

Alaska Criminal Justice Commission

Meeting Summary

Thursday, January 24, 2019

Elizabeth Peratrovich Hall, 320 W Willoughby Ave, Juneau, Alaska 99801

And audio-teleconference

Commissioners Present: Joel Bolger, Sean Case, Matt Claman, Adam Crum, Greg Razo, Stephanie Rhoades, Brenda Stanfill, Quinlan Steiner, Trevor Stephens, Steve Williams

Commissioners Absent: Kevin Clarkson (Rob Henderson attended for Attorney General Clarkson), Nancy Dahlstrom (Jared Hutchings and Lei Tupou attended for Commissioner Dahlstrom), Shelley Hughes (Regina Largent attended for Senator Hughes), Amanda Price (Michael Duxbury attended for Commissioner Price).

Participants: Nancy Meade, Araceli Valle, Troy Payne, Lei Tupou, Travis Welch, Lizzie Kubitz, Laura Russell, Albert Wall, Gennifer Moreau, Rob Corpesi, Carmen Lowry, Cathy Schlingheyde, Tracey Dompeling, Ashley Dowling, Clinton Lageson, Susie Dosik, Tony Piper, Alysa Wooden, Mike Mathews, Geri Fox, Morgen Jaco, Katie Baldwin, Karen Cann, Kim Stone, Emily Wright, Michael Duxbery, Talia Eames, Teri Tibbet, Ted Madsen

Staff: Susanne DiPietro, Staci Corey, Brian Brossmer, Susie Dosik, Teri Carns, Barbara Dunham

Introductions

Chair Claman noted there were new members of the Commission present and encouraged those present to introduce themselves.

Approval of Meeting Agenda

Commissioner Razo moved to approve the agenda and Justice Bolger seconded the motion. The agenda was approved unanimously.

Approval of Previous Meeting Summary

Staff attorney Barbara Dunham had not circulated the previous meeting's summary; Chair Claman asked that the previous meeting's summary be circulated for the next meeting.

BJA Phase II Grant Approved

Commissioner Case explained that the Bureau of Justice Assistance (BJA) had approved the proposal for a pilot diversion program at APD. APD is looking to create a pilot diversion program for DV offenders.

Susanne DiPietro, executive director of the Judicial Council and staff to the Commission, explained for those that were new that BJA provides grant funding for any state that has enacted criminal justice reform and needs implementation funds. Through the Commission, Alaska has already received funding for training at DOC, among other things. This pilot program recently approved by the commission is intended to use the last remaining funds. The funds will go directly to APD.

The Commission had also approved asking for BJA funding for a DOC project to find way to have people in small communities serve very short amounts of incarceration time in their community. There were a few communities that had interest in this. The grant would have funded a feasibility assessment. That request had not yet been approved and Ms. DiPietro was not sure whether it was still on DOC's agenda.

Commissioner Stanfill asked whether AWAIC was involved in the planning for the APD diversion program. Commissioner Case said the project still needed final approval and had to hire someone to begin the project, so they were not yet ready to involve stakeholders yet. Ms. DiPietro said that the approved budget for the project reserved funds for stakeholder involvement.

Validation of Alaska's Pretrial Risk Assessment Tool

Dr. Troy Payne, associate professor of justice at the UAA Justice Center explained that the Justice Center had been tasked with revalidating the pretrial risk assessment tool for DOC. For his presentation, he planned to speak about pretrial risk assessment in the United States generally, Alaska's current pretrial practices, and the timeline for the revalidation of Alaska's risk assessment tool.

Pretrial Risk Assessment in the US

Dr. Payne said that nationwide, more than 60% of inmates in jails are pretrial detainees costing approximately \$9 billion in incarceration expenses annually. The goals of the criminal justice system during the pretrial phase are to protect public safety, assure the defendant's appearance in court, and honor the defendant's constitutional rights. Dr. Payne reminded the Commission that pretrial defendants have been arrested but not found guilty, and therefore have a constitutional right to be presumed innocent and a right to bail that is not excessive.

Dr. Payne explained that historically, judicial officers have base pretrial release decisions on an opaque combination of professional judgment, intuition, statutes, specific offense categories, monetary considerations, and other information. The last 20 years has seen the addition of risk assessment tools to this mix.

Pretrial risk assessment tools differ from other tools used in corrections; they are typically brief questionnaires and based on static factors that do not require asking questions of the defendant. The pretrial tools measure the risk of the defendant failing to appear or the defendant's re-arrest (some also measure the defendant's risk of violent re-arrest).

