

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 6, 2019

1:31 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chuck Kopp
Representative Louise Stutes
Representative Adam Wool
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Zack Fields

COMMITTEE CALENDAR

PRESENTATION: AK CRIMINAL JUSTICE COMMISSION

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

SEAN CASE, Captain
Anchorage Police Department
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on the Alaska Criminal Justice Commission.

SUSANNE DIPIETRO, Executive Director
Alaska Judicial Council; Staff
Alaska Criminal Justice Commission
Anchorage, Alaska

POSITION STATEMENT: Gave a presentation on the Alaska Criminal Justice Commission.

QUINLAN STEINER, Director
Alaska Public Defender Agency
Juneau, Alaska

POSITION STATEMENT: Testified during the presentation on the Alaska Criminal Justice Commission.

ACTION NARRATIVE

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CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:31 p.m. Representatives LeDoux, Kopp, Stutes, Wool, Shaw, Eastman, and Claman were present at the call to order.

Presentation: AK Criminal Justice Commission

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CHAIR CLAMAN announced that the only order of business would be a presentation and invited testimony from speakers who work with or serve on the Alaska Criminal Justice Commission (ACJC).

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SEAN CASE, Captain, Anchorage Police Department, introduced three "directions" he intended to cover in his presentation: Increasing present resources, adding new resources, and partnering with outside resources.

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CAPTAIN CASE discussed the Anchorage Police Department's (APD's) approach of concentrating resources to combat vehicle theft. He reported a 66 percent decrease - from 340 to approximately 116 - in the number of stolen vehicles from February 2018 to February 2019. He said APD's effort consisted of around-the-clock investigations with its Detective Division involved in 553 field interviews. This, he said, resulted in 1,263 total charges. Captain Case cited this effort as an example of APD expanding the number of employees to investigate those types of crimes.

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CAPTAIN CASE said APD recently began utilizing an on-staff clinical social worker in patrol, specifically to respond to

mental health calls. He reported that in February 2019 APD transported 157 people to hospitals for mental health-related problems. He said further analysis revealed only about 15 of those calls required hospitalization. He said 137 of the calls could have been dealt with "in the field" with a social worker. He noted APD's social worker goes into the field three days per week, three to four hours per day. He mentioned that the social worker spends the rest of her time reading through relevant police reports.

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CAPTAIN CASE shared that 65 of the 137 calls would have been best served with "some sort of a stabilization center" rather than a costly trip to an emergency room. He said the rest of the calls "could have been field contacts ... and follow up with our social worker." He relayed that services involving the social worker are eligible for the Section 1115 Medicaid Expansion Waiver.

CAPTAIN CASE called working with a social worker a cost-saving method that results in a better service provided to "this particular population." He added that "this population" frequently uses emergency rooms and is involved in a significant number of arrests resulting in a greater financial burden for Department of Corrections (DOC). He called this approach to policing an example of APD partnering with a new resource to achieve better results with "that population."

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CAPTAIN CASE introduced the idea of field level diversion programs that divert people out of the criminal justice system. He said over the past six weeks, APD has diverted four individuals arrested for nonviolent misdemeanors by partnering with "outside pre-existing agencies" that serve as re-entry resources. He explained that the four individuals have been housed, given access to Medicaid and transportation, and assisted in finding employment. He reported the four individuals placed in the diversion program remain in it and continue to be successful. He noted that the diversion model, though not a significant factor in reducing crime in the long term, allows APD to be more efficient as it provides a better method of responding to repeat offenders who require "a lot of attention from the criminal justice system."

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CAPTAIN CASE summarized that his objective was not to endorse any specific legislation, but rather to communicate "alternate options" to improve the current system. He reiterated that the system could work more efficiently with increased resources and more effectively by using outside resources not often thought of in a law enforcement context.

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CHAIR CLAMAN noted that Captain Case's availability was limited. He asked for questions from the committee.

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REPRESENTATIVE WOOL shared that he was pleased by Captain Case's report. He asked whether the 56 percent decrease in vehicle thefts can be attributed to anything in particular.

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CAPTAIN CASE answered that there are multiple factors. He said increased enforcement and investigation contributed to the decrease. He also recognized the roles of the Anchorage District Attorney's Office and changes in legislation.

