

Alaska Criminal Justice Commission
Sex Offenses Workgroup

Meeting Summary

August 10, 2017, 9:30 a.m.

Denali Commission Conference Room, 510 L Street, Anchorage
And Teleconference

Commissioners: Joel Bolger, Walt Monegan, Brenda Stanfill, Quinlan Steiner, Trevor Stephens, Dean Williams

Participants: John Skidmore, Taylor Winston, Terra Burns, Tara Rich, Melody Vidmar, Chanta Bullock, Reese [?], Amber Nickerson, Maxine Doogan, Crystal Godby, Grace Harrington, Vicky Henry, Amory Lelake, Carol Nordin, Leonard Olrun, Eddie Tocktoo, Marlin Sookiyak, Grace Herrington, Laura Brooks

Staff: Susanne DiPietro, Barbara Dunham

Updates on standing items

Barbara Dunham informed the group that she was still working on the legislative history and research behind the 2006 and 1994 laws. The Department of Law had just provided some data on SAM cases, so staff will get to work on analyzing the prevalence of consensual cases involving peers. Staff are also still soliciting ideas for membership inclusion, particularly representatives from rural Alaska and Alaska Native groups.

Sex trafficking law revisions

There were two proposals for revising the sex trafficking laws, one from the Public Defender Agency and one from CUSP.

Quinlan Steiner explained that the idea behind the PD's proposal was to separate out offenses involving fraud and coercion. If those elements were lacking, the offense should be promoting prostitution, not sex trafficking. The unclassified, A felony and B felony would be sex trafficking in the first or second degree. The C felony, A misdemeanor and B misdemeanor would be promoting prostitution in the first, second, or third degree.

The proposal also included some alternate language to reflect what is in the current version of SB 54 for the misdemeanor offenses. The first-degree sex trafficking offense lowered the age on the person induced into prostitution to 18 from 20 as there is no other offense with a similar age cutoff. The proposal used the word "enterprise" in places where the statute refers to enterprises or places—there is no reason to distinguish between the two.

Brenda Stanfill asked what the effect of lowering the age for the first-degree offense was. Barbara clarified that the effect of lowering the age would mean that if a defendant induced a person aged 18 or older into prostitution, there would have to be proof of fraud or coercion to convict the defendant of first-degree sex trafficking. If a defendant induces a person under 18 into prostitution, no proof of fraud or coercion would be needed to convict the defendant of sex trafficking.

Quinlan explained that the age had been raised when the offense was relabeled; he was not sure why it was done. It might have been politically popular but there seemed to be no principled reason behind it. John Skidmore said he thought the rationale of raising the age to 20 was that 18- and 19-year-olds are still more vulnerable and the statute was meant to be protective of people that age. Terra Burns said that if that was the case, there shouldn't be people under 21 charged with sex trafficking or prostitution crimes.

Susanne DiPietro asked whether the group needed research on the rationale of raising the cutoff age to 20. Quinlan said he didn't want to lose focus on the large issue, which is distinguishing sex trafficking from prostitution. There was no need to focus on the 18 vs 20 issue.

Brenda said she was in favor of distinguishing sex trafficking from promoting prostitution, and had no opinion on the 18 vs 20 issue. John said the Department of Law did not yet have a position on the PD's proposal.

Terra Burns said that CUSP was concerned that the force or coercion language did not clearly state that threats to a third party were included. She said they were also concerned that the "facilitates travel" language might negatively affect sex worker safety.

Terra also explained the details of CUSP's separate proposal. The CUSP version clarified that the first-degree sex trafficking offense applied to inducing another person to engage in "an act" of prostitution through force or coercion, rather than just engage in prostitution – this has been confusing for juries in the past when the victim is a sex worker. This way the statute will cover victims who are sex workers who have been exploited.

CUSP's proposal also changed the title of the B felony, the C felony, and the A misdemeanor to "Sexual Exploitation." They felt this was a more accurate title as it would encompass mistreatment of sex workers—taking too much of their earnings, not giving them a right to refuse customers, or changing agreements. Quinlan proposed thinking about which of these constitutes coercion.

Brenda noted that the group just got CUSP's draft; she would like to hear Law's take on both proposals. John said that Law could prepare its response in a couple of weeks. Quinlan said he would also like some time to go over CUSP's proposal to see if there were points of agreement. Terra said that CUSP was also looking at a way to distinguish behavior of abusive boyfriend types from commercial exploitation.

