

Alaska Criminal Justice Commission

Meeting Summary

Thursday, June 15, 2017

8:30 AM

Snowden Training Center, 820 W. 4th Avenue, Anchorage
And Audio-teleconference

Commissioners present: Alex Bryner, Sean Case, Matt Claman, John Coghill, Jahna Lindemuth, Walt Monegan, Stephanie Rhoades, Brenda Stanfill, Trevor Stephens

Commissioners absent: Greg Razo, Quinlan Steiner (Deputy Public Defender Dunnington Babb sat as Commissioner Steiner's designee); Dean Williams (Deputy DOC Commissioners Karen Cann and Clare Sullivan sat as Commissioner Dean Williams' designees); Steve Williams (Trust Senior Program Officer Katie Baldwin-Johnson sat as Commissioner Steve Williams' designee).

Participants: Randall Burns, John Skidmore, Araceli Valle, Brad Myrstol, Emlyn Struthers, Nancy Meade, Ashley Holland, Pam Cravaz, Jeff Jessee, Michelle Bartley, Morgan Jaco, Laura Brooks, Amber Nickerson, Tara Rich, Alysa Wooden, Jon Woodard, Mara Rabinowitz, Gennifer Moreau-Johnson, Diane Casto, Doug Wooliver, Don Habeger, Melissa Threadgill, Andre Rosay, Tony Piper, Rocket Parish, Michelle Dewitt, Doreen Schenckenberger, Cathleen McLaughlin, Cindy Strout, Courtney Pruitt

Staff: Susanne DiPietro, Brian Brossmer, Barbara Dunham

Introductions, Agenda and Announcements

Vice-Chair Stanfill called the meeting to order at 8:36.

Vice-Chair Stanfill welcomed Captain Sean Case of the Anchorage Police Department to the Commission as the municipal law enforcement designee.

Vice-Chair Stanfill asked if there was any interest in getting updates from the workgroups and adding that to the agenda. There was not; Vice-Chair Stanfill asked for a motion to approve the agenda. Commissioner Lindemuth so moved, Judge Rhoades seconded the motion, and it passed without opposition.

Vice-Chair Stanfill asked for a motion to approve the summary of the previous meeting. Commissioner Lindemuth so moved, Judge Rhoades seconded the motion, and it passed without opposition.

Staff had several announcements. First, the Department of Corrections (DOC) pretrial services unit would be unveiling the new pretrial risk assessment tool on June 27, in two sessions. Second, the applications for the Bureau of Justice Assistance (BJA)-funded grants were proceeding smoothly. Melissa Threadgill, who had submitted the applications, said that there was no official movement on the applications yet, but the word from BJA was positive. The applications were still in the paperwork phase,

and Melissa didn't anticipate any problems. Finally, Matt Menendez, a scholar with the Brennan Center for Justice with expertise in criminal justice reform, will be coming to Alaska and would be available to meet with Commissioners on August 14. Vice-Chair Stanfill asked if the Commission wanted to schedule an official meeting with Mr. Menendez. Commissioner Lindemuth suggested scheduling a meeting for Commissioners to attend if they are available.

Results First - Introductions

Jeff Jessee, the newly-appointed Dean of the College of Health and Vice Provost of Health Programs at the University of Alaska, Anchorage, introduced the Results First program within the Alaska Justice Information Center (AJIC). Part of Mr. Jessee's role is to work with AJIC and Justice Center at UAA. Given the current fiscal climate, he saw these programs not as a luxury the state can no longer afford, but vital tool to help the state operate more efficiently. He supports evidence-based practices, and AJIC will be key to helping Alaska expand its evidence-based practices. He encouraged everyone to come forward with needs that AJIC may be able to address so that AJIC can better serve Alaska.

