

Alaska Criminal Justice Data Analysis Commission

Meeting Summary

Tuesday, March 14, 2023

10:30 a.m. - 1:30 p.m.

Elizabeth Peratrovich Hall, Juneau/Zoom Hybrid

Commissioners Present: Jean Achee (Lt. Sitka Police Department); Samantha Cherot (Public Defender); Matt Claman (Alaska Senate); Alex Cleghorn (Alaska Native Justice Center); James Cockrell (Comm. Dept. of Public Safety); David Mannheimer (Ret. Judge, COA); Mike Matthews (Research Analyst, DOC); William Montgomery (Bethel District Court Judge); Brenda Stanfill (representing victims); Trevor Stephens (Ret. Judge, Ketchikan Superior Court); and Steve Williams (CEO, Alaska Mental Health Trust); John Yoakum.

Commissioners Absent: Tony Piper (DBH); John Skidmore (Deputy Atty Gen, Criminal Div. Dept. of Law); Sarah Vance (Alaska House of Representatives); and Brian Wilson (Capt. Anchorage Police Department).

Participants: Jessie Alloway (Dept. of Law); Geoffrey Bacon (ANJC); Andrew Gonzalez (UAA AJiC); Lizzie Kubitz (staff to Sen. Claman); Chanelle Lauger (DPS); Austin McDaniel (DPS); Nancy Meade (Alaska Court System); Dr. Brad Myrstol (UAA); Melan Paquette (public); Carl Reynolds (Council of State Governments (CSG) Justice Center); Tyler Watson (DPS); Travis Welch (Alaska Mental Health Trust); and Amanda Woody (DBH).

AJC Staff: Susanne DiPietro; Brian Brossmer; Teri Carns; Susie Dosik; and Jessicah Mathes.

Welcome, Approve Agenda and Prior Meeting Summary

Chair Claman called the meeting to order at approximately 10:30 a.m. Chair Claman asked for approval of the January 11, 2023, meeting summary. Comm. Cleghorn moved to approve the meeting summary, and Mr. Williams seconded the motion. It was approved without objections. Chair Claman asked for approval of the agenda. Comm. Cleghorn moved to approve the agenda, and Comm. Williams seconded the motion. It was approved without objections.

Future meeting dates

- May 31, 2023 at 1 p.m.
- August 31, 2023 at 10 a.m.
- October 12, at 10:00 a.m.

Progress Reports from Staff

Mandatory Arrest. Staff summarized research activities, including the *Mandatory Arrest in Alaska Domestic Violence Cases; Initial Proposal for study of DV Arrests* memo. Ms. DiPietro said that staff proposed a review of electronic data files about DV cases, and a paper file review of selected cases to obtain more information about victims, defendants, and matters such as treatment requirements that are not available electronically. She noted that a study to compare the effectiveness of mandatory arrest on any measures was not possible because the law requires mandatory arrest, eliminating the possibility of a control group.

Comm. Stanfill stated that mandatory arrest is not chiefly about recidivism, it is about safety: the safety of the victims, family members, etc. If a study's only outcome measure were recidivism, it would miss that crucial component.

Comm. Mannheimer agreed, that if the intent of the legislation were to protect individuals, recidivism would be a secondary measure. He wondered whether a study could measure knowledge of mandatory arrest, and whether or not that knowledge affects an individual's willingness to call law enforcement.

Comm. Cherot stated that the collateral consequences for the person charged are an important consideration. For example, if a file review were done, what information could be gathered about individuals post-conviction regarding mandated treatment (did they receive any? Did they complete?), whether the conviction lead to a loss of housing, custody of children, employment, etc. Comm. Stephens said that examining the log notes of case files may provide a method to collect information regarding collateral consequences, for example, if the defendant says that they will lose their job if not released from custody, or, if at subsequent court appearances, the victim is present and says the defendant should or should not be released.

Chair Claman asked whether mandatory arrest was a policy that discouraged some people from reporting domestic violence. Comm. Cockrell said that people in villages often don't report DV because the person involved is important to the economic life of the village, and they don't want them removed.

Staff said that answers to some questions regarding victim perspectives are in the 2022 report, *CDVSA Stakeholder Interview Project: Examining the State's Response to Domestic Violence*. Chair Claman said that reviewing existing reports may be worthwhile at this point; staff said they would create a report summarizing both the *Alaska Victimization Survey* and the *CDVSA Stakeholder Interview Project: Examining the State's Response to Domestic Violence*.

