

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Thursday, March 3, 2022**

**11:00 a.m.**

Via Zoom

Commissioners Present: Steve Williams, Mike Ramsay (proxy for Commissioner Dahlstrom), Tiffany Saporito (proxy for Commissioner Taylor), Alex Cleghorn, Kelli Toth (proxy for Commissioner Reinbold)

Participants: Mary Beth Gagnon, Malan Paquette, Brenda Stanfill, Angela Garay, Chrissie Messer, Victoria Shanklin, Dawn Shewmaker, Ingrid Cumberlandidge, Kaeli Snyder, Karl Clark, Nancy Meade, Kristin Reardon

Staff: Barbara Dunham, Staci Corey, Zoe Lowery, Susanne DiPietro

**Introductions**

Commissioner and workgroup chair Steve Williams, CEO of the Alaska Mental Health Trust, called the meeting to order. The meeting agenda and the summaries from July 14, 2021 and September 9, 2021 were approved without objection.

**Discussion of Expansion of Victim-Advocate Privilege**

Barbara Dunham gave a brief overview of the proposed recommendation to expand the victim advocate privilege. Ms. Dunham noted a memo was sent out the workgroup which summarized the history and work the workgroup has done on the topic. She said there was general support for expanding the privilege beyond DV/SA advocates who work primarily with DV/SA victims. She noted the DV/SA advocates are wary of revising the DV/SA advocate privilege statute since there could be unintended consequences from opening up the current statute to legislative changes. Staci Corey reported some workgroup members participated in a short survey put out by ACJC staff. The members who participated in the survey were generally more supportive of including victims of violent crime in the privilege as opposed to all victims and also wanted to ensure tribal organizations are included.

Commissioner Williams noted there had been a lot of research and discussion that had gone into this potential recommendation. The Commission is set to sunset on June 30<sup>th</sup>, so the workgroup will need to forward a recommendation to the Commission prior to that date.

Commissioner Williams asked Ms. Dunham to share the questions to resolve document that staff sent around so Commissioners and other workgroup members could discuss the items left to resolve. Those questions were:

- 1) Should this group recommend expanding the victim-advocate privilege to include a greater number of victims and victim advocates?
- 2) Should the group recommend creating a new statute rather than amend the existing statute?
- 3) Which victims should the expanded privilege cover? (Options include the crimes in AS 11.41, Crimes Against a Person; the crimes listed in AS 18.67.101, the VCCB statute; and the crimes listed in AS 24.65.100, the OVR statute.)
- 4) What qualifications should be required of the advocates?
- 5) If the advocates are required to work for an organization, what type of organization?

Commissioner Williams noted there has been general support for expanding the privilege. He said there has been more support in creating a new statute as opposed to amending the current statute. He added that there has been general support for including victims of violent crime as opposed to all victims, but the specifics on what types of crimes has not yet been resolved. He said there has been agreement there should be a minimum amount of training; not necessarily specifying the type of training, but it should be similar to the current training for victim advocates. Commissioner Williams did note the training should provide advocates the ability to perform the job with a broader array of victims.

Commissioner Cleghorn noted that including tribal organizations is not a stand-alone recommendation, but it should be included in the overall recommendation if it is forwarded to the Commission. He said there are tribes that are not non-profits, but are providing services to victims and survivors. He said he is open to it being a new statute or amending the existing statute. He said victims of violent crime should be included (AS 11.41). He said some level of training should be required, such as 40 hours of training, but not a degree. He thought the type of organization should be expanded to include tribal organizations. The DV/SA statute includes non-profit organizations, but there are tribes that are not non-profits, and he wanted to make sure they were included.

Tiffany Saporito said she leans more towards creating a new statute. She said we should include AS 11.41 crimes, but there are also some crimes in AS 18.67.101, like arson, that should be considered. She said advocates should work within an organization under supervision with 40 hours of training. She also said tribal organizations should be included.

Victoria Shanklin noted in the chat box that the group should recommend expanding the advocate privilege because currently victims of assault, arson, and surviving family members of homicide victims are vulnerable and not covered under the statute. She did not have a preference with regard to creating a new statute or amending the current one. Regarding the crimes that should be covered, she said she would lean toward the OVR statute (AS 24.65.100) or Crimes Against a Person (AS 11.41) because the VCCB statute (AS 18.67.101) has gaps. For instance, if a person committed a hit-and-run but you cannot prove they are intoxicated, VCCB does not cover them. She suggested requiring that the organization receives state or federal funds that way there is some oversight. Ms. Shanklin noted that her organization (Victims for Justice) has been advocating for this for a while; this is a gap for other victims of violent crime. She added that VFJ is very in favor of tribal advocates being included in this.

### **Public Comment**

Commissioner Williams opened public comment at 11:30 a.m. Malan Paquette said she supports expanding the advocate privilege with a new statute. She suggested that victims of financial crimes, such as fraud, should be included. She said there are many individuals who have warrants for failing to register as a sex

offender, but an initial profile has not been set up for them in the offender registry. She also added that the warrants website lists 42 people who have failed to register, but the offender registry website lists 300 people who are in noncompliance, so they are not matching.

### **Discussion of Expansion of Victim-Advocate Privilege (cont.)**

Mike Ramsay said he would support a new statute. He said he would lean towards AS 11.41 and AS 18.67.101 crimes to be included. He said there should be a minimum amount of 40 hours of training for the advocates and tribal organizations should be included to ensure that victims in remote areas have support and resources.

Commissioner Williams said he believed it should be a separate statute. He said the recommendation should include crimes under AS 11.41 and AS 18.67.101, although the details may be difficult to work out. He said the advocates should have 40 hours of training and work under supervision. He noted they should provide advocacy services (advocate, connect, and refer to needed services), but this should be defined as separate from mental health counseling. He thought it could apply to any organization as long as the training and supervision requirements were met.

Dawn Shewmaker said she would like counseling services defined because not every advocate provides traditional counseling services and would be concerned that some advocates would be left out.

Brenda Stanfill said having a new statute is a good idea, and suggested it could go under AS 12.61 (Rights of Crime Victims). Ms. Stanfill reported that the reason it says “counseling” in the current privilege statutes is because Department of Law did not want them to be called advocates; then the laws changed around who could be called a counselor and the issue became confused. She said it would be a good idea to clarify what the statute should cover in the recommendation. She said it should also define who is considered a victims, such as in the case of a murder. She said it is also a good idea to define the purpose of the privilege because the purpose of the original privilege was in part to protect the victim by preventing information from getting to the abuser that could be used to find the victim. That level of protection may not be necessary for other victims.

Susanne DiPietro wrote in the chat box that “counseling services” is defined in the statute as support, assistance, advice, or treatment to alleviate the adverse effects of a crime on the victim.

Mary Beth Gagnon reported she would be in favor of a new statute.

Angela Garay said for victims of violence are not always those affected by crimes under AS 11.41; they could be victims of criminal mischief, damaging property as a means of control, arson, and cruelty to animals. They are definitely victims who need counseling.

Ms. Paquette suggested the word referral should be added to define the services provided by an advocate.

Commissioner Williams noted the group was nodding in agreement with Ms. Paquette and reiterated that the advocacy services should not include mental health or behavioral health treatment. A victim should be referred to a provider who is trained and skilled in those areas.

Commissioner Williams added that he thought that the recommendation was not yet ready to go to the full commission but that the workgroup had provided enough feedback on the questions to resolve in order to create a new recommendation document and have commissioners/proxies present today vote on it at another workgroup meeting. Mr. Ramsay and Ms. Saporito agreed that it would be good to look at a new recommendation document.

Commissioner Cleghorn agreed that the workgroup should look at a new document and said he would also like to see how the victim is defined in murder/manslaughter cases. He said he chose AS 11.41 as opposed to AS 18.67.101 because AS 18.67.101 includes DUI. He sees the other crimes as intentional compared to DUI. He suggested using the crimes in 18.67.101 except DUI.

Nancy Meade noted AS 12.55.185 has an expansive definition of victim. Ms. Shewmaker noted under the federal Crime Victims' Rights Act when there is a homicide victim their rights are transferred to their next of kin.

Commissioner Williams summarized the discussion thus far: based on the feedback from the workgroup there was general consensus to recommend a new statute. He said some members support using AS 11.41 and some members support using both AS 11.41 and AS 18.67.101. He said the group agreed the advocate should work under supervision, have 40 hours of training, and define what the services are, possibly dropping the word counseling. He said there is agreement the recommendation should be expansive on the types of organizations included as long as the training and supervision requirements were met. He said who the victim is should be defined. The purpose of the privilege should be included as well. This should be included in a one-page narrative with history and the recommendation. Workgroup members agreed with this synopsis and plan.

Commissioner Williams wondered if there was going to be a final report from the Commission. Staff said they would check into this. Commissioner Williams said any recommendations made by the Commission would still be part of the Commission's record and forwarded to the Legislature regardless of whether there was a report.

Commissioner Williams said he would work with staff to come up with some possible meeting times and staff would send the options to the group.

Commissioner Williams adjourned the meeting at 12:00 pm.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Thursday, September 9, 2021**

**1:00 p.m.**

Via Zoom

Commissioners Present: Steve Williams, Sean Case, Mike Ramsay (proxy for Commissioner Dahlstrom), Lora Reinbold, Sam Cherot

Participants: Janelle Chapin, Colleen Ouzts, Allison Leigh, Kristin Reardon, Kelli Toth, Malan Paquette, Dawn Shewmaker, Geran Tarr, Ingrid Cumberlidge, Katie Tepas, Kelly Howell, Marybeth Gagnon, Rachel Gernat, Suki Miller, Taylor Winston, Tiffany Saporito, Victoria Shanklin

Staff: Staci Corey, Zoe Lowery, Susanne DiPietro

**Introductions**

Commissioner and workgroup chair Steve Williams, COO of the Alaska Mental Health Trust, called the meeting to order. The meeting agenda was approved without objection. The approval of the July meeting summary was tabled due to audio issues for some Commissioners.

**Public Comment**

Malan Paquette said she had concerns about the offender registry. She said there are inaccuracies with regard to the employer name and address and this is an obligation for individuals to self-disclose. She also had concerns about the State of Alaska Missing Persons Clearinghouse. She said less than 5% have bulletins for the total missing persons listed. She noted law enforcement is working hard to find people and there is fluctuations in the numbers, but bulletins need to be available to the public. She said the disclaimer at the bottom saying that the bulletin would not be helpful in locating the missing person is not consistent. She also said she was concerned about ASAP releases and that Children's Services was not on there as a primary disclosure. Lastly, she said that when there is a name change, you do not know what is going on with an offender and different databases will have different names.

Allison Leigh reported she was victim of abuse as a child and was injured at work. She said they are trying to use those records to not pay for an ankle injury. She said it is a Supreme Court case and even though she does not have any claim for a psychological injury, she was ordered to give up her psychological records due to her abuse as a child.

**Victim Counselor Privilege Recommendation**

Commissioner Williams introduced the next agenda item regarding the recommendation to extend victim counselor privilege to a larger set of victims of crimes, not just victims who have experienced domestic violence or sexual assault. Commissioner Williams noted that the workgroup also received input

from Jack McKenna with the Department of Law and Sam Cherot with the Public Defender Agency for this recommendation. Mr. McKenna provided feedback via email and Commissioner Cherot attended the workgroup meeting to provide her feedback.

Commissioner Cherot explained the Public Defender Agency represents indigent Alaskans who have been accused of crimes, which includes individuals who may have been victims of crimes as well. Commissioner Cherot said it is important that victims receive services from victim advocates that have the appropriate training and background. Commissioner Cherot believed many of the professionals outlined in the recommendation would already be covered by the psychotherapist-patient privilege, which is a separate law from the victim counselor privilege. Commissioner Cherot wondered what the 40-hour training, required credentials, and areas of expertise would look like that is in the recommendation. Commissioner Cherot noted in the definition of victim, it includes emotional injury from a violent crime and she feels this is too broad.

Commissioner Sean Case asked Commissioner Cherot to further explain how some victim advocates would qualify for privilege under current law that is believed to be excluded. Commissioner Cherot explained that the psychotherapist-patient privilege is very broad and that the professionals providing victim services should have the appropriate credentials and believes that many advocates would be covered under that privilege already. She said if someone receives services from a psychological associate or social worker through places like Southcentral Foundation or various tribal organizations they would have the appropriate background and expertise to be covered under the psychotherapist-patient privilege. She said it is outlined in AS 08.86.200.

Commissioner Williams asked Commissioner Cherot about her opinion about the definition of violent crime in the recommendation. Commissioner Cherot said she thought adding emotional harm in the definition goes beyond the intent of defining violent crime. She said physical harm or death would be more appropriate, or identifying specific crimes in statute, or leaving it as it is with crimes of a sexual nature or domestic violence.

Commissioner Williams asked Commissioner Cherot to expand on her opinion about the training requirement in the recommendation. She said what you see in the psychotherapist-patient privilege, you would want those credentials, board certifications, and education.

Susanne DiPietro, executive director for the Alaska Judicial Council, noted the memo sent out with the meeting materials outlined the training topics that STAR has for their DV/SA victim advocates.

Janelle Chapin with Alaska Native Women's Resource Center said if you are looking at requiring degrees you are leaving out our Native population in general because many of their advocates are not able to obtain degrees. Ms. Chapin reported they are looking to do an advocacy training for their advocates throughout the villages in Alaska. It is being postponed due to COVID. It will not be the 40-hour module, but will be Alaska-Native centered, victim-centered, and culturally relevant.

Commissioner Williams noted he did not think the current training to be a DV/SA advocate requires a college degree. He said layering on requirements beyond the training modules is limiting the pool of applicants to be an advocate.

Ms. Chapin reported that for their Native advocacy training they do training in different areas and are focused on being naturalistic and holistic.

Commissioner Williams asked Tiffany Saporito with the Department of Law if she had any input on the recommendation. Ms. Saporito said she did get Jack McKenna's email forwarded to her. She said she agreed with Mr. McKenna's recommendation to define victims of violent crime and not leave it open to feedback. Commissioner Williams also asked Ms. Saporito with the Department of Law if she had feedback related to the training aspect of the recommendation, such as using the current training for DV/SA advocates as an example or if any additional training would be needed. Ms. Saporito said the current training is for DV/SA advocates and if it was to expand out to all violent crimes, then she thought the training should expand to cover more, but she was not sure what that would look like. Commissioner Williams said many of the training topics outlined in the memo could apply to various cohorts of victims.

Taylor Winston with the Office of Victims' Rights said she did think some specificity is helpful to define the victim group, but did not like only including crimes charged under AS 11.41. She said the current statutory scheme has been set up for a while and a lot of it pre-dates the internet and social media. She said there are crimes like exploitation, child pornography, harassment, and identify theft that are not AS 11.41 or causing physical harm, but can significantly harm someone.

Commissioner Reinbold stressed that domestic violence and sexual assault are very important issues to her. She said sometimes emotional pain can be far worse than physical pain. Commissioner Reinbold noted that the two individuals who gave public comment had very important and valid stories to share. She said it is criminal the individual who gave public comment is getting her medical records exploited and she is not getting treatment for her ankle injury because of a victimization that occurred in her past. She said there must be a court rule to address this and she is continuing to be traumatized. She said the Commission must step up and address this.

Commissioner Williams asked Ms. Winston what she thought about using AS 18.67.101 as a definition for violent crimes or to move off using a statute. Ms. Winston said she has not looked at AS 18.67.101, but she does have hesitancy naming a statute to follow.

Commissioner Williams brought up that Nancy Meade with the Courts and Commissioner Cherot may have touched on how to balance the privilege with having access to all the available information to achieve the best resolution of a case.

Victoria Shanklin with Victims for Justice said that just because you cannot have access to all the records does not mean there can't be communication, but it is important to ensure the confidentiality and privacy. She noted that in a multidisciplinary approach it is important that each entity is serving a unique role.

Rachel Gernat with ANDVSA noted that the courts uphold the privileges. She said the courts, prosecutor, or litigant on the other side do not need access to everything, just things that are relevant to the crime. She said the courts do have ways to handle this. She said the AS 18.67.101 does not address the concerns that Ms. Winston had and there are a lot of serious crimes that do not fall under AS 11.41 or AS 18.67.101. She also had concerns about using the language "competent adult" because there are juveniles

that commit violent crimes and this would further limit the victims who would fall under this recommendation. She noted that the psychotherapist privilege requires the individual to hold degrees and she said the whole reason the advocates needed a privilege is because they weren't finding a privilege through that rule. She reiterated what Ms. Chapin said, that many of their advocates wouldn't fall under that privilege. She said the definitions are most important because any time you open up a statute it may cause people to want to tighten up the statute that already exists and she wouldn't want that to happen. She recommended reaching out to agencies that don't fall under DV/SA privilege and find out what their training is.

Commissioner Williams noted that psychologists and other types of mental health therapists provide different types of services than victim advocates do. A victim advocate would not provide clinical services, but would help an individual navigate that system and get the services they need. Commissioner Williams noted he would like the workgroup to see the statutes that they are discussing, such as AS 08.86.200. Commissioner Williams said it is important to fine-tune the definition of victim so it is not too broad or too narrow. He also said it will be important to incorporate the details about training in the recommendation. Lastly, Commissioner Williams added that the recommendation should include the reason why we are expanding the privilege, which would fall under the background section.

Ms. Shanklin noted that all VFJ advocates do not fall under the current advocate privilege. She said we need to think about intent when talking about training, such as trauma-informed care and victim rights. She recommended there also be supervision from a larger entity, such as a tribe, larger non-profit organization, or government agency to help with accountability. Commissioner Williams said the group has not talked about supervision or structure. Commissioner Williams noted the need for the training to be culturally sensitive to the different approaches and learning styles.

Ms. Chapin said for their training they will be doing monthly follow-up for people who complete the advocacy training, with the initial training being a train-the-trainer. She said it is important to not leave out the village advocates because they provide such a needed service right now.

Ms. Saporito said defining violent crime as being committed by a competent adult could be problematic in the long run because if someone is found incompetent it could move into the civil realm. She also noted it doesn't say that term in any of the other privilege statutes. Commissioner Williams wondered where the language came from and if it was discussed at a prior meeting or not. AJC staff Staci Corey reported she did not see this language in prior meeting summaries.

#### **Public Comment (cont.)**

Eric McDonald reported he had a concern about administrative agencies or courts use of his confidential medical records and placing them on a public website. He stated he was hurt in a work accident, which included psychological trauma. He said he was also a childhood victim of abuse. He reported he asked the Worker's Compensation Board to allow that to be kept confidential. He said the employer obtained records from his childhood and the Board allowed it and placed his confidential records in public decisions. He stated he has tried for years to have this information removed. He said this has caused him to relive his trauma. He said they have used things that happened to him against him to deny benefits that were



unrelated to the claim. He stated the Board has ignored federal laws and his rights. He said he has seen it happen over and over with employers trying to save money.

## **Updates**

Commissioner Williams noted that AJC staff Staci Corey had sent around a memo with updates from topics previously discussed at the workgroup meetings. Taylor Winston from OVR provided an update on the Victims' Video subgroup, which is creating informational videos for victims on how the criminal justice system works. The memo also included updates from Mike Ramsay with DOC about an online parole calendar and victim notifications of release dates.

## **Victim Counselor Privilege Recommendation (cont.)**

Representative Geran Tarr wondered when there would be action taken on the recommendation. Commissioner Williams said the workgroup would continue to refine the recommendation to get a broad consensus and thinks within the next meeting or two the workgroup should have a solid recommendation. Ms. DiPietro with the AJC noted that the next plenary meeting for the Commission is October 7<sup>th</sup> and the annual report is scheduled to be approved then. Ms. DiPietro said this recommendation would not get into the annual report. Commissioner Williams agreed that the recommendation needed further refining before it went to the full Commission before the end of the year.

Sen. Reinbold said she is concerned that COVID vaccines are being mandated for individuals who are involved with the criminal justice system for them to have access to an attorney or visitation. She said this needs to be discussed at the Commission meeting. Commissioner Williams suggested that was a topic to discuss with the chair.

Commissioners moved to adjourn the meeting at 2:15pm.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Wednesday, July 14, 2021**

**1:15 p.m.**

Via Zoom

Commissioners Present: Steve Williams, Sean Case, Alex Cleghorn, Mike Ramsay (proxy for Commissioner Dahlstrom)

Participants: Geran Tarr, Nancy Meade, Tory Shanklin, Rachel Gernat, Kelli Toth, Troy Payne, Dawn Shewmaker, MaryBeth Gagnon, David Song, Kaeli Snyder, Suki Miller, Colleen Ouzts, Ingrid Cumberlidge

Staff: Barbara Dunham, Staci Corey

**Introductions**

Commissioner and workgroup chair Steve Williams. COO of the Alaska Mental Health Trust, called the meeting to order. The meeting agenda and summary of the last meeting were approved without objection.

**Advocate Privilege**

*Issue background*

Barbara Dunham, project attorney for the Commission, explained that at the last meeting, the group had discussed expanding the victim-advocate privilege. Currently, that privilege only applies to advocates providing counseling for victims of domestic violence and sexual assault (DV/SA). The group had been discussing whether to recommend expanding this privilege to advocates who work with other types of victims. At the last meeting, the group had discussed other states that do this and reviewed elements of their laws. For this meeting the group had wanted to know more about how the privilege currently works in Alaska.

Ms. Dunham explained that she had sent a memo on how the privilege currently works to the group in advance of the meeting. She walked the group through the memo. Essentially, the victim-advocate privilege means that, unless special circumstances apply, information from private conversations between an advocate and a victim cannot be revealed in court proceedings. Neither the victim nor the advocate (called a "victim counselor" in the applicable statute) can be forced to testify about these conversations or produce any documents related to them.

Ms. Dunham said that the current privilege applies to almost any type of official/judicial proceeding, whether criminal, civil, administrative, or legislative. In order for the privilege to apply, the conversation must be private. Under the current statute, the privilege only applies to victims who seek

counseling for DV/SA, and to victim counselors who work for an organization whose primary purpose is to serve DV/SA victims.

There are exceptions to the privilege. The victim can waive the privilege, meaning they can give their permission for the information to come out in court (for example, they can voluntarily testify about what they said). The advocate cannot waive the privilege. The privilege also may not apply in cases of child abuse or neglect (the kind of information that would trigger mandatory reporting, or if the victim was accused of a crime or trying to help someone commit a crime or escape prosecution for a crime. It would also not apply if there was a lawsuit related to the victim-counselor relationship. It does not apply if the victim has died, and does not apply in child protection cases (although those cases are also kept confidential).

Commissioner Williams asked if the privilege would be considered waived if the victim signed a release of information (ROI) to access services, and whether there was a specific waiver form. Ms. Dunham said it would depend on the circumstances, but in general, an ROI would probably not waive the privilege. The intent of the statutes regarding the waiver was that the waiver had to be intelligently given, and the victim would need to understand what the waiver would do. There was no specific form but courts would look at the facts to make sure that the waiver was knowingly and intelligently given.

Commissioner and APD Captain Sean Case asked why someone might want to limit the privilege. Ms. Dunham said that in general, the courts favor having access to all available information. If information is going to be privileged, there needs to be a good reason for it, so there might be some general reluctance to expand the privilege on principle. At the last meeting, she had explained that the current privilege was developed at the urging of DV/SA advocates, who felt it was necessary for their work; there had not necessarily been any intent to exclude other types of advocates.

Nancy Meade, general counsel for the Alaska Court System, added that privileges are not necessarily frowned upon, but courts generally favor getting information in front of the judge or jury to achieve the best resolution of the case. They may be closely examined to determine whether they are necessary.

Commissioner Case wondered how the law would apply to an advocacy organization whose work includes counseling DV/SA victims but also does other things. Ms. Dunham said it would depend on the organization's primary purpose- right now, the law says the organization's primary purpose has to be serving DV/SA victims, and it only applies to victims getting counseling for DV/SA. Tory Shanklin, executive director of Victims for Justice (VFJ) agreed, and noted that because only about 30% of VFJ's clients are DV/SA victims, VFJ wouldn't be covered under the statute.

Rachel Gernat with ANDVSA said that there are always concerns when amending a statute, since there might be unintended consequences. When the current statute was first enacted, there was a lot of argument about who has the required training, and do they meet the statute. There were issues raised with some private organizations. Organizations like VFJ would not be a problem, because they have training, and protocols. If this is recommended, it shouldn't include just anyone; advocates who qualify for the privilege should have training and be vetted. Other states that have expanded the privilege have those requirements. Looking at Maine's statute, she thought that would be very problematic, it was kind of an outlier in who the privilege was open to.

*Process*

Commissioner Case wondered if the law should be amended so that when VFJ advocates counsel a DV/SA victim, that conversation would be privileged. Ms. Gernat said that it would be better than having people be further traumatized by reaching out for help only to be told that their story could be repeated in court. That was one problem with the statute as written.

Commissioner Williams said that was one question yet to be decided moving forward; should the recommendation be to amend the existing statute, or create a new one? He thought that from the discussion at the last meeting the group was leaning towards a new statute.

Commissioner and ANJC legal and policy director Alex Cleghorn said he seemed to recall that the group was talking about violent crime, which would narrow things down. He thought the Commission's job was to make recommendations, and he was not sure if the Commission should be worried about legislators going beyond what was recommended.

Representative Geran Tarr said that she would hope that the legislature would heed the specific recommendations of the Commission, but there was never any guarantee. It would be helpful to find a sponsor who understands the intent of the recommendation.

Commissioner Williams noted that the current statute could just be amended to include victims of all violent crimes. But he thought that if it was a separate statute, it would be less likely to open the current statute up to different interpretations and unintended consequences.

Rep. Tarr agreed and said a recommendation that was tightly defined would be the best route. Ms. Meade agreed; the tighter the recommendation the better. She would suggest a bright line definition of victim counselor and victims service organization, to the extent possible; it might be hard to draft something watertight no matter what.

Commissioner Williams said he didn't think the workgroup would need to draft legislation, but would want to be specific. Rep. Tarr said she often found it helpful to take potential legislation to Leg. Legal to try to nail down specifics and address any issues ahead of time. Her office could work with the Commission to start a draft before next session. She found it helpful to get problems worked out ahead of time because there is not a lot of time during the session.

Commissioner Williams noted that the Commission's process was to develop a recommendation within the workgroup, and if the workgroup decides to forward the recommendation, it would go to the full Commission which would then vote on whether to send the recommendation to the legislature. He also noted the Dept. of Law, Public Defender Agency, and Office of Public Advocacy have not weighed in and the group might want to get their input.

#### *Purpose*

Kelli Toth, staff to Sen. Lora Reinbold, noted that Sen. Reinbold was newly appointed to the Commission. Ms. Toth was new to this concept, and wondered what organizations would be interested in this recommendation.

Ms. Dunham explained that the purpose of the privilege was to allow victims to feel safe that the things they say to advocates in private conversations won't be brought up in court (except in very limited circumstances). Advocates say this is helpful, because like an attorney-client privilege or a doctor-patient privilege, the relationship works best, and the victim can best be helped, when the victim is free to tell their full story. Right now, that privilege only applies in the DV/SA context, and excludes advocates working

for organizations that do not have victim counseling as their primary purpose, such as VFJ, and some tribal organizations providing victim services.

Commissioner Cleghorn confirmed tribal organizations, much like VFJ, help victims, including DV/SA victims, but it is not necessarily their primary purpose. ANJC provides support to victims and survivors, but also does other things, so it's not their primary purpose. He encouraged the group to think beyond victim service organizations in drafting this recommendation. He thought it was the victim-advocate function that was the key component, not necessarily the organization where that function lives. [Commissioner Cleghorn had to leave at this point.]

Ms. Shanklin noted that if advocates are involved in a case, especially at the beginning, victims are more likely to participate in the case by cooperating with law enforcement and prosecutors. They need to be able to trust the advocate. She wouldn't want to inadvertently put a victim at greater risk by forcing the victim to testify, especially as to things like character issues (the victim's character).

#### *Draft recommendation*

Ms. Dunham noted she had circulated a draft recommendation. It included background information that was a summary of what the group had been discussing. Commissioner Williams noted that the recommendation as drafted had an option to cover victims of any crime or victims of violent crime, something that was yet to be decided. Ms. Dunham agreed, she didn't think the group had discussed that yet. She wasn't sure there was much of a need for a privilege for victims of property crime, but she was not sure.

Commissioner Case said he would prefer that it would apply to victims of violent crime. All victims are important but counseling was a real need for victims of violent crime. He also wanted to make sure that the language included groups like VFJ. He thought the focus should be on whether the counselor is counseling victims of violent crime and not what the organization as a whole is doing necessarily. Mike Ramsay, victim specialist with DOC, agreed.

Commissioner Williams thought the recommendation should be specific as to what kinds of crime would be included in "violent crime". Another thing that jumped out was defining what the organization was; the group has talked about an organization not being primarily focused on DV/SA, but he thought the group needed to think about what those organizations should look like, along with the definition of a counselor, including what training should be required.

#### **Public Comment**

Commissioner Williams paused discussion at this point to solicit public comment. None was offered.

#### **Advocate Privilege**

#### *Draft recommendation, continued*

Regarding training for the victim counselors, Commissioner Case suggested adding the training requirement of the 40 hours, the same requirement for DV/SA advocates. Commissioner Williams asked what that training looks like. Ms. Shanklin said that it can be in person or online, and right now it's all online. It could probably be more rigorous. Suki Miller, program director with STAR, said that their training was also now all online. It covers child abuse, trauma, and resources available in rural AK. Trainees use a

portal system to access it. The portal tracks how much time trainees spend on it and what components they have completed, and they get a certificate when they've completed everything.

Ms. Shanklin said she thought there might be efforts underway to create a victim service academy, which she thought might be connected to RuralCap and/or federal funding. Marybeth Gagnon from CDVSA said CDVSA had been involved in efforts to start an academy a while ago, and she was not sure if it ever got off the ground. It was designed to cover all kinds of services. She would be interested in learning about current/future efforts.

Commissioner Case thought it was important to make sure the privilege would not be open to just anyone who says they're an advocate. Colleen Ouzts, advocate with ANJC, said in the chat that once the parameters of "violent crime" are identified with the appropriate statutes, the training of advocates could be based on the types of crimes/services needed. She said she was happy to contribute to research and/or writing.

Commissioner Williams thought the next steps were: (1) Define violent crime, find the related statutes; (2) Look at training- what is required by the statute now? This could include more information on a past or future victim services academy; (3) Define the type or organization this would apply to, or decide if it would be better to focus on defining the counselor. Ms. Gagnon offered to find more information on the victim services academy.

Ms. Dunham said she would revise the draft to include that information and to provide options for defining the elements.

### **Victims' Commission Recommendation**

Commissioner Williams said that without Commissioners Barr and Cleghorn this agenda item would be tabled for a future date, since they were a key part of starting this conversation. The group had been weighing whether something like this was needed, or whether enough was already happening right now. Ms. Dunham said that further to the latter questions, she had sent out two documents earlier in the day about the Pathways to Prevention Steering Committee and how that fit in with other statewide coordination efforts.

### **Victim Information/Navigators**

Ms. Dunham explained that this had been on the group's agenda for some time; the question was whether there could be anything in addition to what had already been recommended that would improve communication to and information for victims. This discussion started with listening sessions and an online survey, the results of which showed that victims in Alaska had a real need for better communication with officials and a better understanding of the criminal justice process.

Ms. Dunham explained that the group had been interested in looking at the current requirements for communicating with victims. She had circulated a list of the statutes with these requirements. Some of them applied only to DV or SA victims, and some were only activated if the victim has requested notification. Most of the statutes had a caveat saying that public employees could not be sued for failing to follow the statute.

Ms. Dunham explained that this workgroup had already made recommendations to improve ties between law enforcement and victim service agencies, and to increase staffing for victim coordination at

the Department of Law. She was not sure what more was needed—was there any component missing that the group could recommend? Or would the group prefer to focus its energy on the recommendations already made?

Commissioner Williams asked for the group's thoughts. He noted there was no harm in not recommending anything.

Ms. Miller noted there was the victims video idea that a subgroup was working on. Commissioner Williams thought that was part of a broad educational approach, though it may not get to everyone when they need it if they're not aware it exists. Ms. Dunham noted that the Commission had also already recommended funding a public awareness campaign run by OVR, and if OVR got that funding, they could also promote the victims video (and any additional videos) as part of that.

Ms. Shanklin said that she thought in general more resources are better, but she would not want to issue an empty recommendation, given the state of state funding and resources. Commissioner Case thought other areas might be more of a priority.

Commissioner Williams didn't want to drop this topic necessarily, but suggested keeping it in the parking lot and maybe come back to it later. In the meantime the group would focus its energy on other items.

Commissioner Williams adjourned the meeting at 2:40. He noted that Ms. Dunham was leaving her position but that the group would carry on. Ms. Dunham said that staff research analyst Staci Corey had also done a lot of work for this group and other Commission projects and would also be staying on as staff.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Wednesday, June 23, 2021**

**10:30 a.m.**

Via Zoom

Commissioners Present: Steve Williams, Alex Cleghorn, Mike Ramsay, Sean Case (11:04)

Participants: Troy Payne, Tory Shanklin, MaryBeth Gagnon, Kaeli Snyder, Taylor Winston, Suki Miller, Ingrid Cumberlidge, Travis Welch, Katie TePas

Staff: Staci Corey, Barbara Dunham

**Introductions**

Commissioner Steve Williams, workgroup chair, called the meeting to order. The meeting agenda and meeting summaries from February 2, 2021 and April 1, 2021 were approved without objection.

