

Alaska Criminal Justice Commission
Victims' Rights and Services Workgroup

Meeting Summary

Tuesday, February 2, 2021

10:00 a.m. – 11:30 a.m.

Via Zoom

Commissioners Present: Steve Williams, Trevor Stephens, Alex Cleghorn, Sean Case, Randi Breager, Mike Ramsay

Participants: Jeff Edwards, Taylor Winston, Tory Shanklin, Ingrid Cumberelidge, Troy Payne, MaryBeth Gagnon, Dawn Shewmaker, Nancy Meade, Suki Miller, Michelle Hale, Rachel Gernat, Michelle Evans

Staff: Staci Corey, Barbara Dunham

Introductions

The agenda and the summary of the previous meeting (December 16) were approved without changes.

Legislation re: Consent

Michelle Hale and Alex Kelly introduced themselves as staff for Rep. Geran Tarr, and explained that they had been working with Rep. Tarr on HB 5, a bill to amend some of Alaska's sex offenses laws.

Ms. Hale explained that HB 5 had several components. One was to add new provisions to the sexual abuse of a minor statutes. Sexual conduct between someone over 18 and someone age 13 to 17, where there is at least a 10-year difference in age, would be classified as first- or second-degree sexual abuse of a minor. For cases involving victims age 13 to 15, this would increase the severity of the offense. For cases involving victims ages 16 and 17, this would in some circumstances criminalize conduct that was not previously criminalized.

Ms. Hale further explained that HB 5 adds a definition of consent: "a freely given, reversible agreement specific to the conduct at issue by a competent person." The bill also adds statutory provisions that define circumstances in which there is a lack of consent. The bill does not make the same changes to comparable offenses in the code of military conduct.

Lastly, the bill also shortens the timeframe for processing rape kits to six months, a process which must be put in place by July 2022. Ms. Hale explained that as part of the Sexual Assault Kit Initiative project, the time for processing kits was scheduled to gradually get shorter as the state improves its processes.

Ms. Hale explained that HB 5 is prefiled. Rep. Tarr has done a lot of ground work in developing this bill, and had consulted a lot of people, some of whom were at the meeting today. There are no

cosponsors yet; the bill is complex, since the different sections are a compilation of separate projects, so it will take other legislators time to look through it. It will probably pick up cosponsors when the House organizes.

Suki Miller from STAR asked what this bill would mean for sentencing, and whether there was any pushback on the bill, or sections that other legislators thought should be changed? Ms. Hale said there was no feedback yet.

Taylor Winston from the Office of Victims' Rights explained that sentencing for first- and second-degree sexual abuse of a minor would remain the same. She said that she really applauds this effort. She spent many years prosecuting sex crimes, and observed that Alaska's statutory scheme has been weak in being able to get at predatory offenders who are much older than teen victims. There is a lot of difference between being 5 years older and 65 years older. OVR will support this bill.

Ms. Hale agreed that was the intent of those new provisions, they were not aimed at penalizing relationships between teenagers, e.g. a 16-year-old and a 19-year-old, the intent was really to get at the more extreme cases. Rachel Gernat, representing ANDVSA, said that ANDVSA supports this bill as well.

Ms. Miller asked about the delayed effective date. Ms. Hale explained that was only for the rape kit provision. Randi Breager, special assistant to the Commissioner of DPS, explained that the reason for that was that the state crime lab, operated by DPS, needs at least 18 months to bring on new employees to process the kits.

Mr. Kelly noted that he had just gotten word that Reps. Sponholz and Foster will cosponsor HB 5. He noted that there is enthusiasm for this bill in the legislature and Rep. Tarr was hoping to build on that. He asked anyone who wanted to contribute to the effort of getting this bill passed to contact Rep. Tarr's office.

Notification for Parole Hearings

Commissioner and workgroup chair Steve Williams explained the workgroup had had discussions on this in the past. Jeff Edwards, director of the Parole Board, was available for questions today and might be able to shed more light on the process. The concern the workgroup had discussed was how best to give victims an opportunity to participate in parole hearings given that the scheduling can be tricky, with some hearings pushed off, and victims not being given a specific notification of the hearing time until close to the hearing date. The group was trying to identify ways to improve victim participation. Mike Ramsay from DOC thanked Mr. Edwards for attending this meeting during a hearing week.

