

judicial branch is isolated from the political process. There needs to be a nexus between justice and politics [for this to work]. Consider watching bills. Don't be afraid of inserting yourself in to the political process." Representative Keller gave HB15 as an example of a bill to watch. This bill would mandate good time for time spent on electronic monitoring. Keller stated that that legislators could use the expertise of the Commission. Another example is the bill which would cap the caseloads of probation officers, which reportedly could impact the implementation of PACE.

The Senate Judiciary Committee will be holding a Crime Summit tomorrow, all afternoon. It will be streaming on Gavel to Gavel.

Commission Vote on Food Stamp Ban: Final Action

Mary Geddes reported that the January vote by Commissioners on the food stamp ban would stand as a final vote. All Commissioners present (10) had voted to make a recommendation to the Legislature, but also conditioned the finality of that vote on a staff poll of the absent Commissioners: Taylor, Coghill and Keller. If any absent Commissioner wanted further discussion, the matter would be reconsidered at the February meeting. Geddes reported that none of the absent Commissioners wanted any further discussion.

Commissioner Jessee asked Representative Keller for the most effective way to forward the recommendation to the Legislature. Keller recommended a letter, with a short explanation of the issue, from Bryner to the two Judiciary Committees.

Miscellaneous Items from Staff

The Attorney General is making his conference rooms in Anchorage, Juneau and Fairbanks available for ACJC workgroup videoconferencing. This is enormously helpful to staff and much appreciated. Please note that only two sites outside of Anchorage can be video conferenced at a time.

Mary Geddes has asked for advice from the AG's office on the Open Meetings Act. She will prepare a memo for Commissioners by next meeting.

NASC Conference

Alaska Judicial Council Director Susanne DiPietro confirmed the Chair's report that NASC planned to hold its annual conference in Alaska, and urged the Commissioners' attendance. Past NASC conferences have great technical content and nationally renown experts as presenters. The conference will be in Girdwood at the Alyeska Prince Hotel August 16-18.

Recidivism Reduction Plan

Jessee reported that the Plan was out, that each Commissioner would be provided a hard copy, and that it had been presented to House Finance and HSS Committees and would be presented tomorrow to Senate Judiciary Committee. He reported that Representative Neumann in particular was working closely with the RRP Group to implement the Plan. Without legislative and program policy changes, Alaska will definitely be looking to building another prison.

Commissioner Razo wondered about the appropriateness of the specific ask on page 36 for \$600,000 funding for a particular program (Partners for Progress) when there are other non-profits, including Alaska Native organizations, doing reentry work. He asked if this was viewed as a increment or realignment of resources. Jessee indicated that they focused on Partners for two reasons: good outcomes and a real threat

of discontinued state funding. Jessee said that, in doing so, they hadn't meant to slight other groups with good outcomes. He also sought to clarify that he was not asking the ACJC to endorse the report, merely to note the specific recommendations relating to Commission work. The chair inquired as to whether more extended discussion should take place at a future meeting. Razo said he would welcome all future opportunity to discuss the report.

Selection of Co-Vice Chairs

Commissioner Bryner noted that, as the bylaws don't provide for the election of a chair and everyone is so busy, he had selected two Commissioners to alternate as substitute chairs during any absences: Greg Razo and Jeff Jessee. The chair thanked Jessee and Razo for offering to take on this responsibility.

Barriers to Reentry

Commissioner Stanfill reported for the Employment Barriers Subgroup. She said that the group had initially talked about a general provision sunsetting Title 47 employment barriers, but learned that such a strategy would likely not apply when the statute itself says relatively little and that most of the barrier crimes are actually in the regulations. Diane Castro of DHSS will assist the Subgroup with the review of current restrictions.

Commissioner Svobodny inquired as to whether anyone had investigated if DHSS would lose federal i.e. Medicaid funding if the barriers were removed. Susie Dosik had asked and learned that the barriers were not requisites for Medicaid funding. Stacy Kraley AAG was her Law contact. Svobodny indicated that he would commit Law's Civil Division to give help in this subject area.