**Updates**

*Victims' Video Update*

Taylor Winston, director of the Office of Victims' Rights (OVR), explained that the subgroup had had good participation and had been working on a draft script for the video. One issue was how to explain automatic versus requested rights. Victims watching the video should have accurate expectations; often rights must be explicitly invoked at the victim's request, such as requesting restitution. The subgroup will keep working on it. The Department of Public Safety (DPS) has agreed to help with production, at least to get started. It will not be a Hollywood-level production but they have some resources available. They might be able to find some grant funding for future efforts. The first video will be a 30,000-foot-view, ensuring that victims know they have two main points of contact in OVR and the prosecutor's office.

Commissioner Williams asked if the subgroup could create a synopsis document that could be shared with the larger workgroup when the project was ready. Ms. Winston said there would be. Commissioner Williams thought that having a solid synopsis might help secure some grant funding for future installments. Katie TePas with the Alaska State Troopers said that DPS was glad to help with filming— thought there may need to be other sources for future videos. Commissioner Williams recalled that during initial discussions, Judge Stephens had noted that it might be difficult to get all the relevant information in one video.



### *Parole hearing notification update*

Mike Ramsay, victim specialist at the Department of Corrections (DOC) explained that DOC's IT department says it is possible to put the parole hearing calendar online, but they need to resolve some programming issues. They are getting started on the project, and will provide an estimated completion date at some point. Commissioner Williams suggested sending something in writing to the workgroup explaining how it would work. Mr. Ramsay said he would do that.

Ms. Winston said that related to parole, victims should receive notification about a defendant's potential release date 30 days after the defendant's sentencing. OVR hasn't received those notifications, even if they are representing the victim. This was something she was interested looking into. Commissioner Williams wondered if this issue needed some specific action the Commission could take, or whether it would just involve a discussion with the point person at DOC who was responsible for the notifications. Ms. Winston said she was not sure if there was a problem, but thought it was worth looking at and that this was a good group of stakeholders to discuss the issue if need be. Commissioner Williams suggested getting in touch with the point person at DOC and said that this would be on the agenda for the next meeting for an update.

### **Advocate Privilege**

Barbara Dunham, project attorney for the Commission, explained that at the last meeting, the group had discussed extending the advocate privilege to all advocates for all victims; currently the privilege applies only to advocates who work with victims of domestic violence or sexual assault (DV/SA). The privilege allows advocates and victims to keep their conversations confidential so the information the victim shares cannot be compelled in court testimony or subpoenaed in documents.

Ms. Dunham explained that she had circulated a memo on the subject to answer some of the group's questions. First, the group had asked about the history of Alaska's law and whether there was any intent to exclude other types of advocates. There did not seem to be any particular intent to exclude other advocates at the time the law was drafted. Rather, the impetus from the law came from DV/SA advocates who had noted that other states were passing similar laws, and they had asked a legislator to sponsor a similar bill for Alaska.

Ms. Dunham explained that the group was also interested in looking at how other states' laws work. Several states suggested by the group such as Oregon, New Mexico, and Washington all had a privilege for DV/SA advocates only. Other states such as Arizona, Illinois, and Iowa had a privilege for all advocates. The specific details of the law varied from state to state.

The group had also been interested in whether tribal organizations and service providers were included in the privilege in other states. Ms. Dunham explained that this varied from state to state; some statutes applied the privilege to all public and private organizations, while others limited it to nonprofit organizations only.

Commissioner Williams asked whether the definitions that were included in the memo came from each state's actual statute. Ms. Dunham said that she had paraphrased the statutes. Commissioner Williams said that one thing that caught his eye was that in some states such as Oregon, a victim was defined as someone seeking services for DV/SA, rather than a victim of a DV/SA crime, which seemed to be a looser definition. Ms. Dunham agreed, saying that many states don't require there to be an underlying criminal

case or a report to police for the privilege to apply—the focus is more on what the person is seeking help for as well as what training the advocate has and who the advocate’s employer is.

### **Public Comment**

Malan Paquette said she had read some of materials for the meeting and noted the privilege issue was relevant to her as an advocate promoting anti-fraud resources and providing victim resources. She has also been looking at cold cases, and Alaska’s missing person clearinghouse. She said that privilege would be helpful in her investigations, and being able to access records. Privilege would allow victims’ rights groups to share information with people. She noted that she also works with the long-term care ombudsman. With that and her master’s degree she has over 40 hours of training. She also suggested including ICWA workers in the privilege.

### **Advocate Privilege, cont.**

Commissioner Alex Cleghorn said that if the group was going to be looking at moving forward with this idea, he would recommend adopting the Oregon language that specifically includes programs administered by tribal governments. Commissioner Williams asked if such programs would not be covered under the current statute. Commissioner Cleghorn said that he was not sure, but thought it was better to state the concept explicitly. If the Commission wanted to move forward with a recommendation on this, he would want to include tribal advocates in this discussion.

Mr. Ramsay and Commissioner Sean Case both agreed, saying they were in support of expanding the privilege. Ms. Winston said that OVR would also support expanding the privilege, noting that OVR was in a different situation because OVR’s staff are covered by an immunity statute and its attorneys are also covered by the attorney-client privilege.

Tory Shanklin, executive director of Victims For Justice (VFJ), said she really appreciated this discussion, which directly impacts VFJ since VFJ is not protected by the current statute. Commissioner Williams asked if there was anything that jumped out from the other states’ statutes that VFJ would want to include. Ms. Shanklin said she would need to look closer but noted she had also done some research on this previously, which she could send to the group.

MS. Winston said that the Arizona statute had a number of provisions that she would support; Suki Miller from STAR noted that the Iowa statute requires all advocates to have 20 hours of training, which was something she would support.

Commission Williams said that the group had already noted that the phrase “primary purpose” used in the current statute [which limits the privilege only to advocates who work for organizations whose “primary purpose” is to serve victims of DV/SA] was limiting, and from the legislative history it seems like that was not necessarily the intent of the statute. He also appreciated knowing the history of the statute and that it derived from the prompting of DV/SA advocates and meeting their needs.

Commissioner Williams wondered if states that have broader privilege had any problems implementing it. Ms. Dunham said she had not looked into that, but noted that states also really differ in terms of how the privilege actually works, and it can be an absolute privilege, or one that can be easily abrogated by a judge, or something in between. Ms. Miller noted that under Alaska’s current statute, one situation where information can be accessed is in child protection (CINA) cases.

Ms. Shanklin said that when she first looked into the idea of expanding the privilege, some of the pushback she ran into had to do with partnerships with law enforcement officers and legal services. The more she dug into it, she didn't really think it would be a limiting factor. Organizations like STAR can be part of multidisciplinary teams that include law enforcement, and partnerships like that are really beneficial for victims.

Commissioner Williams said it sounded like there was support for this concept. He suggested taking a closer look at how the privilege works in Alaska, and, if the group wanted to move forward with a recommendation, thinking about whether it would be better to amend the current statute, or draft a new statute.

Commissioner Cleghorn agreed it would be good to have a bit more information on how the privilege operates. He thought that in terms of a recommendation, the group could just offer some bullet points; he didn't think the Commission needed to write the actual statutes. The recommendation could just paint in broad strokes what the Commission would want to see. Mr. Ramsay and Commissioner Case agreed. Commissioner Williams said that would be the course of action.

### **Victims' Commission Recommendation**

Commissioner Williams said that a draft recommendation had been circulated on this that was a very rough draft intended to encourage discussion. He noted that Commissioners Cleghorn and Scotty Barr had discussed the concept with Ms. Dunham. Commissioner Cleghorn said that the concept kind of came out of the April meeting, where the group got a lot of information about victim service programs being stood up or revitalized among tribal organizations; there was a lot of federal attention to Alaska happening right now.

Commissioner Cleghorn said that the general concept of the recommendation was to find a way to provide a space for people working in victim services, whether tribal, nonprofit, state or federal, to convene and coordinate. The draft that was circulated was a jumping off point; it could be an ad-hoc group, or it could find a home somewhere with more structured support. The idea was get groups of people sharing information. He thought it would be helpful to have a discussion of where such a space might be most helpful—with a state agency, a community group, or something else?

Ms. Dunham said that Commissioner Barr had been interested in violence prevention and how to raise awareness of prevention work already being done around the state. Ms. Dunham noted that a lot of great work was being done in prevention; having a space for service providers to come together would enable people in Kotzebue to know what people in Ketchikan are doing and vice versa.

Commissioner Williams wondered if there was already a group doing this kind of convening work. If the workgroup was interested in going forward with this idea, he thought it would be a key thing to find out. He knew that ANDVSA and CDVSA have this kind of role. He also don't want to limit the existence of such a group, or set a time frame. The value in having that kind of space is being able to discuss things over time as they come up.

Ms. TePas thought there was a lot of overlap of between this draft and one of the CDVSA statutes (18.66.050) which directs the CDVSA to coordinate services provided by the Dept. of Law, DEED, DPS, DOC, DHSS, and other state agencies and community groups, and also directs it to conduct public hearings

and studies on things like crisis intervention and prevention. There was the Pathways steering committee. She thought it might be predominately focused on intimate partner violence and sexual assault.

MaryBeth Gagnon from CDVSA said that in her office Ann Rausch was involved in Pathways; Ms. Rausch is also their statewide prevention coordinator. Ms. Gagnon offered to get an update on Pathways for the group.

Commissioner Williams reiterated that this draft was just a starting point, a way to start a conversation. He wondered if the CDVSA statutes Ms. TePas had mentioned included service providers for victims beyond DV/SA victims. Ms. Gagnon was not sure; that was something she would have to clarify with her director. Recently the CDVSA Board has been discussing maintaining their focus on DV/SA, though CDVSA also receives some funding for victims of all violent crime. Ms. TePas thought there might be some room to work with in the statute, but agreed it was something to check.

Ms. Miller noted that there was also the Alaska resilience initiative, which was focused on child sexual abuse. She noted that violence prevention is a big field. CDVSA and ANDVSA tend to focus on their funded members. There was a lot going on in the state. She thought it was important to think about how broad this idea should be.

Commissioner Williams said this topic would stay on the agenda; he wanted to make sure that Commissioner Barr would be included in the next discussion.

### **Next Steps**

Commissioner Williams said that the discussion on victim information/navigators would be postponed to the next meeting. The next meeting was set for July 14 at 1:00 pm.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Thursday, April 1, 2021**

**10:00 a.m. – 12:00 p.m.**

Via Zoom

Commissioners Present: Steve Williams, Mike Ramsay (serving as proxy for DOC Commissioner Nancy Dahlstrom), Alex Cleghorn

Participants: Nancy Meade, Travis Welch, Kaeli Snyder, Taylor Winston, Laurie Orell, Victoria Shanklin, Rachel Gernat, Troy Payne, Dawn Shewmaker, MaryBeth Gagnon, Andrew Gonzalez, Carmen Lowry, Suki Miller, Andree McLeod, Tami Jerue

Staff: Staci Corey, Barbara Dunham

**Introductions**

There were no additions or objections to the meeting agenda, and the approval of the February 2 meeting summary was held off until the next meeting.

**Alaska Victimization Survey Dashboard**

Andrew Gonzalez, research professional with the Alaska Justice Information Center (AJiC) explained that the Alaska Victimization Survey (AVS) began in 2010. The survey asks questions of a sample of adult women residing in Alaska, and includes questions on intimate partner violence, stalking, and sexual violence. Statewide surveys were conducted in 2010 and 2015, and regional surveys were conducted between 2011 and 2014. A 2020 statewide survey is complete and responses are currently being analyzed by Dr. Ingrid Johnson.

The AVS dashboard is an interactive visual representation of the data from the AVS concerning intimate partner violence (IPV), using information collected between 2010 and 2015. Anyone with the link (<https://uaa.alaska.edu/ajic/dashboards/avs>) can access the dashboard. There is a lot of content available on the dashboard, which has six pages. Mr. Gonzalez explained that for this presentation he would focus on the first page, but concepts would apply to the other pages (and AJiC's other dashboards).

Each page has descriptive text at the top explaining what the page is about. The idea behind the dashboard is to “liberate” the data to make it more accessible to a variety of users. The dashboard therefore pulls out key findings for big-picture takeaways, but also allows users to drill down for more detail.

Each page has a key finding—on the first page, which is a summary of IPV responses, the key finding is that 6/10 respondents have experienced IPV in their lifetime. Each page is also dynamic, allowing results to be broken down by race, age, and income, or a combination of filters. This allows for tailored analysis; for example, one can see how results change by income group. The chart will change according

to the filter selected. Adjusting the filter will change the title, and users can download the resulting chart or take a screenshot with an accurate title.

The first page detail goes into forms of IPV (coercive control and entrapment, psychological aggression, physical violence. Hovering over the figure will pop out text that explains what each part of the figure is visualizing, and also give the numbers for each category, as well as the percentage. The download option is at the bottom of the page, and users can download the charts into a pdf, or into a Powerpoint slide. Users can incorporate this information into their own work.

Dr. Troy Payne, director of AJiC, said that AJiC would like input from users on this dashboard, and encouraged the group to share what's useful and what's not if they use it. AJiC will be updating the dashboard with 2020 data this year.

Commissioner and workgroup chair Steve Williams asked if there would be anything new in the results of the 2020 survey. Mr. Gonzalez said that he understood that the survey was more expansive than in previous years, with additional questions including some related to COVID and victim services. Dr. Johnson would be able to explain further. Dr. Payne explained that Dr. Johnson was now running through the analyses, and would be able to talk about it later in the year.

### **Victims' Video**

Commissioner Williams explained that that this was a continuation of the conversation from the last meeting, Judge Stephens had recommended developing informational videos for victims regarding the criminal justice process, and a small group headed by Taylor Winston was going to meet in between meetings and look at the idea further.

Ms. Winston, executive director of the Office of Victims' Rights, said that the group had met once to brainstorm ideas and identify next steps. They talked about topics to cover and what length the videos should be. They decided on several videos less than five minutes long to make the content easier to digest.

In terms of content, they tried to figure out what questions victims are asking. They want to make sure the videos are culturally competent, and will meet needs of people in both urban and rural areas. They decided to start with three primary topics. The first would be an overview of victims' rights – a lot of victims don't know their rights, and they can't exercise a right if they don't know it exists. The second would be an overview of the criminal justice process to give an idea what's coming. The third would be for bail, which is early on in the process, and at which a victim has a right to be heard. The group also talked about resources, noting that they can be referred to within the videos. The effort would start small, and expand over time. The group also talked about having them translated into various languages.

Ms. Winston said the group consisted of Tory Shanklin and Paula Dobbyn from Victims for Justice, Commissioner and ANJC Legal and Policy Director Alex Cleghorn, Katie TePas with the Department of Public Safety, and Suki Miller from STAR. They will meet again at 1pm on April 5.

### **Victim Advocate Privilege**

Barbara Dunham, project attorney for the Commission, explained that this issue had been raised in the workgroup last year. There is a statute granting legal privilege to confidential conversations between domestic violence and sexual assault (DVSA) advocates and their victim clients. This privilege, similar to

an attorney-client privilege, allows DVSA advocates and victims to have confidential conversations without worrying about whether their conversation is subject to subpoena or discovery as part of a criminal investigation. The statute only applies to advocates who have received 40 or more hours of DVSA advocacy training and who work in organizations that primarily serve DVSA victims. The question that was raised last year was whether this privilege should be extended to advocates who are not necessarily DVSA advocates.

Dawn Shewmaker, Victim-Witness Coordinator for the US Attorney's Office, noted that she had no privilege or confidentiality whatsoever. She explained that it can be a little or a lot complicated to form a rapport with a victim and be a source of trust; she has to get to know them without having them tell her their story. She has learned how to walk that line, but if the privilege were expanded, she thought it could only be a benefit to victims. It would allow victims to open up and discuss matters freely without worrying about jeopardizing the criminal case.

Tory Shanklin, executive director of Victims for Justice, said she appreciated this being brought up, and this was something VFJ have been discussing for several years. VFJ doesn't specialize in DVSA, so the current privilege statute doesn't apply to them. When they were beginning their partnerships with the Fairbanks and Anchorage police departments, it was an issue. She didn't necessarily understand the distinction between advocates. She thought something was needed to protect agencies—if VFJ were to get a subpoena, she worried they might be forced to hand over records. It puts victims in a vulnerable situation.

Commissioner Williams wondered why the current statute only covered DVSA advocates. Rachel Gernat with ANDVSA said she was not sure without looking at the statute's legislative history. She noted that DVSA advocates go through a specific training in order to be qualified to be work in the field. There are a lot of types of advocate, and not all of them necessarily need confidential communication.

Ms. Shanklin noted that VFJ's advocates have also gone through a 40-hour training. She understood that there are people who just call themselves advocates who would not necessarily need this. But there are advocates who have gone through the training, but don't have the protection of the statute because they do not work for an organization whose "primary" purpose is to serve DVSA victims.

Ms. Gernat thought Ms. Shanklin made a good point—the word "primary" was key. The issue is based in what is discoverable. Any notes by an advocate or someone associated with the case can be discovered.

Commissioner Cleghorn said that he would also like to include tribes in this discussion. As written, the term "victim counseling center" would not include tribes. Ms. Shanklin thought that was a good point, especially that there are now a lot of tribal victim programs with additional federal resources coming in.

Kaeli Snyder, Victim Specialist with the FBI, explained that she was new to Alaska, and that she had previously worked in Oregon as an advocate planted in the DA's offices. There, none of the advocates who placed in government agencies had privilege, while those who were in private non-profit organizations did. Having one of each kind of advocate working together was helpful. As someone who did not have privilege in the DA's office, she was never subpoenaed, and was able to explain to victims that communications were not necessarily confidential and that she was similar to a mandated reporter. She was still able to help victims get restraining orders and other assistance. Ms. Shewmaker asked what kind of

organizations Ms. Snyder worked with, and Ms. Snyder said she had worked with multiple kinds of agencies, not just those focused on DVSA.

Commissioner Williams said that he agreed with Ms. Gernat's suggestion to look at the legislative history of the current law. He wondered what other additional information was needed. Ms. Shewmaker suggested looking at how the Oregon or Washington statutes are worded. Those states also have a number of tribal organizations, and may have also addressed that aspect. Ms. Snyder noted that Oregon's statute was relatively new.

MaryBeth Gagnon from the CDVSA agreed with looking at the legislative history. In her experience, "victim counselor" and "victim counseling center" could even be too vague. She also agreed that looking at other states' statutes can be helpful. The current statute seems vague and antiquated. She suggested reaching out to New Mexico, Wyoming, and Hawaii as well.

### **Victim Navigators**

Ms. Dunham explained that this was also a topic that the group had discussed last year. She summarized a memo she had circulated on the topic. There are a number of victim service organizations in Alaska, and several ways that victims could be connected to those organizations. The Commission has already recommended developing partnerships between law enforcement and victim advocates, and creating new victim coordinator positions within the Department of Law. The memo gave examples of victim navigator programs in other states, including programs housed in legal services organizations and programs housed in prosecutors' offices. The question for the group was whether Alaska needed an additional victim navigator resource.

Commissioner Cleghorn said that this idea tied into a lot of what the Commission heard in its victim listening sessions, about how victims perceive the justice process and access information and services. He thought this was a promising idea. He liked the legal services idea but also would like to hear what non-legal organizations thought.

Ms. Winston noted that it is in the law that every law enforcement officer should be telling victims about OVR and giving them OVR's contact information in writing and orally, as should the Department of Law. Hypothetically if that were done every time (and maybe if OVR's material were revised) they could refer victims to services—they already do that often. The trouble is they have no idea how much officers are following this law. OVR will provide brochures and training to any officer/office who wants it. Even if they receive the information from an officer, victims can't always recall they did receive the information because of the trauma they have just experienced. Turnover at the Department of Law also makes it difficult to keep tabs on what information has been imparted. The criminal justice system is a bewildering process, and having one or two different funnels, wherever they are housed, will help. But there is existing infrastructure that could be used.

Ms. Shanklin suggested also thinking about strengthening relationships between law enforcement officer and victim service providers, and thought having soft handoff was key. If officers are just checking off a box, and victims are handed information in a moment of trauma, it may not help, since they may not be able to process the information. It needs to be continually introduced in multiple ways. There is lots of work being done out there, and people able to do this work, but it needs to be easier to access.



Ms. Gernat wanted to reiterate what Ms. Winston said, that there is a law already in place. She would not want to put more of a burden on victim service agencies. Law enforcement officers and prosecutors already have the inside information on the investigation and prosecution, the processes that victims will have questions about. Providing that information is not the victim advocate's job. She suggested looking at ways to ensure that agencies are doing what they are supposed to do.

Ms. Winston said that there were multiple places that could provide information. She wondered whether better meetings among victim services agencies might help.

Ms. Shewmaker said that a lot of the complaints victims have on the state side relate to a lack of information about what's happening with the criminal case. Non-governmental service organizations like victim advocacy organizations have to do same thing the victim would do, which is call the state agency for answers. Having people within those offices will ensure victims can get that information. She was not sure if adding a position for someone outside a state agency would address the issue.

Commissioner Williams suggested that for next meeting, the group could take a look at the law in terms of what information must be provided, and the group could map these ideas out.

### **Federal MMIP Program and Victim Assistance Grants**

Tami Jerue, executive director of the Alaska Native Women's Resource Center (ANWRC), explained that Alaska's Missing and Murdered Indigenous Persons (MMIP) office was started as part of larger nationwide movement focusing on Missing and Murdered Indigenous Women, and the intersections with DV/SA and other victimization of indigenous people. There has been more focus on this issue starting about five years ago, but this issue is not new. A federal executive order from the previous administration created 11 coordinator positions in states with high numbers of MMIW. Alaska was included, even though legally tribal lands are a little different here, likely because of AG Barr's visit to the state. Ingrid Cumberlidge is Alaska's coordinator.

Ms. Jerue explained the Ms. Cumberlidge had put together a broad working group made up of federal, state and local law enforcement officers from around the state, tribal judges, and victims' groups like ANWRC and VFJ. The group was also working with the cold case office in the FBI. One of the working group's tasks has been to come up with pilot project response plans. It has been a challenging group to put together because these groups are not used to working together, law enforcement agencies are used to having their own agenda, and not all tribal communities have their own law enforcement. It was now becoming more coherent, and members were expanding their thinking, and building relationships. Ms. Jerue thought there was real value in that. They have now confirmed that this effort will continue to be funded in the current administration.

Ms. Jerue explained that OVC funding was also coming into Alaska's many tribal communities. Set-aside finding has been approved since 2018. This allowed tribes to apply for VOCA funding specifically set aside for tribes. It has opened up a wide door for creating programs that have never before been seen in Alaska. There are some programs that have done a lot of work, others that need to build capacity. ANWRC is the technical assistance provider for these grants, and trains tribes on how to apply. Going forward the dream would be that these new services would intersect with other tribal resources and nontribal resources. Some tribes would be more open to that than others. It would take some joint efforts and learning. One challenge under this system is that each tribe's grant funds a unique program—each applied for a specific

project. One key difference from other programs is that services funded by these grants can be provided to victims who have not made a report to law enforcement.

Ms. Dunham asked how this was different from the program the Denali Commission was funding. Laurie Orell with the Denali Commission said that they have microgrants within the set aside, with the intention of building new programs. They have a notice of funding opportunity open now, and she would be happy to discuss it with anyone who has questions. More information is available at: <https://www.denali.gov/tribal-victims-of-crime-funding-opportunity/>

Ms. Shewmaker asked if anyone was tracking everything the tribes were doing. Ms. Jerue said not yet, but her organization was trying to lay that out. They were working with grants managers to create a thorough list. Ms. Shewmaker said that her office has cases from all over Alaska, and has additional attorneys for rural Alaska now. If they get a case with a victim in one of the tribal service areas, it would be great to reach out to whoever is already in place and work with them to provide information to the victim. Ms. Jerue said that her organization could do some of that, and ANJC was working on it as well. This was something they were trying to shore up, working toward a network of victim advocates who can help prosecution, and push for accountability,

Commissioner Cleghorn added that one of ANJC's OVC deliverables was to create an asset map, what resources for victims are available. It was not statewide, but for the Anchorage service unit. He encouraged anyone with questions to reach out to him.

Ms. Jerue also shared her contact information in case anyone had any questions: [tami.jerue@aknwrc.org](mailto:tami.jerue@aknwrc.org) or their main number 907-328-3990. The website is [www.aknwrc.org](http://www.aknwrc.org).

Ms. Dunham said that this might be an opportunity to leverage these significant new resources coming into the state, and wondered whether the Commission could make a recommendation as to how these services could further interface with state services and create a cross-jurisdictional infrastructure for victim services. She encouraged anyone with recommendation ideas to send them to her.

### **Public Comment**

Malan Paquette from Anchor Point said that she had served in victim services and also access them herself. On the topic of the victims' video, she thought the short video concept was good; given that there is limited internet availability in the state, some people might be downloading the videos, and it is difficult to download long videos.

Ms. Paquette also suggested including information on Vinelink. She has had difficulty contacting Vinelink in Alaska. She encouraged group members to look into this for themselves. She also wanted to alert the group to HB 106, which creates a law enforcement protocol for missing persons under 21. It would be heard in the House State Affairs Committee today at 3:00 pm with public testimony. Also in the same committee was HB 118 expanding prisoner access to computers, which she considered too risky. She thought there needed to be computers in schools, not prisons.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Tuesday, February 2, 2021**

**10:00 a.m. – 11:30 a.m.**

Via Zoom

Commissioners Present: Steve Williams, Trevor Stephens, Alex Cleghorn, Sean Case, Randi Breager, Mike Ramsay

Participants: Jeff Edwards, Taylor Winston, Tory Shanklin, Ingrid Cumberelidge, Troy Payne, MaryBeth Gagnon, Dawn Shewmaker, Nancy Meade, Suki Miller, Michelle Hale, Rachel Gernat, Michelle Evans

Staff: Staci Corey, Barbara Dunham

**Introductions**

The agenda and the summary of the previous meeting (December 16) were approved without changes.

**Legislation re: Consent**

Michelle Hale and Alex Kelly introduced themselves as staff for Rep. Geran Tarr, and explained that they had been working with Rep. Tarr on HB 5, a bill to amend some of Alaska's sex offenses laws.

Ms. Hale explained that HB 5 had several components. One was to add new provisions to the sexual abuse of a minor statutes. Sexual conduct between someone over 18 and someone age 13 to 17, where there is at least a 10-year difference in age, would be classified as first- or second-degree sexual abuse of a minor. For cases involving victims age 13 to 15, this would increase the severity of the offense. For cases involving victims ages 16 and 17, this would in some circumstances criminalize conduct that was not previously criminalized.

Ms. Hale further explained that HB 5 adds a definition of consent: "a freely given, reversible agreement specific to the conduct at issue by a competent person." The bill also adds statutory provisions that define circumstances in which there is a lack of consent. The bill does not make the same changes to comparable offenses in the code of military conduct.

Lastly, the bill also shortens the timeframe for processing rape kits to six months, a process which must be put in place by July 2022. Ms. Hale explained that as part of the Sexual Assault Kit Initiative project, the time for processing kits was scheduled to gradually get shorter as the state improves its processes.

Ms. Hale explained that HB 5 is prefiled. Rep. Tarr has done a lot of ground work in developing this bill, and had consulted a lot of people, some of whom were at the meeting today. There are no

cosponsors yet; the bill is complex, since the different sections are a compilation of separate projects, so it will take other legislators time to look through it. It will probably pick up cosponsors when the House organizes.

Suki Miller from STAR asked what this bill would mean for sentencing, and whether there was any pushback on the bill, or sections that other legislators thought should be changed? Ms. Hale said there was no feedback yet.

Taylor Winston from the Office of Victims' Rights explained that sentencing for first- and second-degree sexual abuse of a minor would remain the same. She said that she really applauds this effort. She spent many years prosecuting sex crimes, and observed that Alaska's statutory scheme has been weak in being able to get at predatory offenders who are much older than teen victims. There is a lot of difference between being 5 years older and 65 years older. OVR will support this bill.

Ms. Hale agreed that was the intent of those new provisions, they were not aimed at penalizing relationships between teenagers, e.g. a 16-year-old and a 19-year-old, the intent was really to get at the more extreme cases. Rachel Gernat, representing ANDVSA, said that ANDVSA supports this bill as well.

Ms. Miller asked about the delayed effective date. Ms. Hale explained that was only for the rape kit provision. Randi Breager, special assistant to the Commissioner of DPS, explained that the reason for that was that the state crime lab, operated by DPS, needs at least 18 months to bring on new employees to process the kits.

Mr. Kelly noted that he had just gotten word that Reps. Sponholz and Foster will cosponsor HB 5. He noted that there is enthusiasm for this bill in the legislature and Rep. Tarr was hoping to build on that. He asked anyone who wanted to contribute to the effort of getting this bill passed to contact Rep. Tarr's office.

### **Notification for Parole Hearings**

Commissioner and workgroup chair Steve Williams explained the workgroup had had discussions on this in the past. Jeff Edwards, director of the Parole Board, was available for questions today and might be able to shed more light on the process. The concern the workgroup had discussed was how best to give victims an opportunity to participate in parole hearings given that the scheduling can be tricky, with some hearings pushed off, and victims not being given a specific notification of the hearing time until close to the hearing date. The group was trying to identify ways to improve victim participation. Mike Ramsay from DOC thanked Mr. Edwards for attending this meeting during a hearing week.

Mr. Edwards said it sounded like this issue had been discussed in a few meetings, though it was his first time here. He explained that the Parole Board creates an annual parole hearing schedule; for example they will set a week of hearings for mid-July at Goose Creek. That way DOC probation staff will know when the Parole Board will be there, and they know when to write reports for people whose eligibility dates are coming up. For discretionary parole hearings, victim participation is allowed via written documents, telephonic testimony, in person (they are allowed to attend the whole hearing), and (during the pandemic) via Zoom.

Mr. Edwards explained that in terms of victim notification, there are some requirements for the courts to notify victims regarding potential release dates/types. For discretionary parole, DOC must notify

victims if required 30 days in advance. In order to be notified, victims must keep their information updated in ACOMS. Probation staff send notification documents using the addresses found in ACOMS. The Parole Board asks DOC staff to provide victims with 45 days' advance notice, and to let them know about the week it will happen. The Parole Board staff is available to answer questions from victims as to how the process works.

Mr. Edwards explained that when the hearing week approaches, the Parole Board administrator creates a calendar. Most hearings are 30 minutes, but depending on how many victims want to participate, they can be longer. The dates and times are distributed to probation staff, the Commissioner's office, and OVR two weeks in advance. It is true that that calendar is in flux, and hearings can get postponed. Violation hearings are more subject to change, while discretionary hearings are more stable.

ACJC Commissioner Alex Cleghorn asked whether requests for continuances only occurred for revocations, or also for release hearings, and whether any rules were applicable. Mr. Edwards said that the majority are for revocations, just like court proceedings. If the request occurs near the hearing date/time, they ask the person to be on record. If the request occurs well in advance, they will do it administratively. For discretionary hearings, it will be a request by an inmate. The Parole Board will also continue the hearing if victim notification was not adequate. The regulations for Parole Board hearings are in the administrative code.

Taylor Winston from OVR asked whether it would be possible to post the schedules on DOC's website—both the long-term schedule and the detailed schedule nearer to the hearing date. Mr. Edwards said they have had that request in past and have been discussing it. Posting the annual calendar would be doable, but they probably would need additional IT work for an updatable detailed calendar. He was not saying it was not possible, but the constant fluctuations make it difficult to keep something like that updated. He said he would look into it. Ms. Winston said she would encourage looking into that, because victims often have barriers to participation, and usually have to adapt their schedules to accommodate the system, and knowing more about the schedule ahead of time would make them more accessible.

Ms. Winston also noted that regarding the truth in sentencing provision from SB 91 [requiring courts to notify victims of potential release dates], her office doesn't get those notices, and she was not sure whether those were always being given out; she was interested in making those more accessible. Mr. Edwards said that the Parole Board was not involved in those notices, but he knew that a lot of time is spent on time accounting to figure out those dates, hence the reason for making them due 30 days after sentencing. Mr. Ramsay said that when those dates were calculated, the POs should have them and if not, the PO supervisors should be following up with the POs.

Ms. Winston said she wanted to really applaud Mr. Edwards' work because she has seen a lot of improvement in Parole Board practices in recent years. Mr. Edwards said they have been substantially increasing efforts to notify victims and document when they notify the victims, such as improving ACOMS to help with documentation, which helps staff double check notifications. It's not perfect but they have been placing increasing emphasis on it.

Commissioner Williams said the workgroup would also like to see the system improve, and said that if there were things that the workgroup could assist on that the Parole Board like support for, the groups could work together.

Dawn Shewmaker from the US Attorney's Office asked whether the Board would keep the Zoom option for participation post-pandemic. Mr. Edwards said that was something the Board has been discussing. They like the platform, but prefer in-person hearings. Staff may be able to keep it as an option.

Michelle Evans from Victims for Justice noted that they have had success in contacting POs and they will take the time to explain the process. She has noticed that many victims don't stick with the process, and don't keep updating DOC on their information.

Mr. Edwards said he would look into the question of posting the schedules; the Board is already able to post outcomes, so they may be able to leverage that. Commissioner Williams thanked him and said that if he could keep participating on this topic that would be helpful.

### **Victims' Video**

Commissioner Williams explained that Judge Trevor Stephens, who is also an ACJC Commissioner, had raised the idea of producing a video or series of videos giving victims an overview of the criminal process.

