

Alaska Criminal Justice Commission
Sex Offenses Workgroup

Meeting Summary

Wednesday, January 8, 2019, 9:30 a.m.

Denali Commission Conference Room, 510 L Street, 4th floor, Anchorage
And teleconference

Commissioners present: Brenda Stanfill, Quinlan Steiner

Participants: Diane Casto, Katie TePas, Ed Webster, Paul Miovas, Bob Churchill, Tom Amos, Chanta Bullock, Shannon Cross-Azbill, Cynthia Erickson, Mike Matthews, Randi Braeger

Staff: Susanne DiPietro, Staci Corey, Barbara Dunham

Updated Report to Legislature – Registry

Commission Staff Attorney Barbara Dunham explained that the agenda was first to discuss the sections that the workgroup did not get to at the last meeting, then to circle back to changes made in response to the previous meeting's discussion.

Barbara explained that language in the registry section had been edited to reflect that studies have not shown any causation established between the sex offender registry and sex offense rates or recidivism. She walked the group through this section; it started with an overview of the current registry requirements in Alaska, the history of sex offender registries, and the available research on this topic. Katie TePas from DPS asked whether there were any Alaska-specific studies. Barbara said there weren't.

Commissioner Brenda Stanfill observed that the registry tends to paint all sex offenders with a broad brush, and noted that the same information was available on CourtView. Executive Director of the Alaska Judicial Council Susanne DiPietro relayed that she and Barbara had attended a conference last August where the Connecticut Sentencing Commission presented its proposed revisions to Connecticut's sex offender registry. The proposed registry would be risk-based and move low-risk individuals to a police-only registry, while high-risk individuals would be on a public registry.

Brenda said that the workgroup and Commission had heard a lot of testimony about the impact the registry has on family members, but there had not been testimony from victims or people who might live in the same neighborhood as someone on the registry. She thought it was worth looking into more and suggested that language could be added to the report noting that this warrants further study.

Brenda also noted that a popular topic of discussion recently related to people who are required to register in other states but not required to register in Alaska if the crime requiring registry in the other state is not similar to a crime in Alaska. Commissioner Quinlan Steiner said this pertains to things that would be legal in Alaska; a classic example would be if the age of consent was higher elsewhere.

Paul Miovas from the Department of Law observed that the fear regarding this was that people who have to register in other states are encouraged to move to Alaska so they don't have to register; he was not

sure if this fear was borne out by data. Katie noted that people do call up DPS to check whether they would have to register in Alaska.

Paul recalled there had been some discussion that high sentences for sex offenders might be a barrier to some people in accepting a plea deal, but he thought that the registry might be an even greater barrier. Judges and prosecutors have no leeway on registry requirements if a person is convicted of a sex offense. Quinlan noted this was a reason sex offenses were often reduced to the non-sex offense of coercion. In some cases, defendants regard registration requirements as worse than the applicable sentence. Brenda thought this was another reason this warranted further study.

Katie suggested the sentence about the public's expectation that registries keep them safe was too strong a statement and suggested deleting it. She also saw that the report mentioned that transient sex offenders were more likely to recidivate than non-transient offenders and wondered what the numbers were behind that. Brenda suggested adding that information to the text, being clear that it did not reference an Alaska-specific study.

Updated Report to Legislature – Victim Services

Brenda asked whether the edits suggested by Carmen Lowry, director of ANDVSA, had been added to this section. Barbara said they hadn't but that she would walk the group through some of those suggestions and add them later. Brenda said one important change Carmen suggestion was to clarify that ANDVSA is not an umbrella organization but member-linking organization, and also to clarify that the programs talked about are those funded by the state—there are other organizations that are non-grantees Diane Casto of the CDVSA agreed. Katie also agreed and noted there were many federally-funded tribal grantees, and suggested rewording the report to reflect that. Diane noted that there was new VOCA funding for tribal grantees. Katie asked whether there was a count of all tribal grantees in the state and Diane said there wasn't.

Barbara explained that Carmen Lowry had suggested modifying or deleting the paragraph reporting that Sitka and Seward having difficulty retaining nurses to perform the SART exam, as this problem was not unique to those communities. They were included as examples but might have the effect of singling them out. Diane agreed with this suggestion and also suggested saying that these communities were among numerous communities struggling with this issue. Whether there were nurses available to be part of the local SART in any given community was constantly changing because of the workforce or funding. Brenda said that it did help to give examples of the impact of not having a nurse. Susanne suggested using the generic "Southeast community" and "Southcentral community."