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REPRESENTATIVE WOOL referred to Captain Case's point about social workers helping to reduce emergency room trips. He considered that many individuals responded to by APD do not require a police solution and would be best served by some other kind of medical facility. He asked if such a facility would "fill a bigger role in the future."

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CAPTAIN CASE answered yes. He said this model can be used not only for mental health issues but drug addiction as well. He clarified that a social worker's services and contacts would qualify under the Section 1115 Medicaid Expansion Waiver. He said that the clinical social worker model would also be effective and accessible in rural areas because contact with a social worker can occur over a telephone. He said expanding this model "would help pay for itself" by lowering the cost of service and through reduced usage of jails and hospitals. He

noted that this model has been effective in other states. He opined that its expansion would work in Alaska.

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REPRESENTATIVE LEDOUX asked to what sort of calls the social worker responds. She also asked where an individual [for whom a call has been made] would have been taken previously.

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CAPTAIN CASE said he would give an example that occurs on "a very regular basis." He created a hypothetical scenario in which a sister calls the police because her brother is threatening suicide. The police talk to the brother, who has been drinking alcohol but assures the police that he is fine. The sister is in tears because she fears for her brother. She wants some sort of intervention. The only intervention immediately available to her is a police officer.

CAPTAIN CASE noted that an individual like the hypothetical brother does not meet the welfare requirements under [Alaska Statutes Title 47]. He clarified that the only actions the police can take in this scenario are to arrest the individual if he has committed a crime or to admit the individual to an emergency room on a police officer committal. He opined that these options expend resources that are not necessary for the situation.

CAPTAIN CASE remarked that a social worker in the field can engage with the individual and deal with the immediate acute situation. He added that the individual can be left in place rather than taken away. The social worker then provides resources to the individual and follows up with him/her later. Captain Case stated that this is the best quality of care the police can give an individual in that situation, and far better than taking him/her to the emergency room.

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REPRESENTATIVE SHAW mused that a new focus on crime prevention is benefitting the entire policing program. He requested details regarding the release of Alaska Natives. He also asked if there are "fewer people in jail for the crimes we stopped incarcerating."

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CAPTAIN CASE deferred to a later testifier who might be better able to answer that question. He expressed concern regarding any minority population and any population that is living in poverty. He said there have been historical disparities with those populations within the criminal justice system. He stressed the importance of tailoring the criminal justice system to meet the needs of the population because different individuals within the system require different responses. He shared that APD is moving in that direction.

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CHAIR CLAMAN mentioned that Representative Shaw's question would be addressed in the next presentation.

CHAIR CLAMAN asked if APD had observed any other criminal offense category that has dropped like vehicle theft since the passage of Senate Bill 54 [passed in the Thirtieth Alaska State Legislature].

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CAPTAIN CASE answered no. He mentioned that APD has concentrated resources on the one specific area of vehicle theft. He reported APD has not seen a decline in any other area like that of vehicle theft. He added APD has not dedicated resources to any other area of crime prevention.

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CHAIR CLAMAN thanked Captain Case for his testimony.

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SUSANNE DIPIETRO, Executive Director, Alaska Judicial Council, explained that the Alaska Judicial Council (AJC) staffs the Alaska Criminal Justice Commission (ACJC). She introduced her PowerPoint presentation [hard copy included in the committee packet] as an overview of the reasons for criminal justice reform and data tracking its progress.

MS. DIPIETRO addressed slide 2, titled "Reasons for Reform." She explained that the 2015 Criminal Justice System Assessment determined that criminal justice reform was necessary due to unsustainable prison growth, the need to reduce recidivism, and the need for a fairer justice system.

MS. DIPIETRO highlighted that Alaska had been nearing prison capacity in 2015. She added that Alaska's recidivism rate was around 66 percent in 2015. She also pointed to the unfairness of pretrial detention being linked to one's ability to pay bail, as one's ability to pay is unassociated with his/her risk to the community. She said there were also well-documented racial disproportionalities in incarceration and pretrial detention rates.

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MS. DIPIETRO addressed slide 3, which featured a line graph demonstrating a 27 percent growth in prison population from 2005 to 2014.

MS. DIPIETRO addressed slide 4, which featured a line graph demonstrating a 60 percent increase in corrections spending from 1995 to 2014.