Judge Stephens noted that these were his personal comments, and he was not speaking on behalf of the court system. As a judge he has served on the Court System's jury committee and CINA improvement project, and observed that videos have been made for each of those—for example a video for jurors coming in for jury service, and a video for all participants in CINA cases explaining the process for those cases. He had the thought that a similar video or videos for victims would be similarly effective.

Judge Stephens explained that he has worked as both a defense attorney and prosecutor, and has now been on the bench for 20 years. He has seen hundreds of cases involving victims, and observed that often victims lack an understanding of court procedures, starting at bail and going through to sentencing, post-conviction and appeals, and probation/parole. Victims have rights under state statutes and the constitution, but can't exercise those rights if they don't know about them, and don't know what's happening.

Judge Stephens suggested that the workgroup consider developing sets of videos on various topics pertaining to victims. These proceedings can be incredibly complex, especially for felonies. The biggest challenge would be to determine how much detail to include. He suggested focusing on court procedures including bail. Typically victims are upset, scared, and want the person to stay in jail, and don't understand the least restrictive test.

Commissioner Williams noted that ACJC project attorney Barbara Dunham provided a link on the agenda to some examples of videos on the Court System website. He looked around the court system website for other information on the site and noted there were documents explaining proceedings, though he found a 78-page pdf on one proceeding which might be too much information. He tried looking for videos focused on explaining procedures to victims and didn't see much, and wondered if anyone else knew of some that already existed.

Nancy Meade, general counsel for the Court System, said she was not aware of any, but there could be something from national organizations. Commissioner Cleghorn said he found a link to a series of classes from another state; they were not videos, but more interactive classes on things like hearings and victim impact statements: <https://victimsupportservices.org/community-education/>. Commissioner Williams

noted that the Alaska Legal Services Corporation also has some webinars. Tori Shanklin from Victims for Justice noted that there is also a court manual produced by STAR that is more accessible.

Commissioner Williams thought this idea was worth talking about—it may not even need to be a recommendation, and could be funded in a variety of different ways. Randi Breager from DPS said she loved the idea of short videos, which could be just a couple of minutes long, and could appeal to a variety of learning styles and address language barriers. Overall she thought the state could benefit from several different ways to get information to folks. She was curious to know how having an advocate embedded with the Department of Law will help in this area. It can be overwhelming to encounter this system without any guide.

Judge Stephens thought there were two different topic areas for these potential videos. One was to make sure victims understand their rights, which may exist in the Constitution, in statute, in regulation, or in court rules, and the other was to explain court proceedings. Victims can't exercise their rights if they don't know what they are. He thought these videos could be well done, and agreed people learn in different ways, and it might be helpful to watch a video, then go talk to an advocate with more of a background.

Ms. Winston also thought it was a great idea, and agreed it should be multiple short videos, shorter being better than longer. She noted OVR had also been thinking about live infessions, to have regularly on the calendar at the courthouses.

Commissioner Cleghorn suggested also looking at what else is out there, and building on that. Commissioner Williams agreed, and suggested that if group members know of or find any resources, to send those to Ms. Dunham.

Suki Miller from STAR said that while she thought the booklet from STAR is helpful, she agreed that a video would also help, and suggested that the videos from the Division of Elections might be a good model.

Commissioner Williams asked if a small group might be interested in working more on this. Ms. Shanklin, Ms. Miller, Commissioner Cleghorn, and Ms. Winston all expressed interest, and Dr. Troy Payne from the UAA Justice Center said he would ask his colleagues if any of them would like to participate. Ms. Breager volunteered Katie TePas from DPS, and also suggested getting someone from the Department of Law on board. She also noted that DPS has a public information office which may be able to help.

Ms. Meade noted that Jeannie Sayto helped develop content for the family law self-help center, though it was not their subject matter. Judge Stephens was not sure if Court System staff could participate. Ms. Meade also was not sure, but saw this project as beneficial, and thought the Court System would be supportive. Judge Stephens suggested talking to Mara Rabinowitz and Stacey Marz.

### **Time to Disposition Study (AJiC)**

Since time was running out, Dr. Payne suggested putting this item on the next agenda. Essentially, the Alaska Justice Information Center is conducting a study on time to disposition of criminal court cases, and they are looking for measures that are important to victims. He encouraged anyone with ideas to get in touch with him; the study was in the early stages of planning.

### **Public Comment**

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

### **Next Steps**

The group agreed to next meet on March 16<sup>th</sup> from 10:00-11:30.

Adjourn 11:30



Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Wednesday, December 16, 10:30 a.m. – 12:00 p.m.**

Via Zoom

Commissioners Present: Steve Williams, Randi Breager (on behalf of DPS), Mike Ramsay (on behalf of DOC), Sean Case

Participants: Deanna Davis, Victoria Shanklin, Troy Payne, MaryBeth Gagnon, Nancy Meade, Rachel Gernat, Taylor Winston, Malan Paquette, Ingrid Cumberlidge, Travis Welch

Staff: Staci Corey, Barbara Dunham

**Introductions, Agenda and Previous Meeting Summaries**

Randi Breager, special assistant to the Commissioner for DPS, moved to approve the agenda and Mike Ramsay, criminal justice specialist for DOC, seconded the motion. The agenda was approved without opposition.

Commissioner Sean Case moved to approve the meeting summary for August 20, 2020 and Ms. Breager seconded the motion. The summary was approved without opposition.

Commissioner Case moved to approve the meeting summary for October 8, 2020 and Mr. Ramsay seconded the motion. The summary was approved without opposition.

Commissioner and workgroup chair Steve Williams said the purpose of the meeting was to look at where the group left off at the end of summer. Several items that the group worked on were approved by the full Commission and included in this year's annual report, while some items the group had discussed were tabled. The approved recommendations were circulated to the group for reference. The annual report has been released, and was available on the Commission's website. The Commission has also met to discuss its plan for the next year. The Commission is scheduled to sunset in June 2021 and has a year from that date to continue to conduct work and wind down. The Commission decided it would still issue an annual report, and agreed that the workgroups should continue and aim to complete recommendations in time to be included in that report. Today the task was to decide what topics the group should work on and a timeline.

Commissioner Williams asked if any members of the public had questions. Malan Paquette said she had concerns about numbers for state agencies such as OVR, DOC, and Law not being in the paper state directory. She said the next publication of that directory would be in February. Commissioner Williams thanked her for her comments, and noted that issues of how to get information and access to services to victims has been topic of discussion of this group. Some of the recommendations that the Commission has adopted speak to that idea generally, though not the concern Ms. Paquette raised specifically.

**Review of Existing Agenda Items Tabled for Further Work**

Commissioner Williams explained that the group had last discussed these items in August.

*Motions to continue/Pretrial delay:* Commission project attorney Barbara Dunham explained that this item was related to keeping victims apprised of the criminal case process as well as the time it takes to

resolve criminal cases. There are rules for how long a criminal case should take, but those rules can be waived if an attorney asks for a continuance (a delay) and a judge agrees. While prosecutors are supposed to inform judges of the victim's thoughts on any substantial delay in certain cases, this often does not happen.

Ms. Dunham explained that in workgroup meetings earlier this year, Office of Victims' Rights (OVR) Executive Director Taylor Winston suggested making a recommendation that all motions to continue should be in writing. The group had discussed whether this might reduce delays or increase them, and whether there might be another solution to giving victims more of a voice in the process or to speeding up trials.

Ms. Winston said she was also a member of the Court System's Criminal Rules Committee, which had received a request from Chief Justice Bolger to look at the pretrial delay issue. Workgroups were set up earlier this month, and will probably get started after holidays. She had also been speaking with the municipal prosecutor and John Murtaugh about requiring motions to continue to be in writing. General rules govern the timing of motions, but motions to continue could be on a tighter timeframe.

Ms. Winston suggested there were other ways to address this with policy such as not to allowing off record continuances by email, which don't show up in CourtView and aren't communicated to the victim—even if OVR has entered an appearance they don't always get notice (it depends on the attorney). There were also court policies such as training judges to ask whether the prosecutor has contacted the victim and to give victims an opportunity to speak. Victims can be too intimidated to speak up in hearings. It is rare for judges to bring up the victim on their own.

Ms. Winston thought it would be instructive for people to sit in on or listen to pretrial and discovery hearings. Recently she sat in on one in which the public defender didn't even know whether discovery was complete or when they might be ready for trial – on a 2016 case. Prosecutors can be similarly unprepared. She thought the courts need to hold practitioners accountable. Judges should also create a record; if a judge questions the motion or denies the continuance that would create a record. Right now typically motions to continue are met with no opposition and no questioning from judges.

Commissioner Williams asked who was participating on the criminal rules committee. Ms. Winston replied that the Public Defender Agency, Office of Public Advocacy, Department of Law, Municipal Prosecutor, private defense attorneys, OVR, and the judiciary were all represented in the committee as a whole, which was also divided into working groups.

Nancy Meade, general counsel for the Court System, added that the committee tried to have balance with representation from four judges, four prosecutor positions and four defense positions, people who are experts. She suggested that it would be good to allow that group to think through this issue first. Pretrial delay has been an issue for a long time, not just in Alaska.

Dr. Troy Payne, director of the Alaska Justice Information Center (AJiC), said that AJiC intended to look at time to disposition in some detail in the next year, and planned to work with these stakeholders to try to come up with some explanations for why this is happening. They have done some work on it already. It was far less common than you'd think that courts are able to dispose cases in a timely manner. Certain thresholds were set by the Alaska Supreme Court that just are not being met. The analysis will be complicated and will take time, but there was a need for data on what is causing pretrial delay.

Commissioner Williams agreed with Ms. Meade that there seems to be work being done on this topic already, and he was not sure if it was a good use of resources to duplicate efforts. The rules committee is probably the more appropriate place. That said, this workgroup is interested in the issue and he thought that the group would want to be kept apprised, and to know if there was anything this workgroup could do to supplement the committee's work. Commissioner Case agreed. This was a complicated issue that would eat up a lot of time. This group has been pushing for increased communication, and he thought the group

should continue to look at that and focus on putting victims in contact with resources. Ms. Breager agreed, and thought there was enough on the workgroup's agenda. Mr. Ramsay agreed that it would be good to be kept apprised of what the committee is doing.

Ms. Winston said that seemed reasonable. She noted that there was another avenue of changing policy through the Criminal Justice Working Group as well. This group could stay tuned in in case any legislative fix was identified. She and Ms. Meade agreed to keep the group informed.

*Fixed dates for parole hearings:* Ms. Dunham explained that the group had discussed the difficulty in scheduling for victims who want to attend parole hearings. Hearings are set for a certain week, but not a particular day or time in that week. The problem with trying to set a certain day is that there can be last minute changes due to requests for a continuance from the person up for parole or their attorney. Also, some hearings run long, which can bump other hearings out.

Mr. Ramsay agreed. He thought it was worth further discussion, and suggested having someone from the parole board participate in the future discussions.

Ms. Breager noted that a lot of energy had been invested into the VINE system, and wondered if that notified victims about parole hearings. Ms. Winston said she didn't think so. VINELink usually just gives notifications when a person is in or out of custody. VINEWatch is linked to CourtView, which does not have parole hearing information. Victims do get notice when the incarcerated person has applied for parole, and when the hearing is set, usually about 30 days out. They are not given a date and time until just before, either the week before or week of. This can be difficult for victims, especially if the hearing location is far away or there is a delay in the mail.

Commissioner Williams said it also sounded like a challenge when things happen that change up the schedule that week. He thought the group could find an appropriate middle ground for this. Ms. Breager said it seemed like a common difficulty—there were many ways for things to fall through the gaps. She suggested looking into whether VINE might be a consistent way to provide notification.

Commissioner Williams thought this could be just a policy change, or it could be recommendation. He asked if the group wanted to keep this issue on the agenda to see if it can find some improvements or efficiencies. Mr. Ramsay said he would be happy to do that, and thought the group might be collectively able to come up with something that works better for victims. Commissioner Case agreed; he liked using this platform to discuss issues that come up, and noted that sometimes finding a solution doesn't always mean making a recommendation, which can actually add to agency workloads in some cases. Just having these conversations can help move things forward.

Ms. Paquette said she thought it was very important to notify victims of these hearings, and wondered if there was also a way to have victims attend telephonically. She suggested that 800 numbers should be available in the paper directory. Notifying people is a good way to mitigate further harm to victims. She added that aliases often do not appear on CourtView.

Commissioner Williams said it sounded like the group wanted to keep this issue on the agenda.

## **Public Comment**

Ms. Paquette said that state agencies were often all talk no action. There was a disturbing drawing on the Violent Crimes Compensation Board (VCCB) brochure, and she thought the VCCB should remove it from the brochure. She thought that OVR's brochure was wasting a lot of ink, and did not have a state emblem. OVR needed to embrace being a state agency. She wanted to emphasize that the directory of state officials was only published twice per year. She thought Mr. Ramsay should have more support with a bigger Victim's unit, and that his number should be on a magnet, and distributed around state. She also thought that Alaska natives should be participating in this group.

Commissioner Williams said he appreciated Ms. Paquette's comments, and noted that ANJC has a representative on the Commission. The need for the inclusion of the Alaska Native community can never be overstated. He added that issues of communication were a common thread for this group. He encouraged Ms. Paquette to work directly with OVR and the VCCB on improving their communication tools.

### **Review of Existing Agenda Items Tabled for Further Work, cont.**

*Victim Navigators:* Ms. Dunham explained that this idea had been discussed the least in the group previously. The idea was to have someone a victim could call to link to services and explain processes for people who had not been connected to services through law enforcement or a prosecutor's office or some other means. There had also been some discussion about helping victims navigate post-conviction processes including restitution.

Commissioner Williams said it was important to keep in mind that the Commission had already approved two recommendations that overlap with this concept. The first was to foster partnerships between law enforcement officers and victim advocates to connect victims to services at the first response. The recommendation also discussed providing victim services information relevant to the region of the state, both on paper and online. Commissioner Case said the recommendation also talked about law enforcement having a direct link to victim services. Commissioner Williams said the other recommendation was to establish victim coordinator positions at the Department of Law. Both recommendations have been adopted by the Commission. The navigator concept was less concrete and he wondered if the commissioners had any opinions on how to approach it.

Commissioner Case said he would like to go through the process of looking at how cases proceed in urban environments and rural environments. He thought the group should talk about tangible needs, and what was needed to make the victim navigator work in a rural versus urban environment. Mr. Ramsay agreed, and thought the topic was appropriate for further discussion.

Ms. Breager said she always liked to look at how we can use what we have. In this case, she thought that would involve determining the core needs, and looking at what is required by law. She felt as though there was a robust system already in place, with the ANWRC, ANJC, and VFJ, all of whom do great work. She wondered how to support what already exists. Marybeth Gagnon from the CDVSA agreed, and thought it was always a great idea to look at how to build on what we have. Tory Shanklin from VFJ said she also agreed, and noted that a lot of federal victim assistance dollars have gone out to rural areas.

Rachel Gernat with the ANDVSA agreed that Alaska have great agencies and organizations and the group should look into how to tap into those resources, but judging from the comments from victims the Commission has received, these assets were still not working as they should. Each organization has a lot of work to do, and new laws and requirements add to their load. She did not want to slight what anyone was doing, but these organizations cannot do all that really needs to be done without assistance. Having someone to check in with—someone who can explain the process, and refer the victim to the appropriate person who can help them—would be a way to support the people doing those jobs. It can only be a benefit to victims to increase the number of people doing this work.

Ms. Breager agreed, and said she definitely did not want to pile on work for people who are already doing a lot, rather she wanted to increase their support. She wondered whether it would create confusion by having too many offices to talk to. The criminal justice system is overwhelming, and she liked the idea of a victim navigator. She wondered if there was someone who can navigate those multiple systems. She thought the agencies need more staff, and more support.

Ms. Gernat mentioned that if the person is housed at the Department of law, communication with the victim, can cause discovery issues.

Commissioner Williams said it sounded like this was the start of this conversation: what is the work and who needs to do the work? He said this would be kept on the agenda and the group would look at it as a system—not just the state system—and look at what was needed and not needed.

### **Identification/Discussion of new recommendation(s) for potential work**

Commissioner Williams explained that Judge Trevor Stephens, a commissioner had proposed an idea for making a “victims’ video” that would explain criminal justice processes—the court system already has other similar videos. Commissioner Williams suggested getting someone from the court system for the next meeting, and looking at the other videos in the meantime. Ms. Meade agreed the idea should be kept on the agenda, as she knew that Judge Stephens gave it a lot of thought, and said she would coordinate with him. Ms. Winston agreed it was a good idea, and suggested that multiple videos might be in order given the complexity of the topic.

Ingrid Cumberlidge explained that she was the federal MMIP Coordinator, and noted that Ms. Shanklin had mentioned the federal dollars flowing into rural areas. She explained that right now Operation Lady Justice was looking for recommendations on training and ways to support the new employees who will be hired with the new funding. If this group had any recommendations, they are looking for ways to support victim services and making that connection to victims.

Ms. Dunham added that another item that had been discussed previously but was inadvertently left off the agenda was the issue of expanding legal privilege for all victim advocates in addition to DV/SA victim advocates.

Commissioner Williams said he would work with Ms. Dunham to set up future meeting dates.

Alaska Criminal Justice Commission

# Victims' Rights and Services Workgroup

## Meeting Summary

**Thursday, October 8, 9:00 a.m.**

Via Zoom

Commissioners Present: Sam Cherot, Steve Williams, Sean Case, Paul Miovas (proxy for Commissioner Sniffen), Mike Ramsay (proxy for Commissioner Dahlstrom, Randi Breager (proxy for Commissioner Price)

Participants:, MaryBeth Gagnon, Rachel Gernat, Victoria Shanklin, Laurie Orell, Nancy Meade, Suki Miller, Taylor Winston

Staff: Staci Corey, Barbara Dunham

### **Introductions**

The group approved the agenda without any changes or opposition. Commissioner and workgroup chair Steve Williams suggested changing the summary of the last meeting to reflect that Paul Miovas, Randi Breager, Mike Ramsay and Laura Russell were all serving as proxies for commissioners. There was no opposition to approving the meeting summary with those changes.

### **Revised Recommendation re Victim Coordinators**

Steve explained that the recommendation had been revised to clearly delineate between the two positions, that of the paralegal and that of the victim coordinator (the "witness" had been dropped from the coordinator job title) to try to prevent confusion between two, and to more accurately convey the work that needed to be done. This version explained more about the role of the paralegal in the second paragraph, making it clear that the recommendation was to preserve that role, and how it was different from the new recommended position. Steve also explained that he had sent this to Paul Miovas at the Department of Law and discussed it with him, and they made some additional changes.

Paul explained that his suggestions were to further flesh out the role of the paralegal to address everything a paralegal does, so as not to take away duties from the paralegals or diminish their role in the eyes of the legislature. The paralegals will still have to do lot of substantive work with victims. Steve noted that work would be different from just providing information about the case and connecting the victim to resources. Paul said that was correct; for example, any time an offer is being made to the defendant, the paralegal will still consult with the victim. The attorney on the case is usually involved in that process.

Steve explained that next paragraphs were more familiar, with added examples of what the coordinator will do, and the value of the coordinator. The last key piece emphasizes that this position is a coordinator, not an advocate. He checked in with the group and asked if there was any opposition or if there were any comments on this revised draft. There was no opposition and there were no comments.

Steve wondered whether the draft should add in a reference to “all crime victims,” since the other recommendations made it clear that they were addressing all victims of crime. He suggested adding “all” to the second line of the third paragraph so that it would read “The Commission recommends...to establish Victim Coordinator positions (Coordinators) to assist all crime victims.”

The group approved the recommendation with that change.

Suki Miller from STAR asked how the position would be funded, and how they would be working with advocacy agencies. Steve said that the group had looked at where to house this position and had come to the conclusion that for purposes of continuity and access to information it would be best housed within a state agency, specifically the Department of Law. The group did not get into details of how to fund the or how to coordinate with advocacy agencies, but he imagined that any existing collaborations with Law and the advocacy agencies would continue. The Commission did not typically get into specifics about funding and it would be up to the legislature as to how to appropriate funding.

### **Public Comment**

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

### **Next Steps**

Commission project attorney Barbara Dunham said she would circulate the revised draft to the Commission that day. The recommendation would be on the agenda for the October 15 plenary meeting.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Thursday, September 17, 3:00 p.m.**

Via Zoom

Commissioners Present: Steve Williams, Samantha Cherot, Sean Case, Scotty Barr, Randi Breager (proxy for Commissioner Price, Laura Russell (proxy for Commissioner Crum), Paul Miovas (proxy for Commissioner Sniffen), Mike Ramsay (proxy for Commissioner Dahlstrom)

Participants: Travis Welch, Nancy Meade, Rachel Gernat, Karl Clark, MaryBeth Gagnon, Dawn Shewmaker, Tory Shanklin, Taylor Winston

Staff: Staci Corey, Barbara Dunham

**Introductions**

Commissioner and workgroup chair Steve Williams explained that two of the three recommendations from the workgroup had been approved by the full Commission the previous week. The third, proposing to split the positions of victim-witness paralegals, raised some concerns among commissioners, and rather than take a vote last week, he decided to try to address those concerns, and see if the workgroup can come up with a recommendation that can suit everybody.

**Recommendation**

Steve gave a recap of the concerns raised at the plenary meeting. There were issues about recruitment and retention of paralegals, and the impacts of altering that position. The Commission also heard that Law has already taken steps to improve services to victims.

Paul Miovas, Director of the Criminal Division in the Department of Law, confirmed that was the case. Law now had a pilot project in the Anchorage district attorney's office working directly with a victim advocate in house. That person started when COVID did. The advocate will be working on cases involving victims who are harder to track down and will have a counterpart at APD. Law is also exploring what it can do better for retention and recruitment of paralegals. One idea in conflict with the proposal was to create a supervisory paralegal without a caseload, someone who will help out others. They want to build upward mobility into the position, creating an incentive to stay and build expertise. Right now they don't have any such opportunity beyond a promotion two years in. These ideas will face struggles in light of the state's fiscal challenges.

Paul added that Law has 13 regional offices, and if the Department is fully staffed, they have one paralegal for every three to four attorneys (and they are not fully staffed right now). That creates a lot of work for the paralegals especially in sexual assault cases.

Steve said that one thing the workgroup has heard that also came up in the victim listening sessions was the lack of communication from state agencies. This was a key concern to address, and the question



was how to facilitate better communication in an effective way. So the workgroup started thinking about this coordinator position. The unfortunate reality of all the pressures the victim-witness paralegal faces, if they are juggling the need to respond to an attorney, judge, etc—responding to a victim goes to the bottom of the to-do list. So the idea was to peel that service off for a different position. That doesn't answer the question of creating a career ladder, but it does speak to the overwhelming workload.

Paul said he understood that rationale. The Department of Law currently has about 19,000 cases across the state. All these cases have victims, all of whom are entitled to services. He had read the position description for the victim-witness coordinator from the U.S. Attorney's office. Their office had 155 new cases in a fiscal year, with 211 still open at end of year. Not all of those cases have victims (such as cases involving weapons and drugs). They have more resources. He imagined that federal position is the gold standard, but thought the comparison was apples to oranges.

In one year, the Department of Law saw 400+ sexual assault cases in hub communities. Currently they have 594 sexual assault cases open. So looking at that from the perspective of having 39 paralegals, one can see how overwhelming the problem is. Law would definitely appreciate additional resources and positions but given the fiscal climate, Paul didn't think that was realistic.

Paul explained that the main job of the victim-witness paralegal is to help the attorney. Not only is the prosecuting attorney competing for the paralegal's attention but so law enforcement and the defense attorney. The paralegals are being pulled in many different directions, so it was no surprise that they have their struggles.

Taylor Winston, Director of the Office of Victims' Rights (OVR), said she thought that was the crux of the discussion in proposing to divide up the job. The victim-witness paralegals have too much on their plate, are pulled in too many directions, and it can be intensive working with victims. Her office has seen the impacts of retention difficulties. It was hard for them to do the job well with so much to do. She thought everyone was sympathetic to resource issues. Law is still obligated to provide information to all victims. That was why she was supportive of the idea of looking at a separate position.

Samantha Cherot, the Alaska Public Defender, said that the PDs have about one paralegal for every seven attorneys in Anchorage, thought the ratio was better in smaller offices. It was not up to national standards. Part of the role of the paralegal at the Department of Law is to disclose late discovery, which the defendants have a right to know about. If the PD's clients find out about the discovery late, that can contribute to delay. COVID and the budget crisis will compound these problems. She agreed that the Commission should make a recommendation and let legislature decide how to appropriate funds, although the reality is that there is a fiscal crisis.

Steve said he didn't think anyone wanted to ignore reality, but the Commission was charged with looking at the justice system as a whole and making recommendations for improvement. He noted that resources can also be reallocated.

Tory Shanklin, Director of Victims for Justice (VFJ) explained that VFJ's advocates were embedded in the Anchorage DA's office within Law, so she wanted to share their vision. There are agencies across the state who specialize in working with victims and walking people through the process. VFJ found that victims have frustration with knowing what was happening with law enforcement and when things got to trial. So VFJ's partnerships with APD and the DA's office are to get the victim through those processes. A lot of time, the victim doesn't need to talk about the case specifics, so the advocate is just talking about the process. She thought the partnerships would alleviate a lot of frustration from victims. She noted she had missed the meeting when the workgroup decided to propose a new position.

Steve asked if there was anything the workgroup could do with the current recommendation to modify it to bring it back to the full Commission.

Commissioner and APD Captain Sean Case thought that successful communication was the key to this—it was made clear to those who sat in on the listening sessions. He added that communication from the authorities is not always bad; sometimes victims aren't always in the right place to hear what's being said. They might need to ask the same questions several times. He didn't know about how to allocate resources, but this is an area the state is absolutely falling down on.

Commissioner Scotty Barr agreed with what Sean said. He thought there were a lot of possibilities for solutions. He always believed there were more solutions than problems.

Randi Breager, Special Assistant to the Commissioner of Public Safety, said she was hearing some tension between providing information and advocacy. She thought it would be hard to help a victim without being an advocate. She appreciated Tory's comments that there are people who are trained to perform these functions. She agreed communication is the key, and didn't want it to just be "here's your court date" – she thought victims need something more holistic. She suggested shifting the focus to strengthening partnerships with community-based advocates. This was also bubbling up with the Sexual Assault Kit Initiative—the same issue with confusion about what is happening in the investigation. She wondered if there was one person who can bridge systems and provide support throughout the process. She thought there were advocates who do that, but those efforts could be strengthened.

Laura Russell from the Department of Health and Social Services said she understood Law's position; their duty is to prosecute, and their role is not to advocate for victims. But there is the need for this kind of communication with victims to be more substantive and more frequent. She noted that OVR has a statutorily defined role, but they are already advocates for victims, and organizationally neutral. She thought the communication function needed to be improved, and the question was where it should go.

Mike Ramsay from the Department of Corrections echoed the above statements. It was a challenge to manage victim expectations, and find a balance with the appropriate level of service.

Samantha suggested that rather than separating the victim-witness paralegal duties, the recommendation could work more on connecting victims to existing resources.

Paul said he didn't think there was actually a lot dividing the group right now. His main concern was about the recommendation to separate the job. If the fiscal impact were less of a concern, he would agree that there needed to be a position that can do this. He still questioned housing the position within the Department of Law. There is a fine line between advocacy and providing information. If Law had to separate duties without adding positions, he thought the unintended impact would be less mutual support among staff. He thought it might make a lot of sense to partner with advocacy groups and do a better job of getting them in house. Tory's comments brought to mind the multi-disciplinary teams used for sexual assault cases. He also thought about OVR; they are also dealing with limited resources.

Commission project attorney Barbara Dunham noted that the victim-witness coordinator in the U.S. Attorney's Office, Dawn Shewmaker, had to leave the meeting, but sent her a message to say that she currently has about 100 cases, not including probation violation cases. She also said that the funding for her position comes from the federal Office of Victims of Crime and not from the U.S. Attorney's Office budget.

Paul said that the Department of Law has been talking with the U.S. Attorney's Office about funding sources and has been looking into alternative funding sources.

Taylor agreed that the group members were not that far apart, and agreed that Law should not be doing victim advocacy. But there were certainly duties that prosecutors have, and one question was how does Law make sure that people within their organization are meeting those duties. When that information is not getting relayed, the other resources and systems will not come into play. Most victims have the misconception that the prosecutor is on their side or represents them.

Randi asked whether the language in the recommendation could reflect that the goal was not just improving communication but increasing the colocation of advocates. She wondered if there were enough victim service agencies around the state in places where the Department of Law has offices to provide these services.

Steve asked if Randi was suggesting using community-based victim service agencies to fill this role with funding from law (or grant). Randi said yes but thought the funding logistics would get worked out. Some victim agencies will have applied for grants on their own.

Tory explained that VFJ is a statewide organization based in Anchorage. There are agencies serving victims, particularly DV/SA victims, throughout the state. VFJ specializes in helping victims of violent crimes other than DV/SA. VFJ has applied for funding for its pilot projects knowing it has the advocates and necessary partnerships. VFJ's funding comes from CDVSA and VOCA.

MaryBeth Gagnon from CDVSA said that all of Alaska's hub communities have funding for victim services, mostly DV/SA advocates. If victim service organizations can form partnerships with Law and law enforcement, that would be the best way to go. But the only gap is that there are not a lot of organizations that serve victims of crime other than DV/SA. VFJ is the only organization for victims of other violent crimes.

Taylor said she didn't think there was anyone helping victims of property crime. If Law was going to have people embedded, they need to be able to help all victims. She didn't want to lose sight of that.

Rachel Gernat from ANDVSA said it sounded like the paralegals were overworked, and suggested that the recommendation didn't need to say what they need to do, but just acknowledge the problem. These cases will move more smoothly if communication is improved, because victims won't be alienated, making it easier to prosecute the case. The recommendation could just specifically state what the problem is, what the issues are, and that there should be solution. Prosecutors are not advocates, but do have duties of notification. But perhaps the recommendation should be broader than that. From ANDVSA's perspective, there needs to be more contact with victims across the board.

Steve suggested removing the reference to the paralegal position, since the intention is not to have those positions sacrificed. The real need was to add capacity somewhere. He was leaning against using community agencies because there is no statewide perspective, making it difficult to parse out resources across the state, and also there was the issue of access to information from the Department of Law. There might already be better lines of communication between OVR and Law. He was look at the job description of the federal victim-witness coordinator, on page 2, which outlined several responsibilities that would fit well with what the group has been talking about.

Paul noted that a victim has to approach OVR for help—rather than OVR contacting the victim first, they have to go to OVR first. Prosecutors prefer cases in which OVR is involved, because they can call the lawyer for the victim and talk to them as a lawyer, and then the OVR lawyer can talk to the victim as an advocate. The process can be very confusing for the victim.

Paul was supportive of any idea where Law is fulfilling its required role and also getting people better connected to more help. He agreed with removing the reference to the paralegal position. He also suggested changing the language in the last paragraphs in the recommendation. He understood what was intended, and the second to last paragraph included the sentence that the coordinator would not be an advocate, but Law's responsibilities were clearly defined in statute. He would prefer a statement to the effect of "fulfill obligations per AS..." rather than "the victim knows their rights" as Law's responsibilities are not the same as what the victim's rights are, and Law is not required to explain every right.

Steve noted that the last paragraph could be removed.

Paul agreed with Rachel in that he was nervous about how specific the recommendation was, and he would prefer to acknowledge there is work that has to be done and Law will have to do some of it.

Steve suggested that, given the narrative that already exists in the recommendation, the title of the recommendation could say "establish victim-witness coordinators" rather than "separate" and remove the reference to paralegals, instead of connecting the two ideas. The recommendation could use language from the U.S. Attorney job description, listing some of the responsibilities as examples.

Steve noted that the third paragraph might get into micromanagement territory, but he thought the recommendation should be that pointed. The focus of the position is to have a point of contact. That's what the Commission heard was needed from victims. If the position is housed in the Department of Law, they will have better access to information on the status of their case.

Steve suggested keeping the fifth paragraph and making it clear this person would not be an advocate. The last paragraph may not be critical and could be removed or could be tweaked.

Samantha said she was not sure the last paragraph was needed, and thought Steve's suggestions make sense. She suggested editing the draft accordingly and circulating it.

Steve said the critical decision piece was whether everyone was comfortable adding positions in the Department of Law. Paul said he was, although it was not necessarily realistic, and he was hesitant to make unrealistic recommendations. Steve thought the question was whether the recommendation reflected the way the Commission wants the system to operate. Sean, Paul, Scotty, Mike and Samantha agreed that it did. Tory noted that the sooner someone can connect a victim to an advocate, the better.

### **Public Comment**

No public comment was offered. Commissioner Scotty Barr asked for a number to help a victim of crime who reached out to him, which Tory provided. Scotty explained that he has gotten similar requests from people from around the state, and is not always sure how to help. He was trying to be a helpful person for others, and might bring this up at the next Commission meeting too. He was going to try to collect comments from people in his area (the Kotzebue area) and relay them to the Commission.

### **Future Meetings and Tasks**

Barbara will take a stab at reworking the recommendation and then will circulate it to the Commissioners. They will review it and then Steve will call a quick meeting for this workgroup before the next plenary meeting.

Alaska Criminal Justice Commission

# Victims' Rights and Services Workgroup

## Meeting Summary

**Wednesday, September 2, 9:00 a.m.**

Via Zoom

Commissioners Present: Steve Williams, Scotty Barr, Sean Case

Participants: Rachel Gernat, Ingrid Cumberlandidge, Victoria Shanklin, Mike Ramsay, Laurie Orell, Susie Frenzel, Taylor Winston, Troy Payne, Nancy Meade, Michelle Hale, Randi Breager

Staff: Staci Corey, Barbara Dunham

### Introductions

Commissioner and workgroup chair Steve Williams explained that the group worked on the draft recommendation at the last meeting, and this meeting was convened to provide a last look at the draft before it went to the full Commission.

