



ALASKA CRIMINAL JUSTICE COMMISSION

2019 Annual Report

November 1, 2019

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Executive Summary

The Alaska Criminal Justice Commission was created by the Alaska Legislature in 2014 to evaluate our state’s criminal justice practices and monitor criminal justice data. The Commission remains dedicated to these statutory tasks and, over the past year, has produced new research and analysis that continues to improve our understanding of Alaska’s criminal justice system.

Criminal Justice Reform in a Changing Legal Landscape

Alaska made significant changes to its criminal justice laws in 2016, based upon recommendations from the Commission. Many of these changes were modified or reversed in 2019 with the passage of House Bill 49 (HB 49). HB 49 retains several of the 2016 changes, including:

- The Pretrial Enforcement Division (PED) within the Department of Corrections (DOC) continues to provide risk assessments for pretrial defendants and to provide pretrial **monitoring services for defendants who are released before trial**.
 - Alaska’s new **pretrial risk assessment tool** was revalidated in the past year, and continues to be predictive of the risk of pretrial failure.
- **Victim notification** provisions remain in place; these provisions help victims know when a defendant is likely to be released from prison and may be considered for discretionary parole. HB 49 also added more victim notification provisions.
- Alaska continues to fund investments into **reentry** services, **substance use disorder treatment** in prisons, and **violence prevention**.

Additionally, judges and legal practitioners throughout the state have come to understand the principles behind criminal justice reform, and can consider and use those principles in their daily practice. For example, even though judges are no longer limited in terms of the jail time they may impose for a technical (non-criminal) violation of probation or parole, judges retain the discretion to impose shorter terms for such violations when appropriate.

Criminal Justice Data: Key Outcomes

Based on data, evidence-based practices, and the experiences of other states, the intent of Alaska’s criminal justice reforms of 2016 included focusing scarce resources on the highest-risk individuals and implementing programs to reduce criminal recidivism and Alaska’s prison population while maintaining public safety. The reforms reduced **the prison population** and allowed DOC to close the Palmer Correctional Center. Data analyzed by the Commission show that **more corrections resources are being devoted to people convicted of violent crime** and fewer resources to those convicted of non-violent crimes, particularly drug crimes.

The 2016 reforms also targeted post-release supervision practices (i.e. probation and parole). Supervision procedures were adjusted so that probation and parole officers could spend less time and resources on those who were low-risk and more time and resources on those who were high-risk:

- People who were able to comply with the conditions of their supervision were able to earn time off of supervision;
- People who complied with the conditions of their supervision were eligible for early termination of supervision based on research showing that most people who violate the conditions of their supervision are likely to do so within the first year of release;
- Consequences for violating conditions of supervision were designed to be swift, certain, and proportionate: people would not spend much time in jail for non-criminal violations for the first, second, or third violation.

These reforms achieved their intended effect:

- Petitions to revoke probation have **decreased**,
- Probation and parole officer **caseloads are down**, and a greater share of people being supervised are those who were convicted of violent crimes.
- **Fewer** people are spending time in prison for supervision violations, and
Successful discharges from probation have increased from 66% pre-reform to 88% post-reform.

The Commission's Work

The Commission devoted the majority of its focus this year on two issues: sex offenses and victims' rights and services.

The Commission issued a separate **report on sex offenses** in April of 2019.¹ The report underscored that **many sex offenses in Alaska go unreported** and there is a wide gap between the number of sex offenses committed every year and the number of people who are held accountable for those offenses. **Alaska's rates of sexual assault have been among the highest in the nation** for the past decade. The rate of reported felony sex offenses in Western Alaska is more than twice the statewide average.

In an effort to increase the Commission's understanding and the impacts of crime on Alaskans, the Commission hosted **victim listening sessions** in Anchorage, Juneau, Ketchikan, and Fairbanks. (One of the Fairbanks sessions took place during the Alaska Federation of Natives Convention in October 2019). The Commission also created an **online survey** to get feedback from victims who could not or did not wish to attend a listening session. Many of the participants in both the listening sessions and surveys said they wanted **better communication** with law enforcement and prosecutors, **more services** (or better access to services), and **more information** on how the criminal justice process works.

¹ This report is posted on the Commission's website, at <http://www.ajc.state.ak.us/acjc/docs/ar/2019ACJCSexOffensesReport.pdf>.

Next Steps

HB 49 will result in increased financial costs to the criminal justice system. The operating budget for the Department of Corrections (DOC) increased by over \$25 million from FY19 to FY20.² The capital budget allocated over \$13.5 million to cover the cost of HB 49, including an additional \$8.3 million to DOC.³

The Department of Correction's fiscal note for HB 49 estimated more than that would be needed in the coming years (nearly \$50 million per year through fiscal year 2025).⁴ There will likely be similar **increases to other parts of the criminal justice system** if arrests and criminal case filings continue to trend upward and backlogs and pretrial delays increase.

Many of the core concerns that were the impetus for criminal justice reform will continue to exist: increasing costs and **high recidivism rates** strain Alaska's budget and put its citizens at risk of being victimized. Though the initial evidence shows that re-arrest rates have been trending downward since reform, more time is needed to assess whether these trends will continue.

As analysis of the recidivism rates continues, it is important to recognize that the rates are still high and indicate a need for additional support for interventions and **programs that reduce recidivism**. There is a large body of work available in Alaska to help policymakers identify in which programs to invest, including:

- The Commission's reports (including this one) make detailed **recommendations for investment** principles and ideas for specific needs that should be addressed;
- The **Results First Project** showed that a number of programs already in operation in Alaska are cost-effective and proven to reduce recidivism: general education, vocation education, various substance use disorder treatment programs, and sex offender treatment.⁵

While policymakers continue to review statutes and appropriate resources to address recidivism, these measures only address public safety after a crime has already been committed. Investment in **crime prevention** is equally important to improving public safety. There are a number of programs targeted at at-risk youth, many of which are in operation in Alaska already, that are proven to reduce the likelihood of future offending. These programs reduce both the number of potential future offenders and the number of potential future victims.

² Alaska Office of Management and Budget, FY2020 Department Summary, available at: https://omb.alaska.gov/ombfiles/20_budget/FY20Enacted_dept_summary_all_funds_9-4-19.pdf.

³ Capital Appropriations Budget (Enrolled SB 19, 2019), available at: <http://www.akleg.gov/PDF/31/Bills/SB0019Z.PDF>.

⁴ Department of Corrections Fiscal Notes for HB 49, notes 39-42, available at <http://www.akleg.gov/PDF/31/F/HB0049-39-2-052019-COR-Y.PDF>; <http://www.akleg.gov/PDF/31/F/HB0049-40-2-052019-COR-Y.PDF>; <http://www.akleg.gov/PDF/31/F/HB0049-41-4-052019-COR-Y.PDF>; <http://www.akleg.gov/PDF/31/F/HB0049-42-2-052019-COR-Y.PDF>.

⁵ University of Alaska Anchorage, Alaska Justice Information Center: *Alaska Results First* (2017), available at: <https://www.uaa.alaska.edu/academics/college-of-health/departments/justice-center/alaska-justice-information-center/alaska-results-first.cshtml>.

In the next year, the Commission will continue to evaluate Alaska’s criminal justice practices and monitor criminal justice data. It has identified four primary research topics: **victims’ services, sex offenses, post-conviction treatment and rehabilitation, and domestic violence**. Section II (D) below explains the research plans in more detail. Consistent with its statutory duties, the Commission will make data-driven and evidence-based recommendations for improved effectiveness and efficiencies that improve public safety, produce better individual outcomes, and build healthier communities.

Current Members of the Alaska Criminal Justice Commission

MATT CLAMAN, EX OFFICIO, CHAIR

ALASKA HOUSE OF REPRESENTATIVES

BRENDA STANFILL, VICE-CHAIR

EXECUTIVE DIRECTOR, INTERIOR ALASKA CENTER FOR
NON-VIOLENT LIVING

JOEL BOLGER

CHIEF JUSTICE OF THE ALASKA SUPREME COURT

SEAN CASE

CAPTAIN, ANCHORAGE POLICE DEPARTMENT

ADAM CRUM, EX OFFICIO

COMMISSIONER, ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES

KEVIN CLARKSON

ATTORNEY GENERAL, STATE OF ALASKA

NANCY DAHLSTROM

COMMISSIONER, ALASKA DEPARTMENT OF CORRECTIONS

SAMANTHA CHEROT

ALASKA PUBLIC DEFENDER

SHELLEY HUGHES, EX OFFICIO

ALASKA STATE SENATE

AMANDA PRICE

COMMISSIONER, ALASKA DEPARTMENT OF PUBLIC SAFETY

GREGORY RAZO

ALASKA NATIVE JUSTICE CENTER DESIGNEE; VICE PRESIDENT, CIRI

STEPHANIE RHOADES

DISTRICT COURT JUDGE (RETIRED), STATE OF ALASKA

TREVOR STEPHENS

SUPERIOR COURT JUDGE, STATE OF ALASKA

STEVE WILLIAMS

COO, ALASKA MENTAL HEALTH TRUST AUTHORITY

I. Introduction/Background

This is the Alaska Criminal Justice Commission's fifth annual report to the Alaska State Legislature. The Commission's reports are due to the Legislature by November 1 of every year.⁶

The Alaska Criminal Justice Commission was the product of a bipartisan legislative effort to introduce evidence-based reforms to Alaska's criminal justice system. The Commission's enabling legislation provides it with a broad mandate to examine the state's criminal laws, sentences, and practices. Since the Commission began meeting in September 2014, it has sent a number of recommendations to the Legislature, many of which have been enacted into law. The most notable piece of legislation to arise from the Commission's recommendations was Senate Bill 91 (SB 91), enacted in 2016, which made broad changes to Alaska's criminal justice system.

The legislature modified portions of SB 91 with Senate Bill 54 (SB 54), enacted in November 2017, and House Bill 312 (HB 312), enacted in June 2018. Much of SB 91 was repealed by House Bill 49 (HB 49), enacted in July 2019.

SB 91 tasked the Commission with monitoring the implementation of criminal justice reform.⁷ Accordingly, the Commission reports on the progress of this implementation in its annual reports.

This report includes data from the period when SB 91 (as modified by SB 54 and HB 312) was in effect, as well as information on how the law has changed under HB 49. It also includes information on the Commission's work over the past year and information on trends in crime and criminal justice processing. The Commission will continue to monitor criminal justice system data and will continue to make any necessary recommendations for statutory and policy change until its sunset date in 2021.

Recent Criminal Justice Bills

Recent bills relating to criminal justice (with dates of enactment)

- **SB 64** (July 17, 2014) – Created the Alaska Criminal Justice Commission
- **SB 91** (July 12, 2016) – Omnibus criminal justice reform package
- **SB 55** (June 20, 2017) – Made minor adjustments to SB 91
- **SB 54** (November 27, 2017) – Made substantive changes to provisions in SB 91
- **HB 312** (June 15, 2018) – Made substantive changes to provisions in SB 91
- **HB 49** (July 9, 2019) – Repealed many provisions in SB 91

⁶ AS 44.19.647 (b).

⁷ AS 44.19.647 (a)(3).

II. Commission Research and Recommendations

The Commission is required by AS 44.19.645 to evaluate the criminal justice system. The Commission fulfills this responsibility through research and study, and through soliciting input from the public and experts. The Commission then makes recommendations to improve the criminal justice system if needed.

The Commissioners meet regularly to review and analyze information, take public input, and discuss policy issues and recommendations. To assist with this work, the Commissioners created several working groups that meet between Commission meetings. These working groups enable Commissioners to develop data and information at a more detailed level to inform their deliberations.

In the last year, the Commission and its working groups met over 15 times. All meetings are publicly noticed and open to the public. Members of the public and interested stakeholders regularly attend Commission and workgroup meetings. All meetings are open to public comment.

Since its inception, Commission has made several dozen recommendations to the Legislature, the Governor, and the Court System. In addition to the information contained in this section, the appendices offer additional details on the work of the Commission.

Appendix A gives more details on the procedural aspects of the Commission's work.

Appendix B gives more information about the Commissioners.

Appendix C lists all of the Commission's recommendations since 2015.

A. Previous Work

The Commission has issued over 60 recommendations, many of which have provided the basis for legislation or executive orders. Conversely, many of the Commission's recommendations have not been the subject of any legislation or executive orders. The following is a list of the recommendations that, to date, have not been taken up by any legislator, the executive branch, or the Alaska Supreme Court.

- **Allow defendants to return to a group home on bail with victim notice.** (*Recommended August 2016.*) This recommended statute change would affect people with behavioral health disorders who have been charged with a crime against a caregiver or co-resident in an assisted living facility. It would allow these defendants to return home on bail if the victim's safety can be reasonably assured.
- **Include behavioral health information in pre-sentence reports.** (*Recommended August 2016.*) This policy change would include information on any behavioral health condition that is amenable to treatment in a defendant's pre-sentence report so that a judge can consider this information at sentencing.
- **Add two new mitigators for acceptance of responsibility.** (*Recommended October 2016.*) These sentencing mitigators would allow a judge to make a downward departure from the presumptive sentence range for most felony offenses.

- **Restitution recommendations.** (*Recommended December 2016.*) The Commission issued a report on restitution in Alaska, including recommendations to ensure that victims can more easily receive restitution for the harm they have experienced. (One recommendation was partially addressed by HB 216, enacted in 2018.)
- **Title 28 recommendations.** (*Recommended December 2016.*) The Commission also issued a report on driving-related offenses with recommendations to enact evidence-based policies for Alaska's drivers.
- **Amend the three-judge panel statute.** (*Recommended August 2017.*) Amendments to this statute would clarify and simplify the process for sending cases to a three-judge panel for sentencing. The three-judge panel is used in cases where a sentence within the ordinary statutory range may be manifestly unjust.
- **Enact vehicular homicide and related statutes.** (*Recommended October 2017.*) These statutes would create new offenses specifically designed to address cases in which a defendant has caused the death of a person or persons with a vehicle.
- **Enact redaction statutes.** (*Recommended April 2018.*) The Commission recommended enacting a suite of statutes that would allow a person who has previously been convicted to limit public access to their criminal history so long as the person has remained crime free for a period of time following successful completion any probation or parole requirements.
- **Revise the Guilty But Mentally Ill (GBMI) statute.** (*Recommended April 2018.*) The recommended amendments to this statute would revise and clarify the procedures the Department of Corrections uses to make release decisions for people who have been incarcerated after being found guilty but mentally ill.
- **Expand data sharing related to behavioral health among agencies.** (*Recommended September 2018.*) Expanded data sharing among agencies would make it easier to ensure that Alaskans with behavioral health problems would be served along a continuum of care.
- **Expand Crisis Intervention Training efforts.** (*Recommended September 2018.*) Law enforcement officers are increasingly responding to calls involving individuals who are experiencing a behavioral health crisis. Crisis Intervention Training teaches officers how best to interact with this population to de-escalate behavior and ensure an appropriate response.
- **Develop crisis stabilization centers.** (*Recommended September 2018.*) Crisis stabilization centers would allow law enforcement officers and other first responders to bring individuals experiencing a behavioral health crisis to a location other than an emergency room or a prison. These centers would perform a kind of triage service, allowing people to be directed to the most appropriate form of treatment and relieving Alaska's overburdened emergency rooms.

B. Sex Offenses

In SB 91, the legislature asked the Commission to “to review and analyze sexual offense statutes and report to the legislature if there are circumstances under which victims' rights, public safety, and the rehabilitation of offenders are better served by changing existing laws.”⁸ The Commission convened a workgroup to study this topic, inviting a variety of stakeholders to take part. Many representatives of state agencies and nonprofit organizations, as well as concerned citizens, joined the workgroup. It met 15 times, and at each meeting the group discussed issues related to sex offenses in Alaska and offered feedback on each draft of the report to the legislature.

The Commission sent its report on sex offenses to the legislature in April 2019. The full report can be found on the Commission’s website.⁹ This subsection summarizes some of the report’s findings and data.

First, the Commission found that many more sex offenses occur in Alaska than are reported. In 2015, an estimated 7,000 women experienced sexual violence in Alaska; this number does not include children or men.¹⁰

The victimization estimate and the data on felony sex offense case processing are not directly comparable. But they reveal that there is a difference—by an order of magnitude—in the number of people who perpetrate sex crimes and the number of people who are held accountable for sex crimes every year.

Alaska has the unwelcome distinction of being one of the worst states in the nation for sex offenses. The rate of rapes reported per capita in Alaska is more

Report on Sex Offenses

Sent to the Legislature in April 2019; available online.

Findings:

- Very few sex offenses are reported.
- Only a fraction of reported offenses lead to a charge or conviction.
- Alaska has consistently been one of the worst states in the nation for sex offenses.
- In Western Alaska, the sex offense rate is more than twice the statewide average.
- Victims should receive comprehensive services and the state should use trauma-informed criminal justice practices.

⁸ AS 44.19.645(c)(4).

⁹ Alaska Criminal Justice Commission, *Sex Offenses* (2019), available at: <http://www.ajc.state.ak.us/acjc/docs/ar/2019ACJCSexOffensesReport.pdf>.

¹⁰ *Id.* at 24.

than three times the national average, and more than twice that of any other state.¹¹

Rates vary throughout the state; the rate of reported felony sex offense incidents in Western Alaska is more than twice the statewide average.¹²

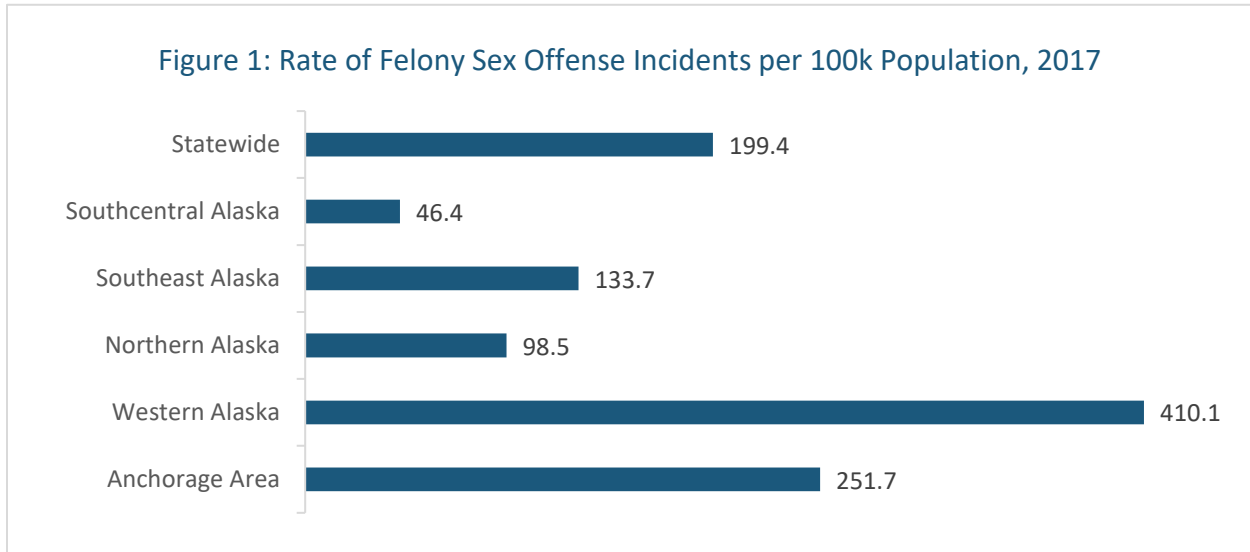


Figure 1: source: *2017 Felony Level Sex Offenses: Crime in Alaska Supplemental Report*, Dept. of Public Safety, August 2018

Alaska's sex offense problem is particularly pronounced in Western and rural Alaska and disproportionately affects Alaska Natives. The lack of law enforcement in some rural communities means that perpetrators of sex offenses are often not held accountable. A culture of silence has also bred a culture of impunity, though this culture of silence is slowly dissipating as more people from rural Alaska speak out about crimes of sexual violence.¹³

Felony Sex Offenses, 2015

- **1,352** felony sex offenses were reported to law enforcement.
- There were **225** arrests for felony sex offenses. Of those arrests,
 - **159** resulted in a conviction;
 - **119** of which included at least one conviction for a felony sex offense.

Alaska Criminal Justice Commission, *Sex Offenses* (2019) at 24.

¹¹ FBI, *Crime in the United States, 2018*, "Table 1" (2019), available at: <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-1>; FBI, *Crime in the United States, 2018*, "Table 1" (2019), available at: <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-5>.

¹² Alaska Criminal Justice Commission, *Sex Offenses* (2019), at 10. Regional breakdown for 2018 reported sex offenses is not yet available.

¹³ *Id.* at 82-89.

In the vast majority of cases, sex offenses are committed by people who know the victim, whether a friend, acquaintance, or family member.¹⁴ Around half of all reported victims are under age 18.¹⁵

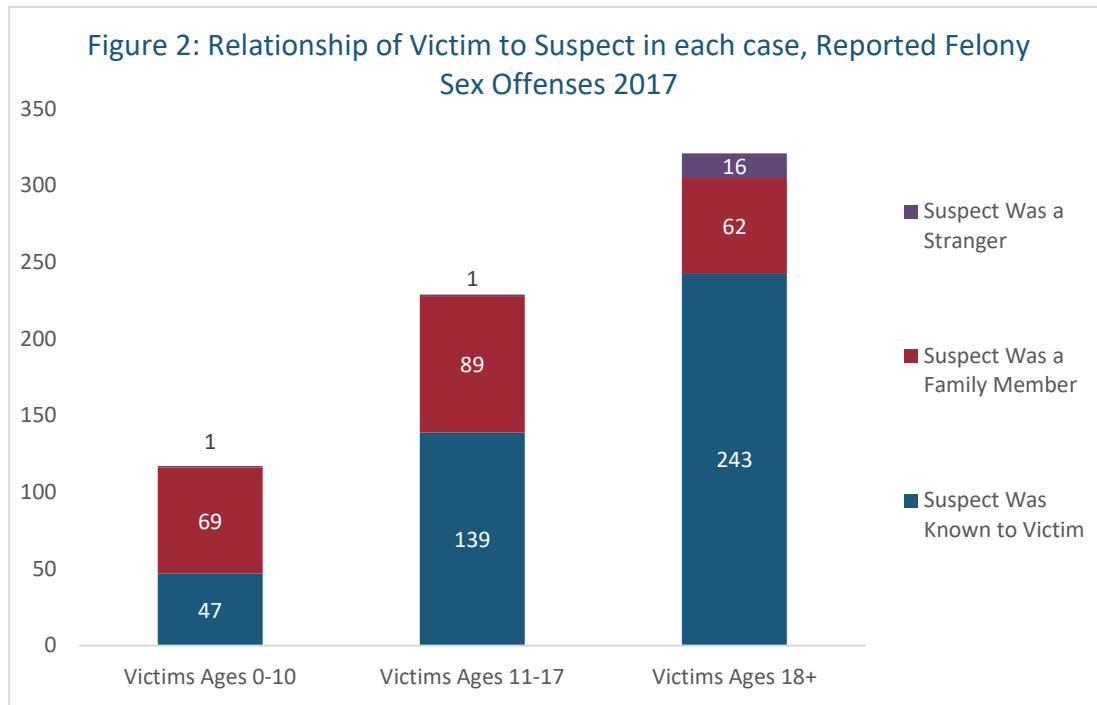


Figure 2 source: *2017 Felony Level Sex Offenses: Crime in Alaska Supplemental Report*, Dept. of Public Safety, August 2018

Given the stark reality of the sexual violence epidemic in Alaska, the Commission found a need for a new approach. First, Alaska should build on training for trauma-informed approaches to criminal investigations and prosecutions and reexamine criminal justice processes with an eye toward not re-traumatizing victims.

Second, services for victims of sexual violence tend to be short-term and crisis-driven. Victims need long-term, wraparound care, particularly child victims. The state's response to sexual violence should be victim-centered, yet it is often the victim who must jump through hoops to be able to access resources and services. Finally, there are barriers to accessing financial help for victims of violent crime; these barriers should be addressed.

The report also includes information on the available prevention programming around the state. The Council on Domestic Violence and Sexual Assault (CDVSA) administers grants to community-based organizations to run a number of violence prevention programs. Many of these programs are geared towards encouraging children to form healthy relationships and to lead violence-free lifestyles.

¹⁴ *Id.* at 11.

¹⁵ *Id.* at 31.

C. Victim Listening Sessions and Survey

In late 2018, the Commission identified addressing victims' needs as a priority. Beginning in January 2019, the Commission held victim listening sessions in Juneau, Fairbanks, Ketchikan, Bethel, and Anchorage. The Commission held an additional Fairbanks session at the Alaska Federation of Natives annual convention in late October.

A common theme at all listening sessions concerned communication and follow-up from law enforcement and prosecutors. Many participants stated they had difficulty ascertaining the status of their case, believed that no one followed up on their report of a crime, or felt like they weren't being taken seriously.

Participants also spoke about the difficulty of navigating the legal system and not understanding the process. Some noted that the trauma of experiencing crime made it difficult for them to retain information or to know what to do in times of crisis. Many suggested that there could be better ways of informing victims of crime what services are available to them and reaching out to them about their case.

In mid-May 2019, Commission staff launched an online survey for victims of crime in Alaska. The survey asked respondents what helped or would have helped them immediately after the crime or long-term, what helped or would have helped them to understand the criminal justice process, whether they were able to access services, and anything else they thought the Commission should know.

The responses to the survey reflected many of the same themes that came out in the listening sessions. Respondents frequently wrote about communication problems, delays, and feeling like their cases or complaints were not taken seriously. Respondents were from all over Alaska and had endured a variety of crimes.

Of all respondents, 54 respondents (or 42.5% of respondents) reported **wanting better communication** from prosecutors, law enforcement, or both.¹⁶ Some mentioned not being able to understand what was going on from CourtView. Many mentioned not receiving calls

Hearing From Victims

Listening Sessions conducted in:

- Juneau (January 2019)
- Fairbanks (March 2019)
- Ketchikan (April 2019)
- Bethel (April 2019)
- Anchorage (September 2019)
- Fairbanks (at the AFN convention, October 2019)

Online victim survey available beginning in May 2019; over 150 responses received

¹⁶ Data analysis of the victim surveys is derived from the 127 surveys received before June 23, 2019. As of this writing, the Commission has received over 150 total surveys. The Commission cannot be sure that the survey results are representative of all victim experiences in Alaska, since survey participants were those who voluntarily responded and were not randomly selected.

Survey Responses

54 people (or 42.5% of respondents) reported wanting **better communication from** prosecutors, law enforcement, or both

34 people (or 26.7% of respondents) wished that law enforcement had completed a **more thorough investigation** and/or had arrested a suspect

27 people (or 21.7% of respondents) said that they either wanted a **longer sentence** for the defendant or did not approve of the plea deal

26 respondents (or 20.5% of respondents) said they wanted **more information** about the criminal justice process

71 people (or 55.9% of respondents) mentioned needing more **services**

33 people (or 26% of respondents) expressed a general opposition to crime and/or the **feeling that defendants had more rights than victims**

back from prosecutor's offices. Here are some direct quotations¹⁷ from respondents who mentioned communication with prosecutors:

- *I feel like I wasn't informed quick enough if he was incarcerated or not. I was walking around wondering and **worrying if he went to jail or not**, [and I] was scared.*
- *I wish I knew more about what is happening with my trial. I wish I knew why some decisions were made during the entire trial. **I want to know why my trial is still active after 5 years.***
- *[DA's office staff] can't even answer my question about what time to show up, for example, or where to park. ... I have no idea what's going on with my pending court case. A new DA was apparently assigned but I found this out from CourtView. No one told me. **I wish I never filed charges against my rapist.** Nobody gives a [hoot] about me or keeping me informed even though I'm supposed to testify against him in trial sometime. It feels like being victimized over and over again when you're blown off by staff or treated rudely.*

Respondents also expressed frustration with various aspects of the law enforcement and prosecutorial response to crime. They believed that **not enough was done to investigate the crime or pursue prosecution**. These respondents mentioned the following:

- *[It would have helped] to have help arrive quicker. **Takes an hour or longer before we can get someone to respond from the nearest town.***
- *[It would have helped to have] a police force that has time to investigate thefts.*

¹⁷ Quotations from surveys have been lightly edited for spelling or grammar, to place the quotation in context for the reader, or to remove identifying information.

- *[It would have helped] if they would [have] arrested the defendant for violating a restraining order but instead they didn't charge him, [and] a month later, **my family member was killed.***

Some respondents were dissatisfied with the consequences (or lack thereof) that defendants faced. While many of these respondents referred to their specific case, some spoke more generally about the need for defendants to experience **more significant consequences**. In total, 27 people, or 21.7% of respondents, said that they either wanted a longer sentence for the defendant or did not approve of the plea deal; 20 respondents, or 15.7% of all respondents, **did not want the defendant in their case released** from jail/prison, either during the pre-trial period or on parole. Here is a sample of those responses:

- *We were excluded from the criminal case even after requesting to be involved. [The] first time [the] DA contacted us was after a plea deal had been struck reducing two felony assault charges down to a misdemeanor charge of assault in the fourth degree.*
- *The offender was let off earlier than necessary, and I haven't the faintest idea why. ... I don't know why the Parole Board decided to let him out early and **I feel like I have a right to know.** This person is out now and has the ability to cause additional stress and trauma for the victim and myself, the least the state and justice system can do is explain to us why they are willing to put us in this situation given the level and severity of the crime.*
- *My attacker was [released before trial]. **Not once was I made aware of his freedom, despite his [history] of harassment and violence.** I have no idea why I should trust that my safety is valued by our justice system and I don't even know who I can call to discuss the details of this case. It seems that I was promised safety and justice, and yet I am alone and unsure where to go for help or who I could trust.*

Many respondents reported wanting **more information** about how the criminal justice process works, including how the trial process plays out, information on victims' rights, and what services are available to victims. In all, 26 people, or 20.5% of respondents, said they wanted more information about the criminal justice process. Here is a sample of their responses:

- *To know the next steps, know where to turn for more information. It's common to be overwhelmed in these situations, so having something to read and look at can help more than verbal instructions.*
- ***I was confused, intimidated, and had no idea what to expect in the process, and was forced to try and figure it out on my own reading stuff online....The legalese involved in trying to read about court procedures is overwhelming. Having someone to TALK to would make it more accessible.***

Many respondents also mentioned wanting **access to services**, including behavioral health services, financial support, housing support, legal services (to deal with any civil legal issues that arose as

a consequence of the crime), and support and advocacy through the criminal justice process. In total, 71, or 55.9%, of respondents mentioned needing more services.

- *Financial assistance to move out of a shared house and to hide from my abuser [would have helped me immediately after the crime].*
- *Extend any potential financial assistance past two years; court cases usually go past two years and grief sometimes hits past the two years. Allow the victims time (longer than two years) to figure out how to proceed. Court cases are still on-going, different effects rise to the surface and there is no recourse.*
- *Mental health options for dealing with the trauma [would have helped long-term].*
- *Getting all the resources [immediately after the crime occurred would have helped me to] begin healing. Free counselling, services offering safety [and] services to help recover from trauma.*
- *Someone helping [my family member] through the process [would have helped]. An advocate or agency personnel assigned helping them to understand 'what happens now', where to find support, basically navigate through the process.*

Only 27% of respondents reported being able to readily access services available to victims.

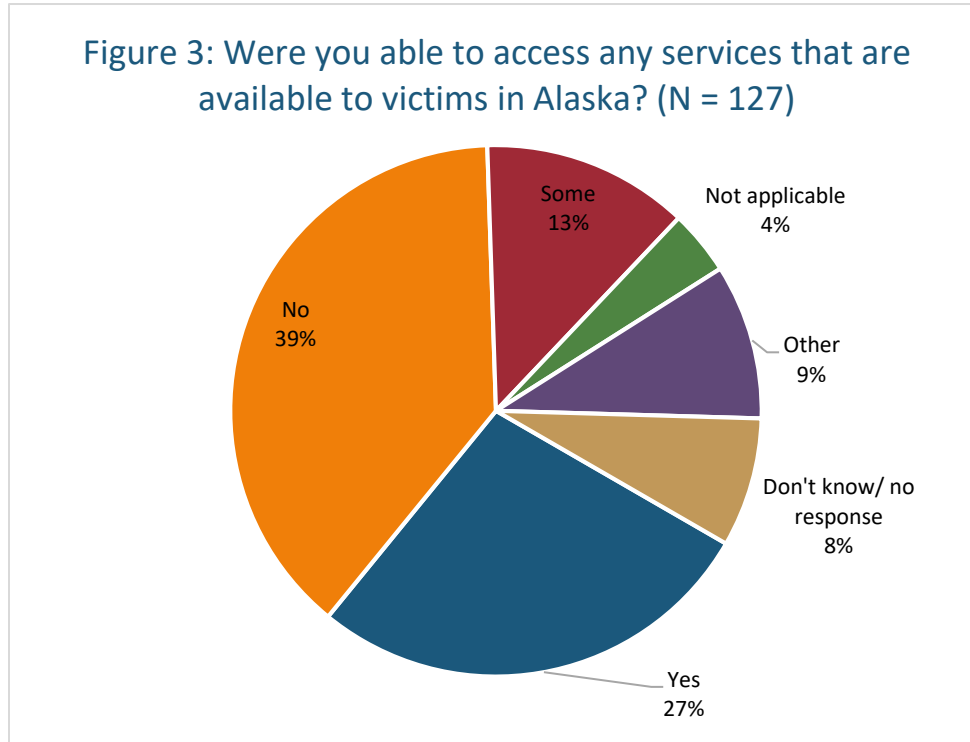


Figure 3 source: Alaska Criminal Justice Commission

Respondents who wrote about accessing services or barriers to accessing services also offered reasons as to why they could not access services, how access to services could be improved, and, if they were able to access services, which organizations helped them.

Barriers/challenges to access

- Not aware/offered/communicated about services
- Did not qualify/denied services/none available
- Pay out of pocket
- Access difficult/could not access services
- Needed more/longer-term help
- Did not report crime

Recommendations to improve services

- Improve communication/follow-up about available services
- Improve information/access/advertising about available services
- Improve services - other
- Immediate referral to services

Many respondents felt that law enforcement officers, prosecutors, or even judges could have interacted with them **more sensitively, or could have been more respectful**. In all, 13 people, or 10.2% of respondents, thought that the professionals with whom they interacted could have acted with more sensitivity or respect.

Many respondents wished that court proceedings against the defendant could have happened on a faster timeline; they thought there were **too many pretrial delays**, which prevented a sense of closure on their part. Some noted that it was especially frustrating to take the time off of work to plan to attend trials or hearings, only to find out that the trial or hearing was continued after they arrived at the courthouse. In all, 19 people, or 15% of respondents, thought court proceedings were delayed or rescheduled too often.