Emlyn Struthers with the Pew-MacArthur Foundation introduced the Results First Initiative. The purpose of Results First is to help states build capacity through evidence-based policy making. For those familiar with the Public Safety Performance Project, Results First is a bit different. It focuses on capacity-building and provides technical assistance, and works in a variety of policy areas, not just criminal justice. Results First is like "Moneyball" for government—it helps state and local governments make strategic budget choices. The Results First process follows three steps: (1) inventory current government investments, (2) consider whether benefits of those investments justify the costs, and (3) use the findings to target resources more effectively.

Ms. Struthers informed the Commission that Results First was operating in 25 states and 9 counties across the US, serving jurisdictions with a variety of demographic profiles. For example in Iowa, the Results First model showed that the state's Domestic Violence (DV) program was ineffective. It developed a new DV program in conjunction with the University which had better results. Massachusetts used its results to expand enrollment for effective but underused programs.

Dr. Brad Myrstol, associate professor of justice at UAA and director of AJIC, introduced AJIC researcher Dr. Araceli Valle and acknowledged her hard work as she has labored over the Results First project over the last few years. He also acknowledged expressed appreciation for the feedback from many contributors at DOC, the court system, the Department of Public Safety (DPS), and the Department of Health and Social Services (DHSS), as well as the individual program providers who gave AJIC detailed program information. He also thanked the AJIC Steering Committee, and the Pew-MacArthur Foundation.

Dr. Myrstol began by saying he bore good tidings—90% of Alaska's investment in criminal justice programs are evidence-based, and many produced positive returns. He reminded the Commission that Alaska sought out this partnership; the Alaska Legislature, the Office of the Governor, and the Alaska Court System invited the Results First program in 2015. (AJIC was formed at the same time.)

Results First Process Explained

The Results First process begins with an inventory of criminal justice programs; the next step is to match those programs to the evidence base using national databases which compile existing evaluations

of criminal justice programs. The last step is to use the Pew-MacArthur benefit-cost model to estimate the benefit-cost ratios for those programs that have been rigorously researched and evaluated.

For the program inventory, AJIC identified over 300 criminal justice programs operating in Alaska, and out of those, wound up with 54 unique programs. Out of 54 programs, 36 were funded wholly or in part by the State of Alaska (18 did not receive state funds).

In order to match the 36 state-funded programs to the evidence base, AJIC matched the features of Alaska's programs to the features of programs found in a national database of programs that have been rigorously evaluated. The matching process revealed that 26 programs funded by state are based on evidence—and these 26 programs comprise 90% of the state's investment in adult criminal justice programming.

The next step was to populate the Results First Benefit-Cost model. AJIC estimated per-participant program costs, and per-person criminal justice resource use. They also established a baseline recidivism rate using nine different cohorts of offenders released in 2007. They tracked these cohorts out to 8 years post-release. (At this point, Judicial Council executive director Susanne DiPietro noted that Alaska has never before had 8-year recidivism data.)

Next, AJIC calculated the benefit-cost ratio for Alaska's programs. Not all of the evidence-based programs were put in the model: some were not focused on recidivism, and some were not adequately studied. The total number of programs modeled were 19. These 19 programs represented 82% of the state's investment in criminal justice programming (\$21 million total).

In calculating the benefit-cost ratio, the benefits include avoided criminal justice costs (as calculated in the step above) as well as avoided victimization costs. The Pew-MacArthur model monetizes both the tangible and intangible costs to victims. In this model, the benefits arise from the reduction in recidivism as a result of participants passing through a given program. (In other words, the benefits are the costs that would be incurred if ex-offenders commit new crimes, but have been avoided because a given program reduces the likelihood that ex-offenders will commit new crimes.)

The benefit-cost ratio can be improved by increasing benefits and reducing costs. If the ratio is greater than 1, that means the benefits exceed the cost. For example, if a ratio is 3.07, it means for every dollar the state invests, the state receives \$3.07 in benefits. If a ratio is 1, it means the state "breaks even" on its investment. If the ratio is greater than 0 but less than 1, that means that the program produces benefits, but the program costs more than the benefits. If the ratio is less than 0 (i.e., negative) then the program costs the state money. For example, if the ratio is -0.96, it means that for every dollar the state invests, the state loses that dollar and incurs an additional cost of \$0.96.