Walt Monegan noted that what CUSP was proposing was similar to labor laws, though the activity they were looking to regulate is illegal, making that a thorny approach. Susanne questioned whether the state could regulate illegal activity.

Brenda (who was telephonic and did not have a copy of CUSP's proposal) asked whether promoting prostitution was not part of the proposal. Barbara explained that it was part of the PD

proposal but not the CUSP proposal. Quinlan said that CUSP's approach was to look at exploitation as a separate issue. Brenda asked which proposal would address something like a 16-year-old engaging in "survival sex" with a 50-year-old man. Terra said that particular situation was more appropriately addressed by the SAM laws. For people over 18, CUSP views that activity as non-criminal. Their proposal is addressing the commercial sex industry.

Workgroup timing/next steps

Barbara asked the group how it wanted to proceed, reminding the group that the Commission's annual report would be sent out on November 1st, and the workgroup had discussed sending the sex offenses report out early next year.

Brenda wondered whether the group should set a date for the sex offenses report so the annual report could inform the legislature of that timing. Quinlan suggested the annual report could inform the legislature that the group was looking at data on SAM cases, revisions to the sex trafficking laws, and expected to get a report done by the next legislative session (2019). He did not want to rush things.

Dean Williams agreed that these issues should not be rushed—they cover a sensitive subject area. Walt Monegan, Judge Stephens, and Justice Bolger agreed.

Barbara offered to identify what data on sex offenses was readily available and what gaps there were for the next meeting.

Alaska Nations Reentry Group

Melody Vidmar from the ACLU explained that the Alaska Nations Reentry Group was a group comprised mostly of Alaska Native and American Indian men who were formerly incarcerated, many of whom had been convicted of a sex offense. They are all trying to return home to their villages, and have been working with the ACLU. The first chief of the group was Leonard Olrun, the current chief is Eddie Tocktoo, and Marlin Sookiayak was a group member who had returned home. All three men were participating in the meeting. Melody said that they would like to talk about the disparate impact some DOC policies can have on Alaska Natives. Tara Rich added that the ACLU has noticed there are two systems of treatment: one for people who are from Anchorage, and one for people who are not from Anchorage but must be in Anchorage for treatment.

Eddie Tocktoo explained that he was from Brevik Mission. He completed MRT at Wildwood CC in 2014, and after completing his sentence he was sent to a halfway house in Anchorage. He failed his first polygraph, so his PO asked him to take MRT again. The MRT course in Anchorage was identical to the one at Wildwood—it had the same workbook. His second polygraph resulted in a "dirty pass"- it was not a pass, nor a fail.

Chanta Bullock asked Eddie how often he was required to polygraph and what questions they ask. He said he wasn't sure how often he is supposed to do them; his last one was canceled. They ask about what he has been doing, who he has been meeting with, and whether he has had sex with anyone – things like that. They give him the questions ahead of time. To finish the treatment program, he must do the last polygraph, but the person who conducts it has been out sick. After that he must complete 24 weeks of aftercare for his drug and alcohol treatment, for which he will have to pay \$46 per class. There is no treatment available in his village.

Eddie went home once after being released. He got permission from his PO to visit his mother for two weeks. His mother is in her late 70s and she broke her hip and her leg while he has been away. There is no one in the village to take care of her. Her health improved when he went to visit her. He calls her daily and she asks when he is coming home. His victim is also still in his village, and his PO contacted the victim and the victim's family—they are okay with Eddie returning to the village.

Marlin Sookiayak from Shaktoolik explained that he was released from prison in 2014 and finally completed his treatment and returned home in May of 2017. Now that he is home, his morale has improved greatly, because he is surrounded by his family, his culture, and community support. In Anchorage it was very different; there were many things he didn't understand about living in Anchorage because the culture is so different.

Marlin said he supported the idea of teletreatment because it could bring a lot of people back to their villages and their morale would skyrocket. Teletreatment could reach a lot of behavioral health issues in the villages, and people would not have to leave their village for treatment, so they could still access their culture, their family, and the environment. Many people wait in Anchorage to get a spot in a treatment program with little to show for it—they are not working. If they could wait at home, they would be able to support their community.

He noted that his victim is also in his village and also is okay with him being there. His community appreciates that he works to support the community. Grace Herrington from Partners for Progress, which hosts the Alaska Nations Reentry Group, noted that there was a restorative justice aspect to Marlin returning home; it allows the community to move forward.

