

# Alaska Criminal Justice Commission

## Sex Offenses Workgroup

### Meeting Summary

**Thursday April 12, 2018, 9:30 a.m.**

Denali Commission Conference Room, 510 L Street, 4<sup>th</sup> floor, Anchorage  
And teleconference

Workgroup chair: Karen Cann

Commissioners present: Dean Williams, Quinlan Steiner, Trevor Stephens

Participants: John Skidmore, Chanta Bullock, Shannon Cross-Azbill, Eileen Arnold, Chim Morris, Aliza Kazmi, Taylor Winston, Keeley Olson, Paul Miovas, Suki Miller

Staff: Staci Corey, Susanne DiPietro, Barbara Dunham

#### **Updated report to legislature**

Project attorney Barbara Dunham explained that she had circulated another draft of the report to the legislature and would walk the group through it. She said she welcomed comments and suggestions at any time. She was mindful of creating a report that would be detailed and accurate but would also be accessible enough to read and absorb by people with busy schedules.

John Skidmore from the Department of Law asked what the timeline was and what sort of comments would be helpful at this point. Barbara said that June 1 was probably not doable at this point as the final draft would need to be approved by this workgroup and then approved by the full Commission, and the full Commission would meet in June. At this point she was looking for feedback on the substance of the report, and would save a thorough style/typo check for later. Footnotes would also be cleaned up later.

Barbara said the report began with a data section; she noted that the data was contained in existing studies. For some things, the Commission could get additional data if the group thought it was warranted, but the data would always be limited by what data is being collected. It can't be reported if it is not being tracked. In parts of the report where the subject matter warranted more detail, she could add an appendix.

Barbara said the data section began by talking about victimization to give a scope of how prevalent sex offenses were in Alaska. Taylor Winston from the Office of Victim's Rights had a suggestion for the report generally, that the terminology should be used carefully and precisely—so that sexual assault is not used in place of the broader term sex offenses and vice versa. She noted that clarifying the offenses referred to in the box on page 5 would be an example where it would be better to use a broader term.

Paul Miovas explained that he was an attorney with the Department of Law, and worked in the sex offenses unit in Anchorage. He thought it was important to note the victimization survey was self-reporting, and might not accurately reflect what actually happened. Keeley Olson of STAR said that the questions in the survey were behaviorally-based, so that the survey could get past the hurdle of people not wanting to consider themselves victims of sexual assault. She thought the report could clarify this by including the

questions asked so that readers would know exactly what the data showed. The questions could also be put in an appendix. John thought it would be a good idea to clarify exactly what the survey did, and the report should not unintentionally mislead legislators who won't have time to read the survey themselves.

John also wondered whether the Alaska victimization rate should be compared directly to the nationwide victimization rate. It was possible the two sources used were comparable, but the Alaska study was from 2015 and the national study was from 2007. He thought it was worth looking into. Staci Corey, research analyst for the Commission, said she could look into it.

Barbara explained that the next data section looked at uniform crime reporting to law enforcement. Keeley noted that the rate of 142 reports per every 100,000 people was an average for Alaska (compared to the national average of 40); the rates are much higher in Anchorage and Western Alaska.

Barbara also explained that she had reworked the case processing section to address some of the group's previous concerns. Suki Miller from the Governor's office said that a report on VPSO involvement in sex offense cases had just been released and that could be added to this section. Barbara said that report had been noted in the section on rural Alaska but could be included in this section too.

Barbara explained there were two different case processing studies. One tracked reports to troopers (therefore excluding local law enforcement such as the Anchorage PD) through the referral stage, and also included a study of how trooper reports to the Department of Law were resolved. The other study looked at all arrests in Alaska—this included local law enforcement, but did not begin with reports. John said he was interested in looking at the study of AST reports to Law. He noted that he could probably get this data for referrals from all law enforcement agencies but that it would take quite some time to gather the information, though it is information he thought Law should be tracking.

Karen Cann, workgroup chair and Deputy DOC Commissioner, noted that the data in this report could be augmented and updated for future reporting.

