

Alaska Criminal Justice Commission
Sex Offenses Workgroup

Meeting Summary for February 23, 2017

2:00 pm in the Jury Assembly Room, 3rd Floor Dimond Courthouse,
123 4th St, Juneau AK
And teleconference

Commissioners attending: Quinlan Steiner, Alex Bryner, Dean Williams, Trevor Stephens, Brenda Stanfill

Participants: Jordan Schilling, Terra Burns, John Skidmore, Tara Rich, Aliza Kazmi, Shannon Cross-Azbill, Natasha McLanahan

Staff: Susanne DiPietro, Staci Corey, Barbara Dunham

Workgroup chair

Commissioner Williams agreed to chair the workgroup.

Presentation by Brad Myrstol, Alaska Justice Information Center

Brad walked the group through slides he had provided to the group, which were a summary of the report on sex offender recidivism that he and other researchers at UAA prepared last fall. He noted the report was not an evaluation of DOC programs or treatment. The offenses included in the report as qualifying offenses are registrable sex offenses.

The first slide showed the cumulative recidivism rate for the cohort (sex offenders released from 2006 to 2008) over a 7-year period. The rates were cumulative, so they showed the percentage of offenders who had either been rearrested or reconvicted by a given year. By year 7, for example, 55.4% of offenders had been re-arrested at least once in that 7-year period. Susanne noted that this was consistent with a previous AJC study, but that study had only looked at a 3-year period.

The next slide showed that, compared to other offenders, the recidivism rate is significantly lower for sex offenders. Quinlan noted that there has been legislative testimony in the past that the recidivism rates are low because of low reporting rates. Does this address that? Brad said that victim research does indicate that sex crimes are underreported. On the other hand, no other class of offenders is as closely supervised. Sex offenders have probation officers, must submit polygraphs, and have to be on registries. This intense scrutiny lasts almost in perpetuity. So these offenders are more likely to be caught than other offenders once released from prison. Susanne said it also helps to remember that this is the class of offenders who have been caught, charged, convicted, and served time. The problem of underreporting may be more pronounced in regard to offenders who have not been caught.

Quinlan asked if Brad's team had compared recidivism rates for different offenses? Brad said they had not. John noted that this might not be a meaningful statistic as these crimes are often bargained down.

The data also showed the relative risk of reoffending over time. Slide 4 shows that the risk of an individual doing any new reoffending (i.e. being rearrested for any offense) nears zero over time. Susanne said this was consistent with data on the general offender population; if they're going to mess up, they will typically do so within 6 months to a year. Brenda wondered if the containment model loosened its restrictions over time. Commissioner Williams was not sure. Terra said it does; the colors [dictating requirements] are reduced. Commissioner Williams said that treatment is typically required within the first 18 months after an offender is released, and this treatment often has to be done outside of their home environment—usually in Anchorage.

The study also had information on what sex offenders were rearrested for, if they were rearrested. If they were rearrested for a sex offense, it was most often most often SAM. The most rearrests came from public administration offenses (a large chunk of which were failure to register as a sex offender), followed by non-sex assault and property offenses.

One of the aims of the study was to find out if there were differing trajectories for different offenders. This analysis compared an individual's behavior over time compared to everyone else. They found that there are four specific qualitatively different offender patterns. The groups each had different patterns of recidivism risk over time (the model predicted recidivism risk controlling for the length of time the offender had been outside of prison).

One group – Group 4, which accounted for 6.7% of the cohort – had a distinctly different recidivism risk curve than the other three groups. This group had an increasing risk of recidivism over time, peaking at 4.5 years after release. Groups 1-3 followed trajectories that were very different from Group 4 but similar to each other, though they are distinct groups. This analysis shows that people don't recidivate at the same rate, and that there is variety in rates of reoffending over time.

Quinlan asked what characteristics distinguish the groups. Brad said he didn't have a lot of extra data to dig into that. It wouldn't work to look at the underlying conviction because the sample size would be small, and he would be wary of the difference between the offense of conviction and the actual offense. He would be curious to know the charging information. He did link offenders in each trajectory group with basic demographic information. Brenda wanted to know what the recidivism offenses were—the higher risk group's crimes of recidivism could be all property.

Aliza noted that some of the legislative interest in learning more about sex offenses/offenders was focused on the age factor and the age differential. Brad said that age is definitely correlated with risk; the group that did not have any new offenses/arrests was older.

Brenda wondered if Table 1.2 in the report [which lists the distribution of post-release arrest offenses and convictions] could be broken down into trajectory groups. Brad said that it could in theory but his time is limited. Susanne suggested that AJC staff might be able to work on this.

Work plan

Barbara explained that the proposed work plan was to have meetings in April, June, and August to discuss the content of the report to send to the legislature, then to prepare a draft report in advance of the

December Commission meeting and get Commission approval of the report then. She noted this was not set in stone, as there was no due date for the report. She also provided the group with a list of topics to include in the report based on the discussion at the previous meeting.

John suggested focusing on the topics that were more global and pertained to the wide spectrum of sex offenses and sex offenders: (1) The effectiveness of sex offender treatment; (2) Offender reentry issues; (3) An historical look at previous sex offense laws and data and a comparison with current law.

