

ACJC Workgroup on Pre- and Post- Trial Laws and Processes

Staff Notes and Member Assignments

February 20, 2015 meeting, 2- - 4:30 PM,

Attorney General's Offices in Anchorage, Juneau and the Ketchikan Superior Court

Commissioners Present: Alex Bryner (tel.), Greg Razo, Quinlan Steiner (2nd half of meeting), Stephanie Rhoades (tel.), Trevor Stephens (video)

Commissioners Not Present: Jeff Jessee, Ron Taylor

Staff: Mary Geddes (notetaker) , Teri Carns, Giulia Kaufman

Participating: Bob Linton; Debbie Miller (DOC); Jeff Edwards (DOC-Parole); Nancy Meade

Next Meeting: **Monday, March 16, 2:00 PM to 4:00 PM**
AG's office, Room 502, Anchorage, and video w Ketchikan Superior Court

Bail Survey. Workgroup members discussed the bail survey which has now been distributed to judges (by Stephens and Rhoades) and to PDs (by Steiner) Survey Monkey has been used for electronic distribution. Linton indicated that John Skidmore had decided it would be better for him to decide on distribution, and Linton had not heard back.

Report from the Governor. Alex Bryner reported that he and Susanne DiPietro had met with the Governor and Marcia Davis. The Governor was very well informed, supportive of the Commission's work and concerned about many topics. One concern was with the impact of peremptories in rural areas. He had heard that the practice was a big drag on the system. Peremptories would be a topic for this workgroup to consider. Either the Governor or Davis also mentioned a possible overreliance on third party custodians.

Presentation/discussion with Debbie Miller. Debbie is the Superintendent of the Anchorage Correctional Complex, although she is presently detailed to the Central Office. Because of her job at ACC, she was aware of barriers to release for many individuals.

She stated that magistrates did not seem willing to consider third party custodian proposals over a weekend even when a good candidate was available. It seems the consequential delays (getting appointed, getting a hearing) in going forward with that proposal would often take a week, and people could lose their housing, their jobs inside of that week.

She perceived that third party custodian requirements were rather routinely imposed in addition to money bails. It is difficult to find someone who can supervise 24/7. Anchorage Pretrial Services is a private option but it does charge for its services as supervisors and custodians.

Debbie also thought that:

- there were a lot of individuals in custody for failure to complete their CWS. She asked if we knew that the city (Anchorage) requires an \$85 monitoring fee be paid by everyone assigned to do CWS. She has also seen people end up in custody for failure to pay insurance and to satisfy judgments.
- There are too many intoxicated persons ending up in jail beds under the authority of Title 47. If the sleep-off (detox) center is full, the officers bring them to the jail. No one seems willing to spend the resources to help find a sober adult to take care of them. So instead jail beds are used.
- We all ought to encourage more facilities like Karluk Manor, an Anchorage housing program for chronic inebriates.

- She has wondered at the imposition of lengthy probation terms so far in excess of maximum jail terms. A frequent example is a five year probation term for a class C felony, theft 2. She isn't bothered by a lengthy term if the purpose of it is to accommodate restitution payment.
- There should be pretrial diversion for a front-end probation kind of arrangement.
- The number of probation conditions is confusing and defeating.
- Some probation terms seem excessive and set people up for failure. If a person is getting clean UA's, is there utility in also requiring treatment? Not everyone needs treatment. And its a burdensome requirement: its difficult to obtain in terms of time, location, and money.
- The use of video court should be expanded to allow people to stay closer to their communities where they may have better support systems, and to keep travel costs down.

Mike Mathews' Data Requested. Teri Carns reported that she is in communication with Mike Mathews who is working to get her more information on the pretrial incarcerated population, including those whose cases are ultimately dismissed.

Tasc. Rhoades asked about the early 80's program called TASC, a pretrial intervention.

Electronic Monitoring. HB 15, undergoing revisions, is tackling the questions of whether to allow statutory good time for people in treatment, and for people released pretrial on electronic monitoring. There was a hearing on the bill and changes are being made.

The electronic monitoring program run by DOC is a program for sentenced offenders only, not for those who are on bail. DOC probation officers closely supervise the participants and their remands do not involve either a court or a parole board.

With respect to the the pretrial population released on EM, they are not supervised by a PO and the cost is high for the service. [Pioneer Peak charges \$180/week for EM.]

Existing Court System Pretrial Services. These services do not involve pretrial supervision, only the determination of financial eligibility for representation.

There was mention of whether phone calls could be made to defendants' cell phones reminding them of court dates.

Presentation/discussion with Parole Board Director Jeff Edwards: Jeff is the Executive Director of parole board. He has been with DOC for 15 years, 8 of that with the Parole Board. The Parole Board is not 'under' the DOC but has semi-independent status. Mary introduced him and asked two questions. Can he explain stats indicating that there are hundreds of who are eligible for discretionary parole? Are inmates being released on medical parole? Mary also asked him for information regarding a recent 'best practices' approach to setting conditions of probation and parole.

