

Alaska Criminal Justice Commission

Meeting Summary

February 6, 2018

11:15 AM

Juneau Public Library, Juneau Alaska

And Audio-teleconference

Commissioners Present: Greg Razo, Joel Bolger, Sean Case, Matt Claman, Val Davidson, Jahna Lindemuth, Stephanie Rhoades, Brenda Stanfill, Quinlan Steiner, Trevor Stephens, Dean Williams, Steve Williams

Commissioners Absent: John Coghill, Walt Monegan

Participants: Randall Burns, Aliza Kazmi, Geri Fox, Teri Tibbet, Mary Geddes, Talia Eames, Clinton Lageson, Karen Cann, Karen Forrest, Rob Henderson, Jordan Shilling, Tracy Dompeling, Leah Van Kirk, Bradley Miller, Butch Moore, Cindy Moore, Sherry Miller, Deanne Robinson, Janice Weiss, Tara Rich, Clare Sullivan, Jeff Edwards, Nicole Gorle, Trey Watson, Amy Meade, Marilyn Clark, Eli Cox, Suki Miller, Diane Casto, Nancy Meade

Staff: Susanne DiPietro, Brian Brossmer, Susie Dosik, Staci Corey, Barbara Dunham

Agenda

Chair Razo called the meeting to order at 11:34 and apologized for the late start; the flight from Anchorage was late getting in. He asked if there were any changes to the agenda.

Commissioner Claman asked to move the discussion on pending legislation up after public comment. Justice Bolger moved to approve the agenda so amended. Commissioner Case seconded the motion. The motion passed without opposition.

Summary of the last meeting

Commissioner Lindemuth moved to approve the agenda and Commissioner Stanfill seconded the motion. Chair Razo asked if there were corrections. Clinton Lageson clarified his remarks: the Kenaitze Tribe supported this effort generally but didn't want to get into the minutiae and take a position on any details. Commissioner Steve Williams noted that he was the Commissioner Williams who had made the comment at the bottom of page eight. There was no opposition to approving the summary so amended.

Proposal Regarding DV Sentencing

Butch Moore thanked the Commission for the opportunity to speak and noted that the Governor had declared that February is teen dating violence awareness month. He thanked the Governor for that effort and appreciated what he's done. He also appreciated what the Commission does trying to make the state a safer and better place.

He explained that he and his wife Cindy had been discussing how to address domestic violence (DV) with an Anchorage violence prevention group. They had discussed how there are wide ranges of murder penalties, and that Alaska has the highest rates of murder of women by men. One idea they had was to make the penalty for killing a spouse or domestic partner equal to the penalty for killing a peace officer.

He was not sure that would fully stop people from killing their spouses and he was not sure it would have stopped Josh Alameda, the man who killed his daughter Bree. But he thought that if the penalty were changed to 99 year minimum, it would make a dramatic change- perhaps even cut the number in half.

In terms of impact, he looked up the year Bree was killed (2014) and found that 11 women were killed by men that year. He knew there was a higher cost to incarcerate someone for life, but thought it was worth the cost. It could also help resolve cases more quickly by encouraging plea deals.

Mr. Moore said that Josh Alameda pled to second-degree murder, and would be eligible for parole in 21 years. An expert witness said it would not be safe to release him then. He had also filed appeal to be released in 10 years. Mr. Moore thought his proposal would eliminate the short time to parole for DV offenders and would save families from going to as many parole hearings.

Mr. Moore explained that his second proposal was regarding violations of a DV no contact order. He had been talking to a law enforcement officer who told him that one of the biggest parts of the problem with DV is the victim contacting the offender. Mr. Moore said he thought that DV victims were like people addicted to opioids, who can't make smart decisions because of their attachment to their abuser. He wondered if that would change if the minimum sentence for violating a DV no contact order was 1 year. He said he spoke to professionals who told him it would typically take 6 months to a year for a victim to get away from their abuser.

Mr. Moore also mentioned the case in Big Lake [from Jan. 1 of this year], where the troopers did not arrest the man who later killed his wife. Mr. Moore looked up the defendant in that case, and found he had had many protective orders and arrests, even before the couple was married. The latest protective order was filed November 16 last year. If the man had been kept in jail away from his wife for a year, she might have been saved. Mr. Moore thought the two ideas together could make a big difference in DV rates in Alaska.

Sherry Miller said there was a lot of talk of rehabilitation for offenders. She viewed the mandatory 1 year sentence as rehabilitation for the victim. It would give the victims one year to retrain their thinking and get back on their feet. She wanted to focus the discussion on the victim, to stop the cycle of abuse.

Bradley Miller explained that their daughter Linda was murdered in September 2014. Her killer pled guilty, and was offered a plea deal that included 50 years to serve. He would be eligible for discretionary parole in over 16 years, which would be 13 years from now. If he is denied parole, he could come before the parole board every two years. His daughter's killer had previous DV protective orders in Montana. The DV cycle is obvious; victims want to believe their abuser can change. He knew that people would be thinking of the cost of this kind of sentence, but he would also ask what a life is worth. He also believed that the 1 year sentence for violating a protective order shouldn't be served on an ankle monitor.

