

ALASKA CRIMINAL JUSTICE COMMISSION

Staff Notes and Meeting Summary August 3, 2015, 10:00 AM to 2:00 PM

At the Atwood Conference Center, 550 W. 7th Avenue, 1st floor conference rooms, Anchorage

Commissioners present: Alex Bryner (chair), Ron Taylor, Craig Richards, Greg Razo, Trevor Stephens, Quinlan Steiner, Wes Keller, Brenda Stanfill, John Coghill, Kris Sell, Jeff Jessee, Terry Vrabec (phone)

Commissioner absent: Stephanie Rhoades

Participants present: John Skidmore, Holly Spoth-Torres, Troy Buckner (phone), Lisa Fitzpatrick, Carmen Gutierrez, Janet McCabe, Carrie Belden, Rebecca Brunger, Michael Elkridge, Seneca Theno, Jody Davis, Natasha Pineda, Kevin Thayer, Brad Gillespie, Mary Hiloski, Dunnington Babb, Ken Truitt, Gail Sorenson (phone), Alysa Wooden, Phil Cole, Al Wall (phone), Doreen Schenkenberger, Jordan Shilling, Amory Lelake, Joshua Sopko, Kaci Schroeder (phone), Karen Forrest, Cathleen McLaughlin, Steve Williams (phone).

Pew/JRI Staff present: Terry Schuster, Rachel Brushett, Emily Levett, Melissa Threadgill.

AJC Staff present: Susanne DiPietro, Mary Geddes, Susie Dosik, Teri Carns, Brian Brossmer, Giulia Kaufman (phone)

Future Meetings: Thursday, October 15, at 10:00 AM - 2:00 PM

The meeting began at 10:00 AM. After introductions and an explanation of the Commission's partnership with Pew Charitable Trusts on Justice Reinvestment, Chair Alex Bryner invited Terry Schuster and Rachel Brushett of Pew Charitable Trusts to begin the Justice Reinvestment presentation.

Pew/JRI: Presentation on Alaska Systems Assessment and Prison Growth and Costs

The slides from this presentation are on the ACJC website, [here](#).

Terry Schuster noted that this would be the last major presentation before the formation of the (JRI) Subgroups. More data will be presented today, along with information as to how current Alaska practices match up with evidence based practices elsewhere.

The presentation first focused on national pretrial research looking at the impact of various bail measures on defendants classified as high, medium and low risk of appearance and compliance.¹ Ordinarily criminal recidivism is a relatively long term measure. But the measures for success during the pretrial phase are different. The desired outcomes for this phase of criminal justice are twofold: defendants showing up for court when they are supposed to, and not getting arrested during the period of pretrial release.

Nationally, risk assessment tools have been used in the pretrial context (by Kentucky² e.g.) with success to guide decisions about release conditions, e.g. 3rd party, EM, drug testing,

¹ The audience wondered about the designations used in the research of defendants as high risk versus low risk. Comr. Bryner asked if the defendants were made aware of how assessment tools had evaluated their risk of non-appearance and non-compliance, and whether they might have internalized these labels.

² Comr. Keller asked if the tool took into consideration the nature of the offense charged. The Kentucky instrument does use criminal history and crime type in determining risk score. Comr. Sell asked if drug addiction was factored into the risk. It was not known to what extent substance abuse information was factored in.

etc. Kentucky pretrial assessment does utilize a defendant interview.³ Research indicates that money bonds are not the most effective tool to protect the public during the pretrial period, as the ability to make bail does not equate with low-risk to the public. Also, the use of third party custodians is helpful for high risk but not low risk defendants. According to a Colorado study, with respect to low and medium risk defendants, unsecured bonds are as effective as secured bonds in securing court appearance.⁴ With respect to high risk defendants, secured bonds are more effective, as 53% do appear with secured bonds and only 43% appear with unsecured bonds.

The use of pretrial detention for any length of time (longer than 24 hours) can lead to worse outcomes, particularly for low-risk defendants. By worse outcomes, we mean they are thereafter less likely to appear in court and more likely to recidivate during pretrial and post disposition phases of criminal cases. Court appearance rates do improve with certain accommodations such as court date reminders, night court, and allowing remote appearance by teleconference. The summary is that pretrial risk assessment can help predict the risk of failure on release. Secured bonds can increase detention. Pretrial detention can lead to worse outcomes.

Alaska DOC has seen fewer admissions but longer stays during the pretrial stage. Statewide there has been a growth of 81% in the pretrial population in Alaska over the last 10 years. 75% of all pretrial admissions are misdemeanors and many are nonviolent. Less serious cases are not prioritized for trial or early disposition. Although there is a speedy trial rule, there is no statute that compels speedy trial.

