Alaska Criminal Justice Commission

Meeting Summary

Thursday, October 12, 2017

9:30 AM

Snowden Training Center

820 W. 4th Avenue, Anchorage

And Audio-teleconference

Commissioners Present: Greg Razo, Joel Bolger, Sean Case, Stephanie Rhoades, Brenda Stanfill, Quinlan Steiner, Trevor Stephens, Steve Williams, Matt Claman, John Coghill

Commissioners Absent: Jahna Lindemuth (Deputy Attorney General Rob Henderson sat in for Commissioner Lindemuth), Walt Monegan (Deputy Commissioner Bill Comer sat in for Commissioner Monegan), Dean Williams (Deputy Commissioners Claire Sullivan and Karen Cann sat in for Commissioner Dean Williams)

Participants: Aliza Kazmi, Mike Mathews, Heather Parker, Amory LeLake, Tony Piper, Kaci Schoeder, Pam Kravitz, Patrick Fitzgerald, Randall Burns, Alysa Wooden, Chanta Bullock, Nancy Meade, Geri Fox, Gennifer Moreau-Johnson, Lizzie Kubitz, Doug Wooliver

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

Approval of Meeting Agenda

Chair Razo called for a motion to approve the meeting agenda. Judge Rhoades so moved and Commissioner Steve Williams seconded the motion.

Chair Razo called for any amendments to the agenda. He wondered whether the Commission should talk about adding the DHSS Commissioner to the Criminal Justice Commission. Judge Rhoades said this was a recommendation the Commission made last year and she thought it was included in the upcoming annual report. Staff Barbara Dunham confirmed that it was.

The motion to approve the agenda passed without opposition.

Approval of Last Meeting's Summary

Chair Razo called for a motion to approve the meeting agenda. Judge Rhoades so moved and Commissioner Stanfill seconded the motion.

Commissioner Steve Williams noted that on page 7 a paragraph should be edited to clarify that the speaker was Commissioner Dean Williams not Commissioner Steve Williams.

The motion to approve the meeting summary so amended passed without opposition.

Pre-Trial Update – Mission Statement and Overview

Geri Fox, Director of the Pretrial Enforcement Division (PED) at DOC, gave the Commission an update on the implementation of the pretrial reforms in SB 91. The PED was 54 working days from launch, and issues continue to come up daily. They are now in the weeds getting all the details hammered out. They need to address logistics as well as policy calls. She was confident they will be able to complete assessments and get them to parties and court, and will be able to supervise. That doesn't mean there won't be problems. Some cases may slip through the cracks; different locations have different processes for filing cases making uniformity more challenging.

The essential functions of the PED will be to assess defendants within 24 hours of booking, to submit a report with the assessment and recommendation at arraignment, to monitor low-risk offenders if appropriate, and to supervise moderate and high risk offenders if appropriate.

The mission statement of the PED is as follows:

> *The Alaska Department of Corrections' Pretrial Enforcement Division strives to help provide positive change in every town, village, and neighborhood in Alaska by enhancing public safety, assisting the courts with the fair administration of justice for victims and defendants, and by providing quality supervision that holds defendants accountable, while connecting them to community partners and resources that can provide an individual the tools for long-term change and success.*

The vision statement of the PED is as follows:

> *We pledge to protect the public, provide service to the court, and assistance in the fair administration of justice to Alaska's diverse population through objective, legal and evidence based decision making and practices. We believe it is our duty to help assure the safety of Alaskans, protect the rights of victims, respect the rights of defendants, and to honor the Constitutional presumption of innocence. The Alaska Department of Corrections' Pretrial Enforcement Division strives to be leaders in the field of pretrial services by exemplifying the highest level of integrity, professionalism, accountability and devotion to excellence.*

At its core, the PED is about public safety and pretrial justice. There are three pillars to an effective pretrial system: (1) maximize court appearances, (2) maximize community safety by enforcing conditions of supervision and connecting people to services if possible (because these defendants are pretrial, participation in services is not mandatory, but they are hoping to develop these possibilities where they can), and (3) maximize appropriate placements – i.e., get as many people in the right place at the right time.

The PED team has been involved in a lot of national training over the last few months, so they are now well-versed in how to approach those pillars of public safety and pretrial justice. One training opportunity was at the National Institute of Corrections (NIC), a federal training program that is the leading trainer in corrections. The NIC paid for one week of training for the whole team. One of the things they came to appreciate there is that Alaska really is unique—rural means rural—and they were able to develop a better sense of what will work in Alaska; everything about their system is Alaska-specific.

Director Fox has also been approached to join the Pretrial Executive Network, an invitation-only group of pretrial executives. Alaska will host this group in the spring.

The Crime and Justice Institute (CJI) has also been invaluable; it helped to train all the incoming pretrial officers in the philosophy of pretrial and how risk assessments work. In early October, CJI provided a "train the trainer" training to 12 employees so they can train new staff and partners. Having training partners is very important— this is a public process, and it's important to have partners double-check implementation.

The pretrial tool is the AK-2S (Alaska 2-Scale) and is given a name because the tools will change over time, and they need a way to identify which tool has been used when.

The timeline for PED's interaction with a given defendant is as follows:

1) Defendant is booked
2) PED completes the assessment for the defendant (with Low, Moderate, or High outcome) and sends a report with this assessment and a release recommendation to the court within 24 hours
3) Defendant has initial appearance/arraignment; the court makes the release decision
4) Defendant may be sent to diversion at this point:
    a. Mental Health Court
    b. Tribal Court
    c. Substance abuse treatment
    d. Law Enforcement Diversion
5) If defendant is released:
    a. Low and some moderate-risk defendants will be monitored
    b. Some moderate and high-risk defendants will be supervised (supervision may be standard or enhanced)

Chair Razo asked who makes the decision to book a defendant—would it be PED? Director Fox said no, and they will assess only those who have been booked. Chair Razo said he took this to mean that law enforcement would decide whether someone is booked. Judge Stephens said that law enforcement would only make this decision for people charged with misdemeanors; most people charged with felonies will need to see a judge and those charged with DV must always be held.

Judge Rhoades asked how this process will work with a summons. She understood that PED would only be doing assessments for arrestees. Director Fox said they wanted to focus on priorities; the people who are sitting in jail are the ones who need to be assessed. The statute currently uses phrase "all defendants" in reference to who should be assessed. SB54 clarifies that this will be required only for people booked. Their resources are probably best used for people who are kept in custody, but could be used for someone booked who made bail. Under SB 54, defendants who are not in custody will be assessed only if the DA asks for an assessment.