Pre-and Post-Trial Laws and Processes

Commissioner Stephens reported for the workgroup. Stephens said that the judges and PD had just sent out a survey on bail issues; as far as the workgroup knew, the Department of Law (Law) had not yet sent out the survey to line staff. One focus of the survey is the use of 3rd party custodians. Svobodny indicated that while he had not yet turned his attention to the bail survey, law personnel was involved in the numerous edits of the survey instrument.

Stephens also noted that the group is investigating the use of risk assessment tools to better inform judges prior to bail setting. In addition to issues in bail-setting, the group is also seeking more information on electronic monitoring and other technologies as tools for pretrial supervision.

Commissioner Rhoades indicated that she hoped the workgroup would be looking at opportunities even earlier in the criminal justice process. She noted that Commissioner Sell had reported on the Juneau police Department's institution of a crisis intervention team, which allows police to partner with mental health.

Svobodny asked if the survey asked how many people are released OP or own their own recognizance. Susanne Di Pietro stated that the court has that raw data, but there is no field in Courtview that allows for retrieval of that information. Svobodny wondered if the information could be available through the police-court pilot program in Anchorage (or is it Fairbanks?) allowing for the retrieval of bail conditions. Alex Bryner said this seems like an incredible problem that we can't keep track of how we release people.

Stephens said that some of the information gleaned through a survey may indicate a need for judicial education on bail issues. DiPietro indicated that it has been five years since there was any bail education

program. Commissioner Rhoades noted that there are bail schedules for certain offenses and locations which may be used in a consistent manner by magistrates. Rhoades has asked Lisa Fitzpatrick, who coordinates judicial training, to consider obtaining a new bail/pretrial release curriculum.

Jessee asked if judicial education is how judges achieved some consistency in their interpretation of statutes. Nancy Meade, general counsel for the court system, stated offers information on law changes following each legislative session. For example, she did offer information about the 24/7 program and what the legislature wanted in enacting the measure. Judges do have twice yearly training conferences. Other than that, they receive no directive from ‘up above,’ outside of caselaw.

Meade acknowledged that there are sometimes ‘sub-cultures’ that develop between DA’s, PDs and Judges in a particular court in which consistent ‘asks’ (e.g. in bail-setting) become accepted norm.

Commissioner Svobodny noted that there may be different bail related concerns in different regions of the state and that you are ‘never going to get consistency across the state.’ He noted that 40 years ago, the Juneau Police Department offered daily breath tests each morning to accommodate court ordered bail conditions, but he is sure that is no longer available. Stephens said that the practice Svobodny describes still exists in many Alaska communities.

There was some additional discussion about the national finding that pretrial incarceration is associated with lengthier sentences and whether the finding reflected merely that more dangerous individuals had been appropriately detained or whether that question was ‘controlled for’ by the use of other variables in the analysis. The studies establish that pretrial incarceration has an across-the-board lengthening effect, not merely with respect to more serious offenders, according to Quinlan Steiner (and sources identified below by staff¹).

Commissioners shared their observations of bail practices. Stanfill stated that OR releases in Fairbanks are rarely used. Sell stated that she has seen OR releases in Juneau even in DUI cases. Stephens stated that he has observed “wildly disparate” bail schedules among districts, providing for OR release in one to \$1250 in another. (Bail schedules are set by the presiding judge in each district and some offenses are excluded from bail schedules.)

Later in the meeting, Stephens said that the group had not previously discussed the peremptory challenge issue but it would fall under the Pre and Post-trial group’s responsibilities. He would seek information on this topic from the courts. Svobodny suggested that the request seek information on civil peremptory challenges as well.

Rural Criminal Justice Workgroup

After a break, Steiner reported that the Rural workgroup’s plan includes its consideration of issues considered in other workgroups for the purpose of offering a lens through which rural perspective is obtained. The group also intends to do ACJC outreach through the vehicle of regularly scheduled conventions, conferences and regional meetings. The group received an update from TCC attorneys and an Assistant AG regarding progress made towards civil agreements between tribes and the State for civil

¹ [Investigating the Impact of Pretrial Detention on Sentencing Outcomes November 2013](#)
[Research on the Effects of Pretrial Detention \(Federal Probation Journal June 2014\)](#)

diversion agreements. The workgroup is agreed that it should promote the use of pretrial diversion in rural areas as a means of reducing pretrial detention.

