

Alaska Criminal Justice Commission
Victims' Rights and Services Workgroup

Meeting Summary

Wednesday, June 23, 2021

10:30 a.m.

Via Zoom

Commissioners Present: Steve Williams, Alex Cleghorn, Mike Ramsay, Sean Case (11:04)

Participants: Troy Payne, Tory Shanklin, MaryBeth Gagnon, Kaeli Snyder, Taylor Winston, Suki Miller, Ingrid Cumberlidge, Travis Welch, Katie TePas

Staff: Staci Corey, Barbara Dunham

Introductions

Commissioner Steve Williams, workgroup chair, called the meeting to order. The meeting agenda and meeting summaries from February 2, 2021 and April 1, 2021 were approved without objection.

Updates

Victims' Video Update

Taylor Winston, director of the Office of Victims' Rights (OVR), explained that the subgroup had had good participation and had been working on a draft script for the video. One issue was how to explain automatic versus requested rights. Victims watching the video should have accurate expectations; often rights must be explicitly invoked at the victim's request, such as requesting restitution. The subgroup will keep working on it. The Department of Public Safety (DPS) has agreed to help with production, at least to get started. It will not be a Hollywood-level production but they have some resources available. They might be able to find some grant funding for future efforts. The first video will be a 30,000-foot-view, ensuring that victims know they have two main points of contact in OVR and the prosecutor's office.

Commissioner Williams asked if the subgroup could create a synopsis document that could be shared with the larger workgroup when the project was ready. Ms. Winston said there would be. Commissioner Williams thought that having a solid synopsis might help secure some grant funding for future installments. Katie TePas with the Alaska State Troopers said that DPS was glad to help with filming— thought there may need to be other sources for future videos. Commissioner Williams recalled that during initial discussions, Judge Stephens had noted that it might be difficult to get all the relevant information in one video.

Parole hearing notification update

Mike Ramsay, victim specialist at the Department of Corrections (DOC) explained that DOC's IT department says it is possible to put the parole hearing calendar online, but they need to resolve some programming issues. They are getting started on the project, and will provide an estimated completion date at some point. Commissioner Williams suggested sending something in writing to the workgroup explaining how it would work. Mr. Ramsay said he would do that.

Ms. Winston said that related to parole, victims should receive notification about a defendant's potential release date 30 days after the defendant's sentencing. OVR hasn't received those notifications, even if they are representing the victim. This was something she was interested looking into. Commissioner Williams wondered if this issue needed some specific action the Commission could take, or whether it would just involve a discussion with the point person at DOC who was responsible for the notifications. Ms. Winston said she was not sure if there was a problem, but thought it was worth looking at and that this was a good group of stakeholders to discuss the issue if need be. Commissioner Williams suggested getting in touch with the point person at DOC and said that this would be on the agenda for the next meeting for an update.

Advocate Privilege

Barbara Dunham, project attorney for the Commission, explained that at the last meeting, the group had discussed extending the advocate privilege to all advocates for all victims; currently the privilege applies only to advocates who work with victims of domestic violence or sexual assault (DV/SA). The privilege allows advocates and victims to keep their conversations confidential so the information the victim shares cannot be compelled in court testimony or subpoenaed in documents.

Ms. Dunham explained that she had circulated a memo on the subject to answer some of the group's questions. First, the group had asked about the history of Alaska's law and whether there was any intent to exclude other types of advocates. There did not seem to be any particular intent to exclude other advocates at the time the law was drafted. Rather, the impetus from the law came from DV/SA advocates who had noted that other states were passing similar laws, and they had asked a legislator to sponsor a similar bill for Alaska.

Ms. Dunham explained that the group was also interested in looking at how other states' laws work. Several states suggested by the group such as Oregon, New Mexico, and Washington all had a privilege for DV/SA advocates only. Other states such as Arizona, Illinois, and Iowa had a privilege for all advocates. The specific details of the law varied from state to state.

The group had also been interested in whether tribal organizations and service providers were included in the privilege in other states. Ms. Dunham explained that this varied from state to state; some statutes applied the privilege to all public and private organizations, while others limited it to nonprofit organizations only.

Commissioner Williams asked whether the definitions that were included in the memo came from each state's actual statute. Ms. Dunham said that she had paraphrased the statutes. Commissioner Williams said that one thing that caught his eye was that in some states such as Oregon, a victim was defined as someone seeking services for DV/SA, rather than a victim of a DV/SA crime, which seemed to be a looser definition. Ms. Dunham agreed, saying that many states don't require there to be an underlying criminal

case or a report to police for the privilege to apply—the focus is more on what the person is seeking help for as well as what training the advocate has and who the advocate’s employer is.

Public Comment

Malan Paquette said she had read some of materials for the meeting and noted the privilege issue was relevant to her as an advocate promoting anti-fraud resources and providing victim resources. She has also been looking at cold cases, and Alaska’s missing person clearinghouse. She said that privilege would be helpful in her investigations, and being able to access records. Privilege would allow victims’ rights groups to share information with people. She noted that she also works with the long-term care ombudsman. With that and her master’s degree she has over 40 hours of training. She also suggested including ICWA workers in the privilege.

Advocate Privilege, cont.

Commissioner Alex Cleghorn said that if the group was going to be looking at moving forward with this idea, he would recommend adopting the Oregon language that specifically includes programs administered by tribal governments. Commissioner Williams asked if such programs would not be covered under the current statute. Commissioner Cleghorn said that he was not sure, but thought it was better to state the concept explicitly. If the Commission wanted to move forward with a recommendation on this, he would want to include tribal advocates in this discussion.

