

Alaska Criminal Justice Commission
Sex Offenses Workgroup

Meeting Summary

April 28, 2017, 9:00 a.m.

Denali Commission Conference Room
510 L Street, Anchorage
And Teleconference

Commissioners present: Alex Bryner, Quinlan Steiner, Walt Monegan, Brenda Stanfill, Trevor Stephens. Karen Cann acted as proxy for Dean Williams.

Participants: Aliza Kazmi, Keely Olson, Shannon Cross-Azbill, Taylor Winston, Renee McFarland, Terra Burns, Crystal Godby

Staff: Staci Corey, Susanne DiPietro, Barbara Dunham

Report from Rural Safety and Justice Conference, April 12-14

ACJC project attorney Barbara Dunham attended the Rural Safety and Justice Conference in Anchorage, which brought in service providers and victim advocates working the in DV/SA field from all over the state. She reported back on several items of discussion at the conference. Two broad themes stood out: (1) the legacy of historical and inherited trauma in Alaska Native communities, and (2) issues relating to lack of resources in the state.

With regard to the first theme, Barbara explained that conference participants had discussed the legacy of traumatic historical events in Alaska Native communities, particularly the legacy of violence from the boarding school era. These traumatic events have impacted subsequent generations by affecting family dynamics, negating cultural identity, and normalizing violence. Participants stated that opening up lines of communication within families and communities, reinvesting efforts into preserving Alaska Native Culture, and fostering community dialogue about the culture of acceptance surrounding domestic violence and sexual assault were all steps that would help to address the legacy of trauma.

With regard to the second theme, Barbara explained that participants also bemoaned the lack of shelters for victims of domestic violence and sexual assault, particularly LGBT victims, and the lack of shelters with an anonymous location. Shelters that exist are typically over capacity. Many villages lack a VPSO, and sometimes the VPSO can be too close to the situation to handle it well (or even be a perpetrator).

Regarding the resource issue, AJD Executive Director Susanne DiPietro noted that the Commission is tasked with making recommendations for further reinvestment.

Commissioner Monegan said that more could be done in education, starting early, to foster communication and dialogue about trauma (ACES) in health classes and to make history lessons more inclusive, to reflect a broader concept of history.

Susanne wondered whether there were any evidence-based education programs that Alaska school districts could offer. Commissioner Stanfill said there were, although generally it was hard to measure the efficacy of the programs. It's hard to talk about consent with kids because it's hard to talk about sex—there are strict guidelines in place. CDVSA and DHSS have some funding for this.

Keely Olson, executive director of STAR, noted that there are programs developed by a company called the “Great Body Shop” designed for kids K-6. Also, the Alaska Safe Children’s Act (Erin’s Law & Bree’s Law) goes into effect in June, which will require more education about sexual abuse and dating violence. The Anchorage school district is prepared for this effort. Commissioner Stanfill noted that it was rolling out more slowly in the rural areas. It is an unfunded mandate and rural schools in particular deal with high turnover rates, which can make training a challenge. Keely added that the training component was a big lift. Commissioner Stanfill explained that this was why the SB 91 prevention funding was so important.

Taylor Winston, executive director of the Office of Victim’s Rights, suggested developing a program to work with prominent women in the villages. In her experience as a prosecutor in rural Alaska, she found that community culture was key. It can either help victims come forward or pressure victims into remaining silent. She thought it was important to foster that dialogue.

Commissioner Monegan noted that Alaska Native culture strongly values harmony. In some communities, reporting sexual assault and abuse can be seen as being disruptive to the community’s harmony. It’s about changing the conversation to be about how the assault itself is what causes the disharmony.

The group discussed the work AFN and First Alaskans were already doing in this area, and finding a way to unify and strengthen those efforts. Keely noted that the Alaska Native Tribal Health Consortium has DV/SA trainers who can go out to villages to help with these conversations. They have some funding but must be invited. Susanne suggested inviting a representative from ANTHC to participate in the workgroup, and per the next agenda item, asked for other suggestions of who to invite to participate. Commissioner Stanfill explained there was a rural services roundtable last year and suggested revisiting some of the work done there. Aliza Kazmi, policy specialist for the Alaska Network on Domestic Violence and Sexual Assault, mentioned the Alaska Native Women’s Resource Center and the Yupik Women’s Coalitions.

