that the application and request for initial training funds, as approved by the commission at its last meeting, and had asked for expedited approval of those initial funds.

DOC Implementation. Ms. Threadgill reported that DOC has created two policy groups that have been meeting weekly for the past several months to develop policies and procedures for graduated sanctions and incentives, earned credits, and early release. Once the policies are developed

Threadgill said CJI expects the initial grant funds will be available to pay for training in Alaskan in late September about the pretrial program and services required in SB91. The funds also will be used to fund a two-day training for probation officers about new DOC policies that DOC is creating for earned compliance credits, graduated sanctions for technical probation and parole violations, risk assessments, and other provisions of SB91. Training will focus on how to use the risk/needs assessment tools, and how to interact with probationers and parolees to maximize their success on probation and parole. After the initial round of training is complete, DOC will select a group of employees who will become trainers so that the training and expertise can be ongoing and self-sustaining.

Judge Rhoades suggested that ASAP probation officers could benefit from the same training. Ms. Threadgill agreed, and said that they would work on that. Mr. Piper said that he would discuss the possibilities with Ms. Belden.

Ms. Threadgill welcomed Geri Fox, DOC's new head of pretrial services, who will be responsible for working within DOC and coordinating with other agencies to develop the pretrial services required by SB91.

DHSS implementation. Ms. Forrest described DHSS efforts to comply with both SB91, and with SB74, which calls for DHSS to oversee the expansion of Medicaid programs. She said that the state is now serving 20,000 new people as a result of the expansion.

In addition to expanding Medicaid, DHSS is working to reform behavioral health services, using sixteen workgroups to focus on different aspects of the issues. Where applicable, workgroup members also include representatives from the Alaska Mental Health Trust and DOC. Among these are policies related to working with tribes and tribal organizations, and privatization studies required by SB 74 (including API and four DJJ institutions – Nome, Kenai, Ketchikan and the Mat-Su facility). In general, DHSS has an extensive system of services and payment plans, pieced together over the years. Because this is not a comprehensive system, DHSS is looking for the gaps in services, and ways in which to make the payment plans more consistent and up to date. At the same time, the department's budget has been cut each of the past few years, with further cuts expected. As a result, the department is cutting staff and closing facilities, but looking for ways to do this and maintain and improve services.

Mr. Burns said that the department intends that all changes be cost-neutral, and preferably that they reduce costs. Ways to do this include providing services earlier in a case, finding ways to reduce the use of emergency room care and API, and treating substance abuse problems effectively.

Ms. Casto said the DHSS workgroups are looking at programs to expand reentry coalitions, to enhance by ASAP and the 24/7 program, to train "enrollment navigators" for people who are eligible but not presently covered by Medicaid, and to manage Medicaid enrollment for all people leaving DOC confinement. Commissioner Monegan suggested that another fruitful area of investigation would be finding ways for people to be suspended from Medicaid while they are incarcerated rather than being fully cut off, to speed up the process of returning them to Medicaid coverage. Ms. Casto is chairing a working group specifically on SB91 integration; commission staff are attending these meetings, and any commission member who wishes to attend can contact commission staff or Ms. Casto directly.

Members discussed the need for a DHSS presence in its work. Judge Rhoades moved that the commission should ask the legislature to add a seat to it for DHSS. Mr. Jessee seconded the motion. During the discussion, Mr. Steiner said that it was likely

that the legislature would add two seats to keep an uneven number of commissioners. He said he believed that the Commission was top-heavy with state agency members, and that the Commission was already interacting with DHSS appropriately and sufficiently. After further discussion, members voted yes on the motion, with the exception of Commissioner Williams, Mr. Steiner, and Ms. Stanfill. The motion carried.

Public comment period

Mr. Razo asked for public comment. Retired Senator Fred Dyson asked DHSS if the 5-year limit on welfare assistance continued to be law and policy, and asked how often it was waived. Ms. Casto said that some limits still exist, and that they can be waived. Mr. Dyson said that he was concerned that when people are released into a community that they still have services available to help them remain in the community. There was no other public comment.

