

Alaska Criminal Justice Commission
Victims' Rights and Services Workgroup

Meeting Summary

Thursday, September 17, 3:00 p.m.

Via Zoom

Commissioners Present: Steve Williams, Samantha Cherot, Sean Case, Scotty Barr, Randi Breager (proxy for Commissioner Price, Laura Russell (proxy for Commissioner Crum), Paul Miovas (proxy for Commissioner Sniffen), Mike Ramsay (proxy for Commissioner Dahlstrom)

Participants: Travis Welch, Nancy Meade, Rachel Gernat, Karl Clark, MaryBeth Gagnon, Dawn Shewmaker, Tory Shanklin, Taylor Winston

Staff: Staci Corey, Barbara Dunham

Introductions

Commissioner and workgroup chair Steve Williams explained that two of the three recommendations from the workgroup had been approved by the full Commission the previous week. The third, proposing to split the positions of victim-witness paralegals, raised some concerns among commissioners, and rather than take a vote last week, he decided to try to address those concerns, and see if the workgroup can come up with a recommendation that can suit everybody.

Recommendation

Steve gave a recap of the concerns raised at the plenary meeting. There were issues about recruitment and retention of paralegals, and the impacts of altering that position. The Commission also heard that Law has already taken steps to improve services to victims.

Paul Miovas, Director of the Criminal Division in the Department of Law, confirmed that was the case. Law now had a pilot project in the Anchorage district attorney's office working directly with a victim advocate in house. That person started when COVID did. The advocate will be working on cases involving victims who are harder to track down and will have a counterpart at APD. Law is also exploring what it can do better for retention and recruitment of paralegals. One idea in conflict with the proposal was to create a supervisory paralegal without a caseload, someone who will help out others. They want to build upward mobility into the position, creating an incentive to stay and build expertise. Right now they don't have any such opportunity beyond a promotion two years in. These ideas will face struggles in light of the state's fiscal challenges.

Paul added that Law has 13 regional offices, and if the Department is fully staffed, they have one paralegal for every three to four attorneys (and they are not fully staffed right now). That creates a lot of work for the paralegals especially in sexual assault cases.

Steve said that one thing the workgroup has heard that also came up in the victim listening sessions was the lack of communication from state agencies. This was a key concern to address, and the question

was how to facilitate better communication in an effective way. So the workgroup started thinking about this coordinator position. The unfortunate reality of all the pressures the victim-witness paralegal faces, if they are juggling the need to respond to an attorney, judge, etc—responding to a victim goes to the bottom of the to-do list. So the idea was to peel that service off for a different position. That doesn't answer the question of creating a career ladder, but it does speak to the overwhelming workload.

Paul said he understood that rationale. The Department of Law currently has about 19,000 cases across the state. All these cases have victims, all of whom are entitled to services. He had read the position description for the victim-witness coordinator from the U.S. Attorney's office. Their office had 155 new cases in a fiscal year, with 211 still open at end of year. Not all of those cases have victims (such as cases involving weapons and drugs). They have more resources. He imagined that federal position is the gold standard, but thought the comparison was apples to oranges.

In one year, the Department of Law saw 400+ sexual assault cases in hub communities. Currently they have 594 sexual assault cases open. So looking at that from the perspective of having 39 paralegals, one can see how overwhelming the problem is. Law would definitely appreciate additional resources and positions but given the fiscal climate, Paul didn't think that was realistic.

Paul explained that the main job of the victim-witness paralegal is to help the attorney. Not only is the prosecuting attorney competing for the paralegal's attention but so law enforcement and the defense attorney. The paralegals are being pulled in many different directions, so it was no surprise that they have their struggles.

Taylor Winston, Director of the Office of Victims' Rights (OVR), said she thought that was the crux of the discussion in proposing to divide up the job. The victim-witness paralegals have too much on their plate, are pulled in too many directions, and it can be intensive working with victims. Her office has seen the impacts of retention difficulties. It was hard for them to do the job well with so much to do. She thought everyone was sympathetic to resource issues. Law is still obligated to provide information to all victims. That was why she was supportive of the idea of looking at a separate position.

Samantha Cherot, the Alaska Public Defender, said that the PDs have about one paralegal for every seven attorneys in Anchorage, thought the ratio was better in smaller offices. It was not up to national standards. Part of the role of the paralegal at the Department of Law is to disclose late discovery, which the defendants have a right to know about. If the PD's clients find out about the discovery late, that can contribute to delay. COVID and the budget crisis will compound these problems. She agreed that the Commission should make a recommendation and let legislature decide how to appropriate funds, although the reality is that there is a fiscal crisis.

