

**DRAFT Notes and Meeting Summary
WORKGROUP ON BEHAVIORAL HEALTH¹**

Alaska Criminal Justice Commission

Wednesday, July 9, 2016

9:00 a.m. - Noon

Location: Alaska Mental Health Trust Authority

Commissioners Attending: Stephanie Rhoades, Jeff Jessee, Kris Sell, Walt Monegan

Commissioners Absent: Greg Razo, Dean Williams, John Coghill, Brenda Stanfill

Other Attendees:

Steve Williams, MHTA; Josie Garton, PDA; Cathleen McLaughlin, Partners for Progress; Alysa Wooden, DHSS; Paul Miovas and Steve Bookman, Dept. of Law; Laura Brooks, DOC; Tony Piper, ASAP; Rob Wood, DJJ; Brad Myrstol & Araceli Valle, Alaska Justice Information Center, Diane Casto, DHSS; Kate Burkhart, Alaska Mental Health Board; Teri Tibbett DBH, Alyssa Wooden, DHSS

Staff: Susie Dosik, Giulia Kaufmann

The meeting began at 9:10 a.m.

The previous meeting summary was discussed. Two clarifications were proposed by Steven Bookman and accepted by the group. The meeting summary was accepted as corrected with no objection.

The group continued its review of the analysis and recommendations from the report entitled "Review of Alaska Mental Health Statutes" authored by consultants from the University of Nevada Schools of Law and Medicine.

1. Misdemeanor statutes.

Recommendations on pages 42-43. The group discussed the recommendations on pages 42-43 of the report. Because SB 91 now caps incarceration for most misdemeanor offenses at 30 days, the group agreed that the recommendations were not as relevant as when they were drafted.

Note: The group reached a general conceptual agreement that misdemeanors should have a different time frame. If the Criminal Justice

¹ Throughout the continuum of care in the criminal justice system.

Commission accepts the Behavior Health Workgroup's recommendation to make the workgroup a standing committee, Stephanie Rhoades and Jeff Jesse volunteered to rewrite these recommendations in light of the changes in SB 91.

Note: The group was generally concerned with people charged with misdemeanors who were "cycling" through the court system. They noted it generally took 6-8 weeks to get a competency evaluation done. If not found competent, the court could order restoration. The group noted that evaluations were expensive and restoration was not being used for treatment purposes because treatment conditions could not be enforced. Restoration could take six months, for a 30 day possible sentence. They noted that tremendous resources were being used for evaluation and restoration in misdemeanor cases. Stephanie Rhoades reiterated that the UNLV report was based on the goals of expediting competency evaluations, and providing an alternative (such as an update) to full competency evaluations if a recent evaluation had been performed. The group discussed options of civil commitment, mandated diversion, a 15-day evaluation requirement, creating a presumption for "cycling" individuals who could be held civilly, and standards for "outpatient commitment." The group also discussed and acknowledged constitutional requirements for civil and criminal holds, and mandated medication. Kate Burkhart noted that the mental health provider community did not agree about whether involuntary outpatient treatment was appropriate. Stephanie Rhoades noted that current statutes did not allow for involuntary outpatient treatment but if the statutes were changed, services would be created and contracted, so providers could decide whether or not to buy in.

No consensus was attempted or reached on these options.

2. Juvenile Statutes.

A. Civil Commitment of Juveniles and Placement in a Psychiatric Facility

Recommendations on pages 47. The group discussed the recommendation on page 47. It agreed that the wording should be changed as follows:

Recommendation: AS § 47.30.690 should be amended to require the court to appoint a Guardian Ad Litem for all juveniles subject to treatment in a secure psychiatric designated treatment facility or residential psychiatric treatment center

and this appointment should continue until the minor is discharged and reintegrated into the community.

The group also recommended that the legislature consider a parallel revision to the language of AS 47.12. 255 and AS 47.12.990(14).

B. Competency to Stand Trial in Juvenile Delinquency Proceedings

Recommendations on pages 50-51.

The group adopted **Recommendations 1-7** as written without objection.

C. Restoration of Incompetent Juvenile Defendants

Recommendations on page 52:

The group adopted **Recommendations 1-4** as written without objection.

Note: Paul Miovas of Department of Law voiced concerns about the language in Recommendation 3 stating, "In cases where a juvenile is incompetent due to developmental immaturity or intellectual disability and restoration is inappropriate, Alaska could consider a compromise position, where cases involving less serious offenses are dismissed with prejudice: cases involving more serious offenses could be dismissed without prejudice." He noted that dismissal with prejudice was an extremely unusual and constrictive remedy. The group discussed the concern and concluded that it would adopt the recommendation because it was a general recommendation only that "Alaska could consider a compromise position."