ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE JUDICIARY STANDING COMMITTEE
SENATE JUDICIARY STANDING COMMITTEE
February 14, 2007
1:35 p.m.

MEMBERS PRESENT

HOUSE JUDICIARY

Representative Jay Ramras, Chair
Representative John Coghill
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

SENATE JUDICIARY

Senator Hollis French, Chair
Senator Charlie Huggins, Vice Chair
Senator Bill Wielechowski
Senator Gene Therriault

MEMBERS ABSENT

HOUSE JUDICIARY

Representative Nancy Dahlstrom, Vice Chair
Representative Ralph Samuels

SENATE JUDICIARY

Senator Lesil McGuire

COMMITTEE CALENDAR

OVERVIEW(S): ALASKA RURAL JUSTICE AND LAW ENFORCEMENT COMMISSION

- HEARD

OVERVIEW(S): SEX OFFENDER MANAGEMENT IN ALASKA

- HEARING POSTPONED TO 2/15/07

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

TALIS COLBERG, Acting Attorney General
Department of Law;
State Co-Chair
Alaska Rural Justice and Law Enforcement Commission
Juneau, Alaska
POSITION STATEMENT: Assisted with the overview regarding the Alaska Rural Justice and Law Enforcement Commission.

JAMES TORGERSON, Non-Voting Federal Court Representative
Alaska Rural Justice and Law Enforcement Commission
(No address provided)
POSITION STATEMENT: Assisted with the overview regarding the Alaska Rural Justice and Law Enforcement Commission.

LORETTA BULLARD, Non-Profit Native Corporation Representative,
Alaska Rural Justice and Law Enforcement Commission
(No address provided)
POSITION STATEMENT: Assisted with the overview regarding the Alaska Rural Justice and Law Enforcement Commission.

BRUCE BOTELHO, Alaska Municipal League Representative
Alaska Rural Justice and Law Enforcement Commission
Juneau, Alaska
POSITION STATEMENT: Assisted with the overview regarding the Alaska Rural Justice and Law Enforcement Commission.

ACTION NARRATIVE

CHAIR HOLLIS FRENCH called the joint meeting of the Senate and House Judiciary Standing Committees to order at 1:35:54 PM. Senators Wielechowski, Huggins, and French were present at the call to order. Representatives Lynn, Holmes, Gruenberg, Coghill, and Ramras and Senator Therriault arrived as the meeting was in progress.

OVERVIEW(S): ALASKA RURAL JUSTICE AND LAW ENFORCEMENT COMMISSION

1:36:15 PM

CHAIR FRENCH announced that the only order of business would be the overview regarding the Alaska Rural Justice and Law Enforcement Commission ("the Commission").

1:36:40 PM

TALIS COLBERG, Acting Attorney General, Department of Law; State Co-Chair, Alaska Rural Justice and Law Enforcement Commission, referring to a PowerPoint presentation, relayed that the Commission was created by Congress in 2004, that members are appointed by the U.S. Attorney General, and that the Commission is charged with four broad areas of investigation as they relate to rural Alaska: law enforcement, judicial systems, alcohol importation and interdiction, and domestic violence (DV) and child abuse. Reading from the PowerPoint presentation, he mentioned the names and positions of other Commission members.

1:41:17 PM

JAMES TORGERSON, Non-Voting Federal Court Representative, Alaska Rural Justice and Law Enforcement Commission, continuing with the PowerPoint presentation, relayed that the Commission makes its decisions by consensus, which means that some jurisdictional questions are not dealt with because it would be unrealistic to expect the various participants to agree on such questions; instead, the commission works on issues for which it is possible to gain consensus, and in forming its working groups, the Commission attempts to ensure that all stakeholders are involved. After review and adoption of recommendations that the working groups come up with, the Commission then acts as an advocate for implementing those recommendations. In response to a question, he interrupted the PowerPoint presentation to relay a few details about the timing, makeup, processes, benefits, difficulties, agendas, and results of the Commission's meetings and working group meetings.

MR. TORGERSON, returning to the PowerPoint presentation, explained that the first working groups developed over 100 options that were then organized into nine general categories of recommendations - engage in more partnering and collaboration, make systemic changes to improve rural law enforcement, enlarge the use of community-based solutions, broaden the use of prevention approaches, broaden therapeutic efforts, increase employment of rural residents in law enforcement and judicial services, build additional capacity, increase access to judicial services, and expand the use of new technologies; and that the second working groups narrowed the focus to four specific areas

- developing a tiered system of law enforcement, developing a model Indian Child Welfare Act (ICWA) memorandum of understanding (MOU), exploring new uses for technology, and alcohol interdiction. He then provided a few details regarding those four areas of focus. In response to a question, he indicated that additional conforming legislation may be needed to assist with alcohol interdiction.

