

ALASKA CRIMINAL JUSTICE COMMISSION

2018 Annual Report

November 1, 2018

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Executive Summary

In 2014, the Legislature established the Alaska Criminal Justice Commission to make recommendations for justice reinvestment, to improve public safety outcomes, and to increase the efficiency of the criminal justice system. Accordingly, the Commission made recommendations focused on helping Alaska direct its criminal justice resources where they are needed most: (1) prioritizing prison beds for serious and violent offenders, (2) curbing corrections costs, (3) improving reformation and rehabilitation opportunities for non-violent offenders and those with alcohol and substance abuse disorders, and (4) reinvesting state resources into programs that help reduce recidivism and prevent crime.

The Legislature enacted comprehensive justice reform legislation in 2016 based on the Commission's recommendations. It then made significant adjustments to the reform legislation in 2017, and further modifications in 2018. The Commission is required to monitor the implementation of criminal justice reform and report annually to the Legislature. As summarized below and described in detail in this Report, Alaska is making progress in each of the four areas. The Report also continues the Commission's duty to provide further recommendations for criminal justice reform.

Prioritizing Corrections Resources for Serious and Violent Offenders

The Commission recommended, and the Legislature enacted, provisions that increased sentences for first- and second-degree murder, decreased other sentences, and left sentences for sex offenses the same. The Legislature made the penalty for possession-only drug offenses a suspended sentence for the first and second offense. It reduced prison terms for petty theft. **People convicted of violent crimes now make up a greater share of the prison population.**

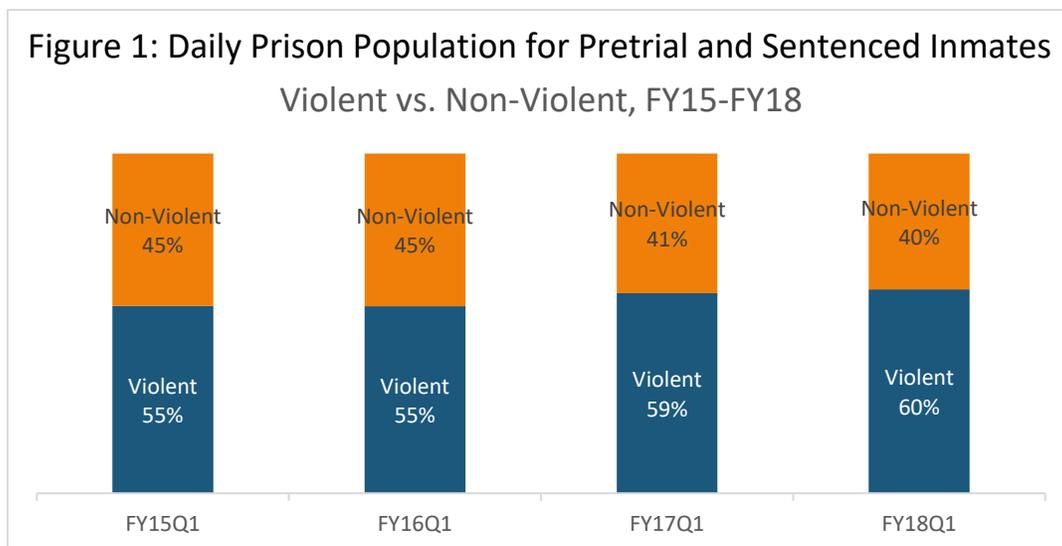


Figure 1 Source: Department of Corrections

There are now **fewer admissions to prison for drug possession** (Class C felonies or Class A misdemeanors), though more people were admitted to prison for Class B felony-level commercial drug offenses (i.e. distribution and manufacturing) in FY 18 than in previous years.

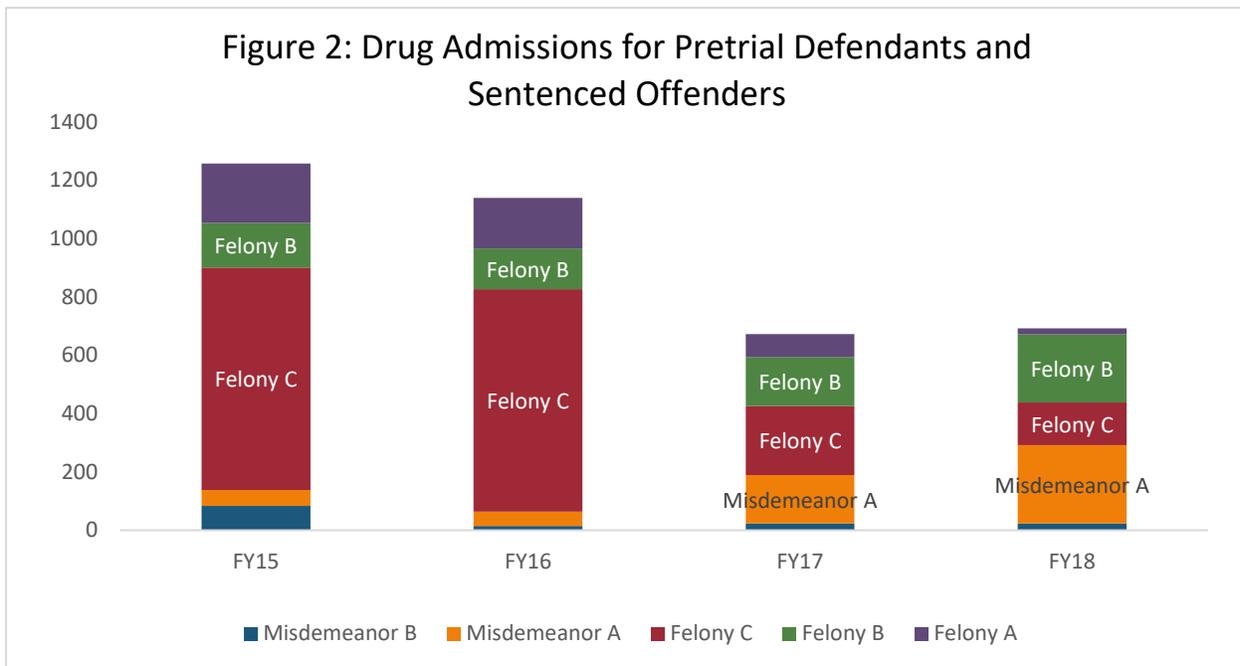


Figure 2 Source: Department of Corrections

Prison admissions increased after more resources were dedicated to law enforcement and prosecution. Admissions to prison dropped in 2016, then began increasing in 2017. This increase coincided with rising arrest rates, increased law enforcement and prosecutor staffing rates at the municipal and state level, and changes to the law.

A greater share of the probation and parole population is made up of those assessed as high risk for recidivism or convicted of violent crimes.

- Over 80% of those eligible to earn time off of their probation or parole terms have done so by complying with the conditions of their supervision.
- Probation/parole officer caseloads have decreased since reforms were implemented, allowing officers to focus more on those who need tighter supervision.

Stabilizing Corrections Costs

Prior to reform, the Commission found that the prison population was expanding at an unsustainable rate that would have required Alaska to build a new prison in 2017, just five years after completing the prison at Goose Creek.

The Commission analyzed Alaska's prison population and identified the drivers of Alaska's incarceration rates. Recognizing that increasing sentences and lengths of stay in prison do not produce better outcomes for certain offenses, the Commission made recommendations to the Legislature that would ensure that more corrections resources were targeted at the most serious offenders.

Prison Population



After the Legislature enacted criminal justice reform, **the overall prison population has decreased**. The prison population has decreased 4.8% from the quarter before criminal justice reform was enacted to the last quarter of FY18. The decrease in the prison population allowed DOC to close a facility in late 2016.

Admissions to prison are still down 8.3% from their peak in 2014, but **admissions increased 11.4% in the last three quarters of FY18**, as noted above. While reflective of an increased response to crime, the increasing admissions over the last year would likely have necessitated reopening a prison facility without criminal justice reform.

- A large pretrial population and lengthy jail terms for those who committed technical (non-criminal) violations of probation or parole were two of the biggest drivers of Alaska's escalating prison population prior to reform.
- Criminal justice reform targeted these two groups, which may have helped keep the overall prison population below pre-reform levels despite increasing prison admissions in the last year.

More people released on bail,
Appearance rate remains steady,
Racial disparity may be decreasing

More people are being released on bail.¹ Changes to pretrial detention procedures became effective starting January 1, 2018, and the new **Pretrial Enforcement Division** within DOC became fully operational. Duties for this new division include supervision and monitoring of pretrial defendants.

This new division allows judges to rely less on a person's ability to pay money for bail and more on nonmonetary methods to ensure defendants attend court hearings and obey laws. A

¹ Criminal defendants have a right to bail before trial, a right guaranteed by both the Alaska and United States Constitutions.

larger proportion of defendants are now released before trial. (About 52% of arrestees were detained before reform, and about 25% are detained after reform.)

- Even though more people are now being released on bail, their attendance at court hearings is the same as under the old system (only about 13% miss a hearing).
- A recent analysis suggested that higher rates of pretrial detention for Alaska Native defendants, which had been documented in Alaska for many years, may be decreasing after the implementation of bail reform.

Given the recent rise in admissions to prison, it appears that these new pretrial procedures have helped keep corrections costs down. If pretrial defendants had been detained at the old rate, DOC might have had to reopen its shuttered facility.

More people are successfully completing probation and parole. People who have earned credits and early discharge from probation and parole have exited probation/parole officer caseloads, allowing low-risk supervisees – who are the most likely to follow the rules and earn compliance credits – to complete probation or parole earlier. This decrease in the number of low-risk supervisees allows probation officers to focus on higher-risk individuals.

More successful probation and parole discharges also means fewer people are returning to prison for violating the conditions of their probation or committing a new crime, another factor contributing to the decrease in the overall prison population.

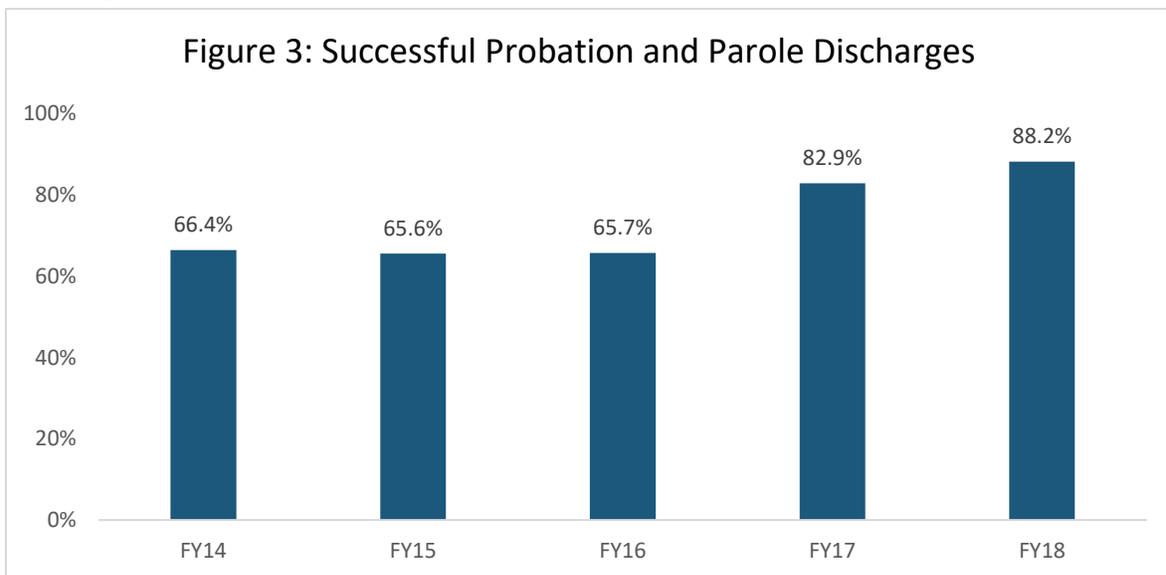


Figure 3 Source: Department of Corrections

Improving Reformation and Rehabilitation Opportunities to Reduce Recidivism

Since the enactment of criminal justice reform, over \$40 million has been reinvested in treatment, reentry services, violence prevention services, and criminal justice reform implementation. Treatment and reentry services and programs funded include:

- **Reentry services** for individuals leaving prison, including:
 - Community reentry case management in Anchorage, the Mat-Su, Juneau, Fairbanks, and Dillingham;
 - New reentry coalitions in Dillingham, Ketchikan, Nome, and the Kenai Peninsula;
 - Housing assistance through Partners Reentry Center in Anchorage and the Alaska Housing Finance Corporation.
- **Substance abuse treatment** in prisons, including:
 - Medication-assisted treatment;
 - Expanded assessment services;
 - Expanded outpatient programming within corrections facilities and halfway houses.

Over \$40 million
reinvested in:

- Reentry Services
- Violence Prevention
- Substance Abuse Treatment
- Pretrial Enforcement

Reinvesting State Resources to Prevent Crime

The Legislature has also invested in evidence-based **violence prevention programming**, including:

- Bystander intervention training;
- Programming for children and teens on preventing dating violence, leading healthy lifestyles, and building confidence and self-respect.

Crime Trends Are Not Dependent on Sentencing Policy

There has been a great deal of discussion and commentary on crime rates in Alaska. There are many factors that drive crime trends, such as the economy, alcohol consumption, demographics, and

policing. Researchers have determined that incarceration rates have not affected crime rates since the 1990s, and that we experience diminishing returns with increased incarceration rates.

It is also important to emphasize that many of the trends we are seeing in crime began before the Legislature implemented any criminal justice reform measures. Crime trends also differ by location, despite uniform statewide sentencing laws.

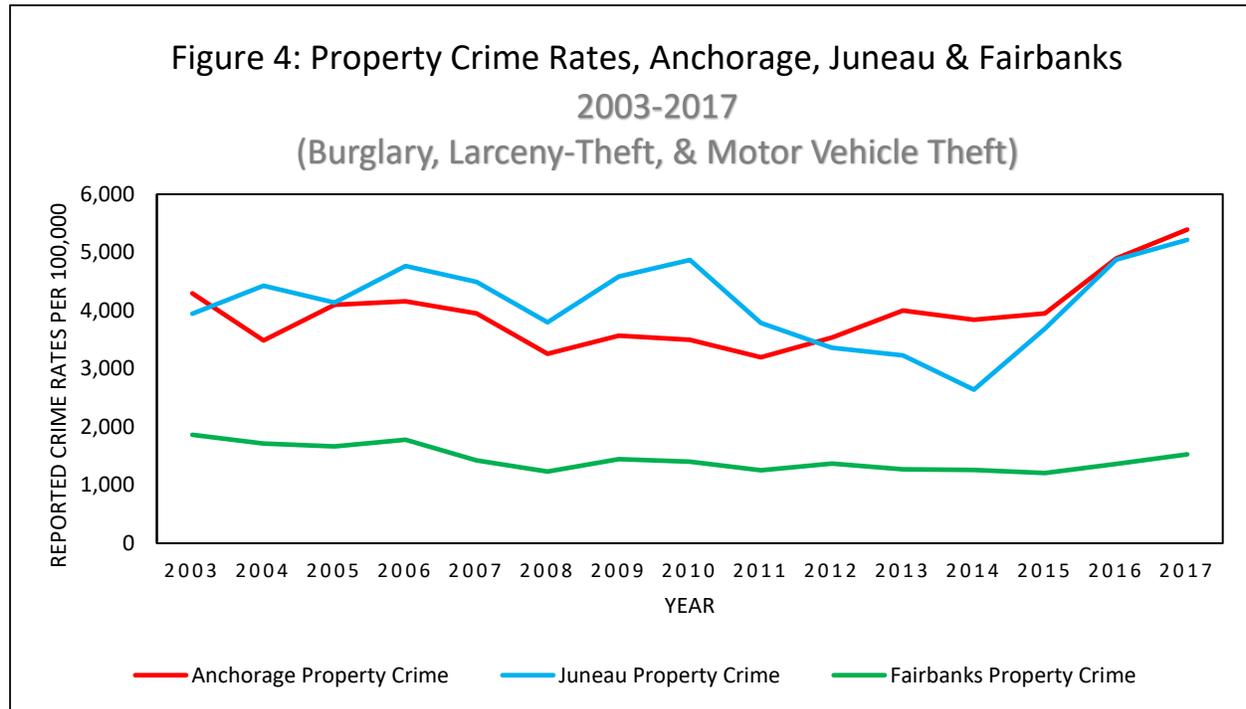


Figure 4 Source: Department of Public Safety

Recommendations for further reinvestment

The Commission continues to recommend that the Legislature make a commitment to robust reinvestment funding, in particular:

- **Expanded funding for treatment**, including:
 - Provide flexible state funding for the Division of Behavioral Health to be used for community-based providers for mental health treatment and social services.
 - Increase substance use disorder funding, including investing in physical infrastructure.
 - Increase the agility and sustainability of substance use and mental health treatment statewide, across timeframes of a justice-involved individual (school, pre-charge, pretrial, prison, reentry).

- Provide timely and available assessments and treatment.
- **Expand capacity for the seriously mentally ill to be assessed and treated outside the corrections system**, including:
 - Build infrastructure to care for Alaskans whose legal competency is in question and who must be evaluated and perhaps restored before a criminal case against them may proceed. Assess the current forensic capacity at the Alaska Psychiatric Institute (API) to meet the needs of this population.
 - Add forensic psychologists and psychiatrists to augment the existing capacity of API to evaluate and treat these individuals.
- **Expanded pre-charge or pretrial diversion**, including:
 - Tribal court agreements for youth and providing more services through tribes.
 - Fund a data-driven, evidence-based pre-charge/pretrial diversion program with behavioral health supports to sustain it.
- **Develop a strategic plan for statewide development of therapeutic courts.**
- **Rethink incarceration**, including:
 - Train and retrain DOC staff to focus on rehabilitation.
 - Fund more resources for “behind the walls” treatment.
- **Expand services for those on probation and parole.**

Recommendations for reinvestment

- Expanded funding for treatment
- Expand capacity for the seriously mentally ill to be assessed and treated outside the corrections system
- Expand pre-charge or pretrial diversion
- Develop a statewide strategic plan for therapeutic courts
- Rethink incarceration practices
- Expand reentry services and services for people on probation and parole
- Evaluate existing domestic violence programming
- Expand victims’ services

- **Expand reentry services**, including flexible state funding for immediate, individualized transitional services and supports.
- **Evaluate existing domestic violence intervention programming.**
- **Expand victims' services**, including:
 - Increased services for **child victims and witnesses**.
 - Additional training for law enforcement officers who respond to **domestic violence calls**.
 - During the parole and reentry phase of the criminal justice system, crime **victims should also be considered clients**.
 - Regularly offer institutionalized **training** to teach criminal justice professionals about **victims' rights and trauma-informed responses** to victims.

Policy and statutory recommendations

The Commission has also continued to look at various policies and statutes relating to the criminal justice system and identifying areas for improvement. Over the last year, the Commission made recommendations for the following:

- **Behavioral Health Recommendations**
 - Expand data sharing capacity, infrastructure, and formalized agreements among agencies.
 - Expand Crisis Intervention Training efforts and include a co-response mental health practitioner element.
 - Develop crisis stabilization centers.
- **Sentencing Recommendations**
 - Enact a Class A Felony for Misconduct Involving a Controlled Substance for offenses involving large quantities.
 - Amend AS 12.47.050 provisions regarding the release of guilty but mentally ill prisoners.
- **Barriers to Reentry Recommendations**
 - Reinstate the clemency process and clear the backlog of clemency applications.
 - Enact redaction statutes for most offenses.

The Commission has also made recommendations in previous years that have yet to be the subject of any legislation. Those recommendations are summarized in the report below.

I. Introduction/Background

This is the Alaska Criminal Justice Commission's fourth annual report to the Alaska State Legislature. The Commission's reports are due to the Legislature by November 1 of every year.

The Alaska Criminal Justice Commission was the product of a bipartisan legislative effort to introduce evidence-based reforms to Alaska's criminal justice system. The Commission's enabling legislation provides it with a broad mandate to examine the state's criminal laws, sentences, and practices. Since the Commission began meeting in September 2014, it has heard from community stakeholders, state agencies, experts, and the public about what works and what does not work in Alaska's criminal justice system.

The Commission has sent a number of recommendations to the Legislature, many of which have been enacted into law. The most notable piece of legislation to arise from the Commission's recommendations was Senate Bill 91 (SB 91), enacted in 2016, which made broad changes to Alaska's criminal justice system.

SB 91 tasked the Commission with monitoring the implementation of criminal justice reform. This report builds on last year's report, and it is the first report to be issued after SB 91 became fully operative with the implementation of the pretrial reforms coming into effect at the beginning of this year. This report also takes into account the modifications made to criminal justice reform efforts via Senate Bills 54 and 55 (2017), and House Bill 312 (2018).

This report also includes additional recommendations for reforms to Alaska's criminal justice laws and for reinvestment in programs to reduce recidivism and improve public safety.

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II. Recommendations to Improve the Criminal Justice System

The Commission is required by AS 44.19.645 to evaluate the effect of sentencing laws and criminal justice practices on the criminal justice system, including examination of public safety, community condemnation, the rights of crime victims and offenders, restitution, and the principle of reformation. The Commission discharges this responsibility through research and study, and through soliciting input from the public and experts within the criminal justice system. The Commission then makes recommendations to improve the criminal justice system if needed.

The Commissioners meet regularly to review and analyze information, take public input, and discuss policy issues and recommendations. To assist with this work, the Commissioners created several working groups that meet between Commission meetings (often several per month). These working groups enable Commissioners to develop data and information at a more detailed level to inform their deliberations.

In the last year, the Commission and its working groups met over 30 times. All meetings are publicly noticed and open to the public. Members of the public and interested stakeholders regularly attend Commission and workgroup meetings. All meetings are open to public comment. A summary of public comments made during plenary meetings is available on the Commission's website, at <http://www.ajc.state.ak.us/alaska-criminal-justice-commission/>.

Since its inception, Commission has made several dozen recommendations to the Legislature, the Governor, and the Court System. This report contains several new recommendations, detailed in the subsections below.

In addition to the information contained in the section below, the appendices offer additional details on the work of the Commission.

Appendix A gives more details on the procedural aspects of the Commission's work.

Appendix B gives more information about the Commissioners.

Appendix C lists all of the Commission's recommendations since 2015.

A. Recommendations Related to the Behavioral Health System

Recognizing the significant overlap in the areas of criminal justice and behavioral health, the Commission has created a standing committee devoted to the topic of behavioral health. The standing committee includes representatives from DOC, DHSS, the Department of Public Safety, the Alaska Mental Health Trust, the Department of Law, the Public Defender Agency, the Office of Public Advocacy, the Alaska Native Tribal Health Consortium, the Commission's advocate for victims, and community providers.

Previous recommendations that have yet to be addressed by the legislature. The Commission made several recommendations to the legislature regarding behavioral health in 2016. These recommendations were:

- **Allow defendants to return to a group home on bail with victim notice and consent.** Alaska Statute 12.30.027(b) concerns bail conditions for those charged with crimes involving domestic violence. The statute currently prohibits a person charged with such a crime from returning to the residence of the victim of the offense for a period of 20 days.

This statute affects individuals with behavioral health disorders who, as a result of their disorder, will sometimes lash out at or assault caregivers or other residents in an assisted living facility or similar group home. Because of the statute, these individuals are not able to return home after committing the assault, and with nowhere to go, the individuals' behavioral health conditions will worsen. Often the victim of the assault (a caregiver or co-resident) is not opposed to the individual returning to live at the facility.

The Commission recommended amending the statute to allow defendants charged with assault on a co-resident or staff of an assisted living facility, nursing home, or other supported living environment to return to that living environment while on bail, provided the victim is given notice and the victim's safety can reasonably be assured.

- **Include behavioral health information in felony presentence reports.** The Commission recommended that the legislature amend the relevant statutes and court rules to require that felony presentence reports discuss any assessed behavioral health conditions that are amenable to treatment, if such assessments exist, so that judges will have information on a

Behavioral Health Recommendations

- Allow defendants to return to a group home on bail if victim given notice and victim safety can be assured
- Include behavioral health information in felony presentence reports.
- Include the Commissioner of the Department of Health and Social Services on the Commission

Behavioral Health Recommendations

- Expand data sharing capacity, infrastructure, and formalized agreements among agencies
- Expand Crisis Intervention Training efforts and include a co-response mental health practitioner element
- Develop crisis stabilization centers

defendant's behavioral health needs at sentencing. The reports should also include recommendations for appropriate treatment in the offender's community.

- **Include the Commissioner of the Department of Health and Social Services on the Commission.** Given the significant number of justice-involved individuals with behavioral health needs, the Commission recommended including the Commissioner of the Department of Health and Social Services as a member of this Commission. Commission members felt that this would allow for easier communication and interaction with DHSS as it implements significant reforms related to justice reinvestment.

The legislature partially acted on this recommendation in the special session ending in November 2017, when it passed legislation adding the Commissioner of DHSS as a non-voting Criminal Justice Commission member. In February 2018, the Criminal Justice Commission voted to clarify that the original intent of this recommendation was for the Commissioner of DHSS to become a voting member.

The full text of these previous recommendations, along with suggestions for amended statutory language, is included in Appendix D.

New recommendations. The Behavioral Health Standing Committee forwarded several recommendations to the Commission, and the Commission voted to adopt them at its September 2018 meeting. Those recommendations are:

- **Expand data sharing capacity, infrastructure, and formalized agreements among agencies.** The Commission recommends increased effort and funding support to further develop data systems infrastructure and the requisite staff capacity.

Although significant strides have been made to improve data collection and sharing within and across State agencies, challenges remain regarding infrastructure, staff capacity and data sharing agreements. These are required to regularly and consistently collect, analyze and report on criminal justice trends and programs intended to promote rehabilitation and recidivism reduction. Furthermore, it promotes greater communication among agencies for the purpose of better identifying and meeting the behavioral health needs of Alaska's justice-involved population. Data sharing also allows analysts to have a more complete picture of aggregate data to identify trends and help inform policy discussions and decisions.

- **Expand Crisis Intervention Training efforts and include a co-response mental health practitioner element.** The Commission recommends increased effort and funding support for: (1) Crisis Intervention Team (CIT) training opportunities, (2) enhanced CIT law enforcement response with a co-mental health response element in existing communities with a CIT program, and (3) establishing the co-response model in communities where there is interest and capacity.

Some local law enforcement agencies and their officers (in Anchorage, Palmer, Wasilla, Juneau, and Fairbanks), as well as some officers and units of the Alaska State Troopers, have been trained in the Memphis model of Crisis Intervention Team training. However, increased and enhanced efforts are needed. Crisis Intervention Team training provides law enforcement officers with skills and knowledge to better respond to individuals experiencing a mental health or behavioral health crisis.

The co-response model involves both a law enforcement officer and a mental health practitioner responding to identified calls involving persons in a mental health crisis to divert the individual (when appropriate) to needed services instead of jail. The co-response approach helps find long-term solutions for individuals whose behavioral health needs led them to the point of crisis. It relieves the burden of law enforcement officers to locate appropriate services for the individual in crisis, decreases the number of repeat calls for service for the same individual, and when appropriate, prevents unnecessary incarcerations.

- **Develop crisis stabilization centers.** The Commission recommends that the Legislature support current efforts aimed toward the development, implementation and operations of crisis stabilization centers in communities where there is a shared commitment to developing such centers. The Commission also recommends exploring the development of this type of service in other communities around the state.

Although hospital emergency rooms in Anchorage provide critical emergent and acute psychiatric care, that level of care may not be required for some individuals if other options existed. Therefore, crisis stabilization centers would offer law enforcement officers a diversion option instead of jail for individuals who are experiencing a crisis and need to be removed from a situation. Currently, the Department of Health and Social Services has issued a request for proposals to establish a crisis stabilization facility in South Central Alaska, using \$4,000,000 in funds appropriated during the 2018 legislative session. If DHSS receives responses to the request and a project is created, this funding would last just under three years.

B. Recommendations Related to Sentencing

The Commission's Sentencing Workgroup has discussed a variety of sentencing and crime classification issues, including the presumptive sentencing scheme and items in the penal code that may have unintended outcomes.

Previous recommendations that have yet to be addressed by the Legislature. The Commission made several recommendations to the legislature regarding sentencing in 2016 and 2017. These recommendations were:

- **Enact acceptance of responsibility mitigators.** In 2016, the Commission recommended enacting two statutory mitigating factors for defendants who demonstrate an acceptance of responsibility for their conduct. Statutory mitigating factors ("mitigators") allow a judge to sentence an offender below the presumptive term if the judge finds that the mitigator applies to that offender or offense.

The Commission recommended adding two mitigators. One would apply if the defendant has entered into a plea agreement, and one would apply if the defendant has not. The Commission expects that both of the recommended mitigators would conserve prosecutorial, defense and court resources by promoting timely resolutions of criminal cases. Timely resolutions are usually consistent with victims' interests.

- **Amend the three-judge panel statute.** In 2017, the Commission recommended amending the statutes pertaining to the three-judge panel. The three-judge panel is a special sentencing body that may sentence a defendant outside the normal applicable sentencing range if manifest injustice would result from imposing a sentence that is within the range.

In practice, the three-judge panel is not often used. The standards for its use are not clear to practitioners, and the infrequency of its use means that many judges are unfamiliar with the process as well. Furthermore, when a panel does not find manifest injustice, the case must be sent back to the original sentencing judge for sentencing within the authorized range. This can extend the sentencing of a case by weeks, if not months, and delay closure for the victims. If the panel were authorized to impose a sentence within the authorized range, it would save this last step.

The Commission therefore recommended amending the relevant statutes regarding the three-judge panel's authority. If the panel does not find manifest injustice, the Commission also recommended that the panel retain jurisdiction over the case and sentence the

Sentencing Recommendations

- Enact acceptance of responsibility mitigators
- Amend the three-judge panel statute

person within the authorized range, so long as the defense and prosecution agree.

The Commission also recommended codifying the non-statutory mitigators of “extraordinary potential for rehabilitation” and “exemplary behavior after the offense.” These factors are already recognized in case law. If they were codified, it would save the court and the parties’ time because any case where the mitigators might apply would be subject to sentencing in the regular trial court rather than the three-judge panel.

- **Enact a vehicular homicide statute.** In 2017, the Commission recommended enacting or amending several statutes to create three new offenses and separate sentencing provisions for those offenses. The new offenses would be aggravated vehicular homicide, vehicular homicide, and negligent vehicular homicide. These offenses are comparable to second-degree murder, manslaughter, and criminally negligent homicide.

This recommendation was developed to respond to concerns that in cases where the driver at fault in a vehicle crash involving multiple fatalities (for example, if an intoxicated driver causes a crash that kills the occupants of the driver’s vehicle or another vehicle), the mandatory minimum sentence may be disproportionate.

Alaska’s statutes do not currently contain separate vehicular homicide provisions, so anyone who causes the death of another person while operating a motor vehicle would be guilty of second-degree murder, manslaughter, or criminally negligent homicide. Second-degree murder has a mandatory minimum of 15 years, which must be imposed separately and consecutively for every death caused. For example, if a person causes the death of four people in a vehicle crash and is convicted of second-degree murder, that person would receive a mandatory minimum sentence of 60 years.

If enacted, aggravated vehicular homicide would be an unclassified felony and carry a mandatory minimum of 15 years. Vehicular homicide would be a Class A felony and negligent vehicular homicide would be a Class B felony; both of these offenses would be subject to the usual presumptive sentencing scheme.

For consecutive sentences in cases where the defendant has caused multiple deaths, the defendant would have to be sentenced to at least one fourth of the mandatory minimum or presumptive term for each additional victim;

Sentencing Recommendations

- Enact a vehicular homicide statute
- Enact a Class A felony for Misconduct involving a Controlled Substance
- Amend the “guilty but mentally ill” law

the rest could be served concurrently. (This provision would not prevent a judge from imposing the entirety of each sentence consecutively, but it would no longer be required in all cases.)

The full text of these previous recommendations, along with suggestions for amended statutory language, is available on the Commission's website at: <http://www.ajc.state.ak.us/alaska-criminal-justice-commission/commission-recommendations>.

New recommendations. The Commission approved two new recommendations related to sentencing and classification this year; they are listed below. (Note that the first of these recommendations was not the product of the Sentencing Workgroup but rather was directly proposed to the Commission by the Department of Law.)

- **Enact a Class A Felony for Misconduct Involving a Controlled Substance.** In January 2018, the Commission voted to recommend enacting a Class A-level felony offense for Misconduct Involving a Controlled Substance. Current law distinguishes between “user-dealers,” who deal drugs only in small quantities to support their addiction, and commercial dealers, who deal drugs in larger quantities to turn a profit. But it does not distinguish between higher-volume or lower-volume commercial dealers.

The highest level of offense at which a commercial dealer could be charged is a Class B felony (MICS 2), or, in limited circumstances, an unclassified felony. The Commission recommended creating a Class A felony to penalize manufacturing, delivering, or possessing with intent to manufacture or deliver more than 25 grams of a Schedule IA substance (such as heroin) or more than 50 grams of a Schedule IIA or IIIA substance (such as methamphetamine or cocaine).

- **Amend provisions in AS 12.47.050 regarding the release of guilty but mentally ill prisoners.** In April 2018, the Commission voted to recommend amendment of the statute that governs the release of prisoners who have been found guilty but mentally ill (GBMI). That statute, AS 12.47.050, precludes GBMI prisoners from being released on parole or furlough if they are receiving treatment for the mental disease or defect that causes them to be dangerous.

DOC interprets this statute to mean that a GBMI prisoner who is receiving treatment may not be released on parole or furlough, even if the treatment is simply the regular administration of medication and the prisoner is otherwise stable. Since the statute was enacted, no GBMI prisoner has been released. DOC has begun assessing these cases on an ad-hoc basis, but DOC staff report that they would appreciate some legislative guidance.

The Commission's suggested amendments would shift the statute's focus from whether the prisoner is receiving treatment to whether the prisoner is currently dangerous. It would require DOC to hold a dangerousness hearing 180 days before parole release eligibility. The Commission recommends this timeframe because the parole board must hold a parole release hearing within 90 days of parole eligibility.

The full text of these new recommendations, along with suggestions for amended statutory language, is included in Appendix E.

C. Recommendations Related to Barriers to Reentry

The Barriers to Reentry Workgroup identifies the challenges returning citizens face upon release from prison and solutions to mitigate the impact of these challenges to reduce recidivism.

New recommendations. The Commission approved two new recommendations in the last year related to barriers to reentry. They are:

- **Reinstate the clemency process and clear the backlog of clemency applications.** Clemency can refer to either a pardon (where the whole conviction is pardoned) or a commutation (where the sentence is reduced). In Alaska, this power rests exclusively with the Governor.

Since statehood, the governor has made a final determination in 651 clemency cases; clemency was granted around 62 times. The clemency process was put on hold starting in 2009, and while the Parole Board was still accepting applications and keeping them on file, the applications were not considered by the governor.

The Commission therefore recommended in December 2017 that the Governor's office activate the Executive Clemency process and address the backlog of clemency applications. Starting in January 2018, a new process for considering applications was put in place and the Governor's office began reviewing applications. Applicants who had submitted clemency applications while the process was on hold have been instructed to re-file using an updated application form.²

- **Enact redaction statutes for most offenses.** Alaskans with past criminal records often have difficulty in obtaining employment, housing, financial loans, and financial aid. In some cases, the criminal records relate to conduct that is no longer criminalized in the State of Alaska, or to convictions that have been set aside by a judge. There are many Alaskans who have been fully rehabilitated and do not pose a threat to public safety but continue to be subject to the stigma that comes from having a criminal conviction on one's record.

The Commission researched various ways to provide relief from these harsh collateral

Redaction Recommendation

Redaction: a way of limiting access to criminal records for those who have not been convicted of any new offenses since completing their term of imprisonment, parole or probation.

The Commission recommends automatic redaction in some cases, and redaction by petition to the court in other cases.

² More information can be found on the Parole Board's website: <http://www.correct.state.ak.us/parole-board/clemency-update>

consequences of a conviction. Criminal record clearance is often called expungement. However, the Commission's recommendation refers to a process whereby a person's criminal record is withheld from the general public but is not destroyed. To differentiate this process from one which involves the destruction of records, the Commission refers to its recommended process as *redaction*.

Under the Commission's redaction recommendation, qualifying convictions would be withheld from CourtView, access to the court's paper file would be limited, and also DPS would withhold the conviction from a standard background check. Under the Commission's proposal, a person whose conviction has been redacted may choose not to disclose the conviction in employment and other situations.

The redaction procedures recommended by the Commission vary depending on the circumstances. In some cases, automatic redaction of a criminal conviction after a certain period of time may be appropriate. In other cases, a judge should make a determination based on a petition submitted by the person who wishes to redact their criminal history. It is the Commission's hope that redaction will ease the reentry process for deserving individuals who have fully satisfied their debt to society.

The following is a brief summary of the Commission's recommendations related to redaction.

- **Convictions for simple possession of marijuana and minor consumption of alcohol should be redacted automatically and immediately.** These offenses are no longer criminalized in Alaska.
- **Successful Suspended Imposition of Sentence (SIS) cases should be redacted automatically.** This only applies to cases where a judge suspended the imposition of a sentence pending the successful completion of a term of probation, the defendant successfully completed probation, and the judge then set the defendant's conviction aside. Redaction should occur 1 year (for misdemeanors) or 5 years (for felonies) after the date of set-aside.
- **Most offenses should be eligible for redaction by petition, with some exclusions.** Redaction would not be automatic; it would be incumbent on a person with a criminal record to petition the court for redaction. Misdemeanor offenses should be eligible 3, 4, or 7 years from the date of unconditional discharge from custody, probation, or parole, whichever is later. Felony offenses should be eligible 10 years from the date of unconditional discharge. Multiple offenses may be redacted with one petition, but a person may only seek redaction once. Sex offenses and unclassified felonies should not be eligible.
- **Redaction would withhold the record of conviction for most background checks.** A person whose record is redacted may opt not to disclose any redacted convictions and may not be fired for failing to disclose redacted convictions. Criminal records will still be available to law enforcement and to the subject of the record. Redaction would not relieve a person from any outstanding restitution obligation.