Chair Razo said that he decided to add this topic to the agenda because tackling DV was important to society. He said the Commission recognized the tragedy to the Miller and Moore families, and noted that the Commission was charged with amending criminal laws where appropriate. He opened the floor up for discussion.

Commissioner Lindemuth agreed this was an important topic and thanked Mr. and Mrs. Moore and Mr. and Mrs. Miller for coming forward. She recalled that 6 to 8 months ago, the Commission was looking at the Results First study, and wrestling with what to do with DV programs. The Commission had noted there were no alternatives to the intervention programming currently used. Commissioner Lindemuth couldn't remember if the Commission took any action on that topic.

Commissioner Stanfill noted that Diane Casto, director of the Council on Domestic Violence and Sexual Assault (CDVSA) was present, and that CDVSA was working on developing alternative programs. Commissioner Stanfill said there were many pieces to this puzzle, and that the criminal justice system was not the only place to address DV. Since CDVSA is working to address these issues, she thought they could come back to the Commission with their proposals.

Chair Razo said there was no denying that Alaska is the worst state for DV, and it affects everyone. The state must deal with this issue head on. He thought the Commission should be able to have some impact.

Susanne DiPietro noted that the Commission has a sentencing workgroup for sentencing proposals. She also echoed Commissioner Stanfill's note about CDVSA; they have been doing a lot of work on this issue and could work with the sentencing workgroup to vet these ideas.

Commissioner Lindemuth said she would like to see what other states are doing, and wondered whether other states use strong criminal sanctions, or other approaches. She agreed Alaska needed to make progress on this issue.

Bradley Miller agreed that it would be good to look at what other states are doing, and suggested finding those with the lowest DV rates. But he also propose getting started on solutions here, and he thought Alaska could be the leader in trying strong new measures.

Butch Moore said he spoke to the Governor about this recently, and he thought it was a good idea to take a stand. He noted that most sentences result in a plea deal, so not all eligible offenders would necessarily have 99-year sentences. He also thought that it would encourage defendants to accept plea deals more quickly, and if the defendants spent less time in pretrial there would be savings there. He thought this was something to let the legislature work on, and wanted the Commission to move it forward.

Commissioner Case said he was uncomfortable comparing DV victims to opioid addicts, and said he thought the issue was more complex than that. He also didn't think a 1-year sentence would help with male offenders; they will get back out after the one year, and he wasn't sure leaving someone in jail would change them. Alcohol is often involved in these cases, and cultural differences add to their complexity. He thought the Commission needed to devote time into understanding the issue and make meaningful change.

Commissioner Claman said that the comments from Commissioners Lindemuth and Case both reflect the Commission's approach, which is to make decisions that are evidence-based. That really has

been the commission's charge from the beginning. He thought it was important to look at this issue but also important to give it an evidence-based analysis.

Judge Rhoades moved to forward this proposal to the Sentencing Workgroup and have them come up with evidence-based conclusions. She noted that the Commission had previously heard a presentation on bringing down DV rates through targeted interventions. She also recalled that DV offenders are those that have the rates of offending for all offenses. If Alaska can make headway with this group it might make real progress toward reducing the crime rate. She also noted that the new Pretrial Enforcement Division should help with a lot of these issues.

Commissioner Stanfill seconded Judge Rhoades' motion.

Justice Bolger said he appreciated the proposal, and that it struck him that it covers the most complicated examples of sentencing and criminological thinking. Judges have always struggled with the difficult question of what to do when a victim may be tempted to get back together with their abuser.

Chair Razo said the motion was consistent with the Commission's process, and echoed the need for evidence-based recommendations. He asked if there was any objection to the motion, and there was none.

Sherry Miller said she appreciated the input from the Commissioners and said this was not an easy mountain to climb. She recognized the importance of evidence-based policy, but want to put a personal note into the conversation. The death of their daughter was the most devastating event of their lives. To her, her daughter's life was just as important as the life of a peace officer. She urged the Commission not to look through just the lens of politics but also through the personal side. DV was not going to stop with a slap on the hand.

Chair Razo encouraged the Millers and the Moores to work with staff and CDVSA on further steps. Butch Moore said that he understood the complexity and the need for more research on his second proposal, but didn't think there was much to talk about for the first proposal [regarding the 99-year mandatory minimum]. Was there any reason the Commission couldn't act on that today? Chair Razo said the Commission's process is to research any proposal it decides to take up. The Legislature asked that the Commission be methodical and thoughtful in its deliberations, and that it not forward recommendations without serious consideration.

Pretrial Update

Geri Fox, director of the Pretrial Enforcement Division (PED), gave the Commission an overview of the initial implementation of the PED. She cautioned everyone not to extrapolate anything from only 30 days of data, and discourage making generalizations. She noted fair bail procedures are a constitutional principle, rooted in the 5th amendment right due process and the 8th amendment prohibition against excessive bail. In making the bail decision, she said judges need all the information they can have. The new piece of knowledge they have now is a risk assessment analysis.

