

Alaska Criminal Justice Commission

Meeting Summary

Friday, May 31, 2019

10:00 am – 2:30 p.m.

Alaska Mental Health Trust
3745 Community Park Loop, Anchorage
And teleconference

Commissioners present: Joel Bolger, Matt Claman, Kevin Clarkson, Nancy Dahlstrom, Beth Goldstein, Amanda Price, Greg Razo, Stephanie Rhoades, Brenda Stanfill, Trevor Stephens, Steve Williams

Commissioners absent: Adam Crum (Al Wall served as proxy for Commissioner Crum), Shelley Hughes (Regina Largent served as proxy for Senator Hughes)

Participants: Troy Payne, Brad Myrstol, Kim Stone, Tony Piper, Lizzie Kubitz, Alys Wooden, Gen Moreau, Beth Russo, Triada Stampas, Henry Randolph, Ashley Bauman, Eugene Carl Haberman, Don Habeger, Teri Tibbett, Nancy Meade, Araceli Valle, John Skidmore

Staff: Teri Carns, Brian Brossmer, Susanne DiPietro, Staci Corey

Approval of Meeting Agenda

Judge Rhoades moved to approve the agenda and Commissioner Razo seconded the motion. The agenda was approved without objection.

Approval of Previous Meeting Summaries

Commissioner Razo moved to approve the three previous plenary meeting summaries and Commissioner Williams seconded the motion. Project attorney Barbara Dunham explained that Judge Stephens had pointed out an incomplete sentence in the November 28 summary. She suggested removing the incomplete sentence. There was no objection to approving the summaries with the November 28 summary so amended.

Victim Listening Sessions Update

Ms. Dunham explained that last fall, the Commission had directed staff to conduct victim listening sessions throughout the state. An ad-hoc workgroup convened to give staff more direction, and suggested the sessions should if possible be conducted in Juneau, Fairbanks, Ketchikan, Bethel, Nome, Kotzebue, Anchorage, and the Mat-Su. Thus far, the Commission has held sessions in Juneau, Fairbanks, Ketchikan, and Bethel. Attendance at these events has varied, with the most successful attendance in Fairbanks. She credited staff research analyst Staci Corey with putting a lot of work into outreach and advertising for these sessions.

Ms. Dunham went on to explain that given the relatively low attendance in the most recent session in Ketchikan and Bethel, staff brainstormed different ways to reach victims. Staff recently put up a survey asking for the same kind of feedback elicited at the listening sessions. The survey had been live for two weeks and in that time over 100 responses had come in. One very common theme from both the listening sessions and the surveys was that victims felt like there was a lack

of communication at all stages of the criminal justice process. Ms. Dunham said she was looking for feedback from the Commission on how to proceed with this project.

Susanne DiPietro, executive director of the Judicial Council and staff to the Commission, asked Ms. Dunham to give a sense of who attended the listening events. Ms. Dunham said that there was typically a variety of people who had experienced a variety of crimes.

Judge Rhoades asked how long the participants talked and if there was a presentation, how long the presentation ran. Ms. Dunham said that she began each session with a presentation that became shorter with each session. There were few enough participants that there was time for anyone who wanted to talk to talk without a time limit. Sometime participants also had questions for the Commissioners.

Commissioner Stanfill suggested forming a victim-centered workgroup to look at common themes, and come up with ways to work on victims becoming part of system.

Chair Claman asked whether the Commission thought there should be more listening sessions, and if so, how many more.

Commissioner Price wanted to know first what outreach had been done for the sessions that had already been held. Ms. Corey explained that outreach and advertising had been conducted via newspaper ads, radio ads, Commissioners or staff speaking on radio or TV shows, state victim service agencies and advocates, local shelters and victim advocates, local social services and mental health agencies, local law enforcement, local native corporations or village leadership, local courts, DA offices, area legislators, city councils and mayor's offices, chambers of commerce, health and hospital organizations, and the local branch of the university, if applicable. Many of those contacted in turn posted about the upcoming session on bulletin boards and online.

Commissioner Price said it sounded like the outreach efforts were tremendously comprehensive, and wondered if they were successful. Getting this kind of input is valuable, but she wondered whether the attendance merits the effort.

Commissioner Razo said he thought the sessions were valuable, even though only a small number attended the session he went to in Ketchikan. Everyone there spoke about DV offenses, which is hard for people to talk about, and he had respect for those who did. He thought there were opportunities to have even more effective sessions. AFN, in Fairbanks this year, would be a good opportunity, as there are many attendees, many of whom are likely affected by crime. He thought it was worth looking into. He also still thought going to the northwest part of the state was a good idea, either Nome or Kotzebue.

Commissioner Goldstein asked whether potential participants might have shied away because of the public nature of the forum. Ms. Dunham said that was a reasonable assumption given the response to the survey, which could be completed anonymously, compared to the attendance at the listening sessions. But, she said, victims were also not monolithic, and those who did speak up at the listening sessions seemed glad for the opportunity. Many attendees and survey responders said they felt like they weren't heard by the criminal justice system and therefore might welcome the opportunity to tell their story.

Commissioner Williams said that he had attended the sessions in Juneau and Fairbanks, and noted at the Fairbanks session that there were people who listened and didn't share during the public portion of the meeting but wanted to share privately afterward. He noted that staff and Commissioners attending made it clear they were open to other communication and gave out the Commission's contact information. He also agreed that the listening sessions should continue, though he was not sure at what frequency.

Commissioner Dahlstrom said she also supported continuing the sessions, even if numbers were not as high as the Commission might have hoped. She thought that people appreciated the opportunity, and volunteered to help put together a session in Eagle River.