Barbara explained that the Judicial Council had an older study of how charges changed between charging and conviction in felony sex offense cases. John noted that for second-degree sexual assault, it would be good to note what conduct is covered under that statute, as that affects how those cases are resolved. Paul added that the subsections of the second-degree sexual assault statute cover very different conduct and one of them (the incapacitation subsection) could not be resolved as a third-degree assault, so that would affect how the charges are resolved in these cases.

Karen said that updating this information would be a good idea for a future report, and the group agreed. Barbara noted that this study had been the result of a file pull and would probably take a while to update the study.

Barbara explained that the report next looked at incarceration. Susanne DiPietro, executive director of the Judicial Council, noted that sentence length and length of stay were two different things; page 11 looked at sentence length. The group agreed this should be cleared up in the report.

Barbara next explained that she had included a section on sexual assault examination kits, as there was a lot of activity and legislative interest on this topic. Suki said that she had been sitting in on the grant-funded initiative meetings and there would be a forthcoming report, and she offered to send this report to that group to get their feedback. Keely said that the kits are only collected within 96 hours of the assault, so when looking at the percentage of cases in which kits are collected, it might also be helpful to note the percentage of cases that are reported within that timeframe. John also suggested being clear on the time period of the data source for footnote 25 in this section.

Barbara explained that she had a placeholder for the next section, which would discuss sexual abuse of a minor (SAM) cases. She explained that the legislature had been interested in same peer group cases (sometimes known as “Romeo and Juliet” cases) and that the group had discussed Staci’s report on Department of Law data at the last meeting. John said he would review Staci’s report and thought that the information should go in the report to the legislature. Keeley asked for a summary of those cases. John said that broadly speaking cases where the victim and defendant were close in age were rarely prosecuted and if they were, there were circumstances making

Barbara also noted the group had been interested in case processing specifically for SAM cases and that staff had been discussing getting that data from DPS. Karen thought this was a good idea because it would be good to compare the total number of SAM cases to the same peer group cases. John agreed but also noted that the report should be sent out in a timely fashion, and this was also something that could be flagged for a later follow-up report. Susanne noted that the Commission should be getting recent but not 10-year data on all cases which would include SAM cases.

The next part of the data section discussed recidivism, and Barbara explained that the group had heard from Brad Myr Stol on his research about this last year. Keeley noted that the definition of recidivism in his study didn’t include supervision violations and this should probably be added in a footnote. John agreed that was important to clarify.

### **Victim perspectives from Alaska Natives and rural Alaska**

Barbara explained that Staci had talked to victim advocates representing rural and Native Alaskans, and had compiled their observations in a summary sheet which had been distributed to the group.

Eileen Arnold, executive director at the Tundra Women’s Coalition in Bethel, which serves Bethel and the entire Yukon-Kuskokwim delta. That area is about the size of Oregon with a population of about 25,000 people. People who have been sexually assaulted or abused in the villages in the Y-K delta must come to Bethel to get a SART exam.

Eileen said she thought the summary covered what she had discussed with Staci. She wanted to emphasize the problem of ensuring victim safety, both physical and emotional safety. Often women will come to TWC from the villages and their village will be an unsafe place to go back to because the person who assaulted them is still there. They have sent people home with locks and bear spray (in lieu of pepper spray) which are difficult to find funding for as grant funding doesn’t usually provide for items like that.

Chim Morris, a victim advocate, spoke about her own experiences. She was victimized as a child, and remembers not reporting because she felt shame and she was scared. After she did report, she and other girls had to testify before the grand jury. The person who assaulted her was not prosecuted for several years, and she would see him around town, and she was scared to play outside. Once she saw him at the store and he approached her. She would advocate for faster prosecution of offenders, because she started thinking no one believed her. Her mother, who was also an advocate at TWC, had to repeatedly write letters to the DA to ask for prosecution.