Katie verified that the list of locations with a SART was accurate as of this meeting, as was the number of trooper vacancies.

Paul suggested adding descriptions of the roles of the victim advocate and law enforcement in the SART. The group agreed and Katie said she would send Barbara a blurb on the role of the law enforcement officer. She also noted that staff at the Alaska Children's Alliance was working on edits to the CAC section.

Barbara explained that the advocate statements from advocates in Fairbanks, Anchorage, and Juneau were moved to appendix F.

Barbara noted that DPS had suggested adding wording that policymakers should find ways to make victims safe pretrial; this was technically a recommendation though she did not think it would be objectionable. Brenda suggested that it could be worded to say that more study is warranted on ways to

make victims safer, or to enhance victim safety and healing. Quinlan noted the problem was not just pretrial but also pre-charge and pre-arrest.

Barbara explained that Carmen had suggested getting more information from SAFESTAR from representatives from Saint Paul, where they were piloting this program. Katie said that related to this, she had had had long conversation with ANTHC about this and the role of the community health aides, and had suggested edits to that effect. Health aides are not allowed to perform full pelvic exams, but can talk to an on-call physician to get non-invasive evidence. She noted that there is a push for SAFESTAR but the program was started in the lower 48 and may not be adaptable to Alaska.

Diane noted that there had been a statewide meeting on SAFESTAR with VAWA representatives. Currently Saint Paul was the only one to take on this model. The report she heard from meeting was that there was general agreement that SAFESTAR didn't necessarily align with the state system (e.g. evidence standards). Randi Braeger from DPS said that was correct, and that Saint Paul's agreement was that they would use a state-specific kit. The state crime lab hasn't gotten any of those kits yet. Randi also said there was a federal position in Anchorage to set up this program but state agencies haven't heard from that person. Diane thought SAFESTAR was worth mentioning with the caveat that it needs more investigation. Brenda and Katie agreed, citing the need for accuracy.

Paul said he was nervous about implying that SAFESTAR was viable. He noted the only reason evidence is collected is for prosecution, and didn't want to recommend an evidence collection method that couldn't be used. Brenda said the report should make clear there are still a lot of questions about this method.

Katie also suggested including language to note that existing health aides can fill some of these gaps but not all of them.

Susanne suggested splitting the rural Alaska subsection into two sections, one with data and one with advocate perspectives.

Brenda also suggested listing existing strengths in both the rural Alaska and Alaska Native sections. She had recently met with the Alaska Native Women's Coalition, and wanted to be sure that the report included their perspectives. Barbara explained that either the group had heard from or staff member Staci Corey had spoken to Lynn Hootch from the Yupik Women's Coalition, Eileen Arnold and Chim Morris from the Tundra Womens' Coalition, Tami Jerue from the Alaska Native Women's Resource Center and Shirley Moses from the Healing Native Hearts Coalition. She also noted that she had spoken to Cynthia Erickson from My Grandma's House based in Tanana.

Brenda asked whether Cynthia wanted to speak to the group. Cynthia said she needed to sign off but would write up some ideas and email them to the group.

Barbara noted that in the Alaska Native Perspective section, she had added some language from the Indian Law and Order Commission report.

Quinlan observed that one thing not addressed in the report was that one factor that suppresses reporting was the severity of sanctions. Not all victims want those consequences to occur and will not report on that basis. In the past, the state has taken an aggressive approach and that hasn't produced anything except longer sentences and suppressed reporting. The criminal justice process involves removing a person from the community, and then the community doesn't know what happened with that person. The community is severed from the process of justice.

Brenda said that advocates often hear from victims that not wanting offenders to suffer consequences comes more from societal pressure, not the victim's actual wishes.

Quinlan said PDs hear from victims that they often just wanted the conduct to stop, and didn't want the person removed from the community. Often victims will ask the PDs for help in reducing someone's bail. He believed this was prevalent; people say they don't want to report because they don't want the consequences to occur. He thought this spoke to a need to shift to actually helping victims—prosecution is only a partial response to addressing victim needs.

Katie asked whether there was any data on reasons why victims don't report. Diane said that the AVS (Alaska Victimization Survey) asks whether people report but not why. Susanne said she thought Ingrid Johnson from UAA was doing a study on this topic. Katie said that was true, Ingrid was working with DPS on a study looking at victims' perception of justice (as part of the SAKI grant). The completed study was probably a year out.

