

Alaska Criminal Justice Commission
Behavioral Health Standing Committee

March 9, 2017

Alaska Mental Health Trust
Meeting Summary

Commissioners: Jeff Jessee, Stephanie Rhoades, Quinlan Steiner, Dean Williams

Participants: Rick Allen, Steve Williams, Pam Cravez, Kristy Becker, Karen Forest, Randall Burns, Teri Tibbett

Staff: Susanne DiPietro, Barbara Dunham

Agenda

Judge Rhoades noted that at the reentry conference she spoke at the previous day, the issue of getting SUD evaluations for people in DOC custody was brought up; she suggested adding this to the agenda. The group agreed. [Note: the group did not return to this topic by the end of the meeting.]

Development of a jail diversion program for behavioral health populations

Judge Rhoades noted that Geri Fox, director of the Pretrial division at DOC, was working on this issue. When it is up and running, the Pretrial Unit will identify people appropriate for diversion, but there needs to be a workgroup convened to develop a diversion program [as recommended by the Commission last fall]. Judge Rhoades asked whether the Standing Committee should be that workgroup.

Susanne DiPietro asked what sort of program Judge Rhoades was thinking about. Judge Rhoades noted that there were many programs around the country that Alaska could use as a model. The first step would be to determine the target population. Some diversion programs target offenders with severe mental illness, and some target opioid users. Essentially it would be like the Coordinated Resources Project (aka mental health court) but front-end; typically when the offender successfully completes the program the benefit is that the case is dismissed.

Randall Burns asked whether the program would accept offenders charged with any crime so long as they were diagnosed with severe mental illness or substance use disorder.

Judge Rhoades explained that previously the DAs had not been interested in a general statewide diversion program. This would be a DOC program for those who create the greatest dilemma for DOC— those whose needs could not be met by DOC and who would be better off if they were diverted to services- people with an Axis 1 diagnosis, developmental disabilities, TBIs, FASD, etc. Susanne asked if this could include those with substance use disorder. Judge Rhoades said it could—the workgroup would have to identify the target population.

Randall asked what SB 91 required. Susanne replied that it required DOC to identify offenders appropriate for diversion. There was no timing requirement.

Susanne said that whatever the program was, it would need prosecutorial buy-in. It was her understanding that some DAs were doing pilot diversion programs, and they may not want any additional diversion programs. Jeff Jesse noted that he and John Skidmore had been attempting to connect about this but had not actually found time to talk. Steve Williams noted that the ACJC recommendation asked DOC to convene representatives from the various departments—including Law. Since the Commission vote on that recommendation was unanimous, one could assume that Law was in favor of such a program. The question was whether DOC wanted to take the lead on forming the group mentioned in the recommendation or just designate this group.

Commissioner Williams said that developing this program now would be timely, even for just a pilot program. This group could be the right tool if the right people were on board. He would probably recommend Karen Cann, Deputy Commissioner for Transitions at DOC, to head up the effort for DOC. He supports this idea but would want to be sure to include opioid addicts as well as the severely mentally ill.

Judge Rhoades said she liked the idea of a pilot program. Randall suggested placing the pilot program in a smaller community, somewhere other than Anchorage. Judge Rhoades suggested that DOC could identify the appropriate community.

Judge Rhoades will follow up with Rob Henderson at Law as well as Karen Cann and will provide the group with an update at the next meeting.

CIT Training

The group noted that Commissioner Monegan had not joined the meeting, and that this agenda item was to keep the group updated on getting CIT training for law enforcement and dispatchers. Steve said he could get this information; he was aware that troopers have generally expanded their hours in behavioral health training. Hans Brinke in the Valley is organizing a full 40-hour training.

Randall noted that DPS and the FBI have met twice recently to discuss the lessons to be learned from the Santiago case.

Judge Rhoades will follow up with Commissioner Monegan for an update.

Release of Information (ROI) forms

Judge Rhoades noted that the previous iteration of the group had received a lot of feedback on the problem of releases of information (ROIs) not being accepted by all providers. The Commission recommended that the legislature enact a statute creating a universal ROI. She asked whether this group or a sub-group should develop the universal ROI. There was general agreement.

Randall noted that the AG would have to approve any ROI and that the state's main HIPAA authority was AAG Kelly Hendrickson. Judge Rhoades said that the Commission approved the ROI recommendation unanimously, and that vote included the AG, so that would be enough for AG approval.

Teri Tibbett noted that the Juneau Reentry Coalition was working on an ROI with Alysa Wooden from DHSS. Susanne suggested this could be used as a draft.

Access to medication and mental health treatment for pre-trial detainees

DOC would like to treat mentally ill detainees pre-trial, but needs a way to do this without violating due process. Commissioner Williams was not sure of the scope of the problem—he assumed DOC would treat everyone short of force-feeding them medication. He will follow up with Laura Brooks and Adam Rutherford on this.

Dr. Becker said she gets requests on this regularly. Defendants come into custody in a variety of stages of medication compliance. The question is whether these defendants can be involuntarily medicated. The *Harper* case allows it for defendants who are a danger to themselves or others. The interpretation of the case hinges on the meaning of “grave disability.” She has also seen court orders to keep defendants status quo at the point of their arrival.

Judge Rhoades agreed that the issue was whether to involuntarily administer medication pretrial, and what to do with people who don’t meet the *Harper* standard. The committee did not identify any future action steps.

Centralized competency calendar

Steve noted he had brought this issue up to the Criminal Justice Working Group (CJWG). Christine Johnson from the Court System will ascertain the judges’ thoughts and Steve will update the group when he hears back.

Randall and Dr. Becker noted that having separate competency calendars for each district would not solve the problem—API already gets information by judicial district.

Judge Rhoades suggested getting the CJWG Competency Committee back together to coordinate efforts and address other efficiency issues between the Court System and API. Randall suggested this might be a good idea because DHSS won’t be able to look at the UNLV report and begin its review until after it applies for the Medicaid waiver in July. Steve stated he would make a report out at the next Criminal Justice Working Group meeting on this discussion and set a future meeting with small group to identify the issues and develop a plan to address them.

Review of the UNLV report

Steve noted that the only item in the UNLV report being addressed at the CJWG was the competency calendar. The previous iteration of this group had suggested that doing a fiscal impact analysis for DHSS was the next step. Barbara noted that the Commission’s Presumptive Sentencing Workgroup was looking at the Guilty But Mentally Ill and Not Guilty by Reason of Insanity statutes.

Judge Rhoades suggested that before DHSS reports back on UNLV’s recommendations that the UNLV report be revisited in light of SB 91 and the Western Interstate Commission on Higher Education (WICHE) report. She proposed reviving the CJWG’s Title 12/47 Efficiency

Committee for this purpose. Steve stated he would make a report out at the next Criminal Justice Working Group meeting on this discussion and identify next steps forward.

Alaska's substance abuse treatment capacity

Randall noted that DHSS has this data from Medicaid claims, and the report is online in a tool called the Drive. He also noted that Medicaid expansion covers residential substance abuse treatment at facilities which have 16 beds or fewer.

Susanne noted there had been recent testimony at the Legislature that treatment providers were struggling with an influx of justice-involved patients. Randall hadn't heard this but would ask Tony Piper.

Judge Rhoades said it would be good not only to know about beds but also who's in them. She suggested tapping the reentry coalitions for information about capacity and demand.

Next meeting

The next meeting was set for May 18 at 9:00 a.m. It was agreed that the group will decide at that point what to report out to the Commission in July.