Comm. Stanfill stated that, in order to assess the public safety aspect of mandatory arrest, it may be necessary to interview both victims and defendants. Comm. Cherot said that an important focus should be whether the mandatory arrest law is making people safer, as well as possible unintended consequences to individuals arrested under the law.

Comm. Mannheimer said that in order to understand the legislative intent of the law, staff should go back to the discussion that occurred when the law was enacted: what were the concerns of legislators that precipitated the creation a mandatory-arrest law? Comm. Stanfill said that, in revising a study design, it would be beneficial to involve victims and stakeholders.

Ms. DiPietro said that the proposed study did not focus on recidivism, but only said that it would be studied if data were available. The proposed study will describe the existing system from arrest through disposition of DV cases, so that commissioners can review the data, highlight gaps, and consider what other analyses could be useful. Chair Claman asked if commissioners had any objections to proceeding with the study as proposed, and none did.

Ms. DiPietro said that staff would review interview methods and ways of identifying appropriate interviewees, to see what might best address the questions that commissioners have. Staff said that it would prepare additional materials for the May 2023 plenary meeting.

Diversion. Staff summarized research activities, including the *A brief overview of diversion programs in Alaska* memo. Ms. DiPietro said that this memo was the only comprehensive review of Alaskan programs. Most of the programs were/are small, and very few were evaluated. She added that by their nature, diversion programs tended to be hard to use on a larger scale.

One statutory program, SEJ (suspended entry of judgment) was recommended by the ACJC, but few charged people have been offered a chance to participate. Comm. Stephens said that he was disappointed because people had supported the concept. He wondered what the Dept. of Law's policy about offering SEJs was.

Comm. Stephens asked about youth courts. Ms. DiPietro said that because the juvenile justice system is based on different principles, staff did not include information about juvenile diversion programs. Comm. Stephens said that some youth court activities do involve people who are 18 and older. Comm. Cleghorn said that he understood that juvenile programs were different but that he believed that tribal juvenile programs should be included. He asked staff to review whether juvenile programs prevented kids from becoming adult offenders. Ms. DiPietro said that staff would contact the Division of Juvenile Justice about any research it has on these questions.

Comm. Cleghorn said that two civil diversions occurred during the first year of the Dept. of Law program, but he did not know about activity since then. Ms. DiPietro asked Comm. Cockrell if DPS kept information about civil diversion recommendations, and said that she would ask Anchorage Police Department for information as well. Comm. Cockrell said that police records document recommendations, but he did not know where but would find out how to get that information to the commission.

Chair Claman said that civil compromise is another statutory diversion option, and that it was rarely used. Ms. DiPietro said that she would find out whether the court had information about that disposition of a case. Comm. Stephens said that as a prosecutor he had handled a couple; he thought that the disposition would be recorded as a dismissal.

Comm. Cherot noted that diversion is used for only a few cases, and said that the diversion information should be included in the Commission's annual report, and Chair Claman said that it would be. Comm. Williams said that additional program evaluations are available and that he would provide those to staff.

Reentry Services. Ms. DiPietro asked Ms. Dosik to summarize her work to date on reentry programs, including her *Re-Entry Services and Treatment Project Update* memo. Ms. Dosik said that she has contacted a number of people and has more interviews scheduled. The Div. of Behavioral Health will not have any data until October at the earliest. Comm. Williams said that the Trust would share any data that they have on reentry programs. Staff said that community re-entry coalitions and their locations would be included in the final version of this report.

Competency and Restoration. Ms. Dosik said that the court provided data from their files. She has talked with API staff, and they will provide data. Chair Claman said that the legislature has at least two bills on this topic already and will be interested in whatever data the commission can provide. Ms. Dosik said that she planned to have materials for the commission on or before the May meeting.

Time to Disposition. Ms. DiPietro summarized the *Time to Disposition* report, noting that graphs included a line marking the beginning of COVID-related restrictions. She called members' attention to the fact that some of the trends shown by the graphs started before the restrictions. The report includes analyses by severity of offense, location, and other measures. Time to disposition tables, described in Appendix A, show that misdemeanors reach disposition more quickly than felonies, and that the most serious felonies take the longest to resolve. Time to disposition began to lengthen before the COVID-related restrictions.

