

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Wednesday May 6, 10:00 a.m.**

Via Zoom

Commissioners present: Brenda Stanfill, Sean Case, Shelley Hughes, Steve Williams

Participants: Mike Ramsey Barbara Johnson, Taylor Winston, Pearl Younker, Laurie Orell, Karl Clark, Tory Shanklin, Liz Vasquez

Staff: Barbara Dunham, Staci Corey

**Bail releases and victim notification**

Brenda Stanfill, Commissioner, workgroup chair, and executive director of the Interior Alaska Center for Non-Violent Living asked Taylor to get the group on the same page on this issue.

Taylor Winston, executive director of the Office of Victims' Rights, explained that her concern is that victims are not being properly notified of bail hearings. Victims have a right to be heard before bail conditions are set and before a defendant is released on bail. This concern is the most pressing at the very start of the criminal case, when a defendant is arrested. Often there is a "sidewalk bail hearing" which grants a person's release before the DA's office is even involved. She wondered if victim notification was even happening, and if so, how. This also relates to the bail schedule, which allows immediate bail release for certain misdemeanor crimes, some of which require posting a standard bond amount. She wondered whether that practice totally eliminates a victim's right to be heard, since bail is predetermined without having victim input.

Brenda wondered whether there was a way to address this issue without getting rid of the bail schedule. Taylor said she didn't know. Theoretically if bail schedule provisions are just guidelines, that would be okay, because the judge can bypass them and individually tailor bail as needed. She understood the need for uniformity but every case is unique; each act, the extent of injury, the defendant's criminal history, etc., were all different in every case. The crime might be the same per statute, but you can't really lump all cases together.

Commission project attorney Barbara Dunham recalled that in 2016 there had been resistance when the bail schedule was made uniform statewide. The presiding judges had assumed that if officers felt that a different bail other than what was on the bail schedule was appropriate to assure the defendant's appearance or public safety, they could call the on call judicial officer to have different bail set. Several officers testified before the Commission that that was not their practice, understanding the bail schedule to be an order.

Sean Case, Commissioner and APD Captain, said that APD officers have called in for different bail in the past, but the bail was almost never changed, so officers stopped calling.

Taylor said that some time ago when she worked as a prosecutor, it was less unusual to see officers give a lot of good information to magistrates regarding setting bail. But she thought the evolution over time,

including developments such as SB 91, created a culture of less flexibility—after being told no, officers were taught not to bother getting different bail set, and it became a learned behavior. Even if adhering to the bail schedule was not mandated, officers don't want to be the odd man out.

Brenda recalled that bail schedules were set to be eliminated with SB 91, but there was a lot of pushback to that idea so it was scrapped. She couldn't remember exactly who was against it.

Sean asked which crimes on the bail schedule Taylor was worried about. Taylor said any crime that has a victim. All victims have a right to be heard before the setting of bail conditions and release.

Brenda said that her copy of the bail schedule showed that bail for a first non-DV assault was set at \$500, with a second or subsequent offense set at \$1000; there was also a provision for VCOR. She wondered if Sean or Mike Ramsay knew whether there was a lot of non-DV assault that might require different bail. Mike Ramsay with the Victim Service Unit at DOC said that his department was usually not involved at that point. Sean said that if officers deem it necessary, they will call for different bail. But it was very rare to get the victim on the phone for that call, except for DV cases.

Taylor said the crux was just that: getting the victim on the phone for that initial bail schedule release or initial arraignment. This happens for domestic violence and sexual assault (DV/SA) cases, but non-DV/SA victims are not really considered by the system. DV/SA victims we do a lot for, but other victims are treated differently, even though those cases can also involve a lot of trauma for the victims. It almost creates classes of victims.

Tory Shanklin, executive director of Victims for Justice (VFJ) said that VFJ has been talking about the need for victims' rights across the board. There is a gap for non-DV/SA cases. Other victims don't know they have a right to be heard. There are victims' rights statutes that exclude non-DV/SA cases. Until victim advocates become involved further on in the process, victims just don't know they have rights.