Commissioner Claman asked to clarify—if he were in jail for a few hours, and made $500 bail and got out, an assessment will be done for him unless SB 54 passes. If SB 54 passes, if the DA thinks he bail is too low, could he get assessed? Deputy Attorney General Rob Henderson said yes,

though they would not only be looking at the bail amount but also the conditions of release as something they might want to revisit.

Director Fox said she wanted to clarify that the risk assessment does not assess a defendant's general risk; rather it specifically only looks at the defendant's risk—within the pretrial period—for 1) failure to appear or 2) new criminal arrests. The tool was based on pre-trial data, looking for those specific things.

Director Fox explained that she had been having regular meetings with her large stakeholder team, which had representatives of courts and the judiciary, prosecutors, treatment services, law enforcement, victims' rights, defendants, and researchers. The conversations at the stakeholder meetings, which could get very lengthy, were not always easy, but she valued the input of everyone who has been attending the meetings. Even if it seemed like a new issue would throw a wrench in things, slowing things down in that way only served to make the process better.

The PED will have district offices in Juneau, Anchorage, Palmer, and Fairbanks. These were chosen according to flight schedules, logistics, and practicality, but they generally align with the judicial districts. The office in Juneau will cover the first district; the offices in Anchorage and Palmer will cover the third district, and the office in Fairbanks will cover the second and fourth districts.

They have had to make special considerations for rural Alaska. Not all community jail systems use ACOMS, which is how PED captures people who are booked. They are looking at ways to get better utilization of ACOMS. They are also partnering with local jurisdictions to do pretrial work—they can't be in every town. There will be Pretrial POs in Barrow, Kotzebue, Sitka, and Dillingham. For other areas they have cooperative agreements with community jails, local police departments, and VPSOs. They are also partnering with DOC facilities for EM hookups.

Pre-Trial Update – The Risk Assessment Process

The risk assessment will be completed in 6 easy steps. PED officers will have a "hopper" full of defendants waiting for them every morning. The defendants in the hopper will be everyone booked through ACOMS as well as data from the court for assessments of out of custody defendants. Defendant assessments will be prioritized based on arraignment time. They are looking at doing about 90 assessments per day, and they will be done first thing in the morning. They can use resources from different parts of the state to do the assessments— the assessments are not interview based so they can be done in any location.

Judge Stephens asked if this meant the courts would need to do the arraignments in the afternoon. Director Fox said no, they should make all arraignment deadlines, whether arraignments are at 8:00, 9:00, 10:00, or later. Judge Stephens said that even so, the First District can be flexible if that would be helpful. Dir. Fox said that was good to know. She hadn't wanted to be a check on other peoples' operations, but they may need to ask for that in the future.

Dir. Fox explained that after selecting defendants from the hopper, her team will then perform the risk assessment. It is a static assessment based on static (non-changeable) factors found in criminal justice databases, and is not based on interviews. It is also not a needs assessment.

Gennifer Moreau-Johnson wondered, since the risk assessment doesn't look at needs, when any assessment for behavioral health needs might happen. Dir. Fox said that was tricky. If substance abuse is involved in the offense, PED will recommend conditions related to that to the judge.

Commissioner Case wondered how, in terms of maximizing appropriate placements, PED would get people into treatment if they needed it. Dir. Fox said because the defendants are pretrial, they will need the assistance of defense counsel to encourage cooperation with things like treatment—it can't be ordered. Commissioner Case asked if there might be any timeline for referral or assessment. Commissioner Claman said that will depend on when they get counsel. Dir. Fox said that most states will get people into services pretrial though diversion agreements; defendants can't be ordered into treatment without an admission of guilt. That's why they will need partnerships with defense counsel.

Commissioner Steiner added that it will depend on the diversion options— if they look like a good idea the defense lawyer will push the idea with the client. Some clients will just want services, and will also be looking at a later mitigated sentence/credit. Judge Rhoades noted that another option was the therapeutic courts. In some jurisdictions they proactively look at the arraignment list for participants.

Dir. Fox explained that factors for the risk of both failure to appear (FTA) and new criminal arrest (NCA) would determine the risk assessment level. The factors for FTA are age at first arrest, total number of prior FTA warrants, total number of prior FTA warrants in the past 3 years, whether the defendant is currently booked for an FTA, whether the defendant is currently booked on a property charge, and whether the defendant is currently booked on a non-DUI motor vehicle charge. The factors for NCA are age at first arrest, total number of prior arrests in the past 5 years, total number of prior convictions in the past 3 years, total number of sentences that included a period of probation, total number of sentences that included a period of probation in the last 5 years, and total number of sentences that included active time to serve in prison on the past 3 years.

Chair Razo asked for clarification on whether each factor on each scale is evidence-based. Dir. Fox said they were. The CJI research team looked at hundreds of different data points to see which were predictive of either FTA or NCA. The ones on the lists are the ones that are the most statistically significant. The scoring guide will be published on their website, and PED will also provide it to anyone. They are also happy to tell you what data the researchers looked at.

Dir. Fox cautioned that the scoring does not include juvenile data because they didn't have any juvenile history data available to evaluate. Prosecutors who might have information on serious juvenile history will need to alert the court. Deputy AG Henderson said that the DAs only have that data if they have a reason to believe it exists, and they have to ask DJJ for it specifically.

Dir. Fox said that the scoring also does not include out of state criminal history. The FBI data on this was not available for their data analysis. The reports to the court will flag an out of state criminal record when one is available. So it will not be factored into the risk assessment, but PED will be collecting the out of state data to possibly use in the future.

Judge Stephens asked what should be done in cases where OR release is mandatory even though the defendant has out of state or juvenile history that isn't counted in the score. Deputy AG Henderson said that if it turns out in practice that judicial officers are not able to override the release grid in this case, the Commission should revisit the grid—this could be a serious issue.

Dir. Fox noted that most Alaskans do not have out of state criminal history. Judge Stephens said he thought this would happen in a relatively small number of cases, but the way the statute is written, judges have no discretion when OR is mandatory. Chair Razo asked if the DAs would bring out of state criminal history to the attention of the court. Deputy AG Henderson said they always run out of state history on each defendant as a matter of course.

Dir. Fox next explained that PED will be requiring fidelity standards for all employees. They have built these checks into the design of the program, and it should correct errors immediately. The researchers who worked on the risk assessment tool are very pleased with the fidelity standards that PED has put in place; it is rare to have standards this exacting. Fidelity standards include:

- Quality training prior to completion of Pretrial Assessments
- Familiarity with the Pretrial Tool technical manual
- Clear policy and procedure to ensure timeliness and quality of pretrial assessments
- Predictable and universal recommendations that mitigate bias and overly-subjective recommendations
- Inner-Rate Reliability (IRR) performance measures
- Transparency & Training for PED partners

Dir. Fox said that other factors still should be considered in the release decision aside from the risk assessment tool. Assessments can't capture nuance in every case. Prosecutors and defense attorneys will play a critical role in assisting the court with relevant information.