Re-entry agreements

Commissioner Williams said that he has been working with Ms. Belden, the director of the Division of Probation and Parole, to reconsider the roles of probation and parole officers. One change that he has made is to reduce funding for community jails, and to consider a place for community jail staff to supervise probationers and parolees in rural communities. He noted that some of the jails may have few or no inmates much of the time, and using the staff to supervise convicted offenders benefits the jails, the communities and the DOC.

He said that the department is looking at ways to clarify the roles and operations of CRCs, to reduce walkaways, and improve services. He plans to eliminate the routine use of CRCs for people in pretrial status because mixing pre- and post-disposition populations has not been working well; he plans to use CRCs more for re-entry programs and services. He said that he would prefer smaller places, more focused on therapeutic environments; Haven House in Juneau was an example. Judge Rhoades noted that attorneys often ask judges to send defendants to CRCs and encouraged communication and consultation among agencies.

Commissioner Williams said that the department is talking with the for-profit private provider, GEO, which runs a number of the state's halfway houses. He said that the state is paying for a number of unused beds, which is not a situation that he wants to continue. He has reduced the GEO payments and is continuing to talk with them about the services that need to be provided, the number of beds, and related matters.

Social impact bonds report

Chairman Razo asked Ms. Dunham, the Commission's staff attorney, to describe the program and the report. Ms. Dunham said that the legislature asked the Commission to explore social impact bonds and report back on their possible

usefulness to address recidivism in Alaska. She said that they are better described as “pay for success.” The idea is a relatively new one and there are no demonstrably successful programs in the U.S. One Head Start program in Utah showed promise, although the evaluation came under scrutiny which threw doubt on the extent of the program’s success. Ms. DiPietro asked commissioners to review the report and have comments ready before the October meeting, so that it can go to the legislature in December. Members concurred that the idea was not yet developed enough to warrant trying it in Alaska.

Mr. Razo called for a ten-minute break.

Behavioral Health Work Group Report

Mr. Jessee said that the group used the Sequential Intercept Model to develop its recommendations, over the course of four meetings. He asked Judge Rhoades to discuss the set of recommendations being presented at this meeting. Judge Rhoades said that the group has many more recommendations, but chose to select only those that needed legislative action so that the Commission could consider them before the December deadline.

BH Recommendation #1

Judge Rhoades presented the first recommendation, which would require a new statute to create a program to divert mentally ill offenders out of the criminal justice system. The proposal is for the program to be administered by the soon-to-be-created pretrial services division of DOC. She said that it was a “best practices approach”; a way to divert people who are inappropriate for the justice system into alternative services. The state benefits by allowing people who are diverted to stay on Medicaid, and not burden DOC institutions that are not equipped to work with them. Part (b) of the recommendation asks DOC to work with tribes and tribal organizations, DPS, DOL, ACS, and DHSS to implement the pretrial behavioral health diversion program. Mr. Jessee said that because this was a committee recommendation, he would move that the Commission adopt it; such a motion does not need a second.

Mr. Razo asked for discussion on the motion. He said that it seemed like a good idea, and wondered whether it needed legislation. Judge Rhoades said that incorporating the program with legislation would give it status, and assure its continuance in future administrations. Ms. DiPietro noted that SB91 requires the DOC to adopt regulations for diversion programs. Ms. Rhoades said that the cooperation of all agencies needed to be built in from the beginning, and providing a statutory mechanism to do this seemed to the work group to be the best way to assure future cooperation. Ms. Forrest said that if the people being diverted were new to the Medicaid program, then yes, this proposal would allow them to be covered 100%. If they are people already receiving Medicaid, the state will be required to absorb some of the costs for them.

