

Alaska Criminal Justice Commission
Domestic Violence Workgroup

Meeting Summary

Monday, April 27, 2020, 10:00 a.m.-12:00 p.m.

Via Zoom

Commissioners Present: Sean Case, Brenda Stanfill

Participants: Michelle Hale, Rhonda Street, Avram Slone, Troy Payne, Katie TePas, MaryBeth Gagnon, Tory Shanklin, Brad Myrstol, Colleen Ouzts, Suzi Pearson

Staff: Teri Carns, Staci Corey, Barbara Dunham

Follow-up from last meeting: ODARA

ACJC research analyst Staci Corey said that she was asked to do some follow-up research following the last meeting on the use of the ODARA risk assessment tool. Workgroup members wanted to know more about what settings the tool can be used in and whether it can be used for female offenders and offenders in same sex relationships. Staci spoke with Dr. Zoe Hilton, one of the researchers who developed the ODARA, who explained that the tool can be used in a variety of settings, anywhere the offender's risk level is a relevant consideration. This includes bail, conditions of release, probation supervision levels, parole decisions, treatment decisions, and victim safety planning. Dr. Hilton also said using the tool helps communication between agencies, getting everyone on the same page about the risk level of the offender.

Staci explained that there is promising evidence that the tool is valid for female offenders, but practitioners using the ODARA shouldn't use the actuarial tables that typically accompany the ODARA because women have lower rates of DV in general. There have been some studies showing that it can, however, be used to compare other female offenders to each other, for the purposes of allocating resources and determining appropriate programming. There is no good research on using the ODARA for offenders in same sex relationships.

In Fairbanks, the ODARA was used as a component of an intensive DV probation program modeled on the HOPE program in Hawaii. Staci spoke with Sheri White, the lead probation officer for the program. The program was aimed at people convicted of DV misdemeanors who were assessed as high risk. The idea was to break the cycle of domestic violence before the person reached the felony level. The program received referrals from the DA's office, and used the ODARA to assess risk. It was scored without talking to the offender or victim.

The Fairbanks project also included random UAs, probation officer meetings, court-ordered treatment like mental health or substance abuse treatment, and Batterers' Intervention Program. They also reached out to victims and connected victims with advocacy services. It included an evaluation project with the Justice Center, which produced a preliminary report; the researcher who authored the report is no longer with the Justice Center. Dr. Troy Payne with the Justice Center said he had reached out to that former faculty member, noting that for contract projects such as this it was not unusual for reports not to be published.

Staci noted that the evaluation component was going to have a victim survey and would include a comparison group, following the program group and comparison group for four years after the termination of probation. The preliminary report outlines the variables to be collected.

Ms. White thought the program was effective; of all participants, only two reoffended and those two were in abscond status and did not really participate. She said the program helped identify chronic DV offenders in the area. The drawbacks were that it was only for male offenders, and that it was occasionally used as a bargaining chip to reduce charges. The model was later adopted as a felony-level program for people convicted of felonies with SUD issues.

Staci explained that the program ran from 2011-2014. Katie Tepas with the Department of Public Safety explained that it had been part of Gov. Parnell's Choose Respect initiative, so it was a state-funded pilot program. There was a steering committee to guide it. She thought the funding was cut when Choose Respect ended. She thought one of the highlights of the program was that it ensured someone would be in contact with the victim. Staci added that Sherri told her the POs would reach out to victims and developed a relationship with them, and some of them were even in contact even after the program ended. Victims often felt more comfortable talking to the POs than people at other agencies.

Teri Carns, researcher with the Judicial Council, noted that the Fairbanks program had echoes of a similar program conducted in Palmer in 1997 and 1998. The Palmer program had a similar effect, with victims feeling more comfortable approaching probation officers than law enforcement officers. The Fairbanks program was also reminiscent of the North Pointe targeted approach. It had elements of focused policing and coordinated community response, and should also yield good data. It sounded like people in Fairbanks were enthusiastic about this program, and she thought it might be worth starting up again.

