

Alaska Criminal Justice Data Analysis Commission

Meeting Summary

Wednesday, May 31, 2023

1:00 p.m. - 3:30 p.m.

Anchorage Legislative Information Office/Zoom Hybrid

Commissioners Present: Lt. Jean Achee (Sitka Police Department) [Zoom]; Samantha Cherot (Public Defender); Matt Claman (Alaska House of Representatives); Alex Cleghorn (Alaska Native Justice Center); James Cockrell (Comm. Dept. of Public Safety [Zoom]; David Mannheimer (Ret. Judge, COA) [Zoom]; William Montgomery (Bethel District Court Judge) ; Laura Russell (Department of Health); John Skidmore (Deputy Atty Gen, Criminal Div. Dept. of Law); Trevor Stephens (Ret. Judge, Ketchikan Superior Court) [Zoom]; April Wilkerson (Deputy Commission, Department of Corrections); Steve Williams (CEO, Alaska Mental Health Trust) [Zoom]; Brian Wilson (Capt. Anchorage Police Department) [Zoom]; John Yoakum (PDA/DOL designee).

Commissioners Absent: Brenda Stanfill (ANDVSA); Sarah Vance (Ak. House of Representatives)

Participants: Jessie Alloway (Department of Law); Beth Johnson (Department of Law, Research); Carl Reynolds (Council of State Governments (CSG) Justice Center) [Zoom]; Adam Rutherford (Department of Corrections); Doreen Schenkenberger (Partners for Progress) [Zoom]; Laura van der Lugt (Council of State Governments) [Zoom]; Travis Welch (Mental Health Trust); Jennifer Williams (Department of Law).

AJC Staff: Susanne DiPietro; Brian Brossmer; Teri Carns; Susie Dosik, Barbara Dunham.

Welcome, Approve Agenda and Prior Meeting Summary

Chair Claman called the meeting to order at 1:01 p.m. He asked for approval of the agenda. Mr. Skidmore moved to approve the agenda, and Ms. Cherot seconded the motion. The agenda was approved without objections. Chair Claman then asked for approval of the March 14, 2023, meeting summary. Ms. Cherot moved to approve the meeting summary, and Mr. Cleghorn seconded the motion. It was approved without objections.

Presentation on Justice Counts

Carl Reynolds, Senior Legal and Policy Advisor at the Council of State Governments described the Justice Counts project and invited the commission members to consider working with Alaska to join as one of the first ten jurisdictions. The project works with states and other

jurisdictions to create aggregate measures of criminal justice data that can be shared and used by policy makers to inform their decisions. He emphasized that the data were not “street-level” individualized data, but measures such as cost, the movements of people through criminal justice systems, fairness, and public safety. Agencies and states working with the Justice Counts program would have technical assistance, data tools, and graphics for presentation of data, with which they could begin to share their aggregate information within the state, and with other jurisdictions.

Chair Claman asked what would happen if Alaska joined. Mr. Reynolds said that CSG would consult extensively with each individual commission member and agency about what their agency was interested in, and what their needs would be. Mr. Cleghorn asked about tribal participation. Ms. Van der Lugt said that CSG is working with a number of tribes as sovereigns including in Montana, Arizona, New Mexico, and other areas. Mr. Skidmore asked about the other states; Mr. Reynolds said that Indiana, Iowa, Missouri, Montana, Nevada, New Mexico, and Ohio are participating. Ms. Van der Lugt said that six other states (Arizona, Oregon, Illinois, North Carolina, Oregon, and Wisconsin) are doing groundwork to join Justice Counts. Ms. DiPietro asked what would happen if not all agencies were able to participate. Mr. Reynolds said that would not create problems; the program offers great flexibility.

Public Comment

Chair Claman paused discussion at 1:30 p.m. to open public comment, and left the comment period open until 2:00 p.m. There were no public comments. Chair Claman noted that the Commission welcomes public comment at any time; comments may be emailed or mailed to the Commission office or sent online.

Forensic Competency and Restoration Data Presentation and Discussion

Chair Claman said that Ms. Dosik, Judicial Council Administrative Attorney, would present the staff’s work analyzing data and issues related to forensic competency processes.

Ms. Dosik said that the court and API (Alaska Psychiatric Institute) provided data for an analysis of cases handled, timing, and outcomes. She thanked them for their contribution, and AJC staff Brian Brossmer for his data compilation and analysis. She said that the staff drew on a 2019 Agnew::Beck study of competency issues for background data. The main concerns with the forensic competency process are public safety, the rights of the individuals involved to due process, and the potential for litigation resulting from delays.

Ms. Dosik said that the data available for 202 from API and the court did not always overlap precisely. Chair Claman asked if the differences were important, and Ms. Dosik said that they were minor, and not a problem in the analysis.