Steve suggested modifying the agenda to approve the summary of the August 20 meeting. The agenda as modified and the summary were approved without opposition.

### Draft recommendation

#### *Recommendation 2: Victim Advocates Working in Partnership with Law Enforcement*

Commission project attorney Barbara Dunham explained that she had edited the previous draft of the recommendation based on the group's discussion at the August 20 meeting. She walked the group through the changes. The recommendation was edited to apply to all victims, not just those of violent crime, and to recommend that materials provided to victims be relevant to the victim's location. The wording was strengthened to require this of all law enforcement agencies, and also require that agencies partner with advocacy organizations. The new draft also added language about the need for resources for this endeavor and removed language relating to the advocate privilege statute. Many of the suggestions in this section came from Commissioner/APD captain Sean Case and OVR attorney Megan Hiser.

Randi Breager from DPS asked if the requirement of giving information to victims would apply to all victims, and if so, how that would work in locations that have online reporting for some crimes. Steve said yes, it would apply to all victims. He noted that the group had been discussing providing information that could direct victims to a website. Randi suggested that if an agency had online reporting for some crimes, that reporting interface could redirect to that website, and that could address that requirement.

Taylor Winston from OVR wondered what crimes were reported online, and thought it would be weird to have felony crime victims fill out a form. She wondered if an officer would respond to that. If an officer responds at some point, they could hand the victim information. Or when someone files online, they could receive an autoreply with resources.

Randi said she was not sure what APD does in terms of reporting a felony. DPS has been discussing moving online for some reporting but hasn't yet done so.

Taylor said that from a victims' rights perspective, she would advocate for equal treatment. She understood there were limited resources, but if it was a felony level, it would be a little bit shocking to report online.

Steve noted that this recommendation was an expression of policy intent; recommendations can't always dive into the weeds of implementation. The recommendation would generate conversations within agencies as to how to implement it, how to bring the policy intent into practice.

Sean moved to approve recommendation 2 and Mike Ramsay from DOC seconded the motion. The commissioners/commissioner representatives present approved the recommendation unanimously except for Randi, who abstained because she was new to the group.

*Recommendation 3: Separate Victim-Witness Coordination and Paralegal Duties to Improve Communication to Victims.*

Barbara explained that she had also edited this section to reflect the discussion at the last meeting. The parts of the recommendation calling for motions to continue to be in writing and fixed dates for parole hearings were removed (to be discussed at a later date). The remaining part called for victim-witness and paralegal duties at the Department of Law to be split into separate jobs. This part was expanded with language calling the victim-witness job a "coordinator" and using language from the federal victim-witness coordinator's job description.

Susie Frenzel from the Department of Law said she had concerns about this, noting that she hadn't participated in this group recently. This has been a subject of discussion at Law internally, but they concluded they were going to run into challenges because paralegals gather a lot of information during their first contact with witnesses, discussing things such as prior bad acts. These are legal practices, and she didn't think it would improve efficiency. She didn't think leadership from Law had had a chance to look at this recommendation. Charlotte Rand from the department of Law said that she also hadn't seen this recommendation before. Barbara noted that there had not been any participants from Law in this group since April.

Steve said that the recommendation was motivated by observations the group had made about there being one position in Department of Law, that when victims want to call in and want to find out status of case, or have other questions, it seems like that there are not enough resources to respond to that need because of the volume of work. So if there was a coordinator position just focused on providing information responding to those types of calls, it would be better for victim and also for the workforce.

Sean noted that his takeaway from going to listening sessions around the state, people really want to have someone to answer their phone call to get their questions answered. The solution didn't need to be too specific but this recommendation addresses that overwhelming concern.

Mike note the concerns raised in previous meetings regarding workload, this would be a solution but it would require resources.

Steve wondered if there was anything that could be done to make this recommendation less of a concern for Law.

Susie said she appreciated the background and said she had heard these complaints before, but in the last few years the department has really been making strides. They now have an advocate embedded in the Anchorage DAs office, and have expanded the use of VINEWatch. They have had these discussions but after looking at all the duties and responsibilities of the position and information gathered at the front end of the legal case, she didn't think this was the right decision. She would need to discuss this with leadership at Law.

Steve said that the Commission has spent a lot of time and energy to try and hear the needs of victims, and that the Commission is charged with trying to improve the process and the system for all. He said it was great to hear of the pilot project and the expanded use of VINE. He asked the commissioners what they thought.

Sean said that the process of the full Commission meeting would be to rehash everything and allow everyone's say, and thought that this discussion could take place at the full Commission. He thought that the group had taken the time to put a good product forward knowing it would get modified.

Commissioner Scotty Barr agreed that the recommendation should be forwarded to the full Commission. His biggest concern was that when he went through the appointment process, that was the first time he had heard of the Commission, but now realized it been around for some time. He was representing rural communities, not knowing what the Commission really does and trying to understand as quickly as he could to represent his community. He thought the Commission should try to advertise to more communities like Bethel, Nome, and Barrow. People in Kotzebue are interested in this Commission and he would try to get comments from them.

Steve said he was not surprised by Scotty's comments; the Commission has tried over the years to be inclusive of rural communities and has tried to do outreach in hub communities, but has struggled. The Commission went to Kotzebue about five years ago; this was definitely something the Commission needed to continue to work on.

Mike said he understood the concerns raised by Law but also understood wanting to move forward with the completed recommendation. He thought the recommendation should go forward with an opportunity for Law to bring forward its concerns.

Randi was supportive of moving the recommendation forward if there was still opportunity for Law to consider the recommendation and explain their position to the full Commission. Steve agreed and said he would hope that Law would take a look at the recommendation and give it some critical thought.

Susie said she disagreed with the recommendation at this point but had no other comments without input from leadership at Law.

Sean moved to send the recommendation to the full Commission and Scotty seconded the motion. The commissioners/commissioner representatives present all voted to approve the recommendation, with the exception of Randi and Susie, who abstained.

Steve encouraged Susie to have this conversation with the leadership at Law. He asked Barbara to include a sample job description when sending the recommendation. He noted that the other recommendations that the group had discussed were in the "parking lot" to be discussed at a later date. He expressed appreciation for everyone's work.

## **Public Comment**

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

## **Future Meetings and Tasks**

Michelle Hale from Rep. Geran Tarr's office said that Rep. Tarr was holding a meeting on her draft legislation related to consent. It would be online on September 22 at 6:00 p.m. She encouraged anyone interested to go to Rep. Tarr's Facebook page for more information.

Mike said he spoke with Jeff Edwards about the parole board calendar. The problem with having a fixed date and time is that there are issues with the offender asking for a continuance or postponement on the day of a scheduled hearing. An additional problem is that hearings are set for a 30 minute time slot, but some hearings go for two hours, which can set other hearings back.

Taylor suggested talking about these issues at a later meeting, as she had some thoughts. She also wanted the workgroup to know that the was part of the criminal rules committee has been instructed by Chief Justice Bolger to identify rule changes to help alleviate some of the problems related to pretrial delay by next May. Hopefully this will also help with the pretrial continuance issue discussed at the previous meeting. She also wanted to comment that it was concerning that Law had not been part of the workgroup given that Law has so many requirements related to victims. It would be helpful to have someone from Law consistently be a part of these meetings.

Steve said he would Barbara on scheduling a future workgroup meeting to discuss what's been tabled. For the recommendations sent forward, the full Commission meeting would be next Thursday and he encouraged members to participate.



Alaska Criminal Justice Commission

# Victims' Rights and Services Workgroup

## Meeting Summary

**Thursday, August 20, 9:00 a.m.**

Via Zoom

Commissioners Present: Steve Williams, Sean Case, Shelley Hughes

Participants: Ingrid Cumberlidge, Rachel Gernat, Travis Welch, Mike Ramsay, Troy Payne, Megan Hiser, Dawn Shewmaker, Nancy Meade, Yulonda Candelario, Michelle Hale

Staff: Staci Corey, Barbara Dunham

### **Introductions**

Ingrid Cumberlidge introduced herself as the new Missing and Murdered Indigenous Persons (MMIP) coordinator working in the U.S. Attorney's office. There are people in similar positions representing different regions around the county; her position is just for Alaska.

Rachel Gernat introduced herself as the new representative for the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA). She is an attorney from Palmer. Megan Hiser introduced herself as an attorney with Office of Victim's Rights (OVR), filling in for Taylor Winston.

The group approved the summary of the May 6 meeting and the day's agenda.

Commissioner and workgroup chair Steve Williams explained that the previous workgroup chair was Brenda Stanfill, whose term with the Commission ended at the end of June. The chair of the Commission had asked Steve to step in as workgroup chair.

### **Draft recommendation (cont.)**

Steve explained that Barbara Dunham had sent out the latest draft of the workgroup's recommendation package, and noted that Taylor Winston from OVR had also sent in comments in advance of the meeting, which he felt really got to the meat of what remained to be decided: how do we define victims?

### Recommendation 1: Public Outreach

Barbara explained that in this recommendation and throughout the draft document, she had added more language describing the reasoning behind the recommendations and how they related to the feedback the Commission had received. In this recommendation, the draft now reflected what the group had decided at the last meeting, that the public outreach campaign should be led by OVR or another state agency in collaboration with local and nonprofit organizations.

## Recommendation 2: Victim Advocates Working in Partnership with Law Enforcement

Steve explained that Barbara had highlighted in yellow the details that still needed to be finalized. These details also related to the other recommendations—in this recommendation, should the Commission be talking about all victims, or a specific set, such as victims of violent crime or victims of felonies? This group has been having conversations about treating victims differently, and Taylor suggested that the Alaska constitution requires all victims to be treated similarly. Barbara added that another item left to be decided was whether this recommendation should be made to the legislature or to law enforcement agencies directly.

Senator and Commissioner Shelley Hughes thought the Commission should consider all victims. Even if a victim is not physically impacted by crime, there can be an emotional impact and lingering fear that can affect someone for a long time. There may be different steps to take for different types of crimes.

APD Captain and Commissioner Sean Case said it was in some respects easy to look at violent crimes, but property crimes affect all people all the time. On a related note he recalled that Taylor said that OVR was updating their pamphlet/card for law enforcement to hand to victims. Megan they did update it, and it had been sent out to the courts and was ready to be dispersed.

Mike Ramsay from DOC said he agreed with Senator Hughes and Taylor. Steve added that when looking at all crime victims there can be trauma in any crime. The question was whether there is capacity to accommodate all victims of crime or whether resources would be stretched thin. But as Taylor had also mentioned, that was not a reason not to make a recommendation. He thought everyone could agree with that sentiment. The recommendation may need to acknowledge the pros and cons of what will be required of the system, and may need to identify additional resources needed.

Sen. Hughes agreed that the recommendation should mention needed resources, and wondered if it should be general or specific. Steve said the workgroup might not have the full breadth of expertise necessary, but the recommendation could list out considerations for reasonable implementation.

Sean suggested adding the perspective of resources needed from a regional standpoint—different things are available in different areas and the information law enforcement provides in one region is specific to that region. That way not everyone is forced to provide resources that are not local. Mike agreed the information should be relevant to the geographic area, and suggested also referring to a website so the same basic information is getting to everyone. Rachel suggested dividing by court jurisdictions.

Dawn Shewmaker with the U.S. Attorney's office explained that on the federal side, she works with victims of nonviolent crime such as burglary and identity theft, and their sense of violation can be the same as with victims of violent crime. Nonviolent cases can be tricky because there is such a lack of resources for victims of nonviolent crime. Excluding them from this recommendation would be another barrier for them.

Steve observed that there were maybe 13 different communities that could qualify as hub communities which might be a challenge. He wondered if it would be difficult for OVR to produce 13 different handouts. Megan was not sure but could look into it. Steve thought it was worth getting nailed down. There could also be a handout that refers to a website that has resources pertinent to the region.

Steve wondered if this is something that should be required of all agencies. The Commission's mission is to meet the needs of all victims statewide. Sean said he thought requiring having a card would be a good step in the right direction—working directly with victim advocacy organizations might be a lot but just handing out a card at least gets the conversation started. Mike agreed.

Sen. Hughes agreed with Sean and also thought the card should refer to a website *and* phone number (as opposed to a website or phone number); some people might not have access to both. It should also be up to date. She wondered if OVR was required to keep their information updated. Megan was not sure if it was required but they would want things to be up to date anyway.

Steve said he was hearing that Sean and Megan would work on maybe combining third the and fourth paragraph in this section, and finesse the language about the website.

Rachel noted that the last paragraph in this section discusses opening up AS 18.66.200 (the advocate privilege statute) to other types of advocates and she had concerns about that. AS 18.66.200 refers to DV advocates with specialized training. Getting that statute was a hard-fought battle and it still has to be defended in court. She wondered if there was another way to address this issue, perhaps by adding a different statute rather than opening up privilege in this statute. Not all advocates can meet the requirements that the statute requires.

Steve appreciated what Rachel was saying and noted that her comments related to the discussion this group has been having about how much to embed advocates and the issues that arise with that. Sen. Hughes also thought this was a good point and noted that during the drafting process unanticipated technical issues often arise, requiring more changes to be made. Sean suggested hearing from other advocates on how best to achieve this. Barbara noted that AS 18.66.200 also existed in the DV chapter of Title 18 so was just intended to be used in the DV context, and it might be cleaner to have a different statute. Megan noted that there were more protections for victims of DV/SA in statute.

Barbara said that Tory Shanklin from VFJ was not at this meeting but mentioned in earlier meetings that the lack of privilege for other (non-DV) victim advocates can inhibit communications with victims. She also noted that Dawn had the same issue although her position was that of a coordinator rather than an advocate.

Dawn explained that she didn't have any confidentiality at all, that anything a victim tells her is discoverable, and she has to have that conversation early on with the victims she works with. She has to walk the line between not talking about what happened to them but also connecting them to resources. She makes it clear that other resources can help them if they need to talk about the crime. Steve asked Dawn if a privilege statute could help advocates, or if they can do without. Dawn thought they can be effective without that privilege, although it took her some time to get to that point. She was an advocate before becoming a coordinator so shifting roles was an adjustment. It was a balancing act, but she thought she was able to provide victims with the information they need and to be supportive without confidentiality.

Rachel said that it sounded like what Dawn does is like the victim-witness coordinators in the state DA offices. Privilege depends on what the advocates are actually doing too—if they are just providing resources, it's not protected by privilege, but being like a counselor or advocate is what is contemplated for the protections in 18.66.

Steve noted that Recommendation 2 was about connecting victims to services. He said that it sounded like the group did not want to amend 18.66.200. There is a question of whether a different statute was needed. He didn't think there was a clear path to that, so he suggested taking this paragraph out for now, and the workgroup could come back to it at a later date when there is more time to really look into what the need is, and what's the best solution. Sean and Mike agreed. There were no objections. Steve said that paragraph would be taken out but retained for future discussion.

### Recommendation 3: Improve Inter-Agency Communication and Agency Communication to Victims

Barbara explained that this recommendation was intended to address victims' frequent frustration that they don't know what is happening with the criminal case. The recommendation had a few parts, the first of which proposed removing the dual designation from the victim-witness paralegals at the Department of law.

Steve asked if there were any objections to this proposal. Dawn noted that separating the two roles would create a traditional paralegal position and a position that is more like what she does. The advantage of her role was that victims are really able to know what's going on in the case; she is a point of contact, not just an automatic notification system. She ensures that victims know their rights and are being afforded those rights. Being able to have position like that for the state would address a lot of complaints from victims. Paralegals right now are already overwhelmed and then have victim notification duties on top of that. She thought this was a good idea.

Steve thought the recommendation might need to be more specific, and use the term "coordinator" in the job title, so as to clearly delineate the difference between the jobs. He thought people would think that a coordinator is someone to go to for referrals, as an information resource, and support, while a paralegal works on a particular case. There were also implications for resources needed. He didn't think the recommendation could be specific about resources but thought it should be acknowledged.

Megan agreed, and noted that one issue she has seen is that paralegals only contact victims for hearings that a victim has a right to be notified for. If it's another hearing such as a pre-indictment hearing, those can be where a lot of the continuances happen, so there can be a long time between required notification hearings, and then the victim is suddenly notified of a change of plea. She suggested adding specifics on how often the victim-witness coordinators should be contacting victims, so their case doesn't fall through the cracks. Steve agreed and wondered if the group should recommend a frequency of contact, and whether that needed to be in statute.

Rachel said that recent amendments to statutes added some contact requirements and thought that the intent and effect of the law was that the prosecutor's office should contact the victim regularly. If they're not, that also seems like a training issue—even if there is legislation, the statutes might not be followed. Victims are not even getting the information they're supposed to be getting.

Steve agreed, and thought that would be another advantage of having a coordinator instead of a dual-designation paralegal; that person will just have more time, as they won't be in court and they won't be filing. Rachel agree, noting that paralegals now get so much work piled on – they are in court all day and then have stacks of work to take care of and often can't work overtime.

Steve said it sounded like the group was agreed that this part of the recommendation would specify positions and roles, and he suggested looking at Dawn's job description to add details. Dawn said she would send that information to Barbara.

Barbara explained that the next section of Recommendation 3 called for motions to continue to be in writing, a suggestion that had come from Taylor Winston. Barbara had added text explaining that this recommendation was about pretrial delay; if motions to continue are in writing, it will give a victim the opportunity to oppose the motion. She added in more explanation of why these trials can take so much time and also the concerns of victims related to delay. She noted, however, this would be a huge change to criminal trial practice.

Nancy Meade from the Alaska Court System said she understand and was well aware of the frustration with the time trials take to resolve. She agreed that this would be a very thorny solution and wasn't sure that either side would appreciate motions in writing. Also, written motions can cause a delay in and of itself. Oral motions can be granted right away—motions in writing would mean 30 days to reply, and in the meantime the victim would still waiting. She was not sure this would really resolve the speed of the trial. She would also want to check with the clerks of court about the increase in workload, which she guessed would be substantial.

Rachel asked if this proposal was for when the victim wouldn't expect a delay. For example, there are routine delays for discovery, and for those, advocates can warn victims ahead of time. She wondered if this would be for out of the blue occurrences.

Megan thought that Taylor had meant for this proposal to apply to all continuances. She noted that there are some judges who don't recognize continuances as a motion. The routine ones are also problematic—typically the parties don't talk about why the continuance is needed, and they are just automatically handed out. They stack up. The thought behind the proposal was that is if it was a motion, the court would need to recognize that it was an actual motion, and think about the reason for continuing.

Steve said it sounded like there was a lot of thorniness about this proposal and additional information needed about how to best approach/address this issue. He suggested taking this section out and putting it in the parking lot for a future meeting date. That would give the group time to think about what information was needed and who needed to be part of the conversation. He didn't want to brush this idea off but didn't think it would be ready for the upcoming plenary meeting. The group agreed.

The last part of Recommendation 3 proposed having fixed dates for parole hearings. Barbara noted the parole board was not in favor of this. Mike said that the parole director was concerned about making hearing dates public because the list of hearings was a live document and subject to change. If there was legislation that said it was required, the parole board would comply, but they did have concerns about logistics. Steve asked Mike to send Barbara an email listing the concerns about fixed dates, as it sounded like this was something that could be worked through; the idea was just to have a more predictable date. Mike said he would contact the parole board director, ask him for more of a breakdown and email that to Barbara.

Barbara noted that Recommendation 3 had also previously contained a recommendation about making bail conditions accessible to law enforcement but that was already being recommended by the DV workgroup.

#### Recommendation 4: Victim Navigators

Barbara explained that this was the recommendation that had been discussed the least, and was still a little nebulous. But it did reflect a real need that victims need help navigating the system. Steve asked how this would be different from victim-witness coordinators as envisioned in recommendation 3. Barbara said that the coordinators would be for the criminal case while the need for assistance began before the court case started, when a victim reports a crime and is not sure what will happen next. It also extends after the court case is closed, when a victim needs to know about parole and restitution obligations. It does relate to recommendations 2 and 3. Rachel said it sounded a lot like what has already been discussed.

Dawn said that providing post-trial and restitution information was part of her job. Even when the case is over, victims can still call her and ask what's going on with their restitution. Even though the case is closed, they still have rights.

Nancy noted that the recommendation also called to “increase staff” for restitution processing and noted that would be the court system. The court system does a substantial amount of work for restitution. The court system did not intend to ask for any new positions in the upcoming budget cycle.

Sean said he thought the big thing was to create a connection from the victim to an advocate as envisioned in Recommendation 2, and it would clear up a lot of issues if there is that connection.

Steve said it sounded like this wasn’t ready for the Commission in September. His gut said that if Recommendation 3 defines the role of victim coordinator and resources are there, that should facilitate an increase in communication that would address majority of things identified. If the recommendation in 2 is implemented and resourced, that will take a big bite out of the apple in terms of connecting a victim to the initial stages of a case. There might be more work to do on this in the future. He would hate to have the impression that the recommendations were duplicative. The group agreed.

### **Public Comment**

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

### **Future Meetings and Tasks**

Steve gave a recap of the decisions made. On page 3, Recommendation 2 would apply to all victims and there would be added language about resources. On page 4 Sean and Megan would clean up the language. The paragraph at the top of page 5 would be removed and discussed at a later date. For Recommendation 3, the draft would further delineate the difference between paralegals and victim coordinators and would also talk about the resources required. The other two parts of Recommendation 3 and Recommendation 4 would also be removed and discussed at a later date.

Steve noted the recommendations that were retained would be on the agenda for the September 10 plenary meeting and wondered if the group would want to meet again to review a final draft. The group agreed to have a short meeting on September 2<sup>nd</sup> at 9am.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Wednesday May 6, 10:00 a.m.**

Via Zoom

Commissioners present: Brenda Stanfill, Sean Case, Shelley Hughes, Steve Williams

Participants: Mike Ramsey Barbara Johnson, Taylor Winston, Pearl Younker, Laurie Orell, Karl Clark, Tory Shanklin, Liz Vasquez

Staff: Barbara Dunham, Staci Corey

**Bail releases and victim notification**

Brenda Stanfill, Commissioner, workgroup chair, and executive director of the Interior Alaska Center for Non-Violent Living asked Taylor to get the group on the same page on this issue.

Taylor Winston, executive director of the Office of Victims' Rights, explained that her concern is that victims are not being properly notified of bail hearings. Victims have a right to be heard before bail conditions are set and before a defendant is released on bail. This concern is the most pressing at the very start of the criminal case, when a defendant is arrested. Often there is a "sidewalk bail hearing" which grants a person's release before the DA's office is even involved. She wondered if victim notification was even happening, and if so, how. This also relates to the bail schedule, which allows immediate bail release for certain misdemeanor crimes, some of which require posting a standard bond amount. She wondered whether that practice totally eliminates a victim's right to be heard, since bail is predetermined without having victim input.

Brenda wondered whether there was a way to address this issue without getting rid of the bail schedule. Taylor said she didn't know. Theoretically if bail schedule provisions are just guidelines, that would be okay, because the judge can bypass them and individually tailor bail as needed. She understood the need for uniformity but every case is unique; each act, the extent of injury, the defendant's criminal history, etc., were all different in every case. The crime might be the same per statute, but you can't really lump all cases together.

Commission project attorney Barbara Dunham recalled that in 2016 there had been resistance when the bail schedule was made uniform statewide. The presiding judges had assumed that if officers felt that a different bail other than what was on the bail schedule was appropriate to assure the defendant's appearance or public safety, they could call the on call judicial officer to have different bail set. Several officers testified before the Commission that that was not their practice, understanding the bail schedule to be an order.

Sean Case, Commissioner and APD Captain, said that APD officers have called in for different bail in the past, but the bail was almost never changed, so officers stopped calling.

Taylor said that some time ago when she worked as a prosecutor, it was less unusual to see officers give a lot of good information to magistrates regarding setting bail. But she thought the evolution over time,

including developments such as SB 91, created a culture of less flexibility—after being told no, officers were taught not to bother getting different bail set, and it became a learned behavior. Even if adhering to the bail schedule was not mandated, officers don't want to be the odd man out.

Brenda recalled that bail schedules were set to be eliminated with SB 91, but there was a lot of pushback to that idea so it was scrapped. She couldn't remember exactly who was against it.

Sean asked which crimes on the bail schedule Taylor was worried about. Taylor said any crime that has a victim. All victims have a right to be heard before the setting of bail conditions and release.

Brenda said that her copy of the bail schedule showed that bail for a first non-DV assault was set at \$500, with a second or subsequent offense set at \$1000; there was also a provision for VCOR. She wondered if Sean or Mike Ramsay knew whether there was a lot of non-DV assault that might require different bail. Mike Ramsay with the Victim Service Unit at DOC said that his department was usually not involved at that point. Sean said that if officers deem it necessary, they will call for different bail. But it was very rare to get the victim on the phone for that call, except for DV cases.

Taylor said the crux was just that: getting the victim on the phone for that initial bail schedule release or initial arraignment. This happens for domestic violence and sexual assault (DV/SA) cases, but non-DV/SA victims are not really considered by the system. DV/SA victims we do a lot for, but other victims are treated differently, even though those cases can also involve a lot of trauma for the victims. It almost creates classes of victims.

Tory Shanklin, executive director of Victims for Justice (VFJ) said that VFJ has been talking about the need for victims' rights across the board. There is a gap for non-DV/SA cases. Other victims don't know they have a right to be heard. There are victims' rights statutes that exclude non-DV/SA cases. Until victim advocates become involved further on in the process, victims just don't know they have rights.

Sean wondered how getting victims a chance to be heard would practically be accomplished. If there was a bail hearing with victim involvement in absolutely every case that would take a great deal of time, and perhaps cripple the current system.

Taylor said she understood it would be a significant shift. She heard the same reaction from Judge Stephens when she talked to him about it. She recognized it would take a great deal more time. But she couldn't say that because it was cumbersome or time-consuming to afford victims their right to be heard, that their rights should just be ignored. She could only imagine the pushback if the constitutional rights of defendants were ignored because they were problematic or time-consuming. There would be endless appeals. Letting victims be heard for every bail release would be a change, and change is very difficult for the system. But there is a constitutional right, and it is not being followed. She thought it was particularly offensive that judicial officers were not following the constitution because they swear an oath to follow the law, whether it is convenient or inconvenient for the system. The whole point of having victims' rights is to make sure there's balance. The system doesn't allow much control for victims. Most decisions are out of their hands (arrest, charging, plea bargain etc). Victims' rights being ignored was not healthy for the community as a whole.

Brenda asked whether, in non-DV/SA cases, officers tell victims about bail and standard arraignment times after arresting the defendant. Sean said they did not, and added that there would be no arraignment if the charged offense was on the bail schedule.

Taylor noted that if a defendant is released per the bail schedule, there was not even time for the victim to register on VINE. Those defendants could still be a danger, even if it is not a DV case.



Brenda wondered whether there were any studies or data on bail releases and crimes that would have victims. Barbara said that kind of information is really only available from a review of paper files. Commission/Judicial Council staff did a sample bail study where they looked at the paper files, and Barbara offered to see if data from that bail study would have what Brenda was looking for.

Brenda said there was also a question of how interpret the statute giving victims the right to notice of and be heard at the bail hearing. Did this apply to a first or subsequent release? She thought the group should hear from the court system on that. She thought she was understanding the issue better now, and thought this was a significant issue. She has also heard from victims of non-DV/SA crimes that they are frustrated that when defendants are released. She also didn't want to minimize rights in DV/SA cases, which were hard-won. But she thought this was an opportunity to raise the standards for victims across the board. She will discuss with staff the best way to talk about this issue, whether it's in this workgroup or another one. This group has been meeting for a while and is trying to wrap this up.

Shelley Hughes, State Senator and ACJC Commissioner ex officio, said she agreed with what Taylor was saying about two classes of victims. She has heard victims of theft say they feel like they have been violated. Their fear is real. In a case where say one spouse is out of town for some time working on the slope, having a burglary or break-in can lead victims to fear the defendant will escalate to worse crimes such as rape. She thought this needed to be addressed.

Liz Vasquez, executive director of the Violent Crimes Compensation Board (VCCB) said she recalled from her days as a prosecutor that things got put on the calendar so fast, there would be no time for notice to the victim. Getting ahold of the victim was not a possibility, not when you have 1 or 2 hours' notice of the bail hearing. She believed that even though affording victims their rights might entail more work, they were still entitled to that.

### **Draft recommendation (continued from previous meeting)**

Brenda reminded the group that the intent of the workgroup's recommendations was to give victims more of a voice. What we kept hearing in the listening sessions and surveys was that victims feel like they don't have a voice in the process. This was across all parts of the system as a whole, not just one agency. These recommendations were trying to address what can reasonably be addressed.

#### *Recommendation 1: Public Outreach*

The first recommendation was to create a public outreach campaign to let the general public know that there are resources available for victims of crime. Details left to be resolved for this recommendation included identifying which organization or agency should be responsible, and whether the campaign should direct people to a website. Brenda asked the group for their opinions on these two items.

Tory noted that the draft recommendation called for a month-long outreach campaign. She noted that VFJ just finished its activities recognizing National Crime Victims' Rights Week. It is part of a national effort for one week, and there are a number of tools available nationally that make it easier for local partners to make that happen. VFJ has used the week to elevate awareness of all victims; other local partners of the national effort often get proclamations written from governors or mayors. She didn't want to reinvent the wheel.

Brenda said that from her experience participating in DV/SA awareness month campaigns, she was not sure it was effective in raising awareness for the other 11 months. She thought the awareness campaign should be more of an ongoing project akin to the opioid awareness campaign. Tory agreed, saying she was not sure it would be advisable to have another month dedicated to something, which can create a certain

amount of fatigue. Carmen Lowry, executive director of ANDVSA, also agreed, saying that month-long campaigns can put a lot of pressure on providers, who often have to do double duty for those campaigns.

Brenda asked ACJC Commissioner Steve Williams, COO of the Alaska Mental Health Trust, how the opioid awareness campaign had been generated. Steve said he thought the state used federal resources. DHSS pulled together various stakeholders, and created a special unit within DHSS to keep the campaign's momentum going.

Brenda wondered whether OVR would be able to do some of this work. Taylor said it would if funding were available. OVR technically doesn't work with some misdemeanor crimes, but they are able to cover a vast majority of victims. They could also impart knowledge to all victims. She thought it was important to get information out to victims and for them to be empowered. The best thing for them is to know their voice is being heard. OVR would be happy to take on an awareness campaign if there was funding, and Taylor thought OVR would be well placed to work with other agencies. She would also want to partner with agencies around the state to have more of a localized effort in every community, since local organizations would know best how to reach people.

Brenda asked if anyone in the group felt like this would be better for a nonprofit rather than a state agency. Carmen asked exactly what the recommendation on the table was. Brenda said it would be an ongoing awareness campaign (not a month) that could reference a website as a source of information on where to get help for victims. The question was whether a state agency or nonprofit should oversee the project. Carmen said she thought that state and nonprofit organizations work well in Alaska, and thought it would be good to engage both. Brenda asked whether a state agency should take the lead in collaboration in with community partners. Taylor and Mike agreed. Brenda said that in her experience with nonprofits, leading a statewide effort can be challenging, and hard to prioritize with the organization's main mission. She rarely saw local nonprofits having success getting state partners to the table; it was usually the other way around. Tory agreed. Even though her nonprofit could serve victims statewide, they don't pretend they can serve all victims. Leading an outreach effort would be a heavy burden to bear. She agreed that the lead should be statewide agency, in partnership with nonprofits.

Sen. Hughes wondered where there would be the most consistency. She didn't want to put effort into something that would see a lot of turnover, which can happen in some state agencies. She also noted that the state was broke. She thought this kind of project could benefit from having the consistency of people that are passionate about victims' services and have been and will continue to do this kind of work.

Tory said she thought that state agencies like the CDVSA have been very consistent over the years. Taylor said that OVR had been fairly stable over the years, noting that her position is a five-year term. They have had relatively low turnover for their substantive employees. It helps that they are a small office. Brenda asked if OVR would be an example of a state agency with longevity. Taylor said it would be, as would other state offices. There can be a political component to some agencies, such as the Dept. of Law, where the top people are political appointees. OVR is apolitical, and a bit of an odd duck in that respect.

Carmen said she thought OVR was well-situated to take on this kind of project. It made sense, and helped that they were called the Office of Victim's Rights. ANDVSA has had a lot of success working with them. They also don't grant money, which changes the nature of collaboration. She thanked Taylor for all the work OVR does.

Brenda said she was hearing that the group wanted a state agency to take the lead in collaboration with community partners, and that specifically OVR would be a good candidate. She asked if there was any objection to either proposal and there was not.

Brenda said the other detail to be decided was whether the outreach campaign should direct people to a website. Steve thought that might be getting into the weeds, and suggested leaving it up to OVR or whoever is taking the lead on the right mechanisms for the campaign. There were no objections to this idea.

### *Recommendation 2: Victim Advocates Working in Partnership with Law Enforcement*

The next recommendation was that victim advocates should partner with law enforcement to be able to more proactively reach out to victims of crime. Brenda said there had been questions as to the timing of how this would work, and wondered what Sean thought.

Sean said that at this stage, he didn't think advocates should be employees of the law enforcement agency. But there certainly was room for a collaboration that is closely linked, something that would improve or establish communication between law enforcement and advocacy agencies. He thought that would be more easily achieved than, for example, changing the bail hearing process. He thought APD's new partnership with VFJ will show this is an effective way to collaborate.