Eddie added that life in the villages is very different because you grow up with people who care for you. There is forgiveness. He noted that like Marlin, he also had difficulty adjusting to life in Anchorage and once got sent back to jail because he got lost in Anchorage and returned late to the halfway house.

Leonard Olrund explained that he got out of jail in December 2015 and started a talking circle for other ex-offenders, which became the Alaska Nations Reentry Group. He agreed with the idea of treatment, but not the polygraph component. He echoed the points made by Marlin and Eddie: teletreatment would be a boon; the forgiveness offenders have seen returning to their villages is real; and there is a great deal of culture shock to adjust to when you live in Anchorage. Ex-offenders living in Anchorage have to deal with depression and hopelessness while they wait to complete (or get into) treatment. Three ex-offenders died while waiting in Anchorage to get into treatment.

Leonard said the Alaska Nations Reentry Group supported policies based on community safety, accountability, and respect. They believe an offender should get letters from their community and their victim before returning to their village.

Melody said that the Alaska Nations Reentry Group meets every Friday at 9:30 at Partners for Progress, and anyone is welcome to attend the group. Walt Monegan said that he and Dean Williams had both attended the group and he commended the work they were doing. He recommended attending.

Dean Williams said that this was a hot-button issue for him. He understood why things are the way they are, and is aware of the situation the men from the group are facing, and he is bothered by it.

There are many stories like the ones the men had shared, all of which point out problems in the system. He was not satisfied with the current situation but wanted to proceed carefully. He is trying to push for more teletreatment, but it's also important to approach village reentry differently, starting with better communication. He hoped to begin a dialogue in future meetings on how to change things.

Amber said that she had been convicted of sex trafficking and there was no treatment for people convicted of sex trafficking. She said the idea of polygraphs scared her. She devised her own treatment plan at the CRC where she was placed, and did MRT on her own. She has experienced stigma in looking for work.

Brenda Stanfill asked why offenders were doing the same treatment program twice. Leonard said that the POs do an assessment and assign it if they think it's relevant. There is sometimes a fast track option. Laura Brooks explained that not everyone has to complete the treatment twice; there are a number of factors including whether there was a court order to complete treatment in custody and in the community, whether the offender was program complete the first time around, and whether aftercare is recommended. The in custody and community programs are different.

Grace suggested that there might be a quality control issue; if someone has a PTRP they have to restart the program from the beginning and they get burned out. Laura said that sometimes people will be required to repeat the program if they don't finish it. Terra Burns said she knew of people who have completed MRT four times; their POs ask them to keep doing the program. Melody noted that sometimes offenders will have to complete treatment twice because aftercare is required; if the offender completes treatment in custody, aftercare is not available in custody. If more than six months have elapsed since treatment, they will not be able to do aftercare once they are released and they will have to start treatment over in the community. Laura said she wasn't sure that was actually the policy. Grace invited Laura to come talk to the group about potential differences in policy and practice, and discuss solutions.

Laura also said that DOC has a plan for providing more teletreatment. The problem is still that there are not enough providers. They are training one provider now and have one additional provider in DOC who can already provide teletreatment; the program should be ready within the year. Susanne DiPietro asked whether it would be possible to have providers from outside Alaska. Laura said yes, and that is one of the things they are looking at, but the provider would need to be licensed in Alaska. Grace said that she had heard there were many barriers to getting licensed here. Laura replied that there is a workgroup within DOC working on that issue right now.

Chanta Bullock asked what would happen if an offender could not pay for treatment. Laura said that arrangements can be made; they don't revoke people. Eddie said that he paid for his aftercare out of pocket and that it was hard to afford. His aftercare program was put on hold while he couldn't pay for it. Chanta also asked who determined when someone was treatment complete. Laura said it was the treatment team, including the PO and the treatment provider. They review many criteria.

Leonard Olrund echoed the call to anyone interested to sit in on the Alaska Nations Reentry Group meetings—you just have to show up.

Public Comment

Carol Nordin from Fairbanks said that her husband was required to register for 15 years. He didn't serve any time, just got probation. The sex offender registry is punitive not just for the offender but for the entire family. People need to stop thinking that all sex offenders are monsters—they are people who need help. She thought there should be more of a focus on restorative justice.

Next Meeting

The next meeting was set for November 9 at 9:30.