

Alaska Criminal Justice Data Analysis Commission

Meeting Summary

Wednesday, January 11, 2023

9:00 a.m. - 11:30 a.m.

Anchorage Legislative Information Office/Zoom Hybrid

Commissioners Present: Lt. Jean Achee (Sitka Police Department); Samantha Cherot (Public Defender); Matt Claman (Alaska House of Representatives); Alex Cleghorn (Alaska Native Justice Center); David Mannheimer (Ret. Judge, COA) [Zoom]; Mike Matthews (Research Analyst, DOC) [Zoom]; Tony Piper (DBH) [Zoom]; John Skidmore (Deputy Atty Gen, Criminal Div. Dept. of Law); Brenda Stanfill (ANDVSA designee) [Zoom]; Trevor Stephens (Ret. Judge, Ketchikan Superior Court); Steve Williams (CEO, Alaska Mental Health Trust); Brian Wilson (Capt. Anchorage Police Department); John Yoakum (PDA/DOL designee).

Commissioners Absent: William Montgomery (Bethel District Court Judge); James Cockrell (Comm. Dept. of Public Safety); Alaska State Senator Roger Holland.

Participants: Tracy Dompeling (Bartlett Regional Hospital) [Zoom]; Andrew Gonzalez (UAA AJiC) [Zoom]; Brad Myrstol (UAA); Malan Paquette (public) [Zoom]; Carl Reynolds (Council of State Governments (CSG) Justice Center) [Zoom].

AJC Staff: Susanne DiPietro; Brian Brossmer; Teri Carns [Zoom]; Susie Dosik [Zoom]

Welcome, Approve Agenda and Prior Meeting Summary

Chair Claman called the meeting to order at 9:02 a.m. He asked for approval of the agenda. Mr. Cleghorn moved to approve the agenda, and Ms. Cherot seconded the motion with the addition of a discussion of a meeting schedule for the next year. The agenda as amended was approved without objections. Chair Claman then asked for approval of the November 1, 2022, meeting summary. Mr. Williams moved to approve the meeting summary, and Mr. Cleghorn seconded the motion. It too was approved without objections.

Overview and discussion of research proposals

Competency and Restoration

- Staff summarized proposal as written. Mr. Williams suggested investigating and reporting the disposition of cases for which individuals had competency raised. Mr. Williams also noted that the Department of Family and Community Services may be a resource, as they have staff that assist when referrals are made to the Alaska Psychiatric Institute. Mr. Skidmore said that determining the number of referrals and the number of

cases dismissed would be helpful. Additionally, Mr. Skidmore noted that for a number of years, the Department of Law has dismissed cases against individuals charged with a low-level offense who have been referred for a competency evaluation in order to focus efforts on those individuals who have been charged with a serious offense. Judge Stephens asked whether the project would assess the capacity to provide competency evaluations. Chair Claman said this information may be available, including the extent to which job vacancies have been open and unfilled. Mr. Cleghorn asked, given the demand for services, is there an obvious indication that funding changes are needed. Mr. Cleghorn also suggested tracking competency evaluations by location, whether the individual being assessed was an Alaska Mental Health Trust beneficiary, and ethnicity. Staff said that cases in which a competency evaluation has been requested easily can be identified in Anchorage through its centralized competency calendar; however, it is unclear how feasible it will be to identify those cases filed in other court locations. Ms. Cherot suggested gathering updated wait-time information, and identify where individuals are held while they wait. Mr. Skidmore said that Alaska Psychiatric Institute should have a clear understanding of who is being referred via the associated court case number, but that would not provide demographic information on its own. Chair Claman said that it would be important to understand the extent to which repeat competency evaluations occur (cycling). Judge Stephens suggested investigating the extent to which a Title 47 follows a determination of incompetence.

Diversion Programs/Alternatives to Incarceration

- Staff summarized proposal as written. Mr. Cleghorn said that the Division of Juvenile Justice diversion programs should be included, as they are one of the longest-standing diversion programs in the state; and that understanding the number of individuals involved would be beneficial. Additionally, Mr. Cleghorn said that tribal diversion agreements that exist elsewhere in the United States could be examined but that, in Alaska, there is no federal funding to support this work, which presents a significant challenge to any implementation; for a sense of the requisite funding needs, the Department of the Interior's Bureau of Indian Affairs has quantified this in its annual reports to congress.