Deputy AG John Skidmore said he would be interested in looking at some kind of record of the sessions. He thought it was important to preserve the ideas from this work. He also thought holding a session at AFN was a good idea.

Ms. Dunham explained that there were recordings of each of the sessions, though it might be hard to hear because not everyone who participated wanted to talk into a microphone. She and other staff members had also taken notes. Also, with the volume of survey responses collected it should be possible to analyze the responses statistically, in addition to getting anecdotal information. She said this information could go in a separate report to the legislature or be included in the Commission's annual report. Commissioner Claman said it would be good to have this information written down in some form for the next meeting.

Judge Rhoades agreed that the Commission should continue to do the listening sessions. Victims, like everyone else, are busy people, and she thought it was important to have an ongoing opportunity. She was also interested in Commissioner Stanfill's idea to have a workgroup to process this feedback.

Beth Goldstein wondered if holding private listening sessions would be worthwhile; not everyone wants to tell their story in public.

Chair Claman said it sounded like there was support for moving forward with more listening sessions: at AFN, in Anchorage or Eagle River, and in northwest Alaska in Nome and/or Kotzebue – so about three or four more sessions. He wondered whether the Commission should try to do these sessions before November.

Ms. DiPietro said it was probably best to avoid scheduling them in the summer or even September, so as not to interfere with fishing or hunting season.

Chair Claman noted that Anchorage schools start in mid-August, and AFN was in mid-October, and Mr. Skidmore suggested that the northwest trip might be best after AFN, and before the end of the calendar year.

Regina Largent, staff to Sen. Hughes, suggested hosting a call-in session via teleconference to include people who can't get to hub communities.

Chair Claman called for a motion to hold a session in the Anchorage area in mid-August, at AFN, and in the northwest at a date to be determined (before the end of the year).

Commissioner Williams so moved and Mr. Skidmore seconded the motion. The motion passed without opposition.

[Note: at this point, Commissioner Clarkson had not yet arrived to the meeting and Mr. Skidmore was serving as his proxy.]

Restitution Update

Nancy Meade, general counsel for the Alaska Court System, explained that the Court System took over collection of restitution from the Department of Law about two years ago. Since then, the Court System considers the effort to be going well. There is a lot of old restitution still owed, but in FY18, the Court System collected more than the Department of Law had in prior years. The amount collected in FY18 was \$1.7 million, and the amount collected thus far in FY19 is \$1.9 million. The Court System has been able to do this work with fewer dedicated resources than the Dept. of Law, as it has been able to find efficiencies. Ms. Meade thought it was helpful for victims to have single point of contact. The staff dedicated to this project (one FTE plus a supervisor) had also been successful getting payments from restitution payment plans set up by DOC and DJJ.

People who are owed restitution have the option to collect for themselves, but most chose to have the Court System do it. Ms. Meade thought it was helpful for them to have a comprehensive website devoted to restitution collection with FAQs, as the site gets a lot of hits. The Court System sends out checks to the victims when it collects money from the defendants. It collects the most in October through January due to PFD garnishment. The Court System receives an average of 20-30 phone calls per day about restitution. In FY18, it issued about 4,000 checks, and it is on track to issue a similar amount in FY19. About 40% of payouts go to private victims, 45% to businesses and corporations. The biggest recipients are insurance companies or businesses such as Carrs and Fred Meyer. The state and federal governments receive about 15% of the payouts. These are for crimes such as Medicaid fraud or vandalism to state property.

One challenge to the restitution collection project is a relative lack of resources, as there is only person devoted to it full time, plus the help of a supervisor. They prioritize the processing of payments to victims. Another challenge is working with prosecutors to get restitution judgments.

Judge Stephens recalled that when the Department of Law had this responsibility, they had two lawyers working on it. The program ended suddenly and the Court System took it on because there was no other entity that could do so.

Chair Claman asked whether the Court System kept track of the amount of restitution collected versus the amount ordered. Ms. Meade said she did not have that information, though she knew that the collection rates under the Department of Law ranged from 10% to 48%.

Commissioner Stanfill asked whether, when POs make restitution plans for probationers/parolees, the payments go through the Court System. Ms. Meade said they did. Commissioner Stanfill asked if there was any way of knowing whether the provision requiring POs to set up these payment plans helped collect a greater percentage of restitution owed. Ms. Meade said it was hard to say; the Court System is constrained by its limited resources and does not have

robust data collection mechanisms in place. They are focused more on accurate accounting. She could look into it. Ms. DiPietro reminded the group that the Commission had put out a report on in December 2016, and it had data on collection rates.

Chair Claman asked whether a new written report could be prepared easily, something that details how much restitution has been distributed for how many people, etc. – something simple. Ms. Meade said she could work with Commission staff to put something together.

Revalidation Study

Dr. Troy Payne explained that he had results for his revalidation study, but he only finished it this week and DOC hadn't had time to look at it yet, so he would not be reporting on those results at this meeting. In any event, he was on track to finish this work by the end of the grant period at the end of this year.

Dr. Payne explained that essentially, the purpose of the project is to check the math on the pretrial risk assessment tool that was created in 2017 by analysts from the Crime and Justice Institute (CJI). CJI developed the tool using data on pretrial defendants from 2014 and 2015. Given changes to the law and other external factors, the tool should be checked to ensure it is still valid for Alaska's pretrial population. It is also generally a good idea to check the instrument continually to ensure that it continues to be predictive.

Dr. Payne noted that the purpose of the project was not to do a process study, or a comprehensive pretrial release study. He was looking only at whether the tool continued to be predictive for failure to appear (FTA) and new criminal arrests (NCA), and whether the risk scales classify defendants appropriately. It could be that the tool is generally predictive but the boundaries between low, medium, and high might need to be adjusted. He is also looking at whether the baseline rates for FTA and NCA changed. CJI found a 14% FTA rate and around a 38% NCA rate.