Greg Razo shared his recent experience in Kotzebue meeting with federal and state officials there. It struck him that rural Alaska is hungry for more information and involvement. The ACJC must make a concerted effort to inform and engage rural Alaskans, especially Alaska Natives, who are disproportionately affected by the criminal justice system.

The last meeting of the Rural group featured a presentation on MAJIIC. It seems that there is a lot of data out there but data sharing and effective utilization doesn't always happen. Alaska Statutes 12.62.100 provides for a Criminal Justice Information Advisory Board, but that Board hasn't met since 2013. Razo stated that we should ask the Governor to use this statutory mechanism to coordinate and promote collaboration among the agencies.

Stanfill suggested that the ACJC could ask AFN and TCC if they would consider creating opportunities at their conventions as a way of obtaining rural input. Razo indicated that "listening" sessions or conferences can be a good approach and that he would contact AFN and Native non-profits and other organizations to seek out those opportunities. Mary Geddes will help.

Rhoades asked if it were possible to obtain interagency or 'braided' funding to pay for ACJC Commissioners' travel to rural Alaska, given that AJC monies are very limited.

Jessee returned to an earlier proposal for rural outreach (to be funded by the MHTA) that would involve quick visits to rural hubs and overnight visits in rural villages. The purpose of the travel would need to be a focus on disability justice. Historically, the Trust has taken 25-30 individuals on these trips with much smaller groups (3-5) going for overnight stays in a village. The Chair wondered about the timing of such a trip, and said he was aware that the presence of a large group in a small place might not always encourage the desired dialogue. Jessee said that the trust does work closely with the agencies and people in the region to plan their trips.

Steiner suggested that outreach/travel plans should be developed with the 3 year lifespan of the Commission in mind, but that multiple trips would likely be needed. Sell suggested that trips with smaller delegations might be more productive, more capable of eliciting useful information. Jessee urged a multi-prong outreach strategy might be best.

The Chair asked the Rural group to come back by the next Commission meeting (March 31) with a plan for outreach.

Public participant Chris Provost introduced himself and asked to be heard. He noted that although he was now based in Anchorage he had spent 10 years living and practicing law in Bethel, and had been to every one of the 56 villages in the region with many overnights. He had also spent 2 years as TCC counsel representing their 20 villages. He said if village trips were being seriously considered it would be better to choose one village in each region because of the differences between the regions.

The Chair asked if there was not a directory of criminal justice stakeholders in the state. (There's not as far as we know). He urged staff to develop/compile a directory- by region - of all criminal justice stakeholders by the next meeting. Kim Martus of BBNA volunteered to help.

Sentencing Alternatives

Commissioner Stephens also reported for this group.

He said that the group had been looking at deferred sentencing, pretrial diversion, and a fix of the CWS statute. He stated that the workgroup had requested Law's policies regarding charge and plea bargaining, deferred prosecution and diversions. (Staff- The policies have not been received. 3.4.15) The workgroup does expect to have some specific proposals for the Commission by its March meeting.

The group is seeking more information on EM and other technologies. The workgroup is also interested in the therapeutic courts, the number of beds for residential treatment and halfway houses (CRC). The group has expressed interest in the use of telephonic and videoconferencing capabilities so as to avoid prisoner transport and unnecessary detention. Susanne DiPietro stated that the Court Rules Committee is currently looking at Rule 38.1 and 38.2. Steiner stated that the Committee might be specifically discussing more waivers of appearance by defendants.

The Chair asked Svobodny to what extent are sentencing alternatives and plea bargains controlled by statewide policies versus the decision of a local DA? Svobodny indicated "no simple answer" and he was still working out what information he would choose to give the ACJC staff..

Svobodny further stated: as for plea/charge bargaining policy, there have been four shifts in policy since the Hammond Administration. Under Av Gross, there was a complete ban on plea bargaining. Charlie Cole backed them off the ban. Under Bruce Botelho, it reverted to the situation before Av Gross when both charge and sentence bargaining were allowed. Geraghty was convinced by Carpeneti that there should be no sentence bargains, although there could be charge bargains.