Katie said she couldn't speak for DOC; it was ultimately for them to decide. Brenda Stanfill, ACJC Commissioner and executive director of the Interior Alaska Center for Nonviolent Living, said that those in Fairbanks who had a hand in the program were really sad to see it go, especially because they worked hard to get it set up. She thought it was effective but agreed the issue of it being used as a bargaining chip was a problem. The program needed more buy-in from the local DA. The reason they couldn't get the proposed research off the ground was because they didn't have enough referrals and couldn't fully populate the program. Victims really liked it and offenders would eventually come to like it and buy in. There needed to be a carrot to incentivize participation other than a plea bargaining chip. There was no reason a person would choose accountability if they don't have to.

Sean Case, ACJC Commissioner and APD Captain asked what the program capacity was. Brenda thought the program had a capacity of up to 60 people but it couldn't get up there; it usually had only around 20 in the program. She said out of 300 or so offenders a year that go through the process, around one third of them scored high enough to be in that program. The problem was with requiring the program.

Katie thought that was correct, the program was never able to fully actualize the numbers. She thought DOC also had some preliminary data on the program. Teri suggested also asking Judge Ben Seekins, who had participated in the program and looked on it favorably.

Sean asked about the timing of the ODARA component. Brenda said that post arrest, the DA's office would complete the ODARA. If the arrestee had been charged with a DV misdemeanor and was assessed as being the highest risk, they were supposed to be referred to the project automatically. But if an arrestee was charged with a DV felony, and was able to get that bargained down to a misdemeanor by agreeing to participate in the program, the person would then just fail and flat time, often spending just 3 months in jail instead of 9 in the program or longer in jail if convicted of a felony.

Follow-up from last meeting: Achieving Change Through Values-Based Behavior (ACTV)

Teri explained that the ACTV program was based on acceptance commitment therapy (ACT), and early studies show that it has been successful in several settings. It reduced recidivism slightly and people were more satisfied with the program than with other programs, and people who completed the program had fewer domestic violence incidents.

ACTV was most successful when it was used for chronic DV offenders who were incarcerated and had not been successful in other programs. Out of 23 participants, all but one participant completed, and participants had lower recidivism in the 12 months after completing. One interesting thing about that program was that participants were 52% Native American, even though Native Americans only accounted for 4% of that prison's population. That might suggest that a number of Native American people dropped out of other programs and landed in jail and had to do this program. It also appeared to be more successful for this population, suggesting that it could be more culturally appropriate.

The researchers studying ACTV are hoping to have more data by this summer, and will hopefully have more data about the victim perspective. The researchers were not available to talk to the workgroup today.

Teri added that the program is something that could be used by existing BIPs. It could also be facilitated by correctional officers, because there is no need to have a professional certification to administer the program. It lasts 24 weeks, with sessions lasting 1 or 2 hours per week. Commission project attorney Barbara Dunham noted that more details on how the program operates can be found on page 95 of the 2017 study that she had sent to the group in advance of the meeting.

Brenda noted that, regarding the jail study, a 12-month follow-up period was not long. She also wanted to know how victims were involved. The advantage of the Duluth model was that it does have accountability and victim check-ins and involvement. Teri agreed that although recidivism often happens within the first year of release, it would be best to know how participants fared longer than that. The other studies on ACTV show significantly fewer charges, including for DV, for all participants, even for people who dropped out.

Follow-up from last meeting: Creating Healthy Relationships

Teri explained that this program involved treating couples together. One early study looked at couples who were randomly assigned to the program following a self-report of perpetrating a physical assault. The study showed large and statistically significant reductions in violence, including for many women. It was interesting to compare this study of one study of a program that used ACT with both men and women, although separately. It might be worth exploring the two. Creating Healthy Relationship does involve having the couple do programming together, though often that is not allowed per regulations that are in place in many states. Both models showed success.

Brenda pointed out that treating couples for domestic violence together would run contrary to a federal statute, and would mean will losing all federal DV money. There is evidence that shows treating couples together is not safe. For many years her organization has offered a group just for partners. She agreed that support for victims was important but thought that programming should not be court-ordered for victims.

Teri noted that Creating Healthy Relationships screens participants carefully for only those who are situationally violent, not those with chronic anger. It was only for people using violence on an irregular basis. It was true that for "characterlogically" violent people, couples counseling would be inappropriate.

Sean noted that Teri's memo stated that studies show that between 50 to 80% of domestic violence is situational. Teri said that was true and that she could write a more detailed memo about how that is determined. Sean agreed that would be helpful.

