

Meeting Notes from
ACJC Barriers to Reentry
Subgroup on Title 28
Friday, September 25
Brady Building, 1034 W. 4th Avenue, AG's conference room

Present: Jayson Whiteside, Audrey O'Brien, Jordan Shilling, Giulia Kaufman, Jayce Robertson, Kaci Schroeder, Lacy Wilcox, Ralph Andrews- BBNA, Amy Erickson, Nicole Tham, Doreen Schenkenberger, Fred Slone, Seneca Theno, Greg Razo, Matt Widmer, Mary Geddes. Michelle Bartley later joined the meeting.

Our last meeting recapped: In the first meeting we reviewed the multiple directives, broadly and relating to Title 28, that had been given by the Legislature to the ACJC. We also reviewed the relevant SB 91 provisions.

We discussed the question relating to DMV administrative hearings because the Legislature is wondering if dual administrative and court revocations are duplicative. How many are there? In how many instances are there related court proceedings? Does DMV does dismiss cases when there is a court dismissal of a related case? (The answer is no). This is a proposed provision in SB91, so the agency was asked if it has a position on that requirement.

We also discussed lifetime DL revocations, and wondered how many there have been.

We wondered about the fairness of SB91 and other proposals allowing limited licenses (LL) when getting one is premised on participation in treatment given that treatment is not available in all communities. We wondered what the availability of treatment services does look like statewide.

We discussed the possible expansion of therapeutic court. Is it likely in this fiscal climate? We wondered how well utilized the programs are. Matt Widmer agree to look at court locations and whether the practices within those courts were uniform.

We began a discussion of Ignition Interlock Devices, the fact that it is a requirement for getting a LL, and the lack of oversight of private contractors.

Among the topics the group could choose for future meetings are: the re-licensure of suspended drivers; the ignition interlock program- what exactly we are expected to look at; whether there are alternative vehicle sanctions that can make driver-monitoring more effective; DWLS prosecutions - how many are they and are they useful? Statewide in 2010, there were 3714 DWLS court cases (not sure if this is conviction).

In this second meeting, we began with a presentation by Matt Widmer **on the therapeutic courts that are engaged with felony DUI offenders**. There are 5 wellness courts. The benefit that is offered to the voluntary participants who complete the program is that no jail term will be imposed only suspended. Matt explains that this is does not provide enough incentive for many people as they cannot avoid the felony and they cannot avoid the license revocation. Matt said the same challenge exists with respect to any misdemeanants who participate in court programs. Fred Slone asked the group whether it could recommend a change to allow greater inducements for the second-time (misd.) DUI offender.

[Later in the meeting] The group also heard from Michelle Bartley who is the head of the therapeutic courts. She noted that exist in Anchorage, Juneau, Bethel, Fairbanks and Ketchikan. There is also a planning process for a Kenai wellness court through a state-tribal court partnership. Most of the established courts are at a 76% capacity. The numbers are rising. ANC/FBX/ JUN court are almost to capacity; Bethel is lower but improving. Questions asked: what number of people have successfully graduated, and what are the recidivism stats? There will be information forthcoming in response to these questions. The requirements are tough: they are tested 2-3x a week, and see a PO 1-3x a month, in addition to court meetings 1-3x a month.

The group then discussed **non-driving suspensions**. Seneca Theno had forwarded snapshot related information from the Muni for one month in 2012; this provides us with an idea of the numbers of DWLS cases prosecuted and the bases for

revoked status. DMV reps explained that among the non-DUI related reasons for are: minor consuming convictions and missed child support payments. One question asked was whether there is any give with respect to the **federal requirement for a linkage between DL and child support enforcement**. It was reported that apparently 10 states provide LL despite arrears. Nicole Tham offered to send along a 2011 overview of the requirement. Seneca Theno said that she thought people could ask for a hearing before suspension. Jayce Robertson shared that he got served with an administrative order of revocation which was intimidating and that he had gotten the letter even though he had gotten caught up on his payments. The group suspected that many people never get reinstated after suspension ends because of reinstatement requirements. More information is needed on this question.