Results First- Findings and Discussion

Dr. Myr Stol next presented a series of graphs which explained the benefit-cost ratio of each program run through the Results First model. The first arranged the evaluated programs according to the benefit-cost ratio, grouped into program type. Each program was represented by a "bubble," the size of which indicated the comparative size of the ratio. Some programs were modeled more than once- hybrid courts were separately modeled as DUI and drug courts; the accurate ratio for hybrid courts will be between the modeled ratios. Some programs changed models, so both the old and the new were modeled separately. Each ratio was simulated 10,000 times, leading to high confidence in results.

The next graph provided a better way of seeing the relationship of benefits to costs, with a “break even” line running diagonally up the middle. Programs under the line could get over the line by either reducing costs, increasing benefits, or a combination. For example, the hybrid and felony DUI courts, which were below the line, produce good benefits—to break even, the program could reduce the costs. Electronic monitoring, which was above the line, produces modest recidivism reduction benefits, but the cost is quite low. If electronic monitoring became more expensive, the state might want to reconsider its use. (The calculated costs did not include the fees paid by defendants.)

Dr. Myrstol noted that the avoided costs in reduced recidivism incorporated Alaska data on the offender profile for Alaska – meaning that the calculation looked at the recidivist offenses committed by the release cohort, and accounted for the fact that the benefits for reducing recidivism for “worse” offenders are greater than the benefits of reducing recidivism for more benign offenders.

Vice-Chair Stanfill noted that the Batterer Intervention Program (BIP) had a negative ratio, and judging by the graph presented, it looked like there was no way to reduce costs to produce positive results—it would be mathematically impossible using this formula. But the program could be brought up to the break even line by increasing the program benefits.

Vice-Chair Stanfill also noted that many of the programs that have lower ratios are working with misdemeanants who were not on active probation, so the data could be skewed that way. She was concerned that singling out BIP would lead people to jump to conclusions about Alaska’s programs. But Results First used the national Duluth model—Alaska programs don’t necessarily follow the Duluth model, and the program may work better in Alaska than elsewhere.

Dr. Myrstol said that one of the assumptions the Results First calculation makes is that the programs perform to the national average. The local program could actually perform better or worse. The alternative is to not match the program at all. AJIC worked with CDVSA and BIP service providers during the program inventory phase—their recommendation was to match to the Duluth model.

Judge Rhoades was worried they may have compared apples to oranges. Dr. Myrstol said none of these decisions were made in a vacuum. AJIC attempted to reach out to program providers as much as possible. If, on second thought, Alaska’s BIPs don’t match, they can take it out—but the program will not be evidence based. Dr. Valle said that the only DV program that was included in the analysis was community BIP; programs like in-custody BIP and the Wellness Warrior program were not included because they didn’t match to the evidence base.

Commissioner Monegan noted that the study had tracked recidivism for an 8-year period, and asked whether the recidivism rate was still at 66%, as had been calculated before. Dr. Valle said that was true on average, but different offender profiles have different rates. For example, DV offenders have highest rates, close to 80%. They are also the most likely to commit offense-specific recidivist crime.

Vice-Chair Stanfill also noted that the risk of imprisonment was greater for sex offenders than DV offenders. She would like to reexamine whether the Alaska BIP model matches the Duluth model. People running BIP in Alaska report good outcomes. The Results First model does not account for the non-evidence-based programs working in concert with BIP.

The next graph showed the recidivism reduction component of the benefit side of each program (based on national metadata on these programs). Dr. Myrstol pointed out the relatively large reduction

in recidivism achieved by many of the programs and said that showed that Alaska was generally on the right track for recidivism reduction.