Steve said he didn't think anyone wanted to ignore reality, but the Commission was charged with looking at the justice system as a whole and making recommendations for improvement. He noted that resources can also be reallocated.

Tory Shanklin, Director of Victims for Justice (VFJ) explained that VFJ's advocates were embedded in the Anchorage DA's office within Law, so she wanted to share their vision. There are agencies across the state who specialize in working with victims and walking people through the process. VFJ found that victims have frustration with knowing what was happening with law enforcement and when things got to trial. So VFJ's partnerships with APD and the DA's office are to get the victim through those processes. A lot of time, the victim doesn't need to talk about the case specifics, so the advocate is just talking about the process. She thought the partnerships would alleviate a lot of frustration from victims. She noted she had missed the meeting when the workgroup decided to propose a new position.

Steve asked if there was anything the workgroup could do with the current recommendation to modify it to bring it back to the full Commission.

Commissioner and APD Captain Sean Case thought that successful communication was the key to this—it was made clear to those who sat in on the listening sessions. He added that communication from the authorities is not always bad; sometimes victims aren't always in the right place to hear what's being said. They might need to ask the same questions several times. He didn't know about how to allocate resources, but this is an area the state is absolutely falling down on.

Commissioner Scotty Barr agreed with what Sean said. He thought there were a lot of possibilities for solutions. He always believed there were more solutions than problems.

Randi Breager, Special Assistant to the Commissioner of Public Safety, said she was hearing some tension between providing information and advocacy. She thought it would be hard to help a victim without being an advocate. She appreciated Tory's comments that there are people who are trained to perform these functions. She agreed communication is the key, and didn't want it to just be "here's your court date" – she thought victims need something more holistic. She suggested shifting the focus to strengthening partnerships with community-based advocates. This was also bubbling up with the Sexual Assault Kit Initiative—the same issue with confusion about what is happening in the investigation. She wondered if there was one person who can bridge systems and provide support throughout the process. She thought there were advocates who do that, but those efforts could be strengthened.

Laura Russell from the Department of Health and Social Services said she understood Law's position; their duty is to prosecute, and their role is not to advocate for victims. But there is the need for this kind of communication with victims to be more substantive and more frequent. She noted that OVR has a statutorily defined role, but they are already advocates for victims, and organizationally neutral. She thought the communication function needed to be improved, and the question was where it should go.

Mike Ramsay from the Department of Corrections echoed the above statements. It was a challenge to manage victim expectations, and find a balance with the appropriate level of service.

Samantha suggested that rather than separating the victim-witness paralegal duties, the recommendation could work more on connecting victims to existing resources.

Paul said he didn't think there was actually a lot dividing the group right now. His main concern was about the recommendation to separate the job. If the fiscal impact were less of a concern, he would agree that there needed to be a position that can do this. He still questioned housing the position within the Department of Law. There is a fine line between advocacy and providing information. If Law had to separate duties without adding positions, he thought the unintended impact would be less mutual support among staff. He thought it might make a lot of sense to partner with advocacy groups and do a better job of getting them in house. Tory's comments brought to mind the multi-disciplinary teams used for sexual assault cases. He also thought about OVR; they are also dealing with limited resources.

Commission project attorney Barbara Dunham noted that the victim-witness coordinator in the U.S. Attorney's Office, Dawn Shewmaker, had to leave the meeting, but sent her a message to say that she currently has about 100 cases, not including probation violation cases. She also said that the funding for her position comes from the federal Office of Victims of Crime and not from the U.S. Attorney's Office budget.

Paul said that the Department of Law has been talking with the U.S. Attorney's Office about funding sources and has been looking into alternative funding sources.

Taylor agreed that the group members were not that far apart, and agreed that Law should not be doing victim advocacy. But there were certainly duties that prosecutors have, and one question was how does Law make sure that people within their organization are meeting those duties. When that information is not getting relayed, the other resources and systems will not come into play. Most victims have the misconception that the prosecutor is on their side or represents them.

Randi asked whether the language in the recommendation could reflect that the goal was not just improving communication but increasing the colocation of advocates. She wondered if there were enough victim service agencies around the state in places where the Department of Law has offices to provide these services.

Steve asked if Randi was suggesting using community-based victim service agencies to fill this role with funding from law (or grant). Randi said yes but thought the funding logistics would get worked out. Some victim agencies will have applied for grants on their own.

