

**ALASKA CRIMINAL JUSTICE COMMISSION**  
Plenary Session  
**Thursday, April 7, 10:30 -11:30 AM**  
Jury Assembly Room, Diamond Courthouse, Juneau  
(also audio-conferenced)

Commissioners attending: Greg Razo, Trevor Stephens, Quinlan Steiner, Brenda Stanfill, Alex Bryner, Stephanie Rhoades, Jeff Jessee, Kris Sell, Gary Folger.

Commissioners absent: Craig Richards, Dean Williams, John Coghill, Wes Keller.

ACJC Staff: Mary Geddes, Teri Carns, Susie Dosik, Brian Brossmer, Abby Walsh (Pew).

Participants: John Skidmore, Nancy Meade, Barbara Armstrong, Alysa Wooden, Karen Forrest, Tracey Vollenberg, Denali Daniels.

### **Introduction**

The meeting was called to order at 10:35. This meeting was audio conferenced.

Greg Razo, the chair, made opening remarks, noting it had been an incredibly busy few weeks. He said that some Commissioners in particular (Stanfill, Jessee, Steiner) had been frequently called on by the Legislature to explain the premise of Justice Reinvestment Initiative (JRI) and other Commission recommendations. [These recommendations have been incorporated into SB91 and HB 205.] Razo noted that Commissioners had been scrupulous in their function, explaining the recommendations with respect to the evidence and the research, and as individuals they had been greatly generous with their time.

[Razo later acknowledged the sponsors of SB91 and HB205, Senator Coghill and Representative Millett, and their respective staffs for their great attention to Commission findings and their diligence.]

### **Agenda**

Chair Razo reviewed the tentative agenda. He noted that there had been a request from the Department of Law to add an item: requesting that someone from the Court system report on the new pretrial order issued this week by the presiding judges and the relationship of that order to SB91. All agreed to add the item.

Following the end of this meeting, Commissioners are encourage to attend a legislative ‘lunch and learn’ sponsored by Commissioner Coghill and Representative Millett at the Butrovich Room in the Capitol. Chair Razo and Commissioner Stanfill will review the Commission process and some of its recommendations.

### **DHSS Proposed Regulations and the Workgroup Proposal<sup>1</sup>**

In a written memo, the Barriers to Reentry Workgroup had urged the Commission to file a comment in a DHSS regulatory process open until April 25. Currently the requirements for a criminal history check and bars to employment in 7AAC 10.900-.990, as written, applies only to “barrier crimes.” The proposed DHSS regulations as crafted appear to significantly expand barriers to employment by including “civil conditions” and “findings” registered in some specified but other unidentified civil databases as among

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<sup>1</sup> DHSS was represented at this meeting by Deputy Commissioner Karen Forrest, but she did not engage in this discussion.

those events which can presumptively bar individuals from employment. Staff Susie Dosik said that the proposed language seems both broad and vague, allowing checks for conduct without respect to time limits and in contexts where much less due process has been afforded.

Commissioner Stephens asked for an example. An unspecified database could include Courtview. Dosik mentioned other civil findings which could presumptively bar substantively- and temporally- unrelated employment such as a potential Medicaid fraud not arising to the level of a crime, or a nurse unable to renew a license because of a finding of patient abuse.

Commissioner Rhoades asked for clarification, stating that she didn't understand how these findings could come into play. She did have a recent experience at the Court System when unbeknownst to her HR 'screened out' a person from employment consideration due to some history.

Commissioner Stanfill said that these 'checks' undermine employability and deter hiring. DHSS is effectively deciding for contractors if a job applicant is suitable. Commissioner Bryner asked whether such findings could be disputed. Dosik said that in these hiring contexts it is on the employer to seek a variance of the barrier in order to employ the job applicant.

Chair Razo clarified that the Workgroup's concern was that the proposed regulations are vague about what databases are involved and what constitutes a "finding" leading to a barrier, and that there is no length of time specified for the relevance of those conditions or findings.

Comr. Jessee noted this proposal shows the importance of engaging with DHSS. Even now, it is really hard to get timely variances from DHSS; this expansion adds burdens.

Commissioner Jessee moved, and Stanfill seconded, that the Commission recommended that DHSS withdraw such proposed regulations unless there is some exigency of which the Commission was unaware. Commission members voted unanimously to make that recommendation to DHSS. Members expressed a strong desire to work closely with DHSS on the question of how to reform the regulations.