Ms. Fox explained that the analysis produces two scores, one for failure to appear (FTA) and one for new criminal activity (NCA). For the latter, she noted that NCA refers only to arrest and not conviction. The scoring is based on data on Alaskans' pretrial performance when released from jail, which included arrests that didn't result in a conviction.

Since implementation began on January 1 of this year, the PED had assessed 1498 defendants as of a week ago. They had FTA scores that broke down as follows:

- Low: 78%
- Moderate: 21%
- High: 1%

And had NCA scores that broke down as follows:

- Low: 46%
- Moderate: 34%
- High: 20%

Ms. Fox explained that these numbers tracked with the data used to create the risk assessment tool and were expected. PED will keep an eye on these numbers as they may change. She noted that Alaska's risk assessment tool is a unique model with the potential for an enhanced public safety benefit.

Ms. Fox said the number of defendants assessed was 1498 as of the previous week; as of today, it might be more like 1600 or 1700. PED has 288 individuals on active supervision. A number are still in jail and ordered to supervision if they make bond. In past, if these defendants had made bond, they wouldn't necessarily have had supervision. Their active supervision caseload is growing at a rate of about 10 cases per day.

Commissioner Steiner asked whether PED was keeping track of scores for those on active supervision. Ms. Fox said they were keeping track, but she hadn't run the numbers yet. She had the impression they were getting the right people.

Ms. Fox said PED had 66 defendants on 3 different kinds of electronic monitoring (EM): GPS with curfew, curfew, and the TAG (transdermal alcohol monitoring). There were also 31 defendants on a handheld breathalyzer. The defendants are complying with the breathalyzer; some have to blow into the device up to 5 times per day. For some, it is their first time achieving sobriety. Some defendants are up front with PED officers and say they need treatment. In that situation, they call the defendant's defense attorney and ask how to facilitate treatment.

As for complying with conditions of release, the majority of defendants are complying. PED officers have remanded some defendants. Typically they will violate the conditions of their release within a couple of days, or they will be compliant. For the most part, PED is minimizing office contacts, which is an evidence-based practice. PED officers do conduct home visits, and there are on-call staff to take calls from defendants who must call to check in.

One of their offices recently had a meth user come in right from arraignment and tell them he would definitely still use meth if left to his own devices. The PED officer called that defendant's attorney and that defendant is in treatment right now. Another defendant was a homeless man who was assigned to EM. The shelter worked with PED to install the EM device at the shelter so the defendant could be in compliance.

DV cases present a tricky situation, especially in cases where a defendant may have contact with the victim but can't live with the victim. PED officers have gone to the victim's residence and discovered the defendant there—and have arrested in that situation.

The supervisor of the Southeast PED office, Leah Van Kirk, also gave the Commission an update. She also works with community jails on pretrial implementation where there is no PED officer present. Local police chiefs have been very involved and proactive. In one community, the local law enforcement is offering EM to defendants. The police chief there said he saw one of their defendants who was on EM at a high school basketball game. The man came over to the police chief to tell him how excited he was to be clean, that his girlfriend was happy with him, and he thought it was such a good idea he wanted to leave his monitoring device on for year.

Ms. Van Kirk said another defendant was ordered to EM that included both alcohol monitoring and location restrictions. The defendant was compliant and motivated despite his longstanding alcohol problem. He told PED officers he was discouraged and ashamed of his behavior. He asked them if it would help his case if he was willing to work to stay clean; he also said his family was trying to arrange treatment for him out of state. PED officers worked with his attorney; the case was resolved quickly and the resolution allowed him to go to the out of state treatment facility, where he went this week.

Ms. Van Kirk said that the PED takes the issue of DV very seriously. For DV offenders with location restrictions, their exclusion zones are monitored with GPS. She noted that GPS does not always give the most precise reading, especially if houses are placed close together. This can happen in villages where families live close by, and a home that is excluded is right next to a home that is okay. In one such case, PED was alerted that a defendant appeared to be in an exclusion zone, and they contacted victim directly and made sure she was safe. They also contacted the defendant through his GPS monitor and asked him to acknowledge the contact, indicating he should go see his PED officer the next day. He did so and the PED officer made sure he understood the exclusion zones. They are focused on making sure victims are safe.

Commissioner Dean Williams said he hoped the Commission understood the dramatic change taking place with this effort. Before the pretrial reforms went into effect, many of these people were unaccounted for. The new PED is about incentivizing change, and relationship-building, plus enforcement. He thought this was hugely important especially in the area of DV. The new system will also help in planning a diversion program.

Judge Stephens said he was pleased to hear about the work PED was doing. He noted he had a list of communities in his district where EM is offered, and wondered why some communities were on the list and some were not, and wondered what needed to happen to get EM offered in all communities.

Geri Fox said it was dependent, to some extent, on the number of positions they have and where those positions are located. PED can't have an officer in every community, so they have been developing relationships with community jails. Wrangell and Haines, for example, signed on to do EM. Sitka was offered the option and didn't take it; Ms. Fox thought it might be a problem with resources.

Commissioner Dean Williams said that DOC had offered resources for community jails to do this; they went to nearly every community. Some were not quite ready, and wanted to see how other communities fared. Ms. Fox said that some chiefs of police were willing to do EM as well, and PED was looking into possibility of partnering with them. PED would be happy to have conversations with anyone.