Brenda asked about the study of the program in which 2/3 of participants were women. Teri said that was a study of an ACT program in which all people in the program had been found to be assaultive, and participants were not treated as couples. Brenda wondered if there were any studies on that same program that were just male-based, observing that women tend to use violence for different reasons, and therefore programming may not transfer to wider applicability for men. Teri said that the study of the ACT program with 2/3 women involved participants who were randomly assigned. There were subsequent studies with participants who were all men, one involving large numbers. She said she would look for more information on those studies.

Follow-up from last meeting: DC Safe

Barbara explained that she had spoken with one of the founders of the DC Safe program, Natalia Otero, who is willing to be a resource for any community that wants to improve their program. To get DC Safe up and running, it required every program that might be first responder for domestic violence, like law enforcement, child protective services, schools, emergency departments to sign a common MOU to agree to have the same protocol to respond to a DV incident. It took about two years to get all the agreements. It has helped to have everyone have a common goal and be on the same page.

The DC Safe protocol has any first responders encountering an incident of domestic violence to ask some basic questions and then call the DC Safe hotline, which is staffed 24 hours a day. The victim can also speak with someone on the hotline. DC Safe has advocates on call who can provide immediate follow-up for more serious cases or follow-up in 1-2 days if it is not as serious. They help with immediate safety planning for the next 24-48 hours and then focus on a long-term safety plan. Partner agencies have agreed to prioritize and fast-track any processing necessary for the safety plan—for example the school system would transfer children from one school to another immediately or law enforcement would apply for a warrant immediately.

The hotline is situated in the courthouse, so first responders calling the hotline could also use the advocates on the phone to look up active court cases and protective orders if necessary.

Sean wondered if this program was primarily for folks who are high risk, and if this program operated outside the criminal justice system. Barbara said the initial response protocol was for any domestic violence situation, but there would specifically be a follow-up team for the high risk cases. The program is victim-centered; the law enforcement response is related but separate. The hotline is a tool for officers to use to help victims when they respond to a domestic violence situation.

Follow-up from last meeting: Fatality Reviews

Barbara explained that she had sent out a memo outlining different models of fatality reviews. A fatality review happens when there has been a fatal DV incident and a team reviews the case to see if there are ways to change the response to prevent similar fatalities in the future. Some states will do a thorough review of 1-2 cases per year. Other states might look at all DV cases within a given timeframe to analyze trends in the data. Typically fatality review teams will issue a report with recommendations.

Barbara noted that there is a fatality review statute for Alaska as well as a provision in the Anchorage code, details of which are in the memo. The statute either allowed a statewide review or allowed municipalities to convene their own teams. A team was convened in Anchorage a few years ago, but

reportedly that team had trouble with participation. Barbara was not able to find a report from that group, but she understood that Suzi Pearson had been involved and invited her to share her thoughts on the experience if she liked.

Suzi Pearson, executive director of AWAIC, confirmed that she had been involved with the Anchorage effort and they had reviewed three cases. One of the barriers to success was the fact that they only considered cases that had gone completely through the entire judicial process, meaning that the cases were 8 to 10 years old. That made it hard to gather information; people involved in the case were hard to find because they had retired, etc. Participation was also challenging, as it was challenging trying to get all members together at the same time, and there were a lot of changes in membership too, so there were also issues with consistency. The group has not met in several years. They did issue a report in 2014 or 2015. They were just looking at Anchorage cases.

Brenda asked Katie whether there had been issues with setting up a statewide process. Katie said that she thought that one concern was the factor Suzi talked about; to be effective, current cases should be looked at, so looking at cases 8-10 years after the fact is an issue. Some time back there had been a statewide training on how to do these reviews held in Anchorage, and Anchorage was the only place where it really took off.

Brenda wondered whether there was any research on fatality reviews. Barbara said that she was not able to find any research in terms of reducing fatality rates. One study simply came to the conclusion that fatality reviews needed to have some mechanism to enable agencies to actually enact the recommendations made by the fatality review team. Other than that, there did not appear to be any academic studies.

Coordinated Community Response

Brenda observed that discussions in this group kept coming back to models that use coordinated community response, and she thought that might be a more effective area to focus on. She understood why fatality reviews would have to wait until the defendant's appeal was done, but thought it might not be an effective thing to focus on for that reason.