Pre-Trial Update – Issues Encountered

The next 54 days will involve a very tight timeline. They are running later than they had hoped, in part because they have had programming challenges. They will start to run mock assessments next week in an effort to "break" the system to test for weak points. They want to make sure everything will run as it should. For example, they need to make sure failure to appear data is correctly based on bench warrants.

Chair Razo asked if PED contracted with someone for software engineering for the assessment process. Dir. Fox said yes, they have contracted with a group out of Juneau, which has been phenomenal.

[*10-minute break*]

Susanne DiPietro, Director of the Alaska Judicial Council and staff to the Commission, (giving Dir. Fox a break from speaking) explained that the PED team had encountered a few issues during the implementation process and wanted to alert the Commission.

The first issue was related to retroactivity. On January 1, when the pretrial provisions go into effect, roughly 1500 people will be already sitting in jail pretrial. The PED will not be able to

look at and assess all of those people right off the bat. Staff looked at the provisions on risk assessments in SB 91, which indicate they apply only to those who are arrested after January 1. It does not necessarily preclude requests from prosecution. Ms. DiPietro said that Dir. Fox and the PED wanted everyone to know about this because of the potential logistical issue.

Commissioner Steiner thought that the courts would likely be bombarded by bail requests. Nancy Meade, counsel for the court system, said she thought SB 91 was very clear that the new pretrial provisions apply only to offenses occurring on or after January 1. Commissioner Steiner said that was true, but it didn't mean defendants wouldn't ask for bail reviews.

Judge Rhoades said that in fairness, she thought many would agree that those already in custody pretrial also deserve the benefit of a risk assessment. She thought the issue should go on the Pretrial Stakeholder group agenda.

Ms. DiPietro said the next issue concerned what to do when charges change between booking and arraignment. Practices vary in different locations around the state. If a charge changes after booking—and after the PED does the risk assessment and makes a release recommendation—the defendant could be in a different release category.

Dir. Fox said that it also implicated the risk assessment score. The FTA score has two variables based on the current charge that could change after booking. PED will work with its partners to ensure quality charging practices—with fewer changes between booking and arraignment this will be less of a problem. Early analysis shows that only a handful of defendants might be affected.

Deputy AG Henderson said he anticipated this would be a bigger problem in Anchorage; outside Anchorage, law enforcement officers file all charging documents, while in Anchorages the felonies are filed by the DA.

Dir. Fox said she was working with the software developer to build a piece in the database to note whether the risk assessment is based on booked charges or filed charges.

Ms. DiPietro said the third issue had to do with SEJ and SIS. The tool was developed using pre-SEJ data; the PED will now need to decide what counts as a conviction for purposes of the risk assessment tool. The memo from staff on this issue has the definitions PED is using for handbook, included just to alert the Commission to what was happening. Commission members should let Dir. Fox know if they have any heartburn over it.

Ms. DiPietro said PED wanted to bring these issues up so that stakeholders can alert employees and coworkers. Chair Razo said that this discussion was intended to be informational, but anyone with an issue related to this in the future can ask for it to be put on the agenda.

Barriers to Reentry - Expungement Presentation

Project Attorney Barbara Dunham gave a presentation on expungement and the thoughts of the Barriers to Reentry Workgroup on this topic. The presentation was divided into three broad categories, looking at the various parameters of expungement: (1) who should be eligible, (2) what process should be used, and (3) what form of relief should be granted. The workgroup has looked

at what expungement processes exist in other states as well as model or uniform expungement statutes.

In terms of who should be eligible for expungement, one could consider the case type or the offender's post-offense history. Case types may be broken down into cases where there was or was not a conviction, felony or misdemeanor cases, cases involving declassified or reclassified crimes, cases involving or not involving violence, and cases according to offense type, such as drug crimes or theft crimes. (Cases that do not result in a conviction are now removed from CourtView, though the paper record remains public.) If eligibility is determined solely by case type, it may be possible to enact expungement automatically or through a semi-automated process not involving a full court hearing.

If eligibility is determined by looking at a specific offender's history, that may require a more resource-intensive process such as a hearing. Considerations based on the offender's history include whether the offender has paid restitution, how much time has elapsed since the offense, whether the offender has accrued any new criminal history since the offense, whether the offender's sentence was set aside, and whether there is any other evidence the offender can use to demonstrate rehabilitation such as proof of employment or successful treatment completion.

Other states have approached expungement using three different processes. One process is automatic, which can apply to a whole class of offenses or offender after a set period of time. The advantages of using an automatic process are that it is efficient, it is uniform and less subject to bias, and it can act as an incentive for rehabilitation if an offender knows that they will receive this benefit. The disadvantage of this process is that there is no room for individualized consideration, and some offenders deserving of expungement may not be eligible.

Another process is through a petition and a court hearing. The onus would be on the offender to apply to the court for expungement, and then the court would determine whether to grant relief to the offender—perhaps after consulting with the prosecutor and/or the victim and after holding an evidentiary hearing. The advantage of this process is that it gives notice to the victim and to law enforcement, and it also gives the offender the ability to demonstrate meaningful rehabilitation. The disadvantage is that this process is more resource-intensive.

A third option is to use an administrative applications process whereby an offender would submit an application and court administrative staff would verify that the offender meets certain set criteria, which may be easily verified using existing records. Applications which conform to the criteria would be granted. This appears to be the least common process used in other states. The Alaska Court System has a similar process set up for people who want certain records removed from CourtView.

The last parameter to consider is what form expungement should take—in other words, to what extent does the record of the offender's charge or conviction disappear? There are two schools of thought on this, one leaning more towards a "forgiving" model and one leaning more towards a "forgetting" model.

The forgetting model is expungement in the more traditional sense, and involves limiting access to criminal records. Studies on expungement in this model indicate that this produces a benefit in terms of reduced recidivism and reduced costs to the states. Typical forms of

expungement involve limiting access to the record; more extreme forms involve destroying the record altogether. One question when access to a conviction record is limited is whether the offender should be able to claim that the conviction never happened.

The forgiving model is a newer trend that does not seek to erase the record but rather officially "forgive" the offender to indicate that the offender has been rehabilitated. This can often take the form of a certificate which the offender can use to show employers and landlords as proof of rehabilitation. One study of this model showed that offenders with a certificate of rehabilitation were offered job interviews at the same rate as those with no convictions. Other "forgiving" forms include sentences that are set aside (Alaska has this) or felony convictions that are reduced to misdemeanors. One study of this model showed that recipients had moderately increased earnings.