Ms. Fox said that PED is also looking to open recruitment for a PED officer in Ketchikan. Ms. Van Kirk said that as soon as PED has an officer there, they will have EM as a tool; the police there are willing

to support it. Ms. Fox explained that if there is only one officer in a community, they can't be on call at all times.

Commissioner Davidson said it sounded like the PED had made great progress. She thought public perception of the pretrial reforms might be improved if these positive stories were shared. When Medicaid expansion first started, it helped DHSS to publish a snapshot of the numbers of people served every month. She suggested developing something like that for the PED. Ms. Fox agreed and said it was a challenge to communicate these improvements; there were things in the reforms that would appeal to a wide spectrum of people.

Commissioner Claman said that pretrial reforms had been a hot topic at the 50-state summit on criminal justice reform. One thing he learned was that actuarial analyses were one of the most effective ways to improve pretrial results and public safety. This was borne out by the good news shared today, and it was good to know the reforms were doing exactly what they were set up to do. He noted that Alaska's pretrial re-offense rate was 37%, and other states have reduced it to 10%.

Commissioner Stanfill asked how changing Violations of Conditions of Release (VCOR) back to an offense [per SB54] had worked for the PED. Ms. Fox said it was one of their biggest challenges; there is a debate about whether PED officers can file charging documents. Their officers are thought of as being similar to POs—but violations of probation are more an administrative matter, and not a new charge. For VCORs, PED officers have to file a new charge. Some courts will accept charges filed by a PED officer, and some don't; this is because of differing interpretations of *Sapp*, a Court of Appeals case.¹ Ms. Fox said she had serious public safety concerns about this operating smoothly—if someone is high risk and assigned money bail, has paid bail, and then cut off their EM bracelet, PED needs a warrant to arrest that person as soon as the bracelet is cut off.

Judge Stevens asked what was happening with defendants who had out of state criminal history. Ms. Fox said that was another area of concern. Out of state history was not part of the score right now; there are bills in front of the legislature right now which could fix the issue.

Public Comment

Butch Moore said he wanted to thank the Commission for hearing his proposal, and appreciated the Commission moving it forward in the process.

Sherry Miller agreed and said she wanted to prevent other families from going through what her family went through.

Pending Legislation

Barbara Dunham, project attorney for the Commission, explained that there were two bills pending in the legislature that related to previous Commission recommendations. One was from Rep. Kopp's office, and dealt with the way the Violent Crimes Compensation Board (which provides restitution funds to victims of violent crimes) was funded. The other was to make the Commissioner of DHSS a voting member of the Commission. [The Commissioner was made a non-voting member with SB54.]

¹ *Sapp v. State*, 379 P.3d 1000 (Alaska App. 2016)

Chair Razo noted that Rep. Kopp had explained his bill to the Commission last year, and he didn't think any action was taken on that. Ms. Dunham explained that Rep. Kopp had wanted to add some language from Sen. Dyson to the Commission's report which essentially expressed the intent of Rep. Kopp's bill. Chair Razo noted that he may be asked to testify on the bill and would try to express the intent of the Commission's findings on restitution if he was able to testify.

Commissioner Claman said he was aware of the governor's bill regarding the DHSS Commissioner. He said that as a nonvoting member he felt he could still participate in the Commission process. He encouraged the Commission not to take a position on this, because it was not something that could be informed by evidence; it was a policy call. He wanted the Commission to avoid becoming a political body.

Chair Razo said he disagreed. He noted that there were times when the three members of the judiciary couldn't vote. And DHSS was an important player in a lot of what the Commission was doing. He thought there were two sides to this coin.

Commissioner Steve Williams recalled that the recommendation from the Behavioral Health Standing Committee that was that the intent was to have the DHSS Commission be voting member, so to him it seemed the Commission had already taken a position.

Judge Rhoades said she wanted to go on record as really strongly supporting this bill. Behavioral health was a very important issue because those with behavioral health disorders were overrepresented in the prison population. To her it made sense to have the head of the executive branch in charge of behavioral health participate in the Commission.

Commissioner Steiner said he wasn't taking a particular position, but noted that if the judges were not voting, it makes the administration heads a substantial voting bloc, which creates an appearance problem that could undermine integrity of the process. He was not sure the Commission would want to take a position here. He would also like to have a discussion about the judges' recusals, as that changes the tenor of the Commission's debates.

Commissioner Steve Williams reiterated that the Commission had already taken a position. Commissioner Claman asked if the recommendation had explicitly stated that the position should be a voting position. Susanne DiPietro said that staff had looked up the original recommendation and it had not been stated explicitly in the language of the recommendation but that was the clear intent in the discussion leading up to the Commission's vote on it. Commissioner Claman noted that the legislature had responded to the Commission's recommendation, and he encouraged the Commission to focus on other topics.