MS. DIPIETRO addressed slide 5, titled "Reasons for Reform - Poor Public Safety Outcomes." She explained that the slide displayed the results of studies done by AJC on the issue of recidivism. She said ACJC examined the data and realized misdemeanants have a higher recidivism rate than felons. She noted that felons have a high recidivism rate as well. She said ACJC also found that recidivism rates were "highest among youthful offenders, those with length or more serious prior criminal histories, and Alaska Native and Black offenders." She opined that this reflected a poor return on the State of Alaska's criminal justice dollar.

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MS. DIPIETRO addressed slide 6, titled "Reasons for Reform - Pretrial Problems." She detailed a 2015 ACJC study of pretrial defendants that found only half the individuals arrested and charged were released before their cases were disposed. She said the study also found that 37 percent of those released were rearrested during the pretrial period. She cited a 2004 AJC report that documented racial disparities in predisposition incarceration. She said the findings indicated an Alaska Native person was more likely to be detained pretrial.

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MS. DIPIETRO addressed slide 7, titled "Reasons for Reform - Main Takeaways." She reiterated the reasons for criminal justice reform: Poor return on investment, high recidivism rate, large numbers of defendants sitting in jail waiting for their cases to be concluded, and high rearrests among those released during the pretrial period.

MS. DIPIETRO said over half of inmates in 2014 were serving sentences for nonviolent crimes. Many, she added, were supervision violators. She defined "supervision violator" as an individual who has been reincarcerated for breaking a rule of his/her probation. She noted that ACJC found supervision practices used by probation officers across the state to be inconsistent in different locations. She cited opportunities for improvement regarding probation officer practices and caseloads.

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MS. DIPIETRO moved to slide 9, titled "Pretrial Reforms - Risk-Based Decision Making." She addressed significant changes to the pretrial bail system. She said laws were changed to make it easier for a person to be released pretrial provided that the judge found him/her not a risk to the community and that there was not a risk he/she would fail to appear for a hearing.

MS. DIPIETRO addressed the creation of DOC's Pretrial Enforcement Division (PED). She said the division has correctional officers across the state who are available to supervise people on release. She said if a judge wants to release a person pretrial but thinks the person would benefit from oversight, the judge can assign a PED officer to oversee the released person.

MS. DIPIETRO said ACJC is measuring the ethnic disparities in pretrial detention before and after criminal justice reform. She noted that multiple factors are in play so causality cannot be determined, but preliminary results of an AJC study show decreased disparities in pretrial release by ethnicity for Alaska Natives.

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MS. DIPIETRO addressed slide 10, titled "Pretrial Reforms - Pretrial Supervision." She said about half the arrestees studied by AJC in 2018 were given a PED supervision order by a judge. She called the provisional results of the AJC study

encouraging but advised they should not be treated as final results, as pretrial reforms only went into effect in January 2018. She said she wanted to share ACJC's early confidence in the provisional results because pretrial reforms are important.

MS. DIPIETRO addressed slide 11, titled "Pretrial Reforms - Pretrial Outcomes Being Studied." She informed the committee that the University of Alaska Anchorage (UAA) Justice Center is under contract with DOC to revalidate the pretrial risk assessment tool, which was part of the pretrial reform package. She defined the tool as an actuarial instrument designed by researchers specifically for Alaska to help judges and lawyers identify the relative risk level of arrestees considered for pretrial release. She noted that the tool is statistical and requires examination and revalidation after a certain amount of usage. She said a status update on this process is expected in early summer 2019.

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MS. DIPIETRO moved to slide 13, titled "Sentencing Reforms." She said ACJC had recommended prioritizing prison beds for serious and violent offenders. She said studies show that longer stays in prisons do not produce better outcomes than shorter stays. She explained that low-risk offenders who serve long sentences are more likely to reoffend upon release. She added that custodial sanctions do not give better outcomes than noncustodial sanctions, which means that probation supervision can be more helpful for an individual's rehabilitation than incarceration. She said it is better to focus prison beds not on people "who we're mad at" but on those "who we're afraid of."

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MS. DIPIETRO addressed slide 14, titled "Violent vs Nonviolent prisoners." The slide displayed a bar graph measuring the ratio of violent to nonviolent offenders in the prison population from fiscal year 2015 (FY 15) to FY 18. Ms. DiPietro said the percentage of violent offenders is increasing compared to the nonviolent, which is to be expected. She noted as well that the total prison population has decreased during this time period.