Ms. Meade said that court records show that about 40% of felony cases end in a complete dismissal of all charges in the case; about 51% of all misdemeanor cases are disposed of with a complete dismissal. She added that of the 2,700 felony cases dismissed in 2022, 1,420 were dismissed by the prosecutor entirely, and another 290 were dismissed by the prosecutor as part of a plea bargain with another case. Of the dismissals, 750 were complaints that were filed in court by law enforcement that were not carried forward by the prosecution. Ms. Meade said that she did not think that CourtView had electronic data about the point in the case at which the prosecutor filed a dismissal.

Comm. Mannheimer wondered how many people were incarcerated pretrial for cases that were when dismissed. Ms. DiPietro said that the Council and DOC have tried in the past to understand the situation but matching the cases with DOC incarceration data is difficult.

Comm. Stephens wondered if there were national standards related to victims' rights, defendants' speedy trial rights, or other time-to-disposition standards. Comm. Stephens questioned how many cases were being disposed via *Dismissed Under CrR 45 (Speedy Trial)*, and the role of staffing (prosecutors and defense attorneys) in possible delays. Ms. DiPietro said that the Alaska Supreme Court has adopted time standards. The time standards for criminal cases call for a certain percentages of cases to be resolved within certain periods (for example, 75% of felonies are to be resolved within 120 days excluding the time from judgment to sentencing; 75% of misdemeanors to be resolved within 75 days).

Comm. Mannheimer asked if staff could identify the reasons for a long time to disposition; for example, if competency was at issue, that would explain a long time to disposition, or if the defendant absconded. On the other hand, Comm. Mannheimer said that if cases did not include one of those more understandable factors, would it be possible to identify other reasons. Staff said that the Criminal Justice Working Group (CJWG) examined some of these questions, looking especially at continuances. It was difficult for find reasons for continuances in court records.

Comm. Stanfill asked whether the Department of Law could answer some of these questions with their data. A commissioner asked whether just the number of continuances granted per cases is recorded, not necessarily the reason for the continuance, and whether there is court capacity to include this information as part of the electronic record if it is not already being collected. Ms. Mead said that it is unlikely that this information could be collected currently.

Ms. DiPietro said that the CJWG contemplated sending observers to omnibus court hearings to collect the continuance data, absent another way to gather it. Staff could investigate the feasibility of doing so; however, it would be important to know what information would be missed if the sample was limited to large, omnibus hearings. Comm. Montgomery suggested getting the audio tapes for omnibus hearings rather than going into courtrooms. Comm. Stanfill said that a focused study on more serious offenses would be important.

Public Comment Period

Chair Claman invited public comment period at 11:30 a.m. n. Ms. Melan Paquette commented about sex offender registries. No other members of the public commented, and Chair Claman closed the period at noon. He reminded participants that comments were always welcomed at the ACJDAC website.

Recidivism: Presentation and Discussion

Prof. Brad Myrstol, UAA Justice Center: Overview of Recidivism (a copy of this presentation is available on request)

Prof. Myrstol provided a conceptual overview of recidivism. Comm. Cleghorn asked what would be the rationale of not including misdemeanants in the measurement of recidivism. Prof. Myrstol said that approaches to measuring recidivism should reflect the goals of crime policy, and that there should be flexibility in the measurement of recidivism. Comm. Cleghorn questioned whether technical violations should rise to the level of a recidivism event.

Comm. Mike Matthews, Department of Corrections: DOC methodology for calculating felony recidivism (A copy of this presentation is available on request)

Comm. Matthews provided an overview of recidivism as calculated and tracked within the Alaska Department of Corrections. Comm. Mannheimer asked whether it was possible for a crime committed prior to the conviction that lead to inclusion in a

recidivism cohort but disposed after release from custody be counted as a recidivism event. Comm. Matthews said that steps were taken to prevent that but that it was possible that instances like that were included.

Comm. Stanfill asked if an individual was remanded but the charge associated with that remand was later dismissed, would that would count as a recidivism event. Comm. Matthews said that it would not. Comm. Stanfill also said she would be interested in seeing the rate of recidivism of those referred to particular programs, particularly reentry; Comm. Matthews said that that may be possible in the future.

Comm. Claman said that the commission also wanted to look at the relationship between the LSI-R (Level of Service Inventory-Revised) risk categories and recidivism.

Adjourn

Chair Claman adjourned the meeting adjourned at 1:32 pm.