Commissioner Davidson noted that she was in an awkward position. She knew that treatment and recovery played a valuable role in criminal justice reform, and Medicaid and access to treatment was a key part of that. As Commissioner of DHSS, it was awkward role to be in as a non-voting member whose department directly deals with these topics. She had no problem speaking up, but it's problematic without a voting role. She will continue to participate in the Commission process, but couldn't promise that would be the case for the next appointee. At the same time, she didn't want to detract from other asks.

Commissioner Stanfill noted this came up to some extent at the last meeting, and noted there was an interesting vote count then. She also noted she was a public member not necessarily influenced by political pressure, while other Commissioners might be answerable, at least to some extent, to others.

She wanted to discuss this, and have a conversation about how to have meaningful votes. She thought it would be a good idea to be up front about who will be voting on things ahead of time.

Chair Razo said he thought this was a healthy discussion, and noted that he also has a vote, but typically won't exercise it unless there is a tie.

Commissioner Steve Williams thought there was a need for clarity. Even if the voting aspect of the position was not in the narrative of the Commission's previous recommendation, he believed that was the intent of the committee. He thought the Commission needed to consider what Commissioner Davidson pointed out, that commissioners will change. Commissioner Davidson has been participating but the next one may prioritize differently. DHSS is key to this Commission's work, and community health systems keep coming up in the Commission's discussions. He moved that the Commission clarify the intent of the original recommendation was that the DHSS Commissioner become a voting member. Judge Rhoades seconded the motion.

Chair Razo noted that the issue of the judges voting arose when Justice Bolger clarified in December when he could and couldn't vote. Judge Stephens said he planned to email The Commission on Judicial Conduct about exactly what he can vote on. His understanding was that concerns are heightened when the recommendation is to amend a specific statute. He will get clarification before the next meeting.

Judge Rhoades noted she was not in the same category now that she was retired and did not plan to act as a pro tem. She thought this particular issue was important because it came from the Behavioral Health Subcommittee, which recognized the importance of including DHSS in the Commission process. It was never part of the discussion that the Commissioner of DHSS would be a nonvoting member. She felt this specific question had already been voted on.

Ms. DiPietro noted the actual bill in the legislature right now does more than add the DHSS Commissioner as a voting member. The Commissioners clarified that the motion before the Commission was to clarify that the Commission's intent in 2016 was to add the DHSS Commissioner to the Commission as a voting member.

Commissioner Claman said that the legislature would not necessarily view this clarification as a call to further action, and issuing this clarification might undermine the Commission's effectiveness with the legislature.

Chair Razo called the question for a vote. The Commissioners voted yes with the exception of Commissioner Case who voted no.

Chair Razo asked if there was other legislative news. Commissioner Claman said that he and Rep. Kopp had cosponsored a bill which he had introduced and was not in the House Judiciary Committee. It allowed law enforcement officers to conduct warrantless arrests at a medical facility and added an aggravator for assaults on medical personnel. The Committee heard it on Monday, and he expected it to be on the house floor next week. He was happy to take questions about it.

Prison Reform

Judge Stephens gave the Commission an overview of what he learned as part of the Alaska delegation's trip to Norway to study their corrections model (as well as Sweden's and Ireland's). He noted

that the Commission had spent a lot of time discussing pretrial, sentencing, and community supervision, but not a lot of time on how prisoners should be treated while incarcerated. He noted that this presentation comprised his personal view of what he learned and he was not speaking on behalf of the court system or DOC.

Judge Stephens had handed out a copy of Article 1, section 12 of Alaska's constitution, which reads in part: "Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation." Given the latter principle, he thought this topic was within the Commission's purview.

He said that the Norway model is not about being soft on crime, but what to do with people once they're incarcerated, particularly since the reality is that almost everyone who goes will get out at some point. They will be your neighbor, and be interacting with you in the community. So the question is what kind of person do we want that neighbor to be?

Judge Stephens had slides of the materials from the trip. He cautioned he was not an expert on this topic, but would like to start a conversation. He thought Commissioner Dean Williams will be doing what he can in this area, and this presentation would explain the basis for some of that.

The program took place in Oslo last September; Alaska's delegation was joined by a delegation from Oregon. Along with himself, Alaska's delegation included Commissioner Dean Williams, two other DOC staffers, Senator Pete Kelly, and Representative Bryce Edgmon. The trip was sponsored by the Prison Law Office, an NGO in California that made millions suing the state for penal abuses. They concluded that they would rather not have to react to abusive prison policies but rather put that money toward showing people another way.

Their program consisted of visits to Norway's correctional facilities and lectures from corrections professionals. The prisons they visited included Ringerike Prison, Halden Prison (Norway's newest high-security prison), Bastoy Prison (a low-security prison on an island), a halfway house, and Bredtveit women's prison.

The speakers they heard from included Maria Lindstrom, the head of corrections in Sweden; Jan Stromnes, the deputy governor of Halden prison; and Harold Fosker, the originator of Norway's penal model. Mr. Fosker had hand-picked the people now running the corrections service from within the system. He had also been injured in the terrorist attack by Anders Brevik, who also killed over 70 people at a summer camp. Mr. Fosker addressed Mr. Brevik at his sentencing hearing, knowing that he would be sentenced to imprisonment in the system Mr. Fosker created. Despite the attack, Mr. Fosker's belief in that system never wavered. The group also learned about the Irish prison system, which was in the process of implementing what Norway did, but on a shoestring budget.