Pew and the Judicial Council have recently sampled 400 cases throughout the state (Anchorage, Bethel, Nome, Fairbanks and Juneau) for review of pretrial status. There is no pretrial assessment instrument used in Alaska. Given that the bail statute provides for a presumption of release on personal recognizance, it is notable that few (12%) defendants were released "OR" or on an unsecured bond (10%). Two-thirds of the defendants were required to post a money bond. 41% of the cases in which bail was set required a secured bond in the amount of \$2500 or more. Third-party custodians were required in 23% of the cases. In all cases in which third-party custodians were ordered, a money bond was also required. Only 25% of the defendants were able to be released in cases where a third-party custodian had been required, either because they couldn't find a third-party or they couldn't post the money bail or both.⁵ There was no measure made of the use of EM. There were no measures made of criminal history in this survey because the information was not uniformly available.

It was noted that in Alaska, some courts do give reminders to defendants, but there is no consistent system. Also, teleconference can be permitted in some cases.

With respect to future policy questions, Alaska could consider whether and how to increase the use of citations instead of arrest, the use of pretrial risk tools, more accommodations to improve appearance rates, and a streamlining of court processes to reduce pretrial time.

³ It was not known at what point in the process the interview took place.

⁴ A secured bond is a kind of cash bond typically.

⁵ It was noted that the cases sampled did not include EM release as a form of third-party custodianship. EM has been available through private companies but has not been utilized across the board because of the expense and because there have been only a few locations in which it has been available. [Because of the passage of HB 15 this past session, effective 8/12, which granted credit for time spent on EM pretrial, the numbers should change on this.]

With respect to post-trial (sentenced) populations, Emily Levett presented. (See slides) This population did not include the petition to revoke population. There is an increase in the number of incarcerated nonviolent felons in the last ten years. While therapeutic courts – one alternative – may be more effective in reducing recidivism, they are underutilized in Alaska. Substance abuse courts are utilized at a rate of 67%, and mental health courts at 88%. They are also limited to just a few urban locations in the state with one substance abuse court in Bethel. Regarding the relationship of incarceration to recidivism, incarceration is not more effective than alternative measures in reducing recidivism.

With respect to Community Supervision, Melissa Threadgill presented. The good news is that Alaska is now using the LSI-R and is doing individualized case planning (Offender Management Plans). It has great challenges in terms of distances between supervision locations and supervisees.

She noted that there have been huge increases in community supervision numbers. There are approximately 4,000 people on probation. Halfway houses, usually expected as a resource for transitioning population, have instead a mixed population of 70% sentenced population and 30% pretrial.

With respect to the probation-parole population, 39% or 1,602 are low-risk. (There are 382 classified as high risk.) The Commission could consider whether the resources currently devoted to supervising the low-risk population could be more appropriately used for higher risk groups.

The SCP (Swift, Certain and Proportional sanctions) program PACE is intended for high risk defendants, and only applies to a small proportion of offenders. PACE is expensive- it's okay to only have it apply to few. For example, it shouldn't be used for low-risk population. However, the current practice with respect to PTRPs is at odds with SCP model. Right now, the average length of time to disposition is 33 days. A PACE model uses incremental sanctions for most violations, imposing at most 7 days. A probationer with a PTRP or a parolee may be spending time in custody that is far in excess of the amount of time that would be the appropriate sanction for a high-risk offender.

The use of rewards and incentives was also discussed. Threadgill said that the list includes reduced sentences and reduced fines, but rewards can be more minor. Alaska offers good time credit for institutional status but no structured statutory incentives for community supervision success. There can be early termination of supervision. If incentives are given, but vary between regions and officers, rewards lose their motivational power.

The JRI Process: What Comes Next

Over the next few months, specifically September-October-November, each Commissioner will be assigned to a JRI subgroup. The assignments are as follows:

<i>Subgroup A Sentencing</i>	<i>Subgroup B Community Supervision</i>	<i>Subgroup C Pretrial</i>
Alex Bryner (chair) Craig Richards Quinlan Steiner Wes Keller Greg Razo	Ron Taylor (chair) Kris Sell Jeff Jessee Stephanie Rhoades	Trevor Stephens (chair) Terry Vrabec John Coghill Brenda Stanfill

Terry Schuster explained that Pew itself does not make recommendations, but it will assist the subgroups and then the Commission in identifying priorities for reforms where needed. Pew's job is to provide and analyze local data and provide the same from other states. The focus will be on statutory recommendations. By November, the subgroups and Commission will achieve consensus as to which reforms would be most productive. By December, based on these agreements, there will be a draft for the Commission to consider approving.

Commissioner Stanfill expressed concern that non-JRI proposals would stagnate during the JRI process. It was agreed that some of the ACJC Workgroups would soldier on, independent of the JRI process. Proposals that have been in progress should not fall by the wayside, i.e. Ban the Box, the SIS Substitute, etc. Members of three groups - Barriers to Reentry, Sentencing Alternatives, and Pre and Post trial Laws and Processes – have proposals-in-progress and want to keep going. It was agreed that the September Commission meeting could be skipped but that prior to October 1 any workgroup proposals would be circulated to the Commission as a whole for comment and changes before expected action in October.

The meeting adjourned at 1:50 PM.

Notes by Teri Carns and Mary Geddes