MS. DIPIETRO addressed slide 15, titled "Admissions for Drug Crimes." The slide displayed a bar graph measuring admissions into DOC from FY 15 to FY 18 by class of drug-related crime. She noted that "simple drug possession" used to be a Class C felony but is now a misdemeanor. She said this is because

individuals arrested for drug possession are better addressed with treatment in the community than incarceration. She said that, as expected, the number of people charged for drug-related crime with misdemeanors has risen while the number of people charged with Class C felonies has fallen. She clarified that those charged with misdemeanors are drug possessors while those charged with felonies are dealers.

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MS. DIPIETRO addressed slide 16, titled "Admissions." The slide featured a line graph measuring quarterly violent and nonviolent admissions to DOC from FY 15 to FY 18. The graph highlighted trends resulting in the wake of the passage of Senate Bill 91 [passed in the Twenty-Ninth Alaska State Legislature] and Senate Bill 54. She summarized that prison admissions for violent offenders have remained steady while admissions for nonviolent offenders has risen steadily since Senate Bill 91 and Senate Bill 54.

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MS. DIPIETRO moved to slide 18, titled "Supervision Reforms." She explained that criminal justice reform sought to reduce recidivism rates by strengthening supervision and interventions. She said ACJC found that most instances of recidivism occurred within the first year of release, many within the first three months. She said the reform intended to frontload supervision resources for the period of time immediately after release. She said this included re-entry resources as well as increased supervision and assistance from officers. She mentioned new tools available to probation officers to impose swift, certain, and proportionate sanctions as well as rewards and incentives. She shared that ACJC studies show rewards and incentives produce better results for individuals on probation than sanctions alone. She noted that these individuals are accustomed to being sanctioned so being rewarded and verbally praised can be very powerful for them.

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MS. DIPIETRO addressed slide 19, titled "Supervision Reforms." She described the new system of administrative sanctions and rewards available to probation officers for use on an informal basis. She said these sanctions and rewards intend to quickly reward positive behavior and correct negative behavior. She explained that a probation officer can seek to address recurring

poor behavior by filing a petition to the court for an incarceration sanction that results in a three-day incarceration. Ms. DiPietro described the previous system of sanctions in which a probation officer might wait until minor violations stacked up before reporting them to the court, resulting in "significant terms of incarceration." She opined that the previous system did not respond immediately to bad behavior and only levied big sanctions. She called the previous system "not the right way to change a person's behavior." She asserted that the new sanctions are designed to be swift, certain, and proportionate.

MS. DIPIETRO described an additional key piece of the reform, Earned Compliance Credit (ECC), a system through which compliant probationers earn credit off the length of their probation. She said DOC had recently reported that half of probationers have availed themselves of ECC. She said the goal of ECC is to identify low-risk, compliant probationers and quickly remove them from a probation officer's caseload. This, she added, allows the probation officer to focus on medium- and high-risk probationers who require more attention. She asserted that this shift in probation officers' focus was what criminal justice reform sought to accomplish and results indicate the goal is being met.

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MS. DIPIETRO addressed slide 20, titled "Successful Discharges from Supervision." The slide featured a bar graph measuring successful probation and parole discharges from FY 14 to FY 18. Ms. DiPietro said the percentage of successful discharges has been increasing.

MS. DIPIETRO addressed slide 21, titled "Prison Population & Legal Status of Inmates." The slide featured two pie graphs comparing the inmate population from April 1, 2015, and April 1, 2018. Ms. DiPietro said the percentage of prison beds occupied by supervision violators is shrinking.

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MS. DIPIETRO addressed slide 22, titled "Victim Reforms." She said criminal justice reform included a requirement that a prosecuting attorney, at the victim's request, must confer with the victim of a felony or domestic violence crime before entering into a plea agreement with the offender. She added that a court, at the time of sentencing, must inform the victim

about the sentence or release of the offender as well as the potential for release on furlough, probation, or parole. She said the Parole Board now notifies victims more often and allows them the opportunity to provide input. She noted that criminal justice reform also including clarification about enforcing protective orders from other jurisdictions. Finally, she said, probation officers must create restitution payment schedules for supervisees required to compensate victims. She said ACJC is waiting on data about the restitution payment schedules. She added that restitution not only helps the victim but can assist in rehabilitating the offender.