Brenda asked what policies and procedures would need to be in place. Sean said the biggest block to the partnership operating efficiently was the laws that limit the information APD can share regarding crime reports and investigations.

Tory said that from VFJ's perspective, they don't necessarily need a lot of information on handoff other than contact information, and can get information on the crime from the victim directly. She thought the biggest issue was the DV confidentiality statute that leaves other crimes out, meaning that conversations with advocates for non-DV/SA victims are not privileged and the advocate can be made to testify. She didn't want victims to be in a vulnerable place. Right now, they give a disclaimer to their clients, but it would be better to have their conversations privileged.

Brenda asked if the statute should be expanded to impart confidentiality for advocates working with victims of all crimes, including property crimes, noting what Sen. Hughes had said about property crime being very violative. Tory said it should cover victims of violent crime. She agreed that property crime could be very violative, but was just concerned about resources. Also insurance is often involved in property crime, so that could be more complicated. The way those cases are prosecuted also looks different, she would have less concern about an advocate testifying in those cases.

Brenda wondered whether VOCA funds could be used to assist victims of property crime. Tory said she thought it could theoretically, but the process would not be the same. Brenda wondered whether the Department of Law might help. Taylor said they would not help with insurance, but would help with restitution. It's something they would likely ask for as part of plea deal; the request would be filed as a motion, and might involve a restitution hearing. Pearl Younker with the Violent Crimes Compensation Board (VCCB) noted the VCCB doesn't provide compensation to victims of property crime. Taylor said that the restorative justice account set up by legislature would be a great way to get money to victims of property crime, but it was not funded. There is a lot of outstanding restitution yet to be paid out there, but there is no way to get it paid other than garnishment. To enlist a private collection agency the restitution payment must be fairly high to be worth it for both the collection agency and the victim. Barbara noted that the Commission made several recommendations regarding restitution in 2016 which have yet to be taken up by the legislature.

Brenda asked whether, post-offense, there was an opportunity for law enforcement to hand information to a victim of any crime. Sean said yes, though he would not recommend making a long booklet. Taylor noted that since, by law, all officers are required to provide information on OVR to all victims, as

part of a public outreach campaign they could create something with a handout. Something collaborative, but not 20 pages long.

Brenda agreed that this part could work in conjunction with the first recommendation, if there is a website or phone number that could be the basis for a quick referral. Carmen said it would also help for advocates to have access to a website like that; a centralized website or resource page could be useful across the board.

Brenda said it sounded like Recommendation 2 would involve information sharing, confidentiality laws, and how to direct people to help with property crime. Any assistance would be post-offense follow-up.

### *Recommendation 3: Improve Inter-Agency Communication and Agency Communication to Victims*

Brenda explained that the first recommendation in this section was to input bail conditions into a statewide law enforcement database, and noted that this was also a topic of discussion in the DV Workgroup. She asked Sean (chair of the DV Workgroup) whether it should be a recommendation from that group or this one, and whether this is something that would be optimal for every case. Sean said he thought it was something that should be implemented across the board. Taylor agreed. Victims are entitled to get copies of the defendant's bail conditions, it would help if law enforcement also had access.

The next recommendation in this section was to ensure that any motions to continue trials are made in writing. Taylor explained that this really gets to the core of a victim's right to notification. If victims are not notified of hearings, other rights are affected. This recommendation would probably need a specific statute or rule change to make it happen, otherwise agencies won't comply. Brenda asked Taylor to work with her and staff to come up with the specific statutory change necessary. Taylor agreed. There were no objections to the concept in general.

The next recommendation in this section was to increase the number of victim-witness paralegals at the Department of Law. Tory explained that VFJ was also placing advocates with the DA's office. They have been working with Susie Frenzel at the Department to assist with communication. She said she could send the group some documents VFJ put together about the project. It was something they really want to be thoughtful about, and they want to make sure their advocates are not doing paralegal work, such as performing the prosecutor's duty to notify victims of certain hearings. VFJ will assist with victims of violent crime, and will refer victims of DV/SA crimes to the appropriate agencies.

Brenda said it sounded like VFJ would not be performing the Department's duty to inform victims of hearings and trial status. Tory said that was correct, VFJ would instead be doing additional follow-up; often victims are only able to take in a bit of information at the beginning of the process, so VFJ will follow up later.

Taylor noted that the victim-witness paralegals have a lot to do. She recalled that at the last meeting Susie had been talking about splitting those roles. Taylor thought it would be better to have paralegal tasks and victim tasks kept separate. Employees would be pulled in fewer directions.

Tory added that another issue was turnover. Her impression was that Law struggles to hire people for these positions. Taylor agreed, saying that it was as if they can never really do their job well because they have so much to do, and that might contribute to burnout. There also might be other issues including funding. It was a bit of a pressure cooker situation.

Brenda wondered whether this was where having a victim navigator (part of the next recommendation) could come in. Tory thought it was a good service, but was concerned that it may be duplicative. Brenda said that one issue advocates struggle with is finding out what's actually going on in the legal case, and when hearings are; she was thinking of someone who can help with what. Advocates are more focused on meeting emotional needs, longer term. Her understanding was that a victim navigator could help more with the informational/technical piece. Tory said that was a big part of what VFJ does, though that may be different from other agencies. Brenda suggested leaving that recommendation open as to whether it would be performed by a state or nonprofit employee, focusing instead on what position should do rather than which agency specifically should do it.

Brenda said she was hearing support for asking Law to remove the dual designation for victim-witness paralegals, and wondered whether the recommendation should also include increase the number of people in the victim position. Taylor said it was hard to say, and that there might be improvement with just creating efficiencies by removing the dual designation. Ultimately only Law might be able to answer that question. Brenda suggested that the recommendation could ask Law to look at its needs as well as removing the dual designation. There was no objection to either proposal.

Brenda said that recommendation 3 also called for fixed dates for parole hearings. Mike said he thought that might just be a policy change, but would have to talk to the parole board about it. He said he would get clarification before the next meeting.

#### *Recommendation 4: Victim Navigators*

Brenda suggested moving the part of recommendation 3 that called for ensuring that victims are signed up for VINELink and aware of restitution obligations post-trial/sentencing to recommendation 4. She noted that the group had already discussed the victim navigator part earlier, and asked if anyone had anything to add.

Barbara asked about the part of recommendation 3 that called for increased staff at the court system to handle restitution payments. Liz said that there was also only one person to process collection for the state in the Department of Administration. Brenda noted that restitution collection had moved from Law to the court system and wondered whether that was working. Barbara said that someone from the court system had told the Commission things were going smoothly, and she recalled that their primary method of collection was to garnish PFDs and possible wages; she was not sure other about other collection methods.

Taylor said she thought they were only garnishing PFDs, and thought that there was only one or two people to do the work; her impression was that it was not a well-oiled machine. A navigator might be able to make sure all parts are in place to get the PFD garnished, since it was apparently not a seamless process.

Brenda suggested getting people from the court system and perhaps the people who used to do restitution from the Department of Law to come to the next meeting, to compare and contrast the methods. This might need to be something that is its own recommendation

#### **Public Comment**

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

#### **Future Meetings and Tasks**

Brenda said she would work with Barbara to incorporate today's discussion into the draft recommendation. She agree with Steve's earlier comments that it doesn't need to be too detailed but she

wanted to provide enough guidance to get people to take up the recommendations. She hoped that all this work would be taken seriously. She asked the group to let her or Barbara know if they had any about opinions on what can get feasibly done in the legislature.

For the next meeting, Barbara will send out a Doodle poll for June or early July. Barbara will send a revised recommendation out with enough time to read it before the next meeting.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Monday April 20, 10:00 a.m.**

Teleconference/Zoom

Commissioners Present: Brenda Stanfill, Sean Case, Nancy Dahlstrom, Steve Williams, Shelley Hughes,

Participants: Tory Shanklin, Erin Terry, Charlotte Rand, Pearl Younker, Tami Jerue, Michelle Evans, Susie Frenzel, Michelle Hale, Mike Ramsay, Barbara Johnson, Kim Stone, Taylor Winston, Carmen Lowry, Karl Clark, Blair Christiansen, Dawn Shewmaker

Staff: Staci Corey, Susanne DiPietro, Barbara Dunham

**Follow-up From Previous Meeting: 211**

ACJC project attorney Barbara Dunham reminded the group that at the last meeting, the group decided it wanted to know more about the 211 information service run by the United Way. Specifically, the group wanted to know more about how it conducted outreach to rural areas, and whether they might have any data on how many victims access their service. She explained that she spoke to Sue Brogan of the Anchorage United Way about these things.

For outreach, they have regularly calendared mailings to all of their contacts and partners in rural communities. They send materials to law enforcement, clinics, health aides, and any partners they have in their database such as Alaska Housing Finance Corp, Public Assistance, and DHSS. They also respond to any requests for information and update their database annually, which is another opportunity to reach out to their partners. Their coverage in rural Alaska is not 100% and resources there are limited, but Sue thought they had fairly good coverage.

The data they capture has some constraints; they have the phone service as well as an online searchable database. Because the phone service is confidential, they have no way of knowing whether someone is accessing both services at the same time, or if someone accesses either or both services multiple times. They record zip code, needs and referrals, so may be able to pull data related to victim services that way. It would have to be a specific request. They could, for example, give the number of referrals to victim advocacy services in a given area.

Ms. Brogan also explained that 211 partners with other agencies to serve their needs. For example, Recover Alaska has a function on their website allowing visitors to search for addiction and recovery services (a "get help here" button). This search function uses 211's database. 211 also has contracted with the Anchorage municipal Aging and Disability Office to do some initial screening for their services. The office provides 211 with the script to ask the screening questions and then 211 passes that information on to the office.

Brenda Stanfill, ACJC Commissioner and workgroup chair, said it sounded like there might be an opportunity to partner with 211 for victim services. Barbara said it would certainly need to involve more

conversation but agreed there might be a way to use their existing infrastructure if the group was interested in going in that direction.

Tory Shanklin, executive director of Victims for Justice, said it would be good to think of 211 as a service with a broad scope. Their ability to make appropriate referrals for victim services has been mixed, and their staff is not trained in using victim-centered and victim sensitive language. 211 can be very helpful for people, including victims, struggling with financial hardship. A separate victim navigator would be able to provide more specific and victim-centered services.

### **Follow-up From Previous Meeting: VPSOs**

Barbara Dunham reminded the group that at the last meeting the group wanted to know more about how VPSOs interact with victims. She explained that she had reached out to VPSO coordinators and had forwarded a response from one of them. Her impression from the VPSOs was that in some respects they may have a better relationship with victims than other law enforcement officers due to the close knit nature of Alaska's smaller communities. It was clear that the VPSOs were being trained to hand out the DV booklets in DV cases and to explain procedures to victims particularly in those cases.

Brenda said she thought it was interesting to compare the federal and state victims' rights statutes. She said it looked like state law enforcement, similar to federal law enforcement, was supposed to give out information on violent crime compensation, and wondered whether that meant that officers should hand out Violent Crimes Compensation Board (VCCB) forms.

Taylor Winston of the Office of Victims' Rights (OVR) said she was not sure if officers were required to give VCCB forms out. They are required to give DV victims the DV booklet and tell all victims about OVR. She also thought VCC had trouble getting police reports.

Pearl Younker from the VCCB said that police are supposed to tell victims of violent crime about the VCCB, though they don't have to give them anything. The VCCB has provided cards to law enforcement all over the state. She agreed that the VCCB has been struggling to get police reports.

Taylor said that it was hard to track how people find OVR—not everyone remembers. She believed it was not generally the practice of law enforcement to give written and oral information to victims other than in DV/SA cases.

Brenda wondered whether there was any reason the mandate couldn't be broader, or whether the booklet could be expanded to add VCCB information and given to every victim of violent crime.

Tory said that the VCCB's information was already in the little blue book. But she wasn't sure whether giving more information to a victim at the time of the crime would be helpful, as victims may be too traumatized to process what they're being given.

Taylor said it was really difficult with victims of violent crimes, and agreed that additional information at the time of the crime might not be well received, and likened it to having a loved one die in a hospital and being asked how you want to deal with the bill. On the other hand, property crime victims would probably want more information at the time—different victims will have a different mindset. She thought the collaboration between APD and VFJ sounded promising. One problem with getting information to victims is that a case may be in investigation status for a long time, so the DA's office is not even engaged. Having advocates step in when the police are still investigating helps with that.



Brenda said she had just flipped to statute AS 18.67.175(b), which states that law enforcement officers are supposed to provide victims with VCCB forms. She wondered whether this was possible for rural officers.

Pearl said that the VCCB would be happy to send out forms to anyone who wants them, but it's hard to know who wants them.

Taylor said the same was true for OVR's outreach materials. They try to contact every agency in the state.

Tory said that it was important to note that victim advocates struggle with completing the VCCB paperwork. Getting victims paperwork is one thing, but filling out the paperwork and getting the required documentation is overwhelming, and victims usually need help with that. VFJ is working on a training to help people fill out that paperwork. It is also important not to overwhelm the VCCB with inappropriate applications.

Barbara Johnson of 49<sup>th</sup> Rising explained that she was a victim who was handed a whole folder just after the crime, and she didn't open the folder until two years later. She just focused on things like hospital bills. She couldn't say why, but it was just overwhelming. She also struggled with the VCCB application. She agreed that people may struggle with the form and noted that they may also not have English as a first language.

Brenda wondered what the DA's office typically does. Susie Frenzel from the Department of Law said that their victim-witness paralegals do provide information to victims about VCCB as a standard practice, but it would be rare for them to help a victim with an application form. Brenda wondered whether they track how many applications they sent to victims, and whether they get to victims in rural communities. Susie said they did not track that, although they will document whether they told the victim or sent them the information in the victim contact file. They have the forms at all of the DA's offices around the state, and will also send the brochure and application form to any victim that is not in a hub community.

Brenda asked whether Law would be able to release a victim's name to a victim service provider. Susie said it would if the victim gave consent. Law just onboarded a victim advocate from VFJ in their department, which would be a step in that direction.

Sen. Shelley Hughes, ACJC Commissioner ex officio, said that given Barbara Johnson's earlier comment about being overwhelmed, she was thinking of a way to simplify the initial information—something like just a simple card that says “for help, call this number.” She thought it was important to think about victims being overwhelmed, and was concerned that with too much information, victims might even be less likely to reach out. She wondered whether there was a way to study whether giving out just a simple phone number would help.

Tami Jerue from the Alaska Native Women's Resource Center said she hated to throw another idea into the mix, but wanted to note that there is also a lot of new federal money coming in for victims in rural Alaska, some of it similar to what the VCCB offers. She thought the group needed to figure out how to help direct people to whatever services are needed and available. People in rural Alaska might not have an officer respond to a crime, so the group should also think about how to get victims referred to programs if they can't get a police report number. In addition to the challenge of connecting victims to services, there were some broader questions that need answering.

Taylor said that even for OVR staff it was a challenge trying to keep all of the relevant organizations straight. It definitely can be confusing for victims, who are dealing with their trauma and also likely

experiencing their first introduction into the criminal justice system. If they call one entity and hear “we can’t help you,” that victim may shut down and not seek help elsewhere. She agreed with the idea of trying to simplify the process, and thought that there should be one common point of entry. There is a system in place for sexual assaults, with each case referred to a SART. The process is less direct for DV. If a person is a victim of arson or burglary or DUI, where are the connector points? In the best case scenario, the victim will find a service or someone in law enforcement will connect the victim to a service like the new partnership between VFJ and APD. Not every case gets to the DA’s office so not every victim will be contacted by a victim/witness paralegal.

Brenda agreed it was about trying to find the right access point. She asked Barbara Johnson whether she thought it would help to get phone call two days after the crime. Barbara said that for her, it would have been very helpful, though it would not be a one-size-fits-all solution. She thought the idea of having one phone number to call would be really useful, as just a simple connection to what’s out there. Simplifying would be good.

Dawn Shewmaker, victim-witness coordinator with the US Attorney’s office in Alaska, explained that she had only been in Alaska for two years. She moved here from Massachusetts where they had a social worker embedded with law enforcement, and that social worker went out on calls for any crime with a victim. They provided resources when they responded to the call, and then followed up a couple of days later.

### **Federal Victim Response**

Erin Terry, victim specialist with the FBI, explained that she had been working in victim services since 2007, including experience with state agencies, which has been helpful. In her position with the FBI, she sits in the FBI office, which investigates a variety of crimes. Her caseload includes crimes like parental kidnapping, human trafficking, and bank robbery. She has access to the FBI database, so she can see what is being actively investigated.

One of her primary responsibilities is to fulfill the FBI’s obligation to notify victims of their rights, which is one of the first things she does. She joins agents when they are doing initial interviews, and will get initial information from victims like their mailing address, plus a general sense of what’s going on with them, and what they need to get into healthier place. Erin’s role has her ideally placed to access the information that victims have given to law enforcement and follow up with the victims. During the investigation phase of the case, she connects them to state services and explains what do to access those services, as well as any federal resources.

As the case moves to the prosecution phase, Erin hands the case off to Dawn in the US Attorney’s office. She is frequently on phone with Dawn, whose role officially starts at indictment, although they both jump in as needed before or after that point. She thought there was a huge need for a similar service on the state side. She noted that she doesn’t have a counterpart with troopers or local law enforcement. She gets a lot of referrals for state cases when VFJ is at capacity. She thought it would be a good idea to have a position like hers in every state and local law enforcement agency: someone to provide initial notifications, make gentle follow-up call, and provide services based on what victims say they need—a victim-centered approach.

Dawn explained that as soon as the defendant is charged she will step in to the case, with a warm handoff from Erin. She does a lot of things but foremost she lets the victims know what their rights are (as set out in the Crime Victims’ Rights Act) and how they can access those rights. If they don’t afford the victims those rights, they can file complaint or lawsuit. Her office has a notification system that is similar to the VINE system, and she ensures that everyone is entered in to that system.

Dawn said she'll typically ask the victim to think about what kind of contact they want from her office. Some people want to know about every hearing, some don't want any contact at all. She will often attend hearings with the victims or attend for the victims and contact them afterward and update them. She also explains the federal process to victims and lets them know what to expect. She tries to ensure they are connected to resources, including counseling as necessary. She will help with writing victim impact statements, and collecting documentation for restitution. She can also help with safety and relocation.

Dawn explained that victim-witness coordination is her whole role; she is not a paralegal and doesn't have other duties. She is involved in any case with a victim: human trafficking, embezzlement, civil rights. In cases where the charge is felon in possession but there is an underlying state crime with a victim, she will reach out to that victim, and keep them apprised of federal case. This is not required but the Alaska office has decided to provide this service.

Taylor asked if they had an idea of the volume of their caseloads. Erin said it was hard to say, but estimated that she gets about 1-2 big cases a year, and has about 80-120 active cases with consistent follow-up. They cover the whole state, and they do have to set priorities. Not all cases make it to Dawn's desk because not every case will be prosecuted. She also collaborates with her counterparts all over the world (having that network is helpful).

Dawn said she covers the whole state too. She had 78 active cases about a month ago. Some cases might have only one victim but multiple people to contact; for example a case with a child victim will require being in contact with OCS, the child's family, and others. She is in contact with about 300 people. Needs vary with the case. Her case load is likely going to go up. With increased funding for services in rural Alaska, the USAO has hired four new attorneys to focus on rural cases, and is going to hire another to focus on missing and murdered indigenous women. She is only one person, so she might need to make a pitch for more help.

Brenda said one of the problems with linking victim services to law enforcement has been issues with confidentiality, and wondered how that works in the federal system. Erin said they have a really fluid handoff from the FBI agents, and she is often there with an agent at the initial interview. The agent can just tell the victim that "there are things you should know as a victim, here's Erin to explain them to you." The agent also has to remain somewhat neutral, and they record everything. Erin will get permission from the victim to refer them to another service. That service may then need to get a release from the victim to continue to communicate with Erin.

Dawn added that they don't have any confidentiality with the victim, which is something they let the victim know up front. That was a struggle for her when she came to this role. Anything the victim says to her about the case is discoverable. Inevitably their story will not be quite the same each time they tell it and that information has to go to the defense. So she tries not to get that information from them, and has a conversation about what they can and cannot talk about. She has to walk the line of forming a rapport with them but stopping them from telling her all details about what happened. This was why it was important to get the victim in touch with other services.

Erin said she was working with the same constraints. She tries to make it clear that she is not a victim advocate. She will try to make a referral to a program that can have privileged conversations with the victim. Those options might be limited if the victim is for some reason not eligible for a state program.

Brenda noted that the fact that Dawn does not do paralegal work was different from how the Dept of Law operates. Susie said that was true, that Law's victim-witness paralegals have a lot paralegal duties, like managing discovery. It was a big difference. Taylor wondered whether Law ever contemplated having

designated positions, so that there were victim-witness specialists who only had one hat. Susie said Law was having those conversations and exploring the idea right now.

Dawn said that when she moved here surprised there was not a dedicated person at the state level for victim issues. In Massachusetts there was a victim advocate embedded at the court system who had limited confidentiality.

### **Follow-up From Previous Meeting: Embedding advocates –legal issues**

Sean Case, ACJC Commissioner and APD Captain, said that VFJ and APD had signed an agreement to have VFJ's advocates embedded with APD. He explained that APD attorney Blair Christiansen was on the line to here to talk about the legal issues involved with the agreement.

Blair said that there were challenges to getting the agreement in place. APD doesn't release information on open investigations except to other law enforcement agencies. They will only release information once the case is closed. So there was no legal basis to release information to victim advocates. They created a release form so could APD could release victim information to VFJ so VFJ advocates can contact the victim. They also had no mechanism for providing advocates with police reports. So victims will sign the release for basic information, then the VFJ advocate will be able to access the full police report when the case is closed. Initially they were hoping to have a VFJ office actually located in APD headquarters, but there were challenges with CJIS access, and APD was not physically set up to segregate them. APD also didn't want victim records within their facility or under their control, because they didn't want those records to be discoverable. They wanted a clear wall between law enforcement information and advocate information.

Sean explained that per the agreement, VFJ advocates will be coming in to APD headquarters for the briefing between shifts. Officers will give the victim information on VFJ, and explain the release. Then the officers will provide the advocates with name and contact information of the victim, and basic information on the crime so that the advocate has some idea of what getting they are getting into for their call. The advocate will be following up within 24-72 hours. Post-COVID, they should have some data on the program in about 6 months.

Brenda asked whether the advocates would just come in for the shift briefing. Sean said yes, and that there will either be a basket with release forms or the officers leaving their shift will hand the release forms to the advocate. The goal at the beginning was to have VFJ have office space there, and while that is not the model now, they might move toward that in the future.

Blair thought VFJ having an office at APD was a realistic goal, if they could resolve the issue of keeping the records for the two entities separate. She thought it was something they could do long-term.

Brenda asked Erin to explain more about the nature of her employment. Erin said she was employed by the FBI, and has the same security clearance as anyone working for the FBI. She is funded separately through the Office of Victims of Crime, rather than through law enforcement funding. OVC pays for her salary as well as travel, which means that local leadership is not tempted to save money by not sending her out on calls. The FBI has to be frugal like any other agency when spending money on investigations, so it is helpful that she is funded separately. Her security clearance gives her access to the law enforcement database, which is important, but it means she is not an advocate, she does represent the department. Records of her interactions with victims will all go in the case file, for example if victims provide additional information about the crime, she will notify the agent on the case. Otherwise she doesn't maintain her own records. She could be called to the stand during trial, which requires its own training.

Dawn added that she keeps a basic call log for each case, with very basic entries such as “status update” or “discussed referrals,” since the call log could also be discovered. If the victim does start to relate information about the crime, she will stop them, then talk to the agent on the case, who will probably need to call the victim and follow up. She could also be called as a witness during trial.

Brenda said that for a time in Fairbanks, law enforcement had a release that victims could sign, and that release would be given to an advocate who would follow up directly. They have now been told they can’t do that. She wondered if Blair knew why that would be. Blair said she was not aware of any reason why that would not be allowed. If a person agrees to sign a release, then the agency should be free to release that information. Taylor agreed and said she was not aware of any legal barrier that would prevent an advocate contacting a victim after the victim signs a release to allow that.

Blair said that Sean could send the group a copy of the release that APD and VFJ will be using; she was happy to help with technical issues for other agencies who want to implement this model. She added that if a victim signs a release, APD can send out the entire report to the advocate when the case is closed.

Michelle Evans from VFJ said that VFJ initially had high hopes of being more embedded, but had to start with getting referrals. At that moment she had a referral sitting on her desk. But she thought that at least going to building will be a visual reminder to officers that VFJ will be there to offer services.

Taylor asked whether VFJ would only get referrals for the types of cases VFJ has typically handled, or whether they would get referrals from all victims.

Michelle said she didn’t have enough information to go on yet, but they had discussed that if an officer felt like a victim who was outside their usual service area needed help, VFJ would do an appropriate handoff. For example in DV cases they would transition the victim to a service like AWAIC. VFJ already gets calls from other types of victims but they always try to give them good referrals.

Brenda said it sounded like this partnership just started, and she would be interested in hearing how it’s going at a later meeting.

Erin added that the FBI has program called Elevate, which helps law enforcement agencies develop a victim specialist program like hers, which includes training at Quantico. The program includes training on how two agencies such as a victim advocacy organization and local law enforcement can merge their operations.

#### **Follow-up From Previous Meeting: Kenai e-filing**

Barbara Dunham explained that she had gotten in touch with the Kenai branch of the court system. They were busy with COVID- related adjustments but were interested in thinking about how e-filing could work with victim notification at a later date.

#### **Follow-up From Previous Meeting: Bail schedule releases and victim notifications**

Barbara Dunham said that at the last meeting the group had wondered whether or how victims get notified of a defendant being released on bail if the defendant was arrested but then released on the bail schedule and never actually booked into jail. She had spoken more with Mike Ramsay at DOC about this, who said that defendants should be entered into ACOMS (DOC’s database) when they are arrested, even if they are not booked into jail. Once they are entered into ACOMS, a victim will be notified of the persons release if the victim is signed up for VINE.

Taylor observed that bail schedule releases can happen quickly, and it might be too quick to get someone signed up for VINE. She wondered whether law enforcement officers tell victims about VINE. She remained concerned about the constitutionality of bail schedules; the Alaska Constitution says victims have a right to be heard before bail releases. She understood that the current practice was a very different approach. VINE is a great resource, but she was concerned that victims are not getting plugged in to VINE quickly enough, before the defendant is released.

Brenda said that sounded like a big issue. She recalled that advocates came out against bail schedules when they started, and they received quite a bit of pushback because the idea was that defendants eligible for the bail schedule didn't need to be held.

Taylor said it was a safety issue, and early releases can be a huge problem. She also still thought it was a constitutional issue. Barbara Dunham noted that the constitution also said that defendants had a right to reasonable bail. Taylor said that if the system is functioning properly, there should be an opportunity for the victim to be heard which would still allow for reasonable bail. She knew there were logistical problems, for example in the case of defendants arrested in the middle of the night. It might put an added burden on law enforcement officers. But they could just tell the victim "there will be a bail hearing with a magistrate later tonight, do you want a call?" It does add a layer for everyone, but it would be a way to balance both rights. She understood that it is hard on the system to book people in for just a short time, especially with COVID.

Brenda said this should go on the next agenda, and suggested having conversations offline to maybe come up with some ideas.

### **Draft recommendation (cont.)**

Barbara Dunham explained that she hadn't changed the content of the draft recommendations from the last meeting, although she had added information to the background section that was derived from the information collected in the victim surveys and listening sessions. Sen. Hughes suggested that in the opening paragraph of the draft, instead of "healing" it should say "help, healing, and understanding their rights". Also, in the recommendations themselves, she suggested adding a provision that suggested researching or studying how much information was appropriate to give to a victim initially after a crime.

The meeting was running out of time, so it was decided to take up the draft recommendation at the next meeting.

### **Public Comment**

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

### **Future Meetings and Tasks**

Brenda decided the group would still meet on May 6 as originally planned to discuss the draft recommendation.

Alaska Criminal Justice Commission

# Victims' Rights and Services Workgroup

## Meeting Summary

Wednesday, February 5, 10:00 a.m.

Loussac Library, 3600 Denali St, Anchorage, and teleconference

Participants: Brenda Stanfill, Karla Hart, Kate Hudson, Rebekah Moras, Laurie Orell, Tori Shanklin, Sam Duke, Mike Ramsay, Kim Stone, Taylor Winston, Buddy Whitt, Barbara Johnson

Staff: Susanne DiPietro, Staci Corey, Barbara Dunham

### **Tribal Victim Assistance Micro-Grant Program**

Laurie Orell, Program Manager with the Denali Commission, explained that this program started in January of this year. The program has \$7 million out of tribal set-aside money designated by VAWA to spend on micro-grants for tribes looking to provide victim assistance services. Right now she is developing training and looking for a technical assistance provider to help people apply for the grants and build capacity to administer them. This is in the planning stage, and later they will be putting out a notice of funding opportunity for the grants. These are federal funds, which come with some stipulations but also some flexibility. She encouraged anyone interested to reach out to her for more information.

Brenda Stanfill, Commissioner and workgroup chair, asked whether this was a one-time program. Laurie said that right now, it was considered a pilot, but there was hope it could be transformed into a long-term program. Currently the grant cycle for the pilot runs for 3 years.

Kim Stone with the Department of Law asked whether individual tribes need to apply. Laurie said that applicants could be individual tribes, tribal consortiums, and tribal governments working in partnership with nonprofits. Tribes can also apply directly to DOJ. If a tribe has already applied for a grant under the VAWA tribal set-aside, they are not eligible for the first round of grants.

Laurie explained that the funds have broad use, and eligible services included awareness campaigns, shelter services, and victim advocates. The funds can't be used for primary prevention, or new construction (although renovation of existing structures would be okay). Brenda asked whether there were any restrictions on renovation, as that has been an issue with federally funded housing grants; it would be helpful not to have restrictions. Laurie said she wasn't sure about that and would have to look into it.

Laurie said that national technical assistance (TA) providers would not be effective, rather she is looking for a statewide tribally-based organization that can provide training and TA. This provider would put together a team, which could then reach out to tribes to talk about needs, and how to apply. This is very different from the usual DOJ approach (i.e. webinars). This will involve more one-on-one conversations. There is a tight timeline to get this in place; the provider can't be a for-profit organization.

Brenda noted that there were some really strong tribally-based entities out there, such as Healing Native Hearts, Yupik Women's Coalition, and the Alaska Native Women's Resource Center. Laurie said she had reached out to those and other entities.

Kim wondered whether the grants could cover direct victim compensation. Laurie said she would have to look into that too. The grants can't be used for VPSOs, troopers, or jails—the intent is to keep this funding source separate from law enforcement.

Brenda asked whether there was a cap on the grant. Laurie said that the cap was \$350,000 for the three-year term. Brenda was concerned that \$125k per year was not going to go very far. Laurie said the grants were intended to go to very small communities that don't have access to or capacity for bigger funds.

Brenda asked whether, in the case of a group that represents a lot of communities, it would be eligible only for one grant, or if there would be one for each community. Laurie said each would have to apply on its own. For example, the South Central Foundation is not eligible this year because it already applied, but if they partnered with a local tribal community and that community was the lead, it would probably be okay, although she cautioned that she was still working through some of the details as to how to make this work. The intent behind the program is to get smaller communities to apply on their own and build some capacity. The TA component was designed to reach out to those communities to identify their needs and address what it would take to get them to apply.

Brenda wondered what administrative requirements the grants had. She knew they can be a hindrance, a lot of paperwork can be involved in these things, and it can take time to do follow-up. Laurie said that was another thing she was working through. She had heard that administration for federal grants can be difficult, and had also heard that finding matching funds is hard to do— these were things she was looking at.

Kim said that small tribes often rely on a consortium for the capacity to apply to things like this, she wondered if there was a way to lift the cap in those situations. Laurie said that the thinking behind this program was that those consortiums can already go directly to DOJ, and that this would get smaller communities to apply. Right now it is largely the big organizations that are applying to DOJ, and they are hearing that money doesn't get out to smaller communities as much. DOJ was still doing grant opportunities for larger communities and organizations too. There would be tribal consultations with DOJ next week; she would send Barbara the information about it to pass on to the group.

Barbara Dunham, project attorney for the Commission, noted that the description of the micro-grants program listed a number of crimes, and she wondered whether grantees would have to provide services to victims of all those crimes— for example, would a DV shelter need to help victims of all crimes, or could it just focus on victims of DV crimes? Laurie said that grantees could focus on just one type of crime such as elder abuse, or trafficking. Also, the crimes covered by the grant were not limited to that list. Brenda asked if this included property crime. Laurie said she was pretty sure that was allowed but she would follow up. She didn't want to let the list inhibit people from applying for the grant.

Brenda asked whether, if a tribe was going to have hard time administering a grant, another nonprofit could be the fiscal agent. Laurie said yes, although the tribe would have to apply; grants were



currently administered like that in some places. The TA provider will also help build capacity for that. One administrative challenge is the data requirement from DOJ; standard reporting requirements would still be in place, and the TA should help with that too.

Laurie said that in terms of outreach, she was developing a communication list, and would love to get contact information for everyone in the workgroup. She is developing a communication plan. Information will also be on the Denali Commission's website and grants.gov. The application will not be through grants.gov, but can be emailed directly to the Denali Commission. She had heard that is a challenge to get through the grants.gov process.

Kim wondered whether the micro-grants could fund tribal courts. Laurie believed there was a different fund for tribal courts, but would need to clarify that. Each pot of funds has tribal set-aside dollars.