Sean wondered how getting victims a chance to be heard would practically be accomplished. If there was a bail hearing with victim involvement in absolutely every case that would take a great deal of time, and perhaps cripple the current system.

Taylor said she understood it would be a significant shift. She heard the same reaction from Judge Stephens when she talked to him about it. She recognized it would take a great deal more time. But she couldn't say that because it was cumbersome or time-consuming to afford victims their right to be heard, that their rights should just be ignored. She could only imagine the pushback if the constitutional rights of defendants were ignored because they were problematic or time-consuming. There would be endless appeals. Letting victims be heard for every bail release would be a change, and change is very difficult for the system. But there is a constitutional right, and it is not being followed. She thought it was particularly offensive that judicial officers were not following the constitution because they swear an oath to follow the law, whether it is convenient or inconvenient for the system. The whole point of having victims' rights is to make sure there's balance. The system doesn't allow much control for victims. Most decisions are out of their hands (arrest, charging, plea bargain etc). Victims' rights being ignored was not healthy for the community as a whole.

Brenda asked whether, in non-DV/SA cases, officers tell victims about bail and standard arraignment times after arresting the defendant. Sean said they did not, and added that there would be no arraignment if the charged offense was on the bail schedule.

Taylor noted that if a defendant is released per the bail schedule, there was not even time for the victim to register on VINE. Those defendants could still be a danger, even if it is not a DV case.

Brenda wondered whether there were any studies or data on bail releases and crimes that would have victims. Barbara said that kind of information is really only available from a review of paper files. Commission/Judicial Council staff did a sample bail study where they looked at the paper files, and Barbara offered to see if data from that bail study would have what Brenda was looking for.

Brenda said there was also a question of how interpret the statute giving victims the right to notice of and be heard at the bail hearing. Did this apply to a first or subsequent release? She thought the group should hear from the court system on that. She thought she was understanding the issue better now, and thought this was a significant issue. She has also heard from victims of non-DV/SA crimes that they are frustrated that when defendants are released. She also didn't want to minimize rights in DV/SA cases, which were hard-won. But she thought this was an opportunity to raise the standards for victims across the board. She will discuss with staff the best way to talk about this issue, whether it's in this workgroup or another one. This group has been meeting for a while and is trying to wrap this up.

Shelley Hughes, State Senator and ACJC Commissioner ex officio, said she agreed with what Taylor was saying about two classes of victims. She has heard victims of theft say they feel like they have been violated. Their fear is real. In a case where say one spouse is out of town for some time working on the slope, having a burglary or break-in can lead victims to fear the defendant will escalate to worse crimes such as rape. She thought this needed to be addressed.

Liz Vasquez, executive director of the Violent Crimes Compensation Board (VCCB) said she recalled from her days as a prosecutor that things got put on the calendar so fast, there would be no time for notice to the victim. Getting ahold of the victim was not a possibility, not when you have 1 or 2 hours' notice of the bail hearing. She believed that even though affording victims their rights might entail more work, they were still entitled to that.

### **Draft recommendation (continued from previous meeting)**

Brenda reminded the group that the intent of the workgroup's recommendations was to give victims more of a voice. What we kept hearing in the listening sessions and surveys was that victims feel like they don't have a voice in the process. This was across all parts of the system as a whole, not just one agency. These recommendations were trying to address what can reasonably be addressed.

#### *Recommendation 1: Public Outreach*

The first recommendation was to create a public outreach campaign to let the general public know that there are resources available for victims of crime. Details left to be resolved for this recommendation included identifying which organization or agency should be responsible, and whether the campaign should direct people to a website. Brenda asked the group for their opinions on these two items.

Tory noted that the draft recommendation called for a month-long outreach campaign. She noted that VFJ just finished its activities recognizing National Crime Victims' Rights Week. It is part of a national effort for one week, and there are a number of tools available nationally that make it easier for local partners to make that happen. VFJ has used the week to elevate awareness of all victims; other local partners of the national effort often get proclamations written from governors or mayors. She didn't want to reinvent the wheel.

