

Staff Summary of Plenary Meeting
ALASKA CRIMINAL JUSTICE COMMISSION
Thursday, October 13, 2016, 9:00 AM –4:30 PM
Alaska Mental Health Trust Authority
3745 Community Park Loop, Suite 200
Anchorage, Alaska 99508

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

Commissioners absent: Alex Bryner, John Coghill, Wes Keller, Walt Monegan (Deputy Commissioner for Public Safety Bill Comer sat as Commissioner Monegan's designee), Dean Williams (pre-trial Services Director Geri Fox sat as Commissioner Williams' designee).

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

BJA Funded TA Providers: Melissa Threadgill, Abigail Strait CJL.

Participants: Commissioner Valerie Davidson, Randall Burns, Alysa Wooden (DHSS), John Skidmore, Kaci Schroeder (Law), Taylor Winston (OVR), Morgan Jaco (DOC), Donald Revels (Department of Labor), Kara Nelson (Haven House, Juneau, phone), Janet McCabe, (Partners for Progress), Natasha McClanahan (Governor Walker's office), Amory Lelake (Municipality of Anchorage), Brad Myrstol, Araceli Valle (Alaska Justice Information Center), Patricia Walker, Sam Greely (staff to Sen. Hoffman), Tony Piper (ASAP) Vicki Snow, Janet Weiss.

Meeting called to order, introductions, approve agenda

Commission Chair Gregory Razo called the meeting to order at 9:10 a.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 welcomed Commission members and guests.

The Chair asked for a motion to approve the agenda. Commissioner Jessee moved to approve the agenda, and Commissioner Stanfill seconded. The Chair asked if there were additions to the agenda; there were none. Members approved the agenda unanimously.

Approval of Aug 25, 2016 Meeting Summary

The Chair asked for a motion to approve the August 25, 2016 meeting summary. Commissioner Jessee moved to approve the summary. Commissioner Stanfill seconded the motion, and members approved it unanimously.

Oversight/Monitoring

Updates on SB91 implementation/ Pretrial Services

Geri Fox, the Department of Correction's (DOC) new Director of Pretrial Services, gave the commission an update on the implementation of SB91 at DOC and the formation of the new pretrial services unit. She noted that the Crime and Justice Institute (CJI) has been helping DOC with implementation and training. Round one of training for probation officers will be complete by 10/14/16. The POs have been trained on graduated sanctions and incentives and on earned compliance credits.

DOC is still working to finalize 10-12 policies that will need to be approved before the new procedures come into effect on 1/1/17. These policies are under review now, and relate to issues discovered during the training. DOC has been consulting with the DAs and PDs on this. Once all the policies are finalized, there will be a final training process.

DOC has also been working with CJI to develop the Pretrial Services division, as well as a pretrial risk assessment tool. They have been observing pretrial processes around the state, including bookings and bail hearings, and identifying opportunities for pretrial to become more efficient. There will be a stakeholders meeting in November to discuss the development of the new division.

Ms. Fox provided the Commission with materials (in draft form, she cautioned) explaining the timeline to get Pretrial Services up and running by January 2018 and how the unit will function. Right now the plan is to have the database that will be the basis of the risk assessment tool built by April 2017, to recruit staff in June of 2017, and to start pilot programs in a couple of locations in September 2017. They are developing a case management system as well, which will be able to use many features of the existing system but will need to have other features as well.

Regarding the risk assessment tool, Ms. Fox stated it was important to note that there is no tool that can ever predict risk with 100% accuracy. They will regularly audit the tool and employees using the tool to ensure fidelity and accuracy. She noted that while pretrial services officers will be making release recommendations based on the risk assessment tool, judges will still be making the final decisions about release.

Commissioner Stanfill asked about the new responsibilities for POs handling restitution payments. Will completing restitution payments be required for probation compliance? Melissa Threadgill from CJI, who has been working with DOC, answered that restitution payments will be required to earn compliance credits. Payment in full may not necessarily be required to earn compliance if the offender is up to date with the set payment schedule.

Commissioner Stanfill also asked about the case management system—what access will the rest of DOC, especially internal probation officers, have to information on those under pretrial supervision? Ms. Fox responded that that information will have to be handled very

carefully because people who are on pretrial release are still presumed innocent. There will be different standards for sharing pretrial information.

Judge Rhoades asked about the risk assessment tool and noted her concern that such tools used elsewhere have come under fire for being biased. Ms. Fox stated that researchers from CJJ are developing the tool based on data from Alaska. These researchers have experience in developing similar tools around the country. The tool is entirely data-driven (there will not be a subjective component based on interviews) and the technical assistance team may need to add additional components to the tool once it is put into practice.

Judge Rhoades also asked about staffing for the new Pretrial Services unit. Ms. Fox informed the group that the unit is technically funded for 30 staff, though that money is being used for initial implementation and development right now. As the unit becomes operational, she will try to keep the staffing to a minimum and operate as efficiently as possible. The budget has additional room for staffing using projected reinvestment dollars, but actual increases in capacity will depend on actual savings realized.

Judge Rhoades also asked about pretrial diversion programs. Ms. Fox stated that diversion was on her radar, but would be difficult to implement for people who are still presumed innocent. Judge Rhoades noted that the point of pretrial diversion was to avoid having certain individuals go through a court system that is not designed for them. She suggested adding DHSS/behavioral health experts to the team of stakeholders for the implementation meetings as 65% of individuals involved in the justice system have behavioral health needs.

Commissioner Jessee echoed Judge Rhoades' suggestion, and added that the development of pretrial diversion is critical. There are already therapeutic courts, but once someone gets to a therapeutic court they're already in the system—there is a need for diversion for some individuals before they get into the system.

Criminal Justice Working Group

Susanne DiPietro, director of the Alaska Judicial Council, reminded the Commission that it had asked the Criminal Justice Working Group (CJWG) “to review and analyze the implementation of the recommendations made in the justice reinvestment report in December 2015, and other recommendations issued by the commission, and regularly report to the commission on the status of the implementation” (as required by SB91). She reported that at its meeting on 8/18, the CJWG accepted the Commission's request.

Data-sharing agreements

Ms. DiPietro also reminded the Commission that it would need to enter into data sharing agreements with the Alaska Judicial Council and the Alaska Justice Information Center to facilitate data collection and analysis.

Data Analysis- Yardsticks and Goals

Commission staff attorney Barbara Dunham reported that she went to a Pew conference in DC to learn more about data and performance metrics. She noted that while some performance metrics for SB 91 may not be measurable for some time (such as recidivism), others may be measurable in the near future. She asked whether the Commission had any thoughts on what performance metrics the CJWG should be focusing on for the coming months.

Chair Razo suggested forming a data work group to discuss metrics and come back to the Commission with goals and performance metrics, and noted a data group had existed in the past. John Skidmore, Assistant Attorney General, recalled that the previous group had not met often. He opined that data analysis is an important aspect of SB91 implementation, one that should be started right away so we can start measuring success now, and volunteered to be in a data work group.

Commissioner Jessee stated that data analysis is critical to get right. SB91 has already been getting negative attention, particularly from legislative candidates. Data that can accurately show success will help combat that. He suggested that the Commission will also need baseline data.

Ms. DiPietro informed the group that staff have been working on collecting crime rate statistics to start to get baseline metrics and hopefully look at historical trends.

Chair Razo suggested that Law, the Public Defenders, the court system, Public Safety, and the Trust all **identify designees for a data committee** and get back to staff with that information. There were no objections to this proposal, so Chair Razo identified this as the plan for data analysis. Commissioner Stanfill asked whether this would be a group open to others as well, and Chair Razo said that it would.

New and Continuing Work Groups

New Work Group: Sexual Offending

Ms. DiPietro informed the Commission that SB 91 required the Commission to “appoint a working group to review and analyze sexual offense statutes and report to the legislature if there are circumstances under which victims’ rights, public safety, and the rehabilitation of offenders are better served by changing existing law.” There is no due date given for a report. Commissioners Steiner, Stanfill, Stephens, and Lindemuth, as well as Deputy Commissioner Comer all indicated interest in joining this work group or designating an agency representative. Ms. Fox also stated that she thought DOC would be interested in joining.

New Work Group: Public Outreach

Ms. Dunham informed the Commission that staff thought it would be useful to have a work group dedicated to public outreach, to combat the negative and often inaccurate press SB91 has been getting, as well as reported confusion from practitioners. Ms. DiPietro noted that this has been a real problem, and that misinformation has been repeated by the press.

Judge Rhoades observed that there were really two outreach tasks: one, to inform and train practitioners, and two, to inform the general public about the purpose of SB 91. She suggested the latter task really needs attention. Practitioners have been getting training—they had one at the Court System. They will need more, however, as judges have been having a difficult time with things like reconciling differing municipal statutes with state statutes.

