

Sentencing Alternatives  
**Staff Notes March 31, 2015, 10:00 AM to 12:00 PM**  
Atwood Building, 550 W. 7<sup>th</sup> Avenue, Suite 102, Anchorage

**Commissioners attending:** Stephanie Rhoades, Trevor Stephens

**Absent:** Ron Taylor, Brenda Stanfill

**Staff Present:** Mary Geddes, Susie Dosik, Giulia Kaufman

**Participants:** Dunnington Babb (for Steiner), Billy Houser, Jeff May (phone),

**Future Meetings:** **Friday, April 24<sup>th</sup>, 2015, 3:00 PM to 5:00 PM**

*The meeting opened at 10:09 a.m.*

**EM Presentation (Billy Houser):**

Billy Houser is the VPSO Coordinator and also has operational oversight of community detention centers and community and regional jails.

He stated that there are established criteria for people who are on EM. People on EM get four hours of personal time a week to errands; otherwise they are restricted to the parameters of their daily routines, such as work, treatment, and church. Most people are not allowed to drive, but there are exceptions, such as when a person is a commercial driver. In addition, everybody on EM is monitored for drug and alcohol use. Houser stated that they are currently trying to expand the program to more rural locations, but one of the major challenges is the lack of infrastructure (e.g., cell phone providers).

He stated that people on EM are encouraged to get treatment. In addition, he pointed out that people who have substance abuse problems often live with a household member who also has substance abuse issues. If this the case, it is a condition of treatment that the household member also gets an assessment and seeks treatment; if one fails, both fail. Houser stated that the underlying issue in various offenses, including property offenses (e.g., Theft 2), is often a substance abuse problem; if this is not addressed people are more likely to recidivate. He stated that the EM program only has a recidivism rate of 18% over three years. (He did not state how this measure is defined.)

Houser stated that he does not agree with shock incarceration; in his opinion the shock occurs from the arrest and the court, not from incarceration. Instead, he said that studies have shown that sending low risk offenders to jail increases their risk to reoffend and commit more serious offenses. One of the reasons this occurs, is that prisons and jails are not designed for rehabilitations. It can especially be problematic, if different levels of security are housed in one facility. Houser also said that he sees the same problem in halfway houses. Often, unsentenced offenders who are in halfway houses are disruptive and limit the progress of people in the furlough program. He suspects that this may be one of the reasons why there no reduction in recidivism.

He informed the group that people who are placed on furlough have already served the majority of their sentence and completed treatment while in jail. As part of their reentry, they are transferred to a CRC and after an orientation period they are allowed more freedom. He said that people on furlough are doing well because once they start earning money, they are allowed to get their own place. He stated that they are trying to separate the people on furlough from the other people in the facilities because they want them to succeed. Drugs and other contraband are a huge issue in halfway houses because the officers are not allowed to conduct strip searches.

Another issue are misdemeanants, who are not allowed to work. He said that misdemeanants are currently taking up a lot of beds and are not allowed work because they are either unsentenced, their sentence is too short, or they are in confinement. With regards to the unsentenced misdemeanants, Rhoades asked what the biggest deterrent is to put them on bail instead. Houser replied that the current draft of SB91 is on the right track. He stated that the biggest hurdle are the DV cases, as DV offenders are not allowed to be in EM by statute; although, the current draft of SB91 narrows the definition of DV. He also said that he personally would allow sentenced as well as unsentenced DV offenders to work. In addition, he stated that people who work and live in halfway houses are required to pay sth out of their paycheck; these funds help support the program. Last year, those funds were about \$750,000. He stated that these funds could be increased, if more people were allowed to work. In addition, Houser pointed out that the costs of running a halfway house are not significantly cheaper than running a prison.

Rhoades commented that these people who are currently not allowed to work, need an alternative. Stephens added that it would seem like a good idea to expand the program and separate the people on furlough from the unsentenced or confined people. In addition, he believes that people who are unsentenced or confined should also have option to work. Rhoades pointed out that regardless of whether the Commission would come forward with a proposal recommending EM as a condition of bail, most defendants are indigent and cannot afford to pay for EM. Stephens posed the question of why people have to pay for EM anyway, since they do not pay for their own incarceration. Houser explained that EM normally costs \$14 per day plus \$10 a week for drug tests. He said that if people are indigent, they usually waive the fee. In addition, if defendants are ordered to pay restitution, they ask them to pay \$100 to \$200 per month, so they can pay back their restitution and get into the habit of doing so. In addition, Houser pointed out that if people are on probation or parole and on EM and cannot afford to pay the fees, DOC has to pay the fees because it is unconstitutional to leave people in jail simply because they cannot afford to pay for EM. Further, Houser explained that the operational costs to run a prison vs. a halfway house are also most the same. He said that also the cost of EM per day has not changed much over the last few years, the number of people in the program has increased (from 67 to 450) and the cost of technology has increased.

Rhoades asked what the success rate is for people who are convicted of MICS 4. Houser explained that they are not violent offenders, but they will often steal in order to sustain their addiction. In addition, they will often do very well for a month or two but then they will run into somebody they used to use with at the bus center and relapse. He said that they often put them back into jail for two to three days. He said, after they have been back in jail a couple of times, they come around. Rhoades pointed out that there is currently nothing in statute that prevents DOC from putting pretrial detainees on EM and let them work, but the question is, if DOC comfortable in doing so.

**Proposal to Replace SIS with DIS**

DiPietro followed up on Stanfill's concern that the DIS proposal would impact the State's ability to secure certain grants and reported that the language of the proposal does not affect the State's ability to secure grants. She suggested that the language with regards to exclusions be kept general. Different suggestions on how to phrase the exclusions were discussed: Proposals included to either have a blanket exclusion and exclude all Class A and Unclassified felonies; or have presumptive exclusions and exclude certain types of crimes, such as felony assaults and sex offenses; or to exclude cases on a case by case basis based on aggravating and mitigating factors, circumstances of the offense, and characteristics of the offender (e.g., mental health). In the interest of time, it was decided to revise the draft based on those suggestions and continue the discussion at the next meeting.

**Proposal for Pre-Trial Diversion**

With regards to pretrial diversion, it was again debated whether to recommend a change in statute or to recommend a change in DOL's policy. Bryner and Geddes reported that John Skidmore had said that DOL wants to do pretrial diversion, but were unsure how it would impact the state. (This was referencing a discussion on classification of drug offenses, during the Classification Workgroup meeting.) Rhoades suggested not to worry about the potential implications for DOL but to just put the recommendation forward. In the interest of time it was decided to pick up this discussion at the next meeting.

**Workplan:**

It was agreed that the drafts for the DIS and the PTD would be revised and discussed at the next meeting, which is on Friday, April 24<sup>th</sup>, 2015 from 3:00 P.M. to 5:00 P.M.

*The meeting adjourned at 11:55 a.m.*