Brenda said that from her experience participating in DV/SA awareness month campaigns, she was not sure it was effective in raising awareness for the other 11 months. She thought the awareness campaign should be more of an ongoing project akin to the opioid awareness campaign. Tory agreed, saying she was not sure it would be advisable to have another month dedicated to something, which can create a certain

amount of fatigue. Carmen Lowry, executive director of ANDVSA, also agreed, saying that month-long campaigns can put a lot of pressure on providers, who often have to do double duty for those campaigns.

Brenda asked ACJC Commissioner Steve Williams, COO of the Alaska Mental Health Trust, how the opioid awareness campaign had been generated. Steve said he thought the state used federal resources. DHSS pulled together various stakeholders, and created a special unit within DHSS to keep the campaign's momentum going.

Brenda wondered whether OVR would be able to do some of this work. Taylor said it would if funding were available. OVR technically doesn't work with some misdemeanor crimes, but they are able to cover a vast majority of victims. They could also impart knowledge to all victims. She thought it was important to get information out to victims and for them to be empowered. The best thing for them is to know their voice is being heard. OVR would be happy to take on an awareness campaign if there was funding, and Taylor thought OVR would be well placed to work with other agencies. She would also want to partner with agencies around the state to have more of a localized effort in every community, since local organizations would know best how to reach people.

Brenda asked if anyone in the group felt like this would be better for a nonprofit rather than a state agency. Carmen asked exactly what the recommendation on the table was. Brenda said it would be an ongoing awareness campaign (not a month) that could reference a website as a source of information on where to get help for victims. The question was whether a state agency or nonprofit should oversee the project. Carmen said she thought that state and nonprofit organizations work well in Alaska, and thought it would be good to engage both. Brenda asked whether a state agency should take the lead in collaboration in with community partners. Taylor and Mike agreed. Brenda said that in her experience with nonprofits, leading a statewide effort can be challenging, and hard to prioritize with the organization's main mission. She rarely saw local nonprofits having success getting state partners to the table; it was usually the other way around. Tory agreed. Even though her nonprofit could serve victims statewide, they don't pretend they can serve all victims. Leading an outreach effort would be a heavy burden to bear. She agreed that the lead should be statewide agency, in partnership with nonprofits.

Sen. Hughes wondered where there would be the most consistency. She didn't want to put effort into something that would see a lot of turnover, which can happen in some state agencies. She also noted that the state was broke. She thought this kind of project could benefit from having the consistency of people that are passionate about victims' services and have been and will continue to do this kind of work.

Tory said she thought that state agencies like the CDVSA have been very consistent over the years. Taylor said that OVR had been fairly stable over the years, noting that her position is a five-year term. They have had relatively low turnover for their substantive employees. It helps that they are a small office. Brenda asked if OVR would be an example of a state agency with longevity. Taylor said it would be, as would other state offices. There can be a political component to some agencies, such as the Dept. of Law, where the top people are political appointees. OVR is apolitical, and a bit of an odd duck in that respect.

Carmen said she thought OVR was well-situated to take on this kind of project. It made sense, and helped that they were called the Office of Victim's Rights. ANDVSA has had a lot of success working with them. They also don't grant money, which changes the nature of collaboration. She thanked Taylor for all the work OVR does.

Brenda said she was hearing that the group wanted a state agency to take the lead in collaboration with community partners, and that specifically OVR would be a good candidate. She asked if there was any objection to either proposal and there was not.

Brenda said the other detail to be decided was whether the outreach campaign should direct people to a website. Steve thought that might be getting into the weeds, and suggested leaving it up to OVR or whoever is taking the lead on the right mechanisms for the campaign. There were no objections to this idea.

### *Recommendation 2: Victim Advocates Working in Partnership with Law Enforcement*

The next recommendation was that victim advocates should partner with law enforcement to be able to more proactively reach out to victims of crime. Brenda said there had been questions as to the timing of how this would work, and wondered what Sean thought.