- *We are still waiting and are closing in on 6 years since the initial report was made to the police.*
- *Victims have rights. Please stop victimizing them further by allowing defendants to run the show. A timely trial is important for closure and healing.*
- *We are so frustrated at the continued court dates and feel like no one is fighting for us.*

Respondents in **rural areas were frustrated with the criminal justice response** in those areas, describing a lack of safety and lagging response times from law enforcement that often must fly in to a village. Some of their comments were:

- *There is a screaming need for real law enforcement in the villages. ... For shame, Alaskans.*
- *A lot of times victims need a "holding hand" to help navigate and understand court terms/processes as they are not aware of resources (or possibly, lack thereof) for them. Some rural/remote*

communities may not have access to internet/websites; as they can be spotty little to no internet or let alone a telephone. There are times when there is no internet or phone lines are down. The other challenge is no VPSO or VPO in communities.

- *It's really hard to know what the [conditions of probation or parole] are for convicted felons in a small village and how to follow through with said conditions, i.e., are they allowed to go to the school and is it with or without adult supervision...who's really checking up on them and tracking them? We don't have a VPSO in our village. How do we educate our children so they don't become victims?*

The Commission has formed a Victims' Rights and Services Workgroup to address victim issues. In the coming year, the workgroup's goals include addressing communication and information barriers.

D. Research and Policy Priorities for the Coming Year

The Commission has identified four main research and policy priorities for the coming year. Those priorities are in the areas of victims' services, sex offenses, post-conviction treatment and rehabilitation, and domestic violence.

Victims' Services: Communication. As reported above, one of the primary concerns victims reported to the Commission through both the listening sessions and surveys was a lack of communication between victims and law enforcement and prosecutors. Many people who reported being the victim of a crime did not know what law enforcement was doing to investigate their case, what the prosecutor was doing to pursue charges in the case, or what to expect from the criminal justice process. Many also did not know how to access services.

The Commission hopes to address these concerns by investigating the gaps in communication with victims and the various law enforcement agencies, looking at best practices in other jurisdictions, and developing comprehensive recommendations to improve communication and ensure that victims do not feel as though the system has left them hanging.

Sex Offenses: Review of Sex Offense Statutes. The Legislature made significant changes to some of the statutes governing sex offenses in 2019. Nevertheless, the Commission would like to comprehensively review all of Alaska's statutes relating to sex offenses, including the law on consent and sex trafficking. The Commission remains concerned that sexual violence in Alaska remains far too prevalent, and hopes to recommend any statutory changes necessary so that anyone who commits a sex offense can be held accountable.

Post-Conviction Approaches: Treatment and Rehabilitation. Many of the Commission's recommendations to date have focused on what happens to people before they are convicted of a crime and what happens after they are released. The Commission plans to bring a renewed focus on how people spend their time post-conviction, particularly while they are incarcerated.

The Commission plans to look into best practices for behind-the-walls treatment and rehabilitative services, housing models, and reentry programming, as well as the effectiveness of behind-the-walls programming compared to community programming.

Domestic Violence: Addressing High Recidivism Rates. People who are convicted of domestic violence (DV) offenses tend to have the highest recidivism rates compared to people convicted of other offenses. DV crimes are also somewhat unique in that they typically involve a defendant and victim whose relationship is ongoing, whether that relationship is between a parent and child or between spouses/significant others.

The Commission plans to explore new approaches to this crime, looking at research and best practices. In particular, the Commission will work with stakeholders and practitioners in this area to identify intervention programming that has been shown to reduce recidivism.

III. Criminal Justice Reform Implementation Data

SB 91 directed the Commission to oversee the implementation of criminal justice reform and justice reinvestment. The Commission is required to track outcomes of any changes made to the law pursuant to the Commission's 2015 Justice Reinvestment Report. The Commission must receive and analyze data from the Department of Corrections, the Alaska Court System, and the Department of Public Safety. These agencies are required to send information to the Commission every quarter.

The information provided by these agencies allows the Commission to track whether changes to the law are having their desired effect. The Commission's 2017 annual report contained preliminary information on changes to the overall prison population following the changes to sentencing laws effective July 2016 and changes to parole and probation practices effective January 2017. The 2017 report also contained information on the work being done to implement the new Pretrial Enforcement Division within DOC.

The Commission's 2018 annual report contained data on the effect of changes to sentencing, probation and parole, and had preliminary information on the implementation of changes to pretrial practices, effective January 2018. The data in the 2018 report also encompassed the time period after some rollbacks to SB 91 were implemented in November 2017.

This report contains data from FY 19, the last fiscal year in which SB 91 was effective. Much of SB 91 was repealed in July 2019, just after FY 19 ended.

This report also contains the Commission's first recidivism analysis since SB 91 was enacted. Alaska has historically used three-year recidivism rates, and this is also the follow-up period required by statute,¹⁸ so this year was the soonest the data could be measured.

SB 91 was not repealed in its entirety. This section concludes with a brief summary of how the law has changed with the passage of HB 49.

SB 91 Implementation Timeline

- **July 2016:** SB 91 enacted, changes to sentencing laws become effective
- **January 2017:** Changes to probation and parole become effective
- **November 2017:** SB 54 enacted, reversing some changes to sentencing
- **January 2018:** Changes to pretrial practices become effective
- **June 2018:** HB 312 enacted, reversing some changes to pretrial practices
- **July 2019:** HB 49 enacted, repealing most of SB 91

¹⁸ See AS 44.19.647 (3).

A. The Prison Population

One of the primary aims of criminal justice reform was to safely reduce Alaska’s prison population. The prison population had been increasing at an unsustainable rate in the decade prior to 2014. The Commission’s 2015 recommendations, which formed the basis of SB 91, aimed to increase the proportion of prison beds—Alaska’s costliest corrections resource—devoted to the highest-risk individuals.

1. The Prison Population as a Whole

The prison population began to decline even before SB 91 was enacted, and continued to decline afterward, hitting its **lowest point in 2017**—at that point, around a **9% decrease** from the time SB 91 was enacted. From that low point in 2017, the prison population gradually increased again. Though the current prison population is still lower than it was at its peak in 2014, DOC’s prisons are once again operating at or near capacity, partly because DOC shuttered one of its prisons (the Palmer Correctional Center) in 2016.

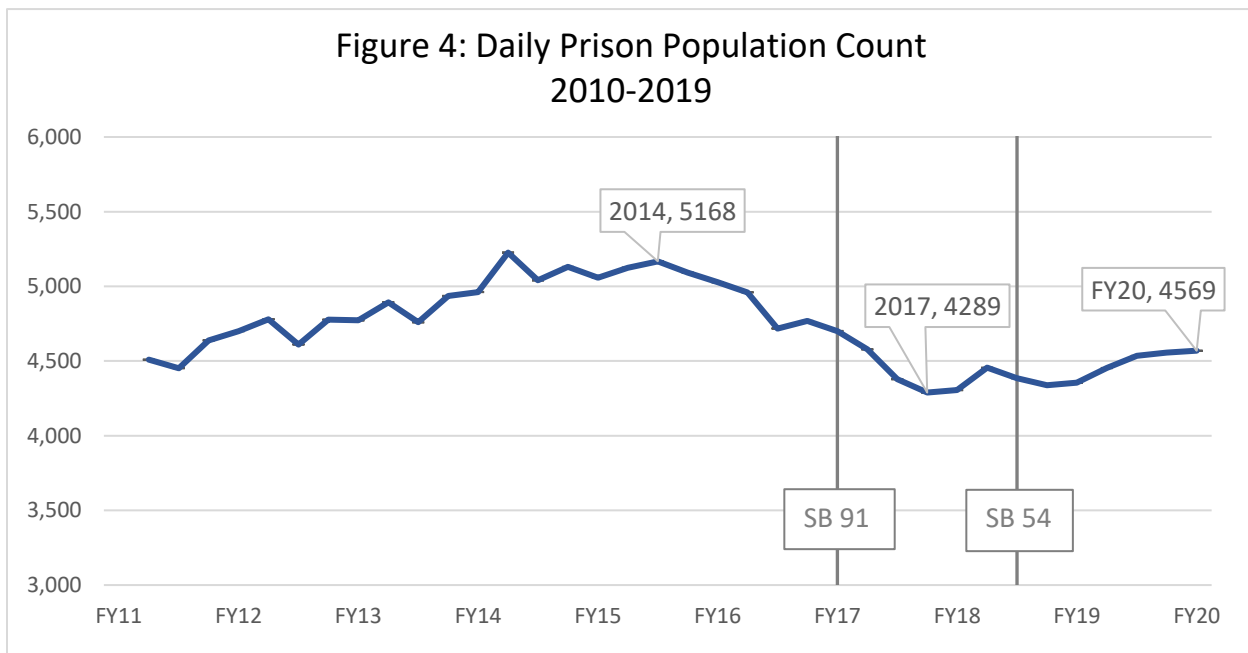


Figure 4 source: Department of Corrections

Figure 4 above shows the daily prison population count from 2010-2019. This count is derived from the number of people who were incarcerated in a DOC institution on a given day. Readers should note this count is different from “snapshot” data used elsewhere in this report. Prison snapshot data is derived from the number of people in prison at noon on a given day. Figure 4 accounts for the total number of people who were in prison on that day, including those who were booked into a facility after noon on one day and who were released before noon on the next day. Those individuals would not be counted in snapshot data. Thus Figure 4 gives a fuller picture of how many people are in DOC facilities on a daily basis.

The prison population is a function of many things. Law enforcement staffing rates, arrest rates, crime rates, pretrial release rates, prosecution rates, sentences imposed, and parole rates all play a part in determining the size of the prison population. At the most basic level, however, the prison population is a function of the number of people being booked into prison and the length of time people spend there.

Figure 5 below shows how many people were booked into prison (admissions to prison) per quarter. Mirroring the prison population, admissions to prison decreased beginning in 2014, hit a low at the end of 2016 and beginning of 2017, and then began increasing. During the last quarter of FY19 (April-June 2019), the number of people admitted to prison was nearly as much as the number admitted to prison in the first quarter of FY15 (July-Sep 2014).

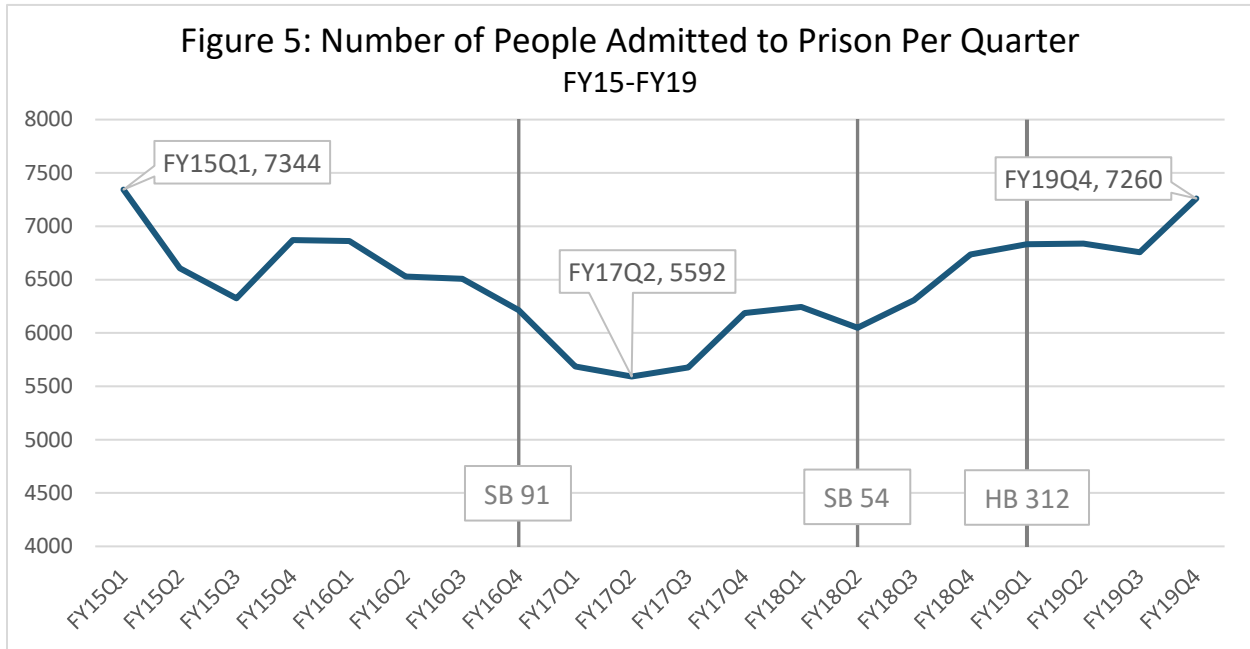


Figure 5 source: Alaska Department of Corrections

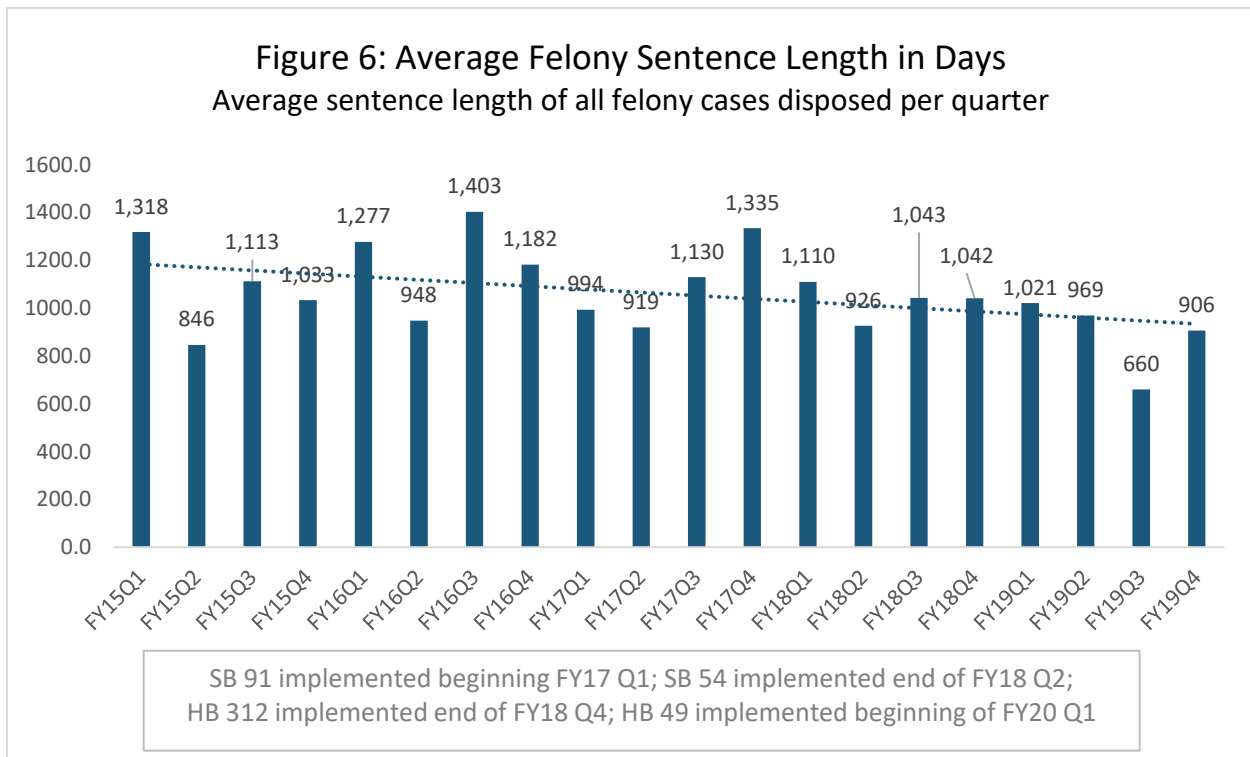


Figure 6 source: Alaska Department of Public Safety

Unlike admissions, which have been increasing, the length of time people have been sentenced to spend in prison has been decreasing. Figure 6 above shows that the average sentence lengths for felonies seem to be trending downward. (Note that sentence length is different from time actually spent in prison.) Sentence lengths are affected by a number of factors, including the level of offense for which

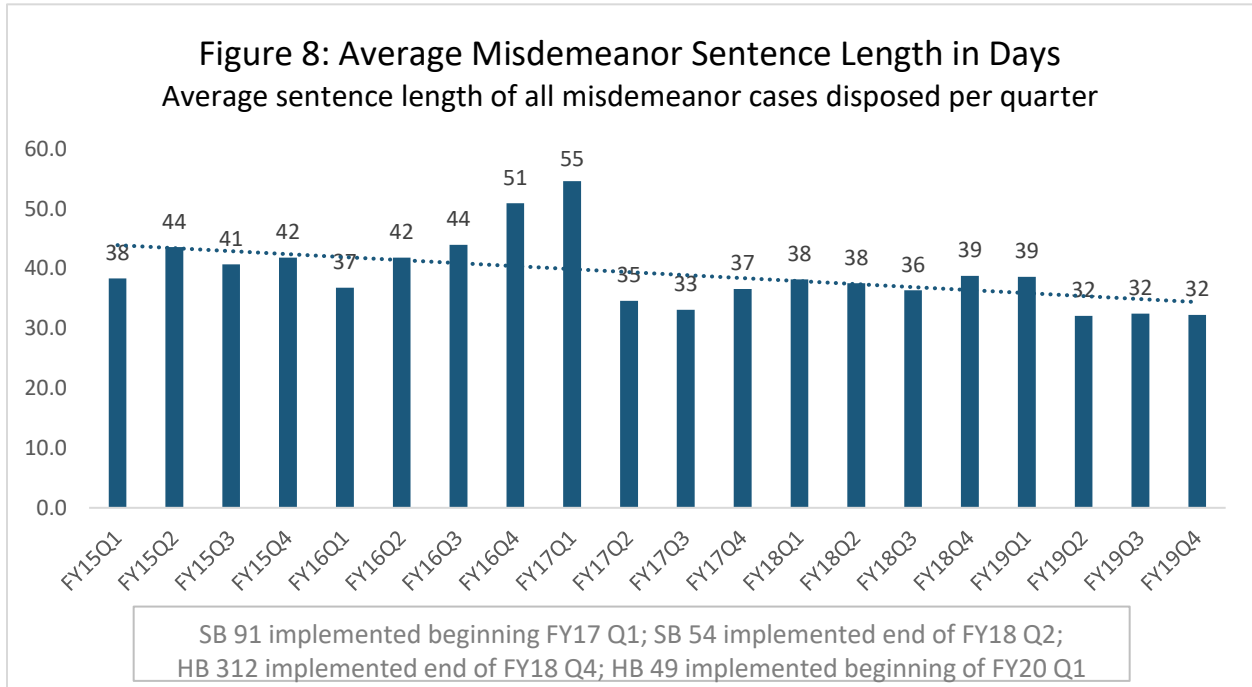


Figure 8 source: Alaska Department of Public Safety

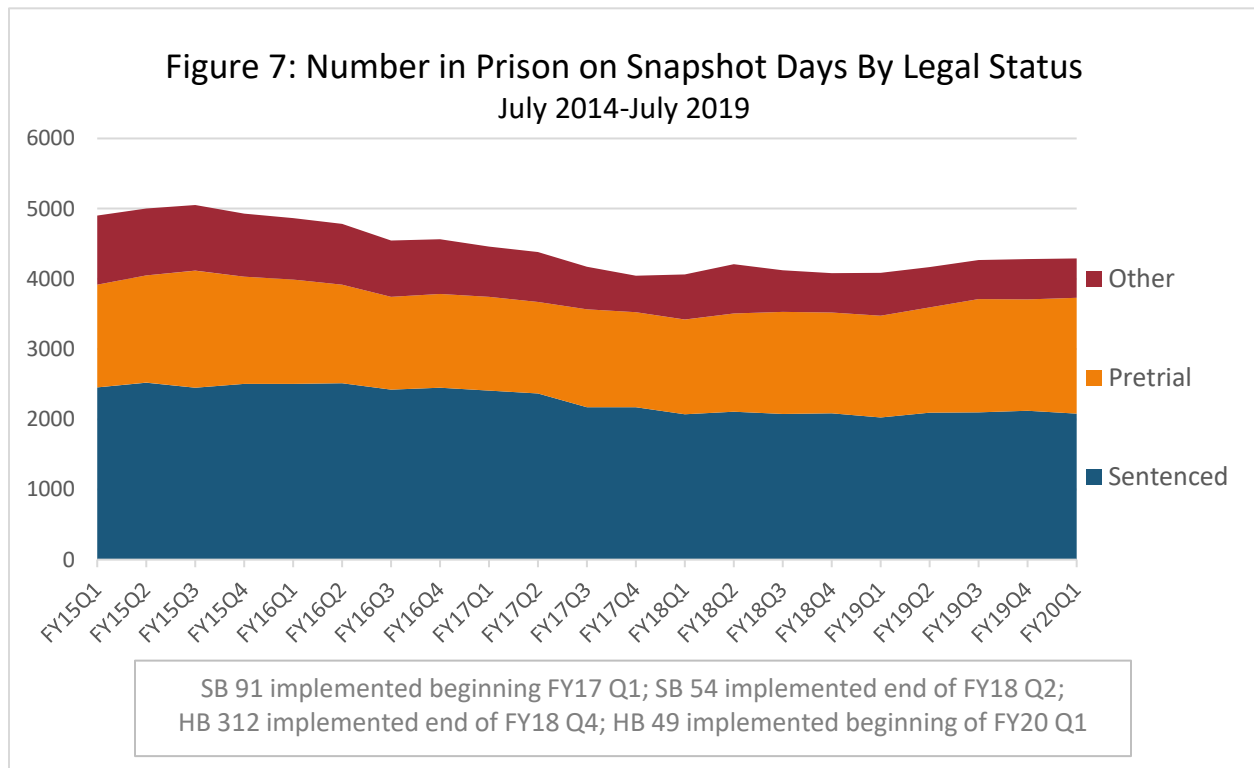


Figure 7 source: Alaska Department of Corrections

a defendant is convicted and the defendant's criminal history. Figure 7 above shows that the average misdemeanor sentences have been slightly lower post-SB 91.

The composition of the prison population has also changed. Figure 8 above shows the total prison population broken down by the number of sentenced offenders, pretrial defendants, and others. The number of sentenced offenders has decreased. The "other" category is mostly made up of supervision violators; this population has also decreased and is discussed in subsection C below. The pretrial population, on the other hand, has increased. Subsection B, below, discusses the pretrial population in more detail.

2. Prison Population by Race

While the total prison population has decreased, there is some evidence that that decrease has not been reflected equally across racial and ethnic groups. Figure 9 shows the total prison population on snapshot days each quarter by race.

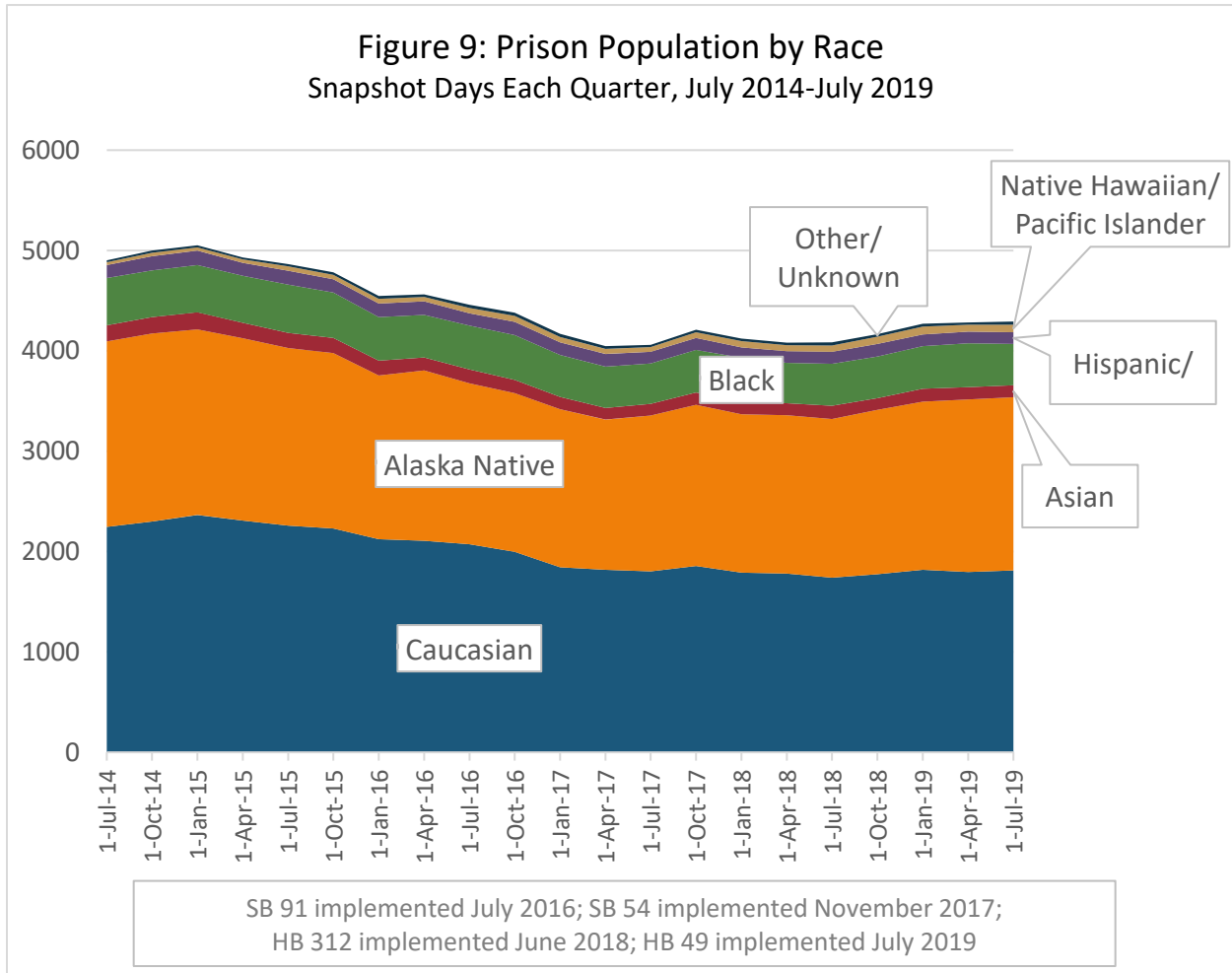


Figure 9 source: Alaska Department of Corrections

The proportion of Alaska Natives in the prison population is greater than the proportion of Alaska Natives in the general population. In July 2018, 15% of Alaska’s population identified as Alaska Native or American Indian if asked to pick only one race.¹⁹ In contrast, the proportion of Alaska Natives in Alaska’s prison population ranged between 36% and 40% over the last few years, as seen in Figure 10. Figure 10 shows the share of the total prison population by race.

¹⁹ Alaska Department of Labor and Workforce Development, *Population Estimates, “Race and Hispanic Origin, 2010-2018”* (2019), available at: <http://live.laborstats.alaska.gov/pop/>. Twenty percent of people identified as Alaska Native or American Indian alone or in combination in 2018. The prison population data presented here uses DOC’s determination of race.

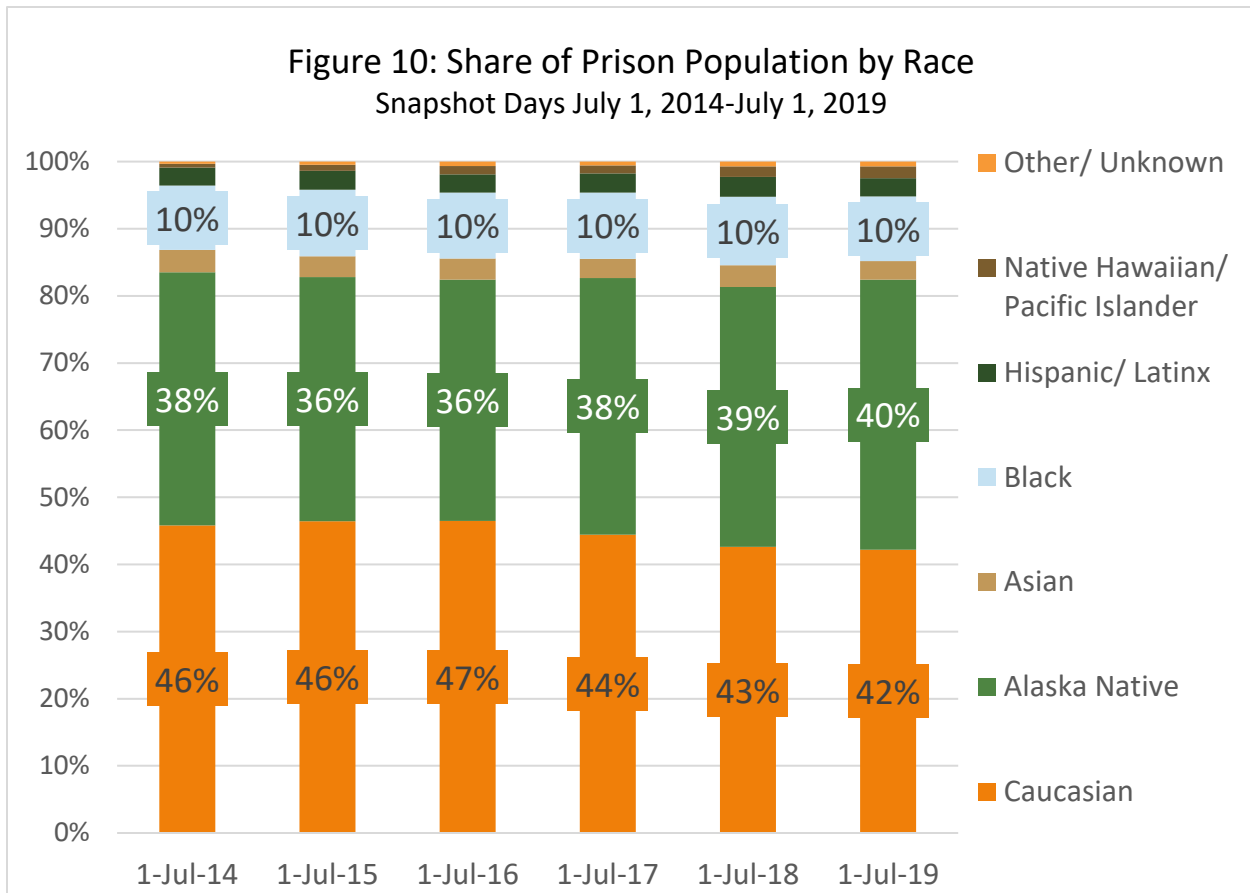


Figure 10 source: Alaska Department of Corrections

The Commission does not have a ready explanation for why this disparity seems to be increasing. It is likely driven by many factors. The Commission plans to research this further in the coming year.

3. Prison Population by Violent/Non-Violent Offenses

The number of people in prison for violent offenses as compared to those in prison for non-violent offenses has varied since the passage of SB 91.

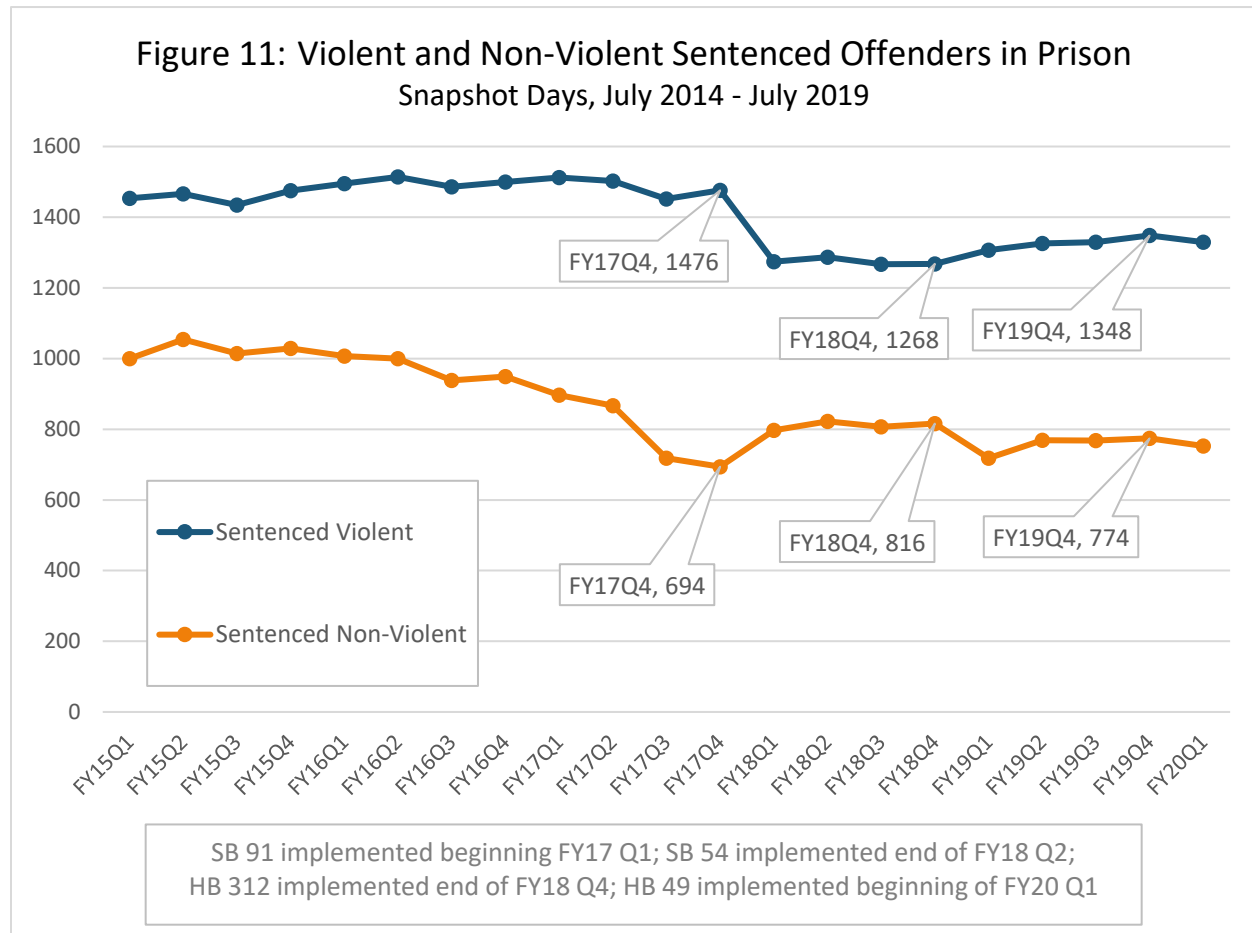


Figure 11 source: Alaska Department of Corrections

Figure 11 above compares violent and non-violent sentenced offenders (pretrial defendants and probation/parole violators are excluded). The data shows:

- The two populations began to diverge after the passage of SB91, reaching a ratio of 68% violent to 32% nonviolent sentenced offenders in April 2017.
- The gap between the two populations then began to narrow again, reaching a ratio of 61% violent to 39% non-violent sentenced offenders in April 2018.
- The populations then began to diverge again, reaching a ratio of 64% violent to 36% non-violent sentenced offenders in April 2019.

