

Alaska Criminal Justice Commission  
Behavioral Health Standing Committee

**May 18, 2017**

Alaska Mental Health Trust  
Meeting Summary

Commissioners: Steve Williams, Stephanie Rhoades, Brenda Stanfill, Dean Williams

Participants: Rick Allen, Pam Cravez, Kristy Becker, Karen Cann, Randall Burns, John Skidmore, Gennifer Moreau-Johnson

Staff: Barbara Dunham

- **Announcements and Agenda**

Steve Williams called the meeting to order and informed the group that he was the new Criminal Justice Commission designee for the Trust, and also the chair of this standing committee. Steve also introduced Gennifer Moreau-Johnson, the new Behavioral Health Policy Advisor, replacing Diane Casto. The BH Policy Advisor serves as a lynchpin between the state's reentry, Medicaid, and corrections efforts in the area of behavioral health.

John Skidmore moved to approve the agenda and the previous meeting's minutes. Dean Williams seconded both motions, and they passed unanimously.

- **Identification of Committee Priorities**

Steve Williams said that he had looked back at previous meeting minutes and consulted with Susanne DiPietro about Commission timing. The Committee needs to forward recommendations to the Commission by the end of August to have them included in the Annual Report. Barbara Dunham explained that any recommendations would have to be approved at the Commission's August meeting so they could be incorporated into a draft of the annual report to be approved at the October meeting. Barbara said that was the timeline for inclusion in the annual report. The Committee can forward recommendations to the Commission at any time, and the Commission can forward recommendations to the legislature at any time. But the legislature is more likely to pay attention to recommendations in the annual report.

**a.) UNLV Report**

Randall Burns said that DHSS's fiscal analysis of the UNLV report may not be finished by August. Steve wondered whether DHSS could prioritize the recommendations so that some of it could be completed; for example, focusing on the recommendations regarding forensic examiners. Randall noted that DHSS had tried to propose changes to the forensic examination process before but the governor had turned them down; it might help to have the ACJC behind another attempt.

John Skidmore noted that several recommendations in the UNLV report had the unanimous consent of the Behavioral Health Working Group (the previous iteration of this group). He suggested that DHSS could concentrate on those recommendations. Randall agreed it would help to narrow the focus of the fiscal analysis.

Dean Williams asked which recommendations had been unanimously supported. Randall noted that the forensic evaluator was one; under the current statute there are only so many people able to perform a competency evaluation in Alaska. Dr. Kristy Becker added that Alaska law requires a forensic examiner to be “board certified” in forensic psychology, but there is no one with that qualification working in Alaska. At API they have to routinely respond to court orders saying they technically can’t comply with the request because of this rule and have to get leave from the court to do the evaluation—this all takes time. No other state requires a “board certified” forensic psychologist. It is also unnecessary to have two forensic examiners complete the evaluation, as is the requirement under the law in Alaska.

John said that another consensus recommendation was to automatically refer a defendant to civil commitment proceedings if the defendant is found incompetent to stand trial; another was a proposal for involuntary outpatient commitment with an enforcement mechanism of some kind. Randall said he was not opposed to the latter, but he thought that it might not help achieve anything.

Steve proposed identifying the consensus recommendations and using that to make a list of priorities to forward to the Commission.

#### **b.) Jail Diversion**

Dean Williams informed the group that DOC was on track to get legislative approval for the pretrial diversion coordinator position. The key is to keep the ball rolling on this project. Pretrial diversion has been discussed in Alaska for a long time; now is the time to hammer out the details, hence the need for a coordinator. The grant money may include funds for field trips to see how other jurisdictions achieve pretrial diversion. He envisioned diversion as a program for both those with serious behavioral health issues as well as addicts. He believed the expertise on this committee could help guide the coordinator.

Rick Allen asked whether Dean had a candidate. He said he didn’t although some people came to mind. He thought it might be an ideal project for someone who is retired. He was looking either for someone with a good deal of expertise in the field, or a generalist with a track record of getting big projects done. Judge Rhoades opined that it would be good to get someone who has a good understanding of criminal justice in Alaska.

