

Alaska Criminal Justice Commission
Sex Offenses Workgroup

Meeting Summary

Friday, November 16, 2018, 9:30 a.m.

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

Commissioners present: Karen Cann (designee of Commissioner Dean Williams and workgroup chair), Brenda Stanfill, Quinlan Steiner, Trevor Stephens,

Participants: Natasha McClanahan, Brian Barlow, John Skidmore, Doug Miller, Amber Nickerson, Shanta Bullock, Laura Russel, Ingrid Johnston, Brad Myrstol, Jenelle Moore, Rose Foley, Allison Hansawa, Suki Miller

Staff: Staci Corey, Barbara Dunham

Updated Report to Legislature - Data

Commission project attorney Barbara Dunham explained that at the last meeting, group members had expressed interest in knowing more about the racial makeup of those in prison who have been convicted of sex offenses. Since that meeting, Commission data analyst Staci Corey had provided an analysis of DOC's offender profile data concerning those in prison for sex offenses. This data is based on yearly one-day snapshots. Among other things, the data showed that while the total number of people convicted of sex offenses has increased over the last 10 years, in recent years the share of Alaska Natives within that population has decreased.

Brenda Stanfill noted that data showed that the total number of people in prison for a sex offense declined significantly from 2002 to 2003 and wondered why that was. John Skidmore said he did not know the reason offhand, and that while this data was interesting, it was hard to draw any conclusions from it about the criminal justice system.

Brenda said that it seemed to show that the disparity between the percentage of Alaska Natives in the sex offender population and the percentage of Alaska Natives in the state's general population has decreased, and might provide evidence to counter the narrative that only Alaska Native men are prosecuted for sex crimes, something she hears frequently. John said he had also noted that DPS's supplemental felony sex offenses report for 2017 showed that for about 60% of reported offenses, the suspect and the victim were of the same race, and that the proportion of both victims and suspects who were Alaska Native was higher than the proportion of Alaska Natives in the general population. John said he thought this information was worth including in the report but wasn't quite sure where.

Barbara walked the group through the latest draft of the report. In the data section, John wondered whether the Alaska Victimization Survey would be repeated in 2020, and if so, whether it was worth noting this in the report. Brenda said that the CDVSA planned to request funding for the survey and that it couldn't hurt to include that request in the report as well. Natasha McClanahan noted that she might want to provide some edits to the section about the survey because ANDVSA had some concerns about the reach of the survey. Suki Miller asked whether John was suggesting that the report make a recommendation. John said

he thought that the CDVSA request should be reported in the data section, and if the full Commission chose to make a recommendation, that could be added in later.

John also thought it was important to note that there was a difference between the data reported by the FBI as part of the universal crime reporting (UCR) program and the data published by DPS. He suggested describing how each report is done and making the differences between the two clear. He also suggested breaking out the dismissal and acquittals in the section discussing case resolutions.

Regarding the same peer group cases, John said that the Department of Law was still working on suggestions for the language used in that section.

Barbara explained that she had reworked the section on sex offender recidivism to make it clear what recidivism measured. Quinlan Steiner suggested that the phrase “repeat offending” as used in this section was misleading as it typically referred to sentence aggravation. Barbara asked the group to review this section and make any suggestions for word choice and clarity that might come to mind.

Regarding the section on sex offender registry, John said he would like to see the studies cited. Barbara said she would send them to him.

Updated Report to Legislature – Victim’s section

Suki noted that the report mentioned the speeches by the Tanana 4-H club members in 2013. She wondered why there was mention that the speeches were “not universally well-received.” Barbara explained that it was noted in some news reports that not everyone in the Tanana area approved of their making public speeches about sexual abuse and other problems in the villages. Brenda thought the report could be reworded mention how the village was uprooted by those speeches and how the state stepping in after hearing them caused additional chaos. She also thought the movement borne of those speeches was growing; it is no longer a 4H club but the leader of that group, Cynthia Erickson, was supporting youth talking circles around the state with a program called “Our Grandma’s House.” Brenda said she could put Barbara in touch with Cynthia.

Quinlan thought there was a place between subsections D and E to discuss the correlation between victims of sexual abuse and future offending. He thought there was a real need to develop a more robust response to the trauma of sexual abuse both as an end in itself and as a means of reducing future offending. Doug Miller had previously brought this idea up as a mitigator but Quinlan thought the idea had broader implications than just for sentencing. In some respects it is the system itself that compounds the trauma and this should be addressed.

Karen Cann thought that was a good idea and suggested it could go under the “new approach” section. Brenda agreed, and said that youth who were abused need long term services, which Medicaid won’t cover. Sustained victim services could prevent future perpetrating of sex offenses. Quinlan said it went beyond sex offenses as many clients of the Public Defender Agency have experience sexual violence and deal with it by engaging in behavior such as alcohol or substance abuse that can lead to a variety of criminal activities. Brenda thought this could also be tied back to the Annual Report’s recommendation that state funds be invested in providing increased services for child victims and witnesses. Barbara said she would add some language to this effect and said she welcomed any suggestions.

