

**Alaska Rural Justice and Law Enforcement Commission
Options Worksheet for Work Groups**

Working Group: Domestic Violence/Child Abuse

Component: Access to Justice

Option# D – AJ 1

Statement of problem(s):

- a) People do not have access to sufficient civil legal assistance to redress legal problems.¹
- b) There is no legal service provider that specializes in immigration and refugee services for victims of DV/SA.

Current Status:

Alaska Legal Services has offices in Bethel, Fairbanks, Anchorage, Juneau, Ketchikan (paralegal), Kotzebue, Dillingham and Nome. ANDVSA Pro Bono Program accesses rural areas through pro bono attorneys and legal advocates at 20 member programs who provides legal assistance to DV/SA victims and children. Tribal courts provide alternate to state courts for some rural areas and obviate need for attorney and formal legal process. Immigration Refugee Services Program no longer exists.

Ideal Status:

Legal services offices in every rural area with regional rural hub. Extensive travel budgets allowing frequent bush/intake. Legal centers in every rural area that know all the legal resources for DV/SA victims and can serve as a point person to discuss options with person needing assistance and make referrals. Statewide hotline.

Immigration and refugee services re-established in some capacity

Structural Barriers (e.g., statutes, regulations, etc.):

Not enough funding for civil legal providers and DV/SA programs providing legal advocacy. Low pay and stress of these jobs lead to high turnover and less experienced staff. Urban attorneys are reluctant to go into the bush. Travel is expensive.

Option(s):

More funding for civil legal needs state/local/private/federal
More use of tribal courts.

¹ The Alaska Supreme Court Advisory Committee on Fairness and Access in its 1997 report found that "lack of local services can have serious ramifications:...civil matters like child support, adoption, probate, and small claims go unattended, telephonic hearings work poorly when the witness has limited English skills or poor understanding of the concepts involved, and villagers remain ignorant of the law because they never see it in action." Directory, fn. 47, p. 20, citing Alaska Court System, Report of the Alaska Supreme Court Advisory Committee on Fairness and Access 14, 105 (1997).

Use of video conferencing to better provide representation to rural areas.² Recognition of Right to Counsel in civil cases involving fundamental rights. Increased Federal funding for VAWA Legal Assistance to Victims Grants.

See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D- LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

² In its report "Racism's Frontier: The Untold Story of Discrimination and Division in Alaska, 2001", the Alaska Advisory Committee to the U.S. Commission on Civil Rights, recommended the use of modern technologies should be increased to upgrade the quality and effectiveness of the judicial system in rural areas. For example, some communities have developed video capability so that a probation officer can supplement on-going supervision of offenders in rural communities. A teleconferencing procedure may work for certain court cases as well. Recommendation 3.6, at 53-54.

**Alaska Rural Justice and Law Enforcement Commission
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Option# D – AJ2

Statement of problem(s):

Some victims are uncomfortable in accessing the state justice systems for cultural reasons or geographical reasons.³

Current Status:

In areas without an active tribal court, victims are forced to go to state court for civil legal problems. All rural criminal cases go through state court with exception of few diversion programs such as Kake's program.

Ideal Status:

Every state and tribal court open to each rural Alaskan for civil needs. Criminal needs addressed through state system with more diversion programs such as Kake's.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) State's resistance to tribal courts. PL 280 issues for criminal cases (although not a bar of diversion programs).
Some tribal courts do not have the infrastructure or desire to handle certain types of cases.
- b) Geographical barriers make accessing the state system difficult.
- c) Loss of faith in criminal/civil justice systems lowers reporting of crimes and keeps unhealthy families

Option(s):

- a) Increase training for tribal courts such as Alaska Inter-Tribal Council's (AITC) programs/ALSC, TCC, ANJC, UAF-Fairbanks.
- b) State change its stance as to tribal courts.⁴ Increased training on diversion programs. Training on how to develop culturally relevant, effective models.

³ See, Supreme Court Committee on Fairness and Access Report, "many citizens believe that the justice system is unfair to ethnic and cultural groups." At p. 49.

⁴ See Alaska Natives Commission Final Report, Vol. II, p. 61 (state and federal governments should create and utilize all possible opportunities for tribes to demonstrate their respective capacities to regulate tribal members. See also Vol. I, p. 90 (state must pursue options and alternatives to the current system, returning dispute resolution and decision-making authority to Alaska Native Villages....Village Councils should be encouraged to establish dispute resolution bodies and procedures that are consistent with the predominant tradition and culture of the village, and the state and federal governments should provide training and technical assistance to further this establishment).

c) Translators available at all times in state court.

d) See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D-LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

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Option# D – AJ3

Statement of problem(s):

Some victims are uncomfortable in accessing tribal justice systems because of inter-relationships of opposing party with tribal court administration or adjudicators

Current Status:

State court doors remain open to these victims but physical barriers are problematic and cultural concerns.