In Alaska, there are two repositories of criminal justice information to which the public has access: one is the Court System and the other is the Department of Public Safety. In the Court System, the public may access records online via CourtView or they may go to the courthouse where the file is located and look at the paper file. The content of CourtView is often collected and copied by outside commercial aggregators. Currently some cases are removed from CourtView, though the public may still access the paper file. The Court System has the ability to make files either confidential or sealed.

The Department of Public Safety released information for background checks. General background checks release records of conviction only, while specialized background checks for employers of caregivers also release records of charges that don't result (or have not yet resulted) in a conviction. Records maintained by DPS may be sealed in cases of false accusation or mistaken identity, but these cases are rare. Sealing removes a case from APSIN; expungement may require a new, alternative procedure that leaves the record in APSIN for law enforcement purposes. DPS also releases criminal history information to the FBI and does not have control of this information once it is released.

Ms. Dunham next gave some examples of expungement in other states. In Ohio, offenders may obtain certificates of qualification for employment which are obtained in a hybrid administrative/court process without a hearing. In Idaho, offenders may petition to have their felony convictions reduced to a misdemeanor after 5 years in most cases. In Georgia, certain offenses are expunged automatically, while other offenses may be expunged in limited cases if an offender submits a petition. Arkansas offers a comprehensive expungement scheme with a petition and court hearing process; timeframes vary according to offense. Offenders may say the conviction never happened if the record is expunged. In Montana, offenders have a one-time chance to permanently destroy a misdemeanor record entirely.

Justice Bolger asked whether the Arkansas statute could be modified to fit Alaska's needs. Ms. Dunham replied yes; she had sent a survey out to the Commissioners to gauge their thoughts on expungement, and several parameters in the Arkansas law could be adjusted to reflect those responses. Justice Bolger said there were a lot of variables in expungement, and having a template would make it easier to come up with a recommendation. Chair Razo said he would be interested in looking at a modification to the Arkansas statute.

Judge Stephens said he saw two issues, the first being that expungement to some extent seeks to change history. Another was that the court's Administrative Rule 40 already provides for what can and can't be made public. Under this rule, the presiding judges have the authority to remove things from CourtView, but it is very limited. He gets requests for this pretty frequently. Dismissed charges can't be taken off. These are two separate problems and may have two separate solutions.

Deputy AG Henderson asked how the court system might revise the Administrative Rule. Justice Bolger noted that the proposed recommendation to take certain cases off CourtView was directed toward the Supreme Court, which can revise the rules. If the Court receives a recommendation, it might take action right away, or it might refer the recommendation to the rules committees or staff. They can be flexible depending on whether they have enough information.

Chair Razo said that the Commission had seen models from different states; what action did the Commission want to take? Commissioner Steiner said that the workgroup wanted to put this idea back before the Commission for some guidance. There are many different types of expungement, giving the Commission a wide range of opinions. His idea was to identify the basic structure and main issues. Others wanted to work from the Arkansas model, which he also thought was doable. But really the workgroup would like direction.

Chair Razo suggested working on the Arkansas model. Commissioner Claman asked to review that model, and the Commission took a look at it again. Chair Razo noted that it looked pretty substantial in terms of the crime being deemed not to have occurred.

Deputy AG Henderson said he thought there was general agreement in the workgroup that expungement is a good tool but the details presented a problem. He thought the Arkansas model was a good one. He also suggested adding the certificate of relief as another tool – there was no reason not to have both. In terms of revising the Arkansas statutes, he had questions about the timeframes, and perhaps excluding DV crimes from eligibility.

Chair Razo asked if the workgroup was willing to entertain looking at the Arkansas statues as a model. Justice Bolger said the workgroup was planning to do so.

Judge Rhoades said she would like to look at more low-hanging fruit, and having an automatic process for minor offenses and things that have been reduced. She didn't think the CourtView recommendation went far enough. For SIS cases in particular, she didn't think it was fair that people were told that would disappear. She suggested a carve-out where prosecution can agree to dismiss a misdemeanor SIS; it might not need a full hearing, just a prosecutor's file review. This was one of the areas where the Commission has heard specifically that there is a problem.

Commissioner Claman said that he wasn't sure about allowing the offender to say that the conviction doesn't exist. There is an appeal to having an intermediate response, though the challenge with that is there might be reluctance to make use of the full expungement option.

Chair Razo said he didn't think Commission had to draft the law, but rather delineate the general principles. He suggested letting the workgroup spend more time on this and then the Commission would try to finish work on it by the December meeting.

Public Comment

[*Note: the public comment period was scheduled for 11:30, which fell in the middle of the above discussion on expungement. The following two sections took place in the middle of that discussion. They are reproduced here rather than in strict chronological order for ease of reading.*]

Chair Razo invited members of the public, whether attending in person or on the phone, to comment.

Ms. Dunham noted that Suzette Welton had submitted a written comment and accompanying article, which had been included in the meeting materials. In her comment, Ms. Welton asked the Commission to consider expanding the kinds of cases eligible for post-conviction relief, and to establish more rigorous forensic science standards at trials. Commissioner Stanfill noted that it was hard to read Ms. Welton's handwritten letter and wondered if it would be possible to reach out to her at Hiland CC to get a typewritten version. Ms. Dunham said she could try.

Commissioner Stanfill asked if the Commission is keeping track of public comment suggestions. Ms. Dunham said that information wasn't compiled but she could work on that. Ms. DiPietro added that if the Commissioners ever wanted anything raised in public comment to be put on the agenda, all they had to do was ask.

Chanta Bullock said she didn't have a comment so much as a question: why doesn't everyone qualify for discretionary parole? Ms. DiPietro explained that eligibility is determined in statute. SB 91 had expanded eligibility for discretionary parole but some offenses are still excluded as the legislature had deemed that appropriate. Chair Razo added that his impression was that the offenses excluded were the ones the legislature deemed the most serious.

Commissioner Claman explained that the parole system originally provided that an offender would be eligible for discretionary parole after serving 1/3 of their sentence or for mandatory parole after serving 2/3 of their sentence. The legislature has been adding carve-outs for certain offenses which made the system more complicated. Deputy AG Henderson echoed that it was a very complicated system—there was no easy guide to how it worked. There are some offenses that are not eligible for either- very few.

Electronic Monitoring Credit

Rep. Chuck Kopp addressed the Commission about a concern he had with electronic monitoring (EM), saying he was trying to set an example to his colleagues by going to the Commission for criminal justice issues. He said his concern was that certain offenders could get credit for time served on EM post-conviction. This past year there was a violent sex assault/kidnapping case wherein a man kidnapped his coworker and sexually assaulted her at knifepoint; she had to jump out a window to escape. The offender served time on EM before he entered his guilty plea. Judge Wolverton agreed that the offender could stay on continuous EM until his remand/sentencing date per AS 12.55.027. The assailant was therefore released. The victim has to be under full-time psychiatric care now because of the assault. He proposed an

amendment to the statute so that there would be no release between conviction and sentencing in these cases.