Brenda suggested making a note in the report that there is a question about why people don't report and refer to the study in the works. Paul said he also had experience with victims who say "I want him to go away for the rest of his life." Susanne suggested using language such as "stakeholder perspectives are in conflict."

Susanne asked where this language should be added, and whether it would fit under the data section on reports to law enforcement. Quinlan said the issue was exacerbated in rural areas especially because the defendant leaves the community, but that it was a broader issue than just reporting; it was about access to justice for the victims. Victims who are not served at the time a crime is committed against them and offered a chance to heal later become clients of the public defender's office because their unaddressed trauma causes them to act out criminally.

Katie noted that there were contradictions in the report that don't add up; the section on the Alaska Nations Reentry Group states that the reentrants want to return to their villages while the victims' section states that victims in villages feel unsafe when the person who attacked them is not arrested. Susanne said that was the natural product of a public stakeholder process; the commission meetings are open to all comers and the report includes all perspectives.

Brenda thought the issue about reporting should go in the reporting section and also be included in the rural section, noting that the Commission has heard that barriers to reporting are for various reasons. She thought it spoke to the culture of silence not just for Alaska natives, but also anyone in a small community who may have concerns about consequences of reporting.

Paul said he understood the dynamic Quinlan was talking about, but it was important to note that this issue can be figured out and studied. Katie said there were national studies she could send staff for inclusion on this topic.

Barbara noted there was a proposal from DPS in the "new approach" section to recommend reviewing VCCB policies and propose that anonymous victim cases (victims who have reported and had a kit collected anonymously) can be eligible for compensation. This was also technically a recommendation and she wanted to know the will of the group.

Brenda said she and other advocates have been collecting data about this and that not being able to report anonymously was a barrier for victims. She suggested changing the language slightly to reflect that.

Quinlan wondered whether OVR was able to represent all victims. His understanding was that typically they don't take cases where the victim wants to argue for bail release possibly because the defendant is already represented by PD. This was another gap in victim needs. Susanne noted that there wasn't anything on OVR in the report and suggested including something on OVR and what services they provide. Katie suggested asking OVR if they have data on the number of requests they have vis-à-vis the number of cases they are able to take.

Public comment

Chanta Bullock wanted to reiterate comments she previously made regarding the registry; there is a lot of data about how the registry affects families and children, and finding work. You just have to go downtown; near the jail, half the homeless are registrants. Just because someone makes a mistake doesn't mean they should be punished for the rest of their lives, and a 20-year-plus registry is rest of life. She hadn't met one person on registry who can provide for their family, anyone who is not homeless just happens to have someone to support them. Being on the registry is itself a punishment.

Regarding the polygraph, Chanta said that if it can't be used in court, why should a PO be able to use it to put someone back in jail? She regularly attends the Alaska Nations Reentry Group (ANRG) meeting at Partners for Progress; one group member said he took the polygraph and was marked wrong when he gave his name and address. Chanta said that people giving the test are not always qualified, sometimes it's just a PO. She thought there were a lot of things happening that policymakers were not aware of. She thought it was important to listen to people who have actually taken the test. If they fail, they have to take the whole 24-month course all over again. And POs tell them that if they fail, they'll go back to jail, so they are worried about going back to jail, and are going to give a false positive because the test measures emotional response. She noted that she had sent Barbara a lot of links to articles on these issues. Brenda asked Barbara to forward the links to the group.

Tom Amos from Mekoryuk explained that he had been convicted of SAM 2. He was nervous about being at the meeting and saying that. He was very sorry and very regretful that made that choice. Even today, he is uneasy being on the street and if someone says hi to him, he wonders if they would say hi if they knew what he was convicted of. He was grateful to the state trooper who investigated his case, and had him write a letter of apology to his victim. He was not allowed contact with the victim so that was the only way to apologize, though he knew she probably wouldn't forgive him. After being released from prison, he was going to go to Brother Francis, but heard that he could only stay for one month, and wanted to find something else. If not for Social Security he would be homeless; it allows him to pay rent and buy food.