Eileen added that Chim’s story was very common, and pointed out that this occurred in Bethel and Chim’s mother knew the system as an advocate. These problems were five times worse in the villages. The man who assaulted Chim had 12 victims, and could have had more in the time he was not prosecuted. If law enforcement takes a long time, it puts the community at risk as offenders may keep offending.

Eileen explained that more resources and better training for the villages would help. The VPSOs and the VPOs in the villages are not well trained in responding to sexual assault and abuse cases. Alaska

used to have federal funding to train village health aides, which the health aides reported was very helpful. That funding dried up.

Eileen also wanted to reiterate the idea that from a victim's perspective, the criminal justice response always happened elsewhere, and that they felt removed from the process and were not sure what was going on. There was also a lot of social pressure on victims not to report.

Keeley explained that at a previous meeting, several convicted sex offenders had spoken to the group that they faced difficulties getting treatment in the hub communities, and in some cases had been invited back to their villages. She wondered if Eileen had any thoughts on that.

Eileen said that there was a small sex offender treatment program in Bethel for which she was on the board; it had received cuts over the last couple of years. The point of the treatment program is to reintegrate offenders, and she had sympathy for those who wanted to go back to their villages. But not all treatment elements can be completed in villages, and one of the recent cuts was to the "safety net" component. So if an offender returns to his village, it may not be safe if he doesn't have that safety net set up and there is no law enforcement. She wouldn't necessarily support a blanket approval for all offenders to go back to their villages. She understood that housing and employment were hardships for offenders who were not in their home communities but thought that community safety was the priority.

Susanne asked Eileen and Chim if sexual assault protective orders were useful to have pre-report. Shim said that if a client wasn't ready to report, the protective order would not help because it requires the offender to be served, which would alert the offender. It would depend on the situation. Sometimes law enforcement will want to get a Glass warrant and not want to alert the offender.

Eileen added that there was also no meat to the protective order if there was no law enforcement presence in a village to enforce the order. At TWC they will always ask clients if they can trust law enforcement. In some villages it is likely the offender is related to law enforcement. The troopers are also overwhelmed and can't always hop on a plan to enforce a protective order. If a victim does want to get one, TWC has to be very heavy-handed to force the process along. They don't do nearly as many sexual assault protective orders as domestic violence protective orders.

Keeley said it was the same in Anchorage, and victims there were also worried about tipping their hand too soon. They will try to get a domestic violence protective order if they can. The sexual assault protective order can turn into a mini trial and the victim might run into prior inconsistent statement issues at a later criminal trial.

Barbara asked Eileen what changes she would make if she could wave a magic wand and make them happen. Eileen said she would like well-trained law enforcement in every community, and an in-village option for SART exams. Generally it would be better to have communities own their response to this problem.

Eileen explained that right now, the SART process for someone in a village would be to go to the health clinic, which generally would get law enforcement involved. They arrange for a flight to Bethel, and the exam process takes about 5 to 6 hours. Typically they will have to stay at TWC overnight at their shelter. Some decide to stay longer if they feel unsafe going back. Once a victim is back in their community, they don't know what happens with the rest of the criminal justice process. It can sometimes take years.

John asked how often someone would complete an anonymous SART exam. Eileen said it was infrequent; people don't often know they can report anonymously, and not all village health aides know this. Typically if a victim does not report an offense to law enforcement they are not going to report at all.

Keeley added that in Anchorage, few victims completed the kits anonymously and the victims who did were typically not Alaska Native. John noted that in the DPS report on untested sexual assault kits, the percentage of anonymous kits was very small.

Eileen said it was not often that a victim would want to stay at the TWC shelter, but if they did, they might already have wanted to leave, and would be concerned about their safety. It doesn't happen often because people from the villages are very connected to their community. Sometimes they have to make a terrible choice between their ensuring their own safety and maintaining their connection to their community.

### **Public Comment**

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

### **Next Meeting**

The next meeting was set for Wednesday May 2 at 9:30. Dean Williams and Karen Cann agreed to sit down with Barbara before then to talk about the reentry section of the report. Dean said that he wanted to note that there were issues with supervision that result in the unintentional displacement of Alaska Natives.