Ms. DiPietro asked to Rep. Kopp clarify did his proposal focus on the period between conviction and sentencing, or was he also looking at the period between sentencing and remand if the defendant has a delayed remand date? Rep. Kopp said he was focused on the time between conviction and sentencing, though he thought the principle should apply to the whole post-conviction period.

Chair Razo said the Commission had three options: it could take action now, send this issue to a workgroup, or pass on weighing in. If the Commission wanted this to go to a workgroup, it could be put back on the agenda for December.

Commissioner Stanfill suggested sending it to the Sentencing Workgroup, as it seemed to fit there. She was not comfortable moving forward immediately, and needed to understand the issue better.

Rep. Kopp said that his staffer Erick Cordero could send a memo on the matter from leg. legal. This is an issue that needs clarification; a very experienced judge blamed this on SB 91. The Department of Law didn't appeal the decision. He didn't think anyone would want this to happen to a victim when the offender has been convicted. But he welcomed the workgroup process; he didn't want to rush into anything. He supported justice reform and fixing what needs fixing.

Chair Razo asked for any objection to referring this issue to the Sentencing Workgroup for a work-up for the December agenda. Hearing no objection, he said this would be referred to the workgroup and the Commission would keep in touch with Rep. Kopp's office. Mr. Cordero said he would send the memo to the Commission's staff.

Barriers to Reentry – Clemency Recommendation

Ms. Dunham explained that the Barriers Workgroup had been looking at the clemency process in addition to expungement. Clemency is similar to expungement but it involves an individual application and the decision is made by the governor. Alaska's clemency process has been on hold since 2009. Recently, the state ombudsman opined that keeping this process on hold was unconstitutional.

Chair Razo asked for clarification on what the recommendation would be. Ms. Dunham explained that it would be to recommend that the Governor reopen the process.

Judge Rhoades wondered if whether the offender had paid restitution would be factored into the clemency decision. Jeff Edwards, director of the parole board, said that was a factor that would be considered. A full pardon would wipe away any restitution still owed. The parole board would include a notation on restitution owed in the report provided to the governor's office.

Commissioner Stanfill asked what the current activity on clemency was. Was the parole board conducting any investigations? Mr. Edwards said that currently, anyone seeking clemency would fill out a basic application; the parole board would then do an initial review and forward the

application to the governor's office if the application is complete. The board is not doing any full investigations, as they don't proceed to that step until the governor asks for it.

Commissioner Stanfill asked how many applications were currently pending. Mr. Edwards said he believed the number was 268.

Commissioner Steiner asked if there was any reason the governor's office was not doing anything with the applications. Ms. DiPietro asked if a representative from the governor's office was on the teleconference line and would like to comment. Heather Parker said she was on the line and that the governor's office was looking into this.

Justice Bolger asked Ms. Parker if the Commission made a recommendation on clemency, how it would be received. Ms. Parker said she would defer to the Deputy AG to answer that. Justice Bolger asked whether such a recommendation would be within the Commission's purview. Deputy AG Henderson said that he recalled that Commissioner Dean Williams' concern about this, voiced at the last meeting, was that the Commission may not be able to tell the governor what to do. He echoed what Ms. Parker said: the governor's office is looking at this issue. They have the new proposal to revise the process [which was provided in the meeting materials to accompany the proposed recommendation] He said he expected the governor to consider this issue regardless of whether there is a recommendation.

Judge Stephens suggested tabling the issue. It sounded like it was under active consideration at the governor's office, and the Commission didn't need to be involved.

Chair Razo called for the will of the Commission. Commissioner Steiner said that it might be nice to know when the governor's office would come to a conclusion. Judge Rhoades suggested tabling the issue again until a certain time, or something has happened in the governor's office.

Chair Razo suggested putting this item on the agenda for a status report at the first meeting of 2018.

Commissioner Stanfill asked whether there was any aspect of the clemency process on which the Commission should weigh in. Commissioner Steiner said no, the proposed recommendation was to just restart the process.

Chair Razo noted that the Commission has the ability to make recommendations to the Governor. The Commission will wait and see what happens with this issue.

Barriers to Reentry - SIS/MCA Recommendation

Ms. Dunham explained that staff had circulated a proposed recommendation regarding removing Suspended Imposition of Sentence (SIS) and Minor Consuming Alcohol (MCA) cases from CourtView. The recommendation was directed at the Supreme Court to issue an order to that effect. The Barriers workgroup had *not* intended that this be considered an expungement proposal or a substitute for expungement. But the group felt that it was something that could offer relief to some people relatively quickly.

Ms. Dunham noted that MCA as an offense has changed several times over the years. Most recently in 2016 it was made a violation and the court system was instructed to remove any citations for MCA from CourtView. This recommendation would apply to all prior convictions for

MCA. Deputy AG Henderson clarified that this would also include convictions for repeated and habitual MCA.

Judge Rhoades said that there are other violations that are in a similar vein to MCA not included in this recommendation: Minor Operating After Consuming, Minor Refusal, and Minor Operating After an Arrest for a Title 28 offense. These are other underage case types. She was not sure whether the workgroup also considered these.

Commissioner Stanfill said the group didn't consider those other violations, but it was trying to recommend something that was doable now without a fiscal note. Nancy Meade, general counsel for the court system, confirmed that the proposed recommendation is something the court system can do with no fiscal impact.

Justice Bolger said his recollection was that there was consensus on those two items. Chair Razo said that didn't mean others couldn't be considered. The Commission could act on this now or send it back to the workgroup for consideration of the other offenses? Commission Stanfill said she would be open to discussing the other offenses now, as she would prefer not to send this back to the workgroup.

Judge Rhoades said that only removing records from CourtView is a problem–people will be subject to perjury if they deny the offense. The record of it is still out there.

Commissioner Steiner said he supported the idea of pushing forward on the recommendation and noted that it was not supposed to be expungement—just something that can be done quickly and simply. Justice Bolger said that removing records from CourtView doesn't solve the whole problem but it was easy to accomplish. Commissioner Steiner said that not all applications ask about convictions, and not all employers pay for background checks—some just look at CourtView.

Deputy DOC Commissioner Claire Sullivan noted that they ask for criminal history for state employment, and get the full record. Once a conviction is out there it is never gone.

Commissioner Stanfill said the workgroup felt this was the very low hanging fruit that had consensus. She agreed that it doesn't go far enough. But people receiving an SIS were told they would get relief; that still needs to be fixed. But there was no consensus for a full solution. This will help in situations where people are just checking CourtView— a way to get their foot in the door.

