

ACJC Workgroup on The Classification of Crimes and Applicable Sentences  
**Staff Notes and Member Assignments from December 1, 2014, 12:00 -1:30 PM**  
at the Snowden Conference Center

Commissioners attending: Kris Sell (telephonic); Alex Bryner, Fred Dyson, Quinlan Steiner  
Staff: Mary Geddes, Susie Dosik,  
Participating: Bob Linton (DOL), Brad Mrystol, Chuck Kopp

**Next meeting is: To be scheduled -- awaiting results of Doodle poll !**

INFORMATION

Sen. Dyson reported on the Walker Administration transition team which focussed on public safety/police/law issues. This group was chaired by Charlie Cole. The team urged consideration of the current classification of crimes including drug crimes and making adjustments to mandatory sentences, a priority of restitution, a recommendation that the Governor follow the work of the Alaska Criminal Justice Commission, and revisions to CourtView. Additionally, there was lots of discussion concerning rural policies and tribal law. Sen. Dyson noted that the Corrections transition team was chaired by Carmen Gutierrez, and that the Commission should be tracking their work as well.

Chuck Kopp reported that with respect to the execution of [SB 186](#) (requiring the Controlled Substances Advisory Committee to meet), Governor Parnell had just made appointments to the Controlled Substances Advisory Committee. It had never been convened. [Staff: By statute, the Advisory Committee consists of AG, commissioners of health and social services and public safety; someone from the Board of Pharmacy; a peace officer; a physician; a psychiatrist and two public members.] The Advisory Committee is to review drug schedules and the efficacy of treatment. Fred Dyson suggested that at some point the ACJC could/should connect with the Committee.

Prior to this meeting, the workgroup members had been provided with a research paper written by Forrest Dunbar, who was at the time of authorship a Yale Law School Fellow working for the Office of Public Advocacy.

Fred Dyson noted that during the last legislative session a bill (SB 56) sought to declassify certain drug possession offenses. At the time it was considered, there were two estimates of the savings that could be realized: \$5-10 million dollars and, later, \$14 million. Kris Sell noted that she had been opposed SB 56 because there had been legitimate concerns about whether certain quantities in that bill had been dealer level quantities. She noted that many individuals charged with distribution plead out to possession offenses.

Bob Linton said he believes that, in Anchorage, jail terms for a first offender might typically involve a suspended 60 day sentence, and that a first offense for the simple possession of cocaine is often reduced from a C felony to an A misdemeanor. However, he couldn't say what prosecution policies exist outside of Anchorage for felony drug possession.

Fred Dyson wondered if we should rely on ameliorative charging practices that are not transparent versus making changes in the law.

Chuck Kopp referenced the quantities and types of drugs cited in SB 56 as reasonably reflecting possession not dealing conduct.

Kris Sell stated that before considering any specific action or recommendation she wanted enough time and opportunity for study.

Fred Dyson asked if there a 'sweet spot' at which longer incarceration terms have a a negative effect and worsen recidivism?

Alex Bryner noted that it is widely know that there is a negative impact a criminogenic impact, on first offenders who can't make bail. He asked if we consider a presumptive bail release for people charged with some drug offenses.

Bob Linton asked if we can learn from evidence based practices. Let's agree that whatever the changes are made in the statutes, we will include a provision for study of its impact. We could consider recommending pilot projects or sunset provisions.

Alex Bryner agreed that the ACJC mandate includes review of evidence-based and best practices and cost-benefit analysis.

Fred Dyson said that he is also concerned with proportionality analysis as well. He thinks conduct that causes physical harm to others is so much worse than using drugs, and that legislative choices must take that into account.

## QUESTIONS

Following the staff's discussion of the changes made in other states to de-classify drug offenses and other crimes, the Commissioners asked staff to get more information about "wobbler statutes," allowing the prosecution of offenses either as felonies or misdemeanors.

Let's find out more about other states' experiences in charging drug offenses as felonies: e.g. as a first-time offense? Second? Third?

Can the Commissioners get a chart or other kind of easy reference tool to expedite their consideration of drug offenses?

Is it possible to find out if other states, having reduced felony drug offenses from felonies to misdemeanors, experience any change in recidivism?

With respect to other states which are making wholesale changes, what is the effect?

Is there a 'sweet spot' at which longer incarceration terms have a a negative effect, and increase recidivism?

Should we consider a presumptive bail release for people charged with some drug offenses?

Can we get more information about what drugs are in use in Alaska? What are the problem drugs in different communities? Can DPS help us in getting this information?

Do first MISC 4 offenders get jail in Alaska? What are the charging practices throughout the State?

Can the staff circulate Doug Marlowe's material on risk-needs assessments of drug offenders?

## RESOLUTIONS

At our next meeting, Commissioners will discuss both SB56 and the Dunbar paper as starting places for discussion.

## ASSIGNMENTS

- COMMISSIONERS TO REVIEW
  - o Dunbar paper: <http://www.ajc.state.ak.us/acjc/drugs/reclassnonviol.pdf>
  - o SB 56 (text and documents): [SB 56 AK LEG BASIS Directory](#)
  - o [LRS Report on the Fiscal Impact of Reclassifying MISC 4.](#)
- Research "wobbler statutes," allowing the prosecution of offenses either as felonies or misdemeanors. (Mary/Susie)
- Provide a chart or other kind of easy reference tool to expedite their consideration of drug offenses. (Mary/Susie)
- Determine if there is any information on changes in recidivism or crime from states which reduced felony drug offenses from felonies to misdemeanors. (Mary/Susie)
- Find the discussion of the proverbial 'sweet spot' at which longer incarceration terms have a negative effect and increase recidivism. (Susanne)
- Learn about other states practices re presumptive bail release for people charged with some drug offenses. (Mary)
- Get stats about what drugs are in use in Alaska, and other information about the problem drugs in different communities (staff contact DPS' Vrabec)
- Do first MISC 4 offenders get jail in Alaska? What are the charging practices throughout the State? (staff contact DOL Skidmore, Courts' Nancy Meade, DOC's Taylor)
- Circulate material on risk-needs assessments of drug offenders (Mary)