Felony Case Processing

- Staff summarized proposal as written. Mr. Williams stated that an important variable to include would be the individual's mental health status. Staff said that in prior felony processing studies by the Alaska Judicial Council, it was possible to examine the log notes in court case files for indications of this. Judge Stephens asked if this study would have access to presentence reports, as mental health issues may be indicated there. Staff said presentence reports could be included in this study to the extent that they are available; however, their inclusion can be variable and this variability may introduce

unwanted bias, and that generally, in the past, staff could not get reliable data on mental health services received by individuals.

Time to Disposition

- Staff summarized proposal as written.

Sex Offense Case Processing

- Staff summarized proposal as written. Mr. Cleghorn asked to what extent this would build off the Department of Law's sex offense reports that are statutorily required. Mr. Cleghorn also asked whether it would be possible to identify the ethnicities of the victims and the perpetrators, in order to assess disparities in prosecution dependent on these factors. Staff said that it would be dependent on accessing information from multiple entities: the Alaska State Troopers and all local police departments from which Commissioners were interested in having data.

Pretrial Release Decisions & Outcomes

- Staff summarized proposal as written. Ms. Cherot asked if Pretrial Enforcement Division's risk assessment evaluations would be included, as these may affect bail decisions. Staff said these could be included.

Characteristics of Unsentenced Inmates

- Staff summarized proposal as written. Mr. Matthews said that, in considering individuals who repeatedly cycle through Department of Corrections' institutions, identifying and mitigating these events could positively affect every agency in the criminal justice system: if an individual is remanded dozens of times per year, and, assuming each remand demands resources from other agencies, improvements to this pattern could be very impactful and widespread. Ms. Cherot said it would be advantageous to know if and to what extent these individuals are participating in therapeutic courts or other diversion programs. Staff questioned to what extent are other agencies (beyond Corrections) aware of these repeat offenders, and, if aware, what if any steps are being taken to mitigate the behavior. Finally, Mr. Cleghorn said that the cost of each remand (system wide) should be quantified and compared to the cost of diversion.

Pretrial Enforcement Division

- Staff summarized proposal as written. Mr. Matthews suggested that in describing the work of the Pretrial Enforcement Division, a description of the environment prior to the Pretrial Enforcement Division should be included as a point of comparison.

Statutory Recidivism

- Staff summarized proposal as written. Judge Stephens questioned the adequacy of the statutory definition in the Commission’s enabling legislation. Chair Claman discussed some of the history of this definition but then said that a definition in statute does not prevent other investigations – it did not in the prior Commission and it does not preclude Commission members from advocating for additional measures in this Commission. Mr. Matthews pointed out that one of the weaknesses of the current definition is that by not differentiating by felony and misdemeanor, due to the much larger number of misdemeanor convictions in the state, the recidivism definition in statute will essentially be a measure of misdemeanor recidivism.

Recidivism - Additional Measures

- Staff summarized proposal as written. Mr. Matthews added that this is an opportunity to identify positive trends in re-offending that a simple recidivism measure may miss, that is, while re-offending may occur, if it occurs less quickly or its severity decreases, that may be an indicator of improvement.

Sex Offense Recidivism

- Staff summarized proposal as written.

Repeat Offenders

- Staff summarized proposal as written.

Reentry Services and Treatment

- Staff summarized proposal as written. Mr. Cleghorn said that it is important to cast a wide net regarding the services that are available and that he can assist in identifying some of these. Judge Stephens asked if program effectiveness would be examined. Mr. Skidmore said that his agency has many new prosecutors and these new prosecutors may not be aware of all of the programs; moreover, knowing which programs are most effective would aid in directing individuals there. Chair Claman said that the intention is to provide a review of available programs first and that an assessment of effectiveness could perhaps come at a later date. Mr. Cleghorn noted that what is deemed “effective” or how “effectiveness” is defined can vary and caution should be exercised. Ms. Cherot said that the impact of COVID restrictions are still being felt, and that some programs are still virtual or only recently returning to in-person; additionally, Ms. Cherot said that virtual programming affects indigent individuals in particular, as it can be difficult to access reliable internet. Ms. Stanfill said that batterer intervention programs are currently being revised so it may make sense to exclude these programs from this project and return to them in the future. Judge Stephens pointed to the work done by Results First regarding effectiveness. He further noted that program availability is unevenly distributed, and the