Tom explained that the ANRG group has been working on getting access to teletreatment, which can be provided in villages even for sex offenders. One person he knew is using teletreatment and is helping his community with subsistence. Coming from a village and living a subsistence life, it has been hard for him waiting in Anchorage for two years. He could have been helping his family prepare for winter. In the village he never had education or opportunity to get a career. It was hard for him to find even a menial job in Anchorage, his lack of education compounded by businesses not hiring sex offenders. He noted that English was his second language, and he didn't always understand everything in his treatment classes. The ANRG group supported him through his depression. He recognized that he put himself into this situation and he would have to deal with it, but he was grateful for help.

William Olson Sr. told the group he was from Goodnews Bay, then Dillingham, and went to high school in Palmer, where he lived in a childrens' home for 6 years. He was a commercial fisherman for nearly 50 years, and had own boat and crew. He was also a former pilot, and had been to many villages and met many great people. He got himself in "a bad predicament" and then had to go to prison., where he had

time to think. He kept himself active in prison to keep himself in shape. At age 72 he took part in a Navy Seal training in Colorado. When he came back he eventually found ANRG, where he felt at home and felt a positive feeling of belonging. He had heard they might get shut down, and hoped not, because it was a tremendous help post-incarceration, mentally, physically, and spiritually.

Bob Churchill explained he was the volunteer liaison for AKNRG. The group had members from all over the state. He noted that the U.S. spends billions incarcerating people each year, more than any other country. In his view, the problem in Alaska was the under-funding of prosecutors and defense attorneys. In rural areas, these attorneys will have a caseload of 40-50- files and the cases don't get looked at closely. As a result, the wrong people get into prison. If everyone charged at the maximum, those with the least effective attorneys will be those who end up in prison. He suggested fully funding and staffing DAs and PDs, and putting a Native cultural liaison in prison, which would have a restorative justice aspect. Over 95% of cases in Alaska are settled. In his view, we have a legal system, but not a justice system. That was not meant to be a shot, just saying what it was.

Bob said he had been a volunteer with ANRG for 2.5 years. Group members were touched that their perspectives were included in the report. The stereotypes and stigma they will face for the rest of their lives doesn't help anyone. Teletreatment is better, cheaper, and easier. The ANRG's mission statement was: "We meet to preserve our culture and traditions and to strengthen our people's spirit. We succeed by helping one another, advocating for each other, and maintaining positivity and respect. Together we are finding our way home."

Barbara Dunham informed the group that Cynthia Erickson had sent an email with her thoughts and she would forward the email to the group.

[Note this comment was made at the end of the day's meeting.] Barbara Johnson said she appreciated that this was an open meeting. She was a victim of sexual assault and most of her friends have experienced sexual assault as well. She thought the meeting had been very informative and thought it was a pity more of this information was not publicly available. She thought there was a disconnect between victim services and victim needs; she had had to advocate for herself, and considered herself lucky to be able to do that. Advocates do a great job and try to help, but it is not enough. She encouraged including input from victims and advocates in the report, and she thought there was a need to have data on effective programming for victims.

In-Custody and Out-of-Custody Treatment

Brenda said that the group had heard reports that treatment spots in prison are not filled and then people are waiting for two years to do treatment when they get out. Bob said that in the ANRG they are consistently hearing that treatment inside is not adequate and that they have to do treatment when they get out.

Ed Webster from DOC noted that telehealth was now open in every probation office and there were 30 people now enrolled in teletreatment. DOC can't set it up in some small villages because the Native Corporations operating the local clinics didn't want this population to mingle with patients at the clinic. So they are only able to do teletreatment in probation offices now. As for in-custody treatment programs, there are no empty spots, and in fact there is a waitlist. DOC is trying to people get into treatment while in custody, and they might also have to do aftercare. DOC would never make them do whole program twice. Some will have to do tune-ups, but not the whole 24 months. In-custody treatment and out-of-custody treatment have now been made the same program.

Bob said that didn't reflect what he was seeing. A lot of folks in Anchorage have been waiting for years. He also thought DOC should look into whether there is a disparate effect of polygraphs on Alaska Natives.

Susanne said that the group had heard that people don't want to do treatment while in prison because of stigma. Ed said that was true, if they go to treatment while in custody that then IDs them as a sex offender, and that impacts their safety. In some cases they will opt to do treatment when they get out. DOC can't make them go into treatment when in prison. Quinlan said that was only if treatment was a condition of probation—it could be a condition of the sentence. Paul added that it could also be made a parole restriction.

Chanta said that some people were not motivated to do treatment in custody because their sentence was on the order of 30 years and they would not qualify for discretionary parole.