Most pretrial risk assessments are created for local jurisdictions; there are few national tools available. Tools used in each jurisdiction are dependent on resources and the availability of quality data. The PSA (Public Safety Assessment by the Laura and John Arnold Foundation) and the ORAS (Ohio Risk Assessment System by University of Cincinnati) are the two most popular tools that are used on a national level. Both are similar to the AK-2S, the tool used in Alaska.

Typical risk factors included in pretrial risk assessment tools are:

- Current charge
- Any other pending charges
- Prior incarcerations
- Prior violent convictions
- Failure to appear history
- Residential stability
- Employment/caregiver history
- Drug abuse history

Dr. Payne noted that most factors included in a pretrial risk assessment tool do not require questioning the defendant. He explained that current charge is not as predictive of pretrial failure as most people think.

Dr. Payne went on to say that pretrial risk assessments are important because they guide release decisions, including assigning appropriate supervision conditions, and improve outcomes. Supervising everyone released pretrial at a high level is not a great idea because it results in over-supervising low-risk defendants, which leads to worse outcomes and a waste of resources. Supervising high-risk defendants appropriately can result in better outcomes.

Benefits and Limitations of Risk Assessments

There is a growing body of research demonstrating that validated pretrial risk assessments can accurately differentiate defendants' risk levels and improve the accuracy of pretrial failure prediction over other methods of making release decisions. Still, these tools are meant to be aids, not to completely replace professional judgment. Dr. Payne likened risk assessment tools to a pilot's pre-flight checklist—if all the boxes are checked, but the pilot can tell the plane is not ready to fly, it won't fly.

Dr. Payne cautioned that these are population-level tools; they predict a likelihood of success or failure, not a certainty. They are actuarial tools, similar to what insurance companies use. As certain score for an individual doesn't mean that individual will necessarily perform as

predicted. Overrides will be necessary in specific cases, and in these cases decision-makers should document any departures from the tool's recommendation. These tools also assess risk only, and do not identify areas of need that could be addressed during supervision to improve outcomes.

Dr. Payne also cautioned that risk assessment tools must be consistently validated to ensure their predictive validity. Laws and policing tactics could change, affecting the factors used in the tool. Validation requires significant data collection demands, which can be hard to do.

The benefit of using pretrial risk assessment tools is that they are an objective, standardized way of assessing the likelihood of pretrial failure, and can help reduce bias (both conscious and unconscious). Collection of data for validation purposes can also lead to improvements in pretrial programs and services. There is also a potential for cost savings from fewer pre-trial detentions and improved public safety from appropriate supervision. Only 10% of jurisdictions use pretrial risk assessments, but those that use them have seen cost savings and increased public safety.

Alaska's Risk Assessment Tool

Dr. Payne explained that jurisdiction-specific risk assessment tools are created by collecting and analyzing local data and determining which factors, and to what degree, are predictive of pretrial success and failures. If a jurisdiction decides to use another jurisdiction's tool, that tool must be validated on the local population. All tools need to be revalidated periodically. Ms. DiPietro added that Dr. Bechtel, who developed Alaska's pretrial risk assessment tool, had stressed the need for revalidation and said that she would be very upset if Alaska was using exactly the same tool in 3 years.

Chair Claman said that he recalled reading research showing that pretrial assessments bring the re-arrest rate to 8-12% range, and wondered if Dr. Payne could verify that. Dr. Payne said he didn't have numbers offhand, but the research shows risk assessments generally lower that rate.

Commissioner Razo asked whether the revalidation would look for whether the tool has a different effect depending on race. Dr. Payne said yes, a risk assessment tool must predict equally well regardless of race or gender. Alaska's tool as designed predicts equally well for Alaska Natives and Caucasians, and for men and women.

Dr. Payne explained that Alaska's pretrial risk assessment tool is called the AK 2S, because the tool has two different scales for different pretrial outcomes. Dr. Bechtel and her team at CJI ran the analysis of data on Alaska's pretrial defendants from 2014-2015, testing dozens of risk factors for predictive validity. They ran over 4000 tests, so it was an extensive analysis.

They found that different factors were predictive of new criminal arrests (NCA) and failures to appear (FTA); this is a relatively common finding. The factors that were chosen for the final tool were those that were the best predictors that worked best together and predicted outcomes

equally well across race and gender categories. The base rates for pretrial failure were 14% for FTA and 37% for NCA.