Ideal Status:

Sensitize state court system to be more culturally relevant to Alaska Natives/educate tribal court personnel about domestic violence issues.

Structural Barriers (e.g., statutes, regulations, etc.):

Money and time.

Option(s):

Cultural competency training for court staff.⁵

Tribal courts develop and adopt guidelines for recusing or responding to conflict situations and to prevent a single family group or faction to “take over” court

⁵ See, Supreme Court Committee on Fairness and Access Report, “[j]udges and court personnel do not have regular cross cultural training about ethnic and cultural subgroups living in their areas.” Report at p. 58.

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Option# D – AJ4

Statement of problem(s):

States courts not physically located in all rural areas making access difficult/Not all tribes have courts.

Current Status:

State courts present in 58 locations. Telephonic participation hearings available. Not all tribes have active tribal courts.

Ideal Status:

Every rural village that wants one would have an active tribal court and better access to state court, including translators.

Structural Barriers (e.g., statutes, regulations, etc.):

Disagreement over jurisdiction for tribal courts/clarification of jurisdiction

Option(s):

Need to change attitudinal policy that divides rather than works on improving services for people

See "Options" submitted in Problem Area 1 of Development of Local Capacity Issues (i.e., D- LC 1-1) regarding tribes and state reaching agreement on tribal jurisdiction, state reconsidering AG opinion dated October 1, 2004, and funding for tribal courts, which are incorporated here by reference.

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Option# D – AJ5

Statement of problem(s):

Lack of court/justice materials in different languages for Alaska Native or immigrant victims. ⁶

Current Status:

ANDVSA has order for protection videos available in Yupik and Spanish. IRPS has publications available in AST has DV booklets available in Yup'ik, Korean, Spanish, Tagalog, Russian, and Iñupiaq. Alaska Department of Law has victim services brochures in some languages.

Ideal Status:

Brochures on domestic violence/sexual assault/ child abuse and services available in all languages found in rural areas.

Structural Barriers (e.g., statutes, regulations, etc.):

Money and time, ability to coordinate people with expertise.

Option(s):

Improved coordination among providers.

More materials provided in different languages for Alaska Native or immigrant victims.

⁶ See, Supreme Court Committee Report on Fairness and Access Report at p. 92-93.

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Option# D – AJ6

Statement of problem(s):

Lack of interpreter services for Alaska Native/immigrant victims – also most don't have DV training.⁷

Current Status:

Criminal – right to interpreter

Civil – no right except for POs court system has small budget for Language line, but not all folks know about it. ANDVSA has done training for interpreters in the past

Ideal Status:

Interpreter for every person needing one in civil and criminal proceeding/Ideal to coordinate with advocates for services/training requirements for interpreters and standards.

Structural Barriers (e.g., statutes, regulations, etc.):

Time/money/accessibility to different interpreters.

Option(s):

Develop interpreter standards/advertise language line and increase budget/ court system puts in budget for more interpreter services.

⁷ See Supreme Court Domestic Violence Task Force Report, “Anchorage has no interpreter certification process so any individual can act as an interpreter, including the parties’ relatives and friends”, at p. 23 –25.

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Option# D – AJ7

Statement of problem(s):

Lack of law enforcement in rural areas to enforce state/tribal orders.

Current Status:

Law enforcement presence in villages is inadequate. The VPSO program is underfunded and understaffed and Troopers in rural Alaska cannot adequately provide a presence in villages, and must prioritize due to lack of resources.

Ideal Status:

Adequate law enforcement exists in all villages in rural Alaska. This would include fully funded and staffed VPSOs and other law enforcement such as tribal police. This would also include more active local involvement by Troopers.

Structural Barriers (e.g., statutes, regulations, etc.):

Underfunding of VPSO program/general lack of funding for law enforcement.

Option(s):

State adequately funds and staffs VPSO program, federal funding obtained for tribal law enforcement, cross deputization of law enforcement.⁸

⁸ See Alaska Federation of Natives Resolution 04-14 adopted at the 2004 Annual Convention, a resolution in "Support of Rural Law Enforcement in Alaska's Villages" supporting the VPSO program, and calling on the state legislature, governor and congressional delegation to design a program that will adequately address public safety needs in villages. See also Final Report to Governor, Alaska Commission on Rural Governance and Empowerment, 1999 (a local law enforcement officer should be present in every community in Alaska, with particular attention to off-road communities; all categories of officer should be fully trained, equipped, staffed, paid, and acknowledged as part of the overarching public safety system; effective public safety requires coordination with local communities, tribes, and regional non-profits. Department of Public Safety should train local officers to extend the reach of the public safety system; training for local officers is necessary to help them balance cultural sensitivity with professional ethics.