- **Certificates of rehabilitation should also be available by petition.** A person with a criminal record may apply for a certificate of rehabilitation any time after unconditional discharge. The certificate would say that the person has not committed any new offenses and has shown evidence of rehabilitation.

Appendix F contains a complete explanation of the Commission's recommendation for redaction.

D. Previous Reports

In December 2016, the Commission sent the Legislature two in-depth, one-subject reports, which each contained recommendations for legislative change.

Report on Victim Restitution. This report was based on data on collection rates and collection mechanisms in Alaska. The Commission found that about half of restitution awards in state cases were under \$1,000, and that many offenders do make payments on restitution obligations, but that some victims are unaware of how to ask for restitution. In response, the Commission recommended:

- **Increase opportunities for victims to request restitution** by modifying court judgment forms and requiring prosecutors to clearly notify victims of deadlines and procedures for applying for restitution.
- **Develop ways to monitor the restitution obligations** of those not on felony probation or parole.
- **Amend AS 12.55.045** to remove the requirement that a defendant provide a financial statement.
- **Amend AS 12.45.120**, the statute providing for civil compromise for misdemeanors, to allow the compromise of larceny offenses.
- **Streamline civil execution.**
- **Expand opportunities for victims to receive “bridging” restitution funds** that cover costs to the victim until the offender is able to pay the victim restitution. A version of this recommendation was enacted in June of 2018. HB 216 authorized the Office of Victim’s Rights to administer restitution payments from a “restorative justice account” created by the Legislature.
- **Use technology to encourage offenders to make restitution payments** in court and online.
- **Amend AS 43.23.005** to allow offenders who serve only short prison sentences to retain their PFD eligibility and require those offenders to apply for the PFD each year in which they are eligible until restitution is paid in full.

A complete copy of the report is available on the Commission’s website at:

<http://www.ajc.state.ak.us/sites/default/files/commission-recommendations/acjcrestitutionreportdecember12016v2.pdf>

Report on Impaired Driving and Related Offenses. This report was developed by the Commission’s Title 28 Working Group, which reviewed Alaska’s laws on impaired driving and related offenses over the course of 2015 and 2016, and developed recommendations in response to specific questions from the Legislature. The following is a summary of the report’s responses to the legislative inquiries:

- **Administrative license revocation** should be maintained. **Judicial license revocation**, which often serves a distinct function from administrative license revocation, also should be maintained. (The Legislature had asked the Commission to look into whether the two forms of revocation were redundant.)

- The DMV should not require use of an **Ignition Interlock Device (IID)** as a predicate for license reinstatement, unless it is so ordered by a court.
- Use of an **IID should remain a prerequisite for approval of limited licenses** during the pendency of a revocation period, though remote continuous alcohol monitoring technologies should be allowed as an alternative to IID use in this case.
- **Individuals convicted of Refusal should also be eligible for limited licenses**, just as individuals convicted of DUI are.

A complete copy of the report is available on the Commission's website at:

http://www.ajc.state.ak.us/sites/default/files/commission-recommendations/acjctitle28reportdecember12016v2002_0.pdf

III. Criminal Justice Reform Implementation Data

SB 91 directed the Commission to oversee the implementation of criminal justice reform and justice reinvestment. The Commission is required to track outcomes of any changes made to the law pursuant to the Commission's 2015 Justice Reinvestment Report. The Commission must receive and analyze data from the Department of Corrections, the Alaska Court System, and the Department of Public Safety. These agencies are required to send information to the Commission every quarter. The Commission also must continue to make recommendations for reinvestment should additional savings be realized.

Implementing the reforms has required substantial effort on the part of the departments and agencies tasked with making operational changes. The Commission is monitoring the progress of these efforts. Also on the Commission's agenda is to monitor the funding appropriated by the Legislature for treatment, programming, and victim's priorities as part of the reinvestment package. The Commission's findings on the progress of implementation are detailed below; its report on reinvestment activities is contained in section IV.

A. The Prison Population

Criminal justice reform began in 2016 with the passage of SB 91. Because SB 91 affected sentencing, probation, parole, and pretrial detention practices, the prison population was one of the areas most impacted by the changes to the law. The prison population was likewise impacted by the passage of SB 54 in 2017 and HB 312 in 2018. Other factors unrelated to legislation also have affected the prison population: increasing crime rates and arrest rates, as seen in Section IV below, have driven up criminal case filings, and that, in turn, has had an effect on the prison population. This section examines four ways of understanding prison population changes: total population, admissions, length of stay, and legal status of inmates.

The big picture: the change in the total prison population. The changes to the law as a result of criminal justice reform affected various prison population groups in different ways. First, however, it is helpful to look at the changes to the prison population as a whole.

The Commission recommended many of the changes that were implemented in 2016 as a way to reduce the prison population. This was for two main reasons: one, the prison population was reaching unsustainable levels, and two, with a smaller prison population, the state would be better able to concentrate resources on high-risk

Changes to the prison population

- The overall prison population has decreased
- Admissions to prison have been rising in the last year
- Average felony sentences are slightly shorter

offenders and focus on improved public safety outcomes. If the trend that was observed between 2004 and 2014 had continued, Alaska would have needed to build another prison or resume sending prisoners out of state as early as 2017.

The Commission also found that people had been staying in prison for longer periods of time for the same conduct—whether they were serving time for a new sentence, remanded for a supervision (probation or parole) violation, or were being held pretrial—over the decade from 2004-2014. Though the length of stay for most people in prison increased over that time, the recidivism rate remained the same—about two of every three people released from prison would return within three years. This data mirrored national research indicating that longer prison stays do not discourage reoffending.³

The changes to the law in 2016 responded to the Commission’s findings and recommendations by enacting shorter sentences for most non-sex crimes,⁴ shorter sentences for purely technical violations of probation and parole (i.e., non-criminal conduct), and reforms to pretrial release practices.

After the 2016 sentence reforms became effective, some members of the public, criminal justice practitioners, and legislators became concerned that some sentences were now too short. In 2017 the Legislature responded to these concerns by enacting SB 54, which increased sentences for the smallest

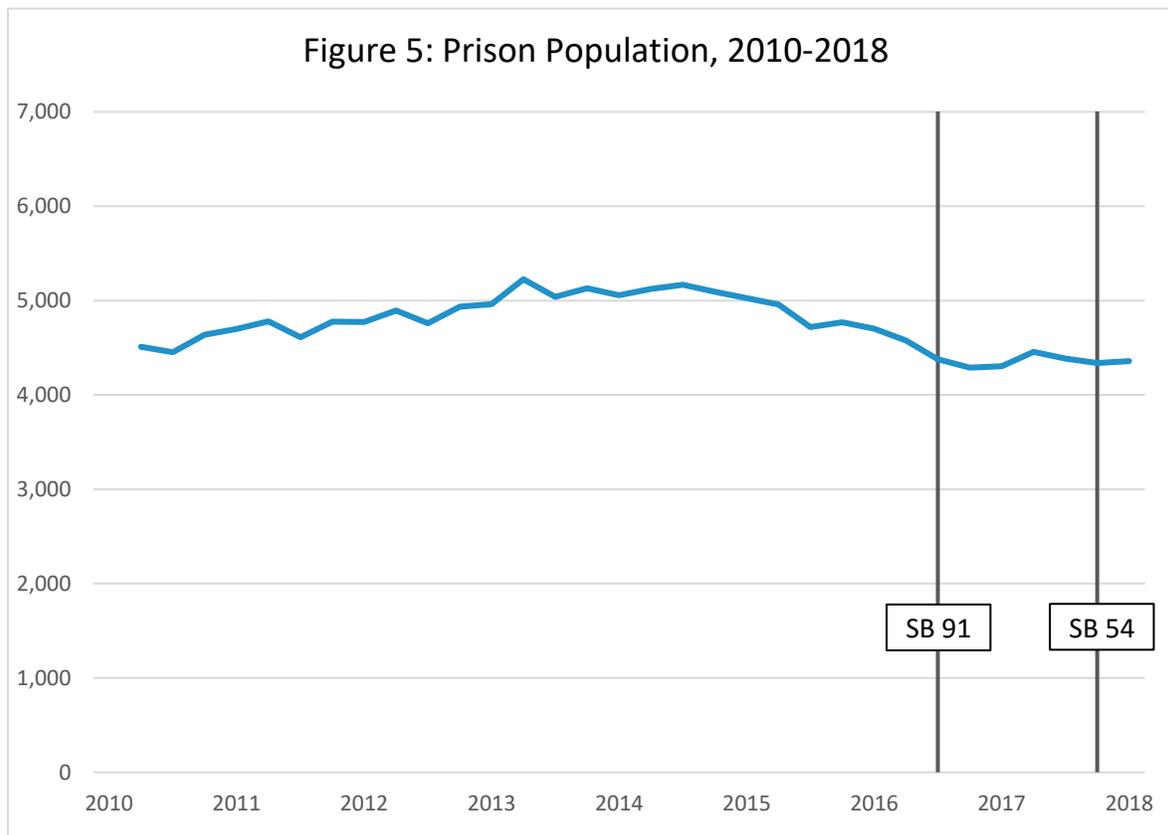


Figure 5 Source: Department of Corrections

³ See, e.g., Nagin, Cullen, & Lero Jonson, “Imprisonment and Reoffending” *Crime and Justice* Vol. 38, No. 1 (2009), University of Chicago Press. Available at: <https://www.jstor.org/stable/10.1086/599202>.

⁴ Sentences for first- and second-degree murder were increased.

theft crimes, for people who break court-imposed rules while out on bail, and for first-time C felons. (Appendix G explains all of the changes to the law to date, beginning with SB 91.)

The net effect of these legislative changes has been a decline in the prison population from its peak at the end of 2014. Figure 5 above shows the change in the daily population at DOC's prisons since 2010.

Prison Population



Although the total prison population has decreased by 4.8% since the quarter preceding the enactment of SB 91, the prison population began to rise again at the beginning of 2017. Many factors may cause the prison population to increase or decrease: the crime rate, the arrest rate, staffing patterns for law enforcement and prosecutors, and legislative decisions all play a role in how many people are incarcerated.

Admissions to prison. A second way of examining prison population trends is to look at admissions. At a very basic level, Alaska's prison population is a product of both the number of people admitted to DOC custody and the length of their stay in custody. Figure 6 below shows that admissions to prison per quarter began to decline in 2015, hitting a low at the end of 2016. At that point, admissions began to rise. This admissions data can be linked to the arrest rate data in Section IV. The fact that admissions have been increasing since the beginning of 2017 is reflective of increased law enforcement staffing, increased arrests and increased case filings in that time. There is also a noticeable uptick in admissions after the passage of SB 54.

Although total prison admissions are down 8.3% since the beginning of FY15, admissions in the last three quarters of FY18 increased 11.4%. This most recent series of increasing admissions will be important to watch in the future.

Prison Admissions



Since the total prison population is a product of the number of people admitted to prison and the length of their stay in prison, the average length of stay must decrease to offset increasing admissions if any decrease in the overall prison population is to be maintained.

Length of Stay. Length of stay is a third measure that policy makers use to understand the need for prison beds. Length of stay is the time a person has spent in prison, measured at the date of the person's release. In its first report to the legislature in 2015, the Commission found that one of the key drivers of Alaska's unsustainable prison growth was increasing lengths of stay. Between 2005 and 2014, average lengths of stay rose across all categories of felony crime, without any corresponding legislative policy intent to increase sentences.

Many factors determine a person's length of stay in prison, but one of the primary factors is the sentence imposed when the person was convicted.⁵ Because many people leaving prison may have been sentenced years earlier, data on average length of stay based on releases is not necessarily representative of newer sentencing trends. Current data show that average felony length of stay has been increasing, a continuation of the trend the Commission identified in 2015.

⁵ Other factors include eligibility for parole or furlough.

If both admissions and length of stay continue to rise, the decrease in the total prison population will be negated, and Alaska will be faced with the same problem of unsustainable prison growth that it had in 2015.

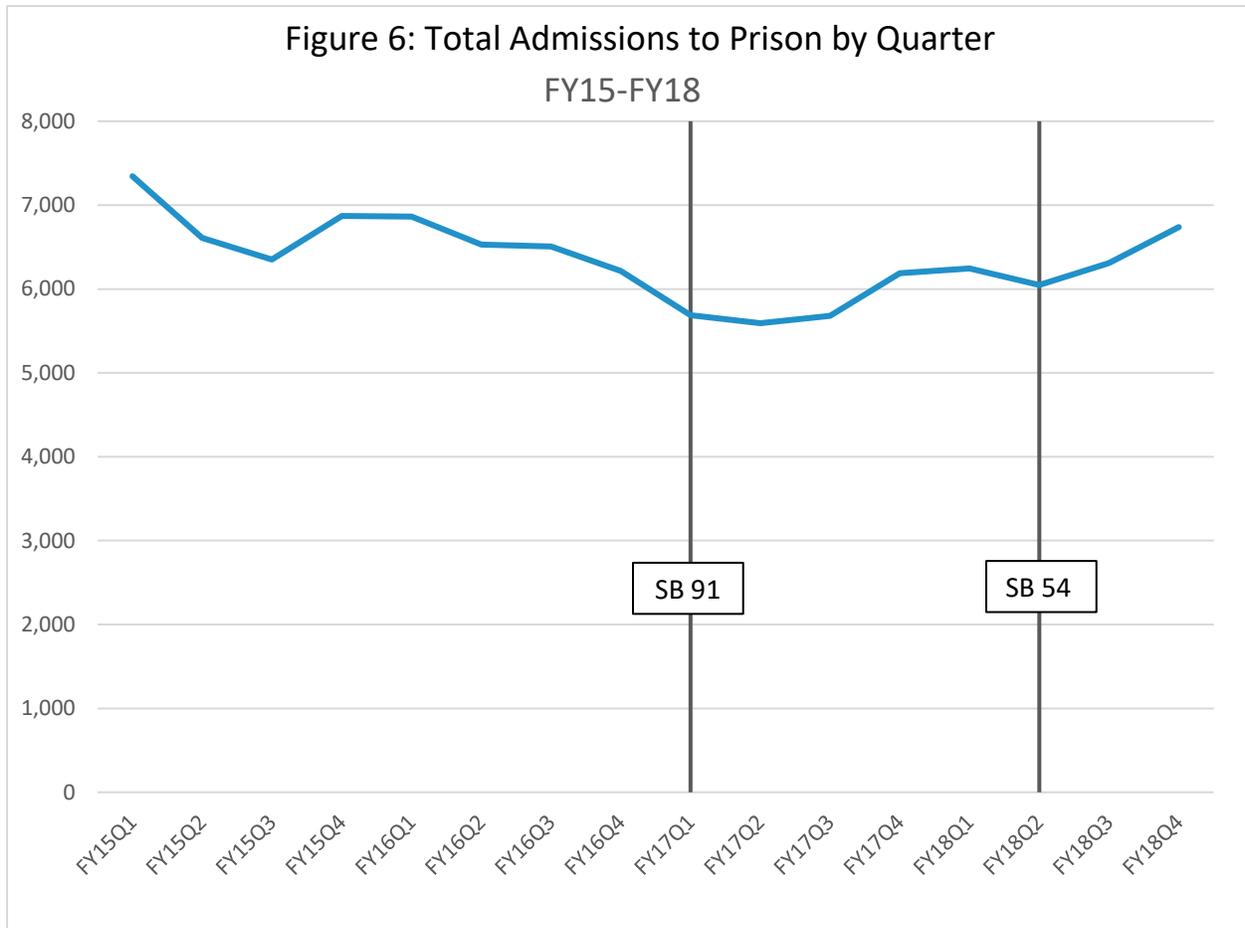


Figure 6 Source: Department of Corrections

Average sentence lengths. As noted above, however, average length of stay is an imperfect barometer of how prison population trends will change in the future. Sentencing changes that were put in place recently might affect average length of stay in the future. Current data on average prison sentences imposed, therefore, can provide a more immediate picture of sentencing trends and give an indication of where average length of stay trends might head in the future.

Figure 7 below shows average sentence lengths, in days, per quarter for the last few years. This data is captured at the time a defendant is sentenced, and is therefore more reflective of current sentencing practices. Though there has been a good deal of variability in felony sentences over the last few years, the trend appears to be moving towards slightly shorter felony sentences. With the exception of the last quarter of FY17, misdemeanor sentence lengths appear to be holding steady.

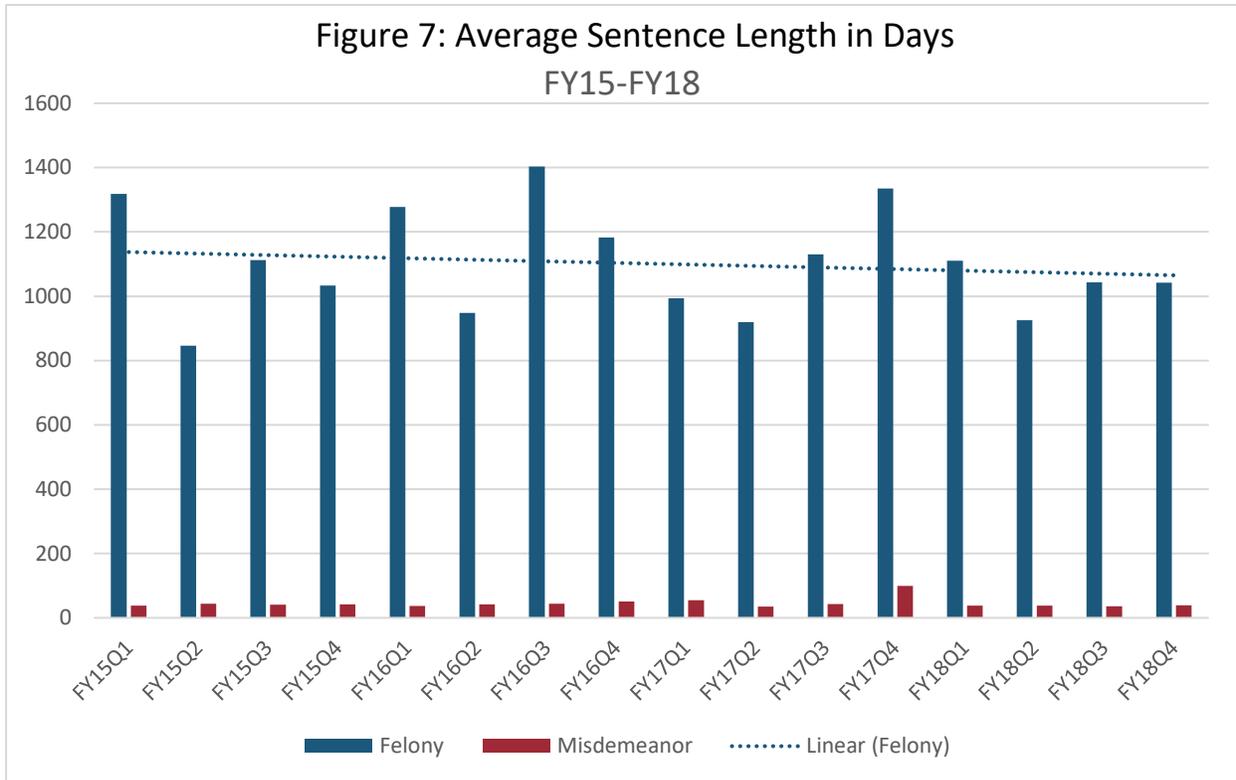


Figure 7 Source: Department of Corrections

These trends in the overall prison population do not tell the full story of criminal justice reform. The changes to the law were intended not just to reduce the prison population, but also to change the composition of the prison population so that state resources would be spent wisely—concentrating resources on the prisoners who pose the highest risk to public safety. The sections below take a look at the results of these targeted reforms.

Legal status of inmates. A fourth way to understand Alaska’s prison population is to look at the legal status of the inmates who are incarcerated. Inmates categorized by legal status fall into three groups: **sentenced offenders, pretrial defendants, and supervision violators**. In 2014, the Commission found that only around half of the prison population was made up of those who had been sentenced for a crime. The other half consisted of those who had been remanded to prison for committing technical violations of their parole or probation conditions (“supervision violators”) and those who had been charged but not convicted of a crime (“pretrial defendants”). The Commission therefore recommended changing the laws so that prison resources could be concentrated on convicted and sentenced offenders (as well as pretrial defendants who are high risk for new criminal arrest or failure to appear—more information on these changes is included in the pretrial section below).

Changes to the prison population

Those convicted of violent crimes make up a greater share of the population

Figures 8 and 9 below show the pre- and post-reform status of offenders in DOC facilities sorted by legal status (sentenced, supervision violators, pretrial). They show that the sentenced offender population remains relatively unchanged, while the supervision violator population has decreased, and the pretrial population has increased slightly. It is not surprising that the percentage of pretrial defendants in prison has risen, because admissions have been increasing, and pretrial admissions account for the bulk of all admissions.

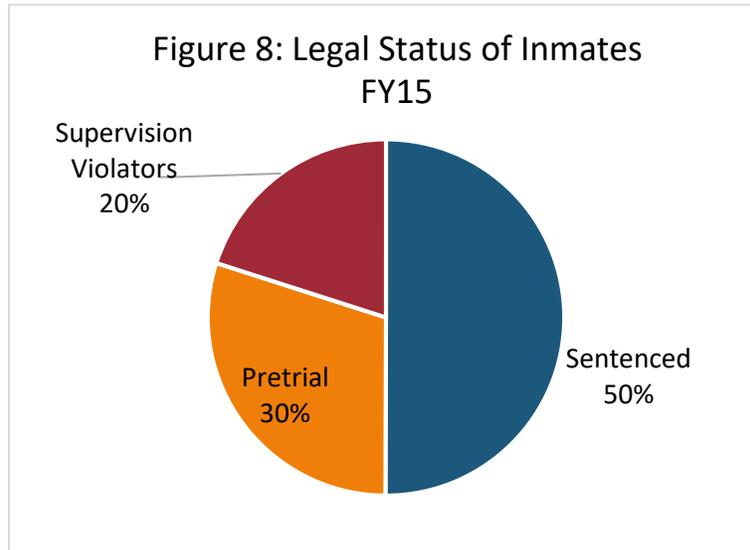


Figure 8 Source: Department of Corrections

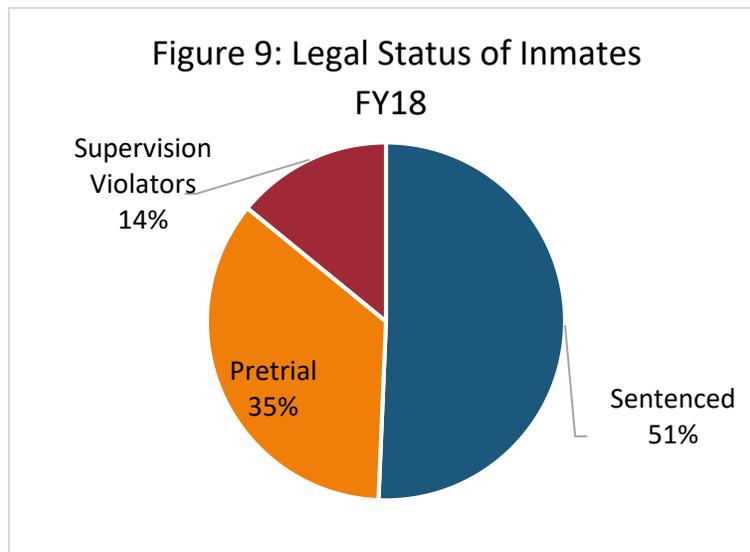


Figure 9 Source: Department of Corrections

Subsection B below has more information on pretrial defendants, while subsection C has more information on probation and parole supervision.

Violent and nonviolent offenders. An important goal of criminal justice reform was to focus prison beds on serious and violent offenders: the “people we’re afraid of.” This goal came from research showing that noncustodial sanctions and shorter prison stays provide sufficient accountability for many people and work at least as well as longer periods of incarceration to reduce recidivism. For some misdemeanants, time in prison can actually have a criminogenic effect, meaning that prison time actually increases the risk of recidivism. In 2014, the Commission found that 62% of post-conviction admissions to prison were nonviolent misdemeanants. The Commission therefore recommended limiting the use of prison beds for nonviolent offenders.

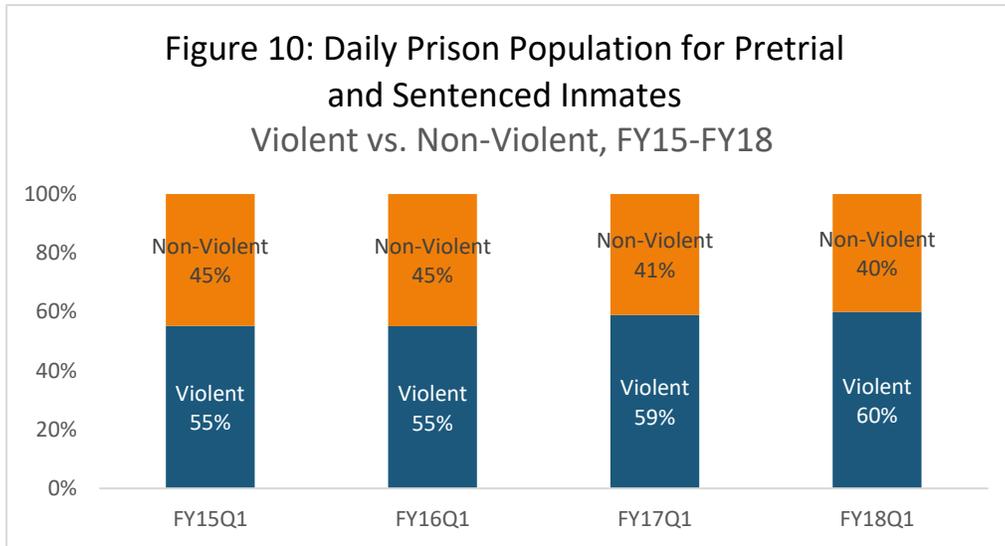


Figure 10 Source: Department of Corrections

Figure 10 above compares the percentage of violent and nonviolent offenders on snapshot days. The chart shows a decrease in the share of nonviolent offenders, suggesting that the goal of focusing prison beds on violent offenders is being achieved.

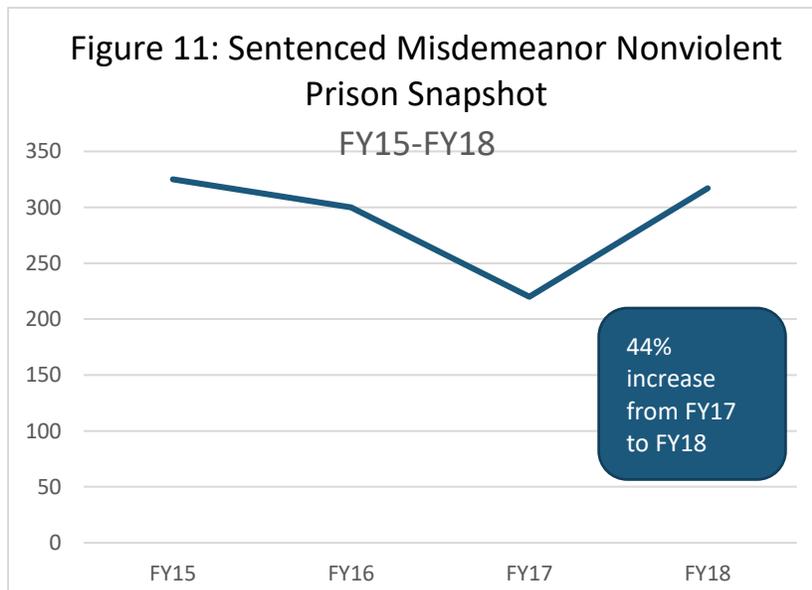


Figure 11 Source: Department of Corrections

Progress towards the goal of limiting prison for nonviolent misdemeanor offenders is less obvious. Although there was a 27% reduction in this population from FY16 to FY17, there was a 44% increase from FY17 to FY18. The increase is most likely related to the passage of SB 54 in 2017, which increased prison sanctions for the lowest-level misdemeanor nonviolent offenders. This pattern is shown in Figure 11 at left.

Figure 12 shows admission patterns for all admissions to prison (whether sentenced offenders, pretrial defendants, or supervision violators). The data show a small but steady increase in admissions for violent offenders. For nonviolent admissions, there is a marked drop after the enactment of SB 91, and a sharp increase after the enactment of SB 54.

The drop and subsequent rise of nonviolent admissions was primarily driven by nonviolent misdemeanor pretrial admissions. This is to be expected given the changes enacted in SB 54. For example, one of SB 54's provisions was to increase jail time for the lowest level of misdemeanor theft crimes (thefts under \$250). SB 91 had reduced the penalties for theft under \$250 to a suspended sentence, meaning

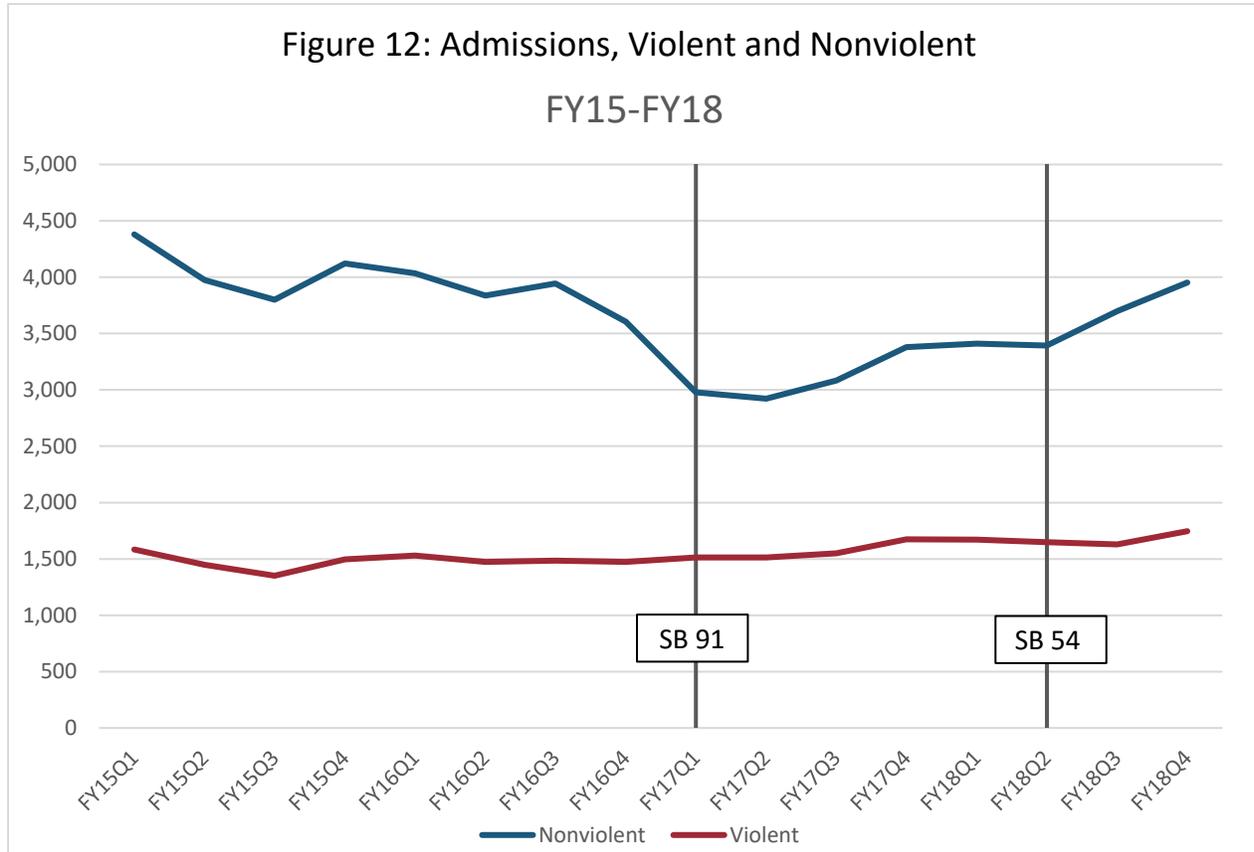


Figure 12 Source: Department of Corrections

that in many cases those arrested for misdemeanor theft were not booked into jail at all. SB 54 reinstated active prison time for these theft crimes, a change that may have driven the increase in admissions to prison for those charged with nonviolent misdemeanors. SB 54 also added prison sanctions for defendants on pretrial release who break the rules of their release or miss a hearing.

Drug offenders. Another goal of criminal justice reform was to decrease reliance on prison for simple drug possessors and to impose community sanctions and offer treatment instead. In 2016 the Legislature reclassified simple possession (non-commercial possession) of heroin, methamphetamine, and cocaine to an A misdemeanor. The penalty for possession was changed to a suspended sentence for the first two offenses, meaning people convicted of their first or second possession offense would serve

time in prison only if they violated the conditions of their probation.⁶ The Legislature also created a tiered system for commercial drug offenses based on the amount of drug to be bought or sold.

These changes were based on the Commission's findings that in the decade leading up to SB 91, admissions to prison for drug offenses increased by 35%, while the average length of stay for felony drug offenders increased by 16%. The Commission's research also showed that long prison terms have a low deterrent value for drug offenders. Typical street-level drug transactions have a low risk of detection, so drug offenders are unlikely to be dissuaded by the remote possibility of a longer stay in prison.

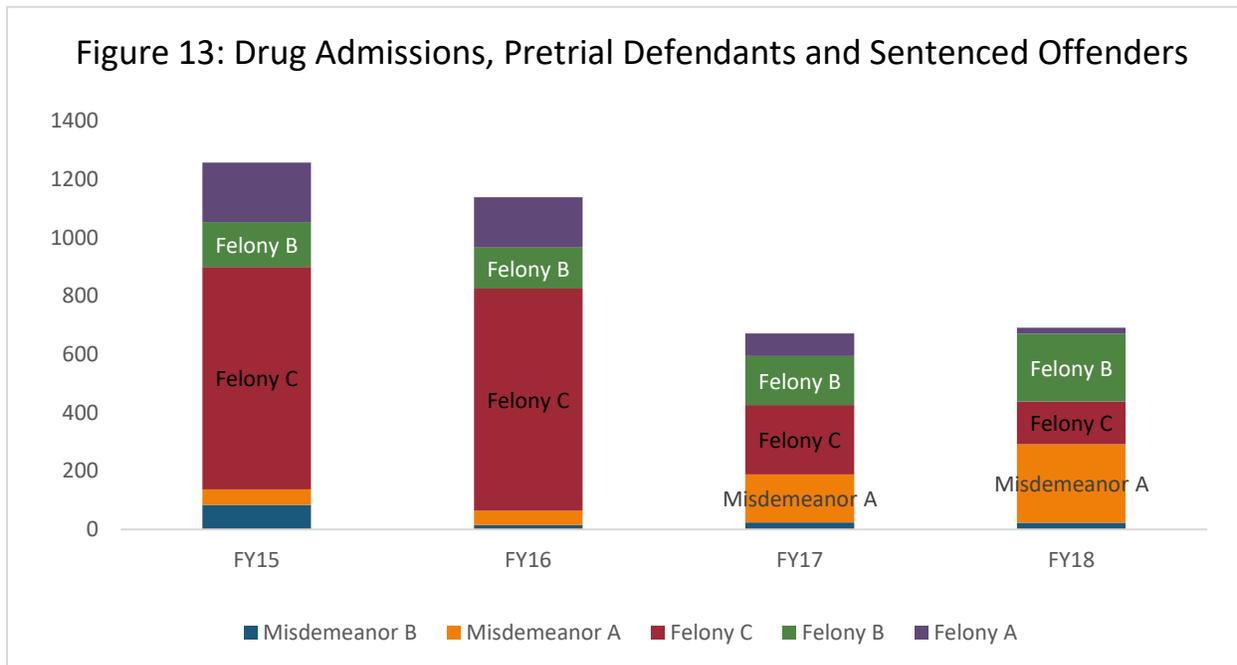


Figure 13 Source: Department of Corrections

Figure 13 shows that admissions for Class C felony drug possession dropped significantly after the changes in SB 91 went into effect. At the same time, admissions for Class A misdemeanor drug offenses rose. These changes were in line with expectations, as most crimes of possession were converted from Class C felony crimes to Class A misdemeanor crimes with presumptive probation. The increase in admissions for Class A misdemeanors between FY17 and FY 18 may reflect the growing severity of the opioid crisis. The same holds true for the increase in admissions for Class B felony drug offenses, which typically apply to commercial drug dealers.

Because incarceration is no longer the first response to simple possession of drugs, prison admissions show only part of the picture. The Commission also examined the number of simple drug possession cases being processed by the courts. There were 357 cases disposed in FY17 in which one of the original charges was a drug possession charge, and there were 609 such cases disposed in FY18.⁷ This

⁶ First offense: up to 30 days suspended; second offense: up to 180 days suspended; third and all subsequent offenses: up to one year of active incarceration. See SB 91 section 93.

⁷ These figures include charges based on Alaska Statutes 11.71.050(a)(4) and 11.71.060 and Anchorage Municipal Code provisions 8.35.010 and 8.35.500.

indicates that drug possession crimes continue to be prosecuted, though they are the basis of fewer admissions to prison. It is important to continue to prosecute these cases, despite the lack of jail time for first-time offenses, to capture the opportunity for early intervention. The graduated penalty scheme for possession allows first-time offenders to be held accountable with a suspended sentence but also offers them an opportunity for rehabilitation.

Theft offenders. As noted above, the Commission recommended limiting the use of incarceration for low-level misdemeanants. This included eliminating jail time for first- and second-time offenders convicted of Theft 4 (theft of property valued under \$250), a change enacted by SB 91. The Commission made this recommendation because the research showed that for these types of offenders, jail time was no better at reducing recidivism than other sanctions (such as fines or probation) and in some cases could increase a person's risk of recidivism.

With the passage of SB 54 in 2017, jail time was reinstated for Theft 4, with a maximum of 5, 10, and 15 days in jail for the first, second, and third offenses respectively. SB 54 also returned the felony theft threshold—the point at which the value of stolen property makes an offense a felony—to its pre-reform level of \$750.