Dr. Payne listed the risk factors for each scale. For FTA, the factors are age at first arrest, number of prior FTA warrants, number of prior FTA warrants in the past three years, whether currently booked on an FTA, whether currently booked on a property charge, and whether currently booked on a non-DUI motor vehicle charge. For NCA, the factors are age at first arrest, number of prior arrests in the past five years, number of prior convictions in the last three years, number of sentence that included a period of probation, number of sentences that included probation in the past five years, and number of sentences that included incarceration in the past three years. Each response to each factor gives a score, the scores are tallied, and the final tallies give the risk classification (low, moderate, or high).

Regarding the different time windows (e.g. three years or five years), Dr. Payne explained that as part of the testing, the researchers ran tests comparing the predictive capability of different time frames and selected those that were most predictive.

Nancy Meade, general counsel for the Court System, asked whether a current charge for vehicle theft would give one point or two on the FTA scale. Ms. DiPietro said it would be counted once as a property charge; non-DUI motor vehicle charges are offenses in title 28 of the Alaska Statutes.

Judge Stephens recalled that when the tool was rolled out, a score of 9 on the NCA scale was labelled moderate, though the researchers noted it was borderline. He wondered whether that might change with the revalidation. Dr. Payne said the classification of the scores could change, along with the factors used to determine the score.

Deputy AG Rob Henderson reminded the Commission that there was a working group to determine how to classify the scores according to the statutory scheme. The scales created five classification categories, and the working group had to lump those categories into three because of the structure of the law. Commissioner Steiner added that when those classified as 9 were included with those classified as 10, the bulk of people were categorized as high risk. Ms. DiPietro added that the tool would not be effective if everyone was clumped into one category. Mr. Henderson said it was the hope of the ad-hoc workgroup was that revalidation will address the classification issue.

Dr. Payne continued that out of state criminal history was not included in the creation of the tool because the FBI restricted access to that data; it doesn't allow researchers to get national criminal history data in bulk. However that information can be collected on an individual basis, which is what DOC has been doing- this information has also been included in the report to the court for each defendant. As part of the revalidation study, he will be able to assess whether and to what extent out of state criminal history is predictive. Most states do not include this information, and it does not necessarily improve predictability.

Deputy Commissioner of DHSS Albert Wall asked whether juvenile history was included in the data analyzed for the tool. Dr. Payne said it was not included. Chair Claman noted this information could be presented on a case-by-case basis to the court, and the judge could account for that and override the recommendation. Mr. Henderson noted that Law has access to juvenile history but does not pull that information as a matter of course. Judge Stephens noted that in a small community, prosecutors and judges would know about a defendant's juvenile history, but that would not necessarily be true in Anchorage or Fairbanks. Mr. Henderson agreed. Dr. Payne said he was not aware of any pretrial tool that includes juvenile history. Mr. Henderson noted that if a juvenile was tried as adult, that would count as adult criminal history.

Commissioner Razo asked about the interplay between bail schedule and the risk assessment tool. Judge Stephens said that if a person has been released per the bail schedule, that person is not assessed. Commissioner Steiner noted that in such cases, the prosecution can request an assessment. Mr. Henderson agreed but was not sure how often that happens.

Chair Claman clarified for those who weren't familiar with it that the bail schedule sets standard bail amounts (or release on one's own recognizance) for certain offenses. Judge Stephens noted the bail schedule only sets standard bail for some misdemeanors and does not include DV offenses. If an officer believes bail in a certain case should be different, the officer can always call a magistrate for a different bail. Mr. Henderson noted that if the bail schedule sets an amount for an arrestee who cannot pay the required amount, that person will not be released and will be assessed.

Revalidation Study - Objectives

Dr. Payne outlined the research questions for the revalidation study:

1. Have the baseline rates for FTA and NCA changed?
2. Are the AK-2S FTA and NCA scales valid instruments?
3. Do the scales classify risk levels appropriately?
4. Do the scales predict similarly across subgroups of race and sex?
5. Does out-of-state criminal history improve prediction?

Judge Stephens wondered whether, since many of those arrested for a non-violent misdemeanor are released per the bail schedule, PED was only assessing high risk individuals. Dr. Payne said that was also a question they'd be looking at. Judge Stephens asked whether they would be able to compare people who were assessed with people who were not assessed. Dr. Payne said he thought so.

Commissioner Stanfill asked whether the FTA and NCA rates would be expected to change compared to the baseline rates. Dr. Payne said that if the tool was valid and used to fidelity, he

would expect the rates to go down. On the other hand, oversupervision would lead to higher failure rates. He didn't have a strong expectation of what the rates would be.