Chair Razo said that was the essence of it, to help people get their foot in door. It wouldn't mean you could lie to employers. It was not intended to be a complete fix, just a baby step toward a solution.

Ms. DiPietro added that another issue was that people don't know how to read CourtView and they don't know what an SIS is.

Deputy AG Henderson said he supported Commissioner Steiner's idea to move this recommendation forward with language being very clear that this was not intended to be a full expungement measure.

Commissioner Steiner asked whether the other offenses based on being a minor should also be included.

Ms. Meade noted that SB 165 also included Minor on Unlicensed Premises, so that should also be considered to be consistent. That and the other offenses Judge Rhoades mentioned are rarely filed; it won't really have an impact, but it makes sense to treat all underage cases the same. Deputy AG Henderson noted that these are not DUIs—they might include, for example, a 16-year-old who is driving at a .02.

Chair Razo asked if there was a motion to accept the recommendation with the addition of the other four underage offenses and introductory language clarifying this is not meant to be expungement. Commissioner Stanfill so moved, and Commissioner Steve Williams seconded the motion. Justice Bolger also suggested taking out the footnote on SIS cases.

Judge Rhoades asked if there were any reason to suggest a process to the Supreme Court. Justice Bolger said the Commission could do that, and the Supreme Court would take that into account. It would be unusual. They get a lot of requests to take things off CourtView that they don't consider. They would be careful about this. They might refer it to the rules committee anyway if they need more information or feedback.

Judge Rhoades asked if there were any reason not to refer this issue to the legislature. Commissioner Stanfill said the thought was the Supreme Court could look at it faster. If they don't want to act on it, the Commission could look to the legislature. Deputy AG Henderson said it seemed like something that should go to the legislature but was curious to know what Justice Bolger thought. Justice Bolger said he was fine either way. The Supreme Court could make this happen with a rule change, which possibly could be a fairly quick process.

Commissioner Claman suggested that CourtView is really a function of the court system and while the legislature likes to tell the courts what to do, it really is a court system thing. The legislature can take a long time, and he thought this was appropriate for the Court to do. The question for the legislature is whether the other underage offenses besides MCA and Minor on Unlicensed premises should be reclassified; this was something the Commission should discuss.

Chair Razo called for a vote on the motion. There was no opposition, and Judge Stephens abstained. The motion carried.

Judge Rhoades wondered if the legislature were to approach changing the status of the three underage crimes it would make a difference. She thought the Commission should look at retroactively making them violations.

Chair Razo asked if there was any opposition to referring this issue to the Barriers workgroup, and there was none.

Commissioner Stanfill asked Judge Rhoades if she saw the SIS cases as a separate issue. Judge Rhoades said she would like SIS included in the expungement discussion.

Sentencing – Vehicular Homicide

Deputy AG Henderson explained that the Dept. of Law and the Public Defenders had developed a recommendation to create three new criminal offenses: Aggravated Vehicular Homicide, Vehicular Homicide, and Negligent Vehicular Homicide. They use elements of current offenses. Aggravated Vehicular Homicide is the same as Second-Degree Murder but with a vehicle, Vehicular Homicide is manslaughter with a vehicle, and Negligent Vehicular Homicide is Criminally Negligent Homicide with a vehicle.

Sentencing would be treated differently; the recommendation would allow mandatory minimums on each count to run concurrently except for one quarter of each count. For Second-Degree Murder, the rule right now is that the mandatory minimums must be entirely consecutive. This recommendation would provide some guidance in cases with multiple victims.

Commissioner Steiner said that the increases to mandatory minimums under SB 91 exacerbated an existing problem wherein one DUI-related crash killing multiple people could create extremely long sentences. Governor's office asked them to write a separate statute. Deputy AG Henderson added that in these types of cases, the number of victims can largely be a matter of chance. Commissioner Steiner said that the criminal intent in this case is not necessarily directed at multiple people in the way it is with Second-Degree Murder.

Commissioner Steiner noted he had a slight disagreement with the way the law is worded now; he thought the sentences should be allowed to run totally concurrent.

Commissioner Stanfill asked what a sentence would look like if four people in a vehicle were killed by a drunk driver. Deputy AG Henderson replied that convicting someone of Second-Degree Murder in DUI cases is relatively rare, but in that instance, the mandatory minimum is 20 years. One crash resulting in the death of four victims would give the defendant a mandatory minimum sentence of 80 years. With the proposed provision, the mandatory minimum sentence would be 35 years.

Chair Razo asked if this would create a bar to charging a defendant with Second-Degree Murder in these cases. Deputy AG Henderson said no, the case could be charged that way if the circumstances so warranted. Chair Razo said he was thinking of a case where someone uses a vehicle as a weapon.

Commissioner Steiner moved to approve the recommendation, and Deputy AG Henderson seconded the motion.

Justice Bolger commended the departments on working together. This touched on some serious issues, and he was glad there was agreement.

Chair Razo called for a vote, and the motion carried with no opposition.

The Commission's Annual Report

Ms. Dunham explained that she had compiled a list of all of the Commission's recommendations to date. The list could be added as an appendix to the annual report or could be put on the web. Chair Razo said he thought it would be helpful to add it as an appendix. The Commission agreed.

Ms. DiPietro explained that the annual report had been expanded to include more information on implementation and oversight. For the technical assistance grants from BJA, she thought it was important to highlight the Juneau project and the new positions at DOC. She noted that a JRI coordinator had been hired by DOC, and Deputy DOC Commissioner Karen Cann said that person would start next week. Ms. DiPietro said that hiring for the diversion coordinator resulted in an unsuccessful recruitment.

Ms. DiPietro said she also thought it was important to highlight the new pretrial enforcement division as well as the changes to parole and probation supervision. This has been a huge lift for DOC in these areas but not much discussion. Staff do not yet have any data on how the changes to parole and probation are working. The good news is that DOC has done a lot of work to revamp ACOMS to record using administrative sanctions and incentives, and hopefully the Commission will be getting that data in the future.

The initial information coming back is that after implementation of the changes to supervision procedures there was a spike in PTRPs—this makes sense as the new system emphasizes immediate responses. But we don't yet know how much administrative sanctions are being used. There could be a problem with data collection for POs unused to recording such information (and unused to these processes).

Judge Stephens said that the spike in PTRPs was totally expected. In his district they used to pile up. Now you need to have one revocation before you have another one—this is encouraging swift resolution of violations.

Judge Rhoades noted that the report's data showed that fewer people were in DOC custody for supervision violations. Ms. DiPietro said that it may be that revocations are going up but the use of jail beds for revocation is going down.

Chair Razo said that using ACOMS to track incentives and sanctions really makes sense; tracking what personnel are doing is how a business would be run.