Katie said she thought the Fairbanks coordinated community response pilot project was very effective, and she also thought that Kodiak and Bethel currently had similar projects. It might be good to hear from them. Brenda noted that one big issue with coordinated community response is having partners willing to implement it. A coordinated community response team can meet all they want, but to be effective, it would need buy-in from the DA's office. These types of projects can be personality driven, and if it's just one personality keeping it going, it can be hard to maintain long term.

Sean wondered whether changes had been made as a result of the Fairbanks project. Brenda said yes, several things had changed, such as how law enforcement handled things like female arrests, and cases involving strangulation. They came up with new protocols for strangulation, and the statewide model was based on what they had developed in Fairbanks. There were changes to how advocacy worked. They were able to do a lot of things as long as organizations were willing to participate, make changes, and not take criticism personally.

Data, Reports, and COVID-19

Troy said that regarding fatality reviews, some of the data AJIC has gotten from APD could shed some light on that sort of thing- e.g. patterns leading up to homicide events. It was unclear whether they would be able to do that but he said he would look into it.

Brenda asked Troy to describe in greater detail the research they have done up to now. Troy said they were looking at every DV-flagged incident from 2000-2019, along with every person attached to that event. By looking at everyone attached to a police report, they hope to get data on repeat victimization and repeat offending. One thing they don't have is the relationship between individuals, which will be a limitation of the data. Getting nearly two decades of data has yielded a fair number of incidents, and could even be a way to find multi-generational abuse. AJIC is still trying to identify its research questions.

Troy said he would also like to extend the data through the current year to see the impact of COVID-19. Sean said that APD has seen sexual assaults go down significantly, and there are also fewer DV reports. It will be interesting to see what happens when things are back open—is this an actual decline or is it less reporting? Barbara said that was contrary to news reports from other places where they are seeing increases in DV. Sean said APD was not seeing that in calls for service, though it might show up later when reports get classified.

Suzi said that AWAIC initially didn't see an increase in demand for services, but in the last two weeks they have seen a 25% increase in crisis calls. They also expect to see an increase as restrictions lift. Brenda said that at IACNVL they were not seeing as many fear-based assaults; the cases they were seeing were more serious. They have heard of situations where people are not being put in jail. She also thought people might be afraid to call for help. There were many unknowns. She agreed that AJIC should extend its data collection, but also thought there might be more qualitative data related to COVID as time goes on, and there might be more qualitative than quantitative. Sean thought that might also be the case for sexual assault cases. There might be a snapback after this initial dip in reports.

Troy noted that Dr. Ingrid Johnson was currently working on the next Alaska Victim Survey, and would be doing the survey in the next few months. She was looking at whether she could easily add COVID questions to that. It will be interesting to see effects of COVID on crime generally. He agreed it would make sense to see a snapback when people have more freedom to report. But he just didn't know, since this was such a new circumstance.

Workgroup recommendation

Sean noted that this group had now met several times, and had gotten a lot of good information on what's going on in the state and around the country. The question now was what is the most promising direction to go in. What could this group recommend?

Barbara explained that the ACJC existed to make recommendations to the state legislature and agencies as to how to change laws, policies, and practices. Typically workgroups will craft a recommendation, which will then go to the full Commission for approval. Once approved, the recommendation will be sent to the legislature or relevant agency.

Brenda said she kept coming back to offender accountability. She was interested in wrapping BIPs in a wider community response, and wanted to think about what offender accountability truly looks like, whether pre- or post-conviction. She really wanted to see what the data looks like. As Judge Rhoades once pointed out to her, she might have skewed perspective from working at a shelter where she sees many serious cases. She was interested in looking at the whole spectrum of offenses, how to intervene early, and avoid repeat offenses.

Teri said that what has struck her in looking at various DV programs was that the key was to have a wider community involvement in responding to DV. The true Duluth model does not just include offender education; it was built on coordinated community response. That was similar to focused policing, as well as the Fairbanks DV PACE program. Coordinated community response seems to be very difficult to

implement but also very important. She thought the group could spend more time focusing on that, and how it gets done in other places.

Teri added that another thing that seems hugely important is considering victims. No matter what the state does, if victims are not on board with the response, it won't help much. The impression she had was that victims often don't report DV because they were concerned about not being believed, and perhaps might not want the person arrested. Even if the victim does call and the perpetrator is arrested and actually goes through a BIP, many perpetrators are still in contact with the victim. Unless we spend more time thinking about the needs of victims, we might not be successful with offenders.