A related question emanates from the numbers of felony DUI convictions – **how many reinstate** after the minimum 10 years. Matt suspected the number would be small because DMV can't reinstate if there has been any other criminal conviction. Jayson confirmed the number is small, but doesn't know why. Fred noted that the felony provision took place 15 years ago, so the numbers will be growing. Mary and Seneca will read and report on a recent study in CA looking at the numbers of people who get their licenses reinstated after revocation. This study attempts to determine the barriers to reinstatement.

With respect to the **Ignition Interlock providers**, Audrey O'Brien noted that DMV does request records when needed from the IID providers. The providers are supposed to maintain records and provide records whenever there is an IID removal, or when there is non-compliance. Non-compliance may occur when a BA is over the limit, or because the driver hasn't kept up with payments for the interlock, or because the driver didn't bring in the car as required to have its computer read. DMV can track the numbers of drivers who have the IID requirement (when the court ordered it). The group asked about getting court system records for Criminal convictions for IID non-compliance. Matt noted that the court system may have records of charges for failures to have an IID as required but he suspects there are a small number of convictions. The numbers may be understated because of plea bargains.

There was further discussion of **the Legislature's inquiry concerning the IID**. Jordan noted that Rep. Keller, an ACJC Commission, had expressed great interest in evaluating the requirement, given the costs associated with it. Does the IID requirement add value? Is it a swiftly applied sanction? Does it correct behavior? There has been frustration with IID vendors closing their doors without transferring their records to some responsible party. This has frustrated people who have sought to comply with the IID requirement. Also the Legislature seems concerned with the general lack of oversight.

Seneca noted that even if a driver's response to conviction is to decide not to drive and not have a car, they now have to get an IID installed on somebody's car in order to regain their license. Fred noted that the IID requirement used to be just a condition of probation following court conviction, but now is a required administrative step for re-licensing. Jayce noted that IID costs can be credited against court fines but not DMV costs. Fred also noted that there is also an inconsistency with respect to DUI-drug cases. In drug-related cases, the court has the authority to suspend the requirement for an IID, but requirements for a LL still require the installation of an IID, no matter what the court determined.

The group members began identifying **the steps to license reinstatement and the costs involved** after a DL is revoked. Getting a LL requires: completion of ASAP, identifying the car to be used for the IID, getting SR-22 insurance (20-30 dollars plus premium), writing for approval by DMV in Juneau for a LL, receipt of the letter back from DMV, paying \$100 to get verification that ASAP requirements have been met, a written DMV test, the initial IID installation fees (at about 100 per month). Doreen requested that we compile this information in a more organized way to identify all the costs. Both Nicole of DMV and Doreen of Partners will help do this before our next meeting.

There was also discussion of the problem that DMV revocations are not necessarily concurrent with court revocations. DMV said that court judgments do not consistently state that they are concurrent. Matt suggested that there should be standard language on a court form to correct this problem. Seneca said that in her experience courts always agree to concurrent, when asked to do so. SB 91 would correct inconsistent outcomes of court and DMV in some circumstances. Seneca asked if there is value in having both court and administrative revocations.

There was also discussion of the Anchorage “OWL” court which handles DWLS defendants. The benefit for non-DUI DWLS defendants is dismissal. DMV participates to the extent of providing information as to what are the requirements for reinstatement in each instance. Defendants plead NC or guilty to two contingencies: knowing if they get their license, their charge will be dismissed or reduced to operating without a license; otherwise they will receive the statutory minimum. Seneca said that prior to the OWL court the Muni used to offer pretrial diversion for DWLS. A question was raised as to whether the OWL court reduces recidivism. Seneca believes that there may be a high rate of re-offense.

The group agreed that **the subject of DWLS and penalties can be the subject of an entire future meeting.**

There was some discussion of **risk assessment tools for DUI offenders**. Mary reported that the NHTSA (National Highway Traffic Safety Association) is promoting a free instrument. There is the one free and the one proprietary risk needs assessment specifically validated for DUI offenders. Matt noted that the question is when such an instrument would be used, whether prior to sentencing or for determining the appropriateness of treatment. Seneca noted that the issue for re-offense is less about alcoholism than about bad or criminal thinking. She noted that first time DUI offenders can include very young people who shouldn't be put into the same problems as people with lifelong alcohol problems, and we should do a better job of separating out those offenders. The group briefly discussed diversion strategies for DUI offenders used elsewhere. Mary will collect such information. Apparently at least these states have diversion statutes: PA, OR, KN and WA.