Mr. Ramsay and Commissioner Sean Case both agreed, saying they were in support of expanding the privilege. Ms. Winston said that OVR would also support expanding the privilege, noting that OVR was in a different situation because OVR’s staff are covered by an immunity statute and its attorneys are also covered by the attorney-client privilege.

Tory Shanklin, executive director of Victims For Justice (VFJ), said she really appreciated this discussion, which directly impacts VFJ since VFJ is not protected by the current statute. Commissioner Williams asked if there was anything that jumped out from the other states’ statutes that VFJ would want to include. Ms. Shanklin said she would need to look closer but noted she had also done some research on this previously, which she could send to the group.

MS. Winston said that the Arizona statute had a number of provisions that she would support; Suki Miller from STAR noted that the Iowa statute requires all advocates to have 20 hours of training, which was something she would support.

Commission Williams said that the group had already noted that the phrase “primary purpose” used in the current statute [which limits the privilege only to advocates who work for organizations whose “primary purpose” is to serve victims of DV/SA] was limiting, and from the legislative history it seems like that was not necessarily the intent of the statute. He also appreciated knowing the history of the statute and that it derived from the prompting of DV/SA advocates and meeting their needs.

Commissioner Williams wondered if states that have broader privilege had any problems implementing it. Ms. Dunham said she had not looked into that, but noted that states also really differ in terms of how the privilege actually works, and it can be an absolute privilege, or one that can be easily abrogated by a judge, or something in between. Ms. Miller noted that under Alaska’s current statute, one situation where information can be accessed is in child protection (CINA) cases.

Ms. Shanklin said that when she first looked into the idea of expanding the privilege, some of the pushback she ran into had to do with partnerships with law enforcement officers and legal services. The more she dug into it, she didn't really think it would be a limiting factor. Organizations like STAR can be part of multidisciplinary teams that include law enforcement, and partnerships like that are really beneficial for victims.

Commissioner Williams said it sounded like there was support for this concept. He suggested taking a closer look at how the privilege works in Alaska, and, if the group wanted to move forward with a recommendation, thinking about whether it would be better to amend the current statute, or draft a new statute.

Commissioner Cleghorn agreed it would be good to have a bit more information on how the privilege operates. He thought that in terms of a recommendation, the group could just offer some bullet points; he didn't think the Commission needed to write the actual statutes. The recommendation could just paint in broad strokes what the Commission would want to see. Mr. Ramsay and Commissioner Case agreed. Commissioner Williams said that would be the course of action.

Victims' Commission Recommendation

Commissioner Williams said that a draft recommendation had been circulated on this that was a very rough draft intended to encourage discussion. He noted that Commissioners Cleghorn and Scotty Barr had discussed the concept with Ms. Dunham. Commissioner Cleghorn said that the concept kind of came out of the April meeting, where the group got a lot of information about victim service programs being stood up or revitalized among tribal organizations; there was a lot of federal attention to Alaska happening right now.

Commissioner Cleghorn said that the general concept of the recommendation was to find a way to provide a space for people working in victim services, whether tribal, nonprofit, state or federal, to convene and coordinate. The draft that was circulated was a jumping off point; it could be an ad-hoc group, or it could find a home somewhere with more structured support. The idea was get groups of people sharing information. He thought it would be helpful to have a discussion of where such a space might be most helpful—with a state agency, a community group, or something else?

Ms. Dunham said that Commissioner Barr had been interested in violence prevention and how to raise awareness of prevention work already being done around the state. Ms. Dunham noted that a lot of great work was being done in prevention; having a space for service providers to come together would enable people in Kotzebue to know what people in Ketchikan are doing and vice versa.

Commissioner Williams wondered if there was already a group doing this kind of convening work. If the workgroup was interested in going forward with this idea, he thought it would be a key thing to find out. He knew that ANDVSA and CDVSA have this kind of role. He also don't want to limit the existence of such a group, or set a time frame. The value in having that kind of space is being able to discuss things over time as they come up.

Ms. TePas thought there was a lot of overlap of between this draft and one of the CDVSA statutes (18.66.050) which directs the CDVSA to coordinate services provided by the Dept. of Law, DEED, DPS, DOC, DHSS, and other state agencies and community groups, and also directs it to conduct public hearings

and studies on things like crisis intervention and prevention. There was the Pathways steering committee. She thought it might be predominately focused on intimate partner violence and sexual assault.

MaryBeth Gagnon from CDVSA said that in her office Ann Rausch was involved in Pathways; Ms. Rausch is also their statewide prevention coordinator. Ms. Gagnon offered to get an update on Pathways for the group.

Commissioner Williams reiterated that this draft was just a starting point, a way to start a conversation. He wondered if the CDVSA statutes Ms. TePas had mentioned included service providers for victims beyond DV/SA victims. Ms. Gagnon was not sure; that was something she would have to clarify with her director. Recently the CDVSA Board has been discussing maintaining their focus on DV/SA, though CDVSA also receives some funding for victims of all violent crime. Ms. TePas thought there might be some room to work with in the statute, but agreed it was something to check.

Ms. Miller noted that there was also the Alaska resilience initiative, which was focused on child sexual abuse. She noted that violence prevention is a big field. CDVSA and ANDVSA tend to focus on their funded members. There was a lot going on in the state. She thought it was important to think about how broad this idea should be.

Commissioner Williams said this topic would stay on the agenda; he wanted to make sure that Commissioner Barr would be included in the next discussion.

Next Steps

Commissioner Williams said that the discussion on victim information/navigators would be postponed to the next meeting. The next meeting was set for July 14 at 1:00 pm.