Deputy Commissioner of DPS Michael Duxbury asked whether there was a control group. Dr. Payne said there was not, because the risk assessment wasn't created as an experimental design; the AK-2S was applied to everyone who was eligible for it. Experimental design is not typically ethical or legal in criminal justice research. The comparison will be with the baseline.

In terms of question three, about how the scales classify risk levels,—low vs. moderate vs. high—Dr. Payne said the question will be whether those lines were drawn appropriately. For the question about whether the scales predict similarly across groups of race and sex, they will specifically look at how they perform for Alaska Natives vs. whites, also by sex according to race. Ms. DiPietro added that data shows that Alaska Natives are disproportionately confined pretrial, and this was one reason why validation was so important.

Chair Claman said he recalled that disparity diminished since implementation of the risk assessment. Ms. DiPietro said that was true; preliminary results of a study by the judicial council shows that the disparity has diminished, though that study is not fully “cooked” yet.

Revalidation Study - Process

Dr. Payne said the revalidation would proceed in three phases: (1) data acquisition and planning, (2) data analysis and draft reporting, and (3) findings and dissemination. Right now AJIC was working on data-sharing agreements. Right now they have about 2/3 of the needed data. DOC has given them preliminary data, and they have been able to do prep work and should be able to hit the ground running once they have data from DPS. They should have preliminary analysis by April, and findings by the end of the fiscal year (June). This is a pretty fast timeline for academia. Once they get to June, they might have other lingering questions.

Dr. Payne explained that the revalidation study would use a mix of analyses: receiver operator curve and area under curve analysis and multivariate analysis. Their work will be well documented. The out-of-state criminal history data will prove challenging because the data coming from the NCIC can be unclear—PED has had difficulty categorizing some crimes as felonies or misdemeanors, for example.

Dr. Payne was curious to know whether this group had suggestions for other easy-to-measure factors that should be looked at in the revalidation. CJI looked at a lot of factors that were not predictive of risk—for example, current age was not predictive, a current drug charge was not predictive, and prior felonies were not predictive for Alaska Natives. But he wanted to leave the door open for commentary and suggestions for other factors.

Mr. Henderson asked whether the revalidation could analyze the data for risk of new violent criminal arrests. Dr. Payne said the original tool was not designed to differentiate violent and nonviolent new arrests, though most of the new arrests in the sample were for nonviolent

misdemeanor crimes. There might not be enough in the sample to provide sufficient numbers for that analysis but they could look into it.

Commissioner Stanfill said she was surprised that a current charge for a drug crime was not predictive for pretrial failure, and wondered whether the researchers had only counted the highest charge. Dr. Payne said he would need to verify with CJ's data, but would guess they had looked for whether any drug crime was currently charged. He said that current charge being predictive was hit or miss in the nationwide literature on pretrial risk instruments.

Medicaid 1115 Waiver

Gennifer Moreau, acting director of the Division of Behavioral Health, explained that the Medicaid 1115 waiver is an opportunity to get a waiver of federal rules regarding Medicaid reimbursement in order to better serve justice-involved populations. Typically Medicaid reimbursement is only available for limited services.

Medicaid Reimbursement and Justice-Involved Populations

Ms. Moreau explained that Medicaid is a state/federal partnership, and the amount of federal matching funds for healthcare services depends on what group is being served. For example, the Medicaid expansion population (childless adults) has a 90% federal match; others might be 50%. Commissioner Crum explained that Alaska's expansion population is about 43,000 people.

Ms. Moreau said that justice-involved populations were a good example of the kind of latitude allowed in Medicaid policy. For example, while people in prison typically are not Medicaid-eligible, Medicaid will reimburse for inmates receiving inpatient care outside a correctional facility. This provision has allowed DHSS to retain inmates on Medicaid with that inpatient limitation; in the past, Medicaid coverage has been terminated during incarceration and the person would have to reapply once released, a lengthy and time-consuming process.

Mr. Wall noted that some states have had really creative applications of the 1115 waiver for justice-involved populations – for example, funding a diversion to treatment program. Ms. Moreau noted that the 1115 waiver is a population-level waiver; the state must maintain budget neutrality.