Specifically, Dr. Payne said he was looking at whether the tool was equally predictive for all regardless of gender or ethnicity. He was also assessing whether considering out-of-state criminal history changes the results. Out of state criminal history was not available when the tool was being developed because the federally-administered National Criminal History Database does not allow pulling bulk data for research. For this reason, it is common for many risk assessment tools not to include this information. Since the tool went live in January 2018, pretrial enforcement officers have been able to record out-of-state criminal history going forward for everyone assessed.

Chair Claman said he was happy to schedule another meeting to get an update with results of the revalidation study. He suggested that Dr. Payne also might want to explain why the tool predicts NCA and FTA only.

Dr. Payne explained that those were the two things the tool measures because it was designed only to be predictive for the pretrial period. The primary concerns for this period are public safety and whether the defendant will show up for court. Chair Claman noted that the constitution also requires that those be the only concerns in the release decision because of the presumption of innocence.

Dr. Payne said that was correct; though he noted it was also possible to use a pretrial tool to assess the extent to which defendants need services. Other risk tools used in other jurisdictions also address need. Items on the scales used in Alaska's tools look at a defendant's past; one restriction on CJI was that the state wanted no interaction with defendant to create the risk score. In other states, a pretrial services department will interview the defendant not just about the past, but about the present—things like whether the defendant has access to transportation, employment, or childcare. Alaska is not assessing the defendant's present needs, which limits its ability to predict pretrial outcomes, as some factors predictive of FTA are not historical but current practicalities.

Judge Stephens asked whether the study looked only at those assessed, and not those released OR or issued a citation and summons. Dr. Payne said that was correct. To be assessed using the pretrial risk assessment, the person must have been in custody pending an initial hearing. Prosecutors can also request that risk assessments be done for those not in custody, but that is rare relative to the number of people assessed because they are in custody. The tool was intended to help guide the release decision and therefore not needed for people who have been released. This was a limitation of the study, because it did not look at the entire pretrial population.

Chair Claman wondered if this presented difficulty in comparing current data to previous data. Dr. Payne said it was hard to compare 2014 data to 2018 data, and noted that another thing that changed in addition to the law was the bail schedule. Judge Stephens noted that the current bail schedule is similar to what it was in most places before 2016, but for some crimes and in some districts there will be significant differences. Dr. Payne said he was not sure of the extent to which CJI included bail schedule release in its analysis, but he thought the populations used in the two studies were similar. Chair Claman suggested that should be something noted in reporting the outcome of the revalidation study.

Dr. Payne said another aspect to note about the analysis was that CJI was using fully disposed cases for its data set. The data available for this study was for cases started within the 2018 calendar year. The data set couldn't be limited to fully disposed cases because there would not be enough volume—often cases take more than a year to complete. The data can be used to compare predictability, but it will throw another wrench into the analysis of other factors. He could do further analysis later on, after the cases are disposed, if agencies so wish; his focus has been on the primary purpose, revalidating the tool's predictability.

Dr. Payne also noted that the fact that both the PED and the risk assessment tool were operational on January 1, 2018, was a minor miracle; it is extraordinarily difficult to set up an entire pretrial program in 18 months. The results of the revalidation study and any evaluation of the pretrial process should be considered in that context.

[Commissioner Clarkson arrived at this point.]

Teri Carns, staff analyst for the Judicial Council, spoke to Dr. Payne's earlier observation about the tool only using static (historical) factors; she noted that there are a variety of reasons to use only static factors. One reason is resources; it takes people to conduct interviews to assess dynamic (current) factors. There is also a national trend toward using static factors in tools like these so results are both more comparable and objective. It would also take more time to conduct interviews, especially in rural areas, and the goal is to get in-custody defendants to arraignment

within 24 to 48 hours. The defense bar also has objected to interviews because they might ask about incriminating information.

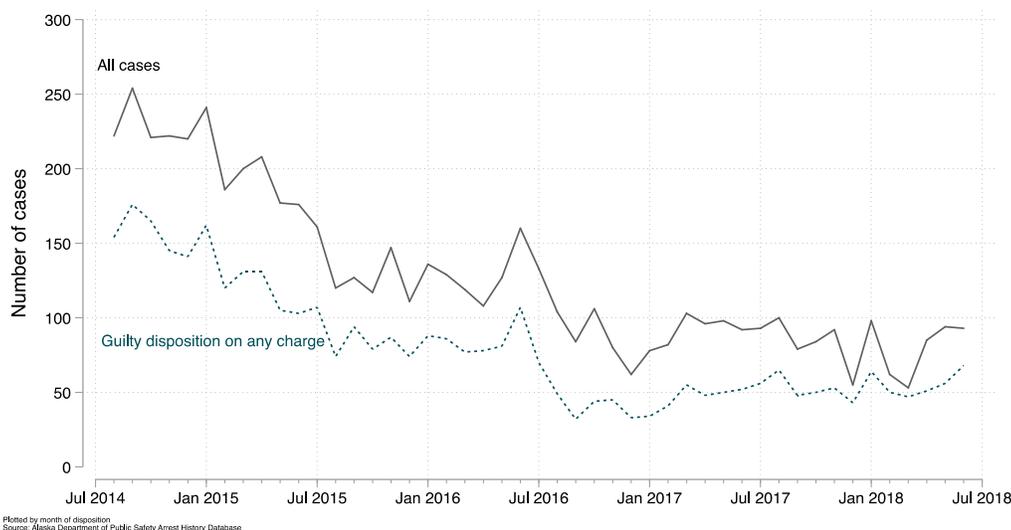
Dr. Payne agreed there were definitely concerns about interviewing for dynamic factors, though he thought there were ways to make interviews objective. It was better to have a tool with only static factors than not have one at all. He thought it would be better to have a tool that addresses the needs of defendants, and that nationally, pretrial practices were heading in direction.