Judge Stephens had prepared a slide comparing Alaska's incarceration and recidivism rates to those of Norway and Sweden:

	<u>Alaska</u>	<u>Norway</u>	<u>Sweden</u>
Population	742,0000	5,330,000	10,000,000
In Custody	5,267	4,000	5,400
Probation	4,795	7,000	
EM	392	500	
Recidivism	66%	10-20%	29%

Judge Stephens noted that Ireland, Sweden and Norway all had cultural, historical and economic differences. But there was also some commonality among them that drove their successful reformulation of their penal systems. All three jurisdictions recognized there was a need for change, and that it should be addressed on a national basis; they recognized that nearly all prisoners would be released eventually; they implemented evidence-based programs; and they recognized the need to treat prisoners as humans.

Norway's prison reforms were based on a few basic principles. The first was normality. The idea behind normality is that life in prison should be as close to normal life outside prison as possible. In Norway, jail itself – the restriction of liberty— is the punishment; no other deprivation is seen as necessary, so the prisoners' living conditions are not themselves punitive. They have voting rights.

Commissioner Steiner asked whether there was data showing that making prison an unpleasant place was not a deterrent. Commissioner Dean Williams said there was; evidence shows that operating prisons according to the "hellhole" mentality just makes inmates worse by the time they are released, and has no deterrent effect. Respect engenders respect. One thing he noted in the Norway prisons was that there were no subcultures, gangs, or drug trafficking developing. He also noted that there was no incentive for prisoners to behave if they had nothing to lose. In Norway, prisoners had incentives and privileges that could be taken away for misbehavior.

Judge Stephens said another principle was progression toward reintegration. Prisoners start at the supermaximum-security facility, then the maximum facility, then the regular facility, than minimum-security facility. Progressing toward the less-secure facility was not automatic; prisoners must apply for the next step down to show they've earned it.

Commissioner Dean Williams said this was also an expression of the principle of normality, as prisoners have to apply for these placements just like they would do for a job. It also expresses the principle of procedural justice: the process must mean something. Grievances must be answered. There is no "us against them" mentality in Norway facilities among corrections staff.

Judge Stephens added that Norway's prisoners have a choice when in prison: they can go school, work, or stay in the supermax facility. The corrections system makes all kinds of education and training available to the inmates, to discourage prisoners from just sitting and watching TV.

Another principle was the import model, whereby services are provided by community providers. They are the same providers working outside the prison that any Norwegian is entitled to access as a citizen. This helps with exit planning, and maintaining the continuity of services, because prisoners will have the same providers both inside and out.

Norway also reimagined the role of corrections officers: "from guard to social worker." Corrections officers there go through a two-year training, giving them the equivalent of an associate's degree. Corrections officers called contact officers are assigned to three prisoners. The officers interact with the prisoners all day, help them access services, and generally get to know them. All interactions with the prisoner are designed to rehabilitate the prisoner. This is called dynamic security. The idea is that developing relationships with the prisoners reduces the chances of their wanting to act out and helps the officers anticipate any misbehavior.

Commissioner Steiner said there must be a cost to this model, particularly with the staffing and training. Commissioner Dean Williams said there was, as the officers are paid during training. But generally their salaries are not that much more than corrections officers here; being a corrections officer in Norway is seen as a rewarding job. Officers there appear both relaxed and alert. In the US, corrections officers have a lower life expectancy; the stress of the position leads to heart problems and drinking problems. The environment is very different.

Judge Stephens said that Bastoy Prison - the low-security facility on an island - had very few guards; no one was patrolling the beaches. The delegation took a ferry over to the island, and once there, discovered that all of the crew members on the ferry were prisoners except the captain. The facilities on the island have been refurbished; the site used to be that of an infamous juvenile corrections center that was also used as a German prison camp. Despite the lack of security, there has only ever been one escape. Prisoners given day passes to go visit families will always return to the island knowing that if they do not, they could lose the privilege of being housed at Bastoy.

Halden Prison, the newly-built maximum-security facility, has a cement wall seven meters high surrounding it. The interior was consciously planned with landscaping that gives it a park-like feel. The supermax building has the most restrictions, but still has works of art, including commissioned works by a famous Norwegian graffiti artist.

From the supermax building, Halden prisoners can work their way into the less-restrictive living units, which have more of a dormitory feel. The units have communal spaces where the inmates can cook for themselves. These prisoners have access to the activity center, where there are multiple workshops to learn an art or trade. Volunteer organizations come in to help with this training. There is also a gym and a chapel. There is a visiting house for the prisoner to stay with family when they come to visit—a privilege which is earned.

There is also a halfway house on site. In Oslo, there are additional halfway houses, which are not distinguished by any overt signage—they just look like part of the neighborhood.

Judge Stephens also briefly touched on the Swedish corrections model: their motto is “better out.” They also use evidence-based programming and have the same principle of normalization.