Judge Rhoades cautioned that it was necessary to be careful about how you react to these graphs—the purpose behind them is not to just sweep away the programs at the bottom. Legislators especially will be tempted to do so. Judge Rhoades said that Commission’s job is to make recommendations for reinvestment; the Results First data will help with that task.

Susanne DiPietro agreed and said this has always been a danger—a quick glance at graphs like this can be really misleading. It was important not to let this get skewed. She also agreed with Judge Rhoades that this data will be helpful to guide recommendations and help the legislature understand the results. The technical assistance team can help with this as well.

Dr. Myrstol concluded his presentation with several key takeaways. First, 90% of the state’s investment in adult criminal justice was in programs found in the evidence base. Second, 18 out of 19 assessed programs yield positive returns, and in 14 programs, the benefits exceeded costs. Even for those programs whose benefits did not exceed costs, the results weren’t fixed; they could be improved by increasing benefits and/or reducing costs.

Dr. Myrstol explained that the Results First analysis was intended to inform future discussion, not dictate any particular course of action— it was a “decision-making tool, not a decision-making rule.” Policymakers would do well to think first about what the expectations are with regard to the return on state investment in criminal justice programming.

Dr. Myrstol said that AJIC had a great deal of confidence in the estimates made. That said, they could be improved by improved program data collection—specifically, data collected with research and evaluation in mind. It is important to establish a statewide culture of program evaluation and process improvement.

Finally, Dr. Myrstol added that AJIC will issue a comprehensive final report including explicit detailing of methodology, which they are hoping to have done by the end of summer. AJIC has a broader mission and will also be looking at applying Results First to other areas.

Judge Stephens asked whether it would be possible to evaluate programs not using state money. Dr. Myrstol said it would, but not with the Results First process. Judge Stephens also asked if there were ways to see what other states were doing for criminal justice programming. Dr. Myrstol said there was, the Results First Clearinghouse has an inventory of all evidence-based programs used nationwide. But regarding BIP, the Duluth model has dominated the field for many years, so there is not much in the way of an evidence-based alternative. Dr. Myrstol said that if there was not a program in a given area that didn’t match to the evidence base, it was okay to use a non-evidence-based program—programs have to start somewhere, but they should be rigorously evaluated. The bottom line: don’t be afraid to innovate so long as you evaluate.

Commissioner Claman asked which programs, of those that are working well, would be suitable for increased participation. Dr. Myrstol said that AJIC could model possibilities to see which would be best. Ms. Struthers added that they could model other programs found in the Results First Database to see if they would be cost-effective if implemented in Alaska.

John Skidmore asked whether all the cost-benefit analyses were focused on recidivism. Ms. Struthers replied that the broader Results First program uses other lenses (addressing addiction/overdose or child welfare, for example) but for criminal justice analyses recidivism is the primary lens.

Diane Casto said that CDVSA has been working closely with AJIC on this; they had preview of these results earlier and have been discussing their implications. CDVSA has committed itself to taking a serious look at the BIP program, funding, outcomes, and then making changes or going in a different direction. They will be working with providers and community partners.

Vice-Chair Stanfill asked if there was a way to map the programs that were analyzed to see which areas of Alaska they served. Dr. Mrystol said AJIC can do that.

Commissioner Monegan commended the researchers and said their work was much appreciated—policymakers have been operating on anecdotal information until now.

Reinvestment

Vice-Chair Stanfill turned to the next agenda item: how to approach recommendations for justice reinvestment per SB 91. Susanne DiPietro noted that the Commission was required to make annual recommendations on reinvestment. The components of the recommendation are to calculate any savings from the justice reform process, then recommend how to reinvest those savings. She noted that the Results First analysis will inform this discussion.

Vice-Chair Stanfill asked whether this was intended to look at savings beyond what was originally calculated in SB 91. Barbara Dunham explained that when SB 91 was passed, the fiscal note had calculated a certain amount of expected savings and those were already accounted for in the reinvestment money that would be disbursed over the next few years (for DOC treatment services, pretrial services, reentry services, and prevention grants, among other things). This new task was to calculate any additional savings and recommend how to reinvest that. Vice-Chair Stanfill asked when this recommendation was needed. Ms. Dunham said it would be helpful to have the Commission's decision made at the August meeting so that it could be included in the draft of the annual report.