availability will affect participation and, ultimately, outcomes of people based on the communities in which they reside. Staff noted that measuring the effectiveness of programs that exist in Alaska presents many challenges. Mr. Cleghorn said that a qualitative approach may be warranted precisely because measuring all program impacts is so difficult; for example, there are many positive impacts to program-participant family members and the wider community that, while real and relevant, are not generally included when assessing a program.

Restitution

- Staff summarized proposal as written. The Alaska Court System is able to provide this information and staff would plan to ask Nancy Meade at the court system to provide a report of the information it has available.

Uniform Stats on Cr Justice Agencies Research

- Staff summarized proposal as written. Mr. Skidmore said that there is value in defining certain terms so that when agencies present information to policymakers, they can be on the same page regarding events, processes, etc., as this would facilitate common understanding. Judge Mannheimer concurred, and said that this may be a long-term project or a reoccurring project, but the goal would be that when individuals from one agency read a report from another agency, they would understand it in terms of their own work, as the definitions or translation would allow comparisons. Chair Claman suggested including this as an appendix in the Commission's annual reports on an ongoing basis. Finally, Mr. Matthews provided one salient example, wherein "unsentenced" has a very specific meaning within the Department of Corrections but that it likely has a different meaning within the court system, and, as such, it is important to highlight these differences in a way that the relevant parties would benefit.

Mandatory Arrest Laws

- Staff summarized proposal as written. A Commissioner asked, in considering this proposal and domestic violence incidences more generally in the state, whether domestic violence review panels have a role. Ms. Stanfill suggested some overlap and perhaps a better place to investigate this is within DPS and the Alaska Council on Domestic Violence and Sexual Assault. Ms. Cherot highlighted the collateral consequences of a domestic violence flag on a criminal charge; additionally, that it appears the trend is to include more offenses as being domestic-violence related and, as such, the potential for collateral consequences may be increasing over time. Mr. Skidmore asked what was being measured with this proposal. Staff said that this proposal is better understood as a proposal to develop a research plan. Judge Stephens asked whether this project would be extended to include the inability of those charge with certain offenses to get bail.

Victim Resource Coordinators

- Staff summarized proposal as written. Mr. Cleghorn asked if this project would only include Department of Public Safety *Victim Resource Coordinators* or if additional community resources, including efforts by nonprofit and tribal entities, would be surveyed as well. Staff said that as originally envisioned this project would only focus on DPS personnel. Mr. Cleghorn said that a more expansive survey would be helpful and could serve as a resource with which to refer people, for example.

Public Comment

Chair Claman paused discussion at 10:30 a.m. in order to open public comment, per the agenda.

- Malan Paquette described issues with the information found in the online sex offender registry. Ms. Paquette said that while information per statute is to be updated annually, there is information on the registry that is more than one year old. Additionally, while Ms. Paquette said that the Department of Public Safety is required to provide a list of people on the sex offense registry that the Department of Public Safety cannot locate, no such list appears to be publicly available. Furthermore, Ms. Paquette said that there is information that shows more than 300 sex offenders have failed to register, yet only 40 warrants have been issued. Finally, Ms. Paquette said there is insufficient oversight of judicial complaints.
- Carl Reynolds (Council of State Governments (CSG) Justice Center) directed Commissioners to the Council of State Governments' *Justice Counts* website (<https://justicecounts.csgjusticecenter.org/about-justice-counts/>), which may have relevance regarding the *Uniform Stats on Cr Justice Agencies Research* project.

Chair Claman, hearing no other persons wishing to provide public comment, left public comment open until 11:00 a.m. and reminded all concerned that public comment can be provided at any time in written form.

