

Alaska Criminal Justice Commission
Sentencing Alternatives Workgroup
Staff Notes February 13, 2015, 3:00 PM to 4:30 PM
Attorney General's Office, 1031 W. 4th Avenue, 5th floor, Room 502, Anchorage

Commissioners attending: Trevor Stephens, Stephanie Rhoades, Quinlan Steiner (part of mtg), Brenda Stanfill (video)
Commissioners Absent: Ron Taylor, Wes Keller
Staff Present: Mary Geddes, Giulia Kaufman (notetaker)
Participants: Clint Campion, Tony Piper, Steve Williams (part of mtg; phone), Jeff May (phone), Ken Truitt (staff to Rep. Keller) (video)

Future Meetings: Friday, March 13, 2015, 3:00 PM to 4:30 PM

Materials Provided:

- See Mary's emails sent out 2/12/15 and 2/13/15

The meeting opened at 3:04 PM.

1. Review of [Recidivism Reduction Plan](#) and its recommendations

Commissioners agreed that the plan was very thorough and contained some good recommendations. Stephens said that he liked the fact that all of the statistics were compiled in one place. Rhoades pointed out that that the workgroups and the commission should unbundle it and utilize it and ultimately incorporate it in their work plan.

2. Pretrial Diversion: see MG's draft discussion of Pretrial Diversion

The group discussed Geddes's draft paper. Commissioners agreed that it provided a helpful overview regarding the issue. Geddes stated that she found out that the program was initially grant funded and then grew from there. Rhoades asked Campion if he had been able to find out more about the history of the program; he stated that he wasn't able to find anybody who had knowledge about it. May stated that he approached the DA's office in Fairbanks. He was told that the program was terminated because of a funding crisis. The decision was also influenced by a Supreme Court's decision [presumably, in *Stobaugh vs. State of Alaska* (1980)].

Rhoades asked Campion if he was able to follow up on the DOL's attitude towards pre-trial diversion. He replied that he raised the issue but there has been no further discussion or movement. However, he stated that line prosecutors feel strongly about the issue and would prefer if there was an option of deferred sentencing. Rhoades asked Campion what sense he had about DOL's position; Campion stated that he does not believe that there is a favorable attitude within the department. Rhoades suggested that, given DOL's attitude on pre-trial diversion, the group should shelve the issue for now and renew the discussion after the session. She stated that she still hopes that the ACJC could offer recommendations this session, although it is already late in the game. She stated for the moment the group should redirect its efforts towards issues which have more

support by the DOL; Stanfill agreed. Geddes noted that there has been interest from the legislature, particularly Sen. Coghill's office and the Alaska Task Force on the Crimes of Human Trafficking, Promoting Prostitution and Sex Trafficking on the issue of pre-trial diversion. Stephens stated that although he likes the ideas of pre-trial diversion, deferred sentencing, and deferred prosecution, he does not think that anything is going to happen this session because it is already so late in the game. He also stated that he thinks these changes should be in statute rather than part of policy. She also stated that ACJC Chair Bryner said that workgroup recommendations to do not have to be completely finished before they are presented to the full commission. Truitt said that this sounds like a good idea and stated that he does not think it is fruitful to be prematurely concerned about DOL's support. Geddes stated that she received an email from Mr. Svobodny stating that he was going to comment on DOL's policies and practices next week. Rhoades asked Truitt if Keller had read up on the issue and was ready to proceed and discuss it next meeting.

The group agreed to take up the discussion next time. Geddes will finish her draft.

3. Deferred Sentencing: (see email attachments)

Review of SIS statute—should it be amended/appended/replaced by deferred sentencing statute?

Next, the group reviewed Rhoades's changes to the SIS statute. Rhoades stated that the current SIS statute [AS 12.55.085](#) is an unusual mechanism. Most SIS agreements involve a probationary disposition. If the defendant successfully completes probation conditions within the specified time frame, the conviction is set aside. While state law does not count the SIS/DIS as a prior conviction, the information as to a conviction remains on Court View. When the defendant applies for employment, he/she has to disclose this information. Hence, an SIS disposition creates a barrier to re-entry.

In her draft, Rhoades proposes a post-plea deferred disposition model. The model suggests that the individual enters a plea and then is released on bail status with certain conditions. After the specified timeframe, another hearing would be scheduled and the defendant would have to present proof that he/she has completed the conditions. If this is the case, the defendant would be allowed to withdraw their plea and the case would be dismissed. If successful, the defendant would not be convicted of a felony. If the defendant does not complete the conditions, the court would proceed to sentence the defendant on the charge. Rhoades pointed out that that would resolve the prosecutors' concern about holding witnesses.

A discussion regarding the details and the implications of the statute change followed. The group agreed that Rhoades would work on a second draft incorporating the suggestions; she would circulate it to the group by Thursday February 19th. The group is asked to give feedback on the second draft by March 1st. She will then revise the draft and incorporate the second round of feedback.

4. Community Work Service – proposal for statutory change (see attachment for existing statute)

Next, the group turned its attention to Rhoades' proposed changes to the Community Work Service statute ([AS 12.55.055](#)). Rhoades stated that the statute is supposed to be an alternative to jail but it instead evolved into a conversion to jail. She stated that defendants are ordered to CWS, however, they often do not complete it and are then sent to jail for not fulfilling their conditions.

She suggested that a change converting CWS might avoid a number of PTRPs. The group discussed possible implications of the proposed statute change. Stephens noted that he is often asked to convert a jail term to CWS, and that he imagines that the Public Defender would want to preserve that option.

With the groups' concerns in mind, Rhoades will tweak the language of draft amendment by March 1 and bring it back to the group for its next meeting on March 13.

5. Workgroup Game Plan

With regards on how to proceed, the group decided to present the proposed statutory changes to the CWS and SIS statutes to the Commission in March.

Mary stated that the group should look at the next three months and then the next six to nine months, the group should establish a work plan for a set period of time and determine its priorities.

Other topics for future investigation:

- The functioning of the therapeutic, wellness and mental health courts (i.e. their current utilization and capacity, admitting criteria) and the barriers to their efficacy
- The existing technologies for sobriety and other monitoring (EM, SCRAM)
- Residential treatment: locations and capacities
- Community Residential Centers: how utilized
- Expansion and utilization of Restorative Justice models
- Medicaid – understanding the relationship of funding source to services

Judge Rhoades also pointed out that it would be helpful to have designee from DOC on the workgroups, at least during the session.