Attorney General Lindemuth questioned whether a workgroup was necessary. From her perspective, the various departments are committed to training staff. Law has been coordinating with Public Safety to try to provide consistent training. In terms of public outreach, she doesn't necessarily feel comfortable speaking for the Commission, though she can speak for Law.

Chair Razo said that he thought it was important to inform the public of any progress from SB91. He encouraged the various agencies to report out what they're doing to implement the bill—e.g. the Pretrial Services implementation and DOC training.

Commissioner Jessee stated that he thought there was a role for the Commission to communicate what's going on with SB91. The bill was a product of the Commission, and it's the Commission's responsibility to clarify what its product does and doesn't do. He suggested that the Commission needs good materials for outreach (such as the Practitioner's Guide) and to provide training on how to use those materials. He reiterated his earlier observation that SB91 has been getting a lot of negative attention and stated he is worried about rollback legislation.

Lt. Sell said that in Juneau, they are dealing with large numbers of mentally ill homeless people who are not being arrested, and it is difficult to explain this to the public. She said it would be nice to have all the various conversations that have been happening all in one place.

Commissioner Stanfill said that she viewed SB91 as the first step in a long process, and now that the bill has passed, the Commission needs to follow up with the reinvestment portion. Some of that money is now hitting the streets and this needs to be communicated to the public. If there is rollback legislation, we'll lose step one without getting to the next step. Chair Razo agreed that the public should know about the timing of justice reinvestment, and when statutory changes are going to take place.

Commissioner Jessee asked staff whether there was a capacity issue that limited staff ability to do outreach. Ms. Dunham replied that that was partly the issue—it would be nice to have more people to get the word out about what SB91 actually does. But staff would also like some direction and input from the Commission rather than act unilaterally. Ms. DiPietro said that staff have been doing a lot, but that it could be more organized. She and Chair Razo have been

attending community events as representatives of the Commission. Having another Commissioner or two to do that would be helpful. Commissioner Jessee said that he would be available, and would have the Trust's public information staff work with the Commission.

Chair Razo noted that most of the agencies represented on the Commission have spokespersons to communicate to the public. He asked the Commissioners to let Ms. DiPietro or Ms. Dunham know whether they or a designee from their agency would like to participate in an outreach workgroup. He noted that the Practitioner's Guide, available on the Commission website, is a useful starting point. He also noted that he is planning to speak at AFN to discuss justice reinvestment, along with Jordan Schilling and a rep from DOC.

-Fifteen-minute break-

Continuing Work Groups

Commissioner Jessee, co-chair of the Behavioral Health Workgroup, explained he had two motions that would turn the Workgroup into a standing committee. He noted that the initial work plan for the Workgroup had not yet been completed, and that behavioral health is an ongoing issue – there will be topics in behavioral health to address throughout the tenure of the Commission. Furthermore, there has been a problem in the workgroup whereby an idea seems to achieve consensus at the workgroup level with designees (rather than Commissioners themselves), but when that idea is presented to the full Commission, it gets a lot of pushback and is not approved. This is inefficient and it would be better to have actual Commissioners, rather than designees, sit on the proposed committee.

Commissioner Jessee therefore moved to establish a standing committee. He provided a written motion:

I move that the Alaska Criminal Justice Commission (the Commission) establish a Behavioral Health Committee (the Committee), as a standing committee of the Commission. The Committee would review the Commission's Behavioral Health Workgroup's Recommendations, along with criminal laws, targeted civil laws (such as AS § 47.30.700–AS § 47.30.915 Involuntary Admission for Treatment), and criminal justice/behavioral health practices and procedures. The charge of the Committee would be to identify opportunities where closer collaboration between Alaska's criminal justice and behavioral health systems in law or practice could reduce the overrepresentation of people with behavioral health disorders in the justice system, enhance public safety, promote both offender rehabilitation and a more cost effective and efficient criminal justice system. The Committee's proposed solutions, statutory or administrative, would be brought to Commission for recommendation to the Legislature and/or to the Governor.

Judge Rhoades seconded the motion. Chair Razo called for discussion on the motion. Commissioner Stanfill asked for clarification—would the work of the Workgroup be assumed by the Committee and the Workgroup would disband? Commissioner Jessee responded that that was the case.

Chair Razo wondered about the distinction between a workgroup and a standing committee, since the Commission's practice has been to form workgroups. He agreed that the

three-meeting limit that had been set before was unworkable, but was concerned about tying up Commissioners and limiting their availability for other workgroups. He had no real objection to the motion but wondered if it was really necessary.

Judge Rhoades stated that most issues of criminal justice have at their root a behavioral health issue, so the subject area is large enough to warrant forming a standing committee. She informed the group that two different workgroups have looked at the UNLV study and that it was time for a policy-level group to move the study's recommendations forward. She said there is a functional difference between a workgroup with mostly designees and standing committee whose members are able to set policy themselves.

Judge Stephens agreed that there was a need for an ongoing group to address behavioral health issues.

Chair Razo called for a vote. The motion passed, with Commissioner Sell voting no.

Commissioner Jessee then made a second motion, as follows:

I move that the membership of the Alaska Criminal Justice Commission Behavioral Health Committee consist of those Commissioners who are policy level criminal justice agency stakeholders and policy level behavioral health stakeholders who understand the challenges and needs of offenders with behavioral health disorders, specifically: the Alaska Criminal Justice Commissioners representing the Alaska Court System, the Alaska Mental Health Trust, the Public Defender Agency and the Department of Corrections, Law and Public Safety. Further, the Committee will invite the participation of other important stakeholders such as the Department of Health and Social Services, the Alaska Native Tribal Health system, rural tribal and urban behavioral health providers. Additional invitees may also be added at the discretion of the Committee.

Judge Stephens seconded the motion. Commissioner Stanfill agreed with the substance of the motion but thought that a victims' rights advocate should be included as a mandatory (rather than discretionary) member of the group. The motion was so amended.

Chair Razo called for a vote. The motion passed unanimously.

The Commission then discussed a proposal from Commissioner Stanfill to extend the life of the Barriers to Reentry workgroup and designate it as an ongoing workgroup. Commissioner Stanfill indicated that she thought her proposal should extend to all the current workgroups—the Restitution Workgroup, for example, never addressed its second component, Restorative Justice.

Chair Razo observed that keeping the current workgroups and adding more will require the Commissioners to commit to an increased workload. Ms. DiPietro noted that the impetus for creating limited workgroups was that staff capacity was limited.

Judge Rhoades suggested creating a work plan to address burning needs first, with a one-year schedule. She also noted that the Behavioral Health Committee will not need much in the

way of staffing, just minutes. Chair Razo suggested that staff draft a work plan for the Commission to discuss at the next meeting.

Commissioner Steiner had also proposed extending the Presumptive Sentencing Workgroup. He noted that the Workgroup had met 3-4 times and had come to consensus on proposing a new statutory mitigator (to be discussed later in the meeting) but had more to discuss on a several topics, including what to do about the three-judge panel statutes.

Annual Report

Ms. Dunham informed the Commission that the Annual Report (a draft of which had been provided to the Commissioners) was due on November 1. Because of the quick turnaround time, she asked the Commissioners to make any comments or proposed changes to the report by Friday, Oct. 21.

Public Comment – 11:30 a.m.

Chair Razo opened the meeting up for public comment.

Janet McCabe, chair of Partners for Progress, told the Commission that she thought pretrial diversion was a “marvelous” idea, given the opioid epidemic in Alaska right now. Partners sees an average of 51 people per day in its reentry center, many of whom are opioid addicts. Partners offers medically assisted treatment using Vivitrol, which has an 80% success rate. Ms. McCabe also said she thought the sex offense workgroup was necessary and that she had taken a look at the Practitioner’s Guide which was very helpful. She also stated she had a FY16 dataset that might be helpful to the Commission.

Chair Razo thanked Ms. McCabe and stressed the importance of reentry work. He asked whether she had any data in written form and Commissioner Stanfill asked whether this might be made public. Ms. McCabe replied yes to both questions. [*Ed.: data from the Vivitrol Pilot Program is attached.*] Judge Rhoades noted that a pretrial diversion program could possibly include Vivitrol in combination with treatment—any such program would need both.

Vicki Snow addressed the Commission, explaining that she found the Commission’s work very exciting and that she would like to be a part of it. She observed that the drug epidemic in Alaska affects everyone and that rehabilitation efforts need to be individualized. She noted that members of her family struggled with addiction and stated that it was important to give people living with an addiction a sense of hope and ties to the community. She related a story about a family member who was released on parole to a halfway house and had difficulty contacting the office in charge of electronic monitoring. Chair Razo informed Ms. Snow that there was limited time for public comments, but encouraged her to submit written comments for the Commission’s consideration. [*Ed: Ms. Snow’s comments are attached.*]

Tara Burns, social justice consultant with CUSP (Community United for Safety and Protection) next addressed the Commission. She recently completed a Master's in social justice at UAF, focusing on sex trafficking laws and how they are perceived by sex workers. As part of CUSP, she lobbied for the provisions in SB91 that deal with sex trafficking. She brought a summary of her research to hand out to the Commission. [Ed.: An electronic copy of Ms. Burns' research is attached.] One of the findings of her research was that most sex workers in Alaska agreed that the federal definition of sex trafficking is accurate and that the Alaska definition of sex trafficking is too broad.