Research Priorities

Chair Claman asked if the group was prepared to identify research priorities, with an eye to the November 2023 annual report. Mr. Williams thought it would be helpful to differentiate projects that are “literature reviews” or, more broadly, descriptive surveys and those that involve quantitative analysis; he also wondered about staff capacity. Ms. Stanfill reminded the group that some data and analyses are statutorily required, and that those commitments should be part of this discussion so that they are not lost. Chair Claman suggested that the group pause its discussion for approximately ten minutes in order to confer in smaller groups, after which they would come back together and endeavor to identify research priorities.

Upon reconvening, Mr. Skidmore proposed separating those projects that are literature reviews or descriptive surveys of programs and services, and those that require data analysis; the intent would be to address the most important topics while also ensuring that projects can be completed and included in the annual report.

Motion 1: Description of services or processes

Mr. Skidmore proposed the following descriptive/survey projects: Diversion Programs/Alternatives to Incarceration; Reentry Services and Treatment; Mandatory Arrest Laws; and, Victim Resources, including a description of the *Victim Resource Coordinators* program.

Mr. Williams seconded the motion to enable discussion. Mr. Williams asked if the expectation was that these would occur consecutively or concurrently. Mr. Skidmore said concurrently, along with the data analysis projects. Mr. Cleghorn clarified that the victim-resources and reentry-services projects would be a scan of what programs are available, not a mere literature review. Chair Claman said that the list of topics should include the *Uniform Stats on Cr Justice Agencies Research* project. The list of projects was amended as follows:

- Diversion Programs/Alternatives to Incarceration
- Reentry Services and Treatment
- Mandatory Arrest Laws
- Victim Resources, including a description of the Victim Resource Coordinators program
- Uniform Stats on Cr Justice Agencies Research

Chair Claman asked if there was any opposition to the motion as amended; hearing none, the motion was approved.

Motion 2: Data analysis

Mr. Skidmore proposed the following data analysis projects: Time to Disposition; Pretrial Enforcement Division; Statutory Recidivism; Recidivism - Additional Measures; Competency and Restoration; and Restitution.

Capt. Wilson seconded the motion to enable discussion. Mr. Cleghorn clarified that the Department of Law sex-offense reports would continue. Mr. Matthews noted that Pretrial Enforcement Division and its data are complicated so while describing its activities should be straightforward, assessing its performance would be difficult; furthermore, the Department of Corrections will continue to report its measures of recidivism. Judge Stephens highlighted those things that are required of the Commission in statute and noted that the data analysis projects being discussed would be in addition to those. Staff said that some of the work outlined in the above proposals will be contingent on the cooperation of other criminal justice system agencies. Staff said that the Commission's work is contingent on the cooperation of other criminal justice system agencies and that not all MOUs to allow data transfers have been signed. Chair Claman

noted many of the reporting requirements for this Commission are the same as those of the Alaska Criminal Justice Commission, and, as such, should not be unduly difficult. Judge Stephens reminded the group of the Commission's responsibility regarding the *Risk Factors Related to Criminal Activity* project. Staff provided a brief overview of the Commission's reporting requirements. Chair Claman noted that even if the Legislature made changes to the statutes governing competency, an assessment of the current state of affairs would have value. The final list of projects was as follows:

- Time to Disposition
- Pretrial Enforcement Division
- Statutory Recidivism
- Recidivism - Additional Measures
- Competency and Restoration
- Restitution

Chair Claman asked if there was any opposition to the motion; hearing none, the motion was approved.

Meeting Scheduling

Chair Claman said that in order to approve an annual report in November 2023, the expectation is to have a meeting schedule as follows: March, late-May/June, August/September, and October. Regarding the location of the March meeting, Mr. Skidmore reminded those present that, given the importance of public participation in commissions such as this one, varying the location of Commission meetings had value. Chair Claman said that, given this, the Commission would endeavor to hold its next meeting (March) in Juneau. Staff was directed to follow up via email in order to identify specific dates.

Adjourn

Chair Claman asked if there was a motion to adjourn the meeting. Ms. Cherot made a motion to adjourn the meeting, and Mr. Williams seconded the motion. Hearing no objections, the meeting was adjourned at 11:30 a.m.