Goals and Target Populations

Ms. Moreau explained that Alaska's goals for the 1115 waiver are to:

- Intervene as early as possible in the lives of Alaskans to address behavioral health symptoms before they cascade into functional impairments

- Increase access to robust and sustainable community- or regionally-based and culturally appropriate outpatient treatment services that have been designed to promote family wellness, stability and reunification, and child health and development
- Rebalance the current behavioral health system of care to reduce Alaska’s over-reliance on acute, institutional care and shift to more community- or regionally-based care
- Increase access to local crisis and community- and regionally-based sub-acute treatment and wrap-around services designed to prevent over-utilization of deep-end, acute services
- Increase access to a comprehensive continuum of SUD services designed to maintain individuals in community settings and to address long-standing gaps in services and needs related to Alaska’s opioid crisis
- Improve overall behavioral health system accountability by reforming the existing system of care

Barry Wilson from DPS asked whether Medicaid could reimburse costs associated with AST transporting someone to an area where they can receive services. Ms. Moreau said that it would depend on the person’s eligibility. Medicaid recipients can be under some correctional supervision but must have “freedom of choice” to be eligible.

Mr. Duxbury noted that there are those who are subject to a Title 47 hold and are often transported in police cars. He wondered if they could be transported by Medicaid instead. Ms. Moreaus said that might be possible— she would have to get back to him. Title 47 might be out of the Medicaid domain—the recipient must be Medicaid eligible and the service medically necessary. She noted that one proposed service under the 1115 waiver is a mobile crisis response.

Ms. Moreau went on to explain that Medicaid will not reimburse costs after 24 hours outside a medical facility, and Alaska is also requesting waiver for that, allowing coverage for things like therapeutic foster care. Another rule Alaska wants to waive is that Medicaid won’t reimburse adults ages 17-64 at an institute for mental disease (IMD) that has over 16 beds. Mr. Wall noted that 16-bed facilities just aren’t cost effective in Alaska. He added that the waiver will also change billing and reimbursement; services can be packaged into one bill, which reduces administrative costs.

Ms. Moreau explained that Alaska’s 1115 waiver application had sorted the proposed services according to population, or Medicaid eligibility group (MEG). Thus far, MEG 3-- adolescents, adults, and elderly people with substance use disorders (SUD)—has been approved. This group has been approved for IMDs over 16 beds, workforce development, and expanded treatment for SUD, including residential treatment, withdrawal management, care coordination, and partial hospitalization. These new services are desperately needed in Alaska.

Mr. Wall explained that the waiver process will also include looking at the professional standards of treatment providers. Currently licensure is not required to be an SUD treatment provider. He didn't think requiring licensure was necessary but some standards as to training were needed.

Ms. Moreau said that the other targeted MEGs were: (1) children, adolescents and their parents or caretakers with, or at risk of, mental health and substance use disorders. Common indicators for child neglect were used as components for Medicaid eligibility for this group. The focus of this group is early intervention, which will be less costly. The proposed waiver includes therapeutic foster care.

MEG (2) is transitional age youth, adults, and elderly people with acute mental health needs. Services under the proposed waiver include mobile crisis response and crisis stabilization, needs that multiple groups associated with the Commission have identified as a priority.

Ms. Moreau explained that the SUD component of the waiver, which has already been approved, requires the state to meet six major milestones by 2023:

- Ensure access to 9 critical levels of care for substance use disorder (SUD) treatment
- Ensure use of evidence-based, SUD-specific patient placement criteria
- Ensure use of nationally-recognized, SUD-specific program standards for residential treatment facility provider qualifications
- Ensure sufficient provider capacity at critical levels of care
- Implement comprehensive treatment and prevention strategies to address opioid abuse
- Ensure improved care coordination and transitions between levels of care

The application for the waiver did not specifically target justice-involved populations, but did target their needs, particularly those with SUD. The waiver will improve access to community and regional services for justice-involved populations reentering communities from incarceration, and community-based crisis and sub-acute services can serve to intervene and divert individuals from justice-system engagement into treatment. If they IMD waiver for API is approved, then API could expand its forensic population. There is also a potential for outpatient competency restoration.

Mr. Wall noted this last item would require changes to law, but outpatient restoration can be significantly cheaper, and more effective. He was planning to talk about this later in the agenda.

Commissioner Stanfill noted the emphasis on opioid abuse and wondered whether there will be treatment for meth abuse as well. Ms. Moreau said that was highlighted because it was a

focus of the federal agencies right now, but abuse of other substances will still be covered. She reminded the group that alcohol was still the most abuse substance in Alaska. Regarding meth abuse treatment, Brita Bishop, deputy director for DBH, said they were looking into some emerging medication-assisted treatment for meth abuse; this would be covered under the waiver.