Though SB91 addressed some concerns, sex workers still believed there was a problem with the law on second-degree sex trafficking. Some reported being charged with or fearing charges of sex trafficking for having safety measures such as having a friend wait in the car or sharing apartments or hotel rooms. Ms. Burns recently reviewed all charged instances of sex trafficking since the law was changed in 2012 and in her opinion, only two of the cases involved actual abuse. A number of cases involved the friends or roommates of sex workers being charged for being available as a safety resource. Some sex workers were charged with trafficking themselves. This is problematic because it discourages sex workers to cooperate with the law if they think they or their friends will be charged with trafficking. Trafficking is a barrier crime which makes obtaining employment difficult.

Ms. Burns said she advocated changing the statutory definition of sex trafficking to align with the federal definition, creating an expungement provision for sex trafficking convictions, outlawing police contact with sex workers who are witnesses to crimes, and increasing the availability of shelter services for sex workers who have convictions on their records.

Chair Razo thanked Ms. Burns and informed her she was welcome to participate in the sex offense workgroup that was just formed today.

Sex worker Cari-Jo spoke to share her perspective on the sex trafficking statute with the Commission. She said she has been a sex worker for 30 years. She started doing sex work in Tacoma, where she lost three close friends to the Green River Killer. [Ed.: *The Green River Killer was a serial killer who is believed to have murdered over 70 women in the Seattle-Tacoma area in the 1980s and 1990s; many of his victims were sex workers.*] She said that in her line of work, her safety depends on having others to rely on. She stated that she was not ashamed of her profession but that she was ashamed at the thought that she could put a friend at risk by asking them for help while she was working.

Former sex worker Cristal also spoke to share her perspective. She used to be a sex worker because she was an addict. She would often share rooms with friends for safety, and would ask friends to share a ride for safety. She said that these friends would be considered sex traffickers under the current law. She asked the Commission for help in changing the law as it is now, and thanked the Commission for the positive changes already enacted in SB91.

Kara Nelson of Haven House Juneau informed the group that she runs reentry programs for women. She has noticed a disconnect between probation and other services needed by reentering citizens. She is encouraged by the efforts at creating a pretrial risk assessment tool and a behavioral health committee—she hoped that this would prevent or reduce the siloing of services to people with behavioral health needs. She believes outreach regarding SB91 will be crucial—she has been getting a lot of questions regarding the bill. She also has written comments she will share with the Commission. [Ed. I have emailed Ms. Nelson for her comments.]

Taylor Winston of the Office of Victim’s Rights spoke next. She observed that there were many entities that want to see SB91 succeed, but in order for this to happen, those at the policy and executive level need to listen to the concerns of field workers. She was concerned that people would not be allowed to speak their minds; this bill and its implementation should serve all Alaskans. She encouraged the Commission not to be afraid of hearing voices of dissent.

Break – Lunch 12:10-12:40

Work Group Reports & Proposals

Title 28

Ms. DiPietro walked the Commission through the report on offenses in Title 28 of the Alaska Statutes (which contains Alaska’s alcohol-related motor vehicle offenses). She explained that both SB64 and SB91 required the Commission to look at Title 28 offenses, and the report is organized according to the questions posed by the legislature. The report was drafted by previous staff attorney Mary Geddes after workgroup members came up with the recommendations. She also noted that while the recommendations in the report were the product of consensus at the workgroup level, the Commission reviews the recommendations de novo. She encouraged the Commissioners to share the report with their technical-minded employees for feedback as the report is very technical.

The first question was whether both administrative law revocation (ALR) and judicial revocation processes be maintained. The report recommends retaining both ALR and judicial revocation because both are effective in different ways. It also recommends extending ALR to all offenses under Title 28 for which mandatory license revocation is required.

The next question was whether the use of ignition interlock devices (IIDs) is effective. The workgroup found that they were effective while they were in use, under certain conditions. It recommended eliminating IIDs as a mandatory sentence component or condition of probation and as a predicate for license reinstatement. It also recommended retaining its use for people with limited licenses and allowing an option of using a SCRAM device instead (SCRAM monitors alcohol levels through the skin).

Regarding IID use, Commissioner Stanfill stated that she thought dropping the IID requirement entirely might be too broad. Judge Rhoades praised the SCRAM device. Judge Stephens questioned what the initial purpose of the statutory IID requirement was. Judge Rhoades thought it was introduced by MADD but that once implemented, it did not operate as

an evidence-based program as intended. She also noted that while it is technically an offense to not have an IID installed when required, this is rarely charged.

The next question related to sanctions – fines and license revocations. The report recommends reducing fines to bring them in line with fines in other Western states, and reducing revocation periods for first-time offenders. Commissioner Jessee asked whether the workgroup had considered income-based fines, a system used in other countries. Ms. DiPietro and Teri Carns, AJC staff, informed the group that income-based fines were used in other countries and may be used in other states, but the group did not specifically consider them. Judge Rhoades commented that income-based fines would take fiscal reality into account—many fines on people who can't afford them simply aren't collected.

The final question related to whether there were effective programs for Title 28 offenders. The workgroup found that intensive supervision programs, like PACE and the therapeutic courts, are effective.

The Commissioners discussed deadlines for getting feedback to staff. It was decided that the Commissioners would get any comments and approval or disapproval of the report's recommendations to staff by November 7. Staff will then edit the report to reflect any changes in advance of the December 1 deadline. Commissioner Stanfill asked about the approval process for the report. It was agreed to schedule a teleconference on November 29 at 4:30 p.m. for commissioners to vote on the report, and if consensus is not reached on certain points that will be noted in the report. Chair Razo said that the Commission had provided minority reports in the past.

Restitution and Restorative Justice

Ms. Dunham walked the Commissioners through the report from the Restitution and Restorative Justice Workgroup. She noted that the landscape of restitution collection had changed recently when the Governor vetoed the funding for the Department of Law's restitution collection unit. The restitution collection rate for Alaska under the Department of Law had been comparable to the collection rate in other states. Starting in 2017, probation officers will be required to set up a restitution repayment plan for any felony probationer who owes restitution.

The proposals from the report were as follows: (1) Increase opportunities for victims to request restitution; (2) encourage DOC and the court system to work with victims' advocates to find ways to monitor the restitution obligations of misdemeanants and non-probation felony offenders and explore whether using an electronic tracking and reminder system might be feasible; (3) amend AS 12.55.045 to remove the requirement that a defendant provide a financial statement; (4) amend the civil compromise statute for misdemeanors to allow the compromise of larceny offenses; (5) streamline civil execution; (6) expand opportunities for victims to receive "bridging" restitution funds; (7) use technology to encourage defendants to make immediate in-court payments and online payments of restitution; and (8) expand PFD eligibility for certain offenders.

Judge Rhoades asked whether the workgroup had considered privatizing restitution collection. The workgroup had considered it, but ultimately rejected it. Judge Stephens noted

that contrary to the report's statement that petitions to revoke probation for nonpayment of restitution are uncommon, this practice is actually fairly common in the First Judicial District.

Chair Razo set the deadline for comments on the report for November 7th as well. Commissioner Stanfill asked whether there would be opportunity for further discussion. Attorney General Lindemuth said she was interested to see what the court system can do with restitution collection and said she was comfortable with the report as is. It was agreed to schedule a teleconference on November 29 at 4:30 p.m. for commissioners to vote on the report.

Behavioral Health

Judge Rhoades updated the group with the progress of the Behavioral Health Workgroup. Prior to the meeting the workgroup had provided the Commission a set of comprehensive recommendations that had been discussed at meetings, though they were "not ready for prime time" and would be a topic of further research and discussion for the newly-formed Behavioral Health Committee.

Judge Rhoades brought forward the final motion left over from the workgroup's slate of recommendations from the last meeting, copied here:

The Alaska Criminal Justice Commission requests that the Commissioner of Health and Social Services, in concert with designated ACJC representation, review the proposed statutory changes recommended in the *Review of Alaska Mental Health Statutes* conducted by the University of Nevada Las Vegas under the direction of the Criminal Justice Working Group's Title 12 Legal Competency subcommittee (May 2015). The review shall include 1) an analysis of the proposed changes, 2) a statement of clear agreement on the language of the proposed amendments that enjoy major stakeholder support, 3) recommendations for how Title 12 and the Title 47 changes would fit into the proposed redesign of the State's behavioral health system and the Department's effort to propose an 1115 BH demonstration waiver to CMS by the middle of 2017. The report should be provided to the Commission no later than September 1, 2017.