Dr. Payne concluded that he was almost ready to release the data. Once the analysis is concluded and findings disseminated, one additional component of the project is to consider implementation. The analysis might be difficult to implement practically, which was another reason to make sure DOC was fully briefed before the data was released. But he was also very happy to get questions now before the report was done.

Arrest Data Analysis

Dr. Payne explained that the Alaska Justice Information Center (AJIC) has been analyzing SB 91 implementation data. This presentation represented just a bit of the data they are able to analyze, and in part the purpose of this presentation is to encourage questions from Commissioners on what the data is telling us about our criminal justice system. Left to their own devices, academics will go down rabbit holes that may not be pertinent to any current concerns, so it's always good to get feedback on what's important.

Dr. Payne went on to say that the topic for today was drug cases. Specifically, he and his colleagues looked at how many cases were charged under Title 11, chapter 71 (the drug crime statutes), and how the nature of those cases may have changed over time. They looked at charge-level data provided by DPS to ascertain whether an arrest includes any section of AS 11.71 (or AMC 8.35.010, the Anchorage Municipal Code provision which incorporates state offenses). They then collapsed this by cases using court docket numbers to get the number of cases per month that involved a drug charge at either arrest or disposition.



The above chart shows the number of cases with an 11.71 arrest charge compared to the number of those cases that had a guilty disposition for any charge, decreasing over a four-year period. Dr. Payne noted there was a steep break in July 2016, when SB 91 came into effect, but the bulk of the decline over time happened between July 2014 and July 2015. He also noted that obtaining conviction rates can get tricky, which is why they were looking at case level data; since many charges drop out, case-level data gives a more accurate picture of what happened. Most charges result in a conviction of some sort.

Chair Claman asked if there was any reason why there was such a big drop between 2014 and 2015. Dr. Payne said it was attributable to the drop in misdemeanor charging, as illustrated by this chart breaking down felony and misdemeanor drug cases:



Dr. Payne said that in speaking with criminal justice experts about this he concluded that the drop in misdemeanor cases is probably attributable to the legalization of marijuana.

Commissioner Price asked whether there was any analysis comparing this arrest data to staffing levels. Dr. Payne said there wasn't.

Commissioner Goldstein asked whether these charts included municipal cases. Dr. Payne believed they did—often municipal prosecutions will appear with charges under AS 11.71, and DPS will enter that way. The data had a very low number of AMC cases. He was working with DPS to clarify this.

Commissioner Price noted that the data ends with July 2018, and wondered if Dr. Payne planned to analyze data collected after that. Dr. Payne said AJIC will keep doing analysis like this as long as they have access to the data. He thought it was important to note that having data sharing in statute is extraordinarily useful.

Commissioner Price agreed, and also noted that the state recently received High Intensity Drug Trafficking Area (HIDTA) designation so it was possible there will be a spike in drug arrest numbers. Dr. Payne said that was a good reminder that arrest and prosecution data measure

criminal justice system outputs, not necessarily the amount of crime being committed at a given time. For example the rate of DUI arrests measures how many people were arrested, not how many people were driving drunk.

Ms. DiPietro said that this information was also presented at the last Criminal Justice Working Group, at which the federal member of that group reminded them that this data doesn't include federal arrests or prosecutions. Judge Stephens said that was a good point, as he believed the federal authorities are taking a lot of drug cases. Dr. Payne thought he might be able to include some federal data in this analysis. He added that another factor to consider in the data is the prioritization of resources—other cases such as violent crimes might take priority.

Judge Rhoades thought it was good the data included municipal cases, because as state dropped misdemeanors due to budget cuts, Anchorage took on a lot of those cases. She thought leaving out Anchorage cases would generate different results. Dr. Payne noted that the arresting agency in many cases was APD, which was another reason he believed the data probably included municipal prosecutions under state statutes.

Commissioner Razo thought now was a good time to ask for federal data, and thought he could perhaps facilitate. He participated in the recent meeting with US Attorney General Barr, who showed a willingness to cooperate with Alaska on public safety issues. Dr. Payne said that was encouraging, as federal data is important for understanding what's happening in drug cases.

Dr. Payne continued with his presentation, explaining they focused on felony cases, and that the data showed the conviction rate improving over time for felony drug cases. By refining this rate for felony convictions and felony drug convictions, the conviction rate dropped slightly each time, but tended to show that if a person is charged with a felony drug charge, they will likely be found guilty of something, likely a felony, and likely a felony drug charge.

Judge Stephens noted that the data also does not reflect cases where a defendant might be cleared in one case because of a universal plea agreement, pleading guilty in another case. Dr. Payne said it would be possible to get at those cases from Court System data, but that data doesn't start until 2016.

Dr. Payne said AJIC would like to hear from the Commissioners what questions they have—AJIC is able to do detailed analyses with the available data, and has the capacity now to do ad hoc analyses. He encouraged the Commissioners to contact AJIC any time. AJIC wants to be able to answer questions that are meaningful.

Ms. Carns wondered about the number of felony drug cases relative to all felony cases. In the past, the number of drug cases has been much higher than it looks now—less than 50 cases per month in the last year or so but in previous years there were between 100 and 150 cases per month. Dr. Payne said he didn't have that comparison but could get it.

Mr. Skidmore asked whether dates in this data represented the date of filing or disposition? Dr. Payne said they represented the date case was disposed. Using the arrest date will show essentially same data shifted back around 200 days. DPS doesn't always get information on cases until the case is disposed.