Mr. Duxbury said that Alaska spent millions on the effects of drugs, and the same amount on alcohol. The federal focus is on opioids but Alaska's problem is really one of poly-drug use. AST collects data on the drugs seized; they have seized enough heroin to dose everyone in Alaska twice, and enough meth to dose everyone in Alaska five times. He suggested looking at the McDowell report. Commissioner Williams said the report was on the Trust website and that he could circulate it to the Commission.

Mr. Wall noted that opioid addiction costs have been tracked, but alcohol corollary costs are not necessarily studied.

Ms. Moreau said that the next steps were to:

- Complete administrative requirements to implement the SUD portion of the Waiver—end of February 2019
- Draft/publish regulations – April 2019
- Ensure adequate provider network—June 2019
- Hire administrative entity—April 2019
- Initiate SUD service delivery—July 2019

Ms. Moreau added that there was already a solicitation out for the administrative services entity, which will be needed for the substantial data reporting requirements (though the decision to use a separate administrative entity is not final). The Alaska Mental Health Trust has also funded a statewide survey of infrastructure needs, physical needs, and provider needs.

Ms. Moreau said that the negotiation with CMS for the next parts of the waiver application should (tentatively) be completed in the next six to ten months. When approved, those parts will likely be part of the same demonstration period (i.e. through 2023).

Chair Claman noted that the question of whether the Medicaid expansion will continue in Alaska bears on this process.

Anchorage Assessments for Mental Health Crises

Commissioner Case said that APD was seeing increasing officer time spent on responding to the mentally ill. There are not a lot of options in Anchorage for places to take a person who is in a mental health crisis. The majority of these cases don't necessarily reach the level of Title 47, or the people around them might not want to admit to the threat they might pose to themselves or others. Either way, the officers aren't comfortable leaving that person with their family. Often they will go voluntarily to hospitals; APD has essentially been providing transport.

Commissioner Case said that APD used to get patients into the hospital in a timely manner, but now each visit takes over an hour. Hospital staff doesn't want to have them taking up ER beds—which is also not the right place for them.

Other communities have tried mobile response teams involving the police, fire department, and social workers. In Colorado Springs, they were able to use this to cut down on transports by 60%. This is a population that can be served in the community; sending them to the ER can have negative repercussions.

Another model is a stabilization center. This center would provide short-term assessment and referrals for co-occurring disorders. It is also a way to divert those who might otherwise be charged with a crime.

Commissioner Case relayed that APD had recently arrested one person three times in one night—all for stealing basic essentials. Thanks to Cathleen McLaughlin and Partners for Progress, they got that person housed, and the charges were dropped. APD could have taken that person to DOC, or could have walked away, but those weren't the proper solutions. APD is in a unique position to take the time to get people to appropriate services, but those services are lacking. He thought this topic was in the Commission's wheelhouse and wanted to put it on the Commission's rada.

Commissioner Crum said that both solutions were definitely things DHSS was looking to do with the 1115 waiver. Mr. Wall said that this really hits the nail on the head. He noted Commissioner Case was describing an evidence-based practice called ACT. Alaska has been discussing this issue for years; then new administrations come in and everything restarts. He thought Alaska was at a point where there was a need to move quickly on this.

Chair Claman noted that a stabilization center would essentially need a new facility, and that some in Anchorage have suggested the old Johnson's Tire building. It would need funding and regulations, but could be well-suited.

Commissioner Case said that APD has had a social work clinician for some time, and that person reads every police report to get data regarding needs, population, time spent, and money needed, he will keep the Commission posted when that data can be analyzed.

Ms. Moreau added that the Trust has funded a feasibility study for a crisis stabilization center, which will include looking at site-specific requirements. In addition to crisis stabilization, there was also a need for ancillary services—crisis stabilization is a refer-out model. The technical assistance provider for that study is looking at ER, APD, and Title 47 data and will get good data out of that.

Commissioner Stanfill reminded the Commission this was not just an Anchorage problem; Fairbanks has the same issues. As a person who runs a shelter, she deals with the aftermath of what happens when the first responders step away. Shelter staff are not trained clinicians, but behavioral health issues are trickling down into every area. However, great things are being done

with permanent supportive housing. She saw the need to deal with the crisis but also to develop long term solutions. This was the same type of problem that led to using jail as a housing solution.