Steve Williams suggested that the next steps might be to pencil out the scope of work for the coordinator, including timelines and a target population. Brenda Stanfill noted that the UAF Justice Center had been doing similar work focused just on Fairbanks. They ran into pushback on that and the project has stalled, but it might be good to check in with them. Steve said the coordinator would also need to know what data and resources are available – this committee could

get that lined up. Judge Rhoades said that the pre-trial services workgroup, which had met in 2014-2015, had done some of this work too.

Judge Rhoades also suggested that the committee put together a general conceptual agreement. The committee could start by having each agency list their target populations. Dean said that the committee should try to challenge itself on such criteria, to make room to contemplate things that haven't been contemplated before. Part of the learning curve will be to take in what works elsewhere and what the data show is effective. He wanted to keep his mind wide open, perhaps thinking beyond just psychological disorders and drug use. Judge Rhoades added that it might be a good idea though to know what is palatable to the various stakeholders and make sure that is on the table.

Randall Burns asked whether DOC was thinking of going all in from the beginning or starting small. Dean said they were thinking of going all in. He has spoken with the Department of Law about this and thought it was a good opportunity to link up with the justice reinvestment effort. DOC is not going to be getting any more funding, and needs to be very strategic about who it is putting in a cell.

Judge Rhoades said there was also a need to talk about behavioral health treatment capacity to get to a place where Alaska can guarantee treatment on demand. Dean agreed, and said there was also a need to align treatment offerings with demand. For example he met a sex offender in Kodiak who had a job and a stable life in Kodiak, but had to go complete sex offender treatment in Anchorage. Looking at capacity might also involve reexamining assumptions about treatment.

On that note, Randall said that the Medicaid waiver should help, but that largely relies on the Medicaid expansion, so it will be a bit nerve-wracking to see what happens in the US Senate.

Steve pointed out that increased treatment capacity did not necessarily mean residential treatment, but increased outpatient treatment would also likely require increased housing options.

John Skidmore said that the Dept. of Law was very interested in pre-trial diversion and also looking at successful models from other jurisdictions. The parameters of Alaska's program might be guided by the example of other models. Dean noted that he was taking a delegation to Norway in September to see how their prison system worked.

Regarding housing, Dean said that it was easier to put people on electronic monitoring rather than furlough, so it would be good to rethink housing models that are smaller and more community-based, where offenders and still "do time."

Judge Rhoades noted that people decry having DOC as the largest mental health provider in the state, yet commend DOC for its treatment programs. Mental health treatment is provided in DOC because it is the default and there are no other options.

It was decided that Judge Rhoades would work with Karen Cann and Rick Allen on drafting a questionnaire to send out to Committee members in order to develop a definition of diversion

and get a sense of some of the basic parameters of the diversion program. Elements such as the target population and data required might come later.

### **c.) Universal Release of Information**

Randall Burns said that DHSS can work with the legal team in the AG's office to draft an ROI. It could be made part of a regulation but if providers are willing to use it they might just distribute it and encourage all providers to move to the new forms.

#### **- Other Committee Recommendations to the Commission**

Steve Williams asked what other topics the Committee would like to take up to forward to the Commission; he noted that Dean Williams had identified some statutory roadblocks for DOC. Dean replied that he had, though he needed to crystalize his thoughts a bit more. There are limitations on furloughs that were created in a different era. DOC is trying to move away from the 100-bed Geo models for halfway houses. He thought DOC could instead use that money for outpatient-type models with a different security model. Karen Cann suggested creating a working group to identify these roadblocks.

Judge Rhoades suggested another potential recommendation could be to assess the progress of reinvestment and identify further needs for reinvestment. Steve asked what this would look like, whether the Committee would invite reports from stakeholders, target certain areas, or report to the Commission. Judge Rhoades said she thought the Committee should get more details on needs, and can filter anything requiring a statutory fix up to the Commission.