Figure 14 shows the number of admissions for felony and misdemeanor theft over the last several years. Following the enactment of SB91, felony theft admissions continued to increase. Misdemeanor theft admissions also increased, at a greater rate than felony theft admissions. There has also been a decrease in sentence lengths for both felony and misdemeanor theft. The average sentence length for misdemeanor theft has decreased by 54%.

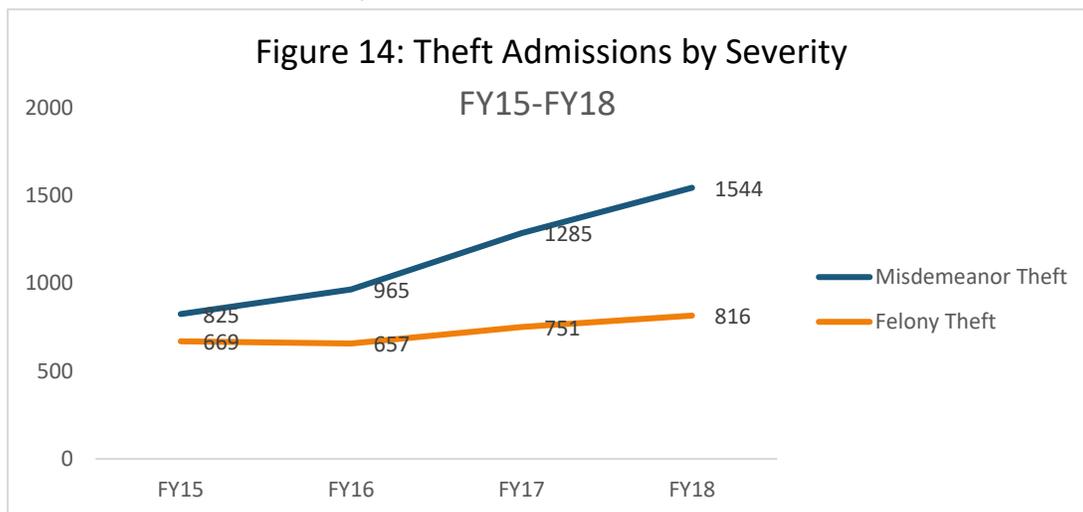


Figure 14 Source: Department of Corrections

Changes to the prison population

- Fewer people admitted for simple drug possession
- Length of stay for misdemeanor theft has decreased

B. The Pretrial Population

Criminal defendants have a right to bail before trial, a right guaranteed by both the Alaska and United States Constitutions. Historically, judges have used money bonds as a proxy for the risk a defendant posed upon release. The intent of a money bond is that the cash the defendant gives the court as a security will ensure the defendant's appearance and good behavior. Judges would set higher bonds for defendants they believed were dangerous or a flight risk.

Problems with Pretrial Detention

In practice, the ability to make bail did not always correspond to a defendant's dangerousness or risk. In some cases, low-risk defendants who were unlikely to engage in new criminal activity remained behind bars because they couldn't afford bail, while high-risk defendants who were likely to engage in new criminal activity could pay their bail and were released.

An analysis of over 20,000 cases filed in Alaska in 2014 and 2015 showed that 37% of the defendants who were released on bail were re-arrested at least once during the pretrial period. A separate analysis of a smaller sample of cases from five court locations in 2014 showed that **fewer than half (48%) of defendants were released on bail before their cases were disposed**. In other words, a significant number of pre-reform defendants who made bail were re-arrested for new criminal activity during the pretrial period, even while many other defendants were being detained because they could not afford money bail or could not find suitable third party custodians.⁸ The Commission's recommendations for bail reform were intended to improve the system by allowing release of more defendants while simultaneously decreasing, or at least not increasing, the existing rate of pretrial failure.

The Commission's recommendations also were aimed at **decreasing racial disparities** in pretrial detention. The Commission is aware of at least two studies in Alaska documenting that Alaska Native defendants are more likely than Caucasian defendants to be detained during the pretrial period.⁹ Disparate rates of pretrial detention are of

Pretrial Practices

Prior to reform:

- The number of pretrial defendants in prison grew by 81% over the decade preceding reform
- Fewer than half of defendants released, despite a constitutional right to bail
- No independent assessment of a defendant's risk before the release decision
- Racial disparities in pretrial detention

⁸ The complete findings of the 2015 Alaska Court File Review bail study are posted here: <http://www.ajc.state.ak.us/sites/default/files/imported/acjc/pewpresent8-2015.pdf>, at page 12.

⁹ Alaska Judicial Council, ALASKA FELONY PROCESS: 1999 (2004), at page 164; Alaska Court File Review bail study memo, posted at

concern because pretrial detention is associated with worse outcomes for defendants, including longer sentences.

Finally, the Commission found that the number of pretrial inmates in Alaska's prisons **grew by 81% over ten years** (2005-2014), driven in large part by increases in how long defendants were staying behind bars before their cases were disposed.

Reforms to Pretrial Practices

In response, the Commission recommended evidence-based pretrial reforms designed to improve public safety and pretrial outcomes. The legislature enacted these reforms, which went into effect on January 1, 2018.

A major part of these reforms is a new pretrial unit called the **Pretrial Enforcement Division (PED)**, housed within the Department of Corrections. PED employs around 50 pretrial enforcement officers who provide pretrial risk assessments, court reports and recommendations, and monitoring and supervision of defendants who are out of custody and ordered to pretrial supervision as a condition of release. Before 2018, Alaska had not had a state-run pretrial monitoring service since the 1970s. The following paragraphs explain the duties of the PED in more detail.

Development and use of a Pretrial Risk Assessment. The pretrial enforcement officers perform a risk assessment for each defendant who is arrested and booked into jail. DOC developed an actuarial risk assessment tool specifically for this task.

To develop the tool, DOC worked in close collaboration with the Commission, with a large stakeholder group, and with qualified and experienced researchers from the Crime and Justice Institute (CJI) who are familiar with the creation and validation of risk assessment tools. The Commission and the stakeholder group advised DOC and CJI about local conditions and concerns that might affect development of the tool and on logistical and implementation issues.

Pretrial Practices

After reform:

- New Pretrial Enforcement Division is able to supervise or monitor defendants who are released on bail
- Risk assessment tool developed for Alaska using Alaska data

http://www.ajc.state.ak.us/sites/default/files/imported/acjc/bail%20pretrial%20release/alaska_pretrial_release_study_released_2-2016.pdf.

Pretrial Practices

Risk assessment tool provides judges with an assessment of the defendant's:

- Risk of failing to appear for hearings
- Risk of a new criminal arrest

Actuarial risk assessments, paired with professional judgment, produce better outcomes by more accurately predicting pretrial failure

The risk assessment instrument is referred to as “AK-2S” or the “Alaska 2-Scale”. Researchers pored over large quantities of data on Alaska’s defendants to determine which factors are most predictive of whether a defendant will be successful on pretrial release. This research revealed that a handful of factors are most predictive of whether a person is likely to fail to appear for court hearings or be arrested pretrial. **It is important to note that Alaska’s Pretrial Risk Assessment is developed from data on the Alaska population.**

The tool requires use of static data that is pulled from available data sources, meaning that the risk assessment process does not include an interview with the defendant. Pretrial officers tally up certain factors from the available data to obtain two risk scores for a defendant. The two scores indicate the risk that the defendant will fail to appear for court hearings or will be arrested for new criminal activity while awaiting trial. The pretrial officers then make release recommendations based on whichever score is the highest (i.e. whichever score shows the greatest risk).

Risk data combined with professional judgment produces better outcomes. While no risk assessment tool can perfectly predict the behavior for each and every defendant in each and every circumstance, research shows that the use of a risk assessment tool combined with professional judgment in the release decision typically produces better outcomes when compared to not using any assessment tool. Risk assessment scores are only one factor among many the judicial officers consider in making release decisions or setting conditions of release. Following the passage of HB 312 in 2018, a judge’s release decision is once again entirely discretionary.

Supervision and monitoring. Pretrial officers also bring a new public safety function to the state of Alaska. If a defendant is released from custody pretrial, the defendant may be required to comply with supervision by the pretrial officers while living in the community. For those defendants, pretrial officers will be responsible for monitoring the defendants to ensure they comply with the conditions of release. Defendants may be required to attend meetings with officers, undergo drug and alcohol testing, or use electronic monitoring. Under the previous pretrial model, a defendant was not monitored unless the defendant hired a private company (as approved by a judge).

Changes to pretrial practices created by the Alaska Court System’s Statewide Bail Schedule. During the same time period the Commission was developing its recommendations to reform pretrial

Pretrial Practices

The Court System began using a statewide bail schedule in 2016.

The bail schedule is used to set standard bail amounts for certain misdemeanor offenses.

practice, but in a completely separate process, the Alaska Court System began to consider adopting a statewide bail schedule. The Alaska Court System is authorized by statute to adopt a bail schedule that applies only to arrestees charged with misdemeanor crimes. Wishing in part to promote uniformity of treatment among pretrial defendants, the court system adopted a uniform statewide bail schedule in June of 2016, and last revised it in December of 2017.¹⁰

The December 2017 bail schedule¹¹ sets cash bail amounts for some non-domestic violence misdemeanor offenses (for example, DUIs, non-domestic violence assaults, violating conditions of release on a non-domestic violence misdemeanor), and provides that other misdemeanants are to be released on their own recognizance (OR), subject to restrictions on their conduct.¹² Because the court system revised its bail schedule around the same time that statutory pretrial changes went into effect, the Commission received numerous comments from law enforcement officers and other individuals who did not understand the difference between the statutory changes and the changes related to the bail schedule.

Statutory changes to pretrial practices. As noted above, the pretrial system prior to 2018 relied on the use of money bonds to approximate risk and secure a defendant's appearance in court. After the bail reform became effective in January 2018, judges were able to use the results of the risk assessment to determine whether a defendant should be released.

In cases where a defendant was assessed as low risk and was charged with a non-violent crime, judges were required to release the defendant without money bonds. Release without money bond is known as release on one's own recognizance, or release OR. In those cases, judges could order unsecured bond,¹³ pretrial monitoring, or other conditions of release. In all other cases, judges had the discretion to order a money bond.

¹⁰ Before the statewide schedule was adopted, each judicial district had its own distinct bail schedule.

¹¹ See PRESIDING JUDGE ADMINISTRATIVE ORDER ESTABLISHING A STATEWIDE BAIL SCHEDULE, effective December 8, 2017. Available at: <https://public.courts.alaska.gov/web/jord/docs/bail-schedule12-17.pdf>.

¹² An arresting officer who believes the bail listed in the Schedule is inadequate may call a judicial officer at any time and request a different bail. Note: defendants charged with any domestic-violence-related offense are always held until arraignment.

¹³ An unsecured bond does not require a defendant to post cash to be released, but the defendant must pay the amount ordered if the defendant fails to appear for court or fails to follow the ordered conditions of release.

After these provisions went into effect, members of the community expressed concern about the provisions requiring OR release for low-risk defendants accused of nonviolent crimes. Members of the community were also concerned that the pretrial risk assessment tool did not account for out of state criminal history.¹⁴ Pretrial officers were able to access that history and report it to the judge, but it would not be included in the risk assessment score. (For more on how the risk assessment works, consult Appendix J.)

The legislature responded to these concerns by passing HB 312, which provides that judges may take out of state criminal history into account and removed the requirement that low-risk defendants accused of nonviolent crimes be released OR. Release for all defendants is now at the discretion of the judge. HB 312 went into effect on June 15, 2018.

Results of Reforms and Population Changes

2018 Bail Study. In order to discern what if any changes bail reform might have had on pretrial outcomes, the Alaska Judicial Council conducted a new study. In September and October of 2018, Alaska Judicial Council researchers examined a sample of 366 cases in which the defendant had been admitted to a DOC facility on a criminal charge between April 1, 2018 and June 31, 2018. The cases were drawn from Anchorage, Bethel, Fairbanks, Juneau and Nome; they included both misdemeanor and felony charges.

The study found a higher percentage of defendants in the 2018 sample were released before their cases were disposed, compared to defendants who had been arrested before bail reform. Specifically, about **three-quarters of the defendants in the 2018 sample were released at least once before their cases were disposed**, either on the bail schedule or after being

Pretrial Practices

After the passage of HB 312 in June 2018, pretrial release for all defendants is at the discretion of a judge.

Before bail reform, less than half of defendants were released pretrial.

After bail reform, around three quarters of all defendants are released pretrial.

The rate at which defendants appear for court has remained largely the same.

Racial disparity in pretrial release may be decreasing.

¹⁴ When the tool was developed, it used a large sample of Alaska defendants, many of whom had out of state criminal history. However, the researchers were not allowed to access the national criminal history database administered by the FBI. This meant that out of state criminal history could not be used in the development of the risk assessment tool, so the tool's validity was not dependent on the ability to know a defendant's. Pretrial officers have been recording out of state criminal history for incoming defendants. The University of Alaska Anchorage Justice Center will be conducting a revalidation of this tool to include the out of state history and ensure the tool's predictive validity for all demographic categories.

Pretrial Practices

Defendants are now less likely to be required to pay cash for bail release.

Many defendants are assigned to pretrial supervision, and required to submit to drug or alcohol testing.

arraigned by a judicial officer. This total compares to around 48% who were able to obtain release before bail reform. Of note, just under a third (30%) of the defendants in the 2018 study were released pursuant to a bail schedule.¹⁵

Judges were more likely to use unsecured bonds and OR release in 2018 than before, and they relied less on money bonds. Judicial reliance on third-party custodians, which had been a significant factor in pretrial detention before bail reform, was negligible in 2018.

In the 2018 sample, judges relied fairly heavily on PED, assigning 49% of all defendants they arraigned to PED supervision. Judges also imposed conditions of release aimed at preventing alcohol or drug use in a significant number of cases.

Notably, the 2018 study found tentative evidence of decreasing disparate pretrial detention for Alaska Native defendants. Although the analysis used was fairly straightforward and could not control for factors other than race, the basic findings showed that the Alaska Native defendants in the 2018 sample were released at rates very similar to rates for Caucasian defendants. These findings suggest a positive change in the situation of Alaska Native defendants since bail reform.

Finally, the 2018 study examined whether releasing a higher proportion of defendants on pretrial was impacting the rates at which the defendants attended their court hearings. **Before bail reform, about 14% of defendants missed their hearings, while after reform the rate was essentially unchanged at 13%.¹⁶**

Figure 15 below shows that pretrial admissions have been increasing since about August of 2017. This trend would appear to be at odds with the bail study finding that a smaller proportion of defendants are being detained pretrial, and there has been no increase in arrest warrants issued for defendants who fail to appear at a hearing.

¹⁵ Unfortunately, this finding could not reliably be compared to the results of the pre-reform study of 2014 cases.

¹⁶ The Commission is not yet able to provide data on the share of pretrial defendants who incur a new criminal arrest when they are released. The Commission hopes to be able to provide that information by the next annual report.

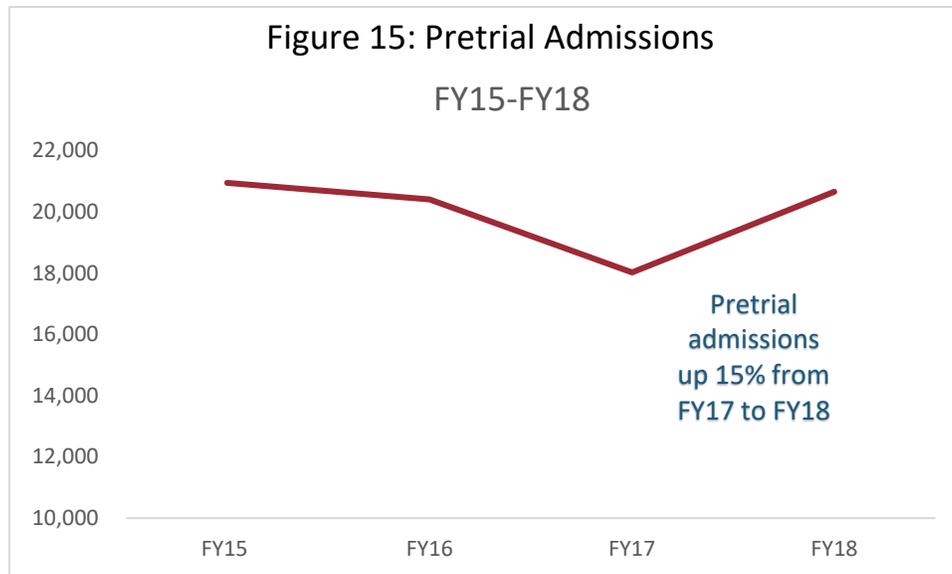


Figure 15 Source: Department of Corrections

A number of factors may be driving the increase in pretrial admissions:

- Sentencing changes applicable to people charged with first-time C felonies went into effect in December of 2017, reversing a trend from July of 2016 in which few of those individuals were being detained pretrial;
- From January – May of 2018, just over 2,500 defendants were assigned to active PED supervision. Defendants under active PED supervision are probably more likely to be detected and arrested for rule-breaking behavior, compared to before the implementation of PED when no enforcement agency was surveilling those who were released pretrial;
- Law enforcement staffing and arrests appear to be increasing (refer to Section IV below).

C. Parole and Probation Supervision

Felony offenders in Alaska are supervised by DOC probation and parole officers after conviction and/or release from prison. The role of the probation or parole officer (PO) is to ensure the offender successfully completes any conditions of probation or parole and does not engage in new criminal activity or prohibited behavior. Probation and parole officers have the authority to return offenders to prison if they violate conditions of supervision, and judges or the parole board can impose prison time on offenders who have violated their conditions of supervision.

The importance of frontloading resources. When people are released from prison, the most critical period is the first few days, weeks, and months following release, because reentrants are most likely to reoffend or violate their conditions of release in that time. The Commission found that of all those who returned to prison within the three years following release, over 60% did so within the first three months. Supervision resources are the most effective during this time, and recidivism can be reduced by concentrating supervision efforts in those first few months.

Accordingly, the Commission recommended, and the Legislature enacted, provisions designed to encourage early compliance with the conditions of supervision. Supervisees who successfully complete all the requirements of their probation are able to earn their way to an earlier release from supervision.

Probation and Parole Supervision has Become More Effective

The following analysis shows that the changes to probation and parole supervision have been effective. Since these changes:

- The percentage of people successfully discharged from probation or parole has increased,
- Supervision resources are being focused on violent and high risk offenders,
- Average PO caseloads are down, and
- People admitted to prison for a supervision violation are down.

Each of these findings is discussed below.

The percentage of people successfully discharged from probation or parole has increased.

Figure 16 on the next page shows that successful discharges from supervision have increased since the reforms went into effect. Two factors likely contributed to the increase in successful discharges: earned compliance credits and early discharges for successful supervisees.

Earned compliance credits have been available since January of 2017 to probationers and parolees in the form of 30 days off their total supervision time for each 30 days they are in compliance with supervision conditions (supervision conditions include requirements such as staying free of drugs or alcohol, paying victim restitution, and looking for employment). Research shows that allowing probationers and parolees to earn their way off supervision by complying with the conditions of their release encourages them to play by the rules and allows POs to allocate resources based on which offenders are exhibiting problem behaviors. **Over 80% of those eligible for earned compliance credits have received them.** This positive trend demonstrates that most people on supervision can stay in compliance for a month or more at a time. Over time, it is expected that earned compliance credits will tilt the composition of supervisees to those who have demonstrated they need supervision, and those who are at risk because they are newly released to supervision.

Early discharges have been available to some supervisees since 2017. POs must recommend to the court or parole board that supervisees be discharged from supervision when they complete the conditions of their release. Those convicted of an unclassified felony offense, a sexual felony, or a crime involving domestic violence are ineligible.

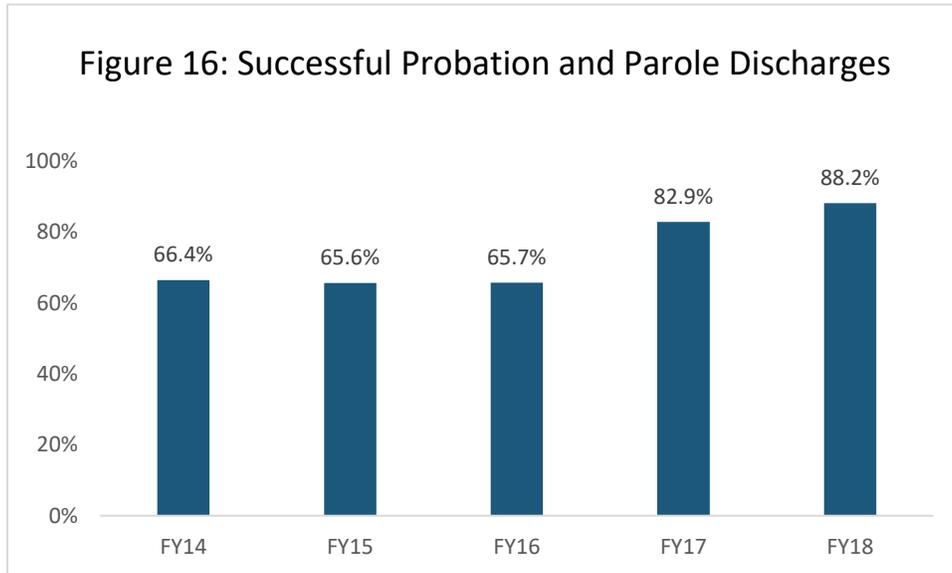


Figure 16 Source: Department of Corrections

Whether through earned compliance credits or early discharge, removing successful supervisees from POs’ caseloads allows the POs to create a more intensive supervision atmosphere and concentrate supervision resources where they are needed—on offenders most likely to recidivate. In addition, allowing low-risk supervisees – who are the most likely to follow the rules and earn compliance credits – to leave caseloads sooner frees up probation officers to deal with higher-risk individuals.

Supervision resources are being focused on violent and high-risk offenders. People who have been assessed as posing a higher risk to the community now make up a larger share of the supervisee population. The number of maximum-risk supervisees has decreased by 22%, while the numbers of medium-risk and minimum risk supervisees have decreased by 37% and 30%, respectively.¹⁷



Figure 17 Source: Department of Corrections

¹⁷ This includes all those on supervision who were assessed using an instrument called the LSI-R. There are other instruments used for people convicted of specific offenses, and those people are not included in this sample.

Similarly, Figure 18 below shows that the number of people on supervision whose original conviction was for a violent offense decreased by only 21%, while the number of people on supervision who had been convicted on nonviolent offenses decreased by 36%. These trends indicate that larger share of supervisees are people who were convicted of violent offenses.

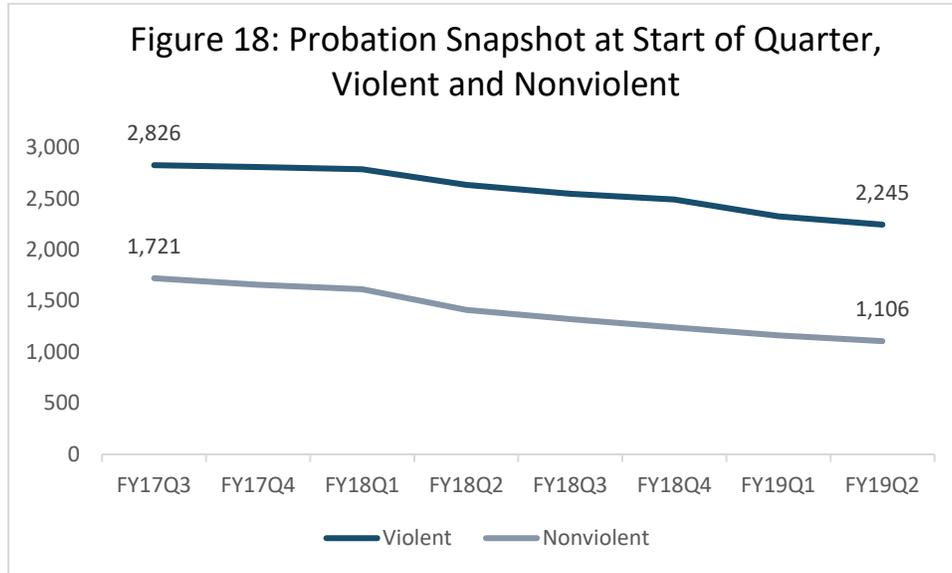


Figure 18 Source: Department of Corrections

Average probation officer caseloads are down. The average statewide probation office caseload has decreased, as demonstrated by Figure 19 below. This was also an intended effect of the changes brought by SB 91, because with lighter caseloads, probation officers are better able to implement the more intensive supervision procedures and are better able to concentrate their time on higher-risk individuals.

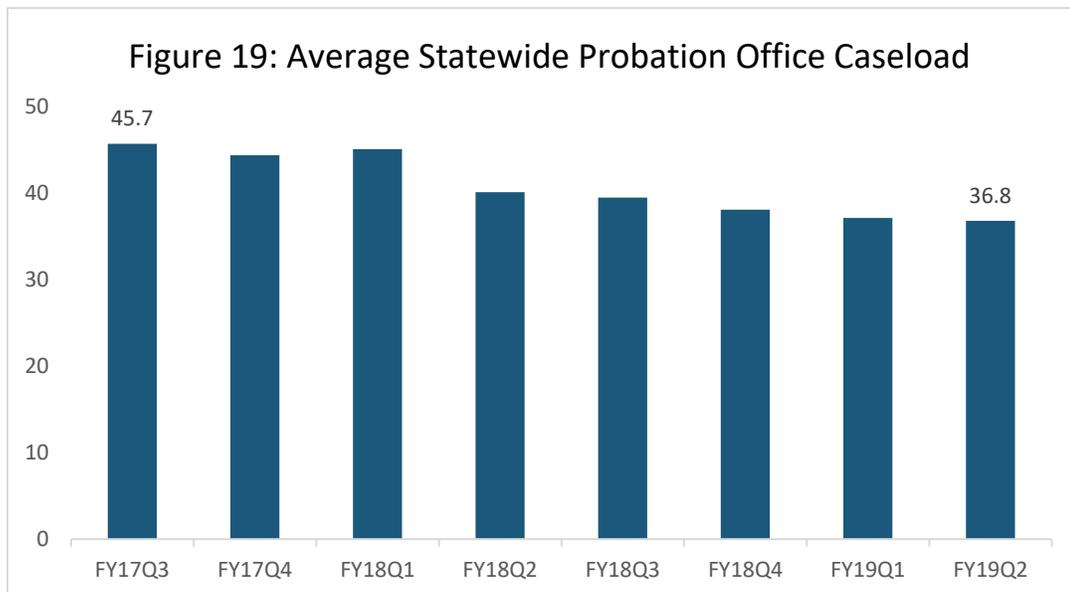


Figure 19 Source: Department of Corrections

Supervision Violations

If someone on probation or parole violates the conditions of their supervision but does not commit a new crime, that violation is called a **technical violation**. (Technical violations can include behaviors such as consuming alcohol, missing or failing drug tests, or failing to report to a probation or parole officer).

Before criminal justice reform, many offenders would accumulate a number of technical violations before receiving any consequences, and then ultimately serve a long cumulative sentence for those violations. Between 2005 and 2014, the number of people who were returned to prison for violations of the conditions of their probation or parole increased by 32%. Approximately three quarters of these violations were for technical violations.

The Commission found that in 2014, people who were sent back to prison for supervision violations served about one month in custody *before* having a hearing. For those who were given a sentence of incarceration for their violations, the average post-hearing length of stay was 106 days.¹⁸ Probation and parole officers also did not have many tools to incentivize compliance.

In response to these problems, SB 91 required Alaska to develop and adopt evidence-based strategies to increase success rates for those supervised in the community. New procedures include a system of sanctions and incentives to encourage success on supervision before someone gets to the point of facing a petition to revoke probation and parole. There are also caps on how long a person can serve time in prison for a technical violation for the first, second, and third violation.

DOC has been working hard to implement these changes to post-incarceration supervision procedures, which became effective in January 2017. DOC has developed new policies and procedures for probation and parole officers to respond effectively to negative and positive offender behavior.

Sanctions and incentives. Parole and probation officers now use a system of administrative sanctions and incentives to facilitate prompt and effective responses to compliance with or violations of conditions of supervision. The administrative sanctions are used before filing a petition with the court or the parole board to revoke probation or parole. The sanctions are designed to be swift, certain, and proportionate to the transgression; this is an

Violations of probation or parole

After reform, there are now caps on how long a person can stay in prison for a technical (non-criminal) violation of probation or parole.

Administrative sanctions and incentives now encourage people on probation and parole to stay on track.

¹⁸ The data from this period did not specifically track whether violations were technical or non-technical, but it is estimated that around three-quarters of the violations were technical.

evidence-based practice that studies show is more effective in encouraging course correction.

Incentives are available for those who meet case-specific goals of supervision. Research shows that providing rewards and incentives enhances individual motivation, and individuals on supervision are more successful (fewer violations, less recidivism) when rewards outnumber sanctions.

Petitions to Revoke Probation or Parole Have Decreased

Thus far, it seems that these changes have been successful; since the changes to probation and parole became effective in January 2017, the number of petitions to revoke probation and/or parole has decreased.

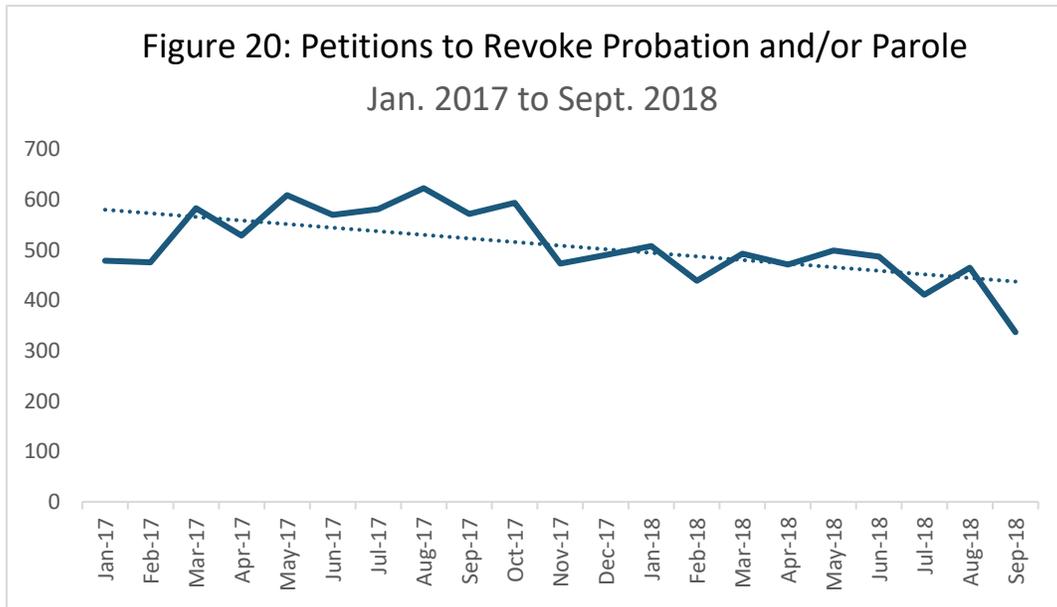


Figure 20 Source: Department of Corrections

The majority of petitions to revoke probation or parole were for technical violations rather than new crimes. The most common violation was violation of a condition not to abuse drugs or alcohol, or a condition to get regular drug or alcohol tests, reflecting that substance use disorders remain pervasive among Alaska’s justice-involved population.

Table 1: Top 5 Violations January 1, 2017-October 15, 2018		
Violation	Amount of Violations	Percentage of Violations
Drug/alcohol use – multiple	3,463	13%
Absconding	3,181	12%
Positive UA/BAC or admission – multiple	2,359	9%
Felony offense	1,896	7%
PACE violation	1,895	7%

Table 1 Source: Department of Corrections

Average Lengths of Stay for a Technical Violation have Decreased

The caps on the length of stay for technical violations also have been effective, reducing the average length of stay for a technical violation, as seen in Figure 21. (Here, “sentenced” and “unsentenced” refer to whether the person charged with a violation has had a hearing before a judge or a hearing before the parole board.)

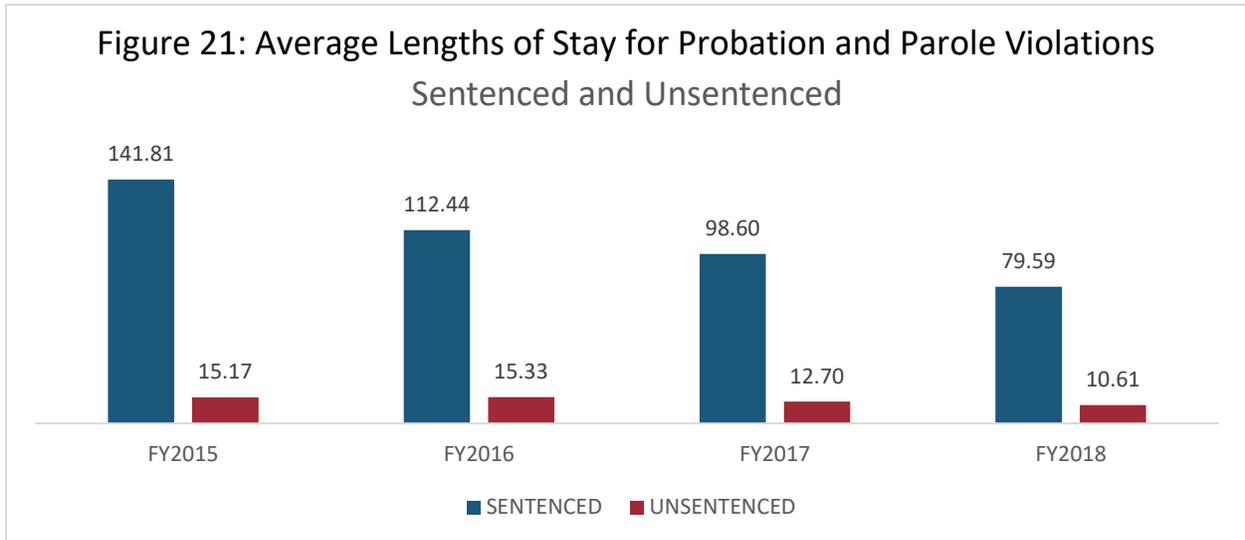


Figure 21 Source: Department of Corrections

This post-reform decrease in the length of incarceration terms for supervision violators likely contributed to the overall decrease in supervision violators in prison, as seen in Figure 22.

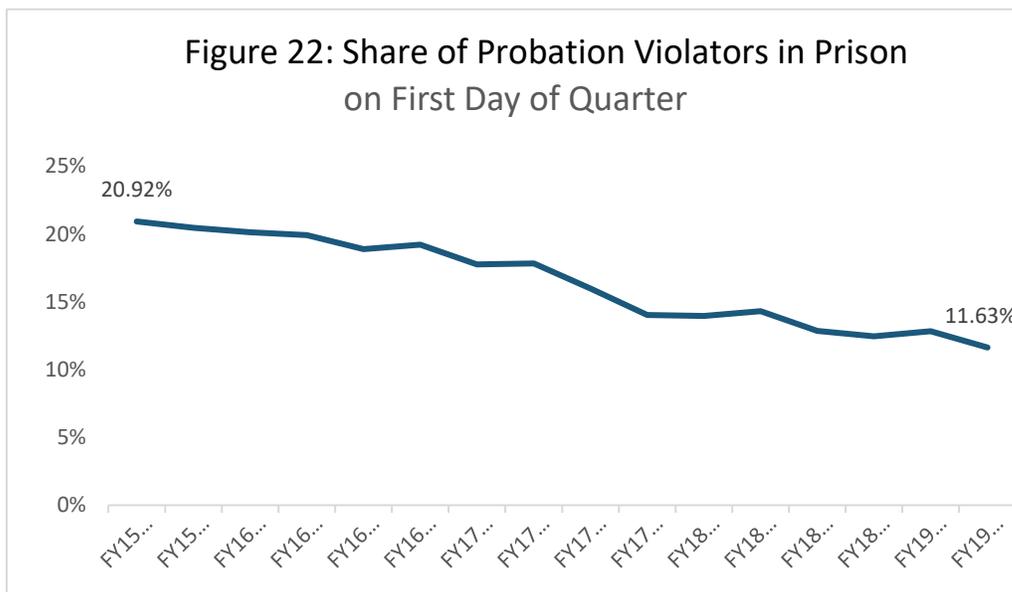


Figure 22 Source: Department of Corrections

D. New Parole Procedures and Expanded Parole Eligibility

Alaska law allows some imprisoned offenders to be released on parole before the end of their full sentence of incarceration. Release on parole is subject to review by the parole board, and the board can impose conditions of parole. Once released on parole, an offender is under the authority of the parole board and is supervised by an officer at the Department of Corrections. Under Alaska law, there are different circumstances under which a prisoner can be qualify to be released on parole. Generally speaking, SB 91 expanded access to parole.

Discretionary parole process. A study of DOC's files in 2015 found that only a small percentage of inmates who were eligible for discretionary parole had in fact applied for parole or appeared before the Parole board. Commissioners heard from a number of sources that this low percentage was attributable to a cumbersome application and review process. In response, SB 91 streamlined the hearing process for discretionary parole by requiring the parole board to hold hearings for all prisoners who are eligible, rather than wait for prisoners to determine eligibility and prepare an application before a hearing.

Expanded eligibility for discretionary parole. Before criminal justice reform, discretionary parole was available to a prisoner who had served either 1/4 or 1/3 of their active term of imprisonment, applied for parole, and was reviewed by the parole board. SB 91 expanded eligibility for discretionary parole for many, but not all, classes of offenders.¹⁹ Being eligible for discretionary parole does not guarantee that the Parole Board will grant the request.