Sean said that at this stage, he didn't think advocates should be employees of the law enforcement agency. But there certainly was room for a collaboration that is closely linked, something that would improve or establish communication between law enforcement and advocacy agencies. He thought that would be more easily achieved than, for example, changing the bail hearing process. He thought APD's new partnership with VFJ will show this is an effective way to collaborate.

Brenda asked what policies and procedures would need to be in place. Sean said the biggest block to the partnership operating efficiently was the laws that limit the information APD can share regarding crime reports and investigations.

Tory said that from VFJ's perspective, they don't necessarily need a lot of information on handoff other than contact information, and can get information on the crime from the victim directly. She thought the biggest issue was the DV confidentiality statute that leaves other crimes out, meaning that conversations with advocates for non-DV/SA victims are not privileged and the advocate can be made to testify. She didn't want victims to be in a vulnerable place. Right now, they give a disclaimer to their clients, but it would be better to have their conversations privileged.

Brenda asked if the statute should be expanded to impart confidentiality for advocates working with victims of all crimes, including property crimes, noting what Sen. Hughes had said about property crime being very violative. Tory said it should cover victims of violent crime. She agreed that property crime could be very violative, but was just concerned about resources. Also insurance is often involved in property crime, so that could be more complicated. The way those cases are prosecuted also looks different, she would have less concern about an advocate testifying in those cases.

Brenda wondered whether VOCA funds could be used to assist victims of property crime. Tory said she thought it could theoretically, but the process would not be the same. Brenda wondered whether the Department of Law might help. Taylor said they would not help with insurance, but would help with restitution. It's something they would likely ask for as part of plea deal; the request would be filed as a motion, and might involve a restitution hearing. Pearl Younker with the Violent Crimes Compensation Board (VCCB) noted the VCCB doesn't provide compensation to victims of property crime. Taylor said that the restorative justice account set up by legislature would be a great way to get money to victims of property crime, but it was not funded. There is a lot of outstanding restitution yet to be paid out there, but there is no way to get it paid other than garnishment. To enlist a private collection agency the restitution payment must be fairly high to be worth it for both the collection agency and the victim. Barbara noted that the Commission made several recommendations regarding restitution in 2016 which have yet to be taken up by the legislature.

Brenda asked whether, post-offense, there was an opportunity for law enforcement to hand information to a victim of any crime. Sean said yes, though he would not recommend making a long booklet. Taylor noted that since, by law, all officers are required to provide information on OVR to all victims, as

part of a public outreach campaign they could create something with a handout. Something collaborative, but not 20 pages long.

Brenda agreed that this part could work in conjunction with the first recommendation, if there is a website or phone number that could be the basis for a quick referral. Carmen said it would also help for advocates to have access to a website like that; a centralized website or resource page could be useful across the board.

Brenda said it sounded like Recommendation 2 would involve information sharing, confidentiality laws, and how to direct people to help with property crime. Any assistance would be post-offense follow-up.

### *Recommendation 3: Improve Inter-Agency Communication and Agency Communication to Victims*

Brenda explained that the first recommendation in this section was to input bail conditions into a statewide law enforcement database, and noted that this was also a topic of discussion in the DV Workgroup. She asked Sean (chair of the DV Workgroup) whether it should be a recommendation from that group or this one, and whether this is something that would be optimal for every case. Sean said he thought it was something that should be implemented across the board. Taylor agreed. Victims are entitled to get copies of the defendant's bail conditions, it would help if law enforcement also had access.

The next recommendation in this section was to ensure that any motions to continue trials are made in writing. Taylor explained that this really gets to the core of a victim's right to notification. If victims are not notified of hearings, other rights are affected. This recommendation would probably need a specific statute or rule change to make it happen, otherwise agencies won't comply. Brenda asked Taylor to work with her and staff to come up with the specific statutory change necessary. Taylor agreed. There were no objections to the concept in general.