The variation of the ratio of violent and non-violent offenders seems to be driven by a significant decrease in non-violent misdemeanor offenders followed by a significant increase in that population, driving the change in the ratio of violent to non-violent between April of 2017 and April of 2018. Subsequently, the population of felony non-violent offenders began to decrease between April 2018 and April 2019. Figure 12 below demonstrates this visually, showing a snapshot of the total population of

violent and non-violent sentenced offenders, broken down by crime severity (felony and misdemeanor), on the first day of each quarter.²⁰

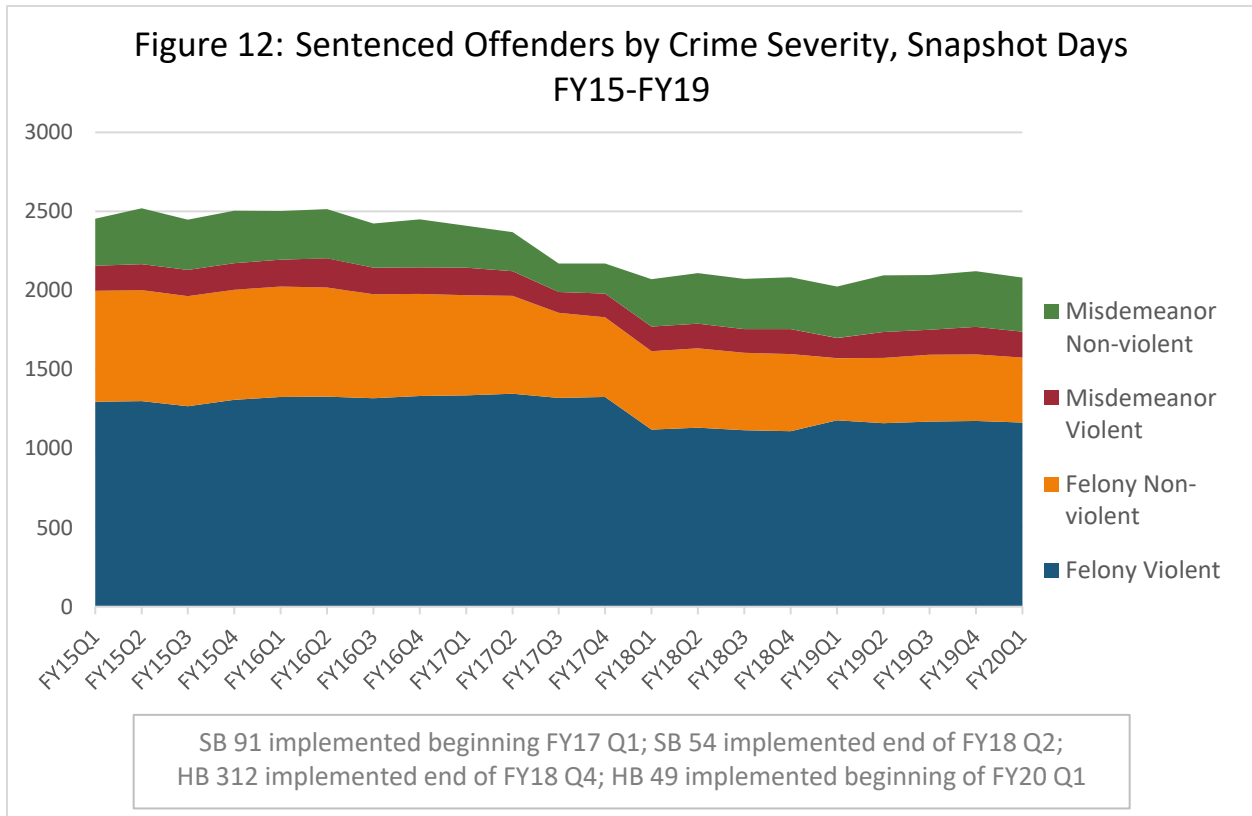


Figure 12 source: Alaska Department of Corrections

These ratios (comparing the number of people in prison for more or less serious crimes) are a function of many things, including law enforcement and prosecutorial priorities, which largely govern the number of people entering prison; parole release procedures, which largely govern the number of people leaving prison; and the sentences authorized by statute, which govern the length an individual may be held in prison for a given offense.

²⁰ In this report, information on the prison population and prison admissions that is categorized by offense level or offense type comes from using the most serious offense for each person/admission. So a person categorized among those charged or convicted of a violent felony offense could also have non-violent and misdemeanor charges or convictions.

4. Drug Offenses

SB 91 made significant changes to the structure of Alaska’s drug offense laws as well as to the sentences for drug offenses. The Class A felony offense for Misconduct Involving a Controlled Substance was eliminated, and simple (non-commercial) possession of drugs was made a Class A misdemeanor rather than a Class C felony in most cases. Furthermore, the presumptive sentence for simple possession was limited to a suspended sentence for the first two offenses, meaning someone convicted of simple possession would not be required to serve time in prison for the first two offenses unless that person violated their probation.

The purpose of these changes was to decrease the number people who were sent to prison for misdemeanor noncommercial possession and to focus prison beds on those convicted of repeat and commercial drug offenses. This intent is reflected in the steep drop in the number of people admitted (booked) into prison per quarter, as seen in Figure 13 below. After hitting a low in the first quarter of FY18 (July-September 2017), admissions began to increase gradually over time.²¹

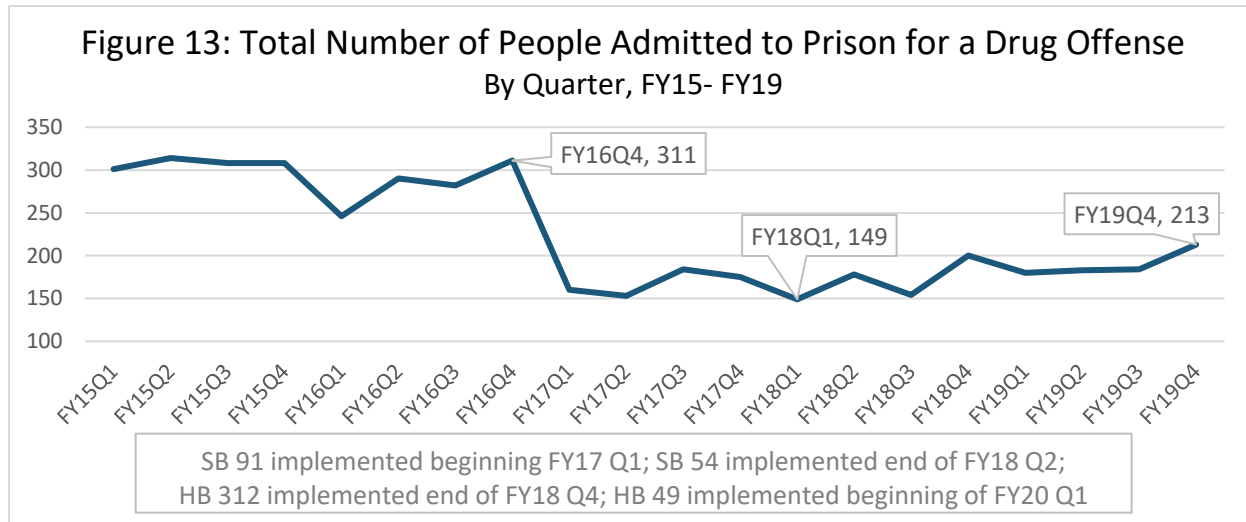


Figure 13 source: Alaska Department of Corrections

The severity of drug offenses for which people were booked into prison also has changed since SB 91, as anticipated. Figure 14 below shows the share of all drug admissions for each severity classification. With simple possession becoming a Class A misdemeanor in most cases, the share of Class A misdemeanor admissions has risen significantly compared to other admissions, while Class C felony admissions have decreased. Admissions for Class B felony drug offenses, which encompasses commercial drug dealing, have increased significantly.

²¹ In this report, information on the prison population and prison admissions that categorized by offense level or offense type comes from using the most serious offense for each person/admission. In this section, admissions and populations data for drug offenses uses only those whose most serious charge or crime of conviction was a drug offense.

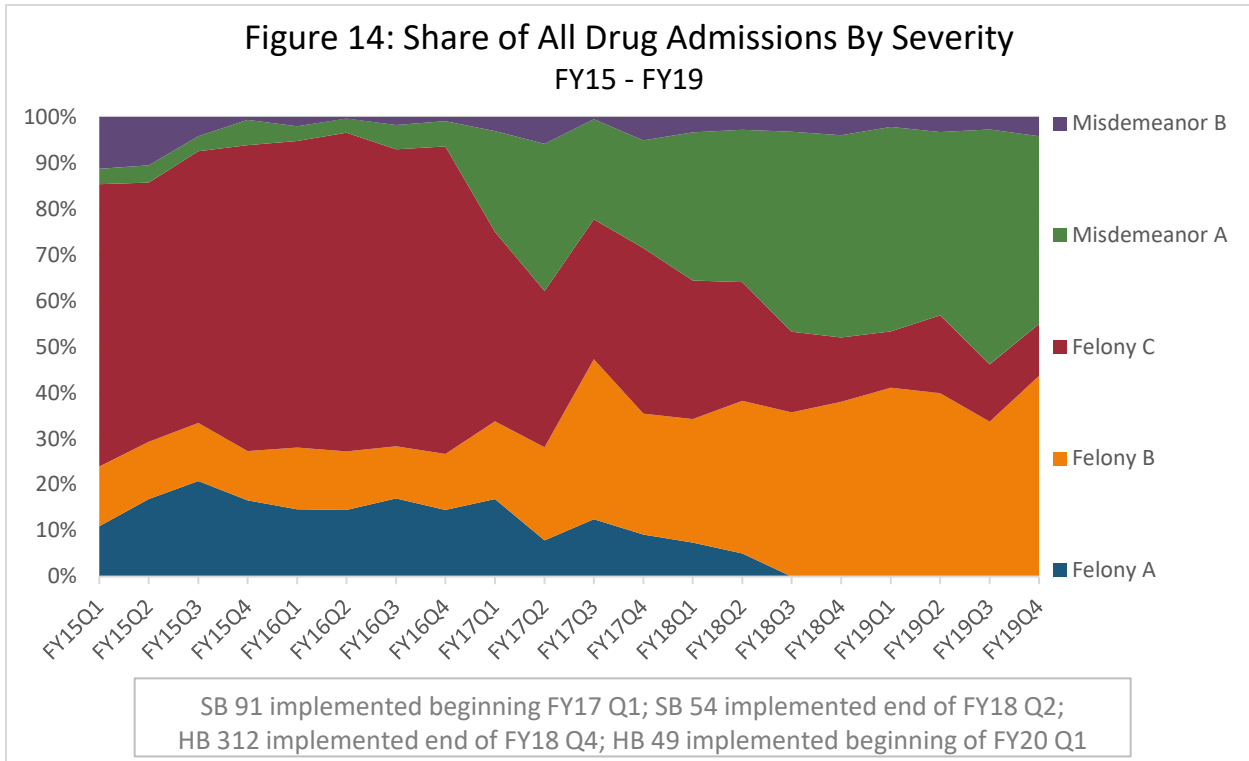


Figure 14 source: Alaska Department of Corrections

Unsurprisingly, the number of people in prison for drug offenses has decreased significantly, with 328 people in a DOC facility for a drug crime on July 1, 2016, compared to 117 people on July 1, 2019. Figure 15 below shows the number of people incarcerated for a drug crime on snapshot days by crime severity and legal status.

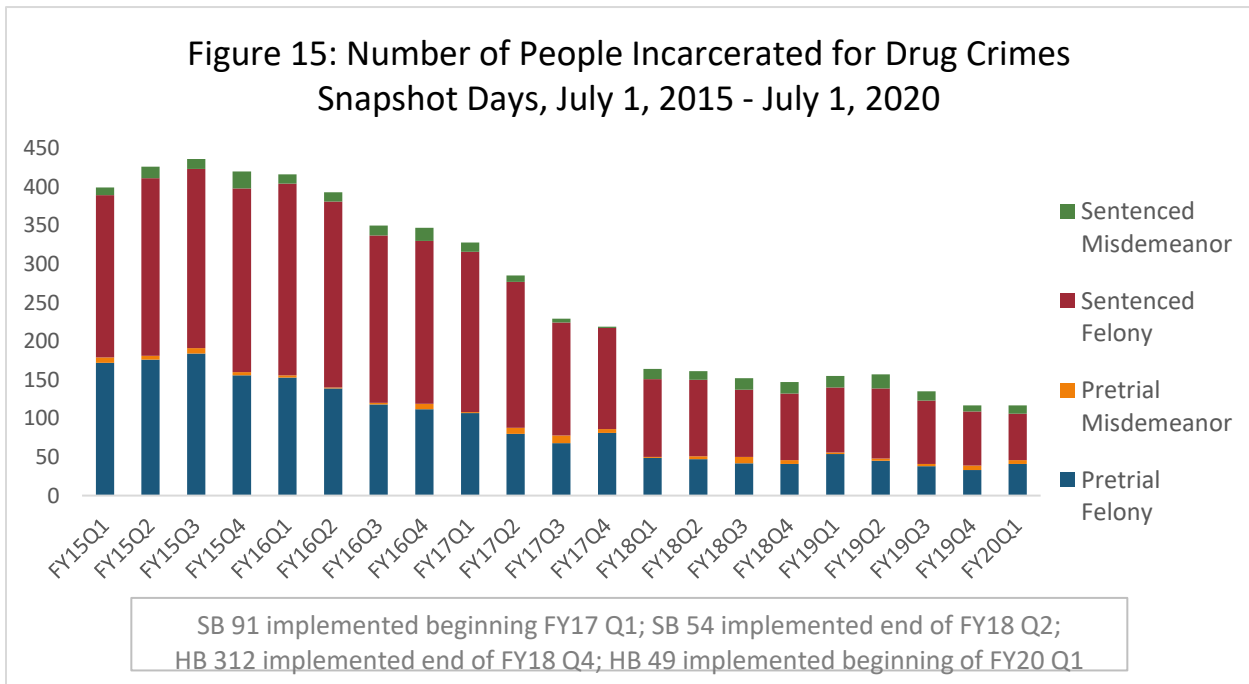


Figure 15 source: Alaska Department of Corrections

There has been some variation in the average sentences for drug crimes, as seen in Figure 16. Average sentences for Class A misdemeanors have stayed relatively steady, while average sentences for Class B felonies have generally decreased over time and average sentences for Class C felonies have generally increased over time.

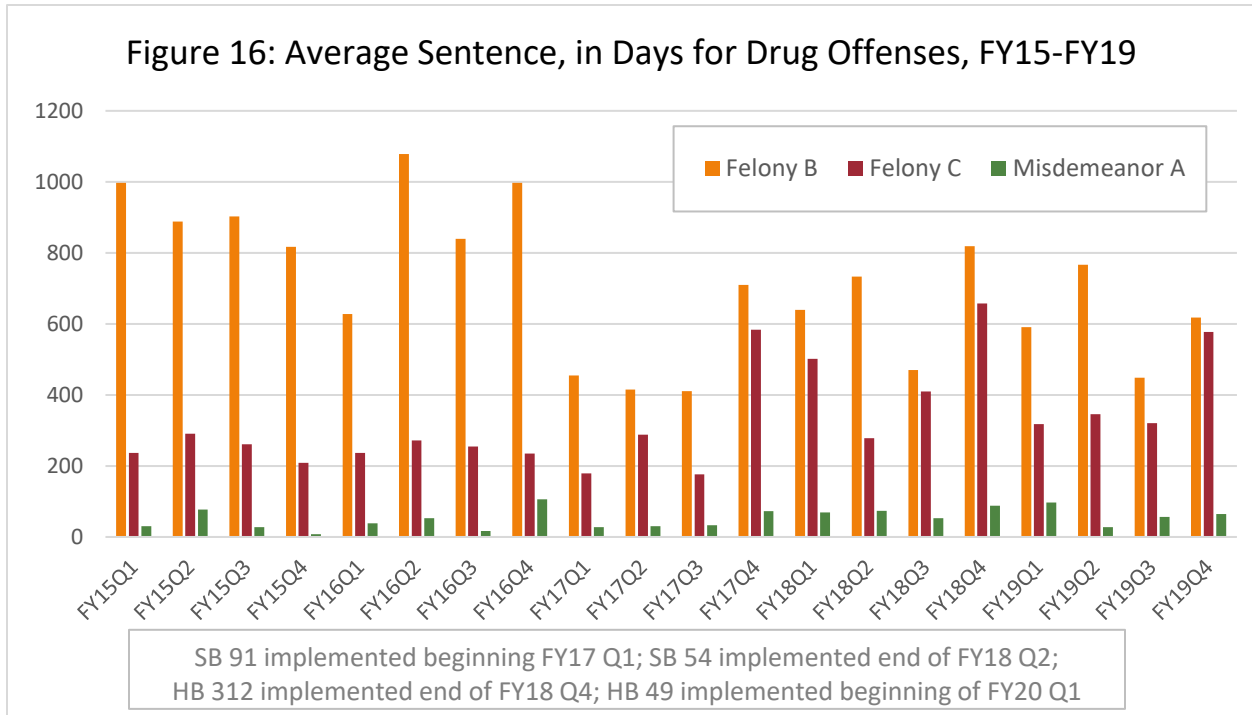


Figure 16 source: Alaska Department of Corrections

B. The Pretrial Population

1. Pretrial Population and Admissions Data

As noted above, the population of pretrial defendants has been increasing. After reaching a low point in October 2016, the pretrial population has increased, reaching a level in July 2019 that was nearly as high as its peak in 2015. Figure 17 below depicts this visually.

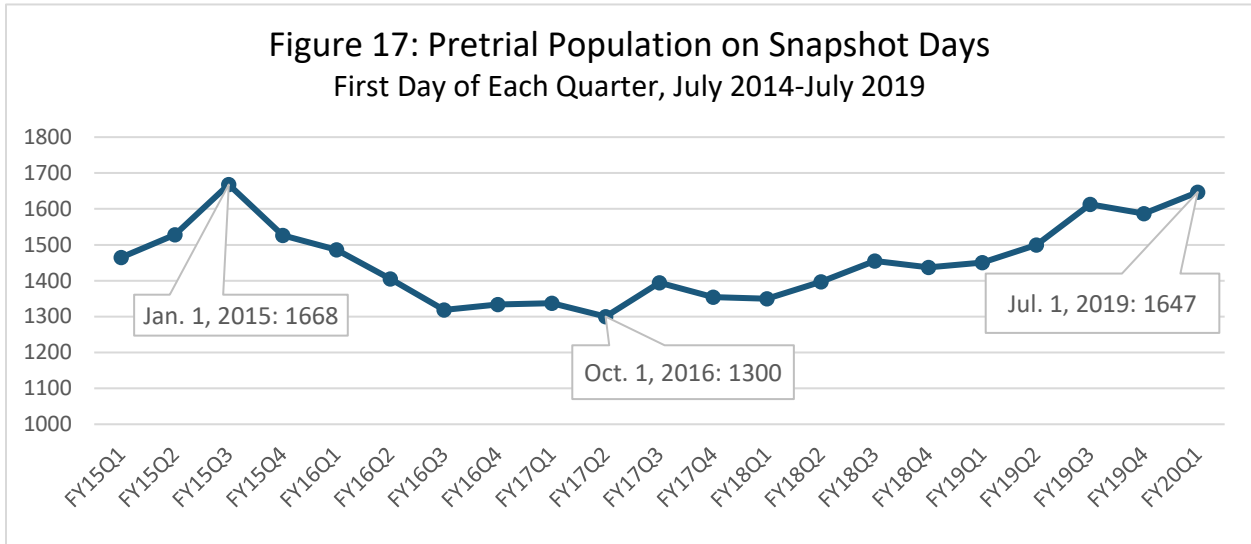


Figure 17 source: Alaska Department of Corrections

The increase in the pretrial population has been driven largely by the increasing number of defendants admitted to DOC facilities for misdemeanors; felony admissions have also increased, though not as dramatically, as seen in Figure 18 below.

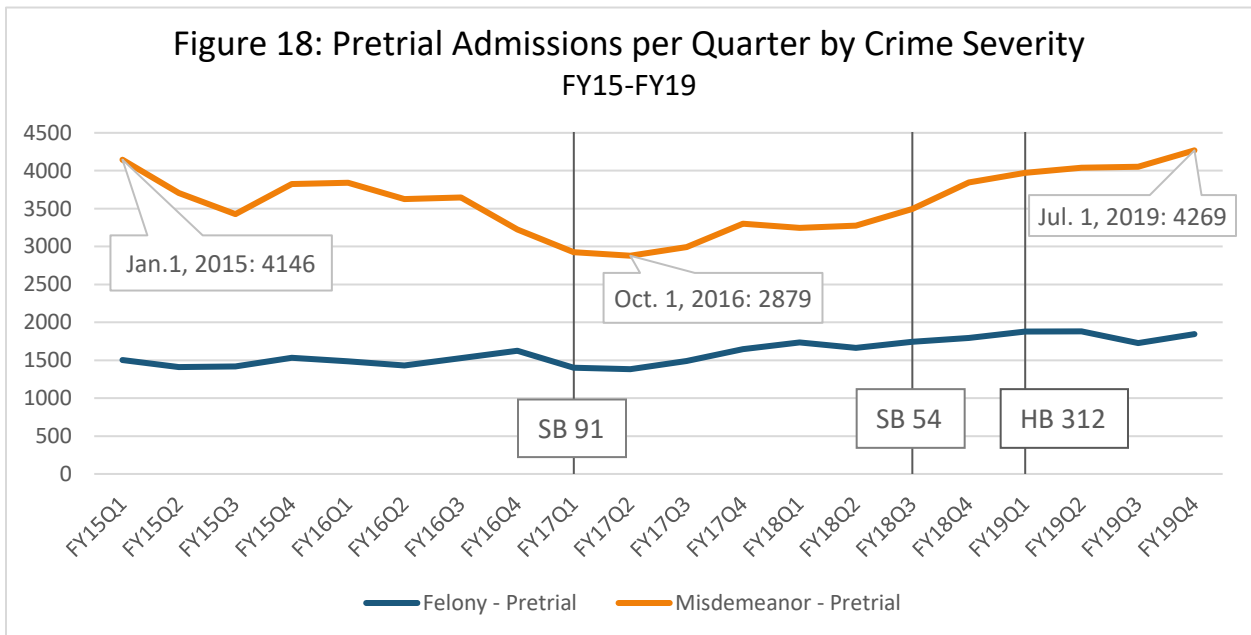


Figure 18 source: Alaska Department of Corrections

Narrowing in on this population even further, the rise in pretrial admissions appears to be driven specifically by non-violent misdemeanor admissions, as seen in Figure 19. The majority of offenses in this category are property offenses, alcohol offenses, and violating conditions of release (violating bail conditions). Violating conditions of release was reduced in severity to a violation in SB 91, and returned to a misdemeanor in SB 54. Similarly, SB 91 eliminated jail time for first- and second-time petty theft (theft under \$250), and SB 54 reinstated some jail time for first and second convictions for that crime.

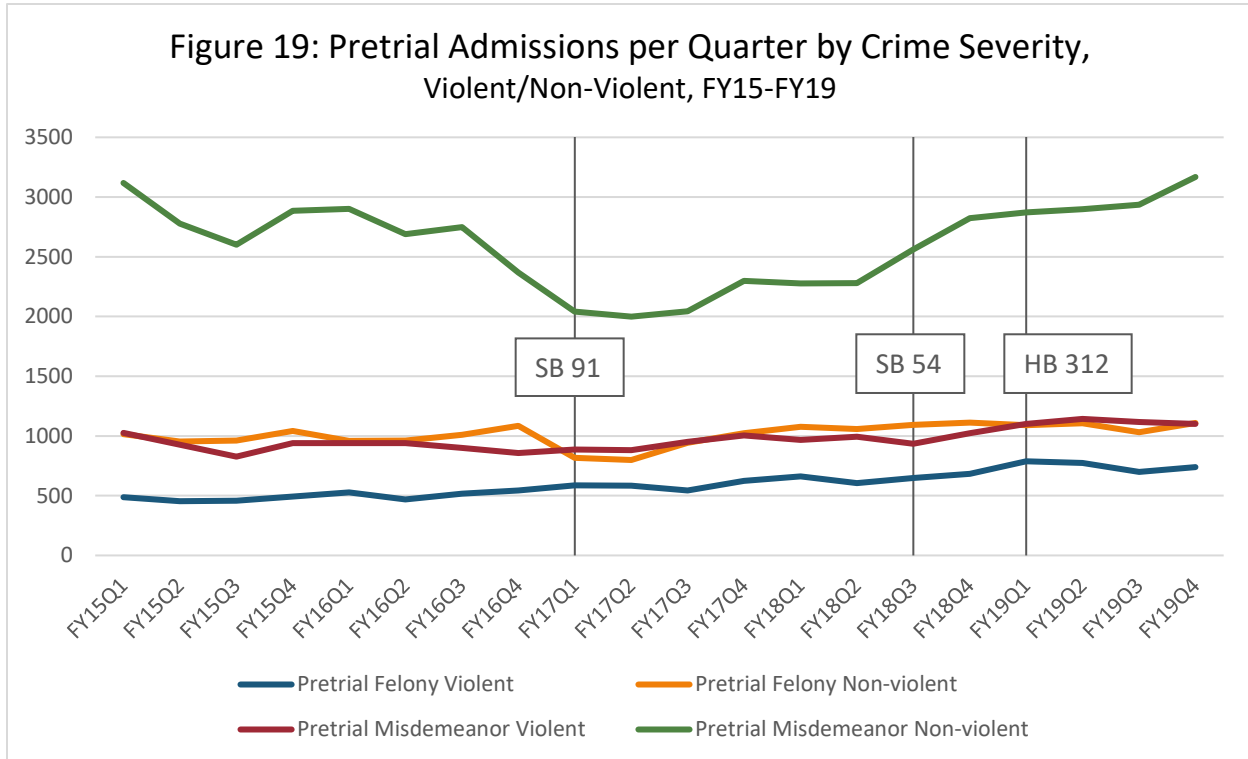


Figure 19 source: Alaska Department of Corrections

The number of people being held in jail pretrial is driven by a number of factors. At a basic level, the number of pretrial defendants held in jail is a function of the number of people being **brought to jail** after an arrest and the percentage of those people who are **then released** while they await trial.

The number of people being brought to jail pretrial is determined in part by **policing factors** such as the capacity of law enforcement agencies and the priority those agencies place on making arrests for certain kinds of crime. It is also determined in part by the misdemeanor bail schedule – a standard bail amount (or no-bail release) set for certain misdemeanors.²² If someone who is arrested can pay that standard bail, they are not booked into a DOC facility. The **bail schedule has not changed** significantly since December 2017.²³

²² The bail schedule is set by the presiding judges of Alaska’s four judicial districts. As of this writing, the most recent bail schedule was issued in July 2019. See “Presiding Judge Administrative Order Establishing a Statewide Bail Schedule” (July 27, 2019), available at: <https://public.courts.alaska.gov/web/jord/docs/bail-schedule07-19.pdf>

²³ Compare “Presiding Judge Administrative Order Establishing a Statewide Bail Schedule” (July 27, 2019), *supra*, with “Presiding Judge Administrative Order Establishing a Statewide Bail Schedule” (December 8, 2017), available at: <https://public.courts.alaska.gov/web/jord/docs/bail-schedule12-17.pdf>.

Section IV below has more information on arrests in recent years. **Arrests were higher in 2018** than in 2017, which may account for some of the increase in pretrial admissions during that time.

The pretrial population is also determined by the **rate at which people are released** pre-trial—and if they are released, the **rate at which they are re-arrested** during the pretrial period. The Commission studied a sample of defendants released pretrial in 2018, and reported on its findings in last year’s annual report.²⁴ Around 75% of defendants in the 2018 sample were released pretrial, compared to around 48% in 2014.²⁵ That sample was taken between April and June of 2018. In late June 2018, however, the Legislature passed a bill (HB 312) significantly changing pretrial release procedures and making it easier for judges to assign cash bail. In theory, while this change might make it more likely that defendants would be held pretrial, the Commission has not yet replicated the 2018 study for the post-HB 312 period. **The percentage of people who are released pretrial more recently is therefore unknown.**

In March 2019, the Commission heard from researchers at UAA who studied rearrests of pretrial defendants from July 2014 to July 2018. They looked at rearrests within a seven-day period, a 14-day period, a 30-day period, and a 180-day period. No matter the timeframe, they found no difference in the number of rearrests before and after reform.²⁶ Therefore, **the re-arrest rate appears to be holding steady**, at least as of July 2018.

The available data suggest that the rising number of people held pretrial is at least partly due to higher arrest rates. The past-year rate at which people are released pretrial is unknown, and that may also be a factor.

2. Pretrial Supervision

SB 91 created a new pretrial system and a new division within DOC that was tasked with supervising defendants who are released before trial (similar to probation or parole supervision). On average, DOC’s Pretrial Officers supervise approximately **2100 defendants statewide**. Of those supervised, approximately 45% are required to be on some form of electronic monitoring as part of their release conditions.

DOC’s Pretrial Officers also administer Alaska’s pretrial risk assessment instrument, the AK-2S. (This instrument is explained in more detail below.) The AK-2S is performed when a defendant is held in custody and is awaiting arraignment. The risk score given by the assessment – Low, Moderate, or High – helps judges decide whether someone should be released from custody while awaiting trial. The judge also decides whether to assign a defendant to supervision by a Pretrial Officer.

Of those supervised, approximately 51% individuals were scored Low on the AK-2S, 32% were scored Moderate, and 10% were scored High; 7.6% were not assessed. (Sometimes people are assigned to supervision even though they were not assessed; often these individuals were already released before

²⁴ Alaska Criminal Justice Commission, *Annual Report* (November 2018), at 28-29, available at: <http://www.ajc.state.ak.us/acjc/docs/ar/2018.pdf>.

²⁵ *Id.* at 24, 28-29.

²⁶ Alaska Criminal Justice Commission, “Meeting Summary” (March 4, 2019), at 7, available at: <http://www.ajc.state.ak.us/acjc/docs/meetings/03-04-2019.pdf>.

arraignment because they were charged with a misdemeanor and released according to a standard bail schedule.)

Individuals who live in the urban areas where Pretrial Officers are present (Anchorage, Fairbanks, Juneau, Ketchikan, and Palmer) are able to have electronic monitoring ordered as part of their conditions of release. The Department of Corrections also contracts with community jails and police departments in other areas of Alaska, including Cordova, Craig, Dillingham, Haines, Homer, Kodiak, Valdez and Wrangell. Electronic monitoring of defendants may also be possible in these areas.

Pretrial Officers supervise defendants charged with a large array of offenses. Taking into consideration a defendant's risk score and other factors regarding the defendant, judges order pretrial supervision as they see fit to protect the public. Judges have the ability to order electronic monitoring if they feel the defendant needs to be monitored for location specifics (either ordering them to home confinement with approved passes or areas in which the defendant is not allowed to go), and they can also order drug monitoring and alcohol monitoring. 55% of defendants ordered to Pretrial Supervision are not ordered to any type of electronic monitoring. When defendants meet with their Pretrial Officer, they are reminded of their next court hearing date(s) and time(s) to help ensure they participate in their court proceedings.

3. Pretrial Risk Assessment Revalidation Project

SB 91 required DOC to develop a pretrial risk assessment tool that would assist judges in making pretrial release decisions. This tool, developed in 2017 and implemented beginning in 2018, is called the AK-2S.

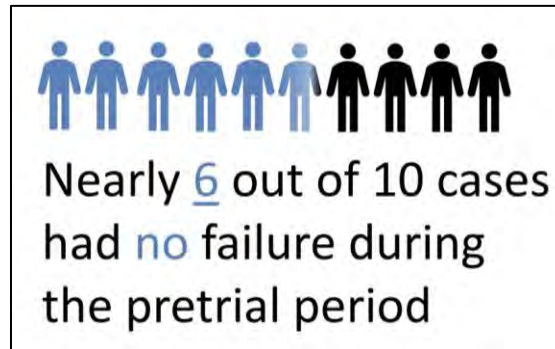
The AK-2S was developed by researchers at the Crime and Justice Institute (CJI) using data on pretrial defendants in Alaska in 2014 and 2015. The researchers at CJI were required to construct a tool only from data available in Alaska state databases because the process envisioned for using the tool did not include interviews with the defendants. The tool was required to assess a defendant's risk for failure to appear and being arrested for a new crime if the defendant were to be released from custody.

The AK-2S produces two risk scores, one for the risk of failure to appear (FTA) and one for the risk of new criminal arrests (NCA). To generate the scores, DOC personnel will look at a defendant's criminal history and current charges and assign points for certain items. For example, if a person had two or more convictions within the past three years, that person would be assigned two points on the NCA scale. A person who scored a 5 or a 6 on the FTA scale or a 6, 7, 8, or 9 on the NCA scale would be designated as moderate risk. If the FTA score designated someone a higher risk than the NCA score, the higher of the two scores would be used.

In 2019, DOC contracted with researchers from the Justice Center at the University of Alaska Anchorage in order to conduct a revalidation of the AK-2S after its first year of use. This was recommended by the researchers who developed the tool and is standard practice for risk assessment instruments. The revalidation study looked at all assessments performed in 2018, focusing on those cases where a defendant was released pending trial. Of the cases studied, about 25% of defendants were not released during the pretrial period.

Of those who were released:

- **58.5% of the 2018 cases had no failure**, meaning the defendants in those cases never had an FTA or NCA before the case was disposed or before the end of the year.



- **18% of defendants had an FTA incident** (a warrant was issued for failure to appear).
- **32.8% had an NCA.** Of the new criminal arrests:
 - 26% were for Violation of Conditions of Release.
 - Roughly 7 in 10 of new criminal arrests were for nonviolent misdemeanors.
 - Roughly 1 in 10 included violent felony charges.²⁷

The study found that the FTA scale very rarely categorized someone as high risk because it used two outdated variables that very rarely contributed to a person's score. Despite this flaw in the FTA scale, the scale was effectively predictive of risk. Those assessed as high risk were more likely to have an FTA incident than those assessed as moderate or low risk. Risk scores correlated to FTA rates in a linear fashion, meaning that the higher the risk score, the higher the FTA rate.

The validation of the NCA scale showed no faults in the scale's design or predictive capability. The study also concluded that DOC could tweak some of the components to make scoring easier for DOC personnel.