### **Victims' Rights Week**

Tori Shanklin, executive director of Victims for Justice, explained that Victims' Rights Week would be April-19<sup>th</sup>-25<sup>th</sup>. This is a nationally driven campaign, and VFJ was coordinating things for Alaska. There would be things going on statewide, including marches in the Aleutians. In Anchorage there would be a tree ceremony on April 20 for victims of violent crime. The ceremony provides a visual representation of the impacts of crime. VFJ also hosts the victim service awards, which is available for people statewide. The idea is to honor the work being done, and draw attention to work that still needs to be done. There will also be general PSAs. VFJ has been taking the lead on this project but Victims' Rights Week covers all crimes.

### **Draft Recommendation**

Brenda reminded the group that at the last meeting, the group brainstormed victim needs at every intercept of the criminal justice system, and put those ideas up on poster. Barbara Dunham had boiled those thoughts down to a draft recommendation document. Brenda suggested working through this document to see if there are any questions that need to be looked at, or if we missed capturing anything from the last meeting. The draft made recommendations in four different categories: public outreach, victim advocates working in partnership with law enforcement, improved communications, and victim navigators.

Karla Hart, staff to Rep. Geran Tarr, said that Rep. Tarr has been talking with mental health advocates about mental health navigators. She wondered whether there was a need for a higher-level navigator system; perhaps a victim navigator and mental health navigator system could be integrated.

Taylor Winston, executive director of the Office of Victim's Rights, said she appreciated those thoughts, but thought that significant work needs to be done for victim issues—mental health is very broad. There was probably a need for navigators for a number of things. Karla said that was fair enough, she was just throwing the idea out there. Brenda said it was something to think about—maybe not one navigator do it all, but it was worth talking about the concept of creating a new entity that doesn't exist.

Tori asked what the next steps would be if the Commission forwards a recommendation to the legislature. Brenda said once the workgroup is done with the recommendation, the Commission can kick it back to the workgroup for edits or approve it. Once it's approved it will get sent to the Legislature. The

original intent of having two legislators on the Commission was that the legislators could carry the recommendations as legislation, but that doesn't always work out. Any legislator can pick up a recommendation. If something doesn't need legislative fix, the Commission can make recommendations to a department.

Susanne DiPietro, executive director of the Alaska Judicial Council, added that the Commission has broad authority to make recommendations to the legislature and the governor/agencies. Barbara Dunham noted that the likelihood of a recommendation getting picked up by a legislator really depended on whether it was something the legislators wanted to work on—she thought that there might be more interest in victims' services than other criminal justice issues.

Brenda wondered if anyone in the group had any additions to the four basic categories of recommendation. No one had any additions.

- *Public outreach*

The main recommendation in this category was to create a month-long, statewide public awareness campaign to let the general public know that there are resources available for victims of crime and where to find more information. Brenda noted that VJF had already made a lot of effort in this area already, which was much appreciated. One of the questions for this recommendation was which agency should be responsible for it.

Barbara Dunham noted that the recommendation sounded like the successful Choose Respect campaign, and she wondered which agency coordinated that. Susanne said it was governor's office, and it was spearheaded by Katie Tepas. Brenda said that the campaign also had a dashboard with goals and objectives of things that should change—it has not been updated in last few years, and no one really knows where the state is at for those benchmarks. She added that a nonprofit such as hers could do PSAs, but would never have the power or reach of the governor's office that Choose Respect did. That campaign was heard and people felt like something was happening; both reporting and requests for services increased. She thought Alaska would benefit from strong state effort on this, and thought that victims would like to know that the state is paying attention to victim needs.

Steve Williams COO of the Alaska Mental Health Trust, agreed, and thought it might be prudent to look at what Choose Respect accomplished, maybe an inventory of what's been done. He also thought the public outreach project could be done in partnership with another entity. He didn't want to assume that it should be a state agency.

Taylor said that she would want to make sure that whatever the organization taking point may be, that it not be in an organization that is limited only to DV/SA—while many victims have experienced those crimes, there are also many other victims. All victims are victims per state statute. There is trauma associated with every type of crime.

Tori added that she would also want to make sure that everything was looked at through the lens of racial equity, and to make sure that the campaign reached everyone, statewide.

Brenda asked if anyone had thoughts on whether PSAs should direct people to a website or hotline number. Sam Duke wondered if it would be similar to the court system's self-help center. Susanne noted that no one thought that the self-help center would work because it operated by phone and email only. But it did work-- even people in rural areas had access to telephones, and if they didn't have a computer, they knew someone who had a computer—this is a model that can work in rural Alaska. Not as easily as in cities, but it still can be a good model. On other hand, Susanne, said, victim services were not really in the court system's wheelhouse. Sam thought it might work if it was just a service that would point people in the right direction.

Susanne said that if it was just a matter of hosting a website she could ask the Council to host. Tori wondered what people know about the 211 system and how that operates. VFJ refers people to it a lot. Brenda suggested inviting 211 representatives to a future meeting. Steve said 211 was a statewide resource operated by the United Way. He thought the group should hear from 211, to know what's already out there, and whether they are already hearing from victims, and have any data. His intuition would say that victims thinking about where to get help would first think about going to law enforcement or the courts. Taylor agreed, especially if the case is already in court. She suggested the campaign could also have tab on law enforcement websites. That might get folks whose cases are not yet in court.

Tori wondered if it needed to get to that level of detail. Susanne said that the more detailed the recommendation is, the more likely it will be taken up. Brenda added that the full Commission often asks for more detail. Susanne said that the group could also make a broad recommendation that someone do this. Tori thought the recommendation should definitely identify who should helm the project.

Barbara Dunham suggested that the group might also want to think about what the overall message of the public outreach campaign would be as well as what the rest of recommendation will say—for example, if one recommendation is to create victim navigators, the outreach campaign might want to spread awareness about that.

Brenda said that it might also be good to have both a phone line and a website. Sam said that a website could start the filtering process to point people in the right direction. Susanne noted that the upkeep of a website could be a big task. Kim thought a large part of this was awareness, getting at a lot of what the group has already talked about, in that victims are not in a good space to hear things immediately after the crime—this would be a way to educate the general public so they have these services in mind when things happen to them, or their friends will know. People don't always pay attention to brochures they are given at the time. Sam said that would be the helpful part of a self-help website or number police can just hand people the url or number.

Brenda said it sounded like the group needed to hear from the folks at 211, that primary goal of the outreach campaign was to increase awareness in the general public, that we should make sure we are thinking about racial equity, and that this effort will be inclusive of all crimes. This recommendation could potentially send victims to a website and perhaps a phone number/person to contact.

Tori said it would be good to know the extent to which 211 works with tribes. Steve said he could work with Barbara to get some of these answers, and suggested that the group also needed to think about what information people are looking for. Susanne said that there are the results from the survey, and

feedback from the listening sessions. It would also be helpful to get data from 211 about what types of questions people are asking them.

Rebekah Moras, policy advocate with ANDVSA, asked whether the outreach campaign would be using just a website, or also social media? Brenda was inclined to think broadly, and thought the group should also think about texting—a lot of agencies haven't caught up to that.

- *Advocates working with law enforcement*

Tori explained that VFJ is trying to sign an MOU with APD to work with them on assisting victims. However, statute and policy are getting in the way, and they are struggling to get the information sharing piece in place. The victim needs to approve getting help from them before they can be given the victim's information. For example in sex offense cases, no one is given the victim's name until they appear as part of the SART team and the victim signs a consent to receive services.

Brenda suggested hearing from DPS about this. In Fairbanks they used to have the victim sign a form and then fax it to the advocates, but then they were told that was not legal. Susanne asked whether that was because of a statute or internal policy. Brenda was not sure.

Tori was also not sure where exactly the holdup was coming from, but they were hoping to use a similar waiver system. Even that method was not ideal—it was another thing for officers to carry. But the MOUs keep getting turned down by lawyers.

Brenda noted that having an embedded advocate was also a problem because then anything they discuss with the victim could potentially be discoverable. She has tried to bring up the idea of a warm handoff, but has gotten pushback. It would help to get statewide support for something like this. She also suggested looking around the country for best practices.

Tori said she had been looking into models around the country and found a promising practice in New York. Advocates and law enforcement work as a partnership- advocates are not going out on calls, but 24-48 hours later they follow up. There are also grants that advocacy agencies can apply for, but the agencies don't have the capacity to apply. Sam wondered if there was an option for the police chaplain to do some follow-up. Tori thought that was also something to look into.

Susanne said she thought it was important to find out exactly what the barrier is for the waiver—she would like to talk to those lawyers. If a statute needs to be changed, the Commission can recommend it. Brenda agreed that it sounded like the next step was to identify the barrier.

Barbara Dunham wondered if it had anything to do with CJIS data. Tori said that VFJ's advocates were now CJIS-cleared. It might also be an issue of liability. Kim said that if an advocate was embedded, there might be an issue with the advocate becoming a witness. Tori explained that VFJ was not asking to go with officers to the crime scene, or even to get information about the crime from the officers.

Susanne said that DV/SA advocates have an exception, that they cannot be witnesses. Kim said that sounded like a legislative fix. Taylor said that OVR's statute also says their attorneys can't be called as witness. Brenda noted that DV/SA advocate information is privileged, which is different from

confidentiality. Taylor said that OVR has non-reciprocal discovery, meaning that they can get information about the case from the prosecution but do not have to provide information to the parties. Without some protections in statute she could see victim advocate information becoming a litigation point in a criminal case.

Susanne wondered if defense attorneys would ask for the information. Brenda said that the reason DV/SA advocates got their information privileged was because they were being asked for it—defense attorneys would ask things like “did she cry?”, etc., mostly based on outdated ideas about how victims should behave. Knowing that attorneys could ask about that kind of thing hinders advocate from working with people.

Susanne said it sounded like there were a couple of issues, one being whether a consent form is discoverable, and the second issue being whether there is an confidentiality or privilege attached to the victim-advocate relationship.

Barbara Johnson with 49<sup>th</sup> Rising explained that she was calling in from Kalskag, and noted that a lot of this discussion involved areas where police respond to crime, and she wondered how something like this would work in the villages. Brenda said that all law enforcement officers have a duty to give information on where to get help to DV victims but she was not sure if that applies to VPSOs and VPOs. Kim said she would need to look at the definition of a law enforcement officer. Susanne said that in many cases there wasn't a VPO or VPSO at the village, so she wasn't sure how a victim would get connected to victim advocates if law enforcement officers are not there. Brenda suggested reaching out to VPSOs and VPOs to see how they give DV information to victims

Barbara Johnson said that she had travelled around several villages and noticed that there is a big gap in both services and awareness compared to road system communities. Very few people were taking advantage of services. There are informal safehouses that people know to go to. The experience in Fairbanks is very different. Tori said it would be interesting to see if things are improved by the micro-grants, and wondered what data would be tracked.

Brenda said it was always a challenge to know what resources are out there. Barbara Johnson said that each village is so different, and that sharing information can be a double-edged sword. This is something you'd definitely want to work with local partners on. Also, law enforcement is not always what victims want; often they just want to be safe, and want the conduct to stop. Brenda said that was something to keep in mind about the consent issue and post-offense outreach.

- *Improve interagency communications*

One thing mentioned in previous meetings was the need to have bail conditions communicated to law enforcement. This is currently being done in Fairbanks. Susanne explained that this was tricky to accomplish—for one thing, bail conditions change. Barbara added that the judges who impose bail conditions also need to agree to a standardized set of bail conditions so that the information can be transmitted electronically more easily.

Taylor said that you would have trouble just in Anchorage getting that kind of agreement. Judges don't like to be so constrained. But if officer don't have access to the bail conditions, they can't enforce

them. She thought this was key. She added that victims have difficulty getting notice of bail hearings where bail conditions are changed. It is also difficult to get victims notice of OR releases, or when people are released when their charges are dropped because they have been found incompetent to stand trial. It's also hard for law enforcement to find those things out.

Susanne said that the Fairbanks model started because local law enforcement wanted to access bail orders. They didn't want to arrest people without probable cause. So in the courtroom, clerks are entering the bail conditions, which required extra people to input the data—that was the biggest barrier. She believed they added one in-court clerk to every courtroom. Also, judges really want to craft conditions specific to the case. Barbara wondered if the standardized conditions could focus on just the ones that are necessary to law enforcement. Other specific conditions could be added to the bail order if the case warranted.

Susanne said that there was another system in Nome: the court faxes orders to the police department, and police department employee enters the conditions in a database. This solution was not quite as immediate.

Tori said there was a similar arrangement for the municipal cases in Anchorage, but she believed it was only for DV/SA cases. But she thought there were still problems with getting systems to communicate.

Brenda noted that there were standard conditions for bail schedule releases.

Kim said that the Department of Law's victim-witness paralegals do share information on bail conditions. That helps for victim knowledge but doesn't solve the issue of officers' knowledge. Tori said she was working with the Anchorage DA's office and Susie Frenzel on improving that link.

Brenda noted that tied into the recommendation to increase the number of victim-witness paralegals. She wondered if Law saw a need for that. Kim said that she could not speak for the Department of Law on that. Brenda said that she heard from victims that there can be a delay in getting those notifications from Law. Kim said she could get more information on what might help. Law is also dealing with turnover, just like other departments.

Susanne wondered if paralegals are already looking at the bail order, whether that might be a place to get that information entered into the law enforcement database. Kim said that was something she would need to think about; she could see some issues arising.

Taylor wondered if there was a way to just scan in the order directly. Courts don't always send bail orders over to the prosecutor right away, although the courts are moving to a paperless system. Scanning the order in would save in-courts time from typing. She thought a long-term solution would be to have a way to just access the information electronically, in the same way that information is available in the federal system. Kim said she thought that Kenai had maybe gotten there already; the court system and DA and law enforcement have a unified interface. Susanne said that was right, that Kenai was the pilot site for statewide e-filing. Taylor said she'd heard there were glitches. Sam said that Kenai has been doing better but is still struggling—the problem is information flow.

Brenda said it sounded like more information was needed about that project – maybe the solution was just a statewide database.

Brenda wondered how quickly victims get the information when defendants are released pre-trial. Mike Ramsay said that they are notified immediately as long as the victim signs up for VINE and the defendant's information is in ACOMS. Notification about whether someone has been released isn't contingent on any legal status, so it doesn't matter if the defendant is pre-trial. But anyone wanting notification has to sign up anew after every arrest, even if they have been registered for notifications for that person before.

Brenda said that it would be good to find out what happens when a suspect is released per the bail schedule. Susanne said she was under the impression that officers just take them in to a DOC facility to pay bail if a cash bail is required. Mike said he thought there should be a record in ACOMS.

### **Public Comment**

Amber Christiansen explained that she was the director of Native Student Services at UAA and that she would like to be on the mailing list for this group. She had heard the group's discussion about representation in rural communities, and she wanted to stress that importance. There was extensive need. There was one rural police force with officers who had all been convicted of DV. People are extremely likely to be sexually assaulted in villages. She was happy to support the initiatives in this workgroup and to make connections to rural communities. Brenda thanked her and said she was welcome to participate.

Kate Hudson of the Violent Crimes Compensation Board said that she would be resigning as of next week. The VCCB is moving to Anchorage.

### **Future Meetings and Tasks**

Brenda noted that March 25 and May 6 were the next scheduled meetings; hopefully these recommendations could come together in that time and then get sent out to the rest of the Commission after that.

Alaska Criminal Justice Commission  
**Victims' Rights and Services Workgroup**

**Meeting Summary**

**Friday, November 15, 2019, 10:00 a.m.**

Alaska Mental Health Trust and Teleconference

Commissioners: Brenda Stanfill, Sean Case, Steve Williams

Participants: Mike Ramsay, Brad Myrstol, Avi Sloane, Troy Payne, Regina Largent, Taylor Winston, Michelle Evans, Charlotte Rand, Susie Frenzel, Ingrid Johnson, Alana Marquardt, Al Wall, Sam Duke

Staff: Barbara Dunham, Staci Corey

**AJC Handbook and Other Materials for Victims**

Commissioner Brenda Stanfill explained that there were several types of informative materials given to or available to victims, such as the victims' handbook from the Alaska Judicial Council from 2001. She also knew that the Anchorage Police Department (APD) has a little blue handbook for DV cases. Some part of that is read to victims when officers respond to DV calls.

Barbara Dunham, project attorney for the Commission, explained that she hadn't been aware that the Judicial Council's handbook existed, even though she is employed by the Council [the Judicial Council staffs the Commission]. She thought it contained some useful information although it was a bit lengthy and would need to be updated with new contact information. The Office of Victims' Rights (OVR), for example, did not exist at the time of publication. She wondered whether the group thought it would be worth updating or going in a different direction.

Susie Frenzel, Victim-Witness Program Coordinator for the Department of Law, said that Law also has a handbook with even more information, as well as separate pamphlets for things like domestic violence (DV), consent, and safety planning. All of this information is on their website under the "victim resource" tab.

Michelle Evans, victim advocate with Victims for Justice (VFJ), said she worked with APD's homicide unit to update their handbook for victims of homicide, which APD hands out to families when they respond to homicides. They have copies in the VFJ office too.

Taylor Winston, executive director of OVR, suggested that the Alaska Network on Domestic Violence and Sexual Assault (ANDSVA) and Standing Together Against Rape (STAR) may also have brochures or handbooks.

Brenda suggested pulling everything available together to see what was out there; it sounded like Law's website might be the most complete.

Susie said Katie Tepas had also sent the Department of Public Safety's (DPS) blue book to Law to update, which may be same thing as APD's blue book. Brenda asked Commissioner/APD Captain Sean Case who APD gave the little blue books to. Sean, who had brought a copy of the blue book to pass around



said they were given to all DV victims and maybe stalking victims depending on the case. Taylor noted the book he brought needed updating.

Michelle said that the Anchorage DV/SA task force updated the little blue book in 2019, but the officers didn't like it because it was too large. They are now already revising it. Brenda asked if the new version would be smaller. Michelle thought that was one of the things they were looking at. Sean explained that officers already have a lot to carry and having something that fits in a pocket works best.

Ingrid Johnson from the UAA Justice Center said that advocate Lisa Alana in Nome has a comprehensive list of local resources for Nome as well as statewide and national resources. She includes survivor and advocacy groups and updates it on a regular basis.

Brenda wondered if any victims use 211 or if advocates ever use 211. Taylor said OVR typically refers people to victim services directly, but for other types of services, will refer people to 211.

Taylor said that she would like a list of citizen activist groups or grassroots support groups, as victims often ask OVR staff what they themselves can do to help other. A lot of victims don't know how to have an impact, and individually they are not as powerful as a group. She thought it was helpful for victims to feel like they were making a difference. Barbara noted that the keynote speaker at the Council on Domestic Violence and Sexual Assault (CDVSA) conference that week had mentioned conducting a survey of victims regarding what helped them to heal; the victims surveyed all had varied responses but all mentioned activism, organizing or helping others as being something that helped them heal.

Taylor agreed, saying she advises victims of violent crime to try to find a way to improve the system or improve things for another victim as a means of using their emotional energy in a positive way. Working with other victims in this way also functions as a support group.

Al Wall, deputy commissioner of the Department of Health and Social Services (DHSS) said that CDVSA also has a comprehensive list of resources for victims. Brenda said that Diane Casto, executive director of the CDVSA, would be able to provide that. Al said that DHSS also has a list of resources online and in print of grantees that do mental health work.

Susie said that she and Mike Ramsay upgraded VINE to include information on service providers, so that victims have a link that information when they get VINE notifications and can use the information to find services. They are trying to get the word out to get other agencies and services so that the notifications can link people to all available resources. Brenda suggested sending Barbara an email to get something out to the workgroup's email list.

Brenda wondered whether there were any brochures or resources for victims of property crime. Taylor said that every law enforcement officer should be handing every victim of every felony one of OVR's brochures. OVR is one of the only places for property crime victims to go. They tend to fall through the cracks and treated as if their situation isn't important. For the people affected, what happened to them is important, especially things like a home invasion. Items taken can have sentimental value. In cases involving car theft or where a car is held in evidence, the victim loses their means of transportation, which can be particularly frustrating when cases drag through the system. The Violent Crimes Compensation Board (VCCB) doesn't help property crime victims. She thought there should be more awareness as to what property crime victims go through. She understood that violent crimes presented more of a personal safety issue, but people who commit property crimes also commit violent offenses.

Brenda asked what services OVR offered property crime victims. Taylor said that they provided the same services as they would to any other victim: representation in a criminal case, help them find out

what's going on with an investigation, helping them understand the process, and advocating for criminal charges to be filed if they haven't been. They can try to help them get property held in evidence returned (for all crimes) and help them get restitution.

Regina Largent, staff to Senator Hughes, asked if getting property held in evidence back involved their attorneys filing motions. Taylor said that was the case. Regina wondered if a legislative change might help. Taylor thought that legislative and court rule changes might help. Sen. Dyson helped push through a return of property bill a few years ago, which was starting to be used more. Taylor knew of one victim whose car was in evidence without any charges being filed for 5 months; OVR requested a hearing on it. The problem for the prosecution is that they want to avoid a *Thorne* instruction, which allows the defendant to argue that evidence lost or destroyed should be presumed favorable to the defendant. But with pretrial delay, it can seem to the victim like the evidence is kept forever.

Taylor recalled a case from when she was a prosecutor in which a woman had her car stolen from the shop where it was being worked on, it was used in a series of crimes including a homicide, though no one was ever charged with theft. The car sat in evidence for five years, and she was making payments on it for that time. Since no theft was ever charged, the woman was not even technically considered a victim of crime.

Brenda asked group members to let Barbara know if they know of other brochures or handbooks available for victims, and said the group would review all materials pooled together.

### **Violent Crimes Compensation Board Overview**

Michelle explained that VFJ, CDVSA, VCCB and the Council of State Governments' Justice Center have all partnered to be proactive to get victims information about VCCB's ability to help. In 2020 they will be rolling out training opportunities for anyone who assists victims, including schools, hospitals, and faith communities. They will try to get basic information on the VCCB to the larger community first, and then the next phase will be to reach out to individual agencies to go more in-depth.

Michelle said she brought some flyers they have developed for the project, which spotlights missed opportunities to help victims. For example, over for over 4,000 aggravated assaults reported, there were only 108 applications to the VCCB for assistance following an aggravated assault. Over a thousand rapes were reported with only 161 applications to the VCCB for assistance following a rape. On the other hand, there were 47 murders reported with 111 applications to the VCCB for assistance following a murder (usually there is more than one victim eligible for assistance following murder, as victims in this category include immediate family).

Brenda asked if the VCCB was successful in spreading the word and a thousand or more additional victims applied for assistance, whether that would affect the VCCB's funding. Alana Marquardt with the VCCB said yes, they would need more funding. They currently receive a mix of federal grants and state funds.

Alana gave an overview of the VCCB. She explained that each state has a compensation program like the VCCB to alleviate the difficulties victims face. Now in its 47<sup>th</sup> year, the VCCB give financial assistance to victims of violent crime to cover things like medical and dental expenses, lost wages, funeral costs, cleanup costs, childcare, and costs associated with trial attendance. They can pay out up to \$40,000 per victim per incident, or \$80,000 if there are multiple immediate family members of a deceased victim.

The crimes for which they will provide compensation include murder, manslaughter, criminally negligent homicide, assault, kidnapping, sexual assault, sexual abuse of a minor, robbery, driving under the

influence, and arson, as well as federal crimes. The crime must have occurred in Alaska, must have been reported to a law enforcement officer within five days, and the victim must cooperate with law enforcement and prosecutors. Victims typically need to make a claim for compensation within two years. Victims must not have contributed to the crime, something determined on a case by case basis.

Alana said that in the last fiscal year, the VCCB received over one thousand applications from 95 communities, dispensing over one million dollars. That number is still much lower than number of victims who report crimes each year. Law enforcement agencies are required to inform victims about the VCCB, and hospitals are required to display information on the VCCB. Their collaboration with the other agencies Michelle mentioned was an exiting opportunity to spread the word further. Often victims are not aware of the VCCB and hopefully this increased effort will mean more victims will contact them. They were also working with IT to get more of their information online, and were hoping to provide more web-based services.

Alana said the VCCB also had some statute changes in the works, which would, among other things, add stalking to the list of crimes covered, and expanding the reporting timeframe. The board does sometimes waive that timeframe already.

Brad Myrstol, director of the Justice Center at UAA, wanted to know about the background on the five-day reporting requirement. He thought it might explain why so few sexual assault victims applied for assistance. He also wondered if there needed to be a legal finding of guilt for the VCCB to compensate people for their loss. Alana said that the crime doesn't have to be charged or a defendant convicted, though it does have to be reported. They often use the police report to determine eligibility. The reporting time frame requirement was at least a decade old, and none of the present staff were around when it was instituted. She agreed that it was problematic for DV/SA cases, which was one of the reasons they were trying to change the law. The board can currently waive the time frame on a case-by-case basis.

Al asked who, in the case of murder of manslaughter, would be eligible for compensation. Alana said eligibility was restricted to immediate family: spouses, children, and siblings, although the board can also extend eligibility to grandparents and grandchildren on a case-by-case basis.

Regina asked what would happen in cases where parents were not engaged or did not apply for compensation on behalf of a child victim. Alana said the board wouldn't disadvantage a child victim if the child's parents were not cooperating. Guardians can apply on behalf of children. The VCCB is a payer of last resort, so if a child is in OCS custody, OCS might have to pay for what they can first.

Taylor asked if, after compensating a victim up front, the VCCB then files restitution claims from the defendant on a routine basis. Alana said the VCCB had been filing restitution claims for about ten or eleven years now. It depends on when they get an application; if the case has already been disposed, then it's too late. After each board meeting, staff will look through all cases that have been approved for compensation to see whether they were disposed, and if not, they will submit the restitution request.

Taylor asked if there was a way for applicants to access their claims to see their status. Alana said a limited amount of information was available on their website, though not much is visible. Taylor said what was available now was often helpful but sometimes it would help to also see the specific amount awarded so that when a victim asks for additional compensation via the restitution process, the court will know how much they would already be receiving so the restitution order does not overpay.

Taylor asked if someone from Alaska was harmed out of state, whether the VCCB would cover that. Alana said that was among the statutory changes they were asking for. Those cases are rare—they would cover cases where the harm occurred in a country without a compensation program. The board has

already approved such a case two or three times ad hoc. Regina asked whether that bill was already drafted and if they were working with a legislator. Alana said they were, it was in the process of a Department of Law review.

Barbara asked what the board meeting process was like. Alana explained that her job was to look at the applications and check eligibility requirements, look into possible reasons for waiving the requirements, gather any necessary information such as receipts, summarize the crime and the victims' expenses, and make a recommendation to the board. The board meets six to seven times per year to decide on applications received since the previous meeting. Alana said staff felt this wasn't really enough meetings and were trying to push for monthly meetings. They can meet telephonically now. One member lives in Fairbanks, and the other two live in Anchorage. They try to meet every 45 days, but their last meeting was in October and they won't have one in December. They have been hearing concerns that the board does not meet often enough.

After the board makes its decision, the finance department gets its payments out in about two weeks. They can pay to creditors directly if the victims have already paid up front. Victims who are denied can file an appeal within 30 days to an administrative law judge. The judge then writes a recommendation to board, and the board then makes a final determination at its next meeting.

Brenda asked for typical reasons why people would be denied. Alana said denials would be based on things like health expenses already being fully covered by insurance, or evidence that the crime did not occur. In the latter instance the board will usually give the victim the benefit of the doubt.

Brenda asked how they evaluated the requirement that victims cooperate with an investigation. Alana said that she knew that requirement was contrary to what is commonly known about DV victims, and was something the board struggled with. If they hear from law enforcement that the victim has asked for the case to be closed, that would be a reason. Or if the victim recanted.

Brenda asked whether a DV victim could be denied compensation if they request contact with person who did harm. Alana said they might, though it would depend on the nature of the contact requested. Brenda asked if they would follow up with the victim on that. Alana said that in some cases they would reach out and tell the victim the board might deny them because of the information they have. If they get new information the case doesn't always have to go through the appeal process if there is a good reason for reconsideration—appeals take a long time, and it is an intensive process. The board doesn't always get whole story initially. If a victim follows up after a claim denied, the board may just take it up at the next meeting.

Taylor asked whether the board would look at whether the victim posted bail for the offender. Alana said they would. Sometimes when they follow up on that they find that bail was not actually posted. They will take the victim's word for it.

Brenda asked how intensively the board reviews the application packet after the staff make recommendations. Alana said the board members get a packet about two weeks before their meeting with a narrative and payment summary. Typically the board agrees with staff recommendations, and sometimes they will follow up with email questions. Sometimes they like to see medical records, or proof that lost wages were connected to the crime.

Brenda asked how often, once a determination is made, the notification to the victim gets returned as not delivered. Alana said maybe 10-15% of their correspondence was returned as undeliverable. Sometimes a victim's phone or address will change. If they were staying at a shelters, there's no way to follow up if the victims is no longer there. They have been wanting to do their notifications electronically.

They now have an online application through myAlaska but it is clunky; they want to overhaul their system so everything can be submitted electronically. They just got a VCCB cellphone and are hoping to use text more often; that way victims can send pictures more easily.

Brenda asked where the applications come from. Alana said the largest portion, about two fifths, of the applications are from Anchorage, followed by Fairbanks. The rest was spread out throughout the state. They did receive applications from smaller communities, and received applications from 95 different communities last year. She believed the volume of applications was at least somewhat related to local knowledge of the program. They recently met with law enforcement in Juneau; officers there thought the VCCB was only for DV/SA victims. They are hoping, as part of this new partnership, to present at the police academy. Michelle added that the VCCB also reports the number of applications by legislative district in its yearly report, available on its website.

Alana encouraged those present to follow up with any questions they might think of later.

### **Public Comment**

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

### **Sequential Intercept Model for Victims**

Brenda explained that the workgroup had decided to focus on improving communications for victims, and that to orient the group's thoughts on this she had asked Barbara to put together a sequential intercept model for victims. She apologized for the use of the word "victim", since some people don't identify as victims and/or prefer the word "survivor". But this helps with clarity. The group would walk through the model and at each intercept, identify what the group knew, what it didn't know, and possible solutions or recommendations.

Barbara explained that the sequential intercept model was developed as a way to look at interventions for criminal defendants and people who have been convicted; she had adapted it to look at the system from the victims' perspective as best she could. Steve said that the intercepts in the model were points at which you could potentially set up services or a diversion program for people who have come into contact with the criminal justice system. These points may or may not align with points where it would be appropriate to address the needs of victims.

The first intercept was Intercept 0/Community, looking at the period of time before a victim decides to engage with the criminal justice system.

Ingrid said that in the models of health context, people use the concept of problem definition. In order to report a crime, people who have experienced a crime need to identify the crime as something deserving of a response from the criminal justice system—that what has happened is a crime, and if the person reports, it will help them. It was a question of awareness.

Regina said there also might be cultural or social barriers to reporting. In some places in rural Alaska victims can be shunned if they report.

Ingrid said that some victims might rather seek justice outside the model we have, such as a restorative justice model, but don't have those other options.

Taylor said that on the flip side of that, some victims believe the criminal justice system is intended to be punitive, not rehabilitative. It is a general misunderstanding that may compound other issues.

Brenda said that the medical system is another intercept point, a place where victims go to get help for what happened to them—that would be another place to target communication efforts. Ingrid agreed, saying that was one of the primary ways to identify whether violence occurred.

Brenda asked what we don't know—what do victims need? Ingrid said that was something UAA will try to get at with the next Alaska Victimization Survey (AVS) next year. The survey is limited only to adult women but will be collecting generic information on reporting, asking things like whether the respondent reported the crime, and if not, why not. Taylor asked whether they would also be asking the people who did report whether they would do so again. Ingrid said they would, and they would also ask whether they accessed shelter, legal assistance, and medical care, and how satisfied they were with those services.

Brenda wondered whether property crimes were as underreported as other crimes. Ingrid said that national data show the most-reported crime was motor vehicle theft at 75% (probably because of insurance). For other crimes, the reporting rate is around 50%.

Barbara wondered whether there was a statewide list of what services were available where, and whether 911 or another number was the emergency number in a particular area. Brenda said she wasn't sure, and that could go on the list of things we don't know. She did know that more services are now available with more federal money coming into the state. The native women's coalition would know more about the federal side of things. Taylor said it would also be good to know what services are available when things are dealt with in tribal courts. Susie said she knew that Kim Stone from the Department of Law worked on state-tribal agreements, and could follow up on this too.

Brenda asked the group to share ideas for possible solutions at this intercept. She thought that raising public awareness was important. Barbara noted that was a theme that came out in responses to the victim's survey—people were not aware of what services or help was out there.

Taylor said that service providers on their own all do what they can. She noted that April is a big month for violence awareness: there could be a concerted effort in that month to raise awareness about services for all crimes, on radio, TV, letters to the editor, etc., to get the word out as much as possible. Brenda said there were mini grants available for this already. Michelle noted that VFJ had received some grants for this purpose, but it would be great if it became something bigger.

Regina noted that every rural community has radio access, and thought there could be a whole series of PSAs.

Susie thought there should also be more direct outreach in smaller communities, so that messaging went not just to leaders, but many key community members—people will listen to messaging from people they know.

The next intercept was Intercept 1/Law Enforcement, looking at what happens once a crime is reported to law enforcement.