Judge Rhoades asked if Dr. Payne had a sense of how many people were represented in this data, and whether any of them were duplicates? Dr. Payne said he can get that information, though it will be more accurate towards the end of data series. He didn't have access to defendants' complete criminal history. Judge Rhoades noted that for the felony cases, defendants can't cycle through as quickly to reoffend later. But she still would be interested in looking at recidivism and what interventions the people in this data set are receiving.

Briefing on Crime Bills

Ms. Dunham explained that there were two significant crime bills that were passed in this year's legislative session. She had prepared a summary comparing SB 91 to HB 49, widely known as the bill designed to "repeal and replace" SB 91. That summary wound up being quite lengthy, so she also prepared a memo summarizing her summary, and also summarizing HB 14.

Ms. Dunham noted that characterizing HB 49 as a "repeal and replace" bill was fairly accurate, as most of the provisions that had been enacted with SB 91 were repealed or amended. She listed the items that remained in place or remained with amendments:

- *Disorderly conduct* – The sentence for disorderly conduct was reduced from 10 days to 24 hours with SB 91. HB 49 raises the sentence to 72 hours for a first offense, 10 days for a second or subsequent offense.
- *Minor offenses* – Certain minor offenses (e.g. obstruction of highways, gambling) were decriminalized with SB 91; these remain decriminalized.
- *Drug offenses* – HB 49 essentially returns drug crimes to the pre- SB 91 scheme; simple possession is now still a misdemeanor for the first offense, but becomes a felony upon a second offense (with a 10-year lookback period).
- *Pretrial Release* – The pretrial risk assessment still exists and the judicial officer must consider it but is not bound by it. Defendants may request a bail review hearing for inability to pay if they can show they made a good faith effort to pay. Otherwise, release procedures are essentially back to pre-SB 91 practices, including the use of third-party custodians. (The bail schedule was not affected.)
- *Suspended Entry of Judgment*: remains in place.
- *Credit for time served in treatment* – Now limited to 365 days.
- *Early termination of probation/parole* – POs may (but are no longer required to) recommend early termination for those in compliance and treatment complete.
- *Felony sentences* – Amended as follows:

	Before SB 91	SB 91	HB 49
Class A felonies	1st conviction: 5-8 years 2nd conviction: 10-14 years 3rd conviction: 15-20 years	1st conviction: 3-6 years 2nd conviction: 8-12 years 3rd conviction: 13-20 years	1st conviction: 4-7 years 2nd conviction: 10-14 years 3rd conviction: 15-20 years

Class B felonies	1st conviction: 1-3 years 2nd conviction: 4-7 years 3rd conviction: 6-10 years	1st conviction: 0-2 years 2nd conviction: 2-5 years 3rd conviction: 4-10 years	1st conviction: 1-3 years 2nd conviction: 3-7 years 3rd conviction: 6-10 years
Class C felonies	1st conviction: 0-2 years 2nd conviction: 2-4 years 3rd conviction: 3-5 years	1st conviction: 0-18 months 2nd conviction: 1-3 years 3rd conviction: 2-5 years	1st conviction: 0-2 years 2nd conviction: 2-4 years 3rd conviction: 3-5 years

- *Driving with license suspended/canceled/revoked* – If a license was suspended, canceled or revoked for a reason other than DUI/Refusal, this is now an infraction for the first offense; subsequent offenses are a Class A misdemeanor.
- *Earned compliance credits* – This provision was modified to grant 10 days of credit for every 30 days in compliance (previously 30 days of credit for 30 days in compliance).
- *Risk and needs assessments while incarcerated* - DOC must create a case plan for anyone incarcerated for 90 days or more (previously 30 days); DOC must also report to the legislature on case planning.
- *Pretrial Enforcement Division* – Remains in place.
- *Victim notification provisions* – Remain in place.
- *ASAP* – Changes made by SB 91 and SB 54 and SB 55 remain in place.
- *Alaska Criminal Justice Commission duties* – Commission duties were mended to include reporting on data provided by Department of Law re: sex offense case processing. (Other duties and the sunset date remain the same.)

Ms. Dunham also explained that HB 49 added a number of new provisions that were not addressed in SB 91; many of the new provisions relate to sex offenses, generally making it easier for prosecutors to charge more conduct and to charge conduct at a higher level. Anyone required to register as a sex offender in another jurisdiction will now be required to register here, even if the underlying crime in the original jurisdiction is not a crime in Alaska.

Ms. Dunham further explained that HB 14 addressed loopholes revealed by last fall’s case involving defendant Justin Schneider; the bill was commonly known as the “Schneider fix.” HB 14 changed the definition of sexual contact to include contact with semen, bolstered victim involvement in plea negotiations, and barred anyone convicted of a sex offense from receiving credit for any pre-sentence time spent on electronic monitoring or in treatment.

Judge Stephens asked what the fiscal notes for these bills were. Chair Claman said the fiscal note for HB 49 was around \$50-60 million per year, and the legislature also increased money for prosecutors and public defenders in the budget. The fiscal note for HB 14 was indeterminate. Additional funds were also put in the budget for the therapeutic courts. The legislature considered increasing funding to reopen the courts on Fridays, but that fell through.

Chief Justice Bolger added that the Court System had a fiscal note too, though he was not sure of the exact number. It amounted to the cost of two full-time pro-tem judges.

Chair Claman added that a separate bill created new Superior Court judge seats in Homer and Valdez.

Report from COSCA/CCJ Summit

Chief Justice Bolger explained that he attended the Conference of Chief Justices/Conference of State Court Administrators at its Western Region Summit the previous week, along with Judges Morse, McDonald, Henderson, and Gandbhir, DHSS Deputy Commissioner Al Wall, and Commissioner Williams and another employee from the Trust. The summit had to do with the nationwide mental health crisis. Many of the problems Alaska is having related to mental health issues are also present in other states. States such as Florida and California have multiple floors of jails filled with severely mentally ill people held in deplorable conditions.