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Option# D – AJ8

Statement of problem(s):

Lack of adequate medical response in many villages makes sexual assault crimes harder to prove and lack of law enforcement with specialized training also aggravates the problem.

Current Status:

Law enforcement in some smaller communities have limited training DV/SA. AST response is sometimes delayed by distance and weather.

Ideal Status:

Trained law enforcement and medical personnel in each rural area or within one to two hours response time.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Funding is inadequate to staff this level of medical care/law enforcement. Resources are concentrated in the hub areas
- b) Law enforcement (AST) often reluctant to train existing personnel because they are further understaffed when officers are at training.

Option(s):

- a) Develop part time law enforcement positions for smaller communities with intensive training and support to maintain skills as needed. Find housing for these folks. Recruit and train local residents (community policing model)
- b) Law enforcement officers are temporarily relocated to cover empty slots while these officers are being trained.

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Option# D – AJ9

Statement of problem(s):

Many tribal and state court personnel and judges are not adequately trained in DV/SA and do not consistently apply laws meant to help victims.

Current Status:

There is no regular training for court personnel and judges on DV/SA issues. Training that occurs is not always coordinated with statewide experts leading to some controversial trainers presenting. Tribal judges have had some DV training but not mandatory/Court system Children's Forums were helpful in creating dialogues on children's issues and should be continued and expanded.

Ideal Status:

Mandatory training yearly for court personnel/judges coordinated with victims services providers. Same for tribal court (For state court - this is in statute already – AS 18.66.310)

Structural Barriers (e.g., statutes, regulations, etc.):

Judges are burned out on DV/SA cases. There is a perception that sporadic training is enough of a problem that it is counterintuitive and requires repeated, intensive training to counteract stereotypes /judges want to be trained by judges

Option(s):

Need consistent annual training for all court personnel and judges.
Training should be coordinated with CDVSA or ANDVSA.
Court system should hold regular forums in rural areas for judges and court personnel to dialogue on issues affecting DV/SA victims and child abuse.

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Option# D – AJ10

Statement of problem(s):

Large number of adults in criminal justice and civil system are FASD, or have mental health or other disabilities (including substance abuse) that are not adequately addressed by courts in regular criminal and civil process.⁹

Current Status:

- a) One estimate is that 60-75% of Native adults in state criminal justice system are FASD
- b) State Therapeutic courts, wellness/drug courts, family courts, mental health courts, have been implemented in Anchorage; therapeutic court implemented in Bethel which focus on specific disabilities.

Ideal Status:

Specialized alternative courts such as therapeutic courts, wellness/drug courts, family courts, mental health courts, are developed and operating in hub areas servicing rural Alaska (state) and in villages (tribal).

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Lack of funding (but statistically these alternative courts may save money long term by reducing recidivism)
- b) Lack of training, knowledge and experience of court personnel necessary to preside over such courts.

Option(s):

- a) Federal and state funding to develop and implement alternative courts such as therapeutic courts, wellness/drug courts, family courts, mental health courts, in hub areas servicing rural Alaska (state) and in villages (tribal)¹⁰.
- b) Train the trainer system developed utilizing judges who are presiding over such courts, and Partners for Progress, to train state and tribal staff, judges.

⁹ See CFSR review of Alaska OCS, September, 2002, citing lack of FAS resources.

¹⁰ In its report "Racism's Frontier: The Untold Story of Discrimination and Division in Alaska, 2001", the Alaska Advisory Committee to the U.S. Commission on Civil Rights, recommended that the federal and state governments should continue to support restorative justice efforts with funding and technical assistance. Recommendation 3.2, at 53-54.

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Option# D – AJ11

Statement of problem(s):

Immigrant victims of domestic violence are unfamiliar with the civil and criminal justice system and reluctant to access because they fear deportation.

Current Status:

Immigrants do not access the legal system because they don't know how it operates. Immigrants rarely seek protective orders without the assistance of a protective order. There is no statewide legal service provider, except for limited services provided under ANDVSA VAWA grant.

Ideal Status:

Immigrants would have a full understanding of legal rights and remedies available to them.

Structural Barriers (e.g., statutes, regulations, etc.):

There is a lack of awareness of the immigrant communities residing in rural Alaska and the unique issues that they face. Funding is always a problem. ALSC is barred from representing immigrants except for in protective order proceedings.

Option(s):

Creation of a statewide non-profit to provide legal services, education and information to immigrant and refugee victims of DV/SA.

Creation of local immigration and refugee outreach programs to educate communities.

Community organizing on a grass roots level with Kodiak model.