There are 5 Parole Board members who are appointed by the Governor. They live in Kenai, Soldotna, Southeast, the Valley and Anchorage. Most are retired law enforcement or from DOC. Board members are compensated. There are three kinds of hearings: mandatory release parole violations, regular parole violations, and discretionary parole. The parole Board conducts about 50-60 hearings total a week. The quorum is three. The members travel to each correctional facility at least twice a year.

Re discretionary parole numbers. They look big because they include everyone who will eventually be eligible for discretionary release. People have to be educated about applying for discretionary parole and the process, then they have to apply, and then some decide they don't want to talk to the Board and withdraw their request. 95% of those released on discretionary parole never come back.

60% of the persons revoked because of mandatory release violations are re-released after a hearing. The current Board members are very open to giving more chances.

Jeff had some additional observations:

- In most cases, supervision should be no longer than two years as most people who recidivate do that in the first year or two. Because of that the parole board often grants early termination when it is asked.
- He also thought that parole and probably probation conditions should be reduced in number. Research shows that burdensome conditions can cause recidivism. The Parole Board currently has 40 possible conditions it can impose and there are two pages of "general" conditions – which are statutorily required and imposed in every case. A national expert (NIC Richard Stoker) will hopefully help the Board winnow down the conditions imposed.
- As a result of SB64, PACE is now being implemented for use in parole- a first, nationally. This is an important development. It's a way to avoid the typical 3 month day for revocation hearing. Because they use only one Board member, the delay in getting a hearing is only 3-5 days.

A discussion followed between Steiner and Edwards. Steiner said PACE was a good model as long as the judges and decision makers stayed away from the higher stepped up terms.

Medical parole, while a hot topic, is a non-issue as there are not a lot of applicants. We have a pretty good statute requiring that each institution have a liaison that identifies and track potential candidates. Inmates with medical issues are often released instead on EM, and qualify on their own for Medicaid.

Asked about expanding parole for the release of older inmates, Jeff indicated that he is not involved in the strategic planning process at DOC and is not sure what's being discussed with respect to that population.

Assignments and next meeting.

- Stephens will discuss the Kentucky bail statute and its pretrial release program.
- Rhoades wants to re-visit her previous suggestion (for bail reform?).
- Steiner had indicated he had ideas for re-writing the bail statute.
- The workgroup wanted to invite Billy Houser (DOC-EM) to meet with them in March, but Rhoades asked that the speaker come close to the end of the meeting so the group could get some work done.

PRE- AND POST- TRIAL LAWS AND PROCESSES
WORKPLAN & PRIORITIES--DRAFT FOR REVIEW (previously circulated 2-9-15)

1. Bail

Bail survey	Finalize and deploy before next mtg (should take a month)
Pretrial Risk Assessment Tools	Discuss at next meeting
Review/Survey of possible reforms	End of Feb.
Technical barriers to release (review statues and presumptions)	During month of March, complete by March 31 (Steiner and Rhoades)

Discussion: Ultimately we will need to synthesize information. Questions to be addressed: can our pretrial population safely be reduced and how; does pretrial detention disproportionately impact certain groups (i.e., mentally ill); are pretrial detention practices fair; any information about the rate of offending on pretrial release (sources: FTA's, bail forfeiture, VCR); what is the average length of stay pretrial (time-to-disposition). NB: Hornby Zeller has length of stay information. NB: Both MOA and Southeast DAs file VCR. Perhaps we need a small study of those to gauge rate of re-offense. Nancy Meade can obtain # of VCR charges.

2. Title 12

Obtain report commissioned by MHTA	mid-March due date
Review and develop recommendations	March – April (DOL, Rhoades, Steiner)

3. Probation & Parole

Eligibility for discretionary release/ Delay in discretionary parole	Next meeting
Use of PACE for parole violations (invite Parole Board member)	?
Steiner proposal to restructure parole	March – April
Medical parole and elderly inmates	April

Discussion: There have been reports of delays in the processing/release of eligible persons on discretionary parole. Linton indicated he would like to find out more about parole and if cases are not getting processed, why not. There was also interest expressed in learning more about medical parole and handling of aged inmates. Steiner reiterated his interest in changing the manner by which revocations of mandatory parole (good time release) are handled. Mary will contact Ron Taylor and Parole Board staff for more information.

4. Other Pretrial Release Topics

Identify additional topics	End of Feb.
Electronic Monitoring- invite Billy Houser What are barriers to its use for pretrial?	March meeting
What other programs could enable pretrial release? Intensive pretrial release monitoring?	February (Stephens will discuss/distribute info from KY)