Ms. DiPietro said the Commission also doesn't yet have data about how many people are getting earned compliance credits. Judge Stephens observed that judges are imposing a lot more probation because of it—e.g., 4 years instead of 2. They need to be on probation to make them do treatment, and it takes them time to get in to treatment programs. Judge Rhoades added that they need time to get into treatment, finish treatment, and engage in follow-up to ensure compliance.

Ms. DiPietro went on to explain that the section on reinvestment was also expanded. The idea was to give detailed information on what exactly was done with the reinvestment money. The allotted funding for substance abuse treatment at DOC was not fully expended used. Judge Rhoades asked if that funding would then lapse. Deputy DOC Commissioner Claire Sullivan noted that they were not able to spend the money in part because their contract with Akeela expired and Akeela chose not to renew it. She was not sure whether the money lapsed. Deputy DOC Commissioner Karen Cann thought things were shifted around for other substance abuse treatment, but she was pretty sure the funding that wasn't spent lapsed. Ms. DiPietro said staff would be happy to add any necessary explanation to the report.

Commissioner Stanfill asked whether it would be appropriate to say DOC was back on track with substance abuse treatment. Deputy DOC Commissioner Cann said that DOC now had new contractors, but they were also still struggling. Deputy DOC Commissioner Sullivan said they were doing local contracts, and finding contracts in some locations is easier than in others; she would try to get that information to the Commission.

Ms. DiPietro said there was better news on the reinvestment funding for CDVSA. One top priority from victims' groups was increased funding for bystander intervention. This was funded through reinvestment and CDVSA spent all the allotted money. These programs are all evidence-based and all have an evaluation component, particularly the Green Dot program.

Ms. DiPietro then explained the reinvestment in DHSS reentry efforts. Gennifer Moreau-Johnson noted that in the draft report, the numbers were switched; the amount spent on programming was 64%, not 36%. Ms. DiPietro also explained that for the reentry programs, some case managers were just hired in September, so the report didn't include caseloads. Related to DHSS's efforts, though not a reinvestment component, was DHSS' work on expanding reentrant access to Medicaid. Among other things, there has been a monumental effort of getting DHSS and DOC information systems to interface—this kind of coordination is unprecedented.

Commissioner Stanfill noted that it was also important to highlight that with SB 91, internal and external POs are talking to each other, something that never happened before and has been groundbreaking.

Ms. DiPietro noted that the data show reduced numbers in custody at CRCs; DOC is finding it difficult to place people there. The Commission should keep an eye on this. A big part of SB 91 is to put money into treatment at CRCs, but DOC is saying they can't find good candidates. There is added language in the report about DOC wanting to transition to a different reentry model.

Regarding changes to the parole process, Ms. DiPietro said the upshot is there are way more discretionary parole hearings, but the grant rate remains the same. There have been only 3 inmates released on administrative parole, and none released on geriatric parole.

Ms. DiPietro said the section on SEJs needs more work— staff need to check on the numbers with the court system. It looks like there about 129. There also seem to be people serving time on SEJs; the Commission voted earlier in the year to recommend that shouldn't happen.

Deputy AG Henderson asked whether that should be happening, since the Commission's recommendation was included in SB 55, which passed earlier in the year. He supposed they could be serving time on a misdemeanor but have a felony SEJ. Ms. DiPietro said staff could look into that. Judge Rhoades suggested it might also include anyone who was not successful on their SEJ.

Judge Stephens said that there were also people who were on violations for probation while on an SEJ; these would be people who are on SEJ status and get violated but not revoked, perhaps because they are waiting to get into treatment. Chair Razo said this reflects a lack of treatment facilities.

Ms. Meade said she reported on the number of SEJs known about. The offender could have come in as something else and left on an SEJ status. Court records would show if there are other things on the case and it was just coded as an SEJ. Regarding changes to parole, she confirmed

that the increased number of revocations was to be expected. For dual status offenders, POs are no longer filing both, just the parole revocation.

Regarding data on the offender composition, Ms. DiPietro said it should be noted that the pie charts are not strictly comparable—different methodology was used for each. Commissioner Claman said that it might just confuse legislators if the report explains the methodology. Several Commissioner offered suggestions for how the data could be presented with more clarity.

Commissioner Claman suggested not putting any data on pretrial populations in the report because none of the SB 91 reforms have gone into effect in that area. Commissioner Stanfill said that it may be good to put that data in because SB 91 has been blamed for a lot of concerns about the pretrial population, and it would be good to compare in future years. Judge Stephens agreed – it would be good to show that the population was still on the same upward trajectory before implementation and he expected the population will decrease next year.

Commissioner Steiner noted that the greater percentage of felony offenders may be linked to the increase in felony caseloads; they are up by 20 to 25%. The number of cases being filed is huge, and it is happening statewide. Deputy AG Henderson noted that Law was also filing more serious felony cases relative to prior years. Judge Stephens suggested there could be a qualitative difference as to who is being held post SB 91.

Chair Razo wondered if staff had a breakdown of pretrial defendants by case type, as he believed the Commission had that data before. Commissioner Stanfill added that it would be good to have a baseline to compare to next year. Ms. DiPietro said that would be important to know whether or not it was in the report.

The Commissioners offered further suggestions on data, indicating a preference for data that can be compared to a baseline where possible, and presentation that is the least confusing.. They agreed on the importance to be clear about the data source—looking at admissions vs snapshot data, for example. Judge Rhoades said admission data was important because there was a need to highlight that the "churn" of misdemeanants through the system is still happening.

The Commissioners also indicated a preference to compare the data compiled by Pew in advance of the 2015 report to current data. Staff explained that comparisons were difficult as staff was having a hard time replicating Pew's methodology and did not have exactly the same data to work from.

For the data on drug crimes, Deputy AG Henderson noted that drug prosecutions have plummeted. The percentage of Law's caseload devoted to drug possession is now nominal compared to prior years. That caseload was replaced by felony-level property offenses. Commissioner Claman wondered if he would say that most of those offenders have drug problems. Deputy AG Henderson said that was probably true.

Commissioner Steiner wondered about drug misdemeanors. Commissioner Case said APD's citations were down. Commissioner Stanfill wondered if APD and prosecutors were focusing on dealers instead. Commissioner Case said no, with reduced penalties for possession, few users are cooperating with investigations on the dealers. Deputy AG Henderson confirmed that Law was seeing this as well.

Ms. DiPietro noted that very few misdemeanor drug charges had been disposed since the passage of SB 91. This is something the Commission should think about. The intended structure created by SB 91 was based on the idea that after the third offense, the offender would go to jail. If resources don't allow law enforcement to address possession at all, there might be a need to reconsider the structure. It looks like these cases are not getting charged, making it difficult to get charged for a third offense.