Judge Stephens seconded this motion. Judge Rhoades noted that several different groups had looked at the UNLV study before, but because DHSS would be affected fiscally by the recommendations in the study, DHSS would need to review the recommendations themselves. She understood that DHSS was on board with this proposal. DHSS Commissioner Valerie Davidson, who had joined the meeting by this point, said that DHSS was indeed on board.

John Skidmore asked, on behalf of the Department of Law, whether DHSS would check in with relevant stakeholders before implementing or recommending any changes. Commissioner Davidson said they would.

Chair Razo called for a vote on the motion to approve the above recommendation. The motion passed unanimously.

Sentencing

Commissioner Steiner updated the Commission on the progress of the Presumptive Sentencing Workgroup. The Workgroup initially considered a complete overhaul of the presumptive sentencing scheme, but ultimately rejected that idea because there were already significant changes to sentencing in SB91 that had yet to play out, and there was no evidence that any other sentencing system works better. [Ed.: A report on the activities of the workgroup and the proposed mitigators discussed below was provided to the Commissioners before the meeting.]

The workgroup had, however, decided to recommend a new statutory mitigating factor (mitigator). This was actually a two-part recommendation: one mitigator would apply in cases where a defendant pled guilty; the other would apply where a defendant went to trial but nevertheless demonstrated an acceptance of responsibility for the crime.

Commissioner Steiner noted that the workgroup had not come to a consensus on the details of how this mitigator would actually operate. He thought the Commission could either vote on the mitigators as they were proposed now, or try to hammer out the details. Given that the workgroup had not been able to agree on the details, he questioned whether this would be a productive use of time. Commissioner Stanfill said that this was an instance where not all parties would be able to agree on the minutiae, but that may not matter, as the minutiae would likely be changed during the legislative process anyway. The workgroup did agree on the concept. Mr. Skidmore agreed and noted that there was consensus on the language proposed, but not on how the mitigators would actually operate.

Judge Stephens moved to forward the two proposed mitigators as written to the legislature. Commissioner Stanfill seconded the motion. Those mitigators are worded as follows:

- AS 12.55.155(d)(__) “the defendant clearly demonstrates acceptance of personal responsibility for the defendant’s offense, as evidenced by entering into a timely plea agreement with the State of Alaska pursuant to Alaska Rule of Criminal Procedure 11(e).
- AS 12.55.155(d)(__) “the defendant, prior to sentencing, clearly demonstrates an affirmative and timely acceptance of responsibility for the defendant’s criminal conduct.

Commissioner Steiner explained that this mitigator was proposed in response to an issue that has frequently come up in plea and sentencing negotiation where parties wanted to give defendants “credit” for an acceptance of responsibility but didn’t have a good way to do that. Ms. DiPietro explained that one purpose was to incentivize timely resolution of cases, and it could also increase transparency by reducing charge bargaining. Mr. Skidmore pointed out it was already reflected in case law that defendants who accept responsibility are more likely to be rehabilitated after prison. Up to now, parties have been using inapplicable mitigators to try to reflect this. Judge Stephens noted that case law also recognized the non-statutory mitigator of

exemplary post-offense conduct. He thought the proposed mitigators were consistent with principles of restorative justice and would incentivize payment of restitution.

Judge Rhoades stated she was concerned about the way these mitigators were drafted and that they did not offer details about how they would operate. Commissioner Stanfill explained that that was the very problem that arose in the workgroup – ultimately the group concluded that the details would be left up to the legislative process. Judge Rhoades asked whether the Commission might forward the concept of the mitigators to the legislature without using this specific language. Mr. Skidmore noted that there would always be interpretation questions with new legislation. Judge Rhoades expressed her concern that Justice Bryner, who had not agreed with the second mitigator, was absent from the meeting.

Chair Razo called the motion for a vote. The motion was approved, with Judge Rhoades voting no. It was agreed that the recommendation would be forwarded to the legislature with language that would reflect Judge Rhoades' and Justice Bryner's concerns.

Ten-minute break

Chair Razo called the meeting back to order and noted that there were two items to add to the agenda—identifying tweaks for SB91 and granting authority for staff to submit the annual report to the legislature.

Barriers to Reentry

Commissioner Stanfill gave the Commission an update on the Barriers to Reentry workgroup. The workgroup met during the legislative session, which was a busy time for everyone, so the group was still working on the agenda items they started with. They supported the Ban the Box initiative, which Governor Walker indicated he would include in an executive order. He has yet to do this, so the workgroup will continue to push for it.

Regarding barrier crimes, the workgroup discussed this in February and March when DHSS was considering regulations regarding barrier crimes. They forwarded a recommendation to the Commission and the Commission asked DHSS to put that process on hold to give the Commission time to offer input. They still need to figure out who to connect with at DHSS and she asked for Commissioner Davidson's help with that.

The workgroup was also looking at expungement and coming up with a fix for suspended sentences to make them truly disappear from the record.

Chair Razo stated that Barriers to Reentry was one of the first areas the Commission wanted to focus on and that it sounded like it was a good idea for the workgroup to continue. Ms. Fox informed the group that Commissioner Williams is interested in participating in this workgroup.

Adjustments to SB91

Judge Stephens proposed that the Commission regularly discuss and track proposals for adjustments to SB91. He suspected that there are probably several lists of necessary tweaks floating around already. He could think of two or three areas of immediate concern. Chair Razo agreed, and asked staff to put it on the agenda for the next meeting.

Ms. DiPietro said that for every change to SB91, there could potentially be a change in the projected savings from the bill. Pew can help calculate these adjustments, but they will need advance notice to do that research.

Judge Stephens observed that a few simple fixes should be enough to quell SB91 naysayers. He will forward his list to the Commission. Commissioner Steiner asked what issues needed to be addressed. Judge Rhoades observed that there were unintended consequences of some provisions and inconsistencies in others. Chair Razo saw no harm in compiling these issues and sharing them with the legislature.

Credit for Time Served at API

Commissioner Jessee informed the group that there had been an issue with getting defendants credit for time served at API while they awaited competency evaluations. This had been the practice in the past but there was concern that it would not continue. The relevant stakeholders met and agreed upon an administrative fix for the problem.

Future Meeting Dates & Tasks

Chair Razo noted that the annual report was due to the legislature by November 1. He reminded the Commissioners that they should forward their comments to staff by October 21, and staff will then send a revised report out to the Commission. The Commission agreed to confer authority on the Chair to transmit the report, making it clear that any recommendations in the report that the Commission had not agreed upon would be taken out of the report.

The reports on restitution and Title 28 are due on December 1. Because the next Commission meeting is December 8, it was agreed that the Commission will meet in a teleconference for final approval of these reports. The Commissioners will get their comments and objections to staff by November 7, and staff would revise them accordingly. Commissioners can discuss the reports (and any other Commission business) one-on-one, but if three or more Commissioners meet, public notice must be given in advance. It was agreed that the Commissioners would get as much done as possible over email in November, and meet on a teleconference on November 29 from 4:30-5:30pm.

Next meeting: Thursday December 8, 9 a.m. – 4 p.m. in Anchorage

February meeting

The Commission set the next date as February 23, and agreed that unless something changes the meeting will be held in Juneau.

Attachment A- Data from Vivitrol Pilot Program

Vivitrol Pilot Program as of Sept. 30, 2016 (Developed by Partners Reentry Center in conjunction with Jyll Green, Family Nurse Practitioner)

118 individuals have been offered this program to date. (Pilot Program began 9/15.)

- 78 accepted the Vivitrol program as part of their post-release plan.
 - 62 remain in the community with housing and employment.
 - 16 have recidivated (of these 5 have re-released and are now back on Vivitrol).

- 39 declined the Vivitrol program as part of their post-release plan.
 - 0 remain in the community.
 - 38 have recidivated (or have warrants out for their arrest).
 - 1 died of heroin overdose.

Please contact Cathleen McLaughlin, Director of Partners Reentry Center, for additional information.

Attachment B – Written comments from Vicki Snow

My name is Vicki Snow, I was at the October 13th meeting. I spoke there....I was the one choking up. Sorry, I think the combination of nerves and the subject...well, I had a lot to say, few minutes to say it and then I spent time trying not to cry. My apologies.

A chain of events have taken place that led me to the governors office and then to Alaska Criminal Justice Commission to the meeting on October 13th. As I was reading on the website I become very interested in the work groups that are taking place. My interest in the Pretrial Services Committee and Reentry Barriers were of greatest interest to me. I do want to help by volunteering and possible employment down the road. I will be following up with both committees this week and hope I can help make a difference in many people's lives. Everything happens for a reason and I believe that I can help make a difference. One voice, one day at a time.

First I would like to bring to the attention of the Commission the reason why, the chain of events that led me to the meeting on October 13th.

I have a loved one in jail who at this point should be out. Finding things are not quite as they should be and I want to speak out.