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MS. DIPIETRO moved to slide 24, titled "Long-Term Violent Crime Rate Trend." The slide featured a line graph measuring violent crime rates in Alaska from 1976 to 2017. Ms. DiPietro clarified that "violent crime" includes homicide, rape, robbery and aggravated assault. She remarked that, despite occasional rises and dips, the trendline over the past four decades indicates a steady increase in violent crime rates. She noted that the increase is driven by aggravated assaults.

MS. DIPIETRO addressed slide 25, titled "Long-Term Rape Crime Rate." The slide featured a line graph measuring rape crime rates in Alaska from 1976 to 2017. Ms. DiPietro clarified that the graph measures rape crime using the federal definition, noting that the State of Alaska would call these crimes "sexual assault." She remarked that the trend line for rape in Alaska has also increased over the past four decades. She said it is difficult to explain various rises and dips over time. She suggested they could be attributed to shifts in crime reporting.

MS. DIPIETRO addressed a vertical line on the graph between 2013 and 2014. She explained that the line represents the federal government's revision of the definition of rape to make it more inclusive. She said the State of Alaska also revised its definition. She said the steep increase shown in the graph after that point is most likely a result of that revision.

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MS. DIPIETRO addressed slide 26, titled "Long-Term Property Crime Rate Trend." The slide featured a line graph measuring property crime rates in Alaska from 1976 to 2017. Ms. DiPietro clarified that "property crime" included burglary, larceny-

theft, and motor vehicle theft. She said property crime rates have been decreasing. She said the all-time low was in 2011.

MS. DIPIETRO addressed slide 27, titled "Alaska Criminal Justice Commission." The slide featured a list of current and former members of ACJC. Ms. DiPietro praised ACJC members for their hard work.

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REPRESENTATIVE KOPP thanked Ms. DiPietro for her presentation and for the work done by ACJC. He cited the increased rate of successful release from supervision, noting a 23 percent improvement from FY 16 to FY 17. He asked to what Ms. DiPietro attributes that success.

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MS. DIPIETRO said she could not say for sure but suggested that ECC is a key component. She also credited the revamped system of sanctions and incentives. She said probation officers will soon become more comfortable and effective using those tools.

REPRESENTATIVE KOPP referenced Ms. DiPietro's discussion of PED's effectiveness based on provisional results of data. He asked if the full data - not just provisional results - should be expected sometime in summer 2019.

MS. DIPIETRO answered yes.

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REPRESENTATIVE STUTES asked for more detail on the pretrial risk assessment tool.

MS. DIPIETRO compared the pretrial risk assessment tool to the methodology used by a car insurance company to determine an applicant's policy cost. She said the car insurance company attempts to predict the applicant's risk of getting into an accident. She noted that an actuarial pretrial risk assessment tool takes into account research-based factors that are predictive of pretrial failure. The information generated by the tool is given to the judge, prosecutor, and defense attorney for use during discussion about bail.

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REPRESENTATIVE STUTES asked if other states use a pretrial risk assessment tool.

MS. DIPIETRO answered yes. She noted that no one else uses Alaska's pretrial risk assessment tool as it was developed specifically for Alaska. She said Washington, D.C., has used its own tools for decades. She said there are a number of other municipal and state systems that use them. She said research has shown combining the professional judgement of those in a courtroom with the tool provides a better, more accurate risk assessment than without.

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REPRESENTATIVE EASTMAN referenced prison population data presented on slide 7. He asked how ACJC classified inmates who were convicted of multiple offenses.

MS. DIPIETRO answered that ACJC analysts classified each inmate by the most serious charge for which he or she was convicted. She referenced a rubric for determining the relative seriousness of crimes.

REPRESENTATIVE EASTMAN noted that ACJC's recidivism data measured rates over a three-year timespan. He asked what the change would be if the rates were measured over a five-year span.

MS. DIPIETRO answered that the three-year span is the standard. She said she did not know off the top of her head what the rate would be. She noted that recidivism rates tend to increase with additional years added to the timespan, although they drop off after "five or six or seven years."

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CHAIR CLAMAN noted that the Department of Corrections would bring its recidivism data before the committee in the coming weeks.

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REPRESENTATIVE EASTMAN asked if the pretrial risk assessment tool takes into consideration the charged crime.

MS. DIPIETRO said she could not answer that question definitively. She said multiple factors were measured to

determine what was most predictive of pretrial failure. She said charged crime was determined to not be predictive enough to include in the tool. She said, "You have to take the factors that are the most predictive, and that just did not ... rise to the top." She remarked that AJC will likely look at "current charge" and reassess its potential as a predictive factor for the purpose of the tool's revalidation.