Those who participated in the conference decided to hold a statewide summit on these issues, most likely in November. The broad theme will be to develop more avenues for assisted outpatient commitment at various intercepts in the criminal justice process. The state summit will invite providers, experts, judges, and attorneys to discuss implementing this.

Chief Justice Bolger explained that one speaker at the conference was a psychiatrist from Tucson who ran a crisis response center, and Chief Justice Bolger understood that there was movement toward creating this kind of center in Anchorage. Such a center would be a resource in addition to API, jail, and emergency departments. It would stabilize people experiencing a behavioral health crisis and include release planning, and would be a way for this population to avoid involvement with the criminal justice system.

Chief Justice Bolger went on to say that many other places are also experiencing delays in competency evaluations and restoration. Delays in restoration are particularly problematic for people who have low-level charges, as they can be held in jail awaiting restoration for a long period of time. Restoration is not particularly useful to this population long-term, as the goal of restoration is just to make the defendant ready for trial, and it is not truly rehabilitative. Many of these cases wind up being dismissed, without getting the person any kind of help or treatment. Some jurisdictions bar these level of crimes from the competency/restoration process either using a statute or an MOA. The idea is to get this population into a rehabilitative setting or assisted outpatient treatment quickly.

Commissioner Williams added that the Alaska team was very engaged in the conference, and that it was interesting to find out that the things we're experiencing in Alaska are part of a national trend. One of the largest injustices created by the delays in competency and restoration is the problem of a defendant waiting in jail for competency evaluation or restoration for a longer period than the defendant's potential sentence. The Alaska delegation discussed strategies for minimizing that, and there was a lot to be learned from other states. The examples of crisis stabilization centers that were highlighted have really turned things around for their jurisdictions; these jurisdictions have been using Medicaid waivers as a funding model. They have been working with law enforcement officers, who don't want to have to make those decisions.

Judge Rhoades noted that she started the effort to create a unified competency calendar for Anchorage. Many municipal misdemeanor defendants wait for months for a competency

evaluation, then restoration. The whole process can take 9 months, which is essentially a maximum sentence for a Class A misdemeanor. Once a case is disposed, there is no discharge planning to maintain the defendant's stabilization achieved by restoration. There was also a need to address people who are not restorable— there is no applicable law for those people.

Judge Rhoades continued that Alaska has historically been a leader in this area, for example by establishing some of the first mental health courts. The Trust and the Criminal Justice Working Group have worked on this, including commissioning the UNLV report, which hasn't had a lot of traction. Since that report was published, law enforcement officers have become much more frustrated with the increasing number of mental health calls. Nationally, the number of people who are severely mentally ill who have been contacted by law enforcement has skyrocketed. A crisis stabilization center would be a way to help control that spigot early in the cycle, as a way of ensuring that this population doesn't become unnecessarily involved in the criminal justice system. For the most part this population is not criminal, just really sick. First responders need something other than the only current 24/7 dropoff: DOC.

Chair Claman added that the purpose of restoration for trial is just to get the defendant to understand the trial and assist their lawyer, which does not necessarily translate into being able to function in community.

Chief Justice Bolger said that a lot of people are now motivated to act on this, and he welcomed participation. He was encouraged by enthusiasm of DC Al Wall.

Chair Claman said this topic tied into the next item on the agenda, the future work of The Commission: with the reforms suggested by this commission largely repealed, what will be the Commission's new focus?

Public Comment

Eugene Carl Haberman said he lives in the Mat-Su and follows public process issues. He said that the public notice for this meeting listed the start time as 10:30, not 10:00, and the public notice law says public meetings can't start until the listed time. He has attended a lot of public meetings over the years. At an Anchorage Assembly meeting he stated that taking public comment in this manner does not allow the public to make comments. He was not able to attend two meetings of the Assembly because they were not properly noticed. He has also attended APOC meetings. He sees a prejudice toward people who agree with the group that is meeting, and indifference to people who do not agree. He added that the Judicial Council also doesn't comply with the public meetings laws.

William Riley said he had a suggestion to offer in light of the passage of HB 49. He explained that he grew up in southeast Alaska, made some stupid decisions at age 18, and was convicted of a felony. His conviction was set aside (SIS), a disposition that is unique to Alaska and is not the same thing as expungement. In retrospect, it was one of the worst things to happen to him. He still has to answer yes to the question of whether he has been convicted of a felony, even though he is not a felon. Ten years later, he now works for Caterpillar, owns property, and believes he is a productive member of society. He tried to go to Canada two years ago, but couldn't because he was considered a felon. He can't get a pardon because the state considers him already pardoned.

There is also no expungement in Alaska. His suggestion, which he considered an easy fix, would be to convert all old SIS dispositions to the new suspended entry of judgment (SEJ) disposition.

Judge Stephens noted that Mr. Riley was not the only person to come to the Commission with these concerns. The SEJ, recommended by the Commission and enacted in SB 91, is a direct result of previous similar comments. The Commission has also looked at expungement. Chair Claman noted that the legislature hasn't taken up the Commission's recommendations for redaction (similar to expungement).

Mr. Riley added that he had tried to get into medical school and law school and was denied because of his record. He was also turned away from some volunteer fire departments, and can't get into the military.

Chair Claman noted that SEJ operates differently from the SIS because it requires both parties (prosecutor and defendant) complying. He also noted that the Federal Youth Offender Act for offenders under 25 has helped people in Mr. Riley's situation.