8/4/16

Randall Soellner went before the Discretionary Parole Board. He was granted parole with a release date of February 1, 2017. He has been eligible for parole since August 2015. So why the extra 6 months? He has never had a write up. Successful work release for 3 years. Never failed a UA. Jails over crowded, Park View closed and moved everyone to Cordova Center. What is the point?

8/6/16

Randall Soellner turned in an application for electronic monitoring to his Probation Officer.

8/21/16

Randall Soellner was removed from his job at Preferred Pet Foods. He was told he would go back to jail for 3 days. He spent 7 days in jail. His infractions were using a company phone...calling the phone his and unauthorized visit. Mind you these are not breaking the law, but petty rules. He paid for his infractions.

9/14/16

Phone call to the Electronic Monitoring office to check on his application. They did not have his application. 38 days later and they do not have his application.

9/16/16

Phone call to Randall Soellner's PO at 9:25 am. She stated that she could not discuss with me anything about the incident at his previous job. She said she would not recommend him for Electronic Monitoring. So I told her since she could not talk to me I would talk to her. I talked to

her about the discrimination at Preferred Pet Food, (discrimination has been reported). Talked about his EM application and that he has paid for his infractions.

9/16/16

Phone call to Randell's PO Supervisor, I spoke with her about Randall's EM application. When it was turned in and that the EM office says they do not have his application. She assured me that she would look into it and if it is still with the PO it would be in the EM office before the end of the work day.

9/19/16

9:21 am phone call to EM office to verify if they had received Randall's EM application. They had received it on 9/16/16

9/28/16

Phone call to EM office. His application still in process.

10/5/16

His application has been denied for the following reason: Recent return to custody for non-compliance with furlough conditions.

Randall Soellner paid for this infraction with 7 days in jail in August 2016.

I just have to say, with the conditions of the Cordova Center versus our home..Our home is drug free and safe. His family, past employers, friends and myself all know he needs to be out. He needs to move on with his life. He is more than ready. And now needs all of our support, including yours, to get him out and on his way to being a contributing member of society. He has strong family support with love and a sense of belonging.

Randall and I have talked for many hours about starting up some kind of rehab, transitional housing. What it would take to make it work and what we would need to actually be able to help people. Help them so they stay sober. Help them make better choices. Give them a sense of community, belonging, to society instead of other drug users. Help them get out of the revolving door of our judicial system. What really works and what doesn't. I attended the Peninsula Heroin Epidemic meetings because I wanted to be a part of helping. But they are not ready for me yet. They are busy putting on band-aids...Band-aids are good and well needed..but not the answer to the problem...but a beginning.

Just in short I would like to outline my thinking on how to help our drug addicts. starting with Mandatory Rehab for at least 2 years. During this time there will be detox, doctors and psychologists. Counselling for rehab and education. They will need to better their education, be it get a GED or college, maybe tech school. Getting ready for the working environment. Getting a job that will support a home and food on the table, to feel better about themselves, a sense of belonging. Positive thinking that they can succeed and do succeed. They will need transportation that they pay for with their wages along with getting a drivers license or temporary work permit. They will need to get an apartment that they maintain even though they are not free to live there yet. All these things will be just a part of their daily life and

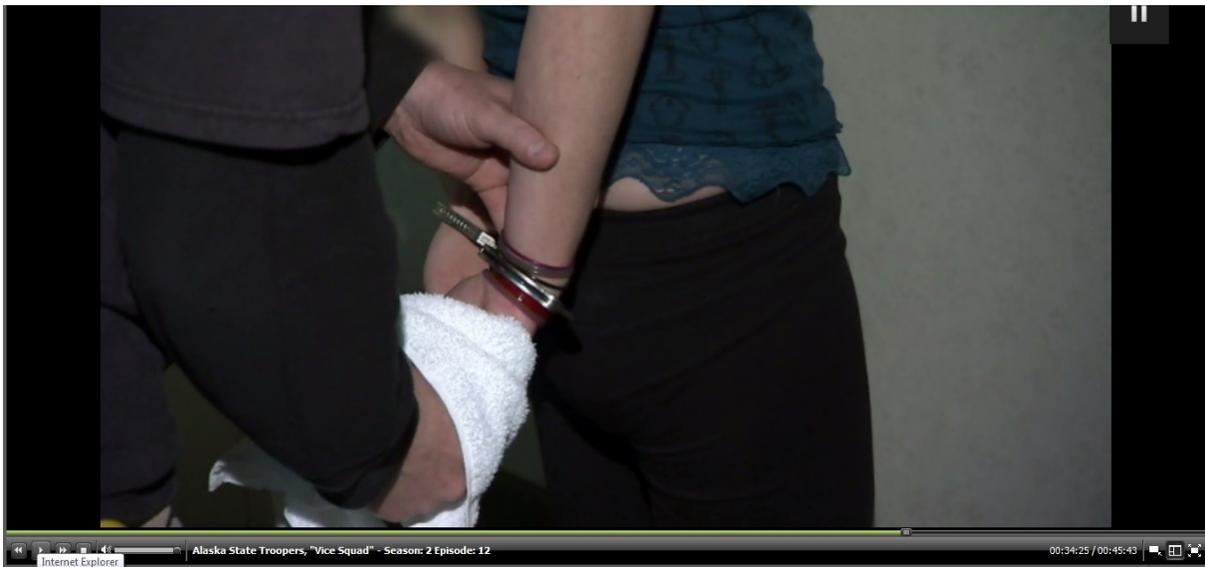
moving out of the rehab into real life outside of DOC or rehab will just be a move not a huge burden with no skills to accomplish, no mind set to succeed. This is what happens to a lot of people when they get out of rehab, transitional housing or jail.. Change. They find they have changed but everything else has stayed the same. Life is hard out here and we have to help them. Help them to not end up in the same environment that got them put in jail or rehab in first place. With skills and mind set to accomplish just that. So all of this thinking to put in play takes a lot of money. Well if Wildwood Correctional Facility spends 7 million dollars a year on taking care of people with drug related charges....I want that money to make the difference they need to succeed.

Thank you for your time! Thank you for all you do here! I want to be a part of making that difference as all of you are trying to do.

If you have any questions please feel free to call me.

Vicki Snow
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907-740-0008

People in Alaska's Sex Trade: Their Lived Experiences And Policy Recommendations



Officers wiping a woman's hands after she interacted with an undercover officer during an Anchorage prostitution sting. Photo from the Alaska State Troopers Reality Show.

T. Burns

Acknowledgements

A couple years ago I wandered into Dr. Kayt Sunwood's office at the University of Alaska Fairbanks with this huge research project I wanted to do. Without her support and encouragement, I never would have made it through the registration process. Dr. Jean Richey took the helm as my committee chair, taught me how to do ethical qualitative research, and expertly guided me through the whole process. Dr. Brian Jarrett understood all the theories that explained the realities I was investigating.

Want to know more?

This report is a summary of the main points of a huge amount of data. If you have questions or want to read the whole thing, email me at: sextraffickingalaska@gmail.com

Research Context

In 2012 a task force, a working group, and a round table were established to discuss prostitution and sex trafficking in Alaska. The task force and working group made recommendations that shaped Alaska's new sex trafficking law, passed in 2012. People with first hand experience in Alaska's sex industry, including sex trafficking victims, were excluded from the groups and the process. Instead, the state turned to law enforcement and non-governmental organizations who profit from the criminalization of every aspect of prostitution.

The resulting law, passed in 2012, broadly redefined most adult consensual prostitution as sex trafficking. The only two people to be charged in the first two years of the laws existence were alleged prostitutes who were caught in ordinary prostitution stings and charged with facilitating or aiding prostitution (sex trafficking in the fourth degree) and felony sex trafficking charges like owning a place of prostitution (sex trafficking in the third degree) and receiving money from prostitution.

This legislation was followed by the creation of a state wide investigative unit targeting people in Alaska's sex trade and funding for conferences and prevention programs. On the other hand, I had received information from victims of force, fraud, and coercion within the sex industry that they were prosecuted for prostitution or trafficking themselves, and were regularly denied access to crisis shelter and counseling.

This research came from a desire to fully understand and quantify the effects of Alaska's sex trafficking and prostitution policies on all people in Alaska's sex trade. I was especially concerned about people's ability to access equal protection under the law, health care, and emergency shelter. I wanted to know what was working, what wasn't working, and what they thought would work better.

The Research

Although sex workers and sex trafficking victims are constantly talked about in the media and public policy, stigma and criminalization often prevent them from speaking for themselves in media and legislative processes. As Alaska creates more and more policies that affect people in Alaska's sex trade, it becomes crucial to create a means to bring their knowledge to the table. Participants' voices are foregrounded in this report because they have been so absent in other reports about sex trafficking and sex work in Alaska.

Rather than presenting participants in the context of their full lives, as is customary in social science research, I've done everything possible to protect their anonymity. That includes forgoing the use of pseudonyms and presenting some stories in pieces rather than with full context. All participation was voluntary and unpaid.