The next recommendation in this section was to increase the number of victim-witness paralegals at the Department of Law. Tory explained that VFJ was also placing advocates with the DA's office. They have been working with Susie Frenzel at the Department to assist with communication. She said she could send the group some documents VFJ put together about the project. It was something they really want to be thoughtful about, and they want to make sure their advocates are not doing paralegal work, such as performing the prosecutor's duty to notify victims of certain hearings. VFJ will assist with victims of violent crime, and will refer victims of DV/SA crimes to the appropriate agencies.

Brenda said it sounded like VFJ would not be performing the Department's duty to inform victims of hearings and trial status. Tory said that was correct, VFJ would instead be doing additional follow-up; often victims are only able to take in a bit of information at the beginning of the process, so VFJ will follow up later.

Taylor noted that the victim-witness paralegals have a lot to do. She recalled that at the last meeting Susie had been talking about splitting those roles. Taylor thought it would be better to have paralegal tasks and victim tasks kept separate. Employees would be pulled in fewer directions.

Tory added that another issue was turnover. Her impression was that Law struggles to hire people for these positions. Taylor agreed, saying that it was as if they can never really do their job well because they have so much to do, and that might contribute to burnout. There also might be other issues including funding. It was a bit of a pressure cooker situation.

Brenda wondered whether this was where having a victim navigator (part of the next recommendation) could come in. Tory thought it was a good service, but was concerned that it may be duplicative. Brenda said that one issue advocates struggle with is finding out what's actually going on in the legal case, and when hearings are; she was thinking of someone who can help with what. Advocates are more focused on meeting emotional needs, longer term. Her understanding was that a victim navigator could help more with the informational/technical piece. Tory said that was a big part of what VFJ does, though that may be different from other agencies. Brenda suggested leaving that recommendation open as to whether it would be performed by a state or nonprofit employee, focusing instead on what position should do rather than which agency specifically should do it.

Brenda said she was hearing support for asking Law to remove the dual designation for victim-witness paralegals, and wondered whether the recommendation should also include increase the number of people in the victim position. Taylor said it was hard to say, and that there might be improvement with just creating efficiencies by removing the dual designation. Ultimately only Law might be able to answer that question. Brenda suggested that the recommendation could ask Law to look at its needs as well as removing the dual designation. There was no objection to either proposal.

Brenda said that recommendation 3 also called for fixed dates for parole hearings. Mike said he thought that might just be a policy change, but would have to talk to the parole board about it. He said he would get clarification before the next meeting.

#### *Recommendation 4: Victim Navigators*

Brenda suggested moving the part of recommendation 3 that called for ensuring that victims are signed up for VINELink and aware of restitution obligations post-trial/sentencing to recommendation 4. She noted that the group had already discussed the victim navigator part earlier, and asked if anyone had anything to add.

Barbara asked about the part of recommendation 3 that called for increased staff at the court system to handle restitution payments. Liz said that there was also only one person to process collection for the state in the Department of Administration. Brenda noted that restitution collection had moved from Law to the court system and wondered whether that was working. Barbara said that someone from the court system had told the Commission things were going smoothly, and she recalled that their primary method of collection was to garnish PFDs and possible wages; she was not sure other about other collection methods.

Taylor said she thought they were only garnishing PFDs, and thought that there was only one or two people to do the work; her impression was that it was not a well-oiled machine. A navigator might be able to make sure all parts are in place to get the PFD garnished, since it was apparently not a seamless process.

Brenda suggested getting people from the court system and perhaps the people who used to do restitution from the Department of Law to come to the next meeting, to compare and contrast the methods. This might need to be something that is its own recommendation

#### **Public Comment**

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

#### **Future Meetings and Tasks**

Brenda said she would work with Barbara to incorporate today's discussion into the draft recommendation. She agree with Steve's earlier comments that it doesn't need to be too detailed but she

wanted to provide enough guidance to get people to take up the recommendations. She hoped that all this work would be taken seriously. She asked the group to let her or Barbara know if they had any about opinions on what can get feasibly done in the legislature.

For the next meeting, Barbara will send out a Doodle poll for June or early July. Barbara will send a revised recommendation out with enough time to read it before the next meeting.