One criticism of the changes to pretrial release procedures in SB 91 was that they did not adequately account for a defendant's out-of-state criminal history. The researchers who developed the AK-2S were not able to get out-of-state criminal history for defendants in their 2014-2015 data set because the FBI doesn't allow the bulk downloading of that data from its NCIC database.

Instead, DOC has been collecting that data on an individual basis (a method that is permitted by the FBI) since the AK-2S went live at the beginning of 2018. Accordingly, the UAA study used the information gathered by DOC to assess whether any aspect of out-of-state criminal history would have been predictive of pretrial failure. **The study found that out-of-state criminal history was not predictive or helpful and that including this history as part of the tool would not enhance its performance.** Judges should, however, continue to have access to out-of-state history to make release determinations on an individual basis.

²⁷ Data in this section is from a presentation by the revalidation study's lead researcher, Dr. Troy Payne, to the Commission on August 20, 2019. See Alaska Criminal Justice Commission, "Meeting Summary" (August 20, 2019), at 10-15, available at: <http://www.ajc.state.ak.us/acjc/docs/meetings/08-20-2019.pdf>

C. Parole and Probation Supervision

SB 91 made changes to probation and parole designed to help people succeed while on supervision. Since these changes went into effect in January of 2017, the share of probation and parole violators has decreased from 16% of the total prison population to 11%, as seen in Figure 20.

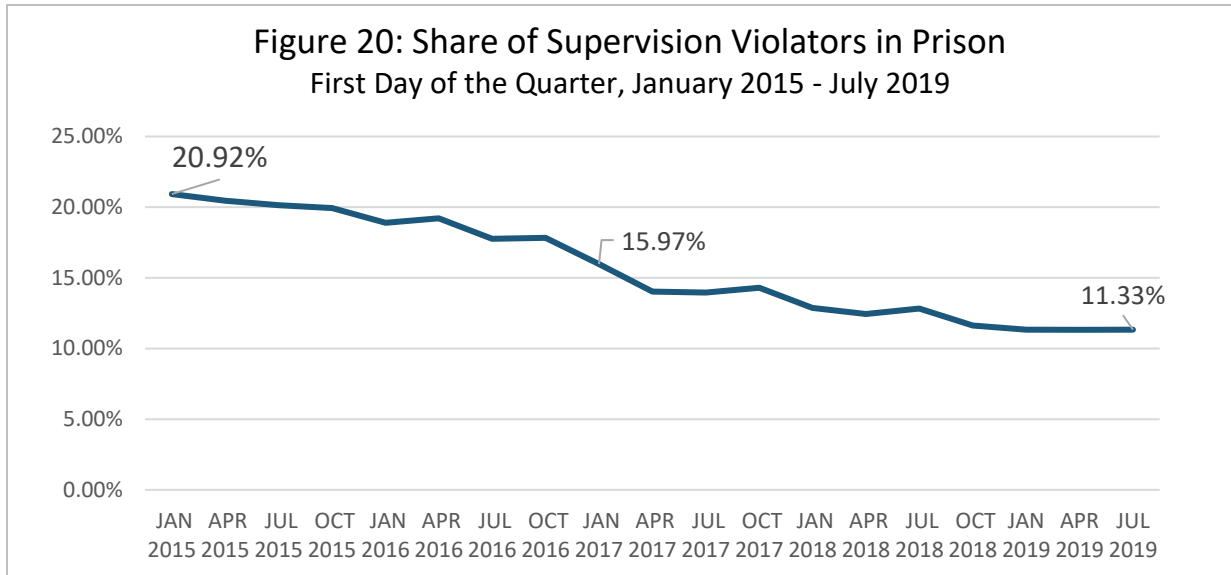


Figure 20 source: Alaska Department of Corrections

Over that same period, fewer petitions to revoke probation (PTRPs) were filed (see Figure 21), and shorter average sentences for probation/parole violations were imposed (see Figure 22).

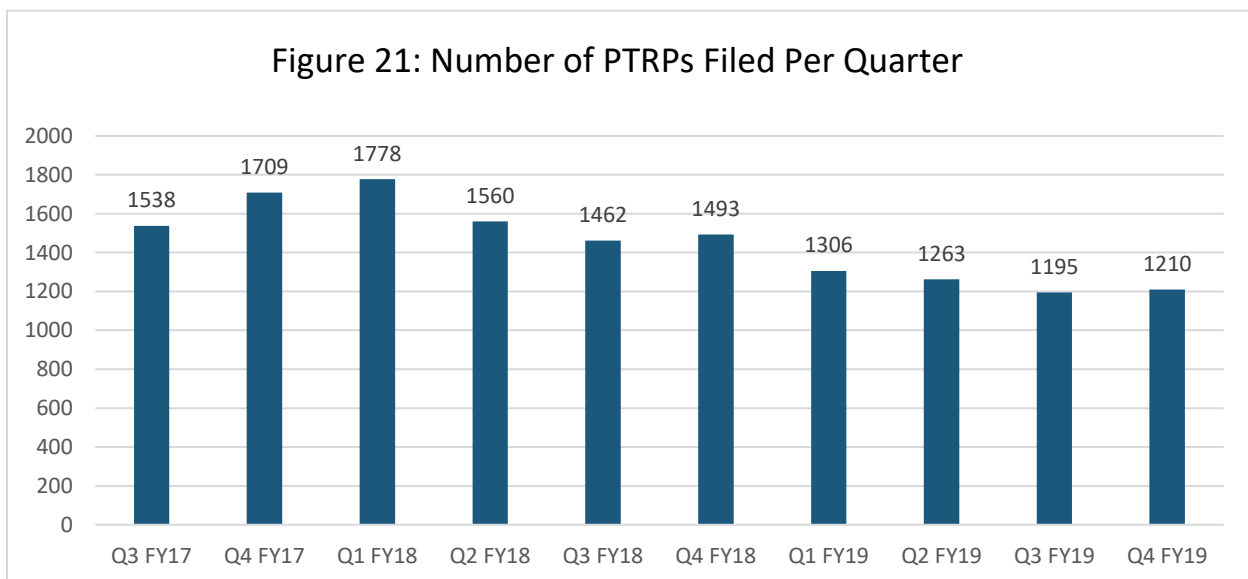


Figure 21 source: Alaska Department of Corrections

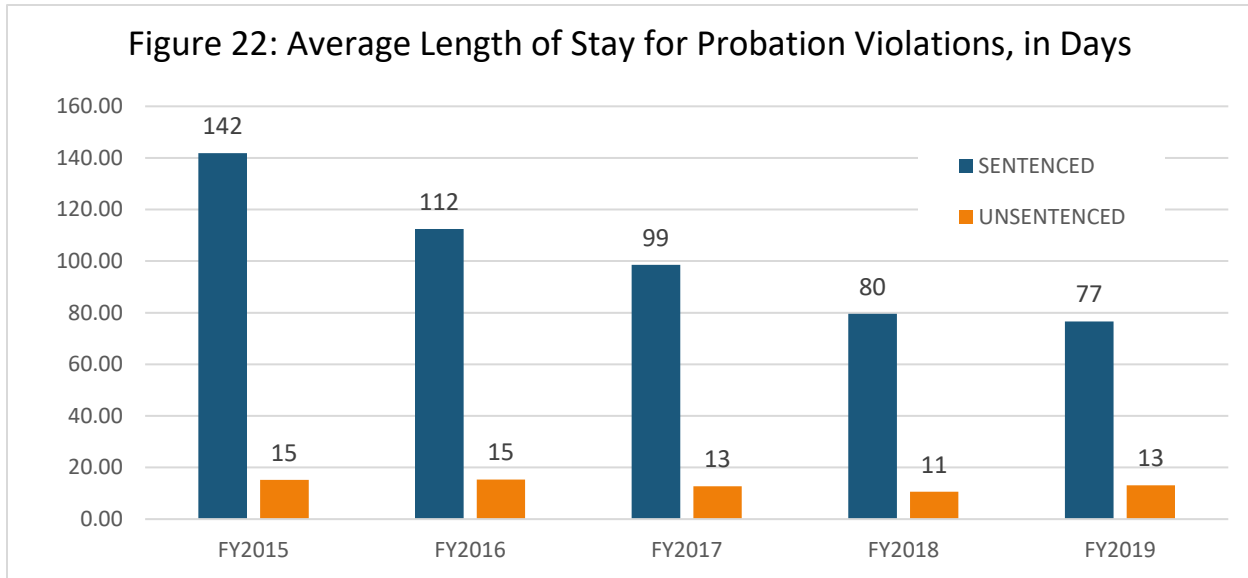


Figure 22 source: Alaska Department of Corrections

Since the changes to probation and parole became effective in January 2017, there have been changes in community supervision as well as the prison population. More people have been successfully discharged from probation in the last two years, as seen in Figure 23.

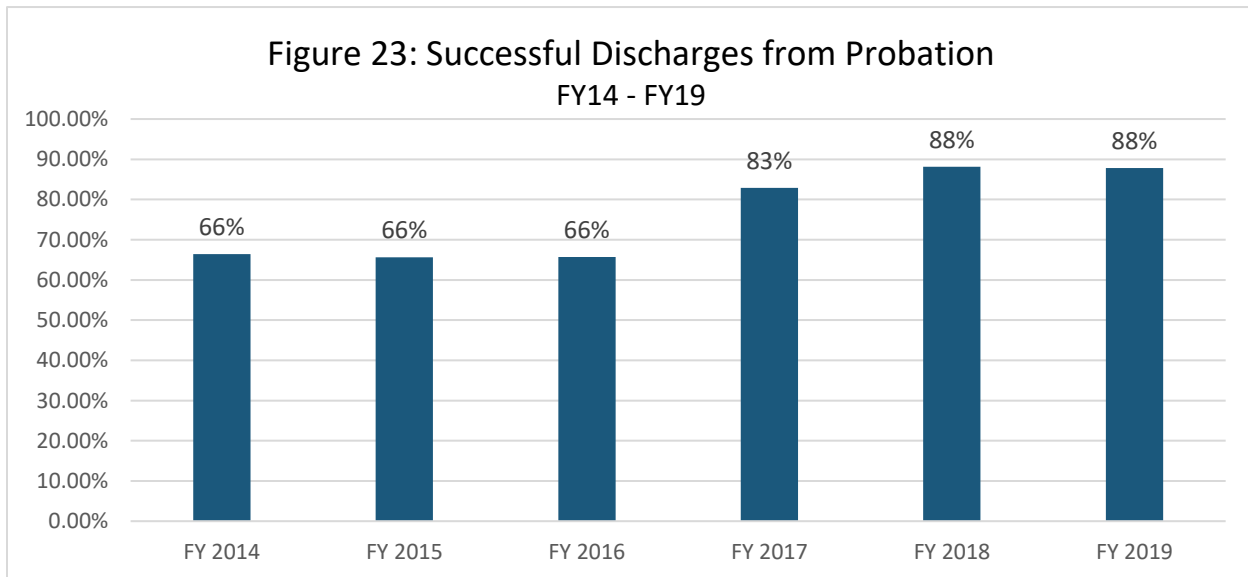


Figure 23 source: Alaska Department of Corrections

Probation/Parole officer caseloads have decreased statewide, as seen in Figure 24, and a greater share of the probation caseload has been of those convicted of violent offenses, as seen in Figure 25. These data show that the 2017 reforms to supervision **did have their intended effects—more supervisees were successfully discharged from supervision**, allowing probation and parole officers to reduce their caseloads and focus on violent offenders.

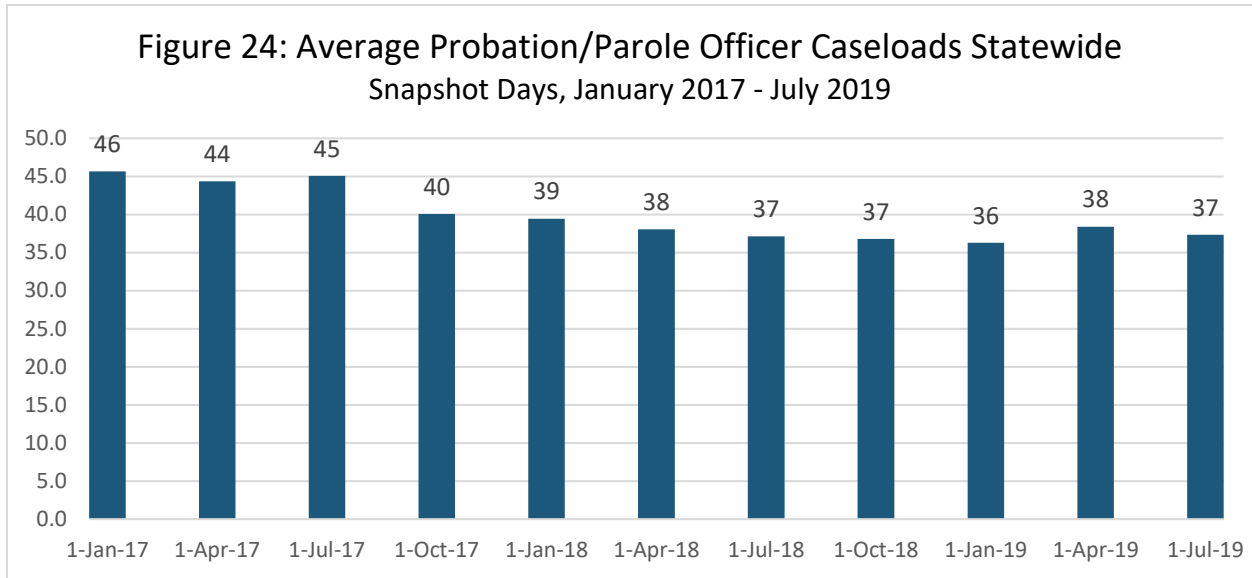


Figure 24 source: Alaska Department of Corrections

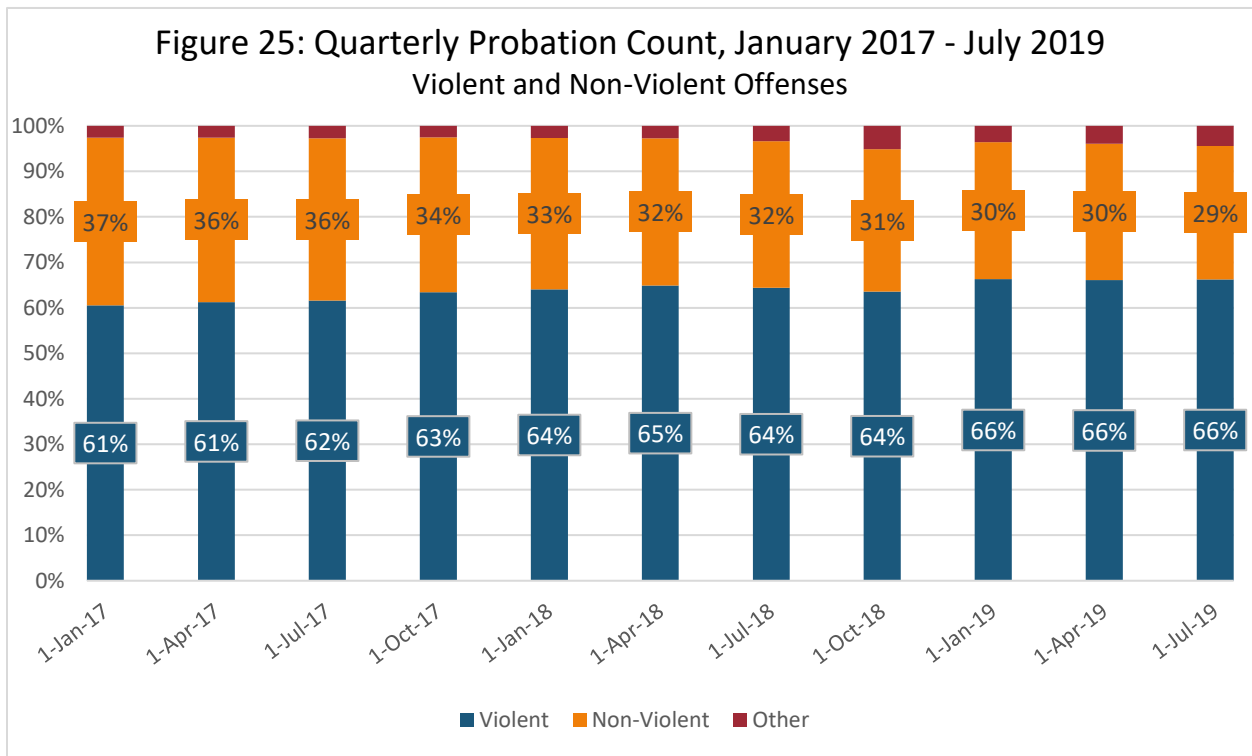


Figure 25 source: Alaska Department of Corrections

D. Recidivism

One of the Commission’s tasks is to report on recidivism of people convicted before and after the changes made by legislators in SB 91. Because it has been roughly three years since SB 91 was enacted, the Commission is now able to report meaningful recidivism data.

The Commission’s analysis used **conviction cohorts**—that is, groups of people who were convicted within different three-month periods. Recidivism is measured three ways, using different recidivism events – **remands to prison, re-arrests, and re-convictions**.²⁸

The analysis suggests that **recidivism in terms of re-arrest has decreased, while remands to custody and re-convictions have remained relatively stable**. Many other events occurred during those years as well, so the Commission cannot associate the reduction in re-arrests with the passage of SB91 with certainty. Nevertheless, the reduction in the re-arrest rate is encouraging.

Figure 26, below, shows each kind of recidivism rate for one cohort: people convicted between July 12, 2016, and October 11, 2016. The Commission analyzed the probability that people in this cohort would recidivate over time, through June 30, 2019. (This follow-up period was slightly less than three years.)

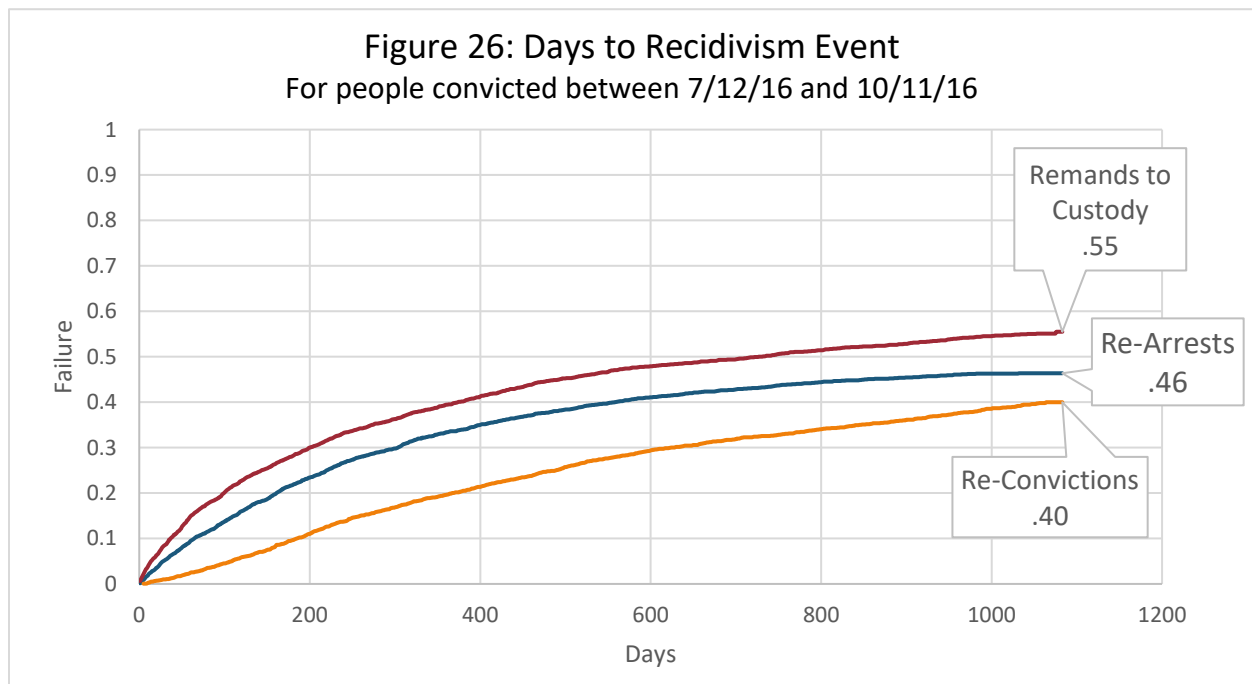


Figure 26 source: Alaska Department of Corrections, Alaska Department of Public Safety

These recidivism rates are cumulative, meaning that the rate show for later dates includes the rate for earlier dates. The curved lines in Figure 26 therefore show that the rates for later dates build on the earlier dates. The curved lines in Figure 26 show a **high probability of recidivism immediately after conviction, after which the rates slow, and eventually begin to plateau over time**. This analysis excludes

²⁸ Remands to prison include going to prison for a probation or parole violation, or for committing a new crime. Re-arrests and re-convictions are typically for a new crime.

anyone who was incarcerated for the entire follow-up period and therefore did not have an opportunity to recidivate.²⁹

It is important to note that the Commission's recidivism measures are not the same as other measures that follow cohorts only of people released from prison. For example, the Department of Corrections uses a release cohort of people released from prison after having been convicted of a felony.³⁰

The rates reported here, in contrast, are for people who have been convicted of a crime (both felonies and misdemeanors) regardless of whether they spend time in prison after conviction. Approximately 27% of people are in custody when they are convicted. Thus, the cohorts studied here involve a larger pool of people than just those who have spent time in prison and include people convicted of less-serious crimes.

Figure 26 above follows one cohort (those convicted in the three months following the enactment of SB 91) for a period of just under three years. It is also possible to track other cohorts to see how recidivism rates change over time. The Commission was able to analyze different cohorts from 2014 through 2017 for a follow-up period of 600 days. The analysis showed that overall, the **2017 cohorts had the same remand and reconviction rates as the 2014 cohorts**. The recidivism rates looked different for re-arrests, however: **the 2017 cohorts had lower re-arrest rates than the 2014 cohorts**.

The Commission's analysis also showed variation in the recidivism rates for people convicted of particular crimes:

- People convicted of **violent crimes recidivated faster** than non-violent crimes for all events (re-arrest, re-convictions, and remands).
- People convicted of **domestic violence (DV) crimes recidivated faster** than non-DV crimes for all events.
- People convicted of **DUI crimes recidivated slower** than non-DUI crimes for all events.

Appendix D contains more detailed information about the Commission's recidivism study. Additionally, the Commission plans to issue a comprehensive report on its analysis in 2020.

²⁹ Very few people are still incarcerated three years after conviction. Among the July 12, 2016 conviction cohort, about 1% were still incarcerated at the end of the follow-up period.

³⁰ DOC's recidivism rate tracks the rate at which people who have served a term of imprisonment for a felony have returned to prison. In the past, this rate has been around 67%; this is the rate that the Commission has cited in the past in discussing recidivism rates pre-SB 91. More recently, DOC has reported that this rate has decreased to around 61% for the cohort of people who were released from prison in 2015 after serving time for a felony.

E. Risk Assessment Study

In SB 54, the Legislature asked the Commission to design a project to study the risk factors associated with criminal activity. The goal of this project was provide information to the Legislature to inform “the Legislature's policy and funding decisions related to primary crime prevention, and improving primary crime prevention strategies in the state.”³¹

In order to complete the analysis without needing additional funding, the Commission used existing data resources. DOC already routinely conducts assessments to determine the risk level and needs of people who are incarcerated in DOC institutions (in custody) as well as people who live in the community but are supervised by DOC while on probation and/or parole (out of custody).³² The tools DOC uses are the Level of Service Inventory – Revised: Screening Version (LSI-R:SV) and the Level of Service Inventory – Revised (LSI-R).

The Legislature left the precise data to be analyzed for primary crime prevention policies undefined, but noted they could include “adverse childhood experiences [ACEs], mental health and substance misuse history, education, income, and employment of inmates.”³³ While the LSI-R and LSI-R:SV gather information about most of the points that the legislature specified, they do not specifically ask about Adverse Childhood Experiences. (ACES). Thus, the tools are not well-designed to address this aspect of the Legislature’s interest in finding ways to prevent future criminal behavior.

(As an example, a question on the LSI-R asks whether the respondent ever had a criminally-involved family member or spouse. This could include whether the respondent had a criminally-involved parent as a child, but the question is not specifically and exclusively about childhood experiences.)

To the extent that the Legislature is interested in crime prevention in the general population, the LSI-R:SV and LSI-R are assessments only of those who are already

Risk Assessment Study

The Legislature asked the Commission to study responses to DOC’s risk assessment **to improve primary crime prevention strategies.**

The Commission’s analysis of these responses shows **what risk factors are prevalent** among those who are incarcerated in a DOC institution or are under DOC supervision in the community.

The study has its limitations: because there is no data to provide a comparison to the general population, the conclusions that may be drawn are limited.

³¹ AS 44.19.645(h).

³² When SB 54 was passed, the law required DOC to conduct these assessments for people sentenced to a term of incarceration of 30 days or more; HB 49 changed this to require assessments of people sentenced to a term of 90 days or more. See Enrolled HB 49 (2019), section 120, available at: <http://www.akleg.gov/PDF/31/Bills/HB0049Z.PDF>.

³³ AS 44.19.645(h).

Risk Assessment Study

Risk factors with the highest prevalence across all demographic categories:

- Criminally-involved friends or acquaintances
- Drug problems
- Alcohol problems

caught up in the criminal justice system. Therefore, results should be interpreted cautiously and cause-and-effect assumptions avoided.

That said, some research shows that there are strong connections between more Adverse Childhood Experiences and higher LSI-R scores. This research does not prove a direct link between the two, but suggests that anything done to reduce ACEs would also be likely to reduce future criminality. There are also strong links between higher numbers of ACEs and substance misuse problems for youths and adults.

The Commission studied responses to both the LSI-R:SV and LSI-R from 2002-2018.³⁴ **There was a high prevalence among all respondents of risk factors relating to alcohol use, drug use, and criminal acquaintances.** This prevalence existed across demographic types and custody status (i.e. in custody or not in custody/under supervision).

Responses to the LSI-R:SV were quite similar across demographic categories. Responses to the LSI-R reflected a little more variation. The highest affirmative responses (generally the top four responses) reflected a prevalence of risk factors relating to alcohol use, drug use, and criminal acquaintances, but the next-highest affirmative responses (generally the fifth top response) varied by demographic category:

- Men had a high prevalence of “no recent participation in an organized activity,” which was not reflected among women.
- Women had a high prevalence of financial problems (among women not in custody) or having a criminally-involved family member or spouse (among women in custody), which was not reflected among men.
- Caucasians had a high prevalence of “no recent participation in an organized activity,” which was not reflected among Alaska Natives.
- Alaska Natives had a high prevalence of financial problems (among Alaska Natives not in custody) or having a criminally-involved family member or spouse (among Alaska Natives in custody), which was not reflected among Caucasians.
- Caucasian respondents reported a higher prevalence of drug problems than alcohol problems; Alaska Native respondents reported the reverse.

³⁴ Both tools ask respondents whether certain risk factors apply to them. The LSI-R:SV, as a screening instrument, asks about 8 risk factors; the LSI-R asks about 54 risk factors.

- People age 25 and younger had a high prevalence of lifetime alcohol misuse that was not reflected among those 26 and older; People age 26 and older had a high prevalence of financial problems (for those not in custody) or having been suspended or expelled at least once while in school.

Appendix E has a more detailed description of this project; the Commission plans to issue a separate report on this topic in 2020.

F. HB 49: Changes to the Law

Many of the provisions in SB 91 were either repealed or modified by HB 49. This subsection contains an overview of what was repealed and what was retained as well as some new provisions. This is an overview only and is not intended to be exhaustive. For complete details, please consult the bill itself.

Sentencing and Classification of Crimes

Repealed

- Inflation adjustment for theft crimes³⁵
 - Would have adjusted dollar values in theft crime statutes every year to account for inflation.

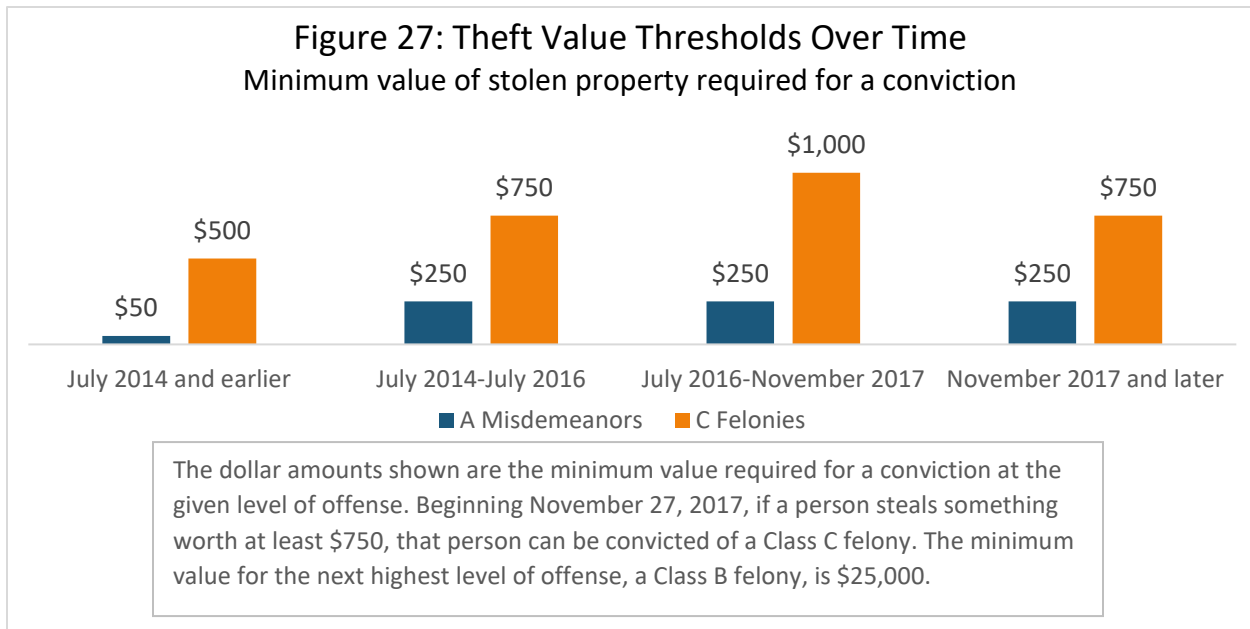


Figure 27 source: Alaska Criminal Justice Commission

- Violation of conditions of release and failure to appear³⁶
 - These offenses had been reduced to a violation in SB 91; they are now returned to a crime with the same sentences that were authorized pre-SB 91.
- Drug offenses³⁷
 - Drug crimes were reformulated with SB 91 to focus on substance weights; these crimes have been returned to the pre-SB 91 system.

³⁵ Statutes affected: AS 11.46.130-295, -.360, -.482, -.486, -.530, -.620, -.730, -.982.

³⁶ Statutes affected: AS 11.56.730, -.757.

³⁷ Statutes affected: AS 11.71.021, -.030, -.040, -.050, -.060.

- Felony sentences³⁸
 - Most presumptive felony sentence ranges shifted downward with SB 91; HB 49 mostly returned them to the pre-SB 91 presumptive ranges. Class A felony sentence ranges for first-felony offenders and Class B felony sentence ranges for second-felony offenders are lower than the pre-SB 91 ranges.
- Misdemeanor sentences³⁹
 - SB 91 reduced the maximum sentence for most first-time misdemeanors; HB 49 returned misdemeanor sentencing to what it was before SB 91, with the exception of Disorderly Conduct (see below).

Retained

- Misdemeanor offenses reduced to violations⁴⁰
 - SB 91 reduced relatively minor misdemeanor offenses to violations (e.g.: gambling, obstruction of highways); they remain violations.

Suspended Entry of Judgment

This special sentencing provision allows a case to be dismissed if a defendant successfully completes probation – meaning the defendant will not have a record.

From enactment in July 2016 through July 2019, this provision has been used 301 times, or **less than 1%** of all eligible cases. Usage varied by judicial district; 16% of all SEJs were in Ketchikan.

- Suspended Entry of Judgment⁴¹
 - This special sentencing provision was retained; it allows cases to be dismissed if a defendant successfully completes probation.
- First- and second-degree murder⁴²
 - Higher mandatory minimums were retained.

³⁸ Statute affected: AS 12.55.125.

³⁹ Statute affected: AS 12.55.135.

⁴⁰ Statutes affected: AS 11.46.460, AS 11.61.145, AS 11.61.150, AS 11.66.200.

⁴¹ Statute affected: AS 12.55.078.

⁴² Statute affected: AS 12.55.125.

Modified

- Driving with license suspended/canceled/revoked (DWLS)⁴³
 - SB 91 reduced this to an infraction if based on a reason other than DUI/Refusal. DWLS remains an infraction for points-based suspensions for the first offense; subsequent offenses are now a Class A misdemeanor.
- Disorderly Conduct⁴⁴
 - Sentence raised to 72 hours for a first offense, 10 days for a second or subsequent offense (was 24 hours).

New

- Credit for time served in treatment⁴⁵
 - Credit for time spent in treatment before sentencing is limited to 365 days.
- Sex offenses⁴⁶
 - Many new provisions that criminalize new conduct, change classifications of offenses, or alter the elements of offenses that must be proven for conviction.
- Marriage defense⁴⁷
 - Modified to restrict use of this defense except for limited circumstances in which the defendant's spouse is able to either consent or understand the nature of the conduct involved.
- Possession of motor vehicle theft tools⁴⁸
 - New crime for possession of certain tools with the intent to commit motor vehicle theft.
- Aggregate theft⁴⁹
 - The value of items stolen over a 180-day period may be aggregated to charge defendants with a higher degree of theft.
- Escape and terroristic threatening⁵⁰
 - These offenses were modified slightly.

⁴³ Statute affected: AS 28.15.291.

⁴⁴ Statute affected: AS 11.61.110.

⁴⁵ Statute affected: AS 12.55.027.

⁴⁶ Statutes affected: AS 11.41.420, -.425, -.438, -.452, -.455, -.458; AS 11.61.120, -.123, -.124

⁴⁷ Statute affected: AS 11.41.432.

⁴⁸ Statute: AS 11.46.370.

⁴⁹ Statute affected: AS 11.46.980.

⁵⁰ Statutes affected: AS 11.56.310, -.320, -.330; AS 11.56.810.

Pretrial

Repealed

- Release procedures⁵¹
 - Returned to pre-SB 91 practices, including use of third-party custodians.

Retained

- Pretrial Enforcement Division⁵²
 - Still exists and still performs risk assessment and pretrial supervision and monitoring.