Vice-Chair Stanfill asked if the Commission were interested in forming a separate workgroup about this. Judge Rhoades noted that the Behavioral Health Subcommittee was talking about a lot of this. Vice-Chair Stanfill added that the Barriers group was as well.

Commissioner Lindemuth said she feared a misuse of the Results First data, and thought that the Commission could use its report to explain the results and redirect the legislature if necessary. It would be a good opportunity to talk about the successes revealed by the data, and reinvestment recommendations could include expanding successful programs into other locations. She suggested staff could dig into the Results First data and come up with a proposal for discussion.

Ms. DiPietro said staff would also want guidance on populations to focus on and whether there were offenders with unmet needs. For example general programs can reach a large number of low risk offenders, while smaller programs are better for high-risk, high-needs offenders— there are judgment calls that need to be made. Also there may well be gaps in services that haven't been studied by the Results First team. Staff would like some guidance on the Commission's thinking.

Commissioner Monegan said that he would like reinvestment focused on prevention and early education, and would also like to look at partnerships with other entities, similar to the diversion program with the tribal courts. He would like to address ways to get in front of crime and have at least some portion of the reinvestment look to prevention rather than playing whack-a-mole.

Vice-Chair Stanfill asked what money there was to work with, and whether there was a data-driven process to calculate the savings. Ms. DiPietro said that one way to measure savings is through recidivism reduction, but that data isn't available yet – it may be available in three years. Another way is to look at prison beds. This can be compared to the pre-reform baseline, and the projected baseline. Utah has done this.

Judge Rhoades suggested also looking at savings from putting people on electronic monitoring. It might be helpful to distinguish hard beds from halfway houses and electronic monitoring. Deputy DOC Commissioner Clare Sullivan said that DOC was looking at ways to reduce the legal barriers to furlough offenders to halfway houses and electronic monitoring —they are trying to make it more discretionary.

Judge Rhoades suggested there might also be savings gleaned from earned compliance credits for probation and parole. Susanne noted that those savings might be offset by increased intensity of supervision.

Judge Stephens suggested that because cost savings would include recidivism reduction, he was not sure the Commission could make any solid recommendations by November. He agreed that it was important to make sure that the legislature understands the Results First data. He also agreed with Commissioner Monegan on recommending directing reinvestment towards preventative efforts; he would also add reentry to the list.

Randall Burns asked whether the projections for savings were included in SB 91's fiscal notes. He wanted to be sure the state would continue to fund the programs started because of reinvestment and wanted to make sure they're working with adequate support. He also wanted to look at programs that were underutilized. Barbara Dunham said that staff could get this information for the August meeting.

Judge Rhoades said that none of the initial reinvestment went to direct treatment beds in the community. She would like an update on where money went programmatically. She agreed that the Commission needed to back up Results First. Agencies and providers will need to develop talking points.

[Note: at this point the Commission took a break from this discussion to take public comment at the posted time; public comment is summarized just below this section for the sake of continuity.]

Commissioner Lindemuth said the Commission needed to look at where the greatest need still existed and suggested cataloging the demand for substance abuse treatment. Barbara Dunham noted that staff had been looking into this but the task was not easy—she welcomed assistance from any of the agencies in collecting this data. Vice-Chair Stanfill asked Diane Casto if she had assessments that had been conducted before. Ms. Casto said that these assessments were being used and she could help with this endeavor. Judge Rhoades said that case managers were also collecting this data, and the therapeutic courts were keeping track of waitlists.

It was decided that staff would come up with a proposal for reinvestment to present at the next meeting.