Updated Report to Legislature – Prevention Programming

Brenda said that the statewide steering committee for prevention run by ANDVSA should be in the report. The report should also note that CDVSA is funded by the recidivism reduction fund.

Updated Report to Legislature – Conclusion

Brenda suggested that the conclusion pull together the items the report had referred to that need more study.

Barbara noted that the victim listening sessions (mentioned in the conclusion) were already being planned/held, the first one having been in Juneau and the next one planned for Fairbanks. The one in Juneau did not have many victims attend although there was attendance from the general public.

Brenda thought that there was some good feedback including from Emily Wright, a prosecutor in Juneau, who noted that paralegals are overworked and not able to perform their roles as victim liaisons. Quinlan said he had heard similar things. Brenda said she thought there were areas for growth there. Paul noted that Law had lost a lot of parlegals, but there were paralegals in his office who worked solely as victim witness liaisons. He also noted it was hard to retain experienced paralegals.

Updated Report to Legislature – New Appendices

Barbara said she had updated the appendices, which were now Methodology, Alaska Victimization Survey, Additional Data, Alaska Statutes, Presumptive Sentencing, Perspectives of Victim Advocates, and a Selected Bibliography.

Regarding the Presumptive Sentencing appendix, Quinlan suggested amending the language about judges not being able to apply an aggravator without it being presented to a jury to something like “in general judge may not apply an aggravator” and suggested dropping a paragraph.

Updated Report to Legislature – SAKs

Barbara explained that this section had been revised per Katie's suggestions.

Updated Report to Legislature – SAM cases

Barbara explained that Staci had updated the numbers to reflect limiting discussion of defendant age in this section to those under 21 and had created a table comparing victim and defendant age.

Paul asked about the discussion at the last meeting about how there had been an idea floating in some quarters of the legislature about extending the age range for SAM cases. Quinlan explained that this section had been included in the report in response to the legislature's queries because someone wanted to change the law on SAM and include it in SB 91. Brenda said there had been discussion on record as to whether Alaska was putting 19-year-olds in jail for 25 years for having a relationship with a 14-year-old. She thought this section as edited helped answer that question and could be used in future dialog.

Quinlan noted the paragraph stating that "legislature has determined that those under age 16 can't consent"; he didn't think that was the history, and thought it was more of an issue of exploitation rather than consent. The laws were meant to avoid discussion of consent entirely. He thought this section should just say what the law is. The group agreed to take out that language.

Paul thought that was a good idea because consent was not an element for SAM though there is mistake of age defense (the group thought that information about the defense should be added to this section). Paul said it would be rare to have a 19-year-old sentenced for an unclassified felony sex offense if the victim was 14. Quinlan noted that 19-year-old could still be sentenced to a lower offense and required to register.

Brenda asked what would happen in a case with 19-year-old and a 14-year-old where the 19-year-old does something stupid at a party? Paul said it would involve the appropriate use of prosecutorial discretion; if the conduct was not predatory, prosecutors will not charge cases with the consequences Quinlan was talking about. Quinlan said that discretion could also be influenced by angry parents and that PDs had heard of angry parents interceding.

Paul also noted there was an initial screening by law enforcement; which is reflected by the low numbers reported in this section which only represent those cases actually referred to law enforcement.

Shannon Cross-Azbill from DJJ noted that when she lived in Missouri, that state required registry for life, which was difficult for developing programming because there was such a variety of offenders, and they shouldn't all get the same treatment. People like the 19-year-olds who make a mistake were not differentiated legally and therefore not differentiated clinically.

Brenda asked whether there was any data on ethnicity for this section. Barbara said there wasn't.

Susanne said she wanted to make sure that the report explained the "non-consensual" and "statutory" categories correctly, and regarding the latter, noted she had pulled the "subjectively perceived him or herself to be consenting" language from case law. Paul said he thought it was correct but that John Skidmore had made those determinations when the data was pulled. He thought John's designations were trying to get at the pathology of sexual assault; "non-consensual" cases were those that could be charged as sexual assault but because of the age of the victim, DAs would rather charge as a SAM case because they don't have to prove lack of consent.

Quinlan said it sounded like these cases were assigned these labels based on the police report, and thought that another person could review the same files and come up with different labels.

Susanne suggested getting rid of the statutory/nonconsensual labels, thinking they might be too confusing for busy legislators. Quinlan said that made sense, because all the cases in this section would

have been referred because there was some element of the pathology Paul had been talking about; he was not necessarily comfortable with the statutory/nonconsensual distinction.