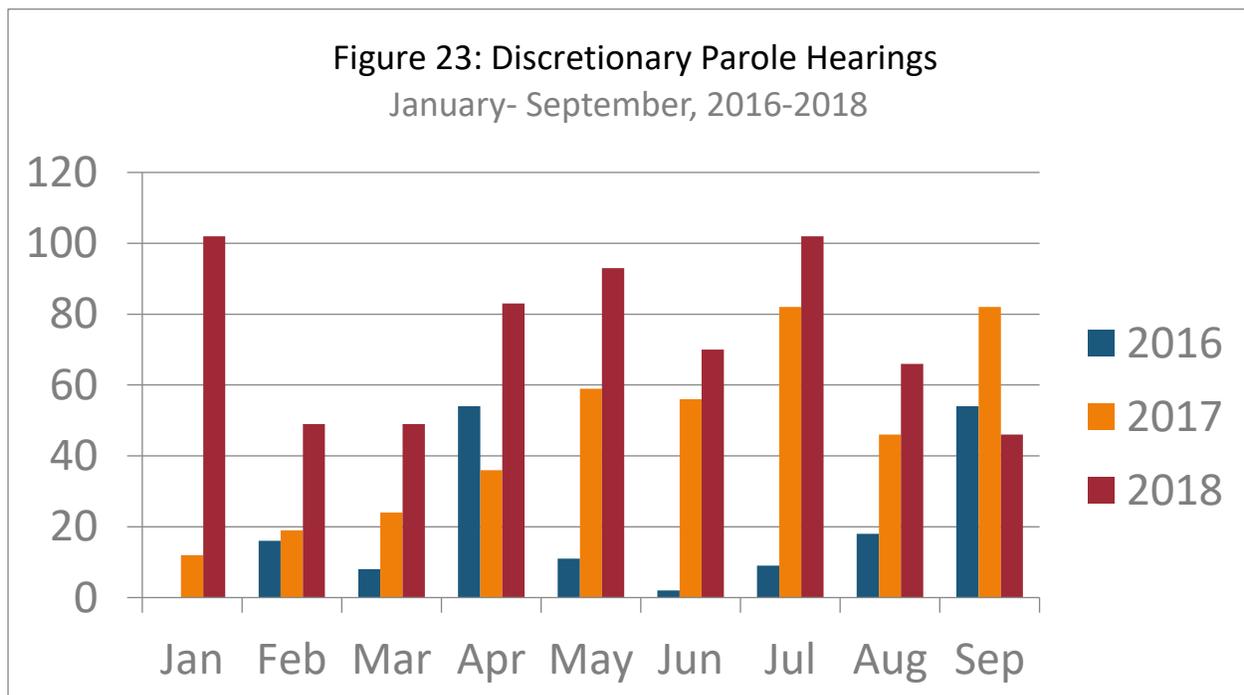


Figure 23 Source: Parole Board

Data on discretionary parole reforms. These changes went into effect on January 1, 2017. It was expected that these reforms would increase the number of parole board hearings, and potentially result

¹⁹ For example, eligibility for discretionary parole was not expanded for Unclassified or Class A sex offenders.

in more eligible offenders being released on parole than pre-reform. This has proven to be the case; as seen in Figure 23, the number of discretionary parole hearings in 2017 increased 141% over the same period in 2016, and in 2018 increased by another 59%.

As seen in Figure 24, these discretionary parole hearings resulted in similar rates of grants, continuances, and denials as before SB 91's provisions went into effect in 2017. In 2018, there was a greater share of continuances; it may be that as more prisoners became eligible for discretionary parole, fewer were ready to be released. (The Board can continue the case instead of giving an outright denial; denials are typically reserved for the most dangerous offenders.)

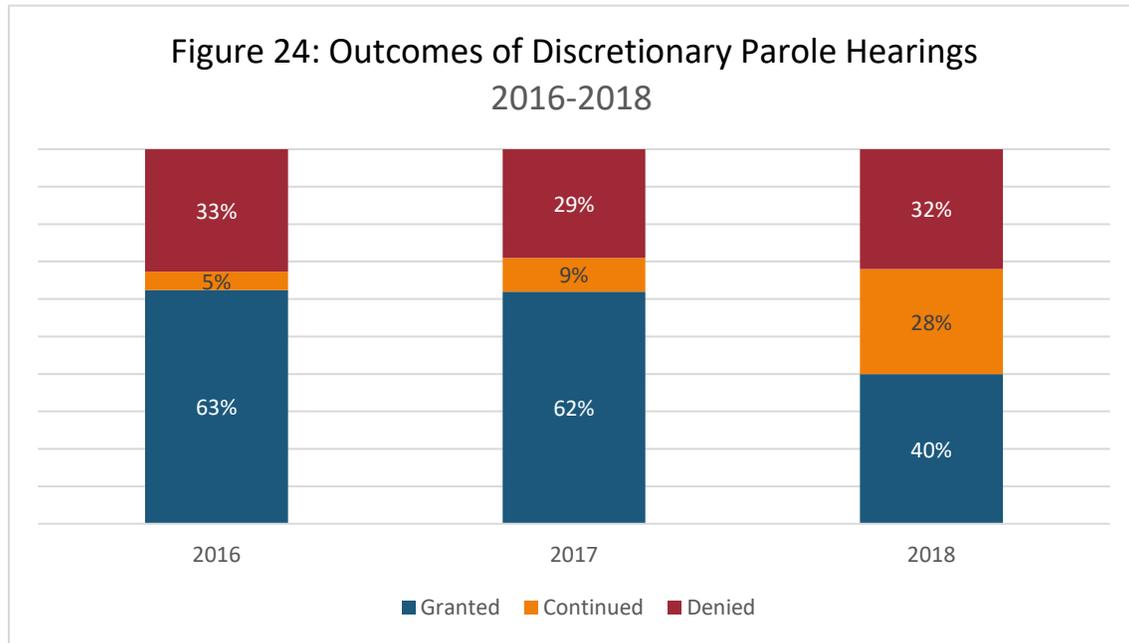


Figure 24 Source: Parole Board

The data suggest that the goals of the parole process reforms are being met: namely, that more inmates who are eligible for discretionary parole are being considered, but the board of parole continues to carefully scrutinize which inmates should be granted discretionary parole.

Administrative and geriatric parole. Before criminal justice reform, Alaska law provided for three types of parole: special medical, discretionary, and mandatory.²⁰ SB 91 created two new types of parole: administrative and geriatric. Administrative parole was repealed with SB 54. During the time the administrative parole provision was effective, four inmates were released. Of the four released, three successfully completed parole with no violations. One was charged with a new criminal offense.

To be eligible for geriatric parole, an inmate must be 60 years of age or older, have served 10 years of the active jail time imposed, and cannot have been convicted of a sex offense or an unclassified felony. Since this provision was enacted, no inmates have been released to geriatric parole. One inmate has been identified as meeting the criteria and will appear before the parole board in November 2018.

²⁰ Special medical parole was based on a medical need. Mandatory parole, otherwise known as “good time,” is based on the accumulation of one day of “good time credit” for every three a defendant serves in prison without having caused behavioral problems.

IV. Crime Rates, Drugs, and Arrest Rates

This section summarizes other key data that the Commission is not required to report by statute but which is nevertheless relevant to discussions of criminal justice policy.

A. Crime Rates

There has been a great deal of discussion and commentary on crime rates in Alaska. The following charts document the forty-year crime rate trends in Alaska, using data collected through the end of 2017. Crime rates are determined using the number of incidents reported in the most serious categories of crime per 100,000 people. (In other words, the rate takes the population size into account.) Figure 25 shows the violent crime rate trending upward over time, with a noticeable uptick starting after 2014.

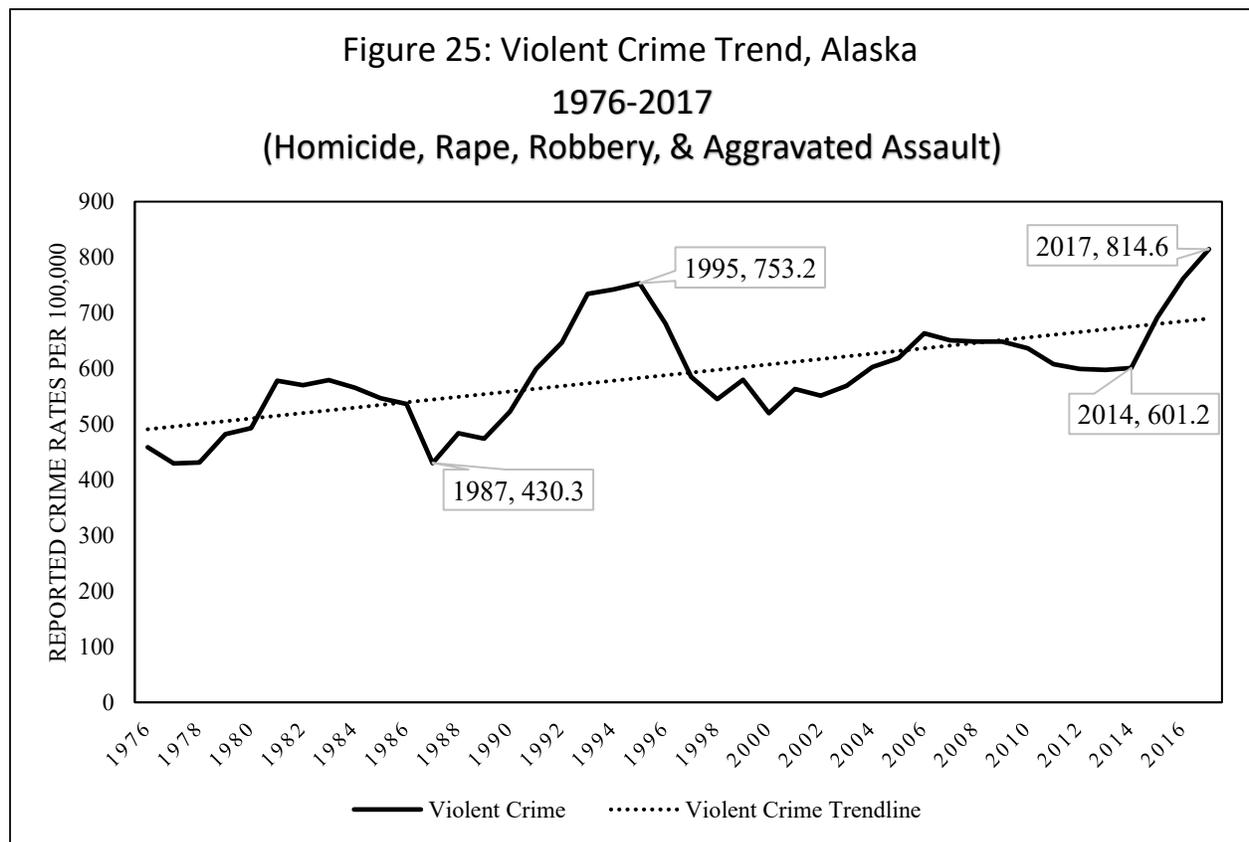


Figure 25 Source: Department of Public Safety

Property crime rates, on the other hand, have declined over the last forty years on average, reaching a low in 2011, but beginning a marked increase starting in 2015.

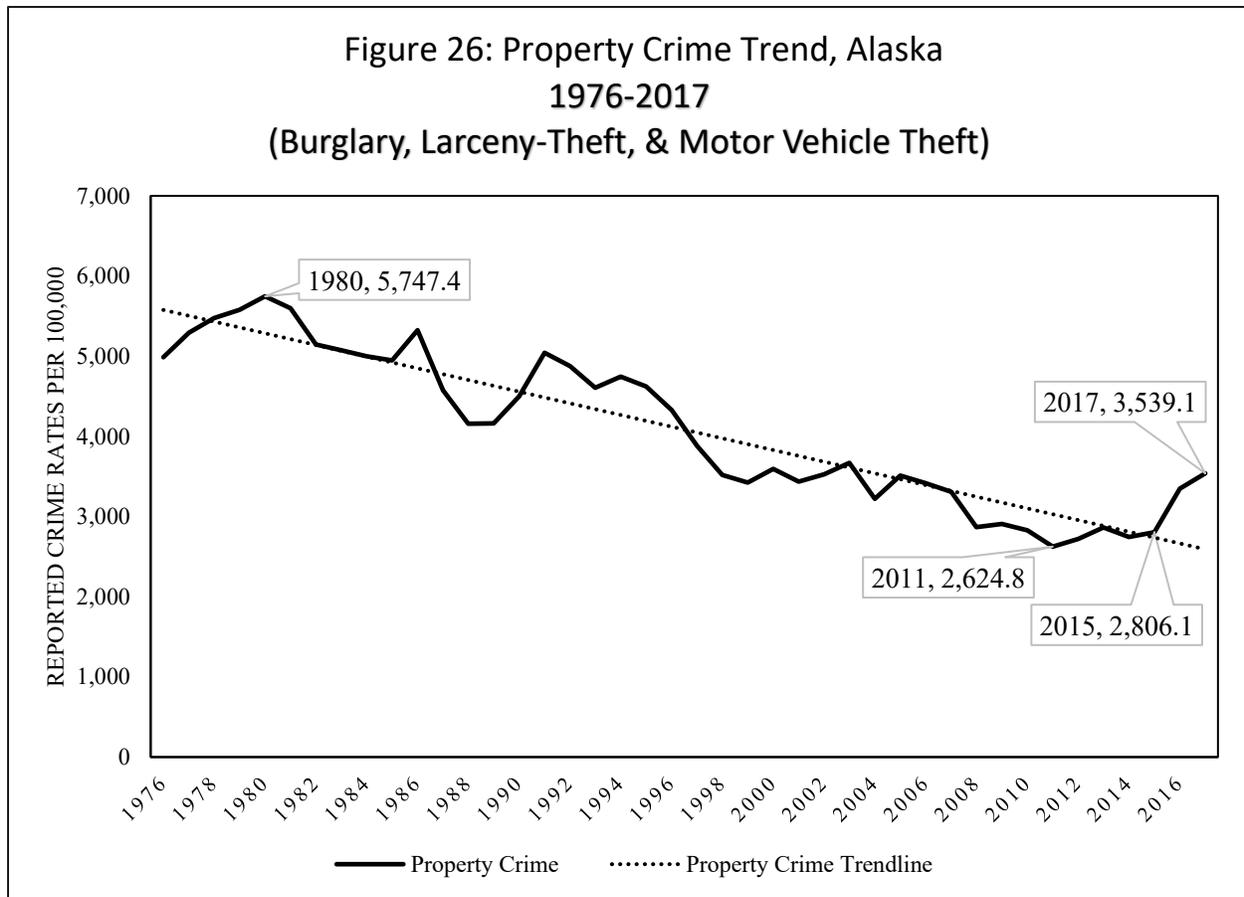


Figure 26 Source: Department of Public Safety

Many Alaskans have noticed the recent increases in crime, and have associated it with criminal justice reform, particularly SB 91.²¹ However, it is important to keep in mind two things: first, SB 91 was enacted in July 2016 (with some provisions not effective until January 2017 or January 2018). This was after the crime rates began increasing in 2014 and 2015.

Second, the causes of crime are notoriously difficult to pinpoint. Evidence shows that crime is driven by a number of factors. For example, research into the nationwide decline in crime rates over the last 30 years shows that between 10% and 25% of the decline in crime was attributable to the effect of increased incarceration rates, but this effect had diminishing returns. After 2000, nationwide incarceration rates continued to climb with little effect on crime rates.²²

²¹ See e.g. Michelle Theriault Boots, Devin Kelly, Nathaniel Herz, "People in Anchorage are fed up with crime. Did SB 91 make it worse?" Anchorage Daily News, October 21, 2017. Available at: <https://www.adn.com/features/alaska-news/crime-courts/2017/10/21/people-in-anchorage-are-fed-up-with-crime-did-sb-91-make-it-worse/>

²² See Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, "What Caused The Crime Decline?" Brennan Center for Justice, New York University School of Law. Available at: https://www.brennancenter.org/sites/default/files/publications/What_Caused_The_Crime_Decline.pdf (citing 10% attribution to decline in crime from incarceration); "Weighing Imprisonment and Crime," The Pew Charitable Trusts. February 2015. Available at: <https://www.pewtrusts.org/>

Within the last 10 years, nationwide incarceration rates have begun to fall while crime rates still continued on a downward trajectory. A recent study showed that between 2010 and 2015, the overall imprisonment rate in the United States fell by 8.4% and the violent and property crime rate fell by 14.6%.²³

While some might be tempted to argue that incarcerating more people for crime will cause a decrease in the crime rates, Alaska’s own experience with sex offense sentencing shows that passing tougher sentencing laws to tackle crime rates does not achieve the intended effect. In 2006, legislators passed new sentencing laws for sex offenses that greatly increased the length of presumptive prison time for those offenses.²⁴ The intent was to combat the high rates of sexual assault and abuse in Alaska.²⁵ More than a decade later, Alaska’s rate of sexual assault has not declined; the rate of reported rape incidents per 100,000 people in Alaska is over twice that of the national average.²⁶

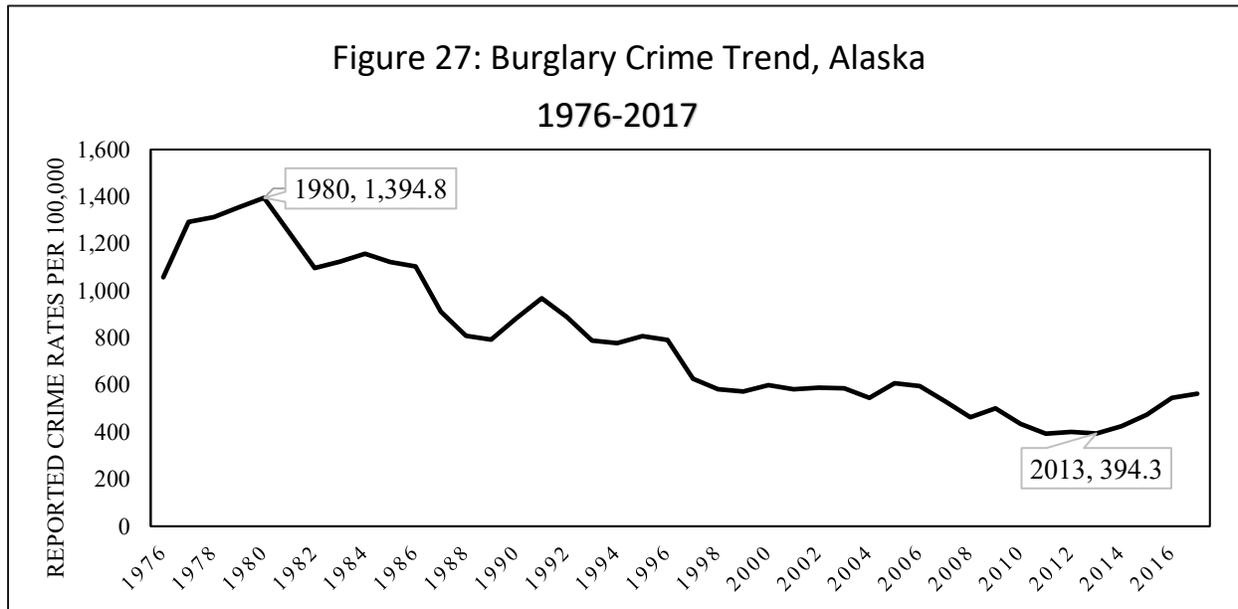


Figure 27 Source: Department of Public Safety

Alaskans have been particularly concerned about property crime rates, and some might argue that the rise in property crime from 2015 to 2016 reflects the effect of SB 91, given that SB 91 was signed

[/media/assets/2015/02/pspp_qa_experts_brief.pdf](#) (various researchers citing 10% attribution to decline in crime from incarceration 10-25%; Jeremy Travis, Bruce Western, and Steve Redburn, Eds., The Growth of Incarceration in the United States: Exploring Causes and Consequences, National Academies Press, 2014. Available at: https://johnjay.ijay.cuny.edu/nrc/NAS_report_on_incarceration.pdf (effect of incarceration difficult to pinpoint but probably small).

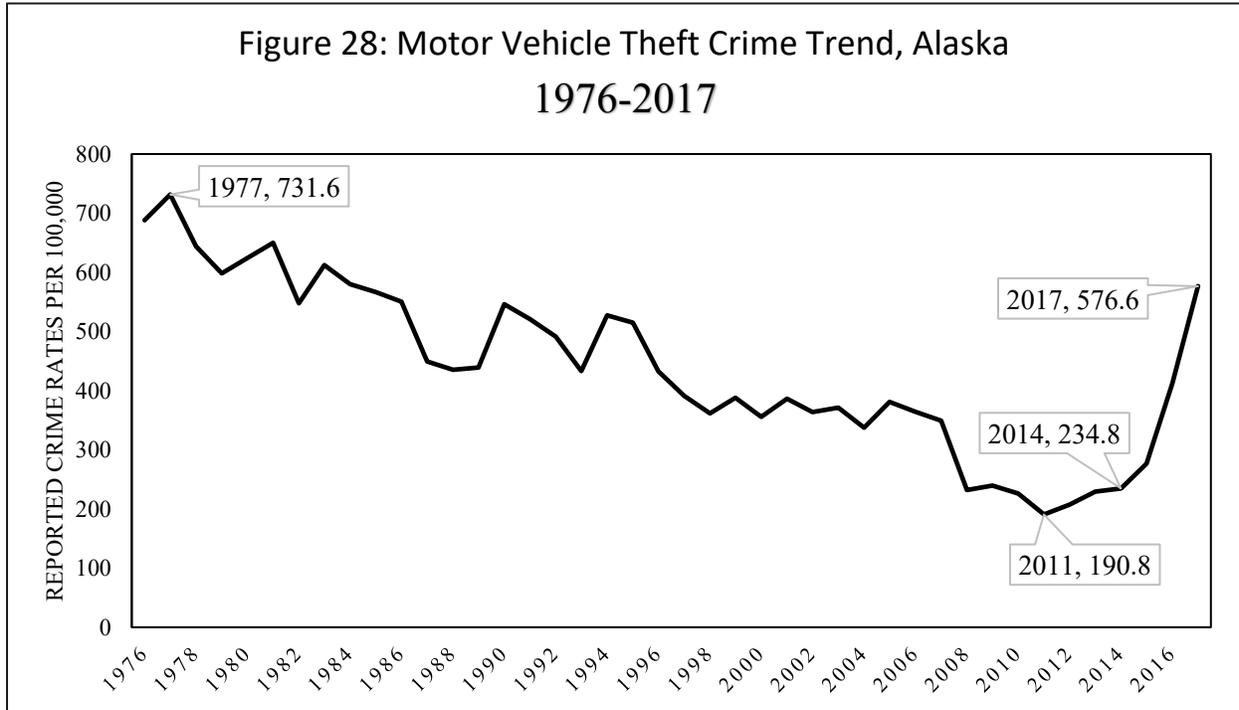
²³ See “National Imprisonment and Crime Rates Continue to Fall”, Pew Charitable Trusts, December 2016. Available at: http://www.pewtrusts.org/~media/assets/2017/03/pspp_national_imprisonment_and_crime_rates_fall.pdf.

²⁴ See Ch. 14, S.L.A. 2006 (“S.B. 218.”).

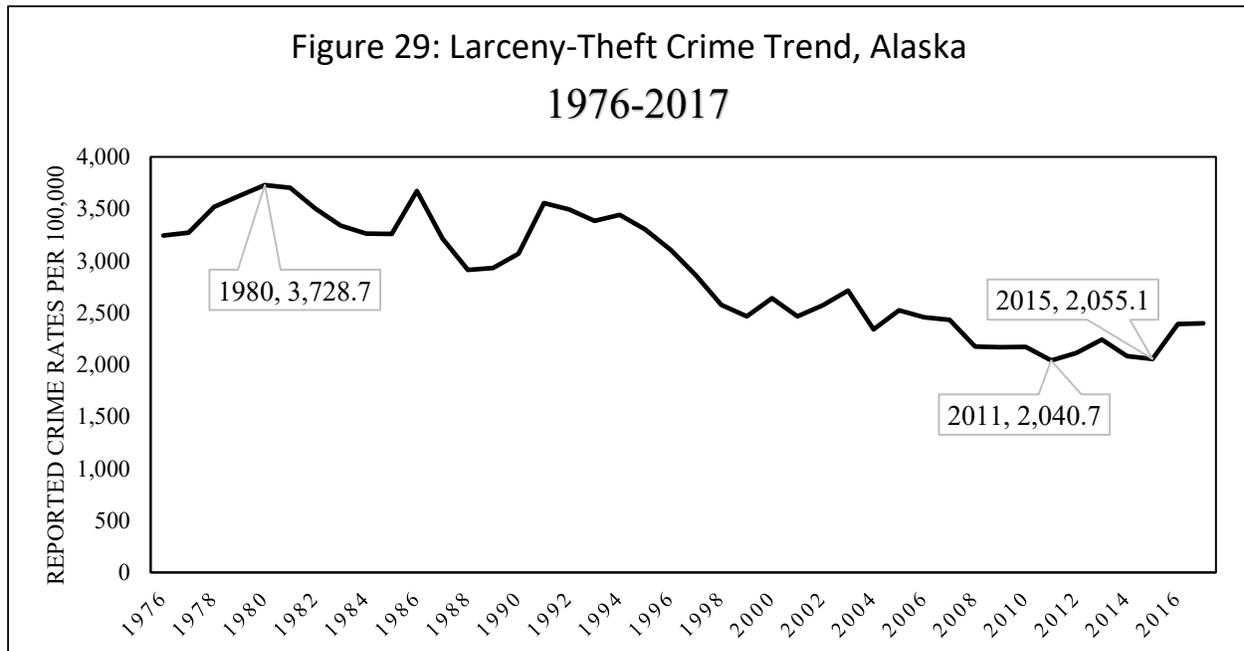
²⁵ See testimony of Sen. Con Bunde, Senate Judiciary Committee hearing re S.B. 218, January 19, 2006.

²⁶ See Crime in the United States, Federal Bureau of Investigation. Available at: <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-1> and <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-5>.

into law in July of 2016. Looking at the crime rate trends for each property crime, however, shows that crime rates started increasing earlier than 2016 for burglary and motor vehicle theft. Figure 27 above shows that the upward trend in burglary crime rates began after 2013. Burglary is the crime of entering a dwelling without permission with the intent to commit a crime (typically a theft crime). The trend for



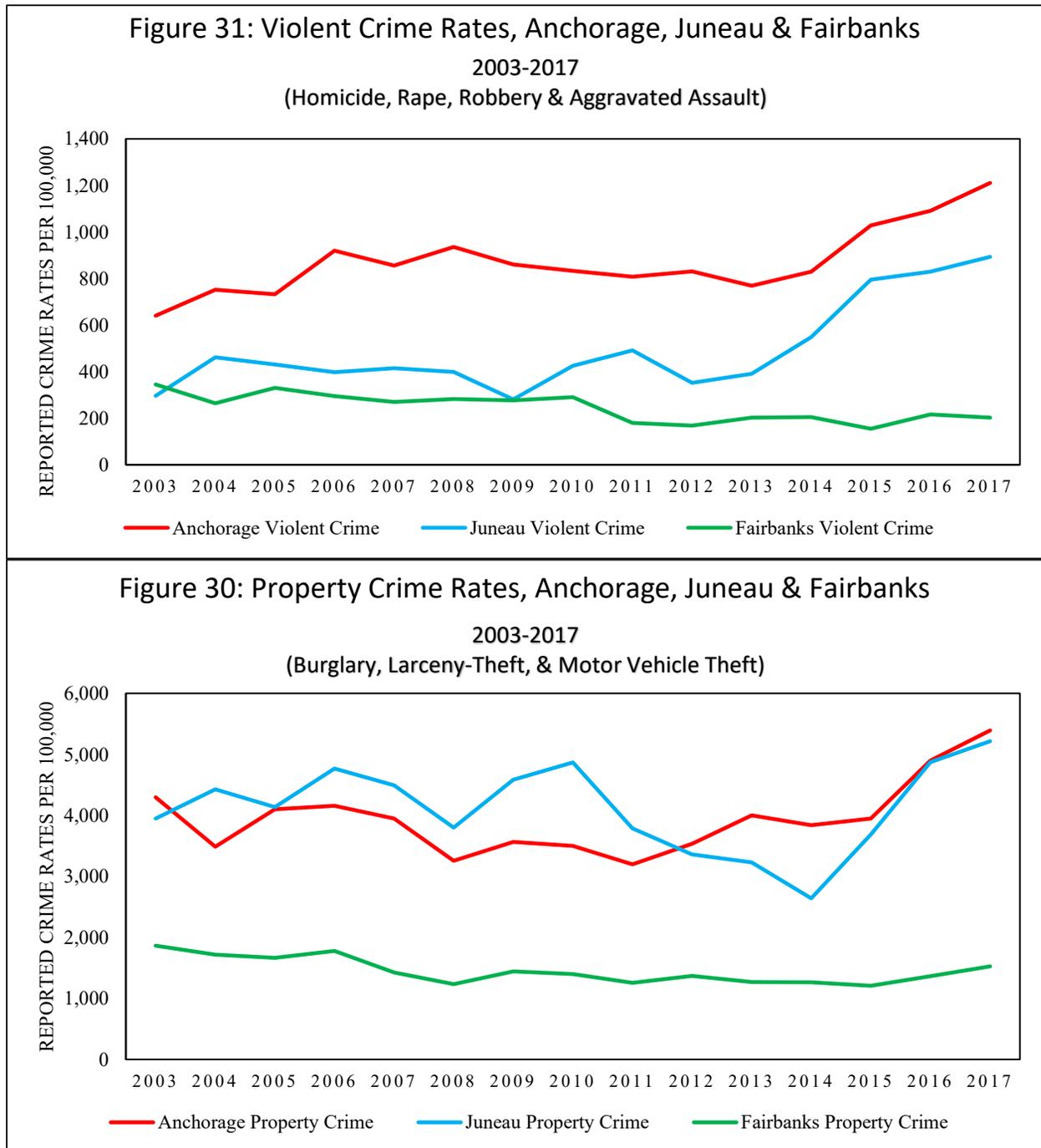
motor vehicle theft is markedly different from the trend for burglary, as seen in Figure 28. There has been an upward trend since 2011 with a dramatic increase after 2014.



Figures 28 and 29 Source: Department of Public Safety

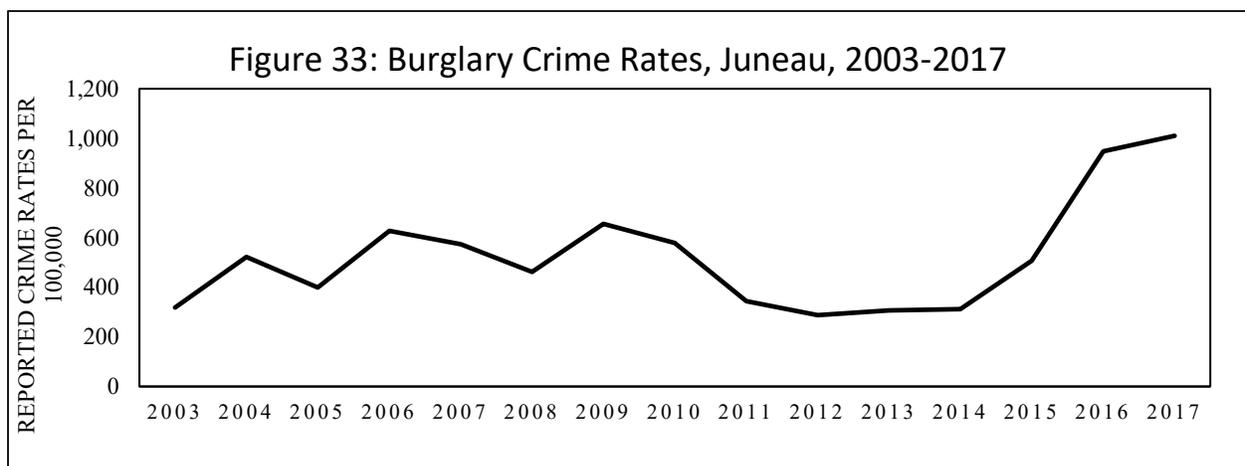
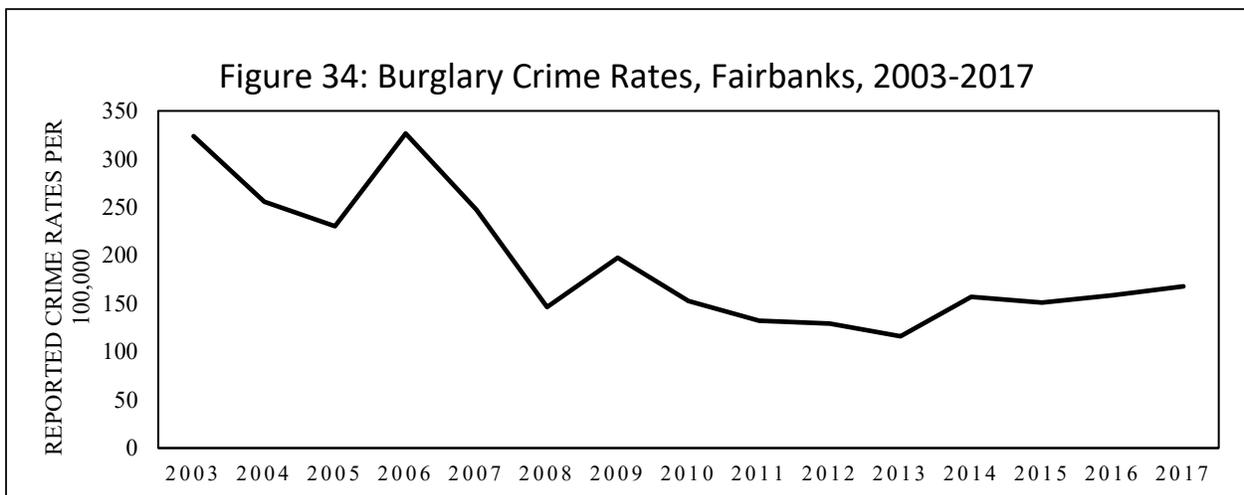
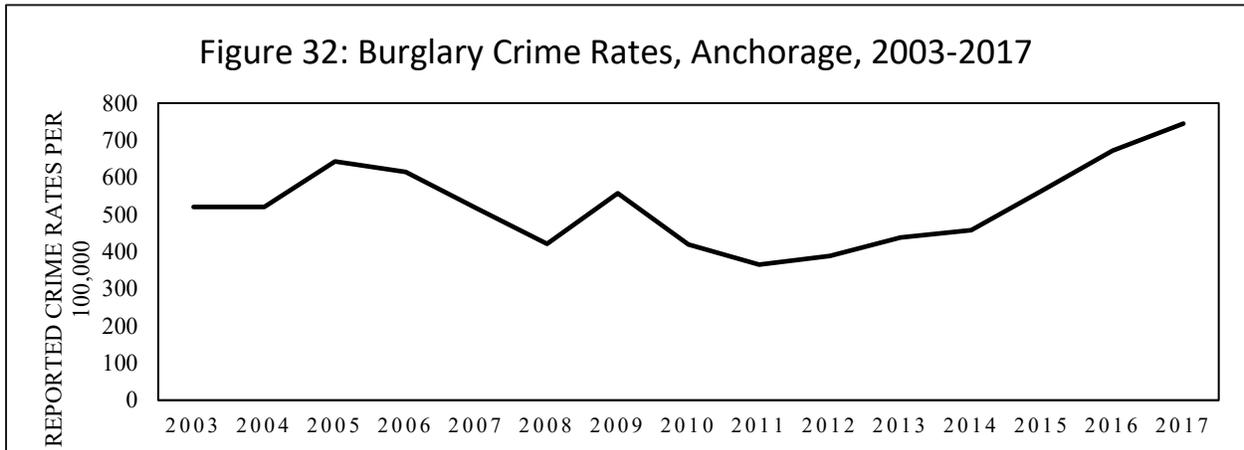
Finally, larceny theft – theft that does not involve burglary or robbery—did see an increase starting in 2015, as shown in Figure 29 above. However, the increase in larceny theft rates was not as dramatic as the increase in motor vehicle theft rates or burglary rates. From 2014 to 2017, burglary rates rose by 32.4%; larceny theft rates rose by 15.2 %, and motor vehicle theft rates rose by 108.4%.

Crime rates also vary by location. Figures 30 and 31 below show the violent and property crime rate trends for Anchorage, Fairbanks, and Juneau over the last 15 years.



Figures 30 and 31 Source: Department of Public Safety

Crime rate trends differ within categories of crime. For example, the charts below show the burglary rate for the last 15 years in Fairbanks, Anchorage, and Juneau. If sentencing laws played a significant role in crime rates, we would expect crime rate trends to be the same wherever sentencing laws are the same. But what the charts show - differences in crime rates by location – are not consistent with the idea that sentencing laws have a great effect on crime rate trends.



Figures 32, 33 and 34 Source: Department of Public Safety

B. Opioid Use

The opioid crisis has likely affected crime rates and should be kept in mind in any discussion concerning criminal justice policy. The crisis led Governor Walker to issue a disaster declaration in February 2017.²⁷

From 2010 to 2017, the number of opioid overdoses in Alaska nearly doubled, from 55 deaths in 2010 to 99 deaths in 2017.²⁸ While a relatively small number in comparison to other causes of death, overdose deaths can be a barometer of the extent to which opioid addiction is increasing in Alaska—and the concurrent demand for opioids which can fuel a variety of crimes. Figure 35 below shows a 43% increase in opioid overdose deaths from 2013 to 2017.