Public Comment

Edward Parks (who had also submitted a written comment) told the Commission that Alaska was the only state in the union that lacks false imprisonment laws. He said that in looking at Alaska's statutes, he found that there is a gap between custodial interference and human trafficking. False imprisonment was supposed to be place between these two offenses. False imprisonment is very distinct from kidnapping; for one thing, it is a misdemeanor. In Alaska people are being charged with kidnapping (a felony) for conduct that would be false imprisonment elsewhere. When someone commits acts amounting to false imprisonment, prosecutors have a choice of charging that person with an unclassified felony or giving them a free pass—Mr. Parks said this was an absurd result. He noted that in the draft of the revision of the criminal code 1977, the Senate commentary suggests including unlawful imprisonment.

Becky Hultberg, (who had also submitted a written comment) president and CEO of the Alaska State Hospital and Nursing Home Association (ASHNHA) said that ASHNHA had been working to improve healthcare in Alaska for over 60 years. She had come to the Commission meeting to talk about workplace violence in hospitals and other health care facilities. She said that hospitals depend on compassionate, skilled, trained, and dedicated men and women to support and carry out their core mission of caring for people. As a result, they view the safety and well-being of employees as a top priority.

Unfortunately, in Alaska and across the country health care workers are disproportionately exposed to violence in the workplace. In recent months, ASHNHA has been hearing about increases in aggressive behavior, including physical or verbal assaults occurring in the hospital setting. Ms. Hultberg related that on a recent visit to a hospital staff informed her that they had had eight "code greys" (assaults on staff) that day.

ASHNHA is developing comprehensive initiative to combat this problem, and is working on collecting data to quantify it. They are also looking at legislative remedies, such as increasing penalties for assaulting hospital staff—Ms. Hultberg said that other states have increased the offense level to a felony. She said that ASHNHA fully supported the intent behind criminal justice reform, specifically its focus on treatment and recovery. But they have seen an increase in the use of the ER for people who have committed crimes and are also psychotic and unstable. Hospitals are experiencing increases in aggressive behavior. Acute care hospitals aren't structured or equipped to deal with mental health crises.

Ms. Hultberg went on to say that she knew that correlation is not causation, but she thought this was an unintended consequence of SB 91. ASHNHA wanted the Commission's support to explore options to address this, whether legislative remedies or other system-level changes. Ms. Hultberg asked that this be put on the agenda for future Commission meetings. She was happy to support a more in-depth discussion.

Commissioner Monegan suggested a meeting with Ms. Hultberg and Commissioner Case. Ms. Hultberg said she would be happy to do so.

Judge Rhoades said she would encourage data collection from ASHNHA. She was not sure felony solution was appropriate if a person's conduct arises out of psychosis. She was very interested in looking at who folks are that are causing these problems. She was not sure if one could associate this problem with SB 91. Susanne DiPietro asked why individuals experiencing mental health crises were coming in to

Alaska in the first place. Commissioner Monegan said that title 47 holds provided that when someone was experiencing a crisis, officers were supposed to take them home, or other place of safety—jails are supposed to be the last resort.

Ms. Hultberg speculated that the increase in violence could be the result of many factors; it's not just happening in Alaska, so she was not sure if it was SB 91. Some people in her association are. Facilities are feeling their staff is at a breaking point.

Vice-Chair Stanfill told Ms. Hultberg the Commission would be in touch with her about future steps.

Courtney Pruitt with Leap Alternatives to Violence in Fairbanks said that for her DV BIP program, the rate of re-offense was quite low- she thought this was because of additional programming that Leap offers like vocational rehab. She encouraged the Commission to go to the organization's website which explains their programs. She was hearing positive feedback on BIP from providers all over the state.

Next Meeting

The Commission was not able to address the proposals from the Barriers to Reentry workgroup as had been planned on the agenda. Staff would arrange another workgroup meeting before the next full Commission meeting to flesh out these proposals more fully.

Staff also informed Commissioners they should plan for a full-day meeting on August 23.