Ms. Dosik said that the number of cases in which a forensic competency exam was ordered increased substantially between 2018 and 2022, and that there is now a backlog of cases. Chair Claman asked if data were available from 2020 and 2021; Ms. Dosik said that it would

have been a burden to the court to provide that information, and that the present analysis gave enough detail to highlight the major issues with the evaluation and restoration processes.

Mr. Skidmore asked about the number of people admitted for restoration. Ms. Dosik said that no restoration was being contracted out at present, so the only restoration beds available are the ten beds in the Taku unit at API. Two pilot projects are planned: one for outpatient restoration in the community, and another for outpatient in-custody restoration in DOC institutions.

Ms. Dosik said that people charged with felonies accounted for 60.7% of the evaluations ordered in 2022; with misdemeanors, 36.6%; and with Petitions to Revoke Probation/Parole, 2.7%. Nearly two-thirds (62.1%) of those for whom judges ordered an evaluation were charged with offenses against a person; and 35% of the cases included a charge of Violating Conditions of Release (VCOR) in addition to other charges.

Ms. Dosik said that 63% of the orders for evaluations were in Anchorage cases. Ms. DiPietro wondered how that compared with the percent of all cases for the different locations, and Chair Claman said that Anchorage has only 40% of the state's population.

Ms. Dosik said that of the 404 orders for evaluation, competency was determined without a hearing or evaluation in the record for eighteen people, and another sixty had an evaluation on record, but did not have a hearing. Chair Claman asked for more information about that group of people, adding that the attorneys could have agreed that there was no need for a hearing.

The court determined that 32.7% of those evaluated were competent to stand trial; 48% were not, and made no determination for 19% of those evaluated. Of the 404 cases, 59 remained open at the time of the study, and 68% were dismissed, either by the prosecution or the court. Twenty-nine percent were found guilty (or entered a nolo plea) by plea or trial. Ms. Skidmore said that if the individual was found not competent, the statute requires that the prosecution dismiss the case. He added that if a person was in custody for a substantial amount of time, the prosecution might dismiss the case before a finding was made.

Ms. DiPietro said that the commission discussed the amount of time needed to get the evaluation and dispose of the cases at its last meeting. Ms. Dosik said that the time was measured from the date of the competency hearing to the disposition of the case. If a person was found competent at the hearing, the average time to disposition was 126 days for a felony and 140 days for a misdemeanor. If the person was found incompetent, the time to disposition was 43 days for felony cases, and 3 days for misdemeanor cases.

Ms. Dosik said that the court also determined whether a person found incompetent could be restored to competency to stand trial. Of the 404 cases reviewed for 2022, 96 had restoration orders. The average waiting time from the restoration order to admission for restoration was 146 days (about five months), and the average length of stay for restoration was 76 days (about two and a half months). Members discussed the wait times in the context of the ten API beds

available for forensic cases. Mr. Skidmore said that prosecutors reviewed cases and might dismiss misdemeanor cases that had a long wait time if more serious cases could get into a restoration bed sooner.

Ms. Dosik summarized the demographic characteristics, noting that the percent of individuals found incompetent [and admitted to API?] who were Native went from 32% in 2018 to 62% in 2022.

Ms. Dosik said that 62% of the people included in the 404 cases for 2022 had only one case; 38% had more than one (6% had 4 to 10 cases). Mr. Cleghorn wondered whether changes between 2018 and 2022 were related to the pandemic. Ms. Dosik said that there was not enough context for a good answer. Ms. Cherot said that cases had been rising since 2016, throughout the country.

Ms. Dosik noted that the new Crisis Now Centers across the state (funded in part by the Mental Health Trust) appeared to be diverting a number of people with mental health issues from the justice system.

Chair Claman asked if members wanted this and additional information about forensic competency determinations included in the annual report. Members concurred that they did. Ms. Dosik asked members to send her any questions that they had about the presentation and about additional matters related to forensic competency. Members discussed whether a workgroup would be helpful and agreed that they could send individual questions to Ms. Dosik.

Executive Branch Ethics Training

Chair Claman introduced Jessie Alloway, Ethics attorney for the Department of Law, who provided a required ethics training for all commission members. Commission members received materials for the discussion prior to the meeting, and Ms. Alloway reviewed the points with the aid of PowerPoints. Ms. Alloway covered points about conflicts of interest, misuse of an official position, gifts, and considerations after leaving a position as an employee or commission member. She added that anyone with questions should contact her or Jennifer Williams, Dept. of Law Ethics paralegal.

Adjourn

After Ms. Alloway completed her presentation, Chair Claman said that concluded the agenda for the meeting. He noted that the next meeting on August 31 would focus on the Annual Report. The meeting adjourned at 3:20 p.m.