Mr. Skidmore said that the Dept. of Law is committed to doing pretrial diversion. He asked what the time frame for implementing the proposed program would be. Judge Rhoades said that it couldn't happen until 2018 when the rest of the Pretrial Services Program is in place. She said that it was preferable to be proactive about the behavioral health diversion program. Commissioner Williams said that he agreed with the work group that people who need behavioral health services when entering DOC present substantial challenges. They don't do well in an incarceration environment. He said that he has talked with Ms. Fox, the new head of the Pretrial Services Program, and providing these kinds of services and diversions is a priority. After further discussion, Attorney General Lindemuth said that she would recommend that it not be in statute, since DOC is already required by statute to adopt regulations for a pretrial diversion program. Mr. Razo agreed that the same outcome could be achieved through regulation rather than statute. Ms. DiPietro said that promulgating regulations will involve a public process and regulations, once adopted, have the force of law.

Ms. Stanfill moved to amend the motion on the floor by directing DOC to consider this proposal, and by adding a victims' rights representative and a public defender representative to the group of stakeholders listed in part (b). Judge Stephens seconded the motion. The proposed amendment was approved unanimously. Mr. Razo called for a vote on the primary motion, as amended. That motion also was approved unanimously.

BH Recommendation #2

Judge Rhoades said that the second recommendation addressed the situation where a person in an assisted living situation who committed a domestic violence offense against another person in that same home or situation (e.g., a care-giver) should be allowed to return to the assisted living as long as the victim agreed, and the safety of all people there could be assured. Mr. Skidmore said that the Dept. of Law would support the recommendation, without the inclusion of the words, "private residences."

Judge Stephens moved to approve the recommendation, with the words "private residence" deleted. Mr. Steiner suggested that a clause could be added to cover situations that included parents, siblings, friends, and so forth who were voluntary caregivers. The motion was approved, with Mr. Steiner voting against it.

Mr. Steiner moved to reconsider. Ms. Stanfill seconded the motion. The vote was taken again, with four "ayes" and four "nays." Because it needed a two-thirds vote to pass, the motion for reconsideration failed.

BH Recommendation #3

Judge Rhoades explained that this recommendation was intended to statutorily mandate a single release form that had to be accepted by all state-funded agencies to release health information. This would assure that non-state organizations receiving state funding would not be able to impose additional requirements before releasing information, and would enable better and prompter services. Judge Stephens moved to adopt the motion, and it was approved unanimously.

BH Recommendation #4

Judge Rhoades said that the Department of Law recommended that statutes and court rules require that presentence reports discuss assessed behavioral health conditions that are amenable to treatment, and make specific recommendations for appropriate treatment in the offender's community. Ms. Carns noted that in most parts of the state, very few cases have presentence reports. Judge Stephens said that the First District orders them for most cases, but they are prepared in Anchorage by people who would not have information about appropriate treatment for a probationer in a Southeast community. Ms. Stanfill said that some probation and parole officers say that the conditions are too general, and they need to go back to court to get specific conditions.

Commissioner Williams said that the requirement for this level of specificity in presentence reports burdens DOC, making it more difficult for officers to do their jobs. Mr. Steiner and Ms. Garton said that from the defense standpoint, recommendations like this could become a point of litigation because of confidentiality issues (with the presentence report findings discussed in the public courtroom setting at sentencing), or appropriateness of the recommendation for treatment, or the potential for the information being used to support a guilty but mentally ill finding.

Mr. Skidmore said that the Department of Law's purpose in making the recommendation was to keep people out of incarceration. Judge Rhodes and Mr. Jessee clarified that the recommendation only called for PSR writers to make note of known assessments (rather than conduct new assessments), so judges can have all the available information. Mr. Jessee called for a vote on the motion. After a brief further discussion, Mr. Razo called for a vote, and the motion was approved, with Mr. Steiner voting no.

The meeting adjourned without addressing the rest of the agenda due to time constraints. The Commission agreed to address the rest of the agenda at the next meeting on October 13, and to meet for a full day at that meeting (9 a.m. to 4:30 p.m). The final meeting of the year will be scheduled after staff send out a Doodle poll.