The Participants

Surveys: Forty-one people who self identified as having worked in Alaska’s sex trade or having been profiled as a prostitute took the survey. One answered “erroneous data– please disregard” to all questions and was deleted, leaving 40 survey participants. The survey participants had from one to more than 31 years of experience in the sex trade, with the most common responses being 10 to 30 years. There was one male survey participant and the rest were female. Participants were white, Alaska Native, Native American, Black, Latino, and Creole. There were no Asian participants.

Interviews: Seven people who had recently retired from Alaska’s sex trade and one elder with significant knowledge of the history of prostitution and related policy in an Alaska Native community were interviewed. Interview participants were white, Alaska Native, Black, and Hispanic. They included a transgender person, an undocumented immigrant, formerly homeless youth, and people with graduate degrees. They had from two to 44 years in the sex trade and had worked as independent escorts, street-based workers, exotic dancers, massage parlor workers, and pornography performers and producers. They had worked in Asian massage parlors, and legal brothels. They had worked on a circuit, for pimps and agencies, made pornography, had survival sex as street-involved youth, and been pimped as a minor by a guardian. Four of them had significant experience and/or education in a helping profession. None of them thought of themselves as sex trafficking victims. According to an attorney who works with sex trafficking victims with whom I consulted, three definitely met the federal definition of a sex trafficking victim and one probably did.

Public Records: Indictments, affidavits, court transcripts, press releases, and more were examined to contextualize the experiences shared by participants.

Survey Demographics

- The average age of entry into prostitution was 19 years old (excluding one participant who didn't give a specific answer).
- The majority of participants had spent between 10 and 30 years in the industry.
- All had graduated from high school and 81% had pursued other education, ranging from advanced degrees to vocational schools.
- 48% entered the industry independently. Following entry, 89% went on to work independently in the industry.
- 7% reported being forced and 11% reported being coerced or manipulated when they entered the industry. 30% reported being coerced, manipulated, or forced at some point within the industry.
- 26% listed their age as less than 18 when they entered the industry.

Mobility

Participants reported substantial change in their working conditions in the sex industry. While a little less than half of the participants did not enter the industry working independently, about twice as many went on to work independently. These numbers are very similar to statistics reported in research done at John Jay College with youth in the sex trade, and echoes their conclusion that people in the sex trade have agency and act to change their situations.

Although only 18% entered the industry being forced, coerced, or manipulated, an additional 12% went on to be coerced or manipulated in the industry. Participants reported being unable to go to the police when they were victimized in the industry and believed that lacking access to protection under the law made them vulnerable to

What is sex trafficking?

It depends who you ask! According to popular opinion it might be an eight year old kidnapped and kept chained to a bed, or it might be everyone in the sex industry.

Under federal law, sex trafficking is (a) any minor working in the sex industry in any way or (b) the use of force, fraud, or coercion within the sex industry for financial profit.

Under Alaska state law all prostitution is framed as sex trafficking. In one case, a woman was charged with sex trafficking herself when the state alleged that she "instituted or aided" in her own prostitution.

The people who participated in this research are sex industry experts. None of them identify themselves as victims of sex trafficking. 30% of the survey participants checked boxes that, under federal law, identify them as sex trafficking victims.

Seeking Shelter

The Numbers:

19% of survey participants had sought shelter.

83% of them were denied shelter.

50% of those who met the federal criteria for sex trafficking victims had sought shelter

100% of them were turned away.

Participant's advice for shelters:

"don't discriminate"

"it shouldn't matter what we do for a living or where we met the person we need protection from"

"All people deserve a warm safe place to sleep, whether you approve of their choices or not."

"To educate staff about the realities for people involved in the sex trade. It is not helpful to judge nor to refuse services because you do not approve of other people's choices."

"Let them work"

How do shelters interact with sex workers?

"they let me stay for a while and then I wasn't allowed to come back"

"I decided the streets offered more of a future"

"[They] said I wasn't the right kind of victim"

"[The shelter] wouldn't let me in when it was forty below, wouldn't give me shelter in general."

"I chose the streets over the shelter system, that was a very, very clear choice. I tried the shelters, I realized that I would not be able to maintain a place in that construct and so I chose going back out onto the streets [as a juvenile]."

Why were so many unable to access shelter?

Survey participants did not offer much information about why they were unable to access shelter. Most seemed to feel that some discrimination was involved.

Since 2011 I've been aware of adults and minors (outside of this research) not being able to access shelter in Alaska because: they were underage and wouldn't give their parents' phone number (with good cause), they weren't willing to name the person who had abused them, they didn't have an ID, they were transgender, they were on felony probation, and they were not victims of domestic violence.

The Sex Worker and The Force of Law

Sex workers reported an alarming amount of police violence. When they tried to report being a victim or witness of a crime most of their reports were not taken; some were arrested or threatened with arrest when they had been the victim or witness of a crime. In the interviews, 75% of those who meet the federal definition of a sex trafficking victim reported being assaulted by police before ever becoming involved in the sex industry, compared to 0% of those who did not have trafficking experiences.

The numbers:

52% of participants had tried to report being a victim or witness of a crime while working

The police took 44% of their reports. They arrested 6% of them and threatened 33% with arrest when they were trying to report being the victim or witness of a crime.

80% of participants who had been manipulated or coerced in the industry had tried to report being a victim or witness of a crime. When they did the police took 20% of their reports, threatened 60% with arrest, and arrested 20%.

Firsthand experiences:

“I myself have had them pose as customers and actually complete a sexual act with me and then try to arrest me however I didn’t touch the money so they couldn’t arrest me and, um... I felt raped after. Completely raped.”

“When I was a kid I was in a park with a friend of mine, yeah we were underage and drinking beer in the park which we shouldn’t have been doing, but they beat my friend into a coma.”

“She came to my house in handcuffs, I helped cut her out of handcuffs. She got away from a policeman who was going – he threatened to throw her in the [river] if she didn’t perform oral sex on him.”

“They always treat you like you’re stupid, that you must have a pimp, you must be on drugs, that you need to get a job. This is my job. Let’s see what else... Um, it’s never been a good encounter but I’ve never experienced violence or sexual harassment. Thankfully.”

“Just from what I’ve heard from everybody else, that if something bad was to happen to not trust law enforcement to carry out any justice. You know that’s why it’s so important these days to communicate with others that are in the field so you can know who the client is. I mean, if I were looking to screen a client I wouldn’t look to make sure they’re not law enforcement, I’d make sure that they’re not, you know, domestic violence, that they haven’t racked up a bunch of assaults and robberies, they don’t have any weird drug charges or kidnapping charges and make sure that it’s a safe environment, because I know that if it wasn’t I couldn’t just call the police and know that everything would be okay. I couldn’t call the police and be treated like a typical public person.”

Numbers:

74% of participants had been a victim or witness of a crime that they didn't report because they thought they would be arrested, they didn't think the police would do anything, they didn't want to draw attention to themselves or their coworkers, or other reasons.

26% of participants had been sexually assaulted by an officer.

60% of those who had been coerced or manipulated and 50% of those who had been forced had been sexually assaulted by an officer.

9% of participants had been robbed or beaten by an officer.

40% of those who had been coerced or manipulated in the industry and 50% of those who had been forced had been robbed or beaten by an officer.

Firsthand Experiences:

"I ended up going to a girls home from 13 to 14 and, we were bad kids, we tried to escape, they ended up beating us up and throwing us in solitary confinement until our bruises healed so then nobody could see that and nobody would believe us because we were bad kids."

"It was in the middle of the day. I was walking by the police, I was walking to catch a bus. And because I was in the area that I was in and I had an acid wash miniskirt on and a little tank top, they wanted to see whether or not I was, I was trans. And they ripped my underwear off. One of them put his hand up my skirt and ripped my underwear off. He slammed me down on the car, he injured me. Um, left me with some broken fingertips, broken toes, fractured cheekbone. And they felt perfectly okay with this because there was no law to protect me..."

I mean, when you deny a certain group of people their protections or rights, or say... you're saying that it's okay to abuse these people. I mean, you set a precedent. You know what I'm saying? You set a precedent. I mean, there are plenty of people that hate Black people, but they would never act on it because it's against the law to discriminate and it's against the law to harm them now. So therefore people who would harm them or discriminate against them keep that under wraps because they know there's laws against it and there's consequences. These officers didn't feel like there was any consequences to doing that. They left me there in a 7/11 parking lot. I was bleeding, I had my skirt ripped. I basically looked like a rape victim or an assault victim and people were just mortified because they'd seen a teenage girl get assaulted by a police officer, two police officers. And yeah, these guys didn't feel like there was any consequences."

Trying to Report Sex Trafficking: A Firsthand Account

The use of force to harbor people for commercial sex work is considered sex trafficking under federal law. So is fraud (the bad check).