Brenda asked whether the group should look at the age differential issue, namely, are the laws regarding age differentials appropriate? John said that was a smaller topic. Brenda said it was something that the legislature kept talking about and might be expecting a report on. Quinlan agreed that the report would need to deal with it. John noted that the concern voiced in some parts of the legislature was based on just one particular case. Quinlan said that was true, but in terms of the Commission's report, age differentials can be part of a more global discussion and the report can avoid basing any commentary on just one case. This issue brings up a more global question of which offenses should be labeled as a predatory sex offense, and whether the charges or convictions reflect actual culpability/risk.

Barbara noted that it will be hard to compare recidivism rates from before and after 2006—as Teri's memo explained, there won't be much recidivism data from offenders convicted after 2006 because they will be serving lengthy sentences. She has started on a legislative history of the 2006 laws, and noted that they seem to be based on data that may not be accurate and certainly contradicted by the report from Brad's team. The group was interested in looking at this more and exploring the sources of the data used in 2006.

Justice Bryner said the three topics seem appropriate, and wondered if it would be useful to look at risk assessments. John said yes, that could be included in the reentry section. Commissioner Williams said he also wanted to know what's happening there.

Terra asked whether it was possible to get a report on charging broken down by region—this had been discussed at the last meeting. John said he could theoretically do that but his reporting tool is broken and he was not sure when it would be fixed.

For the next meeting, the group agreed it would like to have presentation from DOC on reentry issues for sex offenders and treatment programs. The group would like to know how many sex offenders are on probation/parole, and where they live. They would also like to know how many sex offenders are treated in house and how many are treated outpatient. Barbara will contact DOC about this, ccing Commissioner Williams.

Barbara will also prepare a draft outline of the sex offenses report so the group can have an idea of what it would look like.

Brad said he could follow up with some of the data requests mentioned but he has mined his data as far as it will go. He could link up to data from Law to get charges and convictions but would need Commissioner Williams' permission to share DOC's data with Law. Accordingly, Commissioner Williams gave him permission. Brad will send John APSIN and ACOMS numbers from the cohort.

Sex trafficking

Terra informed the group of her background. Her father pimped her out as a teenager and prosecutors declined to prosecute him. As an adult she worked as a sex worker and then got her master's degree at UAA; her work centers on documenting the lived experiences of sex workers and she also serves as an advocate for CUSP (Community United for Safety and Protection), which has been lobbying the legislature to revise the sex trafficking laws.

In 2012, the sex trafficking laws were broadly redefined. She has the case numbers of every case prosecuted under the new laws since their enactment and has looked into the cases. In the first full year the new laws were in place, two people were convicted of sex trafficking themselves. She provided the group with a handout summarizing the other cases. This has stifled sex workers' ability to report crimes to law enforcement because they don't want to get charged with sex trafficking if they witness a crime while working. For example, two sex workers carpooled from Anchorage to Fairbanks, and shared a hotel room which was rented in one person's name. The other person was the victim of a violent robbery, and she did not want to report the crime because she was worried that her friend, who had rented the room, would be charged with trafficking her. CUSP believes Alaska should bring its definition of sex trafficking in line with the federal definition, which requires proof of force, fraud, or coercion.

Brenda asked if there was a reason the legislature didn't use the force, fraud, or coercion language. Quinlan explained that they just changed the name of the crime of promoting prostitution to sex trafficking, otherwise it was not a substantive change. He thought there was a need to distinguish consensual forms of promoting prostitution from coercive sex trafficking. The Commission's recent recommendation addressed narrow statutory change, but he thought the Commission should take a broader look at this issue. Terra said that the other problem with the change 2012 change in the law is that misdemeanor promoting prostitution was changed to felony sex trafficking.

Quinlan said it was important to distinguish between crimes involving force and coercion and those that do not. John thought this distinction was made in the degree (e.g. Sex Trafficking in the First vs Sex Trafficking in the Fourth). Commissioner Williams said that he would guess that most people would assume that all sex trafficking involves force and coercion just going on the name alone. Brenda thought that prostitution should be called prostitution, and sex trafficking called sex trafficking. There was a difference between marginalized women working together and actual trafficking.

Commissioner Williams asked how the group should bring itself up to speed on comparing Alaska's law to the rest of the US? He thought this was a gnarly subject, and wanted to know more about the history of these laws. In theory distinguishing between consensual prostitution and coercive sex trafficking aligns with the goal of SB 91, which was to concentrate resources on the highest risk or most dangerous offenders. He suggested having staff prepare a report on practices in other jurisdictions. Terra said there were plenty of studies available, including those from the UN and Amnesty International. Justice Bryner said that he would be interested in knowing more about federal prosecutions for sex trafficking, particularly those occurring in Alaska.

Judge Stephens said that he agreed with Quinlan that there was a substantive difference between promoting prostitution and sex trafficking. Quinlan said that the focus of the law should be on reducing violence.

Public Comment

Public comment was called for and there was none.

The next meeting was set for April with the date left open pending Judge Stephen's ability to get to Anchorage.