Judge Rhoades said she was very sympathetic to this issue. She had believe that the SEJ would supplant the SIS, but it didn't. She noted this happens with people convicted of misdemeanors too. She knew of a woman who had a misdemeanor set aside, who applied for a job with DHSS, but was not selected for an interview because the SIS was on her record. This is an issue that affects many people.

Meeting Schedule, Agenda, and Future Priorities

Chair Claman explained that while the next meeting had been set for August 23, he had a potential conflict and suggested moving the date. It was decided that the potential new date would be August 20 if Chair Claman's conflict was confirmed, otherwise the meeting would remain on the 23rd.

As to the Commission's agenda and future priorities, Chair Claman said he'd like to hear from each Commissioner present, and was looking for broader thoughts on the direction of the Commission.

Judge Stephens said that when the Commission started, it was focused on enhancing public safety, reducing recidivism, and maybe reducing the prison population. Now, he thought the Commission's focus should be on mental health. From his perspective, the prevalence of untreated mental illness seems to be getting worse, and it impacts not just criminal cases but CINA cases and civil commitments. Earlier in the meeting, he had asked about the fiscal note for the crime bills because he anticipated there would be more people in jail once they become effective.

Judge Stephens also noted that SB 91 didn't look at what happens to people during incarceration. This needs to be a priority if more people will be in jail and for longer; Alaska needs to figure out what interventions they need while they are there to ensure they will not recidivate on release. Lower recidivism, of course, means fewer victims. This should be a priority, even for

those who are not in for a long time, as they also have a continuing need for support from community programs.

Commissioner Price said that substance abuse was also a pressing issue, and thought that the Commission should put forward recommendations on how to address this problem. She also suggested addressing what the public safety response should look like throughout Alaska—for example, the legislature was evaluating the VPSO program. She saw gaps in the statewide standard for law enforcement response, and thought it would be helpful to identifying those gaps and look at response times in rural areas.

Mr. Skidmore said he agreed with Judge Stephens about focusing on mental health and in-prison programming. He also agreed with Judge Rhoades' earlier comments that there was work done on the intersection of mental health and the justice system in the UNLV report, and thought there was large consensus on that report. Not on everything, but he didn't want to let the perfect be the enemy of the good. He also thought domestic violence and sexual assault crimes should be a focus, considering Alaska's grim statistics on those issues. Many entities were working on them, but the Commission could also focus its energy on them with the benefit of having a broad spectrum of stakeholders. He also wanted to echo Commissioner Price's comments that the state is struggling with appropriate law enforcement responses throughout state, rural areas in particular. The Commission could bring attention to the gaps and make recommendations.

Judge Rhoades noted that she has focused her career on mental health. She agreed with Judge Stephens that it affects every case type the courts see. She thought there hadn't been as much focus in this group on mental health as there could be. She knew that Trust beneficiaries were disproportionately represented in prison. In order to see change, Alaska can't jail people for alcoholism or mental health crises. If so, those populations will mix with the population of hardened criminals and learn how to be criminals. She thought there should be a focus on mechanisms of diversion across the spectrum. There also needed to be treatment in custody and a robust reentry system. People returning from prison can't be expected to succeed without support, and they need sustained supports to prevent their return.

Chief Justice Bolger said he agreed with everyone. He thought there was a lot of motivation to work on the mental health issue now. He was also struck by Commissioner Price's point on rural safety. He had spent a lot of time in rural areas, and there continues to be a crisis of domestic violence, sexual assault, and mental health issues, and he thought the Commission should also focus on public safety in rural areas.

Commissioner Razo said that he had spent most of the past Tuesday listening to testimony on the public safety crisis in rural Alaska in the meeting with AG Barr. He agreed that should be a focus. The Commission should develop recommendations that are realistic and meaningful.

Ms. Largent said that she knew that Commissioner Hughes would agree on the topics already mentioned, particularly looking at rural justice since she was just then attending a conference on rural prison reform. Her office will be working with DOC on this, and has also been looking at issues related to domestic violence and sexual assault.

Commissioner Williams said he wanted to echo a lot of what had already been said. He also wanted to remind the Commission of where this state has already been. If you took the names off reports going back 15 years, you would probably see same reports with the same recommendations. He thought it might be worth reviewing what's been done, because he didn't want to burn unnecessary time. He had reviewed the Commission's recommendations from its 2018 Annual Report. Those and several other recommendation, such as the UNLV report and the Behavioral Health information exchange, were still applicable, but haven't gotten any traction. The Commission has also made expungement recommendations.

As the representative for the Trust, Commissioner Williams wanted to focus on addiction and mental health. He agreed that there should be access to treatment during incarceration, but Alaska really needed to be looking at the community-based system, not only with adults, but with families and children early on as primary prevention effort to stem the flow of people coming into criminal justice system. Things coming online with the 1115 waiver will help. Some kind of inventory might also be in order, of things that are in the pipeline right now that could help.

Commissioner Clarkson acknowledged that he was a Commission newbie, but noted that Mr. Skidmore was his deputy, and he agreed with him. He has been shocked by the statistics on domestic violence and sexual assault. He had been studying up before the meeting with AG Barr, and discovered that the rate in western Alaska was 106% greater than the rest of the state. He thought there should be an increased law enforcement presence in rural Alaska.

Chair Claman said he agreed with everything mentioned, particularly the public safety issue in rural Alaska, which really hit home for him when he was in Bethel for the victim listening session. He viewed the shelter and the staff there noted that when alcohol access increased in Bethel, the assault rates doubled. The challenge of alcohol and drug abuse and mental health issues had been in Alaska since statehood. There hadn't been much progress on alcohol in particular.

