

Alaska Criminal Justice Data Analysis Commission

Meeting Summary

Tuesday, November 1, 2022

10:00 a.m.—2:00 p.m.

Commissioners Present: Lt. Jean Achee (Sitka Police Department), Samantha Cherot (Public Defender), Matt Claman (Alaska House of Representatives), James Cockrell, Zoom (Comm. Dept. of Public Safety), Alaska State Senator Roger Holland, David Mannheimer (Ret. Judge, COA) Zoom, Mike Matthews (Research Analyst, DOC) Zoom, William Montgomery (Bethel District Court Judge) Zoom, John Skidmore (Deputy Atty Gen, Criminal Div. Dept. of Law) Zoom, Brenda Stanfill (representing victims, interim), Trevor Stephens (Ret. Judge, Ketchikan Superior Court) Zoom, Steve Williams (CEO, Alaska Mental Health Trust), Brian Wilson (Capt. Anchorage Police Department), John Yoakum.

Commissioners Absent: Alex Cleghorn (Alaska Native Justice Center), Tony Piper (DBH)

Facilitator: Ret. Justice Joel Bolger

Participants: Brad Myrstol (Zoom), Troy Payne, Nathan Weber (all UAA Justice Center and AJIC);), Lizzie Kubitz (Rep. Matt Claman's office) Zoom, Melan Paquette (public, telephonic), Don Haberber (Juneau Reentry Coalition), Matthew Cuellar (UAA), Seth Burch (UAA), Rei Shimizu (UAA)

AJC Staff: Susanne DiPietro, Brian Brossmer, Teri Carns, Susie Dosik

Welcome, Approve Agenda

Chair Matt Claman called the meeting to order at 10:02 a.m. He asked for approval of the agenda. Mr. Skidmore moved to approve the agenda, and the motion was seconded. It was approved without objections.

He said that the purpose of the meeting was to consider potential areas of study for the Alaska Criminal Justice Data Commission (ACJDAC), and asked Ms. DiPietro to introduce the discussion.

Ms. DiPietro briefly reviewed the memo that had been provided to commission members. She said that the Judicial Council, staff to the ACJDAC, had listed topics described in past reports of the Alaska Criminal Justice Commission as areas needing further attention. These included:

- Domestic violence, particularly issues around mandatory arrest policies and laws and Alaska-specific data for those;
- Better attention to victims' needs;

- Sex offenses, particularly a clear data-based description of the process from reporting to conviction, sentencing, and post-sentencing;
- Pretrial and bail issues;
- Prison population, especially the increase in unsentenced population;
- Re-entry;
- Ethnic disparities in the criminal justice process;
- Behavioral health, competency to stand trial, and related issues;
- Data about victims; and
- Risk Factors related to criminal behavior

Commissioners' statements of priorities for research

Chair Claman introduced Retired Justice Joel Bolger as the facilitator for the commission's work on developing a research agenda. Justice Bolger said that the topic was "What should our research agenda be, and how would you organize the commission's work?" He reviewed the approach that the group would take for the day, and invited each member to take a few minutes to set out their ideas for the commission's work. Ms. Dosik tracked responses on a flipchart, and Ms. DiPietro posted them in the chat room for Zoom participants (see attached Zoom chat transcript).

Ret. Judge Stephens said that he had prepared a memo [distributed to commissioners before the meeting] that laid out what the legislature expected the group to cover. He noted that the Alaska Criminal Justice Commission had been asked by the legislature in 2014 to make recommendations that could stabilize or reduce the number of people incarcerated. The ACJC had subcommittees that worked on specific areas from recommendations, and that would be a good approach for this group.

His suggestions included:

- Tracking data re effectiveness of rehabilitative programs of people on probation and parole;
- in-custody programs that may impact re-offending;
- re-entry process – data to not reoffend, find housing, etc. Many of these things could be classed under those things that are required by statute.
- Mental health, competency (mental competency defense) – how effective the criminal justice system is in managing these type of defenses: lack of staff, API backlogs, Title 47 admissions.

Steve Williams commented that if the community-based system of mental health care was not strong, people served by it often end up in the criminal justice system. Discharge planning for people with mental health issues who are in law enforcement custody should have a process in place to address these needs. Mr. Williams suggested researching:

- The availability and adequacy of treatment programs inside DOC and outside in the communities.
- Re-entry and re-entry coordinators: designed to help facilitate inside and once released. What is going to get the best outcomes: success, no future contact, prolong cycling back into the system.
- Analyzing the process of reentry.
- Data on Trust beneficiaries;
- Capacity of programs;
- Issues around determining competency, and response to people found incompetent to stand trial.