Svobodny said that, if asked whether the last Administration's parameters are in effect, he would answer yes. He would also say that the AG has indicated "some openness" and policy is "under consideration." He noted that, even with bans, there have always been individual exceptions made.

Svobodny said when "the Supreme Court had said it did not approve" pretrial diversion, Law had stopped that program and haven't looked at the issue since then. The Chair asked if the Supreme Court decision to which he referred was the Stobaugh case, and Mr. Svobodny said yes. The Chair noted that it was a very limited holding that turned on its particular facts. Svobodny said that he recognized that there were ways around that decision and, at that time, Law had made a defendant's confession of guilt a pre-requisite for admission into the program.. Certainly a sentencing diversion following a plea would be one possibility. As for the old Pretrial program, Law had a probation officer in each Pretrial Intervention community location, so it had a lot of additional personnel. With respect to comparisons with the Municipal diversion program, the City can make money from fines and fees for program use. However, when a state Pretrial Intervention program took in money, it went into the General Fund and couldn't be used to fund the program. Svobodny said DOC might be a better place in which to situate pretrial services, but Law has not had an opportunity to discuss this yet.

PRESENTATION--Results First

Susanne DiPietro introduced Gary VanLandingham and Stanford Turner from the Pew Trust. She noted that there had been conversations for a few years about whether Alaska could obtain the Results First cost-analytic model. With the change in administration and the economic climate, it appears the time may be right for inviting the Initiative. Our presenters arrived in Juneau on Monday and have had meetings with legislators and Governor's staff. Their PowerPoint presentation will be distributed along with these meeting notes.

VanLandingham noted that the Results First Initiative is a technical assistance project, giving states tools (software) and helping states build its analytic capacity so that decision-makers can determine the best ways to invest dollars in criminal justice programs. The model came out of Washington State's efforts to find the 'sweet spot' for cost-effective programming. It's a 'Moneyball' approach to criminal justice planning. The idea is to build up the local database, and then 'marry up' national research results as to cost-effective strategies to Alaska programming. Results First builds the platform in Alaska and then connects it in effect to the expanding clearinghouse of information on evidence-based programs.

New Mexico is a great example of a state that has effectively utilized Results First planning. [from staff-see e.g. [Legislative Report: Reducing Recidivism, Cutting Costs and Improving public Safety in the Incarceration and Supervision of Adult Offenders](#). That state Legislature has embraced all recommended reforms because it understands the relative "cost of doing nothing." VanLandingham said the continuing TA is somewhat akin to investment advice, asking how do you want to spend you money. The technical assistance provided is ongoing once the local model is built because we continue to expand the number of programs that we evaluate. All participating states send delegates to an annual convention to confer with each other. The participating states must: commit to evidence-based decision-making, provide a letter of invitation from the Governor and legislative leaders, provide data necessary for the analysis and show a willingness to dedicate resources to the process.

Different states have devoted a different level of resources to the effort. Colorado has two employees. Most states do this with existing resources. Because Alaska's 'bench' is so shallow, VanLandingham thought Alaska would require one half-time employee to maintain the model. The goal is to automate the research.

States can choose what programs they want studied and then can make changes. Its not intended as a program killer. The goal is to improve outcomes, to up all of our games. And to do research in a wholly informed way. As a result of the RF Initiative in Iowa, Iowa changed its domestic violence interventions to a Cognitive Behavioral Therapy model.

There is no problem with Results First and Justice Reinvestment Initiatives occurring at the same time. They are different: JRI identifies drivers of incarceration and policy options. Results First is more program oriented.

With respect to identifying where Local Results First project management is best situated, it may turn on who has or handles data, but more importantly, who is trustworthy in the eyes of all agencies, has the requisite technical skills/staffing to maintain the model, and who can function as something of an ambassador to the Legislature, and communicate effectively with legislators. DiPietro added that the UAA

Justice Center seems like a great candidate for this role as they already get regular data dumps from many state agencies and they have experience in matching files between state department databases. In Washington State, the model in use by Washington State Institute for Public Policy, WSIPP, is attached to the University and has legislators on its board. In New York, the model resides in the Governor's Office, In New Mexico, the model is in the Legislative Finance Committee. In Mississippi it is a joint project between two Legislative committee. Its up to the state to decide where it goes, who best to act as an "honest broker."