Deputy AG Henderson said it would be important to compare the numbers to FY16. The state doesn't have the resources to do drug possession cases. Judge Rhoades noted that prosecuting drug cases also requires testing the substance in evidence, which is not cost effective. Judge Stephens said in his district there was also cost of flying experts in to testify.

Commissioner Steiner said he recalled that the point of the new drug crime statutory scheme was to identify offenders who were just users at a lower level and divert them before they become heavy users or dealers. If the state is ignoring these users at the lower level, it is just going to get them at felony stage.

Justice Bolger noted there was also a need some kind of leverage. Commissioner Steiner said that a misdemeanor charge is serious leverage—it can be a real Achilles heel for the less criminally inclined.

Ms. DiPietro said that there has been a significant public health response to the opioid epidemic; she wondered where the criminal justice response was.

Judge Rhoades noted that the therapeutic courts are able to do a lot of this, including using the threat of a misdemeanor as leverage – but there needs to be an immediate response. If the state is going to divert these offenders there needs to be something to divert them to.

Commissioner Stanfill said there were new resources for heroin and opioid addicts which just came on line. She has heard that the word on the street is that there is no threat of jail time for drug possession and there are no more consequences, and was concerned there was not incentive to get them into the new resources.

Deputy AG Henderson said this is a resource issue. Law will always target felonies over misdemeanors, and violent crimes over nonviolent. Right now the only incentive to get misdemeanor drug possession is dismissal. If there are no resources to prosecute them, that can't incentivize treatment.

Chair Razo suggested that the report does not highlight the lack of treatment availability enough. Deputy AG Henderson suggested moving the reinvestment section to earlier in the report to highlight the need. Commissioner Claman noted that the state would need four times as much money as is available for reinvestment to make a difference.

The Commission then discussed highlighting the recommendation to "frontload" reinvestment funding in the report and only including data which has a baseline.

DHSS Director of the Division of Behavioral Health Randall Burns reminded the Commission that treatment is a complicated subject. The legislature did appropriate money for treatment. DHSS put out RFPs, and nobody in Anchorage responded. It's not just that the state isn't willing to

put money in—there is also a need to find people to provide the service. DHSS has gotten really good federal grants. Their website lists all of the services in anchorage. These programs are limited in capacity and limited as to who they accept. If the clients are challenging at all, they send them to API or somewhere similar. So it's not as though no services are being provided. But the number of providers is an issue and as is the number of providers willing to take on risk. More money would help but that's not all—there are infrastructure requirements. DHSS has identified key services needed through the Medicaid waiver process. But waiting for those services probably doesn't make sense. The state will need to move more quickly.

Judge Rhoades said this is why she recommended a voucher system. She would urge DHSS to consider doing business differently.

Staff noted that graphs on crime rates were included in the report. Commissioner Stanfill suggested making the show graphs bigger, to clearly show crime rates rising since 2011. Ms. DiPietro noted that Anchorage rates were included and wondered if it made sense to include Anchorage or take it out. Judge Stephens suggested including it as Anchorage is the population base. He noted that in his district crime has been plummeting. Ms. DiPietro said that was the interesting thing about the crime rates—they were doing different things in different places. SB 91 is a statewide law but things are very different in different locations. Commissioner Stanfill noted that these differences also relate to resource issues; comparing localities isn't necessarily comparing apples to apples.

Deputy AG Henderson said that last week the FBI issued the nationwide crime rates—Alaska is the most violent state per capita and Anchorage is the second most violent city. Ms. DiPietro noted that the violent crime rate is driven by aggravated assaults; Alaska has always been a relatively violent state.

Ms. DiPietro also noted that staff had added information on the opioid crisis. There was no way to actually connect this to crime picture. Judicial Council analyst Teri Carns said that staff have been looking at this in the context of shoplifting and motor vehicle theft—there is no way to actually show the connection. She can't find national data. Ms. DiPietro said prosecutors and defense attorneys report that crime is driven by addiction, so we have qualitative information and not quantitative.

Judge Rhoades wondered if there was a way to look at capturing this data prospectively. Ms. DiPietro said she would think of ways to do that. Commissioner Steve Williams said it probably couldn't be done in the next 14 days [when the report was due] but was still relevant. The Commission should think about ways to tap existing data sources to add that information next year.

Commissioner Stanfill noted that some addicts were not just doing heroin, but were combining heroin and meth; that way they are able to be more active. Sometimes it's hard to tell who's on what. This is something different than what the state has seen before.

Ms. DiPietro then went over the savings and recommendations for reinvestment portion of the annual report. Commissioners gave input on editing this section.

Ms. DiPietro noted that the legislature was hoping to have the report early, by the start of the special session. To try to accommodate this, staff will send out a new draft the next Wednesday and Commissioners should give their final comments by Friday. The report would be emailed out on Monday.

Arrest and Intoxication Workgroup

Judge Rhoades noted that the Arrest and Intoxication Workgroup had overlapping subject matter with the Behavioral Health Standing Committee. This was the reason the Standing Committee was made. She would hate to see another group looking at the same kind of issue, especially if it were the same people going to more meetings.

Deputy AG Henderson said the hope of having the ad-hoc group was to come up with a solution quickly. He also noted that the Standing Committee has a substantial agenda. Ms. DiPietro noted this was also brought up in the Criminal Justice Working Group. Deputy AG Henderson said the group would report to both bodies. Ms. DiPietro suggested letting the ad-hoc group continue on for a while to see where they end up. Chair Razo agreed.

Commissioner Steve Williams noted that the group's first meeting was primarily an Anchorage-based discussion but issues exist statewide. He agreed that the group was looking at whether something can be done right away; specifically, what to do with people who fall in the in grey area of intoxication – those who are not incapacitated but still intoxicated to a point where they might do harm to themselves or others. He was fine with letting the ad-hoc workgroup carry on for now.

Commissioner Case said he was looking at a one week snapshot at APD to see who falls in that grey area—once that is done the group will set a date for the next meeting.

Bail Schedule Comments

Judge Stephens noted that with SB 54 on the docket for the special session, he has been hearing comments on things attributed to SB 91, as well as things attributed to the bail schedule that shouldn't be. He has also heard some discussion that the bail schedule will be disappearing-it won't. The bail schedule was on the Commission's agenda earlier in the year, and the presiding judges added misdemeanor assaults to the bailable offenses because of that. If anyone has any comments on the current bail schedule he would be happy to talk to them.

Future Meeting Dates & Tasks

Barriers to Reentry: November 3 at 9:30, Denali Commission Conference Room

Sex Offenses Workgroup: November 9 at 9:30, Denali Commission Conference Room

Behavioral Health Standing Committee: TBD

December Commission meeting: December 7, time TBD, Snowden Training Center

The meeting adjourned at 4:41.