Supplies: probably things like shampoo, make up, condoms, and food.

According to Wikipedia, NHI “is a dehumanizing police term used to describe or reference crimes committed against such victims as prostitutes...”

80% of those who had been manipulated or coerced in the industry had similar experiences when they tried to report being a victim or witness of a crime to the police.

“[In the 90’s I] went to the FBI in Manhattan and I reported part of a syndicate after I was beaten up and given a bad check from the legal company that was a front for illegal activity. There were some things building to that, but the reason that I was beaten up was because the workers were locked in on a premise and we needed to get supplies because the house was selling our supplies at like 100% markup and all of the workers needed supplies and I was voted as being the person who had the most self-confidence and ability to try to communicate that, and it ended up with me being beaten up and potentially put into it an even more detrimental situation. I had to think about that long and hard because other people supported my doing it. The problem at that point was that it would take hundred calls to vice and in an area of the country each from separate people who all were willing to identify themselves with their full legal name, and until there were 100 complaints put in an investigation could not be opened up. And if anything happened to you at that point in time if you were a hooker or defined as an aberrant of any kind you would get a stamp on your file that said that you were not a human investigation. The NHI stamp was for people who were sex workers, drug pushers, gang people, and if you got offed there was no investigation. So there was a lot there...”

All of my contact with law enforcement has been so ridiculously clearly defined by what their present administrative goal directive is as opposed to what the actual needs of people are that you realize that you have to understand more about what's going on from the national and state perspective politically before you go to the police. It's not about a crime or a moral code or ethics it's about the political framework, the contextual framework, the political structure of the administration that is existent in the time that you are potentially experiencing a problem. That's not how law enforcement is defined to you when you're a child but now I get that. So, you know, if you see something bad happening you have to take into consideration whether or not the time period, the belief of the time period that you're in, is going to wind up understanding the nature of the crime.

I realize now that it wasn't ridiculous that I went to the FBI but it was ridiculous that I would believe that anybody would care if there was no money attached to them caring about something. There has to be like some kind of cookie that they're getting.”

People who've had experiences like this trying to report sex trafficking in the past now fear being charged with trafficking themselves or their coworkers in Alaska.

56% of those who tried to report a crime to the police did not have their reports taken:

“I have a friend that was walking on Spenard a couple years ago and a guy in a truck had raped her and she already knew who it was and she reported it to the police. Other girls had reported the same thing happening and he’s still driving around doing what he does... They ignored her. They didn’t do anything at all. I don’t know the specific details but I know that she was really frustrated about it and she didn’t feel safe at all.”

It is not illegal in Alaska for police officers to have sex with people before arresting them:

“I knew a couple ladies who went to go see a guy together who turned out to be a police officer. He gave one of the girls that was only 19 at the time alcohol he also received oral sex from one of the ladies and then arrested her and said that he had seen her reviews online and wanted to see for himself what it was all about. She got a prostitution charge.”

“I know another lady who went to see someone who was supposed to be a customer who ended up being a police officer and they had sex to completion, he tried to make her take the money but she did not take the money. He told her he was going to arrest her and she informed him that he couldn’t because they had not broken any law. He then proceeded to say, “You’re a very wise woman and I’m proud of you,” and proceeded to walk her downstairs where there’s two other officers standing there waiting and he shook his head no at them.”

Would you call the police if you became a victim of a crime (like rape or sex trafficking) while involved in sex work?

“Oh, you’re on your own here, pretty much. You’re on your own. No I wouldn’t go to the police if I were a victim of a crime.”

“Sex trafficking, yes, because there’s someone to snitch on basically. Every time I’ve encountered the cops that’s what they really want. They didn’t really want me they always wanted someone bigger than me that they can get to give a felony charge to. If I were raped? Jesus Christ it depends on the area honestly like and how it happens. Unfortunately, because of the nature of my work people don’t view rape the same way always. I mean if I were absolutely like violently attacked, if someone came in here or I was just walking around someone raped me, yeah. But if someone’s in my work space and they forced me to have sex with them. It would be the same emotionally psychologically for me, but legally proving that that’s what exactly incurred - or someone saying that actually theft, which is insulting. Because might my work is about consensual sex it’s not about nonconsensual sex and so... would I pursue it? Yeah I would, just to see what would happen, honestly. To tell you the truth because I want to make the systems better.”

“Not necessarily, no. Because I think that if you were a victim of a crime that’s truly a crime at that level you need to deal with politicians, not law enforcement. Like you cannot call 911. At a base level it’s bullshit.”

74% of survey participants indicated that they had been the victim or witness of a crime they had not reported. 39% didn’t believe the police would do anything, and 30% believed they would be arrested if they tried to report.

Force, Manipulation, Underage Work, and Police Violence

I compared the responses of people who reported experiencing force or manipulation within the sex industry and those who reported working underage (the federal standard for sex trafficking) with the general survey results. Those who had experienced force or manipulation within the industry were completely unable to access shelter, and reported a much higher rate of sexual assault, physical assault, and robbery by police officers. There didn't seem to be a difference in their ability to access medical or mental health care. Working underage didn't seem to be related to significant differences.

I compared people who reported having been assaulted by police to those who hadn't, and found some differences.

The 2 people who had been beaten or robbed by an officer:

- Were both white and Alaska Native.
- Both reported entering the industry using sex for survival.
- Neither entered the industry working independently but both went on to work independently.
- Reported that criminal history and lack of job history would have made it difficult for them to leave the industry if they'd wanted to.
- Both had sought emergency shelter, in both cases the shelter was aware of their involvement in the industry, and both were ultimately unable to access shelter.
- Both had tried to report being a victim or witness of a crime, police took one of their reports and threatened both with arrest.
- Both reported having been the victim or witness of a crime they didn't report because they didn't think the police would do anything and they thought they would be arrested.
- Both had been arrested as adults, and both had been detained but not arrested as adults.
 - Both believed police are the primary threat to people in Alaska's sex industry.

Of those who reported being sexually assaulted by an officer:

- Half were Alaska Native and white, the other half were white.
- None entered the industry working independently. Following entry, all went on to work independently.
 - Half had sought emergency shelter, none were able to access it.
 - 93% reported being a victim or witness of a crime they didn't report.
- All but one believed police are the primary threat to people in Alaska's sex industry.

The Sex Trafficking Laws

Alleged prostitutes charged with trafficking: **3**

Non- prostitutes charged with trafficking: **3**

“Traffickers” charged with hurting prostitutes: **0**

“Traffickers” charged with pimping children: **0**

When I was first considering doing this research, I made a public records request to find out how the sex trafficking law had been used since its inception. That was at the end of 2013, and at that time only two people had been charged with sex trafficking. Both women were allegedly prostitutes who were charged with sex trafficking in the same case they were charged with prostitution of themselves. In one case the woman was charged with trafficking herself (“facilitating or aiding prostitution”) after she refused to agree to perform a sex act with an undercover police officer for money. In the other case a woman was charged with multiple counts of felony sex trafficking (maintaining a place of prostitution, receiving money from prostitution, etc) for sharing space with other sex workers when she booked a duo for herself and another worker with a police officer. The only people charged with prostitution under state law at that time were those who were also charged with sex trafficking and those who were allegedly victims of sex trafficking.

Since that records request four more people have been charged with sex trafficking. One is a woman who, in the charging documents, is accused of being a prostitute. Another is her husband, who is charged with receiving money from prostitution. The other two are men who are accused of things like maintaining places of prostitution and receiving money from prostitution. There have been no charges of violence, fraud, or coercion in any of the cases. In one case there was originally an allegation of a verbal threat, but that charge was later dropped. In none of the documents I’ve examined since the law’s inception has it been used to benefit a victim.

There is a big gap between the federal definition of sex trafficking, which requires minors or the use of force, fraud, or coercion, and the state definition of sex trafficking, which includes many strategies that sex workers employ to increase their safety, such as working indoors, working together, and facilitating or aiding their own prostitution.

What are the real risks to people in Alaska's sex trade?

“So many at this point. You know we can't, we're not supposed to get together, we're not supposed to talk about how to keep each other safe, we're not supposed to share spaces, we're not supposed to, you know, help with references or anything like that because we're worried about being arrested. So... and then not only that but people know that they can harm you and get away with it because you can't go to the police because you'll be arrested right with them. So you'll be victimized twice.”

“You can't really be honest on applications for loans or anything. Mainly, I mean, there is risk when you go to an outcall and what if there's guys hiding in a closet? You can't just finally make it out of there and call the police and say I was raped without questions, “Oh, well she's a prostitute” and then your labeled, maybe charged, and those guys aren't.”

I asked people in Alaska's sex trade what the primary threats that the law should be concerned with protecting them from are. In the survey:

35% named violence or coercion from police

30% mentioned not being able to access equal protection under the law if they were the victim of a crime

15% mentioned arrest or prosecution (things that can result in lifelong discrimination in accessing employment, housing, custody, education, social services, and financial instruments)

What *should* be the definition of sex trafficking?

