

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

Commissioners attending: Stephanie Rhoades, Quinlan Steiner (phone; part of mtg), Brenda Stanfill (phone), Kris Sell (web), Trevor Stephens (web),

Absent: Ron Taylor

Staff Present: Susanne DiPietro, Giulia Kaufman

Participants: Clint Campion, Steve Williams (phone), Jeff May (phone), Ken Truitt (web)

Future Meetings: **Friday, March 31, 2015, 10:00 AM to 12:00 PM**

The meeting opened at 3:08 p.m.; Clint Campion chaired the meeting.

Community Work Service to Fine:

Judge Rhoades stated that last year 1,343 PTRPs were filed in Anchorage District Court; out of those 494 were filed due to failure to complete a CWS requirement. Offenders who are found to have violated their probation by failing to complete their CWS requirement may receive a sanction of jail time (at the rate of one day of jail per eight hours of uncompleted CWS). The processing of these petitions and the additional jail time are a cost to the system.

Judge Rhoades' proposal would eliminate the option of imposing CWS as a condition of probation and streamline the processing of CWS failures (see Judge Rhoades proposal for details). CWS still could still be imposed as a part of a direct sentence. An offender who fails to perform the CWS will be given notice by the court and an opportunity to cure the failure. If the offender does not respond, the court will convert the CWS to a fine and issue a judgment against the offender. The judgment would be collectible by the state in the same manner as other money judgments.

Commissioners generally were favorable to the proposal, although there was some concern about entirely eliminating the option to impose CWS as a condition of probation. It was agreed that the Commissioners on the working group will think more about the possible ramifications of eliminating CWS as a condition of probation and get back to Judge Rhoades no later than March 20 with suggestions.

DiPietro pointed out that it may be helpful to extend the statistics to the state level; the group concurred and it was agreed that DiPietro would contact Nancy Meade at ACS to obtain those statistics.

It was agreed that if Judge Rhoades receives no comments by 3/20/15, the proposal will be forwarded to the full Commission.

Replace SIS with Deferred Sentencing

Judge Rhoades gave an overview of a proposal to replace the current SIS sentencing option with a procedure for plea withdrawal and dismissal that does not leave a judgment of conviction on the person's record (please see draft for details).

The Commissioners discussed whether the proposed deferred sentencing option should be available for all offenses and all offenders. SIS is currently available for violent offenders; however, Sell said that she felt uncomfortable to give sex offenders and violent offenders the option of deferred sentencing. She said that she would feel more comfortable to give this option only to offenders who are not a serious ongoing threat to the community, which would have to be established in some way. The discussion revolved about possible other options and Judge Rhoades suggested that suggestions be sent to her by 3/20/15; she would incorporate those suggestions in the revised draft.

Stanfill raised concerns about Alaska's eligibility for grant funds under the Violence Against Women Act (VAWA), since VAWA grant eligibility depends in part on a state's certification that it does not allow domestic violence offenders to participate in certain kinds of diversion programs. She stated that she had asked Lauree Morton at the Council on Domestic Violence and Sexual Assault (CDVSA) to look into this issue; DiPietro and Campion agreed to look into the requirements of the VAWA grant as well. Stanfill stated that if the proposal does not jeopardize Alaska's VAWA grant funds, she would be ok with it.

May asked about whether it would be possible for a person to withdraw the plea, if found guilty by a jury. Judge Rhoades said that the current draft captures how she decided to address the issue but she is open to suggestions.

Pre-Trial Diversion

Clint reported that there has been no change to DOL's policy regarding pre-trial diversion (PTD). Currently, PTD has to be authorized by the Deputy Attorney General.

Judge Rhoades reviewed her recommendation with the group (please see draft for details). She stated that this is a general recommendation rather than specific statute language. Campion pointed out that at the moment, 42 states have PTD programs and most of the time cases are going forward based on an individual agreement with the prosecutor; an example of this is the PTD with the Municipality of Anchorage (for more information on the PTD program in Anchorage please refer to previous meeting notes). During the discussion it was suggested that the DOL could have some sort of guidelines authorizing PTD for certain offenses.

DiPietro pointed out that PTD could also be done at the law enforcement level; especially in rural communities. She referred to Sitka as an example, where MCA are referred to the tribal courts. Sell pointed out that that would be a good idea but law enforcement agencies have limited options. Campion stated that the issue of victim input cannot be overlooked.

DiPietro also pointed out that in some areas of the country, PTD programs had led to "net widening" in which defendants whose cases otherwise would have been dismissed or not

charged were sent to PTD. Also, imprecise guidelines for some program have led to minorities not being offered the PTD while similarly situated non-minorities were offered the PTD program. She pointed out that this was not the case with the PTD program in Alaska because it was very well structured.

Workplan:

The group decided that the proposal of the CWS would be forwarded to the full Commission. Comments and suggestions regarding PTD and deferred sentencing should be sent to Judge Rhoades by 3/20/15. The group agreed to continue the discussion on PTD and deferred sentencing at the next meeting. In addition, it was suggested that the issue of probation and restorative justice be put on the agenda for the next meeting.

For their May meeting, the group eyeballed May 1st, 2015 from 9 a.m. to 11 a.m., but the meeting time was not finalized. Judge Rhoades suggested that Mary could send out possible meeting dates and then everybody could indicate what times would work best for them.