REPRESENTATIVE EASTMAN referenced the line graph measuring violent and nonviolent DOC admissions beginning in FY 15. He asked how far back that data goes and when in the past there were an equal number of violent admissions as there is today.

MS. DIPIETRO said she could not answer that at present but would get back to the committee with that information.

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REPRESENTATIVE EASTMAN paraphrased from slide 19: "Rewarding probationers who comply with their conditions by allowing them the extra 30-day credit." He asked what consequences were in place for noncompliant probationers. He also asked what other rewards are at probation officers' disposal.

MS. DIPIETRO said DOC's most frequent sanction is arrest. With regard to incentives, Ms. DiPietro stated that verbal praise has proven to be the most effective reward. She listed additional examples of incentives: curfew adjustment, association with people the supervisee was previously forbidden to see, and decreased frequency of drug and alcohol tests. She said the idea was to incentivize decreased supervision if the supervisee can establish a pattern of not violating. She remarked that supervision can be onerous, and probationers are "really responding" to the new incentives.

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REPRESENTATIVE SHAW asked if PED is only able to issue recommendations, not mandates, to a judge.

MS. DIPIETRO said a PED officer makes recommendations to a judge, but the judge does not have to take those recommendations. She added that the results of the pretrial risk assessment tool come into play when a judge imposes money bail, for example. She said the judge works with two variables to determine conditions of release: The type of crime with which the defendant is charged and whether the risk assessment

tool determines them to be low, medium, or high risk. She said judges have "a laundry list" of things - monetary bail, supervision by PED, requirement for drug or alcohol tests - that they require of the arrestee.

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CHAIR CLAMAN mentioned that Senate Bill 91 took away some of a judge's discretion. He added that House Bill 312 [passed in the Thirtieth Alaska State Legislature] allowed judges the discretion to reject the recommendation and set bail as they see fit.

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REPRESENTATIVE LEDOUX asked Ms. DiPietro to define "pretrial failure."

MS. DIPIETRO defined it as failure to appear for a court hearing or the violation of one's conditions of release or arrest for a newly committed crime.

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REPRESENTATIVE LEDOUX said one concern before the passage of Senate Bill 91 was how many people were in jail simply because they could not make bail. She asked what percentage of those people turned out to be found not guilty.

MS. DIPIETRO asked for clarification. She wanted to know if Representative LeDoux was asking about dropped charges or acquittals.

REPRESENTATIVE LEDOUX reframed her question. She established a hypothetical situation in which an individual, prior to Senate Bill 91, is unable to make bail and sits in jail pretrial. The individual is subsequently convicted or submits a plea of guilty or no contest. Representative LeDoux asked if the time this individual served in jail pretrial would be credited toward his or her sentence.

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MS. DIPIETRO answered yes, pretrial incarceration time gets credited against the sentence. She said managing pretrial defendants is difficult for DOC. She described the considerable effort that goes into moving pretrial defendants between

facilities and ensuring they are present for court hearings. Ms. DiPietro said it is preferable to get these individuals into a sentence status so they can be managed better and given programming - such as substance abuse treatment - to the extent that the programs are available and necessary.

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REPRESENTATIVE WOOL referenced the chart titled "Admissions, Violent and Nonviolent" on slide 16. He noted that nonviolent admissions were going down from FY 15 to FY 17 and have risen after the implementations of Senate Bill 91 and Senate Bill 54. He asked if those results are contrary to the goals of those pieces of legislation.

MS. DIPIETRO answered that is probably right. She noted that the graph measures admissions which means "people coming in." She said people could be coming in, serving short terms, and then going out and coming in again. She said this scenario means increased admissions but fewer DOC beds occupied.

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REPRESENTATIVE WOOL asked Ms. DiPietro to clarify whether "admissions" includes pretrial.

MS. DIPIETRO said "admissions" encompasses all bookings.

CHAIR CLAMAN clarified that admissions do not include citations or detainment not resulting in a trip to jail.

MS. DIPIETRO said she believes the data in the graph covers all admissions including pretrial admissions.

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REPRESENTATIVE WOOL asked if the 66 percent recidivism figure included violations of conditions of parole. He asked if there have been efforts to reduce the number of people who violate their parole.