Teri also wondered whether the Alaska Victimization Survey (AVS) included questions about services. Troy said that if a respondent said they had been victimized, two of the follow-up questions were about whether the victim needed services and whether they were able to access them. Teri said this was something she could look into.

Brenda thought Teri brought up a really interesting topic, one which was always challenging. The state is the one pressing charges, so the victims' voice ends there. Some victims might say "thank you for prosecuting" while others might say "I hate that you prosecuted." She was interested in trying to really capture the needs of victims and the full range of victims. Right now the focus seems to be on a small percentage of cases.

Katie said that the AVS was more about understanding the rates of victimization. She believed that not every question asked in the survey was eventually analyzed or reported on. Troy said this was true, and it had to do with the volume of respondents and the ability to get sound statistical information. Katie noted that Dr. Johnson was also separately working on another project for the sexual assault kit initiative, which included victim interviews and surveys. That project will have some data on whether victims were able to access services, however the victims in that project are sexual assault victims and not necessarily DV victims (although some sexual assaults are also DV incidents).

Katie also said that for her, a priority focus in terms of offender accountability would be to enable widespread law enforcement access to conditions of release.

Sean asked who would be involved in a coordinated community response program. Brenda said that when they had a similar project in Fairbanks, the participants had included law enforcement, the DA, victim advocates, BIPs, Probation, and a forensic nurse. Other groups wanted to join at the time, but based on what they were trying to work on with that project, they did not expand the membership.

Katie said that coordinated community response for DV could work in a similar fashion to Child Advocacy Centers; depending on what needs discussing the team might invite people as temporary members. Success in this model usually comes from identifying one or two issues and just working on that: tracking the problem, then adjusting the solution and following through with implementation. It should not be just a wide-ranging DV group, but focused on one or two concrete issues, as voted on by the group. It does have to have a person who corrals members and tracks data; it could be very labor intensive.

Brenda said that one challenge of coordinated community response was maintaining confidentiality, which is why the Fairbanks project involved a smaller group. There was no statute for preserving confidentiality and granting immunity for participants, so they couldn't look at open cases. They didn't want the information gathered to be part of discovery. Sean asked if they only looked at data? Brenda said they looked at specific cases if they were closed.

Sean said he was interested in reading up more about ACTV. Brenda said there were some good YouTube videos, which might be easier to digest. Teri noted that at the moment, one of the chief researchers was at home with three kids while overseeing two full randomized trials, so she was unable to talk to the group today. However, she expects to have a lot more data by the summer, in 2 or 3 months.

Sean said that he knew that conditions of release were being shared with law enforcement in Fairbanks, and wondered how that was working. Brenda said it was working really well. Katie said that expanding that program would ultimately be a question for the court system. Her understanding was that the idea was to expand the program statewide, but the court system wanted to wait until its e-filing project was done. The troopers regularly have issues with not knowing release conditions in real time. In Fairbanks, courts enter information into an interface, which can be pulled by APSIN. The court system database and APSIN don't interact.

Teri recalled that there was a similar program in Anchorage 20 years ago, which she thought was successful but eventually defunded. She agreed the court system was waiting for e-filing.

Katie noted that in some smaller communities, they can also make sharing conditions of release happen, but otherwise it was generally an issue statewide.

Sean thought that there was a lot of expertise in this group, and that the group could probably talk for months and months, but thought that the group was ready to look at possible recommendations.

Public Comment

There was an opportunity for public comment but none was offered.

Future Meetings and Tasks

Barbara noted that the next plenary meeting was at the end of May, and that any recommendation should ideally be finalized by the August meeting.

Sean said he would work with Barbara to write up draft recommendations regarding bail conditions and coordinated community response. Sean thought that legislators were operating under the assumption that law enforcement had access to bail conditions and were shocked that they did not; he thought the Commission could use the Fairbanks model as a template. Katie offered to check in with FPD or AST on the Fairbanks model and to also check in with Law. She thought a successful model would be one that allowed officers to get information on release conditions in real time including any changes implemented in real time.

Regarding coordinated community response, Brenda said that would have to look different in different places—the Commission should look at how the educational piece ties in but still recommend something flexible enough to fit each community. That might not involve picking one program, but a way to tie a program into the coordinated response. She also suggested checking in with the CDVSA.

The next workgroup meeting was set for Friday, June 5 from 10-12.