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Option# D – AJ12

Statement of problem(s):

Increased cooperation between law enforcement (police and troopers) and Dept. of Homeland Security that jeopardizes the safety of immigrant victims of DV/SA.

Current Status:

Often local law enforcement will contact the Dept. of Homeland Security when immigrant victims of DV/SA are seeking protection.

Ideal Status:

Local law enforcement provides protection to immigrant victims of DV/SA and works with victim service programs to ensure that immigrant victims are safe.

Structural Barriers (e.g., statutes, regulations, etc.):

Local law enforcement believes that violation of immigration laws is a criminal rather than the civil matter that it is. Also there is a misperception about the role of the Dept. of Homeland Security – some law enforcement think that they can get information from the Department of Homeland Security without sending a person into deportation. General concern over national security.

Option(s):

MOU between victim service agencies and law enforcement as to how to handle immigrant victims of DV/SA seeking police protection.

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Option# D – AJ13

Statement of problem(s):

Agencies, law enforcement and public do not understand human trafficking and therefore cannot protect victims.

Current Status:

In 2000, Congress enacted the Victims of Trafficking and Violence Protection Act. There is limited understanding of this federal legislation and the rights and responsibilities of victims and local law enforcement and prosecutors.

Ideal Status:

There would be no human trafficking in Alaska.

Structural Barriers (e.g., statutes, regulations, etc.):

Lack of information about trafficking and the extent of it in Alaska. Lack of resources in rural Alaska (agencies and law enforcement) to address the problem. Complexity of legal issues and potential lethality to a very vulnerable population.

Option(s):

Creation of a statewide anti-trafficking task force and the creation of MOUs between the federal and state prosecutors, federal and state law enforcement, OCS, DHSS and victim's service agencies. (Rep. Kertulla has offered legislation to create the task force).

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Option# D – AJ14

Statement of problem(s):

Child sexual abuse cases are frequently not adequately responded to by the civil justice system.
(access to justice)

Current Status:

- a) Parents do not know how to proceed when a disclosure is made. They receive conflicting messages from OCS, police, advocates and attorneys.
- b) A CINA case will not generally be initiated if a civil custody case is going on.
- c) Custody court defers adjudication of child sexual abuse to criminal realm or OCS even though evidentiary standards are different.
- d) Court may view protective parent in a custody case as improperly motivated and “alienating.”
- e) Child custody investigators and guardians ad litem are not adequately trained/equipped to independently investigate sexual abuse cases.

Ideal Status:

- a) All parents would have access to child advocacy centers (CACs) and advocates when disclosures are made.
- b) Courts would fully adjudicate all accusations of child sexual abuse and children would not be left in custody of sexual abusers

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Funding of CACs.
- b) Courts do not feel like they have adequate information to substantiate the serious allegation of sexual abuse by a parent.
- c) Society does not understand the pervasiveness of the problem.

Option(s):

- a) Access to CACs and advocates for all parents and children in Alaska.
- b) Dissemination of information about CACs and how to handle child sexual abuse disclosures.
- c) Court appointed attorneys (not GAL or CCI) in all cases involving child sexual abuse. Specialized family courts which are well trained in handling sexual abuse issues.

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Option# D – AJ15

Statement of problem(s):

Many victims do not have faith in the criminal justice and civil systems regarding DV/SA and child abuse.

Current Status:

- a) Victims fear retribution from the perpetrator, extended family and others in the community.
- b) Limitations of law enforcement protection and time delays between reporting situations, the investigation, and the perpetrator being removed from the community, create safety concerns and frustration among victims.
- c) Negative experiences with the court system, such as untimely notification of hearings, unsatisfactory outcomes, victim-blaming attitudes in the courtroom creates a reluctance on the part of victims to participate in the process.
- d) Lack of information and effective communication of the legal processes involved.

Ideal Status:

- a) All victims would be protected and empowered by the civil and criminal justice systems.
- b) Prompt response to complaints, thorough investigations and timely resolutions of judicial proceedings
- c) Educational outreach by the court system so that victims know how to access the system and understand their options.

Structural Barriers (e.g., statutes, regulations, etc.):

- a) Attitudes by some within the court system that blame victims.
- b) Lack of sufficient law enforcement presence in the villages.
- c) Court system and attorneys overwhelmed by civil and criminal dockets.
- d) Geographical barriers, limitations imposed by weather conditions, and other physical limitations which impede effective protection and create delays.
- e) Almost all state court cases take place in hub areas and not in local communities where victims reside-no “court presence” in many villages.

Option(s):

- a) Court system provides educational outreach programs.
- b) Increase law enforcement presence in villages.
- c) See “Options” provided at Section 10 (i.e., D- AJ10), which are incorporated here by reference.
- d) Court cases take place outside of hub communities in local communities where victims reside.
- e) Increase travel funding for court system and juries.