Susanne suggested highlighting any evidence-based programming as a way to retain funding in the current budgetary climate. Terra Burns from CUSP (Community United for Safety and Protection) noted there has been research on the effectiveness of programs that focus on fostering resilience versus programs that focus on damage. Eve Tuck and Howard Luke were two such researchers. Susanne noted that Diane Hirschberg at UAA might be another resource in that area.

Workgroup membership

Group members discussed having more representation from Alaska Native and rural organizations. Susanne mentioned that she had reached out to First Alaskans and was waiting to hear back. Commissioner Monegan also suggested reaching out to AVCP, though they have had some turnover lately, and SouthCentral Foundation, which has the Wellness Warriors program that they present all over the state. Keely suggested Debbie Demientieff at ANTHC.

Commissioner Stanfill also suggested that it would be good to hear from folks providing treatment. Barbara explained that Laura Brooks from DOC will hopefully join the next meeting to talk about treatment within DOC, but would also be helpful to get a representative who does treatment in the community. Renee McFarland of the Public Defender's office suggested Moreen Fried, a therapist in Fairbanks.

Commissioner Monegan suggested that everybody in the group could use their connections to reach out for membership. It was agreed this would be assigned as homework; group members can forward names to or put folks in touch with Barbara or Susanne.

Sex trafficking

Barbara explained the memo she had circulated to the group. At the last meeting, the Commissioners had asked for more information on national and international policies and laws on sex trafficking. Barbara summarized her research by informing the group that Alaska appeared to deviate from typical statutory approaches in two ways. First, the offense of first-degree sex trafficking has the use of force as a necessary element; most US and international definitions of sex trafficking include fraud or coercion as well as force.

Second, research indicates that conflating the crime of sex trafficking with prostitution can lead to unintended outcomes. Victims of sex trafficking may be convicted of prostitution if they are too scared to tell the truth or unaware of how they are being manipulated. Also, the threat of being prosecuted for sex trafficking hinders sex workers from taking safety precautions to work together and hinders them coming forward to report any trafficking they have witnessed in the sex trade.

Terra Burns explained that a recent study by researchers at Loyola—concerning the prevalence of sex trafficking victimization among homeless youth in Anchorage—may have overstated the incidence of sex trafficking and captured youth who are just working with other youth.

Susanne noted that the memo had included the conclusions of an Alaska Task Force and an Ad-Hoc Working Group, both devoted to the subject of sex trafficking, and wondered about what they were doing in this area. Commissioner Stanfill informed the group that both the Task Force and Ad-Hoc Working Group had been disbanded.

Group members discussed the issue of victim mistrust of the justice system. Commissioner Stanfill said that part of the problem was the difficulty in obtaining convictions. Victims can be repeat victims and can be reluctant to participate in the system again when the previous prosecution was unsuccessful or unhelpful or the trafficker was never charged to begin with. Terra said that CUSP had been working with a victim of trafficking who risked her family's safety to report the crime and had to leave Alaska. Taylor noted that victims of Class A or Unclassified felonies can go to OVR for help.

Commissioner Stanfill said she would be interested in getting data on sex trafficking prosecutions. Terra noted that there had been one recent case, and none prior to that since 2008. There is a task force of 3 state troopers dedicated to these cases. Commissioner Monegan explained that was the only unit in the state and said there was need for more. Taylor said that few cases were referred to her when she was a prosecutor, and many were screened out for evidentiary issues.

Commissioner Stanfill asked what the next steps should be. Commissioner Steiner suggested the first step would be to take up the issue of differentiating between sex trafficking and promoting prostitution.

The focus of the sex trafficking statute should be on criminalizing acts of force and coercion. The rest is promoting prostitution, and the remaining task is to differentiate between safety measures and criminal conduct, whether felony- or misdemeanor-level.

Susanne reminded the group that SB 91 did not deal with sex crimes, and that during last year's legislative session, many lawmakers wanted more information on sex crimes, which is why SB 91 mandates a report on this issue. Commissioner Steiner noted that the legislators also raised the question of age differentials in sex crimes. He thought that including sex trafficking in the report was timely because SB 54 addresses those statutes. Commissioner Stanfill said she would not want to broaden the scope of the report too much but that it would be good to address the issue of conflating sex trafficking and prostitution.