Sean said that the system we have now is essentially one in which a cop shows up, files a report, and goes away. After that, people tend to call the officer or agency who responded, as that is who they've been in contact with and who comes to mind. Law enforcement needs a better way to connect victims to victim services. Cops on the street don't have time to answer calls and email if most of the time, they are out on a call. The booklet is typically not useful. They also have a challenge CJIS (confidential) information and sharing that with non-governmental bodies. They need a way to loop back around to those victims after

the initial call. Sometimes the information they need is best presented at the time of the call, but often it's not.

Susie said she and Charlotte had been going around and talking with community organizations, and they often hear people ask for a victim service provider or advocate to be embedded with law enforcement, something like what the FBI has. In that system, the service provider is an employee of the FBI.

Sean said that APD was in the process of trying to get someone from VFJ embedded with them. One issue was that there are laws about what information they can share. They currently have social workers embedded and would love to have a victim advocate embedded too. It would be better for officers, and victims will have someone else to contact.

Taylor said she had also heard that embedding an advocate is a positive thing. She wondered how to get officers to hand out OVR information to all victims who qualify for their services. She said APD had never asked for OVR brochures or cards. Sean said all patrol officers work for him, so he would tell them to do it.

Taylor noted that sex offense victims get a lot of support. In that arena, law enforcement has been good at developing relationships with other providers. Brenda agreed and said that the SART model is a good example of what can happen with you merge advocacy, medical, and law enforcement personnel. Often the victim develops a relationship with the advocate right away and knows who to call.

Brenda explained that in Fairbanks, the troopers used to send victim information (with their signed consent) to advocates. That system worked well but was apparently against the law. Having the ability to reach out was key—it was a way to reach out to the victim rather than have the victim reach out to advocates.

Sean said that one problem with getting information to victims is that often the law enforcement case is pending, and victims don't have access to that information while the investigation is happening.

Charlotte agreed that SA victims get a lot of attention but noted they also have a lot more going on. She thought having an embedded advocate was a great idea, and wondered what it might look like.

Sean said that not every agency will agree to it, but he has found that embedding has always been beneficial for both sides. An embedded advocate would have access to the police department, probably at the sergeant level. They would probably be on the receiving end of "you're not investigating"-type calls, and would be better able to respond to those. The embedded advocate would be able to develop a relationship with officers and could relay information to victims. He also thought it was beneficial to get advocates in the field.

Sean explained that officers arriving on scene have more of a focus on victim needs for DV and sexual assault cases. For DV cases, they know they will have to make a mandatory arrest, and for sexual assault cases, they are a "big deal" requiring a lot of officer attention. In other cases, officers arrive on the scene and focus on putting a case together. An embedded victim advocate would have a different focus.

Regina said that it might impact the discovery process if an advocate was embedded within the department. Sean said that APD was getting legal advice on that.

Brenda said another model was to have an advocate on an on-call basis; the officer would call in the advocate to wrap up things for the victim when the officers were almost done at the scene.

The next intercept, Intercept 2/ Pretrial, dealt with the later investigation and arrest (if this was not done immediately, pretrial hearings, and potential bail release for the defendant.

Brenda said this was the area that victims don't know a lot about. She asked if law enforcement officers typically notify victims when an arrest is made or not made. Sean said generally not, unless it was a more serious case involving a detective, then it might be different. But generally there is no follow up with the victim.

Taylor said that victims have a right to participate in bail hearing. Sean said that officers will particularly explain this to victims of DV crimes and ask if they want to participate. Otherwise no one is notifying victims of a right to participate.

Brenda said it also sounded like there was a gap when someone was released pursuant to the bail schedule; victims are not notified if someone bails out after initial detention without a hearing. Taylor said the victim still has a right to be heard even if the bail schedule applies. She has raised the issue of the right of a victim to be heard before any bail release, including bail schedule release. It seemed to her that her concerns were ignored because getting the victims input for releases pursuant to the bail schedule was seen as inefficient. But nevertheless it was a constitutional right.

Brenda said that another big gap is that bail conditions are not available to law enforcement officers. Law enforcement has access to these conditions in Fairbanks, but that was the only place she knew of—this seemed to be both a gap and a solution.

Michelle said she thought they were doing this in Anchorage. Taylor said that the municipality has someone in the prosecutor's office who will enter bail conditions for DV cases. In cases where officers don't have electronic access to that information, there is a paper copy of the order the victim might have, but she knew of cases where the officer didn't pay attention to the paper copy the victim had. She thought the bail conditions should just be made public.

Brenda wondered whether, if a case is assigned to pretrial enforcement, PED connects to the victim. Mike Ramsay, from the Victim Service Unit at DOC, said that if a victim's information is on ACOMS, they should be making contact; he could look into it.

Steve noted the group had been talking about a lack of awareness about what the criminal justice process is. He noted that it applies not just to one type of case. He thought the group might think about what needs to get communicated and when, and who would communicate. Also how – paper? Electronic? Also most of this discussion has been reactive—he thought the approach could be proactive, a public health approach.

Taylor noted that the idea for an awareness month in April that she mentioned earlier would be a PSA campaign targeting everyone, not just victims but also anyone who might be victimized in the future.

Brenda clarified that today's discussion wasn't just for victims of DV or sexual assault; the points at which people noted there are more services for those victims were meant to highlight that such services should be expanded to other victims.

Troy Payne, professor at UAA, said he will spend 15 weeks explaining to students what the criminal justice process looks like. He thought Steve made a good point—different people will need different layers of information. Communication efforts should also account for trauma. A trauma-informed approach will need to communicate ideas multiple times. He thought it would need to be a combination of public education and specifically delivered information to someone who needs it.



Brenda asked when the Department of Law usually contacts victims. Susie said they try to do so before usually bail hearings and arraignments. The victims can choose whether to opt in to VINEWatch – advocates and law enforcement can use the service too. As soon they as can contact a victim, they will offer the service to them. They have a flag in their case management system if someone is registered for VineWatch or has been offered it. Michelle said she found the Anchorage office to be very responsive when they reach out to register victims or/check if a victim is registered. Taylor agreed.

The next intercept discussed was Intercept 3/Trial/Sentencing.

Barbara explained that HB 49 had changed the law to require that judges estimate a defendant's release date on the record at sentencing. Regina explained that Sen. Hughes had proposed this change; judges would have to state the earliest potential release date. Barbara said she was not sure whether judges were complying with this new requirement.

Brenda asked who notifies victims about sentencing hearings, noting they were often not timely. Susie said the Department of Law was responsible, but change of plea hearings can often happen very quickly, sometimes 24 hours after they are requested. Taylor agreed, noting that a case can be dragging, then a change of plea is suddenly set—usually courts only catch/account for victim participation if OVR is participating on the victim's behalf. Courts are just not asking that question.

Taylor said that another problem was off-record continuances—victims don't know when they're coming. For example there was a homicide sentencing set for this month. The victim wanted to know if this hearing was really, because the victim wanted to prepare a statement, and warn the rest of the victim's family. The prosecutor had told the victim that the prosecutor heard the defendant want a continuance. OVR had to file motion to figure out whether this was true. Taylor suggested that one solution was to require all continuances to be in writing, not just in email, but to go on the public docket.

Susie said another problem Law runs into is changing victim phone numbers; if a victim's number changes, they can't contact the victim. If the person is staying at a shelter, they can try to call the shelter and leave a message. They do make paralegals show their work (i.e. what steps they took to try to contact the victim). Their last resort is the last known mailing address. Having more victim/witness paralegals would help.

The next intercept was at Intercept 4/Detention/Parole, looking at the period during which a defendant is incarcerated.

Mike said that DOC does contact victims for parole hearings, and victims can attend on the phone or in person. DOC will send out a victim notification form, and the victim can use that to check what things they want to be notified about. DOC determines the identity of the victim from the police report, and the victim's information is entered in ACOMS. In cases of homicide, this is done for the next of kin. It is the victim's choice to fill out the form to get notifications, and to get VINELink. If the victim has not been automatically entered in the system, they can call the victim service unit and they can put the person in the system. They will also contact people signed up through VINE to see if they got the notification form and offer it again if not.

Brenda asked if VINEWatch will continue after trial and sentencing. Susie said that Law will offer to turn it off. Taylor added that if the victim chooses to continue with VINEWatch they will get notified of any post-conviction hearings but won't be automatically linked to VINELink to get notified of parole hearings, escapes, etc.

Taylor said that for the most part, DOC is good about notifications. But one issue was that victims will get “week of” notifications for parole hearings and won’t get the exact date and time until much closer—she didn’t understand why it can’t be a set time and date at the first notification. She thought there would be more victim participation in parole hearings if there was more certainty.

Brenda suggested that advertising the existence of VINELink might be something to include in the PSA effort. Mike said he had VINELink brochures and materials to pull from.

The next intercept was Intercept 5/Community Supervision, looking at what happens when people are on probation and/or parole.

Barbara explained that HB 49 instituted a new requirement that DOC notify victims that they can get a civil protective order once any court-ordered condition of probation that operates as a protective order expires. Mike said that probation/parole officers will have contact information for victims. They will have a checklist to complete to make sure they are following all requirements.

Taylor said that restitution is a big issue for victims. POs are supposed to make payment plans for restitution. She thought it was something that needs more attention and/or oversight. Mike agreed, and said there have been complaints. DOC’s policy is that POs should do the payment plans. Barbara noted that people convicted of misdemeanors are not actively supervised by a PO, so there is no one setting up payment plans for them.

Taylor said there were inherent problems about restitution; it has to be filed at the right time within the case, and there are also deadlines for PFD garnishment. She thought there should be more checks on that system to make sure that process was working well. She had a client who would have to wait another whole year to get restitution because the order didn’t get to the right people at the right time. Susie noted that it was difficult to get information from the courts about restitution.

Barbara said she believed there were only 1.5 FTE’s at the court system devoted to restitution collection services. Taylor thought they needed more; the court needs more resources to ensure that restitution order is completed well and given to the restitution department. She knew of situations where the court orally orders one thing and the written order is different.

Taylor explained that there was a 90-day window to ask for restitution post-sentencing, and she thought there was more that everyone involved could do to follow up with victims. Susie said that Law’s paralegals are trained to have that conversation early on with the victim, and to explain that if the victim doesn’t have documentation, it can’t be submitted to court.

Brenda thought of a question for Intercept 1: If a case is not accepted for prosecution, how are victims notified? Susie said that if law enforcement makes the decision, their office does it; if the case has been sent to a DA, the DA’s office will do it. Taylor said that victims don’t necessarily have a say in the decision to go forward. OVR will get involved if a case is declined, and can sometimes get a case reopened.

Brenda asked if it notification was done by phone. Susie said it was, though they notify the victim in person if it is a sex offense.

The next intercept looked at the long term needs of victims.

Brenda said that cases that go on for a long time with a very marginalized victim often result in the victim getting labelled as a “bad victim”. Also, advocacy agencies are crisis-oriented and not focused on

long term needs. Housing is very important. Agencies and organizations can't communicate with a victim if the victim has no housing.

Barbara said that there are some resources out there—there just needed to be communication about them.

Charlotte said that in some cases, a restorative justice approach might be better or more appropriate for some victims.

Brenda said that some regulations, like those governing the VCCB, can be adjusted to meet long-term needs.

Taylor said that at some point in the process, someone needs to bond with the victim. Even people who have been marginalized who feel valued, and have a good person to contact, will be reachable. That kind of connection requires time and energy. The human aspect will keep them connected, and more trusting of professionals.

Susie said that Law wanted to see service providers come to the Department, perhaps for a monthly teleconference training, as a way to put word out about what services are out there.

Brenda said that at the last meeting, the group had been talking about creating a victim navigator—the issue of human connection has come up at every point. This group could perhaps build on VFJ's work with APD, and maybe come up with a pilot project.

Michelle said that VFJ was also working with CDVSA and UAA. Even if they can embed an advocate, they can't serve everyone. But they can connect and follow up. They are partnering with UAA to do a study on how it will work.

Brenda said she would be interested in finding data on victims of property—what makes them feel better. Taylor said getting their stuff back, and restitution would be a start. Property victims also get frustrated at not being heard. Brenda said the group would also follow up with restitution.

### **Future Meetings and Tasks**

Barbara noted that the next meetings for this group had been scheduled for February 5, March 25, and May 6. Brenda said the group would stick with those dates. She wondered if the group wanted to try to get something done for this session or the next. Taylor suggested taking the time to really think about a recommendation and get something done for the next session. Susie agreed.

Michelle asked whether the Commission was still getting survey responses. Barbara said they were still trickling in; the survey is still open. Staff was also working on compiling an agency-specific summary of comments that would be useful/pertinent to that agency.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup

**Meeting Summary**

**Wednesday September 25, 2019, 10:00 a.m.**

Denali Commission Conference Room  
410 L Street, Anchorage  
And Teleconference

Commissioners present: Sean Case, Shelley Hughes, Brenda Stanfill, Joel Bolger

Participants: Taylor Winston, Sam Duke, Tory Shanklin, Buddy Whitt, Michal Bowers, Bill Morse, Mike Ramsay, Angela Pointer, Kim Stone, Barbara Johnson, Lauree Morton, Kate Hudson, Geran Tarr, Jackie Boyers

Staff: Susanne DiPietro, Staci Corey, Barbara Dunham

**Pretrial Delay**

Justice Bolger provided the group with some background on the issue of pretrial delay. This has been a concern for as long as he has been with court system. The Supreme Court has adopted time standards for how long cases should take to resolve: 75% of felony cases should be resolved within 120 days. He didn't know if the court system had ever been able to meet that standard.

The Criminal Justice Working Group (CJWG) has been working on this issue over the last few years. One issue driving delay is the timeliness of discovery. In 2013 the CJWG began looking at ways to make that process faster; an experimental project in Juneau tried out an electronic discovery system, which was expanded statewide.

In 2014, the group started to tackle delay itself. Everyone recognizes that pretrial delay causes harm to victims, but it also increases the prison population. In 2014, pretrial defendants made up an increasing share of the prison population.

Since he became the chief justice in 2018, he has been discussing this issue around the state. There are no easy solutions. Delayed discovery is a major issue. Some law enforcement agencies don't prepare discovery right away until case is certain to go to trial. Late discovery disrupts trial schedules.

Another major issue is defense counsel being prepared. The public defenders have crushing caseloads, especially with regard to felonies, which require the most skilled attorneys. Judge MacDonald's order reflects a frustration that is characteristic of high volume courts around the state. Places with lower volume are better able to speed up trials; those places also seem to have more cooperation between agencies and the judges are more able to be firm about going to trial. It is more difficult to maintain an efficient pace with large backlogs and high caseloads.

Justice Bolger concluded that pretrial delay was a concern of the court system, and he would definitely approve of efforts to fix it and would welcome any ideas to do so.

Judge Morse explained that about two years ago, the defense bar, state agencies, and victims' rights representatives came together to try to tackle pretrial delay. He issued an order last October that was intended to address certain problems. One problem identified was that there were a lot of non-substantive calendar hearings, which were typically nothing more than continuances and a waste of everyone's time. His order tried to eliminate those as much as he could.

He also made changes to the pre-indictment process. After a person has been arrested, they are assigned an attorney, but the establishment of trust between defendant and attorney takes time. Attorneys have difficulty getting into prison and getting adequate time in prison with their client. They need time for that and time to receive and review discovery to give their client informed advice. Most felony cases get resolved prior to indictment—at least two thirds are dismissed, have the charges reduced, or have a change of plea—but the parties can't get to that point until discovery is complete.

Anchorage used to have Tuesday and Thursday pre-indictment hearings (PIHs) involving many cases at a time. Essentially, it was an expensive way to arrange attorney-client meetings. His order changed the schedule to one PIH per week, and allowed continuances by email. That change has freed up some lawyer time, but case resolutions have not necessarily sped up.

Judge Morse noted that a court rule requires trial dates to be set at arraignment. Everyone working in the criminal justice system knows that the date set at arraignment will almost certainly not be the actual trial date, but that isn't widely known among the public. Any substantive motions stop the clock. The date is continually recalculated.

The post-indictment process under the new order in Anchorage involves a discovery hearing, at which the parties will pick a trial month, and commit to get the case tried within that month. The hope with that system was to minimize the numerous trial-setting conferences which allowed the parties to kick the case down the road. The new rule has freed up clerical staff and it is now simpler to calculate the speedy trial date.

There is now one pretrial conference a couple weeks before the set trial month. The parties can bring up any problems at that conference. One problem is witness availability. There are issues with getting police officers to trials, though that is no one's fault. There were more cases resolved this year than last year.

Judges in Anchorage are trying not to allow continuances, but there are still problems. Late discovery is still happening. (A lot of camera footage gets collected haphazardly, for example. The defense needs to look at any available footage to see if it's exculpatory. He reasoned that judges could try to set a cutoff date for discovery, but if late discovery is exculpatory or inculpatory, not allowing it in would create an injustice.

Another aspect of pretrial delay related to caseloads. Attorneys working for the Public Defender Agency, the Office of Public Advocacy, and the Department of Law are all under enormous pressure. They are in trial constantly, which is not sustainable. They simply can't do four murder trials back to back. Often they get burned out; sometimes they quit. Maintaining adequate staffing in Anchorage and in Bethel is particularly difficult. The Kodiak public defender office was cut down to one person who had to do everything from answer the phones to making bail motions, and had no time to prepare for trial.

Judge Morse gave the example of a sexual assault case in which the defendant refused to waive rule 45. The defense attorney said they were totally not prepared, and couldn't do it. That was a very skilled lawyer who had only been able to work on the case for 15 hours in one year. The judge said the defendant could enforce his rights and the case is currently at the court of appeals. There were, however, two rights at stake, and the question was which trumps—the right to a speedy trial or the right to an adequate defense? It was unclear how much judges can push lawyers who are not ready.

Taylor Winston wondered whether, since the new PIH order, Judge Morse had been able to sit down with the agencies to see if it was working. Judge Morse said he hadn't though he had made it clear that he wanted that feedback. He said he was willing to meet with the defense bar noted that Judge Easter was also meeting with the line practitioners.

Taylor said she would coordinate a meeting with the defense bar as she felt she had seen some abuses. She had also spoken to Judge Easter, and had viewed some of the trial calls and discovery hearings. Unfortunately the discovery hearings were not working as intended. She attended some in Judge Saxby's courtroom, where there were 80 hearings on for that day—basically the same old pretrial hearings. She had also observed the same old practice of one person from an agency office bringing a whole box of files.

Judge Morse said he had considered making those hearings optional, and agreed that number was ridiculous. He noted that all judges are different, and some are more lenient than others. It was a chicken and egg problem. The more that happens, the more time those hearings take, and the more attorneys don't want to go in person.

Taylor said it was also inefficient, since lawyers in rubber stamp hearings aren't doing substantive work. Fixing this requires behavior change on everyone's part—there has to be a will to change. Appreciate willingness to tackle problem. There was also the issue of discovery reports. They are still required, but nobody doing was doing them.

Judge Morse said he had suggested getting rid of them, but practitioners said they were useful, and they are just doing them via email. It was hard to get attorneys to change their ways. Taylor said she just wanted to highlight some issues because they might not get back to Judge Morse. She felt like the practitioners were falling back into old patterns. But she thought Judge Easter was doing a good job trying to keep things going. She thought moving trial call up would help, with a status hearing month before. Judge Morse noted that Judge Easter had just decided to move trial call up to the first week of the month before the set trial month.

Sean Case asked why there were more cases going to trial in Anchorage now. Judge Morse said he could think of several reasons anecdotally. There have been more murders, which typically go to trial. In sex assault cases, the—penalties are quite high so the defendant has more incentive to take their chances at trial. There has also been a recent rash of vehicle thefts, and the state is coming down harder on those cases so more are going to trial.

Judge Morse added that in Anchorage, the municipality handles misdemeanor cases, so new state DAs don't have the opportunity to learn on misdemeanors. Lower felonies are given to new lawyers who may be going to trial more. Public defenders were doing the same, and starting out with felonies is a hard ask for fresh lawyers, and can contribute to burnout. There was also the culture in the prosecutor's office and the amount of discretion given to lawyers. He thought they might have been more hard-nosed recently,

and there have been more acquittals in the last year, which really shouldn't be happening. Taylor noted that the prosecutor's office had a larger percentage of new lawyers and there is very little experience left there, meaning there is no mentoring on how to make screening decisions.

Justice Bolger explained that the court system has decided that no case should be postponed due to a lack of court resources. If a case needs to go to trial, the court system will find that case a judge and a courtroom. The court system wants to make sure that it's not the hold up. Judge Morse said that to facilitate this, civil judges and pro-tem judges will be assigned to criminal cases.

Rep. Geran Tarr asked why sex offenses seemed to go to trial more or take more time to resolve. Judge Morse said that when he started as a PD in 1980, the penalties for sex offenses were much lower. They have since increased a lot. Susanne DiPietro said they increased by about 200%. Judge Morse said that if the minimum is 20 or 30 years, for some people that is basically a life sentence, and they don't want to plead to that, even if the case against them is solid.

Taylor said she prosecuted sex cases for over a decade, and when she started first-degree sexual assault carried a sentence of 8 years; the sentence then went up dramatically over time. She supervised those units even after the sentences went up, and the DAs were still able to reach plea deals in plenty of cases. But people tend to burn out if that's their only caseload. The DA's office disbanded the specialty unit, but sex offense cases do require a certain level of training. Less expertise on the DA side incentivizes defendants to go to trial. She didn't think going back to an eight-year sentence would solve anything.

Sean wondered how Alaska compares to other states in terms of pretrial delay. Judge Morse said he didn't know. Justice Bolger said the court system looked at time to disposition in other states 20 years ago when it set the felony standard he'd mentioned previously.

Taylor said OVR would be launching a statewide investigation into pretrial delay, and would be looking at standards around the country, as well as case studies.

Susanne added that she'd looked at this when she worked at the court system, and found that staff turnover is big driver of delay. Defense attorneys find conflicts, attorneys might quit, and judges retire. When that happens basically the case has to start over so the new attorney or judge can get caught up to speed and do an independent review.

Judge Morse said that conflicts within the Public Defender Agency often occur because the PDA also represents people in child protection cases. In his view this was essentially an artificial conflict, and the legislature should do something about it.

### **Changes to Consent Law**

Rep. Tarr explained that there had been some discussion in the legislature last session on revising the legal definition of consent. She'd been asked to hold off on her efforts then, but since that time her staff has been working with Sen. Hughes' staff. She was also looking to do outreach to involve members of the community. Her office was hosting a public event on Oct. 10 with STAR; their staff would share their concerns, and the event would also try to engage the community. It would be a statewide teleconference.

Rep. Tarr added that this was something that she wanted to get right, and to think through any implications of changing the law. She welcomed questions, suggestions, and involvement from the workgroup members.

Sen. Hughes noted that her office was also working on this, and had been doing research. She also wanted to look at trafficking. She noted the problem raised by deputy attorney general John Skidmore was that lawmakers had to be careful, otherwise a changing the definition could capture people who shouldn't be captured. She noted other states were looking at this, and the Dept. of Law was going to issue a report.

Rep. Tarr said she thought the report had been sent out. One reason this was so exciting is that it will take a lot of stakeholder input to get it done. She was happy to work with Sen. Hughes and anyone else who wants to be part of the process.

### **Review of HB 12, HB 14, and HB 49**

Buddy Whitt, staff to Sen. Hughes, explained that he had offered at the last meeting to provide an overview of new legislative provisions enacted in the last session that affect victims. He'd brought a handout to summarize all the changes made by HB 12, HB 14, and HB 49.

Buddy explained that HB 12, sponsored by Rep. Chuck Kopp, was drafted in reaction to the case of *Whalen v. Whalen*, in which the Alaska Supreme Court ruled that a victim of domestic violence is unable to receive an extension or renewal of a protective order based upon the same incident of violence as the original order. HB 12 changed the statute to expressly allow for extensions, renewals, or subsequent protective orders under those circumstances.

The bill also changed the maximum length of time for protective orders for victims of stalking or sexual assault from 6 months to 1 year, and clarified that an extension or renewal of a protective order for victims of stalking, sexual assault, or domestic violence begins on the last day of the current protective order. The need for the latter change was brought to lawmakers' attention by ANDVSA, which pointed out the ambiguity in the previous version of the statute. HB 12 passed unanimously, and had an immediate effective date.

HB 14, sponsored by Rep. John Lincoln, was drafted to address the loopholes discovered as a result of the Justin Schneider case. Buddy highlighted two pieces: first, prosecutors must make every reasonable effort to confer with a victim concerning a proposed plea agreement before entering into the plea agreement, ask whether the victim is in agreement with the proposed plea agreement, and record whether the victim is in agreement. Second, the court may reschedule hearings on plea agreements as needed to allow the prosecutor to comply with the requirement to confer with the victim.

Susanne asked whether those requirements applied to all cases. Buddy said no, only felonies, sex offenses, and offenses involving domestic violence.

Brenda asked whether the law provided for any expectation as to timeline or procedure. Would prosecutors have to just call and if they don't reach the victim, just say they tried to call? Buddy said his understanding was that there was no procedure dictated, and that the Dept. of Law can decide how to define "every reasonable effort."

Michal Bowers asked if there were any definition changes. Buddy said yes, to the definition of "dangerous instrument," though he didn't go into that on the handout.

Buddy went on to explain that HB 49, initially sponsored by the governor, was the bill that effectively repealed and replaced SB 91. The Senate Judiciary Committee included several provisions that were not in the original bill, many of which were victim-focused. These included:



- Repealed the marriage defense.
- Made the safety of the victim an explicit consideration for judges in deciding on a defendant's release before trial.
- Created a presumption of a no contact order as a condition of probation for sex offenses and domestic violence offenses.
- Required prosecutors to notify the victim of a sex offense or a crime involving domestic violence if the offender is discharged from a pretrial treatment program for noncompliance.
- Required the victim notification system (VINE) to include information on the availability of protective orders for victims of stalking, sexual assault and domestic violence. Also, VINE will include information on victims' resources including the Council on Domestic Violence and Sexual Assault, the Office of Victims' Rights, and the Violent Crimes Compensation Board.
- Required that sexual assault examination kits be sent for processing within 30 days of collection and results must be shared with victims within 14 days. This originated with a bill sponsored by Representative Tarr that was adopted into HB 49.
- Required mandatory reporters to report if any harm to a child appears to be the result of a suspected sex offense and if so, shall immediately report the harm to the nearest law enforcement agency. Effective date is September 1, 2020 to allow adequate time for implementation of training modules and training itself. Training will be completed prior to the start of the 2020 school year.

### **Updates from Previous Meeting**

Mike Ramsay said that he had brought copies of DOC's policies and procedures, and DOC's Victim Rights to Notification form. He also noted that at the last meeting, the workgroup had discussed the possibility of changing the name of the VINE services to make it more clear what they do. However he had raised this with representatives from the national VINE organization and they were very opposed.

Mike also gave an update on HB 49. The funding for implementation was in place, and DOC was currently discussing the logistics of implementation with the national VINE organization. They were on schedule, and had not yet encountered any problems with implementation. They just need to make sure that the new verbiage added to the notifications is clear and concise.

Michal explained that HB 49 included a new duty for the Department of Law to notify victims when a defendant is discharged from pretrial treatment for noncompliance. This was being rolled out to paralegals, and Law would also discuss it at the paralegal and attorney conference in October; they will have special trainings on this.

Sen. Hughes asked how the treatment providers would know to notify the Department of Law. Michal said her understanding was that the treatment program would only be approved in the first place if it has a system in place to notify Law as required. They were still working through the details. She clarified that this was only required for substance abuse programs for pretrial defendants. Theoretically other types of programs would also be required to do this but there were not that many other types of program offered

pretrial. Buddy added that the statute did not specify the type of program that would have to comply with the law, but that it definitely only applied to pretrial programs.

Taylor said she had an update on Dan Sullivan's bill, SB 1959. It was not passed yet but would updating VAWA to provide federal money to the states to give victims legal help. The type of legal help covered would be broad: criminal cases, civil cases, divorce, custody, protective orders, housing, benefits, identity theft, domestic violence, dating violence, stalking, and sexual assault would all be covered.

Taylor had also mentioned at the previous meeting that she kept a running list of victim issues that OVR encounters at every point in the system:

- Pretrial delay: As Taylor mentioned earlier in the meeting, OVR was planning to do an in-depth investigation into this, although there was not a lot of staff time to spare on it.
- Off-record/oral motions to continue: Often what happens is a stand-in attorney appears at a pretrial hearing and asks for a continuance. The assigned attorney is not there, and often the other side has no objection, but no notice or consideration is given to the victim. It's hard on victims to show up to these hearings only to have nothing happen. This situation makes it hard for judges to be in compliance with the law providing that the court "shall make findings" on the record as to the victims' position concerning a continuance. In practice, the victim is not even part of the conversation, let alone the judge making findings on the victim's position.
- Timely return of property: Property victims are underrepresented. Advocacy organizations focus on DV/SA crimes, and rightfully so, but there is a lot of hardship for victims of property crime. For example there was a victim of a random shooting whose car had been seized, and the victim can't get their car back. The timely return of property would help victims' dignity, and reduce the cost of storage.
- Victim notification and constructive notice: Taylor said there were still issues with communication. She admitted that victims can be hard to reach; some don't set up their voicemail, their voicemail is full, or they've changed numbers. Sometimes VINEWatch has notification glitches.

Some hearings like bail hearings and changes of plea happen so quickly that victims are only notified an hour before the hearing. Victims can't be constantly on call. For bail hearings, 48-hour notice would be great. For changes of plea, 4-5 days would be ideal. In misdemeanorland things tend to move quickly. Prosecutors and judges forget about victim notification. The logistics can be tricky, and it's hard to put the brakes on proceedings if all parties are present in the courtroom.

There also needed to be a better system for calling in to hearings. There have been issues with not victims not being put on the line when they should have been. Often there are block hearings with many cases set at once and figuring out who is calling in for what is tricky.

- Restitution: There are difficulties actually getting restitution when it's ordered. The restorative justice act was a good step, but was still not funded, and it also needs amendment to reflect that Law no longer collects restitution. If funded, that bill would get money to victims up front, before the defendant is ordered to pay restitution. Sen. Hughes noted she was willing to work on this.

- Juvenile Justice: There is no timeline to resolve these cases like rule 45 in adult cases. Nothing moves the case forward, and serious cases are timing out.
- Victims' rights statutes: Statutes often use the language "if the victim requests," and Taylor suggested taking out that language. She thought it should be like a Miranda warning, that law enforcement should always have to explain what a victim's rights are and victims should be given option to opt out.
- Truth in sentencing: The sentence handed down by the judge is not what the defendant serves. Even if a defendant is given a lengthy sentence, parole, Nygren credit, EM, and home confinement can all reduce the days a person spends in prison. DOC was now tasked with giving victims information on this but it was not announced in public. Victims can feel like they're in a shell game if agreed to plea based on sentence.

Sen. Hughes asked if the amendment in HB 49 changed this: it requires the court to state the defendant's approximate minimum time served after parole and other considerations. She noted it was struggle even to get that. Taylor said she hadn't gone to court lately, and would look out for that. It was certainly a big step in the right direction.

- Bail: Victims have complaints about low bail in serious cases. Victims are surprised that people charged with serious crimes are released. If defendants are released OR or released by a magistrate at a middle of the night hearing, it is still bail, and victims have right to be heard for any bail hearing.

### **Public Comment**

Angela Pointer thanked the group for the opportunity to speak. Her son was killed, and trial hadn't started; she been dealing with this for a year. She did the Commission's online survey and decided to come to the meeting. She had no one to talk to, and was learning things on her own. She could relate to everything on Taylor's list. No one gave her any information when her son died.—she had to go find the information. There was no one to explain what to expect. She goes to court hearings and no one knows who she is. It is frustrating, and she leaves court irritable every time.

Taylor and Michal both offered to help. Angela said she was not there to point fingers, but just wanted to point out the total lack of communication. She felt as a victim, she didn't have rights—the defendants each have rights but she didn't. She was not sure who to call to get in touch with the prosecutor. She did get hooked up with VINEWatch but didn't have one point of contact.

Sen. Hughes asked if OVR could be that point of contact. Taylor said yes, OVR would have one attorney assigned to the case. Michal said that also didn't mean the DAs still don't have a responsibility. If OVR is assisting someone the DA's office will and should still help. Paralegals should be explaining these things too.

Angela said she was born and raised in Alaska and found the experience very frustrating. She wanted to see a conviction, but the defendants were kids too. She was part of a homicide support group, where people share information. She wanted an official person to talk to. In terms of going to court, she was not always sure of the point of the hearings but wanted to be there, and wanted the defendants to know she was there. Parking at the courthouse is expensive, and she has to take off work.

Sam Duke said there was no clearinghouse for information. As a victim, his life got turned upside down, and until he got connected with Victims For Justice, he'd felt lost. Michelle at VFJ was very helpful. A lot of it had to do with it being an active case; not everyone knows what's going on. He knew law enforcement was trying to solve the case, but victims do get lost. He appreciate being able to participate in this meeting. Juvenile cases are different— there are layers of confidentiality, and even less communication from authorities.

Taylor said there was really no place to go for information on juvenile cases: finding out when hearings are, where discovery is, etc. Those cases were even frustrating being on the inside.

### **Survey Data – Questions and Next Steps**

Barbara Dunham said that at the last meeting, she had given a quick overview of the memo she'd sent out with data from the victim survey and victim listening sessions. At that meeting it was decided that workgroup attendees would review the memo before this meeting and come up with any follow up questions. No one had any follow up questions. Ms. Dunham asked what the group thought should be done with the information, noting that issuing a separate report or including the information in the Commission's annual report were both options.