Mr. Wall agreed there was a need for a couple centers, and agree those efforts will fail without ancillary services. The waiver process brings funding for some things that were not previously billable, but Alaska will need to provide a full continuum of care. There might be some statutory and regulatory constraints that need to be adjusted

Commissioner Stanfill added that there was also an issue of workforce development; no one will be able to use additional funding for crisis stabilization if there is no one to do the work.

Commissioner Williams agreed that there needs to be a continuum of care. He observed that this conversation itself served as a red flag that Alaska's community services are not adequate. If basic needs are not met in the community, the community will need stabilization centers. He reminded the Commission that it endorsed the recommendations regarding crisis stabilization and mobile crisis from the Behavioral Health Standing Committee.

Judge Rhoades said she wanted to echo the comments from Commissioners Williams and Stanfill. This has been an issue since she started to work with justice-involved individuals with SMI. There is still a huge need for crisis stabilization because there is no place for police to divert those who do not meet civil commitment standards, so those people end up in jail. She noted that forensic services are very costly. There was a need for ancillary services but also connections to ancillary services. Without a police drop off and an assessment, people can't be connected to those services. She warned the Commission that full-spectrum can paralyze the process.

Mr. Wall said he has gone to many conferences, which are attended by groups of advocates, in which everyone identifies these problems and lists solutions. It is frustrating when those conversations keep happening and the needle doesn't move.

Title 47 Holds

Commissioners present noted that a lawsuit between the Public Defender Agency, DHSS and DOC was pending; they would not be discussing anything specifically related to the lawsuit at this meeting.

Mr. Wall explained that the process of evaluating psychiatric needs is cut and dried: for people experiencing a mental health crisis, on-call DHSS grantees go to the ER to evaluate their danger to self or others. The outcome of that inquiry is either yes (in which case the person will be subject to a Title 47 hold and go to treatment) or no (in which case they are not treated). There are no other questions. In his view, this was too simplistic; people in crisis have a lot more going on than just that. It is frustrating when a person is not safe left alone and there's nowhere for them to go.

Mr. Wall continued that some of these people could be stabilized faster and at a lower level of care. There are options out there. DHSS is having conversations about how to change this.

All the needs previously mentioned at this meeting need addressing, but changing the laws around Title 47 is one thing that can be done now. Title 47 is an old law based on other states' laws; there was a need to revisit the legal structure, and DHSS has started that process. He wanted to inform the Commission, and if any of the Commissioners had suggestions, his ears were open.

Judge Stephens said that personal view was that Title 47 was based on how things work in Anchorage and nowhere else in Alaska. For example, in Southeast Alaska, there are two evaluation facilities (in Ketchikan and Juneau), and getting to one of them from an outlying area can take longer than the statutory evaluation period. Title 47 was built with the understanding that you can take someone to a facility that has beds open right away.

Commissioner Crum wondered whether this was an appropriate topic for the Behavioral Health Standing Committee. Chair Claman thought it was. Commissioner Crum said that DHSS will be in touch with that group regarding its proposed changes.

Mr. Wall mentioned that the UNLV report had already done a lot of this work. Justice Bolger noted that the Commission had asked DHSS (under the previous administration) for its views on whether to go forward with any of the recommendations in the UNLV report and the department's response had been fairly negative. Mr. Wall said he was aware of that.

Judge Rhoades agreed that the same issues recycling over and over again can be frustrating. She was very interested in working on this. She noted the UNLV report also looked at the intersection of Title 47 (civil commitments) and Title 12 (legal competency for criminal trials). She hoped DHSS would also look at this intersection.

Commissioner Williams said that in 2015 when the UNLV report was presented to the Criminal Justice Working Group and the Commission, there was some discussion about the Commission's purview regarding civil issues. He thought the intersection between the criminal and civil realms should be addressed by the Commission, but wanted to bring up that it had been a topic of discussion.

Commissioner Steiner moved to send the UNLV report back to the Behavioral Health Standing Committee with input from DHSS. Commissioner Stanfill seconded the motion.

Mr. Henderson was hesitant, agreeing with Commissioner Williams that the report has been discussed for years. Before the Committee dedicated its energy to this, he thought the administration should to make sure it was aligned. Commissioner Williams asked the representatives from DHSS to get clarity on whether and how it wants to proceed on the UNLV report before March.

Chair Claman asked to add a friendly amendment to the motion that proceeding be subject to official communication that DHSS can move forward with this. Commissioner Crum said that made sense and Commissioner Steiner agreed to the amendment. The motion so amended passed without objection.