Modified

- Pretrial risk assessment⁵³
 - SB 91 required DOC to develop a pretrial risk assessment instrument; once developed, the risk assessment scores guided some pretrial release decisions. HB 312 amended these provisions so that a low risk assessment score would not necessarily mandate release.
 - This risk assessment instrument still exists and will still be scored by the Pretrial Enforcement Division. The judicial officer must consider the score when making a pretrial release decision, but is not bound by it.
- Bail review hearings⁵⁴
 - Defendants may still request a bail review hearing for inability to pay if they can show they made a good faith effort to pay.

Parole and Probation

Repealed

- Violations of probation and parole⁵⁵
 - The provision creating technical (non-criminal) violations was repealed; there are no longer any limits on the time that a person can serve for violations of probation or parole.
- Probation terms⁵⁶
 - The limits to the length of probation terms that were set by SB 91 were repealed.
- Discretionary Parole⁵⁷

⁵¹ Statutes affected: AS 12.30.006, AS 12.30.011, AS 12.30.021.

⁵² Statutes: AS 33.07.010, -.020, -.030, -.040, -.090.

⁵³ Statutes affected: AS 12.30.011, AS 33.07.010, -.020, -.030, -.040, -.090.

⁵⁴ Statute affected: AS 12.30.006

⁵⁵ Statutes affected: AS 12.55.110, AS 33.16.215

⁵⁶ Statute affected: AS 12.55.090

⁵⁷ Statutes affected: AS 33.16.060, -.090, -.100, -.130

- The parole board will no longer automatically consider those eligible; the board may also restrict future consideration for discretionary parole.

Modified

- Early termination of probation/parole⁵⁸
 - Probation and parole officers may (but are no longer required to) recommend early termination for those in compliance and treatment complete.
- Earned compliance credits⁵⁹
 - This provision was modified to grant 10 days of credit for every 30 days in compliance (previously 30 days of credit for 30 days in compliance).

New

- Mandatory Parole⁶⁰
 - Prisoners convicted of first- or second-degree murder are not eligible for mandatory parole.
- Discretionary Parole⁶¹
 - People convicted of certain offenses are not eligible for discretionary parole unless a three-judge panel has made them eligible.

Other

Retained

- Victim notification provisions⁶²
 - These remain in place.
- Alcohol Safety Action Program⁶³
 - The changes to this program remain in place.

Modified

- Risk and needs assessments⁶⁴
 - DOC must conduct a risk and needs assessment and create a case plan for anyone incarcerated for 90 days or more (previously 30); DOC must also report to the legislature on case planning.

⁵⁸ Statutes affected: AS 12.55.090, AS 33.05.040, AS 33.16.210.

⁵⁹ Statutes affected: AS 33.05.020, AS 33.16.270.

⁶⁰ Statute affected: AS 3.16.010.

⁶¹ Statute affected: AS 33.16.090.

⁶² Statutes: AS 12.55.011, -.090; AS 12.61.015, -.016, -.017; AS 33.05.040; AS 33.16.120, -.180, -.270; AS 33.30.013; AS 43.23.065.

⁶³ Statutes: AS 47.37.040, AS 47.37.130, AS 47.38.020.

⁶⁴ Statutes affected: AS 33.30.011, AS 33.30.95.

- Alaska Criminal Justice Commission ⁶⁵
 - The Commission's duties were amended to include reporting on data provided by Department of Law regarding sex offense case processing. (Other duties and June 30, 2021 sunset date remain the same.)

New

- Duties of prosecuting attorney⁶⁶
 - Prosecutors must now notify the victim of a sex offense or a domestic violence offense if, before trial, the defendant is discharged from a treatment program for noncompliance.
- Automated victim notification system ⁶⁷
 - DOC must notify victims of a sex offense or domestic violence offense of the option to request a protective order either when the defendant is released from incarceration or any protective order ordered by the court at sentencing expires.
- Registration of sex offenders ⁶⁸
 - Anyone convicted of an offense requiring registry in another state must register in Alaska.

⁶⁵ Statutes affected: AS 44.19.645, AS 44.19.647.

⁶⁶ Statute affected: AS 12.61.015.

⁶⁷ Statute affected: AS 12.61.050.

⁶⁸ Statutes affected: AS 12.63.010-100.

IV. Crime Rates, Policing, and Demands on the Criminal Justice System

This section summarizes other key data that the Commission is not required to report by statute but which is nevertheless relevant to discussions of criminal justice policy.

A. Crime Rates

There has been a great deal of discussion and commentary on crime rates in Alaska. The following figures document some of the crime rate trends in Alaska, using data collected through the end of 2018. Crime rates are determined using the number of incidents reported in the most serious categories of crime per 100,000 people. (In other words, the rate takes the population size into account.)

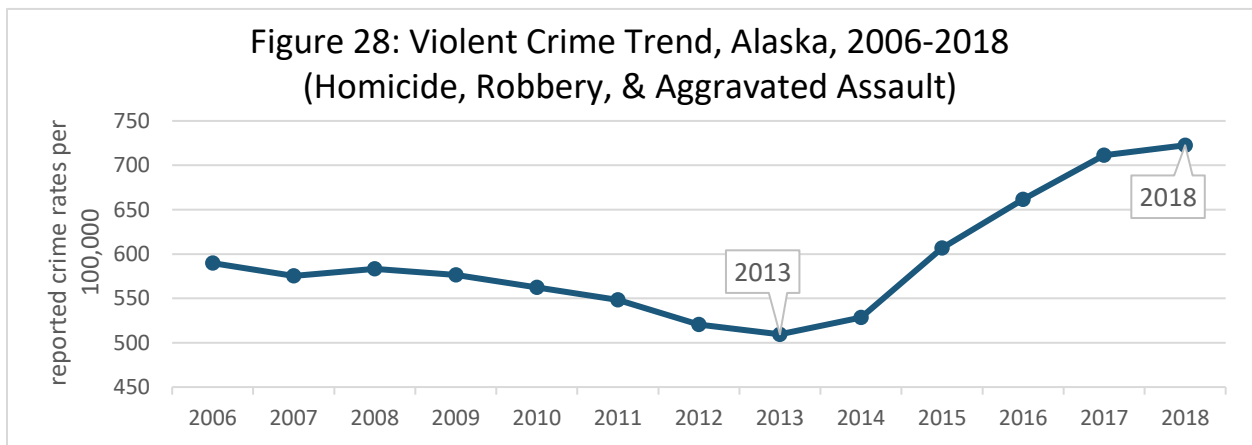


Figure 28 source: Alaska Department of Public Safety

Figure 29 shows the reported violent crime rate: the reports of homicide, robbery, and aggravated assault each year per 100,000 people.⁶⁹ This rate hit a low point in 2013 and began rising after that. The rate was higher in 2018 than in 2017, but the increase was not as steep as in previous years.

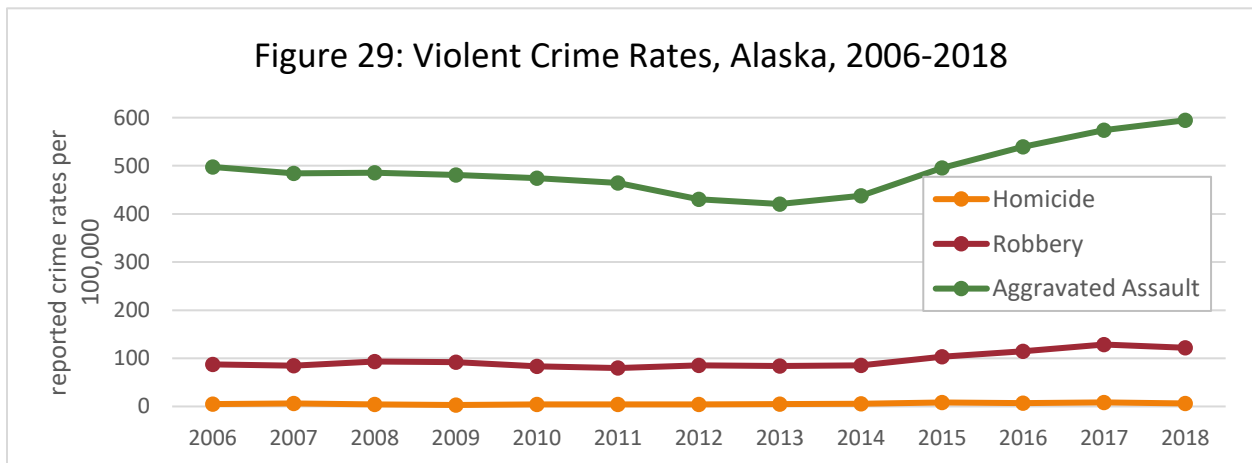


Figure 29 source: Alaska Department of Public Safety

⁶⁹ Reporting the violent crime trend as a combination of aggravated assault, robbery, and homicide is a common convention used to compare crime rates between jurisdictions.

This aggregate rate is largely driven by the trend in reported aggravated assault rates, as seen in Figure 29, above.

Similarly, Figure 30 below shows the property crime trend. The property crime rate is the reports of burglary, larceny, and motor vehicle theft per 100,000 people. This rate hit a low point in 2011 and peaked in 2017; the rate in 2018 was lower than in 2017.

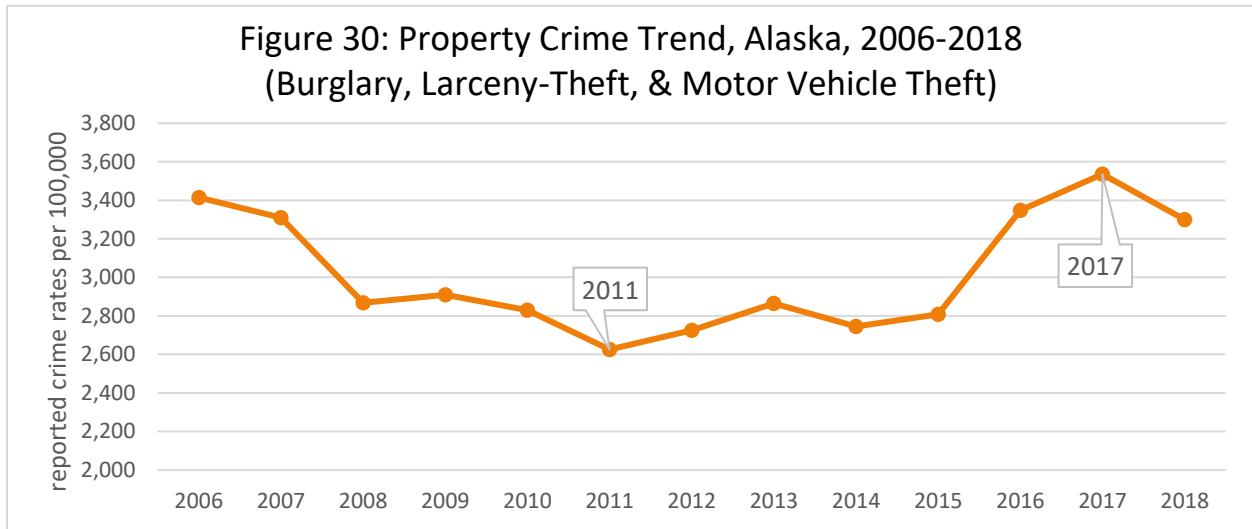


Figure 30 source: Alaska Department of Public Safety

B. Reductions in Vehicle Thefts in Anchorage

Alaska saw a dramatic increase in motor vehicle thefts beginning in 2014. This increase was particularly pronounced in Anchorage. Recently, the number of motor vehicle thefts in Anchorage has decreased just as dramatically, after peaking in early 2018. Figure 31 below shows the number of vehicles reported stolen per month in Anchorage and the number of those vehicles that were recovered.

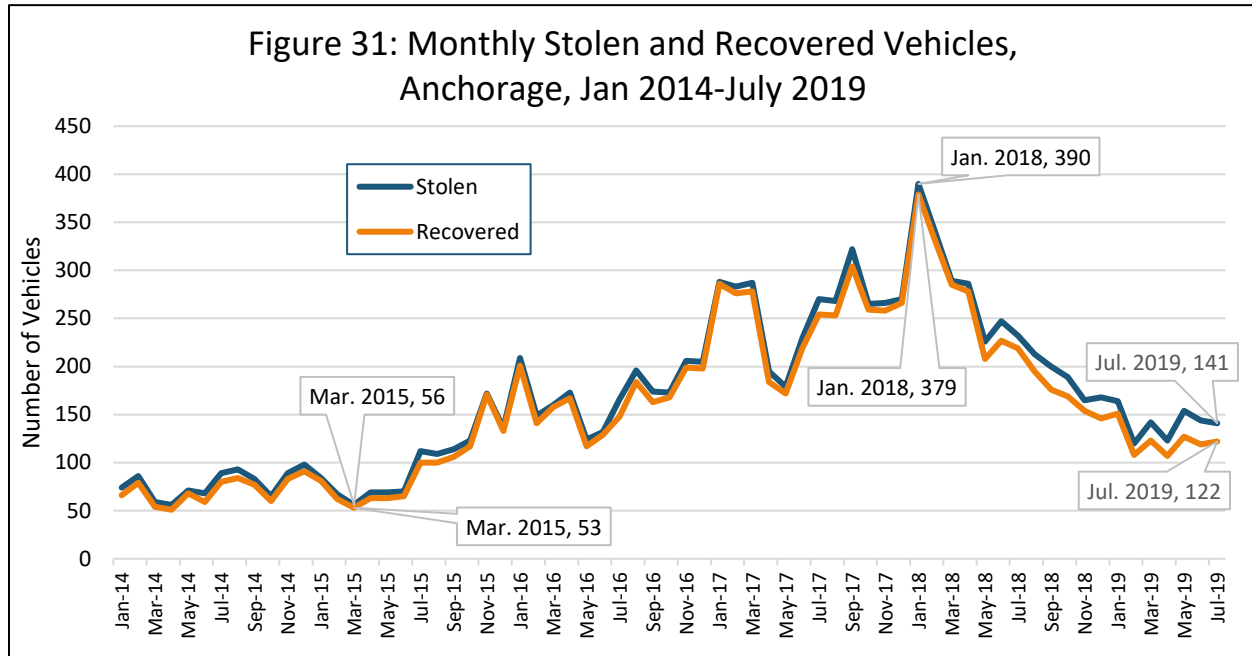


Figure 31 source: Anchorage Police Department

Law enforcement officers in Anchorage attribute this decline to two factors: a larger police force and increased collaboration among law enforcement agencies. An increased police force allowed APD to increase patrols and devote more detective time to vehicle theft.⁷⁰ Figures 32 and 33 show the increase

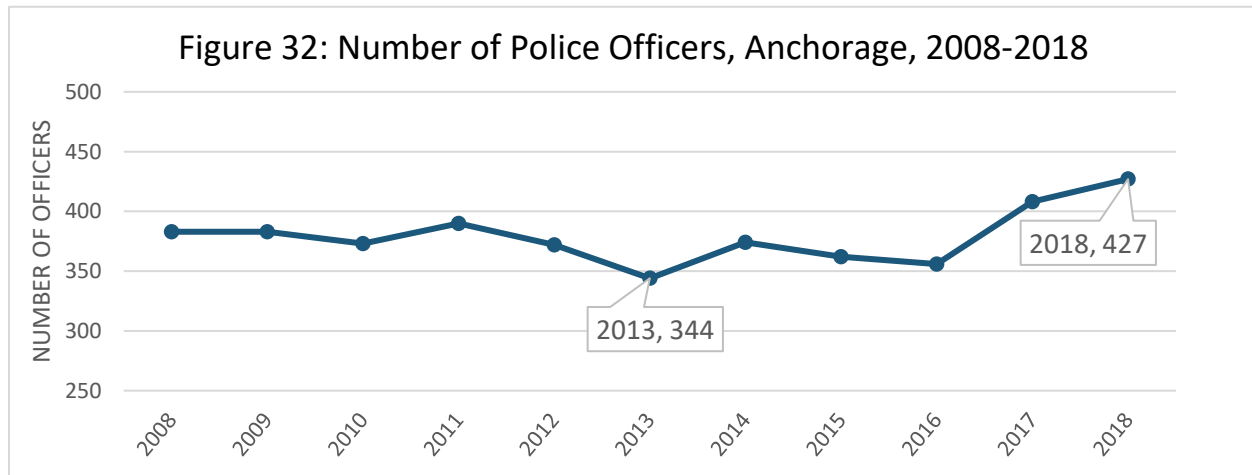


Figure 32 source: Alaska Department of Public Safety

⁷⁰ See Zachariah Hughes, *Alaska Public Media*, “After a Peak, APD Says Car Thefts in Anchorage Are Declining” (February 5, 2019), available at: <https://www.alaskapublic.org/2019/02/05/after-a-peak-apd-says-car-thefts-in-anchorage-are-declining/>.

in law enforcement officers in Anchorage in recent years, after the rate of officers reached a low point in 2013. The 2018 rate of sworn officers per 1,000 people in Anchorage was 1.45. (The national average rate was 2.4.)⁷¹

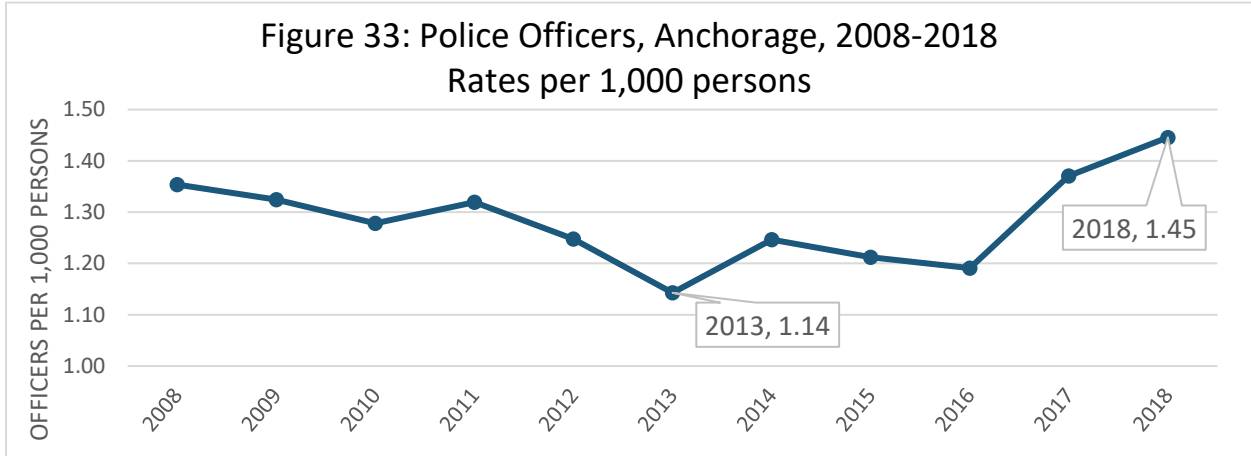


Figure 33 source: Alaska Department of Public Safety

The number of motor vehicle arrests in Anchorage has risen along with the increase in law enforcement officers, as seen in Figure 34.

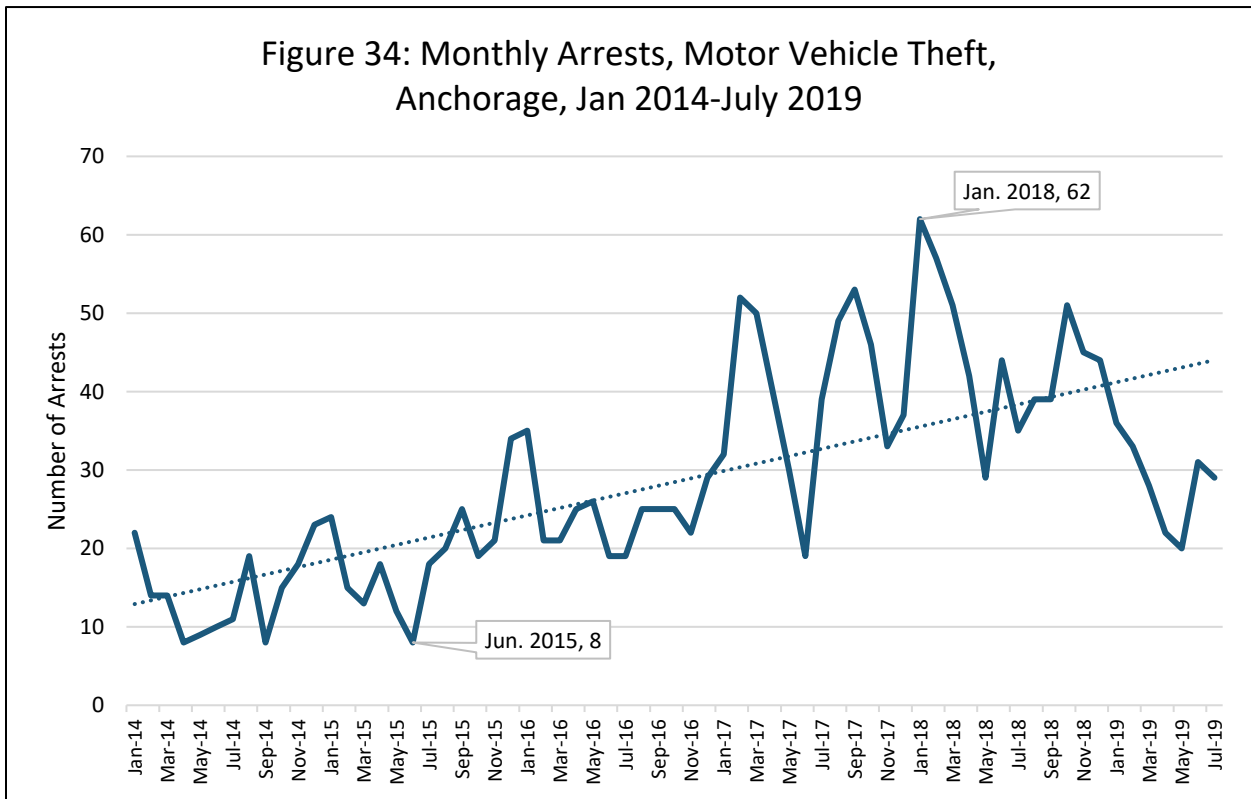


Figure 34 source: Anchorage Police Department

⁷¹ FBI, *Crime in the United States, 2018*, “Police Employee Data” (2019), available at: <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/police-employee-data>; FBI, *Crime in the United States, 2018*, “Table 78” (2019), available at: <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-78/table-78-state-cuts/alaska.xls>.

It should be noted that the Commission has not studied whether any other factors may have contributed to the decline in vehicle thefts such as changing technology or changing habits (locking doors, etc.) among vehicle owners.

Anectodally, there have been reports that vehicle theft in Anchorage is linked to drug use.⁷² A review of DPS and Court System data shows a significant association between vehicle theft and drug charges. However, the numbers of cases with both is quite small. On average, around 10% of vehicle theft cases in Anchorage in the last few years have also involved drug charges.⁷³ Data about the types of drugs involved is not available.

⁷² See Devin Kelley, *Anchorage Daily News*, “A Police Theory on Anchorage’s Spike in Stolen Cars: Free Taxis for Drug Dealers and Burglars” (July 12, 2017), available at: <https://www.adn.com/alaska-news/crime-courts/2017/07/12/a-police-theory-on-anchorage-spike-in-stolen-cars-a-free-taxi-for-drug-dealers-and-burglars/>; Leroy Polk & Rebecca Palsha, *KTUU*, “Cars, Guns, and Drugs; 25 People Arrested in 2 days in Anchorage” (October 10, 2018), available at: <https://www.ktuu.com/content/news/Cars-guns-and-drugs-25-people-arrested-in-2-days-in-Anchorage-496642751.html>.

⁷³ It may also be that the association between drugs and vehicle theft is underreported if law enforcement officers observe some evidence of drug use when making an arrest in a stolen vehicle case, but do not have the evidence necessary to charge the defendant with a drug crime.

C. Demands on the Criminal Justice System

There were increased demands on the criminal justice system in 2018 compared to 2017, and anecdotal reports suggest this trend has continued into 2019. The problem of pretrial delay continues to plague the system, leading the Anchorage trial courts to implement a pilot project aimed at streamlining cases in 2018.⁷⁴ That pilot project has yet to be evaluated for effectiveness.

Pretrial delay was also raised by many respondents to the victim survey and participants in the victim listening sessions, as described above. Victims often take significant time out of their lives to attend hearings, and the longer a case drags out, the longer a victim has to wait for closure.

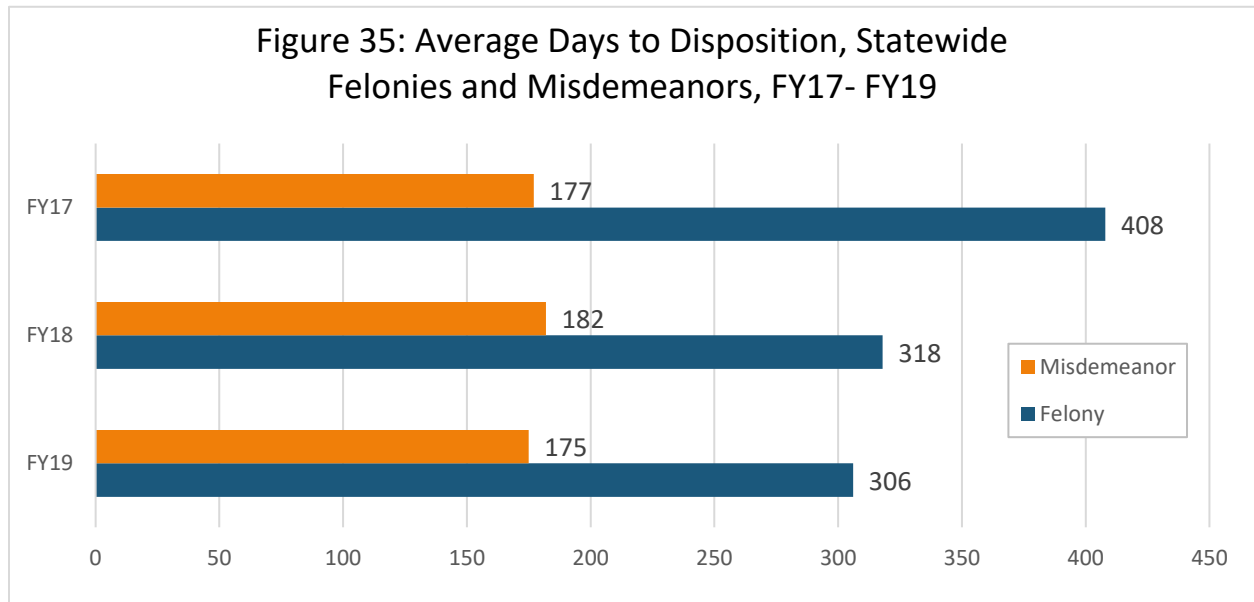


Figure 35 source: Alaska Court System

Data from the court system show that it typically takes a significant amount of time to resolve a criminal case. In the last three fiscal years, the average misdemeanor case took about 6 months to resolve, while the average felony case took between 10 to 13 months to resolve, as seen in Figure 35.

The average time to resolution encompasses a wide range of cases. Some misdemeanor cases resolve at arraignment, if a defendant elects to plead guilty to the charges immediately. Some felony cases can take years to resolve. Figure 36 shows the number of criminal cases disposed in the last three fiscal years that had been awaiting disposition for more than one, two, or three years.

While the number of cases that had taken a year or more to resolve seems to have increased over the past few fiscal years, it is hard to tell whether this is a sign of an increasing backlog or whether the criminal justice system is making progress on addressing the backlog. The number of cases that took one year or more has increased in the past few years, but the number of cases that took two or three years or more has decreased, which is an encouraging sign. Still, several thousand cases resolved each year have taken a year or more to resolve.

⁷⁴ See “Anchorage Superior Court Felony Pre-Trial Order” (September 18, 2018), available at: <https://public.courts.alaska.gov/web/jord/docs/3anpretrial-order.pdf>.

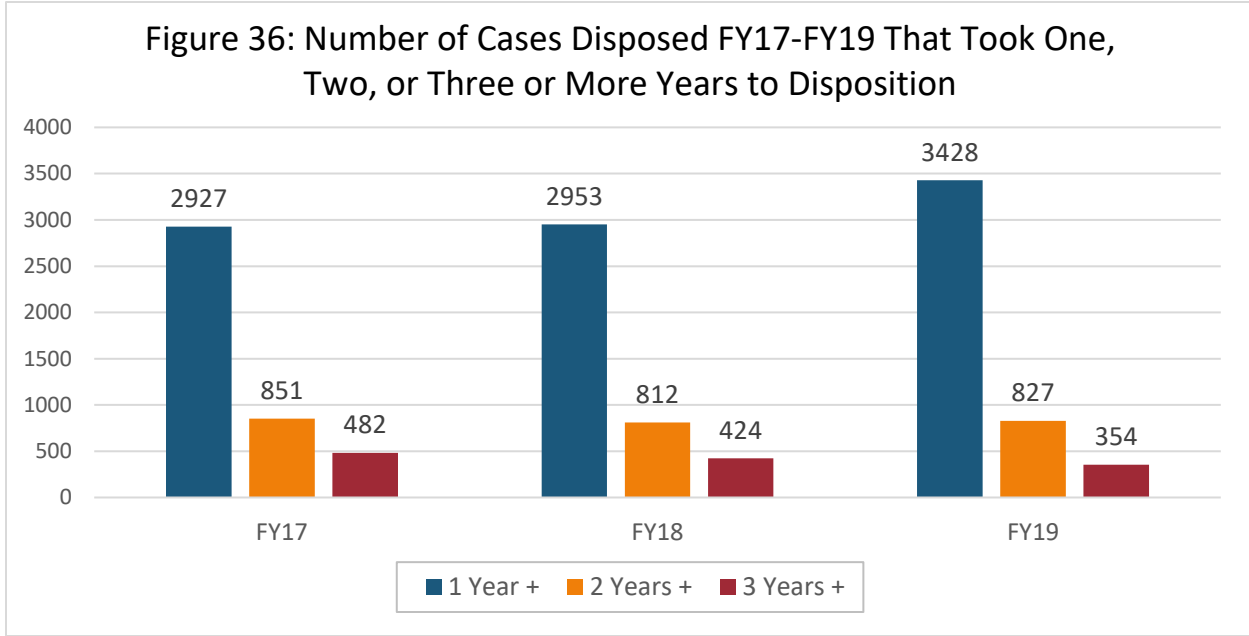


Figure 36 source: Alaska Court System

Certain types of cases take longer than others to resolve; Figure 37 below shows the significant difference in average time to resolution for sex offenses as compared to other offenses. Again, these numbers are averages. Thus while the average time to disposition for sex offense cases has been 16 to 20 months in the past few years, some cases may have taken much longer to resolve while others were resolved more quickly.

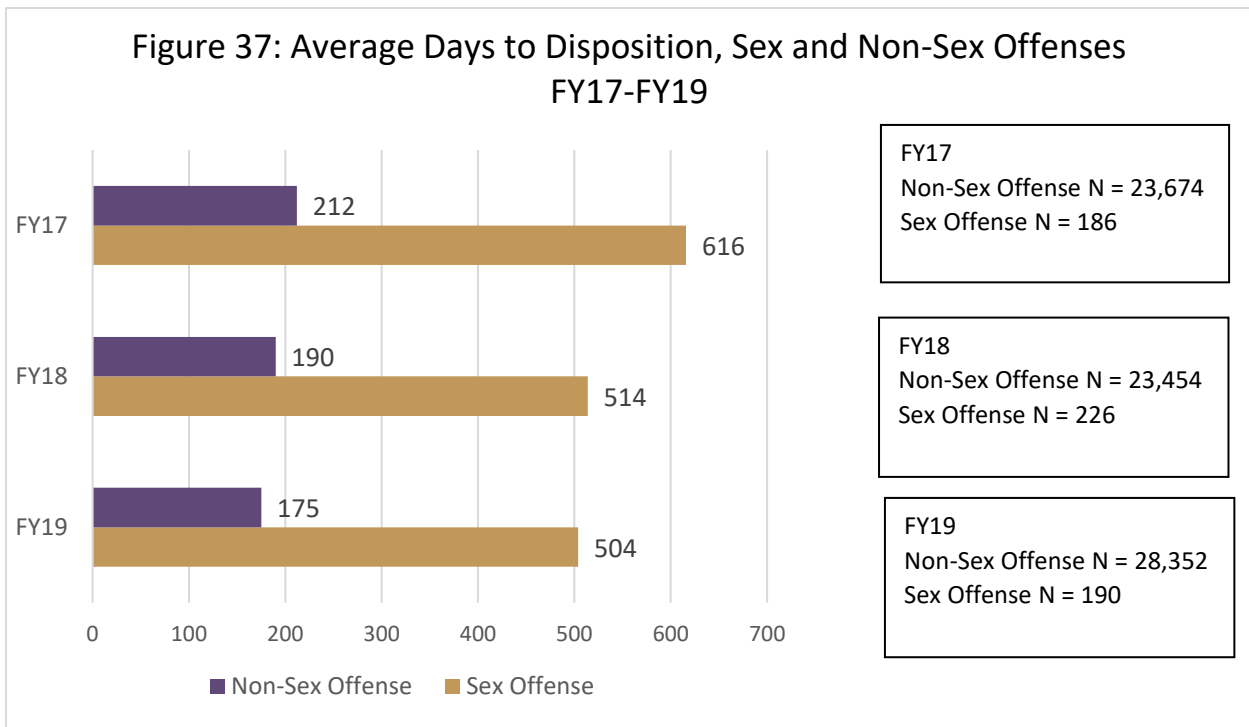


Figure 37 source: Alaska Court System

The number of cases flowing through the criminal justice system each year depends on several factors, any of which could affect how quickly cases move through the system. The number of arrests made, the number of cases filed, and the workload of those working in the criminal justice system can all contribute to the time it takes to resolve a criminal case.

The number of arrests statewide increased in 2018 over 2017, as seen in Figure 38 below. Though there were over a thousand more arrests made in 2018, the number of arrests in 2018 was not as high as the number made in 2015.