MR. TORGERSON referred to the PowerPoint presentation and the category of recommendations regarding engaging in more partnering and collaboration. The needs of rural Alaska coupled with the limited resources for rural Alaska have elevated this particular category of recommendations to the top of the Commission's list, and, as was mentioned earlier, one specific task has been the development of a model ICWA MOU, which could then serve as an example of successful partnering and collaboration.

1:57:07 PM

LORETTA BULLARD, Non-Profit Native Corporation Representative, Alaska Rural Justice and Law Enforcement Commission, referred to the PowerPoint presentation and the category of recommendations regarding making systemic changes to improve rural law enforcement. One specific recommendation is to develop a uniform, statewide, tiered system of certification and training because currently there is no relationship between the different branches of law enforcement in rural areas - no natural progression between branches - and so officers in one branch of law enforcement have to go through training all over again whenever they choose to work in another branch of law enforcement. Remarking that having a uniform, statewide, tiered system of certification and training will help address recruitment problems in rural Alaska, she briefly mentioned some of the branches of law enforcement that provide service in rural Alaska, some of their training criteria, and which entities are responsible for each branch's standards.

MS. BULLARD spoke of the recommendations pertaining to alcohol interdiction such as establishing alcohol distribution points in regional centers of the state to help monitor the influx of alcohol into dry and damp communities, cross designation of troopers and postal inspectors to help prevent drugs and alcohol from being mailed or otherwise flown into Bush communities, and possibly introducing legislation that would ban shipments of alcohol in plastic bottle to rural Alaska since plastic bottles are easier to conceal.

[Mr. Torgerson provided additional comments that were not picked up well by the microphone.]

MR. TORGERSON mentioned possible legislation proposing distribution centers in Bethel and Kotzebue, adding that currently there is one in Barrow.

SENATOR HUGGINS questioned whether all of the Commission's recommendations were feasible from a legal standpoint.

MR. TORGERSON acknowledged that some were not and were therefore not being promoted by the Commission. Furthermore, some ideas involving a change in the law are not yet in the form of legislation, and the Commission is taking steps to ensure that everything that is proposed passes constitutional muster.

2:08:29 PM

MS. BULLARD referred back to the PowerPoint presentation and the category of recommendations regarding broadening the use of prevention approaches. Currently there is a real lack of prevention and education services in the villages; also, for school-age children, there is particularly a need for information in the schools regarding alcohol, substance abuse, DV and child abuse, respect-based values, and interpersonal relationships. She remarked that approximately 44 percent of the population in certain rural communities is 18 years of age and younger.

MS. BULLARD referred to the category of recommendations regarding broadening therapeutic efforts. The Commission supports the use of therapeutic courts. With recent state and federal budgetary cuts, however, some programs in rural communities have been cut, and so there is a huge need for alcohol and drug abuse treatment as opposed to incarceration. There is also a need for foster care, which perhaps could be provided in group-home settings. Another category of recommendations pertains to increasing employment of rural residents in law enforcement and judicial services. For example, 33 percent of those incarcerated in the state are Alaska Native; therefore, positions in the Department of Corrections (DOC) ought to be filled with Alaska Natives.

MS. BULLARD mentioned that Village Public Safety Officers (VPSOs) are currently serving as probation officers in the villages, and this is working very well, though they are not

fully trained as probation officers. In response to comments, she acknowledged that allegations of conflict of interest between village residents and locally hired VPSOs serving as probation officers do arise, but such allegations are dealt with at the time on a case-by-case basis.

2:16:42 PM

MS. BULLARD referred back to the PowerPoint presentation and the category of recommendations regarding building additional capacity. For example, a lot of VPSOs are being hired from outside of the community, sometimes even from outside the state, and this has created "housing crunches" because housing in the villages is limited in general. Another issue that has arisen is the deplorable conditions of village holding facilities which in turn raises liability issues for local and state government.

MS. BULLARD, with regard to the category of recommendations regarding increasing access to judicial services, said that the Commission would like to see: enhanced funding to increase access to civil legal assistance, and better utilization of tribal courts. In response to a question, she mentioned that the "Kake tribal court" was been used as an example [of a successful tribal court] during the Commission's public hearing process, and that that court was created in 1997 to address issues of concern in the community - such as youth suicide - in a non-punitive manner.

REPRESENTATIVE COGHILL remarked that a lot of communities are attempting establish a restorative justice model, and that this creates the potential for jurisdictional problems, adding that he is not a big fan of surrendering state authority to tribal governments because, with the exception of the ICWA, there are no standards established to deal with situations in which different entities propose different remedies and attempt to assert their own authority.

MR. TORGERSON acknowledged that the jurisdictional issues need to be resolved, and although such might not happen until the U.S. Supreme Court or Congress acts further, the underlying needs of the community still need to be addressed even if it means a "jurisdiction-sharing approach."