Overwhelmingly participants thought it should be when someone was forced or coerced against their will to perform acts of prostitution. Many thought that most force, fraud, or coercion that happens in the industry would more properly be described and charged as domestic violence, assault, or labor abuses.

How common is sex trafficking, according to the different definitions?

71% of survey participants thought that sex trafficking, according to their own definition, happens **never or sometimes** (1&2 on a scale of 1-5) in Alaska.

85% thought that sex trafficking, according to federal definitions, happens **never or sometimes** in Alaska.

73% thought that sex trafficking, according to state law, happens **most or all of the time** (4&5 on a scale of 1-5).

What should be the difference between prostitution and sex trafficking?

“When it’s not by choice of the individual. An individual should come forward to you just as if, there are some like places in the southwest, they’re like, cutting up chickens and stuff. Right, some of these big places. And they kidnap people from like Mexico and Central America and crap. They literally just kidnap them and enslave them and bring them up here to like pick tomatoes or whatever, horrible jobs. and that’s the same thing is taking someone and enslaving them into prostitution. you don’t take someone and force them to do anything that’s not by their choice. That’s slavery. That’s illegal. You don’t do it.

But if I wake up in morning and I make my breakfast and I make myself a beautiful breakfast every morning, I make myself a beautiful paleo diet breakfast, I have a mineral sparkling water and take my phone calls and my emails, and I set up a few appointments with some gentleman that I enjoy spending time with, and they pay me for that time, those two should not be considered the same thing. At all. It needs to stop.”

“The oldest profession in the world is prostitution. Sex trafficking to me is such a vile term, because that’s just sadness, I mean when someone’s being forced to do something that they don’t want to do against their will, that’s just horrible and I would definitely help somebody get out of that situation even if it put me at risk just because we’re human and I wouldn’t wanna see someone treated like that. But, you know I think there’s a big difference between doing it because you want to and doing it because you’re forced to.”

“I think they need to change the definition of sex trafficking, it’s a really bad definition. The whole trafficking definition and discourses is a bad discourse. I mean we don’t talk about labor trafficking in terms of, you know, construction trafficking. We don’t talk about trafficking or exploitation in industries specific to those industries and so singling out, you know, the sex trade when we’re already being exploited by the criminalization laws is an unfair business practice, actually is what it is. They need to remove, um, they need to remove all the sex trafficking laws specifically and they need to instead strengthen labor laws and make them actually enforceable because most of the labor laws on the books are not enforceable. Well the only way that they’re actually enforceable is if you go and have the means to hire your own private attorney to seek damages so... that’s not a fair equitable way to prevent. Laws have to be built around prevention not around prosecution of crimes that already happen after the fact, that’s totally useless.”

“Prostitution is consensual amongst adults. It is a negotiated understanding of time and action to dollar amount so that mutual expectations are satisfied. Trafficking - people in my view are either forced or coerced to work with the terms not being clear with the financial aspects not being fairly negotiated or implemented and their needs, whether that be healthcare or food, not met within the construct of the transaction. And sometimes trafficking can be agreed to because people don’t feel they have other options so it’s not always—like sometimes people agree to things that are beyond their understanding—but basically when you start taking a clear parameter of time, place, service offered, you don’t offer people clean hygienic places to eat, bathe, sleep, and [they don’t] understand what they’re in for.”

What laws would serve people in the sex industry?

Survey participants gave short answers: most people thought that decriminalization is the answer, particularly decriminalizing prostitutes working together, working indoors (in “places of prostitution”), sharing information with each other about clients, and having drivers. Others mentioned things like, “if [sex workers] could go to the police without being arrested,” and “consequences and public shaming for cops who take ad-

“I will say that maybe there is a need for there to be some kind of advocate-liaison that works between sex workers and law enforcement... If you have a sex worker who has been taken into custody either voluntarily or in some kind of a raid or situation, if they are able to have an advocate present—who hasn't just gotten a degree, but truly understands the industry from both an experiential and an academic perspective—to be there to help make sure the situation is correctly, uh transcribed or recorded, or that the rights of the person are clearly, like, that their situation, that their rights are clearly understood or any rights they're giving away are clearly understood. There aren't any lawyers that are sex industry specific and that's a problem. So whether it be having you know, these task forces, find people in the sex industry and pay for them to do you like the combination of a counsel and legal program to then be able to act as these interdisciplinary liaisons, because there's no there's no buffer, there's no objective buffer that I see.”

Interview participants had a lot more to say:

“Oh, decriminalization. Decriminalization would go a long way to doing that [ending violence] because if they are, if these transactions are occurring through legitimate means then clients don't feel like they necessarily... you know, again there's that invisible barrier of, it's the law and if I cross over this barrier and do something I'm not supposed to do there's going to be consequences, whereas when it is a criminal act and this client is feeling like this lady, the lady or gentleman that he's getting services from hasn't any recourse then he might feel a little more okay about doing whatever [to the sex worker].”

“It would be nice for the police not to victimize people that are victimized themselves and just because we're in this business doesn't mean that we're victims. I see myself maybe only made as a victim maybe only if somebody was to do something to me and then as a tax-paying individual because I pay my taxes, that the police don't do anything about it, then I'm a victim on both ends.”

“Oh yeah, I mean in a perfect world, my perfect world, this would be legal and then when there was somebody that was working that felt like they were being mistreated or the guys take all the money they would actually be able to reach out and get out of that situation without being labeled as a prostitute or labeled as a lost cause or drug addict or someone who's just screwed up in the head.”

“Stop pursuing us like hunted animals... If you stop pursuing the criminalization of prostitution, then I can come to you when I’m raped, then I can come to you when I’m robbed, then you can pursue violent crimes.”

“If consensual prostitution amongst adults who are mutually in agreement of wanting to engage in a situation was decriminalized. I think, you know, either [in] a private in-house situation or an outcall situation or combination of, but if consensual adult to adult prostitution was decriminalized then right there, there would be a platform for feeling more secure, with an ability to communicate if you see bad things happening to other people, or if you have a bad experience yourself, whether that be with a client who is violent or abberated or just really creepy or a house that is not acting ethically.

You are more inclined to also if you are in a decriminalized situation and there is a healthcare clinic that will see people who are in the sex industry just as there are GLBT specific healthcare clinics that have a grant structure to be able to allow people to receive services, treatment, testing treatment, and counsel for behavior related to homosexual relations. If there were something like that for sex workers where you could be honest about whether or not you use condoms for oral sex, vaginal sex, anal sex and wanted to have testing done for STI's HIV, or if you're feeling burnt out and you needed to have just acute counsel or you know, kind of a grounding session so to speak to prevent volatile situations where often people reach out for drugs and alcohol if they don't have people who can help soothe and ground them. If you have places to go where you can communicate honestly without being punished for that sometimes that can prevent an escalation of volatile and negative situations right there. And also that way you can track healthcare issues in an area.

But decriminalization in my mind is definitely starting point for that. the other thing is that that way - there are people who are minors or who are obviously not mentally or physically competent to be working, that those agencies that are support systems to the industry can help get those people out of work situations and get the resources they need. If somebody is obviously [mentally ill] or they are suffering from a drug problem or they’re homeless and malnourished and they really shouldn’t be working. If you can refer them to places that can help them get some of the resources they need to help get them out of the work environment. That way workers don't have to - actual sex workers don't have to work with people who are not necessarily meant or able to be working.”

Summary of Recommendations

1. Institute immediate outside oversight of all interactions between police and those they believe to be sex workers or sex trafficking victims in order to prevent the sort of police misconduct that participants reported and that their reports are taken when they've been the victim or witness of a crime.
2. Institute regular accountability procedures for shelters and rape crisis centers to ensure that all victims have access to services. As shown in this report, arbitrary selection of who is "deserving" of services negatively impacts the most vulnerable among us.
3. Decriminalize prostitution so that sex workers, sex trafficking victims, and their customers must be able to go to the police and make reports without fear of arrest when they are victims or witnesses of crime.
4. Repeal Alaska's sex trafficking law and consult sex industry experts before making new laws that will affect them to prevent the dangerous effects that participants have reported.
5. Immediately discontinue the use of safety measures as evidence of prostitution or against alleged prostitutes or their clients. Safety measures include condoms, negotiating safer sex, screening, working indoors (in a "place of prostitution"), working together, and hiring someone to do security, screening, or booking. Making sex workers afraid to use condoms or screen clients should not be a goal or effect of prostitution policy.
6. Shelters and other non profits should institute non discrimination policies and seek training from sex workers.
7. Minors should never be turned away from shelter because their situations are too complex or because their parents can't be contacted.
8. Harsh criminal penalties for police who have sexual contact with sex workers or sex trafficking victims.
9. More research is needed to investigate the relationship between police violence and abuse within the sex industry.