John Skidmore said that while each agency produced its own reports and data analysis, the legislature did not have a single, comprehensive set of measures that they could use as a reference point for immediate purposes, and for viewing trends. He suggested that the ACJDAC could help develop a set of measures that all agencies could agree upon. His research suggestions included:

- Examine mental health competency. From the standpoint of what the laws are (currently), how is the system functioning. If the legislature makes changes soon does the system change, and if so, in what way.
- Three areas most interested:
 - o Pretrial delay – data shows an increase of people in pretrial incarceration; delays are challenging for victims; for the efficiency of the system. Are there changes that could be made that would reduce pretrial delay?
 - o Domestic violence – understanding what is happening from a victim’s perspective; what can we do to reduce recidivism; what can be done to improve prevention? Also interested in mandatory arrest – what changed with statutory mandatory arrest? How does mandatory arrest play out in cases where people were roommates or in a facility – these are different than more “typical” DV involving intimate partners in current or former relationships.
 - o Sexual assault – find out more about victims. Look at ways to prevent assaults, reduce recidivism.

Brenda Stanfill said that her comments would be similar to Mr. Skidmore’s. Her research priorities were:

- Mandatory arrest: Is training for law enforcement to determine primary aggressor and other criteria consistent throughout the state? Are victims still being arrested at high/higher rates;
- Does DV still have the highest recidivism rates;
- Track the effects of prior recommendations from ACJC;
- Restitution collection;
- System capacity for pre-trial diversion, restorative justice programs;

- Reducing pretrial delay so that victims don't face so many continuances and disruptions in their lives;
- Effectiveness of BIP programs;
- Tracking sex offenses through the criminal justice process
- Evaluation of the Crisis Now program;
- Impact of the Palmer incarceration substance abuse treatment facility – is it still in place;
- Reentry – is it working and is the population being targeted the correct one.

Senator Roger Holland flagged research priorities that voters were concerned about:

- Reentry – how are data collected about the success of the programs;
- Sex assault
- Domestic violence
- Mental competency and restoration of competency issues.

John Yoakum said that reentry was one of his primary concerns. His research issues included:

- More data about reentry programs and processes, successes and failures;
- Prevention of crime by reviewing the risk factors associated with crime; the goal being to have fewer people in a position to recidivate;
- Reduce recidivism by identifying successful programs.

Ret. Judge Mannheimer commented the most important measure was offenses that resulted in convictions, and that the commission had the statutory authority to find out what factors are related to or associated with convictions (whether causing convictions or a result of convictions) – is mental health involved? Substance abuse? Employment?

Judge Mannheimer's research topics included:

- Pre-resolution delay (pretrial and pre-sentence) – delays in justice;
- Effects of bail reform on cases and processing;
- Pretrial division (PED) recommendations' effects on judges' decisions re pretrial release;
- Different definitions of recidivism: arrest is an allegation of wrongdoing, not proof of wrongdoing. Focus ought to be on how many people actually engaged in new wrongdoing.

Commissioner Cockrell commented that the state continues to have among the highest rates of sexual violence and domestic violence, and did not seem to be doing anything differently in response. He said that the system lets victims down through delays in case management. The commissioner's areas of research priorities included:

- Sexual assault and DV – these trends are not improving, what can be done to better serve victims;
- Victims' voices are lost in the judicial system; need to evaluate victims' services coordinators around the state;

- Mental health challenges – what data to capture scope of problem of people with mental health issues in the state – troopers report that they interact with many people with mental health issues, as does DOC;
- Research persons who commit new crimes while on pretrial release.

Samantha Cherot said that the broad areas of rehabilitation and recidivism listed in the commission’s statute were the focus of her recommendations. Specifically, she said:

- Data about the effectiveness of housing services, Partners for Progress employment services;
- Unintended consequences of mandatory arrests of roommates, people in facilities; POC, cognitive disabilities;
- Mandatory treatments (e.g., BIP) that are very expensive, with the consequences of remand to custody if the person fails, inability to see children, losing housing (automatic for certain housing situations), losing jobs (again, automatic for some employment);
- Effects of sex offender registration requirements;
- Unsentenced incarcerated population and the reasons for it being so large;
- Whether PED is being used as it was intended – disproportionately applied to low-income people, applied to people who scored low to mod risk on pretrial assessment; impact on people of conditions of release (e.g., ankle monitor, alcohol monitoring) on ability to resume life prior to trial; more broadly, are these conditions working as intended.

