

RECOMMENDATION FROM ALASKA CRIMINAL JUSTICE COMMISSION

Recommendation 4-2021, adopted May 25, 2021

Recommendation to Withdraw Recommendation Regarding Definition of Criminal Recidivism in a Statutory Definition

(In Connection with Recommendation 11-2020 to Create the
Alaska Criminal Justice Advisory Taskforce)

The Alaska Criminal Justice Commission (Commission) is scheduled to sunset beginning June 30, 2021, and conclude its affairs by June 30, 2022. The Commission previously recommended (ACJC Recommendation 11-2020) that certain of its key duties and functions should continue, and that these duties and functions should be taken up by a new successor body: The Alaska Criminal Justice Advisory Taskforce. The duties and functions of the Taskforce should include:

- Data analysis, research, and reporting on all aspects of Alaska's criminal justice system established in the Alaska Constitution, including state laws, public safety, rehabilitation, crime and incarceration rates, the needs of victims, and other factors as set forth in the Alaska Constitution;
- Receiving data related to the criminal justice system from the Alaska Department of Corrections, the Alaska Department of Public Safety, the Alaska Department of Law, and the Alaska Court System;
- Identifying areas for improving the efficiency and effectiveness of the criminal justice system;
- Recommending expenditures from the Recidivism Reduction Fund;
- Making other recommendations and providing analysis as requested by the Legislature, the Executive, and the Judiciary; and
- Issuing an annual report.

As part of its current data analysis function, the Commission has reported on criminal recidivism. In Recommendation 11-2020, the Commission recommended including a definition of recidivism in the definition section of the Taskforce's enabling statutes, but did not recommend what that definition should be. The Commission then asked its Rehabilitation, Reentry, and Recidivism Reduction (RRRR) Workgroup to develop a detailed definition.

The RRRR Workgroup met and considered possible criminal recidivism definitions and measures appropriate to the statutory duties and functions of a successor entity to the ACJC. In the course of this work, the RRRR Workgroup learned that many states and state agencies around the

country, including Alaska's Department of Corrections (DOC), have traditionally measured recidivism only for felons leaving prison and only after a three-year follow-up period.

More recently, however, many states have moved to using more flexible measures of recidivism, in order to help policymakers readily answer key questions about the performance of the criminal justice system. Having more flexible measures of recidivism is useful for:

- Understanding short-term trends in reoffending, to identify immediate impacts to facilities, courts, defenders, prosecutors, and other criminal justice entities;
- Understanding recidivism's impact on the entire incarcerated population (including people convicted of misdemeanors) and the justice system as a whole, informing policy and measuring costs to the state;
- Understanding patterns of re-offending among convicted defendants who are not sentenced to terms of incarceration; and
- Evaluating program outcomes for programs that serve reentrants for a shorter duration than three years.

The RRRR workgroup ultimately decided it was unnecessary to enact a definition in statute, noting several disadvantages to identifying specific recidivism measures in its statute. First, the measures that would be used by a successor entity to the ACJC would necessarily differ from measures used by other entities for other purposes. Second, recidivism measures will differ depending on the nature of the particular analysis the ACJC's successor entity may wish to do or be asked to do. Finally, the DOC may wish to request that its own definition of recidivism be added to its governing statutes, and contended that it would confuse matters to have two statutory definitions.

For these reasons, the Commission withdraws its recommendation (stated in ACJC Recommendation 11-2020) that the definition of recidivism should be located in a definition section of the statute.

The Commission does recommend that the successor entity to the ACJC adopt the following definition for purposes of discharging its duties and functions under ACJC Recommendation 11-2020:

“Criminal Recidivism” is defined as the extent to which a person previously convicted of a crime subsequently is charged with or convicted of a new criminal offense, or a violation of probation or parole.

The Commission also recommends that the successor entity should use the following standard methods of measuring recidivism:

The percentage of people who are

- 1) Remanded to the Department of Corrections;
- 2) Convicted; or
- 3) Arrested

For a subsequent technical violation or new criminal offense, after having been

- 1) Convicted of a prior criminal offense; or
- 2) Released from DOC custody after serving a term of incarceration for a prior criminal offense.