Randall Burns cautioned that it was not possible to get all offenders with behavioral health problems out of DOC custody. There is talk about community-based funding for behavioral health as the ideal but DHSS tried this in the past and it didn't work. Some people are going to end up in DOC custody and it is the state's responsibility to get those people treatment. The system must work in harmony to serve those in custody and those who aren't. It won't be perfect, but the Committee needs to be realistic.

Steve asked whether the group could agree to start from a few general principles:

- That there are too many people in DOC facilities with mental health and substance abuse issues who should be treated out of custody.
- That the community-based behavioral health system was inadequately funded to address the need.
- That there are some people with mental health or substance use disorders who are appropriately in custody.
- That resources should be used to get the number of people who are *in*appropriately in DOC custody out to the extent possible.

There was general assent. Gennifer Moreau-Johnson added that, regarding the community-based treatment, the problem was also that the system was fragmented as well as underfunded.

John Skidmore said that he agreed with the above, and that not everyone should be automatically diverted. He thought there should first be a discussion about who needs to be where, and then a discussion about resources. Rick Allen agreed and noted that politics will have to come into it—some things just won't be palatable to the general public.

Dean noted that at the same time, there are plenty of areas that are not controversial. Judge Rhoades suggested revisiting the sequential intercept model as some of the problem is in talking about different intercepts which require different responses. In many cases it is clear how to deal with offenders and improve current practices.

Rick suggested taking a look at the Public Guardian system. There is a problem with the private Assisted Living Facilities (ALFs) – they won't take some public wards who have been incarcerated, and Alaska is having to pay to send these wards out of state to facilities that can handle them (residential psychiatric centers). He noted a recent case of a ward who is a sex offender, who had to be sent to a facility in Idaho. Dr. Becker added that the person had spent 18 months at API before going to Idaho. There are a number of people like him who are not competent to stand trial and can't be let out of API, because there is nowhere else in Alaska for them to go.

Randall noted that in some cases the state is having to pay the private ALFs four times the going rate. Rick added that there is a place for private ALFs, but they are not appropriate for people with very serious behavioral health needs. Judge Rhoades added that with an aging population, there will be more offenders with dementia who will present similar problems. She suggested that the Committee should make recommendations based on need and that funding was not the Committee's responsibility.

Randall added that DHSS was working to get everyone on the same page with the Medicaid waiver—for example Medicaid coverage for those in halfway houses. Judge Rhoades noted that even with the waiver, some private providers may be blocked—for example there is a requirement that there be someone on staff at a facility who can write prescriptions. Randall thought it might be an issue of record-keeping—the regulations are in place to ensure that providers are up to snuff. Steve noted that in addition to a funding problem there is also a workforce problem.

- **Data and knowledge-gathering**

Steve Williams suggested the Committee expand its knowledge base by getting an environmental scan of sorts, to survey the field. Judge Rhoades suggested hearing a quick update from Partners for Progress, and the Reentry Coalitions. She also suggested getting an office like the Alcohol Safety Action Program (ASAP) to poll providers about needs and gaps in coverage (e.g., how many can bill Medicaid?) Brenda Stanfill suggested requesting information from reinvestment grantees.

Steve suggested that each group member come up with three topics related to the work of the Committee they would like to know more about.

- **Public Comment**

There was an opportunity for public comment but none was offered.

- **Summary and Next meetings**

Actions to take before the next meeting:

- Steve Williams and Barbara Dunham will identify the consensus recommendations from the UNLV report.
- Randall Burns will report out on the status of getting a universal ROI drafted.
- Judge Rhoades, Rick Allen and Karen Cann will work on a questionnaire to send out to group members about pretrial diversion.
- Each group member will identify three topics about which they would like more data or information.

Next meetings:

- Monday, June 26 from 9:00-12:00
- Thursday, July 20 from 9:00-11:00