Tory explained that VFJ is a statewide organization based in Anchorage. There are agencies serving victims, particularly DV/SA victims, throughout the state. VFJ specializes in helping victims of violent crimes other than DV/SA. VFJ has applied for funding for its pilot projects knowing it has the advocates and necessary partnerships. VFJ's funding comes from CDVSA and VOCA.

MaryBeth Gagnon from CDVSA said that all of Alaska's hub communities have funding for victim services, mostly DV/SA advocates. If victim service organizations can form partnerships with Law and law enforcement, that would be the best way to go. But the only gap is that there are not a lot of organizations that serve victims of crime other than DV/SA. VFJ is the only organization for victims of other violent crimes.

Taylor said she didn't think there was anyone helping victims of property crime. If Law was going to have people embedded, they need to be able to help all victims. She didn't want to lose sight of that.

Rachel Gernat from ANDVSA said it sounded like the paralegals were overworked, and suggested that the recommendation didn't need to say what they need to do, but just acknowledge the problem. These cases will move more smoothly if communication is improved, because victims won't be alienated, making it easier to prosecute the case. The recommendation could just specifically state what the problem is, what the issues are, and that there should be solution. Prosecutors are not advocates, but do have duties of notification. But perhaps the recommendation should be broader than that. From ANDVSA's perspective, there needs to be more contact with victims across the board.

Steve suggested removing the reference to the paralegal position, since the intention is not to have those positions sacrificed. The real need was to add capacity somewhere. He was leaning against using community agencies because there is no statewide perspective, making it difficult to parse out resources across the state, and also there was the issue of access to information from the Department of Law. There might already be better lines of communication between OVR and Law. He was look at the job description of the federal victim-witness coordinator, on page 2, which outlined several responsibilities that would fit well with what the group has been talking about.

Paul noted that a victim has to approach OVR for help—rather than OVR contacting the victim first, they have to go to OVR first. Prosecutors prefer cases in which OVR is involved, because they can call the lawyer for the victim and talk to them as a lawyer, and then the OVR lawyer can talk to the victim as an advocate. The process can be very confusing for the victim.

Paul was supportive of any idea where Law is fulfilling its required role and also getting people better connected to more help. He agreed with removing the reference to the paralegal position. He also suggested changing the language in the last paragraphs in the recommendation. He understood what was intended, and the second to last paragraph included the sentence that the coordinator would not be an advocate, but Law's responsibilities were clearly defined in statute. He would prefer a statement to the effect of "fulfill obligations per AS..." rather than "the victim knows their rights" as Law's responsibilities are not the same as what the victim's rights are, and Law is not required to explain every right.

Steve noted that the last paragraph could be removed.

Paul agreed with Rachel in that he was nervous about how specific the recommendation was, and he would prefer to acknowledge there is work that has to be done and Law will have to do some of it.

Steve suggested that, given the narrative that already exists in the recommendation, the title of the recommendation could say "establish victim-witness coordinators" rather than "separate" and remove the reference to paralegals, instead of connecting the two ideas. The recommendation could use language from the U.S. Attorney job description, listing some of the responsibilities as examples.

Steve noted that the third paragraph might get into micromanagement territory, but he thought the recommendation should be that pointed. The focus of the position is to have a point of contact. That's what the Commission heard was needed from victims. If the position is housed in the Department of Law, they will have better access to information on the status of their case.

Steve suggested keeping the fifth paragraph and making it clear this person would not be an advocate. The last paragraph may not be critical and could be removed or could be tweaked.

Samantha said she was not sure the last paragraph was needed, and thought Steve's suggestions make sense. She suggested editing the draft accordingly and circulating it.

Steve said the critical decision piece was whether everyone was comfortable adding positions in the Department of Law. Paul said he was, although it was not necessarily realistic, and he was hesitant to make unrealistic recommendations. Steve thought the question was whether the recommendation reflected the way the Commission wants the system to operate. Sean, Paul, Scotty, Mike and Samantha agreed that it did. Tory noted that the sooner someone can connect a victim to an advocate, the better.

Public Comment

No public comment was offered. Commissioner Scotty Barr asked for a number to help a victim of crime who reached out to him, which Tory provided. Scotty explained that he has gotten similar requests from people from around the state, and is not always sure how to help. He was trying to be a helpful person for others, and might bring this up at the next Commission meeting too. He was going to try to collect comments from people in his area (the Kotzebue area) and relay them to the Commission.

Future Meetings and Tasks

Barbara will take a stab at reworking the recommendation and then will circulate it to the Commissioners. They will review it and then Steve will call a quick meeting for this workgroup before the next plenary meeting.