Brenda said she thought there was more to add about prevention programming and the safe schools act. She said she would get some information on that curriculum and also talk to Diane Casto, director of the CDVSA.

Doug Miller noted that other states had been testing the waters on the constitutional limitations to victim protection during trials—things like testifying behind a screen or on closed circuit television. He was not sure whether anything had gone up to the US Supreme Court recently. Much of the Supreme Court’s jurisprudence on this topic had been shaped by Justice Scalia, and the outcome of any constitutional challenge to such laws might be different without him. John noted that state rules allowed such practices on a case-by-case basis in limited circumstances. He thought Doug made an interesting point and was also not aware of any pending or recent cases before the US Supreme Court.

Updated Report to Legislature – Next steps

Barbara noted that the conclusion of the draft report made mention of items still on the workgroup agenda, including revisions to the sex trafficking statutes and addressing loopholes in the sex offense statutes.

Amber Nickerson noted that CUSP had tried reaching out to the Human Trafficking Working Group numerous times to try to join their discussions but to date they have not received a response. Karen said she was not sure of where that group was at but wanted to keep the report moving ahead without losing sight of the sex trafficking proposals.

The group discussed the timeline for completing the report. Brian Barlow said that he had some thoughts on the report and wanted to confer with John about them, and thought they could perhaps come up with some joint edits to the report. Brenda noted that the racial representation data could be included in the data section, and also mentioned that she was confused by the flow of what data sets were being discussed on pages 12 and 13 of the report. John said he also had some comments about that section.

The group agreed to get any and all final comments on the report to Barbara by December 7th, and to hold the next meeting December 18th at 9:30.

Sex Offense Statutes: Harassment, Defenses, and Other Loopholes

Barbara explained that at the last meeting of the full Commission, the Commissioners had discussed the sex crimes loophole brought to light by the Justin Schneider case. The Commission referred that issue and a general review of the Title 11 statutes for loopholes or other problems to this workgroup. Brenda said that loopholes had come up in other areas and that she also wanted to revisit the “marriage defense” to sexual assault. She suggested that a subgroup could meet and sit down with the CDVSA and go through Title 11.

John said the Dept. of Law would be putting forward legislation to close the loophole from the Schneider case as well as other issues such as having the offense of third-degree sexual abuse of a minor fall under the sex offense sentencing scheme and not the regular felony sentencing scheme. He was happy to talk with anyone about Law’s plans or any other proposed ideas on this topic.

Quinlan thought the workgroup should decline to weigh in on this issue. He was not sure of the utility of examining the issue when the Dept. of Law was already going to do so and thought that it would just result in the workgroup spinning its wheels.

Brenda reminded the group of the scope of the Commission’s work and the variety of groups it represented. Often the victim’s perspective is lost and the Commission’s makeup ensures that victim advocates have a voice. She didn’t feel comfortable rejecting the referral from the full Commission. Natasha added that the Commission also offers an opportunity for public input. Quinlan countered that the

Commission's votes were driven by the political appointees and the next administration would likely take up this issue anyway.

Brenda suggested keeping this item on the agenda for the next meeting, because at that point the group would know what would be in the works for the next legislative session. Karen agreed.

Natasha noted that ANDVSA had also proposed a fix to the marriage defense. Quinlan said that issue had been taken up previously by the legislature and everyone had agreed to do away with it in theory, but when it came to drafting the actual details the consensus broke down and it was never passed.

Reporting Requirements for Children Abused at School

Barbara explained that Natasha had raised this issue following the story about a man who recently confessed to being a pedophile but had been the subject of previous reports that had not resulted in any action or notification of parents. Natasha said that ANDVSA would like the perspective of this group. She had been researching the issue and there are some approaches to this issue in other jurisdictions. She saw this as a systems-level problem involving communications between agencies. For example in this case a report to OCS did not result in any action from OCS because the child was safe with his or her parents and they referred the case to the police; since no charges were filed, nothing was ever done to address the allegations.

Suki mentioned that there are SESAME laws in other jurisdictions that address this issue; among other things these laws protect people who come forward to report possible abusive behavior and provide guidelines for action. She said she would forward this information to Natasha.

Victim Roundtables

Barbara explained that the Commission had also discussed hosting victim roundtables in various locations around the state, similar to the roundtables the Commission hosted in 2015. Brenda thought that the locations might be different this time around, for example, Nome or the Mat-Su. She also suggested including victims of property as well as violent crime. John suggested Bethel, Kotzebue and Anchorage as areas where people are also concerned about crime. Natasha suggested Southeast Alaska, and Quinlan noted that caseloads in Southeast Alaska have increased.

Barbara encouraged anyone with other ideas on how to conduct the roundtables to contact her.

Public Comment

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