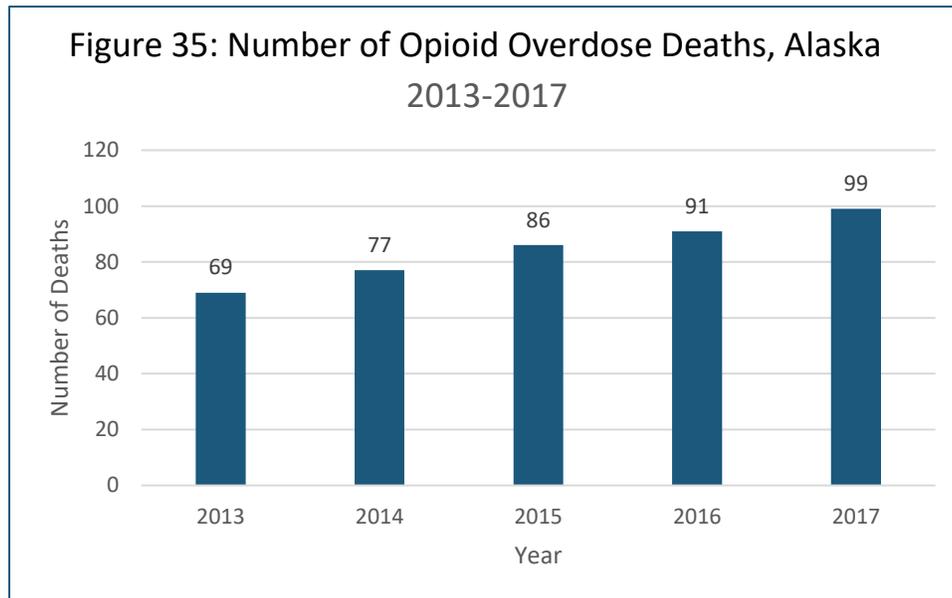


Figure 35 Source: Alaska Division of Public Health, Vital Statistics, Mortality

²⁷ See “Governor Walker Issues Disaster Declaration on Opioid Epidemic,” Press Release, Office of the Governor, February 15, 2017. Available at: <https://gov.alaska.gov/newsroom/2017/02/governor-walker-issues-disaster-declaration-on-opioid-epidemic/>.

²⁸ Alaska Epidemiology Bulletin. “Health Impacts of Opioid Misuse in Alaska”. Vol. 20 Num. 3, August 8, 2018. Available at http://www.epi.alaska.gov/bulletins/docs/rr2018_03.pdf; Alaska Division of Public Health, Vital Statistics, Mortality (Data Accessed: 10/10/2018).

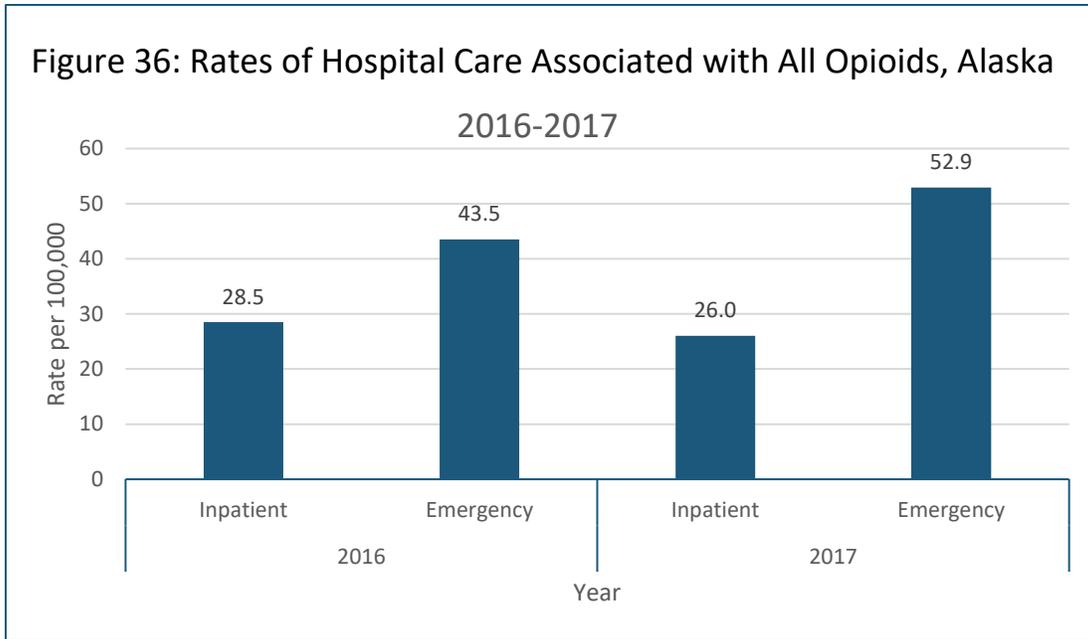


Figure 36 Source: Alaska Division of Public Health, Epidemiology

Recent data on hospitalizations indicate that the opioid crisis is not abating. While the rate of inpatient visits for hospital care associated with opioids decreased slightly between 2016 and 2017, the rate of emergency room visits increased by 22% in that same time.²⁹

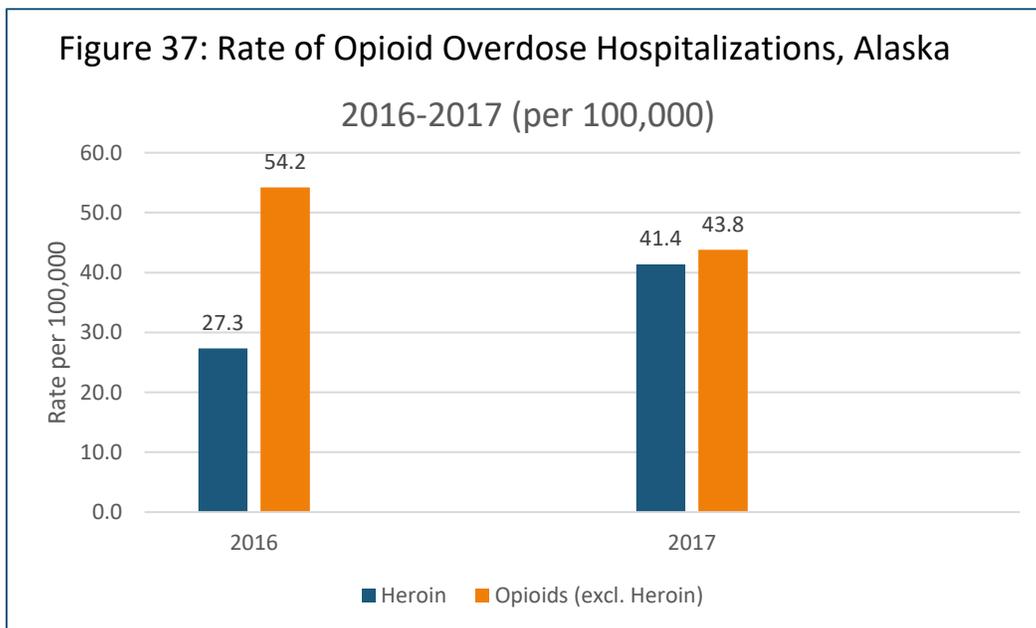


Figure 37 Source: Alaska Division of Public Health, Health Analytics and Vital Records

²⁹ Alaska Epidemiology Bulletin. "Health Impacts of Opioid Misuse in Alaska". Vol. 20 Num. 3, August 8, 2018. Available at http://www.epi.alaska.gov/bulletins/docs/rr2018_03.pdf.

The rate of all hospitalizations for heroin overdoses increased 52% between 2016 and 2017, while the rate of overdose hospitalizations for other opioids decreased.³⁰

Though it is too soon to determine whether emergency treatment for opioid use or heroin overdose hospitalizations will continue to increase, it is clear the opioid epidemic and the demand for illicit drugs continues to have an impact on Alaska.

Though law enforcement officers and prosecutors note that in their experience, a great deal of crime is driven by the demand for illicit drugs, it is not possible to demonstrate this causation with current data. It is possible to make a simple comparison between rising overdose and drug use rates and rising crime rates.³¹

It might be possible in the future to make this direct link. For example, the federal Arrestee Drug Abuse Monitoring Program collected data from a sample of arrestees across the country over a number of years. The data included the results of urine tests as well as interviews with the arrestees. This program found increasing trend in the proportion of arrestees with opiates in their system between 2003 and 2013.³² A similar program could be funded in Alaska.

³⁰ Alaska Division of Public Health, Health Analytics and Vital Records, Health Facilities Data Reporting Inpatient and Outpatient Database [2017 & 2018] v10 (Data Accessed: 10/10/2018); Population estimates were retrieved from State of Alaska, Department of Labor and Workforce Development at <http://live.laborstats.alaska.gov/pop/index.cfm>. Please note that variations in data collection do not allow for comparisons with previous years.

³¹ Brad Myrstol, "Illicit Drug-Crime Nexus (?): Comparing Population-level Trends. Presentation to the Statewide Forum on Public Safety, September 11, 2018.

³² ADAM II 2013 Annual Report, Office of National Drug Control Policy, January 2014. Available at: https://www.abtassociates.com/sites/default/files/migrated_files/91485e0a-8774-442e-8ca1-5ec85ff5fb9a.pdf

C. Sworn Officers, Arrest Rates and Criminal Case Filings

Law enforcement staffing levels have a direct effect on the number and type of cases entering the criminal justice system. Despite the rising crime rate over the last five years, law enforcement staffing levels have not increased to follow suit. The table below shows the number of officers per thousand people in Alaska, compared to the national average, over the last five years.³³

Table 2: Number of Police Officers in Alaska 2013-2017				
Year	Population	# of Officers	Alaska Rate of Sworn Officers	National Average Rate of Sworn Officers
2013	735,776	1,331	1.81	2.2
2014	736,906	1,269	1.72	2.2
2015	737,467	1,269	1.72	2.1
2016	739,709	1,230	1.66	2.2
2017	737,080	1,259	1.71	2.2

Table 2 Source: Alaska Department of Public Safety, Federal Bureau of Investigation

With crime rates up and staffing levels down over the last few years, officers have had to be selective in enforcement, prioritizing violent crime over property crime. The following charts show the number of crimes reported and number of arrests made for both violent and property crimes. While

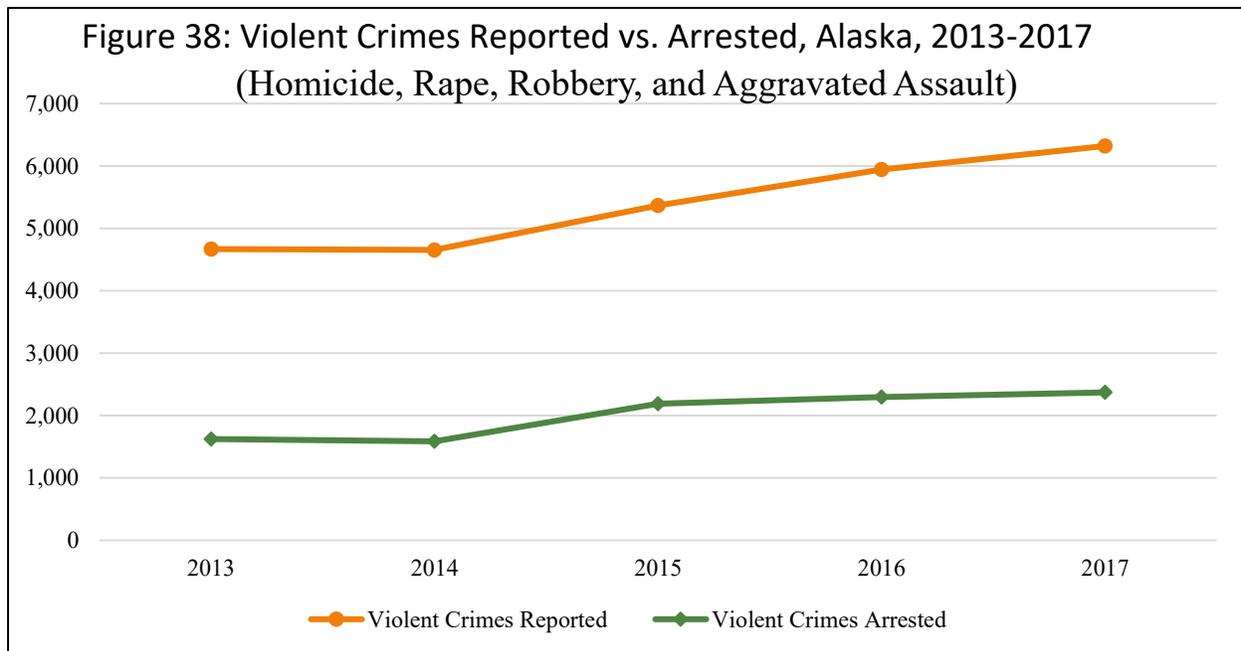


Figure 38 Source: Alaska Department of Public Safety

³³ Crime in Alaska, Alaska Department of Public Safety, Uniform Crime Report 2013-2017, <http://www.dps.alaska.gov/statewide/ucr.aspx>; FBI: UCR Crime in the U.S. 2013-2017 Police Employee Data, <https://ucr.fbi.gov/crime-in-the-u.s>.

arrests for violent crimes have risen somewhat with increasing reports, arrests for property crimes have remained steady despite increasing reports.

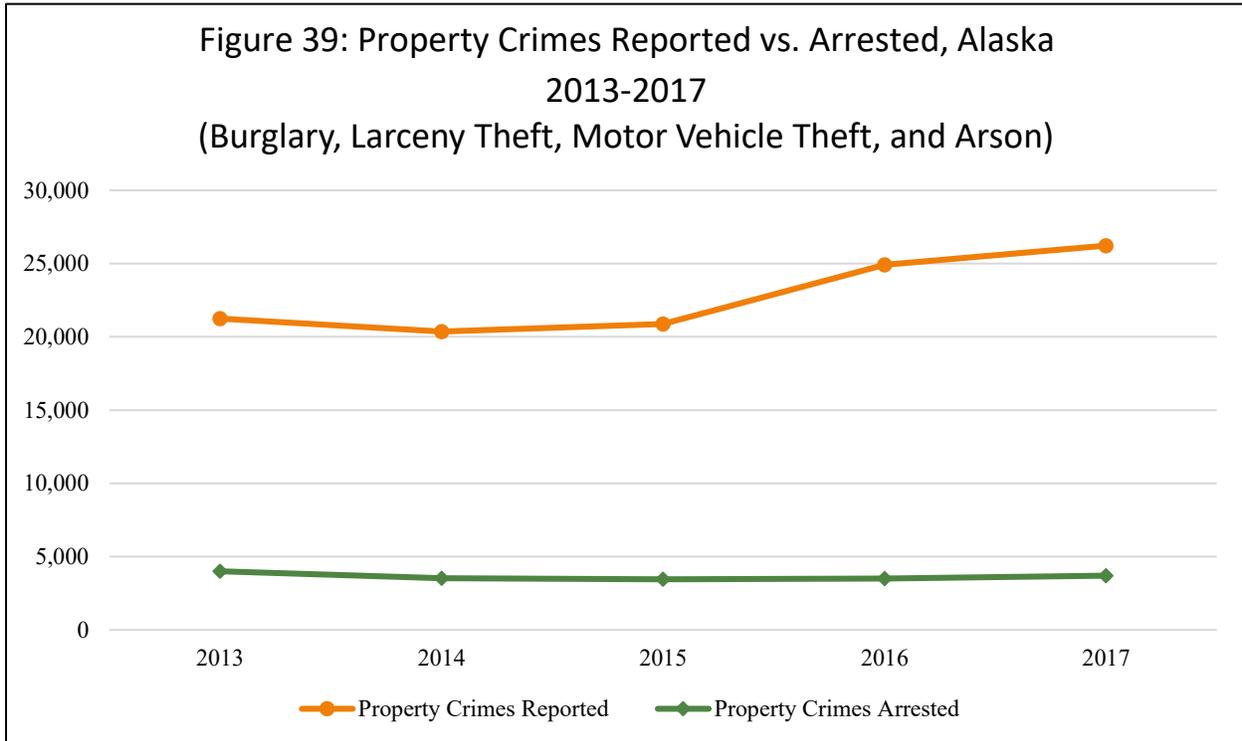


Figure 39 Source: Alaska Department of Public Safety

Another indication of criminal activity is court case filings. Between July of 2015 and June of 2017, felony filings in Alaska declined by about 6%. Misdemeanor filings decreased by 26% during that same time period. These declines, which occurred during a time when crime was rising, are likely related to decreasing or flat arrest rates and cuts to prosecutors.

However, beginning in July of 2017, both felony and misdemeanor filings have risen. There were 2,202 more misdemeanor cases and 988 more felony cases filed statewide in FY18 compared to FY17.

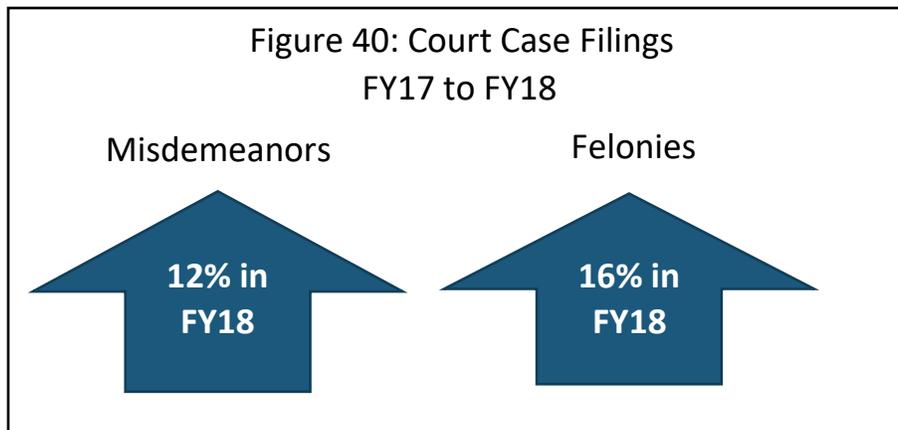


Figure 40 Source: Alaska Court System

Provided that police and prosecutor staffing continues to rise in response to increasing crime rates, it is expected that criminal case filings will also continue to increase.

V. Reinvestment Implementation

Reinvestment in recidivism reduction and violence prevention is an important component of criminal justice reform. The Legislature has accordingly allocated funds for implementation activities, as well as programming to reduce recidivism, prevent violence, and improve public safety.

The Commission has been following the progress of the initiatives funded with reinvestment funds. Since criminal justice reform began, reinvestment has been allocated to four areas:

- Substance abuse treatment within DOC facilities (prisons and CRCs)
- Victims' services and violence prevention programs (through the Council on Domestic Violence and Sexual Assault)
- Reentry Services (administered by DHSS)
- Implementation activities for the Pretrial Enforcement Division, the Parole Board, the Alcohol Safety Action Program, and the Alaska Judicial Council (which staffs the Commission).

Table 3 summarizes the reinvestment allocations and expenditures for FY17 and FY18 that have been directed towards, treatment, reentry, victims and violence prevention services.

Item	FY17 Allocated	FY17 Actual	FY18 Allocated	FY18 Actual	Total FY17 – FY18 Actual
DOC					
Substance Abuse Treatment in Prison	\$500,000	\$164,900	\$1,000,000	\$608,400	\$773,300
Substance Abuse Treatment at CRCs	\$500,000	\$0	\$1,000,000	\$574,700	\$574,700
DHSS					
Community-Based Reentry Services	\$1,000,000	\$644,300	\$2,000,000	\$1,787,700	\$2,432,000
DPS					
CDVSA Victims' Services & Violence Prevention	\$1,000,000	\$986,300	\$2,000,000	\$1,900,550	\$2,886,850
Treatment, Services & Prevention Total	\$3,000,000	\$1,795,500	\$6,000,000	\$4,871,350	\$6,666,850

Table 3 Source: SB 91 Fiscal Notes; OMB

Per the fiscal note accompanying SB 91, a planned total of around \$100 million is to be reinvested by 2022. Table 4 summarizes the total funds (services and implementation) that have been allocated through FY19.³⁴

Table 4: Summary of Reinvestment Allocations through FY19 For Services and Implementation				
Item	FY17 Allocated	FY18 Allocated	FY19 Allocated	Total FY17-19 Allocated
Treatment, Reentry, Victims and Violence Prevention Services				
Subtotal	\$3,000,000	\$6,000,000	\$6,000,000	\$15,000,000
Implementation costs				
Pretrial Enforcement, Commission staffing, ASAP, Parole Board	\$5,828,000	\$11,201,100	\$11,225,600	\$28,254,700
Reinvestment Total	\$8,828,000	\$17,201,100	\$17,225,600	\$43,254,700

Table 4 Source: SB 91 Fiscal Notes; OMB

The sections below explain how the allocated funds have been spent to date and will be spent in the future.

A. Reinvestment in substance abuse treatment at DOC

Most incarcerated individuals in Alaska suffer from a diagnosable substance abuse disorder or mental illness. A report published in 2014 found that individuals with these disorders (referred to as Alaska Mental Health Trust beneficiaries) accounted for 65% of inmates in a DOC facility on a given day in 2012; Trust beneficiaries account for more than 40% of incarcerations every year.³⁵ Of these incarcerated beneficiaries with reported clinical characteristics, about 70% were substance abuse-related (many had both substance abuse and mental illness). For mentally ill or substance abusing offenders, the median length of a prison stay was significantly longer than for other offenders, and they recidivated at higher rates than other offenders. DOC estimates that 80% of all incarcerated individuals have a substance use disorder.

³⁴ Actual expenditures were not able to be tracked for certain implementation efforts; Table 4 therefore shows only what has been allocated.

³⁵ Hornby Zeller Associates, Inc., TRUST BENEFICIARIES IN ALASKA'S DEPARTMENT OF CORRECTIONS (May 2014). A Mental Health Trust Beneficiary is defined as anyone who has 1) received a clinical diagnosis of a mental illness, developmental disability, chronic alcoholism or other substance-related disorders, Alzheimer's disease and related dementia, or a traumatic brain injury, 2) been admitted to the Alaska Psychiatric Institute, or 3) received community services of significant duration and intensity either where a mental health and/or substance abuse diagnosis had been made or where the service itself was clearly related to mental health and/or substance abuse.

Reinvestment funds have been used for the following treatment programs and services at DOC.

- **Medication-Assisted Treatment Program.** Medication-assisted treatment combines opioid-inhibiting medication (such as Vivitrol) with treatment. Ongoing efforts around this program include:
 - A Vivitrol research project (examining whether it is effective in reducing opiate relapse, mortality related to opiate use, and recidivism);
 - Developing a small group home model for program participants;
 - Expanding this program to include suboxone and methadone.
- **NARCAN Program.** NARCAN (naloxone) is a nasal spray that can reverse the effects of an opioid overdose, potentially saving the life of a person who has overdosed. Ongoing efforts for this program include:
 - Distribution of NARCAN and training for corrections officers, probation/parole officers, and medical staff throughout DOC's system;
 - Exploring providing NARCAN to people leaving prison.
- **Developing a substance abuse treatment curriculum.** This includes purchasing books, workbooks, tools, etc. for the residential and intensive outpatient programs at DOC.
- **Expanded assessment services and capacity.** Substance abuse assessments are necessary to determine the level of treatment a person needs. Expanded efforts as a result of reinvestment funding include:
 - Assessment and withdrawal screening software;
 - Telehealth assessments;
 - Expanded use of SBIRT (Screening Brief Intervention & Referral to Treatment);

Expansion of Treatment Programming at DOC

Reinvestment funds have gone towards:

- Medication-Assisted Treatment
- NARCAN
- Developing a substance abuse treatment curriculum
- Expanded assessment services and capacity
- Residential treatment transfers
- Outpatient Programming
- Withdrawal management at Hiland Mountain

- Placement of substance abuse counselors in probation offices to conduct assessments and provide SBIRT services;
- Fee for service funding for community providers for assessments.
- **Residential treatment transfers.** Funds have also gone towards purchasing residential treatment beds for direct bed-to-bed transfers from DOC facilities.
- **Outpatient Programming.** Reinvestment funding has allowed DOC to expand substance abuse, mental health, and dual-diagnosis treatment capacity, including:
 - Addition of a dual diagnosis counselor at ACC;
 - Starting Alternatives to Violence Programming at Wildwood and Spring Creek Correctional Centers;
 - Starting Wellness Recovery Action Plan programming at Goose Creek, Hiland Mountain, and Spring Creek Correctional Centers;
 - Developing an intensive outpatient program (IOP) for offenders in the Seaside Community Restitution Center (CRC) in Nome;
 - Purchasing 25 Intensive Outpatient treatment slots in the community for direct access of offenders in the CRCs;
 - Exploring in-house Intensive Outpatient treatment programs in Juneau, Bethel, and Fairbanks CRCs.
- **Withdrawal management at Hiland Mountain.** Withdrawal management (detox) is a necessary first step in recovery for many. DOC has added detox beds at Hiland Mountain Correctional Center.

B. Reinvestment in Violence Prevention

An important goal of SB 91 was to focus criminal justice system resources on serious and violent crime. Alaska has for many years had high rates of violent crime and high rates of domestic violence and sexual assault; half of all adult women in Alaska have been the victim of one or both of those crimes.³⁶ When the Commission solicited input from victims' groups (including victims and advocates in rural Alaska) about how best to improve victim safety, services, and support, victims' advocates said a top priority was to expand programs focused on crime prevention and bystander intervention. The Commission thus recommended, and the Legislature agreed, to make violence prevention and bystander intervention a priority for reinvestment.

Funds allocated with the passage of SB 91 were directed to the Council on Domestic Violence and Sexual Assault (CDVSA) to continue and expand upon primary prevention programming throughout Alaska. Primary prevention programs target children and youth, because research shows that the experiences these at-risk children and youth have early on in life can be highly predictive of either

³⁶ See Alaska Victimization Survey, UAA Justice Center. Available at: <https://www.uaa.alaska.edu/academics/college-of-health/departments/justice-center/research/alaska-victimization-survey/index.cshtml>.

perpetrating or experiencing violence later in life. The programs counteract these early negative experiences and attempt to build more positive narratives and resiliency for the youth who participate. CDVSA partners with the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), a statewide network of program providers, for these programs.

In FY18, CDVSA primary prevention programs funded with reinvestment dollars included:

- **The COMPASS project** – COMPASS promotes male and youth leadership through mentorship; mentors create a safe atmosphere for men and boys to learn about and practice healthy lifestyles, healthy identities, and safe and violence-free communities. In FY18, the focus was on strengthening the program in Kodiak and Bethel. This program is administered by ANDVSA.
- **Girls on the Run** - An empowerment program for 3rd-8th grade girls that instills confidence and self-respect through physical training, health education, life skills development, and mentoring relationships. Reinvestment funds have allowed this program to expand across Alaska.
- **Boys Run/ I Toowu Klatseen** – A program for boys modeled on Girls on the Run after that program proved to be a success. Boys Run teaches boys healthy relationship and lifestyle skills and integrates a strong cultural component, honoring Southeast Alaska Native culture. Currently operating in Southeast Alaska, the program will be expanded to other communities with future reinvestment funding.
- **Teen Dating Violence Awareness Campaign** – Alaska’s Teen Dating Violence prevention and awareness efforts are year-round and are highlighted annually, throughout the month of February, in alignment with the National Teen Dating Violence Awareness Campaign.
- **Stand Up Speak Up** – A media and engagement campaign to teach youth how to more effectively speak up and encourage other youth to stand up to end violence. FY18 funding supported community-

Expansion of Violence Prevention Programming through CDVSA

Reinvestment funds have gone towards:

- The COMPASS project
- Girls on the Run
- Boys Run/ I Toowu Klatseen
- Teen Dating Violence Awareness Campaign
- Stand Up Speak Up
- Talk Now Talk Often
- LeadOn! Youth Conference
- School Health and Wellness Institute (SHWI)
- Green Dot Alaska

based projects led by youth to promote healthy relationships, respect among peers, and leadership in 13 communities around the state. This program is administered by ANDVSA.

- **Talk Now Talk Often** – A parent engagement project for parents of teenagers; provides resources for parents to speak with their teens about healthy dating relationships. FY18 funds were used to distribute resources to parents and other adults that work with youth to promote discussions about healthy relationships to increase relationship safety and positive teen-adult connections. This program is administered by ANDVSA.
- **LeadOn! Youth Conference** - This annual youth leadership conference was held in Anchorage with FY18 funds to engage youth to help change norms around teen dating violence and empower them as leaders. Eighty-five youth from 22 communities from around the state attended the three-day conference. This conference is run by ANDVSA.
- **School Health and Wellness Institute (SHWI)** – The SHWI professional development training for school staff addresses many new emerging school health and safety topics. CDVSA prevention staff is part of the SHWI planning committee and assures that educators have opportunities to participate in workshops that address teen dating violence and/or sexual assault intervention and prevention strategies. In FY18 reinvestment funds supported scholarships for educators and community partners from around the state to travel to and participate at the SHWI.
- **Community Programming Grants** – The lion’s share of CDVSA’s reinvestment funding went toward grants to assist nonprofits and community coalitions across the state with prevention programming. These local resources engage with community members to spread prevention and bystander intervention training throughout Alaska.

Another key program administered by the CDVSA focuses on bystander intervention. **Green Dot Alaska** is a nationally recognized bystander intervention program with the goal of preparing organizations or communities to take steps to reduce power-based personal violence including sexual violence and domestic violence. The “green dot” refers to any behavior, choice, word or attitude that promotes safety for everyone and communicates intolerance for violence. FY18 funds were used to support ongoing technical assistance and develop an evaluation toolkit for implementing Green Dot in community settings.

Appendix I provides a full description of the prevention programming funded by reinvestment.

C. Reinvestment in Reentry Planning and Services

One major driver of recidivism (and prison bed use) is the category of offenders who are released from prison, but who subsequently fail to maintain a crime-free lifestyle. The Commission found that almost two-thirds of offenders released from prison returned to prison within three years; 62% of those offenders return to prison *within the first three months* of release.

People who have been released from prison fail to successfully reenter society for many reasons, but lack of housing, need for employment, and need for substance abuse or mental health treatment have been identified as important barriers to their successful reentry into the community. The fact that so many reentering offenders fail so quickly after release suggests that these barriers are immediate.

Evidence-based research shows that when support services are frontloaded for medium to high-risk offenders reentering the community, they are more likely to stay out in the community rather than

return to prison. In order to reduce or delay offenders' failure in the community, funds were invested in programs whose goal it is to help offenders successfully reenter the community. In Alaska, these efforts have been undertaken by community reentry coalitions, reentry case managers, and existing community reentry programs such as the Anchorage Partners Reentry center. Through community collaborations and partnerships, released offenders can be connected with necessary services and supports such as healthcare, employment, transportation, education/training, and housing.

SB 91 requires DOC officers to work with offenders to develop a reentry plan that the offender will follow upon release. DOC, DHSS, and the Alaska Mental Health Trust are working closely with each other and with local reentry coalitions to connect newly-released citizens with services. The following is a list of new reentry services provided using SB 91 reinvestment funds.

- **Community Reentry Case Management.** This program uses evidence-based practices to connect medium to high-risk felony offenders, high-risk misdemeanants, and sex offenders with community resources in order to reduce the likelihood of re-offense.
 - Located in: Anchorage, the Mat-Su, Juneau, Fairbanks, and Dillingham.
 - Services provided: Case management, pre-release and post-release community-based referrals for treatment, housing, and employment; payment for transitional supports
- **Reentry Center.** Partners for Progress, a reentry center in Anchorage, has received reinvestment funding to assist reentrants through the first six months of their release.
 - Assists up to 1500 reentrants in the Anchorage area per fiscal year.
 - Services provided: assistance finding housing, treatment, and employment; public assistance linkage; transportation assistance.
 - Partners has also used reinvestment funds to create innovative, sustainable

Expansion of Reentry Programming

Reinvestment funds have gone towards:

- Community Reentry Case Management
- Reentry Center in Anchorage
- Alaska Medicaid Coordinated Care Initiative
- Alaska Housing Finance Corporation Returning Home Program
- Rural Community Reentry Coalitions
- Program infrastructure improvements and assessments

transitional housing models with partner organizations. Housing is a key component of reentry success.

- **Alaska Medicaid Coordinated Care Initiative.** Targets “superutilizers” of public services, promoting quality, cost effective health outcomes by ensuring that coordinated medical services are provided in the most appropriate setting, and focusing resources on prevention and enhanced integration of primary medical care and behavioral health services.
 - After reinvestment, this initiative now includes justice-involved individuals.
 - DHSS and DOC representatives have formed a workgroup to address challenging cases.
- **Alaska Housing Finance Corporation Returning Home Program.** A referral-based, transitional rental assistance program designed to meet the housing needs of parolees and probationers from Alaska’s correctional institutions.
 - Funding had run out for this program; reinvestment funds allowed it to resume.
 - Provides rental assistance vouchers for up to two years.
 - AHFC will track recidivism for program participants.
- **Rural Community Reentry Coalitions.** Coalitions consist of local stakeholders who provide services or support to reentrants.
 - Coalitions already existed in urban areas; reinvestment funding allowed coalitions in Ketchikan, Nome, the Kenai Peninsula, and Dillingham to create a more formal, sustainable structure.
 - Coalition activities:
 - Educate the community about the criminal justice system and the reentry program,
 - Identify local challenges facing reentrants,
 - Identify local gaps in services and identify collaborative solutions to build capacity in the community, and
 - Serve as the local point of contact for DOC and its partners in reducing recidivism.
- **Program infrastructure improvements and assessments.** Reinvestment funding also allowed DHSS and DOC to establish better partnerships and communications channels.
 - *Medicaid enrollment:* funding allowed the Division of Public Assistance to process Medicaid applications for reentrants more quickly.
 - *Information sharing and data tracking across departments:* Reentry case managers can now access information on reentrants from DOC, allowing for a more seamless transition
 - *Vivitrol study:* reinvestment funding is being used to facilitate a study of DOC’s pilot Vivitrol program. Vivitrol is an injection-based medication that can help treat opioid addiction. The study will look at the long-term outcomes of people who have received a Vivitrol shot in prison just prior to release.

D. Funding for Implementation

The remainder of reinvestment funds has gone to implementation of criminal justice reform. The bulk of the implementation funds have been used to establish the Pretrial Enforcement Division (PED), an

entirely new division within the Department of Corrections. PED costs include establishing infrastructure such as offices and hiring sworn and armed PED officers to assess, supervise, and monitor pretrial defendants.

Other implementation costs included staffing for the Commission, increased funding for the Parole Board to meet the higher rate of hearings, and technical upgrades for DOC and for the Alcohol Safety Action Program. Full implementation of criminal justice reform through 2022 is expected to cost \$73,226,700.

VI. Savings and Recommendations for Further Reinvestment

Criminal justice reform is often called “justice reinvestment.” This is because the impetus behind reducing a state’s reliance on incarceration is that money that would otherwise be spent on corrections costs may instead be spent on initiatives that will work better to reduce recidivism, improve public safety, and encourage the justice-involved population to lead more productive lives.

AS 44.19.645 requires the Alaska Criminal Justice Commission to “annually make recommendations to the governor and the Legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism.” This section of the report first examines savings related to criminal justice reform, and then sets forth the Commission’s recommendations for reinvestment.

A. Analysis of Savings from Criminal Justice Reforms

Any analysis of savings from criminal justice reform must include a discussion of changes in prison bed usage at DOC, because this was the primary driver of rising corrections costs and the source of predicted savings when SB 91 was passed. (Any potential savings to other agencies were never predicted and are therefore not included in this discussion.) The criminal justice and corrections landscape has changed significantly since 2016; therefore, many assumptions made in 2016 regarding the effect criminal justice reform would have on corrections costs are no longer valid.

Avoided Costs

- The prison population has decreased, allowing DOC to close a prison
- Recent rising prison admissions rates might have necessitated reopening that prison or building a new one absent reform

The picture in 2015-2016: Predicted savings. When criminal justice reform was first enacted, it was anticipated that Alaska would spend less money on corrections costs because fewer prison beds would be used on a daily basis as a result of changes to sentencing, probation, and parole practices. The reforms contained in SB 91 were anticipated to result in millions of dollars in savings each year, both in net savings (i.e., reduction in prison bed usage) and avoided costs (i.e., avoiding building another prison).

The Commission made its justice reinvestment recommendations at the end of 2015, and SB 91 was passed in 2016. At that time, available data showed that arrests by police were flat or decreasing, and criminal case filings were flat or decreasing. Those drafting SB 91 and the related fiscal notes based their assumptions about savings assuming those trends would continue. Prison bed usage already was declining when SB 91 was passed. Based on these circumstances, DOC shuttered one of its facilities entirely—the Palmer Correctional Center—in October 2016, saving around \$6 million per year in operations costs.

2016-2018: Avoided costs and actual reductions in prison bed usage. Though policymakers did not know it at the time, crime rates had started to rise in the couple of years immediately before reform, but aggregate crime

reporting data was not reflecting any change (because there is a lag until August or September of the following year), and it can take several years to determine whether there is a trend in the data or whether any increase or decrease is just a blip. (See Section IV above for more information on crime rates.) The increasing crime rates led to an increasing demand for a law enforcement response.

Most recently, the increase in arrests and increasing staffing levels in law enforcement agencies have led to more criminal cases being filed – and concurrently, a greater use of prison beds—than was expected when criminal justice reform was passed. Additionally, some of the changes enacted in SB 91 that were expected to reduce prison bed usage have since been reversed by the legislature. Nevertheless, the prison population has been reduced, and the state has avoided the costs of building a new prison.

The prison population has decreased from a peak of about 5000 prisoners at the beginning of 2015 to around 4300 in 2018. This has resulted in real savings, as it allowed the Palmer facility to be closed. DOC's current capacity is at around 4500, down from 5000 before that facility closed.