Mr. Edwards said it sounded like this issue had been discussed in a few meetings, though it was his first time here. He explained that the Parole Board creates an annual parole hearing schedule; for example they will set a week of hearings for mid-July at Goose Creek. That way DOC probation staff will know when the Parole Board will be there, and they know when to write reports for people whose eligibility dates are coming up. For discretionary parole hearings, victim participation is allowed via written documents, telephonic testimony, in person (they are allowed to attend the whole hearing), and (during the pandemic) via Zoom.

Mr. Edwards explained that in terms of victim notification, there are some requirements for the courts to notify victims regarding potential release dates/types. For discretionary parole, DOC must notify

victims if required 30 days in advance. In order to be notified, victims must keep their information updated in ACOMS. Probation staff send notification documents using the addresses found in ACOMS. The Parole Board asks DOC staff to provide victims with 45 days' advance notice, and to let them know about the week it will happen. The Parole Board staff is available to answer questions from victims as to how the process works.

Mr. Edwards explained that when the hearing week approaches, the Parole Board administrator creates a calendar. Most hearings are 30 minutes, but depending on how many victims want to participate, they can be longer. The dates and times are distributed to probation staff, the Commissioner's office, and OVR two weeks in advance. It is true that that calendar is in flux, and hearings can get postponed. Violation hearings are more subject to change, while discretionary hearings are more stable.

ACJC Commissioner Alex Cleghorn asked whether requests for continuances only occurred for revocations, or also for release hearings, and whether any rules were applicable. Mr. Edwards said that the majority are for revocations, just like court proceedings. If the request occurs near the hearing date/time, they ask the person to be on record. If the request occurs well in advance, they will do it administratively. For discretionary hearings, it will be a request by an inmate. The Parole Board will also continue the hearing if victim notification was not adequate. The regulations for Parole Board hearings are in the administrative code.

Taylor Winston from OVR asked whether it would be possible to post the schedules on DOC's website—both the long-term schedule and the detailed schedule nearer to the hearing date. Mr. Edwards said they have had that request in past and have been discussing it. Posting the annual calendar would be doable, but they probably would need additional IT work for an updatable detailed calendar. He was not saying it was not possible, but the constant fluctuations make it difficult to keep something like that updated. He said he would look into it. Ms. Winston said she would encourage looking into that, because victims often have barriers to participation, and usually have to adapt their schedules to accommodate the system, and knowing more about the schedule ahead of time would make them more accessible.

Ms. Winston also noted that regarding the truth in sentencing provision from SB 91 [requiring courts to notify victims of potential release dates], her office doesn't get those notices, and she was not sure whether those were always being given out; she was interested in making those more accessible. Mr. Edwards said that the Parole Board was not involved in those notices, but he knew that a lot of time is spent on time accounting to figure out those dates, hence the reason for making them due 30 days after sentencing. Mr. Ramsay said that when those dates were calculated, the POs should have them and if not, the PO supervisors should be following up with the POs.

Ms. Winston said she wanted to really applaud Mr. Edwards' work because she has seen a lot of improvement in Parole Board practices in recent years. Mr. Edwards said they have been substantially increasing efforts to notify victims and document when they notify the victims, such as improving ACOMS to help with documentation, which helps staff double check notifications. It's not perfect but they have been placing increasing emphasis on it.

Commissioner Williams said the workgroup would also like to see the system improve, and said that if there were things that the workgroup could assist on that the Parole Board like support for, the groups could work together.

Dawn Shewmaker from the US Attorney's Office asked whether the Board would keep the Zoom option for participation post-pandemic. Mr. Edwards said that was something the Board has been discussing. They like the platform, but prefer in-person hearings. Staff may be able to keep it as an option.

Michelle Evans from Victims for Justice noted that they have had success in contacting POs and they will take the time to explain the process. She has noticed that many victims don't stick with the process, and don't keep updating DOC on their information.

Mr. Edwards said he would look into the question of posting the schedules; the Board is already able to post outcomes, so they may be able to leverage that. Commissioner Williams thanked him and said that if he could keep participating on this topic that would be helpful.

Victims' Video

Commissioner Williams explained that Judge Trevor Stephens, who is also an ACJC Commissioner, had raised the idea of producing a video or series of videos giving victims an overview of the criminal process.