Representative Matt Claman said that while the Data Commission should draw on the work of the ACJC, it is a new commission. It should focus on the reports required by statute, including on recidivism and the baseline data, and then on new research it believes is important. He added that the ACJC was most effective with its recommendations and reports when it worked by consensus, and he encouraged the Data Commission to adopt that approach. He also noted that while the makeup of the incarcerated population changed substantially, the overall numbers have remained about the same since 2016, which was one of the goals of the legislature at the time that it passed the 2016 legislation. Representative Claman suggested several areas for research:

- Mental health and competency: see how Crisis Now is doing as it rolls out fully; how to manage individuals who have serious mental health challenges; how to stop the “revolving door.”
- Substance use and mental health concerns of those who are in DOC and the impact on recidivism, in particular in the absence of significant treatment while incarcerated;
- Lack of change in high sexual assault and DV numbers; mandatory arrest effectiveness;
- The recent change in the definition of “consent” in sexual assault cases is a possible area for future research – too soon to measure statute change;
- How to work with situations where couples get back together after DV charges and convictions.

Capt. Brian Wilson said that he often hears that the Pretrial Division and process isn't working, but there isn't enough data to show that one way or another. His priorities were:

- Pretrial and bail – how it functions. Is it doing what it was intended to do;
- DV – is mandatory arrest doing what we intended, which was to reduce victimization; what diversions are possible?
- Mental health: competency; community resources, the lack thereof; when these services are not available the police is the backstop; stabilized in DOC and then return to the community.

Judge William Montgomery noted that Bethel and the surrounding villages presented very different challenges than those found in urban areas. Some of his research priorities focused on those differences:

- Impact PED and bail services where they exist, and effects of not having them; different costs to people in rural communities; lack of services that could help PED be more effective in rural areas;
- Therapeutic courts -- how are they working, and effect on recidivism;
- Pretrial delay possible causes: staff (Pros/DA), defendants incarcerated far from court/community location, difficulties for clients communicating with lawyers.

Lieutenant Achee concurred with Judge Montgomery that communities not on the road system had to deal with issues of pretrial, incarceration, and availability of services differently. His priorities included:

- Mental health services that are available in rural communities; substance abuse – significant factor, can lead to criminal activity and to recidivism once in the system, early intervention;
- Law enforcement people need appropriate training, preferably on site, about how to approach people in mental distress, training of first responders;
- Research on successful programs;
- Mandatory arrest, especially when children are involved needs review.

Mike Matthews noted that as a data provider (DOC) for the commission, it was important to clarify expectations so that the commission is not re-analyzing data that a department has already considered. He gave the example of how an increase of one more person per day (depending on the offense) in the pretrial population will create a substantial increase in the number of people in DOC custody. He noted that Alaska Natives are over-represented in the incarcerated population.

His priorities for research included:

- A review of specific offenses that show a large increase or make up a significant proportion of incarcerated population. For example, the trespassing offense numbers have increased (DOC has a list of other high-count offenses that could be investigated). To better understand this, DOC could provide a list of people in custody, and the

Commission could identify trends by using court records to help understand why these groups were spending long periods in pretrial status.

- In addition to using the statutory measure of recidivism (did the person desist from all further offenses), use measures of recidivism such as whether people who committed new offenses had less serious offenses, or took longer between returning to the community and committing the next offense than they had done previously. These measures would be especially helpful for evaluating the effectiveness of programs offered to incarcerated people.

Public Testimony

Chair Claman opened the floor to public testimony at 12:15 p.m. Ms. Melan Paquette said that sex offender registries were often missing information about specific offenders, or about required data for offenders who were on the list. Ms. Paquette also encouraged the Commission to consider new approaches to preparing people for employment, including new approaches to licensing businesses.

Don Haberger of the Juneau Reentry Coalition said that the commission might consider researching the effectiveness of reentry case management approaches. He noted that although the reentry coalitions did a substantial amount of work around the state, they had little data about how well they worked.

The chair closed the public testimony period at 1:00 p.m.