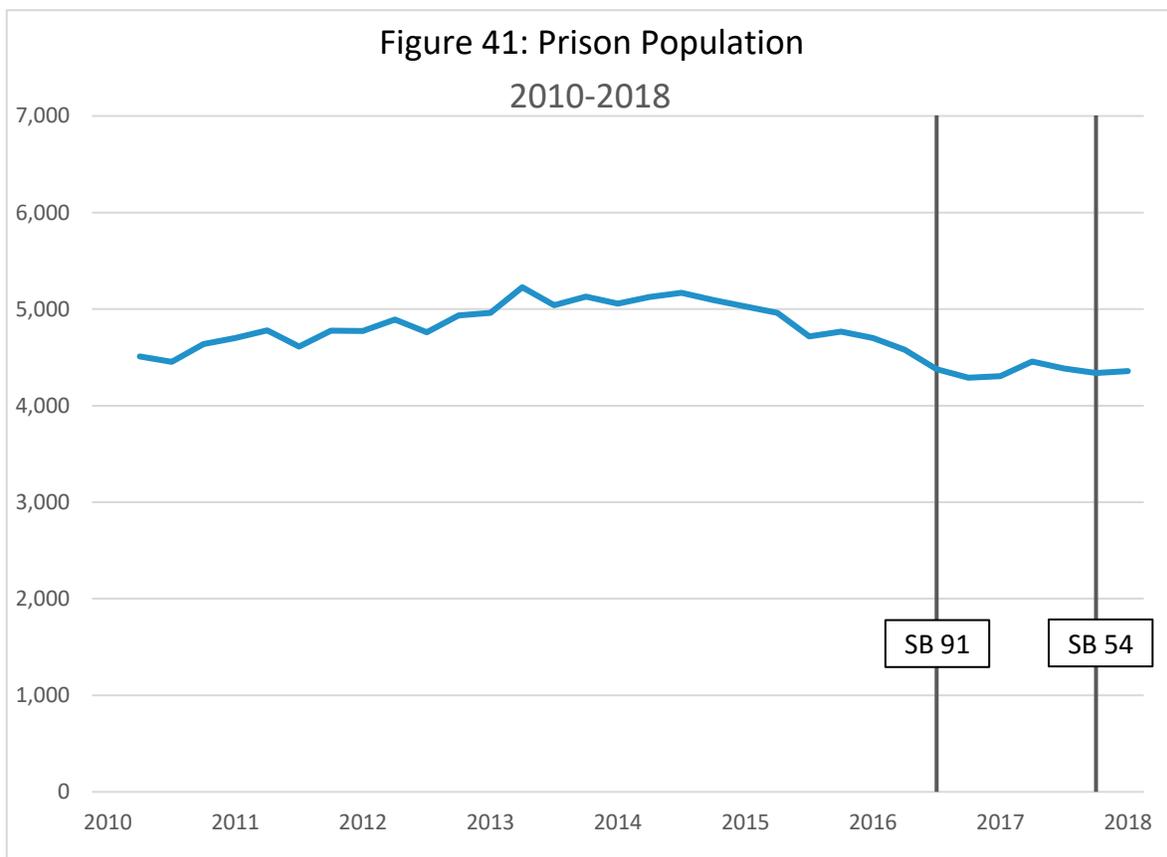


Figure 41 Source: Department of Corrections

Since criminal justice reform began in July of 2016, DOC has not surpassed this new capacity, thus averting the need to spend additional funding on reopening a closed facility or building a new one through the opening of Palmer or other expansion efforts.

Even though the prison population is below what it would have been without criminal justice reform, it does not mean there are accrued savings ready to be spent. The Legislature decreased DOC's

budget in both FY17 and FY18, but then later added supplemental funding in both of those years.³⁷ DOC has had unanticipated inmate medical costs which have required supplemental funding.

Crisis averted. It is worth reiterating that criminal justice reform has allowed a reduction in bed use in Alaska's prisons, therefore averting the need to spend millions of dollars on a growing prison population. Reopening the closed Palmer Correctional facility would have cost an additional \$15 million per year with 110 new PCNs.³⁸ Building another prison would have cost the state even more money; Goose Creek Correctional Center, built in 2012, cost \$240 million.

Without criminal justice reform, there likely would be more people in prison for non-violent crimes, and a great deal more low-risk defendants held in prison pretrial without the ability to make bail. With the rising number of admissions, criminal justice reform has allowed Alaska to absorb these new inmates without the need to build an additional prison at great cost to the state.

However, if the criminal case filing rate continues to rise – or with the enactment of new legislation which may increase prison time for a given offense or offenses – Alaska's current capacity to house prisoners may be stretched beyond DOC's current capacity.

Tax Revenue from Marijuana Sales. The Legislature supplemented its initial reinvestment of savings by establishing a Recidivism Reduction Fund using 50% of the state's new tax revenue from the sale of marijuana.³⁹ These monies are available to the Legislature to make appropriations to the Department of Corrections, the Department of Health and Social Services, or the Department of Public Safety to fund recidivism reduction programs. The legislature allocated \$3 million to these departments in FY17, \$6 million in FY18, and \$7.5 million in FY19. If there is not enough in the Recidivism Reduction Fund to cover these allocations for recidivism reduction programs, the fund is backfilled with general fund dollars.⁴⁰

³⁷ The Commission reported in 2017 that DOC's budget had been decreased by \$7 million in FY17. At that time, the Commission did not realize that DOC had received an increase of \$11 million in the supplemental budget for FY17. See the Commission's 2017 Annual Report, pages 50-51.

³⁸ Sending prisoners out of state would have cost thousands of dollars per prisoner. Housing prisoners out of state can also be a significant detriment to prisoner rehabilitation because prisoners are farther away from their families and the prosocial connections that help them avoid reoffending when they are released.

³⁹ See AS 43.61.010(c): "The recidivism reduction fund is established in the general fund. The Department of Administration shall separately account for 50 percent of the tax collected under this section [excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or manufacturing facility] and deposit it into the recidivism reduction fund."

⁴⁰ AS 43.61.010(d). If the marijuana taxes collected were lower than projected for fiscal year 2017, the Legislature intended to cover the shortfall by supplementing the fund with appropriations from the alcohol and other drug abuse treatment and prevention fund established in AS 43.60.050. See Section 1 of SB 91 which amends the uncodified law of the State of Alaska as follows: "LEGISLATIVE INTENT.... (a) It is the intent of the Legislature that, if the taxes collected under AS 43.61.010 are lower than projected for fiscal year 2017, the Legislature appropriate funds from the alcohol and other drug abuse treatment and prevention fund established in AS 43.60.050 to cover the shortfall", and "(b) It is the intent of the Legislature that reinvestment of excess funds be made into providing additional law enforcement resources in communities throughout the state."

In 2017, 50% of the marijuana tax revenue was just under \$840,000. The preliminary revenue total for FY18 is just over \$11 million, leaving \$5.5 million for the Recidivism Reduction Fund.⁴¹ Thus in FY17 and FY18, this fund had to be backfilled with general fund dollars to cover the allocations made for recidivism reduction programs.

The forecast for FY19 is that there will be \$9 million in marijuana revenue, \$4.5 of which would go to the fund. This would also require backfilling to meet the \$7.5 million appropriated from the fund; however, the actual revenue in FY18 exceeded that year's forecast, so it is possible that FY19 revenue will do so as well.⁴²

B. Recommendations for Reinvestment

This section details the guiding principles the Legislature should use for making reinvestment decisions, and outlines broad suggestions for needs that should be addressed. The Commission is aware that it is not an appropriations body; therefore, it will not make specific recommendations about how much should be spent on any specific program, service, or initiative.

Sustained and substantial reinvestment is needed. As noted above, it is difficult to pinpoint what savings may be attributed to criminal justice reform, though it is clear that without criminal justice reform, incarceration costs would have been much higher. Despite being unable to offer a concrete tally of savings and avoided costs, the Commission observes that there are many real and pressing needs for programs and services for the justice-involved population in Alaska.

Programs and services that can help Alaskans turn away from criminal activity will improve public safety and are essential to the success of criminal justice reform. No matter what savings may be realized at this point, the Legislature should endeavor to meet the needs that Alaska has right now. Without a significant reinvestment component, the criminal justice system will not achieve the desired outcomes of reduced recidivism and improved public safety.

Reinvestment

Sustained and substantial reinvestment is necessary to improve public safety outcomes and meet Alaska's significant needs for behavioral health and other treatment and intervention programming

⁴¹ See "July 2018 Marijuana Tax Information," Alaska Department of Revenue, Tax Division. Available at: <http://tax.alaska.gov/programs/programs/reports/monthly/Marijuana.aspx?ReportDate=7/2018>.

⁴² The tax revenue for July 2018 was \$1.37 million, and the revenue for the previous four months also topped one million. See Laurel Andrews, Alaska Sees Another Month of Climbing Marijuana Tax Revenue," Anchorage Daily News, Sept. 5, 2018. <https://www.adn.com/alaska-marijuana/2018/09/05/alaska-sees-another-month-of-climbing-marijuana-taxes/>

1. Suggested Principles for Reinvestment Decisions.

The Commission recommends state investment in programs based on the following principles.

Principle 1: Reinvestment should be strategic and collaboratively implemented, using a problem-solving rather than a punitive-only approach.

While the programming that has been funded has improved the lives of many Alaskans, the return on investment of such efforts can be maximized through a coordinated approach. The Commission therefore recommends appropriating reinvestment funds according to a strategic plan, which should pay particular attention to the need for substance abuse treatment and mental health treatment.

Collaborative and strategic planning is especially important when reinvesting around populations that are significantly overrepresented in the criminal justice system – such as those with mental and other behavioral health disorders – and are also high utilizers of state services. Implementation of reinvestment programs should be collaborative to reduce gaps between agencies that must cooperate to implement successful programming and to break down funding silos that prevent maximum service delivery to shared populations.

Finally, this strategic approach should be a problem-solving rather than a punitive-only approach. Focusing only on punishment to meet Alaska's criminal justice needs would mean ignoring the root causes of our criminal justice problems. Punishment necessarily entails addressing a problem at the last, rather than the first instance. Problem-solving approaches create opportunities to look at what is driving the rise in crime and address those drivers early in time, minimizing the harm to Alaska's social fabric.

Principle 2: Most reinvestment should be directed towards programs in the evidence base, and all programs should routinely be evaluated for effectiveness.

The Commission recommends that funding should be directed, to the extent possible, to programs that have been rigorously evaluated. By focusing on programs within the evidence base, Alaska can maximize its ability to predict program effects, and minimize the chance of investing in programs that have no effect or even a negative effect. Currently, 90% of state investment in adult criminal justice programs goes to programs matched in the evidence base; the state should endeavor to maintain this ratio of investment in evidence-based programs.

The Commission does not recommend that *all* state funding be directed to evidence-based programs, because there should always be an opportunity for innovation and adaptation. State funding for programs not in the evidence base should target Alaska-specific problems or cultural groups. To be eligible for state funding, programs not in the evidence base should demonstrate that they follow some evidence-based practices or are based on best available research.

All funding should include a rigorous evaluation component. Programs that are already in the evidence base should still be evaluated to ensure that they are being implemented with fidelity and that they are effective in meeting Alaska's specific needs. Programs that are not yet in the evidence base may become so upon rigorous evaluation; innovative programs that prove to be successful should be supported and assessed for expansion where applicable.

Principle 3: Reinvestment should be directed towards programs that have been shown to reduce repeat offending, thereby decreasing future crime.

Programs that have been shown to reduce recidivism should be chosen over programs that have no effect or a negative effect on recidivism. This principle holds public safety paramount, because programs that reduce recidivism avoid future victimization.

Many of the recommendations suggested below target recidivism reduction.

Principle 4: Whenever possible, reinvestment should be directed towards programs that generate tangible monetary benefits and positive return on investment.

When a program achieves significant recidivism reduction effects, it creates tangible benefits in the form of reduced future criminal justice administration and future victimization costs. Yet, due to inherent structural and contextual factors that inflate programmatic costs (for example, small populations and/or geographic isolation) even some highly effective Alaska adult criminal justice programs cannot produce benefits that exceed programmatic costs. Rural Alaska, as an example, is a high-cost environment where service delivery is often more expensive than elsewhere. Nevertheless, recidivism-reducing programs in rural areas and programs that target important groups of offenders who may live in rural areas should receive state investment.

The Commission urges entities administering adult criminal justice programs to analyze cost structure, identify cost drivers, and address those problems where possible (for example, increase program capacity or usage; re-negotiate treatment contracts, etc.), with the goal of reaching “break even” or positive return on investment.

Principle 5: Prioritize funding for programs that target high risk (and medium risk) offender groups.

High-risk offenders tend to have substantial problems in multiple areas, little motivation to change, live in criminogenic environments, and engage in a wide range of antisocial behaviors. They often are more difficult to manage than lower-risk offenders and therefore are often the first to be excluded from programming. Yet when high risk offenders reoffend, the composition and severity of the reoffending patterns are a greater threat to safety and community well-being than low risk offenders. Thus, state investments in adult criminal justice should be directed primarily at recidivism reduction efforts aimed at high-risk offenders.

This principle should not be construed to recommend excluding any funding for programs that divert low-level offenders from further involvement in the criminal justice system. The Commission is concerned about the inappropriate use of incarceration for the mentally ill.

To the extent that resources permit, appropriate services tailored to the needs of low-risk offenders should also be funded, in accordance with the risk-needs-responsivity principle. This evidence-based practice dictates that programs should match the level of service to the offender’s risk to re-offend – and also adjust supervision accordingly. Therefore low-risk offenders should receive some degree of attention, but not so much that it produces a negative result.

Principle 6: Reinvestment should be targeted at all areas of the state, including rural Alaska.

The Commission has received testimony about the dearth of adult criminal justice programs in rural Alaska, as well as the need for expanding program capacity in urban areas. The Commission recommends that some reinvestment funds be directed to capacity building for community-based

justice services in rural Alaska (for example, rural reentry coalitions). Building capacity in rural Alaska would allow at least some offenders to return to their home communities or rural hubs to complete treatment or programming. Offenders who wish to complete treatment or programming closer to home believe they will be better supported and more successful than doing so while living in urban areas.

This principle may operate in tension, to some degree, with principle 4. Running programs in rural areas of Alaska tends to be costly and therefore a monetary return on investment may be more difficult to demonstrate. Nevertheless, there is a great need for services in rural Alaska, and rural Alaskans have an equal right to the services enjoyed by their urban counterparts. Of particular concern is the availability of substance abuse treatment services in rural Alaska, since many such programs are in the evidence base and have been shown to reduce recidivism.

Principle 7: Maintain and expand funding for victim's services and violence and other prevention programming.

The Commission strongly supports funding for evidence-based violence prevention programming, because prevention has the effect of reducing offending. For example, many of the efforts of the CDVSA in recent years have been directed at prevention, and the most recent Alaska Victimization Survey shows that fewer women reported being victims of domestic violence and sexual assault compared to the previous survey.⁴³ The Commission is encouraged by these results.

The Commission also supports funding for evidence-based prevention programming that targets at-risk youth and children who may be affected by adverse childhood experiences (ACEs). Research shows that children affected by ACEs are overrepresented in the criminal justice population. Funding should be directed toward breaking the intergenerational cycle of criminal justice involvement.

Furthermore, funding for victim's services provides an element of restorative justice that is often overlooked in the criminal justice system. Providing support to victims takes many forms and the Commission commends the many organizations working across Alaska working in this field. Similarly, the Commission encourages the facilitation of victim restitution as outlined in its December 2016 report.

2. Needs that should be addressed with reinvestment funding.

The Commission recommends that reinvestment funding should target the following needs, in accordance with the principles outlined above.

⁴³ Comparing results of the 2015 Alaska Victimization Survey to the results of the 2010 survey shows that 50.3% of adult women in Alaska experienced sexual violence, intimate partner violence, or both, in their lifetime, versus 58.6% in 2010 – a rate that is still too high but nevertheless represents a seven percentage point reduction. Similarly, 8.1% of adult women in Alaska experienced sexual violence, intimate partner violence, or both in the past year, versus 11.8% in 2010. See Alaska Victimization Survey, UAA Justice Center. Available at: <https://www.uaa.alaska.edu/academics/college-of-health/departments/justice-center/research/alaska-victimization-survey/index.cshtml>.

- **Treatment.** Most Alaskans are aware of the significant substance abuse and mental health challenges facing the state, and the inadequacy of the state’s current capacity to meet those challenges. The Commission has identified the following treatment priorities:
 - Provide flexible state funding for the Division of Behavioral Health to be used for community-based providers for mental health treatment and social services. These are the types of services that are often not reimbursed by Medicaid. Flexible funding will allow those in the justice-involved population to receive these crucial services, without which other treatment services will not be effective.
 - Increase substance use disorder funding, including investing in physical infrastructure. Many issues in treatment capacity in Alaska stem from a lack of permanent infrastructure that will attract and retain the investment and workforce needed to meet the demand for treatment. A sustainable infrastructure will allow providers to ramp up and maintain services.
 - Increase the agility and sustainability of substance use and mental health treatment statewide, across timeframes of a justice-involved individual (school, pre-charge, pretrial, prison, reentry).
 - Provide timely and available assessments and treatment. Often, an individual’s barrier to accessing treatment is a lack of an assessment. Assessment services often have waitlists and there are few if any assessment services provided independently of treatment services.
- **Competency.** Individuals who are severely mentally ill may need to be evaluated for competency to stand trial. There is a dire need for expanded capacity to serve these individuals; often, they are held in prison awaiting a competency evaluation for longer than the typical prison term for the offense with which they are charged.
 - Build infrastructure to care for Alaskans whose legal competency is in question and who must be evaluated and perhaps restored before a criminal case against them may proceed. Assess the current forensic capacity at the Alaska Psychiatric Institute (API). This will allow these individuals to be served more quickly and will best meet their needs.
 - A necessary component of this recommendation to build infrastructure must be to add forensic psychologists and psychiatrists to augment the existing capacity of API to evaluate and treat these individuals. There are only a handful of such professionals in the state, and this adds to the lag time in competency evaluation and restoration.
- **Pre-charge or Pretrial Diversion.** Where appropriate, early diversion can offer individuals a faster route to rehabilitation and avoid some of the negative effects of incarceration and sustained interaction with the criminal justice system.
 - Provided expanded access to pre-charge and pretrial diversion, including tribal court agreements for youth and providing more services through tribes. Tribal court agreements allow youthful offenders to receive more culturally-appropriate treatment and tribal services will allow more people to engage in rehabilitative services nearer to home.

- Fund a data-driven, evidence-based pre-charge/pretrial diversion program with behavioral health supports to sustain it. With adequate behavioral health services in a given community, diversion programs can allow individuals whose involvement with the criminal justice system is driven by a behavioral health issue to receive the treatment they need to return to a pro-social lifestyle without incarceration.

In 2018, the Commission submitted a request to the Bureau of Justice Assistance for funding to design a pre-charge diversion program for the Anchorage Police Department. If the funds are approved, the Anchorage Police Department will receive technical assistance to identify a target population for street-level diversion, engage with community stakeholders, and identify necessary behavioral health or other services for the diverted individuals.

- **Alternatives to incarceration.** Like diversion, alternatives to incarceration such as therapeutic courts can also offer individuals a faster route to rehabilitation and avoid some of the negative effects of incarceration and sustained interaction with the criminal justice system.
 - Develop a strategic plan for statewide development of therapeutic courts. There are several therapeutic court models in Anchorage, but relatively few such courts in other areas of the state. A statewide plan would explore the use of therapeutic court models in other areas beyond Anchorage.
- **Rethinking incarceration.** Traditional ideas of what incarceration should look like may be an impediment to achieving better outcomes for recidivism reduction and rehabilitation.
 - Train and retrain DOC staff to focus on rehabilitation by employing principles of normalcy, effective conditions of confinement, dynamic security, education, vocational training, and transitional incarceration. These principles will better enable prisoner to adjust to life after prison and will keep the public safer by reducing recidivism.
 - Fund more resources for “behind the walls” treatment.
- **Services for those on probation and parole.** Facilitating reentry success while on community supervision can also improve recidivism outcomes.
 - Provide more outpatient services for those on parole, probation and upon release. People who are released from prison and are able to access these services will be less likely to fall into old criminogenic thinking patterns and behaviors. There are not enough such services available for the justice-involved population and not all such services are funded by Medicaid.
- **Reentry services.** Robust services provided to people who have recently left prison will also help reduce recidivism, as people are most likely to recidivate within the first three months after leaving prison.
 - Provided expanded access to reentry assistance and make available flexible funds for immediate individualized transitional supports (e.g. housing, clothing medications,

transportation, etc.). These kinds of supports are typically not funded by Medicaid, though they are crucial for reentry success.

- **Domestic Violence Intervention Programming.** There are national studies suggesting that traditional forms of Domestic Violence (DV) intervention programs are ineffective or even counterproductive. The Commission has heard from advocates in Alaska who say they do not use solely the traditional programming formula, but supplement it in ways that make their programs effective. There is a need to evaluate Alaska's DV intervention programming for effectiveness.

- Evaluate existing DV programs in Alaska, and if they are not shown to be effective, find or create and adequately fund an evidence-based model of intervention programming for DV offenders. This model should include an adequate risk-needs assessment process for those convicted of a DV offense.

In 2018, the Council on Domestic Violence and Sexual Assault began working with the Alaska Judicial Council on a project to improve Alaska's DV offender programs. The first step was a survey to document procedures and approaches used by the programs. Next steps include a literature survey of practices or program models that have evidence of promising or effective outcomes, and more dialogue with the programs.

- **Victims' Services.** The Commission hosted victim/survivor/advocate roundtables in 2015, which identified a number of action items that would improve the lives of crime victims. Many of those action items have yet to be implemented, including:

- Increased services for child victims and witnesses in Alaska should be provided to address their myriad trauma and safety needs.
- Law enforcement officers who respond to domestic violence calls should receive additional training and oversight on how to determine which person is the primary aggressor, to avoid situations in which victims are misidentified as offenders.
- During the parole and reentry phase of the criminal justice system, crime victims should also be considered clients; educated about their role and rights; and included in case planning.
- Institutionalized training for criminal justice professionals should be regularly offered to teach about victims' rights; victim sensitivity; victim trauma (including the neurobiology of trauma, PTSD, and invisible disabilities); how to talk to victims; trauma-informed responses to victims; cultural diversity and competence; and crime prevention and bystander intervention.

Appendix H contains the full suite of recommendations from the Victims' Roundtable discussions.

VII. Conclusions and Future Projects

There have been several changes to the law since the initial criminal justice reform bill was passed, and it is difficult to draw conclusions based on data collected thus far. But there are early indicators that some components of criminal justice reform have worked as intended.

- **Resources are more concentrated on dangerous or violent offenders.** The share of violent prisoners has increased, and the share of people on supervision who have been assessed as high risk has increased. Fewer people are being admitted to prison for the simple possession of drugs, and people who have been convicted of misdemeanor theft crimes are spending less time in jail.
- **A greater proportion of pretrial defendants are being released before their trial.** At the same time, the failure to appear rate remains unchanged. The data also point to a decreasing disparity in the rate of release for Alaska Natives.
- **Community supervision has become more effective.** A larger proportion of felons being supervised by probation/parole officers have successfully completed the conditions of their supervision and have exited the officers' caseloads. Probation/parole officers now have smaller caseloads and can focus on the supervisees who need the most help and/or surveillance.
- **The prison population has decreased,** allowing DOC to close a facility.

However, there has been an increase in admissions to prison recently, which may indicate that the prison population trend will reverse course in the future.

The Commission will continue to monitor the data. As time passes, more information will become available, such as recidivism rates or the rate at which pretrial defendants are arrested for a new crime.

The Commission also plans to send the legislature a comprehensive report on sex offenses in the near future.

Further information

For more information regarding the work of the Criminal Justice Commission, contact Commission Staff Attorney Barbara Dunham at 907-279-2526 or bdunham@ajc.state.ak.us.

Appendix A: Organization

Representation. The legislative history of SB64’s enactment showed a desire for convening a diverse group of agencies and interested parties in the criminal justice area who could work jointly to identify, vet and forward proposed reforms to the Legislature. Although the statute allowed for the designation of representatives, Commissioners almost always directly participate in Commission meetings.

Leadership. SB64 required the yearly election of Commission leadership. The Commission’s first Chair, retired Supreme Court Justice Alexander O. Bryner, was elected in September 2014. Gregory Razo, elected in October 2015 and re-elected August 2016 and August 2017, succeeded Justice Bryner. In September of 2018, the Commission elected Representative Matt Claman as its chair. Brenda Stanfill is the Vice Chair, filling in when Commissioner Claman is absent.

Voting. The two Commission chairs have sought to have proposals resolved by consensus. Policies which lack consensus but have majority support will also be forwarded to the Legislature, with an explanatory note regarding majority support.

Meetings. The Legislature expected the Commission to meet “at least quarterly” as a plenary body. It adopted a monthly meeting schedule for its first 18 months. Later, the Commission moved to an every-other-month schedule. The Commission chair occasionally calls special meetings outside the typical schedule if there are time-sensitive matters to discuss.

The Commission typically meets in Anchorage or Juneau. Commission and public members utilize video- and audio-conferencing facilities to attend meetings when physical attendance is not possible.

In addition to attending plenary sessions, individual Commissioners have been present at numerous workgroup (committee) meetings staffed by the Alaska Judicial Council. All meetings of the Commission are publicly noticed and open to the public. There is time reserved at each meeting for public comment.

Workgroups. The Commission has several workgroups and one standing committee which engage stakeholders and community members in studying various aspects of the criminal justice system. The groups identify problems and then develop recommendations for solutions to these problems. Workgroup recommendations are then vetted by the full Commission, and if the full Commission approves the recommendation, it is forwarded to the Legislature, the Governor, or other appropriate authority for consideration and implementation.

The Commission has active workgroups covering the subjects of sex offenses, sentencing, restorative justice, and barriers to reentry, as well as a standing committee devoted to the subject of behavioral health. These workgroups and the standing committee were all active over the last year, and their recommendations are detailed in section II of this report.

Additionally, the Commission has two workgroups which were dormant this past year; they were devoted to drug and alcohol-related driving offenses (Title 28) and restitution and restorative justice. These groups

produced the findings and recommendations in two reports that were sent to the Legislature last year. They may reconvene if the Legislature acts upon those reports.

Public notice and participation. All meetings are noticed on the State’s online public notice website, as well as the Commission’s website. Interested persons can also be placed on pertinent mailing lists notifying them of upcoming meetings and content. An audio-teleconference line is used for all meetings. All meetings allocate time for public comment.

Staffing. Although the Commission is one of the boards and commissions organized under the Office of the Governor, the Legislature and the Governor’s Office tasked the Alaska Judicial Council (AJC) with its staffing and administrative support. A full-time attorney and a part-time research analyst hired by the Judicial Council staff the Commission; they are assisted by existing Judicial Council staff.

Assessments & evaluations. The Commission is required to receive and analyze information to measure changes to the criminal justice system related to laws enacted in SB 91. The Alaska Judicial Council and the Justice Center at the University of Alaska are jointly reviewing and analyzing data for the Commission, in consultation with the Criminal Justice Working Group. Alaska Statute 44.19.645 requires DOC, DPS, and the Court System to send information to the Commission on a quarterly basis.

Website. The Commission maintains a website with meeting times, agendas, and summaries for all plenary meetings and workgroup meetings. The website also has extensive substantive information, including research that the Commission has relied upon in formulating its recommendations. The website address is <http://www.ajc.state.ak.us/alaska-criminal-justice-commission> .

Outreach and Education. The Commission is committed to engaging with the public and continues to seek opportunities for public participation in and education about the Commission’s work. The Commission’s meetings are open to the public and advertised on the Commission’s website. These meetings are routinely attended by at least 15-20 community stakeholders and interested citizens. Each meeting has a designated time for public comment and any public testimony is recorded by staff.

Commissioners and staff have also been invited to make numerous presentations to community and professional groups and attend community events, including forums on public safety. Commissioners and staff have also responded to requests to brief media, attorney groups, and citizen groups about SB 91. The Commission’s website also contains a wealth of explanatory and educational materials about the Commission’s work, the research behind the Commission’s recommendations, and the provisions in SB 91.

Appendix B: Commission Members

Joel H. Bolger

Chief Justice Joel H. Bolger was appointed to the Alaska Supreme Court in January 2013. Born and raised in Iowa, he received a B.S. in Economics from the University of Iowa in 1976 and a J.D. in 1978. He came to Alaska as a VISTA attorney with Alaska Legal Services Corporation in Dillingham and also served as a public defender in Barrow and in private practice in Kodiak. Justice Bolger was appointed to the District Court in Valdez in 1997, to the Superior Court in Kodiak in 2003, and to the Alaska Court of Appeals in 2008. He serves as co-chair of the Criminal Justice Working Group. Justice Bolger became the Chief Justice of the Alaska Supreme Court in July of 2018.

Sean Case

Captain Sean Case was raised in Alaska and received his Bachelor's Degree in Justice from the University of Alaska, Anchorage. He began his law enforcement career at the Los Angeles Police Department before returning to Alaska to work for the Anchorage Police Department. He has been with APD for 16 years and has served in multiple areas of the department including as a School Resource Officer, Canine Handler, SWAT Operator, Internal Affairs, Shift Commander, and Captain of the Inspection Division. Captain Case has a Master's Degree in Criminology from Indiana State University and is currently working on a Master's Degree in the Psychology of Leadership from Penn State University. He now serves as Acting Deputy Chief of Administration.

John Coghill

John Coghill is a third-generation Alaskan and grew up in Nenana. He attended the University of Alaska Fairbanks. Coghill served in the US Air Force, worked as a school teacher, pastor's assistant and has been a small business owner. He began his political career in 1999 when he became a member of the House of Representatives for the 11th district. From 2003 to 2006, he was the House Majority Leader. In 2009, he was elected State Senator for District A. Coghill served as Senate Majority leader in 2013.

Matt Claman

Matt Claman first came to Alaska in 1980 to work in a mining camp. After graduating from law school, Matt returned to Alaska to make his home, raise his family, and establish his career. Matt was elected to the Alaska State House in November 2014 and now serves as the Chair of the House Judiciary Committee. Prior to service in the State House, Matt served on the Anchorage Assembly beginning in 2007, was elected Chair of the Anchorage Assembly in 2008, and served as the Acting Mayor of Anchorage in 2009. An attorney for over 30 years, Matt managed his own small law business for over 11 years, taught law classes at the University of Alaska Anchorage, and was elected to the Board of Governors of the Alaska Bar Association in 2002, serving as its President in 2007-08.

Jahna Lindemuth

Jahna Lindemuth was born and raised in Anchorage and received her J.D. from U.C. Berkeley in 1997. Ms. Lindemuth started her new role as Attorney General for the State of Alaska on August 8, 2016. Before becoming Attorney General, she spent 18 years in private practice at Dorsey & Whitney, LLP. While

keeping up a full caseload, she donated many hours providing pro bono legal services to clients who could not afford an attorney, including representing one of the Fairbanks Four in a post-conviction relief proceeding in 2015. In reaching a settlement with the State of Alaska in December 2015, she helped secure the Fairbanks Four's release after eighteen years of imprisonment and the court vacated their convictions.

Walt Monegan

Walt Monegan is of Irish, Yupik, and Tlingit descent and grew up in Nyc, Alaska. He has a degree in Organizational Management from Alaska Pacific University and received training at Northwestern University, the John F. Kennedy School at Harvard University, and the FBI National Executive Institute. He was a member of the Anchorage Police Department and its chief, and served as the Interim Commissioner of the Alaska Department of Corrections. Currently, he is the Public Safety Commissioner.

Gregory P. Razo

Greg Razo is of Yupik and Hispanic descent and grew up in Anchorage. He is the Vice President of Government Contracting for Cook Inlet Region, Inc. (CIRI). Mr. Razo has a J.D. degree from Willamette University. Before working at CIRI, Razo practiced law in Kodiak. He has also served as a deputy magistrate and Assistant District Attorney. He is a director of Alaska Legal Services Corporation, the Alaska Federation of Natives, the Alaska Pro Bono Program, and is the board vice-chair for the Alaska Native Justice Center.

Stephanie Rhoades

Stephanie Rhoades moved to Alaska in 1986. She has a J.D. from Northeastern University School of Law. Rhoades worked in private practice and as an Assistant District Attorney. In 1992, she was appointed to the District Court in Anchorage. In 1998, she established the first mental health court in Alaska. Judge Rhoades served on the Alaska Criminal Justice Assessment Commission from 1997 to 2000 where she chaired the Decriminalizing the Mentally Ill Committee. She also served on the Alaska Prisoner Reentry Taskforce.

Brenda Stanfill

Brenda Stanfill is the Executive Director of the Interior Alaska Center for Non-Violent Living and has been an advocate for victims for 22 years. She holds a Master's Degree in Public Administration from the University of Alaska, Southeast and is a member of the Alaska Network on Domestic Violence and Sexual Assault and the Governor's Council on Homelessness. Ms. Stanfill is active in many groups in her community such as the Domestic Violence Task Force, the Housing and Homeless Group, and the Wellness Coalition.

Quinlan Steiner

Quinlan Steiner was raised in Anchorage and is a fourth-generation Alaskan. He holds a Juris Doctor from the Northwestern School of Law of Lewis and Clark College and a B.A. in Business Administration from Seattle University. Mr. Steiner has been an attorney for the State Public Defender agency since 1998 and was appointed Public Defender and head of the agency in 2005. He has been a member of the Criminal Rules Committee since 2006 and the Criminal Justice Working Group since 2008.

Trevor Stephens

Trevor Stephens was raised in Ketchikan. After obtaining a JD degree from Willamette University, he returned to Ketchikan, working in private practice, as an Assistant Public Defender, Assistant District Attorney and the District Attorney. On the bench since 2000, Stephens is the presiding judge of the First Judicial District, a member of the three-judge sentencing panel, and a member of the Family Rules Committee, Jury Improvement Committee, and the Child in Need of Aid Court Improvement Committee.

Dean Williams

Dean Williams started his state career in 1981 as a youth counselor in juvenile justice. He was the juvenile justice superintendent in Nome, and then eventually moved back to Anchorage to finish his first state career as the juvenile justice superintendent at McLaughlin Youth Center. There, he focused on school discipline and the over use of expulsion/suspension. Along with many partners, Commissioner Williams spearheaded the start of Step Up, Anchorage's first alternative school focused on expelled and suspended youth. The work on expulsion/suspension led to several national appointments to continue the work on closing the "school to prison pipeline." Commissioner Williams then came back to public service as a special assistant in the Department of Public Safety, which eventually led him to be Governor Walker's special assistant. He is currently the Commissioner of the Department of Corrections where he has the privilege to lead a fantastic team.

Steve Williams

Steve Williams has lived in Alaska since 1992. He holds a master's degree in social work from the University of Michigan focused on mental health and nonprofit management and a bachelor of arts from Loyola University Maryland. For most of his career, Williams has worked on statewide policies and programs focused on achieving better outcomes for Alaskans who have been involved with the criminal justice system and improving the overall effectiveness and efficiency of the criminal justice and community health systems. Currently, he is the chief operating officer for the Alaska Mental Health Trust. He has been a member of the Criminal Justice Working Group since 2008 and is chair of its therapeutic court and legal competency subcommittees.

Appendix C: Commission Recommendations to Date

No.	Recommendation	Date of vote	Any action taken?	Result
1-2015	Enact a waiver for SNAP (food stamp) ban for people with felony drug convictions	Jan. 23, 2015	Y	Included in SB 91 (Enacted 2016)
2-2015	Invite technical assistance from Pew Justice Reinvestment Initiative and Results First Initiative	Feb. 24, 2015	Y	Invitation sent and technical assistance provided
3-2015	Alaska Court System should provide ongoing judicial education on evidence-based pre-trial practices and principles	Mar. 31, 2015	Y	Judges trained at October 2018 Judicial Conference
4-2015	Amend the Community Work Service (CWS) statute to convert any unperformed CWS to a fine, rather than jail time	Mar. 31, 2015	Y	Included in SB 91 (Enacted 2016)
5-2015	Amend the SIS statutes	Oct. 15, 2015	Y	Included as the SEJ provision in SB 91 (Enacted 2016)
6-2015	JRI package	Dec. 10, 2015	Y	Included in SB 91 (Enacted 2016)
1-2016	Add two new mitigators for sentencing offenders who have accepted responsibility for their actions	Oct. 13, 2016	N	
2-2016	DOC should establish a voluntary pretrial diversion program	Aug. 25, 2016	Y	DOC received a grant for a pretrial diversion coordinator
3-2016	Allow defendants to return to a group home on bail with victim notice and consent	Aug. 25, 2016	N	

4-2016	Enact a statute for a universally accepted release of information form for health and behavioral health care service providers	Aug. 25, 2016	Partial	No statute enacted, but a DHSS committee is working on this
5-2016	Include behavioral health information in felony presentence reports	Aug. 25, 2016	N	
6-2016	Include the Commissioner of the Department of Health and Social Services on the Commission	Oct. 13, 2016	Partial	Included in SB 54 (Enacted 2017); DHSS Commissioner made a non-voting member
7-2016	DHSS should review the proposed statutory changes recommended in the UNLV report and report back to the Commission on its findings in September 2017	Oct. 13, 2016	Y	DHSS delivered a report at the August 23 Commission meeting
8-2016	Restitution report	Nov. 29, 2016	Partial	HB 216 (Enacted 2018) addressed part of one recommendation
9-2016	Title 28 report	Nov. 29, 2016	N	
1-2017	Return VCOR to misdemeanor status, punishable by up to 5 days in jail	Jan. 19, 2017	Y	Included in SB 54 (Enacted 2017)
2-2017	Increase the penalty to up to 10 days in jail for an offender's third Theft 4 offense	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017), modified
3-2017	Amend the "binding provision" of SB 91 to allow municipalities to impose different non-prison sanctions for non-criminal offenses	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
4-2017	Revise the sex trafficking statute to clarify the intent of that statute and define the term "compensation"	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)

5-2017	Enact a presumptive term of 0-90 days for Class C Felonies for first-time felony offenders	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017), modified
6-2017	Enact an aggravating factor for Class A misdemeanors for defendants who have one prior conviction for similar conduct; would allow a judge to impose a sentence of up to 60 days	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
7-2017	Clarify the law so that people cited for Minor Consuming Alcohol may participate in the Alcohol Safety Action Program (ASAP).	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
8-2017	Ensure that sex offenders are required to serve a term of probation as part of their sentence	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
9-2017	Clarify the length of probation allowed for first- and second-time Theft 4 offenders	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
10-2017	Require courts to provide certain notifications to victims if practical	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
11-2017	Reconcile the penalty provisions for DUI and Refusal	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
12-2017	Clarify which defendants shall be assessed by the Pre-Trial Services program	Jan. 27, 2017	Y	Included in SB 54 (Enacted 2017)
13-2017	Fix a drafting error in SB 91 regarding victim notification	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
14-2017	Technical fixes to SB 91	Jan. 19, 2017	Y	Included in SB 54 (Enacted 2017) or SB 55 (Enacted 2017)

15-2017	Shock incarceration should not be used for SEJ	Feb. 23, 2017	Y	Included in SB 55 (Enacted 2017)
16-2017	Use the highest of the two risk assessment scores for pre-trial release decisions	Aug. 23, 2017	Y	DOC has adopted this procedure
17-2017	Amend the three-judge panel statute	Aug. 23, 2017	N	
18-2017	Take successful SIS and Minor Consuming (and related) cases off of CourtView	Oct. 12, 2017	Partial	Referred to Supreme Court
19-2017	Enact vehicular homicide and related statutes	Oct. 12, 2017	N	
20-2017	Resume clemency process	Dec. 7, 2017	Y	Governor's office and parole board have put new procedures in place and resumed taking applications
1-2018	Enact an A Felony-level MICS 2 statute	Jan. 12, 2018	N	
2-2018	Clarify that the Commissioner of DHSS should be a voting member of the ACJC	Feb. 6, 2018	N	
3-2018	Enact redaction statutes	Apr. 23, 2018	N	
4-2018	Revise GBMI statute	Apr. 23, 2018	N	

Appendix D: Behavioral Health Recommendations

To: Alaska Criminal Justice Commission
Through: Greg Razo, Chair
From: Steve Williams, Chair Behavioral Health Standing Committee
Date: September 24, 2018
RE: 2018 Recommendations

Purpose: The Behavioral Health Standing Committee (BHC) will review previous recommendations to the Commission, along with criminal laws, targeted civil laws (such as AS §47.30.700–AS §47.30.915 Involuntary Admission for Treatment), and criminal justice/behavioral health practices and procedures. The charge of the BHC is to identify opportunities where closer collaboration between Alaska’s criminal justice and behavioral health systems in law or practice could reduce the overrepresentation of people with behavioral health disorders in the justice system, enhance public safety, promote both offender rehabilitation and a more cost effective and efficient criminal justice system. The Committee’s proposed solutions, statutory or administrative, would be brought to Commission to consider in its recommendations to the Legislature.