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MS. DIPIETRO posited that Representative Wool was referring to probation violators rather than parole violators. She said she did not recall any change to the conditions imposed by a judge at sentencing. She clarified that judges impose only conditions

they believe will further the rehabilitation of the convicted person.

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REPRESENTATIVE WOOL commented that individuals who negotiate plea bargains in order to avoid a trial sometimes find it difficult to adhere to the conditions of the agreement. He expressed regret that ACJC has not been able to effect change on that matter.

REPRESENTATIVE WOOL assessed the data that indicated decreased rates of property crime and increased rates of violent crime in Alaska. He asked if violent crime rates are down nationally and Alaska is going against that trend.

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MS. DIPIETRO said the big trend nationally is that all crime is down. She confirmed that Alaska's violent crime rate is trending in the opposite direction of national trends.

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QUINLAN STEINER, Director, Alaska Public Defender Agency, introduced himself as a member of ACJC from its inception. He explained he was asked to present on what public defenders and defense attorneys have seen during the implementation of criminal justice reform. He said he has canvassed the state to get "a picture of what's going on."

MR. STEINER addressed the topic of bail. He said pretrial defendants are getting out of jail at larger rates. He added that these individuals are "succeeding" because of a combination of their release and PED involvement. He said there is data suggesting and indicating that assessment.

MR. STEINER addressed the topic of "catch and release." He reported that rearrest numbers have remained consistent in the time periods before and after criminal justice reform. He said he found it compelling that clients are being released at higher rates but incidents of rearrest are not increasing. He proposed that this may indicate the rearrest rate is declining, or at least that release decisions are not leading to a high rearrest rate that "people have been concerned about."

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CHAIR CLAMAN notified the committee that the research Mr. Steiner was referencing would be part of a presentation on Friday, March 8.

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MR. STEINER said there is data indicating that "[re-]arrests for new criminal offenses may be declining," though he stressed the promising data is incomplete. He said this data reflects other anecdotal reports.

MR. STEINER expressed concern that defendants who remain in jail prior to sentencing end up with longer sentences than those who are released pretrial. He suggested that released individuals are granted an opportunity to be successful in the interim and to present that success to the judge prior to sentencing. He remarked that this scenario is tied to success and recidivism.

MR. STEINER said there has been a radical shift in how parole and probation officers collaborate with supervisees. He described how, when a supervisee enters violation status, the focus turns to problem-solving and collaboration. He credited ECC and administrative sanctions and rewards. He said the process of sanctions and rewards establishes a definable goal that is short, measurable, and guaranteed. He said lawyers have reported that this system inspires their clients to be compliant. He added that the short-term nature of sanctions requires very little litigation. He referenced Ms. DiPietro's description of the previous system in which violations were collected and then filed together in a single petition resulting in substantial penalties. He said the new system is built on immediate responses to both positive and negative conduct. He reiterated that the new system is showing success.

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MR. STEINER said improvements in recidivism rates are the most encouraging data. He noted that recidivism rates were decreasing prior to reform, but they continue to decrease. He explained that recidivism data is measured in three-year time periods and the most recent release cohort analysis covers individuals released in 2015, so the years measured include ones after criminal justice reform. He restated that one goal of reform was to reduce recidivism rates and it appears that goal is being accomplished.

MR. STEINER said there are challenges with the way criminal justice reform has been implemented, but it has elicited positive responses and indicators.

[2:52:48 PM](#)

CHAIR CLAMAN asked about the system of sanctions for technical violations. He noted that these come with jail term limits of three, five, and ten days. He asked how those sanctions are playing out with petitions to revoke probation. He asked how this compares with before the three-, five-, and ten-day sanctions.

[2:53:18 PM](#)

MR. STEINER answered that there was more litigation prior to reform because there was more at stake. He said the current penalties are so short that there is not much of a defense to these technical violations. He said the response to something like failure to make an appointment or a positive urinalysis is short-term admission and then collaboration toward "moving forward." He emphasized that the focus is not on the violation that has occurred but rather working toward preventing future violations. He noted that by the fourth sanction it becomes clear that an individual may be unable to be successful under the system.

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REPRESENTATIVE LEDOUX asked if it can be determined that Senate Bill 91 contributed to a decline in recidivism given that recidivism rates were already in decline before its passage.

[2:54:57 PM](#)

MR. STEINER answered that it is difficult to say. He said one cannot draw concrete conclusions using present data. He added that causation is difficult to establish, and all one can see is correlation. He said the important trend to watch is the rate of decline.