Chair Claman went on to say that one frequent criticism of criminal justice reform was that not enough resources were put toward rehabilitation. But his observation was that we put resources toward rehabilitation, but the money couldn't be used in some cases due to lack of providers or capacity. If Alaska doesn't invest in behavioral health infrastructure, no reform will work. The challenge continues to be how to manage state resources.

Chair Claman also thought the sex offense rate was an embarrassment to everyone who works in public policy. It is a sad reality in rural Alaska, and must be changed.

Chair Claman asked what steps the Commission should take next. Options included partnering with the Court System on the mental health summit, looking at best practices in other states that were also working with limited resources, and giving input on rural public safety. He also noted that previous recommendations haven't gone anywhere, such as the recommendation for expungement. It might be worth looking at which efforts will be most successful.

Commissioner Dahlstrom said she believed Alaska needed to and can do a better job with rehabilitation and thought there were changes that could be made within DOC. She appreciated

efforts made in this direction so far. DOC's goal is to make people better when they leave prison than when they entered.

Ms. DiPietro said that Commissioner Stanfill had to step off the teleconference line but she texted her thoughts. Commissioner Stanfill wanted to focus on the needs of victims, and look at solutions to what the Commission learns from the listening sessions and surveys. She also wanted to look into developing an evidence-based DV program for Alaska, whether by creating a new program here or finding a promising practice from another state. She also agreed with what the others were saying. She wanted to see more data on how other states treat all drugs (not just opioids), particularly how other states deal with drug addiction with at the diversion stage.

Commissioner Goldstein said her concern was that Alaska was always looking at the problem at the back end, by developing interventions for people who have already committed crimes. She suggested looking at putting resources into juvenile and adult victims before they become defendants. Look at victims of sexual assault— many become abusers themselves, or become substance abusers. When she was working in the federal system, she reviewed many federal presentence reports, and almost every one of them had a heartbreaking story of trauma that led them into the criminal justice system.

Judge Rhoades thought Commissioner Goldstein's observation dovetails with Judge Stephens' previous observation that mental health issues affect all cases. She thought it would be worth looking into the year that the legislature required DOC, DHSS and the Court System to coordinate their budgets around the juvenile population to optimize service delivery. If they were required to do in perpetuity, it would always ensure that Alaska was looking at the victimized population in concert.

Commissioner Williams wanted to echo that the common factor in criminal justice cases is trauma, including adverse childhood experiences. One form of trauma that is not always thought of was trauma as result of the loss of one's culture. If cultural trauma was not addressed, it will also lead to addiction and mental health problems.

Chair Claman wondered what the Commission thought about partnering with the Court System to plan its mental health summit? Ms. DiPietro suggested that the Commission could offer staff time. Chief Justice Bolger said that would be appreciated. Commissioner Williams moved that the Commission partner with the Court System to plan and convene a summit related to criminal justice and behavioral health. Commissioner Razo seconded the motion. There was no opposition, and the motion passed.

Chair Claman solicited other ideas from staff. Ms. DiPietro said the Commission could convene a victim workgroup as suggested by Commissioner Stanfill. Ms. Dunham noted that Commissioner Stanfill was also interested in continuing the sex offenses workgroup, and that generally speaking, workgroups were a useful way to generate meaningful and well thought-out recommendations. Chair Claman wondered whether there should be a workgroup to plan the Commission's future agenda.

Judge Rhoades noted that the Behavioral Health Standing Committee has had difficulty getting purchase, but has new members and energy now. At the last meeting that group discussed educating the Commission on the Sequential Intercept Model (SIM), understanding behavioral health disorders and their medical bases, and evidence-based interventions. She thought some additional education would help the Commission to move forward.

Commissioner Clarkson said he would also like to confer with his team at the Department of Law about sex offenses, and thought they may come up with a motion for the August meeting. Chair Claman said that could go on the agenda, and also suggested looking into the public safety response in rural Alaska. Commissioner Clarkson said he would invite Commissioner Price to come up with something.

Chair Claman said it sounded like the Behavioral Health Standing Committee could look at Title 12 and Title 47 (competency and restoration). He wondered if there should be another committee.

Commissioner Williams thought there were three issues for the Behavioral Health Standing Committee: 1) Title 12 and competency, and looking at concrete fixes to those systems; 2) the community-based behavioral health system, and gaining a greater understanding of that system at the Commission level; and 3) institutionalizing the exchange of data among agency branches and AJIC so that agencies don't have to struggle with getting data.

Commissioner Razo didn't think there needed to be any more committees.

Chair Claman said it sounded the Commission will get some recommendations from the Behavioral Health Standing Committee along with some substantive education. The Departments of Law and Public Safety would develop recommendations on rural police responses and sex offenses. Chair Claman would work with staff on getting information on evidence-based practices for rehabilitation services. The new victim workgroup would also meet to assess the results of the listening sessions and surveys.

Judge Stephens asked whether there was a way to get technical assistance for educating the Commission on the SIM? Judge Rhoades noted that providers existed, and had been used in previous efforts. Judge Stephens thought it would be good to find a technical assistance provider who could prioritize evidence-based practices, and thought the Commissioners needed to further educate themselves. Chair Claman said that made sense, as it underlies the mental health and substance use questions. Commissioner Williams thought there could be presentations on types of interventions, and that such a training wouldn't have to take a full day if people committed to doing some reading on their own. Also at the conference in November, there could be the same educational opportunity for a wider audience, including other policymakers.

Ms. Dunham asked Chair Claman if he wanted to include a presentation on the revalidation study for the August meeting. Chair Claman said that hopefully Dr. Payne would be ready to present on that separately by the end of June.

Ms. Dunham apologized for the mix-up regarding the meeting time posted on the website, and noted that staff had been hard at work transitioning to a new website. She encouraged Commissioners to visit the new site and provide feedback.