Sen. Hughes thought a separate report, like a condensed version of the memo, would be appropriate, with something like an executive summary in the annual report that would refer to a future larger report. She explained that she had been going to national conferences on criminal justice and raising victim issues, and noted not a lot of people were hearing that. She was not anti-offender, and thought it was important to put people on the right path and turn things around. Public policy needed to strike a balance. It would be helpful to have a victim report for the legislature.

Sean thought one of the biggest takeaways from the memo was that so many things come down to communication. Even if a respondent said they wanted more investigation of a case, that's also an issue of communication. At APD they have starting use the phrase "close the loop" to describe circling back to the victim with results. He thought communication was key to improving things for victims.

Tory Shanklin said that along the same lines, officers and are paralegals not necessarily trained in talking to victims. There are professional victim advocates who do this, but the burden is on victims to find victim advocates. They often don't find and advocate until a year down the road. There should be an earlier intervention which . However, handing people brochures immediately after a crime, when they are in a state of trauma, is not effective.

Sean wondered what was the best point to reach out to people. Tory said that some police departments in the lower 48 have embedded victim advocates who go out to calls or are in the office who can reach out. Grants are available to implement this kind of project. Something needs to happen earlier on to flag victims who need help. In Fairbanks, law enforcement had a simple consent release form for victims to sign that would allow them to pass their information to Victims For Justice, although this system is no longer in place. There needed to be a way to get the burden off of the victim.

Michal said that a consistent message across the board would be helpful. Often victims will hear information in multiple ways from multiple people.

Tory thought that the multidisciplinary team approach used by SART was good model. It connected victims to a range of services but was only available for one type of crime.

Brenda Stanfill reiterated that the former Fairbanks process of using an easy release for troopers was effective, troopers faxed it to advocates which allowed them to reach out. The troopers said there was a legislative problem with it, so there might be a quick fix. It makes a big difference when there is a victim advocate in early court proceedings.

Susanne wondered if the Fairbanks process had been used for every case. Brenda said it was for DV/SA cases. Taylor noted that victims of property crime only have one service, which was OVR.

Barbara said it sounded like the workgroup was on board with the idea of including a summary of the victim survey/listening session data and issuing a report at a later date.

### **Facilitated Discussion: Priorities and Goals**

Susanne explained that the Commission would be putting together a work plan for the Commission as a whole, coming up with a list of priorities/projects for the coming year. This workgroup should identify one or two priorities.

By way of background, Susanne reminded the group that Commission had made recommendations regarding victims in the 2018 annual report, and also held victim roundtables in 2015. The 2014 roundtables were led by a national victim rights advocate, and some recommendations from that process also went into the 2015 report. Those recommendations had a heavy focus on strengthening supports in rural Alaska.

Susanne also noted that there was limited staff capacity, and that one or two big projects from this workgroup would probably be reasonable to manage. She asked the agency representatives on the workgroup to list their top priority.

Sean said that no one was designed to be a centralized coordinator in the criminal justice system. The system is intended to be swift, certain, and proportionate, but is none of those things. He thought having a victim navigator could make the biggest impact. Sen. Hughes agreed.

Taylor said pretrial delay would be her top priority.

Kim Stone thought that victims often believe that the prosecutor is representing the victim, and that is a source of confusion. The victim navigator really could clear that up. It could be a court system position; someone not only there to explain things to victims but also to be an advocate.

Michal noted that VINEWatch sends out a notification immediately upon registering, and people who register then tend to latch onto the person who signed their name in that first notification. Turnover with paralegals has been astronomical. Her priority would be training for newer paralegals and attorneys and in general expanding the capacity of the DA's office to communicate with victims.

Sen. Hughes wondered if there was a way to merge these ideas—what if the first name someone gets is the navigator instead of a paralegal?

Brenda said she liked the navigator idea but would broaden the topic to victim communication generally.

Taylor noted that there were tens of thousands of victims in the state every year. There were also different kinds of advocacy; emotional support was one, but victims also needed to talk to someone with legal/criminal justice knowledge. She thought victims need all of that but didn't know whether that could be one person.

Susanne reminded the group that there had been a cultural navigator at the courthouse in Bethel who was a Yupik speaker. There was a video people could watch as well as the cultural navigator to talk to. In the final analysis, it was not what victims needed. People found the navigator helpful, but that person was underutilized. What people wanted was legal advice, but because the navigator was a court system employee that person could not be an advocate. Ultimately the project was not successful and shelved.

Susanne said it seemed like the ideas on table centered on communication, whether as individual advocacy or general information, and pretrial delay. She asked the participants to clarify their ideas.

Sean thought it was about getting people the information they needed at the right moment in time and referred to the right resources. He liked the idea of having an embedded person in APD. There needed to be someone to reach out to the victim and point them to what they need. It would not necessarily have to involve in-depth hand-holding. There are services out there; victims needed to be channeled to the right resource, to prevent information overload.

Taylor agreed and envisioned someone who could be a conduit from general information to point the victim to further information services. They could also be informed of services on a website, with a video. Most people know about the court system, so that might be a place to house the idea.

Sen. Hughes wondered if a call center could be the answer: 907-VICTIMS.

Kim said this discussion brought to mind the concept of intercepts as a way of looking at a person's interactions with the criminal justice system at various points. The role this new service might provide is to be there at every intercept. It could explain the role of every agency, and how the system works. It was important to have someone at every intercept.

Michal said the key thing was to get good contact information for the victim.

Sen. Hughes suggested the idea could incorporate a release of information, like what had been used in Fairbanks.

Susanne said she was hearing that what was needed was a service for victims to be able to reach out and get help at any time, but also that certain victims need to be reached out to.

Brenda said there might be some low-hanging fruit along these line, like looking at opening VINEWatch up to advocates. So many victims don't even know about it. There needed to be better communication between advocates, law enforcement, and prosecutors, plus a 24-7 hotline with answers and warm handoffs. She thought the group also needed to talk about what statutory changes might be needed.

Susanne said that the group should also talk about barriers to that communication, like whether releases of information were needed. It sounded like the group wanted to come up with a call center-style idea.

Buddy thought the group should keep in mind that not everyone trusts "the system"—he was not sure if someone is handed a number to call, they will follow through. He suggested that the onus be on the system to make first contact, especially for violent crime. He said it was also important to recognize the high number of crimes against women and children in rural communities; getting information to those communities in a timely manner could be a challenge.

Susanne noted that the court system hosts the family law self-help center. Some said it wouldn't work. The center does not take in-person appointments, and only has information online and a call center. People do call and go online.

Sen. Hughes agreed with Buddy, and thought the rural piece was key. Rural justice was being highlighted in the news recently, and there is interest in the legislature. There was an opportunity to act now. She thought there needed to be someone in the community, not just a call center.

Buddy noted that the Crisis Now model for responding to those in a behavioral health crisis was being developed for use in Alaska. It was a model that could help someone in a crisis pretty efficiently and immediately. Some of those elements could be used.

Brenda said she also still wanted to think about pretrial delay. But she thought there needed to be research and wondered where to start. She assumed the group would need a lot of data.

Susanne noted that Criminal Justice Working Group has been working on this issue for a while. She also noted that the pilot project described by Judge Morse was just for Anchorage, where the problem might be worse. There is data on how long cases take, and how many hearings there are per case, on average. There were myriad reasons for the delay, and almost all of them were systemic or incentivized by the system. One thing this group could do is focus on the victim piece of pretrial delay. The whole project of pretrial delay is huge.

Sen. Hughes wondered if it would make sense to let the Criminal Justice Working Group focus on this. Taylor said that group was not focused on victims. She thought it made sense to carve out a piece of the problem. She thought there were things that could mitigate the pain of pretrial delay somewhat, such as having fewer hearings, and more meaningful hearings. Susanne suggested picking two or three things to mitigate the pain and uncertainty of delay.

Barbara summarized the discussion: the workgroup's priorities were: 1) develop a plan for a call center/victim navigator service, and 2) look at the parts of pretrial delay can be addressed to help victims.

Sen. Hughes asked whether the plan would address rural Alaska too. Susanne said yes, that would be part of the call center/victim navigator idea, ensuring that the plan would include what would work best for rural Alaska. Sen. Hughes thought that the Commission might get some ideas at AFN. She was hearing that many people are not reporting to law enforcement; victims might need someone else to go to first.

The group agreed the next meeting would be November 15.

Alaska Criminal Justice Commission  
Victims' Rights and Services Workgroup  
**Meeting Summary**

**Wednesday July 24, 2019, 10:00 a.m.**

Alaska Mental Health Trust, Anchorage  
And teleconference

**Commissioners present:** Brenda Stanfill, Shelly Hughes

**Participants:** Taylor Winston, Kelly Howell, Buddy Whitt, Barbara Johnson, Kim Stone, Michal Bowers, Michael Ramsey, Christina Evans, Rashika Rakibullah, Ingrid Johnson

**Staff:** Staci Corey, Barbara Dunham

**Introductions**

Commissioner Brenda Stanfill explained that this was a new workgroup for the Commission. The Commission had previously looked at some specific issues such as restitution but had not looked at victims' issues more holistically. The Commission had started this process by conducting listening sessions and an online survey. Broadly, the goal for this group was to look at how victims can be included in the criminal justice process rather than excluded, and possibly come up with recommendations for the next legislative session.

**VINEWatch**

Michal Bowers from the Department of Law, Criminal Division explained how the VINEWatch service works. VINEWatch and VINELink are two different versions of the same service. VINEWatch is a notification system administered by the Department of Law for the pretrial process, while VINELink is a notification system administered by the Department of Corrections regarding people who are sentenced and in the correctional system.

Michal explained that previously, pretrial victim notification was just a manual process of phoning victims to notify them of hearings and plea bargains. VINEWatch is automated and linked to the CourtView system. It is a closed portal, meaning that a victim who wants to be notified must be registered by a paralegal in the local District Attorney's office. The system is synced with CourtView four times per day.

Registration is not automatic, and paralegals will ask victims if they want to be registered. Victims can choose whether they want to be notified by phone, email, or text, and notifications are available in six languages. All notifications remind the victim of who their contact/paralegal is. Emails and texts contain a link to CourtView.

Michal said that if a victim elects to receive voice messages on their phone, the volume of calls can be burdensome, since any change to the system triggers a phone call, even if it's just a minor change such as correcting a clerical error. On the other hand, voice messages require the user on the other end to enter a PIN which means that the Dept. of Law will know if the victim got the information.



Taylor Winston from the Office of Victims' Rights asked whether the Dept. of Law keeps track of the percentage of known victims who register. Michal said they didn't, but she did know that it was a fairly high volume.

Senator Shelly Hughes asked whether all victims were offered this service, and whether notification was in law or was a policy decision. Michal said that the Criminal Division's policy is that all victims are offered the service, including parents of minor victims. It is also offered to witnesses if they are subpoenaed.

Sen. Hughes said her son was a victim of crime and she didn't recall him having this service, and wondered whether all victims were being reached. Michal said that paralegals are all required to offer the service to any victim in their cases, but that paralegals are also human, and could forget. There are also weekend arraignments, and paralegals work a standard week, so they might not get the case right away. Also the initial phone call from a paralegal can be overwhelming, and the victim might miss the paralegal offering the notification service.

Sen. Hughes thought that if the victim lived with the offender, there could be a danger to victims getting these phone calls, and wondered whether there was a way for victims to log in to hear the message. Michal said there wasn't, but the system was directly linked to CourtView, so going to CourtView would give them the same information.

Brenda said that as a victim advocate she was surprised to learn about VINEWatch, and she polled the advocates she worked with—they hadn't known about it either. If advocates don't know about the service, they don't know to push the service to people. Something to think about is how to connect this system with victim service agencies, since victims touch base with those agencies all the time. She also wondered if there was a way to put more information in the system. Michal said that notifications were triggered by a change made in CourtView, so they couldn't add notifications for different things. They could change the messages slightly but wanted to be mindful of text size limits.

Sen. Hughes asked whether Michal felt there were enough paralegals. Michal said that depended on who you ask. It depends on the office or location. Many locations have an overwhelming number of cases. Paralegals have three attorneys assigned to them.

Buddy Whitt, staff to Sen. Hughes, said that there were or victim contact provisions in HB 49, such as notifying a victim if a defendant released on bail was kicked out of treatment for non-compliance. He wondered how implementation of those provisions was going. Michal said that Susie Frenzel at the Dept. of Law had a meeting with people from the national VINE organization on how to implement those pieces. Michael Ramsey from the Dept. of Corrections (DOC) said that DOC had also been in discussions with VINE on how to implement those pieces. Sen. Hughes suggested getting an update on that process for the next workgroup meeting.

Sen. Hughes added that HB 49 also added a provision requiring judges to state a defendant's estimated earliest release date on the record at sentencing. They got pushback from the court system on this while working on it in committee. She wondered if there was any way to use the VINE system to notify victims of that date.

Michal said that the VINEWatch system is triggered by items being entered in CourtView, and CourtView doesn't have sentencing information. Also, calculating a release date would be hard from a Department of Law perspective; it's really something that the time accounting folks at DOC need to look at.

Taylor said she didn't think release date information could be pushed through a portal like VINEWatch. Time accounting is incredibly complicated. She worked on this issue during the SB 91 process. The legislature tried looking into having courts notify victims of the earliest possible release date, but that task ended up falling to DOC in the final bill. She didn't have a sense of how often DOC actually provides that information; OVR doesn't get a copy.

Sen. Hughes said this was the discussion they had in Senate Judiciary this past session. Nevertheless it is in statute now that the judge has to estimate the earliest possible release date. Judges were hesitant. She thought the workgroup should look further into this. The information is just not getting to victims, and she thought the information needed to be out there. Victims ought to know a general estimate of the release date even with all the variables.

Taylor thought that prosecutors also shy away from advertising release information, because the plea bargain process might not go as smoothly. The system needs to be honest in order for victims to feel they are treated fairly and with dignity. If things are properly explained, victims will at least feel like they were treated fairly. With increasing caseloads, prosecutors' time to have those conversations is even more limited. She thought prosecutors have been shying away from dealing with victims. She agreed wholeheartedly that this needs to be fixed.

Sen. Hughes wondered if a future workgroup meeting could be devoted to this. Brenda said yes, it would be right on point for this workgroup to tackle.

Barbara Dunham, project attorney for the Commission, said that it might be worth thinking in general about how best to communicate with victims above just increasing contact. Many respondents to the victim survey said that they were often confused by the courtroom jargon they found on CourtView or at hearings.

Taylor said that OVR was looking at updating its website with a glossary, or perhaps developing videos for people to watch that would explain the process, and would take all the "lawyer language" out. Victims don't always know if they should or shouldn't go to certain hearings even if they are notified of them. Going to court hearings can seem like listening in a foreign language, which adds to their apprehension.

Michal said that a lot of people working in the criminal justice system assume that people have some base knowledge about the system, can read well, and can understand English. They may not know whether to ask not just "did you read the pamphlet?", but also "did you understand it?". She also noted that the Dept. of Law has had an incredible amount of turnover in recent years, having lost 100 years of paralegal experience in the Anchorage office. Many attorneys are new as well.

### **VINELink**

Michael Ramsay explained that VINEWatch and VINELink are related services that have separate functions. Unlike VINEWatch, VINELink is public; anyone can register for the service by calling VINE's helpline, calling DOC, or going to [vinelink.com](http://vinelink.com). He has found recently that the public is not really aware that the two are separate systems. Some victims think registration with VINEWatch means they will be automatically registered with VINELink, which is not the case.

Michael gave the history of VINE; it was born out of a tragedy in Kentucky in 1993. A victim of sexual assault/stalking asked to be notified if her attacker bailed out of jail. Someone posted bail for him,

but she wasn't notified. Her attacker went to her workplace and shot her in the parking lot; it happened to be the victim's 21<sup>st</sup> birthday. The victim's parents worked with local officials to create VINE, and it was later developed into a national program. Alaska implemented VINE in 1999.

VINELink is an unmanned service, active 24 hours a day, 365 days a year. People who want to register don't have to be a victim and don't have to be an Alaska resident. The service is offered in English, Spanish, Russian, and Yupik, and users can receive notifications via text, TTY, email, and phone calls. There is also a VINELink mobile app, which is growing in popularity.

DOC tries to make their VINE system as user-friendly as possible. He also gets calls from people who ask him to do the registration for them, which he will do. People can also register as a guest, meaning they don't need an account. They will need to register if they want phone calls because they require a pin.

VINELink sends the following notifications: advance notice of a prisoner's release, day of release, if a prisoner is back in custody, when a prisoner is released on supervision, escape, death, and supervision violations. Each notification message always has Michael's contact information. VINELink's information is based on DOC's ACOMS system, which syncs with VINELink every 15 minutes.

There is also a list of service providers within VINELink. Michael tries to promote this when he talks to victims. Michael thought VINELink was a great tool for victims overall—DOC is using a more enhanced version now, and they will have updates within the next few months which will enhance usability.

Taylor asked whether VINELink will notify users if the prisoner goes to a halfway house/CRC, or is released on electronic monitoring. Michael said it will send those notifications, but they are not very detailed. Their concern is texts—victims may pay per message if they have a pay-as-you-go phone, so they try to keep notifications to the length of one message.

Taylor asked whether there was a way to include information on a person's probation/parole officer (PO) or institutional PO. Michael said that information was not on the VINE system, people would have to call him for that information. He said he was happy to help get victims information, and be a one-stop shop in that regard; he didn't want victims to get bounced around.

Sen. Hughes asked whether the system notified users of parole hearings. Michael said they did. Sen. Hughes noted that users would be notified of an escape but wondered whether that would trigger any other kind of protection for the victim? Michael wasn't sure; he hadn't been at DOC when there was an escape yet.

Brenda said that she had personal experience with being notified of an escape with VINE, although she was actually notified that the prisoner was caught again before she got the notification that he had escaped. She thought this was something the group should look at. She was not sure a VINE notification is enough since victims may not always check their email or might not look at texts at work. Taylor agreed and said that sometimes Nixle is a better source of information.

Barbara Johnson of 49<sup>th</sup> Rising said that she was still trying to keep both systems differentiated in her head. She knew there were brochures, but wondered if there was a way to rename the services to make it simple and clearer to victims which was which. Michal agreed that confusion was an issue. Taylor wondered if there might be trademark issues with renaming things. Michael said that VINE might be a brand name, but he knew the federal system used a different name. It might be an option to look into.

Sen. Hughes observed that typically victims will sign up for VINEWatch first, and wondered if they will be told about both services at the same time. Michael said he will explain the two systems if people talk to him in person. Sen. Hughes wondered whether the two services were explained on OVR's website. Taylor said yes but it could be explained better.

Brenda suggested that for the next meeting, the group should look into what the outreach methods are for all victim services, pulling together all the brochures typically handed out or made available to victims.

Buddy asked about the challenges of notifying victims in rural Alaska. Michael said that contact information often changes, so he tries to remind people to keep it updated if he speaks to them in person. They can try to track people down but are not always successful. Buddy suggested contacting local VPSOs to get contact information for victims. Michael said he could look into that.

Brenda said that she noticed the VINE app lists a release date; she wondered if that was the actual date of release. Michael said it was the earliest possible date of release.

### **Office of Victims' Rights (OVR)**

Taylor explained that OVR has four part-time attorneys and three full-time attorneys, plus an investigator. Full-time attorneys have caseloads of about 60 cases. OVR handles 250 to 280 active cases per year.

OVR represents victims in criminal cases, but can also act like an ombudsman to investigate state agencies—for example, right now they are looking into timely dispositions for cases. Three major recurring themes they encounter are issues of notification, timely dispositions, and restitution. OVR also provides a voice for victims in various groups such as this one.

OVR attorneys will represent anyone who is a crime victim, regardless of need, with some constraints. They only represent victims in state criminal cases (not federal or civil). OVR can't represent someone who is also a defendant, or if representation will somehow interfere in an ongoing investigation. They can only represent a victim if, at minimum, a police report has been filed, although it doesn't matter if charges have been filed. They can follow the case through until the offender is "off paper" (i.e. off probation/parole).

OVR attorneys can also only represent victims cases that involve felonies or person-based or DV misdemeanors. Other types of misdemeanors are out of their jurisdiction; this includes misdemeanor harassment, which, in Taylor's view, was a gap that needed to be addressed. All of OVR's attorneys are former prosecutors, experience which can help them when they argue for charging or increased charges.

OVR serves the whole state; often their attorneys will appear telephonically. Buddy asked how many of the people they serve are victims of domestic violence or sexual assault. Taylor said those cases make up the bulk of their work— about 50-70% of their cases, depending on the year.

A person is considered a victim they are if a person against whom a crime has been perpetrated. If the victim is a minor, incompetent, incapacitated, or deceased, then the following people, excluding a perpetrator, are considered victims:

- the spouse or domestic partner of the person

- a parent, adult child, guardian, or custodian of the person
- a sibling or grandparent of a deceased victim

The phrase “adult child” precludes minors, so a minor who has lost a parent to violent crime would not be eligible for services. However, Taylor believed that there are minors who are sophisticated enough to understand what crime is and that they have rights. In situations where the victim is deceased, the family member can receive services, but not if that family member is also the perpetrator of the crime or if OVR’s representation would interfere in the investigation.

The services OVR provides include:

- (1) Make referrals to other agencies for other assistance
- (2) Advise victims of their constitutional & statutory rights
- (3) Investigate when a crime victim believes rights have been denied
- (4) Communicate with law enforcement agencies and/or prosecutors about the case
- (5) Explain the criminal justice process in detail and be available for those questions
- (6) Attend meetings with victim and DA
- (7) Attend hearings, like bail hearings and sentencing and, if requested, speak on their behalf
- (8) File pleadings on their behalf when a victim right is triggered – i.e. the privacy right not to have records discovered.

They cannot go to every hearing. A big part of their job is to demystify the process for the victim—they can read between the lines on Courtview. They will let the victim know which hearings are important to attend. They can speak on behalf of the victim at hearings but they also try to empower the victim to speak on their own behalf.

OVR receives the same discovery that the defendant in the case receives. If it is not yet a court case, their investigator will get the police reports. They can file pleadings to enforce victim rights such as the right to a timely disposition, though they usually only file motions on that after the case has been open for one year.

Taylor noted that at pretrial hearings, there is usually no dialogue with the judge and DA about the how victim feels about a continuance. However, the law says a judge must make findings on the record if a victim objects to the continuance. Taylor said this was not being done since judges were not taking the time to ascertain the victim’s position.

Sen. Hughes said she believed Dan Sullivan was working on, or had perhaps passed, legislation that would develop more legal representation for victims, and wondered if OVR would be part of that effort. Taylor was not sure, but thought it would be interesting. OVR could expand its operations and more people could be helped. She would also be happy to expand this service within other agencies. Private attorneys or pro bono attorneys can always represent victims. Sen. Hughes asked if she could look into it and find out what the plan is for that legislation. Taylor said she would.

Taylor explained that victims rights are guaranteed in the Alaska Constitution (Article 1, Section 24). They include:

1. The right to be reasonably protected from the defendant through appropriate bail or release conditions;
2. The right to confer with the prosecution;
3. The right to be treated with dignity, respect, and fairness through the entire process;
4. The right to timely disposition of the case;
5. The right to be informed about and to be allowed to be present at all criminal or juvenile proceedings where the defendant can be present;
6. The right to be heard at sentencing, or at any proceeding, before or after conviction/adjudication, where the defendant's release from custody is considered;
7. The right to restitution from the defendant(s); and,
8. The right to be informed, upon request, of the defendant's escape or release from custody before or after conviction or juvenile adjudication.

Taylor added that there are also more than 40 statutes in Alaska addressing various victim rights. Some rights are automatic, and some must be requested by the victim. She added that Arizona was an exemplary state for victims rights .

Taylor explained that OVR keeps all matters confidential unless disclosures are necessary to enable the victims' advocate to carry out duties and to support recommendations. Also, while OVR is entitled to have all the information (discovery) a defendant would receive, they must not disclose confidential records and cannot give victims police reports. This can frustrate victims, but don't want to taint process, witnesses

Taylor said that a frustrating aspect of victim representation in juvenile cases is that the juvenile justice system doesn't operate the same way as the adult system. There is no centralized source of information on hearings for those cases. JPOs have a lot of control over how the cases proceed.

Law enforcement must notify victims of OVR's existence, typically accomplishing this by handing victims one of OVR's brochures. Officers don't always have an opportunity to give the brochure, so they also have a card. However, Taylor explained, the best way to make people really understand what OVR does is to have a conversation with them about it. She tries to train police so they can have that conversation. It's hard to monitor compliance with this law. Victims may not remember what they were told, or what information they were given.

Taylor noted that all agencies were welcome to use their brochures. APD doesn't request their brochures—they have a DVSA booklet, but not one for all victims. She would rather they just give something to all victims.

Sen. Hughes asked whether all victims were supposed to get OVR's brochure. Taylor said they were supposed to get the information; the exact means of giving them the information was up to the officer so the officer could just tell them about it rather than give them a brochure. Sen. Hughes asked whether the troopers used OVR's brochure. Kelly Howell said the troopers have their own DVSA booklet; they also have OVR's brochure but she was not sure how much it was used. Taylor said that she had presented at the trooper academies in the past; it was hard to convince troopers that all victims need support, not just DV/SA victims.

Sen. Hughes said that property crime was often perpetrated by stranger, which can feel very violative especially if it's a break-in in someone's home. She was concerned that a law on the books was perhaps not being followed. She wondered how to require accountability for this requirement. Taylor said

she has tried to inquire about compliance at APD, for example, but got shut down. OVR can do a formal investigation of an agency through deposition, discovery, etc, and can publish reports. The hard part is verification—it is hard to determine whether information has been imparted to traumatized people.

Brenda wondered if OVR gets involved in cases at the law enforcement stage. Taylor said they did; at that stage, they get many people who say that law enforcement isn't calling them back. They find out about OVR by looking for help for victims on the internet. Brenda ask when someone would get referred to OVR if they are a victim of a property crime; in Fairbanks, victims are given a report to fill out to hand in to the police. Taylor said she would think it should be when the officer makes contact. But in Anchorage many people are told to fill out an online form, so they're not necessarily even dealing with a patrol officer.

Taylor said that OVR has found issues at every juncture of the criminal justice system. Brenda said it would be helpful to get that breakdown; it could be blueprint for the workgroup.

Taylor explained that the restorative justice account was created through a bill from Rep. Kopp-- it became law in January. They have set up procedures for distributing money, but money hasn't been allocated for the program yet. They are taking applications and telling people the money has not been appropriated yet.

OVR can also get property back that's being held as evidence, though that can be procedurally complicated. Taylor thought there should be an inter-agency effort to find ways to get property back to people if it is not needed for trial (i.e. if a picture will do).

Sen. Hughes asked whether OVR provided general information to people, given that the criminal justice system is complicated. It would be nice to have someone act as a general navigator for the system. Taylor said that would be a good idea. OVR will answer general questions. Sen. Hughes said she didn't want to take up attorney time to do that; it might be more efficient to have a someone dedicated to that function. She thought OVR might be the logical location for that.

Ingrid Johnson, from UAA, wondered whether that was the kind of thing Victims for Justice (VFJ) could do. She thought they served more victims. Brenda said VFJ has a bigger footprint, but not they did not deal with all crimes. Christina Evans from VFJ said that was correct; they support victims of violent crime, not property crime, although something like a robbery would count as a violent crime.

Michal added that the DA's office makes sure the paralegals know that they serve in a public access office, and are there to help provide information to the public. She formerly served that role as a paralegal herself and would explain how the system worked to the people she came into contact with. Taylor observed that the smaller DA offices tend to have better communication, perhaps because they have smaller caseloads. OVR doesn't get as many cases from those offices and she believed it was because the communication from those offices was better.

Kim Stone from the Dept. of Law asked whether OVR keeps data on where its clients are from. Taylor said they keep data by district and court location, but that doesn't necessarily give the exact location of the person. They get very few cases from Southeast, Utqiagvik, or Bethel. There could be many reasons why that is, including that people might not know about OVR. They get more cases from Kenai and Fairbanks.

Christina said she was in Fairbanks, and suggested that OVR conduct a new training for law enforcement there. There have been changes in the last year; many senior officers retired, and there is a

new chief. Taylor said she would try to get there. She tries to speak to law enforcement agencies when she can. Even though the law requires officers to be aware of OVR, she thought it was best to try to present to as many levels of the organization as possible.

Buddy noted that HB 49 contained some additional notification requirements that could also help get information to victims.

### **Victim Listening Sessions and Survey**

Barbara explained that the Commission had decided to host listening sessions late last year. To date the Commission has hosted four sessions, in Juneau, Fairbanks, Ketchikan, and Bethel. Attendance was varying at these events, so staff created an online survey to try to reach more people. Over 125 people responded to the survey. She had circulated a memo to the group about the listening sessions and survey.

Staff also asked the Commission at the last plenary meeting in May whether the Commission wanted to keep going with the listening sessions. The Commission voted to keep going with the listening sessions, directing staff to plan for sessions in the Anchorage or Eagle River area, at AFN in Fairbanks, and in Nome and/or Kotzebue.

Sen. Hughes suggested also hosting sessions in the Mat-Su and on the Kenai peninsula.

Michal asked how the survey had been advertised. Staff research analyst Staci Corey said that she sent it to all the people she'd contacted for listening sessions—law enforcement, local state victim agencies, shelters, courts, city councils, etc. Some victim groups were able to post the survey on Facebook and that got a good response. She said staff didn't do a lot of outreach specifically to places other than where the listening sessions were, but there were still plenty of responses from people from all over the state.

Sen. Hughes suggested trying to open the survey again, perhaps in conjunction with the other listening sessions, perhaps for a concentrated window of time.

Barbara explained that she and Staci coded the responses to the survey through June 23. There were 127 respondents, and they went through the responses to each question to code them for common themes. They also tried to ascertain the nature of the crime the person experienced although this was not always possible. The types of crime experienced were 25% violent crime, 16% property crime, 16% sex offense, 4% domestic violence, and 7% domestic violence and sex offense. 30% were unknown while the remaining 2% was a combination of crimes.

Staci and Barbara grouped the common themes found in the responses into five major categories: communication, law enforcement and prosecution, defendant consequences, information and services, and prioritizing victim needs and effective crime control. The most common themes included wanting services or better access to services (such as support, financial help, housing, legal services, or behavioral health services), better communication from law enforcement or prosecution, and a more thorough investigation by law enforcement or prosecution. Respondents also mentioned feeling as though victims did not have as many rights as defendants.

The survey also asked victims whether they were able to access any victim services in Alaska. 39% said they hadn't, 27% said they had, 13% said they were able to access some services, and the remainder had some other response or didn't respond. Those who said they weren't able to access services listed barriers such as not knowing services were available, not qualifying or not being able to pay for the service, or services not being available.



Brenda thanked Staci and Barbara for their work and said it was interesting to see the themes coming out of the survey.

Ingrid said she would be interested in joining any conversations about collecting more data, or modifying the data. She is also working on a project centered on interviews with victims and the concern she has now is that since Alaska has such a small population, there are only so many victims to interview and she is getting a sense of participation fatigue among victims. She wanted to be careful about collecting data without very specific purposes so that victims did not feel like they were being mined for information for no reason.

Brenda thanked Ingrid for pointing that out. She noted that the Commission thought listening sessions would be more popular than they were. She thought it was important to find the right mechanism to make sure victim voices are heard.

Ingrid said that people want to see some change happen after they share their stories. She went out to Nome in April, where it seemed they were tired of people coming in and asking questions, but nothing changes as a result. She thought there was an opportunity to coordinate survey-taking to make sure people were not being fatigued, especially in light of the fact that UAA was scheduled to re-do its victimization survey next year as well.

Buddy said he thought even having a statement of purpose or of what we're trying to accomplish may help. Sen. Hughes said it could even be something simple: we are working to improve things for victims. Staci noted that the advertisements for the listening sessions and survey said the purpose was to improve victim services and the state response to crime.

Kim also suggested talking to a key informant. Ingrid said she was doing that as well. She was talking to system stakeholders (e.g. AST, service providers) as well as conducting victim/survivor interviews, which were harder to get. Even between victims and victim advocates there were different perspectives. Some victims never connected with victim advocates.

Brenda said the Commission also spoke with key informants, when the Commission conducted victim roundtables; she suggested the group read that report as well. The responses at the roundtable were a little different from the responses to the survey. Sometimes the system stakeholders don't understand victim frustration or are the cause of frustration. For next meeting, she suggested thinking about what more data we need to collect.

### **Public Comment**

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

### **Future Meetings and Tasks**

Buddy asked what the goal of the workgroup was. Brenda said the agenda was fairly broad right now: the goal was to find out how to make the criminal justice system fit victims' needs. The group will hone in on the specifics in the next meetings.

Sen. Hughes asked whether this was a new workgroup. Brenda said that it was, and that this was the first meeting. It was just established by Commission at the last plenary session in May. This meeting was intended to be a data gathering session. The Commission did not assign any task other than meeting the needs of victims.

Brenda said she thought this meeting had been educational, and next the group will focus on what we want to accomplish, and set priorities. It always takes longer to accomplish things than you think, especially since everyone participating in the group has a primary job they need to do. It was also difficult to shed that role sometimes at these meetings. She encouraged people to be creative and open to new ideas.

Sen. Hughes said she appreciated the session today and the opportunity to brainstorm. She suggested making a presentation to the Senate Judiciary Committee next session.

Buddy said it sounded like tasks for group members before the next meeting included reading the memo on the listening sessions and survey, as well as the victim roundtable report from the Commission's earlier effort and the restitution report. He said he would throw together a summary of the new victim notification requirements from HB 14 and 49 as well as the new reporting requirements for the agencies.

The group agreed to meet next on September 25 at 10.