Recommendations from the Behavioral Health Standing Committee

On August 29, 2018 the Behavioral Health Standing Committee met. Recognizing that addressing the behavioral health needs of Alaska’s justice-involved population will have a dramatic impact on reducing recidivism, the BHC voted to recommend the Commission forward the following action items to the Legislature as priorities for reinvestment. These items not only address a behavioral health need, but will be foundational for expanding the full spectrum of needed behavioral health services across the state.

1) Expand data sharing capacity, infrastructure, and formalized agreements among agencies.

The BHC recommends the Commission include in its 2018 report to the administration and legislature increased effort and funding support to further develop data systems infrastructure and the requisite staff capacity.

Although significant strides have been made to improve data collection and sharing within and across State agencies, they remain depleted in infrastructure, staff capacity and data sharing agreements. These are required to regularly and consistently collect, analyze and report on criminal justice trends and programs intended to promote rehabilitation and recidivism reduction. Furthermore, it promotes greater communication among agencies for the purpose of better identifying and meeting the behavioral health needs of Alaska’s justice-involved population. Data sharing also allows analysts to have a more complete picture of aggregate data to identify trends and help inform policy discussions and decisions.

The BHC notes that data sharing was also identified as a priority by this committee in 2016, as well as in the Governor’s Public Safety Action Plan and by state and community stakeholders in a Sequential Intercept Model (SIM) workshop organized and sponsored by the Department of Corrections in May 2018.

2) Expand Crisis Intervention Training efforts and include a co-response mental health practitioner element.

The BHC recommends the Commission include in its 2018 report to the administration and legislature increased effort and funding support for: (1) Crisis Intervention Team (CIT) training opportunities, (2) enhanced CIT law enforcement response with a co-mental health response element in existing communities with a CIT program, and (3) establishing the co-response model in communities where there is interest and capacity.

Although some local law enforcement agencies and their officers (Anchorage, Palmer, Wasilla, Juneau, and Fairbanks), as well as some officers and units of the Alaska State Troopers, have been trained in the Memphis model of Crisis Intervention Team training, increased and enhanced efforts are needed. Crisis Intervention Team training provides law enforcement officers with skills and knowledge to better respond to individuals experiencing a mental health or behavioral health crisis. The co-response model involves both a law enforcement officer and a mental health practitioner responding to identified calls involving persons in a mental health crisis to divert the individual (when appropriate) to needed services instead of jail. The co-response approach helps find long-term solutions to the needs of individuals whose behavioral health needs led them to the point of crisis. It relieves the burden of law enforcement officers to locate appropriate services for the individual in crisis, decreases the number of repeat calls for service for the same individual, and when appropriate, prevents unnecessary incarcerations.

The BHC notes that Crisis Intervention Team training was also identified as a priority by this committee in 2016, as well as in the Governor's Public Safety Action Plan and by state and community stakeholders in a Sequential Intercept Model (SIM) workshop organized and sponsored by DOC in May 2018.

3) **Develop crisis stabilization centers.**

The BHC recommends the Alaska Criminal Justice Commission include in its 2018 report to the administration and legislature support for current efforts aimed toward the development, implementation and operations of crisis stabilization centers in communities where there is a shared commitment, and the exploration and development of this type of service in other communities around the state.

Although local hospital emergency rooms, the Providence Psychiatric Emergency Room (PPER) and the Alaska Psychiatric Institute (API) in Anchorage provide critical emergent and acute psychiatric care, that level of care may not be required for some individuals if other options existed. Therefore, crisis stabilization centers would offer law enforcement officers a diversion option instead of jail for individuals who are experiencing a crisis and need to be removed from a situation. Currently, the Department of Health and Social Services has issued a request for proposals to establish a crisis stabilization facility in South Central Alaska.

The BHC notes that a crisis stabilization center was also identified as a priority by this committee in 2016 and by state and community stakeholders in a Sequential Intercept Model (SIM) workshop organized and sponsored by DOC in May 2018. Additionally, this model is similar to the mental health and substance abuse evaluation facility identified in the Public Safety Action plan. Crisis stabilization centers are also a key component of the Department of Health & Social Services application to Centers for Medicare & Medicaid Services for an 1115 Behavioral Health Demonstration Waiver.

Appendix E: Sentencing Recommendations

Recommendation 4-2018, adopted April 23, 2018:

Amend provisions in AS 12.47.050 regarding the release of guilty but mentally ill prisoners

A defendant found guilty but mentally ill (GBMI) is sentenced as a regular criminal defendant. The statute governing disposition of GBMI defendants, AS 12.47.050, requires the Department of Corrections (DOC) to provide treatment to such prisoners so long as they are dangerous. In addition, the statute imposes restrictions on GBMI prisoners, precluding them from being released on parole or furlough so long as they are receiving treatment for the mental disease or defect that causes them to be dangerous.

DOC interprets this statute to mean that a GBMI prisoner who is receiving treatment—even if the treatment is simply the regular administration of medication and the prisoner is otherwise stable—may not be released on parole or furlough. There is no formal review process for determining whether a GBMI prisoner may be released. Since the statute was enacted, no GBMI prisoner has been released. DOC has begun assessing these cases on an ad-hoc basis, but DOC staff report that they would appreciate some legislative guidance.

Accordingly, the Commission recommends the following:

Amend AS 12.47.050(d): Notwithstanding any contrary provision of law, *if the Commissioner of Corrections determines, by clear and convincing evidence, that the defendant suffers from a mental disease or defect that causes the defendant to be dangerous to the public peace or safety a defendant found guilty but mentally ill receiving treatment under (b) of this section may not be released*

- (1) on furlough under AS 33.30.10-33.30.131, except for treatment in a secure setting; or
- (2) on parole.
- (3) *Not less than 180 days before a defendant found guilty but mentally ill is eligible for parole under AS 33.16.089, AS 33.16.090 or AS 33.20.040 or furlough under AS 33.30.101, the commissioner of corrections shall determine, following a hearing, whether the defendant is ineligible for release under this subsection.*
- (4) *If the commissioner determines that the defendant is ineligible for release under this subsection, the commissioner shall conduct subsequent hearings under (3) of this subsection annually until such time as the defendant is found to be eligible for release under this subsection.*

Amend AS 12.47.050(e): Not less than 30 days before the expiration of the sentence of a defendant found guilty but mentally ill, the commissioner of corrections shall file a petition under AS 47.30.700 for a screening investigation to determine the need for further treatment of the defendant if

- ~~(1) the defendant is still receiving treatment under (b) of this section;~~
and
- (2) the commissioner has good cause to believe that the defendant is suffering from a mental illness *and is likely to cause serious harm to self or others*; ~~that causes the defendant to be dangerous to the public peace or safety~~; in this paragraph, “mental illness” *and “likely to cause serious harm to self or others”* has the meaning given in AS 47.30.915.

These amendments would shift the focus from whether the prisoner is receiving treatment to whether the prisoner is currently dangerous. It would require DOC to hold a dangerousness hearing 180 days before parole release eligibility. The Commission recommends this timeframe because the parole board must hold a parole release hearing within 90 days of parole eligibility. The Commission recommends subsection (4) because of the fluidity of mental illness.

Note that even if a GBMI prisoner were found to be eligible for release under this section, the prisoner would still have to qualify for release under the various furlough and parole statutes. Under AS 33.30.091 and AS 33.30.101, DOC may not release someone on furlough unless DOC determines with reasonable probability that the prisoner will not break the law. Under AS 33.16.100, the parole board may not release someone on discretionary parole unless the board finds a reasonable probability that the person will live without violating the law. In other words, if a GBMI prisoner is found eligible under AS 12.47.050(d), it does not necessarily mean that the prisoner will be released; it just means the prisoner will be granted consideration for release under the regular parole and furlough procedures.

The amendment to AS 12.47.050(e) would change the standard for referral for civil commitment to mirror the language of the civil commitment statutes. This recommendation is intended as a clean-up to the statutory language. In order for the court to order a Title 47 screening investigation (the beginning of the civil commitment process), a petitioner must allege that the respondent is “gravely disabled or to present a likelihood of serious harm to self or others.”⁴⁴ The recommended change to 12.47.050(e) would align the two standards.

⁴⁴ AS 47.30.700(a).

Recommendation 1-2018, adopted January 12, 2018:**Create a Class A Felony for Misconduct Involving a Controlled Substance**

The Alaska Criminal Justice Commission's Justice Reinvestment Report, submitted to the legislature in December 2015, included several recommendations relating to drug crimes. One recommendation was to differentiate the quantities involved in drug-related crimes; the purpose of this was to distinguish between "user-dealers," who deal drugs only in small quantities to support their addiction, and commercial dealers, who deal drugs in larger quantities to turn a profit.

The recommendations did not, however, distinguish between higher-volume or lower-volume commercial dealers. Under the Misconduct Involving a Controlled Substance (MICS) statutes, as amended by SB 91, the highest level of offense at which a commercial dealer could be charged is a Class B felony (MICS 2).⁴⁵ This offense applies to manufacturing, delivering, or possessing with intent to manufacture or deliver more than 1 gram of a Schedule IA substance (such as heroin) or more than 2.5 grams of a Schedule IIA or IIIA substance (such as methamphetamine or cocaine).

The Commission therefore recommends enacting a Class A felony offense for Misconduct Involving a Controlled Substance. The offense should criminalize the following conduct:

- Manufacturing or delivering 25 grams or more of a schedule IA substance, or possessing 25 grams or more of a schedule IA substance with intent to manufacture or deliver, or
- Manufacturing or delivering 50 grams or more of a schedule IIA or IIIA substance, or possessing 50 grams or more of a schedule IIA or IIIA substance with intent to manufacture or deliver.

The Commission approved this recommendation on a vote of five to two with three abstentions. Proponents of the recommendation believe that enacting a Class A offense will help prosecute higher-level drug trafficking cases that federal prosecutors can't or won't take; that a higher-level offense will provide a tool to encourage dealers to cooperate with law enforcement in identifying other dealers; and will express community condemnation of an activity which has caused a great deal of harm to Alaskans.

Those who did not agree with the recommendation cited concerns that creating a higher-level offense would warehouse dealers in prison at great cost, but would not serve a public safety purpose because any dealer who is convicted under this statute would be replaced by another dealer. They were reluctant to make a recommendation without evidence that it would help decrease the amount of drugs in Alaska's communities. They were also concerned that it would diminish focus on treatment for addicts.

⁴⁵ See AS 11.71.030. Drug dealing could be charged as an unclassified felony (MICS 1) if the drugs were sold to a person under age 19 or if the offense was part of a continuing criminal enterprise (See AS. 11.71.010).

Appendix F: Redaction Recommendation

Recommendation 3-2018, adopted April 23, 2018: Enact Redaction Statutes for Most Offenses

Alaskans with past criminal records often have difficulty in obtaining employment, housing, financial loans, and financial aid. Employers, landlords, and loan officers may see that a person has a criminal record and dismiss an application from a qualified individual without first looking at how old the record is or what conduct occurred—and without checking to see if that conduct has any bearing on the applicant’s suitability.

Many people with past criminal records have been productive citizens for years, if not decades, since their crime. In some cases, these records relate to conduct that is no longer criminalized in the State of Alaska, or to convictions that have been set aside by a judge. There are many Alaskans who have been fully rehabilitated and do not pose a threat to public safety, but continue to be subject to the stigma that comes from having a criminal conviction on one’s record.

The Alaska Criminal Justice Commission has researched various ways to provide relief from these harsh collateral consequences of a conviction. In some cases, automatic redaction⁴⁶ of a criminal conviction after a certain period of time may be appropriate. In other cases, a judge should make a determination based on a petition submitted by the person who wishes to redact their criminal history. It is the Commission’s hope that redaction will ease the reentry process for deserving individuals who have fully satisfied their debt to society.

The Commission thoroughly researched this issue, and took into account any available data as well as how other states approach this topic. The Commission’s deliberations included consideration of the following issues:

Restitution. The Commission wishes to highlight the importance of restitution and the need to make the victim whole. The Commission recognizes that some restitution payments are considerable and petitioners may not have the means to pay the entire amount of their restitution before they become eligible for redaction. In these cases, it is important for the court to consider the input of the victim.

Recidivism. The Commission looked at research on recidivism and re-offense rates. People who have been incarcerated are most likely to recidivate within three years of being released from custody. Those convicted of domestic violence crimes have much higher rates of recidivism.

Time to redemption. The Commission also looked at research on “time to redemption” – that is, the time it takes for someone who has been convicted to reach the same risk of future arrest as that of the general population. The research found that the younger a person was at the time of arrest, the longer it takes for that person’s risk of being arrested to reach that of the general

⁴⁶ The word “expungement” is often used in this context. However, many people assume that “expungement” signifies the complete destruction of information. The Commission does not propose destroying information, but rather limiting access to information, as explained in the sections below.

population.⁴⁷ Additionally, the more prior convictions the person had at arrest, the longer it took for that person's risk of a future arrest to reach that of the general population.

The Commission's research on recidivism and time to redemption informed the recommendations regarding waiting periods for redaction, as outlined in sections (3)(b) and (3)(c) below.

In light of the Commission's research on barriers to reentry, recidivism, and time to redemption, the Commission recommends that the Alaska Legislature enact statutes pursuant to the following recommendations.

1.) Convictions for simple possession of marijuana and minor consumption of alcohol should be redacted automatically and immediately.

The Commission recommends automatic redaction of records relating to conduct that is no longer criminalized. Simple possession of marijuana⁴⁸ was decriminalized following the voter referendum in 2014.⁴⁹ In 2016, SB 165 reduced all Minor Consuming Alcohol (MCA)⁵⁰ offenses to violations, and directed the Court System not to publicly publish the record of any such violation.⁵¹

The Commission recommends that all convictions for these two offenses should be redacted automatically and immediately.⁵² This recommendation applies to all cases where these offenses have been charged as standalone offenses, and applies to convictions as well as cases where the charge was dismissed or never prosecuted.

See section 4 below for the Commission's recommendations for the proposed effect of redaction.

2.) Successful Suspended Imposition of Sentence cases should be redacted automatically 1 year or 5 years after the date of set-aside.

Suspended Imposition of Sentence (SIS) is a form of sentencing wherein a judge may suspend the defendant's sentence and order the defendant to a term of probation. If the defendant successfully completes the term of probation, the court may then set aside the defendant's conviction.⁵³ In determining whether to set a conviction aside, judges typically look at whether the

⁴⁷ This may seem counterintuitive, because criminal activity among young people can often be attributed to their youth; one might think that a person who was arrested at a young age would be more likely to be rehabilitated. This may be true, but it is also true that the younger a person begins, the longer it takes for that person to "age out" of crime.

⁴⁸ AS 11.71.060(a)(1)-(2).

⁴⁹ 2014 Ballot Measure No. 2, § 1, eff. Feb. 24, 2015; enacted in AS 17.38.020.

⁵⁰ AS 04.16.050.

⁵¹ Ch. 32 SLA 2016.

⁵² The Commission recognizes that this provision will have a fiscal impact because of the analysis required by the agencies that will be redacting these records. The Commission intends for these agencies to redact these records as soon as they are practically able to do so.

⁵³ See AS 12.55.085.

defendant has accrued any new criminal history or any serious probation violations, and also consider any objections from the prosecutor or probation officer.

If a conviction is set aside, it will be designated as such in CourtView and in APSIN (the criminal history database maintained by the Department of Public Safety). The record of this set aside conviction, however, will still be accessible on CourtView and will appear in background checks.

The Commission therefore recommends that the records of all SIS cases be redacted automatically 1 year after the date of set-aside in misdemeanor cases and 5 years after the date of set-aside in felony cases.

Recognizing that restitution may still be owed in some cases when they become eligible for set-aside, the Commission also recommends that the court consider any outstanding restitution obligations when a conviction in an SIS case is eligible to be set aside.⁵⁴

See section 4 below for the Commission's recommendations on what effect redaction should have.

3.) Most offenses should be eligible for redaction by petition, with some exclusions.

For offenses other than MCA and simple marijuana possession, and offenses resolved through an SIS, the Commission recommends that redaction generally be available upon petition, subject to an individualized determination by a judge. Redaction in these cases should only be available to those who have not had a new conviction since being convicted of the offense or offenses sought to be redacted.

a.) Process

The Commission recommends a petition process that would start when a person with a criminal history submits a petition to the court. The petition should be submitted using the original case number of the conviction sought to be redacted, and should include an affidavit from the petitioner stating that the conviction is eligible for redaction and the petitioner has not had any new convictions.

The petitioner would also be required to serve the prosecutor's office with a copy of the petition. If the prosecutor's office chooses to file an opposition to the petition, it must do so within 30 days.

The prosecutor must attempt to notify any victim in the case, if any identifiable victim exists. If a victim exists and the prosecutor's office is not able to locate the victim within 30 days

⁵⁴ The obligation to pay restitution still stands after a conviction is set aside. However, if a set aside case is redacted, it may be more logistically difficult for a victim to enforce the restitution obligation. If a judge is notified of an outstanding restitution obligation at the time when an SIS case is eligible to be set aside, the judge may then consider whether the person seeking a set aside is making regular payments and whether the outstanding amount is substantial.

of receiving a copy of the petition, the prosecutor must notify the court of this fact. If the victim is notified and the victim opposes the petition, the prosecutor must notify the court.

If the prosecutor opposes the petition, the prosecutor may consent to a determination on the pleadings. If the prosecutor does not consent to a determination on the pleadings, the court shall issue a scheduling order within 90 days of receiving the prosecutor's response.

Whether through a written order or on the record at a hearing, the court shall make a determination using the factors and standards as outlined in section (d) below.

b.) Convictions for misdemeanor offenses.

The Commission recommends that most misdemeanor convictions should be eligible for redaction except sex offenses for which there is a registration requirement.⁵⁵ For misdemeanor convictions for misconduct involving a controlled substance, the conviction should be eligible for redaction 4 years after the petitioner has been unconditionally discharged from custody, probation or parole for that offense. For misdemeanor convictions for violent offenses and sex offenses without a registration requirement, the conviction should be eligible for redaction 7 years after unconditional discharge. All other misdemeanor convictions should be eligible for redaction 3 years after unconditional discharge. Whether the waiting period is 3, 4, or 7 years, the petitioner must not have any new convictions in that period of time.

c.) Convictions for felonies.

The Commission recommends that felonies should also generally be eligible for redaction. The following felony offenses should not be eligible for redaction: sex offenses, unclassified offenses, and attempt, solicitation, or conspiracy of those offenses. For all other felony offenses, eligibility for redaction should begin 10 years after the date of unconditional discharge. The petitioner must not have any new convictions in that period of time.

d.) Redacting multiple offenses, subsequent petitions

The Commission intends that this recommendation will apply to people who have made a lasting change and turned away from a life of crime. The Commission does not intend redaction to be used as a serial option to clean one's slate if the petitioner has not truly turned over a new leaf.

As such, a petitioner may elect to redact multiple offenses in one petition, so long as each offense is eligible as outlined above. However, if a petition for redaction is granted, the petitioner may not seek redaction again if the petitioner commits a subsequent offense.

If a petition for redaction is denied, the petitioner may not seek redaction again until one year after the date the court denies the petition.

⁵⁵ The Commission intends that registrable sex offenses would remain ineligible for redaction even after the registration period has expired.

4.) Effect of redaction.

If a petitioner successfully obtains redaction of a conviction, the record of conviction should be retained in APSIN and available for law enforcement and prosecution purposes. The redacted record may still be used as a predicate or enhancement for purposes of charging and sentencing in future criminal cases. It may be used in assessing a defendant for pre-trial release. It may also be used for impeachment purposes when the person whose record was redacted is testifying under oath.⁵⁶

The Court System should treat the record of the conviction as confidential, meaning access to the record would be restricted to: (1) the parties to the case; (2) counsel of record; (3) the prosecuting attorney; (4) individuals with a written order from the court authorizing access; and (5) court personnel for case processing purposes only.⁵⁷

The Department of Public Safety (DPS) should also withhold disclosure of a redacted conviction in a standard background check. Standard background checks are those that are available to any person who has authorization from the subject.

If a record of conviction is redacted, the petitioner:

- May choose not to disclose the conviction,
- May not be held guilty of perjury for failing to disclose the conviction, and
- May not be fired or discharged from employment for not disclosing the conviction.

Redaction does not relieve a petitioner of any restitution obligation. The Commission recommends that if an offense is redacted with restitution still outstanding, the victim be given information on the outstanding restitution and how to collect on a restitution judgement, and that the restitution judgment be made accessible and identifiable to the victim and subject to the victim's review.

There are additional considerations regarding the criminal history information retained at DPS that that the legislature may wish to take into account in enacting any redaction legislation.

- In addition to standard background checks, DPS also releases a different kind of background check to “interested persons.” This type of background check is available for purposes of employing someone with supervisory or disciplinary power over a minor or dependent adult. It releases more information than the standard background check.
- DPS is required to send criminal history information to the FBI, which is retained in national databases. It is possible for DPS to tell the FBI that an existing record has been redacted, and the FBI may make a notation of that in their database.

⁵⁶ In child custody cases, there is a presumption of custody if a parent has two DV events on their record; the Legislature may wish to add a provision retaining records for these purposes.

⁵⁷ The Court System may also send information about the redacted records to the Department of Public Safety, and make restitution judgments available to any victim owed restitution.

- Some employers, and certain state agencies, are required by law to enquire about certain convictions. The legislature may wish to make an exception so that those employers and agencies may fulfil their legal obligation.
- The Legislature may also wish to create provisions that protect employers from liability if they hire a person with a redacted record.

5.) Certificates of Rehabilitation

Using the same petition process as described in section 3 above, a petitioner may also elect to petition for a certificate of rehabilitation.⁵⁸ As with redaction, the petitioner must not have had any new offenses. The same notice procedures also apply. The petitioner may apply any time after unconditional discharge from custody, probation or parole.

In cases involving sex offenses, unclassified offenses, and attempt, solicitation, or conspiracy of those offenses, the court may grant the petition in its discretion, taking into account the factors listed in section (3)(e) above.

In all other cases, if the prosecutor does not oppose the petition, the court shall grant the petition with a written order. If the prosecutor does oppose the petition, the court shall grant the petition unless it finds by clear and convincing evidence that the petitioner has not been rehabilitated, accounting for the factors listed above.

If the court grants the petition, it shall provide the petitioner with a certificate indicating that the petitioner has not committed any new offenses and has shown evidence of rehabilitation.

⁵⁸ If a petitioner is granted a certificate of rehabilitation, that does not prevent the petitioner from later petitioning for a redaction.

Appendix G: Practitioner's Guide to Criminal Justice Reform

[Guide begins on the following page]

Appendix H: Victims Roundtable Report, 2015

DATE: October 13, 2015

TO: Alaska Criminal Justice Commission

FROM: National Crime Victim Advocate Anne Seymour
Consultant, The Pew Charitable Trusts, Public Safety Performance Project

SUBJECT: Victim/Survivor/Advocate Roundtables Summary Report and Priorities

Crime victims, survivors and victim advocates are important stakeholders in the work of the Alaska Criminal Justice Commission. Two Roundtable discussions were held in September 2015 to provide survivors and advocates with an overview of the Commission's work to date and future activities, and to seek their input in establishing priorities for crime victims and those who serve them in Alaska for review by the Commission. The Roundtable discussions were augmented by interviews with five survivors and nine victim advocates in Anchorage and Fairbanks.

There were 18 survivors, advocates and justice professionals at the Fairbanks Roundtable on September 16, and 11 survivors, advocates and justice professionals at the Bethel Roundtable on September 18. The second Roundtable sought to identify issues and concerns of victims and advocates in remote and bush jurisdictions in Alaska. Victim advocates at both Roundtables represented both community and system-based victim assistance services. A list of Roundtable participants is included at the end of this memorandum.

Welcome and Overview

At the Fairbanks Roundtable, Commission Member Brenda Stanfill, Executive Director of the Interior Alaska Center for Nonviolent Living, welcomed participants on behalf of the Commission and emphasized the importance of the Roundtables in identifying the most important needs of Alaska crime victims, as well as gaps in victim services. Commission Member Senator John Coghill noted that effective justice reform efforts require input and support from those most directly affected by crime – victims and survivors – and the victim assistance professionals who serve them.

At both Roundtables, Terry Schuster of The Pew Charitable Trusts provided an overview of the Commission's work and initial findings to date (a summary of this presentation has been emailed to all Roundtable participants).

Victim/Survivor/Advocate Roundtable Priorities

There are ten priorities for the Commission's consideration that would improve victim safety, services and support in Alaska:

- (1) Victim assistance services in remote and bush communities in Alaska should be strengthened to promote justice, healing and wellness, including (but not limited to) augmenting the leadership of village elders to support prevention efforts and victims who need help; the creation of "safe homes" for victims and survivors within villages; the encouragement and implementation of restorative justice practices that hold offenders accountable and promote victim safety and community involvement; expanded outreach to increase awareness of available victim services; and statewide training of Community Health Aides and Public Health Nurses to conduct basic rape kit examinations in villages.

- (2) Programs and services focused on crime prevention and bystander intervention should be strengthened to ultimately contribute to less crime and fewer victims in Alaska.
- (3) Basic victim services during the pretrial phase of criminal justice processes should be created to ensure victim notification, involvement and safety.
- (4) Evidence-based and culturally-competent programming and supervision for offenders should be developed and expanded, including batterers' intervention, restorative community service, and expanded supervision options for certain misdemeanor offenses.
- (5) The Alaska Department of Corrections should improve its capacity to monitor inmate communications (including telephone calls and visits) to prevent unwanted offender contact with victims and violation of no-contact orders.
- (6) During the parole and reentry phase of the criminal justice system, crime victims should also be considered clients; educated about their role and rights; and included in case planning.
- (7) Institutionalized training for criminal justice professionals should be regularly offered to teach about victims' rights; victim sensitivity; victim trauma (including the neurobiology of trauma, PTSD, and invisible disabilities); how to talk to victims; trauma-informed responses to victims; cultural diversity and competence; and crime prevention and bystander intervention.
- (8) Law enforcement officers who respond to domestic violence calls should receive additional training and oversight on how to determine which person is the primary aggressor, to avoid situations in which victims are misidentified as offenders.
- (9) Increased services for child victims and witnesses in Alaska should be provided to address their myriad trauma and safety needs.
- (10) Efforts should be undertaken in Alaska to improve language accessibility in all criminal justice communications and documents.

Victim/Survivor Issues Unique to Remote and Bush Communities in Alaska

The advice offered at the Bethel Roundtable to "think about bush regions differently than you might think of urban areas" is very important for the Commission to consider. As one participant noted, "there is no comparison."

The dynamics in isolated communities in Alaska are different from other regions of the state. The majority of villages have fewer than 500 residents and there is often over-crowding. In many cases, victims and offenders are within the same family or are neighbors. There may be "contradictory dynamics" with some families seeking healing and other families being very upset and angry in the aftermath of crime. In cases involving suicide or homicide, everyone is affected, and behavioral health providers try to facilitate healing within villages after violent deaths.

Crime and victimization in bush regions of Alaska are detrimentally affected by very high and disproportional rates of alcohol abuse, which includes both biological and psychological factors; racial disparities in Alaska's justice system; disproportionate numbers of Alaska Natives who are victims and convicted offenders; and high rates of poverty and unemployment, among other factors.

Some participants felt that law enforcement interactions with villages “are not positive.” There is often a lack of understanding about court and criminal justice processes; sometimes innocent people simply plead guilty because they don’t understand the process. This can result in people getting trapped in the system and being re-arrested over and over again, and victims who often feel “like they are the one in trouble.” In addition, Alaska State Troopers have many roles. For example, the Alaska Wildlife Trooper who issues citations or confiscates nets is the same person to call for domestic violence and sexual assault, which creates a barrier to reporting such crimes.

Outreach to victims in remote regions is difficult and expensive. Current efforts to partner with tribal councils and Alaska Legal Services to promote awareness of victim services need to be expanded.

Battered women face many barriers to justice and healing:

- When judges allow an offender to stay in the home, the victim (often with children) has to leave
- The alleged perpetrator may be a person in a leadership position in the village
- The cost of flying out of villages to seek safe shelter and supportive services is often prohibitive
- It is difficult in villages to maintain confidentiality; “everyone knows who is coming in or out on planes; and everyone knows when a Trooper is called to a home”
- A permanent move from a village to a larger community is difficult and expensive
- Fatality reviews in domestic violence-related homicides are not available in rural/remote Alaska

There is also a lack of Batterers Intervention Programs in remote/bush regions of Alaska. In many cases, convicted batterers are ordered to attend and pay for anger management classes (NOTE: such classes are inconsistent with national research which shows that intimate partner violence results from power and control issues and not anger issues).

Historically in Alaska villages, communities and families were the “arbiters of accountability.” It was stated that the “imposition of the Western justice system has disrupted that,” and suggested that current justice reform efforts provide an opportunity to explore and re-empower local communities to re-assume their role in accountability. For some offenders, “being accountable to their own family and community can be more meaningful than revolving jail doors.” Restorative justice practices provide a strong foundation for such an accountability model, including healing circles and restorative community service that allows offenders to fulfill their community service obligations in ways that benefit their communities and/or victims (such as sex offenders in Bethel who provide salmon to the Tundra Women’s Coalition shelter).

Suggestions for promoting justice, healing and wellness for victims/survivors and bush communities include:

- Increase awareness that “Western ways are not tribal ways”
- Validation that residents “know their history, pain and traumatic experience”
- Broader use of village elders in supporting young people in the community, including those who have been victimized
- Create a system of “safe homes” in villages where victims can access safe shelter and support (there is currently a handful of “safe homes” in remote Alaska communities)

- Promote restorative justice practices and programs (that have strong roots in indigenous communities)
- Provide Tribal Courts with the authority to develop and impose unique sentences that are tailored to each case and community
- Develop Batterers Intervention Programs for remote communities that are evidence-based, culturally competent, and no-cost to clients
- Develop opportunities for offenders to perform restorative community service that benefits their communities and victims

Rape Kit Examinations

There is currently no capacity to conduct rape kit examinations in remote/bush villages, with Community Health Aides saying this is beyond the scope of their work. Adults and children who are sexually assaulted in these communities must travel to hub hospitals for exams which, in the aftermath of sexual assault, is highly traumatic and can contribute to the contamination of evidence (such as the victim's clothing). In addition, such travel may take days due to inclement weather or other factors unique to remote Alaska. The onsite provision of rape kit exams, with follow-up medical care at health facilities in larger communities offered to victims, would reduce unnecessary victim trauma and improve evidence in sexual assault cases. Community Health Aides and Public Health Nurses in Alaska villages can be trained to conduct basic rape kit examinations and preserve evidence for investigations and prosecutions.

Victim assistance services in remote and bush communities in Alaska should be strengthened to promote justice, healing and wellness, including (but not limited to) augmenting the leadership of village elders to support prevention efforts and victims who need help; the creation of "safe homes" for victims and survivors within villages; the encouragement and implementation of restorative justice practices that hold offenders accountable and promote victim safety and community involvement; expanded outreach to increase awareness of available victim services; and statewide training of Community Health Aides and Public Health Nurses to conduct basic rape kit examinations in villages.

Prevention and Bystander Intervention

One of the most significant budget cuts in Alaska is the \$2.7 million reduction in prevention programs and services. The *Alaska Safe Children's Act* which, among other activities, teaches students about dating violence and prevention, was signed into law in July 2015 with no appropriations for implementation. Alaska survivors spoke eloquently about how their chronic victimizations might have been prevented if someone who knew what was happening to them had said something, offered help or otherwise intervened. And participants from remote/bush regions indicated that prevention budget cuts have detrimentally affected their ability to teach children how to be sober and how to ask for help when they are victimized.

The "Green Dot" program (<http://greendotalaska.com/>) has been recently introduced in Alaska. Green Dot seeks to prepare "organizations and communities to implement a strategy of violence prevention that consistently, measurably reduces power-based personal violence" through "strategic planning, bystander mobilization, persuasive communication, coalition building, etc."

There is strong support among survivors and advocates for programs and services focused on crime prevention and bystander intervention, which ultimately can contribute to less crime and fewer victims.

Victims and the Criminal Justice System in Alaska

Pretrial Concerns

The speed at which pretrial hearings occur often precludes any meaningful involvement of victims, resulting in a lack of victim notification of pretrial proceedings and an opportunity to be heard. Despite the state constitutional right of Alaska victims to a speedy disposition, there are often ongoing continuances that result in cases taking years to reach a resolution.

Victim/survivor safety is the most salient concern during the pretrial phase. An alleged offender's conditions of release (which often include safety provisions) are not consistently tracked and enforced and not always available to law enforcement in the field (a pilot program in Fairbanks is seeking to address this concern).

When the victim is in a remote village, "more often than not the perpetrator will be released to the village" during the pretrial phase. While there are "no contact" orders most of the time, they are "unrealistic" and difficult to enforce in small communities, particularly those without a Village Public Safety Officer or other law enforcement presence.

Basic victim services during the pretrial phase of criminal justice processes should be created to ensure victim notification, involvement and safety.

Probation and Community Supervision

Conditions of probation and parole are "often not consistent," which makes it difficult to effectively supervise offenders and hold them accountable. It was noted that "electronic monitoring doesn't always seem to work," particularly when clients are on work release in the community. One participant asked, "What is the point of an ankle bracelet if they (the probationer) can go from Anchorage to the Mat-Su Valley?"

Many offenders are released from probation supervision without having fulfilled their conditions ordered by the court. In isolated villages, there may be disparate "layers" of offender supervision from the Western court, tribal structure and families of victims and offenders; it was noted that "victims don't always feel protected in these situations."

District Attorneys are often reliant on community agencies to inform them of probation violations. It was expressed that many District Attorneys lack resources to file PTRPs (petition to revoke probation) and there is too often "no real response" even if a PTRP is filed.

While Alaska victims have the right to be notified of and address the court during revocation hearings, they are seldom aware of or heard from during revocation proceedings.

The lack of probation in misdemeanor cases is a significant problem in Alaska, as the majority of domestic violence and DUI cases, as well as some property crimes, are misdemeanors. Options for offender supervision that provide reasonable protection and safeguard other victims' rights should be expanded.

Prisons

Concerns were expressed about prisons' lack of ability to effectively diagnose Fetal Alcohol Syndrome Disorder and the lack of effective services for inmates with FASD.

The many prisoners with mental health challenges and the lack of providers to serve inmates with substance abuse and other mental health problems were also of concern. When an offender is deemed incompetent with charges dismissed and released to the community, there is a "lack of safety for victims as well as the perpetrators."

At the Fairbanks Roundtable, there was consensus that no-contact orders are not consistently enforced by the Department of Corrections (DOC). Some victims report unwanted contact from inmates; the DOC does not track three-way calling that can result in unwanted contact; and victims with no-contact orders are sometimes allowed to visit their offender in prison. The lack of consistency in monitoring inmate telephone calls can also contribute to victim/witness intimidation.

Victims are not always notified by the DOC when an inmate is moved to a halfway house or put on electronic monitoring in the community and this "can be very terrifying" for victims. If victims are unaware of the DOC's Victim Information and Notification Everyday (VINE) program or have not kept their contact information up-to-date, they do not receive notification of the status and/or release of their offender.

The Alaska Department of Corrections should improve its capacity to monitor inmate communications (including telephone calls and visits) to prevent unwanted offender contact with victims and violation of no-contact orders.

Parole and Reentry

The Parole Board has the capacity to require and enforce conditions of supervision that are often stronger than those provided by courts, including conditions related to victim safety. Effective parole supervision is dependent on the parole officer and his/her training; when the offender is viewed as the only "client," it can pose difficulty for victims who are advocating for their rights, including reasonable protection and safety. During the parole and reentry phase of the criminal justice system, crime victims should also be considered clients; educated about their role and rights; and included in case planning.

Gaps in Victim Services

Law Enforcement and Domestic Violence

While dual arrests in domestic violence cases are not a big problem, there is "sometimes a lack of training on how to determine who the primary physical aggressor is" that can lead to the arrest of the wrong person. A "huge number" of Alaska Native women are being arrested on domestic violence charges in Anchorage; they often plead guilty so they can return home and protect their children, resulting in collateral consequences that can affect their ability to find jobs and housing. Law enforcement officers who respond to domestic violence calls should receive additional training and oversight on how to determine which person is the primary aggressor, to avoid situations in which victims are misidentified as offenders.

Concerns were also expressed about domestic violence victims who don't report crimes because they don't want the perpetrator to be arrested.

Training on Victims' Rights and Victim Sensitivity

While there is training provided to some Alaska justice professionals about victims' rights and victim sensitivity, it is not consistent across the state. In addition, one victim advocate noted that "it's not only training that's important, but also the *willingness* to be sensitive to victims' concerns and needs."