Review and set priorities

Justice Bolger reviewed what had been proposed so far. He said that Ms. DiPietro had provided a memo about past areas of research, and Judge Stephens had suggested four committees: Sentencing, Victim Needs and Concerns, Treatment and Rehabilitation, and Recidivism. Judge Bolger summarized the areas of research interest that were expressed as:

- Recidivism
- Domestic Violence and Sexual Assault;
- Effects of changes to bail and pretrial supervision;
- Pretrial delay;
- Competency issues;
- Programming for rehabilitation, for both incarcerated and non-incarcerated people;
- Mandatory arrest;
- Mental health and substance abuse services, especially for off-road communities;
- Law enforcement training;
- Alternatives to incarceration, especially therapeutic courts;
- Victim services;
- Specific offenses;
- The over-representation of Alaska Natives in the incarcerated population.

Justice Bolger said that the commission's job for the day was to set priorities for a research agenda. He added that it would be helpful for people to specify their preference for how to approach the work: as a committee of the whole, or in subcommittees, keeping in mind that subcommittees would mean that each commission member would have both commission meetings and subcommittee meetings.

Captain Wilson asked what the staff and research capacity was for the commission. Chair Claman said that the statute requires quarterly meetings. Ms. DiPietro said that the Judicial Council has some staff available. Dr. Payne (Alaska Justice Information Center) said that they had two fulltime staff and the possibility of working with contractors. Ms. Carns noted that research could cover a range of work from literature reviews, to use of existing data bases, to full-blown data collection from case files and subsequent analyses.

Justice Bolger invited each commissioner in turn to respond with priorities:

Mike Matthews: Unsentenced population. He believed that subcommittees would be useful, and suggested that research projects be separated into things that could be completed quickly, and those that needed more time and resources.

Lt. Achee: He set crime reduction as a priority, and said that he would be comfortable with either structure.

Judge Montgomery: How to get people their day in court, considering both pretrial and the final resolution of the case. Use PED data for this. He approved of subcommittees.

Capt. Wilson: He specified mandatory arrest policies and actual implementation; whether the PED was working as intended; and competency issues. He concurred with the creation of subcommittees.

Representative Claman: He suggested a five-subcommittee structure to allow deeper focusing on: mental health; victims; pretrial/bail; rehabilitation and recidivism; DV, mandatory arrest, sexual assault.

Ms. Cherot: Pretrial/PED, and DV might be subjects that could move forward as a committee of the whole. In general, subjects could be addressed with both short- and long-term projects. The change in "consent" law would be a longer-term project. She noted that if subcommittees did not have decision-makers at the meetings, their work could be more difficult, and that in the past, some subcommittees had gotten off track.

Commissioner Cockrell: Providing better information and services to victims; ways to reduce /prevent sexual assault and domestic violence, particularly in rural areas. He supported the idea of subcommittees.

Judge Mannheimer: he believed that the group could start with the topics on which the commission is required to report each year. In addition, topics that were related to legislative action, such as mandatory arrest and restrictions on pretrial release were

useful. A major priority was the reasons for delays in trials and sentencings. He did not have a preference for a committee structure.

Mr. Yoakum: He set reentry, and ways that it could reduce recidivism as a priority. He did not have a committee structure preference.

Senator Holland: He would focus on reentry, and on sexual assault offenses. He thought that a subcommittee structure could be slow, and could limit the ability of the commission to address a variety of topics.

Ms. Stanfill: She set mandatory arrest as a priority, noting that it did save lives. She added that victims needed more attention than they received, and a subcommittee might be the best way to assure that. She noted that the prior subcommittee process was frustrating at times because topics were revisited.

Mr. Skidmore: He said that subcommittees could do a substantial amount of background work, and that they weren't intended for decision-making; that was reserved for the full commission. However, because his department would have to be represented on each committee, and is understaffed, he wasn't recommending the subcommittee structure.

He said that his priorities would include pretrial delay, competency, and DV/sexual assault. Mandatory arrest was important to study because there is not a consensus. He noted that the commission needed to identify data essential to study a topic that was not specified in the statute, and work with agencies to get that data. If the data aren't available, then perhaps that was not an area for study.

Mr. Williams: He said that he leaned towards working as a committee of the whole, in part because it would be difficult to staff the commission as well as five subcommittees. In addition, working as a whole commission, all of the voices would be heard, and the system, as a system, could be better understood. If that is the approach, the commission should meet six times a year. His priorities would be understanding the reasons for disproportionality (in ethnicity, culture, gender, mental health status); competency (building on the 2015 report); pretrial delay and PED; and mandatory arrest especially in the context of people living in group homes.

