

Alaska Criminal Justice Commission  
Behavioral Health Standing Committee

## Meeting Summary

December 15, 2017

Alaska Mental Health Trust + Teleconference

Commissioners: Steve Williams, Valerie Davidson, Walt Monegan, Stephanie Rhoades

Participants: Karen Forrest, Randall Burns, Rob Henderson, Araceli Valle, Emma Pokon

Staff: Barbara Dunham

### **Announcements and Agenda**

Steve Williams called the meeting to order. Judge Rhoades suggested amending the agenda to include a discussion on barriers to accessing behavioral health treatment. There was no objection to the agenda so amended. Judge Rhoades moved to approve the previous meeting's summary and Rob Henderson seconded the motion. There was no objection.

### **UNLV Report and Public Safety Action Plan**

Randall Burns said that the list of DHSS's reactions to the UNLV report submitted to the Commission in August still represented DHSS's position on the report's recommendations; he thought it was up to the Commission whether it wanted to do anything with the list.

Steve recalled from the August meeting that the Commission had expressed interest in getting a fuller briefing on the UNLV recommendations. Specifically he thought the Commission had wanted the standing committee to look through the "green arrow" recommendations for possible consensus, and to look at what DHSS was doing with the 1115 Medicaid waiver and whether that dovetailed with any of the UNLV recommendations. Barbara Dunham added that the Commission had seemed interested in getting a more holistic package rather than looking at the recommendations and peeling them off one at a time.

Rob said that his impression was also that it would be difficult to reach a broad consensus. Steve said further to that, there was also an issue of pulling intertwined threads; often changing one provision affects many statutes. The discussion would need to include whether there are large chunks that can be broken off. He added that at the last meeting in June, the group had discussed hearing from the UNLV reporters themselves to get everyone caught up on what's in the report.

Judge Rhoades said that a lot of time had passed since the report came out. She didn't think that there was any consensus on recommending the whole report and she thought that piecemeal-ing the recommendations was problematic. She suggested it might be better to look at the impetus for the report itself—whether the problems identified in the report were still problems. For example, the wait for competency evaluations for misdemeanants was identified as a big problem, but SB 91 shortened jail time for many misdemeanors so perhaps it is not as much of a problem.

In short, she suggested going back to the drawing board and identifying any underlying issues and whether there was enough will to tackle them. Randall and Steve agreed.

Steve noted there were also a lot of overlapping efforts in this area; the Public Safety Action Plan (PSAP), for example, called for timely competency hearings. This subcommittee walked through a lot of what is in the PSAP when it went through the sequential intercept model in 2016. He wanted to make sure that the committee was not going to be duplicating efforts and creating excessive meetings.

Rob said that the PSAP was about identifying actionable steps—some involve large policy discussions but it was largely a list of nuts and bolts. The Plan does not discuss civil commitment, for example. The vision for the PSAP was that it would work in partnership with this group and others. He agreed that it was not likely the group would find consensus on the UNLV report as it had been discussed for several years now.

Val Davidson said she thought it would be helpful to have a Venn diagram of what different groups in Alaska were working on which problems. Steve said that he had done something like that before and could develop one again to help identify where the state's efforts are going and where the gaps are. Commissioner Davidson suggested then following up with who will take the lead with each effort. Judge Rhoades agreed—it was hard to track the different efforts on this front and it would be good to see what progress has happened where.

Walt Monegan noted that most of the members of the Criminal Justice Working Group were also members of the Commission but the CJWG was really the forum to get into the weeds about implementation.

Karen Forrest said she agreed, and thought that this group was for high-level policy decisions. This group can always look to the UNLV report for guidance. For some action items in identified in the PSAP, it would be good to have broad support for their implementation and this group could also be a forum for that.

### **Committee Process**

Steve said that the above discussion also touched on another agenda item which was to discuss this group's process. One thing the Commission struggles with is how to put policies into effect. This group has toggled between policy and programming; for example, the group was going to help guide DOC's jail diversion planner (who had not yet been hired). The question was how far to get into the weeds to see that the policies coming out of this group were implemented.

Judge Rhoades said she thought it was best to go back to the original mission of the group, which was to address the overrepresentation of individuals with behavioral health needs in the criminal justice system. To this end she thought the group should go back to the sequential intercept model that the group had gone through last year and identify what can be changed in law and what can be changed in process. The latter can be done without going back to the full Commission. She thought this group was capable of achieving changes on its own. She suggested asking each agency to identify its priorities.

Rob said he had looked at the list of current recommendations on the agenda and wondered what more the group could do now that the recommendations had been made to the legislature. Steve said the question was how much the group wanted to shepherd those recommendations through to make sure they are implemented. There are enough agency representatives in this group to make sure that can happen.

Judge Rhoades said the release of information (ROI) issue is an example of a topic that is more in the weeds but ultimately will get people through the system quicker. It was a legislative recommendation but didn't necessarily need to go through the legislature first, as it could be driven by DHSS action. The same would be true of other issues—things this group could do that don't necessarily result in a Commission recommendation.