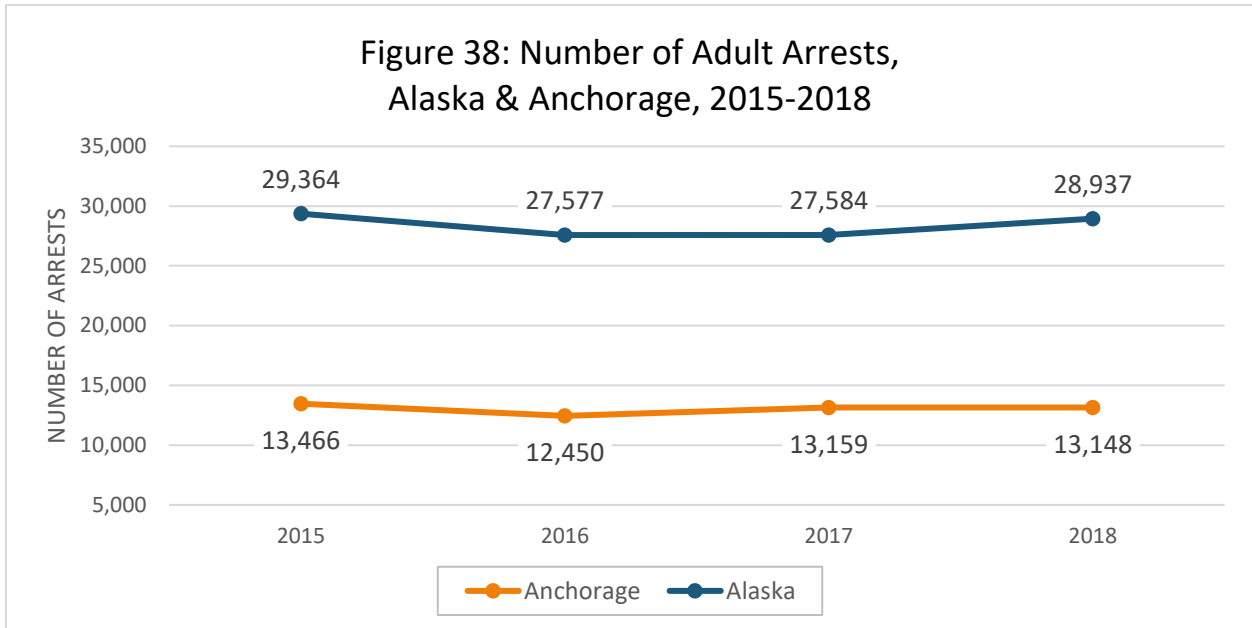


Figure 38 source: Alaska Department of Public Safety

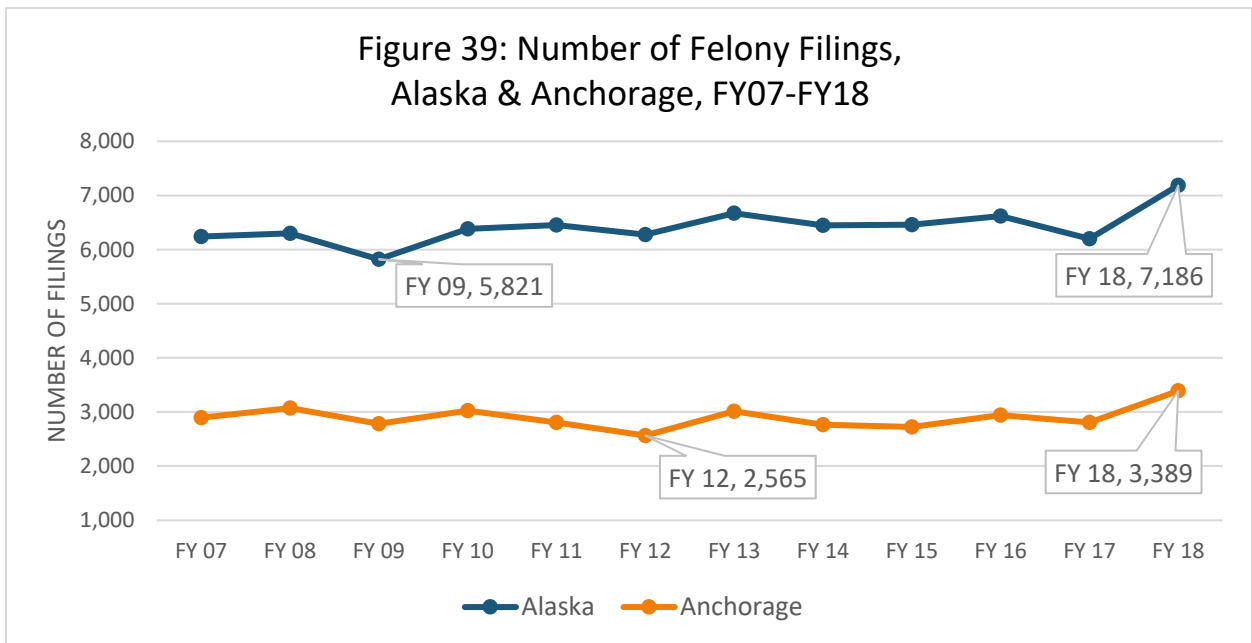


Figure 39 source: Alaska Court System

Felony filings have increased in Alaska and in Anchorage as seen in Figure 39; misdemeanor filings were trending downward until FY17 but increased the following year as seen in Figure 40.

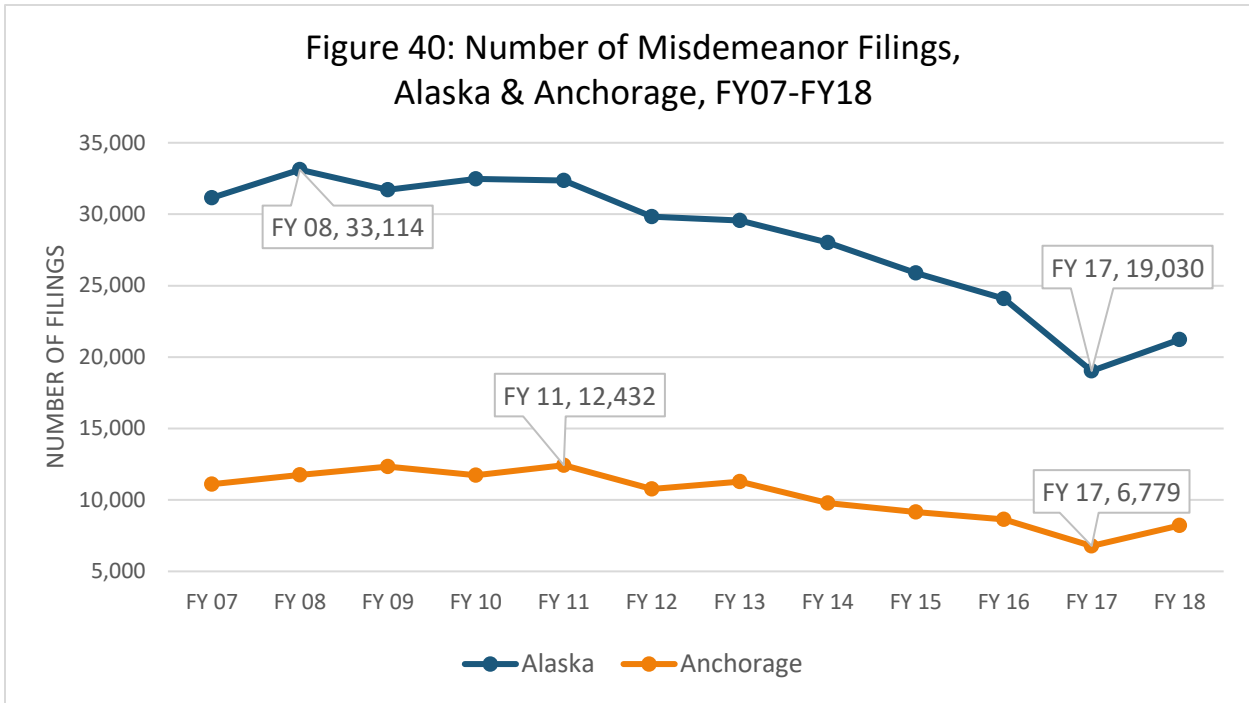


Figure 40 source: Alaska Court System

More criminal cases were disposed (i.e., the defendant was convicted, acquitted, or had all charges dismissed) in 2018 than in 2017, and more cases went to trial, as seen in Figures 41 and 42.

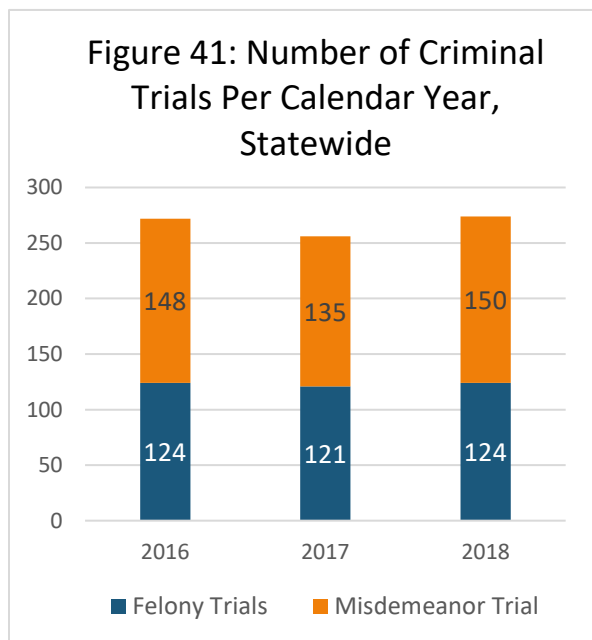


Figure 41 source: Alaska Court System

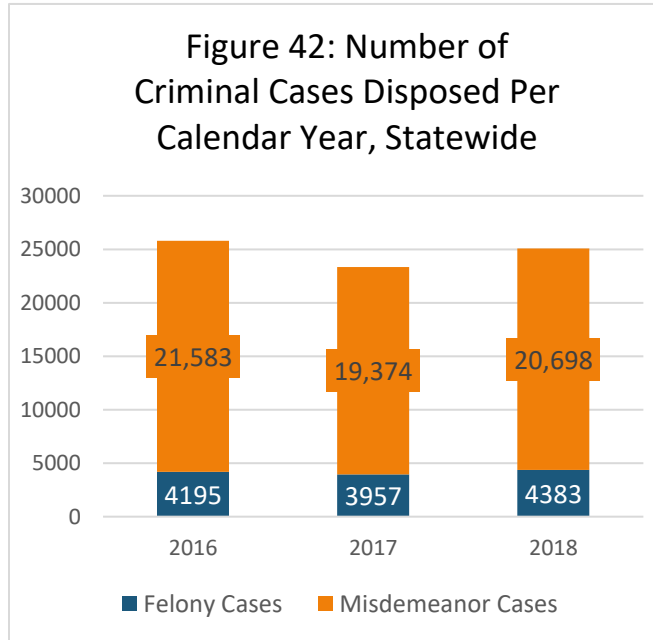


Figure 42 source: Alaska Court System

Felony cases, in general, require more time and resources than misdemeanor cases and require practitioners with more experience to handle them. The conviction rate for felony cases has held steady,

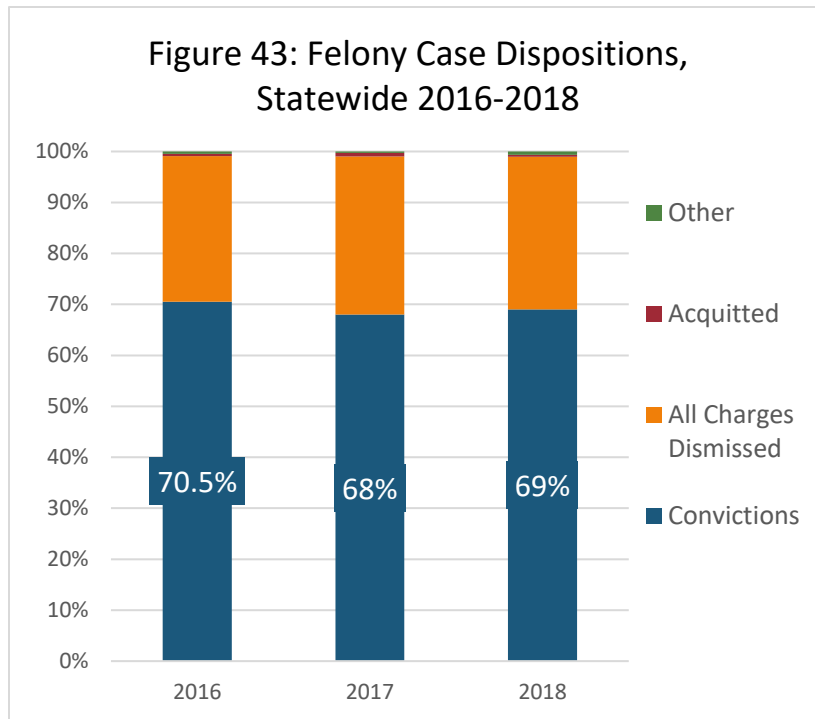


Figure 43 source: Alaska Court System

as seen in Figure 43, but the conviction rate for misdemeanor cases has decreased, as seen in Figure 44, suggesting that a greater percentage of resources is being devoted to felony cases.

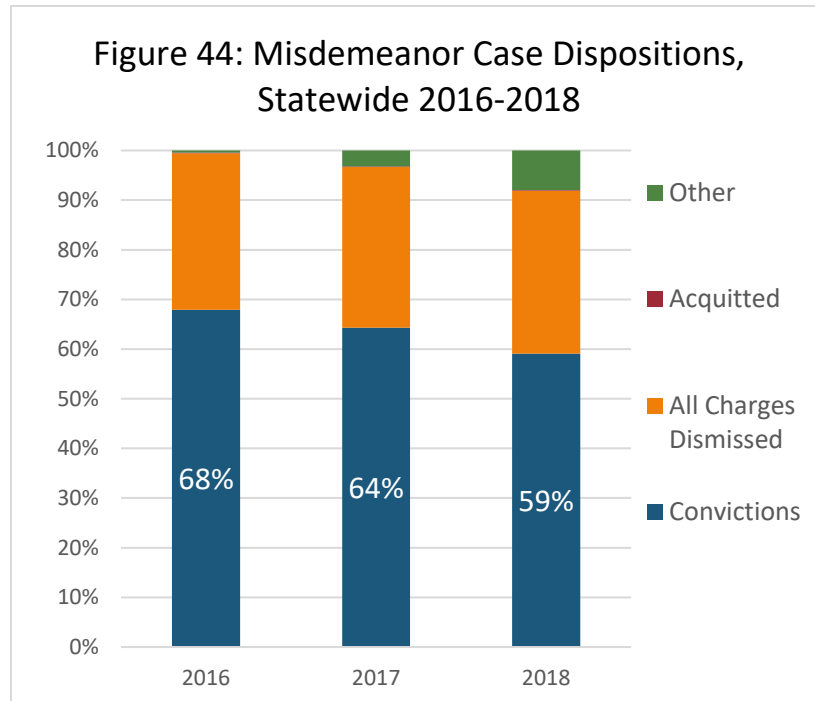


Figure 44 source: Alaska Court System

An increasing share of case dispositions has been dispositions other than convictions, acquittals, or all charges dismissed. These “other” dispositions have increasingly been in the category labelled by the

court system as “Complaint or Citation Not Filed. Case Closed.” This outcome likely happens when a person is arrested and booked into prison, which generates a criminal case file within the court system, but then either the arresting agency or local prosecutor does not file a complaint or citation with the court.

The rate at which criminal cases proceed also depends on the **demands on attorneys practicing in the criminal justice system**. The system can only work as fast as the capacity of Alaska’s district attorneys, municipal prosecutors, public defenders, and public advocates.

Public defense attorneys. The majority of criminal defendants are indigent and are provided public counsel. The Public Defender Agency and the Office of Public Advocacy provide much of the indigent defense around the state; local law firms in Anchorage and Juneau have a contract with those municipalities to provide indigent defense in municipal prosecutions.

Each agency has its own unique needs, but generally speaking, public defense attorneys should not handle more cases than they can ethically devote time to. The American Bar Association provides guidelines for the workloads that public defense attorneys should undertake, listing the following considerations:

- “Whether sufficient time is devoted to interviewing and counseling clients;
- Whether prompt interviews are conducted of detained clients and of those who are released from custody;
- Whether pretrial release of incarcerated clients is sought;
- Whether representation is continuously provided by the same lawyer from initial court appearance through trial, sentencing, or dismissal;
- Whether necessary investigations are conducted;
- Whether formal and informal discovery from the prosecution is pursued;
- Whether sufficient legal research is undertaken;
- Whether sufficient preparations are made for pretrial hearings and trials; and
- Whether sufficient preparations are made for hearings at which clients are sentenced.”⁷⁵

These considerations will be different for each jurisdiction depending on the practices of the public defense agencies, whether all attorneys are assigned to all of these duties and whether there are practical considerations like travel time to take into account.

Perhaps for that reason, the ABA has not provided any specific number for caseloads in its most recent guidelines. In 1998, an audit from the Alaska Legislature said “the state’s public defenders can “ethically” handle no more than 59 cases in a 60-hour workweek.”⁷⁶ (It should be noted that technically, the standard workweek for full-time State of Alaska employees is 37.5 hours.)

⁷⁵ American Bar Association, “Eight Guidelines Of Public Defense Related to Excessive Workloads” (2009), available at:

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_eight_guidelines_of_public_defense.pdf.

⁷⁶ Kyle Hopkins and Nat Herz, *Anchorage Daily News*, “Judge: Alaska’s Justice System is Failing in the Case of Slain Mountain Village Woman” (September 18, 2019), available at: <https://www.adn.com/alaska-news/crime-courts/2019/09/18/judge-alaskas-justice-system-is-failing-in-the-case-of-slain-mountain-village-woman/>

A 2017 study conducted in Colorado (co-sponsored by the ABA) found that to provide a reasonably effective defense at the trial level, an attorney should spend around 427 hours on cases involving charges at the highest felony level.⁷⁷ It also found that low- to mid-range felonies should take from about 30 hours to 100 hours each, while the highest-level misdemeanor should take about 16 hours.⁷⁸ Under those standards, an attorney handling only the most serious felonies working a 50-hour workweek should have a caseload of about **6 cases per year**. An attorney handling only the most serious misdemeanors, also working a 50-hour workweek, should have a caseload of about **162 cases per year**. (Calculations do not include vacation.)

Public Defender Agency. The Public Defender Agency operates as a statewide law firm, with offices in Utqiagvik, Kotzebue, Nome, Fairbanks, Bethel, Palmer, Anchorage, Dillingham, Kenai, Kodiak, Sitka, Juneau, and Ketchikan. The PDA represents clients in criminal cases as well as child protection (Child in Need of Aid, or CINA) cases, juvenile delinquency cases, and civil commitment cases. In the past three fiscal years, the PDA has had between 92 and 98 attorneys, with **average yearly caseloads of between 233 and 244 cases per attorney**. These caseloads include all criminal (misdemeanor and felony) and civil attorneys as well as trial and appellate attorneys.

Office of Public Advocacy. The Office of Public Advocacy operates quite differently from the PDA, with offices in Anchorage, Bethel, Fairbanks, Juneau, Kenai, Palmer, and Homer (some locations have more than one OPA office). Rather than acting as one statewide law firm, each of its offices acts as its own separate law firm. In criminal cases, OPA serves as conflict counsel, stepping in where the PDA cannot represent a client because due to a conflict of interest, or where there is more than one defendant in a case. If there are multiple defendants in one case, those defendants can be represented by separate OPA offices without running into a conflict of interest.

Because OPA operates as an archipelago of separate offices, its caseloads should be viewed in a different light. OPA also represents clients in CINA cases, juvenile delinquency cases, guardianship cases, and civil commitment cases. In some offices, its attorneys will handle a mix of those cases, which has a bearing on OPA's capacity to handle criminal cases. CINA cases in particular affect the criminal caseload, as **CINA cases have more than doubled** in the last four to five years. Also, because some of OPA's offices are very small, one attorney's vacation or resignation can significantly increase the workload for the rest of the office.

Because of the conflict rules, OPA is often assigned to represent clients in serious felony cases that have multiple co-defendants. For OPA attorneys devoted solely to criminal cases, a typical of-the-moment caseload is about **20 to 25 of the most serious felonies (Unclassified or Class A) or 75 Class B or C felonies**. In smaller offices where attorneys have to represent clients in criminal and civil cases, a caseload of 150 or more cases (including felonies) would not be abnormal.

High caseloads for public defense attorneys have received some attention recently, with one judge issuing an unusual order finding that high turnover for public defenders and lack of resources for

⁷⁷ Rubin Brown and The American Bar Association, "The Colorado Project: A Study of the Colorado Public Defender System and Attorney Workload Standards" (August 2017), at 20, available at: https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_co_project.pdf.

⁷⁸ *Id.*

the criminal justice system had led to a situation where “The state of Alaska’s criminal justice system is operating on the fringes, barely able to protect against the deprivation of fundamental rights, barely able to respond in a professionally responsible manner to Alaska[’s] rising violent crime rates.”⁷⁹ The judge was concerned that resource constraints had contributed to excessive delay in the criminal case over which he was presiding, writing that those constraints meant that “the people of Alaska must tolerate years-long delays in the prosecution of the type of crimes charged in this case — crimes against women, crimes fueled by substance abuse, crimes against law enforcement officers, crimes against rural Alaskans, crimes [perpetrated] by repeat offenders.”⁸⁰

Prosecutors. Three entities provide prosecution services in Alaska’s state criminal justice system: the Anchorage Municipal Prosecutor’s Office, the City and Borough of Juneau Law Department Criminal Unit, and the Criminal Division of the Alaska Department of Law. The two municipal offices handle only misdemeanors in those cities. The Department of Law handles all felonies statewide and all misdemeanors not covered by the two municipal offices. The Criminal Division is comprised of 12 District Attorney Offices: Anchorage, Fairbanks, Palmer, Kenai, Kodiak, Nome Kotzebue, Bethel, Dillingham, Ketchikan, Sitka and Juneau. The Criminal Division will open a 13th office in Utqiagvik in FY 19. The Criminal Division also contains the Office of Special Prosecutions, the Office of Criminal Appeals, and the Central Office.

Caseload numbers are subject to multiple variables. How many new cases are opened during a given time frame? How many cases are closed in a given time frame? Is the caseload number based on one point in time (Oct 28, 2019) or the total number of cases handled during a one year time period (all of 2019)? How are varying levels of severity of the cases taken into account when determining workload and not just caseload? These sort of issues contribute to the lack of a national average or even a recommended average. In the Criminal Division trial prosecutors⁸¹ have an average of **95 felonies** per attorney **plus** and average of **182 misdemeanors** per attorney **open on October 29, 2019**. This is a snapshot of a single day and not a cumulative number for the entire year and is averaged across the entire state. Furthermore, these numbers do not include petitions to revoke probation, post-conviction relief cases, appeals, investigations that do not result in charges, juvenile cases, nor extraditions.

It is clear that pretrial delay is an issue that continues to be a problem for Alaska’s criminal justice system. Additional funds were appropriated to the Department of Law, Department of Corrections, Office of Public Advocacy, Public Defender Agency, and the Court System to account for the expected increased demands on the criminal justice system from the passage of HB 49.⁸² The Legislature may wish to monitor arrests, case filings, backlogs, and legal practitioner caseloads when considering the budgets for these agencies in the future.

⁷⁹ See Hopkins and Herz, “Judge: Alaska’s Justice System is Failing” (2019), *supra*, and “Decision and Order Granting Motion for Continuance and Denying Motion to Disqualify” (August 30, 2019), available at: <https://www.documentcloud.org/documents/6421049-Walters-a-Order.html>.

⁸⁰ See “Decision and Order,” *supra*.

⁸¹ These numbers do not include attorneys from the Office of Criminal Appeals nor the Central Office since the caseloads do not include the work they perform.

⁸² See “Enrolled HB 19” (2019), *supra*.

V. Reinvestment Implementation

SB 91 created the Recidivism Reduction Fund to fund programming that would reduce recidivism, prevent violence, and improve public safety. These funds have been allocated each fiscal year according to the plan set out in SB 91's fiscal note. (See section VI below for more information on this fund.)

The Commission has been following the progress of the programming funded through the Recidivism Reduction Fund. The fund is allocated to three areas:

- Substance use disorders (SUD) treatment within DOC facilities. (\$2 million allocated for FY19.)
- Violence prevention programs through the CDVSA. (\$2 million allocated for FY 19.)
- Reentry, treatment and recovery services through DHSS. (\$3.5 million allocated for FY19.)

The sections below explain how the allocated funds have been spent in the past year.

A. Reinvestment in substance use disorders treatment at DOC

Most incarcerated individuals in Alaska suffer from a diagnosable substance use disorder (SUD) or mental illness. A report published in 2014 found that individuals with these disorders (referred to as Alaska Mental Health Trust beneficiaries) accounted for 65% of inmates in a DOC facility on a given day in 2012; Trust beneficiaries account for more than 40% of incarcerations every year.⁸³ Of these incarcerated beneficiaries with reported clinical characteristics, about 70% were SUD-related (many had both an SUD and mental illness). For people with a mental illness or SUD, the median length of a prison stay was significantly longer than for other offenders, and they recidivated at higher rates than other offenders.⁸⁴

As noted in section II (F) above and in Appendix E, a review of the risk and needs assessments performed on people incarcerated at DOC facilities found that substance misuse was highly prevalent among people who are incarcerated. Drug or alcohol misuse was an issue for two-thirds or more for all demographic groups.

Reinvestment funds have been used for the following treatment programs and services at DOC.

Medication-Assisted Treatment Program. Medication-assisted treatment combines opioid inhibiting medication such as Vivitrol, Buprenorphine or Methadone. Ongoing efforts around this program include:

- Availability of Vivitrol in all DOC facilities for offenders releasing to the community.

⁸³ Hornby Zeller Associates, Inc., TRUST BENEFICIARIES IN ALASKA'S DEPARTMENT OF CORRECTIONS (May 2014). A Mental Health Trust Beneficiary is defined as anyone who has 1) received a clinical diagnosis of a mental illness, developmental disability, chronic alcoholism or other substance-related disorders, Alzheimer's disease and related dementia, or a traumatic brain injury, 2) been admitted to the Alaska Psychiatric Institute, or 3) received community services of significant duration and intensity either where a mental health and/or SUD diagnosis had been made or where the service itself was clearly related to mental health and/or SUD.

⁸⁴ *Id.*

- Buprenorphine and methadone bridging for individuals who are arrested while participating in a community MAT program.
- Training for DOC medical providers so they may apply for an “X Designation.” This designation gives them the necessary DEA authority to prescribe buprenorphine and methadone.
- A Vivitrol research project is examining whether Vivitrol upon release is effective in reducing opiate relapse, mortality related to opiate use, and recidivism.

Narcan Program. Narcan (naloxone) is a potentially lifesaving medication administered as a nasal spray that can reverse the effects of an opioid overdose. Ongoing efforts for this program include:

- DOC medical units have Narcan and staff are trained in its use;
- DOC Correctional Officers are trained to use Narcan and it is part of their emergency response efforts;
- DOC Probation Officers in the field are trained to use Narcan and carry it as part of their field gear;
- DOC facilities provide access to Narcan to offenders as they release to the community. Offenders may take Narcan kits for personal use, for a friend or for a family member with no questions asked.

Implementation of a new evidence-based substance use disorder (SUD) treatment curriculum. This included a new series of books, workbooks, and other resources for the residential and intensive outpatient programs in DOC.

Expanded assessment services and capacity. SUD assessments are necessary to determine the level of treatment a person needs. Expanded efforts as a result of reinvestment funding include:

- Implementing national best-practice assessment and withdrawal screening software. The system is linked to DHSS and provides a computer-guided, standardized interview for assessing patients with substance use disorders. This software is considered the gold standard by the American Society of Addiction Medicine (ASAM).
- Expanded access to telehealth assessments;
- Expanded use of SBIRT (Screening Brief Intervention & Referral to Treatment);
- Placement of SUD treatment counselors in probation offices to conduct assessments and provide SBIRT services;
- Fee for service funding for community providers for assessments.

Residential treatment transfers. Funds have also gone toward purchasing residential treatment beds for direct bed-to-bed transfers from DOC facilities.

Outpatient Programming. Reinvestment funding has allowed DOC to expand SUD, mental health, and dual-diagnosis treatment capacity, including:

- Additional dual diagnosis counselor at the Anchorage Correctional Complex;
- Sober living units in Goose Creek Correctional Center and Spring Creek Correctional Center;
- Intensive Outpatient Program (IOP) for offenders in the Seaside Community Residential Center (CRC) in Nome;
- Purchase of 25 IOP treatment slots in the community for direct access of offenders in Anchorage CRCs. Looking to expand these options statewide.
- Added on-site IOP treatment program in the Fairbanks CRC;
- Exploring options for providing on-site IOP treatment programming in the Juneau CRC.
- Expanded case management services to reentrants with substance use disorders.
- Providing Alternatives to Violence programming at Wildwood and Spring Creek Correctional Centers;

Withdrawal management at Hiland Mountain. Withdrawal management (detox) is a necessary first step in recovery for many. DOC is remodeling an area at Hiland Mountain Correctional Center that will house an Integrated Care Unit for women. This unit will provide mental health treatment, SUD treatment programming and infirmary beds where women who are going through substance use withdrawal can be medically managed.

B. Reinvestment in Violence Prevention

In fiscal year 2019, the CDVSA used reinvestment funds to expand state and community level programming which began in FY18. Funding was also used to provide technical assistance and training to grantees, enhance media presence and collect data to assure that implementation efforts could be easily captured, reported on, and evaluated. Programs supported with reinvestment dollars include:

- **ANDVSA Programs** (\$346,112 investment): The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) is a non-profit agency comprised of over 19-membership programs. Membership programs provide localized prevention programming and victim services to survivors of intimate partner violence, teen dating violence and sexual assault. ANDVSA is itself a coordinating body for domestic violence and sexual assault services and is the recognized state coalition of domestic violence and sexual assault. CDVSA works closely with ANDVSA to create comprehensive statewide planning, develop and implement prevention projects and provide communities with technical assistance.
 - **Stand Up Speak Up:** A media and engagement campaign to teach youth how to more effectively speak up and encourage other youth to stand up to end violence. FY19 funding supported staff positions to administer mini-grants for community-based projects led by youth to promote healthy relationships, respect among peers, and leadership in 15 communities around the state. Over 12,000 Alaskans were estimated to have been reached by these youth-led community projects with healthy relationship messaging, building protective factors against domestic and sexual violence.
 - **Talk Now Talk Often:** A parent engagement project for parents of teenagers; provides resources for parents to speak with their teens about healthy dating relationships. FY19 funds were used to distribute resources to parents and other adults that work with youth to promote discussions about healthy relationships to increase relationship safety and positive teen-adult connections. Over 700 packs of conversation cards were distributed this fiscal year.
 - **Youth Conference:** The annual LeadOn! For peace and equality youth leadership conference was held in Anchorage with FY19 funds to engage youth to help change norms around teen dating violence and empower them as leaders. Seventy-four youth from 25 communities from around the state attended the three-day conference. After the event, 92% of participants reported an understanding of how to prevent dating violence, a 41% increase from before the conference. Participants also increased their community planning skills: Over 90% reported that the experience provided them support to promote respectful behavior in their communities. 92% agreed that LeadOn! gave them experience in how to be a leader in their own community to prevent violence.
 - **Boys Run I Toowu Klatseen:** The Boys Run program was co-developed by prevention staff at AWARE in Juneau and SAFV in Sitka. It's a 10-week curriculum in which boys learn how to work together as a team, how to process and express emotions, and how to choose to be an ally. Boys Run integrates a strong cultural

component, honoring Southeast Alaska Native culture and values to foster an appreciation and understanding across cultures for all participants. Boys Run envisions boys growing up into confident, compassionate men who will help create a community of respect and nonviolence.

- Boys Run is being implemented in Juneau, Sitka, Angoon and Kake. It is the intention for the program to expand into additional communities.
- **The COMPASS project:** COMPASS promotes male and youth leadership through mentorship using a guide to help adult male mentors create a safe atmosphere for men and boys to learn about and practice healthy lifestyles, healthy identities, and safe and violence-free communities. In FY19 reinvestment funds were used to support a case study which examined the program’s implementation in Kodiak and Bethel. In collaboration with UAA, this evaluation measured effectiveness and drew out best practices for statewide application. Recommendations from the case study validate the use of COMPASS as a domestic and sexual violence prevention program due to its ability to be adapted to meet the unique needs of communities and its focus on engaging men in the issue of domestic and sexual violence prevention. To be successful, ongoing resources, technical assistance and support must be provided.
- **The Men’s Gathering:** To effectively engage men and boys in violence prevention efforts, information is needed about the best strategies for doing so. In June 2019, CDVSA partnered with the Alaska Network on Domestic Violence (ANDVSA), AWARE, Sealaska Corporation and the Goldbelt Heritage Foundation to host the first statewide Alaska Men’s Gathering in Juneau. This event brought together 61 individuals from across the state- 45 of whom were men- to discuss and plan action steps for involving men and boys in violence prevention. The need for healing spaces for men, particularly Alaska Native men, was clearly identified, while first steps were taken for a targeted social marketing campaign to engage men and boys.
- **Coaching Boys Into Men (CBIM):** (\$65,167 investment) CBIM is a violence prevention curriculum for coaches of male athletic high school teams. Coaches play a unique role in the lives of their athletes and because of this relationship are poised to positively influence how young men think and behave both on and off the field. CBIM is evidence based; a CDC study of high schools using the program showed that participants were more likely to report harmful behavior and less likely to engage in abusive behavior.

Implementing communities include: Bethel, Eagle River, Fairbanks, Houston, Atmautluak, Juneau, Ketchikan, Kake, Nikolaevsk, Nikiski, Talkeetna, Tununak, Wasilla, and Valdez.

- **Girls on the Run (GOTR) of Greater Alaska:** (\$57,000 investment) GOTR is an empowerment program for 3rd-8th grade girls. The program combines training for a 5k running event with healthy living and self-esteem enhancing curricula. GOTR instills confidence and self-respect through physical training, health education, life skills development, and mentoring

relationships. Girls learn to identify and communicate feelings, improve body image, and resist pressure to conform to traditional gender stereotypes. In FY19 there were nine GOTR teams in Juneau, four in Fairbanks, three in Ketchikan, two in Sitka and one each in Valdez, Haines, Homer, Angoon, Kake, and Petersburg. CDVSA's grantee, AWARE, is expanding the program to reach Bethel, Dillingham, Kenai, Kodiak, Kotzebue, Nome, and Seward. (An independently funded branch of GOTR operates in Anchorage and the Mat-Su.)

- **Teen Dating Violence Awareness Campaign:** (\$6,676 investment) Alaska's Teen Dating Violence prevention and awareness efforts are highlighted annually, throughout the month of February, in alignment with the National Teen Dating Violence Awareness Campaign. Research has indicated teen dating violence is a key risk factor in lifetime violence in adult relationships. Investing resources that support the development of healthy and safe dating relationships is an investment that will reduce perpetration rates and the need for criminal justice responses to intimate partner violence in adult relationships.

FY19's focus was on high school education, community outreach and youth empowerment. To accomplish this goal, materials were distributed to high schools across the state. In addition, paid media that included digital ads and radio PSAs were created to supplement the materials distributed to high schools.