Collectively, Roundtable participants and interviewees strongly support training for law enforcement, prosecutors, judges, and community/institutional corrections professionals about victims' rights; victim sensitivity; victim trauma (including the neurobiology of trauma, PTSD, and invisible disabilities); how to talk to victims; trauma-informed responses to victims; cultural diversity and competence; and crime prevention and bystander intervention.

Services for Child Victims

There was strong consensus about the lack of services for Alaska children who are victims of and witnesses to crime. Very few shelters have services for children, despite the fact that 44 percent of shelter residents statewide are children. The generational impact of trauma on children is a significant issue, with concerns expressed that this can lead to the creation of new perpetrators and victims. Increased services for child victims and witnesses in Alaska should be provided to address their myriad trauma and safety needs.

Language Access

The lack of language accessibility in Alaska's justice system, victim assistance and social service programs is a "huge problem for immigrant and indigenous communities." One in five children in Anchorage is an English Language Learner (ELL). While Alaska's court system is working to improve language accessibility, criminal justice system documents (including those specific to victims' rights, safety and services) lack language access. In addition, there is no emergency telephone number in any language other than English. Efforts should be undertaken in Alaska to improve language accessibility in all criminal justice communications and documents.

Other Issues

There is a significant lack of resources for Alaska crime victims other than survivors of domestic violence and sexual assault, i.e., victims of homicide, serious assault, robbery, child abuse, drunk driving, trafficking and property crimes.

Concerns were expressed about how the Victims of Crime Compensation Board determines who has access to victim funds. Many marginalized victims have been denied access to these funds due to behavior that the Board didn't like, or because they received funds for a prior victimization.

There is a significant need for expert witnesses who can testify on behalf of the prosecution in criminal cases (currently, lack of funding is the main barrier to greater use of expert witnesses).

Campuses of higher education in Alaska need to develop the infrastructure to support Title IX compliance with Federal law (this work is currently underway, and Pew Consultant Anne Seymour is following-up on this issue with referrals and resources).

Fairbanks Roundtable Participants

Gail Brimner, DOC Victim Services Unit

Robin Bronen, Alaska Institute for Justice
John Coghill, Alaska State Senate and Commission Member
Ruth Cresenzo, National Guard Special Victims Counsel
Pat Fox, MADD
Mary Beth Gagnon, Council on Domestic Violence and Sexual Assault
Mary Geddes, Alaska Criminal Justice Commission
Lonzo Henderson, DOC Division of Parole
Kate Hudson, Violent Crimes Compensation Board
Robyn Langlie, Victims for Justice
Teresa Lowe, YKHC
Gregg Olson, Fairbanks District Attorney
Keeley Olson, S.T.A.R.
Sarah Possenti, Alaska Parole Board
Heather Shaddock, Office of Senator Pete Kelly
Brenda Stanfill, Interior Alaska Center for Nonviolent Living and Commission Member
Octavia Thompson, Alaska National Guard Sexual Assault Prevention and Response
Taylor Winston, Office of Victims' Rights

Bethel Roundtable Participants

Eileen Arnold, Tundra Women's Coalition
Augusta Askeak, Tundra Women's Coalition
Gail Brimner, DOC Victim Services Unit
Marilyn Casteel, Safe and Fear-free Environment
Ray Daw, YKHC
Michelle DeWitt, BCSF
Liz Dillon, Elder
Michael Gray, District Attorney
Elizabeth Sunnyboy, Elder
Julene Webber, Adult Probation
Freda Westman, Alaska DPS - CDVSA

Appendix I: CDVSA Report



Alaska's Council on
Domestic Violence
& Sexual Assault

Prevention as Key to Reducing Criminal Justice Involvement

A Report to the Alaska Criminal Justice Council on CDVSA Reinvestment Funds

July 16, 2018

Domestic violence and sexual assault are serious crimes that stem from a variety of complex social and environmental conditions that include but are not limited to inequities associated with gender, race and economics, childhood exposure to parental violence, attitudes that are accepting of violence and the harmful use of substances (World Health Organization, Preventing Intimate Partner Violence Against Women). In Alaska, the rates of domestic and/or sexual violence remain intolerably high with 50 out of every 100 adult women who reside in Alaska having experienced domestic violence, sexual violence or both in their life time (AVS 2015). While women and girls continue to experience higher rates of victimization for both domestic and sexual violence, men and boys are at risk of these forms of violence as well. The National Intimate Partner and Sexual Violence Survey (NISVS) indicates that domestic violence and sexual assault are widespread throughout the country with one in four women and one in 9 men having been victims of domestic violence and one in for women and one in 6 men having been victims of sexual violence at some point in their life. We know that violence victimization starts early with an estimated 8.5 million women and 1.5 million men having been raped prior to the age of 18 (NISVS 2015).

These numbers are of epidemic proportions. Services and criminal justice responses, while critical to assuring victim safety and perpetrator accountability, are not in and of themselves designed to address the underlying, complex conditions that create these forms of violent behavior. Rather, it is the role of primary prevention to identify factors that place individuals at risk of perpetrating violence and/or of being victimized by it and then building coordinated and integrated responses that will prevent these forms of violence in the first place. As noted earlier, there are many things that increase or decrease the likelihood of experiencing or perpetrating violence. However, as Dr. Howard Spivak, Director of the Center for Disease Control (CDC) Division of Violence Prevention explains, "There are experiences, particularly early in childhood that make it extremely predictable that individuals are at substantially higher risk for involvement with violence, be it interpersonal, youth violence, intimate partner violence, dating violence, or child abuse." (July 2014, the CDC published *Connecting the Dots: An Overview of the Links Among Multiple Forms of Violence*). Alaska's primary prevention efforts are designed to build on emerging research from the Center for Disease Control and the World Health Organization by implementing evidence informed strategies that considers predictable risk and protective factors in the context of an individual's home environment, neighborhood, and larger community. Therefore, Alaska's primary prevention

strategies are data informed, community based, coalition driven and culturally relevant to each region.

Prevention Programming FY18

Alaska has used state resources for primary prevention programming since 2009. It was not until the passage of SB 91 that funding amounts for primary prevention work were stabilized. In fiscal year 2018, the CDVSA used reinvestment funds to expand state and community level programming, provide technical assistance and training to grantees, enhance media presence and co-create a data collection system to assure that implementation efforts could be easily captured, reported on, and evaluated.

Statewide programming funded with reinvestment dollars included:

The COMPASS project – COMPASS promotes male and youth leadership through mentorship; uses a guide to help adult male mentors create a safe atmosphere for men and boys to learn about and practice healthy lifestyles, healthy identities, and safe and violence-free communities. In FY18, the focus was on strengthening the program in two communities: Kodiak and Bethel. Of those trained, 100% strongly agreed the training was useful for the work they do with young men, while 100% agreed or strongly agreed that the training provided them with new skills to have conversations about healthy masculinity within their communities.

Girls on the Run (GOTR) is an empowerment program for 3rd-8th grade girls. The program combines training for a 5k running event with healthy living and self-esteem enhancing curricula. GOTR instills confidence and self-respect through physical training, health education, life skills development, and mentoring relationships. The 10 week/20 lesson afterschool program combines life-lessons, discussions, and running games in a fun and encouraging, girl-positive environment where girls learn to identify and communicate feelings, improve body image, and resist pressure to conform to traditional gender stereotypes.

The Aiding Women in Abuse and Rape Emergencies (AWARE) program in Juneau, Alaska was approved for a three-year single source contract with CDVSA to oversee the GOTR of Greater Alaska initiative in FY18. The Girls on the Run (GOTR) initiative was originally introduced to the state through AWARE's prevention program in 2009. To introduce the program in Alaska, AWARE applied for a GOTR Council certification from the National developer. AWARE's original application to develop a GOTR Council was originally designed to include only Juneau, and then grew to include Southeast Alaska (working with SAFV in Sitka and WISH in Ketchikan). Soon DV/SA programs around the state were interested, and in 2014, AWARE applied to Girls on the Run International for a territory expansion, and name change from Girls on the Run of SE Alaska to Girls on the Run of Greater Alaska., to include all of Alaska absent Anchorage and the Matanuska Susitna areas (where an independent Girls on the Run of Southcentral Alaska operates).

Current communities that have been trained under AWARE's GOTR Council include: Utqiagvik, Cordova, Fairbanks, Homer, Unalaska and the southeast communities of Juneau, Ketchikan, Sitka, Petersburg, and Wrangell. Each community named is responsible for initiating GOTR programs in the communities they serve, as community readiness presents. For example, AWARE has trained

coaches and overseen the development of programs in Haines, Yakutat, and Skagway. Reinvestment funds through the CDVSA, enable AWARE to continue the GOTR of Greater Alaska Council and expand GOTR into new areas of the state including Bethel, Dillingham, Kenai, Kodiak, Kotzebue, Nome, Seward, and Valdez.

CDVSA will have year-end statistics available on July 30th. Currently, in FY18, GOTR of Greater Alaska provided 8 full day coach trainings across the state for 47 new coaches, 1 Junior coach and 46 happily returning coaches. Two-hundred and twenty-two (222) GOTR participants were served with the support of 94 volunteer coaches at 15 sites within 8 communities. In FY18 there were 5 GOTR teams in Juneau, 3 in Ketchikan, 2 in Sitka and one each in Fairbanks, Haines, Homer, Kake, Petersburg and Utqiavik. The community of Valdez received training in June and will be coming onboard for this upcoming season - Fall 2018.

GOTR lessons are 75-90 minutes twice a week, with 20 lessons total. Alaskan girls met 300 times between January 1, 2018 and March 31, 2018. Each community completed successful community service projects to help instill the value of community connectedness.

Boys Run I Toowu Klatseen: The Boys Run program was co-developed by prevention staff at AWARE, Juneau and SAFV, Sitka after realizing the success of the Girls on the Run program. The Boys Run is a 10-week curriculum with 20 lessons that teaches boys healthy relationship and lifestyle skills. The curriculum is divided into three sections: 1) sense of self and knowing one's worth 2) healthy communication and relationships, and 3) positive decision making, teamwork, and community. Throughout the season, boys learn important lessons, including how to work together as a team, how to process and express emotions, and how to choose to be an ally. Boys Run integrates a strong cultural component, honoring Southeast Alaska Native culture and values to foster an appreciation and understanding across cultures for all participants. Boys Run envisions boys growing up into confident, compassionate men who will help create a community of respect and nonviolence.

Boys Run is being implemented in Juneau, Sitka and Kake. It is the intention for the program to expand into additional communities over the next three years of reinvestment funding. Statistics for the FY18 implementation will be available by July 30, 2018.

Teen Dating Violence Awareness Campaign: Alaska's Teen Dating Violence prevention and awareness efforts are year-round and are highlighted annually, throughout the month of February, in alignment with the National Teen Dating Violence Awareness Campaign. Alaska's plan for program development in this arena is based in research from the Center for Disease Control and Prevention (CDC) and includes evidence-based practices outlined in the Domestic Violence Prevention Enhancements and Leadership Through Alliances (DELTA) Program and Rape Prevention Education (RPE) program. Research has indicated teen dating violence is a key risk factor in lifetime violence in adult relationships. Investing resources that support the development of healthy and safe dating relationships is a wise investment that will reduce perpetration rates and the need for criminal

justice responses to intimate partner violence in adult relationships. “Violence in an adolescent relationship sets the stage for problems in future relationships including interpersonal violence and sexual violence perpetration and/or victimization throughout life” (CDC, 2017).

In FY18, CDVSA in partnership with the Office of the Governor, the Alaska Network on Domestic Violence and Sexual Assault, the Department of Education and Early Development, the Department of Health and Social Services, Division of Women’s, Children’s and Family Health and Butch and Cindy Moore, designed a multifaceted approach to raising awareness and support for prevention programming that focused on education, outreach and empowerment to youth, parents, teachers and communities regarding the reality of teen dating violence as well as signs and patterns of behavior to be aware of and how to have healthy, safe dating relationships.

As part of the many activities, events and information that was distributed during the month of February, the Council on Domestic Violence and Sexual Assault (CDVSA) released a new poster for youth and their parents “Everyone Deserves a Safe and Healthy Dating Relationship.” The poster featured Breanna Moore, who was killed because of teen dating violence in 2014, with a link to resources Love is Respect (www.LoveisRespect.org) and Stand Up Speak Up Alaska (www.SUSUAK.org). The poster was distributed statewide to high schools, youth organizations and to anyone who requested a copy. Printed copies are available through the CDVSA or can be downloaded at <https://dps.alaska.gov/CDVSA/Prevention/StandUpSpeakUpAK>. On February 2, Governor Walker issued a Teen Dating Violence Awareness Month Proclamation (<https://gov.alaska.gov/newsroom/2018/02/teen-dating-violence-awareness-month/>) along with a video featuring First Lady Donna Walker and Butch and Cindy Moore, the parents of Breanna Moore (<https://vimeo.com/253359132>).

Approximately \$20,000 of reinvestment funds were used to support Teen Dating Violence Awareness activities in FY18.

Stand Up Speak Up A media and engagement campaign to teach youth how to more effectively speak up and encourage other youth to stand up to end violence. FY18 funding supported staff positions to administer mini-grants for community-based projects led by youth to promote healthy relationships, respect among peers, and leadership in 13 communities around the state.

Talk Now Talk Often A parent engagement project for parents of teenagers; provides resources for parents to speak with their teens about healthy dating relationships. FY18 funds were used to distribute resources to parents and other adults that work with youth to promote discussions about healthy relationships to increase relationship safety and positive teen-adult connections.

Youth Conferences The annual **LeadOn! For peace and equality** youth leadership conference was held in Anchorage with FY18 funds to engage youth to help change norms around teen dating violence and empower them as leaders. Eighty-five youth from 22 communities from around the state attended the three-day conference. After the event, 97% of participants reported knowing what they could do if someone they know was experiencing abuse, 95% better understood how to prevent dating violence. Participants also increased their community planning skills: 92% agreed that LeadOn! gave them experience in how to be a leader in their own community to prevent violence.

One participant said: “My favorite part was the community planning because it sets the projects for the future.” LeadOn has an impact that goes long beyond the three-day conference.

School Health and Wellness Institute (SHWI) The SHWI training was established in 2005 by the Department of Education & Early Development and the School Health program in the Department of Health and Social Services, Division of Public Health. It initially focused on the development of school wellness teams and policies and has since grown much larger in scope and attendance, addressing many new emerging school health and safety topics while providing important professional development opportunities for school staff. To ensure equitable access to the Institute and representation from around the state the SHWI still offers several travel scholarships every year to those in need of financial assistance to attend. CDVSA prevention staff is part of the SHWI planning committee and assures that educators have opportunities to participate in workshops that address teen dating violence and/or sexual assault intervention and prevention strategies. In FY18, approximately \$15,000 in reinvestment funds supported scholarships for educators and community partners to travel to and participate at the SHWI.

Education Specialist and Outreach Coordinator Training The Council on Domestic Violence and Sexual Assault (CDVSA), in conjunction with the Department of Education and Early Development and the Alaska Network on Domestic Violence and Sexual Assault hosted a statewide Education Specialist and Outreach Educator meeting in Anchorage on May 16th through May 18th.

Approximately \$25,000 in reinvestment funds were used to support this event. This annual meeting brought together a specialized group of advocates from our CDVSA funded victim service programs. These advocates are tasked with partnering with local schools/school districts to implement personal safety, teen dating violence and sexual assault prevention programming in grades K-12. In addition, these staff also provide training on these issues in their communities and in outlying services areas.

This meeting served to provide 25 education specialists from 18 communities with training and technical assistance that is critical to building their capacity as educators by ensuring that the lessons delivered in the classrooms and in communities are well informed, culturally relevant and modeled after best practices.

Prevention Specialist Biennial Training FY18 funds supported training at which 32 prevention practitioners from around the state gathered in Ketchikan, Alaska to learn from experts in the field ways to improve their capacity to do primary prevention work in their home communities and how to better create networks to coordinate activities statewide. Participants reported an increase in their confidence to plan and implement comprehensive prevention strategies after attending the professional development training. Approximately \$25,000 of reinvestment funds supported this training.

Green Dot Alaska (GDAK) A nationally recognized bystander intervention program with the goal of preparing organizations or communities to take steps to reduce power-based personal violence including sexual violence and domestic violence. The “green dot” refers to any behavior, choice, word or attitude that promotes safety for everyone and communicates intolerance for violence.

FY18 funds were used to support ongoing technical assistance and develop an evaluation toolkit for implementing Green Dot in community settings.

This new resource establishes common measures, data, and methods for communities implementing the program. The tool has been distributed to participating Green Dot communities including: Anchorage, Cordova, Fairbanks, Homer, Kenai, Ketchikan and Nome. Our goal is to stabilize evaluation for implementing communities to better understand the overall impact of the program on the individual participant as well as shifts in the overall attitudes, beliefs and behaviors around bystander intervention at a community level.

FY18 reinvestment funds also supported statewide bystander efforts through the development of the #1000 conversations campaign and video for April's annual Sexual Assault Awareness and Action month. The # 1000 conversations campaign encouraged communities implementing Green Dot to host conversations with family, friends, colleagues and community members at large about violence prevention and their role in creating a safer community. Facebook pages and other forms of social media were used to highlight the effort and encourage the conversations.

GDAK leaders in host communities posted daily conversation topics throughout the month. Fifty-nine unique discussion topics were posted by hosts throughout April. The posts reached 14,330 individuals. The impact results have not yet been calculated but will be available when final reports are due on July 30, 2018. The video, which was developed to accompany the campaign can be viewed here: <https://greendotalaska.com/psa-videos/>. CDVSA also sponsored a Green Dot Alaska media buy throughout the month of April to encourage bystander involvement. The media campaign can also be viewed on the Green Dot Alaska webpage. An approximate breakdown of reinvestment expenses associated with statewide bystander programming are as follows:

- Media campaign: \$50,000
- PSA development: \$2,000
- Annual meeting of participating communities: \$15,000

Community Programming Funded with Investment dollars included:

In fiscal year 2018, **\$1,095,556** went to community based prevention programming through two new CDVSA request for proposal funding opportunities: the community readiness and capacity building (CR) grant and the community based primary prevention program (CBPPP) grant. The proposals were designed to provide opportunities for community programs with and without primary prevention program experience. Community agencies that were newer to primary prevention programming receive funding through the CR grant to conduct initial community level assessments, establish coalitions and develop strategic plans for program implementation that fit the community readiness for implementation. For communities with existing coalitions and strategic plans, funding assists these efforts to become more comprehensive (i.e. expand the reach of their programs to new populations and settings). Comprehensive programming is implemented in such a way to reinforce complimentary messaging in multiple settings and/or multiple populations. In other words, to generate the greatest impact, the same person needs to hear complementary prevention messages in multiple setting of their life-home, school, work, neighborhood, community etc.

Seven programs received CR grants; Advocates for Victims of Violence (Valdez), Abused Women's Aid in Crisis (Anchorage), Safe and Fear Free Environment (Dillingham), The LeeShore Center (Kenai), Tundra Women's Coalition (Bethel), Women in Safe Homers (Ketchikan), Working Against Violence for Everyone (Petersburg). As noted above, CR grantees used their reinvestment dollars to gather local data, establish coalitions, identify prevention projects and in many cases, began or continued to implement programming.

To accomplish these tasks, five of the seven grantees hired prevention staff to support their efforts and planning -Kenai, Valdez, and Petersburg hired a Prevention Coordinator, Anchorage hired a Prevention & Education Assistant, and Dillingham hired a Prevention Planner. The remaining CR grantees had volunteer positions or coaches for prevention efforts. All CR grantees are working with an external evaluator to help local programs with the completion of a needs and resource assessment and the creation of a strategic prevention plan to guide their future efforts. All grantees joined or organized new prevention coalitions and collectively a total of 55 prevention team or coalition meetings were reported as having taken place by CR grantees during the first three quarters of FY18.

Five programs received CBPPP grants in FY18 and used their reinvestment dollars to develop community and school based policies, increase youth protective factors, engage men and boys and strengthen bystander responses to violence. CBPPP grantees are: Aiding Women in Abuse and Rape Emergencies (AWARE), Juneau, Cordova Family Resource Center (CFRC), Cordova, Interior Alaska Center for Non-violent Living (IAC), Fairbanks, Sitkan's Against Family Violence (SAFV), Sitka and South Peninsula Haven House (SPHH), Homer.

In the first three reporting periods of FY18, CR and CBPPP grantees have:

- Established a total of 56 new community agency partnerships, MOUs, or other informal or formal agreements for community based primary prevention efforts.
- Spent on average, within agency staff and partnering coalition members, 126 hours each week dedicated to the primary prevention of intimate partner violence and sexual assault.
- Provided over 260 presentations or community activities that included a conversation on equity and/or inclusion (protective factors)
- Trained 3,688 community members on intimate partner violence and sexual assault awareness, resources and prevention programming. Of those who attended trainings and were asked, 100% reported an improvement in their awareness of and access to community resources for IPV, DV, and/or SA (n=112).
- 540 Alaskans were trained in Green Dot or another bystander program (379 community members, 145 high school students, 16 university staff or students).

These quarterly reports indicate that grantees are being successful in their work to improve their community capacity for prevention programming through agency leadership, increased staffing and community events and training that either introduces or strengthens existing prevention messaging

across settings and populations. Their organizational and implementation efforts are consistent with best-practice and through time with have a positive impact on reducing violence in Alaska.

A complete end of year project report will be available July 30, 2018.

FY18 Funding Overview

CDVSA is tasked with coordinating statewide training, technical assistant, program planning, implementation and evaluation of all statewide and community based projects related to the reinvestment funds for domestic violence, teen dating violence and sexual assault prevention efforts. To accomplish the scope of work required by these multiple activities, CDVSA contracts with multiple state and non-profit agencies. The below information reflects the approximate funding amounts that were released through the CDVSA to community grantees and contracted agencies. Please note that the below dollar amounts are our best estimate as our close out date for fiscal year financial reports is August 15, 2018.

ANDVSA single source contract: \$275,000

Areas of focus: male engagement, parent engagement, youth engagement and technical assistance to funded programs. Specific programming includes COMPASS, LEAD-ON, Talk Now Talk Often, Stand Up Speak Up.

Alaska Association of School Boards: \$75,000

The Association of Alaska School Boards is dedicated to improving outcomes for children and families across Alaska. In FY18, CDVSA was a planning, implementation and funding partner on several initiatives that work to end violence, support students and families with trauma, and work to prevent violence from ever starting.

Specifically, AASB has been a recipient of the Culturally Responsive Social and Emotional Learning grant and which works to address intergenerational trauma in rural and remote Alaska; they have most recently been working on the Supporting Transitions and Educational Promise (STEPS) in Southeast Alaska Promise Neighborhoods grant. This grant works to address 15 key indicators in communities in 7 Southeast Alaska Communities. This includes violence prevention and addressing protective factors to reduce violence and healthy relationships.

As a part of this work, the School Board association will host a June training on Racial Equity and Healing. The training addressed issues of equity and social justice work geared towards reducing adversity in childhood and building resiliency among populations most marginalized and underserved. Community members were trained hosts and left with a commitment to hosting community dialogues in their own home community. FY18 funding supported travel to the June training and in addition AASB staff to follow up with on-site technical assistance and the purchase of training materials for local participants.

Community based primary prevention programming: \$1,095,550
(as described above)

Strategic Prevention Solutions (SPS) single source contract: \$20,000

SPS is a research, evaluation and technical assistance provider that has been working in Alaska on primary prevention programming specific to domestic and sexual violence since 2005. In FY18 they provided CDVSA with technical assistance that identified common indicators for prevention programming across all grantees and created a data base for data collection. In addition, they will work with CDVSA staff to collate end of year reports from community grantees on their efforts. It is envisioned that the new data collection system will allow for better tracking of implementation efforts, identify positive and negative trends in programming and allow for ease when working to course correct. First year data reports are due on July 30, 2018.

Walsh-Sheppard: \$30,000

- **Media Campaigns \$125,000**

CDVSA solicited, through a competitive bid, for an agency to assist with victim services and prevention media and communication campaigns. Walsh|Sheppard was the successful entity and have worked with prevention staff at CDVSA to design prevention campaigns for Green Dot and Teen Dating Violence Awareness Month. Walsh|Sheppard is also conducting an audit of our existing campaigns and working with staff to refresh existing and develop new prevention messaging for FY2019 and FY2020.

Cross-system support:

School Health and Wellness Institute: **\$15,000**

Green Dot annual training for communities and GDAK program supplies: **\$30,000**

School Curriculum to support the Alaska Safe Children's Act: **\$35,000**

Batterer Intervention Programming: **\$200,000**

Estimated Total: 1,900,550.00

Projections for FY2019

ANDVSA: \$275,000

To continue in their contracted role for the projects listed above.

Alaska Association of School Boards: \$50,000

To continue their work to support curriculum development of a tool for school districts to use when developing trauma informed policy for schools and the Supporting Transitions and Educational Promise (STEPS) in Southeast Alaska Promise Neighborhoods grant.

Alaska's Primary Prevention Summit 2019: \$125,000

The Primary Prevention Summit is a biennial event. Its purpose is to support the growth and improve the impact of violence prevention programming in local communities across the state. The Summit is open to those who are CDVSA grantees and non-grantees.

- **Mini-grants: \$110,000** for non-funded communities to support initial prevention work or to enhance an existing project. These funds are tied to APPS participation (before and after) and occur on a biennial basis.

Community Based Project Funding 2019: \$1,311,814

The \$1,311,814 amount shows an increase of \$216,258 from FY18 amount. The increase reflects an increase to staffing positions for on-the ground implementation required of the CR grantees in year two of their award. There was also a request for staffing increases from two of the five CBPPP grantees. Their requests reflected program expansion and therefore the need for consistent well trained staff to monitor the work.

Strategic Prevention Solutions: \$20,000

To continue TA on research and evaluation to the CDVSA as outlined in our current contract.

Walsh | Sheppard: \$30,000

Media strategies: \$75,000

Walsh | Sheppard will continue to work with CDVSA to expand messaging for TDVAM, bystander engagement and DV/SA awareness in FY2019.

Total Projections 2019: \$1,987,000

Projections for 2020

We anticipate an increase in funding requests in FY2020 from our community grantees. FY2020 will be the last year of a three-year funding cycle. Grantees may need additional staff and/or the ability to increase wages and benefits to maintain trained staff. In addition, grantees are responsible for a three-year cumulative evaluation project report and we would anticipate to see increases to the contract line for specialized support in meeting this requirement.

Appendix J: Materials on the Pretrial Risk Assessment from DOC

Alaska 2-Scale (AK-2S) Pretrial Risk Assessment

Frequently Asked Questions

What is a pretrial risk assessment and what is its purpose?

A pretrial risk assessment tool developed with data identifies the statistical likelihood a defendant will fail to appear (FTA) for one or more court appearances, and/or the likelihood a defendant will be arrested for new criminal activity (NCA) during the pretrial period. The tool that Alaska has adopted – the Alaska 2-Scale (AK-2S) – was developed from Alaska data and predicts the likelihood of both FTA and NCA.

The main purpose of using a pretrial risk assessment is to provide objective and standardized information to an initial release decision-maker (usually a judge or magistrate) to help them make the best possible decision.

How do we know the pretrial risk assessment will work?

When an assessment is developed using a jurisdiction's own standardized data (as was the case with the AK-2S), it will demonstrate what is referred to as "predictive validity" retrospectively. In other words, a few years' worth of recent pretrial/booking data are used, and statistical analyses of the data reveal the risk factors that are good questions to include on a pretrial risk assessment because they are predictive of pretrial outcomes (NCA and FTA).

It is important to remember, however, that policies and practices change as time passes, and these changes can impact the predictive validity of the tool. As a result, best practices strongly recommend that jurisdictions should periodically test the tool's validity in order to ensure it remains predictive.

How do you choose which factors to include on a pretrial risk assessment tool?

A pretrial risk assessment tool uses data analysis and research to determine the risk factors that best predict an individual's risk level for FTA or NCA.

When pretrial assessment tools are developed, a couple of steps are critical:

- 1) Developers look for the factors that will be the BEST predictors of risk of pretrial success or failure. There are many factors that may be "okay" predictors of risk for pretrial success or failure. However, to create a tool that has high predictive validity, the MOST predictive factors should be used.
- 2) Developers also look at which factors work the best TOGETHER to create the most predictive risk assessment.
- 3) Finally, developers eliminate factors that are not predictive for all individuals regardless of their race or gender. In other words, if a factor is very predictive for whites but not for Alaska Natives, it was eliminated.

This means that, based on the data available, the COMBINATION of factors on the tool are the ones that lead to the most accurate predictions of risk across all groups. It also means that, generally speaking, adding in “other factors” will only decrease predictive accuracy.

How should pretrial risk assessment be used in the decision-making process?

The result of a risk assessment is an important factor that should be weighed by decision-makers in combination with other statutory requirements, including the type and level of the charge.

For certain types of lower-level, non-violent charges, Alaska law requires judges to release lower-risk individuals on their own recognizance. This means that the judge cannot set secured monetary bail, although the judge may set any other conditions of pretrial release.

For most charges, however, a judge retains the option to set secure monetary bail as a pretrial release condition, although there may be a statutory presumption against the use of monetary bail. In these cases, the judge needs to weigh the results of the risk tool along with other factors.

These other factors are outlined in Alaska statute:

- The nature and circumstances of the offense charged;
- The weight of the evidence against the person;
- The nature and extent of the person's family ties and relationships;
- The person's employment status and history;
- The length and character of the person's past and present residence;
- The person's record of convictions;
- The person's record of appearance at court proceedings;
- Assets available to the person to meet monetary conditions of release;
- The person's reputation, character, and mental condition;
- The effect of the offense on the victim, any threats made to the victim, and the danger that the person poses to the victim;
- Any other facts relevant to the person's appearance or the person's danger to the victim, other persons, or the community.

Can a risk assessment “get it wrong?”

Yes. Unfortunately, it is impossible to accurately predict human behavior 100% of the time. There will always be some “low risk” defendants who fail in some way during the pretrial period – though if the developed assessment is effective, the number should be small. Likewise, there will be “high risk” defendants who are released pretrial and succeed.

Ultimately, a risk assessment is just a tool to help judges make the best decisions they can make guided by the best science and evidence available.

How does a judge know when to deviate from the risk tool recommendation?

Risk assessments are meant to be coupled with professional judgement and statutory factors to determine the best release decision. When looking at the individual case before them, a judge may rightly decide an individual is or is not a good candidate for pretrial release because of x, y or z

reason, regardless of what the tool says. This is referred to as an “override,” and it is expected this will happen a small percentage of the time.

Here are some examples of situations that might cause a judge to deviate from the risk tool recommendation:

☒ **Situations where the circumstances of the charge make this an “atypical” case.** For example, if someone is charged with murder and has no criminal history, they are likely to score low on an assessment tool. This is a known limitation of assessment tools – they can only score *known* criminal history, and this is why it is essential that professional judgement play a role in evaluating each individual case in relationship to the charged offense.

☒ **Situations where there is a very extensive history of a factor.** For example, an individual may have 12 previous FTAs. Depending on the other details of the situation, that person could theoretically score low on a pretrial tool, because the tools often look at a combination of factors, not simply one factor. In this situation, it may make sense for a judge to set monetary bail or other more restrictive release conditions despite the fact that the individual scores as low risk.

☒ **Situations where there is a very recent pattern of a lot of antisocial/criminal conduct.** A judge may consider deviating from the presumption against setting monetary bail for someone who has had a number of *recent* charges and probation violations in short succession. Criminology research is clear on this point: recent behavior is more predictive than more distant behavior.

☒ **Situations where there is additional information that could not be scored.** The AK-2S is a “no interview” tool. This means that there may be additional information that can only be collected through an interview or during a bail hearing that could be relevant to the pretrial decision. One example of this is employment. An individual might score as a high risk on the pretrial assessment based on their criminal history, and yet over the past year they’ve obtained and maintained a job, established stable housing and are participating in treatment. These factors might suggest that the individual could be successfully released pretrial with appropriate pretrial supervision and other pretrial release conditions.

However, it is important to remember that on the whole, the combination of factors on the risk assessment tool are the combination that lead to the most accurate predictions of risk across all groups. This means that if a judge were to routinely use other factors to override the tool, then they are likely to be wrong more often than if they had just followed the tool’s prediction and limited the tendency to utilize overrides.

What practices are important for a state to adopt to ensure the risk assessment tool works as well as it can?

Training, careful implementation, and consistent long-term data collection are the most important aspects of making sure the AK-2S works as well as it can.

☒ All stakeholders should be trained on how the tool works, how to interpret the results, and on any policies relating to the assessment’s use. This allows for each stakeholder to understand what the tool does and does not tell us.

☒ Implementing the tool with fidelity means that it should be programmed electronically and use the same data sources that were used to create the tool.

☐ Data collection allows for the jurisdictions to track how well any interventions are impacting the rates of FTA and NCA and show the impact of using the tool. Data collection also allows the jurisdictions to conduct regular re-validations to ensure the tool continues to be predictive.

All of these practices are a part of the Alaska Department of Correction's pretrial program.

Out of State Convictions & the AK-2S Pretrial Risk Assessment

Why wasn't data on out of state convictions (i.e. NCIC information) included in the Alaska pretrial tool (AK-2S)?

- Data on out of state criminal history is typically provided by the National Criminal Information Center (NCIC). As a rule, NCIC does not provide data for research purposes (i.e. creating a pretrial tool), which meant the data was unavailable when creating the AK pretrial tool.
- As a result, the developers of the tool could not test data on out of state convictions to determine if this data is predictive of pretrial failure/success.
- Until the data is available to test, out of state convictions cannot be included when scoring the tool without compromising the predictive validity of the tool.

Do other pretrial tools use data on out of state convictions?

- Most, if not all, pretrial tools do not use out of state convictions in the scoring of the tool. However some jurisdictions may include NCIC data as supplemental information in the pretrial report submitted to the court (but the information is not scored as part of the actual pretrial risk assessment).

Will data on out of state convictions be included in the future?

- As pretrial risk assessments are being completed, the Alaska Pretrial Enforcement Division is collecting out of state conviction data through NCIC.
- The data will be evaluated to test the predictability of pretrial failure/success as part of the one-year re-validation study, assuming sufficient data are obtained.
- A decision will be made on whether the out of state convictions information should be included in the tool based on the results of the evaluation.

Are there any other potential problems with using data from NCIC?

- The data from NCIC can be inconsistent. For example, the information provided from state to state is not regulated, and this inconsistency could undermine the predictive validity of a risk assessment.
- The data is extremely difficult to read and may be interpreted differently depending on the reader, which also creates problems for maintaining reliability of the data.

Alaska 2 Scale (AK-2S) Pretrial Risk Assessment Scoring Form

Defendant's Name	
Defendant's DOB	
ACOMS #	
APSIN #	
Charges	
Booking Facility	
Assessor	

*Use the AK-2S Scoring Guide to score the AK-2S Pretrial Risk Assessment

Failure to Appear (FTA Scale)

- Age at first arrest (APSIN)
 - + 0 22 and older
 - + 1 21 and younger
- Total number of prior FTA warrants (CourtView)
 - + 0 0 prior FTA warrants
 - + 1 1 prior FTA warrants
 - + 2 2 or more prior FTA warrants
- Total number of prior FTA warrants in the past 3 years (CourtView)
 - + 0 0 prior FTA warrants in the past 3 years
 - + 1 1 prior FTA warrants in the past 3 years
 - + 2 2 or more prior FTA warrants in the past 3 years
- Current FTA charge (ACOMS)
 - + 0 No current charge (or violation) for FTA
 - + 1 Current charge (or violation) for FTA
- Current arrest includes a property charge (ACOMS)
 - + 0 Current charge(s) does NOT include a property crime
 - + 1 Current charge(s) DOES include a property crime
- Current arrest includes a motor vehicle charge (ACOMS)
 - + 0 Current charge(s) does NOT include a motor vehicle charge
 - + 1 Current charge(s) DOES include a motor vehicle charge

Total Points for the FTA Scale:	FTA Risk Level: <ul style="list-style-type: none"> <input type="checkbox"/> Low Risk FTA Score 0-4 points <input type="checkbox"/> Moderate Risk FTA Score 5-6 points <input type="checkbox"/> High Risk FTA Score 7-8 points
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New Criminal Activity (NCA Scale)

1. Age at first arrest (APSIN)
 - + 0 22 and older
 - + 1 21 and younger
2. Total number of prior arrests in the past 5 years (by case number) (APSIN)
 - + 0 0 prior arrests in the past 5 years
 - + 1 1-2 prior arrests in the past 5 years
 - + 2 3 or more prior arrests in the past 5 years
3. Total number of prior convictions in the past 3 years (by case number) (APSIN)
 - + 0 0 prior convictions in the past 3 years
 - + 1 1 prior convictions in the past 3 years
 - + 2 2 prior or more convictions in the past 3 years
4. Total number of prior probation sentences (APSIN)
 - + 0 No prior probation sentences
 - + 1 1 prior probation sentence
 - + 2 2 or more prior probation sentences
5. Total number of prior probation sentences in the past 5 years (APSIN)
 - + 0 No prior probation sentences in the past 5 years
 - + 1 1 prior probation sentence in the past 5 years
 - + 2 2 or more prior probation sentences in the past 5 years
6. Total number of prior sentences that included a period of incarceration that was not wholly suspended in the past 3 years (APSIN)
 - + 0 No prior sentences within the past 3 years that included a period of incarceration
 - + 1 1 or more prior sentences within the past 3 years that included a period of incarceration

Total Points for the NCA Scale:	NCA Risk Level:
	<input type="checkbox"/> Low Risk FTA Score 0-5 points
	<input type="checkbox"/> Moderate Risk FTA Score 6-9 points
	<input type="checkbox"/> High Risk FTA Score 10 points

NCIC Data	
Does the defendant have an out of state criminal history?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Total number of prior misdemeanor convictions (by counts)	
Total number of prior felony convictions (by counts)?	
Total number of person (violent) convictions (by counts)?	
Total number of prior incarcerations (by cases)?	

Total number of prior probation sentences (by cases)?	
Total number of prior probation revocations (by cases)?	

Appendix K: List of Justice Reinvestment States and Their Reforms

[Fact Sheet begins on the following page.]