Judge Stephens noted that these were his personal comments, and he was not speaking on behalf of the court system. As a judge he has served on the Court System's jury committee and CINA improvement project, and observed that videos have been made for each of those—for example a video for jurors coming in for jury service, and a video for all participants in CINA cases explaining the process for those cases. He had the thought that a similar video or videos for victims would be similarly effective.

Judge Stephens explained that he has worked as both a defense attorney and prosecutor, and has now been on the bench for 20 years. He has seen hundreds of cases involving victims, and observed that often victims lack an understanding of court procedures, starting at bail and going through to sentencing, post-conviction and appeals, and probation/parole. Victims have rights under state statutes and the constitution, but can't exercise those rights if they don't know about them, and don't know what's happening.

Judge Stephens suggested that the workgroup consider developing sets of videos on various topics pertaining to victims. These proceedings can be incredibly complex, especially for felonies. The biggest challenge would be to determine how much detail to include. He suggested focusing on court procedures including bail. Typically victims are upset, scared, and want the person to stay in jail, and don't understand the least restrictive test.

Commissioner Williams noted that ACJC project attorney Barbara Dunham provided a link on the agenda to some examples of videos on the Court System website. He looked around the court system website for other information on the site and noted there were documents explaining proceedings, though he found a 78-page pdf on one proceeding which might be too much information. He tried looking for videos focused on explaining procedures to victims and didn't see much, and wondered if anyone else knew of some that already existed.

Nancy Meade, general counsel for the Court System, said she was not aware of any, but there could be something from national organizations. Commissioner Cleghorn said he found a link to a series of classes from another state; they were not videos, but more interactive classes on things like hearings and victim impact statements: <https://victimsupportservices.org/community-education/>. Commissioner Williams

noted that the Alaska Legal Services Corporation also has some webinars. Tori Shanklin from Victims for Justice noted that there is also a court manual produced by STAR that is more accessible.

Commissioner Williams thought this idea was worth talking about—it may not even need to be a recommendation, and could be funded in a variety of different ways. Randi Breager from DPS said she loved the idea of short videos, which could be just a couple of minutes long, and could appeal to a variety of learning styles and address language barriers. Overall she thought the state could benefit from several different ways to get information to folks. She was curious to know how having an advocate embedded with the Department of Law will help in this area. It can be overwhelming to encounter this system without any guide.

Judge Stephens thought there were two different topic areas for these potential videos. One was to make sure victims understand their rights, which may exist in the Constitution, in statute, in regulation, or in court rules, and the other was to explain court proceedings. Victims can't exercise their rights if they don't know what they are. He thought these videos could be well done, and agreed people learn in different ways, and it might be helpful to watch a video, then go talk to an advocate with more of a background.

Ms. Winston also thought it was a great idea, and agreed it should be multiple short videos, shorter being better than longer. She noted OVR had also been thinking about live infessions, to have regularly on the calendar at the courthouses.

Commissioner Cleghorn suggested also looking at what else is out there, and building on that. Commissioner Williams agreed, and suggested that if group members know of or find any resources, to send those to Ms. Dunham.

Suki Miller from STAR said that while she thought the booklet from STAR is helpful, she agreed that a video would also help, and suggested that the videos from the Division of Elections might be a good model.

Commissioner Williams asked if a small group might be interested in working more on this. Ms. Shanklin, Ms. Miller, Commissioner Cleghorn, and Ms. Winston all expressed interest, and Dr. Troy Payne from the UAA Justice Center said he would ask his colleagues if any of them would like to participate. Ms. Breager volunteered Katie TePas from DPS, and also suggested getting someone from the Department of Law on board. She also noted that DPS has a public information office which may be able to help.

Ms. Meade noted that Jeannie Sayto helped develop content for the family law self-help center, though it was not their subject matter. Judge Stephens was not sure if Court System staff could participate. Ms. Meade also was not sure, but saw this project as beneficial, and thought the Court System would be supportive. Judge Stephens suggested talking to Mara Rabinowitz and Stacey Marz.

Time to Disposition Study (AJiC)

Since time was running out, Dr. Payne suggested putting this item on the next agenda. Essentially, the Alaska Justice Information Center is conducting a study on time to disposition of criminal court cases, and they are looking for measures that are important to victims. He encouraged anyone with ideas to get in touch with him; the study was in the early stages of planning.

Public Comment

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

Next Steps

The group agreed to next meet on March 16th from 10:00-11:30.

Adjourn 11:30