- **Alaska's Primary Prevention Summit:** (\$72,642 investment) In March 2019, CDVSA hosted its fifth Primary Prevention Summit, now established as biennial events. The Summit was developed to provide training and support to community-based prevention teams (CPTs) as they develop and implement primary prevention strategies related to domestic violence, sexual assault, dating violence, and stalking in their communities. The Summit aims to enhance baseline knowledge in primary prevention. The FY19 Summit hosted planning teams/coalitions from 21 communities.
- **Green Dot Alaska (GDAK):** (\$44,842 investment) GDAK, is a nationally recognized bystander intervention program with the goal of preparing organizations or communities to take steps to reduce power-based personal violence including sexual violence and domestic violence. The "green dot" refers to any behavior, choice, word or attitude that promotes safety for everyone and communicates intolerance for violence.

FY19 reinvestment funds supported statewide bystander efforts by strengthening communities, (currently engaged with the strategy), capacity to do the work by expanding the number of community based instructors through a three-day statewide training.

- **Community Programming:** (\$1,305,780 investment) CDVSA has two community programming funding opportunities: the community readiness and capacity building (CR) grant and the community-based primary prevention program (CBPPP) grant. These grants currently operate on a three-year cycle and were designed to provide opportunities for community programs with and without primary prevention program experience.

Seven programs received CR grants: - Abused Women's Aid in Crisis (AWAIC; Anchorage) - Advocates for Victims of Violence (AVV; Valdez) - LeeShore Center (Kenai) - Tundra Women's

Coalition (TWC; Bethel) - Safe and Fear Free Environment (SAFE; Dillingham) - Working Against Violence for Everyone (WAVE; Petersburg) - Women in Safe Homes (WISH; Ketchikan)

Five programs received CBPPP grants: - Aiding Women in Abuse and Rape Emergencies (AWARE; Juneau) - Cordova Family Resource Center (CFRC; Cordova) - Interior Alaska Center for Non-Violent Living (IAC; Fairbanks) - Sitkans Against Family Violence (SAFV; Sitka) - South Peninsula Haven House (SPHH; Homer).

The quarterly reports submitted by grantees indicate that they are having success with their efforts to improve their community capacity for prevention programming through agency leadership, increased staffing, and community events and training that either introduce or strengthen existing prevention messaging across settings and populations. Their organizational and implementation efforts are consistent with best practices, and over time will continue to have a positive effect on reducing violence in Alaska.

C. Reinvestment in Reentry, Treatment and Recovery Services

The mission of the Division of Behavioral Health (DBH) is to manage an integrated and comprehensive behavioral health system based on sound policy, effective practices and partnerships.

The division manages grants, contracts, and initiatives that align with increasing positive health and public safety outcomes. Since 2013, the division has expanded its work to include community-based programs focused on building service capacity for individuals releasing from the Department of Corrections (DOC). The division's work in this area can be roughly divided into three main categories: (1) Diversion and Intervention, (2) Treatment and Recovery Services, and (3) Information and Referral Management and Program Evaluation.

Diversion and Intervention (\$1,055,993.51 investment)

The division works collaboratively on programs that are intended to divert individuals from further, more serious involvement with the criminal justice system by connecting them to treatment, supervision, or services that address underlying issues that can lead to additional law enforcement encounters. In order to encourage local intervention and partnerships at the community-level, the division also works with several community coalitions across the state.

ASAP The Alcohol Safety Action Program (ASAP) provides substance use disorder (SUD) screening, case management and accountability for DWI and other alcohol/drug related misdemeanor cases. The work of the Alcohol Safety Action Program leads to:

- Increased accountability of offenders;
- Reduced recidivism resulting from successful completion of required education or treatment;
- Significant reductions in the amount of resources spent by prosecutors, law enforcement officers, judges, attorneys and corrections officers enforcing court-ordered conditions; and

- Increased safety for victims and the larger community because offenders are more likely to be receiving treatment, making court appearances, and complying with other probation conditions.

In the past year there have been 4,142 ASAP admissions statewide, with 2,158 of those cases in Anchorage.

Every client that reports to ASAP in person attends a group orientation. Following orientation, each client meets individually with an ASAP staff member for a short meeting during which an actuarial assessment tool, the Level of Service Inventory-Revised (LSI-R), is used to identify the client's risks and needs. During the interview barriers to treatment are also identified. With information gained during the meeting with the client, the ASAP Probation Officer is better able to assist clients in choosing a treatment agency that will be the best fit and thus make it more likely that the client will succeed.

In addition, ASAP has regular training opportunities for staff and treatment providers that assist with maintaining consistent program procedures statewide.

Mobile Crisis Intervention Team (MIT), Municipality of Anchorage The Municipality of Anchorage, in collaboration with the Anchorage Police Department, supports mobile crisis intervention teams. Mobile crisis intervention teams focus on mobile outreach to better accommodate for the transient nature of vulnerable populations. Crisis intervention that is mobile, targeted, and flexible to the needs of law enforcement is an evidence-based practice shown to be effective at diverting individuals from deeper involvement with the justice system.

Through discussions with the Municipality, the division recognized a gap in transitional supports such as emergency rental assistance, access to basic hygiene items, clothing vouchers, emergency food assistance, and access to transportation. In FY19 and FY20, the division will support the mobile crisis intervention team through time-limited funding intended to divert individuals at-risk of homelessness or criminal involvement to community supports.

Initial reports show that through targeted funding efforts, the Mobile Intervention Team (MIT) was able to engage with six families and four individuals, thus reducing police interactions leading to arrest. As the MIT lead stated in an update to the division, "If we meet their immediate need of hunger, clothing, or simply finding a way for them to get to and from appointments and housing, we significantly reduce their police interaction, potential for an arrest, and safety concerns by deescalating the individual."

Community Reentry Coalitions Innovative ideas for community-based interventions for at-risk populations happen within communities. Local law enforcement, correctional staff, businesses, community providers, and concerned citizens collaborate as part of a partnership with state stakeholders to increase public safety outcomes through the implementation of strategic, community-based goals developed through community reentry coalitions. Challenges that have been identified at the coalition level include the need for educational and training opportunities for reentrants and community members, gaps and barriers identification and capacity building, and direct service "warm hand-offs" are challenges identified at the coalition level. Community-based solutions are then championed through the coalition structure and become realized

through local partnerships, funding and sustainability efforts, and the implementation of direct service support through coalition initiatives.

Through the coalition framework, which brings diverse community members together to work on challenging local issues, the following action plans around the following have been operationalized across the state:

- Community awareness of the population
- Annual Community Awareness Assessments
- Safe and Sober community gatherings
- Reentry Program Graduations
- Joint events with coalitions and local Department of Corrections prisons and jails
- Increased local reentry case management in rural areas
- Two new reentry case management locations added in Nome and the Kenai Peninsula
- Employment, Treatment, and Housing capacity building
- Partnerships with local Department of Labor and Workforce Development Job Centers

Board and chair positions and coalition membership that includes local partners representing the Department of Health and Social Services, the Department of Corrections, the Department of Labor and Workforce Development, law enforcement, the Alaska Court System, municipality and borough government, treatment providers, housing and homelessness advocates

- Community donations for supplies, client necessities, and stakeholder events
- Clothing drives, including winter coats and clothing for interviews or employment
- Furniture, including items for individuals moving into their first apartments
- Serve as the local point of contact for DOC and other interested stakeholders around reentry, reducing recidivism, and local public safety efforts
- Statewide training and conference leads
- Develop and implement outcomes and measures at the local level
- Develop community-based reentry program standards and guides statewide

In FY20, Nome and the Kenai Peninsula will pilot reentry case management services. Reentry case management was identified by both coalitions as a key component for operationalizing their local reentry strategic plans.

Treatment and Recovery Services (\$1,766,301.56 investment)

Better integration of treatment and recovery services for the criminal justice population was a focus area of the division for FY19. Specifically, the division focused on the following areas:

- Bridging the gap between pre-release connections and post-release services
- Increasing independence through employment and training opportunities
- Removing barriers for service continuation or completion

To do this, the division worked to increase collaboration internally through the following program areas: (1) treatment services, (2) supported employment, (3) housing and homelessness, (4) peer support, and (5) reentry services.

Behavioral Health Redesign

1115 Medicaid demonstration waiver A common challenge for individuals releasing into the community is access to behavioral health care across the continuum of care. As part the division's behavioral health redesign, the 1115 Behavioral Health Medicaid demonstration waiver will allow the department to support new and expanded community-based behavioral health programs for eligible individuals, including those exiting from correctional facilities.

The targeted service array will include:

- Standardized screening and assessment instruments
- Community-based outpatient treatment
- Intensive case management
- Acute intensive services
- Mobile crisis response
- Crisis stabilization
- Community and recovery support services

Medicaid and behavioral health reform The Division of Behavioral Health (DBH), per SB 74, has undertaken comprehensive reform to the behavioral health system, which will include services to help meet the treatment needs of the offender population. DHSS behavioral health treatment supports are leveraged with criminal justice specific supports, such as linkages to treatment providers pre-release; transitional, rapid or permanent housing placements; increased enrollment in Medicaid (to facilitate greater access to treatment resources); transportation support for individuals trying to make appointments; and cognitive behavioral supports.

As part of the combined Medicaid and criminal justice reform efforts, DOC provides assistance in completing hardcopy Medicaid applications to individuals who are within 30 days of their release date. DOC field probation officers and halfway house staff also assist offender in applying for Medicaid benefits. DHSS processes applications and pays claims on Medicaid services, including those for qualifying individuals with criminal backgrounds. The backlog of Medicaid applications has been reduced dramatically over the past several months.

The division also increased community-based enrollments for Medicaid services to those who qualify, including those in need of mental health and substance use treatment services, through amended agreements with community reentry providers emphasizing the importance of long-term treatment supports.

Individual Placement and Support (Employment) The Individual Placement and Support (IPS) model is an evidence-based practice that assists individuals with behavioral health disorders to gain competitive employment. The division works with community-based grantees to increase supported employment efforts in Alaska through six grants located in Anchorage, Juneau, Homer, Soldotna, Anchorage, and Fairbanks. In order to increase collaboration with reentry service providers, the IPS model was presented at a training focused on increasing community partnerships.

Housing and Homelessness

Alaska Housing Finance Corporation (AHFC), Returning Home Program The division is a funding partner for the Returning Home Program. This program is a referral-based, transitional rental assistance program designed to meet the housing needs of parolees and probationers from Alaska's correctional institutions. Rental assistance for the program is up to two years and referrals for the program are from the Department of Corrections. The Returning Home Program serves the Anchorage area and "balance of state." The areas included in the balance of state are Fairbanks, Homer, Juneau, Ketchikan, Kodiak, the Mat-Su, Petersburg, Sitka, Soldotna, Valdez, and Wrangell. Since DBH started the collaboration with AHFC, over 108 households have been served. Of the individuals served, 77% of individuals were considered extremely low income, 23% of those housed were families, and 21% had a disability.

Section 811 Project-Based Rental Assistance (PRA) Program The Section 811 Project-Based Rental Assistance program is a partnership between the State of Alaska and the Alaska Housing Finance Corporation and is partially funded by the Department of Housing and Urban Development (HUD). This is a Permanent Supportive Housing program to provide participants with safe and affordable housing and the necessary services and supports to ensure participants maintain independent community living. The program serves individuals between the ages of 18-62, who have a disability and are considered low income. In 2018, the Division of Behavioral Health expanded the target population to include individuals who are re-entering the community from institutional care, including from an inpatient psychiatric or residential treatment facility, jail or prison. The Division of Behavioral Health actively coordinates with the Department of Corrections to facilitate access to this program for individuals that are currently being released or that have been in a correctional facility within the past 12 months.

Mainstream Vouchers Mainstream vouchers provide housing supports for individuals who have a disability and who are institutionalized or who are at-risk of, or who are currently, homeless. The division works with the Alaska Housing Finance Corporation to distribute a total of 50 vouchers in the communities of Anchorage, the Mat-Su, Fairbanks, Juneau, and the Kenai Peninsula.

Transitional Housing Assistance Challenges with finding and paying for transitional housing supports for individuals involved with the criminal justice system, especially for some criminal offense types, has been widely reported by social service programs. In FY19, the division provided additional guidance and support for programs that work with reentrants around transitional housing assistance. Specifically, the division encouraged collaboration between reentry and housing and homelessness coalitions, as well as increased allocations for transitional housing within grantee budgets. In addition, through the community reentry efforts of coalitions, reentry centers, and case managers partnerships with local landlords have increased since FY17.

Peer Support Peer Support has proven to be effective with many different target populations including people with behavioral health conditions and people re-entering from DOC involvement. Peers are defined as people with a "lived or personal experience" who are qualified

through training and/or supervised work experience to help others with similar circumstances reach goals and achieve recovery. To support local communities in developing and implementing peer support programs, the division manages a series of community-based peer support grants across the state.

The Division of Behavioral Health and the Alaska Mental Health Trust have made a concerted effort over the last 15 months to lay the groundwork for a Peer Support Worker Certification through an extensive stakeholder process including peers, peer support workers, agency providers, state stakeholders, and others interested in the topic. The result was a detailed set of recommendations on a framework for the certification as well as other recommendations for promoting a recovery orientation in the behavioral health system. Central to the recommendations was funding for an independent Certification Body to do the work of creating the certification. With funding from the Trust, DBH is now ready to issue a solicitation for an entity to take the recommendations of stakeholders, develop policies and procedures, develop an application process and systems to manage related information, make decisions on applications, issue certifications and track renewals. In addition to the Trust, funding through a SAMHSA State Opioid Response grant and also through the Division of Public Health's Office of Substance Misuse and Addiction Prevention is available to develop training for new Peer Support Workers and to hold a Peer Support Conference at the end of FY20. We anticipate that the Certification Body will use the balance of FY20 to develop the certification process and be ready to accept applications at the beginning of FY21.

Certification will be required for Peer Support Workers providing services through the 1115 Medicaid Waiver. Until the Certification Body described above is in place, there is an interim certification process available through the division and described in the 1115 Waiver application materials for agencies.

Reentry Services The division continues to work with community-based reentry programs, including reentry case managers, reentry centers, and social service agencies, to provide access to emergency support services and case management. Services include transitional housing assistance, linkages to treatment and employment, and transportation assistance. In order to improve program sustainability, community-based reentry programs have applied for Individual Beneficiary grants on behalf of clients, as well as for state and federal grants that complement the services offered to program participants. Each reentry case management caseload has a maximum of 40 individuals, with the highest referral and caseload numbers occurring in Fairbanks and Anchorage. Over 150 reentry case manager cases have been opened across the state since FY17, with more clients being referred who have serious behavioral health disorders and medical conditions.

As such, an emphasis on Medicaid enrollment and community provider linkages and supports occurred in FY19, with reentry case managers reporting that most of their clients are Medicaid eligible and often release with an immediate need for access to behavioral health treatment upon release.

The Partners for Progress reentry center in Anchorage served over 1300 individuals in FY19. A common challenge for individuals receiving emergency support through the reentry center is access to treatment, including Medication-Assisted Treatment. In FY20, the division will pilot a

new program in Anchorage intended to bridge the gap between social service agencies and medication-assisted treatment (MAT) providers. This program focuses on increasing the number of clients receiving appropriate medication-assisted treatment and decreasing the negative impacts of opioid use. To do this, the program will target individuals who self-identify as opioid users and connect them with intensive case management, access to recovery supports, and provide linkage to MAT services through DBH approved providers, including with Opioid Treatment Providers (OTPs) in Anchorage. Also, this program will increase education opportunities for social service agencies around the use of MATs, including addressing stigmas around MATs.

Information and Referral Management and Program Evaluation (\$209,351.40 investment)

Data management, information sharing, and program evaluation efforts increased in FY19. Through community reentry coalition assessments and meetings with community reentry programs, the division received feedback that a primary cause of missed “warm hand-offs” between the community and institutions was a lack of consistent information and referral management. From reentry plans to release dates, community providers eager to start engaging with individuals pre-release, requested a way to pilot viewing DOC releases of information, reentry plans, and release dates statewide.

Information Management As part of reentry case management, the division utilizes the Alaska Automated Information Management System (AKAIMS) for tracking client information, including case notes. Reentry case managers utilize a module within AKAIMS that has been modified to track reentry case management outcomes. The funding for this module also supports the Therapeutic Courts use of AKAIMS.

Referral Management The division, through a partnership with the Department of Corrections, developed a referral module that is connected to DOC’s ACOMS system. This module allows reentry case managers, who must first be approved through DOC’s contractor background check, to access releases of information digitally and to see referrals and updates to reentry plans in real-time. Challenges still remain around training DOC staff across institutions about the existence of the module, as well as the lag time in getting new case managers approved to use the module; however, this pilot referral management system has provided a valuable resource for tracking referrals from correctional institutions. Additional modifications are being made to the module, as reentry case managers make recommendations for improvements at regular case management meetings.

The module has received over 200 referrals from institutions across the state.

Additional referrals that are not made through DOC ACOM’s referral module are made by DOC probation officers, as well as from other organizations in the community.

University of Alaska Anchorage, Process Evaluation In FY19, the division contracted with the University of Alaska Anchorage to assess process outcomes related to reentry case management and the reentry center. The purpose of the study is to assess if the programs are working to fidelity based off of their program models, as well as make recommendations about how the outcomes of the programs can be improved. The study will continue into FY20.

VI. Savings and Recommendations for Further Reinvestment

AS 44.19.645 requires the Alaska Criminal Justice Commission to “annually make recommendations to the governor and the Legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism.” This section of the report first examines savings related to criminal justice reform, and then sets forth the Commission’s recommendations for reinvestment.

A. Analysis of Savings from Criminal Justice Reforms

1. DOC Operating Costs

One expected result of criminal justice reform was that there would be fewer people in prison because reform involved shorter prison terms for many offenses, new pretrial release practices, and revised probation and parole practices. The average daily prison population decreased from a peak of about 5200 prisoners at the beginning of 2015 to a low of around 4300 prisoners in early 2017.

Since 2017, the prison population has fluctuated but generally trended upward, reaching an average daily prison population of upwards of 4500 in 2019 (see Section III (A) above). The statewide capacity of DOC is around 4800, meaning that DOC continues to operate near capacity. (The capacity has decreased from 2015 because the state closed the Palmer Correctional Center.)

Although fewer beds are being used than in the past, DOC has not operated with a lower budget since SB 91 was enacted. Per DOC, the cost of care has increased, and since some locations are more expensive to run than others, increased demand for those locations has led to increased costs. The marginal per-prisoner daily cost (the cost of housing one additional prisoner for a day, excluding institutional and overhead costs) is \$44.98, up from \$41.49 in 2014.

Without SB 91, however, Alaska’s prison costs may have been even greater. In 2014, the Commission projected that, had DOC’s prison bed usage continued to increase along its historic trajectory, the average daily population would have been over 5,500 in 2019. As noted in Section III, admissions have been increasing since 2017, but average sentences have decreased and a greater percentage of people are released pretrial. Without the changes to sentencing, pretrial, and probation and parole practices, those increasing admissions would have been coupled with comparatively higher sentences and fewer pretrial releases, leading to a higher average daily population.

2. Marijuana Taxes

Per AS 43.61.010, 50% of the tax revenue generated by the marijuana industry is collected in the Recidivism Reduction Fund. The Recidivism Reduction Fund is the source of funding for the reinvestment programs described in Section V: reentry programs administered by the Division of Behavioral Health, substance use disorder treatment programs at DOC, and violence prevention programs administered by the CDVSA.

For the first time, half of the yearly marijuana tax revenue exceeded the amount allocated to these programs. The amount allocated from the Recidivism Reduction Fund for FY 19 was \$7.5 million; the revenue from marijuana tax in FY 19 was over \$17.8 million, 50% of which is \$8.9 million.

Nonbinding language included in SB 91 states that “it is the intent of the legislature that reinvestment of excess funds be made into providing additional law enforcement resources in communities throughout the state.” However, it is not clear whether the legislature deemed the amount allocated to the reinvestment programs in the SB 91 fiscal note sufficient, or whether the legislature intended that additional funding be put toward the reinvestment programs before any “excess funds” are devoted to law enforcement resources.

B. Recommendations for Reinvestment

Savings notwithstanding, the Commission continues to recommend that policymakers use a set of seven principles in considering investments into programs and services aimed at reducing recidivism and crime prevention. These principles explained in more detail in last year’s report, which can be found on the Commission’s website.⁸⁵

Principle 1: Reinvestment should be strategic and collaboratively implemented, using a **problem-solving** rather than a punitive-only approach.

Principle 2: Most reinvestment should be directed towards programs in the **evidence base**, and all programs should routinely be evaluated for effectiveness.

Principle 3: Reinvestment should be directed towards programs that have been shown to **reduce repeat offending**, thereby decreasing future crime.

Principle 4: Whenever possible, reinvestment should be directed towards programs that generate tangible monetary benefits and **positive return on investment**.

Principle 5: Prioritize funding for programs that **target high risk** (and medium risk) offender groups.

Principle 6: Reinvestment should be targeted at all areas of the state, **including rural Alaska**.

Principle 7: Maintain and expand funding for **victim’s services and violence and other prevention programming**.

The Commission also continues to stand by its recommendations for needs that should be addressed by Alaska’s policymakers. These needs include:

- **Treatment.**
 - Provide flexible state funding for the Division of Behavioral Health to be used for community-based providers for mental health treatment and social services.
 - Increase substance use disorder funding, including investing in physical infrastructure.
 - Increase the agility and sustainability of substance use and mental health treatment statewide across timeframes of a justice-involved individual (school, pre-charge, pretrial, prison, reentry).

⁸⁵ See *Annual Report (2018)*, *supra*.

- Provide timely and available assessments and treatment.
- **Competency.**
 - Build infrastructure to care for Alaskans whose legal competency is in question and who must be evaluated and perhaps restored before a criminal case against them may proceed. Assess the current forensic capacity at the Alaska Psychiatric Institute (API).
 - Add forensic psychologists and psychiatrists to augment the existing capacity of API.
- **Pre-charge or Pretrial Diversion.**
 - Provide expanded access to pre-charge and pretrial diversion, including tribal court agreements for youth and providing more services through tribes.
 - Fund a data-driven, evidence-based pre-charge/pretrial diversion program with behavioral health supports to sustain it.
- **Alternatives to incarceration.**
 - Develop a strategic plan for statewide development of therapeutic courts.
- **Rethinking incarceration.**
 - Train and retrain DOC staff to focus on rehabilitation by employing principles of normalcy, effective conditions of confinement, dynamic security, education, vocational training, and transitional incarceration.
 - Fund more resources for “behind the walls” treatment.
- **Services for those on probation and parole.**
 - Provide more outpatient services for those on parole, probation and upon release.
- **Reentry services.**
 - Provide expanded access to reentry assistance and make available flexible funds for immediate individualized transitional supports (e.g. housing, clothing medications, transportation, etc.).
- **Domestic Violence Intervention Programming.**
 - Evaluate existing DV programs in Alaska and, if they are not shown to be effective, find or create and adequately fund an evidence-based model of intervention programming for DV offenders.

- **Victims' Services.**
 - Increase services for child victims and witnesses.
 - Law enforcement officers who respond to domestic violence calls should receive additional training and oversight on how to determine which person is the primary aggressor, to avoid situations in which victims are misidentified as offenders.
 - During the parole and reentry phase of the criminal justice system, crime victims should also be considered clients, educated about their role and rights, and included in case planning.
 - Institutionalized training for criminal justice professionals should be regularly offered to teach about victims' rights; victim sensitivity; victim trauma (including the neurobiology of trauma, PTSD, and invisible disabilities); how to talk to victims; trauma-informed responses to victims; cultural diversity and competence; and crime prevention and bystander intervention.

Some of these needs are already being addressed by state agencies or non-profit partners, and for some, the Commission plans to make specific recommendations in the coming year (particularly with regard to behind-the-walls approaches and treatment, DV programming, and victims' services). Nevertheless, each of these needs is great. The more policymakers are aware of these needs, the more momentum any project working to address these needs will have. Alaska faces significant challenges. An all-hands-on-deck approach could help improve the lives and safety of all Alaskans.

VII. Conclusions and Future Projects

In the coming year, the Commission will continue to monitor and provide information on criminal justice system data. It will also focus on four primary research topics: victims' services, sex offenses, post-conviction treatment and rehabilitation, and domestic violence. The Commission is always available to answer questions from policymakers, criminal justice practitioners, and interested members of the public.

Further information

For more information regarding the work of the Criminal Justice Commission, contact Commission Staff Attorney Barbara Dunham at 907-279-2526 or bdunham@ajc.state.ak.us.

Appendix A: Organization

Representation. The legislative history of SB 64’s enactment showed a desire for convening a diverse group of agencies and interested parties in the criminal justice area who could work jointly to identify, vet and forward proposed reforms to the Legislature. Although the statute allows for the designation of representatives, Commissioners almost always directly participate in Commission meetings.

Leadership. SB 64 required the yearly election of Commission leadership. The Commission’s first Chair, retired Supreme Court Justice Alexander O. Bryner, was elected in September 2014. Gregory Razo, elected in October 2015 and re-elected August 2016 and August 2017, succeeded Justice Bryner. In September of 2018, the Commission elected Representative Matt Claman as its chair. Brenda Stanfill is the Vice Chair, filling in when Commissioner Claman is absent.

Voting. Commission chairs have sought to have proposals resolved by consensus. Policies which lack consensus but have majority support will also be forwarded to the Legislature, with an explanatory note regarding majority support.

Meetings. The Legislature expected the Commission to meet “at least quarterly” as a plenary body. It adopted a monthly meeting schedule for its first 18 months. Later, the Commission moved to an every-other-month schedule. The Commission chair occasionally calls special meetings outside the typical schedule if there are time-sensitive matters to discuss.

The Commission typically meets in Anchorage or Juneau. Commission and public members utilize video- and audio-conferencing facilities to attend meetings when physical attendance is not possible.

In addition to attending plenary sessions, individual Commissioners have been present at numerous workgroup (committee) meetings staffed by the Alaska Judicial Council. All meetings of the Commission are publicly noticed and open to the public. There is time reserved at each meeting for public comment.

Workgroups. The Commission has several workgroups and one standing committee, which engage stakeholders and community members and study various aspects of the criminal justice system. The groups identify problems and then develop recommendations for solutions to these problems. Workgroup recommendations are then vetted by the full Commission, and if the full Commission approves the recommendation, it is forwarded to the Legislature, the Governor, or other appropriate authority for consideration and implementation.

Public notice and participation. All meetings are noticed on the State’s online public notice website, as well as the Commission’s website. Interested persons can also be placed on pertinent mailing lists notifying them of upcoming meetings and content. An audio-teleconference line is used for all meetings. All meetings allocate time for public comment.

Staffing. Although the Commission is one of the boards and commissions organized under the Office of the Governor, the Legislature and the Governor’s Office tasked the Alaska Judicial Council (AJC) with its

staffing and administrative support. A full-time attorney and a part-time research analyst hired by the Judicial Council staff the Commission; they are assisted by existing Judicial Council staff.

Assessments & evaluations. The Commission is required to receive and analyze information to measure changes to the criminal justice system related to laws enacted in SB 91. The Alaska Judicial Council and the Justice Center at the University of Alaska are jointly reviewing and analyzing data for the Commission, in consultation with the Criminal Justice Working Group. Alaska Statute 44.19.645 requires DOC, DPS, and the Court System to send information to the Commission on a quarterly basis.

Website. The Commission maintains a website with meeting times, agendas, and summaries for all plenary meetings and workgroup meetings. The website also has extensive substantive information, including research that the Commission has relied upon in formulating its recommendations. The website address is <http://www.ajc.state.ak.us/alaska-criminal-justice-commission> .

Outreach and Education. The Commission is committed to engaging with the public and continues to seek opportunities for public participation in and education about the Commission's work. The Commission's meetings are open to the public and advertised on the Commission's website. These meetings are routinely attended by at least 15-20 community stakeholders and interested citizens. Each meeting has a designated time for public comment and any public testimony is recorded by staff.

Commissioners and staff have also been invited to make numerous presentations to community and professional groups and attend community events, including forums on public safety. Commissioners and staff have also responded to requests to brief media, attorney groups, and citizen groups about SB 91, subsequent modifications to SB 91, criminal justice laws and data, and the Commission's work. The Commission's website also contains a wealth of explanatory and educational materials about the Commission's work and the research behind the Commission's recommendations.

Appendix B: Commission Members

Joel Bolger

Chief Justice Joel H. Bolger was appointed to the Alaska Supreme Court in January 2013. Born and raised in Iowa, he received a B.S. in Economics from the University of Iowa in 1976 and a J.D. in 1978. He came to Alaska as a VISTA attorney with Alaska Legal Services Corporation in Dillingham and also served as a public defender in Barrow and in private practice in Kodiak. Justice Bolger was appointed to the District Court in Valdez in 1997, to the Superior Court in Kodiak in 2003, and to the Alaska Court of Appeals in 2008. He serves as co-chair of the Criminal Justice Working Group. Justice Bolger became the Chief Justice of the Alaska Supreme Court in July of 2018.

Sean Case

Captain Case has been involved in law enforcement since 1998, beginning his career with the Los Angeles Police Department and currently working for the Anchorage Police Department in Alaska. In his eighteen-year career with the Anchorage Police Department, Captain Case has served in various roles including SWAT Officer, K9 handler, School Resource Officer, Patrol Sergeant, Internal Affairs Investigator, and Patrol Shift Commander. Currently, he is the Captain of Patrol Division, which includes all the uniformed officers that respond to calls for service from the public. Captain Case is a use of force instructor, which includes developing, training, and implementing use of force standards, documentation, investigations, and department policies. Captain Case has an undergraduate degree from the University of Alaska, Anchorage, and graduate degrees from Indiana State University and Pennsylvania State University. Captain Case is involved with organizations such as the International Association of Chiefs of Police, Americans for Effective Law Enforcement, Federal Bureau of Investigation's National Academy, Federal Bureau of Investigation's Law Enforcement Executive Development Association, and the Anchorage Reentry Coalition. His passion for law enforcement revolves around policing best practices as a way of increasing positive relationships between officers and their community.

Matt Claman

Matt Claman first came to Alaska in 1980 to work in a mining camp. After graduating from law school, Matt returned to Alaska to make his home, raise his family, and establish his career. Matt was elected to the Alaska State House in November 2014 and now serves as the Chair of the House Judiciary Committee. Prior to service in the State House, Matt served on the Anchorage Assembly beginning in 2007, was elected Chair of the Anchorage Assembly in 2008, and served as the Acting Mayor of Anchorage in 2009. An attorney for over 30 years, Matt managed his own small law business for over 11 years, taught law classes at the University of Alaska Anchorage, and was elected to the Board of Governors of the Alaska Bar Association in 2002, serving as its President in 2007-08.

Kevin Clarkson

Kevin G. Clarkson had a distinguished legal career spanning 34 years in private practice before his appointment as the Attorney General for the State of Alaska. He graduated with honors from Oregon State University with a bachelor's degree in political science in 1981 and then graduated cum laude, in the

top 10 percent of his class, from Willamette University College of Law in 1985. Following law school, Perkins Coie offered him a position as a civil litigator in the firm's Anchorage branch office. Mr. Clarkson then left his home state of Oregon to make a new home in Alaska. He worked at Perkins Coie for 10 years doing a wide range of work before joining the firm Brena, Bell & Clarkson, P.C. in 1995 where he continued to hone his skills as the firm's Senior Litigation Attorney. He ended his practice with the law firm upon his appointment as Attorney General in December of 2018.

Adam Crum

Adam Crum serves as commissioner for the Alaska Department of Health and Social Services. He was born and raised in Alaska and has over a decade of experience in the private sector in strategic management, organizational development, executive consulting and working on multi-billion dollar projects. Prior to being appointed commissioner in December 2018, Crum was executive vice president of his family's company, Northern Industrial Training. Commissioner Crum is active in community service organizations and has served as a board member for groups like the Salvation Army and MyHouse, a group that works specifically with homeless youth. Both groups work with clients dealing with mental health, substance use disorder, transitional housing and workforce development issues. Commissioner Crum has a bachelor's degree in psychology from Northwestern University and a Master of Science in Public Health degree from Johns Hopkins University.

Nancy Dahlstrom

Nancy Dahlstrom has served as the Commissioner of the Alaska Department of Corrections under the Dunleavy administration since December 2018. Commissioner Dahlstrom has lived in Alaska since 1980 and holds an undergraduate degree in Human Resources and a master's degree in Organizational Management. Commissioner Dahlstrom served as a member of the Alaska House of Representatives, where she proudly represented Eagle River, Birchwood, Chugiak and a small portion of Anchorage. She has worked across the private and public sectors as a consultant for a security solutions company, Executive Director of the Alaska Workforce Investment Board, Special Assistant to former Governor Sean Parnell and Public and Regulatory Affairs Manager for Providence Health and Services. Commissioner Dahlstrom enjoys reading, travelling and spending time with her husband Kit, her four children and her 10 grandchildren.

Shelley Hughes

Shelley moved to Hoonah in 1976 as a teen, later moving with her husband and family to Bethel, Fort Yukon, Fairbanks, Seward, and finally settling in Palmer. Between stints as a farm worker, camp cook, treatment coordinator, teacher, theatre director, Hughes graduated summa cum laude from UAA, taught her four children to read before kindergarten, and led community activities. After policy affairs work with Alaska Primary Care Association, Shelley served in the House 2012-2016 and as Senator since 2017. She has served on Alaska Commission of Postsecondary Education; as Chair, National Conference of State Legislature Unmanned Aircraft Task Force; and Founder/President, Alaska All Academies Association; and currently as Alaska Delegate to State Agriculture and Rural Leaders. Her chairmanships in the legislature have included Economic Development, Trade, and Tourism; Transportation; Education; and Judiciary.

Amanda Price

Commissioner Amanda Price is a lifelong-Alaskan from a law enforcement family who brings two decades of experience in government affairs, fiscal operation, and organization management. Commissioner Price served as the Senior Advisor on Crime Policy and Prevention to Governor Bill Walker, during which she uncovered a trend of unsubmitted, untested sexual assault kits. She worked with statewide law enforcement to understand the scope of the problem, secured federal funding, and proposed legislation to improve the state's response to sexual assaults, which led to a significant movement underway in Alaska. Prior to her time in Governor Walker's Office, Price served as the Executive Director of Standing Together Against Rape (STAR), the only statewide, standalone rape crisis center in Alaska. In that role, she worked laterally with the Special Victims and Crimes Against Children Units of the Anchorage Police Department, as well as the Alaska Bureau of Investigation to effectively respond to sexual assaults in a victim-centered manner, improving investigatory capacity and success rates in the criminal justice process. During her tenure at STAR, Price also developed, hosted, and facilitated a bi-partisan multi-state summit to address violence in the military in response to the National Guard sexual assault allegations. Commissioner Price has served on the National Criminal Justice Association (member), the Alaska Network on Domestic Violence and Sexual Assault (Finance Committee Chair, Legislative Committee member), the Anchorage Child Abuse Caucus (member), the Governor's Criminal Justice Data Initiative (member), and the Municipality of Anchorage Housing and Neighborhood Development Oversight Committee.