SENATOR THERRIAULT cautioned that the Commission should be careful not to establish a policy piecemeal that the citizens, through their elected officials, wouldn't approve of as a whole.

MS. BULLARD referred back to the PowerPoint presentation and the category of recommendations regarding expanding the use of new technologies, such as allowing law enforcement access to the connectivity of the "tele-health system" in rural Alaska via an amendment to the federal telecommunications Act, having the DOC explore increased usage of electronic monitoring, and allowing the Alcoholic Beverage Control Board ("ABC Board") to develop a statewide database in order to track "volume shipments" to the Bush.

CHAIR RAMRAS noted that he is an "on-premise licensee," and that he is aware of "package licensees" that ship large volumes of liquor to damp and wet communities, and remarked that in doing so they might as well be sending explosives to those communities.

2:34:10 PM

BRUCE BOTELHO, Alaska Municipal League Representative, Alaska Rural Justice and Law Enforcement Commission, in response to a question, said that the aforementioned database is part of a comprehensive approach and primarily raises the issue of cost. The goal is to set up a tracking system managed by the ABC Board wherein package stores would electronically record sales into a central database so that cumulative efforts to market into a dry or damp community could be tracked.

CHAIR RAMRAS said he'd recently had a conversation with the operations director of a local [Fairbanks] air carrier who relayed that even when airport police use drug dogs to determine which packages contain drugs, they are not able to do anything because they need a warrant that can only issued by a postal inspector and there isn't a postal inspector in Fairbanks; thus local law enforcement is unable to address this known drug problem. He said he would like to see a memorandum from the Commission specifically addressing this issue.

MR. BOTELHO indicated that the Commission would [issue one], though it recognizes that there are constitutional and jurisdictional issues that any forthcoming recommendations regarding drug and alcohol trafficking must address as well.

MS. BULLARD remarked that the Commission has sought to have state troopers "cross deputized" by the post office.

CHAIR RAMRAS asked whether it would be helpful for the legislature, via a resolution, to ask that that process be expedited.

MR. BOTELHO indicated that the Commission would discuss that possibility at its next meeting.

REPRESENTATIVE COGHILL noted that tracking liquor sales to damp and wet communities could raise constitutional issues.

2:44:18 PM

MS. BULLARD mentioned that some people flying from Fairbanks into Nome now choose to do so via smaller airlines because they don't get searched like they would if they flew on Alaska Airlines.

ACTING ATTORNEY GENERAL COLBERG referred to the PowerPoint presentation, specifically the slide titled "Recommendations Impacting State Law", and indicated that federal and state funding should be sought, that there should be changes to Title 4 regarding the definition of "manufacture" and the expansion of forfeiture provisions, and that there should be changes to other statutes so that written order sales to dry towns and shipping plastic [bottles] by air is banned. The next slide he referred to and commented on offered the following recommendations: require hub communities to have alcohol distribution sites - this would centralize alcohol tracking efforts; allow the Division of Juvenile Justice (DJJ) to delegate authority to tribes; permit tribes to participate in juvenile sentencing and treatment; allow relatives to take foster children at [a] standard rate - this could help address villages' disproportionate per capita problems; and involve tribes and allow flexibility in foster home licensing.

ACTING ATTORNEY GENERAL COLBERG attempted to assure the committee that the [Commission] is in no rush to surrender the state's rights and is mindful of the issues involved. The Commission hopes to have the time and money to continue its work to a conclusion. Although there is a request into Congress to extend the life of the Commission, which is due to run out of funds within a month, the Commission is seeking "stop-gap funding" [from the state] of at least $50,000. The Commission is very close to making substantive contributions towards addressing the four underlying issues that the Commission was created to address.

MS. BULLARD, in response to comments, explained that the Commission, which is funded completely by Congress, has spent $272,000 annually.

REPRESENTATIVE COGHILL surmised that the Commission's funding might ultimately become the state's burden.

CHAIR FRENCH concurred.

MR. BOTELHO, in response to a question regarding the Commission's recommendation to alter statute so that written order sales to residents of dry communities is banned, acknowledged that several constitutional issues still need to be addressed.

MS. BULLARD, in response to comments regarding the Commission's recommendation that an amendment be made to the federal telecommunications Act in order to allow access to the connectivity of the "tele-health system" in rural Alaska, noted that currently under that Act, only hospitals, clinics, libraries, and schools [in rural Alaska] are eligible for subsidized rates; the Commission, therefore, is petitioning U.S. Senator Stevens to make changes that would allow all entities in rural Alaska to take advantage of those subsidized rates and that would provide for competition amongst providers of telecommunications services.

ADJOURNMENT

There being no further business before the committees, the joint meeting of the House and Senate Judiciary Standing Committees was adjourned at 3:03 p.m.