With respect to the relevant time frame for approval, the process for approval is moving apace. The Results First Board has to approve its work in Alaska, too.

A question was asked by Kimberly Martus as to the model's use in evaluating reentry programs, particularly those which are (local) culture-based programs. How inclusive is the database of tribal organization programming? VanLandingham stated that California has been developing an impressive clearinghouse on reentry programs, including those employed by tribal organizations. He said that analysis begins by comparison of program components, such as the use of CBT. Di Pietro noted that the Results First Initiative provides a model only. It will be up to Alaskans to build or customize the model for its own use. Denise Morris noted that it was important to make the model transparent and inclusive of those best practices with an overlay of cultural programming. VanLandingham clarified that the model is not intended to discourage or preclude original programming. The model should help new programs from showing they are evidence based. Jeff Jessee noted that – with respect to the analogy that RF is like investment advice which can be ignored – that decisions can be made to invest in strategies that are not proven, but may be worth the 'risk' to local decision-makers.

ACJC Vote on Making a Recommendation

With eight Commissioners still present (Ron Taylor, Brenda Stanfill, Rick Svobodny, Jeff Jessee, Kris Sell, Trevor Stephens, Stephanie Rhoades, Alex Bryner) a motion was made by Brenda Stanfill that the Commission recommend to all three branches of government that all three sign up and approve invitations to the technical assistance from the Results First and the Justice Reinvestment Initiatives. Prior to exiting, Ron Taylor indicated he would approve such a recommendation and sought to give a "proxy." The motion was subsequently seconded by Kris Sell. Discussion opened and Jeff Jessee asked if additional organizational details need to be provided in the motion and recommendation, i.e. like having the UAA Justice Center be identified as the 'keeper of the model.' DiPietro indicated that it was not necessary in her opinion. Rick Svobodny suggested that a sub-group could consider a plan for that. The question was moved by Jessee. The seven Commissioners remaining in the meeting unanimously approved the recommendation. [NB: 6 constitutes a quorum, and votes are made by majority.]

Discussion on Commission and Commissioners' Role

Commissioner Stanfill asked through what process would issues be brought to the Commission's attention. The Chair suggested that Commissioners or the public should contact Mary or him and new topics can get added to agendas.

Stanfill noted that, as virtually all of the Commissioners 'wear more than one hat,' said that she wanted to discuss contacts that may happen with legislators seeking feedback or ideas. Sell said that it was important to keep our roles separate, and that until the Commission votes to make a recommendation, it does not 'have a position.' Svobodny stated that he had heard there were several bills being identified as

Commission bills. Geddes clarified that ACJC workgroup ideas are reflected in meeting summaries and shared in email lists., and that legislators are apparently drawing on those ideas even though they are still under consideration in the workgroups and not yet presented to the Commission.

The Commissioners agree that when ACJC recommendations are made they shall be identified on the website, and that recommendations will only be made following a full consideration.

Public participation

John Bioff, counsel for Kawarek, asked to speak on behalf of Melanie Bahke, its director. He wanted to commend the work of the Alaska Native Justice Center and its work to reduce recidivism and its leadership. He would hope that any implementation of the Recidivism Reduction Plan would involve the Justice Center. The Chair thanked Mr. Bioff for his patience. He also urged public participants to communicate their concerns in advance of meetings so that their participation could be accommodated in a timely manner.

Denise Morris, the Acting Interim Director of the Center, noted that Alaska Federation of Natives had passed a resolution asking for more involvement by the Alaska Native Justice Center in the implementation of the Recidivism Reduction Plan.

Kimberly Martus also asked that the Alaska Native Justice Center be recognized, that the Center should take the lead in reducing recidivism efforts in rural Alaska, and that it is the only Alaska Native organization devoted to criminal justice issues.

The meeting ended at approximately 3:45 PM.