Commissioner Steiner said it would also be beneficial to highlight the failure of juvenile services in preventing sex trafficking among juveniles. Commissioner Stanfill said that substance abuse was also a contributing factor. Keely Olson noted that there is evidence of youth coming to Anchorage for services, either for mental health or substance abuse treatment, and then being trafficked once they don't return home or aren't welcome there. Kids are being recruited at the shelter, sometimes by peers who are working with traffickers behind the scenes. A majority of kids who are trafficked are LGBTQ.

Renee McFarland agreed to draft some proposed statutory language to start the discussion on a potential recommendation. Barbara noted that the workgroup can also forward recommendations to the full Commission separately from the report if the workgroup would like to forward something on sex trafficking before the report can be completed.

Age differentials in sex crimes

Commissioner Steiner said he also thought the workgroup should discuss the issue of age differentials in statutory rape cases. He thought it was worth looking at what other states do in this regard, particularly with ways to deal with defendants who are in the same peer group as the victim and whose actions may not be considered predatory.

Taylor Winston suggested getting statistics from the Department of Law first. She strongly believes there is a line between ages 12 and 13 and that any discussion about changing the law should focus on 13, 14, and 15-year-olds. She wanted to know how many of these cases were actually charged as SAM 2 or 3. In her experience, cases that were actually resolved as SAM 2 or 3 involved a much older defendant. Similar cases involving a young defendant close in age to the victim were often resolved with a Contributing to the Delinquency of a Minor conviction. She thought that we should distinguish between 18 or 19-year-old defendants and 40 or 50-year-old defendants, but she would like to see statistics on the ages of people being charged.

Commissioner Steiner said that if a case was resolved with a Contributing conviction, that begs the question of whether the defendant was charged appropriately to begin with. Charges of SA or SAM can still wreck someone's life even with a conviction on a lesser charge. He thought there was a way to distinguish these defendants at the point of charging.

Keely Olson said that in her experience of working with survivors, who often include pregnant youth, that parents were very concerned about the cases where the defendant and victim are closer in age. It is hard to get youth to testify, and often the youth are being groomed by the defendant. She has heard an outcry from parents who would like to see the age of consent raised to 18. She thought that the age

differential issue wasn't really a problem, and that only a few legislators were concerned about it. She thought charging a 20-year-old with SA 1 or SAM 1 was appropriate.

Susanne said there were really two problems to deal with here: evidentiary issues versus the statutory scheme and how things should be prosecuted.

Commissioner Stanfill said that this was why the group needed to look at statistics to see if there really is a problem. She recalled that Ginger Baim, a victim's rights advocate from Dillingham, had testified before the legislature when the sex offender sentencing laws were changed that she was worried that large numbers of young men would be sent away from the villages. Keely replied that she just hasn't seen that happening. Commissioner Stanfill said that was why she wanted to look at data, to see if Ginger had been proved right or wrong. She would like to hear from Ginger and other rural representatives about this issue as well.

Susanne asked whether data from Public Safety was needed as well as data from Law. Commissioner Monegan said that DPS has reporting data. The reports are categorized by statute according to what evidence there is. There is also a problem of underreporting, and there is a backlog of cases. The crux of the matter is to make the system work for victims to resolve cases for victims in a timely way.

Keely noted that if a case involves consensual contact, the case will be suspended and the outcome will be reported as such. Commissioner Stanfill asked whether that would appear in background checks. Commissioner Steiner said that as of this year, if the case is suspended or dismissed it will not appear on Courtview.

Commissioner Stanfill said that the UAA study did not include local jurisdictions and she would like to see that data. Susanne mentioned that there is also a charge disposition study in the works, but that project will take two years to finish.

Staff will follow up with Law and UAA to try and get the necessary data.

Rough draft of report to legislature

Barbara explained that the rough draft would be updated for each meeting and that group members were welcome to comment on it and provide suggestions at any time. Group members suggested adding sections for data on the profiles of offenders, whether they were strangers or not, and adding a section on evidence-based prevention programs.

Public Comment

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

Next meeting

The next meeting was set for June 21 at 9:30 a.m.