Paul agreed and said he would try to take a stab at writing a paragraph explaining the complexities of these cases. He thought this section could generally look at how many cases there were, and explain the factors that go into screening them. Susanne thought that got to the crux of the questions the legislature wanted answered. Quinlan agreed but thought the language concluding that these cases were not often prosecuted should be left out, as he thought that was debatable.

Brenda agreed with removing the labels because so many of the cases were labelled “unknown,” so it made sense not to make a distinction. She also thought that would answer the legislators’ questions.

Quinlan said it also raises question of whether there should be a half step for these cases between no charges or 25 years and registry for life.

Updated Report to Legislature – Recidivism

Barbara explained that she updated the language in this section to reflect the discussion from the previous meeting and she also added a new chart describing the re-arrest offenses. Part of the new language included a paragraph on the number of post-release arrests for homicide, which used the words “exceedingly tragic.” Quinlan thought this language was inappropriate and suggested removing the paragraph.

Paul thought that 11 people in 400 was a strange number and wanted to know more. Quinlan agreed it would be nice to know what those cases were. Barbara said the data came from the UAA recidivism study headed by Brad Myrston and she believed the data on which the study was based had been destroyed.

Brenda thought might be better not to include that paragraph without knowing the whole story. Quinlan said it raised more questions than answers. Brenda said she was not sure what purpose it would serve.

Brenda wanted to know whether the new arrest offenses could be separated into felonies or misdemeanors. Barbara said that wasn’t in the report and therefore might not be possible to get. Brenda was also interested in what offenses happened when post-release. Quinlan said he would wager most first offenses are PTRs that occur early on.

Mike Matthews pointed out that in the general population (felonies), of those who return to prison within first 6 months, 58% are PTRs. He also noted that the re-arrest offenses in the UAA study might not include PTRs.

Mike had also provided the workgroup with recidivism data from DOC. The data looked at the three-year return-to-prison rate for general offenders and sex offenders released every year starting in 2001. The recidivism rate, (the rate at those released in a given year returned to prison for a new conviction or an adjudicated petition to revoke probation or parole (PTR)), ranged from 61.3% in 2015 to 69.7% in 2002 for general offenders and 38.6% to 68% for sex offenders. The sex offense recidivism rate for sex offenders ranged from 1.5% to 13.1%.

Mike’s data also included a look at the 10-year recidivism rate for sex offenders released in 2007. Of the people in that cohort who returned to prison, 82% did so within the first three years of release.

Brenda asked whether Mike's data showed that sex offender recidivism rates aren't far off from general offenders. Susanne noted that Mike's data included returns to prison for PTRs, and she wasn't sure but thought that the UAA study might not include PTRs. Paul said if that were the case it would be hard to compare. He also noted that there was no data for what happens outside the containment model, and thought this should be studied.

Ed noted that Mike's data on the 2007 cohort showed a slight increase in recidivism at around the 10-year mark, which would comport with national data showing a slight bump up in recidivism after supervision ends.

Brenda said she was wary of painting a picture that sex offenders were not dangerous. She also noted that these data were looking at reconviction rates within 3 years, and sometimes cases don't get resolved within three years. Susanne asked Mike when the return to prison was counted. Mike said it was counted upon remand. Ed added that it was counted from ACOMS. If a person was remanded on a PTR and a new offense, DOC will wait to see if that person is convicted of the new offense and then it will count as a conviction as of the date of remand.

Paul noted that this area was where he had been pushing back the most. The UAA was one study, and there were other studies in conflict. He agreed that sex offender recidivism was probably lower than the general population but on the other hand, there was not any number that was acceptable. It was hard to compare sex offenders to other offenders. He agreed with Brenda that he didn't want to sanitize the report and make it look like there was no problem. The UAA study itself even had cautionary language.

Quinlan thought the report should just be clear as to what data says. He doubted much will change based on this report.

Paul asked what the group wanted to do with Mike's information, and said it seemed to suggest that the report's declaration that sex offenders recidivate at a "markedly lower rate" was not correct.

Mike said that if his data were going to be shared publicly, he would like chance to clean it up, and get approval from leadership.