### **Legislative Process and Reinvestment Plans**

Abby Walsh from Pew discussed the status of SB91 and HB205. As of right now OMB was totaling the amount of reinvestment at \$86.5 million. The majority of the reinvestment will go to DOC: for treatment inside DOC institutions, for institution of pretrial services, for increasing the capacity of the parole board. However, there will also be monies for reentry services and supports for victims of domestic violence. The projects show true savings over the next five years. There is also an expectation of a new funding stream, with half of the new marijuana revenues going to preventive and rehabilitation programs.

Senate Finance has just finished its work on amendments and consideration of SB91 fiscal notes, and will take it up at 5:00 PM. The expectation is that Finance will vote it out today, a second bill reading will take place on Friday and the third (and final) reading will take place on Saturday. SB91 would then be referred to House Judiciary which still has HB205. House Judiciary will be looking at both bills and there will be efforts to reconcile the differing versions of the bills.

Commissioner Stanfill asked what happens if and when SB91/HB205 passes? Does Pew remain involved? Ms. Walsh said that Alaska would, as a JRI state, become eligible for another level of formal technical assistance of two years' duration from the Bureau of Justice Assistance. Melissa Threadgill and Len Engel are part of that team, so would continue their involvement for the purpose of implementing and

monitoring the reforms. 'Team Pew' itself would be available in the next legislative session because, invariably, there will need to be tweaks and updates to the original JRI package.

Staff Mary Geddes stated that SB91 contains many provisions which directly impact the Commission: its tenure is extended by four years to 2021; staffing would be increased (part-time attorney and research positions become full-time; and adding part-time administrative support); annual reports would be due in November; special directions given for research on restitution, sexual offenses; barrier crimes, and expungement; data collection, monitoring, and reporting responsibilities regarding the implementation of SB91 reforms; and collaboration with the Department of Corrections regarding the award of certain grants.

Commissioner Jessee asked about the relationship of Results First implementation through the Criminal Justice Information Center with the directive to the ACJC of future monitoring of JRI-related reforms. The RF 'tool' should be available this summer. Is there overlap? Some clarification was provided by Teri Carns who is involved with the CJIC, but because of the limited time today, there was agreement that we will hear again from Brad Myrstol and Results First at the next Commission meeting (to be set for June).

A question arose as to whether SB91 contains any provision expanding the membership of the Commission, given the past expressed interest in getting DHSS a seat on the Commission. Commissioner Jessee moved that a request for amendment be made to House Finance; Commissioner Rhoades seconded, stating that the Commission has been handicapped by lack of consistent DHSS input. In discussion, Commissioner Steiner noted that there always has to be an addition of two seats so as to avoid split votes. Geddes noted that there had also been interest in having a former offender participate. Commissioner Stanfill noted that changes to membership may open up a Pandora's Box. Nancy Meade noted that any amendment to add Commissioners would invariably require another fiscal note. Members agreed that another fiscal note would impede the progress of the bill, which is not desirable. Consequently Commissioner Jessee withdrew his motion.

DHSS Deputy Commissioner Karen Forrest asked for an opportunity to comment. She agreed that DHSS should be closely involved with the Commission, and she pledged a closer relationship in the future. She also noted that what is being planned for the adult criminal system may mirror the changes in the juvenile system which were so profound, transformative, and positive.

#### **Added Agenda Item: New Pretrial Order from Presiding Judges**

Commissioner Stephens was asked to comment on the new order from the Court System's Presiding Judges changing bail schedules and practice. Judge Stephens, one of the signatories, stated that these changes had been under discussion a long time and that Judge MacDonald really want to get the changes underway sooner rather than later. (Nancy Meade noted that most SB91 bail and pretrial-directed changes won't be effective until January 1, 2018.) Judge Stephens stated that the PJ's had been aware that defendants in different districts were being treated differently vis a vis bail schedules, even when they had been charged with the same offense. So the order is intended to change that. He noted that felonies and DV Assaults are not on the bail schedules, so the changes only impact non DV misdemeanors. Basically, the order directs non-monetary release in many misdemeanors, but if the officer believes there is a need for bail, he or she is to call the judge.

**Future Planning**

Staff was directed to note that Commissioners want to hear on Results First implementation at the next Commission meeting and to once again discuss whether an expansion of Commission membership is desirable.

**Public Comment**

Chair Razo asked for any additional public comment. There was none.

The meeting was adjourned at approximately 11:43 AM.