REPRESENTATIVE LEDOUX concluded that one cannot attribute the decline in recidivism rates to Senate Bill 91.

MR. STEINER said not at this time.

[2:55:57 PM](#)

REPRESENTATIVE EASTMAN asked Mr. Steiner to clarify what he meant by pretrial defendants experiencing "success."

MR. STEINER said he meant defendants are being released and not getting rearrested, they may be progressing in a treatment or rehabilitative program, and they may be obtaining or maintaining employment. He added that released clients stay in their homes and maintain contact with their families. Mr. Steiner said one major concern about pretrial incarceration is that defendants often lose their jobs, which triggers a cascading effect of potential loss of housing and separation from family. He said maintaining those contacts and that network is associated with increased success.

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REPRESENTATIVE EASTMAN said he appreciated that answer. He reflected on the crime data presented earlier by Ms. DiPietro. He noted that violent crime, property crime, and rape rates are up in Alaska. He asked Mr. Steiner how he reconciles lower recidivism and increased defendant success with increasing crime rates and the public's perspective of that data.

MR. STEINER answered that the crime rate started to trend up years before reform. He restated that rearrest numbers have been unchanged during that time period. He said one plausible and probable explanation for the increased crime rates is that new people - as opposed to recidivists - are committing crimes. He acknowledged this does not address the question of what caused the rates to increase in the first place. He suggested that the cause could be increased opioid addiction layered onto the existing problem of methamphetamines and alcohol, as well as issues regarding individuals with behavioral health needs. [A solution], he said, would require addressing all those issues.

[2:59:21 PM](#)

REPRESENTATIVE EASTMAN asked if Mr. Steiner could determine if new arrestees are mostly from Alaska or if they are individuals from out of state who have elected to come to Alaska to commit crimes.

MR. STEINER said, "We don't track that." He added that he has not heard anecdotal stories to suggest it. He said public defendants are limited in their ability to collect and track data about their clients.

[3:00:36 PM](#)

REPRESENTATIVE WOOL asked about data measuring recent rearrest rates for pretrial defendants. He asked for confirmation that the data will be released in June.

MR. STEINER said the [Alaska Justice Information Center] (AJiC) has produced rearrest data measuring if an individual was rearrested within seven days. He said rates remain unchanged from before criminal justice reform to the present. He noted that AJiC extended the time range for rearrests to 180 days and still found no change in rearrest rates.

MR. STEINER called it encouraging that changes in the bail system have not resulted in increased rearrests, even though it appears more people are being released. He said this indicates that reforms and the pretrial risk assessment tool are accomplishing the goal of permitting greater release opportunities without creating any enhanced public safety risk. He said the deemphasis on monetary bail has benefitted low-risk individuals unable to afford bail. He said monetary bail is supposed to take into account the defendant's ability to pay, but the previous system was not allowing for that.

[3:03:59 PM](#)

REPRESENTATIVE WOOL asked if individuals who "skip bail" are accounted for in the rearrest metric.

MR. STEINER answered yes, it is in the metric. He said skipping bail could be on the rise, but noted the data is incomplete. He said the rates and reasons for skipping bail are being looked at.

[3:05:04 PM](#)

REPRESENTATIVE KOPP referenced the line graphs in Ms. DiPietro's presentation. He clarified the difference between admissions - actual arrests - and crime rate, which accounts for all crimes reported. He said there are many examples of police responding to a reported assault and finding nobody there willing to talk when they arrive, so no arrest is made.

REPRESENTATIVE KOPP commented that the important hard data for analyzing the criminal justice system comes from the courts. He noted that Senate Bill 54 increased accountability for

nonviolent offenses. He said this is understandably reflected in the nonviolent admissions graph.

REPRESENTATIVE KOPP said it is difficult to explain why a crime rate might have gone up. He referenced the "scourge of opioid" that began in 2015 and remarked that it was unrelated to any legislation. He said opioid-related crime will continue to produce a surge of people entering the criminal justice system regardless of criminal law reforms.

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MR. STEINER agreed that it is difficult to determine causation but there does appear to be an increase in opioid cases. He added that methamphetamine, alcohol, and behavioral health problems never went away.

[3:08:04 PM](#)

CHAIR CLAMAN closed invited testimony.

[3:08:40 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:09 p.m.