Gregory Razo

Greg Razo is of Yupik and Hispanic descent and grew up in Anchorage. He is the Vice President of Government Relations for Cook Inlet Region, Inc. (CIRI). Mr. Razo has a J.D. degree from Willamette University. Before working at CIRI, Razo practiced law in Kodiak. He has also served as a deputy magistrate and Assistant District Attorney. He is board chair of the Alaska Legal Services Corporation, the Alaska Federation of Natives, the Alaska Pro Bono Program, and is the board vice-chair for the Alaska Native Justice Center.

Stephanie Rhoades

Stephanie Rhoades moved to Alaska in 1986. She has a J.D. from Northeastern University School of Law. Rhoades worked in private practice and as an Assistant District Attorney. In 1992, she was appointed to the District Court in Anchorage. In 1998, she established the first mental health court in Alaska. Judge Rhoades served on the Alaska Criminal Justice Assessment Commission from 1997 to 2000 where she chaired the Decriminalizing the Mentally Ill Committee. She also served on the Alaska Prisoner Reentry Taskforce.

Brenda Stanfill

Brenda Stanfill is the Executive Director of the Interior Alaska Center for Non-Violent Living and has been an advocate for victims for 23 years. She holds a Master's Degree in Public Administration from the University of Alaska, Southeast and is a member of the Alaska Network on Domestic Violence and Sexual Assault and the Governor's Council on Homelessness. Ms. Stanfill is active in many groups in her community such as the Domestic Violence Task Force, the Housing and Homeless Group, and the Wellness Coalition.

Trevor Stephens

Trevor Stephens was raised in Ketchikan. After obtaining a JD degree from Willamette University, he returned to Ketchikan, working in private practice, as an Assistant Public Defender, Assistant District Attorney and the District Attorney. On the bench since 2000, Stephens is the presiding judge of the First Judicial District, a member of the three-judge sentencing panel, and a member of the Family Rules Committee, Jury Improvement Committee, and the Child in Need of Aid Court Improvement Committee.

Steve Williams

Steve Williams has lived in Alaska since 1992. He holds a master's degree in social work from the University of Michigan focused on mental health and nonprofit management and a bachelor of arts from Loyola University Maryland. For most of his career, Williams has worked on statewide policies and programs focused on achieving better outcomes for Alaskans who have been involved with the criminal justice system and improving the overall effectiveness and efficiency of the criminal justice and community health systems. Currently, he is the chief operating officer for the Alaska Mental Health Trust. Since 2008, Steve has also served as a member of the Criminal Justice Working Group and is chair of its therapeutic court and legal competency subcommittees.

Former Members of the Commission

Justice Alex Bryner
James Cantor
Sen. John Coghill
Sen. Fred Dyson
Gary Folger
Michael Geraghty
Jeff Jessee
Rep. Wes Keller
Jahna Lindemuth

Walt Monegan
Craig Richards
Joe Schmidt
Lt. Kris Sell
Quinlan Steiner
Richard Svobodny
Ron Taylor
Terry Vrabec
Dean Williams

Appendix C: Commission Recommendations to Date

No.	Recommendation	Date of vote	Any action taken?	Result
1-2015	Enact a waiver for SNAP (food stamp) ban for people with felony drug convictions	Jan. 23, 2015	Y	Included in SB 91 (Enacted 2016)
2-2015	Invite technical assistance from Pew Justice Reinvestment Initiative and Results First Initiative	Feb. 24, 2015	Y	Invitation sent and technical assistance provided
3-2015	Alaska Court System should provide ongoing judicial education on evidence-based pre-trial practices and principles	Mar. 31, 2015	Y	Judges trained at October 2018 Judicial Conference
4-2015	Amend the Community Work Service (CWS) statute to convert any unperformed CWS to a fine, rather than jail time	Mar. 31, 2015	Y	Included in SB 91 (Enacted 2016)
5-2015	Amend the SIS statutes	Oct. 15, 2015	Y	Included as the SEJ provision in SB 91 (Enacted 2016)
6-2015	JRI package	Dec. 10, 2015	Y	Included in SB 91 (Enacted 2016); repealed in part by HB 49 (Enacted 2019)
1-2016	Add two new mitigators for sentencing offenders who have accepted responsibility for their actions	Oct. 13, 2016	N	
2-2016	DOC should establish a voluntary pretrial diversion program	Aug. 25, 2016	Y	DOC received a grant for a pretrial diversion coordinator
3-2016	Allow defendants to return to a group home on bail with victim notice and consent	Aug. 25, 2016	N	

4-2016	Enact a statute for a universally accepted release of information form for health and behavioral health care service providers	Aug. 25, 2016	Partial	No statute enacted, but a DHSS committee is working on this
5-2016	Include behavioral health information in felony presentence reports	Aug. 25, 2016	N	
6-2016	Include the Commissioner of the Department of Health and Social Services on the Commission	Oct. 13, 2016	Partial	Included in SB 54 (Enacted 2017); DHSS Commissioner made a non-voting member
7-2016	DHSS should review the proposed statutory changes recommended in the UNLV report and report back to the Commission on its findings in September 2017	Oct. 13, 2016	Y	DHSS delivered a report at the August 23 Commission meeting
8-2016	Restitution report	Nov. 29, 2016	Partial	HB 216 (Enacted 2018) addressed part of one recommendation
9-2016	Title 28 report	Nov. 29, 2016	N	
1-2017	Return VCOR to misdemeanor status, punishable by up to 5 days in jail	Jan. 19, 2017	Y	Included in SB 54 (Enacted 2017); Repealed by HB 49 (Enacted 2019)
2-2017	Increase the penalty to up to 10 days in jail for an offender's third Theft 4 offense	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017), modified; Repealed by HB 49 (Enacted 2019)
3-2017	Amend the "binding provision" of SB 91 to allow municipalities to impose different non-prison sanctions for non-criminal offenses	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
4-2017	Revise the sex trafficking statute to clarify the intent of that statute and define the term "compensation"	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)

5-2017	Enact a presumptive term of 0-90 days for Class C Felonies for first-time felony offenders	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017), modified; Repealed by HB 49 (Enacted 2019)
6-2017	Enact an aggravating factor for Class A misdemeanors for defendants who have one prior conviction for similar conduct; would allow a judge to impose a sentence of up to 60 days	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017); Repealed by HB 49 (Enacted 2019)
7-2017	Clarify the law so that people cited for Minor Consuming Alcohol may participate in the Alcohol Safety Action Program (ASAP).	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
8-2017	Ensure that sex offenders are required to serve a term of probation as part of their sentence	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
9-2017	Clarify the length of probation allowed for first- and second-time Theft 4 offenders	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017); Repealed by HB 49 (Enacted 2019)
10-2017	Require courts to provide certain notifications to victims if practical	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
11-2017	Reconcile the penalty provisions for DUI and Refusal	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
12-2017	Clarify which defendants shall be assessed by the Pre-Trial Services program	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
13-2017	Fix a drafting error in SB 91 regarding victim notification	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
14-2017	Technical fixes to SB 91	Jan. 19, 2017	Y	Included in SB 54 (Enacted 2017) or SB 55 (Enacted 2017)

15-2017	Shock incarceration should not be used for SEJ	Feb. 23, 2017	Y	Included in SB 55 (Enacted 2017)
16-2017	Use the highest of the two risk assessment scores for pre-trial release decisions	Aug. 23, 2017	Y	DOC has adopted this procedure
17-2017	Amend the three-judge panel statute	Aug. 23, 2017	N	
18-2017	Take successful SIS and Minor Consuming (and related) cases off of CourtView	Oct. 12, 2017	Partial	Referred to Supreme Court
19-2017	Enact vehicular homicide and related statutes	Oct. 12, 2017	N	
20-2017	Resume clemency process	Dec. 7, 2017	Y	Governor's office and parole board have put new procedures in place and resumed taking applications
1-2018	Enact an A Felony-level MICS 2 statute	Jan. 12, 2018	N	Rendered moot by HB 49 (Enacted 2019)
2-2018	Clarify that the Commissioner of DHSS should be a voting member of the ACJC	Feb. 6, 2018	N	
3-2018	Enact redaction statutes	Apr. 23, 2018	N	
4-2018	Revise GBMI statute	Apr. 23, 2018	N	

5-2018	Expand data sharing among agencies to improve behavioral health outcomes	Sep. 24, 2018	N	
6-2018	Expand Crisis Intervention Training Efforts	Sep. 24, 2018	Y	DBH is working on this
7-2018	Develop crisis stabilization centers	Sep. 24, 2018	Y	Several agencies are working in partnership on this

Appendix D: Recidivism

One of the Commission's tasks is to report on recidivism of convicted people before and after the changes made by legislators in SB 91, and the legislative changes made after 2016. Three years have passed since many of the SB91 changes took effect. The Commission can now report meaningful recidivism data as one measure of the possible effects of the new legislation.

The analysis suggests that recidivism in terms of re-arrest has decreased, while remands to custody and re-convictions have remained relatively stable. Many other events occurred during those years as well, and the reduction in the re-arrest rate cannot necessarily be associated with the passage of SB91. In addition, HB49, which took effect on July 2019, reverses many of the actions taken in SB 91. The Commission will continue to compile data to show the effects of the reversals, and of other events affecting the criminal justice system.

The analysis used conviction cohorts—that is, groups of people who were convicted within different three-month periods. The three different recidivism measures were remands to custody, re-arrests, and re-convictions.⁸⁶

It is important to note that the Commission and the Department of Corrections use different measures of recidivism, for different purposes. The DOC analysis includes only people convicted of felonies who served time in prison, and looks at the rate at which they return to prison after their release.⁸⁷ The Commission's analysis includes all people convicted of an offense, whether misdemeanor or felony, and whether or not they were incarcerated after their conviction.

About 27% of people were in custody when they were convicted. If people were incarcerated either before and after conviction or as a result of conviction, they would not have the opportunity to recidivate until they were released from incarceration. The recidivism rates reported here take this into account; the people who were serving sentences longer than three years were not included in this recidivism analysis.⁸⁸

This appendix shows information about recidivism in two different ways. Figure 45, below, the graph with curved lines, shows how recidivism accumulated over time. For the first group ("cohort") studied after the passage of SB91⁸⁹ the probability of recidivism (remand, re-arrest, or re-conviction)

⁸⁶ Remands to custody include returns to incarceration for a probation or parole violation, or for committing a new crime. This is a separate measure from re-arrests. The measures come from different databases (remands come from Dept. of Corrections and re-arrests and re-convictions come from Dept. Of Public Safety), and the Commission does not have a way to determine how much they overlap. Thus, there will always be fewer re-arrests than remands, and they should be viewed separately.

⁸⁷ DOC's recidivism rate tracks the rate at which people who have served a term of imprisonment for a felony have returned to custody for any reason (new arrest or new petition to revoke probation or parole). In the past, this rate has been around 67%; this is the rate that the Commission has cited in the past in discussing recidivism rates pre-SB 91. More recently, DOC has reported that this rate decreased to around 61% for the cohort of people who were released from custody in 2015 after serving time for a felony.

⁸⁸ For example, among the July 12, 2016 conviction cohort, about 1% were still incarcerated at the end of the follow-up period.

⁸⁹ This cohort included only those people who were convicted in the first three months after the effective date of SB91, between July 12, 2016 and October 11, 2016.

started off at zero for the day of conviction,⁹⁰ and increased steeply for the first six months after that date. It leveled off substantially after the first year, and began to plateau by the end of the second year. By the end of about the third year, the probability that a person in the group was remanded to custody stood at .55, meaning that there was a slightly better than even chance that a person would have been remanded to custody at least once during the approximately three years.⁹¹ The probability of re-arrest was .46, and the probability that they would be re-convicted was .40.

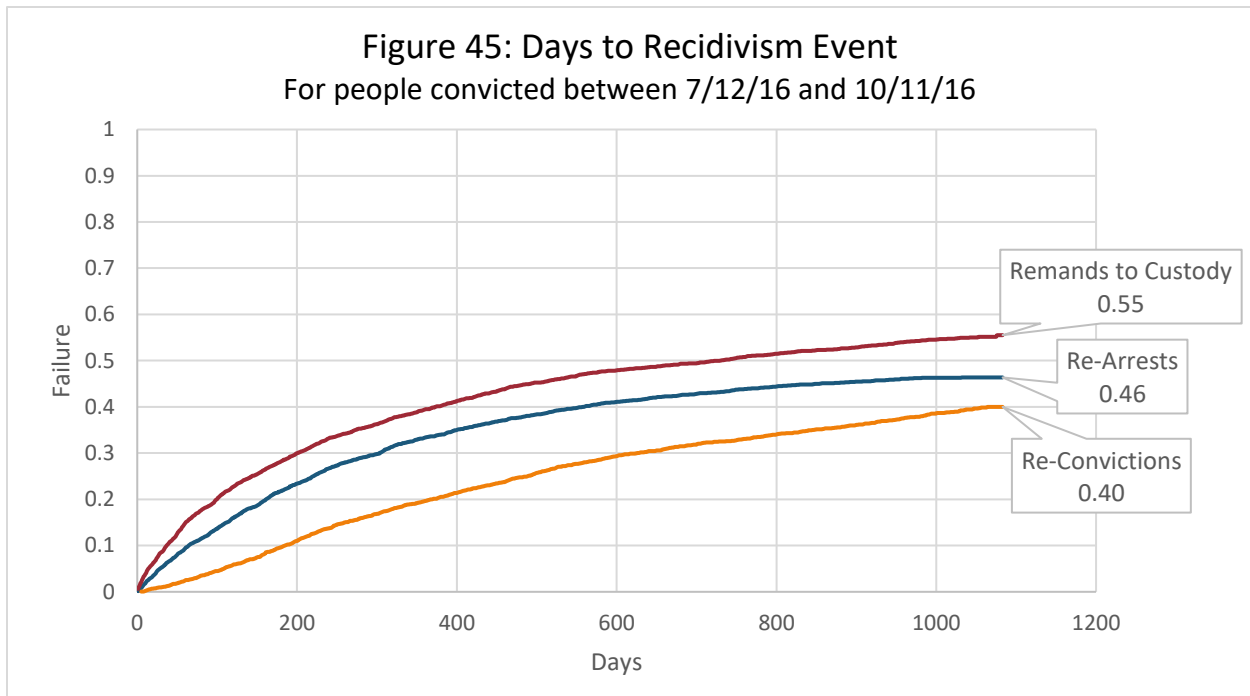


Figure 45 source: Alaska Department of Corrections, Alaska Department of Public Safety

Figure 46 looks at that cohort (the “12jul2016” cohort), and 13 others from both before and after the effective date of SB91. While Figure 45 shows the progress of one cohort over the three-year period, Figure 46 shows the recidivism after 600 days for each of the 14 cohorts.⁹² Figure 46 shows that the

⁹⁰ Or, if the person was incarcerated after conviction, for the day of release after incarceration.

⁹¹ The Kaplan-Meier method, a type of survival analysis, is commonly used to evaluate time-to-event data; in this case, time from conviction to re-arrest, re-conviction or remand to custody. While it may produce results similar to those produced by a simple proportion ($5/10 = 50\%$), the Kaplan-Meier estimator is calculated differently, as the running product of conditional probabilities for each of the preceding time intervals. Thus, it is the probability of failure after a specified time based on a given sample, and, importantly, can accommodate varying time at risk, or what is known as more broadly as right-censoring. Accordingly, the metrics reported in this document, for example, the vertical (y) axis in figures, represents the estimated probability of recidivism, not the actual proportion that recidivates. The results are not quite the same as if the analyst had used a cross-tabulation, but they are similar.

⁹² Though this is a period of less than two years, most recidivism happened within that time or less. For example, the Commission found in 2015 that 62% of felons who returned to custody did so within the first three months of release. (Justice Reinvestment Report, 2015, p.13, available at ajc.state.ak.us/acjc/docs/resources/reinvestment/ak_jri_report_final12-15.pdf.) Similarly, a recent DOC analysis found that the highest risk of recidivism for felons (using DOC’s definition) was within the first six months (DOC presentation to the Alaska Criminal Justice Commission, March 4, 2019).

probability of remand to custody, and of re-conviction, went up and down during the five years shown on the chart, while the probability of re-arrest went down. It is important to note that re-arrest rates reflected law enforcement resources and practice, as well as allegations of criminal wrongdoing.

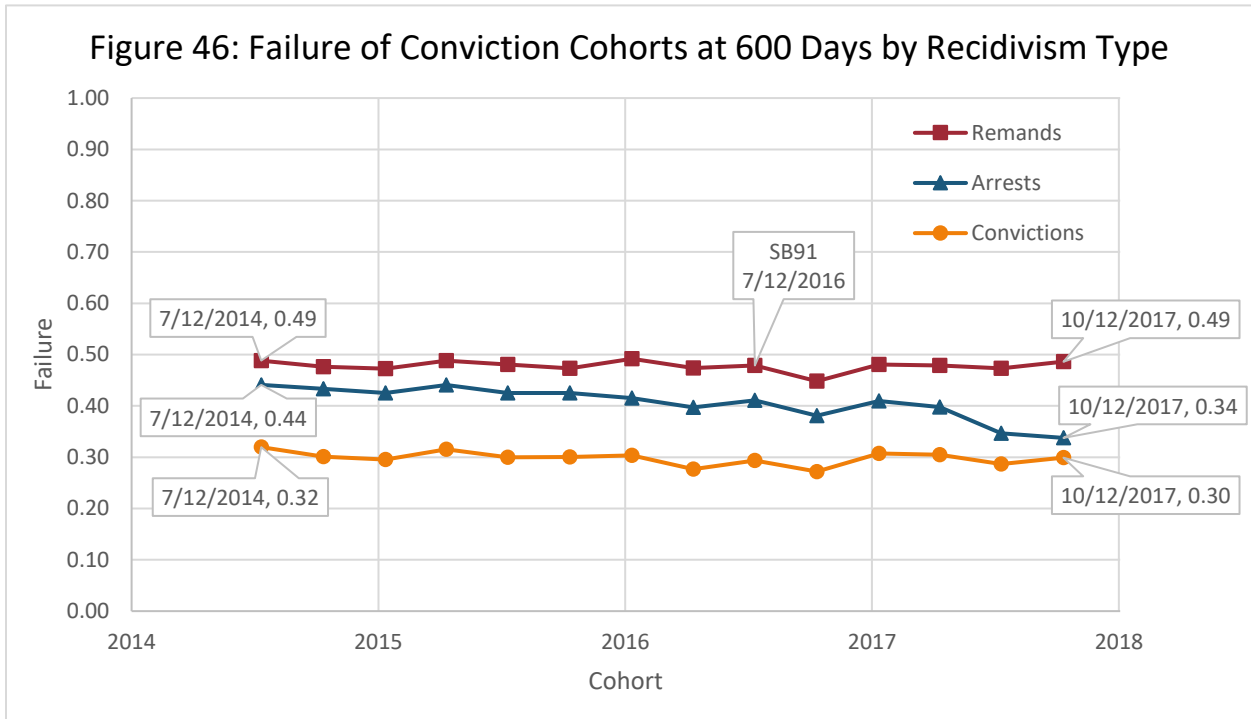


Figure 46 source: Alaska Department of Corrections, Alaska Department of Public Safety

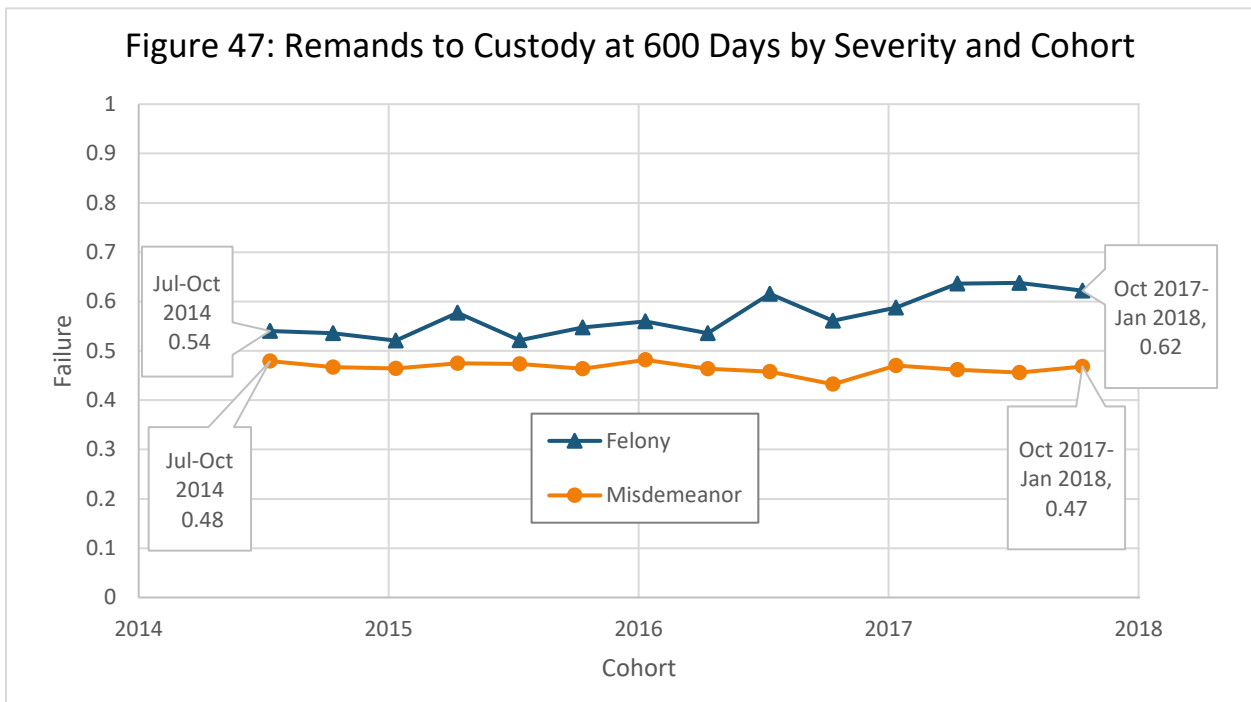


Figure 47 source: Alaska Department of Corrections, Alaska Department of Public Safety

Recidivism rates varied by crime severity (i.e. felony or misdemeanor), as seen in Figure 47. Re-arrest rates at 600 days declined over time for both people convicted of felonies and people convicted of misdemeanors, though the rates were increasingly varied for the felony cohorts over time. Remands to custody at 600 days, seen in Figure 47, also varied by whether the crime was a felony or a misdemeanor. The fact that remands increased for most of the felony cohorts after the passage of SB 91 was probably related to changes in probation and parole provisions. Other data suggested that although there were more probation and parole remands to custody, people spent less time incarcerated, helping to decrease overall incarcerated populations.

Recidivism rates also varied for people convicted of particular crimes:

- People convicted of **violent crimes recidivated faster** than non-violent crimes for all events (re-arrest, re-convictions, and remands).
- People convicted of **domestic violence (DV) crimes recidivated faster** than non-DV crimes for all events.
- People convicted of **DUI crimes recidivated more slowly** than non-DUI crimes for all events.

The Commission will issue a more detailed analysis of demographic and offense type variables related to recidivism probabilities in an early 2020 report.

Appendix E: Risk Factors Related to Criminal Activity

The Legislature asked the Alaska Criminal Justice Commission to look at risk factors associated with criminal activity in an effort to find ways to effectively prevent crime.⁹³ The Commission decided to use existing data from risk-needs assessments that the Department of Corrections conducted for most people under its supervision to begin to answer the Legislature's questions.⁹⁴ DOC has used the Level of Service Inventory – Revised: Screening Version (LSI-R: SV) and the Level of Service Inventory – Revised (LSI-R) as its primary tools to assess both risks and needs.⁹⁵

The Legislature suggested that data about risk factors could include “adverse childhood experiences, mental health and substance misuse history, education, income, and employment of inmates.”⁹⁶ While the LSI-R and LSI-R:SV gather information about most of the points that the legislature specified, they do not specifically ask about adverse childhood experiences (ACEs). Thus, the LSI-R instruments cannot directly address the question of whether reducing ACEs would prevent future criminal behavior.⁹⁷

A second note of caution is that although that the Legislature was interested in crime prevention in the general population, the LSI-R:SV and LSI-R were only used to assess those who were already caught up in the criminal justice system. Therefore, readers should interpret the results in this report cautiously, and avoid assuming cause-and-effect relationships.

Some research shows strong associations between the number of ACEs and LSI-R scores. This does not prove a direct link between the two, but does suggest that anything done to reduce ACEs would be likely also to reduce future criminality. Substance misuse issues, in particular, show up as causing ACEs, as leading to later substance use disorders for those who have higher ACEs scores, and as a risk/needs issue in LSI-R scores for a majority of people assessed by the DOC.

⁹³The Commission studied responses to DOC's risk assessments (SB 54, AS 44.19.645(h)). The Commission's analysis of these responses shows risk factors that are common among those who DOC supervises, either in an institution or in the community on probation and parole. Because the Commission does not have data for a comparison to the general population, it can only draw limited conclusions.

⁹⁴ Prior to HB 49, which took effect in mid-2019, assessments were conducted for most people who had incarceration terms of more than 30 days, and also for most people released to DOC supervision (probation or parole). After HB49, this time period was extended to more than 90 days.

⁹⁵ By using the existing data from these risk assessments, the Commission could begin to answer the Legislature's questions without needing additional funding. As of late 2019, the Department of Corrections continued to use the LSI-R and LSI-R: SV.

⁹⁶ AS 44.19.645(h).

⁹⁷ For example, a question on the LSI-R asks whether the respondent ever had a criminally involved family member or spouse. This could include whether the respondent had a criminally involved parent as a child, but the question is not specifically and exclusively about childhood experiences.

The findings from DOC risk/needs assessments

The Commission studied responses to the LSI-R:SV and LSI-R from 2002-2018.⁹⁸ All demographic groups – age, sex, ethnicity,⁹⁹ along with custody status (people incarcerated, or on probation/parole) – gave similar responses to the screening version of the risk/needs assessment (LSI-R:SV). Responses to the longer LSI-R varied more. The highest affirmative responses (generally the top four responses) showed risk factors related to alcohol use, drug use, and criminal acquaintances. The next-highest affirmative responses (generally the fifth top response) varied by demographic category:

- Men had a high prevalence of “no recent participation in an organized activity” that was not reflected among women.
- Women not in custody had a high prevalence of financial problems; women in custody had a high prevalence of a criminally involved family member or spouse that was not reflected among men.
- Caucasians had a high prevalence of “no recent participation in an organized activity;” Alaska Natives did not.
- Alaska Natives not in custody had a high prevalence of financial problems, while those in custody had a high prevalence of criminally involved family members or spouses that was not reflected among Caucasians.
- Caucasian respondents reported a higher prevalence of drug problems than alcohol problems; Alaska Native respondents reported the reverse, a higher prevalence of alcohol problems than drug problems.
- People aged 25 and younger had a high prevalence of lifetime alcohol misuse that was not reflected among those 26 and older; people age 26 and older had a high prevalence of financial problems (for those not in custody), or having been suspended or expelled at least once while in school.

The most prevalent risk/need factor for all groups was substance misuse. Nearly two-thirds or more said that they had drug or alcohol problems, no matter how or when (i.e., out of custody or in custody) the question was asked. This held true among each of the demographic analyses, whether gender, ethnicity, or age groups. The alcohol problems appeared to be worse among Natives than Caucasians. Caucasians had more drug problems, however, than Natives. There were no significant differences by gender, although women in custody mentioned more drug problems than men. Younger

⁹⁸ Both tools ask respondents whether certain risk factors apply to them. The LSI-R: SV, as a screening instrument, asks about eight risk factors; the LSI-R asks about 54 risk factors. Note that all of these analyses exclude information about the static risk factors related to criminal history. A large percentage of people under DOC supervision have prior criminal histories, which distinguishes them from the general population. As criminal histories are static, and cannot be changed, these are not helpful in this discussion of possible means of preventing future criminal behavior.

⁹⁹ There were too few people in the ethnic groups of Black, Asian-American, and Hispanic to reliably analyze their LSI-R and LSI-R: SV data.

people characterized themselves as having more drug and alcohol problems than older (more than 25 years old) people.

The other pervasive issue was the presence of criminal acquaintances and friends. More than three-quarters of the people in all groups, whether in custody or out of custody, had criminal acquaintances and friends. Not surprisingly, people in custody tended to have more criminal acquaintances and friends than those out of custody.

The findings about Adverse Childhood Experiences (ACEs)

The Alaska Department of Health and Social Services reported in 2015 that Alaska adults had higher rates of Adverse Childhood Experiences (ACEs) than people in other states, especially for the childhood experiences of having had an incarcerated family member, a household that had substance use disorder (SUD) problems, and a household with separation or divorce.¹⁰⁰ A sample of Alaska children in 2015 showed that they also had higher than average rates of these same three ACEs.¹⁰¹ The report also notes that Alaskan adult ACEs rates are higher than average.

The ACEs-associated issue most clearly related to criminal behavior in Alaska may be substance misuse. Alaska data consistently suggest that 80% or more of people who are in DOC custody or control have an SUD related to drugs, alcohol, or both.¹⁰² The 2015 Alaska Department of Health and Social Services report says, “The Alaska research suggests that 20.5% of adult heavy drinking is linked back to ACEs. If 20 percent of other substance abuse is also tied to ACEs (a conservative estimate), then we can estimate that \$246 million in annual costs due to substance abuse in Alaska are linked to ACEs.”¹⁰³ The national evidence available supported the finding that higher ACEs scores were significantly related to SUDs.¹⁰⁴ One study showed that about 2% of people with a “zero” ACEs score

¹⁰⁰ Alaska Department of Health and Social Services, “Adverse Childhood Experiences-Overcoming ACEs in Alaska” (Juneau, Alaska: Alaska Department of Health and Social Services, 2015). Eight adverse childhood experiences were surveyed: physical abuse, sexual abuse, emotional abuse, living with someone with mental illness, living with someone with substance use disorders, separation or divorce, living with someone who went to jail or prison, and witnessing domestic violence. The report said: “The Alaska Department of Labor and Workforce Development estimated that there were approximately 550,000 Alaskans aged 18 and older in 2013. What does the five-point difference between the five-state average of 40.6 percent of residents with an ACE score of zero to Alaska’s 35.6 percent mean? If Alaska were to improve to the level of the five states, approximately 27,500 more adults would have zero ACEs. If Alaska could reduce the percentage of people with four or more ACEs to the level of the five states, then more than 11,500 Alaskans would have a lower ACE score. Changing an ACE score for 11,500 people may not seem significant but evidence suggests it would have a great impact on many health, economic, and social outcomes.”

¹⁰¹ Alaska Department of Health and Social Services, “Adverse Childhood Experiences-Overcoming ACEs in Alaska” (Juneau, Alaska: Alaska Department of Health and Social Services, 2015).

¹⁰² Andrew Kitchenman, “Why Prison Drug Treatment Programs in Alaska Ramped down at ‘Exactly the Wrong Time’,” *Alaska Public Media*, 2017.

¹⁰³ Alaska Department of Health and Social Services, “Adverse Childhood Experiences-Overcoming ACEs in Alaska.”

¹⁰⁴ Elizabeth Crouch et al., “Adverse Childhood Experiences (ACEs) and Alcohol Abuse Among South Carolina Adults,” *Substance Use & Misuse* 53, no. 7 (2018): 1212–20, doi.org/10.1080/10826084.2017.1400568.

had alcoholism issues as an adult, compared to 16% of people with an ACEs score of 4 or more who had adult alcoholism issues.¹⁰⁵

ACEs and LSI-R scores

Several reports show strong links between higher ACEs scores and higher LSI-R scores. One study that controlled for age, ethnicity, and gender found that the higher a person's ACEs scores, the higher that person tended to score on the LSI-R.¹⁰⁶ The authors concluded, "An increased ACE score is predictive of an increased LSI-R score" and suggested that conducting an ACEs assessment before using a risk/needs assessment (such as the LSI-R) could allow better targeting of resources to reduce future recidivism. Another analysis of the relationship between ACEs and juveniles involved with the justice system cited several studies showing associations between high ACEs scores and incarceration, as well as an association with increased violence.¹⁰⁷ ACEs scores also correlated strongly with risk for re-offense as measured by a widely used juvenile risk/needs assessment instrument, PACT.¹⁰⁸

The possibilities for preventing future criminal behavior

Given a linkage between LSI-R scores and ACEs, ways to counter-balance effects of ACEs through "protective factors" may offer a mechanism to reduce the likelihood of future criminal behavior. Because more than two-thirds of all people assessed by the LSI-R:SV or the LSI-R reported both SUD and criminal acquaintances or friends, it appears that those are two aspects of life that prevention measures could target. Parenting skills, resilience training, and other prevention and response measures have the potential to reduce the number of young people who appear to be at risk for high ACEs scores, and subsequently, high LSI-R scores if they come into contact with the criminal justice system.¹⁰⁹

Washington State has taken a lead in addressing ACEs, including passing legislation, changing the ways in which some services were delivered, and creating school programs.¹¹⁰ The National Conference of State Legislators summed up this legislation, saying, "The law notes that a focused effort is needed to: 1) identify and promote the use of innovative strategies based on evidence-based and research-based approaches and practices; and 2) align public and private policies and funding with approaches and strategies that have demonstrated effectiveness."¹¹¹

¹⁰⁵ Shanta R. Dube et al., "Adverse Childhood Experiences and Personal Alcohol Abuse as an Adult," *Addictive Behaviors* 27, no. 5 (2002): 713–25, doi.org/10.1016/s0306-4603(01)00204-0.

¹⁰⁶ Moore and Tatman, "Adverse Childhood Experiences and Offender Risk to Re-Offend in the United States."

¹⁰⁷ Michael Baglivio et al., "The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders," *Journal of Juvenile Justice* 3, no. 2 (2014): 107.

¹⁰⁸ The Positive Achievement Change Tool (PACT) measures static, dynamic, and protective factors.

¹⁰⁹ Michael Shader, "Risk Factors for Delinquency: An Overview" (Rockville, MD: Office of Juvenile Justice and Delinquency Prevention, 2004).

¹¹⁰ Ruth Kagi and Debbie Regala, "Translating the Adverse Childhood Experiences (ACE) Study into Public Policy: Progress and Possibility in Washington State," *Journal of Prevention & Intervention in the Community* 40, no. 4 (2012): 271–77, doi.org/10.1080/10852352.2012.707442.

¹¹¹ National Conference of State Legislatures, "Child Well-Being Legislative Enactments" (ncsl.org/research/human-services/50-state-well-being-legislative-enactments-2008-2014.aspx, 2016).