Commissioner Stanfill asked how long Norway had been putting these principles into practice, and how they got the country’s citizens to get behind these ideas. Judge Stephens said they started reforming in 1997. In term of the public, he thought you just have to ask the right question in the right way- most people, when questioned, would be behind this. He noted that as a sentencing judge, he often gets many letters of support for defendants. Those same supporters might have a different view if they didn’t know the defendant. There must be a way to tap into the empathy people have for the defendant they know. And it is important to remind people that these defendants are getting out eventually. In Ireland, it was about convincing people that nothing changes if nothing changes.

Rob Henderson asked if there was any pushback from staff to these changes. Judge Stephens said the staff now are very proud of their system. Commissioner Dean Williams said that there was some initial resistance. In the first four years it was not easy with staff used to the old ways. There was a lot of resistance to getting to know inmates at first. North Dakota just started to use parts of this model— officers there are instructed to have conversations with prisoners in solitary confinement three times per week for at least 15 minutes. There have been similar changes in other states; it was about starting small. The word was spreading about results that can be achieved with dynamic security and how promising the model is.

Commissioner Stanfill asked how the prisoners were incentivized to work or take classes – was it just that they wouldn’t step down to the next less-restrictive placement? Judge Stephens said that was it; the prison staff also made their expectations clear from the start. Commissioner Dean Williams said that if a prisoner fails to engage in work or education or they drop out, they go back to the next higher level of security, so that there are consequences to inaction; the prisoners have something to lose if they don’t do something to better themselves.

Judge Stephens added that a similar principle worked to incentivize prisoners to get to the halfway house they visited in Norway; prisoners couldn’t be placed there unless they already had a job. He added that it was not all bliss in Norway; 30% of their prisoners are foreign-born and that can pose challenges. Commissioner Dean Williams said that the prisons also had big drug trafficking issues.

Commissioner Claman said he had been reading an article about the culture in an Indiana prison— it was very different from the description of the culture in Norway’s prison. He thought there were some amazing stories from these countries but also thought it took a significant cultural shift to achieve their success. He noted it took 20 years for them to get to this place.

Fairbanks Community Restorative Justice Initiative

Jeff May, professor at the University of Alaska Fairbanks (UAF) and Chair of the UAF Justice Department, gave the Commission an overview of the Fairbanks Community Restorative Justice Initiative. He was joined by professor Rob Duke.

Prof. May explained that their program is a cooperative partnership between the Fairbanks community and state justice agencies. The court, prosecutors, public defenders, the Division of Juvenile Justice (DJJ), and the local probation office were all involved. The program is a pretrial diversion program,

focusing on individuals who admit to an offense and are willing to take steps to repair the damage they've caused. People not willing to do either are sent back to the referring agency (DJJ or the prosecutor).

The program began at the UAF Justice Department with courses on restorative justice over a number of years, along with workshops. Superior Court judges reached out to the Department noting that Criminal Rule 11 had a new provision clarifying that defendants can participate in community based programs as a form of resolution to a case, and they wanted to know if such a program existed in Fairbanks or if they could create one. They engaged in a two-year process with community partners to develop the program.

Potential participants are prescreened by prosecutors before arraignment. At arraignment, judges will let the defendant know about the program, and program staff are on hand to explain the program in more detail. If the defendant accepts, the judge will continue the arraignment. The program will take over and facilitate mediation between the defendant and the victim and/or the defendant's family. If the defendant successfully participates in the program, the prosecutor will let the judge know the case can be dismissed at the continued hearing.

The program director is Prof. Duke, and the program is staffed with interns who earn academic credit. Prof. Duke trains and oversees the interns. The program is designed to offer a non-adversarial alternative to case resolution. Defendants discuss what harms they have committed, and what should be done to make it right. They form a contract and agree to complete it in a set time. Typically, if a contract is completed, the criminal case will be dismissed (sometimes there will be an alternative disposition agreed upon at the beginning of the process).

Prof. Duke explained that typically the program will have two 2 social work interns, one justice intern, and perhaps one psychology intern. They are in court two days per week for arraignments, and attend juvenile hearings two days per week. They have had 38 cases so far, and expect that number to double by the end of the year. He thought they were at about one-quarter capacity, and will hopefully reach full capacity next year.

Of their cases thus far, 36 out of the 38 were successful. Prof. Duke explained that they had provided slides which explain the restitution amounts; some were paid in cash, others in kind. Participants also performed community service hours, typically at places like animal control or the food bank. The program can be flexible; one participant who was Alaska Native agreed to learn how to create works in a dying art form from an elder.

They had also provided slides on their cost savings estimates. They estimated that when defendants are diverted, it would reduce the prosecutor's work to one hour of time (based on Anchorage data).

Prof. Duke explained that the UAF dean allowed him to use his time for the program now, but they will need a sustainable model going forward.

They plan to have an independent evaluation of the program, and they are also trying to learn more about the victims' perspectives with exit interviews. The victims have been surprised to hear about case outcomes, and grateful for being included and getting a better understanding of what happened. One victim got restitution a defendant who blew up her mailbox, and she re-donated that restitution back to the program and donated an additional amount on top of that.