Quinlan said there should also be a conversation about why the data from the UAA were so different. He didn't want to inject a new issue into the report without clearing that up. Mike said that the UAA study was only looking at arrests and convictions, whereas his data were looking only at incarceration and PTRs. He could only speculate, but thought the UAA rates excluded probation violations. Quinlan said it sounded like the two data sources were looking at different things, and pointed out that a PTR was typically not a new crime.

Susanne asked whether a person on supervision who got a PTR for a failed drug test, and was remanded directly by a PO counted as recidivism in Mike's data. Mike said that it did.

Brenda asked staff to clarify this issue and suggested going with the UAA study for now, as that was a published study. The group could reevaluate or add additional information later.

Paul maintained his objection and thought the report was saying that the UAA study was a gold standard but the study itself said it was not. He thought this study was a very small piece of the pie. Other studies have come to different conclusions. He was concerned that this will be used in cases by PDs to argue for lighter sentences.

The group agreed to take out the “markedly lower rate” sentence. Paul noted he had suggested language from one of the other studies about how there is “a lot of work to do in this field” and suggested including it in the report. The group agreed.

Susanne wondered whether the Alaska Judicial Council study also mentioned in this section should be included. Brenda thought it should not be included, as it was too confusing. The group agreed. Brenda suggested taking out any subjective language and then the group could take another look at this section when the next draft went out.

Updated Report to Legislature – Updating the research

Barbara said she had pared down this section in response to the discussion at the last meeting, and had tried to take out everything objectionable. Brenda suggested also removing the text box and changing some of the language regarding recidivism to reflect today’s discussion.

Updated Report to Legislature – Out of Custody Programming and the containment model

Barbara reminded the group that before the last meeting, DOC had provided some feedback for this section regarding the earned compliance credit (ECC) and staff had needed clarification. Ed said that he had spoken with the Deputy Commissioner, who said that he didn’t agree that sex offenders should be allowed to earn ECC, and that it was never intended for sex offenders.

Brenda asked whether that had been fixed by SB 54. Barbara said that the fix was that sex offenders can’t be discharged from supervision, even if they have earned their way off through ECC, unless they have also completed all court-ordered treatment. She said she could add this information to the report.

Susanne asked whether DOC’s concern was that sex offenders were not completing treatment because of ECCs. Ed said that was not the case; if a sex offender has not finished their treatment, DOC so can revoke the ECC administratively. However, if a sex offender gets to the original end date of their supervision period, DOC has to petition the court to keep them on, and the court will not always grant the petition.

Updated Report to Legislature – Loose ends

Regarding gaps in the sex offense laws, Brenda said she got some new suggestions from Keely Olson at STAR and would forward them. Out of state registry matching was one, and the requirement of proof of use of force for first- degree sex assault was another—it gets into the old problem of “forcible rape” and advocates would like to see the language revised. Paul said that threats can also be force in this context; it was included in the legal definition of “without consent.” Brenda suggested just leaving the list in the report as is, and the group can talk more about it in future meetings.

Regarding the sex offender registry, Ed also noted that clock for the 15-year registry period starts once an offender is off paper (they still have to register but don’t get credit until they are off paper). Barbara said she would add that information to the report.

Regarding the data and case processing section, Brenda said she felt like the report had lost the picture somewhat - it start talking in actual numbers, then goes to percentages, and the narrative thread is somewhat lost. Barbara said she struggled with that aspect of the report because it was the nature of the data that the various data sources don’t align. Brenda suggested noting that this gap in the data existed and was an area that could warrant further study.

Paul noted that Law now has a program that is tracking data going forward, but this tracking has not always been consistent.

Susanne noted that AFN had requested that the AJC do this study, which they were now trying to do. She noted that the legislature could make this reporting mandatory, and that it could be possible to follow the data from report to conviction with APSIN.

Brenda said she also wanted to make sure the report made clear there was room for here. The same applied to the advocacy section– there were strengths in victim services but there was room to expand to wraparound care for victims. She suggested including something about that in the introduction. She said she would send a blurb about wraparound services.

Plan for Report

Barbara agreed to send a new draft with changes tracked to the group by February 11; the group would get comments back by February 13, and Barbara would send the next draft to the full Commission by February 15.

Future Meetings and Tasks

Brenda wanted to take a deep dive into the statutes – and wondered whether it would be better to wait until session is over. Susanne said the laws will probably change this session. Brenda also said the human trafficking working group was polishing up their comments, and this group should get them soon. Her sense in general was that they didn't like the suggestions.

The group agreed to meet next in May.