Judge Stephens: He said that his priorities included protecting victims and the public, and lowering recidivism. Specific topics would include PED, pretrial delay, and competency. He said that he would prefer to start as a committee of the whole, meeting every other month.

Recap

Justice Bolger said that all of the topics mentioned fell within the purview of the commission. They included:

- The unsentenced population;

- Crime reduction;
- PED and pretrial release;
- Mandatory arrest;
- Mental health and competency;
- Victims' needs and available services
- Sexual assault;
- Reentry and recidivism;
- Meeting the statutory requirements for data reporting; and
- Pretrial delay.

He noted that although many commissioners appreciated the subcommittee process, they recognized that it meant a substantial commitment of staff time both for their offices and for the Judicial Council.

Justice Bolger said that staff would come to the next meeting with a proposed research agenda that included both short-term and longer-term projects. He saw three areas where the commission members agreed that work should be done and could begin immediately: Time to resolution of cases (pretrial delay); analysis of existing PED data from the past five years; and mandatory arrest.

At the next meeting, the commission will consider the proposed research agenda, and set a meeting schedule for the coming year.

Adjourn

Chair Claman said that he did not see any other business before the commission and asked for a motion to adjourn. Mr. Williams moved, and Ms. Cherot seconded a motion to adjourn. There were no objections. The meeting adjourned at 1:57 p.m.

Transcript of Zoom Chat

November 1, 2022

10:31 AM

Judge Stephens:

- Recidivism & rehabilitative programming
- Re-entry, effectiveness data
- Defendants' mental circumstances specifically competency and defenses
- Title 47 situation

11:03 AM

Steve Williams:

- Mental health, competency, behavioral health, access to treatment
- Community behavioral health system - is it strong
- Discharge planning
- Adequacy and availability of programming inside and out and transitioning
- Outcomes for individuals and public safety
- Capacity of programs and process
- Legal competency statutes

J Skidmore:

- consistency of criminal justice data definitions
- Mental health competency - current law, how functioning, outcomes of changes
- Pretrial delay
- domestic violence and sexual assault
 - specifically: Sexual assault victims, recidivism, prevention
 - DV: How does mandatory arrest affect definition of DV

Brenda Stanfill:

- DV and SA
- Regarding mandatory arrest for DV- primary aggressor screening use and training
- DV rate of recidivism
- Research on BIPs
- track effects of changes
- restitution collection
- Pretrial and bail
- Crisis Now outcomes
- impact of Palmer treatment- substance use
- Reentry working? right population?
- pretrial delay

Sen Holland:

Re-entry
SA and DV
Mental competency

J Yoakum:
re-entry - risk factors
prevention
successful programs

D Mannheimer-
pre-resolution delay
bail statutes and PED - effects on judges' pretrial release decisions
Recidivism definition & data definitions

J Cockrell
DV and SA - need better outcomes
victim services
effectiveness of DPS victim/witness coordinators
mental health issues
of defendants released pretrial who reoffend while on release

11:45 AM

S Cherot:
rehabilitation and reducing recidivism
alternatives to incarceration
adequacy of treatment and services
unintended consequences of mandatory arrest and DV definitions
Effect on people of color, persons with developmental and cognitive disabilities
effect of sex offender registration
prison population - why so many pretrial?
Impact of PED

M. Claman:
Commission should try to operate on consensus
effects of law changes since 2016
mental health and competency
prison population trends
substance abuse treatment in DOC and community
DV and SA rates
DV - no improvements, other ideas?
Changes to definition of consent in SA statutes (later)

B. Wilson:
pretrial and bail outcomes

DV - mandatory arrest and possible diversion
mental health and behavioral health - availability and adequacy across the
system, resources, capacity, DOC, API

Judge Montgomery:
bail- differences urban and rural
PED: availability, usage, costs
therapeutic courts, alternatives to incarceration
pretrial delay

Lt Achee:
mental health services in rural
substance abuse services
early intervention
law enforcement training needs; need training on site/traveling trainer

mandatory arrest for DV unintended consequences

12:15 PM

M Matthews:
what are we expecting from data providers
increase in unsentenced prison population
overrepresentation of Ak Natives in DOC
analysis of offenders remanded for specific offenses e.g. trespassing and other
misdemeanors
recidivism - do more than statutory definition: consider change in frequency of
reoffending, change in level of reoffending, and cessation