Prof. May said he had just wanted to introduce the program to the Commission. He was grateful for all the players involved in getting the program implemented. He said he would like the Commission's support. They have tried to make the program as cheap as possible, and estimate they will need around \$50,000 per year in future to keep it running. They would like to hire a part-time director and to be able to offer a stipend to the student interns. Some students don't pursue the opportunity because they need to work. He said he would appreciate any insight on funding sources to keep the program alive and going. He noted that he had also sent the Commission a document with more details about the program.

Chair Razo said he thought it sounded like a great program, espousing the principles of the rule of law and restorative justice, and teaching students about restorative justice to boot. He thought it was admirable, and something the Commission should support.

Commissioner Steve Williams asked to clarify—was their data from the six-month month period from July to December? Prof. Duke confirmed that it was.

Justice Bolger asked how the communications worked among stakeholders when there was a successful completion. Prof. Duke said that when a defendant signs the contract, they provide it to prosecutor, and once they hold the mediation and family conferences, they provide an exit form to the prosecutor. If the case is successful, they then go to the continued arraignment hearing and report the success to the judge, and the judge confirms with the prosecutor that the case should be dismissed. If the defendant is not successful, they have a warning system in place to give the defendants due process. If they are still not successful, the defendant will then go back in for arraignments and enter a plea.

Ms. DiPietro asked about the program's eligibility criteria. Prof. May said that longer program description he had circulated explains eligibility in more detail. Certain offenses are automatically eligible for referral. Fairbanks DA Gregg Olson was instrumental in developing the eligibility process, and agreed that for the listed offenses, the DA's office was comfortable with a referral if it was a first time offense. These are the kinds of cases that typically result in complete dismissal. All other types of cases are discretionary and referral usually involves a Rule 11 agreement.

Ms. DiPietro also noted that it seemed the program had tried to control for net widening. Prof. May confirmed that was something they wanted to avoid. They have a case review team that meets every other week to discuss cases in the program, and they check to make sure the cases are suitable. They want to make sure they get cases that wouldn't have been rejected for lack of probable cause anyway.

Ms. DiPietro said there used to be a juvenile offender-victim mediation program that had the same results the Fairbanks program was showing. That program found that if the offenders were involved in their own case resolution they were more likely to follow through with what they were supposed to do, and the victims buy in to the criminal justice process.

Chair Razo said he liked the process behind the Fairbanks program, in that it was not a series of ad-hoc diversion decisions but had more rigor; he thought that was fairer for everyone involved.

Commission work plan

Chair Razo noted that staff attorney Barbara Dunham had circulated an updated memo on the Commission's work plan for the year.

Ms. Dunham explained that the Sex Offenses Workgroup would now be chaired by Deputy DOC Commissioner Karen Cann; the group would have one meeting in February to wrap up the sex trafficking discussion and then turn to finishing the report to the legislature.

For the Sentencing Workgroup, Commissioner Steiner said that there was a GBMI proposal that should be ready to go; he also thought the groups should meet sooner rather than later to discuss the DV proposal discussed earlier in the day.

Commissioner Stanfill noted that the CDVSA would meet March 6 and 7, and suggested that Commissioner Steiner connect with them to see how the DV proposal fits in with what they've been doing. Commissioner Steiner said he agreed and would come to that meeting, as he would like to know more about what they're doing. Commissioner Stanfill said she would be there too. Diane Casto said she would coordinate details with Commissioners Stanfill and Steiner and said the CDVSA would appreciate their participation.

Commissioner Steve Williams said that the Behavioral Health Standing Committee would hear more from Mary Geddes on diversion planning at DOC, and would look into working with a technical assistance provider on the Sequential Intercept Model, Ms. DiPietro asked whether anything had been decided about the Arrest and Intoxication Workgroup. Commissioner Steve Williams said that the Workgroup had been folded into the Standing Committee, but the Committee had not taken any action on the arrest and intoxication issue.

Ms. Dunham noted that the Barriers to Reentry Workgroup would take a hiatus after wrapping up the discussion on expungement as Commissioner Stanfill had expressed interest in participating in the Restorative Justice Workgroup. Commissioner Stanfill said staff also needed more time to get information on the changes to the barrier crimes regulations, and whether the group should address housing. Ms. Dunham also explained that the group had been talking to the Alaska Workforce Investment Board last year and would look to get an update on their employer outreach efforts.

Justice Bolger noted that he was ready to take action on the previous recommendation to remove SIS cases from CourtView as soon as he could get assurance from DOC that it would not interfere with their PFD eligibility determinations.

Commissioner Davidson said she'd been hearing a lot about employment on the Medicaid front, particularly about adding a work requirement. She noted that the folks most impacted by such a change would be reentrants, who are in the Medicaid expansion population; she thought it was important to keep an eye on this. Reentrant access to healthcare and behavioral health treatment is very important to have on the Commission's radar.

Ms. Dunham noted that Chair Razo had agreed to chair the Restorative Justice Workgroup and that group would resume meeting in March. She had already reached out to those who had participated in the restitution discussions, and asked anyone interested in participating in the new iteration of the group to contact her.

The next meeting was set for April 23 in Anchorage. There was general interest among the Commissioners in meeting in Fairbanks at some point.