### **Existing Recommendations**

Commissioner Davidson asked what the status was of the existing recommendations. Steve suggested going through each of them.

The first was the jail diversion recommendation for behavioral health populations in DOC custody. No one from DOC was at the meeting, so the group was not sure whether a coordinator had been hired. Rob asked if the group could get an update from DOC at the next meeting as this was one of the recommendations he was most interested in. Steve said he would try to make sure they were at the next meeting and noted that the Commission had approved restructured funding for that position at the last meeting. Barbara said that she thought that the funding period had been extended by that vote but she wasn't sure, and would check.

The next was the recommendation to amend the bail statute to allow a resident of a group home to return to that home on bail for a DV assault. Steve explained this needed legislative action and no legislator had yet picked it up. Judge Rhoades said this begged the question of what the Commission will do to promote its recommendations. She didn't think this group could do anything on this. Steve said this group could remind the full Commission this recommendation exists. Judge Rhoades agreed and said that the report to the full Commission could include a summary of recommendations that have yet to be acted on. Steve said this fits in with what the chair had called for at the last meeting, and could be a part of each workgroup's report.

The next recommendation was regarding the standardized ROI. The recommendation was for a statutory change but this group had been working on developing one. Randall Burns said there was nothing new on the ROI—he needed to follow up with the AG he was working with. Steve said DHSS could adopt the ROI without a legislative change, and if the ROI seems to be working, the legislature could put it in statute. Karen Forrest agreed, saying that as DHSS implements the 1115 waiver, it will bring in the Administrative Services Organization that could incorporate a new ROI—it would be just the kind of thing to bring on line at the same time. The 1115 waiver process will take the rest of the year but the ROI can be included. Steve said he would keep this item on the agenda as a check-in.

The next existing recommendation was to add existing behavioral health information to presentence reports (PSRs). Steve said he thought this would require both a statute and court rule

change, and no action had been taken on it. Rob wondered whether this idea had legs; he thought it was important, and suggested making a recommendation to the Supreme Court too if it involved a court rule. Barbara agreed to look into what the Supreme Court could do on its own with a rule change. She noted that all the outstanding recommendations had been highlighted in the annual report to the legislature. Rob wondered if the Commission should prioritize the outstanding recommendations in its communications to the legislature. Barbara said she would bring this idea up with the chair. Judge Rhoades said that the PD had disagreed with this on so it might not be worth the time pursuing.

The next recommendation was to include the DHSS Commissioner on the Criminal Justice Commission—this was included in the bill that just passed, though the Commissioner was made a nonvoting member.

The final recommendation was to have DHSS take a further look at the UNLV report. DHSS had done so, having given its preliminary thoughts in August. The group agreed, per the discussion above, that as so much had happened since the report came out, the group would not review the report as a package. The group will identify any relevant current policy issues discussed in the report but not try to move the report's recommendations as a bloc.

### **Barriers to Accessing Behavioral Health Treatment**

Judge Rhoades said she would like the group to look at why the behavioral health population was overrepresented in the criminal justice system and suggested going through the sequential intercept model to identify the behavioral health issues that need to be addressed at each intercept. The group should look closer at who should be in treatment and who should be in DOC custody. There were more barriers to accessing treatment than just a lack of capacity. She thought each agency should identify the most pressing issues at each intercept.

Steve noted that DOC just got a grant to look at diversion, reentry and supervision in terms of the sequential intercept model, but he was not sure of the details. This was another thing to check in with DOC about, and it would be good to know if DOC wanted to involve stakeholders on that project.

Judge Rhoades said that the Commission keeps discussing the treatment side of reform, especially in the context of reinvestment, which she thought should be planned and targeted. It was great that DOC was doing a lot of work in this area but she thought it would be good to coordinate efforts and get a strategic plan.

### **Next Steps**

Steve encouraged everyone in the group to follow the link on the agenda to DHSS's 1115 waiver application and read through the application, as it provided a good snapshot of what the issues are and why the Department is going in that direction. Commissioner Davidson added that the public comment period for the waiver closes on December 29. The emphasis in the application is on community care, early intervention, and behavioral health system accountability (expectations, benchmarks, evidence-based care).

Commissioner Davidson said, that there were many paths to treatment – for example there are more medications for medication-assisted-treatment than just Vivitrol. MAT should not focus on just one brand as there is no evidence to limit it to just one medication and treatments will work for some people but not others. The importation issue [importing contraband into prison] is significant for suboxone but that doesn't mean it should never be used. There are many ways to look at a problem. She agreed there was a need to develop a strategic plan.

Steve said he would get an update from DOC and try to make sure someone from DOC attended the next meeting. He will work with Judge Rhoades on the sequential intercept model and the comprehensive recommendations and get something out to the group so each agency can identify what their concerns are. He will send a Doodle poll to schedule the next meeting so the group can meet again before the next Commission meeting [February 6].

### **Public Comment**

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