Sex Offenses Report Preview

Ms. Dunham explained that the legislature had asked the Commission to write a report on sex offenses in SB 91. The report had no due date, which had been both a blessing and a curse. The Sex Offenses Workgroup had been discussing this report since November 2017. Ms. Dunham walked the Commission through the various sections in the report:

- Data, including:
 - Rates of victimization
 - Reports to law enforcement
 - Arrests by law enforcement & referrals to Department of Law
 - Charges filed by Department of Law
 - Resolutions of charges filed
 - Incarceration after conviction, sentence length & length of stay
 - Recidivism of individuals after release from incarceration
- Sentencing Laws
- Treatment and Reentry
- Victim Services, Safety, and Healing
- Review of current sex offense statutes (appendix)

Regarding the data section, Mike Matthews from DOC said he had different numbers on sex offender recidivism, and that he would send them to the Commission staff. Mr. Henderson asked that staff also report victim ages and suspect ages by region.

Ms. Dunham explained that the workgroup was nearing the final draft of the report. The workgroup would next meet all day on February 7. If the workgroup could finalize approval of the report on that day, staff would send a final draft out to the full Commission by February 15 for consideration by the full Commission at the next plenary meeting March 4.

Public Comment

Don Habeger of the Juneau Reentry Coalition said that the reentry coalitions are all active and stand ready to help and offer solutions to their community. For example the local coalition partners with an organization that has a navigator system that can get people to the treatment they need. They could partner with the State on that to begin to address the Title 47 issues raised.

Mr. Habeger also wanted to inform the Commission that the Juneau Reentry Coalition was working on three items to move the community forward: Housing, Peer Support, and Behavioral Health. On behavioral health, their goal is to ensure that when ready, people can access treatment they need immediately. He wanted to emphasize that housing is real challenge. Housing agencies in Juneau typically have a zero tolerance policy. On person, a client of the Coalition's case manager received some tragic news, relapsed, and had to leave their housing in midwinter to live under a bridge. He just wanted the Commission to be aware.

Cathleen McLaughlin from Partners for Progress reminded the Commission that Partners was created by SB 64. Since then, they have served 7500 people, and housed 3500 people; they now have more beds than needed. They want to look into having centers in other locations. They think their model is replicatable; to start, they're looking into Fairbanks.

Ms. McLaughlin explained that Partners has conducted informal recidivism studies of their clients; those housed had an 18% recidivism rate. Once they left housing after 60 or 90 days, that rate went up to 61%. After that finding, they are now housing people up to a year but the clients are required to pay part of the rent. She provided handouts on Partners and encouraged the Commissioners to ask questions.

Gerri Miller-Fox, former director of the Pretrial Enforcement Division, wanted to commend Dr. Payne on his presentation. She also wanted to remind the Commissioners that PED had implemented a fidelity tool for risk assessments: about 10% of assessments are blind reassessments (i.e. the assessor does not realize it's a redo). They analyzed the fidelity data in July and found 95% fidelity, which is very good. She wanted to make sure the Commission was aware that data point is available, and exists for each question. She suggested keeping that in mind moving forward.

Regarding the statutory problem of the statute requiring three categories (low, moderate, and high) and the data grouping into five categories, Ms. Fox reminded the Commissioners that that was fixed through the ad-hoc workgroup, then DOC formed a regulation group. A regulation was enacted, and was written broadly enough to accommodate a changed tool. If the tool does change, however, it will require a change to the database, as well as retraining officers and all partners.

R.D. Parks from Petersburg said that his daughter Molly was killed in a vehicle crash in 2016 which also killed one other person and injured a third. The driver of the van they were in had a seizure and crossed a barrier at 60mph. When the car landed Molly was killed instantly. The driver had been under doctors' orders not to drive under any circumstance. He pled guilty to manslaughter with a sentencing aggravator. Without the aggravator he would have been eligible for discretionary parole at a quarter of time served, which would have worked out to being released in 9 months with good time. The judge decided to double his time to serve, making him eligible for discretionary parole in 2021. In Mr. Parks' view, this was not appropriate, nor was it appropriate that the defendant got credit for time spent on electronic monitoring while sitting at

his parents' house watching TV given that he committed a felony and two people were killed. That kind of policy cheapens the life of the victims.

Future Meeting Dates and Tasks

- Sex Offenses Report (no due date)
- Sex Offenses Workgroup February 7, 2019
- 2019 Plenary Sessions:
 - March 4, 2019 (in Juneau)
 - May 31, 2019
 - August 23, 2019
 - October 7, 2019